



Agricultural Land Commission
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May 21, 2009

Reply to the attention of Roger Cheetham
ALC File: **L-38639**

Cynthia and Larry Hutchinson
Box 1163,
Fernie, BC V0B1M0

Dear Mr. and Mrs. Hutchinson:

Re: Application for Non-Farm Use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 151/2009 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: Regional District of East Kootenay (P-708-112)

rc/
i/38639d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on April 29, 2009 in Cranbrook, B.C.

PRESENT:	Erik Karlsen	ALC Chair
	Barry Minor	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	Jerry Thibeault	Commissioner
	Roger Cheetham	Staff

For Consideration

Application: # L- 38639
 Applicant: Cynthia and Larry Hutchinson
 Proposal: To establish a temporary, portable sawmill, scaling site and chipper on approximately 0.6 ha of the subject property.
 Legal: PID: 015-798-399
 Location: Lot 3, District Lot 7784, Kootenay District, Plan 1360, Except Plan 9789
 2117 Hwy 3, Hosmer Area

Site Inspection

A site inspection was conducted on 29th April 2009. Those in attendance were:

- Erik Karlsen ALC Chair
- Barry Minor Chair, Kootenay Panel
- Carmen Purdy Commissioner
- Jerry Thibeault Commissioner
- Roger Cheetham Staff
- Darrell Smith Regional Agrologist, Ministry of Agriculture and Lands
- Lance Hutchinson Applicant
- Larry Hutchinson Applicant
- Mike Sosnowski EA Director, East Kootenay Regional District

The Commission noted that the proposed location for the saw mill was in the south eastern corner of the property. A portion of the area is at present being used for log storage and a storage bin has been placed in this area. Mr. Sosnowski explained that in the event of the Commission approving the saw mill the Regional District could issue a temporary permit for a two year period, renewable for a further two years.

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 portion of the subject property that is proposed to be used for the temporary saw mill is generally rated as Class 6 with topographic limitations and the bulk of the remaining areas of the property as improvable to Classes 5 and 4 with topographic and stoniness limitations.

- Class 4 – Land in this class has limitations that require special management practices or severely 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.

The Commission noted that the bulk of the property was being used for agriculture, predominantly for hay. It also noted that the proposed temporary saw mill was proposed to be located on the portion of the property with the lowest agricultural capability.

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 Commission did not believe that 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. It noted that the saw mill would be a temporary use and it was confined to the area of the property with the poorer soils. The Commission believed that provided the site is restored and rehabilitated as necessary to restore the site for agricultural use the proposal would not impact existing or potential agricultural use of the property and would not impact surrounding lands.

Assessment of Other Factors

The Commission noted that the Regional District supports the proposal subject to a temporary use permit being issued by the Board. The Commission also noted that the Advisory Planning Commission supports the application and the Agricultural Advisory Commission accepts the application as presented. Finally it noted that the applicant intended using profits from the saw mill operations to help his farming operations.

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 not impact agriculture.
4. That the proposal is consistent 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 be approved

AND THAT the approval is subject to the following conditions:

- The development is in accordance with the plan attached to the application
- That the approval is subject to review after two years to confirm that the use is not causing any negative impact on agriculture
- That the site of the propose temporary saw mill is restored and rehabilitated as necessary to enable the site to be used for agricultural purpose when authority from the Board to use the site for the proposed use ceases.

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 #151/2009