



AGRICULTURAL LAND COMMISSION FILE 55696

REASONS FOR DECISION OF THE OKANAGAN PANEL

Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*

Applicant:

**Lance Reimer
(the "Applicant")**

Agent:

**Blake Lawson
(the "Agent")**

Application before the Okanagan Regional Panel:

**Gerald Zimmermann, Panel Chair
Jim Johnson
Greg Norton**



THE APPLICATION

[1] The legal descriptions of the properties involved in the application are:

Property 1

Parcel Identifier: 013-968-386

Legal Description: West ½ of the North East ¼, Section 20, Township 19, Range 9,
West of the 6th Meridian, Kamloops Division, Yale District, Except Plan A11384

Civic Addresses: 174 Deep Creek Road and 180 Deep Creek Road, Enderby, BC

Area: 32.4 ha (18.8 ha ALR)

Property 2

Parcel Identifier: 013-968-467

Legal Description: The South West ¼ of the South East ¼, Section 29, Township 19,
Range 9, West of the 6th Meridian Kamloops Division, Yale District

Civic Address: none assigned

Area: 16.45 ha (0 ha ALR)

(collectively the "Properties")

[2] Property 1 is located partially within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA"). Property 2 is located outside of a designated ALR.

[3] The Properties are located within Zone 1 as defined in s. 4.2 of the ALCA.

[4] Pursuant to s. 21(2) of the ALCA, the Applicant applied to carry out a lot-line adjustment subdivision between the Properties that would provide a separate title for two residences currently located on Property 1, and result in one lot of ±40.8 ha (24.4 ha ALR) and one of ±8 ha (wholly within the ALR) ("Proposal 1").

[5] On August 17th, 2017, the Panel conducted a walk-around and meeting site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit"). A site visit



report prepared in accordance with the *Policy Regarding Site Visits in Applications* and certified as accurately reflecting the observations and discussions of the Site Visit by the Agent on August 17th, 2017 (the "Site Visit Report").

- [6] During the Site Visit, the Agent explained that the Applicant is open to alternative configurations of the Properties to achieve the Application's overarching objectives, which are to provide legal access to Property 2 and separate titles for the residences located on Property 1. After the Site Visit, the Agent submitted an alternative proposal to include ± 30 ha of non-ALR land on the Properties into the ALR and carry out a lot-line adjustment subdivision of the Properties resulting in one lot of ± 33.3 ha and one of ± 16 ha ("Proposal 2"). The Panel considered both Proposal 1 and Proposal 2.
- [7] Proposal 1 and Proposal 2 along with supporting documentation is collectively the application (the "Application").

RELEVANT STATUTORY PROVISIONS

- [8] The Application was made pursuant to s. 21(2) of the *ALCA* or s. 6 of the Regulation:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

- [9] The Panel considered the Application within the context of s. 6 of the *ALCA*. The purposes of the Agricultural Land Commission (the "Commission") set out in s. 6 are as follows:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land 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 agricultural land and uses compatible with agriculture in their plans, bylaws and policies.



EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Agent in advance of this decision.

[11] At its meeting of March 23rd, 2017, the Board of the Columbia Shuswap Regional District resolved to forward the Application to the Commission recommending refusal.

FINDINGS

[12] To assess the agricultural capability of the Properties, the Panel referred to agricultural capability mapping and ratings and to observations made during the Site Visit. Agricultural capability ratings are identified using the Canada Land Inventory (CLI) 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 82L.064 for the mapping units encompassing the Properties are Class 3, Class 5, and Class 7. More specifically, approximately 45% of Property 1 is rated 3MT and 55% rated 7TC. Property 2 is rated approximately 50% 5TP and 50% 7TC.

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.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are M (moisture deficiency), P (stoniness) T (topographic limitations), and C (adverse climate).



