



Agricultural Land Commission
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April 17, 2007

Reply to the attention of Jennifer Carson
ALC File: O-37218

Marjorie Paton
3706 - 88th Street
Delta, BC V4K3N3

Dear Mrs. Paton:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 141/2007 outlining the Commission's decision as it relates to the above noted application.

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:

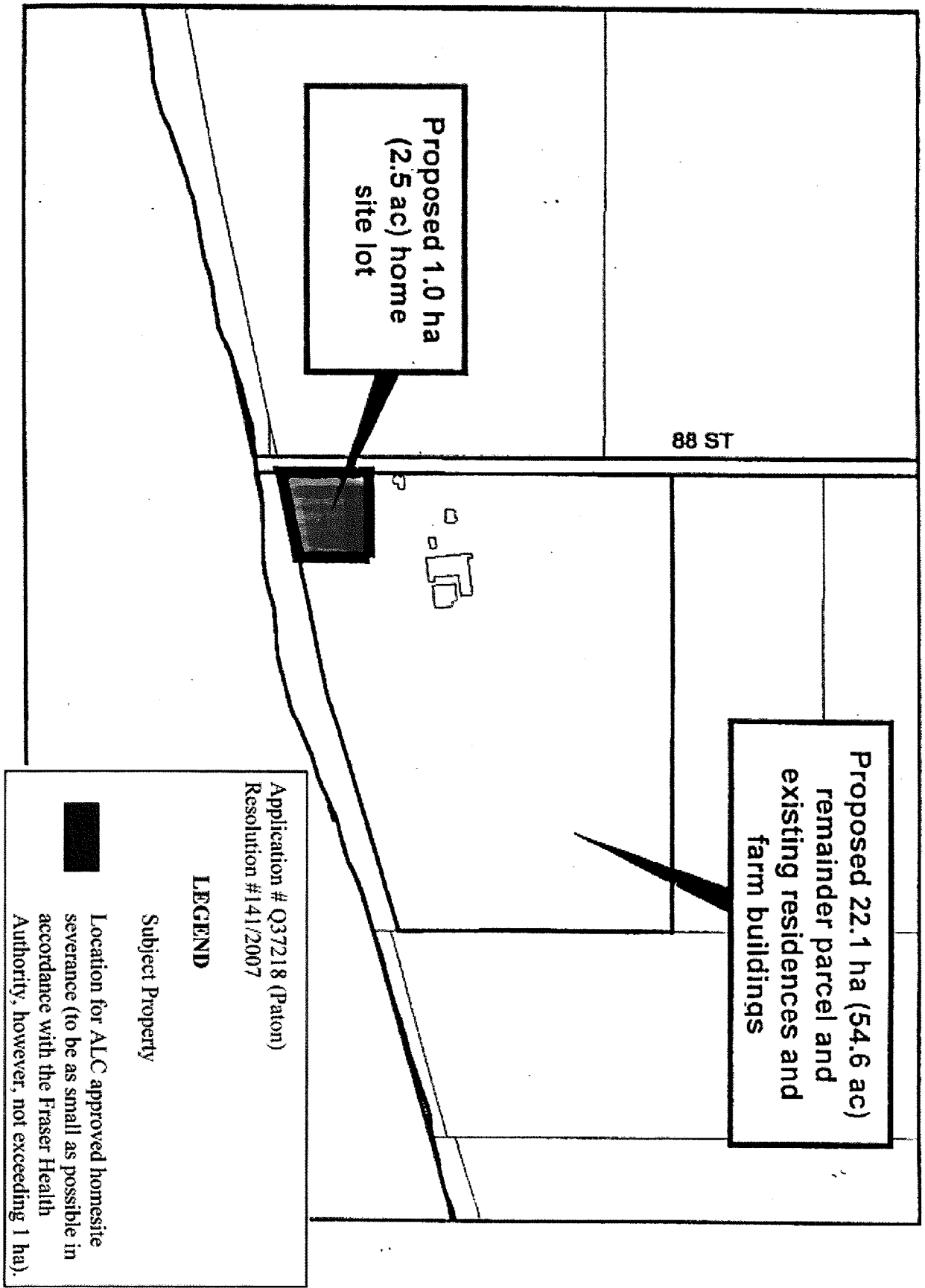
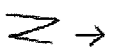

Erik Karlsen, Chair

cc: The Corporation of Delta (LU06002)

Enclosure: Minutes/Sketch/Example of Covenant

JC/37218d1

Proposed Subdivision Layout



Proposed 1.0 ha
(2.5 ac) home
site lot

Proposed 22.1 ha (54.6 ac)
remainder parcel and
existing residences and
farm buildings

Application # Q37218 (Paton)
Resolution #141/2007

LEGEND

Subject Property

Location for ALC approved homesite
severance (to be as small as possible in
accordance with the Fraser Health
Authority, however, not exceeding 1 ha).



