



## Agricultural Land Commission Staff Report

**DATE:** March 10, 2010  
**TO:** Vice Chair and Commissioners - Okanagan Panel  
**FROM:** Brandy Ridout  
**RE:** Application # 51212  
**PROPOSAL:** To exclude the 0.7 ha subject property from the ALR to rezone and develop the site commercially. Development plans include a 3,400 square foot Wendy's Restaurant and a 6,000 square foot commercial retail building, with associated parking.

### PROPOSAL INFORMATION

**Background:** The property may not be subject to the Act, as per Section 23. Determination pending receipt of title that meets requirements of Act.  
**Received Date:** December 21, 2009  
**Applicant:** Inland Manor Ltd (c/o John Tietzen, Pres.)  
**Agent:** N/A  
**Local Government:** City of Kelowna

### DESCRIPTION OF LAND

**PID:** 012-542-946  
**Legal Description:** Lot 7 Block 1 District Lot 133 Osoyoos Division Yale District Plan 515 Except Plan H17514  
**Civic Address:** 3691 Gordon Drive, Kelowna  
**Area:** .7 ha  
**ALR Area:** 0 ha  
**Purchase Date:** October 28, 2008  
**Owner:** Inland Manor Ltd (c/o John Tietzen, Pres.)

**Total Land Area:** .7 ha  
**Total ALR Area:** 0 ha  
**Current Land Use:** Hay Production

### PROPOSAL DETAILS

#### Exclusion

Area	Agricultural Capability	Agricultural Capability Source
0.7	Prime	BCLI

**Surrounding Land Uses:**

North ALR, hay production  
East ALR, row of similarly-sized lots along Casorso Road, hay production & residential use  
South ALR, Casorso Road, market garden/vegetable production  
West Non-ALR, Gordon Drive, multi-family residential

**Official Community Plan**

**Bylaw Name:** Kelowna 2020 OCP

**Designation:** Agriculture

**OCP Compliance:** Yes

**Zoning**

**Zoning Bylaw Name:** Zoning Bylaw No. 8000

**Zoning Designation:** Agriculture 1 Zone

**Minimum Lot Size:** 2.0 ha

**Zoning Compliance:** No

**RELEVANT APPLICATIONS**

**Application #:** 45687

**Applicant:** Glen and Sharon Herman

**Proposal:** To exclude the 0.4 ha subject property from the ALR to have the property rezoned as a residential lot to allow renovations that would be possible with residential lot set-backs.

**Decisions:**

**Resolution**

Number	Decision Date	Decision Description
380	June 17, 2009	Refuse exclusion of 0.4 ha lot

**Note:** This property was not subject to the Act, as per Section 23(1).

**Committee Recommendations**

Type	Recommendation	Description
Planning Staff	Refuse	Recommend that the application NOT be supported by Council.
Board/Council	Refuse	Moved by Councillor Hobson/Seconded by Councillor James that the application NOT be supported by Municipal Council. And that Municipal Council forward the application to the ALC. Opposed Councillors Blanleil and Hodge.
Agricultural Advisory Committee	Refuse	Do NOT support because the land is viable agricultural land and should not be taken out of the ALR. There was also concern expressed regarding increased speculative pressure on land in the area and the potential for land use conflicts.

**STAFF COMMENTS**

- The subject property was previously occupied by an older single family dwelling which was demolished in 2008. Since that time it has been used for hay production in conjunction with the property to the southeast.

- A road dedication in March 1983 reduced the lot size to its current size of 0.7 ha.
- Section 23(1) of the Agricultural Land Commission Act states: Restrictions on the use of agricultural land so not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the Land registry Act, less than 2 acres in area.
- The property was created by a plan of subdivision registered in 1908. The plan identified the property as 2 acres but also identified its dimensions as 312.8 feet by 278.5 feet (87,114.8 square feet). As an acre is 87,120 square feet, the applicants' lawyer indicates that the property was less than 2 acres and therefore meets that requirement of Section 23(1) of the Act.
- From information currently available (the property' s 1961 and 1988 titles), the property shared a title with Lot 8 on December 21, 1972. As such, it does not meet the requirement of Section 23(1) of the Act that it be on its own title.
- There are four other properties along Casorso Road that are approximately 2 acres in area that may potentially meet the criteria of Section 23(1) of the Act.

## **ATTACHMENTS**

51212\_ContextMap20k.pdf  
air photo.pdf  
plan and titles.pdf  
proposal details.pdf  
Community Sustainability Report.pdf

## **END OF REPORT**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**