



**Agricultural Land Commission**

133 – 4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
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February 5, 2013

ALC File: 52936

Keith Funk  
New Town Planning Services  
1450 Pandosy Street  
Kelowna, BC V1Y 1P3

Dear Mr. Funk:

**Re: Application to Exclude Land from the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #6/2013 as it relates to the above noted application. As agent, it is your responsibility to advise your client accordingly.

The Commission draws your attention to Section 33(1) of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration based on specific criteria.

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.

A revised proposal does not constitute new evidence and as such is not a basis for reconsideration. The time limit for submitting a request for reconsideration is one (1) year from the date of this letter.

Further correspondence with respect to this application is to be directed to Ron Wallace.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Brian Underhill', written over a horizontal line.

Brian Underhill, Executive Director

Enclosure: Minutes of Resolution #6/2013

cc: City of Kelowna (File: A12-0001)



## PROVINCIAL AGRICULTURAL LAND COMMISSION

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A meeting was held by the Provincial Agricultural Land Commission on January 23, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #52936.

**COMMISSION MEMBERS PRESENT:**

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner

**COMMISSION STAFF PRESENT:**

Martin Collins	Regional Planner
Eamonn Watson	Planner
Colin Fry	Executive Director

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**PROPOSAL:** To exclude 3.3 ha of the 6.6 ha property from the ALR for commercial purposes (auto dealership). It is proposed that the remainder of the property be used for community gardens and parkland.

In exchange for exclusion the applicant proposes to include into the ALR a 44.5 ha parcel located north of Elkhart Lodge on Highway 97C. The parcel proposed for inclusion is located within the jurisdiction of the Regional District of Okanagan-Similkameen. In addition, the applicant proposes to salvage approximately 13,000 m<sup>3</sup> of topsoil from the proposed exclusion area  
(Submitted pursuant to section 30(1) of the *Agricultural Land Commission Act*)

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**PROPERTY INFORMATION:**

**Owner:** H-12 Enterprises Ltd., (Inc. No. 259275)

**Agent:** Mr. Keith Funk, New Town Planning Services

**Legal:** PID: 002-021-544

Lot 3, Section 34, Township 26, Osoyoos Division Yale District, Plan 10770, Except Plans 18592 and H8110

**Location:** West side of Highway 97 North, north of Stremel Road, Kelowna

**Size:** 6.6 ha (Entirely within the ALR)

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## EXCLUSION MEETING

An exclusion meeting was held on January 23, 2013 at the offices of the Commission. Those in attendance included the Commissioners and staff noted above and Mr. Keith Funk representing the applicant.

Keith Funk made a presentation which outlined the alleged agricultural limitations of the property and provided detailed information about potential benefits to agriculture associated with inclusion of non-ALR hay lands (between Merritt and Kelowna), topsoil preservation and re-distribution, and community gardens. Mr. Funk also outlined the purported community benefits of the proposal, such as: securing the Mill Creek linear trail network, riparian area protection, and an increased tax base and employment.

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## LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
  - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
  - (c) 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.

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## COMMISSION CONSIDERATION

After considering the information the Commission concluded as follows:

1. The Commission assessed the applicant's arguments that the following factors limited the agricultural potential of the property:
  - the location of the property adjacent to Highway 97 and Mill Creek limited farm vehicle movement;
  - frequent vandalism and theft of irrigation pipe; and
  - the presence of burrowing moles which affect the quality of the reaped hay crop.

**Conclusion 1(a):** The Commission believes the purported limitations are farm management issues that can be mitigated and do not represent insurmountable obstacles to farming the property.

**Conclusion 1(b):** The proposal will adversely impact the agricultural use of the subject property and surrounding ALR lands.

**Conclusion 1(c):** The exclusion area has good agricultural capability as indicated by BC Land Inventory mapping which identifies the agricultural capability rating as being improvable to Class 2A.

**Conclusion 1(d):** The exclusion area is suitable for agriculture as evidenced by historical agricultural usage.

2. The Commission also assessed the proposed benefits to agriculture proposed in the application.
  - The inclusion of 41 ha into the ALR;
  - The development of 0.7 ha of community gardens on the property and park land; and
  - Distribution of salvaged topsoil for land improvement.

**Conclusion:** The inclusion proposal and other agricultural initiatives proposed by the applicant do not mitigate the negative impacts associated with the proposed exclusion.

**IT WAS**

**MOVED BY:** Commissioner Miles  
**SECONDED BY:** Commissioner Dyson

THAT the application be refused.

**CARRIED**  
**Resolution #6/2013**