



Agricultural Land Commission
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December 14, 2015

ALC File: #53490

L. Lindinger and P. Sullivan
680 Dairy Road
Kamloops, BC
V2B 8N5

Dear Sir/Madam:

Re: **Reconsideration of original application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #454/2015) as it relates to the above noted application.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act (ALCA)* 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.

Please note that pursuant to s. 33.1 of the *ALCA*, the Chair may direct the executive committee to reconsider this 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 of the *ALCA* or does not adequately take into account the considerations set out in s. 4.3 of the *ALCA*. I can advise you that in this case, the Chair has already reviewed the decision and has instructed me to communicate to you that he does not intend to exercise that authority in this case.

Further correspondence with respect to this application is to be directed to Ron Wallace at Ron.Wallace@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A large, stylized handwritten signature in black ink, appearing to be the initials 'CJF'.

Colin J. Fry, Chief Tribunal Officer

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Enclosure(s): Reasons for Decision (Resolution #454/2015)

cc: City of Kamloops (File #ALR00035)

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AGRICULTURAL LAND COMMISSION FILE 53490

REQUEST FOR RECONSIDERATION REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

**Application was submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*
Request for Reconsideration submitted pursuant to s. 33 of the *Agricultural Land Commission Act***

Applicant:

**L. Lindinger
P. Sullivan**

Application before the Executive Committee:

**Frank Leonard, Chair
William Zylmans, South Coast Panel
Lucille Dempsey, Interior Panel
Jennifer Dyson, Island Panel
Dave Merz, North Panel
Gerald Zimmermann, Okanagan Panel**



THE APPLICATION

- [1] The legal description of the Property involved in the application is:
Parcel Identifier: 011-902-388
Lot 4, District Lot 313, Kamloops Division Yale District, Plan 919 (the "Property")
- [2] The Property has the civic address 680 Dairy Road in the City of Kamloops.
- [3] The Property is 4 ha in area.
- [4] The Property is located completely within a designated agricultural land reserve ("ALR") as defined in section 1 of the *Agricultural Land Commission Act* (the "ALCA").
- [5] The Property is located within Zone 2 as defined in subsection 4.2 of the *ALCA*.
- [6] Pursuant to s. 20(3) of the *ALCA* the Applicants applied for permission to rent a portion of the property to a caterer to host approximately 30 events per season. Each catered event would host between 20 and 40 persons. In addition the Application requested permission to host sixteen (16) additional farm and garden workshops.
- [7] By Resolution #168/2014, dated May 29, 2014, the Commission refused the application. In reaching its decision, the Commission concluded that the number of events was excessive for the 4 ha property. However, the Commission indicated that it may be prepared to reconsider if the applicant provided all of the documentation detailing the requirements to operate this type of business from the City of Kamloops and other agencies which have jurisdiction.
- [8] On July 2, 2015 the Commission received the Applicant's letter requesting a reconsideration of Resolution #168/2014. The letter indicated that the applicants planned to host 6 - 8 agri-tourism farm to fork dinners per season for the purposes of enhancing the sales of chickens and turkeys grown on the property. No more than 30 people would attend each of these catered dinners (by a city catering service). No additional permanent structures or



renovations to existing structures are proposed. The dinners would be held outside on the lawn, and washrooms for the patrons are provided within the residence. People would arrive to the dinners by bus. The bus would be parked on the farm property.

RELEVANT STATUTORY PROVISIONS

[9] The reconsideration request was submitted pursuant to s. 33 of the *ALCA* which 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.

[10] The purposes of 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.

DELEGATION TO EXECUTIVE COMMITTEE

[11] On October 29, 2014, the Agricultural Land Commission met and by Resolution #029N/2014 decided to delegate certain reconsideration requests to the Executive Committee. The following is an excerpt from the resolution:

- A. The Agricultural Land Commission (the Commission) may, pursuant to s. 10(3) of the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36, as amended (*ALCA*), delegate any of the Commission's functions to the Executive Committee.



