



Agricultural Land Commission
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December 22, 2016

ALC File: 55097

Frank Goluzo
3925 Garnet Place
Victoria, BC V8P 5G7

Dear Mr. Goluzo

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

Please find attached the Reasons for Decision of the Island Panel (Resolution #442/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

Reconsideration of a Decision as Directed by the ALC Chair

Please note that pursuant to [s. 33.1 of the *Agricultural Land Commission Act*](#), the Chair may direct the executive committee to reconsider any 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 s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

Reconsideration of a Decision by an Affected Person

We draw your attention 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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Sara Huber at (sara.huber@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to be 'Sara Huber', written in a cursive style.

Sara Huber, Land Use Planner

Enclosure: Reasons for Decision (Resolution #442/2016)

cc: Municipality of North Cowichan (File: 3025-20 16.05)

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AGRICULTURAL LAND COMMISSION FILE 55097

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicants:

**Frank Goluz
Alicia Louise Goluz
(the “Applicants”)**

Agent:

**Frank Goluz
(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: 007-229-151

The West ½ of Section 11, Range 7, Somenos District, Except Part Outlined in Red on Plan 711 B.L.

(the “Property”)

[2] The Property is 21.6 ha in area.

[3] The Property is generally described as being located on Mays Road, about 1.2 kilometres north of Herd Road, Duncan, BC.

[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 21.6 ha Property into one approximate 0.9 ha lot and one 20.7 ha lot, as divided by Mays Road (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 within the context of s. 6 of the ALCA. The purposes of the Agricultural Land Commission (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

[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 June 15, 2016, the Municipality of North Cowichan resolved:

That Council support and authorize Frank and Alicia Goluzas, Mays Road subdivision application to be sent to the Agricultural Land Commission for its decision, subject to the applicant providing a commitment to provide a financial contribution to North Cowichan’s Agricultural Reserve Fund (in the amount of 5% of the appraised value of the parent parcel) prior to subdivision approval.

[11] The Panel reviewed four relevant applications relating to the application:

Application ID: 54406
(Pauls, 2016)

To subdivide a 2.8 ha parcel from a 15.6 ha property to transition the farm to the next generation. The Panel found that there were other options for a second dwelling which do not include subdivision of the Property. The application was refused by Resolution #191/2016.

Note: Application 54406 is located in the area to the southeast of the Property.

Application ID: 51051
(Winship, 2010)

To subdivide the 38.4 ha property into two lots of 12.1 and 26.3 ha. The Commission found that the proposal would negatively impact agriculture on the Property. The application was refused by Resolution #2432/2010.

Note: Application 51051 is located in the area to the south of the Property.

Application ID: 42881
Legacy ID 36526
(Young, 2006)

To subdivide the northern 8.1 ha portion of the property into 3 lots of approximately 2.7 ha each for family members. The Commission found that the northern portion of the property has no significant agricultural potential due to its steep topography and rocky soil conditions. The application was approved by Resolution #197/2006.

Note: Application 42881 is located in the area to the northeast of the Property.



Application ID: 42316
Legacy ID 36239
(Mishenko, 2005)

To subdivide the 7.7 ha property into two lots of 4.5 ha and 3.2 ha, as divided by Relke Road that traverses the property. The Commission found that that the property should be retained as a whole parcel to maintain its full agricultural potential. The application was refused by Resolution #521/2005.

Note: Application 42316 is located in the area to the northwest of the Property.

SITE VISIT

[12] On November 16, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the “Site Visit”).

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Agent on November 21, 2016 (the “Site Visit Report”).

FINDINGS

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), ‘Land Capability Classification for Agriculture in B.C.’ system. The improved agricultural capability ratings identified on BCLI map sheet 92B.082 for the mapping units encompassing the Property are Class 2, 3, 4, and 5, more specifically, approximately 20% (2TD), 5% (3T), 20% (3WD), 5% (4TP), 25% (5TR) and 25% (5T).

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.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

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 T (topographic limitations), D (undesirable soil structure), W (excess water), P (stoniness) and R (bedrock near the surface).

[15] In this regard, the Panel finds that the Property has good agricultural capability and could support a range of agriculture.

[16] During the Site Visit, the Agent provided further details about the limitations of the proposed 0.9 ha lot. According to the Agent, the 0.9 ha area has never been used for agriculture, is overgrown, is comprised of hardpan soils, and is sloped. For these reasons, the Agent states that the hilltop soil structure and depth to underlying shale is not conducive to fruit trees or vines, making it unusable for farming.

[17] The Agent states that the 0.9 ha portion of the Property separated by Mays Road makes logistics more challenging compared to the existing farm operation. The Panel does not believe that Mays Road constitutes a significant barrier to agricultural development. In addition, the Panel believes that the 0.9 ha area has agricultural capability (improvable to Class 2TD and 5TR) which could still be utilized as part of the cohesive farm operation.

[18] With regards to the rationale for subdivision, the Application states:

To grow this land suitable for sustainable fruit farming, not hay production, requires significant investment and risk that could affect our family's future for decades.

To put this risk in perspective: our land is severely constrained by high water tables, surface ponding, low bearing strengths, slow soil permeability, shale outcroppings and in certain areas, is plagued by Scotch Broom. It is further mired by traffic-ability problems in winter and spring due to surface water.

Significant remediation is required (drainage) in order to create a working farm with a soil structure productive for plum (and fruit) trees. Currently, the land is suitable only for hay. Our outlook is hopeful but realistically, long term. Nothing will happen quickly on this unique landscape.

Our purpose is to turn a low yield hay farm, with the sale of the already separated triangular land section that is divided by Mays Road, into the largest plum brandy production farm facility in Canada.

While the Panel commends the Applicants' plans to develop a plum orchard and distillery, the Panel finds that the Applicants' comments with regard to the economic benefit arising from the proposed sale of the 0.9 ha lot are insufficient to outweigh the first priority that must be given to agricultural land that is both capable and suitable for agricultural use.

[19] With respect to Policy 2.1.1.2(d) of the Municipality of North Cowichan's Official Community Plan, the Panel wishes to make it clear that the potential for financial contributions to the Municipality's Agriculture Reserve Fund formed no part of the Panel's consideration.

DECISION

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

[21] These are the unanimous reasons of the Island Panel of the Agricultural Land Commission.

[22] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[23] This decision is recorded as Resolution #442/2016 and is released on December 22, 2016.

CERTIFICATION OF DECISION

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

Jennifer Dyson, Panel Chair, on behalf of the Island Panel

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