



Provincial Agricultural Land Commission - Applicant Submission

Application ID: 60136
Application Status: Under LG Review

SCHEDULE A

This forms part of application
A19-0021



City of
Kelowna
COMMUNITY PLANNING

Planner
Initials **AT**

mitted to ALC yet.

Proposal: Homesite severance pursuant to ALC policy L 11

Agent Information

Agent: McElhanney Ltd.
Mailing Address:
290 Nanaimo Avenue West
Penticton, BC
V2A 1N5
Canada
Primary Phone: (240) 495-0499
Mobile Phone: (250) 485-7387
Email: belenko@mcelhanney.com

Parcel Information

Parcel(s) Under Application

- Ownership Type:** Fee Simple
Parcel Identifier: 003-921-824
Legal Description: L 4 SECS 25 & 26 TP 26 OSOYOOS DIVISION YALE DISTRICT PL 3078
Parcel Area: 1.8 ha
Civic Address: 622 Hartman Road
Date of Purchase: 06/06/1970
Farm Classification: Yes
Owners

Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

The north 1/2 and southwest 1/4 of the property is used to graze farm animals. The southeast corner of the property includes the farm house, garage, secondary dwelling, and a butcher shop.

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

The land has been cleared and irrigation has been made available to the property.

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

The property contains the principal farm dwelling that is occupied by one of the owner's sons who operates the butcher shop, a small carriage house for the owner, a three-bay garage / storage area, and a butcher shop.

Adjacent Land Uses

North

Land Use Type: Residential

Specify Activity: single family residential

East

Land Use Type: Agricultural/Farm

Specify Activity: Vineyard

South

Land Use Type: Civic/Institutional

Specify Activity: school

West

Land Use Type: Residential

Specify Activity: multi-family residential

Proposal

1. Enter the total number of lots proposed for your property.

0.3 ha

1.5 ha

2. What is the purpose of the proposal?

Homesite severance pursuant to ALC policy L 11

3. Why do you believe this parcel is suitable for subdivision?

The owner meets the tests of the Homesite Severance policy and would like to retire on the property.

4. Does the proposal support agriculture in the short or long term? Please explain.

Yes, the balance of the farm parcel will continue to be used for farm purposes, while the homesite severance parcel will continue to provide a valuable service to the local farmers involved in the livestock industry.

SCHEDULE		A
This forms part of application # A19-0021		
Planner Initials	AT	 City of Kelowna COMMUNITY PLANNING

5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.

Yes

Applicant Attachments

- Agent Agreement - McElhanney Ltd.
- Homesite Severance Qualification - 60136
- Professional Report - Supplementary Information
- Proposal Sketch - 60136
- Certificate of Title - 003-921-824

ALC Attachments

None.

Decisions


None.

SCHEDULE	A
This forms part of application # <u>A19-0021</u>	
Planner Initials	<input type="text" value="AT"/>
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SUPPLEMENTARY INFORMATION

AGRICULTURAL LAND RESERVE SUBDIVISION APPLICATION PURSUANT TO SECTION 21(2) OF *ALC* ACT & ALC HOMESITE SEVERANCE ON ALR LANDS POLICY L-11

LOT 4 DISTRICT LOTS 25 AND 26 TOWNSHIP 26
OSOYOOS DIVISION YALE DISTRICT PLAN 3078

SCHEDULE	A
This forms part of application	
# A19-0021	
Planner Initials	AT
 City of Kelowna COMMUNITY PLANNING	

Prepared for

December 4, 2019



PURPOSE

The purpose of this application is to request a 0.3 ha. homesite severance subdivision from the parent parcel of land which is approximately 1.8 ha. in area. The owner has owned and resided on the property since June of 1970, and the owner now desires to pursue a homesite severance to subdivide the house, garage and meat shop from the subject property.

LOCATION

The subject property is located at 622 Hartman Road within the City Kelowna and is bound by Craig Road to the west and McCurdy Road to the north. Rutland Elementary School is located south of the subject property with the west and north sides of the property adjacent to multi-family and single-family residential development respectively. The east side of the property is adjacent to a vineyard. The subject property is shown in Illustration 1 below.

Illustration 1: Site Location





SITE FEATURES

The 1.8 ha. parcel contains two homes; one for the owner (carriage house approximately 88 m²) and one for the owner's son and his wife (original farm home approximately 214 m²), a three-vehicle garage (112 m²) and a butcher shop (93 m²). The structures are all clustered quite tightly together in the southeast corner of the property. The north ½ and southwest ¼ of the property contains pasture three small farm outbuildings for animal shelter and storage of farm supplies. The property is relatively flat, dropping in elevation slightly from east to west by approximately 2.5 meters. The site features are noted in Illustration 2.