- B. The Executive Committee is a standing committee of the Commission established under s. 10(1) of the *ALCA*, consisting of the Commission Chair and Vice Chairs.
- C. The Commission considers that it is necessary, cost effective and desirable to delegate to the Executive Committee the Commission's power to decide under s. 33 whether to reconsider an application decision made by a regional panel (following which, if the decision is to reconsider, the Commission Chair must under s. 11.1(3) of the *ALCA* refer the matter to the regional panel who made the decision).
- D. The Commission considers that it is necessary, cost effective and desirable to delegate to the Executive Committee the Commission's power to:
 - (a) decide under s. 33 whether to reconsider a decision made prior to September 5, 2014 (transitional application); and
 - (b) if the decision is to reconsider, decide under s. 33 to confirm, reverse or vary a decision with respect to a transitional application, on the grounds that such reconsiderations are not subject to referral to a regional panel under s. 11.1(3) of the *ALCA*.

EVIDENTIARY RECORD BEFORE THE EXECUTIVE COMMITTEE

- [12] The Executive Committee considered the following evidence:
1. All the documents contained in the Application file from the date the Application was received by the Commission (October 23, 2013), to the date of Resolution #168/2014.
 2. The Commission's decision recorded as Resolution #168/2014 and dated May 29, 2014; and
 3. The Applicants' request for reconsideration dated July 2, 2015.

All documentation noted herein has been disclosed to the applicant in advance of this decision.

FINDINGS

- [13] The Executive Committee reviewed the file material and found there to be evidence which was not available at the time of the original decision and/or was in error and/or



false, and as such finds it appropriate to reconsider the Application; and more particularly Resolution #168/2014.

[14] Pursuant to s. 33(2) The Executive Committee did not find any persons to be affected by the reconsideration request.

[15] The Executive Committee noted that the applicants had revised their proposal, reducing the number of catered events from the originally requested thirty (30) per season to a maximum of eight catered events (8) per season.

[16] The Executive Committee believes that the reduced number (8) of catered events eliminated many of the Commission's original concerns outlined in Resolution #168/2014; particularly the potential for the catered events to dominate the farm activity on the property, conflict with adjoining farm operations; and erode the productive capacity of the property by precipitating the construction of buildings and other infrastructure to house the events. The Committee is pleased to note that the applicant confirms that no additional construction is anticipated to accommodate the events.

DECISION

[17] For the reasons given above, the executive committee approves the revised proposal for a maximum of eight (8) catered outdoor events on the Property per season (May – September). The approval is based on the evidence that the farm to plate dinners are ancillary to the farm operation, supportive of agricultural production on the 4 ha property, and are appropriately scaled to the size of the farm operation and property.

[18] The approved application is subject to the following conditions:

- a. that no permanent structures be constructed or renovated to accommodate the non-farm uses;
- b. limiting the number of diners at each catered dinners to a maximum of 30 persons; limiting of frequency of catered uses to no more than eight per year;
- c. issuance of a "Temporary Use Permit" by the City of Kamloops and compliance with any other regulatory requirements;



- d. all parking for the non-farm uses are to be accommodated on the farm parcel;
- e. the approval is for three years only;
- f. approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

[19] Frank Leonard, Commission Chair, concurs with the decision.

Lucille Dempsey, Interior Panel Vice Chair, concurs with the decision.

Jennifer Dyson, Island Panel Vice Chair, concurs with the decision.

Dave Merz, North Panel Vice Chair, concurs with the decision.

Gerald Zimmerman, Okanagan Panel Vice Chair, concurs with the decision.

William Zylmans, South Coast Panel Vice Chair, concurs with the decision.

[20] Decision recorded as Resolution #454/2015.

A decision of the Executive Committee is a decision of the Commission pursuant to s. 10(3) of the *Agricultural Land Commission Act*.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #454/2015. The decision is effective upon release.

Colin J. Fry, Chief Tribunal Officer

December 14, 2015

Date Released