



Agricultural Land Commission
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December 23, 2016

ALC File: 55104

Shannon Goulet
3800 Gibbins Road
Duncan, BC V9L 6E8

Dear Ms. Goulet:

Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Island Panel (Resolution #443/2016) as it relates to the above noted application.

Reconsideration of a Decision as Directed by the ALC Chair

Please note that pursuant to [s. 33.1 of the *Agricultural Land Commission Act*](#), the Chair may direct the Executive Committee to reconsider any 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 s. 6.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

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.

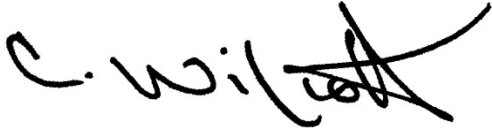
For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

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

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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 #443/2016)

cc: District of North Cowichan (File: 3025-20 16-06) Attention: Kyle Young - Assistant Manager
Planning & Subdivision

55104d1



AGRICULTURAL LAND COMMISSION FILE 55104

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicant:

**Shannon Goulet
(the “Applicant”)**

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: 006-252-214

Lot C, Section 16, Range 2, Quamichan District, Plan 2895, Except Parts in Plans 3207, 14399, 165 BL, 380 BL, and Parcel A (DD1002441) Thereof
(the "Property")

[2] The Property is 8.3 ha in area.

[3] The Property has the civic address 3800 Gibbins 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 Applicant is applying for the following non-farm uses:

- i. Conduct up to 14 commercial assembly (wedding) special events per year for up to 150 people;
- ii. Campsite accommodation for attendees of the proposed commercial assembly events in excess of 10 sleeping units;
- iii. Utilize the following existing permanent structures that serve both the campsite and commercial assembly uses:
 - a. small kitchen building
 - b. small bar building
 - c. outhouse bathrooms
 - d. open air eating / reception area; and,
- iv. Conduct between 10 and 30 birthday party event for up to 10 children and their parents.

(the "Proposal")



The Proposal along with supporting documentation is collectively the application (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*. The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 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.

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 Applicant in advance of this

decision.

[10] At its meeting of June 15, 2016, the District of North Cowichan (the “DNC”) Council resolved:

That Council support and authorize Shannon Goulet’s non-farm use application for 3800 Gibbins Road to be sent to the Agricultural Land Commission for its decision (to allow the applicant to apply for a temporary use permit, or obtain applicable zoning to permit the continued use of the subject property for commercial weddings or other special events).

SITE VISIT

[11] On October 18, 2016, the Panel conducted a walk-around and meeting 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*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Applicant on October 18, 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 Canada Land Inventory (CLI), ‘Soil Capability Classification for Agriculture’ system. The improved agricultural capability ratings identified on CLI map sheet 92B.072 for the mapping units encompassing the Property are 80% 3M, 20% 5TD – 4TD.

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.

The limiting subclasses associated with this parcel of land are D (undesirable soil structure), M (moisture deficiency), and T (topographic limitations).

The Panel reviewed the CLI ratings and find that the Property is predominantly comprised of land with good agricultural capability.

[14] The Applicant provides the following description of the agricultural activities taking place on the Property:

We currently have two horse riding arenas, one indoor and one outdoor, we have 6 resident horses, some of which are being raised/trained for sale and others that are for personal/business use. Members of the equine community trailer in their horses and rent the arena and we host clinics as well. We raise chickens for their eggs and sell the eggs to our neighbours and also use the eggs to prepare meals for our guests. We host horse themed birthday parties where the kids get to ride the horses, collect eggs from the coup and pet our micro pig. We also host family farm holidays where families get to stay in the guest house and experience the farm lifestyle. We have also hosted cowboy/cowgirl campouts where small groups get horse riding included with their campout.

The Panel is of the opinion that the non-farm uses on the Property should be commensurate, yet ancillary (i.e. directly related), with the agricultural activities taking place on the Property. In this regard, the Panel is of the opinion that the current level of agricultural activity on the Property is sufficient to justify the proposed non-farm uses.

