



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

January 9, 2017

ALC File: 55435

Argenta Cemetery
1651 Johnsons Landing Road
Argenta, BC V0G 1B0

Attention: Catherine McGeorge:

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 #4/2017) 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 Riccardo Peggi at (Riccardo.Peggi@gov.bc.ca).

Page 2 of 2

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 #4/2017)
Sketch plan

cc: Regional District of Central Kootenay (File: A1614D)

55435d1



AGRICULTURAL LAND COMMISSION FILE 55435

REASONS FOR DECISION OF THE KOOTENAY PANEL

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

Applicants:

**Her Majesty the Queen in Right
of the Province of British
Columbia
Steven Kruger
Lila Bonnardel
Rose Bonnardel
(the “Applicants”)**

Agent:

**Catherine McGeorge
(the “Agent”)**

Application before the Kootenay Regional Panel:

**Sharon Mielnichuk, Panel Chair
Harvey Bombardier
Ian Knudsen**



THE APPLICATION

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

Property 1

Parcel Identifier: 015-087-034

Lot 6, District Lot 527, Kootenay District, Plan 2869

Area: 0.6 ha

Civic address: 1030 Argenta Road, Argenta

Property 2

Parcel Identifier: 014-339-528

Lot 7, District Lot 527, Kootenay Plan 2869

Area: 6.2 ha (1.4 ha ALR)

Civic address: 1050 Argenta Road, Argenta

(collectively the "Properties")

[2] Property 1 is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA"). Property 2 is located partially within a designated ALR as defined in s. 1 of the ALCA.

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

[4] Pursuant to s. 20(3) of the ALCA, the Applicants are applying to adjust the boundary between the Properties to create a 0.975 ha lot and 5.825 ha lot in order to enable the expansion of the Argenta Cemetery. An area of 0.375 ha are proposed to be transferred from Property 2 and added to Property 1 (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").



RELEVANT STATUTORY PROVISIONS

[5] 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.

[6] 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.

[7] 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

[8] 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 Agent in advance of this decision.

[9] The Regional District of Central Kootenay (RDCK) Board of Directors delegates the duty, under the *ALCA*, to provide information and a resolution regarding ALR applications within the RDCK to the applicable Local Area Director in which the application is being made. On November 18, 2016, the Area Director for Area D of the RDCK stated they have “*no opposition or concerns regarding the Argenta cemetery application*”.

[10] The Panel reviewed one relevant application relating to the application:

Application ID: 36432
Legacy File: 19015
(Argenta Community Association,
1985)

To reconstruct a Community Centre which will incorporate the Post Office. The original Community Centre burned down in 1984. The Commission noted the historical use of the property and the fact that none of the surrounding area was used for agriculture. Allowed by ALC Resolution #285/85.

Note: Application 36432 is located adjacent to the south of the Properties.

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, 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on CLI map sheet 82K/02 for the mapping units encompassing the Properties are Class 4 and Class 5; more specifically (8:4TP - 2:5T).

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

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

The limiting subclasses associated with this parcel of land are P (stoniness) and T (topographic limitations).

[13] The Panel reviewed the CLI ratings and find that the Properties have agricultural capability.

[14] Property 1 has been used as a cemetery since 1953 which pre-dates the establishment of the ALR and the *ALCA*. Section 23(2) of the *ALCA* permits the continuation of a legally established non-farm use if it is established prior to December 21, 1972. However, the expansion of the existing cemetery requires a non-farm use application.

[15] There are no agricultural uses on the Properties. The adjacent properties to the north, east and west are utilized for residential purposes; and the property to the south is utilized for the Argenta Community Centre approved by ALC Resolution #285/85. The Panel is of the opinion that any agricultural operations in the Argenta area have not



previously been impacted by the use of Property 1 as a cemetery, and therefore will not be negatively affected by its proposed expansion.

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

[16] The Panel understands that the Argenta Cemetery is running out of space on Property 1 and that the owners of Property 2 are gifting 0.375 ha to the cemetery. The Panel is of the opinion that the expansion of the cemetery is a community need and therefore does not oppose the Proposal.

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

[17] Property 1 is designated as Community Service (CS) and Property 2 is designated as Agriculture (AG) by the RDCK Electoral Area D Comprehensive Bylaw No. 2435, 2016. The Panel notes that the Proposal does not require changes to the Properties designations.

Weighing the factors in priority

[18] Though Property 2 has agricultural capability, the Panel approves the Proposal based on the relatively small area requested for the cemetery expansion, the negligible potential impacts to the surrounding properties, the historical use of the Argenta Cemetery, and the community need for the continued use of the cemetery.

DECISION

[19] For the reasons given above, the Panel approves the Proposal to adjust the boundary between Property 1 and Property 2 to create a 0.975 ha (Property 1) and 5.825 ha lot (Property 2) for the purpose of expanding the Argenta Cemetery on Property 1.

