



Agricultural Land Commission
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November 21, 2006

Reply to the attention of Brandy Ridout
ALC File: #G-36896

Bryan Lakusta
4298 2nd Avenue
Peachland, BC V0H 1X5

Dear Mr. Lakusta:

Re: Application to subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #579/2006 outlining the Commission's decision as it relates to the above noted application. As agent it is your responsibility to notify your client 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: City of Kelowna (A06-0017)

Enclosure: Minutes

BR/eg
i/36896d1

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the majority of the subject property is Class 3 with a limitation of undesirable soil structure. Class 3 land has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Assessment of Agricultural Suitability

The Commission next assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission did not believe there are external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission believed that subdividing a residential lot from the subject property would make the remainder less suitable for agriculture in that less land would be available to agriculture. In addition, it noted that the presence of the residential lot would eventually lead to urban/rural conflict when non-farmers owned the lot. The Commission believed the proposal would negatively impact existing or potential agricultural use of the subject property.

Assessment of Other Factors

Although the Commission has the discretion to allow subdivision of a homesite lot to a farmer that does not qualify under the *Policy*, it does not typically make exceptions if purchase (in some form) and occupancy before December 21, 1972 cannot be proven.

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 impact 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 Sidhu

SECONDED BY: Commissioner McCoubrey

THAT the application to subdivide a 0.4 ha parcel from the 4.1 ha subject property under the *Homesite Severance Policy* be refused on the grounds that the applicant does not qualify under the *Policy* and the subdivision of a residential lot would negatively impact agriculture.

CARRIED

Resolution # 579/2006



Staff Report
Application # G – 36896
Applicant: Marion Lakusta
Agent: Bryan Lakusta
Location: Kelowna

DATE RECEIVED: August 28, 2006

DATE PREPARED: October 23, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Terra Kaethler, Land Use Planner

PROPOSAL: To subdivide a 0.4 ha parcel from the 4.1 ha subject property under the *Homesite Severance Policy*.

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

BACKGROUND INFORMATION:

The subject property was purchased by the applicant's late husband in 1973. The applicant has lived on the property from 1974 to the present and too over the land title in 1996. The applicant would like to subdivide under the *Homesite Severance Policy* and sell the remainder lot to her son. The applicant has proposed a 0.4 ha lot to include the existing garden and possibly raise some animals.

Local Government:

City of Kelowna

Legal Description of Property:

PID: 012-394-882
Lot 43, Section 35, Township 26, Osoyoos Division of Yale District, Plan 425

Purchase Date:

02/09/1973

Location of Property:

415 Old Vernon Road

Size of Property:

4.1 ha (The entire property is in the ALR)

BACKGROUND INFORMATION (continued):

Present use of the Property:

Residence, hay field, chicken coop, garage, small barn, tractor shed

Surrounding Land Uses:

WEST: Agriculture (hay)
SOUTH: Agriculture (hay)
EAST: Agriculture (hay)
NORTH: Light industrial

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.094
The property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Designation: Rural/Agricultural

Zoning Bylaw and Designation:

Designation: Agriculture 1
Minimum Lot Size: 2.0 ha

RELEVANT APPLICATIONS:

Application #13224-0

Applicant: Kramm / Kryschuk, A & J
Decision Date: January 14, 1982
Proposal: To subdivide a 0.4 ha lot from the 4.0 ha property under the *Homesite Severance Policy*.
Decision: Allowed subject to the conditions of the *Homesite Severance Policy*.

Application #24908-0

Applicant: Borarchuk, M
Decision Date: May 8, 1991
Proposal: To subdivide the 4.0 ha property into (2) 2.0 ha lots
Decision: Refused.

Application #26539-0

Applicant: Smestad, Helge & Margaret
Decision Date: September 10, 1992
Proposal: To subdivide the property into two lots (not eligible for consideration under the *Homesite Severance Policy*) - 1 x 0.2 ha and 1 x 3.2 ha
Decision: Refused as proposed due to agricultural capability of the property.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

City of Kelowna Council:

Recommended the application be forwarded to the ALC with support for a homesite severance.

Agricultural Advisory Committee:

Supported the application, based on the date of purchase of the property, current soil limitations, and the likelihood of future sewer connection requirements to facilitate the subdivision.

Planning Staff:

Recommended to Council that the application be supported. on the grounds that the purchase date of the property is within reasonable timing of the establishment of the ALR, and the proposed location of the lot area maximizes the agricultural efficiency of the parent parcel.

STAFF COMMENTS:

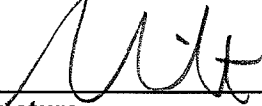
Staff suggest the Commission consider the following:

- The application does not technically meet the requirements for homesite severance as the property was acquired in 1973, however the Commission may consider it given that the date is so close to the cut-off.
- The location of the homesite severance on the northeast corner of the property may have minimum impact on the remainder property, as it is in close proximity to other structures.
- The 0.4 ha lot will be used for some agricultural production, as there is an existing garden.

ATTACHMENTS:

- Constituent Map #13
- Aerial photograph
- City of Kelowna Memorandum

END OF REPORT



Signature



Date