



Agricultural Land Commission
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June 24, 2014

ALC File: #53046

Inder Hundle
6393 Patricia Bay Highway
Victoria, BC V8Y 1T7

Dear Mr. Hundle:

Re: Application for the Non-Farm Use of Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #229/2014 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

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #229/2014

cc: District of Central Saanich (File: 3360-40-3/12)

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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 #53046.

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 8, 2014 requesting reconsideration of its decision recorded as Resolution #69/2013, by which, the proposal to legalize the existing garage suite was refused.

Owner: Inder Hundle

Original Proposal: (Submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*)
To legalize the existing garage suite.

Original Decision: Refused.

Current Request: The applicant would like the Commission to reconsider its decision regarding the existing carriage suite above the garage.

Legal: PID: 023-458-151
Lot A, Section 16, Range 4 East, South Saanich District, Plan VIP63540,
Except Plan VIP65747

Location: 6393 Patricia Bay Highway, Central Saanich

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 Commission believes that the applicant has demonstrated the all or part of the original decision was based on evidence that was in error or was false.

As a result, it was moved by Commissioner Bullock and seconded by Commissioner Gillette that there were no persons affected by the reconsideration and that the Commission reconsider Resolution #69/2013. The motion was carried unanimously.

COMMISSION CONSIDERATION

The Commission reviewed a previous application involving the subject property:

Application #13920 (Hundle, 1999) The applicant requested permission to retain the use of a heritage house as a second residence. The application was allowed provided the applicant obtained heritage status for the identified home. Resolution #378/1999.

Note: The heritage house was removed prior to the 2012 (#53046) application.

After considering the submitted information the Commission concluded as follows:

1. Conclusion #1 of ALC Resolution #69/2013 stated that *"The Agricultural Land Reserve, Subdivision and Procedure Regulation permits a secondary suite within a single family dwelling for use by an immediate family member. The house suite is not currently used by a family member, and as such is not compliant with the regulation"*.

Conclusion:

Conclusion #1 of Resolution #69/2013 is erroneous. The occupants of the suite within the main dwelling are not required to be an immediate family member, and as such the tenants residing within the suite are compliant with the Regulation.

2. The Commission considered that it had previously allowed a second single family dwelling on the subject property (Resolution #378/1999) which has since been removed. Further, the studio is situated above the garage which is ancillary to the main residence.

Conclusion:

The suite above the garage has less residential impact on the subject property than the previously approved single family dwelling.

IT WAS

MOVED BY: Commissioner Bullock

SECONDED BY: Commissioner Gillette

THAT the request for legalizing the carriage suite above the garage be approved.

AND THAT the approval is subject to the following conditions:

1. the registration of a covenant, in favor of the Commission for the purpose of restricting any additional residences on the subject property; and
2. the garage suite is permitted in lieu of placing a manufactured home on the subject property for an immediate family member.

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 #229/2014