



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

June 20, 2011

Reply to the attention of Lily Ford
ALC File 51904

Reto and Shelley Barrington
622 Fifth Avenue
Fernie, BC
V0B 1M0

Peter and Susan Merchant
1621 Shelbourne Street SW
Calgary, AB
T3C 2L2

Dear Mr. & Ms. Barrington and Mr. & Ms. Merchant:

Re: Application to Subdivide in the Agricultural Land Reserve

Please find attached Minutes of Resolution # 203/2011 outlining the Commission's decision as it relates to the above noted application. A copy of the draft plan submitted with your application, and referenced in the minutes, is also enclosed.

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: 

Richard Bullock, Chair

Enclosure: Minutes/Draft Plan

cc: Regional District of East Kootenay

LF/51904d1



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 26, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Roger Mayer	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Roger Cheetham	Regional Planner
Lily Ford	Land Use Planner
Eamonn Watson	Land Use Planner
Shaundehl Runka	Policy Planner
Colin Fry	Executive Director

APPLICATION ID: #51904

PROPOSAL: To subdivide a 2.9 ha parcel into four 0.41 ha to 0.47 ha lots and an approximately 0.9 ha remainder. The proposal also includes dedication of an approximately 0.2 ha access road.
(Application submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

PROPERTY INFORMATION:

Owners: Peter Merchant and Susan Merchant (1/2 interest as Joint Tenants)
Reto Barrington and Shelley Barrington (1/2 interest as Joint Tenants)

Date of Acquisition: May 1, 1998

Parcel ID: 015-806-332

Title No. LB5444

Legal Description: Lot 2, Block 80, District Lot 132, Kootenay District Plan 1181

Civic Address: 1759 Waldo Road, Kragmont

Size: 2.9 ha

Area in ALR: 2.9 ha

Current Land Use: Residential

Farm Classification: Yes No
(BC Assessment)

SITE INSPECTION MEETING:

A site inspection meeting was conducted on April 28, 2011 following which a report was prepared. The site inspection meeting report was certified by Commissioner Thibeault on May 19, 2011.

Section 14(2) of the *Agricultural Land Commission Act* provides that a member of the Commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote. The site inspection meeting report, certified by Commissioner Thibeault on May 19, 2011, constitutes a written record of the site inspection meeting and has been provided to all Commission members recorded above.

COMMISSION CONSIDERATION:**Context**

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission as: (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.

Agricultural Capability

Based on the information contained in Map 82G.014 (Scale 1:50,000) of the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system, the agricultural capability ratings are identified as being:

Unimproved Rating: 5MP

Improved Rating: (7:4MP 3:3M)

Note: As mapped, these ratings cover the northern approximately 10% (or 0.29 ha) of the 2.9 ha property. However, recent inspection of the site indicates that these ratings apply to the northern approximately 70% of the site.

Unimproved Rating: 7:6T 3:7T

Improved Rating: (7:6T 3:7T)

Note: As mapped, these ratings cover approximately 90% (or 2.62 ha) of the 2.9 ha property. However, inspection of the site indicates that these ratings apply to only the southern approximately 30% of the site.

Class and Subclass Descriptions

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 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

M soil moisture deficiency
P stoniness
T topography

Site Specific Report regarding Agricultural Capability

Report Prepared By: BC Department of Agriculture
Author: M.J. Malmberg, District Agriculturist
Date Prepared: June 20, 1977

The report stated that the land is predominantly (3M) with irrigation.

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. The Commission does believe that there are external factors that render the land unsuitable for agricultural use. The Commission noted that the 2.9 ha subject property is isolated on a narrow bench containing residential lots ranging from 1.1 ha to 0.25 ha in size. It further noted that the subject property itself contains no more than 2 ha of arable land.

Assessment of Potential Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission noted that the subject parcel is topographically isolated from nearby agricultural properties and contains only a small area (approximately 2 ha) of arable land. Referencing the Baynes Lake OCP and related zoning bylaw, which it had reviewed immediately prior to this application, the Commission noted that concentration of residential development in existing nodes, such as lower Kragmont, could help preserve neighbouring lands that have greater potential for agricultural use. For these reasons, the Commission believes that the proposal would not impact existing or potential agricultural use of surrounding lands.

