



Agricultural Land Commission
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June 5, 2006

Reply to the attention of Brandy Ridout
ALC File #V-36584

Isabel Withler
2612 Woodland Crescent
Kelowna, BC V1W 2R4

Dear Ms. Withler:

Re: **Application to subdivide in the Agriculture Land Reserve**

Please find attached the Minutes of Resolution #253/2006 outlining the Commission's decision as it relates to the above noted application. As agent it is your responsibility to notify your client accordingly.

If you wish to pursue the Commission's alternate approval, please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

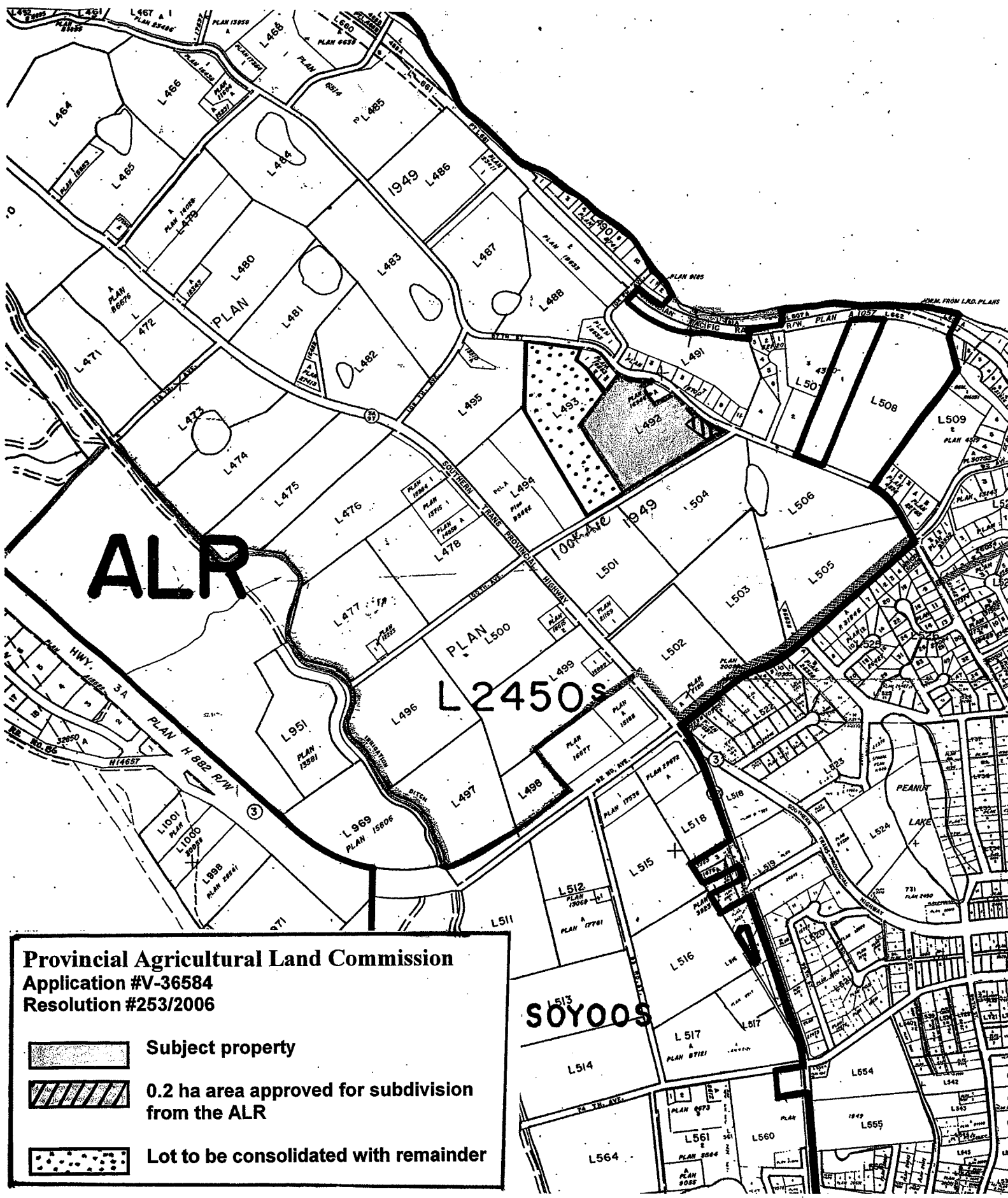
Per:

Erik Karlsen, Chair

cc: Regional District of Okanagan-Similkameen - A06-06062-000
Mark Pendergraft, Director, Electoral Area 'A'

BR/lv/Encl.: Minutes
Sketch Plan

36584d1



Provincial Agricultural Land Commission

Application #V-36584

Resolution #253/2006



Subject property



0.2 ha area approved for subdivision from the ALR



Lot to be consolidated with remainder

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 23, 2006 in Kelowna, BC.

