



AGRICULTURAL LAND COMMISSION FILE 54505

REASONS FOR DECISION OF THE CHIEF EXECUTIVE OFFICER

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicant:

**Bikar Johal
(the "Applicant")**

Agent:

**Kent – Macpherson
(the "Agent")**

Application before the Chief Executive Officer:

**Kim Grout
(the "CEO")**



THE APPLICATION

[1] The legal description of the properties involved in the application are:

Parcel Identifier: 029-749-689 (1 ha)

Lot A, Section 35, Township 26, Osoyoos Division Yale District Plan EPP56074

Parcel Identifier: 010-560-386 (0.9 ha)

Lot 1, Section 35 Township 26 Osoyoos Division Yale District Plan 4375

(the "Properties")

[2] The Properties are 1.9 ha in area.

[3] The Properties are located west of Rutland Road, in the City of Kelowna.

[4] Pursuant to s. 30(1) of the *Agricultural Land Commission Act* (the "ALCA), the Applicants are applying to exclude the 0.9 ha property and the 1 ha property from the ALR for service commercial purposes (the "Proposal"). The Proposal along with supporting documents is collectively the "Application".

RELEVANT STATUTORY PROVISIONS

[5] The Application was made pursuant to s. 30(1) of the *ALCA* or s. 6 of the Regulation:

30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.

[6] Pursuant to s. 27 of the *Agricultural Land Commission Act* (the "ALCA) the CEO may approve some applications:

27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:

- (a) specified types of applications for exclusion, subdivision or non-farm use;
- (b) applications with respect to specified regions of British Columbia.

- (2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.
 - (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
 - (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
 - (5) An approval of an application by the chief executive officer under subsection (3) is decision of the commission for the purposes of this Act.
 - (6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.
- [7] On June 27, 2011, the Agricultural Land Commission (the "Commission") delegated decision-making to the CEO by Resolution #016N-2011 (File: 140-60/ALC/CEO/APPL). In accordance with section 27 of the *ALCA* the Commission has specified that the following applications may be decided by the CEO.

Criterion 2

Exclusion, subdivision, and non-farm use applications that are consistent with a specific planning decision of the Commission made by resolution (e.g.: Peace River-Fort St. John Comprehensive Development Plan);

BACKGROUND

- [8] The ALC reviewed the City of Kelowna Official Community Plan in 1995 and endorsed the "Service Commercial" designation of lands lying west of the proposed Rutland Road re-alignment. In two subsequent Official Community Plan reviews this non-agricultural designation has been confirmed.



[9] The ALC approved the re-alignment of Rutland Road as per Resolution #295/2014 (file 53711) subject to conditions, which include the consolidation of ALR lands east of the new alignment (0.4 ha) with an adjoining ALR property. This 0.4 ha easterly consolidation area is now owned by the City of Kelowna and no longer forms part of the current application.

DECISION

[10] After reviewing the Application, I am satisfied that the Proposal is consistent with Criterion #2 of Resolution #016N/2011 and approve the Proposal.

[11] 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.

[12] Decision recorded as Resolution #108/2016.

A decision of the CEO is a decision of the Commission pursuant to s. 27(5) of the ALCA.

I CERTIFY THAT THIS IS A TRUE RECORD OF THE DECISION



Kim Grout, Chief Executive Officer

April 1, 2016
Date Released

