

MINUTES

LAND APPLICATION REVIEW COMMITTEE
Large Boardroom, 419 Range Road
Whitehorse
November 9, 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
Colin Beairsto	E.M.R., Lands
Janice Bruton	E.M.R., Lands
Ken Kiemele	Environment
Pam Vust	E.M.R., Land Use
Christine Chippett	Yukon Electrical
Roger Horner	E.M.R., Lands
Edward Lee	Lands, Agriculture Branch
Eric Petersen	E.M.R., Lands
Les Wilson	Kwanlin Dun First Nation
Stan Dueck	Building Safety
Bernie Cross	H.P.W., Transportation Engineering
Shanna Epp	Tourism
David Murray	Lands, Agriculture Branch
Judy Linton	C.S., Land Planning
Heidi Rumscheidt	DAP Branch - ECO
Patrick Ross	City of Whitehorse
Larry Whitfield	Applicant #2005-0166
Ed Kosmenko	Applicant #15262
Frederick A. Musial (Pacesetter Petroleum)	Applicant #2005-0221
Tullio Albertini	Ag Applicant #818
A. Herzog	Intervener #818
Jacques Vaneden	Ag Applicant #788
Bob Nardi	Intervener #788
Mr. Herrmann for Ms. Kloer	Ag Applicant #813
Don Hutton	Observer
Joyce Bachli	Recording Secretary

Review of Agenda

Delegates scheduled: Larry Whitfield is scheduled at 9:45 a.m., John Gibson and Ed Kosmenko at 10:00 a.m., Frederick A. Musial at 10:15, Tullio Albertini, applicant, and Mr. Herzog, intervener, at 10:45 a.m.; Jacques Vaneden, applicant, and Bob Nardi, intervener, at 11:15 a.m. and Mr. Hermann for Ms. Kloer at 11:45 a.m.

Minutes-October 12 and 13, 2005, Regular LARC Meeting

Page 12, October 12, 2005, LARC: The comment "The development pattern is a bit of a "dog's breakfast", and a neat settlement, with a few straight lines would be preferable." -- it was agreed to leave as is.

Page 2, October 13, 2005, LARC comment: Questions/Comments of Community Services:

- Under the Subdivision Regulations, a house must be 300 metres away from a sewage lagoon. A variance can be applied for.

The Subdivision Regulations do not apply to these areas, as they are within the City of Dawson. It is uncertain whether the Dawson City Subdivision Control By-law has anything regarding this matter; the *Municipal Act* does not.

Recommendation 3 on page 11: Should be February “2006”, not “2005”.

The minutes were approved with the requested change.

OLD BUSINESS

1. #2005-0076: Robert Johnstone and Wanda Keobke – 12.4 ha, parcel located on Alaska Highway, 20 miles West of Teslin, Quad 105C/06 – Commercial – deferred August 11, 2005 LARC - REMOVED AT APPLICANTS' REQUEST, PENDING APPEAL.

2. #2005-0166: Larry Whitfield – .89 ha, parcel adjoining Lot 806A, East bank of McClintock Bay, South McClintock, Marsh Lake, Quad 105D/09 – Lot Enlargement – deferred August 10, 2005 LARC

Transportation Engineering provided an update on Bay View Road, illustrating with topographical map:

- Have held a meeting with Perry Savoie and Robert Mitchell, who plan to take the information back to the community.
- The proposed new right-of-way will allow everyone to expand.
- The department does not intend to build a road; this is a reaction from a couple of residents for rural road upgrading, but there is nothing to upgrade because it is a new location.
- Building a new road will only occur if 50 percent plus one want the road.
- Even if the road does not go in, the right-of-way will exist for future expansions to butt up to.
- Whitfield's expansion could occur up to the new right-of-way.
- The earliest the road would be approved is 2006.
- The Fire Smarting activities have mistakenly led people to believe the road was being built.
- The powerline has been kept within the right-of-way to avoid the requirement to obtain easements.
- They have reviewed the road configuration thoroughly, including complications for emergency vehicle access.

Site Visit September 19, 2005 – Eric Peterson and Todd Pinkess – See Map on File

- Whitfield's new septic field is very close or over lot line (into) enlargement application area
- Whitfield has room to enlarge but can only expand to existing roadway access shared with Tanner. Whitfield could build his own access and allow Tanner to expand further; however, access must exist to the lake through existing corridor.
- -Tanner does not have much room to expand
 - Cannot expand into Whitfield application area unless access relocated.
 - expansion in to Whitfield application area may make no sense

Email received from the Marsh Lake Local Advisory Council on August 10, 2005:

“I am writing on behalf of the Marsh Lake Local Advisory Council. We have just had our first meeting since early June and so have just considered this application and wish to offer

comments. The Marsh Lake LAC does not oppose this application provided the following conditions are met:

1. The enlargement does not interfere in any way with existing public access to the lake and to the road right-of-way.
2. The enlargement does not interfere with the existing access to Lot 1010A.
3. The enlargement does not preclude the owner of Lot 1010A from applying for any enlargement should they wish to do so.
4. There be a requirement for a powerline easement through the enlargement area.

