

## MINUTES

LAND APPLICATION REVIEW COMMITTEE  
Large Boardroom, 419 Range Road  
Whitehorse  
July 14, 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
Eric Petersen	E.M.R., Lands
Nina Lindley	Environment
Stan Dueck	C.S, Building Safety
Judy Linton	C.S., Land Planning
Bernie Cross	H.P.W., Transportation Engineering
Pam Vust	E.M.R., Land Use
Shanna Epp	Tourism
Cathryn Paish	Tourism
Stephen Locke	E.M.R., CS & I
Thomas & Leisa Thurmer	Applicants #105F06-001
Blair Andre	Applicant #115P08-4-707
Joyce Bachli	Recording Secretary

### Review of Agenda

Application #2005-0129 is deferred until August, 2005. Delegates scheduled: Thomas Thurmer is scheduled at 9:15 a.m. and Blair & Wendy Andre at 10:00 a.m.

### NEW BUSINESS

#### **1. 105F06-001: Thomas Thurmer – 0.42 ha, parcel is Island on Big Salmon Lake, Quad 105F/01 – Recreational- purchase of lease**

Thomas & Leisa Thurmer attended at 9:10 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Tom Thurmer reviewed they are applying to convert their lease to title. An original application to convert the lease to commercial was denied. The property has been under lease for approximately 35 years, and the main goal of the application is to secure the investment for the family for future generations. They would also like to have an official survey completed, which will cost between \$3,000 and \$5,000. Having legal title would justify the cost of such survey.

Chair Bryony McIntyre advised a letter was received from Teslin Tlingit Council, dated June 30, indicating they were unclear as to the intent of the application and recommending it remain a lease. The Renewable Resource Council referenced TTC's comments on the previous application regarding traditional use in the Big Salmon area and had concerns regarding proper sewage disposal and commercial use of the island.

Mr. Thurmer stressed that the commercial use is no longer being considered, as the program through Dänä Näye Ventures never went ahead. The application is just a conversion to title for recreational use. They spend about three months out of the year at the property. Other concerns and comments discussed:

- Sewage concern - has a permit for the privy; there are no shower facilities or running water.
- NRO had discussions regarding retaining the size but changing the configuration of the lot to exclude the pond [wetland] that is presently part of the lease. The Thurmer's advised there is a moose who regularly utilizes the wetland.
- Visitors to the island quite often try to utilize their cabin. In the winter, they leave their small cabin open for trappers, hunters and mushers.

The NRO advised that Teslin Tlingit Council's GIS technician accompanied him on his inspection.

The Thurmer's left the meeting at 9:28 a.m.

The applicant would like to purchase the land currently held under lease 105F06 -001. The property will be used as a part time residence during the summer months. The property is developed and no further development is planned.

The property was leased to Robert L. Dunlop in 1970 for five years, renewed in 1976 for five years, renewed in 1981 for five years, renewed in 1985 for five years, renewed in 1990 for five years, assigned by the estate of Mr. Dunlop to Marion E C Peacock in 1993 (registered 1994), renewed in the name of Marion E. C. Peacock in 1995, assigned to Thomas M. Thurmer in 1996, renewed in 2001 for a term expiring in 2030.

In 2003 LARC reviewed an application by Mr. Thurmer to change the existing use from residential to commercial. Mr. Thurmer hoped to rent existing improvements to unguided tourists in summer and winter. The application was denied based on concerns regarding the level of use currently occurring on the Big Salmon. The Committee could not recommend approval of commercial use of the area in light of potential unknown impacts on Big Salmon Lake, as it is already a sensitive, high level use area needing a higher level of management. It was recommended that YG, Environment and Teslin Tlingit Council investigate management planning for the Big Salmon Lake area to provide guidance on land use levels and activities in this area.

LCIS comments that the application is within the traditional territory of both Teslin Tlingit Council and Kaska Dena Council, more specifically Ross River Dena Council. The area applied for is not in conflict with settlement land of Teslin Tlingit Council or any of the parcels interim protected for Ross River Dena Council.

Teslin Renewable Resource Council letter of June 27, 2005: concerns regarding the sewage disposal system and request Yukon Government ensure proper sewage disposal practices be used by the applicant, especially as the land in question is on an island.

Teslin Tlingit Council letter of June 31, 2005: unclear what the applicant is applying for under "interest applied for".

Environmental Health Services comments they need to talk to Mr. Thurmer about where he gets his water and how much water use there is at the facility. This will dictate the septic system requirement. If he draws lake water, it must be treated as per Health Department requirements. If there is more than 10 gallons per day of water use at the facility, including all personal uses, a septic system of some sort, permitted and approved by the office is required.

