

BOARD REPORT

TO: Chair and Directors

File No: LC2553C
PL20180061

SUBJECT: Electoral Area C: Agricultural Land Commission (ALC) Application Section 20(3) - Non-Farm Use in the Agricultural Land Reserve (ALR) LC2553C (Roy Johnston)

DESCRIPTION: Report from Dan Passmore, Senior Planner, dated May 29, 2018. 2790 Notch Hill Road, Balmoral.

RECOMMENDATION: THAT: Application No. LC2553C, Section 20(3) Non-farm use in the ALR, for NW 1/4, Section 5, Township 22, Range 10, West of the 6th Meridian, Kamloops Division, Yale District, Except (1) Part Covered by the Waters of Turtle Lake at the time of Survey of said Lake, (2) The W 1/2 of the W 1/2 of said NW 1/4, (3) Parcel 10 on Plan 36812, and (4) Plans 5006 and 7753 be forwarded to the Provincial Agricultural Land Commission recommending refusal, on this 19th day of July, 2018.

SHORT SUMMARY:

The owner is proposing to use a 1.7 ha. portion of the subject property comprising a localized depression on the site as a receiving area, storage and evaporation lagoon for household septic and holding tank disposal of effluent, as operated by Reliable Septic Ltd.

VOTING:	Unweighted Corporate	<input checked="" type="checkbox"/>	LGA Part 14 (Unweighted)	<input type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (<i>Weighted</i>)	<input type="checkbox"/>
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BACKGROUND:

REGISTERED OWNER(S):
Roy D. Johnston

AGENT:
Franklin Engineering Ltd. – Mike Casol

ELECTORAL AREA:
C

LEGAL DESCRIPTION:

NW 1/4, Section 5, Township 22, Range 10, West of the 6th Meridian, Kamloops Division, Yale District, Except (1) Part Covered by the Waters of Turtle Lake at the time of Survey of said Lake, (2) The W 1/2 of the W 1/2 of said NW 1/4, (3) Parcel 10 on Plan 36812, and (4) Plans 5006 and 7753

PID:

004-596-145

SURROUNDING LAND USE PATTERN:

North = Commercial/Notch Hill Road

South = Agriculture

East = Agriculture

West = Treed/Effluent Receiving Pond/Agriculture

PARCEL SIZE:

41.23 ha. (101.89 ac)

DESIGNATION:

AG – Agriculture

ZONING:

AR1 – Agriculture Zone (20 ha)

SOIL CAPABILITY:

See "Maps_Plans_Photos_LC2553C.pdf" attached.

Canada Land Inventory mapping indicates that the subject property is divided into two different soil capability ratings. Soils through 70% of the property are Class 2 with, soil density (undesirable soil structure) as the limiting factor, and 30% Class 2, with topography as a limiting factor. The soils are not improvable with respect to the class, but the 30% soils can be improved to cumulative and minor adverse conditions.

SITE COMMENTS:

The subject property is currently accessible from Notch Hill Road on its north side, and is also adjacent to Peterson Road to the east. The proposed septic receiving lagoon is located in the middle of the property. CSRD staff have included pictures of the area proposed for effluent and it is currently a wetland with surface water present.

The owner currently farms about a 1/4 of the subject property, in the northern and eastern portions. Primarily these areas are used for forage crop production for neighbouring dairy farms. The rest is either forested or swamp. BC Assessment Authority data indicates that there is currently a single family dwelling (manufactured home) as well as some accessory buildings on the property. The area where the receiving lagoon would be located is not currently farmed.

LAND INTERESTS IN THE COMMUNITY:

The owner owns W 1/2 of the W 1/2, of the NW 1/4 (PID: 014-268-370) adjacent to the west, which is where Reliable Septic currently disposes of septic effluent.

HISTORY:

See "Maps_Plans_Photos_LC2553C.pdf" attached.

- #1014 (1975) allowed a portion of land to be excluded with conditions – inclusion. (1996) reconsideration - allowed to fully exclude.
- #1060 (1975) refused exclusion but allowed subdivision of the 110 ac on the east side of Balmoral Road into 5 parcels of 20 ac each.

