



Agricultural Land Commission
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June 7, 2016

ALC File: 54703

Bruce Ellingsen
297 Sutil Point Road
Mason's Landing, BC V0P 1K0

Dear Mr. Ellingsen:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #192/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

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

Page 2 of 2

Enclosures: Reasons for Decision (Resolution #192/2016)

cc: Strathcona Regional District (File: ALR 2B 15)

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AGRICULTURAL LAND COMMISSION FILE 54703

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicant:

**Bruce Ellingsen
Virginia Ellingsen
(the “Applicants”)**

Agent:

**Bruce Ellingsen
(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: 009-780-858

The South West ¼, Section 2, Cortes Island, Sayward District
(the "Property")

[2] The Property is 39.7 ha in area.

[3] The Property has the civic address 297 Sutil Point Road, Mason's 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 a 2.4 ha home site severance in order to retire and continue farming on a smaller scale (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

[7] On April 11, 2016, 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. 21(2) of the *ALCA*:

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

[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. 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.

[11] At its meeting of January 28, 2016 the Strathcona Regional District (the “SRD”) Board resolved to forward the application to the Commission with a recommendation for approval.

[12] The Panel reviewed a previous application involving the Property:

Application ID: 15795
Legacy File: 33305
(Ellingsen, 2000)

To construct two additional dwellings on the family farm to house family members.

The Commission felt both the property size and the level of present agricultural development did not justify the request to construct two additional dwellings for farm help. However, the Commission did allow:

1. the construction of a second dwelling at proposed

Site No. 2, and

2. the placement of a single wide mobile home at proposed Site No. 3. The mobile home is approved subject to the following conditions:
 - a. that the mobile home is inhabited by a relative of the occupants of the principal dwelling or farm help defined as a person paid to work on the farm;
 - b. that the mobile home is not sited on a permanent foundation with a basement excavation;
 - c. that the mobile home is removed from the property within 90 days when no longer required by the approved user and the site is rehabilitated and restored to a condition that does not debilitate or impair the agricultural potential of the land;
 - d. that any additions to the mobile home be limited to a total area of 24 square metres (including porches);
 - e. that the following definitions apply:

Mobile Home: a residential dwelling, whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured as an individual unit or module, not exceeding 14 feet (4.27 metres) in width and intended to be moved from one place to another by being towed or carried.

Relative: father, mother, father-in-law, mother-in-law, son, daughter, sister, brother, grandchildren, grandparents and great-grandparents.

Permanent Foundation: a foundation that irreversibly alters the land that it is constructed on, and is physically difficult to remove once the mobile home is no longer required. Blocks or post concrete footings or slabs that are easily removed are permissible.

The application was approved by ALC Resolution #479/2000.

SITE VISIT

[13] 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

[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 92K/03 for the mapping units encompassing the Property is 70% Class 4PM and 30% Class 5PM.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel of land are M (moisture deficiency) and P (stoniness).

The Property is mostly forested, however, the northwest portion is in agricultural production consisting of fruit trees, nut trees, laying hens, garlic, kiwis, and gardens.

[15] The Property currently contains two dwellings and a cottage as approved by ALC Resolution #479/2000. The proposed homesite does not contain any of the existing dwellings and as such, a new dwelling would be constructed.

[16] The Panel gave consideration to the Applicant's qualification under the Commission's *Homesite Severance Policy* (the "Policy") which may apply to situations where a property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a homesite on the land. Bruce Ellingsen and/or Virginia Ellingsen have owned the Property since 1970.

[17] The Panel considered the size and location of the proposed 2.4 ha lot and find that the Proposal would subdivide off approximately half of the cultivated farm area and introduce another residence. The Applicants state that they wish to subdivide off a portion and continue farming on a smaller scale, however, the Panel finds the proposed 2.4 ha to be in excess of a lot consistent with the intent of the Policy, and that subdividing the cultivated area reduces the agricultural options of the remainder parcel.

[18] Despite the Applicants' considerations under the Policy, the Panel is not amenable to the proposed size and configuration of the subdivision. The Panel would however consider an alternate lot configuration on the forested area of the Property which would not bisect the cultivated area.

DECISION

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

[20] Panel Chair Jennifer Dyson, concurs with the decision.
Commissioner Honey Forbes, concurs with the decision.

Commissioner Clarke Gourlay, concurs with the decision.

[21] Decision recorded as Resolution #192/2016.

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 #192/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning

June 7, 2016

Date Released