



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

December 8, 2016

ALC File: 54423

Haworth Development Consulting Ltd.
926 – 7th Avenue, Suite 203
Invermere, BC V0A 1K0

Dear Mr. Haworth:

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #426/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly. A sketch plan depicting the decision has been attached.

Reconsideration of a Decision as Directed by the ALC Chair

Please note that pursuant to [s. 33.1 of the *Agricultural Land Commission Act*](#), the Chair may direct the executive committee to reconsider any 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 s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

Reconsideration of a Decision by an Affected Person

We draw your attention 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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

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

A handwritten signature in black ink, appearing to read 'Riccardo Peggi', is written over a faint, light-colored rectangular stamp.

Riccardo Peggi, Land Use Planner

Enclosures: Reasons for Decision (Resolution #426/2016)
Sketch plan

cc: Village of Canal Flats (File: ALC-01-2016)

54423d1



AGRICULTURAL LAND COMMISSION FILE 54423

REASONS FOR DECISION OF THE KOOTENAY PANEL

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicant:

**Brent Dubois
(the “Applicant”)**

Agent:

**Richard Haworth
(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: 015-785-122

Lot 28, District Lot 110, Kootenay District Plan 1738, Except Part included in Plan 12039

(the "Property")

[2] The Property is 2.2 ha in area.

[3] The Property has the civic address 4753 Burns Avenue, Canal Flats.

[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. 30(1) of the *ALCA*, the Applicants are applying to exclude the Property for the purpose of future subdivision and residential development (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. 30(1) of the *ALCA*:

30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.

[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. Previous 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] At its meeting of August 22, 2016, the Village of Canal Flats (the “Village”) resolved that Council advises the Agricultural land Commission (the “Commission”) of its support for the Application.

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

Application ID: 25657
Legacy File: 04698
(Glavin, 1977)

To subdivide the 2.3 ha Property into two lots of 0.2 ha and 2.1 ha. It was noted that the Regional District of East Kootenay had no objection to the proposal. The proposed lot would be adjacent to an airstrip. Approved by ALC Resolution #6857/1977.

Note: Resolution #6857/1977 resulted in the current configuration of the Property.

[13] The Panel reviewed two relevant applications relating to the Application:

Application ID: 25457
Legacy File: 17282
(BC Buildings Corp, 1984)

To subdivide the 2.4 ha property into two lots of 0.4 ha and 2.0 ha. The Commission viewed air photos and photographs of the property and noted it is assigned CLI ratings of Class 2 and 3 (improvable). It was also noted however, that the property is abutted by the Canal Flats built up area to the east and the airstrip to the west. The property is on the edge of the ALR and there are no agricultural operations in the vicinity. The Commission was of the opinion that, given the small adjacent lots sizes and the non-agricultural use of land in the vicinity, the proposed subdivision would not be inappropriate in this area. Approved by ALC Resolution #62/84.

Application ID: 43025
Legacy File: 36577
(Charbonneau, 2006)

To exclude the 2.2 ha property from the ALR. The Commission noted that the property is at the edge of the ALR and in view of existing development both on the property (mobile home park) and on adjacent sites (residential) it concluded that the site had no significant agricultural potential. Approved by ALC Resolution



#280/2006.

Note: Applications 25457 and 43025 involve the parcel bordering the Property to the east.

SITE VISIT

[14] On September 21, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[15] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Agent on September 29, 2016 (the "Site Visit Report").

FINDINGS

Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture

[16] 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 ratings identified on CLI map sheet 82J/04 for the mapping units encompassing the Property are Class 2 and Class 3; more specifically (6:2F – 4:3MF).

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

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 subclasses associated with this parcel of land are M (moisture deficiency), and F (low fertility).



[17] The CLI ratings indicate that the soils on the Property have high agricultural capability. However, upon visiting the site and examining several test pits excavated by the Applicant, the Panel noted a high percentage of cobble (>7.5 cm) within approximately 25 cm of the surface which indicates that a stoniness limitation may be present. The Panel finds that the stoniness observed at the Site Visit may limit the agricultural capability of the Property.

[18] The Panel finds that the Property has limited agricultural suitability given the present rural residential nature of the surrounding parcels. The Property is bordered by a mobile home park to the east on a parcel that was excluded from the ALR in 2006 (Application ID: 43025) and an air strip to the west. The parcels to the north of the Property are in the ALR but are utilized for residential uses while the parcels to the south are residential parcels located outside of the ALR. The Panel finds that exclusion of the Property would not impact any agricultural uses in the surrounding area.

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

[19] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives 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.

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

[20] The Property is located in an area the Village of Canal Flats identify for Residential Reserve in the 2005 Official Community Plan (the "OCP"). The Panel did not receive any further information from the Village of Canal Flats regarding the Residential Reserve designation in relation to the Application.

Weighing the factors in priority

[21] The Property has good agricultural capability ratings according to the available CLI mapping, however, the Panel observed the Property may be limited by stoniness based on

observations at the Site Visit. The Panel also finds that the Property is suitable for exclusion because it is located on the edge of the ALR and surrounded by residential uses to the east and south, and an airstrip to the west.

