

Attachment 2
ALC Non-Adhering Residential Use Decision



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

April 18, 2023

ALC File: 67173

Watt Agricultural Consultants

DELIVERED ELECTRONICALLY

Dear Sir:

Re: Reasons for Decision - ALC Application 67173

Please find attached the Reasons for Decision for the above noted application (Resolution #137/2023). As agent, it is your responsibility to notify the applicant accordingly.

Please note that the submission of a \$150 administrative fee may be required for the administration, processing, preparation, review, execution, filing or registration of documents required as a condition of the attached Decision in accordance with s. 11(2)(b) of the ALR General Regulation.

Under section 33 of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. A request to reconsider must now meet the following criteria:

- No previous request by an affected person has been made, and
- The request provides either:
 - Evidence that was not available at the time of the original decision that has become available, and that could not have been available at the time of the original decision had the applicant exercised due diligence, or
 - Evidence that all or part of the original decision was based on evidence that was in error or was false.

The time limit for requesting reconsideration of a decision is one year from the date of the decision's release, as per [ALC Policy P-08: Request for Reconsideration](#).

Please refer to the ALC's [Information Bulletin 08 – Request for Reconsideration](#) for more information.

Yours truly,

Martin Collins, Regional Planner

Enclosures: Reasons for Decision (Resolution #137/2023)

Schedule A: Decision Map

cc: Regional District of Nanaimo

67173d1



AGRICULTURAL LAND COMMISSION FILE 67173
REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

Non-Adhering Residential Use Application Submitted Under s.20.1(2) of the Agricultural Land
Commission Act

Applicant: Bonnefield GPV Inc. No. A0111699

Agent: Watt Agricultural Consultants

Property: Parcel Identifier: 000-421-871
Legal Description: Lot 9, District Lot 40, Newcastle
District, Plan 367619, Except That Part in Plans
39792 VIP57498 and EPP62828

Area: 33.6 ha

ALR Area: 33.6 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] Pursuant to s. 20.1(2) of the ALCA, the PRT, the Applicant is applying to the Agricultural Land Commission (the “Commission”) for Temporary Farm Worker Housing for 77 workers on the subject Property. The Applicant currently operates a raspberry growing operation and requires the placement of eleven (11) 4 by 20 meter (12 ft by 60 ft) single storey temporary residential structures totalling ~736 sq meters (the “Proposal”). The total infrastructure necessary for the housing is ~850 sq meters and no fill is required.
- [3] The property is 100% within the ALR, with about 30% of the Property is in intensive raspberry production under extensive irrigation in hoop structures. The remainder is partially cleared and partially forested. The proposed TFWH is located in the northeast corner of the Property adjacent to raspberry production areas.
- [4] The Proposal along with related documentation from the Applicant, Agent, local government, and Commission, is collectively referred to as the “Application”. All documentation in the Application was available on the ALC Application Portal to the Agent in advance of this decision.
- [5] Under Section 27 of the ALCA the Commission, 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 as specified that the following applications may be decided by the CEO:
15. Non-adhering residential use applications for temporary farm worker housing (TFWH) for workers registered in a federal temporary worker program (SAWP) that comply with the following criteria:
- i. The parcel where the TFWH is to be located is classified as ‘farm’ under the BC Assessment Act;

- ii. The minimum size of the farm operation* on which TFWH can be located is 4 hectares;
- iii. The maximum number of workers per farm operation* is limited to no more than:
 - a. 130 workers for greenhouse, mushroom and berry/vegetable production
 - b. 40 workers for all other commodities
- iv. The workers are housed in an existing building or a manufactured home designed to be moved from one place to another;
- v. Siting and placement of the TFWH minimizes the residential impacts on agricultural land taking into consideration topography, agricultural capability, access, and encourages the clustering of residential structures;
- vi. The registration of a restrictive covenant stating that the TFWH will only be used by temporary farm workers and that the owner will remove the TFWH and restore the land to agricultural use if the TFWH is vacant for two consecutive years; and
- vii. The receipt of a financial security sufficient to remove the TFWH provided to the ALC upon approval of the non-adhering residential use.

