



**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 30, 2015

ALC File: 53938

District of Central Saanich  
1903 Mount Newton Cross Road  
Saanichton, BC V8M 2A9

**Attention: Dave McAllister, Director of Engineering and Public Works**

Dear Mr. McAllister:

**Re: Application to Subdivide Land and to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #176/2015) as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly. A sketch plan depicting the decision has been attached.

Please send two (2) copies of the final survey plan to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

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 s. 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).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosures: Reasons for Decision (Resolution #176/2015)

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## **AGRICULTURAL LAND COMMISSION FILE 53938**

### **REASONS FOR DECISION OF THE ISLAND PANEL**

**Application submitted pursuant to s. 21(2) and s. 20(3) of the *Agricultural Land Commission Act***

**Applicant:**

**Brentwood Developments Ltd.  
(the "Applicant")**

**Agent:**

**District of Central Saanich  
(the "District")**

**Application before the Island Regional Panel:**

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



## **THE APPLICATION**

[1] The legal descriptions of the properties involved in the application are:

### **Property 1**

Parcel Identifier: 015-691-489

Lot 2, Sections 10 and 11, Range 2 East, South Saanich District, Plan 49839

Area: 18.5 ha

### **Property 2**

Parcel Identifier: 001-934-864

Lot 1, Block 4, Section 11, Range 2 East, South Saanich District, Plan 1607

Area: 1.0 ha

(collectively the "Properties")

[2] The Properties are generally described as being located in proximity of Maber Flats.

[3] The Properties are located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[4] The Properties are located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[5] Pursuant to s. 21(2) of the *ALCA*, the Applicant has authorized the District to apply to the Agricultural Land Commission (the "Commission") to realign the boundaries between Property 1 and Property 2 to create one parcel of approximately 8.2 ha north of Wallace Road and one approximately 11.3 ha parcel south of Wallace Road. Pursuant to s. 20(3) the District has also applied to create a 5 ha water retention facility south of Wallace Drive ("collectively the "Application").



[6] On February 5, 2015, the Chair of the Commission referred the Application to the Island Regional Panel (the "Panel").

### **RELEVANT STATUTORY PROVISIONS**

[7] The Application was made pursuant to s. 21(2) and s. 20(3) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[8] The Panel considered the Application 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**

[9] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Evidence from any third parties
4. Previous application history



5. Agricultural capability map, ALR context map and satellite imagery
6. *A report titled, Preliminary Assessment of the Economic Benefit to Agricultural Production from a Water Detention Facility on Maber Flats, District of Central Saanich prepared by Zbeetnoff Agro-Environmental Inc., dated August 13, 2014 (the "Zbeetnoff Report").*
7. April 6, 2009 letter from the former Chair of the Commission, Mr. Erik Karlsen to the former Mayor of the District, Mr. Jack Mar regarding, in part, Maber Flats.

[10] On November 3, 2014 District Council resolved to forward the Application to the Commission with a recommendation of support.

[11] The Panel reviewed previous applications involving the Property:

Application ID: 37980  
Legacy File: 26196  
(Brentwood Lakes Golf Course  
Ltd., 1992)

To subdivide the 18.5 ha parcel along Wallace Drive to create two lots of approximately equal size. The Commission noted that the agricultural capability of the property was good. Further, it felt that Wallace Drive did not provide a great enough obstacle to agricultural activity to warrant subdivision. However, the Commission was prepared to consider a subdivision along Wallace Drive if the portion south of Wallace Drive was consolidated with an adjacent parcel. The application was refused by Resolution #553/92.

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Application ID: 38316  
Legacy File: 23736  
(Berglund Holdings Group L.,  
1989)

To develop an 18-hole golf course on the 56.9 ha total area of the subject properties. The golf course referral submitted pursuant to s. 2(1)(m) of BC Regulation 7/81, as amended by BC Regulation 238/88, was consider. By Resolution #926/89 the Commission established the terms and conditions for the development.



1. The submission of plans to detail how effective drainage is to be achieved. The purpose of this condition is to ensure minimal degradation, to maintain maximum trafficability of the agricultural soils within the property and to ensure adjacent lands are not adversely affected by the altered landscape;
2. The consolidation of the twenty (20) parcels in one (1) lot;
3. Minimum 6-foot chain-link perimeter fencing of the area south of Wallace Drive save and except the portion fronting Wallace Drive;
4. Vegetative screening along the fenced boundaries. The vegetative screening coupled with the chain-link fence is intended to contain the golf course activity on the subject property;
5. No removal of soil material from the property. Modifying the landscape using existing soils within the property is permitted;
6. No deposit of soil material on the subject lands except as required for building and parking area construction. It is recognized that sand may be required for tee and green construction and the Commission has no objections to importing sand for this purposes;
7. Immediately prior to work commencing on the lands an Irrevocable Letter of Credit in the amount of \$70,250.00 is to be provided to the Commission. The term is for five (5) years from the start of construction. After five (5) years the necessity for the Letter of Credit will be re-assessed. The purpose of this condition is to



provide the Commission with the funds to rehabilitate the land to an agricultural standard should the golf course development fail for presently unknown reasons. This security is also required to ensure compliance with the fencing and vegetative screening requirements;

8. Such terms and conditions that may become evident upon review of the detailed drainage plan.

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#### Reconsideration Request

The applicant and the District of Central Saanich submitted a joint request for reconsideration based on several proposed amendments, including:

1. the dedication and construction of a walkway of not less than 5.0 metres wide along the east boundary of Lot 6, Block 5, Section 12, Range 2 East;
2. the dedication or granting of an easement in sufficient width along the entire south boundary to accommodate a maintenance strip of not less than 7.6 metres wide and running parallel with the existing drainage channel. The easement would also be used for walkway purposes;
3. to delete Lot 4, Block 5, Section 12, Range 2 East, Plan 1607 from the overall proposal (ie: consolidation);
4. to create one (1) 0.8 ha lot from the east portion of that part of Lot 2, Sections 10 and 11, Range 2 East, Plan, lying north of Wallace Drive. This lot will be conveyed to the municipality for subsequent sale as a residential lot;
5. to increase the bond from \$70,250.00 to





- \$140,500.00 as the original amount was considered to be insufficient in the event rehabilitation of the land was required; and
6. to consolidate all the parcels save and except the areas identified in Items 3 and 4.

