

Memo

File: 3120-20/TUP 3C 18

DATE: April 11, 2019

TO: Advisory Planning Commission
Puntledge – Black Creek (Electoral Area C)

FROM: Planning and Development Services Branch

RE: Temporary Use Permit – 4107 Macaulay Road (McCaffery)
Lot 6, Block 29, Comox District, Plan 22502, PID 000-065-315

The attached development proposal is for commission members' review and comment (Appendix A). An application has been received to consider a Temporary Use Permit (TUP) that would allow an accessory building to be used for the cultivation of cannabis. The commission may recommend the TUP be approved, recommend specific conditions for its approval, recommend it not be approved, or otherwise provide comments by resolution.

This property is a 0.77 hectare lot developed with a single detached dwelling and an accessory building, both to the rear of the property (Figures 1 and 2). The 148 square metre accessory building, in which the cultivation is proposed to take place (Figures 3 and 4), had its construction initiated in 2012 but has yet to receive its final building inspection, though the building permit has been renewed. The building is setback 11 metres from the neighbouring northern side lot line and over 40 metres to the southeast side lot line (which is the property that is subject of file TUP 2C 18), as well as 30 metres from the agricultural parcel to the rear. The applicant proposes to use a shipping container for ancillary activities such as drying within the fenced site, as well as adding an ancillary compost area in the northern corner of the property.

The subject property has no community water or sewer services available to them but is within the Black Creek/Oyster Bay Fire Protection Local Service Area.

Official Community Plan

The subject property is within the Official Community Plan's Rural Settlement Areas (RSA's). These RSAs are outside of the Core Settlement Areas, the Agricultural Land Reserve, and have the objectives of "*promot[ing] land uses that support rural lifestyles*" and "*minimiz[ing] the impact of new development on existing neighbourhoods*".

Policy 44.(5) of this designation directs that "*new development in the Rural Settlement Area maintains the rural character of the surrounding area and supports a functioning working landscape*". The designation allows TUPs to be considered which may include specific conditions that help achieve the designation's policies and objectives.

Zoning Bylaw

The subject property is part of a subdivision along Macaulay Road that is zoned Rural Eight (RU-8). While this zone allows for a range of uses, including agricultural use, the production of cannabis is not permitted in any zone. Therefore, to allow for cannabis micro-cultivation, the property owners have applied for this TUP.

Temporary Use Permits

Sections 492 to 497 of the *Local Government Act* (RSBC, 2015, c. 1) allows for a regional district to issue TUPs that allow for uses not otherwise permitted by the Zoning Bylaw and to specify conditions under which the temporary use may be carried on. Financial security or monitoring reports may also be conditions of the permit. A TUP must specify an expiry date but can be no longer than three years. The owner may apply for a renewal up to three years or a rezoning if the use is intended to continue permanently. Unlike zoning, a TUP is issued to individuals (e.g. the property owners) and is not transferable to new property owners (i.e. the TUP does not run with the land). The board can revoke the TUP if they find the terms and conditions are not being met.

Please be advised that all adjacent properties within 100 metres of the subject parcel will be notified via mail of the TUP request and be given the opportunity to comment prior to the application going forward to the Electoral Areas Services Committee for consideration.

Sincerely,

T. Trieu

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

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Attachments Appendix A – “Application TUP 2C 18 – TUP 3C 18”

