



Agricultural Land Commission
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October 11, 2007

Reply to the attention of Brandy Ridout
ALC File: #V - 37423

Bill Ross
PO Box 1199
Oliver, BC V0H 1T0

Dear Mr. Ross:

Re: Application to Exclude land from the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 351/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

The Commission will advise the Registrar of Land Titles that the property has been excluded from the ALR when it has received confirmation that the conditions of approval have been met.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

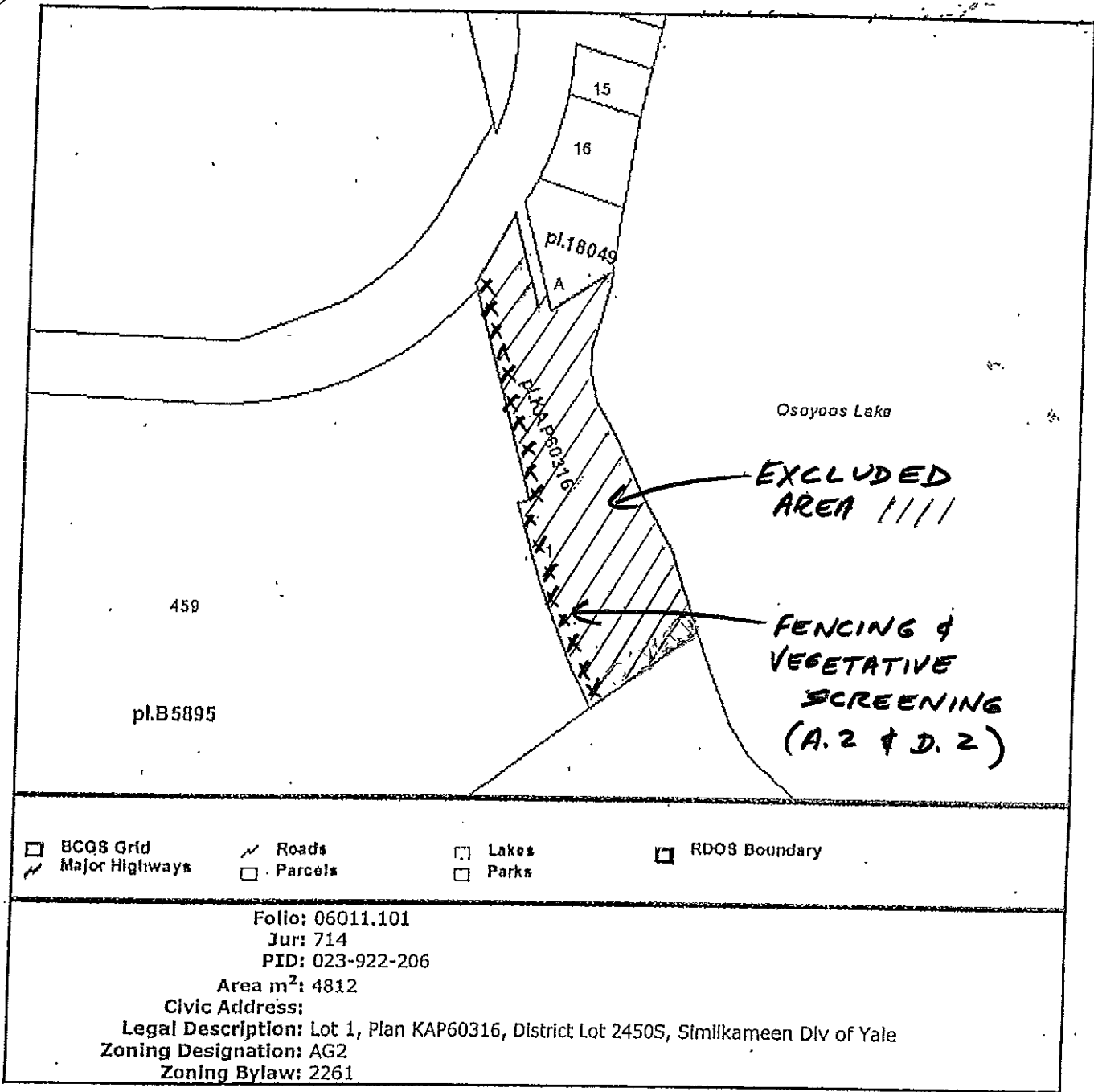
Erik Karlsen, Chair

cc: Regional District of Okanagan-Similkameen (A07-06011-101)

