



Agricultural Land Commission
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April 8, 2010

Reply to the attention of Brandy Ridout
ALC File: 51271

Bob Hauca
Hauca Consulting
RR 1 Site 318 Comp 9
Kaleden, BC V0H 1K0

Dear Mr. Hauca:

Re: Application for Transportation Use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #2365/2010 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 black ink, appearing to read 'E. Karlsen', is written over the 'Per:' label.

Erik Karlsen, Chair

Enclosure: Minutes

cc: Regional District of Okanagan Similkameen (Project: 32780 Road Access
Ackerman/Nurse)

BR/
51271d1



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: 51271
Applicant: Robert Ackerman & Julie Nurse
Agent: Hauca Consulting
Proposal: To dedicate a road right of way 750 meters long, 20 meters wide and build a road through crown ALR east of White Lake Road to access a proposed subdivision lying mostly outside the ALR.
Legal: 1. That Part of the East ½ of SW ¼ of Section 14 Shown on Plan B4841; Township 88 Similkameen Division Yale District
PID: 008-122-598
2. W ½ of the SW ¼, Section 14, Twp 88, SDYD (Crown Land)
3. E ½ of the E ½, Section 15, Twp 88, SDYD (Crown Land)
Location: East of White Lake Road

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 for the subject properties were interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The agricultural capability of the soil of the ALR portion of the properties is predominantly Class 4 with limitations of topography and stoniness with portions in the

south of Class 6 and 7 with limitations of topography and shallow soil/bedrock outcroppings.

Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Class 7 – Land in this class has no capability for arable or sustained natural grazing

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 noted that the agricultural capability of the properties limited their possible agricultural uses. However, it noted that portions of the land are suitable for grazing and some areas were currently leased for that use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. It noted that the private property under application (PID: 008-122-598) and the property to its east have access via an easement agreement to Highway 97. With regard to access from White Lake Road, as the road would go through Crown Land to reach the private property, the applicant would have to apply to ILMB for a private 'access' over Crown Land. The road would become public once it was constructed to a Ministry of Transportation standard with a reference plan submitted to Land Titles.

A letter was provided with the application from the registered holders of the grazing lease on the East ½ of the East ½, Section 15, Township 88 and the West ½ of the Southwest ¼, Section 15, Township 88, SDYD indicating that they had no objections to the proposed public road through the properties. The signed form indicated that no more than three lots would be created within the East ½ of the Southwest ¼ of Section 14, Plan B4841, Township 88. However, the Commission believed that introducing a public road into an area that is partially within the ALR and partially outside the ALR would encourage the development of the area and lead to future conflicts between the grazing use of the area and residential use of the proposed lots.

The Commission noted that the subject lands are not within the designated White Lake Line-of-Site (DRAO electro-magnetic interference) area.

Assessment of Other Factors

The RDOS Board did not authorize a separate ALR application from the applicants to gain access across ALR land to subdivide several lots that are partially within the ALR. Concerns from the RDOS with regard to that application that was not forwarded to the Commission included that the fragmenting agricultural land is generally not seen as a good practice and the OCP requests that new developments be evaluated with respect to their implications and impacts on the agricultural uses in the area. The lands in question are primarily used for grazing and ranching; fragmenting these lands through a road and also a potential subdivision will allow greater access and possible disturbances in the area.

Conclusions

1. That the land under application has agricultural capability.
2. That the land under application is suitable for some forms of agricultural use.
3. That the proposal will have a negative impact on agriculture in that it has the potential to increase rural/urban conflicts.

IT WAS

MOVED BY: Commissioner Mayer
SECONDED BY: Commissioner Zimmermann

THAT the application to dedicate a road right of way 750 metres long, 20 metres wide and build a road through Crown ALR land east of White Lake Road to access a proposed subdivision lying mostly outside the ALR 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.

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 #2365/2010