



Agricultural Land Commission
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June 20, 2007

Reply to the attention of Terra Kaethler
ALC File: L-37284

Dan and Heather Gagne
RR1 - Site 4, Comp 2
Wardner, BC

Dear Mr. and Mrs. Gagne:

Re: Application to subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 229/2007 outlining the Commission's decision as it relates to the above noted application.

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:

Erik Karlsen, Chair

cc: Regional District of East Kootenay (P706-337)

Enclosure: Minutes/Sketch Plan

TK/37284d1.doc

Scale 1:2500

Grazing, hay

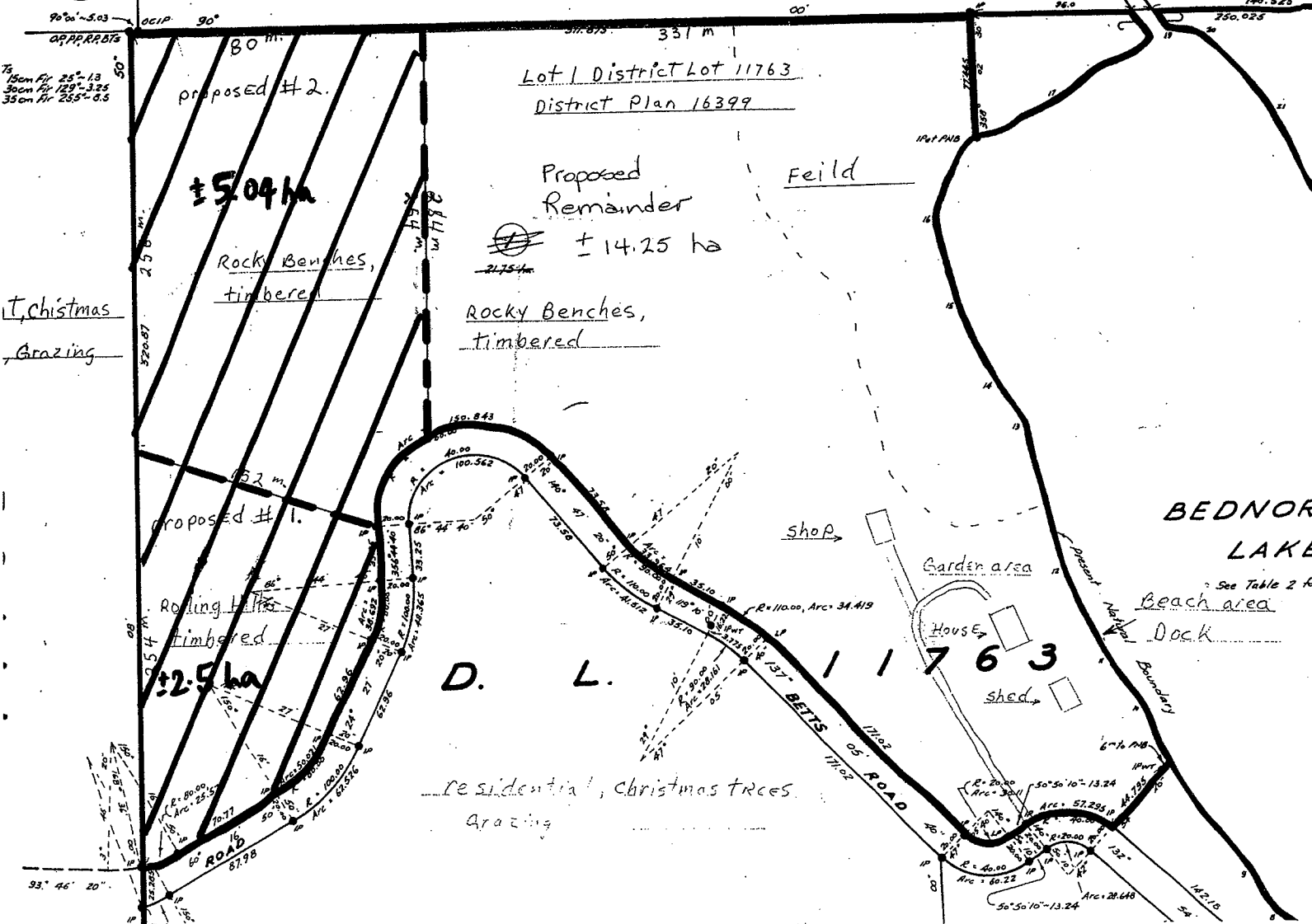
D. L. 6318

D. L. 8111 POSTING PLAN 10376



15cm for 25'-13
30cm for 129'-3.25
35cm for 285'-6.5

Christmas
Grazing



Provincial Agricultural Land Commission
Application #L-37284
Resolution #229/2007

 2.5 ha and 5 ha areas approved for subdivision in the ALR



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 16, 2007 in Cranbrook, BC.

PRESENT:	Monika Marshall	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	D. Grant Griffin	Commissioner
	Brandy Ridout	Staff

For Consideration

Application: # L- 37284
Applicant: Dan and Heather Gagne
Proposal: To subdivide two lots (2.5 ha and 5 ha) from the 21.8 ha subject property leaving a remainder approximately 14.3 ha in size.
Legal: PID: 008-328-277
Lot 1, District Lot 11763, Kootenay District, Plan 16399
Location: 8609 Betts Road, Mayook Area

Site Inspection

A site inspection was conducted on May 14, 2007. Those in attendance were:

- Monika Marshall Chair, Kootenay Panel
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Brandy Ridout Staff
- Dan Gagne Applicant

Mr. Gagne confirmed that the staff report dated May 2, 2007 was received and no errors were identified.

