



Agricultural Land Commission
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September 13, 2016

ALC File: 54700

Anne Wyssen
1955 Campbell Rd
Golden, BC V0A 1H7

Dear Mrs. Wyssen:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #339/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached.

Please send two (2) paper copies or one (1) electronic copy of the final survey plan to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Further correspondence with respect to this application is to be directed to Riccardo Peggi at (Riccardo.Peggi@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #339/2016)
Sketch plan

cc: Columbia Shuswap Regional District (File: LC 2511A)

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AGRICULTURAL LAND COMMISSION FILE 54700

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicant:

**Anne Wyssen
Peter Wyssen
(the “Applicants”)**

Agent:

**Anne Wyssen
(the “Agent”)**

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Harvey Bombardier
Ian Knudsen**



THE APPLICATION

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

Parcel Identifier: 016-515-994

North East ¼ of Section 36, Township 25, Range 21, West of the 5th Meridian,
Kootenay District

(the “Property”)

[2] The Property is 52.0 ha in area. 37.7 ha of the Property is located within a designated agricultural land reserve (the “ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”).

[3] The Property has the civic address 1955 Campbell Road, Golden.

[4] The Property is located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[5] Pursuant to s. 21(2) of the *ALCA*, the Applicants are applying to subdivide the 52.0 ha Property into two parcels of 2.0 ha and 50.0 ha. The Applicants intend to sell the 50.0 ha parcel and remain on the 2.0 ha parcel (the “Proposal”). The Proposal along with supporting documentation is collectively the application (the “Application”).

RELEVANT STATUTORY PROVISIONS

[6] 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.

[7] 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.

[8] The purposes of 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

[9] 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.

[10] The Panel reviewed one previous application involving the Property:

Application ID: 19732
Legacy File: 15506
(Columbia Shuswap Regional
District, 1982)

The non-ALR portion of the subject property was excluded in the Nicholson-Harrogate ALR review which excluded approximately 2,494 ha from the ALR and included approximately 452 ha into the ALR. Forwarded to Cabinet by Resolution #1007/1984.

SITE VISIT

[11] 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**

[12] 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 82N/02 for the mapping units encompassing the ALR portion of the Property are Class 4 and Class 6; more specifically (8:4P – 2:6T).

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are P (stoniness) and T (topographic limitations).

[13] The Panel reviewed the CLI ratings and find that the ALR portion of the Property has moderate capability for agriculture with some areas of limited capability.

[14] The Property is bisected by Campbell Road with the majority of the Property (approximately 50 ha) located to the east of the road and approximately 2 ha located west of the road.



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

[15] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives planning as required by s. 4.3. In this case, the Panel finds that these considerations are not contributory to the decision given the Panel's finding following its review of the agricultural considerations.

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

[16] The area which the Property is located is not subject to the regulations of a zoning bylaw nor does it have the benefit of an official community plan.

Weighing the factors in priority

[17] The Panel finds that the 2 ha portion of the Property west of Campbell Road has a limited agricultural capability due to its small size and separation from the larger portion of the Property.

[18] The Panel finds that the proposed 2 ha parcel will not have a negative effect to agricultural activities on the Property and in the area as it has a limited agricultural potential.

DECISION

[19] For the reasons given above, the Panel approves the Proposal to subdivide 2 ha from the 50 ha Property as divided by Campbell Road.

[20] The Proposal is approved subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the area to be subdivided per the drawing submitted with the Application; and
- b. the subdivision plan being completed within three (3) years from the date of release of this decision.

[21] 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.

[22] Panel Chair Sharon Mielnichuk concurs with the decision.
Commissioner Harvey Bombardier concurs with the decision.
Commissioner Ian Knudsen concurs with the decision.

[23] Decision recorded as Resolution #339/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #339/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning

September 13, 2016

Date Released

