



Agricultural Land Commission
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April 18, 2007

Reply to the attention of Jennifer Carson
ALC File: MM-36925

Justin Mulder,
Corpus Management Group,
200- 2296 McCallum Road,
Abbotsford, B.C.,
V2S 3P4

Dear Mr. and Mrs. Flier:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 143/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 


Erik Karlsen, Chair

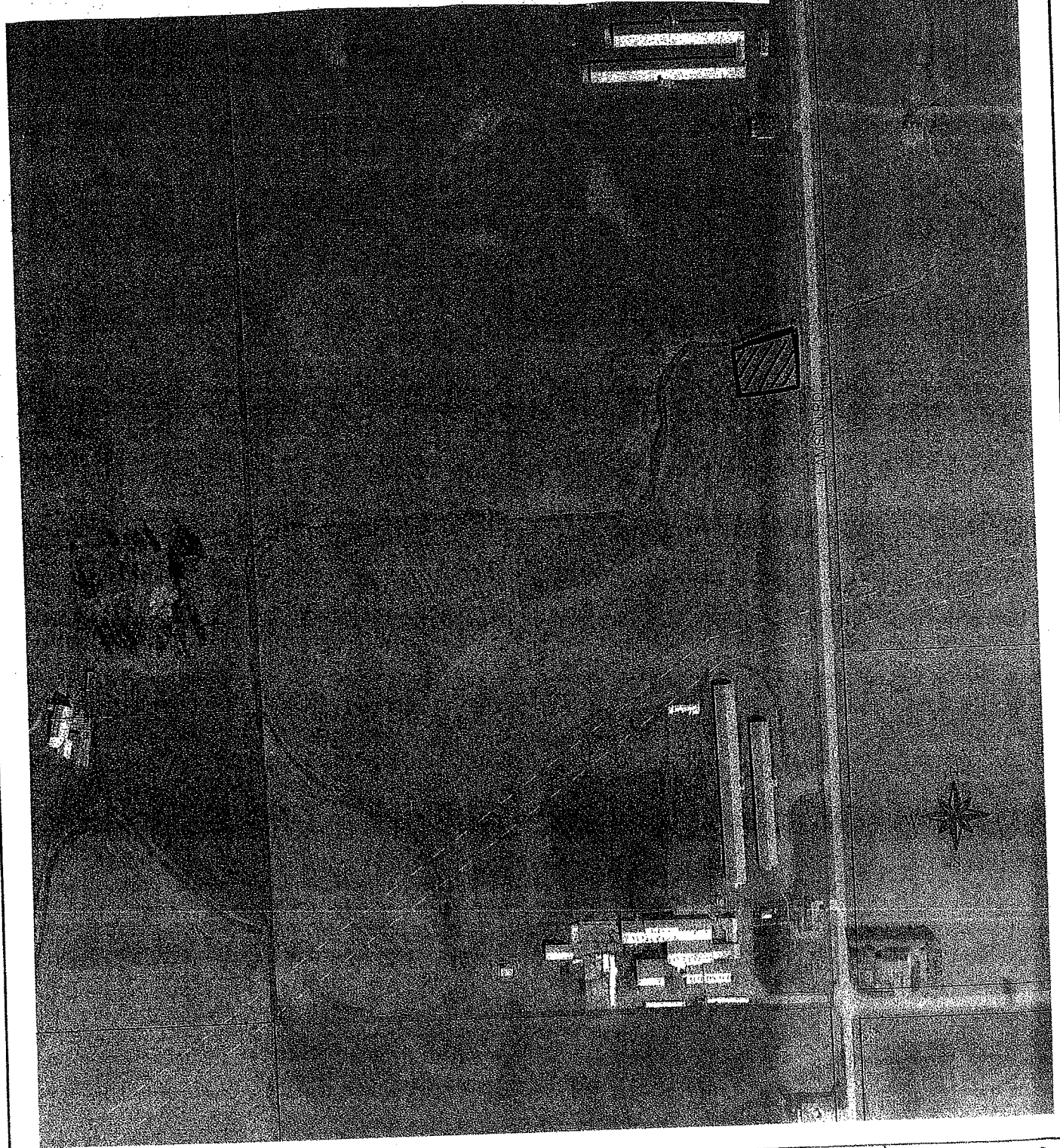
cc: City of Abbotsford (A06-013)
Flier Dairy Farm Ltd., 731 Lamson Road, Abbotsford, BC, V3G 1W2

Enclosure: Minutes/Sketch Plan

JC/36925d2

Provincial Agricultural Land Commission
Application # MM-36925
Resolution #663/2006

 0.4 ha area approved for subdivision



CITY OF
Abbotsford

731 Lamson Road
A06-013

DWG NO.	ORTHO
SCALE	1:4000
PLOT DATE	June 21, 2006



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on April 12, 2007 in Chilliwack, B.C.

