



Agricultural Land Commission
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May 16, 2011

Reply to the attention of Gordon Bednard
ALC File: #51899

Brian Gaudet
2-4300 Shearwater Drive
Abbotsford, BC V3G 2Y3

Dear Sir:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 125/2011 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:

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

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Regional District of Nanaimo Attn: Elaine Leung file #PL 2010-096

GB/eg
/51899d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 9, 2011 at Campbell River, BC.

PRESENT:	Jennifer Dyson	Vice Chair
	Niels Holbek	Commissioner
	Denise Dowswell	Commissioner
	Gordon Bednard	Staff

For Consideration

Application: #51899
 Applicant: 0848214 BC Ltd (Jake Bergen)
 Agent: Brian Gaudet
 Proposal: Consolidate the two properties and then re-subdivide the land into 44 lots
 Legal: 1) Lot A, DL 90, Block 359 Newcastle District plan VIP67156
 2) Block 1372, Newcastle District
 Location: Inland Island Highway at Horne Lake turnoff

Site Inspection

A site inspection was conducted on March 8, 2011. Those in attendance were:

- Jennifer Dyson Vice Chair
- Niels Holbek Commissioner
- Denise Dowswell Commissioner
- Gordon Bednard Staff
- Jake Bergen Owner
- Brian Gaudet Agent
- Chris and Jamie Bergen (owner's sons)

The Commission toured the properties with the applicant, his sons and the agent and noted the extensive clearing and land preparation which had taken place on a large portion of the property to the south of the Highway. As well, the Commission toured the property north of the Highway and noted that it had been cleared (and replanted to trees) over a large portion of the lot.

The Commission recalled that some portions of this lot are not in the ALR. From observations made during the onsite, it was difficult to see a definitive break between the ALR and non-ALR lands, and the Commission noted that more detailed study would be required to assess the agricultural capability of the non-ALR lands to determine why they had never been included into the ALR, or if there was some potential to encourage the land's inclusion into the ALR.

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

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 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.

Subclasses

A	soil moisture deficiency	P	stoniness
D	undesirable soil structure	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. These properties are situated in an area of large-lot recreational or resource properties, southwest of an area of extensive farm development, and adjacent to managed forested lots. As such, there would be little land-use conflict should the properties be developed for agriculture.

As well, these properties are of a size which could provide a wide range of crop options, for either a single type of farm operation, or mixed farming. The Commission believes that reducing the size of these lots would tend to limit such options which would be counter to the stated purposes of the Commission.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The creation of 44 lots from these two properties would introduce activities which could, in the opinion of the Commission, have significant negative impacts on agricultural land use into the future. Such impacts as road development, housing on each property, and other residential land uses would introduce potential land use conflicts currently evident in other area where farms are adjacent to contrasting land uses. The Commission therefore believes the proposal could impact existing or potential agricultural use of the subject property and surrounding lands.

Assessment of Other Factors

The Commission reviewed the applicant's proposal to facilitate and encourage berry farm development on the subdivided lands. While the Commission is supportive of the encouragement of farm development, it is concerned that there is no way to ensure new land owners follow through with any commitment to farm activities, and the area could easily revert to a large-lot residential 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 negatively impact agriculture.
4. That the proposal is therefore inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Jennifer Dyson
SECONDED BY: Commissioner Denise Dowswell

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, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

CARRIED
Resolution # 125/2011