



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

June 29, 2006

Reply to the attention of Gordon Bednard

Donald and Waneta Murphy
5988 - 248th Street
Aldergrove, BC V4W 1B9

Dear Sir/Madam:

RE: Application #O-36598

PID: 017-931-401

Lot 1, New Westminster District, EXCEPT Part subdivided by Plan LMP10912,
Section 11, Township 11, Plan LMP6650

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide one (1) lot 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 June 20, 2006 at the property.

The Commission considered that the proposed homesite could be accommodated on a less than 0.4 ha as proposed. As discussed at the onsite, the inclusion into the homesite lot of various outbuildings may hamper the agricultural use of the remaining farm.

Notwithstanding the above, the Commission writes to advise that it approved your application for a homesite lot subject to:

- the subdivision being in substantial compliance with the attached plan. Please note that the approved lot is 0.2 ha.
- 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 # 306/2006.

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

pc: Township of Langley - Attn: Bill Ulrich (# AL100103)
Donald Murphy, 5988 - 248th Street, Aldergove, BC - V4W 1B9

GB/lv/Encl.:
36598d1

Sketch Plan
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

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

RECEIVED
PROV. AGRICULTURAL
LAND COMMISSION
APR 7 - 2006

North

Agricultural Land Commission

Application: O-36598
Resolution # 306/2006

Subject property.

Approved 0.2 ha lot pursuant to the
Homesite Severance Policy.

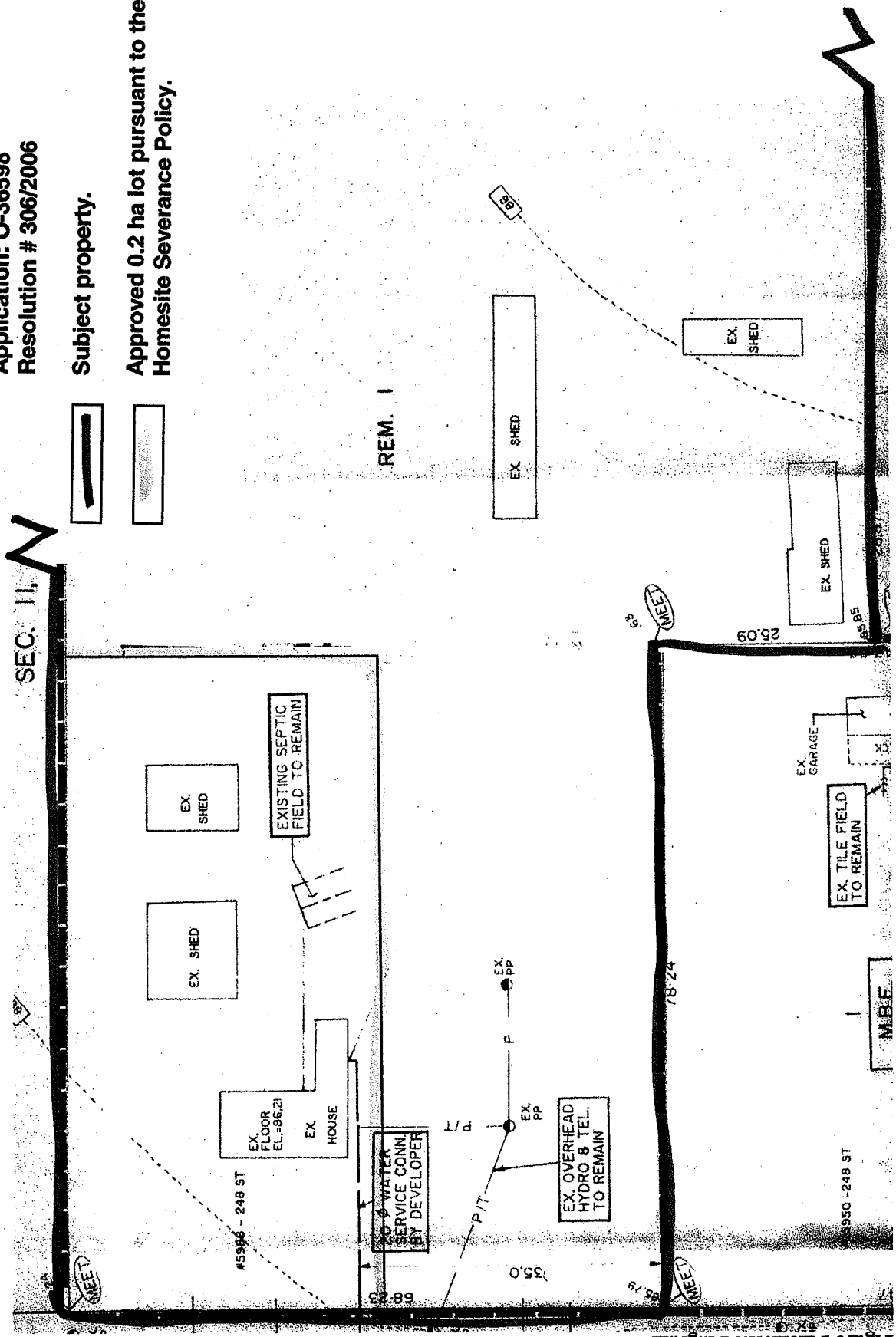


Figure 1 Homesite Diagram



Staff Report
Application # O – 36598
Applicant: Donald & Waneta Murphy
Agent: Donald Murphy

