

DATE: October 2, 2019**FILE:** 3110-20/ ALR 1B 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** James Warren
General Manager of Corporate Services BranchSupported by James Warren
General Manager of Corporate
Services Branch**J. Warren****RE:** **Agricultural Land Reserve Non-Farm Use (Subdivision)**
3120 Dove Creek Road (Pollard)
Lazo North (Electoral Area B)
Lot A, Section 21, Comox District, Plan 25680, Except Part in Plan EPP64565,
PID 000-913-375**Purpose**

To consider an application (Appendix A) to allow a two-lot subdivision of an Agricultural Land Reserve (ALR) property.

Recommendation from the General Manager of Corporate Services Branch:

THAT the Agricultural Land Commission be advised that the Comox Valley Regional District does not support Agricultural Land Reserve Non-Farm Use application ALR 1B 19 (Pollard) to permit a two-lot subdivision of the property described as Lot A, Section 21, Comox District, Plan 25680, Except Part in Plan EPP64565, PID 000-913-375 (3120 Dove Creek Road);

AND FINALLY THAT the application ALR 1B 19 (Pollard) for the non-farm use of property within the Agricultural Land Reserve be forwarded to the Agricultural Land Commission for decision.

Executive Summary

- The subject property is approximately 19 hectares in area. It is hooked across the recently constructed Piercy Road that includes a bridge to cross over the Tsolum River. The northern portion is 8.25 hectares and the southern portion is 10.73 hectares in area.
- The northern property is largely undeveloped. The southern property currently has chickens and hay production.
- The applicants would like to subdivide the subject property by unhooking it from Piercy Road.
- The subject property is designated within Agricultural Areas by the Comox Valley Regional District Regional Growth Strategy (RGS) and Rural Comox Valley Official Community Plan (OCP). Subdivision policies include preserving contiguous agricultural land and demonstrating how subdivisions would benefit agriculture.
- The proposed subdivision fragments ALR land even though the arterial road separates both portions of the subject property and both proposed lots are greater than 8.0 hectares, the minimum lot area for subdivision in the Rural ALR (RU-ALR) zone.
- The proposed subdivision would lead to a possible additional single detached dwelling on the northern portion, which is inconsistent with subdivision and residential policies in Agricultural Areas of the OCP.

- The entire subject property is within the floodplain of Tsolum River, and Section 16(1) of the OCP discourages new development within hazardous areas. Subdivision, which is a form of development, is inconsistent with this OCP policy.
- The Agricultural Advisory Planning Commission (AAPC) met on September 26, 2019, to discuss this application. The AAPC did not support the proposal as the land would not likely be farmed more as two parcels instead of one.
- A referral was sent to Jill Hatfield, Regional Agrologist at the Ministry of Agriculture. Given the complexity of this application, she recommended that this application be forwarded to the Agricultural Land Commission (ALC) for consideration.
- Staff recommends the application not be supported, but the application be forwarded to the ALC for a decision.

Prepared by:

Concurrence:

Concurrence:

B. Chow***T. Trieu******S. Smith***

 Brian Chow, RPP, MCIP
 Rural Planner

 Ton Trieu, RPP, MCIP
 Manager of Planning Services

 Scott Smith, RPP, MCIP
 General Manager of Planning and
 Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

The subject property (Figures 1 and 2) is a 19 hectare lot in the Lazo North Electoral Area (Electoral Area B). The subject property is hooked across the recently constructed a 50 metre wide Piercy Road that includes a bridge to cross over Tsolum River. The northern portion is 8.25 hectares and the southern portion is 10.73 hectares in area. The northern portion is largely undeveloped with approximately 0.4 hectares of area for hay production at the eastern corner (Figure 3). The southern portion has a single detached dwelling and agricultural buildings (Figures 4 and 5). In the past, the applicants had 150 chickens, 14 sheep and calves. After trying different animals, the applicants settled on egg production. Due to the attacks from a pair of mink, they are currently left with 20 chickens for egg production. In addition, they have hay production on both portions of the property.

The recently constructed Piercy Road and bridge provide access to Inland Highway for residents of the Comox Valley. Access to the northern portion is from Headquarters Road and Stephens Road (Figures 1 and 2). According to the applicants, crossing Piercy Road will be a challenge due to the placement of several large culverts and the flooding mitigation along Piercy Road.

