



Agricultural Land Commission
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October 5, 2007

Reply to the attention of Brandy Ridout
ALC File: #G -37290

Wilf and Odile Hoffman
1032 Webster Road
Kelowna, BC V1P 1C2

Dear Mr. and Mrs. Hoffman:

Re: Application to subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 497/2007 outlining the Commission's decision as it relates to the above noted application.

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: City of Kelowna (A06-0027)

Enclosure: Minutes/Sketch Plan

BR/lv
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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 20, 2007 in Oliver, BC.

PRESENT:	Sue Irvine	Chair, Okanagan Panel
	Sid Sidhu	Commissioner
	Monika Marshall	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

For Consideration

Application: # G - 37290
Applicant: Wilf and Odile Hoffman
Proposal: To subdivide a 0.5 ha lot from the 1.6 ha subject property under the *Homesite Severance Policy*.
Legal: PID: 004-671-406
That part Block 35, shown on Plan B4779, Section 25 & 26, Township 26, Osoyoos Division Yale District, Plan 264
Location: 1032 Webster Road, Kelowna

Site Inspection

A site inspection was conducted on June 5, 2007. Those in attendance were:

- Sue Irvine Chair, Okanagan Panel
- Sid Sidhu Commissioner
- Monika Marshall Commissioner
- Brandy Ridout Staff
- Martin Collins Staff
- Mr. and Mrs. Hoffman Applicants

Mr. Hoffman confirmed that the staff report dated April 23, 2007 was received and no errors were identified.

At the site visit, the Commission discussed the size of the proposed homesite lot with the applicants. They indicated that it was larger than typically approved and would encourage the applicants to consider other options they may find amendable to make the proposed lots smaller. It was also discussed that in situations where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would create potential difficulty for the agricultural operation or management of the "remainder", the Commission may approve the creation of a parcel elsewhere on the subject property. A decision was not made as the applicants indicated that a revised proposal would be submitted.

The revised proposal was for the subdivision of a 0.34 ha lot around the existing homesite. It was indicated that due to geological factors associated with the septic field (surface bedrock to both the east and west of the current location and a high water table on the southwest edge which prevent the field from being repositioned) the proposed lot could not be any smaller.

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.

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 agricultural capability of the soil of the subject property is 70% Class 3 with limitations of soil moisture deficiency and stoniness and 30% Class 3 with limitations of soil moisture deficiency and topography. Class 3 land has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Assessment of Agricultural Suitability

The Commission assessed whether factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission did not believe there are factors that render 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. Although the *Homesite Severance Policy* was created to allow retiring farmers who have owned their property since before the ALR came into existence to subdivide a homesite lot, the Commission must also consider the impact the proposed lot will have on the agricultural remainder. As stated in the *Policy*, there will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission must therefore exercise its discretion to refuse the homesite severance.

In this case, the Commission believed that the subdivision of a 0.34 ha lot from the 1.6 ha subject property would not leave a remainder that was large enough to constitute an agricultural parcel. Besides being reduced to only 1.26 ha in size, the Commission was aware that another homesite would be constructed on the lot, further reducing the land available for agriculture.

As such, the Commission was unwilling to allow the subdivision of a lot larger than 0.2 ha. If it is not possible to subdivide a 0.2 ha lot around the original homesite, the Commission will accept a proposal to subdivide a 0.2 ha lot in an alternate location on the property.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will have a negative impact on agriculture.

IT WAS

MOVED BY: Commissioner Irvine
SECONDED BY: Commissioner Sidhu

THAT the application to subdivide a 0.34 ha lot from the 1.6 ha subject property under the *Homesite Severance Policy* be refused on the grounds that the remainder will not constitute an agricultural parcel.

AND THAT the Commission will approve the subdivision of a 0.2 ha lot subject to the following conditions:

- The submission of a sketch showing the 0.2 ha lot proposed for subdivision.
- The construction of a fence and installation of a vegetative buffer around the perimeter of the 0.2 ha lot for the purpose of limiting the impact of the new lot on adjacent agricultural operations.
- Compliance with the *Homesite Severance Policy*.
- The subdivision must be completed within three (3) years from the date of this decision.

