



AGRICULTURAL LAND COMMISSION FILE 54616

**REASONS FOR DECISION
OF THE OKANAGAN PANEL**

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicant: **Jatinder Johal**
(the "Applicant")

Agent: **Meiklejohn Architects**
(the "Agent")

Application before the Okanagan Regional Panel: **Gerald Zimmermann, Panel Chair**
Jim Johnson
Greg Norton



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 024-287-571

Lot 9, District Lot 203, Similkameen Division Yale District Plan KAP62966

(the "Property")

[2] The Property is 3.6 ha in area. A small portion of the property does not lie within the ALR 0.15 ha.

[3] The Property has the civic address 108 Upper Bench Road

[4] The Property is located within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the ALCA.

[6] Pursuant to s. 21(2) of the ALCA the Applicant is applying to construct a second dwelling on a 0.33 ha portion of the 3.6 ha Property (the "Proposal"). Approximately 0.15 ha of the 0.33 ha portion of the property proposed for the dwelling does not lie within the ALR. The Proposal along with supporting documentation is collectively the "Application".

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 20(3) of the ALCA:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[8] The Panel considered the Application within the context of s. 6 of the ALCA:

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.

EVIDENTIARY RECORD BEFORE THE PANEL

[9] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Previous application history
4. Agricultural capability map, ALR context map, and satellite imagery

All documentation noted above was disclosed to the Applicant(s)/Agent in advance of this decision.

[10] The City of Penticton resolved to forward the application with a recommendation of approval.

[11] The Panel reviewed previous application involving the Property:

Application ID: 10416
Legacy File: 75-1105
(Steltzer, 1975)

Proposal: to subdivide a 2 ha lot from Lot 14 (one of the two subject properties which total 8.9 ha)

Decision: Approve subject to consolidation of the remainder of Lot 14 with the adjoining Lot A

SITE VISIT

[12] On July 28, 2016, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Agent on August 16, 2016 (the "Site Visit Report"). The Agent and Applicant (Owner) provided revisions and additional information to the Site Visit Report which was confirmed to accurately reflect the observations and discussions that occurred on July 28, 2016.

FINDINGS

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 82 E/12 for the mapping units encompassing the Property are Class 1 and 2, more specifically (7:1 3:2M).

Class 1 - land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

The limiting subclass associated with this parcel of land is M (moisture deficiency).

[15] The Panel confirmed that the following structures exist on the property:

- a 100 square metre house,
- a 65 square metre boat storage house,
- a 100 square metre garage house,
- and an approx. 185 square metre garage house.

[16] The Panel believes that the additional dwelling is not necessary for farm uses, given the existing dwelling on the property. In addition the construction of the home will alienate a



portion of agricultural land from production. As such the Proposal is not consistent with the purposes of the ALC Act.

DECISION

[17] For the reasons given above, the Panel refuses the Proposal to construct an additional dwelling on the Property.

[18] Panel Chair **Gerald Zimmermann** concurs with the decision.
Commissioner **Jim Johnson** concurs with the decision.
Commissioner **Greg Norton** concurs with the decision.

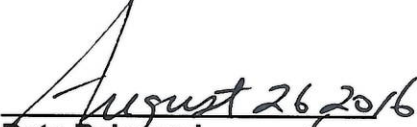
[19] Decision recorded as Resolution #311/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the Agricultural Land Commission Act.

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #311/2016. The decision is effective upon release.



Colin J. Fry, Director of Policy and Planning



Date Released