

Agenda
Municipal District of Pincher Creek No. 9
Subdivision Authority
December 6, 2016
6:00 pm

- 1. Adoption of Agenda**
- 2. Minutes**
 - a) Minutes of October 4, 2016
- 3. In Camera**
- 4. Unfinished Business**
- 5. Subdivision Applications**
 - a) Subdivision Application No. 2016-0-159
Thomas James Liscombe
SE 22-5-1 W5M
- 6. New Business**
- 7. Next Regular Meeting** January 3, 2017; 6:00 pm
- 8. Adjournment**

**Meeting Minutes of the Subdivision Authority
Tuesday, October 4, 2016; 6:00 pm
M.D. of Pincher Creek No. 9 Council Chambers**

IN ATTENDANCE

Members: Reeve Brian Hammond, Deputy Reeve Terry Yagos, Councillors Quentin Stevick and Garry Marchuk
Councillor Fred Schoening as entered into the Minutes

Staff: Chief Administrative Officer Wendy Kay, Director of Development and Community Services Roland Milligan, Planning Advisor Gavin Scott, and Executive Assistant Tara Cryderman

COMMENCEMENT

Reeve Brian Hammond called the meeting to order, the time being 6:00 pm.

1. ADOPTION OF AGENDA

Councillor Quentin Stevick 16/053

Moved that the Subdivision Authority Agenda for October 4, 2016, be approved as presented.

Carried

2. ADOPTION OF MINUTES

Councillor Quentin Stevick 16/054

Moved that the September 6, 2016, Subdivision Authority Minutes, be approved as presented.

Carried

3. IN CAMERA

Councillor Fred Schoening entered the meeting, the time being 6:02 pm.

Councillor Garry Marchuk 16/055

Moved that the Subdivision Authority and staff move In-Camera, the time being 6:03 pm.

Carried

Councillor Garry Marchuk 16/056

Moved that the Subdivision Authority and staff move out of In-Camera, the time being 6:10 pm.

Carried

MINUTES
SUBDIVISION AUTHORITY
Municipal District of Pincher Creek No. 9
October 4, 2016

4. UNFINISHED BUSINESS

Nil

5. SUBDIVISION APPLICATION

- a) Subdivision Application No. 2016-0-125
Kent Bonertz and Wendy McClelland c/o Gary Nicolson
SE 35-5-30 W4M

Councillor Terry Yagos

16/057

Moved that Country Residential subdivision of SE 35-5-30 W4M (Certificate of Title No. 121 139 328, 081 441 138+1), to create a 5.14 acre (2.08 ha) parcel from two titles containing 153.86 acres (64.7 ha) and a 3.43 acre (1.39 ha) respectively for country residential use, be approved, subject to the following:

1. That, pursuant to Section 654(1)(d) of the *Municipal Government Act*, all outstanding property taxes shall be paid to the M.D. of Pincher Creek No. 9.
2. That, pursuant to Section 655(1)(b) of the *Municipal Government Act*, the applicant or owner or both enter into a Development Agreement with the M.D. of Pincher Creek No. 9 which shall be registered concurrently with the final plan against the title(s) being created.
3. That the 1.71 acres of the SE 35-5-30 W4M be consolidated with the adjacent portion of Lot 1, Block 1, Plan 0815313 in a manner such that the resulting Certificate of title could not be subdivided without the approval of the Subdivision Authority.

Carried

- b) Subdivision Application No. 2016-0-128
Richard Hardy, Suzanne Kirby & Murray Kirby
W ½ 15-4-30 W4M

Councillor Quentin Stevick declared a potential conflict of interest, and left the meeting, the time being 6:13 pm.

Councillor Fred Schoening

16/058

Moved that the Country Residential subdivision of W ½ 15-4-30 W4M (Certificate of Title No. 071 064 179, 151 060 648), to create a 39.8 acre (16.09 ha) parcel from a previously unsubdivided quarter section of 160 acres (64.7 ha) for country residential use, be approved, subject to the following:

1. That, pursuant to Section 654(1)(d) of the *Municipal Government Act*, all outstanding property taxes shall be paid to the M.D. of Pincher Creek No. 9.

MINUTES
SUBDIVISION AUTHORITY
Municipal District of Pincher Creek No. 9
October 4, 2016

2. That, pursuant to Section 655(1)(b) of the *Municipal Government Act*, the applicant or owner or both enter into a Development Agreement with the M.D. of Pincher Creek No. 9 which shall be registered concurrently with the final plan against the title(s) being created.

Carried

Councillor Quentin Stevick returned to the meeting, the time being 6:14 pm.

6. NEW BUSINESS

Nil

7. **NEXT MEETING** – Tuesday, November 1, 2016; 6:00 pm.

8. ADJOURNMENT

Councillor Garry Marchuk

16/059

Moved that the meeting adjourn, the time being 6:15 pm.

Carried

Brian Hammond, Chair
Subdivision Authority

Wendy Kay, Secretary
Subdivision Authority

3105 - 16th Avenue North
Lethbridge, Alberta T1H 5E8

Phone: (403) 329-1344
Toll-Free: 1-844-279-8760
Fax: (403) 327-6847
E-mail: subdivision@orrrsc.com
Website: www.orrrsc.com



DRAFT RESOLUTION

Our File: 2016-0-159

November 30, 2016

Wendy Kay
Chief Administrative Officer
M.D. of Pincher Creek No. 9
P.O. Box 279
Pincher Creek AB T0K 1W0

Dear Ms. Kay:

RE: SE1/4 22-5-1-W5M / M.D. of Pincher Creek No. 9

With regard to the subdivision application noted above, please find attached a draft resolution for your Municipality's decision.

The Subdivision Authority should note that comments have not been received from the Livingstone School Division, TELUS, AltaLink, AltaGas, AB Agriculture, AB Environment & Parks – K. Murphy, and AER.

After the Subdivision Approval Authority's consideration of the application, **please forward the signed resolution to the Oldman River Regional Services Commission at your earliest convenience in order for our staff to promptly notify the applicant of the decision.**

Please contact this office if you require any further information.

Gavin Scott
Senior Planner

GS/so
Attachment

RESOLUTION

2016-0-159

M.D. of Pincher Creek No. 9 Country Residential subdivision of SE1/4 22-5-1-W5M

THAT the Country Residential subdivision of SE1/4 22-5-1-W5M (Certificate of Title No. 151 097 393), to create a 7.52 acre (3.04 ha) parcel from a title of 160 acres (64.7 ha) for country residential use; BE APPROVED subject to the following:

CONDITIONS:

1. That, pursuant to Section 654(1)(d) of the Municipal Government Act, all outstanding property taxes shall be paid to the M.D. of Pincher Creek No. 9.
2. That, pursuant to Section 655(1)(b) of the Municipal Government Act, the applicant or owner or both enter into a Development Agreement with the M.D. of Pincher Creek No. 9 which shall be registered concurrently with the final plan against the title(s) being created.

REASONS:

1. The proposed subdivision is consistent with the South Saskatchewan Regional Plan and complies with both the Municipal Development Plan and Land Use Bylaw.
2. The Subdivision Authority is satisfied that the proposed subdivision is suitable for the purpose for which the subdivision is intended pursuant to Part 1 Section 7 of the Subdivision and Development Regulation.
3. The Subdivision Authority has considered the comments received by the public and finds the portion of access gained via easement to be lawfully registered with the title and suitable for the purposes of this subdivision.

