



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 17, 2006

Reply to the attention of Ron Wallace

Josef & Margit Eitzenberger
PO Box 115
Fort Steele, BC V0B 1N0

Dear Sir/Madam:

Re: **Application # L-36489**
Lot A, District Lot 4590 & 6671, Kootenay District, Plan NEP60918

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide ± 13 ha off the western portion of the above noted property as divided by the Bull River Road. The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank you for taking the time to meet with its representatives on June 28, 2006. The Commission found the meeting and site visit informative.

The Commission writes to advise that it approved your application subject to:

- the subdivision being in substantial compliance with the attached plan.
- compliance 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.

The decision noted above is recorded as Resolution #366/2006.

Please send two (2) paper prints of the final survey plans to this office well in advance of commencing registration at the Land Titles Office. When the Commission confirms that the subdivision plan is acceptable and verifies that all conditions of approval have been met it will authorize the Registrar of Land Titles to accept the application for deposit of the plan. Please quote your application number in any future correspondence.

Yours truly,

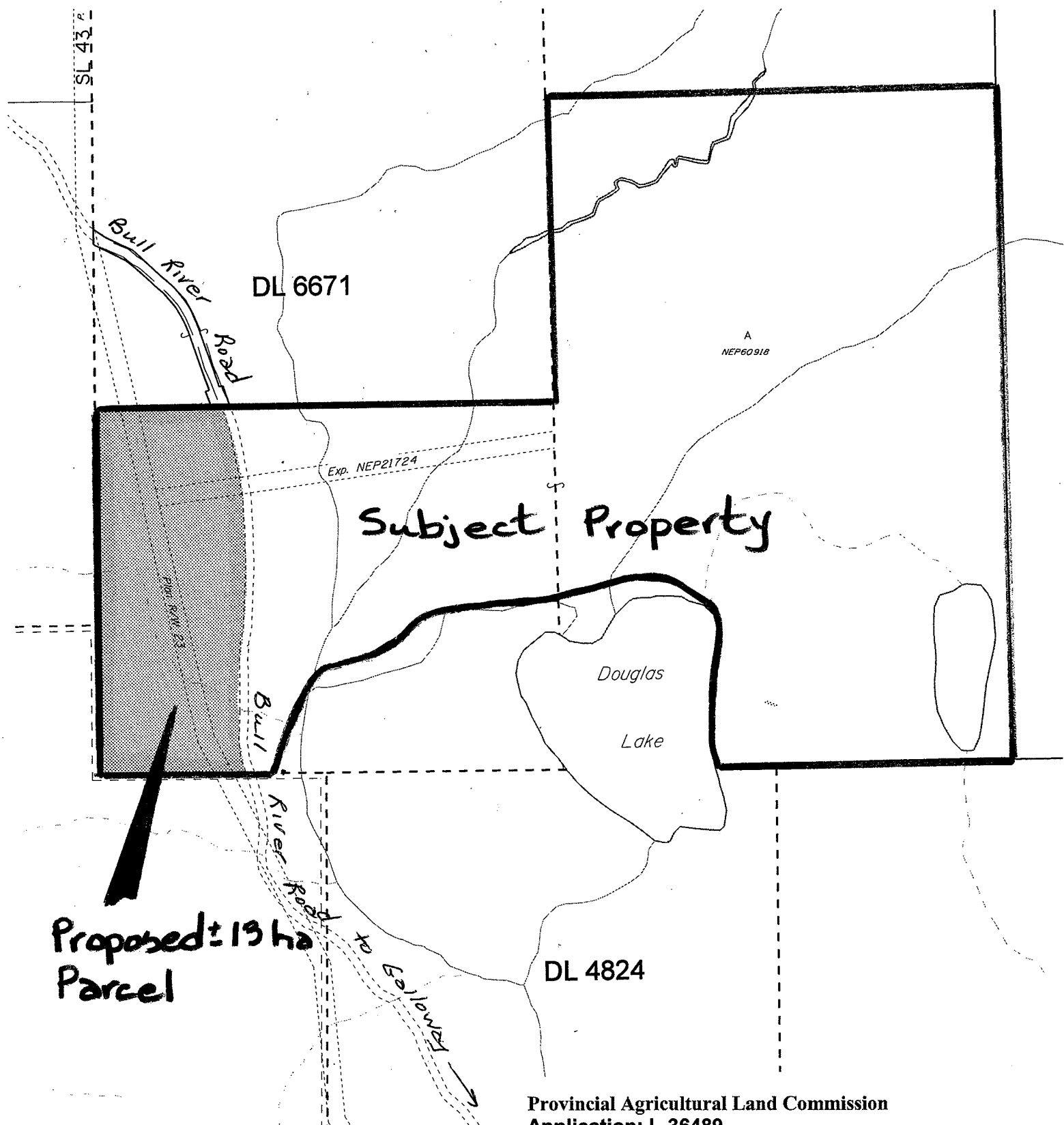
PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karsen, Chair

