
**CITY OF KELOWNA
MEMORANDUM**

Date: March 21, 2007
File No.: A07-0003
To: City Manager
From: Planning & Development Services Department
Purpose: To obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to complete a homesite severance subdivision.
To obtain approval from the Agricultural Land Commission for a non-farm use under Section 20(3) of the *Agricultural Land Commission Act* in order to allow all three existing residences to remain on the proposed homesite severance parcel.

OWNERS Carmen Seltenrich
Maria Levin

APPLICANT: Tonette Graf

AT: 690 Hartman Road
EXISTING ZONE: A1 – Agriculture 1
REPORT PREPARED BY: Nelson Wight

1.0 RECOMMENDATION

THAT Agricultural Land Reserve Appeal No. A07-0003 for Lot A, Section 25, Township 26, O.D.Y.D., Plan 5499 Except Plan KAP60758, located on Hartman Road, Kelowna, B.C. for a homesite severance subdivision within the Agricultural Land Reserve pursuant to Section 21(2) of the Agricultural Land Commission Act, be supported by Municipal Council.

AND THAT Agricultural Land Reserve Appeal No. A07-0003 for Lot A, Section 25, Township 26, O.D.Y.D., Plan 5499 Except Plan KAP60758, located on Hartman Road, Kelowna, B.C. for a non-farm use within the Agricultural Land Reserve pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Municipal Council, provided:

1. that only the existing "pickers cabin" be considered as a secondary dwelling unit, ensuring
 - a. that the dwelling meets current B.C. Building Code standards;
 - b. that the dwelling satisfies the City's regulation for a "suite in an accessory building"
 - c. that the applicant rezone the property to the A1s – Agriculture with Secondary Suite zone.
2. that the uninhabited dwelling formerly occupied by the applicant's parents be relocated to another parcel, be demolished, or decommissioned.

2.0 SUMMARY

The applicant is requesting permission from the Agricultural Land Commission (ALC) to renew an approval for a homesite severance subdivision, as the applicant's parents never completed their homesite severance approval prior to their death. The proposed homesite severance parcel is 0.35 ha (0.875 ac) in size, leaving a 7.65 ha (18.9 ac) lot remainder.

A second component to this application seeks to allow all three existing residences to remain on the proposed homesite severance parcel. Approval for this element is being sought under Section 20(3) of the *Agricultural Land Commission Act* for a non-farm use.

3.0 AGRICULTURAL ADVISORY COMMISSION

At a meeting held on February 15, 2007, the Agricultural Advisory Committee made the following recommendation:

THAT the Agricultural Advisory Committee SUPPORT Application No. A07-0003 for 690 Hartman Road by Mr. and Mrs. Graf to obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to complete a homesite severance subdivision.

THAT the Agricultural Advisory Commission SUPPORT the Non-Farm Use component of Application No. A07-0003, pursuant to Section 20(3) of the *Agricultural Land Commission Act*, which seeks to allow all three existing residences to remain on the proposed homesite severance parcel

4.0 SITE CONTEXT

The 8.0 ha (19.8 ac) parent parcel is located on Hartman Road, just east of the urban/rural interface boundary. The property is bounded on the south by Hartman Road, and with portions of the north property boundary defined by the soon-to-be developed McCurdy Road extension. This parcel slopes moderately upwards from west to east. The existing farmyard occupies the 0.35 ha area that is being requested for the homesite severance parcel. The remainder 7.65 ha portion accommodates an existing orchard.

An air photo from 2006 shows the existing development on the proposed homesite severance parcel. There are three dwellings shown, including (a) the applicant's house; (b) an uninhabited dwelling, formerly the home of the applicant's parents; and (c) an old "picker's cabin", which is occupied. Other improvements include two detached garages, and three septic fields for each of the three dwellings (see "Applicant's Sketch of Site Plan").

Parcel Size: 8.0 ha (19.8 ac)
 Elevation: 416 m – 457 m

BCLI Land Capability

Approximately two-thirds of the land area has an unimproved rating of Class 5, with "soil moisture deficiency" identified as the only limiting factor. Consequently, through irrigation, the land rating improves to Class 1 (± 42%), Class 2 (± 24%), and Class 3 (± 34%). (See attached Land Capability Map copied from map 82E.084).