PRESENT:	Sue Irvine	Chair, Okanagan Panel
	Sharon McCoubrey	Commissioner
	Sid Sidhu	Commissioner
	Brandy Ridout	Staff

For Consideration

Application # V – 36584
Applicant Joao Fernandes Da Silva
Proposal To subdivide a 0.3 ha lot containing the existing home and outbuildings from the 3.9 ha property for a retirement residence. The applicant does not qualify for consideration under *Homesite Severance Policy* as he purchased the property in December 1976.
Legal PID: 011-193-573
Location Lot 492, District Lot 2450s, SDYD, Plan 1949, Except Plan 16946
8716 - 100 Avenue, Osoyoos

Site Inspection

A site inspection was conducted on May 23, 2006. Those in attendance were:

- Commissioners: Sue Irvine, Sharon McCoubrey and Sid Sidhu
- Staff: Brandy Ridout
- Applicant: Joao Fernandes Da Silva
- Agent: Isabel Withler

Ms. Withler confirmed that she had received the staff report dated May 10, 2006 and did not identify any errors.

Discussion

It was noted that an adjacent neighbour has agreed to purchase the 3.6 ha remainder to expand their own production. The Commission believed that if the remainder of the subject property was consolidated with the adjacent parcel, the negative impact of subdividing off the homesite would be mitigated.

The Commission noted that the proposed 0.3 ha lot was configured to accommodate the water line and septic field. However, the Commission would prefer that the homesite lot be as small as possible so as to leave the largest possible agricultural remainder. This could be facilitated by a right of way for the water line. As such, it would allow a 0.2 ha lot subject to fencing and buffering.

IT WAS

MOVED BY: Commissioner Sidhu

SECONDED BY: Commissioner Irvine

THAT the application be refused as proposed

AND THAT the Commission would allow the subdivision of an approximately 0.2 ha lot subject to the consolidation of the remainder with the adjacent property (10426 – 87th Street).

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the attached sketch,
- the consolidation by legal survey of the remainder with the adjacent property, and
- the construction of a fence and installation of buffering around the new approximately 0.2 ha lot for the purpose of limiting its impact on the remaining farm unit. Fencing and buffering plans should be submitted to the Commission for approval.

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.

CARRIED

RESOLUTION #253/2006



Staff Report
Application # V – 36584
Applicant: Joao Fernandes Da Silva
Agent: Isabel Withler
Location: Osoyoos

DATE RECEIVED: March 31, 2006

DATE PREPARED: May 10, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Regional Research Officer

PROPOSAL: To subdivide a 0.3 ha lot containing the existing home and outbuildings from the 3.9 ha property for a retirement residence. The applicant does not qualify for consideration under *Homesite Severance Policy* as he purchased the property in December 1976.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicant is in poor health and has provided a doctor's letter in support of the application. An adjacent neighbour has agreed to purchase the 3.6 ha remainder to expand their own production. If the subdivision is approved, they intend to remove all of the existing buildings and level the property so as to increase production.

Local Government:

Regional District of Okanagan-Similkameen

Legal Description of Property:

PID: 011-193-573
Lot 492, District Lot 2450s, SDYD, Plan 1949, Except Plan 16946

Purchase Date:

December 1976

Location of Property:

8716 - 100 Avenue, Osoyoos

Size of Property:

3.9 ha (The entire property is in the ALR).

BACKGROUND INFORMATION (continued):

Present use of the Property:

Orchard with home, workers cabin and outbuildings

Surrounding Land Uses:

WEST: 4 ha orchard property
SOUTH: 4 ha orchard property
EAST: small residential properties in the ALR
NORTH: Orchard property in the ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.003
The majority of the property is identified as having prime dominant ratings (complex).
30% 6:6A 4:5A (6*3AP 4:2A), 70% 6A (3A)

Official Community Plan and Designation:

Osoyoos Rural OCP
Designation: Agriculture

Zoning Bylaw and Designation:

Zoning Bylaw No. 2261
Designation: Ag
Minimum lot size: 4 ha (Rezoning would be required if the application is allowed).

PREVIOUS APPLICATIONS:

There are no previous applications on the property.

RELEVANT APPLICATIONS:

Application #35083-0

Applicant: Fernando Gaspar
Decision Date: January 22, 2004
Proposal: To subdivide a 0.4 ha lot from the 4.5 ha subject property in order to allow the owner to build a retirement home and transfer the property to his daughter.
Decision: Refused - on the grounds of impact and agricultural capability. The Commission noted that it may be willing to reconsider the application if the applicant could show some possible net benefit to agriculture. This could take the form of a boundary line adjustment with a neighbouring property.
Reconsidered and reconfirmed.

Application #35935-0

Applicant: Jack & Amelia Martins
Decision Date: April 27, 2005
Proposal: To subdivide a 0.2 ha lot from the 2.2 ha property for a relative.
Decision: Refused - because the applicant did not qualify for consideration under the *Homesite Severance Policy*, the property was relatively small and was sustaining an orchard.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional District of Okanagan-Similkameen: Forwarded the application without comment. However, in a subsequent letter dated April 10, 2006 the Electoral Area "A" Director, Mark Pendergraft, has written in support of the subdivision only if the remnant 3.6 ha area is consolidated with an adjoining orchard property.

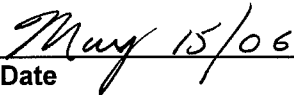
STAFF COMMENTS:

Staff concurs with the Regional Director's recommendation because the introduction of a non-farm residential lot would be mitigated by the increased size of an orchard property.

END OF REPORT



Signature



Date