



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

December 14, 2005

Reply to the attention of Martin Collins

Luke Stack, Executive Director
Society of Hope
#210, St Paul St.
Kelowna, B.C., V1Y 2E4

Dear Sir:

Re: Application # G-31660

Legal: Lot 2, Plan 3939 and Lot A, Plan 1546, both of ODYD

Further to your letter dated October 3, 2005, and the December 8, 2005 site visit and discussion, the Agricultural Land Commission has now had opportunity to consider your requests.

Be advised the Commission has;

- Allowed the amended proposal to consolidate the remnants of the above noted lots into a single 1.8 ha property lying to the east of Benvoulin Road, without the necessity of completing Farmer's Market development (as approved by Res. #558/03). The Commission considered the consolidation to have agricultural benefits in the short to medium term.
- Rescinded the requirement to develop a berm/buffer on the subject properties. The Commission believes the buffer to be unnecessary due to the generous width of the road right of way and the non farm uses proposed for the lands to the east. However, the Commission does require that the consolidated 1.8 ha property be fenced to mitigate trespass.

The decision noted above is taken under Resolution # 651/2005. Please note the enclosed map. However, nothing in this decision, except as specifically noted, negates the terms of decision outlined in Resolution #558/03.

Please prepare subdivision plans showing the subject lands (i.e. Lot A, and Lot 2) lying east of the Benvoulin Connector as a single separate parcel, and the lands lying west of Benvoulin as a separate parcel, or parcels. Upon confirmation that the consolidated 1.8 ha ALR lot has been fenced, the Commission will authorize deposit of the subdivision plan at the Land Title Office, and concurrently exclude the subject lands from the ALR that lie to the west of Benvoulin Road.

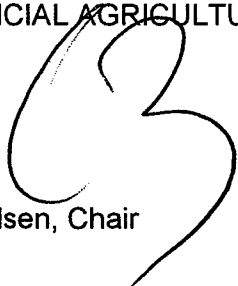
Page 2 – Society of Hope
#31660

If you have any further questions about this matter please contact Martin Collins at 604-660-7000.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

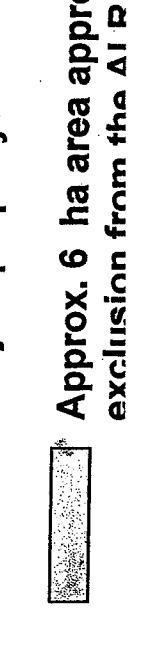
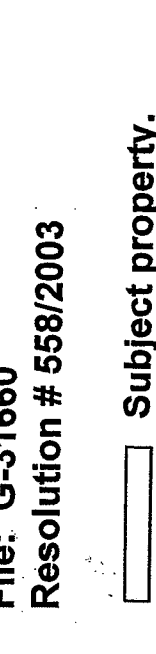
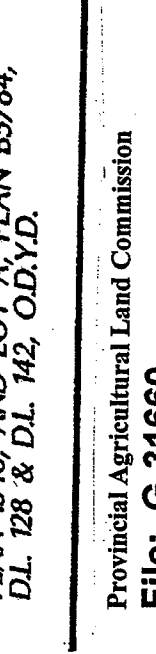
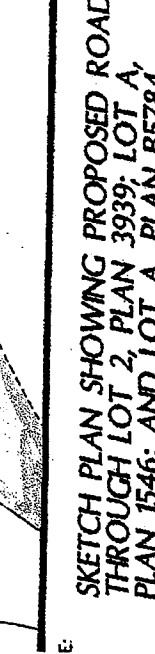
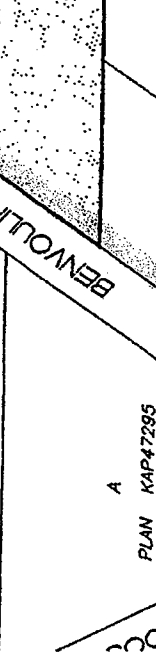
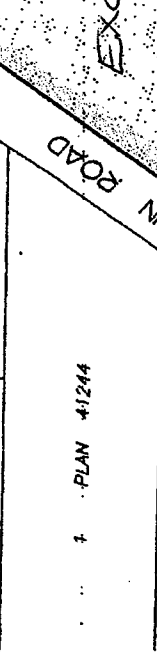
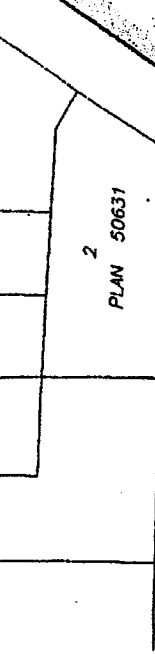
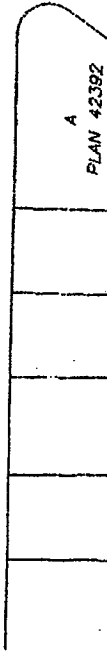
A large, stylized handwritten signature in black ink, appearing to be the name 'Erik Karlsen'.

