

# Report

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Date	April 17, 2024	File:	ALR00066
Subject	Agricultural Land Commission Non-Farm Use Application (ID 70032) for the British Columbia Society for the Prevention of Cruelty to Animals at 7550 Bell McKinnon Road		

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## PURPOSE

To consider an Agricultural Land Commission (ALC) Non-Farm Use Application at 7550 Bell McKinnon Road to enable the replacement of an animal shelter building for the British Columbia Society for Prevention of Cruelty to Animals (BC SPCA).

## BACKGROUND

The Cowichan Society for the Prevention of Cruelty to Animals (SPCA) facility has operated at 7550 Bell McKinnon Road since 1997. The property is in the Agricultural Land Reserve (ALR) and subject to local government and ALC land use regulations.

The BC SPCA proposed replacing the aging buildings with a new shelter building on the subject property. To rebuild, the BC SPCA needed to seek a zoning bylaw amendment to allow for an animal shelter use in the A2 Rural Zone to ensure consistency with North Cowichan's Zoning Bylaw. As part of the rezoning process, the ALC was consulted regarding the proposed zoning amendment and the continued land use as an animal shelter. Written confirmation was received from the ALC that the Cowichan SPCA was a Permitted Non-Farm Use. Council was presented with the Zoning Bylaw Amendment report to allow for the site-specific use of an animal shelter at 7550 Bell McKinnon Road (Attachment 1). The Zoning Bylaw amendment was adopted by Council on December 6, 2023 (Attachment 2).

After the bylaw amendment was adopted, the BC SPCA submitted a Notice of Intent (NOI) to the ALC as required for the removal of soil or placement of fill on lands located within the ALR. Upon reviewing the NOI, ALC staff indicated to the BC SPCA that an animal shelter was not a Permitted Non-Farm Use in the ALR; subsequently, the applicant must instead apply for Non-Farm Use under section 20(2) of the *Agricultural Land Commission Act*.

Before the ALC considers the Non-Farm Use application, North Cowichan Council must authorize it (through resolution) to proceed to the ALC for a decision. If Council does not give authorization, the application will be terminated.

## DISCUSSION

### Proposal

The BC SPCA proposes to replace the existing animal shelter buildings at 7550 Bell McKinnon Road (Cowichan SPCA) with a new 917 m<sup>2</sup> animal shelter. The replacement building is intended to be built sustainably and to maintain the naturalized site by preserving the forested areas and as many mature trees as possible. The Zoning Bylaw Amendment Planning report provides a detailed proposal, site plan, and analysis (Attachment 1).

The ALC was contacted by staff on July 20, 2023, requesting feedback on the proposed redevelopment/rezoning and inquiring whether the Cowichan SPCA was considered a Permitted Non-Farm Use (Attachment 3). Staff received replies to this request on August 14, 2023, and again on August 21, 2023, from ALC Staff (Attachments 4A & 4B) confirming that the Cowichan SPCA was a Permitted Non-Farm Use under "Part 3, Section 23 - Keeping Animals" of the ALR Regulations (Attachment 5). On August 28, 2023, additional correspondence (Attachment 4C) was received confirming that site-specific zoning was appropriate for the 7550 Bell McKinnon Road animal shelter.

Following the approval of the site-specific zoning by North Cowichan Council, the BC SPCA submitted an NOI application to remove soil/placement of fill within ALR lands. At this time, they were notified by the ALC that, contrary to prior direction from Commission staff, the Cowichan SPCA facility was not considered a Permitted Non-Farm Use (Attachment 6). Subsequently, the SPCA must apply to the ALC for Non-Farm Use status instead. An application for Non-Farm Use also considers proposed soil removal and/or fill placement; thus, an NOI is no longer required.

Section 20(2) of the *Agricultural Land Commission Act* allows owners of agricultural land to apply for a non-farm use of land within the Agricultural Land Reserve. Permitted non-farm uses "*are uses that may or may not be linked directly to agriculture and are considered compatible with agriculture and have low impacts on the land base*" (ALC website). The BC SPCA applied for Non-Farm Use (ID 70032) on December 20, 2023 (Attachment 7).

Before the ALC will consider the application, Council must authorize it (through resolution) to proceed to the ALC. This will permit the ALC to consider the applicant's Non-Farm Use application against the *Agricultural Land Commission Act*, regulation, relevant policies, and bulletins. The ALC takes this approach with all local governments in British Columbia.

