



BOARD REPORT

TO: Chair and Directors

File No: LC2527A PL20160156

SUBJECT: Electoral Area A: Agricultural Land Commission (ALC) Application
Section 21(2) – Subdivision LC2527A Neil Tobler and Verena Tobler

DESCRIPTION: Report from Candice Benner, Development Services Assistant, dated
April 28, 2017.
2311 and 2379 Campbell Road, McMurdo

RECOMMENDATION #1: THAT: Application No. LC2527A, Section 21(2) Subdivision in the ALR, for the north east quarter of Section 30, Township 25, Range 20, W5M, Kootenay District, Except Plans NEP64113, NEP72158, and NEP91075 be forwarded to the Provincial Agricultural Land Commission recommending approval of Proposed Lot 1 only, on this 18th day of May, 2017.

SHORT SUMMARY:

The subject property is located in the McMurdo area of Electoral Area A. The owners wish to subdivide the parent parcel into three lots of sizes 14.3 ha, 22.12 ha, and 16.0 ha, so the two owners will each have their own title in addition to sharing ownership of a third lot.

VOTING:	Unweighted Corporate <input checked="" type="checkbox"/>	LGA Part 14 (Unweighted) <input type="checkbox"/>	Weighted Corporate <input type="checkbox"/>	Stakeholder (Weighted) <input type="checkbox"/>
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BACKGROUND:

PROPERTY OWNER: Nelli Tobler and Verena Tobler

AGENT: Tom Coughlin

ELECTORAL AREA: A

CIVIC ADDRESS: 2311 and 2379 Campbell Road

LEGAL DESCRIPTION: The north east quarter of Section 30, Township 25, Range 20, W5M, Kootenay District, Except Plans NEP64113, NEP72158, and NEP91075 (PID: 016-530-870)

SIZE OF PROPERTY: 52.4 ha

DESIGNATION: N/A

ZONE: N/A

ALR: Yes, approximately 60%

CURRENT USE: residential

PROPOSED USE: residential

SURROUNDING LAND

USE PATTERN: North: Crown, Residential
 South: agriculture, woodlot, residential
 East: woodlot, residential
 West: agriculture, woodlot, residential

SITE COMMENTS: The parent parcel is divided by Campbell Road. On the portion of the parcel northeast of the road, there are three single family dwellings, two of which the current owners occupy and one is the original homestead residence. If the parcel were subdivided as proposed, two of the residences would remain on one lot and one residence would be on another, the third proposed lot is currently vacant. There are some watercourses that flow through the land. Most of this area is within the ALR.

The parcel is mainly flat with a mix of open pasture and densely treed areas. The portion of the parcel southwest of the road has slopes 2%-30%. There is a small portion of this area that is within the ALR. Currently the owners have horses on the parcel.

SOILS CAPABILITY:

The subject parcel is approximately 60% within the ALR. The Canada Land Inventory indicates that:

Approximately ½ of the property is Class 4 soils with stoniness and topography as limiting factors. Soils are not improvable.

A portion of the parcel has 80% Class 5 and 20% Class 6 soils with stoniness and topography as limiting factors. These soils are not improvable.

A portion of the parcel is Class 5 and 30% Class 6 soils with topography and stoniness as limiting factors.

The soils in this area are improvable to 60% Class 4 and 40% Class 5 soils with stoniness and topography as limiting factors.

A portion of the property is 50% Class 4, 20% Class 5 and 30% Class 6 soils with stoniness and moisture as limiting factors. These soils are not improvable.

HISTORY:

There have been a few ALC applications made in the area. See ALR History Map.

- 1825 (1984): 2 lot subdivision approved
- 1858 (1985): CSRD application for block exclusion/inclusion in Nicholson-Harrogate area approved
- LC2207A (1996): 1 lot subdivision approved with inclusion of land into the ALR
- LC2325A (2006): Subject parcel – 11 lot subdivision refused, application amended to 5 lots which ALC also refused, but ALC did approve one 8 ha lot;
- LC2351A (2007): 20 campsites approved
- LC2366A (2008): 4 lot subdivision approved with proposed boundaries to be along ALR boundary
- LC2373 (2008): 1 lot subdivision approved
- LC2274A (2007): 5 lot subdivision approved

POLICY:

Electoral Area 'A' does not have an Official Community Plan and the subject parcel is without Zoning Regulation.

Subdivision Servicing Bylaw No. 641

Schedule "A" Levels of Service in Bylaw No. 641 indicates that all properties to be subdivided for single family residential use proposed to be serviced with an on-site sewage disposal system and an independent on-site water system must be a minimum of 1.0 ha in size.

The proposed parcel sizes of 14.3 ha, 22.12 ha, and 16.0 ha would meet the minimum parcel size for servicing in accordance with Bylaw No. 641.

