



Agricultural Land Commission
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April 24, 2006

Reply to the attention of Gordon Bednard

William & Dorothy Nechvolodoff
323 - 272nd Street
Aldergrove, BC V4W 2M5

Dear Sir/Madam

Re: Application # O-36443
PID: 010-366-351
Lot 1, Section 6, Township 13, New Westminster District, Plan 21258

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide one (1) lot of approximately 1.0 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 you for taking the time to meet with its representatives on March 16, 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 following:

- the subdivision being in substantial compliance with the attached plan.
- agreement 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 # **148/2006**.

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 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

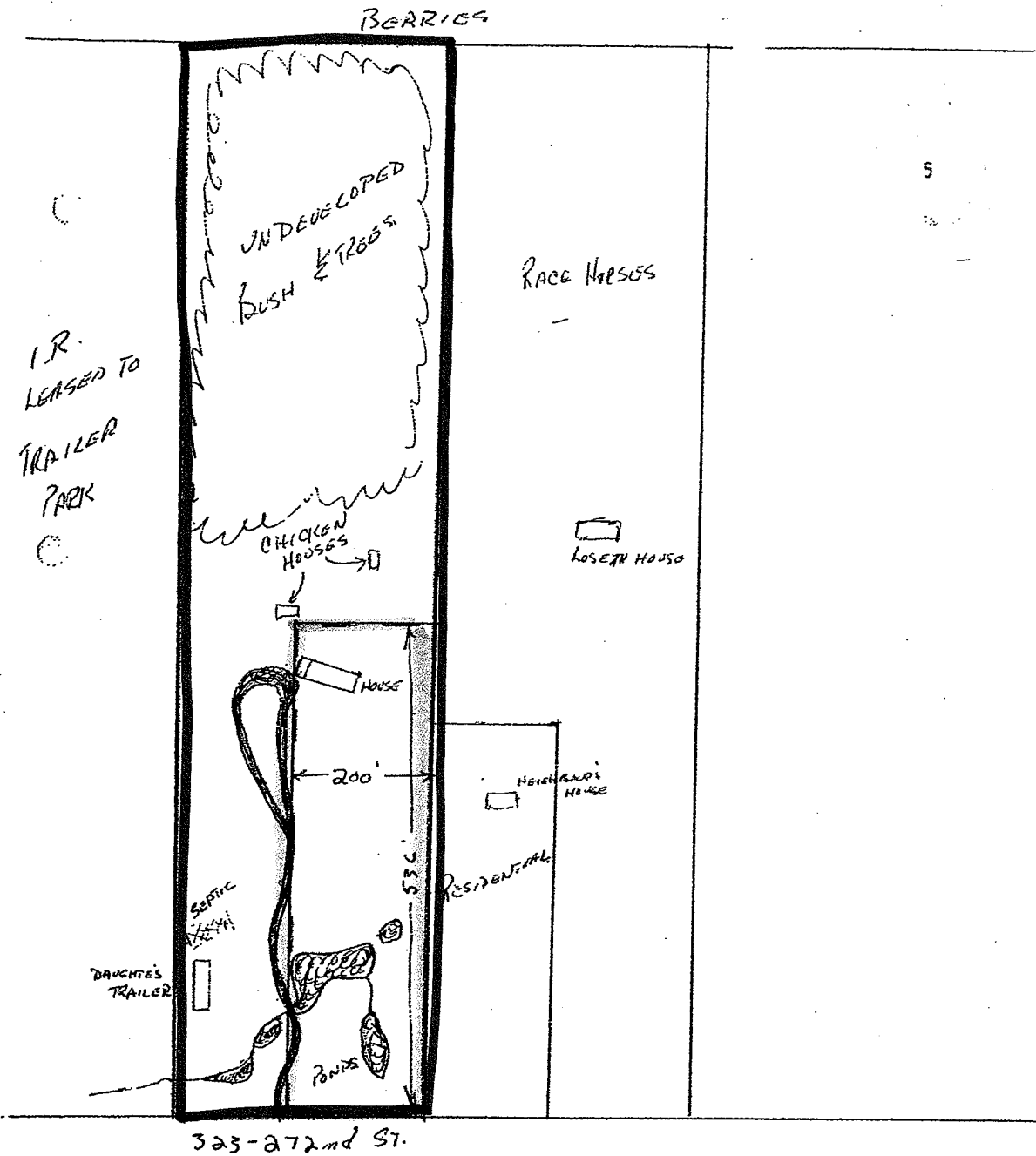
cc: Township of Langley Attn: Amy Spencer file # AL100104

GB/lv/Encl.:

Sketch Plan

Homesite Severance Policy

36443d1



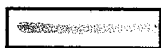
Agricultural Land Commission

Application: # O-36443

Resolution # 148/2006



Subject property.



