



Agricultural Land Commission
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April 7, 2009

Reply to the attention of Brandy Ridout
ALC File: **T-38608**

Harry Hartwig
31 - 83 Peregrine Way
Vernon, BC
V1H1E9

Dear Mr. Hartwig:

Re: Application to Subdivide Land within the Agricultural Land Reserve

Please find attached the Minutes of Resolution #85/2009 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', is written over the 'Per:' label.

Erik Karlsen, Chair

Enclosure: Minutes

cc: The District of Coldstream (08-019-ALR)
Reinhard Hartwig, 2845 Jarvis St., Armstrong, BC, V0E 1B1

BR/
i/38608d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

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

PRESENT:	Roger Mayer	Chair, Okanagan Panel
	Gerald Zimmermann	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

For Consideration

Application: #T-38608
 Applicant: Harry Hartwig
 Proposal: To subdivide a 0.2 ha lot from the 4.3 ha subject property under the *Homesite Severance Policy*.
 Legal: PID: 001-716-743
 Lot 3, District Lot 57, Osoyoos Division of Yale District, Plan 4895, EXCEPT Plans 15219, 15850, 16490 and 17136
 Location: 8967 Kalamalka Road, Coldstream

Site Inspection

A site inspection was conducted on March 25, 2009. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Gerald Zimmermann Commissioner
- Brandy Ridout Staff
- Martin Collins Staff
- Harry Hartwig owner
- Reinhard Hartwig owner

Harry Hartwig confirmed that the staff report dated February 19, 2009 was received and no errors were identified.

The Commissioners viewed the property, noting that a single family dwelling and a mobile home occupied the 4.3 ha property immediately adjacent to Kalamalka Road.

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:

70% Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

30% Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

There are no substantive limitations on the farm use of this flat fertile property.

Assessment of Agricultural Suitability

The Commission assessed whether factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use. While the property is bordered to the west by five residential lots, the homes pre-existed the ALR. Farmland borders the subject property in three sides.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission was concerned about the potential for a large new home to be constructed on the farm remnant if the current home were subdivided. It is the Commission's experience that a larger new home with yard, access and septic would significantly reduce the arability of the farm remnant.

Assessment of Other Factors

The Commissioners noted that the basis for the consideration of the application is that the landowner's parents were not aware of *Homesite Severance Policy* and therefore did not apply for subdivision before they died. However, the application does not qualify as a Homesite Severance because the purpose of the policy was to address the concerns of retiring farmers who owned and lived continuously on the property since Dec. 22, 1972. Since the current landowners inherited the property several years ago, the policy does not apply.

In addition, the Commission was also concerned about retroactively having to apply the policy to every landowner or surviving family who did not take advantage of the policy before they either sold the property or passed away. The Commission does not believe that subdividing farm homes from farm parcels is supportive of agriculture. Not only does it ensure that another farm home will be constructed on productive land, but it also places a non-farm resident into close proximity to farm activity, increasing potential for residential/farm conflict over typical farm noises and other activity.

Conclusions

1. That the land under application has agricultural capability, is appropriately designated as ALR, and is suitable for agricultural use.
2. That the subdivision proposal will negatively impact agriculture.
3. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Zimmerman
SECONDED BY: Commissioner Mayer

THAT the application to subdivide a 0.2 ha lot from the 4.3 ha 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 #85/2009