



Agricultural Land Commission
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June 1, 2005

Reply to the attention of Ron Wallace

1129759 Alberta Ltd.
244 Scarboro Avenue, S.W.
Calgary, AB – T3C 2H3

Dear Sir:

Re: Application #L-35965

Sublot 163, District Lot 4596, Kootenay District, Plan X32, EXCEPT 1) The R/W shown outlined in pink on Plan 1203, 2) The five severed portions, which lie between the said R/W and the waters of Windermere Lake as shown outlined on Plan 1203 and 3) Part included in Plan 1232 and 4) Part in Plan 11130

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to exclude ±267 ha of the subject property, noted above, from the ALR in order to develop approximately 600+ units of recreational and residential homes. The application was submitted pursuant to section 30(1) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank you for taking the time to meet with its representatives on May 13, 2005. The Commission found the meeting and site visit informative.

The Commission writes to advise that it approved your application on the grounds of the site's limited agricultural potential and the opinion that its development for recreational and residential homes would take similar development pressure off other agricultural land in the area. The above noted property shown on the attached map is excluded from the Agricultural Land Reserve Plan of the Regional District of East Kootenay.

The decision noted above is recorded as Resolution **#248/2005**.

It is a condition of this approval that the owner or occupier must 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. The Commission suggests you contact the Regional District of East Kootenay at your earliest convenience.

Yours truly,
PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

K. B. Miller Chief Executive Officer

cc: Regional District of East Kootenay – P-705-509
BC Land Title & Survey – New Westminster
Approving Officer, Ministry of Transportation, Cranbrook
BC Assessment, Cranbrook
Mark Himmelspach, 244 Scarboro Avenue, SW, Calgary, AB – T3C 2H3

RW/lv/Encl./35965d1

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on May 13, 2005 at the Prestige Inn, Cranbrook, B.C.

PRESENT: Monika Marshall Chair
 Cheryle Huscroft Commissioner
 Carmen Purdy Commissioner

STAFF: Ron Wallace, Regional Research Officer
 Roger Cheetham, Planner

For Consideration

Ron Wallace presented his staff report dated April 28, 2005 regarding application #L-35965-0.

The application is to exclude 267 ha of the subject property from the ALR in order to develop approximately 600+ units of recreational and residential homes. It is anticipated that a significant portion of the Property purchasers will use their properties on an intermittent basis as secondary homes and recreational properties.

Site Inspection and Exclusion Meeting

A site inspection was conducted on May 13, 2005. Those in attendance were:

- Commissioners Marshall, Huscroft & Purdy
- Agricultural Land Commission Staff: Ron Wallace, Regional Research Officer and Roger Cheetham, Planner
- Applicant and Agent Mark Himmelspach

The Commissioners viewed most of the area under application and noted the steep and rocky topography of the land and as a result the land's minimal agricultural potential.

The site inspection and exclusion meeting lasted from roughly 9:30 a.m. to 11:30 a.m.

Commission Discussion

The Commission felt, after conducting a thorough inspection, that the site under application has no significant agricultural potential. The Commission therefore supported the proposed exclusion on the grounds of the site's limited agricultural potential and the opinion that its development for recreational and residential homes would take similar development pressure off other agricultural land in the area.

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IT WAS

MOVED BY: Commissioner Purdy

SECONDED BY: Commissioner Huscroft

THAT the staff report be received and the application to exclude 267 ha of the subject property from the ALR in order to develop approximately 600+ units of recreational and residential homes be approved as proposed.

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



Staff Report
Application # L – 35965-0
Applicant: 1129759 Alberta Ltd
Agent: Mark Himmelspach

DATE PREPARED: April 28, 2005

TO: Chair and Commissioners – Kootenay Panel

FROM: Ron Wallace, Regional Research Officer

PROPOSAL: To exclude 267 ha of the subject property from the ALR in order to develop approximately 600+ units of recreational and residential homes. It is anticipated that a significant portion of the Property purchasers will use their properties on an intermittent basis as secondary homes and recreational properties.

This application is made pursuant to section 30(1) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The lands proposed for exclusion are situated south and west of Castle Rock Estates which was allowed by the Commission under a previous application. Castle Rock Estates is a large recreational and residential development that is under construction.

While the lands proposed for exclusion are presently within the RDEK, it is possible that these lands could be annexed into the District of Invermere.

