



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

April 18, 2007

Reply to the attention of Jennifer Carson
ALC File: MM-37133

Phil Huizing
7465 Beharrell Road
Abbotsford, BC
V3G1N9

Dear Mr. Huizing:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 146/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

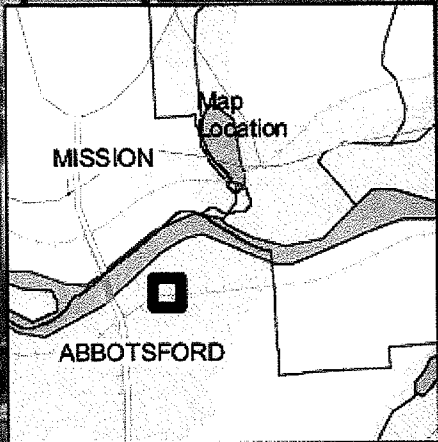
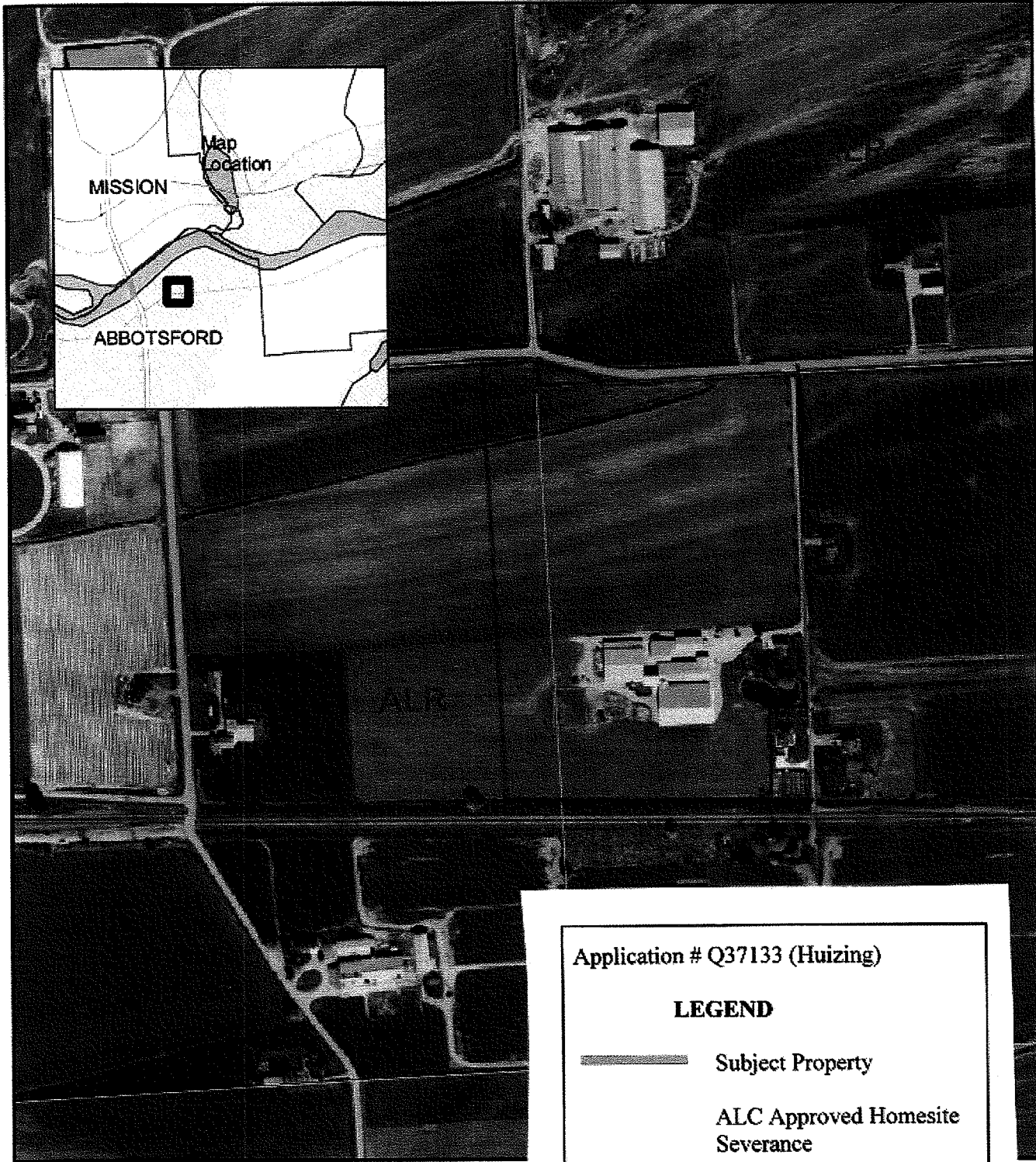
Per:

Erik Karlsen, Chair

cc: City of Abbotsford (3040-20/A06-019)
Country Charm Farms Ltd., 6325 Swanson Road, Abbotsford, BC V3G1N9


Enclosure: Minutes/Sketch

122° 18' 0" W



Application # Q37133 (Huizing)

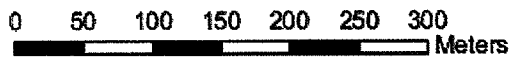
LEGEND

 Subject Property

 ALC Approved Homesite Severance



Map Scale: 1:5,000



ALC File #: 21-06-37133

Mapsheet #: 92G/1

Map Produced: Jan 4, 2007

Regional District: Fraser Valley



A meeting was held by the Provincial Agricultural Land Commission on April 12, 2007 in Chilliwack, B.C.