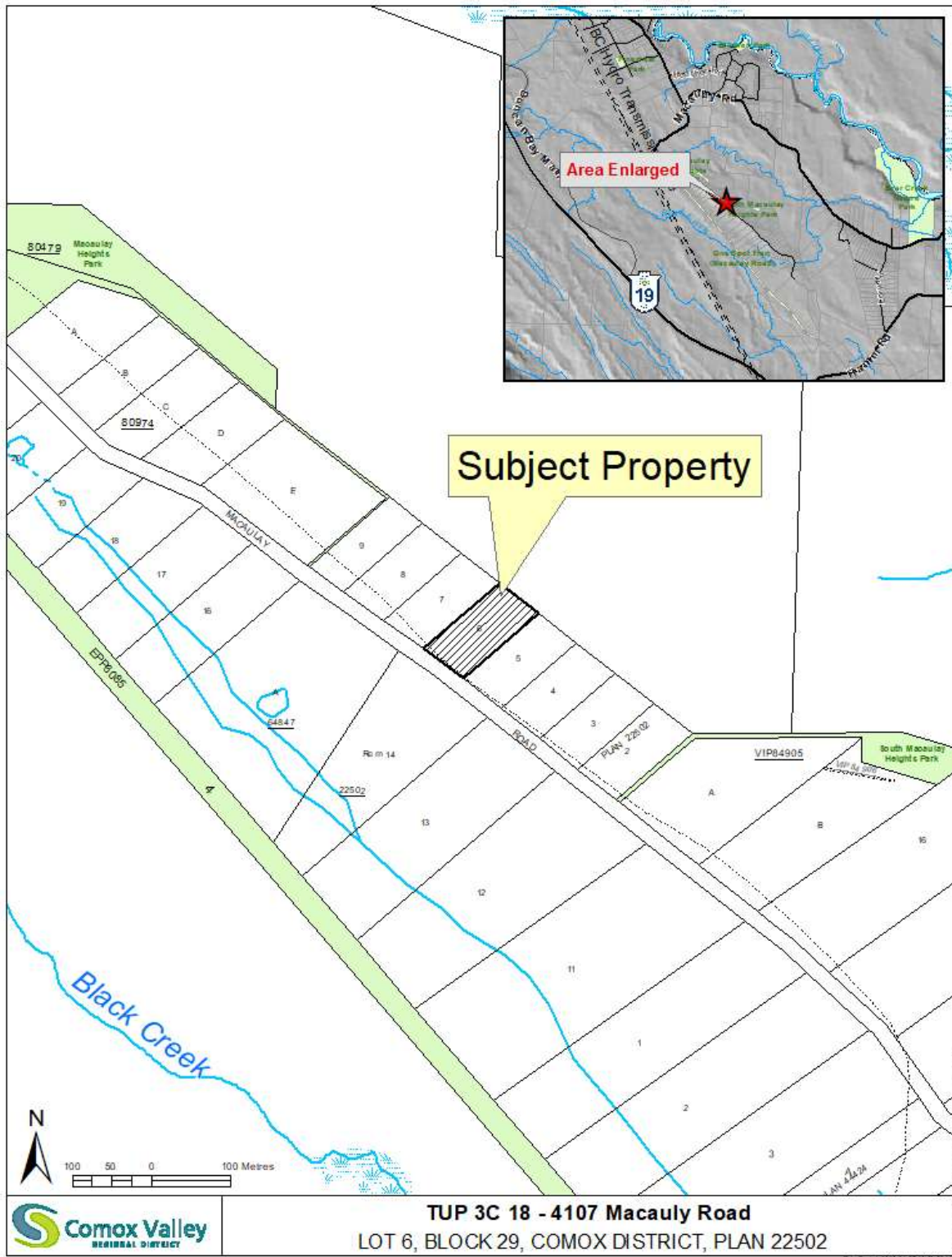


Figure 1: Subject Property



Figure 2: Air Photo (2018)



Figure 3: Front of accessory building facing into the subject property



Figure 4: Rear of Accessory Building facing into the neighbouring property

Introduction

The purpose of this proposal is to support our application for a temporary use permit on the adjacent properties 4107 and 4117 Macaulay Road. The proposed use is the operation of a cannabis micro-cultivation facility on each property in existing accessory buildings. Should our application be successful the facilities would be outfitted, maintained and operated in compliance with the federal Cannabis Regulations. After meeting with planners Ton Trieu, Robyn Holm and Jodi Mclean we decided a temporary use permit would be the best option over re-zoning at this time. Because the regulations are so new and unproven, we believe a TUP is a good tool to showcase how viable small-scale cannabis cultivation can be in a rural settlement area. Once we have successfully proven our business can operate without issues, we will be seeking re-zoning. Before an application for micro-cultivation can be submitted to the federal government, approval from local government is required. This is the first step in a very long and expensive application process. We ask that the TUP be valid for the longest possible period to allow for the application timeline.

We understand that in the past there have been numerous issues that local governments have had to deal with surrounding cannabis, but that was the past. We are confident that we can prove micro-cultivation is not only sustainable in rural areas but can provide much needed local economic benefits, all while maintaining the rural character we enjoy in our area. When considering our application, we ask that you look at this with a new perspective now that cannabis is legal. We hope to work closely with the CVRD every step of the way in this process and together we can prove how viable small-scale craft cannabis can in our area.

Thank You for your time and consideration. Should you have any questions or concerns please feel free to contact us anytime.

Sincerely

Anton Williams

Rory McCaffery

Concerns and possible land use issues.