During the site inspection the Commission noted that the land had very low suitability for agriculture due to limitations of topography and rocky outcrops.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the majority of the subject property is Class 5 and 6 with limitations of topography and stoniness.

Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.

Assessment of Agricultural Suitability

The Commission considered whether the property was suitable for agriculture. This consideration included details such as property size, surrounding land use and limitations to agriculture. The Commission believed while the property was of a relatively good size for grazing and was surrounded by other properties in the ALR, the topography and soil limitations reduced the suitability of the land for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission noted that the land with the most suitability for agriculture was being retained on the proposed 14.3 ha lot. The Commission did not believe that the proposal would have a negative impact on existing or potential agricultural use of the subject property or surrounding lands.

Conclusions

1. That the land under application has limited agricultural capability.
2. That the land under application has limited suitability for agricultural use.
3. That the proposal will not have a negative impact on agriculture.

IT WAS

MOVED BY: Commissioner Purdy

SECONDED BY: Commissioner Griffin

THAT the application to subdivide two lots (2.5 ha and 5 ha) from the 21.8 ha subject property leaving a remainder approximately 14.3 ha in size be approved on the grounds that subdivision would not have a negative impact on agriculture on the subject property or surrounding lands.

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the plan submitted with the application
- 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 # 229/2007



Staff Report
Application # L – 37284
Applicant: Dan and Heather Gagne
Location: Mayook Area

DATE RECEIVED: March 9, 2007

DATE PREPARED: May 2, 2007

TO: Chair and Commissioners – Kootenay Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To subdivide two lots (2.5 ha and 5 ha) from the 21.8 ha subject property leaving a remainder approximately 14.3 ha in size.

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

BACKGROUND INFORMATION:

Local Government:

Regional District of East Kootenay

Legal Description of Property:

PID: 008-328-277
Lot 1, District Lot 11763, Kootenay District, Plan 16399

Purchase Date:

June 1996

Location of Property:

8609 Betts Road, Mayook Area

Size of Property:

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

Present use of the Property:

Residential and a home based business (logging and construction)

Agricultural Capability:

Data Source: Agricultural Capability Map # 82G/5
The majority of the property is identified as having Mixed Prime and Secondary ratings.

BACKGROUND INFORMATION (continued):

Surrounding Land Uses:

WEST: Christmas trees, grazing
SOUTH: Residential, christmas trees, grazing
EAST: Grazing, hay fields
NORTH: Grazing, cattle, fields, residential

Official Community Plan and Designation:

OCP: N/A
Designation: N/A

Zoning Bylaw and Designation:

Zoning: N/A
Designation: N/A
Minimum Lot Size: N/A

PREVIOUS APPLICATIONS:

Application #04487-0

Applicant: Lawrence Simon
Decision Date: 1977
Proposal: To subdivide the subject properties into lots ranging from 2 ha to 8 ha in size.
Decision: Refused.

Application #15251-0

Applicant: Lawrence Simon
Decision Date: September 15, 1982
Proposal: To subdivide the two subject properties (DL 11763 and DL 11764) into "rural residential and hobby ranch" parcels ranging in size from 8 ha to 20 ha for a total of 12 lots. A portion of the property is presently devoted to grazing, though a larger ranch once operated on the two lots.
Decision: Refused on the grounds that the subject property has potential for continued agricultural use and therefore should be retained in its present parcel size in order to retain this potential. The approval of the proposed rural residential lots could also serve to create negative impacts on surrounding agricultural operations (all the land around the property is devoted to cattle ranching, grain and forage farming). In this general area, the Commission has in the past been firmly opposed to any subdivisions or non-farm use.

Application #17079-0

Applicant: Lawrence Simon
Decision Date: October 31, 1984
Proposal: To exclude one 65 ha property and 25 ha of another 65 ha property for subdivision into rural parcels approximately each 8 ha in size. The 40 ha remainder would be retained as a unit and farmed.
Decision: Refused on the grounds that the proposed exclusion and subdivision would create negative impacts upon adjacent agricultural operations and would only serve to encourage similar parcelization of neighbouring lands in the ALR. However, the Commission allowed the exclusion of that part of DL 11763 east of HaHa Creek Road (15 ha) and the subdivision of a portion of DL11763 into two parcels of 20 ha each as split by Betts Road, subject to legal consolidation of eastern remainder of DL 11763 and 11764 to form a 40 ha lot.
The 20 ha subject property is the result of this approved subdivision.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional District of East Kootenay Board: Forwarded the application with a recommendation of support.

Agricultural Advisory Commission: Supported the application.

Advisory Planning Commission for Area 'C': Recommended approval of the application.

Local Government Staff: Recommended the application not be supported as the proposed 2.5 ha and 5 ha lot sizes are inconsistent with the surrounding area which is made up of larger acreages, farms and Crown land. A 7.5 ha lot may be a more appropriate subdivision for the area.

STAFF COMMENTS:

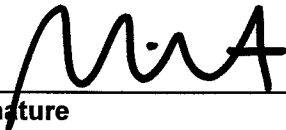
Staff suggests the Commission consider the following:

- Subdivision of the subject property (when it was part of a larger 65 ha lot) into "rural residential and hobby ranch" parcels has been refused under two separate applications.
- In the past, in this area, the Commission has been firmly opposed to any subdivisions or non-farm use.

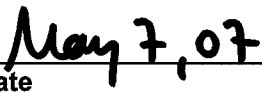
ATTACHMENTS:

- ALR Base Map #82G/5 and 82G/6
- Letter from applicant
- Sketch of proposal (provided by applicant)
- Map showing surrounding land use

END OF REPORT



Signature



Date