



July 28, 2016

Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca

ALC File: 54927

Shayne Quintal
571 Highway 3s
Cawston, BC V0X 1C3

Dear Mr. and Mrs. Quintal:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #287/2016) 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.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* which provides a person affected the opportunity to submit a request for reconsideration.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this panel decision if, within 60 days from the date of this decision, he considers that the decision “may not fulfill the purposes of the commission as set out in section 6 or does not adequately take into account the considerations set out in section 4.3”. I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #287/2016)
Sketch plan

cc: Regional District of Kootenay Boundary (File: E-2325-05115.000)

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AGRICULTURAL LAND COMMISSION FILE 54927

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicants:

**Shayne Quintal
Christine Quintal
(the “Applicants”)**

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: 014-776-545

District Lot 2325, Similkameen Division Yale District
(the "Property")

[2] The Property is 131.5 ha in area.

[3] The Property has the civic address 5190 Rock Creek – Bridesville Road.

[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. 21(2) of the *ALCA*, the Applicants are applying to subdivide the Property into three parcels of 80 ha, 48.2 ha, and 2.8 ha, respectively (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] 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.

[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 Applicants in advance of this decision.

SITE VISIT

[11] On May 26, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[12] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Applicants on June 26, 2016 (the "Site Visit Report").

FINDINGS*Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture*

[13] 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 82E/03 for the mapping units encompassing the Property are Class 4, Class 5 and Class 6; more specifically 80% (8:6TR 2:5TP), 10% (4TP), 5% (8:6T – 2:5TM), and 5% (6:4TP – 4:5TP).

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

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

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 M (moisture deficiency), P (stoniness), R (consolidated bedrock) and T (topographic limitations).

[14] The Panel reviewed the CLI ratings and finds that the Property has poor to moderate agricultural capability.

[15] On the Site Visit, the Panel viewed the strong topographical limitations on the western portion of the Property proposed to be subdivided as an approximately 48 ha parcel. The Panel also noted bedrock outcrops on this portion of the Property. The Panel further noted that this portion of the Property is separated from the remainder of the Property both by the Rock Creek-Bridesville Road and an easement to the neighbour's Property.

[16] On the site visit, the Panel noted that the proposed 2.8 ha parcel is separated from the remainder of the Property by the Rock Creek-Bridesville Road, and that this parcel has limited agricultural utility due to its small size and separation by the road from the rest of the Property.

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

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

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

[18] The Property is within the Regional District of Kootenay Boundary (the “RDKB”), in an area without a zoning bylaw or official community plan.

[19] The RDKB forwarded the Application to the Commission without a recommendation, and the RDKB’s Advisory Planning Commission support the Application as proposed.

Weighing the factors in priority

[20] The Panel believes that the portions of the Property proposed for subdivision have very limited agricultural utility due to agricultural capability limitations of topography and consolidated bedrock.

[21] The Panel notes that due to the easement to the neighbour’s property, and the Rock Creek-Bridesville Road, the Property is trisected along the proposed subdivision lines.

[22] The Panel does not believe that the proposed subdivision will have any negative impact on agriculture.

[23] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives 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

[24] For the reasons given above, the Panel approves the Proposal to subdivide the Property into three parcels of 80 ha, 48.2 ha, and 2.8 ha, respectively.

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

- a. the subdivision being in substantial compliance with the plan submitted with the Application; and
- b. the subdivision plan being completed within three (3) years from the date of release of this decision;

[26] 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.

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

[28] Decision recorded as Resolution #287/2016.

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 #287/2016. The decision is effective upon release.

