



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

April 13, 2010

Reply to the attention of Brandy Ridout
ALC File 50351

Elmo and Emma Rantucci
2620 Sexsmith Road
Kelowna, BC V1V 2G6

Dear Mr. and Mrs. Rantucci:

Re: Request for Reconsideration

This is further to your letter of January 25, 2010 and addendum of February 8, 2010 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #785/2009.

The Commission has reconsidered the matter and has attached the Minutes of Resolution #2398/2010 outlining its latest decision.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:


Erik Karlsen, Chair

Enclosure: Minutes

BR/
50351d3



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	Staff
	Martin Collins	Staff

For Consideration

A letter from the applicants was received requesting that the Commission reconsider its decision recorded as Resolution #785/2009. It indicated that the triangular portion of the property has always been difficult to irrigate and squaring off this corner will make the farming of the remainder more practical. The east boundary of the property is approximately 1,500 feet long/to sharp triangles; adding a narrow/triangular shaped piece to irrigate (many sprinkler changes are necessary as GEID allows 10 sprinklers at a time, changing them twice in a 24 hour period); a tractor and swather are over 25 feet wide and the bailer has to manoeuvre and drop the hay bales. When the leased 26 foot GEID portion is no longer available, it will be more dysfunctional and impractical to operate this tight corner. The submission also included a letter from Norman Issel, who indicates that he has been cutting and baling hay for the Rantucci's for over 25 years. He also indicates that the triangular portion has been difficult to work even with the inclusion of the 26 foot leased area and that it would be best to include this triangle with the homesite severance parcel.

Application	#50351
Applicant	Elmo & Emma Rantucci
Legal	PID: 011-844-485 Lot 18 Block 15 Section 3 Township 23 Osoyoos Division Yale District Plan 1068
Location	2620 & 2590 Sexsmith Road
Original proposal	To subdivide a 0.5 ha lot from the 3 ha subject property under the Homesite Severance Policy.
Original decision	Refused as proposed. Allowed a 0.3 ha lot subject to fencing and buffering, registration of a covenant against the title of the 2.7 ha remainder prohibiting the construction of a second dwelling.
Resolution	#785/2009
First request	To allow the 0.5 ha homesite lot
Decision	Refused, would allow the increase in the size of the homesite lot to accommodate the septic field and established buffer on the eastern boundary of the homesite lot.
Resolution	#1766/2009
Current request	To allow the 0.5 ha homesite lot

Site Inspection

Commissioners Mayer and Zimmermann viewed the property from Sexsmith Road on March 16, 2010.

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

As the Commission had previously relied on air photos in its decision-making, it visited the property to get a better understanding of the layout.

The Commission considered the applicants indication that the triangular portion of the property was already difficult to manoeuvre equipment in and the GEID strip was only leased and may not be available in the future as well as confirmation from the holder of the agricultural lease on their property that this was the case.

The Commission believed that if the 0.5 ha homesite lot was approved, the triangular area would be tied to a residential parcel and isolated from other agricultural land when the fence was constructed around the homesite lot and so not be likely to be used for agriculture. It believed that if the area was maintained with the agricultural remainder, there was more likelihood that it would be used for agriculture. It also believed that the property could be used for a different agricultural use in the future that required smaller machinery and so the 0.2 ha area was better left with the agricultural remainder. As such, the Commission believed that as much of the non-homesite area should be retained with the remainder as possible and reconfirmed its refusal of the subdivision of a 0.5 ha lot.

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 allow the subdivision of a 0.5 ha lot instead of the approximately 0.3 ha lot conditionally approved under Resolutions #785/2009 and #1766/2009 be refused.

CARRIED
Resolution #2398/2010