



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

March 2, 2006

Reply to the attention of Gordon Bednard

Jean Mitchell
7725 Chilliwack River Road
Chilliwack, BC V2R 4L8

Dear Ms. Mitchell

Re: Application # MM-36436

Lot 14, District Lot 266, New Westminster District Group 2, Plan 26990

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide one (1) lot of 0.3 ha from the property in accordance with its *Homesite Severance Policy* (copy attached). The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank Gordon Mitchell for taking the time to meet with its representatives on February 1, 2006 at the property. The Commission found the meeting and site visit informative.

The Commission writes to advise that it approved your application subject to:

- the subdivision being in substantial compliance with the attached plan. The size of the homesite lot is to be consistent with the minimum parcel size allowable under current health requirements for septic field sewage disposal;
- the construction of a fence and the planting of vegetation for buffering along the southern and western boundaries of the homesite lot. The fencing and buffering must be designed to limit access from the residential lot to the remainder property. Please access the Commission website at www.alc.gov.bc.ca where you can find fencing and vegetative screening guidelines. Fencing and buffering design must be approved by the Commission and construction must be completed prior to registration of the homesite subdivision;
- 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 City of Chilliwack at your earliest convenience.

The decision noted above is recorded as Resolution # **44/2006**.

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, and approval conditions have been met to the satisfaction of the Commission, 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.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

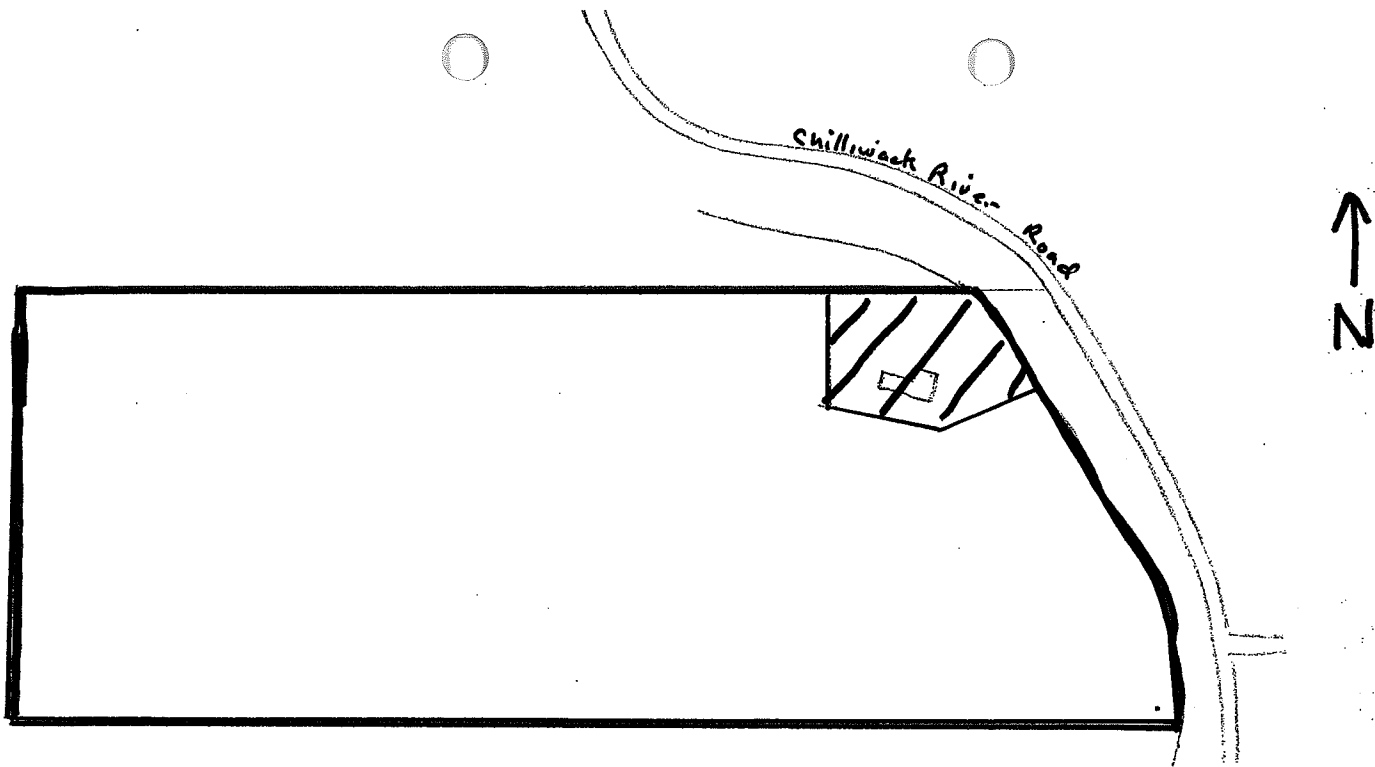
Per:

Erik Karlsen, Chair

cc: City of Chilliwack - Attn: Hardev Gill file # 3370-20 (ALR00137)
Serko Properties Services, 655 Tozer Avenue, Kelowna, BC - V1W2A4

GB/lv/Encl.
36436d1

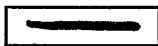
Sketch Plan
Homesite Severance Policy



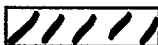
Agricultural Land Commission

Application: MM-36436

Resolution # 44/2006



Subject property.



