



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: January 12, 2021

From: Jayden Riley, Planner II

File No: A 20-02

Subject: **A 20-02; Homesite Severance; 3536 Paynter Road**

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### RECOMMENDATION

**THAT** Council authorize the homesite severance application to proceed to the ALC for consideration on the condition that the homesite is reduced to the approximate area identified in *Attachment 4*, but to no less than 2,500 m<sup>2</sup> and exclusive of future road dedication.

### STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity (2020-2022 Strategic Priorities of Council)

### BACKGROUND

This application is seeking a subdivision under the Agricultural Land Commission (ALC) Homesite Severance Policy of approximately 0.4 ha from a 2.6 ha parcel located within the Agricultural Land Reserve (ALR). The intent of the proposed homesite severance is to allow the owner to remain living in the household with the proceeds from the sale of the remainder property. Staff are recommending a reduction of the proposed homesite area to no less than 2,500 m<sup>2</sup> (Figure 2, Attachment 4), excluding future road dedication, based on the ALC guidelines for homesite severance applications as well as comments from the Ministry of Agriculture.

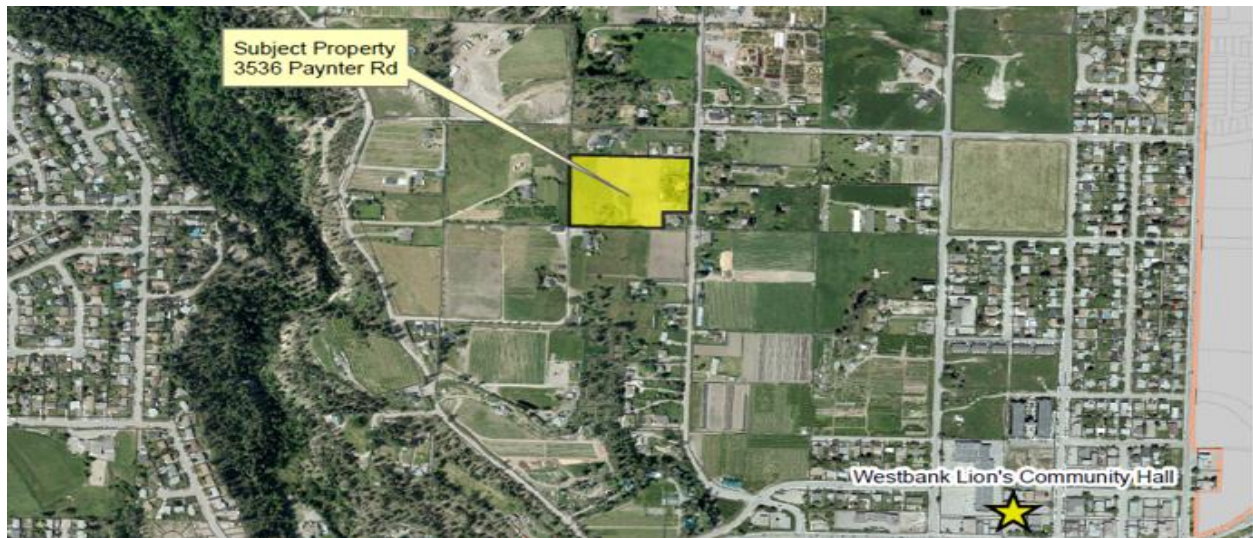
PROPERTY DETAILS			
<b>Address</b>	3536 Paynter Road		
<b>PID</b>	004-290-020		
<b>Folio</b>	36413366.000		
<b>Lot Size</b>	26,227 sq. m.		
<b>Owner</b>	Florence Taneda	<b>Agent</b>	Nicole Kelly and Matthew Taneda
<b>Current Zoning</b>	Agricultural (A1)	<b>Proposed Zoning</b>	N/A

<b>Current OCP</b>	Agriculture	<b>Proposed OCP</b>	N/A
<b>Current Use</b>	Residential	<b>Proposed Use</b>	Residential / Agriculture
<b>Development Permit Areas</b>	Hillside		
<b>Hazards</b>	None		
<b>Agricultural Land Reserve</b>	Yes		

