



Agricultural Land Commission
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Fax: 604 660-7033
www.alc.gov.bc.ca

February 1, 2019

ALC File: 57354

Caroline MacPherson
DELIVERED ELECTRONICALLY

Dear Caroline MacPherson:

Re: Application 57354 to conduct a non-farm use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Okanagan Panel for the above noted application (Resolution #29/2019). As agent, it is your responsibility to notify the applicant accordingly.

Review of Decisions by the Chair

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.

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 regarding this application to ALC.Okanagan@gov.bc.ca.

Yours truly,

A handwritten signature in cursive script that reads 'Celeste'.

Celeste Barlow, Land Use Planner

Enclosures: Reasons for Decision (Resolution #29/2019)
Schedule A: Decision Map

cc: Central Okanagan Regional District (File: A-18-02)



AGRICULTURAL LAND COMMISSION FILE 57354
REASONS FOR DECISION OF THE OKANAGAN PANEL

Non-Farm Use Application Submitted Under s. 20(3) of the *Agricultural Land Commission Act*

Applicant: Eldorado Ranch Ltd., Inc. No. 83336

Agent: Caroline MacPherson

Property: Parcel Identifier: 007-247-168
Legal Description: Lot 2, District Lot 120,
Osoyoos Division Yale District Plan 3497
Civic: 5932 Old Vernon Road, Kelowna, BC
Area: 21.7 ha

Panel: Gerald Zimmermann, Okanagan Panel Chair
Jim Johnson

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act* (ALCA). The Property is located within Zone 1 as defined in s. 4.2 of the ALCA.
- [2] The Agent currently operates a petting zoo and emu farm (the “Kangaroo Creek Farm”) on a property in Lake Country which has kangaroos, emus and goats, as well as other farm animals. The Agent wants to relocate Kangaroo Creek Farm to the Property for the purpose of providing:
- the animals with increased space and grazing ability;
 - enough room to accommodate visitors; and
 - better road access
- [3] Pursuant to s. 20(3) of the ALCA, the Applicant is applying to the Agricultural Land Commission (the “Commission”) to utilize approximately 12.0 ha of the 21.7 ha Property for a petting zoo and emu farm (the “Proposal”).
- [4] The issue the Panel considered is whether the non-farm use would impact the agricultural utility of the Property.
- [5] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (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

- [6] The Proposal along with related documentation from the Applicants, 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.
- [7] The Panel conducted a walk-around site visit on August 15, 2018 in accordance with the *ALC Policy Regarding Site Visits in Applications*, (the “Site Visit”). 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 November 8, 2018 (the “Site Visit Report”).

EVIDENCE AND FINDINGS

Issue: Whether the Proposal would impact the agricultural utility of the Property

- [8] The Application submits that it has been challenging to find a suitable property for Kangaroo Creek Farm because of the unique requirements for animals and visitors. The Agent has not been able to find any land available locally, for sale or lease, that meet the necessary criteria. The Agent approached the Applicant to relocate Kangaroo Creek Farm to the Property. According to the Application, the Property provides the animals with adequate space and grazing ability, enough space to accommodate visitors, and sufficient vehicle access.
- [9] The Application submits that the Proposal to operate Kangaroo Creek Farm on the Property will not include any permanent structures or foundations. The Proposal includes an unpaved parking lot and unpaved driveway, a public picnic area with portable toilets, fenced pastures for animals grazing and five portable non-permanent buildings. In addition, there is a dilapidated single family dwelling on the Property and the Agent proposes to restore the exterior of the house to be incorporated into the visitor experience. The Panel considered the impermanency of the structures and considered the ease with which the Property could be converted to a different agricultural use at a future date. If someone intended to farm the Property in future, the buildings and structures could be removed easily with minimal

disturbance. The Panel finds that the Proposal will not permanently impact the future agricultural utility of the Property.

[10] The Application submits that the Property is not currently being used by the Applicant for ranching or farming activities. The Central Okanagan Regional District (CORD) staff report confirms and the Panel observed during the Site Visit that the Property is currently vacant and has not been utilized for agriculture for many years. The current location of the Kangaroo Creek Farm has maintained farm status through BC Assessment and the Agent intends to apply for farm status on the Property as well. The Agent also intends to include agricultural history and educational props located throughout the grounds to educate visitors on farming and the agricultural history of the area. The Panel finds that a portion of the Proposal supports agriculture through the grazing of animals and production of farm products.

