



Provincial Agricultural Land Commission - Staff Report

Application: 52749

Applicant: 3750 West Bay Road Properties Inc
Agent: New Town Planning Services Inc.
Local Government: District of West Kelowna

Proposal: To exclude a ~0.45 ha portion of the subject property from the ALR located at 3750 West Bay Road, Kelowna.

The applicant is requesting to reduce the previously approved ALR buffer on the subject property from approximately 84 meters to 30 meters and further, to exclude the remaining 54 meter (0.45 ha) buffer area from the ALR. The proposal to reduce the buffer area brings the total amount of land excluded from the ALR to 1.65 ha.

BACKGROUND INFORMATION

In 2007, the ALC reviewed a previous application to exclude a 2 ha portion of the 4.5 ha subject property already occupied by Boucherie Beach Resort to allow for a new lakeside resort development and to provide intensified agricultural use on the remainder. The Commission concluded that the land not currently used for agriculture had very good capability, but that the resort area (zoned C5), adjacent to the lake had very limited capability for agriculture. The Commission further concluded that even though the C5 (1.2 ha) zoned area could be excluded outright, the 0.8 ha area should be retained with the agricultural remnant in the ALR unless an acceptable revised proposal is submitted that addresses transitional uses more appropriately.

Following the conditional exclusion, Council gave third reading to the OCP amendment and rezoning application to rezone the waterfront portion of the subject property to Tourist and Resort Commercial (C7).

The ALC refused a subsequent application to exclude a further 0.8 ha portion of the parcel (Resolution # 478/2007). However, in 2008, the ALC amended the original decision by allowing the ALR exclusion boundary to be straightened with no net loss of ALR land. In addition, the resolution allowed the 0.8 ha buffer area to be used for parking and other non-residential uses subject to conditions.

The applicant, Rob Chetner, provided a "Historical Review" for ALC File #36409 and ALC File #37320. In addition, Mr. Chetner provided illustrations showing the requested amendment to the buffering conditions and information regarding their commitment towards agricultural development on the ALR land.

PROPERTY INFORMATION

PID: 010-978-518
Legal Description: Lot 2, District Lot 434, Osoyoos (Formerly Kamloops) Division Yale District Plan 2685
Property Area: 4.7 ha
ALR Area: 4.7 ha
Purchase Date: September 8, 2011
Location: 3750 West Bay Road, Westbank
Owner: 3750 West Bay Road Properties Inc

Total ALR Area:

LAND USE

Current Land Use:

Used as the buffer area between the waterfront development and the agricultural use on the west side of the property.

Surrounding Land Uses:

North: Boucheria Road, Single Family Residential

East: Campground/RV resort, agriculture

South: Okanagan Lake

West: Residential and agriculture

PROPOSAL DETAILS

Exclusion Area: 0.5 ha

Agricultural Capability:

The majority of the area under application is rated as: Prime

Source: CLI

Mapsheet: 82E/13

RELEVANT APPLICATIONS

Application ID: 43902

Legacy #: 37320

Applicant: Arnold & Doris Frank

Proposal: (Recon info can be found in Application ID 44769). To exclude the 2 ha portion of the 4.5 ha subject property already occupied by Boucherie Beach Resort to allow for a new lakeside resort development and to provide intensified agricultural use on the remainder.

Decision:

Resolution #	Decision Date	Decision Description
285/2007	June 6, 2007	The Commission refused the application as proposed, on the grounds it exceeded the area zoned for commercial use (1.2 ha). The Commission is prepared to consider a revised proposal that delineates a smaller area for exclusion and intensive residential uses, that more closely follows the C-5 zoned area.

Note: In a reconsideration, the applicant requested permission to exclude the 0.8 ha buffer area (in addition to the 1.2 ha previously excluded portion of the property). The applicant offered a 6 meter wide buffer and an additional 15 meter building setback from the westerly ALR boundary. The Commission, by Resolution #478/2007, refused the proposed request as it believed the development of high density housing as close as 21 meters from cultivated land was not conducive to the retention of agricultural production on the property in the long term.

