



**Agricultural Land Commission**  
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13<sup>th</sup> January 2009

Reply to the attention of Gordon Bednard  
ALC File 38893

J.E.Anderson and Associates  
1A – 3411 Shenton Road  
Nanaimo, BC  
V97 2H1

Dear Sirs:

**Re: Request for Reconsideration**

This is further to your letter of 2<sup>nd</sup> September 2009 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #235/2009.

The Commission has reconsidered the matter and has attached the Minutes of Resolution # 1907/2009 outlining its latest decision. As agent, it is your responsibility to notify your client(s) accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over a horizontal line.

Erik Karlsen, Chair

cc: Regional District of Nanaimo

Enclosure: Minutes

RC/38893d2



**A meeting was held by the Provincial Agricultural Land Commission on 18<sup>th</sup> December 2009 at Duncan, BC**

<b>PRESENT:</b>	Lorne Seitz Niels Holbek Jennifer Dyson Roger Cheetham	Chair, Island Panel Commissioner Commissioner Staff
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**For Consideration**

A letter from J.E.Anderson and Associates dated 2<sup>nd</sup> September 2009 was received requesting that the Commission reconsider its decision recorded as Resolution #235/2009. It indicated that a report has been prepared by Streamline Environmental Consulting dated 6<sup>th</sup> August that indicates that provincial and federal approvals are required for any development that causes disturbance to fish bearing water courses or courses leading to fish bearing water courses. It is unlikely that proposals to fill the wetland areas covering over 50% of the property would be granted. The report suggests two options – a bare land strata subdivision of the property with a large common area that could be used for agriculture, the cost of preparing the land being helped with the involvement of more family members. Alternatively the land could be excluded from the ALR.

Application:	S - 39993
Applicant:	Gene and Gloria Martini
Agent:	J.E.Anderson and Associates – David G. Wallace
Original proposal:	To subdivide the 2.7 ha lot into a 1.1 ha lot and a 1.6 ha lot
Original decision:	To refuse the application
Current proposal:	To reconsider the application based on the points raised in the report prepared by Streamline Environmental Consulting
Legal:	PID 003-757-366, Lot 1, District Lot 139, Nanoose District, Plan 18583
Location:	Ruffles Road and Leffler Road Errington

**Context**

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the “Act”) which states:

- S33(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, or
  - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission believed that the applicant had provided evidence that was not available at the time of the original decision and so reconsidered the application.

**Discussion**

The Commission in noting the conclusions of Streamline Environmental Consulting did not consider that the report provided any information that would justify it changing its decision. It was aware from its site inspection and the information that was available when the application was first reviewed that the property has significant wetland areas. However it considered that the property nevertheless has significant agricultural potential as indicated in the minutes of its original decision. With regard to option 1, the Commission considered that the new proposal to create strata title lots would fragment the property into rural residential parcels and would leave only a small common area available for agriculture. With regard to option two, over and above the Commission's view that the land has agricultural potential and is correctly placed within the ALR, it noted that it was in any event unable to consider the exclusion of the application in terms of the present application process. In this light the Commission did not consider that a meeting with the applicants, as requested in the reconsideration letter, was necessary.

**IT WAS**

**MOVED BY:** Commissioner J. Dyson

**SECONDED BY:** Commissioner L. Seitz

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT Resolution 235/2009 refusing the application for subdivision be confirmed.

**CARRIED**

**Resolution 1907/2009**