



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

December 19, 2019

ALC File: 59257

Richard Haworth
DELIVERED ELECTRONICALLY

Dear Richard Haworth:

Re: Application 59257 to exclude land from the Agricultural Land Reserve

Please find attached the Reasons for Decision for the above noted application (Resolution #524/2019). As agent, it is your responsibility to notify the applicants accordingly.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence with respect to this application to
ALC.Kootenay@gov.bc.ca

Yours truly,

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

Mike Bandy, Land Use Planner

Enclosure: Reasons for Decision (Resolution #524/2019)
 Schedule A: Decision Map (Resolution #524/2019)
 Schedule B: Decision Map 7 – ALC Resolution #278/2017

cc: Regional District of East Kootenay, Attn: Krista Gilbert (File: P 719 207)

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AGRICULTURAL LAND COMMISSION FILE 59257

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

Exclusion Application Submitted Under s. 30(1) of the *Agricultural Land Commission Act*

Applicants: Stanley Doehle
Gloria Doehle

Agent: Richard Haworth
Haworth Development Consulting Ltd.

Property: Parcel Identifier: 015-806-481
Legal Description: Lot 3, Block 10, District Lot
132, Kootenay District, Plan 1181
Civic: 561 Chief David Road, Baynes Lake, BC
Area: 2.4 ha (2.4 ha in ALR)

Chief Executive Officer: Kim Grout
(the "CEO")



OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act (ALCA)*.
- [2] Pursuant to s. 30(1) of the ALCA, the Applicants are applying to the Agricultural Land Commission (the “Commission”) to exclude the Property from the ALR (the “Proposal”).
- [3] The Proposal along with related documentation from the Applicant, Agent, local government, Commission is collectively referred to as the “Application”. All documentation in the Application was disclosed to the Agent in advance of this decision.
- [4] The Agent waived the requirement for a meeting with the Commission pursuant to s. 30 (5) of the ALCA.
- [5] Under Section 27 of the Agricultural Land Commission Act the ALC, by resolution, may establish criteria under which the CEO may approve applications for exclusion, subdivision, non-farm use, non-adhering residential use, and soil or fill use applications. By resolution, the Commission has specified that the following applications may be decided by the CEO:
 2. Exclusion, subdivision, non-farm use, non-adhering residential use, and soil or fill use applications that are consistent with a specific planning decision of the Commission made by resolution (e.g.: Peace River- Fort St. John Comprehensive Development Plan).

BACKGROUND

- [6] S. 29(1) of the ALCA enables the Commission to exclude land from the ALR on the Commission’s own initiative. Between 2014 and 2017, the Commission undertook a review of the ALR boundary within the RDEK Electoral Area ‘B’ in the area generally described as Jaffray to Grasmere, pursuant to s. 29(1) of the ALCA (the “Boundary Review”). The Commission identified 435 lots within Electoral Area B, including the Property, as

appropriate for exclusion from the ALR. At its February 25, 2016 meeting, the Commission endorsed the exclusion of the proposed areas in Electoral Area B, including the Property.

- [7] At the time of the February 2016 Commission meeting, landowner consent to exclusion of a property from the ALR was not a legislated requirement of the ALCA. Subsequently, on May 19, 2016, Bill 25 - 2016 and Order-in-Council 508/2016 amended the ALCA and the ALR Regulation with respect to boundary reviews. Specifically, s. 29(1.1) of the ALCA prevents the Commission from excluding land from the ALR without the deemed consent of the landowner. This requirement applied retroactively to decisions of the Commission to January 1, 2016.
- [8] In accordance with the recently amended ALCA, the Commission sought landowner consent to the exclusion of the proposed properties in the RDEK Electoral Area B. In February 2017, notice of the Commission's intention to exclude land under s. 29(1) of the ALCA was sent via registered letter to every landowner whose property was identified for exclusion in the Boundary Review. Properties for which the Commission did not receive landowner consent could not be excluded from the ALR as a result of the Boundary Review. The Applicants did not provide their consent to exclude the Property at the time.
- [9] In 2017, the Commission completed the Boundary Review by approving the exclusion of 1,284.8 ha of land (304 of 435 proposed properties) from the ALR in Electoral Area B, by ALC Resolution #278/2017. On ALC Decision Map 7 of ALC Resolution #278/2019, the Property, and other properties that the Commission did not receive consent to exclude, are denoted as 'Areas proposed for exclusion from the ALR'.
- [10] The Application submits that the Applicants now wish to exclude the Property in order to enable construction of an additional residence on the Property for the Applicants' daughter.
- [11] At its meeting of August 6, 2019, the RDEK Board resolved to forward the Application to the Commission with support. In the staff report dated July 22, 2019, RDEK planning staff recommended support of the Proposal commenting: "*Schedule C of the [Baynes Lake Area Official Community Plan] identifies the subject property as having potential for ALR exclusion, as does the boundary review completed by the ALC in 2015.*"



DECISION

[12] After reviewing the Application and having confirmed that the Property was proposed for exclusion by the Commission as shown on Decision Map 7 of ALC Resolution #278/2017, I am satisfied that the Proposal is consistent with Criterion #2 and approve the Proposal.

