



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
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April 9, 2014

ALC File: #53479

Peter Muirhead
918 Sproat Drive
Nelson, B.C. V1L 7B7

Dear Mr. Muirhead:

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

Please find attached the Minutes of Resolution #73/2014 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 Lindsay McCoubrey.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Colin J. Fry', is written over a white background.

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #73/2014

cc: Regional District of Central Kootenay (File #4810-20-A13174E-09056.025)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 23, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53479.

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
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Lindsay McCoubrey	Planner
Colin Fry	Executive Director

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

To subdivide the 1.5 ha subject property into two approximately equal-sized lots.

PROPERTY INFORMATION:

Owner: Peter Morris

Legal: PID: 010-914-153

Lot "A", District Lot 7703, Kootenay District, Plan 17824

Location: 3925 Malina Road, Blewett

Size: 1.5 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.

COMMISSION CONSIDERATION

The Commission reviewed two previous applications involving the subject property:

Application #23391
(Associated Construction
Corporation, 1982)

To subdivide the ALR component of the property into nine lots of approximately 1.4 ha. The application was refused as the ALR area has moderate potential for agricultural utilization and should be retained as large a size as possible. Resolution #758/82 dated May 4, 1982.

Request for reconsideration based on a revised proposal to subdivide the ALR component of the property into three lots of approximately 4.1 ha. The revised proposal was approved by Resolution #1295/82 dated July 6, 1982.

Application #39587
(Penner, 1987)

To subdivide two 4.1 ha lots into five lots of approximately 1.4 ha in size. Approved by Resolution #1125/87 dated September 25, 1987.

Note: The current subject property was created by Resolution #1125/87.

After considering the information the Commission concluded as follows:

The District Agrologist for the Ministry of Agriculture, Mr. Darrell Smith, indicated that he was hesitant to support subdivision of this property without an official community plan in place. He discussed the complicated history of the Blewett area where at one time the Commission had written it off for agriculture, then, due to community disagreement the land was not excluded from the ALR. Recently, the area may be re-emerging as a good location for small lot agriculture near Nelson.

The Commission wrote to the Regional District on August 7, 2012 in regards to the referral of the Draft Electoral Area "E" Rural Official Community Plan: Bylaw No. 2260 and advised that it supported the policies in the plan relating to agriculture; the Blewett area was included in the Draft OCP. The *Local Government Staff Report* for the proposed subdivision notes that the Blewett area was removed from Bylaw No. 2260 as adopted in 2013. While the Commission had encouraged planning in the Blewett area, this area remains outside the Regional District's planned areas.

Conclusion: The Commission is hesitant to endorse further subdivision in the Blewett area in the absence of local government planning through the development of an official community plan and/or zoning bylaw. Without community planning in place, the Commission has little insight into the Regional District of Central Kootenay's future land use objectives for the Blewett area.

IT WAS

MOVED BY: Commissioner Bullock
SECONDED BY: Commissioner Thibeault

THAT the proposal to subdivide the 1.5 ha subject property into two parcels be refused.

CARRIED
Resolution #73/2014