

Memo

File: 3110-20/ALR 1C 20

DATE: July 8, 2020

TO: Agricultural Advisory Planning Commission

FROM: Planning and Development Services Branch

RE: Subdivision within the Agricultural Land Reserve
7985 Island Highway North (Peeters)
Lot A, Block 29, Comox District, Plan VIP61660, PID 023-153-776

The subject property is an 18.7 hectare lot in Puntledge – Black Creek Electoral Area (Electoral Area C), and is in the Agricultural Land Reserve (ALR) (Figures 1 and 2). The subject property is severed by Poyart Creek, which is designated to be returned to Crown. According to the applicant, the eastern portion is accessed by Island Highway, and the western portion is accessed by Endall Road as well as a bridge across Poyart Creek. The entire property is used for hay production. In 2019, the eastern portion produced 23.5 metric tonnes of hay, and the western portion produced 39.0 metric tonnes of hay.

With respect to existing structures, there are three garages, three barns and a single detached dwelling on the western portion (Figures 3 and 4). These structures are clustered near the driveway off from Island Highway.

The applicant proposes to subdivide the property into two lots, whereby the proposed lot line is west of Poyart Creek. Both of the proposed lots are 9.35 hectares in area (Figures 3 and 4). The proposed lot line is west of the wetland around Poyart Creek, so that the wetlands on both sides of Poyart Creek remain as one piece for the eastern portion.

According to the applicant, the existing bridge is often wet or flooded, which restricts access. There is limited opportunity to manage water due to environmental protection around Poyart Creek, which is a tributary to Black Creek. With increased storm events, access to the western portion gets more challenging over time. Therefore, the purpose of subdivision is to keep the agricultural potential for the eastern portion at its current state and increase the agricultural potential for the western portion. As a separate property, another owner can look after the western portion independently. (Appendix A is a copy of the ALR application, which includes more of applicant's reasons for this subdivision proposal.)

Agricultural Land Reserve Analysis

Section 21(2) of the *Agricultural Land Commission Act* allows an owner of property within the ALR to apply to the Agricultural Land Commission (ALC) to subdivide that property. However, Section 25(3) requires that such an application first be authorized by the local government to proceed to the

ALC. The proposed subdivision would result in the eastern property having existing buildings and agricultural activities and the western property having agricultural activities.

Regional Growth Strategy Analysis

Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” (RGS) designates the subject property within Agricultural Areas, which were established using ALR boundaries. The main objective of this designation is to protect agricultural land and expand agricultural activities for local food security. It is the intent of the RGS to reinforce the policies and procedures within the ALR in order to support agricultural practices.

Official Community Plan

Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP) designates the subject property within Agricultural Areas. Section 58(1) states, “*Discourage subdivision of land in the ALR for residential use, other than an ALC approved home site severance.*” The proposed two-lot subdivision would create a new lot, which will have an opportunity to have residential use. The proposed subdivision will increase residential density in agricultural lands.

Section 58(8) states, “*Discourage subdivision of land in agricultural areas to preserve contiguous areas of agricultural land,*” and Section 58(9) states, “*Encourage consolidation of smaller parcels of agricultural land into larger, more viable agricultural lots.*” The proposed subdivision would fragment farmland with the creation of a new lot.

Section 58(12) states, “*Require an applicant proposing to subdivide land in the agricultural area to demonstrate how the proposal will benefit the agriculture and aquaculture industries.*” According to the applicant, due to seasonal flooding, access to the western portion is limited. Further, there is no clear line of sight to this portion from the eastern portion, where the residential use currently exists. Therefore, the agricultural potential of the western portion is affected because storage of machinery, equipment, and buildings are at risk for theft and damage. In addition, no livestock can be kept on the western portion, as the owners cannot keep a close eye on the animals. If the bridge is flooded out, getting to the western portion would require a 1.9 kilometre drive southward along Old Island Highway and westward along Endall Road. The proposed lot area of 9.35 hectares for the western portion would discourage hobby farming.

Zoning Bylaw

The property is zoned Rural-ALR (RU-ALR) (Appendix B). The proposed lots meet the minimum 8.0 hectare lot area requirement in the RU-ALR zone. Section 501(1)(iii) of the Zoning Bylaw, Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”, states that the minimum lot frontage shall be 10 per cent of the perimeter of the lot. Both of the proposed lots do not meet this minimum lot frontage requirement, and would require a variance at the subdivision stage.

Soil Class Analysis

Figure 5 shows the unimproved and improved soil classifications pursuant to the Canada Land Inventory. Schedule A is a table that summarizes these classifications. In summary, the subject property has eight areas with different soil classes, ranging from Class 2 to 7. Some areas have deficient soil moisture, while some have excess groundwater. Some areas feature stoniness and undesirable soil structure.

