



**Agricultural Land Commission**  
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March 21, 2017

ALC File: 55463

Robert Clarke  
2750 Hilltop Road,  
Sorrento, BC, V0E2W1

Dear Mr. Clarke:

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

Please find attached the Reasons for Decision of the Okanagan Panel (Resolution #71/2017) as it relates to the above noted application.

**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).

Page 2 of 2

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 #71/2017)

cc: Columbia Shuswap Regional District (File: LC2520C)

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## **AGRICULTURAL LAND COMMISSION FILE 55463**

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

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

**Applicants:**

**Robert Clarke  
Cindy Clarke  
(the “Applicants”)**

**Agent:**

**Robert Clarke  
(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: 009-432-752

Lot B, Section 13, Township 22, Range 11 West of the 6<sup>th</sup> Meridian, Kamloops

Division, Yale District, Plan 12427

(the "Property")

[2] The Property is 32.1 ha in area.

[3] The Property has the civic address 2750 Hilltop Rd., Sorrento.

[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 Applicants are applying to subdivide the 32.1 ha property along a topographic break into one 11.7 ha lot and one 20.3 ha lot for the Applicants' daughter (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").

## **RELEVANT STATUTORY PROVISIONS**

[7] 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.

[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. Site Visit Report
5. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Agent in advance of this decision.

[10] At its meeting of November 17, 2017, the Columbia Shuswap Regional District resolved that the Application be forwarded to the Commission recommending approval.

[11] The Panel reviewed two previous applications involving the Property:

Application ID: 33328  
Legacy File: 02528  
(Hemus, 1977)

To subdivide a 0.4 ha lot, containing the house, from the 32.0 ha Property. The Commission refused the application by ALC Resolution #5865/77, as they found the land had capability for agriculture.



Application ID:37059  
Legacy File: 21478  
(Hemus, 1987)

To subdivide a 0.6 ha lot, containing the house, from the 32.0 ha Property. The Commission refused the application by ALC Resolution #1054/87, as they found the land had good agricultural capability and as they wanted to “*control the spread of subdivision into the area*”.

### **SITE VISIT**

[12] On January 18, 2017, 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 Applicants on February 24, 2017 (the “Site Visit Report”).

### **FINDINGS**

[14] In assessing agricultural capability, the Panel referred 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/14 for the mapping units encompassing the Property are Class 2, Class 3, Class 4, Class 5, and Class 6. More specifically ~12% (6:4TM-4:5TM) ~18% (6:5TM-4:6TM) and ~70% (5:3TM- 3:2T- 2:4TP).

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 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

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

The limiting subclasses associated with this parcel of land are T (topographic limitations), M (moisture deficiency), and P (stoniness).

[15] The Panel reviewed the CLI ratings and find that the Property has moderate agricultural capability, and could support a range of agriculture.

[16] During the Site Visit, the Applicants explained that they would like to subdivide the Property in order to allow their daughter to build a house and operate a small farm on the upland portion of the Property. The Panel finds that subdivision of agricultural parcels often acts to narrow the range of agricultural options available on a given parcel. Smaller lots are also more likely to be used for residential purposes which may introduce more residential/agricultural conflicts, and/or increase pressure for further subdivision in the surrounding area.

[17] The Applicants explained that they believe the steep hill and gully physically separate the homesite from the upper hay field. According to the Applicants, the trail used to access the upper hayfield from the home site is not accessible in the winter by a tractor with chains due to the steep hill. The Panel finds that the topographic break does not impede the use of the Property as an agricultural unit, as the upper hayfield can be accessed via Huband road, a short drive from the homesite. The Panel finds that the Property has greater agricultural utility in its present size and configuration.



[18] Commission Policy L-08, *Residential uses in the ALR-Zone 1* outlines the residential uses that are permitted in the ALR without an application to the ALC. The Commission encourages the Applicants to explore how these permitted residential uses to may allow for their daughter live on the Property.

**DECISION**

[19] For the reasons given above, the Panel refuses the Proposal.

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

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

[22] This decision is recorded as Resolution #71/2017 and is released on March 21, 2017.

**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

**END OF DOCUMENT**