



Agricultural Land Commission
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March 27, 2017

ALC File: 55716

Lawrence Redfern
Castlegar Friends of Parks and Trails Society
1362 Pass Creek Road
Castlegar, BC V1N 4S2

Dear Mr. Redfern:

Re: Edit of Reasons for Decision for Resolution #45/2017

Please find attached a revised Reasons for Decision of the Agricultural Land Commission (Resolution #45/2017) as it relates to the above noted application.

The Commission has noted an error in the original Reasons for Decision letter for Resolution #45/2017 dated March 1, 2017. Specifically, the PID's for Properties 3, 4, 5 and 6 are mis-labelled on page 2 of the original letter. Please note that the error is corrected in the attached Reasons for Decision letter and that the attached letter replaces the original letter.

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

A handwritten signature in black ink, appearing to read 'Riccardo Peggi', is written over a light grey background.

Riccardo Peggi, Land Use Planner

Enclosures: Reasons for Decision (Resolution #45/2017)

cc: Ministry of Forests, Lands and Natural Resource Operations, Recreation Sites and Trails Branch, Kootenay Boundary District, 1907 Ridgewood Road, Nelson BC V1L 6K1

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AGRICULTURAL LAND COMMISSION FILE 55716

REASONS FOR DECISION OF THE KOOTENAY PANEL

Application submitted pursuant to s. 6 of BC Regulation 171/2002 (ALR Use, Subdivision and Procedure Regulation)

Applicant:

**Justin Dexter,
Ministry of Forests, Lands and
Natural Resources
(the “Applicant”)**

Agent:

**Lawrence Redfern,
Castlegar Friends of Parks and
Trails Society
(the “Agent”)**

Application before the Kootenay Regional Panel:

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



THE APPLICATION

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

Property 1

Parcel Identifier: 015-011-372

Lot 1, District Lot 9, Kootenay District, Plan 2952

Area: 5.8 ha

Property 2

Parcel Identifier: 015-011-437

Lot 2, District Lot 9, Kootenay District, Plan 2952

Area: 4.7 ha

Property 3

Parcel Identifier: 015-011-445

Lot 3, District Lot 9, Kootenay District, Plan 2952

Area: 3.2 ha

Property 4

Parcel Identifier: 015-011-461

Lot 4, District Lot 9, Kootenay District, Plan 2952

Area: 3.5 ha

Property 5

Parcel Identifier: 015-011-470

Lot 5, District Lot 9, Kootenay District, Plan 2952

Area: 4.3 ha

Property 6

Parcel Identifier: 015-011-526

Lot 6, District Lot 9, Kootenay District, Plan 2952

Area: 4.1 ha

(collectively the “Properties”)

[2] The Properties are located partially within a designated agricultural land reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”).

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

[4] Pursuant to s. 6 of the BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the “Regulation”), the Applicant is applying to manage a multi-use, non-motorized trail bisecting the Properties which are all Crown Land. No trail will be constructed as the intention is to formally maintain one of the existing pathways located on the Properties that are not currently dedicated as road or trail. The proposed area to be dedicated as trail is approximately 1 km long and 1.5 m wide, adding up to approximately 0.15 ha in total (the “Proposal”). The Proposal along with supporting documentation is collectively the “Application”.

RELEVANT STATUTORY PROVISIONS

[5] The Application was made pursuant to s.6 of the Regulation:

6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:

- (a) widening of an existing road right of way;
- (b) construction of a road within an existing right of way;
- (c) dedication of a right of way or construction of any of the following:
 - (i) a new or existing road or railway;
 - (ii) a new or existing recreational trail;
 - (iii) a utility corridor use;
 - (iv) a sewer or water line other than for ancillary utility connections;



- (v) a forest service road under the [Forest Act](#);
- (d) the new use of an existing right of way for a recreational trail.

[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 Panel considered the Application within the context of s. 6 of the *ALCA*:

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. 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

[9] 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

[10] 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 rating identified on CLI map sheet 82F/05 for the mapping unit encompassing the Properties is (6:1 - 4:2X).

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

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.

The limiting subclass associated with this parcel of land is X (combination of soil factors).

The Panel reviewed the CLI ratings and find that the Properties are located in an area of prime agricultural capability. The Panel notes that the Properties make up some of the only prime agriculturally capable land designated as ALR in the Castlegar area.

[11] The Castlegar Friends of Parks and Trails Society (Agent) is a local stewardship group which has proposed to manage and maintain the trail. The Agent does not propose to construct any trail infrastructure but to officially maintain the existing footpaths that have been created by unsanctioned use of the Properties. Although the Proposal does not include the construction of any trail infrastructure, the Panel is concerned that officially designating

the trail would give it permanency and the potential for permanent infrastructure being constructed in the future.

[12] The current configuration of the trail bisects the Properties and runs generally from northeast to southwest to meet the Confluence of the Columbia River and the Kootenay River. The Panel finds that the alignment of the trail through the Properties, if formalized, would reduce the likelihood of the Properties from being used for agriculture (e.g land alienated on either side of the trail, trespass, litter, crop damage, etc).

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

[13] The Agent is a local stewardship group that is proposing to manage the trail and install interpretive signage for better management of the site. According to the Applicant, the Proposal is also supported by the local First Nations who have an interest in the Properties as an area of historical importance. The proposed interpretive signage would educate trail-users of the historical First Nations and agricultural uses of the Properties. Although the Panel appreciates the potential community benefits of the trail, the Panel finds that the dedication of the trail would be to the detriment of any potential agricultural use of the Properties. Therefore, the Panel finds that the economic, cultural and social considerations are not contributory to the decision given the Panel's review of the agricultural considerations.

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

[14] The Properties are zoned as Agriculture 4 (AG4) by the Regional District of Central Kootenay's (RDCK) Zoning Bylaw No. 1675, 2004. Subject to Commission approval, trails are a permitted use in any zone under the Zoning Bylaw.

[15] Section 3.10.4.6 of the RDCK's Official Community Plan (OCP) for the area identifies that maintenance of the Brilliant Flats (the Properties) in the ALR for use by the local community for co-operative agriculture and other activities consistent with the historic/heritage and cultural uses of these lands is encouraged. The OCP states that

any development on the Properties shall be compatible with public access to the confluence of the Kootenay and Columbia Rivers and that any trail development for pedestrians and cyclists adjacent to these two rivers require approval from the Commission.

[16] Section 3.7.2.4 of the OCP describes the Properties as being part of a larger overall recreation system. More specifically, the Properties are grouped with other historical interpretation sites and archaeological sites which describe the past and reflect major achievements of residents of the area.

[17] The Panel notes the designation of the site as a historical site and recreation area, as well as an area potentially useable for agriculture. The Panel finds that while the trail may fulfill the recreational and historical use designation, the Panel finds that the Properties also have potential for agricultural use.

Weighing the factors in priority

[18] The Panel finds that the Properties have prime agricultural capability and in their present size and configuration, could support a wide range of crops. The Panel is therefore concerned that designating a trail which bisects the middle of the Properties could negatively impact the potential for agriculture on the Properties.

[19] 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 these considerations are not contributory to the decision given the Panel's finding following its review of the agricultural considerations.

DECISION

[20] For the reasons given above, the Panel refuses the Proposal.

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

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

[23] This decision is recorded as Resolution #45/2017 and is released on March 1, 2017.

CERTIFICATION OF DECISION

A handwritten signature in black ink, appearing to read 'Sharon Mielnichuk', written in a cursive style.

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

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