



December 30, 2005

Agricultural Land Commission
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Reply to the attention of Brandy Ridout

614334 BC Ltd
c/o 1179 Westside Road 5
Kelowna, BC - V1Z 3S1

Dear Sir/Madam:

RE: **Application #G-36220**
PID: 024-818-950
Lot A, District Lot 668, Osoyoos Division Yale District, Plan KAP67140

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to exclude 4.5 ha of the above noted property from the Agricultural Land Reserve. The application was submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*.

The Commission wishes to thank you and your representative, Peter Klimuk, for taking the time to meet with its representatives on October 13th and December 2, 2005. The Commissioners found the meetings and site visits informative. The Commission also carefully reviewed the file materials, including agricultural land capability report by H. Luttmerding, and the information packages provided at the on-site meeting.

While the Commission appreciates that the land under application has minor topographic constraints, and a relatively small (2.25 ha) arable area, it recalled that many agricultural properties with similar characteristics also lie within the ALR. The Commission's site visits also confirmed that the land under application has agricultural capability, and that the potential negative impacts from nearby residential development are minimal (because of the distinct topographic break above Westside Rd).

Finally, the Commission considers the other arguments advanced in support of exclusion; i.e. the high economic value of the land, and decisions on other properties, to not be relevant to the Commission's decision making processes or its mandate to preserve agricultural land and encourage farming.

Based on the foregoing, the Commission has refused the application. This decision is record as Resolution #538/2005.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

per:

Erik Karlsen, Chair

cc: Regional District of Central Okanagan - A-05-03
Milagro Advisory Services, #10-2070 Harvey Avenue, Kelowna, BC - V1V 1W3

BR/lv/36220d1

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on December 8, 2005 at 8090 Highway 97, Lake Country, BC.

PRESENT: Sue Irvine Chair
Sharon McCoubrey Commissioner

ABSENT: Sid Sidhu Commissioner

STAFF: Brandy Ridout, Regional Research Officer
Martin Collins, Planner

For Consideration

Brandy Ridout presented the September 27, 2005 staff report regarding application #G-36220. Mr. Klimuk confirmed that he had received the staff report and identified the following errors:

The portion of the property west of Westside road was erroneously listed as having an area of 9.35 ha and a designation under the Westside Official Community Plan of Rural Resource. The correct area is 22.7 ha and the correct designation is Low Density/Single Detached Residential.

Site Inspection

A site inspection was conducted on October 13, 2005. Those in attendance were:

- Sue Irvine & Sid Sidhu, Commissioners
- Brandy Ridout and Martin Collins, Agricultural Land Commission staff
- Peter Klimuk, agent
- John Davidson, applicant
- Mary Davidson, applicant's daughter

Mr. Klimuk provided an information package that was added to the file material.

Commissioner Eligible to Vote

Although Commissioner McCoubrey was not present at the site inspection on October 13, 2005, she visited the property with Peter Klimuk, the agent on December 2, 2005 and met briefly with John and Doris Davidson.

Commission Discussion

The Commission noted that the subject property and the adjoining property had good agricultural capability and a long history of agricultural use. It also recalled the rationale for exclusion was; that nearby urban development would eventually made retention of these lands in the ALR untenable – because of incompatible adjoining uses, both above Westside road and on the adjoining Indian Reserve; their high value as lakeshore residential properties make them unlikely to remain in agricultural production; and redevelopment at higher densities might relieve ALR pressures elsewhere.

The Commission did not concur with these arguments, believing that;

- adjoining urban pressures were very minor as a topographic break above Westside Road effectively buffered the ALR portions of the properties from existing and anticipated residential development
- the high economic value of this land does not preclude agricultural development.
- redevelopment of these properties to a higher residential would likely have little, if any, impact on the development pressures facing the ALR

Further the Commission recalled that similar small blocks of ALR were scattered throughout Westbank. If the subject properties were excluded expectations would be raised that these lands could also be excluded, resulting in speculation, additional applications, and a reduction in overall agricultural activity in Westbank.

IT WAS

MOVED BY: Commissioner Irvine
SECONDED BY: Commissioner McCoubrey

THAT the staff report be received

AND THAT the application to exclude the 4.5 ha ALR portion property from the ALR be refused on the grounds that the land had good agricultural capability.

CARRIED



Staff Report
Application # G – 36220 – 0
Applicant: 614334 BC Ltd
Agent: Milagro Advisory Services

DATE PREPARED: September 27, 2005

TO: Chair and Commissioners – Okanagan Panel

FROM: Simone Magwood, Regional Research Officer

PROPOSAL: To exclude 4.5 ha from the ALR

This application is made pursuant to section 30(1) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

This application is adjacent to other land also under application for exclusion (File # G-36221) and was submitted concurrently with that application. As such, the agencies to whom this application was referred assessed both applications at the same time. Although the applications state that these two applications are separate and should be assessed on their own merits the issues in evaluating each are very similar.

The applicant has no current proposal for a change in land use but would like to subdivide that portion of the property lying to the west of Westside Road. The Lakeview Community Plan and its current successor, the Westside Official Community Plan both designated the future land use of the 22 ha portion of the property west of Westside Road as Low Density/Single detached. The applicant has agreed to participate in the proposed Neighbourhood Plan Study for the area described in the Westside OCP as the "Raymer Study Area".

During the Advisory Planning Commission meeting the question was raised as to why this application is being made prior to completion of the Raymer Study Plan. The agent stated that Official Community Plan (OCP) policies generally only designate ALR land as Agriculture and the consultants undertaking the study will be faced with the same issue (as the Commission dealing with this now) and so this process will see if the property can be successfully excluded from the land reserve first and then redesignated in the OCP. It was then noted by the Committee members that the property is still viable agricultural land and that the quality of the agricultural land must be taken into consideration. The applicant stated that the land has been farmed for many years and that no money has been made farming the property. One idea raised at the meeting was the possibility of readjusting the parcel boundaries to exclude the unproductive land and to make the viable productive land into one parcel.

