



BOARD REPORT

TO: Chair and Directors

File No: LC2562D
PL20190031

SUBJECT: Electoral Area D: Agricultural Land Commission (ALC) Application
Section 21 (2) – Subdivision (Hemsworth)

DESCRIPTION: Report from Laura Gibson, Development Services Assistant, dated
February 26, 2019.
1105 Salmon River Road, Silver Creek

RECOMMENDATION #1: THAT: Application LC2562D, Section 21 (2) for Subdivision of the South
½ of Legal Subdivision 12, Section 5, Township 19, Range 10, West of
the 6th Meridian, Kamloops Division Yale District, be forwarded to the
Agricultural Land Commission recommending approval this 21st day of
March, 2019.

SHORT SUMMARY:

The subject property is located in Silver Creek in Electoral Area D. The property owners are applying to the ALC to subdivide the subject property into two parcels, separated by Salmon River Road.

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

REGISTERED OWNER(S):
Daniel and Barbara Hemsworth

ELECTORAL AREA:
D

LEGAL DESCRIPTION:
The South ½ of Legal Subdivision 12, Section 5, Township 19, Range 10, West of the 6th Meridian,
Kamloops Division Yale District

PID:
014-106-256

CIVIC ADDRESS:
1105 Salmon River Road (Silver Creek)

SURROUNDING LAND USE PATTERN:
North = Rural Holding, ALR
South = Rural Holding, partially ALR
East = Rural Holding, ALR
West = Rural Holding

CURRENT USE:

One single family dwelling, two barns, and approximately 12-14 acres sown to hay and clover.

PROPOSED USE:

Subdivide the parcel into two lots, separated by Salmon River Road. The applicants state in their application that the intention of the subdivision is for their children to move across the road. Currently, the ALC permits only one single family dwelling on the subject property.

PARCEL SIZE:

7.9 ha (19.5 ac)

PROPOSED PARCEL SIZES:

Lot 1 (West of Salmon River Road): 3.4 ha (8.4 ac)

Lot 2 (East of Salmon River Road): 4.5 ha (11.1 ac)

DESIGNATION/ZONE:

Salmon Valley Land Use Bylaw No. 2500

RH – Rural Holding

PROPOSED DESIGNATION/ZONE:

RH – Rural Holding

AGRICULTURAL LAND RESERVE:

100%

SOIL CAPABILITY:

According to the Canada Land Inventory mapping, approximately 64% of the subject property appears to contain 60% Class 4 soils with moisture deficiency and topography as limiting factors, and 40% Class 5 soils with moisture deficiency and topography as limiting factors. The soils are improvable to 60% Class 3 soils with topography and moisture deficiency as limiting factors, and 40% Class 4 soils with topography and moisture deficiency as limiting factors. The other 36% (approximately) of the of the subject property appears to contain Class 5 soils with topography and stoniness as limiting factors, and are not improvable.

See "Maps_Plans_LC2562D.pdf" attached.

HISTORY:

- #2324 (2006) – ALC refused a 2 lot subdivision along Salmon River Road for 2 adjacent parcels, however Resolution #202/2006 noted that the ALC would approve a subdivision of the properties under the condition that the 2 lots created west of Salmon River Road be consolidated. The owner did not proceed with this subdivision application.
- #2462 (2012) – ALC approved subdivision along Salmon River Road for one of the parcels included in application #2324, due to the barrier represented by Salmon River Road and the limited agricultural capability of the land lying west of Salmon River Road (due to very steep slopes and poor soils.)

See "Maps_Plans_LC2562D.pdf" attached.

SITE COMMENTS:

The subject property is divided by Salmon River Road. The portion of the subject property east of Salmon River Road is relatively flat, while the portion to the west of Salmon River Road is flat near the road but slopes up to 50% towards the west of the property. There is one single family dwelling and two accessory buildings on the portion of the property east of Salmon River Road, and the other portion of the property is vacant.

