



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
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www.alc.gov.bc.ca

March 29, 2006

Reply to the attention of Ron Wallace

Lone Star Properties Ltd.  
PO Box 244  
Windermere, BC V0B 2L0

Dear Sir/Madam:

**Re: Application #L-36427  
Lot 74, District Lot 8, Kootenay District, Plan 1080, EXCEPT Plans 2726 &  
NEP61980**

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to exclude the above noted property from the ALR for the purpose of developing the land for residential use. The application was submitted pursuant to section 30(1) of the *Agricultural Land Commission Act* (the "ALCA"). The Commission writes to advise that it approved your application.

The above noted property shown on the attached map is excluded from the Agricultural Land Reserve Plan of the Regional District of East Kootenay.

The decision noted above is recorded as Resolution **#136/2006**.

This approval does not relieve you 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. The Commission suggests you contact the Regional District of East Kootenay at your earliest convenience.

By way of copy of the letter the Commission advises the Registrar of Land Titles of its decision and that the ALR notation should be removed from the Certificate of Title.

Yours truly,

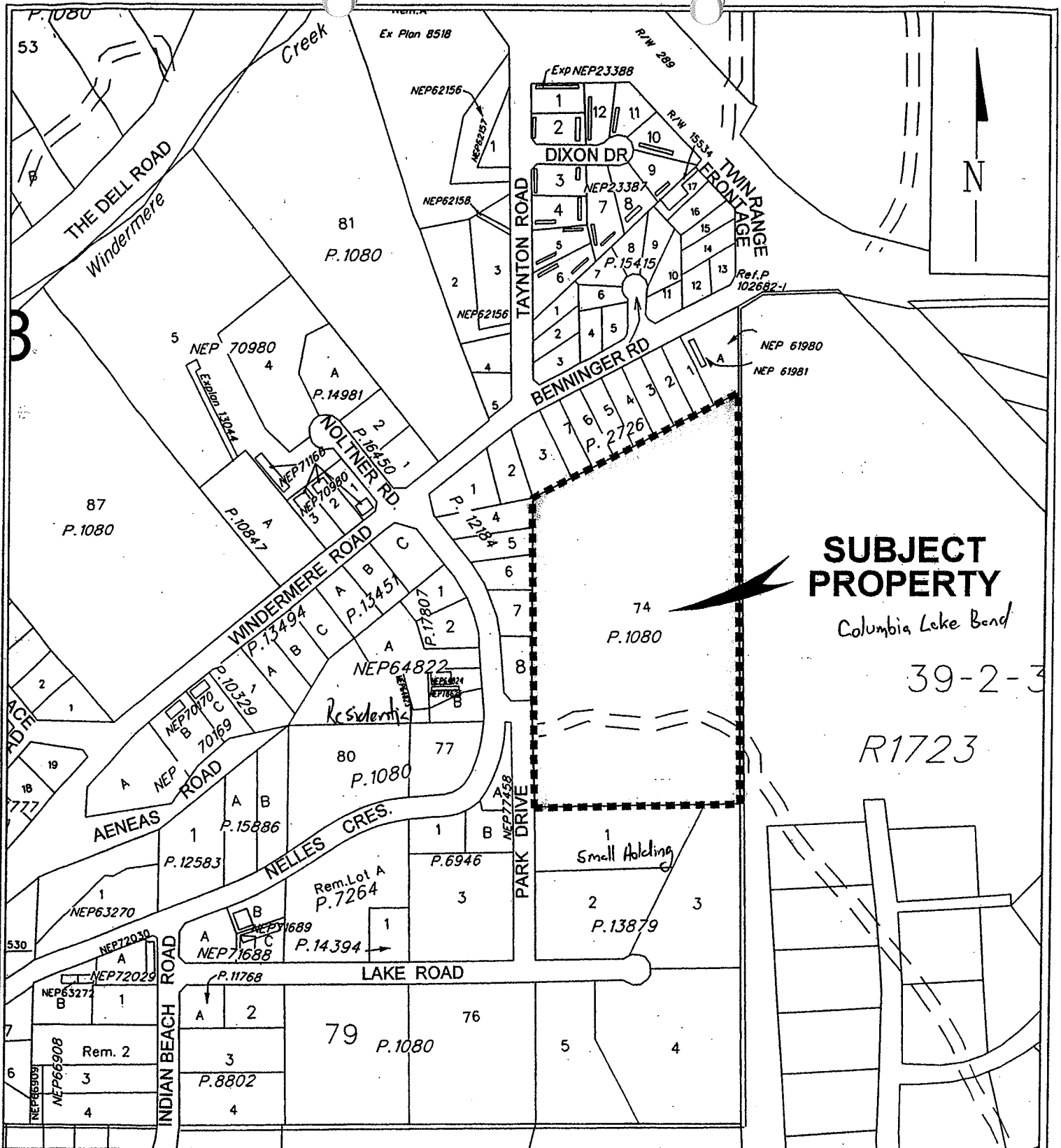
PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of East Kootenay – P-705-560  
Mercon Engineering (1988) Ltd., 340 – 1414 – 8<sup>th</sup> St., S.W. Calgary, AB T2R 1J6  
Registrar of Land Title - Kamloops