Environment, Water Resources requested the 30-metre setback be in place. Big Salmon Lake is an existing high recreation lake. No wildlife issues were identified.

Community Services Land Planning commented the original application was to change the lease to commercial use, which was denied because of First Nation concerns. If title is granted, control over use of the land is lost unless a restrictive covenant is put on the title. The present 30-year

lease provides long-term tenure. The concern regarding the previous application to convert to commercial needs to be addressed.

#### NRO COMMENTS

Soil: Clay, Silt loam; Vegetation Cover: spruce, pine, birch, poplar mix (Lots of birch), thick shrub under story and ground cover; Terrain: island is quite hilly with a depression in the centre of the application creating a low lying wet area; Waterbodies: island surrounded by Big Salmon Lake; Exposure: south easterly; Access Roads: old trail off the south Canol Road leads to Big Salmon Lake – very short boat ride from shore to application area (Otter Island) approx 100 m; Suitable for Building foundation: yes; Suitable for Septic: unsure spoke with Todd Pinkess at Environmental Health Services but undeterminable without digging; Distance to Water Supply: adjacent application area – Big Salmon Lake; Subject to Flooding: potentially; Environmentally Sensitive Areas: yes – low lying wet area. General Comments: current lease area (application area) is beautifully maintained and ideally suited as a personal part-time residence. The low-lying, wet area is prime moose calving grounds. Witnessed a cow and her newborn calf feeding in the middle of this area, and in 2003 a cow raised twins on this island. The applicant has indicated he is willing to exclude the wetlands, which encompass about a quarter of the parcel. Mr. Thurmer has indicated he is interested in an enlargement on the left side of the parcel, which would be ideal.

Building Safety had no concerns provided future use can be controlled. Reconfiguration should be considered.

Chair Bryony McIntyre outlined that zoning is the best method of controlling use, however, a notification or covenant for prohibition on use, registered by caveat on the title, is the second best method to track use until Yukon-wide zoning is in place.

The Committee reviewed the 1982 Yukon Government program where leased parcels went to title, plus the 1988 Squatter Program.

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

**Recommendation:** Approval in principle; subject to discussions with Justice and Community Services for an appropriate mechanism to restrict commercial use or building expansions of a commercial nature. The maximum structures permitted should be the main cabin and guest cabin. Subdivision approval will be required, plus reconfiguration of the parcel to delete the wetlands area, parcel to remain at half a hectare, which is the requirement for a septic system.

**2. 2005-0129: Glenn Sorensen – 3.75 ha option A or 4.4 ha option B, parcel across from Dawson Airport, near Rock Creek, Quad 116B/03 – Rural Residential - Deferred until August, 2005.**

**3. 2005-0131: Fell-Hawk Placers - .81 ha, parcel near Thistle Dome (Thistle Mountain), Quad 115O/03 – Radio Repeater Site- Lease**

Fell-Hawk Placers is registered as a business name by Fell-Hawk Enterprises Ltd.

Fell-Hawk Enterprises holds claims on Kirkman Creek. The tower site applied for is support of these claims. Fell-Hawk is one of the larger operations in the area, the applicant Willie Fellars, his parents and a hired hand go out in the spring by barge and work the claims for the summer. It is about a 4 1/2-hour boat ride upstream from Dawson. Fellars have been using the repeater station recently. Schmidt, another placer miner on Thistle, may also be using the repeater.

International Communications Corp. leased the site in 1990 for five years (115O03 – 005) for operation of a communications site. The lease was renewed in 1995 for a period of five years, and assigned to Panterra Minerals Inc in 1996. An indenture, granting option to purchase and option to renew, was executed in 1997. The lease expired on January 1, 2000, and Panterra was directed to remove improvements from the leasehold within 90 days, failing which improvements would become the property of the Crown.

LCIS: The application area is within the traditional territory of the Tr'ondek Hwech'in First Nation. The area being applied for is not in conflict with settlement land of the Tr'ondek Hwech'in First Nation.

Tr'ondek Hwech'in First Nation has reviewed the above-mentioned application and has no objections. In accordance with Chapter 13 of the Final Agreement, Tr'ondek Hwech'in requires that any heritage resources "discovered" within the traditional territory are reported immediately to the Tr'ondek Hwech'in Heritage Department. Information regarding the location of these resources is appreciated. i.e. GPS coordinates and descriptive location, photographs, etc. Individuals and organizations are required to refrain from moving or disturbing heritage resources.

