



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604-660-7000  
Fax: 604-660-7033  
www.alc.gov.bc.ca

June 14, 2007

Reply to the attention of Brandy Ridout  
ALC File: #V - 37148

Lyle and Maret Johanson  
4763 Pilot House Road  
West Vancouver, BC V7W 1J2

Dear Mr. and Mrs. Johanson:

Re: Application for exclusion from or subdivision within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 268/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'EKAR', is written over the 'Per:' label.

Erik Karlsen, Chair

cc: Regional District of Okanagan-Similkameen (#A06-06045-001)

Enclosure: Minutes

BR/lv  
37148d1



## **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:

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.

## **Discussion**

### **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 subject property is Class 3 (prime) with limitations of soil moisture deficiency and topography. 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 considered whether the property was suitable for agriculture. This consideration included details such as property size, surrounding land use and limitations to agriculture. While the Commission did acknowledge that portions of the property were limited due to topography, it did not believe this limitation or any other factor would render the land completely 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. All three options were considered by the Commission in terms of their impact on agriculture.

The first option was to exclude approximately 0.36 ha from the 3.9 ha subject property in order to subdivide three residential lakeshore lots of 0.12 ha. This request was based on information provided by the applicants that the area had never been used for agriculture due to topography. It was also noted that the steep eastern slope creates poor drainage from the bottom of the slope to the waterfront and has poor sun exposure. Despite this information, during the site visit the Commission noted that a portion of the 0.36 ha area was planted in grapes. The Commission believed that the area, although partially sloped, had some utility for agriculture. Beyond the issue of agricultural capability, the Commission also believed that additional residences in this area could lead to potential future conflicts between residential and agricultural users and that access to the lots would remove suitable agricultural land from future production. While there are currently small lots along the lake, the Commission did not wish to willingly exacerbate the problem of potential conflict by allowing the creation of three additional lots.

The second option to subdivide and exclude one 0.15 ha residential lakeshore lot was also considered by the Commission. It was believed that a long pan handle driveway would negatively affect the agricultural remainder. The Commission considered the fact that many parcels of agricultural land have portions that are less suited to agricultural use. However, the Commission must consider the impact subdivision or exclusion of these less suited areas will have on agriculture on the subject property and surrounding lands. It believed that the subdivision of a residential lot would represent an intrusion into the agricultural area.

The final option to subdivide the 3.9 ha property into two lots of roughly equal size was not believed to be in the best interest of agriculture as it would divide the cultivated area into two lots.

In conclusion, the Commission did not believe that any of the proposals would benefit agriculture. It believed that the proposals would negatively impact existing or potential agricultural use of the subject property and surrounding lands.

#### **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 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 Irvine  
**SECONDED BY:** Commissioner Sidhu

THAT the application be refused on the grounds that the land proposed for exclusion/subdivision had a degree of agricultural suitability and the impact of introducing additional residential lots to the area would be detrimental to agriculture on the subject property and surrounding lands.

#### **CARRIED**

**Resolution # 268/2007**



**Staff Report**  
**Application # V – 37148**  
**Applicant: Lyle and Maret Johanson**  
**Location: north of Osoyoos**

**DATE RECEIVED:** October 23, 2006

**DATE PREPARED:** January 19, 2007

**TO:** Chair and Commissioners – Okanagan Panel

**FROM:** Brandy Ridout, Land Use Planner

**PROPOSAL:** To applicants have proposed three alternate exclusion/subdivision scenarios in the following order of priority;

- exclude approximately 0.36 ha from the 3.9 ha subject property in order to subdivide three residential lakeshore lots of 0.12 ha,
- subdivide and exclude one 0.15 ha residential lakeshore lot,
- subdivide the 3.9 ha property into two lots of roughly equal size.

