



Agricultural Land Commission
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February 7, 2012

ALC File: #52970

Ross Priest
112-17th Street South
Cranbrook, BC
V1C 0A1

Dear Mr. Priest:

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

Please find attached the Minutes of Resolution #20/2013 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.

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 horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #20/2013

cc: Regional District of East Kootenay (File: P 712 416)



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 23, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52970.

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:

Lindsay McCoubrey	Land Use Planner
Eamonn Watson	Land Use Planner
Colin Fry	Executive Director

PROPOSAL

To subdivide the 16.4 ha subject property into two 8.2 ha lots.
(Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

PROPERTY INFORMATION:

Owner: Silvertip Inc.
Legal: PID: 010-065-229
Lot B, District Lots 12731 and 12732, Kootenay District, Plan 14051

Location: Kimberley, Regional District of East Kootenay
Size: 16.4 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:
- to preserve agricultural land;
 - to encourage farming on agricultural land in collaboration with other communities of interest; and
 - 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.

COMMISSION CONSIDERATION

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'.

The improved agricultural capability ratings identified on Canadian Land Inventory (CLI) map sheet 82G/12 for the subject property are Class 3, Class 4, 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 this parcel of land are M (moisture deficiency), P (stoniness), T (topographic limitations) and W (excess water).

The Agricultural Report written by R. McCuaig, M. Sc, P.Ag., (the "McCuaig Report") submitted with the application, does not demonstratively conclude that there is a deviation from what the Commission understands the land capability to be based on the published CLI ratings. The report concludes that the proposal will not adversely affect the surrounding farmland, but it does not substantiate agricultural reasons for the proposed subdivision.

Conclusion: Based on the CLI agricultural capability rating, the file material and the McCuaig Report, the Commission is satisfied that the subject property has agricultural capability and suitability.

2. The mandate of the Commission is to preserve agricultural land and to encourage farming within the ALR. The applicant does not provide any agricultural rationale for the proposed subdivision. The Commission notes in the McCuaig Report the conclusion that, "*the constructed channel and the establishment of a riparian habitat reduce the availability of the lowland for agricultural use,*" does not validate a subdivision proposal because the improvements were not made for agricultural purposes and as such are not a matter for consideration.

Conclusion: The proposal for subdivision is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve and encourage agriculture. The non-agricultural land works carried out by the applicant do not justify the proposed subdivision.

3. The Commission noted in the application the reference to section 946 of the *Local Government Act* (LGA) as a factor in support of the request to subdivide the subject property. Section 2 of the *Agricultural Land Commission Act* (ALCA) establishes primacy of the ALCA over other legislation. More specifically:

2(1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

The LGA is subordinate to the ALCA and as such section 946 in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes section 946 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. If a subdivision for a relative involves land in the ALR, the local government can only use section 946 if an ALR application for subdivision has first been approved by the ALC. The ALC's consideration of subdivision proposals will be done in accordance with the purposes of the ALCA provided in section 6.

Conclusion: Subdivision for the purposes of family estate planning is not considered a valid reason for parcelizing agricultural land within the Agricultural Land Reserve (ALR).

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Dyson

THAT the proposal to subdivide the 16.4 ha subject property into two 8.2 ha lots be refused.

CARRIED

Resolution #20/2013