

**DATE:** May 4, 2021

**FILE:** 3060-20/DP 5C 21

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

**FROM:** Russell Dyson  
Chief Administrative Officer

Supported by Russell Dyson  
Chief Administrative Officer

*R. Dyson*

**RE: Development Permit – 8376 Island Highway North (Siefert/ Lamberts)  
Puntledge – Black Creek (Electoral Area C)  
Parcel A of Lot 1, Block 29, Comox District, Plan 6878, PID 005-781-248**

### Purpose

To consider a Development Permit (DP) under the Farmland Protection Guidelines related to the construction of a single detached dwelling (Appendices A and B).

### Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve the Farm Land Protection Development Permit DP 5C 21 (Siefert/ Lamberts) on the property described as Parcel A (DD 92319-N) of Lot 1, Block 29, Comox District, Plan 6878, PID 005-781-248 (8376 Island Highway N.) for the demolition of buildings and the construction of a new house and garage with a minimum 7 metre setback from the agricultural property and fencing and vegetative buffer along both the north and south side lot lines;

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

### Executive Summary

- The owners of the subject property are proposing to re-develop a 0.25 hectare area within the Farmland Protection DP area with a new house and garage. This DP can create conditions related to screening, landscaping, fencing and siting of buildings for the purposes of protection of farming.
- In support of the application, the applicants provided a Buffer Planting plan prepared by Melissa Baron Landscape Design (Appendix B). The Agricultural Advisory Planning Commission and the Ministry of Agriculture, Food and Fisheries (MoAFF) reviewed the proposal and provided comments.
- Staff recommends issuance of the DP incorporating the submitted landscape design and the comments from MoAFF.

Prepared by:

*J. MacLean*

Jodi MacLean, RPP, MCIP  
Planner

Concurrence:

*T. Trieu*

Ton Trieu, RPP, MCIP  
Manager of Planning Services

Concurrence:

*A. Mullaly*

Alana Mullaly, RPP, MCIP  
General Manager of Planning  
and Development Services

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

Applicant	✓
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**Background/Current Situation**

The subject property is a 5.5 hectare split-zoned lot along the Island Highway (Figure 1). While the majority of the lot and the neighbouring lots have an agricultural zone, the western most 0.25 hectares has a residential zone (Figure 2). The owners intend to demolish the buildings that are currently located in the residential zoned area and construct a new house and garage there (Figure 3) (Appendix A). Because this new construction will occur within 30 metres of land with an agricultural areas designation (Figure 2), a DP consistent with the Farm Land Protection guidelines is required. These DPs can affect screening, landscaping, fencing and siting of buildings or other structures.

To address these DP guidelines, the applicant is proposing to locate the buildings no closer than 7 metres to the southern side lot line at the closest point, with an internal driveway between them. Along the southern lot line, the applicant is proposing a wire fence along with a single row of shrubs and trees. Along the northern side, a double-row of shrubs and trees is proposed along with the wire fencing. The applicant submitted a landscape plan (Appendix B) that illustrates the siting and identifies the planting species, which include rose, Silverberry, White Current shrubs and Hazelnut, Black Elder and Douglas Hawthorn trees. According to the applicants, they intend to plant an orchard on that northern side of the buildings and the plantings in the buffer were selected for their ability to provide habitat for pollinators and beneficial insects.

Neighbouring Agricultural Properties

The neighbouring agricultural properties are long, narrow lots, similar to the subject property, with their homesites currently located on the western end. The buffering and fencing that is the subject of this permit is limited to the area abutting those homesites. According to the Canada Land Inventory, the agricultural properties and the subject property, have a soil rating of 5PA where Class 5 soils are those with very severe limitations that restrict their capability in producing perennial forage crops but improvement practices are feasible. The sub-classes P and A denotes the limitations are due to stoniness and a soil moisture deficiency caused by low soil water holding capacity or insufficient precipitation.

**Planning Analysis**Official Community Plan

The Official Community Plan (OCP), Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, designates this portion of the property as Rural Settlement Area. Section 44. (5) within this designation directs the Comox Valley Regional District (CVRD) to “Ensure new development in the rural settlement area maintains the rural character of the surrounding area and supports a functioning working landscape. In circumstances where proposed new development is adjacent to an active working parcel or ALR land consider a buffer to protect the integrity of the working landscape and implement through development permits...”. The CVRD implements this through the Farm Land Protection DP which is the subject of this application.

