



BOARD REPORT

TO: Chair and Directors

File No: LC2545
PL20180009

SUBJECT: Electoral Area C: Agricultural Land Commission (ALC) Application
Section 30 (1) Exclusion from the ALR - LC2545 (Shuswap Lake Estates Ltd. & Shuswap West Development Ltd.)

DESCRIPTION: Report from Dan Passmore, Senior Planner, dated January 23, 2018.
Balmoral Road, Blind Bay.

RECOMMENDATION: THAT: Application No. LC2545, Section 30 (1) Exclusion, for Part SW 1/4, Section 8, Township 22, Range 10, West of the 6th Meridian, Kamloops Division Yale District, Except Plans 36962, H425, H944, KAP58710, KAP67184, and EPP3456, be forwarded to the Provincial Agricultural Land Commission with the recommendation of approval on this 15th day of February, 2018.

SHORT SUMMARY:

The applicant is requesting an exclusion of the subject property from the Agricultural Land Reserve (ALR) for the purpose of furthering the goal of providing a Columbia Shuswap Regional District (CSR D) community sewer system for the Blind Bay and Sorrento communities by developing effluent retention ponds on a portion of the site. The western one third portion of the site, if studies indicate it is able to be used for the intended purpose, would then be subdivided from the subject property, acquired by the CSR D, and developed to receive effluent in holding ponds from the existing Shuswap Lake Estates community sewer treatment facility, which is also proposed to be acquired by the CSR D, provided it can be expanded to support the broader community beyond Shuswap Lake Estates.

The treated effluent would then be available for the larger agricultural community in the area as a source of nutrient rich irrigation water, to enhance agricultural production in the area.

The property owner has plans to pursue the development of a Village Centre on the remaining two thirds of the subject property, should the property be excluded from the ALR.

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 OWNERS/APPLICANT:
Shuswap Lake Estates Ltd. & Shuswap West Development Ltd.

AGENT:
Columbia Shuswap Regional District

ELECTORAL AREA:
C

LEGAL DESCRIPTION:

The South West 1/4, Section 8, Township 22, Range 10, West of the 6th Meridian, Kamloops Division Yale District, Except Plans 36962, H425, H944, KAP58710, KAP67184, and EPP3456.

PID:

004-612-710

CIVIC ADDRESS:

Balmoral Road, Blind Bay

SURROUNDING LAND USE PATTERN:

North = Residential, Wastewater Treatment Facility, Golf Course

South = Trans-Canada Highway, Commercial, ALR, Light Industrial

East = Rural Residential, Agriculture, Commercial, ALR

West = ALR, Rural Residential, Agriculture

CURRENT USE:

Vacant land

PROPOSED USE:

CSRD Community Sewer Effluent Retention Facility

PARCEL SIZE:

49.01 ha

OCP DESIGNATION:

Electoral Area C Official Community Plan Bylaw No. 725

AG – Agriculture

ZONE:

South Shuswap Zoning Bylaw No. 701

AR2 – Agriculture (4 ha)

AGRICULTURAL LAND RESERVE:

100 %

SOIL CAPABILITY:

According to the Canada Land Inventory mapping, there are 2 separate soil classifications affecting the property, as follows:

1. Approximately 20% of the subject property is Class 5 soils with topography as the limiting factor. The soils are not improvable.
2. The remaining approximately 80% of the property are 70% Class 2, with soil density as the limiting factor and 30 % Class 2, with topography as the limiting factor. The bulk of the soils are not improvable while the 30% Class 2 is improvable in terms of the limiting factor which changes to cumulative and minor adverse characteristics.

See "Maps_Plans_LC2545.pdf" attached.

The applicant had an Agrologist's report done to more fully analyze the soils present on the subject property. The report is attached to the application package.

The applicant also had a Waste Management Opportunities and Benefits to Agriculture report done, that in part assesses the agricultural capacity and feasibility of the subject property. The report is attached to the application package

See "ALC_Application_LC2545.pdf" attached.

HISTORY:

There have been a number of applications in the area:

- #1007 (1975) allowed exclusion of all lands lying east of the existing airstrip including the airstrip. The land lying west of the airstrip remains in the ALR and is to be developed as a golf course only. (1975) allowed to exclude a small portion of land containing a rock bluff.
- #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.
- #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.
- #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.
- #1558 (1979) allowed exclusion.
- #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.
- #2270 (2002) approved a non-farm use to expand existing storage compound as well as recognizing other non-farm uses on the property.
- #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.
- #2475 (2015) allowed subdivision.
- #2477 (2013) refused inclusion into the ALR as the land was not suitable for agriculture.
- #2494 (2015) refused subdivision into 4 ha and 6 ha parcels.

