



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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December 21, 2006

Reply to the attention of Brandy Ridout
ALC File: # V - 37052

Brad Elenko, Urban Connections
#12 Dogwood Place
Osoyoos, BC V0H 1V1

Dear Sir:

Re: Application to subdivide land within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 649/2006 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Please provide the Commission with a draft fencing and vegetative buffer plan prior to commencing subdivision procedures. Upon confirmation that the fencing and vegetative screening is adequate, and completed, (or a security is submitted to ensure completion), please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met (including sections 3 and 6 of the Policy), it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

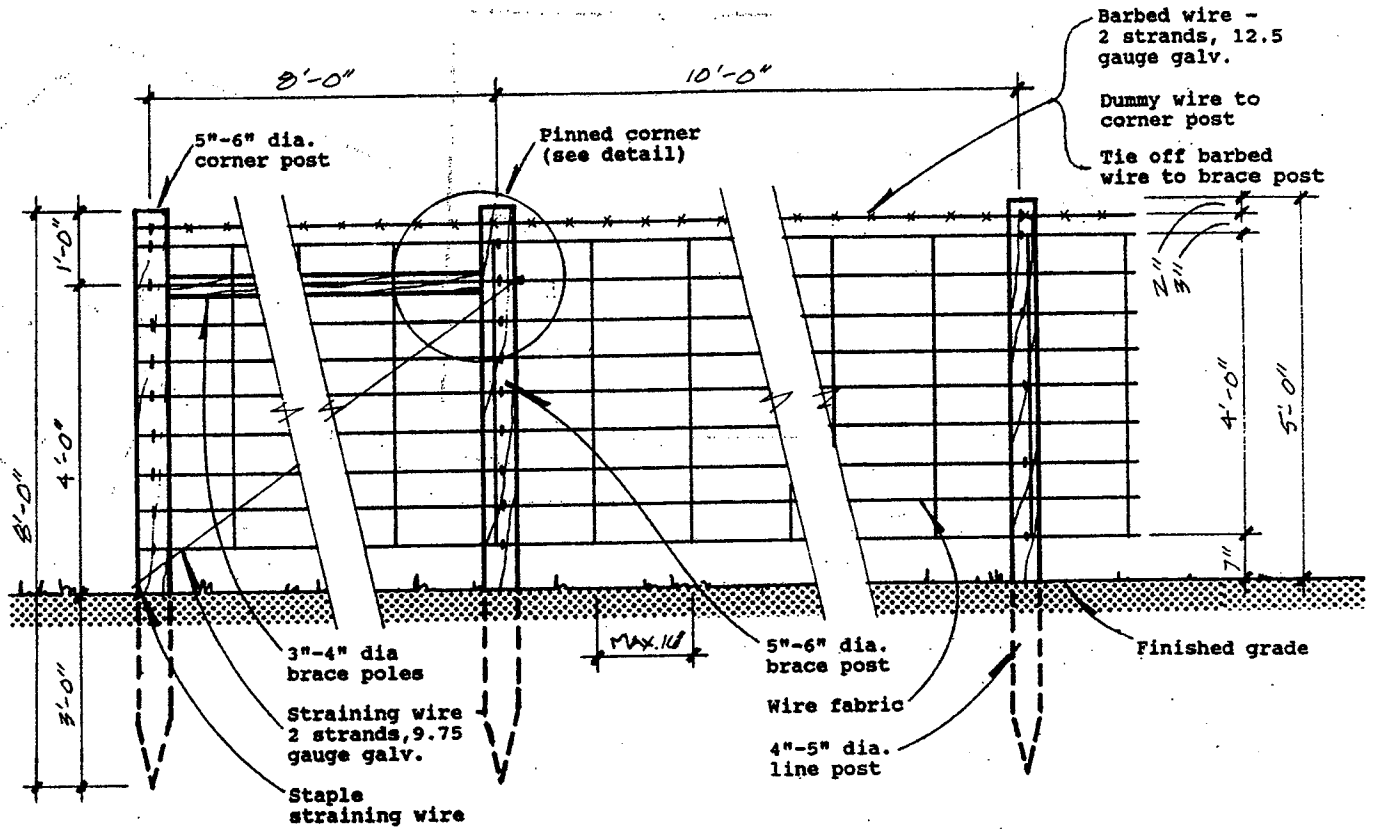
Erik ~~Karlsen~~, Chair

cc: Regional District of Okanagan-Similkameen (#A06-06563-000)

