



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

December 4, 2015

ALC File: 54052
Your File: 2860-40 Wilkinson Road

Richard Butler
District of Saanich
770 Vernon Avenue
Victoria, BC V8X

Dear Mr. Butler:

Re: Application for a Recreational Trail in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #447/2015) 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 section 6 or does not adequately take into account the considerations set out in section 4.3". 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 #447/2015)
Sketch plan

54052d1



AGRICULTURAL LAND COMMISSION FILE 54052

REASONS FOR DECISION OF THE ISLAND PANEL

Application submitted pursuant to s. 6 of BC Regulation 171/2002 (ALR Use, Subdivision and Procedure Regulation)

Applicant:

**Dorothy Bolton
(the "Applicant")**

Agent:

**Richard Butler,
District of Saanich
(the "Agent")**

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: 005-335-272
Lot 1, Section 97, Lake District, Plan 10708
(the "Property")

[2] The Property is 1.0 ha in area.

[3] The Property has the civic address 4436 Wilkinson Road, Victoria.

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

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

[6] Pursuant to s. 6 of the Regulation, the Agent, acting on behalf of the Applicant, is applying to build a three (3) metre wide gravel, non-motorized, municipal recreational trail along the Colquitz River (the "Application").

[7] On June 23, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Island Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. s. 6(c)(ii) of the Regulation:

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:

(c) dedication of a right of way or construction of any of the following:



- (ii) a new or existing recreational trail;

[9] 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

[10] The Panel considered the following evidence:

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

All documentation noted above was disclosed to the Agent in advance of this decision.

[11] At its meeting of March 16, 2015, the District of Saanich Council resolved to forward the Application for subdivision to create one additional parcel as “park” in order to construct a recreational trail along the Colquitz River to the Agricultural Land Commission.

Note: Despite the District of Saanich’s resolution, the Application was made pursuant to s. 6 of the Regulation and as such, subdivision does not form part of the Panel’s consideration.

[12] The Panel reviewed one relevant application relating to the application:

Application ID: 1542
Legacy File: 28239
(Bull, 1993)

To subdivide the 4.3 ha property into four parcels, two of which would be added to Colquitz Park. The two park



parcels were proposed to be 0.7 ha and 0.2 ha in size. In addition, two lots of 0.8 ha and 2.6 ha were proposed. The application was refused but consideration was given to subdivision along the creek subject to consolidation of either portion with an adjacent property. Resolution #791/93.

Reconsideration Requests This application was reconsidered three times with the final Commission decision that the request to vary its previous decision and subdivide the 4.3 ha subject property into three lots (two of 0.7 - 0.8 ha approx. and a 2.8 ha remnant) be allowed. The commission also had no objection to the park use the 0.7 ha park lot straddling Colquitz Creek. Resolution #30/97.

Note: Application ID: 1542 is located two parcels north of the Property. The subdivision and creation of the park by Resolution #30/97 has not been completed.

SITE VISIT

[13] On November 3, 2015, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

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/6 for the mapping units encompassing the Property are 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 structure), and W (excess water).

[15] At the Site Visit, the Agent explained that the trail is intended to follow the south side of the Colquitz River and will cross Wilkinson Road via a proposed underpass at the time of road upgrading. The Panel considered the impact of the trail alignment which would alienate the trail from the proposed park on the north side of the Colquitz River. The Panel is not in favour of aligning the trail on the opposite side of the river from the proposed park, thereby leading trail users through the agricultural side of the Property. The Panel is concerned that a trail on the agricultural side of the Property would diminish the incentive to utilize the small grazing area along adjacent to the driveway and could present conflict between trail users and the farm operation.

[16] The Panel has no objection to locating the trail through the proposed park in order to buffer trail users from the agricultural operation on the south side of Colquitz River. The Panel is providing a sketch of the proposed alignment. If the Applicant agrees, they may provide the Commission with the appropriate trail right-of-way plans for review and deposit with the Registrar of Land Titles.

[17] The Panel wishes it clearly understood that the trail is being proposed through agricultural areas and that agricultural land use remains the priority land use in the ALR; the use as a trail is subordinate to agriculture. In this regard, the responsibility to implement appropriate measures to safeguard existing and future agricultural operations will rest with those owning, operating and/or maintaining the trail.

[18] In order to create the 0.18 ha park north of the Colquitz River, the Commission requires receipt and approval of a subdivision application.

DECISION

[19] For the reasons given above, the Panel refused the Application as proposed, but would allow the trail to be aligned on the north side of the Colquitz River.



- [20] If the Applicant agrees to the alternate alignment provided by the Panel, the trail is approved subject to the following conditions:
- a. The preparation of a trail right-of-way plan to delineate the trail area per the drawing provided with the Reasons for Decision;
 - b. Ongoing maintenance and repair of the trail and associated infrastructure;
 - c. Posting appropriate signage at entry points to the trail informing trail users that they are passing through an agricultural landscape and that dogs must be leashed;
 - d. Placing litter bins at regular intervals on the trail, particularly at entry points; and
 - e. Restricting motorized traffic with the exception of access for the District of Saanich for purposes for maintenance.

[21] 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.

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

[23] Decision recorded as Resolution #447/2015.

