



April 13, 2006

Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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Reply to the attention of Brandy Ridout
ALC File: V-37050

Renate Bublick
408 - 1490 Pennyfarthing Drive
Vancouver, BC V6J4Z3

Point Grey Holdings Ltd
5445 Lakeshore Road
Kelowna, BC V1W4S5

Dear Sir/Madam:

Re: Application for non farm uses in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 112/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Please provide confirmation that all of the conditions of the decision are completed. The Commission will then notify the Regional District that a building permit may be issued.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of Okanagan-Similkameen (F-06-06646-511-531)

Enclosure: Minutes/Sketch Plan

BR/eg
i/37050d1

DRAFT

BUFFER PLANTING - TYPE C
(Planting variations 1 and 2)
1000 sq m total
See sheets 3 and 4

SOUTH BOUNDARY

HIGHWAY 97

174,010

NORTH BOUNDARY

LOT 4

BUFFER PLANTING TYPE A
50 m long strip (approx.) and 5 to 5.5 m wide
See sheet 2 and sheet 4

BUFFER PLANTING - TYPE B
300m long planted strip, 5.0 to 6.5m wide
See sheets 2 and 4

LOT 3

INCLUSION AREAS

BUFFER PLANTING - TYPE C
(Planting variation 3)
400 sq m
See sheet 3 and 4

BUFFER PLANTING - TYPE C
(Planting variation 2)
200 sq m
See sheet 3 and 4

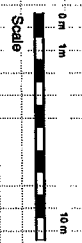
OKANAGAN LAKE

NORTH BOUNDARY

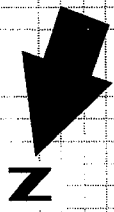
SOUTH BOUNDARY

LOT 2

Approx. top of bank



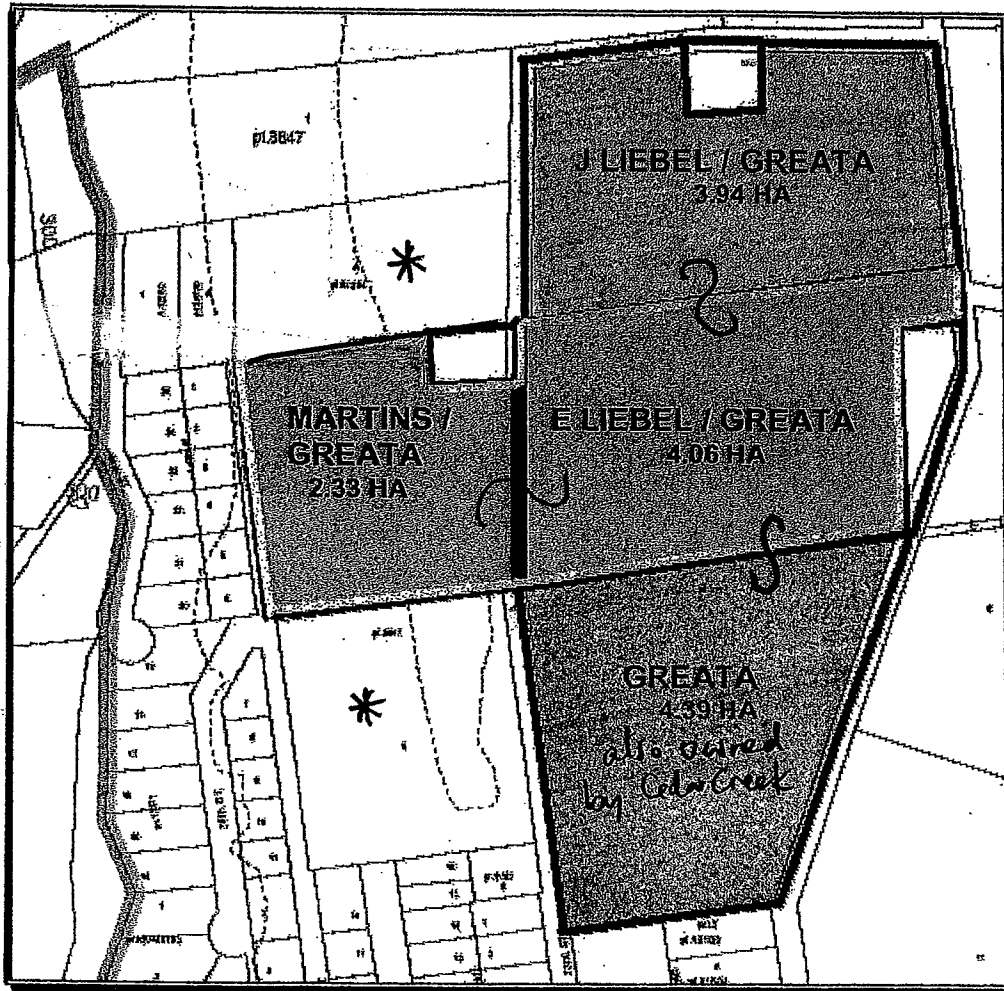
APPLICATION # V-37050
RESOLUTION # 112/2007



