



Agricultural Land Commission
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Burnaby, British Columbia V5G 4K6
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Fax: 604-660-7033
www.alc.gov.bc.ca

November 25, 2005

Reply to the attention of Ron Wallace

Olivia and Alan Fletcher
1505 Ostby Road
Hornby Island, BC – V0R 1Z0

Dear Sir/Madam:

**Re: Application # C-36323
The West 1/2 of the South West 1/4 of Section 17, Hornby Island, Nanaimo
District, Except that Part in Plan 13602**

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide the above noted property into two parcels of ± 5.6 ha and ± 1.45 ha. The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank you for taking the time to meet with its representatives on November 15, 2005. 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 registration of a covenant – on each parcel stating that no additional dwellings of any description are permitted on the property. A sample copy is attached for reference.
- 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 Islands Trust at your earliest convenience.

In reviewing this application the Commission noted that Olivia Fletcher is eligible for subdivision under its Homesite Severance Policy (copy of HSP attached). In light of this, the Commission was prepared to allow the proposed subdivision in lieu of this policy and should this subdivision be completed no further subdivision will be considered under the HSP.

The decision noted above is recorded as Resolution #618/2005.

Please send two (2) paper prints of the final survey plans to this office well in advance of commencing registration at the Land Titles Office. When the Commission confirms that the subdivision plan is acceptable and verifies that all conditions of approval have been met it will authorize the Registrar of Land Titles to accept the application for deposit of the plan. Please quote your application number in any future correspondence.

Olivia and Alan Fletcher
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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

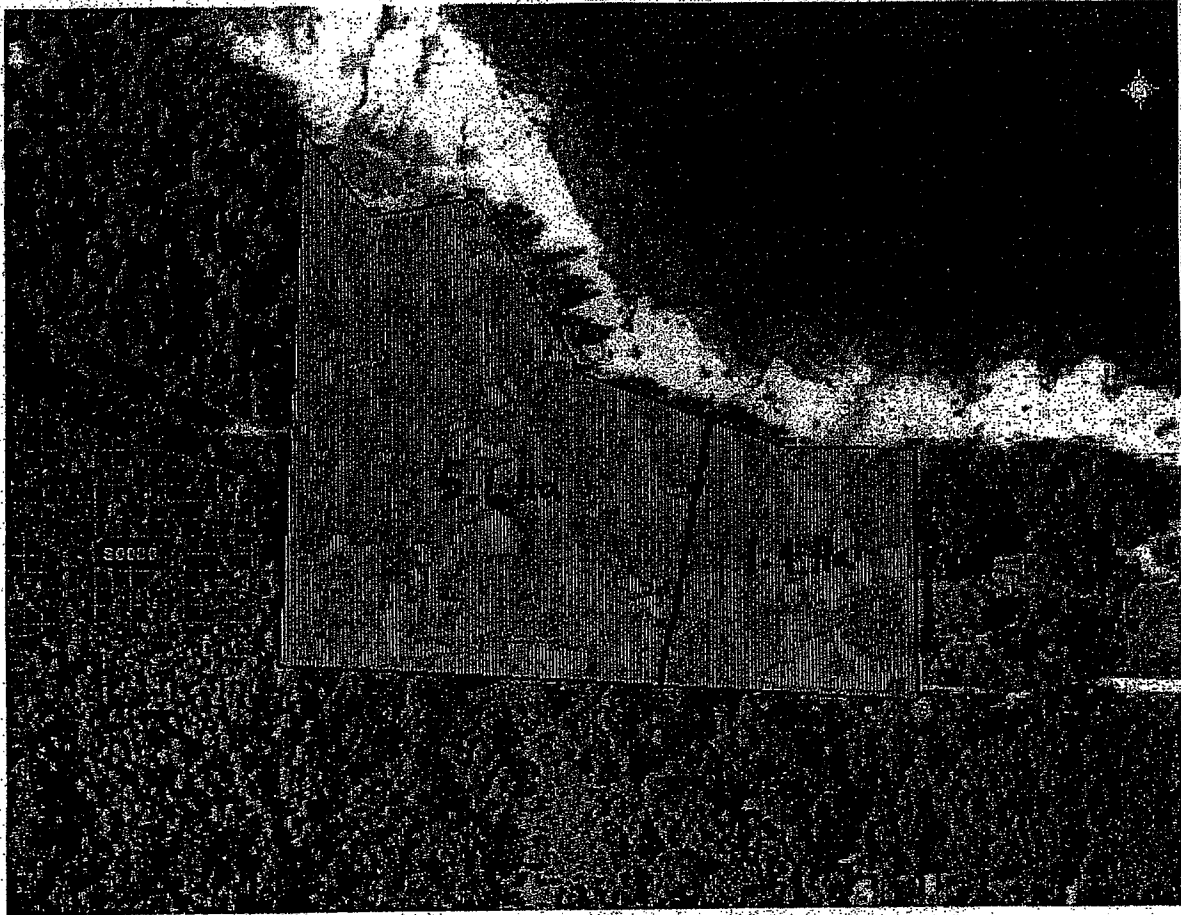
Per:

