



**Agricultural Land Commission**  
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July 6, 2007

Reply to the attention of Terra Kaethler  
ALC File: # L - 37283

Herbert and Georgena Palmer  
RR #1, Baynes Lake  
Elko, BC V0B 1J0

Dear Mr. and Mrs. Palmer:

Re: **Application for non-farm use in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 230/2007 outlining the Commission's decision as it relates to the above noted application.

Please provide a letter as requested in the decision and return it to the Commission as soon as possible. For your assistance, we attach a draft of the suggested content that should be incorporated into your reply. Once the letter is received, the Commission will continue in its deliberation on the above-noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of East Kootenay (P-707-202)  
Jim & Kate Thorner, 1142 12<sup>th</sup> Avenue, P.O. Box 793, Fernie, BC, V0M 1M0  
Greg & Diane Dyble, 26 Royal Birch Grove NW, Calgary, AB, T3G 5K4  
Tom & Deb Ackerman, 640 Sterling Road, Baynes Lake, BC, V0B 1J0  
Stuart & Orenia Robinson, Site 2A, Box 2, RR1, Elko, BC, V0B 1J0  
Barbara & Frank Gordon-Cooper, 3340 Edwards Road, Baynes Lake, BC, V0B 1J0  
Debbie & Peter Brouwer, 43 Tudor Cres. S., Lethbridge, AB, T1K 5C7  
Carol & Maurice Hafner, RR1, S4B, C1, Elko, BC, V0B 1J0  
Ed & Pat Thiessen, by fax (250) 529-6925

Enclosure: Minutes/ Policy #5/draft letter contents

TK/lv  
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## **Discussion**

### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the subject property is Class 4, 5 and 6 with limitations of topography, stoniness, and moisture deficiency.

Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.

Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

### **Assessment of Agricultural Suitability**

The Commission considered whether the property was suitable for agriculture. This consideration included details such as property size, surrounding land use and limitations to agriculture. Besides the presence of the RV sites, the Commission did not believe there were factors that rendered the land unsuitable for agricultural use.

### **Assessment of Impact on Agriculture**

The Commission assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission recalled that under Section 3(1)(a)(ii) of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, accommodation for agri-tourism on a farm is considered a permitted use provided all or part of the parcel on which the accommodation is located is classified as a farm under the *Assessment Act*; the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms; and the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel. However, the applicants had gone beyond the number permitted and the Commission was concerned that the use was continuing to expand.

In addition, the Commission was also concerned that the number of units permitted by the *Regulation* was being exceeded by the applicant on another of his properties in the area. The Commission received many letters of complaint about the new campground.

When considering the number of sleeping units that can be placed on a farm, the Commission believes it important to point out that it considers the properties owned by the applicant to be a single farm unit. As such, only 10 units are allowed on the combined area of the properties. The Commission requires a letter from the applicants acknowledging their understanding and acceptance of the regulation before it will consider the non-farm use application to allow the existing camping sites to remain on the subject property. In addition, the Commission requires that the applicant confirm in writing that the new campground they have started does not presently and will not exceed 10 units.

The decision will be deferred until such time as a letter is received from the applicants. Under no circumstances is the area being used for the campground to expand while the application is under consideration.

**Assessment of Other Factors**

During its discussion on this application, the Commission also noted the Regional District's 2006 Bayne's Lake Survey results. The Commission did not find the results to be clearly indicative of the direction the community wished to take in terms of development. The Commission noted that it has previously voiced its view that planning and bylaws in this area would assist in more controlled and less ad hoc development and be supportive of the agricultural land preservation interests of the Commission.

**IT WAS**

**MOVED BY:** Commissioner Marshall

**SECONDED BY:** Commissioner Purdy

THAT the application to allow an existing serviced campground to remain on a 2.3 ha portion of the property be deferred and that the applicant provide written confirmation concerning the number of units on the new campground and an acknowledgement of the provisions of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation concerning agri-tourism accommodation.

**CARRIED**

**Resolution # 230/2007**

Attachment to Letter of July 6, 2007 – Agricultural Land Commission to Herbert & Georgena Palmer

**Suggested content for drafting of a letter of acknowledgement and confirmation from applicant Herbert and Georgena Palmer to the Agricultural Land Commission in response to Resolution #230/2007**

I confirm that I am aware of Section 3(1)(a)(ii) of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, which permits accommodation for agri-tourism on a farm, provided the following three criteria are met:

1. All or part of the parcel must be classified as a farm under the *Assessment Act*;
2. The accommodation must be 10 or fewer sleeping units including seasonal campsites, seasonal cabins or short term use of bedrooms, including bed and breakfast bedrooms allowed under Section 3 (1) (d) of the Regulation; and
3. The total developed area for this use including buildings, landscaping and access, (driveways and parking), must be less than 5% of the total parcel area.

I confirm that there are currently \_\_\_ sleeping units on Lot 1, District Lot 132, Kootenay District, Plan NEP71336 and that neither the number of sites nor the area used for non-farm purposes will be increased while application #L - 37283 is under consideration.

