



Agricultural Land Commission
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May 22, 2009

Reply to the attention of Roger Cheetham
ALC File: # L- 38757

Brendan Kerr
548 Baynes Lake Loop Road
Elko, BC - V0B 1J0

Dear Mr. Kerr:

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

Please find attached the Minutes of Resolution #156/2009 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

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

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District East Kootenay (P 708 234)

RC/
i/38757d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on April 30, 2009 in Cranbrook, B.C.

PRESENT:	Erik Karlsen	ALC Chair
	Barry Minor	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	Jerry Thibeault	Commissioner
	Roger Cheetham	Staff

For Consideration

Application: # L- 38757
Applicant: Brendan Kerr
Proposal: To subdivide the 1.5 ha property into two equal parts of 0.75 ha.
Legal: PID: 012-425-044
Lot 10, Block 8, District Lot 132, Kootenay District, Plan 1181
Location: 548 Baynes Lake Loop Road, Baynes Lake

Site Inspection

A site inspection was conducted on 30th April 2009. Those in attendance were:

- Erik Karlsen ALC Chair
- Barry Minor Chair, Kootenay Panel
- Carmen Purdy Commissioner
- Jerry Thibeault Commissioner
- Roger Cheetham Staff

The Commission noted that the property is located in an area within which a limited amount of agriculture was taking place on properties that are approximately 2 ha in size. The Commission noted that the property was not being used for agricultural purposes.

(Note – The applicant was not present at the site inspection but was available via cell phone if questions came up during the site visit).

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 rated as improvable to 80% Class 4 and 20% Class 5 with soil moisture deficiencies and stoniness limitations.

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.

In the light of these ratings and the site inspection the Commission concluded that the property has agricultural capability

Assessment of Agricultural Suitability

The Commission assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission noted that the property is surrounded by lots of similar size in a rural residential area within which there is some agricultural activity. The Commission believed that although the size of the property was small, it could support some small-scale agriculture activity. Therefore, the Commission did not believe there are external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission considered that subdividing the property into two smaller parcels would decrease the potential for the agricultural use of the property. Furthermore, the Commission believed that introducing a small residential lot into this area may negatively impact existing or potential agricultural use of surrounding lands.

Other Factors

The Commission also noted that the application was not supported by the Regional Board, the Electoral Area Director, the Advisory Planning Commission Committee or the planning staff.

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 J. Thibeault
SECONDED BY: Commissioner E. Karlsen

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 #156/2009