



**Agricultural Land Commission**  
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January 20, 2017

ALC File: 54713

Bill Bilton  
6-3665 Westsyde Rd.  
Kamloops, BC V2B 7H5

Dear Mr. Bilton:

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #13/2017) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

**Reconsideration of a Decision by an Affected Person**

We draw your attention to [s. 33\(1\) of the Agricultural Land Commission Act](#) which provides a person affected the opportunity to submit a request for reconsideration.

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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Jennifer Carson at (Jennifer.Carson@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'Jennifer Carson', is written over a white rectangular area.

Jennifer Carson, Land Use Planner

Enclosure: Reasons for Decision (Resolution #13/2017)

cc: City of Kamloops (File: ALR00040)



## **AGRICULTURAL LAND COMMISSION FILE 54713**

### **REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE**

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

**Applicant:** North Core Development Ltd.  
(the “Applicant”)

**Agent:** Bill Bilton  
(the “Agent”)

**Application before the Executive Committee:** Frank Leonard, Chair  
Jennifer Dyson, Island Panel  
Dave Merz, North Panel  
Bill Zylmans, South Coast Panel  
Sharon Mielnichuk, Kootenay Panel  
Gerald Zimmerman, Okanagan Panel  
(The “Executive Committee”)

**THE APPLICATION**

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

Parcel Identifier: 018-208-410

Lot A, Sections 7,8,17 and 18, Township 21, Range 17, West of the 6<sup>th</sup> Meridian,  
Kamloops Division, Yale District, Plans KAP49486, Except Plans KAP83827 and  
KAP89527

(the “Property”)

[2] The Property is 82.8 ha in area.

[3] The Property has the civic address 3801 Westsyde Road, Kamloops.

[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 2 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 30(1) of the *ALCA*, the Applicant is applying to exclude 6.7 ha for residential development. The proposed area for exclusion is currently located within a golf course. If the exclusion is permitted, the Applicant proposes to reconfigure the golf course to accommodate the residential development. Further, the Applicant proposes to relinquish previously approved golf course use on two 8.7 ha parcels north of the Property for a total of 17.4 ha of non-alienated farmlands that they argue has better agricultural potential than the area proposed for exclusion (the “Proposal”). The Proposal along with supporting documentation is collectively the application (the “Application”).

[7] On July 19, 2016, the Panel of the Agricultural Land Commission (the “Commission”) referred the Application to the Executive Committee for consideration.



**RELEVANT STATUTORY PROVISIONS**

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

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

[9] The Executive Committee considered the Application pursuant to its mandate in s. 4.3 of the *ALCA*:

4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:

- (a) the purposes of the commission set out in section 6;
- (b) economic, cultural and social values;
- (c) regional and community planning objectives;
- (d) other prescribed considerations.

[10] The purposes of the Commission set out in s. 6 are as follows:

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 EXECUTIVE COMMITTEE**

[11] The Executive Committee considered the following evidence:

1. The Application
2. Local government documents

3. Previous and relevant application history
4. Agricultural capability map, ALR context map, and satellite imagery
5. *Agricultural Capability Assessment Report*, prepared by Urban Systems dated December 18, 2015
6. Two letters of opposition from the public
7. Letter of support from the 4H
8. The Applicant Meeting Report

All documentation noted above was disclosed to the Agent in advance of this decision.

[12] At its meeting of February 16, 2016, the City of Kamloops resolved to authorize staff to forward the application to the Commission for its consideration.

[13] The Executive Committee reviewed six previous applications involving the Property:

Application ID: 37253 Legacy File: 24285 (Ord, 1985)	To exclude 49.3 ha of the 121.3 ha property for residential development in conjunction with golf course development also on the property. The Commission refused the application on the grounds that the property is excellent agricultural land which would require minimal effort to get it back into production. The addition of housing would eliminate the possibility of future agricultural use of the land. Resolution #636/90.
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Reconsideration Request 1	The Commission received a reconsideration request from the applicant which reduced the area to be excluded from the ALR from 49.3 ha to 29.0 ha. The excluded area would be for residential purposes and located at the southeast corner of the property. The applicants also proposed to retain the 20 ha portion of agricultural purposes. By Resolution #807/90, the Commission reconfirmed its decision to refuse the application,
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however it indicated, the earlier approval of the golf course and clubhouse area by Resolution #634/90 remains valid.

