



Agricultural Land Commission
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January 16, 2012

Reply to the attention of Lily Ford
ALC File 52360

Janet McLean and Elisabeth Knight
c/o Shirley Kosiancic
Box 667
Nakusp, BC
VOG 1R0

Dear Ms. McLean and Ms. Knight:

Re: Application to Subdivide Land in the Agricultural Land Reserve

Please find attached Minutes of Resolution #513/2011 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:


Colin Fry, Executive Director

Enclosure: Minutes

cc: Regional District of Central Kootenay

LF/52360d1



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
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner

COMMISSION STAFF PRESENT:

Lily Ford	Land Use Planner
Colin Fry	Executive Director

APPLICATION ID: #52360

PROPOSAL: To subdivide an approximately 9.9 ha parcel into two 4.9 ha parcels. Approximately 9.3 ha are located within the ALR.

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

PROPERTY INFORMATION:

Owner:	Janet McLean and Elisabeth Knight (In Fee Simple)
Date of Acquisition:	July 28, 1993
Parcel ID:	010-107-665
Title No.	KX30856
Legal Description:	Lot 1, District Lot 7700, Kootenay District, Plan 14190 Except Plans NEP59276 and NEP77700
Civic Address:	McCormack Road, Burton
Size:	9.9 ha
Area in ALR:	9.3 ha
Current Land Use:	Undeveloped
Farm Classification:	No

(BC Assessment)

SITE INSPECTION MEETING:

A site inspection was conducted on September 16, 2011 following which a report was prepared. The site inspection report was certified by Commissioner Johnson on October 24, 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 report, certified by Commissioner Johnson on October 24, 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 82F/13 (Scale 1:50,000) of the Canada Land Inventory (CLI) 'Land Capability Classification for Agriculture' system, the agricultural capability ratings are identified as being:

Unimproved Rating: 4MP

Improved Rating: 3PM

Note: These ratings apply to the entire area that is located within the ALR.

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.

M moisture deficiency (droughtiness)
P stoniness

The Commission considered these ratings and the observations regarding topography, vegetation, and soil conditions provided by Commissioner Johnson and the site inspection report. Having considered all of the above information, the Commission concluded that the property, while subject to some limitations, has good agricultural capability.

Agricultural Suitability

The Commission considered the location of the property in Burton, a rural community on the east side of Upper Arrow Lake. It noted that although a residential subdivision is located to the

west of the property, there are larger lots in the immediate vicinity and the surrounding area is predominantly rural in character. 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 considered the size and agricultural capability of the property and found that approval of the proposed subdivision would reduce the agricultural potential of the property. For this reason, the Commission concluded that the proposed subdivision would have a significant impact on agriculture.

Other Factors

- In a Local Government Report dated June 17, 2011, Planning Staff for the Regional District of Central Kootenay (RDCK) noted that the proposal posed “no apparent conflict with RDCK bylaws.” No resolution from the RDCK Board was received.
- On November 29, 1990, the Commission refused a proposal to exclude the subject property from the ALR on the basis that the property has agricultural capability suitable for crops or pasture (Resolution #996/1990). The Commission allowed subdivision along the ALR boundary.
- On December 18, 1992, the Commission refused a proposal to subdivide two 2 ha parcels from the subject parcel on the same basis as noted above (Resolution #1263/1992).

DECISION:

IT WAS

MOVED BY: Commissioner Jim Collins

SECONDED BY: Commissioner Gordon Gillette

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.

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 # 513/2011