



Agricultural Land Commission
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June 25, 2010

Reply to the attention of Brandy Ridout
ALC File: 51666

Michael & Sheri Matvieshen
1425 McCurdy Road East
Kelowna, BC V1X 2B4

Dear Mr. & Mrs. Matvieshen:

Re: Application for Non-Farm Use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #2501/2010 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in blue ink, appearing to read 'Brian Underhill', is written over the 'Per:' label.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: City of Kelowna (A09-0015)

BR/
51666d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on June 10, 2010 at the Ministry of Agriculture and Lands Office, located at 200-1690 Powick Road, Kelowna, B.C.

PRESENT:	Roger Mayer Gordon Gillette Brandy Ridout	Chair, Okanagan Panel Commissioner Staff
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For Consideration

Application: 51666
 Applicant: Michael & Shari Matvieshen
 Proposal: To allow the use of a portion of the 216 sq meter detached garage structure as a secondary residence. The property is 3.6 ha.
 Legal: PID: 006-181-406
 Lot 2, Section 36, Township 26, Osoyoos Division of Yale District, Plan 23935, EXCEPT Plans KAP53090 and KAP84358
 Location: 1425 McCurdy Road East, Kelowna

Site Inspection

A site inspection was conducted on June 9, 2010. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Gordon Gillette Commissioner
- Brandy Ridout Staff
- Shari Matvieshen Applicant

Mrs. Matvieshen confirmed that the staff report dated May 11, 2010 was received and no errors were identified.

The Commission viewed the subject property and the proposed new residence, noting that a significant amount of former orchard land (~3600 m²) had been converted to a new homesite and access since the purchase of the property. The extensive access to the new house that was built at the rear of the property was necessary because a shared access could not be negotiated with the 0.4 ha homesite severance lot that was subdivided from the parent property in 2006.

The Commission discussed with the applicant the possibility of returning to agricultural production some of the areas that had been removed from production during construction of the house and driveway. The applicant indicated that this was not possible.

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 agricultural capability of the subject property was interpreted using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system as Class 2 and 3 with a limitation of soil moisture deficiency. Class 2 land has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both. Class 3 land has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. The majority of the property is developed as an orchard.

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.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposed second dwelling against the long term goal of preserving agricultural land. The Commission does not believe that the additional residence is warranted based on the intensity of agricultural activity occurring on the property. Although the residence is proposed to be located in an existing garage structure, its presence on the property contributes to the erosion of the productive landscape, and intensifies the residential uses on the property. This erosion is evident by the very large area devoted to structures, yard and access. It is the Commission's general view that additional dwellings tend to increase the potential for farm/residential conflicts and result in additional pressure to subdivide.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will have a negative impact on agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Gillette
SECONDED BY: Commissioner Mayer

THAT the application to allow the use of a portion of the 216 m² detached garage structure as a secondary residence 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.

CARRIED
Resolution #2501/2010