Approval for this homesite severance subdivision is granted for the sole benefit of the applicants and is non-transferable.

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.

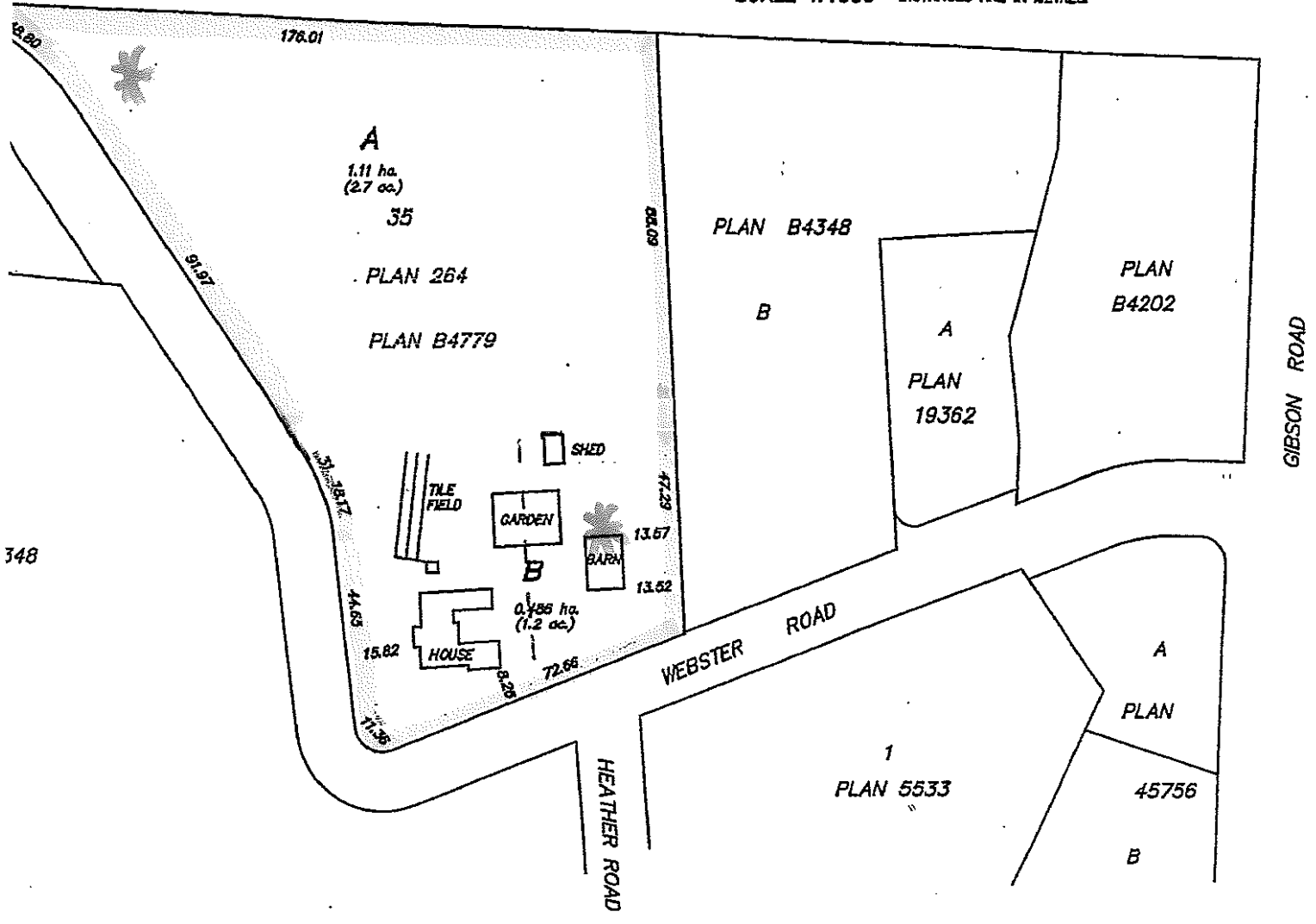
CARRIED

Resolution # 497/2007

PROPOSED SUBDIVISION OF BLOCK 35
 PLAN 264 SEC. 25 AND 26 TP 26 O.D.Y.L
 SHOWN ON PLAN B4779

2
 PLAN 29183

SCALE 1:1000 DISTANCES ARE IN METRES.



