

DATE: August 4, 2021

FILE: 3060-20/DP 16C 21

TO: Chair and Directors
Electoral Area Services Committee

Supported by James Warren
Deputy Chief Administrative Officer

FROM: James Warren
Deputy Chief Administrative Officer

J. Warren

**RE: Development Permit – Lot 15, Plan 23282, Macaulay Road (Munro/Donner)
Puntledge - Black Creek (Electoral Area C)
Lot 15, Block 29, Comox District, Plan 23282, PID 001-819-488**

Purpose

To consider a Farmland Protection Development Permit (DP) to allow for the construction of a single detached dwelling within 30.0 metres of a property within the Agricultural Land Reserve (ALR) (Appendix A).

Recommendation from the Deputy Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve the Development Permit DP 16C 21 (Munro/Donner) to permit the construction of a single detached dwelling within 30.0 metres of a property within the Agricultural Land Reserve for property described as Lot 15, Block 29, Comox District, Plan 23282, PID 001-819-488 (no civic address, Macaulay Road);

AND FINALLY THAT the Corporate Legislative Officer be authorized to execute the permit.

Executive Summary

- A DP application has been received to permit the construction of a single detached dwelling within 30.0 metres of a property line that is shared with a property within the ALR.
- The Agricultural Advisory Planning Commission (AAPC) considered this at their July 22, 2021 meeting and supported the application as proposed. Additionally, the Nature Trust of BC, who owns the ALR property near the subject property, supports the application as well.
- Staff are recommending that the DP be approved as the nature of the ALR property is such that it is unlikely to be used for farming in the future, the dwelling is sited as far from the farm property as is possible based on the property's size and shape, and existing fencing and vegetation buffers are to remain in place.

Prepared by:

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Dylan Thiessen, MA, MCP
Planner

Concurrence:

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

A. Mullaly

Alana Mullaly
General Manager of
Planning and Development
Services

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

An application has been received to consider a Farmland Protection DP to allow the construction of a dwelling on a residential property within 30.0 metres of a shared lot line between the subject property and land within the ALR. Both the property’s rear lot line, and eastern side yard lot line are adjacent to the ALR property. The subject property is approximately 0.2 hectares in size, is zoned Rural Eight (RU-8), and is designated as being within a Rural Settlement Area (Figures 1-3). The property is mostly flat and is vacant, with about half of it being cleared and half being covered by a tree canopy. The proposed development includes the construction of a single detached dwelling, sited over 30 metres from the rear lot line, and approximately 18 metres from the side lot line that is adjacent to the ALR property (Figure 4). The ALR property is 9.5 hectares in size and is almost entirely covered by a wetland watercourse. It is owned and managed by the Nature Trust of BC – a non-profit land conservation organization.

Policy Analysis

Sections 488-490 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to designate Development Permit Areas (DPA) within an Official Community Plan (OCP) and establish guidelines for each DPA for specific purposes, including the protection of farming. Section 491(6) allows DPs for the protection of farming to be issued with conditions related to screening, landscaping, fencing, and the siting of buildings or other structures. Section 86 of Bylaw No. 337, being the “Rural Comox Valley Official Community Plan, Bylaw No. 337, 2014”, establishes a DPA for the purpose of farm land protection for all land within 30.0 metres of land that is designated as an agricultural area or is within the ALR. Construction of a building within the DPA requires the issuance of a DP prior to the issuance of a building permit.

Official Community Plan Analysis

The OCP designates the property as a Rural Settlement Area, as mentioned above. Section 44(5), within this designation, directs the Comox Valley Regional District (CVRD) to consider, through a development permit, “...a buffer to protect the integrity of the working landscape...In circumstances where new proposed development is adjacent to an active working parcel or ALR land...” These development permit requirements are outlined in Section 86, and include requirements for fencing and buffering to be installed and maintained, and guidelines to help owners appropriately site their dwelling and other structures.

The applicant has submitted several photos which show existing fencing and vegetated buffers (Figures 5-8). Additionally, the applicant has submitted a written rationale to explain the siting of the dwelling and proposed development (Appendix A), and confirmation from a Registered Professional Biologist claiming that the distance and existing vegetation is a sufficient buffer (Appendix A). Due to the proximity of the wetland and watercourse that is throughout the ALR property, the applicant will be submitting an application for an Aquatic and Riparian Habitat Development Permit, after this DP application is processed. The applicant has begun conversations with the biologist that will be involved with that permit.

Zoning Bylaw Analysis

There are no Zoning Bylaw implications through the proposed development. All height, setback, use, density, and lot coverage requirements are met through the development as proposed.

Recommendation and Rationale

Staff are in support of the application and are recommending that the Electoral Area Services Committee (EASC) support, and that the board approve, the application for the following reasons:

1. The proposed siting of the dwelling retains a significant amount of space between the dwelling and the farming property. The dwelling is approximately 18 metres from the eastern (side) lot line, and approximately 34.5 metres from the southern (rear) lot line.
2. The ALR property adjacent to the subject property features a significant wetland across most of its land, and is managed by the Nature Trust of BC – a non-profit organization focusing on environmental conservation and preservation. For this reason, it is unlikely that the property will be actively farmed in the future.
3. There is an existing fence between the subject property and ALR property, as well as an existing vegetated buffer. Because the dwelling is to be sited at its current proposed location, both the fence and vegetated buffers will remain intact and in place.

Options

The CVRD Board can approve, deny, or modify the draft DP (Appendix A). Given the above discussion, staff recommend that the board approve the DP.

Financial Factors

Applicable fees have been collected for this application under the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014.”

Legal Factors

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

Regional Growth Strategy Implications

Goal 6 of the Regional Growth Strategy, being the “Comox Valley Regional District Regional Growth Strategy, Bylaw No. 120, 2010” (RGS), is to support and enhance the agricultural sector and increase local food security. Within this goal, there are policies to protect agricultural land and associated activities to support stronger local economies and foster food security throughout the rural areas. One of these policies is the need for appropriate buffers and transition zones between working landscapes and residential areas to minimize conflicts (supporting Policies 6A-3). Accordingly, this DP should provide a sufficient separation and buffer between agricultural land and the proposed development.

Additionally, the RGS designates the subject property as being within a Rural Settlement Area. The objectives and policies within the RGS for this land use designation are intended to preserve the rural form and character, and rural lifestyle, of the area through low density development. The proposed development does not conflict with these residential goals or policies.

Intergovernmental Factors

A referral was issued to the Ministry of Agriculture for comment on this application. The response will be forwarded to the EASC if it is received before its meeting.

