



Agricultural Land Commission
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March 18, 2014

ALC File: #53408

Peter Mason
PO Box 185
Bowser, BC V0R 1G0

Dear Mr. Mason:

Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #81/2014 as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which 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 evidence 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.

Further correspondence with respect to this application is to be directed to Liz Sutton.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #81/2014

cc: Regional District of Nanaimo (File: PL2013-0070)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 23, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53408.

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
Jim Collins	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Jennifer Carson	Planner
Liz Sutton	Planner
Colin Fry	Executive Director

PROPOSAL (Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

To subdivide the 5.8 ha parcel into a 1.0 ha and 4.8 ha parcel.

PROPERTY INFORMATION:

Owner: Frank Riedstra and Mary-Anne Riedstra

Legal: PID: 004-120-410
Block 16, District Lot 10, Nanoose District, Plan 1918, Except That Part Shown
Outlined in Red on Plan 41088-R

Location: Coombs

Size: 5.8 ha

SITE INSPECTION

A site inspection of the subject property was conducted on November 12, 2013. Those in attendance included Commissioners Bullock and Dyson, ALC Planner Liz Sutton, Mary-Anne Riedstra and Natasha Riedstra.

The Commission attendees met Mary-Anne Riedstra at the north end of the property at the main dwelling, barn, and paddocks area which is situated off of Grafton Avenue. The attendees were then directed to the south end of the property to view the second dwelling (manufactured home)

which is accessible from Sunset Road. The manufactured home is currently occupied by the applicants' daughter, Natasha Riedstra, who helps with the farm. The applicants stated that the manufactured home was built approximately three years ago.

Section 14(2) of the *Agricultural Land Commission Act* provides that a member of the Commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote. Commissioner Dyson gave a verbal summary of the site inspection to all Commission members recorded above.

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
 - (c) 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.

COMMISSION CONSIDERATION

The Commission reviewed one previous application involving the subject property:

Application #25619 (Moore, 1991)	To subdivide the property into one 2 ha lot and one 3.6 ha lot. Refused on the grounds that subdivision would reduce the agricultural potential of the property and lead to heightened expectations of subdivision in the surrounding area. Resolution #81/92.
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After considering the information the Commission concluded as follows:

1. In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The improved agricultural capability ratings identified on BCLI map sheet 92F.028 for the subject property are approximately 50% (60% Class 3W and 40% Class 2D), 40% Class 3WP and 10% Class 4AP.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

The limiting subclasses associated with this parcel of land are W (excess water), D (undesirable soil structure), P (stoniness), and A (soil moisture deficiency).

Conclusion:

The subject property has good agricultural capability.

2. The Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the "Regulation") permits within the ALR, one manufactured home for use by a member of the landowner's immediate family in addition to a main dwelling. Should the family member no longer require the dwelling, the temporary nature of a manufactured home allows it to be removed from the property. By permitting a second dwelling in the form of a manufactured home, the Regulation allows for two residences on one property without requiring subdivision.

Conclusion:

As the Regional District granted permission to place the mobile home on the property for a member of the owners' family, it would be inappropriate to now consider the existence of the mobile home as a rationale for subdividing the parcel into two lots.

3. The Commission noted the applicant referred to s. 946 of the *Local Government Act* (LGA) as a factor in support of the request to subdivide the subject property. Section 2 of the *Agricultural Land Commission Act* (ALCA) establishes primacy of the ALCA over other legislation. More specifically:

- 2(1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

Section 946 of the LGA in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes s. 946 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. If a subdivision for a relative involves land in the ALR, the local government can only consider the use s. 946 if an application for subdivision has first been approved by the ALC.

Conclusion:

The consideration of s. 946 of the LGA in support of the subdivision proposal is inconsistent with the purposes of the ALCA.

IT WAS

MOVED BY: Commissioner Gillette

SECONDED BY: Commissioner Dyson

THAT the proposal to subdivide be refused.

CARRIED

Resolution #81/2014