



**Agricultural Land Commission**  
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September 25, 2009

Reply to the attention of Brandy Ridout  
ALC File: 50041

Ryan W. Smith  
City of Kelowna  
1435 Water Street  
Kelowna, BC 1Y 1J4

Dear Mr. Smith:

**Re: Application for Utility Use in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #931/209 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify the landowner accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in purple ink, appearing to read 'Erik Karlsen', is written over the printed name below.

Erik Karlsen, Chair

Enclosure: Minutes

BR/  
50041d1



### **Assessment of Agricultural Suitability**

The Commission assessed whether factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are factors that render the land unsuitable for agricultural use.

### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. In response to staff's questions about the possibility of locating the pond on a non-ALR property or solving the issue with piping, it was noted that alternate non-ALR sites are not available because the pond has to be located between Springfield Road and Toovey Road to attenuate the flows coming from upstream of Toovey before entering the Springfield system and a pipe alternate would not be able to meet the City's required attenuation criteria. The Commission was not provided with an inventory or analysis of other properties in the area nor the City's attenuation criteria.

Although sympathetic to the City's drainage issues, based on the information provided, the Commission was not satisfied that the City had undertaken a sufficient review of non-ALR options. The Commission believed the use of 1.2 ha of prime agricultural land for a dry detention pond was an inappropriate use of ALR land. It did not believe that an area of ALR land should be permanently removed from possible agricultural production to be used as a reservoir for storm water that is a result of paving and nearby housing developments.

### **Conclusions**

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will have a negative impact on agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

### **IT WAS**

**MOVED BY:** Commissioner Mayer

**SECONDED BY:** Commissioner Sidhu

THAT the application to dedicate a 1.2 ha portion of the 8.4 ha subject property as road for use as a dry detention pond in conjunction with Highway 33 Upgrade be refused.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

*S.33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*

- (a) evidence not available at the time of the original decision has become available,*
- (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

**CARRIED**  
**Resolution #931/2009**