



**Staff Report**  
**Application # L – 37616**  
**Applicant: Franz and Edeltraud Carton**  
**Agent: Philip Jones**

**DATE RECEIVED:** August 15, 2007

**DATE PREPARED:** October 19, 2007

**TO:** Chair and Commissioners – Kootenay Panel

**FROM:** Brandy Ridout, Land Use Planner

**PROPOSAL:** To subdivide the 179 ha subject property to create eighteen 2 ha strata lots (for a total area of 36 ha) by the Kootenay River, a 10 ha lot in the southwest corner as separated by the highway, and a remainder.

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

**BACKGROUND INFORMATION:**

The applicant indicated that the 36 ha area proposed for strata lots is practically useless for agriculture due to its rockiness and slope.

**Local Government:**

Regional District of East Kootenay

**Legal Description of Property:**

PID: 016-767-624

District Lot 1894, Kootenay District, EXCEPT That part shown outlined in red on Reference Plan 873531

**Purchase Date:**

October 1999

**Location of Property:**

7835 Highway 3/93, Mayook Area

**Size of Property:**

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

**BACKGROUND INFORMATION (continued):**

**Present use of the Property:**

Part time residence, caretakers' house, hayland

**Surrounding Land Uses:**

**WEST:** Private  
**SOUTH:** Private  
**EAST:** Kootenay River  
**NORTH:** Crown Land

**Agricultural Capability:**

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

**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

**RELEVANT APPLICATIONS:**

**Application #05364-0**

**Applicant:** R J Totten  
**Decision Date:** December 12, 1977  
**Proposal:** To subdivide a 6.5 ha portion of the subject property as divided by Highway 3.  
**Decision:** Allowed on the grounds that the 6.5 ha portion of the property is separated by the highway and that the parcel is very rocky and at one time the site of an old mine.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**RDEK Board:** Forwarded the application with a recommendation of support for the subdivision of 10 ha divided by the road, but does not support the remainder of the subdivision application.

**RDEK Agricultural Advisory Commission:** Accepted the application as presented with reservations about the impact on the surrounding Crown land.

**RDEK Advisory Planning Commission:** In favour of the request to create a 10 ha lot in the southwest corner of the property on the south side of Highway 3/93. Not in favour of the proposal to create 18 strata lots on the banks of the Kootenay River. More and more of these types of requests are coming before the RDEK. It is the unanimous decision of the APC that none of these requests should receive approval until a complete plan has been decided upon for the whole area.

**RDEK Staff:** Recommend that the application not be supported. The property is an active farm situated in an area consisting of predominantly large agricultural holdings.

**STAFF COMMENTS:**


Staff suggests the Commission consider the following:

- Under application #L-5364, the Commission approved the subdivision of a 6.5 ha from its parent parcel as divided by Highway 3/93. While the applicants' current proposal proposes subdivision along the same highway, the 6.5 ha area approved for subdivision had been compromised for agricultural use because of the presence of an old mine. An onsite visit may assist the Commission in determining the impact of the highway on the ability to farm the parcel as a unit.
- The possibility of consolidating the proposed 10 ha lot with an adjacent parcel so that it may be better utilized for agriculture.
- Subdivision of 18 lots along the river represents an intrusion into the ALR as it would essentially remove 36 ha from possible production and require a long panhandle.

**ATTACHMENTS:**

- ALR Base Map 82G/5
- Air photo map
- Agricultural Capability Map 82G/5
- Sketch of proposal (provided by applicant)
- Land Use Map (provided by RDEK)

**END OF REPORT**

  
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Signature

Oct 19, 07  
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Date