

April 19, 2010

Agricultural Land Commission

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www.alc.gov.bc.ca

Reply to the attention of Brandy Ridout ALC File G-38003

Robert Verkerk 4232 Spiers Road Kelowna, BC V1W 4E3

Dear Mr. Verkerk:

Re: Request for Reconsideration

This is further to your letter of December 3, 2009 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #216/2008.

The Commission has reconsidered the matter and has attached the Minutes of Resolution #2412/2010 outlining its latest decision. As your mother's representative, it is your responsibility to notify her accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Erik Karlsen, Chair

Enclosure: Minutes

BR/ 38003d2



A meeting was held by the Provincial Agricultural Land Commission on March 16, 2010 at the Ministry of Agriculture and Lands Office, located at 200-1690 Powick Road, Kelowna, B.C.

PRESENT:

Roger Mayer

Chair, Okanagan Panel

Gerry Zimmermann

Commissioner

Brandy Ridout Martin Collins Staff Staff

For Consideration

A letter from Robert Verkerk was received requesting that the Commission reconsider its decision recorded as Resolution #216/2008. It indicated that the farming practices on the remaining portion of the parent property need room around the edges for spraying and grass cutting, etc. If a fence were built along the boundary between the driveway and the orchard at the northern end of the east boundary, approximately100 trees would have to be removed to allow enough room between the remaining apple trees and fence to allow proper movement of the tractor and equipment through the orchard.

Application	#G-38003
Applicant	Johanna Verkerk
Agent	David Taylor
Proposal	To subdivide a 0.5 ha lot from the 5.1 ha subject property as per the Homesite Severance Policy.
Legal	PID: 008-182-647
	Lot 118, Section 3, Township 26, Osoyoos Division Yale District, Plan 1247
Location	4240 Spiers Road, East Kelowna
Decision	 Approved subject to the following conditions (including but not limited to): The installation of a 1.5 metre pagewire fence along the permeter of the new lot for the purpose of reducing the impact of the new lot on the surrounding agricultural operations (the eastern boundary is already fenced). The registration of a restrictive covenant for the purpose of prohibiting the construction or placement of a dwelling on the orchard area of the 4.6 ha remainder parcel and limiting the number of permanent residential dwellings to one (i.e. one of the cabins must be removed if a new dwelling is to be constructed and the second can remain but may not be replaced with a second permanent residence). The registration of an easement to allow access through the homesite lot to the remainder of the property.
Resolution	#216/2008
Request	To remove the fencing condition.

Site Inspection

A site inspection was conducted for the original application on May 8, 2008. Those in attendance at that time were:

Roger Mayer

Chair, Okanagan Panel

Sid Sidhu

Commissioner

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Gerald Zimmermann Commissioner

Brandy Ridout

Staff

Martin Collins

Staff

Johanna Verkerk

Applicant

David Taylor

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.

The Commission believed that the applicant had provided evidence that was not available at the time of the original decision and so reconsidered the application.

Discussion

The Commission noted the information provided that if a fence were built along the boundary between the driveway and the orchard at the northern end of the east boundary, approximately100 trees would have to be removed to allow enough room between the remaining apple trees and fence to allow proper movement of the tractor and equipment through the orchard. As the Commission did not believe that removing trees to allow for the construction of a fence was in the best interest of agriculture, it agreed to remove the fencing condition of approval.

IT WAS

MOVED BY:

Commissioner Mayer

SECONDED BY:

Commissioner Zimmermann

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 request to remove the fencing condition be approved.

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 #2412/2010