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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** July 25, 2008  
**File No.:** A08-0005  
**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.  
**OWNER** Bryan, Lorraine, Gordon, and James MacDonnell      **APPLICANT:** Bryan and Lorraine MacDonnell  
**AT:** 3990 Senger Rd  
**EXISTING ZONE:** A1 – Agriculture 1  
**REPORT PREPARED BY:** Carlie Ferguson

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**1.0 RECOMMENDATION**

THAT Agricultural Land Reserve Appeal No. A08-0005 for Lot 2, Section 11, Township 26, O.D.Y.D., Plan KAP83175, located on Senger 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, not be supported by Municipal Council;

AND THAT Municipal Council forward the subject application to the Agricultural Land Commission.

**2.0 SUMMARY**

The applicant is requesting permission from the Agricultural Land Commission (ALC) to allow a homesite severance subdivision. The proposed homesite severance parcel is 0.35 ha (0.87 ac) in size, leaving a 1.88 ha (4.64 ac) remainder parcel (see attached Sketch Plan).

**3.0 AGRICULTURAL ADVISORY COMMITTEE**

At a meeting held on July 10, 2008, the Agricultural Advisory Committee passed the following recommendation:

THAT the Agricultural Advisory Committee **not support** Application No. A08-0005, as presented by the Applicants, for 3990 Senger Road, by Bryan and Lorraine MacDonnell to obtain approval from the Agricultural Land Commission under Section 21(2) of the *Agricultural Land Commission Act* to complete a homesite severance subdivision.

The AAC members expressed concern that this application does not comply with the Agricultural Land Commission's policies and conditions with respect to homesite severances.



#### 4.0 SITE CONTEXT

The subject property is located on the west side of Senger Road in the Southeast Kelowna sector of the City. The property is within the Agriculture Land Reserve (ALR) and is surrounded by properties within the ALR except on the eastern boundary. The existing farmyard is located within the 0.35 ha area that is being requested for the homesite severance parcel. There are two sheds located on the proposed lot line that the applicant has indicated will be removed and replaced with one. The remainder of the property is currently used for growing Christmas trees. The applicant will continue to live on the property while the remainder will be rented or leased out (there has been interest from a grape farmer to lease the remaining land).

Parcel Size: 2.23 ha (5.51 ac)  
Elevation: 490 m – 515 m

#### **BCLI Land Capability**

The subject property has a mix of ratings regarding Land Capability with three notable areas. (See attached Land Capability Map copied from map 82E.084).

The majority of the property has a Land Capability of Class 4 ( $\pm 70\%$ ) and Class 5 ( $\pm 30\%$ ) with "soil moisture deficiency" identified as a limiting factor. Consequently, through improvements such as irrigation, the land rating improves mostly to Class 2 ( $\pm 70\%$ ) and Class 3 ( $\pm 30\%$ ) with soil moisture deficiency as well as a "stoniness" limiting factor for the Class 3 lands.

The Northeast corner of the property has a Land Capability of Class 6 (100%) with "Soil moisture deficiency" and "topography" identified as a limiting factor. Through improvements such as irrigation the land rating remains as Class 6 (100%) with only "topography" as a limiting factor. The Southeast corner of the property has a Land Capability of Class 4 ( $\pm 50\%$ ) and Class 5 ( $\pm 30\%$ ) with "Soil moisture deficiency" identified as a limiting factor and Class 4 ( $\pm 20\%$ ) with both "soil moisture deficiency" and "topography" as a limiting factor. Consequently, through improvements such as irrigation, the land rating improves to Class 2 ( $\pm 50\%$ ) with "soil moisture deficiency", Class 3 ( $\pm 30\%$ ) with "soil moisture deficiency" and "stoniness" as limiting factors, and Class 2 ( $\pm 20\%$ ) with both "soil moisture deficiency" and "topography" as limiting factors.

#### **Soil Classification**

The soil classification for the subject property is noted in the following tables. (See attached Land Capability Map copied from map 82E.084).

