



Agricultural Land Commission
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October 11, 2007

Reply to the attention of Terra Kaethler
ALC File: # Q – 37555

Peter & Catherine Morganthaler
9480 Station Road
Trail, BC V1R4 W6

Dear Sir/Madam:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 510/2007 outlining the Commission's decision as it relates to the above noted application.

Please send two (2) paper prints of the final survey plans and a copy of the draft covenant 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 'Erik Karlsen', written over a white background.

Erik Karlsen, Chair

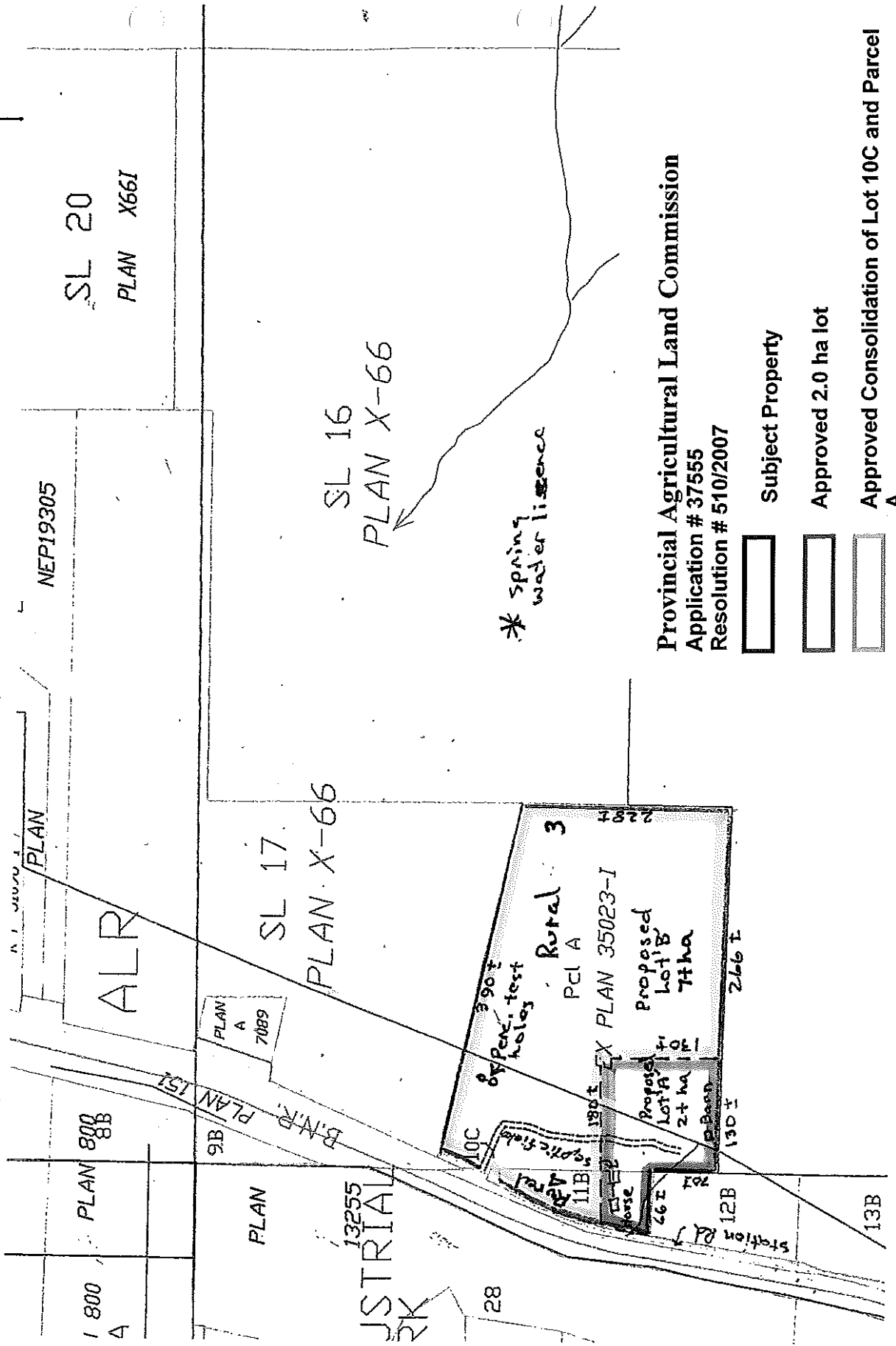
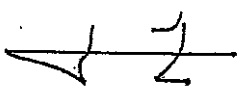
cc: Regional District of Kootenay-Boundary (A-Twp7A-10518.000)

Enclosure: Minutes/Sketch Plan

TK/lv
37555d1.

Plan

*Of Proposed Subdivision of Blk 10C & Blk 11B,
 Plan 800, D.L. 205B, And Plan X66, Pcl A S.L. 17
 TP 7A K.D. (Expl P1 350231)
 Scale 1:6000*



Provincial Agricultural Land Commission
 Application # 37555
 Resolution # 510/2007

- Subject Property
- Approved 2.0 ha lot
- Approved Consolidation of Lot 10C and Parcel A



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 4, 2007 in Nelson, B.C.

