



Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

July 25, 2016

ALC Application ID: 54164

SENT VIA ELECTRONIC MAIL

Adam Brash
916-42nd Ave SE
Calgary, AB T2G 1Z2

Dear Mr. Brash:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #277/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly. 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.

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 #277/2016)
Sketch plan

cc: Regional District of East Kootenay (File: P 715-604) (SENT BY ELECTRONIC MAIL)



AGRICULTURAL LAND COMMISSION FILE 54164

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicants:

**Rene Spocchi
Patsy Spoochi
(the “Applicants”)**

Agent:

**Adam Brash
(the “Agent”)**

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Ian Knudsen**



THE APPLICATION

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

Parcel Identifier: 009-035-036

Lot 4, District Lot 288, Kootenay District, Plan 15932

(the "Property")

[2] The Property is 2.3 ha in area.

[3] The Property has the civic address 4890 Stoddart Creek Road, north of Invermere, BC.

[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 being 1.0 ha and 1.3 ha in size (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

[7] On November 18, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Kootenay Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] 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.

[9] 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.

[10] 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

[11] The Panel considered the following evidence:

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

[12] The Panel reviewed previous applications involving the Property:



Application ID: 25458
Legacy File: 08983
(Becker Properties Ltd, 1979)

To subdivide the 85.0 ha lot into parcels of approximately 2.0 ha each. Refused by Resolution #1278/80.

Application ID: 15265
Legacy File: 15267
(Becker Properties Ltd, 1982)

To subdivide the 85.0 ha parcel into six parcels of 2.0 ha and one parcel of approximately 70.0 ha. Approved by Resolution #1803/82.

SITE VISIT

[13] The Panel did not in the circumstances of this Application consider it necessary to conduct a site visit to the Property.

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/9 for the mapping unit encompassing the Property is Class 4, more specifically (4TP).

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

The limiting subclasses associated with this parcel of land are T (topographic limitations) and P (stoniness).

[15] The Panel reviewed the surrounding area and noted that the Property was situated amongst a number of similarly sized properties within the ALR.



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

[16] The Applicant did not provide any information specifically citing economic, cultural and social values that may be pertinent to the Proposal.

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

[17] The Property is designated Residential Low Density (R-SF) in the Steamboat-Jubilee Mountain Official Community Plan (the "OCP"), Bylaw No. 1926, (2006) which, "...encompasses the single family residential cores of the plan communities; it includes town sized lots and manufactured home lots in Edgewater, Wilmer, and Dry Gulch...".

[18] The OCP Policies include, "[n]ew residential development is directed to land within existing development nodes, as designated on Schedules D – D6 or to parcels outside the ALR."

[19] The Panel finds that the Property is located within an existing parcelized residential node as identified on Schedule D2 – Dry Gulch of the OCP.

[20] The Property is designated Small Holding Rural Zone (SH-3) in the Upper Columbia Valley Zoning Bylaw No. 900, (1992) wherein the minimum lot size is 2.0 ha; therefore, the Proposal is inconsistent with zoning.

Weighing the factors in priority

[21] The Panel finds that given the existing nature of the Dry Gulch area as a development node containing a number of small residential lots, the proposed subdivision of the Property will have limited impact to agriculture in the area.

DECISION

[22] For the reasons given above, the Panel approves the Application to subdivide the Property into two parcels being 1.0 ha and 1.3 ha.

[23] The approved Application is 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.

[24] 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.

[25] Panel Chair **Sharon Mielnichuk** concurs with the decision.
Commissioner **Ian Knudsen** concurs with the decision.

[26] Decision recorded as Resolution #277/2016.

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 #277/2016. The decision is effective upon release.

