

REGIONAL DISTRICT OF NANAIMO
AGRICULTURAL ADVISORY COMMITTEE
AGENDA

Friday, February 16, 2018

2:00 P.M.

RDN Board Chambers

This meeting will be recorded

Pages

1. CALL TO ORDER
2. APPROVAL OF THE AGENDA
3. ADOPTION OF MINUTES
 - 3.1 Agricultural Advisory Committee Meeting - September 22, 2017 3
That the minutes of the Agricultural Advisory Committee meeting held September 22, 2017, be adopted.
4. CORRESPONDENCE
 - 4.1 Agricultural Land Commission Decision - September 26, 2017 PL2016-189 Exclusion 1155 and 1169 Leffler Road - Electoral Area 'F' 5
 - 4.2 Agricultural Land Commission Decision - October 16, 2017 PL2017-030 Subdivision 2298 Northwest Bay Road - Electoral Area E 17
 - 4.3 Agricultural Land Commission Decision - February 8, 2018 Subdivision Yellow Point and 2437 Quennell Road - Electoral Area 'A' 26
5. REPORTS
 - 5.1 Request for Comment on Non-Farm Use in the Agricultural Land Reserve Application No. PL2017-194 1155 and 1169 Leffler Road - Electoral Area 'F' 31
 - 5.2 Gathering for an Event in the Agricultural Land Reserve – Proposed Zoning Amendments 132
That the Agricultural Advisory Committee receive and provide comments on the Gathering for an Event in the Agricultural Land Reserve – Proposed Zoning Amendments report.

5.3	Agricultural Land Commission Final Decisions Chart (Verbal Update)	150
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6. NEW BUSINESS

6.1	Agricultural Land Reserve and the Agricultural Land Commission Revitalization - Regional Stakeholder Meeting	153
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6.2	Next Meeting (Verbal Update)	
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7. ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO**MINUTES OF THE AGRICULTURAL ADVISORY COMMITTEE MEETING****Friday, September 22, 2017****2:00 P.M.****RDN Board Chambers**

In Attendance:	Director H. Houle Alternate	Electoral Area B
	Director J. McLean	Electoral Area F
	Director T. Westbroek	Town of Qualicum Beach
	J. Thony	Regional Agricultural Organization
	M. Ryn	Regional Agricultural Organization
	K. Reid	Shellfish Aquaculture Organizations
	K. Wilson	Representative District 68
	G. Laird	Representative District 68
	R. Thompson	Representative District 69
	C. Watson	Representative District 69
Regrets:	Director J. Fell	Electoral Area F
Also in Attendance:	M. Young	Director, Electoral Area C
	J. Holm	Manager, Current Planning
	P. Sherman	Recording Secretary

CALL TO ORDER

The Chair called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting took place.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented.

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES**Agricultural Advisory Committee Meeting - July 21, 2017**

It was moved and seconded that the minutes of the Agricultural Advisory Committee meeting held July 21, 2017, be adopted.

CARRIED UNANIMOUSLY

CORRESPONDENCE

It was moved and seconded that the following correspondence be received for information:

Agricultural Land Commission Decision (August 23, 2017) on PL2017-048 ALR Non-Farm Use - 1430 Tyler Road - Electoral Area 'F'

Agricultural Land Commission Decision (June 26, 2017) on PL2017-013 ALR Non-Farm Use - 3452 Jingle Pot Road - Electoral Area 'C'

CARRIED UNANIMOUSLY

REPORTS

Request for Comment on Release of Covenant in the Agricultural Land Reserve Application No. PL2017-064 - Electoral Area 'A'

The applicant spoke to the committee about their application request for release of a covenant in the Agricultural Land Reserve.

It was moved and seconded that the Agricultural Land Reserve Release of Covenant in the Agricultural Land Reserve Application No. PL2017-064 - Electoral Area 'A' be forwarded to the Agricultural Land Commission with no recommendation from the Agricultural Advisory Committee.

Opposed (2): Director J. McLean and R. Thompson

CARRIED

Agricultural Land Commission Final Decisions

J. Holm summarized the Agricultural Advisory Committee recommendations in relation to the Agricultural Land Commission decisions since February 2014 when the Agricultural Advisory Committee was able to provide comments to the Agricultural Land Commission.

NEW BUSINESS

Discussions occurred relating to agricultural matters.

The Committee was advised of the Agricultural Water Licensing in BC workshop being held on November 9, 2017.

J. Holm advised the Committee that the next Agricultural Advisory Committee meeting is scheduled to be held on November 17, 2017.

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

CARRIED UNANIMOUSLY

TIME: 3:53

CHAIR



Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

September 26, 2017

ALC File: 55899

Cox Taylor
26 Bastion Square, 3rd Floor Burnes House
Victoria, BC V8W 1H9

Attention: Emily Skey

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Island Panel (Resolution #295/2017) 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.

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).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

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

Sara Huber, Land Use Planner

Enclosure: Reasons for Decision (Resolution #295/2017)

cc: Regional District of Nanaimo (File: PL2016-189) Attention: Stephen Boogaards
ALC Compliance and Enforcement

55899d1



AGRICULTURAL LAND COMMISSION FILE 55899

REASONS FOR DECISION OF THE ISLAND PANEL

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicants:

**Gene Martini
Gloria Martini
(the “Applicants”)**

Agent:

**Emily Skey, Cox Taylor
(the “Agent”)**

Application before the Island Regional Panel:

**Linda Michaluk, Panel Chair
Honey Forbes
Clarke Gourlay**



THE APPLICATION

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

Parcel Identifier: 003-757-366

Lot 1, District Lot 139, Nanoose District, Plan 18583

(the "Property")

[2] The Property is 2.8 ha.

[3] The Property has the civic addresses 1155 and 1169 Leffler Road, Errington 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. 30(1) of the *ALCA*, the Applicants are applying to exclude the 2.8 ha Property from the ALR (the "Proposal"). The Proposal along with supporting documentation is collectively referred to as the application (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 30(1) of the *ALCA*:

30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.

[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
5. Applicant Meeting and Site Visit Report
6. *Further Submissions June 29, 2017*, submitted by the Agent on June 29, 2017

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

[10] The Regional District of Nanaimo (RDN) “Board Policy B1.8 Review of Provincial Agricultural Land Reserve Applications” includes a standing Board resolution for exclusion of lands within the ALR which reads as follows:

If the ALC deems it appropriate to remove land from the ALR then the Board will consider the development of the land in accordance with the Regional Growth Strategy and the Official Community Plan.



APPLICANT MEETING AND SITE VISIT

[11] On May 23, 2017, the Panel conducted a site visit and meeting with the Applicants (the “Applicant Meeting”) in accordance with s. 22(1) of the Regulation. The Applicant Meeting was held at the Property.

[12] An Applicant Meeting and Site Visit Report was provided to the Agent on June 1, 2017 and confirmed by the Agent on June 29, 2017.

BACKGROUND

[13] A second dwelling was constructed on the Property in or around 2003.

[14] In March 2009, the Applicants applied to the Commission to subdivide the Property into a ± 1.2 ha lot and a ± 1.6 ha lot with each lot containing one of the dwellings. The Commission found that the Property has agricultural capability, is suitable for agricultural use, and is appropriately designated in the ALR. Moreover, the Commission found that the proposal would impact agricultural land and would be inconsistent with the objective of the *ALCA* to preserve agricultural land. The application was refused by ALC Resolution #235/2009.

[15] In September 2009, the Commission received a request from J.E. Anderson and Associates on behalf of the Applicants, to reconsider ALC Resolution #235/2009. The reconsideration request stated that a report had been prepared by Streamline Environmental Consulting (the “Environmental Report”), dated August 6, 2009, which indicated that provincial and federal approvals would be required for any development that causes disturbance to fish bearing water courses or courses leading to fish bearing water courses. The Environmental Report stated it was unlikely that a proposal to fill the wetland area, which according to the Environmental Report covers over 50% of the Property, would be granted. The Environmental Report suggested two options:

Option 1

A bare land strata subdivision of the Property with a large common area that could be used for agriculture; or

Option 2

Exclude the land from the ALR.

The Commission determined that the Environmental Report did not provide any information that would justify changing its decision, as the Commission was aware that the Property had significant wetland areas as observed at the site visit. With regard to Option 1 in the Environmental Report, the Commission considered that the proposal to create strata lots would fragment the Property into rural residential parcels and would leave only a small common area available for agriculture. With regard to Option 2, the Commission found that the Property has agricultural potential and is correctly retained within the ALR, and that it was unable to consider the exclusion in terms of the present subdivision application process. The application was reconfirmed as refused by ALC Resolution #1907/2009.

[16] In June 2010, the Commission received a second request from J.E. Anderson and Associates on behalf of the Applicants, to reconsider ALC Resolution #235/2009. The request was made to demonstrate that the proposal was consistent with subdivision under s. 946 of the *Local Government Act (LGA)*, which provides subdivision for a family member. The Commission found that the submission did not contain new evidence that was unavailable at the time of its original decision, nor did it provide evidence that the decision was based on information that was in error or false.

[17] In October 2010, the Commission received a request from the Applicants to reconsider ALC Resolution #235/2009. The request was made to amend the proposal to subdivide the Property into one ± 0.8 ha lot and one 2 ha lot. The Commission found that the submission did not contain new evidence that was unavailable at the time of its original decision, nor did it provide evidence that the decision was based on information that was in error or false.

- [18] In February 2012, the Commission received a letter from the Applicants requesting a meeting with the Commission to discuss reconsideration of its decision recorded as ALC Resolution #1907/2009. The request was made to reconsider the amended proposal for one ±0.8 ha lot and one 2 ha lot. The Applicants stated that the subdivision was warranted as it would divide the Property between the two existing dwellings, would meet the requirements of s. 946 of the *LGA*, and should be subdivided because there is excess water on the Property. The Commission found that the second dwelling was not constructed for farm purposes and required the approval of the Commission as a non-farm use; the consideration of s. 946 of the *LGA* in support of the subdivision proposal is inconsistent with the purposes of the Commission; and the land has good agricultural capability and no evidence was provided to suggest the published BCLI ratings are inaccurate. The decision was reconfirmed as refused by ALC Resolution #191/2012.
- [19] According to ALC Compliance and Enforcement (C&E) Records, construction of two additional dwellings commenced between 2009 and 2011, for a total of four dwellings (constructed or partially constructed) on the Property.
- [20] In February 2013, an ALC C&E file was opened and an Order to Provide Information was issued to the Applicants. At this time, the RDN issued a Stop Work Order for the construction of dwellings.
- [21] In response to these actions, the ALC was informed that construction had ceased and that the Applicants would be applying for exclusion from the ALR. The C&E file was subsequently closed.
- [22] In 2015, the ALC was notified that the dwellings were being occupied and the C&E file was reopened.
- [23] Presently there are four dwellings (constructed or partially constructed) located on the Property in which the Applicants and their children live. The Applicants intend to retain a total of three dwellings.

FINDINGS

[24] 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 92F.029 for the mapping units encompassing the Property are Class 2 and 3, more specifically, 60% 2A and 40% (6:3WD 4:2PD).

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.

The limiting subclasses associated with this parcel of land are A (soil moisture deficiency), W (excess water), P (stoniness) and D (undesirable soil structure).

[25] As part of the Application, the Panel received a professional Agrologist report, prepared by Brian French of C&F Land Resource Consultants Ltd, and dated August 12, 2016 (the "C&F Report"). The C&F Report states that approximately 1.98 ha (71.5%) of the Property is improvable to Class 4, and the remaining 0.79 ha (28.3%) is anthropic, meaning modified by human actions.

[26] The Panel must make its decision based on not only all the evidence before it, but also based on its own assessment of that evidence. The Panel reviewed the BCLI ratings and the C&F Report and find that while a portion of the Property has challenges due to excessive wetness and undesirable soil structure, with standard good farming practices and the utilization of appropriate crops, the Property as a whole, has agricultural capability and is rightfully designated within the ALR.



[27] While the C& F Report finds that the 28.3% of the Property is classified as “anthropic”, the Panel finds that the anthropic impact was created by the Applicants’ actions through the construction of additional dwellings in contravention of the *ALCA* and local zoning.

[28] The C&F Report identifies severely restricted drainage and rooting depth as the primary limitations to supporting soil bound agriculture on the Property. With regard to non-soil bound agriculture (in particular: greenhouses, intensive livestock production, mushroom production, or horticultural pot nursery production) the C&F Report states:

While all of these uses could theoretically be sited on this property, it is very [likely] that the limited land area available, high cost of site preparation, lack of natural gas service and limited area for manure disposal would mitigate against any rational farmer choosing to carry out this type of non-soil based agricultural development on this site.

[29] The Panel acknowledges the findings of the C&F Report that non-soil bound agriculture is unlikely due, in part, because of the high cost of site preparation; however, the Panel finds that the current economic viability of farming has no bearing on its consideration. The Commission’s purpose as set out in s. 6 of the *ALCA* is to preserve agricultural land. As future economic conditions are impossible to accurately predict, the economic viability of a parcel of land for agriculture cannot be a significant factor in the decision.

[30] The Panel also assessed the impact of the Proposal against the long-term goal of preserving agricultural land as set out within the context of s.6 of the *ALCA*. The Panel has determined based on all of the evidence presented, that the Property has agricultural capability and that excluding the Property would result in the permanent loss of the Property’s agricultural potential, raise expectations of further land use change as a result of non-compliance with the *ALCA*, and further erode the agricultural land base in the RDN.

[31] The Panel notes that the number of dwellings on the Property is not consistent with the RDN’s Official Community Plan (OCP) Resource Land designation as only a maximum of two dwellings per parcel may be allowed where approval has been received from the Commission and subject to zoning of the Property. Nor is the Proposal consistent with the

RDN's Agriculture 1 (A-1) zoning designation. The Panel further notes that three of the present four buildings have been built without the approval of the RDN or the Commission.

[32] During the Applicant Meeting and Site Visit, the Applicants advised that the houses are utilized by their children and that their overall goal is to have three dwellings and live on the Property with their children. While the Panel recognizes the Applicants' desire to have their family living together on the Property, s. 3(1) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the "Regulation") outlines additional permitted residential uses for the purpose of accommodating family within the ALR. The Panel finds that if the Applicants' wish to accommodate their children on the Property; they may do so through the avenues outlined in s. 3(1) of the Regulation.

[33] The Panel notes there was reference given to the gazetted road on the Property during the Applicant Meeting and Site Visit. In order to construct in an unconstructed right-of-way, permission from the Commission is required, as described under s. 6 of the Regulation. The Panel notes that no application for construction has been made to the Commission at this time.

[34] As observed during the Applicant Meeting and Site Visit, the Applicants have a 1000 ft² sheet metal workshop. The Panel advises that the workshop must be consistent with the RDN's Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285 (2002) regulations for home-based businesses in order to be considered a permitted home occupation use in the ALR. As the workshop did not form part of the Proposal, the Panel has not confirmed whether the workshop meets this requirement.

DECISION

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

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



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

[38] This decision is recorded as Resolution #295/2017 and is released on September 26, 2017.

CERTIFICATION OF DECISION

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

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

END OF DOCUMENT



Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

October 16, 2017

ALC File: 56569

T.G. Hoyt BCLS
2275 Godfrey Road
Nanaimo BC V9X 1E7

Attention: Thomas Hoyt

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

Please find attached the Reasons for Decision of the Island Panel (Resolution #317/2017) 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.

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).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

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

Sara Huber, Land Use Planner

Enclosure: Reasons for Decision (Resolution #317/2017)

cc: Regional District of Nanaimo (File: PL2017-030) Attention: Stephen Boogards

56569d1



AGRICULTURAL LAND COMMISSION FILE 56569

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicant:

**Glenn Dawson
(the “Applicant”)**

Agent:

**Thomas Hoyt
(the “Agent”)**

Application before the Island Regional Panel:

**Linda Michaluk, Panel Chair
Honey Forbes
Clarke Gourlay**



THE APPLICATION

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

Parcel Identifier: 001-047-981

Lot 1, District Lot 62, Nanoose District, Plan 37368

(the "Property")

[2] The Property is 9.7 ha.

[3] The Property has the civic address 2298 Northwest Bay Road, Nanoose Bay, 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 Applicant is applying to subdivide the Property to create one 2.4 ha lot and one 7.3 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
5. *Report to the Agricultural Land Reserve Re: Application Number 56569, Property – 2298 Northwest Bay Road, Nanoose Bay, BC, Alternative Proposals for Consideration*, submitted September 13, 2017

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

[10] Regional District of Nanaimo (RDN) “Board Policy B1.8: Review of ALR Applications” includes a standing Board resolution for subdivision within the ALR to forward all applications to the Agricultural Advisory Committee (AAC) and Area Director to provide comment or recommendation.

[11] The Panel reviewed four previous applications involving the Property:

Application ID: 10963
Legacy File: 75-551
(Strudwick, 1975)

To subdivide the 15.5 ha property into one 12.3 ha lot and one 3.2 ha lot. The application was approved by ALC Resolution #1828/75.

Application ID: 29138
Legacy File: C-37/76
(Kalnin & McGee, 1976)

To build two dwellings on the property in order to provide for tenants in common. The application was approved by Resolution #3601/76 subject to no future requests being made for subdivision.

Application ID: 28283
Legacy File: 05328
(Kalnin & McGee, 1978)

To subdivide the 12.3 ha property into two 6.1 ha lots in order to finance construction of the second dwelling. The Commission found that the proposed subdivision would sever a parcel of high capability soils and would have long term detrimental impacts upon the agricultural potential of the land. The application was refused by Resolution #8225/78.

Application ID: 28285
Legacy File: 11852
(Kalnin, 1981)

To subdivide the 12.3 ha property into two lots to provide a separate title for each of the two dwellings. The property is now owned by a single owner who stated that the financial obligations associated with the ownership of the second dwelling have prohibited further intensive agricultural utilization. The Commission approved subdivision of one 9.7 ha lot and one 2.6 ha lot (Resolution #134/81).

Note: Application 28285 created the Property.

Reconsideration Request 1

On July 29, 1981, the Commission received two paper prints of the subdivision proposal. It was noted during this review that a 12 metre road was dedicated along the easterly and southerly boundaries of the property in response to a condition of approval by the Ministry of Transportation and Highways. The Commission refused approval of the subdivision plan (Resolution #1740/81).

Reconsideration Request 2 On September 11, 1981 the Commission received a letter and subdivision plan from C.O. Smythies and Associates Ltd, which removed the 12 metre road dedication and explained a revised proposal. The plan included a 12 metre panhandle in place of the road, as suggested by the Ombudsman's office as a compromise. The Commission found that the panhandle could increase demand for future road construction through the ALR, which may encourage future subdivision of adjacent lands; thereby the subdivision plan was refused (Resolution #1740/81). The Commission noted that the original approval for subdivision was still valid without the panhandle or road dedication.

BACKGROUND

[12] The Property currently contains a dwelling and tree farm, both of which are located on the northeastern corner of the Property. The Applicant intends to sell the existing dwelling and tree farm on the proposed 2.4 ha lot ("Proposed Lot A"), and then build a new dwelling on the proposed 7.3 ha lot ("Proposed Lot B").

[13] On September 13, 2017, the Applicant submitted the *Alternative Proposals for Consideration* report, which identified alternative subdivision alignments that the Applicant would like the Panel to consider, in the case they are not supportive of the Proposal.

FINDINGS

[14] In assessing agricultural capability, the Panel referred 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 92F.029 & 92F.030 for the mapping units encompassing the



Property are Class 2, 3, 4, and 5, more specifically 70% (2W), 15% (5:3A - 5:2A), 8% 5AP, 5% (3W), 2% (7:4P - 3:2TP).

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 W (excess water), A (soil moisture deficiency), P (stoniness), and T (topography).

[15] Based on the BCLI ratings identified, the Panel finds that the Property has predominantly prime agricultural capability and could support a range of agricultural uses.

[16] The Application submits that the Property is suitable for subdivision because there are drainage issues on the Property which require significant financial investment. While understanding of the Applicant's argument, the Panel finds that the economic rationale for subdivision has no bearing on the Panel's consideration.

[17] The Applicant states that Proposed Lot A would be large enough that it could be used as a hobby farm in the future. The Panel recognizes that the Applicant intends to subdivide in order to allow for small lot agriculture; however, the Panel does not support subdivision of the Property in any of the proposed alignments, as subdivision may limit the range of agricultural options available. In this regard, the Panel finds that the Property has greater agricultural potential as a large cohesive farm parcel.



[18] Additionally, the Panel finds that smaller lots are also more likely to be used for residential purposes which may introduce more residential/agricultural conflicts, and potentially increase pressure for further subdivision in the area.

DECISION

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

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

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

[22] This decision is recorded as Resolution #317/2017 and is released on October 16, 2017

CERTIFICATION OF DECISION

A handwritten signature in black ink, appearing to read 'Linda Michaluk', is written above a horizontal line.

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

END OF DOCUMENT



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

February 8, 2018

Reply to the attention of: Caitlin Dorward
ALC File: 56488

Moira Benson
DELIVERED ELECTRONICALLY

Dear Moira Benson:

Re: Application 56488 to conduct a non-farm use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Island Panel for the above noted application (Resolution #51/2018).

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the Commission) has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to Caitlin Dorward at (Caitlin.Dorward@gov.bc.ca).

Yours truly,

A handwritten signature in black ink that reads 'C Dorward'.

Caitlin Dorward, Land Use Planner

Enclosure: Reasons for Decision (Resolution #51/2018)

cc: Nanaimo Regional District (PL2017-064)



AGRICULTURAL LAND COMMISSION FILE 56488

REASONS FOR DECISION OF THE ISLAND PANEL

Non-Farm Use Application Submitted Under s. 20(3) of the *Agricultural Land Commission Act*

Applicant: Moira Benson

Properties:

Property 1:
Parcel Identifier: 004-954-637
Legal Description: The North 1/2 of Section 8
Range 2 Cedar District Except that Part in Plan
8303
Civic: 2437 Quennell Road, BC
Area: 15.3 ha

Property 2:
Parcel Identifier: 004-406-991
Legal Description: Lot 1 Section 8 Range 3 Cedar
District Plan 12737 Except Part in Plan 44022
Area: 9.9 ha

Panel: Linda Michaluk, Island Panel Chair
Clarke Gourlay
Honey Forbes

OVERVIEW

- [1] The Properties are located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA). The Properties are located within Zone 1 as defined in s. 4.2 of the ALCA.
- [2] In 1986, an subdivision application was submitted to Agricultural Land Commission (the "Commission") to subdivide a 12.7 ha parcel into a 3.2 ha and 9.5 ha lot for the purpose of allowing the applicants to separate a residence and land from the other family members. The subdivision was approved by Resolution #371/85 subject to a covenant to bind the Certificates of Title of Property 2 (resulting from Resolution #371/85) and Property 1. Covenant #R66083 (the "Covenant") was registered in 1986 on the Certificates of Title of the Properties and prohibits them from being sold individually.
- [3] The Applicant is applying to the Commission to remove the Covenant from the Properties (the "Proposal").
- [4] The Panel considered whether removing the Covenant would impact the agricultural suitability of the Properties.
- [5] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (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

[6] The Proposal along with related documentation from the Applicant, Agent, Regional District of Nanaimo, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Applicant in advance of this decision.

EVIDENCE AND FINDINGS

Issue: whether removing the Covenant would impact the agricultural suitability of Properties

[7] The Applicant submits that she needs to downsize the farm because her grandchildren are not interested in farming and she feels it would be "*advantageous to any future sales to have the Covenant removed*".

[8] Binding of Certificates of Title is sometimes used as an alternative to consolidating multiple parcels into a single property. The Covenant effectively established the Properties as a cohesive 25.2 ha unit. The Applicant submits that the Properties and two other parcels are currently farmed by her and her sons as a single farm operation. The Panel finds that the Covenant has been effective in ensuring that the Properties have been utilized as a single farm unit.

[9] Removal of the Covenant would allow the Properties to eventually be sold separately to different owners and thereby reduce the size of the farm unit. The Panel finds that the Proposal will decrease the agricultural suitability of the Properties to be used for a broad range of agricultural options.

DECISION

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

[11] These are the unanimous reasons of the Panel.



[12] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[13] Resolution #51/2018
Released on February 8, 2018

A handwritten signature in black ink, appearing to read 'Linda Michaluk', written in a cursive style.

Linda Michaluk, Panel Chair
On behalf of the Island Panel

TO: Agricultural Advisory Committee **MEETING:** February 16, 2018

FROM: Stephen Boogaards
Planner **FILE:** PL2017-194

**SUBJECT: Request for Comment on Non-Farm Use in the Agricultural Reserve
Application No. PL2017-194
Gene and Gloria Martini
1155 and 1169 Leffler Road – Electoral Area ‘F’
Lot 1, District Lot 139, Nanoose District, Plan 18583**

SUMMARY

This is an application for non-farm use in the Agricultural Land Reserve (ALR) for placement of fill on a 2.8 hectare parcel located in Electoral Area ‘F’. Should the Agricultural Advisory Committee (AAC) wish to provide comments to the Provincial Agricultural Land Commission (ALC), it may do so by considering the adoption of a motion. Any comments provided by the Committee will be provided to the ALC, along with a copy of this report to assist the ALC in making a decision on this application.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application for non-farm use for fill placement in the ALR from Cox Taylor on behalf of Gene and Gloria Martini. The subject property is legally described as Lot 1, District Lot 139, Nanoose District, Plan 18583 and the civic address is 1155 and 1169 Leffler Road. The subject property is approximately 2.8 hectares in area and is located entirely within the ALR. The parcel is bound by Leffer Road to the east, unconstructed road rights-of-way to the north and west, and other ALR properties (see Attachments 1, 2 and 3 for Subject Property Map and Aerial Photo and Site Plan).

The applicant has explained in their application that the proposal is to use fill to raise the surface elevation and improve the distribution of water to address drainage issues. According to the applicant’s submission, the applicant is proposing to place approximately 1.0 metre of fill over 2.0 hectares, or a volume 20,000 m³ of fill, for the wettest portions of the property to enable soil and land based farming activities. The wetlands are identified on the applicant’s site plan. A copy of the applicant’s submission package is included as Attachment 10. Personal Information is redacted in accordance with the Freedom of Information and Protection Policy Act.

Agricultural Advisory Committee members will be provided an opportunity to attend the site on February 8, 2018.

REGIONAL GROWTH STRATEGY

The subject property is currently designated ‘Resource Land and Open Spaces’ pursuant to the “Regional District of Nanaimo Regional Growth Strategy Bylaw No. 1615, 2011” (RGS). The Resource Lands and Open Space designation is intended to accommodate agricultural and primary resource activities (see Attachment 7). Further to this, the RGS encourages the provincial government to protect and preserve the agricultural land base through the ALR (see Attachments 7, 8, and 9).

OFFICIAL COMMUNITY PLAN

The subject property is currently designated as Resource Lands within the ALR pursuant to the “Regional District of Nanaimo Electoral Area ‘F’ Official Community Plan Bylaw No. 1152, 1999” (see Attachment 4). The Resource designation includes objectives to “support the long-term viability of the natural resource land base and protect it from activities and land uses that may diminish its resource value and potential” and “ensure that resource operations comply with recognized standards and codes of practice and that unreasonable impacts on the natural environment are avoided.” The Official Community Plan also includes general policies for agriculture to “improve access water for agriculture and to allow for adequate drainage of the land base” and “encourage soil conservation practices to reduce environmental impacts on soils and watercourses (see Attachment 5).”

The parcel is also designated within the Watercourse Protection and Fish Habitat Development Permit Area. As the wetlands are the location to receive fill, a development permit will be required prior to any modification of the wetland. Provincial or federal approval will also need to be addressed through the development permit, including under the Provincial *Water Sustainability Act* and the Federal *Fisheries Act*.

ZONING

The parcel is currently zoned Agriculture 1 (A-1) pursuant to “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002” (Bylaw 1285) (see Attachments 4 for zoning regulations). The A-1 Zone permits a dwelling unit, farm uses as defined by the *Agricultural Land Commission Act*, accessory residential uses, and accessory farm uses (see Attachment 3). The proposed non-farm use application for the placement of fill has no implications for zoning

BOARD POLICY AND AAC PROCEDURE

Regional District of Nanaimo “Board Policy B1.8: Review of ALR Applications” (Policy B1.8) provides an opportunity for the AAC to review and provide comments on ALR applications for exclusion, subdivision and non-farm use, on lands within the ALR. Policy B1.8 also states that all ALR non-farm use applications are to be forwarded to the Provincial Agricultural Land Commission (ALC) with no resolution of support or opposition from the Regional Board of Directors.

In accordance with the AAC Terms of Reference, the role of the AAC members is to provide local perspective and expertise to advise the Board (and in this case comment to the ALC) on a range of agricultural issues on an ongoing and as needed basis, as directed by the Board. In addition to members’ local knowledge and input, comment on ALR applications may be guided by Board approved policies such as the RDN AAC, the Board Strategic Plan, the RGS and the applicable OCP along with the relevant land use bylaws. Members of the AAC can also find information related to ALR land use and agriculture

in BC, on the Agricultural Land Commission and Ministry of Agriculture websites. Local and contextual information can also be found on the RDN's agricultural projects website at www.growingourfuture.ca.

Comment provided to the ALC from the AAC is consensus based, through Committee adoption of a motion. If an AAC member has comments regarding an application being submitted to the ALC, the appropriate time to provide those comments is in the Committee meeting, during discussion on the application, and prior to the Committee's adoption of its motion. Only motions approved by the Committee will be forwarded to the ALC for its consideration. Comments from individual AAC members will not be included in the staff report that is forwarded to the ALC.

The comment provided by the AAC is not an approval or denial of the application and is only a recommendation to the ALC regarding a specific application. As per Board Policy B1.8 any comment from the AAC is provided in addition to the applicable standing Board resolution and Electoral Area Director's comment (if provided). The ALC is the authority for decisions on matters related to the ALR and will consider comments in making its decision on an application.

ELECTORAL AREA DIRECTOR COMMENT

As per Board Policy B1.8, all applications under the *Agriculture Land Commission Act* for exclusion, subdivision, or non-farm use of ALR land are to be forwarded to the applicable subject property's Electoral Area Director, for comment.

