



Agricultural Land Commission
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February 11, 2016

ALC File: 54147
Your File: 028716-0077608\215962

Ralph May
Campbell, Froh, May & Rice LLP
Suite 200 – 5611 Cooney Road
Richmond, BC V6X 3J6

Dear Mr. May:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #52/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly. A sketch plan depicting the decision has been attached.

Please send a digital copy or two (2) paper 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". 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 should be directed to Eamonn Watson at (Eamonn.Watson@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Colin J. Fry, Chief Tribunal Officer

Enclosures: Reasons for Decision (Resolution #52/2016)
Sketch plan

cc: Corporation of Delta – Attention: Marcy Sangret (File: LU007222)
4500 Clarence Taylor Crescent, Delta, BC V4K 3E2

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AGRICULTURAL LAND COMMISSION FILE 54147

**REASONS FOR DECISION
OF THE SOUTH COAST PANEL**

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

Applicant:

**Gordon Herbert Ellis
(the "Applicant")**

Agent:

**Ralph A. May
(the "Agent")**

Application before the South Coast Regional Panel:

**William Zylmans, Panel Chair
Gordon McCallum
Satwinder Bains**

THE APPLICATION

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

Property 1

Parcel Identifier: 006-949-991

Lot 3, District Lots 90 and 91, Group 2, New Westminster District, Plan 33684

Area: 11.9 ha

Property 2

Parcel Identifier: 012-880-990

Parcel "C" (Explanatory Plan 4926), District Lots 90 and 91, Group 2, Except: Part Subdivided by Plan 33684, New Westminster District

Area: 31.3 ha

(collectively referred to hereafter as the "Properties")

[2] The Properties have the civic addresses 4690 Kirkland Road (Property 1) and 4714 Kirkland Road (Property 2), Delta.

[3] The Properties are mostly within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA"). More specifically, Property 1 is completely in the ALR, whereas 30.1 ha of Property 2 are in the ALR.

[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 is applying to adjust the legal lot boundary of the Properties to create one (1) lot approximately 30.7 ha in size and one (1) lot approximately 12.6 ha in size (the "Application").

[6] On November 13, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the South Coast Regional Panel (the "Panel").



RELEVANT STATUTORY PROVISIONS

[7] 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.

[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. Agricultural capability map, ALR context map, and satellite imagery

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

[10] The Corporation of Delta resolved to forward the Application to the Commission with a letter advising that the Application is supported fully. In this regard, the Commission received an additional letter dated May 13, 2015.



SITE VISIT

[11] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Properties based on the evidentiary record associated with the Application.

FINDINGS

[12] The Application, if approved, would result in four residences on the proposed 30.7 ha lot and no residence on the proposed 12.6 ha lot. However, one of the residences has heritage status and the other residences are all occupied by members of the family who are actively involved in the farm operation on the Properties. Furthermore, the use of the existing residences and farm buildings would be challenged if the Properties, as currently configured, were to ever have two different owners.

[13] The Panel is aware of the Corporation of Delta's position regarding the application and has reviewed the additional letter sent in support of the Application. In addition, the Applicant's family has been operating the farm business for over one hundred years and are longstanding farmers in the community.

[14] Given the active agricultural uses and buildings on the Properties along with the configuration and use of the existing residences, the Panel finds that Application would not adversely impact the agricultural utility of the land or surrounding agricultural operations.

[15] However, in order ensure a minimal impact on the future agricultural use on the proposed 12.6 ha lot on Westham Island Road, the Panel finds that a residential footprint limit for this lot is appropriate.

[16] The Panel notes that the existing residences that would be situated on the proposed 30.7 ha lot would not, in and of themselves, provide adequate rationale or support for subdivision of this property in the future.

DECISION

[17] For the reasons given above, the Panel approves the Application to adjust the legal lot boundary of the Properties to create one (1) lot approximately 30.7 ha in size and one (1) lot approximately 12.6 ha in size.

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

- a. the subdivision must be in substantial compliance with the plan and information submitted with the Application;
- b. the registration of a covenant on the title associated with the 12.6 ha lot fronting Westham Island Road that restricts residential uses to:
 - a. a maximum total area (footprint) of 2,000 m²;
 - b. a maximum depth from the northeasterly extent of the existing road (Westham Island Road) of 60 m; and
 - c. the residential area (footprint) must be located in the northwest or southeast corner of the lot adjacent to Westham Island Road; and
- b. the subdivision plan must be completed within three (3) years from the date of this decision.

[19] 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.

[20] Panel Chair **William Zylmans**, concurs with the decision.

Commissioner **Gordon McCallum**, concurs with the decision.

Commissioner **Satwinder Bains**, concurs with the decision.

[21] Decision recorded as Resolution #52/2016.

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



Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #52/2016. The decision is effective upon release.

A handwritten signature in blue ink, appearing to be 'CJ Fry', written over a horizontal line.

Colin J. Fry, Chief Tribunal Officer

February 11, 2016
Date Released

