



Agricultural Land Commission
133-4940 Canada Way
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www.alc.gov.bc.ca

October 18, 2013

ALC File: # 52957

Frank Buckland and Harold Hartfield
#14 – 1470 Harvey Avenue
Kelowna, BC
V1Y 9K8

Dear Sir/Madam:

Re: Reconsideration Request – ALC Resolution #8/2013

Please find attached the Minutes of Resolution # 298/2013 as it relates to the above noted application. The Commission has also attached a Sketch Plan depicting the decision. As agent, it is your responsibility to notify your client(s) accordingly.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

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

Brian Underhill, Executive Director

Enclosure(s): Minutes of Resolution #298/2013
Sketch Plan

cc: City of Kelowna (A12-0012)



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 2, 2013 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to the Request for Reconsideration of Application #52957.

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

REQUEST FOR RECONSIDERATION

The Commission received a letter dated May 17, 2013 requesting reconsideration of its decision recorded as Resolution #8/2013, by which, the proposal to subdivide a 0.53 ha (1.3 acres) lot in the northeast corner of the subject property was refused as proposed.

Owner: Vera Hanson, Christopher Hanson and Patricia Deacoff
Agent: Frank Buckland and Harold Hartfield
Original Proposal: (Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

To subdivide a 0.53 ha lot in the northeast corner of the subject property pursuant to the ALC's *Homesite Severance Policy*. The proposed homesite would contain the existing dwelling, a secondary dwelling, large garage and utility shed and a horse barn. In addition, the applicant is seeking a buffer from future development on the remainder property; a proposed restrictive (no build) covenant that would prevent buildings and structures within 30.5 m of the western property line and within 15.2 m of the southern property line of the proposed homesite.

Original Decision: Refused the proposed homesite as the Commission believed the lot to be too large a Homesite Severance involving this 5.0 ha property in the Okanagan region. In addition, the Commission concurred with the City of Kelowna's staff comment that the existing agricultural structures should remain with the agricultural remainder, rather than with the homesite severance which functions as a rural residential parcel. The Commission therefore approved a homesite parcel, subject to conditions, for approximately 0.4 ha which did not include the garage/storage building and a shed.

Current Request: To reconsider the application to reconfigure the homesite parcel to be narrower in width and longer to include the garage/storage building and shed as shown in the submission. The requested homesite parcel would be a little less than 0.4 ha and result in most of the orchard being retained within the remainder parcel.

Legal: PID: 003-262-979
Parcel B (Plan B1550) of Lot 23, Section 15, Township 26, Osoyoos
Division Yale District, Plan 187

Location: 3039 East Kelowna Road, Kelowna, BC

LEGISLATIVE CONTEXT FOR COMMISSION RECONSIDERATION

Section 33 (Reconsideration of decisions) of the *Agricultural Land Commission Act* states:

- 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.

DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission believes that the applicant has provided new information about the proposed homesite parcel that was not available at the time of the original decision. It was clarified that the applicant would like to retain their garage/storage building and shed within the homesite parcel of approximately 0.4 ha in size.

The Commission recalled its original review of the application and its decision to limit the size of the homesite parcel to ensure that the "remainder" will constitute a suitable agricultural parcel. The Commission believes the amended homesite parcel, as outlined in the above request for reconsideration, still results in the "remainder" constituting a suitable agricultural parcel.

The Commission therefore is prepared to reconsider Resolution # 8/2013 and support the amended homesite parcel as per the sketch map submitted with the request for reconsideration.

