



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

February 11, 2016

ALC File: 54274

Alex Apostoli
3781 Cavin Road
Duncan, BC
V9L 6T2

Dear Mr. Apostoli:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution # 49/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the other applicant accordingly. A sketch plan depicting the decision is also 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.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Kim Grout, Chief Executive Officer

Enclosures: Reasons for Decision (Resolution #49/2016)
Sketch plan
Delegation to CEO Minutes

cc: Cowichan Valley Regional District (File:02-E-15ALR)

54274d1



AGRICULTURAL LAND COMMISSION FILE 54274

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

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

Applicants:

**Alexander Apostoli
Jennifer Apostoli
(the “Applicants”)**

Agent:

**Alexander Apostoli
(the “Agent”)**

Application before the Chief Executive Officer:

**Kim Grout
(the “CEO”)**



THE APPLICATION

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

Property 1

Parcel Identifier: 025-912-925

Lot 1, Section 8, Range 2, Quamichan Land District, Plan VIP76698

Property 2

Parcel Identifier: 006-012-230

That Part of Lot 2, Section 8, Range 2, Quamichan District, Plan 4701, Lying To
The South East Of A Boundary Parallel To And Perpendicularly Distant 115
Feet From The North Westerly Boundary Of Said Lot.

(collectively the “Properties”)

[2] Property 1 is 2.1 ha in area. Property 2 is 0.3 ha in area.

[3] Property 1 has the civic address 3791 Cavin Road, Duncan. Property 2 has the civic address 3781 Cavin Road, Duncan.

[4] Pursuant to s. 21(2) of the *Agricultural Land Commission Act* (the “ALCA”), the Applicants are proposing a boundary adjustment in order to relocate a shallow dug well which is currently located on Property 2, to Property 1. The well currently services Property 1 and the boundary adjustment would allow Property 1 to have its own agricultural water source. The proposed boundary adjustment does not result in a change in property size for Property 1 or Property 2 (the “Application”).

RELEVANT STATUTORY PROVISIONS

[5] The Application was made pursuant to s.21(2) of the ALCA:

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

[6] Pursuant to s. 27 of the *ALCA* the CEO may approve some applications:

- 27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:
- (a) specified types of applications for exclusion, subdivision or non-farm use;
 - (b) applications with respect to specified regions of British Columbia.
- (2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.
- (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
- (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
- (5) An approval of an application by the chief executive officer under subsection (3) is decision of the commission for the purposes of this Act.
- (6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.

[7] On June 27, 2011, the Agricultural Land Commission (the “Commission”) delegated decision-making to the CEO by Resolution #016N-2011 (File: 140-60/ALC/CEO/APPL). In accordance with section 27 of the *ALCA* the Commission has specified that the following applications may be decided by the CEO.

Criterion 14

Exclusion, subdivision, non-farm use and inclusion applications that are not consistent with any of the existing approved criteria (Criteria 1 - 13) but nonetheless



are minor in nature, and in the opinion of the CEO the interests of the Commission would be unaffected by an approval of the application.

DECISION

[8] After reviewing the entire file material, I am satisfied that the Application is consistent with Criterion # 14 of Resolution #016N/2011 and approve the Application.

[9] The approved Application is subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the area to be excluded per the drawing submitted with the Application;
- b. the subdivision be in substantial compliance with the plan submitted with the Application;
- c. the subdivision plan must be completed within three (3) years from the date of this decision;

[10] 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.

[11] Decision recorded as Resolution #49/2016.

A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

I CERTIFY THAT THIS IS A TRUE RECORD OF THE DECISION



Kim Grout, Chief Executive Officer

February 11, 2016
Date Released

MANUSCRIPT OF

LOT B, PLAN 31539 AND LOT 1,
PLAN 4701, BOTH OF SECTION 8, RANGE 2,
QUAMICHAN DISTRICT.

