



Agricultural Land Commission
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September 22, 2016

ALC File: 54806

Deanna Hill
2011 Highway 3, Unit 16
Ferne, BC V0B 1M5

Dear Mr. and Mrs. Hill:

Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #345/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached.

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:

A handwritten signature in black ink, appearing to read 'Colin Fry', is written over a light grey background.

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #345/2016)
Sketch plan

cc: Regional District of East Kootenay (File: P 716 101)

54806d1



AGRICULTURAL LAND COMMISSION FILE 54806

REASONS FOR DECISION OF THE KOOTENAY PANEL

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicant:

**0701120 BC Ltd.
(the “Applicant”)**

Agent:

**Deanna Hill
(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: 011-538-791

Parcel A (Reference Plan 126189I) of each of Lots 5 and 55, District Lot 7784,
Kootenay District, Plan 1360.

(the "Property")

[2] The Property is 2.8 ha in area.

[3] The Property is located at 2011 Highway 3, northeast of Fernie in the Hosmer area.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

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

[6] Pursuant to s. 20(3) of the *ALCA*, the Applicant is applying to legitimize the use of the Property as an RV campground that predates the ALR; to permit the use of 148m² of an existing shop building as a home-based business (RV Repair shop); and to allow the construction of a campground shower building (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 20(3) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[8] 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.

[9] 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

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Agent in advance of this decision.

[11] The Panel reviewed two previous applications involving the Property:

Application ID: 11649
Legacy File: 75-0676
(Mulldoon, 1975)

To exclude the Property on the grounds that the land was
virtually all developed for non-farm use. Existing uses



were listed as a 36-pad mobile home park, a 9 unit motel, a laundromat/grocery store/propane sales building, an 18-hole mini-golf course, and a sauna and steam bath. Refused, by Resolution #2664/75 but the Commission agreed to allow the request to permit the replacement of the existing cabins with a 20-unit motel or apartment; the enlargement of the store; and the installation of 20 more mobile home pads.

Application ID: 26069
Legacy File: 09383
(Smith, 1979)

To subdivide the Property and adjacent property Parcel A, Reference Plan 97694-I, Lot 30, District Lot 6678, Plan 1360, into fourteen parcels varying in size from 0.1 to 0.2 ha. Uses on the property were noted as 36 serviced RV stalls and accommodation for a number of overnight campers. Refused, by Resolution #13222/79 as the Commission did not wish to encourage residential size lots within the ALR.

APPLICANT MEETING

[12] On June 23, 2016, the Panel conducted a meeting with the Agent (the “Applicant Meeting”). The Applicant Meeting was held at 2011 Highway 3, Unit 16. Those in attendance were Deanna Hill (Agent), Panel Chair Sharon Mielnichuk, Panel members Harvey Bombardier and Ian Knudsen, and Commission Staff Laurel Eyton.

FINDINGS

[13] The Agent notes that the current uses of the Property are 35 mobile home sites, 22 campground sites, a shower house, a retail RV parts store/campground office, and a 436 m² shop, of which approximately 148 m² is used as an RV repair home-based business.

[14] The Panel noted that the use of the Property as an RV campground pre-dates the ALR, and that the existing 35 mobile home sites and 22 campground sites and the campground office/store were approved by Resolution #2664/75.

[15] The Panel notes that the RV service/repair shop was not authorized by any previous Commission decision. The Panel notes that home-based businesses are permitted by the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, BC Reg 171/2002, (the “Regulation”) under s. 3 (1)(c):

“a home occupation use, that is accessory to a dwelling, of not more than 100 m² or such other area as specified in a local government bylaw, or treaty first nation government law, applicable to the area in which the parcel is located”.

The Panel notes that the existing RV repair home-based business does not vary greatly from the area permitted for home-based businesses under the Regulation.

[16] The Panel notes that the proposed additional campground shower building is accessory to the RV campground. The Panel does not believe that the proposed building will have a significant negative impact on agriculture on the surrounding properties, given that the campground use already exists.

Weighing the factors in priority

[17] The Panel notes that the existing 35 mobile home sites, 22 campground sites and the campground office/store were approved by Resolution #2664/75.

[18] The Panel believes that, due to the pre-existing use of the Property as an RV Park, the construction of an additional shower building accessory to the RV camp ground, and the authorization of the 148m² of the shop used as an RV repair home-based business. will have no significant negative impact on agriculture.

[19] 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.

DECISION

[20] For the reasons given above, the Panel approves the Proposal to permit the use of 148m² of an existing shop building as a home-based business (RV Repair shop), and to allow the construction of a campground shower building.

[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 #345/2016.

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 #345/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning

September 22, 2016

Date Released

ALC Application 54806 Approved Non-Farm Use ALC Resolution 345/2016

2005

7/4/2010

Image © 2010 DigitalGlobe

Imagery Date: 6/18/2010

49°34'50.38" N 114°58'49.67" W elev 1044 m

eye alt 1.42 km

Google earth

Approved Shower Facilities Area

Approved Shop Building

Crowsnest Hwy

3

2