



Agricultural Land Commission
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July 28, 2006

Reply to the attention of Simone Rivers

Guy Mercier
c/o R450 Holdings Ltd
PO Box 207
Knutsford, BC V0E 2A0

Dear Mr. Mercier:

Re: Application #ZZ-36420
Lot A, District Lot 453, Section 30, Township 19, Range 17, West of the
6th Meridian, Plan 18669, Except Plan KAP51931 and KAP60271

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to exclude 48 ha of the above mentioned 93 ha subject property from the Agricultural Land Reserve. The application was submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*.

Please find attached the Minutes of Resolution #376/2006 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

per:

Erik Karlsen, Chair

cc: City of Kamloops

SBR/lv
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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on July 12, 2006 at the Ashcroft Village Hall, Ashcroft, B.C.

PRESENT:	Grant Huffman	Chair, Interior Panel
	Holly Campbell	Commissioner
	Frank Read	Commissioner
	Simone Rivers	Land Use Planner
	Martin Collins	Regional Planner

For Consideration

Application: ZZ-36420
Applicant: R450 Holdings Ltd.
Agent: Guy Mercier
Proposal: To exclude 48 ha of the 93 ha property for future urban residential development.
Legal: Lot A, District Lot 453, Section 30, Township 19, Range 17, West of the 6th Meridian, Plan 18669, Except Plan KAP51931 and KAP60271

Exclusion Meeting

An exclusion meeting was conducted on May 18, 2006 at the office of the Ministry of Agriculture and Lands at 162 Oriole Road, Kamloops. Those in attendance were:

- Grant Huffman Vice-Chair – Interior Panel Commission
- Holly Campbell Commissioner
- Frank Read Commissioner
- Martin Collins Regional Planner, ALC
- Simone Rivers Land Use Planner, ALC
- Brian French Agrologist for Applicant
- Rex Renkema Part owner, Carey Road Property
- David Trawin City of Kamloops: Director, Development & Engineering Services
- Randy Diehl CAO – City of Kamloops
- Mike Wareen Engineering Manager – City of Kamloops
- Dave Cunliffe Consultant for the Applicant
- Justin Mercier Student
- Guy Mercier R-450 Holdings – Applicant
- Kam Khunkhum Administrator/application coordinator for Applicant
- Cam Fortems Reporter – Kamloops Daily News.

Mr. Mercier confirmed that he received the staff report dated February 16, 2006 and did not identify any errors.

The exclusion meeting consisted of two parts. The City of Kamloops made a presentation outlining the reasons why they believed the property should be developed at this time.

Randy Diehl and David Trawin (the Administrator and the Land Use Planner) from the City of Kamloops presented the principles outlined in the Kamloops Official Community plan (KAMPLAN), indicating that the City has encouraged residential densification and smart growth. They outlined the problems with developing other non-ALR areas that had been designated for future residential development within the KAMPLAN, such as; environmental sensitivity, steep, unstable slopes, fire and flood risk. Although north Kamloops has significant areas available for residential development, infrastructure constraints (water, sewer and transportation) require expensive upgrades for sewer and water capacity. The McGowan Park property has none of these constraints.

Dave Cunliffe addressed the agricultural constraints on development of this property from the applicant's perspective, particularly water availability. The property has water rights, but the upstream wells for the Knutsford mobile home park and trailer park intercept available water. Therefore, as a benefit to agriculture, the applicant proposes to transfer the water rights from the McGowan Park property to a property on Carey Road, that is upstream of the trailer park. The applicant is also proposing to improve a dam on Edith Lake to improve supply and provide an alternate source of water to the property.

Questions were raised as to whether it was feasible to re-direct water away from the mobile home park and trailer park.

Mr. Cunliffe also presented the results of the agricultural capability study completed by Brian French, P.Ag. which concluded that the Carey Road property had substantially better agricultural capability than the McGowan Park property. The study concluded that there is a very small area of prime land on the McGowan Park property primarily because of complex soils and slopes.

Mr. Cunliffe stated that he believed that Peterson Creek provides a strong physical barrier to urban growth because it is a significant physical barrier (a steep walled canyon).

The exclusion meeting lasted from 5:00 p.m. to 6:30 p.m.

Site Inspection

A site inspection was conducted on May 18, 2006. Those in attendance were:

- Grant Huffman Vice-Chair – Interior Panel Commission
- Holly Campbell Commissioner
- Frank Read Commissioner
- Martin Collins Regional Planner, ALC
- Simone Rivers Land Use Planner, ALC
- Brian French Agrologist for Applicant
- Rex Renkema Part owner, Carey Road Property
- Dave Cunliffe Consultant for the Applicant
- Justin Mercier Student
- Guy Mercier R-450 Holdings – Applicant
- Kam Khunkhum Administrator/application coordinator for Applicant

The applicant provided a bus so that the Commissioners, Staff and Applicants could travel together to the site. The Commission visited the McGowan Park property and viewed it from the northern boundary. They then traveled to the Carey Road Property and viewed this property. Finally the applicant took the Commissioners to the Knutsford RV and mobile home park located between the Carey Road Property, the City and the Gamble Pond property.

