



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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Fax: 604 660-7033
www.alc.gov.bc.ca

November 9, 2016

ALC File: 55324

Gwen Bridge
7380 Harrop Procter Road
Nelson, BC V1L 6R8

Dear Ms. Bridge:

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 #370/2016) 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 your clients 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 Riccardo Peggi at (Riccardo.Peggi@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'Ric Peggi', is written over a light gray rectangular background.

Riccardo Peggi, Land Use Planner

Enclosures: Reasons for Decision (Resolution #370/2016)
Sketch plan

cc: Regional District of Central Kootenay (File: A1605E)

55324d1



AGRICULTURAL LAND COMMISSION FILE 55324

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicants:

**Gwen Bridge
Jyrki Jalonen
(the “Applicants”)**

Agent:

**Gwen Bridge
(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: 016-112-822

Lot D, District Lot 306, Kootenay District, Plan 731F, Except Part Included In Plan
8410

(the “Property”)

[2] The Property is 3.0 ha in area.

[3] The Property has the civic address 7380 Harrop Procter Road, Nelson.

[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 construct 4 or 5 temporary agri-tourism accommodation units on 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. 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. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Agent 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] The Application proposes 4 to 5 agri-tourism accommodations on the Property. Section 3(1)(a) of BC Regulation 210/2016 Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the “Regulation”) states:

3 (1) *The following non-farm uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:*

(a) accommodation for agri-tourism on a farm if

(i) all or part of the parcel on which the accommodation is located is classified as a farm under the [Assessment Act](#),

(ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and

(iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;

As the Property is not classified as a farm, nor are there any agricultural activities taking place the Panel finds that the proposed use is strictly for non-farm use related tourism. Should the activities taking place on the Property become consistent with s. 3(1)(a), the Applicant may be able to avail themselves of agri-tourism accommodations outlined in the Regulation.

[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 82F/10 for the mapping units encompassing the Property are Class 2, Class 4 and Class 6; more specifically (5:2X – 3:4PM – 2:6TP).

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 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

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 X (combination of soil factors), P (stoniness), M (moisture deficiency) and T (topographic limitations).

In this regard, the Panel finds that the land making up the Property is capable of supporting agriculture and is appropriately designated within the ALR.

[14] The Panel considered the Proposal for 4 to 5 removable tourism accommodation structures in the form of either tipis or yurts. The Applicant provided further information that the Proposal would include a gravel parking area, and that the accommodations would be accessed by a path. The Panel finds that the removable nature of the structures would have little to no negative impact on the agricultural capability or suitability of the Property at such time as the Applicant is no longer the operator.

[15] While the Panel is amenable to the placement of removable tourism accommodations on the Property, the non-farm use should not be undertaken at the expense of disturbance to surrounding agricultural operations. Despite any approval for non-farm use, the ALR is an area of agricultural priority. For this reason, the Panel encourages the Applicant to establish a positive communications plan with neighbouring Properties to ensure that agricultural practices are not disrupted.



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

[16] 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

[17] The Property is designated as “Agriculture” in the Regional District of Central Kootenay (the “RDCK”) ‘Electoral Area “E” Comprehensive Land Use Bylaw No. 2260, 2013 (the “Bylaw”. The RDCK noted that an amendment to the Bylaw would not be required for the Proposal to proceed.

[18] The Panel gave consideration to community planning objectives 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.

Weighing the factors in priority

[19] The Panel finds that the Proposal would have limited to no negative impact on agricultural capability of the Property as the tourism accommodation units are removable.

DECISION

[20] For the reasons given above, the Panel approves the Proposal to locate 5 removable tourism accommodation units (tipis or yurts) on the Property.

[21] The Proposal is approved subject to the following conditions:

- a. the non-farm use being in substantial compliance with the sketch plan attached to this decision;
- b. the accommodation units are not constructed on permanent foundations and the structures are removable in nature;



- c. the parking area and pathways are constructed using removable material such as gravel or bark mulch; and
- d. approval for non-farm use is granted for the sole benefit of the Applicants and is non-transferable.

[22] 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.

[23] These are the unanimous reasons of the Kootenay Panel of the Agricultural Land Commission.

[24] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[25] This decision is recorded as Resolution #370/2016 and is released on November 9, 2016.

CERTIFICATION OF DECISION

A handwritten signature in black ink, reading 'Sharon Mielnichuk', is written over a horizontal line.

Sharon Mielnichuk, Vice Chair, on behalf of the Kootenay Panel

END OF DOCUMENT


ALC Application 55324
Approved Non-farm Use
ALC Resolution #370/2016

Proposal Sketch

△ proposed tipi/yurt location

△ potential tipi/yurt location

— property boundary for PID 016 112 822

XXX Access trail (bark mulch)  Bridge (2"x6" bridge ^{log stringers})

