



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
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www.alc.gov.bc.ca

December 7, 2012

ALC File: # 52705

Bryce Wolfenden  
2456 Castlestone Drive  
Invermere, BC

Dear Mr. Wolfenden:

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

Please find attached the Minutes of Resolution #386/2012 as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

- 33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:
- (a) evidence not available at the time of the original decision has become available,
  - (b) all or part of the original decision was based on evidence that was in error or was false.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Lindsay McCoubrey.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Lindsay McCoubrey', is written over a large, stylized signature that appears to be 'Brian Underhill'.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #386/2012

cc: Regional District of East Kootenay (File: P 712 601)



## **MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION**

A meeting was held by the Provincial Agricultural Land Commission on November 20, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52705.

### **COMMISSION MEMBERS PRESENT:**

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

### **COMMISSION STAFF PRESENT:**

Lindsay McCoubrey	Land Use Planner
Eamonn Watson	Land Use Planner
Liz Sutton	Land Use Planner
Colin Fry	Executive Director

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### **PROPOSAL**

To Subdivide the 21.8 ha subject property into one 16.2 ha lot and one 5.6 ha lot.  
(Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

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### **LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION**

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 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.
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## COMMISSION CONSIDERATION

After considering the information the Commission concluded as follows:

1. The Commission noted the applicant referred to section 946 of the *Local Government Act* (LGA) as a factor in support of the request to subdivide the subject property. Section 2 of the *Agricultural Land Commission Act* (ALCA) establishes primacy of the ALCA over other legislation. More specifically:

2(1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

The LGA is subordinate to the ALCA and as such section 946 in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes section 946 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. If a subdivision for a relative involves land in the ALR, the local government can only use section 946 if an ALR application for subdivision has first been approved by the ALC. The ALC's consideration of subdivision proposals will be done in accordance with the purposes of the ALCA provided in section 6:

**Conclusion:** The consideration of Section 946 of the LGA in support of the subdivision proposal is inconsistent with the purposes of the ALC.

2. The agricultural capability ratings identified on Canadian Land Inventory (CLI) map sheet 82K/16 for the subject property are Class 5 and Class 4.

Class 4 – Soils in this class have severe limitations that restrict the range of crops or require special conservation practices.

Class 5 – Soils in this class have very severe limitations that restrict their capability in producing perennial forage crops, and improvement practices are feasible.

The limiting subclasses associated with this parcel of land are P (stoniness), T (topography), F (low fertility) and W (excess water).

**Conclusion:** The subject property has agricultural capability consistent with other lands in this region of British Columbia.

3. The proposed subdivision would create a 5.6 ha rural residential lot on the edge of a productive farming area and would reduce the agricultural potential of the subject property.

**Conclusion:** The proposed subdivision is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve and encourage agriculture.

**IT WAS**  
**MOVED BY:**           **Commissioner Collins**  
**SECONDED BY:**       **Commissioner Dyson**

THAT the request be refused.

**CARRIED**  
**Resolution #386/2012**