



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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Fax: 604-660-7033
www.alc.gov.bc.ca

November 14, 2005

Reply to the attention of Simone Rivers

Trevor and Audrey Jones
Box 51
Midway, BC V0H 1M0

Dear Mr. and Mrs. Jones:

**Re: Application # W- 36269-0
The South West ¼ of Section 16, Township 87, Range 19, W6M, Peace River
District**

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide one (1) lot of approximately 6 ha from the property in accordance with its *Homesite Severance Policy* (copy attached). 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 November 3, 2005. The Commission noted that the area you were asking for as a homesite severance was quite large.

The Commission writes to advise that it refused your application as proposed but has approved the subdivision of an area no greater than 2 ha to be located in the south east corner of the property. This approval is subject to:

- the subdivision being in substantial compliance with the attached plan.
- that the homesite lot not be sold for five (5) years except in the case of estate settlements. The Commission requires your commitment in this regard which can be done by signing below and returning to our office a copy of the letter. The Commission requires your commitment prior to it approving deposit of the subdivision plan.
- that you obtain Commission approval for an increase in the size of the homesite lot or a change in its location deemed necessary by other approval agencies.
- 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 Peace River Regional District at your earliest convenience.

The decision noted above is recorded as Resolution #605/2005.

If you wish to proceed on this basis please undertake the following steps:

1. Commence approval procedures of other agencies that must approve the subdivision.
2. Have a surveyor prepare the subdivision plan.
3. Obtain recent State of Title Certificate for the property.

Page 2

4. Prepare a "Transfer of an Estate in Fee Simple" document indicating the transfer of the remainder of the property from you to the purchaser.
5. Prior to approaching the Registrar of Land Titles to register the subdivision please submit the following to this office:
 - a) two (2) paper prints of the plan of subdivision
 - b) the State of Title Certificate
 - c) a copy of the "Transfer of an Estate in Fee Simple" document
 - d) your signed commitment that the homesite lot will not be sold for five (5) years except in the case of estate settlements.

When all the required documentation has been received the Commission will authorize the Registrar of Land Titles to accept the application for deposit of the subdivision plan.

Please quote your application number in any future correspondence.

Yours truly

PROVINCIAL AGRICULTURAL LAND COMMISSION

per:



Erik Karlsen, Chair

cc: Peace River Regional District: File # 131/2005

Enclosure:

Sketch Plan

Homesite Severance Policy

SR/eg

I/36269d1

**Resolution # 605/2005
Application # W- 36269**

I/we being the registered owner(s) of the property which is the subject of this application and for whom the homesite lot was approved, hereby agree not to sell, transfer, or otherwise dispose of the homesite lot for five (5) years from the date of registration of the subdivision plan creating the homesite lot, save and except for estate purposes following the death of the owner, or any one of the owners, if there are more than one.

_____ Owner's Name (Please Print)	_____ Signature
_____ Owner's Name (Please Print)	_____ Signature
_____ Witnessed By (Please Print Name)	
_____ Occupation of Witness	
_____ Signature of Witness	_____ Date

HOMESITE SEVERANCE

The purpose of this policy is to provide a consistent approach to situations where property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a homesite on the land.

An application under Sec. 21(2) of the Agricultural Land Commission Act is required.

Persons making use of this policy should understand clearly that:

- a. no one has an automatic right to a "homesite severance";
- b. the Commission shall be the final arbiter as to whether a particular "homesite severance" meets good land use criteria; (*see #4 below*)
- c. a prime concern of the Commission will always be to ensure that the "remainder" will constitute a suitable agricultural parcel. (*see #5 below*).

Without limiting the generality of the foregoing, the following guidelines apply to "homesite severance" applications.

- 1. A *once only* severance may be permitted where the applicant submits documentary evidence that he or she has continuously owned and occupied the property as his or her principal place of residence since 21 December 1972.
- 2. Where an applicant for a "homesite severance" has had a previous subdivision application approved by the Commission resulting in the creation of a separate parcel, the Commission may consider the previous approval as having fulfilled the objectives of the Homesite Severance Policy and may deny any further consideration under the Homesite Severance Policy.
- 3. An application for a "homesite severance" will be considered only where the applicant submits documentary evidence showing a legitimate intention to sell the remainder of the property upon the approval of the "homesite severance" application. [An interim agreement for sale, a prospective buyer's written statement of intent to purchase, a real estate listing, or some other written evidence of pending real estate transaction would be acceptable as documentation.]

