



Agricultural Land Commission
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August 27, 2008

Reply to the attention of Brandy Ridout
ALC File: **G-38157**

Lynda Mayers
3430 Benvoulin Road
Kelowna, BC V1W4M5

Dear Mrs. Mayers:

Re: Application for non-farm use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #438/2008 outlining the Commission's decision as it relates to the above-noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

cc: City of Kelowna (A07-0024)

Enclosure: Minutes

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on August 7, 2008 in Vernon, BC.

PRESENT: Roger Mayer Chair, Okanagan Panel
Sid Sidhu Commissioner
Gerald Zimmermann Commissioner
Brandy Ridout Staff

For Consideration

Application: #G-38157
Applicant: Lynda Mayers
Proposal: To allow for the adaptive re-use of a heritage home (3,269 square feet/300 m²) for commercial use (office/design studio) and construction of an additional residence (1,829 square feet/170 m²).
Legal: PID: 009-758-909
Lot 1, District Lot 132, Osoyoos Division Yale District, Plan 8996, EXCEPT Plan KAP66606
Location: 3430 Benvoulin Road, Kelowna

Site Inspection

A site inspection was conducted on August 5, 2008. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Sid Sidhu Commissioner
- Gerald Zimmermann Commissioner
- Brandy Ridout Staff
- Ted Mayers Applicant

Mr. Mayers confirmed that the staff report dated July 22, 2008 was received and no errors were identified.

The Commission walked the property, noting that the majority of the road reserve area was planted in corn, trees and other agricultural crops. However, as this 0.483 ha portion of the 1.5 ha property would be used in the future for the construction of Burtch Road, the Commission noted that the potential agricultural use of the property was limited. It also noted that the remaining area was occupied by the heritage house, driveway, pool, new dwelling currently under construction, and Fascieux Creek.

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

The agricultural capability of the soil of the subject property is Class 3 with a limitation of low fertility characteristics. 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 assessed whether factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission believed that the size of the property, its configuration, the 0.5 ha dedicated as road reserve, and the presence of a creek through the southwest portion of the property limited the area that could be used for agriculture and thus its suitability for agriculture.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long-term goal of preserving agricultural land. The main concerns with the proposal were the impact on surrounding agricultural operations of a non-farm use of the property and the possibility of the operation growing beyond a home-based business to become a general commercial use.

In order to limit the impact of the proposal, the Commission would restrict its approval to the use exactly as proposed - a landscape architect firm with 4-6 employees inside the existing heritage building, 2 clients per day on average, 6-8 parking spaces, and a demonstration garden to show the feasibility of farming on a small acreage (i.e. rooftop gardens). Any modification to the use would require the submission of a new non-farm use application and the proposal would be considered on its own merits.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application has limited suitability for agricultural use.
3. That the proposal will not have a negative impact on agriculture if it is undertaken exactly as proposed.

IT WAS

MOVED BY: Commissioner Zimmermann
SECONDED BY: Commissioner Sidhu

THAT the application to use the existing heritage house on the property as a landscape architect firm with 4-6 employees inside the existing heritage building, 2 clients per day on average, 6-8 parking spaces, and a demonstration garden to show the feasibility of farming on a small acreage (i.e. rooftop gardens) be approved.

AND THAT the approval for non-farm use is granted for the proposal as presented and is not modifiable.

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 #438/2008