



Agricultural Land Commission
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June 6, 2009

Reply to the attention of Ron Wallace
ALC File: F-38365

West Kootenay Sand and Gravel
Box 3068
Castlegar, BC V1N3H4
Attention Pat Adrian

Dear Sir:

Re: **Application for a Non Farm Use (gravel extraction) in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #218/2009 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.

Upon receipt of the required financial security the Commission will notify you of its permission to commence the project.

Please continue to follow the conditions of approval provided by Resolution # 652/2008 except as amended by this decision.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of Central Kootenay (A0821J-07290-000)
BC Assessment, Nelson

MC//38365d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 26, 2009 at Invermere, B.C.

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

For Consideration

Application: # F- 38365
 Applicant: Frederico Mealo
 Agent: West Kootenay Sand and Gravel
 Proposal: The Commission received a follow up report from Lawrence Redfern (M.SC, P. Ag) of Redfern Consulting which provided information about minor changes to the proposal, and responses to the Commission's conditions outlined by Resolution # 652/2008. The relevant issues are as follows;

- To expand the proposed gravel extraction area to 5.2 ha (from 4.9 ha) and increase the pit depth from 5 meters to 5.5 meters.
- The applicant has also provided information that the cost of pit reclamation would be \$22,000.00
- To follow the Central Kootenay Invasive Plant Committee Seven Step process
- To not follow a phasing approach due to uncertain market conditions

Legal: PID: 016-327-683
 Sublot 12, District Lot 4598, Kootenay District, Plan X34, Except 1) Part included in Sketch Plan 4665I, 2) parts included in RW Plans RW 12 and 8744 and 3) Part included in Plans 2108 and 9156

Location: South of Castlegar, off of Hwy 22

Site Inspection

No site inspection was conducted

Commissioner Eligible to Vote

Commissioners B. Minor and J. Thibeault were not present at the October 1, 2008 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 Commission considered what persons were affected by the reconsideration.

The Commission had no objection to the minor expansion of the pit to 5.2 ha (from 4.9 ha). However, it was concerned about the amount of security necessary to reclaim the pit to an agricultural standard. The applicant has provided information indicating that \$22,000.00 was the cost of reclamation. The Commission did not believe that \$22,000.00 was adequate. Instead it believed that a financial security in the amount of \$100,000.00 to be appropriate.

The Commission acceded to the request to not phase the project, and the weed control process.

IT WAS

MOVED BY: Commissioner C. Purdy
SECONDED BY: Commissioner J. Thibeault

That there were no persons affected by the reconsideration, and

THAT the request to expand the pit to 5.2 ha and the depth of the excavation to 5.5 meters be allowed.

That the requirement to implement phasing (as per Resolution # 652/2008) be released.

That the Central Kootenay Regional District Seven Step weed control process be implemented.

That a \$100,000.00 financial security in the form of an irrevocable letter of credit (to be automatically renewed annually) be submitted to the Commission to ensure reclamation of the gravel pit to an agricultural standard upon its closure.

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 # 218/2009