

# BOARD REPORT

**TO:** Chair and Directors

**File No:** LC2560E  
PL20190160

**SUBJECT:** Electoral Area E: Agricultural Land Commission (ALC) Application  
Section 30(1) – Exclusion LC2560E (Baumgartner)

**DESCRIPTION:** Report from Candice Benner, Development Services Assistant, dated  
February 6, 2018.  
5459 Trans Canada Hwy, Perry River

**RECOMMENDATION:** THAT: Application No. LC2560E, Section 30(1) Exclusion from the  
Agricultural Land Reserve, for the west 1/2 of the northwest 1/4 of Section  
30, Township 23, Range 5, W6M, KDYD, which lies to the north of the  
right bank of Eagle River Except the right of way of the Canadian Pacific  
Railway Company Except Plans R298, EPP26704, EPP31189, and  
EPP37411, be forwarded to the Provincial Agricultural Land Commission  
recommending approval this 21<sup>th</sup> day of February, 2019.

## SHORT SUMMARY:

The subject property is located at 5459 Prosh Frontage Road, in the Perry River area of Electoral Area E. The owner wants to subdivide and sell 2.0 ha of the 19.97 ha subject property to Mustang Powder Lodge Inc. Approximately 89% of the subject property is within the ALR with 2.65 % or 0.53 ha of ALR being within the proposed lot. The owner has applied to exclude the 0.53 ha from the ALR in order to proceed with subdivision.

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**VOTING:** Unweighted  LGA Part 14  Weighted  Stakeholder   
Corporate (Unweighted) Corporate (*Weighted*)

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## BACKGROUND:

REGISTERED OWNER:  
Alex Baumgartner

AGENT:  
Regency Consultants Ltd.

ELECTORAL AREA:  
E

## LEGAL DESCRIPTION:

The west 1/2 of the northwest 1/4 of Section 30, Township 23, Range 5, W6M, KDYD, which lies to the north of the right bank of Eagle River Except the right of way of the Canadian Pacific Railway Company Except Plans R298, EPP26704, EPP31189, and EPP37411

PID:

016-261-089

**CIVIC ADDRESS:**

5459 Prosh Frontage Road

**SURROUNDING LAND USE PATTERN:**

NORTH = Avoca West Road, Residential, densely treed

SOUTH = Eagle River Provincial Park, ALR, Eagle River

EAST = Residential, ALR

WEST = Avoca West Road, Rural, Residential, ALR, densely treed

**CURRENT USE:**

Residential

Heliport, staging area, and parking lot located on proposed Lot A

**PROPOSED USE:**

Residential,

Heliport, staging area, and parking lot located on proposed Lot A

**PARCEL SIZE:**

19.97 ha

**DESIGNATION:**

N/A

**ZONE:**

N/A

**AGRICULTURAL LAND RESERVE:**

89%

**SOIL CAPABILITY:**

See "Maps\_Plans\_Photos\_LC2560E.pdf" attached.

According to the Canada Land Inventory mapping, 70% of the property is Class 4 and 30% Class 5 with stoniness and moisture as limiting factors; the soils are not improvable.

Staff is in receipt of a report "An Opinion on an Application to Exclude Land from the Agricultural Land Reserve" from Bob Holtby, MSc, PAg., Regency Consultants Ltd., October 22, 2018, stating that in Mr. Holtby's opinion "that the land under application for exclusion has no suitability for farm use...and will have no effect on surrounding farms since there are none."

See "Agrologist\_report\_OCT22-2018\_LC2560E.pdf" attached.

**HISTORY:**

1862 (1982) exclusion approved

1313 (1977): non-farm use for 10 unit mobile home park with gas pump approved

**SITE COMMENTS:**

The subject property is located along and divided by the Trans-Canada Highway and CP Rail; the north half of the property is accessed from Prosh Frontage Road that runs parallel to the highway as well as Avoca West Road which runs along the west boundary of the property.

The portion of the property accessed by Prosh Frontage Road has one single family dwelling connected to on-site services where the owner's daughter lives. There are also two other dwellings located in this area of the property; these dwellings are not connected to services and not habitable as they are used for salvage material. There are several outbuildings, including two sea-cans used for storage in this area as well.

The portion of the subject property proposed for exclusion is currently being used by Mustang Powder Lodge Inc. to operate their heli-ski business. Access to this portion of the property is from Avoca West Road. The land has been cleared of trees where they have established a parking lot and helipad; an ATCO trailer has been placed on the property for the business, it does not have servicing.