Soil Classification

The soil classification for the subject property includes the following:

%	Soil Type	Description
65%	KE - Kelowna	<u>Land</u> : moderately and strongly sloping glacial till. <u>Texture</u> : 10 to 30 cm of loam or sandy loam veneer over gravely sandy loam or gravely loam. <u>Drainage</u> : well.
35%	R - Rutland	<u>Land</u> : very gently to strongly sloping fluvioglacial deposits. <u>Texture</u> : 10-25 cm of sandy loam or loamy sand over gravely loamy sand or very gravely sand. <u>Drainage</u> : rapid.

Zoning of Adjacent Property

North	A1 – Agriculture 1 RU1s – Large Lot Housing with Secondary Suite
East	A1 – Agriculture 1
South	A1 – Agriculture 1
West	A1 – Agriculture 1

5.0 POLICY AND REGULATION

5.1.1 City of Kelowna Strategic Plan

Objective: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

Action towards this objective: – Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

5.1.2 Kelowna 2020 – Official Community Plan

Subdivision – Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated.

5.1.3 City of Kelowna Agriculture Plan

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

Parcel Size (Agricultural Land) – Discourage the subdivision of agricultural land into smaller parcels, except where positive benefits to agriculture can be demonstrated.

Homesite Severance – Continue to support the concept of homesite severance, consistent with Agricultural Land Commission Policy #11

6.0 PLANNING AND DEVELOPMENT SERVICES COMMENTS

Homesite Severance

The applicant indicates in her letter of rationale that her parents were previously granted approval from the ALC to complete a homesite severance. However, they never completed the subdivision prior to their death. The children, who now own the land, wish to complete the homesite severance subdivision. Prior to the City of Kelowna reviewing that subdivision application, an approval from the ALC is required, since the previous approval from the ALC is no longer valid.

The Agricultural Plan recommends that the City should continue to support the concept of home site severances, consistent with the ALC policy #11, which allows farmers to retire or sell the property while retaining the homesite. This limited subdivision opportunity makes the balance of the property available for others to expand or enter the farm business.

In this case, the land is leased out to another farmer already. However, one of the daughters of the original farmer—who lives with her family on the original homesite—wishes to continue to reside there, but sell the ± 19-acre orchard portion to the lessee. The applicant's reasons are further explained in the attached letter of rationale.

The ALC Homesite Severance policy requires that the land be owned prior to 1972. Although the state of title shows a registration date of August 1986, the landowners claim that they have owned the land since before 1972.

Staff sees merit in supporting this homesite severance subdivision application, since the subdivision would have existed today had the original owners acted on their previous ALC approval. It seems

reasonable in this case for the surviving children to enjoy the privilege of the homesite severance despite the fact that they do not technically satisfy all the points of the policy direction relating to homesite severances.

Non-Farm Use (to allow three existing residences to remain on homesite parcel):

Subsequent to the initial application for subdivision within the ALR, the applicant submitted a revised application to include a non-farm use component. The purpose of the non-farm use element is to allow the three existing residences to remain on the subject property. These residences could be described as follows:

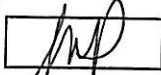
1. existing home of the applicant and her family;
2. former home of the applicant's parents (uninhabited at this time, and in need of repair);
3. old "pickers cabin", which is rented out

If the "pickers cabin" meets current B.C. Building Code standards (or could be upgraded to meet such standards), and the provisions for a "secondary suite in an accessory building", Staff could support this non-farm use application. However, Staff do not support any more than one principal and one secondary dwelling unit on the proposed homesite severance parcel, and therefore could not support retaining the existing uninhabited dwelling for residential use.



R. G. Shaughnessy
Subdivision Approving Officer

Approved for inclusion



Mary Pynenburg, MRAIC MCIP
Director of Planning & Development Services

NW/nw

ATTACHMENTS (10 pages)

ALR Map
Site Plan (Applicant's Sketch)
Air Photo
Detailed Air Photo of Homesite
Updated Application by Land Owner (2 pages)
Letter of Rationale from Applicant (2 pages)
Land Capability Map
Soil Classification Map

