



Agricultural Land Commission
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December 20, 2019

ALC File: 59224

Krystal Hamilton
Eagle Homes
DELIVERED ELECTRONICALLY

Dear Krystal Hamilton:

Re: Application 59224 for a non-adhering residential use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Executive Committee for the above noted application (Resolution #526/2019). As agent, it is your responsibility to notify the applicant(s) accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act* (ALCA), the Chair of the Agricultural Land Commission (the "Commission") has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

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 'Katie Cox', is written over a light grey horizontal line.

Katie Cox, Land Use Planner

Enclosures: Reasons for Decision (Resolution #526/2019)
Schedule A: Decision Map

cc: Regional District of East Kootenay, File P719338



AGRICULTURAL LAND COMMISSION FILE 59224
REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

Non-Adhering Residential Use Application Submitted under 20.1(2) of the *Agricultural Land Commission Act*

Applicant: 310613 BC Ltd. dba Three Bars Guest & Cattle
Ranch

Agent: Krystal Hamilton, Eagle Homes

Property: Parcel Identifier: 007-422-059
Legal Description: District Lot 14299 Kootenay District
Civic: 9430 Wycliffe-Perry Creek Road, Wycliffe, BC
Area: 93 ha

Executive Committee: Jennifer Dyson, Chair
Ione Smith, South Coast Vice Chair
Linda Michaluk, Island Vice Chair
Gerald Zimmerman, Okanagan Vice Chair
Richard Mumford, Interior Vice Chair
Janice Tapp, North Vice Chair

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] The Property is one of multiple properties operated as Three Bars Ranch which is a tourist facility and working ranch (the "Guest Ranch"). There are currently five legal residences on the Property that are utilized for full-time and seasonal staff for the Guest Ranch. The original residence on the Property is a cabin that was built in 1936 but is no longer habitable (the "Cabin").
- [3] Pursuant to 20.1(2), the Applicant is applying to the Agricultural Land Commission (the "Commission") to:
- replace the existing Cabin with a 290 m² CSA A277 certified modular home (190m²) with an attached garage (100m²) and deck for farm use (the "Residence Proposal"), and
 - retain the Cabin and convert it to a non-residential use building for heritage purposes (the "Cabin" Proposal).
- [4] The first issue the Executive Committee considered is whether the proposed replacement residence is necessary for farm use.
- [5] The second issue the Executive Committee considered is whether the size and siting of the replacement residence would impact the agricultural use of the Property.
- [6] The third issue the Executive Committee considered is whether to allow the retention of the Cabin for heritage purposes.
- [7] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;



- (b) to encourage farming of land within the agricultural land reserve 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 land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD

[8] The Proposal along with related documentation from the Applicant, Agent, local government, third parties, and Commission is collectively referred to as the "Application". All documentation in the Application was disclosed to the Agent in advance of this decision.

BACKGROUND

Adjacent Guest Ranch Property

[9] In 1988, ALC Application 21821 was submitted to the Commission to establish a guest ranch on the north adjacent property (PID 007-422-083) with a 214 m² (2,300 ft²) lodge containing living and dining facilities, laundry and a pool along with 10 two-bed, two-bath cabins. The Commission considered the proposal to be ancillary to the agricultural use of the property and approved the application by Resolution #156/1988 with the recommendation that the lodge and cabins be located on the areas of the parcel with the lowest agricultural capability.

[10] In 1994, the Applicant requested a reconsideration of Resolution #156/1988 in order to build an additional 186m² (2,000 ft²) building to host meetings, games, workshops, and receptions. The Commission approved the new proposal by Resolution #1131/1994.

[11] In 2017, ALC Application 55941 was submitted to the Commission to add three additional two-bed, two-bath cabins to the 10 existing cabins on PID 007-422-083 as part of the guest ranch. The Commission considered the guest ranch operation to be ancillary to the agricultural operation and approved the proposal by Resolution #77/2017.

The Property

[12] The Regional District of East Kootenay (the “RDEK”) amended section 1.28(1)(b) of the Wycliffe Zoning & Floodplain Management Bylaw No. 2256, 2010 in 2015 by identifying a 9 ha portion of the Property that all residence units must be located within. The Proposal Area is within that 9 ha portion of the Property.

