



# BOARD REPORT

**TO:** Chair and Directors

**File No:** LC 2559B  
PL20180129

**SUBJECT:** Electoral Area B: Agricultural Land Commission (ALC) Application  
Section 20(3) – Non Farm Use in the Agricultural Land Reserve (ALR)  
LC2559B (Stephen Revell)

**DESCRIPTION:** Report from Dan Passmore, Senior Planner, dated September 6, 2018.  
3401 Catherwood Road, South Revelstoke.

**RECOMMENDATION:** THAT: Application No. LC2559B, Section 20(3) – Non Farm Use in the ALR, for Lot 1, Section 11, Township 23, Range 2, West of the Sixth Meridian, Kootenay District, Plan 1726, Except Part Included in Plan 7169, be forwarded to the Provincial Agricultural Land Commission recommending refusal, on this 20<sup>th</sup> day of September, 2018.

## SHORT SUMMARY:

The owners are applying to the ALC for non-farm use in the ALR for a second dwelling on the subject property, in the form of a 2 bedroom dwelling unit above a garage.

The owners also seem to be applying to use the 5 bedroom single family dwelling as a vacation rental for approximately 6 weeks a year. The ALC has previously indicated that it has no issue with the use of the single family dwelling as a vacation rental and this use is the subject of CSR D TUP No. 850-07.

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<b>VOTING:</b>	Unweighted Corporate	<input checked="" type="checkbox"/>	LGA Part 14 (Unweighted)	<input type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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## BACKGROUND:

REGISTERED OWNER(S):  
Stephen Michael Revell

APPLICANT/AGENT:  
Robert A. Lundberg Law Corporation

ELECTORAL AREA:  
B

LEGAL DESCRIPTION:  
Lot 1, Section 11, Township 23, Range 2, West of the Sixth Meridian, Kootenay District, Plan 1726,  
Except Part Included in Plan 7169

PID:  
014-006-511

**SURROUNDING LAND USE PATTERN:**

North = Agricultural

South = Treed Agricultural

East = Residential/Agricultural

West = Agricultural

**CURRENT USE:**

1. Residential Single Family Dwelling – 5 bedroom
2. Garage w/ Carriage House – 2 bedrooms

**PROPOSED USE:**

1. Residential Single Family Dwelling – 5 bedroom to be used for a vacation rental for approximately 6 weeks a year
2. Garage w/ Carriage House – 2 bedroom as a secondary dwelling unit (the reason for this ALC Non-farm use application)

**PARCEL SIZE:**

3.16 ha (7.82 ac)

**DESIGNATION:**

Electoral Area B Official Community Plan Bylaw No. 850

SH Small Holdings

**ZONE:**

Electoral Area B Zoning Bylaw No. 851

Small Holdings Zone - SH

**AGRICULTURAL LAND RESERVE:**

100%

**SOIL CAPABILITY:**

See "Maps\_Plans\_Photos\_LC2559.pdf" attached.

According to the Canada Land Inventory mapping, the properties are Class 2 soils with topography as the limiting factor. The soils are not improvable.

**HISTORY:**

See "Maps\_Plans\_Photos\_LC2559.pdf" attached.

- 1096 (1975) allowed subdivision.
- 1156 (1976) allowed subdivision.
- 1255 (1976) refused subdivision but approved 7 mobile home sites
- 1261 (1976) allowed exclusion of portions
- 1308 (1977) file not found.
- 1324 (1976) allowed subdivision.
- 1374 Regional Board rejected an inclusion.
- 1412 (1977) refused exclusion for a MHP
- 1626 (1980) refused subdivision into 5 parcels.
- 1650 (1980) allowed exclusion of a portion of the property.
- 1828 (1982) refused exclusion but allowed subdivision into 2 lots.

- 2016 (1987) refused subdivision.
- 2026 (1987) allowed exclusion.
- 2142 (1993) allowed exclusion.
- 2269 (2002) allowed exclusion.
- 2291 (2003) allowed subdivision.
- 2319 Exclusion application withdrawn by applicant.

**POLICY:****Electoral Area B Official Community Plan Bylaw No. 850**

SH Small Holdings

See "Policies\_LC2559.pdf" attached for additional details.

**Electoral Area B Zoning Bylaw No. 851**

SH Small Holdings

Principal uses: airfield; agriculture; backcountry recreation; driving range; forestry; golf course; guest ranch; horticulture; small-scale sawmill; resource extraction; single family dwelling; standalone residential campsite; timber harvesting

Secondary uses: accessory use; bed and breakfast; guest ranch; home occupation; kennel; residential campsite; secondary dwelling unit

Minimum parcel size created by subdivision: 60 ha

Minimum parcel width created by subdivision: 100 m

SECONDARY DWELLING UNIT means one or more rooms located within a *single family dwelling*, or in an *accessory building* (where permitted by this *Bylaw*) for either *guest accommodation* or *long-term/seasonal* rental accommodation. A *secondary dwelling unit* has direct access to outside without passing through any part of the principal *dwelling unit* and may have its own separate cooking, sleeping and bathing facilities.

