Memo

Date:

July 5, 2011

To:

City Manager

From:

Land Use Management, Community Sustainability (GS)

Application: A11-0005

Owner:

Robert Stearns

Katherine Stearns

City of

Kelowna

Address:

2327 Belgo Road

Applicant:

Robert Stearns

Katherine Stearns John Whittaker

Subject:

Subdivision in the Agricultural Land Reserve

Existing OCP Designation:

Resource Protection Area

Park

Existing Zone:

A1 - Agriculture 1

Proposed Zone:

A1 - Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve appeal A11-0005 for Lot 1, Section 11, Township 26, Osoyoos Division Yale District Plan 33009, located at 2327 Belgo Road, Kelowna, B.C. for a subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act, NOT be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.

2.0 **Purpose**

The applicants are owners of a 12.85 ha parcel in the Belgo/Black Mountain Sector of the City which is zoned A1 - Agriculture. The applicants have requested a two lot subdivision of their land and which is within the Agricultural Land Reserve (ALR) and which requires a Council recommendation.

3.0 Land Use Management

The current parcel configuration is the result of a 0.24 ha (0.59 acre) homesite severance granted to the then owner (Chiba) in 1980, and a concurrent lot line cancellation (Resolution #1978/80, see attached). The homesite severance allowed the former owner to continue to live on the land and enabled the sale of the remainder. A condition of the homesite severance was the consolidation of two parcels onto a single title.

It can be reasonably expected that in the case of the 1980 resolution, ensuring a benefit to agriculture was central to the proposed severance. The ALC resolution resulted in the landowner obtaining a homesite severance parcel and an ability to remain on the land, and the opportunity to sell the remaining 12.85 hectare consolidated portion. The result appears to be a positive sum (win-win) solution for the owner and for agriculture generally.

It is the current owner/applicant's contention that this resolution was unfair and unjustified and that the lot line consolidation as a condition of the approval was punitive. It is important to note that while typically granted by the ALC, "no one has an automatic right to a "homesite severance". City staff are not in a position to determine the fairness of the 1980 ALC resolution which authorized the severance. That said the resolution appears consistent with ALC policy which allows for landowners who meet the criteria for a homesite severance to do so, while ensuring the continued viability of agricultural land. The approach taken in 1980 appears consistent with current approaches to agricultural files (i.e. to ensure a net benefit to agriculture where possible and appropriate).

While there are many factors in the decline of agricultural viability (i.e. economic viability) in the Okanagan, there is little doubt that relatively small parcel sizes are a significant contributing factor. This is true given that larger parcels typically have higher gross production/yield and further due to the economy of scale for inputs, equipment, etc that goes with larger parcels. From a land use planning perspective, good justification for resisting parcelization, and where possible, consolidating parcels, exists. Inter-generational considerations with respect to ensuring equity for future generations and their ability to purchase and operate farms offer additional justification.

Staff are uncertain as to the applicant's stated subdivision justification (i.e. lot line "was clearly unfairly removed") and the three decades that have passed since the terms and conditions of the ALC were agreed to by the then owner. As staff understand it, the current owner purchased the property with full knowledge of previous approvals and commitments. Instead of considering the original homesite severance and lot line cancellation, it appears more appropriate to consider this as a request for "Subdivision of agricultural land reserve" under Section 21(2) on its own merit and in today's policy context.

When considered on its present day subdivision merit alone, the City has no policy direction to support the applicant's request. Both the Official Community Plan and Agriculture Plan do not support parcelization of agricultural land. Further, the proposal is unsubstantiated by any form of planning justification or demonstration of net benefit to agriculture. The subject property is clearly productive and is not limited by soil capability, elevation or climate factors.

