



October 28, 2005

Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
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Reply to the attention of Ron Wallace

Patrick and Duane Holder / Judy Ozeroff
1218 Hilton Street
Creston, BC – V0B 1G6

Dear Sir/Madam:

Re: Application # F-36158
Lot 4, District Lot 4592, Kootenay District, Plan 805, Except Part Included in Plan 6581 and Except Part Included in Reference Plan 979991

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide the above noted parcel into one 0.5 ha lot with a 1.74 ha remainder as a homesite severance. The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank you for taking the time to meet with its representatives on October 12, 2005. The Commission found the meeting and site visit informative.

The Commission writes to advise that it approved your application subject to:

- the subdivision being in substantial compliance with the attached plan.
- compliance with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment. The Commission suggests you contact the Regional District of Central Kootenay at your earliest convenience.

The decision noted above is recorded as Resolution #566/2005.

In reviewing this proposal it was noted that your father has owned the property since 1948 and would have been eligible for consideration of the Commission's homesite severance policy prior to selling the property in 2004. Therefore, in light of this circumstance the Commission supported the application in lieu of this policy.

Please send two (2) paper prints of the final survey plans to this office well in advance of commencing registration at the Land Titles Office. When the Commission confirms that the subdivision plan is acceptable and verifies that all conditions of approval have been met it will authorize the Registrar of Land Titles to accept the application for deposit of the plan. Please quote your application number in any future correspondence.

Yours truly,
PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of Central Kootenay – 4035-20-A0517B-04598
Approving Officer, Ministry of Transportation, Nelson
BC Assessment, Nelson

RW/lv/Encl./36158d1

SIDENING

KE APPLICATION

1 ACRE

#F-36158

PID: 016-016-793

RESIDENTIAL

←-----315'-----→

WATER SERVICE LINE

3 ACRE

CHERRY

ORCHARD

LOT 4

DISTRICT LOT 4592

PLAN 805

5.6 ACRES

5 ACRE

ALFALFA

FIELD

NR

HASKINS ROAD EAST

APPLES

775'

ERICKSON
WATER
SERVICE
YARD

←-----315'-----→
PROPOSED LOT LINE

SHED

1 ACRE

APPLE

ORCHARD

GAR-
AGE

HOUSE

PEACHES

APPLES

WATER SERVICE LINE

DRIVE WAY

170'

3.6TH AVE. N

2 ACRE CHERRY ORCHARD

Provincial Agricultural Land Commission
Application: F-36158
Resolution #566/2005



Subject property.



±0.5 ha area approved for subdivision.

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on October 12, 2005 in Castlegar, B.C.

PRESENT: Monika Marshall Chair
 Cheryle Huscroft Commissioner
 Carmen Purdy Commissioner

STAFF: Ron Wallace, Regional Research Officer

For Consideration

Ron Wallace presented the staff report dated September 29, 2005 regarding application #F- 36158, Patrick Holder, Duane Holder and Judy Ozeroff. The application is to subdivide the 2.24 ha parcel into one 0.5 ha lot with a 1.74 ha remainder as a homesite severance.

Site Inspection

A site inspection was conducted on October 12, 2005. Those in attendance were:

- Commissioners Marshall, Huscroft & Purdy
- Agricultural Land Commission Staff: Ron Wallace, Regional Research Officer
- Applicant Duane Holder and his father

The site inspection lasted from 8:45 a.m. to 9:10 a.m.

Commission Discussion

The Commission noted that the applicant's father who wishes to have a homesite severance owned the property from 1948 until 2004 and continues to live on the property. In light of the applicant's father being eligible for subdivision under the Commission's HSP prior to the sale of the property in 2004, the proposal was approved.

IT WAS

MOVED BY: Commissioner C. Huscroft

SECONDED BY: Commissioner C. Purdy

THAT the staff report be received and the application to subdivide a 0.5 ha lot off the property be approved in lieu of the Commission's homesite severance policy.