With respect to this application, Electoral Area 'F' Director Julian Fell has provided the following comments:

"In reviewing this application I find my comments of Feb 2017 more applicable today than before and there is now additional evidence in support of my position. I am repeating some of my prior comments, and my comments today (Feb 2018) are in Italics.

The current proposal is to import about 20,000 cubic metres of fill as the first step to making this property farmable. The cost of this and subsequent required works has to exceed \$6-700,000 and possibly much more. This makes no economic sense but everyone has a right to be irrational so this is not grounds to oppose. I do oppose this proposal because of the harm it will do to Romney Creek. I also think that it would be very unlikely that the provincial Ministry of the Environment and federal Dept of Fisheries and Oceans would permit this project to advance.

Water courses in Area F are quite variable. Some, such as French Creek, run in canyon-like ravines and others drain broadly across shallow swales. In places these level out into broad wetlands where the water flows almost imperceptibly and even disappears underground only to emerge further downstream and resume flow in distinct stream beds. The transition between these flows is remarkable. Some catchment areas drain to wetland depressions that flood in winter and dry out in summer, with the water sinking into the ground. Others connect to identifiable creeks that discharge ultimately into Georgia Strait. . Flow rates vary greatly between winter and summer with basic summer flows being essential and critical for salmon nursery creeks, especially aquifer fed flows which are colder than surface flows. The downstream parts of these creeks are, or have been and could be restored to be, nursery areas for salmonid species. The broad, slow-flowing wetland areas that occur upstream store the water that feeds the creeks over the summertime dry period.

The property at 1155 Leffler is at the base of the headwater catchment area of Romney Creek, an identified salmonid nursery creek, albeit now seriously compromised by culvertization in Parksville, but being restored. An initial catchment slope to the south of this parcel starts at the Englishman River catchment divide and drains northward and down slope into this property which is part of a broad, flat, slow-flow wetland area. This wetland area used to extend (“downstream”) onto further properties then went mostly underground to re-emerge as a spring on the north side of Price Road. This Price Road location has been identified to me by old time residents as being a place where many families obtained water in summer when their wells went dry. It is a year round flow and this must depend on the wetland reservoir upstream which would have included the Martini property. A further wetland occurs below the Price Road emergence and from thereon Romney Creek takes on a typical stream channel form and enters a ravine north of Smithers Road. Highways has since re-routed some of the water off the Martini property but the diverted water rejoins Romney Creek further downstream.

The Martini property does not really dry out as the upstream headwater catchment continues to feed water to the property year round. To remove the water sufficient to farm would require trenching across neighbour’s properties to the north. I doubt if trenching the single Martini parcel by itself would be sufficient. This would require the consent of the neighbours and approvals from wetland and fishery regulatory agencies. I have discussed this with DFO in Comox and they said that any project/works likely to negatively impact (water quality and critical summer flows) of fish or fish bearing waters is **illegal** under federal fishery regulations.

The reports of 2017 in regards to soil (mix of glacio-marine clay and glacial till rendered anoxic by permanent water saturation), engineering (impossibly expensive to modify and no assurance of success), farming professionals(not farmland) and water specialists (the role of this property in affecting downstream flows makes it unlikely that environmental and fishery approvals will occur for any modification of this property that would negatively affect water flows and water retention effects.) An account of the sediments of this area can be found in Bernardski, 2015: Surficial geology and Pleistocene stratigraphy from Deep Bay to Nanoose Harbour, Vancouver Island. Geol. Surv. Canada, Open file 7681.

Bernardski notes that only 9% of the study area has sediments modified by natural processes. This would produce sediments suited to farming.

The new provincial BC Water Sustainability Act (WSA) includes provisions for the “protection of aquatic environments” by “establishing legally enforceable minimum environmental flows in each watershed system”. This would appear to mirror the DFO strategies. A provincial (MELP) study in 1994 (French Creek Water Allocation Plan) shows that water flow in Romney Creek varies from 476 litres per second in December to almost nothing (less than 7 litres/sec) in July-Sept The mean annual discharge being 179 l/s. . I have personally walked parts of Romney Creek downstream of the Martini property in summer and found the surface flows to be 1 litre per second or less which means that in summer better than 80% of the summer flow downstream comes from subsurface flow from upstream reservoir sediments. Given the probable role of the Martini property in maintaining summer flows, it would seem to be very unlikely that DFO, and the Province under WSA, would favour disruptions for drainage purposes. Riparian setbacks are specified when a watercourse runs on surface in an identifiable track. There is no specification for a flood path type flow that I am aware of, unless it were regarded as a flood plain of sorts.

Since 2017 some developments have come to light. A property, a half kilometer downstream from the Martini parcel, through which Romney Creek flows cleared all its trees which includes a riparian setback. The owner is now under a Provincially required mandate to restore the riparian zone. Outside the ALR Romney Creek is subject to environmental and fishery protection rules.

In June 2017 an engineering report (164 pp) was produced for MVIHES (Mid Vancouver Is. Habitat Enhancement Soc.) documenting the results and conclusions of a study of Shelly Creek. Shelly Creek is the watershed immediately to the east of Romney Creek and the two are essentially identical. Lower Shelly Creek is (or was) a habitat refuge for thousands of Coho fry. In recent years a cataract effect has eroded the upper parts of the stream bed, buried lower parts in sediment and turbidity and Salmon counts have plummeted. The studies that resulted in this report identify and quantify that normally 60% of the water flow in Shelly Creek comes from interflow, that is water that enters the sediment upstream and emerges from the ground downstream. Stormwater drainage measures in the upper parts of the catchment watershed have reduced the infiltration of water into the ground and increased the cataract effect during heavy rain periods. The fix is to reverse these changes and implement measures to increase retention (holdback) of water in sediments underground. The same conditions and effects can be assumed for Romney Creek.

The Martini property, subject of this application, is a reservoir component of the Romney Creek watershed and nothing should be allowed on this property that interferes with this holdback effect. It has been established that modifying the land as is will not make it farmable. Bringing in a layer of soil one meter thick may create a dryer regime but would be expected to increase downstream sedimentation and measures to increase runoff would result in the same effects that have degraded Shelly Creek. I see no good coming to Romney Creek from the importation of soil and therefore oppose this action.”

Julian Fell, Director Electoral Area ‘F’



Stephen Boogaards
sboogaards@rdn.bc.ca
February 5, 2018

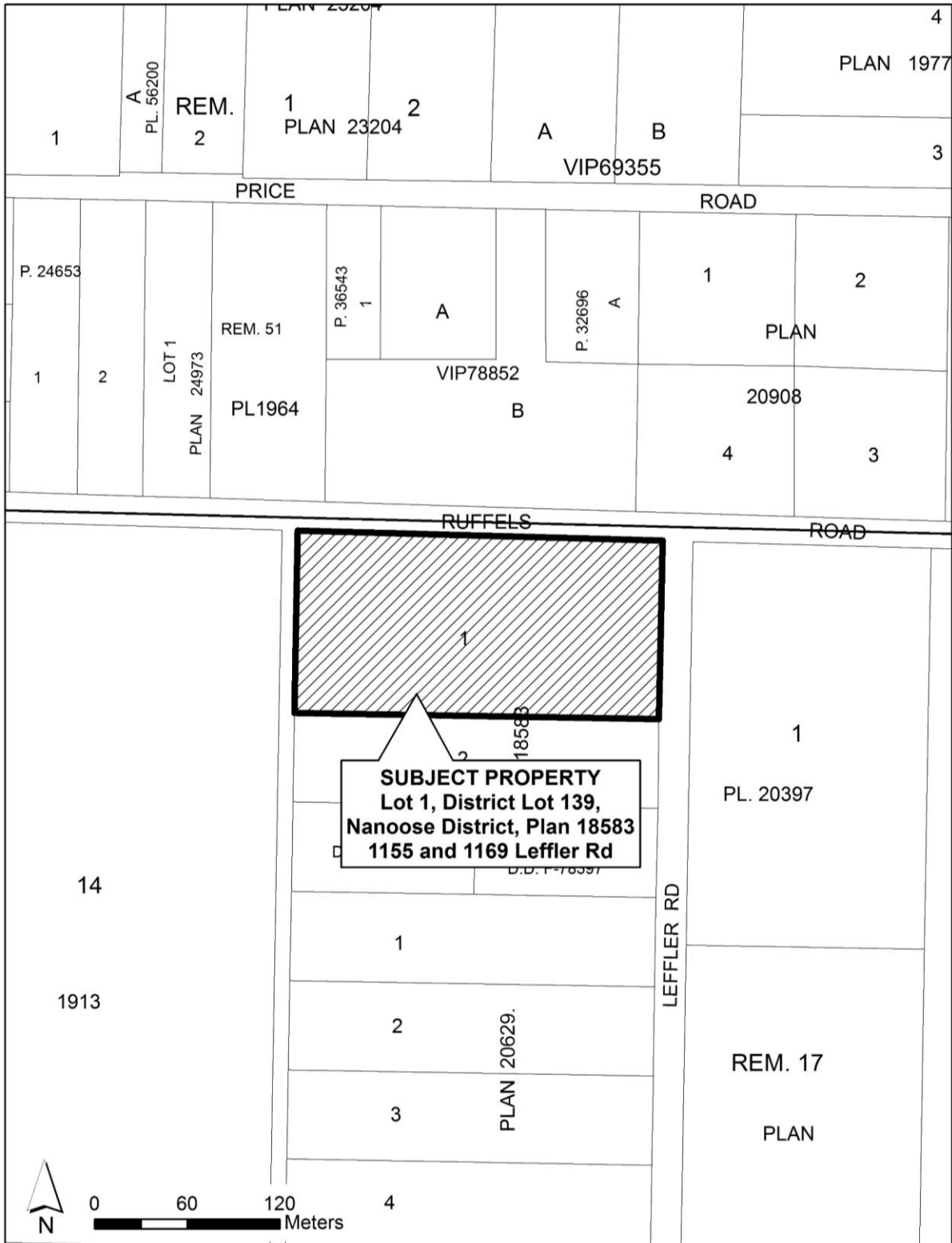
Reviewed by:

- J. Holm, Manager, Current Planning
- P. Thompson, Manager, Long Range Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

Attachments

1. Subject Property Map
2. 2012 Aerial Photo
3. Site Plan
4. Existing Zoning
5. Official Community Plan Land Use Designation
6. Official Community Plan – Agriculture
7. Regional Growth Strategy Land Use Designation
8. Regional Growth Strategy Goal 7 – Enhance Economic Resiliency – Agriculture
9. Regional Growth Strategy Goal 8 – Food Security
10. Applicant's Submission

Attachment 1
Subject Property Map



**Attachment 4
 Existing Zoning (Page 1 of 2)**

A-1 – AGRICULTURE 1

SECTION 4.1 ¹

4.1.1 Permitted Principal Uses

- a) Dwelling Unit
- b) Farm Use – on lands located in the Agricultural Land Reserve
- c) Agriculture – on lands not located in the Agricultural Land Reserve

4.1.2 Permitted Accessory Uses to the Dwelling Unit Use

- a) Accessory Buildings and Structures
- b) Home Based Business
- c) Secondary Suite²

4.1.3 Permitted Accessory Farm Uses

- a) Agriculture Education and Research
- b) Temporary Sawmill
- c) Agri-tourism Accommodation
- d) Production of Biological Integrated Pest Management Products

4.1.4 Regulations Table

Category	Requirements	
a) Maximum Density	1 Dwelling Unit per hectare to a maximum of 2 per lot	
b) Minimum Lot Size	4 ha	
c) Minimum Lot Frontage	100 metres	
d) Maximum Lot Coverage	i. Non-farm buildings and structures	10%
	ii. Farm buildings and structures	25%
	iii. Greenhouses	75%
	iv. In no case shall the combined lot coverage exceed 75%.	
e) Maximum Building and Structure Height	10 metres	
f) Minimum Setback from		
	i) Front and Exterior Side Lot Lines	4.5 metres
	ii) All Other Lot Lines	2.0 metres
g) Minimum Setback for all farm buildings, structures and uses	Refer to Section 3 – General Regulations	
h) General Land Use Regulations	Refer to Section 3 – General Regulations	

¹ Bylaw No. 1285.26, adopted June 28, 2016

² Bylaw No. 1285.19, adopted May 27, 2014

Attachment 4 Existing Zoning (Page 2 of 2)

4.1.5 Regulations

- a) For any part of a parcel in the Agricultural Land Reserve, 'Farm Use' shall be a permitted principal use and for any part of a parcel not located in the Agricultural Land Reserve, 'Agriculture' shall be a permitted principle use.
- b) Accessory Farm uses are only permitted on that part of a parcel that is within the Agricultural Land Reserve.
- c) Specific 'Farm' and 'Permitted' uses as defined in the *Agricultural Land Reserve Use, Subdivision, and Procedure Regulation* shall be developed in accordance with Section 2.19 and 2.20 of this Bylaw.
- d) Despite any regulation in this Bylaw, land established as "Agricultural Land Reserve" pursuant to the *Agricultural Land Commission Act* is subject to the *Agricultural Land Commission Act* and *Regulations*, and applicable orders of the Agricultural Land Commission.

4.1.6 Additional A-1 Zones

Principal and accessory uses as set out in Section 4.23 (A-1.1 to A-1.28 inclusive) are permitted in addition to those uses permitted in the A-1 zone. ¹

¹ Bylaw No. 1285.01, adopted April 13, 2004

Attachment 5 Official Community Plan Land Use Designation

Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999

General Policies

1. Despite the size of current lots in these areas, newly created lots within this designation shall have a minimum permitted parcel size of 2.0 hectares.
2. Permitted uses shall be rural uses, home based businesses, and accessory uses.
3. Residential development shall be permitted at a maximum density of 1 dwelling unit per 1.0 hectare to a maximum of 2 dwelling units per parcel.
4. Additional existing dwelling units may be recognized on certain parcels subject to the conditions outlined in the zoning bylaw and the criteria outlined in this OCP.



Resource Lands

This designation applies to lands that are valued for agriculture, forestry, natural resource extraction or environmental conservation opportunities. This Plan designates as Resource Lands, lands located within the Agricultural Land Reserve, Forest Land Reserve, as well as Crown lands other than lands designated as Park Land. Lands designated Resource Lands are illustrated on Map No. 2.

It is recognized that there is a wide range of home based business activities occurring on ALR lands in Electoral Area 'F'. The Regional District of Nanaimo shall negotiate with the Agricultural Land Commission to obtain a General Order for Electoral Area 'F' to allow for an expanded definition of home based businesses beyond what is normally permitted by the ALC.

Objectives

1. Support the long-term viability of the natural resource land base and protect it from activities and land uses that may diminish its resource value and potential.
2. Ensure that resource operations comply with recognized standards and codes of practice and that unreasonable impacts on the natural environment are avoided.

General Policies

1. For properties within the ALR or FLR, the regulations and policies of the ALC and FLC apply. These properties may also be subject to other local government bylaws.
2. A 4.0-hectare minimum permitted parcel size for future subdivision shall apply to all lands designated Resource and currently situated in the ALR.
3. A 50.0-hectare minimum permitted lot size for future subdivision shall apply to all lands designated Resource and currently situated in the FLR or Crown lands.
4. Future residential development on Resource Lands shall be limited to one dwelling unit per parcel. Two dwelling units per parcel may be permitted where approval has been received from the ALC or FLC, if necessary, and subject to the zoning on the property.
5. Permitted uses shall be associated with those uses supported by the ALC and FLC, such as agriculture, forestry, primary processing and outdoor recreation uses, including campgrounds.
6. Where land is removed from the ALR or FLR, the Resource Lands designation shall remain and the permitted uses shall be limited to rural/resource activities as defined in the OCP and zoning.

Attachment 6 Official Community Plan - Agriculture

Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999



Section 3: Natural Resources

The use of the lands for agriculture, forestry and aggregate extraction shapes the community's values and provides employment, recreational and economic benefits. These land uses are profiled below. It is recognized that certain matters considered in this section are beyond the jurisdiction of the RDN. The objectives and policies relating to these matters are intended to serve as indicators of community preference and assist senior levels of government in planning and decision-making.



Agriculture

Throughout the public consultation process, residents have expressed two goals for agriculture:

1. To ensure that residents and government understand that the terms 'agriculture' and 'rural' are not interchangeable. The former refers to a business, the latter to a chosen way of life. That is: Rural is a *lifestyle*... Agriculture is an essential *life support*.
2. To increase the local farmers' ability to provide the food supply to area residents. A target of 50% of the local market (from Nanoose Bay to Bowser) has been established.

The objectives and policies of this Plan are intended to support these goals and assist the agricultural industry in becoming increasingly profitable, competitive and economically viable.

Approximately 20 % of the Plan Area is designated as within the Agricultural Land Reserve (ALR) under the provincial *Agricultural Land Commission Act*. This Plan recognizes the Agricultural Land Commission as the primary agency responsible for protecting the ALR and supports the mandate and regulations of the Agricultural Land Commission. Lands within the ALR are illustrated on Map No. 2.

Objectives

1. Protect the agricultural land base for present and future food production or other agricultural uses.
2. Encourage sustainable and environmentally sound farming practices.

General Policies

1. Encourage the involvement of the farm community in preparation of the OCP and zoning bylaws.
2. Improve access water for agriculture and to allow for adequate drainage of the land base.
3. Encourage soil conservation practices to reduce environmental impact on soils and watercourses.
4. Encourage compliance of Electoral Area 'F' farmers with *Farm Practices Protection (Right to Farm) Act and the Strengthening Farming in BC- A Guide to Implementation of the Farm Practices Protection (Right to Farm) Act*.

Future Impact Policies

1. Future higher density and intensity land uses shall be directed to Village Centres and within the Rural Separation Boundaries to reduce development pressures on agricultural lands.

Natural Resources Section 3 – Page 1

Attachment 7 Regional Growth Strategy Land Use Designation

Resource Lands and Open Space

The Resource Lands and Open Space land use designation includes:

- Land that is primarily intended for resource uses such as agriculture, forestry, aggregate and other resource development; and
- Land that has been designated for long-term open space uses.test

This designation includes:

- Land in the Agriculture Land Reserve;
- Crown land;
- Land designated for resource management or resource use purposes, including forestry, in official community plans;
- Recognized ecologically sensitive conservation areas;
- Provincial parks;
- Regional parks;
- Large community parks;
- Cemeteries;
- Existing public facilities outside of areas planned for mixed-use centre development;
- Destination Resorts; and
- Golf courses.

Resource activities on land in this designation should be encouraged to operate in ways that do not harm the functioning of natural ecosystems. Land use control, and resource management of lands in this designation is shared between landowners, local, provincial and sometimes federal government. Much of the forest land is privately owned. Forest companies, farmers, shellfish aquaculture (and associated research facilities) and aggregate resource development companies are recognized to have the right to operate on land within this designation in compliance with local, provincial and federal government regulations.

No new parcels that are smaller than the size supported by the official community plan in effect at the date of the adoption of this *Regional Growth Strategy* may be created on land in this designation.

Attachment 8
Regional Growth Strategy Goal 7 – Enhance Economic Resiliency - Agriculture

Agriculture

- 7.14 Recognize the importance of agriculture to the region’s economy. To this end, the RDN and member municipalities agree to:
- Support the management of the Agriculture Land Reserve (ALR) by the provincial government;
 - Encourage the provincial government to protect the agricultural land base through the ALR;
 - Support the agricultural use of ALR lands within designated Urban Areas or Rural Village Areas except in instances where urban land uses have already been established at the time of the adoption of this RGS;
 - Recognize that all ALR lands will be subject to the regulations of the Agricultural Land Commission;
 - Support the preparation of a study of agriculture in the region for the purpose of identifying the issues and needs (both immediate and future) of the agricultural sector;
 - Encourage and support value-added agricultural industries; and
 - Enhance opportunities for agricultural activity on lands not in the ALR.

Attachment 9
Regional Growth Strategy Goal 8 – Food Security
(Page 1 of 3)

Goal 8 - Food Security - Protect and enhance the capacity of the region to produce and process food.

Most of the food we eat comes from other parts of the world. A study conducted by the Region of Waterloo Public Health in Ontario (M. Xuereb, 2005) found that *'Imports of 58 commonly eaten foods travel an average of 4,497 km to Waterloo Region'*. Although there are currently no regionally specific studies estimating the distance food travels to reach our plates, it is safe to estimate that many of the foods we regularly consume travel on average at least 2,400 km to reach us (a widely quoted figure for North America, based on research conducted in Iowa by R. Pirog, et al 2001).

Despite ongoing debate about the environmental benefits of 'buying local' food versus making dietary changes (C. Weber and H. Scott Matthews, 2008), it is clear that our dependence on imported foods means that our access to food is vulnerable to the effects of weather and political events that may occur thousands of kilometers away. As well, world energy prices play a large role in the cost of food production and distribution. Greater food security means that more food is grown locally and therefore is not as susceptible to events occurring outside the region.

Local food production generates numerous economic, environmental and social benefits. Agriculture employs almost 3,000 people and generates a flow of income into the region. Local sources of food help reduce the region's carbon footprint by reducing transportation-related GHG emissions. In addition, the nutritional content of locally produced food is often greater than imported food – providing a healthier choice of food for residents.

Ensuring the long-term viability of farming and agricultural activity in the region requires a coordinated effort on the part of local, provincial and federal authorities. In addition to the provisions of Policy 5.4, the RDN and member municipalities can undertake a number of actions to support and enhance the viability of food production in the region as set out in the following policies (See Map 5 – Agricultural Lands).

The '5 A's' of food security:

- *Available – sufficient supply*
- *Accessible – efficient distribution*
- *Adequate – nutritionally adequate and safe*
- *Acceptable – produced under acceptable conditions (e.g. culturally and ecologically sustainable)*
- *Agency – tools are in place to improve food security*

(J. Oswald, 2009)

Attachment 9
Regional Growth Strategy Goal 8 – Food Security
(Page 2 of 3)

Protecting the agricultural land base is a key requirement for enhancing food security. The Agricultural Land Reserve (ALR) established by the Province in 1973 has largely been effective in reducing the loss of agricultural lands. Since 1974 the percentage of land protected under the ALR in the RDN has decreased approximately 12%, from 10.10% of the total land base to approximately 8.85% (www.alc.gov.bc.ca/alr/stats).

The majority of ALR lands in the RDN are located in rural Electoral Areas, with smaller portions located within the boundaries of municipalities. This RGS recognizes and supports the jurisdiction of the ALC over all ALR lands and strongly supports the retention and use of all ALR lands for agriculture. The RDN will continue to endorse the Agricultural Land Commission's efforts in preserving agricultural lands. Other actions that would enhance food security in the region include:

- Supporting improved access to sustainable water supplies for irrigation;
- Encouraging best water management practices in agriculture;
- Providing drainage infrastructure for flood-prone lands that do not include environmentally sensitive areas;
- Improving infrastructure to provide agricultural services and processing; and improving access to markets.

Policies

The RDN and member municipalities agree to:

- 8.1 Encourage and support the Agricultural Land Commission in retaining lands within the ALR for agricultural purposes.
- 8.2 Discourage the subdivision of agricultural lands.
- 8.3 Include provisions in their official community plans and zoning bylaws to allow for complementary land uses and activities that support the on-going viability of farming operations.
- 8.4 Establish agriculture as the priority use on land in the ALR.
- 8.5 Minimize the potential impact non-farm land uses may have on farming operations and include policies in their official community plans and zoning bylaws that reduce the opportunity for land use conflicts to occur.
- 8.6 Encourage and support agricultural activity on lands that are not within the ALR. This may include small-scale home-based agricultural businesses.

Attachment 9
Regional Growth Strategy Goal 8 – Food Security
(Page 3 of 3)

- 8.7 Recognize the importance of value-added agricultural uses and complementary land use activities for the economic viability of farms. To support complementary farm uses, official community plans should consider:
- The provision of appropriately located agricultural support services and infrastructure;
 - Reducing impediments to agricultural processing and related land uses;
 - Allowing compatible complementary land use activities (e.g., agri-tourism);
 - Allowing farmers' markets and other outlets that sell local produce to locate in all parts of the community.
- 8.8 Encourage urban agriculture initiatives and support activities and programs that increase awareness of local food production within the region.
- 8.9 Support the appropriate use of water resources for irrigation of agricultural lands.
- 8.10 Support the provision of drainage infrastructure to flood-prone lands that do not lie within environmentally sensitive areas.
- 8.11 Work in collaboration with federal and provincial agencies, adjacent regional districts, and agricultural organizations to improve access to markets for agricultural products.
- 8.12 Support partnerships and collaborate with non-profit groups to enhance the economic viability of farms.
- 8.13 Support farms that produce organic agricultural products and use sustainable farming practices.
- 8.14 Support the production, processing, distribution and sale of locally grown produce (including shellfish).

Attachment 10
Applicant's Submission

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 56987

Application Status: Under LG Review

Applicant: Gene Martini , Gloria Martini

Agent: Cox Taylor

Local Government: Nanaimo Regional District

Local Government Date of Receipt: 12/05/2017

ALC Date of Receipt: This application has not been submitted to ALC yet.

Proposal Type: Non-Farm Use (Placement of Fill)

Proposal: Fill to raise soil surface elevation and improve the distribution of water to address on-parcel drainage issues, in accordance with:

Reason for Decision (Resolution#295/2017)

Report of Brian French of C & F Land Resource Consultants Ltd. dated Aug.12/2016

Report of Adam Compton of Streamline Environmental Consulting Ltd. dated Aug.6/2009

Locations to receive fill are wetland areas as shown in Figure 2, Page 3 of Compton Report

Agent Information

Agent: Cox Taylor



Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple

Parcel Identifier: 003-757-366

Legal Description: Lot 1, District Lot 139, Nanoose District, Plan 18583

Parcel Area: 2.8 ha

Civic Address: 1155 Leffler Road, Errington B.C., V0R 1V0

Date of Purchase: 07/30/1975

Farm Classification: No

Owners

1. **Name:** Gene Martini



[REDACTED]
[REDACTED]
2. **Name:** Gloria Martini
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

No agricultural land uses due to extensive pond and wetland areas on parcel. Adjacent parcels are used for rural/residential uses - not farming.

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

Ditch along western boundary of parcel.

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

Residential and home occupation use. Workshop for home occupation predates land use regulations and establishment of A.L.R. Workshop is lawfully non-conforming.

Adjacent Land Uses

North

Land Use Type: Residential

Specify Activity: Residential treed, in ALR

East

Land Use Type: Residential

Specify Activity: Residential, in the ALR, barn and horses

South

Land Use Type: Residential

Specify Activity: Residential, in the ALR

West

Land Use Type: Residential

Specify Activity: Residential, in the ALR, treed

Proposal

1. What is the purpose of the proposal? Describe any benefits to agriculture that the proposal provides.

Fill to raise soil surface elevation and improve the distribution of water to address on-parcel drainage

issues, in accordance with:

Reason for Decision (Resolution#295/2017)

Report of Brian French of C & F Land Resource Consultants Ltd. dated Aug.12/2016

Report of Adam Compton of Streamline Environmental Consulting Ltd. dated Aug.6/2009

Locations to receive fill are wetland areas as shown in Figure 2, Page 3 of Compton Report

2. Proposal dimensions

Total fill placement area (to one decimal place) 2 ha

Maximum depth of material to be placed as fill 1 m

Volume of material to be placed as fill 20000 m³

Estimated duration of the project. 1 Years

3. Has a Professional Agrologist reviewed the project and provided a written report? If yes, please attach the Professional Agrologist report in the "Upload Attachments" section.

Yes

4. What alternative measures have you considered or attempted before proposing to place fill?

Ditching to direct excess surface water onto adjacent parcels. Received legal advice that this would be unlawful and tortious.

5. Describe the type of fill proposed to be placed.

Suitable for soil-based agriculture.

6. Briefly describe the origin and quality of fill. Has the fill been assessed by a qualified professional to verify its agricultural suitability? If yes, please attach the assessment report in the "Upload Attachments" section.

We request permission to place fill, subject to filing an assessment report acceptable to the A.L.C. We will source the fill when we have permission to place fill, due to the large volume required, Fill will not be construction or demolition debris, stones, low fertility soils, contaminated materials or poorly draining materials.

7. Describe the type of equipment to be used for the placement of fill. If applicable, describe any processing to take place on the parcel(s) and the equipment to be used.

Back Hoe

8. What steps will be taken to reduce potential negative impacts on surrounding agricultural lands?

None. There is the potential that as a result of the placement of fill, surface water will be displaced onto adjacent parcels and potentially result in negative impacts.

9. Describe all proposed reclamation measures. If a reclamation plan from a qualified professional is available, please summarize the reclamation and attach the full plan in the "Upload Attachments" section.

Placement of fill on the wettest portions of the parcel to a depth of approximately 1 m. to enable soil-based /land-based farming activities.

Applicant Attachments

- Agent Agreement - Cox Taylor
- Professional Report - Compton Report
- Professional Report - French Report
- Agrologists Report - 56987
- Proposal Sketch - 56987
- Site Plan / Cross Section - 56987

- Other correspondence or file information - Reason for Decision (Resolution No. 295/2017)
- Certificate of Title - 003-757-366

ALC Attachments

None.

Decisions

None.



Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

September 26, 2017

ALC File: 55899

Cox Taylor
[REDACTED]

Attention: Emily Skey

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Island Panel (Resolution #295/2017) 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.

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).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

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

Sara Huber, Land Use Planner

Enclosure: Reasons for Decision (Resolution #295/2017)

cc: Regional District of Nanaimo (File: PL2016-189) Attention: Stephen Boogaards
ALC Compliance and Enforcement

55899d1



AGRICULTURAL LAND COMMISSION FILE 55899

REASONS FOR DECISION OF THE ISLAND PANEL

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicants:

**Gene Martini
Gloria Martini
(the “Applicants”)**

Agent:

**Emily Skey, Cox Taylor
(the “Agent”)**

Application before the Island Regional Panel:

**Linda Michaluk, Panel Chair
Honey Forbes
Clarke Gourlay**



THE APPLICATION

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

Parcel Identifier: 003-757-366

Lot 1, District Lot 139, Nanoose District, Plan 18583

(the "Property")

[2] The Property is 2.8 ha.

