



July 6, 2015

Agricultural Land Commission
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ALC File: 53835
ALC File: 53836
Your File: 2110-20 Carey
Road

The Corporation of the District of Saanich
770 Vernon Street
Victoria, BC V8X 2W7

Attention Doug Henderson:

Re: Applications to Include Land and Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decisions of the Agricultural Land Commission (Resolution #187/2015 and Resolution #188/2015) as they relates to the above noted applications.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* which provides a person affected the opportunity to submit a request for reconsideration.

- 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.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision "may not fulfill the purposes of the commission as set out in section 6". I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application is to be directed to Liz Sutton at (Elizabeth.Sutton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Reasons for Decisions (Resolution #187/2015 and Resolution #188/2015)

53835d1
53836d1



**AGRICULTURAL LAND COMMISSION FILE 53835
AGRICULTURAL LAND COMMISSION FILE 53836**

**REASONS FOR DECISION
OF THE ISLAND PANEL**

**Application submitted pursuant to s. 17(1) of the *Agricultural Land Commission Act*
Application submitted pursuant to s. 6 of BC Regulation 171/2002 (ALR Use, Subdivision
and Procedure Regulation)**

Applicant:

**The Corporation of the
District of Saanich
(the "District")**

Application before the Island Regional Panel:

**Jennifer Dyson, Panel Chair
Honey Forbes
Clarke Gourlay**



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 018-083-196

Lot A, Section 12, Lake District and Section 82, Victoria District, Plan VIP55771,

Except that Part in the Plan VIP68425

(the "Property")

[2] The Property has the civic address 4112 Carey Road, Saanich, and generally described as being located on Panama Flats.

[3] The Property is 25.3 ha in area.

[4] The Property is located partially within a designated Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA"). Only 7.4 ha of the Property are within the ALR.

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 17(1) of the *ALCA* the District is applying to include 14.5 ha of the Property into the ALR (singularly the "Inclusion Application"); and

Pursuant to s. 6 of BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation) (the "Regulation") the District is applying to develop a recreational trail to loop around Panama Flats and additional trails within the ALR (singularly the "Trail Application").

(collectively the "Applications")



[7] On February 5, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Applications to the Island Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Applications were made under s. 17(1) of the *ALCA* and s.6 of the Regulation:

17 (1) Subject to subsection (1.1), if the commission considers that an approval under this subsection carries out the intent of this Act, the commission may approve the addition to a designated land reserve plan

- (a) on the commission's own initiative, of any land,
- (b) on application of a local government, of land within the local government's jurisdiction, and
- (c) on application of a first nation government, of land within the first nation's settlement lands.

(1.1) If section 15 (2) applies in relation to treaty lands, an approval under subsection (1) (a) of this section in respect of those treaty lands may be made only with the consent of the treaty first nation.

6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:

- (a) widening of an existing road right of way;
- (b) construction of a road within an existing right of way;
- (c) dedication of a right of way or construction of any of the following:
 - (i) a new or existing road or railway;
 - (ii) a new or existing recreational trail; (Emphasis added)
 - (iii) a utility corridor use;
 - (iv) a sewer or water line other than for ancillary utility connections;
 - (v) a forest service road under the *Forest Act*;
- (d) the new use of an existing right of way for a recreational trail.



[9] The Panel considered the Applications within the context of s. 6 of the *ALCA*:

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.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

- 1. The Application
- 2. Local government documents
- 3. Agricultural capability map, ALR context map and satellite imagery

[11] The District resolved to forward the Applications with the recommendation for an approval.

SITE VISIT

[12] On February 25, 2015, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the District on April 20, 2015 (the "Site Visit Report").



FINDINGS

[14] In the District's *Report to Mayor and Council* dated February 12, 2014 (the "Saanich Report"), it states that the acquisition of Panama Flats in 2011 was to secure the Property for flood plain management, to optimize environmental values along the Colquitz River, to protect established farm land and food security, and for community park and trail uses.

[15] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 92B/6 for the mapping unit encompassing both the ALR and non-ALR areas of the Property are Class 2, more specifically the majority of the Property is classified as improvable to (2DW), the northernmost portion of this Property is classified as improvable to 8:2D - 2:2DW.

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.

The limiting subclasses associated with this parcel of land are D (undesirable soil factors) and W (excess water).

[16] In addition, the Panel referred to the professional Agrologist report, contained in the Application. The report entitled, *Agricultural Capability Assessment for Panama Flats, 4112 Carey Road, District of Saanich, BC*, was prepared by Nicole Muchowski, P.Ag., and dated October 18, 2013 (the "Muchowski Report"). The Muchowski Report finds that the soils are generally Class 3DW and 4WD and could be improved to Class 2DW with drainage improvements.

[17] During the Site Visit, the Panel was informed by District representatives that the Property has previously been used to cultivate potatoes, carrots, onions, etc. The District is proposing to return areas of the Property back to productive farm land and then lease the area for agricultural production. In giving consideration to the CLI ratings, and the historic agricultural



use of the Property, the Panel finds that the Property has good agricultural capability and potential.