Erik Karlsen, Chair

cc: City of Kelowna, (A97-106)

MC/lv/Encl.
31660d4

SPRINGFIELD RD.



0.994 ha. (2.46 Ac.)
REM. LOT 2

2.37 ha. (5.86 Ac.)
REM. LOT A

EXCLUDED AREA

0.836 ha. (2.07 Ac.)
PLAN 3939

1.04 ha. (2.57 Ac.)
PLAN 1546

1.70 ha. (4.20 Ac.)
PLAN 130

453 m² (0.11 Ac.)
PLAN 85784

PLAN 30508

APPROVED
CONSOLIDATION

MINIMUM DISTANCE COMMENT

MISSION CREEK
GREENWAY PROJECT
OBJECTIVE

SKETCH PLAN SHOWING PROPOSED ROAD THROUGH LOT 2, PLAN 3939; LOT A, PLAN 1546; AND LOT A, PLAN B5784, DL 128 & DL 142, O.D.Y.D.

Provincial Agricultural Land Commission

File: G-31660

Resolution # 558/2003

Subject property.

Approx. 6 ha area approved for exclusion from the AIP

DRAWN BY:

R. R. RYNNALLS & ASSOCIATES
land surveyors

2- 1470 Water Street
Kelowna, B.C. V1Y 1J5
Phone (250) 763-7322
Fax (250) 763-4413
E-mail: rynnalls@bc.sympatico.ca

CLIENT:

PETER KLIMUK

SCALE: 1:2000

DATE: NOVEMBER 5, 1997

DWG: 9827PRE.DWG

FILE: 9827

SPRINGFIELD RD.

A
PLAN 42392

2
PLAN 50631

4
PLAN 41244

A
PLAN KAP4295

1
PLAN 4643

2
PLAN 4146

A
PLAN B5784

0.994 ha.
(2.46 Ac.)

REM. LOT 2

2.37 ha.
(5.86 Ac.)

REM. LOT A

EXCLUDED AREA

PLAN 3939
0.836 ha.
(2.07 Ac.)

APPROVED
CONSOLIDATION

PLAN 1546
1.04 ha.
(2.57 Ac.)

1.70 ha.
(4.20 Ac.)

130 m²
(0.03 Ac.)

493 m²
(0.11 Ac.)

PROPOSED ROAD

MAYER RD.

COOPER RD.

30M NO DISTANCE COMMENT

MISSION CREEK
GREENWAY PROJECT
OBJECTIVE

SKETCH PLAN SHOWING PROPOSED ROAD THROUGH LOT 2, PLAN 3939; LOT A, PLAN 1546; AND LOT A, PLAN B5784, DL 128 & DL 142, O.D.Y.D.

DRAWN BY:

R. R. RUNNALLS & ASSOCIATES

land surveyors

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Kelowna, B.C. V1Y 1U5
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Resolution # 558/2003

Subject property.

Approx. 6 ha area approved for exclusion from the AIP

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on December 15th, 2005 at Commissioner McCoubrey's home in Lake Country.

PRESENT: Sue Irvine Chair
Sharon McCoubrey Commissioner

ABSENT: Sid Sidhu Commissioner

STAFF: Brandy Ridout, Regional Research Officer
Martin Collins, Planner

For Consideration

Martin Collins presented the staff report dated Oct. 6, 2005 regarding application #G-31660.

