



Agricultural Land Commission
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Jan 04, 2017

ALC File: 55121

Dewitts' Holsteins Ltd.
RR#3 Sicamous, BC V0E2V0

Dear Mrs. Dewitt:

Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Okanagan Panel (Resolution #2/2017) as it relates to the above noted application. A sketch plan depicting the decision is also attached.

Reconsideration of a Decision as Directed by the ALC Chair

Please note that pursuant to [s. 33.1 of the *Agricultural Land Commission Act*](#), the Chair may direct the executive committee to reconsider any panel decision if, within 60 days from the date of this decision, he considers that the decision may not fulfill the purposes of the commission as set out in s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

Reconsideration of a Decision by an Affected Person

We draw your attention to [s. 33\(1\) of the *Agricultural Land Commission Act*](#) which provides a person affected the opportunity to submit a request for reconsideration.

33(1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that:

- (a) evidence not available at the time of the original decision has become available,
- (b) all or part of the original decision was based on evidence that was in error or was false.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Jenna Bedore at (Jenna.Bedore@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to read 'Jenna Bedore', with a stylized, cursive script.

Jenna Bedore, Land Use Planner

Enclosures: Reasons for Decision (Resolution #2/2017)
Sketch plan
Context Map

cc: District of Sicamous (File: 16-104-ALR)

55121d1



AGRICULTURAL LAND COMMISSION FILE 55121

REASONS FOR DECISION OF THE OKANAGAN PANEL

Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*

Applicant:

**Dewitts' Holsteins Ltd.
(Inc. No. 10811)
(the "Applicant")**

Application before the Island Regional Panel:

**Gerald Zimmermann, Panel Chair
Jim Johnson
Greg Norton**



THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 008-000-841

Lot 2, Sections 5 and 6, Township 22, Range 7, West of the 6th Meridian, Kamloops
Division, Yale District, Plan 15718

(the "Property")

[2] The Property is 31.3 ha in area (29.5 ha in ALR).

[3] The Property has the civic address 1327 Maier Road, Sicamous, BC.

[4] The Property is located partially within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 21(2) of the *ALCA*, the Applicant is applying to subdivide the residence (1 ha lot) from the Property for the purpose of farm succession and estate planning. The residence was built in 1994 and remains occupied by Jake Dewitt, the Applicant's son (the "Proposal"). The Proposal along with supporting documentation is collectively the application (the "Application").

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.



[8] The Panel considered the Application within the context of s. 6 of the *ALCA*. The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 are as follows:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
- (c) 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.

EVIDENTIARY RECORD BEFORE THE PANEL

[9] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Previous application history
4. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Applicant in advance of this decision.

[10] At its meeting of June 8, 2016, the District of Sicamous resolved that Council support the Application to permit the proposed subdivision for a Home Severance.

[11] The Panel reviewed one relevant application relating to the application:

Application ID: 31753
Legacy File: 05871
(Dewitts' Holsteins Ltd.)

To construct a 56 ft by 40 ft building to be used for the processing, packaging and sale of dairy products produced on the applicant's farm. The application was



approved by ALC Resolution #7978/78.

SITE VISIT

[12] On September 20, 2016, the Panel conducted a walk-around site visit in accordance with the *Policy Regarding Site Visits in Applications* (the “Site Visit”).

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications*. The site visit report was certified as accurately reflecting the observations and discussions of the Site Visit by the Applicant on October 13, 2016 (the “Site Visit Report”).

FINDINGS

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), ‘Soil Capability Classification for Agriculture’ system. The improved agricultural capability ratings identified on CLI map sheet 82L/15 for the mapping units encompassing the Property are Class 2 and Class 3, more specifically (7:3WI – 3:2X).

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 3 - land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

The limiting subclasses associated with this parcel of land are W (excess water), I (inundation) and X (combination of soil factors).

The Panel reviewed the CLI ratings and find that the Property has prime agricultural capability.

