



Agricultural Land Commission
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September 21, 2009

Reply to the attention of Brandy Ridout
ALC File: Q-38821

Mrs Kay Kutny
554 Holbrook Rd. East
Kelowna, B.C.
V1X 7G8

Dear Mrs Kutny:

Re: Application to subdivide within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 846/2009 and a sketch plan 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.

Please send two (2) paper prints of the final survey plans to this office (and three copies of a restrictive covenant). When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan and covenants.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact your Local Government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Mark Call', is written over a horizontal line.

Erik Karlsen, Chair

Enclosure: Minutes/Sketch Plan

cc: Regional District of Kootenay Boundary (E-1722s-04909.000)

MC/i/38821d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on Thursday, September 17th, 2009 by telephone conference call.

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

For Consideration

Application: Q-38821 (45770)
Applicant: Victor Kutny
Agent: Mrs Kay Kutny
Proposal: To reconfigure two adjoining lots of 16 ha and 64 ha so that the 16 ha lot lies adjacent to Nicholson Creek Rd.
Legal: 010-099-964 DL 1722s, SDYD and 010-100-133 N ½ of the N ½ of DL1716s, SDYD
Location: Nicholson Creek Rd.

Site Inspection

No site inspection was conducted

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,.

The agricultural capability of the soil of the subject properties is;

- 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.

The limiting subclasses are moisture deficiency, stoniness and topography.

Assessment of Impact on Agriculture

The Commission assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission did not believe the proposal would negatively affect the ALR because the number of lots would remain the same, and the proposed 16 ha lot contains less ALR land than the existing 16 ha lot. In addition, the highest capability (class 4) land is not being proposed for subdivision.

Assessment of Other Factors

The Commission noted that the applicant intends to consolidate the southerly 16 ha parcel with the 48 ha remainder. However, no details were provided as to whether the consolidation would be by legal survey or restrictive covenant. The Commission indicated that it had no objection to either method. While it would prefer that the consolidated properties be re-surveyed, it is prepared to accept a covenant registered against the titles of the remainder of DL 1722s and the N ½ of the N ½ prohibiting their separate sale.

Conclusions

1. That the land under application has agricultural capability, is appropriately designated as ALR, and is suitable for agricultural use.
2. That the subdivision proposal will not impact agriculture.

IT WAS

MOVED BY: Commissioner C. Purdy

SECONDED BY: Commissioner J. Thibeault

THAT the application be allowed as proposed.

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the plan submitted with the application
- the subdivision must be completed within three (3) years from the date of this decision.

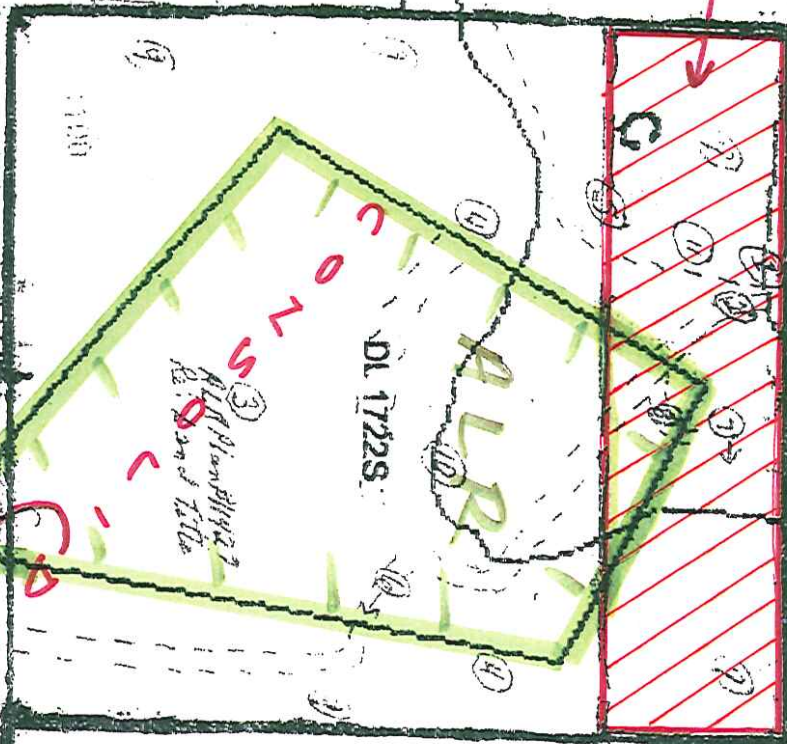
CARRIED

Resolution # 846/2009

APPROVED
NEW LOT
(16 ha)

DL 17215

Site Map



Time 26/08 2.3 cm = 228 yds
10.3 cm = 880 yds

82F.006

APPLICATION # 38821 (45770)
RESOLUTION # R16/2009

Making DL 17115 part of DL 17215 is
necessary as 160 ft of change over
out lined in Red to DL 17115.

- 1) Modification Creek Rd
- 2) Public Access Rd
- 3) Hayfield & Pasture
- 4) Current Buildings
- 5) Redeveloped Property to DL 17115
- 6) easement for Public Access to DL 17115
- 7) Proposed new Building Site
- 8) Access to New Building Site
- 9) Four (4) new lanes
- 10) Creek - water permit @ 200 gallons per day
- 11) Fences
- 12) 18 more Property done between this road & made part of DL 17215 & beyond New Road
- 13) If Re-alignment of Property line is approved the water Right would be developed in area # 7

Down land