



Agricultural Land Commission
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June 7, 2016

ALC File: 54866

Carol Painter
RR 1, S 3, C 29 / 3682 212 Road
Dawson Creek, BC V1G 4E7

Dear Mrs. Painter:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #188/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly. A sketch plan depicting the decision is also attached.

Please send two (2) paper copies or one (1) electronic copy 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.

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 Jess Daniels at (Jessica.Daniels@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #188/2016)
Sketch plan

cc: Peace River Regional District (File: 025/2016)

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AGRICULTURAL LAND COMMISSION FILE 54866

REASONS FOR DECISION OF THE NORTH PANEL

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

Applicant:

**Carol Painter
(the “Applicant”)**

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: 016-288-017

The South West ¼ of Section 2, Township 79, Range 16, West of the 6th Meridian,

Peace River District

(the “Property”)

[2] The Property is 66.2 ha in area.

[3] The Property is located at 3682 - 212 Road, Dawson Creek, BC.

[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 Applicant is applying to subdivide approximately 4 ha from the Property for her son (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. Agricultural capability map, ALR context map and satellite imagery

[11] The Peace River Regional District (the “PRRD”) resolved to forward the Application with the following comment:

“THAT the Regional Board support ALR subdivision application 025/2016, and authorize the application to proceed to the Agricultural Land Commission on the condition that the proposed subdivision has a maximum footprint of 2.4 ha (6 acres)”.



SITE VISIT

[12] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

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 improved agricultural capability ratings identified on CLI map sheet 93P/16 for the mapping units encompassing the Property are Class 3 and Class 5; more specifically 85% 5C and 15% 3C.

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 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 the Property is C (adverse climate).

[14] The Applicant stated that the Property consists of 80 acres of hay land / grasses, 35 acres of fenced bush pasture with dugout, 20 acres of fenced cleared pasture, 20 acres with home, yard, shop, small barn, indoor & outdoor riding arenas, fenced corrals, dugout, lagoon, and 10 acres with the mobile home, shed, dugout, and lagoon (fenced).

[15] The Panel considered the suitability of the subdivision in the context of agriculture as stated by the Applicant: *"This 10 acre parcel has not been farmed for the past 10 years as my son's home and yard, includes a dugout, lagoon, power shed and small storage*

shop which is already fenced out of quarter. There will be no need for culvert or access to property off 212 Road as access exists along Road 231. This subdivision will clarify, simplify and define the roll-over of farmland for continued farming purposes - preventing disagreement between siblings as part of estate planning and preserving the remainder of farm land. To the west of said property there are several existing 5 - 10 and 40 acre parcels with family dwellings...The current use of land for Hay/grasses is best suitable for the soil standard and climate. This subdivision will not have any negative impact on surrounding farmland, there are no elevation, environmental or drainage concerns”.

[16] In a report: PRRD planning staff provided the following comments: *“The size and location of the proposed parcel would impact the agricultural use of the subject property as it would separate approx. 2 ha (5 ac) of the field from the remainder. The size of the proposed parcel is also large enough to permit further subdivision, subject to OCP and zoning amendments, which would increase undesirable residential sprawl in this area....The proposed 4 ha (10 acre) parcel would also increase the potential for residential intrusion and conflict with surrounding agriculture uses as 10 acres is large enough to allow for two dwellings, combined with two dwellings which are permitted on the remaining parcel...*

...The proposed subdivision would have some minor impacts on the agricultural use of the subject property as it would separate a small portion of the agricultural field. Possible increase in conflict with adjoining agricultural parcels can also be considered as there would be a potential for increased dwellings, however the present dwelling has been there for 10 years and the area is developed for residential use...

...This area consists mainly of large agricultural sections. There are some smaller lot subdivisions in the area, but further residential growth is not supported as it may impact the agricultural function of the area.”