With respect to neighbourhood context, the subject property is northwest of City of Courtenay boundary, across from Comox Valley Exhibition Grounds and close to Comox Valley Farmers Market. The subject property is surrounded by ALR lands, ranging from approximately 0.6 hectares to 25 hectares in area. Tsolum River, its meandering features and its floodplain dominate the neighbourhood landscape.

According to Land Capacity for Agricultural Classification (Figure 6), the subject property is categorized as having unimproved Class 4A soils, which have moderate capability for agriculture. Subclass A denotes soil moisture deficiency due to low soil water holding capacity or insufficient precipitation. The subject property can be improved to 70 per cent of Class 2A and 30 per cent of

2T soils. Class 2 soils have high capability for agriculture. Subclass A denotes soil moisture deficiency and Subclass T denotes topography challenges.

The applicants propose to subdivide the property by unhooking it from Piercy Road (Figure 7).

Planning Analysis

Agricultural Land Reserve Analysis

The property is located within the ALR. Section 21(2) of the *Agricultural Land Commission Act* (ALCA) allows an owner of property within the ALR to apply to the 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 northern portion largely undeveloped and the southern portion with existing buildings and agricultural activities.

Official Community Plan Analysis

Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” designates the subject property within Agricultural Areas. There are several policies related to subdivision:

- Section 58(8) discourages subdivision to preserve contiguous areas of agricultural land;
- Section 58(9) encourages consolidation of smaller parcels of agricultural land into larger, more viable lots;
- Section 58(11) states to avoid severance of agricultural area by new transportation or utility corridors; and
- Section 58(12) states to require an applicant proposing to subdivide land in the agricultural area to demonstrate how the proposal will benefit agriculture.

There are also several policies on the possible residential use on the proposed northern lot:

- Section 58(1) discourages subdivision of ALR land for residential use;
- Section 58(2) requires new development to support the primary function of agriculture; and
- Section 59(1) does not support subdivision for the purpose of residential development other than ALC home site severances.

Subdivision is discouraged in Agricultural Areas. Although the subject property is severed by Piercy Road, and both portions are surrounded by either roads or Tsolum River, unhooking the two portions would lead to fragmenting ALR land. The application (Appendix A) does not indicate on how the proposed subdivision would benefit agricultural activities in the region.

With respect to severance with a transportation corridor (Section 58(11)), land was expropriated to create this section of Piercy Road and bridge. Ministry of Transportation and Infrastructure created this corridor to provide wider transportation benefit for the region.

The proposed subdivision would likely result in having a single detached dwelling on the northern portion, which is inconsistent with Sections 58(1), 58(2) and 59(1) of the OCP. Some agricultural land in the northern portion would be used for residential development. The residential development would be within the mapped floodplain of Tsolum River.

Section 16(1) of the OCP, which does not permit new development in hazard areas, is also applicable to this proposal. The entire subject property is in a mapped floodplain of Tsolum River,

so the proposed subdivision, which is a form of development, is inconsistent with this policy. Moreover, if there will be a single detached dwelling on the northern portion, it would lead to having buildings with damageable goods within a floodplain.

Zoning Bylaw Analysis

The property is zoned Rural-ALR (RU-ALR). Both of the proposed lots meet the minimum 8.0 hectare lot area requirement in the RU-ALR zone. Furthermore, Section 503(2)(i)(d)(1) of the Zoning Bylaw exempts the proposed subdivided lots from meeting the minimum lot area requirement within a zone if two or more parts are physically separated by a highway. The proposed unhooking from Piercy Road satisfies this section.

Section 7 of the RU-ALR zone states the minimum lot frontage shall be 10 per cent of the perimeter of the lot. Both of the proposed lots meet this minimum lot frontage requirement.

While the proposal does not meet the listed OCP policies, staff recommend that the Comox Valley Regional District (CVRD) not support the proposed subdivision. Nevertheless, given the complexity of this application, such as the previous decision by the provincial government to create an arterial road through ALR land, staff recommend that this application be forwarded to the ALC for decision.

