



AGRICULTURAL LAND COMMISSION FILE 54309

REASONS FOR DECISION OF THE OKANAGAN PANEL

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicants:

**Clifford Wenger
Joyce Wenger
(the “Applicants”)**

Application before the Okanagan Regional Panel:

**Gerald Zimmermann, Panel Chair
Jim Johnson
Greg Norton**

THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 012-570-516

Lot 25, Section 35, Township. 9, Osoyoos Division Yale District, Plan 291, Except
Plan H14932

(the "Property")

[2] The Property is 3.8 ha in area.

[3] The Property is located at the southeast corner of the intersection of Pottery Road and 15th Street in the City of Vernon.

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the ALCA.

[6] Pursuant to s. 30(1) of the ALCA the Applicants are applying to exclude the Property from the ALR for residential development (the "Proposal"). The Applicants indicate that the Property is ideally suited for residential development because it is located adjacent to existing services, including a school. The Proposal along with supporting documentation is collectively (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 30(1) of the ALCA

[8] 30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.



[9] The Panel considered the Application within the context of s. 6 of the ALCA:

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.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Applicant(s)/Agent in advance of this decision.

[11] The City of Vernon staff recommendation was that Council not support the ALR exclusion application for Lot 25..., *“as the exclusion would not be consistent with the policies of the Official Community Plan, of the Regional Growth Strategy.”*

[12] At its January 25, 2016, regular meeting, Vernon City Council endorsed the following motion in respect to the Clifford Wenger Application Under Section 30 of the Agricultural Land Commission Act.

‘THAT Council support the Agricultural Land Reserve exclusion application for the property at Lot 25, Sec. 35, Twp. 9, O.D.Y.D., Plan 291, except Plan H14932 (15th Street and Pottery Road) as shown on Attachment 1 in the report titled ALR Exclusion



Application for Unaddressed Property at 15th Street and Pottery Road (Lot 25, Sec. 35, Twp. 9, O.D.Y.D, Plan 291, Except Plan H14932) dated January 13, 2016 from the Manager, Long Range Planning and Sustainability;

AND FURTHER, that Council direct Administration to perform an analysis of other lands designated as ALR or Rural Agricultural in the Official Community Plan to determine the feasibility and viability for residential development for consideration as part of the Regional Growth Strategy Five Year Review, with due consideration for the OCP's Guiding Principles and impacts on the Master Transportation Plan, the Sustainable Infrastructure Investment Plan and on operational service delivery

SITE VISIT

[13] On May 25, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[14] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Applicants on June 8, 2016 (the "Site Visit Report") and confirmed to be correct on June 8, 2016

APPLICANT MEETING

[15] On June 14, 2016, the Panel conducted a meeting with the Applicant (the "Applicant Meeting") in accordance with s. 22(1) of BC Regulation 171/2002 (Agricultural Land Reserve Use, Subdivision and Procedure Regulation). The Applicant Meeting was held at Monashee Surveying, 3107A - 27th Street, Vernon. Those in attendance were:

- Cliff Wenger
- Mark Budgen, Agent
- Vice Chair, Gerry Zimmermann
- Commissioner Jim Johnson
- Commissioner Greg Norton

- Martin Collins, Commission Regional Planner
- Ron Wallace, Commission Land Use Planner

The Applicant and agent provided a summary of the Application and amended the Application to provide locations on the Property for raised gardening beds. The Applicant and agent indicated that raised gardening beds are in demand, and would connect the residents to agriculture and provide an agricultural enhancement to the project.

No specific information was provided as to the design and density of the project, with the exception that the ravine and the upper banks of the ravine would be preserved for environmental purposes.

FINDINGS

[16] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on BCLI map sheet 82 L.024 for the mapping units encompassing the Property are Class 1, 3 and 5; more specifically 40% (6*3T - 2*1 - 2:5W) and 60% (*2D).

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel are W (excessive wetness), D (undesirable soil structure) and T (topographic limitations).

- [17] In addition, the Panel received a professional Agrologist report, prepared by Summit Environmental, dated May 30, 2012 titled, "*Agricultural Capability Assessment – 15th Street and Pottery Road, Vernon*" (the "Summit Report"). The Summit Report indicates the parcel has challenges for agricultural development due to topography, but largely confirms the BCLI capability ratings noted above.
- [18] The Panel reviewed the BCLI ratings and the Summit Report and finds that the land has good capability for agricultural development with the exception of the ravine area which occupies approximately 40% of the Property.
- [19] The Panel considered the arguments provided in favour of the Application from a planning perspective. The Applicants indicate the Property is ideally located with respect to services and infrastructure, in particular the location of a nearby school. In addition, the Applicants indicate there is a shortage of affordable building lots within Vernon which are close to urban services.
- [20] The Panel does not believe that the Applicants' arguments regarding the proximity of the Property to services and the lack of affordable building lots are germane to its mandate to preserve agricultural land and encourage farming. The Panel finds, that with the exception of the ravine area, the Property has good agricultural capability.
- [21] The Panel does not believe there are any agricultural arguments outlined in the Application that would justify removing the land from the ALR.
- [22] The Panel notes the Proposal is inconsistent with the City of Vernon's Official Community Plan and the Regional District of North Okanagan's Regional Growth Strategy.
- [23] The Commission remains prepared to enter into discussions with the City of Vernon about community land use needs through the Official Community Plan (and Regional Growth Strategy) process, to assess the capacity of the City to accommodate all types



of urban land uses (i.e. residential, industrial, commercial and recreational), and to consider options to accommodate reasonable, and legitimate land use needs. However, to date the best information available to the Commission indicates the land inventory for new single family residential development in the City of Vernon is sufficient for many years.

DECISION

[24] For the reasons given above, the Panel refuses the Proposal to exclude the Property from the ALR for residential development.

[25] Panel Chair **Gerald Zimmermann** concurs with the decision.
Commissioner **Jim Johnson** concurs with the decision.
Commissioner **Greg Norton** concurs with the decision.

[26] Decision recorded as Resolution #230/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #230/2016. The decision is effective upon release.

Colin J. Fry, Director of Policy and Planning

July 11, 2016

Date Released