

MINUTES

LAND APPLICATION REVIEW COMMITTEE
Large Boardroom, 419 Range Road
Whitehorse
August 10, 2005
TIME: 9:00 a.m.

NOTE TO READER: These minutes are only a synopsis of what has transpired with respect to an application.

Present:

Bryony McIntyre, Chair	E.M.R., Lands
Janice Bruton	E.M.R., Lands
Colin Beairsto	E.M.R., Lands
Eric Petersen	E.M.R., Lands
Nina Lindley	Environment
Pat Scott	C.S, Building Safety
Christine Chippett	Yukon Electrical Co. Ltd.
Jerome McIntyre	C.S., Land Planning
Bernie Cross	H.P.W., Transportation Engineering
Pam Vust	E.M.R., Land Use
Shanna Epp	Tourism
Eero Karanka	Dept. of Fisheries and Oceans
Susan Skaalid	E.M.R., Forest Management Branch
Heather Sykes & Sheila Cavanagh	Applicants #2004-0211
John Gibson & Ed Kosmenko	Applicants #15262
Trix Tanner	Intervener - Application #2005-0166
Joyce Bachli	Recording Secretary

Review of Agenda

Application #2004-0036 is pulled from the agenda. Delegates scheduled: Sheila Cavanagh and Heather Sykes are scheduled at 9:30 a.m., Ed Kosmenko at 10:30 a.m., Dirk N. Moraal at 11:00 a.m. and Larry Whitfield (Applicant) and Trix Tanner (Intervener) at 11:15 a.m.

Minutes-July 13 and 14, 2005, Regular LARC Meeting

July 13, 2005

YECL clarified:

- Page 9, Application #2005-0132: Change from "50-metre setback from the top of the steep slope" to from "15-metre setback from the top of the steep slope"

Forest Management Branch commented:

- Page 7, Application #792: Remove "Forest Management Branch" from "No concerns".

Building Safety requested that "Development permits" be removed from the recommendations on the following applications, as there is no zoning.

- #2004-0378: Reiner Rembe and Ulla Rembe
- Agriculture Application #792, Ross and Marcia Thompson

Building Safety requested the following change:

- Page 3, paragraph three to read: "Building Safety advised building permits will be required for any structures. "

Environment advised:

- Regarding the elk management, the Laberge Renewable Resource Council will be updated.

July 14, 2005

Transportation Engineering requested:

- Page 7, fifth paragraph, change to read: "The only reason the Ethel Lake Road survey exists ..."

Approval of the July 13 and 14, 2005, minutes as amended.

OLD BUSINESS

1. 2004-0211: Sheila Lynn Cavanagh and Heather Jane Sykes - .134 ha, parcel adjoining Lot 1027, CLSR 75824, Fox Lake, Quad 105E/03 – Residential Lot Enlargement – deferred October 14, 2004 LARC

Heather Sykes & Sheila Cavanagh attended at 9:20 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

This application was deferred from October 14, 2004, with a request to provide further information:

- Clarification of the area applied for - the applicants went into the office three weeks ago and supplied a sketch. A survey was done by the inspector. The map was tabled.
- Contact Environmental Health Services for septic field regulations - tabled letter acknowledging they have contacted the department and had outlined when a septic field is required and when it is not. As they presently do not have inside plumbing, they do not need a septic tank.
- They are to provide a copy of the new title - they purchased the property last year and have provided the document. The size of their current lot is three-quarters of an acre (.134 hectares).
- It would be possible to lease the portion of the front deck that relates to the encroachment. The encroachment is minimal because it involves the posts supporting the deck and is not causing any damage to the land
- They plan to build a greenhouse on the land under application. Over time, they plan to install a full bathroom and would use the applied-for land for a septic tank.

A photograph of the extension area was tabled. There is a buffer between their property and the campground, and they believed it would make more sense to enlarge the other way from the campground.

Chair Bryony McIntyre reviewed that the encroachment into the 100-foot came to light when sale of the property went through. Also, the outhouse is off the property. The land being applied for is more suitable than the previous area on the north side. If there is no enlargement to the north, the outhouse would not be legitimized. Ms. Cavanagh advised they plan to move the outhouse onto their land.

