



Staff Report
Application # P – 37727
Applicant: Michael & Patricia Brousseau

DATE RECEIVED: October 9, 2007

DATE PREPARED: October 31, 2007

TO: Chair and Commissioners – North Panel

FROM: Simone Rivers, Land Use Planner

PROPOSAL: To include the 3.2 ha non-ALR portion of the 4.8 ha subject property into the ALR and to build a 2nd dwelling on the property.

This application is made pursuant to section 17(3) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

Local Government:

Regional District of Kitimat-Stikine

Legal Description of Property:

PID: 016-241-223
Lot C, District Lot 1114, Range 5 Coast District, Plan 12697

Purchase Date:

1980-08-01

Location of Property:

3 km north of Terrace

Amount of Property to be Included:

3.2 ha (the property is 4.8 ha in size)

Present use of the Property:

Residence, woodworking shop and storage shed

Agricultural Capability:

Data Source: Agricultural Capability Map # 103I/10
The majority of the property is identified as having Secondary ratings.

Zoning Bylaw and Designation:

Zoning Bylaw No 37
Designation - low density rural (R2)
Minimum lot size - 10 acres

PREVIOUS APPLICATIONS:

Application #12730-0

Applicant: Brousseau, Michael & Patricia
Decision Date: October 08, 1981
Proposal: To subdivide the 14.8 ha property into three roughly 5 ha parcels because the land is unsuitable for farming. Approximately 11 ha is within the ALR.
Decision: The application was allowed.
Note: The applicants currently own the portion of the subject property that contains the least ALR of the three lots that were created as a result of this subdivision.

Application #75-0022-0

Applicant: Thomson, Allen
Decision Date: February 06, 1975
Proposal: To subdivide to property into 16 ha lots
Decision: Allowed.
Note: This application created the subject property.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional District of Kitimat-Stikine Board: The Regional Board forwarded the application with *"no objection to the application for inclusion provided that the Agricultural Land Commission determine that the land is suitable for agriculture as proposed by the applicants."*

OTHER COMMENTS:

Leah Sheffield, Ministry of Agriculture and Lands: *"the majority of the subject land is unarable and even those portions that might be marginally arable would require significant investment of time and money before having any hope of producing a crop"*

STAFF COMMENTS:

Staff note the following:

- According to the CLI maps the portion of the property that is outside of the ALR is rated as 100% class 7 T with a limitation of topography. Land in this class has no capability for arable or sustained natural grazing.
- The applicants previously applied to have the property subdivided on the grounds that *"the land is unsuitable for cultivation or farm purposes because of the numerous gulleys which traverse throughout the property"*. The Commission allowed the subdivision on this basis.
- MAL staff do not support the application on the grounds that the land is unarable
- The applicants wish to build a second dwelling on the property and have been refused by the Regional District because the property is zoned R2- Low Density Rural in the greater Terrace Zoning Bylaw No. 37. This zone only allows for one dwelling per parcel.

- The Agricultural Land Reserve Use, Subdivision and Procedure Regulation (part 3(1) (b)(ii)) allows "one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family" on each parcel "unless prohibited by local government bylaw". Therefore the Regional District can regulate the number of dwellings on the property should they so choose regardless of whether the property is in or out of the ALR.
- The *Agricultural Land Commission Act, 2002*, (the Act) Section 18 states that:
18 Unless permitted by this Act, the regulations or the terms imposed in an order of the commission,
 - (a) a local government, or an authority, a board or another agency established by it or a person or an agency that enters into an agreement under the *Local Services Act* **may not**
 - (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use. The Commission generally considers farm status to be a bare minimum requirement for the granting of additional dwellings on ALR land for farm use

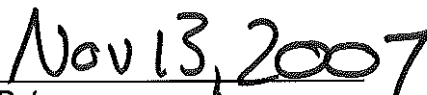
Staff recommends the application be refused on the basis of the onsite inspection by Ministry of Agricultural and Lands staff that determined that the non-ALR portions of the subject property were non-arable and on the basis that the Act does not allow the local government to approve more than one residence on a parcel of land within the ALR unless the residence is necessary for farm help. As the applicants have not provided any documentary evidence that the property is being farmed, is arable or has farm status, staff does not believe that the land under application is appropriate for ALR designation.

ATTACHMENTS:

- Description of proposal as submitted by the applicants and sketch showing the location of the proposed second dwelling
- Letter dated September 27, 2007 from the Regional District of Kitimat-Stikine outlining the proposal
- Letter from Leah Sheffield, P.Ag. Staff with the Ministry of Agriculture and Lands
- Letter from local landowner in opposition of the applicant's proposal.
- Minutes and sketch of Commission Resolution # 1804/81 (application # B-12730) which created the subject property
- Portion of Agricultural Capability Map 103I/10 – 1:50,000
- ALC Context Map – 103I.057 – 1:20,000 (created by ALC Staff)
- Airphoto – 1:10,000 (created by ALC Staff)

END OF REPORT


Signature


Date