In considering the application, the Commission may make its approval subject to sale of the remainder within a specified period of time.

A Certificate of Order authorizing the deposit of the subdivision plan will be issued to the Registrar of Land Titles only when a "transfer of estate in fee simple" or an "agreement for sale" is being registered concurrently.

- 4. There will be cases where the Commission considers that good land use criteria rule out any subdivision of the land because subdivision would compromise the agricultural integrity of the area, and the Commission must therefore exercise its discretion to refuse the "homesite severance".

Homesite Severance

Agricultural
Land
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Where the Commission decides to allow a "homesite severance", there are two options:

- a. the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or
 - b. where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the "remainder", the Commission may, as it deems appropriate, approve the creation of a parcel elsewhere on the subject property.
5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the "remainder" is of an unacceptable size or configuration from an agricultural perspective, there are three options:
- a. the Commission may deny the "homesite severance";
 - b. the Commission may require that the "remainder be consolidated with an adjacent parcel; or
 - c. the Commission may require the registration of a covenant against the title of the "remainder" and such a covenant may prohibit the construction of dwellings.
6. A condition of every "homesite severance" approved by the Commission shall be an order stipulating that the homesite is not to be resold for five years except in the case of estate settlements. Prior to the issuance of a Certificate of Order authorizing deposit of the subdivision plan, the owner shall file with the Commission a written undertaking or standard notarized contractual commitment to this effect.
7. Where a "homesite severance" application has been approved by the Commission, local governments and approving officers are encouraged to handle the application in the same manner as an application under Section 996 of the *Municipal Act* insofar as compliance with local bylaws is concerned.

Homesite Severance

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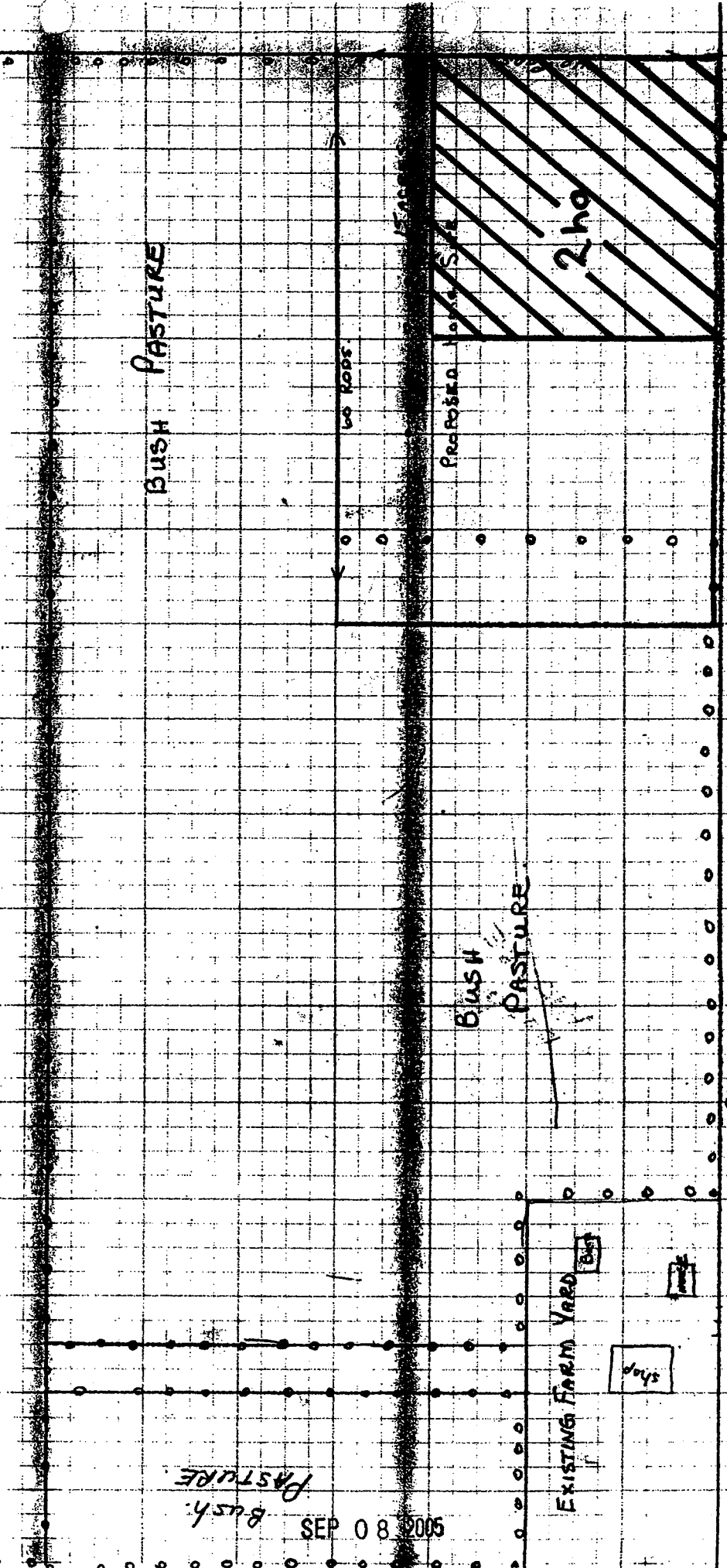
The South West 1/4 of Section 16,
 Township 87, Range 19, W6M,
 Peace River District

