



Agricultural Land Commission
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November 25, 2010

Reply to the attention of Ron Wallace
ALC File: L-38550

0780444 BC Ltd.
25 – 10th Avenue, South
Cranbrook, BC
V1C 2M9

Dear Sir/Madam:

Re: Request for Reconsideration

This is further to Ross Blackwell's letter of October 14, 2010 in which he asked the Provincial Agricultural Land Commission to reconsider Resolution #216/2009.

The Commission has reconsidered the matter and has attached the Minutes of Resolution # 2760/2010 outlining its latest decision.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'B Underhill', is written over a light grey rectangular background.

Brian Underhill, Executive Director

cc: Regional District of East Kootenay (P-708-331)
Four Corners Urban Design & Town Planning, Attention: Ross Blackwell

Enclosure: Minutes/Sketch Plan

RW/38550d2

PROPOSED BARE LAND STRATA OVER PART OF THE REMAINDER OF SUBLOT 1 AND SUBLOT 26, DISTRICT LOT 4591, KOOTENAY DISTRICT, PLAN X-29

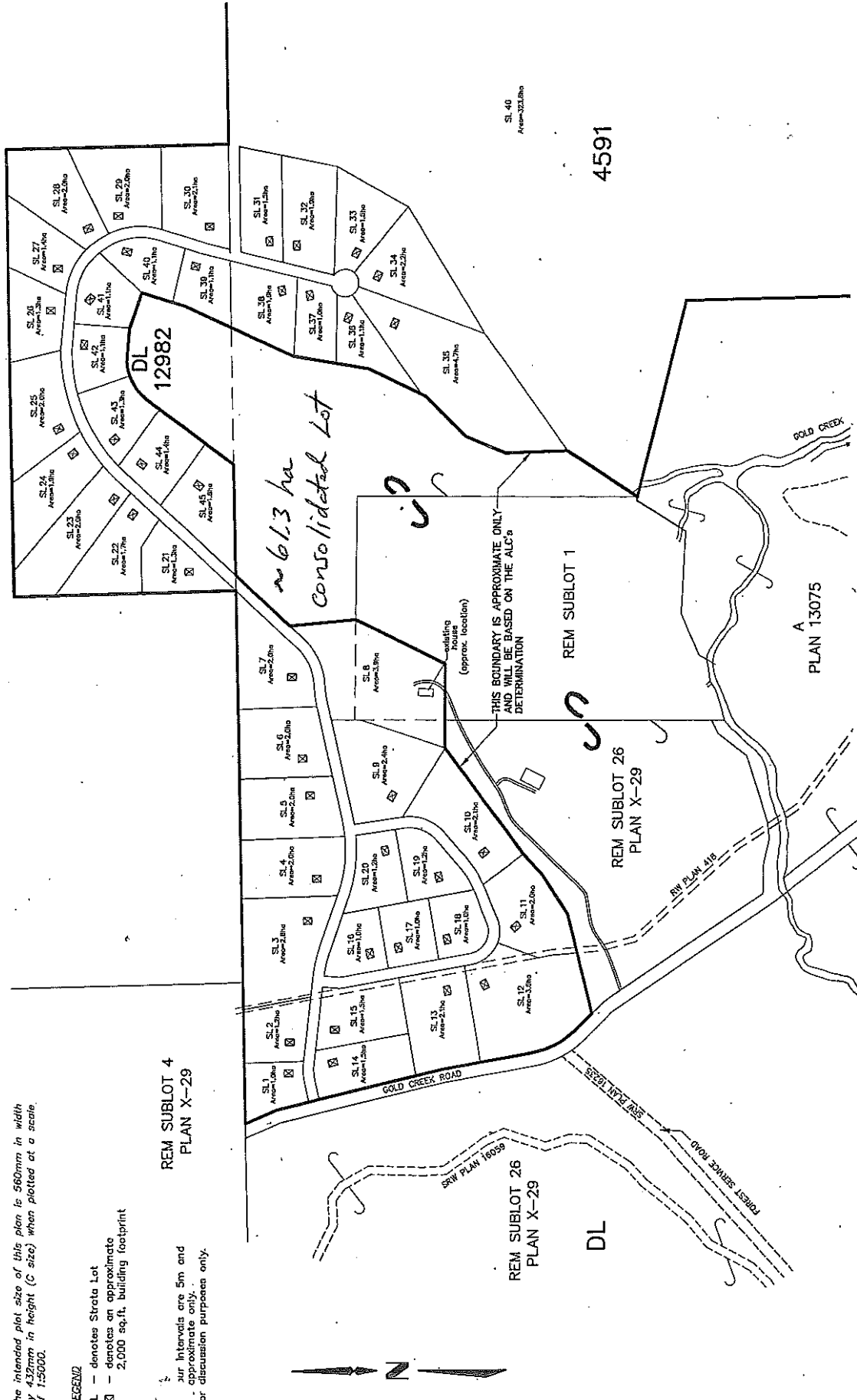


The intended plot size of this plan is 560mm in width by 432mm in height (C size) when plotted at a scale of 1:5000.

