



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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www.alc.gov.bc.ca

November 1, 2005

Reply to the attention of BRANDY RIDOUT

Catrina Nieuweboer
136 Ashnola Road
Keremeos, BC V0X 1N0

Dear Madam:

RE: Application #V-36256
PID: 004-520-947
Lot 3, District Lot 2821, Similkameen Division Yale District, Plan 28655

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to strata title the property into two lots (0.06 ha each) for residential use. The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*.

The Commission found the October 12, 2005 meeting and site visit informative. Your representative stated that he had requested a lawyer to investigate if the land was subject to the *Agricultural Land Commission Act* and had been told that the parcel was not subject to the *Act*. However, the parcel is subject to the *Act* as it was created in 1978 by a boundary line adjustment between four parcels.

Although the Commission is disappointed that you were given wrong information by your lawyer, it believes that the subdivision of two strata lots would have no impact on agriculture on the subject property. However, as the property is in an intensive agricultural area, the Commission would like to limit the impact on surrounding agriculture. The Commission believed the dedication of a 2-metre wide unfenced easement, the location of which would be negotiated with the adjacent property owners, would alleviate some of these concerns and reduce the impact of the development.

As such, the Commission writes to advise that it approved your application subject to:

- the subdivision being in substantial compliance with the attached plan
- the registration of an unfenced 2 metre easement, the location of which is to be negotiated with neighbours, and
- 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 Okanagan-Similkameen at your earliest convenience.

The decision noted above is recorded as Resolution **#532/2005**.

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.

Catrina Nieuweboer – Nov. 1/05
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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc Regional District of Okanagan-Similkameen - G-05-03868.000LEGEND

BR/lv/Encl.
36256d1

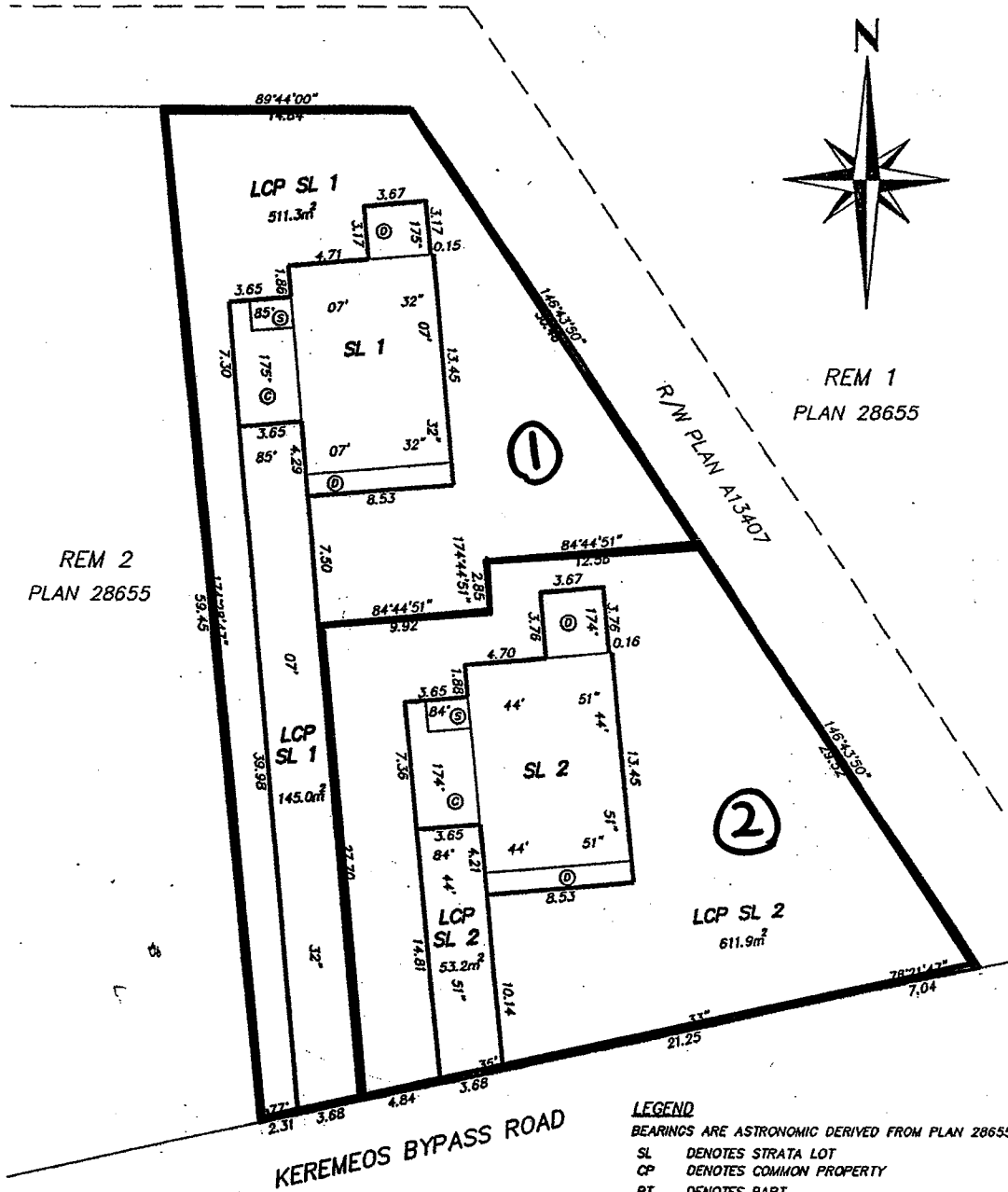
SKETCH PLAN FOR LIMITED COMMON PROPERTY ALLOCATION OVER A PORTION OF THE COMMON PROPERTY OF STRATA PLAN KAS _____, D.L. 2821, S.D.Y.D.