The site inspection lasted from 6:30 p.m. to 7:45 p.m.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

- to preserve agricultural land;
- to encourage farming in collaboration with other communities of interest; and
- 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.

Through the application process, the Commission may exclude land from the ALR if it believes the land is not suitable for agriculture, no longer suitable for agriculture or it can permit non-farm development in the ALR. The Commission may also exclude suitable agricultural land from the ALR or permit non-farm development in the ALR to meet community needs in cases where no reasonable alternative exists.

Discussion:

In reviewing the application the Commission discussed the various arguments put forth by the applicant in support of the application. In reviewing the soil and climate information the Commission acknowledged that the site had challenges to intensive agricultural development due to drought, topography, and complex soils. However, the Commission also recalled that the land has a long history of agricultural use, and that many of the limitations could be overcome. It further noted that even without significant management the land can be used for grazing and pasture. On balance, the Commission concluded that the constraints to the agricultural use of the property are no more significant than those on many properties throughout the ALR in the region.

The Commission acknowledged that the transfer of irrigation rights to another "upstream" property may represent a benefit for agriculture. However, the transfer of irrigation rights and land improvements could be achieved without exclusion. When weighed against the permanent loss of 48 ha from the ALR, the Commission does not believe that the proposed benefit for agriculture warrants consideration. In fact, the Commission was extremely wary about the perception that it might be trading a permanent land resource for benefits that are discretionary and arises from a landowner's interest, will and resources (which are variable). The Commission was further concerned that there is no certainty that even if irrigation rights are transferred and land improvements undertaken that irrigation would occur (or be maintained in the long term).

Concerning the City of Kamloop's support for the proposal, the Commission remains unconvinced that there are significant constraints on the short to medium term supply of land for residential development within the City. The Commission does not consider the reasons provided by the City in support of the application, as either germane to the Commission's mandate, or insurmountable, given sufficient investment and planning. Similar reasons are often provided in other communities, which if considered and acted upon, would result in the significant erosion of the limited farmland resource in the B.C.

The Commission believes that the current ALR boundary provides a suitable edge to the City of Kamloops. Excluding the subject property would destabilize the ALR through to Peterson Creek and beyond, inviting speculation and incompatible land uses deep into the ALR.

Conclusions

Agricultural Capability: The Commission believes that the property has agricultural capability and noted the long history of agricultural use.

Agricultural Suitability: The Commission noted that although the northern boundary of the property is adjacent to the City of Kamloops, the other sides of the property abut large agricultural holdings or rural residential land. The applicant and the City indicated that Peterson Creek would form the new edge of the City of Kamloops should this application be allowed. The Commission noted that several other properties in the area would need to be taken out of the ALR if Peterson Creek formed the new City boundary. The Commission did not see a reason that this property could not continue to form the edge of the ALR and does not believe that there are external factors that render the land unsuitable for agricultural use.

Community Need: A large part of the proponent's presentation focused on the City of Kamloops case that this land is needed to accommodate urban residential growth pressures. The Commission was not convinced that there is a shortage of developable land in Kamloops and note that several non-ALR areas are available for residential development. The fact that these areas might have challenges to development is not germane to the Commission's mandate.

Benefit to Agriculture: The Commission noted that the applicant offered to transfer water rights from the subject property to another (64 ha) property owned by the applicant as a benefit to agriculture to balance the loss of the subject property. However, the Commission did not believe the proposed benefit warranted further consideration in light of the above.

Conclusions:

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will negatively affect agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Huffman

SECONDED BY: Commissioner Campbell

THAT the staff report be received and the application be refused as proposed.

CARRIED

RESOLUTION #376/2006



Staff Report
Application # ZZ – 36420 – 0
Applicant: R450 Holdings Ltd.
Agent: Guy Mercier

DATE RECEIVED: December 16, 2005

DATE PREPARED: February 16, 2006

TO: Chair and Commissioners – Interior Panel

FROM: Simone Rivers, Regional Research Officer

PROPOSAL: To exclude 48 ha of the 93 ha property from the ALR in order to allow for future residential development.

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

BACKGROUND INFORMATION:

The area under application for exclusion is part of an area identified in the Kamloops Official Community Plan (KAMPLAN 2004) as a special development area. The Commission did not endorse this designation for the property at the time that the OCP was being reviewed by the Commissioners.

