



Agricultural Land Commission
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May 14, 2014

ALC File: 52028

Hank Bitter
16613 Middleton Road
Pitt Meadows, BC V3Y 1Z1

Dear Mr. Bitter:


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

Please find attached the Minutes of Resolution #151/2014 as it relates to the above noted application. The Commission has also attached a sketch plan depicting the decision.

Further correspondence with respect to this application should be directed to Eamonn Watson at Eamonn.Watson@gov.bc.ca.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosures: Minutes of Resolution #151/2014
Sketch plan

cc: City of Pitt Meadows (6635-20-2010-03-P)

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 28, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #52028.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Jennifer Carson	Planner
Eamonn Watson	Planner
Colin Fry	Chief Tribunal Officer

REQUEST FOR RECONSIDERATION

The Commission received a letter dated April 13, 2012 requesting the reconsideration of its decision recorded as Resolution #133/2011, by which, the proposal to permit the screening and mixing of soil was refused. Further to this letter, Mr. Colin Fry, Chief Tribunal Officer, met with Mr. Hank Bitter and additional information was provided by way of an electronic mail correspondence dated February 25, 2014.

Owner: Hank John Bitter

Original Proposal: (Submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)
To permit the screening and mixing of soil for sale from the subject property.

Original Decision: That the application be refused.

Current Request: Mr. Bitter is requesting permission to continue operating the soil screening and mixing business.

Legal: PID: 013-180-681
West Half of the North East Quarter, Section 4, Block 5 North, Range 1 East, New Westminster District

Location: 17890 Ford Detour Road, Pitt Meadows

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* 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.

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission believes that the applicant has provided evidence that was not available at the time of the previous decision. In his email, Mr. Bitter explains the agricultural service he offers to other farmers in the area.

As a result, it was moved by Commissioner Bullock and seconded by Commissioner Dyson that there were no persons affected by the reconsideration and that the Commission reconsider Resolution #151/2014. The motion was carried unanimously.

After considering the new information the Commission concluded as follows:

1. The applicant is a bona fide farmer and the majority of the subject property is in active cranberry production. The topsoil screening and mixing operation provides financial support to the farm operation by way of a reliable income stream. The area that would be utilized for the topsoil screening and mixing operation would remain contained.

Conclusion:

The site used for the operation is relatively small and does not appear to have any negative impact on the existing agricultural operation. The Commission believes that the continuation of the topsoil screening and mixing operation does not have an adverse impact on agriculture as long as the area is rehabilitated before the property is sold.

2. The topsoil screening and mixing operation provides an important service to the agricultural community by redirecting and reusing horse manure and spent mushroom compost (a waste product of those industries) as a quality soil. The Commission was advised by Mr. Fry that he is not aware of any complaints received regarding the operation to date.

Conclusion:

The Commission believes that the topsoil screening and mixing operation provides a service to the agricultural community while also supporting the existing farm on the property.

3. Mr. Bitter also owns the property immediately to the west (Lot 9, Section 4, Block 5 North, Range 1 East, New Westminster District; PID: 008-384-932) and farms the two

properties as contiguous unit. Mr. Bitter's farm operation extends beyond these two properties and in total farms approximately 60 ha of land in Pitt Meadows. Neither the subject property nor Lot 9 currently have a home, and Mr. Bitter confirms that if a home were to be built, it would be built on the existing topsoil screening and mixing staging area.

Conclusion:

The Commission understands that the majority of the subject property (and Lot 9) are in active agricultural production and the applicant is willing to put a covenant(s) on the two properties to ensure the impact to the topsoil screening and mixing operation remains minimal. As a result, the Commission believes the proposed continuation of the topsoil screening and mixing operation would be consistent with the objective of the *Agricultural Land Commission Act* to encourage farming without having a negative impact on the preservation of the land.

IT WAS

MOVED BY: Commissioner Bullock

SECONDED BY: Commissioner Dyson

THAT the request to continue the topsoil screening and mixing operation on approximately 0.4 ha of the subject property be approved.

AND THAT the approval is subject to the following conditions:

1. The topsoil screening and mixing operation must be in substantial compliance with the information submitted with the application;
2. The topsoil screening and mixing operation must not expand outside the boundaries identified with the application;
3. The topsoil screening and mixing operation is permitted to continue for a further ten (10) years from the date of this decision (until March 31, 2024);
4. The topsoil screening and mixing operation must not be sold as a going concern and all associated infrastructure must be removed from the subject property in advance of a sale of the subject property and Lot 9;
5. The registration of a covenant on the subject property and Lot 9 for the purposes of restricting the sale, transfer, lease, or any other form of transacting the land, from the current owner to another person(s) prior to the cessation of the topsoil screening and mixing business; and one of the following:
 - a. the reclamation of the topsoil screening and mixing site to an agricultural standard, or
 - b. restricting the residential building area of the subject property and Lot 9 to the same area as the topsoil screening and mixing site instead of reclaiming the topsoil screening and mixing site to an agricultural standard; and
6. The approval for non-farm use is granted for the sole benefit of the applicant (Hank John Bitter) and is non-transferable.

AND THAT the Commission has no objections to the continued use of the portion of existing right of way immediately north of the subject property and Lot 9 for topsoil screening and mixing activities associated with the approved use subject to approval from the City of Pitt Meadows.

AND FINALLY THAT 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.

CARRIED
Resolution #151/2014



Approved area for topsoil screening and mixing operation (approximately 0.4 ha)

