



Agricultural Land Commission
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December 17, 2008

Reply to the attention of Brandy Ridout
ALC File: **V-38076**

Mathew Lewis
Box 220
Oliver, BC V0H1T0

Dear Mr. Lewis:

Re: Application to Exclude land from the Agricultural Land Reserve

Please find attached the Minutes of Resolution #799/2008 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

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

Enclosure: Minutes

cc: Town of Oliver (06453-000ALR)

MC
/i/38076d1



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 Street, Penticton, BC.

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

For Consideration

Application: #V-38076
 Applicant: Gordon and Steven Forbes
 Agent: Mathew Lewis
 Proposal: To exclude the 5.2 ha subject property from the ALR to develop a mix of low density (small lot) and higher density residential development.
 Legal: PID: 010-501-177
 Lot 1, District Lot 2450s, Similkameen Division Yale District, Plan 4599, EXCEPT Plan KAP66309
 Location: 37052 - 87th Street, Oliver

Site Inspection

A site inspection was conducted on June 17. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Sid Sidhu Commissioner
- Gerald Zimmermann Commissioner
- Martin Collins Staff
- Gordon Forbes applicant
- Steven Forbes applicant
- Mathew Lewis agent

Mathew Lewis confirmed that the staff report dated May 23, 2008 was received and no errors were identified.

The Commissioners were advised that the extreme southerly tip of the property was a marshy wetland and would be retained for wildlife habitat if excluded. The property rose gently in elevation from the road to a gravel ridge which bordered the Okanagan River channel. The orchard is operated under organic principles. The subject property is the most southerly in a string of properties which are identified by the Town of Oliver in its Growth Boundary Study for future residential 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, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using 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 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.

The primary limitations for agricultural development on the property are stoniness and aridity. Summer Irrigation is necessary for any type of agricultural production.

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 does not believe there are factors that render the land unsuitable for agricultural use. The land is buffered from urban development by a swamp to the south, and the Okanagan river to the west. North lies ALR farmland, and, to the east, across the road lies residential development. The Commission does not believe this proximity to residential uses renders the land unsuitable 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 Commission believes the proposal would negatively impact existing or potential agricultural use of the subject property and surrounding lands. The Commission is concerned that exclusion would increase pressure on remaining cultivated farmland lying to the north to be excluded and developed for residential housing.

Assessment of Other Factors

The Commission also considered this application in the context of community planning. It noted that the subject property is identified for urban residential uses in the ongoing Town of Oliver Growth Boundary Study. However, the current Town of Oliver Official Community Plan designates the land as "Agricultural".

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 G. Zimmerman

SECONDED BY: Commissioner R. Mayer

THAT the application to exclude 5.2 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 #799/2008