



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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October 4, 2006

Reply to the attention of Brandy Ridout
ALC File #H-36788

R.G. (Bob) Holtby
670 17th Street SE
Salmon Arm, BC V1E 1W2

Dear Mr. Holtby:

Re: Application to subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #479/2006 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly.

If your client wishes 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 a 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 the Commission will authorize the Registrar of Land Titles to accept the application for deposit of the subdivision plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Regional District of Columbia Shuswap (LC2339-C)

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

36788d1

A meeting was held by the Provincial Agricultural Land Commission on September 29, 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
	Martin Collins	Staff
	Terra Kaethler	Staff

For Consideration

Application: #H- 36788
Applicant: Valerie Blazina
Proposal: To subdivide a 2 ha homesite lot from the 4.9 ha subject property under the *Homesite Severance Policy*.
Legal: PID: 007-732-848
Lot 4, Section 4, Township 21, Range 10, W6M, Kamloops Division Yale District, Plan 20776
Location: 186 Kault Hill - north of the City of Salmon Arm

Site Inspection

No site inspection was conducted.

Discussion

The applicant qualifies for consideration under the *Homesite Severance Policy* as she has owned the property since September 1971. Although the Commission typically prefers a homesite lot that is as small as possible, it did not believe that subdivision in this case of a 2 ha lot would have a negative impact on agriculture.

IT WAS

MOVED BY: Commissioner Irvine
SECONDED BY: Commissioner Sidhu

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 installation of a fence around the new homesite lot for the purpose of limiting its impact on the remaining farm unit. Fencing plans should be submitted to the Commission for approval.
- compliance with the *Homesite Severance Policy*

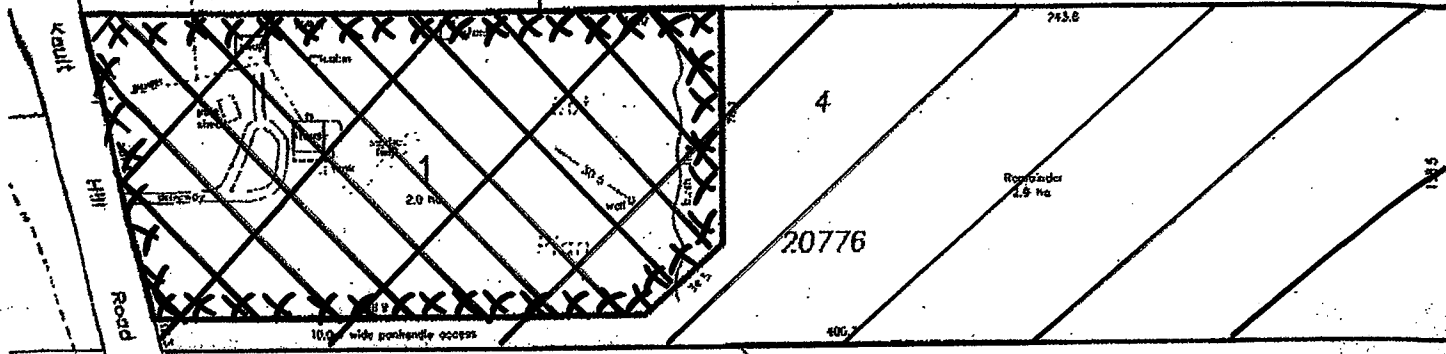
AND THAT the approval is granted to the applicant only and is valid for three (3) years from the date of this decision.