[15] The Applicant stated that in addition to the weddings taking place on the Property, she also hosts horse themed birthday parties where children are exposed to farm animals.

The Applicant indicated that she hosts 10 to 30 birthday events per year typically for up to 10 children and a few parents. The Panel compared the birthday party activities with the definition of agri-tourism in the Regulation. Section 1(4) of the Regulation defines Agri-tourism on a farm as the following:

- 1(4) (a) an agricultural heritage exhibit displayed on the farm;*
- (b) a tour of the farm, an educational activity or demonstration in respect of all or part of the farming operations that take place on the farm, and activities ancillary to any of these;*
- (c) cart, sleigh and tractor rides on the land comprising the farm;*
- (d) subject to section 2 (2) (h), activities that promote or market livestock from the farm, whether or not the activity also involves livestock from other farms, including shows, cattle driving and petting zoos;*
- (e) dog trials held at the farm;*
- (f) harvest festivals and other seasonal events held at the farm for the purpose of promoting or marketing farm products produced on the farm;*
- (g) corn mazes prepared using corn planted on the farm.*

The Panel finds that these activities do not meet the definition of agri-tourism outlined in the Regulation. However, the Panel finds that the birthday parties are of a small scale and are compatible with the agricultural activity taking place on the Property. The Panel is amenable to the continuation of these activities provided that the Property maintains farm status under the *Assessment Act*, there are no greater than 20 people per event, and no more than 20 birthday events per year.

[16] There is a campsite located on the lower area on the Property that can accommodate 4 to 5 recreational vehicles and 4 to 5 tent sites. The Panel finds that the 10 campsites and bathroom facilities are consistent with s. 3(4)(a) of the Regulation which states:

3(4) The following non-farm uses are permitted in an agricultural land reserve and must not be prohibited by a local government bylaw or, for lands located in

an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

(a) Accommodation for agri-tourism on a farm if:

- (i) all or part of the parcel on which the accommodation is located is classified as a farm under the Assessment Act*
- (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and*
- (iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel.*

[17] The Applicant indicated that during special events, there are more than 10 campsite sleeping units in use on the Property. The Panel is amenable to increasing the allowable number of sleeping units during special events to a maximum of 25 sleeping units so long as the appropriate permits are obtained to the satisfaction of the DNC. However, the Panel is also adamant that the campsite should be limited to 10 sleeping units when special events are not occurring. The campsite should not expand above the low lying area on the Property to ensure the impact on adjacent agricultural operations and neighboring property owners is minimized. Finally, there shall be no long-term commercial storage of recreational vehicles on the Property.

[18] **Wedding and Special Events**

With respect to hosting weddings and special events, the Panel evaluated the Proposal against the definition of *gathering for an event* defined in s. 1(1) and the criteria in s. 3(4)(k) of the Regulation. While some of the activities meet the definition of *gathering for an event*, the proposed activities exceed some of the conditions in s. 3(4)(k). The Panel will speak to the Proposal's compliance with each criteria of s. 3(4)(k) of the Regulation below.

i. "Farm" Classification

The Applicant states that the Property is currently classified as "farm" under the *Assessment Act*. The Panel finds that in order to continue hosting special events, the Farm must maintain its farm status.

ii. Use of Permanent Facilities

The Applicant has constructed a number of permanent facilities that support both the operation of the campsite and hosting of special events. These facilities include:

- a. small kitchen building
- b. small bar building
- c. outhouse bathrooms
- d. open air eating / reception area (covered)

While the development of the above mentioned structures do not comply with either the *agri-tourism* or *gathering for an event* clauses within the Regulation as they are permanent, these structures have been located on a portion of the Property that has limitations due to stoniness and is also located in an area to minimize impact on adjacent property owners as it is in a topographical depression on the Property. The Panel will allow the use of the permanent structures for the purposes of campsite facilities and gathering for events (reception area, kitchen, bar, washroom facilities) if the appropriate permits are obtained to the satisfaction of the DNC (if required).

