



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
www.alc.gov.bc.ca

December 14, 2006

Reply to the attention of Gordon Bednard
ALC File: L-36930

Allen and Gale McWhinnie
PO Box 281 - 7931 Robbins Road
Jaffray, BC V0B 1T0

Dear Sir/Madam:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 621/2006 outlining the Commission's decision as it relates to the above noted application.

Please send two (2) paper prints of the final survey plans 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.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'E. Karlsen', is written over the 'Per:' label.

Erik Karlsen, Chair

cc: Regional District of East Kootenay (#P706-216)

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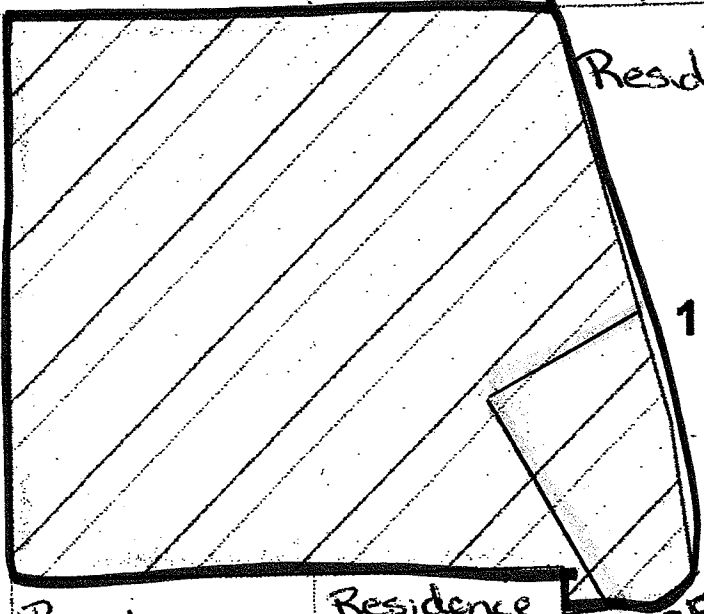
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Provincial Agricultural Land Commission

Application: L-36930
Resolution # 621/2006



Subject property.



Approved subdivision boundary. Lots remain within the ALR.



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 18, 2006 at Cranbrook, B.C.

PRESENT:	Monika Marshall	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	Erik Karlsen	Chair, ALC
	Gordon Bednard	Staff, ALC

For Consideration

Application: # L- 36930
Applicant: Allen and Gale McWhinnie
Proposal: To subdivide an approximately 0.5 ha lot from the 3.7 ha subject property to sell to applicants' daughter.
Legal: PID: 011-408-812
Lot A, District Lot 9460, Kootenay District, Plan 12928, EXCEPT Part included in Plan 16413
Location: 7931 Robbins Road – Jaffray Area

Site Inspection

A site inspection was conducted on October 17, 2006. Those in attendance were:

Monika Marshall	Chair, Kootenay Panel
Carmen Purdy	Commissioner
Erik Karlsen	Chair, ALC
Gordon Bednard	Staff, ALC
Angie Keir	daughter of applicant

The Commission discussed the application with Angie Keir and viewed the property.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

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.

Discussion

Assessment of Impact on Agriculture

The Commission assessed the impact of the proposal against the long term goal of preserving agricultural land. During its site inspection the Commission noted that the subject property was located in a rural residential enclave of smaller lots and the proposed subdivision would separate two areas of the subject property which are currently physically separated by a steep slope. The Commission does not believe the proposal would impact existing or potential agricultural use of surrounding lands.

IT WAS

MOVED BY: Commissioner Erik Karlsen

SECONDED BY: Commissioner Monika Marshall

THAT the application be allowed.

AND THAT the approval is subject to the subdivision being in substantial compliance with the plan submitted with the application.

AND THAT the subdivision must be completed within three (3) years from the date of this decision.

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 # 621/2006



Staff Report
Application # L – 36930
Applicant: Allen and Gale McWhinnie

DATE RECEIVED: September 7, 2006

DATE PREPARED: October 6, 2006

TO: Chair and Commissioners – Kootenay Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To subdivide an approximately 0.5 ha lot from the 3.7 ha subject property to sell to applicants daughter.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicants noted that the 0.5 ha area proposed for subdivision sits on a bench about 6 metres higher than the rest of the property.

