

February 3, 2025

ALC File: 101503

**Robbin Simmons Delivered  
by e-mail**

Dear Robbin Simmons:

**Re: Reasons for Decision - ALC Application 101503**

Please find attached the Reasons for Decision of the North Panel for the above noted application (Resolution #68/2025). As the primary contact, it is your responsibility to notify the applicants accordingly.

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 [ALC Information Bulletin 08 – Request for Reconsideration](#) for more information.

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

truly,



Leticia Sturlini, Land Use Planner

Enclosure: Reasons for Decision (Resolution #68/2025)

cc: Regional District of Fraser-Fort George (File ALR 212/25077/26)  
Attention: Heather Meier

101503d1



**Agricultural Land Commission File 101503 Reasons  
for Decision of the North Panel**

Non-Adhering Residential Use Application Submitted Under s.20.1(2) of the  
*Agricultural Land Commission Act*

**Applicants:** Gisele Gamache  
Robbin Simmons

**Primary Contact:** Robbin Simmons

**Property:** Parcel Identifier: 007-990-421  
Legal Description: Lot 26 District Lot 2112  
Cariboo District Plan 25077  
Civic: 11779 Kingsway Road, Prince George, BC  
Area: 2 ha (entirely within the ALR)

**Panel:** Janice Tapp, North Panel Chair Karen  
McKean

## OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in section 1 of the *Agricultural Land Commission Act* (ALCA).
- [2] The Applicants are applying to the Agricultural Land Commission (the “Commission” or “ALC”) under s. 20.1(2) of the ALCA to build an 805 m<sup>2</sup> principal residence on the 2 ha Property (the “Proposal”).
- [3] The Proposal was considered in the context of the purposes and priorities of the Commission set out in section 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 Applicants, Primary Contact, local government, and Commission is collectively referred to as the “Application”. All documentation in the Application was disclosed to the Primary Contact in advance of this decision.

## **BACKGROUND**

- [5] In May 1978, Application 02811 was submitted to include several properties into the ALR, including the parent property. This inclusion was approved by Order in Council #1100/78.
- [6] Later in August 1978, Application 07021 was submitted to the Commission to subdivide the 64.7 ha parent property into thirty-four lots of 4 or 5 acres (~1.6 to 2 ha). The Commission considered the fact that the subdivision had already been granted by an approving officer and substantial work had been completed on the parent property before it was included in the ALR. The application was approved by Resolution #9361/78.
- [7] The Property was purchased by the Applicants on June 10, 2022.
- [8] In December 2023, ALC Compliance and Enforcement (the “ALC C&E”) received a complaint from the Regional District of Fraser-Fort George (the

“RDFFG”) that a principal residence was being built without permits and may be larger than 500 m<sup>2</sup>.

- [9] In February 2024, ALC C&E confirmed with RDFFG Bylaw Enforcement that the originally proposed residence with a basement had come into compliance with the size limits, and the ALC C&E file was closed.
- [10] The RDFFG issued a building permit for the original design of the principal residence, which was a split-level home with a 470 m<sup>2</sup> ground level main floor above a 335 m<sup>2</sup> basement. The Application indicates that, in this original plan, the basement level was more than 50% below grade and therefore the residence’s total floor area accounted for less than the permitted 500m<sup>2</sup>.
- [11] The Applicants state, however, that due to unexpected drainage issues discovered at the foundation stage of the construction, they wish to modify the design of the residence by converting the basement to a ground level storey, without any changes to the building’s footprint.
- [12] The Property is designated Rural Residential (RR) in the Salmon River- Lakes Official Community Plan Bylaw No. 1587, 1996, and zoned Rural Residential 1 (RR1) in the Zoning Bylaw No. 2892, 2014, which does not regulate maximum building size. The RDBN Staff Report dated August 29, 2024, states that should the Commission approve the application, the applicant may amend their building permit application and continue construction.