Agricultural Land Commission
 Application: W-36269-0
 Resolution # 605/2005

Subject property.



Approved 2 ha lot pursuant to the
 Homesite Severance Policy.



Bush
 PASTURE
 SEP 08 2005

R-5

R-5

Page 2

THAT the staff report be received and the application to subdivide a 6 ha homesite from The South West ¼ of Section 16, Township 87, Range 19, W6M, Peace River District be refused as proposed on the grounds that 6 ha lot was larger than the Commission was willing to allow.

AND

THAT a 2 ha subdivision in the south east corner of the above mentioned property be allowed on the grounds that the applicant qualifies for consideration under the *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 # W – 36269 – 0
Applicant: Trevor and Audrey Jones

DATE RECEIVED: September 12, 2005

DATE PREPARED: October 11, 2005

TO: Chair and Commissioners – North Panel

FROM: Simone Rivers, Regional Research Officer

PROPOSAL: To subdivide the 64 ha property into one 6 ha parcel and one 58 ha parcel.

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

BACKGROUND INFORMATION:

The applicants have owned the property since 1957 and lived on the property until two years ago. In a letter submitted with the application the applicants state they retired from farming two years ago and moved south. However, after two years they realized they missed their friends, family and the north country. They did not sell their land when they originally moved south "in case this happened". The existing home is too large and the applicants would like to build a smaller home on the small parcel and continue to have a hobby farm.

Local Government:

Peace River Regional District

Legal Description of Property:

PID: 006-221-874

The South West $\frac{1}{4}$ of Section 16, Township 87, Range 19, West of the 6th Meridian, Peace River District

Purchase Date:

1958

Location of Property:

Murdale area along Prespatou Road

Size of Property:

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

Present use of the Property:

Farmyard including a house, shop, 3 barns, 5 granaries, chop house, corral system and one dugout, pasture and hay and grain fields - cattle operations. The farm is being rented to another farmer at present.

Surrounding Land Uses:

WEST: Hay and grain (ALR)
SOUTH: Homesite and hay and grain (ALR)
EAST: Hay and grain (ALR)
NORTH: Homesite, cattle operation, hay and pasture (ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 94A/10
The majority of the property is identified as having secondary ratings.

Official Community Plan and Designation:

North Peace OCP Bylaw No. 820, 1993 - designates the parcel as "Rural Resource - Agricultural"

Zoning Bylaw and Designation:

Peace River Regional District Zoning Bylaw No. 1000, 1996 designates the parcel as A-2 (Large Agricultural Holdings).
Minimum Parcel Size 63 ha.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Peace River Regional District Region Board: The Regional Board supports the application on the grounds that the proposal would have little impact on agriculture, and the proposal would be consistent with the Official Community Plan with the Commission's approval of the proposal.

Planning Staff: Planning staff note that the Official Community Plan allows for the creation of parcels smaller than the minimum if the *"land is within the ALR, and the approval of the ALC has first been obtained"* Therefore, with ALC approval, the proposal would conform to the OCP. Staff further note that there will be little impact on agriculture as the proposed parcel is isolated from the subject property's main farm yard and fields by bush.

