



Agricultural Land Commission
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August 19, 2014

ALC File: #53711

Scotty McKenzie
Regional Project Manager
Ministry of Transportation and Infrastructure
342-447 Columbia Street
Kamloops, BC
V2C 2T3

Dear Sir:

Re: Application for a Transportation Right of way in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #295/2014 as it relates to the above noted application. As agent, it is your responsibility to notify the affected property owners accordingly. The Commission has also attached a sketch plan depicting the decision.

Further correspondence with respect to this application is to be directed to Ron Wallace.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosure(s): Minutes of Resolution #295/2014
Sketch plan; Table 1 (listing the affected properties)

cc: City of Kelowna

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MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on August 6, 2014 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C. as it relates to Application #53711.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Gordon Gillette	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner

COMMISSION STAFF PRESENT:

Martin Collins	Planner
Colin J. Fry	Chief Tribunal Officer

PROPOSAL

(Submitted pursuant to s. 6 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*)

To use 2.6 ha from fourteen (14) parcels for road right of way to accomplish the expansion of Highway #97 to six lanes through the City of Kelowna and the realignment of Rutland Road at Old Vernon Road. An *Agricultural Impact Assessment (AIA)* dated May 29th, 2014 by Talisman Land Resource Consultants accompanied the application. The AIA provides details about the agricultural impacts of the project on the ALR, and proposed mitigation measures relating to topsoil conservation, fencing, infrastructure disturbance and access.

PROPERTY INFORMATION:

Owners: See Attached Table 1

Legal: PID: 002-021-544; 003-822-991; 011-287-357; 027-015-181; 012-573-833
PID: 012-573-787; 002-787-253; 002-787-571; 002-787-695; 010-560-416;
PID: 010-560-424; 007-507-496; 007-507-518; 010-560-386.

Location: North Kelowna, adjacent to Highway #97 (north of Highway #33) and the Rutland Road - Old Vernon Road intersection.

Size: 2.6 ha

LEGISLATIVE CONTEXT FOR COMMISSION CONSIDERATION

Section 6 (Purposes of the commission) of the *Agricultural Land Commission Act* states:

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
 - (c) 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.
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COMMISSION CONSIDERATION

The Commission reviewed a previous application involving the several of the subject properties adjacent to Sexsmith Road/Old Vernon Road and Rutland Road:

Application #36165 (City of Kelowna, 2005)	The Commission, by Resolution # 511/2005, allowed the expansion and realignment of Rutland Road between Fitzpatrick Road and Old Vernon Road. A total of 1.7 ha of ALR was affected. Portions of right of way required by the current application for the realignment of Rutland Road follow the right of way approved by Resolution #511/2005.
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After considering the information the Commission concluded as follows:

1. The Commission considered the agricultural capability of the land proposed affected by the highway widening and realignment.

Conclusion:

The Commission confirmed that the lands affected by the road widening has good capability for agriculture, comprising primarily BC Land Inventory (BCLI) capability ratings of improvable to BCLI class 2 and 3 (unimproved class 4) with the predominant limitation being seasonal aridity. The Commission supported the mitigation strategy of ensuring that topsoil of the areas affected by the project be retained on each property for agricultural uses.

2. The Commission considered the impacts of the road widening on agricultural activity.

Conclusion:

The Commission confirmed that the impacts of road widening on each property were relatively minimal, with very small areas under cultivation being alienated ranging from 0.02 ha to 0.3 ha from each parcel. Only a small portion of the project required realignment of an existing road, which was previously approved by ALC resolution.

3. The Commission reviewed the agricultural mitigation strategies outlined by the May 29th, 2014 Talisman Resource Consultants' report

Conclusion:

The Commission was satisfied that the mitigation strategies outlined in the above referenced report limited the impacts of the project on farm parcels, and reflected the project's sensitivity to agricultural issues such as the long term impacts on drainage, and access, the necessity of fencing and topsoil preservation, and consolidation of severed parcels (where possible).

IT WAS

MOVED BY: Commissioner Miles

SECONDED BY: Commissioner Johnson

THAT the request to use 2.6 ha of ALR affecting fourteen (14) parcels for road right of way for the widening of Highway # 97 and the realignment of Rutland Road be approved;

AND THAT the approval is subject to the following condition(s):

1. The road widening and realignment is consistent with the plans submitted with the application.
2. Mitigation of the impacts of the project on agriculture be fulfilled as per the May 29th, 2014 Talisman Land Resource Consultants *Agricultural Impact Assessment*.
3. The submission of a final report by a professional agrologist confirming that the proposed mitigation actions outlined in the above referenced "*Agricultural Impact Assessment*" are completed as proposed. The final report must be provided to the ALC within 60 days of the completion of the project.