[13] The Commission will advise the Registrar of Land Titles that the Property has been excluded from the ALR.

[14] 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.

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

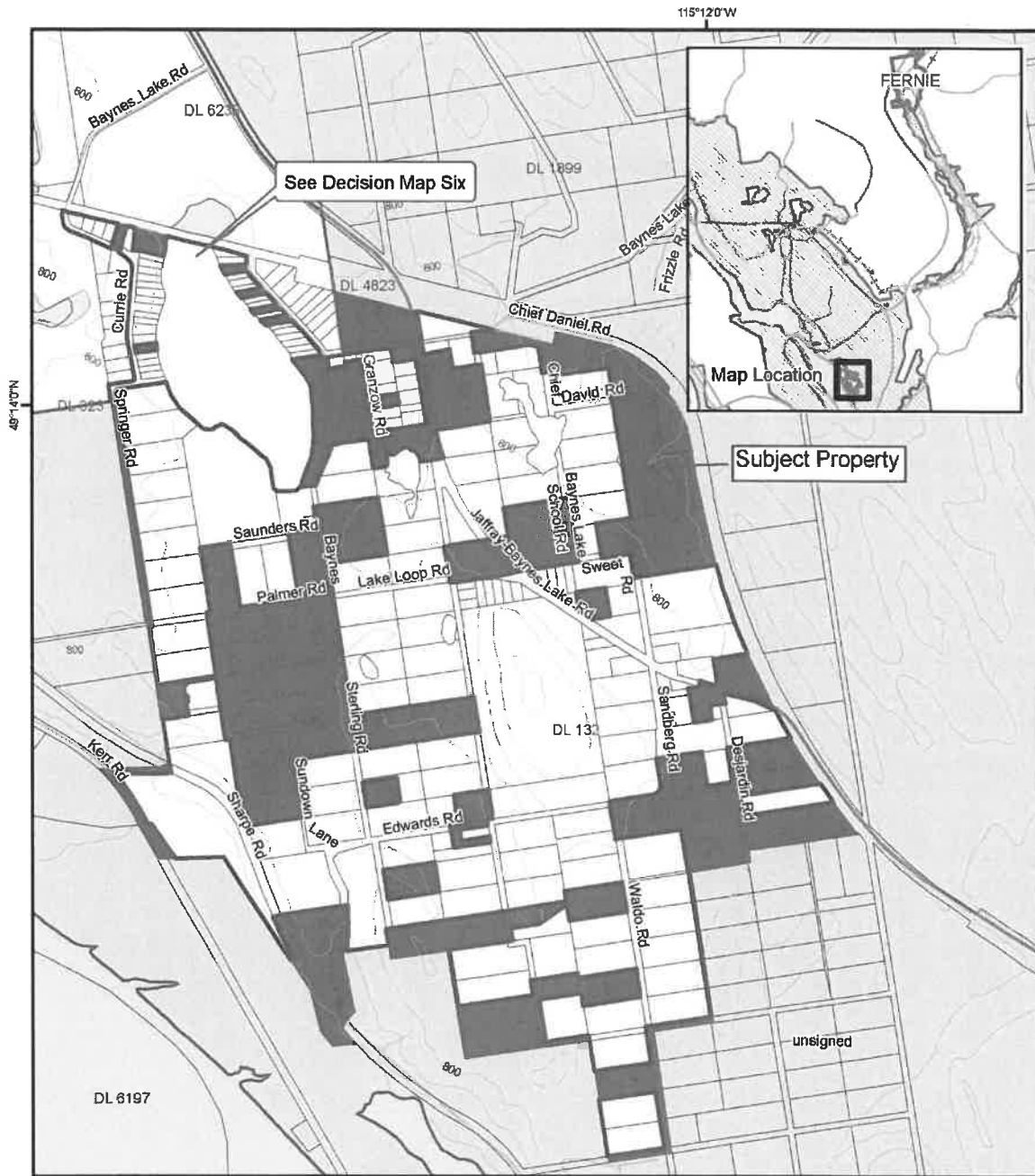
[16] Resolution #524/2019
Released on December 19, 2019

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




Kim Grout, Chief Executive Officer



— The Property Conditionally Approved for Exclusion (2.4 ha)



Legend

-  Areas approved for exclusion from the ALR
-  Areas proposed for exclusion from the ALR
-  Agricultural Land Reserve

Decision Map Seven
Area Seven:
Baynes Lake Block Area
 ALC File Number: 56609

