



Agricultural Land Commission
133-4940 Canada Way
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May 30, 2014

ALC File: #53393

Jeffrey Klynsoon
6150 Line 17 Road
Magna Bay, B.C. V0E 1M7

Dear Mr. Klynsoon:

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

Please find attached the Minutes of Resolution #106/2014 as it relates to the above noted application.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Ron Wallace at Ron.Wallace@gov.bc.ca.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #106/2014

cc: Columbia Shuswap Regional District (LG File #LC2473)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 26, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53393.

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

COMMISSION STAFF PRESENT:

Ron Wallace	Planner
Colin Fry	Chief Tribunal Officer

PROPOSAL (Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

The proposal is to subdivide the 28.0 ha subject property into two parcels of ± 4 ha and a remainder of ± 24 ha.

PROPERTY INFORMATION:

Owner: Jeffrey Klynsoon

Legal: PID: 003-265-439
Lot 13, Section 14, Township 23, Range 10, West of the 6th Meridian, Kamloops Division, Yale District, Plan 33402

Location: 6150 Line 17 Road, Magna Bay

Size: 28.0 ha

SITE INSPECTION

A site inspection was conducted on March 5, 2014 at the subject property. Those in attendance included the Commissioners Bullock, Miles and Johnson, ALC Planner Ron Wallace and Jeff Klynsoon.

On a very snowy day, the Commissioners and staff met with the applicant and walked to his log house and viewed the subject property including the north easterly portion proposed for subdivision. It was noted the majority of the property is treed except for the portion of the property proposed for subdivision which is mostly cleared. It was explained that the proposed subdivision would better enable the applicant to develop the 4 ha property for agricultural use.

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. Commissioners Bullock, Miles and Johnson gave a verbal summary of the site inspection to all Commission members recorded above.

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
 - (c) 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.
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COMMISSION CONSIDERATION

After considering the information the Commission concluded as follows:

1. The Commission noted the applicant referred to Section 946 of the *Local Government Act* (LGA) as a factor in support of the request to subdivide the subject property. Section 2 of the *Agricultural Land Commission Act* (ALCA) establishes primacy of the ALCA over other legislation. More specifically:
 - 2(1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

The LGA is subordinate to the ALCA and as such section 946 in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes section 946 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. If a subdivision for a relative involves land in the ALR, the local government can only use section 946 if an ALR application for subdivision has first been approved by the ALC. The ALC's consideration of subdivision proposals will be done in accordance with the purposes of the ALCA provided in section 6.

Conclusion:

The consideration of Section 946 of the LGA in support of the subdivision proposal is inconsistent with the purposes of the ALC.

2. The Commission acknowledges that the property is jointly owned by 5 family members and that approval of the proposed subdivision would allow a division of the applicant's interest from the remaining owners. However, the Commission remains concerned about the impacts of the subdivision on the property and in the surrounding agricultural community.

The Commission believes, that in the long term, the subject property has the greatest agricultural potential as a whole and that subdivision would reduce this potential and create expectations of further subdivision amongst surrounding land owners.

Conclusion:

The proposal for subdivision is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve and encourage agriculture.

IT WAS

MOVED BY: Commissioner Miles
SECONDED BY: Commissioner Johnson

THAT the proposal to subdivide be refused.

CARRIED

Resolution #106/2014