[13] At its meeting of August 2, 2019, the RDEK Board resolved to forward the Application to the Commission with a recommendation of support.

EVIDENCE AND FINDINGS**Issue 1: Whether the proposed replacement residence is necessary for farm use.**

[14] In addition to the 1936 Cabin, there are currently four other legal residences on the Property that were approved by the RDEK for use by Guest Ranch staff. As such, the Executive Committee is considering only the necessity of the replacement residence for farm use.

[15] The Applicant operates the Guest Ranch over a 354 ha farm operation with approximately 120 cows, 100 horses, and 90 ha of irrigated hay production. The Property also has equestrian infrastructure, horse pasture, and irrigated hay production.

[16] The replacement residence is proposed to be used by the Plechinger family who are one of the Guest Ranch farm shareholders. The Application states that the Plechingers have lived in the Cabin since 1987 and had to move out due to concerns that the structure was unsafe for residential use. The Plechingers have since been commuting to the Property from Cranbrook which is an approximately ± 32 km round trip. The Application submits that the current scale of the agricultural and Guest Ranch operation requires the constant presence of the Plechingers, on the Property to oversee operations.

[17] In consideration of the current size of the farm operation on the Property and that the Plechingers are required to be present on the farm operation, the Executive Committee finds

that the Cabin replacement is necessary for continued farm use.

Issue 2: Whether the size and siting of the replacement residence would impact the agricultural use of the Property.

[18] The Application submits that the location of the 290 m² CSA A277 replacement residence is sited just east of the existing staff accommodation and the existing access road, Wycliffe Perry Creek Road. The Executive Committee finds that by siting the structure on the north western portion of the Property, clustered near existing residential uses and utilities, the Proposal minimizes encroachment into the cultivated area of the Property and would not affect the overall agricultural utility of the Property.

[19] The Application submits that the Proposal does not require any fill placement. The Executive Committee would like to remind the Applicant that if any soil removal or fill placement is necessary for the construction of the new principal dwelling, that it must be done in compliance with s. 35(a)(i) of the ALR Use Regulation B.C. Reg 30/2019 or a separate Soil Use for Placement of Fill or Removal of Soil Application is required.

Issue 3: Whether to allow the retention of the Cabin for heritage purposes.

[20] The Executive Committee discussed the proposal to retain the Cabin as a non-residential use heritage building. Conversion of the Cabin to a non-residential use would result in the same number of residential structures on the Property as what currently exists. The Executive Committee therefore finds that the preservation of the Cabin for heritage purposes and use as a storage building in its existing location would not impact the agricultural utility of the Property. Given that the Cabin is not currently being used as a residence, the Executive Committee will require documentary evidence that it has been decommissioned from residential use prior to placement of the replacement residence (CSA A277).

DECISION

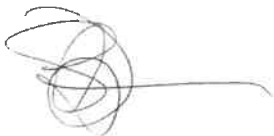
- [21] For the reasons given above, the Executive Committee approves the Residence Proposal to place a 290 m² CSA A277 certified modular home on the Property as a replacement residence, and retain the Cabin built in 1936 as a heritage building subject to the following conditions:
- a. Submission of documentary evidence that the Cabin has been decommissioned prior to placement of the replacement residence (CSA A277);
 - b. Registration of a covenant in favor of the Commission to ensure that the replacement residence is not used for tourist accommodation;
 - c. Placement of the replacement residence must be completed within three years from the date of this decision;
 - d. The replacement residence must be located in the area indicated in the sketch plan (Schedule A) attached to Resolution 526/2019.

[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 Executive Committee.

