



Agricultural Land Commission
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September 28, 2010

Reply to the attention of Martin Collins
ALC File: 51817

Joe and Mary Anne Nitsch
1124 Highway 3A
RR 1 – Site 65 – comp 63
Keremeos, B.C.
V0X 1N4

Dear Sir/Madam:

Re: Application to Subdivide within the Agricultural Land Reserve

Please find attached the Minutes of Resolution #2656/2010 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 a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Regional District of Okanagan Similkameen File G09-01220.200

MC/51817d1



A meeting was held by the Provincial Agricultural Land Commission on September 13th, 2010 at Kelowna, B.C.

PRESENT:	Richard Bullock	Chair
	Roger Mayer	Chair, Okanagan Panel
	Jim Johnson	Commissioner
	Bert Miles	Commissioner
	Martin Collins	Staff
	Brian Underhill	Staff

For Consideration

Application: 51817
Applicant: Joe Nitsch
Proposal: To subdivide three parcels into five 10 ha lots and a 90 ha remainder.
Legal: PID's 026-808-374; 020-807-645; 026-808-382
Location: Between Keremeos and Olalla on Highway #3A

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.

Meeting

The Commissioners and staff noted above met with Joe Nitsch on Monday September 13, 2010 at the Employment Standards Branch on Powick Road. Mr Nitsch indicated that he received the staff report and did not identify any substantive errors.

At the meeting Mr Nitsch provided the Commissioners with maps showing the high grape suitability of the subject properties. He believed that subdivision into smaller lots would result in intensive agricultural development on land that is currently in hay production.

The Commission also had opportunity to view the May 22, 2010 correspondence from Mr Nitsch, and letters submitted by Mr Nitsch, at the meeting, from three adjoining farmers indicating the subject parcels are good orchard land.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the subject property is improvable to;

Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

The limiting subclasses are stoniness, aridity and topography.

The Commission concurred that the land under application had good capability for a variety of agricultural uses, including grape production.

Assessment of Agricultural Suitability

The Commission assessed whether external 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 external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the subdivision proposal against the long term goal of preserving agricultural land. The Commission believes the retention of the land within its current configuration offers the greatest opportunity for agricultural development. Its experience is that larger parcels are more likely to be developed for agriculture and offer the greatest range of options.

In addition the subdivision of the arable area into five 10 ha lots would likely result in the development of five homesites, yards, and access, eroding the arable land base. In contrast the sale of three existing lots would result in a smaller area being alienated for homesite development. Furthermore it is also possible if retained in its current configuration that the entire farm operation could be purchased and operated as a single unit.

The Commission does not believe the parcel sizes, as configured, are too large to be intensively developed for agriculture.

Conclusions

1. That the land under application has agricultural capability, is appropriately designated as ALR, and is suitable for agricultural use.
2. That the proposal has the potential to negatively impact agriculture.
3. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner B. Miles
SECONDED BY: Commissioner J. Johnson

THAT the application 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, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

CARRIED
Resolution # 2656/2010