Enclosure: Minutes/Sketch Plan/Schedule A2 and D2

BR/lv
37423d1

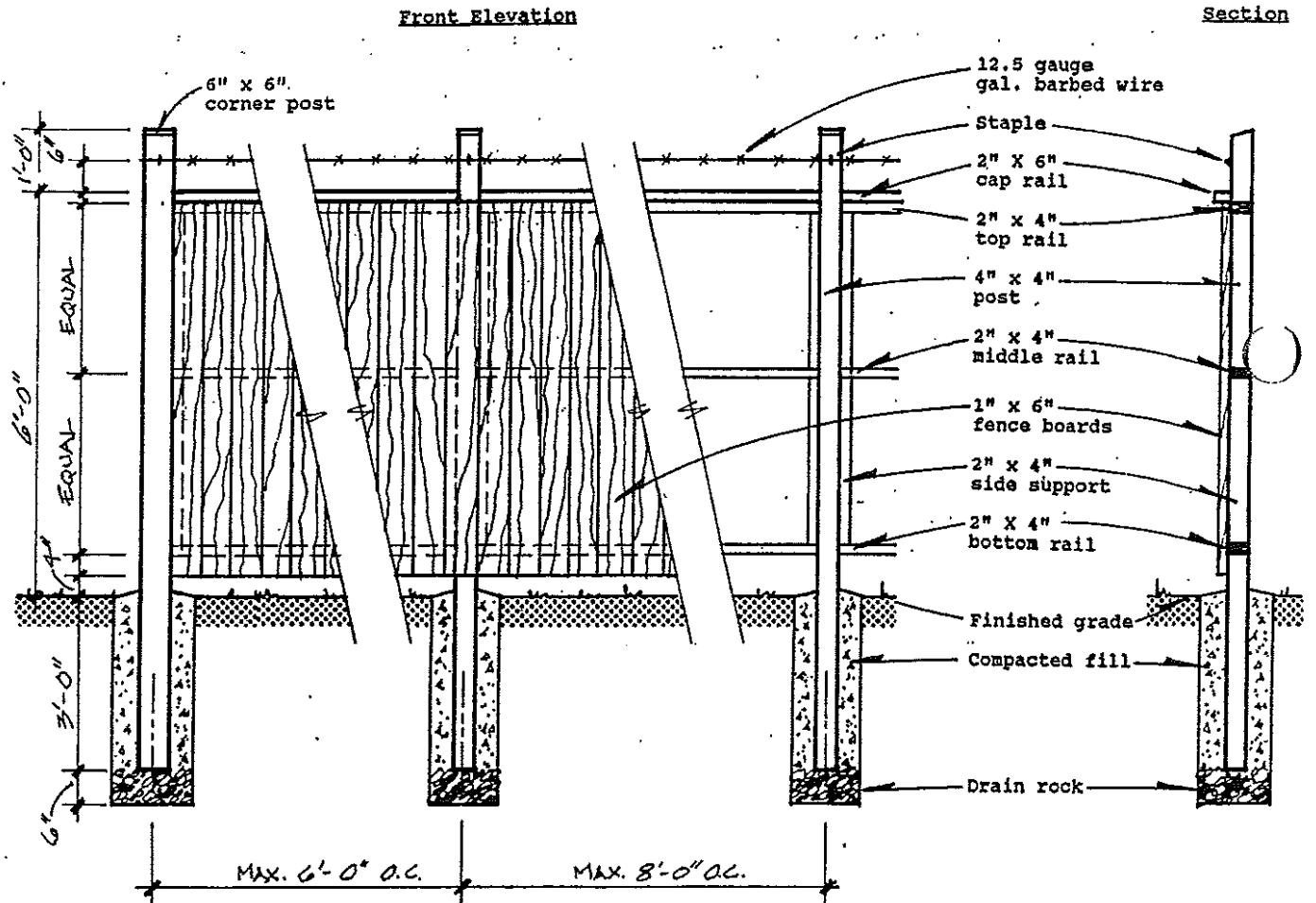
RDOS Parcel Information Map



ALC APPLICATION #V-37423
RESOLUTION # 351/2007

SCHEDULE D: FENCING SPECIFICATIONS

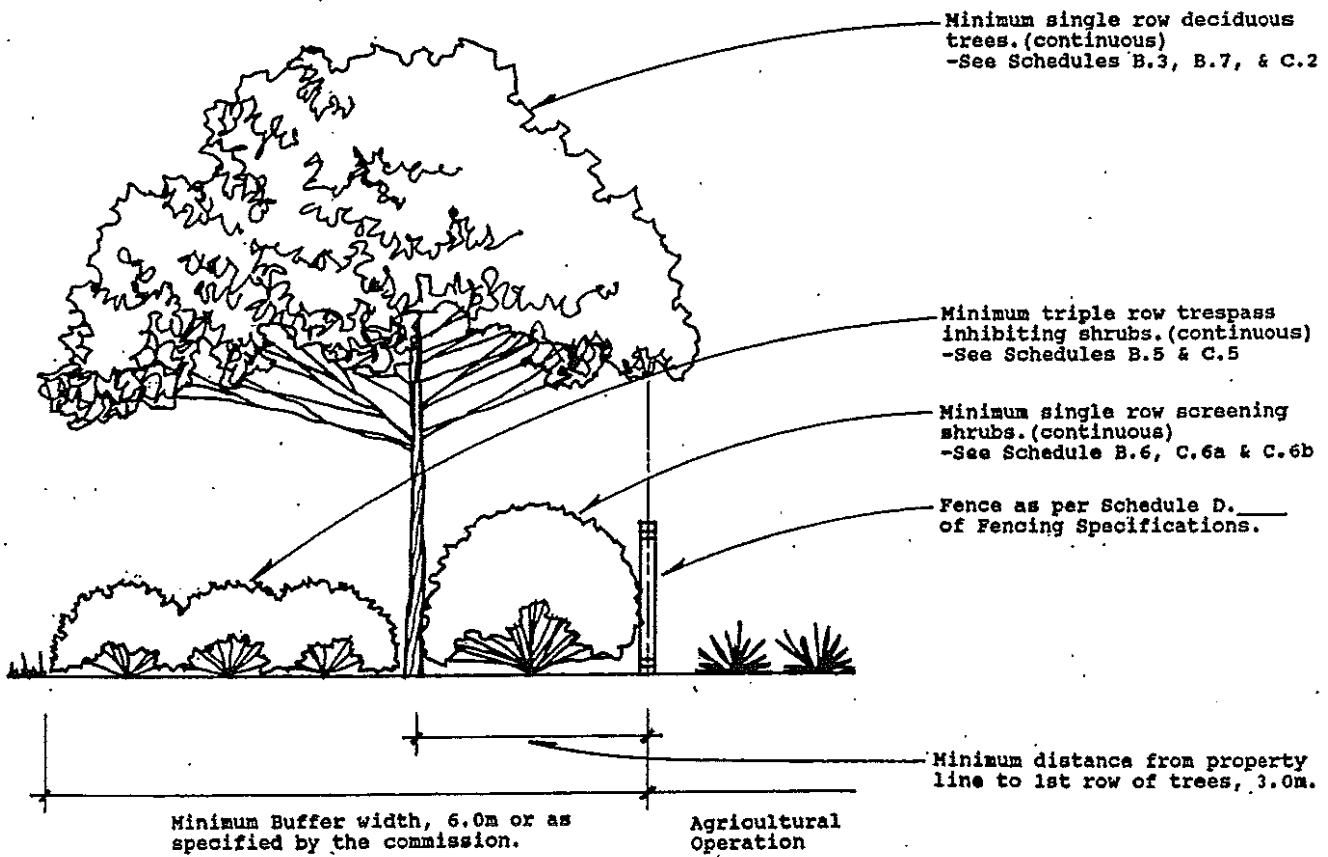
D2: Solid Wood Fence with One Strand Barbed Wire



SCHEDULE A: BUFFER TYPES

**A.2: Minimum Vegetative Screen
(Medium Height Trees)**

Inhibits trespass and vandalism while providing minimum protection to non-farm developments from the movement of dust and pesticide spray from adjacent agricultural operations.