AND FINALLY THAT this decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED

Resolution #295/2014

ALC APPLICATION # 53711 RESOLUTION # 295/2014

Project Property #	Owner	PID	Project Taking Ha	Remainder Ha	Total Parcel Ha	Type of Operation	Project Taking Under Cultivation Ha	Notes / Comments
46	0858768 B.C. Ltd. Inc. No. 0858768	002-021-544	0.28	6.32	6.60	Irrigated forage	0.24	residence and outbuildings have been removed, concrete pad remains
47	Reynold Ept	003-822-991	0.07	0.06	0.13	vacant	0.00	reinstale right-in, right-out access at current location no buildings or improvements pursue consolidation of remainder with adjacent lot 3
54	Stewart Brothers Nurseries Ltd., Inc. No. 9771	011-287-357	0.21	4.89	5.10	tree nursery	0.21	no buildings or improvements
44A	Gladys Crossley and Glen Auch	027-015-181	0.20	6.10	6.30	Irrigated forage	0.09	access is from service road on north side no nursery crops within proposed ROW proposed taking is for a detention pond (see Tab
West Side Sub-totals			0.77	17.37	18.14		0.53	
51	City of Kelowna	012-573-833	0.19	2.10	2.28	vacant	0.00	historically cultivated, residence & farm buildings removed
52	Woo Wing Kein	012-573-787	0.11	1.40	1.51	berries & vegetables	0.03	reinstale access at current driveway location residence & yard located along north parcel boundary access is off Stafford Rd at junction with Hwy 97 consider right in/right out access from Hwy 97 to Stafford Rd near current driveway location irrigation system may require modification
53	Falk Transportation Ltd., Inc. No. 398392	002-787-253	0.19	0.72	0.91	berries & vegetables	0.04	residence & yard located along south parcel boundary irrigation system may require modification
65	Falk Transportation Ltd., Inc. No. 398392	002-787-571	0.10	1.54	1.65	berries & vegetables	0.03	access is off Stafford Rd at junction with Hwy 97 consider right in/right out access from Hwy 97 to Stafford Rd near current driveway location irrigation system may require modification no residence or outbuilding located in this parcel
66	Falk Transportation Ltd., Inc. No. 398392	002-787-695	0.02	2.21	2.23	berries & vegetables	0.00	access is off Stafford Rd and/or Rutland Rd no permanent buildings in this parcel
83	Bikar Singh Johal	010-580-416	0.10 0.21	0.82 (West) 0.07 (East)	1.21	soil storage & mixing	0.00	access is off Old Vernon Rd consider consolidation of SE severed portion with adjacent severed parcel to east and consolidation of both severances to cultivated land parcel to east various types of fill mounded throughout property reclaim severed SE corner for crop use & pursue consolidation with adjacent lot to east
84	City of Kelowna	010-580-424	0.57	0.18 (West) 0.33 (East)	1.08	vacant	0.00	pursue consolidation of westerly severance with adjacent lot to west residence, yard & outbuildings cover - NE 1/3 of parcel access is off Old Vernon Rd reinstale access at current driveway location, if possible or re-instale along E property boundary irrigation system may require modification pursue reclamation as forage land & consolidation of severance at SW corner with this parcel residence, yard & outbuildings cover - N 1/3 of parcel access is off Old Vernon Rd reinstale access at current driveway location irrigation system may require modification replace brick fence on N property boundary office & equipment sheds associated with soil mixing operation located in this parcel access is off Rutland Rd
84A	John Lowen, Hilda Helen Lowen	007-507-496	0.27	2.15	2.43	Irrigated Forage	0.24	
109	Elizabeth Penzin	007-507-518	0.04	1.42	1.47	Irrigated Forage	0.00	
114	Bikar Singh Johal	010-580-366	0.04	0.83	0.87	soil storage & mixing	0.00	

