



**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

November 15, 2016

ALC File: 55532

Bradley Isaac  
3844 24 Street  
Creston, BC V0B 1G2

Dear Mr. Isaac:

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

Please find attached the Reasons for Decision of the Kootenay Panel (Resolution #387/2016) as it relates to the above noted application. A sketch plan depicting the decision has been attached.

**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 "Riccardo Peggi". The signature is written in a cursive, flowing style.

Riccardo Peggi, Land Use Planner

Enclosures: Reasons for Decision (Resolution #387/2016)  
Sketch plan

cc: Regional District of Central Kootenay (File: A1610B)

55532d1



**AGRICULTURAL LAND COMMISSION FILE 55532**

**REASONS FOR DECISION OF THE KOOTENAY PANEL**

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

**Applicant:**

**Bradley Isaac  
(the “Applicant”)**

**Application before the Kootenay Regional Panel:**

**Sharon Mielnichuk, Panel Chair  
Ian Knudsen**



## **THE APPLICATION**

[1] The legal description of the property involved in the application is:

Parcel Identifier: 013-735-616

Block 6, District Lot 812, Kootenay District, Plan 1428

(the "Property")

[2] The Property is 10.0 ha in area.

[3] The Property has the civic address 3844 24<sup>th</sup> Street, Creston.

[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 Applicant is applying to operate and expand a farm machinery repair shop. The Applicant currently utilizes a ±142 m<sup>2</sup> building for the non-farm use and intends to construct a ±222 m<sup>2</sup> addition (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 Applicant in advance of this decision.

[11] The Regional District of Central Kootenay Board (the “RDCK”) delegates the duty, under the *Agricultural land commission Act*, to provide information and a resolution regarding Agricultural Land Reserve applications within the RDCK to the applicable Local Area Director in which an application is being made. On August 17<sup>th</sup>, 2016, the Electoral Area B Director stated that they had no concerns with the application moving forward.



## **SITE VISIT**

[12] On September 20th, 2016, the Panel conducted a drive by site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit Report"). On September 29th, 2016, the Site Visit Report was certified by the Applicant as accurately reflecting the observations and discussions of the Site Visit .

## **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 82F/01 for the mapping units encompassing the Property are approximately 70% Class 2D and 30% Class 2D and 3TD (6:2D - 4:3TD).

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 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

The limiting subclasses associated with this parcel of land are D (undesirable soil structure), and T (topographic limitations).

The property is currently utilized for alfalfa and for cattle pasture.

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

noted that the Proposal would have a limited impact on the agricultural viability of the Property, provided that the operational footprint is limited to a designated portion of the Property to ensure that the non-farm use remains accessory to the primary agricultural use.

[16] In the Application, the Applicant stated the following:

*As the main focus of my business is farmers it is imperative that I am in close proximity to their farms. A lot of the equipment I work on is large and bulky and therefore it is not feasible for them to drag it all the way into town.*

In addition to the information submitted by the Applicant, the Panel received seven letters of support from property owners and/or farmers in the area. More specifically, the letters stated that the Proposal meets a need for this type of agricultural service in the surrounding area. The Panel concurred that bringing large agricultural equipment into urban areas can be challenging and that the Property is in a convenient location for farmers in the surrounding area. The Panel finds that the Proposal is supportive of agriculture in the area as the proposed non-farm use offers repairs and servicing for agricultural equipment.

[17] The Applicant proposes to expand the  $\pm 142$  m<sup>2</sup> building by constructing a  $\pm 222$  m<sup>2</sup> addition (364 m<sup>2</sup> total) for farm equipment repair and service. The Panel is amenable to allowing the expansion of the service building, however, the Panel advises the Applicant that any further expansion or relocation of the building may require a new non-farm use application.

[18] In, addition to the proposed expansion of the existing building for farm equipment repair and service, the Panel notes that the Applicant is also utilizing 0.4 ha of surrounding outdoor yard area for parking and storage of agricultural equipment to be serviced. The Panel is willing to allow a 0.4 ha to be used for the Proposal provided that the area is fenced in order to accurately delineate the non-farm use area, and to prevent expansion of the non-farm use onto the agricultural portion of the Property.



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

[19] The Panel finds that the Proposal is supportive of agriculture in the area as the proposed non-farm use offers repairs and servicing for agricultural equipment. In this regard, The Panel found that the Proposal also fulfills a need within the local agricultural community.

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

[20] The Panel noted that the RDCK Electoral Area “B” Director is of the opinion that the Proposal is an asset to the agricultural community, and that the Creston Valley Agricultural Advisory Commission did not believe that the Proposal would be detrimental to agriculture. The local government report lists five agricultural objectives and four agricultural policies that were deemed to be in support of the Proposal, notwithstanding the requirement for a Development Variance Permit application.

Weighing the factors in priority

[21] The Panel finds that the Proposal will have positive impacts for agricultural operations in the surrounding area as it provides a useful farm equipment repair and service to local farmers.

[22] The Panel finds that the area utilized for the Proposal would not have a negative impact on present or future agricultural use of the Property provided that the operational footprint is limited.

[23] The Panel gave consideration to economic, social, and cultural values, and regional and community planning objectives as required by s. 4.3. In this case, the Panel finds that the Proposal will provide a service to local farms that is currently unavailable in the Kootenay Meadows area.



