

Township of  
**Langley**



Est. 1873

## REPORT TO MAYOR AND COUNCIL

**PRESENTED:** JUNE 26, 2017 – REGULAR AFTERNOON MEETING  
**FROM:** COMMUNITY DEVELOPMENT DIVISION  
**SUBJECT:** AGRICULTURAL LAND COMMISSION  
APPLICATION NO. 100318 (ELLIS / SURKO / 25060 - 16 AVENUE)

**REPORT:** 17-66  
**FILE:** 07-10-0030

### PROPOSAL:

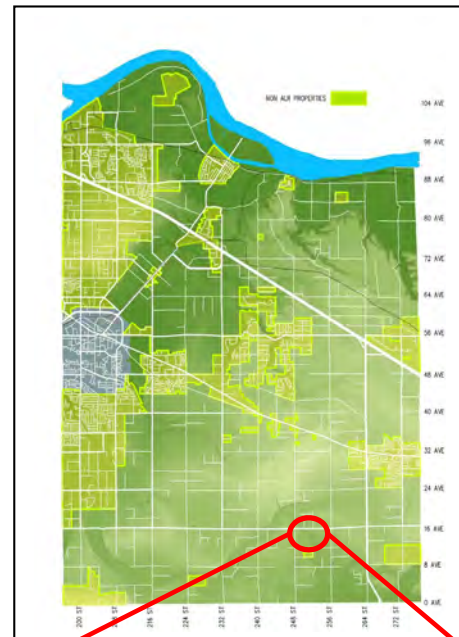
Homesite severance subdivision within the Agricultural Land Reserve (ALR) of a 2.8 ha (6.9 ac) parcel located at 25060 - 16 Avenue into a 0.28 ha (0.70 ac) homesite and a 2.52 ha (6.2 ac) remnant lot.

### RECOMMENDATION SUMMARY:

That Council advise the Agricultural Land Commission (ALC) that the proposed subdivision complies with the minimum lot size requirements of the Township's Zoning Bylaw, subject to compliance with the ALC's Homesite Severance Policy, and request consideration based on agricultural merits.

### RATIONALE:

The application complies with the provisions of the Township's Zoning Bylaw, subject to compliance with the Agricultural Land Commission's Homesite Severance Policy.



**RECOMMENDATION:**

**That** Council advise the Agricultural Land Commission that the subdivision application submitted by Barb Ellis on behalf of Alexander and Elizabeth Surko for a property located at 25060 - 16 Avenue, within the Agricultural Land Reserve, complies with the requirements of Section 110.8 – Homesite Severance Subdivisions of the Zoning Bylaw, subject to compliance with the ALC's Homesite Severance Policy, and request consideration based on agricultural merits.

