



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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June 19, 2007

Reply to the attention of Brandy Ridout
ALC File: #G - 37346

Carmen Seltnerich & Maria Levin
4513 Haugland Avenue
Terrace, BC V8G 2G2

Dear Mrs. Seltnerich and Mrs. Levin:

Re: Application to subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 276/2007 outlining the Commission's decision as it relates to the above noted application.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', written over a white background.

Erik Karlsen, Chair

cc: City of Kelowna (#A07-0003)

Enclosure: Minutes/Sketch Plan

BR/lv
37346d1

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 1, 2 and 3 (prime) with minor limitations of topography, soil moisture deficiency, and stoniness.

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 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

Class 3 – Land in this class 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. The Commission did not believe there were factors that would 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.

Under previous application #G-21215, a homesite severance lot was approved for the applicants' parents but they did not complete the subdivision. The previous approval was for the subdivision of a 0.3 ha lot that would include the residence, garage and driveway. Since that time, an additional residence had been constructed on the property.

The Commission took this history into consideration when discussing the current proposal. While homesite severance subdivisions are granted to allow a farmer who has owned and resided on the property since before the ALR was created to retain a homesite, the Commission believed that in this case, extenuating circumstances had kept the applicant's parents from formally completing the approved subdivision.

The Commission's main concerns with the current subdivision request were to ensure that as much land was retained with the agricultural remainder as possible and the impact of a residence on the remainder was minimized. As such, they would allow a 0.2 ha lot that would contain the applicant's current residence and would require a covenant to be registered against the title of the remainder that would limit the number of dwellings to one and its location to the site of the existing uninhabited residence.

IT WAS

MOVED BY: Commissioner Irvine

SECONDED BY: Commissioner Sidhu

THAT the application to subdivide a 0.35 ha lot from the 8 ha subject property be refused as proposed.

AND THAT the Commission will allow the subdivision of a 0.2 ha lot to contain the applicant's current residence subject to the following conditions:

- the subdivision be in substantial compliance with the attached plan
- the construction of a fence and planting of a vegetative buffer for the purpose of limiting the impact of the 0.2 ha residential lot on the agricultural remainder.
- the registration of a covenant on the remainder for the purpose of restricting the location and number of dwellings. The covenant will restrict the location of a residence on the property to its current site and will limit the number of dwellings to one.
- compliance with the *Homesite Severance Policy*
- the subdivision must be completed within three (3) years from the date of this 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.