Policy Analysis

Section 21(2) of the ALCA allows an owner of property within the ALR to apply to the ALC to subdivide that property. Section 25(3) of the ALCA states that this type of application may not proceed to the ALC unless authorized by a resolution from the local government.

Options

The CVRD Board may support forwarding the application to the ALC or refuse to forward the application. The board may also provide recommendations concerning the application for ALC consideration. Staff recommend not to support the application, but to forward the application to ALC for decision.

Financial Factors

Fees of \$1,500.00 (\$300.00 for the CVRD and \$1,200.00 for the ALC) have been collected for this non-farm use application in accordance with Section 35 of the ALCA.

Legal Factors

This report and the recommendations contained herein are in compliance with the ALCA and CVRD bylaws.

Regional Growth Strategy Implications

Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” 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.

Intergovernmental Factors

A referral was sent to Jill Hatfield, Regional Agrologist at Ministry of Agriculture for comment on this application. The Regional Agrologist conducted a site visit on September 26, 2019. On September 27, 2019, she submitted her comments (Appendix B). In summary, she acknowledges that both of the proposed lots are greater than 8 hectares, which is the minimum lot area for

subdivision in the RU-ALR zone. The location and topography of the land would lend itself to more intensive agriculture on both portions of the parcel in spite of flood potential and riparian setbacks. The highway and intersections pose an impediment for access between two portions. Given the complexity of this application, she recommends that this application be forwarded to the ALC for consideration.

Interdepartmental Involvement

This ALR application has been circulated to CVRD departments and no concerns were expressed.

Citizen/Public Relations

The AAPC met on September 26, 2019, to discuss this application. The AAPC did not support the proposal as the land would not be farmed more as two parcels instead of one. Other comments contributing to their non-support recommendation include the road is not an impossible impediment for farmers to farm on the other side, and a successful subdivision would result in an additional single detached dwelling on the northern portion.

Attachments: Appendix A – “ALC Application Submission ALR 1B 19”
Appendix B – “Jill Hatfield Comments”

