



Agricultural Land Commission
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August 8, 2016

ALC File: 54935

Lance Goddard
5771 Beaver Creek Road
Port Alberni, BC V9Y 8X5

Dear Mr. Goddard:

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 #296/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Your attention is drawn 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.

Please note that pursuant to s. 33.1 of the *Agricultural Land Commission Act*, the Chair may direct the executive committee to reconsider this 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 section 6". I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application is to be directed to Liz Sutton at (Elizabeth.Sutton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

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Enclosure: Reasons for Decision (Resolution #296/2016)

cc: Alberni-Clayoquot Regional District (File: XAF16001)

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AGRICULTURAL LAND COMMISSION FILE 54935

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicant: **Bowerman Excavating Ltd.,
Inc. No. BC060B910
(the “Applicant”)**

Agent: **Lance Goddard
(the “Agent”)**

Application before the Island Regional Panel: **Jennifer Dyson, Panel Chair
Honey Forbes
Clarke Gourlay**



THE APPLICATION

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

Parcel Identifier: 026-808-471

Lot 3, District Lots 125, 162G and 271, Alberni District, Plan VIP81247
(the "Property")

[2] The Property is 68.8 ha (45.2 ha ALR) in area.

[3] The Property has the civic address 725 Franklin River Road, Port Alberni.

[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 use approximately 20 ha of the Property for a three-day music festival and camping area for a five-year period (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

[7] On April 11, 2016 the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Island Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] 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.



[9] 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

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Evidence from any third parties of which disclosure was made to the Agent
4. Previous application history
5. Agricultural capability map, ALR context map, and satellite imagery

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

[11] At its meeting of March 9, 2016 the Alberni-Clayoquot Regional District (ACRD) Board of Directors passed a resolution to forward the non-farm use application to the Agricultural Land Commission noting that support of the music festival use is conditional on the approval of a Temporary Use Permit.

[12] The Panel reviewed previous applications involving the Property:

Application ID: 42200
Legacy File: 36160
(Irg, 2005)

1. To subdivide one (1) 0.4 ha lot from District Lot 125 pursuant to the Commission's Homesite Severance Policy



2. To consolidate the 62.9 ha remainder of District Lot 125 with the 7.8 ha of District Lot 162G to create a 70.7 ha lot.
3. To subdivide District Lot 271 into two (2) equal-sized lots. District Lot 271 is 27.4 ha in size of which approximately 2.0 ha are in the ALR.

The Commission felt the proposed subdivision would result in a net benefit to agriculture as the proposed consolidation of DL 162G and DL 125 would create a large block of ALR land. The subdivision of DL 271 would create two small parcels with the potential for hobby farm use. The proposed residential lot (0.4 ha) is located on a very hilly portion of the property and would not impact the agricultural potential of the other properties.

The application was approved by ALC Resolution #442/2005.

Note: The ALC authorized deposit of the subdivision plan to the Registrar of Land Titles on June 7, 2006.

Application ID: 15838
Legacy File: 33330
(Irg, 2000)

To extract aggregate a 5 ha area of the farm in order to lower the land to the same level as the adjacent fields and permit proper irrigation and improve agricultural use. The depth of extraction would be approximately 3 metres and the operation would take two to three years.

The application was approved pursuant to s. 3 of the *Soil Conservation Act (SCA)*, by ALC Resolution #330/2000.

Note: The SCA was repealed by ALCA effective November

1, 2002.

Note: At the time of consideration of the Application, the extraction has not been completed.

Application ID: 15910
Legacy File: 11458
(Irg & Price, 1980)

To subdivide approximately 5.1 ha from the above described 64.6 ha parcel. Of the proposed 5 ha parcel, approximately 2 ha are in the ALR. MacMillan Bloedel Ltd. proposed to obtain the 5 ha parcel in exchange for approximately 9.1 ha located on the eastern side of the subject property which is not in the ALR. The application was allowed by ALC Resolution #2113/80 subject to the conditions that the remainder of District Lot 125 was to be consolidated with that portion of District Lot 260 West of the road. Further it was suggested to the applicants that upon their obtaining the title to the portion of District Lot 260 that they submit an application for inclusion of the land into the ALR.

