



**Staff Report**  
**Application # L – 37793**  
**Applicant: Kenneth and Cheryl Johnson**

**DATE RECEIVED:** November 07, 2007

**DATE PREPARED:** December 14, 2007

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

**FROM:** Jennifer Carson, Land Use Planner

**PROPOSAL:** To subdivide the 64.2 ha subject property to create one (1) 16.2 ha retirement home site, and a 48 ha remainder containing the productive hay land. This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

**BACKGROUND INFORMATION:**

**Local Government:**

Regional District of East Kootenay

**Legal Description of Property:**

PID: 011-096-624  
Sublot 14, District Lot 341, Kootenay District, Plan X40

**Purchase Date:**

August 1992

**Location of Property:**

8967 Wycliffe-Cherry Creek Road, Wycliffe area

**Size of Property:**

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

**Present use of the Property:**

Residence, shop, hayshed, hay and grazing

**Surrounding Land Uses:**

**WEST:** Grazing  
**SOUTH:** Farm, hay/grazing  
**EAST:** Farm, hay/grazing  
**NORTH:** Range

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82G/12  
The majority of the property is identified as having Mixed Prime and Secondary ratings.

**Official Community Plan and Designation:**

Wycliffe Land Use Bylaw No. 873 (1989)  
Designation: RR-60 Rural Resources

**Zoning Bylaw and Designation:**

Zoning: N/A  
Designation: N/A  
Minimum Lot Size: 60 ha

**RELEVANT APPLICATIONS:**

**Application #31302-0**

**Applicant:** Cominco Ltd.  
**Decision Date:** July 23, 1997  
**Proposal:** To include approximately 220 ha of land into the ALR conditional on the exclusion of 115 ha proposed in a companion application L-31301  
**Decision:** Allowed the inclusion of 220 ha because the land had reasonably good potential for grazing. As a condition of approval the Commission requires that the two smallest lots, DL 11605 and DL 11606 be consolidated by covenant.

---

**Application #31302-1**

**Applicant:** Cominco Ltd  
**Decision Date:** January 16, 2002  
**Proposal:** The applicant is requesting the Commission's approval to substitute the East 1/2 of the District Lot immediately to the south of District Lot 11605, namely 11604. The reason for this request is that District Lot 11605, named in the original decision, has contamination from an active tailings dyke on the west half of the parcel. Any attempt to consolidate this land with the adjacent parcel would involve a lengthy and expensive contamination sites investigation. In addition, the parcel the applicant would like to substitute for District Lot 11605 is outside the City of Kimberley boundaries and would be easier to consolidate with District Lot 11606.  
**Decision:** Allowed as requested.

---

**Application #34497-0**

**Applicant:** Reeves, Harold & Barbara  
**Decision Date:** November 14, 2002  
**Proposal:** To subdivide the 16 ha property along Pighin Road into one 4.4 ha lot and a 11.6 ha remainder.  
**Decision:** Allowed subdivision along road as proposed.

---

**Application #25702-0**

**Applicant:** Dakgkeusgm, Wayne & Sandra  
**Decision Date:** October 16, 1991  
**Proposal:** To subdivide the 63.1 ha subject property into one 32.7 ha lot and one 30.4 ha lot.  
**Decision:** Refused due to concern that a reduction of this property's size could have potential adverse effects on its agricultural future. The Commission also noted that the property had good grazing potential.

---

**Application #35904-0**

**Applicant:** West-Sells, Robert & Jane

**Decision Date:** May 13, 2005

**Proposal:** To subdivide the property into two parcels in order to separate the two existing uses of the land, cattle production and an equestrian facility. The proposal is to subdivide the property into two parcels of 85 ha and 20 ha. The proposed 85 ha parcel would contain the cattle operation and the proposed 20 ha parcel would contain the equestrian facility.

**Decision:** Refused as it was felt that to separate the different aspects of the farm operation could set an undesirable precedent and fuel similar expectations of other diversified agricultural enterprises.

---

**Application #36539-0**

**Applicant:** Johnson, Barry & Maureen

**Decision Date:** June 27, 2006

**Proposal:** To subdivide approximately 4.5 ha off the subject property as divided by Wycliffe Cherry Creek Road. This portion of the property was used for agriculture as part of the whole property when there was an underpass under Wycliffe Cherry Creek Road which allowed cattle to graze on the southeast portion of the property. However in 1990 Wycliffe Cherry Creek Road was upgraded and the underpass was removed by the Ministry of Highways thereby the accessibility to the southeast portion of the property.

**Decision:** Refused as the Commission did not wish to introduce a rural residential lot into an agricultural area.

---

**Application #36619-0**

**Applicant:** Ryan, Patricia M. and James Gordon

**Decision Date:** June 27, 2006

**Proposal:** To subdivide a 7.9 ha parcel from the 160 ha subject property as divided by a road.

**Decision:** Allow the proposed subdivision as it was demonstrated that this area of the property, north of the road, was not useful for the operation of the whole farm. This decision was subject to the applicants' proposal to use the proceeds of the subdivision to pay for a water system to enhance their existing cattle operation. It was felt the impact to local agriculture of this subdivision would be minimal due to the existence of roughly fifty 2 ha lots to the east of the subject property that were created prior to the ALR.

---

**Application #36619-1**

**Applicant:** Ryan, Patricia M. and James Gordon

**Decision Date:** March 26, 2007

**Proposal:** To remove the condition of approval of a commitment to improve the irrigation system to enhance the existing cattle operation. The applicant has investigated irrigation options and has concluded that it is economically impractical.

**Decision:** Allowed.

---

**Application #36875-0**

**Applicant:** Van Steenburg, Raymond

**Decision Date:** October 17, 2006

**Proposal:** To subdivide a 4.5 ha property from the 83.1 ha property. The applicants are offering to tie the remainder of the 83.1 ha property to an adjacent 24.3 ha property.

**Decision:** Allowed subject to receipt of proof of binding of titles covenant - granted in lieu of Homesite severance in future.

---

**Application #37422-0**

**Applicant:** MacDonald, Thomas and Adel

**Decision Date:** July 13, 2007

**Proposal:** To subdivide a 65 ha parcel utilizing geographic, road and existing property lines for subdivision to create 4 lots for family members: a 10 ha lot, two (2) 12 ha lots, and a remainder lot of 30 ha.

**Decision:** Refused as proposed.

---

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**East Kootenay Regional District Board:**

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

**STAFF COMMENTS:**

It is recommended that the Commissioners consider the following:

- The applicants have owned the property since August 1992.
- According to the mapping done in the area the agricultural capability of the subject property is improvable to Class 3 and 4 with limitations of topography and stoniness. A polygon that goes down the middle of the property is rated as unimprovable from Class 5 with limitations of stoniness and moisture deficiency.
- The property is currently being farmed as a unit and appears to be surrounded by other farms.
- It appears that the barns for the farm will be subdivided from the farm unit.
- Subdivision into smaller lots could potentially reduce the agricultural options for the subject property and surrounding properties at present and/or in the future.
- Although other properties in the area are not currently under application, approval of subdivision on the subject property could lead to subdivision applications from adjacent property owners.
- A site visit will help to determine whether or not this proposal will have an impact on agriculture.

**ATTACHMENTS:**

1. ALC Context Maps (2 pages)
2. Aerial Photograph
3. Agricultural Capability Map
4. Sketch of proposal (2 pages)
5. Letter from applicant
6. Local Government Staff Report (7 pages)

**END OF REPORT**

---

**Signature**

---

**Date**