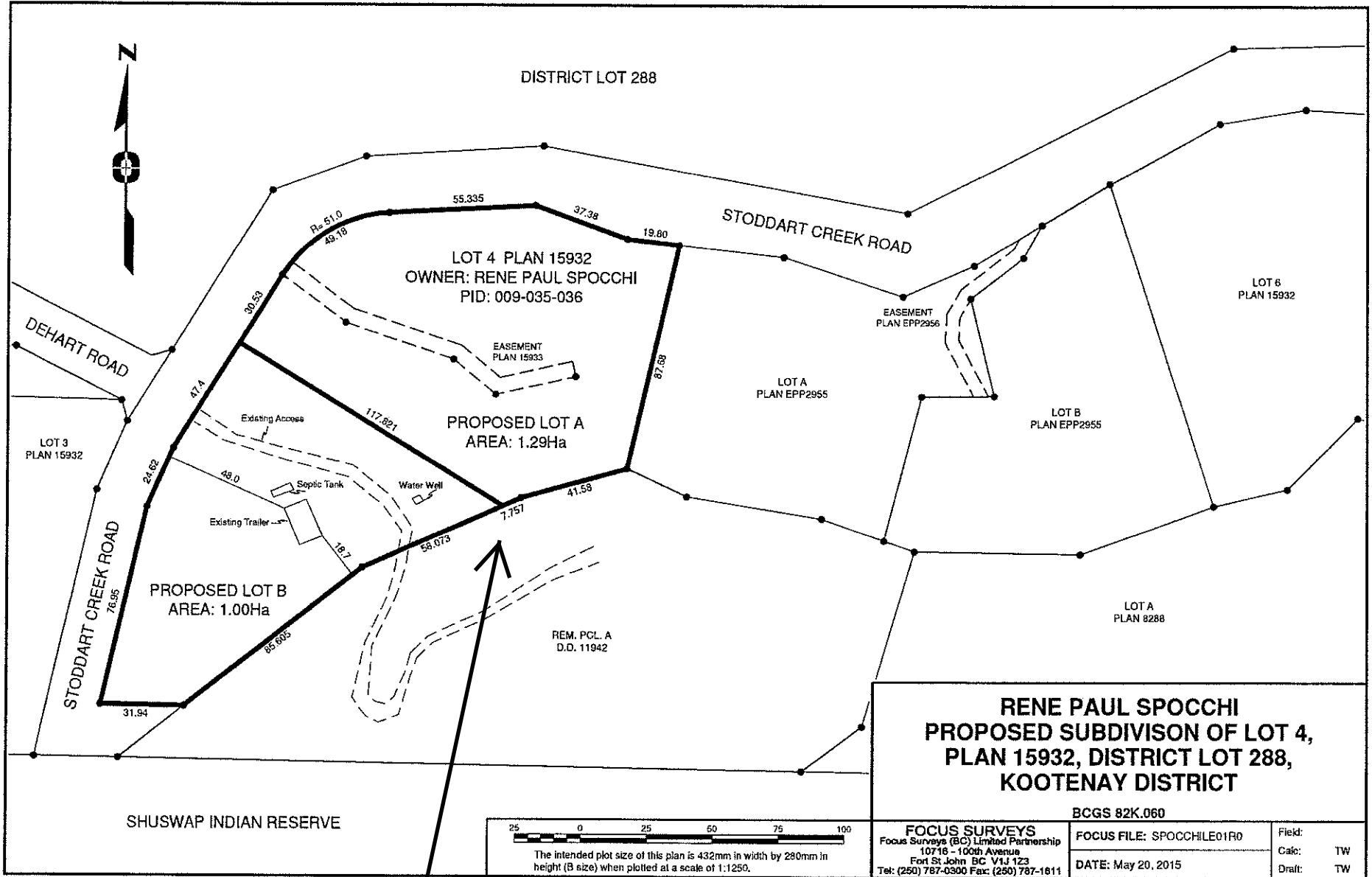


Colin J. Fry, Director of Policy and Planning

July 25, 2016

Date Released

ALC Application ID 54164
 (Applicant - Spocchi)
 Resolution #277/2016



**RENE PAUL SPOCCHI
 PROPOSED SUBDIVISION OF LOT 4,
 PLAN 15932, DISTRICT LOT 288,
 KOOTENAY DISTRICT**

BCGS 82K.060

FOCUS SURVEYS Focus Surveys (BC) Limited Partnership 10716 - 100th Avenue Fort St John BC V1J 1Z3 Tel: (250) 787-0300 Fax: (250) 787-1811	FOCUS FILE: SPOCCHILE01R0	Field: Calc: TW Draft: TW
DATE: May 20, 2015		

Subdivision of Property into two parcels
 Approved by Resolution #277/2016.