Interdepartmental Involvement

This DP has been circulated to internal departments for review and comments. No concerns were raised.

Citizen/Public Relations

Public notification is not required for a DP application. On July 22, 2021, the AAPC reviewed this application as it relates to the farmland protection guidelines. The AAPC voted to support the

application as proposed. The Nature Trust of BC was also contacted for comment as the owners of the ALR property. They support the applicant and the development as proposed, indicating they would like to see the fence and vegetated buffer remain intact, or enhanced if vegetation removal is required for some component of development.

Attachments: Appendix A – Development Permit DP 16C 21

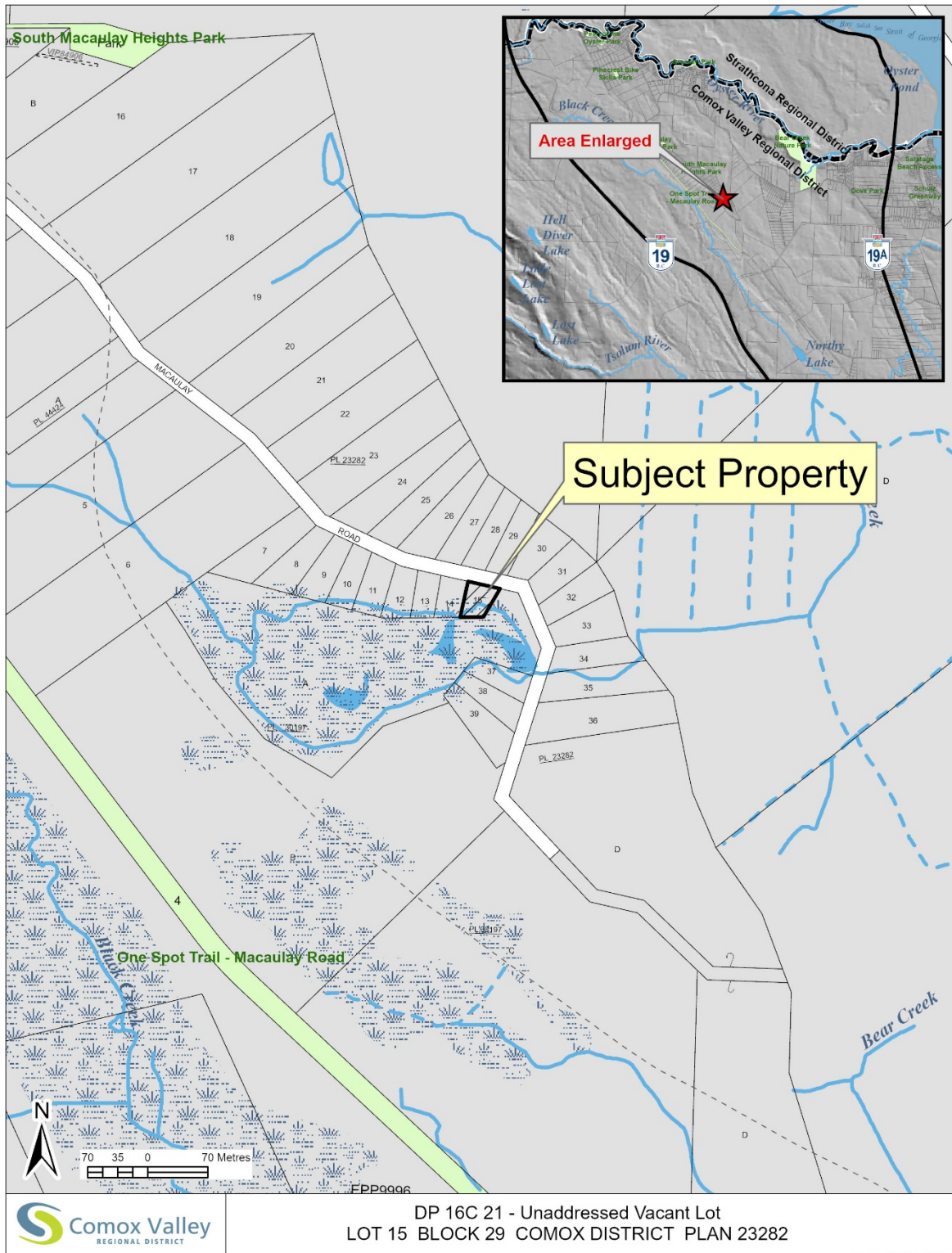


