

BOARD REPORT

TO: Chair and Directors

File No: 4600 03

SUBJECT: Electoral Area D: Proposed Cannabis Production Facility

DESCRIPTION: Report from Jan Thingsted, Planner III, dated May 31, 2019
4319 Colebank Road, Falkland

RECOMMENDATION #1: THAT: Notwithstanding CSR D Cannabis Related Business Policy A-71 and its statement:

Cannabis related businesses are not supported on Land within the Agricultural Land Reserve,

the Board waive this criteria for the property described as the Southeast 1/2 of the Northeast Section 16, Township 17, Range 11, W6M, KDWD since the proposal is for a soil based cannabis production facility and that all forms of cannabis production are now considered farm use by the Agricultural Land Commission this 20th day of June, 2019.

RECOMMENDATION #2: THAT: Notwithstanding CSR D Cannabis Related Business Policy A-71 and its statement:

Where land use zoning exists, cannabis retail sales may only be permitted in commercial zones; cannabis production facilities may only be permitted in industrial zones,

the Board waive this criteria for the property described as the Southeast 1/2 of the Northeast Section 16, Township 17, Range 11, W6M, KDWD since all forms of cannabis production are now considered farm use by the Agricultural Land Commission this 20th day of June, 2019

SHORT SUMMARY:

The agent has applied to Health Canada for a standard cannabis cultivation licence to establish a soil based cannabis production facility ("facility") at 4319 Colebank Road, east of Falkland in Electoral Area D. The proposed facility is compliant with CSR D zoning and does not require non-farm use permission from the Agricultural Land Commission (ALC). To achieve compliance with CSR D Cannabis Related Business Policy A-71, the agent is requesting that the CSR D Board waive the statement regarding cannabis production facilities on ALR land. Staff are also recommending that the Board waive the Policy statement directing cannabis production facilities to industrial zones since all forms of cannabis production are now considered farm use by the Agricultural Land Commission.

VOTING: Unweighted Corporate LGA Part 14 (Unweighted) Weighted Corporate Stakeholder (Weighted)

BACKGROUND:

REGISTERED OWNERS:
Robert Weibe

AGENT/APPLICANT:

Greg McCaffrey (Better Bud Botanicals Ltd.)

ELECTORAL AREA:

D (Salmon Valley)

LEGAL DESCRIPTION:

The Southeast ½ of the Northeast Section 16, Township 17, Range 11, W6M, KDWD

PID:

003-765-300

CIVIC ADDRESS:

4319 Colebank Road, Falkland (Cedar Hill)

SURROUNDING LAND USE PATTERN:

North: Rural (ALR)

South: Rural (ALR/forested)

East: Rural (forested)

West: Rural (ALR/forested)

CURRENT USES:

Residential (one single-family dwelling)

Hay production

PROPOSED USES:

Standard cultivation licenced medical cannabis production facility

Residential use and hay production will continue

PARCEL SIZE:

33.01 HA

DESIGNATION/ZONE:

Salmon Valley Land Use Bylaw No. 2500

R – Rural

PROPOSED DESIGNATION/ZONE:

No proposed change

AGRICULTURAL LAND RESERVE:

89%

SOIL CAPABILITY:

The Canada Land Inventory agricultural ratings of the subject property are 7:5PT (70% Class 5 soils with stoniness and adverse topography as limiting factors) and 3:4PM (30% Class 4 soils with stoniness and moisture deficiency as limiting factors). According to the ALC's agricultural capability classification system, land in Class 5 is generally limited to the production of perennial crops or other specially adapted crops while land in Class 4 has limitations which make it suitable for only a few crops. The soils on the subject property are deemed not improvable.

To view applicable plan and maps see: "Better_Bud_Botanicals_ Notification_Plans_Maps_MAY-2019.pdf"

POLICY:**Salmon Valley Land Use Bylaw No. 2500**

Relevant Objectives and Policies:

*1.7 Rural and Agricultural Character*Objective

1.7.1 An objective of the Regional Board is to generally preserve the rural and agricultural character of the area and ensure the continued viability of economic activities based on agriculture and forestry resources.