[18] Despite its finding in the preceding paragraph, the Panel must consider a suite of factors to ensure that if land is included into the ALR, keeping it in the ALR is defensible in the long term. Furthermore, if land is included into the ALR it would be done so with the expectation that the land could be used to the fullest extent possible for soil bound agricultural pursuits (consistent with the improved agricultural capability ratings) and/or non-soil bound pursuits. Admittedly, many proposed inclusion applications succeed or fail following an assessment of agricultural capability. However, on occasion more in-depth assessment is needed when an external factor(s) could potentially influence the suitability of the Property to be used for agriculture. Given the urban environment in which the Property is located, the Panel felt the need to give serious consideration to the potential impacts that agricultural use of the Property may have on the surrounding urban area and vice versa.

[19] As noted previously, the Property is located in an urban area which could bring potential conflicts from both the agricultural and urban sides. Close proximity to a residential area may restrict the nature of agricultural operations and activities that may take place on a property. From an operational standpoint, farmers would be concerned about trespassing, litter, bio-security, vandalism and complaints associated with farm activities such as odors, noise, dust, etc. The Panel finds that the urban setting in which the Property is located may already compromise the agricultural suitability of the portion of the Property currently in the ALR, let alone adding more land to the ALR as proposed.

[20] Continuing with its review of whether or not the land is agriculturally suitable, the Panel considered the multiple uses proposed on the Property (both ALR and non-ALR portions) including:

- the existing Panama Hill Park;
- the proposed recreational trail;
- recovering wetland;
- river restoration;



- managed drainage field for storm water management; and
- migratory bird habitat.

The Panel considered the potential impacts these activities may have on the use of the Property for agriculture. Of the aforementioned proposed uses, the Panel has the greatest trepidation regarding the use of the southwest corner of the Property for storm water management and migratory bird habitat. While the District has indicated the primary source of flooding comes from the Colquitz River, the Panel is unclear as to whether occasional or seasonal flooding of the Property will also serve to function as a retention area for run-off from surrounding upland residential areas during storm events. The Panel also has concerns regarding the encouragement of migratory bird habitat on an agricultural property which may dictate the timing and uses of the land for agriculture as well as a potential for crop damage. In the absence of detailed information regarding the role the Property (both ALR and proposed ALR components) will play regarding municipal flood management, the Panel finds it difficult to assess the appropriateness of including more land into the ALR at this time. To be clear, if the flood management objectives of the District are such that the proposed inclusion area will be used for water retention during seasonal periods of high precipitation, or for overflow spillage during storm events, the potential agricultural use of the Property will be significantly impacted. At this point, the Panel must stress that it completely understands the District's need to plan for storm and flood water management for the protection of its constituents, private property and municipal infrastructure. The preceding comments are not intended to be dismissive of the issue. The matter before the Panel however, is whether or not it is appropriate, from an agricultural perspective, to include land into the ALR as proposed.

[21] In the past, the Commission has dealt with similar urban/agricultural pressures of this nature in the District which resulted in exclusion of those areas from the ALR. In order to consider the Inclusion Application further, the Panel must be convinced that pressures and conflicts which served as successful arguments for excluding land from the ALR would be thoroughly mitigated. When considered singularly, the non-farm uses proposed on, and adjacent to the Property may be manageable to facilitate agriculture. However, when all of the proposed uses are considered in concert, and within the geographic context of the



surrounding urban area, the Panel finds that including land for the proposed concept plan will introduce a number of potential conflicts which may be put significant restrictions on encouraging agriculture.

[22] Given the concerns expressed above, the Panel finds there are too many agricultural uncertainties associated with the Inclusion Application to the extent that it cannot support the Inclusion Application at this time.

[23] With respect to the Trail Application, the Panel has no objection to the proposed trail on the ALR portion of the Property provided that trail is aligned on the east side of the existing storage facility.

DECISION

[24] For the reasons given above, the Panel refuses the Application to include 14.5 ha into the ALR.

[25] For the reasons given above, the Panel approves the Application to develop a recreational trail on the Property provided that it is aligned to the east of the storage building and constructed in accordance with the Concept Plan provided with the Application.

[26] 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.

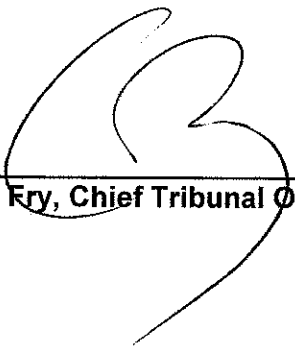
[27] Panel Chair Jennifer Dyson, concurs with the decision.
Commissioner Honey Forbes, concurs with the decision.
Commissioner Clarke Gourlay, concurs with the decision.

[28] Decision recorded as Resolution #187/2015 (As it relates to Application ID 53835).
Decision recorded as Resolution #188/2015 (As it relates to Application ID 53836)



A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the Agricultural Land Commission Act.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #187/2015 and Resolution #188/2015. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

July 2, 2015

Date Released