MLAC also comments, "although the LAC is aware that there is no limit to the numbers of times a lot owner can apply for enlargement, we would like to make clear that we generally oppose multiple applications as they put us in a very awkward position. As a general rule the LAC has been supportive of lot enlargements especially those required for the proper installation of septic systems. However, this owner has already received an enlargement and now has built a guest cabin in such a way as to "require" a further enlargement in order to install a septic system for the cabin. And there is theoretically no end to this process for any given property that abuts on public land."

Environmental Health comments "Eric Petersen and I attended the property on September 19, 2005. The septic system for the guest house has been installed and approved. No known need for any future septic systems. Do not support need for more land on premise of septic. The potential for the current land entitlements to support future septic expansion look very promising."

Larry Whitfield attended at 9:40 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Whitfield advised:

- The year they moved to their property, the sandy, windy road was upgraded by the neighbours to specs that allowed YTG to maintain it. Therefore, they do not feel they require a new road. Mr. Whitfield referenced the map to illustrate.
- The laneway to the properties is jointly maintained by the property owners.
- Has spoken to Kim Tanner, and it did not appear the Tanner's have any concerns.
- Is applying for a corner of his property, Mr. Whitfield reviewed what occurred at a meeting in 1991 between himself, the Tanner's and a YTG representative, whereby each identified the land they are interested in.
- The plan of survey that Mr. Whitfield originally applied for is basically the same land he is presently applying for. Originally, the Tanner's and Whitfield's agreed they would split as much of the access road as possible to provide a buffer.
- It has been determined that although close to the property line, the septic system is on Whitfield's property. Whether or not it is underneath the powerline was questionable.
- The location of the Green's (lot 804) septic field affects options for lot configurations.

Mr. Whitfield left the meeting at 9:55 a.m.

Lands had called Tanner's but have not received any more contact.

Yukon Electrical Co. Ltd. - subject to easement for existing powerline.

Transportation Engineering - no problem with the expansion; any roadwork or trail relocation is to be at the expense of the applicant to existing standard. If access from a future road occurs, the present access would have to be abandoned. There is still room for the Tanner's to angle over and pick up a portion of the right-of-way in front of Lot 804.

Community Services Land Planning - no problem as long as the expansion does not encroach into the existing driveway access to any lot. A setback from trails or driveway could be specified. Subdivision approval will be required.

Chair Bryony McIntyre - the only way Tanner's can acquire more land is if the driveway is moved.

Forest Management Branch, Land Use, Lands Policy, Building Safety, Environment, Agriculture Branch, Kwanlin Dun First Nation, Tourism and DAP Branch, ECO had no concerns.

Recommendation: Approval in principle subject to Lands meeting with Whitfield/Tanner to agree on subdivision configurations to deal with moving the driveway: leaving the driveway where it is or having Mr. Whitfield have a new driveway off the East Bank Road and the existing driveway becoming the access into Tanner's and Green's. Only one access to the Whitfield lot will be permitted. Subject to powerline easement. Subdivision approval will be required.

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 – deferred August 10, 2005 LARC

Ed Kosmenko attended at 9:55 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Kosmenko advised that the cabin is not two miles into the neighbouring Trapline concession #227; only about half a mile; 20 feet above the lake. This is the only dry spot around the lake, as it is all swampy, and is at the end of his trapline.

Lands noted that the August 10 LARC recommendation referred the applicants to meet with Environment to discuss the location and circumstances of this cabin location. Lands Branch to facilitate the meeting. Lands and confirm background on the Miller Lake cabin site for this meeting. The factors around the site being on a different trapline - the policy is there needs to be a unique situation. Lands undertook consultation and determined that a further meeting with the applicants and Environment was not necessary.

Environment - decision on the trapping policy is up to LARC and the Lands Branch in terms of supporting why the long-existing cabin is situated where it presently is. There is support from the other trapline holders (RTC #227), and provision can be made in the lease document that the applicants are required to have valid consent from the trapline holders through the term of the lease.

Also associated with the trapline is a separate cabin on a different trapping concession. Mr. Kosmenko explained this was the result of an error by the pilot in dropping off supplies. A lease was received for that situation.

Mr. Kosmenko left the meeting at 10:00 a.m.

Forest Management Branch, Yukon Electrical Co. Ltd., Land Use, Lands Policy, Building Safety, Transportation Engineering, Environment, Community Services Land Planning, Agriculture Branch, Kwanlin Dun First Nation, Tourism and DAP Branch, ECO had no concerns.

Recommendation: Approval for a lease. Lease will ensure that the consent of the trapline concession area holder for this area is a pre-condition and condition of the lease.

NEW BUSINESS

1. #2005-0221: Pacesetter Petroleum Limited – 1.89 ha, adjoining Lot 1548, CLSR 71076, along east side of Laberge Road, Kulan Subdivision, City of Whitehorse, Quad 105D/14 - Commercial

Frederick A. Musial, Pacesetter Petroleum, attended at 10:12 a.m. to speak to the application.