cc: Regional District of East Kootenay (#P-705-333)

RW/lv/Encl./36489d1



Provincial Agricultural Land Commission
 Application: L-36489
 Resolution #366/2006

 Approved subdivision of subject property.

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on June 28, 2006 in Cranbrook, B.C.

PRESENT: Monika Marshall Chair
 Carmen Purdy Commissioner

STAFF: Ron Wallace, Land Use Planner

For Consideration

Ron Wallace presented the staff report dated May 10, 2006 regarding application #L-36489, Josef and Margit Eitzenberger. The application is to subdivide approximately 13 ha off the western portion of the property as divided by the Bull River Road, leaving a 111 ha remnant parcel. The owners of the property would like to retire on the proposed 13 ha parcel and either transfer ownership of the remainder to their son or selling the remainder to the adjacent neighbor to the north (DL 6671) who has expressed an interest in farming it.

Site Inspection

A site inspection was conducted on June 28, 2006. Those in attendance were:

- Commissioners Marshall & Purdy
- Agricultural Land Commission Staff: Ron Wallace, Land Use Planner
- Applicant Margit Eitzenberger

The site inspection lasted from 4:15 p.m. to 4:45 p.m.

Commission Discussion

The Commission recalled its tour of the proposed site and felt its subdivision from the remainder of the property would not negatively impact the surrounding agricultural operations. It was also noted that the site proposed for subdivision has steep topography and is less suitable for agricultural development than the remainder of the property. Based on these observations the Commission was prepared to the proposed subdivision.

IT WAS

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

THAT the staff report be received and the application to subdivide ±13 ha off the western portion of the property as divided by Bull River Road be approved.

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

CARRIED



Staff Report
Application # L – 36489
Applicant: Josef & Margit Eitzenberger

DATE RECEIVED: February 15, 2006

DATE PREPARED: May 10, 2006

TO: Chair and Commissioners – Kootenay Panel

FROM: Ron Wallace, Regional Research Officer

PROPOSAL: To subdivide approximately 13 ha off the western portion of the property as divided by the Bull River Road, leaving a 111 ha remnant parcel. The owners of the property would like to retire on the proposed 13 ha parcel and either transfer ownership of the remainder to their son or selling the remainder to the adjacent neighbor to the north (DL 6671) who has expressed an interest in farming it.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

There have been three previous applications involving the subject property and the current owners. Two of these previous applications involve a guest ranch use and RV/trailer park use. See below for details.

Local Government:

Regional District of East Kootenay

Legal Description of Property:

PID: 024-005-991
Lot A, District Lot 4590 & 6671, Kootenay District, Plan NEP60918

Purchase Date (m/d/y):

December 1976

Location of Property:

Fort Steele, BC

Size of Property:

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

Present use of the Property:

Most of the fields on the property are currently being rented out as pasture for cattle. The owners currently have a herd of 40 sheep and goats that are also being grazed on the property. There is a house, hay shed, workshop and shelter for machinery on the property.

Surrounding Land Uses:

WEST: Farm and crown land
SOUTH: Farm
EAST: Farm
NORTH: Farm and guest ranch

Agricultural Capability:

Data Source: Agricultural Capability Map # 82G/6
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Within the fort Steele - Bull River Land Use Bylaw the property is designated Rural Resource Zone.

