



Agricultural Land Commission
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June 19, 2007

Reply to the attention of Brandy Ridout
ALC File: #G - 37347

Peter Klimuk
Milagro Advisory Services
#10 - 2070 Harvey Avenue
Kelowna, BC V1Y 8P8

Dear Mr. Klimuk:

Re: Application to Exclude land from the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 274/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over the printed name. The signature is fluid and cursive.

Erik Karlsen, Chair

cc: City of Kelowna (#A06-0021)

Enclosure: Minutes

BR/lv
37347d1

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 majority of the subject property is Class 3 with a limitation of undesirable soil structure. 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 considered whether the property was suitable for agriculture. The main issues the Commission considered were the location of the subject property near a residential development, the fact that a high proportion of its area had been covered by buildings, and City of Kelowna zoning.

In analyzing these factors, the Commission noted that the residential area is across a major road and higher in elevation, thus buffered (to a degree) from the agricultural operation. Although this property is in a peninsula of ALR land, the Commission is committed to retaining this land in the ALR. Planning processes with the City of Kelowna have identified these areas as agricultural areas and the Commission is reluctant to adjust the edge of the ALR.

The Commission believed that the fact that very little land is available for agricultural cropping because of the presence of buildings was irrelevant to the suitability of the land for agriculture as there are many types of farming beyond soil bound agriculture. In addition, the Commission noted that the barn was used for an agricultural operation and the additional dwellings had presumably been built to house farm help. The Commission believed that the property still has the potential to be used and that there may be other uses for the buildings.

With regard to the City of Kelowna's bylaw restricting the growth of the operation, the Commission noted that while there may be restrictions on expansion, this does not preclude the property's use for agriculture. The Commission did not believe that just because the operation could not be expanded the property should be excluded from the ALR and developed for non-farm uses such as condominiums.

After considering the above issues, 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. It believed that exclusion of the property from the ALR would remove agriculturally capable and suitable land from the land base the Province has deemed to be part of its land base for the long term agricultural requirements of BC.

When considering the applicant's request to allow subdivision of the property within the ALR to provide the property owners with an opportunity to sell any or all of the houses on the property, the Commission did not feel it was appropriate to subdivide the property to allow each of the houses to have their own title as they had presumably been constructed as additional dwellings for farm help.

The Commission believed the proposal would have a negative impact on existing or potential agricultural use of the subject property and surrounding lands.

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.
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 Irvine

THAT the application to exclude the 3.12 ha subject property from the ALR be refused on the grounds that it has agricultural capability and suitability.

CARRIED

Resolution # 274/2007



Staff Report
Application # G – 37347
Applicant: Harvey & Gail Francis
Agent: Milagro Advisory Services
Location: Kelowna

DATE RECEIVED: April 16, 2007

DATE PREPARED: May 29, 2007

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To exclude 3.12 ha from the ALR.

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

BACKGROUND INFORMATION:

The applicants have no immediate plans for a change in land use. However, if the property is excluded from the ALR, the applicants intend to pursue subdivision of the property to provide separate title to each of the three single family residences currently on the property.

The applicant has provided an agrologist's report prepared by Herb Luttmerding. The conclusion of that report is that "most of the property is occupied by facilities and uses related to the production of mushroom, and by three residences. This leaves very little land available (and suitable) for agricultural cropping."

Local Government:

City of Kelowna

Legal Description of Property:

PID: 002-148-005
Lot 4, District Lot 415, Section 28, Township 26, Osoyoos Division Yale District, Plan 35886

Purchase Date:

October 1987

Location of Property:

745 Rifle Road, Kelowna

BACKGROUND INFORMATION (continued):

Size of Property:

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

Present use of the Property:

3 single family residences, mushroom production barn

Surrounding Land Uses:

WEST: residential
SOUTH: residential acreage
EAST: undeveloped road right of way, undeveloped ag land (non-ALR)
NORTH: vacant land, marsh, unmanaged grass area

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.093
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

OCP: N/A
Designation - Rural/Agricultural

Zoning Bylaw and Designation:

Zoning: N/A
Designation - Agriculture 1
Minimum Lot Size: 2 ha

PREVIOUS APPLICATIONS:

Application #33366-0

Applicant: City of Kelowna
Decision Date: June 21, 2000
Proposal: To dedicate and construct the McCurdy Road extension through the Marshall Feed Lot properties on a 30 metre wide right of way.
Decision: Allowed.

RELEVANT APPLICATIONS:

Application #37348-0

Applicant: R 118 Enterprises Ltd.
Decision Date: Currently before the Commission
Proposal: To exclude 3 ha from the ALR.
This is the property to the south of the subject property.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

City of Kelowna Council: Recommend that the application be forwarded without Council support.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS (continued):

City of Kelowna Agricultural Advisory Committee (AAC): Not supported on the grounds that its exclusion would erode the agricultural land base.

City of Kelowna Planning & Development Services Department: Recommend the application not be supported by Council. Given the current farming activities on the property, removing it from the ALR would work against the agricultural security of the farming operation.

STAFF COMMENTS:

- The property is currently used for agriculture.
- As both secondary residences on the property were built after 1973, building permits for their construction must have been granted on the basis that they were necessary for farm help. Excluding the property to allow a 3-lot subdivision that would grant each house its own title seems to go against the intent of the legislation that allows additional dwellings for farm help.

ATTACHMENTS:

- ALR map (1:10,000)
- Land capability assessment by Herb Luttmerding, P. Ag.
- Minutes of AAC meeting
- Air photo

END OF REPORT

Signature

Date