



BOARD REPORT

TO: Chair and Directors

File No: LC2563F CV20190000042
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SUBJECT: Electoral Area F: Agricultural Land Commission (ALC) Application
Section 20 (2) – Non-farm Use (Dobray)

DESCRIPTION: Report from Jan Thingsted, Planner III, dated April 3, 2019
2732 Evans Road, Celista

RECOMMENDATION: THAT: Application LC2563F, Section 20(2) for Non-Farm Use for the Northwest ¼, Section 21, Township 23, Range 10, W6M, KDYD, Except Plans 36922 and KAP90613, be forwarded to the Agricultural Land Commission recommending approval this 18th day of April, 2019.

SHORT SUMMARY:

The property owner's agent has applied to the Agricultural Land Commission (ALC) for non-farm use permission to establish a micro-cultivation cannabis production facility ("facility") at 2732 Evans Road in Celista, Electoral Area F. The proposed facility is to be federally licensed under the Cannabis Act for micro-cultivation in an existing 6,000 sq. ft. concrete-floor building. The agent has also included a 1,500 sq. ft. cover-all building in the proposal to enable future expansion of the business to include a cannabis processing space. The total area of land requested for non-farm use is 7,500 sq. ft. (697 m²).

VOTING:	Unweighted Corporate	<input checked="" type="checkbox"/>	LGA Part 14 (Unweighted)	<input type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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BACKGROUND:

REGISTERED OWNERS:
Leslie Dobray, Brenda Dobray

APPLICANT/AGENT:
Jaclynn Pehota (Althing Consulting Ltd.)

ELECTORAL AREA:
F (North Shuswap)

LEGAL DESCRIPTION:
Northwest ¼, Section 21, Township 23, Range 10, W6M, KDYD, Except Plans 36922 and KAP90613

PID:
004-541-766
CIVIC ADDRESS:
2732 Evans Road, Celista

SURROUNDING LAND USE PATTERN:
North = Rural Resource (Crown Provincial)
South = Agriculture (ALR)

East = Agriculture (ALR)

West = Agriculture/Rural Resource

CURRENT USE:

Residential (one single-family dwelling) and accessory buildings

Agriculture (most of the property is currently being used to grow hay/alfalfa)

PROPOSED USE:

Residential (one single-family dwelling) and accessory buildings

Micro-cultivation cannabis production facility and continued cultivation of hay/alfalfa.

PARCEL SIZE:

38.3 ha

DESIGNATION:

Electoral Area F Official Community Plan Bylaw No. 830

Agriculture

ZONE:

No Zoning

PROPOSED DESIGNATION/ZONE:

No proposed change

AGRICULTURAL LAND RESERVE (ALR):

100%

SOIL CAPABILITY:

According to Canada Land Inventory mapping, the portion of the subject property proposed for cannabis cultivation is comprised of Class 4 soils with moisture deficiency and topography as limiting factors. The soils in the applicable area are improvable to Class 3 with topography and moisture deficiency as limiting factors. No Agrologist's report was provided with this application.

The agent notes that the soil is predominately a mix of loam and rocky gravel. The owners are proposing no alteration to the subject property's native soil since the facility will occur in existing buildings with concrete floors.

ALR APPLICATION HISTORY:

1196 (1976) – ALC approved a subdivision that created a 12.14 ha parcel

1981 (1986) – ALC approved a proposed 0.4 ha homesite severance subdivision

LC 2382 (2009) – ALC approved a 4.5 ha inclusion of land to the ALR

LC 2396 – (2010) Two-lot subdivision occurred along the ALR boundary

ALC APPLICATION INFORMATION (completed by applicant/agent):

see: "Project_Description_LC2563F.pdf"

COVENANTS:

LB377846 (CSRD Covenant) – The covenant specifies that no buildings shall be constructed, reconstructed, moved or located within 15 m of the natural boundary of Cleslok Creek.

To view applicable maps and plans see: "Maps_Plans_LC2563F.pdf" attached.

POLICY:

Electoral Area F Official Community Plan (OCP) Bylaw No. 830

Relevant excerpts from OCP:

Section 11.3 Agriculture (AG)

Objective 1

To support the long-term viability of the agricultural industry in the North Shuswap and to ensure valuable agricultural lands are preserved for agricultural purposes and protected from inappropriate fragmentation through subdivision.

Objective 2

To support agricultural development in the ALR in the Scotch Creek Primary Settlement Area, as agriculture provides a sustainable, complementary, economic development option which is compatible with other land uses proposed for this area.

Policy 1

The lands designated as Agriculture are shown on Schedules B & C. Agriculture is the primary and dominant land use, with a full range of crop and livestock production activities permissible, as well as homes, buildings and structures associated with agricultural operations. Lands within the Provincially-designated Agricultural Land Reserve (ALR) at the time of writing of this Plan are shown on Schedule D.