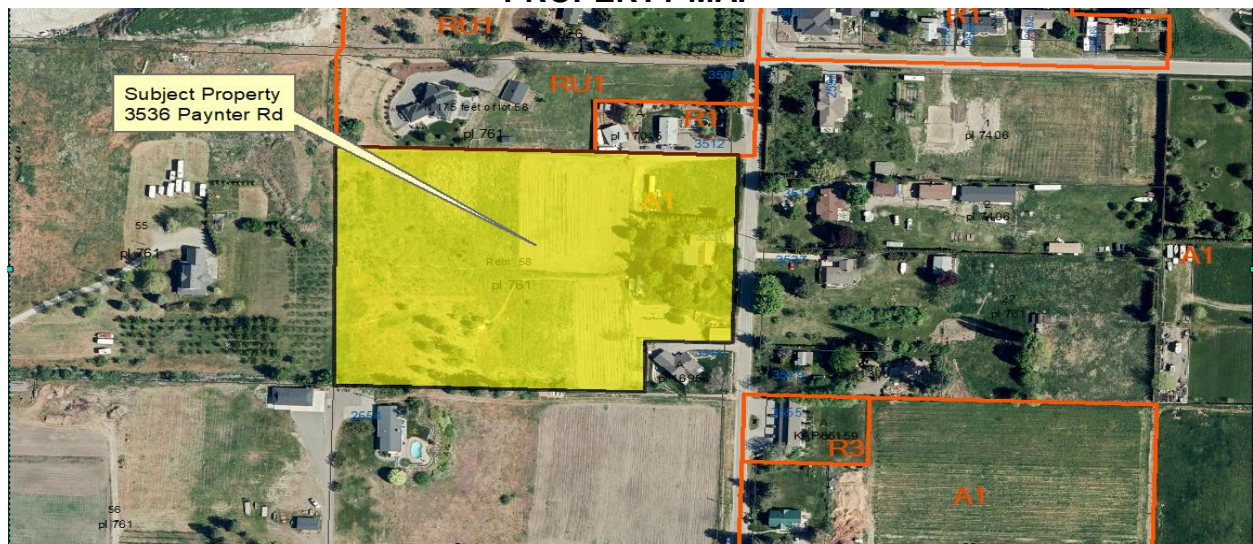
### ADJACENT ZONING & LAND USES

<b>North</b>	^	Single Detached Residential (R1) / Country Residential (RU1)
<b>East</b>	>	Agriculture (A1/ALR)
<b>West</b>	<	Agriculture (A1/ALR)
<b>South</b>	v	Agriculture (A1/ALR)

### NEIGHBOURHOOD MAP



### PROPERTY MAP



### *Proposal*

This application is proposing to subdivide a 4,000 sq. m. homesite from the subject property (*Figure 1, Attachments 1 & 2*). The proposal requires a subdivision application to the ALC due to the parcel being located within the ALR. In order for the application to proceed to the ALC for consideration it must first be authorized by Council.

### *Applicant Rationale*

The applicant currently lives within the single detached dwelling located on the subject property. Their rationale for subdivision is to be able to continue living in the home with the proceeds from the sale of the remainder lot – see applicant's letter of rationale (*Attachment 3*).

### Legislative Requirements

#### *Agricultural Land Commission Act*

A homesite severance requires a subdivision application under S. 25 of the *Agricultural Land Commission Act*. The following ALC guidelines apply to home site severance applications (*Attachment 5*):

1. A once only severance may be permitted on the condition that evidence is provided stating the applicant has owned and occupied the property as their principal residence since December 21, 1972;
2. A homesite severance application has not previously been submitted for the subject property;
3. The applicant shows evidence of a legitimate intention to sell the remainder of the property upon subdivision;
4. The existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property;
5. The remainder parcel must be a suitable size and configuration that will constitute an agricultural parcel;
6. The homesite is not to be sold for five (5) years except in the case of death of the owner; and
7. Where a homesite severance has been approved by the commission, local governments and Approving Officers are encouraged to handle the application under S.514 of the *Local Government Act* insofar as compliance with local bylaws is concerned.

