



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca

November 9, 2016

ALC File: 54690

Aspen Grove Property Services
104, 1001 – 102 Ave
Dawson Creek, BC V1G 2B9

Attention: Anne Clayton

Dear Mrs. Clayton:

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

Please find attached the Reasons for Decision of the North Panel (Resolution #374/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached. As agent, it is your responsibility to notify the applicant accordingly.

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 Jess Daniels at (Jessica.Daniels@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads "Jess Daniels". The signature is written in a cursive, flowing style.

Jess Daniels, Land Use Planner

Enclosures: Reasons for Decision (Resolution #374/2016)
Sketch plan

cc: Peace River Regional District (File: 283/2015)

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AGRICULTURAL LAND COMMISSION FILE 54690

REASONS FOR DECISION OF THE NORTH PANEL

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

Applicant:

**Isidor Bieri
(the "Applicant")**

Agent:

**Anne Clayton
(the "Agent")**

Application before the North Regional Panel:

**Dave Merz, Panel Chair
Sandra Busche**



THE APPLICATION

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

Property 1

Parcel Identifier: 014-738-643

The South West 1/4 of Section 20, Township 78, Range 18, West of the 6th Meridian,
Peace River District

Area: 64.4 ha

Property 2

Parcel Identifier: 014-738-635

The North West 1/4 of Section 20, Township 78, Range 18, West of the 6th Meridian,
Peace River District

Area: 62.9 ha

(collectively the “Properties”)

[2] The Properties are generally described as being located within the community of Progress along the Hart Highway (97 South).

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

[4] The Properties are located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[5] Pursuant to s. 21(2) of the *ALCA* the Applicant is applying for a boundary adjustment to create one 69.2 ha parcel to contain the residence and all associated residential utilities, and one 58.1 ha parcel (the “Proposal”). The Proposal along with supporting documentation is collectively the application (the “Application”).

RELEVANT STATUTORY PROVISIONS

[6] 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.

[7] 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.

[8] The purposes of the Agricultural Land Commission (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

[9] 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 Agent in advance of this decision.

[10] At its meeting of July 28, 2016 the Peace River Regional District (PRRD) resolved to forward the application with the following comments:

“THAT ALR Subdivision Application 283/2015 (Bieri) be authorized to proceed to the Agricultural Land Commission as it is consistent with the Official Community Plan”.

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’. The improved agricultural capability ratings identified on CLI map sheet 93P/15 for the mapping units encompassing the Properties are 100% Class 4X.

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 X (combination of soil factors)

[13] The Applicant stated that 38 ha of Property 1 and 39 ha of Property 2 is currently used for grain production, forage, and cattle.

[14] The following information regarding the Proposal is contained within the Application:

Mr. Bieri owns nine quarter sections. As he approaches retirement, he wishes to downsize his cattle operation to be contained on the site as sketched. This will allow him to have all the buildings and infrastructure on one property, and keep a small herd, while renting out his other quarters to other farmers and ranchers in the area. The remainder of the SW ¼ of 20 78 18 W6M he foresees eventually selling to one of his nephews, who could build a house at the south end of it, at the top of the hill (see elevation profile) and lease the other quarters from Mr. Bieri and run his own ranching operation...

...The benefits to agriculture are that Mr. Bieri can keep a small agricultural operation going, while making the remainder of the SW 20 78 18 available to a young rancher starting out, or simply making it available for lease to existing ranchers in the area. The land is all pasture, so that the triangular portion removed from SW 20 78 18 is not problematic in terms of shape and operation of equipment.

[15] The Panel considered that the Proposal does not pose a substantial change in the existing Property sizes (+/- 6 ha). The Proposal would allow the Applicant to retain the well, dugout, and pumping station (currently on Property 1) with his agricultural operation on Property 2. The Proposal would result in two viable agricultural lot sizes and there would be no substantial change to the current or future uses of the land. The Panel finds that the Proposal would have little to no impact to the agricultural use of the Properties.

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.



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

[17] The Properties are designated as "Agriculture-Rural" in the PRRD Rural Official Community Plan ("OCP"), Bylaw No. 1940 (2011) wherein the minimum parcel size is 63 ha. However, PRRD Staff Report indicates that under Section 7.0 Policy 3 (g) of the OCP, an amendment would not be required. PRRD Section 7.0 Policy 3(G) states that adherence to the minimum lot size does not apply if "*the subdivision is being made for the purpose of providing residence to the landowner, or a relative of the landowner.*"

[18] The Properties are zoned A-2 (Large Agricultural Holdings Zone) within the PRRD Zoning Bylaw No. 479 (1986) wherein the minimum parcel size is 63 ha; therefore a zoning amendment would be required for Property 1. However, the PRRD staff report clarifies that if the Proposal meets the requirements for subdivision under s. 514 of the *Local Government Act (LGA)*, a zoning amendment would not be necessary.

[19] The Panel wishes to clarify that the LGA is subordinate to the ALCA and as such Section 514 in no way compels the ALC to approve a subdivision involving ALR land. The ALC recognizes section 514 as a tool available to local government to accommodate a subdivision for a relative where the proposed lot is smaller than the minimum lot size specified in a zoning bylaw. Therefore, the consideration of Section 514 of the LGA in support of the subdivision proposal does not form part of the Panel's consideration of the Proposal.

Weighing the factors in priority

[20] In considering s 4.3 (a) and the first priority to agriculture, the Panel notes that the Proposal poses little to no impact to agriculture on either Property 1 or Property 2. The Panel finds that the boundary adjustment provides for a practical realignment of the properties to allow the retiring Applicant to consolidate the farm infrastructure onto Property 2 for his continued agricultural use, and make Property 1 available for agricultural purposes through a lease or other disposition of the land.

[21] The Panel gave consideration to economic, social and cultural values as required by s.

4.3. The Applicants did not provide any of economic, social, or cultural arguments in support of the Proposal.

[22] The Panel gave consideration to regional and community planning objectives as required by s. 4.3. The Panel notes that the Proposal is consistent with the OCP and zoning owing to provisions in Section 7.0 Policy 3 (g) of the OCP and Section 514 of the Local Government Act (LGA). The Panel wishes to emphasize that the LGA is subordinate to the ALCA and as such Section 514 in no way compels the ALC to approve a subdivision involving ALR land.

DECISION OF THE MAJORITY

[23] For the reasons given above, The Panel approves the Application subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the area to be subdivided per the drawing submitted with the Application;
- b. the subdivision be in substantial compliance with the plan submitted with the Application;
- c. submission of two (2) paper copies or one (1) electronic copy of the final survey plan to the Commission;

[24] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

[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 North 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 #374/2016 and is released on November 9, 2016.

CERTIFICATION OF DECISION

A handwritten signature in black ink, appearing to read 'D. Merz', is written over a horizontal line.

Dave Merz, Panel Chair, on behalf of the Island Panel

ALC #54960
Bieri
Subdivision Application
Resolution #374/2016

014-738-635

Subdivision approved by
ALC Resolution #374/2016

014-738-643

Sec 20, TP 78, Rge 18

259 Rd

257 Road