CIVIC ADDRESS:
KEREMEOS BYPASS ROAD
KEREMEOS, BC

SCALE : 1:250



(ALL DIMENSIONS ARE IN METRES)



LEGEND

BEARINGS ARE ASTRONOMIC DERIVED FROM PLAN 28655.

- SL DENOTES STRATA LOT
- CP DENOTES COMMON PROPERTY
- PT DENOTES PART
- LCP DENOTES LIMITED COMMON PROPERTY

Provincial Agricultural Land Commission
Application #V-36256-0
Resolution #532/2005

Subject property

2 strata lots approved for subdivision within the ALR subject to the registration of a 2-metre wide unfenced easement

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IT WAS

MOVED BY: Commissioner Sidhu

SECONDED BY: Commissioner Irvine

THAT the staff report be received

AND THAT the application to strata title the property into two lots (0.06 ha each) for residential use be approved subject to the dedication of a 2-metre wide unfenced easement, the location of which to be negotiated with the adjacent property owners

AND FINALLY THAT this approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



Staff Report
Application # V – 36256 – 0
Applicant: Catrina Nieuweboer

DATE PREPARED: September 28, 2005

TO: Chair and Commissioners – Okanagan Panel

FROM: Simone Rivers, Regional Research Officer

PROPOSAL: To strata title the property into two lots for residential use. Each lot would be about 0.06 ha

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

BACKGROUND INFORMATION:

The subject parcel is only 0.16 ha and was created in January 1978. At that time file # 02725 allowed the adjustment of the boundaries of four parcels creating three parcels, of which the subject parcel was one. At the time the Commission felt that *“the proposed subdivision would make more efficient use of the land”* Therefore, even though this parcel is less than 0.4 ha in size the *Agricultural Land Commission Act* applies to the land because it was not a separate parcel prior December 1972.

The photos submitted with the application shows that the houses for the proposed lots have already been built. It appears that the owner of the property was under the impression that the lot had been in existence prior to the December 1972 and was therefore exempt from the provisions of the act. The new lots will be approximately 0.06 ha in size (656.3 m² and 665.1 m² respectively).

Local Government:

Regional District of Okanagan-Similkameen

Legal Description of Property:

PID: 004-520-947

Lot 3, District Lot 2821, Similkameen Division of Yale District, Plan 28655

Purchase Date:

2005

Location of Property:

Highway 3A west of Keremeos

Size of Property:

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

Present use of the Property:

Residential

Surrounding Land Uses:

WEST: Residential (ALR)
SOUTH: Bypass road, Highway 3A (ALR)
EAST: Agriculture (ALR)
NORTH: Residential and agriculture (ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.021
The majority of the property is identified as having prime dominant ratings.

Zoning Bylaw and Designation:

Electoral Area 'G' - Zoning Bylaw No. 325 does not give this parcel a zoning designation.

PREVIOUS APPLICATIONS:

Application #02725-0

Applicant: Degenhardt, JB
Decision Date: November 26, 1976
Proposal: To adjust the boundaries of four parcels to create three new parcels. Because one of the proposed parcels was less than 0.8 ha an application to the Commission had to be made
Decision: Allowed on the grounds that the proposed subdivision made for a more efficient use of the land.
NOTE: The subject parcel is the small parcel that was allowed by this application.

RELEVANT APPLICATIONS:

Application #30264-0

Applicant: Botbijn, Christine & Andrew
Decision Date: January 11, 1996
Proposal: To exclude the 3.02 ha property in order to develop 7000 to 8000 square foot residential lots.
Decision: Refused due to reasons of impact and intrusion into the A.L.R.

Application #30645-0

Applicant: Parsons, Thelma
Decision Date: June 26, 1996
Proposal: To reconfigure property boundaries to create a lot shape more conducive to a building site.
Decision: Allowed

Application #31688-0

Applicant: Bengag, Kashmir & Kulwinder
Decision Date: January 20, 1998
Proposal: To subdivide a strip of land along the north boundary of the property and give it to the agent (Vanderlinde) in order to provide access to agricultural non-ALR parcels.
Decision: Allowed subject to the proposed access not being greater than 6m in width, that the existing access easement is closed, that the Crown Lease D.L. 4187s and L. 191s are included into the A.L.R.

Application #25373-1

Applicant: Degenhardt, John & Catherine
Decision Date: September 1, 1993
Proposal: To reconsider refusal to allow a homesite severance
Decision: Reconfirmed original decision on the grounds that the remainder would be too small to farm but that a realignment of lot lines creating a homesite lot would be permissible if there was a consolidation of the remainder with an adjacent parcel.

Local Government Recommendations/Comments

Regional District of Okanagan Similkameen Regional Board: The Regional Board forwarded the following comments, "A copy of the application has been forwarded to the Electoral Area Director for Area 'G' for comment".

END OF REPORT

Simone Rivers
Signature

Oct 04/05
Date