



Agricultural Land Commission
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June 4, 2007

Reply to the attention of Terra Kaethler
ALC File: # L - 37119

Mercon Engineering (1988) Ltd
340 - 1414 - 8th Street, S.W.
Calgary, AB T2R 1J6

Dear Sir:

Re: Application to subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 231/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'E. Karlsen', is written over the printed name. The signature is fluid and cursive.

Erik Karlsen, Chair

cc: Regional District of East Kootenay (#P-706-612)

Enclosure: Minutes



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 16, 2007 in Cranbrook, BC.

PRESENT:	Monika Marshall	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	D. Grant Griffin	Commissioner
	Brandy Ridout	Staff

For Consideration

Application: # L - 37119
Applicant: Seel Forest Products
Agent: Mercon Engineering (1988) Ltd
Proposal: Subdivision for a relative. To subdivide the 162 ha subject property to create a 8.5 ha property for applicant's daughter. The 8.5 ha property created would encompass existing home and outbuildings on the property.
Legal: PID: 005-723-884
Parcel A (See 195988), District Lot 351, Kootenay District
Location: 3674 Highway 95, Brisco

Site Inspection

A site inspection was conducted on March 21, 2007. Those in attendance were:

- Monika Marshall Chair, Kootenay Panel
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Terra Kaethler Staff
- Eugen Seel Applicant
- Peter Mulick Agent

Mr. Seel confirmed that the staff report dated March 7, 2007 was received and no errors were identified. It was pointed out by the applicant that he had originally wanted a smaller lot (2.5 - 4 ha), but that the Regional District required a minimum lot size of 8 ha.

During the site inspection, the Commissioners walked the lower portion of the property, noting the location of the proposed new lot. During its discussions following the site visit, the Commission determined that it was necessary to see topographical maps of the property in order to find out if the slope of the upper portion of the property would be a hindrance to farming. As such, no decision was made and a second site visit and topographical maps were requested.

A second site inspection was conducted on May 15, 2007. Those in attendance were:

- Monika Marshall Chair, Kootenay Panel
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Erik Karlsen Chair, ALC
- Brandy Ridout Staff
- Eugen Seel Applicant

The Commissioners walked the property from the proposed new lot to the east fence line and noted that the land was undulating and not as steep as first believed. They also referred to the topographical maps which showed a gentle slope. Part of the route through the property was beside a ravine and the applicant stated that there were several others on the property.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. 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.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the majority of the soil of the subject property is Class 6 with a limitation of topography. Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Assessment of Agricultural Suitability

The Commission considered whether the property was suitable for agriculture. This consideration included details such as property size, surrounding land use and limitations to agriculture. The Commission believed that the land was suitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission believed the proposal would negatively impact existing or potential agricultural use of the property in that it would limit the options of agricultural activities that could take place on the property. It believed that the subject property was more suitable for agriculture if left as a larger parcel and could see no rational for allowing subdivision. In addition, it was concerned that the introduction of an additional lot into an agricultural area would be detrimental.

Conclusions

1. That the land under application has some agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will negatively impact agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Marshall

SECONDED BY: Commissioner Purdy

THAT the application be refused

CARRIED

Resolution # 231/2007



Staff Report
Application # L – 37119
Applicant: Seel Forest Products
Agent: Mercon Engineering (1988) Ltd

DATE RECEIVED: December 11, 2006

DATE PREPARED: March 7, 2007

TO: Chair and Commissioners – Kootenay Panel

FROM: Jennifer Carson, Land Use Planner

PROPOSAL: Subdivision for a relative. To subdivide the 162 ha subject property to create a 8.5 ha property for applicant's daughter. The 8.5 ha property created would encompass existing home and outbuildings on the property.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

Local Government:

Regional District of East Kootenay

Legal Description of Property:

PID: 005-723-884
Parcel A (See 195988I), District Lot 351, Kootenay District

Purchase Date:

August 8th, 1988

Location of Property:

3674 Highway 95, Brisco

Size of Property:

164 ha (The entire property is in the ALR).

Present use of the Property:

Residence, garage, barn and has been previously logged by Seel Forest Products Ltd and will in the future be logged again.

Surrounding Land Uses:

WEST: Highway 95, field/pasture and homesite
SOUTH: Forested land
EAST: Forested land
NORTH: Forested land

Agricultural Capability:

Data Source: Agricultural Capability Map # 82K/16
The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

OCP: None
Designation: None

Zoning Bylaw and Designation:

Upper Columbia Valley Zoning Bylaw No. 900
Designation: A-2 Rural Residential (Country) Zone
Minimum Lot Size: 8.0 ha

RELEVANT APPLICATIONS:

Application #28441-0

Applicant: Mitchell, Bob
Decision Date: May 11, 1994.
Proposal: Subdivision a 4 ha lot off of the subject property in lieu of Homesite Severance.
Decision: Allowed as requested.

Application #34401-0

Applicant: Kitzke, Brent
Decision Date: July 26, 2002
Proposal: Subdivision of a 22.3 ha property within the ALR into two equal size lots.
Decision: Allowed as requested.

Application #34928-0

Applicant: Lutz, James
Decision Date: August 27, 2003
Proposal: To subdivide the 1 ha parcel into two roughly equal parcels.
Decision: Allowed as requested.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

East Kootenay Regional District Board:

The Regional Board forwarded the application with a recommendation of support providing a statutory declaration confirming the property is for a relative and that after the subdivision and transfer of the lot to the relative, the parcel will not be sold for five (5) years, except in the case of estate transfer.

Advisory Planning Commission:

APC for Areas F & G recommended the application be denied as it will set a precedent.

Planning Staff:

Recommended the application be supported.

STAFF COMMENTS:

It is recommended that the Commission consider the following:

- The local government Board and Staff recommended that the application be approved.
- The APC recommended that the application be denied due to the danger of setting precedence.
- The agricultural capability on the property is primarily classified as having Secondary ratings.
- The proposed subdivision creates an awkward boundary in order to encompass the existing homesite. Once onsite it is possible that the Commission could determine whether the proposed boundaries are supported by any existing natural boundaries. Or whether a different boundary would be more appropriate.


ATTACHMENTS:

1. ALR Boundary Map
2. Aerial Photograph
3. Agricultural Capability Map
4. Map of Proposal
5. Detailed aerial photograph of proposed lot
6. Local Government Report

END OF REPORT



Signature



Date