



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

August 9, 2007

Reply to the attention of Brandy Ridout
ALC File: # T - 37490

Dale and Laurie Myers
4905 Parkinson Road
Armstrong, BC V0E 1B4

Dear Mr. and Mrs. Myers:

Re: Application for non-farm use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 361/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: The Corporation of the Township of Spallumcheen (07-0130-SPL-ALR)

Enclosure: Minutes

BR/lv/37490d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on July 20, 2007 in Vernon, BC.

PRESENT: Sue Irvine Chair, Okanagan Panel
Monika Marshall Chair, Kootenay Panel
Erik Karlsen Chair, ALC
Brandy Ridout Staff

ABSENT: Sid Sidhu Commissioner

For Consideration

Application: # T- 37490
Applicant: Dale and Laurie Myers
Proposal: To construct a second dwelling on the northeast corner of the 16.9 ha subject property for the applicants' parents.
Legal: PID: 012-207-420
Lot 11, Section 23, Township 34, Kamloops Division Yale District, Plan 555, EXCEPT Plan 24107
Location: 4905 Parkinson Road, Armstrong

Site Inspection

A site inspection was conducted on July 20, 2007. Those in attendance were:

- Sue Irvine Chair, Okanagan Panel
- Monika Marshall Chair, Kootenay Panel
- Erik Karlsen Chair, ALC
- Brandy Ridout Staff
- Dale and Laurie Myers Applicants

Mr. Myers confirmed that the staff report dated July 3, 2007 was received and no errors were identified.

During the site visit the Commission discussed the farm use of the property with the applicants in an effort to determine if the additional dwelling was necessary for farm help. It was indicated that they currently hire additional help, are not able to manage the existing crops, and have plans to expand the farm operation. The second dwelling would be for the applicants' parents, who would assist with farm work.

It was noted that the existing house on the property was built in 1904 and has a footprint of 844 square feet. The applicants indicated that once their parents no longer reside in the proposed second dwelling, they will move to the new house and convert the existing house into a shop to sell products produced 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 50% Class 2A, 30% Class 3A and 20% Class 2AT.

Classes:

- 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
- 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Limitations:

- A soil moisture deficiency
- T topography

The Commission noted that the proposed location for the second dwelling was in the northeast corner of the property. The soils in that area of the property are as described above (prime). The northwest corner of the property has the soils with the lowest capability (Class 4) and is limited by topography. Air photos show that it is currently treed. The other area of the property that is less suitable for agriculture is in the northern portion of the property that has a mixture of Class 3, 5 and 7 and is limited mainly by topography. The applicants indicated at the site visit that they plan to plant the area in grapes in the future.

Assessment of Impact on Agriculture

The Commission assessed the impact of the proposal against the long-term goal of preserving agricultural land. Additional dwellings on agricultural land remove land from potential agricultural production; increase the re-sale value of the property (making it more difficult for farmers to purchase the property to farm); potentially introduce non-farmers into agricultural areas; and increase the desire to subdivide the property. As such, the Commission has strong concerns with additional dwellings on Agricultural Land Reserve (ALR) properties.

In this case, the applicants are requesting an additional dwelling for a relative. Under Section 3 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, for each parcel, one secondary suite within a single family dwelling, and one manufactured home, up to 9 metres in width, for use by a member of the owner's immediate family is permitted. The Commission weighed the details of the proposal against the impact of the placement of a manufactured home on the property, noting that the manufactured home could be up to 90 square metres (864 square feet). They noted that the older house was less than 90 square metres and would be decommissioned (no longer used as a residence) when the applicants moved to the new dwelling in the future. As such, the proposal was similar to the use of a manufactured home that is removed once it is no longer used by the family member. Because the existence of two dwellings on the property would be temporary, as is the intention of the manufactured home portion of the *Regulation*, the Commission supported the application.

However, the Commission would require the submission of a letter of credit that could be cashed in by the Commission for the purpose of decommissioning the existing house.

While the Commission recognized that as the property is in the ALR, subdivision is not possible unless approved through the application process, it supported the idea of making it clear that the property would not be subdivided to accommodate the two dwellings. As such, it supported the Township of Spallumcheen's recommendation that a "no future subdivision" covenant be registered on title. The Commission would also require the registration of a "no additional dwellings" covenant in its favour.

In considering the location of the second dwelling, the Commission noted that if the second dwelling was located on the area of the property with the worst soils, it would require a long driveway, thus interfering with the agricultural use of the property. The Commission considered requiring that the second dwelling be located near the existing house and limiting its footprint (including associated structures such as a garage). As the second dwelling would eventually be the only dwelling on the property, the Commission did not believe it necessary to limit the footprint. However, it believed that locating the second dwelling close to the existing house would keep all structures together, thus reducing their impact on the agricultural operation of the property.

