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Agricultural Land Commission
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October 12, 2006

Reply to the attention of Brandy Ridout
ALC File #V-36694

Jessica Murphy
R.R. 1, Site 77, Comp. 16
Oliver, B.C. VOH ITO

Dear Ms. Murphy:

Re: Application to subdivide in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #483/2006 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over the printed name.

Erik Karlsen, Chair

cc: Regional District of Okanagan-Similkameen - C06-05338-000

BR/lv/Encl.: Minutes
36694d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 29, 2006 at the Ministry of Agriculture and Lands office located at 4607 - 23rd Street, Vernon, BC.

PRESENT:	Sue Irvine	Chair, Okanagan Panel
	Sharon McCoubrey	Commissioner
	Sid Sidhu	Commissioner
	Martin Collins	Staff
	Terra Kaethler	Staff

For Consideration

Application # V – 36694
Applicants Dagny & Kamyar Mofid and Behourz Zahedivach
Proposal To subdivide the 11.6 ha parcel into two lots roughly equal in size (5.6 and 6 ha) in size. The subdivision would separate the low lying northerly portion (as divided by an old oxbow) from the more arable southerly portion.
Legal PID: 008-352-259
Lot A, District Lot 2450s, Similkameen Division Yale District, Plan 17771
Location 8972 - 378th Avenue, 3 km north of Oliver

Site Inspection

A site inspection was conducted on July 31, 2006. Those in attendance were:

- Commissioners: Sue Irvine, Sharon McCoubrey and Sid Sidhu
- Staff: Brandy Ridout
- Applicant: Behourz Zahedivach
- Agent: Jessica Murphy

Ms. Murphy confirmed that she had received the staff report dated July 10, 2006 and did not identify any errors.

At the site visit, the Commission noted the agricultural capability of both the southern and northern halves of the property. Although there was evidence that the northern portion had been used for agriculture in the past (fencing), the Commission was uncertain as to the implications the presence of the oxbow would have for its future agricultural use.

As such, the Commission requested additional information on the northern half of the property including average annual water levels projected through the year with reference to the regulations in effect relating to control of the Okanagan River and its ox-bows; suitability of the property for active agricultural production having regard to the said water and the soil composition; value of the site from an ecological point of view; and what could be done to increase the agricultural capability of the property (i.e. if cleaning out creek beds is permitted).

Discussion

The Commission received the requested information in the form of a report by Eike Sheffler (a biologist and agrologist). The report stated that it would be difficult, if not impossible, to drain the area to make it suitable for agriculture. He also noted that it was not advisable to drain the area as it had a higher value if left in its natural state. It was also note that set-backs of 30 metres from the top of the bank would limit the amount of land that could be used for agriculture.

The Commission recognized that filling would be required to develop the property for agriculture and that the land had other significant values. As such, the Commission was willing to discuss subdivision options for the property that would include the sale of the northern half of the property to a preservation organization.

IT WAS

MOVED BY: Commissioner Sidhu
SECONDED BY: Commissioner McCoubrey

THAT the application be refused as proposed

CARRIED
RESOLUTION #483/2006



Staff Report
Application # V – 36694
Applicants: Dagny & Kamyar Mofid and Behourz Zahedivach
Location: 3 km north of Oliver

DATE RECEIVED: May 16, 2006

DATE PREPARED: July 10, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Regional Research Officer

PROPOSAL: To subdivide the 11.6 ha parcel into two lots roughly equal in size (5.6 and 6 ha) in size. The subdivision would separate the low lying northerly portion (as divided by an old oxbow) from the more arable southerly portion.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

No previous applications have been considered on the property.

The applicants indicate the following:

- That an old oxbow channel, this is not arable, cuts off the northerly 5 ha from the southerly cultivable section. The centre of the oxbow area is arable, but often not accessible because the oxbow routinely floods.
- That a high water table and frost pooling restricts the arability of the northerly 5 ha thus prohibiting ground crops or tree fruits. The fact that the land was used for many years as a livestock small holding and pasture may support this assessment.
- The most suitable use for the northerly 5 ha is rural residential, or hobby farm uses. The southerly 5 ha is proposed for more intensive cultivation.
- Given the bylaw regulations, the present size of the parcel permits three dwellings. If subdivision is allowed, only two will be permitted on the smaller parcels, reducing potential residential impacts.

Local Government:

Regional District of Okanagan-Similkameen

Legal Description of Property:

PID: 008-352-259

Lot A, District Lot 2450s, Similkameen Division Yale District, Plan 17771

BACKGROUND INFORMATION (continued):

Purchase Date:

August 2005

Location of Property:

8972 - 378th Avenue, 3 km north of Oliver, on the west side of the Okanagan River

Size of Property:

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

Present use of the Property:

About 1.5 ha is in ground crops. There is a residence and a picker's cabin on the property, as well as a number of outbuildings in disrepair.

Surrounding Land Uses:

WEST: Small lot subdivision and 2 ha lots in the ALR
SOUTH: 5 ha farm property in the ALR
EAST: Okanagan River
NORTH: 5 ha farm property in the ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.023
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

Bylaw No. 2122
Designation: Agriculture

Zoning Bylaw and Designation:

Bylaw No. 2123
Designation: Agricultural 1 (AG-1)
Minimum lot size: 4 ha

RELEVANT APPLICATIONS:

Application #35654-0

Applicant: Gregory Thorp
Decision Date: February 3, 2005
Proposal: To subdivide the 19.8 ha parcel into two lots of 6.3 ha and 13.5 ha along the Okanagan River dike. The 6.3 ha parcel would be used for greenhouses and an office and the 13.5 ha property would continue to be leased for agricultural purposes.
Decision: Refused the application as proposed but allowed the subdivision of the 19.8 ha parcel into two lots subject to the binding of the titles of the proposed 6.3 ha lot and the applicant's homesite lot. The Commission may be prepared to remove the covenant if the lowland area is substantially developed for greenhouses.
Subdivision has not been concluded.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

The Regional District of Okanagan Similkameen: Forwarded the application without comment as per policy.

STAFF COMMENTS:

Staff suggests the Commission consider the following:

- Multiple homes proliferate on agricultural parcels in the south Okanagan, using up arable land and driving up the price of farmland. It is suggested that should subdivision be considered that a covenant be registered against the titles of the new properties restricting them to a single home. It is unlikely that a second home could be justified for farm purposes for either parcel (particularly for ground crops).
- The Commission's previous decision on a similar application south of Oliver.
- It is recommended that a site visit be undertaken to review the restrictions on agricultural development of the northerly area.

END OF REPORT



Signature



Date