The amendments were approved by Resolution #866/90.

**Note: Subsequent to the above resolutions, the Golf Course Development Moratorium Act received Royal Assent (June 5, 1992) which provided that all golf facility applications that had not been exempted under Section 5 of the Golf Course Development Moratorium Regulation on or before April 6, 1992 were cancelled without compensation. The above noted application was not exempted and was cancelled.**

### **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 Agent on April 14, 2015 (the "Site Visit Report").

### **FINDINGS**

- [14] 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/11, for the mapping units encompassing the Properties, are approximately 5% (8:2D – 2:2DW) and 95% O2W (organic).

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 structure), and W (excess water).

- [15] The Panel finds that the Properties have good agricultural capability and could support a wide range of agricultural activities.
- [16] The Panel took particular note of the comments contained in the April 6, 2009 letter from the former Chair of the Commission to the former Mayor of the District regarding Maber Flats. The Chair of the Commission commented, "With regard to Maber Flats in the Hagan/Graham Creek Watershed, the Commission recognizes that a significant amount of flooding was occurring in the early 1970s when the Commission's legislation took effect. In this light it considers that the case for establishing a detention facility on the Flats is possibly stronger than in other floodplain areas within the ALR. For this reason the Commission is not opposed in principle to the use of Maber Flats for stormwater detention provided that there are overall benefits for agriculture. It notes, however, that the 1992-4 Hagan Creek drainage study undertaken by Dayton and Knight proposed other options, albeit at greater cost, such as improving the hydraulic efficiency of the main drainage along Graham and Hagan Creeks or diverting water west of Wallace Drive. The Commission would be interested in learning more about the feasibility of these options which do not appear to have been examined in the report to determine whether these or any other options constitute reasonable alternatives to the use of Maber Flats for stormwater retention."
- [17] The Panel finds that the April 6, 2009 letter provides evidence that the issue of stormwater impact on Maber Flats goes back decades and that the District has been exploring the feasibility of eliminating or mitigating the impact for many years. The Panel also noted the reference to an *Integrated Stormwater Management Plan for Central Saanich*. However, the Application contained no such document and given the lengthy history of review, the Panel wishes to ensure that it has the most recent version of the plan.
- [18] The Panel echoes the former Chair's comments that it is not opposed in principle to the use of Maber Flats for stormwater detention provided that there are overall benefits for agriculture. However, for greater clarity the Panel's comments are specific to a portion of



agricultural land in Maber Flats and not to the entire area of Maber Flats. The Panel finds the Application to be in keeping with this general statement.

[19] The Panel is prepared to approve in principle the storm water management aspect of the Application with final approval pending receipt and approval of:

- the most current *Integrated Storm Water Management Plan*;
- any further work that may have been done regarding the review of the other drainage options mentioned in the 1992-4 Hagan Creek drainage study undertaken by Dayton and Knight;
- a detailed site development plan; and
- a wildlife/waterfowl management plan.

[20] Given its qualified commitment to the storm water management aspect of project, the Panel finds that moving forward with the realignment of the boundaries between the Properties to create one parcel of approximately 8.2 ha north of Wallace Road and one approximate 11.3 ha parcel south of Wallace Road, is appropriate to resolve the ownership issue thereby allowing the District to advance the project.

## **DECISION**

[21] For the reasons given above, the Panel approves in principle the storm water management aspect of the Application with final approval pending receipt and approval of:

- a. the most current *Integrated Storm Water Management Plan*;
- b. any further work that may have been done regarding the review of the other drainage options mentioned in the 1992-4 Hagan Creek drainage study undertaken by Dayton and Knight;
- c. a detailed site development plan; and
- d. a wildlife/waterfowl management plan.

[22] Also, for the reasons given above, the Panel approves the subdivision to realign the boundaries between the Properties to create one parcel of approximately 8.2 ha north of



Wallace Road and one approximate 11.3 ha parcel south of Wallace Road. The approval in this regard is subject to:

- a. the subdivision being in substantial compliance with the plan submitted with the Application; and
- b. the subdivision plan being completed within three (3) years from the date of release of this decision.

[23] 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.

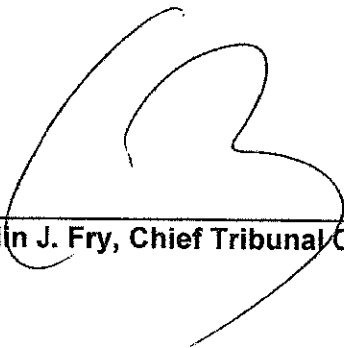
[24] Panel Chair Jennifer Dyson concurs with the decision.  
Commissioner Honey Forbes concurs with the decision.  
Commissioner Clarke Gourlay concurs with the decision.

[25] Decision recorded as Resolution #176/2015.

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

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Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #176/2015. The decision is effective upon release.



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Colin J. Fry, Chief Tribunal Officer

June 30, 2015

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Date Released