Zoning Bylaw and Designation:

Rural Resource, RR-60, 60 minimum lot size

PREVIOUS APPLICATIONS:

Application #30976-0

Applicant: Eitzenberger, Josef & Margit
Decision Date: January 23, 1997
Proposal: To develop a trailer/RV Park on a 1 ha portion of the 77 ha property.
Decision: The Commission allowed the application for an R.V. Park because it complemented the "Guest Ranch" use, however, as a condition of approval it required that the applicants register a covenant against the title of two properties that they own binding them together, so that they cannot be sold separately. The purpose of this condition is to ensure that the ranch unit remains intact.

Application #06049-0

Applicant: Eitzenberger, Josef & Margit
Decision Date: July 19, 1978
Proposal: To subdivide fifteen 8 ha lots from two properties totaling 250 in size.
Decision: Refuse as proposed because of reduced agricultural capability and rural residential intrusion.

Application #04865-0

Applicant: Eitzenberger, Josef & Margit
Decision Date: August 04, 1977
Proposal: To operate a "dude ranch" with four overnight cabins on the 127 ha property.
Decision: That the application be allowed subject to the submission of further information showing the size and location of the cabins.

Application #04865-1

Applicant: Eitzenberger, Josef & Margit
Decision Date: August 30, 1979
Proposal: To undertake a boundary adjustment between two adjoining properties, resulting in a 97 ha lot and a 130 ha lot
Decision: Allow as requested because the cabins would now be on the property with the poorest agricultural capability.

Application #04865-2

Applicant: Eitzenberger, Josef & Margit
Decision Date: January 30, 1980
Proposal: To construct a fifth cabin on the property in order to qualify for TISDA funding.
Decision: Allow as requested.

Application #04865-3

Applicant: Eitzenberger, Josef & Margit
Decision Date: May 22, 1980
Proposal: To construct a sixth cabin on the property
Decision: Allow as requested.

Application #04865-4

Applicant: Eitzenberger, Josef & Margit
Decision Date: July 08, 1980
Proposal: To refurbish an existing log cabin as the seventh guest cabin on the property
Decision: Allow as requested.

Application #04865-5

Applicant: Eitzenberger, Josef & Margit
Decision Date: September 29, 1981
Proposal: To consolidate as 32 ha portion of Sublot 37 with the adjoining DL 6671 so the ranch is contained as one unit.
Decision: Allow as requested.

Application #04865-6

Applicant: Eitzenberger, Josef & Margit
Decision Date: June 20, 1988
Proposal: To construct two (2) additional guest cabins in addition to the six new and one refurbished cabins.
Decision: Allow as requested provided the new cabins are located in the same relative location as the existing cabins.

Application #30976-1

Applicant: Eitzenberger, Josef & Margit

Decision Date: February 25, 1997

Proposal: To applicant's are appealing the Commission's previous decision to allow a 1 ha R.V. Park on their property subject to the consolidation by covenant of two adjoining properties that they own.

Decision: Their argument is that they plan to change the boundaries
The Commission refused the request to release the consolidation covenant which was required as a condition of approval for the R.V. Park. It felt that that ranch properties should be tied together to ensure its continuation in agricultural production.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional Board

The Regional Board reviewed this application on February 10, 2006. The Board adopted a resolution that the application proceed to the ALC with RDEK support.

Advisory Planning Commission

The APC for Area C supports the application.

Agricultural Advisory Committee

The Agricultural Advisory Commission accepted the application as proposed. The Commission concluded there would be no impact on agricultural activity should the application proceed.

Local Government Staff

The Planning Staff commented that the Land Use Bylaw accommodates subdivision of land physically divided by a highway.

STAFF COMMENTS:

Staff has the following comments:

- The area of the property proposed for subdivision is separated from the remainder of the property by Bull River Road and the land has never been used by the owner for farm use due to its steep topography and rocky soil conditions.
- There is general support from the RDEK for the proposed subdivision. However, the Commission's consideration of this application should include options to consolidate the remnant parcel with an adjacent ALR parcel that would result in a benefit to agriculture.

END OF REPORT



Signature



Date