Mr. Musial advised:

- He is operating a couple of businesses and requires more warehouse and shop space.
- Fuel distribution business supplies most of the independent service stations in the Yukon, requires space to park his trucks, plus office space.
- Currently have four office staff and three drivers, seven full-time employees.
- Also operates an automotive accessory wholesale business, exports from Whitehorse to about 100 dealers in western Canada, is expanding into Ontario, which requires warehouse and office space.
- Business did not exist two years ago and is expanding.
- Currently renting space in two locations in Kulan, very centralized for employees to walk and drive to work.
- Land is suitable for the purpose.
- Configuration is due to maintaining setback from the creek on the east side; length makes it easier to enter and exit the property with Super B trucks. Although the frontage is long, the overall 1.8 hectares is not an inappropriate size for an industrial lot.
- The creek tends to glaciare in the ditch beside the highway and runs all year round. The parcel is set back 80 metres back from the creek, rising abruptly from the floodplain.
- Planning a 30-metre setback from the highway.

Roundtable introductions were made.

City - initially determined application did not work with the OCP primarily in respect to the mapping not portraying the Kulan area extending down towards the highway. This can be dealt with through mitigation and amending the OCP. At this point, it was determined authority had to be obtained through the landlord before it goes before City Council. Zoning was amended for a recent infill on the west side, but the Zoning Bylaw would have to be amended to either include around this parcel or do a full-blown rezoning application. The zoning calls for a minimum lot size of 635 m².

No responses have been received from neighbours, and this is an industrial area.

Mr. Musial left the meeting at 10:25 a.m.

The application states that the parcel is to be used for business offices, warehouse, sales outlet, truck & trailer parking, vehicle repair facility. The applicant has submitted a full five year business plan that describes development of parcel applied for. Year 1 – Survey, clear, build access and fence; year 2, 3 – Build office and warehouse space, well, septic; Year 4-5, build shop.

Southern Lakes NRO COMMENTS

No existing improvements; soil: well-drained, rolling; vegetation cover: mature white spruce and pine, various shrubs and herbs; terrain: rolling hummocks; waterbodies: adjacent to wet area, small drainage with small creek; exposure: southeast; access roads: adjacent to Laberge Road near the Alaska Highway; suitable for building foundation and septic; distance to water supply: Small creek at 100 metres; not subject to flooding; environmentally sensitive areas: southeast side of application area is wet land. General comments: Application area may be suitable for intended purpose. There is a small stream and adjacent riparian to the SE of application area at $\pm 60\text{m}$ (must have set back – min 30m). Application area is fully timbered with mature white spruce and pine. Approximate volume is 300 m³. Yukon Electric Power Station is adjacent and to the south. No further concerns.

Whitehorse Mining Recorder: Overlaps Quartz Claim HAT45 YC18695. Notice sent to owners.

LCIS: the application area is within the traditional territory of Kwanlin Dun First Nation and Ta'an Kwach'an Council. The area is not in conflict with the settlement land of either First Nation. I note the applicant is aware of the Kwanlin Dun First Nation C-173B that is directly across the roadway from the application area. The applicant presumes the Kwanlin Dun First Nation property would be zoned similarly to adjacent lot[s].

Laberge Renewable Resource Council Letter received November 7, 2005:

"The Laberge Renewable Resources Council has received a number of land applications over the past month. In the following we provide some comments on those that are located within the traditional territory of the Ta'an Kwach'an Council and will be dealt with at the November 9th meeting of LARC. None of these applications pose a serious threat to fish or wildlife and their habitats. This application is located within a developed, industrial area. There is no wildlife to be concerned about."

City of Whitehorse advised:

- Applicant has bounced around between the City and Lands , brought to LARC to see if anything has been missed by the City.
- The creek skirts tightly off the edge of Trails North. Although there are physical constraints for development, having the capability to re-contour to make the land usable has been done with another parcel in this area in the past.
- Steep slopes and riparian areas are protected under the OCP (30-metre setback). There is still room to have the Trans Canada Trail loop in the riparian area.
- The applicant plans to utilize the narrow piece where the high ground is for material for fill. Configuration of the lot may change, plus an increase in setback from the highway when City Council reviews the application.
- Site drainage will be another issue, i.e. ensure drains towards the road.
- It is not believed that fuel storage on site is contemplated, shipping directly from refineries to the customers.
- A decision on access has not been finalized.

Yukon Electrical Co. Ltd. - request 7.5 metres from the powerline to the boundary of the lot.

Kwanlin Dun First Nation - nothing has been planned for their parcel across the road, not even surveyed yet.

Property Assessments: No RETP concerns.

Environmental Health Services, Heritage Resources, Forest Management Branch, Land Use, Lands Policy, Building Safety, Transportation Engineering, Environment, Community Services Land Planning, Agriculture Branch, Tourism and DAP Branch, ECO had no concerns.

