

An Opinion on an Application for a Non Farm Use of Land within the Agricultural Land Reserve

1.0 Introduction

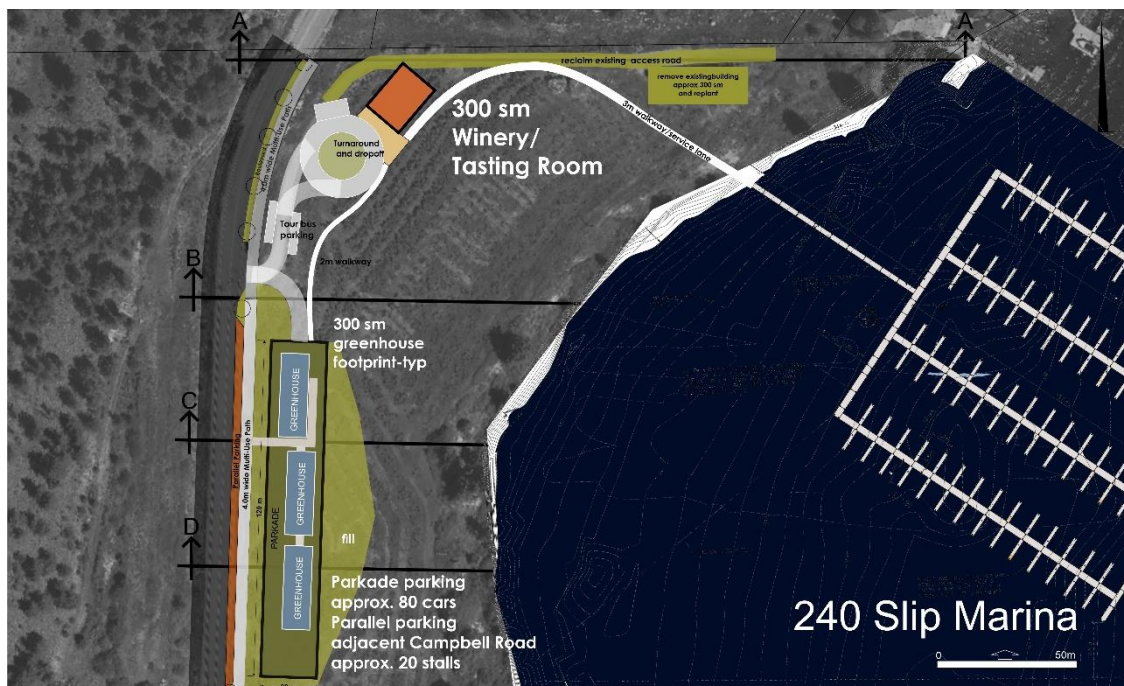
On April 19, 2013, by Resolution #97/2013, the Agricultural Land Commission allowed the previous owner to remove lands lying west of Campbell Road in West Kelowna from the Agricultural Land Reserve. The current owner, Blackmun Bay Development LP has developed plans to construct housing on the non ALR portion of the parcel.

As part of the development plan for the ALR portion of the parcel, the owner has initiated a farm plan with the following components:

- A long term lease of the arable land (currently in Peach and Apricot production) for redevelopment to a vineyard. It is anticipated that the lessee will be an existing vineyard operator who will be able to utilize the land for grape production. The lessee will be able to combine existing production with that on the subject parcel to expand overall production available for sale in the tasting facility. The lease will also include:
 - A winery and tasting facility.
 - Greenhouses which will be raised to allow for below parking and to reduce shading from the escarpment to the west.

The parking area is designed to fit under the farm use structures as shown in Figure 1.

Figure 1: Site Layout



The principal purpose of the parking area is to accommodate traffic from both the marina and the wine tasting area.

The commission before me is to determine what impact, if any, will the provision of parking under the greenhouses have on farming on the site.

