

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.

SCHEDULE

This forms part of application

A19-0021

Planner
Initials

AT

Property Boundary

K

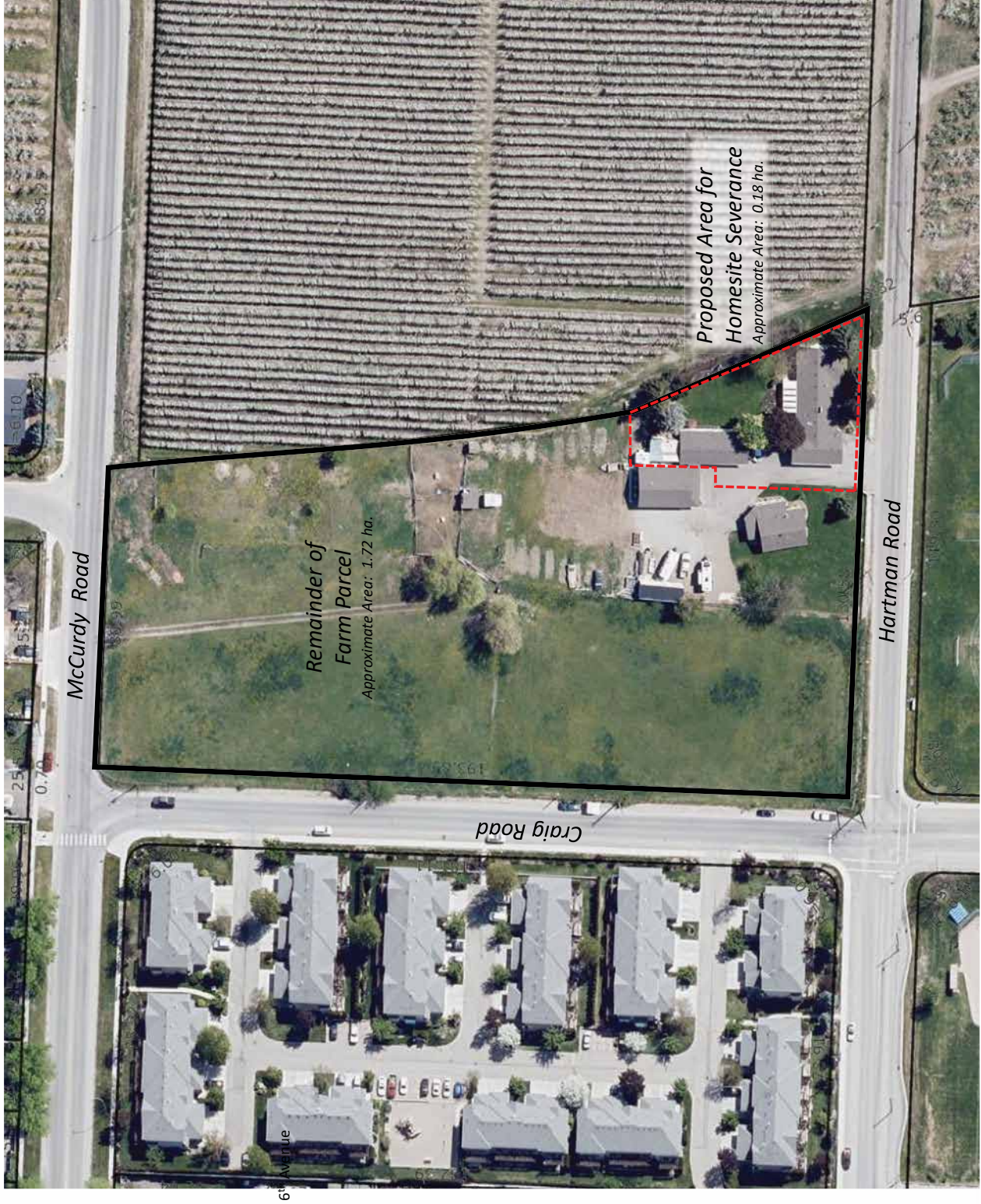
Proposed ALR
HomeSite
COM

Overseas Area



MIN. PROJECT

W **WILLIAMS & WILKINS**
200 Madison Ave.
New York, N.Y. 10017
(212) 850-6000



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ATTACHMENT		A
This forms part of application		
# A19-0021		
Planner Initials	AT	 City of Kelowna <small>COMMUNITY PLANNING</small>

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**

**Prepared for:
Beatrice Van Den Eerenbeemt**

Amended February 5, 2020



The purpose of this application is to request a 0.18 ha. homesite severance subdivision from the parent parcel of land which is approximately 1.9 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.

