



Agricultural Land Commission
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December 20, 2016

ALC File: 55567

Pamela Messner
Rogue Arts Festival & Clarke Farm
1802 Tyson Road
Sechelt, BC V0N 3A1

Dear Ms. Messner:

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

Please find attached the Reasons for Decision of the South Coast Panel (Resolution #438/2016) 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 Kamelli Mark at (Kamelli.Mark@gov.bc.ca).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'KMARK'. The letters are stylized and connected, with a prominent 'K' and 'M'.

Kamelli Mark, Land Use Planner

Enclosures: Reasons for Decision (Resolution #438/2016)
Sketch plan

cc: Sunshine Coast Regional District (File: 3400-20 2016-01)

55567d1



AGRICULTURAL LAND COMMISSION FILE 55567

REASONS FOR DECISION OF THE SOUTH COAST PANEL

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

Applicant: **Clarke Farm Corporation
(the “Applicant”)**

Agent: **Pamela Messner
(the “Agent”)**

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: 011-208-783

Block 2, District Lot 1491, Plan 5203

(the "Property")

[2] The Property is 29.3 ha in area (27.1 ha within the ALR).

[3] The Property has the civic address 4031 Browning Road, Sechelt, BC.

[4] The Property is located partially 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 Applicant is applying to operate an annual three day arts festival (the "Rogue Arts Festival"), with an expected attendance of 1500, utilizing 3 ha of the Property; the Rogue Arts Festival includes:

- Festival site (250 ft by 300 ft including a stage, festival tents, vendor stations, and patron seating)
- Camping area (150 ft by 150 ft with a maximum of 100 campsites available)
- Parking area (two rows of vehicles with a maximum row length of 1000 ft)

(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*. The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 are as follows:

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 Agent in advance of this decision.

[10] At its meeting of August 3, 2016, the District of Sechelt resolved to forward the non-farm use application to the Commission with support.

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

Application ID: 35779
Legacy File: 11281
(Walters, 1981)

To exclude 45 ha (4 parcels in the ALR subject to the ALC Act and regulations) from the Agricultural Land Reserve. The Commission determined that the majority of the lands have the potential to be utilized for agricultural purposes and thus warrant retention in the ALR. The application was refused by ALC Resolution #328/1981.

Note: the Panel did not find the application to be relevant to the current Proposal and as such did not consider it in their deliberations.

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 Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 92G/05 for the mapping units encompassing the Property are approximately 80% Class 4WD, 15% Class 7RT, 3% Class 5MP, and 2% Class 5M.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are W (excess water), D (undesirable soil structure), R (bedrock near the surface), M (moisture deficiency), P (stoniness) and T (topographic limitations).

[14] The Panel reviewed the CLI ratings and find that the Property is capable of supporting agriculture and is appropriately designated within the ALR.

[15] The Property is one of five parcels within the ALR that comprise the 70.6 ha Clarke Farm. The Application states that Clarke Farm has been in operation since 1970 and is currently being used for a variety of agricultural uses including hay fields, cattle pasture, woodlots, vegetable gardens, chickens, an orchard, and other ancillary farm uses. There is a 15 ha woodlot and 15 ha of hay fields on the subject Property; the 3 ha area of the Property forming the Proposal is currently used for a hay crop.

[16] The Panel first considered whether or not the Proposal could be accommodated on lands outside of the ALR. The Application states that:

The Rogue Arts Festival is proposing the site of Clarke Farm for a number of specific reasons. While the Sunshine Coast has many properties on ALR land, not many of these are working, functioning farms. It's the festival's vision to include agritourism (sic) as a method of preserving and promoting our local agricultural land. Clarke Farm sits on Tyson Rd in Sechelt. This particular and unique road is home to 5 different working farms, all of whom support the festival and it's (sic) desire to showcase farms on the Sunshine Coast. From workshops to farm tours to demonstrations and beyond, being able to promote our local farms through the platform of the arts is a symbiotic and mutually beneficial relationship and fits within our mandate to stimulate a collaborative spirit within our community. The owner of

the farm is a supporter of the festival as well as helps with the production end of running the event. As well, as one of the Clarke Farm residents and farmers myself, I both sit as a Coast Rogue Arts Society Board Member as well as take on a significant volunteer staffing role within Operations. The support of the farm, and the people on it, are major considerations and heavy contributors to making the festival possible.