Development Permit Guidelines

The intention of the Farm Land Protection DP is to create an agricultural interface that mitigates potential for land use conflicts (e.g. farm trespass, vandalism to crops and equipment, pets, disturbance to farm animals, capture some dust and spray drift, reduction of invasive species and litter, nuisance complaints, etc.). As a best practice, these DP guidelines recommend locating principal structures and accessory buildings at least 30 metres away from a common boundary with agricultural areas, with 15 metres being a vegetated buffer, including fencing, consistent with the

Ministry of Agriculture's Guide to Edge Planning and the Agricultural Land Commission's Landscaped Buffer Specifications.

When locating the building 30 metres back from the agricultural parcel is not possible, this DP is triggered to create a buffer between farm uses and non-farm development in accordance with the above noted guide and specifications. These guides identify the agricultural side as a working landscape and recommend the landscaped buffer to be placed on the non-agricultural side during subdivision and development. The specifications provide a variety of options regarding the type and height of fencing and vegetation to accommodate proposed development while achieving particular objectives.

The proposed vegetated buffer in this application is sufficient to provide visual screening and to protect against trespass by humans and pets. This vegetated buffer should be maintained over time to remove invasive species and replant disturbed areas. Once the permit is issued, it is registered on title and is applicable to all future property owners. Should the buffer area be modified or cleared in the future, it must be re-vegetated or the permit amended accordingly.

### Zoning

The area where the development is to occur is zoned Rural Eight (RU-8), which allows residential use plus up to 300 square metres of accessory building gross floor area. The Zoning Bylaw requires a minimum side yard setback of 3.5 metres between the building and lot line. The proposed development is consistent with Zoning Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019".

### **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 OCP and establish guidelines for each DPA for specific purposes, including protection of farming. Section 491(6) allows DPs for the protection of farming to be issued with conditions related to screening, landscaping, fencing and siting of buildings or other structures.

Section 86 of Bylaw No. 337 establishes a DPA for the purpose of farm land protection in the area 30 metres from land designated as agricultural area or Agricultural Land Reserve. Construction of a building within the DPA requires the issuance of a DP prior to the issuance of a building permit.

### **Options**

The board may approve the DP as presented, amend the conditions, or deny the DP. Given the above analysis, planning staff recommends approval of the DP as presented.

### **Financial Factors**

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

The cost estimate for the proposed vegetation buffering is \$7,140, inclusive of labour and irrigation installation. Pursuant to the CVRD procedures Bylaw No. 328, 125 per cent of the cost estimate (totalling \$8,925) is recommended to be retained by the CVRD as a security deposit, paid by the applicant prior to the issuance of the permit, to ensure completion. The security deposit may be used by the CVRD to fulfill a condition in the permit respecting landscaping or to rectify damage to the natural environment or an unsafe condition resulting from a contravention of the permit. Otherwise, the security is returned to the applicant upon confirmation of the vegetative buffer is complete.

**Legal Factors**

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

**Regional Growth Strategy Implications**

One of the goals of the Regional Growth Strategy, Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010, is to support and enhance agricultural sector and increase local food security (Goal 6). Within this goal, there are policies to protect agricultural land and associated activities to support stronger local economics for a longstanding way of life and preservation of the valley’s rural character. 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 from the proposed development to effectively address these policies.

**Intergovernmental Factors**

A referral was issued to the Ministry of Agriculture, Food and Fisheries for comment on this application. Regional Agrologist Angela Boss and Land Use Planner Reed Bailey reviewed the application and comments (Appendix C) which are summarized as

- That the residence/garage be relocated slightly north, to a more intermediate location.
- Consider increasing the vegetated buffer width to a minimum of five metres.
- In constructing the fence, the Ministry encourages the applicant to utilize the specifications for wire fencing listed in Appendix C of the Guide to Edge Planning.
- A financial security or covenant should be used to ensure installation and maintenance of the buffer.

The applicant and CVRD staff have reviewed and considered these comments. With the exception of the alternate siting, these points have been incorporated into the draft permit (Appendix B). Both staff and the Agricultural Advisory Planning Commission are satisfied with the proposed siting on the basis that it will enable better agricultural use of the residential area. The draft permit proposes a 3 metre vegetated buffer width on the southern side for the purposes of keeping the internal road from conflicting with a market garden on the ALR side of this subject property.

**Interdepartmental Involvement**

This application was circulated to other departments. No concerns were identified.