[3] The Property has the civic addresses 1155 and 1169 Leffler Road, Errington 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. 30(1) of the *ALCA*, the Applicants are applying to exclude the 2.8 ha Property from the ALR (the "Proposal"). The Proposal along with supporting documentation is collectively referred to as the application (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 30(1) of the *ALCA*:

30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.

[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
5. Applicant Meeting and Site Visit Report
6. *Further Submissions June 29, 2017*, submitted by the Agent on June 29, 2017

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

[10] The Regional District of Nanaimo (RDN) “Board Policy B1.8 Review of Provincial Agricultural Land Reserve Applications” includes a standing Board resolution for exclusion of lands within the ALR which reads as follows:

If the ALC deems it appropriate to remove land from the ALR then the Board will consider the development of the land in accordance with the Regional Growth Strategy and the Official Community Plan.



APPLICANT MEETING AND SITE VISIT

[11] On May 23, 2017, the Panel conducted a site visit and meeting with the Applicants (the “Applicant Meeting”) in accordance with s. 22(1) of the Regulation. The Applicant Meeting was held at the Property.

[12] An Applicant Meeting and Site Visit Report was provided to the Agent on June 1, 2017 and confirmed by the Agent on June 29, 2017.

BACKGROUND

[13] A second dwelling was constructed on the Property in or around 2003.

[14] In March 2009, the Applicants applied to the Commission to subdivide the Property into a ± 1.2 ha lot and a ± 1.6 ha lot with each lot containing one of the dwellings. The Commission found that the Property has agricultural capability, is suitable for agricultural use, and is appropriately designated in the ALR. Moreover, the Commission found that the proposal would impact agricultural land and would be inconsistent with the objective of the *ALCA* to preserve agricultural land. The application was refused by ALC Resolution #235/2009.

[15] In September 2009, the Commission received a request from J.E. Anderson and Associates on behalf of the Applicants, to reconsider ALC Resolution #235/2009. The reconsideration request stated that a report had been prepared by Streamline Environmental Consulting (the “Environmental Report”), dated August 6, 2009, which indicated that provincial and federal approvals would be required for any development that causes disturbance to fish bearing water courses or courses leading to fish bearing water courses. The Environmental Report stated it was unlikely that a proposal to fill the wetland area, which according to the Environmental Report covers over 50% of the Property, would be granted. The Environmental Report suggested two options:

Option 1

A bare land strata subdivision of the Property with a large common area that could be used for agriculture; or

Option 2

Exclude the land from the ALR.

The Commission determined that the Environmental Report did not provide any information that would justify changing its decision, as the Commission was aware that the Property had significant wetland areas as observed at the site visit. With regard to Option 1 in the Environmental Report, the Commission considered that the proposal to create strata lots would fragment the Property into rural residential parcels and would leave only a small common area available for agriculture. With regard to Option 2, the Commission found that the Property has agricultural potential and is correctly retained within the ALR, and that it was unable to consider the exclusion in terms of the present subdivision application process. The application was reconfirmed as refused by ALC Resolution #1907/2009.

[16] In June 2010, the Commission received a second request from J.E. Anderson and Associates on behalf of the Applicants, to reconsider ALC Resolution #235/2009. The request was made to demonstrate that the proposal was consistent with subdivision under s. 946 of the *Local Government Act (LGA)*, which provides subdivision for a family member. The Commission found that the submission did not contain new evidence that was unavailable at the time of its original decision, nor did it provide evidence that the decision was based on information that was in error or false.

[17] In October 2010, the Commission received a request from the Applicants to reconsider ALC Resolution #235/2009. The request was made to amend the proposal to subdivide the Property into one ±0.8 ha lot and one 2 ha lot. The Commission found that the submission did not contain new evidence that was unavailable at the time of its original decision, nor did it provide evidence that the decision was based on information that was in error or false.

- [18] In February 2012, the Commission received a letter from the Applicants requesting a meeting with the Commission to discuss reconsideration of its decision recorded as ALC Resolution #1907/2009. The request was made to reconsider the amended proposal for one ±0.8 ha lot and one 2 ha lot. The Applicants stated that the subdivision was warranted as it would divide the Property between the two existing dwellings, would meet the requirements of s. 946 of the *LGA*, and should be subdivided because there is excess water on the Property. The Commission found that the second dwelling was not constructed for farm purposes and required the approval of the Commission as a non-farm use; the consideration of s. 946 of the *LGA* in support of the subdivision proposal is inconsistent with the purposes of the Commission; and the land has good agricultural capability and no evidence was provided to suggest the published BCLI ratings are inaccurate. The decision was reconfirmed as refused by ALC Resolution #191/2012.
- [19] According to ALC Compliance and Enforcement (C&E) Records, construction of two additional dwellings commenced between 2009 and 2011, for a total of four dwellings (constructed or partially constructed) on the Property.
- [20] In February 2013, an ALC C&E file was opened and an Order to Provide Information was issued to the Applicants. At this time, the RDN issued a Stop Work Order for the construction of dwellings.
- [21] In response to these actions, the ALC was informed that construction had ceased and that the Applicants would be applying for exclusion from the ALR. The C&E file was subsequently closed.
- [22] In 2015, the ALC was notified that the dwellings were being occupied and the C&E file was reopened.
- [23] Presently there are four dwellings (constructed or partially constructed) located on the Property in which the Applicants and their children live. The Applicants intend to retain a total of three dwellings.

FINDINGS

[24] 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 92F.029 for the mapping units encompassing the Property are Class 2 and 3, more specifically, 60% 2A and 40% (6:3WD 4:2PD).

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.

The limiting subclasses associated with this parcel of land are A (soil moisture deficiency), W (excess water), P (stoniness) and D (undesirable soil structure).

[25] As part of the Application, the Panel received a professional Agrologist report, prepared by Brian French of C&F Land Resource Consultants Ltd, and dated August 12, 2016 (the "C&F Report"). The C&F Report states that approximately 1.98 ha (71.5%) of the Property is improvable to Class 4, and the remaining 0.79 ha (28.3%) is anthropic, meaning modified by human actions.

[26] The Panel must make its decision based on not only all the evidence before it, but also based on its own assessment of that evidence. The Panel reviewed the BCLI ratings and the C&F Report and find that while a portion of the Property has challenges due to excessive wetness and undesirable soil structure, with standard good farming practices and the utilization of appropriate crops, the Property as a whole, has agricultural capability and is rightfully designated within the ALR.



[27] While the C& F Report finds that the 28.3% of the Property is classified as “anthropic”, the Panel finds that the anthropic impact was created by the Applicants’ actions through the construction of additional dwellings in contravention of the *ALCA* and local zoning.

[28] The C&F Report identifies severely restricted drainage and rooting depth as the primary limitations to supporting soil bound agriculture on the Property. With regard to non-soil bound agriculture (in particular: greenhouses, intensive livestock production, mushroom production, or horticultural pot nursery production) the C&F Report states:

While all of these uses could theoretically be sited on this property, it is very [likely] that the limited land area available, high cost of site preparation, lack of natural gas service and limited area for manure disposal would mitigate against any rational farmer choosing to carry out this type of non-soil based agricultural development on this site.

[29] The Panel acknowledges the findings of the C&F Report that non-soil bound agriculture is unlikely due, in part, because of the high cost of site preparation; however, the Panel finds that the current economic viability of farming has no bearing on its consideration. The Commission’s purpose as set out in s. 6 of the *ALCA* is to preserve agricultural land. As future economic conditions are impossible to accurately predict, the economic viability of a parcel of land for agriculture cannot be a significant factor in the decision.

[30] The Panel also assessed the impact of the Proposal against the long-term goal of preserving agricultural land as set out within the context of s.6 of the *ALCA*. The Panel has determined based on all of the evidence presented, that the Property has agricultural capability and that excluding the Property would result in the permanent loss of the Property’s agricultural potential, raise expectations of further land use change as a result of non-compliance with the *ALCA*, and further erode the agricultural land base in the RDN.

[31] The Panel notes that the number of dwellings on the Property is not consistent with the RDN’s Official Community Plan (OCP) Resource Land designation as only a maximum of two dwellings per parcel may be allowed where approval has been received from the Commission and subject to zoning of the Property. Nor is the Proposal consistent with the



RDN's Agriculture 1 (A-1) zoning designation. The Panel further notes that three of the present four buildings have been built without the approval of the RDN or the Commission.

[32] During the Applicant Meeting and Site Visit, the Applicants advised that the houses are utilized by their children and that their overall goal is to have three dwellings and live on the Property with their children. While the Panel recognizes the Applicants' desire to have their family living together on the Property, s. 3(1) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the "Regulation") outlines additional permitted residential uses for the purpose of accommodating family within the ALR. The Panel finds that if the Applicants' wish to accommodate their children on the Property; they may do so through the avenues outlined in s. 3(1) of the Regulation.

[33] The Panel notes there was reference given to the gazetted road on the Property during the Applicant Meeting and Site Visit. In order to construct in an unconstructed right-of-way, permission from the Commission is required, as described under s. 6 of the Regulation. The Panel notes that no application for construction has been made to the Commission at this time.

[34] As observed during the Applicant Meeting and Site Visit, the Applicants have a 1000 ft² sheet metal workshop. The Panel advises that the workshop must be consistent with the RDN's Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285 (2002) regulations for home-based businesses in order to be considered a permitted home occupation use in the ALR. As the workshop did not form part of the Proposal, the Panel has not confirmed whether the workshop meets this requirement.

DECISION

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

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



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

[38] This decision is recorded as Resolution #295/2017 and is released on September 26, 2017.

CERTIFICATION OF DECISION

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

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

END OF DOCUMENT



**J.E. ANDERSON
& ASSOCIATES**
SURVEYORS - ENGINEERS

TEL: 250 - 758 - 4631 FAX: 250 - 758 - 4660
NANAIMO - VICTORIA - PARKSVILLE

B.C. LAND SURVEYOR'S BUILDING LOCATION CERTIFICATE

Civic: 1155 and 1169 Lefler Road, Parksville, B.C.

File: 86287

Legal: Lot 1, District Lot 139, Nanoose District, Plan 18583.

Dimensions are in metres and are derived from Plan 18583.

This sketch does not constitute a redefinition of the legal boundaries hereon described and is not to be used in any matter which would assume same.

This building location certificate has been prepared in accordance with the Professional Reference Manual and is certified correct this 6th day of November, 2013.

This document is not valid unless originally signed and sealed

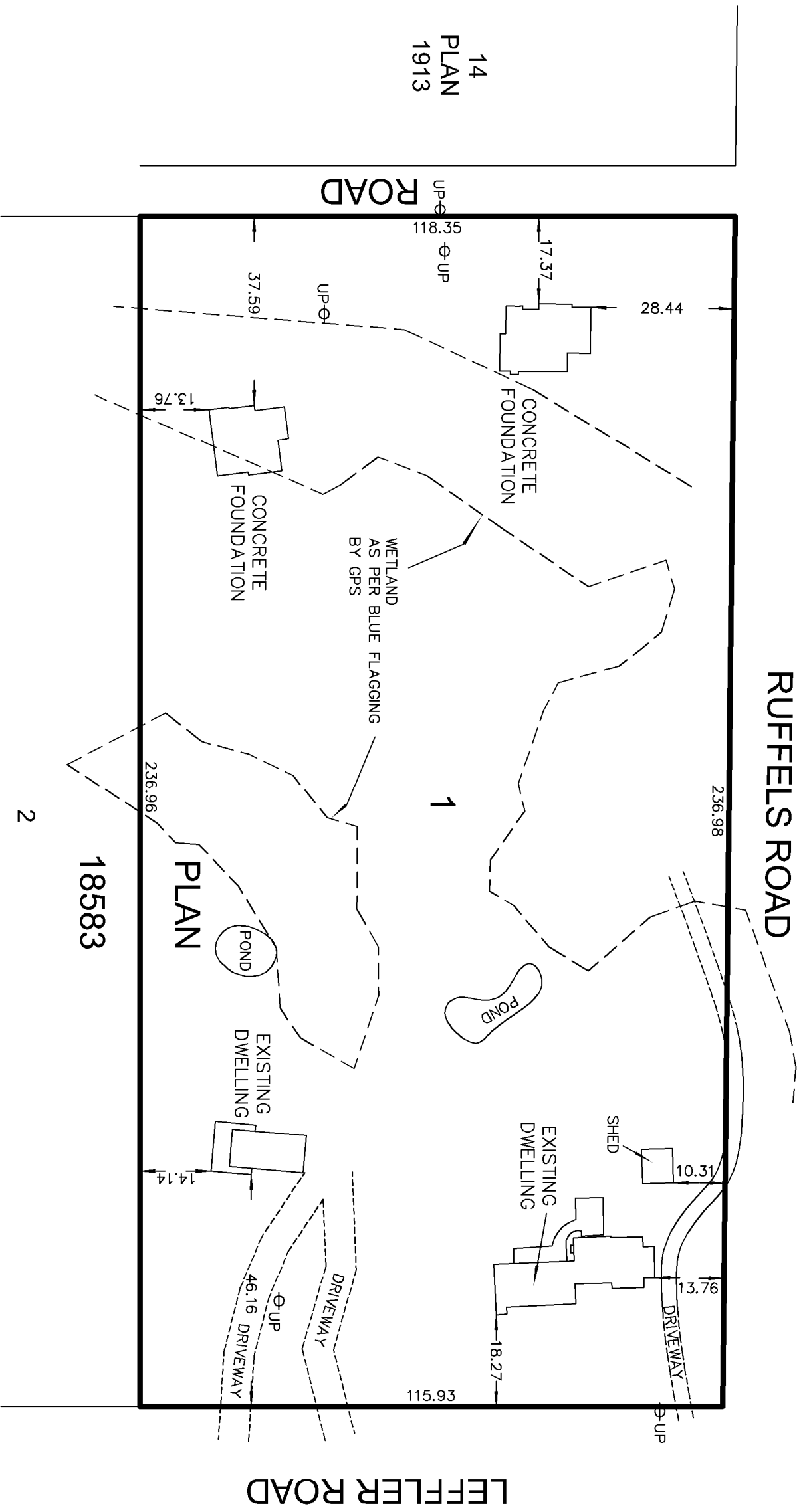
B.C.L.S.

UP⊕ Denotes utility pole



Scale 1:1000

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The signatory accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decision made, or actions taken based on this document.
Subject to charges, legal notations, and interests shown on: Title No. D70651 (P.I.D. 003-757-366)



14
PLAN
1913

ROAD

RUFFELS ROAD

LEFFLER ROAD

PLAN

18583

2

October 21, 2016

JEA File No. 86287

Gene and Gloria Martini


Attention: Gene and Gloria Martini

**RE: Drainage and Ditching at 1155 Ruffels Road, Errington
Regional District of Nanaimo**

On May 8, 2013, we reviewed 1155 Ruffels Road and downstream along Ruffels Road with respect to drainage and ditching of the site. The review was carried out by Jim Buchanan, P. Eng. Jim is a Professional Engineer with 30 years of experience in drainage and storm water management.

Related reports prepared by others for this site are:

- Wetland Assessment on Lot 1, DL 139, Nanoose District, Plan 18583 dated July 4, 2013 prepared by EDI Environmental Dynamics. A copy of this report is provided in Appendix A.
- Assessment of Agriculture Capacity for 1155 Ruffels Road dated August 12, 2016, prepared by C&F Land Resource Consultants Ltd

1.0 EXISTING DRAINAGE

The 2.8 hectare site is located at the west side of the Leffler Road / Ruffels Road intersection. A topographic survey with spot elevations indicates that the area is flat, particularly at the north side of the property. The difference in elevation between the invert of the existing culvert at the northwest corner of the site and a point in the Leffler Road ditch at the northeast corner of the site is 0.2 metres in 237 metres (approximately 0.085%).

Discussions with Gene Martini indicate that the site is wet, and generally drains from west to east toward the Leffler Road ditch. Gene Martini advised that several properties surrounding the subject property have directed their drainage onto his property. Some ditches have been dug to drain flows

1A - 3411 Shenton Road
Nanaimo, BC V9T 2H1
Phone 250-758-4631
Fax 250-758-4660

4212 Glanford Avenue
Victoria, BC V8Z 4B7
Phone 250-727-2214
Fax 250-727-3395

170 Morison Ave, PO Box 247
Parksville, BC V9P 2G4
Phone 250-248-5755
Fax 250-248-6199

onto low points around the property perimeter. Gene Martini advised that during the winter, the Leffler Road ditch backs up into the ditch in the Ruffles Road right of way. Based on the survey elevations, we expect that during wet winter weather, the water backs up all the way to the culverts at the northwest corner of the site. During the winter the ground on the property will tend to be wet and saturated.

The difference between this lot and other lots in the area is that the subject lot is located in a bowl rather than on a slope, and off site drainage backs up and is stored on the lot.

The site is at the upper extent of Romney Creek, which flows through Parksville, and Morningstar Creek which flows to the Georgia Strait by French Creek. The natural ponding of drainage on site limits peak downstream flows, and contributes to longer flowing, more natural creek flows.

Additional descriptions of the site are provided in the EDI Environmental Dynamics report and C&F Land Resources Consultants Ltd. report.

2.0 DRAINING ON THE LOT FOR AGRICULTURE

From an engineering point of view, the water table on site can be lowered, and the area drained via an on-site network of deep ditches, however there are negative consequences as indicated in the EDI Environmental Dynamics report and below.

The depth of draining is limited by the following drainage constraints:

1. Ditching at a very narrow spacing would help drain the lot, but the soil is so shallow that it would be slow to drain. A ditch grid at 50m on center would require about 1200m of ditches. A sketch showing a 50m grid overlaid on the survey plan is attached. Due to the variable topography, the ditches would be deep in areas, and the ground is hard. Ditches at this spacing would also interfere with agricultural use. Assuming a cost of \$50 per metre of ditch, including clearing, 1200 metres of ditch would cost \$60,000, with additional costs for access culverts and fencing.
2. A dyke to stop backup of off-site water along with a pump to pump out the on-site water would not be cost and environmentally effective given the relatively small lot and the disturbance required. It may also be difficult to control water leaking back through a dyke and having to be re-pumped. A berm would also take up some space that would not be used for agriculture. We do not have enough information at this time to determine where a berm and pump system would be located.
3. Perforated underground drains could be installed rather than ditches (or combination), but costs and maintenance would increase. Perforated drains could be installed at similar locations to the ditches. The perforated drains would flow to the MoTI ditches beyond the property.
4. Other options such as filling the lot would be cost prohibitive.

Negative consequences to draining the lot are as follows:

- The low flows to Romney Creek will be reduced as less rainfall will be stored on the lot for slow release to the creek.
- Peak flows in Romney Creek will increase as drainage will flow off the lot more quickly and in greater volume, rather than being stored on the lot. This is particularly the case as the property is close to the headwaters of the creek. Erosion rates will increase as the creek will flow faster more frequently.
- See EDI Environmental Dynamics report for additional comments.
- MoE (Ministry of Environment) may have an issue with the ditching of the property, and the benefits of draining the property should be considered relative to the loss to the environment.

3.0 DOWNSTREAM DRAINAGE IMPROVEMENTS

The drainage could be improved and the water table lowered further by lowering the culverts and deepening the ditch on Leffler Road downstream of the site. The extent would have to be confirmed via additional downstream ditch surveys. The additional ditching network may eliminate some ponding on site by speeding up the rainfall runoff rate from this lot and surrounding lots. There will be concerns and difficulties with this approach and we recommend that any issues be resolved with MoTI and MoE before the start of additional on lot or downstream ditching. Some of the issues are as follows:

1. MoTI (Ministry of Transportation and Infrastructure BC) is responsible for the roads and drainage in the RDN, and permission would be required to work on their right of ways. MoTI may not be willing to lower the existing ditch and culverts on Leffler Road. The ditch is already deeper and has steeper side slopes in areas than normal standards. In addition, the normal longitudinal slope on a roadside ditch is 0.5%, and the effect of lowering the culverts and ditch will be to reduce ditch slopes that are probably already less than 0.5%. Further, the ditching will increase the peak flow rate, and may affect downstream drainage systems and properties. Future ditch maintenance may also be an issue.
2. The costs of downstream ditching will be prohibitive, and the lot owner is not responsible for downstream drainage improvements.
3. MoE may have issues as indicated in Section 2.

3.0 CONCLUSION

This site would be difficult and expensive to drain for agricultural use.

There are benefits to Romney Creek and probably Morningstar Creek and downstream properties in maintaining existing drainage patterns and allowing drainage to pond on the lot. Improving drainage

86287
1155 Ruffels Road, Errington
October 21, 2016

and reducing ponding on site will increase the drainage volume and rate and will impact downstream drainage flows and increase erosion.

The cost of a network of ditches or underground drainage, or filling the lot will be prohibitive.

From a Drainage Engineering perspective, the property should not be drained for agricultural purposes. There is no practical or reasonable drainage solution.

We trust that this letter is as you require at this time. If you have any questions, please call.

Yours truly,

J. E. Anderson and Associates



Jim Buchanan, P. Eng.

JB/dlk

cc: Jeff Tomlinson, JEA
Dave Wallace, JEA

86287
1155 Ruffels Road, Errington
October 21, 2016

APPENDIX A
EDI ENVIRONMENTAL DYNAMICS INC. REPORT

July 4, 2013

Gloria and Gene Martini
[REDACTED]

Re: Wetland Assessment on Lot 1, District Lot 139, Nanoose District, Plan 18583

This letter has been prepared to provide a summary of environmental considerations regarding a watercourse that is located within the above referenced property (subject property). The purpose of the summary is to provide information about its ecological characteristics and the regulatory implications of modifying the watercourse and adjacent riparian areas. It is my understanding that this summary is needed to accompany your application to remove the subject property from the Agricultural Land Reserve (ALR).

Background

The watercourse on the subject property was previously characterized by me several years ago. I visited the subject property on May 1 and May 14, 2008 to assess the watercourse and flag the high water mark with blue ribbon. The flagging was subsequently surveyed by JE Anderson & Associates to accurately locate the watercourse boundary. I provided an email that summarized my preliminary findings and I later provided a more detailed letter (dated August 6, 2009).

Important information resulting from these assessments and contained in the August 2009 letter include:

- Online mapping indicated that there is a stream within the subject property that was shown to be the upper extent of Romney Creek.
- Romney Creek converged with Carey Creek and flowed to the sea at Parksville.
- It was unknown if Romney Creek was fish bearing as detailed fish and fish habitat information was not readily available for Romney Creek; however, portions of the stream were likely to be fish bearing.
- There was no stream channel within the subject property. The watercourse was actually an extensive wetland feature that floods a substantial portion of the property as well as adjacent properties.
- While online maps showed that Romney Creek flowed northeast from the subject property (towards Price Road), the flow path from the subject property was not confirmed due to private property trespass concerns and it was not known if this upper portion of Romney Creek was accurately mapped.
- No fish were observed within the wetland but fish presence was considered to be possible. More detailed assessment would be required to conclusively determine fish absence.



- Due to provincial and federal regulations, the wetland was a significant potential constraint to future development within the subject property.

At your request, I visited the site again on May 1, 2013 to assess the current conditions of the wetland and document drainage patterns within and downstream of the subject property. The section below describes the results of that assessment.

Assessment Results

Based on photographs and field observations, the wetland can be generally described as follows:

- An extensive, seasonally flooded, shallow, forested wetland.
- Much of the wetland consists of saturated soils and shallow pools that are only wetted during the wettest periods of the year.
- Several lobes of the wetland have deeper pools and visible flow.
- Pooled water areas range in depth from very shallow up to approximately 0.5 m.
- Saturated soils and hydrophilic vegetation are typical throughout the wetland boundaries.
- Some small, higher elevation 'islands' occur within the wetland boundaries.
- Portions of the wetland with visible surface flow indicate that surface water generally drains north to south.
- While some sections of the wetland have visible flow, there were no stream channels observed (no defined banks, alluvial substrates and other typical stream channel indicators).

During the May 1, 2013 site visit, I was able to confirm that the wetland is part of the headwaters of Romney Creek, but does not connect to Romney Creek in the location shown by online maps. Surface water does not flow northeast toward Price Road as shown on online maps such as RDNMap (www.rdn.bc.ca/cms.asp?wpID=419). There is a height of land between the subject property and Price Road that prevents surface water from flowing north and there is no stream crossing along the east end of Price Road. Instead, it was confirmed that surface water from the subject property drains to the northeast corner of the property and into the ditch at the intersection of Ruffels Road and Leffler Road. Figure 1 depicts the approximate flow of water from the property to Romney Creek. The ditch along Ruffels Road flows east along the north side of the road. Between 1253 and 1249 Ruffels Road the ditch flows north into another ditch. This ditch was not walked as it is on private property, but it appears to flow due north toward Fair Road. I confirmed that the ditch crosses Fair Road between 1268 and 1260 and continues north approximately 180 m where it flows into a relatively accurately mapped portion of Romney Creek. During a previous assessment I conducted for an unrelated project, I have accessed this portion of Romney Creek (at 1270 Alberni Highway) and can confirm that a defined stream channel is present here.

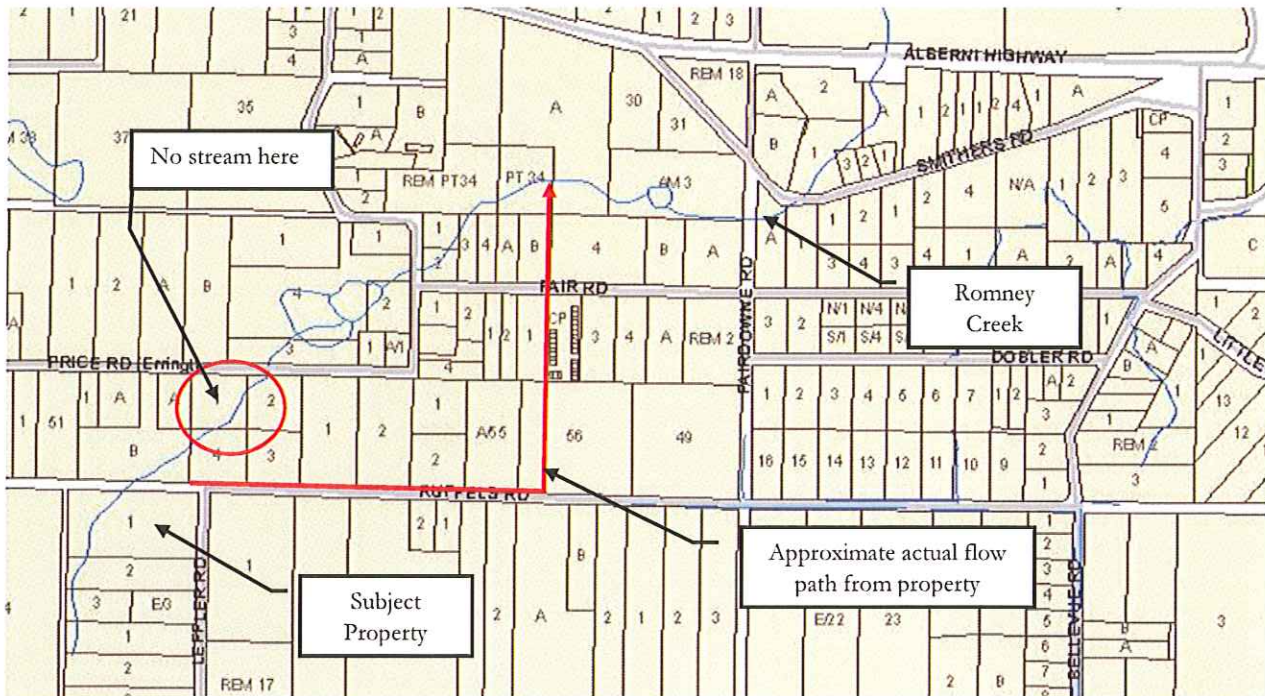


Figure 1. Mapped watercourses within the general area (screen clip from RDNMap).

Upon confirming that the wetland contributes uninterrupted surface flow to Romney Creek, I searched online for fish and fish habitat information available on Romney Creek. The French Creek Water Allocation Plan provides the following information:

There was potential fish habitat identified in the lower reach of both Romney Creek and Carey Creek. However both creeks have been extensively channelized and culverted for subdivision development in the City of Parksville. Also Romney Creek has been diverted into Carey Creek just downstream of the Parksville Springs in order to accommodate further subdivision development. At the mouth of Carey a waterfall barrier to fish passage further limits its use by fish.¹

The provincial website, Habitat Wizard, does not indicate whether or not there are fish in Romney Creek or Carey Creek. Anecdotal information from a local stream keeper who has worked in the Romney Creek watershed indicated that Romney Creek is likely to have resident trout but was not aware of any definitive proof (observations of fish).

It should be noted that recent works within the subject property have occurred and they have affected the flow of water within the subject property; however, the works do not appear to have affected where surface flow ends up (at the northeast corner of the property). The intent of this letter is not to describe or assess the recent modifications or their potential ecological and/or regulatory implications. As such, these modifications are not further discussed.

¹ BC Ministry of Environment Lands & Parks. 1994. French Creek Water Allocation Plan.



Regulatory Implications

While there is not definitive proof, it is likely that some portions of Romney Creek are fish bearing. There is some potential fish habitat observed throughout the areas that I have accessed within and downstream of the property. Also, there are some large ponds and wetlands along and near the creek further downstream that may provide year round habitat for resident trout. Given that fish are likely present in at least some portions of Romney Creek, any development that has the potential to adversely impact the watercourse and/or downstream fish habitat would be subject to provincial and/or federal approvals.

Provincial approval for such development would be needed under Section 9 of the Water Act. It is my understanding that staff members from the BC Ministry of Forests, Lands and Natural Resource Operations (FLNRO) have concluded that the watercourse is applicable under the Water Act. Under the Water Act, substantial modifications to watercourses typically require application for a Section 9 Approval. Changes that could cause adverse impacts to the environment, to water quality, to downstream water users or to personal property are carefully considered by the Province and an Approval is not issued until such concerns have been appropriately addressed.

Compliance with the Federal Fisheries Act is required for any project that has the potential to detrimentally affect fish habitat at the project site or in downstream reaches. In general, causing harm to fish or fish habitat is a contravention of the Federal Fisheries Act unless an Authorization is obtained.