I confirm that I am aware of Policy #5 which states that the farm on which the accommodation is located may be comprised of one or several parcels of land owned or operated by a farmer as a farm business.

I confirm that, in addition to the subject property, I own the following properties:

1. PID: 008-243-646  
Lot 1, Block 16, Plan 1181, District Lot 132, Kootenay Land District
2. PID: 008-243-654  
Lot 2, Block 16, Plan 1181, District Lot 132, Kootenay Land District
3. PID: 011-600-918  
Lot 3, Block 16, Plan 1181, District Lot 132, Kootenay Land District
4. PID: 011-600-934  
Lot 4, Block 16, Plan 1181, District Lot 132, Kootenay Land District
5. PID: 011-600-951  
Lot 5, Block 16, Plan 1181, District Lot 132, Kootenay Land District
6. PID: 011-600-969  
Lot 6, Block 16, Plan 1181, District Lot 132, Kootenay Land District
7. PID: 008-243-671  
Lot 7, Block 16, Plan 1181, District Lot 132, Kootenay Land District
8. PID: 008-243-689  
Lot 8, Block 16, Plan 1181, District Lot 132, Kootenay Land District
9. PID: 011-601-019  
Lot 1, Block 20, Plan 1181, District Lot 132, Kootenay Land District
10. PID: 011-601-094  
Lot 8, Block 20, Plan 1181, District Lot 132, Kootenay Land District
11. PID: 232-906-574  
Lot 4, Block 7, Plan 1181, District Lot 132, Kootenay Land District

I confirm that I am permitted 10 sleeping units on the total area of the properties that I farm.


I confirm that there are \_\_\_ sleeping units on Lot 8, Block 20, Plan 1181, District Lot 132, Kootenay Land District and that this will not exceed 10 units.

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|  <p><b>Agricultural Land<br/>Commission Act</b></p>   | <p style="text-align: right;"><b>Policy #5<br/>March 2003</b></p> <p style="text-align: center;"><b>PERMITTED USES IN THE ALR:<br/>AGRI-TOURISM ACCOMODATION</b></p> |
| <p><i>This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.</i></p> |  |

#### REFERENCE:

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 3 (1) (a) and Section 1 (1).

Section 3 (1) *"the following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw:*

- (a) *accommodation for agri-tourism on a farm if*
  - (i) *all or part of the parcel on which the accommodation is located is classified as a farm under the Assessment Act,*
  - (ii) *the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and*
  - (iii) *the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;*

Section 1 (1) **"agri-tourism"** means a tourist activity, service or facility accessory to land that is classified as a farm under the Assessment Act

**"sleeping unit"** means

- (a) *a bedroom or other area used as a bedroom in a cabin, dwelling or accessory building, and*
- (b) *a tent or recreational vehicle on a campsite*

#### INTERPRETATION:

The Regulation permits accommodation for agri-tourism on a farm, provided all the following three criteria are met:

1. All or part of the parcel must be classified as a farm under the *Assessment Act*;
2. The accommodation must be 10 or fewer sleeping units including seasonal campsites, seasonal cabins or short term use of bedrooms, including bed and breakfast bedrooms allowed under Section 3 (1) (d) of the Regulation; and
3. The total developed area for this use including buildings, landscaping and access, (driveways and parking), must be less than 5% of the total parcel area.

Local governments may prohibit this use or allow the use with the above restrictions. The local government may also have additional requirements for such things as parking, signage, setbacks etc.

Under this Regulation, agri-tourism accommodation can only be located on an ALR parcel that is assessed as a farm, and the accommodation use must be accessory to the principle use of the property which is farming. This use is permitted only if the property is assessed as 'farm' and if the assessment changes, this use is no longer permitted.

The use of campsites or cabins (separate from dwellings) for agri-tourist accommodation must be seasonal which this policy interprets as less than 12 months of the year. In other words, the campsites or cabins must not be available for paying guests for the full year or 12 consecutive months. A single tent or a single recreational vehicle on a campsite on the parcel counts as one sleeping unit.

However bedrooms in a dwelling or building accessory to a dwelling, may be offered for tourist accommodation year round, or the full 12 months, i.e. there is no 'seasonal' requirement for this type of sleeping unit. A bedroom, or other area such as a living room used as a bedroom (i.e. with a bed), counts as one sleeping unit. All the sleeping units must be used only for tourist accommodation for paying guests.

The farm on which the accommodation is located may be comprised of one or several parcels of land owned or operated by a farmer as a farm business.

The maximum limit of 10 sleeping units includes the number of bed and breakfast bedrooms permitted under Section 3 (1) (d) of the Regulation. For example, if there are already 3 bed and breakfast bedrooms on a parcel, only 7 additional sleeping units may be permitted under the Regulation, to meet the maximum of 10 in total. See Commission Policy "Permitted Uses in the ALR: Bed and Breakfast Use".

