



Agricultural Land Commission
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June 6, 2018

ALC File: 56485

Jeremy Martens

DELIVERED ELECTRONICALLY

Dear Mr. Martens:

Re: Application 56485 for subdivision in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Kootenay Panel for the above noted application (Resolution #172/2018). As agent, it is your responsibility to notify the applicant accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act (ALCA)*, the Chair of the Agricultural Land Commission (the Commission) has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to Riccardo Peggi at Riccardo.Peggi@gov.bc.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'Riccardo Peggi', is written over a light blue horizontal line.

Riccardo Peggi, Land Use Planner

Enclosure: Reasons for Decision (Resolution #172/2018)
Decision Map

cc: City of Grand Forks (File: 2017_ALC_56485)



AGRICULTURAL LAND COMMISSION FILE 56485
REASONS FOR DECISION OF THE KOOTENAY PANEL

Subdivision application submitted under s. 21(2) of the *Agricultural Land Commission Act*

Applicants: ABH Tire Ltd., Inc. No. BC0260429
Board of Education of School District 51

Agent: Jeremy Martens

Properties: Property 1
Parcel Identifier: 007-247-095
Lot 2, District Lot 520, Similkameen Division,
Yale District, District Plan 5090, Except:
(1) Plans 5210, 8653, 11971, 12795, 13376,
19535, 21583, 23494, and 38138
(2) Parts Outlined in Red on Plans B7375 and
E10098
Area: 13.4 ha
Civic Address: 2393 75th Ave, Grand Forks, BC
Owner: ABH Tires Ltd.

Property 2
Parcel Identifier: 009-241-051
Lot A, District Lot 520, Similkameen Division, Yale
District, Plan 13376
Area: 2.4 ha
Civic Address: 2575 75th Ave, Grand Forks, BC
Owner: John A. Hutton Elementary School

Panel: David Zehnder , Kootenay Panel Chair
Ian Knudsen

OVERVIEW

- [1] The Properties are located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA). The Properties are located within Zone 2 as defined in s. 4.2 of the ALCA.
- [2] Pursuant to s. 21(2) of the ALCA, the Applicants are applying to the Agricultural Land Commission (the "Commission") to transfer approximately 0.5 ha from Property 1 to Property 2 through a lot line boundary adjustment. The 0.5 ha area will be utilized as a parking area for John A. Hutton Elementary School to relieve traffic congestion on 75th Avenue and to alleviate safety concerns (the "Proposal").
- [3] The first issue the Panel considered is whether the Proposal would impact the agricultural utility of the Property.
- [4] The second issue the Panel considered is whether the Applicant's submission that the parking lot expansion is required at John A. Hutton Elementary School outweighs the considerations to agriculture.
- [5] The Proposal was considered in the context of s. 4.3 of the ALCA, which states:

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*

The purposes of the Commission, set out in s. 6 of the ALCA, are:

- (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

[6] The Proposal along with related documentation from the Applicants, Agent, local government and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.

BACKGROUND

- [7] In 1992, an exclusion application was submitted for both Property 1 and the adjacent property to the north for the purposes of residential development (ALC Application 1215). This application was refused by Resolution #491/1992 based on the significant agricultural history of the properties.
- [8] In 2004, a right-of-way to accommodate a bus loop for John A Hutton Elementary School (the "School") (ALC Application 41645) was conditionally approved by Resolution #600/2004. The conditions include the construction of a fence, planting of a vegetative buffer and compliance with the plan which would require approximately 3.3 ha of Property 1 to be added to Property 2.
- [9] In an email dated November 27, 2017, the School District No. 51 (the "School District") indicated that the plan approved by Resolution #600/2004 was cost prohibitive and therefore was not executed. The School District has partnered with the adjoining land owner (ABH Tire Ltd.) of Property 1 to submit the current Application as an alternative.
- [10] The Application was initially submitted requesting exclusion or subdivision, however, upon discussion with the Applicants, it was determined that the Proposal is for a lot line boundary adjustment and non-farm use within the ALR.

EVIDENCE AND FINDINGS

Issue 1: Whether the Proposal would impact the agricultural utility of Property 1.

[11] Property 1 is currently an open field with a history of agricultural use, while Property 2 is used for the School with buildings and a playing field. As there is an existing School located on Property 2, the Panel based its consideration of agricultural utility on Property 1.

[12] To assess agricultural capability on Property 1, the Panel referred to agricultural capability ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The unimproved agricultural capability ratings applicable to Property 1 is Class 3; more specifically 3M.