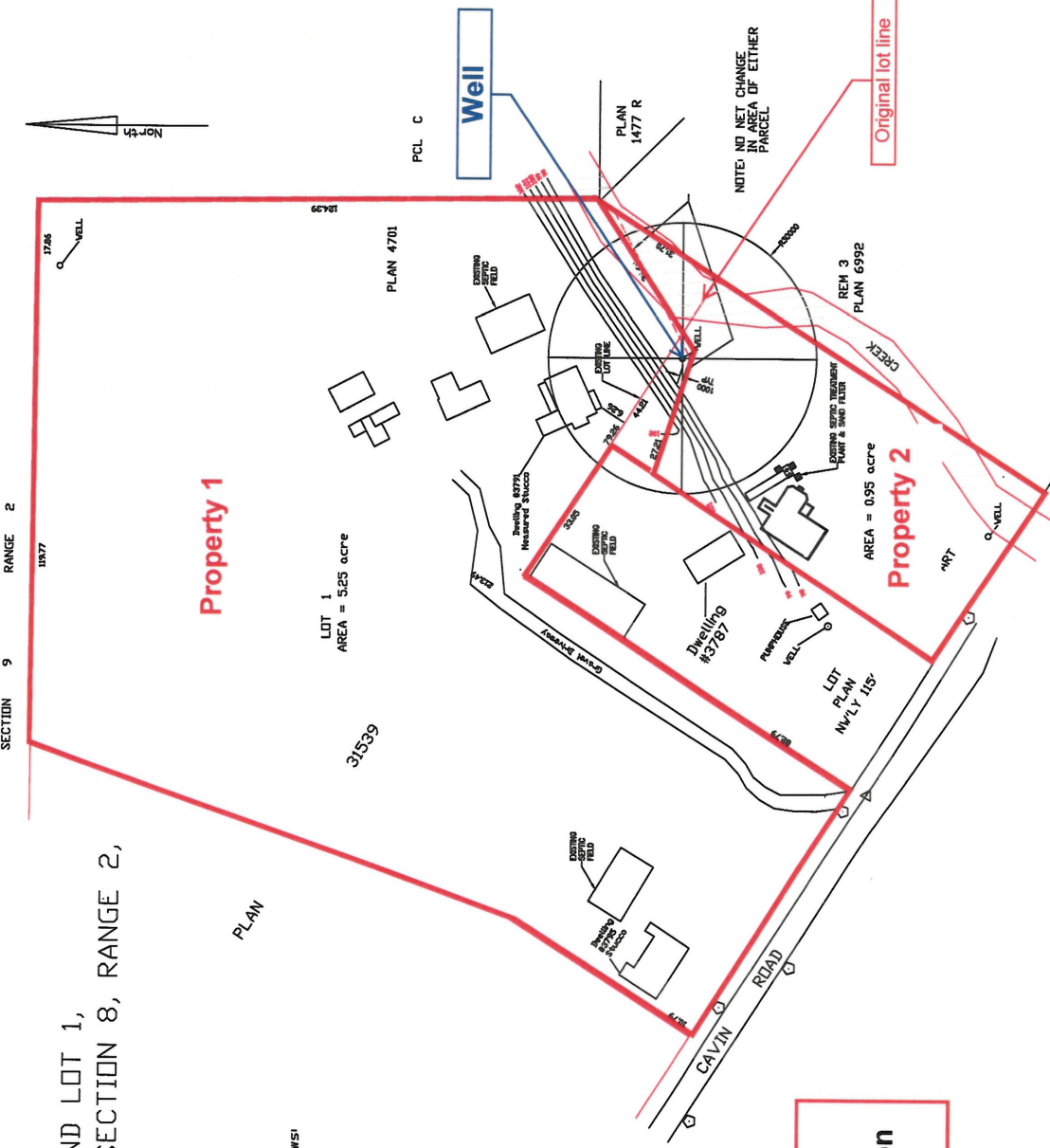
SCALE 1:1000

All distances are in metres.