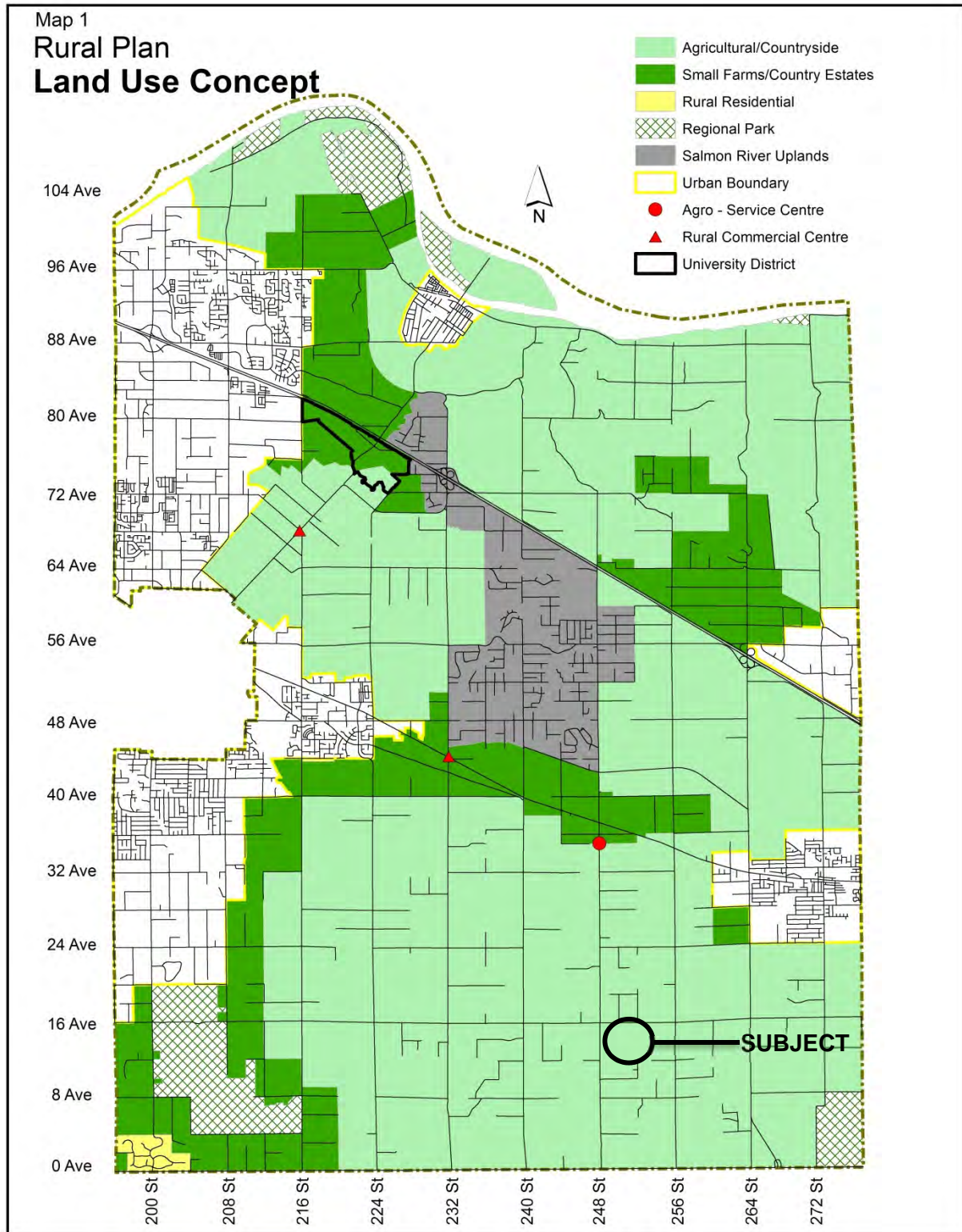
**EXECUTIVE SUMMARY:**

The applicant, pursuant to Section 21(2) of the Agricultural Land Commission (ALC) Act, has applied for a homesite severance subdivision of a 2.8 ha (6.9 ac) parcel located at 25060 - 16 Avenue to create a homesite lot of approximately 0.28 ha (0.70 ac) and a 2.52 ha (6.2 ac) remnant lot.

