



**Agricultural Land Commission**  
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November 21, 2016

ALC File: 54876

Regional District of Nanaimo  
830 West Island Hwy.  
Parksville, BC V9P 2X4

Attention: Elaine McCulloch

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

Please find attached the Reasons for Decision of the Island (Resolution #396/2016) as it relates to the above noted application. A sketch plan depicting the decision is also attached. As agent, it is your responsibility to notify the applicant accordingly.

**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 Sara Huber at (sara.huber@gov.bc.ca).

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Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to be 'Sara Huber', written in a cursive style.

Sara Huber, Land Use Planner

Enclosure:   Reasons for Decision (Resolution #396//2016)  
                  Sketch Plans (2)

cc: Regional District of Nanaimo (File: PL2016-034)

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## **AGRICULTURAL LAND COMMISSION FILE 54876**

### **REASONS FOR DECISION OF THE ISLAND PANEL**

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

**Applicants:**

**Sucha Ollek  
Betty Hodgson  
(the “Applicants”)**

**Agent:**

**Elaine McCulloch  
(the “Agent”)**

**Application before the Island Regional Panel:**

**Jennifer Dyson, Panel Chair  
Honey Forbes  
Clarke Gourlay**



## **THE APPLICATION**

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

Parcel Identifier: 009-796-801

Section 12 Range 8 Cranberry District Except Parcel A (DD 6974N) and Except Part  
in Plan 31 RW

(the "Property")

[2] The Property is 37.8 ha in area (33.4 ha in ALR).

[3] The Property has the civic address 2070 Akenhead Road, Nanaimo, 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 Applicants are applying to subdivide the 39 ha Property into two fee simple lots and subsequently donate the undeveloped 20 ha eastern parcel (Lot 2) to the Regional District of Nanaimo as a Regional Park (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*:

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. Agricultural capability map, ALR context map and satellite imagery

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

[10] At its meeting of April 12, 2016, the Regional District of Nanaimo Board of Directors resolved:

*The ALC to only consider subdivision where in the opinion of the ALC the proposal will not negatively impact the agricultural use of the land or adjacent ALR lands.*

### **FINDINGS**

[11] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system. The improved agricultural capability ratings identified on BCLI map sheets 92G.001 and 92G.011 for the mapping units encompassing the ALR portion of the Property are Class 2, Class 3, Class 4, Class 5, Class 7, more specifically (8:5PT -2:7T; 4A, 3W, 2TD, 2A, and 7W). The eastern half

of the Property which is the area of the proposed 20 ha subdivision for park use is predominantly Class 2A.

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.

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 7 - land has no capability for soil bound agriculture.

The limiting subclasses associated with this parcel of land are P (stoniness), T (topographic limitations), A (soil moisture deficiency-modified), W (excess water), and D (undesirable soil structure).

[12] The western portion of the Property is actively farmed with 12.5 ha hayfields, a dwelling unit, a barn, and accessory buildings. The eastern 20 ha of the Property is primarily undeveloped. The Application notes that the Property is located in the floodplain of the Nanaimo River which the Application asserts precludes the eastern portion of the Property from being used for agriculture.

[13] Despite being located on a floodplain, The Panel finds that the Property has good agricultural capability based on the BCLI rating and, although not presently farmed, could support a wide range of crops.

[14] The Application states that the park is proposed at this location in order to secure a sensitive riparian habitat within the Nanaimo River watershed, to provide auxiliary access to a future pedestrian bridge over the Nanaimo River as part of the Morden Colliery Trail, and to provide opportunities for riverside and forest trail development. In addition, the Application states that it is not anticipated that the Property will require any major development or maintenance costs (roads or parking) as access to the proposed regional park would be from the Morden Colliery Provincial Park and Morden Colliery Regional Trail trailhead.

[15] Section 3(1)(f) and (g) of BC Regulation 210/2016 Agricultural Land Reserve Use, Subdivision, and Procedure Regulation (the "Regulation") allow for use of an open land park established by a local government or treaty first nation government for the purposes of biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes. While open land park purposes are a permitted non-farm use within the ALR, the Proposal is requesting subdivision in order to create a parcel on which to conduct park use. The Panel does not believe that the proposed park uses supersede the priority agricultural use of prime agricultural land.