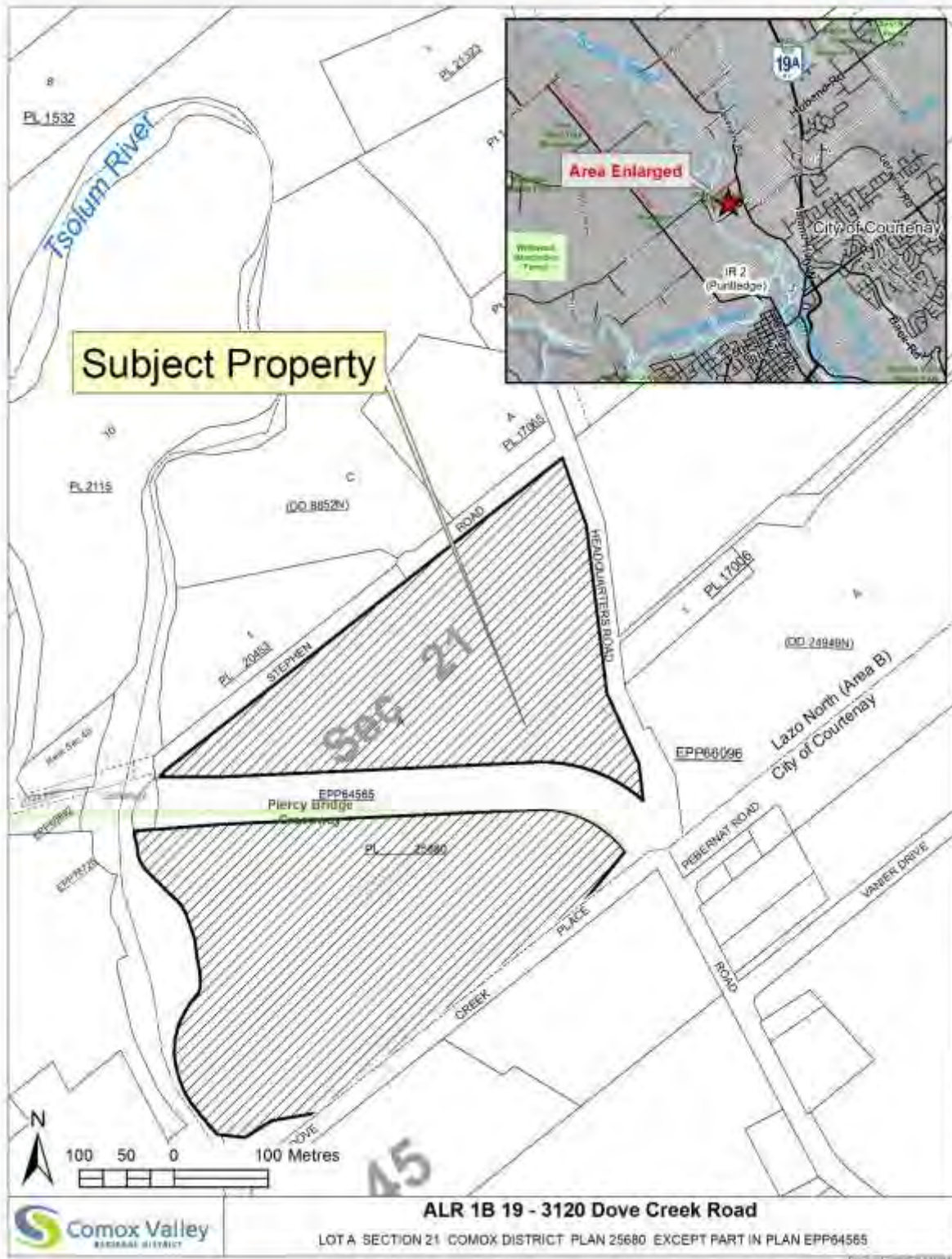


Figure 1: Subject Property Map



Figure 2: Air Photo



Figure 3: View of the Northern Portion



Figure 4: View of the Southern Portion (Hay Field in the Background)



