



**Agricultural Land Commission**  
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June 14, 2007

Reply to the attention of Brandy Ridout  
ALC File: #G - 37291

Al Kempf  
Pushor Mitchell, LLP  
3rd Floor - 1665 Ellis Street  
Kelowna, BC V1Y 2B3

Dear Mr. Kempf:

Re: Application to subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 273/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your clients accordingly.

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:

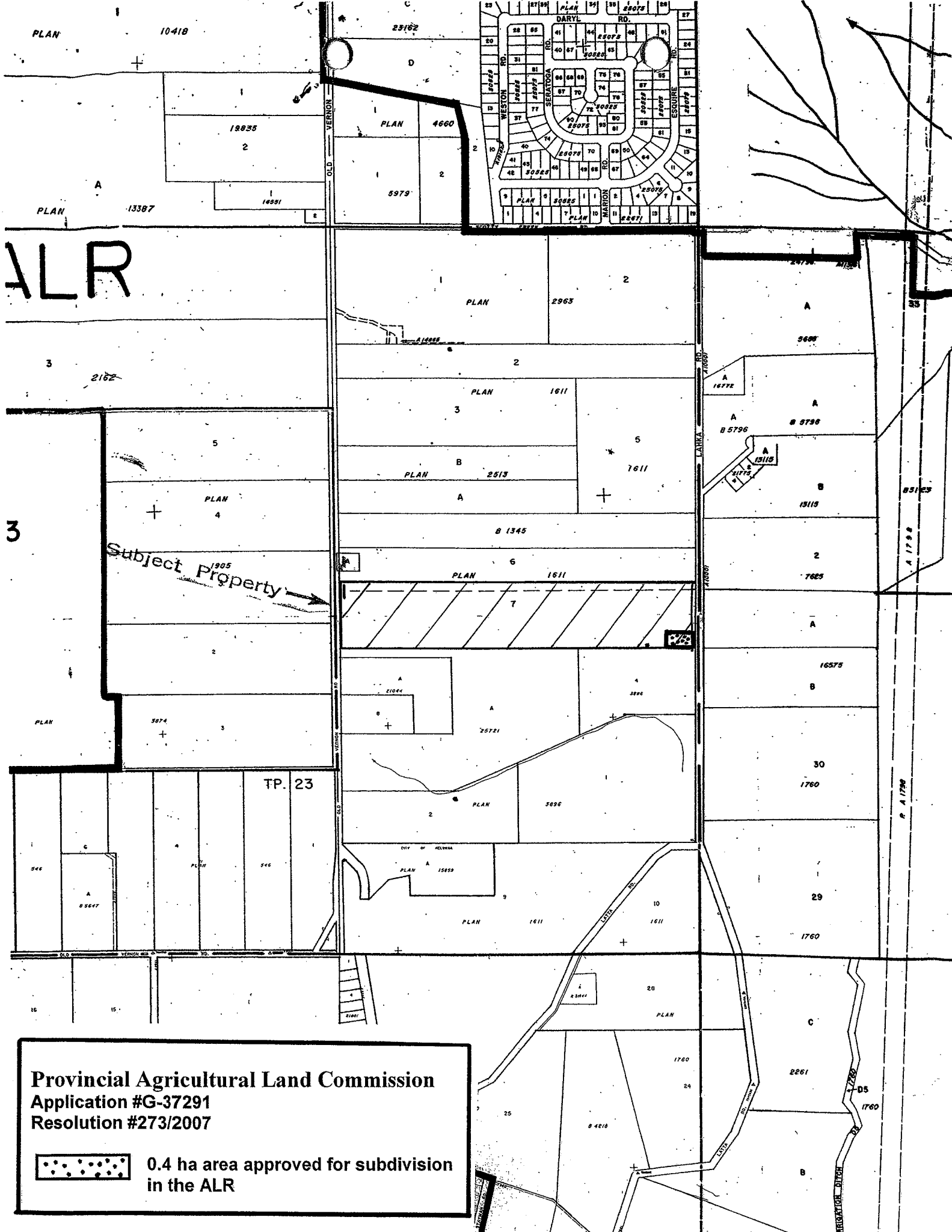
A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over the 'Per:' label.

Erik Karlsen, Chair

cc: Regional District of Central Okanagan (#A-07-01)

Enclosure: Minutes/Sketch Plan

BR/lv  
37291d1




ALR

3

Subject Property →

Provincial Agricultural Land Commission  
 Application #G-37291  
 Resolution #273/2007

 0.4 ha area approved for subdivision in the ALR



## MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

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A meeting was held by the Provincial Agricultural Land Commission on June 6, 2007 in Vernon, BC.

<b>PRESENT:</b>	Sue Irvine	Chair, Okanagan Panel
	Monika Marshall	Commissioner
	Sid Sidhu	Commissioner
	Brandy Ridout	Staff
	Martin Collins	Staff

### For Consideration

Application: # G - 37291  
Applicant: Julius and Wilma Kish  
Agent: Pushor Mitchell, LLP  
Proposal: To subdivide a 0.4 ha lot from the 12.2 ha subject property under the Homesite Severance Policy.  
Legal: PID: 011-512-229  
Location: Lot 7, Section 1, Township 23, Osoyoos Division Yale District, Plan 1611  
2671 Old Vernon Road, north east of Kelowna

### Site Inspection

A site inspection was conducted on June 4, 2007. Those in attendance were:

- Sue Irvine Chair, Okanagan Panel
- Monika Marshall Commissioner
- Sid Sidhu Commissioner
- Brandy Ridout Staff
- Martin Collins Staff
- Julius Kish Applicant
- Al Kempf Agent

Mr. Kempf confirmed that the staff report dated May 28, 2007 was received and no errors were identified.