## ANALYSIS AND FINDINGS

- [13] The Applicants are requesting that the Commission allow them to construct a two-storey 805 m<sup>2</sup> principal residence entirely above ground because flooding issues no longer allow them to construct a single storey principal residence with a basement.
- [14] On February 22, 2019, Bill 52 amended the ALCA to restrict the total floor area of a principal residence to 500 m<sup>2</sup> to curb residential speculation in the ALR.
- [15] As a result, section 20.1(1)(b) of the ALCA states that the total floor area of a principal residence must be 500 m<sup>2</sup> or less.
- [16] The ALC's definition of total floor area for a principal residence, as explained in *ALC Information Bulletin 05: Residences in the ALR* "means, for purposes of the ALCA and ALR Use Regulation and pursuant to Commission Resolution No. 056N/2019, the total area of all floors measured to the outer surface of the exterior walls, including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, and excluding:
- (a) attached garages and unenclosed carports to a cumulative maximum of 42 m<sup>2</sup>;
  - (b) basements and crawl spaces (Commission Resolution No. 094N/2022); and
  - (c) attics, with attic meaning the unfinished space between the roof and the

*ceiling of the top storey of a building or between a partial wall and a sloping roof. This exception only applies if this unfinished space is created by the use of roof trusses. The unfinished attic space created by the use of attic trusses or rafters in the construction of a residence is not excluded from the calculation of total floor area (Commission Resolution No. 095N/2022)”.*

- [17] The Applicants state that the footprint of the principal residence will not change. The Panel finds that the ALCA refers to total floor area and not footprint and therefore the Panel relied on the ALCA and the Commission’s definition of total floor area.
- [18] The Panel referred to *ALC Policy L-26 Non-Adhering Residential Use Application for Housing in the ALR* (the “Policy L-26”) which provides general guidelines for the Commission’s consideration of non-adhering residential use. With respect to principal residences larger than 500 m<sup>2</sup>, Policy L-26 states that the Commission has discretion to permit a larger principal residence even if it is not necessary for a farm use. However, the necessity for farm use of the proposed principal residence is still a relevant factor in the Commission’s determination of whether a size over 500 m<sup>2</sup> should be allowed. The Commission will generally consider whether the requested increase in total floor area would be supportive of the current farming operation and necessary for farm use. The Commission may also consider unique or extenuating circumstances that do not negatively impact the agricultural use of the property.





- [19] There are currently no agricultural activities on the Property, nor did the Applicants make any submissions to support the request for a principal residence greater than 500 m<sup>2</sup> for farm use. Therefore, the Panel finds that there is no agricultural rationale to allow the 805 m<sup>2</sup> principal residence.
- [20] The Panel then considered whether there are any extenuating circumstances to allow the principal residence larger than 500 m<sup>2</sup>.
- [21] The Applicants state that unforeseen drainage issues created a unique situation that resulted in the request to redesign the principal residence entirely above ground.
- [22] The Applicant Submission explains that there were no signs of water issues on the Property when the Applicants cleared the Property in 2022 and 2023. The Applicants put in their principal residence foundation in the fall of 2023; however, in the spring of 2024 the foundation became full of water. The Applicants state that they attempted to pump the water out over several days but that some of the water continued to return. The Applicants explained that it would be costly to constantly pump the basement to keep it from flooding and there could be potential water damage if there is a power outage. The Applicants have since backfilled a section of the basement and that there has been no water in that area since. Hence, the Applicants are requesting to construct the entire residence on grade after backfilling the basement.

- [23] The Panel considered that Applicants' submission and notes that while basements are not included in the calculation of a residence's total floor area, the ability to construct a basement is contingent on site-specific conditions. In some areas of the province, basements cannot be built due to natural soil or water conditions. These limitations do not entitle property owners in such areas to compensate by building larger above-ground residences. Therefore, the Panel finds that the inability to build a basement on the Property is not a unique or extenuating circumstance to allow a principal residence greater than 500 m<sup>2</sup> fully above ground.
- [24] The Panel considered that 500 m<sup>2</sup> is already considered a large principal residence in the ALR. The Panel finds that the requested 805 m<sup>2</sup> significantly exceeds 500 m<sup>2</sup>. This increase undermines the intent of the ALCA, which aims to balance residential development with the preservation of agricultural land and prevent excessive residential development in the ALR. The Panel therefore finds that the Proposal is inconsistent with the purposes of the Commission and its priority to maintain the size, integrity, and continuity of the ALR and its use for farm use.

## **DECISION**

- [25] For the reasons given above, the Panel refuses the Proposal to build an 805 m<sup>2</sup> principal residence on the 2 ha Property.
- [26] These are the unanimous reasons of the Panel.



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

[28] Resolution #68/2025  
Released on February 3, 2025



**Janice Tapp, Panel Chair**  
On behalf of the North Panel