Previous applications for the subject property have been for exclusion of 32 ha (refused) and to put an 18 hole golf course on 24 ha of the property. This was allowed in 1987; however, the golf course was never developed. The golf course use was allowed subject to consolidation of the 92 ha property with four smaller properties to the west. In 2004, the Commission allowed the subdivision of one of these properties. Therefore, the Commission considers that the required consolidation for the development of the golf course can not be met and that this file is closed and no longer actionable.

The application was submitted with a report prepared by Brian French P.Ag on the soils and agricultural capability of the property. As a benefit to agriculture, the applicant is proposing to transfer water rights from the subject property to an agricultural property to the south (not adjacent) if exclusion is allowed. The report explains the agricultural benefit of the transfer of water rights. Extensive comparisons of the soils and agricultural capability and suitability of the two properties are also part of the submission. Although the transfer of water rights is being offered as a benefit to agriculture to offset the loss of land to exclusion, the second property is not, strictly speaking, under application at this time. Therefore, staff will focus on the information given about the subject property in this staff report. The applicant may speak more fully to the "Carey property" at the exclusion meeting.

Several letters were received in response to this application. Two of the letters were not signed. The one that was, asks that the entire special management area (Highway 5A to Running Horse Road, to Peterson Creek), be evaluated in context with any exclusion application. It further states that *"if it is not viable to maintain the subject parcel in agricultural production (due to water delivery and other issues), then presumably, it is even less viable to maintain irrigated agricultural production on the remaining 4 parcels that have water rights. "*

Local Government:

City of Kamloops

Legal Description of Property:

PID: 008-236-976
Lot A, District Lot 453, Section 30, Township 19, Range 17, W6M, Plan 18669, Except Plan KAP51931 and KAP60271

Purchase Date:

May 1993

Location of Property:

Adjacent to the Princeton-Kamloops Highway, McGowan Park South, Kamloops

Size of Property:

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

Area of Property Proposed for Exclusion:

48 ha

Present use of the Property:

Equestrian boarding and training center with one residence

Surrounding Land Uses:

WEST: Rural residential lots (ALR) and Merritt Highway (non-ALR)
SOUTH: Rural residential hobby farms (ALR)
EAST: Grazing lands (ALR)
NORTH: Community center and residential lots (non-ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 921/9
The majority of the property is identified as having Mixed Prime and Secondary ratings. A more detailed discussion of the agricultural capability of the property is given below.

Official Community Plan and Designation:

KAMPLAN 2004 designates the property as a Special Development Area within the ALR.

Zoning Bylaw and Designation:

The property is zoned as A-1 (Agricultural)
Minimum parcel size 8 ha.

PREVIOUS APPLICATIONS:

Application #14686-0

Applicant: Gamble Holdings Ltd.
Decision Date: November 2, 1982
Proposal: To exclude 32 ha of the 92 ha property in order to sell and raise capital for ranch expansion.
Decision: Refused because the land had good agricultural capability (for hay production and grazing).

Application #20544-0

Applicant: Gamble Holdings Ltd.
Decision Date: September 15, 1986
Proposal: To remove 150,000 m³ of mineral aggregate up to a maximum depth of 4m.
Decision: Allowed with conditions.

Application #19554-0

Applicant: Gamble Holdings Ltd.
Decision Date: January 29, 1986
Proposal: To develop an 18 hole golf course on 24 ha of the 92 ha property.
Decision: Refused because the land had good potential for agricultural uses.

Application #19554-1

Applicant: Gamble, Gordon
Decision Date: September 25, 1987
Proposal: To develop an 18 hole golf course on 24 ha of the 92 ha property.
Decision: Allowed subject to consolidation, fencing and buffering.

RELEVANT DECISIONS:

Application #35376-0

Decision Date: May 18, 2004
Applicant: Ian and Joanne Curtis
Proposal: To subdivide the 4 ha property into a 1.6 ha lot and a 2.4 ha lot
Decision: Allowed on the grounds the land had very limited agricultural capability due to its size and unfavorable topography.

Application #35386-0

Decision Date: June 29, 2004
Proposal: Draft Kamplan 2004.
Decision: The Commission did not support the designation of 130 ha of ALR for "Special Development Area" on the grounds no compelling case had been presented that the land represented a community need. Also the best available information indicated that the land had good agricultural capability.

Application #35386-1

Decision Date: October 20, 2004

Proposal: To provide qualifying language in the OCP regarding the special development area proposed by Kamplan for the ALR at Gamble's Pond (130 ha). The language indicates that although the City has endorsed this area for future development, it indicates that the potential urban development of this area is uncertain because the Commission has not indicated that it endorses the use of this area for residential development.

