



July 27, 2016

Agricultural Land Commission
133–4940 Canada Way
Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca
ALC File: 54425

(SENT VIA ELECTRONIC MAIL)

Catherine Ann McIvor
RR #1, Site 2, Box 6
Kaslo, BC V0G 1M0

Dear Ms. McIvor:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #283/2016) as it relates to the above noted application. 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 #283/2016)
Sketch plan

cc: Regional District of Central Kootenay (File: A1510) **(SENT VIA ELECTRONIC MAIL)**

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AGRICULTURAL LAND COMMISSION FILE 54425

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicant:

**Catherine McIvor
(the “Applicant”)**

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Harvey Bombardier
Ian Knudsen**



THE APPLICATION

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

Parcel Identifier: 013-712-764

Lot 1, District Lot 528, Kootenay District, Plan 4898

(the "Property")

[2] The Property is 1.3 ha in area, of which 1.1 ha is situated within the ALR.

[3] The Property has the civic address 367 Howser Station Road, Kaslo.

[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 Applicant is applying to subdivide the Property into roughly two approximately 0.6 ha parcels (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

[7] On November 15, 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. Agricultural capability map, ALR context map and satellite imagery

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

SITE VISIT

[12] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

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

[13] 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 82K/7 for the mapping units encompassing the Property are Class 2 and Class 5; more specifically (8:2M - 2:5TM).

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 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel of land are M (moisture deficiency) and T (topographic limitations).

[14] The Panel reviewed the CLI ratings and find that the Property has good to moderate agricultural capability.

[15] The Panel notes that the surrounding parcel sizes are generally small, and believes that the proposed subdivision will not have a significant negative impact on the surrounding agricultural uses.

[16] In her letter, the Applicant stated that: *“I do not currently use the back half of my property. Back half has 2 large fields suitable for livestock and has perimeter fencing in place. I would like to create a small homestead site. I would like to subdivide [the] back half with 2 large fields, waterline and large workshop.”*

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

[17] The Applicant did not provide any evidence or rationale regarding any economic, cultural and social values that may be pertinent to the Application.

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

[18] The Property is within the Regional District of Central Kootenay, in an area without a zoning bylaw or official community plan.

Weighing the factors in priority

[19] The Panel notes that the properties in the area are in the size range of 1 ha to 3 ha.

[20] The Panel notes that agricultural production in this area is limited to hobby farms.

[21] The Panel finds that the proposed subdivision will have limited negative impact on agriculture as the expected use of hobby farms will not be significantly impacted by the proposed parcel sizes.

[22] The Panel gave consideration to economic, social and cultural values and regional and community planning objectives planning 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 subdivide the Property into two approximately equal lots (~0.6 ha).

[24] 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.

[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] Panel Chair **Sharon Mielnichuk** concurs with the decision.

Commissioner **Ian Knudsen** concurs with the decision.

Commissioner **Harvey Bombardier** concurs with the decision.

[27] Decision recorded as Resolution #283/2016.

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 #283/2016. The decision is effective upon release.

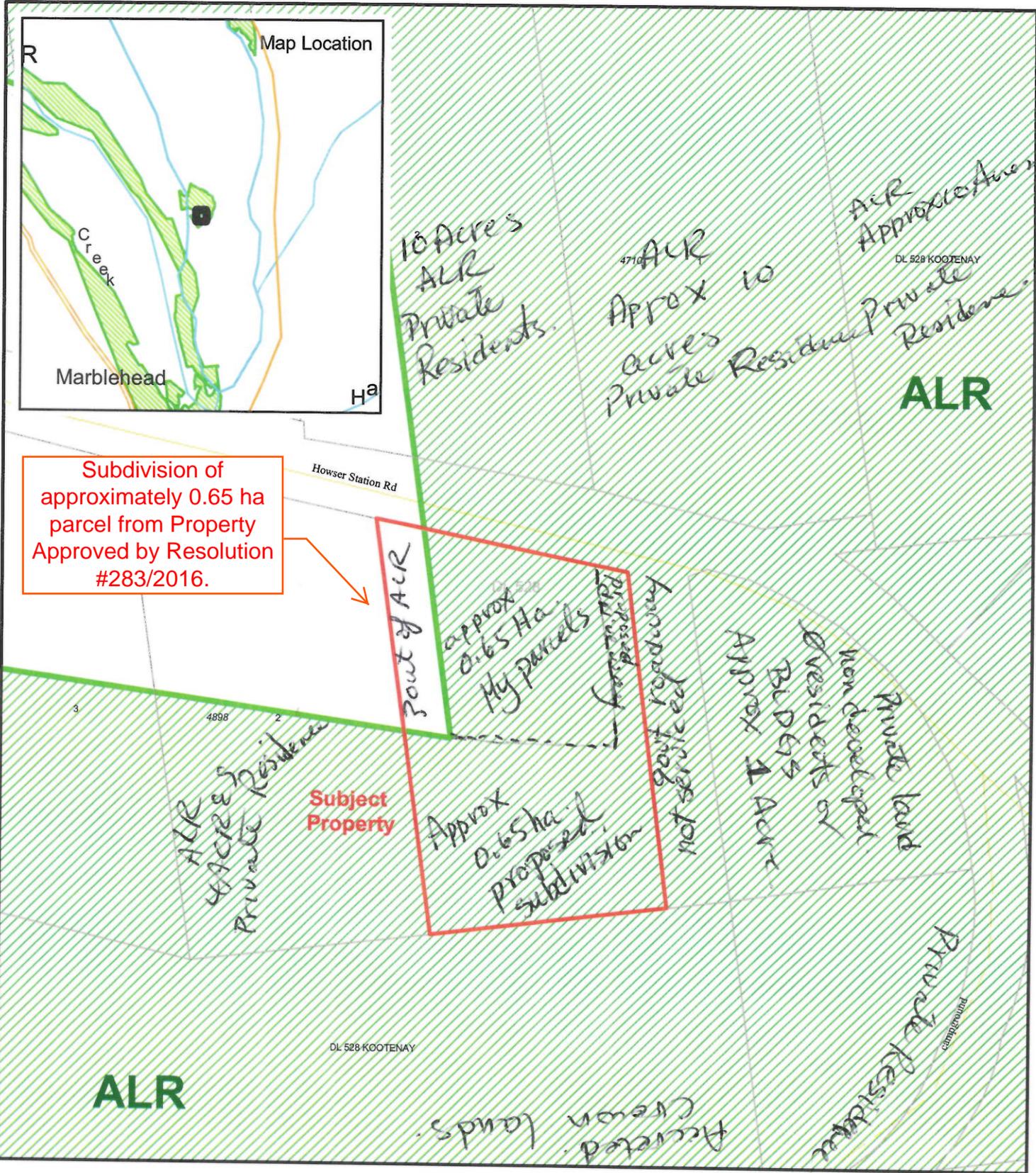


Colin J. Fry, Director of Policy and Planning

July 27, 2016

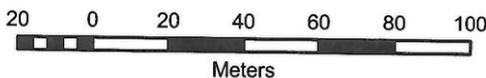
Date Released

ALC Application #54425
 (Applicant - McIvor)
 Resolution #283/2016



ALC Context Map

Map Scale: 1:2,000



ALC File #:	013-712-764
Mapsheet #:	82K.036
Map Produced:	Jul 30, 2013
Regional District:	Central Kootenay