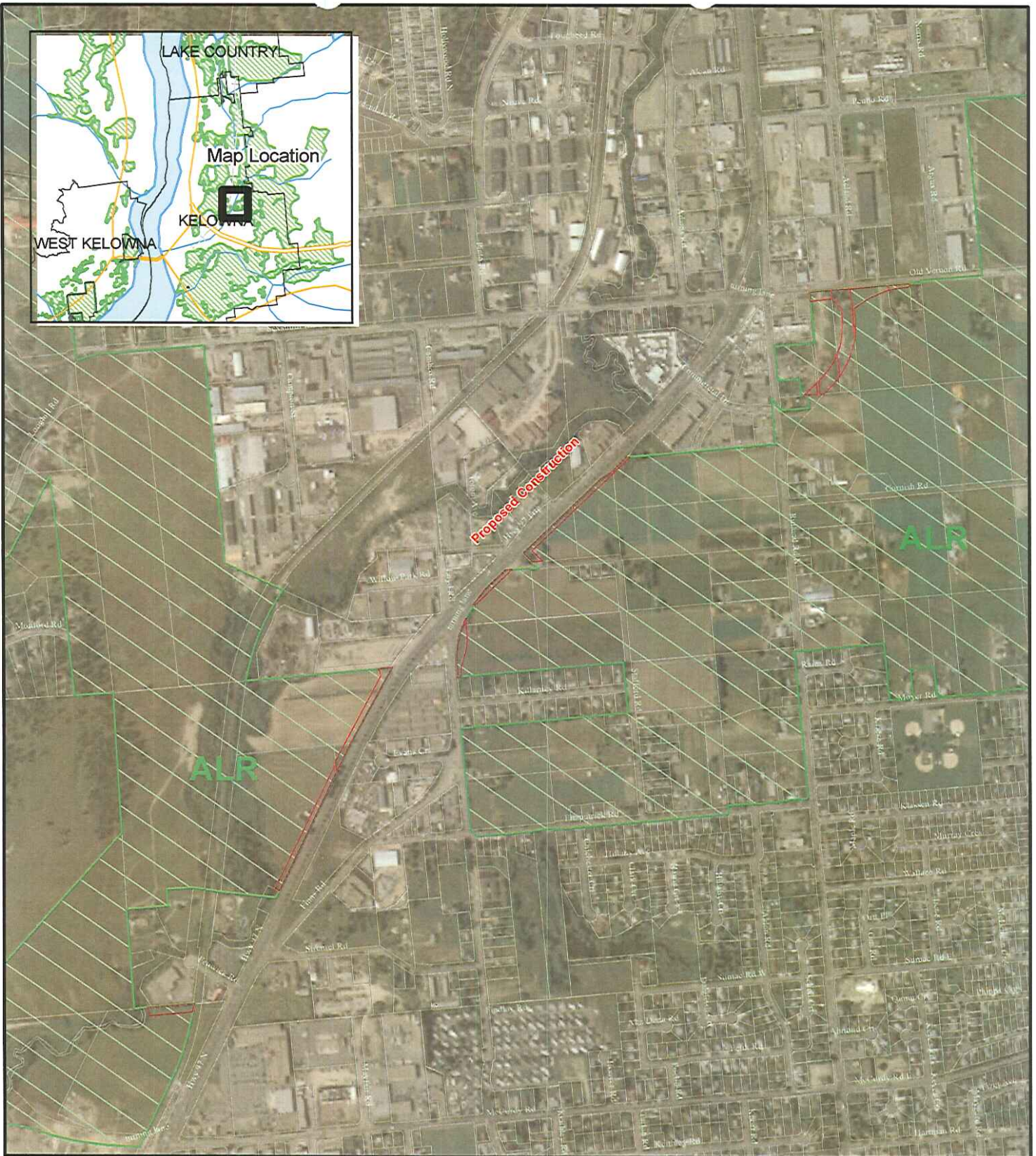
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East Side Sub-totals			1.86	12.38	15.63		0.34	
Totals	0	2.62	29.75	33.76		0.88		

NOTE:

- ** DRAFT ** - last updated June 16, 2014**
1. The above details and data are based on preliminary highway designs and are subject to revision through the detailed project design stage.

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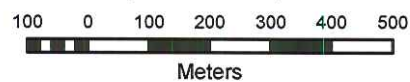


RESOLUTION # Z95/2014

Orthophoto Map

2007 Natural Colour - Ortho

Map Scale: 1:12,500



ALC File #:	53711
Mapsheet #:	92E/14
Map Produced:	Jul 31, 2014
Regional District:	Central Okanagan