



Agricultural Land Commission
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February 13, 2020

ALC File: 59691

Jenna Terpsma
Terpsma Land Development Consulting

DELIVERED ELECTRONICALLY

Dear Jenna Terpsma:

Re: Application 59691 to conduct a non-farm use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Kootenay Panel for the above noted application (Resolution #62/2020). As agent, it is your responsibility to notify the applicant(s) 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 'Katie Cox', is written over a light blue horizontal line.

Katie Cox, Land Use Planner

Enclosures: Reasons for Decision (Resolution #62/2020)
Schedule A: Decision Map
Schedule B: Fencing

cc: Regional District of East Kootenay (File P 719 605)

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AGRICULTURAL LAND COMMISSION FILE 59691
REASONS FOR DECISION OF THE KOOTENAY PANEL

Non-Farm Use Application Submitted Under s. 21(2) of the *Agricultural Land Commission Act*

Applicant:

George Lautrup
Jeanette Lautrup

Agent:

Jenna Terpsma
Terpsma Land Development Consulting

Property:

Parcel Identifier: 015-926-681
Legal Description: Part of Lot 14, District Lot 353 and
9040, Kootenay District, Plan 1164 except Plan R317
Civic: 5550 Highway 95, Edgewater, BC
Area: 7.8ha

Panel:

David Zehnder, Kootenay Panel Chair
Ian Knudsen
Jerry Thibeault

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 bisected by 62 Mile Road and contains a single family residence and hay cultivation in the southwest portion of the Property and truck parking in the northeast portion of the Property. The northeast portion of the Property has been historically impacted by various industrial uses.
- [3] Pursuant to s. 21(2) of the ALCA, the Applicants are applying to the Agricultural Land Commission (the "Commission") to use 2.0 ha of the 7.8 ha Property to establish a public works yard contracted by Emcon Services for storage, parking, and maintenance of materials and equipment related to highway maintenance (the "Proposal"). The Proposal includes a 0.1 ha ($\pm 250 \text{ m}^3$) stock pile of sand with a 3% salt mix for road maintenance, and a new 139.4 m^2 (1500 ft^2) maintenance building.
- [4] The issue the Panel considered is whether the Proposal would impact the agricultural utility of the Property.
- [5] 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

- [6] The Proposal along with related documentation from the Applicants, 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

- [7] In 1998, Application ID 9880 was submitted to the Commission by the Applicants to establish a portable sawmill on the eastern portion of the Property to cut railroad ties, small squares, and fire wood. The waste would be chopped and hauled to Golden. The Commission considered that the proposal would have minimal impact due to the proposal area having secondary agricultural capability, and that it was buffered from surrounding agricultural lands by bluffs and ravines. The Commission approved the proposal by Resolution #363/98 subject to reclamation of the site to the same or better agricultural standard at the time the portable sawmill ceases permanently.
- [8] In 2007, Application ID 43856 was submitted to the Commission to subdivide a 2.3ha lot from the 7.7ha subject property. The subdivision of the proposed 2.3 ha lot would follow the height of land and road right-of-way and contain the existing sawmill. The Commission considered that the land under application has good agricultural capability and is appropriately designated as ALR, that the existence of a large ridge through the property limits its suitability for agricultural use as a single unit, and that the proposal will not negatively impact agriculture. The Commission approved the proposal by Resolution #232/2007 subject to the sawmill being removed and the land reclaimed to the same or better agricultural standard as existed pre-construction. The subdivision was never completed and approval expired in 2010.
- [9] In 2013, Application ID 53102 was submitted to the Commission by the Applicants to use approximately 2 ha of the 7.7 ha Property to park trucks. The Commission considered that the area proposed for truck parking has secondary agricultural capability and debilitated due to long term sawmilling activities. The Commission noted that the subdivision approved by

Resolution #232/2007 had never been finalized and that the existing sawmill use precluded an agricultural future for the 2.3 ha site. The Commission considered that there would be minimal impact to adjacent agricultural land and approved the proposal by Resolution #300/2013 for a 6 year period. The approval expires on February 17, 2020.

EVIDENCE AND FINDINGS

Issue: Whether the Proposal would impact the agricultural utility of the Property.

[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 are Class 2, Class 4, and Class 6; more specifically (5:4T-2:2X-3:6T) and 6T. The proposed area for non-farm use is unimprovable Class 6T.

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.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

The limiting subclasses associated with this parcel of land are T (topographic limitations) and X (a combination of soil factors).

[11] Based on the agricultural capability ratings, the Panel finds that the Property has mixed prime and secondary agricultural capability.

[12] At its meeting of December 6, 2019, the Regional District of East Kootenay Board resolved to support the Proposal and authorized it to proceed to the ALC. The Proposal is

inconsistent with the RDEK Official Community Plan (OCP) designation and the A-2 Rural Residential (Country) zoning for the parcel; therefore the Proposal would require a rezoning text amendment to the zoning bylaw for Edgewater. The RDEK previously rezoned the 2.0 ha Proposal Area on the Property to allow truck parking in 2015 following ALC Resolution #300/2013. The Applicants have already applied for a rezoning of the Proposal Area to allow for a public works yard.

