

To: Electoral Area Services Committee

Date: 2021-01-14

From: Julie Mundy, Planner 1

File No: 3015-20 2020-07

**Subject: Agricultural Land Commission application – Two lot subdivision at 37071 Lougheed Hwy, Electoral Area G**

## RECOMMENDATION

**THAT** the application for a two (2) lot subdivision within the Agricultural Land Reserve at 37071 Lougheed Hwy, Electoral Area G be forwarded to the Agricultural Land Commission for consideration.

## STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

## BACKGROUND

The property owners of 37071 Lougheed Hwy, Area G are seeking a two lot subdivision for the purpose of a homesite severance in the Agricultural Land Reserve (ALR). The Agricultural Land Commission (ALC) has forwarded the subdivision application to FVRD for review and comment.

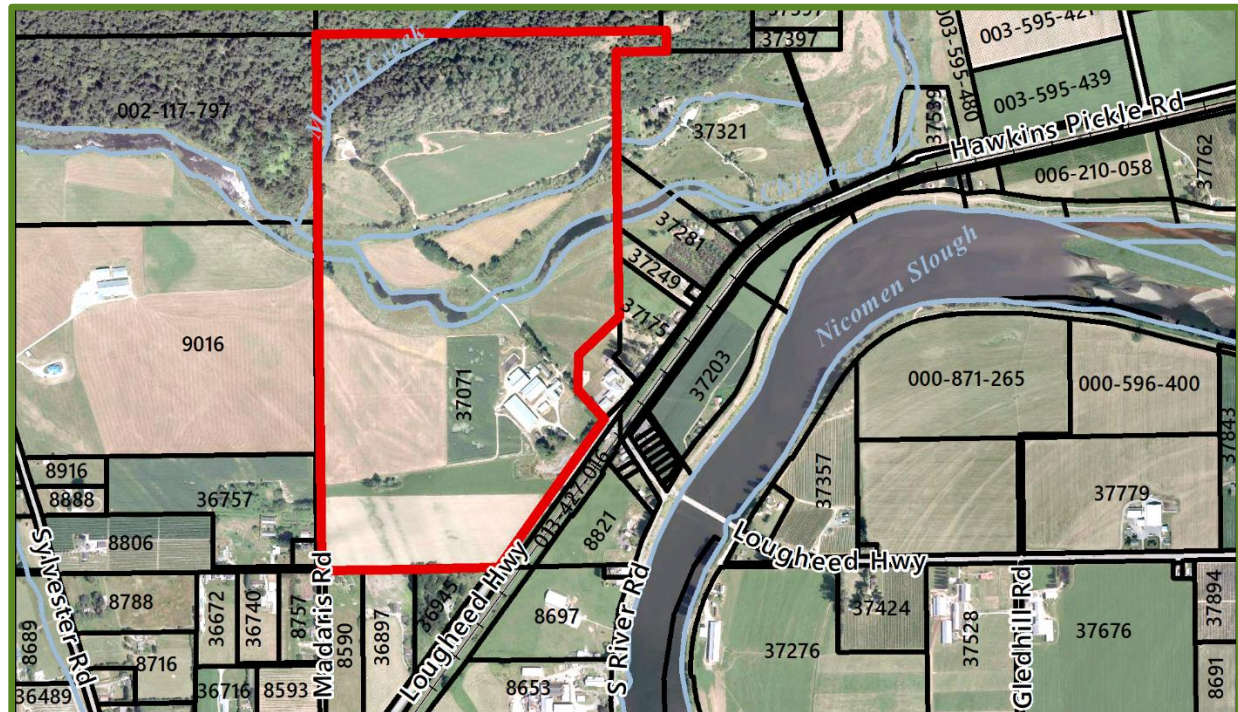
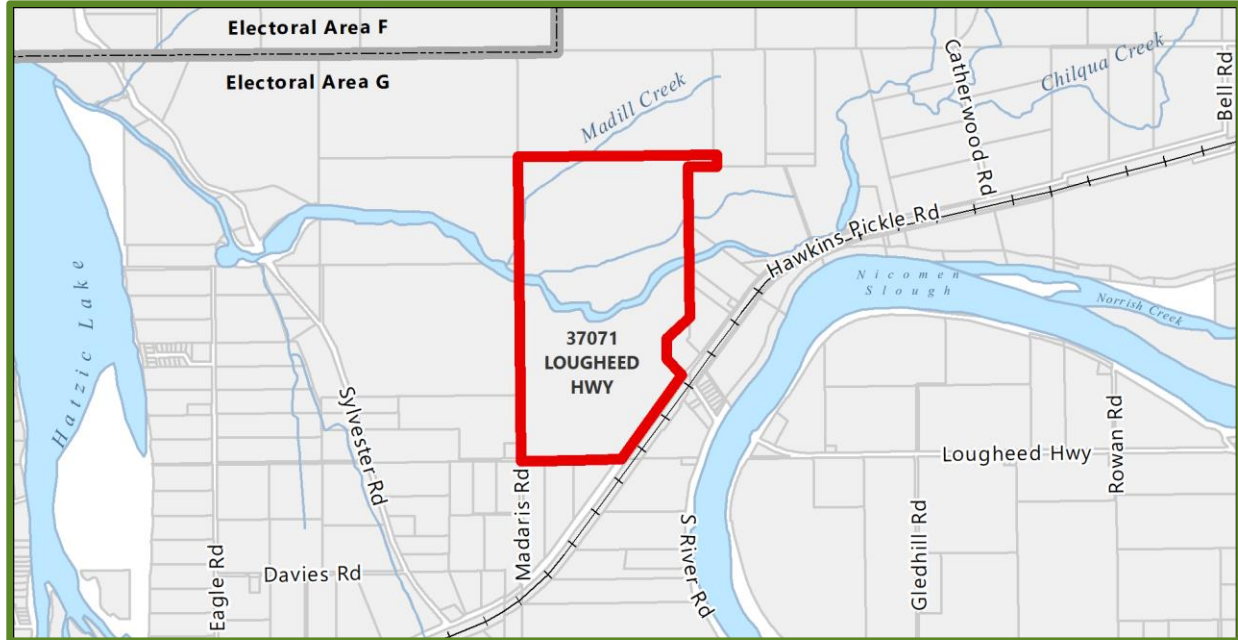
The applicant is proposing to subdivide a 3.5 ha parcel from the parent property (78.5 ha) in accordance with the ALC Homesite Severance Policy.