Policy

1.7.2 The policies of the Regional Board are as follows:

.1 On Schedule A, the OCP Designation Maps, the rural and agricultural areas are designated as R (Rural)

*1.8 Land Resource Capability*Objective

1.8.1 An objective of the Regional Board is to generally encourage a pattern of land use that respects the capability of the land-based resources to support various uses.

Policies

1.8.2 The policies of the Regional Board are as follows:

.1 Agricultural activities shall be encouraged on land with moderate to excellent agricultural capability in the valley bottoms;

.2 Agricultural activities shall also be encouraged to locate away from streams. If agricultural activities were located adjacent to streams, a buffer should be provided between streams and agricultural activities;

*2.4 R Rural*Permitted Uses

2.4.1 The following uses and no others are permitted in the area zoned as R:

.1 agriculture;

.2 airfield, airstrip;

.3 equestrian centre;

.4 fish farm;

.5 forestry;

.6 guest ranch;

.7 gun club and archery range;

.8 harvesting wild crops;

.9 home occupation;

.10 kennel;

.11 portable sawmill;

.12 single family dwelling;

.13 trapping;

.14 accessory use.

"agriculture" means (a) the growing, rearing, producing or harvesting of agricultural crops, fur bearing animals, poultry or other livestock; and includes (b) the storage sale and processing of

primary agricultural products harvested, reared or produced by the farming operation; and (c) the storage and repair of farm machinery, implements and supplies.

Refer to Salmon Valley Land Use Bylaw No. 2500 for all Objectives, Policies, and Zoning information.

Cannabis Related Business Policy A-71

Relevant excerpts from the Policy:

Part Two: Criteria for Reviewing Licence Applications

1. Location of Cannabis Related Businesses

a. Where land use zoning exists, cannabis retail sales may only be permitted in commercial zones; cannabis production facilities may only be permitted in industrial zones.

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 Reserve Regulation

Relevant excerpts from: Information Bulletin #4 - Cannabis Production in the ALR (Revised: May 8, 2019)

3. Whether Cannabis Production is a Farm Use

In the past, certain forms of cannabis production, but not others, had been "designated" as farm use by regulation. This was the practice followed when s. 2(2.5) of the former regulation was introduced in July 2018. The fact that certain production required "designation" to be a farm use suggested that non-designated forms of cannabis production:

- *were not a farm use; and*
- *as such, could only be engaged in if the Agricultural Land Commission (the Commission) approved a non-farm use application specific to that use.*

On February 22, 2019, s. 2(2.5) of the former regulation was repealed and the ALR Use Regulation was created. The ALR Use Regulation addresses cannabis production in s. 8, in a part of the ALR Use Regulation that is entitled "Farm Uses", and no longer "designates" a subset of cannabis production as farm use. This regulatory change clarifies that all forms of cannabis production are a "farm use".

Because all forms of cannabis production are a "farm use" [i.e. soil based or non-soil based], cannabis production in the ALR does not contravene the ALCA even if engaged in without the Commission's approval.

FINANCIAL:

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

KEY ISSUES/CONCEPTS:

The agent is requesting that the Board waive the statement "*Cannabis related businesses are not supported on Land within the Agricultural Land Reserve (ALR)*" from Policy A-71 since the proposed greenhouses will not consist of concrete floors or footings. Rather, cultivation will be entirely soil based (in the ground) and the building will be placed on removable screw piles. The ALR Use Regulation also now identifies all forms of cannabis production as "farm use" (i.e. soil based or non-soil based).

Salmon Valley Land Use Bylaw No. 2500

The subject parcel is zoned Rural in Salmon Valley Land Use Bylaw No. 2500. The Rural zone permits "Agriculture" on the subject property which allows the growing, producing and harvesting of agricultural crops, plus the processing of primary agricultural products harvested and produced by the farming operation. Bylaw No. 2500 does not contain policies or regulations which specifically exclude cannabis production.

