



Agricultural Land Commission
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February 1, 2006

Reply to the attention of Brandy Ridout
ALC File #V-36410

George & Judith Klassen
18014 Garnet Valley Road
Summerland, BC V0H 1Z3

Dear Mr. and Mrs. Klassen:

Re: Application to Subdivide in the Agriculture Land Reserve

The Provincial Agricultural Land Commission (the "Commission") has concluded its review of the application and encloses for your review the Minutes of Resolution #25/2006 outlining its decision.

If you wish to proceed with subdivision, please undertake the following steps:

1. Commence approval procedures of other agencies that must approve the subdivision. If an increase in the size of the homesite lot or a change in its location is deemed necessary by another agency, please advise this office as soon as possible.
2. Have a surveyor prepare the subdivision plan.
3. Obtain recent State of Title Certificate for the property.
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 and the conditions of approval have been met, the Commission will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

Yours truly

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: District of Summerland

BR/lv/Encl.: Minutes
Sketch Plan
Homesite Severance Policy

36410d1



**Agricultural Land
Commission Act**

**Policy #11
March 2003**

HOMESITE SEVERANCE ON ALR LANDS

This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act and Regulation will govern.

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 Section 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".

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

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)

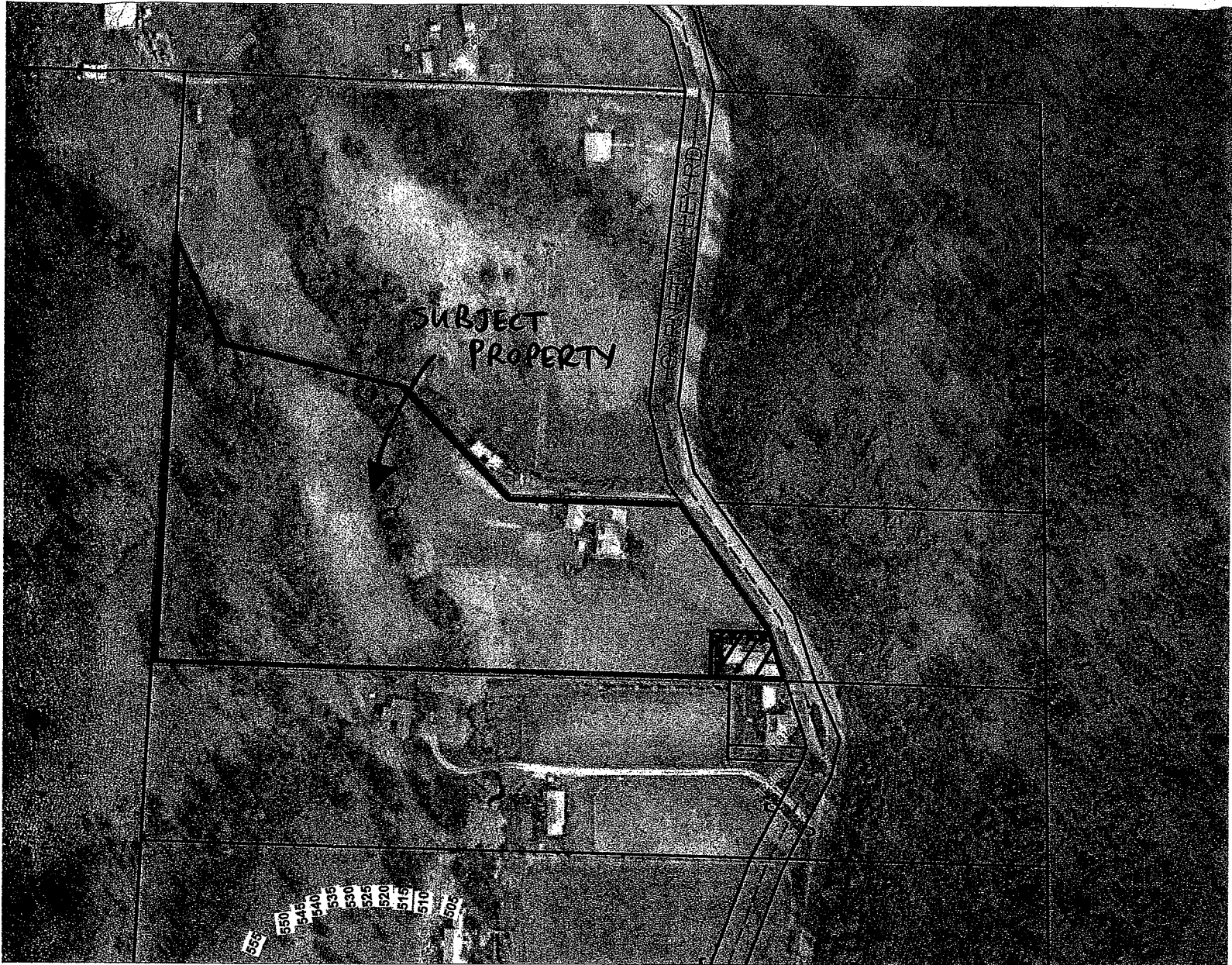
Signature

Witnessed By (Please Print Name)

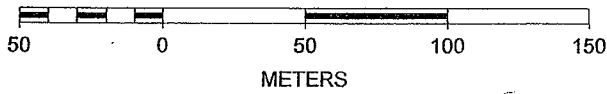
Occupation of Witness

Signature of Witness

Date



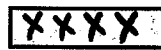
SCALE 1 : 2,682



Provincial Agricultural Land Commission
Application #V-36410
Resolution #25/2006



0.08 ha area approved for subdivision
 in the ALR



Location of buffer vegetation

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on January 19, 2006 at the Ministry of Agriculture and Lands office located at 4607 - 23rd Street, Vernon, BC.