#### *Local Government Act*

S.514 of the *Local Government Act* allows the Approving Officer to approve the subdivision of land that would otherwise be prevented from subdivision by a bylaw that establishes minimum parcel size on the condition that:

1. The person making the application has owned the parcel for at least 5 years;
2. The application is made for the purposes of providing a separate residence for the owner; and

3. The proposed subdivision is not a subdivision that an Approving Officer is prevented from approving, which would be the case under the following circumstances:
  - a) The parcel is classified a farm land for assessment and taxation purposes and after the creation of the parcel subdivided for the purpose of providing a residence results in the remainder parcel to be less than 2 ha;
  - b) The parcel is not within the ALR and was created by subdivision under S. 514 of the LGA; or
  - c) The parcel is within the ALR and was subdivided within the previous five (5) years under S. 514 of the LGA.

The LGA permits the local government to establish the minimum size for a parcel that may be subdivided under S.514; however, S.514(6) states that any parcel created by subdivision must be at least 1 ha unless a smaller area, in no case less than 2,500 m<sup>2</sup>, is approved by the medical health officer<sup>1</sup>.

S.512 of the LGA also requires that a parcel being created by subdivision that fronts a highway must have a minimum frontage that is the greater of:

- a. 10% of the perimeter of the lot that fronts the highway; and
- b. The minimum frontage that the local government may, by bylaw, provide.

The applicant's proposed homesite (*Figure 1*) would not meet minimum frontage requirements with 34 m of frontage – a minimum of 69 m would be required under the A1 Zone and S. 512 of the LGA. Staff's recommended homesite (*Figure 2*) would also not meet the minimum frontage requirements. Therefore, in either case, an exemption by the local government will be required.

## DISCUSSION

The ability to subdivide ALR land exists through the ALC's Homesite Severance Policy (*Attachment 5*) and S.514 of the LGA. The proposal to subdivide lands at 3536 Paynter Road generally meets the guidelines outlined in the ALC Policy, with the exception of the following<sup>2</sup>:

- The existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property; and
- The remainder of the subject property after the severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel.

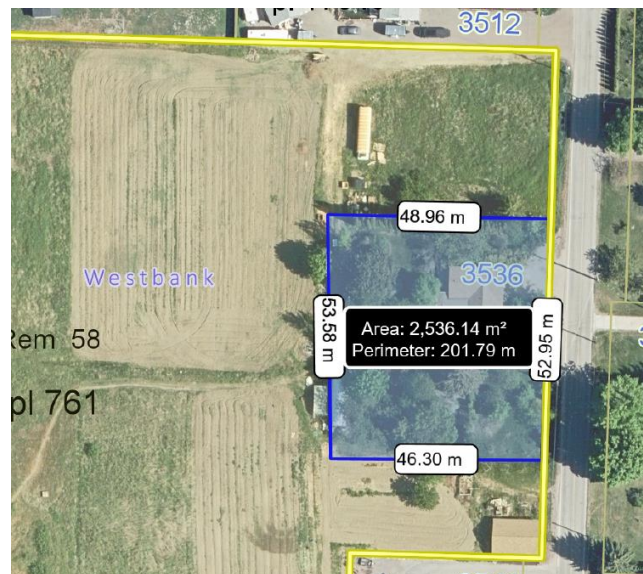
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<sup>1</sup> Approval from Interior Health will be a condition of future subdivision for parcels less than 1 ha.

<sup>2</sup> Note the landscaping containing the homesite. The layout in *Figure 2* better aligns with the character of the property and allows the remainder parcel to accommodate a south access as opposed to limiting both the future access and dwelling to the north-east corner.



