



**Agricultural Land Commission**  
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February 13, 2006

Reply to the attention of Brandy Ridout  
ALC File #G-36370

Grant Maddock  
Protech Consultants (1989) Ltd.  
200 - 1449 St. Paul Street  
Kelowna, BC V1Y 2E4

Dear Mr. Maddock:

Re: Application to exclude land from the Agriculture Land Reserve

Please find attached the Minutes of Resolution #26/2006 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of Central Okanagan - A-05-08

BR/lv/Encl.: Minutes  
36370d1

## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 19, 2006 at the Ministry of Agriculture and Lands office located at 4607 - 23<sup>rd</sup> Street, Vernon, BC.

<b>PRESENT:</b>	Sue Irvine	Chair, Okanagan Panel
	Sharon McCoubrey	Commissioner
	Sid Sidhu	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

### For Consideration

Application # G-36370  
Applicants Darryl & Donna Jost  
Proposal To exclude the 3.5 ha ALR portion of the 5.2 ha subject property to develop the land as a mobile/modular home park.  
Legal PID: 006-558-992  
Lot B, Section 12, Township 23, Osoyoos Division Yale District, Plan 23162  
Location 3691 Old Vernon Road, Ellison area, Kelowna

### Site Inspection

A site inspection was conducted on January 18, 2006. Those in attendance were:

- Commissioners: Sue Irvine, Sharon McCoubrey, and Sid Sidhu
- Staff: Brandy Ridout
- Applicants: Darryl & Donna Jost
- Agent: Grant Maddock
- Agrologist: Brian French

Mr. Maddock confirmed that he received the staff report dated January 4, 2006 and did not identify any errors.

During the site inspection, Mr. French gave an overview of the soil and climate capability assessment report that had been prepared for the application.

### Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

The Act provides processes for landowners, local governments and First Nation governments to apply to the Commission to include land into the ALR, remove land from the ALR, subdivide land in the ALR and use land in the ALR for non-farm purposes. The Commission decides applications with the objective of ensuring that lands suitable for agriculture are retained in the ALR and that non-farm development of ALR land is restricted.

## **Discussion**

### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The improved agricultural capability ratings for the property are identified as Class 3PA.

#### **Class**

3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

#### **Subclass**

A soil moisture deficiency  
P stoniness

The Commission also considered the soil and climate capability assessment report that was included with the application. The report identified limitations of stoniness, droughtiness, and climate and stated that most tree fruits, grapes and horticultural crops would be at high risk of damage from winter extremes and growing season frosts.

The Commission considered the information presented in the report but believed that soil and climate limitations, such as those identified, can be overcome by proper management practices. It also noted that while the land had previously been used as a turf farm for a very short period, no other attempt at pursuing agriculture had been made.

### **Assessment of Agricultural Suitability**

The Commission next assessed whether external factors, such as the location of the property near urban development, have caused or will cause the land to become unsuitable for agriculture. The Commission did not believe that the presence of the Scotty Creek subdivision rendered the land unsuitable for agricultural use.

### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long-term goal of preserving agricultural land. In this analysis, the Commission considered the impact the proposal would have on agriculture both on the subject property and on the surrounding area.

With regard to agriculture on the subject property, if the land was excluded, future opportunities to pursue agriculture would be lost.

With regard to the impact on agriculture in the surrounding area, the Commission noted that the properties to the west of the proposed exclusion area are in the ALR and are only separated from the proposed exclusion area by a road. The Commission believed the development of the subject properties as a mobile home park would have a negative impact on agriculture on those properties as well. In addition, the Commission noted that the exclusion of this property would shift the ALR boundary farther the north and believed that this could increase speculation in the area.

### **Assessment of Other Factors**

The Commission has consistently maintained a position that no additional land should be excluded from the ALR in the Ellison area. In a September 27, 2005 letter commenting on the draft Ellison Official Community Plan, Commission staff noted that "Policy 2.18's reference to exclusion remains inconsistent with the Commission's previous decisions to refuse exclusion of land between the Scotty Creek subdivision and Old Vernon Road."