Within the Regional District of Nanaimo, the Riparian Areas Regulation (RAR) applies to most types of development within 30 m of a fish bearing watercourse or watercourse that flows into freshwater fish habitat. The RAR, which is enabled by the provincial Fish Protection Act, provides detailed methods through which the minimum riparian setbacks are established to protect the features, functions and conditions of riparian fish habitat. While the RAR does not apply to farming activity, it applies to non-farming activity on ALR and other farmlands. The RAR Implementation Guidebook provides an excellent summary of why riparian areas are important to fish bearing systems:

Riparian areas are the areas adjacent to ditches, streams, lakes and wetlands. These areas, found in all regions of the province, support a unique mixture of vegetation, from trees and shrubs to emergent and herbaceous plants. The vegetation in riparian areas directly influences and provides important fish habitat. It builds and stabilizes stream banks and channels, provides cool water through shade, and provides shelter for fish. The leaves and insects that fall into the water are a source of food for fish. Although they account for only a small portion of British Columbia's land base, riparian areas are often more productive than the adjoining upland and are a critical component of the Province's biodiversity.

When certain projects necessitate working in and adjacent to watercourses, it is possible – and is typically required – to devise mitigation and compensation strategies so that there is not a net ecological impact and so that regulatory approvals can be obtained; however, such plans are expensive to design, implement and monitor/maintain and they typically require creation or enhancement of watercourses or riparian areas within a given property. As such, plans to increase the potentially farmable area on the property would be restricted by compensation and mitigation requirements and it would likely be costly to achieve a relatively small increase in usable lands.



The Value of Wetlands

Regardless of whether or not there are fish in Romney Creek, wetlands in both fish bearing and non-fish bearing watersheds are ecologically important. The BC Ministry of Environment <http://www.env.gov.bc.ca/wld/wetlands.html> provides a thorough description of this importance:

Wetlands are one of the most important life support systems on earth. Currently comprising about 5.6% or 5.28 million hectares of British Columbia, they provide critical habitat for fish, birds, and other wildlife. Most wildlife in the province use wetland habitat at some point in their life cycle, and many red- and blue-listed species are wetland-dependent.

The functional contribution of wetlands in helping to minimize or remediate environmental problems is substantial. They absorb and filter sediments, pollutants, and excess nutrients; recharge groundwater; maintain stream flows; control runoff; store flood waters; reduce erosion; stabilize shorelines; and help regulate atmospheric gases and climate cycles. In short, wetlands absorb water quickly and release it slowly with an improvement in quality.

Wetlands provide for commercial and recreational use of wetland-dependent fish and shellfish, enhance agricultural productivity, and support a variety of scientific, educational and recreational opportunities.

From both ecological and regulatory perspectives, any new development adjacent to the wetland on the subject property would need to consider the potential effects on environmental values. Given that the wetland and its associated riparian areas comprise a substantial portion of the subject property and that the ecological characteristics of the wetland should be protected, potential agricultural use of the property is substantially restricted by regulatory requirements. It is possible that some agricultural activities could occur on the property without being detrimental to the wetland and its riparian area; however, the nature and extent of such activities would be very limited.

In general, activities that would seek to reduce the wetted areas of the subject property to increase the amount of useable farmland would likely be ecologically detrimental. Examples of such activities could include ditching to drain surface and groundwater and placement of fill to increase the elevation of low-lying wet areas.

Conclusions

Farming activities are exempt from the RAR; however, provincial and federal approvals are required for any development that causes deleterious impacts to fish bearing watercourses or watercourses that lead to fish bearing watercourses. Without substantial compensation and mitigation plans, it is unlikely that approvals to fill in, drain or otherwise substantially modify the wetland to provide additional land for agricultural purposes would be granted, especially if fish are present within the wetland or immediately downstream. From an ecological perspective, wetlands provide important habitats for a wide variety of species and provide other important ecological and biophysical functions. There are several best practice guidelines for land development adjacent to watercourses that specifically state the need to avoid impacts whenever possible. While historic farming practices often involved substantial modifications to watercourses, such practices are typically no longer appropriate under the current regulatory system.

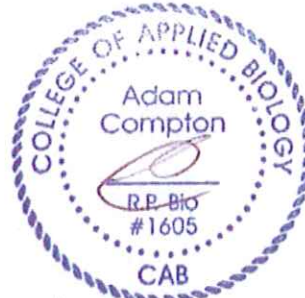


Please let me know if you have any questions regarding this letter.

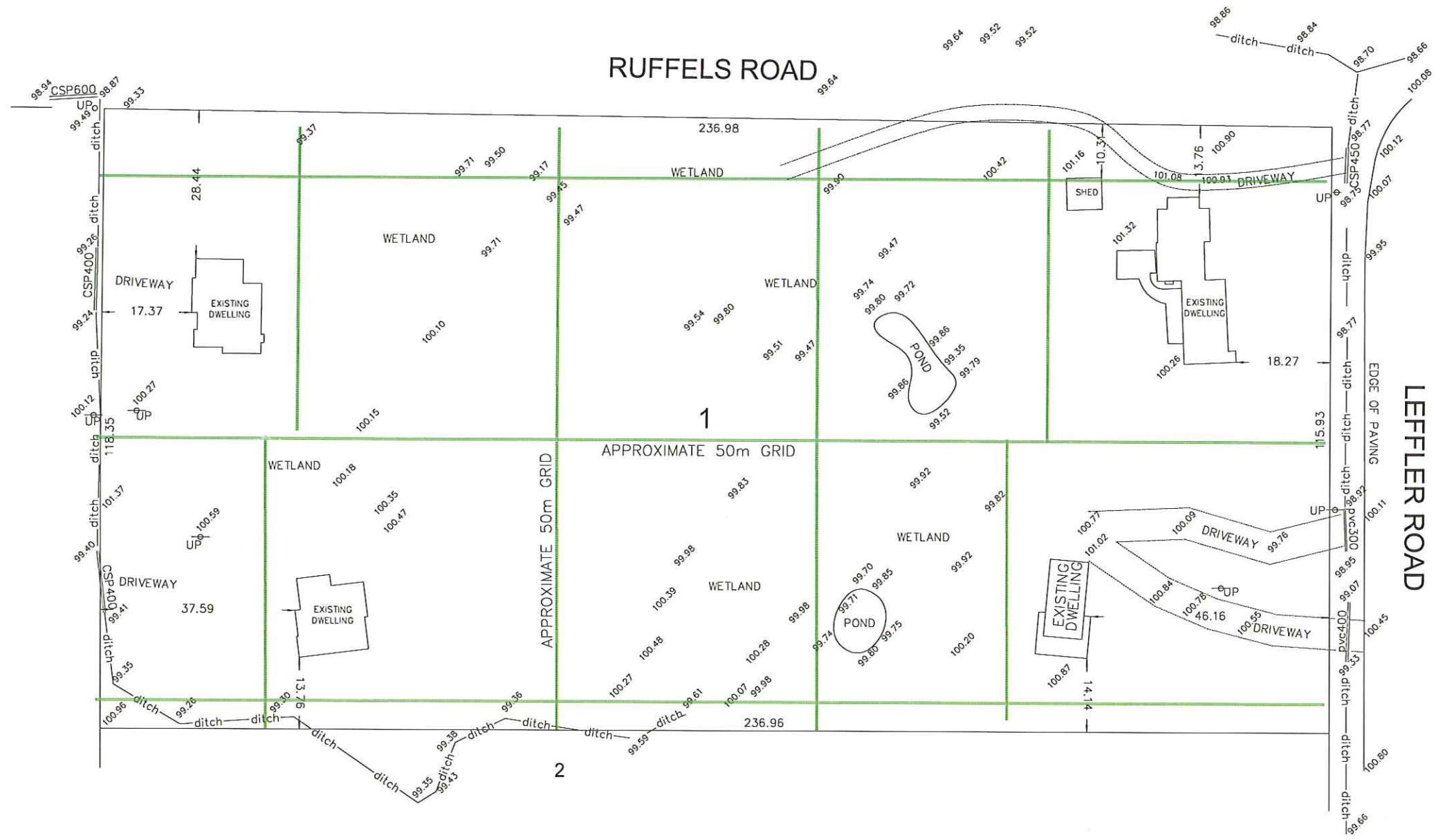
Yours truly,

EDI ENVIRONMENTAL DYNAMICS INC.

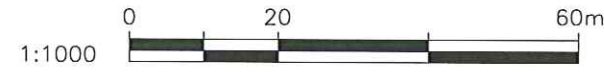
Adam Compton, R.P. Bio.
Project Manager/Senior Biologist




*Original signed +
sealed July 4 /13*



NOTES:
 BASE INFORMATION FROM JE ANDERSON AND ASSOCIATES SURVEY.



 J.E. ANDERSON & ASSOCIATES SURVEYORS -- ENGINEERS 1A - 3411 SHENTON ROAD, NANAIMO, B.C. V9T 2H1 TEL: 250 - 758 - 4631 FAX: 250 - 758 - 4660 E-MAIL : nanaimo@jeanderson.com	GENE AND GLORIA MARTINI REGIONAL DISTRICT OF NANAIMO	
	1155 RUFFELS ROAD, ERRINGTON DITCH GRID AT 50m INTERVALS 86287 - 01 - SK1	
DRAWN: JB		
DATE: OCT. 21, 2016		
SHEET 1 OF 1	FILE: 86287	

C&F LAND RESOURCE CONSULTANTS LTD.

*4383 Happy Valley Road, Victoria, B.C. V9C 3Z3
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ON SITE REPORT

1155 LEFFLER ROAD, ERRINGTON, B.C.

Prepared for: Mr. Gene Martini

Prepared by: Brian M. French, P.Ag.

Version: Final, August 12, 2016

C&F LAND RESOURCE CONSULTANTS LTD.

*4383 Happy Valley Road, Victoria, B.C. V9C 3Z3
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August 12, 2016

Mr. Gene Martini

Dear Mr. Martini:

Re: Assessment of Agricultural Capability for 1155 Leffler Road, Errington, B.C.

1. **INTRODUCTION**

1.1 **Terms of Reference**

You have requested us to carry out a soil survey, agricultural capability and agricultural suitability assessment of the above noted property.

1.2 **Qualifications and Field Protocols**

A soils on site inspection of the subject lands and a review of surrounding lands was carried out on February 24, 2016 and June 17, 2016 and this report summarizes the findings. The fieldwork and reporting was carried out by Brian M. French, P.Ag. an agricultural soil specialist with 38 years of professional experience and fully qualified to carry out soil survey and land capability classification. A resume of experience is included as Appendix A.

This report has been prepared under procedures and guidelines of the Canadian System for Soil Classification, Publication 1646 (1978) and the Land Capability Classification for Agriculture in British Columbia, M.O.E. Manual 1 (April 1983).

Soil conditions were determined by digging a series of test pits exposed with a rubber tired backhoe within the subject lands on February 24, 2016. The pits were dug or exposed to a depth which penetrated the unweathered parent material. A total of three test pits were exposed on the subject property. It should be noted that significant areas of the property were inaccessible on February 24 due to deep standing water. A followup site visit was carried out on June 17, 2016 when the site was finally free of surface water. Three hand exposed soil pits were described in these wet areas.

This report has six sections: Introduction, Location and Land Use, Soils, Agricultural Capability, Agricultural Suitability and Summary of Findings.

2. **Location and Land Use**

2.1 **Subject Property** (See Figure 2.1(a), 1:1,000 scale Air Photo and Subject Lands Location Map and Figure 2.1(b): ALR map).

The subject property is +/-2.77 hectares in area; partially cleared and partially forested.

2.2 **Zoning**

The Regional District of Nanaimo zoning is A-1 and the OCP designation is Resource lands in the ALR. The property is in the ALR.

2.3 **Surrounding Land Use**

North: Vacant forested land, in the ALR;
East: Rural residential hobby farm, in the ALR;
South: Rural Residential, in the ALR;
West: Rural Residential, in the ALR.

2.4 **Subject Property Land Use**

Rural residential use with three occupied residences and one partially completed residence, unoccupied. This property is mainly forested and wetland with clearing around residential footprints. There is no agricultural activity on the parcel except small garden plots in raised beds.

3. **SOILS**

3.1 **Ministry of Environment 1:20,000 Mapping**

The Ministry of Environment 1:20,000 scale mapping on Mapsheet 92F-029 shows Parksville Series on the northwestern 2/3 and a complex of McLean Creek and Mill Bay on the SE 1/3.

Parksville soils are described as being developed on level to depressional marine deposits and are poorly drained with perched water tables. McLean Creek soils are described as being developed from fine marine veneers underlain by moderately to strongly cemented glacial till. Mill Bay soils are described as being developed from fine marine veneer over cemented morainal till.

3.2 **Current On Site Inspection (Figure 3.2)**

Three soil pits were excavated with a rubber tired backhoe on February 24, 2016. Three soil pits in the wet areas were exposed on June 17, 2016. Detailed on site inspection and survey at 1:1,000 scale identified three soil units on the property the subject of this

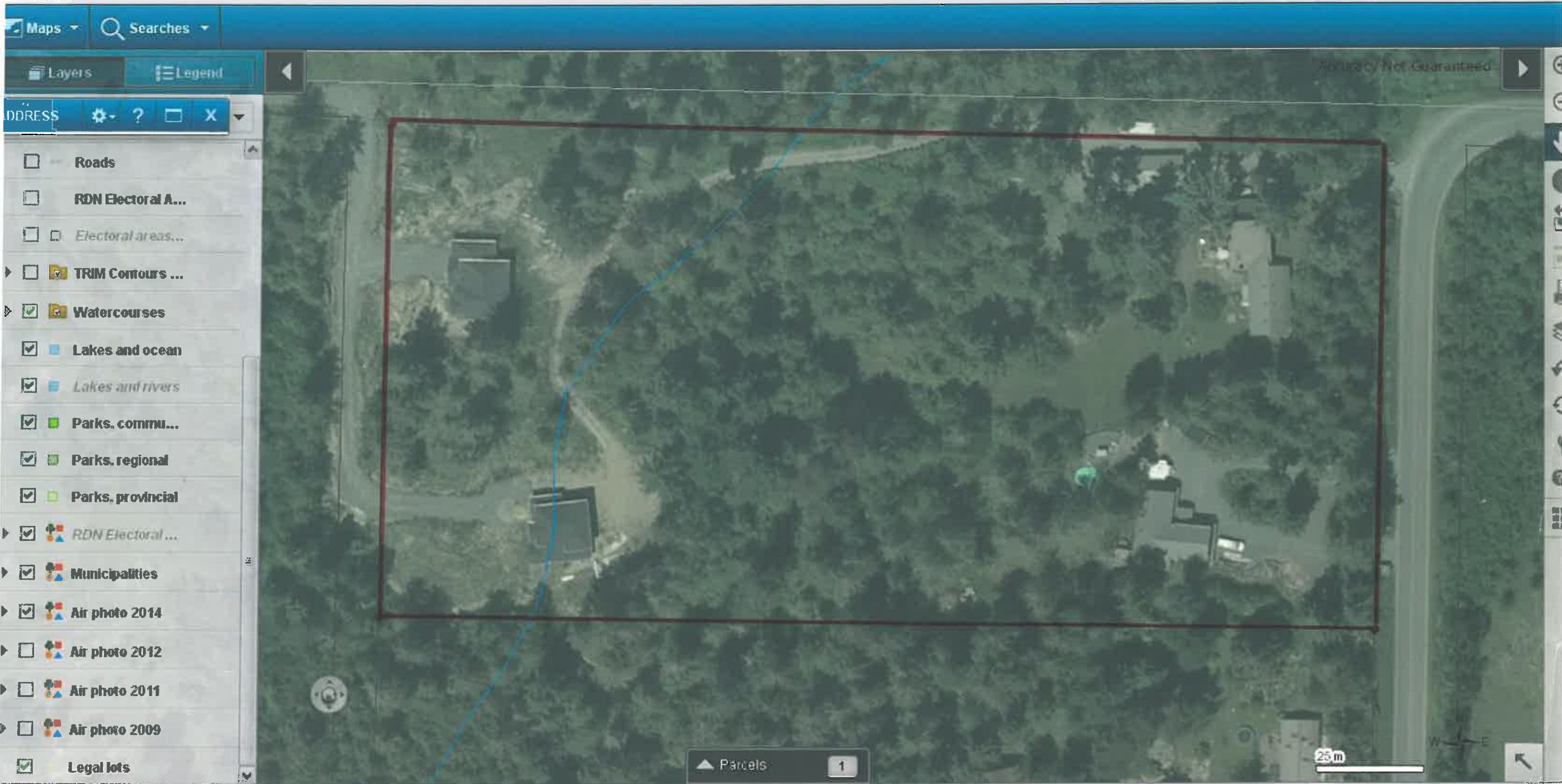


Figure 2.1(a): 1:1,000 scale air photo of subject property



- Welcome
Instructions on how to search for your property
- Map Layers
Turn map layers on and off
- Search by Category

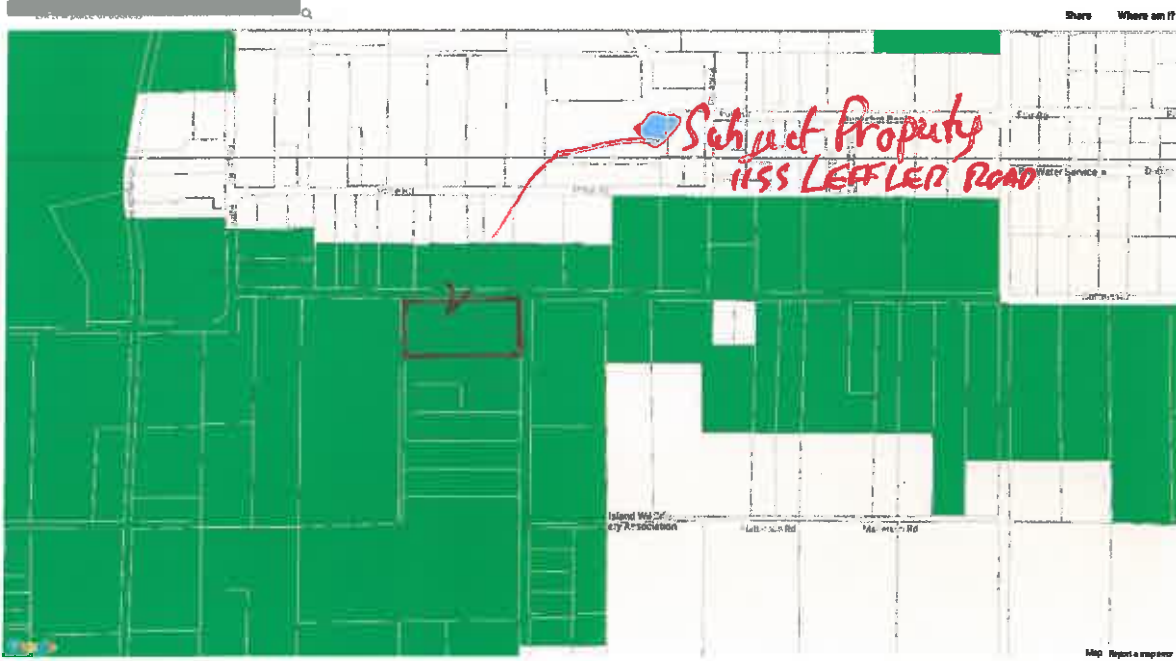
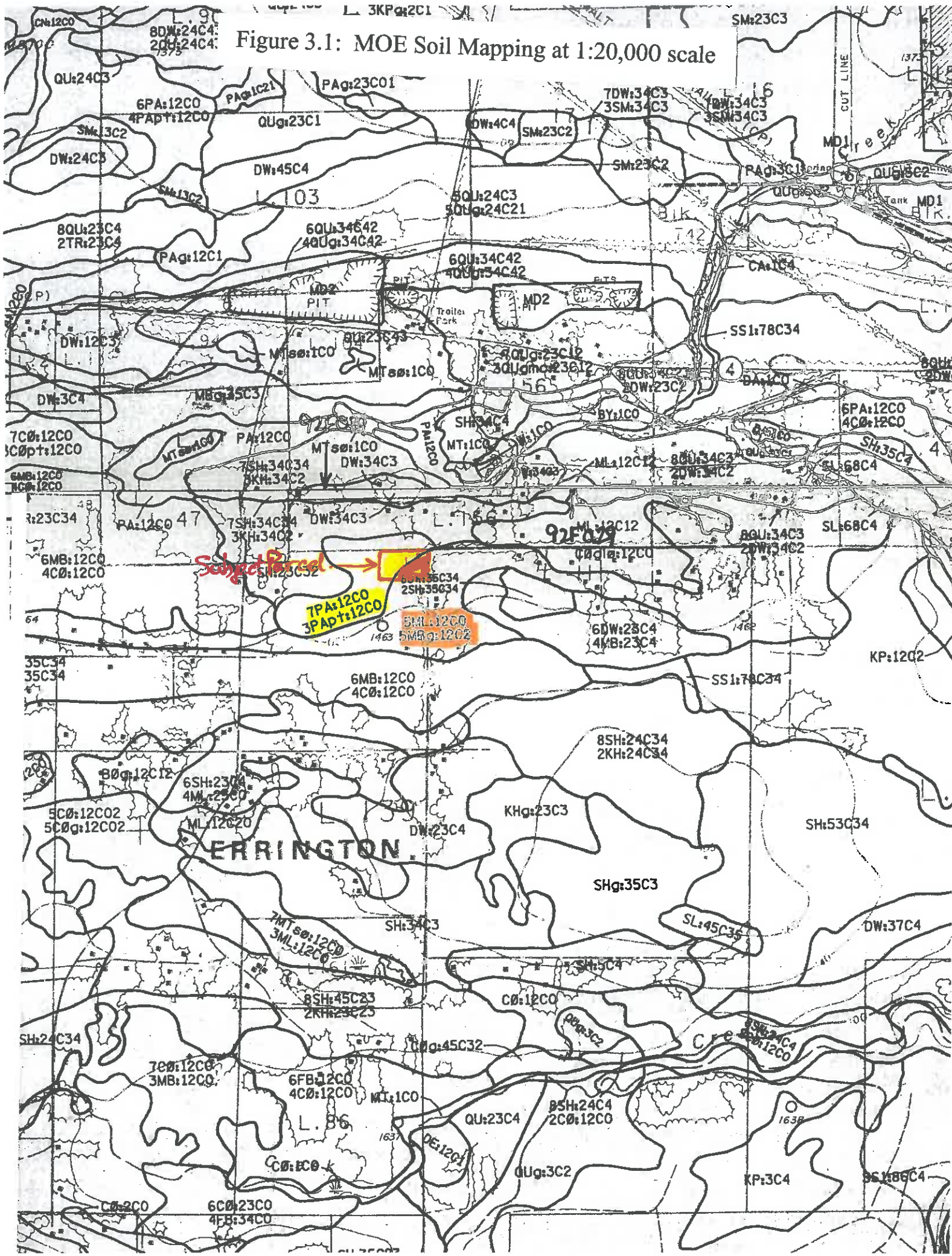
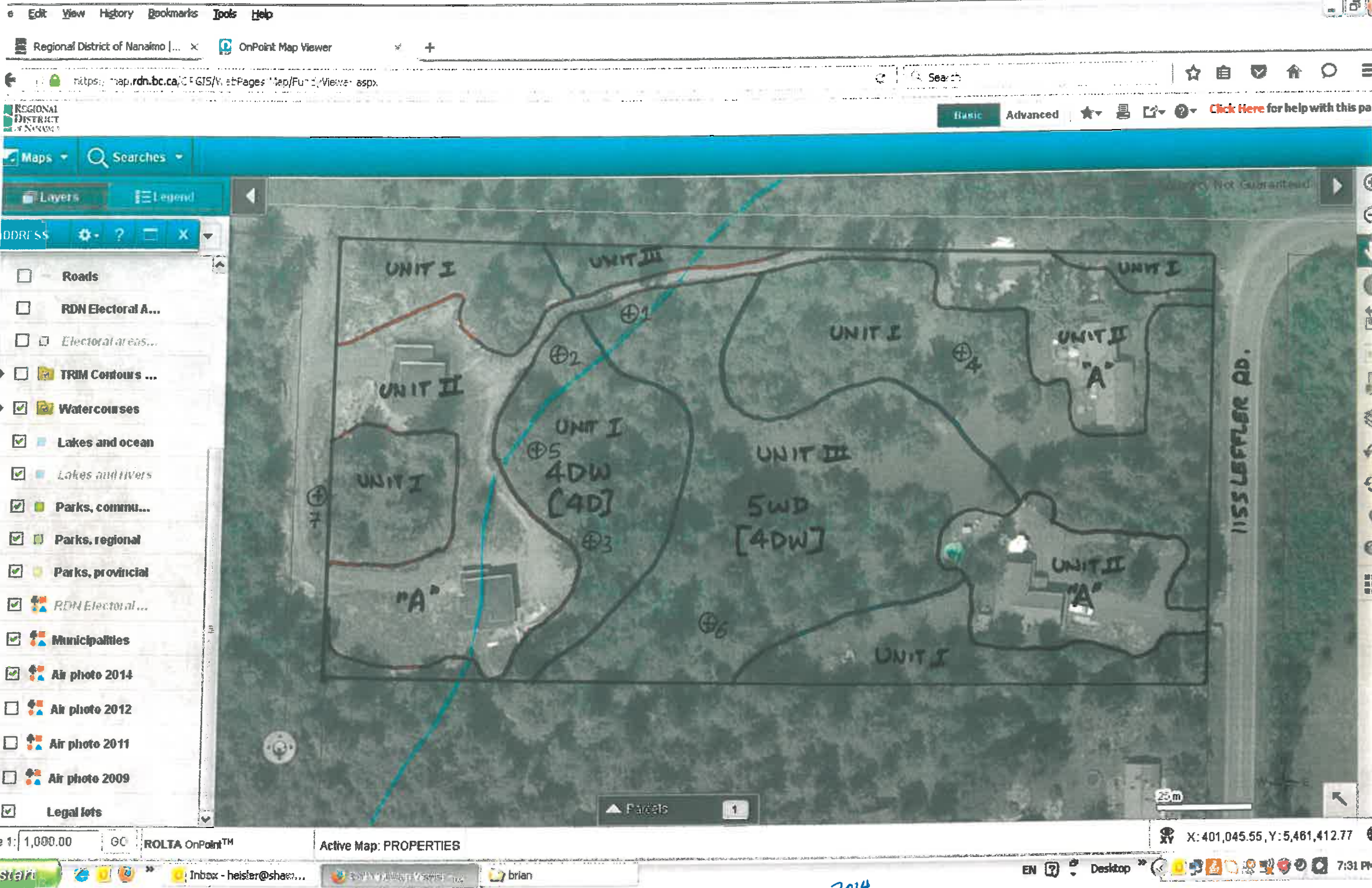


Figure 3.1: MOE Soil Mapping at 1:20,000 scale





LEGEND,
 Unit boundary ~
 Soil Pit ⊕
 Soil/Capability Unit: Unit II
 Unimproved Ag. Cap. 4DW
 Improved Ag. Cap [4D]

2014
SOILS & AGRICULTURAL CAPABILITY MAP
 Scale 1:1,000
 FIGURES 3.2, 4.2

report. Field notes are included in Appendix B. Photographs of the soil pits and associated landscapes are included in Appendix C.

3.2.1 Soil Unit I

Unit I occupied +/-1.28ha or 46.2% of the area on the subject lands and was developed from a thin slopewash very fine sand veneer overlying impermeable morainal till subsoil. The surface 15 cm was stone free and at field capacity with granular structure. The underlying 20cm was mottled, massive saturated morainal material which was saturated and had no roots. This was underlain by massive, hard, dry impermeable till with no roots. The topography was slightly elevated above the surrounding wet areas by up to one metre. The vegetation was Douglas Fir with subordinate Western Red Cedar and Alder. Rushes were common on disturbed areas. Soil Pits 2, 3, 5 and 7 were exposed within Unit I.

A typical soil profile was exposed at Soil Pit #3 and was described as follows:

Ah	0 - 15cm	brownish grey very fine sand, no stones; very common roots; granular structure, friable; clear boundary to:
Bg	15 - 35cm	yellowish grey fine sandy loam to silty clay loam, fairly common stones; mottled; massive; saturated; no roots; fairly clear boundary to:
Cg	35 - 60cm	grey sandy loam to silty clay loam, stony; mottled; massive, hard; no roots; clear boundary to:
C	60 - 70cm+	grey sandy loam, massive, stony, hard till, no roots.

3.2.2 Soil Unit II

Unit II occupied +/-0.79ha or 28.5% of the subject area containing dwellings and disturbed or filled areas around the dwellings, shop and roads. No soil descriptions were deemed necessary on these disturbed and non-native soil areas.

3.2.3 Soil Unit III

Unit III occupied +/-0.7 ha or 25.3% of the subject area. Unit III was developed from a thin, very fine sandy slopewash veneer overlying dense silty clay loam marine deposits. The surface 12 cm was saturated and the underlying soils were massive, hard and dry with no roots. The drainage was very poorly drained with a strong perched water table at 12cm depth. The topography was level to slightly depressional with slopes less than 2%. The vegetation was deciduous Alder and Western Red Cedar with hardhack and Salmon Berry understory. Soil Pits 1 and 2 were closely mingled in Unit III with Pit #1 exhibiting the lower elevation sites and Pit #2 representing the slightly elevated sites. Soil pits 4, 5

and 6 represent the lowest lying areas of Soil Unit #3 which remain flooded until late in the year.

A typical soil profile was exposed at Soil Pit # 1 and was described as follows:

LFH	3 - 0cm	Leaf litter and roots; very clear boundary to:
Ah	0 - 12cm	dark brown to black very fine sand, no stones; granular structure; friable; very common roots; saturated; very clear boundary to:
BCg	12 - 45cm+	yellowish grey very fine sand to silty clay loam, no stones; massive, hard; slight mottles; dry; no roots.

The slightly elevated areas typical of Pit #2 was described as follows:

LFH	5 - 0cm	leaf litter and root mat; very clear boundary to:
Bf	0 - 25cm	reddish brown fine to very fine sand; common concretions; very common roots; fairly clear boundary to:
BCg	25 - 45cm	yellowish grey silty clay loam, occasional stones; mottled; massive, hard; no roots; fairly clear boundary to:
C	45 - 70cm	grey silty clay loam; occasional stones; massive, very hard; dry; no roots.

