



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
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April 1, 2011

Reply to the attention of Jennifer Carson
ALC File: 51641

Roel & Diane Brand
41455 Yarrow Central Rd.
Chilliwack BC V2R 5G5

Dear Mr. and Mrs. Brand:

Re: Application for Non-Farm Use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # **119/2011** outlining the Commission's decision as it relates to the above noted application.

Please send the \$50,000 letter of credit to the Commission for the construction of the buffer and rehabilitation of the area previously used for storage. When the Commission confirms that these conditions have been met, it will release your letter of credit.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact your Local Government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes/ Letter of Credit Example

cc: City of Chilliwack (3370-20(ALR000218))
BC Assessment,

JC/
51641d1



A meeting was held by the Provincial Agricultural Land Commission on March 9, 2011 at the offices of the Ministry of Agriculture located at 1767 Angus Campbell Rd. Abbotsford, B.C.

PRESENT:	Sylvia Pranger	Vice-Chair, South Coast Panel
	John Tomlinson	Commissioner
	Richard Bullock	Commissioner
	Tony Pellett	Staff
	Terra Kaethler	Staff
	Jennifer Carson	Staff

For Consideration

Application: 51641
Applicant: Roel & Diane Brand
Proposal: To reconsider the proposal to obtain approval for the existing industrial scale welding shop occupying the subject property with the possibility of future expansion this would also include a rezoning of the portion of the property used for the business.
Legal: PID: 025-594-354
Lot 4 Section 31 Township 22 New Westminster District Plan BCP3704
Location: 41455 Yarrow Central Road, Chilliwack

Context

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the "Act") which states:

- S33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that
- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission believed that the applicant has demonstrated that part of the original decision was based on evidence that was in error or false.

Discussion

The applicants submitted information indicating that the Commission's previous decision on this application was made with the false understanding that the RV storage yard was part of the proposal. The RVs have already been removed and it was not the intent of the applicants that it be considered as part of their proposal. The Commission discussed that it would like the gravel used in the storage yard to be removed and the land affected to be returned to a good agricultural standard. Furthermore, the Commission believes

that the current size and future projections of the footprint of the facility is excessive. Further to this, the Commission considered a letter which the City of Chilliwack wrote to the applicants indicating that it was providing the applicants with the option of downsizing the existing welding and manufacturing business to meet the "Cottage Industry" regulations which among other changes would mean reducing the amount of employees from four to two as well as decreasing the footprint to no more than 100m². The Commission agreed with this recommendation to reduce the welding and manufacturing shop to comply with the regulations of a cottage industry as per the City of Chilliwack's definition.

Conclusions

1. That the previous decision was made with a false understanding of the proposal.
2. That the proposal requesting that the welding and manufacturing shop remain at its current size and possibly expand in the future will adversely impact agriculture.
3. The Commission has no objection to the business continuing under the guidelines of the City of Chilliwack's "Cottage Industry" use regulations.

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Tomlinson

THAT the application be reconsidered.

AND THAT the application be refused as proposed.

AND THAT the applicants be allowed to continue their business if they downsize it to a "cottage industry" as defined by the City of Chilliwack.

AND THAT the approval is subject to the following conditions:

- That the gravel pad is removed and the land rehabilitated to a good agricultural standard within one year of the date of this decision.
- The submission of a buffering plan including a fence and some vegetation to separate the facility from the farm.
- The posting of a bond for the amount of \$50,000 to be returned when the Commission is convinced that the buffer has been constructed and that the land previously used for RV storage is rehabilitated to a good agricultural capability.
- Approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration, that the time limit for submitting a request for reconsideration is one (1) year from the date of the original decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

CARRIED

Resolution # 119/2011

Letter of Credit - Example

BENEFICIARY: Minister of Finance
c/o Provincial Agricultural Land Commission
#133 - 4940 Canada Way
Burnaby, BC V5G 4K6

Re: ALC Application # _____

We hereby issue in your favour our Irrevocable Letter of Credit # _____ for CAD

\$ _____ in the account of _____

(Name of Individual or Company)

(Street Address and/or Legal Description)

TERMS AND CONDITIONS:

1. Expiry Date: _____
2. Drawings are to be made in writing to _____
(Name of Financial Institution)
3. Partial drawings are permitted.
4. The Bank/Credit Union will not inquire as to whether or not the Agricultural Land Commission has right to make demand on this Letter of Credit.
5. This Letter of Credit is irrevocable up to the expiry date.
6. This Credit is irrevocable up to the expiry date and unless it is extended in writing will be null and void after the expiry date whether or not the original credit is returned to us for cancellation. The amount of this credit may be reduced from time to time only by the amount drawn upon it by you or by formal notice in writing received by us from you that you desire such reduction.
7. Request for any amendment except reduction in amount must be made directly to our customer who will then instruct us accordingly.
8. Any drawings made under this letter of credit must be accompanied by the original of this credit.
9. **Mandatory Condition:**
"It is a condition of this letter of credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to the present or any future expiration date, we notify you in writing, that we elect not to consider this letter of credit to be renewable for any additional period."
10. We engage to honour presentations submitted within the terms and conditions indicate above.