Majority of Property		
%	Soil Type	Description
70%	AC – Acland Creek	<u>Land</u> : gently and moderately sloping fluvial glacial deposits. <u>Texture</u> : 60 to 100 cm of sandy loam or loam over very gravely loamy sandy or very gravely sand. <u>Drainage</u> : well.
30%	DH - Dartmouth	<u>Land</u> : nearly level to very steeply sloping fluvial glacial deposits. <u>Texture</u> : 25 to 60 cm of sandy loam or loam over gravely sandy loam or gravely loamy sand. <u>Drainage</u> : well to rapid.

Northeast Corner		
%	Soil Type	Description
100%	DE – Debeck	<u>Land</u> : moderately to extremely sloping fluvioglacial deposits. <u>Texture</u> : 10 to 25 cm of sandy loam or loamy sand over very gravely loamy sand or very gravely sand. <u>Drainage</u> : rapid.

Southeast Corner		
%	Soil Type	Description
70%	OY – Oyama	<u>Land</u> : very gently to extreme sloping fluvial glacial deposits. <u>Texture</u> : 100 cm or more of sandy loam or loamy sand grading to sand. <u>Drainage</u> : rapid.
30%	R - Rutland	<u>Land</u> : very gently to strongly sloping fluvial glacial deposits. <u>Texture</u> : 10 to 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
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**

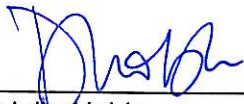
The subject property underwent an interior property lot line adjustment in 2007. This adjustment involved this property and the parcel of land located directly north and reduced the total size by 0.65 ha (1.6 ac). Due to the lot line adjustment, the remaining lot is small in size (only 2.23 ha total) and a homesite severance would see this small parcel split even smaller into two (sized 1.88 ha and 0.35ha). Notably, ALC policies state that consideration of any homesite severance be reviewed in the context of the overall agricultural integrity of the parcel, where the size and configuration will, in the Commission's opinion, constitute a viable agricultural remainder.

While the OCP and Agricultural Plan do not support applications for subdivision of land within the ALR, there is a statement in the Agricultural Plan that supports homesite severance applications where the ALC policies and regulations can be satisfied. The Planning Department is concerned as to whether or not the ALC homesite severance policies can be satisfied by the proposed subdivision, but ultimately will be determined by the ALC. Particularly, the current residents of the subject property are currently on title along with the applicants but have not been on title since 1971. The applicants reside on an adjacent property. Therefore, contrary to ALC policy the applicants have not owned and occupied the property as their principal place of residence since December 21, 1972. ALC policies aim to provide a consistent approach to applications where the principal residence of the applicant has been an owner-occupant since December 21, 1972. As per ALC policies, 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 approval of the homesite severance application. However, the ALC will review the application and evaluate the merit of the proposal with respect to the provincial guidelines and policies. Notably, Planning and Development Services questions whether this application meets the spirit and intent of a homesite severance and the City of Kelowna's Agriculture Plan objective to enhance the agricultural industry and maintain a viable parcel remainder. Therefore, the Planning Department puts forward a position of non-support.

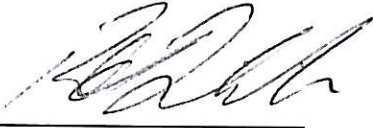
## 7.0 ALTERNATE RECOMMENDATION

THAT Agricultural Land Reserve Appeal No. A08-0005 for Lot 2, Section 11, Township 26, O.D.Y.D., Plan KAP83175, located on Senger 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 Municipal Council forward the subject application to the Agricultural Land Commission.



