



BOARD REPORT

TO: Chair and Directors

File No: LC2541 PL20170114

SUBJECT: Electoral Area B: Agricultural Land Commission (ALC) Application Section 30(1) – Exclusion LC2541 (RJR Land Company Ltd.)

DESCRIPTION: Report from Jennifer Sham, Planner, dated November 16, 2017. Hill Creek Road, Galena Bay

RECOMMENDATION: THAT: Application No. LC2541, Section 30(1) Exclusion from the Agricultural Land Reserve, for District Lot 8653, Kootenay District, be forwarded to the Agricultural Land Commission with the recommendation of approval, this 1st day of December, 2017.

SHORT SUMMARY:

The owners are applying to the ALC to exclude a property of approximately 35 ha in size from the Agricultural Land Reserve (ALR) on Hill Creek Road in the Galena Bay area. If ALC approves the exclusion, according to the agent, the owners wish to subdivide the properties "to live on for recreational and residential purposes."

VOTING:	Unweighted Corporate	<input checked="" type="checkbox"/>	LGA Part 14 (Unweighted)	<input type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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BACKGROUND:

REGISTERED OWNER(S):
RJR Land Co. Ltd., INC. No. A0073197

APPLICANTS:
Robert Adamowicz and Richard Adamowicz

AGENT:
Denis Delisle

ELECTORAL AREA:
B

LEGAL DESCRIPTION:
District Lot 8653 Kootenay District

SURROUNDING LAND USE PATTERN:
North = Rural and Resource/Crown Land
South = Galena Bay
East = Rural Residential
West = Rural and Resource/Crown Land

CURRENT USE:

Vacant

PROPOSED USE:

Recreational Residential

PARCEL SIZE:

~35.5 ha

DESIGNATION:

Electoral Area B Official Community Plan Bylaw No. 850
SH Small Holdings

ZONE:

Electoral Area B Zoning Bylaw No. 851
Small Holdings

AGRICULTURAL LAND RESERVE:

100%

SOIL CAPABILITY:

According to the Canada Land Inventory mapping, 10% of the property is 70% Class 7 soils with topography and consolidated bedrock as limiting factors, and 30% Class 6 with topography and consolidated bedrock as limiting factors. The soils are not improvable.

90% of the property is 60% Class 5 soils with topography and moisture limitations as limiting factors, and 40% Class 7 soils with consolidated bedrock and topography as limiting factors. The soils are improvable with a change from Class 5 soils to Class 4 soils and the same limiting factors.

See "Maps_Plans_Photos_LC2541.pdf" attached.

Staff is in receipt of a "Soil and Agricultural Capability and Suitability Assessment" from David Struthers, Senior Agrologist, at VAST Resource Solutions Inc. stating that the "overall unimproved CLI agricultural capability rating for the property [DL7045, DL7046, and DL8653] is Class 5, with limitations for topography and stoniness. Improvements to capability are not considered feasible due to the combined influence of these limitations." See "VAST_report_OCT-2017_LC2540_LC2541.pdf" attached.

HISTORY:

See "Maps_Plans_Photos_LC2541.pdf" attached.

- 1099 (1975) applied for subdivision. The property was excluded from the ALR.
- 1242 (1976) approved exclusion of 1 ac parcel
- 1278 (1977) approved subdivision in principle with conditions (1991) approved subdivision of 25 lots
- 1284 (1977) allowed exclusion
- 1319 (1979) allowed 4 lot subdivision
- 1441 (1977) allowed 3 lot subdivision
- 1815 (1982) allowed exclusion
- 1886 (1983) allowed exclusion
- 1891 (1984) approved subdivision of 14 lots ranging from 2.7 ha to 4 ha parcels

- 2117 (1992) refused non-farm use application to establish a college and research health centre but allowed an agricultural school with conditions
- LC2243 (1999) allowed exclusion (2000) approved amended exclusion area
- LC2259 (2001) refused inclusion of 0.7 ha of land into the ALR due to limited agricultural capability
- LC2353 (2007) allowed exclusion of foreshore area for residential dwellings (2008) allowed exclusion of a total of 22.86 ha
- LC2540 (2017) current exclusion application

SITE COMMENTS:

Staff conducted a site visit with the agent on July 19, 2017. See "Maps_Plans_Photos_LC2541.pdf" attached. The property is vacant and densely treed, and access to the lot is via Hill Creek Road. According to CSRD mapping, the property contains slopes of up to 50% and approximately half of the property containing 10-25% slopes. According to the agent, the property was used for resource extraction (logging) in the past.

POLICY:

Electoral Area B Official Community Plan Bylaw No. 850
SH Small Holdings
Section 4 Residential
Minimum parcel size for Small Holdings = 4 ha

Agriculture

10.3.1 The Regional District supports the preservation, maintenance and enhancement of lands for agricultural use within the Agricultural Land Reserve. Current Agricultural Land Reserve designations are inventoried in Schedule C [Bylaw No. 850].

10.3.3 Agriculture ... is permitted in the Rural Resource, Small Holdings, and Rural Residential 2 designations.

12.6 Riparian Area Regulation (RAR) Development Permit Area

12.7 Lakes 100 metre Development Permit Area

See "BL850_Policies_LC2540_LC2541.pdf" attached.

