



Agricultural Land Commission
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December 17, 2010

Reply to the attention of Brandy Ridout
ALC File: 51927

Farlie Paynter & Brante Farrell
2672 Scharf Rd
Westbank, BC
V4T 1M1

Dear Mr. Paynter & Mr. Farrell:

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

Please find attached the Minutes of Resolution #2844/2010 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 'BU', is written over the 'Per:' label.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: District of West Kelowna (A-10-03)

BR/
51927d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on November 25, 2010 in Kelowna, BC.

PRESENT:	Roger Mayer	Chair, Okanagan Panel
	Jim Johnson	Commissioner
	Sylvia Pranger	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

For Consideration

Application: 51927
Applicant: Farlie Paynter
Agent: Brante Farrell
Proposal: To subdivide a 0.5 ha parcel from the 4 ha subject property to facilitate an inheritance from the current property owner to his son (Brante Farrell). Mr. Farrell intends to construct a juice plant on the subdivided parcel, which will process the fruit grown on the larger remaining parcel (3.5 ha).
Legal: PID: 012-090-654
Lot 51 District Lot 806 Osoyoos Division Yale District Plan 761
Location: 2672 Scharf Road, West Kelowna

Site Inspection

A site inspection was conducted on November 25, 2010. Those in attendance were:

- Roger Mayer Chair, Okanagan Panel
- Jim Johnson Commissioner
- Sylvia Pranger Commissioner
- Brandy Ridout Staff
- Martin Collins Staff
- Farlie Paynter Applicant
- Brante Farrell Agent

Mr. Farrell confirmed that the staff report was received and no errors were identified.

The Commission viewed the portion of the property being proposed for subdivision, noting that the juice plant building was under construction. The reason that construction had already started was discussed – it was indicated that the timing was good for acquiring materials and labour, there was product waiting to be processed, and they wanted to get the structure roofed before the winter. Plans for a future residence in the structure were also discussed. Mr. Farrell described the juicing operation and the reason for the subdivision request, namely that he wants to have an independent business from the tree fruit operation on the remainder of the property. He indicated that he would use the remaining portion of the 0.4 ha lot not needed for the juicing operation for fruit trees and vegetables.

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 ratings of the soil of the subject property were interpreted using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system as 70% Class 3 with a limitation of soil moisture deficiency and 30% Class 3 with limitations of soil moisture deficiency and topography, all for tree fruits. As such, the parcel has an improved prime agricultural capability for tree fruits.

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 proposal against the long-term goal of preserving agricultural land. It noted that the proposal was to subdivide the property to facilitate an inheritance and to separate the business interests in the property (tree fruit production and juicing). Although the businesses are linked in that the juice plant would process fruit from the farm property (as well as other properties), the request was being made to separate the businesses to allow them to function separately.

The Commission recalled that the *Agricultural Land Commission Act* allows farm processing of farm products on a farm as long as at least 50% of the product processed is from on the farm. If the subdivision of the 0.4 ha lot for the juice plant was allowed, the small lot would have a limited ability to produce at least 50% of the fruit processed in the plant. It would essentially be separated from its production source and a stand-alone operation that could operate anywhere and would not need to be in the ALR.

During its assessment of the impact of the proposal, the Commission reviewed the comments received with the application. While West Kelowna Council approved the application to be sent to the Commission for review, comments from the Regional District of Central Okanagan planning staff, the Ministry of Agriculture, and the local Agricultural Advisory Committee (AAC) did not support the application. RDCO planning staff's recommendation to refuse is based on the conclusion that the proposed use is not consistent with the Agricultural Policies and Objectives of the Westside OCP. The Ministry of Agriculture did not support the application because the application could be carried out within the existing lot boundaries and ALC regulations and the proposal could be carried out on a much smaller land footprint and in a location that more closely

reflects "homeplating" initiatives in land use planning. The AAC did not support the application because the applicant does not need to subdivide to put a juice plant on the subject property, family and personal issues should not be used as basis for a decision, and the AAC does not want to see the subject property broken down to a smaller size.

The Commission concurred with the provided comments and believed that the fragmentation created by the proposed subdivision did not benefit the long-term preservation of agricultural land.

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 Pranger

SECONDED BY: Commissioner Mayer

THAT the application to subdivide a 0.5 ha parcel from the 4 ha subject property to facilitate an inheritance from the current property owner to his son 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.

CARRIED

Resolution #2844/2010