



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: June 28, 2021

SUBJECT: Agricultural Land Commission Application (A-21-02)
B. Miskuski (owner/applicant)
2770 Schram Road, Central Okanagan East Electoral Area

Voting Entitlement: *All Directors – Unweighted Corporate Vote – Simple Majority – LGA 208.1*

Purpose: To obtain Agricultural Land Commission approval for a Non-Farm Use to use a portion of an existing barn for commercial storage on the subject property.

Executive Summary:

The owner of 2770 Schram Road is proposing to utilize a portion of an existing barn on the subject property for commercial storage. The property currently contains a residence, accessory buildings and 10 acres of forage crops. Staff received a bylaw complaint regarding the storage of vehicles and placement of fill on the subject property that was followed by an inspection and later a letter from the Agricultural Land Commission requiring an immediate cease of non-farm uses.

Concerns raised by agencies regarding the proposal include increasing expectations for other non-farm uses on property within the Agricultural Land Reserve, the potential future expansion of non-farm uses on the subject property, and that the proposal does not support food security.

Given the bylaw complaint, raised concerns from agencies and that the proposed non-farm use is not in line with the Agriculture Plan or the Rural Land Use Bylaw Planning Services staff are not in support of the application.

RECOMMENDATION:

THAT the Regional Board not support Agricultural Land Commission Application A-21-02 for applicant B. Miskuski, to allow for a non-farm use to allow a commercial storage operation.

AND FURTHER THAT the Regional Board directs staff to not forward the application to the Agricultural Land Commission.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Approved for Board Consideration



Brian Reardon, CAO

Prepared by: Michael Czarny, Planner

Implications of Recommendation:

Policy:	Non-support of the Agricultural Land Commission application for Non-Farm Use Application complies with: <ul style="list-style-type: none">• Joe Rich Rural Land Use Bylaw No.1195• Agricultural Plan
Legal/Statutory Authority:	Section 34.1 (2) of the Agricultural Land Commission Act (ALCA) outlines the application procedure if local government review is required. ALCA and Agricultural Land Reserve (ALR) Use Regulations apply.

Background:

The subject property is located at 2770 Schram Road in the East Electoral Area. The subject property has a RA Rural Acreage designation as per the Joe Rich Rural Land Use Bylaw (RLUB). The property is developed with a single detached dwelling and multiple accessory buildings including a barn and sheds. The single detached house constructed in 1980 under Building Permit #13733/80 underwent renovation in 2010 under Building Permit #6395/10. The barn constructed in 1989 under Building Permit #7826/89 and the applicant has submitted a building permit application in June 2021 for roof and structural repairs.

The subject property is within the Agricultural Land Reserve (ALR) where the Provincial Agricultural Land Commission (ALC) regulates land uses. The property is subject to the ALC Act and the ALR Use Regulations. Agricultural activities occurring on the subject property include 10 acres of forage crops (hay). The applicant plans to expand the agricultural activities with fruit trees and raising horses, cows and chickens.

A bylaw complaint was received in September 2020 regarding vehicle storage and fill placement on the subject property. ALC and RDCO staff visited the property in February 2021 and confirmed commercial vehicle storage taking place in the barn however, no fill placement was observed. In February 2021, the ALC issued a letter advising the property owner to cease non-farm use activity and if the owner desires to pursue the use, they may apply for a non-farm use application. In March 2021, RDCO staff received the respective application.

Proposal:

The property owner is proposing to utilize approximately 250 m² of the 340 m² existing barn for commercial storage for vehicles including but not limited to boats, trailers, and recreational vehicles. The applicant proposes the vehicle storage to take place between October and May annually and rationalizes that this use will not interfere with farm practices.

Agricultural Land Commission Act (ALCA):

Under the ALCA, commercial storage is not permitted on land within the ALR. To pursue the respective activity, an ALC application for a Non-Farm Use under Section 25 of the ALCA is required.

Agricultural Plan:

The Regional District's Agricultural Plan (approved in 2005) recognizes the need for protecting farmland for agricultural uses and includes recommendations that discourage the intrusion of non-farm uses in rural areas while promoting the separation of agricultural and urban uses.