- [13] During the Site Visit, the Panel observed that Property 2 and the non-ALR portion of Property 1 are characterized by gently hilly terrain. The Panel observed that, despite the Class 7 CLI rating of parts of the Properties, the Properties are capable of supporting livestock production. Based on these observations and the CLI ratings, the Panel finds that Property 2 and the non-ALR portion of Property 1 are suitable for inclusion into that ALR.
- [14] Property 2 has agricultural potential but currently lacks legal access. The Panel finds that the lack of access limits the property's potential to be farmed as an independent unit and is therefore amenable to a lot-line adjustment subdivision that would provide legal access to Property 2.
- [15] The Panel was not amenable to Proposal 1 as it would divide ALR land from Property 1 and result in a narrow border of ALR along the south and east edge of the proposed lot. The Panel finds that the proposed inclusion of ALR and lot configuration of Proposal 2 has some merit. However, the Panel is not amenable to fragmenting the area south of Deep Creek Road into two pieces of ± 0.5 ha and ± 1 ha each, as proposed in Proposal 2, as this would be very limiting for agricultural purposes. Furthermore, the Panel is concerned that future construction of non-farm buildings (eg: residential, commercial, etc.) on the area south of Deep Creek Road could render it not useable for agriculture by further reducing the arable area. The Panel finds that the area of Property 1 south of Deep Creek Road would best be preserved for agriculture if it remained wholly as part of Property 1 and future construction of non-farm buildings on it was prevented.
- [16] As the Panel finds that access to Property 2 would increase the potential for that land to be farmed, but does not find the configuration of either Proposal to be satisfactory, the Panel suggests an alternate lot configuration that creates a 16.4 ha and a 32.9 ha lot, prohibits construction of non-farm buildings (e.g. residential, commercial, etc.) on the area south of Deep Creek Road by way of a restrictive covenant, and includes the non-ALR areas of Property 1 and 2 into the ALR.



DECISION

[17] For the reasons given above, the Panel refuses as proposed both Proposal 1 (to carry out a lot line adjustment subdivision between the Properties resulting in one lot of ± 8 ha and one lot of approximately 40.8 ha (24.4 ha ALR)) and Proposal 2 (to include ± 30 ha of non-ALR land on the Properties into the ALR and carry out a lot-line adjustment subdivision of the Properties resulting in one lot of ± 33.3 ha and one of ± 16 ha).

[18] The Panel approves an alternative proposal for a lot line adjustment subdivision between the Properties resulting in one lot of approximately 32.9 ha and one lot of approximately 16.4 ha, with the portion of the Property 1 south of Deep Creek Road remaining wholly with Property 1, as depicted in the Schedule A.

[19] The alternate proposal is approved subject to the following conditions:

- a. the submission and approval of an ALR inclusion application for ± 30 ha of non-ALR on the Properties, as depicted in the Sketch Plan attached as Schedule A;
- b. the submission to the Commission of an electronic copy of a subdivision plan to delineate the area to be subdivided;
- c. the subdivision be in substantial compliance with the Sketch Plan attached as Schedule A;
- d. the registration of a restrictive covenant preventing the construction of any non-farm building on the portion of Lot 1 south of Deep Creek Road (as depicted in the Sketch Plan attached as Schedule A); and
- e. the subdivision being completed within three (3) years from the date of release of this decision.

[20] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.



[21] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[22] These are the unanimous reasons of the Okanagan Panel of the Agricultural Land Commission.

[23] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[24] This decision is recorded as Resolution #321/2017 and is released on October 23, 2017.