While the proposal would satisfy the applicant's desire, the parcelization would potentially result in further erosion of agricultural land due to an additional residential homeplate and uses (e.g. home, driveway, parking, pool, etc.) on a subdivided parcel. Another result of two lot subdivision is that they are less likely to generate sufficient income to function as viable agricultural parcels as opposed to one large parcel. In Kelowna, smaller parcels have a tendency to create increased speculation and increased resale values as rural residential (i.e. estate lots), often with little or no agricultural production taking place.

¹ Agricultural Land Commission - Policy #11 - Homesite Severance on ALR Lands (http://www.alc.gov.bc.ca/legislation/policies/Pol11-03_homesite-severance.htm)

4.0 Proposal

4.1 Background

The subject property is located west of Belgo Road. The subject property is in a rural/agricultural area with a mix of mid and larger sized parcels (relatively speaking). The subject property is located east of and adjacent to Mission Creek with an escarpment located at the western edge of the property down to the creek.

The applicants seek a two lot subdivision noting that they seek a "reinstatement of the lot line that was clearly unfairly removed as per B.C. Land Commission File #A80-45". No information has been provided in terms of the intent for either of the parcels if granted the subdivision.

Parcel Summary:

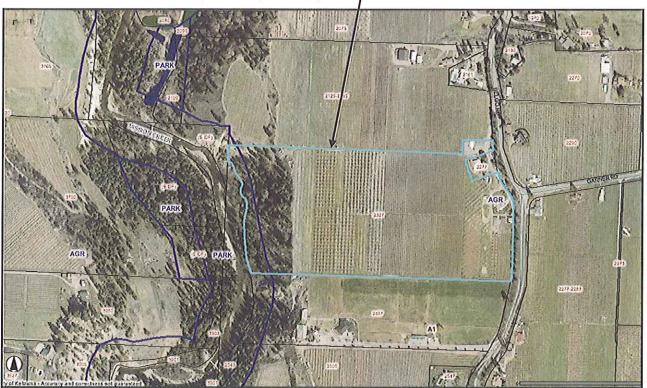
Parcel Size: 12.85 ha (31.76 ac) Elevation: 421 - 491 masl

4.2 Zoning of Adjacent Properties

The subject property is located west of Belgo Road. The surrounding properties are zoned as follows:

Direction Zoning Designation		Land Use	
North	A1 - Agriculture 1	Agriculture	
East	A1 - Agriculture 1	Agriculture	
South	A1 - Agriculture 1	Agriculture	
West A1 - Agriculture 1		Park	

4.3 Site Context - 2327 Belgo Road (12.85 ha)



4.4 Subdivision criteria for the A1 zone include the following:

CRITERIA	ZONE REQUIREMENTS	PROPOSAL
Minimum Lot Area	2 hectares	Exceeds 2 hectares
Maximum lot width	40.0 metres	Exceeds 40 metres

5.0 Current Development Policies

5.1 Kelowna 2030 Official Community Plan (OCP)

Objective 5.33 Protect and enhance local agriculture².

- Policy 1. Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.
- Policy .8 Subdivision. Maximize potential for the use of farmland by not allowing the subdivision of agricultural land into smaller parcels (with the exception of Homesite Severances approved by the ALC) except where significant positive benefits to agriculture can be demonstrated.

5.2 City of Kelowna Agriculture Plan

The Agriculture Plan designates an urban - rural/agricultural boundary and within the defined agricultural area the exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications would be in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization³.

Parcel Size (Agricultural Land) - Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated⁴.

6.0 Technical Comments

6.1 Development Engineering Department

This application does not trigger any Development Engineering Services at this point in time, however, a comprehensive report will be provided at the time of development application if and when the ALC agrees to the proposed subdivision.

6.2 Subdivision Approving Officer

A Preliminary Layout Review will be required in the event that the application is supported by the ALC.

² City of Kelowna Official Community Plan - Chapter 5 - Development Process; pp. 5.33 & 5.34.

³ City of Kelowna Agriculture Plan - ALR Application Criteria; p.130.

⁴ City of Kelowna Agriculture Plan - Urban - Rural/Agricultural Boundary Policies; p. 132.

