



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca

December 20, 2013

ALC File: 52178

Gordon Butt
Madrone Environmental Services Ltd.
202-2602 Mount Lehman Road
Abbotsford, BC V4X 2N3

Dear Mr. Butt:

Re: Application to Place Fill on Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #372/2013 as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Further correspondence with respect to this application should be directed to Eamonn Watson (Eamonn.Watson@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in dark ink, appearing to be 'Brian Underhill', written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #372/2013

cc: City of Abbotsford – Attention: Dave Loewen (File: 4520-55/SRP#1558)
32315 South Fraser Way, Abbotsford, BC V2T1W7

BC Assessment – Attention: John Green
240 – 31935 South Fraser Way, Abbotsford, BC V2T5N7

Kirk Miller – via electronic mail

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 2, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #52178.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Commissioner
Sylvia Pranger	Commissioner
Bert Miles	Commissioner
Jim Johnson	Commissioner

COMMISSION STAFF PRESENT:

Eamonn Watson	Land Use Planner
Brian Underhill	Executive Director

REQUEST FOR RECONSIDERATION

The Commission received a letter dated May 8, 2013 requesting reconsideration of its decision recorded as Resolution #350/2012, by which, the proposal to fill the subject property with approximately 250,000 cubic metres of structural soil and topsoil to alleviate issues of topography, poor drainage and stoniness was refused.

Owner: Gabris Gabriel Korajian

Agent: Kirk Miller and Gordon Butt, M.Sc., P.Ag.

Original Proposal: (Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

To alleviate issues of topography, poor drainage and stoniness by placing fill on the subject property. An estimated 140,000 cubic meters of peat would have been excavated and stockpiled for reuse on the subject property. The excavated and other low-lying areas would have then been backfilled with 250,000 cubic metres of structural fill. The top 0.6 metres of the reclaimed soil profile would have been comprised of 50% imported topsoil and 50% stockpiled peat. The maximum fill depth above current ground elevation would have been 3 meters. The proposed fill was expected to improve the agricultural capability of the subject property from Class 4 and 5 to Class 1 and 2.

Original Decision: Refused.

Current Request: That the Commission reconsidered the application based on more detailed soil sampling in the wetland area. As a result, the amount of important soil required to alleviate issues over the 1.5 hectare project area has been reduced to approximately 40,000 m³.

Legal: PID: 005-510-414
Lot 15, Section 14, Township 13, New Westminster District, Plan 57060

Location: 30129 Marshall Road Extension, Abbotsford

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

- 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.
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DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission believes that the Mr. Gordon Butt of Madrone Environmental Services Ltd. has provided more detailed evidence that was not available at the time of the previous decision. As a result, it was unanimously decided that there were no persons affected by the reconsideration and that the Commission should reconsider Resolution #350/2012.

COMMISSION CONSIDERATION

The Commission concluded as part of the previous decision that *"the importation of a large volume of fill is inappropriate and inconsistent with the objectives of the Agricultural Land Commission Act to preserve agricultural land."* Furthermore, the Commission also believed that *"the use of 250,000 m³ of "structural fill" is excessive and not necessary to utilize the area for agricultural purposes."* However, having reviewed the May 8, 2013 letter from Mr. Gordon Butt of Madrone Environmental Services Ltd. the Commission believes that the current proposed amount of fill (40,000 m³) is significantly reduced from what was previously considered and significantly more appropriate.

IT WAS

MOVED BY: Commissioner Pranger
SECONDED BY: Commissioner Dyson

THAT the request to place 40,000 m³ of imported soil over a 1.5 hectare portion of the subject property to improve the agricultural capability be approved.

AND THAT the approval is subject to the following conditions:

1. The project must be completed in substantial compliance with the May 8, 2013 letter from Gordon Butt, M.Sc., P.Ag., of Madrone Environmental Services Ltd.;

2. The reclamation project must be overseen by a qualified registered professional who must complete the following:
 - a. Status reports, in accordance with the May 8, 2013 letter, three (3) times per year to update the Commission on the progress of the reclamation project. The first such report is due four (4) months after the commencement of the project; and
 - b. A final report, also in accordance with the May 8, 2013 letter, submitted to the Commission upon completion of the project. The final report must include a written description of the completed project, photos of the site, and evidence that the reclamation has been completed in accordance with this decision.

The Commission recognizes Gordon Butt as the qualified registered professional of record. Should the qualified registered professional overseeing the reclamation project change, please immediately inform the Commission in writing.

3. To ensure the successful reclamation of the project area and appropriate oversight, a financial security in the amount of \$60,000 must be posted with the Minister of Finance, care of (c/o) the Provincial Agricultural Land Commission. Release of the financial security will be dependent on receipt of evidence that soil reclamation is achieved on the project area to a standard deemed satisfactory by the Commission. In this regard, the Commission will consider the status and final reports that must be prepared by a qualified registered professional and submitted to this office in fulfillment of conditions 2.a. and 2.b. above; and
4. The reclamation project must be completed on or before January 31, 2016. Any proposed time extensions must be submitted to the Commission in writing prior to September 30, 2015. The request shall include a status report regarding the project and the extent of reclamation achieved on the project area.

AND THAT approval for soil importation for the project is granted for the sole benefit of the applicant and is non-transferable without written approval of the Commission. Should ownership of the subject properties change, please immediately inform the Commission in writing.

AND FINALLY THAT 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 #372/2013