



Staff Report
Application # H – 38183
Applicant: Garry and Mildred Lybeck

DATE RECEIVED: May 23, 2008

DATE PREPARED: July 28, 2008

TO: Chair and Commissioners – Okanagan Panel

FROM: Jennifer Carson, Land Use Planner

PROPOSAL: Subdivision for a Relative: To subdivide the 3.9 ha subject property into two (2) parcels of 1.95 ha. This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicants plan to have one of their sons live on one of the proposed lots to assist in the maintenance of the property. The applicants will continue to live on the remaining parcel for as long as possible, at the time of their vacating the property it will be given to their other son. In their application, the applicants describe their property and its current uses (see attachments). It is mentioned that agricultural activities on the property include a garden, greenhouse, vineyard and fruit trees which appear to be primarily for personal consumption.

Local Government:

Columbia Shuswap Regional District

Legal Description of Property:

PID: 003-057-208
Lot 3, Section 4, Township 21, Range 10, W6M, Kamloops Division Yale District, Plan 33954

Purchase Date:

March 1991

Location of Property:

16 Kault Hill Road, North of Salmon Arm

Size of Property:

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

Present use of the Property:

Single family dwelling, accessory buildings, small garden, grape vines and fruit trees

Surrounding Land Uses:

WEST: Rural Residential, hobby farm
SOUTH: City of Salmon Arm - agriculture
EAST: Proposed subdivision, property was excluded from the ALR in 1994
NORTH: Rural Residential

Agricultural Capability:

Data Source: Agricultural Capability Map # 82L/14
The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

Kault Hill Rural Bylaw No. 3000
Designation: R Rural

Zoning Bylaw and Designation:

Zoning: N/A
Minimum Lot Size: 4 ha

PREVIOUS APPLICATIONS:

Application #10001-0

Applicant: Solowoniuk, James & Karen
Decision Date: June 10, 1980
Proposal: To subdivide the approximately 64 ha parcel into seven lots ranging in size from 1.9 ha to 14.2 ha.
Decision: Approved.

This application created the subject property

RELEVANT APPLICATIONS:

Adjacent western property

Application #27317-0

Applicant: Holmes, H
Decision Date: n/a
Proposal: n/a
Decision: Staff will update the Commission on this application during the panel trip.

Adjacent eastern property

Application #29046-0

Applicant: Campbell, Maynard & Shannon
Decision Date: October 26, 1994
Proposal: To exclude the 5.4 ha portion of the 17.5 ha subject property that is within the ALR.
Decision: Allowed subject to the placement of a buffer and no build covenant on the southern boundary of the property.

Adjacent Southern property

Application #36943-0

Applicant: Bourget, Wayne
Decision Date: November 10, 2006
Proposal: To subdivide a 2 ha lot containing an existing residence from the 13.2 ha subject property.
Decision: Allowed on the grounds that the subdivision would have no impact on agriculture.

Application #16595-0

Applicant: Bayshore Resorts Ltd.
Decision Date: June 21, 1983
Proposal: To subdivide the five lots into six 4.0 ha lots and five 2.0 ha lots.
Decision: Approved.

Application #35868-0

Applicant: Anderson, Ernest
Decision Date: April 27, 2005
Proposal: To subdivide the 4.9 ha property into one 2.0 ha lot and one 2.8 ha lot.
Decision: Approved the application to subdivide the 4.9 ha property into a 2.0 ha lot and a 2.8 ha lot on the grounds that it would have a minimum impact on agriculture.

Application #36788-0

Applicant: Blazina, Valerie
Decision Date: September 29, 2006
Proposal: To subdivide a 2 ha homesite lot from the 4.9 ha subject property under the Homesite Severance Policy.
Decision: Allowed.

Application #36788-1

Applicant: Blazina, Valerie
Decision Date: November 09, 2007
Proposal: To remove the fencing condition of approval.
Decision: Allowed on the grounds that it will not have a negative impact on agriculture.

Application #36943-0

Applicant: Bourget, Wayne
Decision Date: November 10, 2006
Proposal: To subdivide a 2 ha lot containing an existing residence from the 13.2 ha subject property.
Decision: Allowed on the grounds that the subdivision would have no impact on agriculture.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Columbia Shuswap Regional District Board:

The Regional Board forwarded the application recommending Concurrence with the staff report dated 2008/04/22.

Local Government Staff:

That the application be forwarded to the ALC with a recommendation for approval subject to a successful Section 946 of the Local Government Act application for subdivision.

STAFF COMMENTS:

It is recommended that the Commissioners consider the following:

- The applicants have owned the property since March 1991.
- The agricultural capability of the majority of the subject property is Class 7 with limitations of topography and bedrock near the surface.
- Staff are unclear of the exact boundaries of the proposed subdivision and so would ask the applicants to clarify this point during the site visit.
- It is the Commission's experience that smaller parcels are correlated with less (not more) agricultural activity, and increased subdivision and rural residential pressures.
- Subdivision could heighten landowner expectations in the surrounding area that similar requests would be routinely permitted. The effects of heightened expectations are speculation, increased farmland prices, and reduced agricultural investment and activity.
- A site visit will help to determine whether or not this proposal will have an impact on agriculture for the subject property or other properties in the area.

