



Agricultural Land Commission
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February 25, 2013

ALC File: # 53018

Duane and Carla Senez
3188 Schaeffer Road (Box 299)
Falkland, BC V0E 1W0

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

Please find attached the Minutes of Resolution # 32/2013 as it relates to the above noted application.

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 ALC Staff.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'B. Underhill', is written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #32/2013

cc: Columbia Shuswap Regional District (LC2468)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 22, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53018.

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

COMMISSION STAFF PRESENT:

Martin Collins	Regional Planner
Ron Wallace	Land Use Planner
Colin Fry	Executive Director

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

The owners would like to subdivide the 2.6 ha property, under section 946 of the Local Government Act, into one parcel of 0.5 ha and a remainder of 2.05 ha.

PROPERTY INFORMATION:

Owner: Duane and Carla Senez

Legal: PID: 003-760-367
Lot 5 section 36 Township 17 and section 1 Township 18 West of the 6th Meridian
Kamloops Division Yale District Plan 31260 Except Plan KAP70746

Location: 3188 Schaeffer Road, Falkland, BC

Size: 2.6 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 one previous application involving the subject property:

Application #38872 (Senez, 2009) To subdivide the 2.6 ha subject property into two 1.3 ha lots. A site inspection was conducted on June 17, 2009 during which time it was noted that two homes exist on the property which is partially cleared for agriculture. The proposed subdivision was refused by Resolution #362/2009 as the Commission did not believe the proposed subdivision would enhance the land's agricultural utility. In the Commission's experience smaller parcels reduce the likelihood of agricultural development and increase residential pressure.

After considering the information the Commission concluded as follows:

1. The agricultural capability rating identified on the Canada Land Inventory (CLI) Map 82L/5 rates the subject property as Class 4 with no improved rating. The subclass limitation associated with the agricultural capability ratings is (M) seasonal moisture deficit and (P) stoniness.

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

Conclusion:

The subject property has some agricultural capability for a range of crops.

2. The proposal to subdivide the property into one 0.5 ha and a remainder of 2.05 ha under section 21(2) of the *Agricultural Land Commission Act*.

Conclusion:

The Commission assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission maintains the view that subdivision of the property would reduce the available options for agricultural use, while increasing residential pressures in the area. It believes the subject property has more agricultural potential as a 2.6 ha lot than as the proposed two smaller properties.

3. The Commission noted the applicant referred 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:

The consideration of Section 946 of the LGA in support of the subdivision proposal is inconsistent with the purpose of the ALC.

IT WAS

MOVED BY: Commissioner Thibeault

SECONDED BY: Commissioner Pranger

THAT the proposal to subdivide the 2.6 ha property, under section 946 of the Local Government Act, into one parcel of 0.5 ha and a remainder of 2.05 ha be refused.

CARRIED

Resolution #32/2013