



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

June 30, 2009

Reply to the attention of GORDON BENARD  
ALC File: S-38947

Williamson & Associates - Professional Surveyors  
3088 Barons Road  
Nanaimo, BC  
V9T4B5

Attention Brock Williamson:

**Re: Application to subdivide land within the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 234/2009 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:

  
Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of Nanaimo (6635 04 0901)  
Frank Bajich, 3786 Jingle Pot Road, Nanaimo, BC V9T5R1  
BC Assessment, Nanaimo

GB/eg  
i/38947d1



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

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

**For Consideration**

Application: # S- 38947  
 Applicant: Mary Magdeline Bajich

Agent: Williamson & Associates - Professional Surveyors  
 Proposal: To subdivide a 6.8 ha lot from the 15.8 ha subject property containing the existing home.  
 Only 1.7 ha of the proposed 6.8 ha lot lies within the ALR.

The applicant qualifies for consideration under Homesite Severance Policy, having provided evidence of purchasing the property in January 1966.

Legal: 1. PID: 027-545-636  
 Location: Lot A, Section 19, Range 4, Mountain District, Plan VIP85152  
 Jingle Pot Road, rural Nanaimo

**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

The Commission met with Frank Bajich and discussed the application. Mr. Bajich also showed the Commission the proposed subdivision line and the area proposed to be created as a separate lot. This proposal is intended to help satisfy an estate settlement, as the owner (Mary Bajich) is deceased, leaving Frank and his siblings the farm property.

Mr Bajich confirmed that the staff report dated April 9, 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 (for proposed new lot)**

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

A small area of the proposed lot is also unclassified "X" – culturally modified (mine tailings).

#### Subclasses

P	stoniness
R	shallow soil / bedrock outcroppings
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.

### **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 believes the proposal would impact existing or potential agricultural use of the subject 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 Niels Holbek  
**SECONDED BY:** Commissioner Lorne Seitz

THAT the application be refused for the above reasons.  
That the Commission would allow a panhandle, right-of way, or easement to be registered across the northern boundary of the subject property to allow access to the non-ALR portion of the property on its eastern side. This would allow the non-ALR portion to be subdivided to satisfy division of the estate. The Commission may consider exclusion of the panhandle portion in the future.

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 # 234/2009**