[22] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives 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

[23] For the reasons given above, the Panel approves the Proposal to exclude the 2.2 ha Property.

[24] The Commission will advise the Registrar of Land Titles that the property has been excluded from the ALR.

[25] 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.

[26] These are the unanimous reasons of the Kootenay Panel of the Agricultural Land Commission.

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

[28] This decision is recorded as Resolution #426/2016 and is released on December 8, 2016.

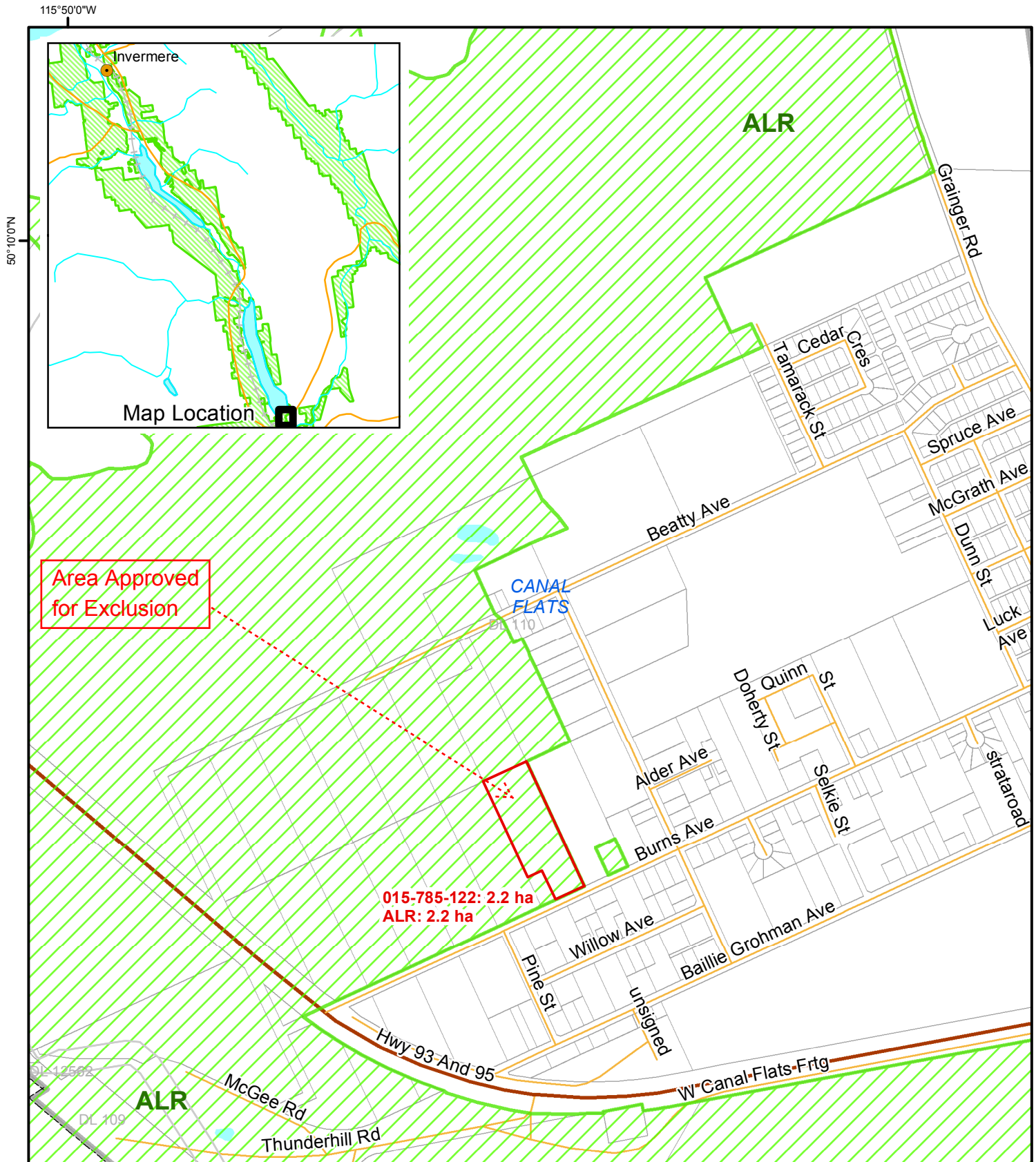


CERTIFICATION OF DECISION

A handwritten signature in black ink, reading 'Sharon Mielnichuk', is written over a horizontal line.

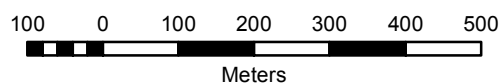
Sharon Mielnichuk, Panel Chair, on behalf of the Kootenay Panel

END OF DOCUMENT



ALR Context Map

Map Scale: 1:10,000



ALC Application 54423
Approved Exclusion
ALC Resolution #426/2016