



Agricultural Land Commission
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November 15, 2016

ALC File: 55182

Kim Elston-Tuttle
231 Meadow Drive
Salt Spring Island, BC V8K 1T9

Dear Mrs. Elston-Tuttle:

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

Please find attached the Reasons for Decision of the Island (Resolution #386/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached. As agent, it is your responsibility to notify the applicant accordingly.

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 Sara Huber at (sara.huber@gov.bc.ca).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to be 'S. Huber', written in a cursive style.

Sara Huber, Land Use Planner

Enclosure: Reasons for Decision (Resolution #386/2016)
 Sketch Plan

cc: Islands Trust (File: SS-ALR-2016.2)

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AGRICULTURAL LAND COMMISSION FILE 55182

**REASONS FOR DECISION
OF THE ISLAND PANEL**

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

Applicant:

**Kim Elston-Tuttle
(the “Applicant”)**

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: 015-738-183

Lot 7, Section 42, South Salt Spring Island, Cowichan District, Plan 49877
(the "Property")

[2] The Property is 1.7 ha in area.

[3] The Property has the civic address 231 Meadow Drive, Saltspring Island, 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 utilize a 423 ft² (39.3 m²) dwelling for the Applicant's daughter to live in while she works on the farm (the "Proposal"). The Proposal along with supporting documentation is collectively the application (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. Agricultural capability map, ALR context map, and satellite imagery

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

[10] At its meeting of June 2, 2016, the Saltspring Island Local Trust Committee resolved:

That the Saltspring Island Local Trust Committee forward application SS-ALR-2016.2 for Lot 7, Section 42, South Saltspring Island, Cowichan District, Plan 49877, to the Agricultural Land Commission with strong support and to be accompanied by a letter from Trustee Grams (231 Meadow Drive).

SITE VISIT

[11] On September 22, 2016, the Panel conducted a site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[12] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications*. The site visit report was certified as accurately reflecting the observations

and discussions of the Site Visit by the Applicant on October 3, 2016 (the “Site Visit Report”).

FINDINGS

[13] The Applicants have submitted the Application as the proposed dwelling, although designed to be moved, does not meet criteria for a manufactured home pursuant to s. 3(1)(b) of BC Regulation 210/2016 Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the “Regulation”) and ALC Policy #8: *Residential Uses in the ALR – Zone 1* which permits one manufactured home up to 9 metres in width for use by an immediate family members, in addition to a single family dwelling. The Applicant states:

We feel that because it was built from the beginning with the intention that it would eventually be moved, and we put careful thought and consideration into designing and engineering the structure so that it could be safely transported to a new location, we feel that we are conforming to the intention of the rules laid out by the ALC, and we are asking that you accept this building to be used under the ALC Policy #8 for our daughter to live in while she works on our farm.

[14] During the Site Visit, the Applicant described the farm activity which currently includes 34 lay hens, one rooster, five adult goats and four kids on the Property. In viewing the Property at the Site Visit, the Panel determined that there is a small portion of flat land on the Property, and that the majority of the Property is sloped with some rock outcropping. The proposed second dwelling is currently located on the rocky slope and therefore, the Panel finds that location does not negatively impact agricultural activity on the Property.

[15] The proposed dwelling is small, is designed to be moved, and shall only remain on the Property while the Applicant’s daughter works on the farm. When the Applicant’s daughter leaves the Property; she plans to take the dwelling with her, as stated in the Application:

This building however was built from the beginning with the intention of being moveable, so that when/if our daughter can afford to buy a little farm of her own, she could move it there as a complete unit without damage and it would be ready to use very quickly after it is delivered to the new site (probably quicker and better than a manufactured home).

The Panel finds that the dwelling is constructed to be temporary and specifically for the use of immediate family to assist on the farm, and as such the dwelling can be removed when it is no longer required for an immediate family member.

[16] With regard to accepting alternate small dwellings in lieu of a manufacture home, the Panel also received a letter, dated June 6, 2016 from Salt Spring Island Trustee George Grams Mr. Grams letter states:

Mobile and manufactured homes are more traditionally redolent of trailer-like structures. By virtue of the fact that these types of buildings are not representative of island character and so are inconsistent with Islands Trust goal C, the SSI L TC would wish to discourage them. Accordingly, we would respectfully ask that ALC policy #8 be considered in light of a perceived conflict with the Islands Trust mandate and goal C. Having said that, the SSI L TC recognizes the intent of ALC policy #8. We support that intent and believe it can be captured in ways that are more aptly supportive of the arts and crafts culture on Salt Spring Island.

Tiny homes and small scale bespoke dwellings can readily be designed and built in a manner that meets the intent of ALC policy #8 but that are more flexible in terms of respecting traditional island character that the L TC is obligated to uphold...

[17] While the Panel recognizes that the Islands Trust does not find mobile or manufactured homes to be consistent with the character of Salt Spring Island, the Panel is not at liberty to modify the definition or intent of the Regulation or ALC Policies by way of an application. Consideration of tiny homes being permitted outright in lieu of manufactured homes would more appropriately be addressed through amendments to the Regulation. Until such time, the Commission must review individual requests and base decisions upon the merits of



each application. This decision should not be extrapolated as an alternate interpretation of the Regulation or ALC Polices to be broadly applied to any other circumstance or property.

