



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
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www.alc.gov.bc.ca

November 30, 2007

Reply to the attention of Brandy Ridout  
ALC File: G-37565

Peter Klimuk  
Milagro Advisory Services Inc.  
#10 - 2070 Harvey Avenue  
Kelowna, BC V1Y8P8

Dear Mr. Klimuk:

**Re: Application to Subdivide land within the Agricultural Land Reserve**

Please find attached the Minutes of Resolution # 558/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

If your client wishes to pursue the Commission's alternate decision, 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: 

Erik Karlsen, Chair

cc: City of Kelowna (A07-0014)

Enclosure: Minutes/Sketch Plan

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## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

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A meeting was held by the Provincial Agricultural Land Commission on November 9, 2007 at the Ministry of Agriculture and Lands offices located at 4607 - 23rd St, Vernon, BC.

**PRESENT:**

Sue Irvine	Chair, Okanagan Panel
Roger Mayer	Commissioner
Sid Sidhu	Commissioner
Brandy Ridout	Staff
Martin Collins	Staff

### For Consideration

Application: # G- 37565  
Applicant: Tommy & Sandra Josiassen  
Agent: Milagro Advisory Services Inc.  
Proposal: To subdivide the 2.4 ha subject property into three (3) lots of 0.4 ha and one (1) lot of 0.7 ha (0.5 ha would be required for road access).  
Legal: PID: 005-438-004  
Lot 2, Section 13, Township 26, Osoyoos Division of Yale District, Plan 4283, EXCEPT Plan H8383  
Location: 1305 Highway 33, Kelowna

### Site Inspection

A site inspection was conducted on Wednesday November 7, 2007. Those in attendance were:

- Sue Irvine Chair, Okanagan Panel
- Roger Mayer Commissioner
- Sid Sidhu Commissioner
- Brandy Ridout Staff
- Martin Collins Staff
- Peter Klimuk Agent
- Tommy Josiassen Landowner

Peter Klimuk confirmed that the staff report dated August 15, 2007 was received. Mr. Klimuk clarified that only 0.35 ha would be required for road access.

The Commission noted that the property was separated from farmlands to the west by a very steep high bank and that buildings covered much of the property. Only small areas were available for agricultural development.

## **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 of the property, the Commission confirms that portions of the property have capability for agriculture (as per H. Luttmending's, January 2, 2006 Agrologist Report). It was noted that about half of the 2.4 ha property had no agricultural capability due to very steep slopes and the presence of structures.

### **Assessment of Agricultural Suitability**

The Commission assessed whether the land was suitable for farming. It did not believe external factors, such as encroaching non-farm development, have caused or will cause the land to become unsuitable for agriculture. However, the Commission did admit that the limited arable area of the parcel did limit the potential for agricultural development. In addition, the proposed expansion of Highway #33 will further erode the limited land base suitable for agriculture.

### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the subdivision proposal against its goal of preserving agricultural land. The Commission believed the four lot residential subdivision would eliminate the agricultural capacity of the property and could negatively affect the approximately 2 ha property lying to the south by raising expectations of land use change and dampening potential intensive agricultural development. It believed it was also possible that a residential subdivision would be incompatible with nearby existing and potential intensive agricultural operations.

The Commission appreciated that little or no farming activity was occurring on the adjoining 2 ha parcel to the south or on the smaller parcels to the north. However, the western slopes of the southerly parcel appear to be less severe than those of the subject property, suggesting greater agricultural potential and increased potential for small lot subdivision to negatively affect adjoining farmland to the west.

However, the Commission does not believe that subdivision of the property into two roughly equal sized 1.2 ha parcels would have a substantial impact on the limited farm capability of the subject property. Furthermore, the resulting 1.2 ha lots would retain some potential for agricultural use, and represent a suitable transition from the smaller properties to the north and urban development to the east while retaining the rural potential of the community.

**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 four lot subdivision proposal will negatively impact agriculture. However, a two lot subdivision would not have a negative impact on the limited farm capability of the subject property and would act as a transition between the smaller properties to the north and urban development to the east.

**IT WAS**

**MOVED BY:** Commissioner Irvine

**SECONDED BY:** Commissioner Sidhu

THAT the application to subdivide the 2.36 ha property into four lots be refused as proposed.

AND THAT the Commission would allow the subdivision of the property into two 1.2 ha lots of roughly equal size (on an east/west subdivision alignment) subject to the subdivision being completed within three (3) years from the date of this decision.