PRESENT:	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Tony Pellett	Staff
	Jennifer Carson	Staff

For Consideration

Application: # MM- 36925
Applicant: Flier Dairy Farm Ltd
Agent: BC Farm and Ranch Realty Corp
Proposal: To reconsider the original proposal to subdivide off a homesite severance around the existing house.
Legal: PID: 013-423-975
East 1/2 North West 1/4, Section 5, Township 19, New Westminster District, EXCEPT Part on Statutory R/W Plan 17648
Location: 731 Lamson Road

Site Inspection

A site inspection was conducted on April 11, 2007. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- Erik Karlsen Commissioner
- Tony Pellett Staff
- Jennifer Carson Staff
- Mr. and Mrs. Flier Applicants

The Commissioners and ALC Staff met Mr. and Mrs. Flier on their property at their house which they proposed to subdivide off of the property under the *Homesite Severance Policy*. The Commissioners walked around the part of the property to be subdivided. Through discussion with the applicants, the Commission was informed that the property has been out of the dairy business since 2004. Also in the summer of 2006, the dairy barn burnt down and is currently scheduled for demolition. There is also a chicken barn in close proximity to the existing home that is to be subdivided off. Although there was a separate driveway for the barn, the Commission expressed concerns over bio-security with regards to having a poultry barn so close to a residence. Although it may not be a concern while the Fliers are living in the house, there may be conflict and health issues associated with future owners of the house. The Fliers discussed with the Commission that they sold their quota recently and are currently leasing out the poultry facilities. If their application were to be approved the Flier's mentioned that they would be willing to move their septic field to the southern part of the house. The Fliers mentioned that they were not interested in building a new house, however, they wanted to remain on the property.

Commissioner Eligible to Vote

Commissioner Tomlinson was not present at the site inspection. It was confirmed that a summary of the site inspection was provided thus establishing the Commissioner's eligibility to vote on the application.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

This application was considered in accordance with the *Homesite Severance Policy* which states the following:

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.

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.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The improved classifications for the agricultural capability of the soil of the subject property is

- Class 1 – Land in this class either has no or only very slight limitations that restrict its use for the production of common agricultural crops.
- Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
- Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

Subclasses

D	undesirable soil structure	T	topography
W	excess water		

Assessment of Agricultural Suitability

The Commission assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. It was discussed that the issue of the house being located so close to the poultry barns would become an issue of bio-security for future owners of the property. Also, the house is currently perfectly situated for those who will run the poultry facility in the future. The Commission believes the proposal would impact existing or potential agricultural use of surrounding lands.

Assessment of Other Factors

Although the Commission has compassion for the Fliers and their situation of wanting to remain on the property, but not have to build a new house, they did not feel comfortable with allowing a subdivision of the existing house due to its close proximity to the poultry facilities.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the current proposal made by the applicants will have an adverse impact on agriculture.

4. Due to the Fliers being eligible for consideration under the *Homesite Severance Policy* the Commission stands by its original decision to allow a 0.4 ha homesite to be created in the portion of the property specified in the earlier decision.

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Bose

THAT the application be refused as submitted. However, the previous alternative subdivision is still an available option should the Fliers wish to remain on the property and sell the farm.

- the subdivision be situated in the relative area as is indicated on the enclosed map should be made as small as possible, not exceeding 0.4 hectares.
- the subdivision be as small as possible around the house as is indicated in the enclosed map
- a vegetative buffer be placed between the homesite parcel and the remaining farm.
- a covenant placed on the homesite parcel warning prospective buyers of the close proximity to agriculture
- compliance with the *Homesite Severance Policy*
- the subdivision must be completed within three (3) years from the date of this decision.

This decision does not relieve the owner or occupier of the responsibility to comply 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.

CARRIED

Resolution # 143/2007