



Agricultural Land Commission
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www.alc.gov.bc.ca

August 12, 2016

ALC File: 54861

Exton and Dodge Land Surveying
Attention: Doug Dodge
Via email: ddodge@exdodge.com

Dear Mr. Dodge:

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

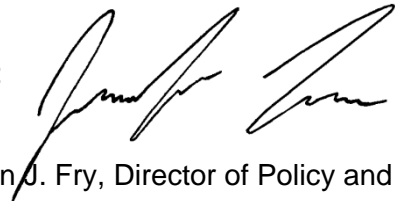
Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #290/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly. A sketch plan depicting the decision is also attached.

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 will follow up with you in this regard once I have received instructions from the Chair.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #290/2016)
Sketch plan

cc: Cariboo Regional District (File: 3015-20/F20160005) *SENT BY ELECTRONIC MAIL*
fsanna@cariboord.ca

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AGRICULTURAL LAND COMMISSION FILE 54861

REASONS FOR DECISION OF THE INTERIOR PANEL

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

Applicants:

**Caroline Gilson
Double OO Ranch Ltd.
(the "Applicants")**

Agent:

**Exton and Dodge Land
Surveying
c/o Doug Dodge
(the "Agent")**

Application before the Interior Regional Panel:

**Lucille Dempsey, Panel Chair
Richard Mumford
Roger Patenaude**

THE APPLICATION

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

Parcel Identifier: 013-375-911

Lot 2, District Lots 28 and 175, Cariboo District, Plan 33595

(the "Property")

[2] The Property is 61.3 ha in area.

[3] The Property has the civic address 3260 Cariboo Highway, southeast of Williams Lake.

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

[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 a 2.3 ha parcel from the Property to provide Ms. Gilson her own retirement parcel. While Ms. Gilson has owned the ranch for a long time, she does not qualify for consideration under the *Homesite Severance Policy* (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] 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.

[8] 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.

[9] 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

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Previous and relevant application history
4. Agricultural capability map, ALR context map and satellite imagery
5. *Agricultural Land Capability Assessment of District Lot 28 Cariboo District* prepared by Ronald Meister, RPF, P.Ag. (the “Meister Report”)

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

[11] The Panel reviewed three previous applications involving the Property:



Application ID: 12786
Legacy File: 12857
(Onward Cattle Co. Ltd., 1981)

This application involved the parent parcel of the Property in the Application, and proposed to exclude 154 ha east of Highway 97 from the ALR with the intention of subdividing the area into 4.0 ha parcels for residential purposes. The Commission refused the application by Resolution #2156/1981 on the grounds that the property has the potential to be used for forage production and grazing purposes. The Commission reconfirmed its decision in 1982 when it considered the Williams Lake Official Settlement Plan. In 1983 the Minister of Agriculture and Food allowed the leave to appeal the Commission's decision and the Environment and Land Use Committee of Cabinet subsequently allowed the exclusion of the land east of Highway 97.

Application ID: 12789
Legacy File: 22629
(Onward Cattle Co. Ltd., 1988)

This application proposed to dedicate road right of way for Highway 97 to 60 metres in width, and a portion of Mission Road to 20 metres, which would directly impact 13.9 ha of the properties. Furthermore, the applicant requested subdivision of the properties as severed by Highway 97 to create four lots from the existing three lots with some boundary adjustments. Allowed by Resolution #1021/1988 subject to the small western portion of District Lot 175 severed by the highway being consolidated with District Lot 28.

Application ID: 51716
(Gilson, 2010)

This application proposed to subdivide a 9.0 ha parcel from the Property and was refused by Resolution #2620/2010 on the grounds that it would negatively impact agriculture.

[12] The Panel reviewed a relevant application relating to the application which took place on the adjacent northern property:

Application ID: 52018
(Cooper, 2010)

This application proposed to subdivide a 4.0 ha parcel from the 43.8 ha property for the applicants' son. The Commission refused the application by Resolution #2839/2010.

SITE VISIT

[13] On May 13, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[14] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Agent on May 16, 2016 (the "Site Visit Report")

FINDINGS

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

[15] 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 improved agricultural capability ratings identified on CLI map sheet 94A/4 for the mapping units encompassing the Property are Class 3, Class 4 and Class 6; more specifically the eastern half of the Property is classified as improvable to (6:6TP - 2:4TP - 2:3X), and the western half is classified as (6:4WI - 4:6TP).

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

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

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are W (excess water), I (inundation), X (combination of soil factors), P (stoniness) and T (topographic limitations).

[16] In addition, the Panel reviewed the Meister Report. The Meister Report finds that 1.2 ha of the 2.3 ha area proposed for subdivision should be revised to Class 6 and 7 with the limitations of fertility and undesirable soil structure; and with no improved ratings. The Meister Report indicates that *“the topsoil . . . has been scraped exposing the calcareous subsoil”*. *The remainder of the proposed parcel, along with the rest of the Property located north of Mission road was reclassified by Meister to Class 4 and 5 with the limitations of stoniness and undesirable soil structure. Meister describes the soils as “limited by coarse fragment content and poor soil structure . . . handicapping cultivation and restricting root penetration”*. The Meister Report also indicates that the ratings of the hayfield area, south of Mission Road are improvable to Class 2 with the limitations of climate and excess water.