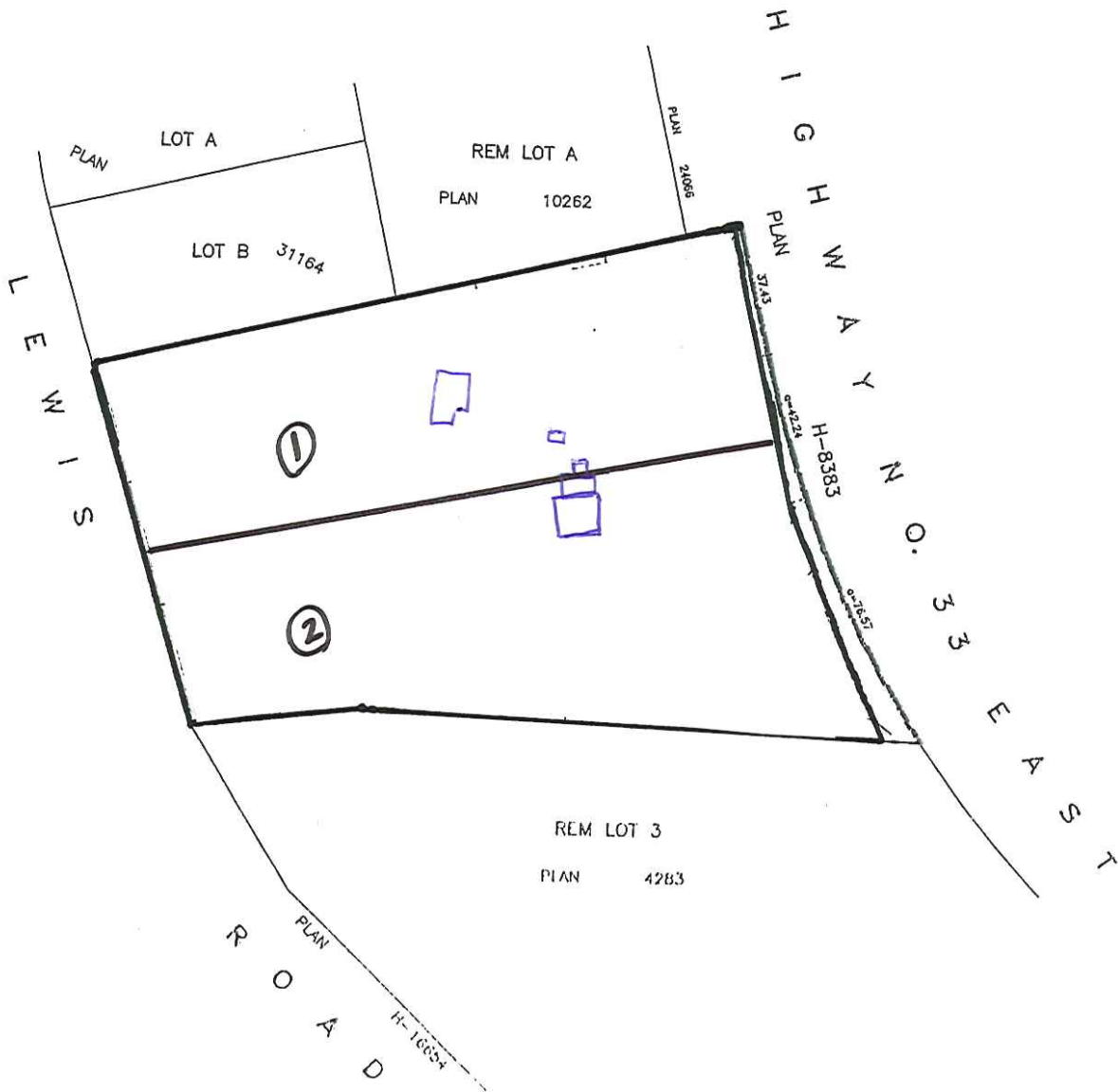
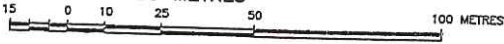
This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

**CARRIED**

**Resolution # 558/2007**

PROPOSED SUBDIVISION PLAN OF LOT 2, PLAN 4283, SECTION 13,  
TOWNSHIP 26, ODYD; EXCEPT PLAN H8383

B.C.G.S. 82E.084  
SCALE: 1:1000 METRES



**Provincial Agricultural Land Commission**  
Application #G-37565  
Resolution #558/2007

**① ②** approved subdivision in the ALR

DATE: OCTOBER 25th, 2006  
REV4- MAY 10th, 2007

T.I. Ferguson Land Surveying Ltd.  
P.L.C. AND CANADA LAND SURVEYORS  
216-1021 BRIDGE STREET, KILGOMERIE, B.C.  
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JOB NO. #16924-SUB