



Agricultural Land Commission
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December 6, 2011

Reply to the attention of Ron Wallace
ALC File: 52272

Mathew King
2800 Dunster Road
Kelowna, BC
V1W 4H4

Dear Sir:

Re: Application for Additional Dwelling in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 428/2011 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 (A10-0009)



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 26, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner

COMMISSION STAFF PRESENT:

Ron Wallace	Land Use Planner
Brian Underhill	Executive Director

APPLICATION ID: #52272

PROPOSAL: To demolish one existing dwelling in the north side of the property and build a new principal dwelling to replace it. The existing dwelling closer to Dunster Road is proposed to be considered as a detached secondary suite.

The application submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*

PROPERTY INFORMATION:

PROPERTY

Owner: Matthew Lewis King and Miranda Lee Kathleen King (As Joint Tenants)
Date of Acquisition: March 6, 2010
Parcel ID: 007-575-505
Title No. CA1474120
Legal Description: Lot A Section 22 Township 26 Osoyoos Division Yale District Plan 21138
Civic Address: 2800 Dunster Road, Kelowna
Size: 0.9 ha
Area in ALR: 0.9 ha
Current Land Use: Residential and Agricultural
Farm Classification: Yes No
(BC Assessment)

SITE INSPECTION MEETING:

A site inspection meeting was conducted on September 27, 2011 following which a report was prepared. The site inspection meeting report was provided to the applicant on October 12, 2011 by e-mail.

Section 14(2) of the *Agricultural Land Commission Act* provides that a member of the Commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote. The September 27, 2011 site inspection meeting report constitutes a written record of the site inspection meeting and has been provided to all Commission members recorded above.

COMMISSION CONSIDERATION:

Context

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission as: (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.

Agricultural Capability

Based on the information contained in Map 82E.083 (Scale 1:25,000) of the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system, the agricultural capability ratings are identified as being:

Unimproved Rating: 7:5A 3:4A Improved Rating: (7:3P 3:2A)

Note: These ratings cover most of the property.

Unimproved Rating: 6TA Improved Rating: 6

Note: These ratings cover a small portion of the property near the northeast corner.

Class and Subclass Descriptions

Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

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

Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.

Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

A soil moisture deficiency
T topography
P stoniness

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 Potential Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission acknowledges that the owners would like to build a new house within the general area of the existing smaller house and retain the existing yellow house, which is nearer to the road, for rental purposes.

The Commission will consider support for more than one residence on a parcel of land if the additional residence is deemed to be necessary for farm use. However, in this situation given both the relatively small size of the farm property and the limited amount of agricultural use, the Commission believed the proposal for a total of two dwellings on the subject property is not necessary for the operation of the farm. Therefore, upon construction of a new dwelling on the property, the additional dwelling must either be removed from the property or rendered uninhabitable.

Other Factors

The Agricultural Advisory Committee (AAC) did not support the application to obtain approval from the ALC for the proposed additional dwelling. The AAC did not support the application because there was no net benefit to agriculture.

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 proposed additional dwelling is not deemed necessary for farm use.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Miles
SECONDED BY: Commissioner Dyson

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 and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

CARRIED

Resolution # 428/2011