- [13] The Panel considered the limited agricultural capability of the Proposal Area and that it has originally been debilitated by a sawmill and truck parking, which were approved non-farm uses as per ALC Resolutions #363/98 and #300/2013. The Panel also considered that the non-farm use approval for Resolution #300/2013 expires on February 17, 2020.
- [14] The Application submits that the Proposal Area is separated from the remainder of the Property by a road and steep hill and is buffered from adjacent properties by topography and trees. The Panel considered the existing agricultural use of the Property and finds that the continued non-farm use of 2.0 ha of the Property does not discourage farming on the remainder. The Panel further considered that the Proposal Area could be utilized for farming infrastructure in the future and finds that fencing the Proposal Area would be beneficial in both separating it from adjacent agricultural lands and for potential future agricultural infrastructure.
- [15] The Proposal includes a 0.1 ha ($\pm 250 \text{ m}^3$) stock pile of sand with 3% salt for winter road maintenance. In the Panel's experience, salt leachate can have serious implications for the agricultural capability of soils. The Panel finds that the stock pile must be effectively contained in order to prevent salt leachate into the ground.
- [16] The Panel finds that due to the historic non-farm uses and siting of the Proposal Area and the ongoing agricultural activities on the Property, use of the Proposal Area for a works yard would not negatively affect the agricultural utility of the Property if limited to the Proposal Area and measures are taken to prevent leachate of salts into the soil.

DECISION

- [17] For the reasons given above, the Panel approves the Proposal to establish a 2.0 ha public works yard for highway maintenance subject to the following conditions:
- a. Approval of the non-farm use is permitted for a period of fifteen (15) years following the date of this decision;
 - b. Siting of the non-farm use in accordance with Schedule A;
 - c. The 0.2ha non-farm use area depicted on Schedule A: Decision Map must be reclaimed to an agricultural capability as good as is considered feasible in the opinion of a qualified professional once the non-farm use permanently ceases;
 - d. A closure report, prepared as per ALC Policy P-10: Criteria for Agricultural Capability Assessments, by a qualified registered professional for the Commission's review and approval, confirming that the 0.3 ha Parking Area depicted on Schedule A: Decision Map has been reclaimed to an agricultural capability as good as is considered feasible in the opinion of a qualified professional;
 - e. The closure report must be submitted to the Commission within one year from the date the non-farm use ceases;
 - f. The registration of a covenant in favour of the Commission for the purpose of constructing and maintaining a chain link fence to separate the non-farm use area from adjacent agricultural lands in accordance with Schedule A & B;
 - g. The stock pile of sand and salt must be stored within containment infrastructure consisting of an impermeable liner under a steel roof walled in by concrete lock blocks;
 - h. Appropriate weed control measures must be practiced on all disturbed areas;
 - i. Any expansion will require a new application to the Commission.
- [18] 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.
- [19] These are the unanimous reasons of the Panel.



[20] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[21] Resolution #62/2020

Released on February 13, 2020

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

David Zehnder, Panel Chair

On behalf of the Kootenay Panel



Schedule A: Agricultural Land Commission Decision Sketch Plan
ALC File 59691 (Lautrup)
Conditionally Approved Non-Farm Use
ALC Resolution #62/2020



| | |
|---|--|
|  | The Property |
|  | Conditionally Approved ± 2.0 ha Non-Farm Use |
|  | Approximate Fence Location |



SCHEDULE D: FENCING SPECIFICATIONS

D.6: Chain Link Fence

1. Line posts shall be constructed from 2" standard galvanized steel pipe (0.125" wall thickness), 8.5 ft. in length. Galvanized to CSA G164 standard.
2. Corner and straining posts shall be constructed from 2.5" standard galvanized steel pipe (0.125" wall thickness), 10 ft. in length. Galvanized to CSA G164 standard.
3. Diagonal corner bracing shall be constructed from 1.25" standard galvanized steel pipe. Galvanized to CSA G164 standard.
4. Posts shall be securely anchored in the soil to depths as indicated in the Schedule D.6 drawings using 2,500 P.S.I. concrete extending from the soil surface to 6" below the bottom of the post. Posts shall be spaced no more than 8.0 ft. O.C.
5. The chain link fencing material shall meet the following specifications:
 - 5.1 Minimum height - 5'-8"
 - 5.2 Minimum wire gauge - 11.0 A.W.G.
 - 5.3 Maximum mesh size - 2"
 - 5.4 Be galvanized (to CSA G164) or plastic coated
6. The barbed wire fencing material shall meet the following specifications:
 - 6.1 Number of strands - 2
 - 6.2 Minimum wire gauge - 12.5 A.W.G.
 - 6.3 Maximum spacing between barbs - 6"
 - 6.4 Number of points per barb - 4
 - 6.5 Galvanized - CSA G164
7. All accessory materials shall meet the following specifications:
 - 7.1 Post caps and extension arms: of pressed steel or cast or malleable iron and galvanized to CSA G164 standard.
 - 7.2 Tension wire: bottom and top wires 6.0 gauge medium tensile galvanized wire.
 - 7.3 Tie wire: 9.0 gauge aluminum wire for mesh fixing to line posts.
 - 7.4 Hog ring clips: 9.0 gauge galvanized steel wire clips for mesh fixing to top and bottom tension wires.
 - 7.5 Tension bar: minimum 1/4" x 3/4" galvanized mild steel flat bar.
 - 7.6 Tension bands: 1/8" x 3/4" galvanized formed mild steel flatbars with galvanized bolts and nuts for all tension bar fixing.
8. All terminal posts (posts at ends, corners or intersections), all line posts and any intermediate tensioning posts shall be set plumb into concrete footings in augured or dug holes to the depths and regular spacing as indicated in the Schedule D.6 drawings.