Illustration 2: Site Features



**Agricultural History**

After acquiring the Hartman Road property, the owner quickly began to use the property to raise livestock (cattle and pigs) and poultry. Presently, the area outside of the proposed homesite severance footprint is leased out for boarding horses and raising livestock and poultry.

After acquiring the Hartman Road property, the owners acquired the Bonanza Meats and Deli store on Adams Road and the family has been operating that store for the past 41 years. In addition to Bonanza Meats and Deli providing custom cuts of meat to both retail and wholesale clients, it does provide butcher service for pork producers.

While some of the family operates the Bonanza Meats and Deli operation, the owner constructed a small butcher shop on their Hartman Road property to allow the family to expand its rich history as meat butchers by providing butcher services to the cattle industry.

PROPOSAL

The property owner desires to subdivide a homesite parcel from the south east corner of the parent parcel. The proposed homesite severance would include the principal dwelling, a carriage house, garage and butcher shop, and would be approximately 0.3 ha. in area. The remainder farm parcel would be approximately 1.5 ha. in area. The proposed homesite severance lot is connected to municipal water and sewer and the proposed remainder farm parcel has a separate water service for irrigation purposes. The proposed subdivision is shown on Illustration 3.

The property owner meets the tests for a homesite severance application as outlined in ALC Policy L-11, and wants to subdivide the property to create a 0.3 ha parcel which would include a butcher shop that her son operates. The butcher shop does not need additional agricultural land to operate, and the owner wishes to keep the butcher shop on her homesite parcel.

The proposed homesite severance will not have a negative impact on the ability to farm the balance of the property. The balance of the farm is presently being leased out for farm purposes and the proposed subdivision will not change the uses that are occurring on the proposed homesite parcel, so there will be no impacts of the ability to continue to farm the balance of the property. The proposed subdivision supports agriculture in both the short and long term as the proposed subdivision will not in any way impede the ability to conduct agriculture on the remainder parcel to be created, and the presence of the butcher shop on the smaller property will result in a continued agricultural service to local cattle ranchers who require butcher services.

Illustration: 3

Proposed ALR Homesite Severance Application

622 Hartman Road

- Propose to subdivide approximately 0.18 ha. from the southeast corner of the property as an ALR Homesite Severance.

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This forms part of application # A19-0021

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Property Boundary

Proposed ALR Homesite Severance Area

RECEIVED
MAY 14 2024

PREPARED FOR: NTS
MUNICIPALITY OF KELOWNA
PROJECT: 2422.2024.00

McEwen



This drawing is a representation of the proposed subdivision and does not constitute a guarantee of accuracy. The user of this drawing is advised to verify the accuracy of the information shown on this drawing with the appropriate authorities. The user of this drawing is advised to verify the accuracy of the information shown on this drawing with the appropriate authorities. The user of this drawing is advised to verify the accuracy of the information shown on this drawing with the appropriate authorities.

SCHEDULE C

This forms part of application
A19-0021



1

 <p>Agricultural Land Commission Act</p>	<p>Planner Initials <input type="text" value="AT"/></p> <p>City of Kelowna COMMUNITY PLANNING</p>	<p>Policy L-11 January 2016</p> <p>HOMESITE SEVERANCE ON ALR LANDS</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act, 2002](#), including amendments as of September 2014, (the “ALCA”) and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the “Regulation”). In case of ambiguity or inconsistency, the ALCA 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.

A subdivision application under Section 21 (2) of the ALCA is required.

Persons making use of this homesite severance policy (the “Homesite Severance Policy”) must understand the following:

- a. there is no automatic right to a homesite severance;
- b. the Agricultural Land Commission (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 December 21, 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 deny any further subdivision 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 a pending real estate transaction may be acceptable as documentation)

In considering the application, the Commission may make an approval subject to sale of the remainder within a specified period of time.

An order of the Commission 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 will therefore exercise its discretion to refuse the homesite severance.


The following two options apply to a homesite severance:

- 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, if it deems appropriate, approve the creation of a homesite severance 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 may be 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 sold for five years except in the case of the death of the owner. 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 other legal documentation satisfactory to the Commission setting out this commitment.
 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 514 of the [Local Government Act](#) insofar as compliance with local bylaws is concerned.

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

RELATED POLICY:

ALC Policy L-17 *Activities Designated Permitted Non-Farm Use in the ALR: Lease for a Retired Farmer – Zone 2*

SCHEDULE		C
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