RW/lv/Encl.  
36427d1

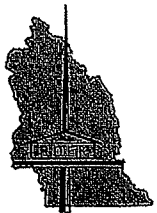


**SUBJECT PROPERTY**


Columbia Lake Band

39-2-3

R1723



Provincial Agricultural Land Commission  
 Application: L-36427  
 Resolution #136/2006

 Subject property approved for exclusion from the ALR

**MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION**

**Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on 21 March 2006 via telephone conference.**

**PRESENT:**     Monika Marshall                             Chair  
                  Cheryle Huscroft                         Commissioner  
                  Carmen Purdy                               Commissioner

**STAFF:**       Ron Wallace, Regional Research Officer  
                  Roger Cheetham, Planner

**For Consideration**

Ron Wallace presented the staff report dated 20 February 2006 regarding application #L-36427, Lone Star Properties Ltd. The application is to exclude the 6.9 ha property from the ALR for the purpose of developing the land for residential use.

**Site Inspection and Exclusion Meeting**

A site inspection was conducted on 2 March 2006. Those in attendance were:

- Commissioners Marshall, Huscroft & Purdy
- Agricultural Land Commission Staff: Ron Wallace, Regional Research Officer
- Agent Peter Mulyk, P. Eng., Mercon Engineering (1988) Ltd.

The site inspection and exclusion meeting lasted from 11:00 a.m. to 11:30 a.m.

**Commission Discussion**

The proposed exclusion of 6.9 ha from the ALR was approved for the purpose of developing the land for residential use based on the Commission's previous approval to subdivide the property into five lots of roughly equal size. The Commission felt the proposed development would better utilize the land than the previous approval as noted.

**IT WAS**

**MOVED BY:**             Commissioner C. Purdy  
**SECONDED BY:**       Commissioner M. Marshall

THAT the staff report be received and the application be approved as proposed.

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED

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**CARRIED**



**Staff Report**  
**Application # L – 36427**  
**Applicant: Lone Star Properties Ltd**  
**Agent: Mercon Engineering (1988) Ltd**

**DATE PREPARED:** February 20, 2006

**TO:** Chair and Commissioners – Kootenay Panel

**FROM:** Ron Wallace, Regional Research Officer

**PROPOSAL:** To exclude the 6.9 ha property from the ALR for the purpose of developing the land for residential use. The proposed development would include the following land uses, features and amenities:

- the proposed single family lots would border the existing R-1 subdivisions along the property's northern and western boundaries.
- to develop a multi-family use site on the southern portions of the property
- the property would be bordered by a community pathway system allowing for pedestrian circulation around the development and providing buffering with surrounding landowners.
- to develop a lake and green space within the living environment.

This application is made pursuant to section 30(1) of the *Agricultural Land Commission Act*.

**BACKGROUND INFORMATION:**

There have been five previous applications involving the subject property and four of these are noted below. One of the previous applications, # L-31620, was for exclusion of the property from the ALR that was refused. However, the Commission did allow the subdivision and exclusion of 0.32 ha of the property at the north end in addition to subdivision of the remaining land into five lots of roughly equal size.

At the time of the previous exclusion application, the Regional District of East Kootenay was working on an OCP for the Windermere Community. Previously to this the Commission had undertaken a preliminary review of issues raised at the public workshop attended by Commission planner Tony Pellett 22 November 1994 in Windermere. By Resolution #1158/94 the Commission had made the following comment as it relates to the subject property.