Erik Karlsen, Chair

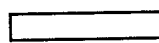
cc: Islands Trust - HO-ALR-2005.2

RW/lv/Encl.
36323d1

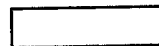
**Proposed Lot Layout
1505 Ostby Road, Hornby Island**



**Provincial Agricultural Land Commission
Application: C-36323
Resolution #618/2005**



Subject property.



Approved for subdivision into two parcels.



*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
Application # I – 36323-0
Applicant: Olivia Fletcher

Agent: Alan Fletcher

DATE PREPARED: November 7, 2005

TO: Chair and Commissioners – Island Panel

FROM: Ron Wallace, Regional Research Officer

PROPOSAL: To subdivide the 7 ha property into two parcels of 5.6 ha and 1.45 ha under Section 946 of the Local government Act. The larger parcel is the location of a dwelling and farm (sheep, cows and chickens) operated by the property owner, and the smaller parcel is the location of a dwelling occupied by the owner's son, along with a workshop/barn and orchard.

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

BACKGROUND INFORMATION:

The current owner, along with her son and daughter, has farmed the subject property since 1964. The two proposed lots are to be maintained as active farms. The owner's son and daughter intend to continue to run the farm operations, but for clarity of assets to have separate ownership. Both existing homes on the farm have independent wells, power supply and approved septic fields. All grazing areas would remain unchanged if the proposed subdivision is approved.

Local Government:

Islands Trust Hornby Island

Legal Description of Property:

1. PID: 009-651-110
The West 1/2 of the South West 1/4 of Section 17, Hornby Island, nanaimo District,
Except that Part in Plan 13602;

Purchase Date:

1964

Location of Property:

1505 Ostby Road, North Hornby Island

Size of Property:

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

Present use of the Property:

The property has been farmed by the current owner since 1964 and is currently used for sheep, cows and chickens. There are two dwellings on the property.

Surrounding Land Uses:

WEST: ALR land (strata), not farmed
SOUTH: 16 ha ALR property, not farmed
EAST: Residential use
NORTH: Waterfront

Agricultural Capability:

Data Source: Agricultural Capability Map # 92F/10
The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

The property is designated agriculture with the OCP.

This designation permits one dwelling only on lots smaller than 4 ha, and two dwellings on parcels 4 ha or greater.

Zoning Bylaw and Designation:

Agriculture (AG), 16 ha MLS

The permitted dwelling density is one dwelling per lot and one secondary dwelling permitted on each lot having an area greater than 3.5 ha.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Hornby Island Local Trust Committee