### **Conclusions**

1. Despite the limitations identified in the report submitted with the application, the land under application has agricultural capability and is appropriately designated as ALR.
2. Although there is a residential subdivision on two sides of the subject property, that the land under application is suitable for agricultural use.
3. That the proposal would have a negative impact on agriculture both on the subject property and in the surrounding area.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

### **IT WAS**

**MOVED BY:** Commissioner Sidhu  
**SECONDED BY:** Commissioner McCoubrey

THAT the application be refused

**CARRIED**  
**RESOLUTION #29/2006**



**Staff Report**  
**Application # G – 36370**  
**Applicant: Darryl & Donna Jost**  
**Agent: Protech Consultants (1989) Ltd.**  
**Location: Kelowna (Ellison)**

**DATE RECEIVED:** November 17, 2005

**DATE PREPARED:** January 4, 2006

**TO:** Chair and Commissioners – Okanagan Panel

**FROM:** Brandy Ridout, Regional Research Officer

**PROPOSAL:** To exclude the 3.5 ha ALR portion of the 5.2 ha subject property to develop the land as a mobile/modular home.park.

This application is made pursuant to section 30(1) of the *Agricultural Land Commission Act*.

**BACKGROUND INFORMATION:**

The property located directly to the north of the subject property is also under application for exclusion (#G-36371). As such, the applications were jointly commented upon by the Regional District and other affected parties.

The Commission has consistently maintained a position that no additional land should be excluded from the ALR in the Ellison area. In a September 27, 2005 letter commenting on the draft Ellison Official Community Plan, Commission staff noted that "Policy 2.18's reference to exclusion remains inconsistent with the Commission's previous decisions to refuse exclusion of land between the Scotty Creek subdivision and Old Vernon Road."

A report was prepared by C&F Land Resource Consultants Ltd. for the two exclusion applications. to assess the soil and climate capability of the properties and interpret its suitability for agricultural production. The report discusses the limitations of stoniness, droughtiness, and climate. It states that most tree fruits, grapes and horticultural crops would be at high risk of damage from winter extremes and growing season frosts. In addition, it notes that the property's size and location near urban development also limit its utility and exclusion would probably have minimal impact on the ALR or agricultural operations.

**Local Government:**

Regional District of Central Okanagan

**Legal Description of Property:**

PID: 006-558-992

Lot B, Section 12, Township 23, Osoyoos Division Yale District, Plan 23162

**BACKGROUND INFORMATION (continued):**

**Purchase Date:**

April 26, 1990

**Location of Property:**

3691 Old Vernon Road, Ellison area, Kelowna

**Size of Property:**

5.2 ha (Approximately 3.5 ha are in the ALR).

**Present use of the Property:**

Primarily for pasture, residence and outbuildings

**Surrounding Land Uses:**

**WEST:** ALR, Old Vernon Road, turf farm  
**SOUTH:** ALR, Mobile home park  
**EAST:** Non-ALR, Scotty Creek residential subdivision  
**NORTH:** ALR, Single-family residence

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82E.094  
The majority of the property is identified as having Prime Dominant ratings.

**Official Community Plan and Designation:**

Ellison Official Community Plan  
Designation: Agricultural Lands (A1)

Ellison is currently updating its Official Community Plan. The most recent draft supports the release of this parcel and development west of the Scotty Creek subdivision in order to provide for an extension of Bulman Road to Old Vernon Road. The draft OCP states: "Support the extension of Bulman Road to Old Vernon Road to provide additional access to the Scotty Creek subdivision. Undertake discussions regarding options and possibilities for achieving that access with the Agricultural Land Commission."

**Zoning Bylaw and Designation:**

Regional District of Central Okanagan Zoning Bylaw No. 871  
Designation: Agricultural (A1)

**PREVIOUS APPLICATIONS:**

**Application #75-124**

**Applicant:** Kozub  
**Decision Date:** 1975  
**Proposal:** To subdivide the 5.2 ha subject property into two lots of 2.6 ha each.  
**Decision:** Refused – on the basis of agricultural capability and parcel size.

**PREVIOUS APPLICATIONS (continued):**

**Application #10012-0**

**Applicant:** Grant Comm  
**Decision Date:** 1980  
**Proposal:** To enlarge the barn to 12 - 18 stalls.  
**Decision:** Allowed.

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**Application #25255-0**

**Applicant:** Darryl Jost  
**Decision Date:** April 17, 1991  
**Proposal:** To exclude the 3.5 ha ALR portion of the 5.2 ha subject property to develop a mobile home park.  
**Decision:** Refused - the ALR portion of the property has a high agricultural capability rating and a history of agricultural production.