PROPERTY DETAILS			
<b>Electoral Area</b>	G		
<b>Address</b>	37071 Lougheed Hwy		
<b>PID</b>	013-426-982		
<b>Folio</b>	775.02610.000		
<b>Lot Size</b>	194 acres		
<b>Owner</b>	Norm & Patricia Vander Wyk	<b>Agent</b>	Colin Fry
<b>Current Zoning</b>	Floodplain Agriculture (A-2)	<b>Current OCP</b>	Agricultural (AG)
<b>Development Permit Areas</b>	1-G Geologic and Stream Hazard and 2-G Riparian Areas		
<b>Agricultural Land Reserve</b>	Yes		

### ADJACENT ZONING & LAND USES

North	^	Rural 3 (R-3) – Forest
East	>	Civic Assembly (P-1) – Dewdney elementary school Floodplain Agriculture (A-2) – Farm
West	<	Floodplain Agriculture (A-2) – Agricultural
South	v	Floodplain Agriculture (A-2) – Agricultural, Lougheed Hwy

### NEIGHBOURHOOD & PROPERTY MAPS



## DISCUSSION

### Property Description

The property is 78.5 hectares (194 acres) and is located in Dewdney near the Dewdney Bridge. The property is actively farmed as a dairy operation with approximately 300 cows. The majority of the property is harvested for forage (hay and corn) with several barns and bunker silos located at the front of the property near Lougheed Hwy. The property, classified as Dairy Farm Use by BC Assessment, is part of a larger farm unit which includes 4 other rented properties that are used for forage production.