Policy 7

Home-based businesses and home-based industries, as defined in the zoning bylaw, are acceptable in the Agriculture designation. On ALR lands, these uses are subject to Agricultural Land Commission policies and regulations.

Cannabis Related Business Policy A-71

Relevant excerpts from the policy:

Part Two: Criteria for Reviewing Licence Applications

1. Location of Cannabis Related Businesses

b. Cannabis related businesses are not supported on:

- Residential properties*
- Land within the Agricultural Land Reserve (ALR)*

c. A minimum separation distance of 300 m is recommended between a cannabis related business and the following locations (the minimum distance is calculated as a straight line from the edge of each parcel):

- Day Cares*
- Health Care Facilities*
- Libraries*

- *Parks*
- *Playgrounds*
- *Schools*
- *Other cannabis related businesses*

d. Minimum cannabis production facility (includes all buildings and structures) setbacks from property lines:

- *60 m setback to exterior lot line*
- *90 m setback to front lot line*
- *30 m to other lot lines*

e. Minimum cannabis production facility (includes all buildings and structures) setbacks from watercourses:

- *30 m*

Refer to: "Cannabis_Related_Business_Policy_A-71.pdf" for the complete Policy.

Agricultural Land Commission Act

Relevant excerpts from ALC Act:

Non-farm use of land within agricultural land reserve

20 (1) A person must not use agricultural land for a non-farm use unless permitted under section 25 or 45 or the regulations.

(2) A person may apply to the commission for permission under section 25 for a non-farm use of agricultural land if the person

- (a) is an owner of the agricultural land, or*
- (b) has a right of entry, granted under an enactment, to the agricultural land*

Agricultural Land Reserve Regulation

Relevant excerpts from ALR Regulation:

Cannabis

8 (1) The use of agricultural land for producing cannabis lawfully may not be prohibited as described in section 4 if the cannabis is produced

- (a) outdoors in a field, or*
- (b) inside a structure that, subject to subsection (2), has a base consisting entirely of soil.*

(2) The use of agricultural land for producing cannabis lawfully may not be prohibited as described in section 4 if the cannabis is produced inside a structure that meets both of the following conditions:

- (a) the structure was, before July 13, 2018,*
 - (i) constructed for the purpose of growing crops inside it, including but not limited to producing cannabis lawfully, or*

(ii) under construction for the purpose referred to in subparagraph (i), if that construction

(A) was being conducted in accordance with all applicable authorizations and enactments, and

(B) continues without interruption from the date it began until the date the structure is completed, other than work stoppages considered reasonable in the building industry;

(b) the structure has not been altered since July 13, 2018 to increase the size of its base or to change the material used as its base.

FINANCIAL:

There are no financial implications to the CSRD with regard to this application.

KEY ISSUES/CONCEPTS:

The owners are requesting non-farm use permission from the ALC to operate a non-medical cannabis production facility on ALR land in two existing accessory buildings with concrete floors. If successful in obtaining this permission, the owners will apply to Health Canada to obtain a micro-cultivation licence which is required to legally operate the facility. The micro-cultivation licence will allow the cultivation and wholesale of cannabis to a licenced third party, and allow the direct sale to provincial distributors (fresh/live plants/seeds only). The licence permits up to 200 m² of "canopy space" (uppermost continuous layer of foliage) and does not permit any on-site retail sales of cannabis. Health Canada requires that cultivation facilities be equipped with an appropriate security system, and air filtration system to prevent the escape of odours.

Electoral Area F OCP Bylaw No. 830 supports "Agriculture" on the subject property and makes no reference to cannabis production. Policy 7 indicates that home based businesses and industries are acceptable in the "Agriculture" designation, subject to the ALC policy and regulations.

There is no zoning in place for the Celista area, including the subject property.

Cannabis Related Business Policy A-71

When reviewing applications for cannabis production facilities staff look to the Cannabis Policy. The Cannabis Policy outlines the criteria for reviewing applications for cannabis license applications. This includes the location of the proposed business in terms of the type of property it is proposed to be located on. Cannabis related businesses are not supported on residential properties or land in the ALR, and where zoning exists cannabis production facilities may only be permitted in Industrial zones. The distance of the proposed business from other uses considered to be incompatible with cannabis related businesses including schools, playgrounds, day cares, health care facilities, libraries, parks, and any other public space are outlined in the policy. Minimum setbacks from property lines and watercourses for all buildings and structures associated with cannabis production facilities are also included.

The proposed facility meets all location criteria in CSRD Cannabis Related Business Policy (A-71) except that it is located on ALR land. Notwithstanding, the owners believe that, "*small-scale cannabis cultivation can be effectively integrated with the ALR without threatening the principal of food security.*"

The combined area of the existing buildings proposed for the facility accounts for less than 0.2% of the total property area.