- #1146 (1975) allowed subdivision into 2 parcels provided the northern parcel was consolidated with a property adjacent to the north.
- #1244 (1976) refused a 2 lot subdivision. Class 2 soils and the ALC wants to maintain large lots. Leasehold by explanatory plan suggested.
- #1378 (1977) allowed subdivision of 14 ac including the home and homesite from the subject property.
- #1436 (1978) allowed subdivision into 1 ac and a 32 ac parcels.
- #1468 (1978) allowed subdivision.
- #1549 (1986) allowed exclusion of 34 ha. ALC is opposed to the creation of residential lots west of the north-south extension of the proposed connector road. Also required fencing.
- #1590 (1979) allowed exclusion.
- #1591 (1979) allowed exclusion.
- #1592 (1979) allowed exclusion.
- #1625 (1979) allowed exclusion of area east of Hendrickson Road subject to the area west of Hendrickson Road being included into ALR.
- #1642 (1984) allowed a second hand and antique outlet within a concrete building.
- #1652 (1980) refused a non-farm use for a shopping mall because of Class 2 soils.
- #1706 (1981) refused a nonfarm use for a 30 ac area for a shopping centre because of agricultural potential and possible intrusion into the ALR.1251 (1976) refused 2 lot subdivision because there is some capability for agricultural use.
- #1727 (1981) allowed a subdivision of 2 ac parcel from the subject properties with conditions.
- #1908 (1984) allowed subdivision of 16 ha lot from the subject property containing hog operation, subject to consolidation.
- #1955 (1984) allowed subdivision to create a 11 ha parcel south of the TCH and the 47 ha subject property north of the TCH.
- #2069 (1990) allowed exclusion of a 50 ha property. (1990) reconsideration to allow an amendment to permit the use of a portion of the land to be used for a private aircraft landing strip.
- #2074 (1990) application to subdivide withdrawn.
- #2079 (1990) allowed non-farm use of 4 ac of the property for a log home building for 2 years with conditions. (1996) rescinded condition about topsoil stockpiling and extended approval of operation for a 5 year period subject to conditions.
- #2125 (1992) refused subdivision into 1.6 ha and 3.23 ha parcels, as the smaller parcels would reduce the overall agricultural potential of the land.
- #2186 (1995) allowed exclusion.
- #2221 (1998) allowed exclusion subject to fencing and the registration of a covenant on the south boundary.
- #2231 (1998) allowed subdivision of a 2.3 ha lot.
- #2247 (2002) refused exclusion of a 47 ha property because the ALC believes allowing urban development would result in continued pressure on remaining ALR lands in the area to the detriment of agriculture. (2003) reconsideration – confirmed refusal.
- #2287 (2003) refused a non-farm use to use 4.5 ha of an 8.9 ha property as a storage facility because the land has agricultural capability.
- #2302 (2004) refused the subdivision of 4 lots (3 lots of 7ha and one 9.6 ha lot) because of the good quality of soils. Allowed a 2 lot subdivision, as divided by Highway #1. (2004) reconsideration – allowed a 4 lot subdivision of 32 ha property.
- #2387 (2008) allowed to construct a second single family dwelling on the 10.6 ha property subject to the removal/demolition of the existing house upon its vacancy.

- #2424 (2010) refused exclusion, consolidation, and subdivision application because the land has agricultural capability and is suitable for agricultural use. The ALC said the proposal would have a negative impact on agriculture. (2010) reconsideration – confirmed refusal.
- #2460 (2012) refused exclusion of 8-10 ac to facilitate a place of worship and accessory uses because the land has good agricultural capability. 1691 (1980) approved 2 lot subdivision.
- #2494 (2015) refused subdivision into 4 ha and 6 ha parcels.
- #2545 yet to be adjudicated.

POLICY:**Electoral Area 'C' Official Community Plan Bylaw No. 725**

See attached "LC2553C_Policies.pdf"

South Shuswap Zoning Bylaw No. 701**3.2 Agricultural Land Reserve**

In addition to the regulations established in this Bylaw, all lands within the Agricultural Land Reserve are also subject to the provisions of the Agricultural Land Commission Act, regulations and orders of the Agricultural Land Commission (thereby not permitting the subdivision of land nor the development of non-farm uses unless approved by the Agricultural Land Commission).

Section 5 – AR1 – Agriculture Zone (20 ha)

5.1 The following uses and no others are permitted in the AR1 Zone:

- .1 agriculture;
- .2 intensive agricultural use, permitted only on parcels greater than 2 ha;
- .3 single family dwelling;
- .4 bed and breakfast;
- .5 cottage, permitted only if there is less than two (2) single family dwellings on the property and permitted only on parcels greater than 4,000 m²*;
- .6 home business;
- .7 home industry, permitted only on parcels greater than 2 ha;
- .8 public utility;
- .9 accessory use..

Public Utility is defined as follows:

PUBLIC UTILITY means a large scale system, work, building, plant, equipment or resource owned by a municipality, public or private utility company or other government agency for the provision of water, sewer, drainage, gas, electricity, transportation, communication services, such as an electrical substation, community sewer system or public works yard but does not include dewatering pit.

South Shuswap Liquid Waste Management Plan (LWMP)

The CSRD Operations Department has provided the following comments related to this proposal. The LWMP provides limited direction about this type of proposal, but it does speak to this somewhat vaguely in section 4.1 (3). This section is about the possibility of the CSRD considering a bylaw to require the mandatory pump out of septic tanks. The section mentions the current Balmoral site (located on the

adjacent property to the west of the subject property), as well as this statement "In the event that education programs are not producing satisfactory results and a mandatory septic pump out program is being considered, the CSRD Economic Development team could play a role in generating interest in the private sector to invest in the construction of a septage receiving facility to handle the significant increase in work load and volumes".

