



Agricultural Land Commission
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October 15, 2009

Reply to the attention of Gordon Bednard
ALC File: #39105

McElhanney Associates
495 Sixth St.
Courtenay, BC V9N 6V4

Attention: Michael Hansen

Re: Application to subdivide land within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 1045/2009 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 purple ink, appearing to read 'Erik Karlsen', is written over a horizontal line.

Erik Karlsen, Chair

Enclosure: Minutes

cc: Islands Trust Attn: Courtenay Campbell

GB/lv
38015-44968d1d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 15, 2009 at Langford, BC.

PRESENT:	Lorne Seitz Niels Holbek Jennifer Dyson Gordon Bednard	Chair, Island Panel Commissioner Commissioner Staff
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For Consideration

Application:	# 38105 (ID # 44968)
Applicant:	Estate of Ethel Martin
Agent:	McElhanney Assoc – Michael Hansen
Proposal:	Subdivision of one 1.8 ha lot to settle an estate.
Legal:	PID 006-580-785
Location:	1261 Swan Road, Denman Island

Site Inspection

A site inspection was conducted on September 14, 2009. Those in attendance were:

- Lorne Seitz Chair, Island Panel
- Niels Holbek Commissioner
- Jennifer Dyson Commissioner
- Gordon Bednard Staff
- Lynn Grieder Co-Executor

The Commission viewed the area under consideration for subdivision which was staked out through the existing field and encompassed a forested area in the southeast area of the property.

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

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI),

'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the subject property is

Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Subclasses

A	soil moisture deficiency	P	stoniness
X	cumulative and minor adverse		

Assessment of Agricultural Suitability

The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use. This is a very rural area of the island.

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 one of its goals in preserving agricultural land is to minimize the number of residential lots created in the ALR. Creation of residential lots limits the area available for farming and increases the pressure to create more residential lots. The Commission believes the proposal would impact existing or potential agricultural use of the existing property and surrounding lands by increasing residential land use in the area.

Assessment of Other Factors

Soils have consistently good (class 2 and 3) agricultural capability on the majority of the parent parcel, including the area proposed for subdivision – there is no distinction between the areas based on soils. The existing trees over much of the proposed lot could be removed and the existing farm fields expanded.

The Commission does not believe that estate settlements are a valid consideration in a proposal to divide agricultural land.

Finally, other properties in the area of similar size have been denied approval for subdivision.

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.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Lorne Seitz

SECONDED BY: Commissioner Jennifer Dyson

THAT the application be refused for the above reasons.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) *On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
 - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) *The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

CARRIED
Resolution # 1045/2009