IT WAS

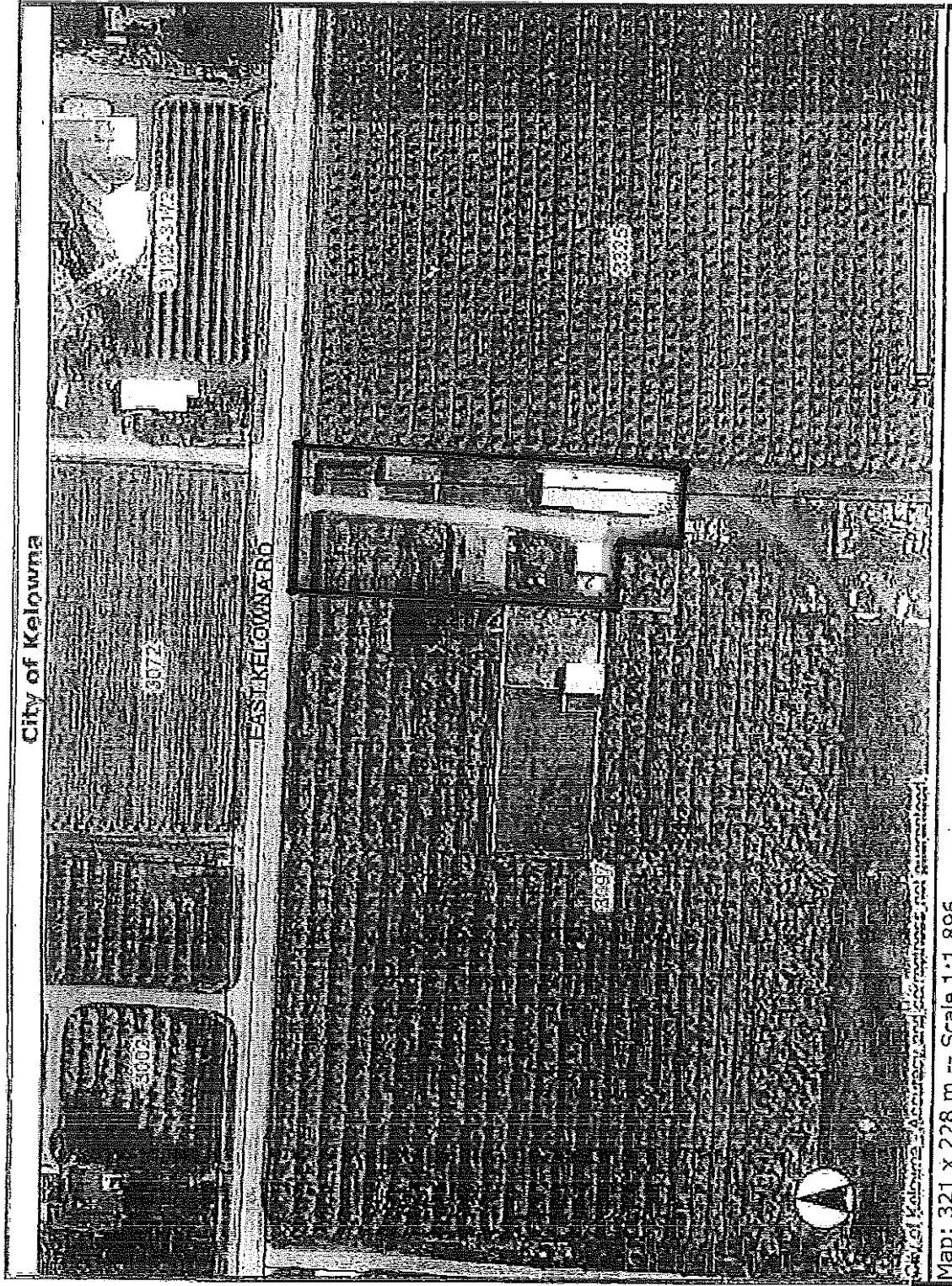
MOVED BY: Commissioner Miles
SECONDED BY: Commissioner Johnson

THAT the request for an amended homesite parcel as proposed be approved.

AND THAT except for the amended homesite parcel all other conditions outlined in ALC Resolution #8/2013 remain the same.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
Resolution #298/2013



City of Kelowna - Accuracy and Reliability not guaranteed.

Map: 321 x 228 m -- Scale 1:1,896

Provincial Agricultural Land Commission
Application #52957
Resolution #298/2013



Area approved for subdivision in the ALR



Location of fencing and buffer vegetation