RECEIVED
PROV. AGRICULTURAL LAND COMMISSION
OCT 16 2006

ENIDUSION CONSULTANTS LTD
GREATA RANCH VINEYARD ESTATES
SUBDIVISION IN LOT 2
PROPOSED BUFFER ZONE
OVERALL LAYOUT - SHEET 1
SEPTEMBER 2006

OSOYOOS PROPERTIES BETWEEN 25TH AND 33RD STREET



Provincial Agricultural Land Commission
Application #V-37053
Resolution #112//2007



areas to be consolidated and a covenant be registered prohibiting the placement additional dwellings or agri-tourism accommodation



A meeting was held by the Provincial Agricultural Land Commission on March 29, 2007 in Vernon, B.C.

PRESENT:	Sue Irvine	Chair, Okanagan Panel
	Monica Marshall	Commissioner
	Sid Sidhu	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

For Consideration

Application: # V-37050
 Applicant: Point Grey Holdings Ltd.
 Agent: Renate Bublick
 Proposal: To construct a 20-unit agri-tourism accommodation lodge on a 15 ha property (Lot 1).
 Legal: 1. PID: 024-681-156
 Lot 1, District Lot 2537, Osoyoos Division Yale District, Plan KAP66034, EXCEPT Plan KAP78106
 2. PID: 024-681-181
 Lot 3, District Lot 2537, Osoyoos Division Yale District, Plan KAP66034
 Location: Highway 97, rural Summerland

Site Inspection

A site inspection was conducted on December 12, 2006. Those in attendance were:

- Sue Irvine Chair, Okanagan Panel
- Sharon McCoubrey Commissioner
- Sid Sidhu Commissioner
- Martin Collins Staff
- Renate Bublick agent
- Sam Holmberg applicant
- Gordon Fitzpatrick applicant

Renate Bublick and Gordon Fitzpatrick confirmed that the staff report dated November 8, 2006 was received and no errors were identified.

The Commission visited the site and noted the existing development on the property consisted of a house, wine shop and wine shop parking lot. It also noted that Greata Ranch/CedarCreek had other holdings in the Okanagan Valley composed of (but not necessarily limited to) a consolidated 10.5 ha lot and a 4.4 ha lot in Osoyoos.

The area proposed for the accommodation and restaurant facilities was viewed, noting that accommodation would be located on land currently occupied by the house and wine shop parking and the restaurant would be located on land currently planted in vineyard. The applicants provided the argument that accommodation and a restaurant are permitted by the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* and often occur on winery properties in the ALR. However, in this case, cultivated land need not be alienated if accommodation facilities are located on a portion of the property previously excluded by the Commission under application #V-29772. When looking at the history of the area, the Commission noted that substantial areas (approximately 21 ha) have already been excluded from the Greata Ranch site for residential structures and other facilities. While the Commission appreciated that these excluded lands have high value for other uses, it also believed that they could also potentially be used to site the accommodation facilities.

The Commission was also concerned about the potential for a substantial portion of the site to be alienated by parking for the proposed facilities.

Following the site visit, the Commission sent a letter to the applicants expressing reservations about elements of the application and indicating that it anticipated the submission of a revised proposal that took into account its concerns about the unnecessary alienation of productive agricultural land.

The letter also indicated that the Commission intended to view existing agri-tourism facilities for wineries in the Okanagan Valley. Although each application is considered on its own merits, the Commission believed it pertinent to consider the heightened expectations of the over 100 wineries in the ALR that may arise by allowing one winery to establish a twenty 20-unit, year round, accommodation facility in the ALR.

