



**Agricultural Land Commission**  
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September 12, 2016

ALC File: 55216

Ecora Engineering and Resource Group Ltd.  
543 Ellis Street  
Penticton, BC V2A 4M4

Attention: Graham Birds

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

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #342/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

Your attention is drawn 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.

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

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

Enclosure: Reasons for Decision (Resolution #342/2016)

cc: Regional District of Okanagan-Similkameen (File: E2016.053-ALC)



## **AGRICULTURAL LAND COMMISSION FILE 55216**

### **REASONS FOR DECISION OF THE OKANAGAN PANEL**

**Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act***

**Applicants:**

**Robin Ott  
Robert Ott,  
Valeria Tait  
Ian Sutherland  
(the “Applicants”)**

**Agent:**

**Graham Birds  
Ecora Engineering and Resource Group Ltd.  
(the “Agent”)**

**Application before the Okanagan Regional Panel:**

**Gerry Zimmermann, Panel Chair  
Jim Johnson  
Greg Norton**



## **THE APPLICATION**

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

- a. Parcel Identifier: 018-645-674  
Lot 4 and an undivided 1/3 share in Lot 3, District Lot 370, Similkameen Division Yale District, Plan KAP51709 (See Plan as to limited access), Except Plan 70201
- b. Parcel Identifier: 015-389-545  
Lot B, District Lot 206, Similkameen Division Yale District, Plan 42326
- c. Parcel Identifier: 015-389-553  
Lot A, District Lot 206, Similkameen Division Yale District, Plan 42326

(the “Properties”)

[2] The Properties total 11.3 ha in area, of which 5.3 ha lie within the Agricultural Land Reserve (the “ALR”). A description of the Properties are as follows:

- a. PID 018-645-674 has a civic address 2108 Naramata Road, with an area of 3.9 ha lying outside of the ALR
- b. PID 015-389-545 has a civic address 2152 Naramata Road, with an area of 7.1 ha of which 5.0 ha lies within the ALR
- c. PID 015-389-553 has a civic address 2170 Naramata Road, with an area of 0.3 ha lying completely within the ALR

[3] The properties identified as PIDs 015-389-545 and 015-389-553 are located within a designated ALR as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”). The property identified as PID 018-645-674 lies outside the ALR.

[4] The properties (within the ALR) are located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[5] Pursuant to s. 21(2) of the *ALCA*, the Applicants are applying to adjust the boundaries between the Properties as follows:

- Remove an approximately 0.2 ha area of land from the property at 2152 Naramata Road and add this to the property at 2170 Naramata Road (which will increase in size from 0.3 ha to 0.5 ha); and
- Remove an approximately 2.86 ha area of land from the property at 2152 Naramata Road and add this to the property at 2108 Naramata Road (which will increase from 3.9 ha to 6.76 ha).

The expressed reason for the boundary adjustment between 2152 and 2170 Naramata Road is in order to “legalize an existing driveway encroachment.”

For the boundary adjustment between 2152 and 2108 Naramata Road, the Applicant has stated that the arable land found at 2152 Naramata Road is divided topographically by a steep slope on the property and that the upper portion of the land is more easily accessible with the proposed lot line adjustment (the “Proposal”). The Proposal along with supporting documentation is collectively the application (the “Application”).

### **RELEVANT STATUTORY PROVISIONS**

[6] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

[7] 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**

[8] 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

[9] At its meeting of June 16, 2016, the Regional District of Okanagan-Similkameen (the RDOS”) Board authorized the Application to proceed to the Commission.

[10] The Panel reviewed two previous applications involving the Properties:

Application ID: 38686  
Legacy File: 23205  
(Sworder, 1989)

To subdivide one lot of 0.7 ha from Lot 10, District Lot 206, Plan 576 and consolidate the remainder with Lot 11, Plan 576. The subject properties total 7.2 ha and 5.2 ha are mostly within the ALR and planted to fruit trees. The Commission, by Resolution #630/89, allowed the application subject to consolidation.

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Application ID: 37764  
Legacy File: 26056  
(Sworder, 1992)

To exclude a 0.7 ha portion of Lot B, District Lot 206, Plan 42326 and subdivide that portion into two residential lots. The proposed exclusion area was unsuitable for farming and is bounded by residential housing. The Commission, by Resolution #222/92, refused the application as it was concerned that increasing urban type residential development in the Penticton to Naramata corridor could have long-lasting adverse effects on the farming community in the area.

**SITE VISIT**

[11] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

**FINDINGS**

[12] In assessing agricultural capability of the ALR portion of the Properties, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on BCLI map sheet 82E.053 for the mapping units encompassing the Properties are a mixture of Class (1), (8:2T – 2:3T), and (7:7TR – 2:6TR – 1:6T)

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.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 6 - land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are R (bedrock near the surface) and T (topographic limitations).



[13] The Panel reviewed the Proposal in context to s. 6 of the *ALCA* noted above. With regard to the boundary line adjustment between PID 018-645-674 (2108 Naramata Road) and PID 015-389-545 (2152 Naramata Road) the Panel notes the resulting alignment will divide the ALR between two parcels which the Panel believes would negatively impact the agricultural potential of the larger ALR property (2152 Naramata Road). Similarly, the Panel does not support the proposed boundary line adjustment between PID 015-389-553 (2170 Naramata Road) and PID 015-389-545 (2152 Naramata Road) as there is no benefit to agriculture. As such the Proposal is not believed to be consistent with the purposes of the ALC Act.

### **DECISION**

[14] For the reasons given above, the Panel refuses the Proposal to adjust the boundaries between the Properties.

[15] Panel Chair Gerry Zimmermann concurs with the decision.  
Commissioner Jim Johnson concurs with the decision.  
Commissioner Greg Norton concurs with the decision.

[16] Decision recorded as Resolution #342/2016.

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

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Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #342/2016. The decision is effective upon release.



A handwritten signature in black ink, appearing to be the initials 'CJF'.

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**Colin J. Fry, Director of Policy and Planning**

**September 12, 2016**

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**Date Released**