Figure 1: Subject Property Map

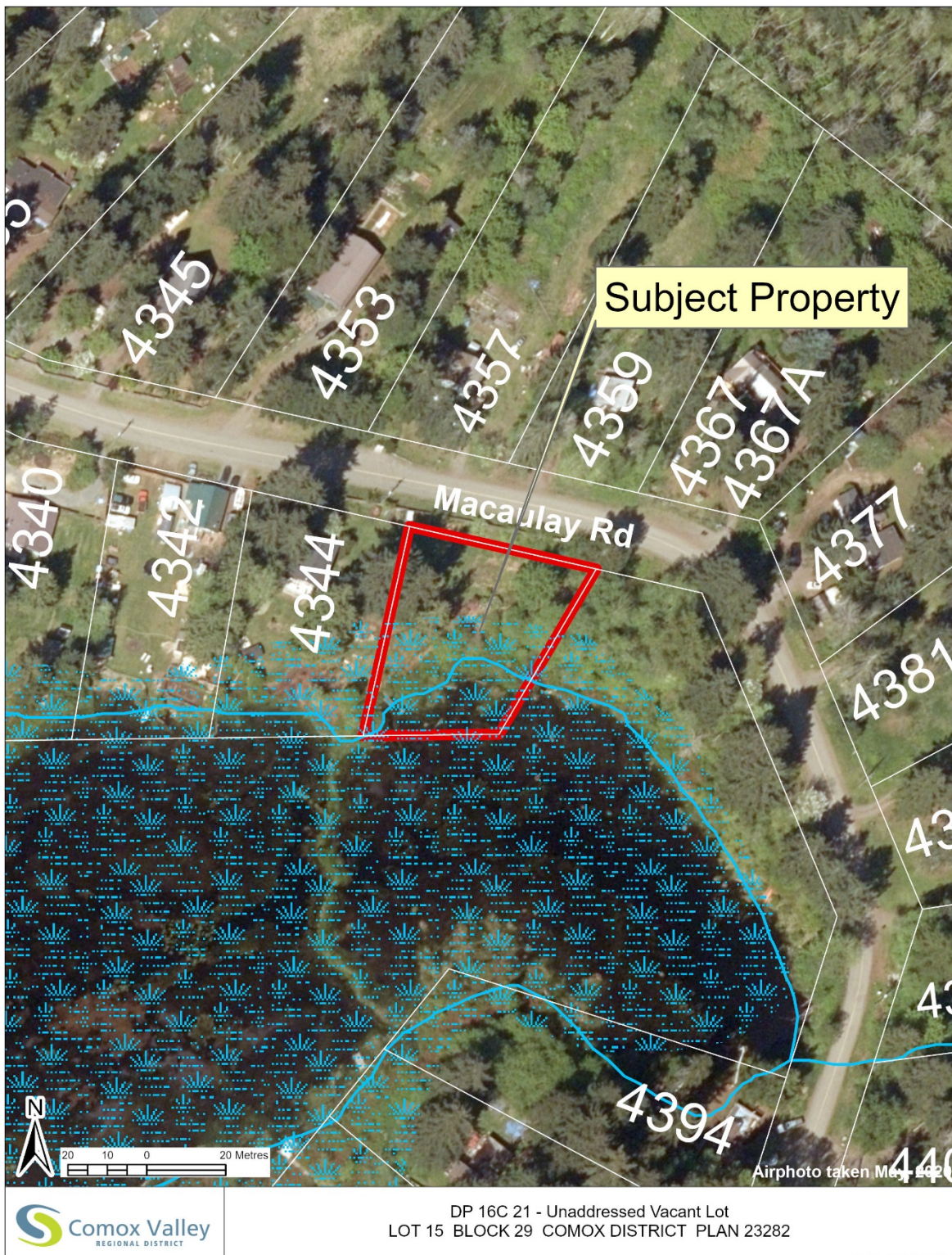


Figure 2: Air Photo

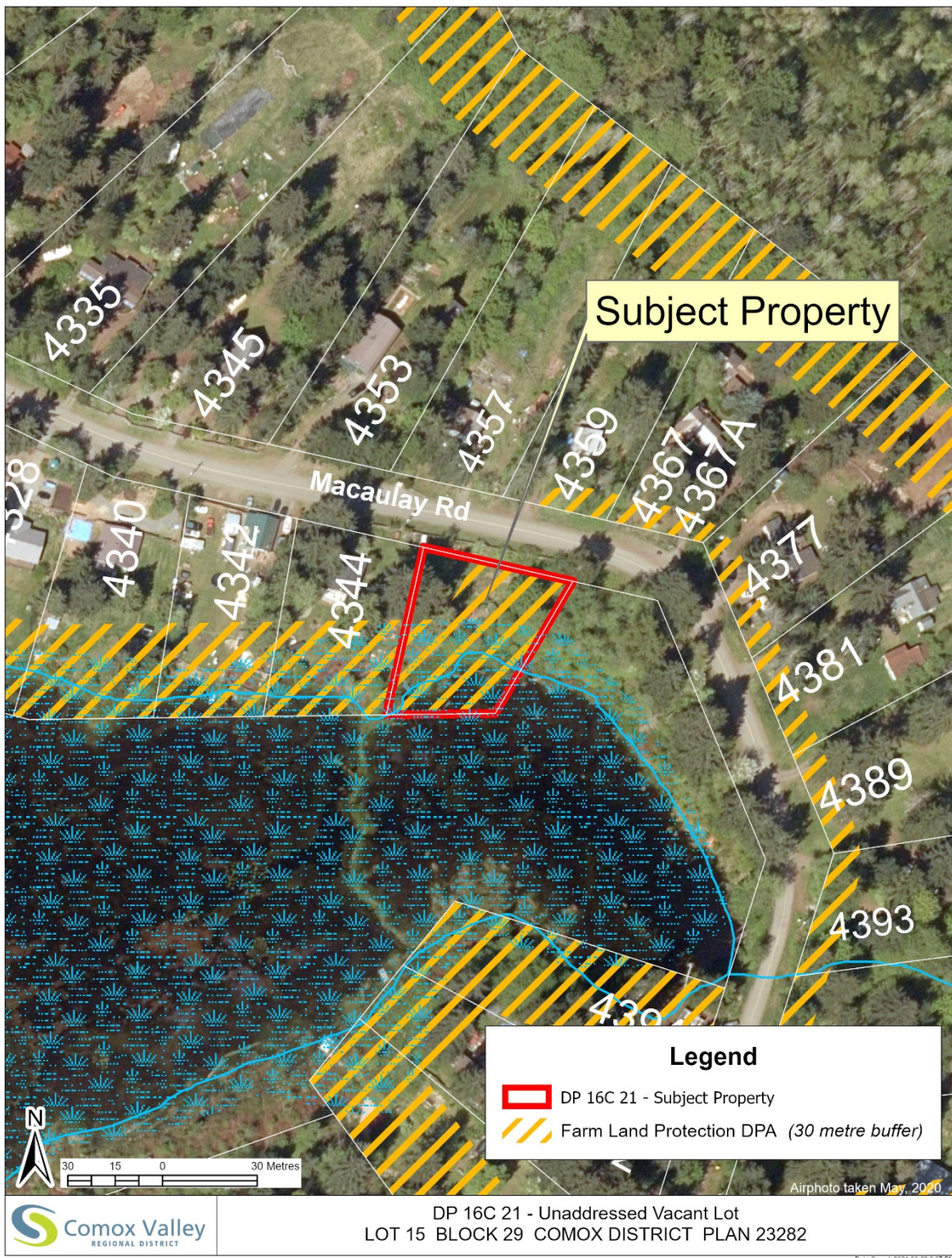


Figure 3: Farmland Protection Development Permit Area Map

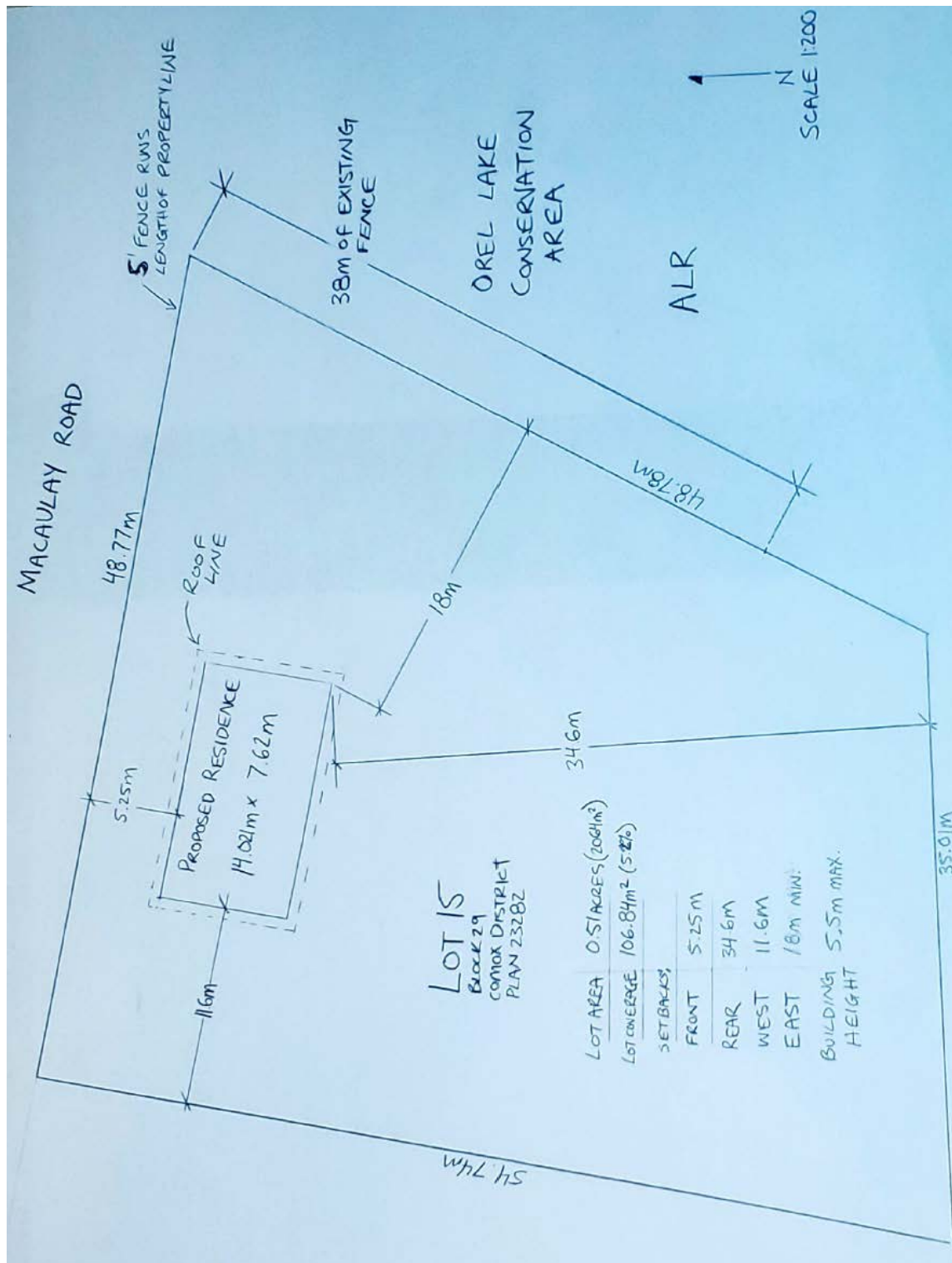


Figure 4: Site Plan



Figure 5: Looking South to ALR Property



Figure 6: Existing Fence along Property Lines Adjacent to ALR Property)

