



**Agricultural Land Commission**  
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January 2, 2013

ALC File: # 52763

Johnson's Landing Retreat Center Ltd  
RR1 Site 4, C 31  
Kaslo, BC  
V0G 1M0

**Attn: Richard and Angele Ortega**

Dear Mr. and Mrs. Ortega:

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

Please find attached the Minutes of Resolution #400/2012 as it relates to the above noted application. The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

- 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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Lindsay McCoubrey.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Brian Underhill', is written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #400/2012

cc: Regional District of Central Kootenay (File: 4810-20-A1203D-05662.200)



## **MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION**

A meeting was held by the Provincial Agricultural Land Commission on November 22, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52763.

### **COMMISSION MEMBERS PRESENT:**

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

### **COMMISSION STAFF PRESENT:**

Roger Cheetham	Regional Planner
Lindsay McCoubrey	Land Use Planner
Eamonn Watson	Land Use Planner
Liz Sutton	Land Use Planner
Colin Fry	Executive Director

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### **PROPOSAL**

The application proposes to increase the current Non-farm Use to allow for future growth of Johnson's Landing Retreat Center. Expansion includes: two 2-bedroom cabins, a living earth machine (sewage system built inside a greenhouse), an outdoor stage, one 4-bedroom staff house with kitchen and bathrooms, a new lodge with a commercial kitchen, dining area, office/gift store and a laundry facility as well as the three buildings either constructed or under construction (solar shower unit, a solar meditation space and a 24 foot diameter geodesic dome).

(Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

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### **SITE INSPECTION**

A site inspection was conducted on August 8, 2012. Those in attendance were Commissioner Thibeault, Electoral Area 'D' Director Andy Shadrack and the applicants Richard and Angele Ortega. Commissioner Thibeault and Area 'D' Director Shadrack met with the applicants on site and toured the subject property. Photographs of existing cabins, the main lodge, prospective building locations, a potential agricultural area and the three new structures were taken. The participants also toured the adjacent Stellar Seeds property.

Section 14(2) of the *Agricultural Land Commission Act* provides that a member of the Commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote. Commissioner Thibeault provided a verbal overview of the site inspection including a review of the photographs.

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#### LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

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.
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#### PREVIOUS APPLICATION

Application: #14265  
Applicant: Johnson's Landing Retreat Center  
Proposal: To construct six seasonal structures for guests visiting the retreat centre.  
Decision Date: November 24, 1999  
Decision: Tabled pending completion of the Regional District of Central Kootenay's land use planning program.

#### First Reconsideration

Proposal: Same as above  
Decision Date: October 10, 2002  
Decision: Allowed as proposed.

#### Second Reconsideration

Proposal: To increase the number of seasonal structures from six to ten sleeping units.  
Decision Date: June 10, 2004  
Decision: Allow as proposed.

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#### COMMISSION CONSIDERATION

The Commission deferred the decision on November 20, 2012 with direction to staff to contact the Regional District of Central Kootenay (RDCK) requesting any new comments or issues identified in the local government's perspective in light of the significant landslide in July 2012. Since the original local government report was made prior to the landslide, the Commission



asked the RDCK for clarification regarding building permit requirements for this area of Electoral Area 'D'. The Commission was primarily concerned about how the landslide may have affected the geotechnical stability of the property and whether or not it would be appropriate to consider additional development without some other agency having technical oversight of future construction.

Regional District staff confirmed that building permits are required and that no new comments were to be added from the RDCK's perspective.

After considering the information the Commission concluded as follows:

1. The scope of the expansion proposal to include a new lodge, staff housing, two additional guest cabins and other various structures for use by the centre's guests would bring the number of 'new' structures on the 6.9 ha property to nineteen – not including the seasonal tipis (Note: Another spelling of tepees), tree houses and the original structures onsite prior to 1999.

**Conclusion:** The proposed development would preclude the possibility of agriculture being carried out on the property.

2. Currently five of the ten approved cabins have been built, as well as three non-dwelling based structures (geodesic dome, solar shower, meditation room) for a total of eight structures on the property built over the course of the application process from 1999.

**Conclusion:** The Commission is willing to accept the three non-cabin structures as within the scope of the previous decision, such that there are two remaining approved cabins to be built on the subject property.

**IT WAS**

**MOVED BY:            Commissioner Thibeault**

**SECONDED BY:        Commissioner Dyson**

THAT the request be refused as proposed.

AND THAT the geodesic dome, solar shower and solar meditation room be considered part of the approved ten cabins, such that there are two remaining approved cabins/structures to be built within the scope of Resolution #259/2011.

AND THAT it be noted the Commission has restricted its consideration to an agricultural prospective. It has not included geotechnical considerations into its decision (with respect to the major landslide in July 2012) and as such the two remaining structures to be built on the property are approved subject to building permit approvals and any other approvals deemed necessary by the Regional District of Central Kootenay or other relevant authorities.

AND FINALLY THAT 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 #400/2012**