



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 61331

**Application Status:** Under LG Review

**Applicant:** Tyler Heisterman , Amanda Heisterman

**Agent:** Tyler Heisterman

**Local Government:** City of Nanaimo

**Local Government Date of Receipt:** 01/14/2021

**ALC Date of Receipt:** This application has not been submitted to ALC yet.

**Proposal Type:** Non-Farm Use

**Proposal:** As set out in section 23 of the Agricultural Land Commission Act (the Act), the restriction of use of agricultural land for non-farm use does not apply to the portion of land that has been used for a non-farm purpose prior to December 21, 1972. Subsection 23(3) of the Act stipulates that this exemption only applies to the land that was actually used for a non-farm use and not the entire property. In light of the foregoing, the purpose of this proposal is to ensure that any non-farm use on the Property is both carried out in accordance with the Act and defined in a manner that provides certainty as to the portion of the Property on which such non-farm use is permitted in future in a manner consistent with the Acts objectives in relation to protecting agricultural land. Our family has been producing organic soils on the Property since the early 1970s, however, our business has expanded over time since then and, accordingly, we require more space than the pre-1972 footprint of the business. In particular, we require the New Barn to replace the Old Barn and to meet the increased current demand for our products. Since 1972, the operations have grown at a slow and controlled rate from approximately 2 acres to the current 10 acres of usage. This growth has been gradual and consistent since the mid-1980s, as household gardening and related business expanded.

Given that the footprint of our business has increased, we are no longer able to rely on the pre-1972 use exemption under section 23 of the Act for the entirety of our soil operations. The purpose of this proposal is to ensure that the increase in the size of our operation is in compliance with the terms of the Act now and in the future, so that we can continue composting, mixing, processing and stockpiling soil media for distribution and sale at our current scale.

## Agent Information

**Agent :** Tyler Heisterman



## Parcel Information

**Applicant:** Tyler Heisterman , Amanda Heisterman

## Parcel(s) Under Application

### 1. Ownership Type : Fee Simple

**Parcel Identifier :** 001-479-466

**Legal Description :** LOT 2, SECTION 13, RANGE 4, CRANBERRY DISTRICT, PLAN 28832 EXCEPT PARCEL A (DD S105180) AND PLAN VIP74419

**Parcel Area :** 9.4 ha

**Civic Address :** 1980 RICHARDSON ROAD

**Date of Purchase :** 11/15/2002

**Farm Classification :** Yes

### Owners

#### 1. Name : Tyler Heisterman

[REDACTED]

#### 2. Name : Amanda Heisterman

[REDACTED]

## Current Use of Parcels Under Application

### 1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

*The property civically known as 1980 Richardson Road, Nanaimo, BC and legally described as Parcel Identifier: 001-479-466, Lot 2, Section 13, Range 4, Cranberry District, Plan 28832 Except Parcel A (DD S105180) and Plan VIP74419 (the Property) consists of 23.18 acres all of which is located in the ALR. Currently approximately 8 acres of the property are used for agriculture in the form of hay production. One crop is taken per year with a yield of over 1,000 bales. This product is sold into the local community and used as feed for livestock. Four acres of the Property are not used due to steep terrain which makes it difficult for equipment and hay production activities. Two acres of the property are occupied by the residence and surrounding yard where we the applicants, Tyler Charles Heisterman and Amanda Lee Heisterman (the Applicants), have resided for 18 years.*

### 2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

*There is an original barn structure on the Property which is approximately 8,500 square feet (the Old Barn). This barn is over 50 years old and is entering the last phase of its usable lifetime. A new large storage barn consisting of approximately 12,000 square feet (the New Barn) has been added to the property with an open interior layout that lends itself to many agricultural uses as the farm property evolves in the future. An irrigation pump and a zoned watering system was added in the early 2000s in order to provide irrigation for nursery operations. Greenhouse and plant storage areas were also installed at this time. A local building boom in the mid-2000s caused a severe shortage of labour and the nursery business soon became unviable*

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*both financially and due to limited labour availability. However, the greenhouse and plant storage areas have been retained and are capable of future agricultural use. Currently the original greenhouse and storage area are being used in the soil operations.*

### **3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).**

*Currently 10 acres of the Property are used for packaged soil production activities. Soil production, storage and shipping have occurred continuously on the Property since the late 1960s. Today, Cinnabar Valley Farms Ltd. (the Company), [REDACTED] which is now a wholly owned subsidiary of Tyman Horticultural Holding Co. Ltd., [REDACTED] carries on the packaged soil production activities on the Property. The Company is the leading supplier on Vancouver Island and a leading supplier in Western Canada of agricultural soil products that are approved for Organic Production.*

