



Agricultural Land Commission
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August 10, 2007

Reply to the attention of Terra Kaethler
ALC File: #S - 37326

John McFaul
34 - 2989 Trafalgar Street
Abbotsford, BC V2S 7X9

Dear Sir:

Re: Application to Exclude land from the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 392/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over the 'Per:' label. The signature is fluid and cursive.

Erik Karlsen, Chair

cc: Regional District of Nanaimo (6635-02-0701)
Pauline Judge, PO Box 73, Cassidy, BC V0R 1H0

Enclosure: Minutes

TK/lv/37326d1.



A meeting was held by the Provincial Agricultural Land Commission on July 19, 2007 in Comox, B.C.

PRESENT:	Lorne Seitz	Chair, Island Panel
	David Craven	Commissioner
	Donald Rugg	Commissioner
	Terra Kaethler	Staff

For Consideration

Application: # S- 37326
 Applicant: Pauline Judge
 Agent: John McFaul
 Proposal: To exclude the 3.2 ha subject property
 Legal: PID: 000-119-521
 Lot 3, Section 1, Range 7, Cranberry District, Plan 725, EXCEPT
 Part in Plans VIP69195 and VIP69231
 Location: 1712 Vowels Road, Cassidy

Site Inspection

A site inspection was conducted on June 4, 2007. Those in attendance were:

- Lorne Seitz Chair, Island Panel
- David Craven Commissioner
- Donald Rugg Commissioner
- Terra Kaethler Staff
- Pauline Judge Applicant
- John McFaul Agent
- John Wiens P. Ag consultant to applicant
- Gordon Butt P. Ag consultant to applicant

The applicant confirmed that the staff report dated May 23, 2007 was received.

The Commission walked the property with the applicant and representatives. The Commission discussed the soil capability of the subject property with the Agrologist representatives. The Commission then met with the applicants and representatives at the Jehovah's Witness Hall to discuss the application further. The applicant and agent asked for some clarification of the staff report which was discussed.

The Commission determined that the proposal to exclude the property from the ALR warranted additional input from the public. Therefore the application was deferred until a public information meeting could take place, at which time the Commission would consider the application further.

Public Information Meeting

A meeting was conducted on July 18, 2007 from 4:30 - 6:30 pm at the Cedar Heritage Center in Cedar to provide interested parties an opportunity to express their views on the proposal.

Those in attendance were:

- Commissioners Seitz, Craven and Rugg
- Terra Kaethler, staff
- Pauline Judge, applicant
- John Wiens, PhD, P.Ag, consultant for applicant
- Approximately 16 members of the public

John Wiens introduced and presented the reasons behind the proposal, emphasizing the location of the property, the soil characteristics and agricultural capability of the property. He indicated that the land has marginal agricultural capability and that the capability assessment report by Gordon Butt, P.Ag was perhaps optimistic. His assessment was that the property was approximately 40-50% Class 4, improvable to Class 3, with some limited areas improvable to Class 2. Approximately 50-60% of the property was assessed at Class 5 and Class 6.

The following issues were raised by members of the public:

- The soil conditions do not warrant removal from the ALR.
- The soil conditions on the subject property are similar to conditions on surrounding properties.
- The subject property has in the past been used for productive agriculture and the agricultural capability could be improved.
- The possibility that exclusion of the subject property would set expectations of other exclusions and impact the farming community in the area.
- The aquifer is a good water source for this area.
- The limited amount of land available for small scale agriculture and the need to protect land with agricultural potential.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Discussion

Assessment of Agricultural Capability

The Commission has reviewed the Agrologist findings as presented. The *Land Capability Assessment, Lot 3 (1999)* by Gordon Butt, P.Ag estimated soil capability ratings as follows:

60% Class 4, possibly improvable to Class 2 (D undesirable soil structure)
20% Class 5 (P stoniness)
20% Class 6 (P stoniness)

John Wiens, P.Ag, presented his assessment of the land capability findings at the July 19 2007 public meeting. His review was that the soil capability of the subject property was more likely:

40-50% Class 4, improvable to Class 3, with some limited areas improvable to Class 2.
50-60% of the property was assessed at Class 5 and Class 6.

John Wiens also reported that the subject property had similar characteristics to surrounding lands regarding soil conditions, with the exception that it may have larger proportions of gravel. He also found the property was limited due to the small size of the property.

The Commission thoroughly reviewed all the file material and reports submitted during their deliberations, as well as the information presented by John Wiens at the public meeting on July 19, 2007. Although the Commission recognized that the agricultural capability of the subject property has limitations, it believes that the property has sufficient agricultural capabilities to warrant its retention in the ALR and could be a productive farm if the appropriate management techniques were applied.

Assessment of Agricultural Suitability

The Commission assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The property is in an area of small parcels, many of which are used for small-scale agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission considered that the subject property is not unique to the area in terms of soil capabilities or parcel size. The Commission believes that exclusion of the subject parcel would negatively impact present and future agricultural activity in the area.