Note: Lots B and 1 lie within the C.V.R.D.
Area E and is Zoned A-2.
Bylaw setback requirements are as follows:
Residential & Accessory Uses
Front 7.5 m 3.0 m
Side (Interior) 4.5 m
Rear 7.5 m

LEGEND

- denotes utility pole
- denotes guy wire
- denotes edge of pavement



ALC Application #54274
Alexander and Jennifer Apostoli
Conditionally Approved Subdivision
ALC Resolution #49/2016

NO.		DATE	REVISION/ISSUE
AAE STRUCTURAL LTD. tel (250) 748-7544 fax (250) 748-7004 3791 Cavin Road Duncan B.C. V9L 6T2			
Drawn By: A.A.		Date: 7/26/2015	Scale: 1:1000
PROPOSED LOT LINE ADJUSTMENT PRELIMINARY SKETCH ALEX & JENNIFER APOSTOLI 3781 & 3791 CAVIN ROAD			DWG NO. SK1



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Executive Committee of the Provincial Agricultural Land Commission on June 27, 2011 at Burnaby, BC.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Roger Mayer	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Shaundehi Runka	Policy Planner
Brian Underhill	Executive Director
Colin Fry	Executive Director

FILE: 135-45/ALC/CEO/APPL

ISSUE: To amend the criteria for delegation of decision-making to the CEO by adding the following as Criterion 14 to the Criteria for Delegation of Decision-Making to the CEO that was approved by the Commission by Resolution #008N/2011 on January 26, 2011.

PROPOSED CRITERION 14:

14. Exclusion, subdivision, non-farm use and inclusion applications that are not consistent with any of the existing approved criteria (Criteria 1 - 13) but nonetheless are minor in nature, and in the opinion of the CEO the interests of the Commission would be unaffected by an approval of the application.

EXISTING CRITERIA FOR DELEGATION OF DECISION-MAKING TO THE CEO

1. Exclusion, subdivision, non-farm use and inclusion applications that fulfill a requirement of the Commission contained in a previous decision made by resolution;

2. Exclusion, subdivision, non-farm use and inclusion applications that are consistent with a specific planning decision of the Commission made by resolution (e.g.: Peace River-Fort St. John Comprehensive Development Plan);

(Clarification: This criterion for decision-making does not include general comments or endorsement of the Commission regarding Official Community Plans, Zoning Bylaws or their respective amendments.)

3. Non-farm use applications made necessary by minor deviations from the permitted uses identified in sections 2 and 3 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
4. Non-farm use applications made pursuant to section 6 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
5. Non-farm use applications that involve the replacement of existing electrical transmission infrastructure and oil and gas pipelines located within an existing statutory right of way;
6. Applications that involve the dedication of a statutory right of way for existing electrical transmission infrastructure and oil and gas pipelines where the landowner(s) have no objection to the proposal;
7. Subdivision applications for boundary adjustments that are consistent with the intent of section 10 BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation) but cannot be approved by the local approving officer due to the limitations on parcel size and on the number of parcels involved in the proposed boundary line adjustment;

(Clarification: This criterion for decision-making does not include permission for the CEO to consider boundary adjustment subdivisions of non-contiguous parcels.)

8. Requests for minor variations of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, non-farm use and inclusion applications provided the minor variations are consistent with the intent of the Commission's original decision;
9. Non-farm use applications involving proposals to reconstruct an existing golf course within the same area footprint, to construct or reconstruct golf course buildings, structures and amenities within the footprint of the existing golf course. Delegation only applies to golf courses that were constructed prior to the introduction of the ALR, constructed as a permitted use in the ALR or were subsequently approved for non-farm use in the ALR;
10. Subdivision applications involving the disposition (sale) of Crown land where Crown parcels are divided by existing rights of way;

11. Non-farm use applications for compressor stations for oil and gas development that exceed 450 m²; 5th or greater stand alone well sites (including associated roads, temporary camps, sumps, borrow pits etc) and well site applications where the area exceeds 7 ha. All other oil and gas-related applications such as processing facilities, drilling and production waste handling, produced water and gas handling; commercial waste handling and disposal facilities will continue to be referred directly to the panel for decision making; and
12. Subdivision applications that are consistent with the provisions and intent of the Commission's *Homesite Severance Policy*.
13. Non-farm use applications that involve the placement of not more than 1,000 m³ of fill on a property.