**Citizen/Public Relations**

The Agricultural Advisory Planning Commission reviewed this application at their meeting of April 15, 2021, and recommended it be approved as proposed, citing the following:

- It supports the bona fide farm activities.
- It is consistent with neighbourhood land use, and the plan is an improvement of the use of the site/land use, which will support the agricultural use of the rest of the site.
- The intrusion of the neighbouring farms is minimal with the screening.
- With the split zoning – the rest of the lot is Agricultural Land Reserve and limited road frontage dimensions (~50m) makes it impractical to meet a 30m setback.

Attachments: Appendix A – Explanatory Letter from Applicants  
Appendix B – Draft Development Permit DP 5C 21  
Appendix C - Ministry of Agriculture, Food and Fisheries Comments

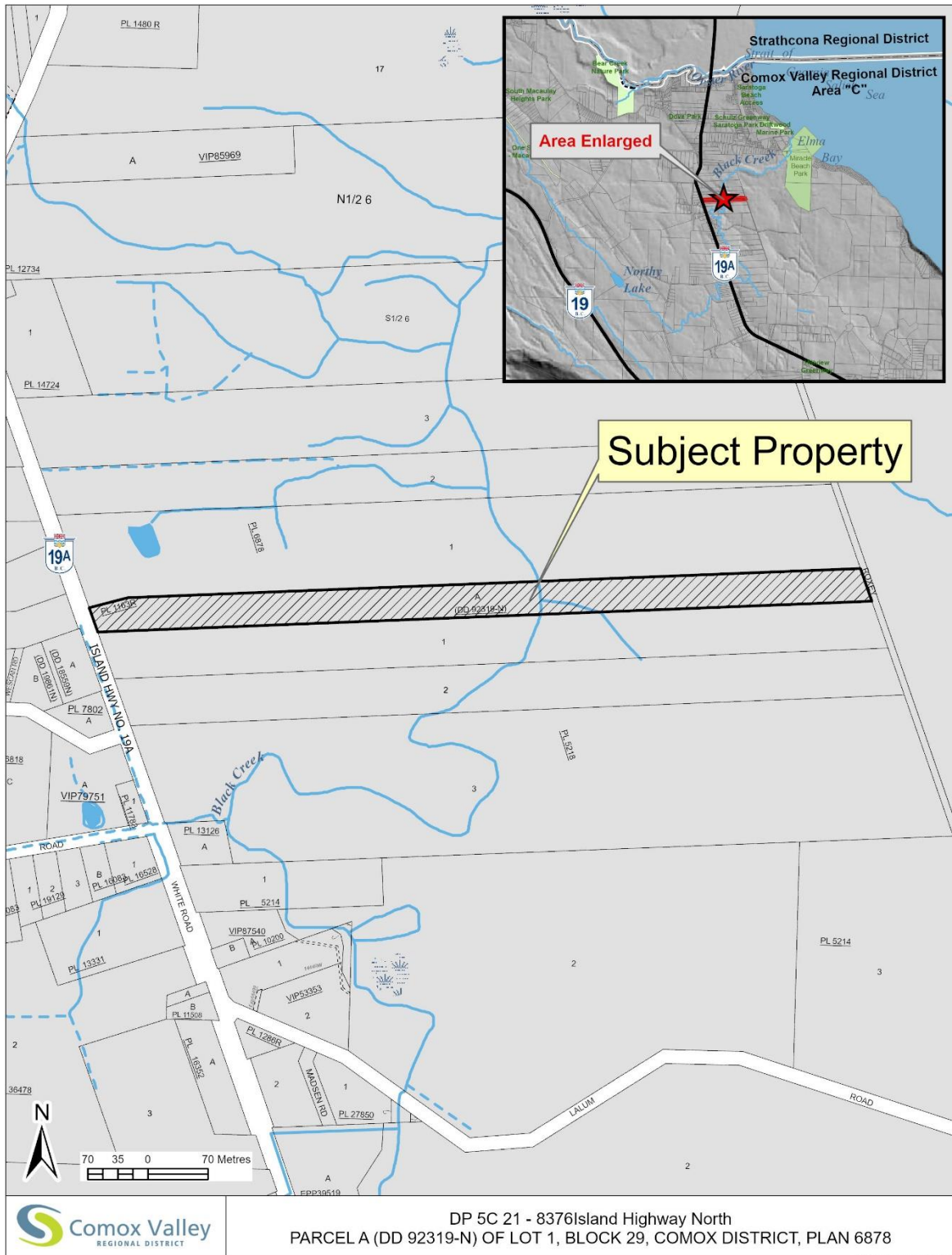


Figure 1: Subject property

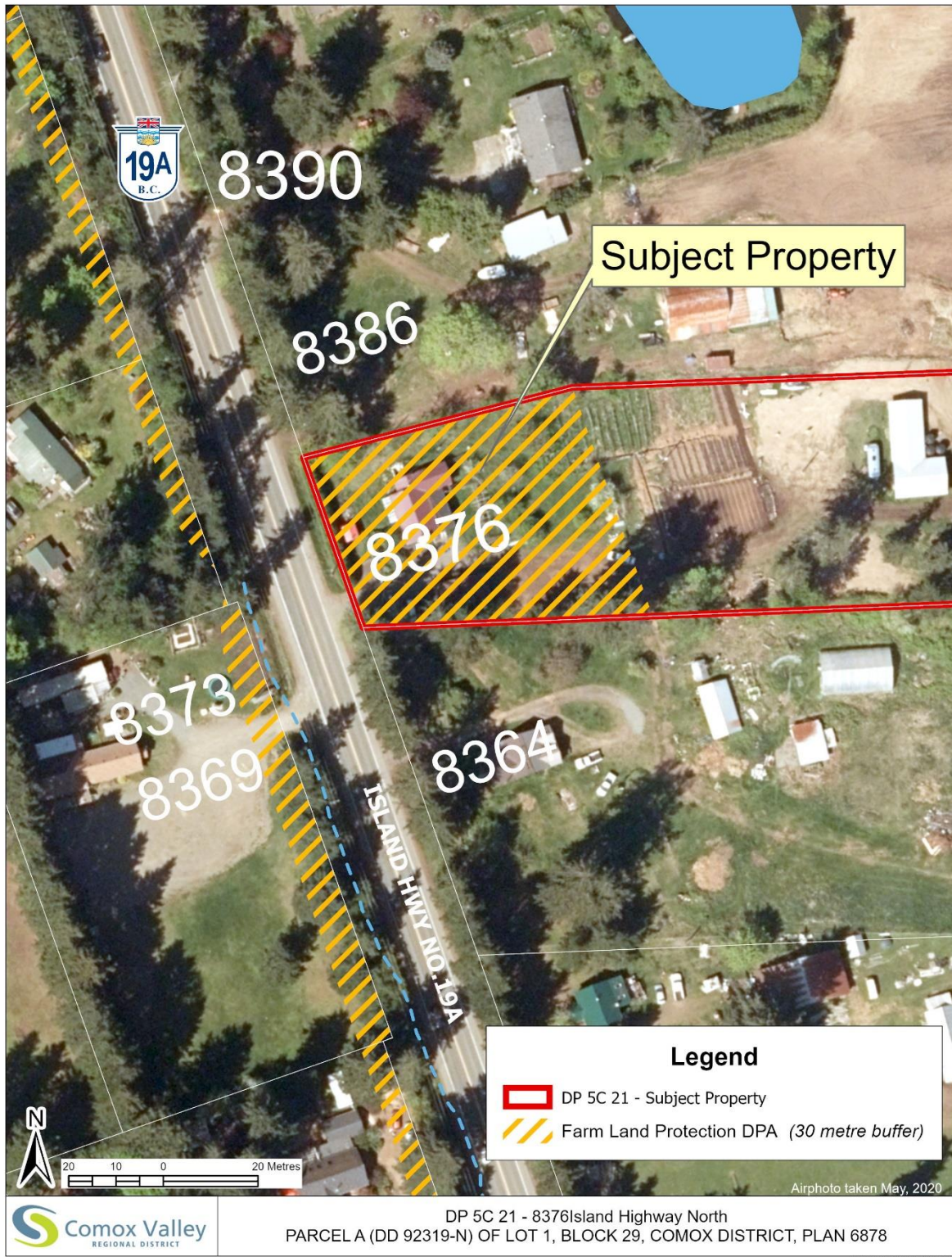


Figure 2: Air Photo (2020)

There are currently two buildings on this segment of the property which is zoned RU-8 unlike the rest of the lot which is zoned RU-ALR. The first is the current principal residence that was in disrepair when we took possession of the property over 3 years ago. The second is an old pole barn that's currently being used to store tools used on the farm (tractors, mowers, etc). Attempting to repair, refresh, or otherwise improve these structures is not worth the investment and as such we intend to tear both buildings down to be replaced with the plan as described in the attached site plan. The site plan includes layout, footprint, and elevation drawings for the replacement structures. It also includes a design and planting plan for appropriate screening along the property lines to the north and south. One final inclusion is drive lane and parking sufficient to accommodate potential uses to which the non-residential structure could be put. We trust the plans provided are sufficient to illustrate the proposed design and layout of the replacement structures we intend to build.