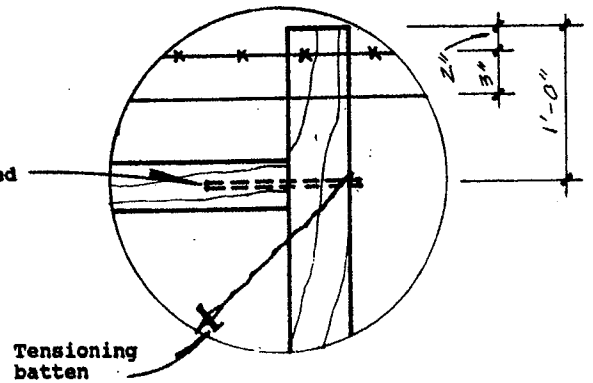
MC/lv/Encl.: Minutes/Sketch Plan/Homesite Severance Policy
37052d1

SCHEDULE D: FENCING SPECIFICATIONS

D.4: Wire Fabric Fence with One Strand Barbed Wire



3/8" x 12" rebar driven into 3/8" drilled hole. Wrap brace wire around 1" rebar protruding through brace post

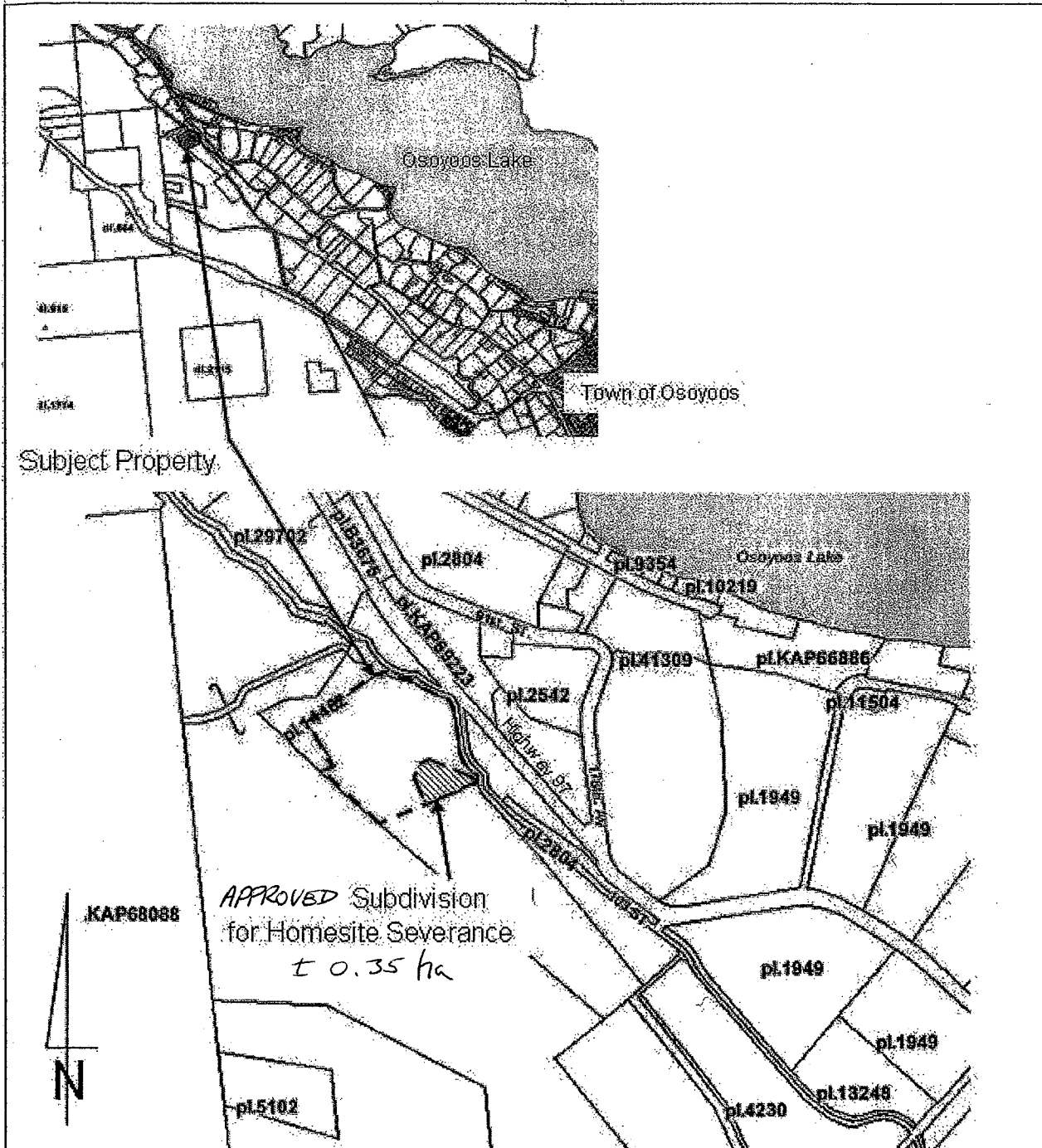




Agricultural Land Commission Application

File No.: A-06-06563.000

Subject Property Map



RECEIVED
 PROV. AGRICULTURAL
 LAND COMMISSION
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**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: # V - 37052
Applicant: Inkaneep Orchards Ltd
Proposal: To subdivide a homesite severance lot of 0.35 ha as per the Commission's Homesite Severance Policy. The applicants indicate they have lived on the property since 1964.
Legal: PID: 010-359-478
Lot 833, District Lot 2450s, Similkameen Division of Yale District, Plan 5503;
Location: Located approximately 5km north of the Town of Osoyoos on the west side of 103rd Street

Site Inspection

No site inspection was conducted

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.

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

The Commission considered the subject property to be both capable and suitable for agricultural uses. However, it was prepared to allow the subdivision of a 0.35 ha homesite severance (as proposed) because it was consistent with other similar applications in the region.

The Commission noted that no information had been provided as to what, if any fencing and vegetative screening existed around the proposed homesite. It was prepared to consider a fencing/screening plan submitted by the applicant that effectively mitigates the potential interaction between the resident and the farm operator.

IT WAS

MOVED BY: Commissioner S. McCoubrey

SECONDED BY: Commissioner S. Sidhu

THAT the application for a 0.35 ha Homesite Severance be allowed subject to the following conditions;

- the preparation of a subdivision plan to delineate the area to be subdivided as per the attached sketch,
- the construction of a fence around the perimeter of the homesite lot (as per the attached Schedule D fencing specifications, or similar trespass proof fence)
- the planting of vegetation for buffering as noted above,