IT WAS

MOVED BY: Commissioner Bert Miles
SECONDED BY: Commissioner Jennifer Dyson

THAT the Commission add Criterion 14 to the Criteria for Delegation of Decision-Making to the CEO that was approved by the Commission on January 26, 2011 by Resolution #008N/2011;

AND THAT the CEO is not compelled to approve an application. If the CEO is not prepared to approve an application, the application must be referred to the appropriate regional panel for a decision;

AND THAT as to the delegation criteria, where the Chair and the CEO positions are occupied by the same individual, the Chair must not participate in deciding an application if as CEO, he/she chose not to approve an application under the delegated authority specified herein;

AND THAT as to the delegation criteria, where the Chair and the CEO positions are occupied by the same individual, the CEO must not exercise decision-making authority specified herein if he/she, as CEO, has participated in an enforcement action involving a person(s) and/or a property that is the subject of an application meeting the delegation criteria;

AND THAT the CEO may exercise decision-making in accordance with the established criteria effective this date; and

AND THAT the CEO is required to provide to the Executive Committee a semi-annual report regarding decisions made pursuant to the established criteria.

AND FINALLY THAT the complete list of criteria will now read:

1. Exclusion, subdivision, non-farm use and inclusion applications that fulfill a requirement of the Commission contained in a previous decision made by resolution;
2. Exclusion, subdivision, non-farm use and inclusion applications that are consistent with a specific planning decision of the Commission made by resolution (e.g.: Peace River-Fort St. John Comprehensive Development Plan);

(Clarification: This criterion for decision-making does not include general comments or endorsement of the Commission regarding Official Community Plans, Zoning Bylaws or their respective amendments.)

3. Non-farm use applications made necessary by minor deviations from the permitted uses identified in sections 2 and 3 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
4. Non-farm use applications made pursuant to section 6 of BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation);
5. Non-farm use applications that involve the replacement of existing electrical transmission infrastructure and oil and gas pipelines located within an existing statutory right of way;
6. Applications that involve the dedication of a statutory right of way for existing electrical transmission infrastructure and oil and gas pipelines where the landowner(s) have no objection to the proposal;
7. Subdivision applications for boundary adjustments that are consistent with the intent of section 10 BC Regulation #171/2002 (ALR Use, Subdivision and Procedure Regulation) but cannot be approved by the local approving officer due to the limitations on parcel size and on the number of parcels involved in the proposed boundary line adjustment;

(Clarification: This criterion for decision-making does not include permission for the CEO to consider boundary adjustment subdivisions of non-contiguous parcels.)

8. Requests for minor variations of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, non-farm use and inclusion applications provided the minor variations are consistent with the intent of the Commission's original decision;
9. Non-farm use applications involving proposals to reconstruct an existing golf course within the same area footprint, to construct or reconstruct golf course buildings, structures and amenities within the footprint of the existing golf course. Delegation only applies to golf courses that were constructed prior to the introduction of the ALR, constructed as a permitted use in the ALR or were subsequently approved for non-farm use in the ALR;

10. Subdivision applications involving the disposition (sale) of Crown land where Crown parcels are divided by existing rights of way;
11. Non-farm use applications for compressor stations for oil and gas development that exceed 450 m²; 5th or greater stand alone well sites (including associated roads, temporary camps, sumps, borrow pits etc) and well site applications where the area exceeds 7 ha. All other oil and gas-related applications such as processing facilities, drilling and production waste handling, produced water and gas handling; commercial waste handling and disposal facilities will continue to be referred directly to the panel for decision making; and
12. Subdivision applications that are consistent with the provisions and intent of the Commission's *Homesite Severance Policy*.
13. Non-farm use applications that involve the placement of not more than 1,000 m³ of fill on a property.
14. Exclusion, subdivision, non-farm use and inclusion applications that are not consistent with any of the existing approved criteria (Criteria 1 - 13) but nonetheless are minor in nature, and in the opinion of the CEO the interests of the Commission would be unaffected by an approval of the application.

CARRIED
RESOLUTION #016N/2011

135-45/ALC/CEO/APPL