Recommendation: Conditional approval, subject to the City of Whitehorse approving an Official Community Plan amendment, will require subsequent re-zoning and subdivision approval,; and appropriate setbacks from the creek and powerline, as determined through the City of Whitehorse development review.

2. Ag App #818: Dallas Schaber - approx. 35 ha. ±, near Mile 942 Alaska Hwy, south side of highway adjacent to KDFN R79B, Quad 105 D/13-Agriculture

This application is for forage production. Since the package of information was released, further comments were received:

- Forest Management Branch - timber volume of approximately 840 m³; there will be a final survey and assessment of volumes if the application is approved.
- NRO Inspection Report - significant timber values on site.
- e-mail Gail Riederer (farmer) - full support of the application.
- Mario Ley & Heidi Hoffman, Bill Drury - neighbours wanted information, but not make any formal intervention.
- Laberge Renewable Resource Council came to the office to get more information.
- Fax from Champagne & Aishihik First Nation - the application should be rejected, because it does not conform to the Ibex Valley Plan. Contrary to the Agriculture Branch's review of this application, it is clearly in an area designated "hinterland" on Schedule "B" map, which accompanies the Ibex Valley Development Regulations, recently approved by the Government. Although this parcel is in an area being considered for conversion from hinterland to agriculture designation, the change has not yet occurred and should not proceed until they have had more scrutiny.
- LCIS identified the right-of-way to be 30 metres.

The parcel is designated correctly (for agriculture on Plan Ibex Schedule A), but due to the timing rezoning will be required if approved.

Community Services Land Planning - area is designated for agriculture development in the plan, but as it is zoned hinterland; rezoning will have to occur. Buffers and access roads to the hinterland were reviewed. The parcel has to be set back 30 metres from the Kwanlin Dun First Nation land selection site. The Plan Ibex proposed revisions are looking to designate more areas for agriculture and not taking away from what is presently in place.

Transportation Engineering - a 60-metre right-of-way is required under the *Highways Act*, but 30 metres has been negotiated through land claims agreements.

Kwanlin Dun First Nation - this parcel is zoned in the Ibex Valley Regulations, approved in September, 2005, as hinterland. It is recommended that LARC comply with the zoning until the outcome of the proposed Ibex Plan Amendment is realized. Kwanlin Dun First Nation has recently provided comments to CTS regarding this amendment process, which have raised several concerns that were related to the site of this application: wildlife corridors, location of trails and public access to natural areas.

Chair Bryony McIntyre - it is normal once a plan designates an area, the zoning that follows zones land as hinterland if it is vacant. The applicants are required to go through a zoning process. Plan Ibex Plan designates the area as agriculture already, and it is not part of the proposed amendment area.

No comments were received from the Ibex Valley Hamlet.

Environmental Health Services, Yukon Electrical Co. Ltd., Land Use, Lands Policy, Building Safety, Environment, Agriculture Branch, Tourism and DAP Branch, ECO had no concerns.

Recommendation: Conditional approval, subject to zoning and subdivision approval. The west boundary will respect the 30-metre right-of-way for the gravel pit access road.

3. Ag App #783: Tulio & Cathy Albertini - approx. 5 ha. ±, near Vista Road, adjacent to Lot 1292, in Quad 105 D/14- Agricultural Enlargement

Tulio Albertini and Mr. Herzog attended at 10:40 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Dr. Albertini attended to answer questions from the committee. Everything that has been done over the years has been placed on paper.

Agriculture Branch advised:

- The application is the remainder area of a Licence of Occupation that Dr. Albertini had from the Lands Branch related to an irrigation pond. The Licence of Occupation was not the preferred tenure.
- The Branch looked at the land associated with the irrigation pond under the Licence of Occupation to meet the arability criteria. The resulting parcel is about five hectares of the original licence of 8.85 ha.
- If there is an approval, the parcel will be consolidated with the existing title and will not be a stand alone parcel.

Mr. Herzog tabled pictures of the area and questioned the Agriculture Branch:

- Paperwork (application summary) contains no signatures.
- The history of Dr. Albertini's Licence of Occupation - was granted in 1999, fencing of the application was done three years prior to approval of the land.
- One clause of the agreement indicated that it is a licence only and does not confer any exclusive rights of lease or interest to the land.
- Alleged Mr. Murray's involvement was quite personal over a long period of time and asked why.
- Asked what category the land is: 5C, 6W and 5W - Agriculture Branch responded the national system for classifying agriculture land has seven classes from Class 1 meaning no restrictions for agriculture to Class 7 meaning no potential for agriculture. Items considered include: climate, topography and soils. The major limitation on agriculture at nearly 61 degrees north is climate. In the Whitehorse area, Class 5 is the best capability possible because of the climate limitation. 5C means the only limitation on the parcel is climate. Class 6 means the parcel is not capable of supporting crops, other than forages, and does not meet the minimum under the agriculture policy. W = watertable, because this area was established for an irrigation purpose, and there is water running through the subsoil in an ephemeral stream. 6M indicates poor moisture-holding capability. 6T indicates topography. There are stones through the profile, which are associated entirely with the narrow area around where the water actually flows; and as one moves away from that, it changes quickly to the water table and the organics that are controlling the soil.
- Class 5W from the pond down to the east is an open gravel pit, which was Mr. Herzog's former irrigation pond for his own purposes 14 years ago. Mr. Herzog believed he is more familiar with this area than anyone else in the Yukon Territory. Right below that gravel pit, there is a 45 degree slope, straight down 260 metres long, a rock cliff. (6T) The new line, which includes part of notation 6T, provides access to the lower pond with machinery.
- Three or four years ago the entire area was excavated with tens of thousands of cubic metres of dirt, i.e. every square inch of topsoil was removed for covering the former airstrip on Lot 1292, unsuitable for agriculture. Agriculture Branch noted the excavation and removal of topsoil created the pond. The irrigation use by itself is considered to be an agriculture use and was factored in to determining the usefulness of the site as an amalgamated parcel for Lot 1292. People irrigate from ponds on their private property. Mr. Herzog stated that people in the Yukon who irrigate do not claim ownership of the source, e.g. Takhini River or Yukon River.
- Mr. Herzog's concerns and inquiries have been on record numerous times over the years regarding the Licence of Occupation and the application, numerous occasions expressed concern that his own land interest was not being considered as favourably for different reasons; does not believe the pond has been used properly.
- Mr. Herzog alleged he has several applications within a couple hundred metres of this application and has been treated differently.
- Alleged this land was destroyed and unsuitable for agricultural use whatsoever; that applicant did not include a Farm Development Plan with his application. The Agriculture Branch

advised the FDP was filled out and reviewed and a copy can be made available. LARC does not review the FDP.

- Mr. Herzog stated he has been dragged through the Judicial System by this applicant for four years, costing him tens of thousands of dollars.
- Alleged conflict of interest.
- Existing land uses known and listed by the applicant: walking, skiing, skidooring, mountain-biking and horseback riding. If a piece of land an individual applies for has existing trail use, he is supposed to re-establish them. Dr. Albertini alleged there were beautiful trails on land taken over by Mr. Herzog's expansion that were cut off and the users have to go all the way around in order to reconnect with the trails. If Mr. Herzog is not required to re-establish the trails; after he has fenced his property, they will go ahead and reopen the trails on that side, complete with proper permits.
- Mr. Herzog noted there is no trail policy in the Yukon, and the trail leads to nowhere. It is an old horse trail from back in the 1970's, two feet wide, ending up 650 metres past his border, stopping at Ta'an Kwäch'än Council land. The trail leads exactly the same place as the microwave tower trail does, i.e. at Ta'an Kwäch'än Council land.
- Requested deferral or termination of the application.

Volume of water:

- Dr. Albertini established volume from a book that contains a formula about people who build duck ponds on the prairies vis-à-vis requirement.
- Agriculture Branch has observed the use of the irrigation water on the crop, and it is a useful size of pond that assists with the type of agriculture being practised on the parcel, which is berry culture.

Tulio Albertini and Mr. Herzog left the meeting at 11:10 a.m.

Agriculture Branch - the area was closed to agriculture land applications since 1996, reopened by Ministerial decision in January last year. This created some friction in the area because there was no general announcement that the area had been re-opened to applications. Both Mr. Herzog and Dr. Albertini put in agriculture applications immediately after the closure was rescinded.

In the mid 90's Dr. Albertini went to Lands with an irrigation proposal, which was favourably considered under a Licence of Occupation (not an agriculture application), for taking irrigation water out of a constructed pond. The original scheme presented to LARC was quite extensive; but when the engineering actually came into existence, the project was much scaled down from what Dr. Albertini originally envisioned. Lands Branch attempted to get the Licence of Occupation to match with what had actually happened on the parcel, i.e. an 8.85-hectare Licence of Occupation, 1+-hectare pond, fenced for safety concerns. When the area became open, Mr. Herzog put in an application; and Dr. Albertini put in an application to convert the licence to agriculture land. Soils inspections in both cases caused the parcels to be rejected originally. The configuration of the licence was modified to meet the agriculture capability guidelines. The constructed irrigation pond is an agriculture improvement and is being well used by Dr. Albertini to irrigate his berry crop. A fair amount of organics were removed in order to make the pond. These were relocated to the applicant's airstrip, which was reclaimed for agriculture.

It was noted that Mr. Herzog also obtained approval for a lot extension in the past.

The trail was relocated when the fencing went up.

Chair Bryony McIntyre - Dr. Albertini will be required to move the fence to only the area that will be amalgamated.

Mark Radke - letter of support from neighbour.

Jacques Vaneden, letter - previous application for 3.5-acre extension was reviewed by the Mayo Road Zoning Committee. The purpose was to grow berries. As no specific reason was given for the application, the committee found no valid justification and the application was not merited. Grandfather clause did not apply. LARC rejected the application. Sometime later the applicant acquired 22.5 acres under a Licence of Occupation. Quite a few residents, including the Zoning Committee, wondered what the term meant and how it was obtained, as Mayo Road residents had been advised that no applications were being accepted. This Licence of Occupation caused a considerable rift in the area and frustration. The Klassen Report recommendations were referenced. Mr. Vaneden recommended this application be referred to the new Mayo Road Zoning Committee, with its findings forwarded to LARC.