Reconsideration Request 2 A second request for reconsideration proposed relocating the ~29 ha area to be excluded and placing the clubhouse and maintenance facilities within this area. The Commission referred the proposal back to the City of Kamloops for comments and on January 16, 1991 received Council's reply which continued to support the application. The Commission refused the proposal submitted by Resolution #45/91 on the grounds that residential development of any size or configuration would eliminate any future use of the land for agriculture and the soil capabilities are of a quality to warrant retention in the ALR.

Reconsideration Request 3 This request for reconsideration represented the third amended proposal received from the applicant since the original application was refused. The request was to exclude ~29 ha for residential development. On February 27, 1991 the Commission received a request for Leave to Appeal its decision to the Environment and Land Use Committee of Cabinet. The request for Leave to Appeal was followed by the request for reconsideration which was taken place before the Commission on March 4, 1991, the same day it was received. At that meeting the Commission tabled the application pending an onsite investigation to be conducted by the District Agriculturist at the Ministry of Agriculture and comments from Kamloops City Council. The onsite report was received and substantiated the Commission's belief that

the agricultural capability of the subject area is the 2:3TM of the (8:2X - 2:3TM) rating. The City forwarded its support for the new proposal and pointed out that the property is designated a "Special Development Area" in the Official Community Plan. By Resolution #305/91 the Commission refused the proposal submitted as a request for reconsideration on the grounds that the area under application has prime agricultural capability, there was no established community need to urbanize ALR land in the Kamloops area and the Commission was concerned with golf course proposals involving the ALR being the basis for, or otherwise prompting, the inclusion of a residential component which would utilize superior agricultural land.

#### Leave to Appeal

As noted previously the Commission received a request for Leave to Appeal to the Environment and Land Use Committee of Cabinet. The request was considered on June 1, 1991. In reviewing the file material the Commission felt that it could allow a modified version of the applicant's most recent submission. The Commission opted not to decide on the Leave to Appeal before forwarding to the applicant the following modified proposal which it believed met the intent of its mandate:

1. the ~18.0 ha area referred to would be located as shown on a plan to be provided by the Commission, all development to be kept to the east of the driveway used to access the property;
2. fencing must be designed as per the attached Schedule "D" specifications and vegetative screening should be incorporated into the plan the development plan to define the perimeter of the residential development. The vegetative

screening should be of sufficient density, depth and height to provide a visual screen as well as an effective buffer to diffuse noise and dust;

3. the southwest corner of the property that was proposed to be used as a turf farm must be utilized as part of the golf course and developed as such.

The Commission approved this modified proposal by Resolution #457/91.

**Note: The Commission issued Certificate of Order No. 457/91 on November 14, 1991 authorizing the deposit of the subdivision plan delineating the 18.0 ha exclusion area and confirmed that the area was excluded from the ALR. The plan was registered on November 27, 1991.**

Application ID: 6406  
Legacy File: 24208  
(Ord, 1990)

To develop 72 ha of the 121 ha parcel into an 18 hole golf course. Approved by Resolution #634/1990. Approval subject to the clubhouse and all ancillary golf course structures being kept to the 3.5 ha area which was approved for exclusion through Resolution #457/91.

Golf Course Moratorium

The Lieutenant-Governor in Council, by OIC 1392/91 placed a moratorium on all golf courses made under former section 2 (1) (m) of B.C. Regulation 7/81 and required the Commission to review those proposals and recommend to the Environment and Land Use Committee those that should be exempted from the moratorium.

Reconsideration Request 1

The Commission received a request from the applicant to



release the Letter of Credit which was required by Resolution #634/90 to rehabilitate the property to an agricultural standard if the golf course failed. At that time the Commission asked the District Agrologist, Ted Moore, to visit the property to ascertain whether the conditions had been met. Mr. Moore noted that only half the fencing had been completed, the vegetative screening had not been planted, the fairways were not complete and he noted that a road and some buildings had been constructed without permission. The Commission did not believe that the intent of the conditions had been satisfied and noted that the unapproved road would require an application. As such the Commission refused the request to release the Letter of Credit by Resolution #822/96.

Reconsideration Request 2 The Commission received a request to release the Letter of Credit for the amount of \$88,955 (which was put in place to rehabilitate the land in the event that the golf course failed) and that the access road be permitted to remain as an internal road used by the golf course. The Commission allowed this request by Resolution #1012/96.