Other Factors

- The proposal is consistent with the draft Baynes Lake OCP, endorsed by the Commission earlier in the meeting, which designates the Kragmont area as an "ALC Subdivision Area." The OCP allows discretionary approval of lots less than 1 ha in these areas.
- The proposal is supported by the local Agricultural Advisory Committee "as (the lot) is surrounded by similar sized residential property and there are no agricultural concerns."

- The proposal is consistent with previous approvals for subdivision of adjacent properties.

DECISION:

IT WAS

MOVED BY: Commissioner Jim Collins

SECONDED BY: Commissioner Bert Miles

THAT the application be allowed as proposed for the following reasons:

1. The land contains no more than 2 ha of arable land and is isolated on a narrow bench containing small (0.25 ha to 1.1 ha) residential lots. Therefore, it is unsuitable for agricultural use.
2. The proposed subdivision will not impact agriculture as the property contains little arable land and is topographically isolated from nearby agricultural properties.
3. The proposal is consistent with the draft Baynes Lake OCP, which was endorsed by the Commission on May 26, 2011.

AND THAT the approval is subject to the following conditions:

- the subdivision must be in substantial compliance with the plan submitted with the application; and
- the subdivision must be completed within three (3) years from the date of this decision.

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.

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 # 203/2011

A
1.253 ha

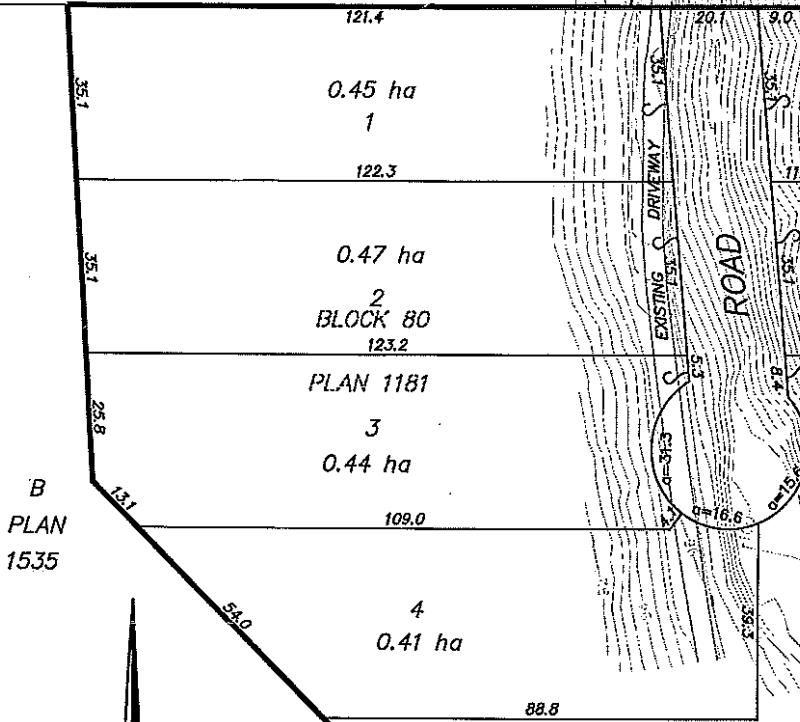
PLAN NEP89200

B
0.882 ha

1
PLAN
7782

5
BLOCK 74

ROAD (not constructed or suitable for connecting to Waldo Road)



B
PLAN
1535



LAKE KOOCANUSA

SCALE: 1:1000



All distances are in metres

1181

80

5
BLOCK
PLAN

5

PLAN OF
PROPOSED SUBDIVISION OF
LOT 2 DL 132 KOOTENAY DISTRICT
PLAN 1181

DWG FILE: 20847-1
EKMAN LAND SURVEYING LTD.
217B INDUSTRIAL ROAD F
CRANBROOK B.C.

20847-1