



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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Fax: 604-660-7033
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October 4, 2006

Reply to the attention of Roger Cheetham
ALC File: # I- 36865

Earl & Judy Devlin
PO Box 245 - 6510 Brewster Lake Road
Campbell River, BC V9W 5B1

Dear Sir/Madam:

Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)

Please find attached the Minutes of Resolution Number 457/2006 outlining the Commission's decision as it relates to the above noted application.

The Commission's approval of the homesite severance is subject to:

- the subdivision being in substantial compliance with the attached plan.
- the homesite lot not being 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.

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.
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.

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Please quote your application number in any future correspondence.

Yours truly

PROVINCIAL AGRICULTURAL LAND COMMISSION

per: 

Erik Karlsen, Chair

pc: Regional District of Comox-Strathcona (#ALR-1H-06)

RC/lv/Encl.

Sketch Plan

Homesite Severance Policy

36865d1

**SURVEY PLAN OF
LOT 1578,
SAYWARD DISTRICT**

SCALE 1 inch = 200 feet

LEGEND

Astronomic bearings from Lot 1545

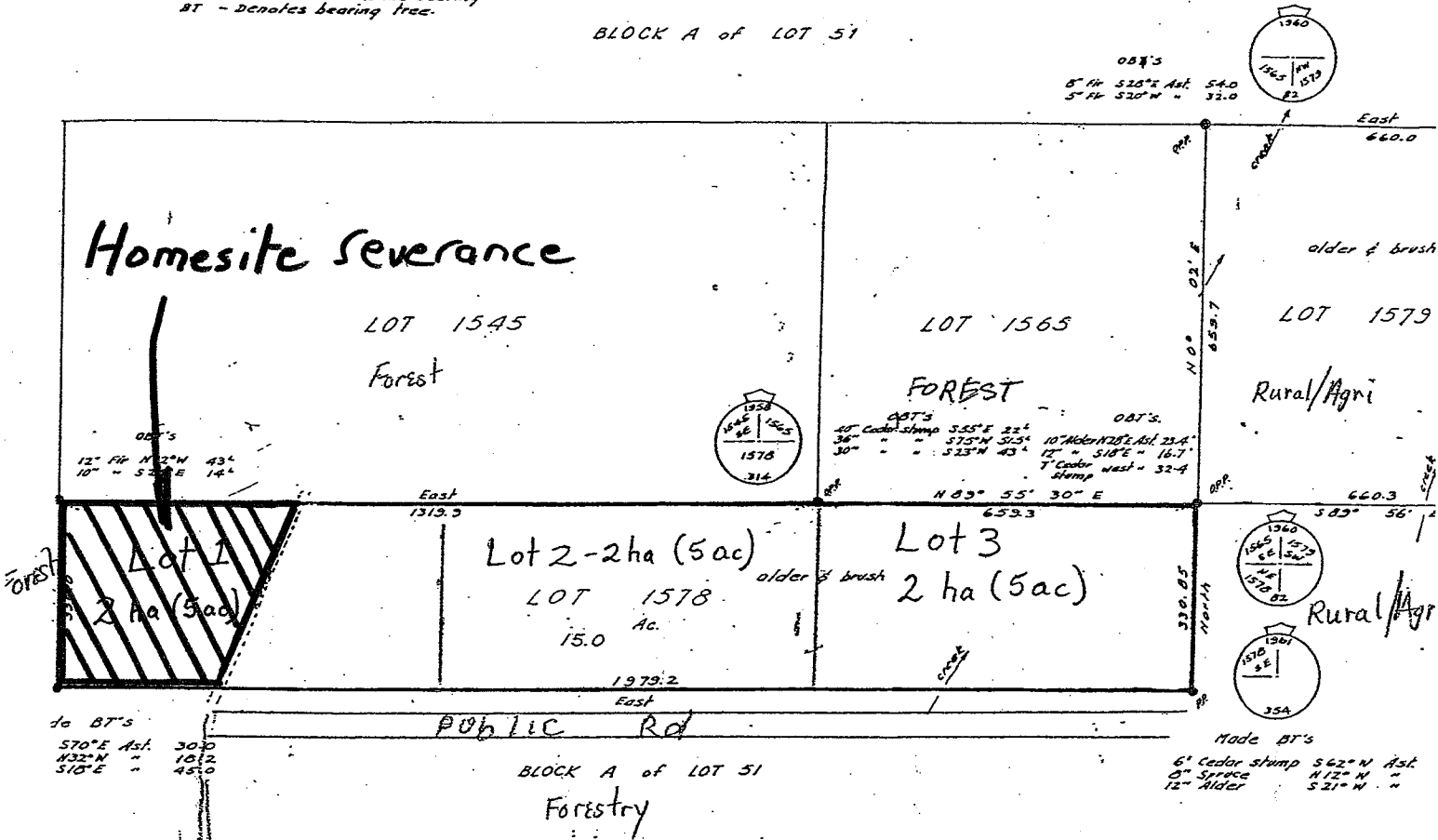
- RPR - Denotes old pipe post found
- RP - Denotes pipe post set.
- Ast. - Denotes astronomic bearing
- BT - Denotes bearing tree.