ATTACHMENTS:

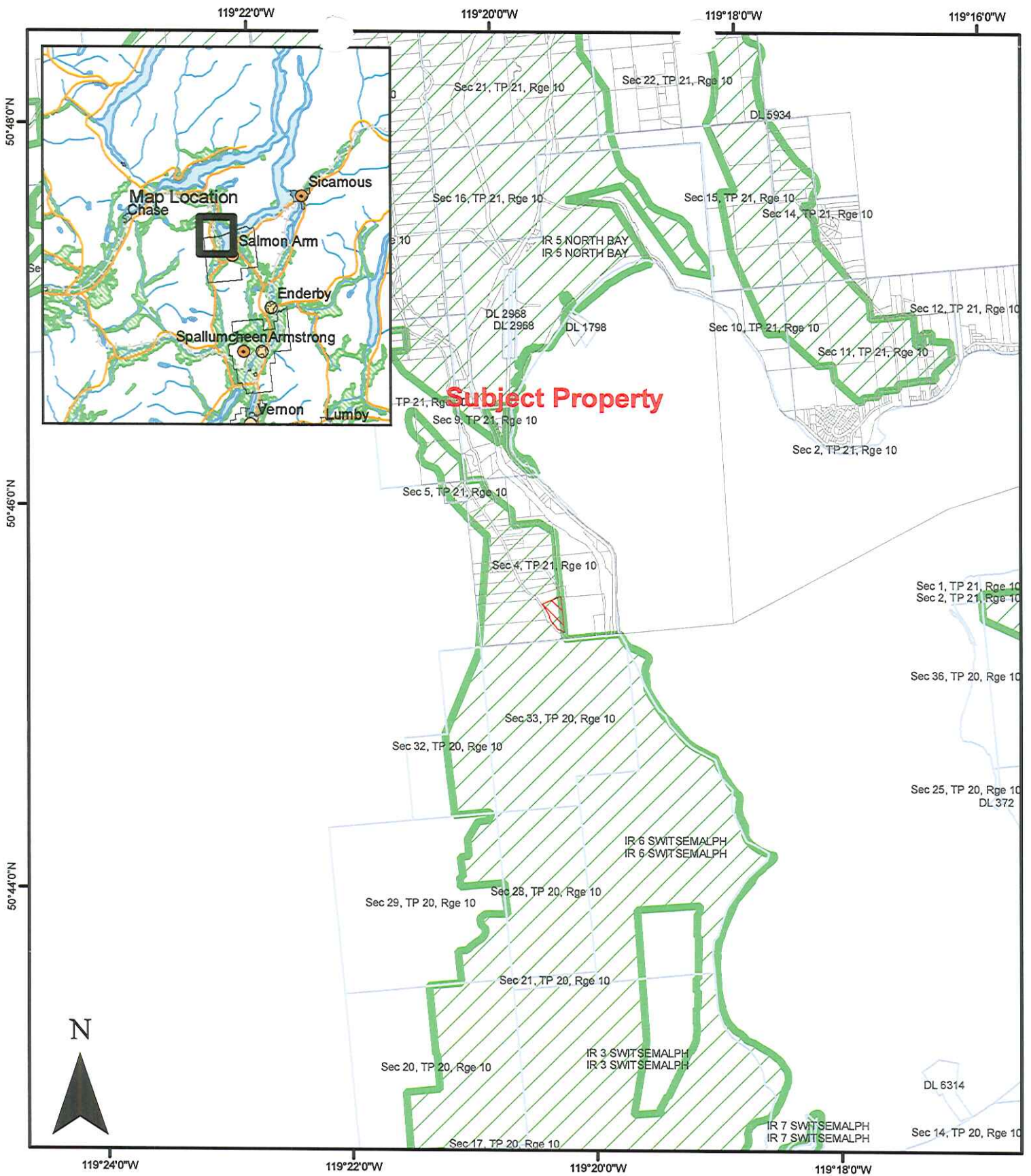
1. ALC Context Maps (2 pages)
2. Aerial Photograph
3. Agricultural Capability Map
4. Local Government Map
5. Sketch of proposal
6. Proposal (3 pages)
7. Local Government Staff Report (5 pages)