Site Inspection

A site inspection was conducted on December 7th, 2005. Those in attendance were:

- Commissioners Irvine & McCoubrey
- ALC Staff: Brandy Ridout, Regional Research Officer and Martin Collins, Planner
- Luke Stack (Society of Hope), Larry Freeborn, Bruce Freeborn

The Commissioners viewed the site proposed for exclusion, and the area northeast of the connector proposed for subdivision. The ensuing discussion took place in an old home on the portion of the property proposed for exclusion. It was emphasized by the applicants that two lots would still keep the Farmer's Market option alive.

The applicants also requested that the buffering requirements be eliminated because of concerns that the road right of way was already wide enough (30 meters). They indicated that too much potential development land would be eliminated if the buffer was retained. Also they questioned the need for the buffer if in the long term the lands east of Benvoulin would be developed to non farm uses.

The site inspection lasted from 10:00 a.m. to 10:30 a.m.

Commission Discussion

The Commission had no objection to the proposed subdivision amendment because the lot configuration was very similar to the subdivision previously approved under the "Granville Island/Farmer's Market concept".

In addition the Commission concurred with the applicant's request that the buffering requirements be relaxed adjacent to the Benvoulin connector, because the already generous width of the road right of way, and in anticipation that the land on the other side of the road would be used for commercial purposes.

IT WAS

MOVED BY: Commissioner S. Irvine

SECONDED BY: Commissioner S. McCoubrey

THAT the staff report be received and the request to consolidate the remnants of Lot 2, Plan 3939, and Lot A, Plan 1546 into a single 2 ha (approx.), without either the Farmer's Market development or their consolidation with Lot A, Plan B5784, be allowed.

In addition, the Commission eliminated the necessity for a buffer/berm on the subject properties, because of the generous width of the existing road right of way, and the potential non farm development of the ALR land east of Benvoulin Rd.

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

CARRIED



Staff Report
Application # G – 31660
Applicant: Larry Freeborn, Luke Stack
Location: Benvoulin Connector and Springfield Rd., Kelowna

DATE PREPARED: October 5, 2005

TO: Chair and Commissioners – Okanagan Panel

FROM: Martin Collins, Planning Officer

PROPOSAL: The applicants are requesting that instead of developing a permanent produce market, and a seasonal farmer's market, that the lands east of the Benvoulin Connector, be retained in two separate lots, each of approximately 1.8 ha and left for unspecified agricultural uses. The applicant notes that the Commission's previous approval (Rex. # 558/2003) permitted a two lot subdivision on a slightly different configuration (2.4 ha and 1.2 ha) and the non farm development of these lands.

This request is made pursuant to section 33 of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The Commission has reviewed these land extensively in the past. It originally required that the portions of four small parcels lying to the east of the Connector be consolidated into a single 4 ha unit as a condition of exclusion of lands west of the Connector. Buffering, setbacks and fencing were also conditions of approval. Subsequently, two landowners refused to co-operate, either because the parcel configuration did not provide them with a substantial benefit, or because they speculated that they would receive a better financial return if they did not participate.

This has led Luke Stack (Executive Director of the non profit affordable housing "Society of Hope") and Larry Freeborn to attempt to broker a compromise with the Commission that only affects land that they own. The Dodd's family, lying to the south, have nothing to gain from the proposal, as they have no land proposed for exclusion. In addition, Callahan, the owner of the 0.4 ha parcel adjacent to Springfield Rd., is not involved as he has nothing to gain from consolidation.

The primary argument in favor of the revised proposal, is that the Commission already approved the subdivision of two lots lying east of the Connector, in conjunction with the market development. It is suggested that a two lot subdivision is what is already approved, though without the non farm development. Discussions with the proponents suggests there is little interest in the development community in a tightly circumscribed permitted non farm use. Neither is the Farmer's Market interested in moving to the southerly 1.6 ha.

In summary, the applicants want to get on with developing the lands to the west of the connector for housing, but find themselves unable to move forward because of unwilling developers and/or unwilling landowners.