Mss. Sykes & Cavanagh left the meeting at 9:30 a.m.

This application was deferred to obtain clarification of the area applied for in front and further details of application i.e. future septic requirement to side. Applicants were to consult with Environmental Health Services to determine whether a septic field will be required for the residence, a letter to go to both vendor and purchaser.

A further inspection by the NRO occurred on July 28, 2005. Enlargement to the north of Lot 1027 would reduce buffering with the Yukon Government campground reservation to the north. There is land available for enlargement to the south between the highway right-of-way and the waterfront reserve.

Transportation Engineering advised they have no issues, but no new access will be granted.

Building Safety advised development and building permits will be required for any structures. They support a lease for the encroachment of the deck.

Community Services Land Planning noted subdivision approval will be required for the lot enlargement. The 100-foot setback for the enlargement should be retained. Lease for the deck is fine.

Environment stated no wildlife issues were identified. The 100-foot setback to be maintained.

Tourism, Fisheries and Oceans, Land Use, Yukon Electrical Co. Ltd. and Forest Management Branch had no concerns.

Recommendation: Approval in principle for an enlargement on the south side of an additional .134 hectares to double the lot size. The lease for the encroachment of the deck into the 100-foot is to be tied to the title for the land. The applicants will be required to relocate their outhouse onto the new lot. A new pit privy will require a pit privy permit from Environmental Health services.

2. 2004-0036: PJ Acres – 4 to 7 ha, parcel at Windy Arm, Tagish Lake, South Klondike Highway, Quad 105D/02 – Commercial/Tourist – Bed & Breakfast – Deferred April 15, 2004 LARC and October 14, 2004

Moved to October, 2005, LARC.

3. 15262: John Edwin Gibson and Ed Kosmenko – 1 ha, parcel near Lake Laberge by Laurier Creek, Quad 105E/02 – Trapping Lease – Denied September 6, 2001, FTLAC

John Edwin Gibson and Ed Kosmenko attended at 10:08 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

John Gibson and Ed Kosmenko reviewed the background to the application:

- Originally applied in 2001 for a base camp, covered by a land use permit.
- The cabin is on an adjacent trapline, and they have written permission from both the owners of that trapline that the cabin being located on their property is not a problem but a benefit to them.
- The existing cabin, built in 1974, is falling into the lake from erosion.
- The original application was denied because the cabin was not on their trapline and it was not a unique enough situation.
- The applicants have another baseline camp at Miller Lake where the cabin is also not on their trapline (200 meters on adjacent trapline); had permission from the owner of that trapline to leave the cabin where it was. That was sufficient for them to get a lease at that time in the mid-1980's. They are confused why this application was refused.

- The reason they built the cabin on another trapline is because it is on a lake, which provides summer access via floatplane if they need to do repairs.
- The original cabin was built in 1974 before traplines were realigned. It was built before GPSs capability to determine where the lines were. The new cabin is about 70 meters from the shoreline.
- The only dry spot is the far end of the trapline.
- The cabin is located about two miles from their boundary.
- Letters of approval have been submitted by the owners of the trapline where the cabin is located.
- The Livingston Trail is used in the winter for transportation. Due to the large number of hills, it is not possible to carry a lot of supplies over this trail with a skidoo.
- The cabin is only a line cabin, with the base cabin located at Miller Lake.
- They have been the trappers since the 1970's.
- Regarding optional sites on their own trapline concession, Mr. Gibson advised there are sites but they do not have summer water access. Traditionally trapline cabins have always been built on lakes.
- They have not contacted the trapline representative from Environment.

Messrs. Gibson and Kosmenko left the meeting at 10:15 a.m.

The application is for a lease for a trapline cabin on Old Tom Lake in support of Trapline Concession 225. The site applied for is on Trapline Concession #227, as it is the closest suitable location to the area of #225 the cabin would support.

By letters dated April 16, 2004, the two owners of concession 227, Rose Irvine and Robert Lafleur both state: "Please accept this letter as recognition of ownership of the cabins at this site as belonging to RTC 225 and that we have no objection to the lease applied for."

Gibson and Kosmenko applied to FTLAC for a lease for this site in 2001. The application was denied. In a letter of October 9, 2001, it was stated the "policy does not dispose of land for trapping purposes that are not in the trappers' concession, unless it is a unique situation."