[11] The Application submits that there has been concern raised by the CORD Agricultural Advisory Committee (AAC) regarding the location of the proposed parking area and length of driveway. The Agent originally proposed to have the parking area on the southern portion of the Proposal area, and have a driveway that connected to Old Vernon Road. Following a meeting with the CORD's AAC, the Agent modified the parking area and driveway proposal to be located along the eastern portion of the Property, closer to Old Vernon Road. The rationale provided by the CORD AAC is that original configuration proposed a driveway length that fragmented the Property and increased the possibility of compaction in the center of the Property. The Agent indicated that the rationale for not proposing the parking lot to be located adjacent to Old Vernon Road was based on feedback from residents in the neighbouring residential subdivision who expressed concerns regarding the visual impact, dust and increased traffic. The Panel considered the original and modified layout of the parking lot, length of the driveway, area, and the potential impacts of each design, in accordance with agricultural considerations within the context of the purposes of the Commission set out in s. 6 of the ALCA. The purpose of s. 6(a) of the ALCA is to preserve agricultural land. The Panel finds that the modified layout of the parking lot and length of the driveway is the most consistent with s. 6(a) of the ALCA and ensures that the impact or

potential impact to the land base is as minimal possible. For this reason, the Panel supports the modified Proposal layout as proposed by the CORD AAC.

DECISION

- [12] For the reasons given above, the Panel approves the Proposal to utilize 12.0 ha of the Property for Kangaroo Creek Farm subject to the following conditions:
- a. the non-farm use be in substantial compliance with Schedule A: Decision Map;
 - b. no permanent structures are to be constructed for the non-farm use;
 - c. the construction of a fence to prevent trespass of visitors or animals onto the adjacent land and to confine the non-farm use activity to the 12.0 ha area as indicated on Schedule A: Decision Map;
 - d. the 0.6 ha parking area and driveway must be permeable (composed of gravel and/or sand) and located in accordance with Schedule A: Decision Map; and
 - e. approval for non-farm use is granted for the sole benefit of the Kangaroo Creek Farm and is non-transferable.

[13] 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.

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

[15] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.



[16] Resolution #29/2018

Released on February 1, 2019

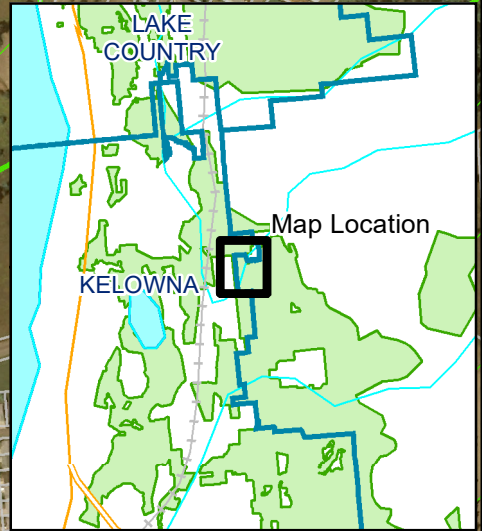
A handwritten signature in black ink, appearing to read 'G. Zimmermann', is written over the printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gerald Zimmermann, Panel Chair

On behalf of the Okanagan Panel

119°22'0"W

Schedule A: Decision Map
ALC Application 57354
Approved Non-Farm Use
Resolution #29/2019



49°58'0"N

Approximate location of
12.0 ha non-farm use

Location of 0.6 ha
parking lot and
driveway

Approximate location of
fence (around perimeter
of non-farm use)

Location of parking lot
and driveway

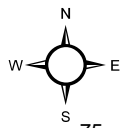
ALR



Airphoto Map

2007 Natural Colour Ortho

Map Scale: 1:7,500



75 0 75 150 225 300 375

Meters

ALC File #: 57354

Mapsheet #: 82E.094

Map Produced: January 31, 2019

Regional District: Central Okanagan