



Agricultural Land Commission
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February 20, 2014

ALC File: #52306

Urban Connections
Suite 100 – 8305 – 68th Avenue
Box 313, Osoyoos, BC
V0H 1V0

Attention: Brad Elenko

Re: Reconsideration to Subdivide Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution #437/2013 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 accordingly.

Further correspondence with respect to this application should be directed to ALC Staff.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

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

Brian Underhill, Executive Director

Enclosure(s): Minutes of Resolution #437/2013

cc: Regional District of Okanagan Similkameen (File: A06254.000)



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on November 28, 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 #52306.

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
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Lindsay McCoubrey	Land Use Planner
Ron Wallace	Land Use Planner
Brian Underhill	Executive Director
Colin Fry	Executive Director

REQUEST FOR RECONSIDERATION

The Commission received a letter dated October 3, 2013 requesting reconsideration of its decision recorded as Resolution #244/2011, by which, the proposal to subdivide a 0.2 ha homesite from the 4.1 ha property was refused.

Owner: Bruce Malcom Davies

Agent: Brad Elenko

Original Proposal: (Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

The proposal is to subdivide a 0.2 ha homesite from the 4.1 ha property. The 0.2 ha subdivision would contain the existing house, driveway, landscaped front yard, garage/storage building a septic and backup septic field.

Original Decision: Refused. The Commission found that the land had agricultural capability and was suitable for agricultural use and that subdivision would negatively impact its long term agricultural potential. Furthermore, the applicant does not qualify for consideration under the ALC's Homesite Severance Policy (i.e. the current property owner acquired the parcel after December 21, 1972).

Current Request: To reconsider the application based on a report entitled *Agricultural Land Commission Request for Reconsideration* dated October 3, 2013 and prepared by Urban Connections. This report provided a review of past decisions for ALC Homesite Severance applications in the immediate area of rural Osoyoos (5 km radius of the Town of Osoyoos) since the creation of the ALR on December 21, 1972.

Legal: PID: 006-375-111
Lot 602 District Lot 2450S Similkameen Division Yale District Plan 1950

Location: 9918 – 26th Avenue, Osoyoos

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.
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DECISION REGARDING THE REQUEST FOR RECONSIDERATION

The Commission believes that the agent on behalf of the applicant has provided new evidence that was not available at the time of the previous decision. The above noted report provided a comprehensive review of every ALC Homesite Severance application decision in the rural Osoyoos area since 1972 as noted above. The report outlined that "Of the 32 Homesite Severance applications submitted, 29 applications were approved, one was refused because the remainder parcel was too small, and two were refused (1993 and 1995) as a life lease was offered in lieu of the homesite severance subdivision."

As a result, it was moved by Commissioner Pranger and seconded by Commissioner Miles that there were no persons affected by the reconsideration and that the Commission reconsider Resolution #244/2011. The motion was carried unanimously.

COMMISSION CONSIDERATION

The Commission reviewed one previous application involving the subject property:

Application #27588 (Davies, 1993)	The proposal was to subdivide a 0.2 ha lot from the 4.1 ha subject property to provide the parents with a residential lot. The proposal was made pursuant to the ALC's Homesite Severance Policy as the parents had owned and resided in the house since 1958. In reviewing the application the ALC, by Resolution #534/1993, refused the proposed subdivision and offered Mr. Davies a lifetime lease over the farm house and yard. Mr. Davies did not proceed with the lifetime lease but
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	continued to live in the house until they eventually required assisted living outside of their home.
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After considering the new information the Commission concluded as follows:

1. With regard to the new information submitted in support of the proposed subdivision, the Commission acknowledges the history of the ALC's Homesite Severance Policy applications in the immediate area of rural Osoyoos.

Conclusion:

The Commission believes its review of the original ALC application #27588 in 1993 (i.e. Bruce Davies proposal to subdivide a 0.2 ha lot pursuant to the Homesite Severance Policy) occurred with no misunderstanding of the applicant's proposal and that no errors were made in the review process. The ALC at the time decided to maintain the subject property intact in order to preserve the agricultural potential of the total parcel and believed the offer of a life time lease by explanatory plan for the express use of the owners with the lease to expire when no longer required was a prudent option consistent with its mandate. Regardless of the ALC's Homesite Severance application history in the immediate area of rural Osoyoos, the ALC remains confident that its decision by Resolution #534/1993 was based on the merits of the application at that time.

2. With regard to the current proposal to subdivide a 0.2 ha homesite from the 4.1 ha property.

Conclusion:

The ALC continues to believe that the subject parcel has more agricultural potential as a single unit and that subdivision would negatively impact the agricultural opportunities available to the property in the long-term.

IT WAS

MOVED BY: Commissioner Miles
SECONDED BY: Commissioner Johnson

THAT the reconsideration request to subdivide a 0.2 ha homesite from the 4.1 ha property be refused.

CARRIED

Resolution #437/2013