



**Agricultural Land Commission**  
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December 17, 2009

Reply to the attention of Brandy Ridout  
ALC File: 50442

R.G. (Bob) Holtby  
2533 Copper Ridge Drive  
Westbank, BC V4T 2X6

Dear Mr. Holtby:

**Re: Application to Subdivide Land in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #1554/2009 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in purple ink, appearing to read 'Erik Karlsen', is written over the 'Per:' label.

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of North Okanagan (09-0144-F-ALR)

BR/  
50442d1



A meeting was held by the Provincial Agricultural Land Commission on November 27, 2009 at the Ministry of Agriculture and Lands Office, located at 200-1690 Powick Road, Kelowna, B.C.

<b>PRESENT:</b>	Roger Mayer	Chair, Okanagan Panel
	Sid Sidhu	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

**For Consideration**

Application: 50442  
 Applicant: Albas Ventures Inc.  
 Agent: R.G.(Bob) Holtby  
 Proposal: To subdivide the 24.3 ha subject property into two lots along Albas Road - 10.9 ha and 13.4 ha.  
 Legal: PID: 008-336-245  
 Lot A, Section 29, Township 18, Range 8, W6M, Kamloops Division of Yale District, Plan 17943  
 Location: 26 Albas Road, Enderby

**Site Inspection**

A site inspection was not conducted for the application. However, the Commission met to discuss the current application on November 27, 2009 at the Ministry of Agriculture and Lands Office in Kelowna, B.C. Those in attendance were:

- Roger Mayer            Chair, Okanagan Panel
- Sid Sidhu                Commissioner
- Brandy Ridout         Staff
- Martin Collins         Staff
- Doug Cliff               Applicant
- Bruce Gardiner       Applicant
- Bob Holtby             Agent

Doug Cliff confirmed that the staff report dated November 17, 2009 was received. Additional information and corrections were provided:

- Background on the placement of Albas Road (including photos)
- Clarification on the local government recommendations.
  - Development Services Staff in their report dated June 10, 2009, recommended that the application NOT BE AUTHORIZED for submission.
  - Advisory Planning Commission for Electoral Area "F", at their meeting July 13, 2009, had 2 resolutions: that the application NOT BE AUTHORIZED for submission – this motion was DEFEATED; and that the application BE APPROVED for submission – this motion was also DEFEATED.
  - Electoral Area Advisory Committee, at their meeting July 21, 2009, recommended that the application BE AUTHORIZED for submission.
  - Regional Board, at their meeting August 12, 2009, recommended that the application BE AUTHORIZED for submission.

- The fact that when Albas Ventures Inc. acquired the property from the Gorich family, they had the two hay fields being farmed under rent by two separate individuals.
- Staff report and decision for other ALR applications (#T-38605 and #G-38633)

### **Context**

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

### **Discussion**

#### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings for the property have been interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The agricultural capability of the soil of the subject property is 80% Class 3 with limitations of excess water and soil moisture deficiency and 20% Class 5 with limitations of stoniness and soil moisture deficiency. Class 3 land has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both. Class 5 land has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

#### **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 this assessment, the Commission recalled its previous decision on the subject property to allow the construction of a new road to access three proposed non-ALR lots and decommission the existing driveway/roadway through the property. Although the road would require the use of ALR land and go through the middle of the property, the Commission was prepared to allow the road because the road avoided the cultivated field, portions of the alignment had minimal capability, and the inclusion of 1.3 ha of productive field into the ALR and its retention with the agricultural parcel balanced the loss of land (only 0.7 ha was included because an additional road was required to connect to McNabb Road). In addition, as the Commission prefers to see residential development occur outside the ALR, it recognizes that access roads through the ALR are sometimes necessary. Albas Road was allowed

to access the non-ALR portion of the property so that subdivision could take place outside the ALR, not within.

The Commission believed the property was more suitable as a single parcel as it included areas suited as pasture, hayfield and woodlot. It also believed that the road was not an impediment to farming the property as a unit.

Considering the above, the Commission believed the proposal would have a negative impact on existing or potential agricultural use of the subject property.

### **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 Sidhu  
**SECONDED BY:** Commissioner Mayer

THAT the application be refused on the grounds that the property is more suitable for agriculture in its current configuration.

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 #1554/2009**