



Agricultural Land Commission
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August 15, 2007

Reply to the attention of Terra Kaethler
ALC File: # F - 37396

Donald MacKinnon
420 Baxendale Road
Nelson, BC V1L 6R5

Dear Sir:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 390/2007 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 Central Kootenay (#A0708E-02071-000)

Enclosure: Minutes/Sketch Plan

TK/lv/37396d1.



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on 13th July 2007 at the offices of the Integrated Land Management Bureau, Ministry of Agriculture and Lands, Cranbrook, B.C.

PRESENT:	Monika Marshall	Chair, Kootenay Panel
	Carmen Purdy	Commissioner
	D. Grant Griffin	Commissioner
	Roger Cheetham	Staff
	Terra Kaethler	Staff

For Consideration

Application: # F - 37396
Applicant: Donald MacKinnon
Proposal: Subdivision for a Relative: The proposal is to subdivide a 1 ha lot around the applicant's homesite. The applicant's daughter, who currently lives on the property in a second dwelling, would remain on the 6.5 ha remainder parcel.
Legal: PID: 013-855-557
Lot A-1, District Lot 306, Kootenay District, Plan 731G, EXCEPT Part Included in Plan 7647
Location: 420 Baxendale Road, Nelson

Site Inspection

A site inspection was conducted on July 11, 2007. Those in attendance were:

- Monika Marshall Chair, Kootenay Panel
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Terra Kaethler Staff
- Jody Wouters Applicant (daughter)

The Commission met with the daughter of the applicant at the subject property. The applicant informed the Commission that she lived on the property currently in the mobile home and that her intentions are to use the property to develop horse stables. It was mentioned that there was no intention to build a larger home on the area proposed for subdivision.

The applicant confirmed that the staff report dated June 21, 2007 was received and no errors were identified.

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 subject property is rated as 50% Class 2X, 30% Class 4PM and 20% Class 6TP:

Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

Class 4 – Land in this class has limitations that require special management practices or severely restrict the range of crops, or both.

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

Subclasses

M	soil moisture deficiency
P	stoniness
T	topography
X	cumulative and minor adverse

The Commission considered that the property has relatively good agricultural capability.

Assessment of Agricultural Suitability

The Commission assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The subject property is surrounded by predominantly rural residential parcels and a variety of parcel sizes. However, the Commission does not believe there are external factors that render the land unsuitable for small scale 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 applicant did not qualify for consideration under the *Homesite Severance Policy* as they bought the property in January 1973. However, the Commission recognized that the subject property had been family owned since the 1940's.

The Commission discussed the previous 1999 application (#32900), which refused subdivision of the southern portion of the property, but allowed a mobile home to be placed on the property. The Commission considered that the current application is for a subdivision in a different location of the property than the previous application, to encompass the homesite of the applicant, and to keep the field intact with the remainder property. The area proposed for subdivision consists of the permanent dwelling, and is on a slope, with limited potential for agriculture.

Further, the Commission discussed that the proposal would enable the applicant's daughter to expand the agricultural operations of the property. No expansion of the current footprint of the mobile home is expected. Therefore, the Commission considered that the impact to agriculture on the property and surrounding lands would be minimal.

However, the Commission had concerns that, despite the current owner's intentions, subdivision of the property would allow the building of a permanent dwelling on the remainder property, and as such could potentially impact the agricultural capability of the property in the future. The Commission discussed that a restrictive covenant restricting new residential buildings on the property would ensure that the size and location of the footprint of the current mobile home remain the same, therefore limiting the impact to agriculture.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will not impact agriculture.

IT WAS

MOVED BY: Commissioner Griffin
SECONDED BY: Commissioner Purdy

THAT the application be approved;

