



## Agricultural Land Commission Staff Report

**DATE:** August 11, 2009  
**TO:** Vice Chair and Commissioners - Kootenay Panel  
**FROM:** Martin Collins

**RE:** Application # 45909

**PROPOSAL:** To release the covenant restricting Lot 1 and Lot 3 from being sold separately. The covenant was required by the ALC as part of a 1993 decision which permitted the subdivision of Lot 3 from the adjoining property for farm purposes. Due to the landowner's financial concerns about consolidating his residence with a farm property the Commission compromised and required binding of titles by covenant rather than consolidation by survey.

### PROPOSAL INFORMATION

**Background:** The property is located in Harrop south of the west arm of Kootenay Lake.  
**Received Date:** April 9, 2009  
**Applicant:** RT & A Newton  
**Agent:** N/A  
**Local Government:** Regional District of Central Kootenay

### DESCRIPTION OF LAND

**PID:** 023-192-038  
**Legal Description:** Lot 1, District Lot 4395, Kootenay District, Plan NEP22459  
**Civic Address:**  
**Area:** .2 ha  
**ALR Area:** .2 ha  
**Purchase Date:** January 1, 1980  
**Owner:** RT & A Newton

**PID:** 023-192-381  
**Legal Description:** Lot 3, District Lot 4395, Kootenay District, Plan NEP22459  
**Civic Address:**  
**Area:** 1.1 ha  
**ALR Area:** 1.1 ha  
**Purchase Date:** January 1, 1994  
**Owner:** RT & A Newton

**Total Land Area:** 1.3 ha

**Total ALR Area:** 1.3 ha  
**Current Land Use:** Permanent residence on Lot 1. A mobile home and large farm building-1500 sq ft on Lot 3.

## PROPOSAL DETAILS

### Subdivision

Area	Agricultural Capability	Agricultural Capability Source
1.3	Mixed Prime and Secondary	CLI

Number of Lots	Lot Size (ha)
1	0.1
1	1.1

### Surrounding Land Uses:

North	Large ALR parcel owned by RECK - leased for grazing.
East	Subdivision strata in the ALR
South	Road and Railway - non ALR
West	Sunshine Bay Riding Club

### Official Community Plan

**Bylaw Name:** No OCP exists in this area

**Designation:**

**OCP Compliance:**

### Zoning

**Zoning Bylaw Name:** No zoning bylaw exists in this area

**Zoning Designation:**

**Minimum Lot Size:** ha

**Zoning Compliance:**

## PREVIOUS APPLICATIONS

**Application #:** 611

**Applicant:** RONALD DOUBT

**Proposal:** To subdivide a 1.1 ha parcel from the 1.3 ha property for sale to a neighbor for an agora rabbit fur operation.

### Decisions:

#### Resolution

Number	Decision Date	Decision Description
583	September 2, 1993	Allow subdivision subject to the registration of a covenant binding the title of the new 1.1 ha lot with the adjoining 0.2 ha residential parcel.

**Note:** The purpose of the subdivision was to allow the applicant to (Newton) to start an agora rabbit operation. However, the applicant was reluctant to consolidate by survey because of concerns about losing his home if the rabbit operation was not successful. The Commission was somewhat sympathetic to this argument and allow the creation of a separate farm parcel subject to consolidation by covenant with the adjoining

residential lot.

### **Committee Recommendations**

<b>Type</b>	<b>Recommendation</b>	<b>Description</b>
Board/Council	No Comment	The Regional District of Central Kootenay Board forwarded the application without comment.

### **STAFF COMMENTS**

Staff suggests that the Commission consider the following:

- 1) The proposed release of covenant would not increase the residential density of this area because a mobile home occupies the 1.1 ha lot. The sale of the 1.1 ha parcel to another owner would likely only result in the replacement of the mobile home with a permanent residence.
- 2) There is little agricultural activity in the Harrop area and it is unlikely that the release of the covenant would have much, if any, effect on agricultural capability of the area.
- 3) If the Commission is concerned about the erosion of agricultural capability of the 1.1 ha lot an option would be to register a covenant restricting the property to a single dwelling.

### **ATTACHMENTS**

38946\_AirphotoMap.pdf  
38946\_ContextMap10k.pdf

### **END OF REPORT**

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**Signature**

\_\_\_\_\_  
**Date**