



Agricultural Land Commission
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March 8, 2017

ALC File: 54969

Daniel Oostenbrink
The Local Harvest Market
7697 Lickman Road
Chilliwack, BC V2R 4A7

Dear Mr. Oostenbrink:

Re: Reconsideration of original 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 #52/2017) as it relates to the above noted application. As agent, it is your responsibility to notify your client 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 Kamelli Mark at (Kamelli.Mark@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads "KMARK". The letters are bold and stylized, with a cursive-like flow.

Kamelli Mark, Land Use Planner

Enclosure: Reasons for Decision (Resolution #52/2017)

cc: City of Chilliwack (File: ALR00269)

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AGRICULTURAL LAND COMMISSION FILE 54969

RECONSIDERATION OF PANEL DECISION REASONS FOR DECISION OF THE SOUTH COAST PANEL

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

Request for Reconsideration submitted pursuant to s. 33 of the *Agricultural Land Commission Act*

Applicant:

**Albertus Oostenbrink
(the “Applicant”)**

Agent:

**Daniel Oostenbrink
(the “Agent”)**

Application before the South Coast Regional Panel:

**William Zylmans, Panel Chair
Satwinder Bains**



THE APPLICATION

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

Parcel Identifier: 002-278-561

Lot 2, District Lot 273, Group 2, New Westminster District Plan 70351

(the "Property")

The Property has the civic address 7697 Lickman Road, Chilliwack, BC.

[2] The Property is 15.0 ha in area.

[3] The Property is located within a designated agricultural land reserve ("ALR") as defined in section 1 of the *Agricultural Land Commission Act* (the "ALCA").

[4] The Property is located within Zone 1 as defined in subsection 4.2 of the *ALCA*.

[5] Pursuant to s. 20(3) of the *ALCA*, the Applicants applied to construct a farm market to sell products mostly produced on the farm. The market would have a retail area, bistro seating and market square, food preparation, agricultural learning centre, community kitchen, commercial wedding/event venue, office, storage, coolers, etc. The amount of space to be covered by the proposed market is approximately 0.4 ha (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

[6] By Resolution #246/2016, dated June 30, 2016, the South Coast Panel refused the Proposal (the "Original Decision"). In reaching its decision, the South Coast Panel concluded:

- That the Property is well suited for a wide range of agricultural activities.
- That the South Coast Panel agreed with the conclusions and decision regarding Resolution #226/2014 in which the Commission approved the construction and

utilization of a retail area (approximately 170 m²), a café area (approximately 60 m²) and an herb and preserves sales area (approximately 225 m²).

- That the Proposal would transfer the non-farm use approved by Resolution #226/2014 to a different site on the Property and would increase the size of the non-farm use area. The Panel was not amenable to the new construction over agriculturally active, arable land, especially given that the Commission already granted an area for non-farm use to the Applicant.
- That the Proposal would dramatically increase the scale and scope of non-farm use activities on the Property well beyond the appropriate uses of agricultural land.

[7] On July 20, 2016, the Agricultural Land Commission (the “Commission”) received the Applicant’s *Request for Reconsideration* of Resolution #246/2016.

RELEVANT STATUTORY PROVISIONS

[8] The reconsideration request was submitted pursuant to s. 33 of the *ALCA* which states:

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.

[9] The purposes of the commission set out in s. 6 of the *ALCA* 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.

DELEGATION TO EXECUTIVE COMMITTEE

[10] On October 29, 2014, the Agricultural Land Commission met and by Resolution #029N/2014 decided to delegate certain reconsideration requests to the Executive Committee. The following is an excerpt from the resolution:

- A. The Agricultural Land Commission (the Commission) may, pursuant to s. 10(3) of the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36, as amended (*ALCA*), delegate any of the Commission's functions to the Executive Committee.
- B. The Executive Committee is a standing committee of the Commission established under s. 10(1) of the *ALCA*, consisting of the Commission Chair and Vice Chairs.
- C. The Commission considers that it is necessary, cost effective and desirable to delegate to the Executive Committee the Commission's power to decide under s. 33 whether to reconsider an application decision made by a regional panel (following which, if the decision is to reconsider, the Commission Chair must under s. 11.1(3) of the *ALCA* refer the matter to the regional panel who made the decision).
- D. The Commission considers that it is necessary, cost effective and desirable to delegate to the Executive Committee the Commission's power to:
 - (a) decide under s. 33 whether to reconsider a decision made prior to September 5, 2014 (transitional application); and
 - (b) if the decision is to reconsider, decide under s. 33 to confirm, reverse or vary a decision with respect to a transitional application, on the grounds that such reconsiderations are not subject to referral to a regional panel under s. 11.1(3) of the *ALCA*.