2.0 Qualifications

I am a licensed Agrologist and have been a full member of the B.C. Institute of Agrologists since 1971 (except 2001-2002). I am a graduate from the University of British Columbia with a Bachelor of Science degree in 1967, specializing in Agriculture Economics, and a Master of Science degree in 1972, specializing in Farm Management. My thesis for my Master's degree was entitled *Resource Allocation for the Median Peace River Farm in British Columbia*

I have been involved in the work of the Agricultural Land Commission since 1974 when the reserve boundaries were proclaimed. At that time, I was District Agriculturist for the British Columbia Ministry of Agriculture in Prince George. In October 1978 I entered private practice and have provided professional opinions for clients who have sought amendments to the Agricultural Land Reserve boundaries, subdivision within the ALR, or who have needed assistance in compliance with requests or orders from the Commission.

During my years in both public and private practice, Courts and Review Boards have accepted me as an expert regarding farming practices in British Columbia. Consequently, I feel qualified to provide an assessment of a proposal under the *Agricultural Land Commission Act*. My qualifications and experience allow me to comment on the value of agricultural land and the practices of farming on that land.

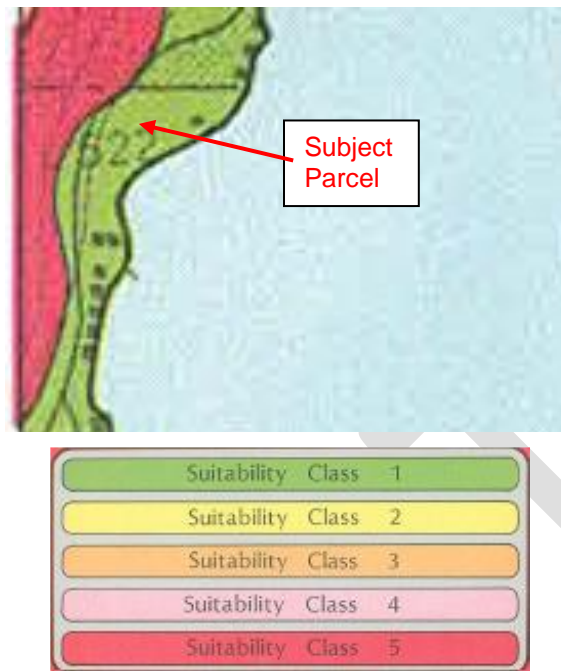
Consequently, I believe I am qualified to comment on the two main purposes of the Agricultural Land Commission. That is: to preserve the agricultural land reserve; and to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest.

I have been a member of the Environmental Appeal Board and the Forest Appeals Commission. Following these appointments, I have received training in Administrative Law and the Rules of Natural Justice.

3.0 Farming Capability of the Subject Parcel

The Canada Land Inventory rates soils according to their capacity to grow standard grain crops. When commenting on the capacity for orchard or vineyard crops, other classification criteria should be used. In this case, the Grape Atlas provides a valuable resource.

Figure 2: Grape Atlas Classification of Subject Property



Class 1 areas are defined as:¹

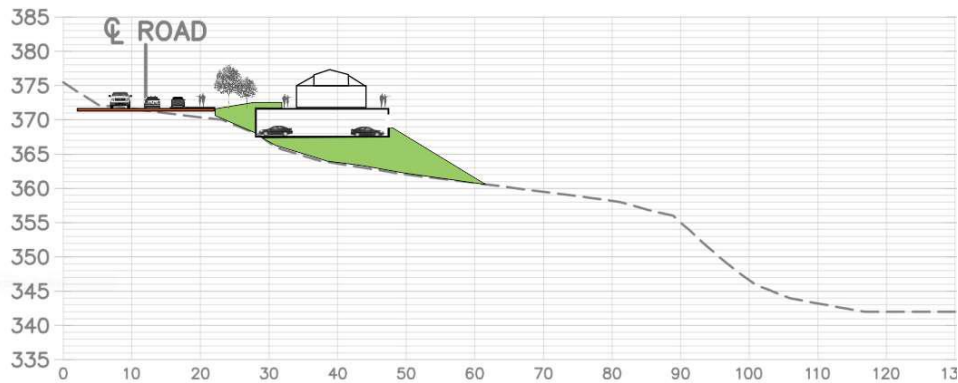
Land areas in this class are the most desirable and are the least restrictive for grape production. Class 1 areas have the highest number of heat units, a long frost free season, high solar radiation and desirable soil characteristics. Land in Class 1 is therefore capable of producing the widest range of grape varieties.

