



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
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www.alc.gov.bc.ca

April 4, 2012

Reply to the attention of Lily Ford  
ALC File 52310

Joseph and Ursula Kotlarz  
Box 54  
Fort Steele, BC  
V0B 1N0

Dear Dr. and Ms. Kotlarz:

**Re: Reconsideration Request Regarding Application to Subdivide in the  
Agricultural Land Reserve**

Please find attached Minutes of Resolution # 142/2012 outlining the Commission's decision as it relates to the above noted reconsideration request. A copy of the sketch plan submitted with your application is also enclosed.

Should you wish to pursue the approved option, please send two (2) paper prints of the final survey plans to this office, along with a draft covenant for our review. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

  
Colin Fry, Executive Director

cc: Regional District of East Kootenay

Encl: Minutes/Sketch Plan

LF/52310d2



## PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 22, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

### COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Jim Collins	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner

### COMMISSION STAFF PRESENT:

Martin Collins	Regional Planner
Lily Ford	Land Use Planner
Colin Fry	Executive Director

**APPLICATION ID:** #52310

**PROPOSAL:** Request for reconsideration of Resolution #508/2011 on the basis of additional evidence submitted by the applicant.

**ORIGINAL DECISION:** Refusal of proposal to subdivide a 29 ha parcel into one 1.6 ha parcel and a 27.4 ha remainder as submitted; approval of proposal subject to the registration of a no-build covenant on the adjacent parcel.

### PROPERTY INFORMATION:

<b>Owner:</b>	Joseph and Ursula Kotlarz
<b>Date of Acquisition:</b>	April 24, 2004
<b>Parcel ID:</b>	017-779-758
<b>Title No.</b>	KW50121
<b>Legal Description:</b>	Lot 2, District Lot 4838, Kootenay District Plan NEP19786
<b>Civic Address:</b>	4421 Fenwick Road, Bull River area
<b>Size:</b>	29 ha
<b>Area in ALR:</b>	29 ha
<b>Current Land Use:</b>	Farm / Residential
<b>Farm Classification:</b> (BC Assessment)	Yes

**COMMISSION CONSIDERATION:**

The Commission reconsidered Resolution #508/2011 in light of additional evidence provided by the applicants. Resolution #508/2011 approved the applicants' proposal subject to registration of a no-build covenant on the adjacent parcel ("DL 117"), which consists of productive hayfields. Upon review, the Commission noted that removal of all residential development rights on the adjacent parcel was unnecessary to preserve its use for agriculture. Specifically, restriction of residential development to a reasonable footprint would allow a farmer to reside on DL 117 while preserving the remainder of the productive land for cultivation. To this end, the Commission noted that an access road and shed already exist in the northwest corner of the property and that this area was therefore the most logical area for residential development. The Commission therefore concluded that the proposed subdivision could be allowed subject to registration of a restrictive covenant that would limit the residential building area on DL 117 to a 1 ha area in the northwest portion of the property.

**DECISION:**

**IT WAS**

**MOVED BY:           Commissioner Gordon Gillette**  
**SECONDED BY:       Commissioner Denise Dowswell**

THAT the Commission amend its decision under Resolution #508/2011 as follows:

Replacement of the words:

"subject to the registration of a Section 219 covenant prohibiting any dwelling on the adjacent lot (District Lot 117, Except Parts Included in R/W Plan 759-H and Plan 4226)"

with the following:

"subject to the registration of a restrictive covenant limiting the residential building area on the adjacent lot (District Lot 117, Except Parts Included in R/W Plan 759-H and Plan 4226) to a one (1) ha area in the northwest portion of the property."

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.

**CARRIED**  
**Resolution # 142/2012**

# SKETCH PLAN - ALC APPLICATION #52310

