

REPORT TO COUNCIL



Date: September 24, 2018

RIM No. 1210-21

To: City Manager

From: Community Planning Department (TH)

Application: A17-0005 **Owner:** Walter Baran

Address: 4205 Wallace Hill Road **Applicant:** Rosanne Stotz

Subject: ALR Homesite Severance Application

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A17-0005 for Lot 1 Section 34 Township 29 ODYD Plan 6171, located at 4205 Wallace Hill Road, Kelowna for a Homesite Severance Subdivision of agricultural land in the Agricultural Land Reserve pursuant to Section 21(2) of the Agricultural Land Commission Act, be supported by Council subject to the following:

1. Decommissioning of the dwelling identified as *Dwelling 2* in Schedule "A" to an agricultural accessory structure, or demolition of the structure;
2. Removal of mobile home identified as *Dwelling 3* in Schedule "A";
3. Registration of a Section 219 Restrictive Covenant to establish a Residential Footprint on the remainder parcel in general accordance with Schedule "B";
4. Registration of a Section 219 Restrictive Covenant on the newly created lot to limit location of the driveway.

AND THAT Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

2.0 Purpose

To consider an application to the Agricultural Land Commission for a Subdivision for the purpose of a Homesite Severance.

3.0 Community Planning

Community Planning supports the application with conditions as eligibility is met under the requirements set by the Agricultural Land Commission (ALC) regarding homesite severance. The proposed subdivision with conditions will also see the subject parcel brought into compliance regarding multiple dwellings on the parcel.

Kelowna's Agricultural Plan recommends continued support for homesite severance applications consistent with ALC Policy #11. This policy allows farmers to retire or sell the property while retaining the homesite for themselves. ALC policies state that consideration of any homesite severance should be reviewed in the context of the overall agriculture integrity of the parcel, where the size and configuration will, in the Commission's opinion, constitute a viable agriculture remainder. As such, homesite severance parcels are minimized in size to help ensure the remainder is viable. Staff consider City and provincial policies and regulations as well as the City of Kelowna Agricultural Advisory Committee comments (included in this report) when processing homesite severance applications.

The applicant meets the eligibility criteria for a homesite severance regarding ownership of the land prior to December 1972. As with all agricultural applications through the ALC, should this be supported by Council and the ALC, a Farm Protection Development Permit must be issued as well as all conditions typical of a subdivision in Kelowna, including a Preliminary Layout Review letter.

Kelowna's policies relating to this application are noted in 5.0 Current Development Policies section of this report. Kelowna's Agricultural Advisory Committee comments are located at the end of this report.

4.0 Proposal

4.1 Background

Subject Property Map: Existing Conditions



Two dwellings existed on the parcel prior to 1973 when Regional District of Central Okanagan lands were amalgamated with the City of Kelowna. At the time, a single family dwelling was permitted on an agricultural parcel, a mobile home was also permitted if used solely for immediate family or seasonal farm help. As such, it is considered that the mobile home was placed for immediate family or seasonal farm help.

Based on Building Permit records with the City of Kelowna, the following structures exist:

