



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

July 8, 2010

Reply to the attention of Brandy Ridout
ALC File #51271

Bob Hauca
Hauca Consulting
RR 1, Site 318, Comp 9
Kaleden, B.C. V0H 1K0

Dear Mr. Hauca:

Re: Request for Reconsideration

This is further to your e-mail of April 26, 2010 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #2365/2010.

The Commission has reconsidered the matter and has attached the Minutes of Resolution #2530/2010 outlining its latest decision. As agent, it is your responsibility to notify your clients accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

cc: RDOS (File: 32780 Road Access Ackerman Nurse)

Enclosure: Minutes

BR/
51271d2



A meeting was held by the Provincial Agricultural Land Commission on June 10, 2010 in Kelowna, B.C.

PRESENT:	Roger Mayer Gordon Gillette Brandy Ridout	Chair, Okanagan Panel Commissioner Staff
-----------------	---	--

For Consideration

An e-mail was received from Bob Hauca dated April 26, 2010 requesting that the Commission reconsider its decision recorded as Resolution #2365/2010. The e-mail indicated that the staff report was in error and that the Commission reviewed an incorrect proposal. The staff report dated February 12, 2010 indicated that the applicant was requesting a road right of way (ROW) 750 metres long and 20 metres wide to access a proposed subdivision lying outside the ALR. The April 26, 2010 e-mail indicates that the application was for the dedication of a 15 metre wide ROW and construction of a 6 metre wide road bed within the ROW to access a single private parcel.

Application:	51271
Applicant:	Robert Ackerman and Julia Nurse
Agent:	Bob Hauca
Original proposal:	To dedicate a 20 metre wide public road right of way through crown land to access a proposed subdivision lying mostly outside the ALR.
Original decision:	Refused as proposed.
Current proposal:	To dedicate a 15 metre wide public road right of way through crown land to a privately owned parcel and construct a 6 metre wide road bed within the right of way.
Legal:	<ol style="list-style-type: none"> 1. Part of the E ½ of the SW ¼ of Sec. 14, Twp 88 SDYD shown on Plan B4841 PID 008-122-598 2. W ½ of the SW ¼ Sec. 14, Twp 88, SDYD 3. E ½ of the E ½ , Sec. 15, Twp 88, SDYD
Location:	White Lake Road

Context

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the "Act") which states:

- S33(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, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission believed that all or part of the original decision was based on evidence that was in error or was false and so reconsidered the application.

Discussion

The Commissioners discussed the proposal, noting:

- the February 12, 2010 ALR staff report incorrectly described the proposal, indicating that the public road was 20 metres wide and 750 metres long
- the agent's assessment that all private property requires reasonable access,
- access from Highway #97 is indicated to be impractical
- the land has limited agricultural capability
- there will be few or no impacts arising from the road due to the construction of fencing and cattle guards

Although the Commission acknowledged the applicant's concern about the incorrect proposal, it did not believe that it was the responsibility of the ALC to provide land that is privately owned with public access. Furthermore it noted that once a public road is dedicated it is permitted to expand the road to 24 metres in width without reference to the Commission.

Finally the Commission is concerned that providing public access will result in further subdivision of non-ALR lands in this area, and increase pressure to subdivide ALR lands, resulting in the erosion of the agricultural grazing resource and the introduction of additional non-farm residents into the area. It is the Commission's experience that residents conflict with farming activity, resulting in weed infestation, trespass, stock harassment, and other negative impacts.

IT WAS

MOVED BY: Commissioner Gillette

SECONDED BY: Commissioner Mayer

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT the request for the dedication of a 15 metre wide ROW and construction of a 6 metre wide road bed within the ROW be refused.

AND THAT the applicant be advised that the time limit for submitting a request for reconsideration is one (1) year from the date of the original decision letter.

CARRIED

Resolution #2530/2010