



Agricultural Land Commission
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February 19, 2016

ALC File: 54418

Tom Coughlin
PO Box 2441
Golden, BC, V0A 1H0

Dear Mr. Coughlin:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #57/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly. A sketch plan depicting the decision has been attached.

Please send two (2) copies 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.

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.

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 Lindsay McCoubrey at (Lindsay.McCoubrey@gov.bc.ca).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'C. Fry', with a long horizontal flourish extending to the right.

Colin J. Fry, Chief Tribunal Officer

Enclosures: Reasons for Decision (Resolution #57/2016)
Sketch Plan

cc: Columbia Shuswap Regional District (File:LC2504A)

54418d1



AGRICULTURAL LAND COMMISSION FILE 54418

**REASONS FOR DECISION
OF THE KOOTENAY PANEL**

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

Applicants:

**E. and K. Pfeifenroth
J. and B. Pfeifenroth
T. Pfeifenroth
Q. Pfeifenroth
R. Jones, C. Gordon,
A. Brisson, M. Labrecue
(the “Applicants”)**

Agent

Tom Coughlin

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Ian Knudsen**

THE APPLICATION

[1] The legal description of the properties involved in the application are:

- 1) PID: 028-341-82 (11.8 ha - 2.2 ha in the ALR)
Lot 1, Section 19, Township 24, Range 19, West of the 5th Meridian, Kootenay District, Plan NEP91370
- 2) PID: 016-531-299 (40.7 ha – 26.6 ha in the ALR)
Parcel A (See 73770I) of the SW ¼ of Section 19, Township 24, Range 19, West of the 5th Meridian, Kootenay District Except Plan NEP91370
- 3) PID: 028-341-830 (11.5 ha – 2.2 ha in the ALR)
Lot 2, Section 19, Township 24, Range 19, West of the 5th Meridian, Kootenay District, Plan NEP91370

(the “Properties”)

[2] The Properties total 50.0 ha in area, 31.0 ha lies within the ALR.

[3] The Properties are located south of Golden, south of the Parson River Crossing west of the Columbia River.

[4] The Properties are located within a designated agricultural land reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”).

[5] The Properties are 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 requesting to subdivide the 11.8 ha PID 028-341-82 into one 6.0 ha lot (Lot 1) and one 5.8 ha lot (the remainder), to separate two existing dwellings. In order to achieve road access to proposed Lot 1, approximately 0.2 ha of forested area from the two adjacent parcels listed in paragraph [1] above, is also proposed for subdivision.

[7] On January 5, 2016, 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 Panel considered the Application within the context of s. 6 of the *ALCA*:

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

All documentation noted above was disclosed to the Applicants in advance of this decision.

[12] The Columbia Shuswap Regional District forwarded the application for the ALC's review with a recommendation of support.

[13] There are no local government bylaws affecting the property.

[14] The Panel reviewed one previous application relating to the Property:

Application ID: 45430
Legacy File: 38514
(Pfeifenroth)

Proposal: To subdivide two 11.3 ha properties from the 62.6 ha property.

Decision: Allow as proposed, very little ALR land is affected by the subdivision proposal.

FINDINGS

[15] The Panel acknowledged that the subdivision proposal has very minor effects on the ALR.

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

[16] No references to economic, cultural or social values were made in the Application.



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

[17] There are no regional or community planning priorities in this area.

Weighing the factors in priority

[18] The Panel believes that the limited amount of ALR located on the primary subject parcel and the limited effect of the proposal on that ALR, lends support to the application.

DECISION

[19] For the reasons given above, the Panel approves the Application to subdivide the 11.8 ha subject property into two lots of roughly equal size, and to use approximately 0.2 ha from the adjoining two properties for driveway access to the new Lot 1.

[20] The approved Application is subject to the following conditions:

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

[21] 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.

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

[23] Decision recorded as Resolution #57/2016.