The future small residence is intended as a residence for my mother. The garage is currently intended to house a small farm store which will enable us to sell the products of the farm as well as a commercial/demonstration/teaching kitchen that would enable us to perform value add work using farm products. It's possible we may run a small cider making operation out of this space once the planned small orchard is producing sufficiently to allow such an enterprise. We will work with Island Health and an engineer to ensure a septic design appropriate for intended current, and potential future uses. The design of the structure is intended to enable flexibility as we determine the type of farm related businesses we can legally undertake on this segment of the property. As such the internal layout of the building has yet to be determined.

**TO:** Chad Siefert and Jill Lamberts

1. This Development Permit (DP 5C 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 of demolition and construction of house and accessory building.**

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

**Legal Description:** Parcel A (DD 92319-N) of Lot 1, Block 29, Comox District, Plan 6878

**Parcel Identifier (PID):** 005-781-248 **Roll Number:** 04274.000

**Civic Address:** 8376 Island Highway North

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

**Siting**

i. THAT buildings be sited not less than 7 metres from a side lot line shared with the adjacent agricultural-designated property, as illustrated in Schedule B;

**Landscaping:**

ii. THAT a 5 metre wide vegetative buffer be provided adjacent to the northern side lot line, shared with the adjacent agricultural-designated property, and that a 3 metre wide vegetative buffer be provided adjacent to the southern side lot line;

iii. THAT the minimum number and size of plantings and their spacing be consistent with the Buffer Planting plan illustrated in Schedule B;

iv. THAT the vegetative buffer be maintained, protected from degradation, kept free of invasive species, and disturbed areas replanted;

v. THAT a security deposit in the form of a Security Bond of \$8,925 be provided for the implementation of the landscaping. The security deposit will be released in accordance with Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328”;

**Fencing**

vi. THAT a fence be sited along the side lot lines shared with the adjacent agricultural-designated property, be at least 1 metre in height and be constructed based on the fencing specification as listed in Appendix C of the Ministry of Agriculture’s Guide to Edge Planning.

4. This Development Permit (DP 5C 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.

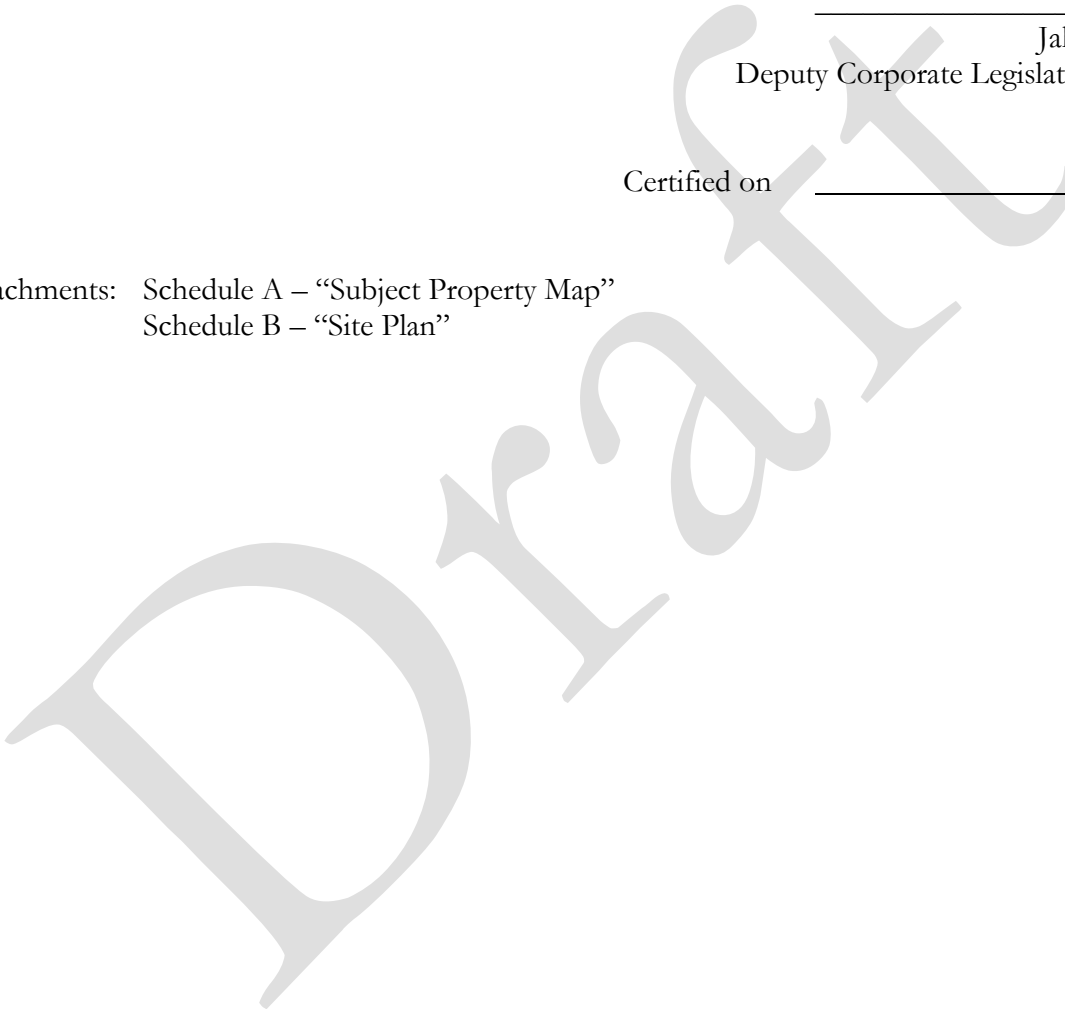
- 5. This Development Permit is *not* a Building Permit.

