



June 30, 2015

Agricultural Land Commission
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ALC File: 53714

Manjit Lider
5630 Alderley Road
Victoria, BC V8Y 1Y1

Dear Mr. Lider:

Re: 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 #186/2015) as it relates to the above noted application.

Your attention is drawn to s. 33(1) of the *Agricultural Land Commission Act* 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 *Agricultural Land Commission Act*, 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 section 6". 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 Liz Sutton at (Elizabeth.Sutton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Reasons for Decision (Resolution #186/2015)

cc: District of Saanich (File: 2870-30 Alderley Road)



AGRICULTURAL LAND COMMISSION FILE 53714

REASONS FOR DECISION OF THE ISLAND PANEL

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicant:

**Manjit Lider
(the "Applicant")**

Application before the Island Regional Panel:

**Jennifer Dyson, Panel Chair
Honey Forbes
Clarke Gourlay**



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 006-496-172

Lot 16, Section 39, Lake District, Plan 2349, Except Part in Plan 8430

(the "Property")

[2] The Property has the civic address 5630 Alderley Road, Victoria.

[3] The Property is 5.7 ha in area.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 20(3) of the *ALCA*, the Applicant is applying to use an existing dwelling as a residence for farm help (the "Application").

[7] On December 16, 2014, the Chair of the Commission referred the Application to the Island Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 20(3) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land

[9] The Panel considered the Application within the context of s. 6 of the *ALCA*:



- 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.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Evidence from any third parties of which disclosure was made to the Applicant
4. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Applicant in advance of this decision.

[11] On May 12, 2104, the District of Saanich (the "District") Council passed the following resolution:

"That Council endorse Option 3, as outlined in the report of the Director of Planning dated March 26, 2014, and forward the Agricultural Land Reserve application to the Agricultural Land Commission for permission for a non-farm use prior to consideration of the rezoning application"

SITE VISIT

[12] On February 25, 2015, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").



[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Applicant on April 14, 2015 (the "Site Visit Report")

FINDINGS

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 92B/11 for the mapping units encompassing the Property are approximately 45% 2X, 45% 4TM, and 10% 2D.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

The limiting subclasses associated with this parcel of land are X (combination of soil factors), T (topographic limitations), M (moisture deficiency), and D (undesirable soil structure).

[15] There are currently three farmers utilizing the land under two separate operations. Mr. Morse and Mr. Margetts have been operating Fickle Fig Farm on the Property since October 2013 in addition to utilizing other property on Alderly Road. Ms. Liz Perkins also operates Woolly Bear Farm on 1 acre of the Property which is certified organic. The Panel finds that the Property is both capable and suitable for agricultural activities.

[16] Commission Policy #10, *Building New Residence while Occupying Existing Residence* states that a new residence may be constructed where there is one existing residence on the parcel provided the existing residence is "demolished, moved off the property, or made uninhabitable upon occupancy of the new residence". The March 26, 2014 District Report to Mayor and Council states that the Applicant constructed a new dwelling on the western portion of the Property. The older dwelling remains on the Property subject to a Delayed



Demolition Building Permit and is required to be removed prior to obtaining an occupancy permit for the Applicant's new dwelling if rezoning for a second dwelling is not approved. Despite Policy #10, the Applicant is proposing to retain the older dwelling for farm help. The older dwelling is proposed to be occupied by Mr. Morse and Mr. Margetts who currently live in Sidney and commute to and from their agricultural operation every day.

[17] The Panel gave consideration to the rationale provided in the Application to retain the older dwelling for farm help and gave consideration to discussions with the Applicant, Mr. Morse and Mr. Margetts during the Site Visit. While touring the Property, the Panel was impressed by the agricultural improvements made to date and plans for expansion by Fickle Fig Farm. While the Panel appreciates the agricultural efforts, the Panel's primary concern is that the residential situation should be commensurate with the amount of agricultural activity currently taking place on the Property. The Panel understands that of the two proposed dwellings, only one would be directly associated with the agricultural activities taking place on the Property and as such the Panel finds that only one dwelling is necessary for farm use.

DECISION

[18] For the reasons given above, the Panel refuses the Application to use an existing dwelling as a residence.

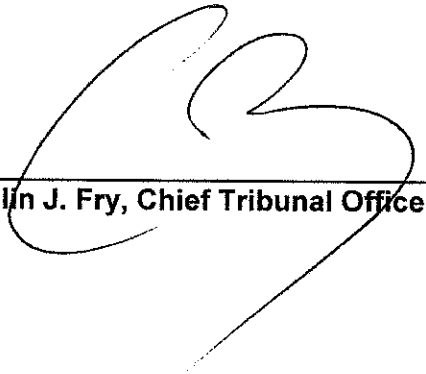
[19] Panel Chair Jennifer Dyson concurs with the decision.
Commissioner Honey Forbes concurs with the decision.
Commissioner Clarke Gourlay concurs with the decision.

[20] Decision recorded as Resolution #186/2015.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.



Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #186/2015. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

June 30, 2015

Date Released