“In the OCP, the Commission would consent to non-farm designation of all ALR lands in the area west of Highway 93/95 between Shuswap Indian Reserve and Columbia Lake Indian Reserve on the east side Windermere Lake. The Commission suggests that the Regional Board consider a block exclusion application simultaneously with the OCP, with a view to excluding from the ALR all remaining ALR land west of the east side of Highway 93/95 south from Shuswap Indian Reserve to the subdivided area of Columbia Lake Indian Reserve south of Lake Road.”

**Local Government:**

Regional District of East Kootenay

**Legal Description of Property:**

1. PID: 011-996-145  
Lot 74, District Lot 8, Kootenay District, Plan 1080, EXCEPT Plans 2726 & NEP61980;

**Purchase Date (m/d/y):**

06/16/1991

**Location of Property:**

Windermere

**Size of Property:**

6.9 ha (The entire property is in the ALR).

**Present use of the Property:**

There is one single family residential home on the property with no other buildings or uses.

**Surrounding Land Uses:**

**WEST:** Residential  
**SOUTH:** Residential  
**EAST:** Vacant land  
**NORTH:** Single family residential

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82J/5  
The majority of the property is identified as having Prime Dominant ratings.

**Official Community Plan and Designation:**

None

**Zoning Bylaw and Designation:**

Small Holding Semi-Rural Zone, 1.0 ha minimum ot size

**PREVIOUS APPLICATIONS:**

**Application #13585-0**

**Applicant:**

**Decision Date:** June 23, 1981

**Proposal:** Draft OCP for north end of Windermere Lake

**Decision:** Approved with conditions. OCP did not proceed

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**Application #31620-0**

**Applicant:** Lone Star Properties Ltd

**Decision Date:** October 10, 1997

**Proposal:** To exclude the 7.2 ha property for the purpose of developing it for residential uses.

**Decision:** The Commission refused the exclusion of the entire property in order to be consistent with the local government recommendation. However, it was prepared

to allow the exclusion and subdivision of an 0.32 ha lot and the subdivision of the remainder into five lots of approximately 1 ha each. This decision is consistent with the Commission's Resolution # 1280/82.

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**Application #20625-0**

**Applicant:** Knight, Bryon  
**Decision Date:** September 12, 1983  
**Proposal:** Proposed to subdivide the 7.1 ha property into 3 lots of .23 ha, 1 ha and 5.8 ha.  
**Decision:** Allowed.

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**Application #32498-0**

**Applicant:** Provincial Agricultural Land Commission  
**Decision Date:** September 28, 1999  
**Proposal:** To exclude approximately 190 ha from the ALR in the Windermere area due to excessive parcelization.  
**Decision:** The Commission refused to exclude the 190 ha originally proposed, and retained about 60 ha in the ALR on the grounds the lands have reasonably good agricultural capability. A total of 132 ha was excluded from the ALR because of poor agricultural capability.

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**Application #32498-1**

**Applicant:** Provincial Agricultural Land Commission  
**Decision Date:** November 24, 1999  
**Proposal:** To amend Certificate of Order # 625/99 to delete an incorrectly listed property  
**Decision:** The Commission amended of Certificate of Order # 625/99 by deleting a property listed on page 12 which is located in Cawston in the Okanagan Similkameen Regional District rather than Windermere in the Regional District of East Kootenay.

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**Application #32498-2**

**Applicant:** Provincial Agricultural Land Commission  
**Decision Date:** April 27, 2000  
**Proposal:** To exclude a 1 ha property which was retained in the ALR by Resolution # 625/99. The landowners indicate that a 1 ha property comprised of the existing soil and topographic limitations has no agricultural utility.  
**Decision:** The Commission refused the exclusion request and confirmed its original decision to retain the property within the ALR on the grounds of agricultural capability and concerns about precedent and impact.

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**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**Regional Board**

The Regional Board adopted a resolution in support of the application for exclusion.

**Advisory Planning Commission**

The APC for Areas F & G support the application.


**STAFF COMMENTS:**

Staff recommends the Commission consider the following:

- In recalling the previous exclusion application noted above (#L-31620), it was generally considered that the Regional District's then opposition to the exclusion was predicated on the Windermere OCP process then underway. However, an OCP for Windermere was never concluded, and one does not exist today.

- The Commission indicated by Resolution #1158/94, that it would be prepared to exclude an area including the subject property as part of an OCP for the Windermere Community.
  - In the same previous application (#L-31620) the Commission allowed subdivision of the property into five lots of roughly equal size.
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**END OF REPORT**

  
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**Signature**

**Date** Feb 21/06