

MINUTES

LAND APPLICATION REVIEW COMMITTEE
Large Boardroom, 419 Range Road
Whitehorse
October 12, 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
Tanya Groundwater	E.M.R., Lands
Eric Petersen	E.M.R., Lands
Roger Horner	E.M.R., Lands
Randy Lamb	Environment
Edward Lee	Lands, Agriculture Branch
Todd Pinkess	Environmental Health Services
Greg Hare	Heritage, Archaeology
Judy Linton	C.S., Land Planning
Glenda Koh	C.S., Land Planning
Eero Karanka	DFO
Bernie Cross	H.P.W., Transportation Engineering
Cathryn Paish	Tourism
Shanna Epp	Tourism
Dan Cresswell	Carcross Tagish First Nation
John Pattimore	Ta'an Kwäch'än Council
Joe Bellmore	LSCFN
Didier Moggia	Applicant #2005-0090
Marie-France Pourreaux	Assisting Mr. Moggia
Garth & Yvonne Nolan	Applicants #2005-0191
Shelly Morgan	Intervenor #2005-0090
Martine Lelevier	Applicant #2005-0195
Florian Gehmair	Ag Applicant #526-2
Tony Gaw	For Ag Applicant #791
C. J. Constable	Applicant #2005-0199
Joyce Bachli	Recording Secretary

Review of Agenda

Delegates scheduled: Didier Moggia is scheduled at 9:30 a.m., Garth and Yvonne Nolan at 10:00 a.m., Martine Lelevier & intervenor Chris Stubbins at 10:15, Florian Gehmair at 10:30 a.m.; Lorena Chamorro at 10:45 a.m., and Catherine Constable at 11:00 a.m.

Minutes-September 7 and 8, 2005, Regular LARC Meeting

No changes were requested to the minutes, and they were approved as presented.

Glenda Koh, Community Services, was introduced.

OLD BUSINESS

1. #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

Application withdrawn and closed at applicant's request.

2. #2005-0090: Didier Moggia – 3 ha, parcel South of Fox Lake, Klondike Highway, Quad 105E/03 – Rural Residential – Appeal – new location is km 239 Klondike Highway east side, between power-line and highway (LARC June 9, 2005)

Mr. Moggia and Marie-France Pourreaux (interpreter) attended at 9:30 a.m. to speak to the adjusted, relocated application. The process was explained, and roundtable introductions were made.

Lands provided an update: Mr. Moggia was originally above the powerline. The application has been relocated across the powerline between the highway and the powerline. Disturbance to the countryside will be minimal with the construction of a home. One of the main problems is access due to steepness and line of sight. There is a four-by-four road, which provides access to the powerline. Notification to all neighbours has occurred, and the main concern is access, including use of the trail by a business that runs horses. One letter and one phone call were received. No matter which way the parcel is situated, it will still require access. Driveway is fairly steep. Three site inspections have been conducted, and the applicant has been very cooperative in identifying a suitable parcel. There is no evidence of people walking on the ridge, and Mr. Moggia has relocated.

Mr. Moggia advised the Committee on the reason he chose this parcel

Lands Policy suggested there may be an opportunity to have more lots in this area to create a development node and assist with costs of power and other amenities. It was noted this is a 45-minute drive from Whitehorse.

Transportation Engineering advised the existing four-by-four road is considered a highway under the Highways Act, however, there is no legal access to the Klondike Hwy. Therefore it may not be used to access this application area, and Transportation will not issue an access permit at this location due to sight distance. One spot on the straight stretch has been selected as a safe location for legal access, maximum grade for driveway is estimated at 8 percent. This would become a public road and can only be gated at the property line.

Mr. Moggia and Ms. Pourreaux left the meeting at 10:00 a.m.

On June 9, 2005 LARC recommended approval in principle for a minimum two/three-hectare parcel pending reconfiguration to avoid the trail and picnic area (to be identified by the Green's by flagging). The potential on the highway side of the powerline is to be examined with the applicant. A new parcel location was identified by the applicant and Lands, and the location is being brought back to LARC.

LCIS noted that the new location is within the traditional territories of the Kwanlin Dun First Nation and Ta'an Kwach'an Council. The area is not in conflict with the settlement land of either First Nation.

Emailed Letter received from Jonathan Henkelman & Jill Johnstone dated October 7, 2005 outlining the comments specifically relating to the use of the existing access

Building Safety comments: As there is no zoning, Building Permits/Plumbing Permits will be required on all new buildings.

Community Services Land Planning: There is no planning/zoning. This new site is preferable to the old one. The proposed access, coming straight off the highway, seems reasonable. The preference is for the applicant to be close to the road. A nodal settlement pattern is recommended. The department supports a small planned development, i.e. concentrating development in one area, with retention of lots of open space around the development.

Tourism: concerns have been addressed by moving away from the original trail.

Transportation Engineering: will have to construct access where department directs. The chance of expansion is there, but at this point a driveway is all that is required. The four-by-four road is unacceptable. See comments already made.