Section 58 (3) of the official community plan addresses conditions that must be met in order to consider site specific rezoning applications for medical marijuana production in agricultural and resource areas. Although we are in the RSA, the concerns raised here are identical to those raised for our facilities. It is important to keep in mind that the scale of our operation is much smaller (200 square meters maximum plant canopy area) than current licensed producers. Bellow we have addressed each of the concerns stated in the OCP. Also, many of these concerns will be addressed when meeting the stringent Health Canada regulations for a micro-cultivation license

- (a) "Mitigation of potential noise, odor, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation"

Because both cultivation facilities are indoor growing operations, engineering controls can be used to contain any potential emissions within the building. Noise and light are a non-issue, the buildings are sealed and insulated so no light escapes and little to no noise is produced.

In the past, odour has been an issue synonymous with cannabis cultivation but with proper design, odour can be greatly reduced. Each grow room has one air inlet and one air outlet. The outlet contains a charcoal filter and an exhaust fan (figure 1 and 2) the exhaust fan maintains a negative pressure within the grow room, this ensures that any air exiting the room first passes through the filter, removing odours. As a final treatment to the air, a product called Ona gel (figure 3) is suspended outside the facility in the exhaust duct, neutralizing any odours that make it past the filter. Cannabis will be harvested inside the grow rooms and transported to the drying facility in sealed containers to minimize odors during harvest. The drying facility will contain a similar ventilation setup to the grow rooms, minimizing odours during drying. Our system design will have to meet the requirements of section 85 of the Cannabis Regulations.

Buffering and screening will be provided by a security fence surrounding each cultivation facility and drying/storage areas. The security fence will have to meet the requirements of section 74 (b) of the Cannabis Regulations: "The site is surrounded by a physical barrier that prevents unauthorized access" (see figure 4 for our proposed fence design. Security wire may be required on top)

- (b) "Size and configuration of the buildings and lot"

Each cultivation facility is restricted to 200 square meters of plant canopy. This amount of plant canopy easily fits within the existing accessory buildings. A proposed drying and storage facility in the form of a 40 ft climate controlled shipping container (figure 5) will be placed on each Lot. Both containers will need to be placed within the site security fence. Please refer to the site plan for details on their placement.

- (c) **“Mitigation of potential impacts to agricultural capability of the lot, including but not limited to; building footprint, soil classification, building location and building clustering.”**

We don't believe this concern is applicable to our proposal as the cultivation will occur within existing accessory buildings, built according to RU-8 zoning. These lots and surrounding areas have a class 5 soil designation which has very severe limitations for agriculture.

- (d) **Provision of security measures in accordance with federal government requirements, while respecting integration with proposed siting and surrounding community.**

Security requirements for Micro-cultivation are stated in section 74 of the Cannabis Regulations. Generally they require all cultivation and storage areas to be surrounded by a fence and be capable of locking to restrict access. Both properties have their buildings well situated away from the road at the bottom end of sloped, treed lots. Both lots back onto a large portion of unused land. There will be virtually no visual impact to surrounding areas.

- (e) **“Provision of adequate rainwater management to ensure that post development peak flows do not exceed predevelopment peak flows”**

Both accessory buildings were built with proper perimeter drains. The lots are sloped with very well-draining soil. Rainwater from the buildings will be harvested stored, treated and used for irrigation.

- (f) **“Provision of adequate water supply and waste management systems”**

As mentioned above, rain water will be harvested for irrigation. During long, dry spells in the summer months, water deliveries by truck may be required. Water is limited in the area, so careful conservation is required. Condensate water from air-conditioning units and dehumidifiers will be captured and re used. Very careful hand watering limits water runoff from the potted cannabis plants. Any water that does run into the floor drains can be collected at the common outlet and reused for property landscaping.

- (g) **“mitigation of potential traffic generation impacts”**

Due to the limited size of the micro-cultivation facilities, impacts from traffic are minimal. Once fully operational we anticipate three full time employees for both facilities. Other traffic may include contactors for service calls and construction, as well as water deliveries in summer months.

- (h) **“provision of adequate highway access and parking”**

Again, this is a concern for larger operations. Parking can be easily handled for the minimal amount of traffic generated. Refer to the site plan for proposed parking arrangements.

- (i) **“Provision for the disposal of all waste cannabis material in accordance with federal government requirements”**

If permitted, we propose to compost waste cannabis material on site to be reused as top soil for property landscaping and gardening. The amount of waste material generated from facilities of this size could be easily composted on site. If not, permitted waste cannabis material would need to be transported to an approved land fill.