7.0 Application Chronology

Date of Application Received:

March 28, 2011

Agricultural Advisory Committee:

May 12, 2011

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting on May 12, 2011 and the following recommendations were passed:

THAT the Agricultural Advisory Committee <u>NOT</u> support Application No. A11-0005 for 2327 Belgo Road, by R and K Stearns, to obtain approval from the Agricultural Land Commission (ALC) for a "Subdivision of Agricultural Land Reserve" under Section 21(2) of the Agricultural Land Commission Act.

The Agricultural Advisory Committee did not support the application for subdivision of Agricultural Land Reserve due to there being no net benefit to agriculture proposed. The AAC noted that smaller parcels as proposed are typically more difficult to farm and more economically challenged.

8.0 Alternate Recommendation

THAT Agricultural Land Reserve Appeal No. A11-0005 for Lot 1, Section 11, Township 26, Osoyoos Division Yale District Plan 33009, located at 2327 Belgo Road, Kelowna, B.C. for a subdivision within the Agricultural Land Reserve, pursuant to Section 21(2) of the Agricultural Land Commission Act be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.

Report prepared by:

Greg Sauer, Environment & Land Use Planner

Reviewed by:

Que

T. Cashin, Manager, Environment & Land Use

Approved for Inclusion

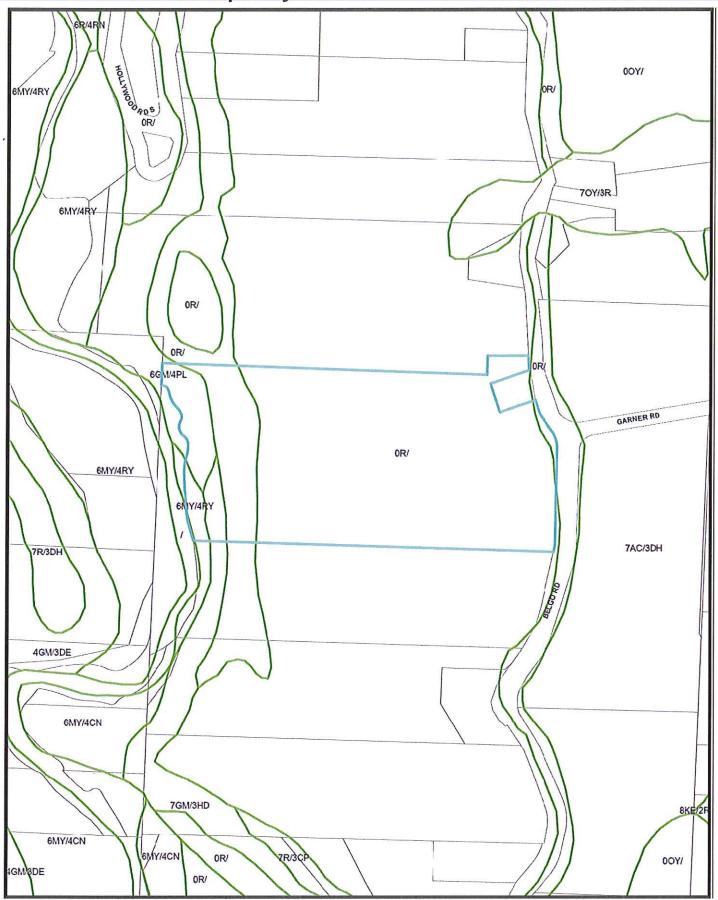
Int

J. Paterson, General Manager, Community Sustainability

Attachments:

Soil Classification Map
Subject Property Soil Classification Description
BCLI Land Capability Map
Subject Property BCLI Land Capability Description
Subject Property Map/ALR Map
ALC Minutes for Resolution #1978/80
Landowners Application Package