**3.15 SECONDARY DWELLING UNIT**

(1) A *secondary dwelling unit* must:

- (a) have a floor area not more than 60% of the habitable floor area of the principal *dwelling unit* unless otherwise specified by this *Bylaw*;
- (b) be located on a *parcel* 2 ha or larger if the secondary dwelling unit is an independent structure (detached);
- (c) have a door direct to the outdoors without passing through any part of the principal *dwelling unit*;
- (d) be constructed in compliance with the latest edition of the BC Building Code;
- (e) meet all provincial and Interior Health requirements regarding water and sewer servicing;
- (f) not be used as a *vacation rental* unless otherwise specified by this *Bylaw*;
- (g) not be closer than 4 m to any *building* containing a *dwelling unit* or 2 m from an *accessory building* not containing a *dwelling unit* if the *secondary dwelling unit* is an independent structure (detached);
- (h) have all parking associated with *secondary dwelling unit* be on-site. Two (2) *parking spaces* shall be provided:

- (i) per *secondary dwelling unit*;
    - (ii) in compliance with the dimensions and access requirements as set out in Part 4 of this *Bylaw*;
  - (i) only be permitted on lands within the ALR if the conditions of Section 3.7 of this *Bylaw* have been met; and
  - (j) only be permitted as accessory to a *single family dwelling*.
- (2) A *secondary dwelling unit* may:
- (a) have a its own cooking, sleeping and bathing facilities.

### 3.7 PROVISIONS FOR A SECOND SINGLE FAMILY DWELLING WITHIN THE ALR

Despite any other provisions in this *Bylaw*, one secondary *single family dwelling* is permitted on a *parcel* located within the ALR, provided that the following criteria are met:

- (1) The secondary *single family dwelling* is located on a *parcel* not less than 2 ha;
- (2) The secondary *single family dwelling* shall be occupied by a full-time employee engaged in *agriculture* on the *parcel*;
- (3) The secondary *single family dwelling* shall be located on *parcel* that is classified as "farm" under the BC Assessment Act;
- (4) The secondary *single family dwelling* shall be sited not less than:
  - 5 m from any property line;
  - 5 m from the principal dwelling or any building accessory thereto;
- (5) The secondary *single family dwelling* shall not be anchored to a permanent foundation; and
- (6) The owner of the said land shall execute a covenant under Section 219 of the Land Titles Act in favour of the CSRD indicating that the *secondary single family dwelling* will be removed upon termination of the conditions specified in Section 3.7 (1-3).

### FINANCIAL:

There are no financial implications to the CSRD with this application.

### KEY ISSUES/CONCEPTS:

The applicant has previously applied for a Temporary Use Permit (TUP) for use of the 5 bedroom single family dwelling as a vacation rental. The Temporary Use Permit (No. TUP 850-7) was approved to be issued by the Regional Board at their March 29, 2018 regular meeting for vacation rental of the 5 bedroom single family dwelling. The TUP has not been issued at this point due to the owner failing to register the required Section 219 covenant, although at the time of writing this report, staff are aware that the owner's solicitor has sent the covenant in to the Land Title Office for registration. The TUP will be issued when registration is confirmed.

The ALC has previously indicated that they have no issue with the use of the single family dwelling as a vacation rental, nevertheless the owner has made application for the ALC to recognize this use.

The ALC has indicated that the use of the garage/carriage house as a second dwelling unit is not permitted and therefore this application has been submitted.

The Electoral Area B Advisory Planning Commission (APC) had reviewed the TUP application at their October 18, 2017 meeting and had recommended to the Board that the TUP be issued subject to the following conditions:

1. Another water sample be taken by a qualified professional to confirm potable water;
2. The recommendations in the DeansTech Consulting report be implemented prior to issuance of the TUP;
3. Approval by the ALC for the vacation rental and confirmation of number of bedrooms permitted; and,
4. Quiet time to begin at 10 PM instead of 11 PM.

This application for non-farm use was presented to the APC, at their September 5, 2018 meeting and they adopted the following resolution:

The APC does not recommend approval of the application until the water and septic servicing requirements –in particular the recommendations from the Deans Tech septic report –have been confirmed to be completed.

APC concerns with site servicing were discussed with the applicant after the October 18, 2017 APC meeting, and the applicant advised that the cost of the additional information being sought by the APC was prohibitive. As part of its review of the TUP application, staff determined that it had received sufficient information about the sewage disposal system and water supply, including the construction of a new well, from the applicant's qualified professionals, for the single family dwelling and detached garage with two bedrooms, to recommend to the Board that the TUP be issued.

OCP Bylaw No. 850 policy 10.3.4 supports second dwellings for farm help in association with agricultural use in the ALR. The property is not currently used for farm purposes.

Electoral Area B Zoning Bylaw No. 851 permits a secondary dwelling unit in the SH Small Holdings Zone, but only if it complies with Section 3.7 which states that the property must be farmed; should the ALC approve this non-farm use application that provision of the Zoning Bylaw will be satisfied and only the provisions of Section 3.15 (secondary dwelling unit regulations) would apply. Staff note that a secondary dwelling unit would only be permitted as accessory to a single family dwelling, and the single family dwelling on the site has been approved for a TUP to be used as a vacation rental. In other respects, staff are not aware if the dwelling unit would comply with Section 3.15 should the ALC approve this application.

## **SUMMARY:**

Development Services staff is recommending that the Board send a recommendation of refusal for the non-farm uses on the subject parcel to the ALC for the following reasons:

- because the property is not currently used for agricultural purposes, and therefore does not meet the OCP policy regarding second dwelling units on ALR land; and ,
- Staff are unable to confirm that the secondary dwelling unit would comply with Section 3.15 of Electoral Area B Zoning Bylaw No. 851.

**IMPLEMENTATION:**

If the ALC approves this application, the secondary dwelling unit on the subject property would be permitted. If the ALC does not approve the dwelling unit, the dwelling unit would need to be decommissioned.

**COMMUNICATIONS:**

The recommendation of the Board will be forwarded to the ALC for consideration during its review of this application.

The APC was forwarded this application and the result has been previously explained in this report.

**DESIRED OUTCOMES:**

Endorse staff recommendation.

**BOARD'S OPTIONS:**

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Electoral Area B Official Community Plan Bylaw No. 850.
2. Electoral Area B Zoning Bylaw No. 851.
3. ALC Application Package.