



Agricultural Land Commission
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November 4, 2016

ALC Files: 52454

Ascot Jockey Club Ltd.
William A. Randall
Suite 903, 1428 West 6th Avenue
Vancouver, BC V6H 4H4

Dear Mr. Randall:

Re: Reconsideration of original application to Exclude land out of and Include land into the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #366/2016) as it relates to the above noted application.

Reconsideration of a Decision by an Affected Person

We draw your attention 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.

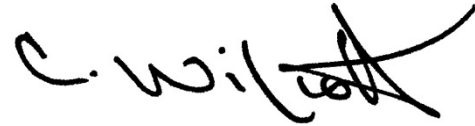
For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Christopher Wilcott at (christopher.wilcott@gov.bc.ca).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read "C. Wilcott". The signature is stylized with a large, sweeping flourish at the end.

Christopher Wilcott RPP, MCIP Land Use Planner

Enclosure: Reasons for Decision (Resolution #366/2016)

cc: Robill Holdings Ltd, Suite 1180 – 505 Burrard Street, Vancouver, BC
District of North Saanich (DNS File: 3360-20)

52454d2



AGRICULTURAL LAND COMMISSION FILES 52454

REQUEST FOR RECONSIDERATION REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

Application 52454 was submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*.

Request for Reconsideration submitted pursuant to s. 33 of the *Agricultural Land Commission Act*

Applicant:

Ascot Jockey Club

Interested Parties:

District of North Saanich

Application before the Executive Committee:

Frank Leonard, Chair

William Zylmans, South Coast Panel

Jennifer Dyson, Island Panel

Dave Merz, North Panel

Gerald Zimmermann, Okanagan Panel



THE APPLICATION

[1] The legal description of the Properties involved in the application are:

Property 1

Parcel Identifier: 005-880-289

Lot 2, Section 14, Range 2 East, North Saanich District, Plan 6103

Area: 7.8 ha

Property 2

Parcel Identifier: 005-880-386

Lot 3, Section 14, Range 2 East, North Saanich District, Plan 6103

Area: 7.0 ha

Property 3

Parcel Identifier: 005-880-548

Lot 8, Section 14, Range 2 East, North Saanich District, Plan 6103

Area: 1.7 ha

Property 4

Parcel Identifier: 005-880-751

Amended Lot 7 (DD 1927171), Section 14, Range 2 East, North Saanich District,
Plan 6103

Area: 2.9 ha

Property 5

Parcel Identifier: 005-880-670

Amended Lot 6 (DD 19271911), Section 14, Range 2 East, North Saanich District,
Plan 6103, Except Part in Plan 1187RW

Area: 0.7 ha

Property 6

Parcel Identifier: 005-880-505

Lot 5, Section 14, Range 2 East, North Saanich District, Plan 6103

Area: 7.9 ha

Property 7

Parcel Identifier: 003-692-248

Lot 4, Section 14, Range 2 East, North Saanich District, Plan 6103

Area: 7.9 ha

Property 8

Parcel Identifier: 009-422-021

Section 14, Range 2 East, North Saanich District, Except Part in Plan 6103

Area: 2.2 ha

(collectively the “Properties”)

- [2] The Properties are generally located on Glamorgan Road, North Saanich.
- [3] The Properties are 37.5 ha in area.
- [4] The Properties are located completely within a designated agricultural land reserve (“ALR”) as defined in section 1 of the *Agricultural Land Commission Act* (the “ALCA”).
- [5] The Properties is located within Zone 1 as defined in subsection 4.2 of the ALCA.
- [6] Pursuant to s. 30(1) of the ALCA, the Applicant applied to exclude approximately 5.0 ha for commercial uses, comprised of portions of four small (0.8 ha to 2 ha) parcels (Properties 3, 4, 5, and 8). The entire Sandown Racetrack facility is 38.1 ha under eight (8) titles. The Applicant proposed to consolidate the remaining 4 parcels (Properties 1, 2, 6, and 7) into a single agricultural parcel, and include approximately 5.0 ha of adjacent District of North Saanich (the “District”) land into the ALR (Application 52455) (the “Proposal”). The Proposal along with supporting documentation is collectively the “Application”.