[11] A meeting of the Executive Committee (the “Executive Committee”) of the Commission was held on September 30, 2016 as it relates to the Request for Reconsideration of Application #54969. All members of the Executive Committee were in attendance except Commissioner Dempsey.

[12] As per paragraph 11(C) above, the Executive Committee considered the Request for Reconsideration pursuant to s. 33(1) of the *ALCA* and determined that the submission contained evidence that was not available at the time of the Original Decision, and that the information would have been germane to the review of the Application by the South Coast Panel.

[13] The Executive Committee concluded that the Request for Reconsideration met the requirements for reconsideration pursuant to s. 33(1) of the *ALCA* and the request was therefore granted.

[14] Pursuant to s. 33(2) of the *ALCA*, the Executive Committee identified the City of Chilliwack (local government) as an affected party. The Executive Committee notified the affected parties of the decision to reconsider the Original Decision.

[15] In accordance with s. 11.1(3) of the *ALCA*, the Chair of the Commission referred the Request for Reconsideration of the Original Decision to the South Coast Panel.

EVIDENTIARY RECORD BEFORE THE PANEL

[16] The Panel considered the following evidence:

1. All the documents contained in the Application file from April 29, 2014, being the date the Application was received by the Commission, to the date of Resolution #246/2016;
2. The Commission’s decision recorded as Resolution #246/2016 and dated June 30, 2016; and
3. The Applicants’ request for reconsideration dated July 20, 2016, received by the Commission on July 20, 2016.

All documentation noted herein has been disclosed to the applicant in advance of this decision.

FINDINGS

[17] The Panel reviewed the Request for Reconsideration from the Applicant which states that:

- the proposed parking area is situated on the footprint of two previously existing homes which were demolished in 2013;
- two acres of land were brought back into agricultural use following the demolition of the two homes in 2013 and the removal of some aging farm buildings; and,
- the Property is projected to produce over 2 million pounds of vegetables and fruit this year.

[18] In addition, the Panel also reviewed a scaled back Proposal submitted by the Applicant which states that:

- the proposed second-floor mezzanine (wedding/event venue, community kitchen, and agricultural learning centre) will be removed;
- the proposed butchery, bakery, and honey areas will be changed into additional farm storage and office space;
- the retail area will be confined to 450 m² and the café/bistro area will be confined to 70 m² with at least 75% of the retail and café/bistro area limited to the sale of farm products produced on the subject farm;
- the use of the proposed 171.08 m² market square area will change from a space used for retail and café seating to a space used for interactive learning, demonstration gardens, demonstration of value-added farm products, and a gathering space for tour groups;
- the overall building footprint will be reduced by 200 m²; and,
- the size of the proposed parking area will be reduced in accordance with local government requirements.

[19] While the Request for Reconsideration provides additional information regarding the proposed parking area and the Applicant has reduced the scale of the Proposal, the Panel finds that the Request for Reconsideration is still for a substantial non-farm use facility which exceeds the non-farm use area granted to the Applicant in 2014 and which is well beyond what the Panel considers to be an appropriate use of agricultural land. The Panel is not amenable to the proposed new construction on agriculturally active, arable land, especially given that the Commission already granted an area for non-farm use to the Applicant under Resolution #226/2014.

DECISION

[20] For the reasons given above, the Panel refuses the Request for Reconsideration and confirms Resolution #246/2016.

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

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

[23] This decision is recorded as Resolution #52/2017 and is released on March 8, 2017.

CERTIFICATION OF DECISION



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

END OF DOCUMENT