



Agricultural Land Commission
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March 16, 2017

ALC File: 56081

City of Langford
2nd Floor – 877 Goldstream Avenue
Langford, BC V9B 2X8

Attention: Michelle Mahovlich, Director of Engineering

Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Island Panel (Resolution #63/2017) as it relates to the above noted application. A sketch plan depicting the decision is also attached. 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.

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.

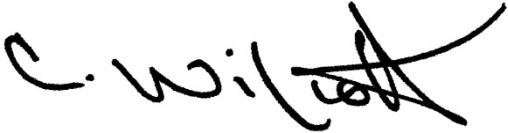
For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

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

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read "C. Wilcott". The signature is stylized with a large, sweeping flourish at the end.

Christopher Wilcott, MCIP, RPP
Land Use Planner

Enclosures: Reasons for Decision (Resolution #63/2017)
Sketch plan

cc: Raymond Mew

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AGRICULTURAL LAND COMMISSION FILE 56081

REASONS FOR DECISION OF THE ISLAND PANEL

Application submitted pursuant to s. 6 of BC Regulation 171/2002 (ALR Use, Subdivision and Procedure Regulation)

Applicant:

**City of Langford
(the “Applicant”)**

Agent:

**Michelle Mahovlich
(the “Agent”)**

Application before the Island Regional Panel:

**Linda Michaluk, Panel Chair
Clarke Gourlay**



THE APPLICATION

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

Property 1

Parcel Identifier: 005-007-321

Lot 2, Sections 88 and 89, Metchosin District, Plan 11370

Area: 1.2 ha

Civic Address: 3442 Luxton Road, Langford

Property 2

Parcel Identifier: 005-630-002

Lot 7, Block B, Sections 88 and 89, Metchosin District, Plan 1139

Area: 2.5 ha (1.5 ha in the ALR)

Civic Address: 1110 Finney Road, Langford

Property 3

Parcel Identifier: 005-007-313

Lot 1, Sections 88 and 89, Metchosin District, Plan 11370

Area: 3.9 ha

Civic Address: 1119 Finney Road, Langford

Property 4

Parcel Identifier: 007-848-374

Lot 10, Block B, Section 88 and 89, Metchosin District, Plan 1139, Except the
Northerly 300 Feet Thereof

Area: 2.3 ha

Civic Address: 1131 Finney Road, Langford

Property 5

Parcel Identifier: 001-703-242



Lot 6, Block 2, Sections 89, 97, 98, 99, 100, 100A, 101 and 101A, Metchosin District,
Plan 1817

Area: 2.6 ha

Civic Address: 1202 Cogan Road, Langford

Property 6

Parcel Identifier: 001-703-625

Lot 5, Block 2, Sections 89, 97, 98, 99, 100, 100A, 101 and 101A, Metchosin District,
Plan 1817

Area: 2.7 ha

Civic Address: 1222 Cogan Road, Langford

Property 7

Parcel Identifier: 001-703-617

Lot 4, Block 2, Section 89, Metchosin District, Plan 1817, Except Part in Plan
VIP54785

Area: 2.9 ha

Civic Address: 1242 Cogan Road, Langford

(collectively the “Properties”)

[2] Properties 1, 3, 4, 5, 6, and 7 are located wholly within a designated agricultural land reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”). Property 2 is located partially within a designated ALR as defined in s. 1 of the ALCA.

[3] The Properties are located within Zone 1 as defined in s. 4.2 of the ALCA.

[4] Pursuant to s. 6 of the BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the “Regulation”), the Applicant is applying for the following:

- Extension of a sewer utility
- Construction of a sewer lift station
- Future extension of a municipal road

(the “Proposal”) The Proposal along with supporting documentation is collectively the application (the “Application”).

[5] The Proposal would utilize approximately 1.5 ha of land within the ALR.

[6] The purpose of the Proposal is to improve the City of Langford’s transportation network and facilitate the long-term growth of the City as envisioned in the 2008 Sewer Master Plan and the Development Cost Charge Bylaw.

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 6 of the Regulation:

6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:

- (a) widening of an existing road right of way;
- (b) construction of a road within an existing right of way;
- (c) dedication of a right of way or construction of any of the following:
 - (i) a new or existing road or railway;
 - (ii) a new or existing recreational trail;
 - (iii) a utility corridor use;
 - (iv) a sewer or water line other than for ancillary utility connections;
 - (v) a forest service road under the [Forest Act](#);
- (d) the new use of an existing right of way for a recreational trail.

[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 for this application consisted of Panel Chair Linda Michaluk, and Commissioner Clarke Gourlay as Commissioner Honey Forbes recused herself due to a potential conflict of interest.

[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 three previous applications involving the Properties:

Application ID: 29158
Legacy File: C-76/75
(Johal, 1975)

To remove soil from the 3.9 ha property. The application was approved by ALC Resolution #2105/75 under the condition that the area to be worked is not to exceed 5 acres in area.

Application ID: 35613
Legacy File: 19379
(Johal, 1985)

To continue to remove topsoil (peat) from the 3.9 ha property for a period of five years. The application was approved by Resolution #860/85 on the condition that the



site be remediated.

Note: Applications 29158 and 35613 are related to Property 3.

Application ID: 38347
Legacy File: 21032
(Popadyne, 1987)

To place a doublewide mobile home on the 3.5 ha property for the applicant's parents. The applicant also requested relaxation of the foundation requirements to allow the use of an existing cement slab. The application was approved by Resolution #490/87.

Note: Application 38347 is related to Property 2.

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

[13] In assessing agricultural capability, the Panel referred 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 92B/05 for the mapping units encompassing the Proposal area are approximately 40% (O2W), 30% (2M), and 30% (8:7RT – 2:6RM).

O – Indicates organic soils.