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

[17] The Applicant stated the following related to economic, cultural and social values: *“My son was born and raised on this property and plans to continue supporting our farm operations for years to come. Being a widow of 12 years our farm has become a “family operation”, his expertise and support with machinery operation, mechanics, fencing, haying, snow plowing, construction, equine knowledge and manual labour have enabled us to continue. Long term support would be my son can remain on this parcel and continue to be part of our operation. He is a major player in all aspects listed above”.*

[18] PRRD staff provided the following comment regarding economic, cultural and social values: *“It is recognized that the parcel is a family operated farm and the son is an integral part of the farm operations”.*

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

[19] The Property is designated as “Agriculture” in the South Peace Fringe Area Official Community Plan (“OCP”), Bylaw No. 2048, (2012) wherein the minimum parcel size. Therefore, the Application is not consistent with the OCP.

According to PRRD Planning staff, Section 5.1.2 Policy c(v) may apply to the Proposal which states: *“Parcels within the Agriculture designation should have a minimum parcel size of 63ha (155 acres) unless: ‘the subdivision is being made for the purpose of providing residence to the landowner, or a relative of the landowner, the subdivision is limited to not more than one lot per parent parcel, such a subdivision may be approved on a one time only basis per parent parcel, subdivision or land use proposals will be examined and considered in areas designated Agriculture, subject to the factors as set out in this document”.*

PRRD Planning staff also stated: *“However, Section 5.1.2(d) states that ‘The location and configuration of any parcel should not negatively impact agricultural operations or increase the potential for conflict with adjoining parcels...”*

...An alternate option would be to subdivide an approx. 2.4 ha (6 acre) lot rather than the proposed 4 ha (10 acre). This alternative would still meet the applicant's desired subdivision outcome, would reduce the agricultural impact by reducing the amount of field separation by approx. 1 ha (2.5 ac), and would eliminate the potential for an additional dwelling on the proposed lot, therefore decreasing the potential residential sprawl and subsequent conflict with the surrounding area".

[20] The Property is zoned A-2 (Large Agricultural Holdings Zone), PRRD Zoning Bylaw No.1343, (2001) wherein the minimum parcel size is 63 ha; therefore, the proposal is not consistent with zoning.

PRRD Planning staff note that: *"Should the proposal meet the requirements for subdivision under Section 514 of the Local Government Act, a zoning amendment would not be necessary.*

Weighing the factors in priority

[21] In considering s. 4.3(a) and the first priority to agriculture, the Panel found that the proposal poses a minimal impact to agriculture as the area contains the existing mobile home, yard, dugout and lagoon. However, the Panel concurs with comments provided by PRRD planning staff and believes the Proposal of 4 ha is too large.

[22] In considering Section 4.3(b), the Panel believes that the Proposal contributes to social, economic and cultural values as the Applicants son has resided on the Property for 10 years. The Panel notes that the son is involved in the operations of the ranch and believes that he will be an integral part of the farm continuing into the future.

[23] The Panel notes that the proposal is not consistent with regional and community planning objectives as required by s. 4.3 (c); however, PRRD staff state that provisions under Section 5.1.2 Policy c(v) and Section 514 of the *Local Government Act* may permit the subdivision.



DECISION

[24] For the reasons given above, the Panel refuses the Proposal to subdivide 4 ha, but approves an alternate proposal to subdivide approximately 2.4 ha for the Applicant's son for the area containing the existing mobile home.

[25] The Proposal is approved subject to the following conditions:

- a. the subdivision being in substantial compliance with the plan submitted with the Application;
- b. the subdivision plan being completed within three (3) years from the date of release of this decision; and
- c. Approval for the subdivision is granted for the sole benefit of the Applicant and is non-transferable.

[26] 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.

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

[28] Decision recorded as Resolution #188/2016.

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 #188/2016. The decision is effective upon release.



A handwritten signature in black ink, appearing to be the initials 'CF'.

Colin J. Fry, Director of Policy and Planning

June 7, 2016

Date Released