Figure 5: Agricultural Buildings in the Southern Portion

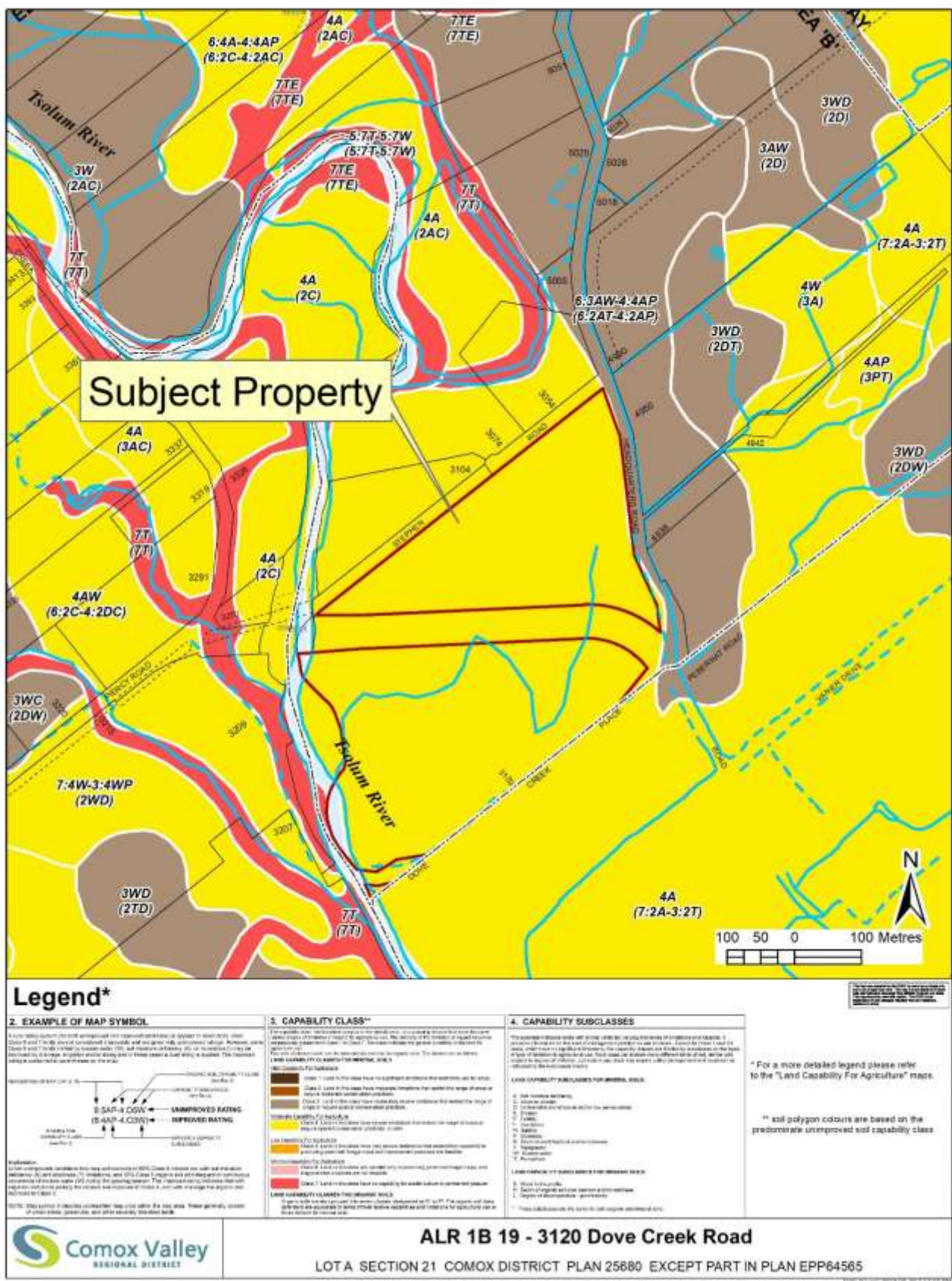


Figure 6: Soil Map

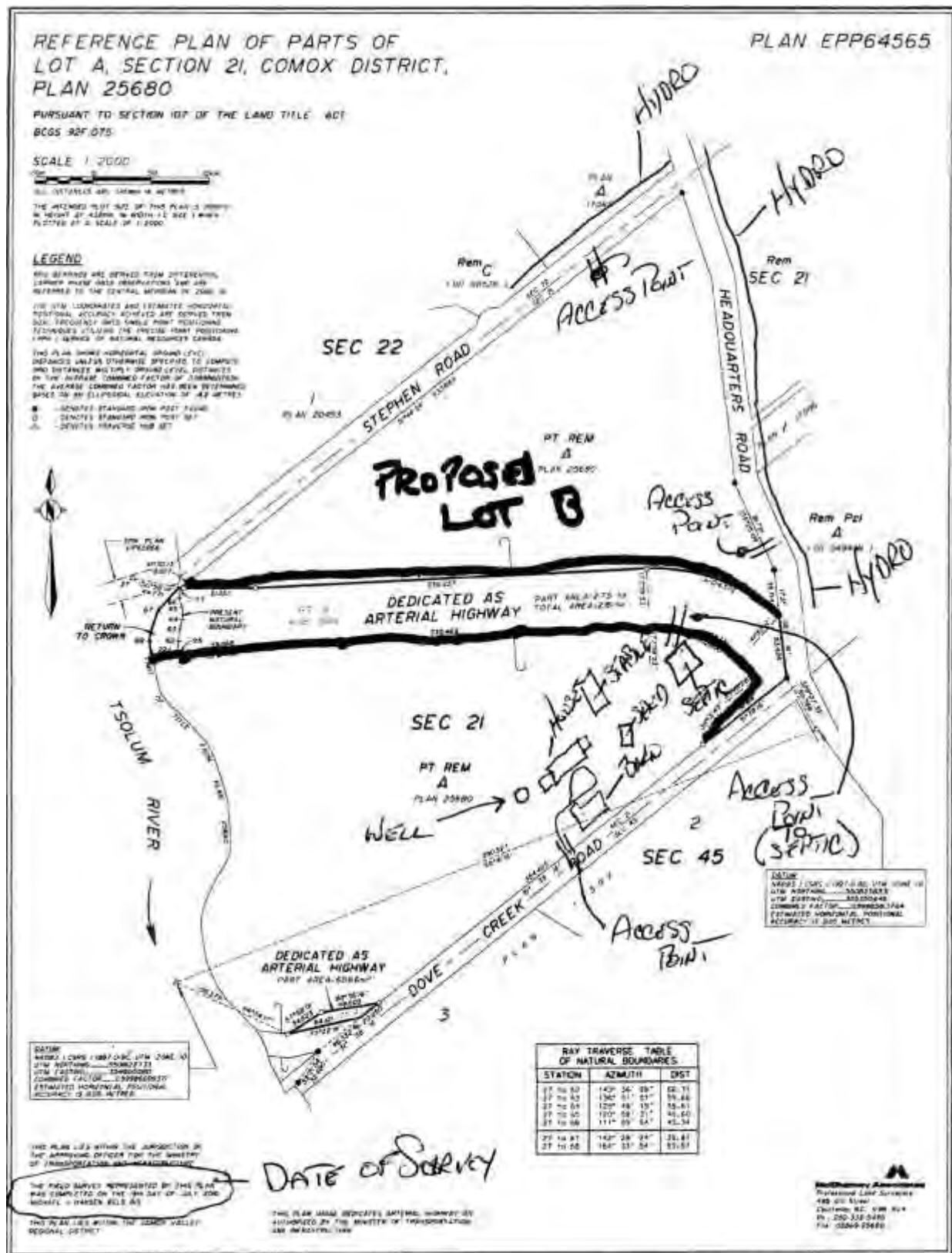


Figure 7: Subdivision Plan



Provincial Agricultural Land Commission - Applicant Submission

Application ID: 59532

Application Status: Under LG Review

Applicant: Patricia Pollard

Local Government: Comox Valley Regional District

Local Government Date of Receipt: 08/06/2019

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

Proposal Type: Subdivision

Proposal: We are applying for subdivision due to the division of the property into 2 separate parcels. MOTI constructed an arterial highway through the property in 2017. This created an 8.25 ha. parcel to the north and a 10.73 ha. parcel to the south (where the residence and farm outbuildings are located). Access to the north parcel is across a main highway.

Mailing Address:

3120 Dove Creek Road
Courtenay, BC
V9J 1P3
Canada

Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple

Parcel Identifier: 000-913-375

Legal Description: LOT A SEC 21 CD PL 25680

Parcel Area: 18.9 ha

Civic Address: 3120 Dove Creek Place

Date of Purchase: 05/05/2004

Farm Classification: Yes

Owners

1. **Name:** Patricia Pollard

Address:

3120 Dove Creek Place
Courtenay, BC
V9J 1P3
Canada

Applicant: Patricia Pollard

Current Use of Parcels Under Application

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

The cleared areas of the 10.73 ha. property are in hay production. In the areas around the house site are chicken coops and runs. The 8.25 ha. parcel has a small hay pasture that was cut off from the main pasture by the new highway.

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