Sincerely,

T. Trieu

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

/bc

Attachments: Schedule A – “Table 1: Soil Classifications of the Subject Property”

Appendix A – “ALR Application”
Appendix B – “Rural ALR Zone”

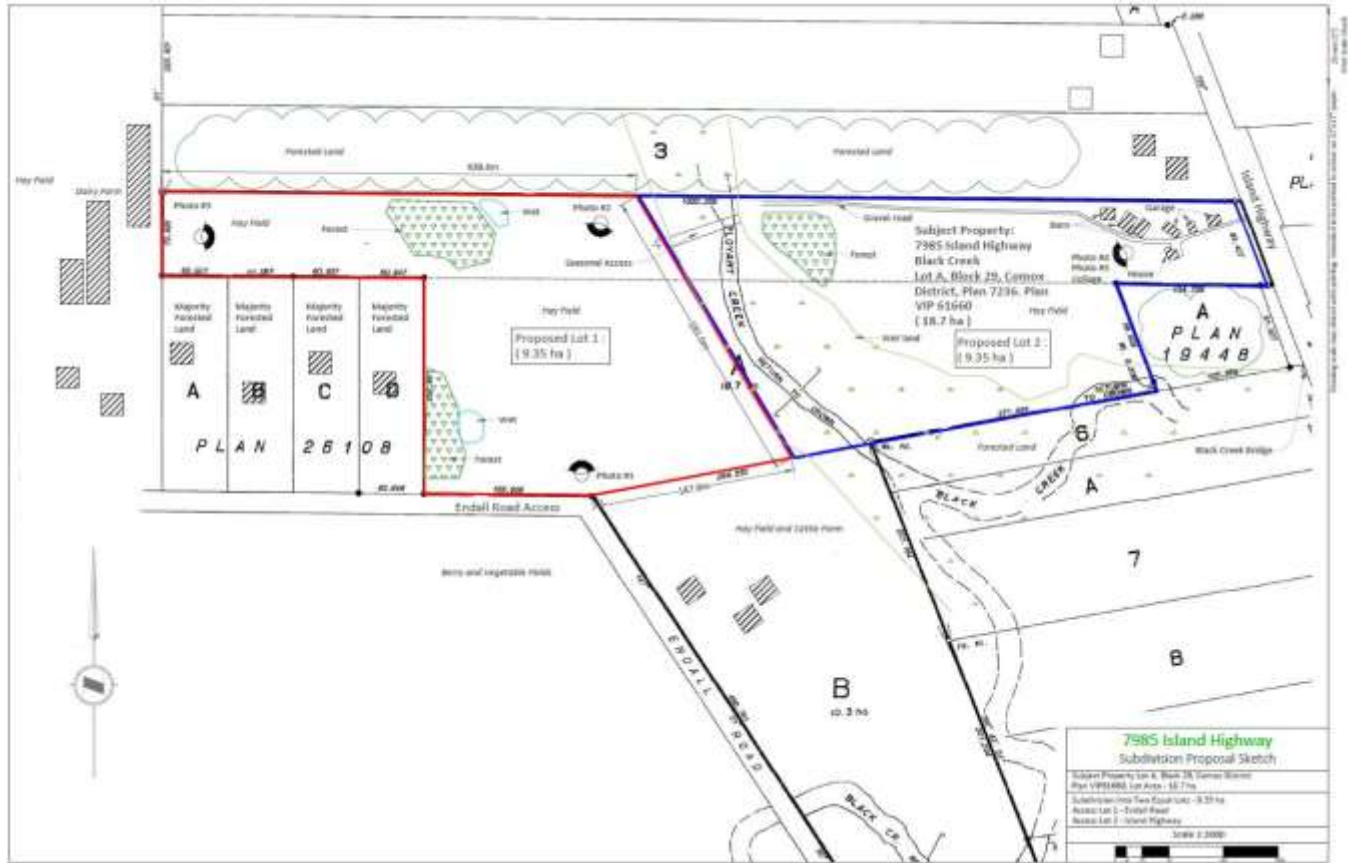


Figure 3: Proposed Subdivision Plan



Figure 4: Proposed Subdivision Plan on Air Photo

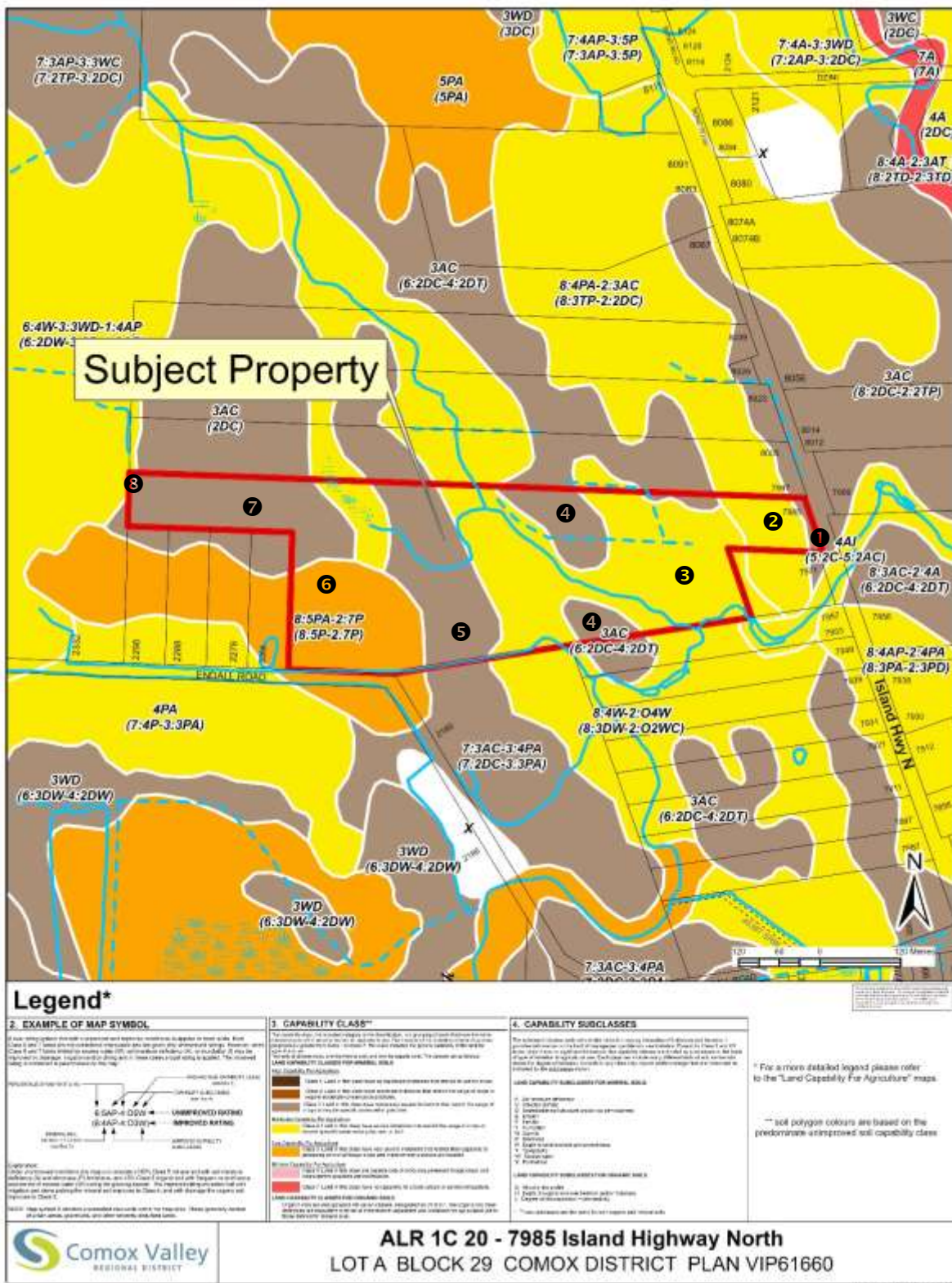


Figure 5: Soil Classification Map

Schedule A

Table 1: Soil Classifications of the Subject Property

Area	Unimproved Soil Classification	Improved Soil Classification
1	<p>3AC</p> <p>100% of Class 3 AC: soil moisture deficiency and adverse climate (excluding precipitation)</p>	<p>8:2DC-2:2TP</p> <p>80% of Class 2 DC: undesirable soil structure and adverse climate (excluding precipitation)</p> <p>20% of Class 2 TP: topography and stoniness</p>
2	<p>8:4PA-2:3AC</p> <p>80% of Class 4 PA: stoniness and soil moisture deficiency</p> <p>20% of Class 2 AC: soil moisture deficiency and adverse climate (excluding precipitation)</p>	<p>8:3TP-2:2DC</p> <p>80% of Class 3 TP: topography and stoniness</p> <p>20% of Class 2 DC: undesirable soil structure and adverse climate (excluding precipitation)</p>
3	<p>8:4W-2:O4W</p> <p>80% of Class 4 W: excess water (groundwater)</p> <p>20% of Organic Class 4 W: excess water (groundwater)</p>	<p>8:3DW-2:O2WC</p> <p>80% of Class 3 DW: undesirable soil structure and excess water (groundwater)</p> <p>20% of Organic Class 2 WC: excess water (groundwater) and adverse climate (excluding precipitation)</p>
4	<p>3AC</p> <p>100% of Class 3 AC: soil moisture deficiency and adverse climate (excluding precipitation)</p>	<p>6:2DC-4:2DT</p> <p>60% of Class 2 DC: undesirable soil structure and adverse climate (excluding precipitation)</p> <p>40% of Class 2 DT: undesirable soil structure and topography</p>
5	<p>7:3AC-3:4PA</p> <p>70% of Class 3 AC: soil moisture deficiency and adverse climate (excluding precipitation)</p>	<p>7:2DC-3:3PA</p> <p>70% of Class 2 DC: undesirable soil structure and adverse climate (excluding precipitation)</p>