INFORMATIVE:

- (a) Since the proposed subdivision complies with Section 663(a) of the Municipal Government Act, Reserve is not required.
- (b) That a legal description for the proposed parcel be approved by the Surveys Branch, Land Titles Office, Calgary.
- (c) The applicant/owner is advised that other municipal, provincial or federal government or agency approvals may be required as they relate to the subdivision and the applicant/owner is responsible for verifying and obtaining any other approval, permit, authorization, consent or license that may be required to subdivide, develop and/or service the affected land (this may include but is not limited to Alberta Environment and Parks, Alberta Transportation, and the Department of Fisheries and Oceans.)
- (d) M.D. of Pincher Creek Public Works, Stu Weber – Superintendent:

"I have no issue with the subdivision. I do have an issue with the road that was constructed. The road was initially constructed without the consent of the MD. It was constructed to minimum standard which is fine, however, it needs to be noted somehow that the MD will not maintain this road, and that the texas gates installed on it were not accepted into our system and will not be maintained by us. The MD will not be responsible for school bus access, because we don't have control of the trail that accesses this road.

We need to be able to cover ourselves up front so that there is no expectation that we maintain this road or the texas gates. If finding a way to deal with this situation delays or prohibits the subdivision then so be it."

(e) FortisAlberta, Beth Hergert:

"Easements are required for this development. FortisAlberta will contact the developer to initiate the process of securing an easement for the proposed subdivision. FortisAlberta is requesting that the Oldman River Regional Services Commission defer its subdivision approval until such time as this easement process is complete and the developer has entered into an appropriate easement agreement with FortisAlberta and the easement has been properly registered with Land Titles (Alberta). FortisAlberta will notify Oldman River Regional Services Commission once these steps have been completed and confirm to you that FortisAlberta no longer has any concerns with Oldman River Regional Services Commission's approval of this subdivision.

FortisAlberta is the Distribution Wire Service Provider for this area. The developer can arrange installation of electrical services for this subdivision and for the easement by contacting FortisAlberta at 310-WIRE (310-9473) to make application.

Please contact FortisAlberta land services at landserv@fortisalberta.com or by calling (403) 5144783 for any questions."

(f) ATCO Gas, Ellen Struthers – Land Agent:

"The proposed subdivision does not fall within ATCO Gas' rural franchise area, and therefore has no objection to the proposed subdivision."

(g) ATCO Pipelines has no objection.

(h) Alberta Health Services, Michael Swystun – Executive Officer:

"From the information provided and my on site inspection, Alberta Health Services has the following comments:

All new buildings should be inspected by the appropriate government agencies.

The drinking water well and septic field must be separated by a minimum distance of 15 metres.

Should you have any questions regarding this report, please do not hesitate to contact me at 403-627-1230."

(i) Dr. Dennis Springhetti – Landowner:

"It has come to my attention through my neighbour to the East of my quarter section SE 15-5-1-W5 that Tom Liscombe has applied for a subdivision. I have recently returned to the area and now have access to emails. Had I been informed of this prior to my departure I would have written this email before the deadline for submissions. For this reason I wish it to be formally entered please. I believe I should have been notified as this directly affects my property and the disruption to it.

Although it is not adjacent to my quarter, it directly affects me as the access to it is through an easement that crosses my quarter.

I echo many of the concerns of my neighbour Ken Ludwick in his letter of opposition and concern with the application. I purchased this quarter as a secluded piece of paradise at the end of a dead end road. Every time I turn around over the last 2 years it has been sale after subdivision and an increasing number of individuals have access to property through my land. Something needs to be done from a planning standpoint as this is getting out of hand. The MD road allowance needs to be developed from the north off the Alberta road. This is a much more direct access to these properties and removes the huge impact this development has on two quarter sections, Mr Ludwicks and mine. I feel that the development of this north access should be a condition of the subdivision approval. The road through my property feels like a MD road and I have my kids looking both way and putting their hands out to cross in the middle of my property."

(j) Ken Ludwick – Adjacent Landowner:

Please see the attached.

CHAIRMAN

DATE

KENNETH J. LUDWICK PROFESSIONAL CORPORATION
43 VICTORIA CROSS BOULEVARD SW, CALGARY T3E 7Y1

Via E-mail: subdivision@orrsc.com

November 21, 2016

OLDMAN RIVER REGIONAL SERVICES COMMISSION

Attention: Gavin Scott

Dear Sir,

Re: Application for Subdivision of SE ¼ 22-5-1-W5M; Your File No. 2016-0-159

My name is Ken Ludwick. I am an officer of Kenneth J. Ludwick Professional Corporation (the "Corporation"). On August 4, 2016, the Corporation became the registered owner of a land parcel comprising approximately 129 acres (the "Ludwick Property") located one-half mile south of the above-described property (the "Liscombe Property"). The Corporation purchased the Ludwick Property from James Freeman.

Background

I did not become aware of the subdivision application until the afternoon of Friday, November 18, 2016. Later that afternoon, on the assumption that M. D. of Pincher Creek No. 9 (the "MD") was overseeing the subdivision application, I sent an e-mail to Roland Milligan of the MD requesting that he send me copies of all materials that had been sent to neighbouring property owners. I did not receive copies of any materials from Mr. Milligan that day. On Saturday, November 19th, neighbours who recently received the information package issued by your office sent me copies of some of the materials they received. When I received those materials, I first learned that they had been issued by your office rather than the MD. Late this morning, Mr. Milligan sent me a copy of what I understand is the complete information package. The materials received from Mr. Milligan are more extensive than those I received from my neighbours. I assume that they encountered difficulty scanning the materials and sending them to by e-mail.

It is evident from the information package that it was not sent to Dr. Dennis Springhetti either. Dr. Springhetti owns the quarter section (the "Springhetti Property") that is located immediately west of the Ludwick Property. I learned this morning that Dr. Springhetti is currently out of town.

To my knowledge, legal access to the Liscombe Property can only be gained as follows:

1. By way of registered easements across the Ludwick Property and the Springhetti Property (collectively, the "Easement Access"); and

2. By way of a secondary access from the Liscombe Property northward to Alberta Ranch Road (the "Secondary Access"). I am not familiar with this route, however, it is described as a "secondary access" to the Liscombe Property in a document that was filed by Donny Coulter (see attached copy) in support of his 2015 application for a development permit to use a portion of the Liscombe Property for a camp or some related use (see MD Development Permit Application No. 2015-30). I understand from documents on the MD website that Mr. Coulter's application was denied.

The Notice of the subdivision application issued by your office indicates that the deadline for submissions from the parties who your office served with the information package is today. Since I only received a complete copy of the information package from Mr. Milligan late this morning, I have obviously not had much time to review the complete package. Over the past weekend I only had a brief opportunity to review relevant provisions of the MD Land Use Bylaw (the "the Bylaw"), the Municipal Government Act (Alberta) (the "MGA"), and Alberta Regulation 43/2002 (Subdivision and Development Regulation) (the "Subdivision Regulation"). Through this cursory review I learned that your office may not have sent the information package to the Corporation and Dr. Springhetti since the Liscombe Property is not adjacent to the Ludwick Property or the Springhetti Property. Despite this, since the Easement Access is the current primary access to the Liscombe Property, I would have thought that your office would have considered the Corporation and Dr. Springhetti entitled to notification of the subdivision application by virtue of section 5(5)(n) of the Subdivision Regulation. Please inform me whether, in the future, your office will consider the Corporation and Dr. Springhetti to be interested and affected parties, and undertake to provide them with the same notices and other materials that are provided to owners of "adjacent" properties.

