



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 15, 2012

Reply to the attention of Liz Sutton
ALC File: #52702

Donald, Clara & Valerie Clouston
2322 Kemp Lake Road
Sooke, BC V9Z 0R2

Re: Application to Include Land into the Agricultural Land Reserve (ALR)

This is to inform you that the application from Mr. Edward Shaw to exclude land from the ALR was refused by Resolution #189/2012, dated May 14, 2012. A copy of the decision is attached and we draw your attention to Conclusion 3:

That with regard to the proposed inclusion of lands into the ALR. If the owners of the properties would like to have the Commission consider their proposal, the Commission will only do so on the basis of the agricultural merits of including the properties into the ALR in accordance with the Agricultural Land Commission Act, not on the basis of an exchange or offset to accommodate the proposed exclusion.

Conclusion: *The Commission is not prepared to include the properties identified in Application #52702 into the ALR on the basis of an exchange or offset to accommodate the proposed exclusion.*

Based on the above, the Commission wishes to know if you are still interested in proceeding with the inclusion application. The application will be held in abeyance until the Commission receives your direction.

Thank you in advance.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:


Brian Underhill, Executive Director

Enclosure: Minutes of Resolution 189/2012

cc: Capital Regional District (ALR 01-12)

52702m1



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June 15, 2012

Reply to the attention of Liz Sutton
ALC File: #52537

Edward Shaw
7096 West Coast Road
Sooke, BC V9Z 0S1

Dear Mr. Shaw:

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #189/2012 outlining the Commission's decision as it relates to the above noted application.

Section 33(1) of the *Agricultural Land Commission Act* provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

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.

A revised proposal does not constitute new information and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #189/2012

cc: District of Sooke

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PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 14, 2012 at #402 – 4333 Ledger Avenue, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Jennifer Carson	Land Use Planner
Colin Fry	Executive Director

APPLICATION ID: #52537

PROPOSAL: To exclude three properties totalling 16.6 ha from the ALR in return for including into the ALR two properties totalling 11.4 ha.

(Application for exclusion submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*)

Note: The applicant has submitted a concurrent inclusion application (Application #52702) pursuant to section 17(3) of the *Agricultural Land Commission Act*

EXCLUSION MEETING:

An exclusion meeting was held on May 14, 2012 in the main boardroom of the Operating Engineers building located at #402 – 4333 Ledger Avenue, Burnaby, BC. Those in attendance included the Commissioners and staff noted above, Mr. Ed Shaw (Applicant) and Mr. Shaw's daughter Stephanie Davidson.

Mr. Shaw provided speaking notes comparing and contrasting the land he is proposing to exclude from the ALR with the land his friend is proposing to include into the ALR. The speaking notes have been added to the file. Mr. Shaw also provided many details and examples of the difficulties he, and his father before him, have had in their attempts to farm the property. These difficulties included residential neighbours not respecting his property through the dumping of waste, trespass, damage to fences and rerouting water onto his properties which results in flooding. Mr. Shaw also discussed the difficulty he has had with getting liability insurance and draining the properties.

Regarding the proposed inclusion Mr. Shaw indicated the properties are being farmed and are in an area which does not have the same residential pressures as the area where his properties are located. He also explained that the applicants of the inclusion application are eager to have their property included into the ALR to ensure that it is used for agricultural purposes in perpetuity.

COMMISSION CONSIDERATION:

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission 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.

After reviewing the file information and considering the applicant's oral submissions the Commission has concluded as follows:

1. The *Land Capability Assessment* prepared by Madrone Environmental Services Ltd. (the "Madrone Report") found that the properties are comprised of land with unimproved agricultural capability ratings of Class 3 and 4. The Madrone Report also indicates that with deep subsoil ripping, subsoil drainage and irrigation the land could possibly be improved to Class 2 or Class 1 ratings but achieving the improved ratings may not be economically practical given the size of the land needing deep tillage, and considering that the soils are also subject to excess water and aridity limitations.

Conclusion: The properties have agricultural capability and should remain in the ALR.

2. That while the properties share an abrupt agricultural/urban interface along the south and northeast boundaries, a person wanting to use the land for agricultural purposes could take steps to mitigate the impacts cited by the applicant. The proximity of urban development to good agricultural land is not unique in this instance. There are many examples throughout the province where successful agricultural operations share urban boundaries or are in proximity to urban areas;

Conclusion: This is a farm management issue. A person wanting to use the land for agricultural purposes can take steps to mitigate impacts.

3. That with regard to the proposed inclusion of lands into the ALR. If the owners of the properties would like to have the Commission consider their proposal, the Commission will only do so on the basis of the agricultural merits of including the properties into the ALR in accordance with the *Agricultural Land Commission Act*, not on the basis of an exchange or offset to accommodate the proposed exclusion.

Conclusion: The Commission is not prepared to include the properties identified in Application #52702 into the ALR on the basis of an exchange or offset to accommodate the proposed exclusion.

4. That with regard to the five properties north located north of the subject properties, the Commission noted the District of Sooke adopted the current official community plan in 2010 and designated the subject area as a Technical Industrial Centre. The Commission opposed this designation when it commented on the draft official community plan and remains opposed to designation as adopted by the District in 2010.

Conclusion: The “Technical Industrial Centre” designation in the District’s official community plan for the properties located north of the subject properties is inconsistent with the Commission’s advice to the District and the Commission in no way supports the non-farm development of these properties and as such the Designation is not germane to the consideration of this application.

IT WAS

MOVED BY: Commissioner Gillette

SECONDED BY: Commissioner Miles

THAT the application be refused.

CARRIED

Resolution # 189/2012