

# Memo

**File:** 3060-20/DP 11B 21

**DATE:** November 3, 2021

**TO:** Agricultural Advisory Planning Commission

**FROM:** Planning and Development Services

**RE:** Farm Land Protection Development Permit – 1228 Don Road (Potter-Cogan)  
Lot 10, District Lot 196, Comox District, Plan 13747, PID 004-630-505

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An application has been received to consider a Development Permit (DP) under the Farm Land Protection guidelines (Appendix A). The DP is required to enable the construction of new buildings within 30 metres of an agricultural property for the purposes of including conditions of development that will protect the integrity of agricultural uses on adjoining properties. The conditions of development may be related to fencing, screening, landscaping and the siting of the proposed building.

The subject property is located in the Don Road subdivision, created in 1960, which abuts agricultural lots to the north (Figures 1 and 2). The subject property is 0.74 hectares in area, 46 metres deep and is developed with two dwellings. The applicant intends to demolish one of the dwellings and construct a new carriage house in its place. The carriage house would be two-storeys in height with the upper floor finished as habitable floor space and the bottom floor reserved for accessory uses.

Regarding siting, the applicant is proposing a 19.5 metre setback from the farm land so that the same building footprint can be used, plus a 3.6 metre lean-to extension. Regarding the fencing, screening and landscaping, the applicant proposes a solid, 2 metre tall fence along the lot line supplemented by a single row of shrubs along a portion of the fence. The fence and shrubs were installed in 2020 (Figures 3 and 4). The purpose of the shrubs is to grow as hedges higher than the fence for additional screening. The purpose of limiting the line of shrubs to only the western side is the presence of Douglas fir trees on the agricultural side of the lot line which currently provide screening overtop the fence and would inhibit growth of most shrub types.

## Development Permit Guidelines

The objective of the Farm Land Protection DP is to provide an interface between farm use and non-farm development that mitigates land use conflicts (e.g. farm trespass, vandalism to crops and equipment, disturbance to farm animals, capture of some dust and spray drift, reduction of invasive species and litter, nuisance complaints, etc.). As a best practice, these DP guidelines recommend locating principal structures and accessory buildings at least 30 metres away from a common boundary with agricultural areas, with 15 metres being a vegetated buffer, including fencing, consistent with the Ministry of Agriculture's *Guide to Edge Planning* and the Agricultural Land Commission's landscaped buffer specifications.

Locating buildings in the non-Agricultural Land Reserve portion of this lot but within 30 metres of the neighbouring lots is what triggered this specific DP review. The DP guidelines consider the agricultural side to be a working landscape and recommend the vegetative buffer and screening be placed on the non-agricultural side during development. The specifications provide a variety of options regarding the type and height of fencing and vegetation to accommodate proposed development given the size, shape and use of the properties and buildings while achieving particular objectives.

#### Neighbouring Agricultural Properties

According to the Canada Land Inventory, both the subject property and the farm land have a soil rating of 2A(80%):3DW(20%) (Figure 5). Class 2 soils have moderate limitations that restrict the range of crops or require moderate conservation practices. Class 3 soils have moderately severe limitations that restrict the range of crops or require special conservation practices. The sub-classes A denotes a limitation due to a soil moisture deficiency caused by low soil water holding capacity or insufficient precipitation; sub-class D refers to an undesirable soils structure and/or low permeability and W to excess water.

Sincerely,

***T. Trieu***

Ton Trieu, RPP, MCIP  
Manager of Planning Services  
Planning and Development Services

/jm

Attachments Appendix A – Farm Land Protection Development Permit Area Guidelines  
Appendix B – Letter from applicant, site plan, photos

