



Agricultural Land Commission
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October 25, 2013

ALC File: #51939
RDEK File: P 710 214

Bruce Woodbury
Headwater Development
Box 221
Canal Flats, BC
V0B 1B0

Dear Mr. Woodbury:

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

Please find attached the Minutes of Resolution #243/2013 as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Further correspondence with respect to this application should be directed to Lindsay McCoubrey.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in blue ink, appearing to read 'Brian Underhill', is written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #243/2013

cc: Regional District of East Kootenay (File: P 710 214)



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on July 18, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #51939.

COMMISSION MEMBERS PRESENT:

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

COMMISSION STAFF PRESENT:

Roger Cheetham	Regional Planner
Lindsay McCoubrey	Land Use Planner
Colin Fry	Executive Director

REQUEST FOR RECONSIDERATION

The Commission received a letter on September 8, 2011 requesting reconsideration of its decision recorded as Resolution #2759/2010, by which, the proposal to subdivide the 4.9 ha property into one 3.0 ha lot and one 1.9 ha lot was refused.

Owner:	Carmen Gill
Agent:	Bruce Woodbury
Original Proposal:	(Submitted pursuant to section 21(2) of the <i>Agricultural Land Commission Act</i>) Subdivide the 4.9 ha property into one 3.0 ha lot and one 1.9 ha lot .
Original Decision:	Refused by Resolution 2759/2010.
Current Request:	Subdivide the 4.9 ha property into one 3.0 ha lot and one 1.9 ha lot.
Legal:	PID: 023-141-808 Lot 2, District Lot 2710, Kootenay District, Plan NEP22414
Location:	182 Kikomum-Newgate Road, Elko

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

- 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.

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission believes that the applicant has provided evidence that was not available at the time of the previous decision given that the Lake Koochanusa Official Community Plan (OCP) was completed after the original decision. The Commission notes that the applicant submitted a reconsideration request in September of 2011 and was notified that any reconsideration would be held in abeyance until the Lake Koochanusa OCP was complete.

As a result, it was moved by Commissioner Collins and seconded by Commissioner Gillette that there were no persons affected by the reconsideration and that the Commission reconsider Resolution # 2759/2010. The motion was carried unanimously.

COMMISSION CONSIDERATION

The Commission reviewed the previous decision involving the subject property:

Application #51939 Resolution #2759/2010 (Gill, 2010)	To subdivide the subject property into one 3.0 ha lot and one 1.9 ha lot. A site inspection was conducted on October 27, 2010. It was noted while touring the subject property that the property was mostly treed with hilly topography. The proposed subdivision was refused by Resolution #2759/2010 as the Commission felt the subject property has agricultural capability and is appropriately designated as ALR; is suitable for agricultural use; the proposal would negatively impact agriculture; and, that the proposal is inconsistent with the objective of the <i>Agricultural Land Commission Act</i> to preserve agricultural land.
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The Commission also reviewed the Lake Koochanusa OCP and its previous communication with the Regional District of East Kootenay (RDEK); specifically, referring to the single designation change from Rural Resource (RR) to Large Holdings (LH, 2.0+ Ha) on the west side of Koochanusa Lake. The Commission repeatedly indicated that the LH designation did not fit with the intent of the ALR to preserve agricultural land in this area and should not be designated as such. It was also noted within the correspondence to the RDEK, that the Commission's intent to focus residential growth to the Bayne's Lake and Sweetwater areas is encouraged in order to decrease the pressure on areas that are mainly dedicated to agricultural use.

After considering the new information the Commission concluded as follows:

1. The subject property is within an active agricultural area.

Conclusion: The Commission remains concerned about the impacts of further subdivision on the property and in the surrounding agricultural community resulting in the introduction of a node of small rural residential lots.

2. Commission communication with the Regional District of East Kootenay during the adoption process of the Lake Koochanusa OCP indicated that the area west of Koochanusa Lake is mainly agricultural and that further residential development should be directed to the Sweetwater and Baynes Lake areas to prevent additional pressure on active agriculture in the area.

Conclusion: Introduction of additional residential parcels would increase the residential use of the agriculturally designated land west of Kooacanusa Lake and may lead to further pressures for subdivision.

IT WAS

MOVED BY: Commissioner Collins
SECONDED BY: Commissioner Gillette

THAT the request for subdivision of the 4.9 ha property into one 3.0 ha lot and one 1.9 ha lot be refused.

AND THAT 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 #243/2013