13786

Provincial Agricultural Land Commission
 Application #G-37290
 Resolution #497/2007



Subject property



Possible location of 0.2 ha area
 approved for subdivision in the ALR



Staff Report
Application # G – 37290
Applicant: Wilf and Odile Hoffman
Location: Kelowna

DATE RECEIVED: March 14, 2007

DATE PREPARED: April 23, 2007

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To subdivide a 0.5 ha lot from the 1.6 ha subject property under the *Homesite Severance Policy*.

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

BACKGROUND INFORMATION:

The applicants have provided a title from 1964 showing ownership of the property. They have also provided a building permit from 1964 for the main house and another for a carport addition in 1974. In addition, letters were received from three neighbours, all of which have been on their properties since before 1972, stating that the applicants have lived continuously on the subject property since its purchase in 1964.

Local Government:

City of Kelowna

Legal Description of Property:

PID: 004-671-406

That part Block 35, shown on Plan B4779, Section 25 & 26, Township 26, Osoyoos Division Yale District, Plan 264

Purchase Date:

February 1964

Location of Property:

1032 Webster Road, Kelowna

Size of Property:

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

BACKGROUND INFORMATION (continued):

Present use of the Property:

Residence, barn and two sheds, orchard, berry bushes

Surrounding Land Uses:

WEST: Orchard
SOUTH: Orchard
EAST: Residential lot (ALR)
NORTH: Orchard

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.084
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

Kelowna OCP Bylaw 2020
Designation: Rural/Agriculture

Zoning Bylaw and Designation:

Zoning: Bylaw No. 8000
Designation: A1 (Agriculture 1)
Minimum Lot Size: 2.0 ha

PREVIOUS APPLICATIONS:

Application #18323-0

Applicant: Wilfred Hoffman
Decision Date: July 19, 1984
Proposal: Extraction of 7,500 cubic meters of gravel from a 8,500 square metre site.
Decision: Allowed with conditions.

RELEVANT APPLICATIONS:

Application #27490-0 (including 2 reconsiderations)

Applicant: Andrew & Donna Hartman
Decision Date: January 12, 1994
Proposal: To subdivide a 0.5 ha lot containing an existing residence as a retirement holding from the two properties (2.1 ha and 8.6 ha) under the *Homesite Severance Policy*.
Decision: Refused on the grounds that the homesite lot is too large. The Commission will authorize the creation of a smaller homesite lot surrounding the residence on Lot 2 subject to the installation of vegetative screening along the boundary, the terms and conditions of the *Homesite Severance Policy*, and the consolidation of the remnant portion of Lot A severed by the approved lot to Lot 2.
Reconsidered to allow the subdivision of a 0.4 ha lot for daughter subject to vegetative screening (Rescinded resolution #563/94 & 31/94).

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

City of Kelowna Council: Supported.

City of Kelowna Staff: Recommend support.

City of Kelowna Agricultural Advisory Committee: Supports.

STAFF COMMENTS:


Staff suggests the Commission consider the following:

- The proposed homesite lot is larger than the typically approved 0.2 ha lot.
- The owners of the property to the north were allowed a 0.4 ha homesite in 1996.
- The applicant has indicated that the barn will be used as a bed and breakfast on the homesite lot.
- If the 1.1 ha remainder constitutes a suitable agricultural parcel.

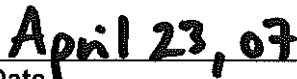
ATTACHMENTS:

- ALR base map and constituent map
- Sketch of proposed subdivision
- Air photo

END OF REPORT



Signature



Date