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

Class 7 – land in this class has no capability for arable or sustained natural grazing.

The limiting subclasses associated with this parcel of land are M (moisture deficiency), R (shallow soil over bedrock and/or bedrock outcroppings), and W (excess water).

[14] The Panel reviewed the CLI ratings and finds that the proposed right-of-way area has agricultural capability.

[15] The Application states that landowners of Properties 5, 6, and 7 “*wish to restart agricultural land use ... and gain proper road access to their lands*”. The Panel finds that providing legal access to Properties 5, 6, and 7 would help to facilitate potential agricultural development of the landlocked parcels. As the City of Langford anticipates construction of the road sometime after installation of the sewer infrastructure, the Panel finds that temporary access provided to the Properties 5, 6, and 7 concurrent with the sewer works will enable the landowners to begin farming as soon as possible.

[16] The agricultural capability of Properties 5, 6, and 7 are limited by excess water (improvable to Class O2W) and, as such, the Panel finds that the construction of the road presents an opportunity to incorporate drainage infrastructure into the road design, to address runoff associated with the road, and to improve drainage of the adjacent agricultural parcels.

[17] The Panel notes that a road within the proposed right-of-way may have a negative impact on the respective agricultural operations on the adjacent properties. These potential impacts include: traffic and its associated noise and air pollutants, dust, increased potential for trespass and vandalism, and other risks associated with roads running through agricultural land. The Panel finds these potential negative impacts could be mitigated by adequate fencing and buffering. The Applicant, as the Proposal’s proponent, should take steps to ensure that any negative impacts of the road and

associated traffic on the adjacent property owners' agricultural operations are adequately addressed.

[18] The Panel finds that the proposed right-of-way will improve the City of Langford's transportation network and will facilitate the long-term growth of the City of Langford as is envisioned in the City's 2008 Sewer master Plan and the Development Cost Charge Bylaw.

DECISION

[19] For the reasons given above, the Panel approves the Proposal to extend a sewer utility, including constructing a sewer lift station, as well as allowing future extension of a municipal road in the project area utilizing approximately 1.5 ha of land within the ALR, subject to the following conditions:

- a. the project be conducted in substantial compliance with the plan submitted with the Application and attached Sketch Plan;
- b. the undeveloped portion of the existing Salem Road right-of-way is to be closed and consolidated with adjacent remnants of Properties 6 and 7 north of the new right-of-way, without increasing the overall number of parcels;
- c. the provision of temporary access to Properties 4, 5, 6, and 7 is to be provided concurrent with the sewer works at the Applicant's expense, until such time as the road is constructed. Photographic evidence of the temporary access is required within six (6) months of the completion of the sewer infrastructure;
- d. the provision of permanent vehicle access to Properties 4, 5, 6, and 7 is to be provided at the time of road construction at the Applicant's expense;
- e. prior to road construction, the Applicant shall enter into discussions with the adjacent landowners regarding fencing and buffering adjacent to the road. If the individual property owners desire buffering and/or fencing, these features shall be built at the Applicant's expense, according to the Commission's Landscaped Buffer Specifications. Documentary evidence of the required discussions shall be provided to the Commission;

- f. submission of two (2) paper copies or one (1) electronic copy of the final survey plan(s) to the Commission;
- g. the final survey plan must be completed within three (3) years from the date of this decision;
- h. the project must be overseen by a qualified registered professional, approved by the Commission, with specific knowledge of agricultural operations, soils, and drainage;
- i. the preparation, submission, and approval by the Commission of a Drainage Report by the approved qualified registered professional. The report should, at a minimum, include the following:
 - i. best management practices to ensure that storm water runoff does not negatively impact agricultural land adjacent to the right-of-way during and after road construction
 - ii. measures to improve the drainage of adjacent agricultural properties to facilitate better utilization of these properties for farming purposes
 - iii. a cost estimate for the required access and drainage upgrades for the purposes of the financial security required in condition 'l'.
- j. the best management practices and the measures to improve drainage in the required Drainage Report must be implemented during the construction phase of the project;
- k. topsoil within the project footprint must be salvaged and relocated either within the affected parcels or to other ALR lands in compliance with the *ALCA* and Regulation.
- l. to ensure the provision of temporary and permanent access to the parcels adjacent to the right-of-way, and of the required drainage improvements, a financial security in the form of an Irrevocable Letter of Credit (the "ILOC"), in an amount determined by the qualified registered professional required in condition 'h', must be made payable to the Minister of Finance c/o the Agricultural Land Commission.
 - The ILOC is to ensure the Proposal is conducted in accordance with the information submitted with the Application and the conditions of this decision, and must be received by the ALC prior to any works being undertaken on the right-of-way;

- for greater clarity, some or all of the ILOC will be accessible to, and used by, the Commission upon the failure of the Applicant to comply with any or all aspects of the conditions of approval contained herein; and,
- release of the ILOC will be dependent on receipt of evidence that the temporary and permanent access to the parcels adjacent to the right-of-way, and of the required drainage improvements have been completed to a standard deemed satisfactory by the Commission. In this regard, the Commission will consider the interim and final reports prepared by the qualified registered professional and submitted to the Commission the fulfillment of this condition;

[20] When the Commission approves the drainage report required in condition “i”, and accepts the ILOC required in condition “l”, it will authorize the Registrar of Land Titles to accept registration of the right-of-way plan.

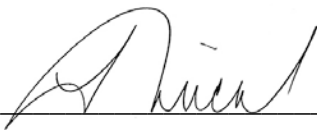
[21] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[22] These are the unanimous reasons of the Island 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 #63/2017 and is released on March 16, 2017.

CERTIFICATION OF DECISION



Linda Michaluk, Panel Chair, on behalf of the Island Panel

END OF DOCUMENT