Preliminary Concerns of the Corporation

In the spring of 2016, the Corporation provided James Freeman with a written Offer to Purchase the Ludwick Property. Since Mr. Freeman was not interested in selling the property to the Corporation at that time, I made a "cold call" to Dr. Tom Liscombe since my investigations showed that he was the registered owner of the Liscombe Property and the contiguous land parcel located immediately south of the Liscombe Property (the "Second Liscombe Property"). I contacted Dr. Liscombe to inquire about whether he was interested in selling either of these parcels and if not, whether he was aware of any other property in the area that might possibly be for sale. Dr. Liscombe kindly invited me to his property and we toured it in his side-by-side recreational vehicle. At that time he showed me the home he was constructing on the Liscombe Property. To the best of my recollection, he mentioned that he was building the home for his grandson. While we toured the two parcels, he pointed out an area which he indicated had previously been used for a summer camp. I found Dr. Liscombe to be a very friendly individual, and I was impressed by what he told me about his volunteer activities in the community and with his church.

In the months following my meeting with Dr. Liscombe, other residents of the community informed me of two different applications that had been made to the MD in respect to the land I had toured with Dr. Liscombe. The first application was that of Donny Coulter hereinbefore referred to (Development

Application No. 2015-30). I have since reviewed the document entitled "List of Exhibits" issued by the MD Subdivision and Development Appeal Board on July 15, 2015 in connection with Development Application No. 2015-30. That document includes copies of many letters written by nearby residents, most of whom expressed great concern over the prospect of having a "summer camp" operated on Dr. Liscombe's property. I have also read the decision of the MD Subdivision and Development Appeal Board in respect to Development Application 2015-30 issued on July 23, 2015 by which the Board refused the approval of Development Permit Application No. 2015-30.

The second application was to amend the land use designation of the Second Liscombe Property from "Agriculture- A" to "Rural Recreation – RR-1". I am informed that this application was strongly opposed by many nearby residents for various reasons. Based on my review of the Minutes of the MD Council's meetings to discuss the proposed amendment, I understand they received 22 letters from interested parties who opposed the amendment and one letter from a party who was in favour of it. On March 8, 2016, the Council rejected the proposed amendment.

The Ludwick Property will be used by the Corporation for cattle grazing and other agricultural pursuits. My family loves the Ludwick Property and I anticipate that we and our extended family and friends will be enjoying the cabin and undeveloped portion of the property for many years.

To my knowledge, the unimproved road that bisects the Ludwick Property and the Springhetti Property over the easement areas was not designed for heavy traffic or for use by heavy vehicles. Currently, there is no gravel on the unimproved road across the Ludwick Property. Based on my observations on rainy days over the past summer, the road becomes very muddy, slippery and "rutted" by tire tracks made by vehicles that travel over the road. I have no personal experience with the unimproved road during winter months, however, in view of the absence of gravel I expect that winter use of the road may be difficult and possibly hazardous.

It should be noted that pursuant to the easement agreements that grant Dr. Tom Liscombe and others the right to travel across the Ludwick Property, the Corporation is not responsible for maintenance or repair of the road over the easement right of way. Instead, those who have the right to travel over the easement right of way, including Dr. Tom Liscombe, are solely responsible for maintaining and operating the road in a proper and workmanlike manner in accordance with good engineering practice. Despite this, there has not been any gravel on the road since the Corporation acquired the Ludwick Property a few months ago. Please also note that the easement agreements were entered into before the Corporation acquired the Ludwick Property.

The unimproved road over the easement on the Ludwick Property is also very narrow. Moreover, although James Freeman used the Ludwick Property for cattle grazing, there are no fences along the unimproved road over the easement area on the Ludwick Property to prevent cattle from walking on and across the road. Fences would not be practical in any event since they would prevent cattle from accessing the only reliable source of water on the Ludwick Property.

I am concerned that with increasing use of the unimproved road on the Ludwick Property while the neighbouring land parcels it serves become further subdivided and possibly used for alternate purposes,

there will be safety concerns that should be addressed. As traffic over the road increases, my family, our guests, and the Corporation's livestock could be in danger.

I do not want to speculate on how Dr. Liscombe intends to use his properties in the future. However, in view of what has previously been proposed for his two land parcels, it is at least conceivable that he or possible prospective purchasers of his properties may have plans for the two large parcels (following a possible subdivision of part of the Liscombe Property) that could result in significantly increased traffic. It strikes me that my concerns and those recently expressed to me by Dr. Springhetti might be satisfactorily addressed if access to the Liscombe Property was achieved via the Secondary Access referred to above.

Yesterday I read section 30.1 of the Bylaw, which states the following:

30.1 Where both legal and physical vehicular access are not provided to a parcel or a lot, or where legal and physical vehicular access are not congruent, access shall be provided in one of the following manners (in order of preference):

(a) a public roadway should be developed as per municipal policy;

(b) direct access to a public roadway should be provided via subdivision or registered road plan;

*(c) indirect access to a public roadway via a legal easement, which will be considered **ONLY** as a last option.* (emphasis added)

Dr. Liscombe recently developed a road leading to the Liscombe Property and the other contiguous land parcel he owns. While it appears to have been developed on the municipal road allowance contiguous to the two land parcels he owns, I cannot be certain of this. Since becoming aware of the subdivision application only a few days ago, I have not had time to look into matters pertaining to the development of the road and whether it meets the MD's engineering requirements. Similarly, I am unaware of whether section 30.1 of the Bylaw was considered by the MD when it presumably granted Dr. Liscombe approval to construct the road. I do not know if the road was intended for municipal use but note that access to the road is blocked by a locked gate. For the record, I personally do not take issue with the locked gate, however, some of my neighbours have voiced to me their concerns about the lack of access to a road built on a municipal road allowance.

I am aware of the MD's general position with respect to the subdivision of small land parcels from quarter sections that have not previously been subdivided. I suggest that this is not a "typical" situation in view of the unique circumstances I have described above, which potentially could result in extreme over-use of a narrow unimproved road that was intended and constructed for use by only a few families.

I have not yet had sufficient time to fully consider the subdivision application and all of its possible implications. If for some reason access to the Liscombe Property and the Second Liscombe Property via the Secondary Access is impossible, perhaps the subdivision application should only be approved subject to conditions that permanently prohibit any future subdivision of the Second Liscombe Property and the

post-subdivision Liscombe Property, and also permanently prohibit any other development or changes in use of these properties.

Since I only received a complete information package approximately five hours ago, I request an extension to provide you with further submissions prior to the hearing in early December. I anticipate that Dr. Springhetti may also request an extension to provide his submissions.

Yours truly,

Kenneth J. Ludwick Professional Corporation

Per: _____

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned over the signature line.

