



Agricultural Land Commission
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July 3, 2009

Reply to the attention of GORDON BENARD
ALC File: J-38933

Brian Stokes
4805 Wilson Road
Duncan, BC V9L6L6

Dear Sir:

Re: Application to Use land in an ALR for non-farm purposes (second dwelling)

Please find attached the Minutes of Resolution # 232/2009 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:


Erik Karlsen, Chair

Enclosure: Minutes

cc: Cowichan Valley Regional District (1-E-09ALR)
BC Assessment, Victoria

GB/eg
i/38933d1



A meeting was held by the Provincial Agricultural Land Commission on May 25, 2009 at Duncan, B.C.

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

For Consideration

Application: # J- 38933
Applicant: Brian Stokes

Agent: None

Proposal: Applicants request approval for construction of a second permanent dwelling for farm help (daughter) on the subject property. The proposed dwelling would replace an existing farm building which would be torn down.

Legal: 1. PID: 005-848-741
Lot 8, Section 7 and 8, Range 1, Cowichan District, Plan 6495, EXCEPT Part in Plan VIP70982 and VIP76902

Location: 4805 Wilson Road, Duncan, CVRD

Site Inspection

A site inspection was conducted on May 25, 2009. Those in attendance were:

- Lorne Seitz Chair, Island Panel
- Niels Holbek Commissioner
- Jennifer Dyson Commissioner
- Gordon Bednard Staff
- Brian Stokes Applicant
- Sarah Stokes Applicant's daughter

The Commission toured the site of the proposed dwelling and discussed the application with the applicant and his daughter.

Mr. Stokes confirmed that the staff report dated May 8, 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.

The Act provides processes for landowners, local governments and First Nations to apply to the Commission to remove land from or to include land into the ALR or to subdivide or use land in the ALR for non-farm purposes.

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 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Subclasses

D undesirable soil structure
W excess water

T topography
P stoniness

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.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. Generally, increasing the permanent residential component of land use in a predominantly agricultural area is not seen by the Commission as consistent with the Commission's mandate. The Commission believes the proposal would impact existing or potential agricultural use of surrounding lands.

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 Jennifer Dyson
SECONDED BY: Commissioner Niels Holbek

THAT the application be refused as presented for the above reasons. The Commission supports the agricultural initiatives of the applicant and their family, however, at this time,

there is no justification for a permanent second dwelling. The Commission is concerned about setting precedent when there is not enough current agricultural activity on the property to justify a permanent second dwelling. The Commission would like to remind the applicant regarding the provision within the Regulations which allows for the placement of a manufactured home on the property for a family member.

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, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
Resolution # 232/2009