The lowest lying areas typical of Pit #4 was described as follows:

Ah	0 - 10cm	dark grey brown very fine sand, massive structure breaking to fine granular; few roots; clear boundary to:
Cg	10 - 50cm	yellowish grey very fine sand; massive, dense; gleyed; no roots; diffuse boundary to:
C	50 - 60cm+	grey very fine sand; dense, massive, structureless; no roots.

4. **Agricultural Capability**

4.1 **Ministry of Environment Mapping**

The MOE 1:20,000 scale mapping for agricultural capability rated the Parksville soil areas as Class 4AW improvable to Class 2A with drainage and irrigation improvements. The McLean Creek - Mill Bay complex was rated as Class 4AW unimproved and 60% Class 3WD - 40% Class 2PD with irrigation and drainage.

4.2 Detailed On Site Interpretation (Figure 4.2)

Unimproved and improved agricultural capability ratings were applied to the soil units identified on the property. Landscape and climate factors were integrated into the ratings. The Ministry of Environment Land Capability Classification for Agriculture in British Columbia (MOE Manual 1) was used to assign ratings. Excerpts of MOE Manual 1 are included in Appendix D.

4.2.1 Unit I

Soil unit I was severely limited by the shallow cultivatable surface horizon and dense, impermeable till subsoils. Soil drainage was severely limited by the impermeable till subsoil and there was inadequate depth of permeable soil to install subsurface drain lines. Surface drainage capacity was moderate due to the slightly elevated landscape position but drainage within the soil profile was severely restricted resulting in saturated surface soil conditions for extended periods with severely restricted rooting depth imposed at 15 to 35cm depth. An unimproved agricultural capability rating of Class 4DW was applied and with a close spaced ditching network, this could possibly be improved to Class 4D. The “D” limitation imposed by the impermeable till subsoil is unimprovable.

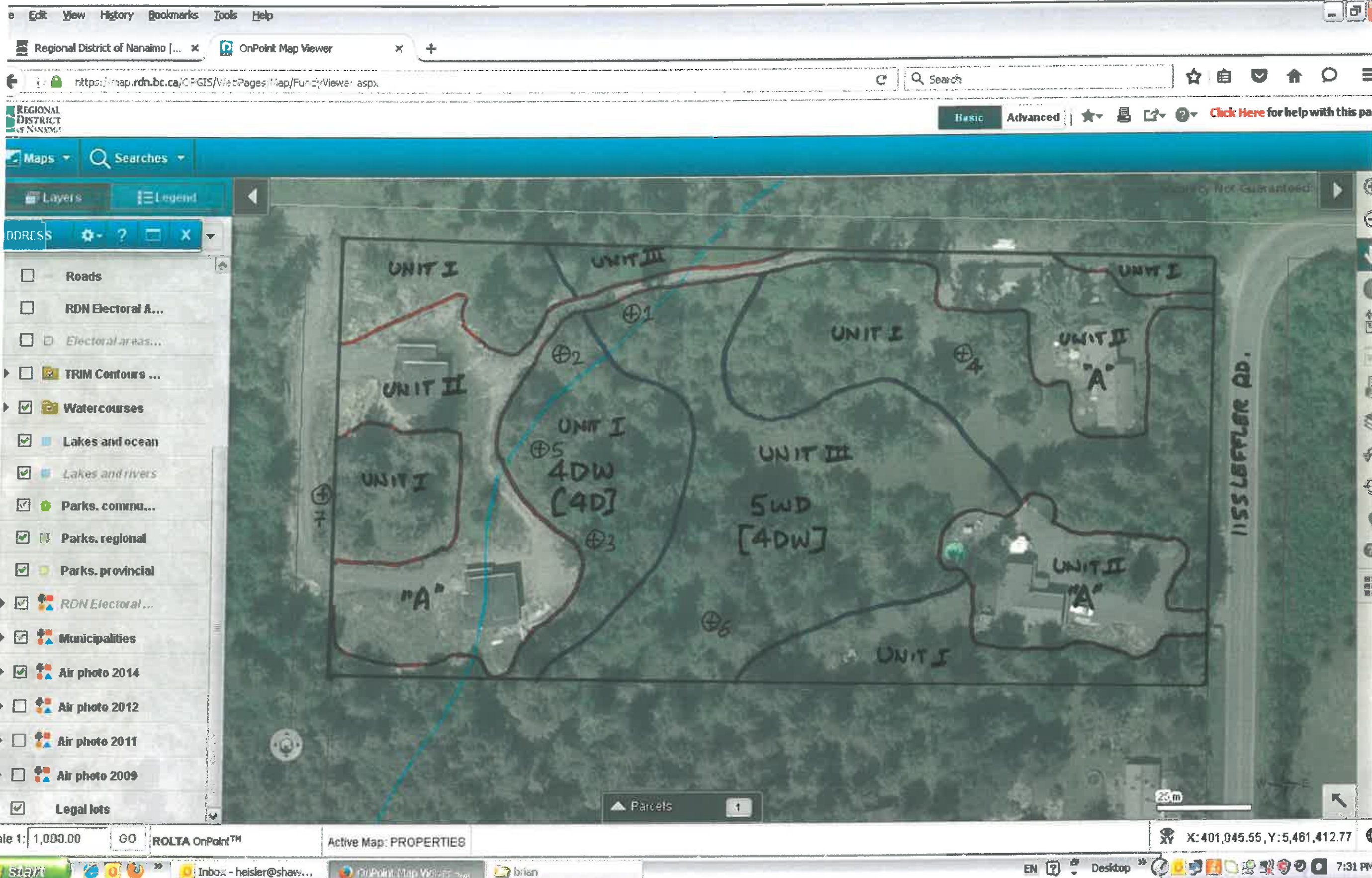
4.2.2 Unit II

Soil Unit II was the area occupied by dwellings, shop, driveways, filled areas and roads on the property. These areas were rated “Anthropic” symbol “A” to designate areas modified by the activities of man to the point where the natural condition could not be returned with on site materials. Soil bound agriculture would be impractical.

4.2.3 Unit III

Soil Unit III was severely limited by the dense, impermeable subsoil conditions rendering improvement by subsurface drainage infrastructure impractical due to the very low hydraulic conductivity. Extensive ditching on close spacing would provide some surface drainage potential but the drainage invert at Leffler Road is inadequate to allow gravity drainage of this unit. Perimeter dyking of the property and pumping over the dyke would be required to maintain surface water control. An unimproved agricultural capability of Class 5WD was applied and the only improvement would be the extensive ditching, dyking and pumping which would allow improvement to Class 4DW. Because of the severely restricted rooting depth and very low hydraulic conductivity in the subsoils, these soils would remain wet for extended periods of the year and be susceptible to soft surface conditions, severely restricted rooting depth and saturation after moderate rainfall events.

4.2.4 Summary of Agricultural Capability



LEGEND,
 Unit boundary ~
 Soil Pit ⊕
 Soil/Capability Unit: Unit II
 Unimproved Ag. Cap.
 4DW
 Improved Ag. Cap [4D]

2014
SOILS & AGRICULTURAL CAPABILITY MAP
 Scale 1:1,000
 FIGURES 3.2, 4.2

The agricultural capability of the property is summarized in the Table below.

AGRICULTURAL CAPABILITY CLASS	UNIMPROVED CAPABILITY (HA)	IMPROVED CAPABILITY (HA)	UNIMPROVED %	IMPROVED %
1	0	0	0	0
2	0	0	0	0
3	0	0	0	0
4	1.28	1.98	46.2	71.3
5	0.70	0	25.3	0
7	0	0	0	0
Anthropic	0.79	0.79	28.5	28.5
TOTAL	2.77	2.77	100	100

4.3 Comparison of MOE and Current Ratings

The current ratings applied to this property differ substantially from the MOE ratings. The MOE mapping was carried out at a scale of 1:20,000 where the property would occupy a map area 0.6cm x 1.0cm or 0.6cm² in area. The current mapping was carried out at a scale of 1:1,000, a factor of twenty greater in mapping intensity. This property is in a drainage receiving position in the landscape and receives drainage from a large catchment to the west and south with very limited drainage invert provided by the road drainage ditches. The soil profile descriptions provided in the MOE Technical Report 30 for the Parksville Series do not mention the massive, hard subsoil conditions found on the subject property but do describe impermeable till subsoils at 65cm depth for the Maple Bay and Mill Bay soils. The condition found on the subject property are more severe than those described for McLean Creek and Mill Bay subsoils.

5. AGRICULTURAL SUITABILITY

Agricultural suitability is a further interpretation of soil, climate and agricultural capability information to include local conditions as applied to specific crops and non-soil based agricultural uses.

5.1 Soil Bound Uses

The suitability for soil bound uses considers growing annual and perennial crops which

are climatically suited to this region in the context of the significant soil based limitations found on the property. Severely restricted drainage and severely restricted rooting depth are the principal limitations to soil bound agriculture.

Annual vegetable crops are not suitable for commercial production on Units I and III due to perennial wet soil conditions and shallow rooting depth. Cultivation in the spring and harvesting in the fall would be severely limited by the wet soil conditions which would render the surface un-trafficable for field equipment. Perennial berry crops such as strawberries and raspberries cannot tolerate wet soil conditions and are considered unsuitable. Blueberries are somewhat tolerant of short term wet soil conditions but will not survive in soils with long term saturation as would be expected on this site. A Blueberry crop would be very susceptible to root rot and other diseases and is considered only very marginally suitable for this site. Field crops such as corn, peas, beans, potatoes, oats, barley and wheat would not be suitable for this site due to the wet soil conditions in the spring and fall which would make timely planting and harvest impractical. A forage crop could be grown on the site but the shallow rooting depth and wet soil conditions would encourage weedy species such as rushes, buttercups and reed canary grass to take over and choke out desirable species in short order. The suitability for forage crop production is low as shown by the photograph in the MOE Technical Report describing McLean Creek Soils which has a heavy infestation of sedges due to the shallow, wet soils.

129

McLEAN CREEK SOILS (NL)

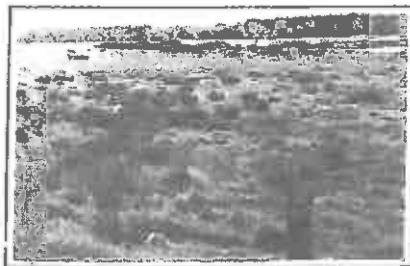


Plate 4.28: McLEAN CREEK SOIL LANDSCAPE

GENERAL COMMENTS

McLean Creek soils (1815ha) occur between 0 and 130 m above sea level on gently sloping to depressional sites. They are poorly drained and consist of a fine marine veneer overlying a sandy gravelly morainal material. McLean Creek soils have a seasonally perched water table.

Surface horizons are stone free and range in texture from silt loam to silty clay loam. Surface horizons are underlain by moderately to strongly cemented gravelly, sandy loam or loam glacial till with 30-50% coarse fragments. Soils are classified as Orthic Humic Gleysols, with lesser occurrences of Orthic Gleysols.

McLean Creek soils will support a wide range of crops when they are improved by drainage. However, stones and cemented subsoil often to within 60 cm of the surface, can impede installation of internal drainage. The dominant landuse for these soils is hay and pasture. Care must be taken not to work these soils when wet since structural damage including crusting and formation of an impermeable layer may result.

McLean Creek soils are not suited for urban and related uses due to high water tables.

Dairy use would be impractical on this property due to its very limited size and restricted forage production capacity. Other forage based livestock uses such as sheep, goats, dairy replacement heifers and beef cattle would be limited to a very small hobby farm size due to the limited forage production capacity. Sheep are very susceptible to foot rot and would not thrive on this very wet site. The estimated carrying capacity for beef cattle would be two head of cows, five feeder cattle or five dairy replacement heifers. Significant capital expenditure for clearing, ditching, grubbing and fencing would be required.

5.2 Non-Soil Bound Agricultural Uses

Non-soil bound agricultural uses include greenhouses, intensive livestock (poultry, hog and feedlot) production, mushroom production and horticultural pot nursery production.

These non-soil bound uses do not depend on growing in the native soil medium but they do require a solid, well drained level surface on which to establish the necessary buildings and infrastructure. Pot nursery production is somewhat more tolerant of non-level sites but still requires a solid, well drained surface for operation of equipment. The area occupied by Units I and III in preparation for farm buildings would need to be filled with structural fill or gravel to raise it above the perched water table and provide a firm, trafficable surface. This would require at least one metre of fill and more in the lowest areas. With a currently undisturbed surface area of +/-20,000m², the granular base fill required would be about 20,000m³ to raise the land to a safe and stable building height.

There are several practical obstacles to establishing any of these non-soil bound uses on this property including: a) the need to destroy the areas identified as wetland, b) the limited total area available for these farm related buildings, c) meeting building setback requirements for mushroom, greenhouse and feedlot uses and d) consideration of impacts on neighboring properties. While all of these uses could theoretically be sited on this property, it is very unlikely that the limited land area available, high cost of site preparation, lack of natural gas service and limited area for manure disposal would mitigate against any rational farmer choosing to carry out this type of non-soil based agricultural development on this site.

6. SUMMARY AND CONCLUSIONS

- 6.1 Some 1.98 hectares or 71.5% of the 2.77 hectares on the subject lands have a Class 4 improved capability. The remainder, 0.79 hectares or 28.3% is anthropic.
- 6.2 This property is severely constrained for soil bound agricultural production by impermeable subsoil conditions, excessive off site capture of surface drainage and lack of adequate drainage invert. The rooting depth is restricted to 15 to 35 cm depth with saturated surface horizons for extended periods of the year.
- 6.3 Drainage improvements would be difficult due to the near level topography, impermeable subsoil conditions and restricted drainage invert. Ditching installed on very narrow spacing with dyking to prevent off site drainage water and installation of a pump would provide some surface water drainage but would be very disruptive to any mechanical field operations.

- 6.4 Intensive soil bound cultivation for annual crops would be impractical and result in regular crop failure due to the wet soil conditions. Passive use as pasture would be problematic as undesirable weed species would quickly invade the grass sward. Livestock rearing depending on on-site forage would be marginal due to the very limited land area and expected low quality forage.
- 6.5 Non-soil bound agricultural uses such as greenhouses, mushroom barns, feedlot or pot nursery use would be challenged by the wet soil conditions and would require import of fill and granular base to provide a stable environment for buildings and traffic.
- 6.6 This property is severely restricted in its potential for agricultural use by restricted rooting depth, very poor drainage and its small size. The property has never been cleared for agricultural production in character with many of the surrounding properties which are limited to rural residential use.

C & F LAND RESOURCE CONSULTANTS LTD.

Per:



Brian M. French, P.Ag.

File:\1155 Leffler Report-08-12-2016

Appendix A: Resume of Experience, Brian French, P.Ag.

BRIEF RESUME OF EXPERIENCE

Brian M. French, P.Ag.

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Victoria, B.C. Canada V9C 3Z3
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E-mail: cflrc@shaw.ca

Education: B.Sc.(Agriculture) , Honours Soil Science, 1971

Professional Affiliation: Member, B.C. Institute of Agrologists

Professional Experience:

- ◆ 3 years as Staff Agrologist with Agricultural Land Commission responsible for technical support to the Commission and staff, attendance to E.L.U.C. hearings, participated in ALR fine tuning reviews;
- ◆ 4 years as consultant to the Ministry of Lands, Parks and Housing carrying out major reviews of crown land suitability for agricultural leases in Omineca and Cariboo regions;
- ◆ 31 years as a soils and land use consultant with a broad spectrum of clients including the Agricultural Land Commission, provincial government, municipal government, Municipal Insurance Association, R.C.M.P. major crimes unit, utility companies, major corporations and individuals. Projects completed include many individual parcel agricultural capability assessments; comprehensive land use plans (Maple Ridge Rural Land Use Plan for ALC); technical mediation (Six Mile Ranch ALR exclusion issue for Ministry of Agriculture); Utility Corridor issues (B.C. Gas Surrey-Langley 42" pipeline project and many other sewer, water and drainage projects for G.V.R.D., F.V.R.D. and others); forensic soil and land use services (technical assistance to RCMP-Vancouver Police Joint Task Force on Picton pig farm sites in Port Coquitlam); agricultural land infrastructure development for drainage, greenhouse development, irrigation and leveling.
- ◆ Drainage design and supervision including gravel pit and soil dumpsite storm water management plans; agricultural land drainage; urban rain garden soil specification and analysis of water flow in soils.
- ◆ Golf course and sports field development and technical services (design, construction and management for various clients including Vancouver Parks Board, Coquitlam Parks Board, Saanich Parks & Recreation, Oak Bay Parks, Shawnigan Lake School);
- ◆ Aggregate industry development and reclamation services; responsible for exploration, permitting, preparation of plans, monitoring of work, supervision of rehabilitation and closure. Major clients include Lafarge Canada, Fraser Valley

Aggregates, Imperial Paving, Columbia Bitulithic as well as several smaller companies throughout B.C.;

- ◆ Soil and inert industrial landfill services; responsible for permitting, preparation of operating and rehabilitation plans, monitoring of works, reporting and closure. Involved in numerous significant operations;
- ◆ Composting industry services including development of plans to conform to the Organic Matter Recycling Regulation and municipal bylaws; monitoring and closure plans.



Brian French, P.Ag.

March 1, 2016

Appendix B: Field Notes

Martini Field Notes February 24, 2016

Site inspection was conducted at 1155 Leffler Road in Coombs - Errington in the presence of the property owner, Mr. Gene Martini. A Cat rubber tired backhoe was used to excavate test pits. The weather was sunny and the temperature was 4 degrees Celsius.

Pit 1: Just south of the north access road at the edge of an inundated area. Vegetation was deciduous alder with hardhack understory. The topography was slightly depressional with slopes less than 2%.

- LFH 3 - 0cm Leaf litter and roots; very clear boundary to:
- Ah 0 - 12cm dark brown to black very fine sand, no stones; granular structure; friable; very common roots; saturated; very clear boundary to:
- BCg 12 - 45cm+ yellowish grey very fine sand to silty clay loam, no stones; massive, hard; slight mottles; dry; no roots.

Pit 2: 3 metres west of Pit #1, slightly elevated site; mixed Douglas Fir & alder overstory vegetation, salal and salmon berry understory.

- LFH 5 - 0cm leaf litter and root mat; very clear boundary to:
- Bf 0 - 25cm reddish brown fine to very fine sand; common concretions; very common roots; fairly clear boundary to:
- BCg 25 - 45cm yellowish grey silty clay loam, occasional stones; mottled; massive, hard; no roots; fairly clear boundary to:
- C 45 - 70cm grey silty clay loam; occasional stones; massive, very hard; dry; no roots.

Pit 3: east of road behind two west houses; elevated site; Douglas Fir, subordinate cedar and alder overstory; salmon berry, salal and deer fern understory.

- LFH 5 - 0cm Leaf litter and root mat; very clear boundary to:
- Ah 0 - 15cm brownish grey very fine sand, no stones; very common roots; granular structure, friable; clear boundary to:
- Bg 15 - 35cm yellowish grey fine sandy loam to silty clay loam, fairly common stones; mottled; massive; saturated; no roots; fairly clear boundary to:
- Cg 35 - 60cm grey sandy loam to silty clay loam, stony; mottled; massive, hard; no roots; clear boundary to:

C 60 - 70cm grey sandy loam; massive, hard till; no roots.

Site Inspection June 17, 2016, hand exposed soil pits

Pit #4: west of main house in low lying area

Ah 0 - 10cm dark grey brown very fine sand, massive structure breaking to fine granular; few roots; clear boundary to:

Cg 10 - 50cm yellowish grey very fine sand; massive, dense; gleyed; no roots; diffuse boundary to:

C 50 - 60cm+ grey very fine sand; dense, massive, structureless; no roots.

Pit #5: southeast of house in NW corner, slightly elevated area, sword fern understory, Douglas Fir overstory.

LFH 4 - 0cm surface roots and litter, clear boundary to:

Bf 0 - 40cm reddish brown sandy loam to loamy sand, very common stones; common roots; fairly clear boundary to:

C 40 - 50cm+ grey sandy loam; very dense, hard; impermeable till; no roots.

Pit # 6: near south boundary, low lying area.

Ah 0 - 15cm dark grey brown very fine sand; structureless; very few roots; clear boundary to:

Cg 15 - 50cm yellowish grey very fine sand; dense, structureless; no roots; diffuse boundary to:

C 50 - 55cm+ grey very fine sand; massive, structureless; no roots.

Pit #7: Road ditch profile at west boundary

Ah 0 - 35cm grey sandy loam to loam, very stony; few roots; clear boundary to:

C 35 - 120+ grey sandy loam to loam till, unweathered; massive, hard; no roots.

Appendix C: Photo Plates

PLATE 1: 1155 LEFFLER ROAD, ERRINGTON, B.C.: February 24, 2016



1(a): Landscape at Soil Pit #1



1b): Soil Pit #1, 12cm very fine sand over dense SiCL

PLATE 2: 1155 LEFFLER ROAD, ERRINGTON, B.C.: February 24, 2016



2(a): Landscape at Soil Pit #2

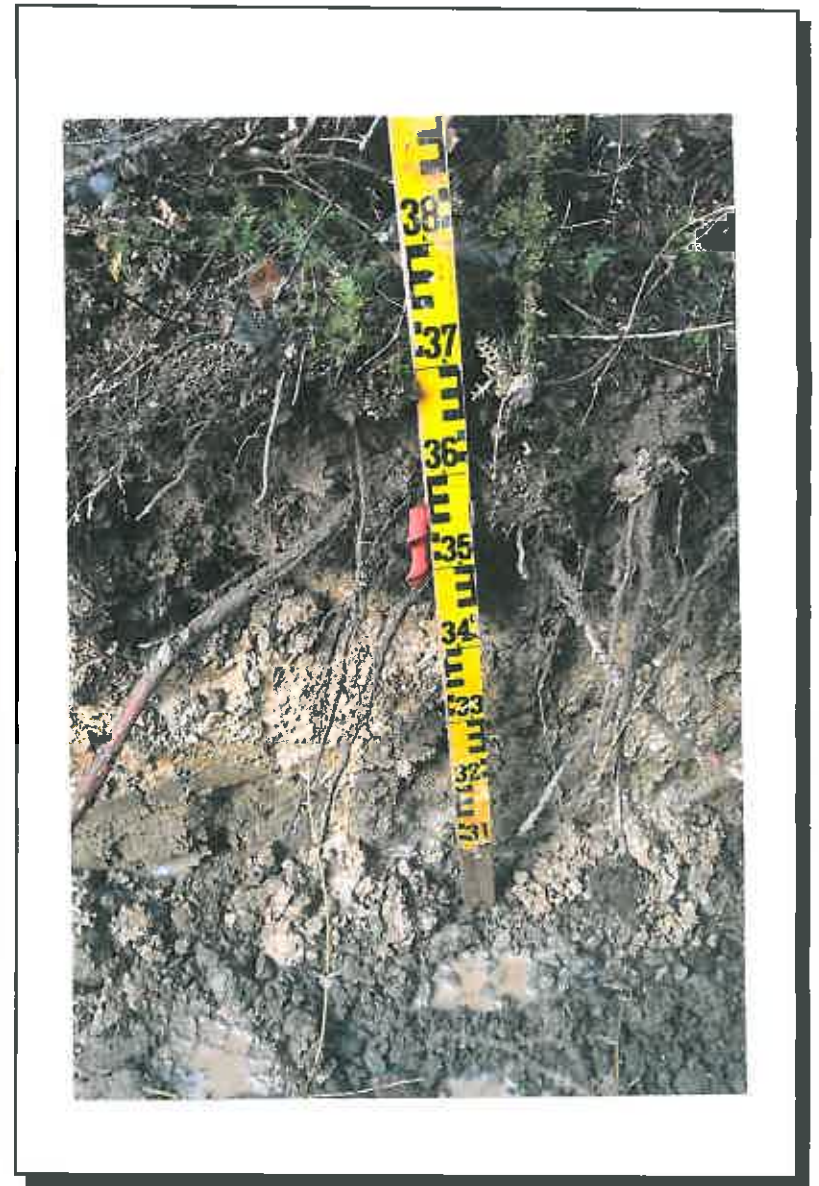


2b): Soil Pit #2, 25cm very fine sand over dense SiCL

PLATE 3: 1155 LEFFLER ROAD, ERRINGTON, B.C.: February 24, 2016



3(a): Landscape at Soil Pit #3



3b): Soil Pit #3, 15cm very fine sand over dense SiCL

PLATE 4: 1155 LEFFLER ROAD, ERRINGTON, B.C.: June 17, 2016



4(a): Landscape at Soil Pit #4



4b): Soil Pit #4, very fine sand, dense

PLATE 5: 1155 LEFFLER ROAD, ERRINGTON, B.C.: June 17, 2016



5(a): Landscape at Soil Pit #5



5b): Soil Pit #5, stony sandy loam over hard till

PLATE 6: 1155 LEFFLER ROAD, ERRINGTON, B.C.: June 17, 2016



6(a): Landscape at Soil Pit #6



6b): Soil Pit #6, very fine sand, dense

PLATE 7: 1155 LEFFLER ROAD, ERRINGTON, B.C.: June 17, 2016



7(a): Landscape at Soil Pit #7



7b): Soil Pit #7, hard till profile in ditch at west P/L

PLATE 8: 1155 LEFFLER ROAD, ERRINGTON, B.C.: February 24, 2016



8(a): Entrance off Leffler Road looking west



8(b): Looking south on Leffler from driveway



8(c): Looking east on Ruffels Road



8(d): Ditch looking north at entrance



8(e): Ditch at discharge of north property ditch

PLATE 9: 1155 LEFFLER ROAD, ERRINGTON, B.C.: February 24, 2016



9(a): ponding area south of north road



9(b): ditch along north property boundary looking west



9(c) north ditch looking east



9(d): Pond and filled area west of main dwelling, looking south



9(e): ponded area



9(f): wet area

PLATE 10: 1155 LEFFLER ROAD, ERRINGTON, B.C.: February 24, 2016



10(a): Pond, filled area and second dwelling in SE corner



10(b): Rushes growing on disturbed land



10(c): Till parent material area

PLATE 11: 1155 LEFFLER ROAD, ERRINGTON, B.C.: February 24, 2016



11(a): Workshop



11(b): curtilage area around main dwelling



11(c): Main dwelling, looking east



12(a): Second dwelling in SE corner



12(b): Back yard of second dwelling



12(c): Third dwelling in SW corner



12(d): Fourth dwelling in NW corner

Appendix D: Excerpts from MOE Manual I



**LAND CAPABILITY CLASSIFICATION
FOR AGRICULTURE IN
BRITISH COLUMBIA**

MOE MANUAL 1

**Ministry of Environment
Surveys and Resource Mapping Branch
and
Ministry of Agriculture and Food
Soils Branch**

Kelowna, British Columbia
April, 1983

4. LAND CAPABILITY CLASSES FOR MINERAL SOILS

The capability class, the broadest category in the classification, is a grouping of lands that have the same relative degree of limitation or hazard for agricultural use. The intensity of the limitation or hazard becomes progressively greater from Class 1 to Class 7. The seven land capability classes for mineral soils are defined and described as follows.

CLASS 1 LAND IN THIS CLASS EITHER HAS NO OR ONLY VERY SLIGHT LIMITATIONS THAT RESTRICT ITS USE FOR THE PRODUCTION OF COMMON AGRICULTURAL CROPS.

Land in Class 1 is level or nearly level. The soils are deep, well to imperfectly drained under natural conditions, or have good artificial water table control, and hold moisture well. They can be managed and cropped without difficulty. Productivity is easily maintained for a wide range of field crops.

CLASS 2 LAND IN THIS CLASS HAS MINOR LIMITATIONS THAT REQUIRE GOOD ONGOING MANAGEMENT PRACTICES OR SLIGHTLY RESTRICT THE RANGE OF CROPS, OR BOTH.

Land in Class 2 has limitations which constitute a continuous minor management problem or may cause lower crop yields or slightly smaller range of crops compared to Class 1 land but which do not pose a threat of crop loss under good management. The soils are deep, hold moisture well and can be managed and cropped with little difficulty.

CLASS 3 LAND IN THIS CLASS HAS LIMITATIONS THAT REQUIRE MODERATELY INTENSIVE MANAGEMENT PRACTICES OR MODERATELY RESTRICT THE RANGE OF CROPS, OR BOTH.

The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following practices: timing and ease of tillage, planting and harvesting; and methods of soil conservation.

CLASS 4 LAND IN THIS CLASS HAS LIMITATIONS THAT REQUIRE SPECIAL MANAGEMENT PRACTICES OR SEVERELY RESTRICT THE RANGE OF CROPS, OR BOTH.

Land in Class 4 has limitations which make it suitable for only a few crops, or the yield for a wide range of crops is low, or the risk of crop failure is high, or soil conditions are such that special development and management practices are required. The limitations may seriously affect one or more of the following practices: timing and ease of tillage, planting and harvesting; and methods of soil conservation. Note that in areas which are climatically suitable for growing tree fruits and grapes the limitations of stoniness and/or topography on some Class 4 lands are not significant limitations to these crops. (Refer to Chapter 10).

CLASS 5 LAND IN THIS CLASS HAS LIMITATIONS THAT RESTRICT ITS CAPABILITY TO PRODUCING PERENNIAL FORAGE CROPS OR OTHER SPECIALLY ADAPTED CROPS.

Land in Class 5 is generally limited to the production of perennial forage crops and specially adapted crops (crops such as cranberries suited to unique soil conditions not amenable to a wide range of common crops). Productivity of these suited crops may be high. Class 5 lands can be cultivated and some can be used for cultivated field crops provided unusually intensive management is employed and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated field crops may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions. Note that in areas which are climatically suitable for growing tree fruits and grapes the limitations of stoniness and/or topography on some Class 5 lands are not significant limitations to these crops. (Refer to Chapter 10).

CLASS 6 LAND IN THIS CLASS IS NONARABLE BUT IS CAPABLE OF PRODUCING NATIVE AND/OR UNCULTIVATED PERENNIAL FORAGE CROPS.

Land in Class 6 provides sustained natural grazing for domestic livestock (i.e. cattle and sheep) and is not arable in its present condition. Land is

placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 lands can be improved by draining, diking and/or irrigation.