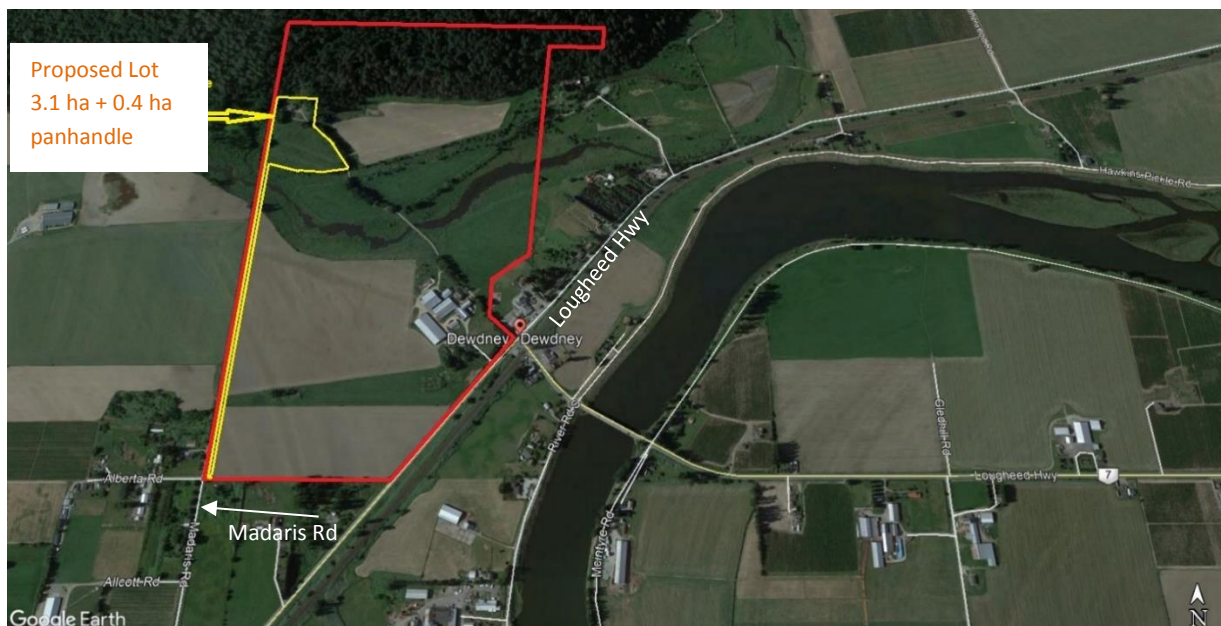
There are two residences and a mobile home for farm help on the property. One residence and the mobile home are located near the farm structures at the front of the lot. The other residence is located in the north-west corner of the lot, and was rebuilt in 2012.

There are several watercourses on the property. Chilqua Slough and an unnamed stream cross the property in an east-west direction, and Madill Creek runs behind a residence in the north western corner of the property. The northern part of the property rises into mountainous terrain. The property is also within the Fraser River Floodplain and the Norrish Creek Alluvial Fan hazard areas.

### Proposal

The applicants are proposing to subdivide a parcel of approximately 3.5 hectares from the parent property under the Agricultural Land Commission Homesite Severance policy. The lot would be accessed via panhandle from Madaris Road.

Property	Current Size	Proposed size – approx.
Main parcel	78.5 ha (194 acres)	75 ha (185.3 acres)
Proposed parcel	-	3.5 ha (8.6 acres)