[15] The current farming operation consists of the Property and the adjacent parcel to the west (PID 008-000-875) (the “Adjacent Property”). The Applicant states that the Property and the Adjacent Property were purchased in 1969. The Property has one house, which was built in 1994 and is the subject of the subdivision request, and a dairy farm. The farm portion of the Property includes dairy cows, pasture, chickens and various farm buildings. The Adjacent Property consists of the dairy processing and retail buildings, as well as Mrs. Dewitt’s (the Applicant) house, which she states has been her principle residence since 1969. The Panel considered that Mrs. Dewitt may qualify for consideration of subdivision pursuant to the ALC’s *Homesite Severance Policy* (the “Policy”) on the Adjacent Property if she has owned and occupied it continuously since December 21, 1972. The Proposal, however, is requesting subdivision of the Property for estate purposes. In this circumstance, the Panel is willing to allow the subdivision of the Property in lieu of consideration of a homesite severance on the Adjacent Property.

[16] The ALC’s Policy includes the following provisions:

- 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 December 21, 1972.
- 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 a pending real estate transaction may be acceptable as documentation)

The Commission will authorize a subdivision plan to the Registrar of Land Title only once they receive documentary evidence that the Applicant has owned and occupied the Adjacent Property since December 21, 1972, and that there is a legitimate intention to sell the proposed lot to the Applicant’s son.

[17] In general, the Panel is hesitant to allow subdivision of large agricultural parcels, as subdivision may narrow the range of agricultural options available on a given parcel. While the Panel is willing to allow the subdivision, the Panel finds that the subdivision as proposed (1 ha) is too large and should be reduced to include only the house and other existing residential structures in order to maximize the agricultural land available to the remainder of the Property. The Panel would prefer to see the proposed lot reduced to ~0.35 ha or the smallest lot possible to accommodate septic.

[18] The Panel notes that there is currently no residence on the remainder parcel. The Panel requires the registration of a covenant against the title of the remainder, requiring any future dwelling or residential building to be no more than 50 meters from Maier Road at its furthest point. The covenant is required to ensure that the residential footprint is minimized and that the agricultural area of the remainder is not compromised.

DECISION

[19] For the reasons given above, the Panel refuses the Proposal to subdivide a 1 ha lot from the Property.

[20] The Panel approves subdivision of a ~0.35 ha lot (or smallest lot possible to accommodate septic) from the Property.

[21] The Proposal is approved subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the 0.35 ha area to be subdivided per the sketch plan provided with this decision;
- b. the subdivision be in substantial compliance with the sketch plan provided with this decision;
- c. submission of two (2) paper copies or one (1) electronic copy of the final survey plan to the Commission;
- d. the subdivision plan being completed within three (3) years from the date of release of this decision;

- e. documentary evidence that the Applicant has continuously owned and occupied the Adjacent Property as her principal place of residence since December 21, 1972;
- f. documentary evidence showing a legitimate intention to sell the ~0.35 ha lot upon the approval of the homesite severance application;
- g. the Applicant agrees in writing to forgo any future consideration of subdivision pursuant to the ALC's *Homesite Severance Policy* on the Adjacent Property; and
- h. registration of a restrictive covenant on the remainder of the Property requiring any future dwelling or residential building on the remainder to be located within 50 meters of Maier Road.

[22] When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the subdivision plan.

[23] 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.

[24] These are the unanimous reasons of the Okanagan Panel of the Agricultural Land Commission.

[25] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[26] This decision is recorded as Resolution #2/2017 and is released on Jan 04. 2017.

