



Agricultural Land Commission
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August 8, 2016

ALC File: 55086

Corrina Kral
2602 Holden Corso Road
Nanaimo, BC V9X 1M7

Dear Ms. Kral:

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 #299/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicants 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 #299/2016)

cc: Regional District of Nanaimo (File: PL2016-042)

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AGRICULTURAL LAND COMMISSION FILE 55086

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicants:

**Corrina Kral
Victor David Lassam
Doreen Lassam
Shane Lassam
Tammy Rayno
(the “Applicants”)**

Agent:

**Corrina Kral
(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: 008-984-425

That Part of Section 17, Range 3, Cedar District, Lying to the West of the Westerly Boundary of the West 5 Chains of the East 60 Acres of Said Section, Except the South 10 Chains of the West 12 Chains of Said Section, and Except Part in Plans 16643, 18872 and 23066
(the "Property")

[2] The Property is 9.3 ha in area.

[3] The Property has the civic address 2602 Holden Corso Road, Nanaimo.

[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 construct a second dwelling to accommodate multi-generational farm use (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. Previous application history
4. Agricultural capability map, ALR context map, and satellite imagery

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

[10] The Panel reviewed one application on the parcel of land adjacent to the east of the Property:

Application ID: 43949
Legacy File: 37355
(Lassam, 2007)

To construct a second dwelling on the property for the purposes of farm help. The second dwelling would replace a mobile home located on the property.

The Commission noted at the site visit that the applicant and his family were currently operating a working farm and had sufficient access to water and that the property appeared to have a higher agricultural rating than had been identified. Further, the proposed location of the second dwelling is on a steep slope that is extremely

limited in agricultural capability.

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The proposed location of the second dwelling is in close proximity to the existing mobile home on the property. The Commission discussed that should the trailer be removed, the proposal would not impact the existing or potential agricultural use of the property or surrounding lands.

The Commission also recognized that the applicant is actively involved in farming, and that establishment of a permanent dwelling would support the intergenerational transfer of the family farm operation.

The application was approved by ALC Resolution #293/2007.

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 22, 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 92G.011 for the mapping units encompassing the Property are approximately 50% (6:3TP – 4:5T), 30% 5A, 15% 3W, and 5% 7T.

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 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 A (soil moisture deficiency – modified), P (stoniness), 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 approximately 16 head of cattle, goats, pasture, and hay. In future, the farm may raise turkeys. The Panel considered the current breadth and scale of the 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 second permanent dwelling.

[15] Regulation 171/2002 (*Agricultural Land Reserve Use, Subdivision and Procedure Regulation*) (the "Regulation") permits specific additional residential use in the ALR, s. 3(1)(b) states:

3 (1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by law of the applicable treaty first nation government:

...

(b) *for a parcel located in Zone 1,*

(i) one secondary suite within a single family dwelling, and

(ii) either

(A) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family, or

(B) accommodation that is constructed above an existing building on the farm and that has only a single level.

The Panel finds that the Regulation provides for opportunities to accommodate residential uses without the necessity to construct a second permanent single-family residence on the Property.

DECISION

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

[17] Panel Chair Jennifer Dyson concurs with the decision.

Commissioner Honey Forbes concurs with the decision.

Commissioner Clarke Gourlay concurs with the decision.

[18] Decision recorded as Resolution #299/2016.

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 #299/2016. 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