



Agricultural Land Commission
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May 26, 2010

Reply to the attention of Simone Rivers
ALC File: 51649

Dave and Paul Chutter
c/o Hamilton Creek Holdings Ltd.
Box 2509
Merritt B.C. V1K 1B8

Dear Messrs. Chutter:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # **2437/2010** 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 that reads 'Simone Rivers'. The signature is written in a cursive, flowing style.

Brian Underhill, Executive Director

Enclosure: Minutes/

cc: Thompson-Nicola Regional District ALR-N-80)

SBR/
/51649d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 20, 2010 at Williams Lake, B.C.

PRESENT: Lucille Dempsey Commissioner
Gordon Gillette Commissioner
Simone Rivers Staff

For Consideration

Application: 51649
Applicant: Hamilton Creek Holdings
Agent: Dave and Paul Chutter
Proposal: To subdivide the three subject properties (total area 78.6 ha) into nine (9) 8 ha lots and one 4.4. ha lot.
Legal: 1. PID: 010-101-365
District Lot 3639 Kamloops Division Yale District, Except Plans 43275 and KAP45713
2. PID: 015-764-125
That part of District Lot 669, Kamloops Division Yale District Lying North of Plan 42636
3. PID: 013-036-157
District Lot 12196, Kamloops Division Yale District, Except Plan 43275
Location: East of Merritt just north of Highway 97C

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

The applicants were sent a copy of the Commission's staff summary report prior to its meeting. In response, the applicants provided a list of clarifications as well as a detailed letter giving more information about their proposal. These submissions were provided to the Commission at the meeting and were reviewed along with the entire file material.

While the applicant went to some lengths to make it clear that Hamilton Creek Holdings was a separate company from Chutter Ranch, the Commission was of the opinion that consideration of this application could not be completed in isolation of the earlier development proposal submitted by Chutter Ranch due to the fact that the subject

properties (the lands) had been integral to that prior Chutter Ranch proposal (ALC application # ZZ-36478 - Resolutions 377/2008 and 138/2006).

The Commission noted that when it made its initial decision to allow Chutter Ranch to develop portions of its holdings for residential development, the lands were owned by the Crown. Chutter Ranch stated in 2006 that it may try to purchase the lands but were uncertain of the outcome at that time. The Commission, by Resolution # 138/2006 stated that should the lands be purchased by the ranch, they would be required to be consolidated by covenant with the agricultural portion of the ranch, that is, the parts not being developed as a residential strata. This decision was in part based on the premise that the lands have capability for agriculture that would benefit Chutter Ranch.

Subsequent to Resolution # 138/2006, Chutter Ranch asked the Commission to amend its original decision. It informed the Commission that the lands had been acquired from the Crown and asked that the Commission allow it to develop 8 additional lots as part of its residential strata development. In order to meet its requirements for density averaging, it proposed to add the lands to the strata property rather than have them form part of the ranch lands. The lands would not be developed, but would remain in their natural state to be used by the ranch for grazing. At that time, the fact that the lands had been purchased by a different company was not emphasized as they were to be incorporated into the initial development proposal. This change was approved by Commission Resolution # 377/2008. Again, this decision was in part based on the premise that the lands have capability for agriculture that would benefit Chutter Ranch.

The Commission recalled that the proposal for 87 and then 98 rural residential lots was developed with the goal to keep as much land as possible available for use by the Ranch. Although the proposed strata lot was several hundred ha in size, there would only be 0.4 ha (1 acre) of development for every 4 ha (10 acres) of strata land, meaning that 3.6 ha (9 acres) out of every 4 ha (10 acres) would remain available for ranch use. Additionally, the proposed strata would be subject to extensive bylaws and covenants that aimed to protect the interests of the ranch and would facilitate the continuation of ranching in the area despite the proposed development.

The Commission noted that the current application did not contain any measures such as covenants or other restrictions to ensure that the proposed subdivision would be compatible with surrounding ranch uses. The Commission also noted that the current proposal would remove 78.6 ha of land from use of the ranch as the land would be divided into fee simple properties and sold in its entirety. The Commission notes that the lands have been used by Chutter Ranch for agricultural purposes, first as grazing leases as well as after their purchase by Hamilton Creek Holdings. The Commission notes that the lands were seen as being a useful addition to the entire ranch when proposed as an addition to the strata lands and it does not believe that this has changed.

The Commission believes that the land under application is suitable for agricultural use and that the application to subdivide these lands into nine (9) 8 ha properties and one 4.4 ha lot will have a negative impact on the agricultural utility of the subject properties as they will effectively be removed from agricultural use if subdivided. The Commission also believes that the proposal will have a negative impact on surrounding agricultural operations as the proposal to develop these lands into fee simple lots does not have the same mitigation measures in place to ensure compatibility with surrounding ranching operations as the previous development proposal submitted by Chutter Ranch.

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 impact agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Gillette
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 # 2437/2010