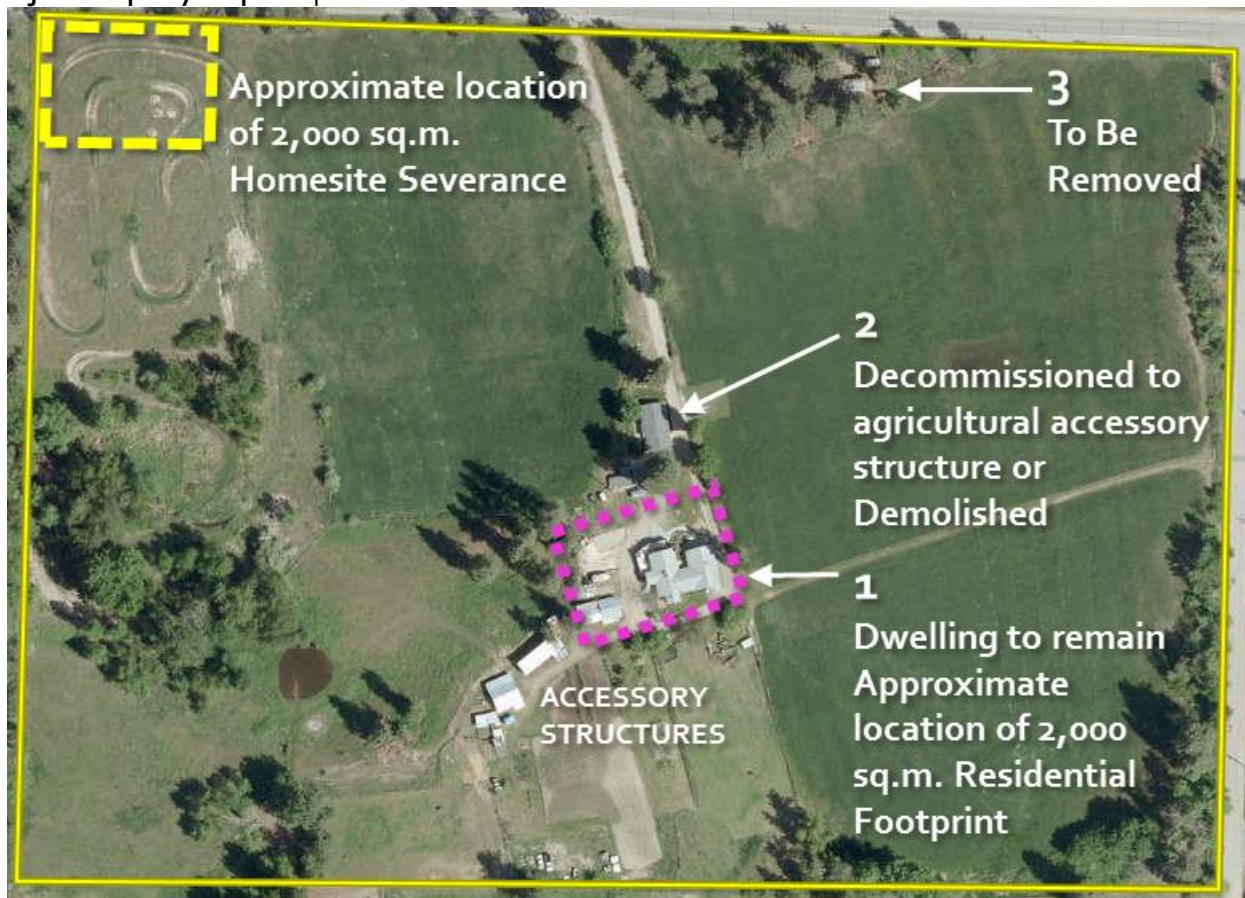
DWELLING 1: Principle Single Family Dwelling, constructed prior to 1973. In 1999 a secondary suite was constructed as an addition. Multiple agricultural accessory structures exist to the west.

DWELLING 2: Pickers Cottage, Building Permit issued 1988. Legal documents signed by Walter Baran declared *"the cottage placed on the subject lands will be used solely by the families of full time agricultural workers on the site, or to accommodate seasonal agricultural labourers employed on the site."*

DWELLING 3: Mobile Home located along Wallace Hill Rd. This was placed prior to 1973. This mobile home is in a location identified by the applicant as low-lying and regularly flooded.

Two known on-site septic systems exist on the property, one was expanded in 1999 when the secondary suite was added to the principle dwelling. Currently, a portion of the land has active agriculture in the form of hay production which does not warrant a full time permanent dwelling for farm help. The locations of the principle dwelling and additional two dwellings do not meet the intent of one contiguous residential footprint on agricultural land.

Subject Property Map: Proposed Conditions



4.2 Project Description

The subject parcel is 27.45 acres. The application is to subdivide the agricultural parcel into two lots. The parcel known as a homesite severance is 2,000 sq.m. (0.5 acre) in size, proposed on the northwest corner of the subject property. This site is consistent with other homesite severances and the standard farm residential footprint. The remainder parcel would be 26.9 acres in size.