PRESENT:	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Tony Pellett	Staff
	Jennifer Carson	Staff

For Consideration

Application: # MM- 37133
 Applicant: Country Charm Farms Ltd.
 Agent: Phil Huizing
 Proposal: To subdivide a 0.8 ha parcel off of the south east corner of subject property under the *Homesite Severance Policy*.
 Legal: PID: 000-916-382
 Lot 16, District Lot 44 and 61, Group 2, New Westminster District, Plan 27251
 Location: 6395 Swanson Avenue, Abbotsford

Site Inspection

A site inspection was conducted on April 12, 2007. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- John Tomlinson Commissioner
- Tony Pellett and Jennifer Carson Staff
- Bert, Joel, Chris, Phil and Howard Huizing Applicants

The Commissioners met with the applicants and viewed the area to be subdivided. It was mentioned that there were five children in the family. Two of the sons were running the dairy operation. The Commission viewed proof that the applicant/owner, Bert Huizing, has owned and lived on the property since May of 1972. The house that was to be subdivided off was already somewhat isolated from the rest of the property.

Phil Huizing confirmed that the Staff Report dated February , 2007 was received and no errors were identified.

Context

This application was considered in accordance with the *Homesite Severance Policy*. The *Homesite Severance Policy* states the following:

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.

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.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The improved classifications of the agricultural capability of the soil of the subject property are

- Class 1 – Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.
- Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
- Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Subclasses

D	undesirable soil structure	T	topography
W	excess water		

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. As the farm buildings and maximum amount of land is being kept with the larger parcel, it is felt by the Commission, that this application is minimizing its negative impact on agriculture.

Assessment of Other Factors

Mr. Bert Huizing has owned and lived on the property since 1972 making him eligible for consideration under the *Homesite Severance Policy*. The Commission also discussed the possibility of the proposed lot being smaller in accordance with the *Homesite Severance Policy* in order to retain as much land as possible with the farm.

Conclusions

The Commission is satisfied that the proposal is consistent with the *Homesite Severance Policy*.

IT WAS

MOVED BY: Commissioner Bose
SECONDED BY: Commissioner Tomlinson

THAT the application be allowed subject to the following conditions:

- the subdivision be as small as possible around the house as is indicated in the enclosed map
- a vegetative buffer be placed between the homesite parcel and the remaining farm.
- a covenant placed on the homesite parcel warning prospective buyers of the close proximity to agriculture
- compliance with the *Homesite Severance Policy*
- the subdivision must be completed within three (3) years from the date of this decision.

This decision does not relieve the owner or occupier of the responsibility to comply 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.

CARRIED
Resolution # 146/2007



Staff Report
Application # MM – 37133
Applicant: Country Charm Farms Ltd
Agent: Phil Huizing

DATE RECEIVED: December 18, 2006

DATE PREPARED: February 2, 2007

TO: Chair and Commissioners – South Coast Panel

FROM: Jennifer Carson, Land Use Planner

PROPOSAL: To subdivide a 0.8 ha parcel off of the south east corner of subject property for parents under the *Homesite Severance Policy*. This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

Mr. Huizing's parents are shareholders of the Country Charm Farms which have owned the subject property since May of 1972. The proposed site for subdivision is in the southeast corner of the property which has a pre-existing home.

Local Government:

City of Abbotsford

Legal Description of Property:

PID: 000-916-382
Lot 16, District Lot 44 and 61, New Westminster District Group 2, Plan 27251

Purchase Date:

May 1972

Location of Property:

6395 Swanson Avenue, Abbotsford

Size of Property:

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

Present use of the Property:

Two residences, dairy farm, barns feed storage, manure storage and shop. Land used for forage crop production.

Surrounding Land Uses:

WEST: Farm land, forage crop production
SOUTH: CN tracks then acreage, hobby farm
EAST: Residence with farm land, forage crop production
NORTH: Farm land, dairy farm, forage crop production

Agricultural Capability:

Data Source: Agricultural Capability Map # 92G/1c
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

OCP: None
Designation: Agricultural

Zoning Bylaw and Designation:

Zoning: (1996)
Designation: Agricultural Two Zone (A2)
Minimum Lot Size: 16 ha

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

The City of Abbotsford Council forwarded the application with a recommendation that the following Section 219 covenants be registered as a condition of subdivision approval: (a) against the title of the remainder parcel to require any future second dwellings to meet full flood proofing provisions; (b) against the title of both parcels to indemnify the City in the event that damages are caused by floodwaters; and (c) against the title of the homesite parcel to alert future owners of the potential "nuisances" commonly associated with living next to farmland.

STAFF COMMENTS:

It is recommended that the Commission consider the following:

- It seems that the applicant qualifies for consideration under the *Homesite Severance Policy*. However, the Commission is waiting for proof of ownership and occupation of the property as a permanent place of residence since December 21, 1972.
- An onsite visit to the property would assist the Commission in ascertaining whether the homesite severance is appropriate and if approved, where it would be best located.

ATTACHMENTS:

1. Letter describing proposal
2. Sketch of Proposal
3. Site Plan & Proposed Subdivision
4. ALR Base Map
5. Agricultural Capability Map
6. Aerial Photograph

END OF REPORT

Signature

Date

March, 27, 2007