



Agricultural Land Commission
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www.alc.gov.bc.ca

March 9, 2017

ALC File: 55900

Andre Niessen
2294 Thomason Road
Kimberley, BC V1A 2Y3

Dear Mr. Niessen:

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 #55/2017) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly. A sketch plan depicting the decision is also attached.

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 blue horizontal line.

Riccardo Peggi, Land Use Planner

Enclosures: Reasons for Decision (Resolution #55/2017)
Sketch plan

cc: Regional District of East Kootenay (File: P 716 413)

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AGRICULTURAL LAND COMMISSION FILE 55900

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

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

Applicant:

**Uwe Gwinner
Ulrike Kohler
(the “Applicants”)**

Agent:

**Andre Niessen
(the “Agent”)**

Application before the Chief Executive Officer:

**Kim Grout
(the “CEO”)**

THE APPLICATION

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

Parcel Identifier: 013-668-846

Lot 1, District Lot 12728, Kootenay District Plan 6990

(the "Property")

[2] The Property is 3.3 ha in area.

[3] The Property has the civic address 2294 Thomason Road, Meadowbrook.

[4] Pursuant to s. 20(3) of the *Agricultural Land Commission Act* (the "ALCA"), the Applicants are applying to construct a 65 m² addition to the butcher shop for the purposes of enclosing the slaughter facility in order to minimize noise and other impacts to neighbours. The total area of the butcher shop including the proposed addition is 296 m² which exceeds the maximum size permitted for a home occupation use in the zoning bylaw for the Regional District of the East Kootenay (the "Proposal"). The Proposal along with supporting documents is collectively referred to as the "Application".

[5] The Proposal exceeds the allowed area for a home occupation use as set out in s. 3(1)(c) of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002* (the "Regulation").

S. 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:

(c) a home occupation use, that is accessory to a dwelling, of not more than 100 m² or such other area as specified in a local government bylaw, or treaty first nation government law, applicable to the area in which the parcel is located.

The Regional District of East Kootenay sets a maximum area of 150 m² for home occupation uses in their zoning bylaw for the Property. The expansion of the butcher

shop exceeds the maximum allowance for a home occupation use and therefore requires approval by the Commission.

RELEVANT STATUTORY PROVISIONS

[6] 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.

[7] Pursuant to s. 27 of the *ALCA* the CEO may approve some applications:

- 27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:
- (a) specified types of applications for exclusion, subdivision or non-farm use;
 - (b) applications with respect to specified regions of British Columbia.
- (2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.
- (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
- (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
- (5) An approval of an application by the chief executive officer under subsection (3) is decision of the commission for the purposes of this Act.
- (6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.



[8] On June 27, 2011, the Agricultural Land Commission (the “Commission”) delegated decision-making to the CEO by Resolution #016N-2011 (File: 140-60/ALC/CEO/APPL). In accordance with section 27 of the *ALCA* the Commission has specified that the following applications may be decided by the CEO.

Criterion 14

Exclusion, subdivision, and non-farm use applications that are not consistent with any of the existing approved criteria (Criteria 1 - 13) but nonetheless are minor in nature, and in the opinion of the CEO the interests of the Commission would be unaffected by an approval of the application.

DECISION

[9] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #14 of Resolution #016N/2011 and approve the Proposal.

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

- a. A 65 m² addition to the south side of the processing facility shown on the attached plan.

[11] 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.

[12] Decision recorded as Resolution #55/2017 and is released on March 9, 2017.

A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the *ALCA*.



CERTIFICATION OF DECISION

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Kim Grout, Chief Executive Officer

