



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604-660-7000  
Fax: 604-660-7033  
www.alc.gov.bc.ca

October 10, 2007

Reply to the attention of Brandy Ridout  
ALC File: # G - 37539

Clay Larson Law Corp.  
740 Westpoint Court  
Kelowna, BC V1W 2Z4

Dear Mr. Larson:

Re: Application to subdivide in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 480/2007 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 your client wishes to pursue the 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:

A handwritten signature in black ink, appearing to read 'EKAR', is written over the 'Per:' label.

Erik Karlsen, Chair

cc: City of Kelowna (A07-0004)

Enclosure: Minutes

BR/lv  
37539d1



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

---

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

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

### For Consideration

Application: # G - 37539  
Applicant: J & D Orchards Ltd.  
Agent: Clay Larson Law Corp.  
Proposal: To subdivide a 0.4 ha lot from the 8.0 ha subject property under the *Homesite Severance Policy*.  
Legal: PID: 012-394-122  
Lot 2, Section 36, Township 26, Osoyoos Division Yale District, Plan 425, EXCEPT Plan KAP78155  
Location: 2047 Morrison Road, Kelowna

### Site Inspection

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

- Sue Irvine Chair, Okanagan Panel
- Sid Sidhu Commissioner
- Monika Marshall Commissioner
- Brandy Ridout Staff
- Martin Collins Staff
- Joseph Pilato Applicant
- Clay Larson Agent

Mr. Larson confirmed that the staff report dated August 15, 2007 was received and no errors were identified.

During the site visit the Commission discussed the size of the proposed homesite lot with the applicant. It was indicated at that time that the Commission typically prefers as small a homesite lot as possible to allow the retention of more land with the agricultural remainder. The option to subdivide a small lot in an alternate location (i.e. not around the existing house) was also discussed.

### **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 majority of the soil of the subject property is 60% Class 1, 20% Class 2 with a limitation of topography, and 20% Class 3 with limitations of soiled moisture deficiency and stoniness.

Class 1 – Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.

Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

Class 3 – Land in this class 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 does 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. In general, it is more beneficial to agriculture to retain as much land as possible with the remainder in a homesite severance subdivision.

Although the applicants qualify under the *Homesite Severance Policy*, the Commission was concerned that the subdivision of a 0.4 ha lot, as requested, would negatively affect the agricultural capability of the remainder. Therefore, the Commission would only allow the subdivision of an approximately 0.2 ha homesite lot. As indicated during the site visit, this lot could be located in an alternate location (i.e. not around the existing house).

### **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. As the proposed 0.4 ha homesite lot would contain a large amount of land that could be better used for agriculture if left with the remainder, the Commission would only allow the subdivision of an approximately 0.2 ha lot.

### **IT WAS**

**MOVED BY:** Commissioner Irvine

**SECONDED BY:** Commissioner Sidhu

THAT the application be refused on the grounds that the 0.4 ha homesite would negatively affect the agricultural capability of the remainder.

AND THAT the Commission would allow the subdivision of an approximately 0.2 ha homesite lot subject to the following conditions:

- The submission of a sketch outlining the 0.2 ha area to be subdivided.
- The construction of a fence and installation of a vegetative buffer 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 applicant 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 # 480/2007**



**Staff Report**  
**Application # G – 37539**  
**Applicant: J & D Orchards Ltd.**  
**Agent: Clay Larson Law Corp.**  
**Location: Kelowna**

**DATE RECEIVED:** July 9, 2007

**DATE PREPARED:** August 15, 2007

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

**FROM:** Brandy Ridout, Land Use Planner

**PROPOSAL:** To subdivide a 0.4 ha lot from the 8.0 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 proposed 0.4 ha lot would contain all the buildings on the property, which include a house with an attached carport and a 4-bay garage and workshop.

Documentation has been provided indicating that the applicant, Joseph Pilato, owned the property jointly with his mother in September 1965. Although the property is now owned by a company, Mr. Pilato is the sole stakeholder of that company.

**Local Government:**

City of Kelowna

**Legal Description of Property:**

PID: 012-394-122  
Lot 2, Section 36, Township 26, ODYD, Plan 425, EXCEPT Plan KAP78155

**Purchase Date:**

October 1965

**Location of Property:**

2047 Morrison Road, Kelowna

**Size of Property:**

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

**BACKGROUND INFORMATION (continued):**

**Present use of the Property:**

Residence, four bay garage

**Surrounding Land Uses:**

**WEST:** 4 ha ALR parcel, - pasture for horses  
**SOUTH:** 8 ha orchard  
**EAST:** Small urban residential lots and a large uncultivated ALR parcel  
**NORTH:** 8 ha ALR parcel with some fruit production and pasture.

**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:**

OCP: Bylaw No. 2020 designation: Rural/Agricultural

**Zoning Bylaw and Designation:**

Zoning: Bylaw No. 8000 designation: A1 - Agriculture 1  
Minimum Lot Size: 2.0 ha

**PREVIOUS APPLICATIONS:**

**Application #22451-0**

**Applicant:** L.O.R.A.  
**Decision Date:** August 24, 1988  
**Proposal:** To exclude 186 parcels of land totaling 1220 ha in area.  
**Decision:** Refused. Decision to refuse upheld by ELUC.

---

**Application #35554-0**

**Applicant:** Kelowna  
**Decision Date:** August 16, 2004  
**Proposal:** To construct and dedicate sanitary and storm sewer lines by right-of-way on four properties. The City of Kelowna wants to bring sanitary sewer lines to the area to resolve septic problems.  
To upgrade and dedicate 20 metre right of ways for existing roads (section 4) on 9 properties. It appears that these road upgrades and dedications are permitted under the regulations of the Commission. The total area required for sewer right of ways is 0.3 ha. The total area required for road widenings is 1.3 ha.  
*Subject property: 8.1 ha total size and 0.04 ha required for sewer right of way and 0.14 ha required for road widening to 20 metres.*  
**Decision:** Approved this application on the grounds that it will improve water quality, drainage and road safety and maintenance.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**City of Kelowna Council:** Forwarded the application with a recommendation of support

**City of Kelowna Agricultural Advisory Committee:** Supported the application.

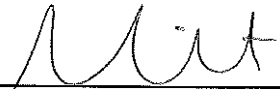
**STAFF COMMENTS:**

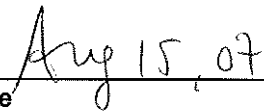
- The applicant appears to qualify for consideration under *Homesite Severance Policy*.
- The proposed homesite lot is larger than preferred. A site visit may assist the Commission in determining the possibility of reducing the size of the lot.

**ATTACHMENTS:**

- ALC Context Map (1:20,000)
- Air photo (1:5,000)
- Applicant's sketch plan

**END OF REPORT**

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date