



**Agricultural Land Commission**  
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April 12, 2007

Reply to the attention of Brandy Ridout  
ALC File: #T - 37205

Sheila Sperling  
4916 Haynes Road  
Vernon, BC V1B 3J6

Dear Ms. Sperling:

**Re: Application to subdivide land in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 108/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of North Okanagan (#06-0709-C-ALR)

Enclosure: Minutes

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# MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

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

<b>PRESENT:</b>	Sue Irvine	Chair, Okanagan Panel
	Sid Sidhu	Commissioner
	Monika Marshall	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

### For Consideration

Application: # T- 37205  
 Applicant: Sheila Sperling  
 Proposal: To subdivide a 0.4 ha lot from the 2 ha subject property.  
 Legal: PID: 004-620-224  
 Lot 1, Section 12, Township 8, Osoyoos Division Yale District, Plan 28222  
 Location: 4916 Haynes Road, Vernon

### Site Inspection

A site inspection was conducted on March 29, 2007. Those in attendance were:

- Sue Irvine                      Chair, Okanagan Panel
- Sid Sidhu                        Commissioner
- Monika Marshall              Commissioner
- Brandy Ridout                 Staff
- Martin Collins                 Staff
- Sheila Sperling                Applicant
- Russell Shortt                 Surveyor

Ms. Sperling confirmed that she had received the staff report dated March 8, 2007. She wished to clarify that the Regional District Board had supported the application and indicated that the application was supported by 11 of the 13 board members. She provided a copy of an e-mail confirming that the application was authorized for submission.

The Commission viewed the property, including the area where soil had previously been removed. The applicant indicated that no attempt had been made to pursue agriculture on the property since its purchase in 1979.

During the site visit, the applicant indicated a willingness to alter the requested subdivision, either to a smaller lot or subdividing in a different location on the property (one option being the area that had previously been disturbed by soil removal).

Applications on surrounding properties were also discussed during the site visit. The 1.1 ha property to the north was approved for subdivision under an application to the Commission on the grounds the parcel shape, size and topography suggested that agricultural development was unlikely. The property to the east was subdivided in 1995 without application to the Commission as it was less than 2 acres and on its own title on December 21, 1972 and therefore not subject to the *Agricultural Land Commission Act*.

## **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 majority of the subject property is Class 3 with limitations of soil moisture deficiency and topography. However, the improved treefruit rating for the property is Class 1.

Class 1 – Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.

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

The Commission noted that there was a portion of the property that had been disturbed by the removal of material. The Commission believed that although material had been removed, the soil could be improved with the addition of suitable soil amendments or that the area could be used for the location of farm buildings.

### **Assessment of Agricultural Suitability**

The Commission assessed whether external factors, such as encroaching non-farm development, have caused or will cause the land to become unsuitable for agriculture. Although there are residential lots around the subject property, the Commission believes that they do not make farming the subject property impossible. 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 believes the proposal would negatively impact existing or potential agricultural use of the subject property in that it would reduce the area available for agriculture.

### **Assessment of Other Factors**

Although application for subdivision was made under the *Homesite Severance Policy*, the applicant does not qualify for consideration under the *Policy* as she has not owned and occupied the property since December 21, 1972.

The Commission recalled the two previous decisions on the property. The proposals to subdivide a 0.25 ha lot and subsequently a 0.4 ha lot were refused by the Commission on the grounds that subdivision would reduce the agricultural potential of the property and heighten the expectations of surrounding property owners.

### **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 Marshall

THAT the application to subdivide a 0.4 ha lot from the 2 ha subject property be refused.

### **CARRIED**

**Resolution # 108/2007**



**Staff Report**  
**Application # T – 37205**  
**Applicant: Sheila Sperling**  
**Location: Vernon**

**DATE RECEIVED:** January 23, 2007

**DATE PREPARED:** March 8, 2007

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

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

**PROPOSAL:** To subdivide a 0.4 ha lot (containing the home) from the 2 ha subject property.

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

**BACKGROUND INFORMATION:**

The applicant is requesting subdivision as the property has two existing frontages, there are no substantial agricultural operations in the area, and there are other existing small residential lots adjacent. Although the applicant is aware that she does not qualify for consideration under the *Homesite Severance Policy* because the property was purchased in 1979, she is requesting that the subdivision be considered for compassionate reasons.