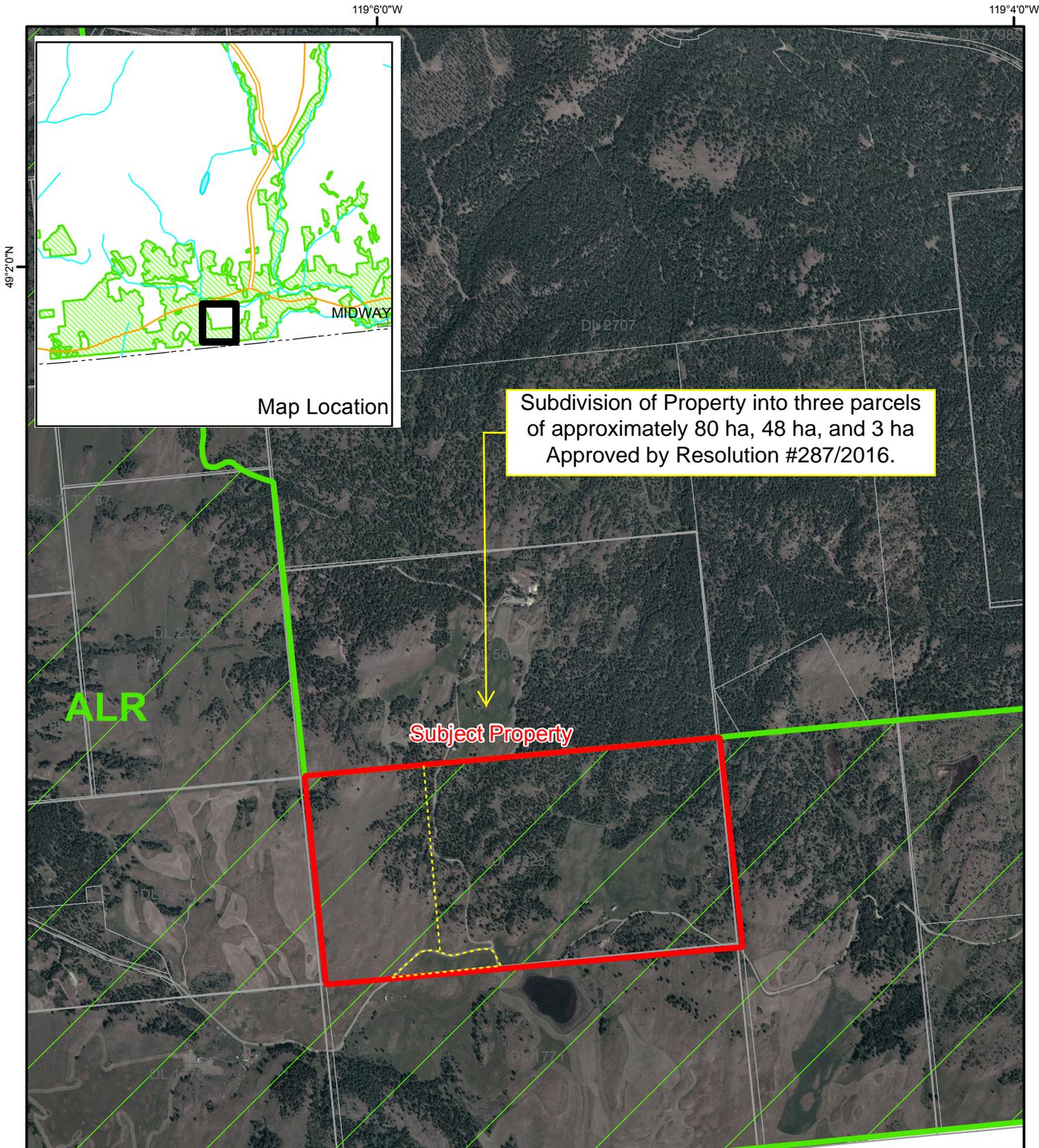


Colin J. Fry, Director of Policy and Planning

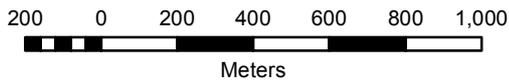
July 28, 2016

Date Released

ALC Application #54927
(Applicant - Quintal)
Resolution #287/2016



Airphoto Map
2005 Natural Colour - Ortho
Map Scale: 1:20,000



ALC File #:	54927
Mapsheet #:	82E.005
Map Produced:	Apr 26, 2016
Regional District:	Kootenay Boundary