Land Capability = Brown/ Soil Class = Green

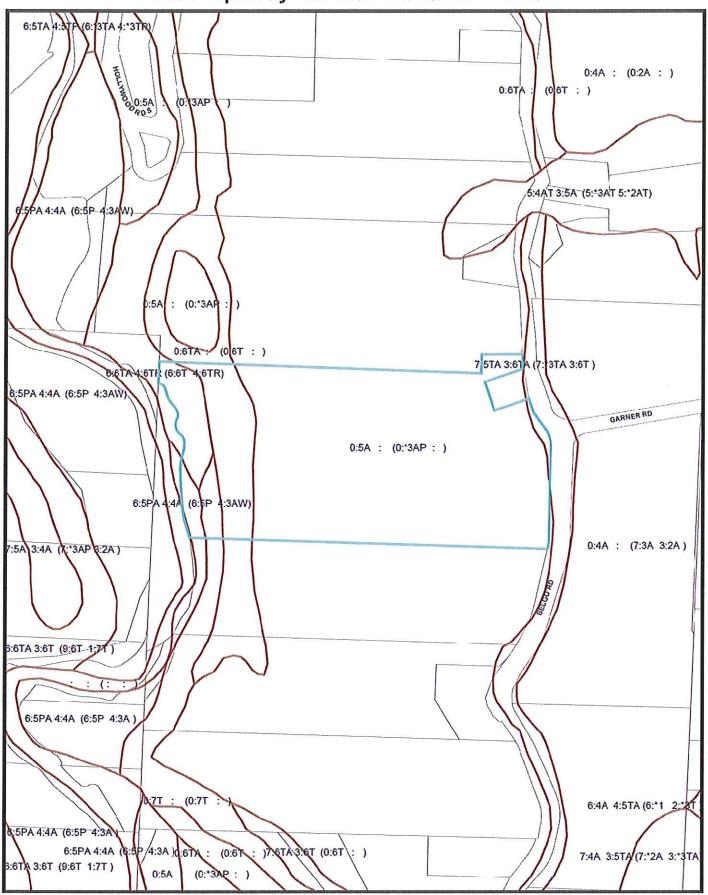


Soil Classification

The soil classification for the subject property is broken into two sections with soil types as defined below.

Portion of Site / %	Soil Type	Description
North western (Sloped) 60%	GM - Gammil	Land: very gently to extremely sloping fluvioglacial deposits. Texture: 10 to 25 cm of sandy loam or loamy sand over very gravelly loamy sand or very gravelly sand. Drainage: rapid. Classification: Eluviated Eutric Brunisol.
North western (Sloped) 40%	PL - Postill	Land: colluvial veneer over moderately to extremely sloping bedrock. Texture: 10 to 100cm of stony, gravelly loamy sand or gravelly sandy loam over bedrock. Drainage: well to rapid. Classification: Eluviated Eutric Bruniso: lithic phase.
South western (Sloped) 60%	MY - Manery	Land: nearly level to moderately sloping fluvial fan deposits. Texture: 100cm or more of stone, gravelly lamy sand or very gravelly sand. Drainage: rapid. Classification: Gleyed Regosol.
South western (Sloped) 40%	RY - Roy Creek	Land: nearly level to moderately sloping fluvial fan deposits. Texture: 10 to 50cm of sandy loam over gravelly loamy sand or gravelly sand. Drainage: dominantly imperfect, ranging to moderatley well, fluctuating groundwater table or seepage. Classification: Gleyed Regosol.
Eastern 100%	R - Rutland	Land: very gently to strongly sloping fluvioglacial deposits. Texture: 10 to 25cm of sandy loam or loamy sand over gravelly loamy sand or very gravelly sand. Drainage: rapid. Classification: Orthic Dark Brown.