Revised proposal:

A revised plan was submitted on February 26, 2007 which followed the principle of no net loss of planted vineyard area.

The revised site plan showed the restaurant relocated to an area immediately south of the 20-unit lodge, allowing the ranch to maintain about 810 vines, and the lodge and the restaurant would be located on non-productive land currently occupied by housing and other structures that had been deemed as not suitable for agriculture in a report prepared by G. G. Runka in 1994. This portion of the property was not requested for exclusion because it was considered part of the farm operation and could be used for the location of future agricultural buildings.

With regard to the proposed winery, the plan showed its construction would result in the loss of 612 vines. The applicant explained that the selected site for the winery was chosen for its ability to facilitate gravity flow and would have the least impact on the vineyard. Although the applicant argued that winery development almost always entailed the loss of productive land, it was also argued that this loss was more than balanced by additional plantings on unused Ministry of Transportation right of way (1300 vines) and the planting into vines of 0.4 ha non-ALR area at the northerly tip of Lot 1 (500 vines). The applicant also indicated a willingness to include the 0.4 ha planted area into the ALR.

Context

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

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. 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.

Although the Commission was presented with a plan for the property that included a winery, parking, restaurant, and 20-unit agri-tourism accommodation, the only item under application was the agri-tourism accommodation as the others are permitted under the *Regulation*. The Commission recalled that a licensed winery and associated food and beverage service lounge (if the area of the restaurant does not exceed 125 m² indoors and 125 m² outdoors) is designated as a farm use under the *Regulation*. The *Regulation* permits accommodation for agri-tourism on a farm if:

- *all or part of the parcel on which the accommodation is located is classified as a farm under the Assessment Act,*
- *the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and*
- *the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;*

The Commission has interpreted the *Regulation* to permit a maximum of ten units per farm rather than ten units per parcel. Therefore, the Commission does not consider the two farm parcels under application to each have the potential for ten agri-tourism units.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission reviewed information provided by the applicant indicating that the site proposed for the lodge was disturbed and had never been used for agriculture. The Commission concurred with the applicant that the land had marginal agricultural capability.

Assessment of Agricultural Suitability

The Commission noted that two small areas of the adjacent 8 ha property, not lying within the ALR, are in agricultural production and warranted inclusion into the ALR. The total area in vineyard production is about 0.8 ha.

Assessment of Impact on Agriculture

Despite the above, the Commission believed that there were significant implications of allowing a 20-unit accommodation facility for a winery in the ALR, particularly when considered in the context of the larger winery industry in the region and the fact that there was a substantial area of adjoining non-ALR lands available on which to locate the structure.

In support of the application was the applicant's commitment to no net loss of productive vineyard area by using a non-cultivated area for the proposed accommodation. It also noted that the applicant was prepared to include the 0.4 ha planted area into the ALR.

In addition, the Commission considered other benefits to agriculture that could offset the negative effects of allowing a 20-unit agri-tourism accommodation on the 15 ha parcel. In the Commission's view, there are several effective ways of achieving a net benefit to agriculture, which include;

- consolidation of legal parcels,
- registration of covenants restricting the placing of homes, and/or the development of agri-tourism operations on other properties, and
- inclusion of land into the ALR.

The Commission noted that Cedar Creek Winery owns extensive properties throughout the Okanagan Valley recalling Cedar Creek's recent application for subdivision/consolidation (#V-37053) in the Osoyoos area. The Commission, by Resolution # 650/2006, allowed the subdivision of a 0.2 ha lot from the 2.7 ha property subject to the consolidation of the 2.5 ha remnant with two adjoining farm parcels to create a 10.5 ha agricultural parcel. That application also identified another adjoining 4.4 ha property (Lot 7) owned by Cedar Creek that was not included in the decision. The Commission believed that consolidation of the 4.4 ha parcel with the 10.5 ha parcel would provide a benefit to agriculture.

With regard to covenants, the Commission believed that if covenants were registered on the applicant's properties in Osoyoos prohibiting the development of agri-tourism accommodation it would mitigate the implications of developing a 20-unit structure on the subject property. It also noted that the applicant has offered to register a covenant against the title of Lot 3 to prohibit agri-tourism accommodation structures.

The applicant indicated a willingness to include a 0.4 ha planted area on an adjoining property into the ALR. However, the Commission also noted that another cultivated area of about 0.4 ha on the adjoining lot (lying between the access road and the escarpment). The Commission believes that both these cultivated areas warrant inclusion into the ALR.