- compliance with 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 # 649/2006



Staff Report
Application # V – 37052
Applicant: Inkaneep Orchards Ltd
Agent: Urban Connections
Location: North of Osoyoos

DATE RECEIVED: November 6, 2006

DATE PREPARED: December 5, 2006

TO: Chair and Commissioners – Okanagan Panel

FROM: Brandy Ridout, Land Use Planner

PROPOSAL: To subdivide a homesite severance lot of 0.35 ha as per the Commission's Homesite Severance Policy. The applicants indicate they have lived on the property since 1964.

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

BACKGROUND INFORMATION:

No previous applications have been considered on the property.

Local Government:

Regional District of Okanagan-Similkameen

Legal Description of Property:

PID: 010-359-478

Lot 833, District Lot 2450s, Similkameen Division of Yale District, Plan 5503;

Purchase Date :

01/01/1964

Location of Property:

Located approximately 5km north of the Town of Osoyoos on the west side of 103rd Street

Size of Property:

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

Present use of the Property:

Residence, garage, farm building, fruit trees

Surrounding Land Uses:

- WEST:** Undeveloped vacant Crown Land in the ALR
- SOUTH:** 4 ha vineyard in the ALR
- EAST:** Orchard and 103th Street and Highway 97
- NORTH:** Orchard property in the ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 82E.003
The majority of the property is identified as having prime dominant ratings.

Official Community Plan and Designation:

Osoyoos Rural OCP Bylaw No. 2260 (2004) Designation: Agriculture (AG)

Zoning Bylaw and Designation:

Osoyoos Rural Zoning Bylaw No. 2261 (2004)
Designation: Agricultural Two Zone (AG2) Minimum Lot Size: 4 ha

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

No comments or recommendations are provided, as per Regional District Policy.

STAFF COMMENTS:

Staff recommends that the application be allowed as per standard Homesite Severance Policy conditions, including buffering and fencing, on the grounds the proposal is consistent with Homesite Severance Policy and similar applications in the region.

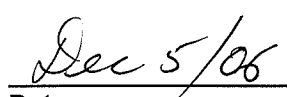
ATTACHMENTS:

ALR Map, and Regional District Map

END OF REPORT



Signature



Date