Unfortunately, there are only about 7 acres or 2.9 hectares in or capable of production. Therefore, a strategy must be implemented to maximize the production from those acres.

Farm production on the parcel will be increased through the construction of greenhouses. As Figure 3 illustrates, having the greenhouses lifted to accommodate parking reduces the shading from the western escarpment.

¹ The Grape Atlas, Chapter 4, Suitability Classification for Grape Production in the Okanagan and Similkameen Valleys, page 1

Figure 3: Cross Section of Greenhouses and Parking



4.0 Farming Strategy

Historically, the farm has produced peaches and some apricots. These trees are well past maturity and in need of replacement either with other soft fruits or grapes. Both crops have proven viability on this site. This replacement will revitalize the farm to make it a “show place” for farming in the area.

As Figure 1 illustrates, the owners propose both soil based and non soil based agriculture. The plan is to lease out the buildings and land to an existing vineyard. That lease would extend for a minimum of 15 years to enable the lessee to amortize the planting of the grapes. Using an existing vineyard operator will increase the wine production capacity therefore extending the utility of the tasting room and winery.

The lease agreement will have a “neat and tidy” provision to ensure that the farming area is well maintained and provides an asset to the housing development on the west side of Campbell Road.

A long term lease cannot be negotiated until the issue of parking has been resolved.

5.0 Regulations and Policies

There is no mention of Parking in either the *Agricultural Land Reserve Use Regulation* or Policy L-01. In other policies:

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|-------------|--|
| Policy L-02 | <ul style="list-style-type: none">• Parking is not included in “retail sales area”• The total area from which soil is removed or fill is places is 1,000 m² or less |
| Policy L-04 | <ul style="list-style-type: none">• Permanent facilities must not be included in Agri-Tourism activities. Parking areas are included in Permanent facilities.• Parking areas must not be permanent• Parking must not interfere with agricultural productivity• Parking should be along field edges, adjacent to internal farm diveways and in farm yard areas or immediately adjacent to farm buildings and structures• Local government have the authority to regulate structures and building occupancy including parking. |
| Policy L-24 | <ul style="list-style-type: none">• Parking should be permeable in nature, whenever possible, to reduce impervious cover and impacts of stormwater discharge on surround agricultural lands |

- Parking is included in calculations for lot coverage for farm-related commercial and farm-related industrial uses

6.0 Summary and Conclusion

As noted above, the proposal combines farm and non farm uses on the same footprint. Consequently, there will be no loss of farmland from the development of parking on the parcel. The policies of the ALC do not provide for such a combination. However, the policies do allow for local government to regulate structures such as these. I would assume that the City of West Kelowna can permit the structures through the building permit process.

In my opinion, a small vineyard such as this one faces great obstacles to being viable. By combining the farming activities with housing and non farm facilities increases the prospects for viability without losing any farm land.

The purpose of the Agricultural Land Commission is stated in Section 6 of the *Act*:

- 6 (1) The following are the purposes of the commission:
- (a) to preserve the agricultural land reserve;
 - (b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest;
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.
- (2) The commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under this Act:
- (a) the size, integrity and continuity of the land base of the agricultural land reserve;
 - (b) the use of the agricultural land reserve for farm use.

In my opinion, the City has the delegated authority under Policy L-04 to permit the construction of greenhouses with parking below. By approving this proposal, the land will be retained and improved for agriculture, the ALR will be maintained, and farm use enhanced.

If the City declines to use its delegated authority, the application can be forwarded to the ALC as a Non-Farm Use application.

I remain available to discuss my findings and conclusions.

Respectfully,