Conclusions

1. That the specific site under application for agri-tourism accommodation has limited agricultural capability, but that the extent of production, sales and accommodation development of all types will result in a net loss of arable land.
2. That the proposal has significant implications on the rest of the winery industry in the Okanagan Valley.
3. That the proposal has elements that are consistent with an objective of the *Agricultural Land Commission Act*, to encourage farming.

4. That the consolidation of vineyard parcels in the Osoyoos area, the registration of covenants restricting agri-tourism facilities on other lands owned by the applicant, and the inclusion of cultivated land will balance the negative implications of a 20-unit proposal.

IT WAS

MOVED BY: Commissioner Irvine
SECONDED BY: Commissioner Sidhu

THAT the application to develop a 20 unit agri-tourist accommodation facility on Lot 1, Plan KAP78106 be refused as proposed. However, the Commission was prepared to allow the 20 unit accommodation facility subject to the following conditions;

- Inclusion into the ALR, and consolidation, by legal survey, of the area presently lying within Lot A Plan KAP _____ shown on the attached sketch that is in vineyard production.
- Registration of a covenant against the title of Lot 3, KAP76106 prohibiting the construction of agri-tourism facilities.
- Confirmation of the consolidation and covenant conditions associated with Resolution # 650/2006 (application #V-37053) with the additional consolidation of Lot 7, Plan 3847 (4.4 ha) and the registration of a covenant over the consolidated 15 ha property prohibiting the construction of dwellings or agri-tourism facilities.
- The development must be completed within 3 years from the date of the decision.
- The approval is granted for the sole benefit of the applicant and is non-transferable.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED

Resolution # 112/2007



Staff Report
Application # V – 37050
Applicant: Point Grey Holdings Ltd/Greata Ranch Dev. Ltd.
Agent: Renate Bublick
Location: Peachland

DATE RECEIVED: November 8, 2006

DATE PREPARED: December 4, 2006, *amended March 12, 2007*

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To develop a 20 unit agri-tourist accommodation structure on a 15 ha vineyard property (Lot 1).

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

BACKGROUND INFORMATION:

Local Government:

Regional District of Okanagan-Similkameen

Legal Description of Property:

1. PID: 024-681-156
Lot 1, District Lot 2537, ODYD, Plan KAP66034, EXCEPT Plan KAP78106
2. PID: 024-681-181
Lot 3, District Lot 2537, ODYD, Plan KAP66034

Purchase Date:

03/01/1994

Location of Property:

Highway 97, north of Summerland, south of Peachland.

Size of Property:

Lot 1 is 15 ha, Lot 3 is 13 ha (both properties are wholly within the ALR).

Present use of the Property:

Lot 3 Vineyards, Lot 1 Vineyard Manger's House, garage with bunkhouse attached, equipment shed, wine shop.

BACKGROUND INFORMATION (continued):

Surrounding Land Uses:

WEST: Highway 97
SOUTH: Vacant land, zoned as commercial campground
EAST: Okanagan Lake
NORTH: Proposed Residential, not in the ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.062 & .072
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

OCP: Electoral Area "F" Bylaw No. 1742 (1998)
Designation: Rural Land

Zoning Bylaw and Designation:

Zoning Bylaw No. N/A
Designation: Agriculture One (AG1)
Minimum Lot Size: 10 ha
A bylaw amendment is required because although a guest ranch is permitted, agri-tourist overnight facilities are not specifically permitted for other types of agricultural activity.

PREVIOUS APPLICATIONS:

Application #V-07279

Decision Date: April 5, 1979
Proposal: To exclude the alluvial valley in the central portion of the property and the clay cliffs along the lakeshore. The central portion of the property is to be developed as a 300 unit residential community and the southern end of the property is to be developed as a campground and golf driving range.
Decision: Allowed exclusion of the central portion of the property and the cliffs along the lakeshore, subject to two conditions. Refused the development of the southern portion of property for a campground and golf driving range. The Commission was prepared to allow the subdivision of the balance of the property not excluded into two parcels as separated by the valley in the centre of the property.

Application #24310-0

Applicant: Okanagan Riviera Prop. Inc
Decision Date: May 17, 1990
Proposal: To exclude the ALR portion of the 44 ha property for recreational/residential purposes.
Decision: Refused.