Danielle Noble  
Current Planning Supervisor



Paul Macklem  
Acting Director of Planning & Development Services

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## ATTACHMENTS

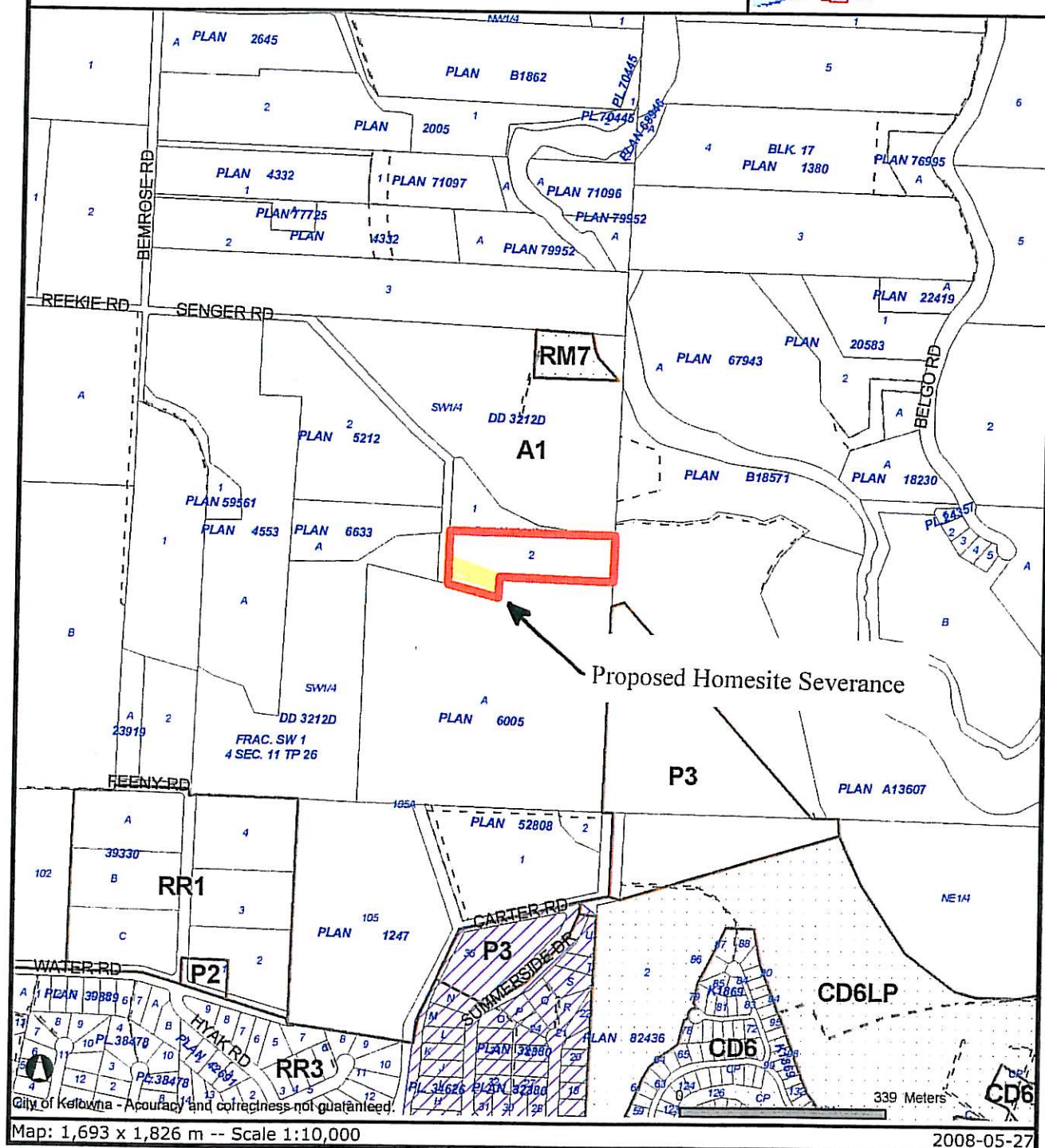
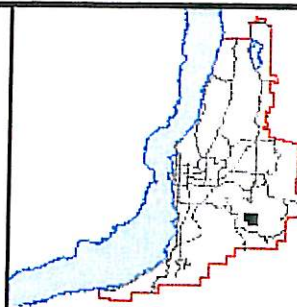
Subject Property – Map 'A'  
ALR Map – Map 'B'  
Homesite Severance Proposal - Map 'C'  
Land Capability Map – Map 'D'  
Soil Classification Map – Map 'E'  
Application by Land Owner (2 pages)



