



Agricultural Land Commission
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September 29, 2022

ALC File: 64188
Your File: (File 2022-01)

Joseph Fernandez
Town of Lake Cowichan
DELIVERED ELECTRONICALLY

Dear Joseph Fernandez:

Re: Reasons for Decision - ALC Application 64188

Please find attached the Reasons for Decision of the Island Panel for the above noted application (Resolution #360/2022). As agent, it is your responsibility to notify the applicant accordingly.

Please note that the submission of a \$150 administrative fee may be required for the administration, processing, preparation, review, execution, filing or registration of documents required as a condition of the attached Decision in accordance with s. 11(2)(b) of the ALR General Regulation.

Under section 33.1 of the *Agricultural Land Commission Act* (“ALCA”), the Chair of the Agricultural Land Commission (the “Commission”) has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Under section 33 of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. A request to reconsider must now meet the following criteria:

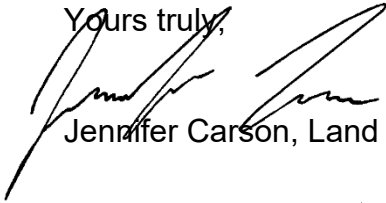
- No previous request by an affected person has been made, and
- The request provides either:
 - Evidence that was not available at the time of the original decision that has become available, and that could not have been available at the time of the original decision had the applicant exercised due diligence, or
 - Evidence that all or part of the original decision was based on evidence that was in error or was false.

The time limit for requesting reconsideration of a decision is one year from the date of the decision’s release, as per [ALC Policy P-08: Request for Reconsideration](#).

Please refer to the ALC's [Information Bulletin 08 – Request for Reconsideration](#) for more information.

Please direct further correspondence with respect to this application to ALC.Island@gov.bc.ca.

Yours truly,



Jennifer Carson, Land Use Planner

Enclosures: Reasons for Decision (Resolution #360/2022)
 Schedule A: Decision Map

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**AGRICULTURAL LAND COMMISSION FILE 64188
REASONS FOR DECISION OF THE ISLAND PANEL**

Non-Farm Use Application Submitted Under s.20(2) of the Agricultural Land
Commission Act

Applicant: Town of Lake Cowichan

Agent: Joseph Fernandez, Town of Lake Cowichan

Property Owner: The Board of School Trustees of School District
No. 79

Property: Parcel Identifier: 003-601-943
Legal Description: Lot A, Block 25, Cowichan
Lake District, Plan 20496
Location: Lake Cowichan, BC
Area: 6.21 ha (entirely within the ALR)

Panel: Linda Michaluk, Island Panel Chair
Jennifer Woike

OVERVIEW

[1] The Property is located within the Agricultural Land Reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (“ALCA”).

[2] The Applicant is applying to the Agricultural Land Commission (the “Commission” or “ALC”) under s. 20(2) of the ALCA to use a former School District No. 79 school site for the following uses by the Town of Lake Cowichan (the “Town”):

a. Public Works Yard Use

To use ~2.56 ha of the Property for public works administration office, garage and yard storage that will involve:

- Repurposing the existing 1,860m² school building for administration offices, mechanical workshop and indoor garage parking.
- Constructing a hard surface public works yard on the western three quarters of the existing playing field. The use will include storage for pipe and traffic management equipment, structures to store sand and salt, gardening equipment and supplies, and miscellaneous community equipment.
- Construction of an outdoor parking lot for public works vehicles over the current abandoned playground.
- Use for an existing paved and graveled lot for staff and public parking.
- No additional permanent structures are proposed beyond the existing footprint of the former school.

b. Fire Department Use

To use the eastern quarter of the current playing field for Fire Department safety and operational practice. This space will be used as is and will only contain temporary structures.

c. Road Dedication and Construction

To use ~0.558 ha of the Property to construct and dedicate a 20m wide strip along the northern boundary of the Property for a collector road connecting Poplar Street / Hammond Avenue and Edgewood Drive. The placement of approximately 1,489m³ of road base gravel is required for road construction. This area is identified as the location for a future Collector Road in the Town's Official Community Plan.

The non-farm uses requested and described above are collectively referred to, for the purposes of this decision, as the "Proposal".

[3] The issue the Panel considered is whether the Proposal would impede potential future agricultural use of the Property.

[4] The Proposal was considered in the context of the purposes and priorities of the Commission set out in s. 6 of the ALCA:

6 (1) The following are the purposes of the commission:

- (a) to preserve the agricultural land reserve;
- (b) to encourage farming of land within the agricultural land reserve 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 land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

(2) The commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under this Act:

- (a) the size, integrity and continuity of the land base of the agricultural land reserve;
- (b) the use of the agricultural land reserve for farm use.

EVIDENTIARY RECORD

[5] The Proposal, along with related documentation from the Applicant, Agent, local government and Commission is collectively referred to as the “Application”. All documentation in the Application was disclosed to the Agent in advance of this decision.

BACKGROUND

[6] In 2019, Application ID 58750 was submitted to the Commission to exclude the 6.2 ha Property from the ALR for use as a Public Works administrative and yard centre as well as fire training facility. The balance of the Property (approximately 3.0 ha) was proposed to be subdivided to accommodate an access road to a new residential development on an adjacent parcel east of the Property. The proposed exclusion was refused by Resolution #380/2019. The Commission refused exclusion because the Property has suitability for non-soil-based agriculture.

