



Agricultural Land Commission
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www.alc.gov.bc.ca

March 6, 2019

ALC File: 55408

Victoria Turton
DELIVERED ELECTRONICALLY

Dear Ms. Turton:

Re: Application 55408 to conduct a non-farm use in the Agricultural Land Reserve

Please find attached the Reasons for Decision of the Executive Committee for the above noted application (Resolution #80/2019). As agent, it is your responsibility to notify the applicant accordingly.

Review of Decisions by the Chair

Under section 33.1 of the *Agricultural Land Commission Act (ALCA)*, the Chair of the Agricultural Land Commission (the “Commission”) has 60 days to review this decision and determine if it should be reconsidered by the Executive Committee in accordance with the ALCA. You will be notified in writing if the Chair directs the reconsideration of this decision. The Commission therefore advises that you consider this 60 day review period prior to acting upon this decision.

Request for Reconsideration of a Decision

Under section 33(1) of the ALCA, a person affected by a decision (e.g. the applicant) may submit a request for reconsideration. The request must be received within one (1) year from the date of this decision’s release. For more information, refer to *ALC Policy P-08: Request for Reconsideration* available on the Commission website.

Please direct further correspondence regarding this application to ALC.Okanagan@gov.bc.ca.

Yours truly,

Riccardo Peggi, Land Use Planner

Enclosure: Reasons for Decision (Resolution #80/2019)

cc: City of Kelowna (File: A15-0008)



AGRICULTURAL LAND COMMISSION FILE 55408
REASONS FOR DECISION OF THE EXECUTIVE COMMITTEE

Soil Removal Application Submitted Under s. 20.3(5) of the *Agricultural Land Commission Act*

Applicants: F. Troy Turton
Laurie Turton

Agent: Victoria Turton

Property: Parcel Identifier: 011-703-172
Legal Description: Lot 111, Section 3, Township
26, Osoyoos Division Yale District, Plan 1247
Civic: 3110 Matthews Road, Kelowna BC
Area: 5.0 ha

Executive Committee: Jennnifer Dyson, Chair
Linda Michaluk, Island Panel Vice Chair
Dave Zehnder, Kootenay Panel Vice Chair
Richard Mumford, Interior Panel Vice Chair
Ione Smith, South Coast Panel Vice Chair
Janice Tapp, North Panel Vice Chair

OVERVIEW

- [1] The Property is located within the Agricultural Land Reserve (ALR) as defined in s. 1 of the *Agricultural Land Commission Act (ALCA)*.
- [2] The Applicant is applying to the Agricultural Land Commission (the “Commission”) to remove approximately 40,000 cubic metres of sand and gravel from approximately 2.8 ha of the Property. The Applicants intend to remove irregular topography on the Property that is prone to frost, and to create a continuous slope topped with finer soils and topsoil for planting apple trees (the “Proposal”).
- [3] The issue the Executive Committee considered is whether the proposed extraction and reclamation is necessary to improve the agricultural capability of the Property.
- [4] The Proposal was considered in the context of the purposes of the Commission set out in s. 6 of the ALCA. These purposes are:
- (a) to preserve the agricultural land reserve;
 - (b) to encourage farming of land within the agricultural land reserve 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 land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD

- [5] The Proposal along with related documentation from the Applicants, Agent, local government, third parties, and Commission is collectively referred to as the “Application”. All documentation in the Application was disclosed to the Agent in advance of this decision.

EVIDENCE AND FINDINGS

- [6] This Application was submitted on July 16, 2015 and was forwarded to the Commission by the City of Kelowna on May 13, 2016. Subsequently, on February 22, 2019, the ALCA was amended and changes were made to its regulations. While the application was submitted under the former s. 20(3) of the ALCA, the Executive Committee has considered it under s.

20.3(5) of the ALCA as amended. The considerations to be weighed by the Executive Committee on this Application are unchanged.

Issue: Whether the proposed extraction and reclamation is necessary to improve the agricultural capability of the Property.

[7] To assess agricultural capability on the Property, the Executive Committee referred in part to agricultural capability 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 applicable to the Property are Class 2 and Class 3, more specifically (4:*3A – 4:*3AP – 2:*2A).

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.

The limiting subclasses associated with this parcel of land are A (aridity), and P (stoniness).

[8] Based on the agricultural capability ratings, the Executive Committee finds that the Property has prime agricultural capability.

[9] In addition, the Executive Committee received a professional Agrologist's report, prepared by Wayne A. Blashill, and dated April 4, 2018 (the Blashill Report"). The Blashill Report submits that "*the net effect of the gravel extraction will be to improve the agricultural capability of the site. Topsoil replacement will be augmented by soil salvaged from an offsite source. This will further increase soil fertility and enhance the farm. The 3.4 ha portion will have a best improved rating of Class (1ATP) due to aridity, slope and stoniness*".

[10] The Executive Committee considered whether the proposed extraction and reclamation is necessary to improve the agricultural capability of the Property. The objective of the gravel extraction is to diminish the undulating surface of the Property and to remove several frost pockets. The Executive Committee considers that the extraction of 30,000-40,000 cubic metres of material over five years is an excessive measure to resolve purported topographic

issues on the Property. In addition to disrupting the agricultural use of the Property, the Executive Committee is concerned that the Proposal may have other impacts to surrounding agricultural lands such as dust pollution and changes to drainage. The Executive Committee finds that the Applicant can mitigate the impacts of the undulating surface and frost pockets through other means which are less disruptive, commonly utilized in the agricultural industry, and are permitted within the Agricultural Land Reserve Use Regulation.

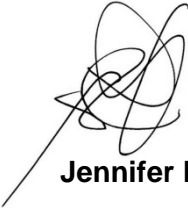
DECISION

[11] For the reasons given above, the Panel refuses the Proposal to remove approximately 40,000 cubic metres of sand and gravel from approximately 2.8 ha of the Property.

[12] These are the unanimous reasons of the Executive Committee.

[13] A decision of the Executive Committee is a decision of the Commission pursuant to s. 11.1(5) of the ALCA.

[14] Resolution #80/2019
Released on March 6, 2019



Jennifer Dyson, Chair

On behalf of the Executive Committee