



Agricultural Land Commission
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November 7, 2006

Reply to the attention of Simone Rivers
ALC File: B-19615

Jack and Virginia O'Meara
c/o PO Box 1117
Burns Lake, B.C. V0J 1E0

Dear Mr. and Mrs. O'Meara:

Re: Request for Reconsideration

This is further the Regional District of Bulkley-Nechako's letter of July 14, 2006 through which you asked the Provincial Agricultural Land Commission to reconsider Resolution #1302/85.

The Commission has reconsidered the matter and has attached the Minutes of Resolution # 544/2006 outlining its latest decision.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of Bulkley-Nechako (#629)

SBR/lv/Encl.: Minutes
19615d3

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.

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.

The Commission noted that the property had agricultural capability and was improved for agricultural use.

Assessment of Agricultural Suitability

The Commission next assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use. The Commission believes that the removal of the covenant may lead to a situation where the land would become unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. In fulfilling this goal, the Commission has the authority to place terms and conditions upon approvals as it feels necessary. Covenants such as the one in question are a common tool used through-out the Province and are in no way unique to the current application. The Commission noted that the covenant was originally placed on the land as a compensating benefit to agriculture to allow the applicants to subdivide four rural residential lots along the shores of Francois Lake, a subdivision that the Commission was very reluctant to allow, and would not have allowed without the covenant. The Commission viewed the covenant requirement as providing a benefit to agriculture in compensation for the creation of four lots, which the Commission viewed as not beneficial to agriculture. The Commission believes removal of the covenant would negatively impact existing or potential agricultural use of the subject properties.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will 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 Kendrew

SECONDED BY: Commissioner Craven

THAT the request for reconsideration be refused as proposed.

CARRIED

Resolution # 544/2006



Staff Report
Application # B-19615
Applicant: Jack and Virginia O'Meara

DATE PREPARED: August 9, 2006

TO: Chair and Commissioners – North Panel

FROM: Simone Rivers, Land Use Planner

PROPOSAL: To remove the restrictive covenant prohibiting the placement of residential dwellings on the remainder of the property.

BACKGROUND INFORMATION:

Local Government:

Regional District of Bulkley-Nechako

Location of Property:

Francois Lake

PREVIOUS APPLICATIONS:

Application #04171-0

Applicant: O'Meara, John & Grace

Decision Date: May 3, 1977

Proposal: To subdivide four 1 ha lots from the 13.8 ha parcel to provide homesite's for the applicants' children

Decision: Refused as proposed. Although the Commission recognizes that similar sized parcels (to those proposed) exist immediately to the east, the Commission was not prepared to allow further reduction of parcel sizes within the ALR. By increasing the number of hobby farms or rural residential holdings within the ALD, the Commission would be encouraging the inevitable conflicts which occur between residential dwellers and surrounding commercial farming operations.

Application #07110-0

Applicant: O'Meara, John & Grace

Decision Date: August 31, 1978

Proposal: To subdivide four 1 ha lots from the 13.8 ha parcel to provide homesite's for the applicants' children

Decision: Refused on the grounds that the land has good capability for agriculture and is presently being farmed. The creations of residential lots would increase urban-rural conflicts and may have a detrimental effect on nearby beef operations.

Application #08594-0**Applicant:** O'Meara, J.A. & G.V.**Decision Date:** August 28, 1979**Proposal:** To exclude the 13.8 ha property from the ALR in order to allow the subdivision of four 0.8 ha lots from the subject property to be used as homesites for the applicants' children**Decision:** Refused on the grounds that the land has good capability for agriculture and that the creation of city-sized lots in this area would be an intrusion into an agricultural area.

Application #17144-0**Applicant:** O'Meara, J.A. & G.V.**Decision Date:** July 20, 1984**Proposal:** To subdivide four lots of 0.8 to 1.0 ha for the applicant's children**Decision:** Refused. A Land Use Study was completed which revealed that existing vacant parcels under eight ha are available in abundance beyond the borders of the study area which can accommodate the demand for rural-residential and recreational development in the area.

Application #19615-0**Applicant:** O'Meara, J.A. & G.V.**Decision Date:** December 18, 1985**Proposal:** To exclude 4.9 ha to enable subdivision into four lots of 0.8 to 1.0 ha for the applicant's children**Decision:** Refused exclusion, however the Commission was willing to allow the subdivision of the four lots on the condition that the O'Meara's register a Restrictive Covenant such that no residential building or residential improvements (including a mobile home) will be situated on that part of District Lot 1016 and District Lot 5352 which lies north of the Francois Lake East Road.

Application #19615-1**Applicant:** O'Meara, J.A. & G.V.**Decision Date:** October 22, 1986**Proposal:** A request by the surveyor for the applicants to adjust the area being surveyed**Decision:** Allowed. The Commission reiterated that the registration of a restrictive covenant is a condition of the subdivision.

Application #19615-2**Applicant:** O'Meara, J.A. & G.V.**Decision Date:** September 11, 1992**Proposal:** To remove the restrictive covenant on the basis that it dramatically reduces the value of the charged lands as well as the subdivided property and not other subdivision in their area of the province has a similar restriction. At that time the Regional District wrote to the Commission stating their opposition to the removal of the covenant and the minutes state that they had already refused the same request submitted to them by the applicants in 1989.**Decision:** Refused.

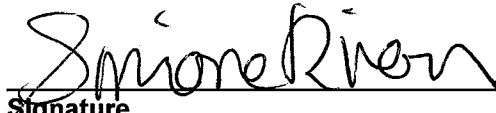
STAFF COMMENTS:

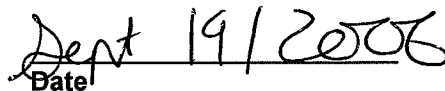
Staff recommend the Commission meet with the O'Meara's when next in the area in order to determine if there are any grounds to remove the covenant. Staff note that the covenant was put in place to allow the O'Meara's to subdivide their property and it was a subdivision that the Commission was very reluctant to allow. The covenant was put in place as a benefit to agriculture in order to balance the impacts of the creation of rural residential lots.

ATTACHMENTS:

Correspondence – Dated July 14, 2006 requesting removal of the covenant
Correspondence – Date July 14, 2006 from the Regional District of Bulkley Nechako supporting removal of the covenant
Minutes – Resolution # 6511/77
Minutes – Resolution # 9633/78
Minutes – Resolution # 12085/79
Minutes – Resolution # 1113/84
Minutes – Resolution # 1302/85
Minutes – Resolution # 1175/86
Minutes – Resolution # 1104/92

END OF REPORT


Signature


Date