Lands Policy: given the pressure for rural residential lots, should consider if there is any opportunity to identify future sites to Land Development for a few more lots in planned development for a rational settlement pattern. This would assist with costs of infrastructure and ensure no wastage of land.

Ta'an Kwäch'än Council: This application was approved before the discussion regarding the power installation under the Rural Electrification Program. The Board voted "no" due to unplanned development possibility.

There was considerable discussion whether or not more lots should be developed in this area, the potential for spot applications, settlement patterns and the possibility of a small planned development. It was noted that Lands Branch has not received any other formal applications in this area.

Heritage: Did not look at the revised application. The bench is considered low archaeological potential, no heritage concerns.

Fisheries and Oceans, Environment, Agriculture Branch and Environmental Health Services had no concerns.

Recommendation: Approval in principle for a 2.3 hectare parcel. The four-by-four trail is not to be utilized as access to this lot or any future development; planned new access shall be constructed to the satisfaction of Transportation Engineering, access should be sufficient to facilitate future development. Subject to subdivision approval.

Action #1: Recommend that Community Services, Land Development examine the area for potential development of a few more lots, set the land aside; spot applications (Lands and Agriculture) not to be accepted until a determination is made on the potential.

NEW BUSINESS

1. #2005-0201 Randy & Lara Dyck – 3.5 ha, near km 42 Nahanni Range Road & Dolly Varden Creek, Quad 105A/15 – Rural Residential

The applicants written comments - We have desired rural residential land in the Yukon for many years, especially to escape the busy city life. This is our third attempt at applying for land. We enjoy the solitude of the wilderness and have no interest in city life. We desire a property on which to build our primary residence, and eventually a workshop, large greenhouse, and gardens to grow our own produce. We have lived in remote locations in the past and understand all that is required to do so. We purposely chose an area alongside a creek for our water supply and micro hydroelectric power for all our energy needs.

NRO COMMENTS:

Existing improvements: There are no improvements on area applied for; soil: silt and gravel, shallow duff layer (1-5cm); vegetation cover: lodgepole pine approximately 10-12 meters tall; with lichen and moss forest floor covering; terrain: northern half of the application area is flat; southern portion of the application is rolling with 20%-30% grades; waterbodies: small unnamed creek to the East of the application approximately 110 meters away; exposure: application is of a southern exposure; access roads: adjacent to the Nahanni Range road (Kilometre 42); suitable for building foundation: area is suitable for building foundation; some portions of the site may require additional groundwork for building construction; suitable for septic: area may be suitable for septic system; distance to water supply: Unnamed creek is approximately 100 meters from the application; subject to flooding: the parcel is located on high ground; flooding is highly unlikely; environmentally sensitive areas: the parcel does not include any environmentally sensitive areas. General comments: Though the geographical area is suitable for development; the topographical features would likely impact or limit development on the southern half of the applied for parcel. Based on the current client sketch, it appears, the proposed locations of the home, septic field, garage and wood working shop will be on a slope varying from 20-30%. Should the client choose to build on primarily level ground the parcel could be realigned to the west to accommodate the proposed developments.

Watson Lake Mining Recorder: No conflicts.

LCIS: The area under application is within the traditional territory of the Liard First Nation. The area being applied for is not in conflict with the interim protected parcels of land that are currently being held for that First Nation.

Property Assessments: Land Use May need a Land Use Permit if constructing access.

Building Safety: As there is no zoning Building Permits/Plumbing Permits will be required on all new buildings.

A letter was received from Liard First Nation dated October 4, 2005 stating that Liard First Nation has reviewed the above stated application to purchase and has the following comments. Liard First Nation greatly opposes the granting of this application to purchase this parcel of land. Firstly, the affected trapper has to be notified in advance for any concerns and comments that the trapper may have. Secondly, Liard First Nation has not finalized land selection or sites specifics. As this area is in the vicinity of Liard First Nation's interests, we oppose the granting of this purchase until such time that we finalize our land selections and sites specifics. And thirdly, has an investigation been conducted in regards to the adverse affect that human habitation will cause to the fish and wildlife?

Letter dated October 7, 2005 received from May & Charles Bronhagen, trapping concession owners stating their opposition to the application and noting specifically:

1. This area is too close to my trap line cabin and the area I trap. A large percent of my trap line is mountainous with numerous swamps limiting readily accessible land along the road for trapping.
2. At present there are 3 abandoned cabins located within a 5 mile radius of my cabin located at Dolly Varden Lake.
 - The first cabin is at 16 mile
 - The second is at 16 mile
 - And the third is at 18 mile.
 - (All of those cabins were residential and area presently abandoned; they are unsalvageable due to damage done by wildlife and the environment).
3. This area is isolated and the only access is the Nahanni Range Road which is presently maintained by YTG on a short tem basis. This road has been closed for many years and

- only accessible during the summer. Its future is always in question due to the operation of the mine, to where it leads.
4. The harsh cold winters, enormous snowfall, and rugged terrain makes it intolerable for the inexperienced.
 5. I would like to see as much of this area preserved for my First Nations Family who wants to continue trapping this traditional area for years to come with little interference from further residential development.
- They also note that they have support for their position from the Liard First Nation.