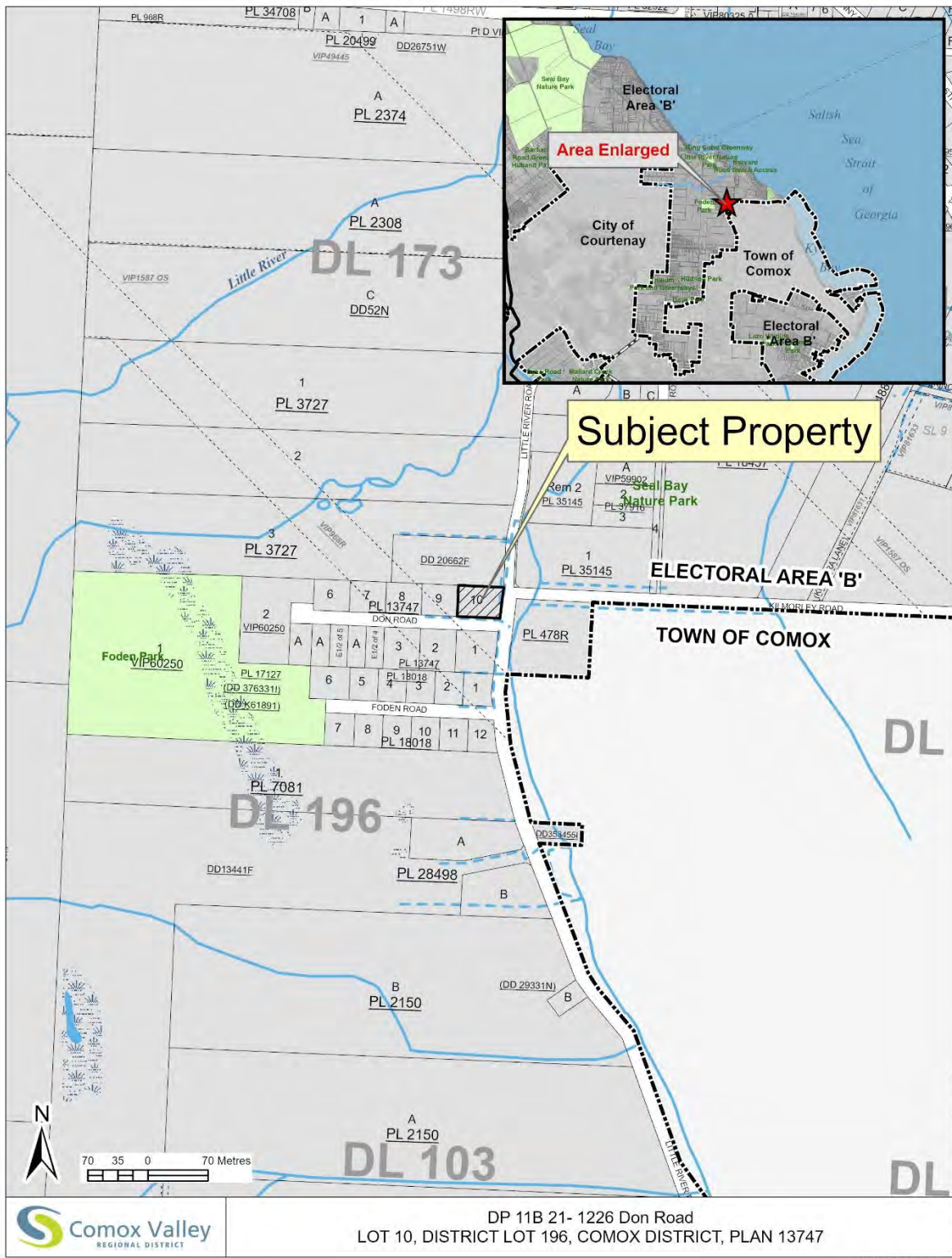


Figure 1: Subject Property



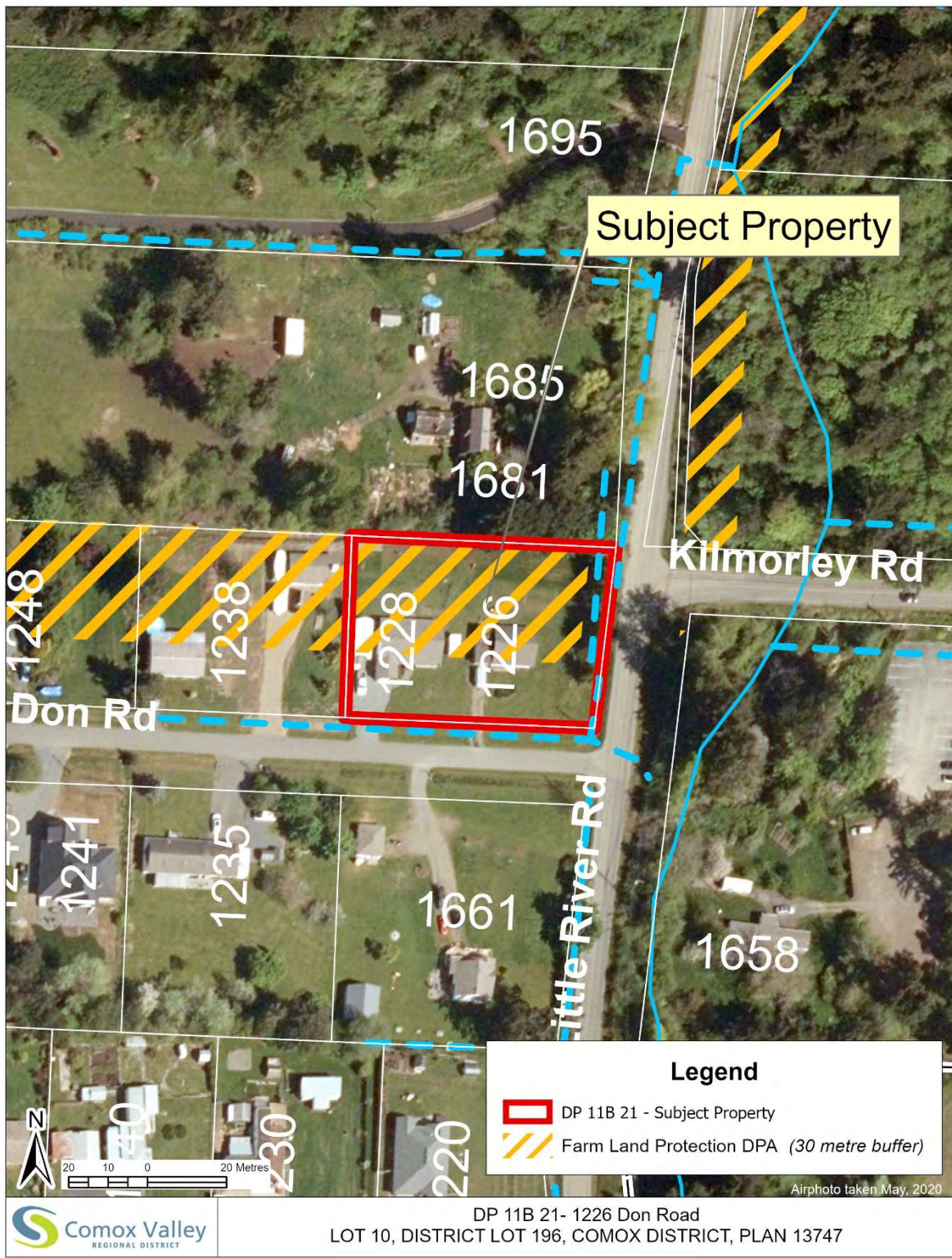


Figure 2: Air Photo with the Farm Land Protection Development Permit Area





**Figure 3: Rear Fence Between the House Being Replaced (1226 Don Road) and the Agricultural Property Behind**



**Figure 4: Rear Fence and Line of Portuguese Laurel Shrubs Between the House Not Being Replaced (1228 Don Road) and the Agricultural Property Behind**



