



Staff Report
Application # L – 37615
Applicant: Vernon and Sharon Barr
Agent: Brenden Anderson

DATE RECEIVED: August 15, 2007

DATE PREPARED: October 16, 2007

TO: Chair and Commissioners – Kootenay Panel

FROM: Simone Rivers, Land Use Planner

PROPOSAL: To subdivide a 1.3 ha lot from the 24 ha property. A portion of the proposed subdivided property is located outside of the ALR.

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

BACKGROUND INFORMATION:

A previous application on the subject property (L-13349 made in 1981) authorized exclusion of a portion of the property. At the time the decision was made, the Commission suggested the applicants subdivide the area to be excluded to better delineate the area. When several years passed and the subdivision plans were not sent in the Commission amended its maps to reflect the exclusion area shown on its decision letter in 1981.

Subsequently a lot was created that was not the same shape as the excluded area. This meant that a portion of the new lot was in the ALR and a portion of the original lot was located outside of the ALR. Several years later, as the result of a boundary review and discussion with the applicants, the Commission determined that the ALR boundary should follow the boundary of Lot A, Plan 15618 as it was on this lot that non-farm use (a church had been built on the property) were occurring. The other excluded portion of the property was still being used as part of the farm unit. At that time (January 22, 1996) a letter was sent to the applicants by the Commission stating that the ALR boundary could be adjusted to follow the boundary of Lot A, Plan 15618 if the landowners would provide written consent. This meant that the current subject property would again be located entirely within the ALR.

On February 14, 1997, the landowners replied that they would not consent to the change as they wished to reserve the excluded land to provide a homesite for their daughter in the future. Therefore, a portion of the Church lot remains within the ALR and a portion of the current subject property remains outside of the ALR. As the landowners did not agree to sign the form, any requests for changes to the ALR boundary to address the anomaly described above would now need to be done through the formal exclusion application process. Although the applicants can legally subdivide along the ALR boundary, there is currently no means of accessing this area of Non-ALR.

This application therefore, requests a subdivision that is partially in and partially outside of the ALR to address the issue of access.

Local Government:

Regional District of East Kootenay

Legal Description of Property:

PID: 016-418-077

District Lot 6206, Kootenay District, EXCEPT 1) Parcel A (Explanatory Plan 20286I) and 2) Part included in Plans 2272, 2345, 2465, 2756, 4905, 4981, 8789, 15618 and NEP69200

Purchase Date:

May, 1978

Location of Property:

2218 Highway 3/93, Jaffray

Size of Property:

24 ha

Present use of the Property:

No agricultural use at present. Two homes, two mobile homes, barn and a few small sheds. Small mobile work trailer (Atco) is used for local cable distribution.

Surrounding Land Uses:

WEST: Non Farm Use Agricultural Land Reserve

SOUTH: CPR Right of Way

EAST: Highways Yard

NORTH: Highway and LDS Church

Agricultural Capability:

Data Source: Agricultural Capability Map # 82G/6

The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

OCP: Jaffray, Tie Lake Rosen Lake Land Use and Floodplain Management Bylaw No. 1414 (1999)

Designation: RR-60 Rural Resource and C-2 Recreation Commercial Designation

Zoning Bylaw and Designation:

Zoning: N/A

Designation: N/A

Minimum Lot Size: 60 ha

PREVIOUS APPLICATIONS:

Application #13349-0

Applicant: Barr, Vern and Sharon
Decision Date: November 24, 1981
Proposal: To exclude 2 ha of the 40.5 ha parcel. Owners plans to sell to Mr. Belanger who plans to build and grocery store, gas station and residence.
Decision: Approved with conditions of submission of site plans, survey plans and registration at Land titles.

Application #13349-1

Applicant: Barr, Vern and Sharon
Decision Date: January 11, 1996
Proposal:
Decision: Amendment of ALR boundaries was approved pending receipt of written consent by the land owners involved.
Note: Land owners decided not to give consent, therefore the ALR boundary remained unchanged.

Application #21258-0

Applicant: Barr, Vern and Sharon
Decision Date: July 29, 1987
Proposal: To subdivide and consolidate two existing parcels totaling 129.3 ha into 3 lots of 31.6 ha, 71.6 ha, and 26.1 ha.
Decision: Allowed

Application #21258-1

Applicant: Barr, Vern and Sharon
Decision Date: February 22, 2000
Proposal: To subdivide and consolidate two existing parcels north of the hwy into one keeping 3 parcels as previously approved under resolution 860/87.
Decision: Allowed.

Application #25784-0

Applicant: Barr, Vernon and Sharon
Decision Date: October 16, 1991
Proposal: To subdivide property into one 15 ha lot and one 26.67 ha lot. Approximately 3 ha to be used to store logs and log home manufacturing.
Decision: The subdivision proposal was refused but the Commission may consider the operation of the log home manufacturing business on a temporary permit basis on a substantially reduced area.

Application #36447-0

Applicant: Barr, Vernon & Sharon
Decision Date: March 21, 2006
Proposal: To develop an R.V. Park on the least productive area of the property. The land proposed for development into this facility, 11.3 ha, is rocky, treed and has only ever been used as pasture land.
Decision: Refused the proposed development of an RV park on the 11.3 ha portion of the property as the land has potential for agricultural use.

Application #36447-1

Applicant: Barr, Vernon & Sharon

Decision Date: October 17, 2006

Proposal: Request for reconsideration based on the short visit the Commission previously made to the property and the fact that there was snow on the ground when they were last there.

Decision: Reconsider and allow as originally requested based on better information gathered at second onsite inspection.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

East Kootenay Regional District Board: The Regional Board forwarded the application with a recommendation of support

STAFF COMMENTS:

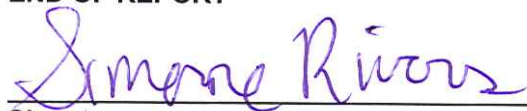
Staff recommend that the Commission consider the following:

- Although the applicants can subdivide along the ALR boundary, they must ask for Commission permission to access the subject property through the ALR.
- Staff believes that the creation of a panhandle and a subdivided property that is partially in and partially out of the ALR is the best solution to the question of access to the non-ALR portion of the property as it keeps the access in private hands and does not create public access to the farmland beyond.
- The lot created will have ALR notation on title as a portion of it will still be within the ALR.
- Through application # 36447 (Resolution # 600/2006) the applicants were given permission to use 11.3 ha of the subject property (all located within the ALR) as an RV park. This RV park area borders on the proposed lot.
- A condition of approval for the non-farm use as per Resolution # 600/2006 was fencing and buffering of the southern boundary of the property. The Commission may wish to consider extending the fencing and buffering requirement to include the southern border of the proposed lot should it agree to approve the subdivision application.

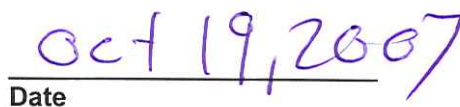
ATTACHMENTS:

- Description of proposal (submitted by the agent for the applicant)
- Minutes and Map of application # L-36447
- Maps showing proposed subdivision and location of ALR boundary in relation to proposed subdivision (3) (Created by ALC staff, applicant and RDEK)
- ALC Context Map – RDEK Constituent Map # 5 – 1:10,000 (created by ALC Staff)
- Airphoto – 1:10,000 (created by ALC Staff)

END OF REPORT



Signature



Date