



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

October 11, 2005

Reply to the attention of Gordon Bednard

Mae and Norman Barichello
RR7 - 22917 - 48th Avenue
Langley, BC - V3A 4R1

Dear Sir/Madam:

Re: Application # O-36195

PID: 013-258-664

Parcel A, East 1/2 of the South West 1/4, Section 5, Township 11,
Reference Plan 4881, New Westminster District

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide one (1) lot of approximately 0.4 ha from the property in accordance with its *Homesite Severance Policy*. The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank your agent Glen Bell, and son Tom, for taking the time to meet with its representatives on September 15, 2005 at the property. The Commission found the meeting and site visit informative. In particular, the Commission noted that the proposed homesite lot would include a large part of the lot frontage which is presently used for agriculture.

The Commission writes to advise that it refused your application as presented, but would allow a reconfigured lot as shown on the attached plan subject to:

- the subdivision being in substantial compliance with the attached plan.
- the construction of a fence – 4-6 foot chain link or solid cedar board
- the planting of vegetation for buffering – 2 ft minimum cedar hedging spaced 4-6 ft
- fencing and hedging to be placed along east, north and western boundaries of the homesite lot
- 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 Township of Langley at your earliest convenience.

The decision noted above is recorded as Resolution # **515/2005**.

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 required documentation has been received, and other 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: Township of Langley Attn: Bill Ulrich file # AL100093 (11-05-0013)
Glenn Bell, #101 – 21616 – 52nd Aven., Langley, BC V2Y 1L7
Norman Barichello - RR1 - Site 20 - Comp 76, Whitehorse , Yukon, Y1A4Z6;
Richard Barichello - 4406 West 7th Avenue, Vancouver, BC, V6R1W9;
Thomas Barichello – 22917-48th Avenue, RR7, Langley, B.C. V3A 4R1;
Norma Martyn - PO Box 122, 42035 Yarrow Central Road, Yarrow, BC, V0X2A0;

GB/lv/Encl.
36195d1

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
Land
Commission

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.

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

**PLAN SHOWING PROPOSED SUBDIVISION OF
PARCEL "A" (R.P. 4881) OF THE E. 1/2 OF
THE S.W. 1/4 OF SEC. 5, TP. 11, N.W.D.**

SCALE - 1:4000 ALL DISTANCES ARE IN METRES.

1

PLAN 9251

RECEIVED
MAY 06 2005
PLANNING & DEVELOPMENT
TOWNSHIP OF LANGLEY

REM
"A"

PT W 1/2 N OF
HIGHWAY PLAN 4873

2

7.8 HA. PLAN 15635

NOTE:
FOR LOCATION OF BUILDINGS,
SEE AERIAL PHOTOS.

0.4
HA

48th AVENUE



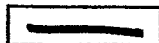
BELL & GIUBIATO
Professional Land Surveyors

#101 - 21616 - 52nd Avenue,
Langley, B.C. V2Y 1L7
Telephone: (604) 533-2121
Our file: \LEB\5270-1

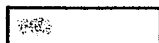
Agricultural Land Commission

Application: O-36195

Resolution # 515/2005



Subject property.



Approved 0.4 ha lot pursuant to the
Homesite Severance Policy.

Staff Report
Application # O – 36195
Applicant: Mae Barichello
Agent: Glenn Bell: Bell and Giuriato

DATE PREPARED: September 1, 2005

TO: Chair and Commissioners – South Coast Panel

FROM: Gordon Bednard, Regional Research Officer

PROPOSAL: To subdivide the 8.1 ha property into two parcels, one of 0.4 ha and the remainder of 7.7 ha.

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

BACKGROUND INFORMATION:

The application is for a homesite severance. The property currently has five owners, however until May of this year it was only owned by one of the five (the mother of the other four). Currently the family has created a partnership agreement which gives the mother control over the property even though all five names appear on the title. If the subdivision is approved she will give the remainder to the children and will retain ownership of the house and the 0.4 ha area.

The subject property was purchased in 1929 and has remained in family ownership since this time. The mother has resided on the subject property since prior to 1972 although she did not own the property at that time, (her name appears on the title beginning in 1984. The family has dairy farmed on 48th Avenue in Langley since for many years. The family farm operates on three properties.

The remainder parcel contains two dairy barns and several outbuildings and will continue to be farmed.

Local Government:

Township of Langley

Legal Description of Property:

PID: 013-258-664

Parcel A, East 1/2 of the South West 1/4, Section 5, Township 11, Reference Plan 4881, New Westminster District

Purchase Date:

1984

Location of Property:

22635 - 48 Avenue, Langley

Size of Property:

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

Present use of the Property:

Single family dwelling two dairy barns and outbuildings.

Surrounding Land Uses:

WEST: Agriculture (ALR)
SOUTH: Commercial and institutional zoned parcels (non-ALR)
EAST: Rural residential (ALR)
NORTH: Rural residential (ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 92G/2a
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

The local Rural Plan designates this parcel as Agriculture/Countryside (8 ha minimum parcel size)

Zoning Bylaw and Designation:

The parcel is zoned RU-3 (Minimum Parcel Size 8 ha.)

GOVERNMENT RECOMMENDATIONS/COMMENTS:

Local Government Planning Staff: Local Government Planning Staff note that section 110.8 of Zoning Bylaw No 2500 allows homesite severance parcel sizes to be below the minimum lot size subject to the remnant lot size resulting from the subdivision being not less than 2.0 ha in size).

STAFF COMMENTS:

Staff note that “documented” proof of who owned the land in 1972 has not been provided.

END OF REPORT

Signature

Date



Sept 2/05