*Of the 10 acres currently used for packaged soil production, approximately 4 acres are open field where bulk organic materials are composted on site to meet certification guidelines and covered until time of use during winter months. Other bulk organic ingredients are stored in the same area for access during material blending that also happens on the Property. Manufacturing occurs inside the Old Barn area and finished products are stored outside in securely wrapped and leak-proof pallets on compacted gravel. The New Barn is planned to house future manufacturing as we transition machinery and packaging from the Old Barn to the New Barn. Currently the New Barn is used to store packaged soil and other related gardening products/ingredients.*

## **Adjacent Land Uses**

### **North**

**Land Use Type:** Residential  
**Specify Activity :** 5 Homes - Residential

### **East**

**Land Use Type:** Agricultural/Farm  
**Specify Activity :** Residential farmland w/ horses

### **South**

**Land Use Type:** Agricultural/Farm  
**Specify Activity :** Residential farmland - hay farm

### **West**

**Land Use Type:** Industrial  
**Specify Activity :** Residence/business - Soil production/manufacturing

## **Proposal**

### **1. How many hectares are proposed for non-farm use?**

*4.1 ha*

### **2. What is the purpose of the proposal?**

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*As set out in section 23 of the Agricultural Land Commission Act (the Act), the restriction of use of agricultural land for non-farm use does not apply to the portion of land that has been used for a non-farm purpose prior to December 21, 1972. Subsection 23(3) of the Act stipulates that this exemption only applies to the land that was actually used for a non-farm use and not the entire property. In light of the foregoing, the purpose of this proposal is to ensure that any non-farm use on the Property is both carried out in accordance with the Act and defined in a manner that provides certainty as to the portion of the Property on which such non-farm use is permitted in future in a manner consistent with the Acts objectives in relation to protecting agricultural land. Our family has been producing organic soils on the Property since the early 1970s, however, our business has expanded over time since then and, accordingly, we require more space than the pre-1972 footprint of the business. In particular, we require the New Barn to replace the Old Barn and to meet the increased current demand for our products. Since 1972, the operations have grown at a slow and controlled rate from approximately 2 acres to the current 10 acres of usage. This growth has been gradual and consistent since the mid-1980s, as household gardening and related business expanded.*

*Given that the footprint of our business has increased, we are no longer able to rely on the pre-1972 use exemption under section 23 of the Act for the entirety of our soil operations. The purpose of this proposal is to ensure that the increase in the size of our operation is in compliance with the terms of the Act now and in the future, so that we can continue composting, mixing, processing and stockpiling soil media for distribution and sale at our current scale.*

**3. Could this proposal be accommodated on lands outside of the ALR? Please justify why the proposal cannot be carried out on lands outside the ALR.**

*In our view, this proposal cannot be accommodated outside the ALR. Our organic soil operation relies on its proximity to an adjoining family property civically described as 1981 Richardson Road, Nanaimo, BC and legally described as Parcel Identifier 001-479-458, Lot 1 Sections 13 and 14, Range 4, Cranberry District, Plan 28832 (1981 Richardson). Critical equipment, resources and synergies exist between the Property and 1981 Richardson and the existing site and facilities form an appropriate base for the Organic operations of the Company. In particular, the Companys mechanic and shop premises located on 1981 Richardson are used in order to maintain and repair equipment used in both the soil production activities and hay production on the Property. Hay production activities on the Property benefit from the use of excavators, loaders and trucks stored on the 1981 Richardson property to maintain ditches/drainage, access roads and to transport hay from the fields to the storage barn. It is the proximity of the Property to the adjoining 1981 Richardson property that allows for the soil production activities to be carried out in a manner that is supportive of and consistent with the parallel agricultural activities, and carrying on the soil production activities from a different property outside the ALR would result in a loss of the mutually beneficial and inextricably linked nature of those activities and the ongoing farming activities on surrounding lands.*

*In addition, the Property is uniquely positioned to provide convenient and much-needed access to public transportation for employees of the Company who work in the soil production operation.*

*The Property is also well-buffered from other agricultural and residential activities in the area, as shown in those pictures attached hereto as Schedule A. The current location of the operation provides a buffer of approximately 185 meters from neighbouring farm and residential areas. The surrounding pasture, trees and native shrubs also provide a natural visual and sound buffer that may not be available in any alternate location.*

**4. Does the proposal support agriculture in the short or long term? Please explain.**

*As a food production quality soil producer for over 47 years, we believe our role in agriculture and food production is very important and it is something each of the Applicants take seriously. All of the choices we make with regards to the Property consider both current operations and future farm uses. In the short term and long term we plan to continue to produce hay and provide feed to local farms through that process. The*