Given the involvement of Clarke Farm with the festival operations, the Panel understands the Applicant's rationale to hold the event on the Property. The Panel notes that the Proposal combines some aspects of agri-tourism as defined in s. 1(4) of BC Regulation 171/2002 ALR Use, Subdivision and Procedure Regulation (the "Regulation") with the other arts festival activities, and agrees that the non-farm use would serve to showcase the agricultural operations of the Clarke Farm. The Panel is amenable to allowing the Proposal provided that the Clarke Farm continues to be used for farm purposes and continues to be classified as a "farm" under the *Assessment Act*.

[17] The proposed festival site is located on the northwestern portion of the Property. The northern, southern, and eastern boundaries of the Proposal area border land utilized by Clarke Farm. The western boundary of the Proposal area is directly adjacent to Tyson Road. Given the fact that the festival area and camping site are not directly adjacent to any other properties, the Panel is satisfied that the proposed festival location would not cause any negative impacts on surrounding ALR lands. In addition, the Panel also notes that eight letters of support were provided from surrounding residents, including the Applicant and the Wilson Creek Blackberry Farm.

[18] The Panel then considered the potential impacts of the Proposal on the current agricultural activities occurring on the Property and on the adjacent parcels comprising the Clarke Farm. The Application states that:

The entire area proposed for the festival site, parking and camping are hay fields. We traditionally pull that hay off the fields in July sometime, weather depending, sometimes earlier. These fields are self seeding (sic) mixed hay which never

produce a second cut. Parking is being put in an area that does not produce any good hay and will have parking attendants ensuring the routes are observed. Festival goers will be walking in and out of the site and camping area which will have little if any impact on the root system of the hay. At this time of year the ground is dry and the seed and mulch from cutting has had time to work in and the weight of foot traffic is of little impact.

The proposed camping area is on a small circular hay field which produces some good and some not good hay. The fenced camping area will be placed in the area which produces the worst hay with the intention of cultivating and reseeding this area after the festival.

Camping will be restricted to the dedicated festival community. These people include artists, staff, volunteers, vendors, and those who have purchased and committed to the entire 3-day event.

Given the relatively short duration of the three day festival, the Panel is satisfied that it will be feasible to bring the 3 ha Proposal area back into hay production following the conclusion of each individual festival event and that appropriate measures such as temporary fencing will be utilized to ensure that any impact to the existing agricultural operations are minimized or mitigated; however, the Panel is not amenable to the Proposal continuing on an annual basis in perpetuity given the potential for negative impacts to the land to accrue over time.

[19] The District of Sechelt has issued a three-year Temporary Use Permit (TUP) for the Proposal subject to the Applicant obtaining any other required approvals. The Panel is not bound to approve the Proposal despite the District of Sechelt's decision to pre-approve the TUP. As previously stated, the Panel is not amenable to approving the festival *carte blanche*, but finds that a three-year time frame which corresponds with the TUP to be a reasonable period of time to hold the festival and to demonstrate whether or not the event will adversely impact the Property. The Panel advises that it is expected



that the festival remain ancillary and subordinate to the current and future farm operations.

[20] In order to demonstrate that the festival has not negatively impacted the Property, the Panel will require the following:

- A pre-event assessment to establish the current agricultural capability of the Proposal area;
- A reclamation plan prior to the first event to outline mitigation and remediation measures to ensure that the festival does not negatively impact the agricultural capability of the Property; and
- A post-event report following each festival to confirm that the Proposal area has been reclaimed to an agricultural capability that is the same or better than pre-event conditions.