| | | |
|-----------------|------------------|-----------------------|
| PRESENT: | Sue Irvine | Chair, Okanagan Panel |
| | Sharon McCoubrey | Commissioner |
| | Sid Sidhu | Commissioner |
| | Brandy Ridout | Staff |
| | Martin Collins | Staff |

For Consideration

Application # V-36410
Applicants George & Judith Klassen
Proposal To subdivide a 0.08 ha homesite severance from the 3.1 ha parcel. The applicants have owned the property since October 1967. The homesite lot is for the applicant's son, who has lived on the property in a mobile home for 21 years.
Legal Lot 4, District Lot 480, Osoyoos Division Yale District, Plan 2509
Location 18014 Garnet Valley Road, Summerland

Site Inspection

No site inspection was conducted.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

The Act provides processes for landowners, local governments and First Nation governments to apply to the Commission to include land into the ALR, remove land from the ALR, subdivide land in the ALR and use land in the ALR for non-farm purposes. The Commission decides applications with the objective of ensuring that lands suitable for agriculture are retained in the ALR and that non-farm development of ALR land is restricted.

Discussion

The Commission recalled that the purpose of the *Homesite Severance 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.

The Commission considered the guidelines of the *Policy* and noted that the applicants had provided documentary evidence that they had continuously owned and occupied the property as their principal place of residence since 21 December 1972. In addition, the Commission believed that the remainder of the subject property, after severance of the homesite, would be of a size and configuration that would constitute a suitable agricultural parcel.

As the homesite lot was being requested for the applicants' son, the Commission would grant the request on the understanding that further subdivision would not be considered under the *Policy*.

With homesite severances, the Commission typically requires that the homesite lot be fenced and buffered in order to reduce the impact of the subdivision on the remainder. In this case, the proposed lot is already fenced. As such, the Commission would require only that a buffer be installed on the homesite lot. As proposed by the applicant and supported by the Regional District, the Commission would also require a covenant to be registered against the title of the remainder prohibiting additional dwellings.

IT WAS

MOVED BY: Commissioner Sidhu
SECONDED BY: Commissioner McCoubrey

THAT the application be approved

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the plan submitted with the application,
- the planting of a vegetative buffer on the north and west sides of the new lot for the purpose of limiting its impact on the remaining farm unit. Buffering plans should be submitted to the Commission for approval, and
- the registration of a restrictive covenant on the remainder of the property for the purpose of prohibiting the construction or placement of additional dwellings.

This decision does not relieve the owner or occupier of the responsibility to comply 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.

CARRIED
RESOLUTION #25/2006



Staff Report
Application # V – 36410
Applicant: George & Judith Klassen
Location: 18014 Garnet Valley Rd., Summerland

DATE RECEIVED: December 9, 2005

DATE PREPARED: December 28, 2005

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Regional Research Officer

PROPOSAL: To subdivide a 0.08 ha homesite severance from the 3.1 ha parcel. The applicants have owned the property since October 1967. The homesite lot is for the applicant's son, who has lived on the property in a mobile home for 21 years.

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

BACKGROUND INFORMATION:

The owners are offering to register a restrictive covenant on the remainder of the property prohibiting the construction or placement of additional dwellings.

The Local Government report notes that subdivision of this lot would require a road dedication equalling 10 m from the centreline of the Garnet Valley Road right-of-way.

Local Government:

District of Summerland

Legal Description of Property:

Lot 4, District Lot 480, Osoyoos Division Yale District, Plan 2509

Purchase Date (m/d/y):

10/01/1967

Location of Property:

18014 Garnet Valley Road, in northwest Summerland

Size of Property:

3.1 ha

ALR Area: Approximately 2 ha

Present use of the Property:

Pasture, stream, steep mountain slope, permanent dwelling, mobile home and outbuildings.

Surrounding Land Uses:

WEST: Forested rangeland on mountainside (non-ALR)
SOUTH: Pasture, nursery stock, mountains, homesite (ALR)
EAST: Bluff, wooded (non-ALR)
NORTH: Homesite, pasture (ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.062
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

Official Community Plan Bylaw 96-001 designates the parcel as F-Farmland

Zoning Bylaw and Designation:

Zoning Bylaw 99-001 designates the parcel as A2-Agriculture. Minimum lot size 8 ha.

PREVIOUS APPLICATIONS:

There are no previous or relevant applications in the surrounding area.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Agricultural Advisory Committee (AAC) supports the proposal.

The following motion was passed by Council:

That Council support the subdivision conditional upon the applicant being required to;

1. register a covenant against the title that will prohibit additional dwellings
2. establish appropriate buffering on the north and west side of the proposed new lot.

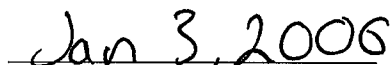
STAFF COMMENTS:

The proposal to subdivide the "farm help" dwelling from the subject property is less intrusive to the agricultural utility of the property, than would subdivision of the "main" farm house. Staff concurs with Council's recommendation requiring appropriate buffering and the registration of a covenant on prohibiting the construction or placement of more than one residence on the remainder of the property. If these conditions are met, Staff recommends approval.

END OF REPORT



Signature



Date