END OF REPORT

Signature

Date

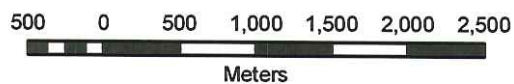
July 28, 2008

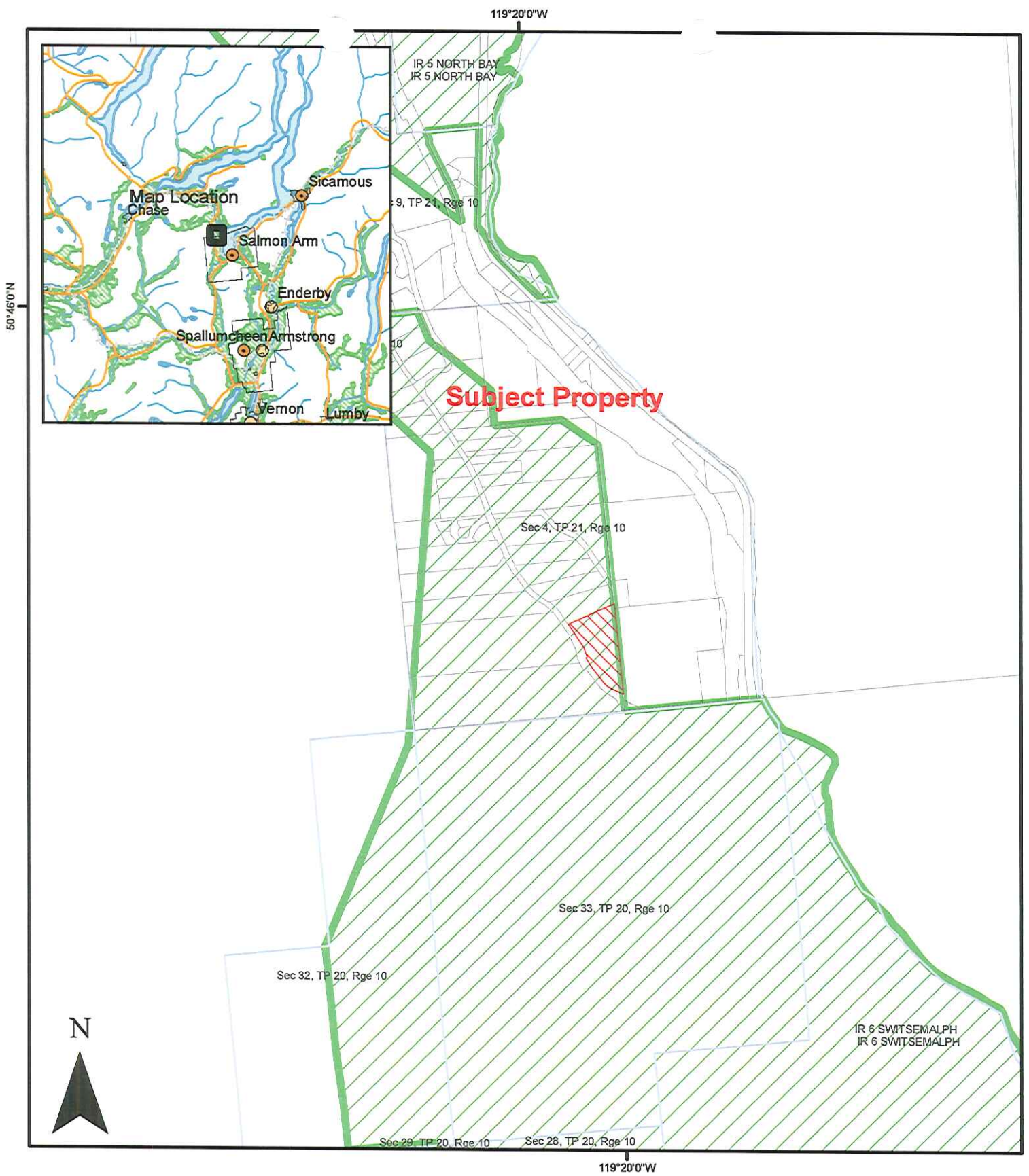


ALC File #:	21-2008-38183
Mapsheet #:	82L.074
Map Produced:	June 27, 2008
Regional District:	Columbia Shuswap

ALC Context Map

Map Scale: 1:50,000



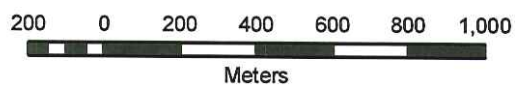


Subject Property

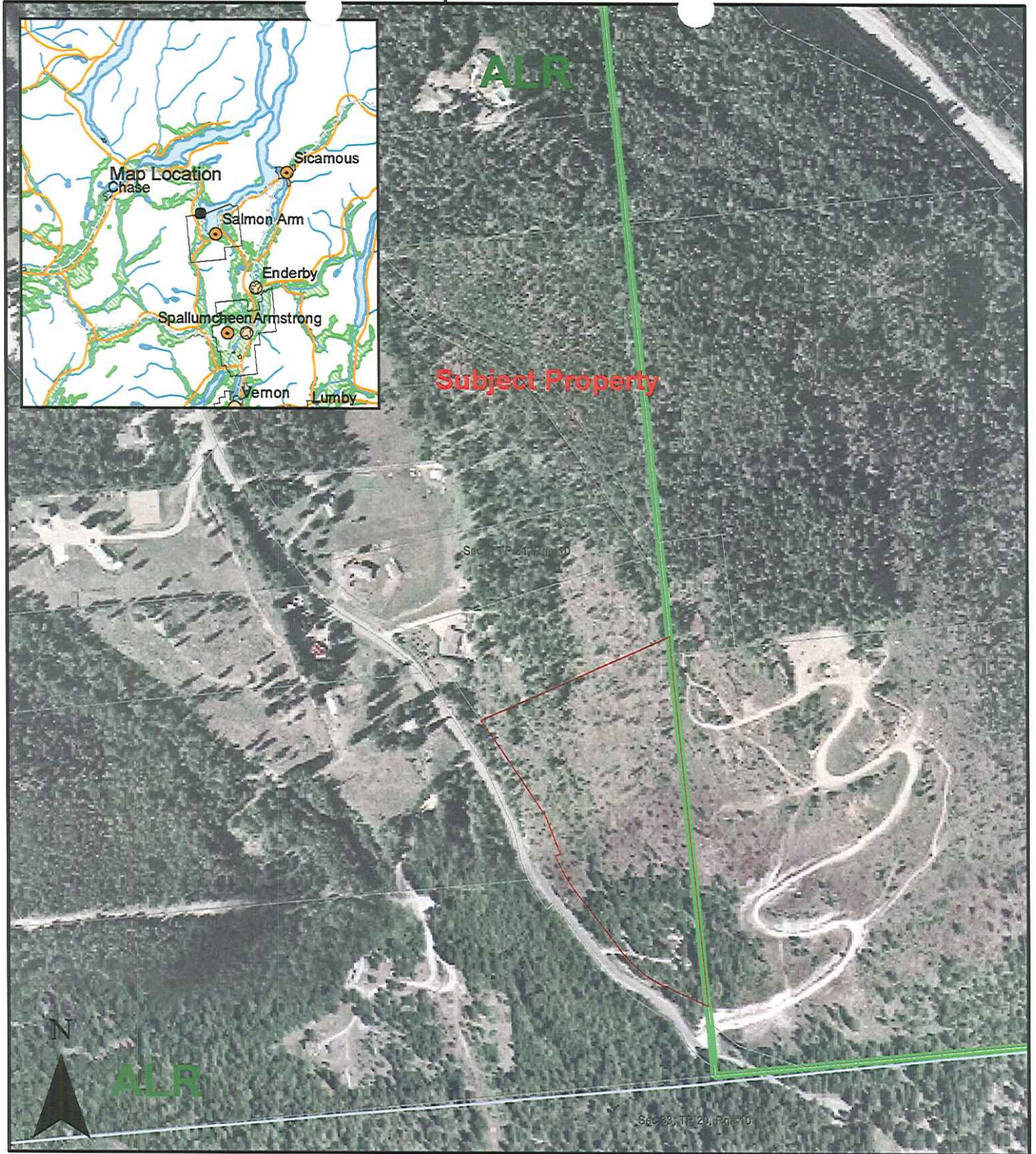
ALC File #:	21-2008-38183
Mapsheet #:	82L.074
Map Produced:	June 27, 2008
Regional District:	Columbia Shuswap

