



Agricultural Land Commission Staff Report

DATE: November 16, 2009
TO: Vice Chair and Commissioners - Okanagan Panel
FROM: Brandy Ridout
RE: Application # 46025
PROPOSAL: To exclude the 9.4 ha subject property from the ALR to develop the parcel to an urban residential use consisting of not less than 55 single family residential units and approximately 40 low density multiple family residential units.

PROPOSAL INFORMATION

Background: History of ALR applications summarized in Staff Comments.
Received Date: May 28, 2009
Applicant: AL Stober Construction
Agent: N/A
Local Government: City of Kelowna

DESCRIPTION OF LAND

PID: 002-422-685
Legal Description: Lot C, Section 28 & 29, Township 26, Osoyoos Division of Yale District, Plan KAP62558
Civic Address: 2045 Summit Drive, Kelowna
Area: 9.4 ha
ALR Area: 9.4 ha
Purchase Date: August 13, 1998
Owners: AL Stober Construction
E & I Developments Ltd
Ermar Estates Ltd.
Jabs Construction Ltd.

Total Land Area: 9.4 ha
Total ALR Area: 9.4 ha
Current Land Use: Fruit trees

PROPOSAL DETAILS

Exclusion

Area	Agricultural Capability	Agricultural Capability Source
9.4	Prime	BCLI

Surrounding Land Uses:

North	Summit Drive, agriculture
East	Non-ALR, Dilworth Mountain
South	Non-ALR, pre-ALR residential subdivision
West	Non-ALR, golf course, church

Official Community Plan

Bylaw Name: Kelowna 2020 OCP Bylaw No. 7600
Designation: Rural/Agriculture
OCP Compliance: No

Zoning

Zoning Bylaw Name: Zoning Bylaw No. 8000
Zoning Designation: A1-Agricultural
Minimum Lot Size: 2.0 ha
Zoning Compliance: No

PREVIOUS APPLICATIONS

Application #: 9498

Applicant: Provincial Agricultural Land Commission

Proposal: To include approximately 2 ha into the ALR on the grounds the land is used for orchard purposes.

Decisions:

Resolution Number

208

Decision Date

March 27, 1998

Decision Description

Did not proceed with inclusion proposal. Owners and local government submitted information that the inclusion would interfere with completion of a long-standing major street negotiation. Commission staff also discovered that on 21 December 1972, the subject area probably consisted of three separate titles, with each title applying to a parcel containing less than 0.8 ha.

Application #: 9324

Applicant: City of Kelowna

Proposal: To dedicate and build an access road to Dilworth Mountain pursuant to past Commission direction under application #G-28816.

Decisions:

Resolution Number

Decision Date

Decision Description

64

January 20, 1998

Allowed the road dedication on the grounds it had previously agreed in principle to the proposal (Resolution #444/1994) subject to fencing along the proposed right of way and the rescission of the previous decision to allow the road and the exclusion of the area to the south of the road (Resolution #444/1994).

The Commission also indicated to the City of Kelowna that should subdivision/consolidation of the properties be considered, it would encourage a configuration whereby the properties north of the proposed road are consolidated into one lot and those south of the proposed road are consolidated into one lot. It is felt this would serve to offset the impact of the road through the subject properties by decreasing the number of existing lots and increasing the net property size. Though not a condition of the decision, the Commission indicated that the inclusion of the non-ALR portion of the properties would be more appropriate by way of a block inclusion application.

Note: The subject property was created through this application when the portions of Lots 5 and 6 south of the new road were consolidated (Legacy application #G-31819).

Application #: 7858

Applicant: Occidental Fruit Co.

Proposal: To exclude ten properties located along the valley bottom from the ALR.

Decisions:
Resolution Number

Decision Date

Decision Description

1416

April 3, 1975

Refused on the ground of agricultural capability.

Note: The area of the subject property was included in this application (Legacy application #74-0516).

Application #: 7397

Applicant: Vector Developments Ltd

Proposal: To exclude Lot 5, 6, and 7, Block 8, Plan 896 (17.5 ha) from the ALR on the grounds that the land is not suitable for agriculture due to severe spring frosts and that a proposed access road to Dilworth Mountain will split up the orchard.

Decisions:
Resolution Number

Decision Date

Decision Description

Note: Refused by Resolution #1282/1982 on the grounds that the property is suitable for agriculture as demonstrated by its agricultural capability rating of predominantly Class 2 and 3.

The area of the subject property was included in this application (Legacy application #G-13722).

Application #: 6975
Applicant: City of Kelowna
Proposal: Block Application - Requested exclusion of 233.5 ha.

Decisions:
Resolution

Resolution Number	Decision Date	Decision Description
1353	December 22, 1988	Partial Approval. Cabinet approved exclusion of 220.3 ha by OIC and refused 13.2 ha by Notice-of-Determination. This resolution number is used to enter statistical information relating to the area under application and subsequent decision by Cabinet.

Note: With respect to Palmer Road, the Commission felt this part of the application was premature. The Commission allowed the Glenmore Valley component of the block application except for the three parcels intended to accommodate the relocation of Palmer Road and required that the City submit a separate application when preliminary engineering drawings had been prepared (Legacy application #G-22099).

