



# BOARD REPORT

**TO:** Chair and Directors

<b>File No:</b> LC2537D PL20170066
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**SUBJECT:** Electoral Area D: Agricultural Land Commission (ALC) Application  
Section 20(3) - Non Farm Use LC2537D (Koopmans)

**DESCRIPTION:** Report from Christine LeFloch, Development Services Assistant, dated July 27, 2017.  
2939 Sallenback Road, Yankee Flats

**RECOMMENDATION #1:** THAT: Application No. LC2537D, Section 20(3) Non-Farm Use in the ALR, for the Northeast ¼, Section 30, Township 18, Range 10, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District be forwarded to the Agricultural Land Commission recommending approval this 17<sup>th</sup> day of August, 2017.

### SHORT SUMMARY:

The subject property is located in the Yankee Flats area of Electoral Area D. The owner has made application for a boundary adjustment subdivision of the subject property. The purpose of the boundary adjustment is to sell a portion of the property containing arable land and farm buildings including a residence to the neighbouring farm owned by Bernadine and Bill Bykerk. This would add an additional residence to the Bykerk property which is intended to be used by their son who would assist with farm operations and would result in a total of 3 residences for this new parcel. This property is entirely within the ALR. Approval of the additional residence as a Non-Farm Use by the Agricultural Land Commission is required as a condition of subdivision approval.

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<b>VOTING:</b>	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:

PROPERTY OWNER:  
John Koopmans

ELECTORAL AREA:  
D

CIVIC ADDRESS:  
2939 Sallenback Road, Yankee Flats

LEGAL DESCRIPTION:  
The Northeast ¼, Section 30, Township 18, Range 10, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District

SIZE OF PROPERTY:  
65.58 ha (162 ac)

OCP/ZONING:  
Salmon Valley Land Use Bylaw No. 2500, R-Rural

**CURRENT USE:**

Agriculture, Residential (vacant)

**PROPOSED USE:**

Agriculture, Residential – boundary adjustment subdivision which would add another residence to the Bykerk property for farm help. There would be 3 residences on the Bykerk property.

**SURROUNDING LAND USE PATTERN:**

North: Agriculture (cattle)

South: Agriculture

East: Salmon River, Agriculture

West: Rural

ALC INFORMATION (Information in quotations was provided by the applicant verbatim. Information not in quotations is a summary of information provided by the applicant.):

*Proposal:* "The purpose of this proposal is to supply the Bykerk family with living accommodations for farm help/caretaker". Staff note that the overall proposal also includes the addition of 14 acres of farmland which would be added to the Bykerk farm.

*History of the family/farm provided by the applicant:*

The subject property was previously owned by Bernadine Bykerk's father Bernie Kapalka and Bernadine participated in running a cattle operation on the property for a number of years. When Mr. Kapalka passed away the property was sold to the current owner John Koopmans.

Bernadine's husband (Bill) works away from home as the farm is not enough to sustain the family. Due to health issues Bernadine has been unable to continue to manage the farm on her own. Bernadine has 3 children; one moved to Alberta and is unable to help, her daughter lives on the property but has a small child and is a full time mom. Her son Bernie Bykerk lives in Salmon Arm and is able to help with the day to day operations (calving, fertilizing, haying, irrigation etc.).

John Koopmans is the owner/operator of Ovino Winery and finds the 160 acres to be too much work. John has offered Bernadine and Bill a boundary change which includes a small house. Bernadine's son Bernie would like to live in the house and work as a family farm hand. With a strong family background of farming Bernie is very capable of taking on the responsibility.

A full history of the Bykerk/Kapalka family ownership of the subject property is contained in the application to the Agricultural Land Commission which is available from staff.

*Current use of parcels under application:* "60% hay, 40% grazing, 50 cows."

*Does the proposal support agriculture in the short or long term?* "The proposal supports long term agriculture because if Bernie can move on site then the farm will continue smoothly, and Bernie would eventually like to take the farm over." Staff note that the additional land which would be acquired through the boundary adjustment would be an enhancement to the overall farm.

