



Agricultural Land Commission
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December 21, 2006

Reply to the attention of Brandy Ridout
ALC File: #T - 37033

Leonard and Heleana Glaicar
622 St. Anne Road
Armstrong, BC V0E 1B5

Dear Sir/Madam:

Re: Application to subdivide within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 647/2006 outlining the Commission's decision as it relates to the above noted application.

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:

Erik Karlsen, Chair

cc: Township of Spallumcheen (#06-0690-SPL-ALR)

MC/lv/Encl.: Minutes/Sketch Plan/ Homesite Severance Policy
37033d1

RECEIVED
PROV. AGRICULTURAL
LAND COMMISSION OCT. 26 2006

APPROVED
± 1 ha
LOT

TREE
NURSERY

CARPORT

OUT BUILDINGS

APPROX.
2.50000

EXISTING FENCE

SEPTIC
FIELD

210'

FENCING REQUIRED

GRAIN

St. Annes Rd

Application T- 37033
Resolution # 647/2006



*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



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on December 12, 2006 at Naramata, B.C.

PRESENT: Sue Irvine Chair, Okanagan Panel
Sharon McCoubrey Commissioner
Sid Sidhu Commissioner
Martin Collins Staff

For Consideration

Application: # T - 37033
Applicant: Leonard and Heleana Glaicar
Proposal: To subdivide a 1 ha lot from the 22.6 ha subject property under the Homesite Severance Policy.
Legal: PID: 006-113-231
Lot 2, District Lot 37, Section 9, Osoyoos Division of Yale District, Plan 16389
Location: 622 St Anne Road, Armstrong

Site Inspection

A site inspection was conducted on Monday December 11, 2006. Those in attendance were:

- Commissioners Sidhu and Irvine
Staff Planner, Martin Collins
Mr. and Mrs. Glaicar

The Commissioners noted that the proposed 1 ha homesite lot was separated from the 22.6 ha remainder by a leased nursery operation and a pipeline right of way.

Mr. Glaicar received the staff report dated December 4, 2006 and indicated that the proposal was to subdivide a 1 ha lot, not a 0.4 ha lot.

Commissioner Eligible to Vote

Commissioner Sharon McCoubrey was not present at the site inspection. It was confirmed that a summary of the site inspection was provided thus establishing the Commissioner's eligibility to vote on the application.

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:

- to preserve agricultural land
to encourage farming on agricultural land in collaboration with other communities of interest, and
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.

The Act provides processes for landowners, local governments and First Nations to apply to the Commission to remove land from the ALR, subdivide land, or to use land in the ALR for non-farm purposes.

Discussion

In assessing agricultural capability, the Commission confirmed that the land was both capable of agricultural uses and suitable for agriculture.

In assessing the impact of the proposal against the long term goal of preserving agricultural land the Commission believed that a Homesite Severance subdivision would not substantively affect the agricultural capability of the remainder.

IT WAS

MOVED BY: Commissioner Sue Irvine

SECONDED BY: Commissioner Sid Sidhu

THAT the application to subdivide a 1 ha lot as per the provisions of Homesite Severance Policy be allowed subject to the following conditions:

- the preparation of a subdivision plan to delineate the area to be subdivided per the attached sketch,
- the construction of a fence along the north end and east boundary of the proposed lot,
- compliance sections 3 and 6 of Homesite Severance Policy

AND THAT the approval is granted to the applicant only.

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 # 647/2006



Staff Report
Application # T – 37033
Applicant: Leonard and Heleana Glaicar

DATE RECEIVED: October 30, 2006

DATE PREPARED: December 4, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To subdivide a ^{1 ha} ~~0.4~~ ha lot from the 22.6 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:

Local Government:

The Corporation of the Township of Spallumcheen

Legal Description of Property:

PID: 006-113-231

Lot 2, District Lot 37, Section 9, Osoyoos Division Yale District, Plan 16389

Purchase Date:

1965

The title included with the application is dated 1987. The applicant was contacted and will provide the 1965 title as soon as possible.

Location of Property:

622 St Anne Road, Armstrong

Size of Property:

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

Present use of the Property:

Tree Nursery and Grain Farming

BACKGROUND INFORMATION (continued):

Surrounding Land Uses:

WEST: Bush
SOUTH: Grain Farming
EAST: Gravel Pit
NORTH: Mixed Farming

Agricultural Capability:

Data Source: Agricultural Capability Map # 82L.034
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

Township of Spallumcheen OCP Bylaw No. 1570 (2004)
Designation: Agriculture

Zoning Bylaw and Designation:

Township of Spallumchen Zoning Bylaw 1449 (1999)
Designation: A.2
Minimum Lot Size: 30.5 ha

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

No comments or recommendations


STAFF COMMENTS:

- A site visit will allow the Commission to evaluate the impact subdivision would have on the agricultural remainder.
- The applicant needs to provide evidence of owning and living on the property since December 21, 1972 in order to qualify for consideration under the *Homesite Severance Policy*.

ATTACHMENTS:

- ALR Base Map #82L/6 (1:50,000)
- ALR Constituent Map #38 (1:2,640)
- Sketch of proposed subdivision
- ALR Context Map (1:10,000)

END OF REPORT



Signature

Dec 4, 06

Date