Transportation Engineering commented the applicants should be made aware that winter maintenance of the access road is tied to the mine, i.e. if the mine shuts down, Yukon Government will likely stop maintaining the road.

Lands commented the Nahanni Range Road has never been classified as a year-round road until the mine came back into operation.

Environment: The applicant contacted the department. The application does not overlap any key wildlife habitats, although there is late winter habitat for moose a few kilometres away, which should not be a problem. The creek has noted fisheries values; although the application appears to be set back an adequate distance. The proposed micro-hydro operation will be a future, separate application process, which will probably raise concerns for fish. They have not heard directly from the trapper.

Community Services Land Planning commented there is no planning or zoning. The size meets the guidelines. The parcel should be moved closer to the highway to be adjacent to the highway; appropriate setback from the creek. The micro-hydro would require a lease.

Chair Bryony McIntyre advised the applicants applied at Fish Lake, as well as a remote location through DIAND. The slopes referenced in the NRO's report represent a couple of benches. There is no moratorium situation vis-à-vis outstanding land claims negotiations. The reason the applicants went so far down the road was because of access to water and selecting a spot not already chosen by Liard First Nation.

Tourism, Fisheries and Oceans, Lands Policy, Heritage, Agriculture Branch and Environmental Health Services had no concerns.

Recommendation: Deferral to December 2005 LARC. Lands to request clarification on the specific trapping interests at the location from the trapper..

2. #2005-0191 Garth & Yvonne Nolan – 5.25 ha, adjoining Lot 645, Group 804, Plan 41717, Mile 8 Carcross Road, Quad 105D/07 – Residential Enlargement

Garth and Yvonne Nolan, along with intervenor Shelly Morgan attended at 10:00 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Nolan explained the main purpose for the enlargement is the smallness of their lot does allow them enough room for anything. They plan on retiring to the property in eight years and would like to construct a small shop, proper septic system and have a couple of horses. Presently they have a holding tank. They would also like to expand the lot to have more privacy. They have spent a lot of money on cleaning up the lot. The paper had a typo, i.e. Lot 648, rather than 645. The topography is quite flat. Soil condition is mostly clay. The well is located on the titled property.

No comments were received from the Hamlet of Mount Lorne.

Ms. Morgan commented she has been living in the area for 25 years. She moved out to the area because she enjoys her privacy. It appeared that the application would be right up against her fenceline. Mr. Nolan explained that's not the case. Mrs. Nolan stated that they don't plan a lot of changes; everything will be located in the yard they already own. Privacy, installation of septic and building a shop and corral are their main plans.

Chair Bryony McIntyre explained the process for determining the cost of the land. An estimate of the cost will be provided before any money is expended on surveying.

Community Services Land Planning reviewed the rezoning process in relation to existing and proposed regulations and the timing of the passage of the Mount Lorne Regulations.

Mr. Nolan advised that during the time they have been in the area, they have not seen any caribou but moose, deer and bear. Ms. Morgan added she has seen wolves in the area.

The Nolan's and Ms. Morgan left the meeting at 10:15 a.m.

The Nolan's are applying for a lot enlargement to have a septic system, privacy lot expansion, build a shop and possible horse corral.

NRO COMMENTS:

No existing improvements; soil: fluvial sands and gravels, thin organic mat; vegetation cover: moss layer, mature spruce, pine and aspen, immature white spruce, lodge pole pine, trembling aspen; various shrubs and herbs; terrain: flat to rolling; waterbodies: near Cowley Lake; exposure: Nw exposure; access roads: off South Klondike Highway; suitable for building foundation and septic; distance to water supply: adjacent Lot 645; not subject to flooding; no environmentally sensitive areas. General Comments: Area is suitable for intended purpose. Mature timber on site, 110 m³/ha. No further concerns with application area.

LCIS: The area being applied for is within the traditional territories of the Kwanlin Dun First Nation (KDFN) and Carcross-Tagish First Nations (CTFN). The application area is not in conflict with the settlement land of KDFN or interim protected parcels being held for CTFN.

Property Assessments: No RETP concerns

Building Safety: Enlarge to six hectares to meet existing regulations & development, Building & Plumbing Permits will be required on any new buildings

Letter from Shelly A. Morgan: I have been the legal owner of lot 648 group 804 since July 1980. I chose to live in this area rather than in town to be away from neighbours and disturbances. If the Nolan's lot enlargement is approved I would like to request the following two points be enforced: That a minimum 200m buffer zone be left between properties. That the Nolan's guarantee that the proposed area will not be subdivided.

Agriculture Branch noted that the highway corridor (greenbelt strip) was created to prevent further development; however, this is not creating a new property but is just an enlargement.

Environment: Want it to be noted that the existing lot is within known caribou winter range and is adjacent to known caribou key winter range. Under the Southern Lakes Caribou Recovery program, the herd has tripled, and it is anticipated to double in the next few years, with their range expanding. However, the applicant resides on the lot and has the right to enlarge.