**A08-0005**



Subject Property



*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.*



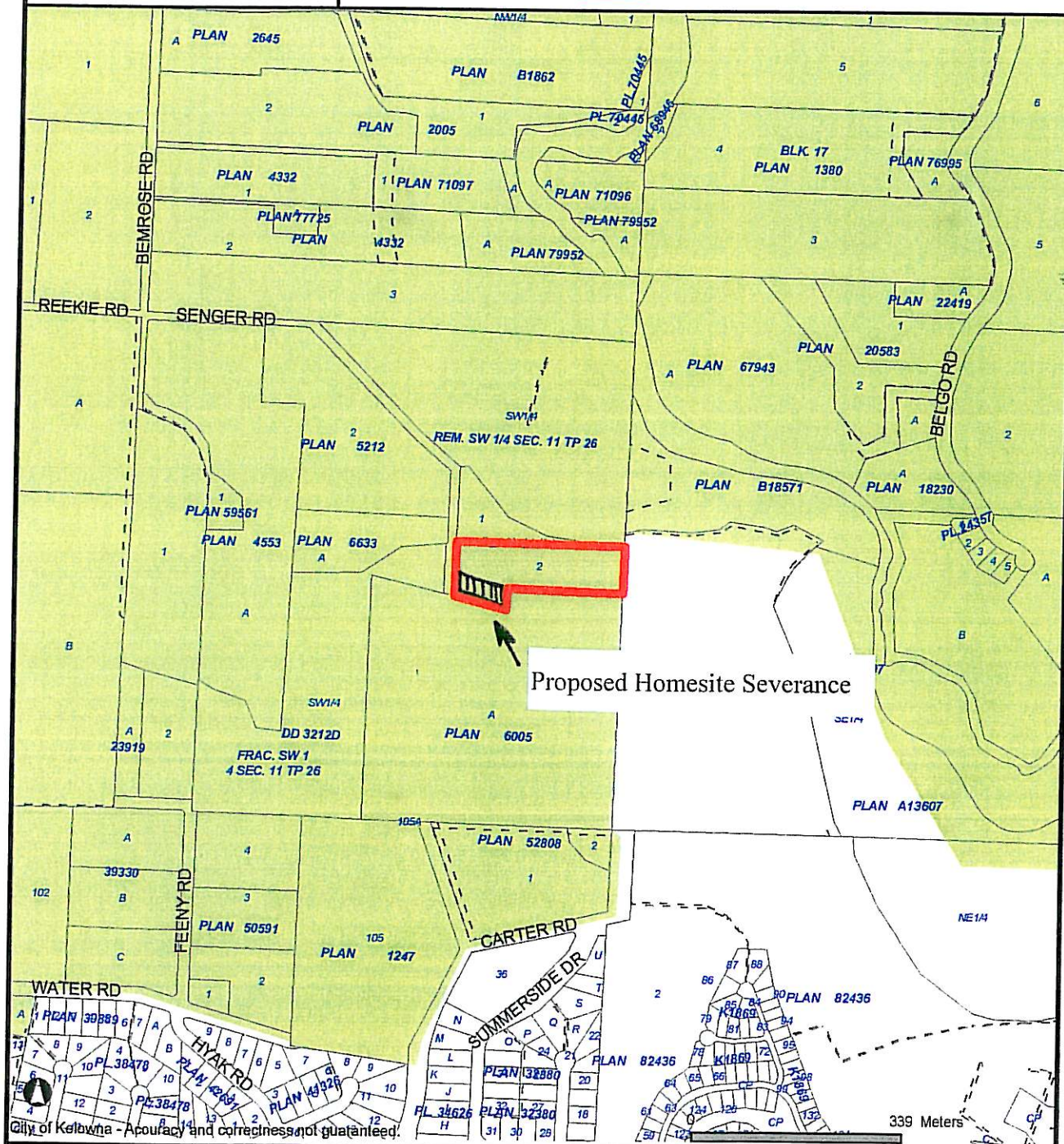
## Application

**A08-0005**

ALR