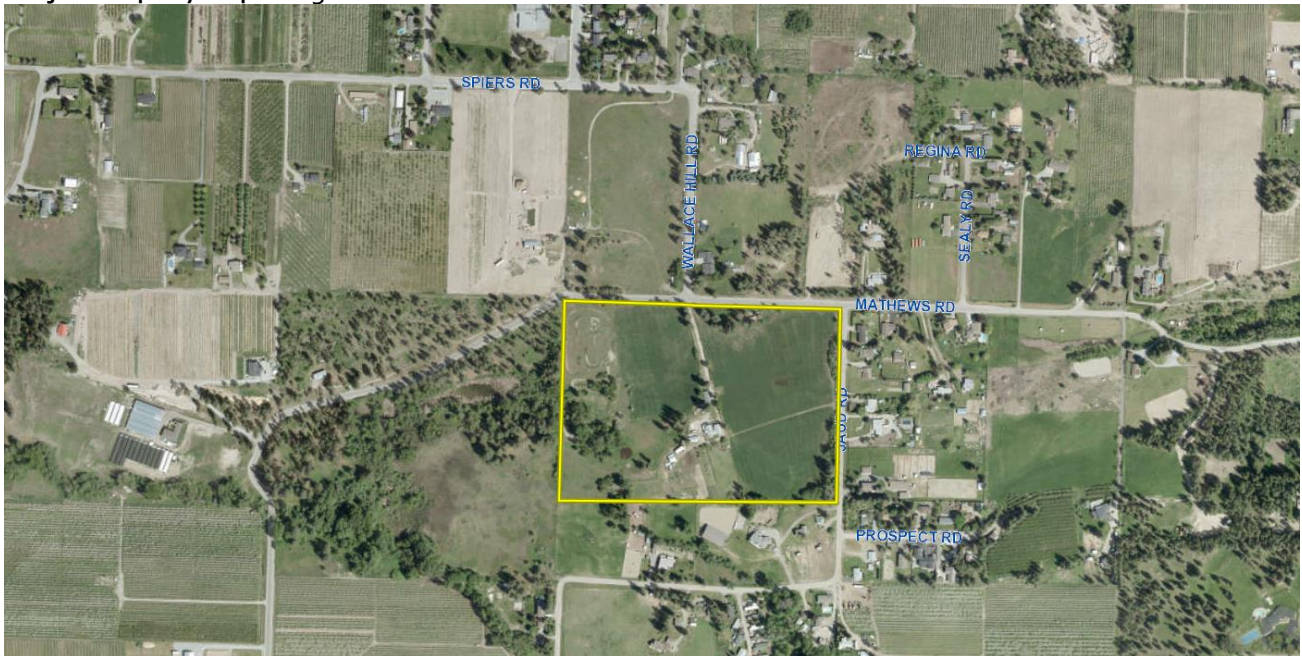
The applicant will be required to bring the subject parcel into compliance regarding multiple dwellings as a condition of the subdivision. This means decommissioning to an agricultural accessory structure or

demolishing Dwelling 2 – pickers cottage, and removal of Dwelling - 3 mobile home. As per the building permit issued for Dwelling 2, it was solely for the purpose of full and part time farm workers which is not warranted on the land. The nature of a mobile home is that it is not a permanent dwelling and may be moved or removed at the end of its intended use or lifecycle.

A residential footprint covenant is also required to be registered on the land to ensure that only one contiguous area exists on the parcel for all residential uses. This would be located to include Dwelling 1 - principle dwelling and be 2,000 sq. m. in size. Should the land owner of the subject parcel wish to place a mobile home for immediate family only, a mobile home would be permitted within the approved residential footprint that is required to be registered on legal title surrounding Dwelling 1.

Driveway access to the proposed parcel is a concern of Development Engineering. In this location, the driveway should be located as far east as possible to reduce a “hidden driveway” effect when heading east on Wallace Hill Road. Staff did bring this up as a concern early in the application and suggested the homesite severance parcel be located on the northeast corner of the subject property. The applicant expressed that the north east corner of the property floods regularly along Wallace Hill Road. The mobile home is located on the lowest elevation on the land along Wallace Hill Road.

Subject Property Map: Neighbourhood Context



4.3 Site Context

The subject parcel is 27.45 acres (11.1 Ha) in size. It is located on south side of Wallace Hill Rd, The parcel borders both Wallace Hill Road / Mathews Road and Jaud Road. The Parcel and all surrounding parcels are within the ALR. The area is mainly zoned A1 – Agriculture 1, with A1c and RR3 zoned parcels adjacent.