In 1997, the applicants were granted a lease (105E07-002) for their trapline base camp at Miller Lake. This lease is 200 meters inside a different neighbouring trapline concession.

LCIS comments that the application is within the traditional territory of the Kwanlin Dun First Nation and Ta'an Kwäch'än Council. The area being applied for is not in conflict with settlement land of either First Nation.

Kwanlin Dun First Nation have no concerns. Ta'an Kwäch'än Council did not comment.

NRO COMMENTS

Soil: moderately drained; vegetation Cover: mature/immature white spruce, various shrubs, thick moss layer; terrain: sloping to flat; waterbodies: near Old Tom Lake; Exposure: north aspect; access roads: access via Old Livingston Trail (ATV Only) or by air; suitable for building foundation; suitable for septic: unknown; distance to water supply: 100 meters; not subject to flooding; environmentally sensitive areas: lake shore vegetation. General Comments: the site has existing trapline cabin in good order. Application is suitable for intended purpose. No concerns with application area.

Transportation Engineering advised that the Livingston Trail is inaccessible in the summer. The old cabin should be burned down before it falls into the lake.

Community Services Land Planning noted there is no planning or zoning. The cabin is not on the registered trapping concession holder's area, and it is difficult to believe there is no spot within

their area that would not be suitable for a cabin. If the concessions change hands, there could be conflicts. Setbacks from the watercourse are required.

Environment reviewed the administration problems that could occur down the road. The applicants should be required to show some real effort to find a suitable site on their own trapline. The department does not support a cabin not being on the trapline except under extenuating circumstances. The applicants should be encouraged to go to the Forest Management Branch or INAC library and look at air photographs of their trapping concession to try and locate an alternate site on the same lake and access trail.

Chair Bryony McIntyre observed that Mr. Kosmenko has been the active trapper for around 40 years and is the most familiar with the circumstances. His experience with this trapline needs to be respected, and he needs to demonstrate there is no suitable site on their trapline. This matter should be discussed further with a representative from Environment. The only issues are the cabin being outside the concession and whether it can be considered extenuating circumstances, i.e. for survival or transportation reasons. The Miller Lake matter should also be looked at for consistency.

Building Safety noted with building permits, an individual can legally build a house if he has written authorization even if he is not on title. Both holders of the trapline have submitted letters of approval, and they have no problem with the situation.

Property Assessments has no RETP comments, Mining Recorders, Environmental Health, Forest Management Branch, Tourism, Fisheries and Oceans, Land Use and Yukon Electrical Co. Ltd. and had no concerns.

Recommendation: Deferral to November, 2005, the applicants are requested to meet with Environment to discuss the location and circumstances of this cabin location. Lands Branch will facilitate the meeting. Lands will confirm background on the Miller Lake cabin site for this meeting.

NEW BUSINESS

1. 105B3/4-836: John Schonewille – 15m x 15m, parcel near Rudy Lakes, Quad 105B/03 – Trapline Cabin Lease – Trapping Concession 345 – North of Swift River.

This is an application for a lease for a line cabin on Trapping Concession 345 at Rudy Lake. The applicant is holder of Trapline Concession 345 and currently holds lease 105B03-4-836 for a line cabin west of Daughney Lake and north of the Pine Lake airstrip.

LCIS comments that the application is within the traditional territory of Teslin Tlingit Council. The area being applied for is not in conflict with settlement land of Teslin Tlingit Council.

Teslin RRC has reviewed the above application as per their mandate outlined in Section 16-6-11 of the TTC Final Agreement and the Umbrella Final Agreement. The council has no comments or concerns regarding this trapper's application.

NRO COMMENTS

Existing improvements: no – only pile of lumber on site covered with a tarp; soil: rocky moderately drained; vegetation cover: mature white spruce, some black spruce, various shrubs, open canopy shrub covered field; terrain: flat; waterbodies: near Rudy Lake (100m ±); exposure: southern; access roads: no access roads – fly in; suitable for building foundation; not suitable for septic; distance to water supply: 100 meters; not subject to flooding; no environmentally sensitive areas. General Comments: suitable for trapping cabin, no concerns.

Community Services Land Planning advised subdivision approval will be required.

