



**Agricultural Land Commission**  
133–4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

November 9, 2016

ALC File: 54565

Jennifer and Laurie Waddell  
3697 40th Street  
Delta, BC V4K 3N2

Dear Jennifer and Laurie Waddell:

**Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #369/2016) as it relates to the above noted application.

**Reconsideration of a Decision as Directed by the ALC Chair**

Please note that pursuant to [s. 33.1 of the \*Agricultural Land Commission Act\*](#), the Chair may direct the executive committee to reconsider any panel decision if, within 60 days from the date of this decision, he considers that the decision may not fulfill the purposes of the commission as set out in s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

**Reconsideration of a Decision by an Affected Person**

We draw your attention to [s. 33\(1\) of the \*Agricultural Land Commission Act\*](#) which provides a person affected the opportunity to submit a request for reconsideration.

33(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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Kamelli Mark at (Kamelli.Mark@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'KMARK', written in a cursive, stylized font.

Kamelli Mark, Land Use Planner

Enclosure:   Reasons for Decision (Resolution #369/2016)  
                  ALC Policy L-10: Building New Residence while Occupying Existing Residence

cc: Corporation of Delta (File: LU007767)

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## **AGRICULTURAL LAND COMMISSION FILE 54565**

### **REASONS FOR DECISION OF THE SOUTH COAST PANEL**

**Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act***

**Applicants:**

**Jennifer Waddell  
Laurie Waddell  
(the “Applicants”)**

**Application before the South Coast Regional Panel:**

**William Zylmans, Panel Chair  
Gordon McCallum**



## **THE APPLICATION**

[1] The legal description of the property involved in the application is:

Parcel Identifier: 011-934-352

Lot 20, Except: Parcel "B" (Reference Plan 7) District Lots 54 To 57 Group 2 New

Westminster District Plan 932

(the "Property")

[2] The Property is 4.9 ha in area.

[3] The Property has the civic address 3697 40th Street Delta, BC.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 20(3) of the *ALCA*, the Applicants are applying to retain a 91 m<sup>2</sup> manufactured house as a second residence for a kennel worker on the Property (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

## **RELEVANT STATUTORY PROVISIONS**

[7] The Application was made pursuant to s. 20(3) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.



[8] The Panel considered the Application within the context of s. 6 of the ALCA:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land 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 agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

### **EVIDENTIARY RECORD BEFORE THE PANEL**

[9] The Panel considered the following evidence:

- 1. The Application
- 2. Local government documents
- 3. Previous application history
- 4. Agricultural capability map, ALR context map, and satellite imagery

All documentation noted above was disclosed to the Applicants in advance of this decision.

[10] At its meeting of April 26, 2016, the Corporation of Delta resolved that the application for a non-farm use at 3697 40 Street be forwarded to the Agricultural Land Commission.

[11] The Panel reviewed one previous application involving the Property:

Application ID: 17999  
Legacy File: 34245  
(Waddell, 2002)

To establish a boarding kennel (approximately 300 square metres) in the southeast corner of the 4.8 ha subject property. The application was approved by ALC Resolution #137/2002.

## **SITE VISIT**

[12] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

## **FINDINGS**

[13] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and 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 identified on BCLI map sheet 92G/03a for the mapping units encompassing the Property are approximately 60% (5:1 – 3:3DW – 2:2T), 20% (7:2WD – 3:3WN), and 20% (7:2WD – 3:3NW).

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

The limiting subclasses associated with this parcel of land are D (undesirable soil structure), W (excess water), T (topography), and N (salts).

The Panel reviewed the BCLI ratings and find that the Property has prime agricultural capability and could support a wide range of crops.

[14] With respect to additional dwellings in the ALR, the Panel believes that the number of dwellings should be commensurate with the level of agriculture currently taking place on the Property. Based on the submission, the Panel does not believe that the present level of agricultural activity on the Property is sufficient to warrant an additional dwelling for farm help purposes.



[15] The Panel then considered the proposal to retain the dwelling for a potential kennel employee. The Panel is not amenable to allowing a second dwelling for purposes unrelated to agricultural use.

[16] Commission Policy L-10, *Building New Residence while Occupying Existing Residence* states that a new residence may be constructed where there is one existing residence on the parcel provided the existing residence is “demolished, moved off the property, or made uninhabitable upon occupancy of the new residence”. At its Council meeting of August 11, 2014, the Corporation of Delta authorized a restrictive covenant to allow the Applicants to live in the manufactured home until the new dwelling was constructed on the condition that the manufactured home either be removed or decommissioned upon completion of the new dwelling. The Panel finds that the manufactured home should be demolished, moved off the property, or made uninhabitable as required by Policy L-10.

## **DECISION**

[17] For the reasons given above, the Panel refuses the Proposal.

[18] These are the unanimous reasons of the South Coast Panel of the Agricultural Land Commission.

[19] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[20] This decision is recorded as Resolution #369/2016 and is released on November 9, 2016.

## **CERTIFICATION OF DECISION**

A handwritten signature in black ink, appearing to read 'W. Zylmans', is written over a horizontal line.

William Zylmans, Chair, on behalf of the South Coast Panel

**END OF DOCUMENT**



**Agricultural Land  
Commission Act**

**Policy L-10  
January 2016**

**BUILDING NEW RESIDENCE WHILE OCCUPYING EXISTING  
RESIDENCE**

*This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act](#), 2002, including amendments as of September 2014, (the “ALCA”) and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the “Regulation”). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.*

It is the policy of the Agricultural Land Commission (“the Commission”) that an application to the Commission for non-farm use is not required where:

- there is one existing residence on the parcel;
- the existing residence will be demolished, moved off the parcel, or made uninhabitable upon occupancy of the new residence, and
- a bond or Letter of Credit and an affidavit (or such other assurances as determined by an authority issuing the building permit) ensuring demolition or removal of the initial residence, or that the initial residence is uninhabitable, has been posted with the authority issuing the building permit.

However for clarity, an application and approval under Section 20(3) of the ALCA for non-farm use is required if the intention is to retain and occupy both residences and one of the residences is not required for farm purposes use.

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

**RELATED POLICY:**

*ALC Policy L-09 Additional Residences for Farm Help Accommodation*