[24] A decision of the Executive Committee is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[25] Resolution #526/2019
Released on December 20, 2019

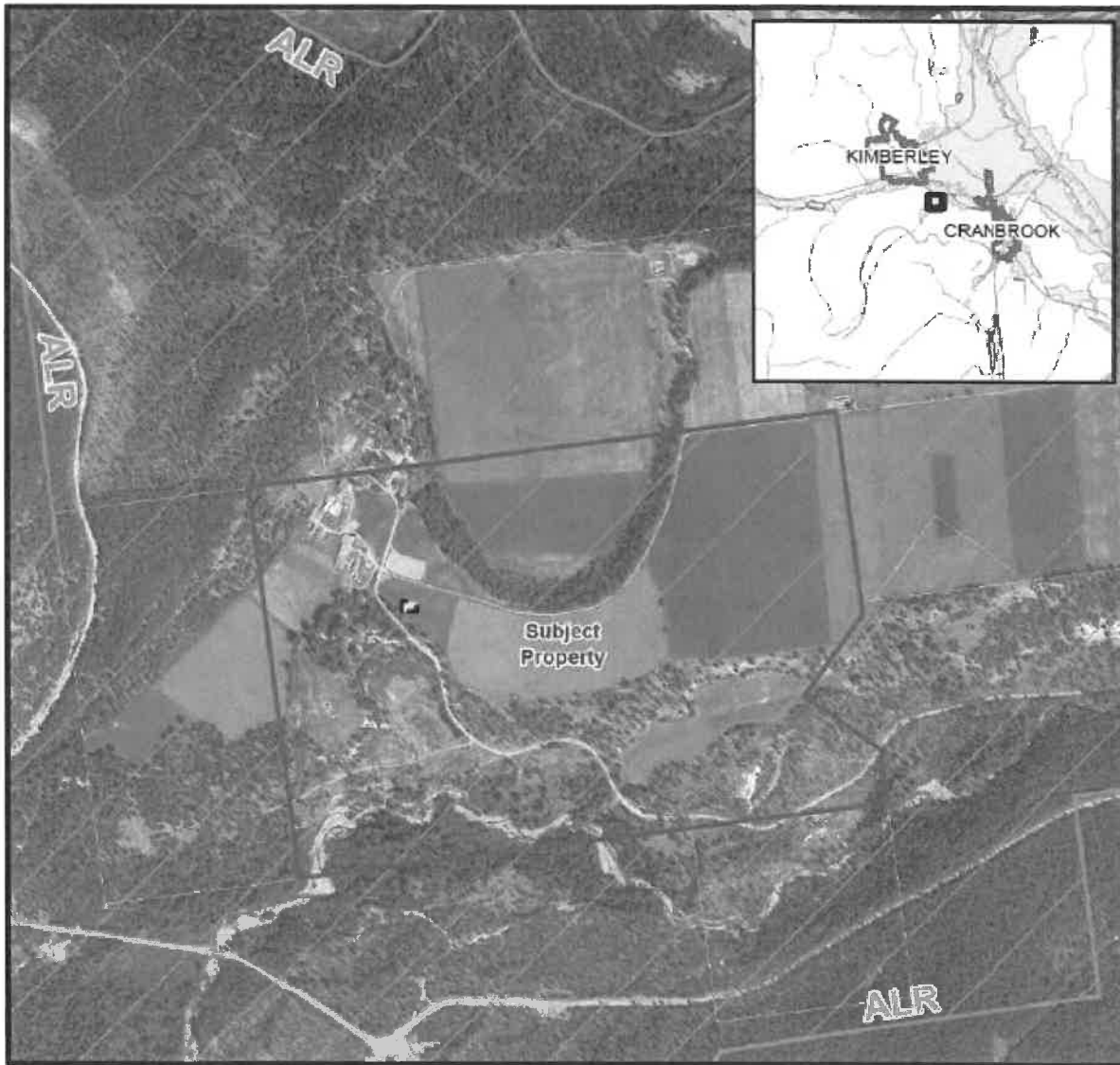




Jennifer Dyson, Chair

On behalf of the Executive Committee



Schedule A: Agricultural Land Commission Decision Sketch Plan
ALC File 59224 (Three Bars Guest & Cattle Ranch)
Conditionally Approved Non-Adhering Residential Use
ALC Resolution #526/2019



	Conditionally Approved Non-Adhering Residential Use (290 m ²)
	The Property