Conclusions

1. As the existing dwelling has a footprint of less than 90 square metres and will be decommissioned once the applicants move to the new dwelling, the Commission considered that the proposal is similar to that which is allowed under Section 3 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*.
2. Decommissioning the existing dwelling will eventually return the number of dwellings on the property to one. In order to ensure that the existing house is eventually decommissioned, the Commission will require a \$5,000 letter of credit.
3. As the Commission had concerns about potential future rental of the second dwelling or subdivision requests, it would require the registration of a "no future subdivision" covenant against the title of the property and that the second dwelling be located within 25 metres of the existing dwelling.

IT WAS

MOVED BY: Commissioner Marshall
SECONDED BY: Commissioner Irvine

THAT the application to construct a second dwelling on the northeast corner of the 16.9 ha subject property for the applicants' parents be refused as proposed

AND THAT the Commission would allow the construction of a second dwelling on the property subject to the following conditions:

- The location of the second dwelling on the southeast corner of the property (within 25 metres of the existing dwelling).
- The registration of a "no additional dwellings" covenant in the Commission's favour.
- The registration of a "no future subdivision" covenant, as required by the Township of Spallumcheen. The Commission must also be a transferee on the covenant.
- The submission of a \$5,000 letter of credit to ensure that the existing house is eventually decommissioned.
- Approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

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

CARRIED

Resolution # 361/2007



Staff Report
Application # T – 37490
Applicant: Dale and Laurie Myers
Location: Armstrong

DATE RECEIVED: June 14, 2007

DATE PREPARED: July 3, 2007

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: Non-farm use to construct a second dwelling on the northeast corner of the 16.9 ha subject property for the applicants' parents.

This application is made pursuant to section 20(3) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicants note that while Development Services is of the opinion that the level of farming on the property does not warrant additional farm help, they have received opinions from several individuals who operate similar sized farms who corroborate that it will require more than two people to operate the farm. They state that they currently hire farm labour.

Local Government:

The Corporation of the Township of Spallumcheen

Legal Description of Property:

PID: 012-207-420
Lot 11, Section 23, Township 34, Kamloops Division Yale District, Plan 555, EXCEPT Plan 24107

Purchase Date:

July 2003

Location of Property:

4905 Parkinson Road, Armstrong

Size of Property:

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

BACKGROUND INFORMATION (continued):

Present use of the Property:

Christmas Trees, asparagus, wooded area, hay and unused areas

Surrounding Land Uses:

WEST: Farm
SOUTH: Salmon River Road
EAST: Parkinson Road, Llama Farm and Grapes
NORTH: Dairy Farm

Agricultural Capability:

Data Source: Agricultural Capability Map # 82L.044
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Township of Spallumcheen OCP Bylaw No. 1570 (2004)
Designation: Agriculture

Zoning Bylaw and Designation:

Township of Spallumcheen Zoning Bylaw No. 1449 (1999)
Designation: (A2)
Minimum Lot Size: 30.5 Ha

RELEVANT APPLICATIONS:

Application #37491-0

Applicant: Albert and Rhodena Finlay
Proposal: To construct a second dwelling on the subject property for farm help.
Decision: Currently under consideration.

Application #37416-0

Applicant: Richard and Linda Lamberton
Proposal: To retain the existing 74.3 m² single family dwelling secondary suite in an accessory building. The applicant would like to construct a new 292 m² single family residence and provide a secondary suite for a family member.
Decision: Currently under consideration.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Township of Spallumcheen Council: That the application be authorized for submission and that the property owners be required to register a "no future subdivision" covenant on title.

STAFF COMMENTS:

- Although the Township of Spallumcheen has recommended that a covenant be registered on title prohibiting subdivision, once investments have been made in two homes on a property, it becomes more expensive for a farmer to purchase the property in the future.

STAFF COMMENTS (continued):

- Under Section 3 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, for each parcel, one secondary suite within a single family dwelling, and one manufactured home, up to 9 metres in width, for use by a member of the owner's immediate family is permitted. The applicant may wish to pursue this option instead of constructing a second house.
- If the Commission is inclined to allow a second permanent dwelling, it may be more appropriate to locate the new house closer to the existing house and limit its footprint. A location adjacent to existing farm buildings will help dampen expectations of future subdivision and will use land less suitable for agriculture.

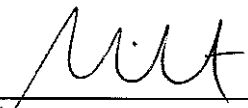
ATTACHMENTS:

- ALR Base map 82L/6
- ALR Constituent map #38
- Air photo
- Letter from applicant & sketch

END OF REPORT

Signature

Date



July 5, 07
