



**Agricultural Land Commission**  
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June 14, 2021

ALC File: 59778 and 60931

Lisa Beaulieu, Director of Development Services  
District of Kent  
[mlbeaulieu@kentbc.ca](mailto:mlbeaulieu@kentbc.ca)

**DELIVERED ELECTRONICALLY**

Dear Lisa Beaulieu:

**Re: Reasons for Decision - ALC Application 59778 and 60931**

Please find attached the Reasons for Decision of the Executive Committee for the above noted application (Resolution #260/2021 and Resolution #261/2021). As agent, it is your responsibility to notify the applicant accordingly.

Under section 33 of the *Agricultural Land Commission Act* (ALCA), a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. Please be advised however that on March 12<sup>th</sup>, 2020 the ALC Amendment Act ([Bill 15 – 2019](#)) was brought into force and effect, changing the reconsideration process.

A request to reconsider must now meet the following criteria:

- No previous request by an affected person has been made, and
- The request provides evidence 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
- The request provides evidence that all or part of the original decision was based on evidence that was in error or was false.

The amendments also propose a change to limit the time period for requesting a reconsideration to 90 days from the date of this decision – this change has not been brought into force and effect yet. As a result, a person affected by this decision will have one year from the date of this decision's release as per [ALC Policy P-08: Request for Reconsideration](#) to request reconsideration of the decision or 90 days from the date the legislative change takes effect (date unknown at this time), whichever comes sooner.

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.SouthCoast@gov.bc.ca](mailto:ALC.SouthCoast@gov.bc.ca)

Yours truly,

*S. Lambie*

Shannon Lambie, Regional Planner

Enclosures:           Reasons for Decision (Resolution #260/2021 and Resolution #261/2021)

cc: Local Government (File: File ALC 19-02). Attention: Lisa Beaulieu

59778d1 and 60931d1



**AGRICULTURAL LAND COMMISSION FILE 59778 AND 60931  
REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE  
EXECUTIVE COMMITTEE**

Exclusion Application 59778 Submitted Under s.29(1) of the Agricultural Land Commission Act  
as it was written immediately prior to September 30, 2020 and

Inclusion Application 60931 Submitted Under s.17(3) of the Agricultural Land Commission Act

**Proposed Exclusion Applicants:** 586611 BC Ltd. (59778)  
John and Catherine Van Laerhoven (59778)  
Cornelis and Melody Van Laerhoven (59778)  
William Schnitzler (59778)

**Proposed Inclusion Applicants:** Richard Weinfurtner (60931)

**Agent:** Lisa Beaulieu, District of Kent

**Application 59778**

**Proposed Exclusion Properties:**

**Property 1**

Parcel Identifier: 023-043-679  
Legal Description: Lot 2, except; part on plan  
BCP30222 Section 19 TWP 3 Range  
Civic: 7076 McDonald Road, Agassiz, BC  
Area: 14.1 ha (entirely within the ALR)

**Property 2**

Parcel Identifier: 005-335-515  
Legal Description: Lot 179, Section 19, Plan Number  
NWP54948, Land District 36, Township  
Civic: 7180 McDonald Road, Agassiz, BC



Area: 1.4 ha (entirely within the ALR)

**Property 3**

Parcel Identifier: 005-335-523

Legal Description: Lot 180, Section 19, Township 3  
Range 28 West of the Sixth Meridian, New West  
Minster, District Plan 54948

Civic: 7202 McDonald Road, Agassiz, BC

Area: 1.4 ha (entirely within the ALR)

**Property 4**

Parcel Identifier: 005-197-961

Legal Description: Lot 166, Section 19, Plan Number  
NWP54077, District Lot 34, Land District 59,  
Township 3

Civic: N/A

Area: 0.5 (entirely within the ALR)

**Application 60931**

**Proposed Inclusion Property:**

**Property 5**

Parcel Identifier: 000-991-791

Legal Description: Parcel B (RP 17348) of FR Secs  
21 & 28 TP 3 R 29 W of the Sixth Meridian New  
Westminster District

Civic: 4381 Limbert Road, Agassiz BC

Area: 59.2 ha (0 ha in the ALR)

