



Agricultural Land Commission
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November 24, 2009

Reply to the attention of Martin Collins
ALC File: 38297 (41589)

Martin Herzig
RR #1, Site 4-B7
5135 Ha Ha Creek Road
Wardner, B.C.
VOB 2J0

Dear Sir:

**Re: Reconsideration of Application L-38297 - to Subdivide within the
Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 1486/2009 and a sketch plan outlining the Commission's decision as it relates to the above noted application.

Other approvals may be necessary, please contact the local government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

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

Erik Karlsen, Chair

Enclosure: Minutes

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

MC//38297(41589)d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on Tuesday November 17, 2009 at Rossland, B.C.

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

For Consideration

Application: 38297 (41589)
 Applicant: Martin Herzig
 Proposal: The original proposal was to subdivide 13 ha of the 124 ha property into five lots ranging in size from 2 ha to 4 ha. The application was refused by Resolution # 628/2008 because of concerns about the impacts of subdivision on nearby ranch operations.

The request for reconsideration is based on the applicant's assertion (as per an August 19th, 2009 e-mail) that the 13 ha area proposed for subdivision is unsuitable for farming and that other similar sized lots exist in the area.

Legal: PID 016 424 891 DL 8111, KD, Except Part included in Plan 8035
 Location: Ha Ha Creek Road, Wardner

Site Visit

The Commissioners and staff noted above viewed the property on November 16th, 2009. The applicant did not attend the site visit. The ~13 ha area proposed for subdivision is sparsely forested hillside and is separated from the agriculturally developed land on the remainder of the property by Ha Ha Creek Road.

Four similar sized rural residential lots occupy hillside areas just to the south of the proposed subdivision area.

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 and Suitability

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.

The unimproved agricultural capability of the soil of the 13 ha area proposed for subdivision is;

- 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

There is little capability for agricultural improvement on the 13 ha area because of severe topography. The land can only be used for intermittent, seasonal grazing.

Assessment of Impact on Agriculture

The Commission recalled that it had originally refused this application because of concerns about impacts of rural residential subdivision on surrounding agricultural activity. However, the Commission noted that similar sized lots had been subdivided east of Ha Ha Creek road which co-exist with grazing lands and ranching operations.

As such the Commission did not believe that subdivision would have any negative impacts on agriculture.

Conclusions

1. That the land under application has very limited agricultural capability.
2. That the subdivision proposal would not substantively affect agriculture.
3. That there were no persons affected by the reconsideration.

IT WAS

MOVED BY: Commissioner B. Minor
SECONDED BY: Commissioner C. Purdy

THAT there were no persons affected by the reconsideration, and;

THAT the application to subdivide the five lots ranging in size from 2 ha to 4 ha be allowed.

AND THAT the approval is subject to the following conditions

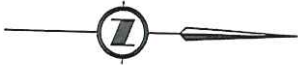
- the subdivision must be completed within three (3) years from the date of this decision.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

CARRIED
Resolution # 1486/2009

PLAN OF PROPOSED SUBDIVISION OF
PART OF D.L. 8111
KOOTENAY DISTRICT

SCALE 1:5000



DWG: 20105-2
Date: May 14, 2007
EQUUS LAND SERVICES LTD.
214 KOOTENAY ROAD F
CRANBROOK B.C.

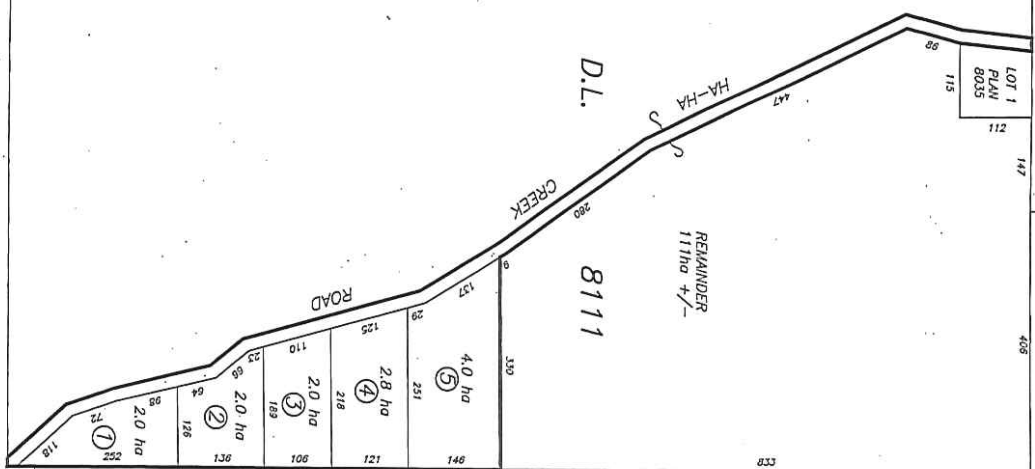
This Plan Uses with the East Kootenay Reg
Road District

D.L. 11762

D.L. 6371

D.L. 10085

D.L. 11024



20105-2

ALC APPLICATION L-38297
RESOLUTION #1486/2009

APPROVED FIVE LOT SUBDIVISION