CLASS 7 LAND IN THIS CLASS HAS NO CAPABILITY FOR ARABLE CULTURE OR SUSTAINED NATURAL GRAZING.

All classified areas not included in Classes 1 to 6 are placed in this class. Class 7 land may have limitations equivalent to Class 6 land but they do not provide natural forage for sustained grazing by domestic livestock due to climate and resulting unsuited natural vegetation. Also included are rockland, other nonsoil areas, and small water-bodies not shown on the maps. Some unimproved Class 7 lands can be improved by draining, diking and/or irrigation.

<u>AWSC (upper 50 cm)</u>	<u>Definitive Soil Texture</u>	<u>Best Improved Rating</u>
>60 mm	sandy loam or finer	1
45-60 mm	loamy sand to coarse sandy loam	2A
25-44 mm	sand to coarse loamy sand	3A
10-24 mm	very gravelly sand	5A
<10 mm	gravel	no improvement

Adverse climate (C): This subclass is used on a subregional or local basis and is derived from 1:100 000 scale "Climatic Capability for Agriculture" maps (see "Thermal Limitations" pg. 43). It indicates thermal limitations to agricultural capability including the adverse affect on plant growth during the growing season by minimum temperatures near freezing and/or insufficient heat units, and/or, extreme minimum winter temperatures which injure or kill dormant or near dormant fruit trees.

Improvement of adverse climate due to thermal limitations is not considered practical. The Improved Rating is equivalent to the Unimproved Rating.

Undesirable soil structure and/or low perviousness (D): This subclass is used for soils difficult to till, requiring special management for seedbed preparation and soils with trafficability problems for common farm implements. Also included are soils which have insufficient aeration, absorb and distribute water slowly, or have the depth of rooting zone restricted by conditions other than wetness (high water table) or consolidated bedrock or permafrost.

The guidelines suggested for class designations are based on texture, structure, consistence, permeability (hydraulic conductivity of disturbed samples in the laboratory) and depth to root restricting layer. These restricting layers may include clay enriched horizons, compact soil parent materials, cemented horizons, horizons with massive structure, or horizons with weak structure and firm to very firm consistency. Soils with good tilth in the upper 25 cm may be rated one class better than the guidelines indicate. Tilth

is the physical condition of soil as related to its ease of tillage, fitness as a seedbed, and impedance to seedling emergence and root penetration.

CLASS 1: A root restricting layer does not occur within 75 cm of the mineral soil surface, and the upper 25 cm has a non-sticky wet consistence and a texture usually coarser than silty clay loam, and permeability is usually greater than 1.0 cm/hr in the upper 100 cm.

$$2.2 \times 10^{-6} \frac{m}{s}$$

CLASS 2D: A root restricting layer occurs within 50 to 75 cm of the mineral soil surface, or the upper 25 cm has a slightly sticky wet consistence and usually has a texture of silty clay loam, clay loam or sandy clay, or the slowest permeability is usually 0.5 to 1.0 cm/hr in the upper 100 cm.

$$1.3 \times 10^{-6} \frac{m}{s}$$

$$2.7 \times 10^{-6} \frac{m}{s}$$

CLASS 3D: A root restricting layer occurs within 25 to 50 cm of the mineral soil surface, or the upper 25 cm has a sticky wet consistence and usually has a texture of silty clay or clay, or the slowest permeability is usually 0.15 to 0.5 cm/hr in the upper 100 cm.

$$4 \times 10^{-7} \frac{m}{s}$$

$$1.3 \times 10^{-6} \frac{m}{s}$$

CLASS 4D: A root restricting layer occurs within 25 cm of the mineral soil surface, or the upper 25 cm has a very sticky wet consistence and usually has a texture of heavy clay, or the slowest permeability is usually less than 0.15 cm/hr in the upper 100 cm.

$$4 \times 10^{-7} \frac{m}{s}$$

$$13.14 \frac{m}{hr}$$

Some features of undesirable soil structure and/or low perviousness are improvable to varying degrees (amelioration of soil texture, deep ploughing or blading to break-up root restricting layers); others, such as strongly cemented horizons, are not. The Improved Rating for this subclass, if indicated, should be determined on the basis of past experience with improving comparable soils. If such experience is not available no improvement is assumed and the Improved Rating is equivalent to the Unimproved Rating.

CLASS 6N: Soils are too salty for cultivated crops but support specially adapted, native salt-tolerant plant species, some of which are suitable for grazing by domestic livestock.

CLASS 7N: Soils are too salty for cultivated crops and do not support native plants suitable for grazing or soils which support poisonous plants which cannot be removed with feasible management practices.

There are different reasons for, and types of, salinity problems. Improvement practices and their success in alleviating limitations due to salinity vary depending on site and soil conditions. The Improved Rating for this subclass, if indicated, should be determined on the basis of past experience with improving comparable soils. If such experience is not available no improvement is assumed and the Improved Rating is equivalent to the Unimproved Rating.

Stoniness (P): This subclass applies to soils with sufficient coarse fragments* to significantly hinder tillage, planting, and/or harvesting operations. The suggested guidelines for class designation are based on the sieved proportion of "coarse gravels" (2.5 to 7.5 cm diameter), cobbles (7.5 to 25 cm diameter) and stones (>25 cm diameter) of the total soil in the upper 25 cm of mineral soil.

CLASS 1 : Total coarse fragment content (2.5 cm diameter or larger) offers no or very slight hindrance to cultivation. Total coarse fragment content is 5% or less with cobbles and stones occupying 0.01% or less of the sieved soil.

* In this case coarse fragments refer to "coarse gravels" plus cobbles plus stones, i.e. fragments 2.5 cm diameter or larger.

- CLASS 2P: Total coarse fragment content (2.5 cm diameter or larger) offers only slight hindrance to cultivation. Total coarse fragment content is 6 to 10% or cobbles and stones occupy 0.01 to 1% of the sieved soil.
- CLASS 3P: Total coarse fragment content (2.5 cm diameter or larger) causes significant interference with cultivation. Total coarse fragment content is 11 to 20% or cobbles and stones occupy 2 to 5% of the sieved soil.
- CLASS 4P: Total coarse fragment content (2.5 cm diameter or larger) is a serious handicap to cultivation. Total coarse fragment content is 21 to 40% or cobbles and stones occupy 6 to 15% of the sieved soil. Note that in areas which are climatically suitable for growing tree fruits and grapes, a CLASS 4 level stoniness limitation may not be a significant limitation to these crops. (Refer to Chapter 10).
- CLASS 5P: Sufficient coarse fragments (2.5 cm diameter or larger) are present to prevent sustained cultivation until considerable picking has been done. Total coarse fragment content is 41 to 60% or cobbles and stones occupy 16 to 30% of the sieved soil. Note that in areas which are climatically suitable for growing tree fruits and grapes, a CLASS 5 level Stoniness limitation may not be a significant limitation to these crops. (Refer to Chapter 10).
- CLASS 6P: Coarse fragments (2.5 cm diameter or larger) are sufficiently numerous to make impractical the application of improvement practices. Total coarse fragment content is 61 to 90% or cobbles and stones occupy 31 to 80% of the sieved soil. The land in its present condition provides sustained natural grazing for domestic livestock.
- CLASS 7P: Coarse fragments (2.5 cm diameter or larger) prevent agricultural

CLASS 4T: Simple slopes varying from 16 to 20% or complex slopes varying from 11 to 15%. Note that in areas which are climatically suitable for growing tree fruits and grapes, a CLASS 4 level Topography limitation may not be considered a significant limitation to these crops. (Refer to Chapter 10).

CLASS 5T: Simple slopes varying from 21 to 30% or complex slopes varying from 16 to 30%. Note that in areas which are climatically suitable for growing tree fruits and grapes, a CLASS 5 level Topography limitation may not be considered a significant limitation to these crops. (Refer to Chapter 10).

CLASS 6T: Slopes, either simple or complex, varying from 31 to 60% and the land in its present condition provides sustained natural grazing for domestic livestock.

CLASS 7T: Slopes, either simple or complex, greater than 30%. The land in its present condition is not useable for either arable agriculture or sustained natural grazing by domestic livestock.

Improvement of topographic limitations is considered impractical. The Improved Rating is equivalent to the Unimproved Rating.

Excess water (W): This subclass applies to soils for which excess free water, other than from inundation (flooding), limits their use for agriculture. The excess water occurs because of imperfect to very poor drainage due to high water tables, seepage, or runoff from surrounding areas. The following guidelines for class designation are suggested.

CLASS 1 : Crop damage due to excess water is not a factor.

CLASS 2W: Occasional occurrence of excess water during the growing period causing slight crop damage, or the occurrence of excess water during

the winter months adversely affecting deep rooted perennial crops. Water level is rarely, if ever, at the surface and excess water is within the upper 50 cm for only short periods (less than 2 weeks) during the year.

- CLASS 3W: Occasional occurrence of excess water during the growing period causing minor crop damage, but no crop loss, or the occurrence of excess water during the winter months adversely affecting perennial crops. Water level is near the soil surface until mid-spring forcing late seeding, or the soil is poorly and in some cases imperfectly drained, or the water level is less than 20 cm below the soil surface for a continuous maximum period of 7 days during the growing period.
- CLASS 4W: Frequent or continuous occurrence of excess water during the growing period causing moderate crop damage and occasional crop loss. Water level is near the soil surface during most of the winter and/or until late spring preventing seeding in some years, or the soil is very poorly drained.
- CLASS 5W: Frequent or continuous occurrence of excess water during the growing period making the land suitable for only perennial forage crops, and/or improved pasture. Water level is near the soil surface until early summer, or the maximum period the water level is less than 20 cm below the soil surface is 6 weeks during the growing period, or the soil is very poorly drained, commonly with shallow organic surface layers. Effective grazing period is longer than 10 weeks.
- CLASS 6W: Continuous occurrence of excess water during the growing season with an effective natural grazing period of 5 to 10 weeks. The water level is at or above the soil surface except for a short period in mid-summer.

CLASS 7W: Under water most of the growing season; not useable for agriculture.

Water control (ditching or tiling) will generally improve this limitation by at least one class depending on landscape position, and source and type of excess water. The Improved Rating should be assessed on a site specific basis, using regional experience from comparable soils in the area which have been improved. Note that lands with Unimproved Ratings of 6W or 7W can sometimes be improved by draining.

Permafrost (Z): The presence of a cryic (permanently frozen) layer is a severe limitation to agricultural production. In addition to maintaining undesirable cold soil temperatures, drainage problems are complicated when permafrost is present in the upper 150 cm. If permafrost occurs below 150 cm depth from the soil surface, and its depth is unaffected by cultivation, it poses a less severe limitation to agricultural production than it would if it occurred above 150 cm. Because of limited experience regarding the effect of this limitation on agricultural use, partial guidelines for permafrost conditions are suggested as follows.

CLASS 4Z: Permafrost occurs below 150 cm from the soil surface during the growing season and does not interfere with crop production.

CLASS 6Z: Permafrost occurs within 150 cm of the soil surface during the growing season. The land in its present condition provides sustained natural grazing for domestic livestock.

CLASS 7Z: Permafrost occurs within 150 cm of the soil surface during the growing season. The land in its present condition is not useable for either arable agriculture or sustained natural grazing by domestic livestock.

Improvement of permafrost conditions is assumed impractical. The Improved Rating is equivalent to the Unimproved Rating.

July 4, 2013

Gloria and Gene Martini
[REDACTED]

Re: Wetland Assessment on Lot 1, District Lot 139, Nanoose District, Plan 18583

This letter has been prepared to provide a summary of environmental considerations regarding a watercourse that is located within the above referenced property (subject property). The purpose of the summary is to provide information about its ecological characteristics and the regulatory implications of modifying the watercourse and adjacent riparian areas. It is my understanding that this summary is needed to accompany your application to remove the subject property from the Agricultural Land Reserve (ALR).

Background

The watercourse on the subject property was previously characterized by me several years ago. I visited the subject property on May 1 and May 14, 2008 to assess the watercourse and flag the high water mark with blue ribbon. The flagging was subsequently surveyed by JE Anderson & Associates to accurately locate the watercourse boundary. I provided an email that summarized my preliminary findings and I later provided a more detailed letter (dated August 6, 2009).

Important information resulting from these assessments and contained in the August 2009 letter include:

- Online mapping indicated that there is a stream within the subject property that was shown to be the upper extent of Romney Creek.
- Romney Creek converged with Carey Creek and flowed to the sea at Parksville.
- It was unknown if Romney Creek was fish bearing as detailed fish and fish habitat information was not readily available for Romney Creek; however, portions of the stream were likely to be fish bearing.
- There was no stream channel within the subject property. The watercourse was actually an extensive wetland feature that floods a substantial portion of the property as well as adjacent properties.
- While online maps showed that Romney Creek flowed northeast from the subject property (towards Price Road), the flow path from the subject property was not confirmed due to private property trespass concerns and it was not known if this upper portion of Romney Creek was accurately mapped.
- No fish were observed within the wetland but fish presence was considered to be possible. More detailed assessment would be required to conclusively determine fish absence.



- Due to provincial and federal regulations, the wetland was a significant potential constraint to future development within the subject property.

At your request, I visited the site again on May 1, 2013 to assess the current conditions of the wetland and document drainage patterns within and downstream of the subject property. The section below describes the results of that assessment.

Assessment Results

Based on photographs and field observations, the wetland can be generally described as follows:

- An extensive, seasonally flooded, shallow, forested wetland.
- Much of the wetland consists of saturated soils and shallow pools that are only wetted during the wettest periods of the year.
- Several lobes of the wetland have deeper pools and visible flow.
- Pooled water areas range in depth from very shallow up to approximately 0.5 m.
- Saturated soils and hydrophilic vegetation are typical throughout the wetland boundaries.
- Some small, higher elevation ‘islands’ occur within the wetland boundaries.
- Portions of the wetland with visible surface flow indicate that surface water generally drains north to south.
- While some sections of the wetland have visible flow, there were no stream channels observed (no defined banks, alluvial substrates and other typical stream channel indicators).

During the May 1, 2013 site visit, I was able to confirm that the wetland is part of the headwaters of Romney Creek, but does not connect to Romney Creek in the location shown by online maps. Surface water does not flow northeast toward Price Road as shown on online maps such as RDNMap (www.rdn.bc.ca/cms.asp?wpID=419). There is a height of land between the subject property and Price Road that prevents surface water from flowing north and there is no stream crossing along the east end of Price Road. Instead, it was confirmed that surface water from the subject property drains to the northeast corner of the property and into the ditch at the intersection of Ruffels Road and Leffler Road. Figure 1 depicts the approximate flow of water from the property to Romney Creek. The ditch along Ruffels Road flows east along the north side of the road. Between 1253 and 1249 Ruffels Road the ditch flows north into another ditch. This ditch was not walked as it is on private property, but it appears to flow due north toward Fair Road. I confirmed that the ditch crosses Fair Road between 1268 and 1260 and continues north approximately 180 m where it flows into a relatively accurately mapped portion of Romney Creek. During a previous assessment I conducted for an unrelated project, I have accessed this portion of Romney Creek (at 1270 Alberni Highway) and can confirm that a defined stream channel is present here.

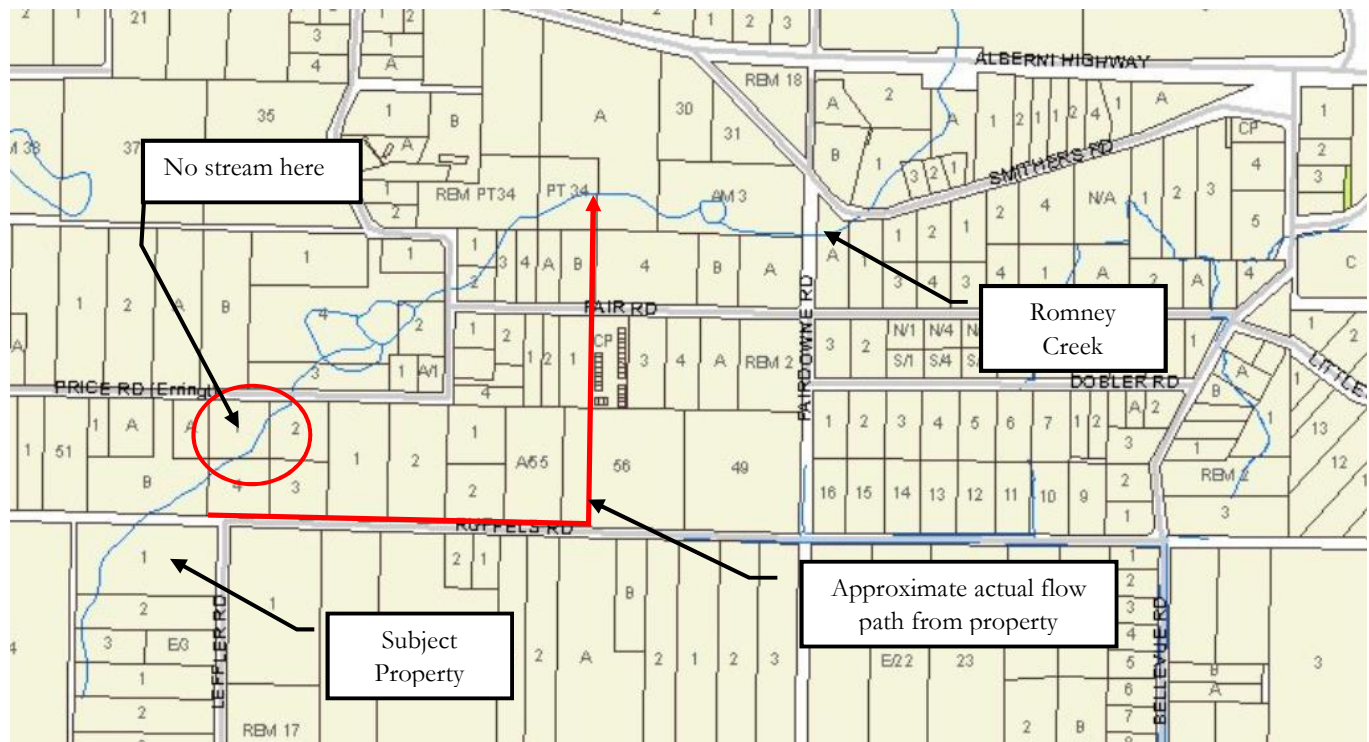


Figure 1. Mapped watercourses within the general area (screen clip from RDNMap).

Upon confirming that the wetland contributes uninterrupted surface flow to Romney Creek, I searched online for fish and fish habitat information available on Romney Creek. The French Creek Water Allocation Plan provides the following information:

There was potential fish habitat identified in the lower reach of both Romney Creek and Carey Creek. However both creeks have been extensively channelized and culverted for subdivision development in the City of Parksville. Also Romney Creek has been diverted into Carey Creek just downstream of the Parksville Springs in order to accommodate further subdivision development. At the mouth of Carey a waterfall barrier to fish passage further limits its use by fish.¹

The provincial website, Habitat Wizard, does not indicate whether or not there are fish in Romney Creek or Carey Creek. Anecdotal information from a local stream keeper who has worked in the Romney Creek watershed indicated that Romney Creek is likely to have resident trout but was not aware of any definitive proof (observations of fish).

It should be noted that recent works within the subject property have occurred and they have affected the flow of water within the subject property; however, the works do not appear to have affected where surface flow ends up (at the northeast corner of the property). The intent of this letter is not to describe or assess the recent modifications or their potential ecological and/or regulatory implications. As such, these modifications are not further discussed.

¹ BC Ministry of Environment Lands & Parks. 1994. French Creek Water Allocation Plan.



Regulatory Implications

While there is not definitive proof, it is likely that some portions of Romney Creek are fish bearing. There is some potential fish habitat observed throughout the areas that I have accessed within and downstream of the property. Also, there are some large ponds and wetlands along and near the creek further downstream that may provide year round habitat for resident trout. Given that fish are likely present in at least some portions of Romney Creek, any development that has the potential to adversely impact the watercourse and/or downstream fish habitat would be subject to provincial and/or federal approvals.

Provincial approval for such development would be needed under Section 9 of the Water Act. It is my understanding that staff members from the BC Ministry of Forests, Lands and Natural Resource Operations (FLNRO) have concluded that the watercourse is applicable under the Water Act. Under the Water Act, substantial modifications to watercourses typically require application for a Section 9 Approval. Changes that could cause adverse impacts to the environment, to water quality, to downstream water users or to personal property are carefully considered by the Province and an Approval is not issued until such concerns have been appropriately addressed.

Compliance with the Federal Fisheries Act is required for any project that has the potential to detrimentally affect fish habitat at the project site or in downstream reaches. In general, causing harm to fish or fish habitat is a contravention of the Federal Fisheries Act unless an Authorization is obtained.

Within the Regional District of Nanaimo, the Riparian Areas Regulation (RAR) applies to most types of development within 30 m of a fish bearing watercourse or watercourse that flows into freshwater fish habitat. The RAR, which is enabled by the provincial Fish Protection Act, provides detailed methods through which the minimum riparian setbacks are established to protect the features, functions and conditions of riparian fish habitat. While the RAR does not apply to farming activity, it applies to non-farming activity on ALR and other farmlands. The RAR Implementation Guidebook provides an excellent summary of why riparian areas are important to fish bearing systems:

Riparian areas are the areas adjacent to ditches, streams, lakes and wetlands. These areas, found in all regions of the province, support a unique mixture of vegetation, from trees and shrubs to emergent and herbaceous plants. The vegetation in riparian areas directly influences and provides important fish habitat. It builds and stabilizes stream banks and channels, provides cool water through shade, and provides shelter for fish. The leaves and insects that fall into the water are a source of food for fish. Although they account for only a small portion of British Columbia's land base, riparian areas are often more productive than the adjoining upland and are a critical component of the Province's biodiversity.

When certain projects necessitate working in and adjacent to watercourses, it is possible – and is typically required – to devise mitigation and compensation strategies so that there is not a net ecological impact and so that regulatory approvals can be obtained; however, such plans are expensive to design, implement and monitor/maintain and they typically require creation or enhancement of watercourses or riparian areas within a given property. As such, plans to increase the potentially farmable area on the property would be restricted by compensation and mitigation requirements and it would likely be costly to achieve a relatively small increase in usable lands.



The Value of Wetlands

Regardless of whether or not there are fish in Romney Creek, wetlands in both fish bearing and non-fish bearing watersheds are ecologically important. The BC Ministry of Environment <http://www.env.gov.bc.ca/wld/wetlands.html> provides a thorough description of this importance:

Wetlands are one of the most important life support systems on earth. Currently comprising about 5.6% or 5.28 million hectares of British Columbia, they provide critical habitat for fish, birds, and other wildlife. Most wildlife in the province use wetland habitat at some point in their life cycle, and many red- and blue-listed species are wetland-dependent.

The functional contribution of wetlands in helping to minimize or remediate environmental problems is substantial. They absorb and filter sediments, pollutants, and excess nutrients; recharge groundwater; maintain stream flows; control runoff; store flood waters; reduce erosion; stabilize shorelines; and help regulate atmospheric gases and climate cycles. In short, wetlands absorb water quickly and release it slowly with an improvement in quality.

Wetlands provide for commercial and recreational use of wetland-dependent fish and shellfish, enhance agricultural productivity, and support a variety of scientific, educational and recreational opportunities.

From both ecological and regulatory perspectives, any new development adjacent to the wetland on the subject property would need to consider the potential effects on environmental values. Given that the wetland and its associated riparian areas comprise a substantial portion of the subject property and that the ecological characteristics of the wetland should be protected, potential agricultural use of the property is substantially restricted by regulatory requirements. It is possible that some agricultural activities could occur on the property without being detrimental to the wetland and its riparian area; however, the nature and extent of such activities would be very limited.

In general, activities that would seek to reduce the wetted areas of the subject property to increase the amount of useable farmland would likely be ecologically detrimental. Examples of such activities could include ditching to drain surface and groundwater and placement of fill to increase the elevation of low-lying wet areas.

Conclusions

Farming activities are exempt from the RAR; however, provincial and federal approvals are required for any development that causes deleterious impacts to fish bearing watercourses or watercourses that lead to fish bearing watercourses. Without substantial compensation and mitigation plans, it is unlikely that approvals to fill in, drain or otherwise substantially modify the wetland to provide additional land for agricultural purposes would be granted, especially if fish are present within the wetland or immediately downstream. From an ecological perspective, wetlands provide important habitats for a wide variety of species and provide other important ecological and biophysical functions. There are several best practice guidelines for land development adjacent to watercourses that specifically state the need to avoid impacts whenever possible. While historic farming practices often involved substantial modifications to watercourses, such practices are typically no longer appropriate under the current regulatory system.



Please let me know if you have any questions regarding this letter.

Yours truly,

EDI ENVIRONMENTAL DYNAMICS INC.

Adam Compton, R.P. Bio.
Project Manager/Senior Biologist



*Original signed +
sealed July 4 /13*

TO: Agricultural Advisory Committee **MEETING:** February 16, 2018

FROM: Nick Redpath
Planner **FILE:** PL2017-166
PL2017-167

SUBJECT: Gathering for an Event in the Agricultural Land Reserve – Proposed Zoning Amendments

RECOMMENDATION

That the Agricultural Advisory Committee receive and provide comments on the Gathering for an Event in the Agricultural Land Reserve – Proposed Zoning Amendments report.

SUMMARY

Recent amendments to the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (ALR Regulation) allowing a gathering for an event on lands within the Agricultural Land Reserve (ALR) prompted the Board to direct staff to undertake a preliminary review of the Regional District of Nanaimo's (RDN) zoning bylaws and engage with the farming community and Agricultural Advisory Committee (AAC). Several opportunities were identified by staff through a preliminary bylaw review for the RDN to clarify and regulate the recently approved ALR regulatory changes for gathering for an event. The proposed bylaw amendments to "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500, 1987" and "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285, 2002" include setbacks, maximum size, parking, clearly defining terminology, inclusion of Agricultural Land Commission (ALC) conditions and expanding the existing Temporary Use Permit (TUP) designation to accommodate gatherings for larger events as approved by the ALC. Staff subsequently proceeded to engage with the farming community to gather feedback and direction on the proposed bylaw amendments and other approaches to address the changes to the ALR Regulation.

BACKGROUND

On August 9, 2016, the Ministry of Agriculture (MOA) announced that new changes to the current ALR Regulation had been developed allowing landowners in the ALR with farm status under the *Assessment Act* to host specific events like weddings, concerts and other non-agriculture related commercial activities if certain conditions as set out in the new regulations were satisfied. These conditions are outlined in a policy entitled "Gathering for an Event in the ALR" (see Attachment 1 – ALC Policy L-22).

On November 25, 2016, following Board direction, a report from staff went to the AAC outlining the recent changes made by the MOA in regards to gathering for an event. In addition to summarizing the recent regulatory changes to the ALR regulations, the report identified several opportunities in which RDN zoning bylaws could be amended to regulate this newly permitted use. Some potential

amendments identified include clearly defining terminology, amending setbacks, limiting size of events, parking provisions and expanding the existing TUP designation. The proposed amendments are intended to create consistency between RDN bylaws and the new ALR Regulation, mitigate impact on neighbouring properties, promote health and safety at these events, preserve agricultural land and promote opportunities for farmers to supplement their on-farm income. At the AAC meeting, a motion was made for the AAC to have the opportunity for further input on the proposed bylaw amendments.

On December 12, 2017, a report from staff along with proposed bylaw amendments to Bylaw 500 and Bylaw 1285 were considered by the Board. Following Board direction, engagement with the farming community was initiated to gather input on possible bylaw amendments and provide direction to help guide staff in considering a balanced regulatory approach to the recently updated ALR Regulation for gathering for an event.

Land Use Implications

Changes made to the ALR Regulation have authorized a limited number of secondary on-farm commercial activities to take place on properties in the ALR with farm status under the *Assessment Act*, leaving local governments with the ability to regulate but not prohibit these activities.

Non-agricultural gathering for an event on ALR land is not currently addressed within RDN zoning regulations. The implication is that these recent changes create a new use within the ALR that is not regulated by existing zoning bylaws. Given that the ALR Regulation supersedes local government bylaws in this instance, events could be held on a property in the ALR, within the RDN (subject to the conditions outlined in Attachment 1 – ALC Policy L-22), without any specific zoning regulations to address potential impacts.

Although local governments cannot prohibit non-farm gathering for an event on properties within the ALR, they can regulate certain aspects through zoning bylaws. In order to create consistency between RDN bylaws and the new ALR Regulation, mitigate impact to neighbouring properties, promote health and safety at these events, preserve agricultural land and provide opportunities for farmers to supplement their income, staff have drafted possible amendments to Bylaw 500 and Bylaw 1285 as outlined below.

Proposed Amendments to Bylaw 500 (see Attachment 2 – Proposed Zoning Amendments to Bylaw No. 500, 1987) and Bylaw 1285 (see Attachment 3 – Proposed Zoning Amendments to Bylaw No. 1285, 2002)

Definitions

Agricultural Land Commission Policy L-22 provides a new definition for “gathering for an event” and “agri-tourism on a farm” and updates the current definition of “agri-tourism”. To create consistency and reflect recent changes to the ALR Regulation, new and updated definitions are proposed to be included into the Definitions section of Bylaw 500 and Bylaw 1285.

General Regulations

The new ALR regulations consider “gathering for an event” to be a permitted use on ALR land, only if certain conditions are met (see Attachment 1 – Policy L-22 for an overview of these conditions). All of these conditions could be included into the General Regulations sections of Bylaw 500 and Bylaw 1285

to create consistency between the Agricultural Land Reserve Use, Subdivision and Procedure Regulation and RDN zoning bylaws and provide clarity to staff, the public and property owners hosting events.

Setbacks – Bylaw 500 and Bylaw 1285

Implementing appropriate setbacks will reduce impact and disturbance to neighbouring properties and provide adequate access for emergency vehicles on the property, while still allowing property owners to supplement on-farm income through hosting a limited number of commercial events each year.

Since this is a new permitted on-farm use, there are currently no setback requirements. As such, staff have considered three possible options and are seeking input from the AAC regarding these options, which are:

Option 1

This option, which currently is in place, is to not implement specific setback requirements and allow gatherings for an event to take place anywhere on a property.

