



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

February 12, 2014

ALC File: #52936

Keith Funk
New town Planning Services
1450 Pandosy Street
Kelowna, BC V1Y 1P3

Dear Mr. Funk,

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #419/2013 as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Further correspondence with respect to this application should be directed to ALC Staff.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #419/2013

cc: City of Kelowna (File: A12-0001)



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on November 28, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #52936.

COMMISSION MEMBERS PRESENT:

| | |
|-----------------|--------------|
| Richard Bullock | Chair |
| Jennifer Dyson | Vice-Chair |
| Gordon Gillette | Vice-Chair |
| Sylvia Pranger | Vice-Chair |
| Bert Miles | Commissioner |
| Jim Johnson | Commissioner |
| Jerry Thibeault | Commissioner |
| Lucille Dempsey | Commissioner |
| Denise Dowswell | Commissioner |
| Jim Collins | Commissioner |

COMMISSION STAFF PRESENT:

| | |
|-----------------|--------------------|
| Ron Wallace | Land Use Planner |
| Brian Underhill | Executive Director |
| Colin Fry | Executive Director |

REQUEST FOR RECONSIDERATION

The Commission received a letter dated October 10, 2013 requesting reconsideration of its decision recorded as Resolution #6/2013, by which, the request to exclude 3.3 ha was refused.

Owner: H-12 Enterprises Ltd., (Inc. No. 259275)

Agent: Mr. Keith Funk, New Town Planning Services

Original Proposal: (Submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*) To exclude 3.3 ha of the 6.6 ha property from the ALR for commercial purposes (auto dealership). It is proposed that the remainder of the property be used for community gardens and parkland.

In exchange for exclusion the applicant proposed to include into the ALR a 44.5 ha parcel located north of Elkhart Lodge on Highway 97C. The parcel proposed for inclusion is located within the jurisdiction of the Regional District of Okanagan-Similkameen. In addition, the applicant proposed to salvage approximately 13,000 m³ of topsoil from the proposed exclusion area.

Original Decision: Refused

Current Request: To exclude 3.3 ha of the 6.6 ha property from the ALR for commercial purposes (auto dealership). In exchange for the proposed exclusion the following is offered by the applicant:

- The dedication of 2.7 ha as Public Park and Riparian Preserve;
- The inclusion of 41 ha into the ALR;
- The development of 300 community garden plots on 0.7 ha of upgraded ALR land;
- The distribution of 16,500 m³ of topsoil to other ALR in need of land improvement; and
- The provision of \$400,000 fund for an Agricultural Bursary for young farmers to implement improvements to their farming operation.

Legal: PID: 002-021-544
Lot 3, Section 34, Township 26, Osoyoos Division Yale District, Plan 10770,
Except Plans 18592 and H8110

Location: West side of Highway 97 North, north of Stremel Road, Kelowna

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

- 33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:
- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false.
-

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission reviewed the above noted letter and considered it to contain evidence that was not available at the time of the original decision.

As a result, it was moved by Commissioner Dyson and seconded by Commissioner Pranger that there were no persons affected by the reconsideration and that the Commission reconsider Resolution #6/2013. The motion was carried unanimously.

COMMISSION CONSIDERATION

After considering the new evidence outlined in the October 10, 2013 letter, the Commission concluded as follows:

1. The improved agricultural capability ratings identified on BC Land Inventory (BCLI) map 82E.093 for the proposed exclusion area of the property is Class 2, with soil moisture limitations (A).

Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

Conclusion:

The land has good agricultural capability and no evidence has been provided to suggest the published BCLI ratings are substantively inaccurate.

2. The Commission also reviewed the October 10, 2013 letter and the arguments for exclusion set out in the application. It was noted that the applicant has proposed monetary based and other offsets to provide benefits to agriculture.

Conclusion:

The Commission does not believe that the consideration of benefits to agriculture intended to offset the exclusion of prime agricultural land from the ALR is consistent with its mandate to preserve agricultural land and encourage farming.

IT WAS

MOVED BY: Commissioner Dyson
SECONDED BY: Commissioner Dempsey

THAT the decision by Resolution #6/2013 to refuse the proposed exclusion application be confirmed.

CARRIED

Resolution #419/2013