[17] The Panel reviewed the CLI ratings and the Meister Report and during the Site Visit found that while the majority of the Property is consistent with the surrounding areas; the majority of the area proposed for subdivision is of a lower agricultural capability.

[18] The Meister Report also comments on the agricultural suitability of the Property and offers the opinion that the proposed 2.3 ha subdivision *“would not impact other existing agricultural operations”*. However, it has been the Commission’s experience that the introduction of residential parcels into a farming area increases the residential use of agriculturally designated land and may lead to further pressures for subdivision in the area.

[19] Furthermore, it is often argued that subdivision is warranted as a part of the property may have limited agricultural use or may be considered the 'least productive' portion of the property. This argument is often predicated on the belief that the area has no value because soil bound agriculture or grazing of animals is either challenging or impractical. However, farms and ranches can often use these areas to support farm infrastructure such as building and storage facilities. To site infrastructure on these areas maximizes the arable or grazing areas of a property. Put another way, if the less capable lands are routinely removed from the parent agricultural parcel, farm and ranch support infrastructure is pushed onto the arable or grazing land.

[20] The Applicant did not provide any agricultural rationale for the proposed subdivision.

[21] The Panel noted that there is currently a 13 ha cultivated hayfield, while the remainder is non-cultivated grazing land.

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

[22] The Panel understands Ms. Gilson's family's significant contribution to agriculture in that it owned a large ranch in the area for approximately 16 years, and prior to that has had substantial agricultural history in British Columbia and Alberta. The Panel also understands that the Applicant plans to live on the proposed residential parcel and sell the remainder to a family member who will continue to operate the ranch. While there was a period of time (between 2007 and 2008) that Ms. Gilson's name was not on the Certificate of Title, they were for reasons she was not able to control. The Panel believes that Ms. Gilson meets the intent of section 3(1)(q) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Regulation 171/2002), and discussed that they would be prepared to offer a lifetime lease to Ms. Gilson as described in *Policy 23: Lease for a Retired Farmer in Zone 2*.

[23] While the Panel discussed the possibility of a lifetime lease with the Applicant and she indicated that it would not allow her to follow through with her plans, the majority of the



Panel is still of the opinion that it is the best option available to her, without the need to permanently subdivide agricultural land.

[24] The majority of the Panel finds that while extensive, Ms. Gilson's ranching background is insufficient to outweigh the first priority that must be given to agriculture relative to land that is both capable and suitable for agricultural use.

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

[25] The Proposal is consistent with the Official Community Plan and Zoning Bylaw Designation

[26] While respectful of the Regional District's current zoning as it pertains to the Property, the Panel finds that this alone, would be insufficient to outweigh the first priority that must be given to agriculture relative to land that is both capable and suitable for agricultural use.

Weighing the factors in priority

[27] The majority of the Panel discussed the previously refused applications on the Property and concurs with the previous decision of Application 51716 that while the Panel has compassion for the difficult family circumstances of the Applicant, *"it is important to note that the Commission does not base its decisions on the personal circumstances of the Applicant"*. This previous decision also states that the *"Commissioners were concerned that the proposed subdivision would limit the range of farming activities that could be practiced on the property in the future. Another concern was that if this subdivision were permitted it would heighten the expectations of other property owners in the area to be able to do the same. The Commission believes the proposal would impact existing or potential agricultural use of the subject property and the surrounding lands."*

[28] In this particular case the majority of the Panel does not concur with the Meister Report that the Proposal will not have an adverse impact on the agricultural potential of the Property or surrounding properties. Furthermore, the proposed subdivision area has utility for the overall farm operation as it contains the home, and could also possibly support more of the buildings required for the farm.

[29] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives planning as required by s. 4.3. In this case, the majority of the Panel believes that this consideration alone was not sufficient to outweigh the agricultural considerations the Panel must take into account when reviewing an application.

DECISION

[30] For the reasons given above, the Panel by majority vote refuses as proposed the Proposal to subdivide a 2.3 ha parcel from the Property.

[31] The Panel does approve a lifetime lease of the 2.3 ha area for Ms. Gilson and the lease is approved subject to the following condition:
the preparation of a draft lease and plan delineating the lease area for Commission review. If these documents are found acceptable as to form and content, the Commission will provide direction to prepare the final lease documents in registrable form.

[32] Panel Chair **Lucille Dempsey** concurs with the decision.
Commissioner **Richard Mumford** concurs with the decision.

[33] Commissioner Roger Patenaude opposes the decision.

[34] I, Roger Patenaude, believe the Proposal is unique from previous and other possible applications in the area due to the strong ranching history and agricultural background of Ms. Gilson and her family. Furthermore, due to her substantial contributions to agriculture, believe her request for subdivision should be approved.



[35] Decision recorded as Resolution #290/2016.

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 #290/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', is written over a horizontal line.

Colin J. Fry, Director of Policy and Planning

August 12, 2016

Date Released

