



**Agricultural Land Commission**  
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January 9, 2017

ALC File: 55483

WSP Canada Inc.  
712D - 10th Street, PO Box 608  
Invermere, BC V0A 1K0

Attention: Tracey Peet

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

Please find attached the Reasons for Decision of the Kootenay Panel (Resolution #3/2017) 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 #3/2017)  
Sketch plan

cc: Regional District of East Kootenay (File: P 716 604)

55483d1



## **AGRICULTURAL LAND COMMISSION FILE 55483**

### **REASONS FOR DECISION OF THE KOOTENAY PANEL**

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

**Applicant:** **Jeremy Price**  
**(the “Applicant”)**

**Agent:** **Tracey Peet**  
**WSP Canada Inc.**  
**(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: 008-634-271

Lot 16, Block 1, District Lots 348 & 7569, Kootenay District, Plan 1183  
(the "Property")

[2] The Property is 4.7 ha in area.

[3] The Property is generally described as being located west of Highway 95 between Hewitt Road and Columbia Road, Edgewater.

[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 Applicant is applying to subdivide the 4.7 ha Property into two lots of 2.0 ha and 2.7 ha (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. 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 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**

[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 Agent in advance of this decision.

[11] At its meeting of October 7, 2016, the Regional District of East Kootenay (RDEK) resolved to forward the Application to the Commission with support.

[12] The Panel reviewed two relevant applications relating to the application:

Application ID: 45833  
Legacy File: 38880  
(Arco Investments Ltd., 2009)

To subdivide the 2.8 ha lot into a 1.8 ha lot and a 1 ha. The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission did not believe there were external factors that render the land unsuitable for agricultural use. The subject property and many of the surrounding parcels are used for pasture and hay production. The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The surrounding properties are typically ~2 ha in size. Subdividing the subject property and surrounding lands into 1 ha lots would not substantially affect the hobby farm, small scale agricultural activities currently being undertaken in this area. Approved by ALC Resolution #202/2009.

**Note: the subject property is located approximately northwest of the Property.**

Application ID: 13894  
Legacy File: 32593  
(Douglas, 1999)

To subdivide a 4.5 ha lot into two lots of roughly equal size (2 ha and 2.5 ha) for rural residential purposes.

The application was approved on the grounds that the agricultural suitability of the parcel is limited based on its size, soil capability and surrounding land uses and property sizes. Approved by ALC Resolution #283/99.

**Note: the subject property shares the south-eastern border of the Property.**

## **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 82K/09 for the mapping units encompassing the Property are approximately 85% (5:4T – 2:2X – 3:6T), 10% 6T and 5% (3P).

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.

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) and T (topographic limitations).

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

[16] The Panel considered the Application in the context of the parcel sizes located in the area east of Edgewater and west of Highway 95 around the Property. The Panel notes that the surrounding parcels in this area are all ~2.0 ha in size. The Panel further notes that the Commission approved an application to subdivide a 2.8 ha lot into a 1.8 ha lot and a 1.0 ha lot on the basis that subdividing the subject property and surrounding lands into 1 ha lots would not substantially affect the hobby farm, small scale agricultural activities currently being undertaken in this area (Application ID 45833). The Panel finds that the Proposal would not negatively impact the small scale agricultural use of the Property or on surrounding properties.

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

[17] 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

[18] The Property is designated as Small Holdings (SH) in the RDEK Official Community Plan (OCP) which applies to parcels larger than 0.4 hectares and less than or equal to 2.0 hectares. This designation has been applied to lots that are within proximity to development nodes and recognizes the use of these lands as residential and agricultural in nature. Although one of the proposed lots is larger than the 2.0 ha maximum of the RDEK OCP designation, no amendment to the OCP designation is necessary as the current Property also exceeds the 2.0 ha maximum.

[19] The Property is zoned Small Holding Rural (SH-3) Zone by the RDEK Zoning Bylaw which has a minimum parcel area of 2.0 ha. The Proposal is consistent with the RDEK SH-3 zoning bylaw.

*Weighing the factors in priority*

[20] The Panel finds that the Proposal would not negatively impact the small scale agricultural use of the Property or on surrounding properties, and that the Proposal is consistent with the RDEK zoning bylaw and does not require any amendments to the RDEK OCP.

**DECISION**

[21] For the reasons given above, the Panel approves the Proposal to subdivide the 4.7 ha Property into two lots of 2.0 ha and 2.7 ha.

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

- a. the subdivision be in substantial compliance with the plan 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.

[23] 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.

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

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



[27] This decision is recorded as Resolution #3/2017 and is released on January 9, 2017.