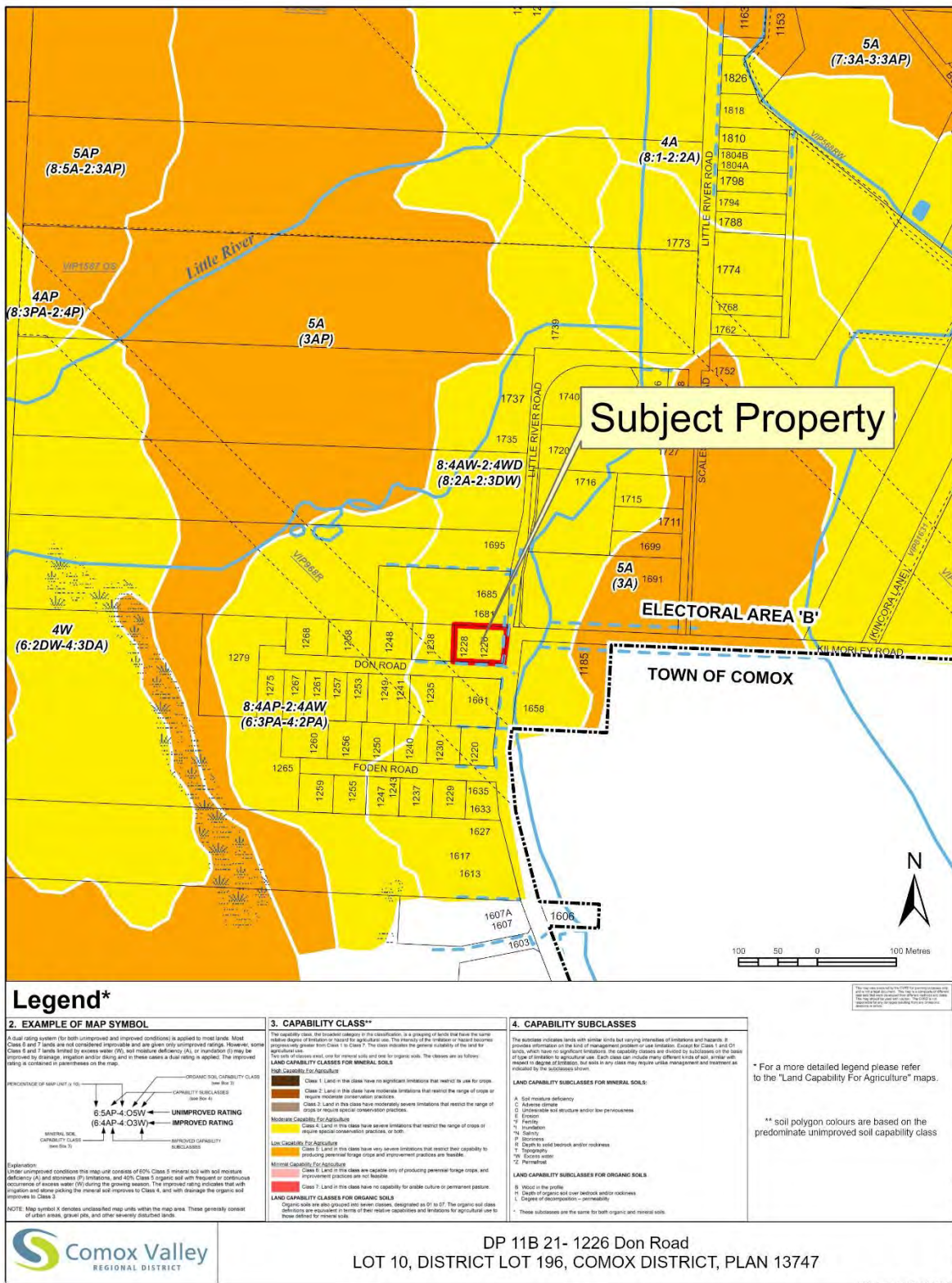


Figure 5. Canada Land Inventory - Soil

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### *Farm land protection development permit area permit areas*

#### 86. *Justification*

To protect farm land designated agricultural area or agricultural land reserve located in neighbouring jurisdictions by mitigating conflict between agriculture and aquaculture industries and adjacent land uses.

Land use conflicts may develop between lands designated agricultural area or an ALR and adjacent land uses. These conflicts may compromise the use of the land for agriculture and aquaculture industries. The incorporation of a 30 metre wide buffer between non-agricultural lands and lands used for food production will protect the food production value of the latter.

#### *Areas*

The farmland protection area buffer development permit area is designated as a 30 metre buffer from land designated agricultural area or agricultural land reserve lands on lands within the settlement node, settlement expansion areas, rural settlement area land use designations.

The development permit applies to land within the 30 metre development permit area described above subject to:

- (1) new lots created through subdivision; or
- (2) development of the subject lots.