Land Use advised if the applicant upgrades his trail to more than 1.5 meters wide, he may need a land use permit.

Mining Recorder, Teslin Tlingit Council, Property Assessments Branch, Environmental Health Services, Forest Management Branch, Tourism, Fisheries and Oceans, Transportation Engineering, Environment, Yukon Electrical Co. Ltd. and Building Safety had no concerns.

Recommendation: Approval in principle to add to the existing trapping lease.

2. 2005-0163: Dirk N. Moraal – 0.59 ha, parcel adjoining Lot 1018, Tagish Estates, Tagish, Quad 105D/08 – Lot Enlargement

This is an application for enlargement of Lot 1018 CLSR 71054. The applicant would remove fire hazard dead wood, from the enlargement area. It would make his lot a more comfortable retirement dwelling site in the future and provide more room for storage of personal belongings and fuel wood.

Neighbour letters, to Uwe Fuehrich and Klaus Augath of Germany came back unopened. No comments were received from residents of the area.

LCIS comments that the application is within the traditional territory of the Carcross Tagish First Nations. The area being applied for is not in conflict with lands interim protected for CTFN.

NRO COMMENTS

Soil: well drained alluvial sands and gravels, thin organic mat; vegetation cover: mature and immature white spruce and aspen; various shrubs and herbs, moss layer; terrain: flat; waterbodies: none noted; exposure: flat; access roads: via Tagish Estates access; suitable for building foundation and septic; distance to water supply: unknown; not subject to flooding; no environmentally sensitive areas. General Comments: existing Lot 1018 is untidy. Application area is suitable for intended purpose, no concerns with application area.

Building Safety advised building permits will be required for any structures.

Community Services Land Planning commented there is no planning or zoning. It does not appear that it will affect anyone's access. It is likely to result in adjacent neighbours applying for the same thing. Subdivision approval will be required.

Yukon Electrical Co. Ltd. requested that confirmation be received that they have an existing easement.

Whitehorse Mining District, Property Assessments, Environmental Health, Forest Management Branch, Tourism, Fisheries and Oceans, Transportation Engineering, Environment and Land Use had no concerns.

Recommendation: Approval in principle subject to subdivision approval and confirmation of easement by YECL. Building permits will be required for any structures.

3. 2005-0165: Larry Whitfield – 1 ha, parcel North-East side of Baker Lake, Quad 105E/01 – Trapping Lease - Trapline Concession 311

Note: See August 11, 2005, LARC minutes for attendance of applicant.

The application is for a lease for the basecamp for Trapline Concession 311. Larry Whitfield is the holder of the concession.

LCIS comments that the application is within the traditional territory of the Ta'an Kwach'an Council, Kwanlin Dun First Nation, and likely the Teslin Tlingit Council. The area under application is not in conflict with the traditional territory of any of those First Nations.

Teslin Tlingit Council have no concerns, but would like it to remain under a lease with no options for title, any heritage items that might be found at this location be returned back to the First Nation.

NRO COMMENTS

Existing improvements: trappers cabin, outhouse. 16' x 20' log construction, clad to weather, outside 30.48 m setback from OHWM; soil: well drained sands and gravels; rolling thin organic mat; vegetation cover: mature white spruce, various shrubs and herbs; terrain: rolling, sloping toward lake on three sides; waterbodies: adjacent to Baker Lake; exposure: southwest; access roads: no access roads – fly in; suitable for building foundation; suitable for septic: unknown; distance to water supply: 100 meters; not subject to flooding; environmentally sensitive areas: lake shore vegetation and habitat. General Comments: application area has existing trapline cabin on site; clad to weather in poor condition; outhouse on site, no further concerns with the application area.

Environment was concerned that the site is on a very narrow peninsula and is not a well-chosen site for a cabin. The waterfront reserve should be maintained. If there are any outhouses, the site will not be adequately above the groundwater level to ensure adequate filtration of nutrients before they enter the water table.

Community Services Land Planning commented the mapping shows that the lease area is within the 100-foot reserve, and the lease size should be reduced.

Lands noted that the photos and NRO report show that the building is located outside of the 30.48 metre reserve and that this peninsula is actually larger than it shows on the map.