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

**BACKGROUND INFORMATION:**

**Local Government:**

Regional District of Okanagan-Similkameen

**Legal Description of Property:**

PID: 023-929-031

Lot 1, District Lot 2450s and 3460s, KAP60337, Similkameen Division Yale District

**Purchase Date:**

October 1997

**Location of Property:**

11603 - 87th Street, approximately 1.2km north of Osoyoos

**Size of Property:**

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

**BACKGROUND INFORMATION (continued):**

**Present use of the Property:**

Residence, orchard, garage

**Surrounding Land Uses:**

**NORTH:** Orchard in the ALR (and conditionally excluded lakeshore area)

**SOUTH:** Orchard in the ALR

**EAST:** Osoyoos Lake

**WEST:** Orchard in the ALR

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82E/3

The majority of the property is identified as having prime dominant ratings.

**Official Community Plan and Designation:**

Osoyoos Rural OCP Bylaw No. 2260 (2004)

Designation: Agriculture

**Zoning Bylaw and Designation:**

Osoyoos Rural Zoning Bylaw No. 2261 (2004)

Designation: Agriculture 2 (AG2)

Minimum Lot Size: 4 ha

**PREVIOUS APPLICATIONS:**

**Application #25687-0**

**Applicant:** CPALO Holdings Inc.

**Decision Date:** October 21, 1991

**Proposal:** To subdivide the old railway right of way and consolidate with adjacent properties.

**Decision:** Allowed because the proposal would increase the size and utility of several orchard parcels.

**RELEVANT APPLICATIONS:**

Application #34339-0

**Applicant:** Gormar Properties Ltd.

**Decision Date:** July 20, 2002

**Proposal:** To exclude five small parcels totaling 3.3 ha from the Agricultural Land Reserve.

**Decision:** Refused - but allowed the subdivision of the property subject to the submission of a subdivision plan of up to eight lots and a fencing plan (chain link or solid wood).

---

Application #34339-1

**Applicant:** Gormar Properties Ltd.

**Decision Date:** November 19, 2004

**Proposal:** To subdivide ten (10) lots rather than the previously approved eight (8).

**Decision:** Allowed on the grounds the increase in residential density is not significant. The Commission indicated that upon build out it would be prepared to review its decision to retain the land within the ALR.

**RELEVANT APPLICATIONS (continued):**

Application #34339-2

Applicant: Gormar Properties Ltd.

Decision Date: March 11, 2005

Proposal: To exclude the 10 residential lots approved by Resolution #508/2004. The Commission retained the land within the ALR because of concerns about unauthorized densification. The applicant suggests that retaining the properties within the ALR is unnecessary and may frustrate financing of the project.

Decision: Allowed the exclusion of 3.3 ha (presently 5 lots, to be subdivided into 10 residential lots) subject to fencing the perimeter of the development to restrict trespass.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**Regional District of Okanagan-Similkameen:** No comments/recommendations, as per policy.

**Area 'A' Director:** Does not support the application (see letter).

The orchard operator who leases the property has provided a letter indicating that he supports the application because it would not affect the agricultural lands.

**STAFF COMMENTS:**

Staff recommends that the Commission undertake a site visit to review the agricultural capability of the foreshore land under application and the implications of subdivision, access and residential use on the agricultural utility of the 3.5 ha remnant. The applicant has not provided any detailed information about the issue of access to the proposed new lots, either by way of panhandle, easement or right of way.

The applicant references the Commission's decision to exclude the adjoining foreshore area to the north. The Commission conditionally excluded the area to the north because the land was debilitated for agriculture by sawmill uses and because the land was separated from the orchard areas by a substantive topographic break. The exclusion area also had existing road access.

Staff does not recommend that the Commission favorably consider the subdivision of the property into two lots of equal size because subdivision would reduce agricultural capability.

**ATTACHMENTS:**

- ALR Base Map 82E/3
- ALC Constituent Map #23
- Proposal (provided by applicants)
- Proposal sketch maps (provided by applicants)
- Letter from Area 'A' Director
- Air photo

**END OF REPORT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date