



July 6, 2015

Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca
ALC File: 53718

Stuart & Trista MacTavish
Box 2713
Chetwynd, BC V0C 1J0

Dear Mr. and Mrs. MacTavish:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #167/2015) as it relates to the above noted application. A sketch plan depicting the decision has been attached.

Please send two (2) copies of the final survey plan to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* which provides a person affected the opportunity to submit a request for reconsideration.

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.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision "may not fulfill the purposes of the commission as set out in section 6 or does not adequately take into account the considerations set out in section 4.3". I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application is to be directed to Laurel Eyton at (Laurel.Eyton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

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

Colin J. Fry, Chief Tribunal Officer

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Enclosures: Reasons for Decision (Resolution #167/2015)
Sketch plan

cc: Peace River Regional District (File: 056/2014)
Lori Vickers, Regional Agrologist – Ministry of Agriculture Dawson Creek Office

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AGRICULTURAL LAND COMMISSION FILE 53718

REASONS FOR DECISION OF THE NORTH PANEL

Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*

Applicants:

**Stuart MacTavish
Trista MacTavish
(the "Applicants")**

Application before the North Regional Panel:

**Dave Merz, Panel Chair
Sandra Busche
Garry Scott**



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 004-212-860

Lot 2, District Lots 2250 and 2713, Peace River District, Plan 31544

(the "Property")

[2] The Property is generally described as being located south of Twidwell Bend.

[3] The Property is 26.4 ha in area.

[4] The Property is located partially within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA"). Only 17.5 ha of the Property is situated in the ALR.

[5] The Property is located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 21(2) of the *ALCA*, the Applicants are applying to subdivide the Property into two parcels - one parcel of 11.7 ha (9.9 ha of which is in the ALR) and one parcel of 13.9 ha (7.2 ha of which is in the ALR) - as divided by a private access easement to District Lot 2070; Registration No, U19108 (the "Application").

[7] On March 2, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the North Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.



[9] The Panel considered the Application pursuant to its mandate in s. 4.3 of the *ALCA*:

4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:

- (a) the purposes of the commission set out in section 6;
- (b) economic, cultural and social values;
- (c) regional and community planning objectives;
- (d) other prescribed considerations.

[10] The purposes of the Commission set out in s. 6 are as follows:

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.

EVIDENTIARY RECORD BEFORE THE PANEL

[11] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Applicants in advance of this decision.



[12] The Peace River Regional District (the "PRRD") resolved to forward the Application with support.

FINDINGS

Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture

[13] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The agricultural capability rating identified on CLI map sheet 93P/12 for the mapping unit encompassing the ALR portion of the Property Class 5T. The Panel noted that the majority of the non-ALR component of the Property is also rated Class 5T and has been improved for agriculture similar to portions of the Property situated in the ALR.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclass associated with this parcel of land is T (topographic limitations).

[14] The PRRD provided the following information in its Local Government Report: "The proposal will have an impact on the agricultural use of the property. The low soil capability with a high percentage of stoniness does create difficulty in an agricultural setting yet agricultural potential is still feasible. Further subdivision development of the parcel will decrease the limited agricultural use in contrary of the soil conditions on the land. The proposed subdivision line that runs parallel with the road easement on Lot 2 DL 2250/DL 2713 PI 31544 cannot be considered a topographical restraint. The road is privately maintained and therefore cannot be considered a "highway" within the Chetwynd Rural Area Zoning Bylaw No. 506, 1986."

[15] The Applicants advise that the, "current use of the property is personal residence with approximately 60 percent in hay fields."



The Applicants advised, in an email dated August 29, 2014 that, “as far as farming it is not worth it for me to buy the equipment to hay as for the small size of the property, and I can’t get anybody else to farm it due to poor hay caused by the rocky soil conditions.”

[16] The Panel notes that the ALR boundary on the Property does not accurately reflect the soil classifications of the Property, as the majority of the Property is Class 5 but there are 8.5 ha of land on the Property that is mostly Class 5 but not within the ALR.

[17] The Panel is of the opinion that due to the limited soil capability and parcel size, that small-scale agriculture is a suitable use for the Property.

Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values

[18] The Applicants were provided an opportunity to submit further information pursuant to s. 4.3 of the ALCA, but no further information was provided.

Section 4.3(c) of the ALCA: third priority to regional and community planning objectives

[19] Panels must consider “regional and community planning objectives” in order to ensure that they are aware of how a particular application may or may not fit with planning decisions that have been made by local governments. While such planning is not binding on the Commission, s. 4.3(c) makes clear that this must be taken into account. Since the ALCA operates so that applications do not come before the Commission without first receiving local government support, such evidence may come either from the Applicants or from the local government itself.

[20] In this case, the Panel was provided with, and has considered the “PRRD Rural OCP Bylaw No. 1940, 2011” and the Chetwynd Rural Area Zoning Bylaw No. 506, 1986. The PRRD states “as this subdivision proposal does not enhance the agricultural potential and creates an opportunity for further development, an amendment to the PRRD Rural OCP would be required if this proposal is approved.” The PRRD further advises that a zoning amendment would be necessary if the Application was approved, as the



minimum lot size is 63.0 ha and the Application is not an exception as outlined in the area's zoning bylaw.

Weighing the factors in priority

[21] The Panel has approached the Application recognizing that first priority must be given to the purposes of the Commission in s. 6, and that the other "zone 2" factors listed in s. 4.3(b) and (c) of the *ALCA* are to have lesser priority than the s. 6 purposes. This means that we should only approve an application if we find that one or more of the lower priority values are so strong on the facts of the Application that they outweigh the purposes of s. 6 despite their first priority.

[22] In this case, The Panel finds that the Application, if approved, will not diminish the already limited agricultural capability and suitability of the Property, subject to the inclusion of the remainder of the Property into the ALR.

DECISION

[23] For the reasons given above, the Panel approves the Application to subdivide the Property into one parcel of 11.7 ha and one parcel of 13.9 ha, as divided by the easement.

[24] The Application is approved subject to the following conditions:

- a. the subdivision being in substantial compliance with the plan submitted with the Application;
- b. the submission of an application to include into the ALR the non-ALR component of the Property; and,
- c. the subdivision plan must be completed within three (3) years from the date of this decision.



[25] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[26] Panel Chair **Dave Merz** concurs with the decision.
Commissioner **Sandra Busche** concurs with the decision.
Commissioner **Garry Scott** concurs with the decision.

[27] Decision recorded as Resolution #167/2015.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the Agricultural Land Commission Act.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #167/2015. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

July 6, 2015
Date Released

ALC application 53718
 (applicants - Stuart and Trisha MacTavish)
 Resolution #167/2015

ALC Context Map

Map Scale: 1:10,000

ALC File #: 53718
 Mapsheet #: 93P.053
 Map Produced: May 21, 2015
 Regional District: Peace River