Community Services Land Planning: The parcel is in the Mount Lorne planning area and is in an area designated for Greenbelt in the Plan, CS does not support an enlargement into the Greenbelt designated area. The proposed zoning shows the area as HC-Highway Corridor.

Application may not be accepted for Subdivision Approval as it does not conform with the planning scheme.

Chair Bryony McIntyre noted the hamlet has very recently supported similar expansion occurring into such zoning with small lot sizes striving to meet the six-hectare minimum.

Whitehorse Mining Recorder, Land Use, Tourism, Fisheries and Oceans, Lands Policy, Transportation Engineering, Heritage and Environmental Health Services had no concerns.

Recommendation: Deferral, which, if a process and agreement between the parties can be accomplished, can become an approval in principle if inconsistencies with the Mount Lorne Plan, which designates the area as greenbelt, can be resolved in relation to the current and proposed regulation, which requires a minimum six-hectare residential lot size. Lands, Community Services and the Hamlet of Mount Lorne will continue discussions. The application will only come back to LARC if no solution can be reached.

3. #2005-0195: Martine Lelevier – 2.6 ha, west side of km 127 South Klondike Highway, near CTFN S-74B, Quad 105D/07 – Rural Residential

Martine Lelevier attended at 10:22 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Ms. Lelevier advised she has a dog team. It is not easy to find a place where there are no people and no wildlife concerns. She does not plan on having a lot of dogs and is, therefore, only requesting a smaller parcel. The plan is to keep the dogs inside the bush and locate the kennel on the side close to the road; and as there is no traffic nearby, the dogs would have no reason to bark. Everyone in the vicinity owns dogs.

Community Services Land Planning advised that the parcel is in an area that has Zoning Regulations, rezoning to a rural residential designation would be necessary.

In response to Environment's query and by illustrating on wildlife maps, Ms. Lelevier noted there is flexibility to move the parcel a few hundred meters further north. Regarding the wildlife corridor, the applied-for area is on the edge of a caribou area, and the noise of dogs often causes them to move further away.

Transportation Engineering advised that access will have to be inspected and the applicant may have to reroute her access and apply for an access permit.

Ms. Lelevier left the meeting at 10:35 a.m.

Lands noted that a previous application in the vicinity – 2004-0232 Maureen Boksa, rural residential near Km 122 Klondike Highway – 105D7 was denied Nov 18, 2004 . Parcel zoned hinterland. Potential land use conflicts with commercial tourism on Lot 1032. Approving a residential application would preclude proposed land use planning for the immediate Carcross area. CS, CTFN, CAPC (with input from Tourism) to commence community local area planning exercise to help guide future applications, i.e. a land use plan. Recognition that strip development should not be encouraged in this area.

NRO COMMENTS:

Existing improvements: none; soil: soil is thin, with gravel and well drained; vegetation cover: mixed word mature stand with aspen, white spruce and lodgepole pine; terrain: rocky, area proposed to build structure is flat and suitable; waterbodies: sinkholes are located approximately 200 meters north west of the area under application; exposure: western; access roads: Carcross Road; suitable for building foundation; suitable for septic: N/a; distance to water supply: no water

supply on property under application; subject to flooding: area not subject to flooding; no environmentally sensitive areas. General comments: the area under application has some hilly portions; however, there are suitable areas to construct a residence. Overall the land is suitable for its intended purpose.

LCIS: The area being applied for is within the traditional territories of the Kwanlin Dun First Nation (KDFN) and Carcross-Tagish First Nations (CTFN). The application area is not in conflict with the settlement land of KDFN or interim protected parcels being held for CTFN.

Property Assessments: No RETP concerns.

Land Use: May need a Land use permit if constructing access and/or powerline.

Building Safety: As this piece of land is in the Hinterland Zone, rezoning will need to be required first and for the size of the land, an RC-2 zoning would fit. Development, Building & Plumbing Permits will be required on any new buildings.

No comments were received from the Carcross Area Advisory Planning Committee (CAAPC).

A letter dated September 26, 2005 from Betty A. & Christopher Stubbins outlining opposition to the proposed new lot was read to Committee members.

A letter dated September 23, 2005 from Hugh & Kristine Copland outlining opposition to the proposed new lot was read to Committee members.

Heritage: From the photos, it looks like the property has good, south-facing ridges, and they would like to do an archaeological assessment.

Lands Policy: Planning has been considered for the area. Dog kennels is a land use that warrants management.

Tourism: Impacts of linear development on tourism potential for Carcross, department would like to be a part of any regional/economic planning for the area.

Environment: Tabled a map of caribou radio collar information; adjacent to key winter habitat. Would have less concern if the applicant moved 100-to-300 meters northward. Having a dog yard has large zones of influence and effects on caribou displacement/avoidance, recommend buffer.

Community Services Land Planning: Is not in the Mount Lorne Plan Area; is within the Carcross Development Area, zoned hinterland. Rezoning to country residential will be required. Regarding applying in the highway reserve that is no longer required, original intent was for viewscape protection. There is no update on planning with Carcross.