[16] The Panel finds that there is no agricultural advantage to subdividing a capable agricultural parcel for primary park use, and further that the Property has greater agricultural utility as a large cohesive farm parcel.

## **DECISION**

[17] For the reasons given above, the Island Panel refuses the Proposal.

[18] The Island Panel; however, is amenable to subdivision of the Property south of the Morden Colliery Trail and along a 10 metre buffer to the west of the floodplain of the Nanaimo River. Two options for subdivision are attached to this decision. Should one of these options be pursued, the subdivision is subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the area to be subdivided per the drawing submitted with the Reasons for Decision;

- b. the subdivision be in substantial compliance with the plan provided as attachment to the Reasons for 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.

[19] These are the unanimous reasons of the Island Panel of the Agricultural Land Commission.

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

[21] This decision is recorded as Resolution #396/2016 and is released on November 21, 2016.

**CERTIFICATION OF DECISION**



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Jennifer Dyson, Panel Chair, on behalf of the Island Panel

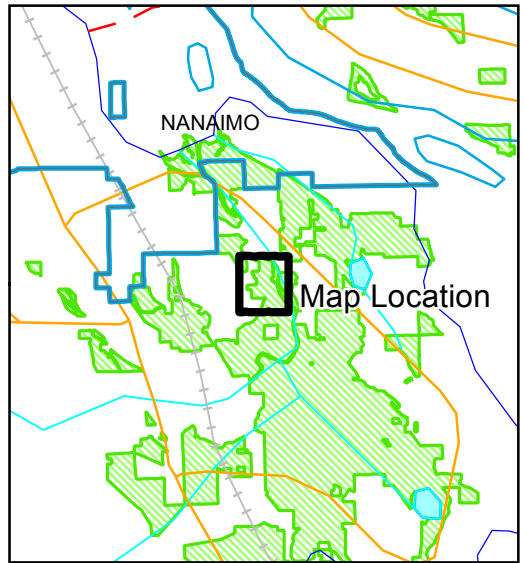
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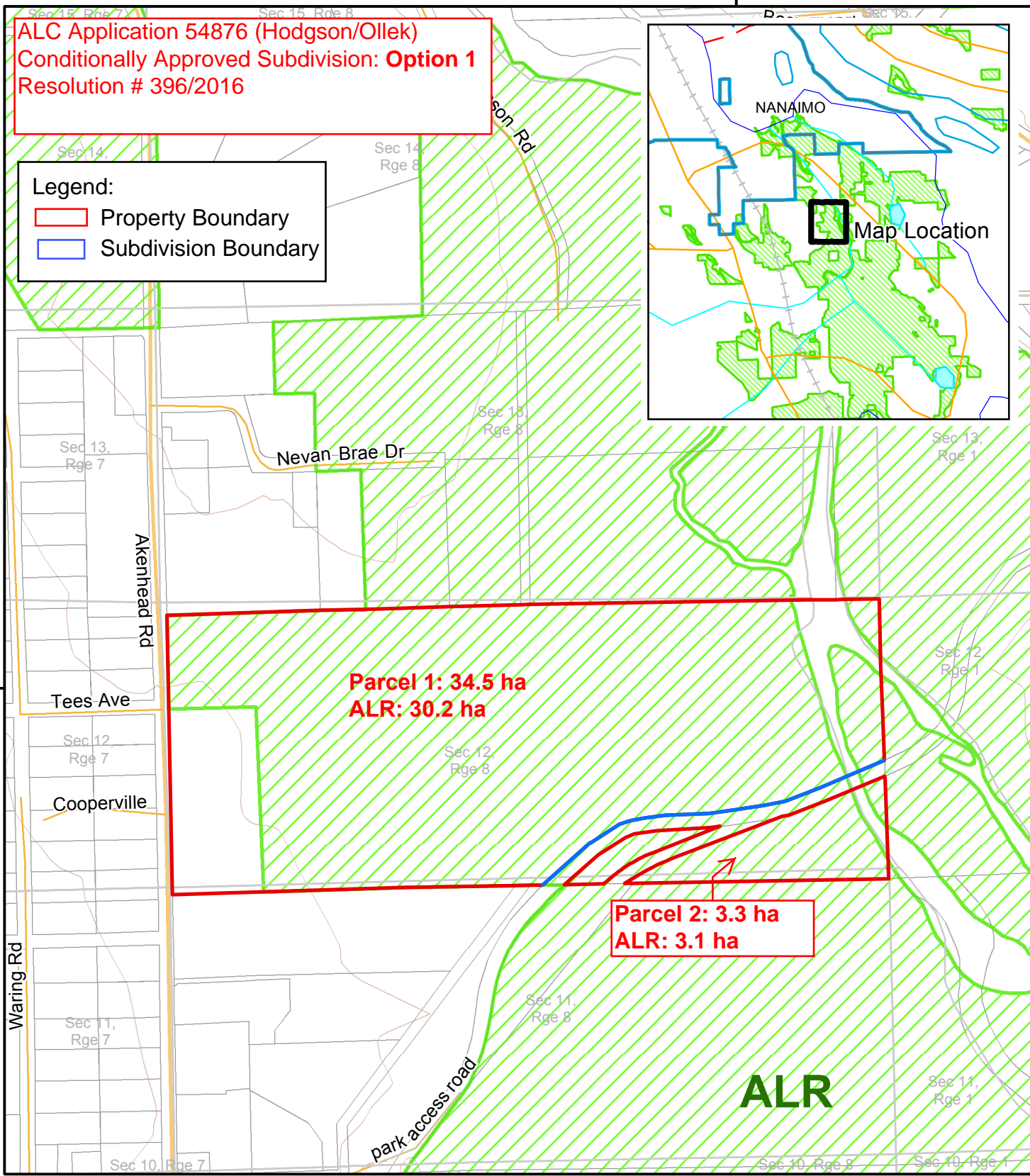
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**ALC Application 54876 (Hodgson/Ollek)**  
**Conditionally Approved Subdivision: Option 1**  
**Resolution # 396/2016**

