



# Provincial Agricultural Land Commission - Staff Report

## Application: 52342

**Applicant:** Susan Obermeier  
**Agent:** Jason R. Shortt  
**Local Government:** North Okanagan

**Proposal:** To re-align the common lot line between Lot 29 and Lot 30 to create one 0.62 ha lot including the existing house and one 6.82 ha lot.

The deck, eaves and septic system of the house on Lot 30 encroach onto Lot 29. The proposed Lot A would be a new 0.62 ha lot at the northeast corner of the property along Old Kamloops Road and would contain the existing driveway, house and septic system. Proposed Lot B would wrap around the west and south sides of Proposed Lot A and would be accessed from Old Kamloops Road.

### BACKGROUND INFORMATION

The proposed subdivision is pursuant to Section 946 of the Local Government Act which enables subdivision for the purpose of providing a separate residence for the owner or a relative of the owner. If the requirements of Section 946 of the LGA are met, the subdivision may be approved without the need to amend the OCP or Zoning Bylaw to permit the proposed 0.62 ha residential lot.

Regional District of North Okanagan Policy No. LU012 Subdivision Applications in the ALR Pursuant to Section 946 of the LGA and the Home Site Severance Provisions of the ALC Act, states that Section 946 subdivisions within an Agricultural Land reserve should not be authorized unless the subject property has been owned by the applicant since prior to the enactment of the ALC Act (December 21, 1972) and that owners who purchased their land after the Act came into effect should not have any expectations of approval of any subdivision of their land. Policy No. LU012 also states that the minimum lot size for a parcel created pursuant to Section 946 should be 1 ha to reflect the area requirement of the province applicable to lots serviced with on-site septic tank effluent disposal systems.

### PROPERTY INFORMATION

**PID:** 012-366-501  
**Legal Description:** Lot 30 Section 27 Township 8 Osoyoos Division Yale District Plan 336  
**Property Area:** 3.9 ha  
**ALR Area:** 3.9 ha  
**Purchase Date:** March 19, 2007  
**Location:** 7626 Old Kamloops Road  
**Owner:** Benjamin Obermeier

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**PID:** 012-366-463  
**Legal Description:** Lot 29 Sections 22 and 27 Township 8 Osoyoos Division Yale District Plan 336  
**Property Area:** 3.6 ha  
**ALR Area:** 3.6 ha  
**Purchase Date:** March 19, 2007  
**Location:** 7652 Old Kamloops Road  
**Owner:**

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**Total Land Area:** 7.5 ha  
**Total ALR Area:** 7.5 ha

## LAND USE

### Current Land Use:

Lot 30 has a house and septic system; Lot 29 is vacant and the non-sloping area of both lots is farmed for forage crops.

### Surrounding Land Uses:

North: Agricultural  
East: Old Kamloops Road, agricultural  
South: Agricultural  
West: Agricultural

## PROPOSAL DETAILS

Subdivision - ALR Area: 7.5 ha

Number of Lots	ALR Area of Lot (ha)
1	0.6
1	6.9

### Agricultural Capability:

The majority of the area under application is rated as: Mixed Prime and Secondary

Source: BCL

Mapsheet: 82L.034

## RELEVANT APPLICATIONS

Application ID: 41884

Legacy #: 35915

Applicant: Robert & Jocelyne Dinwoodie

Proposal: To subdivide the 4.6 ha property into two lots of 2 ha and 2.6 ha.

### Decision:

Resolution #	Decision Date	Decision Description
200/2005	April 27, 2005	The Commission refused this application to subdivide the 4.6 ha property into two lots of 2.0 ha and 2.6 ha on the grounds that it is consistent with previous and relevant decisions, offers the greatest number of agricultural options and prevents rural residential intrusion into an agricultural area.

**Note:** This application for subdivision is located to the south of the subject property. This application was refused on the grounds the property has reasonable capability for agricultural use.

## LOCAL GOVERNMENT INFORMATION

### Official Community Plan:

Bylaw Name: Bylaw No. 1708, 2003  
Designation: Agriculture  
OCP Compliance: Yes

### Zoning:

Zoning Bylaw Name: Zoning Bylaw No. 1888, 2003  
Zoning Designation: Country Residential (CR) Zone  
Minimum Lot Size: 30.5 ha  
Zoning Compliance: Yes

### Comments and Recommendations:

#### Board/Council

That the application be authorized for submission to the ALC pursuant to Section 25(3) of the ALC Act.

## LOCAL GOVERNMENT INFORMATION

### Comments and Recommendations:

#### **Ministry of Agriculture and Lands**

Does not support this application. Subdivision of lands and non-farm use of agricultural lands in the ALR are not supported by this ministry. Home site severance on ALR lands may only be considered by the ALC where property under the application has been the principal residence of the applicant as owner-occupant since december 21, 1972. Based on the information provided, the applicant does not meet this criteria of the ALC policy.

#### **Planning Staff**

Development Services recommends that this application for a subdivision in the ALR not be authorized for submission to the ALC because the application does not qualify for consideration under the ALC home site severance policy and Regional District Policy LU012.

The current size and soil characteristics of the properties allow them to be used for agricultural purposes. Whereas the expansion of one lot to 6.82 ha may be beneficial to agricultural operations on that parcel, the benefit may be offset by loss of agricultural potential on the smaller lot and the expectations other landowners may have for potential subdivision on other agricultural lands.

## ALC STAFF COMMENTS

Staff has the following comments:

- While there has not been any previous applications involving the subject properties, the Commission has not generally been supportive of subdivision of ALR properties in the local area due to impact on agricultural potential. The Commission has approved subdivision in the local area pursuant to its homesite severance policy.
- The proposed subdivision would eliminate the encroachment of the septic system, eaves and deck onto Lot 29; however, this condition could be rectified by a less extensive boundary adjustment.

## ATTACHMENTS

52342plan.pdf  
52342\_ContextMap20k.pdf  
52342\_AirphotoMap10k.pdf  
52342\_AgCapabilityMap.pdf

## END OF REPORT

**Prepared by:** Ron Wallace, Land Use Planner