*soil operations on the Property are consolidated along the south and western borders of the Property using primarily the south-west corner of the lands. This enables efficient use of the remaining property for the agriculture activities that currently take place. Attached hereto are photographs marked as Schedule B which provide a view of the well-defined and contained portion of the property where the soil operations are carried on.*

*In the foreseeable future we plan to continue the supply of high quality organic growing media to the consumer through our retail partners. While the composting and mixing of soils on the property for retail sale does not constitute a permitted agricultural use under the Agricultural Land Reserve Use Regulation, this proposal will ultimately benefit agriculture by addressing the issue of Organic Soil supply for food crops to growers and market gardeners. The proposal will increase the production of agricultural products over the long-term by allowing us to provide reliable and high quality growing media. Specifically, during the COVID Pandemic we have gained an increased understanding of the importance of our products to our local communities with regard to food production in our homes and local food producers. There are very few companies of our type in the market today and the soils we produce for food production could not be replaced due to production capacity limitations we experienced across western Canada this spring. Our products and retail partners were deemed essential by government almost immediately in March 2020 as demand for local food and the ability to grow food at home became critical. Today, Cinnabar Valley Farms Ltd.s operations are supported by nearly every independent garden center on Vancouver Island and the Lower Mainland.*

*While we have indicated elsewhere in this Application that the area used in organic soil production has gradually increased over the last 50 years, the Applicants fully recognize the need to limit this area to a defined portion of the Property to ensure that agricultural activities continue to constitute an essential part of the activities on the Property over the long term. Accordingly, the Applicants propose that the portion of the Property to be utilized for the production of organic media will be contained within the area outlined on the attached aerial photograph of the Property attached hereto as Schedule C (the Soil Production Area), which photograph with proposed area of non-agricultural use was sent to the Applicants by a February 20, 2020 email from Agricultural Land Commission Compliance and Enforcement Officer Steven Laing. While the portion of the Property where the soil production operation is currently carried on slightly exceeds the Soil Production Area, the Applicants are currently working towards this containment goal and we believe the soil operation will be within these boundaries by Fall 2021. With these defined containment parameters and the Applicants commitment to long term agricultural use of the Property, we are confident the soil production operation will not have an adverse impact on the long term agricultural capability of the Property.*

*\*\*Please see attached PDF (Additional info for proposal question#3)\*\**

**5. Do you need to import any fill to construct or conduct the proposed Non-farm use?**

*No*

**Applicant Attachments**

- Agent Agreement - Tyler Heisterman
- Other correspondence or file information - Addition Proposal Q3
- Site Photo - Schedule A2 SE
- Site Photo - Schedule A1 NE
- Site Photo - Schedule A3 SE
- Site Photo - Schedule A4 NW
- Site Photo - Schedule B Current Use Sketch
- Site Photo - ScheduleC-Updated
- Proposal Sketch - 61331

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- Certificate of Title - 001-479-466

### **ALC Attachments**

None.

### **Decisions**

None.

**3. Does the proposal support agriculture in the short term or long term? Please explain.**

\*Continuation of proposal question #3\*

With regards to long term plans for our ALC Property, if and when the time comes to end soil production activities, based on our long history of sustainable operations on the Property we are very confident the lands have been thoughtfully preserved and could be easily transitioned back to agricultural production for our community in the future. The majority of the Property used in the Applicants' soil operation is used for the stockpiling of organic soils and materials which will not have any negative effect on the productive quality of the land they are stored on. Furthermore, given that the area immediately surrounding the operation is used for the Applicants' hay operation, there is no risk of the material leeching onto or affecting any neighbouring properties. With regards to the structures used in our soil operation, all such structures could be repurposed for other incidental agricultural uses including, in particular, the New Barn which has been designed with an open interior layout that lends itself to many agricultural uses as the farm property evolves in the future.

As long-time community members we have always worked with local governments and the guidelines they ask us to adhere to. Our family has been operating on this Property for over 47 years without issue or complaint from local government or the community.

We believe that, if approved, this non-farm use proposal would continue to provide benefits to agriculture without being inconsistent with either the specific terms or overriding intent of the Act. In our respectful submission, the Company's soil manufacturing business provides an important service to the agricultural community while also supporting our existing farm operations and ensuring their long-term viability.

Schedule A: East North looking West





Schedule A: South East looking North



Schedule A: South East corner looking West



Schedule A: North West corner looking South



Schedule B: Current extent of soil processing use



Schedule C: Proposed future extent of soil processing