Perimeter post and rail wire fencing has been installed along the new arterial highway and along Dove Creek Place. Several farm outbuildings have been built on the 10.73 ha. parcel.

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

No non-agricultural activities take place on the property

Adjacent Land Uses

North

Land Use Type: Residential

Specify Activity: across a road - 3 single family dwellings

East

Land Use Type: Agricultural/Farm

Specify Activity: across a road - sheep ranch and a winery

South

Land Use Type: Recreational

Specify Activity: across a road - CVRD fairgrounds and stables

West

Land Use Type: Agricultural/Farm

Specify Activity: across a river - dairy farm

Proposal

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

8.2 ha

10.7 ha

2. What is the purpose of the proposal?

We are applying for subdivision due to the division of the property into 2 separate parcels. MOTI constructed an arterial highway through the property in 2017. This created an 8.25 ha. parcel to the north and a 10.73 ha. parcel to the south (where the residence and farm outbuildings are located). Access to the north parcel is

Applicant: Patricia Pollard

across a main highway.

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

The new arterial highway has divided the property leaving no access from the south (10.73 ha.) parcel to the north (8.25ha.) parcel. The south parcel is bordered by 2 roads and a river. The north parcel is bordered by 3 roads, 1 of the roads has a gas right of way. No other properties abut either of the parcels. We believe that this subdivision will have no adverse effects on the surrounding properties or affect agricultural operations in the area.