**DECISION**

[24] For the reasons given above, the Panel approves the Proposal to operate and expand a farm machinery repair shop with a maximum floor area of 364 m<sup>2</sup> and an outdoor yard area of 0.4 ha.

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

- a. the location and size of the shop addition shall be in substantial compliance with the plans submitted and sketch plan;
- b. the construction of a fence to delineate the boundary of the outdoor non-farm use yard as per the sketch plan;
- c. photographic evidence showing that the required fencing has been installed as per the sketch plan must be submitted to the ALC within one calendar year of the release of this decision;
- d. the ground surface of the outdoor fenced non-farm use area must be permeable; and
- e. approval for the non-farm use is granted for the sole benefit of the Applicant and is non-transferable.

[26] 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.

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

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



[29] This decision is recorded as Resolution #387/2016 and is released on November 15, 2016.

A handwritten signature in black ink, written in a cursive style, that reads 'Sharon Mielnichuk'. The signature is positioned above a horizontal line.

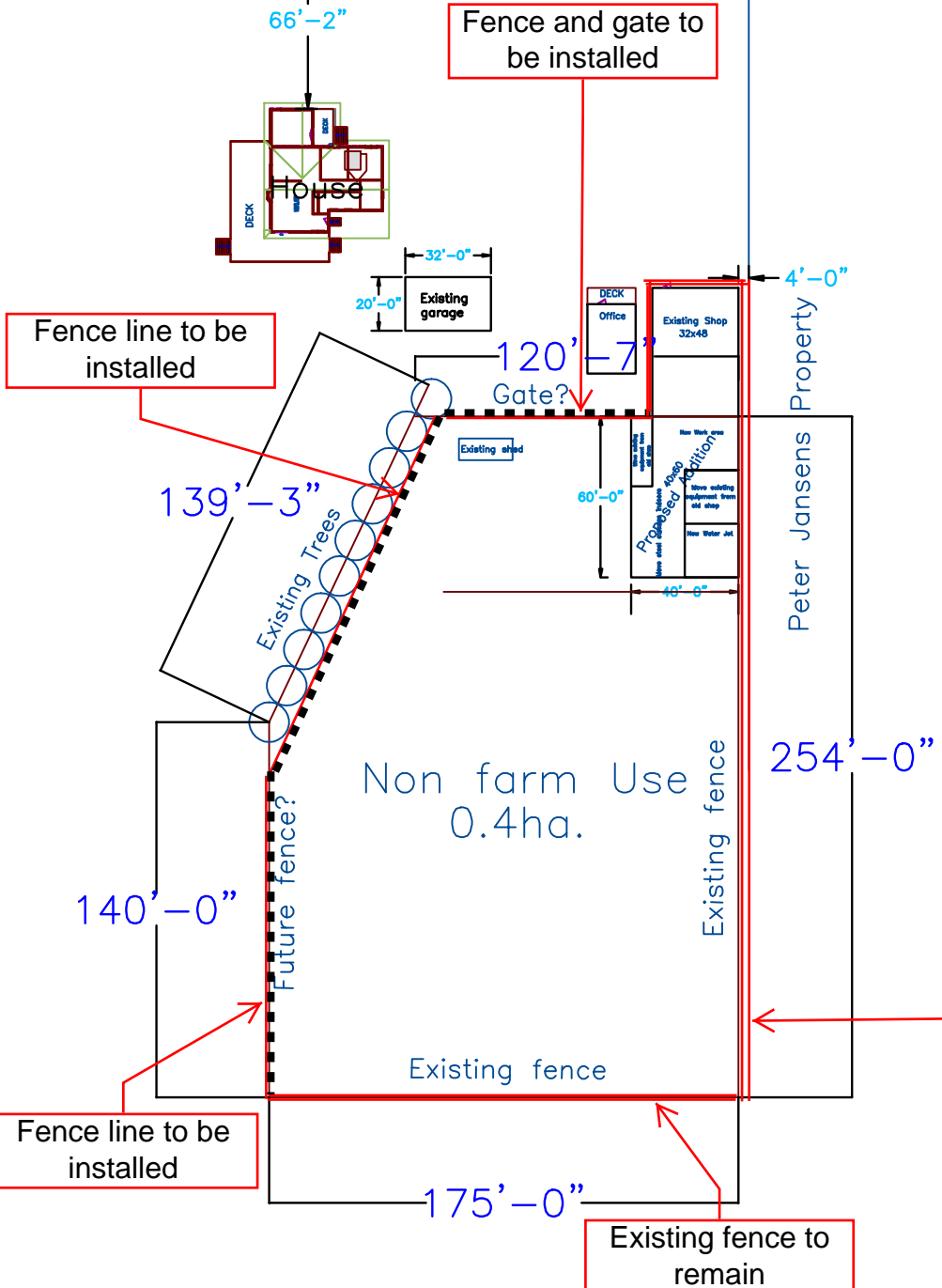
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Sharon Mielnichuk, Panel Chair, on behalf of the Kootenay Panel

**END OF DOCUMENT**

24th Street

ALC #55532 (Isaac)  
Conditionally Approved Non-Farm Use  
ALC Resolution #387/2016



Fence and gate to be installed

Fence line to be installed

Existing fence to remain

Fence line to be installed

Existing fence to remain