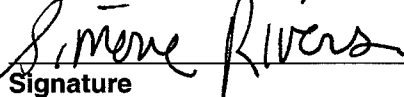
STAFF COMMENTS:

Staff recommend that the Commission consider the following:

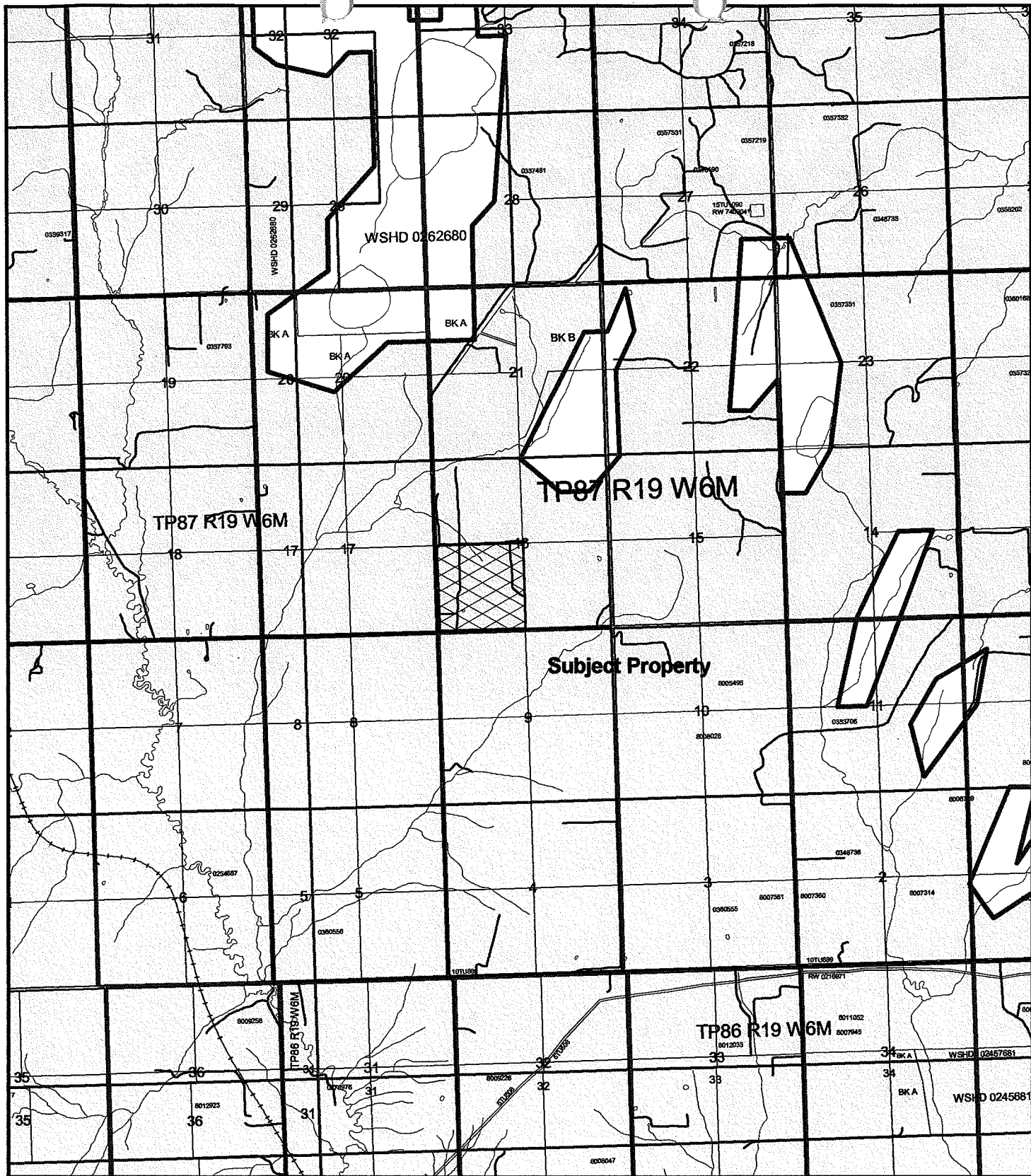
- The applicants have lived and farmed on the property since 1958.
- Because the applicants moved away from the parcel two years ago, they do not technically qualify for a homesite severance as they do not fulfill the condition of having lived continually on the property since December 21, 1971.

Should the Commission approve the proposed subdivision staff recommend that the conditions of the homesite severance policy apply, namely that the homesite can not be sold for five years and that the subdivision can only be finalized upon receipt of proof that the remainder of the farm is to be sold.

END OF REPORT


Signature

Oct 12, 2005
Date



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ALC CONTEXT MAP
Application # 36269

Map Scale: 1: 50000

ALC File #: 21-05-36269

NTS Map Sheet #: 94A/10

Regional District: Peace River