	30% of Class 4 PA: stoniness and soil moisture deficiency	30% of Class 3 PA: stoniness and soil moisture deficiency
6	8:5PA-2:7P 80% of Class 5 PA: stoniness and soil moisture deficiency 20% of Class 7 P: stoniness	8:5P-2:7P 80% of Class 5 P: stoniness 20% of Class 7 P: stoniness
7	3AC 100% of Class 3 AC: soil moisture deficiency and adverse climate (excluding precipitation)	2DC 100% of Class 2 DC: undesirable soil structure and adverse climate (excluding precipitation)
8	6:4W-3:3WD-1:4AP 60% of Class 4 W: excess water (groundwater) 30% of Class 3 WD: excess water (groundwater) and undesirable soil structure 10% of Class 4 AP: soil moisture deficiency and stoniness	6:2DW-3:2D-1:3AP 60% of Class 2 DW: undesirable soil structure and excess water (groundwater) 30% of Class 2 D: undesirable soil structure 10% of Class 3 AP: soil moisture deficiency and stoniness

Class 1 to 7 Descriptions:

Class 1 has no or only very slight limitations that restrict its use for the production of common agricultural crops.

Class 2 has minor limitations that require good ongoing management practises or slightly restrict the range of crops, or both.

Class 3 has limitations that require moderately intensive management practises or moderately restrict the range of crops, or both.

Class 4 has limitations that require special management practises or severely restrict the range of crops, or both

Class 5 has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Class 6 is nonarable but is capable of producing native and or uncultivated perennial forage crops.

Class 7 has no capability for arable or sustained natural grazing.

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 60057

Application Status: Under LG Review

Applicant: Gerard Peeters , Marilyn Peeters

Agent: Amy Peeters

Local Government: Comox Valley Regional District

Local Government Date of Receipt: 06/01/2020

ALC Date of Receipt: This application has not been submitted to ALC yet.

Proposal Type: Subdivision

Proposal: The purpose of the proposal is to separate the property into two parcels along its natural division of the Ployart Creek. This will keep the agricultural potential for the front portion of the property at its current potential (hay crop) and increase the agricultural potential for the back portion of the property.

Agent Information

Agent: Amy Peeters

Mailing Address:

8868 Henderson Ave

Black Creek, BC

V9J 1A6

Canada

Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple

Parcel Identifier: 023-153-776

Legal Description: L A BK 29 COMOX PL VIP61660

Parcel Area: 18.7 ha

Civic Address: 7985 Island Hwy N Black Creek V9J 1G9

Date of Purchase: 06/29/1987

Farm Classification: Yes

Owners

1. **Name:** Gerard Peeters

Address:

7985 Island Hwy N

Black Creek, BC

V9J 1G9

Canada

2. **Name:** Marilyn Peeters

Applicant: Gerard Peeters , Marilyn Peeters

Address:
 7985 Island Hwy N
 Black Creek, BC
 V9J 1G9
 Canada

Current Use of Parcels Under Application

1. Quantify and describe in detail all agriculture that currently takes place on the parcel(s).

The property is physically divided into two distinct portions (hereby referred to as the front portion and the back portion) by the Ployart Creek. Both the front portion (accessed by Island Highway) and the back portion (accessed by Endall Rd and seasonally by a bridge across Ployart Creek) are used 100% for hay. In 2019, the front portion produced 23.5 tonnes (metric) of hay and the back portion produced 39 tonnes of hay.

2. Quantify and describe in detail all agricultural improvements made to the parcel(s).

In 1999 The current owners cleared the back portion of standing timber with two plots of timber left in place (standing timber total area 0.7 ha). The cleared back portion was planted with hay seed. Drainage was improved during clearing by sloping land and perforated pipe was installed to drain wet depressions.

During periods of heavy rainfall in winter, the front portion of the property frequently floods almost entirely with depths approaching 6 ft of water on the south side. This cuts off access to the back portion and can remain flooded for several weeks at a time. There is a small seasonal access way that often remains wet or flooded, even without heavy rainfall; this restricts access from the back portion to the bridge. When the seasonal access way is flooded, vehicle access is not possible. This seasonal access way was constructed back when the original owners of the property first developed the land.

Improvements to reduce flooding are unable to be made as directed the Department of Fisheries and Oceans, as the Ployart Creek which runs through the property connects to the Black Creek which drains to the east along the southern edge. Both creeks are fish bearing. With the increased frequency and higher intensity storm events, peak storms such as the Q20 (20 year), or Q100 (100 year) storm events are becoming more common due to climate change, access is expected to be severely reduced in the long term. Increased flooding periods and higher water depths is expected to be more frequent.

The front portion is also bordered by a riparian zone, so the owners are unable to redirect water into this area.

The property has three barns installed on the front portion for farm equipment / hay storage.

The portion of the front field that is usable for hay has been fenced.

The property is annually fertilized to increase hay potential in the summer months.

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).