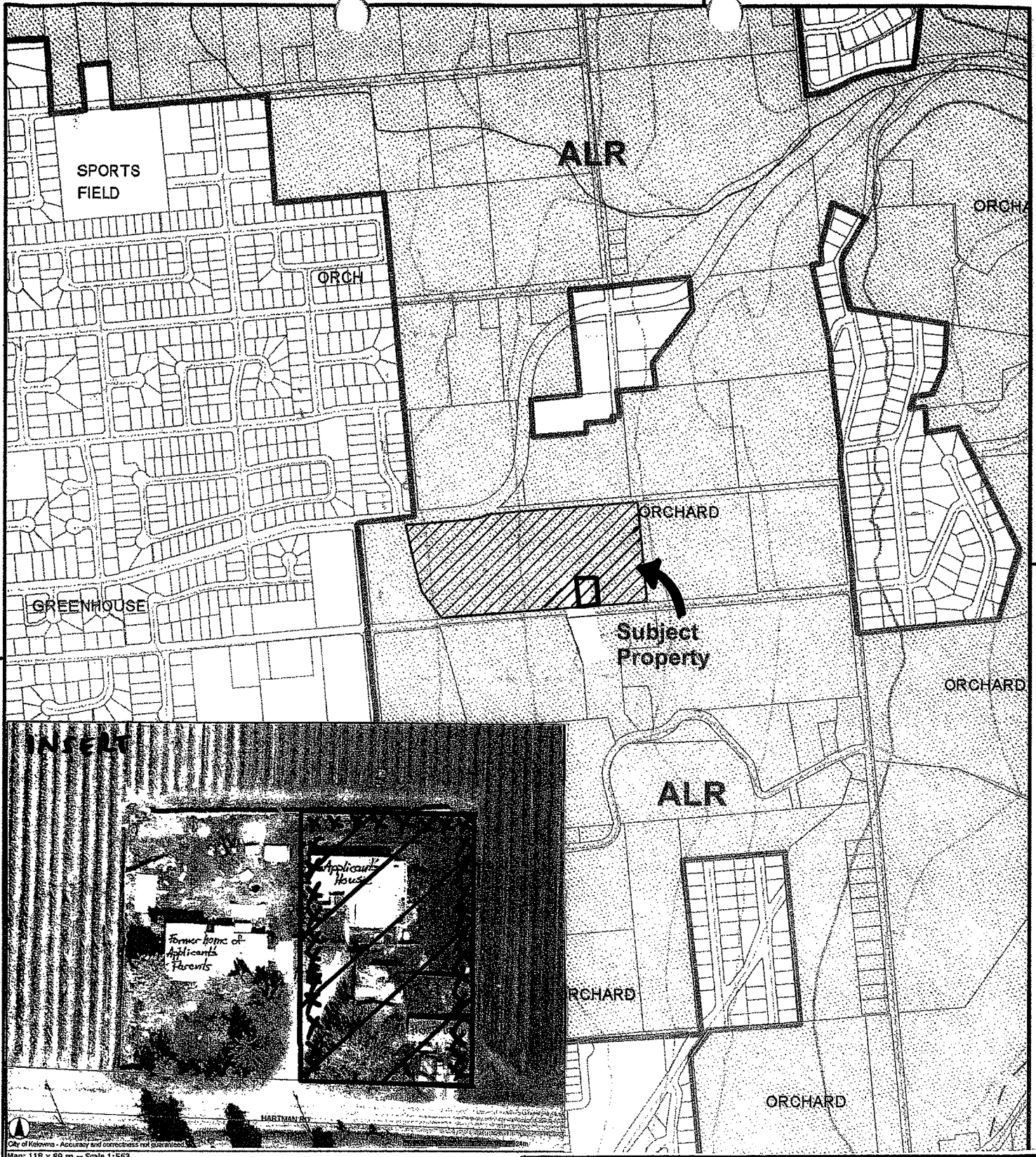
CARRIED

Resolution # 276/2007

119°22'0"W


49°54'0"N

49°54'0"N

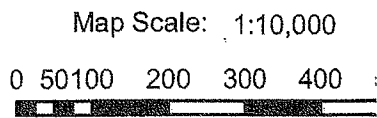


City of Kelowna - Accuracy and correctness not guaranteed.
 Map: 118 x 69 m - Scale 1:563

Provincial Agricultural Land Commission
Application #G-37346
Resolution #276/2007

 0.2 ha area approved for subdivision in the ALR (approximate location, see insert)

 Location of fencing & buffer vegetation





Staff Report
Application # G – 37346
Applicant: Tonette Graf
Owners: Carmen Seltenrich & Maria Levin

DATE RECEIVED: April 13, 2007

DATE PREPARED: May 29, 2007

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: Subdivide for a relative: To subdivide a 0.35 ha lot from the 8 ha subject property. In addition, the applicants are requesting that the three dwellings on the property be allowed to remain - one house as the primary residence of one of the applicants, the other house to be developed with two units for individuals with special needs, and the picker's cabin to remain as a rental unit.

This application is made pursuant to section 20(3) and 21(2) of the
Agricultural Land Commission Act.

BACKGROUND INFORMATION:

Under previous application #G-21215, a homesite severance lot was approved for the applicants' parents but they did not complete the subdivision prior to their death. As executrices of the will of Maria Vehlo, the applicants wish to pursue this approval.

Local Government:

City of Kelowna

Legal Description of Property:

PID: 010-360-131
Lot A, Section 25, Township 26, Osoyoos Division Yale District, Plan 5499, Except Plan KAP60758

Purchase Date:

1965 (applicants' parents)

Location of Property:

690 Hartman Road, Kelowna

Size of Property:

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

Present use of the Property:

2 main residences, a small cabin, shed and garage

Surrounding Land Uses:

WEST: Rural
SOUTH: Rural
EAST: Rural
NORTH: Rural

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.084 & .094
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

OCP: Bylaw No 2020
Designation - rural/agricultural

Zoning Bylaw and Designation:

Zoning: Bylaw No 8000
Designation: Zoned - A1 - agriculture 1
Minimum Lot Size - 2 ha

PREVIOUS APPLICATIONS:

Application #75-1248-0

Applicant: Antonio Velho
Decision Date: November 27, 1975
Proposal: To subdivide the 8.1 ha subject property into two approximately 4 ha lots.
Decision: Refused.

Application #07525-0

Applicant: Antonio & Maria Velho
Decision Date: 1978
Proposal: To subdivide a 2 ha lot from the 8.1 ha subject property.
Decision: Refused.

Application #21215-0

Applicant: Antonio & Maria Velho
Decision Date: June 24, 1987
Proposal: To subdivide a 0.8 ha lot from the 8.4 ha subject property under the Homesite Severance Policy.
Decision: Refuse - however, the Commission would allow the subdivision of a smaller homesite of 0.3 ha, which would include the residence, garage and driveway.

Application #23475-0

Applicant: Antonio & Maria Velho
Decision Date: 1989
Proposal: To subdivide the 8.1 ha subject property into one 4.1 ha orchard parcel and two 2 ha residential lots.
Decision: Refused on the grounds that the property is suitable for agricultural use, as evidenced by its improved CLI rating of Class 2 and 3 for tree fruits as well as its current use as an orchard.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

City of Kelowna Council: Support.

City of Kelowna Planning & Development Services Department: Recommend the subdivision portion of the application be supported. Recommend that the non-farm use portion of the application be supported provided:

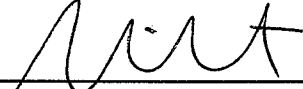
1. that only the existing pickers cabin be considered as a secondary dwelling unit.
2. that the uninhabited dwelling formerly occupied by the applicants' parents be relocated to another parcel, demolished or decommissioned.

Agricultural Advisory Committee: Support subdivision and non-farm use.

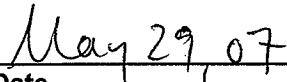
ATTACHMENTS:

- ALR map (1:50,000)
- Letter from applicant
- Planning & Development Services report
- Cadastre
- Air photo (1:2,822)
- Air photo (1:563)

END OF REPORT



Signature



Date