Subject Property

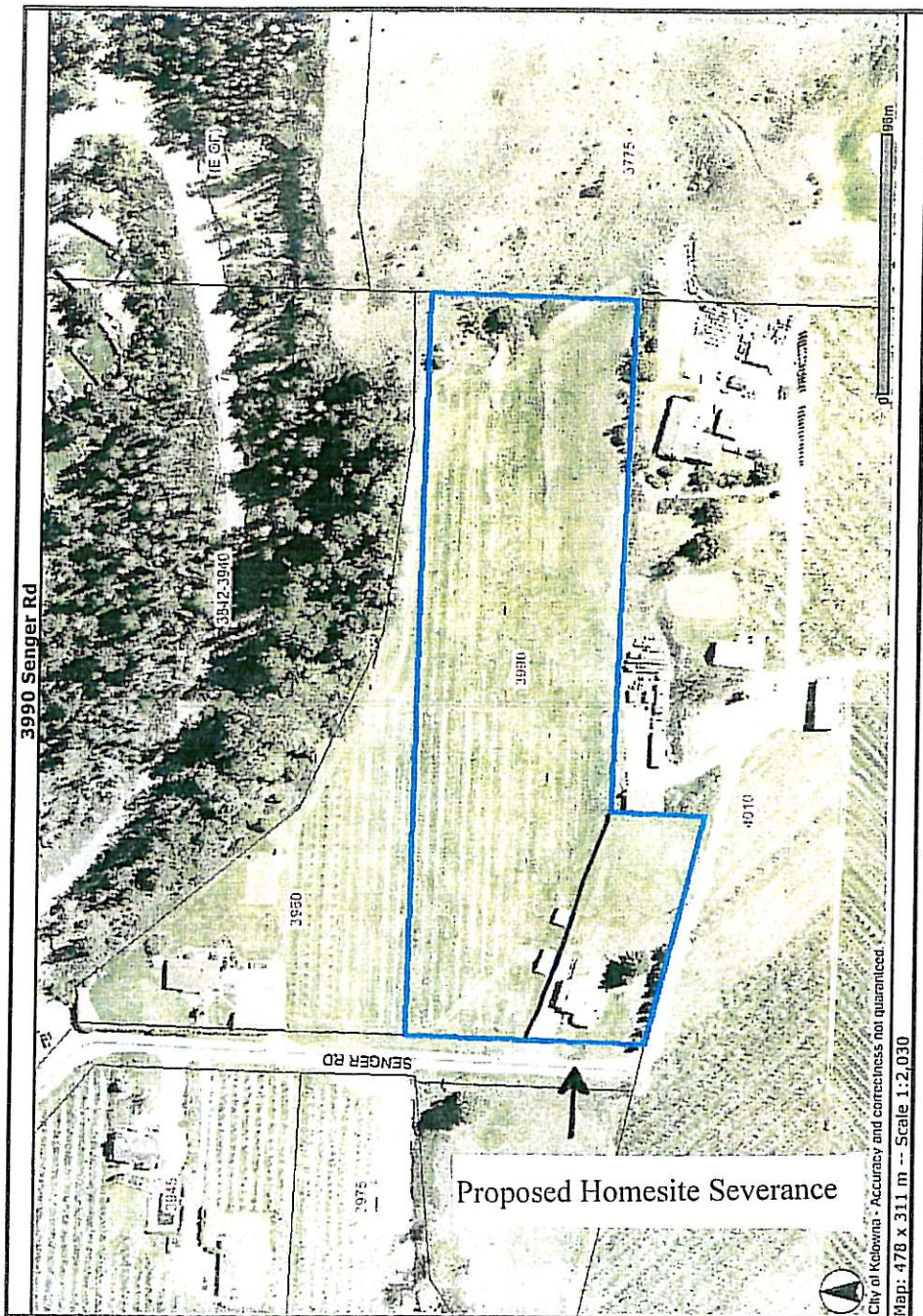


Map: 1,693 x 1,826 m -- Scale 1:10,000

2008-05-27

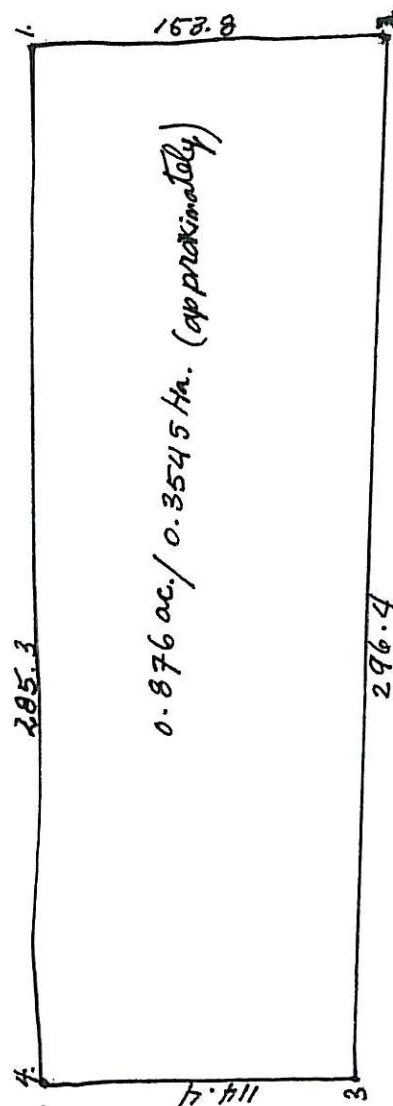
*Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
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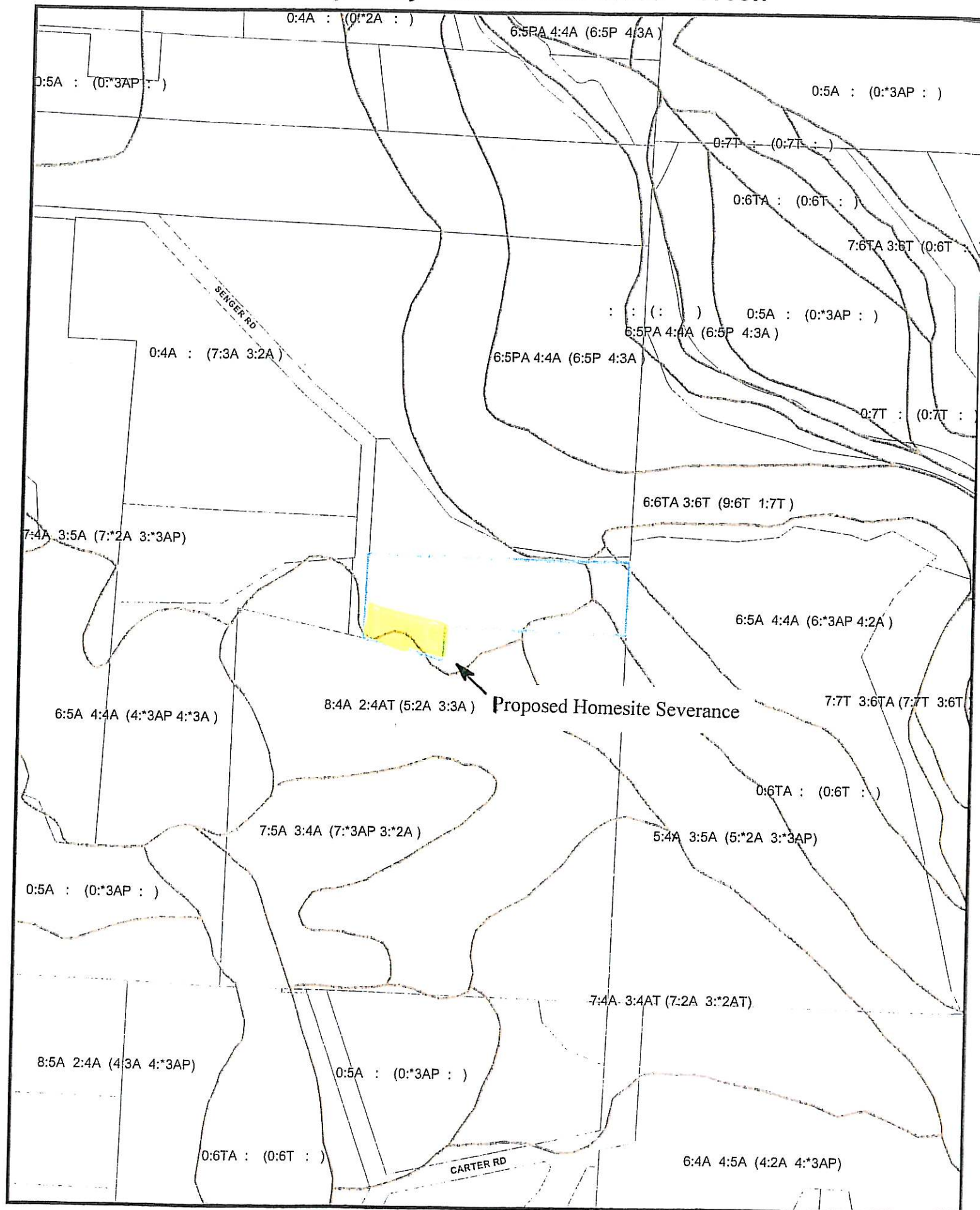
*Planned  
survey reg.*



