



Agricultural Land Commission
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November 25, 2009

Reply to the attention of Martin Collins
ALC File: 50222

August, Gerhard, Richard and Pat Uglik
RR 2, Site 120, Comp 9
Rock Creek, B.C.
V0H 1Y0

Dear Sirs/Madam:

Re: Application to Subdivide within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 1488/2009 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', written over a horizontal line.

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of Kootenay Boundary (E-125-02331.000)

MC/i/50222d1



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: 50222
Applicant: August, Gerhard, Richard and Pat Uglyk
Proposal: To subdivide two 4 ha lots from the 44 ha property lying north of Kettle Valley South Road.
Legal: PID 010 245 138 Lot A, DL 215, SDYD, Plan 5750, Except Plans 3483, KAP44460, KAP44472
Location: Between Midway and Rock Creek, north of the Kettle River

Site Visit

The Commissioners and staff noted above met with the Uglyk family on November 17th, 2009, discussed the application and viewed the property.

The Commission noted the land lying north of the road was not developed for agriculture but that portions appeared to be suitable for agricultural development. The road was not deemed to be a significant impediment to using the land in conjunction with the developed agricultural remnant.

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 subject property is a complex mixture;

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.

Class 7 – Land in this class has no capability for arable or sustained natural grazing

The limiting subclasses are seasonal moisture deficiency and topography (on a very small area).

The improved agricultural ratings are complex:

30 % Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

70% Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.

The 36 ha portion of the property lying south of the road is in irrigated hay production.

The Commission acknowledged that the 8 area proposed for subdivision was not developed for agriculture, and that the northerly portions had limited agricultural potential. However, the Commission did believe that the land adjacent to Kettle Valley South Road had agricultural potential and that, with irrigation, could be developed for pasture or hay production.

The Commission did not believe that the presence of Kettle Valley South Road constituted a significant impediment to using the 8 ha subdivision area in conjunction with the land lying south of the road.

Assessment of Impact on Agriculture

The Commission assessed the impact of the subdivision proposal against the long term goal of preserving agricultural land. It is the Commission's general view that larger parcels offer a wider range of agricultural options and are more likely to be used for agriculture. The Commission believed that about half of the proposed subdivision area (4 ha) had agricultural potential. It was concerned that the proposed subdivision would sever the potentially productive area so that it was unlikely that the land would be used for agriculture. In addition it is also likely that the productive area would be used for homesites due to its proximity to the road, further reducing the area's agricultural potential. For these reasons the Commission was not supportive of subdivision.

The Commission also recalled it had previously refused a similar application in the 1980's.

Conclusions

1. That portions of the 8 ha area under application for subdivision have agricultural capability and are suitable for agricultural uses.

2. That the subdivision of the most arable portions of the 8 ha area will narrow agricultural options and likely result in the loss of arable land to new homesites.
3. That the subdivision will not result in the agricultural use of the land.

IT WAS

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

THAT the application to subdivide two 4 ha lots from the subject property be refused as proposed.

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 # 1488/2009