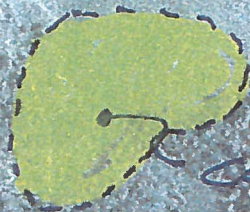
22



SECONDARY
ACCESS
(ONLY IF REQUIRED)

1/4 MI TO
RANCH RD.

SE 22-5-1 W/5M



CAMP AREA

3 CABINS (16' x 24')
EXISTING

3 TENTS (25' x 20')
TEMPORARY

1 FABRIC QUONSET (35' x 40')
TEMPORARY

[Handwritten signature]



PRIMARY
ACCESS

NOTICE OF APPLICATION FOR SUBDIVISION OF LAND

DATE: November 2, 2016

Date of Receipt: October 25, 2016

TO: Landowner: Thomas James Liscombe

Agent or Surveyor: Dr. T. Travis Liscombe

Referral Agencies: M.D. of Pincher Creek No. 9, Quentin Stevick, Livingstone School Division, TELUS, FortisAlberta, AltaLink, ATCO Gas, ATCO Pipelines, AltaGas, AB Health Services, AB Agriculture, AB Environment & Parks - K. Murphy, AER

Adjacent Landowners: 1817323 Alberta Ltd., Archie Craig, Hans & Karin Buhrmann, Jody Best & Douglas Goodfellow, Lenore Robertson, Edward Ollenberg

Planning Advisor: Gavin Scott



The Oldman River Regional Services Commission (ORRSC) is in receipt of the following subdivision application which is being processed on behalf of the M.D. of Pincher Creek No. 9. In accordance with the Subdivision and Development Regulation, if you wish to make comments respecting the proposed subdivision, please submit them via email, fax or mail no later than **November 21, 2016**. (Please quote our File No. **2016-0-159** in any correspondence with this office).

File No.: 2016-0-159

Legal Description: SE1/4 22-5-1-W5M

Municipality: M.D. of Pincher Creek No. 9

Land Designation: Agriculture - A
(Zoning)

Existing Use: Country Residential

Proposed Use: Country Residential

of Lots Created: 1

Certificate of Title: 151 097 393

Meeting Date: December 6, 2016

Note that meeting dates are subject to change. It is advisable to contact the M.D. of Pincher Creek No. 9 three (3) days prior to the meeting for times and to confirm that this application is on the agenda.

Planner's Preliminary Comments:

The purpose of this application is to create a 7.52 acre (3.04 ha) parcel from a title of 160 acres (64.7 ha) for country residential use.

The proposal is to accommodate the subdivision of an existing farmyard, which presently contains a dwelling under construction, two moveable out buildings and a pole machine shed under construction. Access to the lot is presently granted from an existing approach to the east, off of a municipal road allowance. The access road is not entirely contiguous with the municipal road network and the quarter section takes a portion of its access via two access easements registered on title. The residence is serviced by a septic system and on-site domestic spring.

This proposal complies with the subdivision criteria of the MD of Pincher Creek's Municipal Development Plan and Land Use Bylaw. The Subdivision Authority is hereby requested to consider the following when rendering a decision on this application:

1. Any outstanding property taxes shall be paid to the MD of Pincher Creek.
2. The applicant or owner or both enter into a Development Agreement with the MD.
3. Provision of a surveyors sketch to illustrate lot dimensions and improvements on site.
4. Consideration of adjacent landowners and referral agencies comments.
5. That any easement(s) as required by utility companies or the municipality be established prior to finalization of the application.

RESERVE:

- Municipal Reserve is not applicable pursuant to Section 663(a) of the MGA, as it is the first parcel from the quarter section.

Submissions received become part of the subdivision file which is available to the applicant and will be considered by the subdivision authority at a public meeting.



FOR OFFICE USE ONLY		
Zoning (as classified under the Land Use Bylaw): <u>Agriculture - A</u>		
Fee Submitted: <u>\$925.00</u>	File No: <u>2016-0-159</u>	
APPLICATION SUBMISSION		
Date of Receipt: <u>Oct 25/16</u>	Date Deemed Complete: <u>Oct 25/16</u>	Accepted By: <u>[Signature]</u>

**APPLICATION FOR SUBDIVISION
RURAL MUNICIPALITY**

1. CONTACT INFORMATION

Name of Registered Owner of Land to be Subdivided: THOMAS J. LISCOMBE
 Mailing Address: BOX 908 PINCHER CREEK Postal Code: TOKIWO
 Telephone: 403-627-4490 Cell: 403-627-8066 Fax: 403-627-2659
 Email: TJLISCOMBE@YAHOO.CA
 Name of Agent (Person Authorized to act on behalf of Registered Owner): DR. T. TRAVIS LISCOMBE
 Mailing Address: BOX 1809 PINCHER CREEK AB. Postal Code: TOKIWO
 Telephone: 403-627-2244 Cell: 403-627-8843 Fax: 403-627-2659
 Email: L. LISCOMBE@YAHOO.CA

2. LEGAL DESCRIPTION OF LAND TO BE SUBDIVIDED

a. All/part of the SE ¼ Section 22 Township 5 Range 1 West of 5 Meridian (e.g. SE¼ 36-1-36-W4M)
 b. Being all/part of: Lot/Unit _____ Block _____ Plan _____
 c. Total area of existing parcel of land (to be subdivided) is: _____ hectares 160 acres
 d. Total number of lots to be created: 1 Size of Lot(s): 8 ACRES
 e. Rural Address (if applicable): N/A
 f. Certificate of Title No.(s): 151 097 393

3. LOCATION OF LAND TO BE SUBDIVIDED

a. The land is located in the municipality of PINCHER CREEK #9
 b. Is the land situated immediately adjacent to the municipal boundary? Yes No
 If "yes", the adjoining municipality is _____
 c. Is the land situated within 0.8 kilometres (½ mile) of the right-of-way of a highway? Yes No
 If "yes" the highway is No. _____
 d. Does the proposed parcel contain or is it bounded by a river, stream, lake or other body of water, or by a canal or drainage ditch? Yes No
 If "yes", state its name _____
 e. Is the proposed parcel within 1.5 kilometres (0.93 miles) of a sour gas facility? PIPELINE Yes No

4. EXISTING AND PROPOSED USE OF LAND TO BE SUBDIVIDED

Describe:
 a. Existing use of the land AG (PASTURE)
 b. Proposed use of the land RESIDENTIAL + PASTURE

5. PHYSICAL CHARACTERISTICS OF LAND TO BE SUBDIVIDED

- a. Describe the nature of the topography of the land (flat, rolling, steep, mixed) ROLLING
- b. Describe the nature of the vegetation and water on the land (brush, shrubs, tree stands, woodlots, sloughs, creeks, etc.)
TREES, SMALL CLEARINGS, BRUSH
- c. Describe the kind of soil on the land (sandy, loam, clay, etc.) TOPSOIL, LOAM + CLAY LOAM
- d. Is this a vacant parcel (void of any buildings or structures)? Yes No
If "no", describe all buildings and any structures on the land. Indicate whether any are to be demolished or moved.
HOUSE, MACHINE SHED + SHELTER, CORRAL, STORAGE SHED
- e. Is there a Confined Feeding Operation on the land or within 1.6 kilometres (1 mile) of the land being subdivided? Yes No
- f. Are there any active oil or gas wells or pipelines on the land? Yes No
- g. Are there any abandoned oil or gas wells or pipelines on the land? Yes No

6. WATER SERVICES

Describe:

- a. Existing source of potable water SPRING (DEVELOPED) 280' N. OF HOUSE
- b. Proposed source of potable water SAME AS ABOVE

7. SEWER SERVICES

Describe:

- a. Existing sewage disposal: Type SEPTIC TANK + FIELD Year Installed APPROVED 2016 (AUG)
- b. Proposed sewage disposal: Type AS ABOVE

8. REGISTERED OWNER OR PERSON ACTING ON THEIR BEHALF

I THOMAS J. LISCOMBE hereby certify that

- I am the registered owner
- I am authorized to act on behalf of the register owner

and that the information given on this form is full and complete and is, to the best of my knowledge, a true statement of the facts relating to this application for subdivision approval.