Land Capability = Brown/ Soil Class = Green



BCLI Land Capability

Portion of Site	Land Capability Rating, Unimproved	Land Capability Rating, With Improvements	
North western	60% Class 6. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation. Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.	60% Class 6. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation. Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.	
	Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation. 40% Class 6. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is	40% Class 6. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation.	
	unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation.	Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.	
	Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.	Soils are limited by bedrock near the surface and/or rock outcrops which restrict rooting depth and cultivation.	
	Soils are limited by bedrock near the surface and/or rock outcrops which restrict rooting depth and cultivation.		
South western	60% Class 5. Land in this Class has limitations which restricts its capability to producing perennial forage crops or other specially adapted crops. Land in Class 5 is generally limited to the production of perennial forage crops or other specially adapted crops. Productivity of these suited crops may be high. Class 5 lands can be cultivated and some may be used for cultivated field crops provided unusually intensive management is employed	60% Class 5. Land in this Class has limitations which restricts its capability to producing perennial forage crops or other specially adapted crops. Land in Class 5 is generally limited to the production of perennial forage crops or other specially adapted crops. Productivity of these suited crops may be high. Class 5 lands can be cultivated and some may be used for cultivated field crops provided unusually intensive management is employed and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated filed crops	

and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated filed crops may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions.

Soils are limited by the presence of coarse fragments which significantly hinder tillage, planting and/or harvesting.

Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.

40% Class 4. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation.

Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.

Soils are limited by bedrock near the surface and/or rock outcrops which restrict rooting depth and cultivation.

100% Class 6. Land in this Class is non-arable

but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some

draining, diking and/or irrigation.

Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.

unimproved Class 6 land s can be improved by

Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.

may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions.

Soils are limited by the presence of coarse fragments which significantly hinder tillage, planting and/or harvesting.

40% Class 3. Land in this Class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.

Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.

Soils are limited by excess water, other than from flooding, which limits agricultural use. The excess water may be due to poor drainage, high water tables, seepage, and/or runoff from surrounding areas.

100% Class 6. Land in this Class is non-arable but capable of producing native and/or uncultivated perennial forage crops. Land in Class 6 provides sustained natural grazing for domestic livestock and is not arable in its present condition. Land is placed in this class because of severe climate, or the terrain is unsuitable for cultivation or use of farm machinery, or the soils do not respond to intensive improvement practices. Some unimproved Class 6 land s can be improved by draining, diking and/or irrigation.

Soils are limited by steepness or pattern of slopes which hinders the use of farm machinery, decreases uniformity of growth and maturity or crops, and/or increases the potential for water erosion.