Community Services Land Planning - although the parcel is zoned hinterland, under the new Mayo Road Regulations, when there is a lot enlargement, survey of leased parcel or settlement land, the zoning snaps with boundary. Mayo Road Zoning Committee's mandate is to deal with discretionary use and zoning amendment applications.

NRO Inspection Report - area may be suitable for intended purpose, area is currently used as irrigation for fields at the adjacent site. The application area has a pond built for irrigation purposes and is fenced. No commercial timber value, no further concerns.

Kwanlin Dun First Nation - it appears from the maps provided that this application is located in the area proposed in the Mayo Development Regulations, September, 2004, to be zoned hinterland. As discussed at the May, 2005, LARC, in response to previous applications on the Vista Road the general recommendations section, page 11 states: The whole Mayo Road needs to get into local area planning to meet their interests. Recommend that no new applications be accepted on the remainder of the land that is designated hinterland.

Furthermore, the minutes state on page 13: The Committee also recommended that the area of Vista Road study area (all Hinterland areas) be closed administratively to new applications while discussions occur with the interim Mayo Road Zoning Committee and Community Services regarding Local Area land use planning.

Kwanlin Dun is not aware of any discussions regarding local area planning in this area. Although they would support this new approach, in their recent submission regarding the draft agriculture policy, they advocate this planning approach to the disposition of agricultural lands. One of the issues, for example, is the protection of wildlife and riparian corridors throughout the area. The First Nation notes the stream corridor running through this application and the need that the comments regarding wildlife and riparian corridors follows at the landscape level through land use planning.

Although the application references the Vista Road Study, that study expressly did not address these applications (LARC minutes May 26, page 9). These applications appear to be reconfigurations of previous proposals. However, they are entered as new business for LARC. It is suggested they raise the same issues as discussed during the previous LARC review of the Vista Road applications as to the alienation of lands designated for private use. At the very least, the rationale for disposing of more hinterland to private land, in light of the May, 2005, LARC recommendations, should be clearly stated. A greenbelt corridor for the riparian areas needs to be maintained.

Land use planning needs to occur prior to land disposition of this scale in one area. This matter was raised during the Vista Road Study in May.

Chair Bryony McIntyre - Albertini and Vaneden applications were both accepted in 2004 before the residential applications on Vista Road that resulted in the Klassen Report. LARC recommended no new applications be accepted, but these two pre-existing had to be dealt with.

The shaded portion on the map, Government reserve - in the early 1980's C & TS placed a number of reserves setting land aside for residential development all over the Territory. There was little planning or thought put into the process.

Environmental Health Services, Forest Management Branch, Yukon Electrical Co. Ltd., Land Use, Lands Policy, Building Safety, Transportation Engineering, Environment, Tourism, and DAP Branch, ECO had no concerns.

Recommendation: Approval in principle subject to snap zoning at survey. Subdivision approval will be required. The parcel will be the minimum size required to meet irrigation and configuration needs. Dr. Albertini will be required to move fence to the new property boundary and ensure that the area is clear of improvements and back filled where appropriate..

The zoning maps will be updated.

4. Ag App #788: Jacques Vaneden - approx. 25 ha. ±, near Vista Road, adjacent to Lot 1373, Quad 105D/14- Agricultural Enlargement

Jacques Vaneden, applicant, and Bob Nardi, intervener, attended at 11:12 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Vaneden advised:

- His application dates back to 1972. At that time, there was nobody living on Vista Road and the Microwave Road except Mr. Vaneden.
- The Yukon Government was under control of the Federal Government, and his application was referred to the Federal Government. On his grazing lease, he was advised he would have to wait until devolution from the Federal Government to Territorial Government.
- Received ministerial document advising as soon as a policy was established, he would be considered for agriculture, which would affect his lease. He was assured he would receive a minimum of 90 acres for development; he received 45.
- Mr. Vaneden had to install an access road from Vista Road to the land and deduct that portion of land from the 47 acres granted.
- Ownership of the road was disputed, with Mr. Vaneden receiving title.
- Further extensions were not granted.
- Two small parcels on either side of the road were granted to Mr. Vaneden.
- The Agriculture Branch advised Mr. Vaneden he did not qualify for a further expansion of land and would not provide him with any more land unless he could prove otherwise.
- Mr. Vaneden had to do the research, the documentation and the presentation of his application, which was finally accepted a year-and-a-half ago; he was promised expediency.
- In between, his application was set aside because of a possible misunderstanding between Mr. Nardi, his neighbour; which came before Mr. Klassen as part of the Vista Road Subdivision.
- After all these years, with his Ministerial guarantee going back to 1983, Mr. Vaneden is finally before LARC to request his application be granted without further delay and that expediency be put forward.
- Plans to grow oats on property.