SERVICING:

The existing dwelling for proposed Lot 2 is connected to a shallow well and septic system. The two dwellings located on the proposed Remainder each have their own independent connections to wells and septic systems. If this ALC application is successful further requirements and investigation into servicing would be required in accordance with Subdivision Servicing Bylaw No. 641 through the subdivision review process.

FINANCIAL:

There are no financial implications to the CSRD with this application.

KEY ISSUES/CONCEPTS:

The owners of this parcel would like to subdivide the land into three lots. Proposed Lot 2 and the Remainder have existing residences that the current owners each live in; they would like to subdivide the land so that their dwellings are on independent lots and will have separate titles. Proposed Lot 1 does not have a residence and the owners intend to share ownership of this land after subdivision.

In 1985, the CSRD initiated an ALR boundary review of the Nicholson-Harrogate area. Over three years and through significant consultation with the ALC and the public, a number of parcels were excluded from and included into the ALR; the subject parcel was identified as a property to remain in the ALR and was not considered for exclusion during this process. The current owners did not own the subject parcel at that time.

In 2002, the current owners completed a three lot subdivision which included the creation of two 1 ha lots on the south side of Campbell Road; these parcels are located outside of the ALR.

In 2006, the current owners submitted an application to the ALR; they proposed an 11 lot subdivision which the ALC refused; the owners amended their application to request a 5 lot subdivision, which the ALC also refused. At that time the ALC reported that the subject parcel lands are capable and suitable for agriculture and that a subdivision application as proposed would negatively affect the potential for agriculture on the property and the proposal was inconsistent with ALC mandate. The ALC did allow for a single 8 ha lot for a portion of the land located north of Campbell Road, which the owners did follow through with and subdivide.

A portion of the parcel in the northeast is within the Birchlands Creek High Hazard Fan Area; this area has been identified as having a high risk of damages from flooding, erosion, and/or debris flow. CSRD staff are in receipt of a letter from the province, May 15, 2002 that indicates that the subject property may now be outside of the hazard area. If this application is approved by the ALC and the owners continue with the subdivision process, further information regarding the hazards identified will be investigated.

The parcel is in an area without an OCP or zoning bylaw but does have Subdivision Servicing Bylaw No. 641; the proposed lot sizes would meet the minimum parcel size. The agent has submitted two letters that provides information on the proposal and is attached to this report for review.

SUMMARY:

Development Services staff does not support the subdivision of Proposed Lot 2 for the following reasons:

- The agricultural land currently supports agricultural activities and land capability can be improved;
- The ALC previously approved an 8 ha subdivision for the north portion of the parcel and refused further subdivision of the land;
- The proposed subdivision layout of Proposed Lot 2 would cause fragmentation of ALR land;
- The owners have the option to subdivide land that is located outside of the ALR

Development Services staff is therefore recommending that the Board send a recommendation of approval for Proposed Lot 1 only to the ALC for the following Reasons:

- Campbell Road is an pre-existing separation of the parent parcel and Proposed Lot 1;
- The proposal does not negatively affect the current and future agricultural capability of the parcel;
- There would be very minor fragmentation of ALR lands

IMPLEMENTATION:

If the ALC approves this application, the owners will be able to apply for subdivision.

COMMUNICATIONS:

The recommendation of the Board will be forwarded to the ALC for consideration during its review of this application.

DESIRED OUTCOMES:

That the Board endorse staff recommendation.

BOARD'S OPTIONS:

1. *Endorse staff recommendation; application LC2527A will be forwarded to the Provincial Agricultural Land Commission with a recommendation of approval only for Proposed Lot 1.*
2. *Forward application LC2527A to the Provincial Agricultural Land Commission recommending approval of the application as submitted.*
3. *Forward application LC2527A to the Provincial Agricultural Land Commission recommending refusal of the application as submitted.*

4. *Defer.*
5. *Any other action deemed appropriate by the Board.*

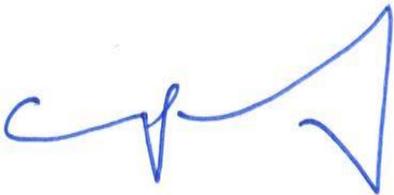
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Agricultural Land Commission Application Package

Report Approval Details

Document Title:	2017-05-18_Board_DS_LC2527A_Tobler.docx
Attachments:	- LC2527A_Maps_Plans1.docx - LC2527_letterfromagent_08112016.pdf - LC2527_letterfromagent_02022017.pdf - LC2527A_Photos.docx
Final Approval Date:	May 8, 2017

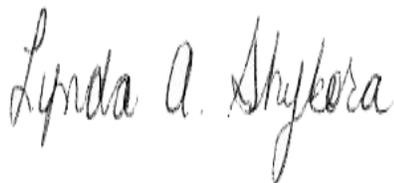
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - May 8, 2017 - 8:29 AM



Gerald Christie - May 8, 2017 - 10:50 AM



Lynda Shykora - May 8, 2017 - 11:49 AM



Charles Hamilton - May 8, 2017 - 2:19 PM