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 \_\_\_\_\_

Attachments: Schedule A – “Subject Property Map”  
Schedule B – “Site Plan”



# Schedule A Subject Property Map



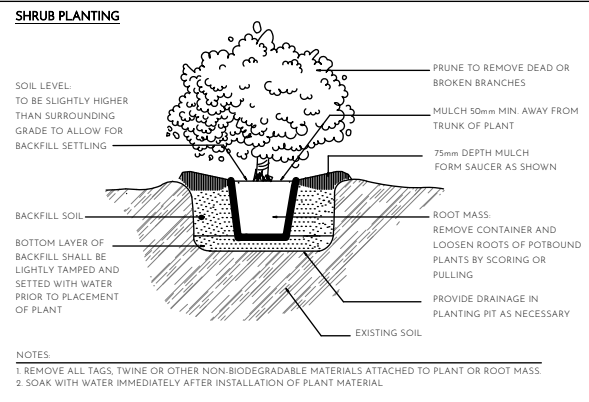
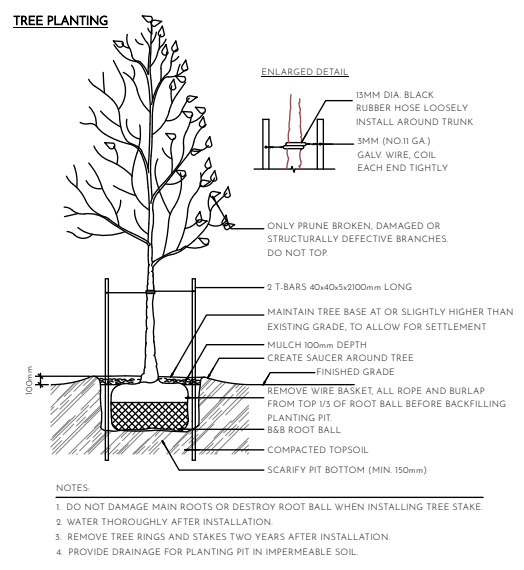
PROJECT:  
Siefert / Lamberts Residence  
8376 N. Island Hwy  
Comox Regional District, BC

MELISSA BARON LANDSCAPE DESIGN  
9250 East Saanich Rd, North Saanich  
PHONE: (250) 589-0614

REVISIONS  
All drawings and images copyrighted by  
Melissa Baron © 2020  
Designed & Drawn by Melissa Baron



