



Agricultural Land Commission
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9th December 2010

Reply to the attention of Ron Wallace
ALC File: 51962

Ronald and Sara Mulvey
Site 17A Comp1 RR#1
4650 Upper Passmore Road
Winlaw, BC
V0G 2J0

Dear Mr. and Mrs. Mulvey:

Re: Application for Subdivision in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 2783/2010 outlining the Commission's decision as it relates to the above noted application.

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.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact your Local Government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Regional District of Central Kootenay (4035-20-A1017-Hs-22219.10)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on 17th November 2010 in Nelson, BC

PRESENT:	Richard Bullock	Chair of Commission
	Barry Minor	Chair, North Panel
	Jerry Thibeault	Commissioner
	Gordon Gillette	Commissioner
	Roger Cheetham	Staff

For Consideration

Application: 51852
 Applicant: Ronald and Sara Mulvey
 Agent: N/A
 Proposal: To subdivide a 18.6 ha parcel to create 3 parcels south of Upper Passmore Road and one parcel north of the road.
 Legal: PID: 016-059-875; District Lot 12307 Kootenay District Except Part Included in SRW Plan 18867
 Location: 44550 Upper Passmore Road

Site Inspection

A site inspection was conducted on 17th November 2010. Those in attendance were:

- Richard Bullock Chair of Commission
- Barry Minor Chair of Kootenay Panel
- Jerry Thibeault Commissioner
- Gordon Gillette Commissioner
- Roger Cheetham Staff
- Ronald Mulvey Applicant

The applicant showed the Commission the areas to the south of Upper Passmore Road where he planned to create three new subdivisions. The Commission noted that the most northerly portions of these proposed parcels are fairly flat and have been cleared in some areas and used for agriculture. Other parts are under trees, as are the steeper more southerly sections. The Commission noted that portions of the flatter areas are wet. The applicant provided some historical background information relating to the previous use of the property for agriculture as outlined in his application.

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 soils of the subject property are in the main rated as Class 5 with soil moisture deficiency, adverse climate and topography limitations. The remaining areas are rated as Class 7 (the steep slope to the south of the property) and Class 4 (the areas south of the Slocan River). Between 20% and 30% is rated as improvable to Class 3 with adverse climate limitations.

- Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.
- 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 7 – Land in this class has no capability for arable or sustained natural grazing

The bulk of the property thus has agricultural capability with 20% to 30% of the property rated as having prime improved 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. While subdivisions in the area are generally somewhat small for agriculture, the Commission did not believe that this or other external factors will render the land unsuitable for agricultural use. The Commission also noted that its review of the boundaries of the ALR for the Slocan Valley concluded that the subject property has agricultural potential and is correctly placed in the ALR.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. With regard to the agricultural potential of the subject property the Commission noted that Upper Passmore Road, while not a major physical constraint, nevertheless divides the property into two fairly distinct components. With regard to the portion south of the road the Commission considered that it would not be in the interests of agriculture to create additional subdivisions in this area in that it would decrease the range of agricultural options for this portion of the property and result in small rural parcels the predominant use of which, the Commission's experience has shown, would be for residential and not agricultural purposes.

IT WAS

MOVED BY: Commissioner J. Thibeault

SECONDED BY: Commissioner G. Gillette

THAT the application be approved refused as submitted

AND THAT subdivision of the property into two along Upper Passmore Road be approved subject to the following conditions:

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

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, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

CARRIED
Resolution # 2783/2010