ALC Context Map

Map Scale: 1:20,000



119°20'0"W

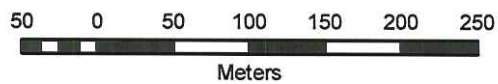


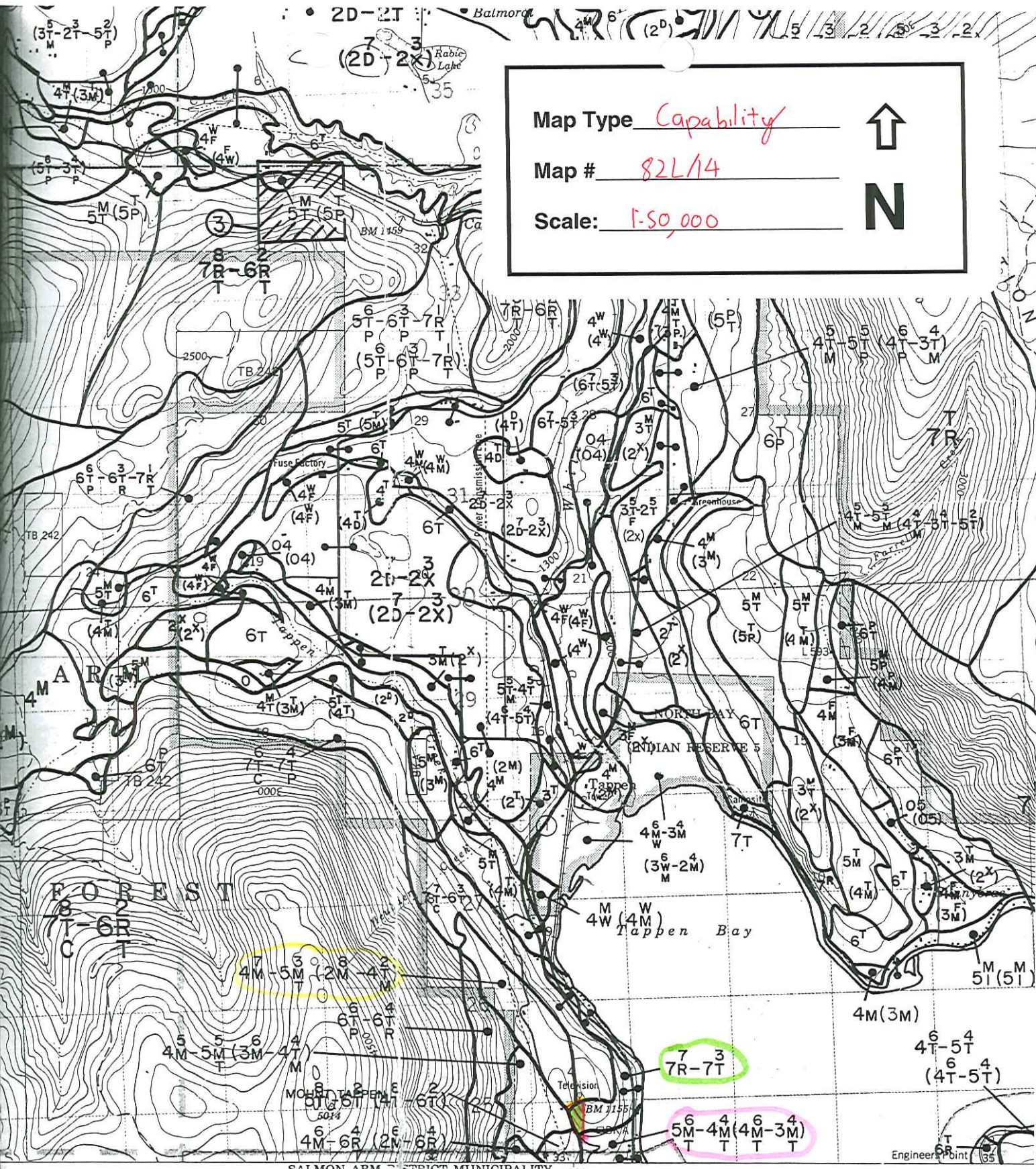
119°20'0"W

ALC File #:	21-2008-38183
Mapsheet #:	82L.074
Map Produced:	June 27, 2008
Regional District:	Columbia Shuswap