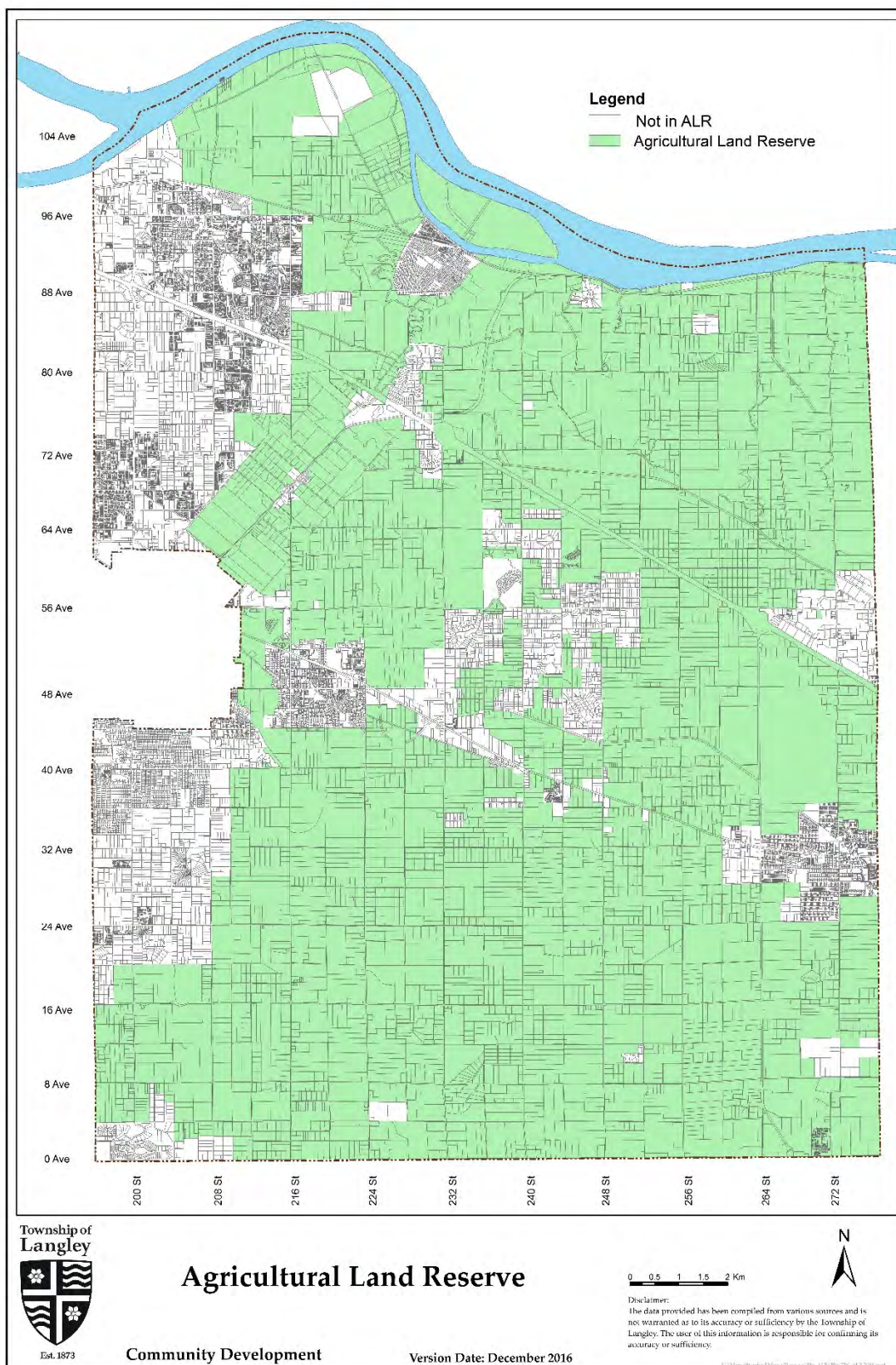
Staff recommend that Council advise the ALC that the subdivision complies with Section 110.8 of the Township's Zoning Bylaw, provided it is deemed a homesite severance by the ALC and request consideration based on agricultural merits.