Local Government:

Regional District of East Kootenay

Legal Description of Property:

- Sublot 163, District Lot 4596, Kootenay District, Plan X32, EXCEPT 1) The R/W shown outlined in pink on Plan 1203, 2) The five severed portions, which lie between the said R/W and the waters of Windermere Lake as shown outlined on Plan 1203 and 3) Part included in Plan 1232 and 4) Part in Plan 11130;

Location of Property:

South of the District of Invermere

Size of Property:

1084.0 ha

ALR Area Under Application:

267.0 ha

Present use of the Property:

Vacant undeveloped land

Surrounding Land Uses:

NORTH: Castle Rock Estates, Vacant treed land, District of Invermere

EAST: Castle Rock Estates, Windermere Lake

SOUTH: Vacant treed land

WEST: Vacant treed land

Agricultural Capability:

Data Source: Agricultural Capability Map # 82K/8 & 82K/9
The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

N/A

Zoning Bylaw and Designation:

A-1, Rural Resource zone, 60 ha minimum lot size

PREVIOUS APPLICATIONS:

Application #11213-0

Applicant: J. Hofert Ltd.

Decision Date: October 21, 1980

Proposal: To set up a temporary sawmill on the 121.46 ha property for a period of 6 months.

Decision: Allowed.

RELEVANT APPLICATIONS:

Application #30745-0

Applicant: Wilmar Holdings Ltd.

Decision Date: September 03, 1996

Proposal: To subdivide the 124 ha property into 43 lots ranging in size from two to seven hectares (roughly).

Decision: The Commission refused the proposal because it was concerned about reduced capability, potential conflicts and precedent.

Application #32106-0

Applicant: Wilmar Holdings Ltd.

Decision Date: July 23, 1998

Proposal: To exclude the 124.21 ha property for the purpose of developing 25 rural residential lots.

Decision: Refused on the grounds that the Commission did not want to encourage the residential development of farmland in this area.

Application #32106-1

Applicant: Wilmar Holdings Ltd.

Decision Date: July 27, 2000
Proposal: To exclude 112.1 ha of the subject property for residential development. The residential development would consist of a minimum of twenty-five lots. The remaining 12.1 ha would be retained as a hayfield within the boundary of the property.
Decision: Refuse as proposed. However, the Commission is prepared to work with the applicant, District Agroligist, District of Invermere and Regional District staff towards a revised proposal to benefit agriculture while addressing the needs of the local community.

Application #32106-2

Applicant: Wilmar Holdings Ltd.
Decision Date: January 30, 2001
Proposal: To finalize the exclusion of the agreed to portion of the subject property prior to the provision of providing a reliable source of water for the irrigation of the agricultural parcel. To ensure this condition is met the applicant is requesting the posting of a bond.
Decision: Refuse as proposed.

Application #32106-3

Applicant: Wilmar Holdings Ltd.
Decision Date: March 20, 2003
Proposal:
Decision: THAT the request to reconsider the application to exclude land from the ALR be approved subject to compliance with all other legislation and subject to the following:

The retention in the ALR of an area to be developed for agricultural purposes as agreed with the applicant in accordance with the following requirements:

- The creation of one parcel for the ALR block,
- The dedication of the existing water licenses totaling 75 acre feet to the ALR parcel,
- The modification of the area to remain in the ALR, the total extent of which is to be not less than 14.4. ha, to include those areas of highest agricultural potential generally located to the south of the area identified in the reconsideration request and the exclusion of those areas located north of the proposed access road ,
- The clearing, de-stumping and seeding of the area added in terms of the above modification,
- The provision of fencing and the retention of trees and the registration of a no-build covenant 30 metre wide along the southern, eastern and northern boundaries (with the exception of the access road) of the ALR block,
- Widening of the access road to take place on its northern side so as not to affect areas to be retained within the ALR,
- The commitment of the District of Invermere to the closure of the section of Johnson Road between Westside Road and the point at which it is joined by the proposed access road once alternative access has been provided for properties taking access from Johnson Road.

In respect of the proposal to extend the boundaries of the District of Invermere that the District be informed that that the Commission has no objection

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

Application #35722-0

Applicant: BC Hydro & Power Authority

Decision Date: March 03, 2005

Proposal: The application is in accordance with BC Hydro's application to Land and Water BC for a statutory right of way for the construction, operation, repair and maintenance of an overhead electric distribution power line to serve the proposed Castle Rock development, and for other future developments in the area.

Decision: Approved subject to the control of noxious weeds

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional Board

The RDEK Board reviewed this application and adopted a resolution in support of the application.

Advisory Planning Commission

For Areas F & G support the application.

STAFF COMMENTS:

Staff recommends that the Commission consider the following comments:

- There is no history of significant agricultural activity on the subject land proposed for exclusion.
 - The Agricultural capability of land under exclusion is Class 6 and 5 with limiting subclasses of topography, stoniness and moisture deficiency. There is a small portion of Class 3 with limiting subclass of moisture deficiency improvable to Class 2 with a combination of soil factors.
 - The Commission approved a similar application, noted above, for the Castle Rock Estates development on land with similar capability.
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END OF REPORT

Signature

Date

*Allow,
Exclusion
for #248/05*

M - C.P.

S - C.H.

*Ⓟ take pressure off
of the ag. land in the
area*

- good to see you working with local farmers*
- letter to RD + D. of Invermere - study of area
talk to planning about it*
-
- separate letter to D. of Invermere.*