



**Agricultural Land Commission**  
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Burnaby, British Columbia V5G 4K6  
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September 28, 2005

Reply to the attention of Simone Magwood

Lillian Francis  
SS2 – Comp 22, Site 7  
Fort St. John, BC – V1J 4M7

Dear Ms. Francis:

Re: **Application #W-34410-1**  
**Parcel 1, Section 28, Township 84, Range 19, W6M, Peace River District, Plan PG37371, Except Plan PGP41465**

**Lot "A", Section 28, Township 84, Range 19, W6M, Peace River District, Plan PGP41465**

Further to your letter of June 16, 2003, the Commission, acting under section 33 of the *Agricultural Land Commission Act*, has reconsidered the above noted application. Thank you for meeting with the Commission on September 14, 2005. The Commission apologizes for the delay.

The Commission appreciated the opportunity to speak with you again, view the property, and to discuss its previous decisions. The Commission concurred with the agrologist's report dated October 6, 2002 indicating that the former gravel pit had very limited agricultural capability and that little agricultural benefit would result if it were consolidated with the adjoining 54 ha. However, the Commission believes that the remainder of the property has agricultural capability, if not for cultivation, then for grazing and pasture. Also it was concerned that further subdivision of either Lot A or Parcel 1 into rural residential lots would result in increased residential pressures in this largely agricultural area, a direction that is contrary to recent local government planning initiatives.

Based on the above, the Commission, by Resolution #501/2005, eliminated the condition that Lot "A" be consolidated with the remainder of Parcel 1 as a condition of the homesite severance. The Commission has allowed the subdivision of 4 ha surrounding your home, (shown as Lot 3 on the attached map) subject to the following:

- the subdivision being in substantial compliance with the attached plan.
- the construction of a livestock fence around the perimeter of Lot 3, to be maintained by the owner of Lot 3.
- that the homesite lot not be sold for five (5) years except in the case of estate settlements. The Commission requires your commitment in this regard, which can be done by signing below and returning to our office a copy of the letter. The Commission requires your commitment prior to it approving deposit of the subdivision plan.
- that you obtain Commission approval for an increase in the size of the homesite lot or a change in its location deemed necessary by other approval agencies.
- compliance with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment. The Commission suggests you contact the Peace River Regional District at your earliest convenience.

If you wish to proceed on this basis please undertake the following steps:

1. Commence approval procedures of other agencies that must approve the subdivision.
2. Have a surveyor prepare the subdivision plan.
3. Obtain recent State of Title Certificate for the property.
4. Prepare a "Transfer of an Estate in Fee Simple" document indicating the transfer of the remainder of the property from you to the purchaser.
5. Prior to approaching the Registrar of Land Titles to register the subdivision please submit the following to this office:
  - a) two (2) paper prints of the plan of subdivision
  - b) the State of Title Certificate
  - c) a copy of the "Transfer of an Estate in Fee Simple" document
  - d) your signed commitment that the homesite lot will not be sold for five (5) years except in the case of estate settlements.

When all the required documentation has been received the Commission will authorize the Registrar of Land Titles to accept the application for deposit of the subdivision plan.

Please quote your application number in any future correspondence.

The land referred to in the application continues to be subject to the provisions of the Act and regulations except as provided by this approval.

Please quote the above application number in any future correspondence.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc Peace River Regional District. (File# 27/2002)

SM/lv/Encl.  
34410d2

PROPOSED SUBDIVISION OF  
 PART OF THE REM. OF PARCEL 1, PLAN PGP37371  
 AND PART OF LOT A, PLAN PGP41465  
 SEC. 28, TP. 84, RGE. 19, W.6.M.  
 PEACE RIVER DISTRICT  
 (B.C.G.S. 94A.036)

N.E. 1/4  
 SEC. 28

Approved Lot

Lot 3

Lot "A"

20m ROAD

30.175m ROAD No. 271 PLAN 26672

S.W. 1/4  
 SEC. 28

REM. PARCEL 1  
 PLAN PGP37371

SCALE = 1 : 2500



TP. 84 RGE. 19 W.6.M.

Agricultural Land Commission  
 Application: W-34410-1  
 Resolution # 501/2005

Approved ± 4 ha lot pursuant to the  
 Homesite Severance Policy.





