



Agricultural Land Commission
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April 15, 2008

Reply to the attention of Jennifer Carson
ALC File: L-37121

Marcer Ranching Ltd
RR1
Elko, BC V0B 1J0

Dear Mr. Tanner:

Re: Reconsideration of Conditions Place on the Exclusion Application

Please find attached the Minutes of Resolution # 150/2008 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:


Erik Karlsen, Chair

cc: Regional District of East Kootenay (P-705-220)

Enclosure: Minutes



A meeting was held by the Provincial Agricultural Land Commission on March 27, 2008 in Cranbrook, B.C.

PRESENT:	Monika Marshall	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	D. Grant Griffin	Commissioner
	Roger Cheetham	Staff
	Jennifer Carson	Staff

For Consideration

Application: # L- 37121
Applicant: Marcer Ranching Ltd
Agent: Bill Tanner, UMA Engineering Ltd.
Proposal: To reconsider the condition to include the expansion of the RV park and review the proposed farm plan.
Legal: PID: 013-359-517
 Lot 2, District Lot 10348, Kootenay District, Plan 8226
Location: 9790 Marcer Road, Lake Kooconusa

Meeting with applicant

A meeting was conducted on March 27, 2008. Those in attendance were:

- Monika Marshall Chair, Kootenay Panel
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Roger Cheetham Staff
- Jennifer Carson Staff
- Lance Marcer Son of Applicant
- Bill Tanner Agent, UMA Engineering Ltd.
- Mike Malmberg Agrologist
- Lorene Archdekin UMA Engineering Ltd.
- Craig McMorran UMA Engineering Ltd.
- Jennifer Osmar UMA Engineering Ltd.

The Commission met with the application representatives to discuss the proposal. Mr. Malmberg presented the farm plan for the Newgate property which was one of the conditions of approval. He explained that with regard to the elk fencing the applicant was willing to install elk fencing south of the Newgate Road and while this might benefit the future owners of the property, it would not be of any benefit to the present farm.

Mr. Tanner then presented the reconsideration request to have the condition of maintaining and expanding on the RV Park removed. He explained that it was not complementary to the proposed development of the property. Mr. Tanner mentioned that the Regional District also supported the elimination of the RV Park as it had been their experience that RV parks and permanent residential development are not compatible.

Ms. Archdekin then presented the difficulties the applicants were having in complying with the Commission's requirement that off-road vehicles be prevented from entry to the property. While it was possible to restrict the residents from having off-road vehicles, the difficulty lay in the ability to restrict non-residents from entering the premises to access the commercial facilities that will be provided in the development. The Commission was asked for input on this matter.

Following the presentations, general discussion on the application ensued. During this discussion, it was mentioned that it would be of benefit to have the bylaws in place before the development is started.

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

The Commission believes the farm plan prepared by Mike Malmberg dated February 12, 2008, satisfies the condition set out by the Commission. However, the Commissioners considered that in light of the comments made by Mr. Malmberg relating to the fencing of the non-irrigated portion on the southern portion of the property that it was not necessary to require that the area be fenced.

As per the request for reconsideration, the Commission understood that the RV Park may not be compatible with the proposed development and accordingly was prepared to modify the conditions of approval to remove the reference to the park.

Regarding the issue relating to off-road vehicles the Commissioners recognizes the difficulty of restricting non-residents wanting to make use of the commercial facilities in the development from bringing their off-road vehicles onto the site. It recognizes the need to restrict these vehicles as much as possible, and supports wording in the bylaws that apply to the property that put as many limits on off-road vehicle use as possible. The Commission considered that this issue should be further explored by staff and discussed at a subsequent meeting. In the light of the request of the applicant it noted that it will keep UMA Engineering Ltd. informed if any ideas for restricting off-road vehicles owned by visitors to the development from being brought onto the site.

IT WAS

MOVED BY: Commissioner Griffin

SECONDED BY: Commissioner Purdy

THAT the Commission rescind its approval for the RV Park as requested.

AND THAT the farm plan submitted as a condition to approval be accepted with the understanding that the fencing of the non-irrigated portions of the southern portion of the property be optional.

AND THAT a covenant between the owner of the property and the Commission be registered to prohibit ATVs/Motorcross Bikes from the property (excepting units being transported by members of the public). If future legislation is enacted to govern the conduct of off-road vehicles this clause could be revisited.

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 # 150/2008