Submitted with the application was a soils and land capability analysis of this property by H.A. Luttmerding. This report concludes that "the subject parcel occupies the northern end of a narrow ALR area protruding northward from a much larger ALR area on the south. This larger ALR, although shown on maps, consists primarily of Westbank First Nation lands that technically are not subject to the restrictions or policies of the Agricultural Land Commission. The subject parcel is therefore (together with the small holding to the south) isolated from any nearby ALR by several

kilometers. The arable portion of the current parcel (about 2.25 ha) plus the potential arable portion of the small holding to the south is probably less than 6 ha in total area.

No correspondence from neighbouring property owners regarding the application was received by the Regional District.

John and Doris Davidson are the principals of 614334 B.C. Ltd. The land under application was subdivided from the remainder of Lot 1, Plan 15483 in July 2000 (see file # 32692).

Local Government:

Regional District of Central Okanagan

Legal Description of Property:

PID: 024-818-950
Lot A, District Lot 668, Osoyoos Division Yale District, Plan KAP67140

Purchase Date:

July 2001 (note: the property was created by subdivision at this time - the owners of 316334 B.C. Ltd. own the remainder since 1967.)

Location of Property:

Adjacent to Westside Road and Okanagan Lake

Size of Property:

4.5 ha (The entire property is in the ALR).

Present use of the Property:

Mature cherry orchard, pasture, and natural vegetation. Buildings include a cottage, barn and other associated outbuildings.

Surrounding Land Uses:

WEST: Forested hillside, above West Kelowna Estates (non-ALR)
SOUTH: Other property under application for exclusion (ALR)
EAST: Okanagan Lake (non-ALR)
NORTH: Residential (non-ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.083 & 82E.093
The majority of the property is identified as having mixed prime and secondary ratings.

Official Community Plan and Designation:

The Westside Official Community Plan Bylaw 1050 designates the property as Agricultural and Rural Resource.

Zoning Bylaw and Designation:

Bylaw # 871 designates the property as A1-Agricultural.

PREVIOUS APPLICATIONS:

Application #32692-0

Applicant: Davidson, John & Doris
Decision Date: June 21, 1999
Proposal: To subdivide the property within and along the ALR boundary
Decision: To allow subdivision along the ALR boundary

Application #32692-1

Applicant: Davidson, John & Doris
Decision Date: October 19, 1999
Proposal: The intent of the original application was to subdivide the property within and along the ALR boundary. However, after surveying the property, it was determined that the ALR boundary was misplotted as it did not accurately correspond with the topographic boundary
Decision: Allowed – changing the ALR boundary to reflect the topography had no net impact on agriculture or on the subdivision.

Application #17877-0

Applicant: Davidson, John & Doris
Decision Date: June 6th, 1984
Proposal: To build a second dwelling on the property using an existing foundation
Decision: Allowed

RELEVANT APPLICATIONS:

Application #36221-0

Applicant: Drought, Jennifer
Decision Date: *In progress*
Proposal: To exclude the ALR portion of the 13.6 ha property (4.25 ha) from the ALR

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional District of Central Okanagan Board: The Regional Board does not support this application.

Advisory Planning Commission: The Westside South Advisory Planning Commission recommends non-support of this application. Some of the reasons why it does not support the application are as follows, areas of the property have been farmed and portions of the property have good agricultural capability.

City of Kelowna: The City of Kelowna planning staff have no objection to the proposal because the site is somewhat isolated from other agricultural lands and may ultimately be surrounded by urban development, which will not be conducive to future farming activity. While the City of Kelowna is concerned with the proliferation of residential development outside City Boundaries and loss of agricultural land in general, the exclusion and development of this site may be supportable if there is a legitimate urban growth need in this area of the Regional District.

Agricultural Advisory Committee: The AAC does not support this application and made the following comments:

- They realize there is limited potential in making a living with the current crop, but the applicant has not changed what they farm in 40 years and there are crops out there that are profitable.

- This is prime agricultural land and was once a very lucrative business.
- It is premature to make any decisions prior to the neighbourhood plan
- Small lots can be very successfully farmed.
- Very little effort has been made to make this land viable.
- With a neighbourhood plan being developed, this could be a time to supply fresh fruit and vegetables to the neighbourhood. Perhaps not by this owner but by a new operator.

Local Government Planning Staff: Planning staff recommended that the application not be authorized by the Board to proceed to the Commission.

The application is premature and there has been no determination made to date of legitimate urban growth need in this area to warrant exclusion of the property from the ALR. Planning staff also does not believe that the application meets the objectives and policies of the OCP to consider support for exclusion.

OTHER COMMENTS:

Resource Stewardship Agrologist, Ministry of Agriculture and Lands: The Resource Stewardship Agrologist was asked to comment on the application by the Regional District. He does not support the exclusion application. His comments are attached for the Commission's information

Land Use Agrologist, Ministry of Agriculture and Lands: The Land Use Agrologist was asked to comment on the application by the Regional District. He does not support the exclusion.

STAFF COMMENTS:

Staff recommend that the Commission consider the following:

- Only one agency asked for comment recommended support for this application
- The general opinion seems to be that the land has good agricultural capability.
- Staff concurs with the majority of the comments above that this application has been made prematurely in light of the planning process for this area that is currently underway.
- Staff recommend a site visit in order to evaluate the agricultural capability of the land.

END OF REPORT

Simone Rivers

Signature

Oct 04/05

Date