



Agricultural Land Commission
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November 21, 2016

ALC File: 55251

Arbor Memorial Inc.
2 Jane Street
Toronto, ON M6S 4W8

Attention: Kelly Brigley

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

Please find attached the Reasons for Decision of the Island (Resolution #394/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached. As agent, it is your responsibility to notify the applicant accordingly.

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, or does not adequately take into consideration s. 4.3.

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 Sara Huber at (sara.huber@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

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

Sara Huber, Land Use Planner

Enclosure: Reasons for Decision (Resolution #394/2016)
 Sketch Map

cc: Regional District of Nanaimo (File: PL2016-064)

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AGRICULTURAL LAND COMMISSION FILE 55251

**REASONS FOR DECISION
OF THE ISLAND PANEL**

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

Applicant:

**Arbor Memorial Inc.
(the “Applicant”)**

Agent:

**Kelly Brigley
(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: 025-803-301

Lot A Sections 8, 9 and 10, Range 1, Cedar District, Plan VIP76153
(the "Property")

[2] The Property is 30.0 ha in area (13.3 ha in the ALR).

[3] The Property has the civic address 2347 and 2419 Cedar Road, Cedar, BC.

[4] The Property is partially 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 to convert the existing residence on Lot A, Section 8, Range 1, VIP76513 to an office/file and urn storage building for the staff at Cedar Valley Memorial Gardens, and to expand the development of the cemetery on Lot A, Section 9, Range 1, VIP76513 west of the right-of-way (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*:

- 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 Regional District of Nanaimo (the “RDN”) Board Policy B1.8 includes a Board resolution for non-farm use of lands within the ALR which reads as follows:

All applications under the Agriculture Land Commission (ALC) Act for exclusion, subdivision, or non-farm use of ALR land are to be forward to the Agricultural Advisory Committee (AAC) along with a completed ALC local government report in order to allow the AAC to provide comment and recommendation on the application. If the Area Director has provided comments on the application, the Director’s comments will be included with the referral to the AAC. AAC comments and recommendations are to be forward to the ALC by including the AAC motion in the local government report to the ALC.



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

Application ID: 27796
Legacy File:1552
(Valley View Memorial Gardens
Ltd., 1983)

To exclude 23.4 ha of land from the ALR. The Commission refused this application as submitted, and has allowed exclusion of approximately 11.7 ha of land lying east of the existing pipeline right-of-way. The application was approved by ALC Resolution #2901/82.

[12] The Panel reviewed one relevant application relating to the application:

Application ID: 10931
Legacy File: 75-733
(Foreman, 1975)

To subdivide one acre of the property in order to lease it to a funeral home company for the establishment of a funeral home. The Commission determined that the property constitutes a public necessity and lies adjacent to a cemetery to the north. The application was approved by ALC Resolution #2170/75.

Note: Application 10931 is located adjacent to the south of the Property.

SITE VISIT

[13] On July 28, 2016, the Panel conducted a site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[14] 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 Agent on August 4, 2016 (the "Site Visit Report").

FINDINGS

[15] 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.001 for the mapping units encompassing the Property are approximately 30% Class 1, 50% Class 3RT, 5% Class 3W, 10% Class 5A, and 5% Class 5AP.

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

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.

The limiting subclasses associated with this parcel of land are W (excess water), A (soil moisture deficiency- modified), P (stoniness), R (bedrock near the surface), and T (topography-slope).

[16] The Panel finds that based on the agricultural capability as determined by the BCLI rating, the Property has good agricultural capability and could support a wide range of crops. The area west of the right-of-way, which is predominantly Class 1, is currently used for hay production.

[17] Prior to the establishment of Cedar Valley Memorial Gardens, the Property was used for residential use. The Proposal is to convert the existing residence into an office/file and urn storage building for the staff at Cedar Valley Memorial Gardens, thus would not require the construction of any additional buildings.



[18] The Proposal seeks to expand the development of the cemetery west of the right-of-way on Lot A, Section 9, Range 1, VIP76513. This area is currently used as a hay field and is hayed by a neighbouring farmer, which is accessed via Cedar Road through the Property. During the Site Visit, it was noted that the existing cemetery grounds are not at full capacity and that the proposed expansion is a result of long-term planning by the owners.

[19] The Panel finds that the agricultural capability of the land located west of the right-of-way has prime agricultural capability. The Panel believes that the highest and best use for Class 1 land is for agriculture. The Panel also noted that the northeastern portion of the Property which lies outside of the ALR has not been developed yet and as such may be possible to accommodate the expansion of the cemetery.

DECISION

[20] For the reasons given above, the Island Panel refuses the expansion of the cemetery to the west of the right-of-way on Lot A, Section 9, Range 1, VIP76513.

[21] The Island Panel approves the conversion of the existing residence on the Property into an office/urn storage building on Lot A, Section 8, Range 1, VIP76513.

[22] The conversion of the dwellings is approved subject to the following conditions:

- a. no additional dwellings may be constructed or placed on the Property;
- b. access from Cedar Road to west of the right-of-way is maintained; and,
- c. approval for non-farm use is granted for the sole benefit of the Applicant and is non-transferable.

[23] 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.



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

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

[26] This decision is recorded as Resolution #394/2016 and is released on November 21, 2016.

CERTIFICATION OF DECISION

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




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

END OF DOCUMENT

ALC Application ID 55251 (Arbor Memorial)
Conditionally Approved Non-Farm Use
Resolution # 394/2016



Legend:

-  Property Boundary
-  Approved Non-Farm Use
(within existing dwelling footprint)
-  Maintained access to west of
ROW