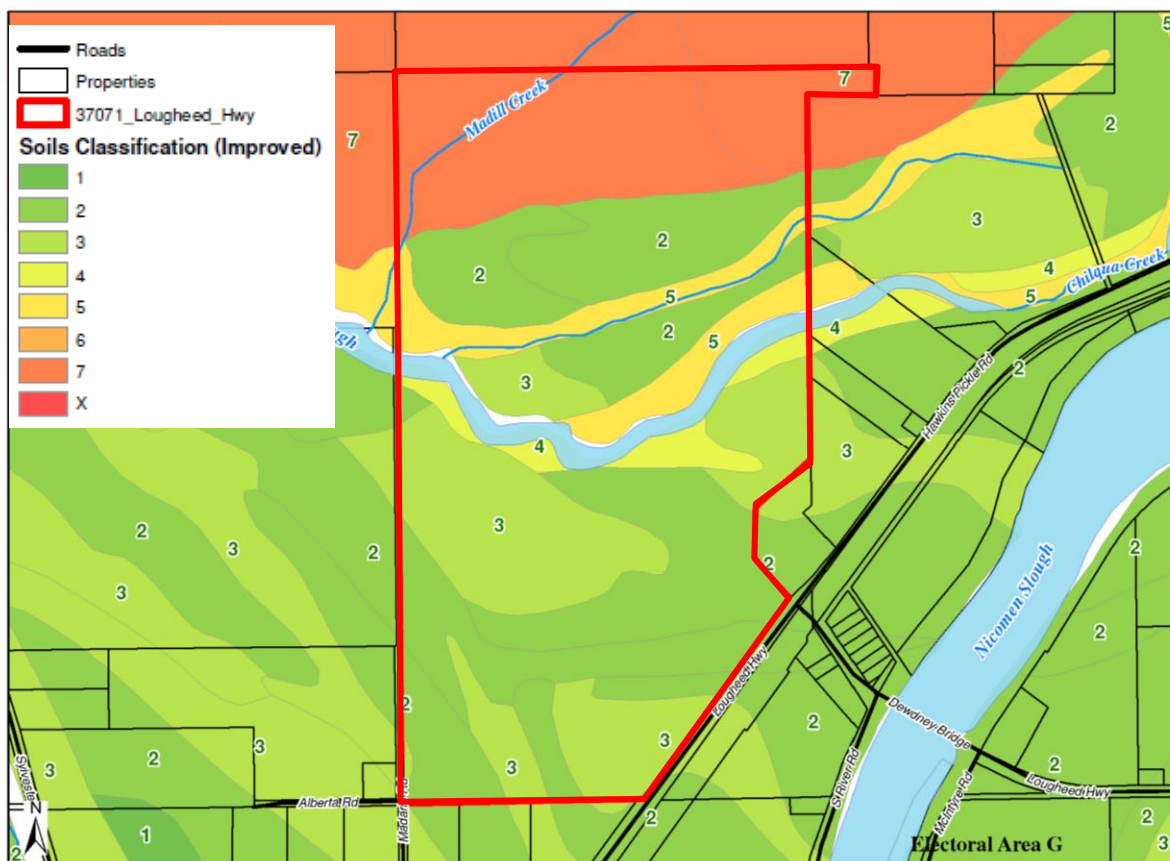


The applicants state the panhandle will provide technical access to a public road, but that there is no intent to actually create this access. Rather, the parcel would continue to be accessed from an existing driveway/ farm road with reciprocal easements registered over the panhandle access (in favour of the farm) and over the driveway (in favour of the severed parcel). Access requirements and challenges are further discussed in the Challenges and Subdivision sections.

### Agricultural Capability Classification

Lands within the Agricultural Land Reserve are classified according to their ability to produce a range of crops when considering climate and topography. Soils are classified on a scale of 1 through 7; Class 1 is applied to land that have the climate and soil to allow growth of the widest range of crops and Class 7 is applied to land considered non-arable, with no potential for soil bound agriculture.

Most of the property has an improved agricultural capability of classification of 2 and 3; these lands have the capability of producing a wide range of crops with moderate limitations. The northern portion of the property (outside the ALR) is mountainous and is mapped as Class 7 with no capability for arable or sustained natural grazing. The area of the proposed subdivision includes improved capability classes of 7, 5, and 2.



### ALC Homesite Severance

The ALC has an established policy for homesite severances. A key intent of the policy is to allow farmers who have continuously owned and occupied their properties since December 21, 1972 to retire on a portion of their lands severed from the larger parent parcel. There are seven guidelines that apply to homesite severance applications. The ALC policy states there is no right to a homesite severance, and that the ALC shall be the final arbiter as to whether a particular severance meets the guidelines, which include good land use criteria.

#### Ownership Requirements

The current property owner, Mr. Norman Vander Wyk, has resided on the property since 1965. The applicant has provided documentation showing Norman and Weibe Vander Wyk entered into a right to purchase agreement, which was registered to the property title in 1965. The applicant has also provided two letters of attestation stating Mr. Vander Wyk has lived on the property since 1965. The ALC will determine if the provided documentation meets their requirements for a homesite severance.

### Statutory Authority

Section 21 of the *Agricultural Land Commission Act* states that (1) "a person must not subdivide agricultural land unless permitted under this Act" and that (2) "an owner of agricultural land may apply to the commission to subdivide agricultural land". The application was submitted and is being processed in accordance with the *Agricultural Land Reserve General Regulation*.

## **FVRD Policies and Regulations**

### Zoning

The property is zoned Floodplain Agriculture (A-2) under '*Dewdney-Alouette Regional District Land Use and Subdivision Regulation Bylaw No. 559-1992*'. The minimum parcel size in the A-2 zone is 16 ha (39.5 acres). The proposed lot does not meet zoning requirements, however, Subdivision for a Relative applies to this application.

### Subdivision for a Relative

Section 514 of the *Local Government Act* (Subdivision for a Relative) includes provisions to allow smaller parcel sizes than would otherwise be permitted under a Zoning or OCP Bylaw.

Where a homesite severance application has been approved by the ALC, the ALC encourages local governments and approving officers to handle the application in the same manner as an application under Section 514 (Subdivision for a Relative) of the *Local Government Act*.

Requirements for this type of application come from both the *Local Government Act* and the *FVRD Subdivision for a Relative Bylaw* (0618, 2004), and include:

- The applicant must have owned the parcel for at least five years, and
- The application is for the purpose of providing a separate residence for the owner or other specified family member, and
- The remaining parcel must be greater than 2.0 ha after subdivision if the land is farm land, and
- The minimum parcel size that can be subdivided is 1 ha, and
- The minimum size of the parent parcel that may be subdivided is twice the minimum parcel size prescribed for the property in the zoning bylaw

Both the parent property and the proposed parcel would meet the minimum parcel size requirements under provincial legislation and the FVRD Subdivision for a Relative bylaw.

