



Agricultural Land Commission
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March 14, 2017

ALC File: 54772

Madrone Environmental Services Ltd.
#202 - 2790 Gladwin Road,
Abbotsford, BC, V2T 4S7

Attn: Jeremy Sincennes:

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

Please find attached the Reasons for Decision of the South Coast Panel (Resolution #58/2017) 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 Kamelli Mark at (Kamelli.Mark@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'KMARK', written in a stylized, cursive font.

Kamelli Mark, Land Use Planner

Enclosures: Reasons for Decision (Resolution #58/2017)
Sketch Plan

cc: City of Abbotsford (File: SRP #1524)

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AGRICULTURAL LAND COMMISSION FILE 54772

REASONS FOR DECISION OF THE SOUTH COAST PANEL

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

Applicant: **Sunshine Cranberry Farm Ltd.**
(the “Applicant”)

Agent: **Madrone Environmental
Services Ltd.**
(the “Agent”)

Application before the South Coast Regional Panel: **William Zylmans, Panel Chair**
Sam Wind
Satwinder Bains



THE APPLICATION

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

Parcel Identifier: 013-331-230

North East Quarter, Except Part in Plan LMP15625, Section 20, Township 14, New Westminster District

(the "Property")

[2] The Property is 62.4 ha in area.

[3] The Property has the civic address 7765 Lefevre Road, Abbotsford, BC.

[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 deposit 38,000 m³ of fill over a 4.5 ha portion of the Property to a maximum depth of 1.4 m for the purpose of raising the cranberry growing surface to the same level as the rest of the cranberry bog (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
5. Madrone Environmental Services Ltd. Soil Deposit Assessment & Erosion and Sediment Control Plan, dated November 30, 2016
6. Draft letter from Brian Mauza, P.Ag, Senior Agricultural Scientist at Ocean Spray of Canada, Ltd. (the “Ocean Spray Letter”)

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

[10] At its meeting of June 23, 2008, the City of Abbotsford resolved that staff be authorized to forward all non-farm use applications associated with applicable soil removal or deposit proposals to the ALC for review.

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



Application ID: 1877
Legacy File: O-28588
(District of Matsqui, 1994)

To dedicate a 2.0439 ha area of the Property as a road right-of-way at a 20 m width in order to legalize an existing road that had been built outside of the original dedicated road allowance. The application was approved by ALC Resolution #22/94.

SITE VISIT

[12] On January 18, 2017, 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 February 2, 2017 (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 92G/01e for the mapping units encompassing the Property are 25% O3LW, 45% (6:O2W 4:O3WL), 25% O3WL, 1% Class 1, 2% Class 2W, and 2% Class 2WA.

O – denotes organic soils.

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

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 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

The limiting subclasses associated with this parcel of land are L (degree of decomposition - permeability), W (excess water) and A (soil moisture deficiency).

[15] In addition, the Panel received a professional Agrologist report, prepared by Jeremy Sincennes of Madrone Environmental Services Ltd., dated November 30, 2016 (the "Sincennes Report"). The Sincennes Report finds that the Property has an unimproved rating of Class O4W and that their test pit exhibited a soil texture of primarily mesic organic material. The Sincennes Report identifies that the Property is currently in use for cranberry production.

[16] The Panel reviewed the BCLI ratings and the Sincennes Report and find that the Property is capable of supporting agriculture and that the Property is currently being used for a cranberry operation.

[17] During the Site Visit, the Panel observed that unauthorized fill material containing cobbles and boulders was present on the Proposal portion of the Property which had not been accounted for in the Application; the Agent confirmed the volume of unauthorized fill to be 1610 m³ and that it had been brought on to the Property subsequent to the submission of the Application to the Commission.

[18] The Application references the fact that the Proposal portion of the Property is capable of supporting a cranberry crop and that this portion of the Property has previously been harvested for cranberries. As such, the Panel finds that the Proposal is not necessary in order to bring this portion of the Property into production.