Mr. Nardi left his speaking notes with the Committee:

- Issue relates only to a sliver of land between Mr. Vaneden and his property.
- This is the only opportunity to address a problem that was created almost six years ago when Mr. Vaneden was sold an extension to his existing property, at which time Mr. Nardi

- objected to the sale on the basis that the survey line that was being drawn cut off access to a greenbelt trail he and his wife used daily and left the potential of running barbed wire fence directly along the side of his property right to his gate. Due to the fact Mr. Nardi raises purebred German shepherd dogs; he views barbed wire fences as a danger.
- At a meeting between himself and Mr. Vaneden, together with representatives of the Agriculture Branch, a private agreement was reached between himself and Mr. Vaneden: No barbed wire fence was to be built on the east boundary of the application, no trees cut east of the existing cleared field, no cultivation of land to take place east of the existing cleared field. In return for these concessions from Mr. Vaneden, Mr. Nardi agreed not to appeal the application at any level. The agreement was to remain in force as long as they are neighbours.
 - The summer after the sale closed, Mr. Vaneden fenced the east boundary with barbed wire, in violation of their agreement and over Mr. Nardi's protests.
 - It is not possible for the section in question to be broken off Mr. Vaneden's land unless it is part of the entire re-organization of the property. It is in Mr. Nardi's interest for Mr. Vaneden's application to succeed.
 - Approached Mr. Vaneden in the summer of 2004, after learning of his additional application, and asked if he would consider a land exchange to allow the problematic corner of his property to return to the ownership of the Yukon Government.
 - Mr. Klassen noted Mr. Vaneden is prepared to discuss with Mr. Nardi and the Agriculture Branch relinquishing the corner of Lot 1373 on which the trail is located, in exchange for arable land in an amount to be determined, to be added to Agriculture application 788. He recommended that the Agriculture Branch arrange for discussions between Messrs Vaneden and Nardi to achieve this exchange. Mr. Nardi should be permitted to apply for a lot enlargement to add the corner relinquished by Mr. Vaneden to his rural residential parcel.
 - Lands Branch agreed to facilitate the transfer/purchase of the area of land.

Mr. Vaneden's response:

- Original map of his development showed a large buffer zone on the east side adjoining Mr. Nardi's property, as well as along Vista Road. This is good agriculture protection for wind and soil erosion.
- Complied and signed agreement with Agriculture Branch and the buffer stands.
- Section is not of great value agriculturally speaking.
- Disagreement with Mr. Nardi, as he was to supply the smooth wire for fencing; and when it was not forthcoming, Mr. Vaneden used the barbed wire he had on hand.
- If the section is not more than an acre, he has no objection; if not more than two acres, the agreement is negotiable.
- No hard feelings with Mr. Nardi.

Agriculture Branch:

- At the previous meeting, the one option Mr. Vaneden took off the table was the offer made today: if it is only an acre, it seems not to matter.
- The large area for expansion meets the minimum requirements for arable soils.
- No further comments have been received from the public.

Messrs. Vaneden and Nardi left the meeting at 11:30 a.m.

Kwanlin Dun First Nation - it appears from the maps provided that this application is located in the area proposed in the Mayo Development Regulations, September, 2004, to be zoned hinterland. As discussed at the May, 2005, LARC, in response to previous applications on the Vista Road the general recommendations section, page 11 states: The whole Mayo Road needs to get into local area planning to meet their interests. Recommend that no new applications be accepted on the remainder of the land that is designated hinterland.

Furthermore, the minutes state on page 13: The Committee also recommended that the area of Vista Road study area (all Hinterland areas) be closed administratively to new applications while discussions occur with the interim Mayo Road Zoning Committee and Community Services regarding Local Area land use planning.

Kwanlin Dun is not aware of any discussions regarding local area planning in this area. Although they would support this new approach, in their recent submission regarding the draft agriculture policy, they advocate this planning approach to the disposition of agricultural lands. One of the issues, for example, is the protection of wildlife and riparian corridors throughout the area. The First Nation notes the stream corridor running through this application and the need that comments regarding wildlife and riparian corridors follows at the landscape level through land use planning.

Although the application references the Vista Road Study, that study expressly did not address these applications (LARC minutes May 26, page 9). These applications appear to be reconfigurations of previous proposals. However, they are entered as new business for LARC. It is suggested they raise the same issues as discussed during the previous LARC review of the Vista Road applications as to the alienation of lands designated for private use. At the very least, the rationale for disposing of more hinterland to private land, in light of the May, 2005, LARC recommendations should be clearly stated. A greenbelt corridor for the riparian areas needs to be maintained.

Land use planning needs to occur prior to land disposition of this scale in one area. This matter was raised during the Vista Road Study in May.

Chair Bryony McIntyre - Albertini and Vaneden applications were both accepted in 2004 before the residential applications on Vista Road that resulted in the Klassen Report. LARC recommended no new applications be accepted, but these two pre-existing had to be dealt with.

NRO Inspection: No commercial timber value.

