



Agricultural Land Commission
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July 7, 2009

Reply to the attention of Gordon Bednard
ALC File: 38847 (new:# 45796)

Leo and Valerie Gervais
4121 Telegraph Road
Cobble Hill, BC VOR 1L4

Dear Sir/Madam:

Re: Application to subdivide land within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 318/2009 outlining the Commission's decision as it relates to the above noted application.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact your Local Government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'RH Cheekham', is written over the printed name Erik Karlsen.

Erik Karlsen, Chair

Enclosure: Minutes/Sketch Plan

cc: Cowichan Valley Regional District file #2-C-08ALR)
BC Assessment, Victoria

GB/lv/38847d1-45796d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on June 29, 2009 by e-mail conference.

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

For Consideration

Application: Old # 38847 New reference # 45796
Applicant: Leo and Valerie Gervais
Agent: none
Proposal: Subdivide a 1.5 ha property along the road which diagonally bisects the land to create two lots.
Legal: PID 006-247-610 Lot A, Section 19, Range 7, Shawnigan District, Plan 3274
Location: 4121 Telegraph Road, Cherry point, CVRD

Site Inspection

A site inspection was conducted on May 26, 2009. Those in attendance were:

- Lorne Seitz Chair, Island Panel
- Niels Holbek Commissioner
- Jennifer Dyson Commissioner
- Gordon Bednard Staff
- Leo and Valerie Gervais Applicants

Commission toured the property, on both sides of the road, and discussed the application with the applicants.

Leo Gervais confirmed that the staff report dated February 23, 2009 was received and no errors were identified.

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 1 – Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.

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.

Class 7 – Land in this class has no capability for arable or sustained natural grazing

Subclasses

D	undesirable soil structure
T	topography
W	excess water

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. However, the Commission recognized that the property, even taken as a whole, represents a very small area of land which for that reason alone may limit its utility for agriculture.

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 does not believe the proposal would impact existing or potential agricultural use of surrounding lands.

Other factor considered

The applicants are eligible for consideration under the Commission's homesite severance policy.

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, while being already limited by its present size.
3. That the proposal will not impact agricultural use of neighbouring properties.

IT WAS

MOVED BY: Commissioner Niels Holbek

SECONDED BY: Commissioner Lorne Seitz

THAT the application be allowed.

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the plan submitted with the application;
- the registration of a covenant for the purpose of restricting residential use on both the newly created lot and the parent parcel, to one dwelling per parcel;
- approval is granted for the sole benefit of the applicants and is not transferable;
- approval is granted in lieu of any future consideration under the Homesite Severance Policy;
- the subdivision must be completed within three (3) years from the date of this decision.

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.

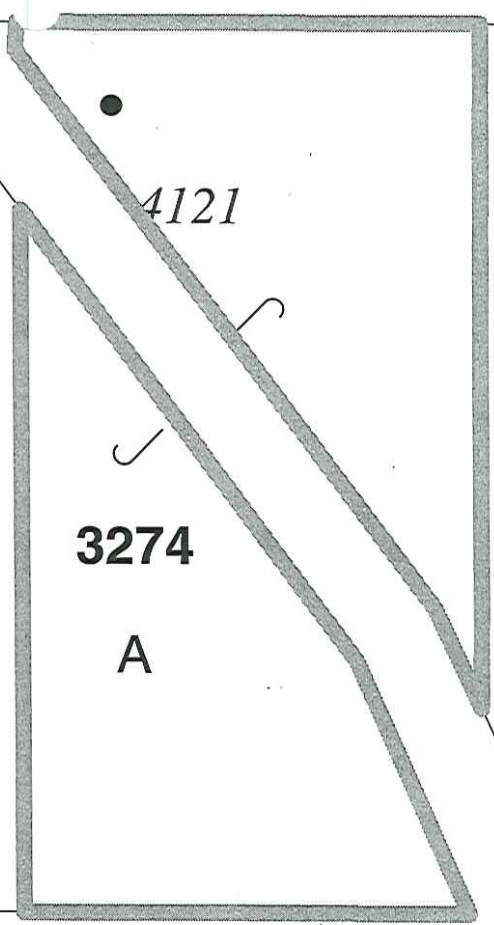
CARRIED

Resolution # 318/2009

4956

1

DOUGAN RD.



66270 W

2283

4089

63

Approved Subdivision within the ALR