### 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.

## **Discussion**

### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the majority of the soil of the subject property is Class 2 and 3 with limitations of soil moisture deficiency and stoniness. Land in Class 2 has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both. Land in Class 3 has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

### **Assessment of Agricultural Suitability**

The Commission considered whether the property was suitable for agriculture. This consideration included details such as property size, surrounding land use and limitations to agriculture. The Commission did not believe there are external factors that render the land unsuitable for agricultural use.

### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. As the application was for a homesite severance, the Commission's main concerns were to ensure that as much agricultural land was retained with the agricultural remainder and the homesite be located in an area where its impact on the remainder would be minimized.

The Commission noted that the applicants had made an effort to reduce the impact of the homesite lot on the agricultural remainder by proposing to create a new homesite lot in an alternate location as subdivision of the current homesite would be too intrusive to the agricultural remainder due to its long driveway. Also, it was noted that the proposed homesite would have minimal impact on the farming operations as it would be bordered by a road to the east, a gully to the west, and suitable screening or fencing on the north and south sides.

### **IT WAS**

**MOVED BY:** Commissioner Irvine

**SECONDED BY:** Commissioner Sidhu

THAT the application be approved on the grounds that the proposed homesite lot would have a minimal impact on the remaining agricultural unit.

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the plan submitted with the application.
- the construction of a fence and planting of a vegetative buffer around the perimeter of the 0.4 ha lot for the purpose of limiting the homesite lot's impact on the agricultural remainder.
- compliance with the *Homesite Severance Policy*.
- the subdivision must be completed within 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 # 273/2007**



**Staff Report**  
**Application # G – 37291**  
**Applicant: Julius and Wilma Kish**  
**Agent: Alfred Kempf**  
**Location: northeast of Kelowna**

**DATE RECEIVED:** March 14, 2007

**DATE PREPARED:** May 28, 2007

**TO:** Chair and Commissioners – Okanagan Panel

**FROM:** Brandy Ridout, Land Use Planner

**PROPOSAL:** To subdivide a 0.4 ha lot from the 12.2 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:**

The applicants note that the current residence is undesirable for a homesite lot as it is located in the middle of the property and is accessed by way of a long driveway that cuts through the existing orchard. The new proposed homesite will have minimal impact on the farming operations as it will be bordered by a road to the east, a gully to the west, and suitable screening or fencing on the north and south sides.

**Local Government:**

Regional District of Central Okanagan

**Legal Description of Property:**

PID: 011-512-229  
Lot 7, Section 1, Township 23, Osoyoos Division Yale District, Plan 1611

**Purchase Date:**

07/01/1971

**Location of Property:**

2671 Old Vernon Road, north east of Kelowna

**BACKGROUND INFORMATION (continued):**

**Size of Property:**

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

**Present use of the Property:**

Residence, Barn, Garage and Picker's Cabin

**Surrounding Land Uses:**

**WEST:** Hay Fields  
**SOUTH:** Hay Fields  
**EAST:** Apple Orchard  
**NORTH:** Apple Orchard

**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:**

Ellison OCP Bylaw No. 1124  
Designation: Agricultural

**Zoning Bylaw and Designation:**

Zoning: Bylaw No. 871  
Designation: A-1 (Agricultural)  
Minimum Lot Size: No minimum - as determined by Agricultural Land Commission

**RELEVANT APPLICATIONS:**

**Application #29912-0**

**Applicant:** Takamori Ikenouye  
**Decision Date:** July 15, 1995  
**Proposal:** To subdivide a 0.5 ha lot from the 3.7 ha subject property under the *Homesite Severance Policy*.  
**Decision:** Refused as submitted on the grounds that the agricultural remainder would be too small but that approval be granted to the following two options: 1) Subdivision of the proposed 0.5 ha lot subject to consolidation to the property to the north; or 2) Consolidation to the property to the north and subdivision along the grade break to create an alternate homesite lot from the northern property.

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**Application #36923-0**

**Applicant:** Roberto and Lynn Russo  
**Decision Date:** November 10, 2006  
**Proposal:** To subdivide a 0.2 ha parcel from the 6.1 ha subject property under the *Homesite Severance Policy*.  
**Decision:** Refused on the grounds that the applicant does not qualify under the *Policy* and the subdivision of a residential lot would negatively impact agriculture.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**Central Okanagan Regional District Board:** Automatically supports applications for homesite severance.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS (continued):**

**Agricultural Advisory Commission:** Supports. Would prefer to see a 0.2 ha homesite lot and the proposed location is excellent but would ask for buffering and fencing. However, believe that 0.4 ha is reasonable and if configured in the corner of the property with buffering it will not affect agriculture.

**Central Okanagan East APC:** Supports.

**OTHER COMMENTS:**

**Land Use Agrologist, Ministry of Agriculture and Lands:** No objection to the application but recommend the following: a notice be registered on title indicating that this lot is in an agricultural area and subject to nuisances from normal farm practices; and that the lot be fenced to prevent trespass onto adjacent farmland.

**STAFF COMMENTS:**

Staff suggests that the Commission consider the following:

- The applicants appear to have made an effort to reduce the impact of the homesite lot on the agricultural remainder.
- Typically the Commission prefers the subdivision of smaller homesite lots (0.2 ha) so as to keep as much agricultural land with the remainder.
- The applicants have provided a title from 1971 indicating ownership of the property since that date. They have been requested to provide documentation proving occupancy but the information was not received by the date this staff report was prepared.

**ATTACHMENTS:**

- ALR base and constituent maps
- Air photo
- Air photo showing proposed subdivision

**END OF REPORT**

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Signature

\_\_\_\_\_  
Date

