



Agricultural Land Commission
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June 10, 2014

ALC File: #53467

James & Donna Wold
PO Box 252
4501 Bohler Road
Terrace, B.C. V8G 4A6

Dear Mr. and Mrs. Wold:

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #157/2014 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 Liz Sutton.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #157/2014

cc: Regional District of Kitimat-Stikine (File: 3370 20 303)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 27, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application # 53467.

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:

Liz Sutton	Planner
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PROPOSAL (Submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*)

To exclude the 5.5 ha parcel in order to remove the covenant that was a condition of ALC Resolution #569/2003 (ALC File #34205).

PROPERTY INFORMATION:

Owners: James & Donna Wold

Legal: PID: 015-122-930
Assigned Lot 4 (See 130611), District Lot 1701, Range 5, Coast District

Location: 4501 Bohler Road, Terrace

Size: 5.5 ha

EXCLUSION MEETING

An exclusion meeting was held on March 27, 2014 at the offices of the Commission. Those in attendance included the Commissioners and staff noted above and the applicant, Mr. James Wold.

The applicant presented the Commission with photographs of his property and commercial buildings. The applicant also explained the difficulties with flooding from the Kitsumkalum River which had eroded areas of the subject property. The applicant stated that he does not wish to add more storage spaces and that excluding the property would allow for the continued use of the RV storage business by a future purchaser. The applicant also stated that he has had farm status but will soon be losing the classification as the farmer who grazes cattle on the subject property will be discontinuing due to an abundance of buttercups in the grazing areas.

The applicant provided the Commission with the following documents:

- Letter from John Stevenson, P.Ag (Ministry of Agriculture Regional Agrologist) to the Regional District of Kitimat-Stikine dated August 29, 2013;
- Agrologist Report prepared by David W. Yole, P.Ag., dated July 14, 2003;
- Letter from Rob Brown to the Regional District of Kitimat-Stikine, dated August 27, 2013;
- Letter from Gwyneth Charron to the Regional District of Kitimat-Stikine, dated August 29, 2013; and
- Photographs of other nearby properties and potential commercial buildings in the area.

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 a previous application involving the subject property:

Application #34205
(Wold, 2002)

To obtain Commission approval for the continuation of a recreational vehicle (RV) storage operation. The proposal was approved subject to no future additions to structures or placement of any commercially stored equipment beyond that in existence as of July 22, 2002; the commercial storage use of the property is to cease upon the sale or transfer of the property to another individual; and, a restrictive covenant is to be registered against the title of the property ensuring the commercial storage, ceases upon the sale or transfer of the property. Resolution #422/2002.

Reconsideration of Resolution #422/2002

The applicant requested that the non-farm use be allowed to continue without any conditions. The request was refused as proposed. However the Commission indicated it was prepared to allow the applicant to retain and use all other storage units located on the property as of the date of this decision provided he consents to the registration of a covenant. The Commission provided clarification that the intent of the covenant was not to restrict the transfer of the property and non-farm use to the applicant's wife. Resolution #569/2003.

Request to Discharge Restrictive Covenant

The applicant submitted an email to the Commission dated October 14, 2012 in which he requested the Commission discharge the restrictive covenant which prevents construction of additional storage units, and discontinuation of the non-farm use upon sale of the property. The Commission advised the applicant in a letter dated December 5, 2012 that the Commission was not in a position to revisit the application as a considerable amount of time had passed since the original proposal and subsequent reconsideration.

After considering the information the Commission concluded as follows:

The Commission is being asked to provide relief from conditions that previously allowed a non-farm use that was originally constructed in non-compliance with the *Agricultural Land Commission Act*. Operating a non-compliant non-farm use and asking for subsequent approval in no way compels the Commission to approve the use outright. Despite the original infraction, the Commission granted temporary approval of the non-farm use activity until such time that the applicant no longer operates the RV storage business. The Commission has not changed its position that the non-farm use of the building should be temporary and that the Commission does not want to see a permanent non-farm use intrusion into the ALR.

IT WAS

MOVED BY: Commissioner Dyson
SECONDED BY: Commissioner Gillette

THAT the request for exclusion be refused.

CARRIED

Resolution #157/2014