**Executive Committee:**

Jennifer Dyson                      Commission Chair

Linda Michaluk

Ione Smith

Gerald Zimmermann

Richard Mumford

Janice Tapp

**OVERVIEW**

- [1] The Proposed Exclusion Properties are located within the Agricultural Land Reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (“ALCA”). The Proposed Inclusion Property is located outside of the ALR.
- [2] Applications 59778 and Application 60931 (the “Applications”) were presented as a joint application for exclusion and inclusion:
- (a) Pursuant to s. 29(1) of the ALCA as it was written immediately prior to September 30, 2020, the Applicants are applying to the Agricultural Land Commission (the “Commission”) to exclude 17.4 ha to allow for a mixed-use single and multi-family residential development (the “Exclusion Proposal”); and
  - (b) Pursuant to s. 17(3) of the ALCA, the Applicant is applying to the Commission to include 40.8 ha as an offset into the ALR (the “Inclusion Proposal”).
- [3] The first issue the Executive Committee considered is whether the Proposed Exclusion Properties should be excluded from the ALR in consideration of the purposes and priorities of the Commission.
- [4] The second issue the Executive Committee considered is whether the Proposed Inclusion Property would be appropriately designated as ALR.
- [5] Bill 15 provides for transition of ongoing matters including local government-initiated applications that were initiated prior to September 30, 2020. Section 39(2) states that if the Commission began to act under s. 29 (1) of the ALCA before that section was repealed (i.e. local government initiated exclusion) and replaced by s. 19 of Bill 15, the Commission may continue to act under that section:
- a) without the consent of any owner, and
  - b) regardless of whether an owner has expressed an intention not to consent before s. 29 of the ALCA was repealed and replaced by s. 19 of Bill 15.

[6] The Applications were 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**

[7] The Applications were accompanied and supplemented by related documentation from the Proposed Exclusion and Proposed Inclusion Applicants, Agent, local government, third parties, and Commission. All documentation that came before the Commission on the Applications was disclosed to the Agent in advance of this decision.

[8] At its meeting of May 25, 2020, the District of Kent (the “District”) Council resolved to forward the Exclusion Proposal to the Commission with the District’s support. The District also elected to serve as Agent for this application.

[9] On November 25, 2020, the Executive Committee conducted a meeting with the Proposed Exclusion Applicants and the Proposed Inclusion Applicants and their Agent (the “Exclusion Meeting”). An exclusion meeting report was prepared and was certified as accurately reflecting the observations and discussions of the Exclusion Meeting by the Agent on January 18, 2021 (the “Exclusion Meeting Report”).

**BACKGROUND**

[10] There is a history of discussions between the District and the Commission concerning the Proposed Exclusion Properties, their designation in the District of Kent's Official Community Plan ("OCP") as *Residential-Reserve* in 2001, and the inclusion of the Proposed Exclusion Properties in the Fraser Valley Regional District's Urban Growth (UGB) Boundary in 2004.

[11] In 2001, when reviewing the District's draft OCP, the Commission advised the District that it would defer consideration of the *Residential-Reserve* designation until after a review of the Fraser Valley Regional District's (FVRD) regional growth strategy (RGS) was completed (ALC Resolution #19/2001).

[12] In 2004, the Commission reviewed the RGS and in a letter dated January 23, 2004, ALC staff communicated to the FVRD that it "should make it clear that the Commission has not agreed with the extent or location of UGBs shown on the map and should more clearly suggest that final UGBs may be smaller or in different locations". In the same letter, the Commission acknowledged that "Kent's Mount Woodside has received Commission agreement in principle for urban development" (31028m17).

[13] After reviewing the RGS, the Commission, by Resolution #172/2005, formally declined to endorse the District's Gateway Neighbourhood Plan proposed for the "Teacup Properties" and advised the District that any plans to develop this area for non-farm uses would be inconsistent with the ALC Act.

[14] In a letter dated June 10, 2014, ALC staff provided comments to the District and the FVRD regarding the District's 2014 OCP (Bylaw 1508) and the May 2014 draft of the new FVRD RGS ("new RGS"). ALC staff identified in the letter that the new RGS identified three areas within Kent where the ALR was "under discussion", this included the proposed *Residential-Reserve* designation area south of McDonald Road. ALC staff reiterated that Commission's position on the proposed *Residential-Reserve* designation south of McDonald

Road had not changed since it adopted Resolution #172/2005 (“the Resolution”), and that the Resolution remained in effect. In the June 2014, the Commission advised the District and the FVRD that the *Residential-Reserve* designation south of McDonald Road was of no force or effect and should be deleted from the OCP and the new RGS.

- [15] In the intervening years, the District has pursued other non-ALR development options including hillside development on Mount Woodside, and the adoption of new infill development policies to encourage densification in the urban area.
- [16] In 2017, the District forwarded an exclusion application (54987) (the Earlier Exclusion Proposal) made by the owners of Property 1 of the current Exclusion Proposal and an inclusion application (56666) (the Earlier Inclusion Proposal), made by the owners of Property 5 of the current Inclusion Proposal, to offset the exclusion. The purpose of the exclusion sought in the Earlier Exclusion Proposal was for residential development. The Earlier Exclusion Proposal was refused, but the Earlier Inclusion Proposal was conditionally approved. In 2018, the Applicants requested and were refused reconsideration of the Earlier Exclusion Proposal.
- [17] Following the refusal of the reconsideration, the District initiated meetings with the Commission in July of 2019 to discuss the District’s OCP *Residential-Reserve* designation south of McDonald Road and its interest in pursuing the exclusion of this area.
- [18] In November 2019, the District invited the Commission to tour the community to view the planning efforts undertaken by the District to date and discuss the District’s interest in the exclusion of the Proposed Exclusion Properties designated as *Residential-Reserve* in their OCP. In response to the tour, the Commission advised the Applicants that the District should submit an exclusion application in order for the Commission to consider the District’s interest in advancing its long-term community objectives for growth. The tour was conducted in advance of the submission of the current Applications. A record of this tour was created and signed off by the District and formed part of the evidentiary record for these Applications.



