



Agricultural Land Commission
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January 4, 2016

ALC File: 53881

David Hardwicke
Dediluke Land Surveying Inc.
4801 Keith Ave
Terrace, BC
V8G 1K6

Dear Sir:

Re: Reconsideration of a Decision of the North Panel – Resolution #324/2015 by the Executive Committee of the Agricultural Land Commission

Please find attached the Reasons for Decision of the Executive Committee of the Agricultural Land Commission (Resolution #2/2016) as it relates to the above noted application. As agent it is your responsibility to advise the Applicants of the attached decision.

Further correspondence with respect to this application is to be directed to Laurel Eyton, Land Use Planner at Laurel.Eyton@gov.bc.ca.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Colin J. Fry, Chief Tribunal Officer

Enclosures: Reasons for Decision (Resolution #2/2016)

cc: Regional District of Kitimat-Stikine (File: 3370 20 #309 Ens Road)
John Stevenson, Regional Agrologist – Ministry of Agriculture, Smithers



AGRICULTURAL LAND COMMISSION FILE 53881

REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

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

Applicant:

**Jim Zondanos
Hoillie Zondanos
(the "Applicants")**

Agent:

**David Hardwicke
Dediluke Land Surveying Inc.
(the "Agent")**

Application before the Executive Committee:

**Frank Leonard, Chair
Lucille Dempsey
Jennifer Dyson
Dave Merz
Gerry Zimmermann
William Zylmans**

Attachments:

Exhibit A – Reasons for Decision of the North Panel, Resolution #324/2015

**Exhibit B – Chair Referral of Resolution #324/2015 to Executive Committee for
Reconsideration, dated November 23, 2015**



**RECONSIDERATION OF A DECISION OF THE NORTH PANEL RECORDED AS
RESOLUTION #324/2015**

THE APPLICATION

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

Parcel Identifier: 009-247-947

Lot 5, District Lot 366, Range 5, Coast District, Plan 1955, Except Plan 3052

(the "Property")

[2] The Property is located at 742 Kitselas Road, east of the City of Terrace.

[3] The Property is 8.7 ha in area.

[4] Pursuant to s. 21(2) of the *ALCA*, the Applicant is applying to subdivide the Property into a 4.2 ha parcel and a 4.5 ha parcel (the "Application").

EVIDENTIARY RECORD BEFORE THE EXECUTIVE COMMITTEE

[5] The Executive Committee considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery
4. Reasons for Decision of the North Panel - Resolution #324/2015

FINDINGS OF THE EXECUTIVE COMMITTEE

[6] The Executive Committee does not concur with the Panel's observations and findings as outlined Paragraph 16 of Resolution #324/2015: that the property has "*limited capability for agriculture*". The Committee concurs with Vice Chair Dave Merz's assessment following a Panel site visit (as outlined in paragraph #33 in his reasons for dissent of Resolution #324/2015) that the property has agricultural potential that would be limited by subdivision.



- [7] The Executive Committee does not concur with the North Panel's findings outlined in paragraphs 22 and 23. In particular the Committee does not agree with the Agent's assessment that *"large parcel size does not equate with the highest and best use of the land.....how can one argue that 10 acre parcels in a coastal interior rainforest climate with Class 2 - 5 soils could not support its fullest potential relative to that climate."*

The Executive Committee might be convinced of the argument in favour of smaller parcels if evidence can be provided by the Agent or Applicant that 4 ha parcels in this region are routinely, or more likely to be used for agriculture than larger (8+ ha) parcels. In contrast, long term and province wide Commission experience supports an alternate hypothesis: that smaller parcels are less likely to be used for agriculture than larger parcels. The Agent also ignores another impact of an additional lot; that the development of a homesite, yard, septic and access on each lot reduces the area of productive land available for agricultural use, and that on each smaller lot this homesite represents a progressively larger percentage of unavailable productive land.

Finally references cited by the Agent (in paragraph 22 of Res. #324/2015) pertaining to the use of 2 ha lots in the Okanagan for wine production does not necessarily indicate that 2 ha lots (or smaller lots) are ideal or desirable for agriculture, but only points out that in certain regions that existing 2 ha lots can be used for agriculture in spite of their small size.

- [8] The Executive Committee notes the lack of an Official Community Plan for this area, and the Regional District's observation that the adjoining Schremp Island has a history of market gardening; and that the area has agricultural potential. Though the proposal is consistent with the existing zoning bylaw the Committee is not compelled to approve subdivision applications that meet the minimum lot size requirements permitted by the zoning bylaw.
- [9] The Executive Committee concurs with the Panel findings that economic, social and cultural considerations are not contributory to Resolution #324/2015.



Weighing the factors in priority

[10] With regard to s. 6 of the *ALCA* (agricultural) considerations, the Executive Committee does not concur with the North Panel assessment that the Property, “*has limited agricultural capability and suitability.*” The Committee believes the Property has agricultural capability and suitability, and that retention of the Property in its present (8.7 ha) size increases the likelihood that the land will be used for agriculture.

[11] With regard to s. 4(3)(b) (economic, cultural and social values) the Executive Committee concurs with the North Panel findings that that these considerations are not contributory to the decision.

[16] With regard to s. 4(3)(c) (regional and community planning objectives) the Executive Committee notes that current local government planning documents are not necessarily supportive of the proposed subdivision, even though no bylaw amendments are required.

DECISION

[17] For the reasons given above, the Executive Committee reverses the decision of the North Panel recorded as Resolution #324/2015 and refuses the Application to subdivide the Property as proposed.

[18] Frank Leonard, Chair concurs with the decision

Lucille Dempsey concurs with the decision

Jennifer Dyson concurs with the decision

Dave Merz concurs with the decision

Gerry Zimmermann concurs with the decision

William Zylmans concurs with the decision

[6] Decision recorded as Resolution #2/2016.

A decision of the Executive Committee is a decision of the Commission pursuant to s. 33.1(5) of the *Agricultural Land Commission Act*.



Upon instruction of the Executive Committee, I have been authorized to release the Reasons for Decision by Resolution #2/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to read "Colin J. Fry", is written over a horizontal line. The signature is fluid and cursive.

Colin J. Fry, Chief Tribunal Officer

January 4, 2016

Date Released