



Agricultural Land Commission

133 – 4940 Canada Way
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June 13, 2012

Reply to the attention of Ron Wallace
ALC File: 52519

Linda Davidson
5830 10th Ave NE
Salmon Arm, B.C.
V1E 1Y1

Dear Madam:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution #213/2012 outlining the Commission's decision as it relates to the above noted application. Please note the attached Homesite Severance Policy.


The applicant is advised of the provisions of Section 33 of the Agricultural Land Commission Act which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
 - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

The applicant is also advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration, and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Brian Underhill, Executive Director

Enclosure: Minutes/Homesite Severance Policy

cc: City of Salmon Arm File: ALC 343



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on May 17, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner

COMMISSION STAFF PRESENT:

Ron Wallace	Land Use Planner
Colin Fry	Executive Director

APPLICATION: 52519

PROPOSAL: To subdivide a 1 ha lot from the 4 ha property for the applicant's son.

Legal: PID 007-666-110 Lot A, Plan 20963, Sec. 17, Twp. 20, R. 9, W6M, KDYD

(Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

COMMISSION CONSIDERATION:

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission 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.

After review of all file information presented the Commission has concluded as follows:

1. The property has good agricultural capability as indicated by a CLI rating of 6:3MT 4:5M (7:3T 3:2X) and is therefore suitable for agriculture. Portions of the property (~50%) are improved and used for agriculture.
2. There are no external factors or surrounding land uses that render the land unsuitable for agricultural use. The surrounding land uses do not impair the parcel from being used for agriculture because the property lies in an agricultural area, characterized by similar size parcels and farm activity.
3. The two lot subdivision proposal has potential to adversely impact existing or potential agricultural use of the subject property and surrounding lands because the resulting lots (1 ha and 3 ha) are rather small from an agricultural perspective. It is the Commission's experience that small lots are unlikely to be used for agriculture in the long term and that

future owners will likely use the properties for residential rather than agricultural purposes. Residential uses can be incompatible for farm uses, and result in conflicts.

4. The Commission noted that the applicant appeared to qualify for consideration under its Homesite Severance Policy – having purchased and lived on the property since prior to December 1972. Based on this, the Commission may be prepared to consider a revised subdivision proposal for the landowner which complies with the purposes and intents of Homesite Severance Policy. Generally the Commission prefers that Homesite Severance lots do not exceed 0.4 ha to ensure that the maximum arable area is maintained with the remnant farm parcel.
5. Subdivision almost always results in the erosion of farmland for the development of a farm home, yard, septic fields, access and outbuildings. On small parcels, this area may be relatively large in the context of the overall size of the property and can represent a significant loss of arability.
6. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Jennifer Dyson

SECONDED BY: Commissioner Bert Miles

THAT the application be refused as proposed.

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 # 213/2012

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 Agricultural Land Commission Act	Policy #11 March 2003 HOMESITE SEVERANCE ON ALR LANDS
<p><i>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.</i></p>	

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.