



Agricultural Land Commission
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October 18, 2006

Reply to the attention of Brandy Ridout
ALC File #G-36718

Judith Ohs
755 Glenmore Road, North
Kelowna, BC V1V 2C7

Dear Ms. Ohs:

Re: **Reconsideration request**

Please find attached the Minutes of Resolution #484/2006 outlining the Commission's decision as it relates to the above noted application.

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 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, and
 - e) photographs of the installed fence and vegetative buffer and a sketch showing its location.

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: City of Kelowna - A06-0008

BR/eg/Encl.: Minutes
Sketch Plan

36718d2

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 # G – 36718-1
Applicant(s) Judith Ohs
Proposal ORIGINAL PROPOSAL: To subdivide a 0.6 ha lot from the 3.8 ha subject property under the *Homesite Severance Policy*. The Commission allowed the subdivision of a 0.4 ha homesite lot.
CURRENT PROPOSAL: To reconsider the Commission's decision to allow a 0.56 ha homesite lot. The reconsideration request is being made on the grounds that new information that was not available at the time of the decision has been made available. This information includes a map of the Glenmore Ellison Improvement District (GEID) Right-of-Way and an agreement with GEID stating that no building is allowed within the 6 metre wide area and that it does not encourage the property line to run parallel within this right-of-way.

Legal PID: 004-782-836
Location Lot B, Section 9, Township 23, Osoyoos Division Yale District, Plan 37110
755 Glenmore Road, Kelowna

Site Inspection

A site inspection was conducted on June 28, 2006 for the original application.

Discussion

In light of the additional information provided by the applicant, the Commission would allow an approximately 0.56 ha lot.

IT WAS

MOVED BY: Commissioner
SECONDED BY: Commissioner

THAT the application be approved

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the attached sketch,
- the construction of a fence and installation of a vegetative buffer around the new homesite lot for the purpose of limiting its impact on the remaining farm unit. Fencing and buffering 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 #484/2006**



Staff Report
Application # G – 36718-1
Applicant: Judith Ohs
Location: Kelowna (Glenmore)

DATE RECEIVED: July 31, 2006

DATE PREPARED: September 19, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

ORIGINAL PROPOSAL: To subdivide a 0.6 ha lot from the 3.8 ha subject property under the *Homesite Severance Policy*. The Commission allowed the subdivision of a 0.4 ha homesite lot.

CURRENT PROPOSAL: To reconsider the Commission's decision to allow a 0.55 ha homesite lot. The reconsideration request is being made on the grounds that new information that was not available at the time of the decision has been made available. This information includes a map of the Glenmore Ellison Improvement District (GEID) Right-of-Way and an agreement with GEID stating that no building is allowed within the 6 metre wide area and that it does not encourage the property line to run parallel within this right-of-way.

This application is made pursuant to section 33 of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicant proposes that the property line between the homesite and remainder of the property run along the western (bottom) edge of the irrigation right-of-way, leaving the right-of-way in the homesite lot. This proposed property line could have a slight "jog" in it in order to follow the right-of-way more closely, or if that was not allowed, could be a straight line, as long as the right-of-way was completely within the homesite. The area of the right-of-way is estimated to be 0.4 ha.

The only other option would be for the property line to run on the eastern (top) edge of the irrigation right-of-way. However, this would put the property line within approx. 7 metres of the front of the house, the septic field (which runs within the right-of-way right below the house) would not be within the homesite lot, and having the right-of-way within the "remainder" would be of no benefit to agriculture, since building on the right-of-way is not allowed, and planting of trees is not recommended.

Local Government:

City of Kelowna

Legal Description of Property:

PID: 004-782-836

Lot B, Section 9, Township 23, Osoyoos Division Yale District, Plan 37110

BACKGROUND INFORMATION (continued):

Purchase Date:

April 30, 1963

Location of Property:

755 Glenmore Road, Kelowna

Size of Property:

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

Present use of the Property:

Christmas tree farm, two single family dwellings

Surrounding Land Uses:

WEST: Glenmore Road, hay field across road
SOUTH: Fruit and vegetable market garden
EAST: Non-ALR, wooded mountain
NORTH: Hay

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.093
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

Kelowna 2020 - Official Community Plan
Designation: Rural/Agricultural

Zoning Bylaw and Designation:

Zoning Bylaw No. 8000
Designation: A1 - Agriculture 1

PREVIOUS APPLICATIONS:

Application #26101-0

Applicant: Glenmore Bypass Road, Sewer
Decision Date: September 10, 1992
Proposal: To dedicate and construct the Glenmore Valley bypass road as per plans submitted with the application.
Decision: Allow - subject to conditions.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:


City of Kelowna: Supported original request for subdivision of a 0.6 ha homesite lot.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS (continued):

Planning and Corporate Services Department: The relevant City policy documents support the creation of additional lots within the Agricultural Land Reserve for homesite severance applications that are consistent with the Agricultural Land Commission's *Homesite Severance Policy*.

Agricultural Advisory Committee: Supports based on the longevity of property ownership.

END OF REPORT



Signature

Sept 19, 06

Date