



Agricultural Land Commission
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July 25, 2016

ALC File: 54882

Steps to the Future Child Care Society
1965 Glenidle Rd.
Sooke, BC, V9Z 0B2

Attention Christine McGuinness:

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 #274/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your clients 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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Enclosures: Reasons for Decision (Resolution #274/2016)

cc: District of Sooke (File: PLN01249)

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AGRICULTURAL LAND COMMISSION FILE 54882

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicants:

**Hans-Karl Gapmann
Maria Gapmann
(the “Applicants”)**

Agent:

**Christine M^cGuinness
Steps to the Future Child Care
Society
(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: 001-132-326

Lot A, Sections 7 and 11, Sooke District, Plan 31841

(the "Property")

[2] The Property is 1 ha in area (0.6 ha ALR).

[3] The Property has the civic addresses 6038 and 6046 Sooke Road, Sooke.

[4] The Property is located partially 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 operate a Community Care Facility for before and after school child care for children ages Kindergarten to 12 years of age (the "Facility"). The Facility is proposed to be located in the two existing dwellings on the Property (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. Evidence from any third parties of which disclosure was made to the applicant
4. Previous application history
5. 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 March 29, 2016, the District of Sooke resolved to forward the application for a community care facility to the Agricultural Land Commission highlighting the need for childcare in Sooke and the recent growth in District schools.

[11] The Panel reviewed previous application involving the Property:

Application ID: 29072
Legacy File: 04814
(Orrico, 1977)

To relocate the boundary between the West ½ of Lot 2 to the east. A house was constructed on the East ½ of the lot which was to be located on the West ½. The problem arose because of the inaccuracy of the previous subdivision by metes and bounds description. The request was approved by ALC Resolution # 6816/77.



Reconsideration Request 1 A request from Ministry of Highways for an order pursuant to Section 10(4) of the Agricultural Land Commission Act was considered for the property described as West ½ of Lot 2, Block 6 of Section 7 and 11, and the East ½ of Lot 2, Block 6 of Section 7 and 11, both of Sooke District, more particularly shown on plans submitted to the Commission requesting approval for an additional 13 foot right-of-way through the properties described above. The Ministry requested this action as the boundary was slightly adjusted between the two lots, and before Highways would approve the relocation they demanded the additional 13 feet. The request was refused by ALC Resolution #7597/77.

Reconsideration Request 2 The Ministry of Highways requested the right-of-way again, but agreed to a lesser area for dedication. The Commission rescinded ALC Resolution #7597/77 and agreed to a lesser right-of-way area by ALC Resolution #8102/1978.

Note: The current lot configuration is the result of ALC Application ID 29072. Subdivision was completed May 30, 1978.

SITE VISIT

[12] On June 13, 2016, Commissioner Dyson and ALC staff 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 18, 2016 (the “Site Visit Report”).

[14] The Site Visit Report was provided to the entire Panel for consideration as part of the Application in accordance with the *Policy Regarding Site Visits in Applications*.

FINDINGS

[15] 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/05 for the mapping units encompassing the ALR portion of the Property is Class 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.

The limiting subclass associated with this parcel of land is D (undesirable soil structure).

Only 0.6 ha is located within the ALR on which residential uses occupy approximately one third of the ALR area. The remaining ALR is constrained by size for soil bound agricultural pursuits beyond that of the current gardens.

[16] There are two dwellings on the Property; one constructed in 1977 and the other in 1996. The Facility is proposed to be located within the two dwellings on the Property which is located adjacent to the east of an elementary school. The after school care programs are currently located within the school and at a local dance studio, however, they need to relocate the programs due to high registration in the schools and a short-term lease at the dance studio. The Facility would operate during the school year from 6:00 am to 8:45 am and 2:45 pm to 6 pm, during Professional Development days, spring break, and would provide summer camps.

[17] As part of the child care programs, the Facility plans to utilize the vegetable gardens to produce food for the snack programs and potentially create space for a community garden.



[18] The Panel finds that the Facility and proposed uses would occupy the two existing dwellings and would not adversely impact the remainder of the Property.

DECISION

[19] For the reasons given above, the Panel approves the Proposal.

[20] The Proposal is approved subject to the following conditions:

- a. Approval for non-farm use is granted for the sole benefit of Steps to the Future Child Care Society and is non-transferable unless approved by the Commission; and
- b. The dwellings utilized for the Facility remain in their current footprint.

[21] 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.

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

[23] Decision recorded as Resolution #274/2016.

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 ##274/2016. The decision is effective upon release.

A handwritten signature in black ink, appearing to be 'CJF', written in a cursive style.

Colin J. Fry, Director of Policy and Planning

July 25, 2016

Date Released