



Agricultural Land Commission
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9th December 2010

Reply to the attention of Ron Wallace
ALC File: 51876

Hoefsloot Land Surveying Ltd.
P.O. Box 2740
Grand Forks, BC
V0H 1H0

Dear Sir:

Re: Application for Transportation, Utility Use Application in the ALR

Please find attached the Minutes of Resolution # 2775/2010 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.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Regional District of Kootenay Boundary

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/51876d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on 16th November 2010 in Nelson, BC

PRESENT:	Richard Bullock	Chair of Commission
	Barry Minor	Chair, North Panel
	Jerry Thibeault	Commissioner
	Gordon Gillette	Commissioner
	Roger Cheetham	Staff

For Consideration

Application: 51876
 Applicant: Michael and Valerie Pearce
 Agent: Hoefsloot Land Surveying Ltd.
 Proposal: To create an access via a driveway/easement over ALR lands to non-ALR lands beyond
 Legal: PID: 010-929-274; Lot 74, District Lot 538 Similkameen Division Yale District Plan 2899
 Location: 7760 Reservoir Road

Site Inspection

A site inspection was conducted on 15th November 2010. Those in attendance were:

- Richard Bullock Chair of Commission
- Barry Minor Chair of Kootenay Panel
- Jerry Thibeault Commissioner
- Gordon Gillette Commissioner
- Roger Cheetham Staff
- Michael Pearce Applicant
- Art Hoefsloot Agent

The Commission noted that access to the subdivision to be created along the ALR boundary for which access is required was not feasible from Hardy Road due to the steepness of the terrain. The Commission noted that the proposed position of the access divided the area of the property with the better agricultural potential into two and hence this proposed location was not desirable from an agricultural perspective. However after walking over the property the Commission considered that it would be possible to shift the access road the north.

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, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the subject property is rated as Class 4 and 5 with topography limitations.

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

Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Assessment of Impact on Agriculture

The Commission was concerned that an access in the proposed location would divide the property into two and hence would have an undesirable impact on agriculture. However it recognized that it was beneficial to agriculture to encourage the development of land not within the ALR and it considered that if the impact of the access road was reduced by shifting the alignment as far as possible to the northern end of the subject property it should be possible to mitigate its impact on agriculture.

IT WAS

MOVED BY: Commissioner J. Thibeault

SECONDED BY: Commissioner B. Minor

THAT the access be approved in principle subject to the submission to and approval by the Commission of a new plan that relocates the access road as far as possible to the northern end of the property.

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, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

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 # 2775/2010