There was considerable discussion, re: C & TS highways reserve and strip development along the highway; locating the parcel closer to the road or existing development to minimize impacts on wildlife, plus ability to control dog kennel development.

Carcross Tagish First Nation: Land use planning has been put off until they get an effective date (January 9, 2006), very important because of anticipated tourism, wildlife and fisheries concerns and development. If this is approved, it will open up the area for more applications.

Whitehorse Mining Recorder, Fisheries and Oceans, Lands Policy, Agriculture Branch, Little Salmon Carmacks First Nation and Environmental Health Services had no concerns.

Recommendation: Denial of the application. Land Use planning needs to occur in the Carcross development area involving Community Services, Carcross Tagish First Nation, CAaPC, Tourism and Economic Development.

4. Ag App #526-2: Florian Gehmair – 2.0 ha ±, adjoining Lot 1092, LTO 96-20, at the Gentian Lane, Golden Horn, Quad 105 D/10 - Agricultural

Florian Gehmair attended at 10:35 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Gehmair reviewed his application and advised he is looking to extend his existing lot on Gentian Lane. His current lot is non-soil-based, and he would like to expand it to some soil-based activity on the extension he is applying for. The size of his application was reduced from 6 hectares to 2 hectares. In view of obtaining machinery to develop the land, a larger parcel would be preferable. Mr. Gehmair acknowledged the need to maintain a buffer between the residential subdivision of Golden Horn and the agricultural activity and questioned the specifications for the size and composition of the buffer. The trail, in fact, is a cut line. It has been in existence for some time and is not heavily used. Limiting the expansion to the edge of the trail is too severe. A compromise is to maintain the existing buffer zone and relocation of the trail to the other side of the new lot, with a five-metre buffer from the trail. Mr. Gehmair suggested going from the corner of the agriculture reserve and continuing along in a straight line, rather than having the jog to meet the cutline. It is planned to utilize the back of the property as a field. The current agriculture production involves raising turkeys, and Mr. Gehmair wishes to grow organic feed for them to make it a profitable endeavour. The Committee examined the origin of the trail and the fact it goes through the centre of the next lot. Lot 1129 is under agreement for sale. The bottom is part of the agriculture reserve.

Mr. Gehmair left the meeting at 10:45 a.m.

Agriculture Branch: When this application went to ALARC, it was recommended for approval of only the portion of the parcel east of the existing trail. The applicant has indicated he is willing to relocate the trail.

Building Safety: Recommends denial on the basis that the Agriculture Branch Regulations state maximum size for any non-soil-based agriculture parcel is six hectares. The Golden Horn Plan states that the minimum lot size is five hectares. The lot enlargement will be too large for the Agriculture Branch Regulations but too small for the Golden Horn Plan. As the soil does not meet the arability criteria, an amalgamation is no problem.

Community Services Land Planning questioned the application is for soil-based, yet it does not meet the soil-based criteria. Agriculture Branch advised it does meet the criteria, but amalgamation will be necessary. The two-hectares, amalgamated with the six hectares, will become a new agriculture parcel, which meets the arability criteria. With soil-based, crop production is expected. There was extensive discussion regarding size and criteria for soil-based for agriculture. Some of the existing titled parcel may have to be developed (i.e. four hectares) to meet the requirements for soil-based agriculture. Chair Bryony McIntyre noted if Mr. Gehmair gets more land, he has to develop more land, as per the requirement of the Regulations, which is entirely an agreement for sale issue with the Agriculture Branch.

Land Use: May need a land use permit if constructing access.

NRO Inspection Report: No timber volume on the application site, no further concerns. **NOTE:** Well-used trail to west of application area.

Lands, Policy: This is the type of application that it is nice to approve to make an operation more viable.

Environment: There is merit in the argument that there are two buffers from the Golden Horn Subdivision of unequal width; and if the applicant ties in the corner pin of the agriculture reserve and the corner pin of Lot 1129 to the south, precedents is met with adjacent parcels. Willingness to relocate the trail would allow for approval of the application.

Community Services Land Planning: It is within the Golden Horn plan area, and the plan designates the area for agriculture. It is preferable to have a smooth buffer (environmental resource), rather than bump out. The community trail needs to be respected. The development pattern is a bit of a “dog’s breakfast”, and a neat settlement, with a few straight lines would be preferable.

There was considerable discussion regarding details of the buffer and trail relocation.

Tourism, Fisheries and Oceans, Lands Policy, Transportation Engineering, Heritage and Environmental Health Services had no concerns.

Recommendation: Approval in principle for an enlargement to meet the arability needs of the applicant, with opportunity to relocate the trail into the buffer. Agriculture Branch and Community Services to work with the client to determine the appropriate boundaries. Subdivision approval will be required.