**Approved 1.0 ha lot pursuant to the
Homesite Severance Policy.**

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on March 16, 2006 at Aldergrove, B.C.

PRESENT: Carol Paulson Commissioner
Walter Dyck Commissioner

ABSENT: Peter Dhillon Chair

STAFF: Gordon Bednard, Regional Research Officer

For Consideration

Gordon Bednard presented his staff report dated March 8, 2006 regarding application #O-36443.

Site Inspection

A site inspection was conducted on March 16, 2006. Those in attendance were:

- Commissioners Paulson, & Dyck
- Agricultural Land Commission Staff: Gordon Bednard, Regional Research Officer
- Bill Nechvolodoff

The Commission viewed the area proposed for the homesite lot and discussed the application with the applicant.

Commission Discussion

The Commission, following the onsite inspection, understood the reason for the request for a homesite lot which would be somewhat larger than would normally be considered. In the case of this application, as the land in question has some constraints regarding its utility for agriculture, and the location of the present dwellings being as they are, the Commission considered that allowance of the application as presented would not negatively impact on future agricultural use of the subject or adjacent lands.

IT WAS

MOVED BY: Commissioner Carol Paulson

SECONDED BY: Commissioner Walter Dyck

THAT the staff report be received and the application be approved for the reasons above, subject to the standard conditions detailed in the Homesite Severance Policy.

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
Application # O – 36443
Applicant: William & Dorothy Nechvolodoff

DATE PREPARED: March 8, 2006

TO: Chair and Commissioners – South Coast Panel

FROM: Gordon Bednard, Regional Research Officer

PROPOSAL: To subdivide a 1.0 ha lot from the parent 4.2 ha parcel under the Commission's Homesite Severance Policy. The balance of the property would be sold to the applicant's daughter who wishes to continue hobby farming the property.

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

BACKGROUND INFORMATION:

The applicants appear to qualify for consideration under the Commission's Homesite Severance Policy as they have owned the property since 1971.

Local Government:

The Corporation of the Township of Langley

Legal Description of Property:

PID: 010-366-351

Lot 1, Section 6, Township 13, New Westminster District, Plan 21258

Purchase Date (m/d/y):

12/01/1971

Location of Property:

323-272 street, Langley

Size of Property:

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

Present use of the Property:

hobby farm, one permanent residence, one mobile home (daughter)

Surrounding Land Uses:

- WEST:** Larger farm parcels (raspberries), in ALR
- SOUTH:** Matsqui IR #4, developed as trailer park, in ALR
- EAST:** Regional Park, in ALR
- NORTH:** Hobby farm (horses), in ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 92G/1d
The majority of the property is identified as having Secondary ratings of classes 4-7 improved.

Official Community Plan and Designation:

Agriculture/Countryside

Zoning Bylaw and Designation:

Rural Zone RU-2

PREVIOUS APPLICATIONS:

NONE

RELEVANT APPLICATIONS:

West

Application #30935-0

Applicant: Shuster, Joe

Decision Date: November 19, 1996

Proposal: The applicant is seeking permission, under the Homesite Severance Policy, to subdivide the 24 ha property into a retirement lot of approximately 0.5 ha and a remainder parcel of approximately 23.5 ha.

Decision: That the application to subdivide a homesite parcel of no greater than 0.5 ha be allowed in either the southeast corner or the northeast corner of the property subject to the installation of a standard five-strand barbed wire fence and the planting of a single row coniferous/broadleaf evergreen hedge along the boundaries of the new homesite lot bordering the balance of the property and to compliance with the procedures required under the Homesite Severance Policy. Alternatively, the Commission also offers the option of delineating the proposed 0.5 ha homesite area by way of a Leasehold by Explanatory Plan for the duration of the applicant's lifetime so that the land could eventually be reverted back to the original property.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Forwarded with Support

STAFF COMMENTS:

The proposed lot is somewhat larger than would normally be allowed for a homesite lot due to the configuration of the existing house and the location of the existing mobile. As the applicant appears to qualify under the Homesite Severance policy, staff would support the application provided all conditions of the policy are adhered to, and subject to fencing and vegetative screening of the homesite lot.

END OF REPORT

Signature _____

Date _____