BUFFER  
PLANTING  
November 2020



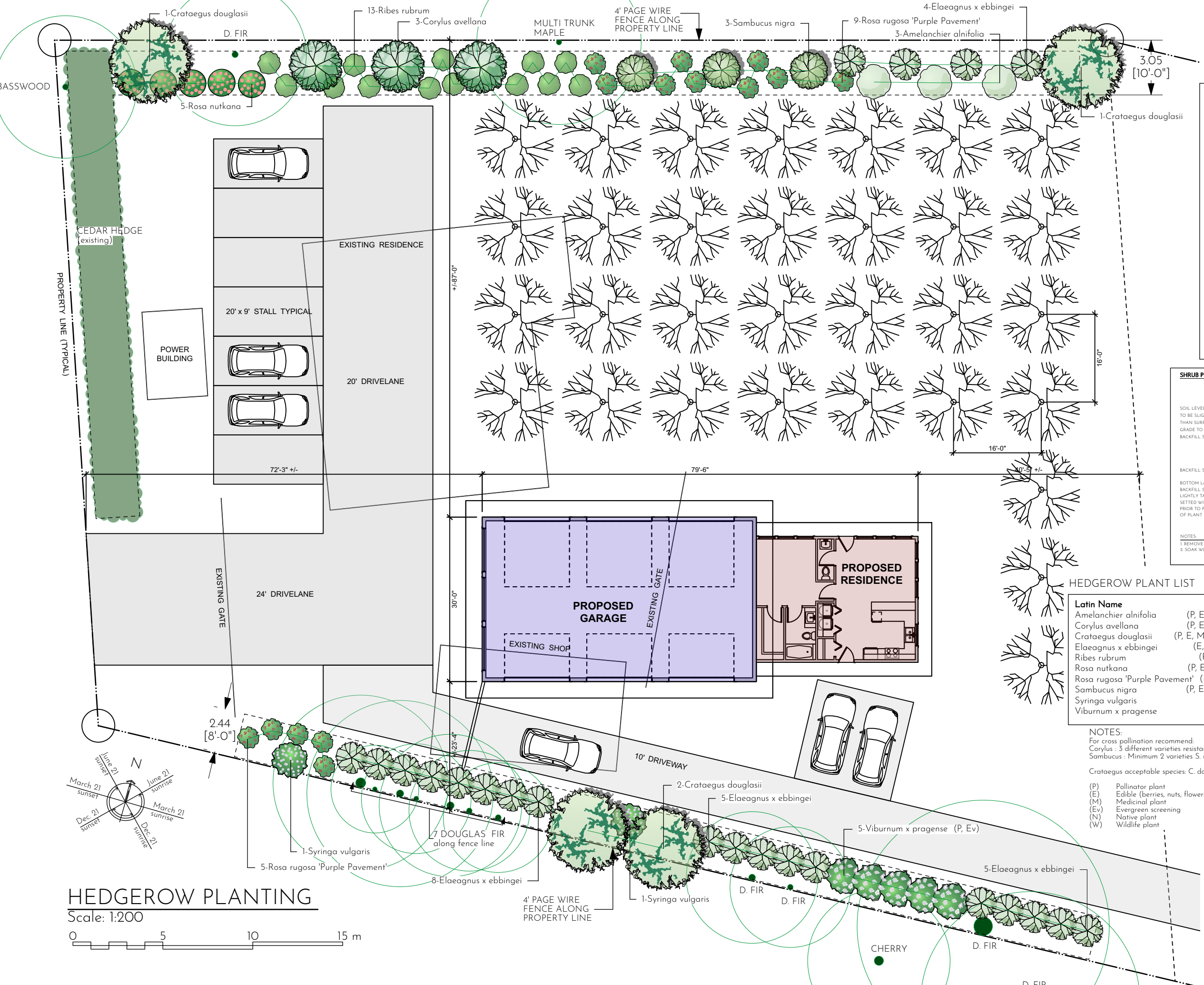
HEDGEROW PLANT LIST

Latin Name	Common Name	Scheduled Size	Quantity
Amelanchier alnifolia	(P, E, N, W) Saskatoon Serviceberry	7 gal	3
Corylus avellana	(P, E, N, W) Hazelnut	7 gal	3
Crataegus douglasii	(P, E, M, N, W) Douglas Hawthorn	2 m	4
Elaeagnus x ebbingei	(E, Ev, W) Silverberry	5 gal	22
Ribes rubrum	(P, E, W) White Currant	5 gal	13
Rosa nutkana	(P, E, M, N) Nootka rose	3 gal	5
Rosa rugosa 'Purple Pavement'	(P, E, M) Purple Pavement Beach Rose	3 gal	14
Sambucus nigra	(P, E, M, W) Black Elder	7 gal	3
Syringa vulgaris	(P, E) Common Lilac	5 gal	2
Viburnum x pragense	(P, Ev) Prague Viburnum	5 gal	5

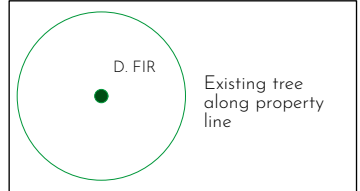
**NOTES:**  
For cross pollination recommend:  
Corylus : 3 different varieties resistant to Eastern Filbert Blight  
Sambucus : Minimum 2 varieties S. nigra