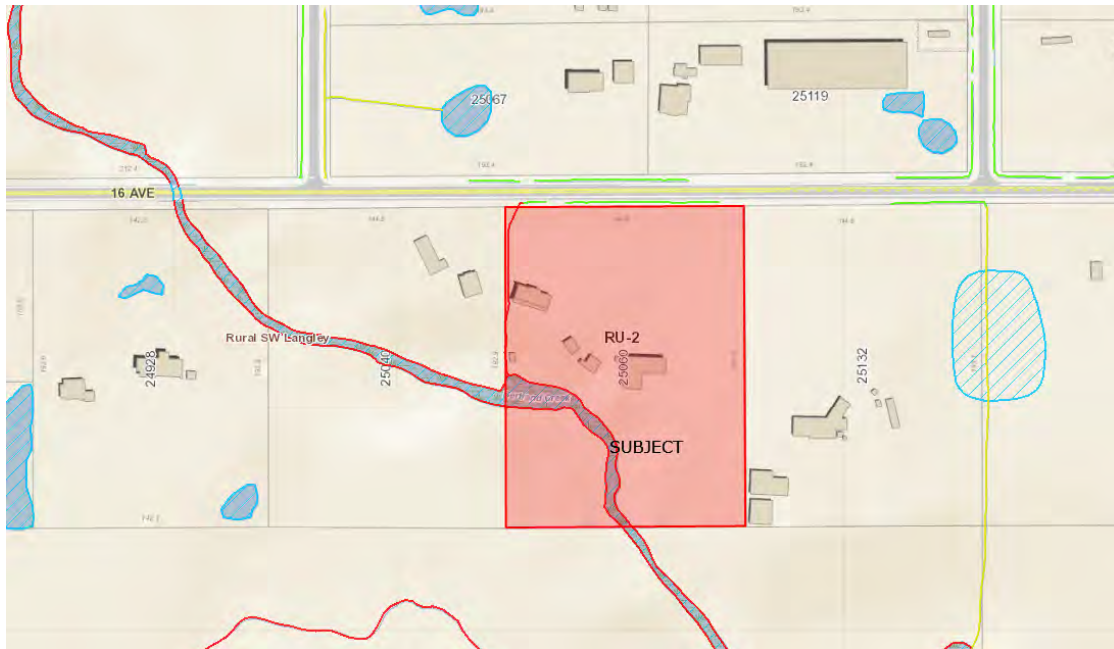
**PURPOSE:**

This report is to provide Council with information and a recommendation with respect to an ALR homesite severance subdivision application submitted under Section 21(2) of the ALC Act by Barb Ellis.

