



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
www.alc.gov.bc.ca

March 22, 2007

Reply to the attention of Jennifer Carson
ALC File: #MM - 37057

Jake Kobes
291 Lamson Road
Abbotsford, BC V3G 1W2

Dear Mr. Kobes:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 89/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Erik Karlsen, Chair

cc: City of Abbotsford (#3040-20/A06-017)

Enclosure: Minutes

JC/lv
37057d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on February 20, 2007 in Langley, B.C.

PRESENT:	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Terra Kaethler	Staff
	Colin Fry	Staff
	Jennifer Carson	Staff

For Consideration

Application: # MM - 37057
Applicant: Jacob and Klaasje Kobes
Agent: Jake Kobes
Proposal: To subdivide under homesite severance.
Legal: PID: 005-348-757
North East 1/4 of the South West 1/4, Section 5, Township 19,
New Westminster District
Location: 291 and 375 Lamson Road, Abbotsford

Site Inspection

A site inspection was conducted on Tuesday February 20, 2007. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- John Tomlinson Commissioner
- Terra Kaethler Staff
- Colin Fry Staff
- Jennifer Carson Staff
- Jake Kobes Applicant

Mr. Kobes met with the Commissioners and staff on his property and brought them to the second house on the property in which his mother lives. The applicant qualifies for homesite severance and articulated the family's desire to remain on the property. He indicated that when his son takes over his farm, he will likely move into the same house that his mother now lives in. The purpose of the application is to allow the second house on the property to be financially independent from the rest of the farm. The Commissioners told the applicant that they were concerned about the proposed subdivision going up to the intersection of Maher Rd and Lamson Rd as it would be unnecessarily taking land away from the farm. It was clear to the Commissioners that Mr. Kobes would prefer to have the proposed lot go right to the intersection as he did not want a pan handle.

Mr. Kobes confirmed that the staff report dated November 28, 2006 was received and no errors were identified.

Context

This application was considered in accordance with the Homesite Severance Policy. The Homesite Severance Policy 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 ratings of the agricultural capability classification on the subject property are:

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.

Subclasses

T topography

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. The Commission was concerned that there are no other small lots in the area and that this may encourage future requests of a similar nature. However, the applicant is eligible for consideration under the Homesite Severance Policy. In accordance with the Homesite Severance Policy, the Commission is not prepared to support the proposed lot size and configuration. However, it is prepared to consider a smaller lot around the house instead of a lot extending north to the intersection as was initially proposed.

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 proposal will impact agriculture.
4. In order to minimize the adverse impact on agriculture, and in light of the Homesite Severance Policy, the Commission is prepared to consider a smaller lot around the house.

IT WAS

MOVED BY: Commissioner Tomlinson

SECONDED BY: Commissioner Pranger

THAT the application be refused as proposed.

CARRIED

Resolution # 89/2007

Commissioner Bose wished to be recorded as being opposed to the resolution.



Staff Report
Application # MM – 37057
Applicant: Jacob, Klaasje and Trientje Kobes
Agent: Jake Kobes

DATE RECEIVED: November 10, 2006

DATE PREPARED: November 28, 2006

TO: Chair and Commissioners – South Coast Panel

FROM: Simone Rivers, Land Use Planner

PROPOSAL: To subdivide under homesite severance

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

BACKGROUND INFORMATION:

The property has been in owned by one of the applicants since 1969 and is now in joint ownership with other family members. The application states that the applicants wish to subdivide a lot of between 0.4 and 0.2 ha on which to build a new residence. Application # E-20209 refused the subdivision of a homesite severance but allowed the construction of an additional dwelling on the property. The applicants would now like to subdivide the dwelling from the property as originally proposed.

Local Government:

City of Abbotsford

Legal Description of Property:

PID: 005-348-757
North East Quarter of the South West Quarter, Section 5, Township 19, New Westminster District;

Purchase Date:

April 1969

Location of Property:

291 and 375 Lamson Road, Abbotsford

Size of Property:

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

Present use of the Property:

Dairy Farm

Surrounding Land Uses:

WEST: Dairy Farm
SOUTH: Dairy Farm
EAST: Dairy Farm
NORTH: Dairy Farm

Agricultural Capability:

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

Official Community Plan and Designation:

The Official Community Plan designates the property as Agricultural

Zoning Bylaw and Designation:

The Zoning Bylaw designates the property as Agricultural Two Zone (A2)
Minimum Lot Size: 16.0 ha

PREVIOUS APPLICATIONS:

Application #20209-0

Applicant: Kobes, Sietze
Decision Date: July 17, 1986
Proposal: To subdivide a 0.4 ha homesite lot from the subject property under the Homesite Severance Policy.
Decision: Refused on the grounds that the Commission had no wish to create small residential lots in this area. The Commission allowed the construction of a second dwelling on the property


LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

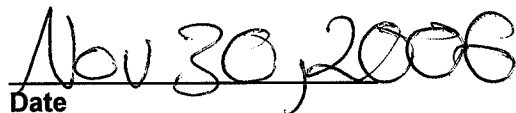
The Abbotsford City Council forwarded the application with a recommendation of support

ATTACHMENTS:

- Minutes of the Agricultural Land Commission – Application # E-20209
- Sketch showing location of proposed homesite (submitted by the City of Abbotsford)
- ALC Context Map - 92G/1 - 1:50,000 (created by ALC Staff)
- Airphoto - 1:10,000 (created by ALC Staff)

END OF REPORT


Signature


Date