



**Agricultural Land Commission**  
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June 22, 2011

Reply to the attention of Lily Ford  
ALC File 52084

Darren Mitchell  
P.O. Box 23  
Wardner, BC  
V0B 2J0

Dear Mr. Mitchell:

**Re: Application to Subdivide in the Agricultural Land Reserve**

Attached please find Minutes of Resolution # 205/2011 outlining the Commission's decision as it relates to the above noted application.

If you wish to pursue the subdivision option presented by the Commission in their decision, please submit a preliminary sketch plan for review and approval. Please note that this option expires on May 27, 2014.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

  
Richard Bullock, Chair

Enclosure: Minutes

cc: Regional District of Central Kootenay

LF/52084d1



## PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 27, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

### COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Roger Mayer	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

### COMMISSION STAFF PRESENT:

Roger Cheetham	Regional Planner
Lily Ford	Land Use Planner
Eamonn Watson	Land Use Planner
Shaundehl Runka	Policy Planner
Brian Underhill	Executive Director
Colin Fry	Executive Director

### APPLICATION ID: #52084

**PROPOSAL:** To subdivide a 58.8 ha parcel into a 4 ha parcel and a 54.8 ha remainder.  
(Application submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

### PROPERTY INFORMATION:

**Owner:** Darren Darryl Mitchell  
**Date of Acquisition:** August 1, 1995  
**Parcel ID:** 009-292-527  
**Title No.** XJ20029  
**Legal Description:** Lot 1, District Lot 1967, Kootenay District Plan 16072  
**Civic Address:** 6363 Wardner-Kikomun Road, Wardner  
**Size:** 58.8 ha  
**Area in ALR:** 58.8 ha  
**Current Land Use:** Residential  
**Farm Classification:**  Yes  No  
(BC Assessment)

## SITE INSPECTION MEETING:

A site inspection meeting was conducted on April 28, 2011 following which a report was prepared. The site inspection meeting report was certified by Commissioner Thibeault on May 21, 2011.

Section 14(2) of the *Agricultural Land Commission Act* provides that a member of the Commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote. The site inspection meeting report, certified by Commissioner Thibeault on May 21, 2011, constitutes a written record of the site inspection meeting and has been provided to all Commission members recorded above.

## COMMISSION CONSIDERATION:

### Context

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission as: (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.

### Agricultural Capability

Based on the information contained in Map 82G/6 (Scale 1:50,000) of the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system, the agricultural capability ratings are identified as being:

Unimproved Rating: 6:6TR 4:5TP      Improved Rating: (6:6TR 4:5TP)

**Note:** These ratings cover the eastern approximately 60% (or 35.28 ha) of the 58.8 ha property, including the proposed 4 ha parcel.

Unimproved Rating: 6W      Improved Rating: 6W

**Note:** These ratings cover approximately 10% (or 5.88 ha) of the 58.8 ha property, and consist of a wetland area immediately west and downslope of the proposed 4 ha parcel.

Unimproved Rating: 6TR      Improved Rating: 6TR

**Note:** These ratings cover approximately 20% (or 11.76 ha) of the 58.8 ha property.

Unimproved Rating: 6:6T 4:5PT      Improved Rating: (6:6T 4:5PT)

**Note:** These ratings cover approximately 10% (or 5.88 ha) of the 58.8 ha property.

## Class and Subclass Descriptions

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.

P	stoniness
R	shallow soil / bedrock outcroppings
T	topography
W	excess water

## 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. Although the property is close to the town of Wardner, it is located outside of the urban boundary in the hills west of town, and is surrounded by Crown Land and primarily large holdings similar in size to the subject parcel. There is no urban encroachment into this rural-agricultural area.

## Assessment of Potential Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission noted that approval of the proposed subdivision would create a 4 ha parcel in the middle of much larger holdings, inconsistent with the rural character of the surrounding area. The Commission did note, however, that subdivision of the parcel into two large lots may be an alternative that would not significantly impact agriculture in the area.

## Other Factors

- On December 3, 2010, the Regional District of East Kootenay adopted Resolution 41996 in support of the proposal.
- The Agricultural Advisory Commission supports the proposal and notes there are “no agricultural concerns.”
- The subject property is the result of a three lot subdivision, approved in 1983, of a 125 ha property (Legacy File #02-L-83-15633).

## Conclusion

The Commission considered the factors outlined above and found that, on balance, the potential impacts of allowing a 4 ha lot in the middle of this ALR area outweighed the challenges posed by the low agricultural capability of the property. Furthermore, given the low agricultural capability of the property, the opportunities for agricultural use of the 4 ha parcel would be

extremely limited, whereas a larger parcel could potentially support some forms of agriculture. In this regard, the Commission noted that subdivision of the parcel into two large lots may be an alternative that would better reflect surrounding lot sizes and allow more opportunities for agricultural use of the property.

**DECISION:**

**IT WAS**

**MOVED BY: Commissioner Bert Miles**

**SECONDED BY: Commissioner Jennifer Dyson**

THAT the application as proposed be refused for the following reasons:

1. That the land under application is suitable for agricultural use and that no external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture.
2. That the proposed subdivision would impact existing or potential agricultural use of surrounding lands by creating a 4 ha parcel in an area of significantly larger holdings.
3. That alternative subdivision configurations exist that would reduce potential impacts on the agricultural use of surrounding properties.

AND THAT the Commission will allow subdivision of the parcel into two parcels of roughly equal size should the applicant wish to pursue this option. This option will remain open for three (3) years from the date of this decision.

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.

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 # 205/2011**