



**Agricultural Land Commission**  
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June 30, 2016

ALC File: 54492

Terry Sprungman & Sherry Sprungman  
756 Salmonberry Lane  
Mansons Landing, BC V0P 1K0

Dear Mr. and Mrs. Sprungman:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #242/2016) as it relates to the above noted application.

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 is to be directed to Liz Sutton at (Elizabeth.Sutton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

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Enclosures: Reasons for Decision (Resolution #242/2016)

cc: Strathcona Regional District (File: ALR 1B 15)

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**AGRICULTURAL LAND COMMISSION FILE 54492**

**REASONS FOR DECISION  
OF THE ISLAND PANEL**

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

**Applicant:**

**Terry Sprungman  
Sherry Sprungman  
(the “Applicant”)**

**Agent:**

**Terry Sprungman  
(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: 000-350-605

Lot A, Section 5, Cortes Island, Sayward District, Plan 35582, Except Part in Plan  
37923

(the "Property")

[2] The Property is 12.3 ha in area.

[3] The Property has the civic address 756 Salmonberry Lane, Masons Landing, Cortes Island.

[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. 21(2) of the *ALCA*, the Applicants are applying to subdivide the 12.3 ha lot into an approximate 4 ha lot for a family member and 8.3 ha remainder (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

## **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. Previous application history
4. Agricultural capability map, ALR context map, and satellite imagery

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

[10] At its meeting of November 12, 2015 Strathcona Regional District (the “District”) resolved to forward the application to the Agricultural Land Commission (the “Commission”) with support.

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

Application ID: 24807  
Legacy File: 14010  
(Sprungman, 1981)

To subdivide a 16.32 ha parcel along the ALR boundary to create one 4.0 ha parcel and one 12.32 ha parcel. The application was approved by ALC Resolution #29/82.

**Note: ALC Resolution #29/82 created the current lot configuration.**

Application ID: 25044  
Legacy File: 11595  
(Mottishaw, 1980)

To subdivide the parcel into two parcels, one of which



would encompass all of that area in the ALR. The application was approved by ALC Resolution #2278/80.

Application ID: 20096  
Legacy File: 01699  
(Cortes Island ALR Revision,  
1976)

By way of Order in Council #3661, approved December 16, 1976, areas of Cortes Island were included into the Agricultural Land Reserve.

**Note: The Property was included into the ALR by Order in Council #3661.**

### **SITE VISIT**

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

### **FINDINGS**

[13] 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 92K/02 for the mapping units encompassing the Property are Class 7RT and W.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are R (bedrock near the surface), T (topographic limitations), and W (excess water).

Despite the poor agricultural capability indicated by the CLI ratings, the photographs provided with the Application indicate that the Property is being used for agriculture.

- [14] The Applicants state in their application that the purpose of the Proposal is *“to create a 4.05 ha (10-acre) parcel for our son, age 44, and daughter-in-law, age 39, who have had their home on our property since 2003 and have been actively farming that area. Providing them with ownership will allow them to use the equity in their home and improvements to raise funds to further develop their farming operations”*. In addition, the Applicants state *“By providing our son and daughter-in-law with their own borrowing power, their ability to develop their agricultural uses are enhanced for the long term. Drainage, cultivation and soil improvement are essential to making the best use of area for pasture and gardens”*.
- [15] The Panel considered the rationale for subdivision and the Panel does not believe that subdivision is a pre-requisite to improve the Property for agriculture. In addition, the Panel is not amenable to subdividing the Property as smaller lots generally reduce the agricultural options which can take place on the land.
- [16] The Panel reviewed the supplementary information provided by the Applicant which reviewed the Applicants' history of ownership and potential qualification under the ALC's *Homesite Severance Policy* (the “Policy”). There Panel does not consider the Proposal to be consistent with intent of the Policy and as such is not amenable to subdivision.
- [17] There are currently two dwellings on the Property; one constructed in approximately 1971 and one in 2002. The SRD confirmed that although two dwellings are permitted on the Property by zoning, the dwelling was not permitted by the SRD pursuant to s. 18 of the *ALCA*. In addition, the Commission does not have a record of approving the second dwelling for farm or non-farm purposes. As there is no record of the second dwelling being permitted by the SRD or approved by the Commission, the second dwelling is non-compliant with the *ALCA*. In addition, the presence of a second dwelling is not a rationale to subdivide land within the ALR.
- [18] In light of the Panel's reluctance to subdivide, the Panel is providing an alternative to facilitate succession planning that would not involve subdividing the Property. The Panel would consider retroactively approving the second dwelling to remain on the Property in its current size and location to provide a legal second dwelling for the Applicants' son.



**DECISION**

[19] For the reasons given above, the Panel refuses the Proposal to subdivide the Property.

[20] The Panel would consider retroactively approving of the second dwelling on the following conditions:

- a. The Applicant has one (1) year from the date of this decision to indicate whether or not they wish to pursue approval of the second dwelling;
- b. The second dwelling remain in its current footprint and location;
- c. No additional dwellings may be placed or constructed on the Property; and
- d. In the event either dwelling is completely destroyed by whatever means, or is considered by the SRD to be completely destroyed, by whatever means, the dwelling can only be replaced as may be permitted by the *ALCA* and regulation in effect at the time one of the dwellings is destroyed or considered destroyed. Alternatively, the landowner may make application for a non-farm use to replace the dwelling.

[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 #242/2016.

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 #242/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', is written over a horizontal line.

**Colin J. Fry, Director of Policy and Planning**

**June 30, 2016**

**Date Released**