Option 2

This option would be to apply existing setback regulations for Agricultural Zones in Bylaw 500 and Bylaw 1285 for the new permitted use “gathering for an event”. Below is a summary of existing setback regulations within Bylaw 500 and Bylaw 1285.

Currently, within the Agriculture 1 Zone of Bylaw 500, the setback for non-farm use buildings and structures is 8.0 metres from all lot lines except where the parcel is less than 4000 m² in area then the setback from lot lines may be reduced to 2.0 metres from an interior side lot line and 5.0 metres from other lot lines, excluding the front lot line.

Within the Agriculture 2 Zone of Bylaw 500, the setback for non-farm buildings and structures is currently 20.0 metres from all lot lines.

Within the General Regulations of Bylaw 1285, setbacks for agricultural buildings and structures are 4.5 metres from front and exterior side lot lines and 2.0 metres from all other lot lines.

In 2016, the Agriculture Bylaw and Policy Updates Project was completed and one of the objectives of this project was to review current setbacks in Agriculture Zones of both Bylaw 500 and Bylaw 1285 to provide more flexible minimum setback requirements. Essentially, setbacks are designed in a tiered system with larger lots having larger setbacks, mid-sized lots having reduced setbacks and smaller lots requiring further reduced setbacks.

Current setbacks in Agriculture Zones were intended to support agriculture and make regulations less onerous and only apply to buildings and structures. Gathering for an event is not considered an agricultural use and may take place within a building and/or outdoor area. Increased setbacks may be considered to protect neighbouring properties from being negatively impacted.

Option 3

The setbacks included in the proposed amendment bylaws apply best practices established by the Ministry of Agriculture’s Guide to Edge Planning. Within this document, farm-side setbacks for specific

farm uses and commodity activities are recommended to be 15.0 metres from property lines. While gathering for an event is not specified within the MOA document, the rationale for farm-side setbacks does apply and can be adapted to prevent nuisance and conflict between uses. The proposed 15.0 metre setbacks will also allow for emergency vehicle access, while still providing property owners the opportunity to supplement on-farm income through hosting a limited number of commercial events each year.

Parking

Within Bylaw 500 and Bylaw 1285, proposed minimum parking requirements and setbacks for gathering for an event are one per four persons capacity based on a parking rate comparable to dance or assembly use with setbacks of 15.0 metres from all lot lines.

The ALC requires all parking to be on the farm, but not to be permanent nor interfere with the farm's agricultural productivity. Increased minimum parking requirements may lead to damage and loss of the farm's agricultural productivity and create a safety hazard with increased amounts of vehicle traffic on and off the property. With fewer parking spaces required, guests will be encouraged to carpool or make alternate arrangements for transportation to and from the event.

Parking setback requirements of 15.0 metres, consistent with proposed setbacks for the use "gathering for an event" are proposed to reduce impact on neighbouring properties and to promote health and safety by allowing access for emergency vehicles.

Maximum Site Area

A proposed maximum site area for gathering for an event is 500 m².

ALC Policy L-03 Activities Designated as Farm Use: Wineries and Cideries in the Agricultural Land Reserve explains that 125 m² of floor space is roughly equivalent to a seating capacity of 65 persons. The ALR Regulations allow a maximum amount of 150 guests for a gathering for an event. Permitting a maximum site area of 500 m² for events will allow sufficient space for the maximum 150 guests. Sufficient space and separation for guests will help increase the overall health and safety of the event while maintaining the intent of the *Agricultural Land Commission Act*.

Temporary Use Permits for Gathering for Events

Similar to the existing Temporary Use Permit for Farmer's Markets section of both Bylaw 500 and Bylaw 1285, a change to include the ability to issue a TUP for a gathering for an event is proposed. The amendment is to include a general clause within each bylaw that would support the issuance of a TUP for an event that contravenes the proposed zoning regulations (larger than 150 people, more than 10 events etc.) in any zone subject to approval from the ALC and further specific requirements deemed necessary by the RDN. Expanding the existing TUP designation is an appropriate approach to accommodate events contrary to the zoning bylaw as it includes a public notification process and can impose a variety of specific requirements. The specific requirements will be informed through consultation and could include criteria to address emergency services and public safety.

Farming Community Consultation Process and Feedback

As per direction provided by the Board at its December 12, 2017 meeting, consultation with the farming community commenced. The consultation was initiated through both an online forum and stakeholder

meetings. The online forum included an interactive webpage accessible through the RDN Get Involved webpage and stakeholder meetings were held January 24, 2018 with the Coombs Farmers' Institute and January 25, 2018 with the Nanaimo-Cedar Farmers' Institute.

The RDN Get Involved webpage for this project was promoted through social media and also distributed to executive representatives of both farming institutes who forwarded it to their members and anyone else they felt may be impacted by the proposed amendments and changes to the ALR regulations. The webpage was designed to provide background information and make available pertinent documents related to this project while also providing an opportunity for feedback to be submitted through an online survey. Hard copies of the survey were also made available at the stakeholder meetings. A summary of the survey and meetings are outlined in Attachment 4 – Farming Community Consultation Summary.

FINANCIAL IMPLICATIONS

This report is prepared in response to recent changes to ALR Regulation in regards to gathering for an event on farm land within the ALR. This report, proposed bylaw amendments and engagement can be accommodated within the existing Community Planning budget.

STRATEGIC PLAN IMPLICATIONS

A focus on Economic Health is one of the strategic priorities in the RDN 2016 – 2020 Strategic Plan. In particular, the strategic plan directs that the RDN will foster economic development and support diversification of our regional economy while also recognizing the importance of agriculture. Proposed bylaw amendments to address changes to ALR Regulation allowing for non-farm use gathering for an event will help support and foster economic development for farmers within the ALR. These proposed bylaw amendments preserve traditional agriculture land and practices while also creating incentives and opportunities for existing farmers to supplement their farm income through secondary, on-farm activities.




Nick Redpath
nredpath@rdn.bc.ca
January 31, 2018

Reviewed by:

- P. Thompson, Manager, Long Range Planning
- G. Garbutt, General Manager, Strategic and Community Development
- P. Carlyle, Chief Administrative Officer

Attachments

1. ALC Policy L-22
2. Proposed Zoning Amendments to Bylaw No. 500, 1987
3. Proposed Zoning Amendments to Bylaw No. 1285, 2002
4. Farming Community Consultation Summary

 <p>Agricultural Land Commission Act</p>	<p style="text-align: right;">Policy L-22 October 2016</p> <p style="text-align: center;">ACTIVITIES DESIGNATED AS A PERMITTED NON-FARM USE: GATHERING FOR AN EVENT IN THE AGRICULTURAL LAND RESERVE ("ALR")</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act](#), 2002, including amendments as of September 2014, (the "ALCA") and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the "Regulation"). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.

REFERENCE:

Agricultural Land Commission Act, S.B.C. 2002, c. 36, Section 1.

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 1(4) and Section 3(4).

Section 3(4) The following non-farm uses are permitted in an agricultural land reserve and must not be prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

(k) gathering for an event, if all of the following conditions are met:

- i. the farm must be located on land classified as a farm under the [Assessment Act](#);*
- ii. permanent facilities must not be constructed or erected in connection with the event;*
- iii. parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;*
- iv. no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;*
- v. the event must be of no more than 24 hours duration;*
- vi. no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.*

Section 1 (4) Definitions:

"gathering for an event" means a gathering of people on a farm for the purpose of attending

- (a) a wedding, unless paragraph (c) (ii) applies,*

(b) a music festival, or

(c) an event, other than

(i) an event held for the purpose of agri-tourism, or

(ii) the celebration, by residents of the farm and those persons whom they invite, of a family event for which no fee or other charge is payable in connection with the event by invitees.

Section 2(2.4) In subsections (2.1) to (2.3):

(f) gathering for an event, if the event is held only in the lounge referred to in paragraph (b) or the special event area referred to in paragraph (c) of this subsection, and, for this purpose, section 3 (4) (k) does not apply.

INTERPRETATION:

Gathering for an event is a permitted non-farm use in the Agricultural Land Reserve and must not be prohibited by a local government bylaw as long as the event meets the conditions set out in the Regulation.

No more than 150 people may be in attendance and the event must be less than 24 hours in duration.

A maximum of 10 events of any type are permitted within a calendar year on a farm. For example, 5 weddings, 2 music concerts and 3 art shows. Where more than one farm business is being operated from a farm, the maximum 10 events applies. It is recommended that a record of events be maintained by the farmer including type of event, date and number of attendees.

There is no requirement for these events to directly market or promote agricultural products grown on the farm and therefore are not considered agri-tourism events.

People hosting events must make every effort to avoid negative impacts to the use of agricultural land including but not limited to, damage to agricultural land and structures, noise that disturbs animals and livestock, trespass, vandalism, theft and blocking access to adjacent farm businesses.

Events may include weddings, private parties, corporate retreats, music concerts and concert series, music festivals, film and theatrical presentations, art shows, dance recitals, charitable and political fundraising events, dances, and sports events, so long as otherwise compliant with the Regulation. Any event that is not an agri-tourism event falls into this category.

The Regulation allows gathering for events in the ALR provided the land is assessed as “farm” under the *Assessment Act*. If the assessment changes, the use is no longer permitted. The farm may be comprised of one or several parcels of land owned or operated by a farmer as a farm business. The farm parcels should be contiguous or in the same general geographic area.

**Attachment 1 – ALC Policy L-22
(Page 3 of 4)**

Permanent facilities must not be constructed or erected for any event activity. Permanent facilities include, but are not limited to: buildings or permanent structures, hard surface parking areas, concrete pads, structural foundations, retaining walls, permanent tents (erected for more than 90 days) and permanent alteration to the landscape (fill, gravel, berms, hills, dugouts, amphitheatres). The conversion of existing buildings and the construction associated with bringing them up to public assembly building code is also deemed as the construction or erection of a permanent facility. If permanent facilities are required, an application and approval of the Commission is necessary.

For the purposes of this policy, parking areas must not be permanent (asphalt, concrete, gravel, etc) and parking must not interfere with the farm's agricultural productivity. All vehicles visiting the farm for the event must be parked on site. To minimize impacting farm land, parking should be along field edges, adjacent to internal farm driveways and roads, and in farm yard areas or immediately adjacent to farm buildings and structures.

Personal family celebrations hosted by the farm owner where no fee is charged continue to be allowed.

This Policy does not apply to agri-tourism activities. See Related Policies.

As per subsection 2.4(f) of the regulation, these conditions do not apply to wineries, cideries, meaderies, breweries and distilleries if the event(s) is held only in the ancillary food and beverage service lounge that has been developed in compliance with section 2(2.4)(b) of the Regulation. Regulation section 3(4)(k) and associated restrictions apply if the event(s) are held outside the lounge area. This means wineries, cideries, meaderies, breweries and distilleries may host an unlimited number of events in their lounge area and an additional 10 events as per section 3(4)(k) held outside the lounge area.

Local governments have the authority to regulate events with regard to structures and building occupancy (including determining if an existing farm building is appropriate for a gathering or requires upgrades for public assembly), parking, lighting, hours of operation, health and safety, noise, access for police, fire and emergency vehicles, etc. Local governments have the authority to require permits for events.

Events in excess of the what is permitted under section 3(4)(k) require an application pursuant to section 20(3) of the Agricultural Land Commission Act and approval of the Commission.

TERMS:

family event means an event attended by

- (a) family members, and
- (b) close personal friends or close business associates of family members

family member with respect to a person means

- (a) parents, grandparents and great grandparents,
- (b) spouse, parents of spouse and stepparents of spouse,
- (c) brothers and sisters,
- (d) children or stepchildren, grandchildren and great grandchildren, and

**Attachment 1 – ALC Policy L-22
(Page 4 of 4)**

(e) aunts, uncles, cousins, nephews and nieces

fee or other charge includes a gift in lieu of a fee or charge given in connection with the event

wedding means the ceremony of marriage or a marriage-like ceremony and/or the reception celebration

music festival means concert or concert series no more than 24 hours in duration

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

RELATED POLICY:

ALC Policy L-04 Activities Designated as a Farm Use: Agri-Tourism Activities in the ALR

ALC Policy L-03: Activities Designated as Farm Use: Wineries and Cideries in the ALR

ALR Policy L-21: Activities Designated as Farm Use: Brewery, Distillery and Meadery in the ALR

Attachment 2

DRAFT REGIONAL DISTRICT OF NANAIMO BYLAW NO. 500.XXX

A Bylaw to Amend Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. This Bylaw may be cited as “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.413, 2017”.
- B. The “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”, is hereby amended as follows:
 1. Under **PART 2, INTERPRETATION, DEFINITIONS** by deleting and adding the following definition in alphabetical order:

agri-tourism means an activity, or services that are ancillary to an activity referred to in the definition of *agri-tourism on a farm* that is carried out on land that is classified as a farm under the Assessment Act, to which members of the public are ordinarily invited, with or without a fee, and in connection with which permanent facilities are not constructed or erected;

2. Under **PART 2, INTERPRETATION, DEFINITIONS** by adding the following definitions in alphabetical order:

agri-tourism on a farm means the following:

- (a) an agricultural heritage exhibit displayed on the farm;
- (b) a tour of the farm, an educational activity or demonstration in respect of all or part of the farming operations that take place on the farm, and activities ancillary to any of these;
- (c) cart, sleigh and tractor rides on the land comprising the farm;
- (d) activities that promote or market livestock from the farm, whether or not the activity also involves livestock from other farms, including shows, cattle driving and petting zoos;
- (e) dog trials held at the farm;
- (f) harvest festivals and other seasonal events held at the farm for the purpose of promoting or marketing farm products produced on the farm;
- (g) corn mazes prepared using corn planted on the farm;

gathering for an event means a gathering on a farm for the purpose of attending:

- (a) a wedding, unless paragraph (c) (ii) applies;
- (b) a music festival; or
- (c) an event, other than:
 - (i) an event held for the purpose of agri-tourism; or

(ii) the celebration, by residents of the farm and those persons whom they invite, of a family event for which no fee or other charge is payable in connection with the event by invitees;

3. Under **PART 3, LAND USE REGULATIONS, Section 3.3 General Regulations** by deleting Subsection 10) a) 1. XIII. and replacing it with the following:

XIII.	Gathering for an Event - All buildings, structures or event areas	15.0 m
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4. Under **PART 3, LAND USE REGULATIONS, Section 3.3 General Regulations** by adding the following Subsection after 3.3.10) a) 1) XIII):

XIV.	All other agricultural buildings and structures	8.0 m
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5. Under **PART 3, LAND USE REGULATIONS, Section 3.3 General Regulations** by adding the following Subsection after 3.3.16) c):

d) Gathering for an Event

- i) As per Section 1 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* on parcels within the Agricultural Land Reserve and where gathering for events is a permitted accessory use in this bylaw, the following general provisions apply:
- a. The farm must be located on land classified as a farm under the *Assessment Act*;
 - b. permanent facilities must not be constructed or erected in connection with the event;
 - c. parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;
 - d. no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;
 - e. the event must be of no more than 24 hours duration;
 - f. maximum site area for events shall not exceed a combined total of 500 m²; and
 - g. no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.

6. Under **PART 3, LAND USE REGULATIONS, Section 3.3 General Regulations** by deleting Subsection 17) and replacing it with the following:

17) Temporary Use Permits for Farmers' Markets and Gathering for an Event

In accordance with the *Local Government Act*, the RDN may support temporary use permits for farmers' markets and gathering for an event on any parcel within the area covered by this bylaw.

The following conditions and criteria will be included in the RDN's consideration of such applications depending on the nature of the application being considered.

- a) Where the land is in the ALR, approval from the Provincial Agricultural Land Commission is required.
 - b) The RDN may specify conditions of approval including, but not limited to, environmental protection measures, hours of operation, buffering between adjacent uses, parking, and groundwater protection and may require the posting of a bond or other applicable security to ensure compliance with the condition of the permit.
 - c) The RDN will consider the impact on local road networks and on-site parking.
 - d) The RDN may consider any other condition or criteria as deemed necessary by the RDN.
7. Under **PART 3, LAND USE REGULATIONS, Section 3.4 Regulations for Each Zone, 3.4.1 AGRICULTURE 1 – AG1** by adding the following Subsection after **3.4.1.1 Permitted Accessory Farm Uses d)**:

e) Gathering for an Event

8. Under **PART 3, LAND USE REGULATIONS, Section 3.4 Regulations for Each Zone, 3.4.2 AGRICULTURE 2 - AG2** by adding the following Subsection after **3.4.2.1 Permitted Accessory Farm Uses d)**:

e) Gathering for an Event

9. Under **PART 3, LAND USE REGULATIONS – SCHEDULE '3B' TABLE 1 REQUIRED NUMBER OF OFF STREET PARKING SPACES** by adding the following text under the **Commercial** Subsection in alphabetical order:

Gathering for Events	1 spot per 4 guests must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity and must be setback 15.0 m from all lot lines.
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Introduced and read two times this ___ day of _____ 20XX.

Public Hearing held this ___ day of _____ 20XX.

Read a third time this ___ day of _____ 20XX.

Approved by the Minister of Transportation and Infrastructure pursuant to the *Transportation Act* this ___ day of _____ 20XX.

Adopted this ___ day of _____ 20XX.

Chairperson

Corporate Officer

Attachment 3

**DRAFT REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1285.XX**

**A Bylaw to Amend Regional District of Nanaimo
Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002**

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. This Bylaw may be cited as “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Amendment Bylaw No. 1285.29, 2017”.
- B. The “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”, is hereby amended as follows:
1. Under **SECTION 2, GENERAL REGULATIONS, 2.9 Setbacks – Buildings and Structure** by deleting Subsection f) 1) XIV. and replacing it with the following:

XIV.	Gathering for an Event - All buildings, structures or event area	15.0 metres
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2. Under **SECTION 2, GENERAL REGULATIONS, 2.9 Setbacks – Buildings and Structures** by adding the following subsection after 2.9 f) 1) XIV:

XV.	All other agricultural buildings and structures	Front and exterior side lot lines 4.5 metres All other lot lines 2.0 metres
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3. Under **SECTION 2, GENERAL REGULATIONS** by adding the following text into Subsection **2.17 Parking – Table 2.2 REQUIRED PARKING SPACES**:

Gathering for Events	1 spot per 4 guests must be available on the farm, but must not be permanent nor interfere with the farm’s agricultural productivity and must be setback 15.0 m from all other lot lines.
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4. Under **SECTION 2, GENERAL REGULATIONS, 2.20 Accessory Farm** Use Regulations by adding the following Subsection after 2.20 5:

6. Gathering for an Event

As per Section 1 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* on parcels within the Agricultural Land Reserve and where gathering for events is a permitted accessory use in this bylaw, the following general provisions apply:

- a. The farm must be located on land classified as a farm under the *Assessment Act*;
- b. permanent facilities must not be constructed or erected in connection with the event;
- c. parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;
- d. no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;
- e. the event must be of no more than 24 hours duration;
- f. maximum site area for events shall not exceed 500 m²; and
- g. no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.

5. Under **SECTION 2, GENERAL REGULATIONS,** by deleting Subsection **2.21** and replacing it with the following:

2.21 Temporary Use Permits for Farmers' Markets and Gathering for an Event

In accordance with the *Local Government Act*, the RDN may support temporary use permits for farmers' markets and gathering for an event on any parcel within the area covered by this bylaw.

The following conditions and criteria will be included in the RDN's consideration of such applications depending on the nature of the application being considered.

- a) Where the land is in the ALR, approval from the Provincial Agricultural Land Commission is required.
- b) The RDN may specify conditions of approval including, but not limited to, environmental protection measures, hours of operation, buffering between adjacent uses, parking, and groundwater protection and may require the posting of a bond or other applicable security to ensure compliance with the condition of the permit.
- c) The RDN will consider the impact on local road networks and on-site parking.
- d) The RDN may consider any other condition or criteria as deemed necessary by the RDN.

6. Under **SECTION 4, ZONES, 4.1 A-1 – AGRICULTURE 1** by adding the following Subsection after 4.1.3 d):

e) Gathering for an Event

7. Under **SECTION 5, DEFINITIONS** by deleting and adding the following definition in:

Agri-tourism means an activity, or services that are ancillary to an activity referred to in the definition of *agri-tourism on a farm* that is carried out on land that is classified as a farm under the Assessment Act, to which members of the public are ordinarily invited, with or without a fee, and in connection with which permanent facilities are not constructed or erected;

8. Under **SECTION 5, DEFINITIONS** by adding the following definitions in alphabetical order:

Agri-tourism on a farm means the following:

- (a) an agricultural heritage exhibit displayed on the farm;
- (b) a tour of the farm, an educational activity or demonstration in respect of all or part of the farming operations that take place on the farm, and activities ancillary to any of these;
- (c) activities that promote or market livestock from the farm, whether or not the activity also involves livestock from other farms, including shows, cattle driving and petting zoos;
- (d) dog trials held at the farm;
- (e) harvest festivals and other seasonal events held at the farm for the purpose of promoting or marketing farm products produced on the farm;
- (f) corn mazes prepared using corn planted on the farm;

Gathering for an event means a gathering on a farm for the purpose of attending:

- (a) a wedding, unless paragraph (c) (ii) applies;
- (b) a music festival; or
- (c) an event, other than:
 - (i) An event held for the purpose of agri-tourism; or
 - (ii) the celebration, by residents of the farm and those persons whom they invite, of a family event for which no fee or other charge is payable in connection with the event by invitees;

Introduced and read two times this ___ day of _____ 20XX.

Public Hearing held this ___ day of _____ 20XX.

Read a third time this ___ day of _____ 20XX.

Approved by the Minister of Transportation and Infrastructure pursuant to the *Transportation Act* this ___ day of _____ 20XX.

Adopted this ___ day of _____ 20XX.

Chairperson

Corporate Officer

Attachment 4 – Farming Community Consultation Summary

Survey Results

The survey was made available through an online website accessible through the RDN Get Involved webpage and also distributed at meetings between the Coombs and Nanaimo-Cedar Farmers' Institute. Of the survey responses submitted to date, seventy-six percent owned land in the Agricultural Land Reserve with eighty percent saying that they had not been negatively impacted by a gathering for an event. Eighty-four percent responded that yes, there should be a minimum distance from a property line where an event can be held, with seventy-five percent saying that the proposed 15.0 metre setback is not large enough. Seventy-one percent responded that they agreed the size of the area where events can be held should be limited, with fifty-six percent saying 500 m² is not reasonable as it is too small of an area for an event. Eighty-three percent of responses said that one parking spot per four guests is not a sufficient amount of parking for an event.

Coombs Farmers' Institute Meeting

Twelve people were present at the meeting between RDN staff and the Coombs Farmers' Institute held on January 24, 2018. At the meeting, the proposed amendments were discussed and it was noted that gathering for an event has not been an issue for farmers in the Coombs area. Discussion around proposed setbacks, maximum event area and minimum parking requirements took place and it was felt that they were insufficient to mitigate disturbances to neighbouring properties from large events. Representatives of the Institute felt that the ALC conditions were sufficient and additional regulations from the RDN are not necessary as there is not an issue with gathering for an event in this area and that the regulations proposed would be onerous and insufficient to mitigate potential issues. Discussion around the benefits of neighbourly respect took place and that an educational brochure emphasizing that these events should be held on an area of the property that will have the least negative effects on neighbours should be pursued.

Nanaimo-Cedar Farmers' Institute Meeting

Eleven people were present at the meeting between RDN staff and the Nanaimo-Cedar Farmers' Institute held on January 25, 2018. Concerns surrounding noise, fire hazards and lack of oversight were raised in relation to gathering for an event in the Cedar area. Discussions ensued around the potential for a RDN permitting/declaration process to require anyone wishing to host a gathering for an event to attain a permit from the RDN. The lack of oversight for these events was a concern as it was felt many property owners hosting these events were not aware of all applicable regulations (BC Fire Code, Island Health regulations, RDN bylaws, etc.) that pertain to them, putting themselves, neighbours and guests of the event at risk. Methods to require property owners interested in pursuing/hosting these events to come into the RDN and receive educational information on how to proceed in compliance with all applicable regulations were discussed. It was suggested that educational information be made available to property owners in the ALR through a mail out and online as this would be a means for prospective hosts and neighbouring property owners to be properly informed of all regulations surrounding these events.

The proposed bylaw amendments were discussed and members present at the meeting felt that one set of regulations would not fit all properties as each is unique in size and topography. It was suggested that a tiered system be investigated making larger lots be subject to larger setbacks and maximum event areas and smaller lots be subject to smaller setbacks and maximum event areas.

AAC Comment and ALC Decisions – February 2014 to February 16, 2018

AAC has been providing comment on applications to the Provincial ALC in accordance with RDN Board Policy B1-08 *Review of Provincial Agricultural Land Reserve Applications* since February 2014. In that time the AAC has provided comment on 22 applications to the ALC. For information on recent and archived ALC applications and decisions, visit the ALC webpage at <http://www.alc.gov.bc.ca/alc/content/applications-and-decisions/search-for-applications-and-decisions>. The applications, AAC comment and ALC decisions are summarized in the following table:

Application No	Application Type	Agent, Owner	Civic Address , Property Legal	EA	AAC Recommendation	ALC File No	ALC Decision
PL2014-005	Inclusion	C & F Land Resource Consultants Ltd; 0848214 BC LTD	Island Highway, Lot A District Lot 90 and of Block 359 Newcastle District Plan VIP67156	H	None provided	53673	Approved 06/06/2014
PL2014-010	Subdivision	Ken and Shannon Carifelle, and Shirley Daines	2455 Holden Corso Road & 1617 Rugg Road, East 40 Acres Of Section 16, Range 2, Cedar District, Except Part In Plan 29623 And 42171	A	Approval	53680	Refused 04/28/2015
PL2014-013	Subdivision	Donna and Walter Paravicini	531, 533, 539 Parker Road West, Lot 10, District Lot 78, Newcastle District, Plan 2047	G	None provided	53681	Refused 08/31/2015
PL2014-017	Subdivision	Turner Land Surveying; Dennis Paugh	2670 McLean's Road, The East 20 Chains Of Section 7, Range 3, Cranberry District, Except That Part In Plan 36845	C	Approval	54215	Refused 06/03/2016
PL2014-027	Subdivision	Fern Road Consulting Ltd; Maz-Can Investments Ltd.	2729 Parker Road, Lot 3, District Lot 67, Nanoose District, Plan 29941, Except Part In Plan Epp51762	E	Approval	53723	Approved 05/13/2015
PL2014-051	Subdivision	J. E. Anderson & Associates; Steve Vogel	2560 Grafton Ave. & 2555 Tintern Road, Lot 51, District Lot 8, Cameron District, Plan 1981 Except The Westerly 4.96 Chains	F	Approval	53789	Refused 05/07/2015
PL2015-057	Nonfarm Use	John, Allan and Joan Wild	640 Grovehill Road, LOT 9 (DD 51005N), District lot 90, Newcastle District, Plan 1874, Except Part in Plan VIP52920 AND Plan VIP73941	H	Approval	54288	Approved 11/05/2015

PL2015-160	Subdivision	Wendy Hutbatch	2116 Alberni Highway, Lot 12, Salvation Army Lots, Nanoose District, Plan 1115, Except Part In Plan 734 RW	F	None provided	55109	Refused 08/25/2016
PL2015-177	Subdivision	Elizabeth Puckering; Howard Fowler	Virginia Road, That Part of Lot 1, District Lot 141, Nanoose and Newcastle Districts, Plan 2273	F	None provided	54599	Refused 09/09/2016
PL2016-034	Subdivision	RDN; Eric and Betty Hodgson, Sucha Ollek	2070 Akenhead Road, Section 12, Range 8, Cranberry District, Except Parcel A	A	Approval	54876	Refused 11/21/2016
PL2016-035	Nonfarm Use	Sims and Associates/Fern Road Consulting; Earthbank Resource Systems Ltd.	1330 Hodge's Road, Lot 1, Plan EPP16024 & Lot C, Plan VIP80909	G	Approval	54982	Refused 08/24/2016
PL2016-042	Nonfarm Use	Corinna Kral, Victor Lassam, Doreen Lassam, Tammy Raynor, Shane Lassam	2602 Holden Corso Road, That Part Of Section 17, Range 3, Cedar District, Lying To The West Of The Westerly Boundary of The West 5 Chains of The East 60 Acres of Said Section, Except The South 10 Chains of The West 12 Chains of Said Section, And Except Part In Plans 16643, 18872	A	Approval	55086	Refused 08/08/2016
PL2016-064	Nonfarm Use	Arbor Memorial Inc.	2347 & 2419 Cedar Road, Lot A Sections 8, 9 And 10 Range 1 Cedar District Plan Vip76153	A	Approval Area 1 Non Approval Area 2	55251	Approved Area 1 11/21/2016 Refused Area 2 11/21/2016
PL2016-096	Subdivision	Rodney Edwards & Laurie Kallin	6617 Doumont Road, That Part of Lot 1, District Lot 35, Wellington District, Plan 3225	C	Non Approval	55410	Refused 01/30/2017
PL2016-097	Nonfarm Use	Culverden Holdings Ltd. / Seven Springs Camp and Retreat Centre	1888 Kaye Rd, Lot 1, District Lot 171 and Block 564, Nanoose District, Plan VIP71158	E	Approval	55354	Refused 12/21/2016
PL2016-151	Exclusion	Mazzoni & Associates Planning; Ezra Cook Holdings Ltd. Inc. No. 458302	7955 Island Highway West, District Lot 14, Newcastle District, Except The Esquimalt And Nanaimo Railway Company Right Of Way As Said Right Of Way Is Shown Coloured Red On DD 4433n	H	Approval	55717	Cancelled 07/13/2017

PL2016-155	Non-Farm Use (Placement of Fill)	Dean Kauwell, Erica Rudischer	2642 Maxey Road, Lot 2, Sections 17, And 18, Range 5, Mountain District, Plan 40319	C	Approval	55804	Approved 05/15/2017
PL2016-158	Non-Farm Use	Clarke Gourlay, Morningstar Springs Farm Ltd.	403 Lowry's Road, Lot 2, District Lots 19 & 83, Nanoose District, Plan EPP16024	G	Approval	55827	Approved 02/28/2017
*PL2016-189	Exclusion	Cox Taylor; Gene and Gloria Martini	1155 and 1169 Leffler Road, Lot 1, District Lot 139, Nanoose District, Plan 18583	F	Approval	55899	Refused 09/26/2017
PL2017-013	Non-Farm Use	Discover Montessori Society / 565832 BC Ltd., Inc. No.BC0565832	3452 Jingle Pot Road, The easterly 60 acres of section 16, range 3, mountain district, except that part in plan 29404, VIP68415, VIP68636 and VIP 72060	C	Approval	55883	Approved Alternate 06/26/2017
*PL2017-030	Subdivision	Glenn Dawson/Thomas Hoyt	2298 Northwest Bay Road, Lot 1 District Lot 62 Nanoose District Plan 37368	E	None Provided	56569/ 55706	Refused 10/16/2017
PL2017-048	Non-Farm Use	Raymond and Hilary Tinkling	1384 Tyler Road, The East 1/2 of Block 24, District Lot 140, Nanoose District, Plan 1918 Except That Part In Plan 22868	F	None Provided	55659	Refused 08/23/2017
*PL2017-064	Subdivision	Mora Benson	Yellow Point and 2437 Quennell Road, The North 1/2 Of Section 8, Range 2, Cedar District, Except That Part In Plan 8303; and Lot 1, Section 8, Range 3, Cedar District, Plan 12737, Except Part In Plan 44022	A	None Provided	56488	Refused 02/08/2018

**New decision/change (three) since the last regular AAC meeting of September 17, 2017.*



January 26, 2018

File: 0280-30

Dear Stakeholder:

The Minister of Agriculture, the Honourable Lana Popham, has established an independent advisory committee to provide strategic advice and policy guidance on revitalizing the Agricultural Land Reserve (ALR) and the Agricultural Land Commission (ALC). The Minister's Advisory Committee (Advisory Committee) is responsible for delivering recommendations through consultation and engagement with stakeholders and the general public. The Advisory Committee is tasked with a forward-looking focus on the future of the ALR and ALC.