The home is situated on approximately 0.7 ha of lawn and large second growth Douglas Fir timber. There are 3 detached garages used for storage, vehicles, and a small art studio.

Approximately 3.6 ha in the front portion are wetland / creeks and fenced off with no access.

Adjacent Land Uses

North

Land Use Type: Unused

Specify Activity: Forested Land, not developed

East

Land Use Type: Agricultural/Farm

Specify Activity: Neighboring lots separated by the Island Highway, lots used for hay development, or standing timber

South

Land Use Type: Agricultural/Farm

Specify Activity: Hay fields and cattle farm, Berry and vegetable fields for Coastal Black Estate Winery

West

Land Use Type: Agricultural/Farm

Specify Activity: Dairy farm, smaller lots with single family homes that are majority forested land.

Proposal

1. Enter the total number of lots proposed for your property.

9.3 ha

9.4 ha

2. What is the purpose of the proposal?

The purpose of the proposal is to separate the property into two parcels along its natural division of the Ployart Creek. This will keep the agricultural potential for the front portion of the property at its current potential (hay crop) and increase the agricultural potential for the back portion of the property.

3. Why do you believe this parcel is suitable for subdivision?

This parcel is suitable for subdivision as the existing uses, accessibility, and physical configuration all support the proposed subdivision.

The back portion of the property is accessed by Endall Road, with over 156m of road front access. It is well-draining, fertile land suitable for a variety of purposes such as raising livestock and growing a variety of crops and has been rated as 5 (P,M) 3 (M) by the Canada Land Inventory.

The front portion of the property is accessed by Island Hwy and has been rated as 5 (P,M) 3 (M) by the Canada Land Inventory.

Access to the back portion of the property is seasonally restricted in physical access from the front portion due to flooding. There is also no clear line of site from the front portion to the back portion due to the brush / standing timber in the riparian zone along the Ployart Creek.

In the current lot configuration, the agricultural potential of the back portion is currently underutilized. No machinery, equipment, barns or anything of value can be stored in the back portion of the property, due to risk of theft or damage, as the property is easily accessed and completely viewable from Endall Rd. In its present configuration as one parcel, no livestock can be kept on the back portion, as the owners would be unable to keep a close eye on the animals, thus leading to a higher potential of liability due to a slower response time to loose animals. Due to no line of sight, loose animals would be found during scheduled feeding times, or reports from neighbors. Care for the animals in the winter months would

Applicant: Gerard Peeters , Marilyn Peeters

require a 1.9km drive from the home at 7985 Island Highway around to Endall Road. Additionally, driving a tractor, or a tractor and wide implements from the front portion along the Island Highway and Endall Rd to the back portion represents a danger to both the farmer and to drivers. Just north of the property, the Island Highway speed increases from 60km/hr to 80km/hr, the 60km/hr zone is for approx. 2.5km. Speeding in this area is very common, and the Island Highway is a two lane road. Impatient drivers in either direction may attempt to pass a tractor unsafely, and this poses a very real risk for an accident.

By subdividing, a home could be placed on the Endall Road property and the agricultural capability of the property would be greatly increased. With a size of approx. 9.3ha, this property would not be attractive as a "hobby farm", but would have very real potential for any number of agricultural activities to be pursued. Endall Road is frequently accessed by guests attending functions and activities at Coastal Black Estate Winery. A farm stand along Endall Rd could be a profitable endeavor, but could only be pursued by having a home on the property with owners to regularly stock and monitor a farm stand.

Due to the recent Covid-19 pandemic, local produce and meat sales are in higher demand as reliance on international products or inter province trade can be severed by the extreme measures needed to protect communities during Provincial quarantines or emergencies. Reliance on outside source manufactures, or producers is strained due to political, or physical constraints. Having more access to food grown in a community can help stem these issues; with this subdivision there would be a greater potential to help our community and ease worries about sourcing fresh reliable food.

4. Does the proposal support agriculture in the short or long term? Please explain.

Both.

Short term:

The property in its current formation contributes to agriculture, but only with a very basic crop. Subdivision would increase the agricultural potential of proposed lot 1 immensely. The owner intends to sell the back portion of the property to their son and daughter in law. Both are long standing members of the community, have lived on farms, and have knowledge and experience raising livestock. They intend to build a modest sized home so as to minimally detract from the agricultural footprint. Short term plans are to increase agricultural production by fencing and cross fencing, raising livestock such as beef cows and chickens (both meat and egg birds), and continuing with hay production. This proposal would not adversely affect surrounding agricultural operations or create conflict. Surrounding neighbors currently raise cattle, have small hobby farms, or produce hay. Directly across from the property on Endall Road is Coastal Black Estate Winery, which is both a working farm and a community attraction.

Long term:

The proposed subdivision of 9.3 ha meets minimum lot requirement for RU-ALR be the local government (8 ha). There would be no risk or possibility of future subdivision applications, therefore no risk of loss of currently productive agricultural land. If this land was to ever be offered for sale in the future, the size of the parcel at 9.3 ha would be unattractive for those buyers looking for a hobby farm or an estate and would only be enticing to those looking to actively farm.