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.

The limiting subclass associated with this parcel of land is M (moisture deficiency).

[13] Based on the agricultural capability ratings, Property 1 has prime (Class 1-3) agricultural capability with the potential for a wide range of agriculture.

[14] The Panel considered whether Property 1 is suitable for agricultural use. While Property 1 is not currently farmed, it has suitability for agriculture based on its size, location and agricultural capability. This suitability is further demonstrated through the refusal of the previous 1992 application 41645 on the grounds that the properties' (both Property 1 and the northern adjacent property) significant agricultural history principally in vegetable production. The Panel therefore finds that Property 1 is suitable for agricultural use.

[15] The Panel considered the Proposal in contrast to the existing Commission approval, by Resolution #600/2004 for a bus loop around the school. The existing approval would impact approximately 3.3 ha of Property 1, while the current Proposal would impact approximately 0.5 ha. The Panel finds that the Proposal, in comparison to the area

approved in Resolution #600/2004 would utilize less land, leaving more of Property 1 available for agricultural use.

[16] The Panel then considered the configuration of the proposed 0.5 ha parking lot and the impact it would have on the use of Property 1 for agriculture. The proposed configuration lies adjacent to the east side of the School on Property 2, however, the impact to Property 1 is the creation of a 0.16 ha (38 m by 42m) area extending between the parking lot and adjacent parcel to the east. The Panel is concerned that that this 0.16 ha area would be challenging to utilize for agriculture in terms of tractor turn radius and wants to ensure a configuration that is suitable for contiguous use with the rest of Property 1. For this reason, the Panel requests that the Applicant provide a rationale of the proposed parking lot area and configuration and if any alternative areas or configurations that maximize the contiguous use of Property 1 for agriculture have been considered.

[17] When considering siting or expansion of non-farm uses, the Commission strives to minimize the impact to agriculture. In this case, the Panel wants to ensure that the proposed 0.5 ha area is necessary to accommodate the long-term requirements of parking for the School. For this reason, the Panel requests that the School provide a parking and traffic study in order to ascertain and justify the amount of parking required. This study should also consider the best configuration or design of the area to make best use of the space while ensuring that traffic flow and safety are improved.

Issue 2: Whether the Applicant's submission that the parking lot expansion is required for the safety of students at John A. Hutton Elementary School.

[18] The Application submits that the current parking lot at the School is overcrowded and that the School is requesting this boundary adjustment and non-farm use for the parking lot expansion for safety reasons. The Panel finds that the request for additional parking is likely necessary to alleviate safety concerns for patrons of John A. Hutton Elementary School.

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



Weighing the factors in priority

[20] The Panel finds that the Proposal will have a lesser impact to agricultural land than the previously approved area through Resolution #600/2004 and that the parking lot is likely required to alleviate safety concerns of the patrons of John A. Hutton Elementary School.

[21] The Panel finds that with a traffic and parking study and plan it is possible that the agricultural impact could be further reduced in terms of size and configuration, while also meeting the needs of increased parking and better traffic flow for John A. Hutton Elementary School.

DECISION

[22] For the reasons given above, the Panel approves the Proposal subject to the following conditions:

- a. the submission of a parking and traffic study outlining the requirements for additional parking and improved traffic flow for review and approval by the Commission within three years of the date of this decision letter;
- b. written rationale as to the siting of the parking area and how it is designed to lessen the impact on the farmable areas of Property 1;
- c. the submission of a parking lot plan no more than 0.5 ha to be reviewed and approved by the Commission;
- d. the submission of a survey plan delineating the new boundaries of Property 1 and Property 2;
- e. the survey plan be submitted within three years from the date of release of this decision;
- f. all topsoil over the parking area must be salvaged. If the topsoil is to be placed on other lands within the ALR, it must be done in accordance with the ALCA and Agricultural Land Reserve Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002; and
- g. the construction and maintenance of a fence for the purpose of separating Property 1 from the Parking Area to be maintained by the School District.



[23] By way of this approval, the Panel rescinds Resolution #600/2004 which allowed a 3.3 ha right-of-way on Property 1 for a bus loop around Property 2.

[24] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

[25] 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.

[26] These are the unanimous reasons of the Panel.

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

[28] Resolution #172/2018
Released on June 6, 2018

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David Zehnder, Panel Chair

On behalf of the Kootenay Panel



Agricultural Land Commission Decision Map
ALC File 56485 (ABH Tires)
Conditionally Approved Boundary Adjustment
ALC Resolution #172/2018