The Advisory Committee is seeking the input of farmers, ranchers, agricultural industry groups and other stakeholders across the province, to help inform their recommendations. It is the Advisory Committee's hope to change the conversation about agricultural land preservation from the short-term to the long-term in order to more fully support and enable agriculture in BC well into the future.

To guide consultation and engagement and support recommendations to the Minister, the Advisory Committee has identified three general ALR and ALC revitalization objectives:

1. Preserve the productive capacity of land in the ALR;
2. Encourage farming of land in the ALR for uses related to agriculture and food production; and,
3. Strengthen the administration and governance of the ALR and ALC to both increase public confidence and to ensure that land use regulation and land use decisions are preserving agricultural land and encouraging farming and ranching in the ALR.

You are invited to participate in a regional stakeholder consultation. Please refer to your email for the specific date, location and RSVP date. Please RSVP to:

ALR_ALCRevitalization@gov.bc.ca

If you cannot attend a consultation, other equally important opportunities for participation in this engagement include written submissions and an online survey, which will be available in February via the BC Government's engagement website.

.../2

In order to help stimulate discussion, a Discussion Paper will be sent to you prior to the engagement session. This paper identifies some of the important themes the Advisory Committee would like to discuss, along with any other issues or ideas you would like to raise.

The Advisory Committee looks forward to meeting with you and hearing your views.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jennifer Dyson', written over a light blue grid background.

Jennifer Dyson, Chair
Minister's Advisory Committee on Revitalizing the ALR and ALC

Minister of Agriculture’s Advisory Committee
Revitalizing the Agricultural Land Reserve and the Agricultural Land Commission
Discussion Paper for Stakeholder Consultation and Public Engagement

Minister of Agriculture’s Advisory Committee

The Minister of Agriculture, the Hon. Lana Popham, was tasked in her mandate letter with “Revitalizing the Agricultural Land Reserve (ALR) and the Agricultural Land Commission (ALC)”. To deliver on this important commitment, the Minister established an independent advisory committee to provide the Province with strategic advice and policy guidance.

The Minister announced the Minister’s Advisory Committee (Advisory Committee) members on January 4, 2018. The Advisory Committee has been tasked with delivering to the Minister a set of interim recommendations by spring 2018. The guiding principles for the Advisory Committee’s work include:

- Focus on the future of the ALR and ALC
- Evaluate policy issues that inhibit the purposes of the ALR and ALC
- Evaluate what is working well
- Develop recommendations that:
 - work toward improving the purposes of the ALR and ALC;
 - clearly identify the issues, goals and objectives that will strengthen the ALR and ALC in pursuing the purposes;
 - suggest a strategy on how to achieve the goals and objectives;
 - include, where possible, data/information that validates the issue as defined; and,
 - are legally sound and are achievable.

Stakeholder Consultation and Public Engagement

The Advisory Committee is responsible for delivering recommendations through consultation and engagement with stakeholders and the general public, with secretariat support from the Ministry of Agriculture (the Ministry). In examining measures to revitalize the ALC and ALR, stakeholders and the public will be asked to consider the purpose of the ALC as set out in Section 6 of the *Agricultural Land Commission Act* (the Act):

- (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.

The Advisory Committee consultation and engagement activities in early 2018 will include:

- Providing this background Discussion Paper with a view of seeking opinions and feedback on issues that will lead to the revitalizing of the ALR and ALC;
- Regional meetings to hear opinions and feedback directly from key stakeholders in farming and ranching communities. Meetings are expected to be held in Abbotsford, Cranbrook, Fort St. John, Kelowna, Kamloops, Nanaimo and Prince George; and,
- An online consultation process/survey to seek opinion and feedback from other stakeholders and interested parties.

The Advisory Committee will use the consultation process, along with other information, to develop its recommendations to the Minister. The recommendations may include changes to the current legislative, regulatory, and administrative framework that guides the ALR and the ALC.

It should be noted that this Discussion Paper is intended to stimulate conversation during the consultation process. It is not intended to direct participants toward specific issues, questions or outcomes.

Revitalization Objectives

To date, the Advisory Committee has identified three general objectives:

1. Preserve the productive capacity of land in the ALR;
2. Encourage farming of land in the ALR for uses related to agriculture and food production; and,
3. Strengthen the administration and governance of the ALR and ALC to both increase public confidence and to ensure that land use regulation and land use decisions are preserving agricultural land and encouraging farming and ranching in the ALR.

Common Issues/Themes

Upholding the integrity of the ALR, the ALC and the agricultural land base is critical. This conversation seeks to ensure there is a legacy of farmland for future generations of British Columbians. Common issues and themes raised to date include:

1. A Defensible and Defended ALR:

During the past 45 years, the ALR boundary has been refined through early boundary reviews, local government land use planning exercises and over 48,000 individual applications. The ALR boundary is often viewed as temporary and adjustable. The perspective that the ALR is available for urban uses perpetuates land use pressure on farmland. Continued speculation of this nature results in a focus on applications made by individual landowners to modify the ALR and detracts from pro-active work such as focussing on regional-level land use planning, analysis of permitted uses and the preservation and encouraging farm use mandate.

2. ALR Resilience:

Pressure for non-agricultural uses persists on the ALR land base and on the administrative body (the ALC) that oversees it. The ALR, ALC, and agriculture in BC should be stable and resilient for generations to come.

3. Stable Governance:

The ALC governance and decision making model can be easily changed through legislative amendments and changing government direction. The ALC's independence is often threatened from interests outside of the ALC. Independence is vital to strengthening the ALC and ALR into the future. More information about ALC governance can be found on the [ALC Operations & Governance](#) webpage.

4. Efficacy of Zone 1 and 2:

The passage of Bill 24 in May 2014 introduced amendments to the Act that included the division of the ALR into Zone 1 and Zone 2.

Zone 1: Includes Vancouver Island, South Coast, and Okanagan Panel regions.

Zone 2: Includes Interior, Kootenay, and North Panel regions.

In Zone 1, land use decisions are based on the agricultural purposes of the ALC laid out in section 6 of the ALC Act. The Act considers preservation of agricultural land, encouraging farming in collaboration with other communities of interest; and encourages local governments, First Nations, and other agencies to enable farm use and uses compatible with agriculture in their plans, bylaws and policies.

In Zone 2, the Commission is required to consider the agricultural purposes of the Commission (Section 6 of the Act as identified above), as well as Section 4.3 of the Act pertaining to economic, cultural and social values, and regional and community planning objections.

More information about Bill 24 amendments can be found on the [ALC Act and ALR Regulation](#) webpage. For example, the Regulation was amended to include additional uses that allow a residential lease for a retiring farmer to remain on their property subject to conditions, and to allow a second single family dwelling if the property is at least 50 hectares and subject to conditions of siting of structures.

5. Interpretation/Implementation of the Act and Regulation:

As drafted, parts of the Act and Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the Regulation) are 'permissive', which means that it lists the activities that are permitted in the ALR without requiring approval of the ALC; it does not list what activities are not permitted. In some instances, definitions, criteria, thresholds, and intent of the Act and Regulation are interpreted differently by local governments, ALR land owners, farmers and ranchers and the general public across the province. There is a need for clearer regulations and consistency in interpretation. The ALC is not aware when a permitted activity takes place or when a permitted activity is misinterpreted.

6. Food Security and BC's Agricultural Contribution:

Concern over the source and quality of food we eat has raised public attention to the issue of food security and to the long-term ability of the ALR to provide a safe and adequate agricultural land base to accommodate continuous, secure food production for domestic consumption and export. Often agriculture's vital role in the BC economy and the potential for export and trade opportunities is forgotten in the discussion around competing land uses. More information on BC's Agrifood and Seafood Sector contributions can be found on the Ministry of Agriculture's Agriculture and Seafood Statistics webpage.

7. Residential Uses in the ALR:

Additional dwellings, farm worker housing, "mega homes" and 'lifestyle estates' in the ALR occupy agricultural land. In some circumstances additional dwellings are necessary for intensive agricultural operations; however there is also demand on the ALR for additional dwellings solely for residential purposes. When there is a subdivision of ALR land, it is usually for development of another parcel and residence. In addition, the large footprint occupied by "mega homes" and acreages purchased for lifestyle estates (with little or no agricultural production) has raised concerns about use of arable land for housing and increased residential assessment values of ALR land. While not currently legislated provincially, some local governments have adopted restrictions on sizing and siting of residential uses in the ALR.

8. Farm Processing and Sales in the ALR:

The Regulation permits landowners in the ALR to process and retail farm products on a parcel of land subject to criteria that attempts to ensure that the product is associated with the farm or a registered co-operative. The Regulation affords farmers and ranchers the ability to produce "value added" products (e.g. berry processing, alcohol production, farm stands). Processing and retail facilities range in size and sometimes incorporate other ancillary uses such as parking lots, food services, patios, galleries, event spaces, meeting rooms, etc.; however, there is concern that some facilities are occupying large areas of arable ALR land with little connection to agricultural production on the farm. There is also concern that ALR land is purchased for the other ancillary permitted uses, but there is no agricultural production (i.e. building a retail store with extremely limited farm products for sale).

9. Unauthorized Uses:

Agricultural land is sometimes used for unauthorized non-agricultural uses and some landowners expand beyond what is permitted. ALC Compliance and Enforcement officers currently handle between 300 to 400 files annually related to complaints, investigations, or actions on unauthorized uses. Some of these unauthorized uses include illegal filling (e.g. dumping soil, construction waste, concrete), commercial uses (e.g. commercial truck parking, recreational vehicle storage, scrap vehicle yards), and residential uses (e.g. additional dwellings). These activities may directly damage the agricultural land base and in some cases the damage is permanent. These activities can sometimes be more damaging to agricultural land than applications for exclusion considered by and approved by the ALC.

10. Non-Farm Uses and Resource Extraction in the ALR:

Other activities, from agri-tourism and agri-tourism accommodation to resource extraction such as oil and gas and aggregate (sand and gravel) can take place in the ALR. Concerns about cumulative impacts of these activities and remediation of agricultural land have been raised.

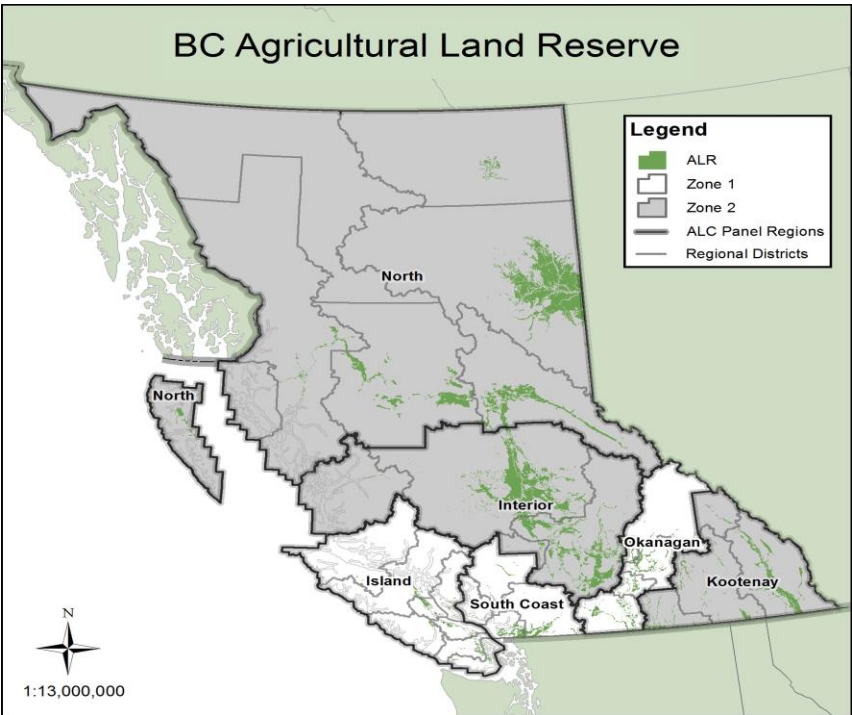
Background

BC’s current approach to the ALR attempts to balance the needs of farmers and ranchers to carry out their daily work with the need for land use decision-making that best supports Government’s goals and objectives for the ALR.

The ALR

The ALR was a bold initiative in 1973 that acknowledged that BC has a limited agricultural land resource which should be available for current and future generations of farmers and ranchers to operate agricultural businesses for local consumption and export. Soil is most fertile in valley bottoms where other competing land uses including urban development also take place. The ALR was established in the face of rapidly expanding urban areas and non-farm development in rural areas.

Approximately five percent of BC’s land base is within the ALR, a provincial zone within which agriculture is recognized as the priority activity. The ALR includes public (Crown) and privately held land in all regions of the province.



The ALC

The ALC is an independent administrative tribunal dedicated to preserving agricultural land and encouraging farming in BC. The ALC occupies a distinctive role within the Canadian legal system. While it is part of “government” broadly defined, it is not part of any government ministry. The ALC is instead part of the Canadian community of independent administrative tribunals, vested with important statutory powers, whose members are obliged to exercise those statutory powers in accordance with the law.

The *Agricultural Land Commission Act* (the Act) empowers the ALC to delegate certain decision making powers, allowing local government and other authorities to make non-farm land use and subdivision decisions in the ALR. For more information, see the [ALC Delegation of Decision Making](#) webpage.

The ALC has been preserving agricultural lands for 45 years through its land use planning work with local governments and decision making on land use applications. The ALR forms the foundation for the business of agriculture in BC. When the ALR was designated it was done so with a long-term focus knowing that pressures on this limited resource would only increase with time. The ALR and the ALC enjoy strong and consistent public support.

The ALC is mandated to encourage others, including the provincial government and its agents, to take the interests of the ALR and agriculture into account when generating new policies, participating in land use planning initiatives, changing legislation and regulation, and planning for future developments.

Government ministries and agencies can have considerable impact on agricultural land through such things as transportation planning, wildlife habitat management and conservation, forest and water management and energy planning. Accordingly, the ALC is both proactive and collaborative in working with ministries, supporting and helping them to implement their plans, bylaws and policies to enable and accommodate farm use of agricultural land and/or to support uses compatible with agriculture.

As set out in the Act, Commissioners are individuals knowledgeable in agriculture, land use planning and local and First Nations governments, and are supported by an ALC staff secretariat to carry out Commissioners duties under the Act.

The Legislation

The *Agricultural Land Commission Act* (the Act) sets the legislative framework for the establishment, administration, and procedures of BC’s agricultural land preservation program. The Act is the high-level statute that sets out principles and broad rules for the protection of agricultural land in BC. The Act takes precedence over, but does not replace other legislation and bylaws that may apply to the land. Local and regional governments, as well as other provincial agencies, are expected to plan and make decisions in accordance with the provincial policy of preserving agricultural land.

While the purpose of the Act has remained generally the same with some minor changes over 45 years, there have been a series of major changes to the Act and Regulation as well as the ALC's structure and operations over the past 3.5 years. For more information about these changes, please see the [ALC Act and ALR Regulation](#) webpage.

The Regulation

[The Regulation](#) identifies specific land uses allowable on farmland in the ALR without an application to the ALC. Current examples include such things as growing plants and raising animals, putting up buildings necessary for farm use, selling agricultural products direct to the public as well as specified farm and non-farm activities such as the construction of buildings for alcohol production, farm product processing, agri-tourism activities, gatherings for events, agri-tourism accommodation, additional dwellings, home based businesses, composting operations, deposition of fill and removal of soil, and others. The Regulation is a permissive regulation, meaning that it lists the activities that are permitted in the ALR without requiring approval of the Commission. Any activities not permitted by the Regulation require an application to and approval of the ALC.

The Regulation also sets out the process for making an application to include and exclude land from the ALR, use ALR land for activities not permitted in the Regulation and subdivide land within the ALR. The Ministry maintains the Act and the Regulation.

Local Governments and the ALR

Approximately 150 BC local governments have lands in the ALR, some extensive, and others not. Local governments play an important role in enabling farm businesses to thrive on protected farmlands, therefore contributing to the local, regional and provincial economy. The ALC supports coordinated and collaborative planning with local governments to ensure agricultural lands are protected and available to provide food and other agricultural products for generations to come.

Through the *Local Government Act* (LGA) and the *Community Charter*, which fall under the responsibility of the Minister of Municipal Affairs and Housing, the Province has delegated community planning and zoning bylaw powers to local governments, provided they are consistent with the Act and the Regulation. For more information, see the [ALC Working with Local Government](#) webpage.

Public Feedback

The Minister of Agriculture has directed the Advisory Committee to consider the future of BC's land base for agriculture and farming, fairly and without bias, in order to improve the ALR and the ALC. While the ALR and the ALC generally enjoy strong public support, the issues, themes and information in this Discussion Paper highlight some of the areas for improvement and for strengthening BC's agricultural land preservation system.

On behalf of the Advisory Committee, the Ministry of Agriculture will provide further information to the public through news releases during the stakeholder consultation and public engagement process. Feedback from stakeholders and the public will help the Advisory Committee provide substantive recommendations to the Province for revitalizing the ALR and the ALC. For questions about how to provide input and feedback, please email ALR_ALCRevitalization@gov.bc.ca.

Written Submissions

In addition to regional stakeholder consultation meetings, there are several ways to provide written feedback to the Advisory Committee by:

- Mail:
Minister's Advisory Committee
Revitalization of ALR and ALC
C/o Ministry of Agriculture
PO Box 9120
Stn. Prov. Govt.
Victoria BC V8W 9B4
- Email: ALR_ALCRevitalization@gov.bc.ca
- Online survey: An online survey will be initiated in February 2018 to seek feedback from the general public.

Appendix 1 – Ministry of Agriculture News Release

For Immediate Release

2018AGRI0002-000009

Jan. 4, 2018

Ministry of Agriculture – NEWS RELEASE

B.C. farmers, communities, public to shape revitalization of the Agricultural Land Reserve

VICTORIA - An independent committee with members from diverse agricultural backgrounds and experiences will lead the revitalization of the Agricultural Land Reserve (ALR) and the Agricultural Land Commission (ALC) through an authentic and meaningful consultation process with stakeholders and British Columbians, Minister of Agriculture Lana Popham announced today.

"I am proud and grateful to have attracted British Columbians with the knowledge, expertise, passion and experience that the committee members possess for agriculture," said Popham. "The ALR and the ALC are incredibly important to the health and economic well-being of our province's future, and making it easier and more efficient for the commission to fulfill its mandate of protecting farmland and encouraging farming is a commitment the B.C. government is delivering on."

The nine-member Minister of Agriculture's Advisory Committee will provide strategic advice, policy guidance, and recommendations on how to help revitalize the ALR and ALC to ensure the provincial goals of preserving agricultural land and encouraging farming and ranching in British Columbia continue to be a priority. The committee will be chaired by Jennifer Dyson, with members from throughout the province with diverse agricultural knowledge and experience.

"As we embark on this consultation, our collective mandate is to ensure that the ALC and agriculture is positioned for the future," said Dyson. "I am asking that each of our review committee members listen to what is being said, honestly, impartially, professionally and in a principled fashion. I am looking forward to the conversations."

Beginning in early 2018, the committee will:

- Share a consultation paper to seek opinions and feedback on revitalizing the ALR and ALC;
- Host regional meetings to hear opinions and feedback directly from the local farming and ranching communities in Abbotsford, Cranbrook, Fort St. John, Kelowna, Kamloops, Nanaimo and Prince George; and
- Open an online consultation process to seek public opinion.

The committee will use the input it receives during the consultation process to develop recommendations for the provincial government's consideration. The recommendations may include changes to the current legislative, regulatory, and administrative framework to revitalize the ALR and the ALC. Any legislative changes that support the revitalization of the commission and the reserve are targeted for late 2018 or early 2019.

The ministerial mandate letter for the Minister of Agriculture identifies as a priority the revitalization of the Agricultural Land Reserve and the Agricultural Land Commission, an independent administrative tribunal dedicated to preserving agricultural land and encouraging farming and ranching in British Columbia.

Contact:

Dave Townsend

Government Communications and Public Engagement Ministry of Agriculture

250 356-7098

250 889-5945 (cell)

Appendix 2 – Minister’s Advisory Committee Members: Biographies

Jennifer Dyson (Chair)

Jennifer Dyson has been involved in many aspects of agriculture; as a producer, consultant, chair, commissioner and industry member. Dyson has participated in the Partnership Committee on Agriculture and the Environment, Environmental Farm Plan Working Group, and Island Agri-Food Initiative. She was appointed to the Agricultural Land Commission in 2008 and served as chair of the Island Panel until 2017. Dyson served the agriculture industry, province and federal government as the executive director of the Agricultural Workforce Policy Board formed to respond to human resources challenges. Dyson was one of a handful of people who formed the Island Farmers Alliance and served as the Western Women’s representative appointed by the BC Agriculture Council to the Canadian Federation of Agriculture. Dyson and her family operate an innovative water buffalo dairy and direct farm market in the Alberni Valley.

Vicki Huntington

Victoria Huntington is a native of Vancouver and has a degree in political science. She spent much of her early career in the RCMP security service and subsequently working with ministers of the Crown in Ottawa. She served five terms as an elected councillor in the municipality of Delta. Huntington was elected as an Independent MLA for Delta South in May 2009 and re-elected in May 2013. She was the first Independent elected to the BC Legislature in over 60 years and her re-election as an Independent is a first in modern BC political history. She recently retired in 2017. Huntington served as band manager for the Gitanmaax Indian Reserve in Hazelton, subsequently becoming a policy assistant to the federal Minister of Indian Affairs and Northern Development. She was vice-chair of the Lower Mainland Treaty Advisory Committee (LMTAC) and its representative on the Provincial Treaty Negotiating Team. Huntington has shown a particular interest in environmental and agricultural matters.

Chief Byron Louis

Chief Byron Louis has over 25 years of knowledge and experience, at various levels of the political spectrum. First, elected to Council in 1991, then designated as chair of the Okanagan Nation Fisheries Commission in 1995 and as a title and rights advisor at the Tribal Council and regional level, and political liaison designate with U.S.-based tribal, public and private utilities (hydroelectric generation) and state and federal authorities. Over the course of his career he has served in various facets of political office involving natural resource management, economic development, public works, community planning, liaison and strategic development and negotiation with various levels of senior government and the private sector. Louis continues to work extensively on First Nations social and economic issues and interests and is currently Ministry of Agriculture serving his fourth term as Chief of the Okanagan Indian Band. In 2015, he took on the role of director with the New Relationship Trust, an independent non-profit organization dedicated to strengthening First Nations in BC through capacity building.

Lenore Newman

Lenore Newman holds a Canada Research chair in Food Security and Environment at the University of the Fraser Valley, where she is an associate professor in the department of geography and the environment and the director of the Centre for Food and Farmland Innovation. She runs a research program focused on farmland preservation, agriculture on the rural/urban fringe, culinary development, and food innovation, and consults widely on how to protect the world's farmland while growing the agricultural industry. Her opinion pieces on the future of farmland use and other food-related issues have been published in the *Globe and Mail*, the *Vancouver Sun*, and the *Georgia Straight*. Her first book, *Speaking in Cod Tongues: A Canadian Culinary Journey*, was published in 2017. She holds a PhD in environmental studies from York University. Newman is a member of the Royal Society of Canada's New College, and the patron of the Newman Heritage Farm. She splits her time between Vancouver and the Sunshine Coast.

Chris Kloot

Chris Kloot was born and raised on a dairy farm in Chilliwack. Today, with his wife and sons, he owns and operates a poultry farm in Rosedale, just east of Chilliwack. Recently, the pair became partners in the purchase of a vacant dairy farm with the intent to branch into dairy farming, as all three of their sons work on dairy farms and display a natural affinity for the industry. Kloot is also a real estate agent, and is serving his first term on Chilliwack City Council. His tremendous passion for agriculture has been recognized by the council. Kloot is the chair of the city's Agricultural and Rural Advisory Committee and was instrumental in the implementation of the Farm Home Plate bylaw in 2017. He is a member of the Chilliwack Agricultural Commission and devoted to the promotion and success of agriculture and agri-business in Chilliwack. You may recognize him as one of the lead roles in the flashy humorous action trailer of the "Chicken Squad", a savvy innovative online marketing campaign to promote BC Chicken and share accurate facts to educate consumers about Canadian chicken growing practices. This was produced in 2014 by the BC Chicken Marketing Board and BC Chicken Growers Association.

Shaundehl Runka

Shaundehl Runka has worked in land-use planning and resource management in British Columbia since the early 1990s. With a background in geography, Runka operated as a consultant dealing with a broad range of land- and water-use issues, across all regions of the province. In 2001, Runka joined the Agricultural Land Commission (ALC) as a policy analyst, ending her career there in early 2017 in the policy planner position. Runka gained extensive experience interpreting the *Agricultural Land Commission Act*, regulation and policies and in working with Agricultural Land Reserve (ALR) stakeholders throughout the province on a day-to-day basis. During her tenure at the ALC, she participated in legislative and regulatory reviews and carried out an extensive re-write of ALC policies to reflect government direction and the commission mandate. Runka was raised in the Okanagan Valley, has lived in Vancouver for

30 years and is co-owner of a family farm in Baldonnel in the Peace region. Her professional life has taken her to all regions of the province.

Irmi Critcher

Irmi Critcher and her husband Barry own and operate a first generation grain and oilseed farm.

The 1,600 hectare farm is located near Taylor, in the Peace River District. Critcher has always taken a very active role on the farm and jointly manages it with her husband. They have been farming for over 25 years and grow wheat, barley, oats, canola, peas and grass seeds. Critcher has been the past president of the BC Grain Producer's Association and has held director positions on provincial and federal agriculture Industry boards including the BC Grain Industry Development Council, Investment Ag Foundation and Grain Growers of Canada. She has chaired numerous committees within these associations including Localized Crop Research, Environment and Climate Action Initiatives.

Arzeena Hamir

Arzeena Hamir is a farmer and agronomist from the Comox Valley. She earned her bachelor's degree in crop science from the University of Guelph and her master's degree in Sustainable Agriculture from the University of London, England. In 2007, she spoke at her first city council meeting to save the Garden City Lands in Richmond. Since then, she has advocated for community food security, farmland conservation and supports for new farmers. She is currently president of the Mid Island Farmers Institute and a director of the Investment Agriculture Foundation.

Brian Underhill

Brian Underhill worked in varying capacities at the Agricultural Land Commission (ALC) since 1980 and most recently, he was the ALC's deputy chief executive officer, before retiring in 2015. In his leadership role, Underhill was responsible for the management and administration of the ALC staff secretariat which included functions related to land-use planning, policy development and interpretation, as well as compliance and enforcement and land information services. Underhill worked closely with the chair of the ALC and its appointed commissioners, providing strategic advice and recommended courses of action. He also performed statutory land-use decision-making duties, consultation and co-ordination with local governments throughout the province and collaboration with provincial government ministries, agencies and other administrative tribunals to ensure consistency between policies and legislation and community and regional planning and the *Agricultural Land Commission Act* and regulations. By way of his experience at the Agricultural Land Commission, his background in geography and resource management studies and extensive travel throughout the province, Underhill has developed considerable knowledge of land-use issues in relation to community planning and the agriculture industry. Underhill resides in Vancouver and has a special interest in promoting education and awareness of farmland protection and how it is related to the provincial policy to preserve agricultural land and encourage farming throughout British Columbia.

Appendix 3 – Background Information

- Farm Credit Canada Reports

<https://www.fcc-fac.ca/en/about-fcc/governance/reports/2016-fcc-farmland-values-report.html>

- ALC Annual Reports

<https://www.alc.gov.bc.ca/alc/content/library/commission-reports>

- ALC Act and the ALR Regulation and Recent Amendments

<https://www.alc.gov.bc.ca/alc/content/legislation-regulation/the-alc-act-and-alr-regulation>

- ALC’s Delegation of Decision Making

<https://www.alc.gov.bc.ca/alc/content/about-the-alc/working-with-local-governments/delegation-to-local-governments>

- ALC’s Working with Local Governments

<https://www.alc.gov.bc.ca/alc/content/about-the-alc/working-with-local-governments>

- ALC website Library

<https://www.alc.gov.bc.ca/alc/content/library>

- ALR Values and Benefits

<https://www.alc.gov.bc.ca/alc/content/alr-maps/living-in-the-alr/alr-values-and-benefits>