It is the intent of the owners to use a soilless method of cultivation that utilizes a "sterile coco fiber medium." Any cannabis waste products generated at the facility are to be mulched on site and either composted or transported to a landfill.

The project will also incorporate water recycling and rain water filtration/collection in order to reduce water demand. The project description states that *"...because water is not the growing medium, as it would be in the case of a hydroponic facility, there is also no significant waste water disposal required by this project."* It should be noted that the water supply system that services the facility may be subject to the approval and permitting requirements of the BC Drinking Water Protection Act and Regulation.

The table below shows the relevant Cannabis Related Business policies and whether or not the proposed facility meets the Policy's criteria.

Cannabis Policy	Yes/No?	Comments
Land Use Regulations:		
Is the property subject to zoning?	no	No zoning in the Celista area
Property is zoned Industrial	n/a	
Property is zoned Residential	n/a	
Property is in the ALR	yes	100% in the ALR
Is the proposed facility located within 300 m of the following land uses:		
Parks	no	2,800 m from Farrel's Field
Schools	no	3,800 m from North Shuswap Elementary School
Health Care Facilities	no	Nearest facility in Scotch Creek
Libraries	no	Nearest facility in Scotch Creek
Day Cares	no	Nearest facility in Scotch Creek
Playgrounds	no	2,800 m from Farrel's Field
Other Cannabis Related Business	no	1,300 m from the Garland Road cannabis production facility (currently under construction)
Does the proposed facility meet the minimum building setbacks?		Actual Setbacks:
60 m to Exterior lot line	yes	100 m
90 m to Front lot line	yes	650 m
30 m to Other lot lines	yes	Over 100 m
30 m to Watercourses	yes	200 m

SUMMARY:

The agent is applying to the ALC to obtain non-farm use permission for two existing buildings (697 m² total area) with concrete floors. Staff is recommending approval of this non-farm use in the ALR for the following reasons:

- The proposed facility is designated "Agriculture" in Bylaw No. 830 and complies with the applicable Agricultural policies;
- The proposed facility will only use existing buildings and will not require any further alteration to the native soil;
- The owners have indicated that they intend to keep growing hay and alfalfa;
- Although Policy A-71 does not support cannabis related businesses on ALR land, the proposed facility will likely have little to no negative impact on the agricultural capability of the subject parcel and surrounding farmland because existing buildings will be used, the buildings are setback a minimum of 100 m from the property lines, and the property/location is more than 300 m from schools, parks, playgrounds, health care facilities, day cares, libraries and other cannabis related business; and
- Given the relative remote location of the proposed facility, anticipated impact to neighbouring properties and community as a whole is anticipated to be negligible.

IMPLEMENTATION:

CSRD staff will forward the application, together with the resolution from the Board, and this staff report to the ALC for consideration. If the ALC approves the non-farm use, staff will follow-up with the applicant in regard to other potential permitting requirements, including Building Permits and Development Permits.

If the owners are successful in obtaining this permission, it is expected that they will apply to Health Canada for a micro-cultivation licence. At that time it will be required that the CSRD, Fire Chief, and RCMP be formally notified of the licence application. Cannabis Related Business Referrals Procedure PR-32 outlines the process for reviewing cannabis retail and production facility notifications.

Refer to: "Cannabis_Related_Business_Referrals_Procedure_PR-32.pdf" for the complete Procedure.

DESIRED OUTCOMES:

That the Board endorse staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Electoral Area F Official Community Plan Bylaw No. 830
2. ALC Act and ALR Regulations
3. BC Drinking Water Protection Act and Regulation

Report Approval Details

Document Title:	2019-03-21_Board_DS_LC2563F_Dobray.docx
Attachments:	<ul style="list-style-type: none">- Project_Description_LC2563F.pdf- Cannabis_Related_Business_Policy_A-71.pdf- Cannabis_Related_Business_Referrals_Procedure_PR-32.pdf- Maps_Plans_LC2563F.pdf
Final Approval Date:	Apr 10, 2019

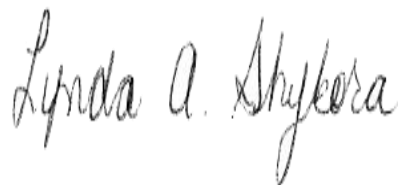
This report and all of its attachments were approved and signed as outlined below:



Corey Paient - Apr 5, 2019 - 3:24 PM



Gerald Christie - Apr 5, 2019 - 3:36 PM



Lynda Shykora - Apr 8, 2019 - 11:22 AM

No Signature - Task assigned to Charles Hamilton was completed by assistant Lynda Shykora

Charles Hamilton - Apr 10, 2019 - 3:50 PM