Local Government:

City of Kelowna

Legal Description of Property:

1. PID: 010-606-459
Lot 2 District Lot 128 & 142 ODYD Plan 4146;
2. PID: 010-659-421
Lot A District Lot 128 & 142 ODYD Plan 1546 EXCEPT Plan H12895;
3. PID: 010-475-851
Lot 1 District Lot 128 ODYD Plan 4643;
4. PID: 011-546-689
Lot B Parcel A (DD123530F) District Lot 128 & 142 ODYD Plan 1546;
5. PID: 010-684-077
Lot 2 District Lot 142 & 127 ODYD Plan 3939 EXCEPT Plan 13013 & 41080;
6. PID: 003-905-152
Lot 2 District Lot 142 ODYD (Osoyoos Div of Yale) Plan 30508;

Location of Property:

Benvoulin Connector, Kelowna

Size of Property:

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

Present use of the Property:

Vacant ALR, in pasture.

Surrounding Land Uses:

WEST: non-A.L.R - high density residential/commercial/agriculture
SOUTH: Large parcel under cultivation.
EAST: Mission Creek
NORTH: non-A.L.R. - shopping center and urban uses

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.083
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

Agriculture: in the OCP and the Agriculture Plan

Zoning Bylaw and Designation:

A-1 – which permits a minimum lot size of 2 ha

PREVIOUS APPLICATIONS:

Application #31660-0

Applicant: Milagro Advisory Services Ltd

Decision Date: April 20, 1998

Proposal: Seven properties, totaling 10 ha are proposed for exclusion because the extension of Dilworth drive to Benvoulin Rd. through the properties would then sever and reduce the parcel sizes making them difficult to operate as farm units.

Decision: The Commission refused the proposal as requested because the proposal went beyond what it had previously agreed to as per Resolutions # 959/94 and #173/96 (which permitted exclusion of the block of ALR lying to the west of the proposed Dilworth Drive extension). The Commission believed that the additional land proposed for exclusion lying east of the proposed extension had excellent agricultural capability and should be retained either for agricultural uses or its use should achieve some net agricultural benefit, as a bona fide farmer's market or agricultural heritage theme park.

Application #31660-1

Applicant: Milagro Advisory Services Ltd

Decision Date: April 11, 2001

Proposal: To exclude land lying to the east and west of the Connector

Decision: The Commission reconfirmed its decision to refuse the exclusion as proposed, but allowed limited exclusion west of the Connector subject to buffering, road closure and consolidation of the agricultural remnants into a single 4 ha lot.

Application #31660-2

Applicant: Milagro Advisory Services Ltd

Decision Date: November 27, 2003

Proposal: To consolidate three subject properties lying to the east of the Benvoulin Connector into two lots, one lot of 1.2 ha, and one lot of 2.4 ha. The proposed use of the northerly 2.4 ha lot is a Granville Island style market. The 1.2 ha lot would be used for an outdoor farmer's market akin to the existing Kelowna Farmer's and Crafter's Market. The Farmer's market would be leased for a 25 year period and would include minor infrastructure improvements such as permanent washroom facilities and canopied vendor stalls.

Decision: The Commission allowed the proposal, on the grounds it represented a benefit for agriculture in that the farmer's market would be a showcase for local produce.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

No local government comments have been solicited.


STAFF COMMENTS:

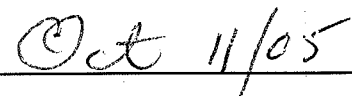
Staff suggests that the Commission consider the following;

- The proposal would result in the same number of lots, on a similar configuration to that recently approved by Resolution #558/2003.
- However, no substantive benefit would be achieved for agriculture to that which exists now, with the minor exception that two smaller lots (0.8 ha and 1 ha) would be consolidated into a single 1.8 ha property.
- If this request is allowed, the Commission's approval for a Granville Island Style Market, and a formal Farmer's Market site could still be achieved, particularly if a covenant restricting a dwelling were registered against the title of the new consolidated lot, restricting a dwelling. The negative implication(s) to a "no dwelling covenant" is that it may discourage a bona fide