**Airphoto Map
2007**

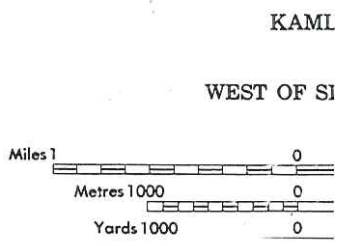
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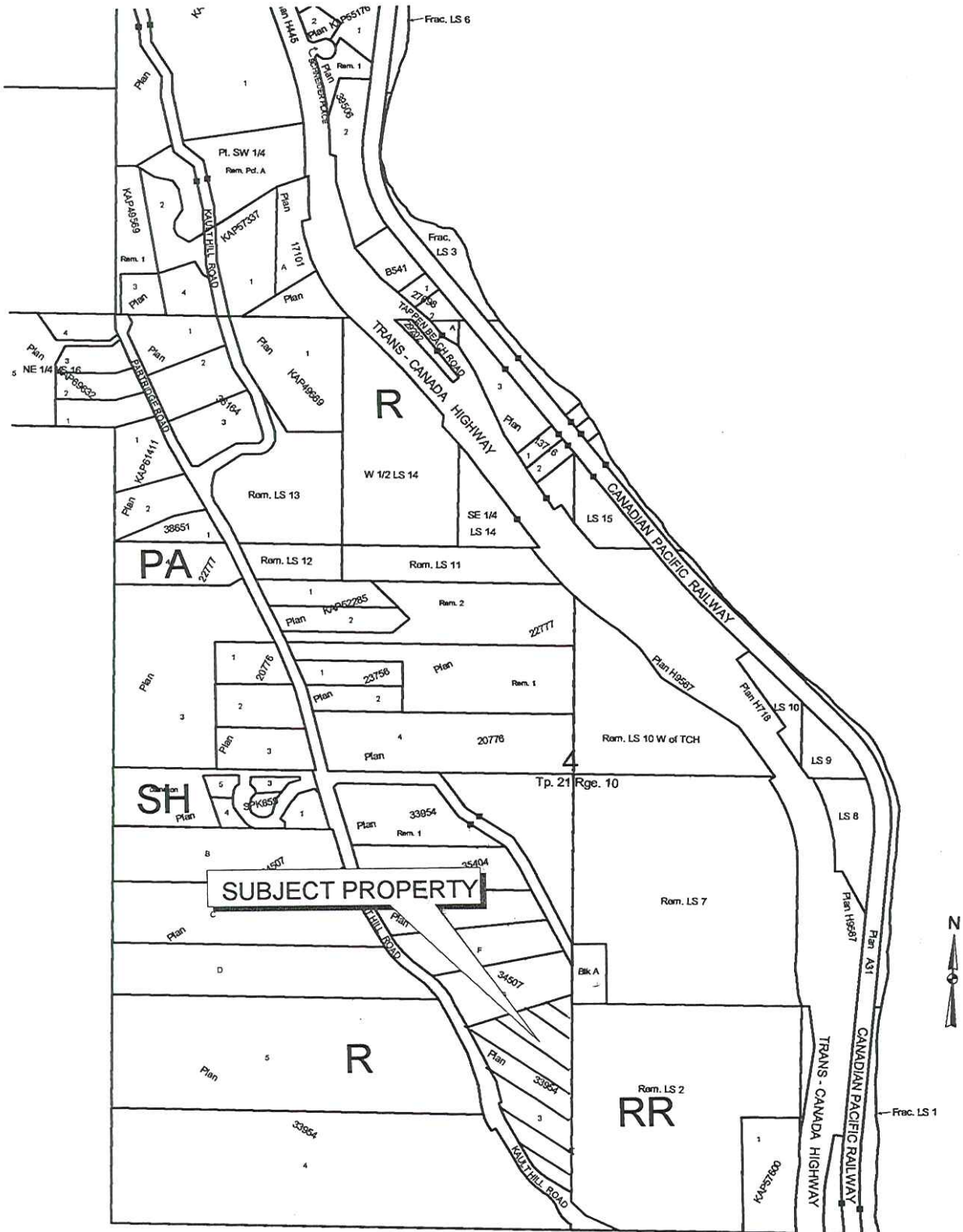


Map Type Capability ↑
 Map # 82L/14 N
 Scale: 1:50,000

Roads:	Routes:		
hard surface, all weather.....	pavée, toute saison.....	<u>dual highway</u>	<u>more than 2 lanes</u>
		2 chaussées séparées	plus de 2 voies
hard surface, all weather.....	pavée, toute saison.....	<u>2 lanes</u>	<u>less than 2 lanes</u>
		2 voies	moins de 2 voies
loose or stabilized surface, all weather...	gravier et aggloméré, toute saison...	<u>2 lanes or more</u>	<u>less than 2 lanes</u>
		2 voies ou plus	moins de 2 voies
loose surface, dry weather and unclassified streets.....	de gravier, temps sec et rues hors classe.....		
cart track.....	de terre.....		
trail or portage.....	sentier ou portage.....		



COMMUNITY OCP AND ZONING MAP



SCALE: 1/4" = 29.273 (3') OR 8.923 (9.)