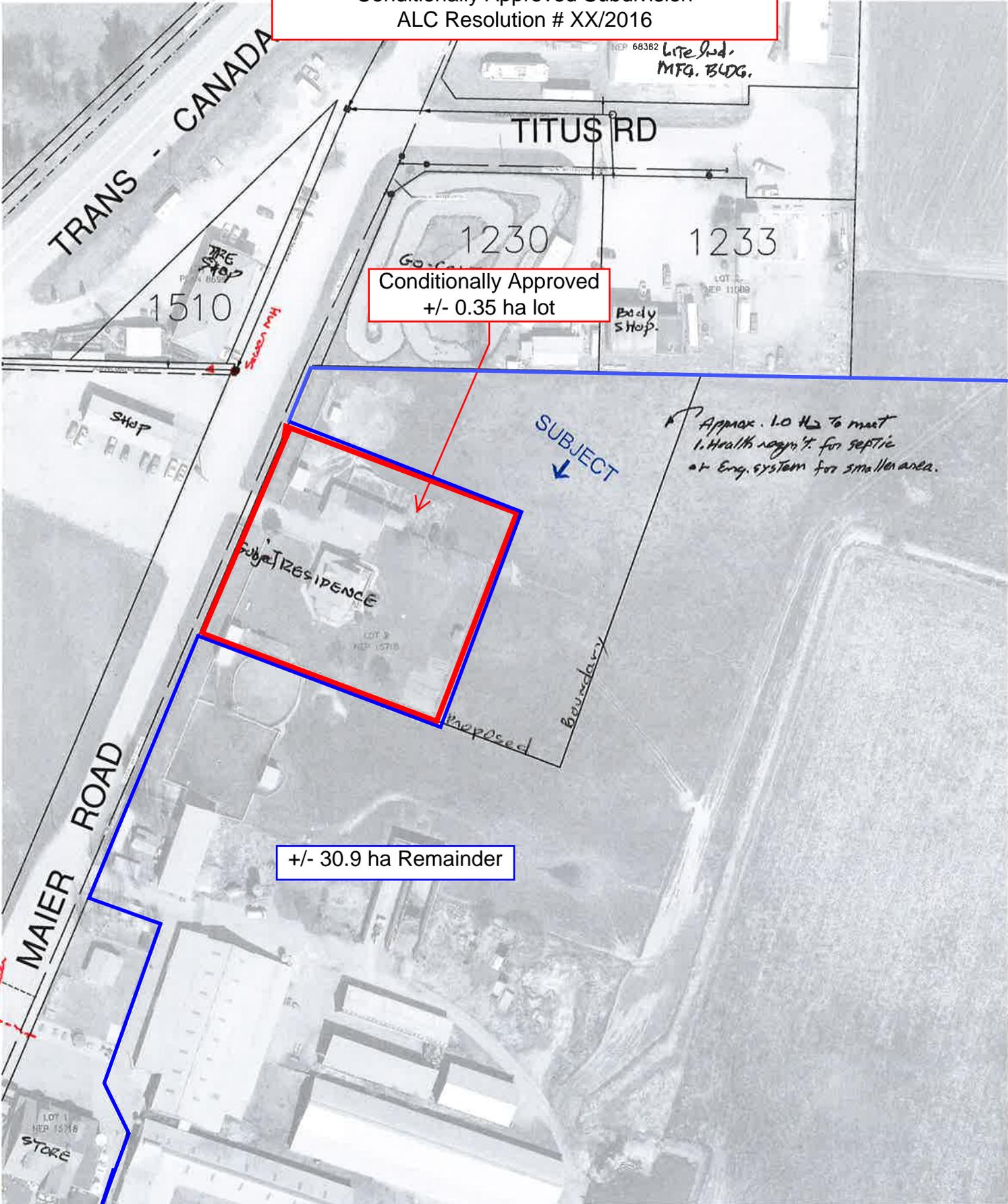
CERTIFICATION OF DECISION



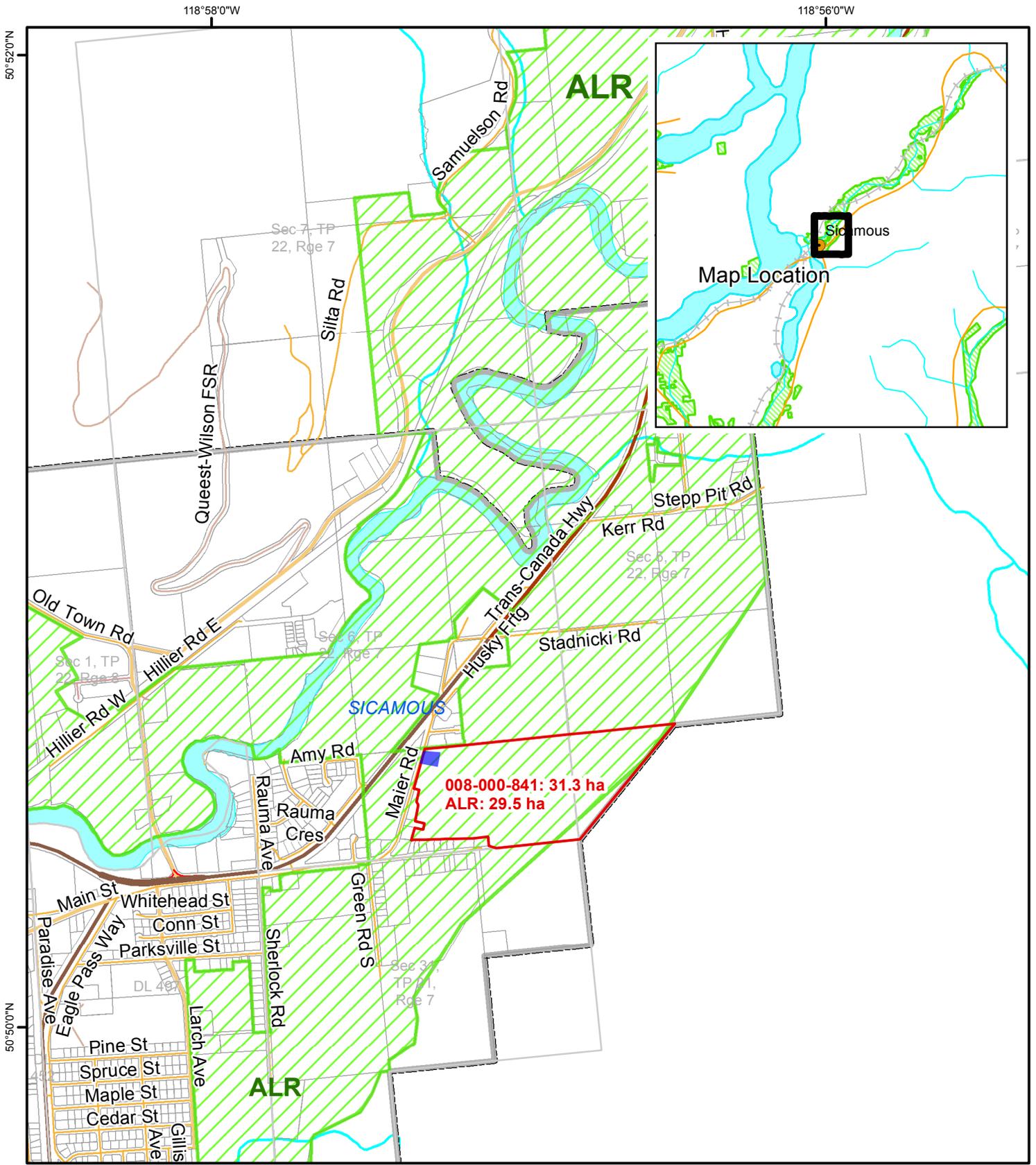
Gerald Zimmermann, Panel Chair, on behalf of the Okanagan Panel

END OF DOCUMENT

ALC Application #55121(Dewitts' Holsteins Ltd.)
Conditionally Approved Subdivision
ALC Resolution # XX/2016

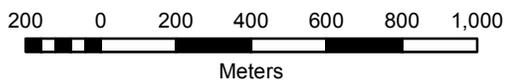


Note: All distances represented on the sketch are approximations only. Refer to the ALC Resolution for correct numbers.



ALR Context Map

Map Scale: 1:20,000



ALC File #:	55121
Mapsheet #:	82L.086
Map Produced:	August 24, 2016
Regional District:	Columbia-Shuswap