DATE PREPARED: June 1, 2006

TO: Chair and Commissioners – South Coast Panel

FROM: Gordon Bednard, Regional Research Officer

PROPOSAL: To subdivide a 0.4 ha lot from the subject 7 ha property under the Commission's Homesite Severance Policy. The present owners purchased the property in 1969 and would like to retire on the property while selling the remainder to their son who will carry on the tree farming business.

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

BACKGROUND INFORMATION:

There have been a number of applications on this property by the present owners and on property adjacent to the south which used to be part of a larger subject property. See below. The applicant's qualify for consideration under the Homesite Severance policy based on their length of ownership of the subject parcel.

Local Government:

The Corporation of the Township of Langley

Legal Description of Property:

PID: 017-931-401
Lot 1, New Westminster District, EXCEPT Part subdivided by Plan LMP10912, Section 11,
Township 11, Plan LMP6650

Purchase Date (m/d/y):

June 1969

Location of Property:

5988 - 248th Street, Township of Langley

Size of Property:

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

Present use of the Property:

tree farm, one residence, various outbuildings and sheds

Surrounding Land Uses:

- WEST:** larger rural residential lots and large active farm parcels in ALR
- SOUTH:** Urban residential lots, out of ALR
- EAST:** Rural residential properties of various sizes, in ALR
- NORTH:** Large raspberry/strawberry farms in ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 92G/2a
The majority of the property is identified as having Prime Dominant ratings of class 1-3.

Official Community Plan and Designation:

Salmon River Uplands

Zoning Bylaw and Designation:

Suburban residential Zone SR-1
0.37 ha MLS

PREVIOUS APPLICATIONS:

Application #10196-0

Applicant: Murphy, Donald & Waneta
Decision Date: May 22, 1980
Proposal: S/d property into five lots of 0.3 ha and one lot of 9.8 ha.
Decision: Refuse

Application #12539-0

Applicant: Murphy, L.
Decision Date: August 26, 1981
Proposal: S/d of a 1.6 ha retirement home site from the 4.6 ha property.
Decision: Refuse

Application #14967-0

Applicant: Murphy, Larry & Ina
Decision Date: September 15, 1982
Proposal: Exclude the 4.6 ha property so it can be subdivided into residential sized lots.
Decision: Refuse

Application #14967-1

Applicant: Murphy, Larry & Ina
Decision Date: March 07, 1984
Proposal: Exclude 7.7 ha southern portion of Lots 55 and 56 and allow the s/d of the northern portion into two lots of 4.0 ha.
Decision: Amend ALR Maps to exclude 7.7 ha southern portion of Lots 55 and 56 and allow the s/d of the northern portion into two lots of 4.0 ha per ELUC decision.

Application #14967-2

Applicant: Murphy, Larry & Ina

Decision Date:	October 16, 1989
Proposal:	Ammend the approval for s/d into two 4.0 ha lots to s/d of one 0.8 ha lot and one 7.2 ha remainder.
Decision:	allow
Application #14968-0	
Applicant:	Murphy, Donald & Waneta
Decision Date:	September 15, 1982
Proposal:	Exclude the 11.2 ha lot to allow for s/d into residential sized lots.
Decision:	refused
Application #22083-0	
Applicant:	Murphy, D.
Decision Date:	April 27, 1988
Proposal:	S/d a 0.2 ha area from a 7.3 ha A.L.R. property and consolidate it with a non-A.L.R. property in order to facilitate its s/d.
Decision:	allowed
Application #14968-1	
Applicant:	Murphy, Donald & Waneta
Decision Date:	March 07, 1984
Proposal:	Acknowledge ELUC decision
Decision:	Amend ALR maps and allow subdivision within the ALR.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Proposed subdivision endorsed by Council as it complies with the Rural Plan and Zoning Bylaws

STAFF COMMENTS:

As the applicants qualify for consideration under the HSS policy, staff would support the application. The Commission may consider, however, that as the applicants have benefited in the past by the allowance of two exclusions (by ELUC) which facilitated the creation of numerous residential lots to the south of the subject parcel, and therefore that the applicants have already been afforded an opportunity to provide themselves a retirement property.

END OF REPORT

Signature **Date**