Signed: [Signature]

Date: OCT 14 / 2016

9. RIGHT OF ENTRY

I THOMAS J. LISCOMBE hereby authorize representatives of the Oldman River Regional Service Commission or the municipality to enter my land for the purpose of conducting a site inspection in connection with my application for subdivision.

This right is granted pursuant to Section 653(2) of the Municipal Government Act.

[Signature]

Signature of Registered Owner



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0011 125 185 5;1;5;22;SE 151 097 393

LEGAL DESCRIPTION
MERIDIAN 5 RANGE 1 TOWNSHIP 5
SECTION 22
QUARTER SOUTH EAST
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 64.7 HECTARES (160 ACRES) MORE OR LESS

ESTATE: FEE SIMPLE

MUNICIPALITY: MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9

REFERENCE NUMBER: 091 026 327 +1

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
151 097 393	16/04/2015	TRANSFER OF LAND	\$350,000	\$350,000

OWNERS

THOMAS JAMES LISCOMBE
OF BOX 908
PINCHER CREEK
ALBERTA T0K 1W0

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION	DATE (D/M/Y)	PARTICULARS
NUMBER		
131 326 736	19/12/2013	EASEMENT AS TO PORTION OR PLAN:1110381 OVER AND FOR BENEFIT OF - SEE INSTRUMENT
131 326 737	19/12/2013	EASEMENT AS TO PORTION OR PLAN:1313400 OVER AND FOR BENEFIT OF - SEE INSTRUMENT

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
151 097 393

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

141 243 857 12/09/2014 CAVEAT
RE : DEVELOPMENT AGREEMENT PURSUANT TO MUNICIPAL
GOVERNMENT ACT
CAVEATOR - THE MUNICIPAL DISTRICT OF PINCHER CREEK
NO. 9.
BOX 279, PINCHER CREEK
ALBERTA T0K1W0
AGENT - SEAL.

151 200 536 11/08/2015 CAVEAT
RE : UTILITY RIGHT OF WAY
CAVEATOR - FORTISALBERTA INC.
320-17 AVE SW
CALGARY
ALBERTA T2S2V1
AGENT - JEFF KAENEL

TOTAL INSTRUMENTS: 004

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 14 DAY OF
OCTOBER, 2016 AT 01:02 P.M.

ORDER NUMBER: 31620696

CUSTOMER FILE NUMBER:

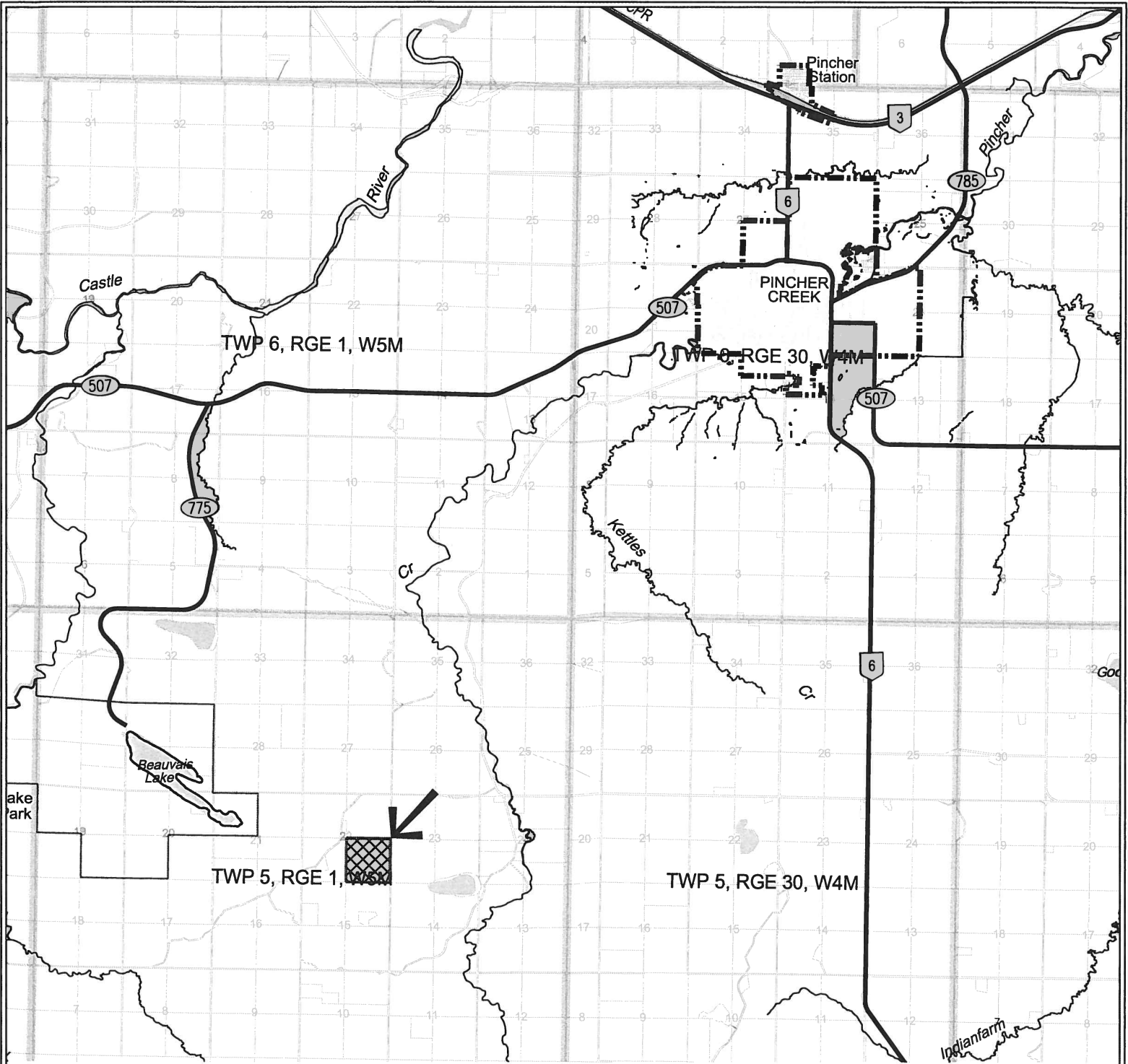


END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).