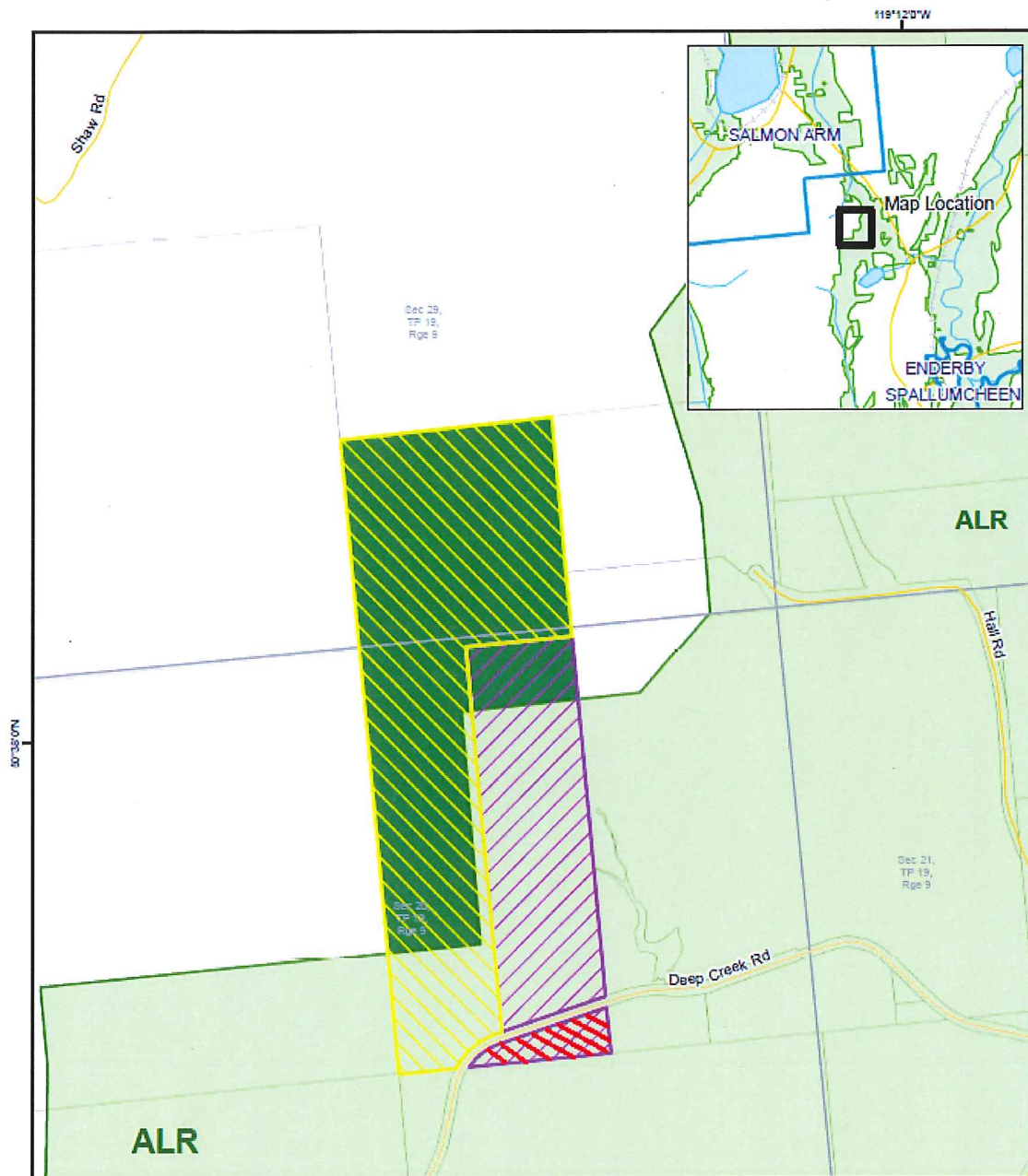
CERTIFICATION OF DECISION






A handwritten signature in dark ink, appearing to read 'G. Zimmermann', with a long horizontal flourish extending to the right.

Gerald Zimmermann, Panel Chair, on behalf of the Okanagan Panel



Schedule A: Agricultural Land Commission Decision Sketch Plan
ALC File 55696 (Reimer)
Conditionally Approved Subdivision
ALC Resolution #321/2017



-  Lot 1 (16.4 ha total, 2.5 ha included into the ALR)
-  Lot 2 (32.9 ha total, 27.5 ha included into the ALR)
-  Area to be Included into the ALR (30 ha total)
-  Current ALR
-  Restrictive covenant area