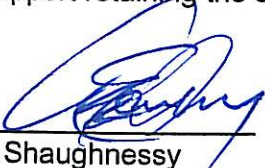
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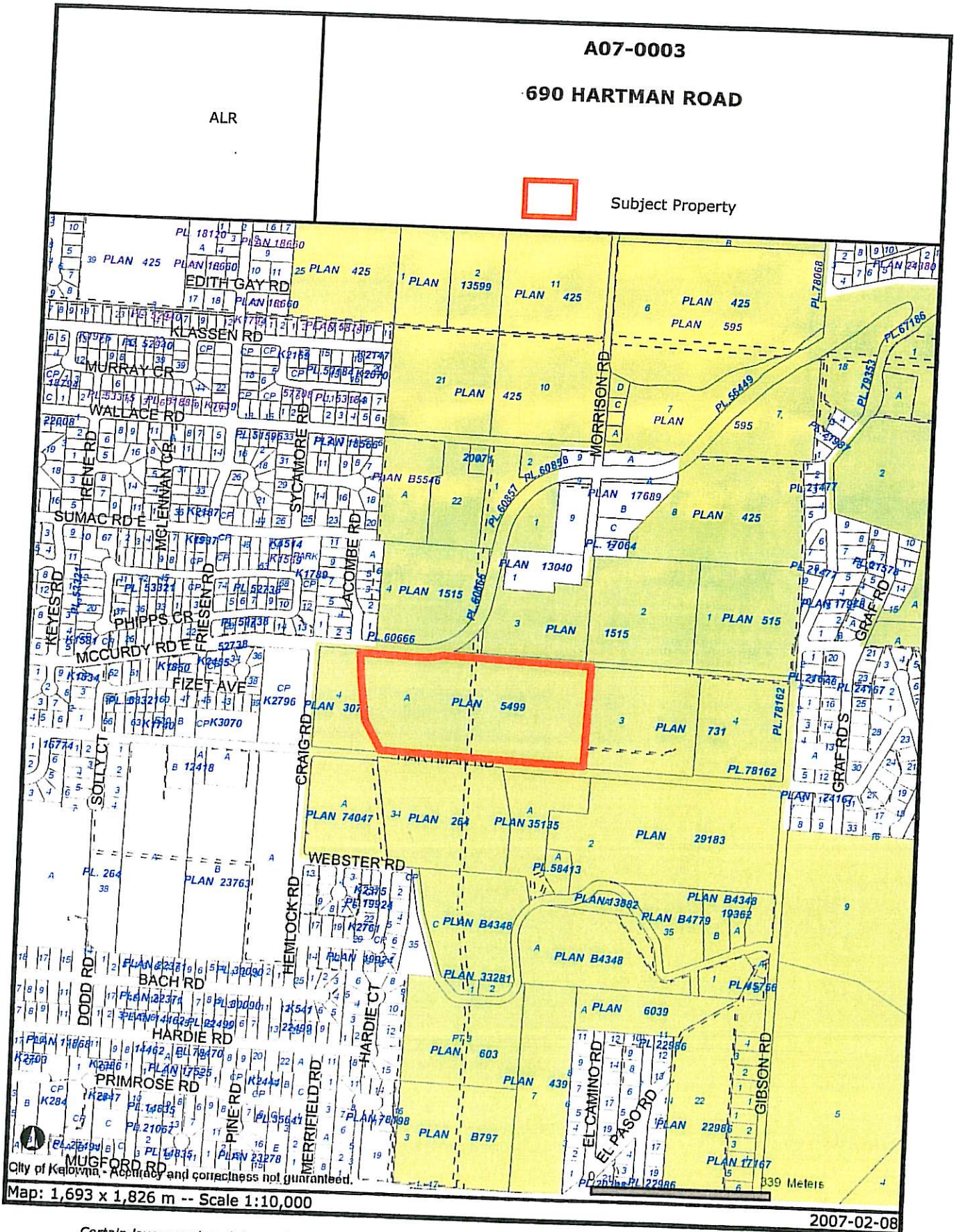
