

**DATE:** July 28, 2021

**FILE:** 3110-20/ALR 2B 21

**TO:** Chair and Directors  
Electoral Areas Services Committee

Supported by James Warren, Deputy  
Chief Administrative Officer

**FROM:** James Warren  
Deputy Chief Administrative Officer

*J. Warren*

**RE:** **Agricultural Land Reserve Non-Adhering Residential Use**  
**5028 Headquarters Road (Landers)**  
**Lazo North (Electoral Area B)**  
**Lot 2, Section 22, Comox District, Plan VIP74331, PID 025-497-987**

**Purpose**

To consider an Agricultural Land Reserve (ALR) application (Appendix A) to allow for an owner to remain living in an existing house while a new house is constructed on the same lot.

**Recommendation from the Deputy Chief Administrative Officer:**

THAT the Agricultural Land Commission be advised that the Comox Valley Regional District supports Agricultural Land Reserve Non-Adhering Residential Use application ALR 2B 21 (Landers) concerning a residential use located on Lot 2, Section 22, Comox District, Plan VIP74331, PID 025-497-987 (5028 Headquarters Road);

AND FINALLY THAT the application ALR 2B 21 (Landers) regarding a non-adhering residential use on a property within the Agricultural Land Reserve be forwarded to the Agricultural Land Commission for final consideration.

**Executive Summary**

- The subject property is a 4.5 hectare lot within the ALR. The owner is seeking to construct a new house while living in the existing house. Upon occupancy, the owner intends to convert the older house to an accessory building.
- Under existing regulations, a non-adhering residential use application is required for remaining living in a house while building a new house on the same lot.
- The Agricultural Advisory Planning Commission (AAPC) supports forwarding it to the Agricultural Land Commission (ALC).
- Staff recommends the application be supported and forwarded to the ALC.

Prepared by:

Concurrence:

Concurrence:

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**Government Partners and Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
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## Background/Current Situation

The subject property is a 4.3 hectare lot located northwest of the City of Courtenay (Figures 1 and 2). The property is developed with a house with a detached garage and two farm buildings. The property has maintained farm status under the *Assessment Act*. The owner is seeking to construct a new house while living in the old house. It is the intention of the applicant that, upon occupancy of the new house, the old house will be decommissioned to be used as an accessory building.

## Planning analysis

### Agricultural Land Reserve

The *Agricultural Land Commission Act* and ALR Regulations allow property owners to construct, alter or use only one residence per parcel with an option to add a secondary suite to that house. For circumstances in which the owner wants to reside in the only residence on the property while constructing a new residence to replace the principal residence, this Non-Adhering Residential Use application is required.

The Comox Valley Regional District (CVRD) has been notified of residential regulation changes coming into force on December 31, 2021. According to these new regulations, the applicant's proposal will not require an application after the coming into force date. The applicant has been notified of this but is seeking to begin construction prior to that date.

### Official Community Plan

The property is designated Agricultural Areas within the Official Community Plan, Bylaw No. 337 being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014". Concerning residential construction within this designation, Section 59 encourages minimizing the residential impact on arable farm land, placing consideration on the long term agricultural potential of the land, avoiding arable soils, and avoiding long driveways with buildings placed deep into the property. Though the proposal will effectively relocate the homesite deeper into the lot, the property has been developed for farm use first and the new homesite is being sited in an area of wetter soils behind the agricultural development.

### Zoning Bylaw

The property is zoned Rural ALR in Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019". The zone limits residential density to one single detached dwelling and one secondary suite plus additional dwelling units where the additional dwelling units are specifically permitted under the *Agricultural Land Commission Act*, regulations and orders. Section 312 of the Zoning Bylaw, makes provisions for the temporary occupation of an additional dwelling so an owner can continue to occupy an existing dwelling during the construction of a proposed replacement dwelling unit. The proposal is consistent with the Zoning Bylaw.

## Policy Analysis

Section 20.1 of the *Agricultural Land Commission Act* states that an owner may construct, alter or use only one residence per parcel. Section 25 of the Act allows an owner to make an application to allow for a use that is not otherwise permitted by the Act or its regulations. Section 34 requires that the local government decide whether to forward the application to the ALC for a decision and, if it does, allows the local government to provide comments and recommendations to the ALC.

## Options

The CVRD Board may support forwarding the application to the ALC or refuse to forward the application. The board may also provide comments and recommendations concerning the application for ALC consideration. Staff recommends forwarding the application to the ALC.

**Financial Factors**

Fees have been collected for this nonfarm use application in accordance with Section 34.1 of the *Agricultural Land Commission Act*.

**Legal Factors**

This report and the recommendations contained herein are in compliance with the *Agricultural Land Commission Act*, regulation and CVRD bylaws.

