



Agricultural Land Commission
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December 17, 2007

Reply to the attention of Martin Collins
ALC File: V-37715

Sarbjeeet Khela
Box 1507
Oliver, BC
V0H1T0

Dear Madam:

Re: **Application V-377115**

Please find attached the Minutes of Resolution # 670/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

cc: Town of Oliver (555-05592.000)

Enclosure: Minutes



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on December 06, 2007 at Kelowna, B.C.

PRESENT:	Sue Irvine	Chair, Okanagan Panel
	Roger Mayer	Commissioner
	Sid Sidhu	Commissioner
	Martin Collins	Staff

For Consideration

Application: # V- 37715
Applicant: Sarbjeet Khela
Proposal: To construct a dwelling on the 4.25 ha property. A covenant, required by Commission Resolution # 199/97, prohibits the construction of a dwelling on the property. The covenant is a condition of allowing the subdivision of a 0.1 ha lot for retirement purposes for a previous landowner. The proposed home would be approximately 2,000 sq ft, (185 sq meters). However, the yard and access footprint would be larger. The land proposed for the home and yard is currently in agricultural production.

Legal: PID: 011-392-843
Lot 202, District Lot 2450S, Similkameen Division of Yale District, Plan 1789, EXCEPT Plans 20859, 23457 and KAP59660

Location: 11553 - 350th Avenue, Oliver

Site Inspection

A site inspection was conducted on Wednesday December 5th, 2007. Those in attendance were:

- Sue Irvine Chair, Okanagan Panel
- Roger Mayer Commissioner
- Sid Sidhu Commissioner
- Martin Collins Staff
- Abbey Khela Applicant's daughter
- Sarbjeet Khela Applicant
- Matthew Lewis Agent

Matthew Lewis confirmed that the staff report dated November 26th, 2007 was received and no errors were identified.

The Commission noted that the property was recently planted in fruit trees, and that an equipment shed had been constructed on the northwest corner of the property, adjacent to several residential lots.

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 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 (*3PA) indicating that the land has good capability for tree fruits if irrigated.

Assessment of Agricultural Suitability

The Commission assessed whether the external 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 external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of constructing a home on the 4.2 ha property. The Commission believes home construction will reduce productive capacity, due to the area alienated for driveway access, home, yard and other structures. Although Ms Khela indicates that she does not intend to maintain a yard, the Commission did not believe it was possible, or likely, that this would remain so in the long term.

The Commission discussed its previous decision to permit the subdivision of the farm home from the property, subject to the registration of a covenant prohibiting a home on the 4.2 ha farm remainder. The purpose of the decision was to mitigate the impact of a new home on the remnant (i.e. the loss of land for a homesite), and to ensure that the land is transferred at a value commensurate with its agriculture capacity, rather than for its residential value. The current applicant purchased the property at its agricultural value, with full knowledge that a home could not be constructed. To now permit a home on the property represents an erosion of productive capacity, and an increase in land value, both of which are not supportive of the long term agricultural use of the land.

The Commission also considered whether a residence is necessary to effectively farm the property. The Commission recalled that with tree fruit and grounds crops many farmers lease, rent or own parcels that are not contiguous with the farmer's residence.

Therefore, the Commission was not supportive of releasing the covenant prohibiting the construction of a dwelling.

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 negatively affect the productive capacity of the property.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land and encourage farming.

IT WAS

MOVED BY: Commissioner S. Irvine

SECONDED BY: Commissioner R. Mayer

THAT the application be refused.

CARRIED

Resolution # 670/2007