



Agricultural Land Commission
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August 8, 2016

ALC File: 54717

Sara Mellor Phillips
Mellor Family Farm
2677 Herd Road
Duncan, BC V9L 6A4

Dear Ms. Phillips:

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 #297/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

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, Director of Policy and Planning

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Enclosure: Reasons for Decision (Resolution #297/2016)

cc: District of North Cowichan (File: 3025-20 16.02)

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AGRICULTURAL LAND COMMISSION FILE 54717

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicants:

**Eileen Winifred Mellor
Eileen Elizabeth Mellor
(the “Applicants”)**

Agent:

**Sara Mellor Phillips
(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: 004-017-749

Lot 1, Sections 9, 10, and 11, Range 6, Somenos District, Plan 16574
(the "Property")

[2] The Property is 63.4 ha in area.

[3] The Property has the civic address 2677 Herd Road, Duncan.

[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 place a second single family dwelling on the Property in addition to the existing single family dwelling and manufacture home. The second single family home is proposed for a family member who works on the farm (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

RELEVANT STATUTORY PROVISIONS

[7] 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.

[8] 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

[9] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map, and satellite imagery

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

[10] At its meeting of April 20, 2016, the District of North Cowichan Council resolved to forward the Application to the Agricultural Land Commission (the "Commission") with a recommendation that, if approved, the Commission require the owner to register a restrictive covenant to prohibit additional dwellings on the Property.

SITE VISIT

[11] On May 27, 2016, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[12] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Agent on June 21, 2016 (the "Site Visit Report").

FINDINGS

[13] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on BCLI map sheet 92B.082 for the mapping units encompassing the Property are a mix of Classes 3, 4, 5, and 7.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

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

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are D (undesirable soil structure), P (stoniness), R (bedrock near the surface), T (topographic limitations), and W (excess water).

In this regard, the Panel finds that the majority of the land making up the Properties is capable of supporting agriculture and is appropriately designated within the ALR.

[14] As described in the Application, and discussed at the Site Visit, the Property is used for oats, hay, silage, pasture, horses, meat chickens, laying chickens, turkeys, cattle, and pork. In addition, the Mellor farm also hosts farm tours for local schools. The Panel considered the current breadth and scale of the current agricultural activities taking place on the Property and find that the present level of agricultural activity on the property is not sufficient to warrant a third dwelling for farm help purposes.



[15] Despite the refusal of a third dwelling on the Property, the Panel finds the agricultural activities taking place on the Property would be commensurate with two permanent dwellings. The Panel is amenable to approving a second permanent dwelling provided that the manufactured home is removed, and that the new dwelling is placed in the approximate footprint of the removed manufactured home. Should the Applicants wish to pursue a second permanent dwelling, the Panel advises that an additional dwelling for farm use is considered to form part of the overall farm infrastructure and as such, the Applicants should carefully consider the implications before proceeding with this capital investment. The Panel wishes to make it clear that additional dwellings built for farm purposes are intended to remain as part of the farm infrastructure and that the planned capital investment is for farm development and not as a residential investment that may be the subject of a subdivision application in the future.

DECISION

[16] For the reasons given above, the Panel refuses the Proposal.

[17] The Panel approves the construction of a second permanent dwelling, for a total of two dwellings on the Property, subject to the following conditions:

- a. The Applicants have one (1) year from the date of this decision to indicate whether or not they wish to pursue approval of the second permanent dwelling subject to conditions;
- b. The manufactured home be removed from the Property;
- c. The second permanent dwelling is placed in the approximate footprint and location of the removed manufactured home;
- d. A covenant in favor of the Commission to restrict the placement or construction of any additional dwellings on the Property; and
- e. The decision is void if, at the time of sale of the Property, construction of the second permanent dwelling has not commenced.



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

- [19] Decision recorded as Resolution #297/2016.

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 #297/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', is written over a horizontal line.

Colin J. Fry, Director of Policy and Planning

August 8, 2016

Date Released