**Legend:**  
[Red Line] Property Boundary  
[Blue Line] Subdivision Boundary

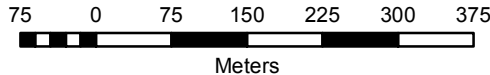


49°50'0"N



**ALR Context Map**

Map Scale: 1:7,500



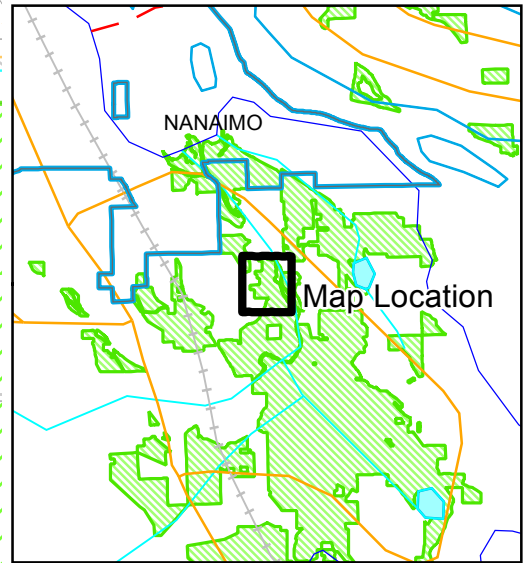
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| ALC File #:        | 54876             |
| Mapsheet #:        | 92G.001, 92G.011  |
| Map Produced:      | November 17, 2016 |
| Regional District: | Nanaimo           |