#### *Exemptions*

In the case of a proposed subdivision, the exemption applies to the following situations within the 30 metre wide development permit area:

- (1) Lot line adjustments or where subdivision does not result in the ability to construct a new dwelling unit.
- (2) Where the land subject to a subdivision proposal is not forming a common boundary with designated agricultural area or an agricultural land reserve, but is separated with a dedicated road right of way of at least 20 metre wide.

#### *Guidelines*

Development permits shall be issued in accordance with the following guidelines.

#### *Buffer*

- (a) Include an assessment of the site to substantiate the need for a buffer and provide design measures that are most appropriate for the site – consider the type and intensity of the proposed adjacent land use and its relationship to agriculture and aquaculture industries.
- (b) The vegetated buffer shall be delineated prior to commencing construction or land alteration.
- (c) A buffer must be maintained and/or established on land within the development permit area parallel to and/or along the common boundary of the adjacent land designated agricultural area or agricultural land reserve.
- (d) Subject to the exemption clause, a total minimum separation distance of 30 metres (of which 15 metres is a vegetative buffer) between a residential dwelling unit and adjacent land designated agricultural area, or agricultural land reserve is required to mitigate the impacts of residential on farming activities. The 30 metre separation distance may include a road or railway line right of way.
- (e) Locate principal structures, accessory buildings and wells a minimum of 30 metres from the common boundary of the land designated agricultural area or agricultural land reserve. If the size of the property cannot accommodate this distance, principal structures and wells shall be a minimum of 50 per cent of the property depth back from the common boundary with land designated agricultural area or agricultural land reserve.
- (f) Notwithstanding the guidelines E.6(a) to E.6(d) above, when a buffer is required in this development permit area, the applicant must provide and maintain a continuous minimum 15 metre wide vegetated buffer between any development and the land designated agricultural area or ALR. No buildings, structures or wells shall be allowed within this 15 metre buffer area.
- (g) If paths and/or passive recreational uses are part of the landscaped buffer, the recreational features will not take up more than five metres of the buffer and they will be located away from the common boundary with land designated agricultural area or agricultural land reserve.
- (h) For the purpose of providing additional separation from the land designated agricultural area or agricultural land reserve and reducing potential conflicts, consider locating an open space next to the edge of the landscape buffer. The open space can be designed with water retention capacity and adequate rain water drainage features.
- (i) All buffer areas shall be generally designed and sized in accordance with section 10 - urban side buffer design criteria of the [Ministry of Agriculture and Lands Guide to Edge Planning: Promoting Compatibility Along Urban-Agricultural Edges \(June 2009\)](#).
- (j) Plant layout, spacing, and support shall be generally in accordance with the B.C. Agricultural Land Commission’s report [Landscaped Buffer Specifications](#) (1993) and the [Ministry of Agriculture and Lands Guide to Edge Planning: Promoting Compatibility Along Urban-Agricultural Edges \(June 2009\)](#).



- (k) To create a filtered view of agriculture and aquaculture practices on the land designated agricultural area and/or agricultural land reserve from the development permit area, preserve existing and supplement vegetation that meets the British Columbia landscape standard published by the BC Landscape Architects Society/BC Landscape and Nursery Association as amended from time to time.

*Buffer maintenance*

A buffer maintenance plan shall be developed and will include the following: maintenance procedures for all buffer plantings on a regular basis during the first two growing years including a weed management schedule or plan.

*Fencing*

Barrier fencing, designed to limit encroachment into agricultural land reserve lands by materials and pets, must be constructed in accordance with appendix C of the [Ministry of Agriculture and Lands Guide to Edge Planning: Promoting Compatibility Along Urban-Agricultural Edges \(June 2009\)](#).

*Subdivision layout*

- (a) Subdivision design must minimize potential negative impacts that may occur between farm and non-farm land uses. Avoid road endings or road frontage next to land designated agricultural area or agricultural land reserve except as may be necessary for access by farm vehicles.
- (b) Subdivision design and construction will minimize erosion through consideration of topography that will not result in neighbouring properties becoming the catchment area for additional runoff from roads and driveways.

