



Agricultural Land Commission
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September 30, 2010

Reply to the attention of Martin Collins
ALC File: 51841

Jose and Herminia Andre
11325 – 350th Ave
RR #1-Site 84-Comp 12
Oliver, B.C.
V0H 1T0

Dear Sir/Madam:

Re: Application to Exclude land from the Agricultural Land Reserve

Please find attached the Minutes of Resolution #2650/2010 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Town of Oliver file: 5569.011 ALR

MC/51841d1



A meeting was held by the Provincial Agricultural Land Commission on September 14th, 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: 51841
Applicant: Jose and Herminia Andre
Proposal: To exclude the 0.27 ha lot from the ALR in order to subdivide into three lots
Legal: PID 025-679-074 Lot A, DL 2450s, SDYD, Plan KAP73639
Location: 11325 350th Ave, Oliver

Site Inspection

A site inspection was conducted for the original application on September 14th, 2010. Those in attendance at that time were:

- Commissioners and staff noted above
- Jose Andre Applicant

The Commission viewed the homesite severance parcel and discussed Mr Andre's situation. It was noted that the small non ALR parcel to the north had been subdivided into smaller lots, similar in size to those proposed by the applicant. The existing home is buffered from the adjoining orchard by a small block of fruit trees and garden area.

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 Impact on Agriculture

Although the Commission recognized that the subject parcel was not agricultural due to its small size, it assessed the proposed exclusion and subdivision's impacts on adjoining ALR land. The Commission was concerned that the subdivision of two small lots from the parcel adjoining the orchard would result in conflict between residents and the orchard operator. The Commission believed that retaining the parcel in the ALR in its current size would help ensure that farm/ residential conflicts are minimized. The existing home is buffered from the orchard by a generous side yard.

Assessment of Other Factors

The Commission also expressed concern about subdividing homesite severance lots into smaller parcels. While the Commission was prepared to accept the long term negative impacts associated with a single homesite severance subdivision (potential future conflicts, and the replacement of the farm home with another residence on cultivated land), it was not prepared to multiply the potential for conflict by permitting additional residents in close proximity to farm operations.

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 negatively impact 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 R. Mayer

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 #2650/2010