



Agricultural Land Commission
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August 21, 2014

ALC File: #53666

Protech Consulting 2012
#200-1461 St Paul Street
Kelowna, B.C.
V1Y 2E4

Dear Sir:

Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #288/2014 as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Ron Wallace.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure: Minutes of Resolution #288/2014

cc: City of Kelowna file: A-13-0013

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on August 6, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53666.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Martin Collins	Planner
Colin J. Fry	Chief Tribunal Officer

PROPOSAL (Submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*)

To subdivide the 10 ha property into two lots (3 ha and 7 ha) each containing one of the two residences occupying the property.

PROPERTY INFORMATION:

Owners: Geraldine Weninger-Soetart

Agent: Protech Consulting

Legal: PID:024-828-238
Lot A, Section 34, Twp. 29, ODYD, Plan KAP66973

Location: Balldock Road, southeast Kelowna

Size: 10 ha

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and

- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.
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COMMISSION CONSIDERATION

After considering the information the Commission concluded as follows:

1. The Commission considered the agricultural capability and suitability of the subject property.

Conclusion:

The BC Land Inventory (BCLI) ratings for the soils of the 10 ha subject property are: unimproved BCLI class 4 and 5 with limitations of aridity. The soils can be improved to BCLI class 2 and 3 for tree fruits with irrigation, indicating that the land has very good capability for agriculture. The limiting adverse factors to soil bound agriculture are topography (T), stoniness (P) and aridity (A).

The subject property, though located in a rural area, is bounded on two sides by non ALR rural residential subdivision and does not appear to be intensively used for agriculture.

2. The Commission considered the impacts of subdivision on the agricultural use of the property.

Conclusion:

Two homes; a principal dwelling and rental dwelling occupy the property. It is uncertain as to how the second dwelling is consistent with the ALC Act and regulation as there does not appear to be any substantive agricultural activity occurring on the property. Section 18 of the ALC states:

18 Unless permitted under this Act,

(a) a local government, a first nation government or an authority, or a board or other agency established by a local government, a first nation government or an authority, or a person or agency that enters into an agreement under the [Local Services Act](#) may not

(i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or

(ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use, and

The Commission (the ALC) is very concerned about subdividing second dwellings from farm parcels for the following reasons:

- because the dwelling(s) were likely originally justified as necessary for farm help;
- second dwelling(s) for farm help may subsequently be replaced on farm remainders, alienating additional farmland with a building site, yard, access and septic field;

- future residents of the subdivided residential parcels can come into conflict with adjoining or nearby farmers who oppose typical farming activities, such as early morning equipment operation, spraying, farm odours etc. Conflict inevitably results in a reduction in farm activity.
- it is the Commission's experience that smaller parcels are less likely to be used for agriculture and come under greater subdivision pressure than larger farm parcels.

There are many parcels throughout Kelowna, both cultivated and uncultivated which have two dwellings. Subdividing dwellings so each occupies its own title is not supportive of agriculture and in the long term contributes to the erosion of the agricultural land base and agricultural activity (for the reasons noted above).

IT WAS

MOVED BY: Commissioner Gillette
SECONDED BY: Commissioner Miles

THAT the proposal to subdivide the 10 ha property into a 3 ha lot and a 7 ha lot be refused.

CARRIED

Resolution #288/2014