



Agricultural Land Commission
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December 21, 2016

ALC File: 55354

Culverden Holdings Ltd. /
Seven Springs Camp and Retreat Centre
1515 Island Highway East
NanOOSE Bay, BC V9P 9A3

Attention: Robert Bau

Dear Mr. Bau:

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 #439/2016) as it relates to the above noted application. 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.

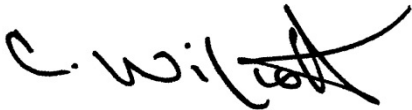
For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

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

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 #439/2016)
 Sketch Plan

cc: Regional District of Nanaimo (File: PL2016-097) Attention: Jamai Schile - Planner

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AGRICULTURAL LAND COMMISSION FILE 55354

REASONS FOR DECISION OF THE ISLAND PANEL

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

Applicant:

**Culverden Holdings Ltd. /
Seven Springs Camp and
Retreat Centre
(the “Applicant”)**

Agent:

**Robert Bau
(the “Agent”)**

Application before the Island Regional Panel:

**Jennifer Dyson, Panel Chair
Honey Forbes**



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 024-886-785

Lot 1, District Lot 171 and Block 564, Nanoose District, Plan VIP71158
(the "Property")

[2] The Property is 19.2 ha in area (17.2 ha ALR).

[3] The Property has the civic address 1888 Kaye Road, Nanoose Bay.

[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 construct a 12 room dormitory building which includes a meeting/dining area as part of Seven Springs Camp (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. 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”) has resolved to forward the application to the Commission.

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

Application ID: 5892
Legacy File: 30801
(Culverden Holdings Ltd., 1996)

To develop a Kids Riding Camp and Rider Training Facility on the 14.3 ha property. There are four existing residences on the property: a covered storage building, nine stables, outbuildings and a maintenance shop. Additional structures include an eating shelter, a cooking shelter, two washroom buildings, moveable covered wagons, two retreats for indoor activities, and a covered

riding arena/play area. The existing main home is to be converted to a home/lodge/administration building. Almost all of the buildings, except the riding arena, are to be constructed within presently treed areas.

The Commission approved the proposal on the grounds that the use is quasi-agricultural in nature and uses land that has modest potential for agricultural development and lies on the edge of the ALR.

The application was approved by ALC Resolution #707/96.

SITE VISIT

[12] On October 17 2016, the Panel 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*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Agent on October 25, 2016 (the “Site Visit Report”).

FINDINGS

[14] 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 92F.029 for the mapping units encompassing the Property are approximately 10% 2WD, 50% 4P, and 40% 7T.

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.

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

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), T (topographic limitations), and W (excess water).

[15] The Panel reviewed the BCLI ratings and find that the Property has good agricultural capability and in its present size, could support a range of crops. In this regard, the Panel finds that the Property is appropriately designated as ALR.

[16] The Panel reviewed the previous application on the Property (ALC Application 5892) and found that the original rationale of the approval was that the proposed use was for an equestrian camp and rider training facility. The Commission found the proposed use to be supportive of the agricultural sector in that feed and agricultural services would be required. The Property currently has a negligible amount agricultural activity and the primary business on the farm is for tourist accommodation. This is contrary to the intent of the original approval as the current use does not directly or indirectly support agriculture.

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

[18] The Panel finds that the Proposal does not preserve agricultural land or encourage farming on agricultural land and is contrary to the purpose of the Commission as outlined in s. 6 of the *ALCA*.

[19] The Panel notes that the twelve (12) bungalow cabins on the Property were constructed without approval from the Commission and also notes that they are temporary in nature and can be easily removed from the Property. The Panel is amenable to the bungalow cabins remaining on the Property until such a time that they are removed from the Property or destroyed.

DECISION

[20] For the reasons given above, the Panel refuses the Proposal to construct a 12 room dormitory type building which includes a meeting/dining area.

[21] The Panel retroactively approves the twelve (12) bungalow cabins on the Property with the following conditions:

- a. the bungalow cabins remain in their current footprint and location;
- b. any permits required by the RDN for the bungalow cabins be obtained;
- c. no additional non-farm structures may be placed or constructed on the Property without the consent of the Commission; and,
- d. in the event that any of the bungalow cabins are completely destroyed, by whatever means, or are considered by the RDN to be so destroyed, the bungalow cabins can only be replaced as may be permitted by the *ALCA* and regulation in effect at the time. Alternatively, the landowner may make an application for a non-farm use to replace the bungalow cabins should they be destroyed.

[22] 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.

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

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



[25] This decision is recorded as Resolution #439/2016 and is released on December 21, 2016.

CERTIFICATION OF DECISION

A handwritten signature in black ink, consisting of several overlapping loops and a long tail stroke extending downwards and to the left.

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

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