5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.

No

Applicant Attachments

Applicant: Gerard Peeters , Marilyn Peeters

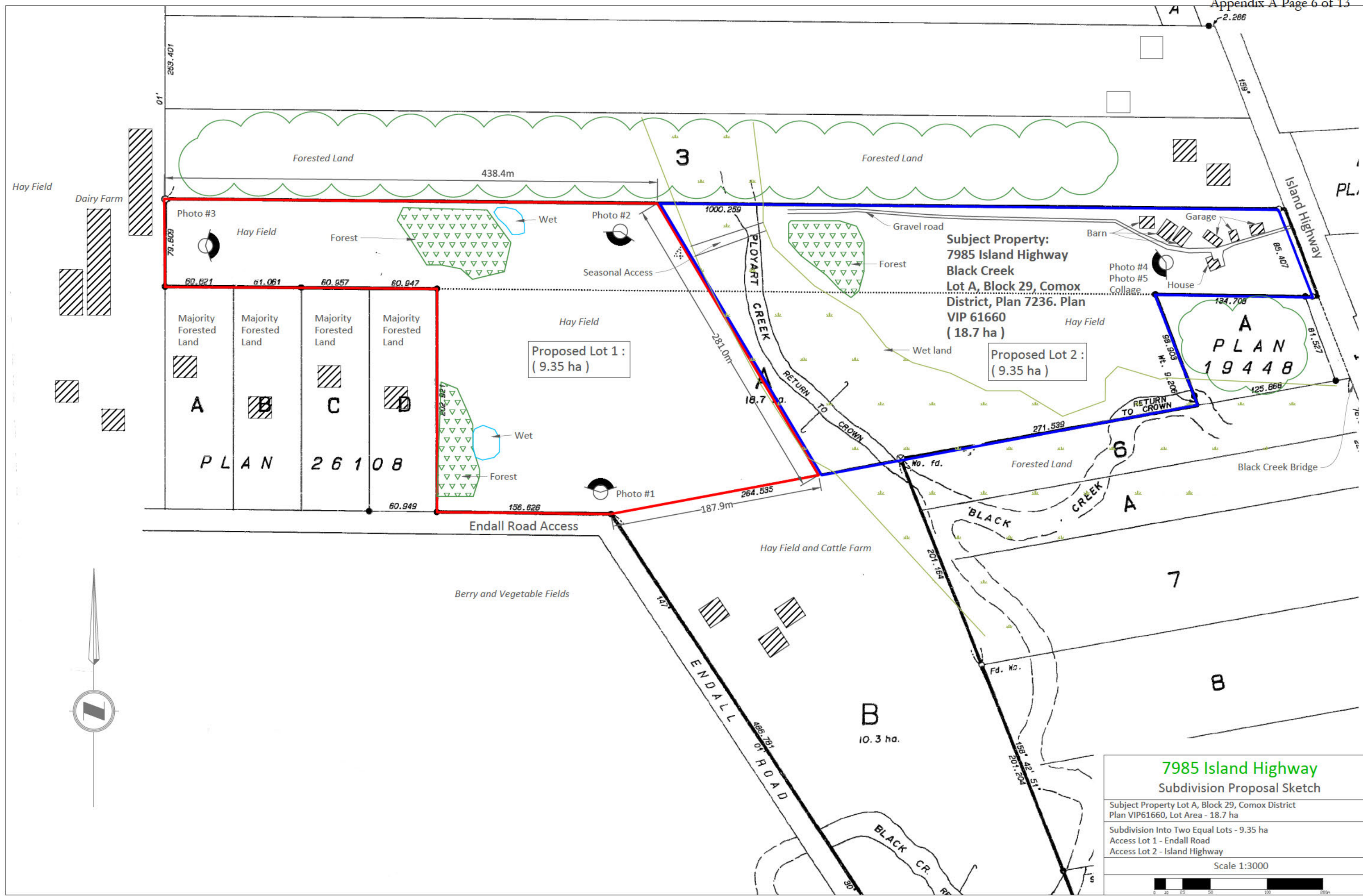
- Agent Agreement - Amy Peeters
- Proposal Sketch - 60057
- Site Photo - 7985 Island Highway Photos
- Certificate of Title - 023-153-776

ALC Attachments

None.

Decisions

None.