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

For Consideration

Application: # Q- 37555
Applicant: Peter & Catherine Morganthaler
Proposal: To adjust the interior lot lines and consolidate three (3) lots into two (2) lots. The applicant is proposing to create one (1) lot of approximately 2 ha (Lot A), with the existing buildings and structures on it, and one remainder of approximately 9 ha (Lot B). Both proposed Lots A and B will be partially within the Agricultural Land Reserve.

Legal: 1. PID: 016-026-438
Lot 10C, District Lot 205B, Kootenay District, Plan 800
2. PID: 016-026-446
Lot 11B, District Lot 205B, Kootenay District, Plan 800
3. PID: 019-159-391
Parcel A, Sublot 17, Township 7A, Explanatory Plan 350231,
Kootenay District, Plan X66

Location: 9480 Station Road, West of Fruitvale

Site Inspection

A site inspection was conducted on September 4, 2007. Those in attendance were:

- Monika Marshall Chair, Kootenay Panel
- Carmen Purdy Commissioner
- D. Grant Griffin Commissioner
- Terra Kaethler Staff
- Peter Morganthaler Applicant

The Commission met with the applicant on the property and discussed the proposal. The Commission noted that the proposed subdivision would separate the residence from the existing field. The Commission also noted that the majority of the property was not within the ALR.

The applicant confirmed that the staff report dated August 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 portion of the property within the ALR is Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.

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 Commission does not believe there are external factors that render the land unsuitable 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 discussed that subdivision of the residential buildings could result in a decrease of agricultural activity on the remainder property. To minimize any potential impact, the Commission discussed that residential buildings should be restricted from the ALR portion of the remainder property to ensure that the existing field remain intact for agricultural use. Further, the Commission discussed that the newly created property would need access to water rights to ensure agricultural use of the property.

On these conditions, the Commission does not believe the proposal would impact existing or potential agricultural use of surrounding lands.

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 Marshall

SECONDED BY: Commissioner Griffin

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 residential buildings on the ALR portion of the remnant parcel and to ensure that water rights are shared with the remnant parcel
- 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 # 510/2007



Staff Report
Application # Q – 37555
Applicant: Peter & Catherine Morgenthaler

DATE RECEIVED: July 13, 2007

DATE PREPARED: August 21, 2007

TO: Chair and Commissioners – Kootenay Panel

FROM: Jennifer Carson, Land Use Planner

PROPOSAL: To subdivide to adjust the interior lot lines and consolidate three (3) lots into two (2) lots. The applicant is proposing to create one (1) lot of approximately 2 ha (Lot A), with the existing buildings and structures on it, and one remainder of approximately 9 ha (Lot B). Both proposed Lots A and B will be partially within the Agricultural Land Reserve and will be split-zoned Rural 3/Rural 4. This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

Local Government:

Regional District of Kootenay-Boundary

Legal Description of Property:

1. PID: 016-026-438
Lot 10C, District Lot 205B, Kootenay District, Plan 800
2. PID: 016-026-446
Lot 11B, District Lot 205B, Kootenay District, Plan 800
3. PID: 019-159-391
Parcel A, Sublot 17, Township 7A, Explanatory Plan 35023I, Kootenay District, Plan X66

Purchase Date:

March 1974

Location of Property:

9480 Station Road, West of Fruitvale

Size of Property:

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

Present use of the Property:

Rural, sloping hillside with no buildings at this time

Surrounding Land Uses:

WEST: Industrial
SOUTH: Rural Residential
EAST: Crown Land
NORTH: Vineyard

Agricultural Capability:

Data Source: Agricultural Capability Map # 82F/4
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Area A OCP Bylaw No. 950 (1997)
Designation: Lots C and 11B Rural Resource
Parcel A Rural in the Area A

Zoning Bylaw and Designation:

Area A Zoning Bylaw No. 984 (1998)
Designation: Lots 10C and 11B - Zoned Rural 4 (RUR4)
Parcel A Zoned Rural 3 (RUR3)
Minimum Lot Size: RUR4 - 8 ha, RUR3 - 4 ha

RELEVANT APPLICATIONS:

Application #32155-0

Applicant: Kootenay Boundary
Decision Date: July 27, 2000
Proposal: The RDKB has made a block exclusion application for approximately 32 ha (80 acres) of land for the purpose of creating a bank of industrial lands available to attract potential industrial development.
Decision: Allowed as requested.

Application #33065-0

Applicant: Naqvi, Am
Decision Date: January 26, 2000
Proposal: Relocate metal fabrication shop into an existing 5-6000 sq. ft. building presently straddles Lots 28 & 33 owned by Norlo. Building purchased by Sholinder (operator) but property owned by Norlo. User proposes to dismantle bldg & relocate in Christina Lake
Decision: Allowed with conditions.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Kootenay Boundary Regional Board:

The Regional Board forwarded the application with a recommendation of support.

ATTACHMENTS:

1. ALC Context Map
2. Agricultural Capability Map
3. Aerial Photograph
4. Sketch of Proposal

END OF REPORT


Signature


Date