Reconsideration Request 3 The Commission received a request from the applicant to reconsider the portion of Resolution #634/90 which specified that the ancillary buildings be located outside the ALR on the grounds that the location of the maintenance sheds at that time was not suitable. The Commission allowed the request on the condition that the new maintenance buildings (approximately 6,000 square feet) be restricted to the area identified on the plan by Resolution #96/2003.



Application ID: 43488  
Legacy File: 36977  
(North Core Development Ltd.,  
2006)

To exclude 5 ha of the 69 ha property to subdivide approximately 15 single family residential lots along Harrington Road and 49 multi-family units along Westsyde Road south of the maintenance building and the proposed road to the golf course clubhouse. Approved by Resolution #1/2007.

Application ID: 44711  
Legacy File: 37905  
(North Core Development Ltd.,  
2007)

To renovate the existing 18-hole Dunes golf course and add a 9-hole mid-size executive golf course which would entail development of 12 ha of ALR that has not been used as a golf course before. Also proposed in this application was the creation of a 12.0 ha parcel from the north end of the property and be made available for agricultural use. The Commission noted that this area proposed for subdivision had excellent agricultural capability. Approved by Resolution #55/2008.

Application ID: 52827  
(North Core Development Ltd.,  
2012)

To exclude 6.6 ha from the ALR for the purpose of residential golf/agricultural community as part of the Dunes Golf Community. The proposed residential development would consist of patio homes and apartment condominium buildings along with a chapel to accommodate outdoor services, and a community garden. The Commission believed that the area proposed for exclusion is appropriately located within the ALR and that the proposed exclusion represents a permanent loss of ALR land deemed to be both capable and suitable for agricultural purposes. Refused by Resolution #99/2013.

Reconsideration Request      The Commission received a reconsideration request for Resolution #99/2013. The request was based on the reduction of the proposed area for exclusion to 5.7 ha for infill residential use, to redevelop the golf course to provide an additional 9.2 ha for agricultural use which would be fenced and irrigated by the golf course irrigation system, and the addition of a covenant indicating that the northern boundary cross road will continually be used mainly as a golf course. The Commission reconfirmed its previous refusal of the proposal by Resolution #313/2013.

Application ID: 53813  
(North Core Development Ltd.,  
2014)      To exclude 4.5 ha from the 82.8 ha property for a residential housing development adjacent to the existing Dunes Golf Community. The application also proposed to re-designate and subdivide two areas totaling 5.1 ha lot from the golf course for farm uses (and relocate maintenance yard to the sand pit). Refused by Resolution #210/2015.

### **SITE VISIT**

[14] The Executive Committee, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

### **APPLICANT MEETING**

[15] On August 23, 2016, the Executive Committee conducted a meeting with the Agent (the "Applicant Meeting") in accordance with s. 22(1) of the Regulation. An applicant meeting report was prepared and was certified as accurately reflecting the observations

and discussions of the Applicant Meeting by the Bill Bilton, the Agent on November 17, 2016 (the “Applicant Meeting Report”).

## **FINDINGS**

### Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture

[16] In assessing agricultural capability, the Executive Committee referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), ‘Soil Capability Classification for Agriculture’ system. The improved agricultural capability ratings identified on CLI map sheet 92I/16 for the mapping units encompassing the Property are Class 2 and Class 3; more specifically the Property has three mapping units: (8:2X-2:3TM), (2T) and (8:3X).

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.

The limiting subclasses associated with this parcel of land are M (moisture deficiency), X (combination of soil factors) and T (topographic limitations).

The Executive Committee noted that the CLI ratings of the entire Property which indicate prime agricultural capability.

[17] In addition, the Executive Committee received a professional agrologist report, prepared by Urban Systems, dated December 18, 2015 (the “Urban Systems Report”). The Urban Systems Report finds that:

*The particle size analysis indicates that both the 0-15 cm and 15-30cm samples are >99% sand and silt with the majority being sand. This result, along with the very low*

*levels of organic matter reported, indicate that the water holding capacity of the soil is poor and significant irrigation would be required to sustain crop production.*

*The class 5 designation with moisture deficiency is consistent with the site specific data. The land has very severe limitations which will restrict the capability to produce perennial forage crops. This can be overcome with both irrigation, the use of soil amendments and leveling of the rolling topography. Therefore, to enable agricultural productivity for this site, unusually intensive management or use of and adapted crop will be required. Note that crop failure can be expected under average conditions.*

[18] The Executive Committee reviewed the CLI ratings and the Urban Systems Report and find that while there are limitations to the agricultural capability of the portion of the Property proposed for exclusion, as the Urban Systems Report points out, with levelling the rolling topography, irrigation and soil amendments these limitations could be overcome. Although the Commission understands that this would require management of the land, it is still a possibility.