[7] By Resolution #357/2011 (52454), dated November 14, 2011, the Agricultural Land Commission (the “Commission”) approved the Proposal (the “Original Decision”). In reaching its decision, the Commission concluded:

1. *That the land under application has agricultural capability.*
2. *That the land under application #52454 for exclusion is suitable for agricultural use and that the proposed remainder parcel could be made even more suitable by reclaiming the former racetrack lands and consolidation of parcels into a larger parcel.*
3. *That the land under application #52455 for inclusion has agricultural potential.*
4. *That the overall agricultural benefits of the proposal outweigh the drawbacks stemming from the loss of agricultural land resulting from the proposed exclusion.*

AND THAT the approval is subject to the following conditions:

1. *The inclusion of approximately 5.0 ha of land as proposed (Application #52455).*
2. *A memorandum of understanding being developed and entered into with the Agricultural Land Commission to ensure that the future development of the site is in substantial accordance with the intent of the proposal and in accordance with the reclamation plan required under point 3. The memorandum of understanding is to provide for the engagement of a professional agrologist or otherwise qualified professional to oversee the implementation of the reclamation and drainage plan for the subject lands and ensure that all soils used to rehabilitate or improve the land are of appropriate quality. The memorandum of understanding is also to provide for the engagement of the Agricultural Advisory Commission to review the agrologist report and site development plans to ensure the benefits to the agricultural community area realized.*
3. *The approval by the Commission of a reclamation and drainage plan prepared by a professional agrologist or otherwise suitably qualified professional for the consolidated parcel and the parcel proposed for inclusion to return the lands to a state suitable for agricultural purposes. The plan would include removal of the abandoned racetrack buildings and structures, stockpiling and utilization of the*

topsoil from the land to be excluded to assist in the reclamation of the proposed consolidated parcel and the land to be included, and ensuring of proper drainage on and from the property. The plan would also include estimated timelines and, if appropriate, a phased approach to reclamation.

- 4. That the source of any soil being added to the subject properties be inspected to ensure it is not contaminated and meets standards for agricultural use.*
- 5. The construction of a fence and the planting of vegetation for the purpose of buffering the excluded lands from the remainder parcel in accordance with the Commission's Landscape Buffer Specifications and the Ministry of Agriculture's Edge Planning Guidelines.*
- 6. The preparation of a subdivision plan to delineate the area to be excluded in accordance with the drawing submitted with the application.*
- 7. The registration of a covenant on title of the proposed consolidated parcel for the purpose of restricting use to agricultural and accessory uses and prohibiting park development on the site.*
- 8. The zoning of the consolidated lot that remains in the ALR being changed from Exhibition to an appropriate Rural Agricultural zone that is consistent with the Agricultural Land Commission Act and BC Regulation 171/2002 and only permits agricultural uses.*
- 9. The exclusion and inclusion must be completed within five (5) years form the date of this decision.*

[8] On August 10, 2016, the Commission received the Applicant's *Request for Reconsideration* of Resolution #357/2011. More specifically, the Applicant requested reconsideration of Condition 9 in order to allow an extension of 1 year to complete all of the conditions of Resolution #357/2011.

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 of the *ALCA* 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*.

[12] A meeting of the Executive Committee (the "Executive Committee") of the Commission was held on September 30, 2016 as it relates to the *Request for Reconsideration of Application #52454*. All members of the Executive Committee were in attendance except Lucille Dempsey.

[13] As per paragraph 11(D)(a) above, the Executive Committee considered the *Request for Reconsideration* pursuant to s. 33(1) of the *ALCA* and determined that the submission contains evidence that was not available at the time of Resolution #357/2011, and the information would have been germane to the review of the Application by the Commission.

[14] The Executive Committee concluded that the *Request for Reconsideration* meets the requirements for reconsideration pursuant to s. 33(1) of the *ALCA* and the request is therefore granted.

[15] Pursuant to s. 33(2) of the *ALCA*, the Executive Committee did not consider that there were any persons affected by the reconsideration.



[16] As per paragraph 11(D)(b) above, the Executive Committee proceeded to reconsider Resolution #357/2011 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

[17] The Executive Committee considered the following evidence:

1. All the documents contained in the Application file from September 6, 2011, being the date the Application was received by the Commission, to the date of Resolution #357/2011;
2. The Commission's decision recorded as Resolution #357/2011 and dated November 14, 2011; and
3. The Applicant's request for reconsideration dated August 10, 2016, received by the Commission on August 10, 2016.

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

FINDINGS

[18] The Executive Committee noted that the Applicant is progressing with the conditions of approval imposed by the Commission in Resolution #357/2011.

[19] The Executive Committee considered the *Request for Reconsideration* to extend the timeframe associated with Resolution #357/2011 to be reasonable given the progress made in fulfilling the required conditions to date.

[20] The Executive Committee noted that if the conditions required in Resolution #357/2011's approval are not met within the extended timeframe, a new application may be required.



DECISION

[21] For the reasons given above, the Executive Committee approves the Proposal to extend the timeframe of Resolution #357/2011 by a period of one (1) year to allow for sufficient time to successfully complete the conditions of Resolution #357/2011. The revised date to complete the exclusion decisions is now November 14, 2017.

[22] 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.

[23] These are the unanimous reasons of the Executive Committee of the Agricultural Land Commission.

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

[25] This decision is recorded as Resolution #366/2016 and is released on November 4, 2016.

CERTIFICATION OF DECISION

A handwritten signature in black ink that reads "Frank Leonard".

Frank Leonard, Chair, on behalf of the Executive Committee

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