



Agricultural Land Commission
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March 22, 2010

Reply to the attention of Brandy Ridout
ALC File: 51107

Roger Huston
Village of Lumby
PO Box 430
Lumby, BC V0E 2G0

Dear Mr. Huston:

Re: Application for Utility Use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #2279 and a sketch plan outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Please send two (2) paper prints of the final right of way survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact any other authority that has jurisdiction.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', written over a white background.

Erik Karlsen, Chair

Enclosure: Minutes/Sketch Plan

BR/51107d1



A meeting was held by the Provincial Agricultural Land Commission on March 16, 2010 at the Ministry of Agriculture and Lands Office, located at 200-1690 Powick Road, Kelowna, B.C.

PRESENT: Roger Mayer Chair, Okanagan Panel
Gerry Zimmermann Commissioner
Brandy Ridout Staff
Martin Collins Staff

For Consideration

Application: 51107
Applicant: Lawrence & Solange Harrison
Agent: Corporation of the Village of Lumby
Proposal: To dedicate a 0.3 ha Statutory Right of Way (SROW) to allow for the looping of the existing water supply system.
Legal: Lot 1 District Lot 409 Osoyoos Division Yale District Plan 1972 Except Plans B4422, 2931, 4009, B5506, B5703, 10748, 22154, 22807, 25088, and KAP56147
Location: Hallier Road, Lumby

Site Inspection

A site inspection was not conducted for the application.

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 are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system.

The improved agricultural capability of the soil of the subject property is,

Class 1 – Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.

Assessment of Agricultural Suitability

The Commission assessed whether external 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 external 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. The Commission believes the right of way proposal has the potential to negatively affect the existing or potential agricultural use of surrounding lands if the right of way cannot continue to be cultivated. The right of way runs along the westerly edge of the property that is under cultivation. If the land is not permitted to be cultivated it is possible that it will become a source of weeds.

The Commission noted that the farmer was prepared to accept the construction of gravel road over the right of way. However, the Commission preferred that the right of way remain cultivable.

Assessment of Other Factors

The Commission was also concerned that the topsoil be preserved and replaced to maximize agricultural potential. It required the submission of an agrologist report upon the completion of construction to ensure that the topsoil was handled appropriately, stored and replaced and the land restored to similar or better standard as before construction.

Conclusions

1. That the land under application has agricultural capability, is appropriately designated as ALR, and is suitable for agricultural use.
2. That the proposal has the potential to negatively impact agriculture.
3. That if the pipe is buried at a depth that permits cultivation, and if topsoil is conserved and replaced, then the agricultural use of the land can continue.

IT WAS

MOVED BY: Commissioner R. Mayer

SECONDED BY: Commissioner G. Zimmerman

THAT the application to dedicate a 0.3 ha right of way ranging from 3 meters to 5 meters wide for a looped water main be allowed subject to the following conditions;

- the right of way subdivision be in substantial compliance with the plan submitted with the application,

- the installation of the pipe at a sufficient depth that permits cultivation of the entire right of way (a minimum cultivation depth of 1.5 meters from the top of the pipe),
- the preservation and replacement of topsoil during construction,
- the submission of an agrologist's report upon completion of construction confirming that the pipe is installed at a depth that permits cultivation, and that topsoil was conserved and replaced to ensure the preservation of agricultural potential
- weed control for five years on any uncultivated portion of the right of way,
- the right of way and pipe installation must be completed within three (3) years from the date of this decision.

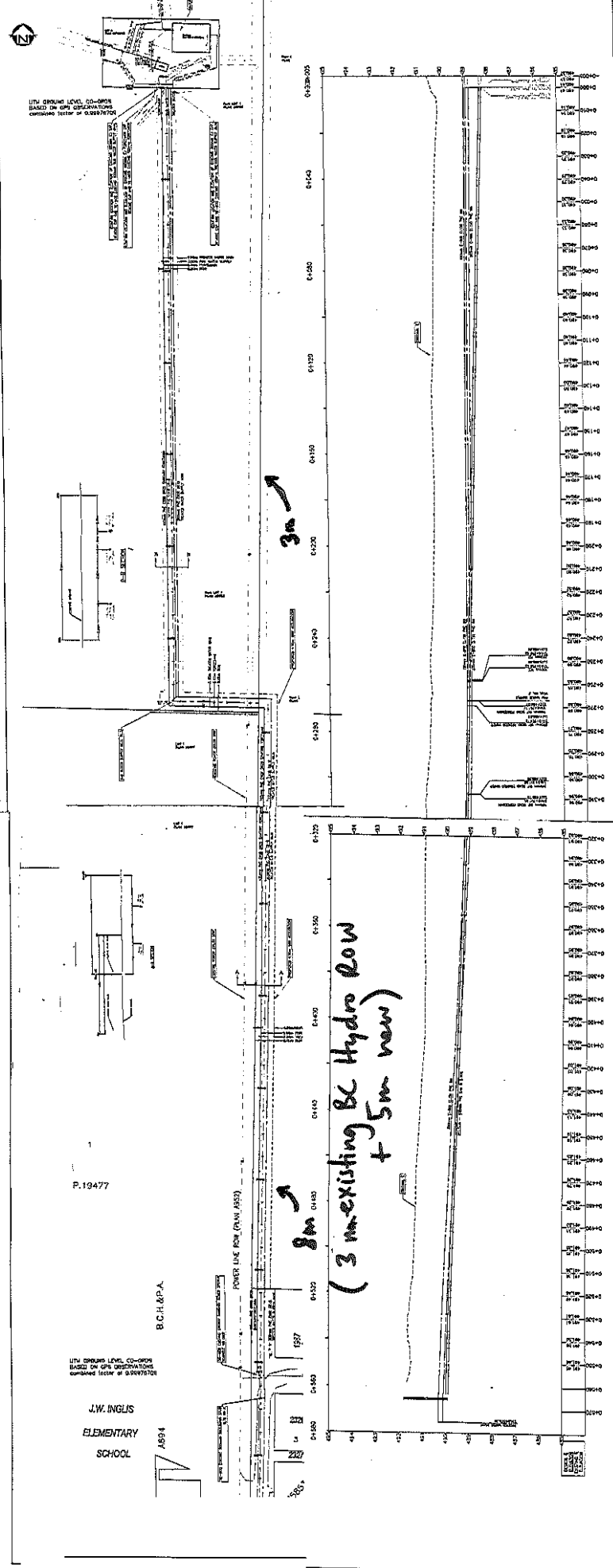
AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- 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.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

CARRIED
Resolution # 2279/2010



APPROVED 0.3 ha R/W

APPLICATION 51107
RESOLUTION # 2279/2010