Agriculture Branch - this application has been reconfigured at least twice and the applicant has finally agreed to the conceptual parcel, and he signed and acknowledged same on August 25, 2004. Zoning will be changed to agriculture.

Regarding Mr. Nardi's presentation:

- If the application is approved, the parcel will be getting larger overall, and a boundary modification as Mr. Nardi is requesting will not trigger the prohibition under the *Subdivision Act*.
- When Mr. Vaneden received his expansion on the Vista Road end, neighbours within one kilometre of the application site were not contacted. First indication for Mr. Nardi was when the surveyors came out.
- His concern is regarding the walking trail that is just over the boundary; he wishes the barbed wire fencing changed.
- Mr. Vaneden fenced this area on the boundary but not the rest of his property.
- This is probably the only window of opportunity to change the boundary and facilitate resolution of neighbour issues.
- An acre should be sufficient to allow the trail to be encompassed as Commissioners land.
- Mr. Nardi had indicated he would like to own this strip with the walking trail, and this is the best option from Agriculture Branch's point of view.
- The land sale would be facilitated through Lands.
- There are options to barbed wire.
- The trail that runs along Dr. Albertini's fenceline also runs through this area, and it should be excluded (non-arable land to the south).

- Recommendation should reference the willingness to settle the issue, rather than make it a subject condition of the disposition.

Land Use - building of trails on Crown land will require a land use permit.

Community Services Land Planning - good to resolve the neighbour issues, can be achieved under the *Subdivision Act*. There is no specific problem with the Vaneden application, as long as there are not trails, i.e. exclude or move any existing trails.

Forest Management Branch, Yukon Electrical Co. Ltd., Lands Policy, Building Safety, Transportation Engineering, Environment, Tourism, and DAP Branch, ECO had no concerns.

Recommendation: Approval in principle, propose to resolve trail issues between Mr. Vaneden and Mr. Nardi as outlined in the minutes. Agriculture Branch will identify an approximately one acre swap of buffer between the applicants existing parcel and Mr. Nardi into the survey instructions and subdivision reconfiguration of the parcel. Subdivision approval will be required.

5. Ag App #813: Sabine Kloer - approx. 6 ha. ±, near the Gully Road, off the Takhini River Road, in Quad 105 D/14- Agriculture

Mr. Herrmann attended on behalf of his wife, Ms. Kloer, at 11:43 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Herrmann advised:

- Grew up on a farm (25 years) and would like to try it again.
- Lost his farm when he moved from east to west Germany.
- Would like to try organic vegetable farming with a couple of greenhouses, plus livestock.
- Will try to get a well for water.

Agriculture Branch:

- The soils are arable.
- The parcel size is an infill where there were several larger agriculture applications, with a grazing application immediately east.
- The area rezoned for agriculture will be fully subscribed at this point.
- Access is off Gully Road.
- Reference to Flat Creek is an error.

Mr. Herrmann left the meeting at 11:50 a.m.

This is an application for approximately 6 hectares.

Forest Management Branch and NRO Inspection Report - no forestry and timber issues.

Yukon Energy Corporation - requests the north end of this application not include the transmission line. It was noted it is about a kilometre away.

Agriculture Branch - there is a road right-of-way between Lots 813, 814 and 771. The recommended road right-of-way is 30 metres. This area has already been rezoned to agriculture. The eastern boundary of this application can be moved to allow for a 6-hectare parcel, but at the expense of the grazing application behind it. A 30-metre right-of-way, as opposed to a 60-metre right-of-way, would mean that the boundary would not have to be adjusted.

The need for independent access to the grazing lease was discussed.

Land Use - may require a land use permit if constructing access.

Kwanlin Dun First Nation - concern about water use from Flat Creek, should consider applications in this area together once the results of study are known. Agriculture responded the statement about Flat Creek is in error. The applicant stated they are considering a well. Greenhousing requires a smaller scale of water.

Building Safety - is zoned agriculture, 6-hectare minimum, development, building and plumbing permits will be required for any new structures.

Transportation Engineering - although 60 metres is excessive, the *Highways Act* requires this width. A grader turnaround will be required at the end. The *Subdivision Act* allows for a narrower right-of-way. If it doesn't say "road", it isn't a road.

Community Services Land Planning - because this is a subdivision creating parcels out of vacant land, it does not fall under the *Subdivision Act* guidelines. So, the *Highways Act* would apply. Leaving it as a space is an option, but problems could occur if somebody applied for a lot enlargement. No problems, as designated for agriculture.

No letters of opposition were received.

Yukon Electrical Co. Ltd., Lands Policy, Environment, Tourism and DAP Branch, ECO had no concerns.

Recommendation: Approval in principle for a 6-hectare parcel, subject to respecting a 60-metre right-of-way for the access road and a 30-metre offset from the centre line of Gully Road. Subdivision approval will be required. No grader turnaround will be required as this can be accommodated within the 60 metre right of way.

The next LARC meetings are Wednesday, December 14 and Thursday, December 15, 2005, 9:00 a.m. the large boardroom at 419 Range Road, Whitehorse.