123°52'0"W

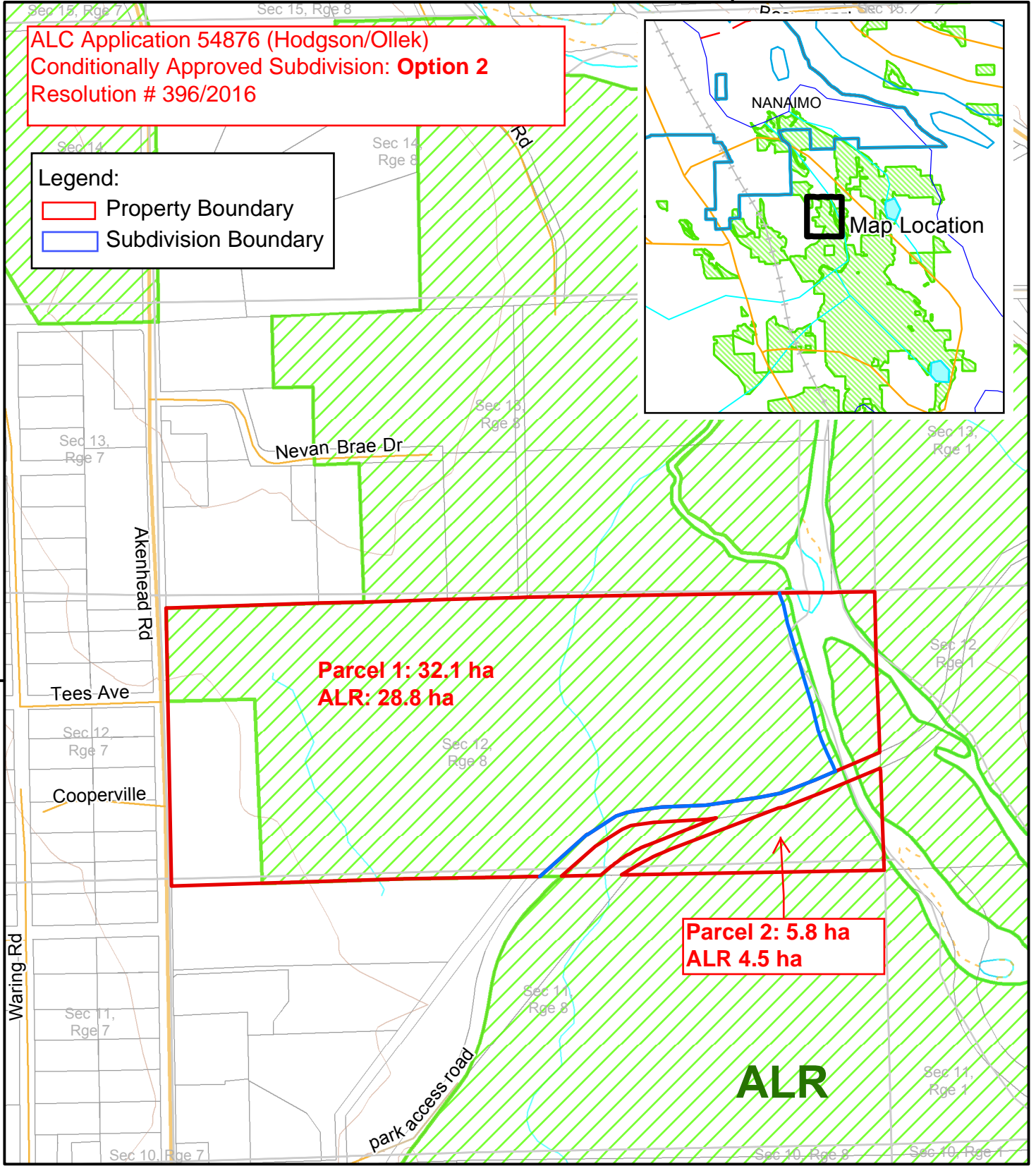
ALC Application 54876 (Hodgson/Ollek)  
Conditionally Approved Subdivision: **Option 2**  
Resolution # 396/2016

Legend:

- Property Boundary
- Subdivision Boundary

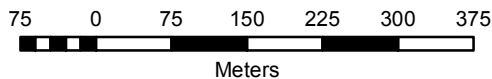


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### ALR Context Map

Map Scale: 1:7,500



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|--------------------|-------------------|
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