5. Ag App #791: Lorena Chamorrow – 6.0 ha ±, adjacent to Lot 1103, CLSR 79154, east of Gentian Lane, Golden Horn, in Quad 105 D/10 - Agricultural

Tony Gaw, appearing for his wife, Lorena Chamorro, attended at 10:45 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Mr. Gaw reviewed the history of this land:

- Found the site seven/eight years ago when he applied for Lot 1103. They have fulfilled their agriculture agreement and received title in the last year or two.
- This 300-metre piece is between Lot 1103 and Lot 1076. There have been a couple of applications, both which were dropped. Yukon Government also proposed using the parcel as a young offenders’ facility for FAS individuals, which was cancelled due to community opposition.
- Mr. Gaw wanted the property to be occupied as a residence for his own wellbeing. A friend of his applied for the land, which was denied for a wildlife corridor.
- Over the last several years, Mr. Gaw has looked at the property and been worried that Yukon Government would want to use it for something detrimental to area residents.
- Mr. Gaw has interviewed several people and researched caribou and their habitat.
- The family wants to expand their business, so they decided to apply for the land themselves. The first application was denied, which was appealed, and the Director of the Agriculture Branch agreed and overturned the ALARC denial.
- Their existing lot is 4.5 hectares, and Mr. Gaw explained he would like to keep the parcel separate in order for his girls to obtain title to one in the future. Presently they supply herbs for Northern Elegance’s kiosk, and they would like to expand their business into a garden centre. Mr. Gaw would like to control people coming to the property by developing a separate retail centre.
- Regarding topography, access is steep but not a problem. He presently has an eight percent access to his lot. The ravine to the west of Lot 1103 can be avoided.
- Mr. Gaw indicated the type of vegetation is thick black spruce and is not a spot where caribou want to access. There are many areas to the west with more sparse pine with poplar. People indicate they have not seen caribou in this area; they are down towards the river or to the west of the ravine closer to the new access. The ravine is very thick bush with overgrown spruce and not favoured by caribou.

- The land is designated for agriculture under the Golden Horn Land Use Plan, which was just signed within the year.
- Agriculture advised under their current policy, they are not allowed to create a non-soil based parcel on nonarable land more than 6 hectares.

Mr. Gaw left the meeting at 11:00 a.m.

Building Safety: If this is a new single lot, agrees with the Agriculture Branch for a 200-to-300-metre wildlife corridor. However, deny if lot extension, as maximum size for any non-soil-based agriculture is six hectares.

Land Use: May need a land use permit if constructing access.

NRO Inspection Report:

Area may be suitable for rural residential, as well and may/may not be suitable for agriculture purposes. North aspect, dark cold soils, moderately-to-well-drained soils; uneven terrain, sloping towards highway. Area has approximately 720 m³ of timber on site, mainly white spruce. No further concerns.

The minimum size for parcels under the Golden Horn Plan is five hectares.

ALARC: Recommended rejection, the main reason was because of wildlife corridor concerns. The client's position is there are already some existing openings west of Lot 1103 and between Lot 1101 and 1104. Under the Golden Horn Plan, the parcel was designated to allow agriculture use. The main objection to this application was due to the biologist's recommendation that all the openings be left alone and no more dispositions. The Agriculture Branch, upon appeal to the Director, approved the application proceeding to LARC review.

Transportation Engineering: Access could be an issue vis-à-vis topography and could be expensive. Access and land use permits will be required.

Environment: Recommended for denial at ALARC, tied in to previous denials in the area. Environment upholds the rejection at ALARC because the corridor is for the movement of caribou and other wildlife in the area. Between the ongoing land disposition and incremental linear development in recent times, the resulting cumulative effects on the distribution and movement of caribou and other wildlife is increasing dramatically. In the Golden Horn Plan says "unexercised agriculture options and agreements should revert to the land use designation of "environmental resource," which never happened with previous denials. When Tony Gaw's agriculture application, #564, was approved, one condition was it was to be buffered from the adjacent application to leave room for a wildlife movement corridor. The department prefers a 100-meter buffer. Under the Southern Lakes Caribou Recovery program, the herd has tripled (from 400 to approximately 1300/1400), and it is anticipated to double in the next few years, with their range expanding. Caribou have been documented on both sides of the highway. Previous expressions of interest may come forward, as well.

Community Services Land Planning: It is within the Golden Horn Plan (November, 2004) in an area supported for agriculture development by the Plan (Rural Agriculture One - small lots with a minimum lot size of five hectares). The wildlife issues held up approving the Golden Horn Plan for a few years, and with the final approval and sign-off of the plan by all departments, the issue is now dead. The applicant is proposing a 100-meter buffer, and there is a large opening to the east and a very large opening to the west (Kwanlin Dun First Nation land selection). Decisions need to be consistent with the Golden Horn Plan.

Carcross Tagish First Nation: There are wildlife concerns, i.e. moose and caribou, and good lichen areas.

There was considerable discussion, referencing the plan, re: complying with the Golden Horn Plan versus wildlife concerns and the need to retain a 100-metre buffer/corridor. A conservation easement was suggested as an option to accommodate the wildlife needs and still meet minimum lot size. The other option is enlargement and consolidation with present lot owned by Mr. Gaw.

Tourism, Fisheries and Oceans, Lands Policy, Heritage, Agriculture Branch and Environmental Health Services had no concerns.