Electoral Area B Zoning Bylaw No. 851

SH Small Holdings

Principal uses: agriculture; day care; horticulture; single family dwelling; standalone residential campsite; timber harvesting

Secondary uses: accessory use; bed and breakfast; home occupation; residential campsite; secondary dwelling unit

Minimum parcel size created by subdivision: 4 ha

Minimum parcel width created by subdivision: 30 m

FINANCIAL:

No financial implications to the CSRD, this application for exclusion is not the result of bylaw enforcement.

KEY ISSUES/CONCEPTS:

From the ALC application completed by the agent:

The majority of the property (about 29.55 ha) is very steep and would be difficult to build on or even make a road into. It lacks a suitable source of water that would be reasonably accessible. Pumping from the lake would be formidable, partially because of the distances in height to push the water up and the fluctuation of the lake levels. The small amount of land left (that is not steep and rocky) that could support growing plants or animals, it is stony as well and limited in soil. This land that may be able to support some form of agriculture (about 6 ha) is a mix of clay and many large/small coarse rocks. It would be challenging to clear and amend for grazing. The accompanying agrologist's report explains the issues with the arable land in more detail from his professional point of view.

See "VAST_report_OCT-2017_LC2540_LC2541.pdf" attached.

The "Soil and Agricultural Capability and Suitability Assessment" from David Struthers, Senior Agrologist, at VAST Resource Solutions Inc. further states that "due to physiographic and topographic characteristics, the property is also considered to have climatic limitations related to insufficient heat units and minimum temperature near freezing during the growing season" ... [and] "the subject property has limited suitability for soil bound agricultural production other than unimproved native forage for seasonal, low carrying capacity grazing." The report also states that there was no indication of past or current agricultural use on the property during their site visit and that the "approval of the proposed application would not negatively impact local and/or regional agricultural production capacity." See "VAST_report_OCT-2017_LC2540_LC2541.pdf" attached.

The Electoral Area B Official Community Plan Bylaw No. 850 policy 10.3.1 states that the CSRD supports preservation, maintenance, and enhancement of agricultural use on ALR lands; however, the VAST report, written specifically for these properties, indicates that physiographic and topographic conditions limit soils bound agricultural potential on the subject properties and supports the proposed application for exclusion from the ALR.

If the ALC approves exclusion, or refuses exclusion but allows subdivision within the ALR, the applicants may proceed with a redesignation and rezoning application through the CSRD to facilitate a future subdivision application to the Ministry of Transportation and Infrastructure.

SUMMARY:

Development Services staff is recommending approval of the application to exclude the subject property from the ALR for the following reasons:

- There appears to be a large portion of the property that contains 30% to 50% slopes adjacent to non-ALR lands;
- The VAST report states that the property has limited suitability for soil bound agricultural production and would not negatively impact local and/or regional agricultural production capacity;
- Adjacent lands to the north and west of the steep slope area of this portion of the property are currently vacant and not used for agriculture; and,
- The properties contain a majority of Class 5 and 7 soils with topography, consolidated bedrock, and moisture limitations as limiting factors that do not allow for a wide variety of agricultural use.

IMPLEMENTATION:

If the ALC approves exclusion, or refuses exclusion but allows subdivision within the ALR: 1) if the proposed lots are less than 4 ha in size, the applicants may proceed with a redesignation and rezoning application through the CSRD to facilitate a future subdivision application to the Ministry of Transportation and Infrastructure (MOT); 2) if the proposed lots are 4 ha or larger in size, the owners may apply to MOT and the CSRD for subdivision.

COMMUNICATIONS:

The applicant, under Section 30(1), Exclusion, was required to advertise in a newspaper, to notify adjacent property owners in writing, and to post a sign on the property as notice of the proposed exclusion. Proof of notification was included as part of the application. Staff did not receive any letters from property owners within the area.

This application was referred to the Advisory Planning Commission B who recommended approval of exclusion of the property with the exception of the NE corner until further review of the agricultural potential is conducted.

The recommendation of the Board will be forwarded to the ALC for consideration during its review of this application.

DESIRED OUTCOMES:

That the Board endorse staff recommendation

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Agricultural Land Commission Act and Regulation
2. Electoral Area B Official Community Plan Bylaw No. 850
3. Electoral Area B Zoning Bylaw No. 851

Report Approval Details

Document Title:	2017-12-01_Board_DS_LC2541_RJRLandCoLtd.docx
Attachments:	- BL850_Policies_LC2540_LC2541.pdf - VAST_report_OCT-2017_LC2540_LC2541.pdf - Maps_Plans_Photos_LC2541.pdf
Final Approval Date:	Nov 18, 2017

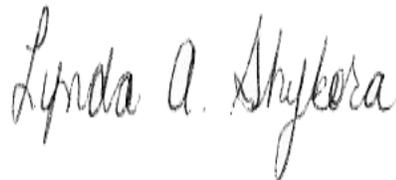
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Nov 16, 2017 - 4:41 PM



Gerald Christie - Nov 17, 2017 - 10:25 AM



Lynda Shykora - Nov 17, 2017 - 1:01 PM



Charles Hamilton - Nov 18, 2017 - 11:19 AM