The Commission's previous decision was to allow Ms. Francis a homesite severance on the condition that she consolidate the remainder of Parcel 1 with Lot "A". The Commission considered that Ms. Francis does not live in an area designated rural residential in the Fort St. John and Area Comprehensive Development Plan and as such, the Commission is not willing to allow ad hoc rural residential development in this largely agricultural area. The Commission was shown a letter written by Arthur Hadland stating that Lot "A" had limited agricultural capability due to the fact that it was formerly a gravel pit. This letter was received by the Commission on October 21, 2002 several days after the Commission's original decision was made on this file, therefore the letter was not taken into account when making the original decision. The Commission concurred with the agrologist's report indicating that the former gravel pit had very limited agricultural capability and that little agricultural benefit would result if it were consolidated with the adjoining 54 ha. However, the Commission believes that the remainder of the property has agricultural capability, if not for cultivation, then for grazing and pasture.

Based on the above, the Commission, by Resolution #501/2005, eliminated the condition that Lot "A" be consolidated with the remainder of Parcel 1 as a condition of the homesite severance.

**IT WAS**

**MOVED BY:** Commissioner Kerr  
**SECONDED BY:** Commissioner Read

THAT there were no persons affected by the reconsideration, and

THAT the staff report be received and the condition to consolidate lot "A" with the remainder of the property be removed.

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



*Agricultural Land  
Commission Act*

**Policy #11  
March 2003**

## **HOMESITE SEVERANCE ON ALR LANDS**

*This policy provides advice to assist in the interpretation of the Agricultural Land Commission Act, 2002 and Regulation. In case of ambiguity or inconsistency, the Act 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.

An application under Section 21 (2) of the *Agricultural Land Commission Act* is required.

Persons making use of this policy should understand clearly that:

- a. no one has an automatic right to a "homesite severance";
- b. 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 21 December 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 consider the previous approval as having fulfilled the objectives of the Homesite Severance Policy and may deny any further consideration 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 pending real estate transaction would be acceptable as documentation.]

In considering the application, the Commission may make its approval subject to sale of the remainder within a specified period of time.

A Certificate of Order 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 must therefore exercise its discretion to refuse the "homesite severance".

Where the Commission decides to allow a "homesite severance", there are two options:

- 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, as it deems appropriate, approve the creation of a 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 are 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 resold for five years except in the case of estate settlements. 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 standard notarized contractual commitment to this effect.
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 946 of the *Local Government Act* insofar as compliance with local bylaws is concerned.

I/we being the registered owner(s) of the property which is the subject of this application and for whom the homesite lot was approved, hereby agree not to sell, transfer, or otherwise dispose of the homesite lot for five (5) years from the date of registration of the subdivision plan creating the homesite lot, save and except for estate purposes following the death of the owner, or any one of the owners, if there are more than one.

\_\_\_\_\_  
Owner's Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Owner's Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witnessed By (Please Print Name)

\_\_\_\_\_  
Occupation of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date





**Staff Report**  
**Reconsideration of # W – 34410-1**  
**Applicant: Lillian Francis**

**DATE PREPARED:** August 30, 2005

**TO:** Chair and Commissioners – North Panel

**FROM:** Simone Magwood, Regional Research Officer

**BACKGROUND INFORMATION:**

In 1997 (Application # 30254-0) Ms. Francis applied to subdivide an 8 ha lot from the 64 ha property under *the Homesite Severance Policy* (HSP). The Commission allowed the request for subdivision stating at the time that it would not consider a further request under the HSP. It felt that the proposed configuration was similar to that which existed prior to 1989 when the applicant purchased and consolidated the 8 ha area from the Ministry of Transportation and Highways.

In 2002 (application # 34410-0) Ms. Francis applied to subdivide the two subject properties (totaling 64.6 ha) into two lots of 1.82 ha and one lot of 2.16 ha, containing the existing homesite. This would leave a remainder of Parcel 1 of approximately 54.2 ha and a remainder of Lot A of approximately 4.02 ha. This proposal was asking for further subdivision of the area where the Commission had previously indicated its unwillingness to consider further subdivision under the HSP.