See "Maps_Plans_LC2545.pdf" attached.

SITE COMMENTS:

The site was formerly tree-covered, but the owner has recently clear-cut the property. It has not been used for agricultural purposes and remains vacant.

See "Maps_Plans_LC2545.pdf" attached.

ALC APPLICATION INFORMATION (completed by applicant):

Proposal:

To exclude 45.1 hectares from the ALR at the northwest corner of the Trans-Canada Highway and Balmoral Road. Of the parcel, a 13.5 hectare section in the north west corner of the property is to be utilized by the CSRD as a wastewater storage effluent lagoon for the purposes of a spray irrigation program on local farm land, and the balance of the land would be developed as a Balmoral Village Centre as identified in Electoral Area C OCP Bylaw.

Current agriculture that takes place on the parcel:

None

Agricultural improvements made to the parcel:

None (parcel has recently been cleared of trees)

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

None

Explain why you believe that the parcel(s) should be excluded from the ALR:

The subject property is located at the intersection of the Trans-Canada Highway and Balmoral Road and directly south of the existing Shuswap Lake Estates sewage treatment facility. The exclusion of the lands from the ALR would allow the CSRD to expand the capacity of the existing sewage facility, service a greater area of the community, allow the densification of residential parcels, reduce the amount of effluent entering Shuswap Lake and allowing CSRD to provide the surrounding farms with nutrient rich spray irrigation from the new storage lagoons. In addition, the exclusion will allow the development of a Village Centre to bring services closer to Blind Bay and reduce traffic trips. Finally, the agricultural capability of the subject property is predominately Class 4 due to the heavy clayey glacial lacustrine blanket.

POLICY:

Electoral Area 'C' Official Community Plan Bylaw No. 725

1.1 Vision Statement

In the next 20 years, development is anticipated to be at a moderate scale, and less intensive than the Okanagan Valley. Small pockets of settlement along Shuswap Lake will stay much as they are today. Sunnybrae, White Lake, and Eagle Bay will likely be serviced with sewer and water, making way for a modest amount of primarily residential development. The Sorrento Village Centre will be serviced with sewer and water, allowing for detached and multi-unit residential, commercial, and business-industrial uses. These uses will be concentrated around the Village Centre and away from the lakeshore. Higher density residential, commercial and industrial development outside the Village Centre and 'Balmoral Corner' will be strongly discouraged; although the OCP supports such uses at the 'Balmoral Corner', the lands are in the ALR and previous applications to exclude the land for uses other than agriculture have been refused by the ALC.

1.2 Sustainable Planning Principles

Principle 7

A region-wide approach to correct inferior water and sewage treatment systems and a comprehensive, affordable liquid waste management plan that takes into account the latest technologies is supported, in order to fully protect groundwater, lakes and streams.

Principle 8

A concentration of community facilities in the Sorrento and Balmoral areas, including retail, cultural, health and emergency services is supported.

Principle 9

Active community involvement within the South Shuswap, including planning decisions related to land use, housing, servicing, parks and transportation is supported.

3.1 General Land Use Management

3.1.2 Policies

.2 The Sorrento Village Centre, established on Schedules B and C, will accept much of the residential, retail and business development in Area C and will be connected to community water and sewer systems. Future development of a Balmoral Village Centre, at the northwest corner of the Balmoral Road/Highway #1 intersection, is dependent on approval from the ALC, as it lies within the ALR; this plan does not presume the ALC's position on the future uses of this land and does not support development pressure or speculation based on the plan's support of this area as a Village Centre as previous applications to exclude these ALR lands have been refused by the ALC.

.7 Agricultural uses on ALR lands are supported in all land use designations. Agricultural uses on non-ALR lands may be supported in all land use designations subject to compatibility with adjacent land uses and setbacks set out in the zoning bylaw.

3.10 Agriculture (AG)

3.10.1 Policies

.1 The lands designated as Agriculture (AG) are shown on Schedules B and C. In general these are lands with half or more of their area lying within the Provincially designated Agricultural Land Reserve at the time of writing of this Plan. Land lying within the Agricultural Land Reserve is identified on Schedule E – ALR Map. Agriculture is the primary and dominant land use, with a full range of crop and livestock production activities permissible, as well as homes, buildings and structures associated with agricultural operations.

.2 The minimum parcel size of land for subdivision within the Agricultural land use designation is 60 hectares (148 acres).

.3 New subdivision is discouraged within the Agriculture designation, other than subdivision along ALR boundaries or subdivision or parcel consolidations demonstrated not to have an intrusive or conflicting impact on the surrounding agricultural community.