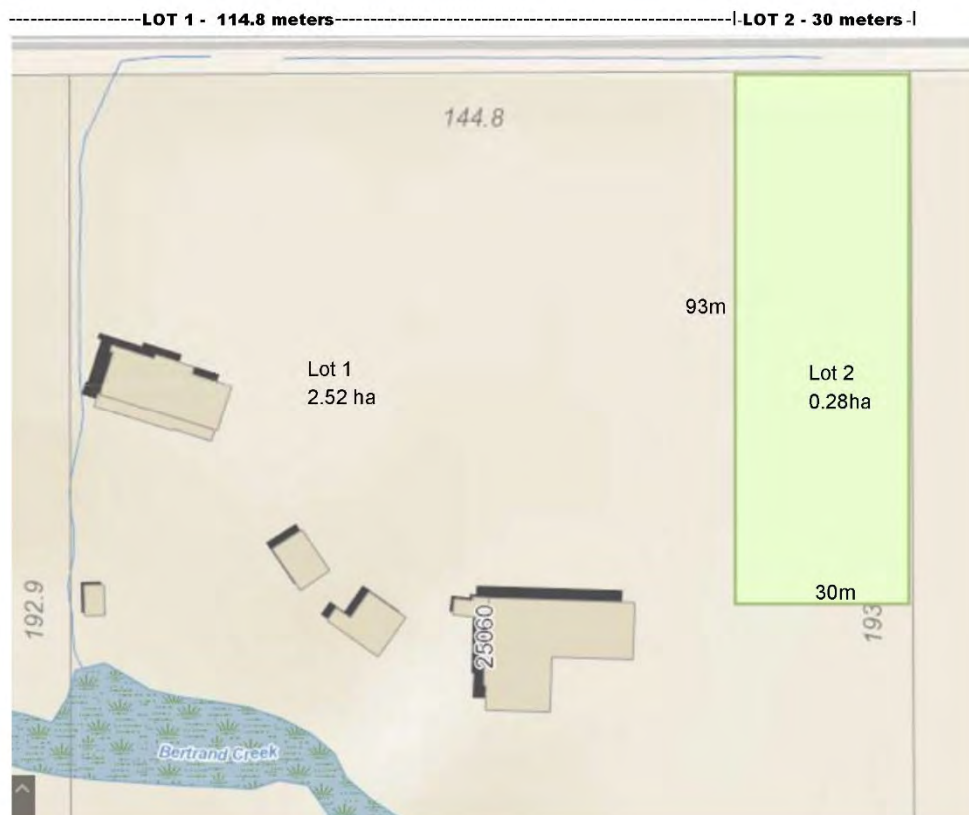








**ZONING BYLAW NO. 2500**



**PRELIMINARY SITE PLAN – SUBMITTED BY APPLICANT**

**REFERENCE:**

<b>Agent</b>	Barb Ellis 106-2460 – 156 Street Surrey, BC V4P 1C8
<b>Owners :</b>	Alexander and Elizabeth Surko 25060 - 16 Avenue Langley, BC V4W 2R6
<b>Legal Description:</b>	Lot 3 Section 11 Township 10 New Westminster District Plan 33272
<b>Location:</b>	25060 - 16 Avenue
<b>Area:</b>	2.8 ha (6.9 ac)
<b>Existing Zoning:</b>	Rural Zone (RU-2)
<b>Minimum Lot Size:</b>	8.0 ha (19.8 ac)
<b>Rural Plan:</b>	Agricultural/Countryside
<b>Agricultural Land Reserve:</b>	In the Agricultural Land Reserve

**BACKGROUND/HISTORY:**

The ALC Act allows Council the opportunity to provide recommendations on subdivision applications made to the ALC. Information available to Council to consider making recommendations are policies contained in the Rural Plan and Township Zoning Bylaw.

The subject property is located at 25060 - 16 Avenue, within the ALR and designated Agricultural/Countryside in the Rural Plan (adopted in 1993). The property is currently zoned Rural Zone RU-2 in accordance with Zoning Bylaw No. 2500 (enacted in 1987), which permits a minimum lot size for subdivision of 8.0 ha (19.8 ac).

The applicant has indicated that the landowners have resided on the property since they purchased it in 1971. The owners would like to retain a portion of the property for retirement and are proposing to create a homesite severance on the eastern portion of the lot.

**DISCUSSION/ANALYSIS:**

ALC policy makes provision for subdivision for the purposes of a homesite severance. A homesite severance subdivision application may be considered by the ALC 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.

The subject application has been submitted pursuant to Section 21(2) of the ALC Act and proposes a homesite severance subdivision of a 2.8 ha (6.9 ac) site into (2) parcels, 0.28 ha (0.7 ac) homesite and a 2.52 ha (6.2 ac) remnant lot. The applicant has requested that the ALC consider the subdivision application in accordance with the ALC's Homesite Severance Policy. Section 110.8 of the Township's Zoning Bylaw enables the Township's Approving Officer to approve a homesite severance subdivision (subject to the ALC's approval) at a lot size less than the Zoning Bylaw minimum (8.0 ha / 19.8 ac in this case), provided the remnant lot is not less than 2.0 ha (4.9 ac) in size. The proposed remnant lot is in compliance with this requirement as it is 2.52 ha (6.2 ac).

Homesite Severances are guided by ALC Policy L-11 (Attachment A), which states:

*"The purpose of this policy is to provide a consistent approach to situations where property under application has been 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."*

The applicant has advanced an indefeasible title dated December 6, 1972 in support of the residency and ownership requirements of ALC Policy L-11. This is a determination that must be made by the ALC, not the Township. Should the ALC decide that the application complies with the ALC's Homesite Severance Policy, the application may be considered for approval.

