



Agricultural Land Commission
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December 6, 2010

Reply to the attention of Brandy Ridout
ALC File: 51929

Grant Maddock
Protech Consultants Ltd.
#200 1461 St. Paul Street
Kelowna, BC V1Y 2E4

Dear Mr. Maddock:

Re: Application to Exclude Land from the Agricultural Land Reserve

Please find attached the Minutes of Resolution #2777/2010 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan. It will also confirm for the Registrar the area excluded from and included into the ALR.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact your Local Government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:


Brian Underhill, Executive Director

Enclosure: Minutes/Sketch Plan

cc: District of West Kelowna (File: A-10-01)

BR/51929d1



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

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

For Consideration

Application: 51929 (Congruent with ALC file #51928)
Applicant: Russell Bennett
Agent: Protech Consultants Ltd. (Grant Maddock)
Proposal: To exclude 0.4 ha from the ALR in exchange for including 0.4 ha into the ALR (ALC file # 51928 - Lot A, District Lot 487, Osoyoos Division Yale District, Plan 12966, PID: 009-333-363) in order to build a dryland boat storage facility on the excluded portion.
Legal: Lot 3, District Lot 487, Osoyoos Division Yale District, Plan 316 Except Plan 17635
PID: 011-375-248
Location: Gellatly Road, south of Powers Creek

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
- Grant Maddock Agent
- Russell Bennett Applicant
- Rick Miller Property manager
- Mary Jean Bennett Applicant's daughter

The agent confirmed that the staff report was received and no errors were identified.

The Commission viewed both the area proposed for exclusion and the area proposed for inclusion, noting that both areas were being used as horse pasture in association with the ALR area to the south. It also noted that Powers Creek runs to the north of the area proposed for inclusion and that the area proposed for exclusion had swampy characteristics. It also noted that earth works had already been undertaken on the eastern portion of the non-ALR property.

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 improved agricultural capability of the soil of the subject property was interpreted using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system as improvable to Class 2. Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

The applicants also submitted a report by Catherine Orban, P.Ag. It confirmed that the majority of the ALR portion of the property proposed for exclusion is Class 2 with a limitation of excess water (improved) with the remainder being Class 6 with limitations of stoniness and soil moisture deficiency (unimprovable). Therefore, it is indicated that the agricultural capability of the area proposed for inclusion is somewhat better than that of the area proposed for exclusion.

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. It noted that the area proposed for inclusion was low-lying and could be improved by the applicant's proposal to transfer the soil suitable for agricultural use from the 0.4 ha proposed exclusion area before construction of the boat storage facility. The Commission believed this would enhance the suitability of the ALR area 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. As the area being proposed for exclusion was being offset by the proposed inclusion of the same area, the Commission believed the impact on agriculture was limited. However, it was concerned that construction of the facility could cause drainage problems on the proposed 2 ha ALR lot. It would therefore require an agrologist's report be submitted to address these concerns. It was also concerned that if the property was excluded from the ALR, it could be used for development in the future that may have a negative impact on adjacent agricultural operations (i.e. a 4-storey housing development). As such, it would require that a covenant be registered against the title of the new non-ALR lot to prohibit the construction of structures closer than 20 metres to the ALR boundary.

IT WAS

MOVED BY: Commissioner Mayer
SECONDED BY: Commissioner Johnson

THAT the application to exclude 0.4 ha from the ALR in exchange for including 0.4 ha into the ALR (ALC file # 51928) in order to build a dryland boat storage facility on the excluded portion be allowed subject to the following conditions:

- The preparation of a subdivision plan to delineate the area to be excluded and included as per the drawing submitted with the application.
- The subdivision be in substantial compliance with the plan submitted with the application.
- The submission of an agrologist's report detailing the foreseen impact of the construction facility on the drainage on the remainder of the property. If a negative impact is foreseen, mitigative measures must be outlined and a plan put in place to address the issues during construction. The Commission may require the submission of a letter of credit if the impacts are deemed to be significant.
- The transfer of soil suitable for agricultural use from the 0.4 ha excluded area to the included area and the ALR property for the enhancement of its agricultural suitability. This activity must be overseen by an agrologist.
- The installation of a chain link fence (six feet in height) on the south and west sides of the new 0.9 ha non-ALR lot.
- The registration of a covenant on the new 0.9 ha non-ALR lot prohibiting the construction of structures within 20 metres of the ALR boundary.
- The subdivision must be completed within three (3) years from the date of this decision.

Commissioner Pranger wished to be registered as opposed to the resolution on the grounds that a sufficient benefit to agriculture was not provided.

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 #2777/2010