



Agricultural Land Commission
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Fax: 604 660-7033
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July 6, 2016

ALC File: 54658

Marina Gaiga
6741 Cypress Blvd
Port Alberni, BC V9Y 8T7

Dear Ms. Gaiga and Mr. Hawkins:

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 #252/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly. A sketch plan depicting the decision has been attached.

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".

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

Enclosures: Reasons for Decision (Resolution #252/2016)
Sketch plan

cc: Alberni-Clayoquot Regional District (File: AF15001)



AGRICULTURAL LAND COMMISSION FILE 54658

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicant:

**Marina Gaiga
Joe Hawkins
(the “Applicants”)**

Agent:

**Marina Gaiga
(the “Agent”)**

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: 004-882-733

Lot 1, district Lot 103, Alberni District, Plan 11820

(the "Property")

[2] The Property is 1.2 ha in area.

[3] The Property has the civic address 6741 Cypress Boulevard, Port Alberni.

[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 Applicants are applying to continue to operate a truck repair shop and a shuttle bus company on approximately 0.2 ha of the Property (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

[7] On April 11, 2016 the Chair of the Agricultural Land Commission (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 Agent in advance of this decision.

[11] At its meeting of March 9, 2016 the Alberni-Clayoquot Regional District (the “ACRD”) Board of Directors resolved that that the application be forwarded to the Agriculture Land Commission recommending support subject to a Temporary Use Permit being issued.

SITE VISIT

[12] On April 20, 2016, 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 Agent on June 23, 2016 (the “Site Visit Report”).

FINDINGS

- [14] The Panel notes that the Proposal is not consistent with ACRD Rural (A2) zoning or the Official Community Plan (Agricultural Use). While the non-farm use is restricted to the western portion of the Property, the Panel believes that commercial and light industrial activities should be located in more appropriately zoned areas. In order to provide the Applicants with a reasonable amount of time to relocate their business, the Panel is amenable to approving the non-farm use for a period of three (3) years provided that a temporary use permit (TUP) can be obtained from ACRD.

DECISION

- [15] For the reasons given above, the Panel refuses the Proposal as proposed.
- [16] The Panel approves temporary non-farm use for the truck repair shop and a shuttle bus company subject to the following conditions:
- a. The approval is valid for a period of three (3) years beginning the date of the issuance of a temporary use permit from ACRD;
 - b. The Applicants must obtain a temporary use permit from ACRD within six (6) months from the date of this decision;
 - c. The non-farm uses must cease upon expiration of the 3 year approval and temporary use permit;
 - d. The non-farm uses must remain in its current footprint and location; and
 - e. Approval for non-farm uses are granted for the sole benefit of the Applicants and are non-transferable.
- [17] 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.



- [18] Panel Chair Jennifer Dyson, concurs with the decision.
Commissioner Honey Forbes, concurs with the decision.
Commissioner Clarke Gurlay, concurs with the decision.

- [19] Decision recorded as Resolution #252/2016.

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 #252/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', is located on the left side of the page.

Colin J. Fry, Director of Policy and Planning

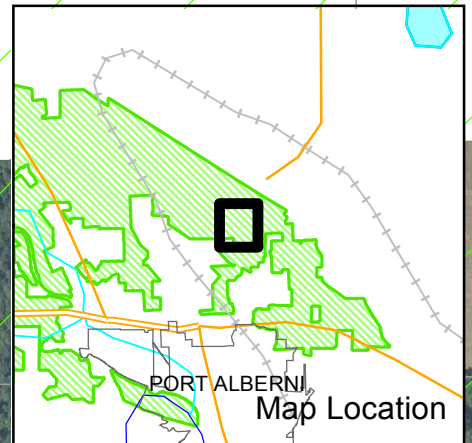
July 6, 2016

Date Released

124°48'0"W

49°18'0"N

ALC 54658 (Hawkins & Gaiga)
Conditionally Approved Non-Farm Use
ALC Resolution #252/2016



Temporarily approved
non-farm use area
(+/- 0.2 ha)

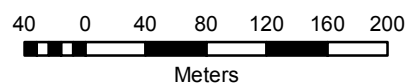
Subject Property

ALR



Airphoto Map

bc_092f026_xc500mm
utm10_2014.sid
Map Scale: 1:5,000



ALC File #:	54658
Mapsheet #:	92F.026, 92F.027
Map Produced:	Mar 21, 2016
Regional District:	Alberni-Clayoquot