### Official Community Plan

The subject properties are designated Agricultural (AG) under *Fraser Valley Regional District Official Community Plan for Electoral Area G Bylaw No. 0866, 2008*.

Relevant Official Community Plan policies include:

*Policy 6.1.16 New parcels created by subdivision within the AGRICULTURAL Area Designation shall be configured to maximize agricultural suitability and minimize potential conflicts between farm and non-farm uses.*

The proposed parcel leaves the majority of the existing farm operation intact. The new parcel is large enough to support farm activity, especially if it were to lease land back to the parent property. A hedgerow currently buffers much of the proposed parcel from other farm activities. Direct access to the property through the panhandle will be important to reduce potential conflicts of new property owners driving through the exiting farm-

Additionally, the property is within Riparian Areas Development Permit Area 2-G for the protection of the natural environment, its ecosystems, and biological diversity. Per the DPA guidelines, a development permit must be obtained as part of the subdivision process.

It is anticipated that there may be challenges in constructing appropriate access over the existing watercourses.

### Subdivision Requirements

Should the applicant receive approval for the proposed subdivision from the ALC, a subsequent subdivision application is required to the Ministry of Transportation and Infrastructure (MOTI). This

application will be reviewed by FVRD to ensure FVRD policies and regulations are met. It is anticipated the following would be required:

- Geotechnical study demonstrating a safe building envelope for the new lot
- Riparian area protection assessment and associated Development Permit
- Assessment of environmental feasibility for the proposed access which crosses a watercourse
- Consideration of road dedication for legal access
- Confirmation of necessary servicing requirements.

Legal access to the site will need to be addressed if an MOTI subdivision application is made. For narrow panhandles, it is often considered best practice to rough in the access before subdivision is complete. This avoids the need to encroach on the parent property during construction at a later date. The proposed panhandle could potentially be combined with an existing, unconstructed 20 foot road allowance directly to the east of the property.

### Challenges

A key challenge to this proposal is site access. The proposed homesite severance area is located at the rear of the lot. While this location may minimize disruption to farm activities, it is generally difficult to access. The proposal to create an easement over an existing driveway/farm road for access is likely to work while Mr. Vander Wyk, or someone familiar with the farm resides on the proposed lot. However, this arrangement is unlikely to be desirable with new property owners. The existing driveway passes directly beside the main house and directly around the farm buildings at the front of the lot.

The panhandle access would alleviate concerns about the proposed easement, but may present environmental challenges. The existence of an unconstructed road allowance to the west of the panhandle lends support to the creation of a road or driveway in the proposed location. Before this access could be built, environmental approval under the *Riparian Areas Protection Regulation* and the *Water Sustainability Act* would be required. It is anticipated that environmental approvals to build across the watercourses may be costly or difficult to secure.

There is also the trade-off between the preservation of farmland, and the creation of direct site access via the panhandle.

### **COST**

The \$750 FVRD portion of the application fee has been paid. The applicant will pay the Agricultural Land Commission portion of the fee (\$750) if this application is forwarded to the Agricultural Land Commission.

### **CONCLUSION**

The ALC makes the final decision on applications that are forwarded to them. The role of FVRD is to review, provide comments, and decide if the application should continue forward for ALC review.

From the perspective of FVRD zoning, official community plan, subdivision for a relative, and subdivision policies, the proposed boundary adjustment could be considered. Staff recommend the application be forwarded to the Agricultural Land Commission for the following reasons:

- The ALC will assess the application based on the guidelines in the ALC Homesite Severance policy, including the required ownership and good land use criteria
- Additional technical reporting will be required to assess the feasibility of the proposal at the time of an MOTI subdivision application. It is preliminary for the applicant to undertake this work before having the ALC assess the proposal based on ALC criteria.

**Option 1 – Forward to the ALC (Staff Recommendation)**

MOTION: THAT the Fraser Valley Regional District Board forward the application for subdivision in the ALR to the Agricultural Land Commission.

**Option 2 – Forward to the ALC with Support**

MOTION: THAT the FVRD Board forward the application for subdivision in the ALR to the Agricultural Land Commission with support.

**Option 3 – Refuse**

MOTION: THAT the Fraser Valley Regional District Board decline to forward the application for subdivision in the ALR to the Agricultural Land Commission

**COMMENTS BY:**

**Graham Daneluz, Director of Planning & Development:** Reviewed and supported.

**Kelly Lownsbrough, Chief Financial Officer/ Director of Finance:** Reviewed and supported.

**Jennifer Kinneman, Chief Administrative Officer:** Reviewed and supported.