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 #479/2006**

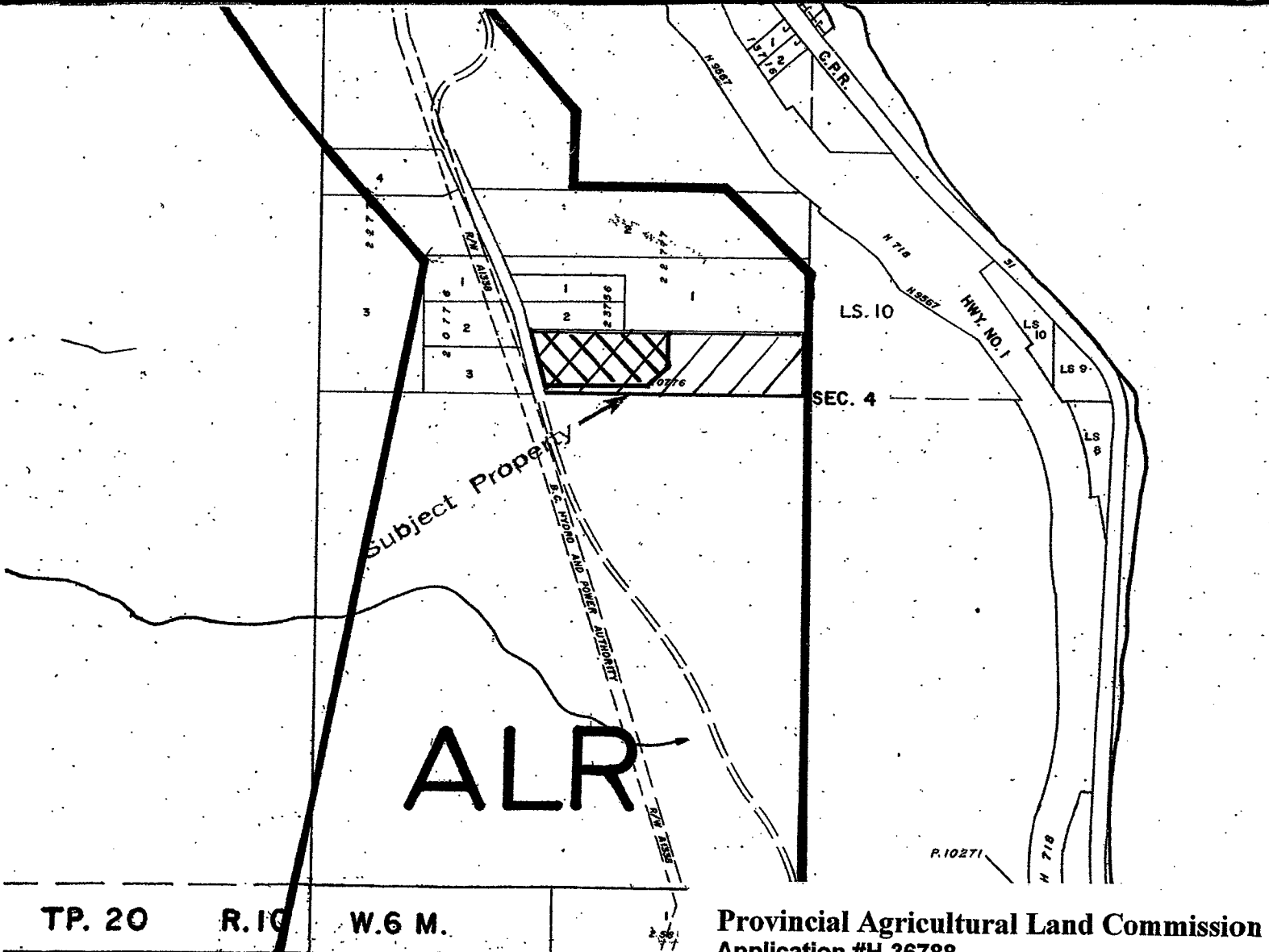
Lot 2
Plan 23756

Rem. Lot 1
Plan 22777



Lot 1
Plan 33954

March 14, 2006



Provincial Agricultural Land Commission
Application #H-36788
Resolution #479/2006



2 ha area approved for subdivision
in the ALR



Location of fencing

) RESERVE



*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:

- 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 946 of the *Local Government Act* insofar as compliance with local bylaws is concerned.

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



Staff Report
Application # H – 36788
Applicant: Valerie Blazina
Agent: R G Holtby
Location: North of Salmon Arm

DATE RECEIVED: June 29, 2006

DATE PREPARED: September 11, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To subdivide a 2 ha homesite lot from the 4.9 ha subject property under the Homesite Severance Policy.

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

BACKGROUND INFORMATION:

Local Government:

Columbia Shuswap Regional District

Legal Description of Property:

PID: 007-732-848

Lot 4, Section 4, Township 21, Range 10, W6M, Kamloops Division Yale District, Plan 20776

Purchase Date:

September 7, 1971

Location of Property:

186 Kault Hill Road, north of Salmon Arm

Size of Property:

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

Present use of the Property:

Residence/old orchard

Agricultural Capability:

Data Source: Agricultural Capability Map # 82L/14

The majority of the property is identified as having Mixed Prime and Secondary ratings.

BACKGROUND INFORMATION (continued):

Surrounding Land Uses:

WEST: Larger acreage, very steep toward Trans Canada Highway
EAST: Rural Residential
SOUTH: Rural Residential
NORTH: Rural Residential

Zoning Bylaw and Designation:

Kault Hill Rural Land Use Bylaw No. 3000
Designation: Rural (R), Minimum Lot Size: 8 ha

RELEVANT APPLICATIONS:

Application #35868-0

Applicant: Anderson, Ernest
Decision Date: April 27, 2005
Proposal: To subdivide the 4.9 ha property into one 2.0 ha lot and one 2.8 ha lot.
Decision: Approved on the grounds that it would have a minimum impact on agriculture.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Columbia Shuswap Regional District Board: Recommend concurrence with the CSRD Development Services staff report.

CSRD Development Services: Recommend that the application be forwarded with a recommendation of support. The Kault Hill area is basically rural residential in character with hobby farms being the agricultural use. One additional lot in this area would not have an adverse affect on the limited agricultural community.

STAFF COMMENTS:

Staff suggests the Commission consider the following:

- The applicant appears to qualify for consideration under the *Homesite Severance Policy* as she has owned the property since September 1971.
- Although the Commission typically prefers a homesite lot that is as small as possible, subdivision has generally been approved in this area on the grounds that it would have a minimum negative impact on agriculture.

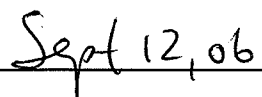
ATTACHMENTS:

- ALR Base Map: 82L/14 - 1:50,000
- ALR Constituent Map 30 – 1:10,000
- Report prepared by agent for application
- CSRD Development Services Staff Report

END OF REPORT



Signature



Date