Decision: The Commission was prepared to partially endorse the designation of the Gamble Pond area (130 ha) as a "Special Development Area" in the OCP, subject to the qualifying language provided in the City's Aug 9, 2004 letter, and a map amendment showing the area to be striped in blue/green indicating the uncertainty over its future - and its location within the ALR.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

City of Kamloops Council: Council forwarded the application with the following resolution: *"That the Council confirm that it has no objection to forwarding (the application)... to the BC Agricultural Land Commission for the exclusion of that portion of ..."*

OTHER COMMENTS:

Stan Coombs: Land Use Agrologist, Ministry of Agriculture and Lands: *We do not support this application. Although the McGowan Park land has less suitability for soil-bound agriculture and irrigation problems relative to the Carey property, it remains suitable for forage production and grazing. It is also suitable for non-soil-bound agriculture such as intensive livestock, greenhouse or mushrooms. The proximity to urban development is not an impediment to this as proper implementation of such agriculture can mitigate its effect on the neighbouring development and, in any case, the right to normal farm practices associated with such operations are protected by the Farm Practices Protection Act."*

STAFF COMMENTS:

Agricultural Capability: The property is given ratings of 5MP(3P) and 90% 3P - 10% 6 TP.

Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Subclasses:

T topography
P stoniness
M soil moisture deficiency

The report submitted with the application summarized the agricultural capability of the subject property as follows:

Some 3.2 Ha or 6.7% of the McGowan Park South property had Class 4-5 complex unimproved capability. With drainage and irrigation improvements, this land could be improved to Class 3 and 4. Some 31.6 ha or 66.1% had Class 5 unimproved capability of which 19.8 ha or 41.3% could be improved to Class 4 with stone removal and irrigation. The remaining 13.2 ha or 27.2% was Class 6 and 7 with no possibility of improvement.

Agricultural Suitability: The property is presently used as an equestrian facility with some hay production on the property. The property is bordered to the north and west by areas developed as urban neighbourhoods; however, to the south and east the property is bordered by ranch land.

In the applicant's report it states that the property is too close to residential development to be used for intensive non-soil bound livestock uses such as a beef feedlot, hogs, poultry and mink or mushroom production. Further, the report states that the most suitable agricultural or horticultural use of the arable portions of the McGowan Park South property would be forage crops or nursery stock but the irrigation water supply problems reduce significantly the potential of these uses.

Impact on Agriculture: The exclusion of this area for residential development creates a large residential intrusion into an area currently used for agricultural purposes. The applicant's report mentions that much of the other ALR land in the area is owned by Frolek Cattle Company, an active rancher in the area. The extension of urban residential development closer to this ranch land could lead to urban-rural conflicts.

The applicant states that the potential for using the exclusion area as a precedent for further exclusions is low because there are few comparable situations in the area except the four small rural residential lots to the immediate south and west. He also states that Peterson Creek provides a strong environmental buffer on the east.

The small lots to the west would become isolated pockets of ALR should exclusion be allowed and a letter received by the City of Kamloops asked that the planning for the entire area be taken into account and not be completed in a piece-meal fashion.

Planning Considerations: KAMPLAN 2004, the City of Kamloops Official Community Plan designates the subject property as a "Special Management Area" Specifically in the plan this area (which includes more than the subject property) is described as follows:

McGowan Park South - This area, which includes properties owned by R-450 Holdings Ltd., the Frolek Cattle Company, and others, is located to the south of Gamble pond between Peterson Creek and Highway 5A and has been identified as having the potential to accommodate between 800 and 1000 residential units in a more cost-effective manner than the other potential development cells in the Southwest. The property is currently located within the Agricultural Land Reserve, and an application to the ALC will be required. Further study in the context of an overall Southwest Sector Plan will be required to address servicing, geotechnical, phasing and other issues.

The potential urban development of McGowan Park South is uncertain because the land is currently within the Agricultural Land Reserve and the Commission has not indicated that it supports the use of this area for residential development. Discussion with the Commission will be necessary, as will further study in the context of a Southwest Sector Plan to address geotechnical issues, servicing, and phasing.

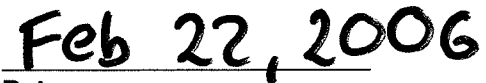
The KAMPLAN document further states that "Using a projected growth rate of 1.25%, it is anticipated that the population may reach 100,000 by the year 2021 and 120,000 by 2036. Currently there is sufficient land designated for development to accommodate a population of 100,000 (vacant lots and zoned land). In addition, there are a number of proposed development parcels which could accommodate a population well in excess of 120,000."

At the time the KAMPLAN was being drafted, the Commission was not satisfied that this area was necessary for residential development in the short to medium term. The Commission's position was as follows: ...*"the Commission notes that Kamloops has sufficient areas available for urban residential development for the short to medium term, without the need to encroach into the ALR. Also, although the City suggests that market preferences are directing development south of the City, the Commission does not consider this to be suitable rationale to develop active agricultural land to residential uses.*

END OF REPORT



Signature



Date