iii. Parking

The Panel is not aware that parking has been deleterious to the Property under current operation. The Panel finds that parking for events should remain consistent with s. 3(4)(k)(iii) of the Regulation.

iv. Maximum 150 People per Event

The Application states that events currently host 60 to 150 people. The Panel finds that the size of event should remain consistent with s. 3(4)(k)(iv) of the Regulation.

v. Maximum 24 hour Duration

The Panel is not aware that any of the events have exceeded a 24 hour duration. The Panel finds that the duration of event should remain consistent with s. 3(4)(k)(v) of the Regulation. Further, the Panel finds that the Applicant should continue the practice of ensuring that event activities cease by a time that is consistent with the DNC's Noise



Bylaw to minimize the impact on surrounding agricultural operations and property owners.

vi. Maximum 10 Gatherings Per Year

For clarification, 10 events refer to the total of all event types held per year. It does not imply 10 events from different categories per year (i.e. 10 weddings, 10 craft fairs, etc.) that fall outside the definition of agri-tourism. The Applicant is seeking approval for up to 14 events per year. The Panel finds that the level of agricultural activity on the Farm justifies the proposed number of events per year; however, the Panel also finds that it is more appropriate for the DNC to regulate the number of events per year in excess of the 10 permitted by the Regulation. As such, the Applicant will need permission from the DNC for the events in excess of 10 per year up to a maximum of 14 events per year.

DECISION

[19] For the reasons given above, the Panel approves the Proposal to conduct the following non-farm uses:

Birthday Party Events

- i. A maximum of 20 birthday events per year; and,
- ii. A maximum of 20 attendees to an individual birthday event, inclusive of parents and children.

Weddings and other Special Events

- i. A maximum of 14 special events per year or a lower maximum as otherwise determined by the DNC. The DNC shall advise the Commission as to how many special events per year are ultimately approved;
- ii. Campsite accommodation for attendees of the proposed commercial assembly events in excess of 10 sleeping units to a maximum of 25 sleeping units.
- iii. Utilize the following existing permanent structures that serve both the campsite and commercial assembly uses:
 - a. small kitchen building

- b. small bar building
- c. outhouse bathrooms
- d. open air eating / reception area

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

- a. That the non-farm uses remain ancillary to and subordinate to the agricultural use of the Property;
- b. the Property must retain classification as farm under the *Assessment Act*;
- c. no additional structures (temporary or permanent) may be constructed, erected, or expanded for the conditional non-farm use approval;
- d. parking must be available on the Property, but must not be permanent (i.e. no hard surfacing) nor interfere with the Property's agricultural productivity;
- e. no long-term commercial recreational vehicle storage on the Property;
- f. the campsite is limited to the lower area of the Property;
- g. for birthday parties, no more than 20 events per year with no more than 20 attendees per birthday party event;
- h. for wedding and other special events, no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending an event;
- i. weddings and other special events must be of no more than 24 hours duration and event activities shall cease by a time consistent with the DNC's Noise Bylaw;
- j. the DNC approves any wedding or other special events in excess of 10 per year to a maximum of 14 per year by way of a Temporary Use Permit or a Zoning Bylaw Amendment; and,
- k. during evenings on which wedding or other special events occur, the DNC approves any campsite sleeping units in excess of 10 to a maximum of 25 by way of a Temporary Use Permit or a Zoning Bylaw Amendment.

[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] These are the unanimous reasons of the Island Panel of the Agricultural Land Commission.

[23] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[24] This decision is recorded as Resolution #443/2016 and is released on December 23, 2016.

CERTIFICATION OF DECISION

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

Jennifer Dyson, Panel Chair, on behalf of the Island Panel

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