



Agricultural Land Commission
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March 9, 2017

ALC File: 55303

Daniel McLean
Box 613
Dawson Creek, BC V1G 4H4

Dear Mr. McLean:

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

Please find attached the Reasons for Decision of the North Panel (Resolution #54/2017) as it relates to the above noted application.

Reconsideration of a Decision as Directed by the ALC Chair

Please note that pursuant to [s. 33.1 of the *Agricultural Land Commission Act*](#), the Chair may direct the executive committee to reconsider any 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 s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

Reconsideration of a Decision by an Affected Person

We draw your attention 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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'Noel Allison', written in a cursive style.

Noel Allison, Land Use Planner

Enclosure: Reasons for Decision (Resolution #54/2017)

cc: Peace River Regional District (File: 093/2016)

55303d1



AGRICULTURAL LAND COMMISSION FILE 55303

REASONS FOR DECISION OF THE NORTH PANEL

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

Applicants:

**Daniel McLean
Penny McLean
(the “Applicants”)**

Agent:

**Daniel McLean
(the “Agent”)**

Application before the North Regional Panel:

**Dave Merz, Panel Chair
Sandra Busche
Ross Ravelli**



THE APPLICATION

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

Parcel Identifier: 014-635-950

Parcel A (R2285) of the South East $\frac{1}{4}$ of Section 5, Township 81, Range 17, West of the 6th Meridian, Peace River District
(the "Property")

[2] The Property is 10.7 ha in area.

[3] The Property has the civic address 5420 224 Road, Dawson Creek.

[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 the 10.7 ha Property into two \pm 5.3 ha lots to provide a separate residence for the Applicants' daughter (the "Proposal"). The Proposal along with supporting documentation is collectively the application (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 Agricultural Land Commission (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 application history
4. Agricultural capability map, ALR context map, and satellite imagery

[11] At its meeting on September 22, 2016 the Peace River Regional District Board resolved to “support ALR Subdivision Application 093/2016 (McLean), and authorize the application to proceed to the Agricultural Land Commission as it is consistent with the Official Community Plan”.

[12] The Panel reviewed one relevant application relating to the Application:



Application ID: 44530
Legacy File: 37766
(Hansen, Thompson, 2008)

To subdivide the 8.0 ha parcel into two 4.0 ha lots for estate planning purposes. The Commission noted that the 8 ha parcel borders the Alaska Highway and given the location of the two existing homes, yard, access and honey processing structure, and found that the land's potential for agricultural development would not be substantively affected by subdivision into two lots. The application was approved by Resolution # 178/2008.

Note: Application 44530 is located adjacent to the north of the Property.

SITE VISIT

[13] 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

[14] In assessing agricultural capability, the Panel referred 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/15 for the mapping units encompassing the Property is Class 4X.

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

The limiting subclass associated with this parcel of land is (X) (Combination of soil factors).

[15] The Panel finds that the Property has adequate agricultural capability for hay production, and is appropriately designated as ALR.

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

[16] The Applicants did not provide any evidence or rationale regarding any economic, cultural and social values that are pertinent to the Application.

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

[17] The Property is designated Rural Neighbourhood within the Peace River Regional District Official Community Plan Bylaw No. 1940, 2011 (the “OCP”), wherein the minimum parcel size is 1.6 ha. The Panel notes that the proposal is consistent with the OCP.

[18] The Property is zoned RR-4 (Small Holdings Zone) within the Dawson Creek Rural Area Zoning Bylaw No. 479, 1986 (the “Zoning Bylaw”). This zone has a minimum parcel size of 8 ha, however a zoning amendment would not be necessary should the proposal meet the requirements for subdivision under Section 514 of the *Local Government Act* (the “LGA”). The consideration of Section 514 of the LGA in support of the Proposal is not deemed relevant to the Panel. The LGA is subordinate to the ALCA and as such section 514 in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes section 514 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. If a subdivision for a relative involves land in the ALR, the local government can only use section 514 if an ALR application for subdivision has first been approved by the ALC. The ALC’s consideration of subdivision proposals will be done in accordance with the purposes of the ALCA provided in section 6.

Weighing the factors in priority

[19] In considering Section 4.3 (a) and the first priority to agriculture, the Panel notes that the Property consists of a classification of Class 4X and is predominantly being farmed for hay production. The Panel believes that the area is suitable for farming and the Proposal for subdivision is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve and encourage agriculture. The subdivision as proposed will sever productive hayfields and ultimately divide the arable portions of the property.

[20] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives as required by s. 4.3. In this case, the Panel finds that these considerations are not contributory to the decision given the Panel's finding following its review of the agricultural considerations.

[21] In evaluating the Proposal, the Panel would like to refer the Applicant's attention to Section 3(1)(b. 1) of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*.

BC Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*) (the "Regulation") permits specific additional residential use in the ALR, s. 3(1)(b.1) states:

3 (1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by law of the applicable treaty first nation government:

...

- (b.1) for a parcel located in Zone 2,
 - (i) one secondary suite in a single family dwelling,
 - (ii) either

(A) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family, or

(B) accommodation that is constructed above an existing building on the farm and that has only a single level,

The Panel finds that the residential uses accommodated in the Regulation may be sufficient to allow the Applicant's daughter to reside on the Property without the necessity of subdivision.

DECISION

[22] For the reasons given above, the Panel refuses the Proposal to subdivide the 10.7 ha subject property into two \pm 5.3 ha lots.

[23] These are the unanimous reasons of the North Panel of the Agricultural Land Commission.

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

[25] This decision is recorded as Resolution #54/2017 and is released on March 9, 2017.

CERTIFICATION OF DECISION



Dave Merz, Panel Chair, on behalf of the North Panel

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