Local Government:

Regional District of East Kootenay

Legal Description of Property:

PID: 011-408-812
Lot A, District Lot 9460, Kootenay District, Plan 12928, EXCEPT Part included in Plan 16413

Purchase Date:

March 1986

Location of Property:

7931 Robbins Road - Jaffray Area

Size of Property:

3.7 ha (The entire property is in the ALR).

Present use of the Property:

Lower bench residential, horse pasture, barn, tool shed green house and chicken coop. Upper bench - Mobile Home, tool shed, goat shed

BACKGROUND INFORMATION (continued):

Surrounding Land Uses:

WEST: Residence
SOUTH: Residence
EAST: Residence
NORTH: Residence

Agricultural Capability:

Data Source: Agricultural Capability Map # 82G/6
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

OCP: Bylaw No. 1414, Designation: RR-1 Rural Residential

Zoning Bylaw and Designation:

Minimum Lot Size: 1 ha

PREVIOUS APPLICATIONS:

Application #08557-0

Applicant: Helen and Len Robbins
Decision Date: August 16, 1979
Proposal: To exclude the 35 ha subject property in order to subdivide it into four lots (13 ha, 8 ha, 7 ha and 7 ha).
Decision: Refused as proposed, allowed subdivision.

Application #11191-0

Applicant: Helen and Len Robbins
Decision Date: November 19, 1980
Proposal: To subdivide the 6.5 ha subject property into two lots of 3 ha and 3.5 ha.
Decision: Refused - on the grounds that parcelization of the property would reduce its agricultural capability. The Commission allowed the parcel to be reduced to its present size in 1979 and has no desire to reduce it further.

Application #15205-0

Applicant: Helen and Len Robbins
Decision Date: November 23, 1982
Proposal: To exclude the 6.5 ha property to subdivide into two lots of 4 ha and 2.5 ha.
Decision: Refused as proposed, but would allow a boundary adjustment between two existing lots to create a 4 ha lot and an 8.6 ha lot.

Application #15205-1

Applicant: Helen and Len Robbins
Decision Date: July 12, 1983
Proposal: Reconsideration.
Decision: The Commission requested an onsite inspection and it recommended that both homes be provided with separate title. Refused as proposed, would allow a 4 ha lot and a 1 ha lot provided the remaining 1.5 ha were consolidated with an adjoining property.

RELEVANT APPLICATIONS:

Application #15619-0

Applicant: Sylvester and Evelyn MacNeil
Decision Date: November 16, 1982
Proposal: To subdivide the 5.7 ha property into two lots of 0.4 ha and 5.3 ha.
Decision: Refused as proposed because the applicant does not qualify for homesite severance and concerns about precedent.

Application #15619-1

Applicant: Sylvester and Evelyn MacNeil
Decision Date: July 12, 1983
Proposal: Reconsideration. The Commission requested an on-site inspection by MAFF.
Decision: Approved – on the grounds that the report was in favor of subdivision because it gave each existing home its own lot and would do little to alter the existing situation in the area.

Application #33117-0

Applicant: Lloyd Filimek
Decision Date: March 21, 2000
Proposal: To subdivide the 7.6 ha subject property into 5 parcels of approximately 1 ha each
Decision: Refused on the grounds that parcelization has a negative impact on agriculture in the area.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

East Kootenay Regional District Board: Recommend support.

Area 'B' Advisory Planning Commission: Supports.

Planning Staff: Recommend support.

Agricultural Advisory Commission: Accepted the application, no agricultural development.

STAFF COMMENTS:

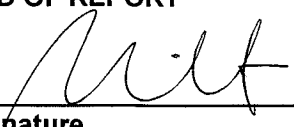
Staff suggests the Commission consider the following:

- There have been several previous subdivisions involving the subject property.
- The applicants state that the 0.5 ha area proposed for subdivision sits on a bench about 6 metres higher than the rest of the property. A site visit could help determine if this impacts the use of the property as a whole.

ATTACHMENTS:

- ALR Context Map
- Air photo (provided by Regional District)

END OF REPORT



Signature



Date