



Staff Report
Application # YY – 38601
Applicant: Susan Perry and Henry Robert (Bob) Menzel

DATE RECEIVED: October 30, 2008

DATE PREPARED: April 3, 2009

TO: Chair and Commissioners – South Coast Panel

FROM: Ron Wallace, Land Use Planner and Tony Pellett, Regional Planner

PROPOSAL: To subdivide the subject property into nine (9) strata lots of approximately 0.7 ha each with a 2.4 to 3.2 ha common area for agricultural or equestrian use by the strata owners.

The proposal also includes the dedication to the Village of approximately 1.6 ha of land as an equestrian park which could include a riding arena.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

- The property was originally acquired by the Pacific Great Eastern Railway Company, which in 1914-15 built a railway through the land and in 1920 established a subdivision of 48 lots (just over 800 m² each) stretching from the business area near Pemberton Station through a residential area to what is now the border of the subject property, with only the southerly three of four blocks built initially. The remaining land was physically divided into three and later four parts by the rail grade, by Two Mile Creek and later by a drainage canal. Much later, the railway company declared the land surplus to its needs and transferred title to its real estate arm BCR Properties Ltd.
- In 1974, when the ALR was designated, the ALR boundary was drawn across the railway property on a straight, east-west line more or less lining up with the north boundary of the subdivision as surveyed. In 1980, the road system for the most northerly block was completed and in 1982 part of the non-ALR portion of the property was sold for townhouse development. In 1984, there was a devastating flood, which delayed development in that area for a time. In 1996, BCR Properties Ltd. applied to subdivide the property along the ALR boundary (for which Commission approval was required until the new *ALC Act* came into force in November 2002) so that it could create a well-buffered single family subdivision on the non-ALR land. For the ALR portion of the land, BCR Properties Ltd. proposed to approach the owners of the 4 ha properties to the north to determine their interest in purchasing the land for consolidation with their properties to make a larger farm. (In fact, one of the adjacent owners had in the 1980s brought land into cultivation in the strip between the creek and the drainage canal, and the cultivated area extends across the boundary of the subject property.) The Commission allowed the subdivision subject to a registered covenant respecting buffering. Before BCR Properties had approached the owners to the north, they received an offer from Susan Perry, who bought the entire parcel. In 1999, she applied to expand the parcel and included into the ALR a small remnant triangle north of the 1920 subdivision. In 2004, the title was changed to add the name of Henry Robert Menzel.

- In 2005, Susan Perry and Bob Menzel applied to exclude the subject property for development of 34 single family homes and 34 townhouse units. On 31 March 2005, the South Coast panel met with the owners on site and observed that only the extreme south end of the property had been developed – for their residence on the east side and for a horse operation on the west side. The July 2003 soil survey noted that much of the area had been filled, but that the rest of the southwest corner of the property was a depressional area subject to seasonal flooding from runoff from upland areas and occasional overflow from the Lillooet River. Soil problems appeared to be exacerbated by the horses' attempts to walk through the wet ground. The Commissioners were able to view the rest of the property (including the isolated eastern portion) from the raised railway grade, noting that those portions of the land north of the creek (on both sides of the drainage canal) appeared to be of better quality, as noted in the soil report.
- Also in 2005, the South Coast panel reviewed the draft Pemberton Benchlands Neighbourhood Concept Plan (reviewed in final form in 2007). The Commission saw that the draft plan proposed a road connection across the southwestern part of the subject property, entirely to the south of the creek. By Resolution #343/2005 in response to the Perry/Menzel application, the Commission refused exclusion at that time on the grounds that the excess water limitations could be overcome to a large extent by the installation of improved drainage. Given that the Village of Pemberton was still in the process of infrastructure planning in this area in conjunction with developments outside the ALR, the Commission also stated that the results of these planning exercises may have impacts on this and other properties in the ALR, thus the Commission might be willing to revisit the present application following consideration of the concept plans, balancing the impact of any non-farm use (or exclusions) on the agricultural land base, with any proposed improvements made to benefit future agricultural land use. The resolution stated specifically that the Commission would be willing to revisit the application in the context of a review of area concept plans.
- By Resolution #647/2005, the Commission responded in detail to the Pemberton Benchlands Neighbourhood Plan as submitted for formal review. In relation to the impact on the subject property, the Commission concurred with the proposed road alignment and acknowledged that the decision had the effect of initiating reconsideration of the Perry/Menzel application. It was expected that the Village would provide a more detailed alignment on which the Commission could base a decision, excluding either the south side of the road or the entire area south of the creek, depending on the location of the road and the configuration of the remaining land between the road and the creek. It was also expected that the Village would provide advice on what type of residential development would be proposed, given earlier comments regarding the need to provide for affordable housing there. The Commission held the reconsideration in abeyance, but, the Village did not respond until March 2007, when it submitted the final Pemberton Benchlands Neighbourhood Plan showing no road in that location.
- The application was deemed substantially to have timed out, given the length of time since the property was posted. The only exception is the isolated area on the other side of the raised railway grade. A separate report on Application #YY-35844 is provided in respect of that area.

