



Agricultural Land Commission
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June 3, 2014

ALC File: #53211

Shauna Goertzen
SS2, Site 7, Comp 12
Fort St. John, B.C.
V1J 4M7

Dear Ms. Goertzen:

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

Please find attached the Minutes of Resolution #90/2014 as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) 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 Gordon Bednard.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #90/2014

cc: Peace River Regional District (File #5/2013)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 28, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53211.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Gordon Bednard	Planner
Jennifer Carson	Planner
Martin Collins	Regional Planner
Colin Fry	Chief Tribunal Officer

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

SUBDIVISION: To subdivide the 64 ha subject property into two parcels of approximately 14.5 ha and 49.5 ha and to re-dedicate a private road as public right of way to access parcels without road access.

The applicants have also submitted a concurrent application (#53284) to include 0.9 ha into the ALR.

PROPERTY INFORMATION:

Owners: Lorraine and Conord Isenbecker

Legal: PID: 005-170-443
The South East ¼ of Section 27, Township 84, Range 18, West of the 6th Meridian, Peace River District

Location: Pineview area, north of Fort St. John

Size: 64 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.

COMMISSION CONSIDERATION

The Commission reviewed one previous application involving the subject property:

Application #41170 (Isenbecker, 2004)	Proposal: To subdivide 8 ha from the southern portion of the subject property for a residence for the owner's son. The owners' are retiring and would like their son to take over all of the farming operations. It is felt that a significant portion of the proposed 8 ha lot is unfarmable due to "coulees, bush, oil roads and creeks". Decision: Refused on the grounds of reduced agricultural capability, residential intrusion and precedent. Resolution #263/2004
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After considering the file information the Commission concluded as follows:

1. The Commission assessed the agricultural capability of the subject property.

Conclusion:

The Canada Land Inventory (CLI) rating for the ~45 ha ALR portion of the subject property is 8:2C 2:3T. The remainder of the property is uncultivable ravine with a CLI rating of 6:6T 4:7TR, with topography being the major limitation. The proposed 14.5 ha lot is comprised primarily of uncultivable ravine, and ~1 ha of cultivated ALR, and 0.9 ha of non-ALR cultivated area (proposed for inclusion), resulting in 2 ha currently in cultivation to be converted to residential uses.

2. The Commission assessed the agricultural impacts of the proposed subdivision.

Conclusion:

The subdivision of a residential lot in an area of large farm parcels is not consistent with the objectives of the *Agricultural Land Commission Act (ALCA)*; to preserve agricultural land and encourage farming. Subdivision incrementally erodes the arable land base and introduces residents into farm areas, potentially resulting on conflicts between farmers and residents.

3. The Commission considered the applicant's retirement rationale, and the reference to Section 946 of the *Local Government Act (LGA)* provided in support of the application.

Conclusion:

Landowners qualify for consideration under the ALC's *Homesite Severance Policy* if they have owned and continuously lived on a property since prior to December 21, 1972. The

file information does not indicate that the applicants owned the subject property prior to 1972. Farmland purchased after that date does not qualify for retirement subdivision because the landowner should have been aware of the restrictions on the subdivision of ALR land.

In addition, 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 Local Government Act is subordinate to the ALCA and as such the existence of section 946 of the LGA does not compel the ALC to approve subdivision in the ALR. Section 946 is a tool available to local government to accommodate a subdivision for a relative if the proposed lot is smaller than the minimum lot size specified in a zoning bylaw, and it can only be used if the ALC approves a subdivision application. The ALC's consideration of subdivision proposals must be in accordance with the purposes of the ALCA provided in section 6 (and noted above).

4. The Commission considered the benefits of the proposed inclusion application for 0.9 ha.

Conclusion:

The Commission does not believe that the inclusion of 0.9 ha into the ALR would convey any appreciable benefit to its agricultural use. Though the 0.9 ha area has good agricultural potential and is used for agriculture, its inclusion into the ALR is conditional upon subdivision from the larger "farm" parcel, and the land's residential rather than farm use.

5. The Commission assessed the request to dedicate additional public road right of way within the subject property.

Conclusion:

The Commission is not prepared to approve the dedication of a public road right of way over the existing private road. Its experience is that public road access precedes and anticipates residential development, to the detriment of agriculture.

IT WAS

MOVED BY: Commissioner Gillette
SECONDED BY: Commissioner Thibeault

THAT the proposal to subdivide the 64 ha subject property into two parcels of approximately 14.5 ha and 49.5 ha, and to dedicate a public road right of way be refused.

CARRIED

Resolution #90/2014