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



Staff Report
Application # F – 36158 – 0
Applicant: Patrick Holder, Duane Holder and Judy Ozeroff

DATE PREPARED: September 29, 2005

TO: Chair and Commissioners – Kootenay Panel

FROM: Simone Magwood, Regional Research Officer

PROPOSAL: To subdivide the 2.24 ha parcel into one 0.5 ha lot with a 1.74 ha remainder as a homesite severance.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicants' father has owned and lived on this property since 1948, therefore, he would qualify for a homesite severance. However, ownership of the property was transferred to the three children in 2004 for estate planning purposes. The father who was the original owner continues to live on the parcel. At the time of the transfer of ownership the intent was that their father could remain in the house indefinitely and continue to farm. At this time he is becoming less capable of managing the entire farm and would like to downsize in order to remain on the property. They are applying to subdivide the house and a small parcel of land bearing the peach trees so that he can remain in the house and care for the smaller subdivided lot.

The Zoning Bylaw states that a reduction of the minimum lot size for a single lot for subdivision within any Agricultural Zone shall be permitted subject to: the lot being no smaller than 0.4 ha in area and where the lot is serviced by a community water system and where the remainder of the lot is consolidated with an adjacent property that has an agricultural tax assessment from the British Columbia Assessment Authority.

Local Government:

Regional District of Central Kootenay

Legal Description of Property:

PID: 016-016-793

Lot 4, District Lot 4592, Kootenay District, Plan 805, Except Part Included in Plan 6581 and Except Part Included in Reference Plan 979991

Purchase Date:

Ownership transferred to children in Jan 2004

Applicants' father, who wishes to have the homesite severance owned the property from 1948 until 2004 and continues to live on the property.

Location of Property:

36th Ave ~~East~~, Base of Arrow (Goat) Mountain, Erickson
North

Size of Property:

2.2 ha (The entire property is in the ALR).

Present use of the Property:

Fruit farming. The land consists of apples, peaches, bare land and a small amount of native bush. There are 3 buildings on the property consisting of a primary residence, semi-detached garage and a shed.

Surrounding Land Uses:

- WEST:** Cherries
- SOUTH:** Alfalfa field
- EAST:** Residential lot and native bush
- NORTH:** 0.4 ha apples, irrigation district office, 1.6 ha of cherries

Agricultural Capability:

Data Source: Agricultural Capability Map # 82F/1
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

Creston Valley OCP Bylaw 1575 designates the property as Agriculture 1.

Zoning Bylaw and Designation:

Regional District of Central Kootenay Zoning Bylaw 1675 designates this parcel as AG-1.
Minimum Parcel Size 4 ha.

RELEVANT APPLICATIONS:

Application #06496-0

- Applicant:** Regional District of Central Kootenay
- Decision Date:** August 24, 1978
- Proposal:** To review and refine the ALR boundaries through public information meetings.
- Decision:** After review in the field and a Public Hearing meeting held, the 3,554.7 ha area requested for exclusion from the ALR was approved. Exclusion allowed by Cabinet. This resolution number is used to enter statistical information relating to the area under application and subsequent decision by Cabinet.

Application #2633

- Applicant:** Shaw
 - Decision Date:** 1976
 - Proposal:** To exclude 3.9 ha and to then subdivide the area into four lots.
 - Decision:** Refused exclusion allowed subdivision along the ALR boundary.
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Application #09543-0

Applicant: Konkin, Helen & Geo
Decision Date: 1979
Proposal: To subdivide a 2 ha lot from the 3.4 ha parcel.
Decision: Allowed.

Application #25905-0

Applicant: Salzmann, Daniel
Decision Date: January 14, 1992
Proposal: To subdivide the 1.4 ha property into two lots.
Decision: Refused on the grounds of good agricultural capability and conflict.

Application #22376-0

Applicant: Shaw, Rosemary
Decision Date: 1988
Proposal: To subdivide 0.8 ha from the 3.4 ha parcel as a homesite severance.
Decision: Allowed.

Application #06496-1

Applicant: Agricultural Land Commission & Regional District of Central Kootenay
Decision Date: August 24, 1978
Proposal: To include 161.9 ha
Decision: Cabinet approved inclusion by OIC (161.9 ha).

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Planning Staff Comments: This application for subdivision was referred to the Regional District prior to adoption of Zoning Bylaw 1675. Since it was permitted under the previous bylaw, it would be considered to be permitted (Section 946, LGA) until 1 year from initial subdivision application date (October 29, 2004.)