Approved location for lot pursuant to the
Homesite Severance Policy.

HOMESITE SEVERANCE

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 Sec. 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".

Homesite Severance

Agricultural
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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 996 of the *Municipal Act* insofar as compliance with local bylaws is concerned.

Homesite Severance

Agricultural
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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

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on February 2, 2006, at Langley, B.C.

PRESENT: Carol Paulson Commissioner
Walter Dyck Commissioner

ABSENT: Peter Dhillon Chair

STAFF: Gordon Bednard, Regional Research Officer
Tony Pellett, Planner

For Consideration

Gordon Bednard presented his staff report dated January 19, 2006 regarding application #MM- 36436. Mr. Serko confirmed that he received the staff report and did not identify any errors.

Site Inspection

A site inspection was conducted on February 1, 2006. Those in attendance were:

- Commissioners Paulson & Dyck
- Agricultural Land Commission Staff: Gordon Bednard, Regional Research Officer and Tony Pellett, Planner
- Mr. Gordon Mitchell

The Commission viewed the area proposed for the subdivision and discussed the application with the applicant's son.

Commission Discussion

The Commissioners agreed that the applicant qualified for consideration under the Homesite Severance Policy. And that the proposed lot configuration would not adversely affect the ability to farm the balance of the property.

IT WAS

MOVED BY: Commissioner Carol Paulson

SECONDED BY: Commissioner Walter Dyck

THAT the staff report be received and the application be approved subject to the construction of fencing and planting of vegetative buffering surrounding the property. The size of the homesite lot is to be consistent with the minimum parcel size allowable under current health requirements for septic field sewage disposal.

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

CARRIED



Staff Report
Application # MM – 36436
Applicant: Jean Mitchell
Agent: Serko Properties Services

DATE PREPARED: January 19, 2006

TO: Chair and Commissioners – South Coast Panel

FROM: Gordon Bednard, Regional Research Officer

PROPOSAL: To subdivide a 0.3 ha lot from the parent 8 ha parcel under the Commission's Homesite Severance Policy.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicant needs to confirm, by copy of a state of title, that she was owner of the property as of December 21, 1972, in order to qualify for consideration under the HSS policy. As well, access issues must be addressed - to the proposed homesite lot as well as the remainder of the property.

Local Government:

City of Chilliwack

Legal Description of Property:

PID: 008-945-136
Lot 14, District Lot 266, New Westminster District Group 2, Plan 26990

Purchase Date (m/d/y):

03/19/1998 (from title supplied with application)

Location of Property:

7725 Chilliwack River Road (entry from #7781 by easement)

Size of Property:

8.0 ha (The entire property is in the ALR).

Present use of the Property:

Residence, garage, horsebarn, farming of remainder

Surrounding Land Uses:

WEST: Active farming in ALR
SOUTH: Large active farm in ALR
EAST: Chilliwack river and Chilliwack River road
NORTH: Large active farming operation, within ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 92H/4e
The majority of the property is identified as having Prime Dominant ratings of class 1 and 2.

Official Community Plan and Designation:

City of Chilliwack OCP - 1998
Agriculture

Zoning Bylaw and Designation:

Agricultural Lowland
7.5 ha MLS

PREVIOUS APPLICATIONS:

Application #03625-0

Applicant: Greenarch Farms Ltd.
Decision Date: March 04, 1977
Proposal: To replot a 17.8 ha lot and a 22.7 ha lot into a 0.5 ha residential lot and a 40 ha agricultural parcel.
Decision: Approved – creation of small lot for daughter with consolidation of two farm properties owned by Greenarch.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Forwarded with support

STAFF COMMENTS:

If the applicant qualifies for homesite severance, and the access issues can be sorted out such that no farmland will be compromised in providing access to the remainder lot, staff would recommend allowance subject to fencing and buffering around the homesite lot.

PLANNER COMMENTS:

The subject property is in an ALR block which the City of Chilliwack has targeted for urban expansion. The Commission has never agreed and most recently (within the last two years) refused a proposed private school on the grounds that the property is prime agricultural land and the Commission is not supportive of non-farm development being directed to this block of ALR. Given that the current proposal would simply sever an existing residence which already has easement access through the neighbouring farm, a decision to allow should not weaken the Commission's established position.

END OF REPORT

Signature

Date