



July 25, 2016

Agricultural Land Commission
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www.alc.gov.bc.ca
ALC File: 54390

WSP Canada Inc.
303 – 535 Victoria Avenue North
Cranbrook, BC V1C 6S3

Dear Sir/Madam:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #276/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached. As agent, it is your responsibility to notify your client accordingly.

Please send two (2) paper copies or one (1) electronic copy of the final survey plan 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.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision “may not fulfill the purposes of the commission as set out in section 6 or does not adequately take into account the considerations set out in section 4.3”. I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application is to be directed to Laurel Eyton at (Laurel.Eyton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #276/2016)
Sketch plan

cc: Regional District of East Kootenay (File: P 715 349)



AGRICULTURAL LAND COMMISSION FILE 54390

REASONS FOR DECISION OF THE KOOTENAY PANEL

Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*

Applicant: **Jjar Holdings Ltd.**
(the “Applicant”)

Agent: **WSP Canada Inc.**
(the “Agent”)

Application before the Kootenay Regional Panel: **Sharon Mielnichuk, Panel Chair**
Harvey Bombardier
Ian Knudsen



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 013-172-620

Block A, District Lot 27, Kootenay District, Plan 1566

(the "Property")

[2] The Property is 14 ha in area.

[3] The Property has the civic address 4460 Standard Hill Road, Cranbrook BC.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 21(2) of the *ALCA*, the Applicant is applying to subdivide the Property into three parcels of 4.4 ha each north of Highway 95A and one parcel of 0.7 ha south of Highway 95A (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

[8] The Panel considered the Application pursuant to its mandate in s. 4.3 of the *ALCA*:

4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:

- (a) the purposes of the commission set out in section 6;
- (b) economic, cultural and social values;
- (c) regional and community planning objectives;
- (d) other prescribed considerations.

[9] The purposes of the Commission set out in s. 6 are as follows:

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.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Previous application history
4. Agricultural capability map, ALR context map and satellite imagery
5. Professional Agrologist Report by David Yole, 2012

All documentation noted above was disclosed to the Agent in advance of this decision.

[11] The Panel reviewed one previous application involving the Property:

Application ID: 53052
(Lillejord, 2012)

To subdivide the 14 ha property into two 4 ha parcels and
a 6 ha parcel. Refused, by Resolution #284/2013.

FINDINGS**Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture**

[12] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on BCLI map sheet 82G/12 for the mapping units encompassing the Property are Classes 3, 4 and 6; more specifically (8:3T - 2:6T) and (4WN).

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are W (excess water), N (salinity) and T (topographic limitations).

[13] In addition, the Panel received a professional Agrologist report, prepared by David Yole, M.Sc., P.Ag., dated October 3, 2012 (the "Yole Report"). The Yole Report finds that the majority of the Property has agricultural capability ratings of Class 5, with limitations of T (topographic limitations), N (salinity), and C (adverse climate) north of Highway 95A and limitations of W (excess water) south of Highway 95A. The Yole Report estimates that approximately 70% of the Property is non-arable.

[14] The Panel reviewed the BCLI ratings and the Yole Report and find that the Property has low capability for agriculture, with significant limitations.

[15] In his letter, the Agent stated the following: *“Section 6 speaks to preserving agricultural land and encouraging farming and local governments to enable and accommodate farm use. By registering a Building Scheme (and possibly a Covenant) on title and by subdividing within the ALR (instead of excluding it), this proposal preserves the agricultural land and looks to guarantee that it will be used agriculturally. We point out that the land has historically never been used agriculturally and that the land is not ideally suited for agricultural purposes as it stands today.”*

Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values

[16] In his letter, the Agent stated the following: *“Permitting a subdivision here will create two additional lots outside the City limits which fit with the neighbouring uses of greenhouses and a small horse paddock for 2 horses. What’s more, it is good planning practice to increase lot size as you move away from a City core. This proposal does that and in fact, provides for larger lot sizes than many of the lots in the vicinity. Further, because the lots will be a minimum of 4 hectares, they will retain their rural feel. This idea is reinforced by ensuring the construction of the dwellings to be away from the road and in the treed area (as per the proposed SBS).”*

Section 4.3(c) of the ALCA: third priority to regional and community planning objectives

[17] The Application is not consistent with the current zoning designation or the current OCP designation. The current OCP designation is RR, Rural Resource, and OCP Policies note that subdivision is generally not supported within the Mission subarea with the exception of subdivision for a relative. The current zoning designation is RR-60, Rural Resource Zone with a minimum parcel size of 60 ha. Planning staff recommended that the Application be forwarded to the Commission with the recommendation to subdivide the Property as divided by Highway 95A.

[18] The RDEK resolved to forward the Application with support.

[19] In his letter, the Agent stated the following: *“The property is designated as RR-60 in the RDEK Cranbrook Rural Zoning Bylaw No 1402 and as Rural Resource in the Rockyview Official Community Plan (OCP). The lot is currently only 14 ha but it is zoned as a 60 ha minimum and there are many lots in this area with this zoning. Although the lot does not comply with the current zoning, our application was supported and approved by the local committee’s [sic] because the application creates lot sizes that fit with the neighboring properties. Aside from the Community Forest which is Crown Land to the east, all of the surrounding lots range from less than a hectare to approximately 2.5 hectares, making the proposed lot sizes here much more compatible than what is there currently (see attached sketch). Most of the lots are single-family residential with some commercial lots in the vicinity to the west. Immediately across Hoffman Road to the north lies the Georgian Pines Trailer Park with over 75 trailer pads which was excluded from the ALR along with a number of other properties in the immediate vicinity.”*

[20] In his letter, the Agent stated the following: *the Application “provides intended uses and lot sizes consistent with other in the area. The owner proposes to give the remainder lands that lie across the highway and within the City of Cranbrook to the Mission Hills Golf Course, which is City-owned.”*

Weighing the factors in priority

[21] The Panel believes the Application has no negative impact on agriculture, as the small piece of the Property south of Hwy 95A has limited agricultural utility; the size of the proposed parcels are appropriately sized for the area; and the Statutory Building Scheme supports agriculture.

[22] Further, the Panel notes that the donation of the small portion of the Property south of Highway 95A to the City of Cranbrook provides a social benefit to the community.

DECISION

[23] For the reasons given above, the Panel approves the Proposal to subdivide the 14 ha Property into three parcels of 4.4 ha each north of Highway 95A and one parcel of 0.7 ha south of Highway 95A.

[24] The Proposal is approved subject to the following conditions:

- a. the subdivision being in substantial compliance with the plan submitted with the Application;
- b. the registration of a covenant for the encouragement of farming as proposed in the Application; and,
- c. the subdivision plan being completed within three (3) years from the date of release of this decision.

[25] 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.

[26] Panel Chair **Sharon Mielnichuk** concurs with the decision.

Commissioner **Harvey Bombardier** concurs with the decision.

Commissioner **Ian Knudsen** concurs with the decision.

[27] Decision recorded as Resolution #276/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #276/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning

July 25, 2016

Date Released