[19] The Panel understands the Applicant's rationale with regards to leveling the cranberry growing surface; however, they find that leveling could be achieved without bringing additional fill material on to the site, particularly given the fact that 1610 m³ of unauthorized fill material has already been brought onto the Property. The Panel is willing to allow the Applicant to retain the 1610 m³ of unauthorized fill material on the Property for the purposes

of leveling out the cranberry growing surface, provided that it is appropriately screened to ensure that any existing cobbles, boulders, or debris are removed from the fill.

[20] Finally, it is the understanding of the Panel that the Applicant wishes to bring additional sawdust material onto the Proposal portion of the Property for use as a rooting medium, as per the Ocean Spray Letter. The Panel is amenable to the Applicant's use of sawdust as a rooting medium, provided that it is implemented using best industry practices.

DECISION

[21] For the reasons given above, the Panel refuses the Proposal as proposed.

[22] The Panel approves the retention of the 1610 m³ of existing fill located on the Proposal portion of the Property for the purposes of levelling the existing cranberry growing surface.

[23] The retention of the 1610 m³ of existing fill is approved subject to the following conditions:

- a. the 1610 m³ of existing fill is restricted to the 4.5 ha area shown on the attached Sketch Plan;
- b. no additional unauthorized fill material is to be placed on the Property, this includes fill containing construction and demolition debris, contaminants, clay, and boulders (>25 cm diameter);
- c. the project must be overseen by a qualified registered professional, with specific knowledge of soils, drainage, fill placement, and land reclamation;
- d. Madrone Environmental Services Ltd. is the qualified registered professional associated with the Application. If Madrone Environmental Services Ltd. is replaced by any other qualified registered professional, the Commission must review and approve the change

and all fill placement activities must be conducted in substantial compliance with the information submitted with the Application and conditions set out in this decision;

- e. a final report, prepared by the qualified registered professional, must be submitted to the Commission upon completion of the project. The final report must include, but is not limited to, the following:
 - i. a written description of the completed project;
 - ii. confirmation that the 1610 m³ of existing fill has been screened in order to remove cobbles, boulders, and debris;
 - iii. evidence that the project has been completed as outlined in the conditions;
 - iv. confirmation of the post-fill agricultural capability and evidence that the project has improved the agricultural capability/suitability of the site. This should be supported by detailed soil test pits, site information, and photographs;
 - v. a soil fertility analysis of the upper 30 cm of the soil profile;
 - vi. an overview of post-fill site drainage including any new drainage infrastructure and an assessment of potential drainage impacts to adjacent properties. A site visit to assess drainage should be conducted after a heavy, sustained rainfall event;
 - vii. outstanding issues and recommended remedial actions;

- f. to ensure the successful reclamation of the project area and appropriate oversight should the Applicant cease to consult with a qualified registered professional, a financial security in the form of an Irrevocable Letter of Credit (the "ILOC") in the amount of \$90,000 must be made payable to the Minister of Finance c/o the Agricultural Land Commission. The ILOC is to ensure the project is conducted in accordance with the information submitted with the Application and the conditions of this decision;

- g. for greater clarity, some or all of the ILOC will be accessible to and used by the Commission upon the failure of the operator to comply with any or all aspects of the conditions of approval contained herein;

- h. the ILOC must be submitted to the Commission within 30 calendar days from the date of this decision;
- i. release of the ILOC will be dependent on receipt of evidence that the fill placement project is completed to a standard deemed satisfactory by the Commission. In this regard, the Commission will consider the final report that must be prepared by a qualified registered professional and submitted to the Commission in fulfillment of condition “e” above;
- j. approval for the fill placement activities is granted for the sole benefit of the Applicant and is non-transferable.

[24] 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.

[25] These are the unanimous reasons of the South Coast Panel of the Agricultural Land Commission.

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

[27] This decision is recorded as Resolution #58/2017 and is released on March 14, 2017.

CERTIFICATION OF DECISION



William Zylmans, Panel Chair, on behalf of the South Coast Panel

END OF DOCUMENT



Conditionally Approved Non-Farm Use (land levelling using 1610 m³ of existing fill)

 = 4.5 ha portion of the Property to be levelled using the 1610 m³ of existing fill

 = Property Line