- (j) **“Mitigation of potential negative impacts on environmentally sensitive areas and / or features and the productive potential of adjacent resource lands”**

According to CVRD mapping there are no environmentally sensitive areas within the vicinity of the properties. Regardless there are very little environmental impacts from the facilities. Rain water is harvested, reducing any impacts on the water table, any runoff water from floor drains is captured and reused, waste plant material is composted and used on site, noise glare and odor are contained within the buildings.

- (k) **“Consideration of weather component parts of medical marijuana production activities should be collectively or separately, in one location or on multiple sites, including the form and character, use, community integration and environmental implications”**

This applies more to large scale production facilities. Our cultivation buildings already exist, the only additional structures required would be the drying and storage shipping containers which are moveable and not a permanent fixture to the land.

The Objective of the RSA is to “maintain a rural character, support rural lifestyles, and to minimize the impact of new development on existing neighborhoods. The agricultural nature, small scale and careful regulation make this an exciting opportunity to provide local jobs and support local small business, all while meeting the RSA objectives. Our proposal would also fit nicely into the CVRD zoning bylaw for RU-8 which allows for;

1. **PRINCIPAL USE** i) On any lot: a) Residential use; b) Agricultural use; c) Garden nurseries; d) Riding academies; e) Silviculture; f) Aquaculture; g) Animal hospital; h) Fish hatchery (including community based).
2. **ACCESSORY USES** On any lot: i) Home occupations; ii) Bed and breakfast; iii) Accessory buildings; iv) Domestic business use; v) Domestic industrial use; vi) Pet crematorium.



