



Agricultural Land Commission
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September 26, 2016

ALC File: 55173

Cajen Kelly Rayne
1047 Scamp Road
Castlegar, BC V1N 4R3

Dear Mr. Rayne:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #351/2016) as it relates to the above noted application. A sketch plan depicting the decision has been 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.

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 #351/2016)
Sketch plan

cc: Central Kootenay Regional District (File: A1606I)

55173d1



AGRICULTURAL LAND COMMISSION FILE 55173

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicant:

**Cajen Kelly Rayne
(the “Applicant”)**

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: 012-873-012

Lot 67, Plan NEP2888, District Lot 302A, Kootenay Land District
(the "Property")

[2] The Property is 3.9 ha in area.

[3] The Property has the civic address 2294 Glade Road, Glade.

[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 3.9 ha Property into two lots of 0.5 ha and 3.4 ha. The proposed subdivision boundary follows Denisoff road which bisects the property (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 Applicant 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 ratings identified on CLI map sheet 82F/05 for the mapping units encompassing the Property are Class 3 and Class 6; more specifically (7:3M – 3:6P).

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 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 P (stoniness).

[13] The Panel reviewed the CLI ratings and find that the Property is located within an area that contains some moderate and poor agriculturally capable soil.

[14] The subdivision is proposed to be along Dennisoff Road which bisects the Property. The portion of the Property north of Denisoff Road is approximately 0.5 ha and the portion south of Denisoff road is approximately 3.4 ha.

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

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

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

- [16] The Property is designated “Agriculture (AG)” by the *Kootenay Columbia Rivers Official Community Plan Bylaw No. 1157, 1996*.
- [17] The Property is zoned “Agriculture 4 (AG4)” by the *RDCK Zoning Bylaw No. 1675, 2004*.
- [18] The RDCK Report states that “*the AG4 zone identifies a minimum lot area of two hectares for newly created lots, however section 603 (2)(b) of the zoning bylaw permits a reduction of this minimum site area in the following circumstances:*

2. *Where it is not possible to create a lot that has the minimum site area required for a zone, the minimum site area requirement may be reduced where the proposed subdivision involves any one of the following and meets local health authority requirements:*

b. A lot that, at the time of adoption of this bylaw, is divided by a highway or forest service road and where the boundaries of the highway or road will be the boundaries of the proposed lots’

Planning department staff have been provided evidence from the applicant and Ministry of Transportation and Infrastructure that confirms the applicant is eligible for a reduction in minimum site area under Section 603 (2)(b) of the zoning bylaw, should the application be supported by the Agricultural Land Commission.”

Weighing the factors in priority

- [19] The Panel finds that the 0.5 ha portion of the Property north of Denisoff Road is not suitable for agriculture due to its small size, stony topography and its separation from the rest of the Property by the road.
- [20] The Panel finds that the Proposal would have minimal impact to agricultural operations on the Property and surrounding area.

DECISION

[21] For the reasons given above, the Panel approves the Proposal to Property into two lots of 0.5 ha and 3.4 ha as divided by Denisoff Road.

[22] The Proposal is approved 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 plan being completed within three (3) years from the date of release of this decision; and

[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.

[25] Decision recorded as Resolution #351/2016.

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 #351/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning

September 26, 2016

Date Released

PLAN OF PROPOSED
SUBDIVISION OF A PART
OF LOT 67 DL 302A KD
PLAN 2888.

Scale 1:1500



LEGEND

Bearings are derived from Plan 2888.
All dimensions are in metres.
This plan lies wholly within the ALR.

ALC Application 55173
Approved Subdivision
ALC Resolution #351/2016

Approved Lot A

