



Agricultural Land Commission
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September 26, 2016

ALC File: 55185

Michael J. Sweeny, Barrister & Solicitor
318 Purdy Road
New Denver, BC V0G 1S1

Dear Mr. Sweeney:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #350/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached. As agent, it is your responsibility to notify your clients accordingly.

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 #350/2016)
Sketch plan

cc: Regional District of Central Kootenay (File: A1604Hn)

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AGRICULTURAL LAND COMMISSION FILE 55185

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicants:

**Siegmund Hepperle
Vanessa Hepperle
(the “Applicants”)**

Agent:

**Michael J. Sweeny
(the “Agent”)**

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Harvey Bombardier**



THE APPLICATION

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

Parcel Identifier: 008-903-298

Lot 22, District Lot 8127, Kootenay District, Plan 1187, Except part included in SRW

Plan 12540

(the "Property")

[2] The Property is 4.0 ha in area.

[3] The Property is generally described as being located at 4540 Highway 6 in the community of Hills.

[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 two parcels of approximately 1.7 ha and 2.3 ha (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. 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. Relevant 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.

[11] The Regional District of Central Kootenay (the “RDCK”) resolved to forward the Application to the Commission.

[12] The Panel reviewed one relevant application involving the Property:

Application ID: 17772
Legacy File: 34116

To subdivide one 0.4 ha parcel from the 3.9 ha property,

(Leontowicz, 2002)

for the Applicant's daughter, in the Hills area. The Commission considered a staff report presented by Roger Cheetham which provided background information on the history of applications in the Hills area. The staff report noted that "*the extensive Slocan Valley fine tuning review did not include this area; thus there is a lack of reliable information relating to the agricultural capabilities of soils in the Hills area.*" The staff report further noted that "*the Commission generally supports as being in the best interests of agriculture, the concentration of development in established nodal areas.*" The application was approved by Resolution #399/2002.

SITE VISIT

[13] 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

[14] 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 rating identified on CLI map sheet 82K/03 for the mapping unit encompassing the Property is Class 3; more specifically (3X).

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.



The limiting subclass associated with this parcel of land is X (combination of soil factors).

[15] The Panel reviewed the CLI ratings and find that the Property has moderate capability for agriculture and limited suitability for agriculture as a result of the relatively small parcel sizes and rural residential land use in the area.

[16] The Panel reviewed the Staff Report associated with relevant application #17772 and noted that the majority of the previous applications for subdivision in the area have been approved, as the preference of the Commission has been to concentrate residential development into the Hills area rather than the less developed areas of the Slokan Valley.

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

[17] In his letter, the Agent stated the following:

“The proposed application is entirely consistent with the established social/cultural makeup of the Hills community, which is the home of people who value a rural life style, family and community connections, increased self-sufficiency, sustainability and food security, and connection to the land, water bodies and physical geography of the narrow valley in which it is located. The addition of a home site will provide a permanent home for a young family in the community, directly adjacent to immediate family and the home in which one of the members of the new family was raised. It will add the skill set of the new family (in this case, both of the couple are surveyors) to the community talent pool. It will be a benefit to the nearest local school (eventually adding two more students). It will provide additional contributors to the social, public safety and recreational amenities built, expanded and maintained by community members. The creation of a new home will provide economic benefit by adding to the Regional District tax base as well as to the school tax base. It will bring additional incomes into the local community, some of which will doubtlessly be spent within the local community.”

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

[18] The Property is located outside of an area subject to zoning regulation.

[19] In his letter, the Agent stated the following:

“the applicants believe that their proposed subdivision is quite consistent with regional planning objectives. Although the regional government has not passed a zoning bylaw to regulate land use in Hills, the first Agricultural Policy stated on page 12 of the RDCK's Slokan Lake North portion of Electoral Area 'H' Official Community Plan Bylaw 1967, 2009 says: ‘The Regional Board: 1. Encourages that the principal use of lands designated as Agriculture in Schedule ‘B’ shall be agricultural or rural residential.’”

Weighing the factors in priority

[20] The Panel believes that the Proposal, if approved, will have minimal negative impact to agriculture in the area due to the historic concentration of rural residential use in this area.

[21] The Panel concurs with previous Commission decisions to locate development in the Hills area as opposed to better quality agricultural land located elsewhere in the Slokan Valley.

[22] The Panel encourages the RDCK to continue to develop land use planning for this area.