Section 87 removed for ease of reading

August 26, 2021

RE: Development Permit 1226/1228 Don Road bordering ALR

To whom it may concern,

1228 & 1226 Don Road are two dwellings on a single 0.74ac lot. Currently 1228 is our primary residence while 1226 is a secondary dwelling. 1226 was a rental house prior to our ownership of the property and has since remained vacant for the past 4 years.

The main purpose of this Development Permit application is to facilitate the removal of 1226 from the property and build a carriage house for our personal use. Currently 1226 is uninhabitable and deteriorating. This dwelling is awaiting removal from our property.

Due to the following we are unable to re-build without entering the 30 meter buffer:

- The property is 46.2 meters deep
- 7.5 meter setback required in front yard
- Septic field location
- No access from Little River Road
- Riparian zone to the East

We intend to utilize 1226's existing foundation which was inspected and validated by a professional structural engineer as suitable for the carriage house development. We would also extend the west wall 0.76 meters.

In addition to the minor expansion of the foundation footprint to the West the following roofline changes are proposed:

1. A 3.66 meter Lean-To structure on the North side of building which will consist of 4 columns. The columns for this structure will be 19.5 meters from the rear lot line.
2. 3.66 meter extension of the roof line to the East which will consist of 4 columns supporting a covered open deck for and access/egress into the second floor dwelling.

After reviewing the guidelines for ALR buffer zones I am hopeful the measures completed will prove to be adequate. Measures of screening already completed:

- The entire North property line bordering the ALR property has a solid 7' fence which was completed in 2019. The fence consists of 5x5 cedar posts 9ft on center and corrugated steel paneling fixed to 3 cross members. The entire West property line in the rear yard has the same fencing completed in 2020 as well as a portion of the East rear lot line where our existing cedars do not provide sufficient screening.
- Portuguese Laurels have been planted along the North fence line on 3ft centers in 2020. These have been planted as an additional taller screening to the fence. We are unable to plant tree screening on the Eastern half of the rear lot line due to crowded Douglas Firs which are 2-4ft into the neighboring ALR property. As can be seen in the pictures provided the canopy of the Douglas Firs inhibit any potential for screening underneath them.
- Excelsa cedars have been planted in the NE corner along the rear lot line where able
- Additionally Portuguese laurels have been planted 3 ft on center along the west property line providing further screening from the ALR property.

The portion of the 2.91ac ALR property which is adjacent to our existing & proposed dwelling has not been utilized as farmland to date during our ownership of 1226 Don Road. There are animals on the western section of the property however this seems seasonal and inconsistent. They do not occupy any portion adjacent to our property line as it is utilized for the purpose of a residence and as a residential yard.

The design of our proposed carriage house is such that the residence will primarily utilize the East side of our property. The dwelling entry will be on the East end via the covered deck and the parking area will be on the south side where the existing driveway is.

Numerous pictures have been attached to help further depict our intentions and clarify the usage of our property. If there are any concerns please ask.