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
Monika Marshall Chair, Kootenay Panel
Erik Karlsen Chair, ALC
Brandy Ridout Staff

ABSENT: Sid Sidhu Commissioner

For Consideration

Application: # V- 37423
Applicant: Dale and Allan Chobotar
Agent: Bill Ross
Proposal: To exclude the 0.4 ha subject property from the ALR to facilitate a four lot residential subdivision.
Legal: PID: 023-922-206
Lot 1, District Lot 2450s, Similkameen Division Yale District, Plan KAP60316
Location: 13821-148 Ave, 3.5 km north of the Town of Osoyoos

Site Inspection

A site inspection was conducted on July 19, 2007. Those in attendance were:

- Sue Irvine Chair, Okanagan Panel
- Monika Marshall Chair, Kootenay Panel
- Erik Karlsen Chair, ALC
- Brandy Ridout Staff
- Bill Ross Agent

Mr. Ross confirmed that the staff report dated July 9, 2007 was received and no errors were identified.

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 and Suitability

In assessing agricultural capability, the Commission noted that the majority of the property consisted of the historic railway bed and sloped lakeshore area. The Commission believed that the soils on the property were largely unsuitable for agricultural development because of railway bed debilitation and a mixture of other lakeshore limitations. The Commission did not believe that the land was suitable for agriculture because of the former railway use, small size, and narrow configuration.

Assessment of Impact on Agriculture

The Commission also assessed whether the exclusion and subdivision of the property would have any negative impact on the long term goal of preserving agricultural land. As the Commission believed that the land was not suitable for agriculture, its main concern with the proposal was the potential impact on adjacent agricultural operations.

The Commission noted that there was a winery operation on the property to the west, the owners of which did not support the application because exclusion and residential subdivision could have negative impacts on agriculture. The Commission believed that fencing, buffering and set-backs could be established to reduce potential for trespass and conflict.

With regard to impact on the other adjacent properties, the Commission noted that the property to the north was a small residential lot. The adjacent area of the property to the south was buffered with a rock wall and landscaping and agriculture on the property was set-back quite a distance from the shared lot line.

Another issue of impact is road access through the ALR to reach non-ALR (or excluded) properties. In this case, the development of the subject property would not require the construction of an access road through the ALR as it is located along 148th Avenue.

Assessment of Other Factors

The Commission noted that development potential of the property may be limited by septic requirements or other environmental restrictions. However, it did not believe that lake quality or wildlife habitat are issues within its mandate. Should the Regional District wish to limit development to protect other values, it has the power to regulate residential density and lakeshore setbacks. The Commission wished to make it clear that should significant building or septic field setbacks from the lake make it difficult (or impossible) to construct residences it is not supportive of expanding the development area onto the adjoining ALR land.

Conclusions

1. That the land under application has limited agricultural capability and is largely unsuitable for agricultural use.
2. That the exclusion/subdivision proposal could negatively impact agriculture by increasing the potential for conflict between farming and residents. This could be mitigated through fencing, buffering and set-backs.

IT WAS

MOVED BY: Commissioner Irvine
SECONDED BY: Commissioner Marshall

THAT the application to exclude 0.4 ha from the ALR be approved on the grounds that the land is largely unsuitable for agricultural use and potential conflicts between adjoining agricultural operations could be mitigated through fencing, buffering and set-backs.

AND THAT the approval is subject to the following conditions:

- The construction of a trespass inhibiting fence (as per the attached schedule D2).
- The planting (or retention) of vegetation for buffering (as per the attached schedule A2). As outlined in the schedule, this will include a 6 metre buffer in which there are to be no buildings.
- The decision must be completed within three (3) years from the date of this decision.

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 # 351/2007



Staff Report
Application # V – 37423
Applicant: Dale and Allan Chobotar
Agent: Bill Ross
Location: Osoyoos

DATE RECEIVED: May 10, 2007

DATE PREPARED: July 9, 2007

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To exclude the 0.4 ha subject property from the ALR to facilitate a four lot residential subdivision.

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

BACKGROUND INFORMATION:

The stated reason for the application is that if the property is out of the ALR, application can be made to the Regional District for subdivision and more than one house could be built on the property.