#### NRO COMMENTS

Soil: rocky, very little organic soils, site is located in sub alpine topography; Vegetation Cover: sub alpine mosses and very sparse fir tree vegetation, grasses and rock outcrops; Terrain: very steep surrounding area, on top of Thistle Mountain; No waterbodies; exposure: from all quadrants (on top of Thistle Mountain); No access roads; Suitable for Building foundation: yes but not applicable; Not suitable for septic; Distance to Water Supply: four kilometers; Not subject to flooding; no environmentally sensitive areas. General Comments: This site is existing and is currently being utilized by Fell Hawk Mining for Radio-Tel communication. No problems expected with this site and see file for further detail on this site, for more pictures and inspection reports (Panterra Minerals Lease 115O03-005)

Property Assessments indicated no RETP comments, Land Use, Environmental Health Services, Forest Management Branch, Fisheries and Oceans, Tourism, Transportation Engineering, Environment, Community Services Land Planning and Building Safety had no concerns.

**Recommendation:** Approval for lease.

#### **4. 105M12-038: Community Development Branch – 170.1 ha, parcel near Kilometre 49.6, Silver Trail, Quad 105M/12 – Solid Waste Disposal Site (Mayo Dump) Expansion- Reserve**

Current reserve only covers 4 hectare site.

LCIS comments that the application is within the traditional territory of Nacho Nyak Dun First Nation. The area being applied for does not conflict with NND settlement land; however, what appears to be a "buffer" around the proposed larger reservation does include portions of two of NND's community land selections. It is unclear whether the buffer area will have an impact on the First Nation's use of its settlement land and will defer to NND to comment.

Lands received fax from Bill & Maggie Leary dated May 30, 2005 - The physical dynamics of the dump were changed when the firebreak created a gap in the trees through the low-lying area leading towards the Mayo River. This opening allows the smoke to follow the path of least resistance towards the Mayo River and has led to a reduction in the air quality in Mayo, in particular during the winter months. It would be prudent to prevent any further development towards the Mayo River, allowing the poplar to regrow. They have no concerns with the proposed expansion on the west side of the dump reserve.

Received a copy of letter to Brian Ritchie from Village of Mayo in response to Leary letter (June 16, 2005).

Land Use comments there is an existing Land Use Permit YA4C139, which expires the 21<sup>st</sup> October, 2006, within the application area.

Received a letter from First Nation of Nacho Nyak Dun (July 12, 2005) read letter - do not support the proposed expansion, as the amount of land being requested is significantly in excess of what is required.

#### NRO COMMENTS

Soil: silty loam with gravel 60%; Vegetation Cover: spruce aspen willow; Terrain: east of existing road is flat until a steep bench above the Mayo River, west of the existing road it is Kettle hole topography eskers; Access Roads: Siler Trail Highway km 48 +/- existing access into the current dump; Suitable for Building foundation and Septic; Distance to Water Supply: 600m Mayo River; Not subject to flooding; Environmentally Sensitive Areas: no, unsure about underground seepage. General Comments: Reservation area is acceptable to the west of the existing dump. There is a conflict with Tenure between the reservation and Land Use YA4X139 (Kris Walters). Mr. Walters is in the process of setting up a log home building site. Future plans may include fee simple tenure over his existing Land Use area. NND is developing a new subdivision across the highway to the south. Future dump expansion should take this into consideration.

Forest Management Branch comments the NRO has informed them that there is a small volume of merchantable timber on the site and would recommend that if any merchantable timber is to be cleared, it be salvaged and decked so the FMB can arrange for its removal and utilization.

Environment advised the biologist indicates the proposed reserve runs very close to the Mayo River, which is a salmon-spawning stream. Leaching from the landfill into the river is a concern. Nacho Nyak Dun First Nation is proposing to develop a subdivision across the road.

Community Services Land Planning commented there is no planning or zoning. Should the parcel ever go to title, subdivision approval will be required, with the provisions in the *Subdivision Act* and Regulations applying regarding buffering around landfills.

Transportation Engineering commented the parcel is on really high ground, with the river being quite a ways down. This is an old abandoned gravel pit.

Land Use advised that Chris Walters has a land use permit for log storage and building, valid until October, 2006, beside the existing dump, which is totally included in the reserve request. The permit holder may be interested in applying for a lease in future.