**Site Comments:** A site visit was conducted on June 5, 2017. The property is divided by a steep forested ridge that runs on a diagonal roughly north to south across the eastern half of the property. The lands west of the ridge include two large pasture areas used by the owner for his sheep herd (55

ewes plus lambs) and for growing approximately 20 acres of barley. There are also large areas that are forested. An old house is located at the top of the ridge near the north property line. This house is tucked into the woods and is in a state of disrepair. The owner has indicated that his son may wish to renovate this home in the future. This part of the property is accessible by a rough dirt road which connects to Yankee Flats Road through Crown land to the west.

The lands east of the ridge are located mainly in the northwest corner of the property. There is roughly 14 acres of flat irrigated land that is currently being rented to the Bykerks who are using it for hay and pasture. There is also a homestead located at the base of the ridge that includes a house, hay barn, shop, and a few small outbuildings. The house is habitable but currently unoccupied. The Salmon River runs through the property and cuts off the northeast corner from the rest of the lands. There is a single lane bridge at the end of Sallenback Road which provides access to the homestead and also to the Bykerk property to the north. A small unoccupied older cabin and a pumphouse are located on the small corner of land that is cut off from the rest of the property by the river. The cabin does not currently contain a fridge or stove and the owner states that the plumbing isn't operational. He doesn't know what the source of water or the means of sewage disposal are for this building. Due to the limited area it is unlikely that this building would be able to be adequately serviced but it may be useful for some other accessory use.

The Bykerk property is located to the north of the subject parcel and is also accessed from Sallenback Road. The fields on the two properties are separated by a shared driveway. There are currently two homes located on the parcel. One is a single family dwelling occupied by the owners (Bill and Bernadine Bykerk), located near the farm buildings. The other dwelling is a newer single wide mobile home that is sited near the bridge. The mobile home is occupied by the owner's daughter and her family. The lot line adjustment would add an additional residence to this parcel resulting in a total of three dwellings.

### **Soils Capability:**

The western portion of the property has 60% Class 4 soils with topography and moisture limitations and 40% Class 5 soils with the same limitations. These soils can be improved to 60% Class 3 and 40% Class 4 soils, with the limiting factors remaining the same.

The area containing steep slopes is rated Class 6 with topographical limitations and is not improvable.

The soils in the northeastern corner of the property are rated as 60% Class 4 with soil moisture and topographical limitations and 40% Class 3 with soil moisture and low fertility as limitations. These soils may be improved to 60% Class 3 with moisture and topographical limitations and 40% Class 2 with two or more limitations.

**History:** There have been numerous ALC applications made in the area. See ALC/History Map.

- #1148 (1976) Application to subdivide the property into two 2 acre lots, one 1.5 acre lot and a remainder of 10.44 acres was refused.
- #1186 (1976) Application to subdivide property into 2 lots of approximately 8 ha and 20 ha refused.
- #1222 (1976) Application to subdivide the 160 acre property into 3 lots was approved.
- #1394 (1977) Application to subdivide property into 2 lots of approximately 8 ha and 20 ha was refused due to good agricultural capability.
- #1402 (1977) Application to subdivide property as divided by Salmon River Road was approved.

- #1406 (1977) Application to subdivide a 1.2 ha lot leaving a 21.8 ha remainder was approved.
- #1693 (1981) Application for exclusion refused but subdivision was approved.
- #1819 (1982) Application to subdivide property into two lots of approximately 8 ha each was refused due to good agricultural capability but subdivision along ALR boundary was allowed (not completed). (1986) Application appealed and refused a second time for the same reasons.
- #2004 (1986) Application to subdivide property into two lots of 8.32 ha and 8.49 ha was approved subject to the inclusion of the remainder of the property into the ALR.
- #LC2192 (1996) Application to subdivide into to lots of 8 ha and 19.8 ha refused. Creation of a smaller lot containing one of the dwellings on the property was approved subject to conditions.
- #LC2393 (2008) Application to subdivide an 8 ha lot from the 28 ha subject property was approved subject to inclusion of the non-ALR portion of the property (6.3 ha) into the ALR removal of 2 mobile homes from the property and rescinding of a previous subdivision approval under application LC2192.
- #LC2411 (2009) Application to include 6.3 ha into the ALR was approved.
- #LC2415 (2009) Application to subdivide a 1ha lot leaving an 11.6 ha remainder was approved. (Same applicant as current application, but different property).

