



Agricultural Land Commission
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February 28, 2017

ALC File: 55827

Morningstar Springs Farm Ltd.
403 Lowry's Road
Parksville, BC V9P 2B5

Attention: Clarke Gourlay

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

Please find attached the Reasons for Decision of the Executive Committee (Resolution #41/2017) 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 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.

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', is written over a faint, larger version of the same signature.

Christopher Wilcott, Land Use Planner

Enclosures: Reasons for Decision (Resolution #41/2017)
Sketch plan

cc: Regional District of Nanaimo (File: PL2016-158) – Attention: Greg Keller, Senior Planner

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AGRICULTURAL LAND COMMISSION FILE 55827

REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

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

Applicant: **Morningstar Springs Farm Ltd.**
(the “Applicant”)

Agent: **Clarke Gourlay**
(the “Agent”)

Application before the Executive Committee: **Frank Leonard, Chair**
William Zylmans, South Coast Panel
Richard Mumford, Interior Panel
Sharon Mielnichuk, Kootenay Panel
Dave Merz, North Panel
Gerald Zimmermann, Okanagan Panel



THE APPLICATION

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

Parcel Identifier: 028-988-876

Lot 2, District Lots 19 and 83, Nanoose Land District, Plan EPP16024

(the "Property")

[2] The Property is 35.6 ha in area.

[3] The Property has the civic address 403 Lowry's Road, Parksville 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 Applicant is applying to construct a 141.21 m² second dwelling on the Property for farm help (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").

[7] On January 10, 2017 the Island Panel (the "Panel") referred the Application to the Executive Committee (the "Executive Committee"). The Vice-Chair of the Panel recused herself from deliberation of this application by the Executive Committee.

RELEVANT STATUTORY PROVISIONS

[8] 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.



[9] The Executive Committee 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;
- (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 EXECUTIVE COMMITTEE

[10] The Executive Committee 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.

[11] The Regional District of Nanaimo (the “RDN”) Board Policy B1.8 includes a standing resolution for exclusion, subdivision and non-farm use applications in the ALR as follows:

All applications under the Agricultural Land Commission (ALC) for exclusion, subdivision or non-farm use of ALR land are to be forwarded 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. Agricultural Advisory Committee comments and recommendations



are to be forwarded to the ALC by including the AAC motion in the local government report to the ALC.

[12] At its meeting of November 26, 2016, the RDN's Agricultural Advisory Committee resolved:

That application No. PL2016-158 – ALR Non-Farm Use Application – Morningstar Springs Farm Ltd. – 395 and 403 Lowry's Road – electoral Area 'G' be forwarded to the Agricultural Land Commission with a recommendation to approve the non-farm use within the ALR.

[13] The Executive Committee reviewed one previous application involving the Property:

Application ID: 12434
Legacy File: 32395
(Kristoff Enterprises Ltd., 1999)

To subdivide a 2 ha lot from the northwest corner of the 29.6 ha property to provide a retirement lot. The applicants would move into an existing small home on the proposed lot and sell the remainder of the farm with all the existing buildings including the large farm house. The Commission did not support the subdivision proposal as it would divide the usable agricultural portion of the property between two lots and create a precedent in the region for similar requests. The application was refused by ALC Resolution #157/99.

Reconsideration Request

The Commission received a request for reconsideration of Resolution #157/99 from the applicant on April 20, 1999. The request was based on the comments of a professional agrologist, on behalf of the applicant. The Commission reconfirmed its previous decision that subdivision would divide the usable agricultural portion of



the property between two lots and create a precedent in the region for similar request. The comments made by the professional agrologist were noted; however, the Commission felt that the additional dwelling might be useful for a new owner of the farm. The Commission reconfirmed its decision to refuse the subdivision request by ALC Resolution #364/99.

Reconsideration Request The Commission conducted a site inspection on February 26, 2003 and walked the northern portion of the property with the applicants. The Commission was shown the site for the proposed subdivided lot and small existing house and garage which would be located on the lot. The Commission felt that the allowance of the proposed subdivision would not affect farming of neighboring properties in the future and based on the particular circumstance of the application, allowed the subdivision by ALC Resolution #102/2003.

SITE VISIT

[14] The Executive Committee, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

FINDINGS

[15] In assessing agricultural capability, the Executive Committee 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.039 for the mapping units encompassing the Property are approximately 80% (8:2A – 2:3A), 10% (2AP), 5% (4P), with the remainder consisting of (2A), (2D), and (5PA) class soils.

Class 2 – land in this class has minor limitations that require good ongoing management practises or slightly restrict the range of crops, or both.

Class 3 – land in this class has limitations that require moderately intensive management practises or moderately restrict the range of crops, or both.

Class 4 – land in this class has limitations that require special management practises or severely restrict the range of crops, or both.

Class 5 – land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

The limiting subclasses associated with this parcel of land are A (soil moisture deficiency), D (undesirable soil structure), and P (stoniness).

[16] The Executive Committee reviewed the BCLI ratings and finds that the Property has good agricultural capability and in its present size, could support a range of agriculture.

[17] The Executive Committee believes that the residential situation should reflect the agricultural needs of the property at present. In this regard, the Executive Committee finds that the Property's agricultural operations are extensive in nature (80 dairy cows, automated milking operation, cheese production, agri-tourism, etc.) and that the twenty-four hour operation of the farm requires that additional farm help must have easy and immediate access to the Property at various times of day.

[18] The Executive Committee finds that the proposed location for the second dwelling, on the edge of the Property, will have minimal impact on the farm's cultivated area.



[19] The Executive Committee finds that the 141.21 m² (1,520 ft²) size of the proposed second dwelling is reasonable for farm help purposes.

DECISION

[20] For the reasons given above, the Executive Committee approves the Proposal to construct a 141.21 m² second dwelling for farm help.

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

- a. the second dwelling be in substantial compliance with the Sketch Plan attached to Resolution #41/2017 so as to minimize impacts on the farm's arable land and agricultural operations;
- b. any expansion of the second dwelling will require a new non-farm use application;
- c. the second dwelling being completed within three (3) years from the date of release of this decision; and,
- d. the decision is void if the Property is sold, and at the time of sale of the Property, construction of the second dwelling has not commenced.

[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 Executive Committee of the Agricultural Land Commission.

[24] A decision of the Executive Committee is a decision of the Commission pursuant to s. 10(3) of the *Agricultural Land Commission Act*.

[25] This decision is recorded as Resolution #41/2017 and is released on February 28, 2017.



CERTIFICATION OF DECISION

A handwritten signature in black ink that reads "Frank Leonard." The signature is written in a cursive style with a period at the end.

Frank Leonard, Chair, on behalf of the Executive Committee

END OF DOCUMENT

**55827 (Morningstar Springs Farm Ltd.)
Conditionally Approved Non-Farm Use
ALC Resolution #41/2017**

**General
Location
Approved for
Second
Dwelling**