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



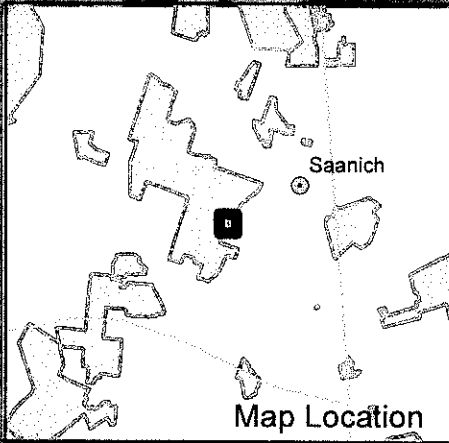
Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #447/2015. The decision is effective upon release.

A handwritten signature in black ink, consisting of several large, fluid loops and a long, sweeping tail that extends downwards and to the right.

Colin J. Fry, Chief Tribunal Officer

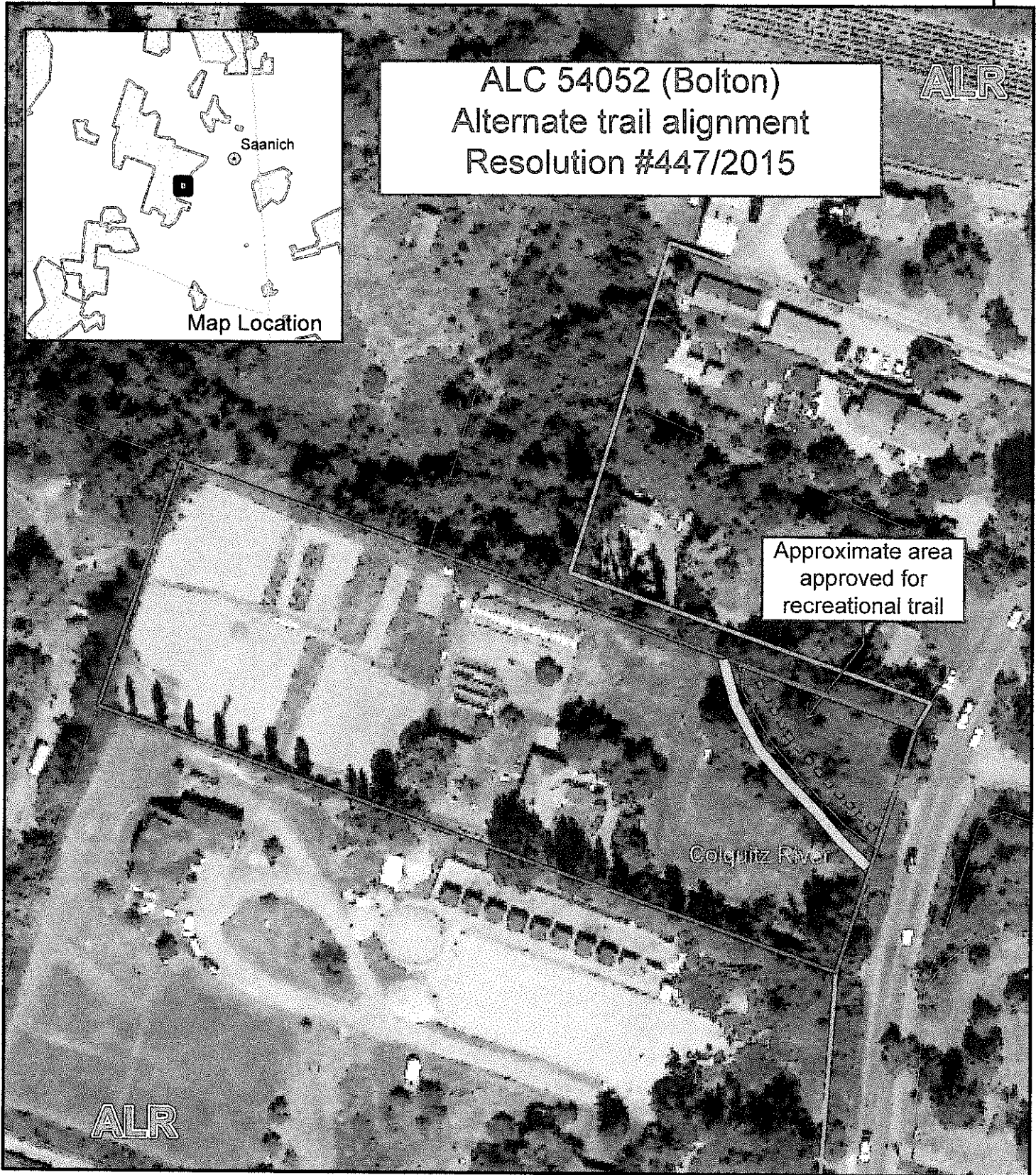
December 3, 2015

Date Released



ALC 54052 (Bolton)
Alternate trail alignment
Resolution #447/2015

ALR



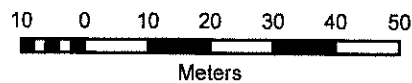
ALR



Airphoto Map

2014 Natural Colour UTM10 92b043

Map Scale: 1:1,200



ALC File #: 54052

Mapsheet #: 92B.043

Map Produced: Nov 9, 2015

Regional District: Capital