Application ID: 42590

Legacy #: 36409

Applicant: Wiig Holdings Ltd.

Proposal: To exclude 1.1 ha of the 4.7 ha property from the ALR for a low density lakeside resort development.

Decision:

Resolution #	Decision Date	Decision Description
23/2006	January 19, 2006	Allowed subject to: <ul style="list-style-type: none">- The preparation of a subdivision plan to delineate the area to be excluded as per the drawing submitted with the application.- The submission of a business plan showing evidence that the remainder of the property is planned for intense agricultural development. This would include a timeline (showing the agricultural development will be complete within five (5) years) and a budget. The Commission would also request a legal document (i.e. a lease with a farmer or winery) showing the plans for the development of the area.- The posting of a bond with the Commission for the amount required to intensively develop the remainder for agriculture.- The construction of a fence and the planting of a vegetative buffer along the northern boundary of the excluded area for the purpose of limiting its impact on the remainder. Fencing and buffering plans should be submitted to the Commission for approval. The fencing and buffering must be on the excluded area and not the remainder.- The registration of a restrictive covenant against the remainder prohibiting the construction of any dwellings.- The rescission of Resolution #1268/1988 (application #G-22618).

Note: The property is located to the north of the subject land.

LOCAL GOVERNMENT INFORMATION

Official Community Plan:

Bylaw Name: West Kelowna OCP Bylaw No. 0100
Designation: Agriculture
OCP Compliance: No

Zoning:

Zoning Bylaw Name: Bylaw No. 871
Zoning Designation: Commercial (C5) and Agricultural (A1)
Minimum Lot Size: 1.0 ha
Zoning Compliance: No

Comments and Recommendations:

Agricultural Advisory Committee

To support the application with the following conditions:

- There is an active farm plan in place;
- The vegetative buffer does not adversely affect the agricultural activity.

Board/Council

To support the request to exclude a 0.47 ha portion of the subject property from the ALR subject to the buildings being to a maximum of two storeys in height in the hatched restrictive covenant area.

Planning Staff

The following were key considerations and provide rationale for the staff recommendation of support:

- The request to reduce the buffer and exclude a further 0.47 ha portion of the subject property from the ALR does not affect the land subject to agricultural intensification.
- The ALR buffer to provide a transitional area between residential uses and more intense farm practices is maintained with a 30 meter buffer.
- The proposed exclusion allows the applicant to explore alternative development options for the waterfront property to accommodate the current market conditions.

ALC STAFF COMMENTS

Staff has the following comments:

- By previous Resolution #285/2007 the Commission indicated that the 0.8 ha buffer area would be retained with the agricultural remnant in the ALR unless an acceptable revised proposal is submitted that addresses transitional uses more appropriately.
- In response to changing market conditions, the applicants have altered their original development proposal for the site. A reduction in residential density is proposed, resulting in the request for a reduction in the buffer from 87 meters to 30 meters.
- The Ministry of Agriculture commented that it is unaware of any works that have been completed that support the "agricultural intensification" required in the initial ALC decision. Proof of works completed to intensify agricultural production from 2007 to the present may alleviate the concerns regarding the proposed further exclusion of land from the ALR for residential development.
- In response to the ALC's decision as per Resolution #285/2007 to intensify the agricultural uses on the 2.5 ha westerly portion of the property, the applicant is in the process of negotiating with a local (and established) Organic Winery to implement and oversee the planting and managing of grape vines. The applicant is proposing the creation of a Memorandum of Understanding (MOU) between the proponent and the owner of the winery to develop and manage the vineyard.

ATTACHMENTS

52749_ContextMap20k.pdf
52749_AgCapabilityMap_HR.pdf
52749_AirphotoMap10k_HR.pdf
52749CouncilReport.pdf
52749AAC.pdf
52749Applicant Infor.pdf

END OF REPORT

Prepared by: Ron Wallace, September 2012