MACAULAY RD

4117 Macaulay

4107 Macaulay

Security fence

Container

Captable

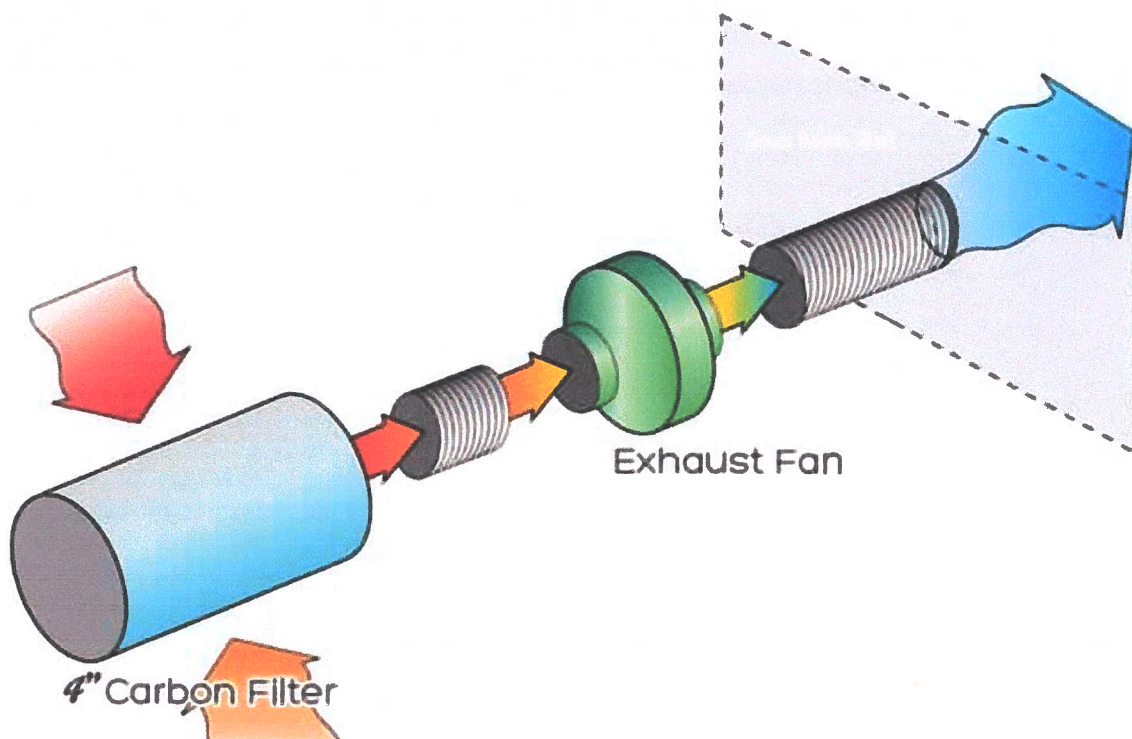


Figure 1

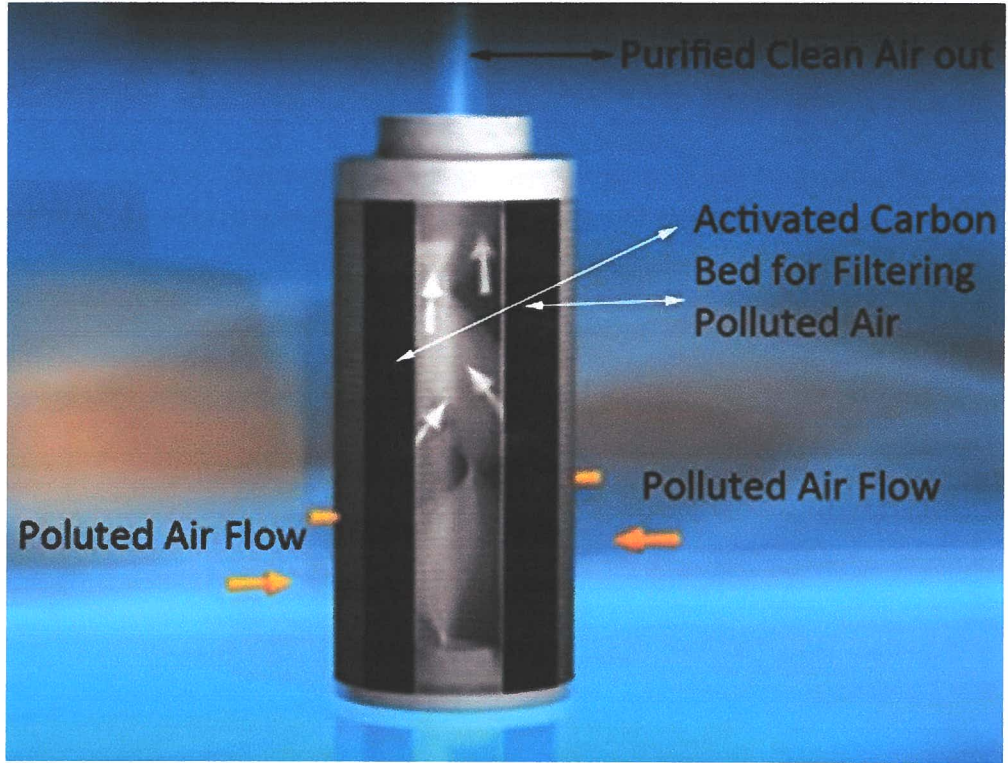


Figure 2

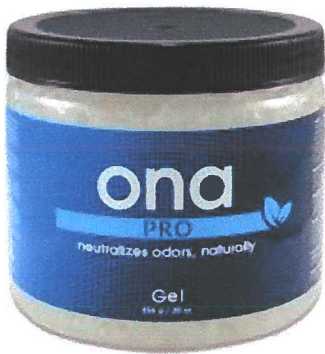


Figure 3



Figure 4



Figure 5

Closing comments.

