



Agricultural Land Commission
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October 20, 2008

Reply to the attention of Jennifer Carson
ALC File: L-38297

Martin Herzig
RR1, Site 4 - B7 - 5135 Ha Ha Creek Road
Wardner, BC V0B2J0

Dear Mr. Herzig:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 628/2008 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of East Kootenay (P708-323)

JC/
i/38297d1



A meeting was held by the Provincial Agricultural Land Commission on September 29, 2008 in Cranbrook, B.C.

PRESENT:	Roger Mayer	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	D. Grant Griffin	Commissioner
	Jennifer Carson	Staff

For Consideration

Application: # L- 38297
 Applicant: Martin Herzig
 Proposal: To subdivide the 124.6 ha subject property into three (3) 2.0 ha parcels, one (1) 2.8 ha parcel, one (1) 4.0 ha parcel with a remainder of 111.8 ha.
 Legal: PID: 016-424-891
 District Lot 8111, Kootenay District, Except Part included in Plan 8035
 Location: 5135 Ha Ha Creek Road, Wardner

Site Inspection

A site inspection was conducted on September 29, 2008. Those in attendance were:

- Roger Mayer Commissioner
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Jennifer Carson Staff
- Darrell Smith District Agrologist with Ministry of Agriculture and Lands

The Commission noted that the applicant and his agent had been notified. The proposal was to create five residential lots on the south east portion of the property, east of Ha-ha Creek Road. It was noted that the area proposed for these parcels had topographical limitations and for the most part forested.

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

- Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
- Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.
- Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.
- Class 7 – Land in this class has no capability for arable or sustained natural grazing

Subclasses

P	stoniness	R	shallow soil / bedrock outcroppings
T	topography	X	cumulative and minor adverse

These classifications appeared to reflect the existing conditions on the property.

Assessment of Agricultural Suitability

The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The property is situated in an area of large farm properties of a similar size and Crown land. As such, the Commission did 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. In the Commission's view, reduction of parcel size generally reduces the available options for agricultural use. The Commission believed that the subject parcel had more potential agricultural value as a single unit and that subdivision would negatively impact the agricultural opportunities available to the subject property in the long-term.

Further, the Commission believed that subdivision of the subject parcel would encourage further parcelization of properties within active agricultural areas such as where this property is situated and may impact agricultural use of surrounding lands. It was noted that there has been substantial grazing activity in the surrounding Crown land area.

The intent of the Act is to preserve and protect agricultural lands and farm communities in the long-term and the Commission felt that subdivision of the subject property as proposed 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 adversely 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 Griffin

SECONDED BY: Commissioner Mayer

THAT the application be refused.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
 - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

CARRIED

Resolution # 628/2008