Regards,

Alex Potter-Cogan

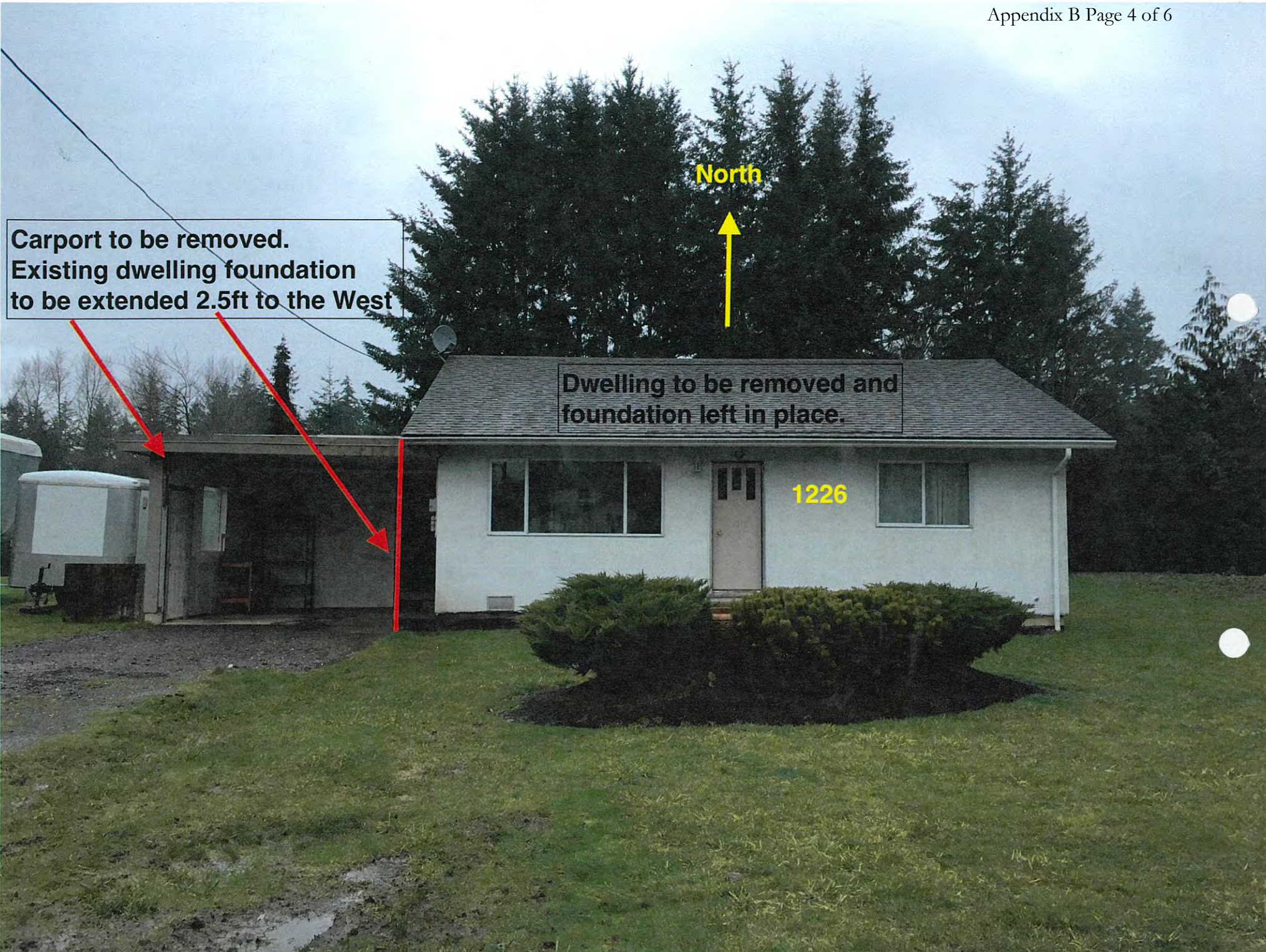


### Site Plan / Landscape Plan



- 1: Portuguese Laurels (24) spaced 3 ft apart along North fence line. Planted April 2020. See image 4 & 6
- 2: Portuguese Laurels spaced 3ft apart along fence line. Planted April 2021.
- 3: Neighbouring (ALR) property has 18 Douglas Firs which are closely spaced approx. 80-100ft tall and 2-4 ft off the property line. See image # 5 & 6.
- 4: Existing 7' Solid fence on entire North property line. See image # 4,5,6
- 5: Existing 6'6" Solid fence along West lot line in Rear yard.
- 6: Existing 6'6" Solid fence from NE corner approx. 30ft along East lot line.
- 7: Septic Field
- 8: Row of Western Red Cedars approx. 40ft tall
- 9: Covered lean-to will extend 12ft off existing foundation to the North
- 10: Covered deck will extend 12ft off existing foundation to the East
- 11: Footprint of dwelling will extend 2.5ft to the West of existing foundation. (Carport will be removed)
- 12: 1226 Existing foundation to be utilized for carriage house once existing dwelling is removed.
- 13: Existing secondary driveway to remain in place