### ALC Policy Context

The purpose of the ALC is identified under section 6(1) of the *Agricultural Land Commission Act* as follows:

- (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;*
- (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.*

Through a review of the proposal and associated policies and bylaws, staff believe the proposal to replace the Cowichan SPCA animal shelter building is consistent with the intentions of section 6 of the *Agricultural Land Commission Act* as follows:

- The size and continuity of the ALR is maintained.
- The operation of the Cowichan SPCA at the subject property for 27 years without perceivable impacts on adjacent agricultural lands suggests that the property's use is compatible with nearby agricultural uses.

- The orthophoto (Attachment 8) demonstrates the Cowichan SPCA has retained the natural quality of the subject property and rural character.

### **North Cowichan Official Community Plan (OCP) Policy**

The subject property is designated as "Agriculture, Forestry and Conservation" in OCP (No. 3900, 2022). As discussed in detail in the Planning Report for the Zoning Bylaw amendment application, staff consider the existing and proposed land use to be compatible with the OCP designation as it assists in providing diverse rural activities and opportunities, provides a necessary community resource, and is compatible with rural uses.

### **North Cowichan Zoning Bylaw**

The subject property is zoned A2 Rural in the Zoning Bylaw (No. 2950, 1997). As approved by Council on December 6, 2023, the A2 Zone includes the use of "Animal Shelter" (a facility providing shelter and care for animals awaiting placement) as a site-specific use at 7550 Bell McKinnon Road.

If the ALC approves the proposal, the development provisions identified in the A2 zone will limit the size and siting of the proposed animal shelter building and a development permit will be required to address aquifer protection and steep slope development permit guidelines prior to construction.

## **ANALYSIS**

Council has been asked to provide a resolution to determine whether the application for Non-Farm Use at 7550 Bell McKinnon Road should be forwarded to the ALC for consideration. As recently determined by Council, the use of the subject property is aligned with OCP objectives and policies for Agriculture, Forestry and Conservation areas, and the Zoning Bylaw has been amended to include the "Animal Shelter" use specifically on the subject property.

The Cowichan SPCA has retained the natural quality of the subject property and rural character. The proposed replacement of the shelter building is intended to continue respecting the property's rural nature. In addition, the development permit process will provide an opportunity to ensure aquifer protection and steep slope considerations are addressed prior to the construction of the replacement shelter building.

The proposed development is consistent with the long-standing use of the property as a facility to house and shelter animals. It is not expected to negatively impact the agricultural potential of surrounding lands.

## **OPTIONS**

1. **(Recommended Option)** THAT Council authorize the Agricultural Land Commission's (ALC) application ID 70032 for the proposed animal shelter building replacement within the Agricultural Land Reserve at 7550 Bell McKinnon Road to be forwarded to the ALC with a recommendation to approve it.
2. THAT Council deny the Agricultural Land Commission's (ALC) application ID 70032 for Non-Farm

Use at 7550 Bell McKinnon Road and does not authorize it to be forwarded to the ALC.

## IMPLICATIONS

Providing a resolution (Option 1) and forwarding the application will complete North Cowichan's obligation and permit the ALC to then consider the applicant's Non-Farm Use application against the *Agricultural Land Commission Act*, regulation, relevant policies, and bulletins.

Denial of the application by Council (Option 2) would mean the application would be terminated and not forwarded to the ALC for consideration, and the proposed replacement of the animal shelter building would not be permitted.

## RECOMMENDATION

THAT Council authorize Agricultural Land Commission's (ALC) application ID 70032 for the proposed animal shelter building replacement within the Agricultural Land Reserve at 7550 Bell McKinnon Road to be forwarded to the ALC with a recommendation to approve it.

Report prepared by:

*Angela Davies*

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Report reviewed by:



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Amanda Young  
Director, Planning and Building

## Approved to be forwarded to Council:



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Ted Swabey  
Chief Administrative Officer

## Attachments:

- (1) ZBL Amendment Planning Report to Council
- (2) A2 Zone
- (3) Email to ALC request for feedback
- (4A) Emails from ALC confirming permitted Non-Farm Use
- (4B) Emails from ALC confirming permitted Non-Farm Use
- (4C) Emails from ALC confirming permitted Non-Farm Use
- (5) ALR Regulation excerpt re Permitted Non-Farm Uses Part 3(23)
- (6) Email from ALC - Non-Farm Use Permit required
- (7) BC SPCA Non-Farm Use Application
- (8) Orthophoto