



June 14, 2016

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
ALC File: 54660

Peter and Laura Moll
2141 Loff Road
Castlegar, BC V1N 4N9

Dear Mr. and Mrs. Moll:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #216/2016) 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.

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.

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 #216/2016)
Sketch plan

cc: Regional District of Central Kootenay (File: A1517)



AGRICULTURAL LAND COMMISSION FILE 54660

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicants:

**Peter Moll
Laura Moll
(the “Applicants”)**

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: 016-064-658

Lot 24, District Lot 1239, Kootenay District, Plan 857

(the "Property")

[2] The Property is 4.8 ha in area, of which 2.0 ha is in the ALR.

[3] The Property has the civic address 2141 Loff Road, Tarrys.

[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 4.8 ha Property into two parcels of 2.6 ha and 2.2 ha, respectively (the "Proposal"). The Proposal along with supporting documentation is collectively (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] 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.

[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. Agricultural capability map, ALR context map and satellite imagery

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

SITE VISIT

[11] 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

[12] 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 82F/05 for the mapping unit encompassing the ALR component of the Property is Class 2 and Class 5; more specifically (7:2WM - 3:5PM).

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), W (excess water), and P (stoniness).

[13] The Panel reviewed the CLI ratings and find that the ALR component of the Property has agricultural capability ratings that are consistent with the typical capability of the area.

[14] The Regional District of Central Kootenay (the "RDCK"), in its report, states: *"The property is characterised by a mix of relatively steep topography from the western property boundary to the ALR boundary, with the remainder of the property being located on a relatively flat bench. At present, there are a number of buildings on the property including a single family dwelling, a garage and an accessory building used for storage. The siting of these buildings is noted on the applicants' site plan. This land does not appear to be used for agricultural purposes. The applicant is proposing to subdivide the property into two parcels approximately 2.57 hectares (6.35 acres) and 2.12 hectares (5.24 acres) in size. The applicants have indicated that the proposed Lot A has been designed as a 'panhandle' to*

manage any adverse impacts on the cleared area along the eastern portion of the property, which is suitable for grazing.”

[15] In their letter, the Applicants state: *“This proposal has minimal impact on potential agricultural use of the property. The cleared area in Lot 1 would continue to be suitable for animal grazing. Lot 2 is forested and currently unsuitable for any agricultural use. The configuration was chosen to maintain the cleared area in a single lot, rather than splitting it down the middle to create two narrow lots.”*

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

[16] The Applicants 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

[17] The RDCK, in its report, states: *“the subject property is zoned Agriculture 4 (AG4) under the Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004. It is noted that the applicant's proposed subdivision is in compliance with the two (2) hectare minimum lot area requirement of the AG4 zone. If this application for subdivision in the ALR is successful, matters relating to the servicing and design of the proposed lots will be resolved through any subsequent subdivision approval process.”*

[18] The RDCK, in its report, states: *“The Planning Department notes that the applicant has designed the subdivision to ensure the protection of the eastern portion of the proposed remainder lot, which may be suitable for grazing purposes. In light of this information, if this application for subdivision is successful the Planning Department would consider it appropriate to include this portion of land into the Agricultural Land Reserve to ensure its protection moving forward.”*

Weighing the factors in priority

[19] The Panel is of the opinion that the Application, in its current configuration, will not have any negative impact on agriculture as the improved field will remain intact.

[20] The Panel put its mind to section 4.3 (b) but no arguments were provided by the Applicants.

DECISION

[21] For the reasons given above, the Panel approves the Proposal to subdivide the 4.8 ha Property into two parcels of 2.6 ha and 2.2 ha.

[22] The Proposal is approved 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.

[23] 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.

[24] Panel Chair **Sharon Mielnichuk** concurs with the decision.
Commissioner **Harvey Bombardier** concurs with the decision.
Commissioner **Ian Knudsen** concurs with the decision.

[25] Decision recorded as Resolution #216/2016.

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 #216/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', is positioned above the name of the Director of Policy and Planning.

