



Agricultural Land Commission
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November 9, 2016

ALC File: 55157

John Bourgh
3542 Hwy 97
Falkland, BC V0E 1W1

Dear Mr. Bourgh:

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

Please find attached the Reasons for Decision of the Okanagan Panel (Resolution #371/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached.

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*.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

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

Jenna Bedore, Land Use Planner

Enclosure: Reasons for Decision (Resolution #371/2016)
 Sketch plan

cc: Columbia Shuswap Regional District (File: LC2516D)

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AGRICULTURAL LAND COMMISSION FILE 55157

REASONS FOR DECISION OF THE OKANAGAN PANEL

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

Applicant:

**John Bourgh
(the "Applicant")**

Application before the Okanagan Regional Panel:

**Gerald Zimmermann, Panel Chair
Jim Johnson
Greg Norton**



THE APPLICATION

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

Parcel Identifier: 013-975-056

The North East ¼ Section 23, Township 17, Range 11, West of the 6th Meridian,
Kamloops Division, Yale District, Except Plans A322 and KAP68326
(the “Property”)

[2] The Property is 62.8 ha in area (61 ha in the ALR).

[3] The Property has the civic address 3542 Highway 97 Falkland, BC.

[4] The Property is located partially 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 Applicant is applying to subdivide the Property along the railway to create a 12 ha lot and a 50 ha lot (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 Applicant in advance of this decision.

[10] At its meeting of July 21st, 2016, the Columbia Shuswap Regional District resolved that the Application be forwarded to the Commission recommending approval.

[11] The Panel reviewed one previous application involving the Property:

Application ID: 32615
Legacy File: 02714
(Baisden, 1976)

To subdivide the 64 ha Property along the railway resulting in two parcels. The Commission refused the application as it believed the Property had an agricultural capability rating that indicated it could support a moderate range of cropping options. The Commission believed the railways tracks were not a prohibitive factor



in the utilization of the property for most agricultural purposes. The application was refused by ALC Resolution #5006/76.

[12] The Panel reviewed one relevant application relating to the application:

Application ID: 36916
Legacy File: 21551
(Dierick, 1987)

To exclude the 6.45 ha property from the ALR in order to subdivide the property into two equal lots. The Commission had previously refused two applications for subdivision on the property. The Commission refused the request for exclusion but granted permission to subdivide the property into two lots. The application was refused by Resolution #1198/87.

Note: Application ID 36916 is located adjacent to the west of the Property.

SITE VISIT

[13] On September 22, 2016, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[14] 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 Applicant on October 20, 2016 (the "Site Visit Report").

FINDINGS

[15] 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 82L/06 for the mapping units encompassing the Property are Class 3, Class 4, Class 5, and Class 6. More specifically, ~10% (7TC), ~ 15% (7:5PT – 3:3PT), ~40% (6:3PW-4:4PM) and ~35% (8:4TP~2:6T)

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.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

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

The limiting subclasses associated with this parcel of land are M (moisture deficiency), P (stoniness), T (topographic limitations) and W (excess water).

The Panel reviewed the CLI ratings and find that the Property has moderate capability for agriculture.

[16] The Panel considered the Applicant's argument that the proposed 12 ha lot (south of the railway) is not accessible from the main farm operation. The Applicant indicated that the area north of the railway is used for cattle grazing and hay production, while the portion of the parcel south of the railway is wooded and not used for agriculture. The southern portion of the lot can be accessed from Salmon River Bench Road (~5.5km from the main farm operation). The Applicant indicated that CN Rail has advised him to avoid use of the area of the lot between the Salmon River and CN Rail in order to protect slope stability for the railway. The Panel concludes that the topographic separation

(slope), the CN Railway and Salmon River bisecting the Property, and the distance required to access the south side of the Property from Salmon River Bench Road combine to create a significant impediment to utilizing the Property as a single agricultural unit.

[17] In general, the Panel is hesitant to allow subdivision of large agricultural parcels, as subdivision may narrow the range of agricultural options available on a given parcel. Smaller lots are also more likely to be used for residential purposes which may introduce more residential/agricultural conflicts, and/or increase pressure for further subdivision. In this circumstance, the Panel finds that the lots created by the Proposal would each be large enough to support a viable farm operation.

DECISION

[18] For the reasons given above, the Panel approves the Proposal to subdivide the Property along the railway into a 12 ha lot and 50 ha lot.

[19] The Proposal is approved subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the area to be subdivided per the drawing submitted with the Application;
- b. the subdivision be in substantial compliance with the plan;
- c. submission of two (2) paper copies or one (1) electronic copy of the final survey plan to the Commission;
- d. the subdivision plan being completed within three (3) years from the date of release of this decision;

[20] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

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

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

[24] This decision is recorded as Resolution #371/2016 and is released on November 9, 2016.

CERTIFICATION OF DECISION

A handwritten signature in black ink, appearing to read 'G. Zimmermann', is written over a horizontal line.

Gerald Zimmermann, Panel Chair, on behalf of the Okanagan Panel

END OF DOCUMENT

ALC Application: 55157 (Bourgh)
Subdivision approved subject to conditions
ALC Resolution #371/2016