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

- a. the preparation of a subdivision plan to delineate the new lot alignment per the drawing submitted with the Application;
- b. submission of two (2) paper copies or one (1) electronic copy of the final survey plan to the Commission; and
- c. the subdivision plan being completed within three (3) years from the date of release of this decision.

[21] 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.

[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*.

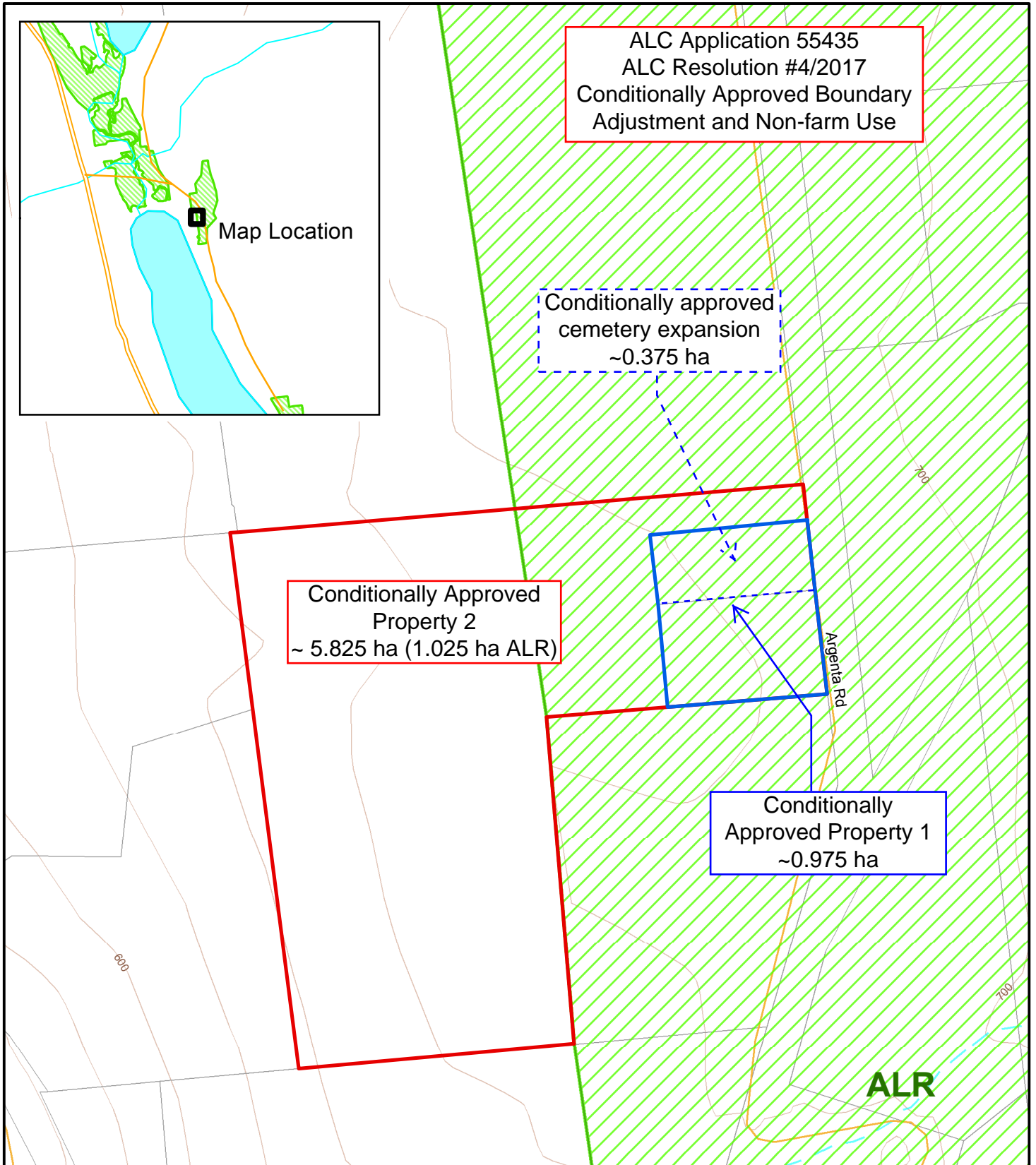
[25] This decision is recorded as Resolution #4/2017 and is released on January 9, 2017.

CERTIFICATION OF DECISION



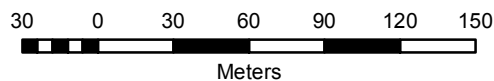
Sharon Mielnichuk, Panel Chair, on behalf of the Kootenay Panel

END OF DOCUMENT



ALR Context Map

Map Scale: 1:3,000



ALC File #:	55435
Mapsheet #:	82K.016
Map Produced:	January 3, 2017
Regional District:	Central Kootenay