Preist Creek (East Channel) also known locally as Casorso Creek runs through the southwest portion of the property and includes two natural wetlands. One wetland is a natural Riparian Marsh. Much of the west portion of the parcel remains naturalized and undisturbed due to Preist Creek. The proposed application does not directly interfere with the operation or pose a risk to the two wetlands or Preist Creek.

The Subject parcel has never been subdivided; a previous address was 2985 Mathews Road which was changed by Canada Post to adhere to naming conventions.

BC Land Classification identifies approximately 65% of the property (area unaffected by Preist Creek) to be Class 5 and 4 with improvements of irrigation to Class 3. Soil classifications follow a similar profile as all land

not within Preist Creek and wetland area are Gammil and Paradise, which drain rapidly, and typically used for vineyards, tree fruits as well as pasture and hay production.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1	Agriculture
East	A1 RR3	Agriculture –Stables Rural Residential
South	A1 A1c	Agriculture Agriculture - Stables
West	A1	Natural Undisturbed

4.4 Application Process

This homesite severance process is carried out in the following steps.

1. Local Council has the right to support or not support an application. Should Council not support, the application is cancelled and does not move forward. Should Council support;
2. The application is sent to the ALC for review. One of three outcomes will occur.
 - a. Support for the application.
 - b. Support with specific conditions/changes to the application.
 - c. Denial of the application.
 Should the ALC move the application forward;
3. Any and all Conditions of the ALC and Local Government need to be met.
 - a. ALC will state specific items that need to be completed prior to Subdivision.
 - b. Kelowna requires a number of items to be completed prior to Subdivision. They include but are not limited to:
 - i. Farm Protection Development Permit.
 - ii. Subdivision Preliminary Layout Review letter.
 - iii. Servicing upgrades for the existing and proposed lot.
 - iv. Decommissioning/removal of multiple dwellings.
 - v. Registration of residential footprint covenant.
 - vi. Landscape Buffer on newly created parcel.
 - vii. Payment of DCCs for newly created parcel.

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Minimize the impact of urban encroachment and land use conflicts on agricultural land.¹

Resource Protection Area² Generally, land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses.

¹ City of Kelowna Official Community Plan, Objectives, Farm Protection Development Permit Guidelines Chapter

² City of Kelowna Official Community Plan, Future Land Use Chapter

Protect Agricultural Land ³ Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Subdivision ⁴ Maximize potential for the use of farmland by not allowing the subdivision of agricultural land into smaller parcels (with the exception of Homesite Severances approved by the ALC) except where significant positive benefits to agriculture can be demonstrated.

Homeplating ⁵ Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage. The goal should be to maximize use of existing infrastructure and reduce impacts on productive agricultural lands.

5.2 Agricultural Land Commission Act

ALC Homesite Severance on ALR Lands Policy L-11 January 2016 ⁶ attached to this report for reference.

6.0 Technical Comments

6.1 Development Engineering

The location of the driveway for the proposed 2,000 sq.m. parcel should be at the furthest point away from the road bend fronting the proposed lot.

6.2 Building and Permitting

B&P will provide a comprehensive report, based on required works at the time of ALC approval of the proposed subdivision on the subject property.

Agricultural Advisory Committee

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on April 12, 2018 and the following recommendations were passed:

The AAC recommends that Council support ALR Application No. A17-0005 with the following anecdotal comments: The Committee did make note that the additional dwellings on the subject property need to be addressed by Council and the ALC. The Committee encouraged Staff to work with the Applicants to determine if there are any solutions to the drainage issue that was raised by the Applicant's Representative.

7.0 Application Chronology

Date of Application Received:	April 12, 2017
Date of Agricultural Advisory Committee:	April 12, 2018

Report prepared by: Tracey Hillis, Planner

Reviewed by: Laura Bentley, Community Planning Supervisor

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

³ City of Kelowna Official Community Plan, Agricultural Land Use Policies Chapter

⁴ City of Kelowna Official Community Plan, Agricultural Land Use Policies Chapter

⁵ City of Kelowna Official Community Plan, Agricultural Land Use Policies Chapter

⁶ Agricultural Land Commission Act, Policy L-11

Attachments:

Schedule "A" Existing Conditions

Schedule "B" Proposed Conditions

Attachment "A" ALC Homesite Severance on ALR Lands Policy L-11 January 2016