[19] Given some confusion surrounding impending change to the regulations governing the exclusion process, the District elected to serve as Agent for the application, as opposed to applying as a Local Government. The manner in which the Applications were submitted does not affect how the Applications were considered by the Commission.

### **EVIDENCE AND FINDINGS**

[20] The Applicants submitted the Exclusion Proposal and Inclusion Proposal as joint applications; however, the ALCA does not contain an application type for, or refer to the concept of a dependent application intended to offset the other (i.e. a “land swap”). The Executive Committee has the discretion to approve both Applications, refuse both Applications, or permit one while refusing the other. The Executive Committee is aware that the Inclusion Proposal was submitted to offset the loss of ALR land should the Exclusion Proposal be approved.

#### **Issue 1: Whether the Proposed Exclusion Properties should be excluded from the ALR in consideration of the purposes and priorities of the Commission.**

[21] The Exclusion Proposal states that the exclusion of land from the ALR is necessary in order to implement the District’s long-term planning objectives for urban growth set out in their OCP and the FVRD RGS. The District designated the Proposed Exclusion Properties as “*Residential-Reserve*” in 2001 and they were included within the Fraser Valley’s UGB in 2004, despite objections from the Commission.

[22] Appendix A.9 *Growth and Housing* of the District’s Staff Report to Council explains that the FVRD has projected that the 2041 population of the District will exceed 8,000; this is greater than the 2014 OCP projection of 6,200. The District’s 2019 population is estimated to be approximately 6,700 people, which means the District may experience a population increase of 1,300 over the next 21 years, potentially requiring 541 new homes by 2041.

[23] The Applicants submit that the Proposed Exclusion Properties have been selected to accommodate anticipated residential growth for the next 15 to 20 years due to their

proximity to the Agassiz townsite. During the Exclusion Meeting, the Applicants explained that other non-ALR possible residential development sites were investigated and while development in the Mount Woodside area was pursued, other hillside options presented development challenges associated with slopes, stability, servicing, transportation, affordability, and being excessively far from the townsite. Further information regarding challenges presented by hillside development and infill development were provided in Appendix A.5 and A.6 of the District's Staff Report to Council provided with the Applications.

[24] The Executive Committee also understands that the District is proposing an Agricultural Foundation, financially supported by community amenity contributions from the developer to be used for agricultural related projects, programs and research.

[25] The Commission's purposes and priorities in s. 6 of the ALCA focus on the preservation of agricultural land, encouraging farming, and protecting and enhancing the size, integrity, and continuity of the ALR. Though the Executive Committee understands the District's desire for urban growth, the Executive Committee must at all times be mindful of its legislated mandate under s. 6.

[26] First, the Executive Committee considered the agricultural capability of the properties proposed for exclusion from the ALR. To assess agricultural capability of the Proposed Exclusion Properties, the Executive Committee referred to their agricultural capability ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings applicable to the Proposed Exclusion Properties are:

- Property 1: Class 1 and 2, more specifically 80% Class 2T and 20% Class 1.
- Property 2: Class 1 and 2, more specifically Class 2T, 60% Class 2T and 40% Class 1, and 60% Class 1 and 40% Class 2T.
- Property 3: Class 2, more specifically, Class 2T, 60% Class 2T and 40% Class 1, and 60% Class 1 and 40% Class 2T.
- Property 4: Class 7 and Class 4, more specifically, 60% 7W and 40% Class 4T.

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

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 7 - land has no capability for soil bound agriculture.

The limiting subclass associated with Properties 1-4 is T (topographic limitations).

[27] The Executive Committee finds, based on their observations on-site and the agricultural capability ratings, that:

- a. Properties 1, 2 and 3 (16.9 ha) represent a large contiguous area of high quality agricultural land, with the soil and climate conditions necessary to support the production of a wide range of soil based agricultural crops with normal farm management practises, and has a long history of farming; and
- b. Property 4 (0.5 ha), although it has secondary agricultural capability, is capable of producing a range of soil-base agricultural crops with more specialized farm management practises. The property is currently leased to a farmer who operates a farm stand to facilitate farm retail sales of farm products.

