



AGRICULTURAL LAND COMMISSION FILE 54478

REASONS FOR DECISION OF THE OKANAGAN PANEL

Application submitted pursuant to s. 20(3) of the *Agricultural Land Commission Act*

Applicants:

**James Caldwell
Kristi Caldwell
(the “Applicants”)**

Agent:

**Kristi Caldwell
(the “Agent”)**

Application before the Okanagan Regional Panel:

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



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 016-211-219

Lot B, Section 34, Township 29, Osoyoos Division Yale District, Plan 43324

(the "Property")

[2] The Property is 2.5 ha in area.

[3] The Property has the civic address of 4275 Goodison Road and is located in southeast Kelowna.

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

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 20(3) of the *ALCA*, the Applicants are applying to hold wedding ceremonies on an existing lawn (370m²), distill and sell small quantities of liquor (26 gallon capacity to start), and to display antique farm machinery (the "Proposal"). The Applicants indicate that:

- With regard to wedding ceremonies, no more than 100 persons would be accommodated based on on-site parking capacity and that the non-farm use in this instance is restricted to the marriage rite and photography. No permanent structures, facilities or other wedding related amenities are proposed. The Applicants further advised that wedding ceremonies would be held on Saturdays only, and that wedding receptions, food services, or other services would not be offered.
- With regard to the display of antique farm machinery, the machinery is already on the Property. It is noted that the existing display of antique farm machinery is not a permitted use within the ALR and as such is included as part of the Proposal.

The Proposal along with supporting documentation is collectively (the "Application").



[7] On March 10, 2016, the Chair of the Agricultural Land Commission (the “Commission”) referred the Application to the Okanagan Regional Panel (the “Panel”).

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 20(3) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

EVIDENTIARY RECORD BEFORE THE PANEL

[9] The Panel considered the following evidence:

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

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

[10] The City of Kelowna (the “City”) resolved to forward the Application without a recommendation for the Commission’s review.

[11] The Panel reviewed a previous application involving the Property:

Application ID: 7015
Legacy File: 20509
(Waldron, 1986)

To subdivide the 5.5 ha property into two lots of equal size. The subdivision was allowed as proposed due to poor agricultural capability. Resolution 1160/86.

Note: This subdivision created the Property.



SITE VISIT

[12] On April 5, 2016 the Panel conducted a walk-around and meeting site visit of the Property. (the "Site Visit"). In attendance:

- Gerry Zimmermann, Panel Chair
- Jim Johnson, Commissioner
- Greg Norton, Commissioner
- Ron Wallace, Commission Land Use Planner
- Martin Collins, Commissioner Regional Planner
- Kristi and James Caldwell

The Commissioners viewed the Property with the Applicants and discussed the Application.

FINDINGS

[13] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on CLI map sheet 82E.083 for the mapping units encompassing the Property are Class 2 and Class 3; more specifically (6*2AT 4*3TA).

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

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.

The limiting subclasses associated with this parcel of land are A (moisture deficiency) and T (topographic limitations).



- [14] The Panel reviewed the BCLI ratings and believed the Property has reasonable potential for agricultural development. However, following the Site Visit the Panel finds that the Property has challenges for agricultural development due to severe topography. Only small areas of the Property have been cleared and improved for pasture.
- [15] The Panel believed the Proposal would not impact the productive capacity of the Property because the areas proposed for the wedding ceremonies , parking, heritage display are not in agricultural production (an existing front lawn/garden, driveways, and existing structures). Finally, the scale of the non-farm activities requested affects an area so small (0.04 ha) as to have no impact on the productive agricultural capacity of the Property.
- [16] The Panel also had no objection to the display of the existing heritage farm machinery as a non-farm use because the large existing collection already is stored in the numerous buildings on the Property. No additional structures are proposed.