Joe Rich Rural Land Use Bylaw (RLUB) No. 1195:

Under the Joe Rich RLUB, the subject property is located within a rural land use designation. An objective of rural lands for residential use is to protect the character of existing residential areas, maintain the integrity of agricultural land and support the recommendations, objectives and policies of the Agricultural Plan and of the Agricultural Advisory Commission.

A business license will be required for the proposed commercial operation however; the proposal does not meet the regulations of Section 3.5 (Home Occupations). Additionally, the subject property has a RA Rural Acreage land use designation, which does not permit commercial uses. If the Regional Board and the ALC support the application, a subsequent Joe Rich Rural Land Use Bylaw (RLUB) Amendment application will be required to permit the commercial use and issue a business license.

The subject property is within the Aquatic Ecosystem, Wildfire, and Slope Stability and Rural Hillside Development Permit Areas. A Development Permit is not required since the scope of the proposal is contained within an existing building.

Site Context:

The subject property in Joe Rich. In accordance with the Joe Rich RLUB No. 1195, a number of Development Permit Areas affect the property.

Additional Information:

Owners/Applicants:	B. Miskuski
Legal Description:	Parcel A (Plan B6581) of District Lot 4182, ODYD, Except Plan 16146
Address:	2770 Schram Road
Lot Size:	+/- 5.82 ha (14.37 acres)
Rural Land Use Designation:	RA Rural Acreage
Water Purveyor:	Private well
Sewage Disposal:	Onsite septic
Existing Use:	Agricultural and Residential
Surrounding Uses:	North: Agricultural and Residential South: Agricultural and Residential East: Agricultural and Crown land West: Agricultural
A.L.R.:	Within the A.L.R.
Fire Protection:	Joe Rich

RDCO TECHNICAL COMMENTS:

Agricultural Advisory Commission (AAC) recommends non-support for the application. The AAC expressed concerns about the potential future expansion of the non-farm use.

Inspection Services staff notes that the applicant has submitted a building permit application (#21/125) for roof and structural repairs for the existing barn however, this application is unrelated and not a requirement of the ALC application for a Non-Farm Use. A building permit will be required for a change of class of occupancy (use) to permit the commercial operation.

Unaffected RDCO Departments include Fire Services, Parks Services, and Engineering Services.

AGENCY REFERRAL COMMENTS:

Interior Health Authority (IHA) staff advises the proposal does not appear to support food security. IHA staff has an interest in protecting agricultural land and increasing the capacity of local food systems as a way to support our community's food security. Food security is vital to the health and well-being of a community and is the foundation for healthy eating. Food security has been recognized as a key public health issue by the BC Ministry of Health. Interior Health ensures the delivery of key government priorities to increase food security. The storage of vehicles on agriculture land does not contribute to the local food supply. Preserving farmland for agriculture helps to maintain a level of food production that contributes to food self-sufficiency, and increases food security and supports healthy eating.

Ministry of Forests, Lands, Natural Resources Operations and Rural Development staff advises that should any stream crossing and or work in and about a stream be necessary a Water Sustainability Act application will be required. If a culvert or bridge is required, it must be designed to accommodate a 200-year flow (Q200).

Ministry of Agriculture, Food and Fisheries staff advises that commercial storage on ALR properties does not enhance agricultural productivity and an approved non-farm use for this purpose may raise expectations for similar non-farm uses on other ALR properties.

Unaffected Agencies include City of Kelowna, Ministry of Transportation and Infrastructure.

Financial Considerations:

As per the Agricultural Land Commission Fee Schedule, the Regional District of Central Okanagan has received the required application fees to process the ALC application.

External Implications:

Development Applications Procedures Bylaw No. 944 does not apply. The applicant is subject to meeting the notification requirements of the ALC; however, public notification is not required.

Alternative Recommendation:

Based on staff's analysis of the application and agency referral comments received, staff does not propose an alternative recommendation.

Considerations not applicable to this report:

- *Organizational Issues*

Attachment(s):

- RDCO Maps: Orthophoto, ALR
- Site Plan
- Site Photos
- ALC Letter dated February 10, 2021