



Agricultural Land Commission
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July 12, 2006

Reply to the attention of Brandy Ridout
ALC File #G-36717

Gordon Hoffman
1101 Harvey Road
Kelowna, BC V1Y 6E8

Dear Mr. Hoffman:

Re: **Application to subdivide in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #316/2006 outlining the Commission's decision as it relates to the above noted application. As agent it is your responsibility to notify your client accordingly.

Should your client wish to pursue the Commission's alternate decision, please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

Cc: City of Kelowna (#A06-0003)

BR/lv/Encl.: Minutes
36717d1.

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on June 28, 2006 in Kelowna, BC.

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

For Consideration

Application # G – 36717
Applicant(s) Kaspar Moser
Proposal To subdivide a 1 ha lot from the 4 ha subject property under the Homesite Severance Policy. The applicant owns two 4 ha properties (Lot 1 and Lot 2) that have been farmed as a unit since 1969. Although the current homesite is on Lot 2, the applicant requests subdivision of a 1 ha lot from Lot 1. Lot 1 currently has no buildings.
Legal PID: 011-527-251
Location Lot 1, Section 25, Township 26, Osoyoos Division Yale District, Plan 1515
Location 1145 Morrison Road, Kelowna

Site Inspection

A site inspection was conducted on June 28, 2006. Those in attendance were:

- Commissioners: Sue Irvine, Sharon McCoubrey and Sid Sidhu
- Staff: Brandy Ridout
- Applicant: Kaspar Moser
- Agent: Gordon Hoffman

Mr. Hoffman confirmed that he had received the staff report dated June 14, 2006 and did not identify any errors.

Discussion

The Commission recalled the intent of the *Homesite Severance Policy*, which is to allow a retiring farmer to remain in his/her home and sell the remainder of the farm. It noted that the applicant was requesting a lot that would enable him to continue farming a smaller lot. The Commission also recalled that homesite lots are typically as small as possible in order to retain as much land as possible with the agricultural remainder.

As such, the Commission would not allow the application as proposed. It was prepared to allow a homesite lot of 0.2 ha either around the existing home or in the southeast corner of the property.

IT WAS

MOVED BY: Commissioner Sidhu
SECONDED BY: Commissioner McCoubrey

THAT the application be refused as submitted.

AND THAT a subdivision be approved subject to the following conditions:

- The new lot is to be 0.2 ha or smaller.
- the submission of a subdivision plan outlining the location of the 0.2 ha lot,
- the construction of a fence around the new 0.2 ha lot for the purpose of limiting its impact on the remaining farm unit. Fencing plans should be submitted to the Commission for approval.

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 #316/2006**



Staff Report
Application # G – 36717
Applicant: Kaspar Moser
Agent: Gordon Hoffman
Location: Kelowna

DATE RECEIVED: May 23, 2006

DATE PREPARED: June 14, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Regional Research Officer

PROPOSAL: To subdivide a 1 ha lot from the 4 ha subject property under the *Homesite Severance Policy*. The applicant owns two 4 ha properties (Lot 1 and Lot 2) that have been farmed as a unit since 1969. Although the current homesite is on Lot 2, the applicant requests subdivision of a 1 ha lot from Lot 1. Lot 1 currently has no buildings.

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

BACKGROUND INFORMATION:

Both lots have been part of a family farm since the 1940's and have been farmed as a unit since their purchase in 1969.

The applicant would like to build a new residence and develop a small peach orchard on the 1 ha homesite lot proposed to be subdivided from Lot 1. The applicant states the house would be built in a shaded area that is not good for growing peaches. The applicant also indicates there are rock outcroppings and frost problems on Lot 1.