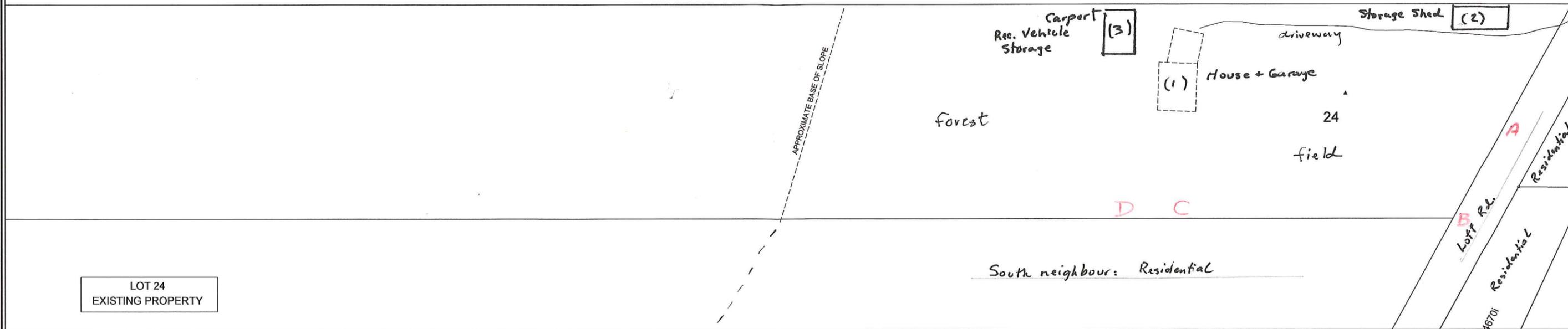
Colin J. Fry, Director of Policy and Planning

June 14, 2016

Date Released

ALC Application 54660
(Applicant - Moll)
Resolution #216/2016

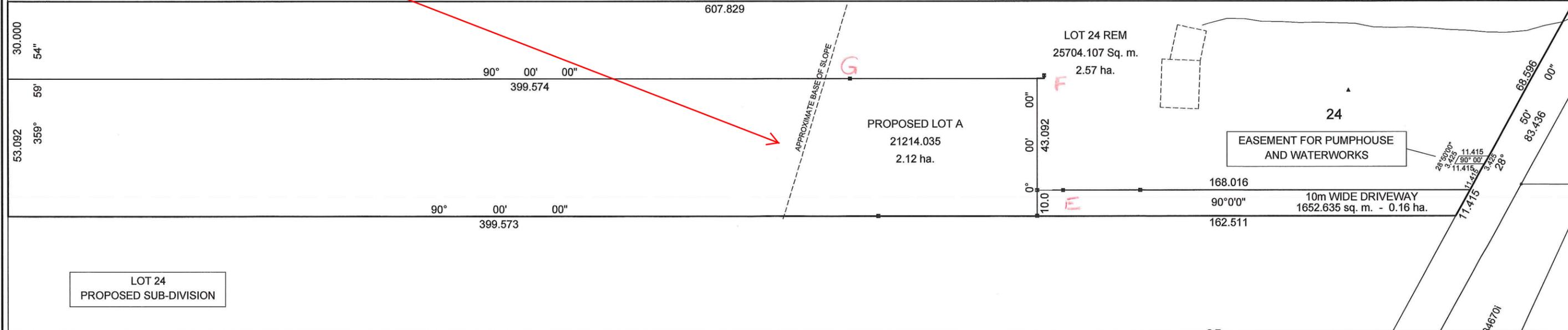
North neighbour: Hobby Farm (horses)



LOT 24
EXISTING PROPERTY

South neighbour: Residential

Subdivision of Approximately 2.1 ha parcel
from Property
Approved by Resolution #216/2016.



LOT 24
PROPOSED SUB-DIVISION

PHOTO LOCATIONS

- A. Current property from Loff Rd.
- B. South border of property from Loff Rd.
- C. South border - East / proposed driveway location.
- D. South border -> West / " " "

- E. Proposed Lot A - S-E boundary
- F. " " " - N-E "
- G. " " " - N-E at base of slope

SCALE 0 10 1:1500 50m

CAD FILENAME: LOT24_Rev1.dwg

REV	DATE	REVISIONS	SIGNATURE

SUB-DIVISION PLAN
LOT 24 PLAN 857 SEC 22 DL 1239
LOFF ROAD, TARRY'S BC

DESIGNED _____	DATE _____
QUALITY CONTROL _____	DATE _____
QUALITY ASSURANCE _____	DATE _____
DRAWN _____	DATE _____

SENIOR DESIGNER _____	DATE _____
FILE NUMBER _____	PROJECT NUMBER _____
REG _____	DRAWING NUMBER _____
REV _____	