



Agricultural Land Commission
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December 23, 2011

Reply to the attention of Lily Ford
ALC File 52259

Kenneth and Katherina Roe
9520 Stirton Road
Kimberley, BC
V1A 3J1

Dear Mr. and Ms. Roe:

Re: Application to Subdivide in the Agricultural Land Reserve

Please find attached Minutes of Resolution #511/2011 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 be 'C. Fry', written over a circular stamp or mark.

Colin Fry, Executive Director

Enclosure: Minutes

cc: Regional District of East Kootenay

LF/52259d1



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 27, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Gordon Gillette	Chair
Jim Collins	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jerry Thibeault	Commissioner

COMMISSION STAFF PRESENT:

Lily Ford	Land Use Planner
Colin Fry	Executive Director

APPLICATION ID: #52259

PROPOSAL: To subdivide a 31.8 ha parcel to create a 4 ha parcel and a 27.8 ha remainder.

(Application submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

PROPERTY INFORMATION:

Owner:	Kenneth and Katherina Roe
Date of Acquisition:	March 31, 2005
Parcel ID:	016-791-801
Title No.	KX36504
Legal Description:	District Lot 11601 Kootenay District Except Part Included in Plan NEP 21014
Civic Address:	9520 Stirton Road, Kimberley
Size:	31.8 ha
Area in ALR:	31.8 ha
Current Land Use:	Residential
Farm Classification:	No
(BC Assessment)	

SITE INSPECTION MEETING:

A site inspection was conducted on September 13, 2011 following which a report was prepared. The site inspection report was certified by Commissioner Thibeault on October 24, 2011.

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/12 (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: 5ST Improved Rating: 3T

Note: These ratings apply to the entire property except as noted below.

Unimproved Rating: 4F Improved Rating: 2X

Note: These ratings apply to an approximately 10 ha area along the western boundary of the property. The proposed 4 ha lot is located primarily in this area.

Class and Subclass Descriptions

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

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.

F low fertility
S combination of two of D, F, M, or N
 D undesirable soil structure
 F low fertility
 M moisture deficiency (droughtiness)
 N salts
T topography
X combination of soil factors

The Commission considered these ratings and the observations regarding topography, vegetation, soil conditions, and agricultural use provided by Commissioner Thibeault and the site inspection report. The Commission noted that the subject property, with the exception of the residence, is currently unimproved; the adjacent lot to the east, however, has similar agricultural capability ratings and contains what appears to be a productive hay operation. Having considered all of the above information, the Commission concluded that the property, while subject to some limitations, has agricultural capability.

Agricultural Suitability

The Commission considered the location of the property in a rural area outside of the Kimberley city limits. It noted that surrounding lots range from 25 ha to 80 ha in size and surrounding land use is primarily agricultural with residences on some of the lots. The Commission concluded that no external factors, such as encroaching non-farm development, limit the suitability of the property for agriculture.

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 approval of the proposed subdivision would create a 4 ha parcel in the middle of much larger holdings, inconsistent with the rural character of the surrounding area. It further noted that the proposed 4 ha lot has agricultural capability ratings that are improvable to Class 2, with limitations due to a combination of soil factors, and that construction of a residence on that lot would thus remove good capability land from agricultural use. For these reasons, the Commission found that the subdivision would have a significant impact on agriculture in the area.

Other Factors

- On April 1, 2011, the Regional District of East Kootenay adopted Resolution 42266 in support of the proposal.
- The Advisory Planning Commission for Electoral Area "E" supports the proposal.
- On May 29, 1998, the Commission refused a proposal to subdivide the parcel into two lots along Stirton Road, on the basis that the parcel has agricultural capability and subdivision would increase expectations for similar subdivisions in an area unsuitable for increased residential density.

DECISION:

IT WAS
MOVED BY: **Commissioner Gordon Gillette**
SECONDED BY: **Commissioner Jim Collins**

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

1. The subject property has good agricultural capability.
2. The subject property is suitable for agricultural use.
3. The proposed subdivision would have a significant impact on agriculture in the area.

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 # 511/2011