Environmental Health, Property Assessments had no RETP comments, Mining Recorder, Kwanlin Dun First Nation, Forest Management Branch, Tourism, Fisheries and Oceans, Transportation Engineering, Land Use, Yukon Electrical Co. Ltd. and Building Safety had no concerns.

Recommendation: Approval in principle for a 1 hectare base camp, parcel not to encroach on 30.48 metre waterfront reserve.

4. 2005-0166: Larry Whitfield – .89 ha, parcel adjoining Lot 806A, East bank of McClintock Bay, South McClintock, Marsh Lake, Quad 105D/09 – Lot Enlargement

Note: See August 11, 2005, LARC minutes for attendance of applicant.

Trix Tanner, intervener, attended at 11:15 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Ms. Tanner, representing her mother, reviewed the points in her mother's July 22, 2005 letter:

- As property owner of adjacent Lot 1010A, Mrs. Tanner has concerns.
- Would like to have option of extending her lot to the rumoured road to the east and northeast boundaries of the McClintock waterfront properties.

- Previous application for a lot extension in the past was modified due to the need to maintain access to Lot 804 (lot to the east). Building a new road into Lot 804 would be quite expensive; however, if the new road goes through there may be an interest to build a new access to Lot 804. A new road would provide alternate road access and open up the existing piece of land for a lot extension. They would like to see the access easement moved onto a portion of the application land parcel (parallel to the existing lot line of 806) to enable them to extend out the back in line with their lot.
- The lot extension would provide sufficient space for a septic field (currently have an outhouse) and a buffer from the road and possible future development on the neighbour's lot.
- If Lot 804 extends out the back to the road, there is not even enough room for a road between the two properties.
- The Tanner's would like to be able to extend out the back, also, as they have applied for before. The new road will make this feasible.
- Within the next year, the property will probably be in the names of the four Tanner children, as they plan to purchase it from their parents.
- The Tanner's are not in favour of the size of lot extension being applied for, as it will squeeze off access. They are not totally opposed to some enlargement for Mr. Whitfield.
- If Mr. Whitfield's septic is already installed, he does not need to apply for an extension for that purpose.

Land Use advised Mr. Whitfield has applied for a land use permit to build a septic field. The applicant has stated this septic is for the guest cabin, rather than the main house. From the photographs, it appeared the septic system is already installed. Mr. Whitfield was advised that he could not obtain a permit for the septic field until after it was approved at LARC because it is going through a powerline easement.

Chair Bryony McIntyre advised the first enlargement occurred in 2000/2001. Joe Iles surveyed all the lots along South McClintock, and the parcel configurations were as a result of discussions between the surveyor and property owners, taking into account access and access to the lake. Part of the powerline easement is on Mr. Whitfield's lot. The reason the access was kept was they could not agree how to split it and build a new driveway.

Ms. Tanner left the meeting at 11:34 a.m.

Eric Petersen reviewed the history of past enlargements at South McClintock and agreements that occurred at the subdivision approval stage. He suggested deferral to review the files thoroughly and look at the land use concern.

The applicant is applying for the enlargement for a septic system, greenhouse, and horse corral if there is room after the greenhouse. The applicant notes this would also square off the lot and allows him to maintain the land beside the road.

Mr. Whitfield request on June 16, 2005, the relaxation for the 16ft setback from the property line for the installation of the septic system including leaching bed.

Originally lot 43 group 804E and leased to David J. Stephaneck; lease redesignated as Lot 806 group 804E CLSR 61373, and assigned to John and Patricia D. Kostelnik in 1977. Lease purchased by Kostelniks in 1984. In 2000, the current owners of the property Larry and Janet Whitfield applied for enlargement of the property at about the same time as enlargements by several other neighbouring property owners. After discussion with neighbouring owners of lot 1010, the configuration for the 2000/2001 enlargement of 806 and 1010 into 806A and 1010A were agreed upon.

Property Assessments and Mining Recorder has no concerns.

Received a letter from Monika & Rick Hoenisch dated June 22, 2005 stating they have no objections to the above lot enlargement providing the road running along the property remains a public road to allow access to the river between Lot 806A and 1010A. Please note that we would like access to the lake between a) Lot 802A & Lot 801 and b) Lot 798A & 34A to remain open to the public. On the map we received from your office only the above walkways are listed. Please confirm that no other walkways exist.

