



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

August 9, 2007

Reply to the attention of Terra Kaethler
ALC File: #L - 37341

Kathleen Wilker
FCS Land Services Ltd. Partnership
PO Box 608
Invermere, BC V0A 1K0

Dear Madam:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 391/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of East Kootenay (#P706-504)

Enclosure: Minutes

TK/lv/37341d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on 13th July 2007 at the offices of the Integrated Land Management Bureau, Ministry of Agriculture and Lands, Cranbrook, B.C.

PRESENT:	Monika Marshall	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	D. Grant Griffin	Commissioner
	Terra Kaethler	Staff
	Roger Cheetham	Staff
	Darrell Smith	Resource Stewardship Agrologist, Ministry of Agriculture and Lands

For Consideration

Application: # L - 37341
 Applicant: William Ernest Ruault
 Agent: FCS Land Services Ltd. Partnership
 Proposal: Subdivide for a Relative: to subdivide three parcels, 0.8ha, 0.5ha and 0.6ha from the parent lot of 43 ha for family members who are involved in the farm operation.
 Legal: PID: 011-454-245
 Lot 1, District Lot 21 & 5118, Kootenay District, Plan 8594
 Location: 2280 Ruault Road, Rushmere area

Site Inspection

A site inspection was conducted on July 11, 2007. Those in attendance were:

- | | |
|-------------------------------------------------|-----------------------|
| • Monika Marshall | Chair, Kootenay Panel |
| • Carmen Purdy | Commissioner |
| • D. Grant Griffin | Commissioner |
| • Terra Kaethler | Staff |
| • Roger Cheetham | Staff |
| • William and Doreen Ruault, Rick, Karen Potter | Applicants |
| • Kathleen Wilker | Agent, Focus |

The Commission met with the applicants and viewed the area proposed for subdivision. The Commission noted that there were several non-conforming mobile homes on the property. The applicants informed the Commission that several others had been rented out that were recently removed. The subject property currently produced hay. Subdivision would allow the applicant's children to help with the farm.

The applicants were aware that they were eligible for a homesite severance, but did not consider that this option would fit their needs.

The applicants confirmed that the staff report dated June 26, 2007 was received and no errors were identified.

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 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.

The agricultural capability of the soil of the subject property is identified as improvable to 70% Class 4 and 30% Class 6 with limitations of topography and low fertility.

Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Although the Commission recognized that the agricultural capability of the subject property has limitations, the Commission considered that given the large size of the property, the agricultural capability of the property is reasonable, particularly for ranching or grazing activity. Further, the Commission considered that the agricultural capability ratings for this property are similar to surrounding lands in the area. Therefore the Commission determined that maintaining the property as a large parcel would have more potential for agriculture.

Assessment of Agricultural Suitability

The Commission assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The subject property is surrounded by large agricultural parcels. The Commission does not believe there are external factors that render the land 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.

While the Commission is sympathetic to the family circumstances cited by the applicants during the onsite inspection, this cannot be considered by the Commission as reason for subdivision of agricultural land. While family concerns are important to the landowner, they often conflict with the Commission's experience as to the long term negative effects of such subdivision.

The Commission's experience is that introducing small residential lots into an agricultural area has the long term effect of fueling expectations and speculation, making properties more expensive and less likely to be used for agriculture. Also smaller properties limit the agricultural options of a property and reduce the amount of pasture or arable areas which could be used for farming. Experience indicates that increasing the number of people on the land will more likely result in increased subdivision, smaller parcels and residential uses rather than increased farm uses .

Therefore, the Commission is not in favour of the creation of additional residential lots as these are seen by the Commission to negatively impact present and future agricultural activity in the area.

The intent of the Act is to preserve and protect agricultural lands and farm communities in the long-term and the Commission truly felt that your application was not in keeping with that mandate.

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 Marshall
SECONDED BY: Commissioner Griffin

THAT the application be refused.