DECISION

[18] For the reasons given above, the Island Panel approves the Proposal to utilize a 423 ft² (39.3 m²) dwelling for the Applicant's daughter to live in while she works on the farm.

[19] The Proposal is approved subject to the following conditions:

- a. the registration of a covenant for the removal or full decommissioning of the cottage upon sale of the Property
- b. that the cottage be in lieu of a manufactured home
- c. the cottage be used for immediate family member use only

[20] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[21] These are the unanimous reasons of the Island Panel of the Agricultural Land Commission.

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

[23] This decision is recorded as Resolution #386/2016 and is released on November 15, 2016.



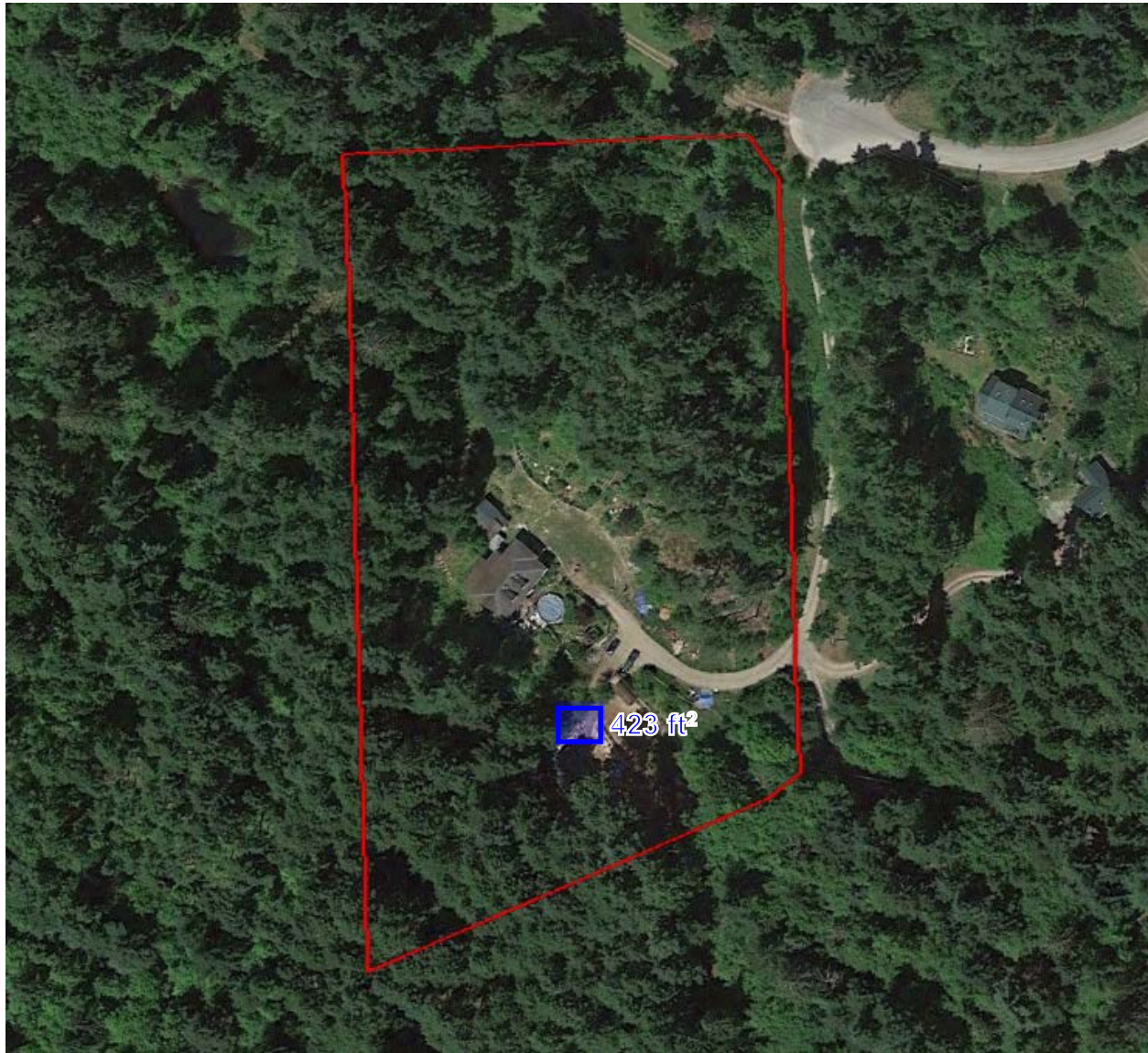
CERTIFICATION OF DECISION

A handwritten signature in black ink, consisting of several overlapping loops and a long tail stroke extending downwards and to the left.



Jennifer Dyson, Panel Chair, on behalf of the Island Panel

END OF DOCUMENT

ALC Application 55182 (Elston-Tuttle)
Conditionally Approved Non-Farm Use
Resolution # 386/2016



Legend:

-  Property Boundary
-  Approved Non-Farm Use