BOB LAFORTUNE
SEC 4T 21 R10
PID 002948401
LEVEL

PARCEL 1

PARCEL 2

TOWER
BOUNDARY ROAD

CHBC EASEMENT TO TOWER
POWER POLE

HYDRO POLES

TREES

TREES

WELL

ROCK
SLOPE UP EXCEEDS 2M

OBSERVATION HOLES

HYDRO

KALTY HILL ROAD

HOUSE GARAGE

SEPTIC SYSTEM (2)

PERC

LEVEL AREA

TREES

TRAIL

GAZEBO

PARCEL 2 HOME PLACE

DENSE FOREST

SAARA

ROAD 16' W 30% OVER

TO SALMON ARM.

HOUSE

WELL

HYDRO POLES

SHEDS

APPROVED SEPTIC

GREEN SPACE

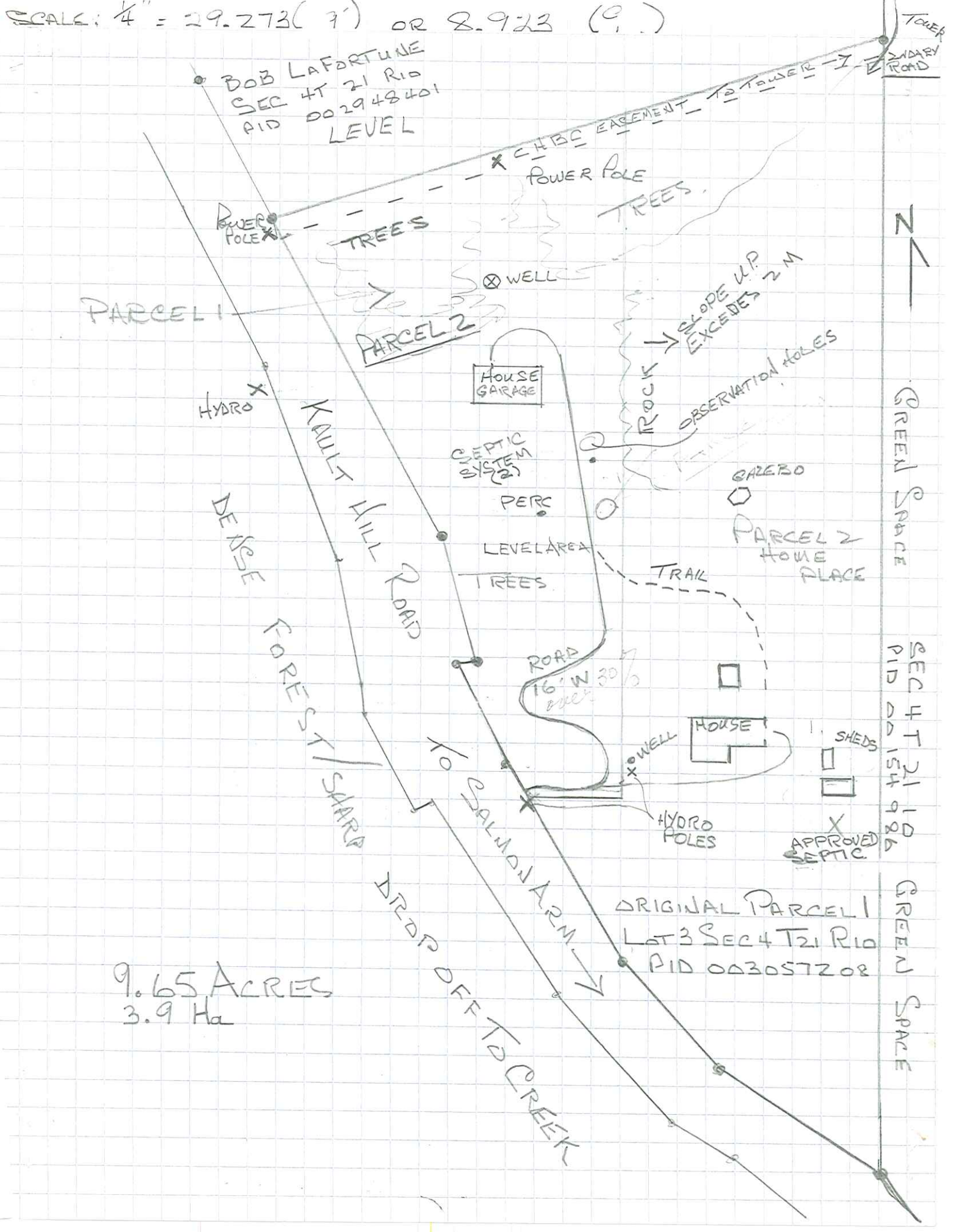
SEC 4 T 21 R 10
PID 00154986

GREEN SPACE

ORIGINAL PARCEL 1
Lot 3 Sec 4 T 21 R 10
PID 003057208

9.65 ACRES
3.9 Ha

DROP OFF TO CREEK



CURRENT USE OF LAND

Since 1991 when we purchased this raw acreage, we have been developing it to the point that it now has the following:

Buildings

1200 sq. ft. Lindal Cedar Home
Small tool shed
Medium sized pole shed for open storage.
Green House
Root Cellar built into the bank.

Agricultural:

We have been clearing, hauling soil, moving rocks; planting a variety of fruit trees (14 in total at present) and grape vines, over 100 coniferous trees, and a garden in order to provide as much food as possible for our selves and our 3 sons and their families.

Maintenance of Acreage:

Having experience in logging, we have actively maintained the full acreage by harvesting dead trees (blow downs, beetle killed Pines (close to 75 at last count), etc. Proper harvesting and clean-up have been strictly implemented. More trees will be planted and if our son and his future family live on part of the acreage, they too plan on helping to take care of this acreage in the same manner.