100% Class 5. Land in this Class has limitations

100% Class 3. Land in this Class has limitations that

Eastern

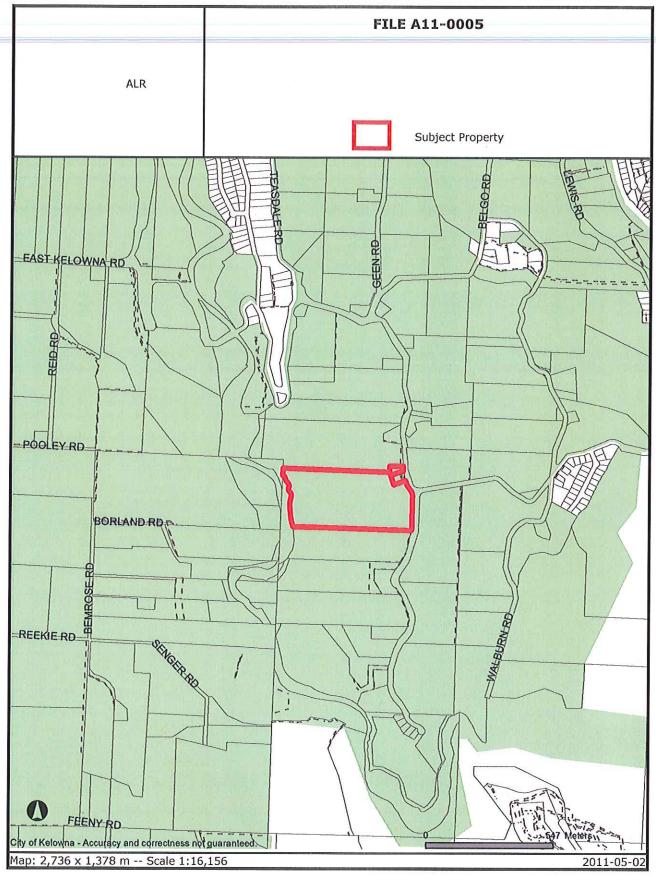
Central

which restricts its capability to producing perennial forage crops or other specially adapted crops. Land in Class 5 is generally limited to the production of perennial forage crops or other specially adapted crops. Productivity of these suited crops may be high. Class 5 lands can be cultivated and some may be used for cultivated field crops provided unusually intensive management is employed and/or the crop is particularly adapted to the conditions peculiar to these lands. Cultivated filed crops may be grown on some Class 5 land where adverse climate is the main limitation, but crop failure can be expected under average conditions.

require moderately intensive management practices or moderately restrict the range of crops, or both. The limitations are more severe than for Class 2 land and management practices are more difficult to apply and maintain. The limitations may restrict the choice of suitable crops or affect one or more of the following practices: timing and ease of tillage, planting and harvesting, and methods of soil conservation.

Crops are adversely affected by droughtiness caused low soil water holding capacity or insufficient precipitation.

Soils are limited by the presence of coarse fragments which significantly hinder tillage, planting and/or harvesting.



Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

Resolution #1978/80 Application #201-G-80-11253

Minutes of the Provincial Agricultural Land Commission

Meeting held at the B.C. Agricultural Land Commission Office, 4333 Ledger Avenue, Burnaby, B.C. on the 22nd day of October 1980.

Present:

M. F. Clarke

Chairman

C. E. Framst

Commissioner

John Rogers

Commissioner

Joseph A. Rogers

Commissioner

An application from Harry Chiba under Section 20(1) of the Agricultural Land Commission Act was considered for the property described as Lot 7, Block 17, Section 11, Township 26, O.D.Y.D. Plan 1380 (more particularly shown on plans submitted to the Commission) with the application requesting permission to subdivide off a homesite of approximately .3 ha from the above described parcel. The applicant is also requesting permission to subdivide off the northerly 1.2 ha from Lot 7 and consolidate it with Lot A, Plan RP 19507 since the 1.2 ha has been farmed as part of Lot A.

It was noted that the applicant owns the adjacent Lot 6 and that the subject property has an agricultural capability rating of mainly Class 2. The Regional Board of Central Okanagan supports the application and the TPC recommends approval subject to the consolidation of Lots 6 & 7.

IT WAS MOVED BY: SECONDED BY:

Commissioner Joseph Rogers Commissioner John Rogers

1978/80

The the application to subdivide a homesite of approximately .3 ha be allowed subject to the condition that (1) the northerly 1.2 ha of Lot 7 be consolidated with Lot A, Plan RP 19507; and (2) remainder of Lot 7 be consolidated with Lot 6.

Carried.

ADDENDUM BANK CREEK N. 0° 26' 30,675 26.355 NOISSIW CBEEK WITNESS (AS TO BOTH SIGNATURES) 2840 53, 460 50 S . m . 4 4 85.89 <u>.</u> N.E. 1/4 SEC. 11 685 150 -. 42.525 58.005 PLAN 900 00' 00" ..00. LOT 7. 200 METRES 900 31521 PLAN BLOCK LOT 1380 C 460.300 6 12.9 () PCHARP ĭ. 435 070 (Vectorial) 8 APPROXIMATELY 25" Jecther? EASEMENT 180°02' 25" 26.500 (). (2) STOPAGE STOPAGE A- 15381 EASEMENT 00 PLAN 019.5h PLAN A-9885 BEFRO **QAOR** 555 02,00 ,21 o651 175° 19' 50" 145,420 .641 / 29.015 ,,00