



## Agricultural Land Commission Staff Report

**DATE:** November 19, 2009  
**TO:** Vice Chair and Commissioners - Okanagan Panel  
**FROM:** Brandy Ridout  
**RE:** Application # 50711  
**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.

### PROPOSAL INFORMATION

**Background:** See Resolution #142/1990 & 291/2008  
**Received Date:** October 5, 2009  
**Applicant:** District of Coldstream/ Attention to: Craig Broderick  
**Agent:** N/A  
**Local Government:** District of Coldstream

### DESCRIPTION OF LAND

**PID:** 006-244-076  
**Legal Description:** 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  
**Civic Address:** 10401 Kalamalka Road  
**Area:** 13 ha  
**ALR Area:** 13 ha  
**Purchase Date:** March 28, 1989  
**Owner:** Lyall & Lynn & Gordon Webster

**Total Land Area:** 13 ha  
**Total ALR Area:** 13 ha  
**Current Land Use:** Residence, alfalfa

## PROPOSAL DETAILS

### Non Farm Use

Area	Agricultural Capability	Agricultural Capability Source
0.1	Prime	BCLI

### Surrounding Land Uses:

North	Orchard (ALR)
East	Alfalfa (ALR)
South	Kalamalka Road - rural residential, alfalfa
West	Orchard (ALR)

### Official Community Plan

<b>Bylaw Name:</b>	Bylaw No. 1445
<b>Designation:</b>	Agricultural
<b>OCP Compliance:</b>	Yes

### Zoning

<b>Zoning Bylaw Name:</b>	No. 1382 (2002)
<b>Zoning Designation:</b>	RU2 - Rural 2
<b>Minimum Lot Size:</b>	2.0 ha
<b>Zoning Compliance:</b>	Yes

## PREVIOUS APPLICATIONS

**Application #:** 3988

**Applicant:** David Webster

**Proposal:** Request s/d of two parcels of 12.95 ha and 1.8 ha into 3 lots of 6.4 ha, 6.3 ha and 2 ha to settle estate.

### Decisions:

#### Resolution

Number	Decision Date	Decision Description
141	March 16, 1990	Allow s/d along railway right of way into two main farm parcels and enlarge existing lot to 2.0 ha.

## STAFF COMMENTS

- Application #T-24280 (3988) proposed to subdivide the subject property and another 1.8 ha property into three lots (2 ha, 6.3 ha and 6.4 ha). At that time, the municipality requested an 8 m right of way (ROW) along the northern boundary of the property as the lane that serviced the other properties did not extend that far. However, the applicants had purchased an area 16.5 feet by 33 feet from the neighbour to the north in order to access to the property as they had vandalism and crop damage concerns about a road along the north end of the property while the houses were at the south end of the property and the irrigation lines are at the north end of the property. The application was approved, with the 16.5 feet by 33 feet access instead of the 8 wide ROW.

- A reconsideration request was considered in 1990 to allow the 8 m ROW as the municipality would not grant the subdivision without access to lands beyond. At that time, the Commission recalled that in an adjacent application, it had refused to allow widening after permitting a homesite severance as the owner objected to the loss of property. The Commission had also refused the exclusion of a nearby property in order to preserve the agricultural integrity of the area. The Commission refused the request

to allow the 8 m ROW on the grounds that it did not support the loss of farmland and farm integrity which would result from a substantial widening of the existing roads.

- Two other reconsideration requests were considered, with limited results.

- A final reconsideration request was considered in 2008. At that time, access was permitted halfway across the northern end of the property and ended in a turnaround bulb. Discussion included that the Commission had previously 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 the Commission believe there was a compelling reason to introduce road access through the farm area from urbanizing land to Aberdeen Road. However, the Commission was advised that the present proposal represented the minimum road access required by the bylaw. The applicants believed that the District would permit the compromise right of way because it was the minimum required by the bylaw. In addition the current proposal did not provide access through to lands beyond, consistent with the Commission's longstanding objections to this requirement.

- The continuation of the 8 m ROW is now being requested. It is indicated that this access will benefit all parties: it will 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.

## **ATTACHMENTS**

Context Map.pdf

air photo.pdf

Coldstream letter.pdf

proposal sketch.pdf

## **END OF REPORT**

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**Signature**

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**Date**