**Clarification: Farm operation means an area of land used for a farm operation consisting of one or more contiguous or non-contiguous lots, that may be owned, rented or leased, which forms and is managed as a single farm.*

[6] The Proposal was considered in the context of the purposes and priorities of the Commission set out in s. 6 of the ALCA:

6 (1) The following are the purposes of the commission:

- (a) to preserve the agricultural land reserve;
- (b) to encourage farming of land within the agricultural land reserve 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 land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

- (2) The commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under this Act:
- (a) the size, integrity and continuity of the land base of the agricultural land reserve;
 - (b) the use of the agricultural land reserve for farm use.

BACKGROUND

- [7] The Applicant indicates that they intend to cultivate/harvest 15 ha of raspberries in 2024 which are grown above ground and under shade cloth. The fruit is hand picked and thus requires just over 2 staff per 0.4 ha of production.
- [8] The proposed housing units would be transportable (Atco type trailers) and only used during the growing season. The eleven units are located on a 0.5 ha area that includes existing farm structures.
- [9] The housing units are proposed to be serviced by the existing water system and a new septic disposal system affecting ~0.3 ha.
- [10] There are no residences currently on the Property.
- [11] The Nanaimo Regional District forwarded the application with a recommendation of approval.

FINDINGS

- [12] The Commission finds that the application is consistent with Criterion 15 of the ALC CEO Delegation Authority as follows:
- a. The TFWH is for workers registered in a federal temporary worker program;
 - b. The Property is classified as 'farm' under the *BC Assessment Act*;
 - c. The Property is 10 ha (larger than the minimum 4 ha in the Delegation Agreement);

- d. The proposed number of workers (77) is less than the maximum number of permitted in the delegation authority (130);
- e. The TFWH is proposed to be a moveable modular structures;
- f. The TFWH will utilize existing access and utilities and be located on uncultivated land on the Property;

[13] The Commission finds that a covenant and \$20,000 financial security are necessary to ensure the units are only occupied by workers registered in a federal temporary worker program and to secure the future removal of the TFWH facility should it no longer be required for temporary farm workers as per CEO Delegation Criterion 15 (see paragraph 4 above for details).

[14] The Commission finds that the proposal to provide temporary residential structures to house temporary farm labour on the property is necessary for farm use, appropriate for the intensity of the farm use, and since they are not permanent, they are not anticipated to have any negative impact on the agricultural utility or capability of the Property.

DECISION

[15] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #15 and approve the Proposal subject to the following conditions:

- a. Siting of the eleven (4 m by 20 m) TFWH structures in accordance with Schedule A of this decision;
- b. The placement of the TFWH structures within 3 years of the decision.
- c. The Property retain farm classification under the *BC Assessment Act*;
- d. The registration of a restrictive covenant in favour of the ALC prior to placement of the TFWH, stating that the TFWH will only be used by TFW in accordance with this decision, and that the owner will remove the TFWH and restore the land to conditions suitable for agricultural use if the TFWH is vacant for two consecutive years;

- e. The submission of a financial security (an Irrevocable Letter of Credit) in the amount of \$20,000.00 to be held by the ALC, sufficient to remove the proposed accommodation if necessary; and,
- f. Approval for the non-farm use is granted for the sole benefit of the applicant and is non-transferable.

[16] 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.