CARRIED

Resolution # 391/2007



Staff Report
Application # L – 37341
Applicant: William Ernest Ruault
Agent: FCS Land Services Ltd. Partnership

DATE RECEIVED: April 10, 2007

DATE PREPARED: June 26, 2007

TO: Chair and Commissioners – Kootenay Panel

FROM: Terra Kaethler, Land Use Planner

PROPOSAL: Subdivide for a Relative: to subdivide three parcels of 0.8ha, 0.5ha and 0.6ha each, with a remainder parcel of 41.1 ha for family members who are involved in the farm operation.

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

BACKGROUND INFORMATION:

The property is currently an active crop farm with all members of the family living and working on the farm. There are currently four dwellings on the parcel, which exceeds the allowable number of dwellings in the local bylaw. The application states that the subdivision would legitimize the non-conforming dwellings and maintain the family farm operation.

Local Government:

Regional District of East Kootenay

Legal Description of Property:

PID: 011-454-245
Lot 1, District Lot 21 & 5118, Kootenay District, Plan 8594

Purchase Date:

April 1968

Location of Property:

2280 Ruault Road, Rushmere area

Size of Property:

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

BACKGROUND INFORMATION (Cont.):

Present use of the Property:

Crop farm, hay

Surrounding Land Uses:

WEST: small rural residential lot
SOUTH: rural residential, gravel pit and lands in their natural state
EAST: provincial park and small rural residential lots
NORTH: farm

Agricultural Capability:

Data Source: Agricultural Capability Map # 82J/5
The property is identified as having Secondary ratings of 70 % Class 4 and 30% Class 6 with limitations of topography and low fertility.

Official Community Plan and Designation: N/A

Zoning Bylaw and Designation:

A1 - Rural Resource
Min lot size – 60 ha

PREVIOUS APPLICATIONS:

Application #25703-0

Applicant: Ruault, William
Decision Date: October 16, 1991
Proposal: To subdivide the 43 ha property into two lots of 16 ha and 26 ha.
Decision: Refused on grounds that the subject property has agricultural capability and is consistent with other parcel sizes in the area and that the proposal would reduce the long-term agricultural potential of the property.

RELEVANT APPLICATIONS:

Application #33216-0 (Adjacent to West/South)

Applicant: Terra-West Investments Ltd
Decision Date: July 26, 2000
Proposal: To subdivide four parcels physically separated from the main property by Sestside Road.
Decision: Allow subject to cattle fencing being constructed and maintained around proposed lots A, B & C.
Recon: March 20, 2003. To subdivide the 32.3 ha subject property into one 0.9 ha lot and a 31.4 ha remainder. Allow as proposed. (ALC File #34614)

Application #35611-0 (Adjacent to North)

Applicant: H & R Ranch
Decision Date: October 29, 2004
Proposal: To subdivide a 1.93 ha lot (Lot 1) off the 51 ha property under the conditions of the *Homesite Severance Policy*. In addition the applicant would like to subdivide a 1.78 ha lot (Lot 2) from the property that is isolated from the rest of the parcel by Westside Road.
Decision: Allow the proposed subdivisions on the grounds that one of the lots is divided by a road and the other lot is for retirement under the conditions of the HSP.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

East Kootenay Regional District Board: Support the application on the condition that the property will not be sold for five years, except in the case of estate transfer.

Advisory Planning Commission: Support the application (4 support, 3 not support).

Local Government Staff: Support the Application.

STAFF COMMENTS:

Staff recommend that the Commission consider the following:

- The applicant appears to be eligible for a subdivision under the *Homesite Severance Policy*, as it is stated in the application that he has owned the property since 1968.
- No new structures or accesses are needed, as the family members are already living on the property. The application states that the proposed lots are arranged to minimize impact on the agricultural land (approximately 28 ha), all of which will stay with the remainder property.
- The current property size is consistent with the majority of other parcel sizes in the area. Introducing small, residential lots into this area may negatively impact agriculture.
- A site visit may help to determine the impact of the proposal on agriculture.

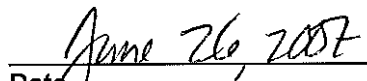
ATTACHMENTS:

- ALC Base Map # 82J/5
- ALC Constituent Map # 15
- Sketch of proposed subdivision
- FOCUS Report (January 30, 2007), 5 pgs.
- Photos of property, 2 pgs.

END OF REPORT



Signature



Date