Local Government:

Regional District of Okanagan-Similkameen (RDOS)

Legal Description of Property:

PID: 023-922-206
Lot 1, District Lot 2450s, Similkameen Division Yale District, Plan KAP60316

Purchase Date:

April 2001

Location of Property:

13821-148 Ave, in rural Osoyoos, located 3.5 km north of the Town of Osoyoos on 148th Ave, adjacent to Osoyoos Lake.

Size of Property:

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

BACKGROUND INFORMATION (continued):

Present use of the Property:

One pump house, one deck or patio and the present use is recreational for the family.

Surrounding Land Uses:

WEST: Farm (Winery and vineyard)
SOUTH: Farm (fruit trees)
EAST: Lake Osoyoos
NORTH: Small residential lot containing arecreational cabin

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.003
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

OCP Designation: Agriculture and LR (the original lot area which predated a 1997 consolidation of the previous small lot with the railway right of way)

Zoning Bylaw and Designation:

Electoral Area "A" Osoyoos Rural Zoning Bylaw No. 2261 (2004)
Designation: Agricultural Two Zone (AG2)
Minimum Lot Size: 4 ha

PREVIOUS APPLICATIONS:

One previous application has been considered on the subject property. The Commission allowed the consolidation of the original small residential parcel with the decommissioned railway right of way.

RELEVANT APPLICATIONS:

Application #34339-0, 1, 2

Applicant: Gormar Properties Ltd.
Decision Date: July 20, 2002
Proposal: To exclude five small parcels totaling 3.3 ha from the Agricultural Land Reserve.
Decision: Refused this exclusion application, but allowed the subdivision of the property. Subdivision approval is subject to submission of a subdivision plan of up to eight lots and a plan of fencing (chain link or solid wood).
Upon reconsideration the Commission allowed the exclusion of 3.3 ha from the ALR subject to fencing the perimeter to prevent trespass.

Application #36035-0

Applicant: Paul & Joan Dumoret
Decision Date: June 22, 2005
Proposal: To exclude the 0.8 ha parcel from the ALR for the purpose of subdividing off the principal residence.
Decision: Allowed as requested

RELEVANT APPLICATIONS:

Application #37148-0

Applicant: Lyle and Maret Johanson

Decision Date: June 6, 2007

Proposal: To exclude approximately 0.3 ha from the 3.9 ha subject property to facilitate the subdivision of the excluded area either as a single residential lot, or three (3) smaller 0.1 ha lots.

Decision: Refused because of concerns about impact on the farm remnant and the need to establish access through the orchard at the expense of its productive capacity.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

RDOS Board: No comments or recommendations, as per policy.

RDOS Planning Staff: Residential development on the subject property would not be consistent with the Official Community Plan.

OTHER COMMENTS:

Three letter opposed to the exclusion have been forwarded with the application materials.

- Topaz Properties (property to the northwest) does not support the application because it is not supportive of agriculture and will have detrimental impacts on the lake and rural amenity of this region.
- Enotecca Winery and Resort (property to the west) does not support the exclusion and subdivision proposal because of about agricultural impacts and other negative amenity impacts such as lake quality and bird habitat.
- Dr. Steven Evans indicates that the proposed development would have negative impacts on the quiet enjoyment of his property and lake water quality and foreshore wildlife habitat.

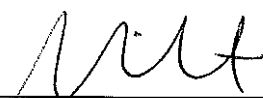
STAFF COMMENTS:

- The impacts of continued and accelerating foreshore development will be increased conflicts with farm operators, and increased speculation and development pressure on remaining agricultural parcels that border the foreshore.
- There are many other issues pertaining to the residential pressures affecting the western shoreline of Osoyoos Lake. If sewer is provided to the north end of the lake, the Commission may wish to approach the issue of lakeshore development with a broader, area-wide planning strategy, rather than on an ad-hoc basis.
- Staff recommends a site visit to ascertain what, if any impacts may result from increased residential density on the adjoining winery/vineyard and how access might be achieved.
- An agricultural rationale is not provided for exclusion.

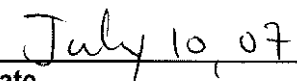
ATTACHMENTS:

- ALR Context Map (1:20,000)
- Applicant's proposed subdivision plan
- RDOS's Schedule X-1 showing the site & area plans
- Air photo

END OF REPORT



Signature



Date