DECISION

- [17] For the reasons given above, the Panel approves the non-farm use application as proposed.
- [18] The Proposal is approved subject to the following conditions:
- a. That the non-farm uses are in substantial compliance with the plans submitted with the Application;
 - that the wedding ceremonies occur only on Saturdays and be confined to an outdoor area no greater than 375 m² on the existing front lawn of the residence;
 - that no wedding reception food services be provided;
 - that all parking for the wedding uses be accommodated on the existing driveway/graveled areas on the Property;
 - that the alcohol production be confined to the existing shed (~10 m²) and that this approval does not permit a tasting room, retail sales area or lounge associated with the distillery; and



- that no additional structures or expansion of existing structures be constructed for the display of heritage farm machinery.
- b. the non-farm uses described above are permitted for 6 years (corresponding to the maximum length of a Temporary Use Permit)
- c. the non-farm uses must be commenced within three (3) years from the date of this decision; and
- d. Approval for non-farm use is granted for the sole benefit of the Applicant and is non-transferable.

[19] 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.

[20] Panel Chair **Gerald Zimmermann** concurs with the decision.

Commissioner **Jim Johnson** concurs with the decision.

Commissioner **Greg Norton** concurs with the decision.

[21] Decision recorded as Resolution #116/2016.

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

Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #116/2016. The decision is effective upon release.



Colin J. Fry, Chief Tribunal Officer

April 20, 2016

Date Released



May 24, 2016

Kristi Caldwell
4275 Goodison Road
Kelowna, BC V1W 4C6

115-0011

ATTACHMENT B

This forms part of application
A23-0005

Planner Initials

City of Kelowna
COMMUNITY PLANNING



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

ALC File: 54478

Re: Application to Conduct a Non-Farm Use in the Agricultural Land reserve (ALR)

The Agricultural Land Commission (the "Commission") is in receipt of your correspondence dated April 27, 2016 requesting clarification and a minor revision to its decision for this application by Resolution #116/2016. Upon review the Commission supports the change from the current wording to the revised wording as outlined below:

DECISION

Current wording:

[18] The Proposal is approved subject to the following conditions:

- a. That the non-farm uses are in substantial compliance with the plans submitted with the Application;
 - that the wedding ceremonies occur only on Saturdays and be confined to an outdoor area no greater than 375 m² on the existing front lawn of the residence;
 - that no wedding reception food services be provided;
 - that all parking for the wedding uses be accommodated on the existing driveway/graveled areas on the Property;
 - That the alcohol production be confined to the existing shed (~10 m²) and that this approval does not permit a tasting room, retail sales area or lounge associated with the distillery; and
 - that no additional structures or expansion of existing structures be constructed for the display of heritage farm machinery.

Approved revision to wording:

[18] The Proposal is approved subject to the following conditions:

- a. That the non-farm uses are in substantial compliance with the plans submitted with the Application;
 - that the wedding ceremonies occur no more than once per week or four times per month and be confined to an outdoor area no greater than 375 m² on the existing back lawn of the residence;
 - that no wedding reception food services be provided;
 - that all parking for the wedding uses be accommodated on the existing driveway/graveled areas on the Property;
 - that the alcohol production be confined to the existing shed (~10 m²) associated with the distillery;
 - as the existing distillery does not meet the requirements set out in Section 2.3 of the ALR Use, Subdivision and Procedure Regulation, the landowner may not avail themselves of the ancillary uses set out in Section 2.4 of the regulation except for the tasting and sales of the distiller product from the existing building; and
 - that no additional structures or expansion of existing structures be constructed for the display of heritage farm machinery.

Page 2 of 2

Except for this change to section [18] a. to the decision document, all other conditions of the April 20, 2016 letter by resolution #116/2016 remain the same.

Further correspondence with respect to this application is to be directed to Ron Wallace at (Ron.Wallace@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Director of Policy and Planning

cc: City of Kelowna (File: A-15-0011)

54478m1

ATTACHMENT **B**

This forms part of application
A23-0005

Planner
Initials **SS**

City of
Kelowna
COMMUNITY PLANNING 