Local Government:

City of Kelowna

Legal Description of Properties:

1. PID: 011-527-251
Lot 1, Section 25, Township 26, Osoyoos Division Yale District, Plan 1515

Purchase Date:

October 1969

Location of Properties:

1145 Morrison Road, Kelowna

BACKGROUND INFORMATION (continued):

Size of Properties:

4 ha (the property is entirely in the ALR)

Present use of the Property:

Residence, orchard

Surrounding Land Uses:

WEST: Hobby farm
SOUTH: Orchard
EAST: Non-ALR, residential subdivision
NORTH: Hobby farm

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.094
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

Kelowna 2020 - Official Community Plan
Designation: Rural/Agricultural

Zoning Bylaw and Designation:

Kelowna Zoning Bylaw
Designation: Agriculture 1
Minimum lot size: 2 ha (when in ALR)

PREVIOUS APPLICATIONS:

Application #22451-0

Applicant: L.O.R.A.,
Decision Date: August 24, 1988
Proposal: To exclude 186 parcels of land totalling 1220 ha.
Decision: Refused. Decision to refuse upheld by ELUC.

Application #26078-0

Applicant: Kaspar Moser
Decision Date: June 16, 1992
Proposal: To construct a sausage manufacturing facility of between 300 & 1,000 square feet. None of the beef would be raised on the property and there are no plans to retail off the site. Some by-product would be produced.
Decision: Refused - on the grounds that this is an inappropriate use of the property. The property had good agricultural capability and was located in an agricultural area. The placement of this type of operation on good capability agricultural land alienates farmland from agricultural production. Also, as the operation was not tied directly to the productive potential of the land in question, it was preferable that it be located on appropriately zoned land where its unique requirements could be met.

RELEVANT APPLICATIONS:

Application #21215-0

Applicant: Antonio & Maria Velho
Decision Date: June 24, 1987
Proposal: To subdivide a 0.8 ha lot from the 8.4 ha subject property under the *Homesite Severance Policy*.
Decision: Refused - however, the Commission would allow the subdivision of a smaller homesite of 0.3 ha, which would include the residence, garage and driveway.

Application #27490-0

Applicant: Andrew & Donna Hartman
Decision Date: January 12, 1994
Proposal: To subdivide a 0.5 ha lot containing an existing residence as a retirement holding from the two properties (2.1 ha and 8.6 ha) under the *Homesite Severance Policy*.
Decision: Refused - on the grounds that the homesite lot is too large. The Commission will authorize the creation of a smaller homesite lot surrounding the residence on Lot 2 subject to the installation of vegetative screening along the boundary, the terms and conditions of the *Homesite Severance Policy*, and the consolidation of the remnant portion of Lot A severed by the approved lot to Lot 2.

Application #27490-1 Reconsideration

Applicant: Andrew & Donna Hartman
Decision Date: June 6, 1994
Proposal: To allow a lot configuration this was more practical for agriculture.
Decision: Allowed subject to conditions of the *Homesite Severance Policy* and the installation of vegetative screening.

Application #27490-2 Reconsideration

Applicant: Andrew & Donna Hartman
Decision Date: June 28, 1996
Proposal: To subdivide a 0.4 ha lot from the property for daughter.
Decision: Rescinded Resolution #563/94 and 31/94. Allowed subject to vegetative screening and the rescinding of previous Resolutions.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

City of Kelowna Council: Recommended the application be forwarded with support.

Agriculture Advisory Committee: Supports the application which seeks to obtain permission to subdivide within the ALR to accommodate a homesite severance.

Planning & Corporate Services Department: That the application not be supported by Council for the following reasons:

1. The existing site configuration for the current dwelling site is a suitable site for a homesite severance subdivision. The intent of the Policy is to allow the property owners to maintain their principle residence location.
2. The proposed subdivision exceeds the area traditionally approved for homesite severance lots.
3. The proposed subdivision boundary does not yield the most suitable remainder as an agricultural parcel (i.e. encompasses valuable agricultural land).


STAFF COMMENTS:

Staff suggest the Commission consider the following:

- The subdivision of a 0.2 ha homesite lot around the current homesite would satisfy the intent of the *Homesite Severance Policy*, allowing the applicants to remain in their home.
- The proposed 1 ha homesite lot would include a large area of prime agricultural land.
- If the proposed 1 ha lot is subdivided from Lot 1 and the remainder sold, a new homesite could also be built on the remainder of Lot 1. As the existing homesite would remain on Lot 2, this would result in the existence of 3 homesites.
- As the two 4 ha properties are on separate titles, they could be sold separately and a new homesite built on Lot 1 at any time.
- The possibility of consolidating the remainder of Lot 1 with Lot 2.

END OF REPORT

Signature



Date

June 19, 06