



Staff Report
Application # V – 38065
Applicant: Gazelle Enterprises Inc.
Agent: Sonoran Consulting – Sue Lawther

DATE RECEIVED: March 27, 2008

DATE PREPARED: May 21, 2008

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To exclude 3.6 ha from the ALR on Highway 97 (on the south boundary of Oliver)and to include (into the ALR) 6.5 ha of hillside land located several kilometers south of Oliver, and plant grapes (for wine, balsamic vinegar).

The 6.5 inclusion area (in two distinct but roughly equal size blocks) comprise portions of a large 31 ha property located on the west bench of the south Okanagan Valley between Oliver and Osoyoos.

The area proposed for exclusion will be developed for residential and commercial uses; between 150-200 residential units, and 60,000 – 70,000 sq ft of commercial space (for a food store, pharmacy, restaurant, and some smaller storefront commercial units).

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

BACKGROUND INFORMATION:

The Commission previously refused an exclusion application on this property. See below for details.

The application has generated significant amounts of correspondence from local citizens, the majority (26) of which are opposed to the application. A single response has been provided in support of the exclusion. The comments are provided for the Commission's review. Interspersed with the comments about this application are comments about pending exclusion applications in the Oliver area.

Local Government:

Town of Oliver

Legal Description of Property:

Exclusion PID: 004-892-356
Lot 127, District Lot 2450s, Similkameen Division of Yale District, Plan 1728, EXCEPT Plans 9574, KAP48814 and KAP70799

Purchase Date:

2007-06-01

Location of Property:

Exclusion property located at Road No. 1 and Highway 97. The inclusion property is located southwest of Deadman Lake

Size of Property:

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

Present use of the Property:

Tomato and pepper crops, one (1) small packing house. The land has been used for orchard purposes in the past.

Surrounding Land Uses:

WEST: Developed agricultural land – in 2 - 4 ha lots
SOUTH: Church
EAST: Commercial (former Westwind Motel) and residential
NORTH: Urban residential

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E/4

The exclusion property was assessed by Wayne Blashill, (P. Ag.) and was identified as having ratings on 85% of the property as *3P, and 15% of the property as *2PC. The * rating identifies a capability for tree fruit or viticulture uses. A viticulture report prepared by Valerie Tate – Viticulturist suggests that the exclusion property is subject to early (September) frosts making it less suitable for grape and tree fruit production.

The soils on the inclusion property have been assessed by a professional agrologist (Wayne Blashill, P. Ag), and approximately 6.5 ha is identified as having agricultural potential, improvable to *3T. The Viticulture report referenced above suggests that the inclusion property is more suitable for red wine grape production than the exclusion property (particularly the lower 3 ha bench) because of good air drainage and high heat accumulation. The upper 5 ha bench would be more suitable for cooler climate white wine grapes, because of its higher elevation.

The screening and transfer of topsoil from the exclusion property to the inclusion property is also proposed to mitigate the impacts of the exclusion.

Official Community Plan and Designation:

Exclusion property - Town of Oliver OCP: Bylaw No. 1070 Designation: "General Commercial"*

*The Commission initially objected to the commercial designation of this ALR property, but agreed to a compromise which noted that although the Town desired the land for Commercial purposes, the Commission had not consented to this designation.

Inclusion property - RDOS Oliver OCP Bylaw No. 2122 Designation: "Resource Area"

Zoning Bylaw and Designation:

Zoning: Bylaw No. 720 Designation: Agricultural and Open Land Minimum Lot Size: 20 ha

PREVIOUS APPLICATIONS:

Application #27170-0

Applicant: Town of Oliver

Decision Date: August 18, 1993

Proposal: To exclude 116 ha for urban development.

Decision: Cabinet allowed exclusion of 13 ha by OIC and refused 103 ha. The subject property was refused exclusion along with adjoining farmlands to the west.

Application #27645-1

Applicant: Fritz, Fred and Inga

Decision Date: April 18, 2001

Proposal: To subdivide 0.6 ha of land (containing two houses) from ~5 ha property

Decision: The Commission allowed the homesite severance application subject to buffering.

Application #35753-0

Applicant: Fritz, Fred & Inga

Decision Date: February 03, 2005

Proposal: To exclude two adjoining properties totaling 4.2 ha from the ALR to develop a commercial building and garden centre (Canadian Tire).

Decision: The Commission refused the application for exclusion and non farm uses on the grounds that the property has good agricultural capability, supports an orchard and there are other non-ALR lands available.

RELEVANT APPLICATIONS:

Application #21184-1

Applicant: Okanagan Similkameen Regional District

Decision Date: October 07, 1993

Proposal: To review proposed update of the OCP for Electoral Area "C" of the RDOS (Rural Oliver). The proposal is intended to provide a more distinct boundary between farm and non-farm uses along Highway 97, just south of Oliver. It would recognize an area of existing commercial development on the west side of Highway 97 and would provide a visible boundary for agriculture just east of Highway 97.

Decision: The Commission agreed in principle to the proposed OCP update, subject to a modification.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Council for the Town of Oliver forwarded the application with a recommendation of support

STAFF COMMENTS:

Staff suggests that the Commission consider the following:

- The current proposal is different from the previous exclusion application because an offsetting agricultural benefit is being proposed.
- The proposed inclusion area may be eventually developed for agriculture without the necessity of exclusion if the land has good agricultural capability.
- Should the Commission believe that the “no net loss” aspect of this proposal has merit, there may be value in requiring that the inclusion land be developed for agriculture prior to any exclusion, or alternately that only a portion of the property be approved for exclusion (adjacent to the highway) until it is shown that the newly planted site is successful, and being managed appropriately. The reason for this is because there may be unforeseen reasons why the proposed inclusion land has not been developed. That way if the agricultural development fails, then the proposed exclusion parcel is retained (either wholly or partially) within the ALR.
- If this application is allowed, similar proposals may follow, citing precedent. There is the risk that marginally arable hillside areas will be proposed for inclusion and vineyard development in order to achieve exclusion of very high capability ALR land on the edge of urban areas in the South Okanagan.

ATTACHMENTS:

- e-mail comments provided by local citizens
- copies of the agrologist reports (three)
- 1:20,000 scale ALR map
- 1:10,000 scale orthophoto of exclusion property
- 1:7,924 scale orthophoto of inclusion property showing potential vineyard areas.

END OF REPORT

Signature

Date