[7] The Applicant has now applied for non-farm use approval to accommodate the Proposal as described in paragraph 2. The Council of Town of Lake Cowichan resolved at its meeting of February 22, 2022, to forward the application to the Commission with support.

[8] The Proposal is consistent with the Town of Lake Cowichan’s Zoning Bylaw and Official Community Plan. The Agent submits that the Town amended its Official Community Plan by designating the Property as ‘Agricultural’ and including

appropriate agricultural policies based on ALC policy guidance. However, the Panel notes that the road designation in the Official Community Plan was not reviewed by the Commission.

ANALYSIS AND FINDINGS

[9] To assess agricultural capability on the Property, the Panel referred to the agricultural capability ratings identified in the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability rating applicable to the Property is Class 6, more specifically 6T. Class 6 land is described as important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations. The limiting subclass associated with this parcel of land is T (topographic limitations). Based on the agricultural capability ratings, the Panel finds that the Property has secondary agricultural capability.

[10] In the previous decision on the Property through Resolution #380/2019, the Commission refused exclusion because the Property has suitability for non-soil-based agriculture. The Panel notes that the current Proposal is requesting non-farm use within the ALR. As such, the remainder of the Property could still be protected for agricultural use, and in the future, the impacted area could be used for non-soil-based agriculture.

[11] The Panel understands that the Applicant is requesting the use of the Property for its community, to relocate the existing public works yard that is need of expansion that cannot be accommodated in its current location, to provide a practice area for the Fire Department, and to dedicate and construct a collector road to help access a new neighbourhood planned outside the ALR.

[12] The Agent explains that the Proposal does not preclude long term agriculture use in the vicinity and mentions that the Applicant may consider this land for an expansion of its active urban garden allotment program currently running nearby on Stone Avenue in Ravine Park. The Panel encourages the Town of Lake Cowichan to make the remaining 3.1 ha of the Property available to the community for agriculture, through a lease or other means.

Public Works

[13] The Panel reviewed the portion of the Proposal to use ~2.56 ha of the Property for public works purposes for the Town of Lake Cowichan. Generally, the Commission would prefer that wherever possible, the ALR is preserved for agricultural use and that institutional uses, such as public works yards, be kept out of the ALR. However, the Panel notes that the Applicant provided a document in the Application comparing and evaluating the alternative options available for the public works facility and yard. This document explains that the Proposal is being requested on the Property due to its location, availability and compatible surrounding uses. The Panel also notes the historic use of the property for institutional uses by the School District.

[14] In terms of the impact of the Proposal on the ALR, the Panel notes that in its experience, once agricultural land is used for non-agricultural purposes it can be difficult although not impossible to reclaim or convert these uses back to agricultural use. In this particular circumstance, the Panel finds that the area proposed for the non-farm use for the public works activity is contained within the area already impacted by the decommissioned school and school grounds, and that the Proposal does not impede the future use of this area for non-soil-based agriculture.

Fire Department Use

[15] The Panel reviewed the portion of the Proposal to use the eastern quarter of the current playing field for Fire Department safety and operational practice. The Panel notes that fire practice area is contained within the area already impacted by the existing field and only requires the use of temporary structures. As such, the Panel finds that the Proposal does not impede the future use of this area for non- soil-based agriculture.

Road Dedication and Construction

[16] The Panel reviewed the portion of the Proposal to use ~0.558 ha of the Property to dedicate a 20m wide right of way along the northern boundary of the Property for the construction of a new collector road connecting Poplar Street / Hammond Avenue and Edgewood Drive. The placement of approximately 1,489m³ of road base gravel is required for road construction. The Panel notes that the proposed road is located along the northern boundary of the Property immediately adjacent to the ALR Boundary and as such finds that the continuity of the ALR will not be impacted by this portion of the Proposal.

DECISION

- [17] For the reasons given above, the Panel approves the Proposal to:
- a. use ~2.56 ha of the Property for public works administration office, garage and yard for the Town;
 - b. to use the eastern quarter of the current playing field for Fire Department safety and operational practice in accordance with the Proposal; and,
 - c. to use ~0.558 ha to construct and dedicate a 20m wide strip along the northern boundary of the Property for a collector road connecting Poplar Street / Hammond Avenue and Edgewood Drive.

subject to the following conditions:

- (a) the submission of a surveyed subdivision plan to the Commission, within three years of the date of the release of this decision for the dedication of the ~0.558 ha for the collector road, that is in compliance with Schedule A of this decision;
- (b) Siting of the public works facility and supporting infrastructure in accordance with Schedule A;
- (c) Use of the eastern quarter of the current playing field for Fire Department safety and operational practice in accordance with Schedule A;
- (d) The Fire Department is only permitted temporary structures on the Property; and,
- (e) Approval for non-farm use is granted for the sole benefit of the Applicant and is non-transferable.


[18] 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.

[19] These are the unanimous reasons of the Panel.

[20] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(3) of the ALCA.

[21] Resolution #360/2022

Released on September 29, 2022



Linda Michaluk, Panel Chair

On behalf of the Island Panel