Recommendation: Deferral to February, 2006, allow Agriculture Branch to discuss options of enlargement with client being a standalone five-hectare, respecting a 200-metre wildlife buffer, enlargement or 6 hectare parcel subject to a conservation easement for the wildlife buffer.

6. #2005-0199: Catherine Constable - 0.42 ha, adjacent to Lot 1001, south end of Fox Lake, Quad 105E/03 – Recreational Enlargement

Catherine Constable attended at 11:00 a.m. to speak to the application. The process was explained, and roundtable introductions were made.

Ms. Constable invited questions/comments.

Environmental Health Services advised a site inspection revealed there is a problem out front with a very extreme slope from the North Klondike Highway, and it would be unwise to install a septic system in that area. It would be wise to expand in the direction of the outhouse, as noted on the sketch. Any commercial operation will require further liaison with their office.

Regarding commercial use, i.e. renting the cabin out to tourists, this involves around five weeks between May and September. In the long run, if Ms. Constable retires to the property it would be more of a bed and breakfast. The rustic atmosphere will be maintained. She did not purchase it as a commercial venture, it just happened.

Regarding the lot configuration, Ms. Constable explained why she had sketched the line along the waterfront. It makes sense to move everything in the direction of the lot enlargement. Chair Bryony McIntyre advised this will be determined with a survey, which will make provision for required setbacks.

Ms. Constable left the meeting at 11:07 a.m.

The application for an enlargement is for a combination of four reasons. Privacy and peaceful enjoyment of the property. To legalize the existing outhouse and driveway, which are wholly or partially on crown land adjacent to the lot. To be able to install a septic system. To be able to build a year-round residence on the property, for my retirement.

NRO COMMENTS:

Existing Improvements: yes, small shed; soil: glacial morainel till, silts, organic mat; vegetation cover: mature spruce (white), immature white spruce, some aspen, various shrubs and herbs; terrain: sloping toward Fox Lake – gentle slope; waterbodies: adjacent to Fox Lake; exposure: western; access roads: adjacent to Klondike Highway; suitable for building foundation; possibly suitable for septic; distance to water supply: 200 m; not subject to flooding; environmentally sensitive areas: lake-side vegetation. General comments: area may be suitable for intended purpose. Area is sloping toward Fox Lake. No further concerns.

Whitehorse Mining Recorder: No conflicts

LCIS: The area being applied for is within the traditional territories of the Kwanlin Dun First Nation (KDFN) and Ta'an Kwach'an Council (TKC). The application area is not in conflict with the settlement land of either First Nation.

Property Assessments: No RETP concerns

Building Safety: Approval for an extension to allow the lane way to be on their own property. As there is no zoning Building Permits/Plumbing Permits will be required on all new buildings

Community Services Land Planning: If existing lot is undevelopable due to topography, operational need should determine the size of the enlargement, i.e. access versus complete building site.

Chair Bryony McIntyre advised an application can be made to double the size of a small lot such as this even if it is on the waterfront.

Transportation Engineering: Noted possible operational difficulties of locating a septic system on the lot. A site visit indicated the ground may be frozen. Requested access be set back from the existing right-of-way 15/20 meters to prevent infringing on driveway access. The access is quite steep.

Land Use, Tourism, Fisheries and Oceans, Lands Policy, Environment, Heritage, Agriculture Branch and Environmental Health Services had no concerns.

Recommendation: Approval in principle; a site visit by Transportation Engineering, Community Services Land Planning, Lands and the client to determine best lot configuration to meet septic requirements, avoid unsuitable land, resolve driveway issue and maintain setback from the lake. Subdivision approval will be required.

7. #2005-0192: J. Richard Metcalfe – 4.71 ha, adjoining Lot 1015, 2003-0099 LTO, near little Braeburn Lake, Quad 105E/12 – Rural Residential

Applicants written comments: When I applied initially for Ag App 455, it was a much larger parcel. It included land to the northwest towards the unnamed lake. In the land claims process, I was backed off to the current size. The parcel I am applying for was to be a buffer between Ag App 455 and settlement land. I have settlement land abutting directly north, so I am not clear on that reasoning. I am applying for the current parcel as my residence. I also do not want the parcel purchased by some other department who would use it for piling any type of industrial or other material, leaving an unsightly situation. If the parcel is to be a buffer, it should be designated as such. If not, I should be able to apply for it.

NRO COMMENTS:

Existing improvements: no new improvements, multiple survey pins observed throughout this site (refer to photos). Old outhouse foundation and hole found on SW side of applied area along with day campsite (fire pit and old bows); soil: clay, silt, loam, ash and some sand. refer to soil classification maps. Area is well drained; vegetation cover: grass understory with some woody shrubs, spruce and aspen seedlings; terrain: flat topography with minimal elevation change; waterbodies: none observed on applied area. Little Braeburn Lake located 100 meters west of applied area; exposure: flat all quadrants exposed; access roads: follow Klondike Highway to Kilometre 284. On west side of Klondike Highway there is a new access road. Follow access road west approximately one kilometre to applied area. Access road in excellent condition! Suitable for building foundation: yes, well-drained site; suitable for septic: yes, well drained site; distance to water supply: 100 meters; subject to flooding: no flooding anticipated above high water mark; no environmentally sensitive areas observed. General Comments: Site acceptable for intended purpose. Area is "sandwiched" between agricultural application and LSCFN land.