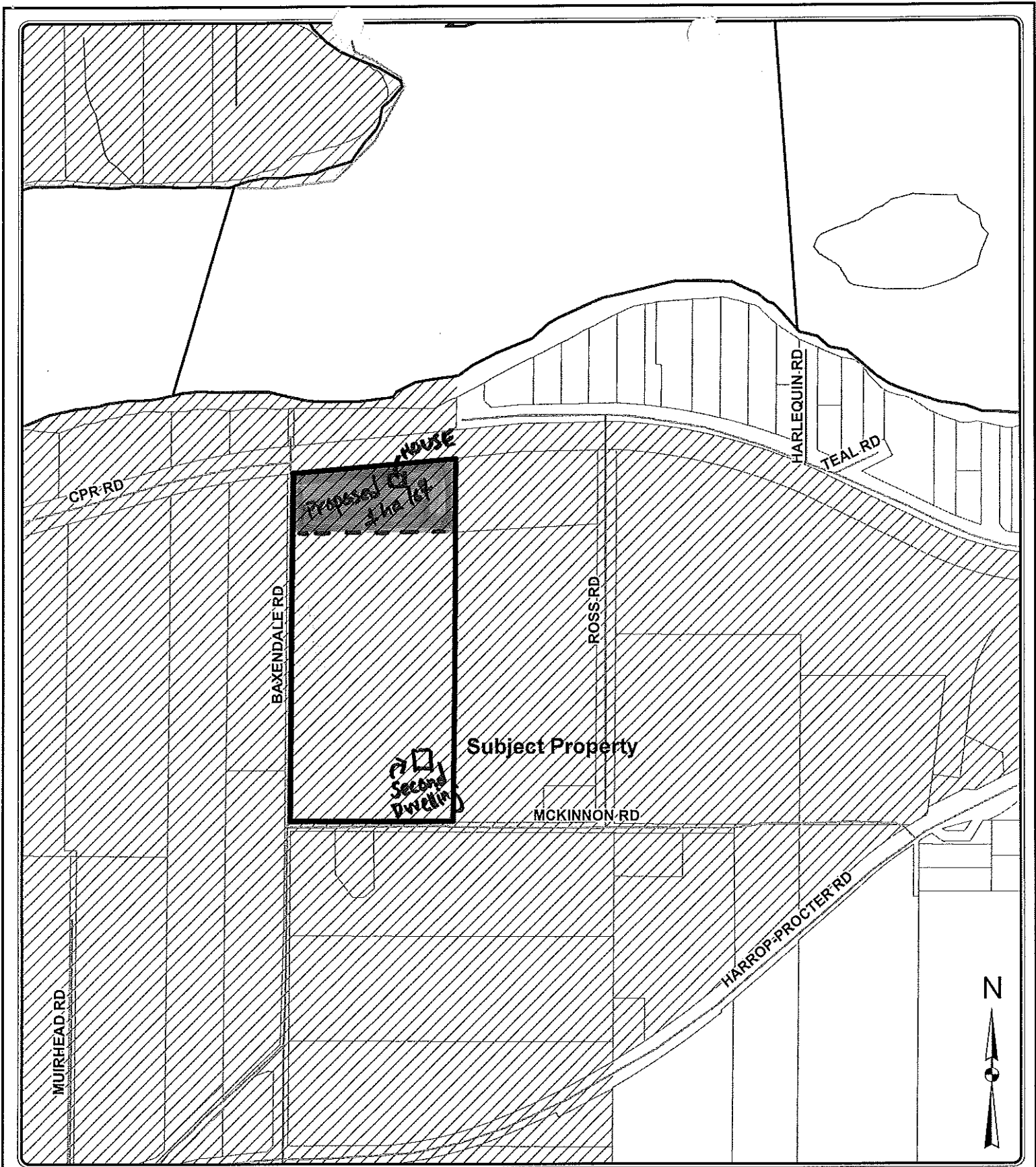
AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the plan submitted with the application
- the registration of a covenant for the purpose of restricting the location and the size of any new residential building on the remainder property to the footprint of the current mobile home
- 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 # 390/2007

Commissioner M. Marshall was opposed to the motion.



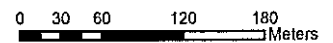
Provincial Agricultural Land Commission
Application # 37396
Resolution # 390/2007



Subject Property

Approved subdivision of 1.0 ha lot

Map Scale:



Map Projection: UTM Zone 11 Map Datum: NAD83
 Date Plotted: 2006

Mapsheet:

82F066.1.1



Staff Report
Application # F – 37396
Applicant: Donald MacKinnon

DATE RECEIVED: April 30, 2007

DATE PREPARED: June 21, 2007

TO: Chair and Commissioners – Kootenay Panel

FROM: Terra Kaethler, Land Use Planner

PROPOSAL: Subdivision for a Relative: The proposal is to subdivide a 1 ha lot around the applicant's homesite. The applicant's daughter, who currently lives on the property in a second dwelling, would remain on the 6.5 ha remainder parcel.

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

BACKGROUND INFORMATION:

Local Government:

Regional District of Central Kootenay

Legal Description of Property:

PID: 013-855-557

Lot A-1, District Lot 306, Kootenay District, Plan 731G, EXCEPT Part Included in Plan 7647

Purchase Date:

1973-01-01

Location of Property:

420 Baxendale Road, Nelson

Size of Property:

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

Present use of the Property:

Rural Residence, wooded areas, pasture, some outbuildings

BACKGROUND INFORMATION (cont):

Surrounding Land Uses:

WEST: Rural
SOUTH: Rural
EAST: Rural Residence
NORTH: CPR R/W, Lakeshore residence

Agricultural Capability:

Data Source: Agricultural Capability Map # 82F/10
The property is identified as having Mixed Prime and Secondary ratings of 50 % Class 2, 30% Class 4, and 20% Class 6, with limitations of stoniness and moisture deficiency.

Official Community Plan and Designation: N/A

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

PREVIOUS APPLICATIONS:

Application #32900-0

Applicant: McKinnon, Donald
Decision Date: November 24, 1999
Proposal: To subdivide a 2 ha lot from the 6.5 ha property for the applicant's daughter's inheritance and homesite.
Decision: The Commission refused the proposed subdivision believing that reducing the parcel sizes in this area would reduce rather than enhance agricultural potential.
Reconsideration: April 25, 2000: The Commission reconsidered the request for a subdivision and a second dwelling. The Commission confirmed refusal for the subdivision, but allowed the second dwelling on the condition that no permanent foundation or additional structures be constructed, and that it be removed when no longer needed by the applicant's daughter.

RELEVANT APPLICATIONS:

Application #12477-0 (Adjacent to West)

Applicant: Mauriello, Margaret and William
Decision Date: June 23, 1981
Proposal: To subdivide the 1.3 ha lot into three lots of roughly equal size (0.43 ha).
Decision: Refuse as proposed because of concerns about parcelization.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional Board: Standing resolution No. 456/98 to forward the application.

Electoral Area Director: Supports the application, as it would keep the property within the family and in agricultural production

Local Planning Staff: No objections; there are no bylaws that impact minimal lot size in this area.

ATTACHMENTS:

- Letter from applicant
- Sketch of proposed subdivision
- ALC Minutes from previous Resolution #207/2000
- ALC Map 1:50,000
- ALC Map 1:20,000
- Aerial Photo

END OF REPORT

Signature



Date

6/25/07