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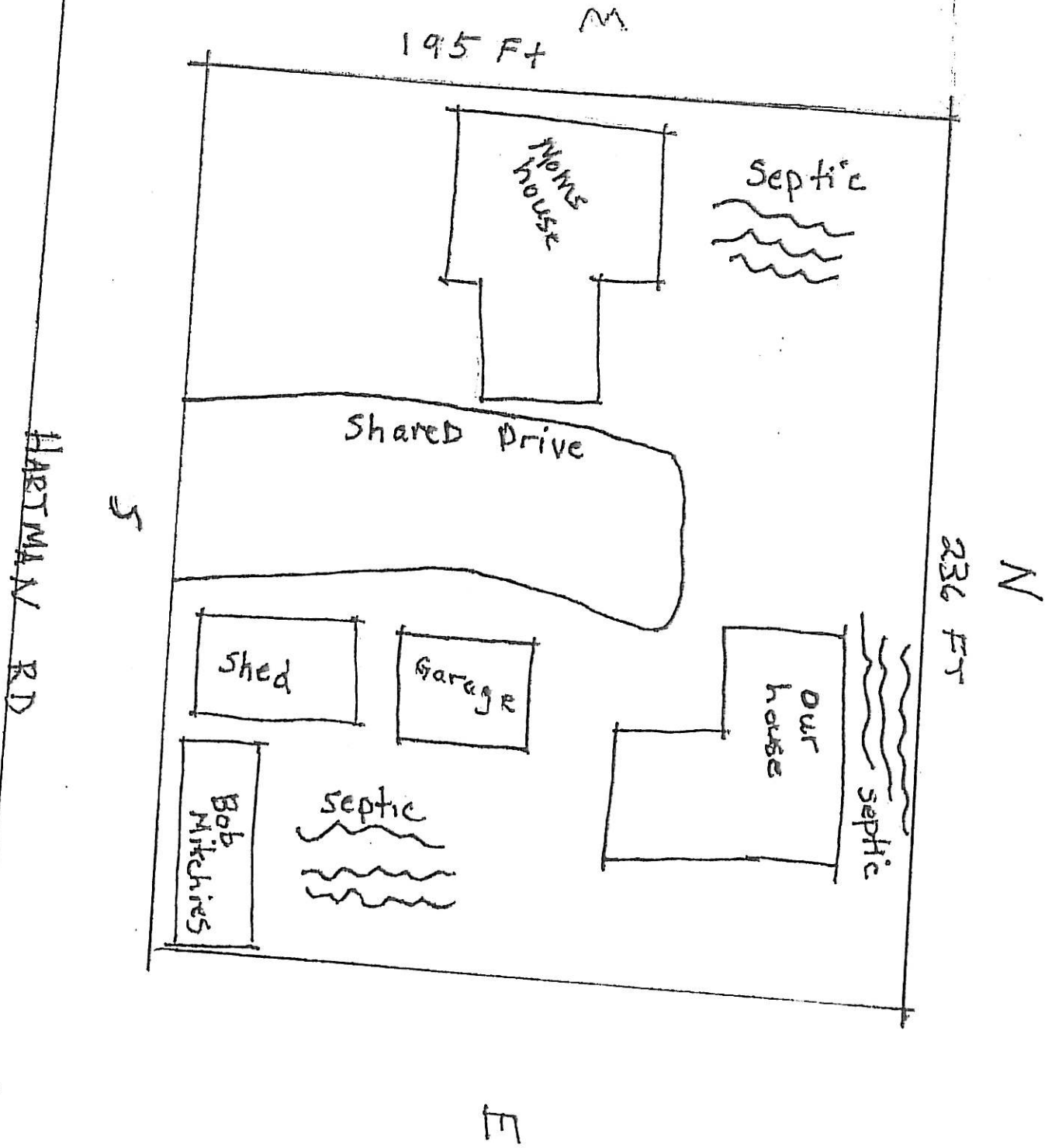
Map: 1,693 x 1,826 m -- Scale 1:10,000

