



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 31, 2008

Reply to the attention of Jennifer Carson
ALC File: L-38103

Dave and Diane Wall
856 North Star Road
Baynes Lake , BC V0B1J0

Dear Mr. and Mrs. Wall:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 702/2008 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:


Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of East Kootenay (P-708-204)

JC/
i/38103d1



A meeting was held by the Provincial Agricultural Land Commission on September 30, 2008 in Creston, B.C.

PRESENT: Roger Mayer Commissioner
Carmen Purdy Commissioner
D. Grant Griffin Commissioner
Jennifer Carson Staff

For Consideration

Application: # L- 38103
Applicant: Dave and Diane Wall
Proposal: To subdivide the 2.0 ha subject property in half to create two (2) 1.0 ha lots.
Legal: PID: 012-259-438
Lot 5, Block 27, District Lot 132, Kootenay District, Plan 1181
Location: 856 North Star Road, Baynes Lake

Site Inspection

A site inspection was conducted on June 4, 2008. Those in attendance were:

- Monika Marshall Chair, Kootenay Panel
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Jennifer Carson Staff
- Darrell Smith District Agrologist - Ministry of Agriculture and Lands

The Commission met with Mr. Wall at the subject property to discuss the application. Mr. Wall explained that there were two residences on the property when they purchased it. The applicant also stated that they had a substantial amount of water on the property. The Commission walked up the slope at the back of the property and viewed the property from this vantage point.

The Commissioners decided to put this application on hold until they had the chance to discuss the potential of the Regional District of East Kootenay doing some planning work in this area. Following discussions with Regional District staff the Commission learned that there lacked community support to do planning in the area and thus it was unlikely that any planning document would be available in the near future.

Commissioner Eligible to Vote

Commissioner Mayer was not present at the site inspection. It was confirmed that a summary of the site inspection was provided thus establishing the Commissioner's eligibility to vote on the application.

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 soil of the subject property is

- Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.
- Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.
- Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.
- Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Subclasses

M	soil moisture deficiency	P	stoniness
T	topography		

Assessment of Agricultural Suitability

The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use.

The Commission also discussed that the property has water available which could be of benefit to the possible future agricultural use of the property. Furthermore, the Commission discussed that the area is made up of 2 ha lots and was not interested in introducing smaller lots into the area.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. In the Commission's view, reduction of parcel size generally reduces the available options for agricultural use. The Commission believed that the subject parcel had more agricultural potential as a single unit and that subdivision would negatively impact the agricultural opportunities available to the subject property in the long-term.

Further, the Commission believed that subdivision of the subject parcel would encourage further parcelization of properties within agricultural areas and may impact future agricultural use of surrounding lands. The Commission was concerned that if this subdivision were permitted it would heighten the expectations of other property owners in the area to be able to do the same.

The intent of the Act is to preserve and protect agricultural lands and farm communities in the long-term and the Commission felt that subdivision of the subject property as proposed was not in keeping with that mandate.

Assessment of Other Factors

The Commission noted that the local government did not support the application.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will 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 Griffin

SECONDED BY: Commissioner Purdy

THAT the application be refused.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.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.*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

CARRIED

Resolution # 702/2008