



Agricultural Land Commission
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October 5, 2009

Reply to the attention of Brandy Ridout
ALC File #H-38740

Bob Holtby
2533 Copper Ridge Drive
West Kelowna, BC V4T 2X6

Dear Mr. Holtby:

Re: Request for Reconsideration

This is further to your e-mail of July 23, 2009 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #110/2009.

The Commission has reconsidered the matter and has attached the Minutes of Resolution #965/2009 outlining its latest decision. 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 light blue horizontal line.

Erik Karlsen, Chair

Enclosure: Minutes

BR/
38740d2



A meeting was held by the Provincial Agricultural Land Commission on September 3, 2009 in the Lakeview Salon, Prestige Hotel, Kelowna, B.C.

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

For Consideration

A letter from Bob Holtby, the applicants' agent, was received requesting that the Commission reconsider its decision recorded as Resolution #110/2009. It indicated that small farm developments exist in the immediate vicinity of the subject property and an inventory of small lots in the ALR in the area was provided. It also indicated that if approved, the smaller lots would be able to produce more than the existing lot if irrigation were available. However, irrigation would only be feasible if subdivision was permitted and groundwater sources were developed.

Application: #H-38740
Applicant: Cynthia, Les, Jason & Jory Bentley
Agent: Bob Holtby
Original proposal: To subdivide the 15.5 ha subject property into three lots - 4.1 ha, 4.8 ha and 6.6 ha.
Original decision: Refused – the land has agricultural capability, is suitable for agriculture as a unit, and the property is better suited for agriculture as a single unit.
Current proposal: To reconsider the proposal on the grounds stated above as well as the provision of a list of properties that are smaller than the subject property in the immediate vicinity.
Legal: PID: 013-936-298
L.S. 12, Section 15, Township 23, Range 10, West of the 6th Meridian, Kamloops Division Yale District
Location: 2647 Garland Drive, Celista, BC

Site Inspection

A site inspection was conducted for the original application on March 26, 2009. Those in attendance at that time were:

- Roger Mayer Chair, Okanagan Panel
- Sid Sidhu Commissioner
- Gerald Zimmermann Commissioner
- Brandy Ridout Staff
- Cynthia Bentley Applicant
- Bob Holtby Agent

Context

The proposal was considered under Section 33 of the *Agricultural Land Commission Act* (the "Act") which states:

- S33(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, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

Discussion

The Commission reviewed the information provided and the file material. It noted that the argument that smaller lots can produce more than larger lots had been discussed onsite. As such, it did not consider this information to meet the criteria of Section 33 of the *Act*.

As indicated in the reconsideration request, Ms. Bentley provided information during the site visit about the types of small farm developments in the immediate area. As such, the Commission did not consider this information to meet the criteria of Section 33 of the *Act*.

The inventory of small lots in the ALR in the area was considered to be evidence that was not available at the time of the original decision. Although the file material contained maps of the subject property and surrounding area, a detailed analysis of lot sizes had not been undertaken. In the reconsideration request, the nearby properties were listed, with their sizes, and it was indicated that the lots have not had a negative impact on surrounding ALR land. As such, the Commission considered this to be new information. However, the presence of small lots in the area did not change the Commission's view that subdividing the subject property into three lots was not in the best interest of agriculture on the subject property itself. While the existing small lots may not have had a negative impact on agriculture in the area, the Commission did not believe that this was adequate rationale to subdivide the subject property. The Commission continued to believe that it would be more beneficial to agriculture to retain the subject property as a single unit.

IT WAS

MOVED BY: Commissioner Mayer
SECONDED BY: Commissioner Sidhu

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT the decision to refuse the subdivision of the 15.5 ha subject property into three lots - 4.1 ha, 4.8 ha and 6.6 ha be upheld.

CARRIED

Resolution #965/2009