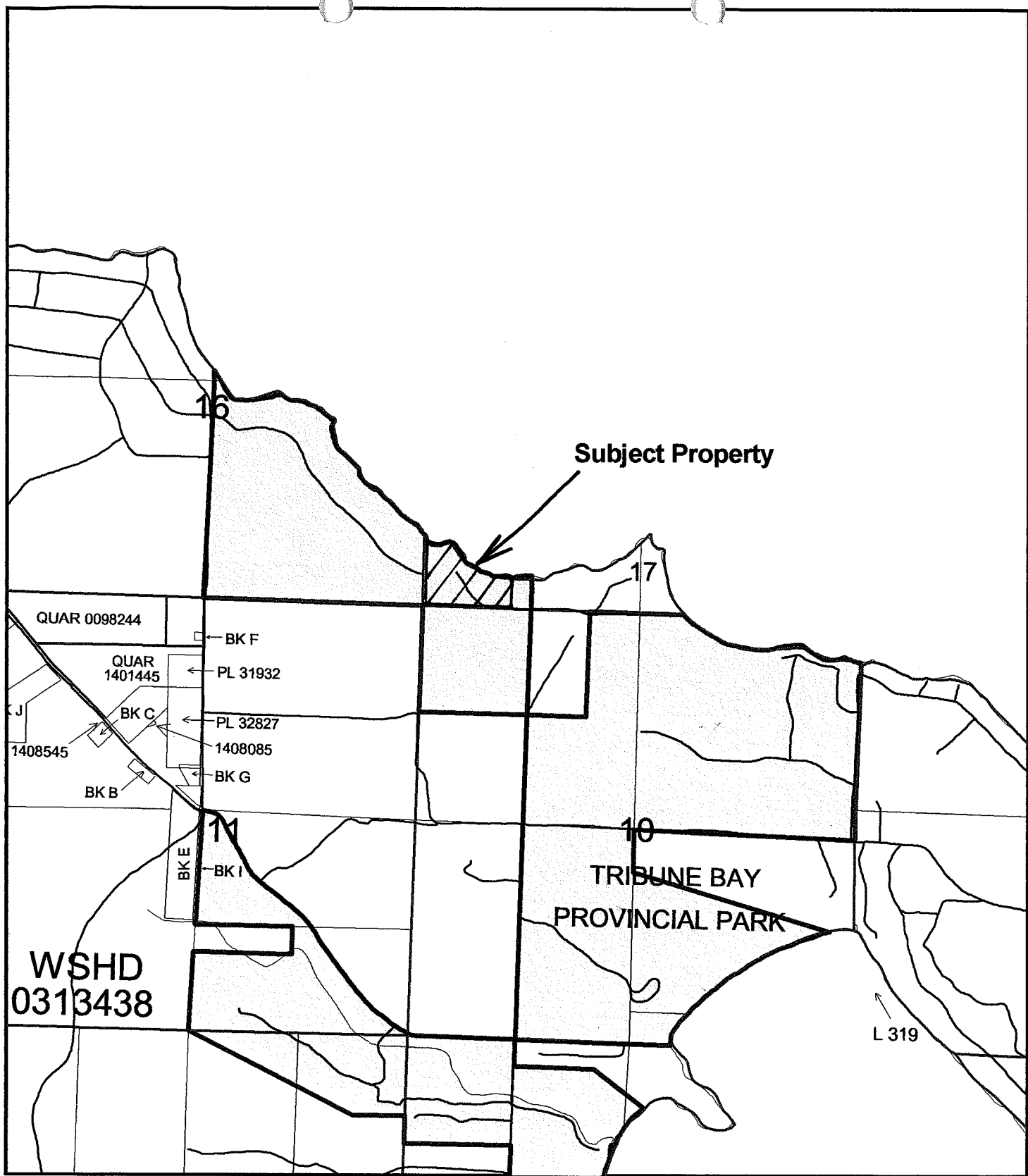
Has no objection to the proposed subdivision subject to registration in favour of the Hornby Island Local Trust Committee of a restrictive covenant against each new parcel with a lot area greater than 3.5 ha to limit the number of permitted dwellings to one dwelling unit and no secondary dwelling unit.

Local Government Staff

If the application to subdivide land in the ALR is approved, a subsequent application to the Ministry of Transportation, Approving Officer is required to be made by the land owner. The requirements for a restrictive covenant to limit dwelling density could be fulfilled at that time.

STAFF COMMENTS:

The applicant is eligible for consideration under the Commission's homesite severance policy (HSP), as she has owned the property since 1964 and continues to live on the farm. The proposed subdivision does not strictly meet the conditions of the HSP, but consideration for subdivision in lieu of the HSP is warranted.



Subject Property

**TRIBUNE BAY
PROVINCIAL PARK**

**WSHD
0313438**

L 319



**ALC CONTEXT MAP
Application # 36323**

Map Scale: 1: 20000

ALC File #: 21-05-36323

BCGS Map Sheet #: 92F.057

Regional District: Comox-Strathcona