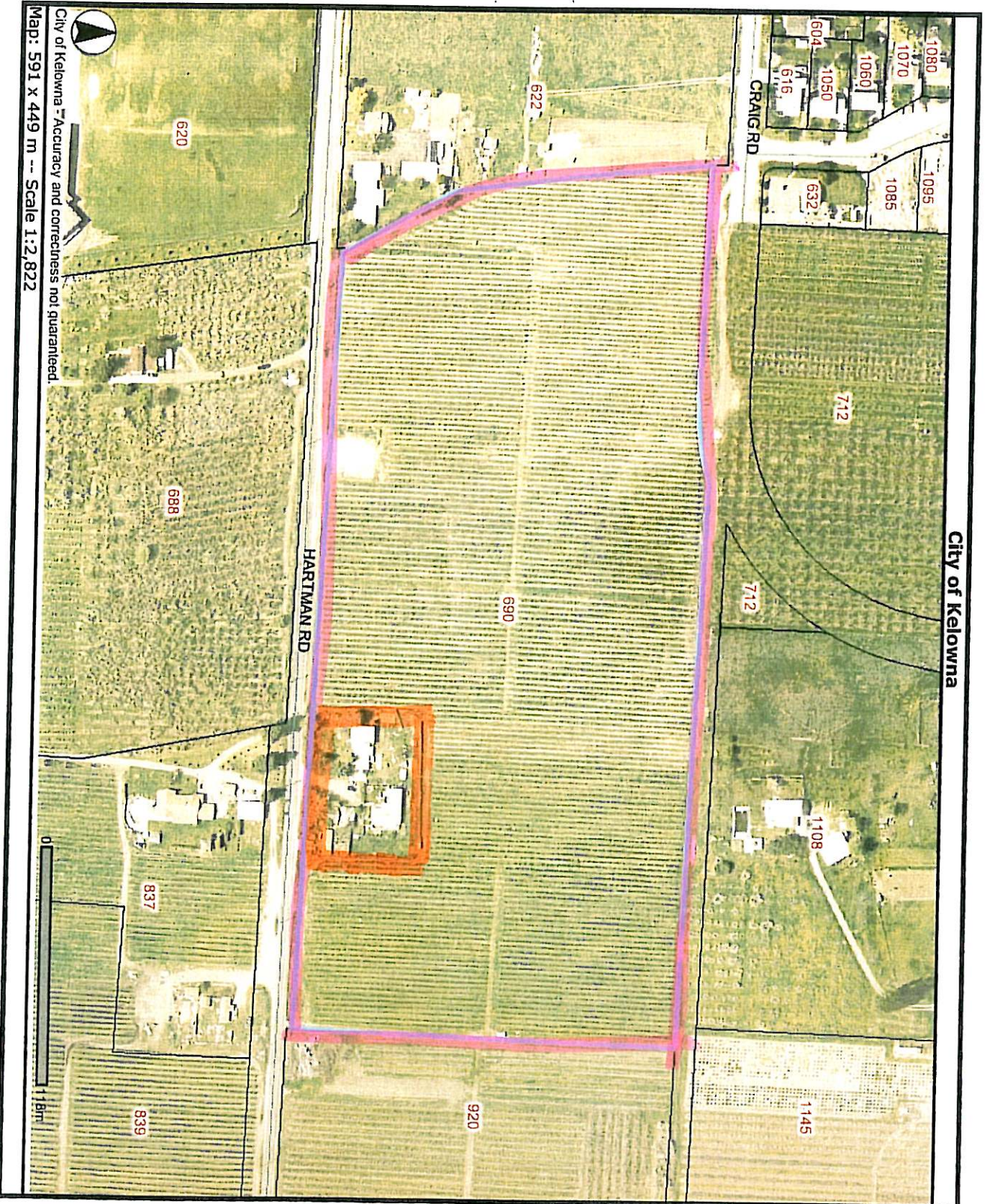
2007-02-08

Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

Site Plan (Applicant's Sketch)