Objective 1.7.1 of Bylaw No. 2500 states that the: "*Regional Board is to generally preserve the rural and agricultural character of the area and ensure the continued viability of economic activities based on agriculture and forestry resources.*"

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. It should

be noted that the Policy contains a statement allowing the CSRD Board to modify the locational criteria on a site by site basis, in consideration of local factors.

The proposed facility meets all location criteria in Policy A-71 except that it is located on ALR land and not on a parcel zoned Industrial.

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?	yes	Property is zoned Rural
Property is zoned Industrial	no*	(*Where zoning exists, the Policy only supports cannabis related business in industrial zones)
Property is zoned Residential	no	
Property is in the ALR	yes*	89% in the ALR (*Policy does not support cannabis related business in the ALR)
Is the proposed facility located within 300 m of the following land uses:		
Parks	no	Nearest park in Falkland
Schools	no	Nearest school Falkland
Health Care Facilities	no	Nearest facility in Falkland
Libraries	no	Nearest library in Falkland
Day Cares	no	Nearest facility in Falkland
Playgrounds	no	Nearest playground in Falkland
Other Cannabis Related Business	no	7 km from nearest business (5450 Hwy 97) 2.5 km away from nearest proposed business (4860 Hoath Rd.)
Does the proposed facility meet the minimum building setbacks?		
30 m to Other lot lines	yes	all interior lot lines – setbacks > 30 m
30 m to Watercourses	yes	n/a

SUMMARY:

Staff is recommending that the Board modify the criteria of the Policy A-71 for the following reasons:

- The subject property is zoned "Rural" in Salmon Valley Land Use Bylaw No. 2500 which permits "Agriculture";
- Cannabis cultivation is proposed to be entirely soil based (in the ground) and the building will be placed on removable screw piles;
- The ALR Use Regulation identifies all forms of cannabis production as "farm use" (i.e. soil based or non-soil based); and

- Impact to neighbouring properties will be negligible since all setback criteria of the Policy have been met.

IMPLEMENTATION:

If the Board endorses the proposed resolutions, CSRD staff will provide the agent and Health Canada a letter stating that the CSRD Board has waived the statement in CSRD Cannabis Related Business Policy A-71 regarding growing cannabis on ALR land and not an industrial zone.

DESIRED OUTCOMES:

That the Board endorse staff recommendations.

BOARD'S OPTIONS:

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

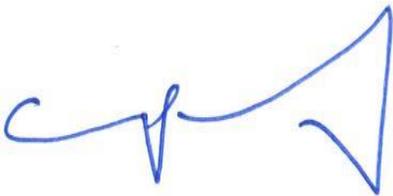
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Salmon Valley Land Use Bylaw No. 2500
2. ALC Act and ALR Regulations
3. BC Drinking Water Protection Act and Regulation

Report Approval Details

Document Title:	2019-06-20_Board_DS_4600_03_Cloud_Holdings.docx
Attachments:	- Cannabis_Related_Business_Policy_A-71.pdf - Cannabis_Related_Business_Referrals_Procedure_PR-32.pdf - ALC_Information_Bulletin_04_cannabis_production_2019-05-08.pdf - Better_Bud_Botanicals_notification_letter_MAY-2019.pdf - Better_Bud_Botanicals_Plans_Maps_MAY-2019.pdf
Final Approval Date:	Jun 10, 2019

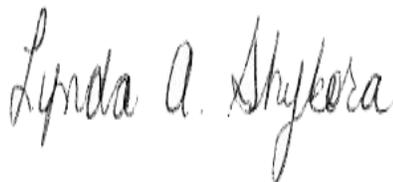
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Jun 7, 2019 - 10:05 AM



Gerald Christie - Jun 7, 2019 - 1:31 PM



Lynda Shykora - Jun 10, 2019 - 3:11 PM

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

Charles Hamilton - Jun 10, 2019 - 3:12 PM