BLOCK A of LOT 51

Site Plan

ALR 1H 06

Devlin



I, Davidson, of Courtenay, a duly authorized land surveyor
in the Province of British Columbia, make oath and say as follows:-
That the survey represented by this plan on the 4th day of August, 1961

**Application Number I - 36865
Homesite Severance approved in terms of
Resolution Number 457/2006**

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IT WAS

MOVED BY: Commissioner L. Seitz

SECONDED BY: Commissioner D. Craven

THAT in the light of the site inspection and discussion the application as submitted be refused;

That one subdivision be approved in accordance with its *Homesite Severance Policy*.

CARRIED

Resolution Number 457/2006



*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 # 1 – 36865-0
Applicant: Earl & Judy Devlin

DATE PREPARED: August 29, 2006

TO: Chair and Commissioners – Island Panel

FROM: Colin Fry, Director – Regional Operations

PROPOSAL: To subdivide the 6.0 ha parcel into three (3) 2.0 ha lots. It is suggested that the owners qualify for consideration under the *Homesite Severance Policy*.

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

BACKGROUND INFORMATION:

Local Government:

Regional District of Comox-Strathcona

Legal Description of Property:

PID: 002-698-846
District Lot 1578, Sayward District

Purchase Date:

Applicant indicates property acquired prior to December 21, 1972

Location of Property:

6510 Brewster Lake Road, Campbell River

Size of Property:

6.0 ha (The entire property is in the ALR)

Present use of the Property:

Residence, two shops, wood shed

Surrounding Land Uses:

WEST: Forest
SOUTH: Forest
EAST: Rural/Agriculture/Forest
NORTH: Forest

Agricultural Capability:

Data Source: Agricultural Capability Map # 92K/3
The majority of the property is identified as having Prime and Secondary agricultural capability ratings.

Official Community Plan and Designation:

Designation: Forestry

Zoning Bylaw and Designation:

No zoning

PREVIOUS APPLICATION:

Application #I-25820
Proposal: To establish a moto-cross track. The track would use approximately 1.8 ha of the 6.0 ha property.
Decision Date: April 15, 1992
Decision: Refused.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

The Regional Board supports the creation of a homesite severance but does not support the creation of any additional lots.

Attachments:

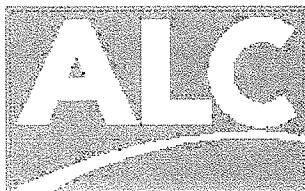
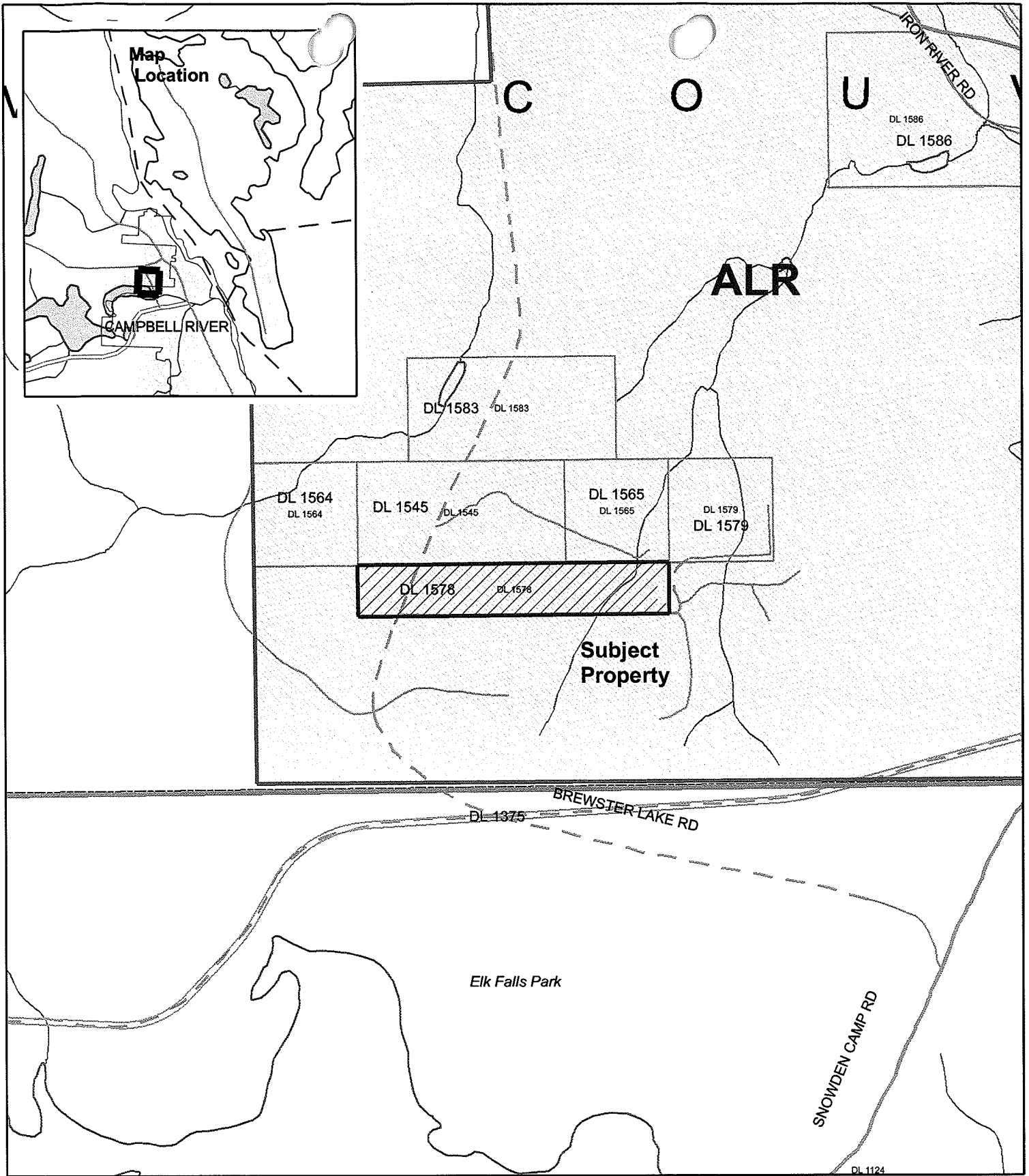
1. ALC Context Map
2. Aerial Photograph
3. Plan of Proposed Subdivision
4. Local Government Report
5. ALC Decision Letter dated May 20, 1992 regarding Application #I-25820
6. ALC Minutes of Resolution #430/92 regarding Application #I-25820.

END OF REPORT

Signature

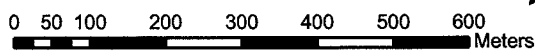
Date

August 29/06



ALC Context Map

Map Scale: 1:10,000



ALC File#:	21-06-36865
Map Sheet #:	92K.004
Regional District:	Comox-Strathcona