Local Government:

Village of Pemberton

Legal Description of Property:

PID: 025-641-638
Lot B, District Lot 202, Lillooet District, Plan KAP73119

Purchase Date:

2004-02-20

Location of Property:

7476 Prospect Street, Pemberton

Size of Property:

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

Present use of the Property:

Rural residential

Surrounding Land Uses: the two main areas

WEST: vacant field, treed land
SOUTH: residential and vacant land
EAST: railway on raised grade
NORTH: agricultural uses

the isolated eastern part

railway on raised grade
vacant, treed 0.4 ha parcel
watercourses and treed land
watercourse

Agricultural Capability:

Data Source: Agricultural Capability Map # 92J/7 (scale 1:50,000)
The majority of the property is identified as having Prime Dominant ratings.

More detailed data source: Soil Survey 2003 R. Kurne P.Ag. (scale 1:3,400)
The majority of the property is identified as Class 5w [2w].
A smaller but significant area of the property is identified as 5w [3w].
There are also anthropogenic land types (altered by human activities).

N.B. By the rule of inverse squares, the 2003 work is 216 times more accurate.

Official Community Plan and Designation:

Pemberton OCP: policy 28 is to continue supporting the ALR designation within the Village, and as such the lands are designated Agriculture in the Land Use Plan.

Zoning Bylaw and Designation:

The property is zoned A-1 Agricultural. This zone has no minimum lot size.

PREVIOUS APPLICATIONS:

Application #31096-0

Applicant: BCR Properties Ltd.
Decision Date: April 23, 1997
Proposal: The applicant sought permission to subdivide the subject property along the ALR boundary in order to enable the development of the non-ALR land to the south.
Decision: That the application be allowed subject to the provision of adequate trespass-prohibitive fencing and an appropriate vegetative screen along the northern boundary in order to minimize the potential conflict between the urban residents to the south and any future farm operation to the north.

Application #35844-0

Applicants: Henry Robert Menzel and Susan Perry
Decision Date: June 23, 2005
Proposal: Exclude an 8.4 ha property to allow for the development of 34 single family homes and 34 townhouse units.
Decision: Refuse as proposed - good capability for agriculture. Would reconsider in context of road network plan.

Application #31096-1

Applicant: Silverthorne Developments Ltd.
Decision Date: April 25, 2006
Proposal: Dedicate road allowances across buffer strip, requiring partial release of a covenant held by the Commission.
Decision: Refuse. Offer to release covenant in its entirety, but only in conjunction with joint planning aimed at achieving efficient use of land for reasonably dense or affordable development.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Village of Pemberton

Council (by majority vote) forwarded the proposed subdivision submitted by Bob Menzel to the Commission provided that

- the lands remain in the ALR,
- the project is stratified
- there is a covenant restricting the size of the building footprint and total size of homes,
- drainage is to be resolved to benefit Fisheries and farming,
- maximize community benefits (trails/parks),
- encourage small lot farming, and
- minimize the potential impact on farmland.

See the Planning Department Comments excerpted from a report to Council supplied with the application.

See the excerpt from minutes of the Advisory Land Use Committee of the Village of Pemberton.

See the excerpt from minutes of the SLRD Area C Agricultural Advisory Committee.

STAFF COMMENTS:

The workshop with Village Council presents an opportunity to discuss Smart Growth questions raised in the planning department comments to Council, prior to the onsite inspection the next morning.

After the application was received, the applicants were contacted, pointing out (among other things) that the several areas of land proposed for various uses exceeds the total area of the lot. The drawing provided by the applicants is not to scale, exaggerating the distance between Walnut Street and Two Mile Creek. They did not respond to that issue.

Weather, site conditions and rail traffic permitting, it would be useful to climb the rail grade for a better view of the total property and environs.

ATTACHMENTS:

1. Context Map
2. Air Photo Map
3. Ag Cap Map, 1:50,000 scale
4. Ag Cap Map, 1:3,400 scale
5. Survey of existing lot pattern
6. Applicant's concept map
7. Planning Department Comments
8. Advisory Land Use Committee minutes
9. Agricultural Advisory Committee minutes (forwarded to Council by SLRD Board)

END OF REPORT

Signature

Date