



**Agricultural Land Commission**  
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September 22, 2016

ALC File: 54941

**SENT BY ELECTRONIC MAIL**

Terry Langill

Dear Mr. Langill:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #348/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your clients 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.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosure: Reasons for Decision (Resolution #348/2016)

cc: Cariboo Regional District (File:3015-20/A20160022) **SENT BY ELECTRONIC MAIL**



## **AGRICULTURAL LAND COMMISSION FILE 54941**

### **REASONS FOR DECISION OF THE INTERIOR PANEL**

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

**Applicants:**

**Gustav Friedenberger  
Edith Friedenberger  
(the “Applicants”)**

**Agent:**

**Terry Langill  
(the “Agent”)**

**Application before the Interior Regional Panel:**

**Lucille Dempsey, Panel Chair  
Richard Mumford  
Roger Patenaude**

## **THE APPLICATION**

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

Parcel Identifier: 011-396-105

Block C, District Lot 3974, Cariboo District, Except: Firstly; Part Subdivided by Plan 13099, Secondly; Part Plan A173, Thirdly; Part Subdivided by Plan BCP14004 (the "Property")

[2] The Property is 10.9 ha in area.

[3] The Property has the civic address 4406 Highway 97 South, south of Quesnel.

[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 2 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 0.8 ha parcel of land from the north-east corner of the Property for their daughter (Laura Margaret Langill) and son-in-law (Terry Lee Langill). This would allow Mr. and Mrs. Langill to purchase the home they have occupied for the past 18 years. Mr. and Mrs. Langill will continue to assist their aging parents with farm duties (the "Proposal"). The Proposal along with supporting documentation is collectively the application (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 pursuant to its mandate in s. 4.3 of the *ALCA*:

4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:

- (a) the purposes of the commission set out in section 6;
- (b) economic, cultural and social values;
- (c) regional and community planning objectives;
- (d) other prescribed considerations.

[9] The purposes of the Commission set out in s. 6 are as follows:

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] The Panel reviewed a previous application involving the Property:

Application ID: 39082

To subdivide a 4.0 ha parcel from the 52 ha subject

Legacy File: 25783  
(Friedenberger, 1991)

property. Refused by Resolution #130/92, however, the Commission indicated that it was prepared to consider the proposed homesite to the approximately 4.0 ha area located to the east of Highway 97.

#### Reconsideration Request

The Applicant requested reconsideration of the application on the grounds that they did not own the land east of the highway, which was recommended by the Commission as an alternative area for subdivision. After reconsidering the application the Commission refused the application by Resolution #404/1992 as *“the creation of a 4.0 ha parcel in the area of the ALR could also, in future, negatively impact the agricultural community”*. However, the Commission did indicate that they would be willing to allow a 1.0 ha parcel in the northeastern corner of the property on the condition that the applicant complies with the conditions of the *Homesite Severance Policy*.

**Note: The Friedenbergers never followed through with the approval but in 2004 did undergo a boundary adjustment with a neighbouring property which substantially decreased the size of their farm.**

#### **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****Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture**

[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 93B/16 for the mapping unit encompassing the Property is Class 2M.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

The limiting subclass associated with this parcel of land is M (moisture deficiency).

[14] The Applicants explain in the Application that the agricultural activity on the Property amounts to approximately 0.33 ha potato field, 1.5 ha hay field, 1.0 ha wheat field (approximately), 6.0 ha cattle grazing, 2.67 ha of residential/barns /shop/equipment storage and honey bees and 0.5 hectares of grazing.

[15] The surrounding land uses listed in the Application are hayfields, potato fields, and grazing which indicates that the Property is in an active agricultural area.

**Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values**

[16] The Applicants did not provide any evidence or rationale regarding any economic, cultural and social values that are pertinent to the Application.

**Section 4.3(c) of the ALCA: third priority to regional and community planning objectives**

[17] Cariboo Regional District (the "CRD") Planning Staff is *"of the belief that the applicants' request to subdivide the mobile homesite is unwarranted as other options are available under ALC regulation such as the lease for a retired farmer. Further, the proposed*

*subdivision would reduce the land availability for farming given the property's relatively small size for an intensive operation, and would create an unwanted precedent of parcelization of an agricultural parcel with high agricultural capability ratings. The original farmland was already significantly reduced via the boundary adjustment. The primary function of the agricultural land reserve is to preserve farmland, especially those with high capability ratings. In addition, the proposal conflicts with four of the five North Cariboo Area Rural Land Use Bylaw's agricultural lands policies, the fifth one being not applicable as it pertains to review of ALR boundaries. As such planning staff does not support the creation of the proposed 0.82 ha parcel and recommend the application for subdivision not be approved and not authorized for submission."*

[18] The CRD Board forwarded the Application to the Commission with a recommendation for approval.

*Weighing the factors in priority*

[19] The Panel reviewed the history of the Property including the previous application and believes that while the Applicants did not follow through with their previous approval under the *Homesite Severance Policy*, the subsequent boundary adjustment the their holding from 52 ha to 10.9 ha. The Panel believes that this is a substantial change and as such believes that the previous approval under Resolution #404/1992 is no longer valid.

[20] Furthermore, as CRD Planning Staff indicated there are other options available to the Applicants such as Policy 23: Lease for a Retired Farmer in Zone 2.

[21] The agricultural capability of the Property is excellent and the Panel is not supportive of introducing another residential parcel into the area.

[22] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives planning as required by s. 4.3. In this case, the Panel finds

that these considerations are not contributory to the decision given the Panel's finding following its review of the agricultural considerations.

**DECISION**

[23] For the reasons given above, the Panel refuses the Proposal to subdivide a 0.8 ha parcel of land from the north-east corner of the Property.

[24] Panel Chair **Lucille Dempsey** concurs with the decision.  
Commissioner **Richard Mumford** concurs with the decision.  
Commissioner **Roger Patenaude** concurs with the decision.

[25] Decision recorded as Resolution #348/2016.

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 #348/2016. The decision is effective upon release.



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

**September 22, 2016**

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**Date Released**