Subject Property:
 7985 Island Highway
 Black Creek
 Lot A, Block 29, Comox
 District, Plan 7236. Plan
 VIP 61660
 (18.7 ha)

Proposed Lot 1 :
 (9.35 ha)

Proposed Lot 2 :
 (9.35 ha)

Majority
 Forested
 Land
 A
 PLAN
 26108

A
 PLAN
 19448

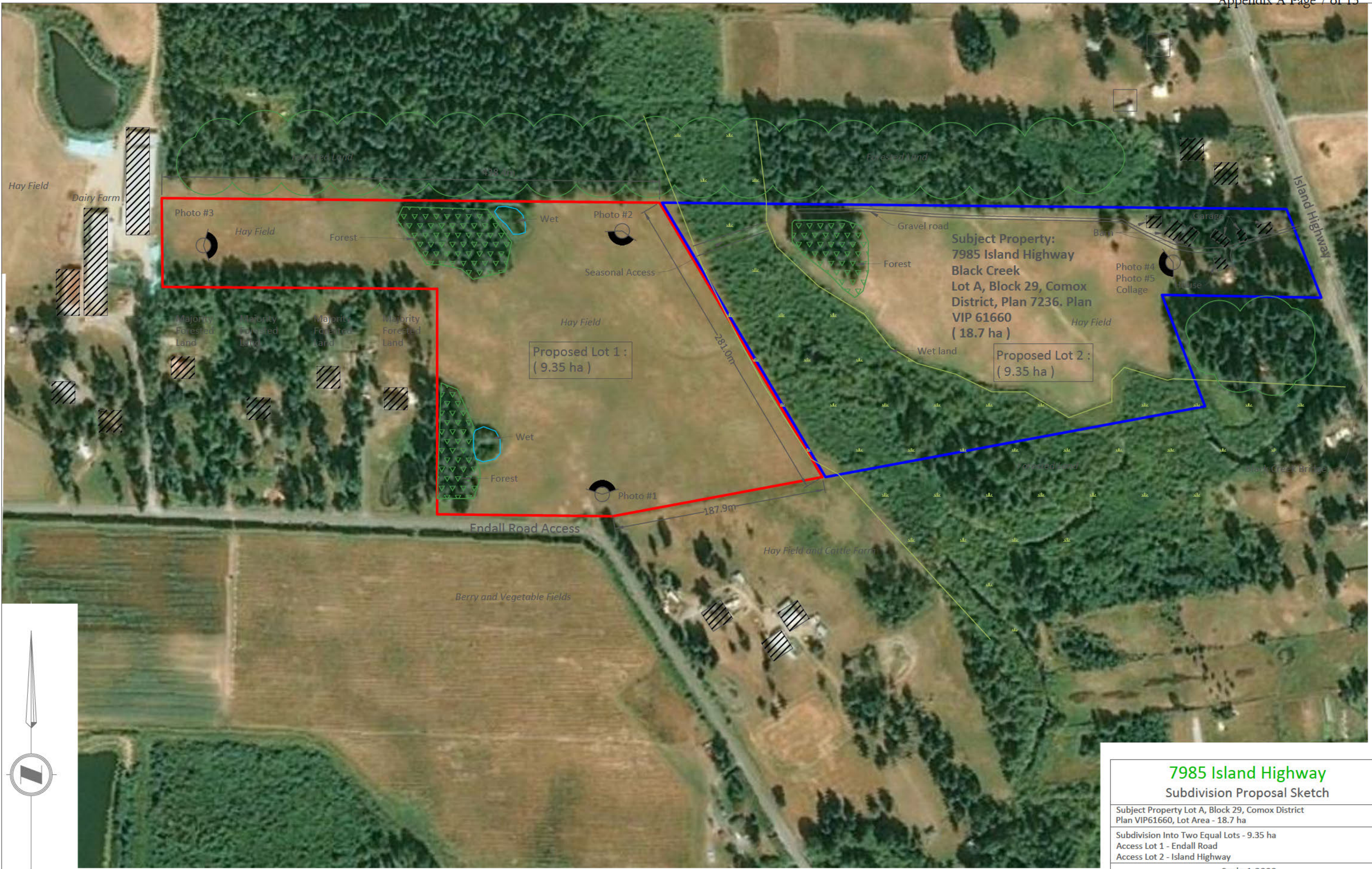
**7985 Island Highway
 Subdivision Proposal Sketch**

Subject Property Lot A, Block 29, Comox District
 Plan VIP61660, Lot Area - 18.7 ha
 Subdivision Into Two Equal Lots - 9.35 ha
 Access Lot 1 - Endall Road
 Access Lot 2 - Island Highway

Scale 1:3000



25mm (1")
Print Scale Check
Drawing scale may distort with printing. Intended to be printed in colour on 11"x17" paper.



