



Agricultural Land Commission Staff Report

DATE: September 14, 2009
TO: Vice Chair and Commissioners - Kootenay Panel
FROM: Martin Collins

RE: Application # 50225
PROPOSAL: To subdivide a 21 ha lot from the 94.5 ha property as divided by Highway #95 A.

PROPOSAL INFORMATION

Background: One previous application has been considered on the property. See below for details.
Received Date: July 10, 2009
Applicant: Allan Joe
Agent: N/A
Local Government: Regional District of East Kootenay

DESCRIPTION OF LAND

PID: 027-459-195
Legal Description: Lot A District Lot 14833 Kootenay District Plan NEP86308
Civic Address: Highway 95A in the Wood's Corner area
Area: 94.4 ha
ALR Area: 94.4 ha
Purchase Date: April 14, 2008
Owner: Allan Joe

Total Land Area: 94.4 ha
Total ALR Area: 94.4 ha
Current Land Use: Sparsely forested land, no structures

PROPOSAL DETAILS

Subdivision

Area	Agricultural Capability	Agricultural Capability Source
94.4	Mixed Prime and Secondary	CLI

Number of Lots	Lot Size (ha)
1	21.0
1	73.4

Surrounding Land Uses:

Official Community Plan

Bylaw Name: Kimberly Rural OCP

Designation: RR Rural Resource

OCP Compliance: Yes

Zoning

Zoning Bylaw Name: Bylaw 1925 - Kimberly Rural Zoning

Zoning Designation: RR-60

Minimum Lot Size: 60.0 ha

Zoning Compliance: Yes

PREVIOUS APPLICATIONS

Application #: 42118

Applicant: Welland, Allan, Garland Joe

Proposal: To subdivide and adjust the boundaries of three parcels to create four parcels as required by Justice Singh of the B.C. Supreme Court in order to settle a long standing land dispute. The total area of the properties is 410.21 ha

Decisions:

Resolution

Number

Decision Date

Decision Description

423

August 10, 2005

Approve as the additional parcel has no effect on agricultural potential

Note: The subdivision created the current application's subject property.

RELEVANT APPLICATIONS

Application #: 14494

Applicant: Fabro Building and Supply

Proposal: To subdivide the 55 ha property into three lots for the applicant's children: two 16 ha parcels and a 23 ha remnant.

Decisions:

Resolution

Number

Decision Date

Decision Description

1350

July 8, 1982

The Commission refused the application because subdivision would reduce the agricultural capability of the property.

Note: The application was reconsidered and a two lot subdivision as divided by the highway was approved based on the recommendation of the District Agriculturalist, Mike Malmberg. This property lies adjacent to the current application property (to the north) and mirrors the current application.

Application #: 14153

Applicant: David Fabro

Proposal: To subdivide the 29 ha property into two lots: one of 7 ha containing the existing dwelling, the other 22 ha lying south of McGinty Road

**Decisions:
Resolution
Number**

Decision Date
July 22, 1999

Decision Description

The Commission refused the subdivision on the grounds that subdivision would reduce the agricultural capability of the property and set a negative precedent.

Committee Recommendations

Type

Recommendation

Description

Planning Staff

Approve

RDEK planning staff support the proposal because it is consistent with the bylaw - divided by a highway.

Board/Council

Approve

The Regional District of East Kootenay board supports the application.

Advisory Planning
Committee

Approve

Electoral Area E APC supports the proposal because the lots are large enough to not impede agriculture, and the subdivision would allow for more affordable farming on the smaller piece.

Electoral Area Director

Approve

Area Director Walter supports the proposal because the property is divided by the highway.

STAFF COMMENTS

Staff suggest that the Commission consider the following:

- 1) The land has reasonable capability for agricultural development as per the CLI information (improvable to 6:4T 2:3T 2:6T). However the land has never been cleared. It may have been used for seasonal grazing.
- 2) The property to the north was permitted subdivision as divided by Highway 95A in 1982 (upon reconsideration). However, the Commission refused the subdivision of the westerly parcel as divided by McGinty Road in 1999.
- 3) The question before the Commission is whether the Highway represents a substantive impediment to operating the property as a single unit.
- 4) Generally reducing parcel size tends to narrow the range of agricultural options and increase pressure to subdivide into smaller and smaller lots, to the detriment of agricultural potential.

ATTACHMENTS

50225 sketch plan.pdf
50225_AirphotoMap.pdf
50225_ContextMap20k.pdf

END OF REPORT

Signature

Date