SUBDIVISION LOCATION SKETCH

SE 1/4 SEC 22, TWP 5, RGE 1, W 5 M

MUNICIPALITY: MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9

DATE: OCTOBER 25, 2016

FILE No: 2016-0-159

MAP PREPARED BY:
 OLDMAN RIVER REGIONAL SERVICES COMMISSION
 3125 18th AVENUE NORTH, LETHBRIDGE, AB T1H 2E8
 NOT RESPONSIBLE FOR ERRORS OR OMISSIONS



1₂
1313434

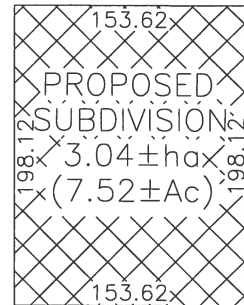
1₃
1313435

NW23
5-1-5

SW22 5-1-5

REMAINDER
OF TITLE IN
SE22 5-1-5
61.71±ha
(152.48±Ac)

SW23 5-1-5



60.96

NW15
5-1-5

1₃
1512259

NW14
5-1-5

SUBDIVISION SKETCH

SE 1/4 SEC 22, TWP 5, RGE 1, W 5 M

MUNICIPALITY: MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9

DATE: OCTOBER 25, 2016

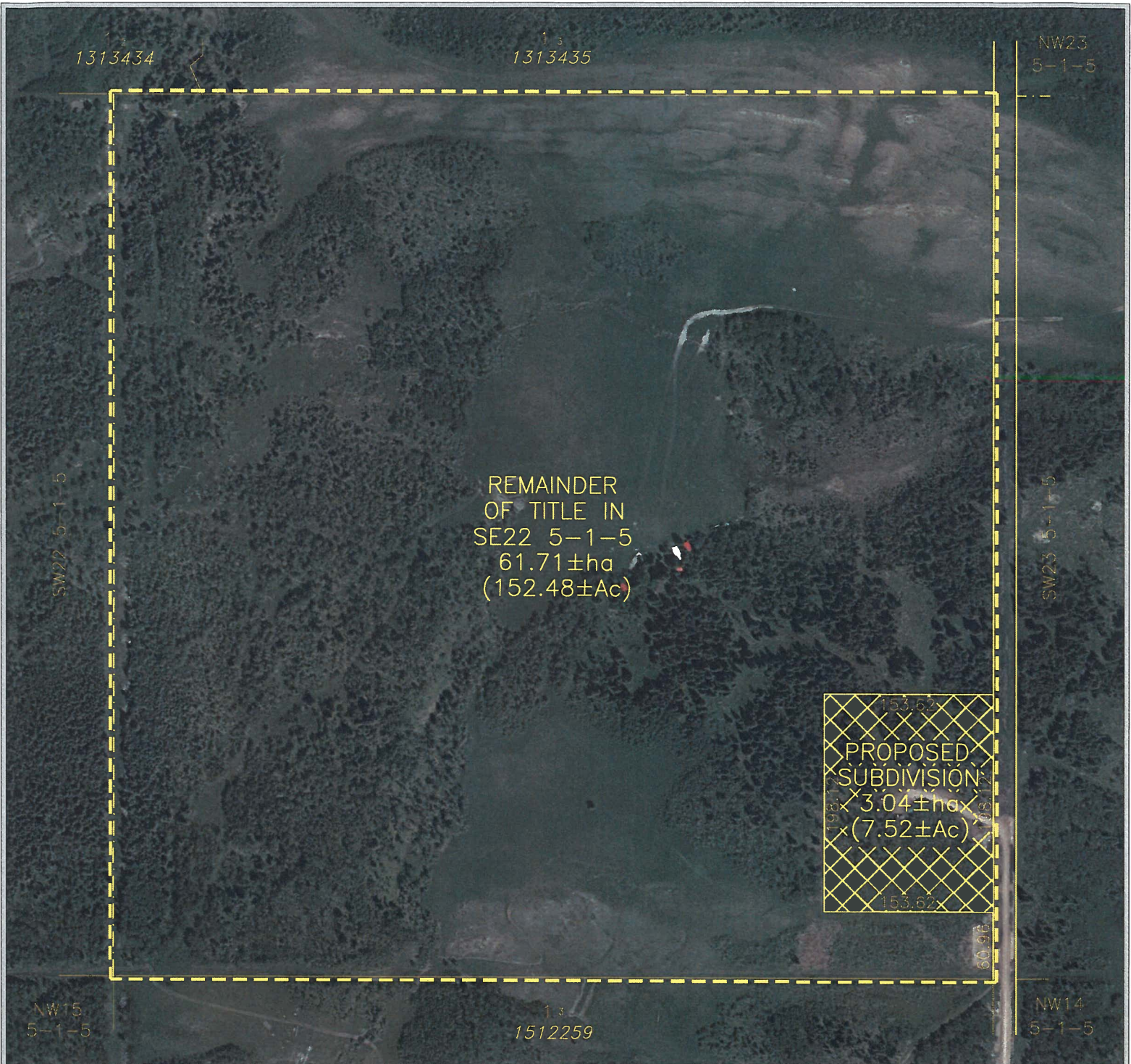
FILE No: 2016-0-159



0 Metres 100 200 300 400

October 26, 2016 N:\Subdivision\2016\2016-0-159.dwg





SUBDIVISION SKETCH

SE 1/4 SEC 22, TWP 5, RGE 1, W 5 M

MUNICIPALITY: MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9

