



Agricultural Land Commission
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June 15, 2009

Reply to the attention of Ron Wallace
ALC File: L-37283

Herbert and Georgena Palmer
RR1
Elko (Baynes Lake),
BC V0B1J0

Dear Sir/Madam

Re: **Application for Non Farm Uses in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 217/2009 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', written over a horizontal line.

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of East Kootenay (P-707-202)

MC/I/37283d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 27, 2009 at Cranbrook, B.C.

PRESENT: Barry Minor Chair, Kootenay Panel
 Carmen Purdy Commissioner
 Jerry Thibeault Commissioner
 Martin Collins Staff

For Consideration

Application: # L- 37283
Applicant: Herbert and Georgena Palmer
Proposal: To make a decision on the application for non-farm use on the 35 ha subject property for an existing 30 site serviced campground located on a 2.3 ha portion of the property on the west side of the road. The campground was established 6 years ago on the subject site without the Commission's approval. Follow up by Commission staff indicate that the landowners are not abiding by to a Commission requests and orders.
Legal: PID: 025-426-249
Location: Lot 1, District Lot 132, Kootenay District, Plan NEP71336
 510 Chief David Road, Baynes Lake

Commissioner Eligible to Vote

Commissioners Barry Minor and Jerry Thibeault were not present at the May 14, 2007 site inspection. It was confirmed that a summary of the site inspection was provided thus establishing the Commissioner's eligibility to vote on the application.

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

The application has been deferred since May 16, 2007 as the Commission became aware that the applicant was constructing a campsite on Lot 8, Plan 1181 without authorization. The applicant was afforded the opportunity to supply a written confirmation concerning the number of units on the new campground and an acknowledgement of the provisions of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation concerning agri-tourism accommodation.

The Commissioners discussed the May 22, 2009 staff report from ALC Compliance and Enforcement Officer Ron MacLeod. The report indicates that;

- 50 RV and 20 tent hook ups have been developed on Lot 1 NEP71336
- 20 RV hook ups have been developed on Lot 8, Plan 1181 for year round use (as opposed to seasonal) uses.

Follow up by Commission staff indicate that the landowners are not complying with a Commission "Stop Work" order on Lot 8, dated July 28th, 2008, the purpose of which was to halt the illegal expansion of the campground.

The Commission expressed concern that the applicant does not appear to be prepared to comply with the Commission's order(s) or provincial regulations. No community plan or zoning bylaw exists in this area.

The Commission believed that the most effective first step to achieve compliance with the *ALC Act*, B.C. Regulation #171/2002 and its order(s), is to refuse the application for the campground. By indicating emphatically that it is not prepared to allow a campground the Commission can consider its options with regards to potential legal action (if necessary).

The Commission believed that the existing campground development was not in support of agri-tourism uses and that the campground development had potential to negatively affect farm development and other farm operations by alienating land for agricultural uses.

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 campground proposal has potential to negatively 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 C. Purdy
SECONDED BY: Commissioner B. Minor

THAT the application to develop a 30 site campground on 2.3 ha of the subject property 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.

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 # 217/2009