



Agricultural Land Commission
133-4940 Canada Way
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January 14, 2013

ALC File: # 52710

R.G (Bob) Holtby, P. Ag.
2533 Copper Ridge Drive
West Kelowna, BC V4T 2X6

Dear Mr. Holtby:

Re: Application to Exclude and Subdivide Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #474/2012 as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

The Commission noted that both the exclusion and subdivision proposals were submitted on the same application form. For future reference, in circumstances where a client has multiple proposals (i.e. exclusion, subdivision and/or non-farm use), each proposal will require the submission of a separate application.

Further correspondence with respect to this application is to be directed to Lindsay McCoubrey.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #474/2012
cc: Regional District of Kootenay Boundary (File: E-1250-04687.000)



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 18, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52710.

COMMISSION MEMBERS PRESENT:

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

COMMISSION STAFF PRESENT:

Colin Fry	Executive Director
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PROPOSAL

The applicants are applying for exclusion and subdivision on the 27.6 ha subject property of which 10.1 ha are within the ALR. The subject property is bisected by Highway 33.

Exclusion - To exclude 2 ha from the 27.6 ha parcel.

Subdivision - To subdivide six lots as follows:

- 1 x 2 ha lot
- 1 x 1.4 ha lot
- 1 x 0.7 ha lot
- 2 x 2 ha lots (partially in ALR)
- 1 x 19.5 ha lot

(Application for exclusion submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*)
(Application for subdivision submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

EXCLUSION MEETING

An exclusion meeting was held on September 18, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. Those in attendance included the Commissioners and staff noted above, Terry Graff and Bob Holtby.

SITE INSPECTION

A site inspection was conducted on July 16, 2012 at the subject property. Those in attendance included Commissioners Bullock, Thibeault, ALC staff Roger Cheetham and Lily Ford, the property owners Terry Graff and Kenna Graff and the applicants' agent Bob Holtby.

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. Commissioner Thibeault provided a verbal account of the site inspection to all Commission members recorded above.

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
 - (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
 - (c) 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.
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COMMISSION CONSIDERATION

After considering the information the Commission concluded as follows:

1. The improved agricultural capability rating identified on Canadian Land Inventory (CLI) map sheet 82E/06 for the subject property is Class 5.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel of land are P (stoniness) and M (moisture deficiency).

Conclusion: The Commission is satisfied the land has agricultural capability.

2. The subject property is located in an area of predominantly large agricultural parcels within the ALR. The CLI Class 5PM rating is characteristic of lands in the area and is generally more productive in larger parcels. The Commission also considered whether the property was suitable for agriculture. This consideration included details such as property size, surrounding land use and limitations to agriculture.

Conclusion: The Commission did not believe there are external factors that render the land unsuitable for agricultural use. In addition, both exclusion and subdivision would reduce the agricultural options available for the use of the subject property.

3. The proposed subdivision would create five small lots in the ALR, in an area predominately held in larger holdings. Small residential properties in the area are mainly grouped together in Beaverdell.

Conclusion: The proposal for non-farm use is inconsistent with objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Gillette
SECONDED BY: Commissioner Miles

THAT the application be refused as submitted.

CARRIED

Resolution #474/2012

Commissioner Collins was opposed to the decision.