



Agricultural Land Commission
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January 24, 2017

ALC File: 55557

Michael Palfi
Box 102 Dawson Creek, B.C.
Dawson Creek, BC V1G 4E9

Dear Mr. Palfi:

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

Please find attached the Reasons for Decision of the North Panel (Resolution #18/2017) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

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).

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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 #18/2017)

cc: Peace River Regional District (File: 172/2016)

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AGRICULTURAL LAND COMMISSION FILE 55557

REASONS FOR DECISION OF THE NORTH PANEL

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

Applicants:

**Michael Palfi
Karen Palfi
(the “Applicants”)**

Agent:

**Michael Palfi
(the “Agent”)**

Application before the North Regional Panel:

**Dave Merz, Panel Chair
Sandra Busche**



THE APPLICATION

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

Parcel Identifier: 008-157-502

Parcel A (N14567) of the North East ¼ of Section 30, Township 78, Range 15, West of the 6th Meridian, Peace River District, Except Plan 32360
(the “Property”)

[2] The Property is 11 ha in area.

[3] The Property is generally located 1 km northwest from the City of Dawson Creek along the Alaska Highway (97N).

[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 Property into two lots of 7.2 ha and 5.1 ha (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

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

[11] At its meeting of October 13, 2016, the Peace River Regional District (“PRRD”) resolved to forward the Application with the following comment:

That the Regional Board support ALR Subdivision Application 172/2016 (Palfi),



and authorize the application to proceed to the Agricultural Land Commission as it is consistent with the Low Density Residential designation within the Official Community Plan.

[12] The Panel reviewed three relevant applications relating to the Application:

Application ID: 54552
(Crantz, 2016)

To remove 20,000 m³ of clay from the property. The Panel approved the Proposal by Resolution #272/2016 subject to conditions.

Note: Application 54552 is located adjacent to the Property on the west side of the Alaska highway

Application ID: 318
Legacy File: 26704
(Armitage, 1992)

To subdivide the property into two lots of equal size. By Resolution #456/92, the Commissions refused the proposal on the basis that it would negatively impact the integrity of the surrounding agricultural community.

Note: Application 318 is located adjacent northeast of the Property.

Application ID: 29873
Legacy File: 17326
(Dixon, 1984)

To subdivide the 20.65 ha property into four lots of approximately 4.86 ha. By Resolution #162/84, the Commission refused the proposal on the basis of good agricultural capability and that the property bordered land that was used for existing agricultural operations.

Reconsideration Request 1

The Peace River Regional District submitted a request for reconsideration of Resolution #162/84. The Commission approved the application to allow the smallest possible lot of approximately 1.8 ha. Resolution #833/85.

Reconsideration Request 2

The applicant submitted a reconsideration request as the homesite approved by Resolution #833/85 would sever



access to the sewer lagoon and dugout. The Commission approved a new proposal for a homesite subdivision of 6.5 ha. Resolution #1238/86

Note: Application 29873 is located adjacent east to 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 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 2C.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

The limiting subclasses associated with this parcel of land are C (adverse climate).

[15] The Panel notes that the Property has prime agricultural capability as indicated by the CLI ratings.

[16] The Applicant provided the following information regarding the Proposal and the suitability of the Property for subdivision:

- *“This parcel is bigger than what I need and we only use the area where the house is and do not use the remainder for anything else”.*
- *“I would like to gift this land to my son so I can help him build a home on the parcel. My son is twenty two years old and we are close family and it would be an ideal location for him. He would like to have some horses and grow a garden on the parcel”.*

[17] 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, and

(iii) a second single family dwelling, but only if the parcel is at least 50 ha in size and if the total area occupied by all residences and other residential structures, roads and service lines, and all land between them, is 4 000 m² or less;

Commissioner Merz finds that the residential uses accommodated in the Regulation may be sufficient to allow the Applicant’s son to reside on the Property without the necessity of subdivision.



[18] PRRD Planning staff provided the following information regarding the impact of the Proposal to agricultural:

- *“This proposal could cause potential conflict with surrounding agricultural practices. Some of the proposed lot would be allocated to residential development”.*
- *“This area consists is a mix of small residential, commercial and industrial lots, however larger quarter section parcels are also in the general area. This parcel is recognized as an area for smaller rural residential lots”.*

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

[19] The Applicant did not provide any information specifically citing economic, cultural and social values.

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

[20] The Property is designated ‘Low Density Residential’ in the South Peace Fringe Area Official Community Plan (“OCP”) Bylaw No. 2048 (2012) wherein the minimum parcel size is 4 ha; therefore, the application is consistent with the OCP.

[21] The Property is zoned A-2 (Large Agricultural Holdings Zone) Peace River Regional District Zoning Bylaw No. 1343 (2001) wherein the minimum parcel size is 63 ha; therefore, the Proposal is inconsistent with the zoning. PRRD staff indicate that the Proposal may meet the requirements for subdivision under Section 514 of the *Local Government Act*.

[22] The Panel notes that the *LGA* is subordinate to the *ALCA* and as such section 514 in no way compels the Commission to approve a subdivision involving ALR land. The Commission recognizes s. 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 s. 514 if an ALR application for subdivision has first been



approved by the Commission. The Commission's consideration of subdivision proposals are considered in accordance with s. 4.3 of the ALCA.

Weighing the factors in priority

[23] In considering s. 4.3 (a) and the first priority to agriculture, Commissioner Merz does not believe that there is a compelling agricultural reason for the Proposal and that the Proposal promotes residential intrusion into an area of agricultural priority. Commissioner Merz does not wish to subdivide the Property into smaller parcels as this would reduce its agricultural options and potential. For these reasons, Commissioner Merz believes that the Proposal poses a negative impact to agriculture.

[24] The Panel considered social, cultural and economic values as well as regional and community planning objectives as required by s 4.3 (b) and s 4.3 (c). In this case, the Panel determined that consistency with the OCP and the potential to achieve consistency with the zoning under s. 514 of the LGA do not outweigh the findings regarding the agricultural considerations.

DECISION

[25] Where a regional panel consists of three appointed members and only two members are present and there is a "tie", the vote of the chair of the panel will govern as per the *Administrative Tribunals Act* s. 26 (6).

[26] For the reasons given above, the Commissioner Merz refuses the Proposal.

[27] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[28] This decision is recorded as Resolution #18/2017 and is released on January 24, 2017.



CERTIFICATION OF DECISION

This is a decision of the majority of the North Panel.

Dave Merz, Panel Chair

DISSENTING VOTE

[30] The reasons for which I do not support the decision are:

- a. The agricultural capability of the lot is limited due to the size and awkward configuration of the site.
- b. Surrounding impediments including adjoining residents and the Alaska Highway hinder site accessibility.
- c. The result of a subdivision would not have any negative impact on agricultural activity, but rather encourage hobby agriculture in the future.

These are my reasons.

Sandra Busche, Commissioner

END OF DOCUMENT