ALC APPLICATION INFORMATION (completed by applicant/agent):

"Current agriculture that takes place on the parcel:

Roughly 12-14 acres sown to hay/clover

Agricultural improvements made to the parcel:

Sown hay and clover, put in fencing

Non-agricultural uses that are currently taking place on the parcel:

Living in home on section east of roadway

Proposal:

1. Enter the total number of lots proposed for your property.

3.4 ha

4.5 ha

2. What is the purpose of the proposal?

Our children are planning a move to our area and would like to have them across road.

3. Why do you believe this parcel is suitable for subdivision?

The section across the road is not safe to cross with animals or farm equipment.

4. Does the proposal support agriculture in the short or long term? Please explain.

It supports it in the long term, as the two sections would operate individually.

5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy?

No"

POLICY:

Salmon Valley Land Use Bylaw No. 2500 (Bylaw No. 2500)

Section 1.7.2.5

The Regional Board wishes to discourage residential intrusion in agricultural areas. The Board sees the creation of 8 hectare parcels from larger parcels of good agricultural land (including land within the Agricultural Land Reserve and Class 4 or better agricultural land) as the first step toward residential intrusion on agricultural land. To prevent this intrusion, the Regional Board discourages new Rural Holding designations (8 ha minimum parcel size) on good agricultural land;

Section 1.7.2.7

The Regional Board prefers to see rural residential use concentrated on parcels approximately 1 ha (2.5 acres) in size and located in areas where the residential use clearly will not have a negative impact on agricultural uses;

Section 2.2.5

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 (ALC) Act, regulations and orders of the ALC (thereby not permitting the subdivision of land or the development of non-farm uses unless approved by the ALC).

Section 2.2.5.1

Any properties located within the ALR and in land use zones that permit two single family dwellings must have the approval of the ALC, prior to establishing the second residence.

In the event that a farm requires more than two single family dwellings on the property, either issuance of a Temporary Use Permit or a successful rezoning is required, after approval from the ALC is received.

Section 2.2.13.4

Minimum Parcel Area Exceptions

Where a portion of the parcel is physically separated from the remainder of the parcel by a highway or other titled land provided that:

- no parcel created in the R or RH zone is less than 4000 m² in area;
- the subdivision is restricted to dividing the parcel along the highway or other titled land that physically separates the parcel;
- this exception shall not include areas marked "Return to Crown" as indicated on the registered plan; and,
- this exception does not apply to a parcel shown on a reference, explanatory or subdivision plan deposited in the Land Title Office after December 31, 1995.

Section 2.5

RH – Rural Holding

Permitted uses: agriculture, church, equestrian centre, fish farms, home occupation, kennel, single family dwelling, accessory use

Maximum number of single family dwellings:

- On a parcel with less than 2 ha in area = 1
- On a parcel with 2 ha or more in area = 2

Minimum area of parcels to be created by subdivision: 8 ha

FINANCIAL:

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

KEY ISSUES/CONCEPTS:

The owners of the subject property wish to subdivide the land along Salmon River Road, creating two parcels. The owners have stated in their application that the proposed parcel west of Salmon River Road, referred to as Lot 1 in this application, is intended for their children, who are moving to the area.

When comparing only the land lying west of Salmon River Road for past application #2462 and the current application, the subject property in the current application has more steep-sloped land and less

Class 4 soils than the land in the past application. Therefore, that portion of the subject property may be less suitable for agriculture than the parcel to the north, which was approved to be subdivided. Staff recommended support and the Board supported the proposed subdivisions in #2324 and #2462.

Section 1.7.2.5 in Bylaw No. 2500 discourages the creation of Rural Holding (RH) parcels which are 8 ha in size from larger parcels of good agricultural land. The subject property is already zoned RH and less than 8 ha, and the proposal will not subdivide off a significant portion of good agricultural land (referred to as Class 4 soils or better in Bylaw No. 2500). In analyzing the Canada Land Inventory soil mapping data, Lot 1, which will be 3.4 ha in size, will have approximately 20% "good" agricultural land (Class 4 soils or better). The remaining 80% of the 3.4 ha parcel will have Class 5 soils, which are not improvable. The other proposed parcel east of Salmon River Road, which is referred to as Lot 2 in this application and will be 4.5 ha in size, will have 97% good agricultural land (Class 4 and 5 soils, improvable to Class 3 and 4).