A meeting was held by the Provincial Agricultural Land Commission on April 11, in Surrey, B.C.

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

For Consideration

Application: # O- 37218
Applicant: Marjorie Paton
Proposal: Subdivision for a Relative: The proposal is to subdivide the 23.1 ha lot to create a 1.0 ha lot homesite for the owner's son in accordance with the Homesite Severance Policy.
Legal: PID: 002-540-142
Parcel B, North West 1/4, Section 28, Township 3, Reference Plan 1130, New Westminster District, Except Firstly: Parcel 1 and Road (Explanatory Plan 13144), Secondly: Part contained in Parcel 2 (Reference Plan 48317)
Location: 3706 - 88th Street, Delta

Context

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 Impact on Agriculture

The Commission assessed the impact of the proposal against the long term goal of preserving agricultural land. As the farm buildings and maximum amount of land is being kept with the larger parcel, it is felt by the Commission, that this application is minimizing its adverse impact on agriculture.

Assessment of Other Factors

Mrs. Marjorie Paton has owned and lived on the property since 1953 making her eligible for consideration under the *Homesite Severance Policy*. The Commission would appreciate every attempt be made to reduce the lot size in accordance with the *Homesite Severance Policy* in order to retain as much land as possible with the farm. The Commission also recognizes the Fraser Health Authority has minimum lot size requirements for sewage disposal. As a result, the Commission would prefer the lot to be as small as possible as determined by the Fraser Health Authority.

Conclusions

The Commission is satisfied that the proposal is consistent with the *Homesite Severance Policy*.

IT WAS

MOVED BY: Commissioner Bose
SECONDED BY: Commissioner Tomlinson

THAT the application be allowed subject to the following conditions:

- the subdivision be as small as possible as determined by the Fraser Health Authority requirements for sewage disposal and in any event not exceeding 1 ha
- a covenant placed on the homesite parcel alerting prospective buyers of the parcel's 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 # 141/2007



Staff Report
Application # O – 37218
Applicant: Marjorie Paton

DATE RECEIVED: February 02, 2007

DATE PREPARED: March 20, 2007

TO: Chair and Commissioners – South Coast Panel

FROM: Jennifer Carson, Land Use Planner

PROPOSAL: Subdivision for a Relative. The proposal is to subdivide the 23.1 ha lot to create a 1.0 ha lot homesite for the owners son in accordance with the Homesite Severance Policy. This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

Local Government:

The Corporation of Delta

Legal Description of Property:

PID: 002-540-142
Parcel B, North West 1/4, Section 28, Township 3, Reference Plan 1130, New Westminster District, Except Firstly: Parcel 1 and Road (Explanatory Plan 13144), Secondly: Part contained in Parcel 2 (Reference Plan 48317)

Purchase Date:

January 1, 1953

Location of Property:

3706 - 88th Street, Delta

Size of Property:

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

Present use of the Property:

Residence, two barns, grass and hay production, potatoes

Surrounding Land Uses:

WEST: Hay and grass production (DeBoer Dairy Satellite)
SOUTH: Boundary Bay - Wildlife Management
EAST: Hay, pasture, potatoes in rotation
NORTH: Hay, horse pasture

Agricultural Capability:

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

Official Community Plan and Designation:

OCP: Bylaw (2005)
Designation: Agricultural

Zoning Bylaw and Designation:

Zoning: Bylaw No. 6367 (2005)
Designation: A1
Minimum Lot Size: 8 ha

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

The Council of the Corporation of Delta:

Forwarded the application with a recommendation of support.

Planning Staff:

Recommend that the application be referred to the ALC with a recommendation that it be approved.

STAFF COMMENTS:

It is recommended that the Commissioners consider the following:

- The applicant qualifies for the *Homesite Severance Policy*.
- Local government supports the application with a recommendation for approval.

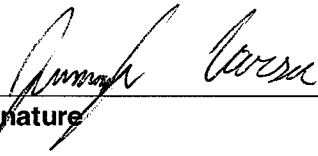
ATTACHMENTS:

1. Airphoto Map
2. Soil Capability Map
3. Letter from applicant
4. Sketch of proposed subdivision

END OF REPORT

Signature

Date



March 27, 2007