Application #29772-0

Applicant: Greata Ranch Development Corp.
Decision Date: July 14, 1995
Proposal: To exclude 7.8 ha (comprising two areas) from the 44 ha property (a previous application had already permitted the exclusion of 13.6 ha).
Decision: Refused exclusion of "north" area due to impact on farmland. Allowed in principle the exclusion of a reduced "south" area subject to the submission of a redesigned development plan showing: 1) the exclusion area being limited to the lower capability lands. 2) buffering to be located on lower capability lands within exclusion area. 3) access to come from south and not utilize agricultural land.

PREVIOUS APPLICATIONS (continued):

Application #29772-1

Applicant: Greata Ranch Development Corporation
Decision Date: June 28, 1996
Proposal: To reconsider the decision to refuse the exclusion of the proposed northern and southern exclusion areas.
Decision: Approved exclusion in principle. The Commission wants a no-build setback on the five lots abutting the vineyard.

Application #35311-0

Applicant: Ministry of Transportation & Highways
Decision Date: June 2, 2004
Proposal: This proposal by the Ministry of Transportation includes:
- widening Highway #97 to provide 4 lanes for 4.5 km,
- widening and delineation of the highway for intersection improvements at Okanagan Lake Park and Greata Ranch.
The main benefits of this project are improved traffic flow and enhanced safety. Specifically, 0.05 ha are required for additional right of way alongside Highway 97, Penticton to Kelowna, to accommodate the widening of the northbound lane. Approximately 0.7 ha of existing right of way will be returned to the adjacent landowner (Greata Ranch). Therefore, there will be a net reduction in the amount of right of way required by the Ministry of Transportation by 0.6 ha.
Decision: Allowed.

RELEVANT APPLICATIONS:

Application #34500-1

Applicant: Mark Anthony Properties Ltd
Decision Date: February 28, 2003
Proposal: ORIGINAL PROPOSAL: To exclude 1.1 ha of land from the ALR to facilitate the development of eleven units of agri-tourism accommodations.
The application was refused by the Commission in October, 2002 on the grounds that the improved agricultural capability ratings of the property showed that the land was prime agricultural land.
RECONSIDERATION: The decision was reconsidered based on the submission of a December 3, 2002 letter from Pottinger Gaherty Environmental Consultants and a January 7, 2003 letter from Hamilton Associates (Art Phillips) indicating the land had poor agricultural capability.
Decision: Allowed on the grounds the land had poor agricultural capability.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional District of Okanagan Similkameen: No comments or recommendations.

The Regional District Rural Land Use Bylaw (which zones the property as Agriculture 1 (AG1)) does not permit a 20 unit guest hotel presently. If permitted, rezoning would be required.

STAFF COMMENTS:

Staff suggests that the Commission consider the following:

- The two properties are used as a single agricultural unit, and as per policy, the Commission would only permit a 10 unit agri-tourist facility without application.
- The applicant has offered to restrict the potential agri-tourist facilities on the northerly Lot 3 by way of covenant.

STAFF COMMENTS (continued):

- A residence and garage will be removed to make way for the agri-tourist overnight facilities.
- At a December 12, 2006 meeting with the proponents the Commission recalled that it had already excluded substantial areas from the ALR on the Greata Ranch property, and that these currently vacant areas could accommodate the agri-tourist facilities
- Following the site visit, the applicants provided a revised site plan of the facilities. The revised site plan shows the 20 unit facility located on land currently not in agricultural production. The applicant made the argument that the agri-tourist development would not result in a net loss of currently cultivated land.
- Commission staff notes that the winery expansion would result in the loss of 612 vines due to the winery relocation. It is possible that the winery relocation could be on uncultivated land. However, the proponent has topographic and operational reasons for the proposed winery location, and correctly points out that using arable land for a winery production facility is permitted by the Commission's regulations.
- Staff has explored the option of including land into the ALR, currently in vine production. The applicants indicate they are willing to include into the ALR an area presently in vine production (comprising about 0.4 ha). The area proposed for inclusion would almost balance the cultivated area lost to the winery relocation.

ATTACHMENTS:

- ALR Base Map #82E/12
- ALR Constituent Map #1&2
- Air photo
- Sketch of original proposal
- Sketch of revised proposal

END OF REPORT

Signature



Date

March 13, 07