



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
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www.alc.gov.bc.ca

April 24, 2006

Reply to the attention of Gordon Bednard

Malcolm & Gail Hayton  
9432 Banford Road  
Chilliwack, BC - V2P6H3

Dear Sir/Madam

Re: **Application # MM-36451**

PID: 008-579-717

Parcel D, (Reference Plan 6958) of Parcel "A" Explanatory Plan 103, District Lot 380 New Westminster District Group 2, EXCEPT Part on Reference Plan 11445, 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 0.2 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 15, 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 construction of a fence – 4-6 foot high chain link or 6 foot high solid cedar;
- the planting of vegetation for buffering – minimum single row of cedar hedging, spaced 4-6 feet apart;
- fencing and vegetative buffer to be along the north, east and south boundaries of the approved 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 City of Chilliwack at your earliest convenience.

The decision noted above is recorded as Resolution # **114/2006**.

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:

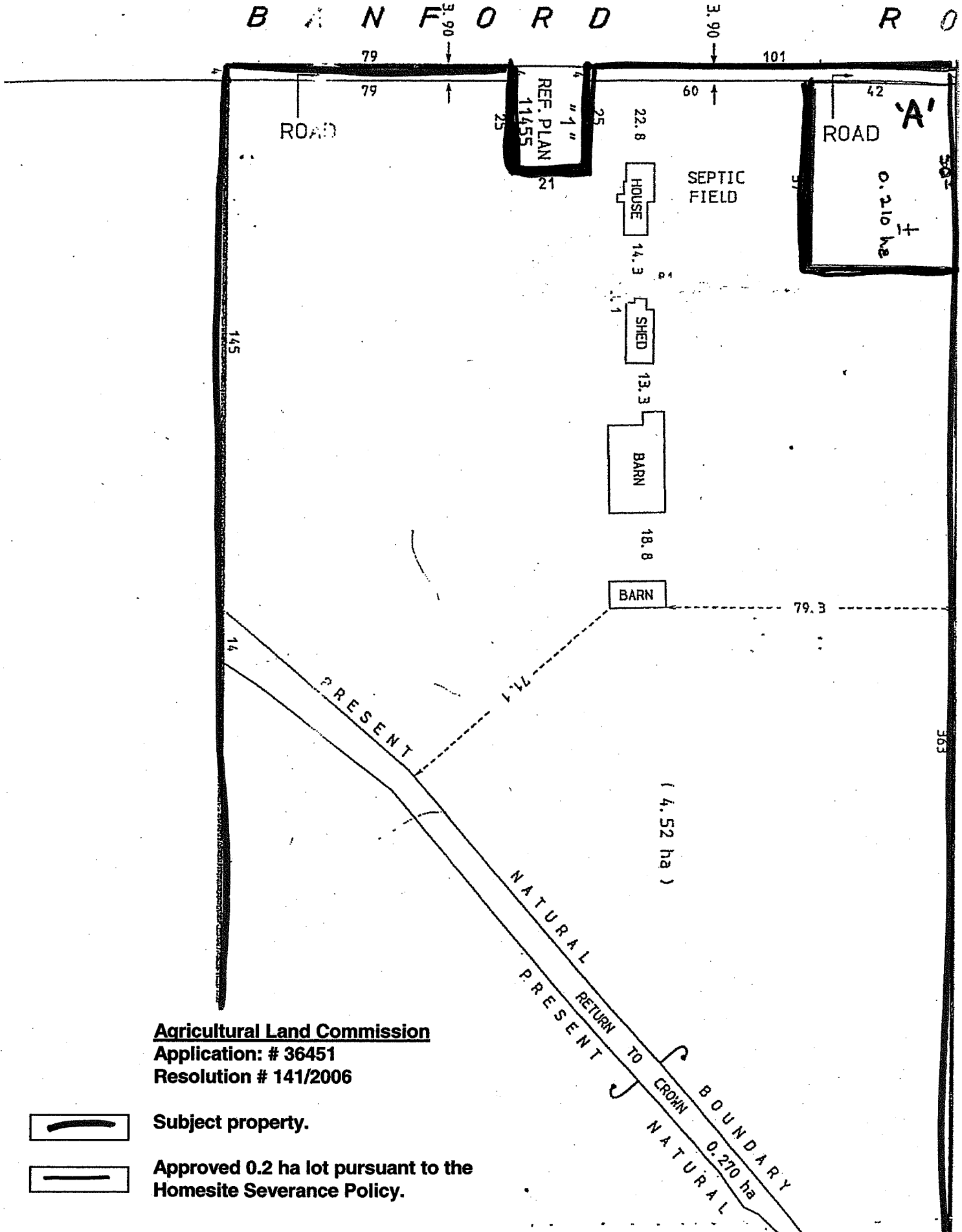
Erik Karlson, Chair

cc: City of Chilliwack Attn: Sheila Chapman  
W. Maxwell R Newby, PO Box 390, 9259 Main Street, Chilliwack, BC V2P 6K2

GB/lv/Encl.  
Sketch Plan  
Homesite Severance Policy

36451d1

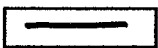
B A N F O R D R O



**Agricultural Land Commission**  
**Application: # 36451**  
**Resolution # 141/2006**



**Subject property.**



**Approved 0.2 ha 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 Land Commission
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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 Land Commission
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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



**Staff Report**  
**Application # MM – 36451**  
**Applicant: Malcolm & Gail Hayton**  
**Agent: W. Maxwell R Newby**

**DATE PREPARED:** March 7, 2006

**TO:** Chair and Commissioners – South Coast Panel

**FROM:** Gordon Bednard, Regional Research Officer

**PROPOSAL:** To subdivide a 0.2 ha lot from the Northwest corner of the subject property under the Commission's Homesite Severance Policy.

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

**BACKGROUND INFORMATION:**

There have been no previous applications on this property. The applicants have supplied proof that they have owned the property since 1968 and will be transferring ownership to a third party if the application is allowed.

**Local Government:**

City of Chilliwack