Cathy Dugas commented in an email dated June 23, 2005; that they have no objection to the lot enlargement application submitted by Larry & Janet Whitfield.

Environmental Health comments can't have a corral built over a septic field. it appears from his statement that this may occur.

Received a letter from Margaret Tanner dated July 22, 2005.

Yukon Electrical Co. Ltd. noted the enlargement should be subject to existing easement.

NRO COMMENTS

Soil: well drained sands and gravels, thin organic mat; Vegetation Cover: mature white spruce, moss layer, various shrubs; Terrain: flat; Waterbodies: near Marsh Lake, no waterbodies adjacent to application area; Exposure: flat; Access Roads: via McClintock Bay access; Suitable for Building foundation and septic; Distance to Water Supply: 300 meters; not subject to flooding; no environmentally sensitive areas. General Comments: suitable for intended purpose, no concerns, powerline row runs through application area

Kwanlin Dun First Nation, Property Assessments had no RETP comments, Mining Recorder, Forest Management Branch, Tourism, Fisheries and Oceans, , Environment, Community Services Land Planning, Land Use and Building Safety had no concerns.

Recommendation: Deferral to November, 2005, to determine particulars of the installation of the septic field; examine subdivision and land applications files and confirm the understanding why the parcel boundaries are as at present. Environmental Health Services to be contacted regarding details of the site plan for the septic field. Transportation Engineering to determine the status of the Rural Roads Upgrade application for Bay View Road.

Action #1: Stan Dueck will provide a copy of the permits for sewage septic for Mr. Whitfield August 11, 2005.

Action #2: Christine Chippett will e-mail Pam Vust a copy of YECL's agreement with other existing utilities for use of right-of-way.

5. 2005-0171: Lawrence Wayne & Virginia Margaret Malchow – .10 ha, parcel adjoining Lot 37, McClintock Bay, Marsh Lake, Quad 105D/09 – Lot Enlargement

The applicants state the enlargement would provide a buffer between themselves and the proposed road.

Leslie & Barbara Murdoch have no objection by letter dated June 21, 2005.

NRO COMMENTS

Soil: well drained sands, gravel; vegetation cover: mature/immature white spruce, aspen, various shrubs and herbs; terrain: flat; waterbodies: near Marsh Lake; exposure: flat; access roads: subdivision access of Alaska Highway; suitable for building foundation and septic; distance to water supply: 200 meters; not subject to flooding; no environmentally sensitive areas. General

Comments: area is suitable for intended purpose, application area covers main access and powerline row, no other concerns.

Chair Bryony McIntyre reviewed the history of enlargements that have occurred to date along this strip of McClintock Bay. Transportation Engineering continued there was a rash of enlargement applications, with the result being that everyone was allowed to have an average 100-foot extension, with the existing road being moved back 100 feet. A new routing of the right of way was determined at that time. As some are not enlarging, it has made it difficult for those who are in terms of moving the road. Issues relate to privacy and vandalism. The latest is that the Government is going to build the road through the Rural Roads upgrade program.

Community Services Land Planning commented there is no planning or zoning. Subdivision approval will be required.

Land Use advised if Highways builds the road, they have no concerns; if the residents build it, they will require land use permits.

Yukon Electrical Co. Ltd. requested that the approval be subject to existing powerline. There is a pole behind to service both houses. Depending where the road is relocated to, some poles will probably have to be moved. It is preferable that the road is on the other side of the powerline.

Property Assessments has no RETP comments, Mining Recorder, Environmental Health, Kwanlin Dun First Nation, Forest Management Branch, Tourism, Fisheries and Oceans, Environment and Building Safety had no concerns.

Recommendation: Approval in principle for an enlargement up to 100 feet on the back side, subject powerline easement. The applicants will be required to work with their neighbours to relocate the road to the existing standard outside of the enlargement area. Transportation will confirm the status of the Rural Roads upgrade application for Bay View Road. Applicant will be asked to work with adjacent lot owners on road construction.

The next LARC meetings are Wednesday, September 7 and Thursday, September 8, 2005, 9:00 a.m. the large boardroom at 419 Range Road, Whitehorse.