Agricultural Land Commission
Staff Report

DATE: November 10, 2009
TO: Vice Chair and Commissioners - Okanagan Panel
FROM: Brandy Ridout

RE: Application # 50643
PROPOSAL: To exclude a 9 ha portion of the 28.2 ha subject property to be made available for residential uses.

PROPOSAL INFORMATION

Background: Land surounding the subject property was excluded by way of a block exclusion application.
Received Date: September 15, 2009
Applicant: Dean & Kerri Lynn Foisy
Agent: N/A
Local Government: Regional District of North Okanagan

DESCRIPTION OF LAND

PID: 003-481-786
Legal Description: The South 1/2 of the South East 1/4 Section 28 Township 57 Osoyoos Division Yale District Except Plans 25883 and 36412
Civic Address: 89 Specht Road
Area: 28.2 ha
ALR Area: 28.2 ha
Purchase Date: May 30, 2005
Owner: Dean & Kerri Lynn Foisy

Total Land Area: 28.2 ha
Total ALR Area: 28.2 ha
Current Land Use: 10 ha cultivated in hay production, house, shop and shed

PROPOSAL DETAILS

Exclusion Area	Agricultural Capability	Agricultural Capability Source
9.0	Secondary	CLI

Surrounding Land Uses:

North	Non-ALR, residential
East	Non-ALR, residential
South	Non-ALR, residential
West	ALR - residential and grazing

Official Community Plan

Bylaw Name: Electoral Areas 'D' & 'E' Bylaw No. 1690 (2001)
Designation: Agricultural
OCP Compliance: Yes

Zoning

Zoning Bylaw Name: RDNO Zoning Bylaw No. 1888 (2003)
Zoning Designation: Non-Urban Zone (N.U.)
Minimum Lot Size: 7.2 ha
Zoning Compliance: Yes

PREVIOUS APPLICATIONS

Application #: 30799
Applicant: W Postle
Proposal: To subdivide the subject property along Specht Road which parallels a steep embankment which splits the subject property into a 4 ha lot and 26 ha lot.
Decisions:

Resolution Number	Decision Date	Decision Description

Note: Approved by Resolution #2165/1981 on October 28, 1981 (legacy application #T-12663).

Application #: 10875
Applicant: Choin, Baker, Bennet
Proposal: To subdivide the 32.4 ha subject property into a 1.4 ha lot and a 31 ha lot.
Decisions:

Resolution Number	Decision Date	Decision Description
370	August 19, 1974	Not in ATS

Note: Approved by Resolution #370/1974 on August 19, 1974 (legacy application #74-0107).

RELEVANT APPLICATIONS

Application #: 16079
Applicant: RD of North Okanagan
Proposal: Block Application - To exclude approximately 4,064 ha from the ALR in the North Okanagan Regional District in Electoral Areas D and E

Decisions:

Resolution Number	Decision Date	Decision Description
692	October 24, 2000	The Commission refused the proposal as submitted, retaining 404 ha in the ALR because some lands proposed for exclusion had agricultural capability. However, the Commission agreed to exclude approximately 3,660 ha because these lands had minimal agricultural capability due to soil, topographic factors or existing non farm uses..

Note: The subject property was not considered in the block exclusion application.

Committee Recommendations

Type	Recommendation	Description
Planning Staff	Approve	RDNO Development Services: Recommend that the application NOT BE AUTHORIZED for submission as submitted and further that a modified exclusion area generally representing the areas indicated on Figure 3 where Class 5 and 6 soils are present on the subject property BE AUTHORIZED for submission.
Board/Council	Approve	RDNO Board: Authorize for submission and request that the Agricultural Land Commission conduct a site visit, along with a member of the Electoral Area 'E' Advisory Planning Commission, prior to rendering a decision.
Advisory Planning Committee	Approve	Advisory Planning Commission for Electoral Area 'E': Most of the land requested for exclusion follows the contour of the land along the ridgeline and is steep or of poor soil conditions. It was felt that the Area 5 that has class 4 soil is still too steep for agricultural purposes. The members noted that this piece of property was not included in the 2001 Agricultural Land Commission land review process because the owner at that time chose not to. However, it was felt that using the criteria during that process (slope, topography and soil classification of 4 and higher) this portion would have been excluded. Therefore the members feel that the application should be sent down to the ALR as in the original application, for their review.
Other	Approve	Electoral Area Advisory Committee: Recommend that the application be authorized for submission and request that the Agricultural Land Commission conduct a site visit, along with a member of the Electoral Area 'E' Advisory Planning Commission, prior to rendering a decision.

STAFF COMMENTS

- The property was not considered in the ALR boundary review undertaken in 2001. All of the properties around the subject property that were considered in the study were excluded from the ALR.
- RDNO staff recommend that only lands with class 5 and 6 ratings, as per Figure 3 of Herb Luttmerding's report, be excluded instead of the straight line proposed by the applicants (i.e. following the topography).
- The 10 ha area currently cultivated as well as 9 ha adjacent to the property to the west in the ALR are proposed to remain in the ALR.
- The property is currently bounded on the east by Specht Road, the south by Highway 6, the west by a property in the ALR, and the north by a non-ALR property. Allowing the exclusion of the 9 ha to the west of Specht Road would allow residential uses to encroach on the agricultural use of the Class 3 land on the property. If the Commission considers allowing the exclusion, a no-build covenant may reduce the impact of the residential uses.

ATTACHMENTS

air photo proposal.pdf
letter from applicants.pdf
Luttmerding submission.pdf
RDNO Development Services report.pdf
Block exclusion maps.pdf
topography.pdf
50643_AirphotoMap.pdf
50643_ContextMap50k.pdf

END OF REPORT

Signature **Date**