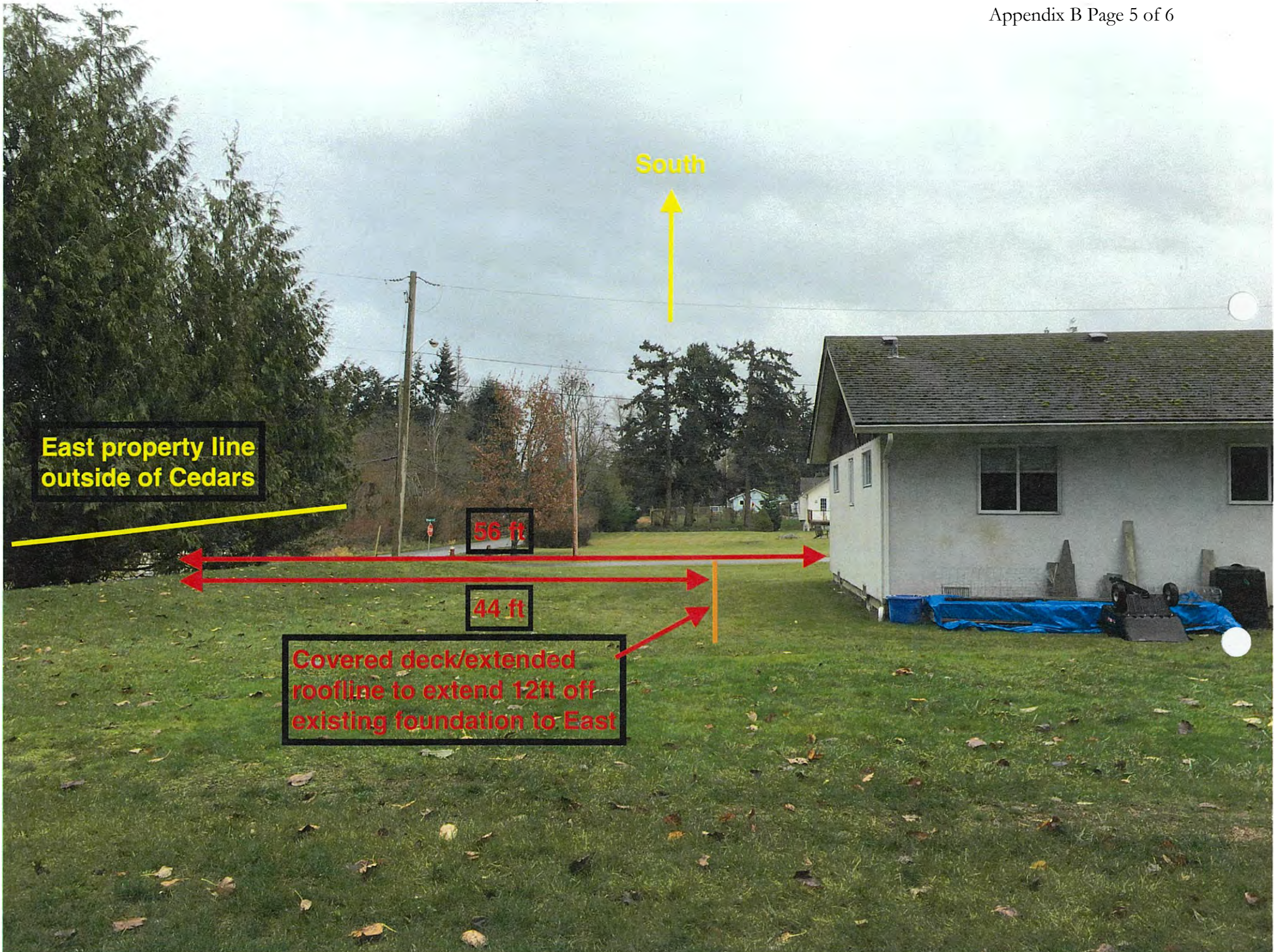
**Carport to be removed.  
Existing dwelling foundation  
to be extended 2.5ft to the West**

**North**

**Dwelling to be removed and  
foundation left in place.**

**1226**





South

East property line  
outside of Cedars

56 ft

44 ft

Covered deck/extended  
roofline to extend 12ft off  
existing foundation to East



West

76 ft existing foundation  
to rear lot line

64 ft from Lean-To structure  
to rear lot line

Lean-To structure edge  
(Roof only with 3 open sides)

