



Agricultural Land Commission
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March 23rd , 2011

Reply to the attention of Martin Collins
ALC File: 51787

Allan Lipkovits
1720 Morrison Road
Kelowna, B.C.
V1X 4W3

Dear Sir:

Re: Application to Subdivide Land within the Agricultural Land Reserve

Please find attached the Minutes of Resolution #80/2011 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: City of Kelowna, File: A09-0014

MC/51787/d1



A meeting was held by the Provincial Agricultural Land Commission on March 17th in Vernon, B.C.

PRESENT:	Richard Bullock	Chair
	Roger Mayer	Vice Chair, Okanagan Panel
	Jim Johnson	Commissioner
	Bert Miles	Commissioner
	Liz Sutton	Staff
	Martin Collins	Staff

For Consideration

Application: 51787
 Applicant: Allan Lipkovits
 Proposal: To subdivide the 3.22 ha parcel into three lots (0.2 ha, 1.5 ha, 1.5 ha)
 A home would occupy each lot.
 Legal: Lot 12, Plan 425, Sec. 36, ODYD, Twp 26, Except Plan 8676
 Location: Morrison Road, Kelowna

Site Inspection

A site inspection was conducted on March 15, 2011. Those in attendance were:

- Roger Mayer Vice Chair, Okanagan Panel
- Richard Bullock Chair
- Jim Johnson Commissioner
- Bert Miles Commissioner
- Liz Sutton Staff
- Martin Collins Staff
- Dennis Weninger Resident of property

Dennis Weninger confirmed that the staff report dated July 7, 2010 was received and no errors were identified.

Dennis explained to the Commissioners how there came to be three dwellings on the property. The Commission noted that two newer homes, were occupied by the property owners, and that the original farm home was rented. No substantive agricultural activity was noted on the property, though the land might provide a hay crop.

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 ratings are interpreted using 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;

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 aridity and unfavourable soil structure.

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. The property lies in a farm area, and nearby parcels are a similar size.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission expressed concern that three dwellings had been permitted on the property by the City. It did not believe that more than one dwelling was necessary given the intensity of agricultural activity on the property.

The Commission believed that the subdividing the parcel into two 1.5 ha lots would effectively eliminate the land's agricultural potential, reducing the parcels to residential estate lots. It is the Commission's experience that parcels smaller than 2 ha are seldom used for agriculture. The Commission was also not supportive of subdividing the 0.2 ha lot containing the original home, because it believed that this was a suitable location for any future farm buildings. Subdividing this area could result in any other farm structures being constructed on arable land.

Assessment of Other Factors

The Commission also noted that City Council and the City of Kelowna AAC did not support the proposal.

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 subdivision 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 B. Miles

SECONDED BY: Commissioner J. Johnson

THAT the application be refused on the grounds that subdivision will reduce the agricultural potential of the property.

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 # 80/2011