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

Yes, the south 10.73 ha. already supports agriculture in the form of hay and egg production. The proposed, north 8.25 ha parcel has a small hay pasture that was cut off from the larger parcel by the arterial road. Other than that the north parcel is not presently used for agricultural purposes. It has been partially cleared of timber. The potential of this north parcel for agricultural purposes in the long term is good. If the parcel were to be cleared it could provide ample pasture for hay production or animal grazing. The soil is of good quality with no rocks or stones so could lend itself to crop production or market gardening. The area is flat and has good southern exposure.

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

- Proposal Sketch - 59532
- Site Photo - Highway - north 8.25 ha on left 10.73 on right
- Site Photo - Small pasture on 8.25 ha cut off by highway
- Certificate of Title - 000-913-375

ALC Attachments

None.

Decisions

None.





Brian Chow

From: Hatfield, Jill AGRI:EX <Jill.Hatfield@gov.bc.ca>
Sent: September 27, 2019 10:39 AM
To: Brian Chow
Subject: RE: External Referral for a Proposed Subdivision at 3120 Dove Creek Road (File: ALR 1B 19)

Hi Brian: Thank you for arranging the site visit to the property at 3120 Dove Creek Road. Below are comments on the referral for a subdivision within the ALR.

The construction of the new Piercy Bridge expropriated 7 acres of this property and bisected the parcel with the norther portion having access on Stephen Road and the southern portion having access from Dove Creek Road. Below are the points to consider with respect to the subdivision request:

- The Piercy Bridge is considered an arterial highway providing access to highway 19 for residents of Comox, north Courtenay and the northern rural sections of Area B and C of the Comox Valley regional District.
- Both parcels have river frontage on the Tsolum River and periodic flooding of both parcels has occurred
- The Agricultural capability of the entire parcel is considered prime
- The property is very close to the City of Courtenay and the Comox Valley Exhibition Grounds where the Comox Valley Farmers Market occurs every Saturday throughout the late spring, summer and early fall.
- The southern portion of the parcel has been partially cleared for hay production. The applicants, in the past, produced eggs but the change in traffic patterns created by the new bridge no longer supported their roadside sale of eggs. It does not appear that there is currently sufficient agricultural activity for Farm Tax Status.
- The Northern portion of the parcel was selectively logged. Non- marketable trees and understory make up the majority of the land cover on the parcel
- Access between parcels require using Dove Creek, Headquarters and Stephen Roads. A short access to the 1 acre remainder portion of the hay field on the Northern portion from the Headquarters Road is available.

Considerations

- Both parcels will be greater than 8 hectares which meets the minimum zoning in the ALR by the Comox Valley Regional District.
- The parcels proximity to the City of Courtenay, prime agricultural soils, flood potential and sensitive habitat along the Tsolum River would lend itself to more intensive agriculture on both northern and southern parts of the parcel even taking in the flood potential and the reduction of arable land due to drainage and riparian corridors.
- The arterial highway and the configuration of the intersection between Headquarters Road and the Piercy Bridge does pose an impediment for access between the two parcels

Recommendations:

- Given the complexity of this application for subdivision I recommend this application be forwarded to the Agricultural Land Commission for consideration.

Thank you

Jill Hatfield P.Ag | Regional Agrologist – Vancouver Island North
BC Ministry of Agriculture | phone: 250-897-7518 | cell: 250-334-7272 | email: Jill.Hatfield@gov.bc.ca

AgriServiceBC@gov.bc.ca 1 888 221-7141 | www.gov.bc.ca/agriservicebc

From: Brian Chow [mailto:bchow@comoxvalleyrd.ca]
Sent: Wednesday, September 4, 2019 12:14 PM
To: Hatfield, Jill AGRI:EX
Subject: External Referral for a Proposed Subdivision at 3120 Dove Creek Road (File: ALR 1B 19)

Hi Jill,

Please find attached a copy of the referral for your review and comment. Jodi advised me that you are on vacation. So, even though I listed a response deadline of September 18, please respond when you can.

In addition, I am going to organize a site visit for the Agricultural Advisory Planning Commission members on Thursday, September 26. (Time has not been set yet). Please let me know if you are interested in attending as well. Thank you.

Brian Chow, MCIP, RPP

Rural Planner

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600 Comox Road, Courtenay, BC V9N 3P6

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