**POLICY:****Salmon Valley Land Use Bylaw No. 2500***Section 1.7.2 – Rural and Agricultural Character*

Policies that relate to this application include the following:

- .1 On Schedule A, the OCP Designation Maps, the rural and agricultural areas are designated as R (Rural);
- .2 Existing rural areas include parcels greater than 60 ha in area and land under resource or agricultural use. Rural areas shall be preserved to the greatest extent possible to provide for continued agricultural and resource production as the main elements of the local economy;

*Section 2.2.5 – Agricultural Land Reserve*

In addition to the regulations established in this Bylaw, all lands within the Agricultural Land Reserve area 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 – Additional Residences within the ALR*

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.

*R – Rural*

## Permitted Uses:

- agricultural;
- airfield, airstrip;
- equestrian centre;
- fish farm;
- forestry;
- golf course and clubhouse;
- guest ranch;
- gun club and archery range;
- kennel;
- portable sawmill;
- single family dwelling;
- trapping;
- accessory use.

## Maximum number of single family dwellings:

On a parcel with less than 2 ha in area: 1 single family dwelling per parcel

On a parcel with 2 ha or more in area: 2 single family dwellings per parcel.

Minimum area of parcels to be created by subdivision: 60 ha

*Section 2.2.13 – Minimum Parcel Area Exceptions*

Policies that relate to this application include the following:

Minimum parcel area regulations shall not apply:

3. where lot lines are relocated to facilitate an existing development or improve a subdivision pattern provided that:

- no additional lots are created;
- all parcels are contiguous; and
- no parcel shall be enlarged to a size permitting further subdivision.

The proposed lot line adjustment does not meet the minimum lot size for the R – Rural Zone however it does meet the criteria for an exemption under Section 2.2.13.3. The Provincial Approving Officer is supportive of this boundary adjustment being an improvement to the overall farm use of the properties. Therefore, the subdivision does not require approval of the ALC. This application is for the additional residence only.

**FINANCIAL:**

There are no financial implications to the CSRD as a result of this application.

**KEY ISSUES/CONCEPTS:**

This application came about as a result of an application for a boundary adjustment subdivision between the subject property owned by John Koopmans and an adjacent parcel to the north, owned by Bernadine Bykerk. The boundary adjustment would move the boundary between the two parcels to add the lands east of the ridge to the Bykerk farm. This portion of the property is accessed from

Sallenback Road using a common driveway that is also used to access the Bykerk property. The proposed remainder of the subject parcel would be accessed from Yankee Flats Road. The existing access from the top of the parcel to the bottom is a narrow, rough skid trail, with very steep grades and is not conducive to moving farm equipment. The lands proposed to be sold to the Bykerks include 14 acres of flat irrigated land along with a single family dwelling and a number of farm buildings including a hay barn and a shop. There is also a small older cabin located within this area. The Bykerks are currently leasing the farmland to grow hay for their cattle operation. The residence and cabin are currently unoccupied. Further, the barn on the Bykerk property is in a state of disrepair and they would benefit from the use of the hay barn on the lands in question.

There are already two dwellings located on the Bykerk property, including the main residence and the mobile home occupied by their daughter and family. Bernadine Bykerk can no longer manage the farm on her own due to health issues and her husband works out of town. The additional residence would be used by her son who would assist with day to day farm operations and eventually take over the farm.

Staff note that Salmon Valley Land Use Bylaw No. 2500 allows only two single family dwellings per parcel in the R-Rural Zone. Therefore, if the Agricultural Land Commission application is approved the Bykerks would need to make application for a Temporary Use Permit (TUP) to allow the mobile home to remain on the property. TUPs are valid for a three year period and are renewable once only. The Bykerks have advised that they are amenable to this as the mobile home was only intended to be placed on the property temporarily. Alternately, they could apply to amend Bylaw No. 2500 to include a site specific regulation to allow a third residence on this property only.

