



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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September 26, 2005

Reply to the attention of Simone Magwood

William and Lois Matuga
R.R. # 1
Heffley Creek, BC – V0E 1Z0

Dear Mr. and Mrs Matuga:

Re: **Application # ZZ-36206-0**
Lot 2, District Lot 339, Kamloops Division, Yale District, Plan 1537 except Plan H8754

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide one (1) lot of approximately 2.1 ha from the property in accordance with its *Homesite Severance Policy* (copy attached). The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank you for taking the time to meet with its representatives on September 12, 2005.

The Commission writes to advise that it approved your application subject to:

- the subdivision being in substantial compliance with the attached plan.
- the construction of a fence around the homesite to be maintained by the owner of the homesite.
- that the homesite lot not be 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.
- that you obtain Commission approval for an increase in the size of the homesite lot or a change in its location deemed necessary by other approval agencies.
- compliance 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. The Commission suggests you contact the Thompson-Nicola Regional District at your earliest convenience.

The decision noted above is recorded as Resolution #331/2005.

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:

William and Lois Matuga
Page 2 - #36206

- 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.

Please quote your application number in any future correspondence.

Yours truly

PROVINCIAL AGRICULTURAL LAND COMMISSION

per:

Erik Karlsen, Chair

cc: Thompson-Nicola Regional District (file # ALR-P-84)

SM/lv/Encl
36206d1

P. 1537

house

3

339 land sometimes rented for growing crop

D.L.

Lot 2, DL 339, KOYD
Plan 1537
except plan H8754

SUBJECT PROPERTY

29.1 ha rem

grass hay

land slopes

BC TEL P. 43052

shop

hay crop

metal grainery
old grainery

shed

old house (not habitable)

hay shed

crop land
this larger parcel is 29.08 hectares

EXP. C. 845 METERS
CONTRACT No. 215-05691-007
YEAR - 1991

A 14479
P 29759

PROPOSED LOT

Agricultural Land Commission
Application: # ZZ-36206-0
Resolution # 331/2005

Subject property.

Approved ± 2.1 ha lot pursuant to the
Homesite Severance Policy.



land used for growing crop

P. 1537

P. 158

A P. 14726

P. H-8754

50° 35' 30"
120° 15' 00"

NOT TO SCALE - 694000

CHIEVE AND MADING BOARD

U.T.M. GRID ZONE 10

North Thompson River
SUBJECT TO FLOODING

SUBJECT TO FLOODING





*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:

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

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on September 12, 2005 at 108 Resort, 4816 Telqua Drive, 108 Mile Ranch, BC.

PRESENT: Grant Huffman Chair
Holly Campbell Commissioner
Frank Read Commissioner

STAFF: Simone Magwood, Regional Research Officer
Martin Collins-Roger Cheetham, Planner

For Consideration

Simone Magwood presented the staff report dated August 24, 2005 regarding application #ZZ- 36206-0. Mr. and Mrs. Matuga confirmed that they received the staff report and did not identify any errors.

Site Inspection

A site inspection was conducted on September 12, 2005 Those in attendance were:

- Commissioners Huffman, Campbell & Read
- Agricultural Land Commission Staff: Simone, Regional Research Officer and Martin Collins, Planner
- William and Lois Matuga

The site inspection lasted from 12:00 p.m. to 12:30 p.m.

Commission Discussion

The Commission viewed the property and discussed the application with the applicants. The applicants qualify under the *Homesite Severance Policy*.

IT WAS

MOVED BY: Commissioner Huffman
SECONDED BY: Commissioner Campbell

THAT the staff report be received and the application to subdivide a 2.1 ha lot from the 31.2 ha parcel be approved on the grounds that the applicants qualify under the *Homesite Severance Policy*.

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



Staff Report
Application # ZZ – 36206 – 0
Applicant: Michael & Lois Matuga

DATE PREPARED: August 24, 2005

TO: Chair and Commissioners – North Panel

FROM: Simone Magwood, Regional Research Officer

PROPOSAL: To subdivide the 31.2 ha property into 2 parcels; one of 29.1 ha and the other 2.1 hectares.

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

BACKGROUND INFORMATION:

The applicants have owned the land since 1952 and therefore qualify for a subdivision under the *Homesite Severance Policy*. The applicants will live on the smaller property in their current dwelling where they hope to continue to raise small crops and vegetables.

Local Government:

Thompson-Nicola Regional District

Legal Description of Property:

PID: 010-017-615

Lot 2, District Lot 339, Kamloops Division of Yale District, Plan 1537, Except Plan H8754

Purchase Date:

1952

Location of Property:

Heffley Creek

Size of Property:

31.2 ha (Approximately 18 ha is in the ALR).

Present use of the Property:

Alfalfa and grass hay crops for cattle. Current residence and outbuildings including an old house which is not habitable.