LEGEND

- SL - denotes Strata Lot
- ☒ - denotes an approximate 2,000 sq.ft. building footprint
- Sur intervals are 5m and approximate only. For discussion purposes only.

UNSURVEYED CROWN LAND
(SEE PLAN X-29)



THIS BOUNDARY IS APPROXIMATE ONLY AND WILL BE BASED ON THE ALC'S DETERMINATION

This plan lies within the Regional District of East Kootenay
August 6th, 2010

Provincial Agricultural Land Commission
Application #L-38550
Resolution #2760/2010
Approved for subdivision in the ALR

Proposed Residential Strata Subdivision Layout
FOCUS
1931 Land Services Limited Partnership
PROJ007 847/160990 No.
COB34-PSUBA



A meeting was held by the Provincial Agricultural Land Commission on October 27, 2010 at Cranbrook, B.C.

PRESENT:	Richard Bullock	Chair
	Barry Minor	Chair, Kootenay Panel
	Jerry Thibeault	Commissioner
	Gordon Gillette	Commissioner
	Ron Wallace	Staff
	Brian Underhill	Staff

For Consideration

A letter from the agent, Ross Blackwell of Four Corners Urban Design & Town Planning Ltd, was received October 14, 2010 requesting that the Commission reconsider its decision recorded as Resolution #216/2009. It requested that the Commission consider a reconfiguration of the subdivision layout to create a total of 45 strata lots on the portion of the property with lower capability to facilitate an equestrian community. As required by the ALC in the previous decision, the better capability land will be retained as a single larger farm unit. The proposed subdivision configuration plan was provided to outline the request.

Application:	#L-38550
Applicant:	0780444 BC Ltd.
Agent:	Ross Blackwell, Four Corners
Original proposal:	To subdivide the two properties totalling 676 ha which are partially in the ALR into seventeen (17) parcels: five (5) 8.0 ha lots, one (1) 10.3 ha lot, one (1) 31.6 ha lot, one (1) 39.8 ha lot, one (1) 46.4 ha lot, three (3) 60.0 ha lots, one (1) 61.8 ha lot, one (1) 62.7 ha lot and three (3) 65.0 ha lots. It is presumed that the remaining 8.4 ha will be used as road dedication to access the proposed parcels.
Original decision:	Refuse as proposed but approved subdivision of 15 lots subject to the higher capability lands being retained as a single consolidated parcel.
Current proposal:	To subdivide the subject properties which are partially in the ALR into forty five (45) 1.0 – 4.7 ha strata lots, one (1) 274.5 ha lot, one (1) 61.3 ha lot and one (1) 323.8 ha lot. A portion of the land will be used as road dedication to access the proposed parcels.
Legal:	<ol style="list-style-type: none"> 1. PID: 012-367-575 SL 1, DL 4591, Kootenay District, Plan X29, Except Part in Plan 13075 2. PID: 011-380-624 SL 26, DL 4591, Kootenay District, Plan X29, Except (1) Part included in Plan 13075 and (2) Part included in SRW Plan 16059 3. PID: 012-367-427 District Lot 12982, Kootenay District
Location:	Gold Creek Road, south of Cranbrook

Site Inspection

A site inspection was conducted for the original application on October 27, 2010. Those in attendance at that time were:

- Richard Bullock Chair
- Barry Minor Chair, Kootenay Panel
- Jerry Thibeault Commissioner
- Gordon Gillette Commissioner
- Ron Wallace Staff
- Brian Underhill Staff
- Faye Street Applicant
- Steve Street Applicant
- Phillip Jones Agent
- Ross Blackwell Agent
- Rick Franzen Focus
- Rob MacDonald Focus

The Commissioners and staff met with the proponents to view the subject site and discuss the request to reconsider the application and consider the amended proposal.

The Commission viewed the property and noted that the proposed strata lots are on steep non cultivatable land and/or shallow and rocky soils. Looking down from the proposed strata lots is a portion of the property comprising higher capability land which would be retained as one parcel of approximately 61.3 ha.

Context

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the "Act") which states:

- S33(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, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission believed that the applicant had provided evidence that was not available at the time of the original decision and so reconsidered the application.

Discussion

The Commission reviewed its previous decision and noted it allowed the subdivision of fifteen (15) lots subject to the higher capability farmlands being retained as a single consolidated parcel.

The Commission agreed that the proposed new subdivision configuration makes better use of the steep non cultivatable land for residential development (with greater lot density) than the previous subdivision did. The Commission supports the proposed

consolidation of the higher capability lands into a single parcel as this is consistent with its previous decision.

IT WAS

MOVED BY: Commissioner Minor
SECONDED BY: Commissioner Thibeault

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT the request to subdivide according to the proposed configuration which results in forty five (45) $\pm 1.0 - 4.7$ ha strata lots, one (1) of ± 61.3 ha comprising the higher capability lands, one (1) of ± 323.8 ha comprised mostly of steep hillside and one (1) of ± 274.5 ha which lies west of Gold Creek Road be approved.

AND THAT the approval is subject to the following conditions:

- The subdivision be in substantial compliance with the proposed residential strata subdivision layout prepared by Focus.
- the subdivision must be completed within three (3) years from the date of this decision.

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 # 2760/2010