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**Application #27719-0**

**Applicant:** Darryl & Donna Jost  
**Decision Date:** February 4, 1993  
**Proposal:** To subdivide along ALR boundary and create a new road through the ALR along the north property-line to afford access to subdivision.  
**Decision:** Refused - would allow a well-buffered subdivision if a non-ALR access is possible.

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**Application #27719-1**

**Applicant:** Darryl & Donna Jost  
**Decision Date:** March 14, 1996  
**Proposal:** To subdivide along ALR boundary and create a new road through the ALR along north property-line to afford access to subdivision and emergency vehicle access to Ellison School and the Scotty Creek residential area.  
**Decision:** Allowed - if road designed so as to follow south property-line then swing north to separate the ALR and subdivided areas subject to buffering.

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**Application #27719-2**

**Applicant:** Darryl & Donna Jost  
**Decision Date:** December 8, 1995  
**Proposal:** To reconsider an earlier refusal of road access through the ALR on the grounds that it would provide better access to the Scotty Creek subdivision.  
**Decision:** Refused - no new evidence was given as to why access through the Jost property would be in the public interest.

**RELEVANT APPLICATIONS:**

**Application #22141-0**

**Applicant:** Johal Lachman  
**Decision Date:** June 23, 1988  
**Proposal:** To exclude the 21.3 ha property in order to develop a trailer park.  
**Decision:** Refused on the grounds that with property management, the land is suitable for tree fruits and, with the exception of the existing trailer park, is surrounded by farmland.

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**Application #23176-0**

**Applicant:** Roucha Orchards  
**Decision Date:** August 24, 1989  
**Proposal:** To exclude 1, 504 ha of land within the City of Kelowna and the Regional District of Central Okanagan consisting of 167 individual (or joint) owners of land.  
**Decision:** Refused.

**RELEVANT APPLICATIONS (continued):**

**Application #24230-0**

**Applicant:** Antonio Goncalves  
**Decision Date:** May 16, 1990  
**Proposal:** To exclude 3.5 ha to subdivide into residential parcels.  
**Decision:** Refused on the grounds that the land has the capability for agricultural purposes. An appeal to ELUC resulted in a hearing and ELUC upheld the Commission's decision.

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**Application #26275-0**

**Applicant:** D. Corlazzoli  
**Decision Date:** January 27, 1992  
**Proposal:** To exclude 1.6 ha from the ALR for intensive residential development.  
**Decision:** Refused - promotion of residential development within this type of area will place urban oriented residents in direct conflict with modern agricultural management techniques.

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**Application #36371-0**

**Applicant:** Betty Cundy  
**Decision Date:** Currently under consideration  
**Proposal:** To exclude the 2.2 ha ALR portion of the 2.6 ha subject property to provide affordable housing by developing the land as a mobile/modular home park.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**Regional District of Central Okanagan Regional Board:** Forwarded the application with support.

**Planning Services Department (Local Government Staff):** Recommends that the Regional Board not support the application for various reasons including that the Regional District has not had the opportunity to undertake discussions with the ALC as recommended in the public hearing staff report regarding the updated Ellison OCP.

**Agricultural Advisory Committee:** Does not support the application. It notes that Ellison is one of the last small lot agricultural area in the Kelowna area, small lot agriculture can be successful, the soil report shows the land could be farmed, exclusion could lead to similar requests, and a nearby orchard is very successful despite existing frost pockets.

**'Central Okanagan East' Advisory Planning Commission:** Supports the application.

**OTHER COMMENTS:**

**District Agrolgist, Ministry of Agriculture and Lands:** Does not support the application.

In response to the posting of the exclusion application, letters were received from two neighbouring property owners. One owner was opposed to the removal of the subject property from the ALR to allow for a non-farm use as it has potential for agricultural. Another was unsuccessful in removing his property from the ALR and believes that if this property is released, others in the neighbourhood should also be excluded as they have poorer soil quality.



**STAFF COMMENTS:**

Staff suggests the Commission consider the following:

- The land has good agricultural capability.
- Exclusion applications in this area have consistently been refused.
- The Regional District has stated in its new OCP that it is in support of some land for exclusion from the ALR and some development west of Scotty Creek subdivision on order to provide for an extension of Bulman Road to Old Vernon Road. However, the Commission has previously given approval for an alternate route through the ALR under application #G-27719 that requires no exclusion.

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END OF REPORT

  
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Signature

  
\_\_\_\_\_  
Date