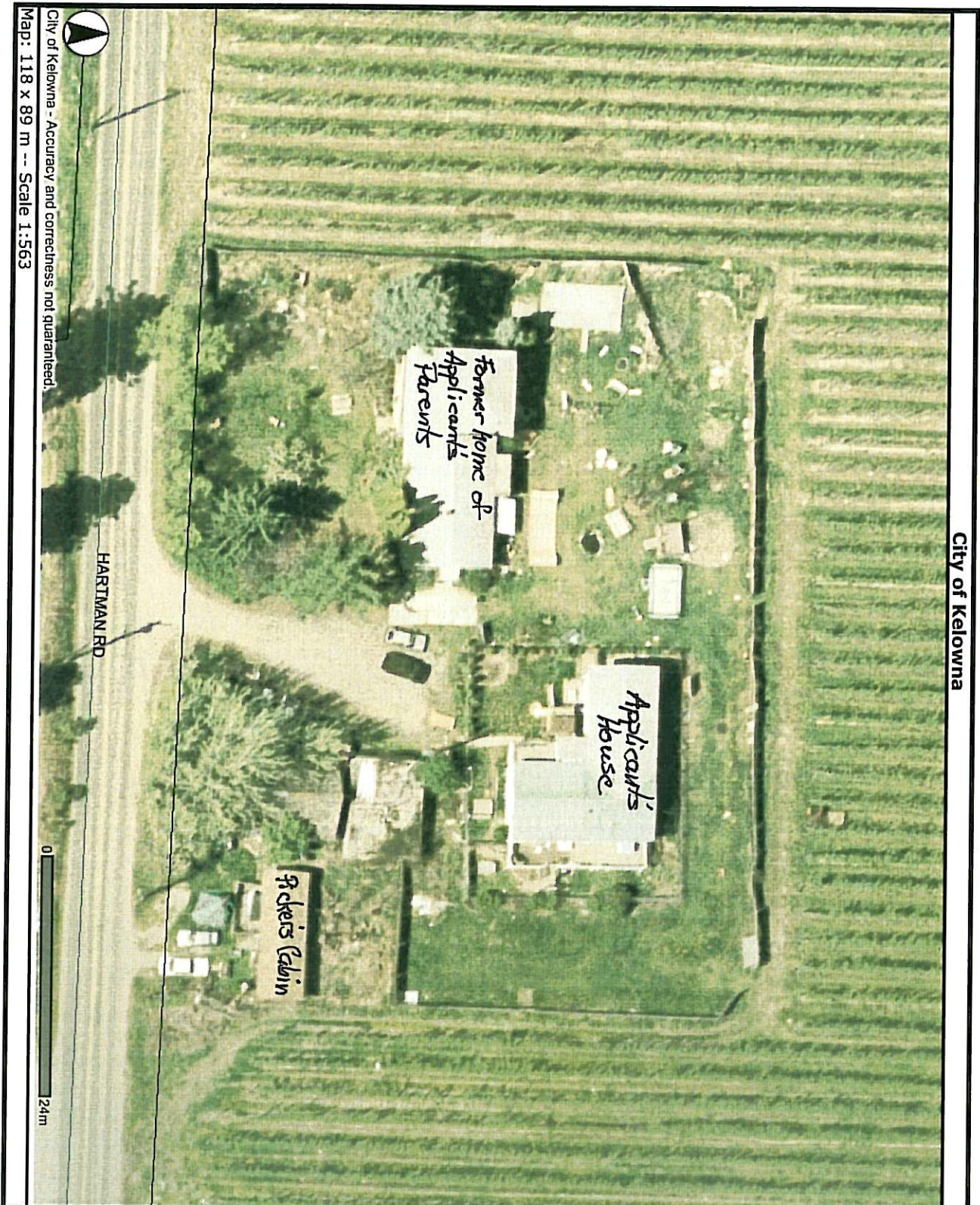
Fenced Area





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City of Kelowna



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RECEIVED

MAR 19 2007

CITY OF KELOWNA
PLANNING DEPT.

A07.6203

January 1st 2007

To whom it may concern regarding the home site severance of 690
Hartman Rd Kelowna B.C

We would like to continue with the application for a homesite severance that my father had started in the 1980.

My parents bought the property in the 1960,s after coming here from Portugal. I was born and raised on the property as well as my two children. We bought a mobile home in 1991 and have spend substantial amount of time and money to completing renovations, which include making it a two stories dwelling with over 800ft of additions.

I believe due to my parents lack of English (primary language spoken was portuguese) that my fathers original attempt of completing the site severance was never accomplished. In fact many close family friends have told me that my father in fact believed he was approved and had often said that he made sure all structures were within the acre.

My mother passed away in March of 2006 and had her wishes fulfilled in that she was able to live out her last days here at home with her family.

My family and I especially, have a great connection with this land as it signifies my parents hopes and dreams, as well as the essence of who we are.