DATE: OCTOBER 25, 2016

FILE No: 2016-0-159



0 Metres 100 200 300 400
October 25, 2016 N:\Subdivision\2016\2016-0-159.dwg



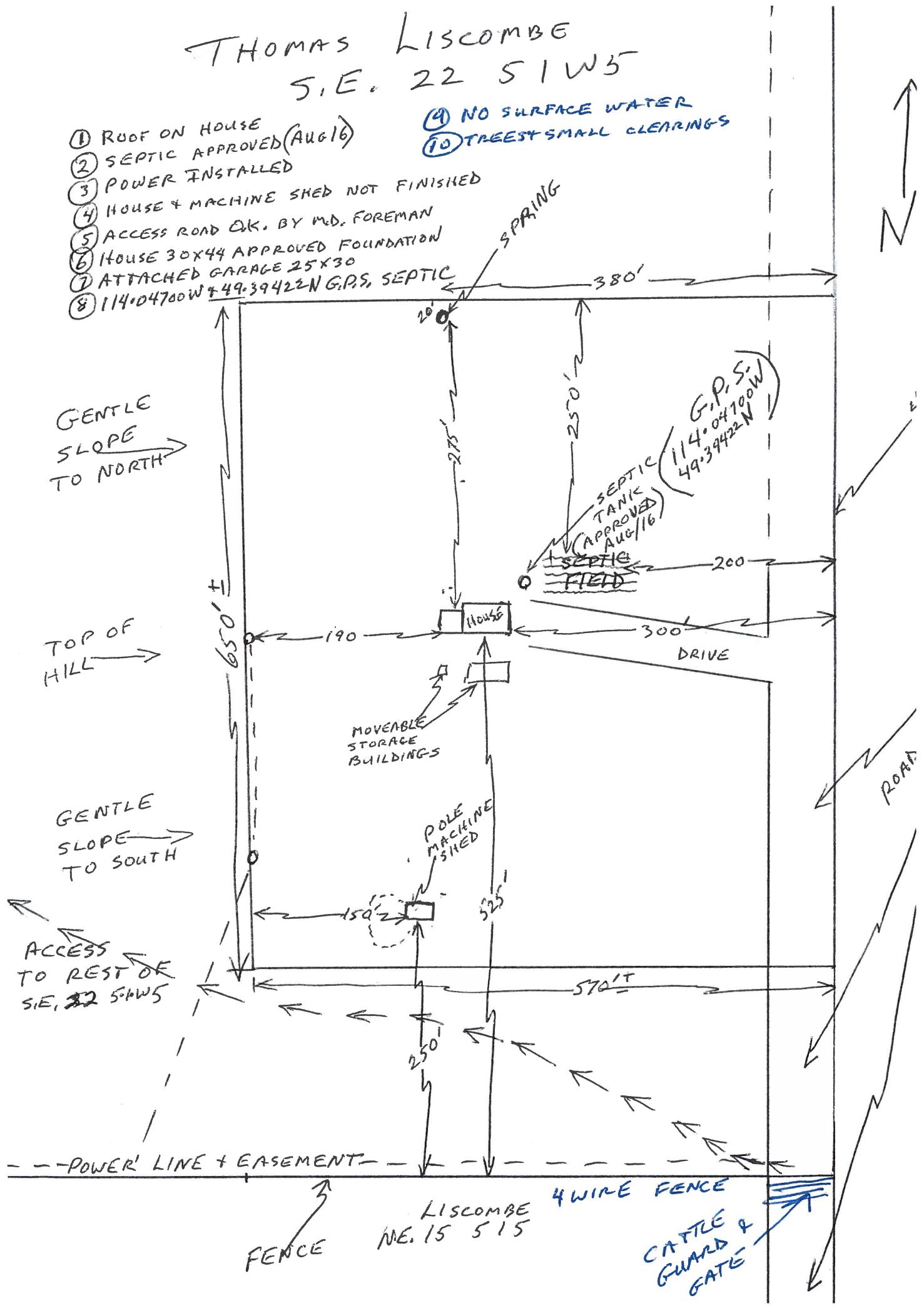
AERIAL PHOTO DATE: 2015

THOMAS LISCOMBE

S.E. 22 S1W5

- ① ROOF ON HOUSE
- ② SEPTIC APPROVED (AUG 16)
- ③ POWER INSTALLED
- ④ HOUSE + MACHINE SHED NOT FINISHED
- ⑤ ACCESS ROAD OK. BY MD. FOREMAN
- ⑥ HOUSE 30x44 APPROVED FOUNDATION
- ⑦ ATTACHED GARAGE 25x30
- ⑧ 114.04700W + 49.39422N G.P.S, SEPTIC

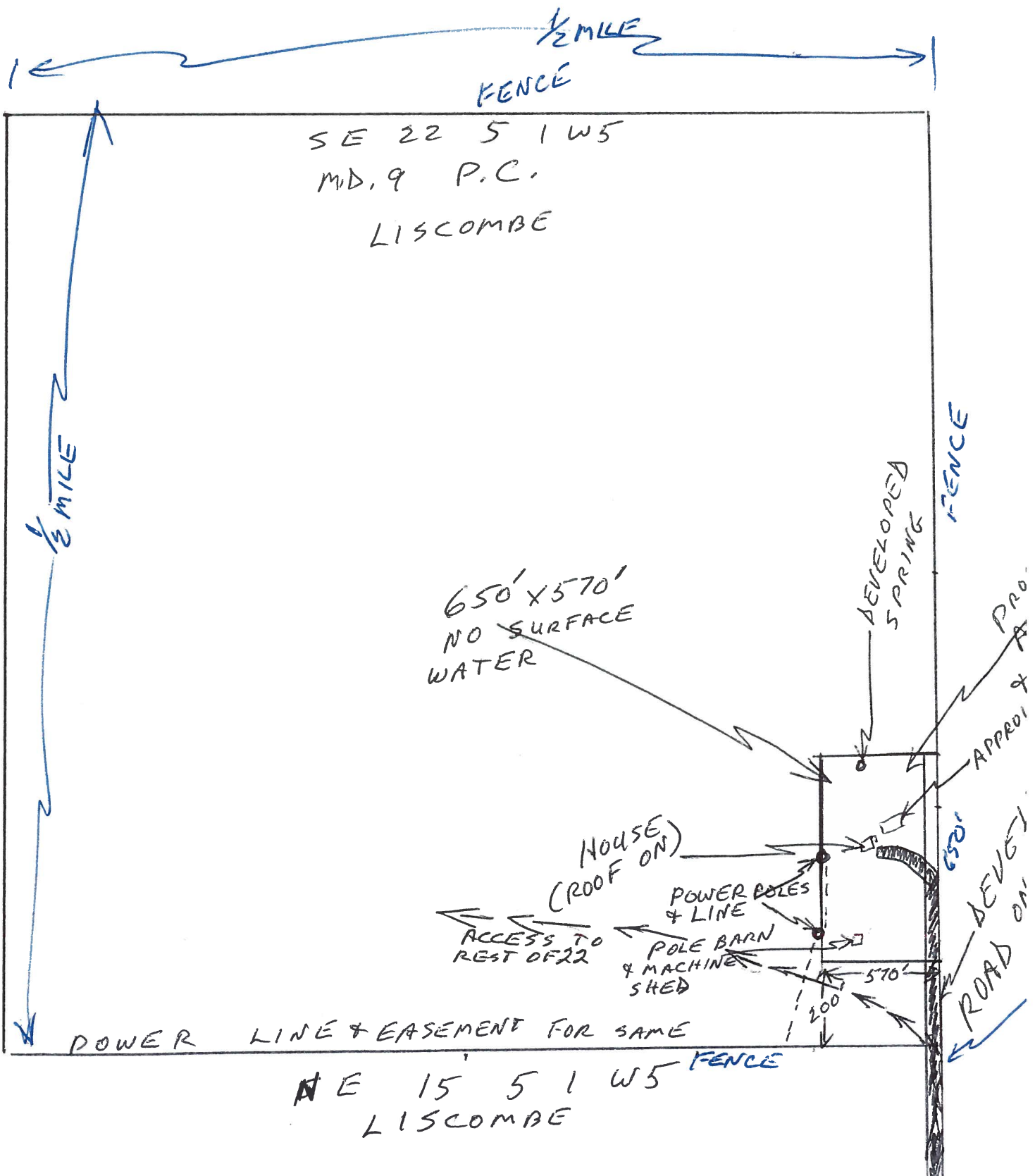
- ⑨ NO SURFACE WATER
- ⑩ TREES + SMALL CLEARINGS



LISCOMBE
NE. 15 S15

4 WIRE FENCE
CATTLE GUARD & GATE

THOMAS J. LISCOMBE
S.E. 22 5 1 W5



KENNETH J LUDWICK PROFESSIONAL CORPORATION
43 VICTORIA CROSS BOULEVARD SW, CALGARY T3E 7Y1

Via E-mail:subdivision@orrsc.com

December 1, 2016

Attention: Gavin Scott

Dear Sir,

Re: Application for Subdivision of SE1/4 22-5-1-W5M; Your File No. 2016-0-159

Thank you for taking the time to speak with me last week.