The pre-event assessment, reclamation plan, and post-event report must be prepared by a qualified professional to the satisfaction of the ALC.

DECISION

[21] For the reasons given above, the Panel refuses the Proposal as proposed.

[22] The Panel conditionally approves the operation of a 3 day arts festival the ("Rogue Arts Festival"), with an expected attendance of 1500, utilizing 3 ha of the Property for 3 years (annually), expiring on August 3, 2019 including:

- Festival site (250 ft by 300 ft including a stage, festival tents, vendor stations, and patron seating)
- Camping area (150 ft by 150 ft with a maximum of 100 campsites available)
- Parking area (two rows of vehicles with a maximum row length of 1000 ft)

[23] This approval is subject to the following conditions:

- a. the festival is approved for a period of three consecutive years commencing in 2017 and, expiring on August 3, 2019 which coincides with the date of expiry of the District of Sechelt's TUP;
- b. each individual festival event shall not last longer than three consecutive calendar days;
- c. only one festival event is allowed per calendar year;
- d. the footprint of the Rogue Arts Festival must not exceed 3 ha and must be restricted to the areas outlined in the Sketch Plan attached to this decision;
- e. temporary event fencing of the festival site and camping area must be installed for the duration of each individual festival event as per the Sketch Plan attached to this decision;
- f. Satellite parking facilities and other amenities associated with the event are strictly prohibited on other ALR lands;
- g. any and all facilities, structures, fencing, and equipment associated with the festival shall be removed within 7 calendar days following each annual event;
- h. that the Property maintains farm classification as per the *Assessment Act*;
- i. submission of a pre-event assessment prepared by a qualified professional for review and approval by the Commission at least 60 calendar days prior to the 2017 festival event;
- j. submission of a reclamation plan prepared by a qualified professional for review and approval by the Commission at least 60 calendar days prior to the 2017 festival event;
- k. submission of an annual closure report prepared by a qualified professional for review and approval by the Commission within 60 days of concluding each festival event;
- l. this approval does not imply approval for any other festival event; and
- m. temporary approval for the non-farm use is granted for the sole benefit of the Applicant and is non-transferable.

[24] 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.

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

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

[27] This decision is recorded as Resolution #438/2016 and is released on December 20, 2016.

CERTIFICATION OF DECISION

A handwritten signature in black ink, appearing to read 'W. Zylmans', with a long horizontal flourish extending to the right.

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

END OF DOCUMENT



ALC #55567 (Clarke Farm)
Conditionally Approved Non-Farm Use
ALC Resolution #438/2016 **expiring on
August 3, 2019.**



LOW IMPACT INITIATIVES:
 A. FESTIVAL SITE (CONTAINED) (FENCED) PROPOSED TEMPORARY
 B. CAMPING SITE (CONTAINED) (FENCED) PROPOSED TEMPORARY
 C. PARKING RESTRICTED TO FENCE (PROPERTY) LINE