**Regional Growth Strategy Implications**

The Regional Growth Strategy, Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” (RGS) designates the subject property as being within the Agricultural Areas designation. Within this designation, the intent of the RGS is “to reinforce the policies and procedures within the ALR in order to support agricultural practices”.

**Intergovernmental Factors**

A referral was issued to the Ministry of Agriculture, Food and Fisheries for comment on this application. A response has not been received as of the drafting of this report. Any response received prior to the meeting of the Electoral Areas Services Committee will be provided verbally to the Committee.

**Interdepartmental Involvement**

This ALR application has been circulated to CVRD departments. No concerns were identified.

**Citizen/Public Relations**

The AAPC considered the application at its meeting on July 22, 2021. The AAPC supported the application citing that their understanding is that the ALR Regulations change scheduled for December 31 permits this activity so refusing the application will only delay the proposal.

ALR non-adhering residential use applications are not subject to public notification or consultation requirements.

Attachments: Appendix A – ALC application submission ALR 2B 21

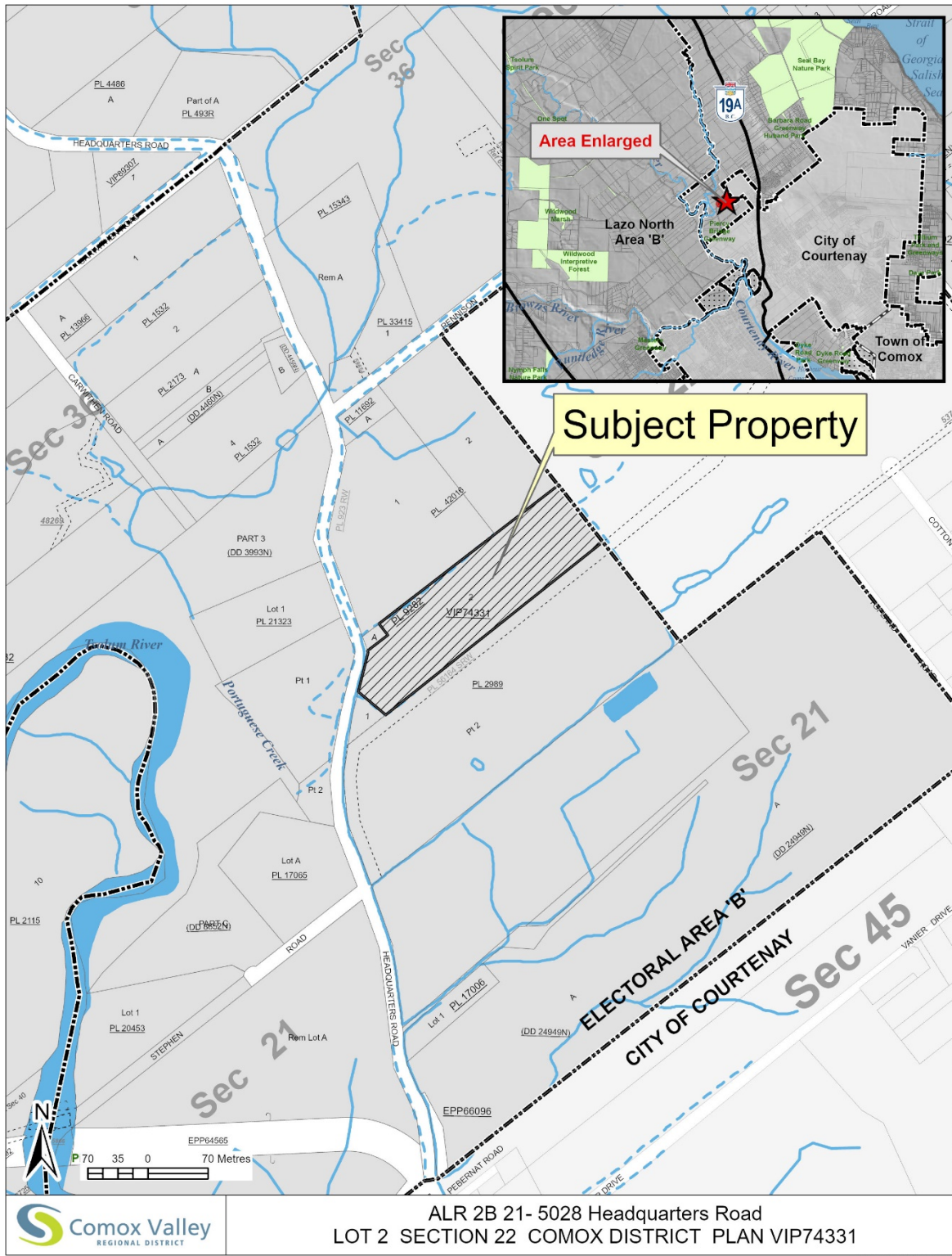


Figure 1: Subject Property





Figure 2: Air Photo

# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 63374

**Application Status:** Under LG Review

**Applicant:** Kyla Landers

**Local Government:** Comox Valley Regional District

**Local Government Date of Receipt:** 06/17/2021

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

**Proposal Type:** Non-Adhering Residential Use - Non-Adhering Tourism Accommodation

**Proposal:** Seeking to allow my aging parents and myself to occupy existing home while a new energy efficient house is constructed on property. The existing 93m<sup>2</sup> 90 year old farmhouse is not adequate to house 3 generations of 4 adults. It has little insulation, rotten/sagging floors, and questionable wiring and plumbing. Significant capital improvement would be required; rather than repair the existing home a new home is proposed for development as it would be more economically, environmentally and socially beneficial.

