



Agricultural Land Commission
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April 8, 2010

Reply to the attention of Martin Collins
ALC File L-38757

Brendan Kerr
548 Baynes Lake Road
Elko, B.C.
V0B 1J0

Dear Sir:

Re: Request for Reconsideration

This is further to your letter of January 22, 2010 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #156/2009.

The Commission has reconsidered the matter and has attached the Minutes of Resolution #2366/2010 and a sketch plan outlining its latest decision.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

cc: Regional District of East Kootenay File: P708 234

Enclosure: Minutes/Sketch Plan

MC/L-38757d2



A meeting was held by the Provincial Agricultural Land Commission on March 24th, 2010 in Cranbrook, BC.

PRESENT:	B. Minor	Chair, Kootenay Panel
	R. Mayer	Commissioner
	J. Thibeault	Commissioner
		Staff
	Martin Collins	Staff

For Consideration

A letter dated January 22, 2010 from Brendan Kerr was received requesting that the Commission reconsider its decision recorded as Resolution #156/2009. It indicated that the Commission’s decision was inconsistent and discriminatory. The applicant pointed out that the agricultural capability of his soil was no better than some, and worse than other properties that had been approved for subdivision in the area.

Application: L-38757
 Applicant: Brendan Kerr
 Original proposal: To subdivide the 1.5 ha property into two 0.75 ha lots.
 Original decision: Refuse as proposed.
 Current proposal: As noted above
 Legal: Lot 10, Block 8, DL 132, KD, Plan 1181 PID 012-425-044
 Location: Baynes Lake

Context

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the “Act”) which states:

- S33(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, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission recalled its recent decision in the area, noting that the applicant was correct in his assertion that other parcels of similar size and capability had been subdivided recently.

Commissioner Eligible to Vote

Commissioner R. Mayer was not present at the original site inspection. However, it was confirmed that a summary of the site inspection was provided thus establishing the Commissioner’s eligibility to vote on the application.

Discussion

The Commission had no objection to the proposed two lot subdivision, noting its recent decision making in the area, and the very limited agricultural potential of the property.

IT WAS

MOVED BY: Commissioner J. Thibeault

SECONDED BY: Commissioner B. Minor

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT the request for subdivision of the 1.5 ha property be approved.

AND THAT the approval is subject to the following conditions:

- the subdivision must be completed within three (3) years from the date of this decision.

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 # 2366/2010

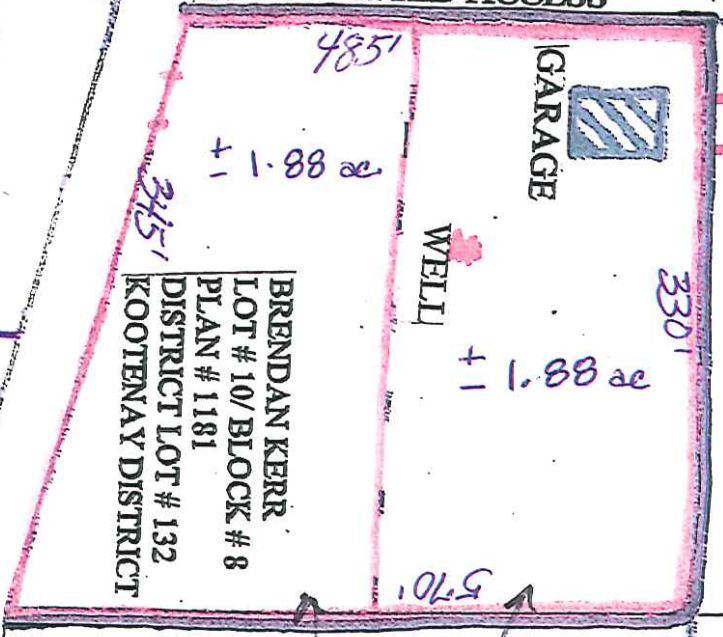
BAYNES LAKE-JAFFRAY HIGHWAY

GRANZOW ROAD

BAYNES LAKE LOOP ROAD

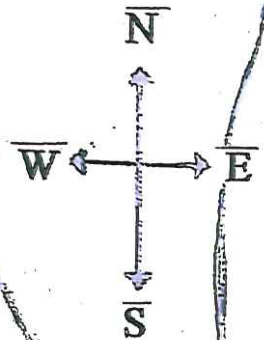
BAYNES LAKE

GAZETTED ACCESS



BRENDAN KERR
 LOT # 10/ BLOCK # 8
 PLAN # 1181
 DISTRICT LOT # 132
 KOOTENAY DISTRICT

APPROVED TWO
 LOT SUBDIVISION



1-250-529-7919

ALC APPLICATION L-38757
 RES # 2366/2010

BAYNES LAKE LOOP ROAD