



Agricultural Land Commission
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August 15, 2016

ALC File: 55113

Mr. and Mrs. Wentzell
110 Hinge Bay
Fort McMurray, AB T9H 3W8

Dear Mr. and Mrs. Wentzell:

Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #307/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached.

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 will follow up with you in this regard once I have received instructions from the Chair.

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

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosures: Reasons for Decision (Resolution #307/2016)
Sketch plan

cc: Regional District of East Kootenay (File: P 716 210)

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AGRICULTURAL LAND COMMISSION FILE 55113

REASONS FOR DECISION OF THE KOOTENAY PANEL

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicants:

**Justin Cory Wentzell
Susan Wentzell
(the “Applicants”)**

Agent:

**Justin Cory Wentzell
(the “Agent”)**

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: 009-365-991

Lot 1, District Lot 11493, Kootenay District, Plan 16032

(the “Property”)

[2] The Property is 15.8 ha in area.

[3] The Property is generally described as being located on Kikomun-Newgate Road in the Kikomun area.

[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. 20(3) of the ALCA, the Applicants are applying to use 1.8 ha of the Property for a campground consisting of 60 sites (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. 20(3) of the ALCA:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of 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. 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.

[11] The Regional District of East Kootenay (the “RDEK”) resolved to forward the Application with support.



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

Application ID: 53053 (Wentzell, 2013)	To use 4 ha of the 15.8 ha property for an RV campground with 120 sites. The application was refused by Resolution #84/2013.
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Reconsideration Request 1	The Commission received a request, dated November 25, 2013 to reconsider Resolution #84/2013. The applicants submitted the final official community plan text amendments specifically noting the subject property, which the Commission determined was evidence that was not available at the time of the previous decision. The Commission refused the application by Resolution #66/2014.
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Reconsideration Request 2	The Commission received a request dated May 21, 2014 to reconsider Resolution #66/2014. The applicants submitted information related to the passing of <i>Bill 13 (2014: Off-Road Vehicle Act)</i> . The Commission determined that no new information was provided and determined not to reconsider Resolution #84/2013 or #66/2014.
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SITE VISIT

[13] 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

[14] 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 82G/06 for the mapping units encompassing the Property are Class 3, 5, and 6; more specifically (3M), (5T), and (7:6T – 3:5T).

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.

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

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

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

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

[16] The Panel notes that the proposed campground units are located on the least agriculturally capable portion of the Property. The Panel further notes the Proposal would preserve the active farm operation.

[17] In their letter, the Applicants state that:

"this request to utilize land for non-farm use will be a benefit to agriculture as campground revenue will be used to re-invest in farming activities to ensure the continuity and improve the quality of farming on the property, and also the working

farm theme of the campground will promote agri-tourism and provide visibility and education to campers who may have no knowledge of agricultural operations. There will also be no negative effects on agriculture as the land currently farmed will not be used for the campground, and also the nature of RVs ensure that no permanent damage is inflicted on the land, as they can be removed at any time.”

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

[18] 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

[19] In their letter, the Applicants stated the following:

“The subject property is optimally located for a campsite as it is within the Baynes Lake fire protection and emergency response zone, it is one kilometre from the public boat launch, and is the most northernly (sic) property in Koocanusa West (thus no increased traffic flow past any other private property in the entire region). Also, the Lake Koocanusa Official Community Plan (OCP) Bylaw 2432, supports campground development on the specific property, stated in Section 5.3(2) Resort Recreation [Land Use] - Campground/RV Parks (a) Proposals for the creation of camping facilities are directed to the following locations: (viii) the portion of lot 1 District Lot 11493 Kootenay District Plan 16032 east of the Koocanusa-Newgate Road, excluding areas of the parcel developed for agricultural production. The OCP also supports campground development in Section 5.2 Commercial & Resort Recreational Land Use - Objectives (1) (d) "support the creation of new RV parks and campgrounds within the plan area to help manage demand and reduce unregulated camping. With other campgrounds in the area near full capacity for yearly campsites for the past few seasons, crown land is being used more frequently for camping which often results in lasting environmental damage that could be avoided if more private campsites were available.”



[20] The RDEK, in its report stated that: “*The proposal is consistent with the OCP policies.*”

Weighing the factors in priority

[21] The Panel is of the opinion that the Proposal will support the agricultural operation of the Property, while preserving the integrity of the agriculturally capable portions of the Property.

DECISION

[22] For the reasons given above, the Panel approves the Proposal to use 1.8 ha of the Property for a campground consisting of 60 sites.

[23] The Proposal is approved subject to the following condition:

- a. the non-farm use being in substantial compliance with the plan submitted with the Application.

[24] 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.

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

Commissioner Harvey Bombardier concurs with the decision.

Commissioner Ian Knudsen concurs with the decision.

[26] Decision recorded as Resolution #307/2016.

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 #307/2016. The decision is effective upon release.



A handwritten signature in black ink, appearing to be "CJF", is positioned above the signature line.

Colin J. Fry, Director of Policy and Planning

August 15, 2016

Date Released

115°18'0"W

49°16'0"N

ALC Application 55113
Approved Non-Farm Use
ALC Resolution #307/2016

ALR

Approved
Campsite Area

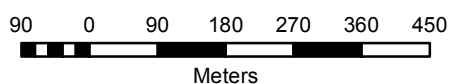
Subject Property

Map Location



Airphoto Map

2004 Natural Colour
Map Scale: 1:10,000



ALC File #:	55113
Mapsheet #:	82G.024
Map Produced:	May 30, 2016
Regional District:	East Kootenay