$$\frac{2.23 \text{ Ha}}{0.35} = \frac{1.08}{50000}$$

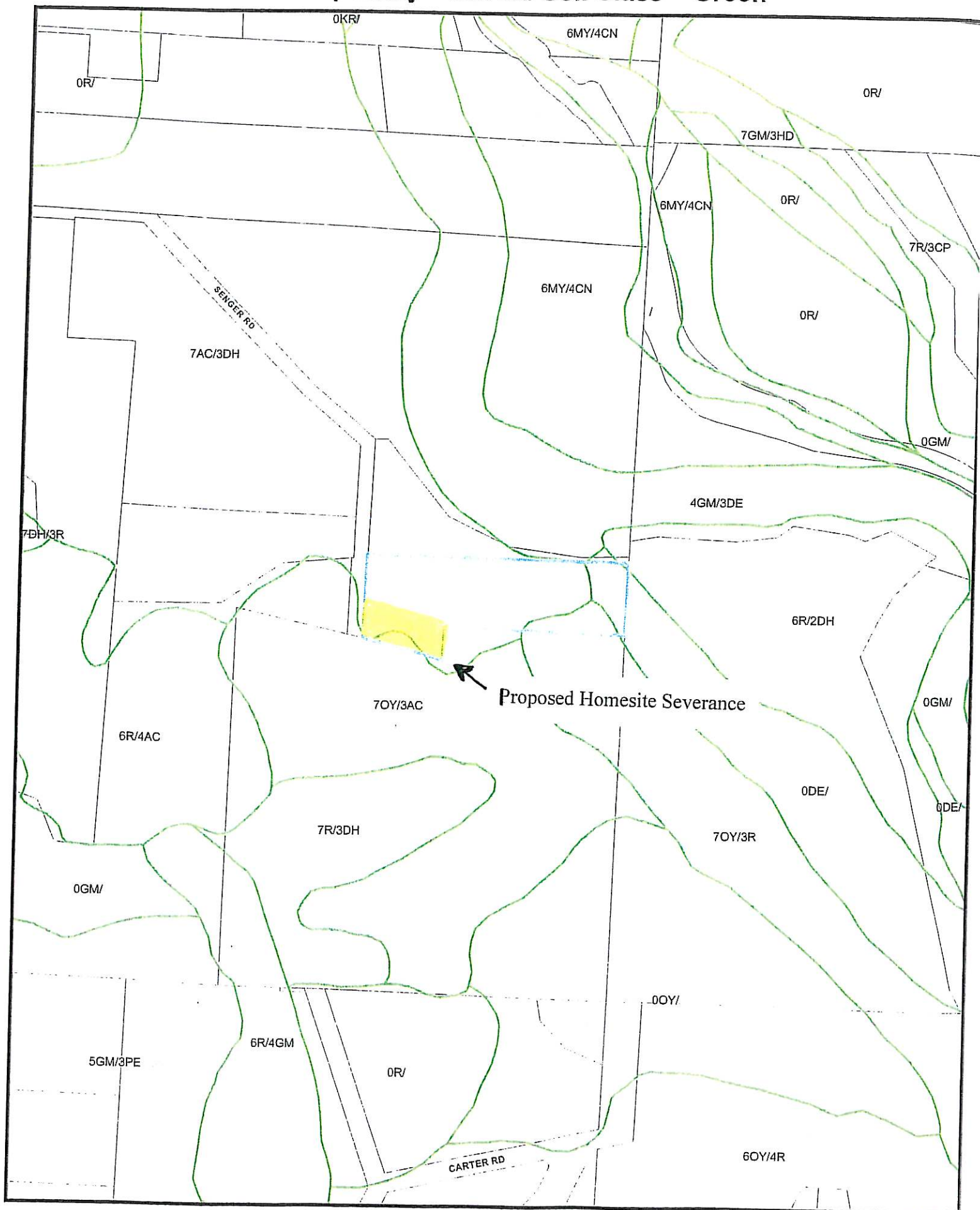


Land Capability = Brown/ Soil Class = Green



1:5,000

Land Capability = Brown/ Soil Class = Green



1:5,000



## APPLICATION BY A LAND OWNER

under the Agricultural Land Commission Act to

- exclude land from the ALR
- include land in the ALR
- subdivide land in the ALR
- use land in the ALR for non-farm purposes

The *Applicant's Information Package* contains useful information for preparing your application. Before you begin, review this information, particularly the factors the Commission does and does not consider in making its decision and the sample of the plan or sketch required to accompany your application.

