



Agricultural Land Commission
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December 19, 2008

Reply to the attention of Brandy Ridout
ALC File: **V-35825**

464243 BC Ltd
RR3 - 9731 Thompson Road
Summerland, BC V0H1Z0

Dear Sir/Madam:

Re: Application to Exclude land from the Agricultural Land Reserve

Please find attached the Minutes of Resolution #764/2008 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 'Erik Karlsen', written over a light blue horizontal line.

Erik Karlsen, Chair

Enclosure: Minutes

cc: The District of Summerland

BR
i/35825d1



A meeting was held by the Provincial Agricultural Land Commission on November 28, 2008 at the offices of the Regional District of Okanagan Similkameen located at 101 Martin St, Penticton, B.C.

PRESENT:	Roger Mayer	Chair, Okanagan Panel
	Sid Sidhu	Commissioner
	Gerald Zimmermann	Commissioner
	Martin Collins	Staff

For Consideration

Application: #V-35825
Applicant: 464243 BC Ltd
Proposal: To exclude the 3.8 ha property from the ALR for the purpose of developing multi family residential housing.
Legal: Lot 10, District Lot 473, Osoyoos Division Yale District, Plan 147, EXCEPT Plan B6586 (PID: 012-671-070)
Location: Summerland

Site Inspection

The exclusion application was received by the Commission on February 2, 2005 and a site inspection was undertaken on March 10, 2005. However, a decision was not made at that time as the application was put on hold pending the completion of the District of Summerland’s Official Community Plan and Agricultural Plan.

As the Okanagan Panel had not viewed the property or met with the applicants, a second site inspection was conducted on Thursday, November 27, 2008. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Sid Sidhu Commissioner
- Gerald Zimmermann Commissioner
- Martin Collins Staff
- Len Strafehl Applicant
- Ray Strafehl Applicant

The Commission noted that the land is still in orchard production. The applicants indicated that there are challenges to agricultural production on the site; for example trespass (damage and theft) and complaints by adjoining residents. In addition, frost can be a problem for soft fruit production.

The Panel was also presented with a summary of the September 28, 2008 “addendum” to the application which indicated that:

- The property is surrounded on three sides by residential uses and the fourth side by institutional structures,
- Conflicts and trespass and lighting pose operational challenges,
- Previous ALC assurances of exclusion were referenced,
- Community needs for affordable and seniors housing close to the community core are well documented,

- There is strong public support for a housing development,
- Infrastructure services are available

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 approximately half Class 2 with a limitation of topography and half 80% Class 2 and 20% Class 3. The capability ratings also indicate the soils are affected by the persistent aridity in the growing season. However, this soil moisture deficiency limitation can be mitigated by irrigation.

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 assessed whether factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission noted that the adjoining land to the east was developed for high density housing, but that the development was fenced from the orchard. The Commission appreciated that there might be challenges to agricultural development due to the proximity of residential uses (re: complaints, trespass and vandalism). However, it did not believe that proximity, in and of itself, made the land unsuitable for agricultural uses. It believes that there are external fencing options available that can reduce or eliminate trespass.

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 exclusion/development proposal would permanently remove a large, arable parcel from production and raise expectations that other farmland adjacent to residential development had potential for non farm uses in Summerland.

Assessment of other factors

The Commission noted that the current Summerland Official Community Plan (OCP), adopted in 2008, does not identify the Strafehl property within the Urban Growth Boundary. The Commission was prepared to accept the current OCP as reflecting the community policy direction with regard to this property. That being said, the Commission believed that regardless of the OCP designation or current Council position on this property, that its mandate and its assessment of the agricultural potential of the property should direct its decision on the application.

Conclusions

1. That the land under application has agricultural capability, is appropriately designated as ALR, and is suitable for agricultural use.
2. That the proposal will negatively impact agriculture.
3. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Sidhu

SECONDED BY: Commissioner Mayer

THAT the application to exclude 3.8 ha from the ALR be refused.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) *On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) *evidence not available at the time of the original decision has become available,*
 - (b) *all or part of the original decision was based on evidence that was in error or was false.*
- (2) *The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

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 #764/2008