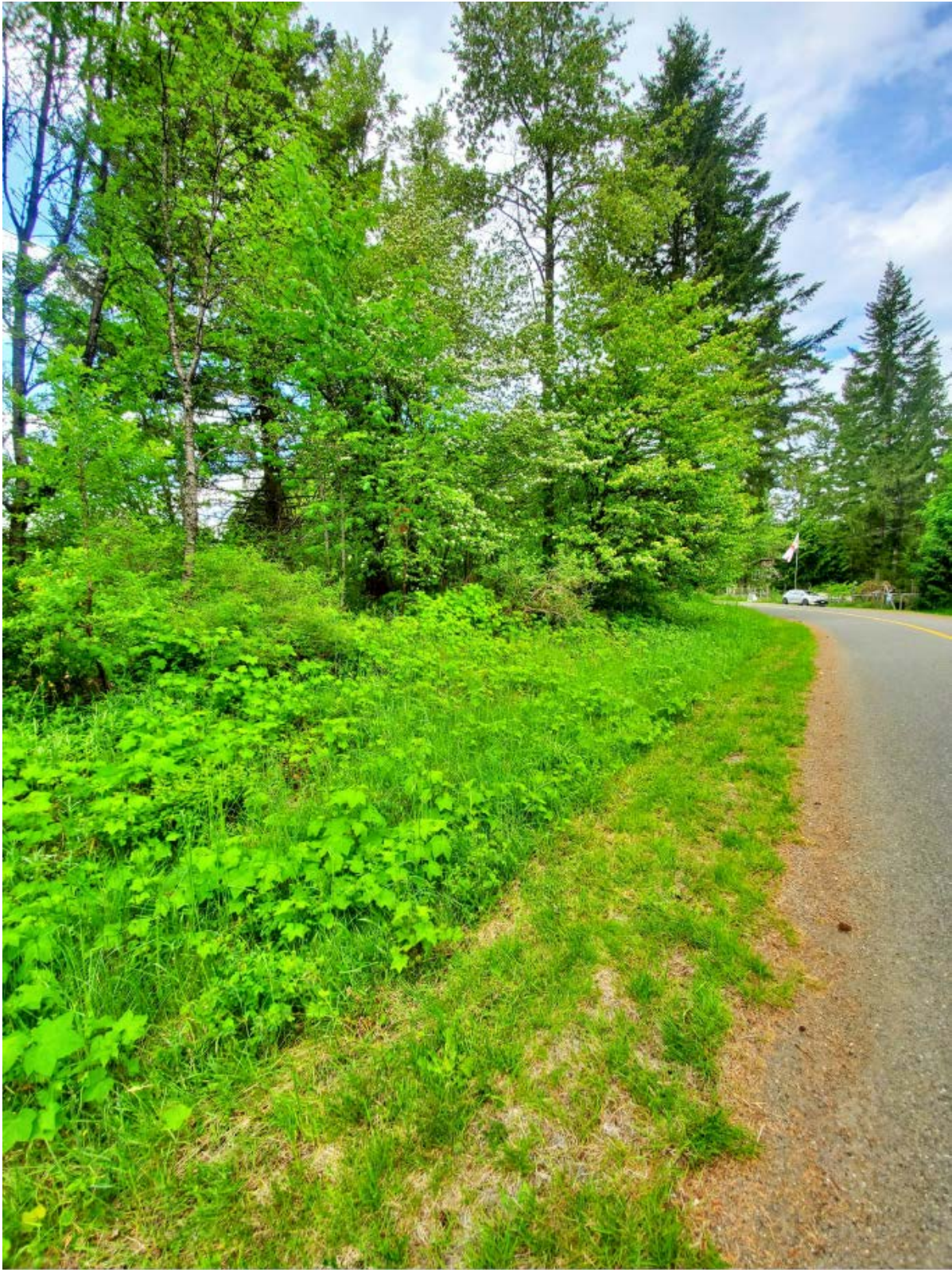


Figure 7: Macaulay Road Adjacent to Subject Property

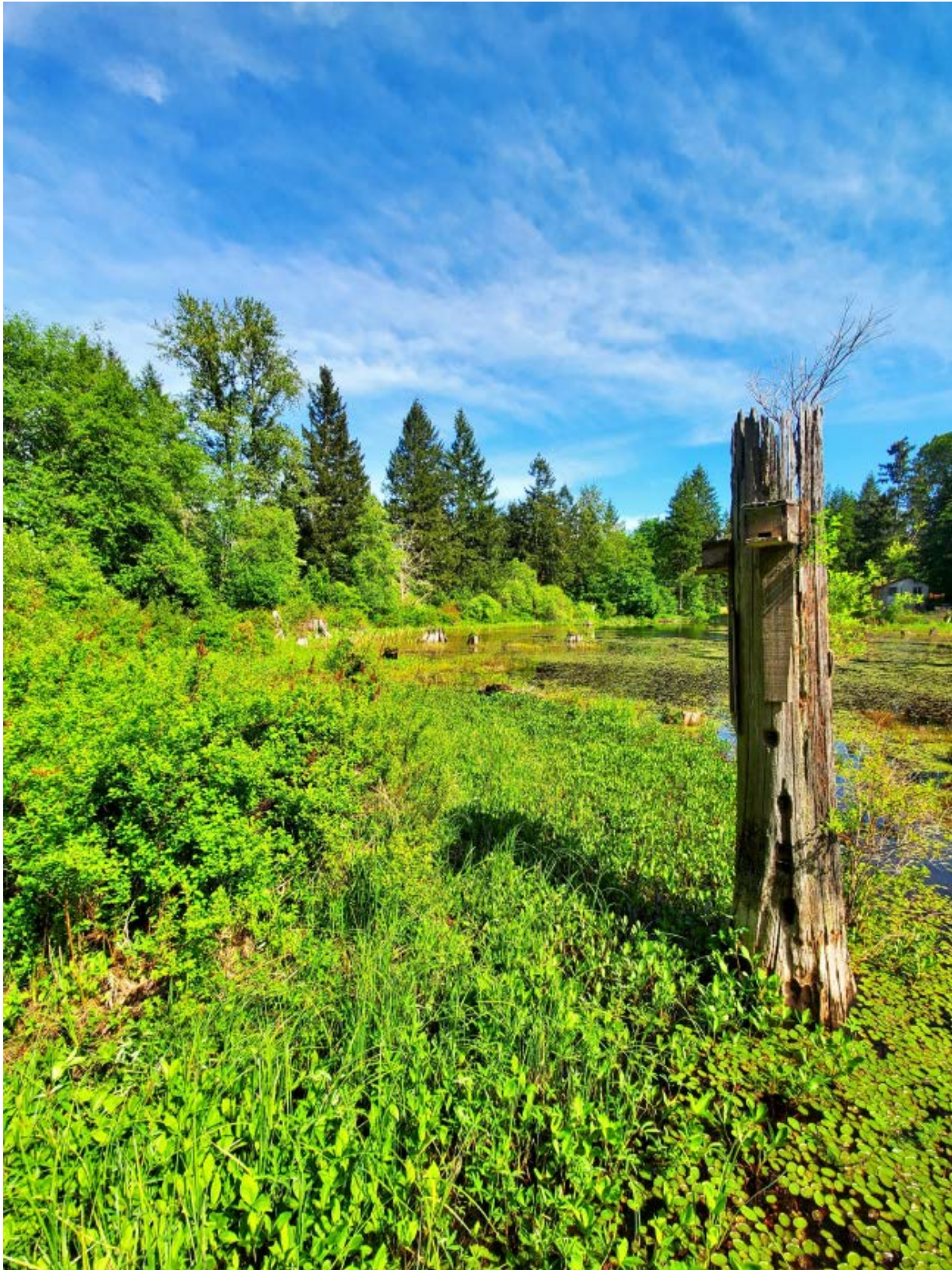


Figure 8: Photo of the Wetland on ALR Property

DP 16C 21

TO: Tyson Munro and Claire Donner

1. This Development Permit (DP 16C 21) is issued subject to compliance with all of the bylaws of the Comox Valley Regional District applicable thereto, except as specifically varied or supplemented by this permit for the **purpose(s) of constructing a single detached dwelling within 30.0 metres of a shared property line between the subject property and a property within the Agricultural Land Reserve.**

2. This Development Permit applies to, and only to, those lands within the Comox Valley Regional District described below:

Legal Description: Lot 15, Block 29, Comox District, Plan 23282

Parcel Identifier (PID): 001-819-488 **Folio:** 04854.078

Civic Address: 4344 Macaulay Road

3. The land described herein (Schedule A) shall be developed in accordance with the following terms and conditions and provisions of this permit:

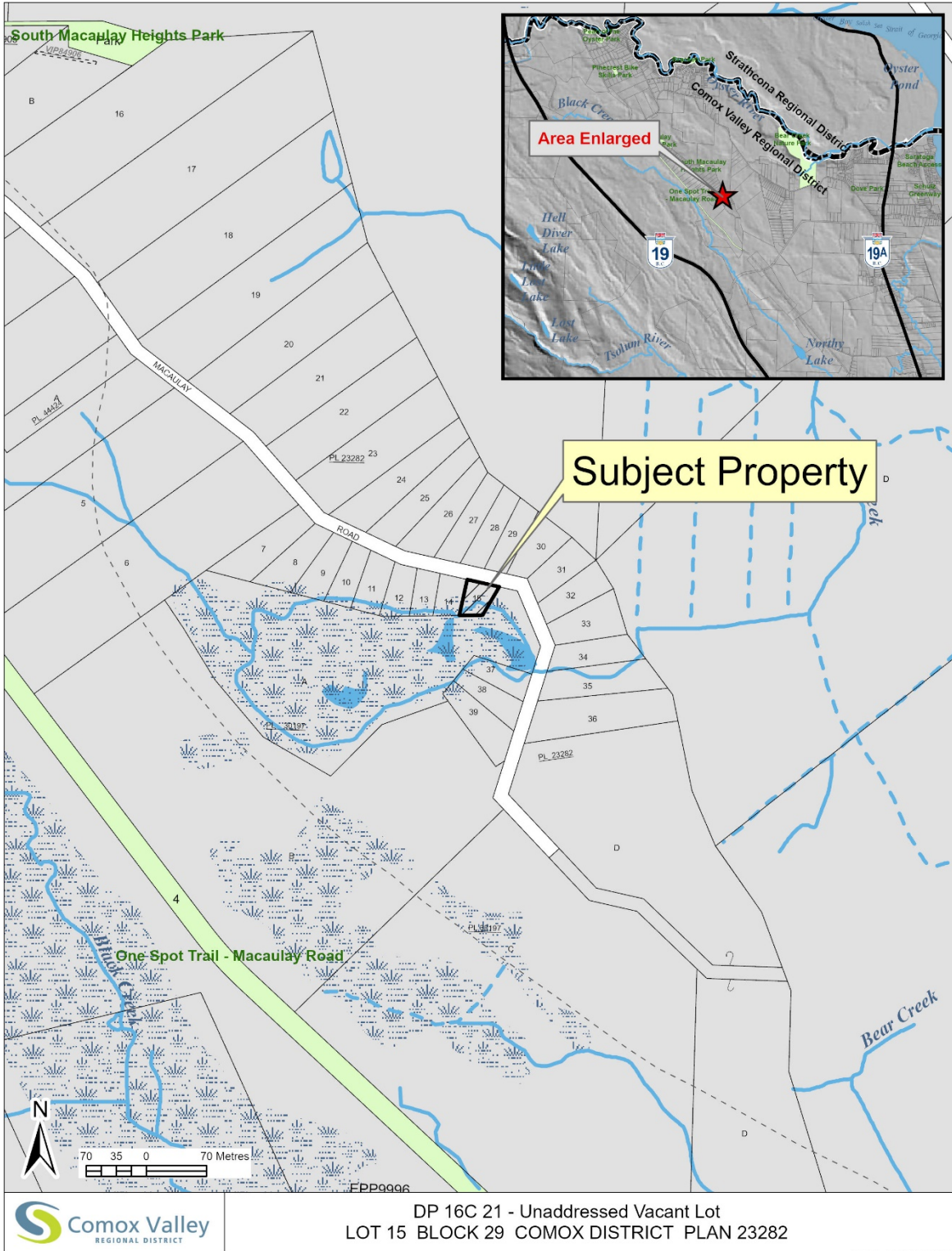
Construction and Development Activities:

- i. THAT the existing landscaping on the property adjacent to the south and east lot lines be maintained as part of regular yard maintenance and be kept free of invasive species;
 - ii. THAT the existing fence currently separating the subject property and the property within the Agricultural Land Reserve be maintained;
 - iii. THAT the dwelling be sited in such a way so as to maximize the distance between the dwelling and the property within the Agricultural Land Reserve, insofar as is reasonable and does not place the applicant under undue hardship.
4. This Development Permit is issued following the receipt of an appropriate site declaration from the Property Owner.
5. This Development Permit (DP 16C 21) shall lapse if construction is not substantially commenced within two (2) years of the Comox Valley Regional District Board's resolution regarding issuance of the development permit (see below). Lapsed permits cannot be renewed; however, a new application for a second development permit can be applied for in order to complete the remainder of the work.
6. This Development Permit is *not* a Building Permit.

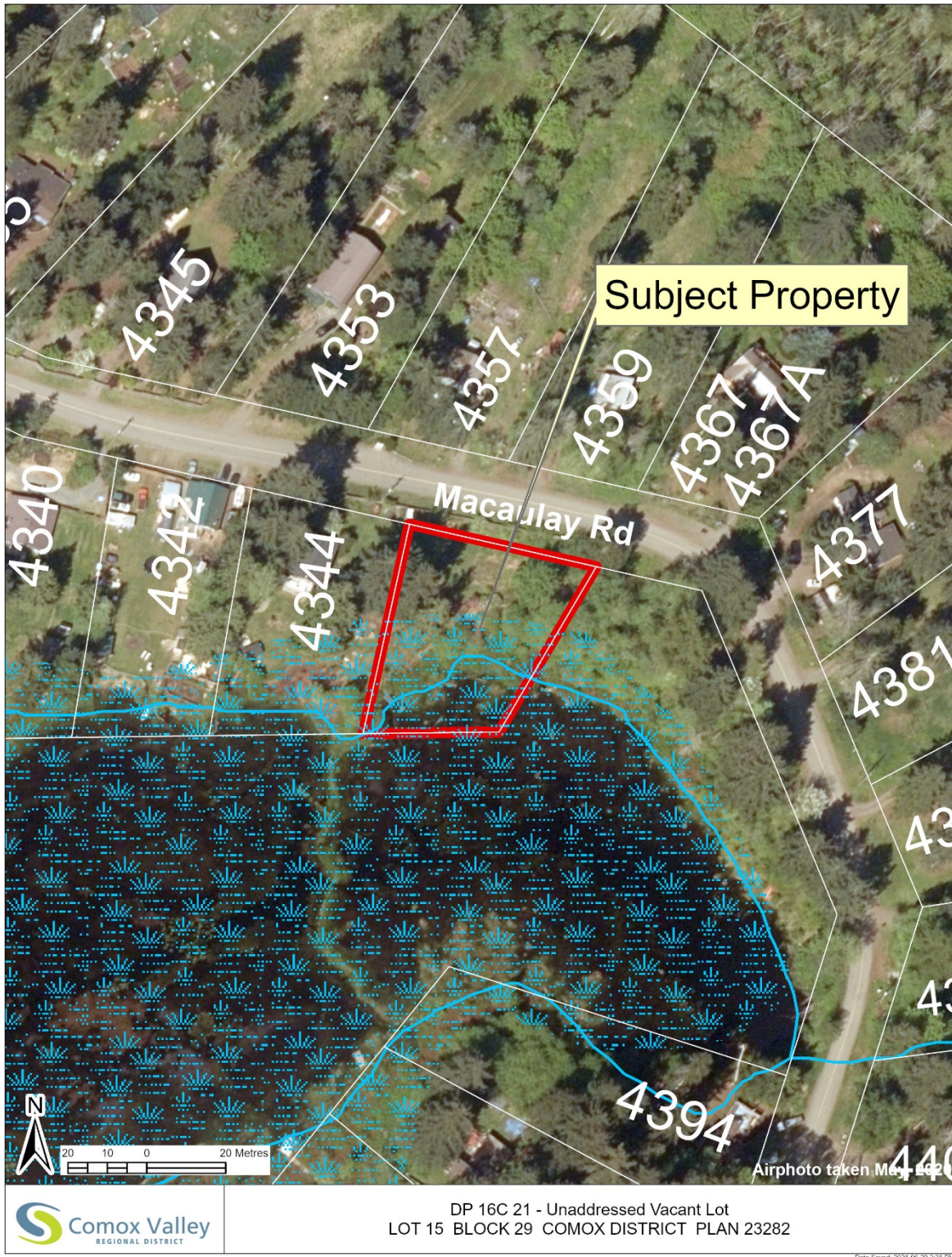
CERTIFIED as the **DEVELOPMENT PERMIT** issued by resolution of the board of the Comox Valley Regional District on _____.