The Commission refused (Resolution # 609/2002) the request on the grounds that the creation of four rural residential lots would adversely impact the agricultural potential of the subject properties. However, the Commission did allow proposed Lot 3, containing the applicant's house, subject to the consolidation of the remainder of Parcel 1 with Lot "A" so that no new parcels would be created.

In 2003 Ms. Francis wrote to the Commission requesting re-consideration of Resolution # 609/02. Her letter to the Commission is attached for your consideration. She has also provided the opinion of a local agrologist as to the agricultural capability of this parcel. This letter is also attached.

Ms. Francis would like the lot previously approved by the Commission (lot 3) and she does not want to consolidate Lot A to the remainder. She states that this area cannot be farmed, has been cleared three times and that there is rock 8 to 10 inches under the topsoil.

**Local Government:**

Peace River Regional District

**Legal Description of Property:**

PID: 023-828-382

Lot A, Section 28, Township 84, Range 19, W6M, Peace River District, Plan PGP41465

**Location of Property:**

East of Charlie Lake.

**STAFF COMMENTS:**

Staff recommend that the Commission consider the following:  
The subject property has not been given a non-agricultural designation in the Fort St. John and Area Comprehensive Development Plan.(see map below)

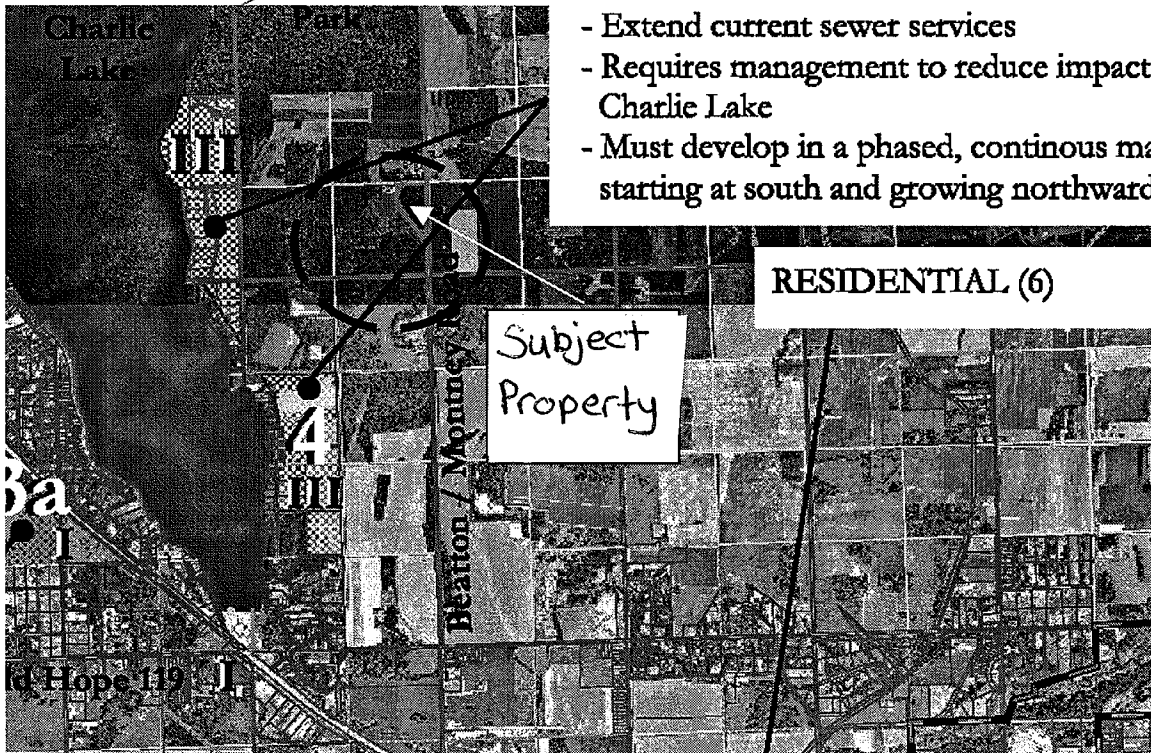
END OF REPORT

Signature



Date

August 31/05



- Extend current sewer services
- Requires management to reduce impact Charlie Lake
- Must develop in a phased, continuous manner starting at south and growing northward