Subject Property:
 7985 Island Highway
 Black Creek
 Lot A, Block 29, Comox
 District, Plan 7236. Plan
 VIP 61660
 (18.7 ha)

Proposed Lot 1 :
 (9.35 ha)

Proposed Lot 2 :
 (9.35 ha)

7985 Island Highway Subdivision Proposal Sketch
Subject Property Lot A, Block 29, Comox District Plan VIP61660, Lot Area - 18.7 ha
Subdivision Into Two Equal Lots - 9.35 ha Access Lot 1 - Endall Road Access Lot 2 - Island Highway
Scale 1:3000





Photo 1 Proposed Lot 1 Facing North (South End Of Lot Directly off Endall Road Access)



Photo 2 Proposed Lot 1 Facing South (North East Corner of Lot)



Photo 3 Posposed Lot 3 Facing East (Northwest Corner of Lot)



Photo 4 Proposed Lot 2 - Facing West



Photo 5.01 Nov 17 2009 Proposed Lot 2 - Facing West



Photo 5.02 Jan 16 2010 Proposed Lot 2 - Facing West



Photo 5.03 Oct 26 2010 Proposed Lot 2 - Facing West



Photo 5.04 Dec 30 2010 Proposed Lot 2 - Facing West



Photo 5.05 Mar 3 2012 Proposed Lot 2 - Facing West



Photo 5.06 Oct 23 2014 Proposed Lot 2 - Facing West



Photo 5.07 Dec 14 2015 Proposed Lot 2 - Facing West

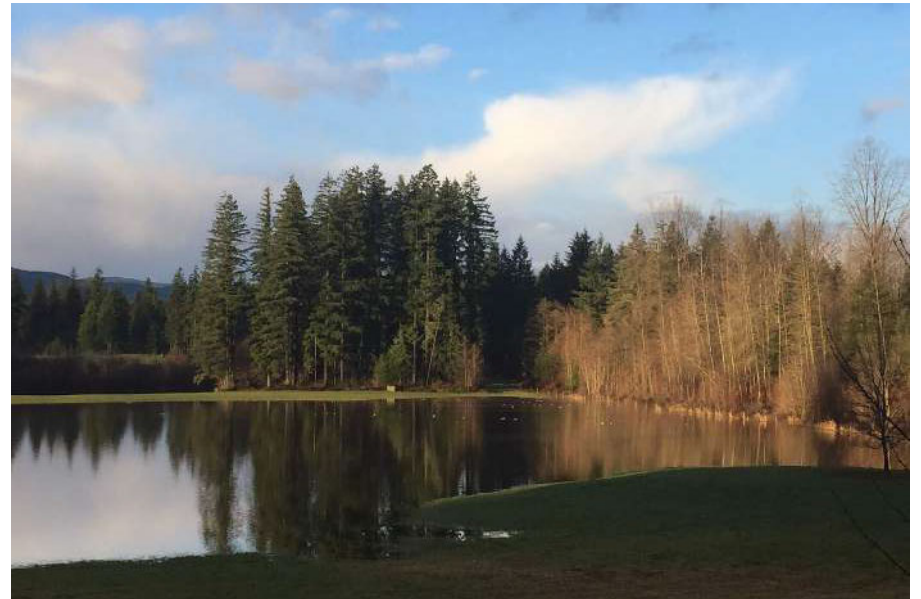


Photo 5.08 Dec 15 2015 Proposed Lot 2 - Facing West



Photo 5.09 Jan 28 2016 Proposed Lot 2 - Facing West



Photo 5.10 Oct 18 2016 Proposed Lot 2 - Facing West



Photo 5.11 Nov 4 2016 Proposed Lot 2 - Facing West



Photo 5.12 Jan 20 2017 Proposed Lot 2 - Facing West



Photo 5.13 Feb 17 2017 Proposed Lot 2 - Facing West



Photo 5.14 Nov 27 2017 Proposed Lot 2 - Facing West

803**Rural ALR (RU-ALR)****1. Principal Use**

- i) **On any lot:**
- a) Single detached dwelling
 - b) Agricultural use
 - c) Intensive agriculture
 - d) On any lot in the Agriculture Land Reserve any other use specifically permitted under the *Agricultural Land Commission Act*, regulations and orders

2. Accessory Uses

- i) **On any lot:**
- a) Secondary suite
 - b) Home occupation

3. Conditions of Use

- i) Any conditions or limitations imposed elsewhere in this Bylaw (See Section 303).

4. Density

- i) **Residential density is limited to:**
- a) **On any lot:** one single detached dwelling and one secondary suite plus additional dwelling units (attached or detached) where the additional dwelling units are specifically permitted under the *Agricultural Land Commission Act*, regulations and orders.

5. Siting and Height of Buildings and Structures

The maximum height of principal buildings is 10.0 metres and the maximum height of accessory buildings is 8.0 metres.

- i) The setbacks required for buildings and structures shall be as set out in the table below.

Type of Use	Height of Structure	Required Setback				
		Front Yard	Rear Yard	Side Yard		Side Yard Abutting Road
				Front Lot Line <31m	Front Lot Line >31m	
Principal	10.0m	7.5m	7.5m	1.75m	3.5m	7.5m
Accessory	4.5m or less	7.5m	1.0m	1.0m	1.0m	7.5m
Accessory	8.0m - 4.6m	7.5m	7.5m	1.75m	3.5m	7.5m

6. Lot Coverage

- i) The lot coverage of all buildings and structures, excluding greenhouses, shall not exceed 35 per cent.

7. Subdivision Requirements

- i) Minimum lot area: 8.0 hectares

End • RU-ALR