



Agricultural Land Commission
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October 1, 2009

Reply to the attention of Simone Rivers
ALC File: 50161

Doug Dodge
Exton and Dodge Land Surveying Inc.
133 Borland St.
Williams Lake, BC V2G 1R1

Dear Mr. Dodge:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # **883/2009** 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.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink that reads 'Erik Karlsen'. The signature is written in a cursive, flowing style.

Erik Karlsen, Chair

Enclosure: Minutes/

cc: Cariboo Regional District (4035-20-E066)

SBR/
50161d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 15, 2009 at Kamloops, BC.

PRESENT:	Grant Huffman	Chair, Interior Panel
	Lucille Dempsey	Commissioner
	Gordon Gillette	Commissioner
	Simone Rivers	Staff

For Consideration

Application: 50161
Applicant: Leander and Geraldine Dolye
Agent: Exton & Dodge Land Surveying Inc (Doug Dodge)
Proposal: The proposal consists of two parts
To subdivide the two lots into five lots. Three of the proposed lots are entirely outside of the ALR. The two lots located within the ALR will be bound together by covenant.
Legal: To dedicate right-of-way to lands beyond south of the property.
1. PID: 014-575-175
The Fractional North East 1/4 of Section 35, Township 44, Lillooet District, Except Plan KAP49530 and KAP61193
2. PID: 015-120-007
District Lot 128, Cariboo District, Plan PGP45324
Location: Chimney Lake Road, south of Williams Lake

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

With respect to the proposed subdivision:

The Commission reviewed the file material which outlined the history of the application and the reasons for the proposed subdivision. It noted that the subdivision would have been allowed by the approving officer as a boundary adjustment if it were not for the fact that the applicants' two properties were located in two different land title districts. As property cannot be consolidated across land title district boundaries a subdivision was required. The two lots were proposed to be joined by covenant.

The Commission considered that the applicants' original plan was to subdivide the non-ALR portion of their property from the ALR portion. Because the ALR remainder was not large enough to meet the Regional District minimum parcel size of 32 ha, a boundary adjustment was proposed to increase the size of the remainder. The non-ALR portion of the property located on the west side of Chimney Lake Road appeared to be similar in quality to the ALR portion.

The Commission noted that if the applicant did not subdivide proposed lot 3 (outside of the ALR) that the remainder of The Fractional North East ¼ of Section 35, Township 44, Lillooet District would meet the minimum parcel size for the R/A zone. It further noted that the applicant could have applied to rezone the remainder of the property rather than removing land from a large agricultural parcel.

The Commission believed that the proposed subdivision provided no benefit to agriculture and did not believe that allowing subdivision was in keeping with its mandate.

With respect to the proposed road dedication:

The Commission noted that, if the applicants successfully applied for rezoning of the remainder of The Fractional North East ¼ of Section 35, Township 44, Lillooet District that they could complete the subdivision of the non-ALR portion of the subject property without reference to the Commission except for the matter of the proposed road dedication.

The Commission recalled Section 86 of the *Land Titles Act* which states the following:

Matters to be considered by approving officer on application for approval

86 (1) *Without limiting section 85 (3), in considering an application for subdivision approval, the approving officer may*

(c) refuse to approve the subdivision plan, if the approving officer considers that:

(x) the anticipated development of the subdivision would unreasonably interfere with farming operations on adjoining or reasonably adjacent properties, due to inadequate buffering or separation of the development from the farm, or

(xi) despite subparagraph (ix), the extent or location of highways and highway allowances shown on the plan is such that it would unreasonably or unnecessarily increase access to land in an agricultural land reserve

In this case, the Commission believes that the section (xi) applies and that the proposed road dedication would have a negative impact on the agricultural utility of surrounding lands, which are located within the Agricultural Land Reserve.

Conclusions

1. That the land under application for subdivision has agricultural capability and is appropriately designated as ALR.
2. That the land under application for subdivision is suitable for agricultural use.
3. That the proposal will impact agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.
5. That the proposed road dedication unnecessarily increases access to land in an agricultural land reserve

IT WAS

MOVED BY: Commissioner Huffman

SECONDED BY: Commissioner Dempsey

THAT the application 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.

CARRIED

Resolution # 883/2009