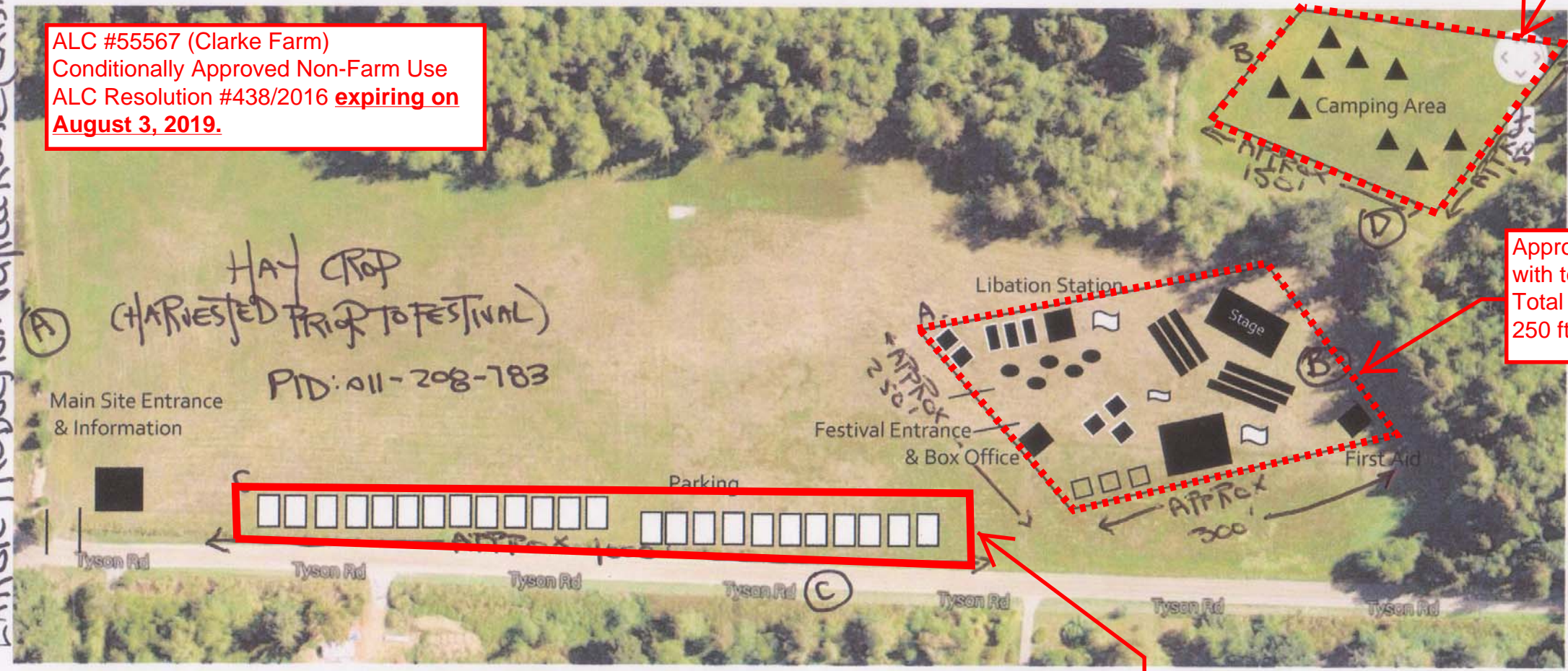
PHOTO INDEX:
 (A) ENTIRE FIELD FACING SOUTH
 (B) ENTIRE FIELD FACING NORTH
 (C) PROPOSED FESTIVAL SITE FACING SOUTHEAST
 (D) PROPOSED CAMPING FACING EAST

LARGIE PRODUCTION VEHICLE ROUTE (EXISTING ROADS)

N
E
S
W

General Site Map Proposal for The Rogue Arts Festival – Tyson Rd, Sechelt, BC

ALC #55567 (Clarke Farm)
 Conditionally Approved Non-Farm Use
 ALC Resolution #438/2016 **expiring on August 3, 2019.**



Approved camping area with temporary fencing. Total allowable area = 150 ft by 150 ft with a maximum of 100 sites

Approved festival area with temporary fencing. Total allowable area = 250 ft by 300 ft

Approved parking area. Total allowable area = two rows of vehicles with a maximum row length of 1000 ft

- Porta Potties
- ◆ Festival Tents
- ▲ Camping Tents
- Vehicles
- ◆ Vendors
- Food and Libation Station Seating
- Stage Seating
- Installations

NOTES:
 + NO EXISTING BUILDINGS
 + AREAS NOT NECESSARILY TO SCALE
 + NO PERMANENT STRUCTURES WILL BE CONSTRUCTED OR MOVED ON-SITE ANYWHERE

Sunshine Coast Hwy →