**Local Government:**

Regional District of North Okanagan

**Legal Description of Property:**

PID: 004-620-224  
Lot 1, Section 12, Township 8, Osoyoos Division Yale District, Plan 28222

**Purchase Date:**

1979

**Location of Property:**

4916 Haynes Road, Vernon

**Size of Property:**

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

**BACKGROUND INFORMATION (continued):**

**Present use of the Property:**

Rural Residence

**Surrounding Land Uses:**

**WEST:** 2 ha rural residence, in the ALR two large garages (one used as business)  
**SOUTH:** 2 ha rural residence, storage building lying within the ALR  
**EAST:** Small lot non ALR subdivision, and two 0.4 ha lots in the ALR.  
**NORTH:** 1 ha rural residence in the ALR, small lot non ALR subdivision

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82 L.024  
The majority of the property is identified as having prime dominant ratings.

**Official Community Plan and Designation:**

Rural Vernon OCP Bylaw No. 1708 (2003)  
Designation: Agricultural

**Zoning Bylaw and Designation:**

Zoning: Bylaw No. 1888 (2003)  
Designation: Country Residential, Minimum Lot Size: 2.0 ha

**PREVIOUS APPLICATIONS:**

**Application #17308-0**

**Applicant:** D H & S J Sperling  
**Decision Date:** 1983  
**Proposal:** To subdivide a 0.3 ha lot from the 2 ha property.  
**Decision:** Refused on the grounds that subdivision would reduce the agricultural potential of the property and raise expectations of surrounding property owners.

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**Application #26317-0**

**Applicant:** D H & S J Sperling  
**Decision Date:** July 16, 1992  
**Proposal:** To subdivide a 0.4 ha residential lot from the 2.0 ha property.  
**Decision:** Refused on the grounds that subdivision would reduce the agricultural potential of the property and heighten the expectations of the surrounding property owners. It was noted at this time that it was the opinion of the Commission that the former gravel pit area did not significantly reduce the agricultural potential of the property.

**RELEVANT APPLICATIONS:**

The property lying to the east of the subject property was subdivided in 1995 without application to the Commission as it was under 2 acres and on its own title on December 21, 1972.

**Application #34821-0 (to the north of the subject property)**

**Applicant:** Robert & Joanna Byrnes  
**Decision Date:** June 19, 2003  
**Proposal:** To subdivide the 1.1 ha property into two lots of roughly equal size.  
**Decision:** Approved on the grounds the parcel shape, size and topography suggested that agricultural development was unlikely.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**Regional District of North Okanagan (NORD) Board:** Forwarded the application without comment.

**Advisory Planning Commission Area 'C':** Recommend the application not be authorized for submission.

**Electoral Area Services Commission:** Recommend the application not be authorized for submission.

**NORD Development Services:** Recommend the application not be authorized for submission.

**STAFF COMMENTS:**

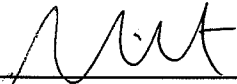
Staff recommends that the Commission consider the following:

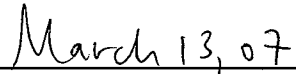
- The best information indicates that the undisturbed soils on the property have very good agricultural capability for tree fruit production, with irrigation.
- The property has been refused subdivision in the past arising from the recommendations of a Commissioner following a site visit.
- The land has some evidence of previous disturbance due to gravel extraction.
- Generally the Commission does not consider financial hardship as a rationale for subdivision.

**ATTACHMENTS:**

- ALR Base Map #82L/6
- NORD map of proposal
- Additional information (provided by applicant)
- NORD December 14, 2006 memorandum
- Air photo

**END OF REPORT**

  
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Signature

  
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Date