



Agricultural Land Commission
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www.alc.gov.bc.ca

November 28, 2019

ALC File: 54694

Harlene Holm
Denman Community Land Trust Association
DELIVERED ELECTRONICALLY

Dear Harlene Holm:

Re: Application 54694 to Exclude Land from the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Chief Executive Officer for the above noted application (Resolution #448/2019). As agent, it is your responsibility to notify the applicant accordingly.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision's release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

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

Yours truly,

A handwritten signature in black ink that reads 'Aimee McGowan' in a cursive script.

Aimee McGowan, Land Use Planner

Enclosures: Reasons for Decision (Resolution #448/2019)
Schedule A: ALC Decision Map

cc: Islands Trust – Northern Office (File: DE-ALR-2015.1)

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AGRICULTURAL LAND COMMISSION FILE 54694

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

Exclusion Application Submitted Under s. 30(1) of the *Agricultural Land Commission Act*

Applicant: Beverly Severn

Agent: Harlene Holm

Property: Parcel Identifier: 009-708-537
Legal Description: Parcel M (DD 6601N) of Section
18, Denman Island, Nanaimo District, except that
part in Plan 24807
Area: 1.6 ha

Chief Executive Officer: Kim Grout
(the "CEO")

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] In 2016, the Applicant, in conjunction with the Denman Community Land Trust Association (the “DCLTA”), applied to the Agricultural Land Commission (the “Commission”) to exclude the 1.6 ha Property from the ALR for the establishment of eight units of affordable seniors’ housing for Denman Island residents (the “Proposal”).
- [3] By Agricultural Land Commission (ALC) Resolution #389/2016, dated November 15, 2016, the Island Panel (the “Panel”) conditionally approved the Proposal; however, the Panel approved the decision based on the understanding that the entire Property was going to be developed as seniors’ affordable housing (the “Original Decision”). The Agent subsequently clarified that only half of the Property was intended for that use, and the Applicant (i.e. Beverly Severn) was to remain living on the other half of the excluded portion.
- [4] In 2018, the Agent submitted a Request for Reconsideration to the Commission to rectify the discrepancy in the decision. Upon consideration of the Request for Reconsideration of ALC Resolution #389/2016, the ALC Executive Committee determined that the Original Decision was based on information that may be in error or false and that the information would have been germane to the review of the Application by the Panel.
- [5] 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 Panel.
- [6] By ALC Resolution #359/2018, dated November 14, 2018, the Panel refused the revised proposal to exclude the 1.6 ha Property for both affordable housing and to create a homesite for the landowner. The Panel upheld the Original Decision (ALC Resolution #389/2016), to exclude the 1.6 ha Property for the establishment of affordable seniors’ housing. Alternatively, the Panel approved the exclusion of a ±0.8 ha portion of the Property for the establishment of affordable seniors’ housing, subject to conditions, including:
- a. the submission of a survey plan delineating the area to be excluded.

- [7] On November 13, 2019, the Agent submitted a letter requesting an amendment to condition 'a' of ALC Resolution #359/2018 as it relates to delineating the area to be excluded from the ALR.
- [8] In the request, the Agent explained that the access lane to the Applicant's ALR portion of the Property, outlined in green in the decision map of ALC Resolution #359/2018, creates an ALR access that bisects the non-ALR area approved for development as affordable seniors housing. The access lane was intended to be common property held by the strata subdivision partners, DCLTA, and the Applicant (and any future owner of her strata parcel), and not to be used solely to access the Applicant's ALR portion of the Property.
- [9] The Agent explained that the Property has access to Denman Road via an easement granted through an adjacent property in 1978. DCLTA, as part of its Land Purchase Agreement with the Applicant, purchased the easement from the adjacent property and is concluding work with the BC Land Title & Survey Authority to make the lane part of the Property. The proposed strata subdivision plan for the Property would designate the entire access lane as "common area – road access." As a "common area," the lane would be common property held by both strata partners and maintained by DCLTA. Further, it would provide unimpeded access to Denman Road for both the portion of the Property to remain in the ALR and the ± 0.8 ha portion approved for exclusion.
- [10] For the above reasons, the Agent is requesting that the Commission grant an amendment to condition 'a' of ALC Resolution #359/2018 to add the access lane to the ± 0.8 ha approved for exclusion, as access to the portion of the Property that is to remain in the ALR will be granted by way of a common property access road (the "Revised Proposal").
- [11] Under Section 27 of the ALCA the ALC, by resolution, may establish criteria under which the CEO may approve applications for exclusion, subdivision, non-farm use, non-adhering residential use, and soil or fill use applications. By resolution, the Commission has specified that the following applications may be decided by the CEO:

8. Requests for variations or removal of conditions of approval imposed by the Commission by resolution in exclusion, subdivision, and non-farm use applications that are consistent with the intent of the Commission's original decision.

DECISION

[12] After reviewing the Application, I am satisfied that the Revised Proposal is consistent with Criterion #8 and approve an amended survey plan delineating the area to be excluded to incorporate the lane outlined in green in the decision map of ALC Resolution #359/2018 to the ±0.8 ha portion approved for exclusion.

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

- a. the submission of a survey plan delineating the area to be excluded, in substantial compliance with the amended design (Schedule A);
- b. the Commission receive and approve confirmation that unimpeded access, by way of a common area road, has been provided to the portion of the Property that is to remain in the ALR in perpetuity;
- c. the Commission receive and approve a vegetative buffer and fencing plan between the area of the Property approved for exclusion and adjacent agricultural lands, and that the buffer be on the non-ALR side;
- d. photographic evidence of the fencing and vegetative buffer;
- e. re-zoning of the non-ALR portion of the Property to allow for affordable seniors' housing;
- f. the Commission receive and approve a housing agreement to be registered on Title ensuring that the land use, tenancy selection and occupancy support the continuing use of the land for affordable seniors housing; and
- g. the conditions be completed within three (3) years of the date of release of this decision.

[14] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the exclusion.

[15] 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.

[16] A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

[17] Resolution #448/2019
Released on November 28, 2019

A handwritten signature in black ink, appearing to read 'Kim Grout', written in a cursive style.

Kim Grout, Chief Executive Officer