The Committee remarked on the size of the application area and wondered about justification for huge area. Chair Bryony McIntyre reviewed the history of having municipalities take ownership of their dumps and history of this application:

- Dump is outside municipal boundary.
- The original request to DIAND for transfer in the 90's was for about 70 ha. Mayo requested a village boundary expansion around the same time. The First Nation did not support the Village's boundary expansion, and nothing went ahead while that was trying to be resolved.
- Legal opinion received confirmed that a municipality can hold tenure to the dump even though it is outside of their boundaries.
- Community Services is currently holding the reserve of the dump and has forwarded the reserve expansion request.

- Background on other municipal dump transfers – Teslin, Haines Junction where the municipality prepared long term planning reports on solid waste disposal issues. These reports

Mayo Mining District, Property Assessment, Environmental Health Services, Tourism, Fisheries and Oceans and Building Safety had no concerns.

**Recommendation:** Deferral to November, 2005, for Community Services and the Village of Mayo to refine their request. Community Development Branch to provide information on the size required. May also require further discussions with the Village and Nacho Nyak Dun First Nation. Information on required buffers to meet Subdivision Act and Public Health act need to be identified, along with site development plans.

**5. 115P08-4-707: Blair & Wendy Andre – 0.293 ha, parcel adjacent to Lot 31, Group 1003, Ethel Lake, Quad 115P/08 – Purchase Lease - Recreational**

Blair Andre attended at 10:03 a.m. to answer any questions. The process was explained, and roundtable introductions were made.

Mr. Andre advised they would like to get title to the property, which they use for recreational purposes. Their lot is the last in a cluster to get titled. They received the lease from the Shiletto's in 2002, and the lease was originally entered into in 1992 for a term of 30 years through the 1988 Squatter Program. The parcel was approved for title in 1988, but Mr. Shiletto indicated he only wanted a lease. The conditions were maintenance of setback from the waterfront of Ethel Lake and access road.

Mr. Andre advised there is an access road that goes into McDiarmid's property, and they are all family. There is room for an access road to the back.

Improvements include a cabin, which Mr. Andre has done quite a bit of work to, plus a sauna and an outhouse (in the corner of the lot).

Community Services Land Planning questioned why the parcel juts out into the Ethel Lake Road right-of-way in the corner away from the lake. Mr. Andre advised he is uncertain, but survey has occurred. He would have no problem with the reconfiguration but would have to move his outhouse.

Mr. Andre left the meeting at 10:13 a.m.

LCIS comments that the existing lease is within the traditional territory of the Nacho Nyak Dun First Nation. The lease is not in conflict with the traditional territory of the First Nation.

Land Use comments may need a land use permit for access.

Received letter from First Nation of Nacho Nyak Dun dated June 28, 2005 - Nacho Nyak Dun First Nation indicated they have no direct concerns with the application moving forward to a purchase agreement, however, the following notations are made: if the parcel goes for sale, NND would like first right of refusal. The purchaser should be made aware of local area planning that will come into effect as per Chapters 25, 26 and 27 of their self governing agreement and will involve local area residents. NND has a moratorium on development of their adjacent lands until a local area plan is in place and is not accepting applications on settlement lands at this time. There should be a setback from the main road entering the area to ensure adequate room for future expansion. Right of access should be guaranteed. They stress the need for the development of a cottage lot policy. It is unclear what type of sewage disposal system will be used.

Environmental Health comments applicant gives no information on sewage and water, thus is unable to assess.

NRO COMMENTS – mailed his report, and it was not received in time for the meeting.

Community Services Land Planning noted there is no planning or zoning; only comment was portion of their lease juts out into the road right-of-way, which could hamper road building, should there be future development in the area. The same requirement as for Maud [access easement or road right-of-way]. Subdivision approval will be required.

There was discussion and viewing of an aerial photograph to determine whether the road easement should continue down to the campground lot at the lake.

Transportation Engineering suggested looking at reconfiguring the lot so it did not stick out into the road right-of-way. The only reason the Ethel Lake Road exists is because of land claims. The existing easements should be maintained.

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

Mayo District Renewable Resources Council, Mayo Mining District, Parks Branch, Forest Management Branch, Tourism, Fisheries and Oceans and Environment had no concerns. Property Assessment has no RETP concerns

**Recommendation:** Approval in principle, subject to subdivision approval. The parcel will provide for exclusion of the road right-of-way or provision of right of way easement [same as Maude] down into the campground and through to the other titled lots. The 30.48-metre setback from the OHWM of Ethel Lake is to be maintained. No reconfiguration is possible.

The next LARC meetings are Wednesday, August 10 and Thursday, August 11, 2005, 9:00 a.m. the large boardroom at 419 Range Road, Whitehorse.