[28] The Executive Committee finds that exclusion of one or all of the Proposed Exclusion Properties would result in the loss of up to 16.9 hectares of highly capable agricultural land to urban uses. This is inconsistent with the Commission's purpose to preserve agricultural land and to prioritize in its decision making, the size, integrity and continuity of the ALR. Further, the exclusion and conversion of the Proposed Exclusion Lands to urban uses would create a significant intrusion of non-agricultural uses into ALR, inconsistent with the Commission's mandate to prioritize the use of the ALR for farming.

[29] The Executive Committee reviewed correspondence submitted by the general public and found that the majority of the correspondence expressed significant concern with the concept of displacing prime agricultural land for residential development.

[30] The Executive Committee acknowledges that the District has residential growth objectives as discussed in its Staff Report and presented in the Exclusion Meeting. The Executive Committee also recognizes that the District has a demonstrated history of agricultural stewardship, and if the Applications were approved, the District would have a record for inclusion and exclusion that would result in less than 5 ha of land excluded from the ALR over the last 48 years. Further, the District is commended for its dedication and commitment to recognizing the value that agriculture presents as a permanent economic and cultural driver. However, the Commission finds that the District's residential growth objectives do not outweigh the mandate and purpose of the Commission to prioritize protecting the size, integrity, and continuity of the ALR and its use for farming.

[31] The Executive Committee also considered the merits of including 40.8 ha of land (Property 5 is identified as 59.2 ha, but a portion of the property is underwater, hence only 40.8 ha is proposed for inclusion) into the ALR to compensate for the exclusion of 17.4 ha from the ALR (i.e., a land swap). The Committee has significant concerns with using the inclusion of lands into the ALR to justify and compensate for the exclusion of lands from the ALR. As reflected above, the Proposed Exclusion Properties in themselves are suitable for farm use. If approved, the Executive Committee, finds that the exclusion of the Proposed Exclusion Properties would diminish BC's limited land base even if other equally agriculturally capable and suitable land is proposed for inclusion in the ALR. The concept of swapping lands is conceptually flawed in that it presupposes the overall outcome will result in a "net benefit" for agriculture when, in fact, the removal of agricultural land from the ALR to facilitate non-agricultural development represents a loss of agricultural land.

## **Issue 2: Whether Property 5 should be included within the ALR**

[32] Although the Executive Committee does not support the exclusion of Properties 1 to 4 (the Proposed Exclusion Properties) from the ALR, it considered whether the Proposed

Inclusion Property (Property 5) would be appropriately designated as ALR if the Applicant wishes to proceed with the Inclusion Proposal independently.

[33] To assess agricultural capability of the Proposed Inclusion Property, the Executive Committee referred to its agricultural capability ratings as identified by the BCLI, 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings applicable to Property 5 are Class 3 and 5, more specifically 70% Class 3W and 30% Class 5W.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

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

The limiting subclass associated with Property 5 is W (excess water).

[34] In addition, the Executive Committee considered an Agrologist's report for Property 5, prepared by Bruce McTavish, dated May 3, 2017 titled, *Agricultural and agricultural capability site assessment of property located at 4381 Limbert Road, District of Kent BC* (the "McTavish Report"). The McTavish Report states that "[b]ased on a review of the soils, land capability for agriculture, interview with the farmer and review of adjacent properties that are in the ALR, there is no agronomic reason for the subject property not to be included in the ALR. This is highly productive agricultural land that is equivalent to the productivity capability of the surrounding properties. Based on interviews with the farm operator, the average yields on this property are 17-22 tonnes of corn at 70% moisture content and 15-18 tonnes of winter wheat".

[35] The Executive Committee finds, based on the agricultural capability ratings, the Executive Committee's observations on-site, and the McTavish Report that Property 5 has mixed prime and secondary agricultural capability, has good agricultural suitability and would be appropriately designated ALR.

**DECISION**

[36] For the reasons given above, the Executive Committee refuses the Proposed Exclusion Proposal to exclude 17.4 ha from the ALR.

[37] For the reasons given above, the Executive Committee approves the Proposed Inclusion Proposal to include the 59.2 ha property into the ALR subject to the submission of a written statement to the ALC from the Proposed Inclusion Applicant indicating they wish to proceed with including the 40.8 ha area of land identified in Schedule A: Agricultural Land Commission Decision Sketch Plan.

[38] These are the unanimous reasons of the Executive Committee.

[39] A decision of the Executive Committee is a decision of the Commission pursuant to s. 10(4) of the ALCA.

[40] Resolution #260/2021 and Resolution #261/2021



Released on June 14, 2021

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

**Jennifer Dyson, Chair**

On behalf of the Executive Committee



-  Conditionally Approved Inclusion (40.8 ha)
-  The Property