Should the ALC determine the current application does not comply with the Homesite Severance Policy, any subsequent subdivision application would be evaluated based on its ability to meet the Township's Zoning Bylaw Section 110.1 Minimum Subdivision Requirements (RU-2 zone 8.0 ha (19.8 ac)) and would also require ALC approval.

### **Description of Property:**

The subject site is 2.8 ha (6.9 ac) in size and contains a single family dwelling and accessory buildings on the northwestern portion of the property. Access to proposed remnant lot is available from the current boulevard crossing on 16 Avenue. Access to the proposed homesite lot will require application and approval for an additional boulevard crossing. As 16 Avenue is an arterial roadway, access configuration will be determined at time of subdivision.

A red coded watercourse (Bertrand Creek) traverses the western portion of the property. At the time of subdivision, the applicant will be required to protect all Streamside Protection and Enhancement Areas (SPEA) in accordance with the Provincial Riparian Areas Regulation (RAR).

### **Adjacent Uses and Property Sizes:**

- |        |   |
|--------|---|
| North: | 16 Avenue, beyond which are two rural properties both 1.78 ha (4.4 ac) in size zoned Rural Zone (RU-2) within the ALR, designated Agricultural/Countryside in the Rural Plan; |
| East:  | A 2.8 ha (6.9 ac) property zoned Rural Zone (RU-2) within the ALR, designated Agricultural/Countryside in the Rural Plan;   |
| South: | A 16 ha (39.5 ac) property zoned Rural Zone (RU-2) within the ALR designated Agricultural/Countryside in the Rural Plan;  |
| West:  | A 2.8 ha (6.9 ac) property zoned Rural Zone (RU-2) within the ALR, designated Agricultural/Countryside in the Rural Plan.   |

**Agricultural Advisory and Economic Enhancement Committee:**

In accordance with past practice, the application will be forwarded to the Agricultural Advisory and Economic Enhancement Committee (AAEEC) for information purposes.

**Servicing:**

The Township's Subdivision and Development Servicing Bylaw designates the subject property Rural - Level 4. Each lot must be serviced with a private well and existing wells must be tested and certified in accordance with the Subdivision and Development Servicing Bylaw. Each lot must also provide a septic disposal system (including nitrate removal) and register a covenant for its location (including both primary and reserve fields), design and maintenance. Additional servicing details and requirements are to be addressed at time of subdivision, should the application be approved by the ALC.

**POLICY CONSIDERATIONS:**

The subject site is located within the ALR in an area designated Agricultural/Countryside in the Rural Plan. Staff recommend that Council advise the ALC that the proposal complies with the Township's Zoning Bylaw as a homesite severance subdivision application. If the ALC's approval of the subdivision indicates that the application is consistent with the provisions and intent of the Commission's Homesite Severance Policy, the application can be considered as a homesite severance. Section 110.8 of the Township's Zoning Bylaw states that the Approving Officer may approve an application for a Homesite Severance subdivision subject to the remnant lot being not less than 2.0 ha (4.9 ac) in size. The remnant lot is in compliance with this requirement as it is proposed to be 2.52 ha (6.2 ac) in size. Details of the proposed subdivision will be addressed at the subdivision stage in accordance with the Subdivision and Development Servicing Bylaw requirements and any additional requirements imposed by the ALC as a condition of approval should such be granted.

Should the ALC decide that the proposal does not comply with the ALC's Homesite Severance Policy, the application could not be considered as the subdivision would not meet the minimum lot size requirements of the Township's Zoning Bylaw.

Respectfully submitted,

Daniel Graham  
PLANNING TECHNICIAN  
for  
COMMUNITY DEVELOPMENT DIVISION

ATTACHMENT A      Homesite Severance Policy L-11

This report constitutes the "Local Government Report" as required under Section 12 or 29 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation.



**ATTACHMENT A**

 <p><b>Agricultural Land Commission Act</b></p>	<p style="text-align: right;">Policy L-11 January 2016</p> <p style="text-align: center;"><b>HOMESITE SEVERANCE ON ALR LANDS</b></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*