At your suggestion, I subsequently contacted Roland Milligan and we met last Friday afternoon. During our meeting Mr. Milligan informed me of the following:

1. Superior Safety Codes has informed Mr. Milligan that Tom Liscombe obtained a development permit and a building permit to construct the home that is currently being constructed on the subject property.
2. On the day before I met Mr. Milligan, someone from Public Works inspected the road constructed by Tom Liscombe on his two properties and determined that it apparently meets the standards prescribed in Development Agreement that is registered against the property. I am providing you herewith a copy of that agreement. I specifically asked Mr. Milligan whether the road is constructed entirely within the municipal road allowance since I understood from the subdivision application information package I previously received from Mr. Milligan that the road may have been at least partially constructed on the adjoining properties. Mr. Milligan informed me that the Public Works officer specifically indicated that the road is constructed entirely within the municipal road allowance, and it is in the proper location.
3. I informed Mr. Milligan that there are two closed gates preventing public access to and along the road constructed by Dr. Liscombe, and there are "No Trespassing" and "No Hunting" signs posted on and immediately adjacent to the first gate. I am providing you herewith photographs of the gate and signs taken by me last Sunday. I also informed Mr. Milligan that there is one, and perhaps two cattle guards along the roadway and, according to you, cattle guards are not permitted on municipal road allowances. In response to my comment about the cattle guard(s), Mr. Milligan mentioned that Dr.

Liscombe may have been granted a license of occupation which permitted him to install the cattle guard(s).

Based on my observations of the road allowance developed by Dr. Liscombe and what you and Mr. Milligan informed me, Dr. Liscombe either is or may be in breach of the following provisions of the Development Agreement:

Paragraph 2(f) - As is evident from the photographs of the entrance to the road on the municipal road allowance, Dr. Liscombe has not placed signage "...at each entrance to the said road, stipulating that the said road is a dead-end road and an 'Unimproved road – Use at Own Risk", in compliance with this provision.

Paragraph 3(b) - This paragraph states the following:

"Access to the said road and road Allowance by the general public cannot be restricted"

It is clear from the closed gates and the "No Trespassing" sign posted immediately adjacent to the gate that Dr. Liscombe is openly restricting public access to the road and the road allowance. If, as Mr. Milligan speculated, Dr. Liscombe has a license of occupancy that is paramount over the Development Agreement, please send me a copy as soon as possible. Related to this issue is the issue of whether Dr. Liscombe was entitled to install a cattle guard(s) on the municipal road allowance. Please inform me of whether he was indeed permitted to do so since I wasn't sure from Mr. Milligan's comments.

Schedule "B"

This schedule prescribes the "Minimum Standard Road Design Specification" that applies to the road constructed by Dr. Liscombe on the municipal road allowance. It is clear that Dr. Liscombe never installed the required signage in accordance with Paragraph 2(f) and Schedule "B" of the Development Agreement. It is also clear that he is openly preventing public access to the road and the road allowance. I can attest to the fact that Dr. Liscombe does not appear to have seeded the municipal right-of-way in accordance with the "Seeding" provisions of Schedule "B". Please inform me of whether Dr. Liscombe provided the Agricultural Fieldman with a certificate of analysis in accordance with the seeding requirements.

Paragraph 3(e) of the main body of the Development Agreement states the following:

"The Municipality shall determine whether the said road has been properly constructed, the road is properly maintained and the signage is appropriate and their decision shall be final and binding."

It is evident from the obvious Development Agreement contraventions noted above that Dr. Liscombe has not fully complied with its terms. Since the road was completed several months ago, I question whether the completed road and the balance of the municipal right-of-way was ever inspected by the "Municipality" to determine compliance. Please inform me of whether there have been any formal inspections of the road and the balance of the municipal right-of-way. If there have been, please inform me of when it or they took place, and kindly provide me with a copy of each inspection report that was completed. I am particularly interested in knowing whether the Minimum Standard Road Specifications in the first two paragraphs of Schedule "B" have been met, and whether sufficient gravel was spread in accordance with fourth paragraph of Schedule "B".

I have read Dr. Springhetti's submissions and I concur with and adopt all of his comments. The narrow lane constructed on the easement across my corporation's property is no wider than +/- 4 metres, and it is not covered by gravel. I am also providing you herewith photographs of a portion of the lane and an adjacent area not located on the easement across my corporation's property. These photographs were taken a few hours after a cattle drive of approximately 30-40 cattle took place across my corporation's property last Saturday. I did not receive any prior notification of the cattle drive and it temporarily blocked me from leaving the property. The cattle drive involved 2-3 men on horses, a large tractor carrying a bale of hay, a quad with two passengers, and a young lady in a vehicle. When I couldn't drive down my own road, I stopped to speak with the young lady and was informed that the cattle were owned by Donny Coulter, and he was moving them from Tom Liscombe's property. The easement which permits Dr. Liscombe to travel across my corporation's property does not permit his tenants to drive their cattle across my corporation's property. Since the cattle and horses could not access the MD road through the roadway entrance to my corporation's property because it has a cattle guard, the tractor, the horses and all of the cattle travelled off of the easement to exit the property via a gate on my corporation's property. This was clearly trespass. A few of the photographs show the tracks in the snow where the tractor, horses and cattle trespassed on to property that is not part of the easement.

This wasn't the first time that I and my family have been disturbed by Dr. Liscombe's invitees. Late one Saturday evening less than a month ago, a vehicle drove up the access road to our cabin. Since our cabin is located at a dead end on our property, we were concerned about who was trespassing. After the vehicle began to turn around, I got into my vehicle and followed it down the road. The vehicle had stopped immediately in front of the gate to Dr. Liscombe's property, and I found the driver on the side of the road urinating. When he was done, he sheepishly informed me that he was Dr. Liscombe's electrician.

There was a woman in his truck, he had a strong smell of alcohol on his breath, and he had no explanation for why he had travelled up our long lane late at night.

This is one of many similar incidents that have taken place in the past few months. Since the easement agreements prevent me from installing a locked gate at the entrance to my corporation's property, I cannot prevent hunters, recreation vehicles and "Sunday drivers" from entering on to my corporation's property.

I acknowledge that my corporation purchased a property that is subject to an easement, however, that is not my concern. One of my main concerns is that the dirt/mud lane on the easement is inadequate for the ever increasing traffic, and this has resulted in a potentially hazardous situation.

During my conversation with you, you informed me that the MD has been aware that further development of the municipal road allowance may be required since the easement access on Dr. Springhetti's property and my corporation's property may eventually be inadequate. Dr. Springhetti and I believe that this time has come. We also believe that the portion of the municipal road allowance located north of Dr. Liscombe's quarter section (leading to Alberta Ranch Road) should be developed at this time. If, for whatever reason, this is impossible, I believe that at least a portion of the municipal road allowance between Dr. Springhetti's property and my corporation's property should be developed into a municipal road.

Another option would be to only permit the proposed subdivision if the three resulting properties owned by Dr. Liscombe are restricted from further development and any changes in use.

I look forward to receiving responses to my inquiries prior to the upcoming hearing.

Kenneth J. Ludwick Professional Corporation

Per: _____



A photograph of a metal gate in a snowy field. The gate is made of dark metal bars and is partially open. A sign is attached to the gate that reads "NO HUNTING". The ground is covered in snow, and there are trees in the background. The sky is overcast.

NO
HUNTING