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 #57/2016. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

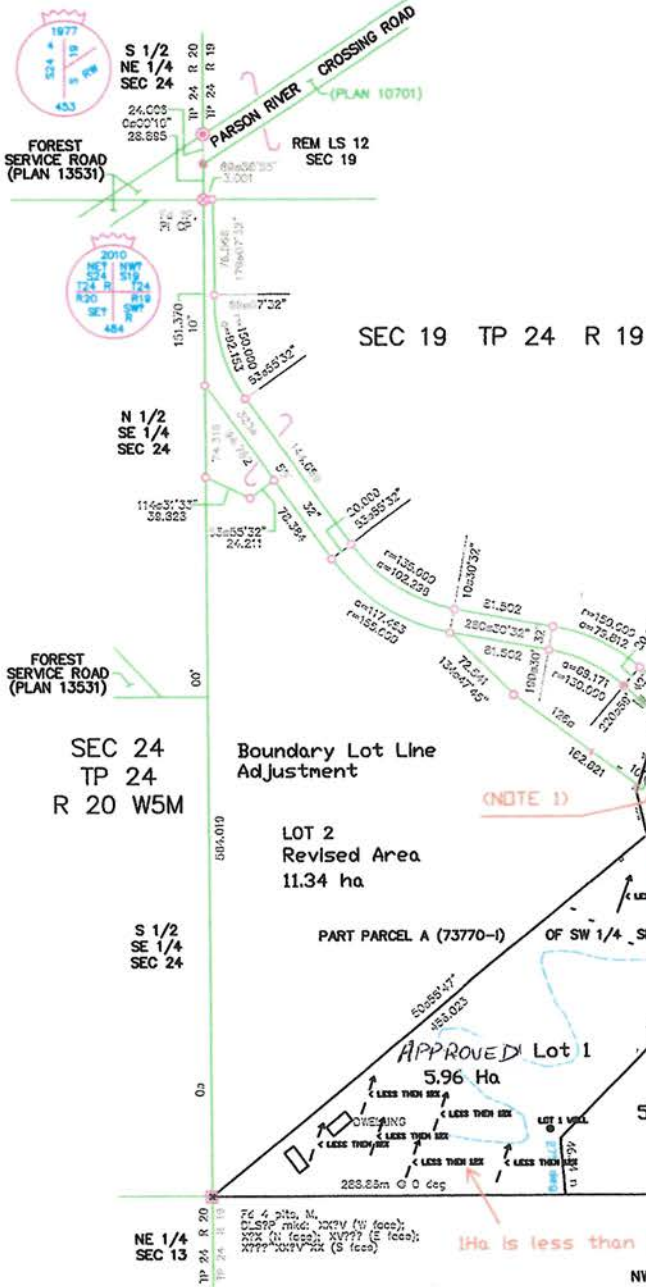
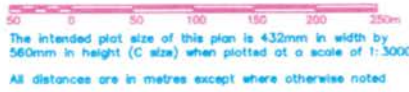
February 19, 2016
Date Released

SUBDIVISION PLAN OF PART OF PARCEL A (SEE 737701) OF THE SW 1/4 OF SEC 19, TP 24, R 19, W5M, KOOTENAY DISTRICT

PLAN NEP91370

BCGS 82N.007

SCALE 1 : 3000



(NOTE 1) Boundary Lot Line Adjustment
AREA TO BE TRANSFERRED TO LOT 1
LOT 2 & REMAINDER

The area being transferred from the Rem. to proposed Lot 1 is .116 Ha

The area being transferred from Lot 2 to proposed Lot 1 is .059 Ha

REMAINDER .116 Ha
 LOT 2 .059Ha

TOTAL AREA .175 Ha

APPROVED 1 LOT & REM.

- Proposed Remainder 5.57 Ha
- Proposed Lot 1 5.96 Ha
- SLOPE < LESS THEN 12%
- SLOPE < LESS THEN 20%
- DRIVEWAY <= 15%
- WELL ●
- DWELLING □

ALC FILE: 54418
 RESOLUTION # 57/2016

MODIFIED BY T. COUGHLIN
 APRIL 14, 2015
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 Ph 250.348.2574