Staff also note that although it is currently not occupied, the old cabin on the property has been used as a residence in the past. The servicing for this cabin is unknown and due to its location on a very small corner of land adjacent to the river there is not enough room for a septic system. Despite this, there is some potential for the building to be resurrected as a fourth residence. This issue was discussed by the Area D Advisory Planning Commission and it was recommended that as a condition of approval a covenant be registered on title prohibiting the use of this building as a dwelling unit.

If the ALC approves this application for a non-farm use to permit three dwellings on the subject property, CSRD requirements include:

- Application for a Temporary Use Permit (TUP) to allow a mobile home for the use of the owner's daughter to remain on the property temporarily.
- A Section 219 covenant prohibiting the use of the cabin located on the east side of the Salmon River as a dwelling, which would be a condition of TUP approval.

### **SUMMARY:**

Development Services is recommending that application LC2537D, proposing a permanent secondary residence to be used for farm help, be sent to the ALC recommending approval, for the following reasons:

- Approval of this application would facilitate the overall proposal of a boundary adjustment to include the surrounding lands east of the ridge with the family farm to the north, thereby creating a more geographically manageable agricultural use of the two properties;
- The secondary residence will be used by the new owner's son who will assist with day to day farm operations and would eventually take over the farm;
- The secondary residence is already existing, and is sited in an area of the property that is near the property boundary and other farm buildings, therefore not impeding the use of the rest of the parcel for farm purposes.

**IMPLEMENTATION:**

If the ALC allows the proposed non-farm use, the owner would need to apply for and receive approval for a Temporary Use Permit to allow the mobile home to remain on the property as a temporary third residence for a limited time. It is noted that the mobile home is already on the property and is sited at the edge of the driveway in an area that it is not impeding the agricultural use of the property.

The owner would also need to have a Section 219 covenant prepared by their solicitor for review of CSRD staff which would state that the cabin located on the east side of the Salmon River may not be used as a dwelling unit.

**COMMUNICATIONS:**

This application was referred to the Electoral Area D Advisory Planning Commission (APC) for their review and input. The following recommendation was provided by the APC with regard to this application:

*"Moved by Howard Hunt that the APC D recommend approval of Application LC2537D and recommend that a Temporary Use Permit be used for the mobile home on the Bykerk farm and a covenant be applied to prevent occupation of the cabin east of the Salmon River. Seconded by Kerry Orchard."*

*Motion carried unanimously."*

The recommendation of the Board will be forwarded to the ALC for consideration during its review of the application. There is no public involvement in applications to the ALC.

**DESIRED OUTCOMES:**

That the Board endorse the staff recommendation.

**BOARD'S OPTIONS:**

1. *Endorse the Recommendation. The application will be sent to the Agricultural Land Commission with a recommendation of approval.*
2. *Deny the Recommendation. The application will be sent to the Agricultural Land Commission with a recommendation of refusal.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

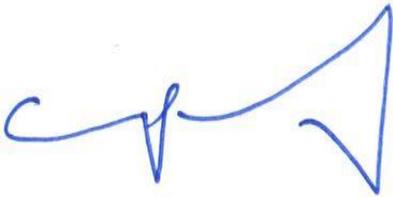
**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Agricultural Land Reserve Use, Subdivision and Procedures Regulation, BC Reg. 171/2002
2. Salmon Valley Land Use Bylaw No. 2500
3. Provincial Agricultural Land Commission Applicant Submission by John Koopmans

**Report Approval Details**

Document Title:	2017-08-17_Board_DS_LC2537D_Koopmans.docx
Attachments:	- Maps_Plans_Photos_LC2537D.pdf
Final Approval Date:	Aug 8, 2017

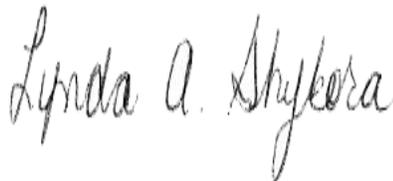
This report and all of its attachments were approved and signed as outlined below:



**Corey Paiement - Aug 4, 2017 - 2:55 PM**



**Gerald Christie - Aug 4, 2017 - 3:07 PM**



**Lynda Shykora - Aug 8, 2017 - 9:00 AM**



**Charles Hamilton - Aug 8, 2017 - 2:34 PM**