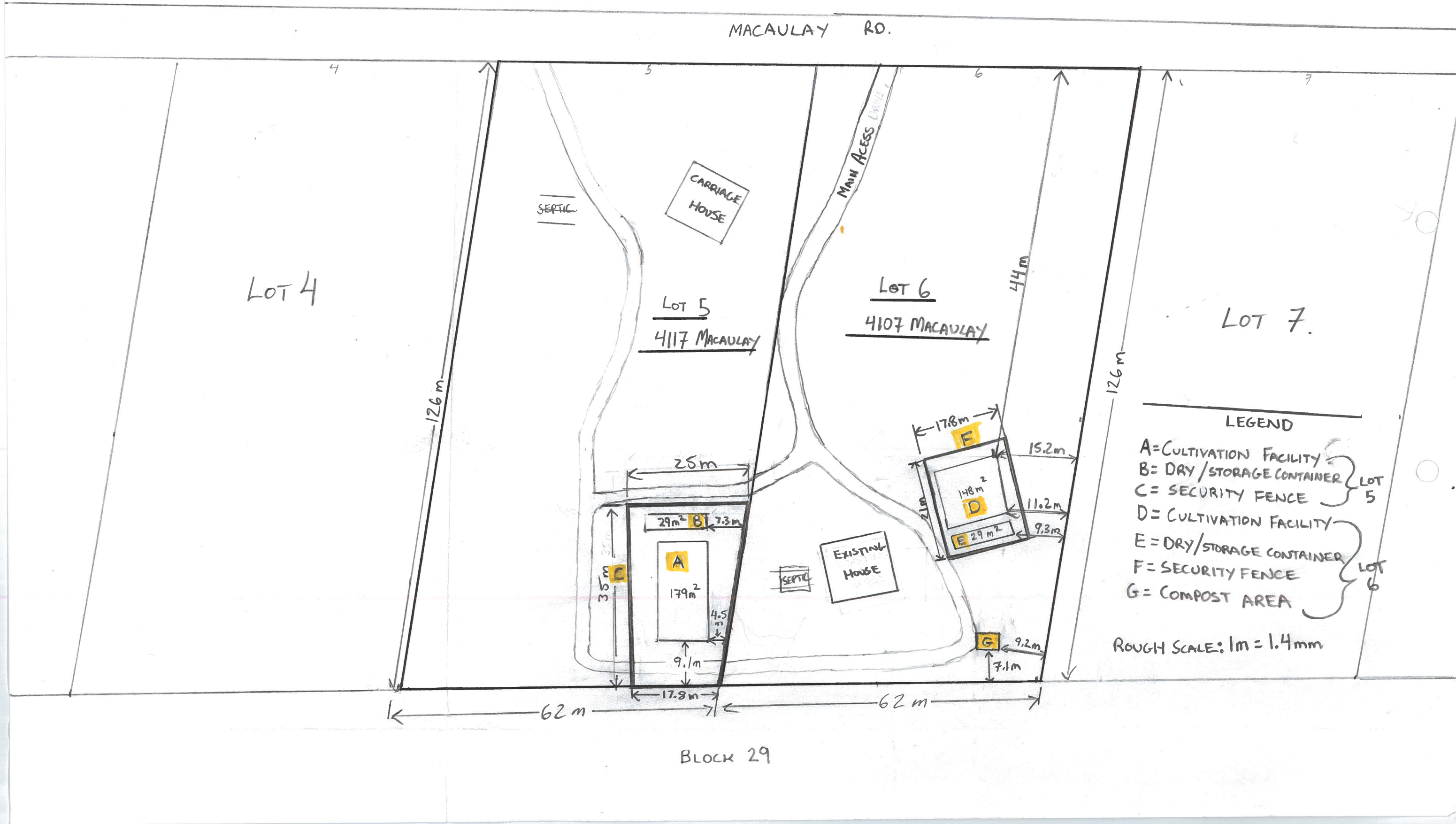
The federal government established small scale micro-licenses for specific reasons:

1) to prevent a monopolization of the industry by large, publicly traded corporate entities by allowing individuals and small businesses into the cannabis economy.

2) to prevent "illicit" production and diminish the so-called "black market"
By bringing existing cannabis propagators, cultivators and processors into the system.

It's no big secret that there have been cannabis cultivators working in our area for years. This cultivation has been done in an untaxed and unregulated environment. By allowing rezoning, many of these cultivators will come into regulated system benefiting our local area, province and country as a whole. If rezoning is not allowed, they will continue operating the way they always have.

Allowing for a temporary use permit and eventual re-zoning of our lots will be an excellent opportunity for the CVRD to support a local small business that support families, rural lifestyles and other business in our area.



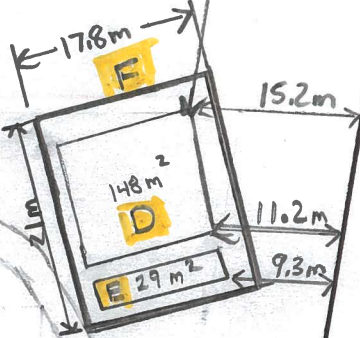
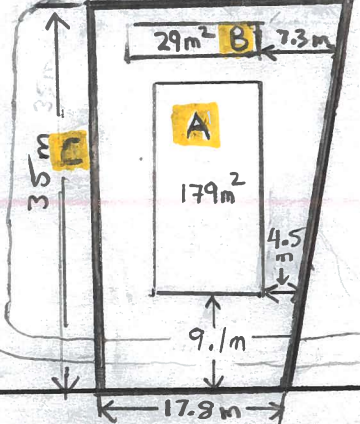
SEPTIC

CARRIAGE HOUSE

MAIN ACCESS DRIVE

EXISTING HOUSE

SEPTIC



126m

44m

126m

62m

62m