



Agricultural Land Commission
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November 18, 2010

Reply to the attention of Ron Wallace
ALC File: 51915

1129759 Alberta Ltd.
c/o 2528 Charlebois Drive, NW
Calgary, AB
T2L 0T6

Attention: Mark Himmelspach

Re: Application to Subdivide in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 2737/2010 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in purple ink, appearing to read 'B Underhill', is written over the printed name of the Executive Director.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Regional District of East Kootenay (P710 524)

RW/
/51915d1



A meeting was held by the Provincial Agricultural Land Commission on October 27, 2010 in Cranbrook, BC.

PRESENT:	Richard Bullock	Chair of the Commission
	Barry Minor	Chair of the Panel
	Jerry Thibeault	Commissioner
	Gordon Gillette	Commissioner
	Brian Underhill	Staff
	Ron Wallace	Staff

For Consideration

Application: 51915
 Applicants: 1131021 Alberta Ltd., 1129759 Alberta Ltd.
 Agent: Mark Himmelspach
 Proposal: To create a total of five (5) lots from the two subject properties.
 Legals: - SL 2, DL 347, Kootenay District Plan X11, Except Part Shown Outlined in Pink on Plan 1203 and That Part in Plan 11130
 - SL 163, DL 4596, Kootenay District Plan X32, Except (1) The Right-of-Way Shown Outlined in Pink on Plan 1203, (2) The Five Severed Portions, Which Lie Between the Said Right-of-Way and the Waters of Windermere Lake as Shown Outlined on Plan 1203 and (3) Part Included in Plan 1232 and (4) Part in Plan 11130 (5) Plan NEP88930
 Location: West of Windermere Lake and south, southwest of Invermere.

Site Inspection

A site inspection was conducted on October 26, 2010. Those in attendance were:

- Richard Bullock Chair of the Commission
- Barry Minor Chair
- Jerry Thibeault Commissioner
- Gordon Gillette Commissioner
- Brian Underhill Staff
- Ron Wallace Staff
- Mark Himmelspach Applicant
- Bruce Peterson Applicant

The Commissioners and staff met with the applicants to view portions of the property and discuss the proposed subdivision. It was observed that the property is comprised of a combination of hilly to steeply sloping topography with pockets of more open and undulating land. The applicants explained that the proposed subdivision would provide for useful agricultural parcels that could be better managed for this purpose.

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.

Class 7 – Land in this class has no capability for arable or sustained natural grazing

Subclasses

A	soil moisture deficiency
C	adverse climate
P	stoniness
T	topography
W	excess water

In addition to the above ratings, an Agricultural Capability and Soil Assessment Report was prepared by David Yole, P.Ag. This report concluded that the majority of the overall property is Class 5 to 7 with mostly topography, stoniness and adverse climate limitations. A minority portion of the overall property was determined to be arable or marginally arable as Class 3 and 4 with some of the same but less severe limitations.

Assessment of Agricultural Suitability

The Commission observed that the subject properties under application have agricultural capability limitations as noted above. However, the Commission believed these properties are still suitable for ranching and could be managed for this purpose. It also believed the subject lands' agricultural capability is typical (or similar to) other ranching land in the East Kootenay and that subdivision would further limit the subject lands' agricultural potential.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission believed that the subject parcels have more agricultural potential for ranching purposes at their current size and that subdivision would

negatively impact the agricultural opportunities available to the subject properties in the long-term.

Conclusions

1. That the land under application has some agricultural capability limitations but that it is appropriately designated as ALR.
2. That the land under application is more suitable for agricultural use at their current size.
3. That the proposal will negatively 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 Thibeault

SECONDED BY: Commissioner Gillette

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.*

AAND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

CARRIED

Resolution # 2737/2010