Access road to site is approximate to access application. West side of applied area shows activity of "day use"(old outhouse, fire pit, etc & foot path existing around lake buffer and "west applied" boundary). No concerns at present time. Photos of site, relevant access road and bordering land attached.

Whitehorse Mining Recorder: No apparent conflict with mineral dispositions at coordinates provided.

LCIS: The area under application is within the traditional territories of Little Salmon Carmacks First Nation, Ta'an Kwach'an Council and Kwanlin Dun First Nation. Although the area under application does not conflict with the settlement land of any of those First Nations. Note that there is a residual "interim protection" under a portion of the application area that relates to the configuration of Ta'an Kwach'an Council S-189 as at Effective Date of the Ta'an final agreement. At some point the configuration of S-189 was changed and when it was surveyed it became the parcel of land as shown on the mapping and the sketch for this application. Unfortunately, believe the interim protection for the original configuration for Ta'an would still be valid and might encumber the land that Mr. Metcalfe wants title to. the Settlement Land Committee members would be able to confirm if this is actually the case.

NOTE: Lands Branch Policy and Support advises that the interim protection around TKC's proposed Site Specific parcel 189B has not been removed. A large northerly portion of the application is thus currently interim protected, and not available for disposition. A regulation remedying this is proposed though timing is uncertain.

Land Use: This applicant had a former land use permit, which was closed in July 2005. If they want to construct a new access or powerline, they will need to reapply for another land use permit.

Building Safety: Deny, leave as a buffer between Mr. Metcalfe and the First Nations Land.

Little Salmon/Carmacks First Nation noted that they had submitted a letter and provided the following comments:

The Lands and Resources Department of the Little Salmon Carmacks First Nation (LSCFN) has reviewed the above noted application and have the following comments:

- In his application, Mr. Metcalfe refers to a buffer that may or may not have been negotiated or even discussed when referring to his agricultural lease, immediately east of this area, and the Ta'an Kwäch'än site specific immediately to the west. If the area was discussed, Mr. Metcalfe would not be able to apply for the land anyway, as if it was to be a buffer. Why was there not a similar request for a buffer between LSCFN parcel R-49B and his application directly south of it?
- The area has several campsites that are owned by different First Nation individuals. LSCFN citizens use the area for netting of freshwater fish. Mr. Metcalfe indicates that he ascertains no fish and wildlife features in the area, which is false.
- The use referenced in the NRO's comments relates to the TKC site.
- The First Nations may develop the site and locate houses in the area.

Chair Bryony McIntyre explained that the wording in the Order-in-Council for the interim protection did not fall away when the survey was registered, which means it is still in place, which has to be remedied. The left-over sliver may have resulted due to survey. Nothing can occur until the interim protection order is resolved.

Agriculture Branch: Originally Lot 455 was a very large area; because of land claim negotiations and selections and access concerns, it ended up much smaller than originally applied for. The requirement for relocation of existing trail has been completed. The road south of Lot 455 is the relocated right-of-way. The branch questions why Mr. Metcalfe has applied for this lot, as he is

permitted to build on his agriculture lot, which is under development. Access was a concern in the past.

Environment: Reviewed what occurred in the past regarding access and First Nations' land claims.

Heritage: Were involved in the beginning when was an agriculture application, found one or two sites at the north end of the lake and asked for 100-metre buffer; appears to be about 160 meters from the lake. The area that was created for a buffer is now a Ta'an Kwäch'än Council selection.

Transportation Engineering: Access is not an issue; amalgamate into agriculture application. Agriculture Branch responded that the boundary was well thought out after working with a lot of people before the survey. They question whether it is better to leave this strip as a buffer or allow it to become private property.

Environment: There are a number of wildlife values in the area, mapped on key habitat database as key habitat for bald eagles and beavers in the area. Salmon have historically spawned up to the mouth of Klushu Creek on Little Braeburn Lake. Little Salmon Carmacks First Nation has been working for the past five years on beaver management projects to restore the salmon run up Klushu Creek.

Community Services Land Planning: No planning or zoning; odd the applicant is applying for rural residential land when he has an agriculture parcel next door he can build on. The department suggests it be retained as a buffer or amalgamated into the agriculture parcel if suitable agricultural land. As a 4.7-hectare parcel, it is subdividable, which is a concern. The application is not supported.

Carcross Tagish First Nation: Support the buffer or amalgamation with the agriculture parcel.

Tourism, Fisheries and Oceans, Lands Policy and Environmental Health Services had no concerns.

Recommendation: Denial, to the land is not currently available for application because of the interim protection issue; in future consider allowing the applicant to amalgamate a portion with his current agriculture parcel, with enough land retained for access into Little Salmon Carmacks First Nation's parcel, retain 30-or 60-metre right-of-way of future road/buffer.

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