Your plan or sketch must identify individual parcels by legal description and must specify the dimensions of each parcel. If you do not have a plan of your property, your local government office may be able to provide one for you.

To avoid delays in processing your application, please ensure that all parts of the form are completed and that all additional documentation and fees are enclosed.

The information required by this form and the documents you provide with it are collected to process an application under the *Agricultural Land Commission Act* and regulation. This information will be available for review by any member of the public. If you have any questions about the collection or use of this information, contact the Commission and ask for the staff member handling the application.

Provincial Agricultural Land Commission  
Room 133, 4940 Canada Way, Burnaby, BC V5G 4K6  
Telephone: (604) 660-7000 Fax: (604) 660-7033  
[www.alc.gov.bc.ca](http://www.alc.gov.bc.ca)



## INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM

### TYPE OF APPLICATION

EXCLUSION: Check this box if you wish to exclude the land from the Agricultural Land Reserve.

INCLUSION: Check this box if you wish to include land in the Agricultural Land Reserve.

✓ SUBDIVISION: Check this box if you wish to subdivide but keep the land within the Agricultural Land Reserve.

NON-FARM USE: Check this box if you wish to use land for non-farm purposes but keep the land within the Agricultural Land Reserve. (Note: If your proposal involves the placement of fill or removal of soil, please complete the Application for Non-farm Use to Place Fill or Remove Soil, instead of this form.)

### APPLICANT

This is the registered owner of the land or an agent acting on behalf of the owner. If there is more than one registered owner, all owners' names must be shown. An agent must supply written authorization of all owners.

### LOCAL GOVERNMENT

Specify the municipality or regional district in which the property is located.

### LAND UNDER APPLICATION and INTERESTS IN OTHER LANDS

Refer to your registered title to complete this part. The size of parcel refers to the entire parcel, not just the area under application. If you do not know the size of your property, your local government office may be able to assist with this information. Copies of the Certificate of Title or Title Search Print must accompany your application.

### PROPOSAL

Be clear and precise in describing the proposal and purpose of the application.

If proposing to subdivide, be sure that the number, area and dimensions of the parcels are noted, including the remainder of the parcel. A plan or sketch showing the proposal is required.

If proposing a non-farm use, provide details on the area, buildings, parking, and other physical alteration of the land that the non-farm use will require. Include a plan or sketch if appropriate.

Explain what steps you may be proposing to reduce potential impact on surrounding agricultural lands such as landscape screening, fencing, etc.

### CURRENT USE OF LAND and ADJACENT USES

Describe the current use of the whole parcel and the types of activities on adjacent lots. Include any historical use of the property, particularly its use for farming activities. Show this information on a plan or sketch.

### SIGNATURE(S)

All registered owners of the land must sign the application or provide written confirmation that they consent to the application. If an agent signs the application form, he/she must provide written authorization to act on behalf of the owner(s).

### NOTICE OF APPLICATION

If you are applying to exclude your land from the ALR, your application must be accompanied by proof of the advertising, serving and posting requirements of Section 16 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation.

### SEND COMPLETED APPLICATION and ACCOMPANYING DOCUMENTS TO:

- the Municipality in which the land is located;
- if not within a Municipality, the Regional District or Islands Trust in which the land is located.

The following must be enclosed:

- |   |  |
|---|--|
| ▪ Application fee (\$600) payable to the Local Government | ▪ Map or sketch showing proposal & adjacent uses     |
| ▪ Certificate of Title or Title Search Print              | ▪ Proof of Notice of Application *(See instructions) |
| ▪ Agent authorization (if using agent)                    | ▪ Photographs (optional)                             |

### INCOMPLETE OR MISSING INFORMATION WILL DELAY YOUR APPLICATION

*If you have any questions about the application process, contact the Municipal or Regional District or Islands Trust office in which the property is located. You may also contact the Commission's office.*