



**Agricultural Land Commission**  
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February 28, 2017

ALC File: 55585

Jason Dault & Lindsay Dault  
6440 West Saanich Road  
Saanichton, BC V8M 1W8

Dear Mr. and Mrs. Dault:

**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 #43/2017) as it relates to the above noted application. A sketch plan depicting the decision is also attached.

**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 'Sara Huber', written in a cursive style.

Sara Huber, Land Use Planner

Enclosures: Reasons for Decision (Resolution #43/2017)  
Sketch plan

cc: District of Central Saanich (File: 3360-40-3/16) Attention: Bruce Greig  
(bruce.greig@csaanich.ca)

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## **AGRICULTURAL LAND COMMISSION FILE 55585**

### **REASONS FOR DECISION OF THE ISLAND PANEL**

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

**Applicants:**

**Jason Dault  
Lindsay Dault  
(the “Applicants”)**

**Agent:**

**Jason Dault  
(the “Agent”)**

**Application before the Island Regional Panel:**

**Linda Michaluk, Panel Chair  
Honey Forbes  
Clarke Gourlay**



## **THE APPLICATION**

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

Parcel Identifier: 004-440-412

Lot 4, Section 16, Range 1 East, South Saanich District, Plan 2769  
(the "Property")

[2] The Property is 4.6 ha in area.

[3] The Property has the civic address 6440 West Saanich Road, Saanichton 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 construct a farm store to sell honey products from the farm with farm worker accommodation located above the store (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] At its meeting of December 6, 2016, the Central Saanich Council resolved:

*That (Resolution 1124.16), with regard to the proposed development of a farm worker housing unit above a new farm retail store on the property located at 6440 West Saanich Road, Council forward the Non-Farm Use application to the Agricultural Land Commission with a general recommendation of support, noting:*

1. *That the application is supported by the Central Saanich Agricultural Advisory Commission; and,*
2. *That, if approved, the District looks to the ALC for determination whether occupancy of the additional housing for a farm worker should be permitted:*
  - a) *On an ongoing basis; or,*



- b) *On a conditional basis connected to the ongoing production of the farm operation, by a Temporary Use Permit.*

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

Application ID: 29103  
Legacy File: 10963  
(BC Hydro, 1980)

To construct a new 230 kV transmission line on a 34 metre right-of-way between Pike Lake and Keating. The Commission found that the transmission line predominantly follows property boundaries in the ALR. The application was approved by ALC Resolution #28/81.

**Note: The right-of-way follows the northern boundary of the Property.**

## **SITE VISIT**

[12] On February 2, 2017, the Panel conducted a walk-around and meeting 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 8, 2017 (the “Site Visit Report”).

## **FINDINGS**

[14] In assessing agricultural capability, the Panel referred to agricultural capability mapping and ratings, as well as the findings from the site visit. The ratings are identified using the Canada Land Inventory (CLI), ‘Soil Capability Classification for Agriculture’ system. The improved agricultural capability rating identified on CLI map sheet 92B/11 for the mapping units encompassing the Property is Class 2, more specifically approximately 90% (2X) and 10% (8:2D 2:2DW).

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.

The limiting subclasses associated with this parcel of land are X (combination of soil factors), D (undesirable soil structure), and W (excess water).

[15] Based on the agricultural capability ratings identified in by the CLI and the examination of the site conducted during the site visit, the Panel finds that the Property has prime agricultural capability and could support a range of agriculture.

[16] The Panel evaluated the Proposal for a farm store selling farm products with the criteria for farm retail sales pursuant to [s. 2\(2\)\(a\) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#) (the "Regulation"). The Agent stated "*about 30% of the products sold will be sourced from off the farm*" and that the area used for farm store is to be approximately 125m<sup>2</sup> (77 m<sup>2</sup> retail sales area and 48 m<sup>2</sup> delivery/sorting area), which is smaller than the maximum permitted farm retail sales area (300 m<sup>2</sup>) defined in the Regulation. Based on the description above, the proposed farm store is in compliance with the Regulation and as such does not require approval of the Panel. The Panel advises that if the farm store expands beyond the parameters of the Regulation, a new application would be required to expand as a non-farm use. Additionally, the siting of the farm store and accommodation utilizes a previously unused portion of the Property due to slope, and is easily accessible from West Saanich Road.

[17] With respect to the proposed accommodation above the farm store, the Panel evaluated the Proposal against [s. 3\(1\)\(b\) of the Regulation](#) which permits accommodation above an existing building. ALC [Policy L-08: Residential Uses in the ALR – Zone 1](#) further clarifies that accommodation that is constructed above an existing building on the farm applies to accommodation that is less than 90 m<sup>2</sup> and only a single level. In order to add an accommodation to an existing building, the parcel on which the structure is located must be operated as a farm and classified as a "farm" under the *Assessment Act*, however there is no restriction on who can occupy the accommodation

(family, renter, farm workers). The Property currently has farm status; however, the proposed accommodation of 125 m<sup>2</sup> exceeds the area permitted by the Regulation. In this circumstance, the Panel is amenable to allowing the accommodation, as it is a modest variance from what is permitted in the Regulation, is completely contained within the farm store building footprint, and will not require additional access or parking area from that associated with the farm store.

## **DECISION**

[18] For the reasons given above, the Panel approves the Proposal to construct a 125 m<sup>2</sup> accommodation above the farm retail store.

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

- a. The accommodation is confined to the 125 m<sup>2</sup> area per the plan attached to Resolution #43/2017;
- b. The accommodation be in substantial compliance with the plan attached to Resolution #43/2017; and
- c. The Property must retain classification as farm under the *Assessment Act*.

[20] 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.

[21] These are the unanimous reasons of the Island 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 ALCA](#).

[23] This decision is recorded as Resolution #43/2017 and is released on February 28, 2017.



**CERTIFICATION OF DECISION**

A handwritten signature in black ink, appearing to read 'Linda Michaluk', is written above a horizontal line.

Linda Michaluk, Panel Chair, on behalf of the Island Panel

**END OF DOCUMENT**

ALC Application 55585 (Dault)  
Conditionally Approved Non-Farm Use  
Resolution #43/2017



**Legend:**

-  Property Boundary
-  Conditionally Approve Non-Farm Use