



Agricultural Land Commission
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April 13, 2010

Reply to the attention of Simone Rivers
ALC File ZZ-38686

Roger Hook
6250 Chukar Drive
Kamloops, B.C. V2C 6L9

Dear Mr. Hook:

Re: Request for Reconsideration

This is further to your letter of December 7, 2009 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #131/2009.

The Commission has reconsidered the matter and has attached the Minutes of Resolution # 2293/2010 outlining its latest decision. As agent, it is your responsibility to notify your client(s) accordingly.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

cc: Thompson-Nicola Regional District (ALR-L-397)

Enclosure: Minutes/Sketch Plan

SBR/38686d2



A meeting was held by the Provincial Agricultural Land Commission on March 16, 2010 2009 in Kamloops, B.C.

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

A letter from Roger Hook was received requesting that the Commission reconsider its decision recorded as Resolution #131/2009.

Application:	ZZ-38686
Applicant:	Ed and Linda Herman
Agent:	Roger Hook
Original proposal:	To subdivide the 27.3 ha lot into a 9.8 ha lot and a 17.5 ha lot.
Original decision:	Refused
Current proposal:	To reconsider the Commission's refusal
Legal:	PID: 023-802-596 Lot B, District Lot 292, Section 16, Township 19, Range 15, West of the 6 th Meridian, Kamloops Division Yale District, Plan KAP59298
Location:	Monte Creek, East of Kamloops

Site Inspection

A site inspection was conducted for the original application on April 29, 2009. Those in attendance at that time were:

- Grant Huffman Chair, North Panel
- Holly Campbell Commissioner
- Gordon Gillette Commissioner
- Simone Rivers Staff
- Roger Hook Agent for the applicants

A second site inspection was conducted on March 16, 2010. Those in attendance at that time were:

- Grant Huffman Chair, North Panel
- Lucille Dempsey Commissioner
- Simone Rivers Staff

At the second site inspection, the Commission familiarized themselves with where the proposed lot line for the property was and noted that the two portions of the property had been used separately for many years. The Commission recalled that it has previously refused a subdivision request for a property directly to the east of the subject property but noted that the agricultural capability of the property to the east appeared to be higher than that of the current subject property.

Commissioner Eligible to Vote

Commissioner Dempsey was not present at the original site inspection. It was confirmed that a summary of the original site inspection was provided thus establishing the Commissioner's eligibility to vote on the application.

Context

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the "Act") which states:

- S33(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, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission believed that the applicant had provided evidence that was not available at the time of the original decision and so reconsidered the application.

Discussion

The Commission took into account the new information that outlined the limitations to the agricultural capability of the subject property. The Commission recalled that in this area it has previously refused to approve a subdivision of the property located directly to the east of the subject property but had approved subdivision of lands located to the south on the basis that the lands to the east had good agricultural capability and the lands to the south did not. Upon reconsideration the Commission agreed that the agricultural capability of the subject property was less than that of the property to the east. The Commission also took into consideration the fact that the two portions of the property had been used separately for many years.

IT WAS

MOVED BY: Commissioner Dempsey

SECONDED BY: Commissioner Huffman

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT the request to subdivide the 27.3 ha lot into a 9.8 ha lot and a 17.5 ha lot be approved.

AND THAT the approval is subject to the following conditions:

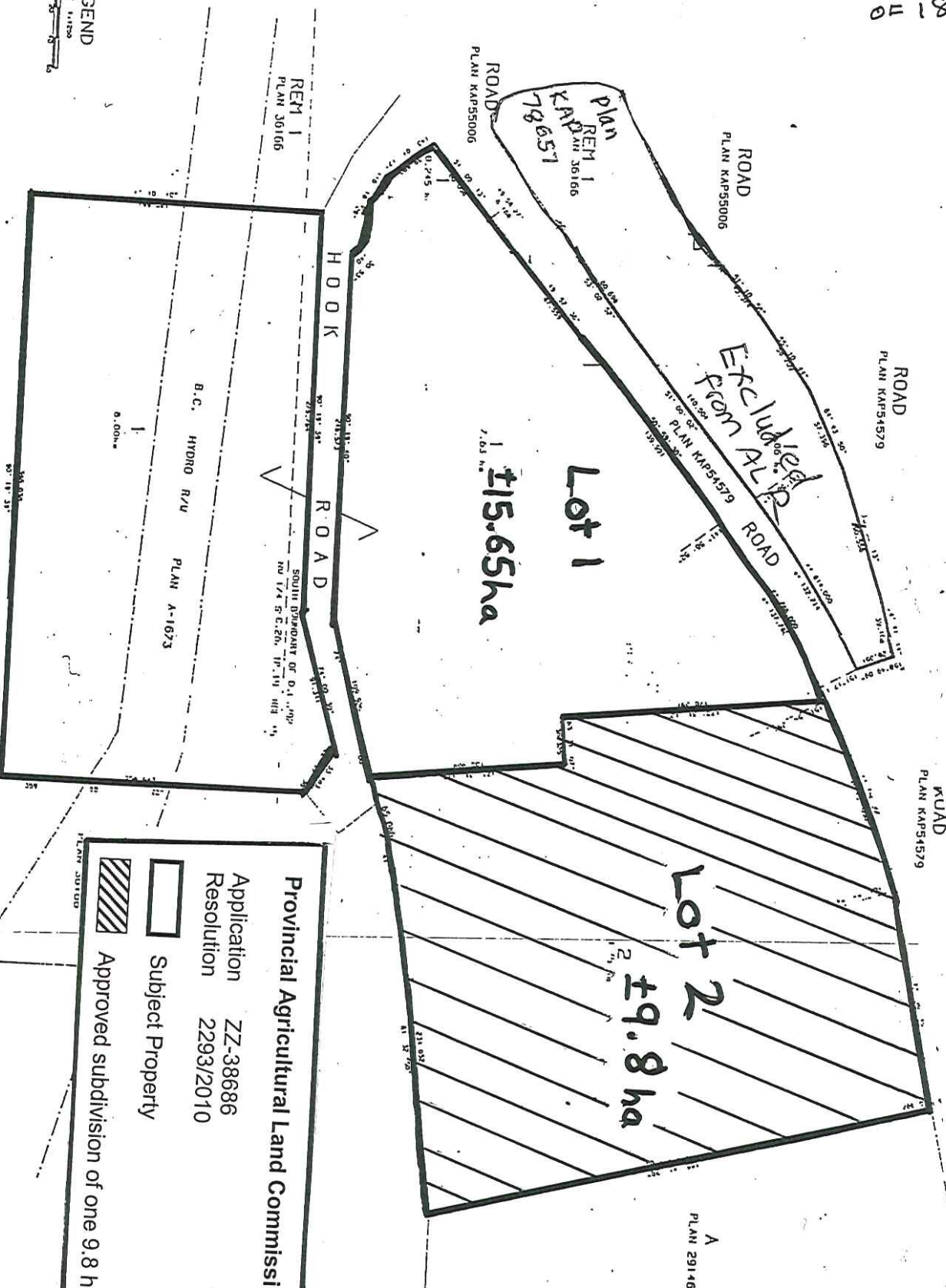
- the subdivision be in substantial compliance with the plan submitted with the application

- the subdivision must be completed within three (3) years from the date of this decision.

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 # 2293/2010


SKETCH PLAN SHOWING PROPOSED SUBDIVISION OF
LOT A, PLAN KAP _____ D.L. 292, K.D.Y.D. AND THE
NW 1/4 OF SEC. 26, TP. 19, RGE. 15, WM, K.D.Y.D.

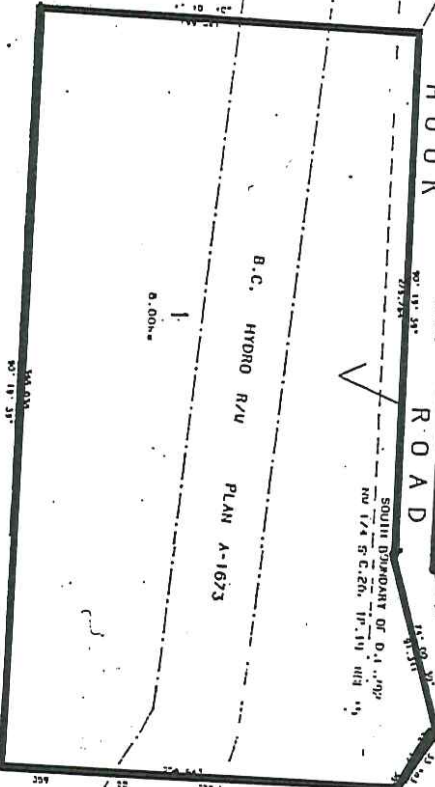


Provincial Agricultural Land Commission

Application ZZ-38686
Resolution 2293/2010

 Approved subdivision of one 9.8 ha lot

 Subject Property



DATE 04/11/20
DRAWN BY
CHECKED BY