[19] The Executive Committee considered the Commission's previous decisions on the Property and believes that the previous exclusions do not compel the Commission to continue excluding additional golf course lands from the ALR. As outlined in its previous decision (Resolution #210/2015):

*The Executive Committee considered the potential impacts of exclusion on the continued operation of the golf course and on the overall agricultural potential of the Property. The Executive Committee noted that the golf course, while a non-farm land use, retains the potential for agricultural development in the future in the event the golf course use ceases. The Commission recalled that "future agricultural potential" had always been a consideration when golf courses were allowed by Regulation within the ALR as a permitted non-farm use at different times during the existence of the ALR. The availability of irrigation, limited structures and "open field" aspect of golf courses will allow for future livestock grazing, forage production or cultivation. The exclusion and residential development as proposed would mean that the agricultural potential of the 6.7 ha area will be permanently lost.*

[20] The Executive Committee discussed the location of the excluded area and notes that it is close to the centre of the Property and would alienate the southern area which would make it difficult for the Property to be farmed as a unit in the future. The Executive Committee believes that any further exclusion will compromise the ability to use the land for agricultural purposes in the event the operation of the golf course is discontinued.

[21] The Executive Committee discussed the proposed 17.8 ha proposed for reclamation and return to agricultural use, along with the relinquishing of the previous approved use of the area for golf course purposes. The Executive Committee considers this commitment to return 17.8 ha to agricultural uses uncertain because no specific information was provided in the Application as to potential leasees, type of agricultural investment, etc. In addition, the benefits associated with annual cropping are not permanent, while the exclusion of land is permanent. The Executive Committee believes that this land's return to agriculture will remain a possibility in the future if it remains within the ALR.

*Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values*

[22] Mr. Bilton extensively discussed the economic benefits to the community and region in both the Application and during the Applicant Meeting. Among these economic benefits of value to the community discussed were development permits and taxes. Also discussed were the social and cultural values the golf course and clubhouse have within the community as a gathering place for meetings and events. Within the application Mr. Bilton also provided an extensive list of all the events for 2015 and 2016.

*Section 4.3(c) of the ALCA: third priority to regional and community planning objectives*

[23] The City of Kamloops Council authorized staff to forward the Application to the Commission for its consideration. The City of Kamloops has Golf Course Development Policies within its Official Community Plan which supports residential development within golf course subject to the development meeting certain criteria such as compatibility with

adjacent land uses and appropriate density; proximity to transit and amenities, as well as the scale, servicing and intensity of development. City of Kamloops staff indicate that the “proposed development meets the objectives of the Golf Course Development Policy overall, and specifically complies with the residential development criteria in Section 8.4.1, contingent on ALC approval”.

*Weighing the factors in priority*

[24] The Executive Committee weighed the purposes of the *ALCA* in priority and concluded that approval of the Proposal would represent a significant loss to the agricultural potential of the Property. The Executive Committee does not consider it prudent from an agricultural perspective, or supportive of its mandate, to allow further exclusion of land from the Property.

[25] While respectful of the examples of economic, social and cultural values and benefits to the community Mr. Bilton outlined in the Application and Applicant Meeting, the Executive Committee finds that these examples of economic, cultural and social values whether considered individually or collectively, would be insufficient to outweigh the first priority that must be given to agriculture relative to land that could be both capable and suitable for agricultural use in the future.

[26] The Executive Committee notes that the proposed residential development meets the objectives of the City of Kamloops Golf Course Development Policy, however, this is insufficient to outweigh the first priority that must be given to agriculture relative to land that could be both capable and suitable for agricultural use in the future.

**DECISION**

[27] For the reasons given above, the Executive Committee refuses the Proposal to exclude 6.7 ha for residential development.

[28] These are the unanimous reasons of the Executive Committee of the Agricultural Land Commission.



[29] A decision of the Executive Committee is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[30] This decision is recorded as Resolution #13/2017 and is released on January 20, 2017.

**CERTIFICATION OF DECISION**

A handwritten signature in black ink that reads "Frank Leonard".

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Frank Leonard, Commission Chair, on behalf of the Executive Committee

**END OF DOCUMENT**