



Agricultural Land Commission
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December 21, 2009

Reply to the attention of Brandy Ridout
ALC File: 50711

Craig Broderick
District of Coldstream
9901 Kalamalka Road
Coldstream, BC V1B 1L6

Dear Mr. Broderick:

Re: Application for Transportation Use in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #1552/2009 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

BR/
50711d1



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.

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

For Consideration

Application: 50711
Applicant: Craig Broderick, District of Coldstream
Proposal: To dedicate a right of way for a continued road extending from Matner Lane across the entire north boundary of the subject property. The width of the proposed right of way is 8.25 m and the length is approximately 100 m for an area of 825 square metres.

Legal: PID: 006-244-076
Lot 44 District Lots 57 and 59 Township 9 Osoyoos Division Yale District Plan 320 Except:: (1) The Canadian Northern Pacific Railway Company Right-of-Way as Shown on Plan Attached to DD 24819 (2) Part 9.88 Acres More or Less as Shown on Plan B4105

Location: 10401 Kalamalka Road, Coldstream

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 agricultural capability rating of the subject property were interpreted using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system as Class 3 with limitations of soil moisture deficiency, stoniness and topography. Class 3 land has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

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.

The Commission recalled the extensive application history on this property and that it has been opposed to the extension of Matner Lane on the north boundary of the property since the original subdivision application in 1990. This opposition was because it wanted to ensure that the land remained "rural" and farmland was not excessively alienated. When the Commission allowed subdivision of the property, it required that access to the parcel be the minimum necessary (50 m²) to access the northeast corner of the property. At that time the Commission perceived no agricultural reason to provide land for road access, believing rather that a right of way would erode the agricultural capability of the parcel, and provide potential for trespass onto farmland. Nor did it believe there was a compelling reason to introduce road access through the farm area from urbanizing land to Aberdeen Road. In 2008, the Commission was presented with a proposal to allow the dedication of Matner Lane half of the width of the property (107 m) at a width of 8.25 metres and ending in a turnaround bulb to meet the minimum road access required by the bylaw. As there appeared to be an effort to limit the impact of the road on the property and it did not provide access through to lands beyond (i.e. was consistent with the Commission's longstanding objections to this requirement), the Commission allowed the proposal.

Along with the history of the property, the Commission considered the applicant's indication that the continuation of the 8 m ROW would benefit all parties: it would allow the owners subdivision application to proceed; secure long-term access for the neighbours (i.e. Lot 1, Plan 26031) to the upper section of their property (which is currently an apple orchard); provide Coldstream with public access for a future multi-use trail for pedestrians, cyclists and horse riders, that would connect Middleton Mountain (i.e. from Aberdeen Road through Matner Land and rural area); and provide a benefit to agriculture in that it will provide secure access to the upper section of an active orchard, currently accessed over a private railway crossing. The Commission recalled that it had already compromised to allow the access half way across the property as it believed that it would permit the previously conditionally approved subdivision application to proceed. As per the current application, it was evident that the subdivision application was not being permitted until access across the entire property was allowed. As per its previous historical objection to the extension of the road, despite the proposed benefit to agriculture of the secure access to the upper portion of an active orchard, the Commission continued to have concerns with public access through this area. The Commission also had concerns with the impact a multi-use trail for pedestrians, cyclists and horse riders would have on this agricultural area.

The Commission believes the proposal would have a negative impact on existing or potential agricultural use of the subject property and surrounding lands.

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.

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 #1552/2009