My two sisters do not live in the Kelowna area and one actually is a non resident have all agreed to sell the remaining portion of land to a long time leaser, Dave Sandhers. But we all wish to keep the >875 of the acre

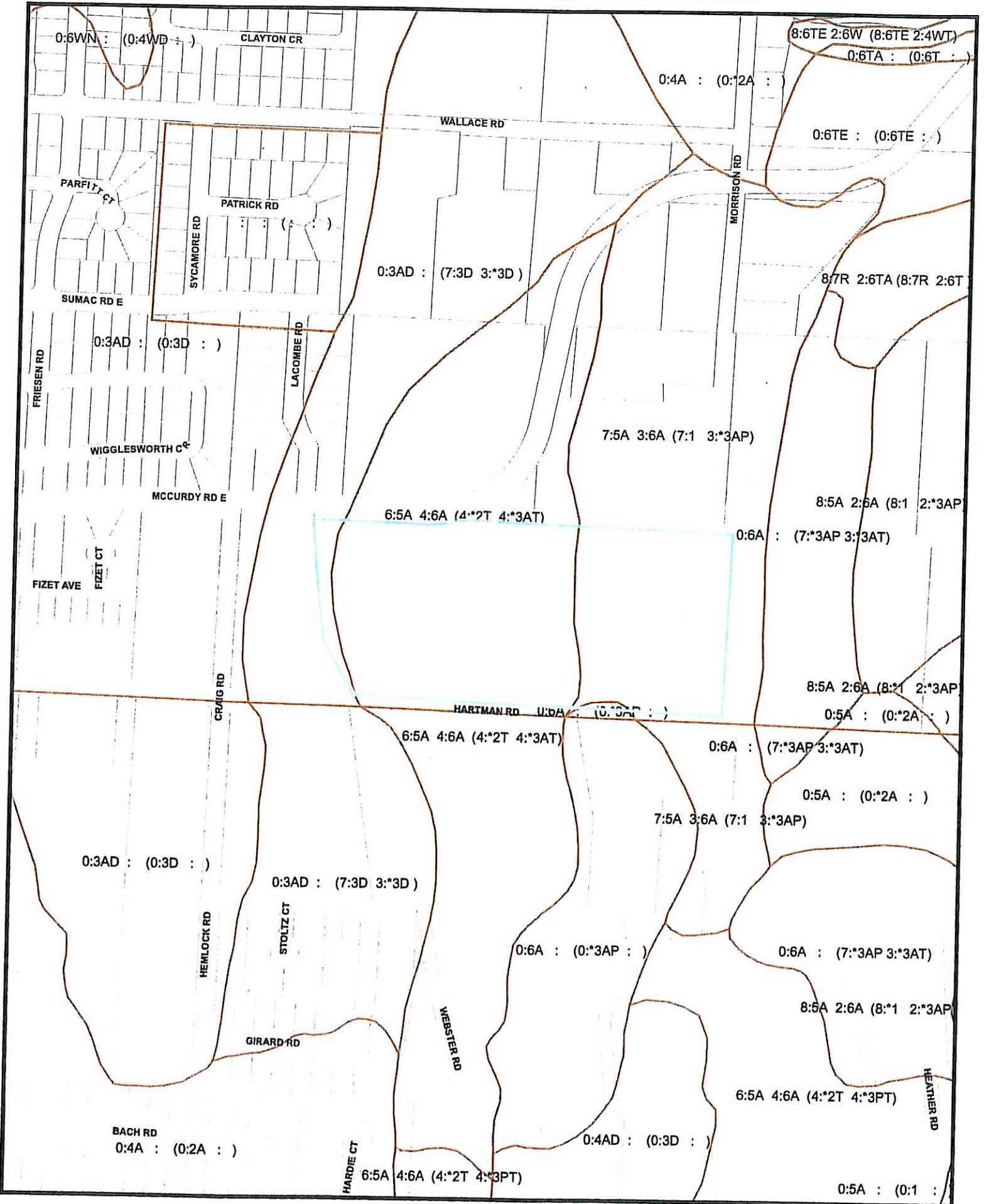
with us, the family that still resides here. That .875 acre would include the houses and our other structures.

The leaser wants to buy the remaining land after the .875 acre severance is complete and has no interest in purchasing the .875 or to apply for another dwelling somewhere else on the property. He is solely interested in it for his agricultural growth as he owns over 400 acres here in the valley already and is an avid farmer.

For the houses on site our plans are as follows to continue living in our own home and to keep Robert Mitchi living in the cabin, where he has resided for over 17 years. As for the older house since I am a human service worker and certified educational assistant I would like to create a home for individuals with special needs. I would like to create two units for two or three people to support them in their independant living.

We sincerely hope you take in all our considerations to this matter and we anxiously await a response, Yours truly Tonette Graf

Land Capability = Brown/ Soil Class = Green



1:5,000