.4 The Agriculture land use designation encompasses agricultural uses, and uses accessory to agriculture. Subject to the guidelines of the Agricultural Land Commission and the zoning bylaw the following uses are appropriate in lands designated Agriculture: agri-tourism operations and agri-accommodation, and uses which will not affect the long-term agricultural capability of the land.

Agricultural Land Commission Act

Rules for exclusion applications:

Form and filing of exclusion application

- 15 (1) An exclusion application under section 30 of the Act must be in a form acceptable to the commission and must be filed,
- (a) if the exclusion application is one referred to in section 34 (3.1) of the Act, with the commission, or
 - (b) in any other case, with the applicable local government or treaty first nation government.
- (2) An exclusion application must be accompanied by the following when submitted for filing under subsection (1):
- (a) an original copy of each advertisement required under section 16 (1) (a), as published with the date of publication clearly indicated;
 - (b) a photograph clearly indicating the manner in which the notice was posted under section 16 (1) (b);
 - (c) a signed statement by the owner of the land stating
 - (i) the name and address of each person served under section 16 (1) (c),
 - (ii) the date of service, and
 - (iii) the manner of service.

Notice of exclusion application

- 16 (1) Before filing an exclusion application under section 15 (1), an owner must give notice of the exclusion application by doing all of the following:
- (a) publishing a notice of the exclusion application in at least 2 issues of a newspaper published or circulated in the municipality, regional district or treaty settlement lands within which the land to which the exclusion application relates is located, not less than 7 days and not more than 14 days apart, inclusive of the day of publication;
 - (b) posting on the land that is the subject of the exclusion application, on a sign measuring at least 60 cm by 120 cm and positioned at the midpoint of a boundary of that land that is adjacent to a constructed road right of way if one exists,
 - (i) a copy of the signed exclusion application, and
 - (ii) a copy of the notice of exclusion application;
 - (c) serving, personally or by registered mail, a copy of the signed exclusion application and a copy of the notice of exclusion application on each owner of land, in an agricultural land reserve, that
 - (i) shares a common boundary with the land for which the exclusion application is being made, or
 - (ii) is separated by a public road right of way from the land for which the exclusion application is being made.
- (2) Each advertisement under subsection (1) (a) and copy of the notice posted under subsection (1) (b) must be in a form acceptable to the commission.
- (3) Despite subsections (1) and (2), if the requirements of those subsections are not practical, the notice may be given in an alternative means acceptable to the commission.
- (4) If an owner of land who files an exclusion application under section 15 (1) receives a response to a notice given under this section, the owner must,
- (a) if the application was filed with the commission under section 15 (1) (a), forward a copy of the response to the commission, or
 - (b) if the application was filed with a local government or treaty first nation government under section 15 (1) (b), forward a copy of the response to that local government or treaty first nation government.

FINANCIAL:

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

KEY ISSUES/CONCEPTS:

The Agrologist's report indicates that soil classifications for portions of the property may be higher (worse) than previously identified in the Agricultural Capability mapping from the Province of BC. The Waste Management Opportunities and Benefits to Agriculture report indicates that the subject property has limited feasibility as an agricultural operation, but that the availability to neighbouring properties of effluent irrigation would benefit agricultural production in the area.

The Agricultural Land Commission has previously refused applications to exclude the subject property from the ALR. However, in the last application, (LC2247C) in their 2002 initial consideration, the ALC advised that it may be willing to review its decision (to refuse exclusion) in consideration of some net benefit for agriculture to offset the loss of 47 ha of ALR land. The decision went further to add that the ALC did not consider the offer of treated effluent as an irrigation source as a sufficient offset.

The owner of the subject property requested that the ALC reconsider this decision based on the inclusion into the ALR of 3 other properties located elsewhere totalling 19 ha and provision of an irrigation source (spray effluent) to nearby agricultural lands. The ALC reviewed this request and requested additional information, including a commitment on the part of the CSRD to support the spray irrigation proposal by acquiring the Shuswap Lake Estates (SLE) sewage treatment facility. Finally in 2008, the CSRD responded to the ALC's requests for a commitment by requesting that a decision on the exclusion be postponed until such time as a Liquid Waste Management Plan and an Official Community Plan for Electoral Area C could be completed.

The current application proposes that approximately one-third of the subject property would be acquired by the CSRD to foster effluent holding ponds essential to the provision of spray irrigation to farm land.