[23] 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

[24] For the reasons given above, the Panel approves the Proposal to subdivide the Property into two parcels of approximately 1.7 ha and 2.3 ha.

[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.

[28] Decision recorded as Resolution #350/2016.

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

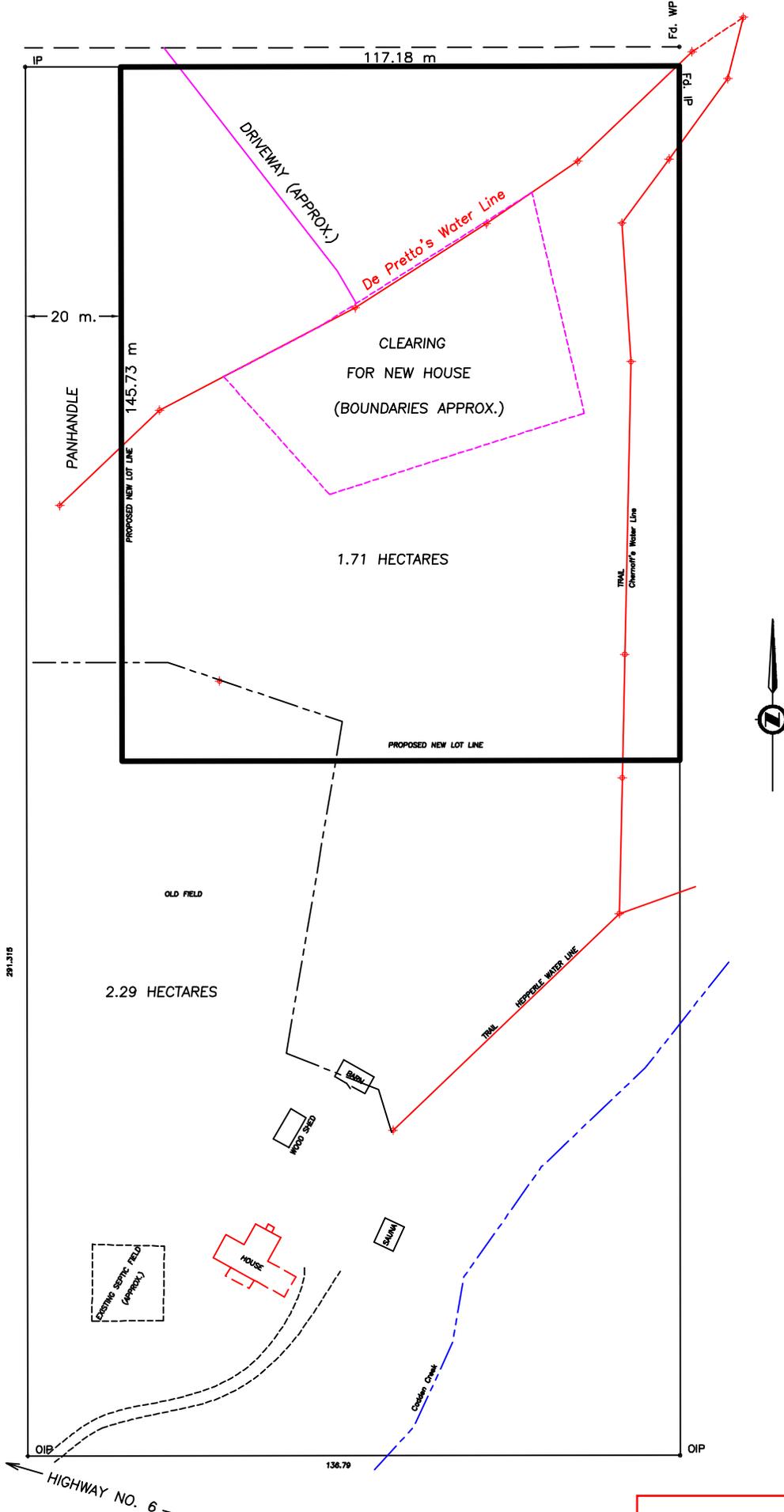
Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #350/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning

September 26, 2016

Date Released



SITE PLAN
 BLOCK 22, D.L. 8127
 KOOTENAY DISTRICT, PLAN 1187
 SHOWING EXISTING BUILDINGS
 AND PROPOSED SUBDIVISION

DATE: FEBRUARY 10, 2015

ALC Application 55185
 Approved Subdivision
 ALC Resolution #350/2016