



Agricultural Land Commission
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November 14, 2016

ALC File: 55203

Helliwell+Smith Blue Sky Architecture
4090 Baybridge Avenue
West Vancouver, BC V7V 3K1

Attention: Kim Smith

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

Please find attached the Reasons for Decision of the Island (Resolution #382/2016) 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).

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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 #382/2016)

cc: Islands Trust (File: HO-ALR-2016.1)

55203d1



AGRICULTURAL LAND COMMISSION FILE 55203

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicants:

**Yajun Song
Houmei Li
(the “Applicants”)**

Agent:

**Kim Smith
(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: 000-157-503

Lot 7, Section 10, Hornby Island, Nanaimo District, Plan 32518
(the "Property")

[2] The Property is 3.7 ha in area.

[3] The Property has the civic address 5905 Maclean Road, Hornby 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 construct two single family dwellings attached by a breezeway (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 Agent in advance of this decision.

[10] At its meeting of May 16, 2016, the Hornby Island Local Trust Committee resolved:

That the Hornby Island Local Trust Committee request staff to forward application HO-ALR-2016.1 from Yajung Song and Houmei Li concerning the non-farm use of land within the Agricultural Land Reserve to the Agricultural Land Commission for consideration, and to include relevant policies.

SITE VISIT

[11] 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

[12] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 92F/10 for the mapping units encompassing the Property are Class 2X (20%) and Class 3P (80%).

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 P (stoniness) and X (combination of soil factors).

[13] The Panel finds that based on the agricultural capability determined by the CLI rating, the Property has good agricultural capability.

[14] The Applicants have indicated that there is no agricultural activity currently taking place on the Property. The Panel believes that the residential situation should reflect the agricultural needs of a particular property. Based on the information provided, the Panel does not believe that there is an agricultural rationale to warrant an additional dwelling on the Property.

[15] The Panel considered the construction of the proposed second dwelling for the non-farm purposes provided in the Application and finds that s. 3(1)(b) of Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation) (the "Regulation") provides opportunities to accommodate up to three residential uses without the necessity to construct an additional permanent residence on the Property.

3 (1) *The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by law of the applicable treaty first nation government:*

(b) *for a parcel located in Zone 1,*

(i) *one secondary suite within a single family dwelling, and*

(ii) *either*

(A) *one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family, or*

(B) *accommodation that is constructed above an existing building on the farm and that has only a single level.*

DECISION

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

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

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

[19] This decision is recorded as Resolution #382/2016 and is released on November 14, 2016.

CERTIFICATION OF DECISION



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

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