



Agricultural Land Commission
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June 27, 2016

ALC File: 55199

Dediluke Land Surveying Inc.
4801 Keith Avenue
Terrace, BC V8G 1K6

Attention: David Dediluke

Dear Mr. Dediluke:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #237/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly. A sketch plan depicting the decision is also attached.

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 or does not adequately take into account the considerations set out in section 4.3”. 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 Jess Daniels at (Jessica.Daniels@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #237/2016)
Sketch plan

cc: Regional District of Kitimat-Stikine (File: 3370 20 #318)

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AGRICULTURAL LAND COMMISSION FILE 55199

REASONS FOR DECISION OF THE NORTH PANEL

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

Applicants:

**Paul Rusch
Susan Rusch
(the “Applicants”)**

Agent:

**David Dediluke
Dediluke Land Surveying Inc.
(the “Agent”)**

Application before the North Regional Panel:

**Dave Merz, Panel Chair
Sandra Busche
Garry Scott**

THE APPLICATION

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

Parcel Identifier: 006-555-756

Lot 11, District Lots 1729 and 6245, Range 5, Coast District, Plan 8971

(the "Property")

[2] The Property is 8.3 ha in area.

[3] The Property has the civic address 324 Williams Creek Avenue.

[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 the Property into two parcels of 4.3 and 4 ha (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 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. Agricultural capability map, ALR context map and satellite imagery

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

SITE VISIT

[11] 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

[12] 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), 'Land Capability Classification for Agriculture in Canada.' system. The improved agricultural capability ratings identified on CLI map sheet 103I/07 for the mapping units encompassing the Property are Class 4 and Class 7; more specifically 50% (4PM) and 50% (6:7PM - 4:5PM).

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

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).

[13] The CLI ratings confirm that the Property has poor agricultural capability.

[14] In reviewing aerial photography, the Panel notes that the Property is not cleared for agriculture and is dominantly forested.

[15] The Regional District of Kitimat-Stikine provided the following information: *"The property is not used for agricultural productions. Development includes a house and several outbuildings. The applicants indicate that the land is not suitable for intensive agriculture and that the proposed 4 ha parcel size is more suited to hobby farm use...Surrounding development includes mostly rural residential and hobby farms on 4+ ha lots, and 1 +ha lots to the south within D.L. 6245".*

[16] The Panel notes the agricultural capability of the Property and comments regarding the suitability of the land for agriculture.

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

[17] The Applicant did not provide information specifically citing economic, cultural and social values.

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

[18] The Property is not designated in an Official Community Plan (“OCP”).

[19] The Property is zoned R2 (Low Density Rural) in the Regional District of Kitimat-Stikine Greater Terrace Zoning Bylaw No. 37 which requires a 4 ha minimum parcel size for subdivision. RDKS provided the following information: “*The proposed subdivision meets minimum parcel size requirements. Lot configuration submitted does not provide the required 20% minimum frontage and a relaxation from the Regional District will be necessary in order for the subdivision to proceed at the subdivision review stage...*

...The general policy has been to retain this area as larger rural residential holdings rather than for intensive residential, industrial or commercial development. The requested subdivision is for two lots of 4ha or larger which meets the Bylaw 37 minimum parcel size requirement and is in keeping with the intent of maintaining larger land parcels in this area...”

Weighing the factors in priority

[20] In considering s. 4.3(a) and the first priority to agriculture, the Panel finds that the Property has poor agricultural capability. The Panel notes that the Property is not currently used for agriculture and concurs with the Applicants’ comment regarding the suitability of the Property for hobby farming rather than intensive agriculture production.

[21] The Panel believes the proposal is consistent with regional and community planning objectives in reviewing comments provided by the Regional District of Kitimat-Stikine as required by s. 4.3 (b). Furthermore, the Panel notes that the Proposal is consistent with



the context of the area which includes mostly rural residential and hobby farms on ~4 ha lots.

DECISION

[22] For the reasons given above, the Panel approves the Proposal to subdivide the Property into two ~4 ha parcels.

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

- a. the subdivision being in substantial compliance with the plan submitted with the Application; and
- b. the subdivision plan being completed within three (3) years from the date of release of this decision.

[24] 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.

[25] Panel Chair **Dave Merz** concurs with the decision.
Commissioner **Sandra Busche** concurs with the decision.
Commissioner **Garry Scott** concurs with the decision.

[26] Decision recorded as Resolution #237/2016.

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 #237/2016. The decision is effective upon release.



A handwritten signature in black ink, appearing to be 'CJF'.

Colin J. Fry, Director of Policy and Planning

June 27, 2016

Date Released

128°30'0"W

**ALC #55199
Rusch
Subdivision
Resolution #237/2016**

Map Location

Terrace

54°28'0"N

DL 1730

DL 517

DL 2287

DL 2289

DL 1725

TERRACE

DL 1729

DL 6251

**006-555-756: 8.3 ha
ALR: 8.3 ha**

**Subdivision of two ~8 ha
lots approved by Resolution
#237/2016**

DL 6247

DL 6245

DL 1722

DL 1728

DL 6248

DL 6250

ALR

DL 464

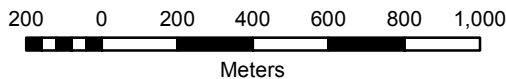
DL 1723

DL 6252



ALR Context Map

Map Scale: 1:20,000



ALC File #: 55199

Mapsheet #: 1031.048

Map Produced: May 17, 2016

Regional District: Kitimat-Stikine