Crataegus acceptable species: C. douglasii (native), C. ellwangeriana (best fruit), C. monogyna

(P) Pollinator plant  
(E) Edible (berries, nuts, flowers)  
(M) Medicinal plant  
(Ev) Evergreen screening  
(N) Native plant  
(W) Wildlife plant



HEDGEROW PLANTING





April 14, 2021

Jodi MacLean – Planner  
Planning and Development Services Branch  
Comox Valley Regional District

**Sent by email**

Dear Jodi:

**Re: File 3060-20 / DP 5C 21 – Farm Land Protection Development Permit at 8376 Island Highway North (PID: 005-781-248) – The Subject Property**

Thank you for providing the opportunity for the Ministry of Agriculture, Food and Fisheries (Ministry) to comment on File 3360-20 / DP 5C 21 that proposes to demolish the existing buildings and construct a new residence, garage and parking area on the Subject Property. From an agricultural perspective, the Ministry offers the following summary and comments:

- The 5.5 ha Subject Property is long and narrow with approximately 5.25 ha located within the Agricultural Land Reserve (ALR) while the remaining 0.25 ha is located outside of the ALR. The non-ALR portion is between 30 and 50 metres wide.
- The Subject Property borders ALR land to the north, south and east and Highway 19A to the west. To the west of Highway 19A is non-ALR land.
- Currently, there is an existing residence and a pole barn located on the non-ALR portion of the Subject Property that, according to the applicant, are both in a state of disrepair.
- The applicant has proposed to demolish both the existing residence and pole barn and construct a new residence, garage and nine parking stalls. The applicant intends to use the garage as a farm store and a commercial/demonstration/teaching kitchen while the applicant's mother will inhabit the new residence.
- The requirement for the applicant to submit a Development Permit (DP) under the CVRD's Farm Land Protection Development Permit Guidelines (DPA) was triggered because the applicant has proposed to construct the residence/garage within 30 metres of the ALR boundary.
- The Ministry notes that as per both the DPA and section 3.4 of the Ministry's Guide to Edge Planning (the 'Guide'), a minimum setback of 30 metres (of which 15 metres is a vegetated

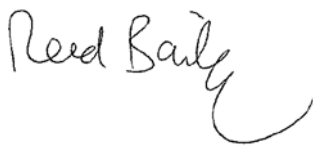
buffer) is required between a residence and the ALR boundary. The Ministry recognizes that due to the long and narrow nature of the Subject Property, the aforementioned provisions are not possible. However, the Ministry encourages the applicant to amend the setback and vegetated buffer distances as follows:

- That the residence/garage be relocated slightly north, to a more intermediate location on the non-ALR portion of the Subject Property so that the distance between the residence/garage and the north and south property lines is more equitable. As proposed, the residence/garage will be located approximately 26.51 metres from the north property line but only 7.13 metres from the south property line.
  - That the vegetated buffer is a minimum five metres wide on both the north and south property lines. Currently, the applicant has proposed only a 3.05 metre and a 2.44 metre vegetated buffer along the north and south property lines.
- The Ministry notes that a “4 foot page wire fence along property line” is proposed along both the north and south property lines. As per the DPA, the Ministry encourages the applicant to construct the fence in accordance with appendix C of the Guide.
  - The Ministry also notes that the development of a Buffer Maintenance Plan is listed within the Guidelines of the DPA and the Ministry encourages the applicant to submit said plan to ensure the long-term health of the vegetated buffer.
  - Although not listed with the DPA but referenced within section 3.7.c of the Guide, CVRD may also wish to consider implementing additional measures to ensure a robust vegetated buffer such as requiring a letter of credit for the installation cost of the buffer or to establish a restrictive covenant on the land title requiring preservation of the buffer.

Please contact Ministry staff if you have any questions regarding the above comments.

Thank you for the opportunity to provide comments from an agricultural perspective with respect to this file.

Sincerely,



Reed Bailey  
Land Use Planner  
778-698-3455  
[reed.bailey@gov.bc.ca](mailto:reed.bailey@gov.bc.ca)



Angela Boss, P.Ag.  
Regional Agrologist  
250-331-5208  
[angela.boss@gov.bc.ca](mailto:angela.boss@gov.bc.ca)

Cc: Shannon Lambie – Regional Planner, Agricultural Land Commission