**Legal Description of Property:**

PID: 008-579-717

Parcel D, (Reference Plan 6958) of Parcel "A" Explanatory Plan 103, District Lot 380 New Westminster District Group 2, EXCEPT Part on Reference Plan 11445, New Westminster District

**Purchase Date (m/d/y):**

08/01/1968

**Location of Property:**

9432 Banford Road, Chilliwack

**Size of Property:**

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

**Present use of the Property:**

One residence, shed and two barns, beef farming.



**Surrounding Land Uses:**

**WEST:** Banford Road, large active farm properties in ALR  
**SOUTH:** Large active farm property in ALR  
**EAST:** Large active farm property in ALR  
**NORTH:** Large active farm property in ALR

**Agricultural Capability:**

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

**Official Community Plan and Designation:**

AG Agricultural

**Zoning Bylaw and Designation:**

AL Agricultural Lowland  
7.5 ha MLS  
(no rezoning required if done under 946 of LGA)

**PREVIOUS APPLICATIONS:**

NONE

**RELEVANT APPLICATIONS:**

**Application #35366-0**

**Applicant:** Armstrong, Pauline  
**Decision Date:** July 13, 2004  
**Proposal:** To subdivide the 15.9 ha subject property into one 0.4 ha lot and a 15.5 ha remainder under the Commission's Homesite Severance Policy. The residence and farm buildings will remain with the property.  
**Decision:** Allow subject to Homesite Severance Policy and subject to installation of fencing and vegetative screening along perimeter of property.

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**Application #35366-1**

**Applicant:** Armstrong, Pauline  
**Decision Date:** July 12, 2005  
**Proposal:** The applicant asks that the Commission waive the requirement for fencing and buffering along the north boundary of the homesite lot as there already exists a mature hedge and fencing on the neighbours property. The applicant also asks that the buffering requirement along the south boundary of the homesite lot be waived as Elk Creek provides more protection than a vegetative buffer.  
**Decision:** That the bond be released as the existing fencing and buffering are sufficient.

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**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

Forwarded with support.

**STAFF COMMENTS:**

As the applicants appear to qualify under the homesite severance policy, staff supports the application provided all conditions of the policy are adhered to, and subject to fencing and vegetative screening of the new parcel.

**END OF REPORT**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**