**Figure 1:** Applicant homesite proposal (approx. 4,000 m<sup>2</sup>)



**Figure 2:** Staff recommended homesite (min. 2,500 m<sup>2</sup> exclusive of road dedication)

## Policy and Bylaw Review

### *Official Community Plan*

The subject property has a land use designation of Agricultural. This land use designation is intended to support the community's agricultural heritage and foster a local food system for greater self-sufficiency, economic development and local food security. Agricultural policies set out in the Official Community Plan include discouraging the proliferation of non-farm residential development or use, except as provided for by the Homesite Severance Policy within the ALR.

### *Zoning Bylaw No. 0154*

The subject property is zoned Agricultural (A1). Subdivision under a homesite severance does not require rezoning based on S.514 of the *Local Government Act*, although subdivision would be creating two (2) parcels that are under the minimum 4 ha parcel area of the A1 Zone.

## Technical Review

### *Roads and Servicing*

Road dedication for Paynter Road will be required at time of subdivision to meet the Rural Minor Collector road standard. This road standard is 9 m wide from the centre line of the road, whereas the existing width is approximately 7 m. This will result in the dedication of a 220 m<sup>2</sup> area with a depth 2 m running parallel from the current front parcel boundary. Road dedication is anticipated to affect the existing accessory building located at the south east portion of the parcel at the zero lot line. Frontage improvement will also be required at time of subdivision.

Advisory comments have been provided to the applicant as it relates to existing and anticipated water, sanitary sewer, storm sewer, and access improvements; however, a full review will occur at time of subdivision or building permit, subject to Council authorization and ALC approval of the homesite severance application.

## **Referrals**

### *Ministry of Agriculture (MOA)*

The MOA determined there was no clear benefit to agriculture that would result from the proposal. Also noted was that the homesite lot was quite large and such a configuration would provide little area to accommodate a dwelling on the remainder parcel and still have access. Concerns were raised about the potential for a dwelling to be located in the middle of the lot, which would mean converting a portion of the previously productive area to residential use. The MOA's recommendations included limiting, by covenant, a buildable area of the site near the north east corner of the lot, at the front parcel boundary, to preserve potential productive area.

### *Agricultural Advisory Committee (AAC)*

The AAC supported the application and requested that the placement of a covenant be more thoughtfully considered based on the property's farmable land.

## **CONCLUSION**

In the absence of corresponding agricultural policy, staff have not recommended a covenant to limit the remainder parcel for a future homesite ('home-plating')<sup>3</sup>. Staff are however in support of the application on the condition the homesite is reduced to the area identified in *Figure 2* and *Attachment 4* for the following reasons:

- The City's Agricultural Plan and Official Community Plan include policy to preserve agricultural land;
- A reduced area addresses the MOA's concerns to ensure sufficient area for a future dwelling and access to the remainder parcel without disturbing excessive productive area;
- ALC Policy states that the homesite must be of a minimum size compatible with the character of the property; and
- Retaining additional productive land aligns with the ALC guidelines for the configuration of the remainder parcel to constitute a suitable agricultural parcel.

An alternate motion (1) has also been provided based on the applicant's proposed homesite area of 4,000 m<sup>2</sup>.

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<sup>3</sup> Included as an alternate motion.

**Alternate Motions:**

*Authorize the application to proceed to the ALC for consideration as proposed by the applicant*

1. THAT Council authorize the homesite severance application to proceed to the ALC for consideration as proposed by the applicant.

*Authorize the application to proceed to the ALC on the condition that the homesite area is reduced, and a covenant is registered at time of subdivision to limit future homesite.*

2. *THAT Council* authorize the homesite severance application to proceed to the ALC for consideration on the condition that:
  - the proposed homesite is reduced to the approximate area identified *Attachment 4*, but no less than 2,500 m<sup>2</sup> and exclusive of future road dedication; and
  - a covenant is registered on the parent parcel to limit construction of a future dwelling to the north east portion of the property

*Deny the application*

3. THAT Council deny the homesite severance application.

**REVIEWED BY**

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

**Attachments:**

1. ALC Application
2. Applicant's Proposed Homesite Layout
3. Applicant's Letter of Rationale
4. Staff's Recommended Homesite Layout
5. ALC Homesite Severance Policy