



**Agricultural Land Commission**  
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December 15, 2008

Reply to the attention of Terra Kaethler  
ALC File: J-38420

Gar Clapham  
PO Box 22 - 3377 Shawnigan Lake Road  
Cobble Hill, BC V0R1L0

Dear Sir:

**Re: Application for Non-Farm Use in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 787/2008 outlining the Commission's decision as it relates to the above noted application.

Please send a copy of the draft covenant to this office for review. If acceptable, we will advise you to submit the covenant to be registered for execution.

When the Commission confirms that all conditions have been met, it will authorize the commencement of the construction of the second dwelling.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

Enclosure: Minutes/Sketch Plan

cc: Cowichan Valley Regional District (1-C-08-ALR)  
BC Assessment

TK/  
i/38420d1.doc



**A meeting was held by the Provincial Agricultural Land Commission on November 06, 2008 in Comox, B.C.**

<b>PRESENT:</b>	Lorne Seitz	Chair, Island Panel
	David Craven	Commissioner
	Jennifer Dyson	Commissioner
	Terra Kaethler	Staff

**For Consideration**

Application: # J- 38420  
 Applicant: Gar Clapham  
 Proposal: Non-farm use to construct a second residence on the 4.0 ha subject property for the applicant’s mother.  
 Legal: PID: 008-892-547  
 Location: Lot 1, Section 10, Range 5, Shawnigan District, Plan 45892  
 3377 Shawnigan Lake Road

**Site Inspection**

A site inspection was conducted on October 18, 2008. Those in attendance were:

- David Craven Commissioner
- Gar Clapham and his mother Applicants

Commissioner Craven met with the applicant and his mother on the property and discussed the proposal. The applicant mentioned that the footprint of the cottage would be approximately 576 sq ft. and located in close proximity to the existing home, using the same septic system. It was noted that the majority of the property appeared to be very wet and that the proposed area may be the only suitable building area.

**Commissioner Eligible to Vote**

Commissioners Seitz and Dyson were not present at the site inspection. It was confirmed that a summary of the site inspection was provided thus establishing the Commissioner’s eligibility to vote on the application.

**Context**

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the “Act”). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. 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.

## **Discussion**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission recognized that the cottage was intended for the applicant's mother and would have a small footprint. However, in general the Commission believes that a second dwelling on a property of only 4.0 ha is not warranted and may impact the agricultural potential of the property.

To this end, the Commission discussed conditions which may minimize the impact of the second dwelling as proposed. It believed that if the cottage were placed on a non-permanent foundation, the long-term impact to the property would be minimal. Further, the Commission believed that a covenant limiting occupation of the second dwelling to the applicant's mother, and requiring that the second dwelling be removed when the applicant's mother is no longer living there would decrease any negative impact of the proposal on existing or potential agricultural use of the subject property or surrounding lands.

## **Conclusion**

That, with the appropriate conditions in place, the proposal will not negatively impact agriculture.

### **IT WAS**

**MOVED BY:** Commissioner Seitz  
**SECONDED BY:** Commissioner Dyson

THAT the application be approved;

AND THAT the approval is subject to the following conditions:

- That the second dwelling be limited to a maximum of 600 square feet and in the location proposed in the application.
- That the second dwelling be placed on a non-permanent foundation.
- That a covenant be registered on the title of the property for the purpose of limiting the residential use of the second dwelling to the applicant's mother and to ensure that the second dwelling be removed from the property when it is no longer occupied by the applicant's mother.
- Approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.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.*
- (2) *The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

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.

**CARRIED**  
**Resolution # 787/2008**

<< F1 land & residential on 1 Ha F1 land >>

Empress Ave

E & N Railway

SHAWNIGAN LAKE ROAD

WEST 230 M 760'

HYDRO POLE

5.5 M IP

IP

IP

HOUSE

small suite

septic tanks

SEPTIC FIELD

SOUTH  
18.4 M  
602'

A1 ≈ 9 Ha  
residential  
1/4 Ha farming

NORTH  
178 M  
585'

A1  
residential  
no farming

FLOODED 8 mo/yr

Provincial Agricultural Land Commission

Application # 38420

Resolution #787/2008

EAST  
230 M  
753'

A1  
residential  
no farming

Approved second dwelling