FINANCIAL:

There are no financial implications to the CSRD with this application.

KEY ISSUES/CONCEPTS:

As indicated above, approximately, ¼ of the property is currently used to produce forage crops for the neighbouring dairy farms. The rest of the property contains a residence, several accessory buildings, is heavily treed, and of course includes the wetland. The applicant has not indicated how the septic disposal trucks will access the disposal area.

The owner of the property currently leases an area on the adjacent property to the west to Reliable Septic Disposal for a small receiving pond. This is the only such facility in the area locally, and other operators apparently truck septic effluent out of the area. This adjacent property is also currently in the ALR.

OCP policies clearly discourage wetland re-purposing. Zoning regulations appear to allow use of ALR land for public utility purpose, provided the current operation can be classified as a private utility. Staff have investigated this and are confident that the operations of Reliable Septic Ltd. qualify as a Public Utility as defined in the Zoning Bylaw.

The Agricultural Land Commission Act (ALCA) under Section 2 indicates that the ALCA is not subject to any other enactment except the Environmental Management Act (EMA). The EMA, under Section 4, does not recognize the ALCA as an area of conflict, and therefore the EMA would seem to prevail. In actuality, the ALCA also applies, and therefore, the proposal must be in accordance with ALC applicable regulations.

In practice a permit being considered for issuance under the EMA for a wastewater receiving facility typically does not get referred to the ALC or to Local Government for input. This has resulted in a great many registrations being issued which impact on farm land. Strictly speaking, however, a Wastewater receiving facility is not a farm use, or a permitted non-farm use according to the Agricultural Land Commission Use, Subdivision and Procedure Regulation (BC Reg 171/2002). Approval of the Ministry of Environment (MoE) will be required to re-purpose the existing wetland into a receiving facility, this would only occur after the ALC has rendered a favourable decision on this non-farm use application. Development Services staff are unaware of what conditions the MoE may place on this proposal regarding environmental oversight.

In support of the application, the applicant has indicated that the effluent could be used in the spring and summer months for spray irrigation of neighbouring forage crop production fields. This would be a benefit to agricultural use of surrounding properties. However, since the CSRD is currently pursuing plans to provide community sewer service the treatment and disposal of which is proposed to include a spray irrigation component, this proposal could impact the number of farms subscribing to the CSRD supply proposal.

It is also important to note that the pond on the property will be receiving septic tank pumpout material, or septage from primarily type 1 septic system installations, in addition to some raw effluent pumped out from holding tanks and porta-potties. As such the hauled material consists mostly of the sludge

from what would be the equivalent of primary treatment, and has typically not received secondary or even tertiary treatment, which would be the case for CSRD liquid spray effluent.

SUMMARY:

Development Services staff is recommending that the Board send a recommendation of refusal for the non-farm uses on the subject parcel to the ALC because the use of an existing wetland as a receiving facility for septic effluent is contrary to several OCP policies, as referenced in the attached LC2553C OCP policies document.

IMPLEMENTATION:

If the ALC approves this application, the owner would apply to MoE for a permit for the receiving facility.

COMMUNICATIONS:

The recommendation of the Board will be forwarded to the ALC for consideration during its review of this application.

The Electoral Area C Advisory Planning Commission reviewed this application and gave the proposal unanimous support.

DESIRED OUTCOMES:

Endorse staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

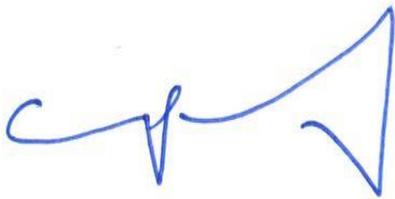
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Electoral Area C Official Community Plan Bylaw No. 725.
2. South Shuswap Zoning Bylaw No. 701.
3. Agricultural Land Commission Application Package.

Report Approval Details

Document Title:	2018-07-19_Board_DS_LC2553C_Johnston.docx
Attachments:	- LC2553C_Policies.pdf - Maps_Plans_Photos_LC2553C.pdf
Final Approval Date:	Jul 9, 2018

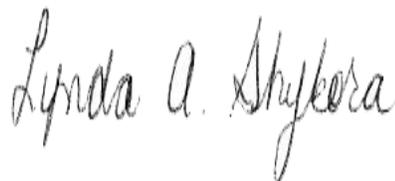
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Jul 5, 2018 - 10:37 AM



Gerald Christie - Jul 5, 2018 - 11:37 AM



Lynda Shykora - Jul 9, 2018 - 2:27 PM



Charles Hamilton - Jul 9, 2018 - 4:07 PM