Our Future Plans:

Other than our son Tim living on half of the acreage, one other son and his family who make Salmon Arm their home, will have first chance at taking possession of the “home place & remaining acreage” at such a time as we are no longer living.

We propose to live on this acreage for years to come if we have our son and his family living “next door”. Tim’s wife is a nurse and both are desirous of living on this subdivided acreage for the rest of their lives and assisting us to do the same.

In our estimation, this land will benefit much with a 2nd family to help look after it. We also maintain the “green space” to the east of our property. In conversation (many times) with Maynard Campbell, he agreed to leave this green space which is a well treed natural run-off area. This green space is a natural haven for many animals and birds.

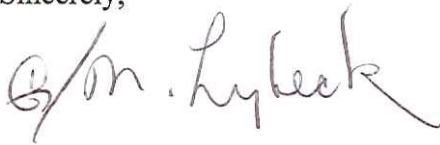
It is our belief that everyone who views Kault Hill from Salmon Arm, GlenEden and the TCH will benefit from being able to view a hill with at least some remaining semblance of greenery that will remain throughout the coming years. It will be an asset to have a second family help us continue maintaining these 10 Acres (as well as the “green space” that we told Maynard we would keep free of dead falls, etc). It will help immensely to have a source of water on the upper part of the acreage. Presently, there are almost 50

dead Pines that we are in the process of harvesting, and we hope to re-plant this year and next with seedlings from Skimikin Nursery. Water is the main challenge to the success of this plan. The proposed underground reservoir to collect run-off water from the house that Tim plans will help in this challenge.

This is a special acreage and we love it here. We look forward to working together with our family to maintain this highly visible acreage and make it even more productive in supplying fruit and vegetables for up to 14 people in our extended family.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "G/M. Lybeck". The initials "G/M" are written in a larger, more prominent style than the last name "Lybeck".

Garry and Mildred Lybeck

Proposed Development & Land Usage by Hopeful Future Owner

- See house plan included.

- Clean land of debris and 'scrub' bushes.
- Construct energy efficient quality home.
- Harvest all pine trees destroyed by pine beetles.
- 'Cleaning' the land of dead, dry foliage and trees will play an active role in fire prevention.
- Plant a wide variety of seasonable fruit trees.
- Planting of coniferous trees from nursery throughout property.
- Landscaping shrubs and trees will be cultivated throughout traversed areas of the property.
- A substantial vegetable garden will be developed & cultivated.
- A water management system is planned. This includes:
 - A water well along with a "precipitation gathering system" that will gather the run-off from all buildings into a holding tank (approx. 4 cubic meters in volume (approx. 4 cubic meters in volume). The gathered water will then be used to irrigate the foliage, trees and garden. This reservoir will also assist in the unlikely event of fire on the property.



Local Government Report
under the Agricultural Land Reserve
Use, Subdivision and Procedure Regulation
Information supplied by:

R.D./Mun. File No.	LC2385-C
Fee Receipt No.	37277
Fee Amount	\$600.00
ALR Base Map No.	11 of 22
ALR Constituent Map No.	30 of 39
Air Photo No.	-

COLUMBIA SHUSWAP REGIONAL DISTRICT
Local Government
In respect of the application of:
Garry & Mildred Lybeck
Name of Applicant

PLANS and BYLAWS (*Attach relevant sections of bylaws*)

Community Plan or Rural Land Use Bylaw name and designation: Kault Hill Rural Land Use Bylaw No. 3000 - R Rural

Zoning Bylaw name and designation:

Minimum Lot Size: 4 hectares

Uses permitted: Agriculture

Are amendments to Plans or Bylaws required for the proposal to proceed?

Plan Yes No Bylaw Yes No

Applicants may qualify under Section 946 of the Local Government Act.

Is authorization under Sec. 25 (3) or 30 (4) of the Agricultural Land Commission Act required?

Yes (*If yes, please attach resolution or documentation*) No

COMMENTS AND RECOMMENDATIONS (*Include copies of resolutions*)

Board or Council: CONCURRED with staff report

Advisory Planning Commission: -

Agriculture Advisory Committee: -

Planning staff: Development Services staff comments and recommendation attached

Others: -

Kathy Gilbert, Deputy Manager, Development Services
Signature of Responsible Local Government Officer

2008 05 20
Date

COLUMBIA SHUSWAP REGIONAL DISTRICT

MOVED BY: *Paul Barigalupo*

DATE: MAY 15, 2008

SECONDED BY: *[Signature]* *Denis Delist*

THAT:

Application No. LC2385-C, submitted by Garry and Mildred Lybeck, under Section 21(2) of the Agricultural Land Commission Act, be forwarded to the Provincial Agricultural Land Commission recommending:

CONCURRENCE with the staff report dated 2008 04 22.

Please check one box ✓

OR

If not in concurrence with staff report, choose either of the following and no documentation will be provided to the Agricultural Land Commission with the Board resolution:

- APPROVAL
- REFUSAL

CARRIED:

[Signature]
CHAIR

EAO-ALR 4.

AGRICULTURAL LAND RESERVE (ALR) - APPLICATION UNDER SECTION 21(2) - SUBDIVISION WITHIN

APPLICATION INFORMATION

FILE NO: LC2385-C
DATE: 2008 04 22

RECOMMENDATION:

THAT:

the application be forwarded to the Provincial Agricultural Land Commission with a recommendation for approval subject to a successful Section 946 of the Local Government Act application for subdivision.