Section 1.7.2.7 in Bylaw No. 2500 prefers to see rural residential uses concentrated in areas where the residential use will clearly not have a negative impact on agricultural uses. There are no agricultural uses which would be negatively impacted by the proposed subdivision occurring on adjacent properties.

If the ALC does not approve this subdivision application, the owners will not be able to subdivide the property. Although Bylaw No. 2500, Section 2.5, allows for two single family dwelling units on the property, Section 2.2.5.1 of Bylaw No. 2500 requires that the ALC approve of the second residence. Previously, the ALC regulations allowed a second residence if it met certain conditions (i.e. a manufactured home for immediate family members). The ALC regulations have recently changed and a second residence is no longer permitted on properties in the ALR. However, there is an option to make an application to the ALC for a "non-adhering residential use" to request approval for a second residence.

If the ALC approves this subdivision application, the applicants may proceed with a subdivision application through the CSRD and Ministry of Transportation and Infrastructure. Although the minimum parcel size in the RH zone is 8 ha, Section 2.2.13.4 minimum parcel size exceptions in Bylaw No. 2500 states that minimum parcel area regulations shall not apply where a portion of the parcel is physically separated from the remainder of the parcel by a highway or other titled land provided that, "no parcel created in the RH or RH zone is less than 4000 m² in area; the subdivision is restricted to dividing the parcel along the highway or other titles land that physically separates the parcel..." If the property is subdivided, Bylaw No. 2500 will permit 2 single family dwellings on each new parcel, but a "non-adhering residential use" application would need to be approved by the ALC in order for either parcel to have a second residence.

SUMMARY:

The owners of the subject property are proposing to subdivide the land along Salmon River Road, creating a 3.4 ha parcel and a 4.5 ha parcel.

Staff recommends approval of the application for the following reasons:

- Proposed Lot 1 consists primarily of poor agricultural land (78% steep slopes), while proposed Lot 2 is made up of 97% good agricultural land;
- The proposed subdivision should not negatively impact agricultural activities on adjacent parcels;
- The ALC previously approved a similar subdivision 2 parcels to the north;
- Bylaw No. 2500 allows for subdivision of the property along Salmon River Road, as proposed; and,

- Salmon River Road may provide a slight impediment to moving farm equipment across the road between the east and west parts of the subject property.

IMPLEMENTATION:

If the ALC allows this subdivision, the owners will may start the subdivision process by applying to both the Ministry of Transportation and Infrastructure and the CSRD.

COMMUNICATIONS:

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

DESIRED OUTCOMES:

That the Board endorse staff recommendations.

BOARD'S OPTIONS:

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

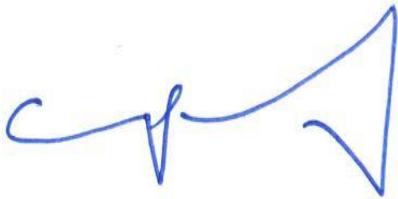
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Salmon Valley Land Use Bylaw No. 2500
2. ALC Act and Regulations

Report Approval Details

Document Title:	2019-03-21_Board_DS_LC2562_Hemsworth.docx
Attachments:	- Maps_Plans_Photos_LC2562D.pdf
Final Approval Date:	Mar 9, 2019

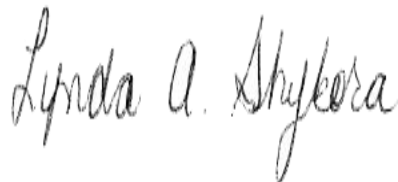
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Mar 1, 2019 - 3:44 PM



Gerald Christie - Mar 7, 2019 - 12:22 PM



Lynda Shykora - Mar 7, 2019 - 2:47 PM



Charles Hamilton - Mar 9, 2019 - 2:03 PM