



Agricultural Land Commission Staff Report

DATE: October 30, 2009
TO: Vice Chair and Commissioners - North Panel
FROM: Simone Rivers

RE: Application # 50327

PROPOSAL: To remove Covenant X38585. The Covenant has been in place since 1986 and was a condition of approval for a previously granted subdivision. The two properties are 64 ha and 32 ha in size.

PROPOSAL INFORMATION

Background: See staff comments
Received Date: July 23, 2009
Applicant: Arnold & Norma Sorrell
Agent: N/A
Local Government: Regional District of Fraser-Fort George

DESCRIPTION OF LAND

PID: 015-190-960
Legal Description: The North East 1/4 of District Lot 7876 Cariboo District
Civic Address: 4065 Degner Road
Area: 31 ha
ALR Area: 31 ha
Purchase Date: March 20, 1998
Owner: Arnold & Norma Sorrell

Land Title Charges

Charge Type	Charge Number	Description
COVENANT	X38585	Prevents the separate sale of the NE 1/4 of DL 7876 and the SE 1/4 of DL 7879, both of Cariboo District.

PID: 005-602-874
Legal Description: The South East 1/4 of District Lot 7879 Cariboo District Except the North 400 Metres Thereof
Civic Address: 4525 Degner Road
Area: 62.7 ha
ALR Area: 62.7 ha
Purchase Date: March 20, 1998
Owner:

Arnold & Norma Sorrell

Land Title Charges

Charge Type	Charge Number	Description
COVENANT	X38585	Prevents the separate sale of the NE 1/4 of DL 7876 and the SE 1/4 of DL 7879, both of Cariboo District.

Total Land Area: 93.7 ha

Total ALR Area: 93.7 ha

Current Land Use: Each property has a residence with associated out buildings.

PROPOSAL DETAILS

Subdivision

Area	Agricultural Capability	Agricultural Capability Source
93.7	Secondary	CLI

Number of Lots Lot Size (ha)

1	32.0
1	64.0

Surrounding Land Uses:

North	75 acre lot with residence, partly cleared for hay and pasture
East	Two farms with hay and pasture
South	Vacant, partly cleared
West	Residence, hay and pasture

Official Community Plan

Bylaw Name: Salmon River - Lakes OCP

Designation: Agriculture/Resource

OCP Compliance: Yes

Zoning

Zoning Bylaw Name: Zoning Bylaw no. 833

Zoning Designation: Rural 3 (RU 3)

Minimum Lot Size: 60.0 ha

Zoning Compliance: Yes

PREVIOUS APPLICATIONS

Application #: 4599

Applicant: Patrick McCabe

Proposal: To subdivide the 64 ha property into two 32 ha lots in order to separate ownership.

Decisions:

**Resolution
Number**

381

Decision Date

April 25, 1985

Decision Description

Allow, subject to binding of titles of remainder with southern adjacent

Note:

Legacy Application # N-18981

Decision Date: April 25, 1985

Resolution # 381/1985

Decision: Allowed subject to the condition that the south half of the southeast quarter, DL 7879 be consolidated by survey or bound by a restrictive covenant with the NW ¼ of District 7875 so that the two parcels cannot be sold separately. This is an agricultural area and the Commission wants to preserve the agricultural integrity of this area by restricting the creation of additional parcels.

Date: November 25, 1992

Letter to applicant refusing to reconsider the application or remove the covenant. There was no resolution number attached to this reconsideration request.

Decision Date: March 11, 1993

Resolution # 177/1993

Proposal: Reconsideration request: to release the restrictive covenant from the subject properties on the basis that the planned sale of the properties did not go through and that the applicant's son was now using one of the properties as a stand alone agricultural unit.

Decision: That the previous decision be reconfirmed and the application be refused on the grounds that the restrictive covenant was placed in order to offset the effects of subdividing the property in order to ensure that the number of parcels remained the same but that permission be granted under section 12(3) of the Act to allow the removal of the restrictive covenant subject to the reconsolidation of the SE ¼ of DL 7879 with the North 400 m subject to compliance with all other legislation

Decision Date: November 16, 1995

Resolution # 965/1995

Proposal: The property had changed hands and the new owners were requesting removal of the restrictive covenant.

Decision: That the previous decision be reconfirmed and the request be refused on the grounds that the lifting of the restrictive covenant would place the parcels in separate ownership, reduce the agricultural potential of the property, encourage the residential use of the property and heighten expectations that further subdivision would be considered in this area.

RELEVANT APPLICATIONS

Application #: 43726
Applicant: Roy and Donald Jarvis
Proposal: Delegation - FFGRD - Subdivision for a Relative: To subdivide 49.8 ha parcel into two equal parcels for applicants two sons.

Decisions:
Resolution

Number	Decision Date	Decision Description
690	January 20, 2005	Approval granted

Note: Legacy Application # N-37178

Application #: 27536
Applicant: G Leslie
Proposal: To subdivide a 8 ha parcel from the 63 ha subject property.

Decisions:
Resolution

Number	Decision Date	Decision Description
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Note: Legacy Application # N-06851
Decision Date: August 10, 1978
Resolution # 9453/1978

Decision: Refused on the grounds that fragmentation of farmland is undesirable in this area because of the capability of the land and the existence of larger agricultural units

Application #: 27506
Applicant: H. Kristensen
Proposal: To subdivide a 6.4 ha lot from the 63 ha property

Decisions:
Resolution

Number	Decision Date	Decision Description
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Note: Legacy Application # N-06231
Decision Date: July 14, 1978
Resolution # 9152/1978

Decision: Allowed

Application #: 9600
Applicant: LRC-Ness Nukko
Proposal: Inclusion of approx. 44,600 acres,

Decisions:
Resolution

Number	Decision Date	Decision Description
10425	May 4, 1978	Cabinet approved inclusion by OIC (18,056.7 ha). This resolution number is used to enter statistical information relating to the area approved for inclusion and subsequent decision by Cabinet.

Note: Legacy Application # N-02811

Committee Recommendations

Type	Recommendation	Description
Board/Council	No Comment	Regional District of Fraser-Fort George Board: The Regional Board authorized the application to proceed to the Commission with a recommendation of approval.

STAFF COMMENTS

The applicants have requested that the covenant be removed that joins the two properties they own. The covenant has been in place since 1986 when a previous owner applied to have the property subdivided.

When the original application was made the applicants stated that one of the proposed lots was to be sold. The Commission allowed the subdivision subject to the remainder being consolidated or bound by covenant to the adjacent property, which was also owned by the applicant. This took place, allowing the subdivision to be completed. In 1992, 1993 the initial owner asked for reconsideration stating that separate homesites and hobby farms had been developed on each property. The Commission refused these requests. The applicant sold the property but assured the new owners that removal of the covenant would be a formality. They asked for reconsideration in 1995, which was refused by the Commission. The current owners purchased the properties in 1998.

In 2007, the current owners asked the Commission if the covenant could be removed if the boundaries of the property were being adjusted back to the initial configuration. The Commission advised that if the boundaries were adjusted that it would remove the covenant.

The current proposal is from the same owners but no mention is made of adjusting the boundaries of the property, but the request is simply to have the covenant removed.

The airphoto for the properties shows that there has been a homesite developed on each property.

Properties in the surrounding area are largely 64 ha District Lots although there are some properties that have been divided into 32 ha lots.

ATTACHMENTS

- 50327_ContextMap20k.pdf
- 50327 air photo.pdf
- 50327 ag cap.pdf
- 50327 context.pdf
- 50327 history.pdf
- 50327 local gov rep.pdf
- 50327 previous apps.pdf

END OF REPORT

Signature

Date