Agri-tourism accommodation uses that do not meet the conditions established in the Regulation, for example uses with more than 10 sleeping units, require application to and approval from the Commission.

**Where a zoning bylaw is in place, this use must be specifically permitted by the bylaw.**

**TERMS:**

**Short term** — means the use by a tourist of bedroom accommodation for agri-tourism for a period of not more than 30 consecutive days. The term 'tourist' used in this policy, means a person who travels from place to place away from their permanent residence for pleasure or business.



**Staff Report**  
**Application # L – 37283**  
**Applicant: Herbert and Georgena Palmer**

**DATE RECEIVED:** March 9, 2007

**DATE PREPARED:** May 7, 2007

**TO:** Chair and Commissioners – Kootenay Panel

**FROM:** Jennifer Carson, Land Use Planner

**PROPOSAL:** To legalize an existing 30-site serviced campground located on a 2.3 ha portion of the 35 ha subject property. The campground was established 5 years ago without the Commission's approval. This application is made pursuant to section 20(3) of the *Agricultural Land Commission Act*.

**BACKGROUND INFORMATION:**

In January 2007, the Commission wrote to the applicants regarding the existing campground. The options presented in the letter were to remove all non-farm accommodations from the property or to make an application for non-farm use to the Commission. In their application the applicants mention that they were unaware that Commission approval was required for the establishment of a campsite exceeding 10 seasonal sites. In their proposal the applicants also mention that the demand for such sites far exceeds the availability in the area.

**Local Government:**

Regional District of East Kootenay

**Legal Description of Property:**

PID: 025-426-249  
Lot 1, District Lot 132, Kootenay District, Plan NEP71336

**Purchase Date:**

1980s

**Location of Property:**

510 Chief David Road, Baynes Lake

**Size of Property:**

35 ha (The entire property is in the ALR)



**Present use of the Property:**

Farm, hay and grazing of cattle, 2.3 ha is currently a campground

**Surrounding Land Uses:**

**WEST:** Residential lots  
**SOUTH:** Residential lots  
**EAST:** Farming  
**NORTH:** Residence

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82G/3  
The majority of the property is identified as having Mixed Prime and Secondary ratings.

**Official Community Plan and Designation:**

OCP: None

**Zoning Bylaw and Designation:**

Zoning: None

**RELEVANT APPLICATIONS:**

**Application #33756-0**

**Applicant:** Canada Lands Co. CLC Ltd,  
**Decision Date:** May 28, 2001  
**Proposal:** To exclude 2.5 ha from the ALR  
**Decision:** Allowed on the grounds the property was isolated and buffered from agricultural lands to the east and south and the land had limited agricultural capability.

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**Application #34458-0**

**Applicant:** Ken & Kathryn Sharpe  
**Decision Date:** November 14, 2002  
**Proposal:** To legalize a campground developed on a 0.43 ha portion of Crown land.  
**Decision:** Allowed.

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**Application #36312-0**

**Applicant:** Janet Harris  
**Decision Date:** March 21, 2006  
**Proposal:** To subdivide the 2.0 ha property into two (2) 1.0 ha lots.  
**Decision:** Allowed as the property had limited agricultural potential due to its small size.

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**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**East Kootenay Regional District Board:**

The Regional Board forwarded the application with a recommendation of support.

**Agricultural Advisory Committee:**

Accepted the proposal as presented.

**Advisory Planning Committee for Area B:**

The application be supported as presented with the following clarifications: 50 serviced sites total, including 30 year round sites and that the subject property conforms to sewer and water regulations.

**Local Government Staff:**

The application be supported.

**STAFF COMMENTS:**

It has come to the Commission's attention that the applicants may be developing another campground in the vicinity – to the southwest of the property that is the subject of this application. The alleged second campsite is located on the property legally described as Lot 8, Block 20, District Lot 132, Plan 1181 and located on Sundown Lane.

Section 3(1)(a)(i) of BC Regulation 171/2002 (*Agricultural Land Reserve Use Subdivision and Procedure Regulation*) provides the following:

- 3(1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:
- (a) accommodation for agri-tourism on a farm if
    - (i) all or part of the parcel on which the accommodation is located is classified as a farm under the *Assessment Act*,
    - (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d).

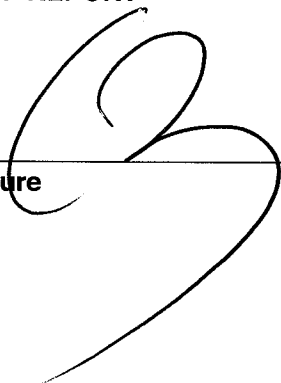
It is suggested the Commission pursue this matter with the applicants.

**ATTACHMENTS:**

1. ALR Base Map
2. Agricultural Capability Map
3. Land Use Map
4. Aerial Photograph
5. ALC Policy #5 (Permitted Uses in the ALR: Agri-Tourism Accommodation).

**END OF REPORT**

Signature



Date

May 7/07