In support of the concept of spray irrigation of treated effluent, the CSRD has adopted the Electoral Area C Liquid Waste Management Plan (LWMP) in 2009 to include alternative options for various dispersal methods. After various studies determined that there were no viable locations in the Sorrento/Blind Bay area for rapid infiltration basin dispersal methods, the CSRD is left with consideration of spray Irrigation as one of the few viable solutions to servicing the area. The LWMP has also been supplemented by a 2014 report (Community Sewer System Plan for Sorrento/Blind Bay Area 'C' - Summary Report, available on the CSRD website) further recognizing the need for a wastewater treatment facility in the Balmoral area to service the Reedman Point/Blind Bay catchment areas.

CSRD staff have approached Shuswap Lake Estates Ltd. regarding the acquisition of the Wastewater treatment facilities, but to date has been unable to come to an agreement with the owner for acquisition.

The property owner is willing to consider the CSRD acquiring the northeast portion of the subject property, and the SLE wastewater treatment facility, should the application for exclusion from the ALR come to a successful conclusion. To fulfill the CSRD's goal of fostering a community sewer system, and to support nearby agricultural operations, the entire property must be excluded.

Electoral Area 'C' Official Community Plan Bylaw No. 725 was adopted March 20, 2014. The OCP reflects the framework for development endorsed by the Board of the CSRD, and the people who provided their input into the lengthy process of review. In the instance of the Balmoral Corner area, the OCP was, in the final analysis, required to recognize the authority of the ALR. However, throughout the process the

community indicated that other more intensive uses than agriculture more accurately reflect the community's interest for this area.

SUMMARY:

Agriculture policies within the Electoral Area 'C' Official Community Plan Bylaw No. 725 do not support uses other than agriculture on properties designated as Agriculture. However, in the case of the Balmoral Corner area, the OCP also contains broader statements which at the same time as reiterating the inclusion of the property in the ALR also lend support to the community's input to allow for higher intensity use of the subject property.

The Agrologist's report indicates that soil classifications for portions of the property may be higher (worse) than previously identified. The Waste Management Opportunities and Benefits to Agriculture report indicates that the subject property has limited feasibility as an agricultural operation, but that the addition of a source of nutrient rich irrigation water, would be a benefit to agricultural operations in the area.

In light of the broader statements in the OCP about higher intensity use of the subject property, the information included in the two agricultural reports and the broader community objective to pursue a viable community sewer system for the Sorrento/Blind Bay communities, staff is recommending that the Board consider approval of the application for exclusion for the entire property.

IMPLEMENTATION:

If the exclusion application is successful, the CSRD will conduct an engineering assessment of the Shuswap Lake Estates wastewater treatment facility to determine residual values and upgrades required. The CSRD would then be in a position to advance negotiations regarding the acquisition of the northeast corner of the property and of the Shuswap Lake Estates wastewater treatment facility.

If the exclusion application is unsuccessful, the CSRD does not intend to explore other options to support the broader objective of providing community sewer service to the Sorrento/Blind Bay area as all reasonable efforts in this regard have been exhausted.

COMMUNICATIONS:

The recommendation of the Board will be forwarded to the ALC for consideration during its review of this application, together with all background information, including this staff report.

As noted above, the applicant/agent is required to advertise, post notice, and serve property owners notice of an exclusion application. This process occurred and a total of 5 letters were received. Of the 5, 3 were opposed to the exclusion application while the remaining 2 expressed concerns over the use of the northeast corner of the property for effluent storage lagoons.

See "Public_Submissions_LC2545.pdf" attached.

DESIRED OUTCOMES:

That the Board endorse the 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

Report Approval Details

Document Title:	2018-02-15_Board_DS_LC2545_ShuswapLakeEstatesLtd_ShuswapWestDevelopmentsLtd.docx
Attachments:	<ul style="list-style-type: none">- InCamera_Resolution_2018-01-25_5301-01.pdf- ALC_Application_LC2545.pdf- Public_Submissions_LC2545.pdf- Maps_Plans_LC2545.pdf
Final Approval Date:	Feb 6, 2018

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




Corey Paiement - Feb 2, 2018 - 8:48 AM



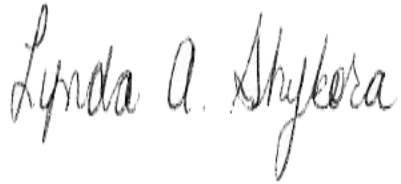
Gerald Christie - Feb 2, 2018 - 8:55 AM



Jodi Pierce - Feb 2, 2018 - 2:59 PM



Darcy Mooney - Feb 2, 2018 - 3:40 PM

A handwritten signature in cursive script that reads "Lynda A. Shykora". The ink is dark and the signature is written in a fluid, connected style.

Lynda Shykora - Feb 6, 2018 - 1:22 PM

No Signature - Task assigned to Charles Hamilton was completed by assistant Lynda Shykora

Charles Hamilton - Feb 6, 2018 - 1:35 PM