



**Staff Report**  
**Application # L – 37550**  
**Applicant: John & Johanna Baher**

**DATE RECEIVED:** July 12, 2007

**DATE PREPARED:** October 16, 2007

**TO:** Chair and Commissioners – Kootenay Panel

**FROM:** Simone Rivers, Land Use Planner

**PROPOSAL:** Subdivision for a Relative: To subdivide the 25.7 ha lot into one 8 ha lot (to provide a homesite for the owner's son) and one 17.7 ha lot.

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

**BACKGROUND INFORMATION:**

The application states that the applicants have owned and resided on the property since 1969, prior to the establishment of the ALR. They may qualify for consideration under the Commission's Homesite Severance Policy.

**Local Government:**

Regional District of East Kootenay

**Legal Description of Property:**

PID: 014-194-244  
Lot 1, District Lot 11706, Kootenay District, Plan 7001

**Purchase Date:**

September 1969

**Location of Property:**

6135 Highway 43, Elk Valley Area

**Size of Property:**

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

**Present use of the Property:**

Residence, outbuildings

**Surrounding Land Uses:**

**WEST:** Crown Land  
**SOUTH:** Residential and Farm  
**EAST:** Residential vacation home (weekend retreat)  
**NORTH:** Hay Field

**Agricultural Capability:**

Data Source: Agricultural Capability Map # 82G/15  
The majority of the property is identified as having Mixed Prime and Secondary ratings.

**Official Community Plan and Designation:**

OCP: N/A  
Designation: Agriculture

**Zoning Bylaw and Designation:**

Zone in Elk Valley Zoning Bylaw No. 829 (1990)  
Designation: RR8-Rural Residential (Country) Zone  
Minimum Lot Size: 8 ha

**RELEVANT APPLICATIONS:**

**Application #26279-0**

**Applicant:** Gallinger, Gerald & Debra  
**Decision Date:** June 19, 1992  
**Proposal:** To subdivide the 31.8 ha property into two equal parcels of approximately 16 ha each.  
**Decision:** Refused on the grounds of agricultural potential and impact.

---

**Application #34295-0**

**Applicant:** Ganci, Guy & Tammi  
**Decision Date:** June 28, 2002  
**Proposal:** The Ganci families (two families owning the property on a 2/3 - 1/3 split) are requesting a subdivision of the land into two lots reflecting the shared ownership. Both families expressed a desire for the subdivision so that they can plan their estates, and the split reflects the relative share of the initial investment in the property.  
**Decision:** Refused - subdivision would limit future agricultural potential by creating smaller parcels with residences on each.

---

**Application #34295-1**

**Applicant:** Ganci, Guy & Tammi  
**Decision Date:** April 24, 2003  
**Proposal:** To subdivide the 60.5 ha property into one approximately 40 ha lot and a 20 ha lot to reflect the 1/3 - 2/3 ownership split.  
**Decision:** Allowed as requested.

**Application #37007-0**

**Applicant:** 1255033 Alberta ULC

**Decision Date:** May 16, 2007

**Proposal:** To subdivide the subject property into two parcels. The west side of property is approximately 16 ha and the east side of the property is approximately 172 ha. Applicant wishes to subdivide the west portion of the property into 8 lots of 2 ha lots each.

**Decision:** Refused

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**East Kootenay Regional District Board:** The Regional Board forwarded the application with a recommendation of support

**Advisory Planning Commission:** The APC accepted the application as presented.

**Local Government Planning Staff:** Staff recommended that the proposal be supported as it is consistent with land use regulations

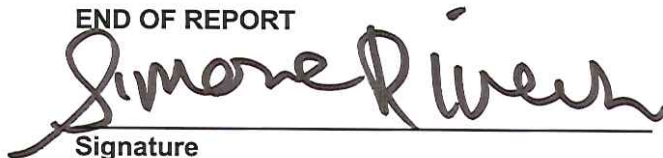
**STAFF COMMENTS:**

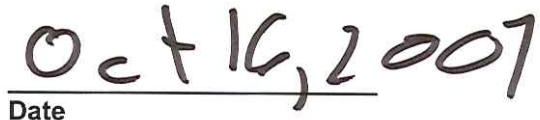
- ◆ Staff note that the applicant may qualify for Consideration under the Commission's *Homesite Severance Policy*.
- ◆ The applicant is not asking for a subdivision of the existing homesite but for a new lot to be created for his son and as such has not submitted documentary evidence to indicate the length of ownership of the property.
- ◆ The proposed lot, at 8 ha in size, is larger than those usually created under the policy. However, in evaluating this application the Commission may wish to give consideration to the length of time the applicant has owned the property.
- ◆ The proposal divides the existing field in two.

**ATTACHMENTS:**

- ◆ Description of proposal (submitted by the applicant)
- ◆ Sketch of proposed subdivision (submitted by the applicant)
- ◆ ALC Context Map – 82G/15 – 1:50,000 (created by ALC Staff)
- ◆ Airphoto – 1:10,000 (created by ALC Staff)

**END OF REPORT**

  
Signature

  
Date