



**Agricultural Land Commission**  
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18<sup>th</sup> January 2010

Reply to the attention of Gordon Bednard  
ALC File: 50663

Howard Morris Fowler  
P.O. Box 59  
Coombs, BC  
V0R 1M0

Dear Sir:

**Re: Application to Exclude land from or Subdivide land in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 1852/2009 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

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

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of Nanaimo

rc/  
i/50663d1



**A meeting was held by the Provincial Agricultural Land Commission on 17<sup>th</sup> December 2009 at Duncan, BC**

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

**For Consideration**

Application: 50663  
Applicant: Howard Morris Fowler  
Agent: N/A  
Proposal: The exclusion of a 12.3 ha property from the reserve or alternatively the subdivision of the property into 5 lots.  
Legal: PID 006-416-250, That part of Lot 1, District Lot 141, Nanoose and Newcastle District, Plan 2273, lying to the north of a boundary parallel to and perpendicularly distant 977 feet from the northerly boundary of said Lot 1  
Location: Coombs

**Site Inspection**

A site inspection was conducted on 17<sup>th</sup> December 2009. Those in attendance were:

- Lorne Seitz Chair, Island Panel
- Niels Holbek Commissioner
- Jennifer Dyson Commissioner
- Roger Cheetham Staff
- Howard Fowler Applicant
- Kelly McAinsh Applicant

The Commission walked the property noting that it was being used as a horse farm. It noted that the property has limitations due to poor drainage.

**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**

The Commission reviewed the following reports on the property:

- An Agrologist's Report by Fitzpatrick Land Resource Consultants dated August 31<sup>st</sup> 2001
- A Commission staff report dated 10<sup>th</sup> July 2002 from Trevor Murrie, P. Ag.
- A Review of the Agricultural Capability and Soil Classification by Whiskyjack Land Management Corporation (Robert Hinkley) dated 7<sup>th</sup> April 2006
- An irrigation storage and drainage study dated 28<sup>th</sup> August 2006 undertaken by WorleyParsonsKomox (MV Thompson)

The Fitzpatrick report suggests that the overall agricultural capability of the soils is Class 5 with excess water limitations. The report suggests that the installation of a drainage system is not practical. The report from the staff Agrologist suggests that the property is capable of being improved to Class 2 or 3. In contrast to the Fitzpatrick report it suggests that it is possible to alleviate the excess water limitation. The report by Mr. Hinkley supports the conclusions of the Fitzpatrick report that the installation of a drainage and water containment system is impractical and very cost prohibitive.

The Commission also noted that the 1:20 000 agricultural capability ratings produced by the Ministry of Environment assessed the property as Class 4 with excess water and soil moisture deficit limitations improvable to Class 2. It further noted that the assessment of the property to the immediate north has a similar unimproved classification with parts improvable to Classes 2 and 3.

The Commission concluded, based on its inspection of the site and a review of the various reports that the property has secondary unimproved agricultural capability. With regard to the possibility of it being improved the Commission acknowledged that, given cost considerations and the general state of the agricultural industry at this time, it is unlikely that improvements will be carried out in the near future. On the other hand having regard to the improvements made to the property to the north and the likelihood of significant changes to the agricultural industry in the longer term, an important consideration of the Commission, it considered that improvements in the longer term could not be ruled out. The Commission was cognizant of the fact that the area has a good growing climate compared with many parts of BC and that there are many examples on Vancouver Island of significant improvements being made to create successful farms.

### **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 did 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 believed that the exclusion and/or subdivision of the property could have a negative impact on the existing and potential agricultural use of surrounding lands by introducing rural residential development into the area with concomitant potential for urban/rural conflicts. Moreover the Commission believed that the



subdivision of the property into five parcels would reduce agricultural options for the property and that agricultural interests were best served by the retention of the property in one parcel.

### **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 J. Dyson  
**SECONDED BY:** Commissioner N. Holbek

THAT the application be refused

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 # 1852/2009**