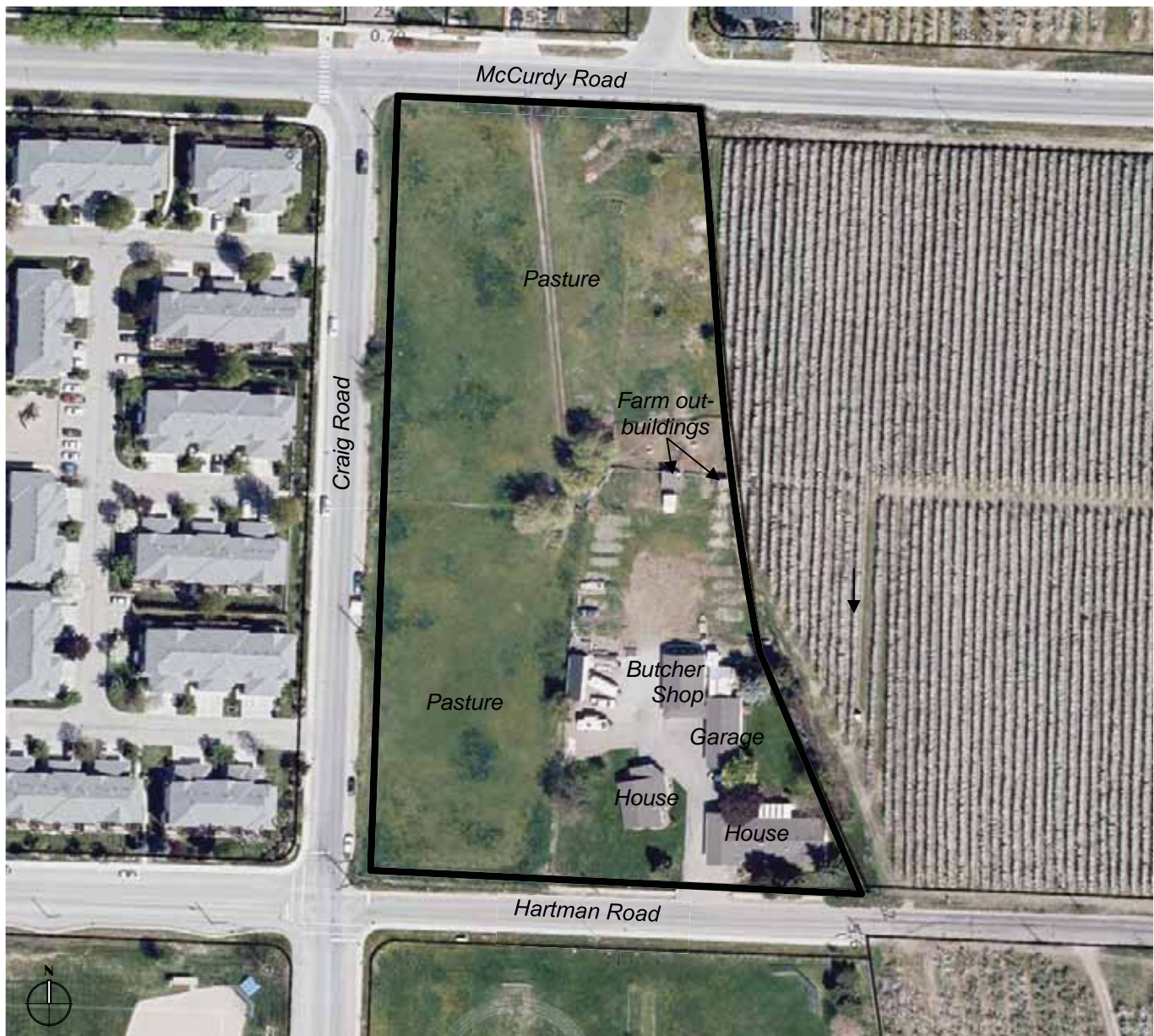
Illustration 1: Site Location





The 1.9 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





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 and the garage and a small yard area that contains the septic field and would be approximately 0.18 ha. in area. The proposed homesite severance lot is connected to a domestic water source and has a septic field for sewerage disposal. The proposed remainder farm parcel would be approximately 1.72 ha. in area and would contain a small house and an outbuilding that is presently used as a butcher shop. Both the house and the butcher shop are connected to the City of Kelowna sanitary sewer system and the house and butcher shop are connected to a domestic water source for potable water. The farm portion of the property contains an irrigation 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.

The proposed homesite severance will not have a negative impact on the ability to farm the balance of the property. The farmland 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. As such, there will be no impacts or impediments on 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. The presence of the butcher shop on the farm portion of the property will result in a continued agricultural service to local cattle ranchers who require butcher services.

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McCurdy Road

6th Avenue

Craig Road

*Remainder of
Farm Parcel*
Approximate Area: 1.72 ha.

*Proposed Area for
Homesite Severance*
Approximate Area: 0.18 ha.



Hartman Road

Illustration: 3

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

-  **Property Boundary**
-  **Proposed ALR
Homesite
Severance Area**

DATE: Rev Feb. 4, 2019
PREPARED FOR: NTS
SCALE: 2422 20274 00
BY PROJECT:
MAP PROJECT:

 **McElhenney**



Illustration 3
Hartman Rd
Scale 1:1000
10-20-19

RATIONALE AND JUSTIFICATION FOR ALR EXCLUSION

The following rationale and justification is provided in support of the ALR homesite severance application.

1. The owner of the property meets the ownership and residency tests of ALC policy L-11 for the ALC to consider approval of a Homesite Severance from the subject property, as the owner purchased the property in June of 1970 and has resided on the property since that time.
2. The owner and her late husband were involved in agriculture prior to acquiring the property in 1970 and after purchasing the property they used the property for agriculture, raising livestock and poultry on the property. The addition of the butcher shop on the property to provide custom cutting to the livestock industry, further entrenched the owner's commitment to agriculture. The owner has been dedicated to agriculture most of her life and she wishes now to retire on her property after years of dedication and commitment to agriculture.
3. The proposed homesite severance will not have a negative impact on the adjacent east farm property or on the ability to conduct agriculture on balance of the property.

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 <p>Agricultural Land Commission Act</p>	<div style="text-align: right;">  </div> <div> Planner Initials AT </div> <div style="text-align: center;"> City of Kelowna <small>COMMUNITY PLANNING</small> </div>	<p style="text-align: center;">Policy L-11</p> <p style="text-align: center;">January 2016</p>
<p>HOMESITE SEVERANCE ON ALR LANDS</p>		

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.

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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*