Surrounding Land Uses:

WEST: North Thompson River (non-ALR)
SOUTH: Farming (ALR)
EAST: Smaller holdings - crop is often grown on the western portion (ALR)
NORTH: This land is sometimes rented (as it is now) for crop production (ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 92/16
The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

Kamloops North OCP designates the parcel as Agricultural

Zoning Bylaw and Designation:

Zoning By-Law no. 940 designates the parcel as SH-1 Small Holding. Minimum Lot Size 2 ha.

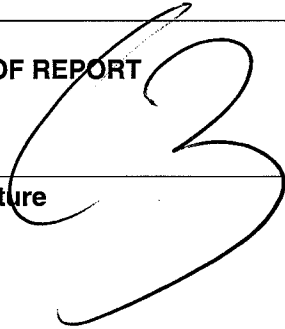
LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

No Comment

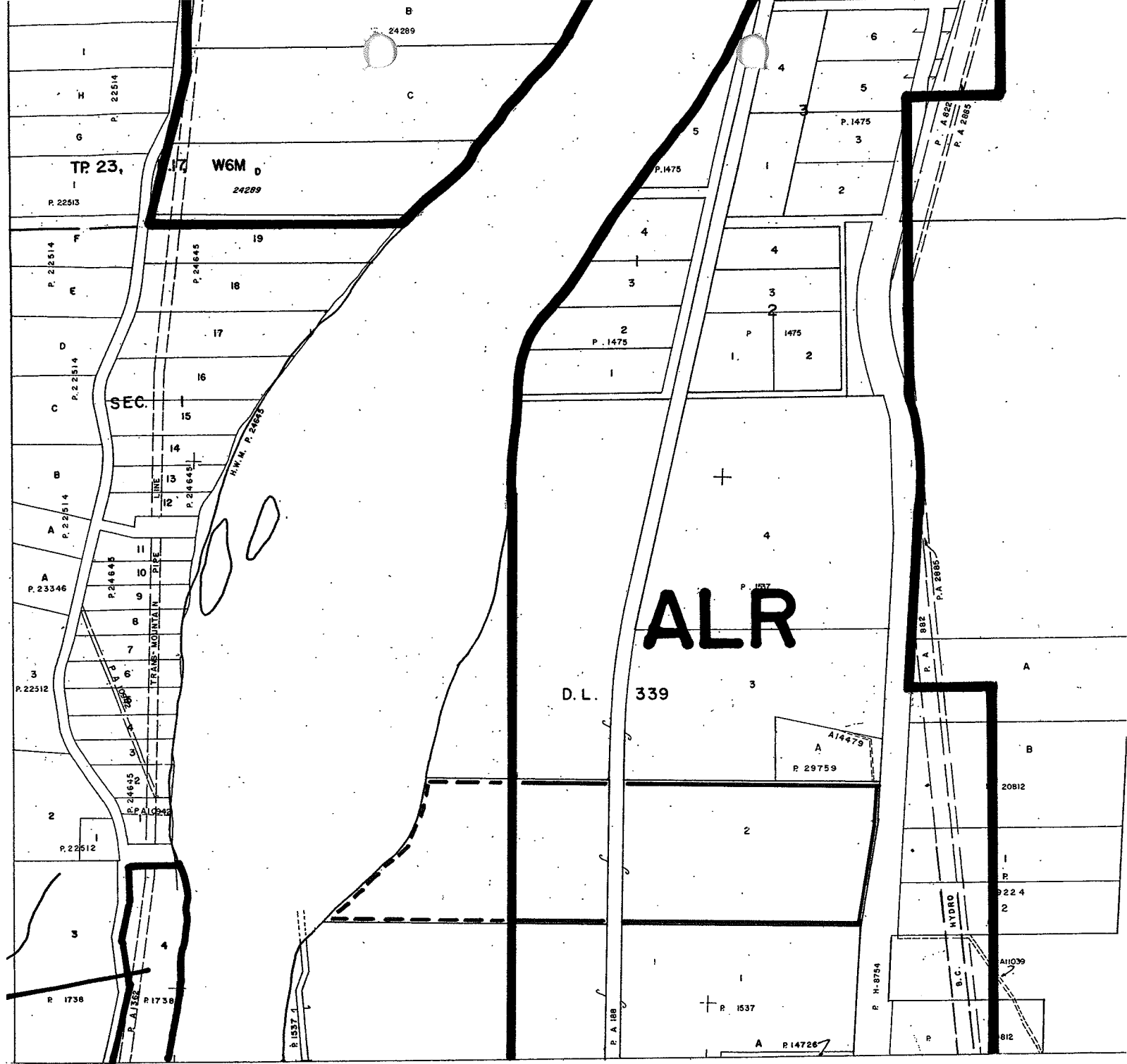
END OF REPORT

Signature

Date

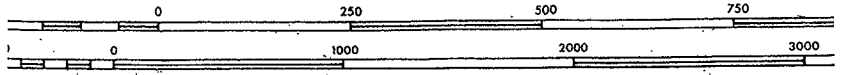


August 26/05



AGRICULTURAL LAND RESERVE


Scale 1:10 000



Constituent

Map # 26

Scale: 1:10,000


N