NAME OF APPLICANT OWNER(S)

Garry & Mildred Lybeck
as above

LEGAL DESCRIPTION

Lot 3, Section 4, Township 21, Range 10, W6M, KDYD,
Plan 33954

GENERAL LOCATION

Kault Hill area – North of City of Salmon Arm – Electoral
Area 'C'

ADDRESS

16 Kault Hill Road

PARCEL SIZE

3.905 hectares (9.65 acres)

SOILS

7 3 The Canada Land Inventory mapping
7 R - 7 T indicates that approximately 95% of the
property is 70% Class 7, bedrock near
the surface; 30% Class 7 with
topography being the limiting factor for
agriculture.

6 4 The remaining 5% of the property has
5 M - 4 M 60% Class 5 soils, moisture deficiency
T T and topography being the limiting
factors for agriculture; 40% Class 4,
moisture deficiency and topography.

Improvable to:

6 4
4 M - 3 M
T T

The above soils are improvable to 60%
Class 4, moisture deficiency and topography
being the limiting factor for agriculture; 40%
Class 3, same limiting factors.

PURPOSE OF APPLICATION

The applicants are requesting the Board to consider their application to subdivide the property into approximately two equal portions of 1.9525 hectares (4.8245 acres). They propose to give the newly created parcel to their son and daughter-in-law and their other son will have the first opportunity to take possession of the remainder which the applicants wish to live on until their death.

CURRENT USE**SUBJECT PROPERTY**

NORTH

SOUTH

EAST

WEST

Single family dwelling, accessory buildings, small garden, grape vines and fruit trees.

Rural residential

City of Salmon Arm - agriculture

Proposed subdivision, property was excluded from the ALR in 1994.

Rural Residential, hobby farms.

GENERAL SURROUNDING LANDS COMMENTS

Kault Hill is basically rural residential in nature. There are some hobby farms but the Kault Hill area does not have any viable agricultural lands.

ZONING

The Kault Hill Rural Land Use Bylaw No. 3000 designates and zones the property R Rural. Agriculture is a permitted use within the zone.

MINIMUM SUBDIVISION SIZE

4 hectares (9.88 acres). The applicants have owned the property since 1991 and may qualify under the provisions of Section 946 of the Local Government Act.

GENERAL COMMENTS**SITE**

Development Services staff conducted an on-site visit to view the property and the location of the proposed parcel. The property rises sharply from Kault Hill Road with bedrock along the face of the parcel boundary adjoining Kault Hill Road. The property rises in a south to north direction with bedrock outcroppings in various areas around the property. This property has limited areas that could be used for agriculture. The applicants have chosen one area of the property that is fairly level for the construction of their single family dwelling and to grow a garden, fruit trees and grapes.

There is one small area toward the north boundary of the proposed parcel which may be suitable for the construction of a single family dwelling and a sewage disposal system. The applicants have submitted Test Pit Logs by a Registered Onsite Wastewater Practitioner (attached) for a potential sewage disposal system.

HISTORY

In 1994, the owners of the adjoining property, to the east of the subject property, applied to exclude that portion of their property that was within the ALR. They felt that the property was too steep for agriculture and would be better suited for rural residential properties with a view of Shuswap Lake. The Provincial Agricultural Land Commission (ALC) approved the exclusion.

In 2005, the owners of property north and west of the subject property, applied to subdivide their property into two parcels. One parcel was proposed to be 2 hectares (4.94 acres) and the second parcel was proposed to be 2.8 hectares (6.918 acres). The ALC approved the subdivision.

In 2006, owners of property to the north of the subject property, applied to subdivide a 2 hectare (4.94 acre) parcel from their 4.888 hectare (12.08 acre) property, leaving a 2.9 hectare remainder. The ALC approved the subdivision.

(See History map attached).

AGRICULTURAL LAND RESERVE

Kault Hill is situated on a bench above the Trans Canada Highway. Mountains are to the west and a steep cliff down to the Trans Canada Highway on the east with Kault Hill Road in the middle. This area's main agricultural component is hobby farms in the form of gardens, horses for personal pleasure and perhaps beef cattle for personal consumption. There are no major agricultural uses within the Kault Hill area.

SOILS

The CLI mapping indicates that the majority of the soils on the subject property are Class 7. Class 7 land do not provide natural forage for sustained grazing by domestic livestock due to climate and resulting unsuited natural vegetation. Also included are rock land and other non-soil areas.

SUMMARY

The Kault Hill Rural Land Use Bylaw No. 3000 (BL3000) was put in place as a result of the residents in the area requesting fire protection. Based on the location, the CSRD requested the City of Salmon Arm (the City) (at the time of enactment of BL3000, it was known as the District of Salmon Arm) to provide fire protection services. The City, in its initial comments, requested the CSRD to implement building inspection services to ensure the buildings were constructed to code. The CSRD again requested the City to implement fire protection services without building inspection. The City requested the CSRD, at the very minimum, to prepare and maintain a rural land use bylaw for the Service Area with primarily rural zoning and policies parallel to those currently existing in the Gleneden area of the City and to direct service-oriented development to the City,. This wording has been included in the fire suppression agreement.

Consideration was given on the history of approvals, by the ALC, of other applications within the area as well as the areas limited agricultural endeavours; therefore it is felt that the additional parcel, as proposed by the applicants, would not have an adverse effect on the limited agriculture within the Kault Hill area.

Respectfully submitted,



Judy Gloux
Development Services Assistant II

jg

Attachments