



**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](http://www.alc.gov.bc.ca)

March 28, 2023

ALC File: 64172

**Dawn Boon**  
**DELIVERED ELECTRONICALLY**

Dear Dawn Boon:

**Re: Reasons for Decision - ALC Application 64172**

Please find attached the Reasons for Decision of the Kootenay Panel for the above noted application (Resolution #109/2023).

Under section 33 of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. A request to reconsider must now meet the following criteria:

- No previous request by an affected person has been made, and
- The request provides either:
  - Evidence that was not available at the time of the original decision that has become available, and that could not have been available at the time of the original decision had the applicant exercised due diligence, or
  - Evidence that all or part of the original decision was based on evidence that was in error or was false.

The time limit for requesting reconsideration of a decision is one year from the date of the decision's release, as per [ALC Policy P-08: Request for Reconsideration](#).

Please refer to the ALC's [Information Bulletin 08 – Request for Reconsideration](#) for more information.

Please direct further correspondence with respect to this application to [ALC.Kootenay@gov.bc.ca](mailto:ALC.Kootenay@gov.bc.ca)

Yours truly,

A handwritten signature in black ink, appearing to read 'Ron Wallace', is written over a white background.

Ron Wallace, Land Use Planner

Enclosure: Reasons for Decision (Resolution #109/2023)

cc: Regional District of East Kootenay (File: P 722 333). Attention: Krista Gilbert,  
Planning Technician

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**AGRICULTURAL LAND COMMISSION FILE 64172  
REASONS FOR DECISION OF THE Kootenay Panel**

Subdivision Application Submitted Under s.21(2) of the Agricultural Land Commission  
Act

**Applicant:** Dawn Boon

**Property:** Parcel Identifier: 029-142-059  
Legal Description: Lot B, District Lot 332,  
Kootenay District, Plan EPP25855  
Civic: 8594 Holmes Road, north of Fort Steele,  
BC  
Area: 11.6 ha (entirely within the ALR)

**Panel:** Jerry Thibeault, Kootenay Panel Chair  
Danna O'Donnell  
Wayne Harris

## **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 Applicant is applying to the Agricultural Land Commission (the “Commission” or “ALC”) under s. 21(2) of the ALCA to subdivide the 11.6 ha Property into a 4 ha lot and a 7.6 ha remainder (the “Proposal”). The Applicant intends to live in her residence on the 7.6 ha remainder and sell the proposed 4 ha lot to a new owner.

[3] The Proposal was considered in the context of the purposes and priorities of the Commission set out in s. 6 of the ALCA:

6 (1) The following are the purposes of the commission:

- (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.

(2) The commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under this Act:

- (a) the size, integrity and continuity of the land base of the agricultural land reserve;
- (b) the use of the agricultural land reserve for farm use.

**EVIDENTIARY RECORD**

[4] The Proposal, along with related documentation from the Applicant, local government, and Commission is collectively referred to as the “Application”. All documentation in the Application was disclosed to the Applicant in advance of this decision.

**BACKGROUND**

[5] The Application states that there is no agriculture taking place on the Property and that she has lived on the Property since 1990 and that the land is not able to sustain any livestock and that the soil on the Property is unsuitable for crop production. The Property is used for residential purposes.

[6] In 2010, ALC Application 51594 was submitted by the Applicant and a co-owner to the Commission to subdivide a 21.7 ha property (i.e., Lot 1, District Lot 331, Kootenay District, Plan 2845) into a 8.1 ha lot and a 13.6 ha remainder. The Commission noted that land of similar capability lying to the north had been developed for irrigated pasture and forage production. However, the Commission did not believe that retaining the subject property in its present size would result in agricultural use. Rather the Commission considered the subdivision and sale of the 8.1 ha area to the adjoining landowner for the expansion of their farm as having potential to enhance agricultural activity. The Commission, by Resolution #2327/2010, approved the proposed subdivision. The subdivision was completed on November 28, 2012 and resulted in the creation of a 1.83 ha road dedication, 8.24 ha lot, and the 11.6 ha Property subject to the current Application.

[7] The Property is zoned Rural Residential (Country) Zone (RR-8) in the Regional District of East Kootenay (“RDEK”) zoning bylaw, which has a minimum parcel area

requirement of 8.0 ha. The Property is designated Rural Resource (RR) within the RDEK Official Community Plan (OCP) which supports rural residential and rural resource land uses with parcel sizes 8.0 ha and larger. It is noted within the OCP policies that new residential development is encouraged to be directed to established development nodes such as Wardner, land within municipal boundaries and areas outside of the ALR. Therefore, the Proposal is not consistent with the RDEK zoning or OCP designation for the Property.

- [8] At its meeting of June 10, 2022, the RDEK Board resolved to support the proposed application for subdivision.

### **ANALYSIS AND FINDINGS**

- [9] The Application states that there is no agricultural operation existing on the Property; and that since purchasing the Property in 1990, the owner has not been able to sustain any livestock and/or crop production on the land due to poor soil capability.

- [10] To assess agricultural capability on the Property, the Panel referred to agricultural capability ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings applicable to the Property is Class 5PM with the limitations of P (stoniness) and M (moisture deficiency).

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

- [11] Based on the agricultural capability ratings, the Panel finds that the Property has secondary agricultural capability that could support a range of crops, including

forage, with appropriate management practices. The Applicant submits that the Property is not suitable for agriculture; however, the Panel notes the adjacent property to the north shares the same agricultural capability ratings and has been cleared and used for cattle grazing and forage production.

[12] In the experience of the Panel, larger parcels are more suitable for livestock grazing and forage production compared to smaller parcels that reduce the animal holding capacity and forage production capability. In addition, the Panel considered that subdividing the Property would utilize additional land within the proposed new lot for a new residence(s), driveway, yard, and other residential infrastructure. As such, the Panel finds that reducing the size of the Property and area available for agriculture on each lot would narrow the range of agricultural opportunities and management practices available to the Applicant or future landowners. For this reason, the Panel finds that the Proposal to subdivide is inconsistent with the Commission's purpose of preserving agricultural land encouraging farming in the ALR in the long-term.

[13] In summary, the Panel finds that the proposed subdivision would significantly reduce the agricultural area of the Property for livestock production and other farm uses which is inconsistent with the purposes and priorities set out in s. 6 of the ALCA.

### **DECISION**

[14] For the reasons given above, the Panel refuses the Proposal to subdivide the Property into a 4 ha lot and a 7.6 ha remainder.

[15] These are the unanimous reasons of the Panel.



[16] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(3) of the ALCA.

[17] Resolution #109/2023

Released on March 28, 2023

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**Jerry Thibeault, Panel Chair**

On behalf of the Kootenay Panel