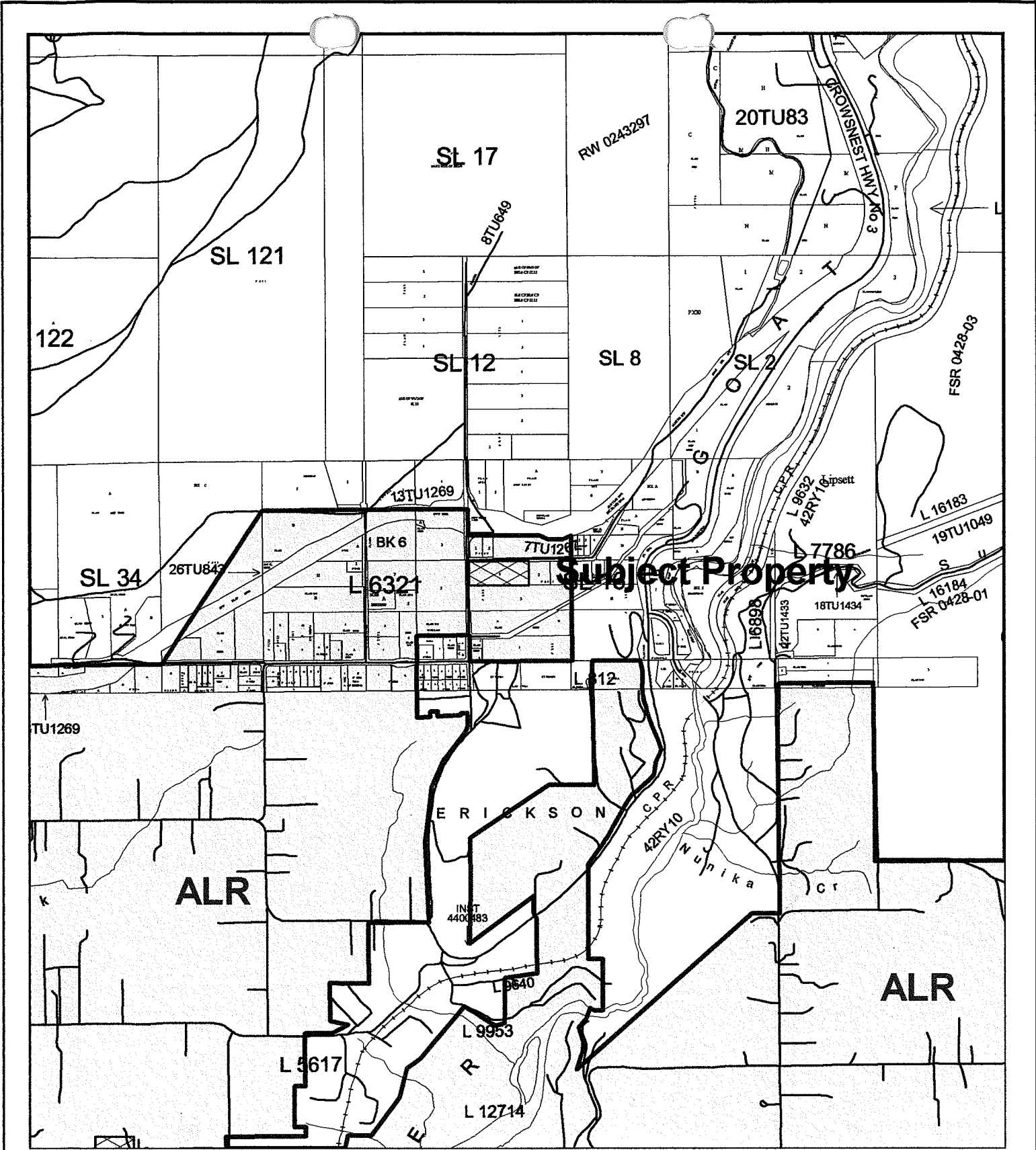
STAFF COMMENTS:

The Commission will have to decide if the applicants' father qualifies for a homesite severance. The applicant's acknowledge in their application that they should have applied for the severance before transferring ownership to the children. However, they are asking to be considered under the policy due to the amount of time that their father has lived on the property and his history of prior ownership.

END OF REPORT

Signature

Date



ALC CONTEXT MAP
Application # 35158

Map Scale: 1: 20000

ALC File #: 21-05-35158

BCGS Map Sheet #: 82F.018

Regional District: Central Kootenay