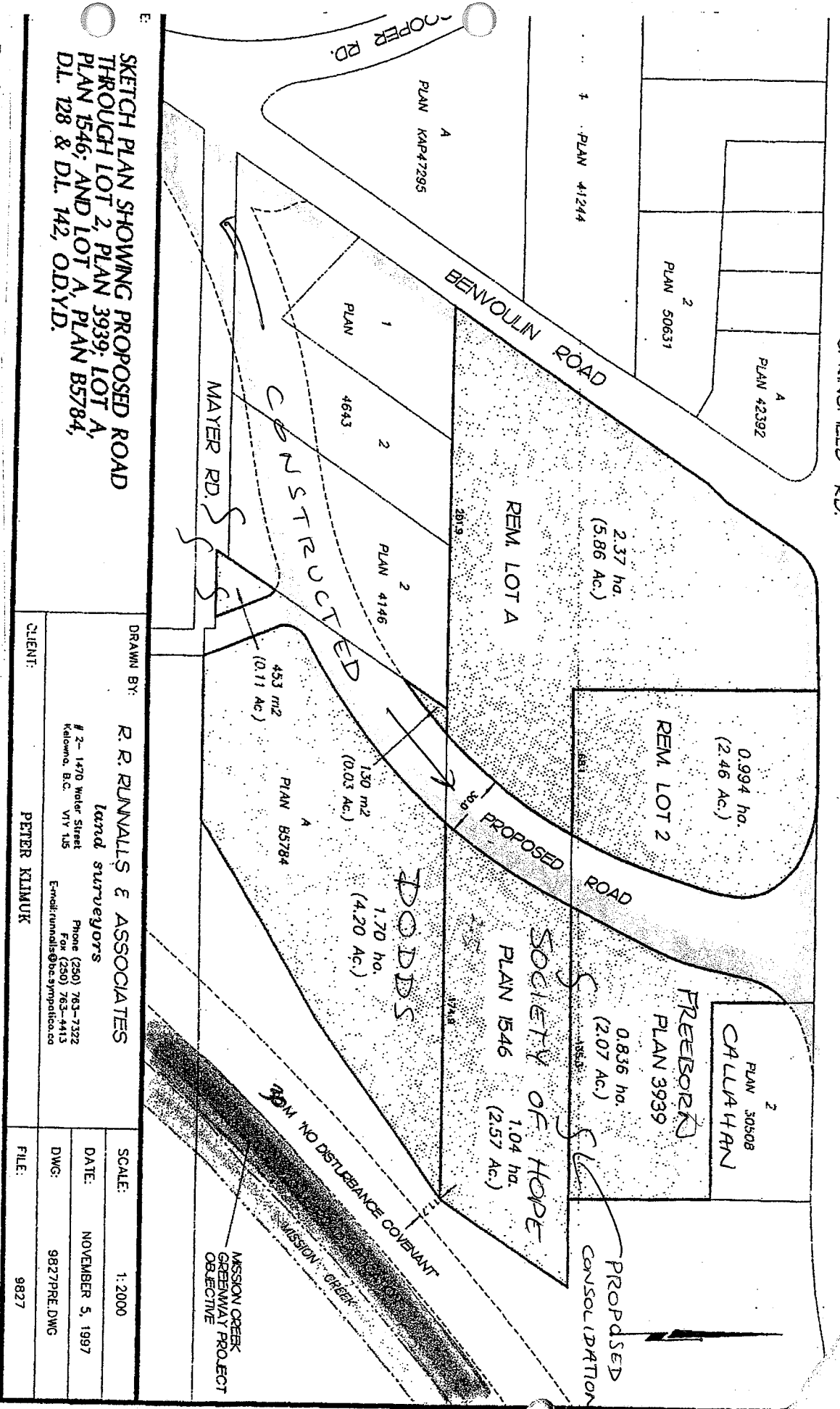
farmer from buying the land, opening the door to speculation and further pressure for exclusion.

END OF REPORT


Signature


Date

SPRINGFIELD RD.



SKETCH PLAN SHOWING PROPOSED ROAD THROUGH LOT 2, PLAN 3939, LOT A, PLAN 1546, AND LOT A, PLAN 85784, DL. 128 & DL. 142, OD.Y.D.

Provincial Agricultural Land Commission

File: G-31660

Resolution # 558/2003

Subject property.

Approx. 6 ha area approved for exclusion from the ALR.

DRAWN BY: R. R. RUNNALLS & ASSOCIATES land surveyors		SCALE: 1:2000
# 2- 1470 Water Street Kelowna, B.C. V1Y 1J5 Phone (250) 763-7322 Fax (250) 763-4413 E-mail: rrunnalls@bc.syrmapltd.co		DATE: NOVEMBER 5, 1997
CLIENT: PETER KLIMUK		DWG: 9827PRE.DWG
		FILE: 9827

MAP# 2