SCHEDULE D: FENCING SPECIFICATIONS

D.6: CHAIN LINK FENCE (continued)

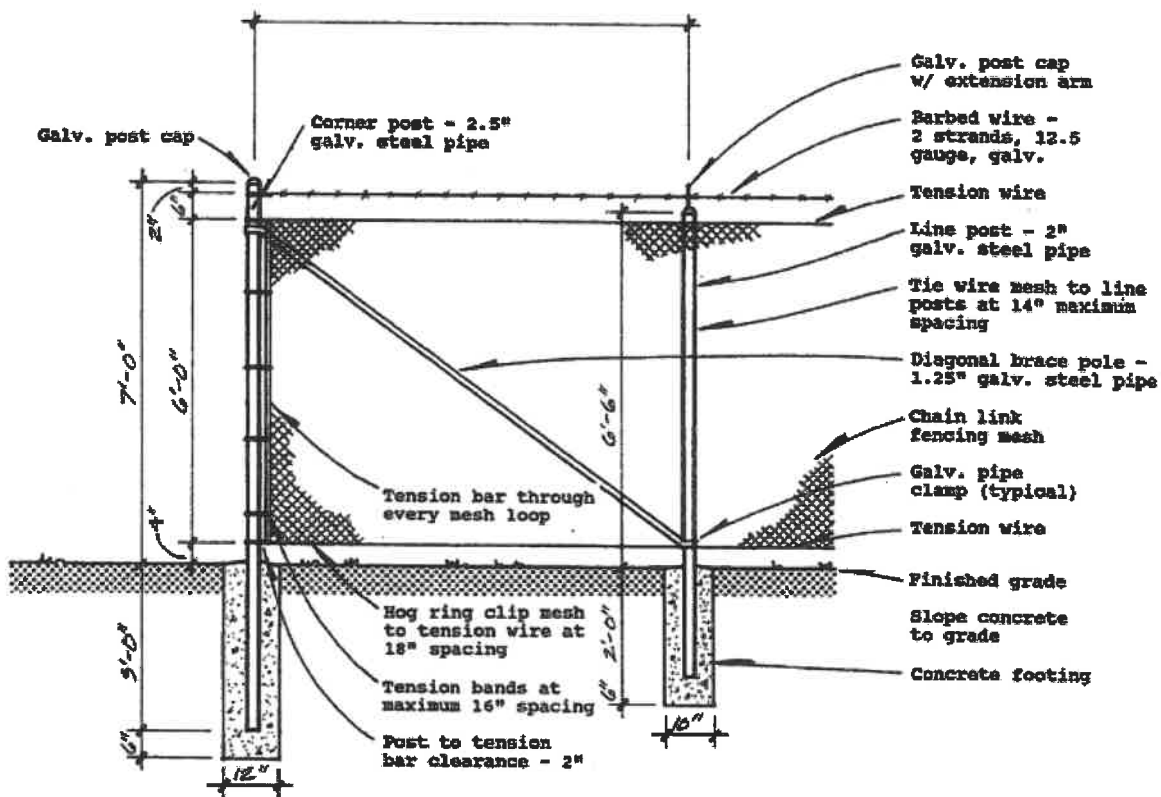
9. All posts shall be securely fitted with the appropriate weathertight caps and extension arms as shown in the schedule D.6 drawings.
10. Top and bottom tension wires shall be securely fixed taut and sag free to terminal posts and any intermediate tensioning posts. Top tension wire shall pass through line post tops.
11. Intermediate tensioning assemblies shall be provided where terminal posts are more than 500.0 ft. apart, and at any subsequent 500.0 ft. spacing, to consist of a straining post with diagonal pipe braces to adjoining line posts each way. (see Schedule D.6 drawings)
12. Chain link fencing mesh shall be stretched between terminal posts and any intermediate tensioning posts using proper equipment, and secured with tension bars and bands, tie wire and clips all in accordance with the requirements of the Schedule D.6 drawings. Joins in the length of wire mesh shall be made by weaving the mesh together with a single wire picket to form a neat continuous mesh.
13. Barbed wire shall be installed in the slots of all extension arms and secured to extension arms at terminal and intermediate tensioning posts taut and free of sags.
14. The fence shall be constructed in accordance with these specifications and details provided in the Schedule D.6 drawings which forms part of these specifications.



SCHEDULE D: FENCING SPECIFICATIONS

D4: Chain Link Fence

Terminal Tensioning Assemblies



Intermediate Tensioning Assemblies