The Commission considered the family situation behind the application, and while appreciative of their needs and intentions, cannot consider this as a reason to warrant exclusion from the ALR.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will impact agriculture.

IT WAS

MOVED BY: Commissioner Rugg
SECONDED BY: Commissioner Craven

THAT the application be refused.

CARRIED
Resolution # 392/2007



Staff Report
Application # S – 37326
Applicant: Pauline Judge
Agent: John McFaul

DATE RECEIVED: March 30, 2007

DATE PREPARED: May 23, 2007

TO: Chair and Commissioners – Island Panel

FROM: Terra Kaethler, Land Use Planner

PROPOSAL: To exclude the 3.2 ha subject property

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The previous application #33640-1 was for the exclusion of 2 properties, Lot 3 and Lot 4. Lot 4 has since been sold, and the current application is only for Lot 3. See attached Staff Report-Reconsideration for previous application #33640-1.

Local Government:

Regional District of Nanaimo

Legal Description of Property:

PID: 000-119-521

Lot 3, Section 1, Range 7, Cranberry District, Plan 725, EXCEPT Part in Plans VIP69195 and VIP69231

Purchase Date:

01/01/1968

Location of Property:

1712 Vowles Road, Cassidy

Size of Property:

3.2 ha (The entire property is in the ALR).

BACKGROUND INFORMATION (Cont.):

Present use of the Property:

Residence, barn, two sheds, nine Holsteins, pasture (spring only), feed hay

Surrounding Land Uses:

WEST: pasture and hay land, residential
SOUTH: Vowles Road, residential
EAST: Church and Parking
NORTH: Haslam Creek

Agricultural Capability:

Data Source: Agricultural Capability Map # 92G.001
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Electoral Area "A" OCP Bylaw No. 1240 (2001)
Designation: Rural Resource, 8.0 ha minimum parcel size

Zoning Bylaw and Designation:

Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500 (1987)
Designation: Rural 4 (RU4), Subdivision District "D"
Minimum Lot Size: 2.0 ha

PREVIOUS APPLICATIONS:

Application #33640-0

Applicant: Judge, Pauline & Aismore
Decision Date: April 11, 2001
Proposal: Exclusion of the subject property from the ALR for residential development (mobile home park, strata lot subdivision). They state that the property cannot be feasibly farmed due to soil conditions, flooding and small property size.
Decision: Refused on the grounds that the Commission believes the lands to be of sufficient agricultural capability to warrant their retention in the ALR. It was reconsidered on July 30, 2002 (#33640-1) and refused.

Application #30367

Applicant: Judge, Pauline & Aismore
Decision Date: January 11, 1996
Proposal: To subdivide two lots of 0.58 ha lying outside the ALR, north of Halsam Creek.
Decision: The Commission allowed the subdivision of two lots of 0.58 ha outside the ALR on the grounds that as a policy it permits subdivision along the ALR boundary.

To reconsid

Application #15922-0

Applicant: Judge, Bhupinder and David
Decision Date: June 21, 1983
Proposal: To exclude the 4 ha lot in order to subdivide into three lots.
Decision: Refuse as proposed on the grounds that the land has good agricultural capability.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Board of Regional Directors: No comments or recommendations

Local Government Staff: Noted that the subject property is designated "Rural Resource" pursuant to the Electoral Area "A" Official Community Plan, which does not support the removal of lands from the ALR. Further, the Regional District of Nanaimo Regional Growth Strategy designates the subject property as "Resource Lands and Open Spaces", which supports the retention of land in the ALR

STAFF COMMENTS:

Staff recommend that the Commission consider the following:

- The applicant has submitted 15 letters of support regarding the agricultural capability of the property and the suitability of particular crop production on the property. The majority of these letters are copies from 2000/2001, leading staff to believe that the comments were reviewed at the time of the previous decision (#33640) and already taken into consideration by the Commission.
- Twelve new letters of opposition (dated 2007) have been received regarding exclusion of this property. The majority of comments note the water supply, agricultural capability of the property, and community needs.
- It does not appear that any information has been presented that would warrant a change from the previous decisions to refuse exclusion of the property. Staff recommend that the Commission review the applicant's submissions to determine if there is any new information that was not previously considered.

ATTACHMENTS:

- Staff Report for #33640-1 (7/25/02)
- ALC Decision letter for #33640-1 (8/12/02)
- "Crop Recommendations" Report by Mark Turner, P.Ag (10/07/02)
- Letter from John Wiens (10/9/02)
- Letters of Opposition (12)
- Letters of Support-submitted by land owner (15)
- ALC Context Map #92G.001
- ALC Airphoto Map
- ALC Agricultural Capability Map #92G.001

END OF REPORT



Signature

5/23/07

Date