**Mailing Address:**

5028 Headquarters Rd.

Courtenay, BC

V9J 1P2

Canada

## Parcel Information

### Parcel(s) Under Application

1. **Ownership Type:** Fee Simple

**Parcel Identifier:** 025-497-987

**Legal Description:** LOT 2 SECTION 22 COMOX DISTRICT PLAN VIP74331

**Parcel Area:** 4.3 ha

**Civic Address:** 5028 Headquarters Rd

**Date of Purchase:** 05/12/2020

**Farm Classification:** Yes

**Owners**

1. **Name:** Kyla Landers

**Address:**

5028 Headquarters Rd.

Courtenay, BC

V9J 1P2

Canada

## **Current Use of Parcels Under Application**

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

*1.25 Ha bedding hay fields; .57 Ha vegetable/herb/fruit garden areas; .26 Ha lavender field with 525 plants so far*

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

*When I purchased the property it was leased to a cattle farmer for bedding hay - unsuitable for feed. For the past year, my family and I have added fencing/gates , cultivated existing hay fields into productive vegetable/herb/fruit garden areas, constructed an accessory farm building for cleaning and storing crops and farm equipment. The existing swale was cleared to improve crop cultivation.*

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

*House and detached garage*

## **Adjacent Land Uses**

### **North**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** Apple orchard

### **East**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** Golf Course

### **South**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** Hay field

### **West**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** Hay field

## **Proposal**

### **1. What is the purpose of the proposal?**

*Seeking to allow my aging parents and myself to occupy existing home while a new energy efficient house is constructed on property. The existing 93m<sup>2</sup> 90 year old farmhouse is not adequate to house 3 generations of 4 adults. It has little insulation, rotten/sagging floors, and questionable wiring and plumbing. Significant capital improvement would be required; rather than repair the existing home a new home is proposed for development as it would be more economically, environmentally and socially beneficial.*

### **2. Describe any agri-tourism that is currently taking place on the property.**

*None*

### **3. What is the total floor area of the proposed accommodation in square metres?**

280 m<sup>2</sup>

**4. How many "sleeping units" in total are proposed?**

4

**5. Describe the rationale for the proposed location of the accommodation.**

*The proposed location is on the edge of unimproved bush/forest area that borders agriculture field (in use). The location was chosen as it preserves existing agriculture areas for farm use, concentrates housing in one location thereby minimizing residential impact on arable land, and allows for aging in place. By placing the residence further back from the road, noise pollution is significantly reduced as Headquarters Road is a major access road through the valley. The previous owners overbuilt the septic field to allow for a 4 bedroom house so no further addition is necessary to the approved existing field. The proposed house location is on an approximate 1.5% grade above the existing septic field.*

**6. Describe the size, type and number, as well as occupancy of all residential structures currently located on the property.**

*93 m<sup>2</sup> farmhouse single story stick frame occupied by owner and aging parents;  
35 m<sup>2</sup> mice infested bunkie used as a bedroom for adult son*

**7. Describe any agri-tourism accommodation or tourist accommodation currently located on the property.**

*None*

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

*Yes. There is no negative impact to continue supporting agriculture with this application request.*

**9. What is the total area of infrastructure necessary to support the proposed accommodation?**

*Lengthen the existing gravel road way by 40m*

**10. Do you need to import any fill be required to construct the accommodation?**

*Yes*

**Proposal dimensions**

**Total fill placement area (0.01 ha is 100 m<sup>2</sup>)** *0.01 ha*

**Maximum depth of material to be placed as fill** *0.4 m*

**Volume of material to be placed as fill** *52 m<sup>3</sup>*

**Estimated duration of the project.** *8 Months*

**Describe the type and amount of fill proposed to be placed.**

*road gravel crush to access new house location north of swale*

**Briefly describe the origin and quality of fill.**

*Comox Valley/Cumberland, sand/gravel clean fill*

**Applicant Attachments**

- Proposal Sketch-63374
- Site Photo-Google earth view
- Site Photo-Proposed location
- Professional Report-Septic report with approvele
- Certificate of Title-025-497-987



**ALC Attachments**

None.

**Decisions**

None.

