



Agricultural Land Commission
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February 8, 2013

ALC File: #52800

Urban Connections
PO Box 313
Suite 100 – 8305 68th Avenue
Osoyoos, BC
V0H 1V0

Dear Mr. Elenko:

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

Please find attached the Minutes of Resolution #3/2013 as it relates to the above noted application. As agent, it is your responsibility to notify your clients 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.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Brian Underhill', is written over a white background. The signature is fluid and cursive, with a large initial 'B' and a long, sweeping tail.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #3/2013

cc: Regional District of Kootenay Boundary (File: E-346-02630.000)



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission (ALC) on January 23, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52800.

COMMISSION MEMBERS PRESENT:

Gordon Gillette	Vice-Chair (Acting Chair)
Jennifer Dyson	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner

COMMISSION STAFF PRESENT:

Roger Cheetham	Regional Planner
Lindsay McCoubrey	Land Use Planner
Eamonn Watson	Land Use Planner
Colin Fry	Executive Director

PROPOSAL

To subdivide the 130.5 ha subject property into either two 65.25 ha parcels or one 40 ha and one 90.5 ha parcel.

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

PROPERTY INFORMATION:

Owners: Daniel and Sonya Miller

Legal: PID: 007-496-664
District Lot 346, Similkameen Division Yale District, Except Plans H17963 and KAP89411

Location: 1450 Sidley Camp McKinny Road, west of Bridesville, Regional District of Kootenay Boundary

Size: 130.5 ha

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

The Commission reviewed two previous applications involving the subject property:

Application #40880 (Miller, 2003) To subdivide the subject property into two equal lots. A site inspection was conducted on March 18, 2004 during which it was confirmed that the existing water bottling facility (Miller Springs Ltd.) was operating within the Agricultural Land Reserve (ALR) without approval from the ALC. The applicant was informed that this use was not permitted outright and that a non-farm use application was necessary. It was noted while touring the subject property that the property had good capability for agricultural use and was used for hay production. The proposed subdivision was refused by Resolution #147/2004 as the Commission felt the subject property was an appropriate size for agricultural production and should be retained at its present size to maintain its full agricultural potential.

Application #44576 (Miller, 2007) To allow the existing spring water bottling facility (Miller Springs Ltd.) as a non-farm use on the subject property and to subdivide the property into two equal halves to separate the water source and bottling facility from the remainder of the property. A site inspection was conducted on March 25, 2008 during which the Commission learned that Miller Springs Ltd. recently sold private shares and as such the new share holders were interested in owning the area of the property associated with the bottling operation. The Commission was also advised that the new shareholders were not interested in leasing the facility and had no interest in participating in agricultural activities. The proposed subdivision was refused by Resolution #118/2008 as the Commission concurred with the previous decision conclusions that the property had agricultural capability and suitability and therefore subdivision would negatively impact agriculture. The non-farm use was approved within the resolution.

2010: Request for reconsideration of Application #44576 based on a proposal to expand the Miller Springs Ltd. bottling facility with two additional buildings (297 m² and 435 m²). A site inspection was conducted on November 16, 2010 during which it was noted that construction of the proposed buildings had begun. The applicant indicated that the additional buildings were for warehouse space to store bottles. The proposed expansion was approved under the original resolution as expansion was within the existing footprint of the facility.

2011: A second reconsideration request was submitted to revisit the proposed subdivision of the subject property into two equal parcels. The Commission did not reconsider the matter.

After considering the information the Commission concluded as follows:

1. 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.

The improved agricultural capability ratings identified on Canadian Land Inventory (CLI) map sheet 82E/03 for the subject property are predominantly Class 3 and Class 4, with small sections of Class 5 and Class 6.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

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

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with the *unimproved* capability ratings of this parcel of land are: I (inundation), A (soil moisture deficiency), P (stoniness), T (topographic limitations) and W (excess water).

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Conclusion: The subject property has good agricultural capability and in its present size can, and has supported, agricultural use.

Conclusion: The Commission has not received any indication that there have been reciprocal agricultural improvements made to the land through irrigation even though there is an opportunity to enhance the agricultural capability in part through irrigation.

2. Previous site inspections and subsequent decisions on the property, as noted previously, indicate that the subject property has agricultural capability, is an appropriate size for agriculture in the area, and has historically been used for hay production.

Conclusion: The Commission concurs with the previous decisions and does not believe that this proposal provides any substantially new information. The parcel has greater agricultural potential as a large cohesive farm parcel.

3. The purpose of the subdivision proposal is to separate the non-farm use interests, such that Miller Springs Ltd. can hold the water source, well and bottling facility on a separate title.

Conclusion: Subdivision within the ALR for the purposes of non-farm use is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve and encourage agriculture. The Commission is supportive of the previous two decisions refusing subdivision.

Conclusion: The Commission wishes to make it abundantly clear that the water bottling facility is considered subordinate to the agricultural use of the property; not as a standalone, commercial non-farm business.

IT WAS

MOVED BY: Commissioner Dyson

SECONDED BY: Commissioner Miles

THAT the proposal to subdivide the subject property into either two 64.3 ha lots or into approximately one 44 ha and one 84 ha lot be refused.

CARRIED

Resolution #3/2013