



Agricultural Land Commission
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November 18, 2016

ALC File: 54989

Alan Wilson
9762 Lyndhurst St.
Burnaby, BC V3J 1E9

Dear Mr. Wilson:

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Okanagan Panel (Resolution #393/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

Reconsideration of a Decision as Directed by the ALC Chair

Please note that pursuant to [s. 33.1 of the *Agricultural Land Commission Act*](#), the Chair may direct the executive committee to reconsider any panel decision if, within 60 days from the date of this decision, he considers that the decision may not fulfill the purposes of the commission as set out in s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

Reconsideration of a Decision by an Affected Person

We draw your attention to [s. 33\(1\) of the *Agricultural Land Commission Act*](#) which provides a person affected the opportunity to submit a request for reconsideration.

- 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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Jenna Bedore at (Jenna.Bedore@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'Jenna Bedore', with a stylized, cursive script.

Jenna Bedore, Land Use Planner

Enclosure: Reasons for Decision (Resolution #393/2016)

cc: Village of Lumby (File:16-0101-LUM-ALR)

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AGRICULTURAL LAND COMMISSION FILE 54989

REASONS FOR DECISION OF THE OKANAGAN PANEL

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

Applicant: **GEMA Holdings Ltd.**
(the “Applicant”)

Agent: **Matthew Wilson**
(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: 013-899-350

Lot A, District Lot 161, Osoyoos Division, Yale District, Plan 41147
(the "Property")

[2] The Property is 4.7 ha in area.

[3] The Property is generally described as being located at Shuswap Avenue, Lumby, BC.

[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. 30(1) of the *ALCA*, the Applicant is applying to exclude the Property from the ALR, for the purpose of including the Property into a proposed industrial park (the "Proposal"). The Property was historically used as a log weighing, sorting and storage facility. The Proposal along with supporting documentation is collectively the application (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 30(1) of the *ALCA*:

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



[8] The Panel considered the Application within the context of s. 6 of the ALCA. The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 are as follows:

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 Agent in advance of this decision.

At its meeting of May 16, 2016 the Village of Lumby resolved that the Application be authorized for submission to the Commission and that an “*approval of the application should be subject to a ten (10) metre wide vegetative buffer being provided along the southern boundary of the excluded area*”.

[10] The Panel reviewed three previous applications involving the Property:

Application ID: 31125
Legacy File: 04471
(Quesnel,1977)

To build a log truck weighing station (historical industrial use). It was noted that at the time of application, the

Property had been used for log storage for 6 years and was an integral part of the plant operation. The application was approved by ALC Resolution #6484/77.

Application ID: 29462
Legacy File: 05949
(Weyerhaeuser Canada Ltd.,
1978)

To exclude two lots totaling 8.3 ha (one being the Property), as they were the site of historical industrial use related to log processing and storage. The application was refused as proposed by ALC Resolution #8416/78. The Commission approved the exclusion of the western lot, subject to fencing of the western boundary of the lot. The Commission rejected the exclusion of the southern lot (the Property), but allowed log storage to continue. The Commission stated that the approval was for log storage only and no other uses such as the “dumping of un-burned materials-bark and slabs etc.” was to be permitted.

Application ID: 37599
Legacy File: 21024
(Quesnel, 1987)

To subdivide a 0.53 ha parcel from the remnant of District Lot 161 for consolidation with the Property (Lot 1). The 0.53 ha parcel was being leased by the applicant to Weyerhaeuser for log storage, and Weyerhaeuser wished to purchase it in exchange for land elsewhere. The applicants provided proof the 0.53 remnant was already being used for log storage. The application was approved by ALC Resolution #525/87.

[11] The Panel reviewed three relevant applications relating to the application:



Application ID: 29203
Legacy File: 05950
(Bell Pole Co. Ltd., 1978)

To exclude a 12.8 ha property from the ALR that had a history of industrial use. The Commission approved the exclusion as the property had been used as an industrial site for a number of years. The application was approved by Resolution #8418/78.

Note: Application ID 29203 is located in close proximity to the Property to the north, northeast.

Application ID: 29426
Legacy File: 05948
(Ohashi Brothers Logging Ltd., 1978)

To exclude 4.4 ha from the ALR (historical industrial use). The Commission approved the exclusion as it had been used as an industrial site for a number of years. The application was approved by Resolution #8417/78.

Note: Application ID 29426 is located adjacent to the Property to the northeast.

Application ID: 42036
Legacy File: 36036
(Anita-Lyn Developments Ltd., 2005)

To exclude 34.1 ha from the ALR with the intent to rezone the property for industrial and residential uses. The Commission refused the exclusion on the grounds the land had very good capability for agriculture and there were lands outside the ALR that were zoned for development. The application was refused by Resolution #403/2005.

Note: Application ID 42036 is located across the railroad tracks from the Property to the northwest.

SITE VISIT

[12] On September 22, 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*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Applicant on October 11, 2016 (the “Site Visit Report”).

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 82L/02 for the mapping units encompassing the Property are Class 1 and Class 2, more specifically (7:2WI – 3:1).

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 subclasses associated with this parcel of land are W (excess water) and I (inundation [flooding by streams etc.]).

[15] The Property is flat, and has similar agricultural capability to the adjacent ALR land to the south. In this regard, the Panel finds that the Property has prime agricultural capability and is appropriately designated within the ALR.



[16] The Property is zoned Non-Urban under the Regional District of North Okanagan (the "RDNO") Zoning Bylaw 1888, 2003. Within the Village of Lumby's Official Community Plan (OCP) the Property is designated as General Industrial. The Property was previously located within Electoral Area "D" of the RDNO but was included by annexation into the Village boundary in 2008.

[17] The properties located to the north of the Property are located within the Village of Lumby and are designated as General Industrial in the Village's OCP. The properties located to the south are located within Electoral Area "D" of the Regional District. The properties located to the south are zoned Non-Urban, and designated as Agricultural in the Electoral Areas "D" and "E" OCP.

[18] While the Property is located at the interface of the Village of Lumby's General Industrial area and the RDNO's Agricultural area, the Panel believes that the agricultural capability of the Property would be better utilized for agricultural purposes consistent with the land uses designated to the south and west.

[19] During the site visit, the Commission representatives noted a large pile of waste wood at the west end of the Property. The Panel recognizes that permission was previously given for log storage on the Property (Resolution #8416/78). However, the Commission's decision clearly stated that the approval was for log storage only, and no other uses such as the dumping of un-burned materials-bark and slabs etc. was to be permitted. The Panel finds that the dumping of wood waste is inconsistent with ALC Resolution #8416/78 and contravenes the *ALCA*. This file will be referred to the ALC Compliance and Enforcement Department.

DECISION

[20] For the reasons given above, the Panel refuses the Proposal to exclude the Property from the ALR.



[21] These are the unanimous reasons of the Okanagan Panel of the Agricultural Land Commission.

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

[23] This decision is recorded as Resolution #393/2016 and is released on November 18, 2016.

CERTIFICATION OF DECISION

A handwritten signature in black ink, appearing to read 'G. Zimmermann', is written over a horizontal line.

Gerald Zimmermann, Panel Chair, on behalf of the Okanagan Panel

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