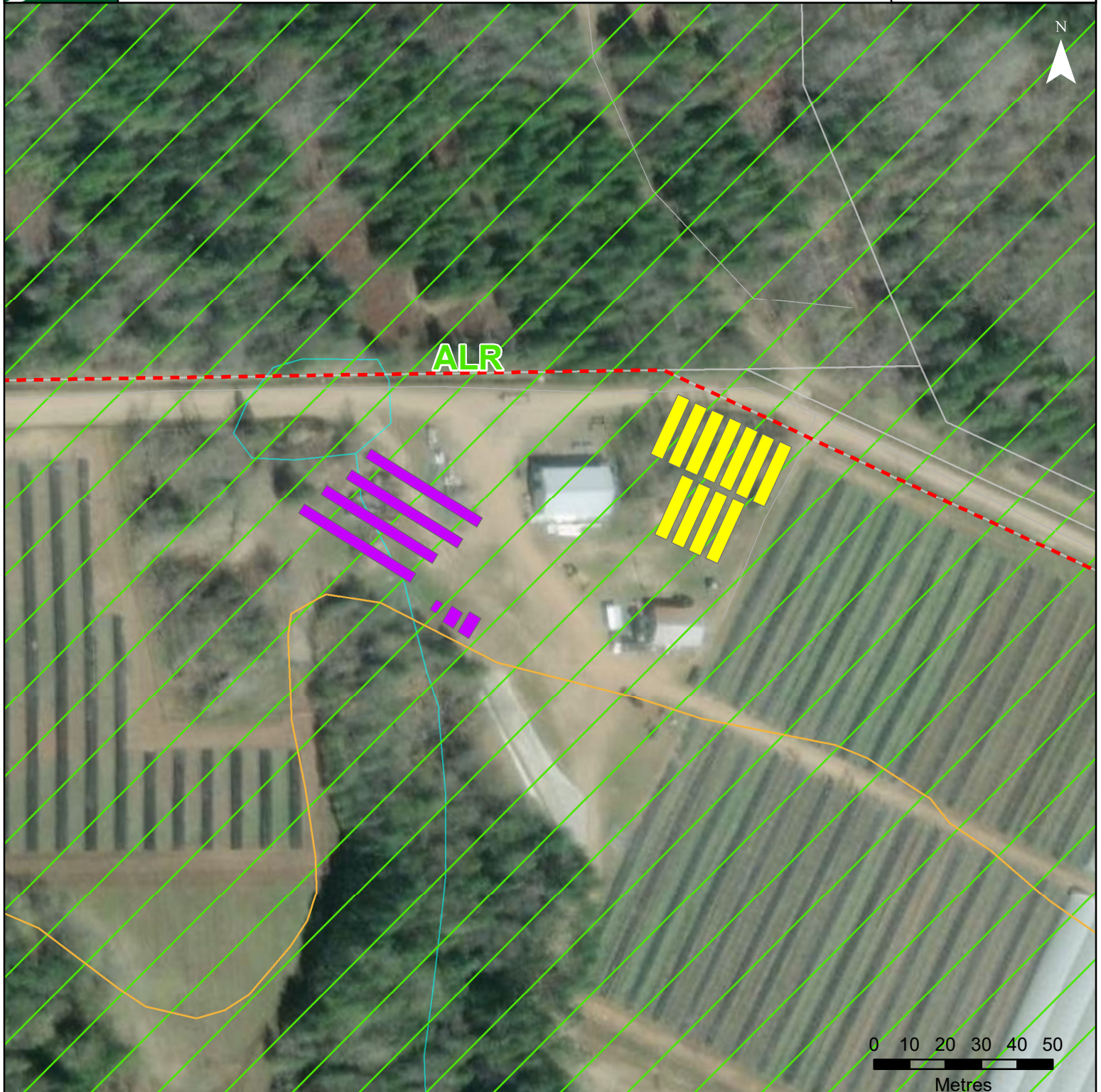
[17] A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

[18] Resolution #137/2023

Released on April 18, 2023

A handwritten signature in black ink, appearing to read "Kim Grout", is written over the printed name.

Kim Grout, Chief Executive Officer



ALC FILE NO: 67173
RESOLUTION NO: #137/2023

MAP PRODUCED:
April 18, 2023

MAP SCALE:
1:1,500

DATA SOURCES & NOTES:
ALC, BCGW and ESRI / Maxar.
Contains information licensed under
Open Government License - British
Columbia.

Map for reference only. Accuracy not
guaranteed.

-  Conditionally Permitted Septic Area (approx.)
-  Conditionally Approved Trailers (approx.)
-  Subject Property
-  Agricultural Land Reserve
-  PMBC Parcel Cadastre