**CERTIFICATION OF DECISION**

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

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

**END OF DOCUMENT**

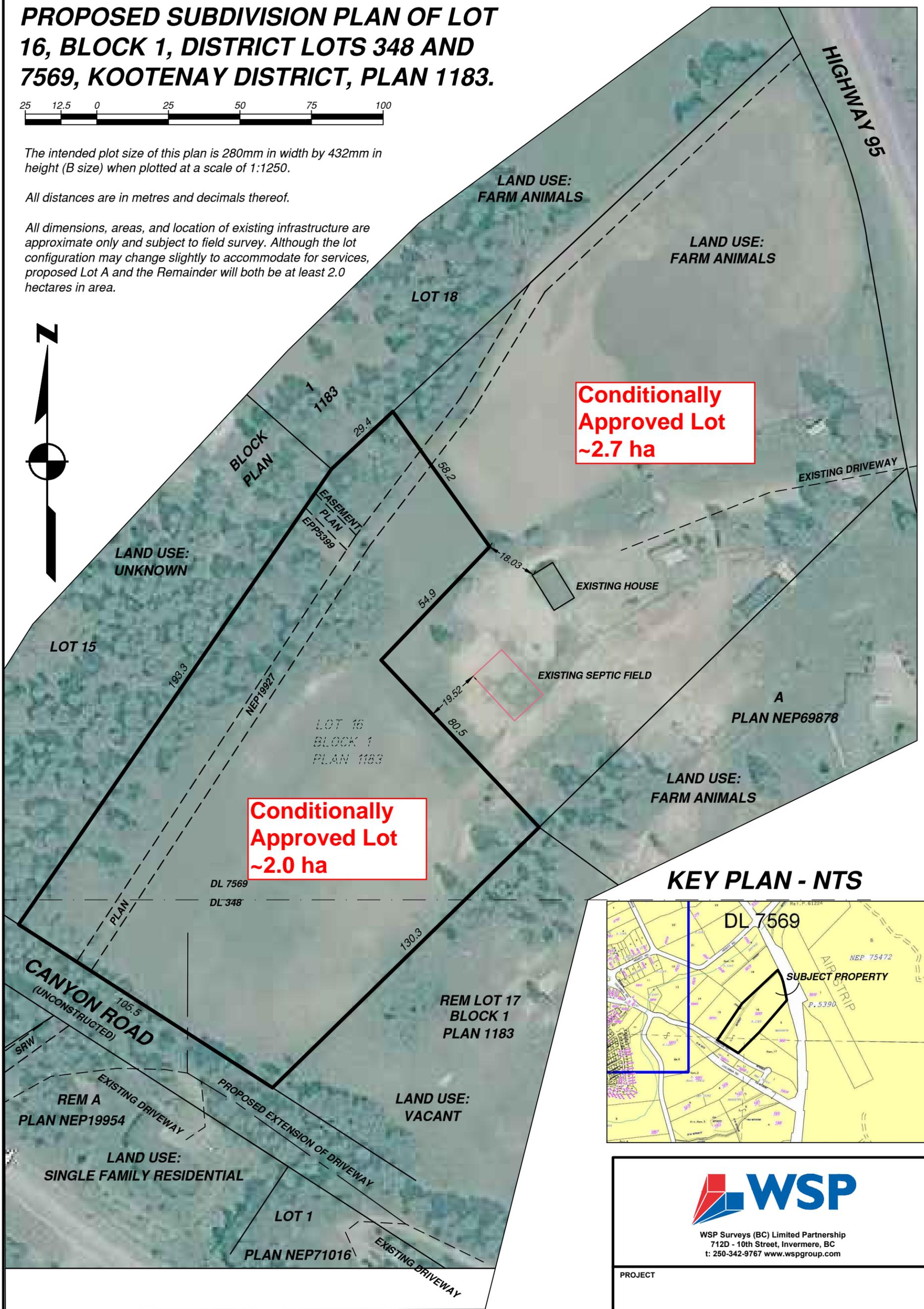
# PROPOSED SUBDIVISION PLAN OF LOT 16, BLOCK 1, DISTRICT LOTS 348 AND 7569, KOOTENAY DISTRICT, PLAN 1183.



The intended plot size of this plan is 280mm in width by 432mm in height (B size) when plotted at a scale of 1:1250.

All distances are in metres and decimals thereof.

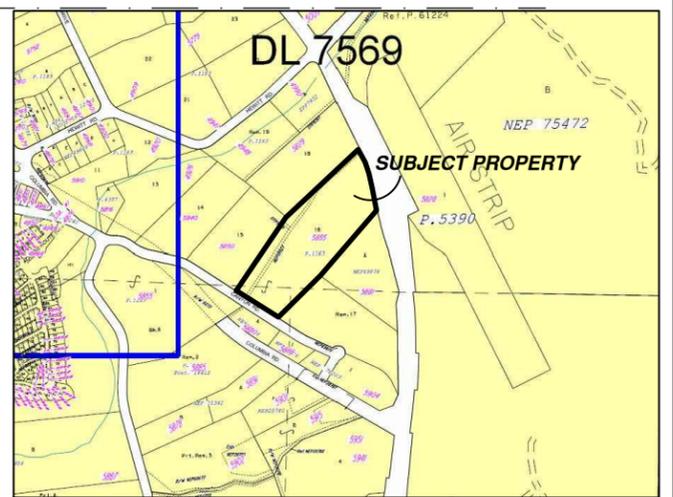
All dimensions, areas, and location of existing infrastructure are approximate only and subject to field survey. Although the lot configuration may change slightly to accommodate for services, proposed Lot A and the Remainder will both be at least 2.0 hectares in area.



**Conditionally Approved Lot ~2.7 ha**

**Conditionally Approved Lot ~2.0 ha**

## KEY PLAN - NTS



WSP Surveys (BC) Limited Partnership  
712D - 10th Street, Invermere, BC  
t: 250-342-9767 www.wspgroup.com

PROJECT			
PROJECT REF. 010055987 PROPOSED SUBDIVISION			
SHEET TITLE			
DRAWN TP	DATE 2009-mm-dd	CHECKED	SCALE 1:1250
SHEET No. 010055987-PSUB01-R00			

**ALC Application 55483**  
**ALC Resolution #3/2017**  
**Conditionally Approved Subdivision**