



**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

July 3, 2009

Reply to the attention of GORDON BENARD  
ALC File: J-38952

R. Brian McDaniel  
201 - 64 Station Street  
Duncan, BC V9L1M4

Dear Sir:


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

Please find attached the Minutes of Resolution # 231/2009 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: Cowichan Valley Regional District (4-E-08ALR)  
Brant Weninger, 4475 Koksilah Road, Duncan, BC V4L6N3

GB/eg  
i/38952d1



# MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

**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: # J- 38952  
 Applicant: Brant Weninger

Agent: R. Brian McDaniel

Proposal: Subdivision of a 2.3 ha lot from the subject 6.8 ha lot. The applicant states that subdivision of the property will allow him to raise the capital necessary to finance the agricultural improvement of the balance of the property.

Subdivision would be done under Sec 946 of the LG Act as present zoning would not allow such a lot size without rezoning.

Legal: 1. PID: 000-622-451  
 Lot 7, Section 4, Range 8, Quamichan District, Plan 1852, Lying to the West of a Boundary Parallel to and Perpendicularly Distant 350 Feet From the Easterly Boundary of Said Lot

Location: 4475 Koksilah 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
- Brant Weninger                 Applicant
- Brian McDaniel                 Agent

The Commission discussed the application with the applicant and his agent, were guided on a tour of the property, and viewed the area proposed for subdivision.

### 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 according to the mapping available to the Commission 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 3 – Land in this class has limitations that require moderately intensive management practices or moderately 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.
- Class 7 – Land in this class has no capability for arable or sustained natural grazing

### **Subclasses**

- A soil moisture deficiency
- D undesirable soil structure
- T topography

The Commission acknowledges that the applicant has provided a report from Madrone Consultants regarding the agricultural capability of the lands within the area proposed for subdivision. In its conclusions the report states that 58% of the soils are unsuitable for agriculture in their present state.

In the summary of land capability section it states that "...appropriate irrigation and adequate fertilization could potentially improve soils within Map Unit A to class 2 assuming adequate drainage is available ..." Within unit B the summary of land capability section states "...limitations are likely improvable to Class1, Class2 and Class 3 assuming adequate drainage is available..."

Based on the above, the Commission believes the land has sufficient agricultural potential to warrant its retention in the ALR at its present size.

### **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. It is the Commission's belief that subdivision of parcels, in and of itself, does not lead to increased agricultural use of land. Indeed, it has found that if a small a parcel is created, the more likely the land will be used for residential use only, which is not conducive to the Commission's long term goal of protecting ALR land for future agricultural use. In the case of this particular application the Commission sees little agricultural advantage in allowing the 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 Jennifer Dyson  
**SECONDED BY:** Commissioner Niels Holbek

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

**CARRIED**  
**Resolution # 231/2009**