



Agricultural Land Commission
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August 21, 2014

ALC File: #52882

Robin and Ray Smith
P.O. Box 1771
Ladysmith, B.C. V9G 1B3

Dear Mr. and Mrs. Smith:

Re: Request for Reconsideration – ALC Resolution #19/2013

Please find attached the Minutes of Resolution #154/2014 as it relates to the above noted application.

Further correspondence with respect to this application should be directed to Liz Sutton.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #152/2014

cc: Cowichan Valley Regional District (File: 1-H-11ALR)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 29, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #52882.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Jennifer Carson	Planner
Liz Sutton	Planner
Brian Underhill	Deputy Chief Executive Officer
Colin Fry	Chief Tribunal Officer

REQUEST FOR RECONSIDERATION

The Commission received a letter dated January 16, 2014 requesting reconsideration of its decision recorded as Resolution #19/2013, by which, the proposal to build a second dwelling for a family member was refused.

Owners: Raymond & Robin Smith

Original Proposal: (Submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*)
To build a second dwelling for a family member.

Original Decision: Refused.

Current Request: To reconsider the original application. The applicant wishes to clarify that only one new dwelling would be constructed in addition to the existing farm house.

Legal: PID: 008-720-398
District Lot 5, Bright District, Except Part in Plans 32170 and VIP82582

Location: 13150 Cameron Road, Cassidy

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

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.

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The applicants believe that the previous decision was based on information that was in error. More specifically, that the original decision minutes stated:

The Commission understands that the applicants intend to (1) provide a new dwelling for their daughter who would manage a proposed equestrian facility; (2) construct a second new dwelling for the applicants and relatives; and (3) remove the original farm house resulting in a total of two permanent dwellings on the property.

The applicants believe this statement is incorrect and that they proposed one new dwelling, not two. The Commission reviewed the applicants' original application proposal and the Cowichan Valley Regional District's staff report which state:

Application Form Proposal

To construct 1920 sq ft, level entry, wheelchair accessible farm use home from existing accessory building. This home will be for my wife, my 96 yr old aunt and myself while we develop the farm and construct the beginnings of an equestrian center to be operated by our daughter when she moves here in 2013. Once the existing non-farm use residence, build in approx 1920, is no longer required for our 91 yr old tenant, we will dispose of that residence and build a "NEW" non-farm use residence for my wife, aunt and myself.

Cowichan Valley Regional District Staff Report

The applicants are requesting approval from the ALC for a second single family dwelling. There is an existing residence, and a new residence would be constructed using the school portables already on the site.

The Commission believes the applicants have pointed out a discrepancy in the description of the dwellings to be placed on the subject property. Despite the minor nature of the discrepancy, it was moved by Commissioner Miles and seconded by Commissioner Johnson that there were no persons affected by the reconsideration and that the Commission reconsider Resolution #19/2013. The motion was carried unanimously.

COMMISSION CONSIDERATION

After considering the new information the Commission concluded as follows:

1. The Commission has been put into a difficult position in which they are being asked to allow an already constructed second dwelling, which by all other accounts, would not be approved for farm help based on the current level of agricultural activity taking place on the property.

Conclusion:

The Commission is willing to consider allowing two dwellings on the property provided the occupancy of one of the dwellings is restricted to a family member(s) or a person(s) needed for farm help. Furthermore, the consideration would be on the understanding that no additional residential accommodations (i.e.: a secondary suite or manufactured home) or dwellings will be placed or constructed on the property. The second dwelling is not to be used as a non-farm related residential or rental accommodation.

IT WAS

MOVED BY: Commissioner Miles
SECONDED BY: Commissioner Johnson

THAT the request to retain an existing second dwelling on the subject property be approved.

AND THAT the approval is subject to the following conditions:

1. The second dwelling may only be inhabited by a family member(s) or farm help, if neither are living in the second dwelling, it is to be decommissioned and made uninhabitable or removed from the property; and
2. No other forms of residential accommodation or dwellings are permitted on the subject property.

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 #154/2014