Application #: 2094
Applicant: AL Stober Construction
Proposal: To exclude 6.6 ha from the three subject properties (Lots 5, 6 and 7) for the dedication and construction of Summit Drive and residential uses.

Decisions:
Resolution

Resolution Number	Decision Date	Decision Description
		Refused by Resolution #444/1994. However, the Commission has agreed to allow the development of an access route through the area in question and for this reason the Commission will authorize the realignment of Palmer Road along either UMA's alignment #5c or a new alternate alignment proposed by the Commission (see sketch A) and the subsequent exclusion of the approved road and the ALR land located to the south, subject to the following conditions: <ul style="list-style-type: none">- the closure of the existing Palmer Road alignment.- the consolidation of the closed portion of the existing Palmer Road alignment into a single parcel together with all portions of the subject properties located to the north of the approved road and west of the new access to Block 22.-the placement of an easement over the closed portion of the existing Palmer Road alignment granting access to the area for farm purposes.- the placement of the access road to Block 22 as far to the east as practical within the limits of good design.- the inclusion of the non-ALR portions of the subject properties located north of the approved Palmer Road realignment and west of the access road to Block 22.-the installation of a continuous Schedule A.2 buffer including Schedule D.1 fencing along the south side of the approved road realignment.

This application was later rescinded by Resolution #64/1998 from application #G-31819.

Committee Recommendations

Type	Recommendation	Description
Planning Staff	Approve	City of Kelowna Planning: Recommend support. The City of Kelowna Agriculture Plan (1998) clearly supports the application as follows: "Lands to the south of the proposed extension of Summit Drive from Valley Road to Dilworth Mountain has been previously identified as future development land for the logical extension of the Golfview subdivision, with the new road forming the urban-rural boundary. Land Commission support for this ideal was predicated on a road location as far south as possible. Subsequently, a more northerly road location was agreed upon, however, the Land Commission approval of the road location required that the land south of the road be consolidated and remain in the ALR. Previous City consideration of this idea was originally part of the exercise in negotiating the purchase of the road right of way and it is felt that the City position should not change as an indication of good faith in this matter, but the OCP should be amended to reflect the retention of this land in the ALR at this time."
Board/Council	Approve	City of Kelowna Council: Support.
Agricultural Advisory Committee	Refuse	City of Kelowna AAC: Do not support. The AAC does not see this application as a benefit to agriculture and raised concern with the amount of good farm land being taken out of the ALR. The AAC considers this large parcel ideal for farming given its large size, suitable soil conditions, and accessibility to consumers, which would facilitate farm retail sales.

STAFF COMMENTS

- Gerry Tonn of Al Stober Construction Ltd., requested that consideration of the application be deferred to November or December 2009.
- There have been numerous previous applications involving the subject property – a road alignment (allowed), two exclusion applications (both refused on the grounds that the land has agricultural capability), a block exclusion application (not decided upon as was premature given the road alignment issues) and an inclusion application (not proceeded with).
- As a result of the previous applications, the Commission has already considered the exclusion of the area of the subject property on four occasions:
 1. As part of an application to exclude 10 lots (1974)
 2. As part of an application to exclude Lots 5, 6, and 7 (1981)
 3. As part of a block exclusion application (1988)
 4. As part of the Summit Road alignment (1998).
- The subject property was originally part of a block of three lots that were farmed as a unit (Lots 5, 6 and 7). Access to Dilworth Mountain via Summit Drive was created through the three lots and the area south of the road became the subject property.
- Summit Drive was required as part of the Land Use Contract on Dilworth Mountain to provide a second access to the subdivision. The City and the ALC had lengthy negotiations over the final alignment of the road. Notably, the developer wanted the road as far north as possible to maximize the anticipated amount of land excluded from the ALR to complete the Golfview Estates subdivision. However, the City's Transportation Department had concerns about the engineering standards of the road. As a result, the final alignment was a compromise.
- At one time the Commission was amenable to the idea of excluding the portion of the property that

would lie to the south of a new access road as the area would be relatively small. However, when the final design was presented, the road was located so far north that the area to the south was over 9 ha and no longer met with the Commission' s intention to allow the exclusion of a small area to have the road be the edge between ALR and non-ALR. The area to the south of the road remained of sufficient size and quality to be retained in the ALR as a stand-alone agricultural operation.

- The applicants indicate that as the parcel proposed for exclusion is bounded by an arterial roadway, there is a natural buffer between the agricultural lands to the north of the parcel and the urban residential uses proposed on the parcel itself. Additional buffering on the lands to the north, also owned by the applicants, would be considered to mitigate the impacts of Summit Drive on agricultural activities.

ATTACHMENTS

proposal.pdf

March 23, 2009 letter.pdf

AAC.pdf

opposition letter.pdf

39039_ContextMap20k.pdf

air photo.pdf

ag cap.pdf

Land Use Management Department comments.pdf

Sept 30, 08 letter from applicant.pdf

April 16, 09 letter from applicant.pdf

END OF REPORT

Signature

Date