The owner lives at 5421 Avoca West Road; across the road from the subject property, to the west.

The land located to the south of the Trans-Canada Highway is vacant and has a mix of dense forest and open field.

**POLICY:**

N/A

**FINANCIAL:**

No financial implications to the CSRD, this application for exclusion is not the result of bylaw enforcement.

**KEY ISSUES/CONCEPTS:**

Mustang Powder Lodge Inc. approached the subject property owner about purchasing 2.0 ha at the northern portion of the subject property; they intend to use the area for a heliport, staging area, and parking lot in support for their Heli ski business located on a nearby backcountry mountain. Previously, Mustang Powder Lodge Inc. assembled clients at a nearby gas station before transferring them by helicopter to a chalet located up the mountain. The gas station burned down in 2015.

Most of the proposed 2.0 ha lot is outside of the ALR; approximately 0.53 ha or 26.5% of the lot is within the ALR. The agent/agrologist, Bob Holtby, indicates in his report that the proposed lot, both within and outside of the ALR, is extremely stony and is dominated by sand and gravel that severely limits moisture holding capacity.

The ALC approved exclusion from the ALR of a neighbouring property to the southwest in 1982; the soil classification on that property is the same as on the subject property.

The area proposed for exclusion on the subject property runs along the ALR boundary; it is directly abutting densely treed, non-ALR land to the north, east and south, therefore, if the land is approved

for exclusion it would not create fragmentation of ALR lands. The surrounding properties have the same soil capabilities as the subject property.

**SUMMARY:**

Development Services staff is recommending approval to exclude a portion of the subject property from the ALR for the following reasons:

- The agrologist's report indicates that the area proposed for exclusion has very poor soils and no suitability for farm use;
- The two parcels adjacent to the proposed exclusion are not in the ALR and not used for agriculture; the proposed exclusion is only 0.53 ha on the edge of the ALR, abuts non-ALR land and would not create fragmentation of ALR lands.

**IMPLEMENTATION:**

If the ALC approves exclusion, the applicants may proceed with a subdivision application to the Ministry of Transportation and Infrastructure and the CSRD.

If this exclusion application is not approved, the owners may make an application to subdivide within the ALR. If the subdivision within the ALR application is approved, the owners would submit a subdivision application to the Ministry of Transportation and Infrastructure and the CSRD.

If the ALC does not approve this exclusion or subdivision in the ALR, the owner would be able to apply to subdivide the portion of the subject property that is not in the ALR, without having to obtain approval from the ALC.

**COMMUNICATIONS:**

The applicant, under Section 30(1), Exclusion, was required to advertise in a newspaper, to notify adjacent property owners in writing, and to post a sign on the property as notice of the proposed exclusion. Proof of notification was included as part of the application. Staff did not receive any letters from property owners within the area.

Electoral Area E currently does not have a functioning Advisory Planning Commission for staff to send a referral to.

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

**DESIRED OUTCOMES:**

That the Board 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.*

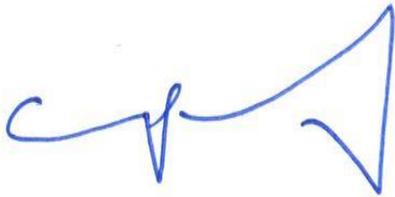
**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Public Notification documents

**Report Approval Details**

|                      |  |
|----------------------|--|
| Document Title:      | 2019-01-10_Board_DS_LC2560E_Baumgartner.docx                                   |
| Attachments:         | - Agrologist_report_Oct-22-2018_LC2560E.pdf<br>- Maps_Plans_Photos_LC2560E.pdf |
| Final Approval Date: | Feb 8, 2019  |

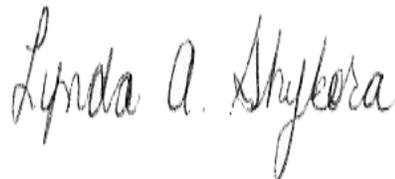
This report and all of its attachments were approved and signed as outlined below:



**Corey Paiement - Feb 8, 2019 - 8:40 AM**



**Gerald Christie - Feb 8, 2019 - 10:58 AM**



**Lynda Shykora - Feb 8, 2019 - 11:22 AM**



**Charles Hamilton - Feb 8, 2019 - 11:42 AM**