Jake Martens
Deputy Corporate Legislative Officer
Certified on _____

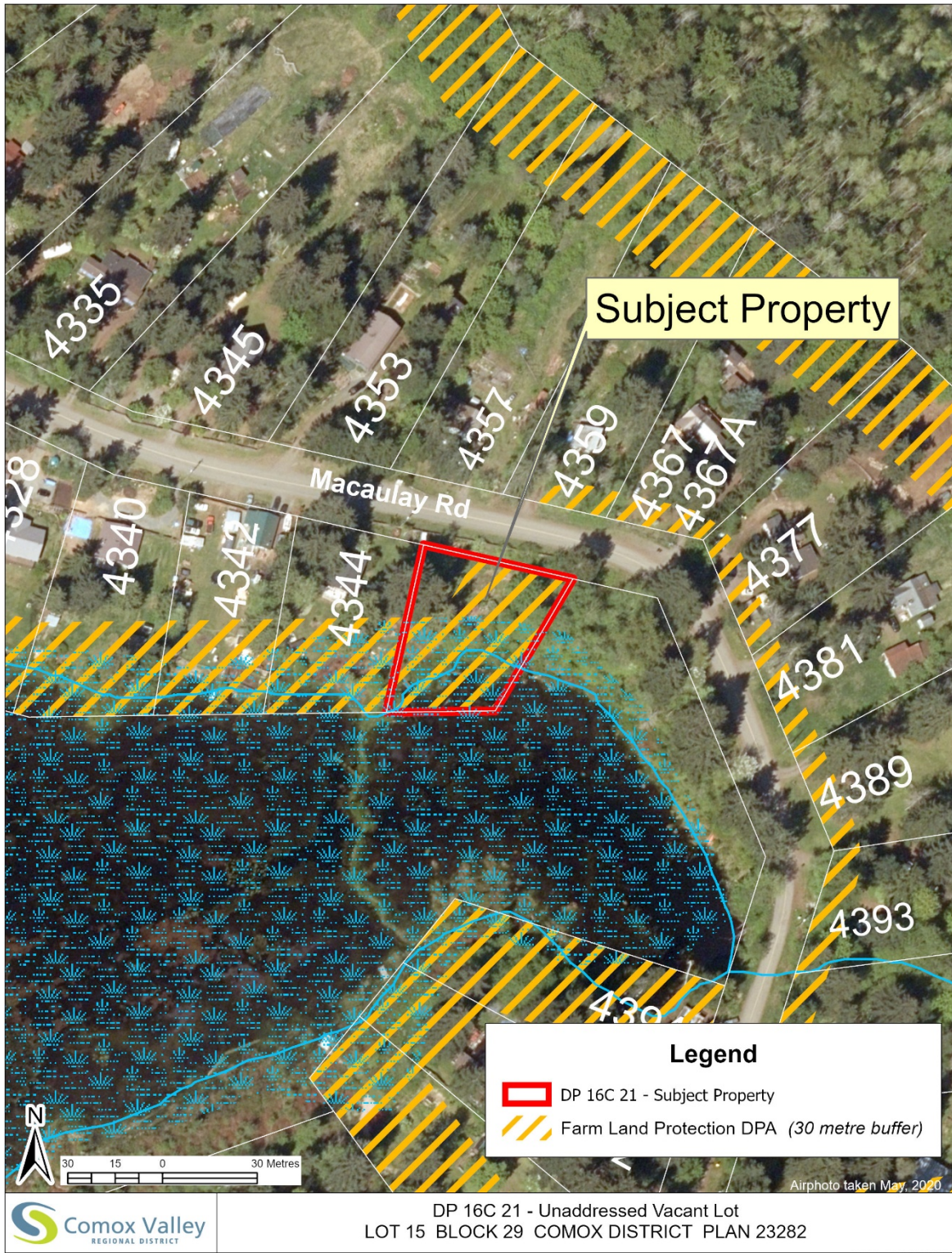
Schedule A Subject Property Map



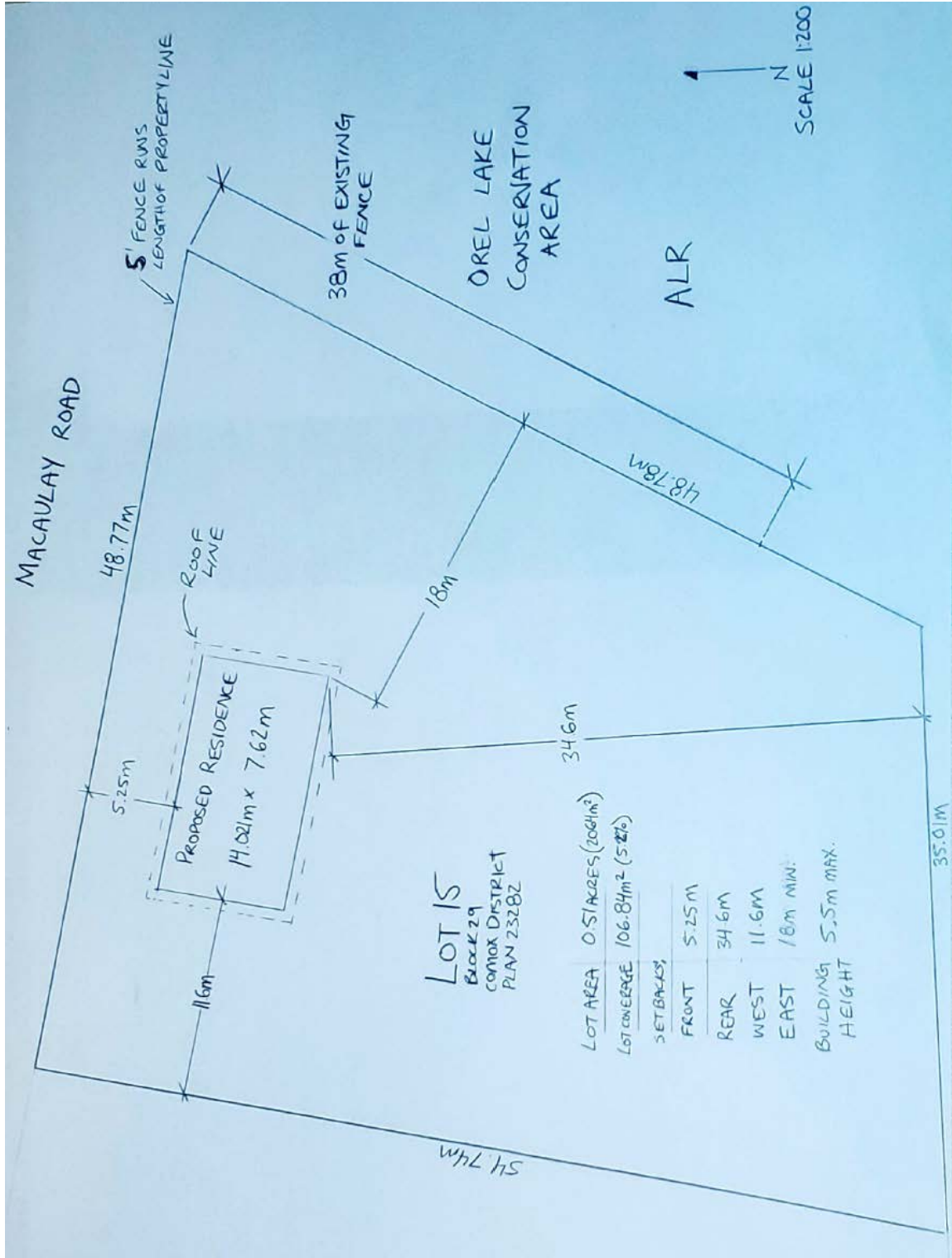
Air Photo



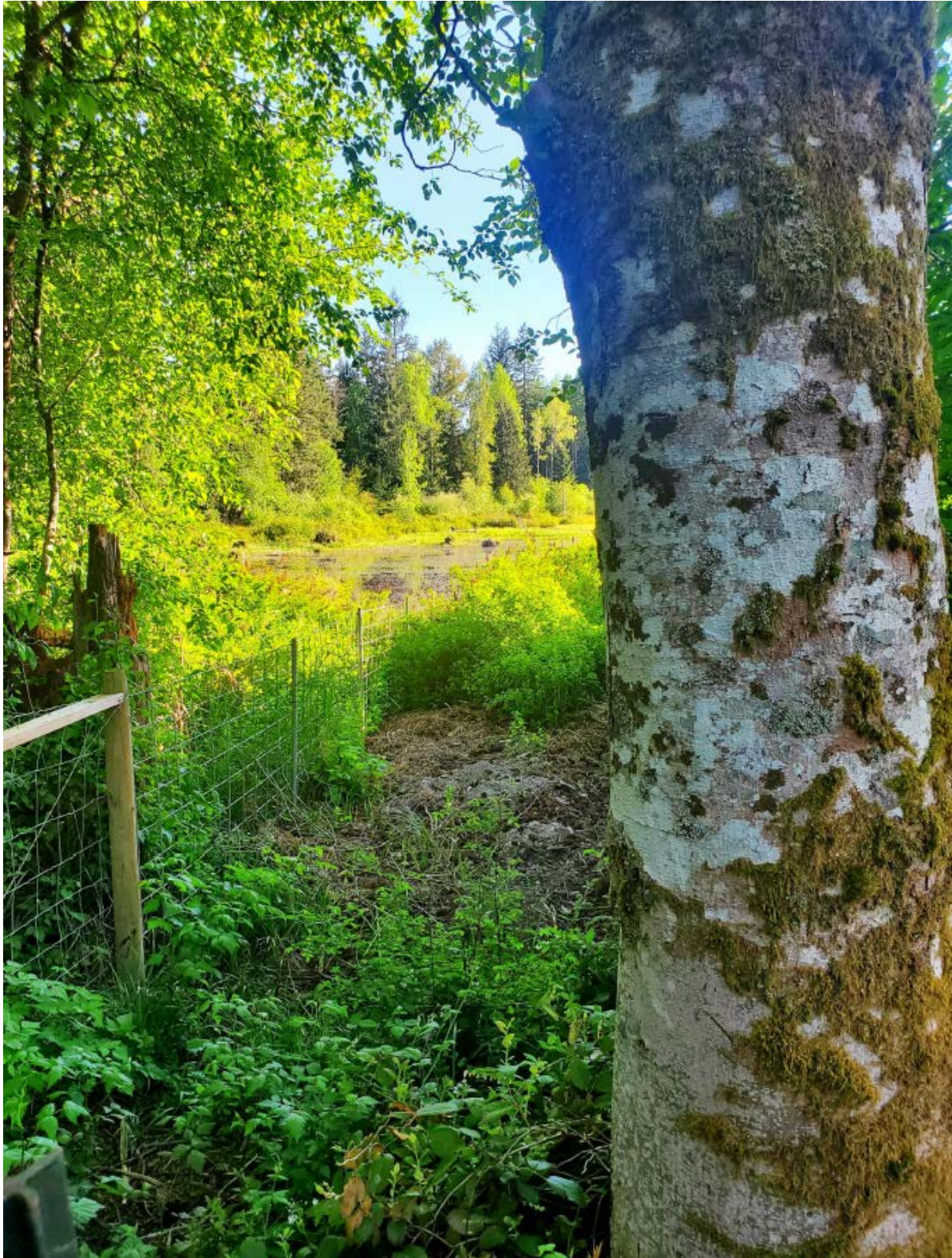
Farmland Protection Development Permit Area Map



Site Plan



Looking South to ALR Property



Existing Fence along Property Lines Adjacent to ALR Property



Macaulay Road Adjacent to Subject Property



Photo of the Wetland on ALR Property

