



Staff Report
Reconsideration of Application # G – 37320
Applicant: Arnold & Doris Frank
Agent: New Town Planning Services

DATE RECEIVED: January 17, 2008

DATE PREPARED: January 24, 2008

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: The applicants have amended their proposal and are no longer requesting the exclusion of an additional 0.8 ha from the 4.5 ha property (1.2 ha has already been approved for exclusion by Resolution # 285/2007). Instead the applicants would like to retain the 0.8 ha in the ALR, but use the area for RV parking and develop a 15 meter wide vegetative buffer adjacent to agriculture. The applicants also want to straighten the exclusion boundary (with no net increase in the 1.2 ha exclusion area).

This application is being reconsidered pursuant to section 33 of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The Commission retained the 0.8 ha area containing the two homes, outbuildings and tennis court as a buffer and transition zone from the proposed high density residential uses. The revised proposal intends to honor that goal by ensuring that no residences are located in that area. The closest residence will be ~ 70 meters from active agriculture. The proposed residential structure will be four stories tall, and contain units.

Local Government:

Regional District of Central Okanagan

Legal Description of Property:

PID: 010-978-518
Lot 2, District Lot 434, Osoyoos Division of Yale District, Plan 2685

Location of Property:

3750 West Bay Road, Westbank

Size of Property:

4.5 ha (The Commission excluded 1.2 ha by Resolution # 285/2007 subject to conditions).

Present use of the Property:

Tennis Court, two single family homes, guesthouse, workshop, seventeen guest cabins, washroom and laundry facilities for resort guests.

Surrounding Land Uses:

WEST: ALR Land, single family residence/tree farm
SOUTH: Okanagan Lake
EAST: West Bay Road, West Bay Beach Resort
NORTH: Boucherie Road

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.083
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

Westside OCP: Bylaw No. 1050 Designation: Agricultural

Zoning Bylaw and Designation:

Zoning: Bylaw No. 871 Designation: A1- Agriculture
Minimum Lot Size: Determined by the ALC

PREVIOUS APPLICATIONS:

Application #37320-0

Applicant: Frank, Arnold & Doris
Decision Date: June 6, 2007
Proposal: To exclude 2 ha of the 4.5 ha property for intensive residential uses (on the lakeshore portion of the property currently in resort uses)
Decision: The Commission refused to exclude the 2 ha area, but allowed the exclusion of 1.2 ha comprising the area zoned C-5 in the zoning Bylaw.

Application #37320-1

Applicant: Frank, Arnold & Doris
Decision Date: September 20, 2007
Proposal: To exclude an additional 0.8 ha comprising two homes, yard, outbuildings and tennis court. Also the applicant is seeking a preliminary response on a proposed exclusion proposal on lands to the north which are in a similar situation.
Decision: The Commission refused the revised exclusion proposal to exclude an additional 0.8 ha and provide for a 21 meter wide buffer zone between residential development and the intensively farmed area because of concerns about negative impacts of residential development on the adjoining intensive farm operation.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

No comments have been solicited. However, Bylaw 871 requires a 15 meter setback/buffer between residential and agricultural uses.

STAFF COMMENTS:

Staff suggests that the Commission consider the following:

- The 0.8 ha area will not have any permanent residents. The original decision to retain the 0.8 ha permitted at least two residents.
- The 0.8 ha would be permanently lost to agriculture. It was conceivable that portions or all of the 0.8 ha area might be returned to agricultural uses if retained with the agricultural remainder of the property.
- The building setback for the high density residential uses is ~70 meters, double what has recently been deemed acceptable by the Commission in this area.
- A 15 meter planted vegetated buffer is significantly wider than any other in this area.
- There may be implications of this decision if a similar application was submitted on the land to the north. Staff's concern is that a 70 meter wide setback for parking might be requested for the adjoining property. Given the parcels triangular shape the result might be the alienation more ALR land than necessary. Instead it is suggested that since the C-5 zoned development area is a similar size on the property to the north, then the buffer might be adjusted to be narrower (but within 35 meters) but no larger than 0.8 ha.

ATTACHMENTS:

- Jan 17th submission from New Town Planning Services.
- Revised site plan received January 24th, 2008
- Airphoto

END OF REPORT

Signature

Date