SITE VISIT

[13] On April 20, 2016, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[14] A site visit report (the "Site Visit Report") was prepared in accordance with the *Policy Regarding Site Visits in Applications*. On May 19, 2016, a copy of the Site Visit Report was provided to the Agent and no comments or confirmation was received by May 31, 2016. On June 3, 2016 a copy of the site visit report was provided to the Agent again advising that if no confirmation or comments were received by June 6, 2016 the report would be provided to the Panel. On June 23, 2016 a final copy of the site visit report was provided to the Agent, as no confirmation or comments were received by that time.

FINDINGS

[15] The Application provides the following rationale for the proposal:

The purpose of this proposal is to have the ALC consider issuing a 5 year permit to host a music festival and camping area on the above stated parcel. The music festival will be a three day event in August and will be the only use of the field for the entire year. The field area is not currently being used for any agricultural purposes and the owner has no intention of using the property for agricultural in the future. Since we are applying for a permit on a property within the ALR we feel it is or [sic] due diligence as event promoters that we put procedures in place to mitigate the effects a festival can have on agricultural property. Below are some procedures we are committed to put in place to insure as little impact to the land as possible. Soil: -Shuttle buses will be put in place by the organizers to reduce vehicles on site in order to reduce soil compaction. -No permanent structures/roads/paving will be built on the site. – An environmental fee will be added to the ticket price. After the event is complete organizers will use the environmental fee to help condition the soil. -Each year the organizers will switch the layout of the festival. This will allow the sections that were heavily used the previous year to regenerate porosity. – Spill containment trays will be placed underneath every generator and under any fuel processing equipment as well as underneath stored fuel to ensure there are no spilled liquids going onto the ground. Waste Management -Porta potties will be on site and will be serviced by a pumper truck throughout the weekend. -Ample garbage and recycling bins will be available. The organizers will establish a green team that will maintain garbage and recycle bins, do litter picks and monitor porta potties and hand wash stations. -A roll of [sic] bin will be delivered to the site prior to the event starting and waste will hauled away after the event. -A post event report will be submitted to the ALC no later than 90 days after the event and will report on the site condition post event as well as measures put in place to condition the land post event.

[16] 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 92F.017 and 92F.027 for the mapping units encompassing the area of the Property proposed for non-farm use is predominantly Class O3L where “O” indicates organic soils.

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 subclass associated with this parcel of land is L (degree of decomposition – permeability).

[17] Based on the BCLI ratings, the Panel finds that the Property has excellent capability for agriculture. The Panel also considered the agricultural suitability of the Property and finds that there are not external factors which would negatively affect the use of the Property for agriculture. Although the Application states that “[t]he field area is not currently being used for any agricultural purposes and the owner has no intention of using the property for agricultural in the future”, the lack of agricultural interest by the current landowner does not diminish the agricultural potential of the Property in the long-term.

[18] The Application provides the following rationale for proposing the location of the music festival on the Property:

Given the nature of music festivals there are a lot of considerations to be made when finding an adequate location. Impact on the land, noise, safety, fire and overall health and safety of those attending the event and those who live around the event are some examples of the considerations. In order to run a safe event the location must be in an area that can be accessed by emergency response equipment such as fire trucks and ambulances. The location must also be out of city limits enough so not to expose many homes that live on small residential lots. Furthermore, the property must be an adequate size to that allows participants to access and egress in a safe manner. The proposed parcel is able to meet all the health and safety requirements and through diligent planning we can work with the land to insure it maintained to an agricultural standard.

Despite the logistic and location requirements, the Panel finds that music festivals can be carried out on lands outside of the ALR on parcels that are not of prime agricultural capability and designated for agricultural priority.

[19] It is the Commission's experience that music festivals become semi-permanent events whose income can far exceed that of any type of agricultural production and reduce incentives to innovate and intensify agricultural activity. If the proposed music festival is successful, there is the likelihood of further requests to establish this event on the Property, creating the perception for both the landowner and surrounding landowners regarding the appropriate use of ALR land, and shifting development towards non-farm uses of this nature.

DECISION

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

[21] Panel Chair Jennifer Dyson, concurs with the decision.
Commissioner Honey Forbes, concurs with the decision.
Commissioner Clarke Gourlay, concurs with the decision.

[22] Decision recorded as Resolution #296/2016.

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

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #296/2016. The decision is effective upon release.



August 8, 2016

Colin J. Fry, Director of Policy and Planning

Date Released