

DATE: May 4, 2020**FILE:** 3060-20 / DP 4B 20**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*R. Dyson***RE: Farm Land Protection Development Permit
5228 Island Highway North (Mountain Ridge Tree Farms Ltd)
Lazo North (Electoral Area B)
Lot A, Section 25, Comox District, Plan 9848, PID 003-921-336****Purpose**

To consider a Development Permit (DP) (Appendix A) under the Farm Land Protection Guidelines related to the subdivision of a property.

Recommendation from the Chief Administrative Officer:

THAT the Board approve Development Permit DP 4B 20 (Mountain Ridge Tree Farms Ltd) relating to the subdivision of the property described as Lot A, Section 25, Comox District, Plan 9848, PID 003-921-336 (5228 Island Highway North);

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

Executive Summary

- The applicants are proposing to subdivide the subject property to create two new residential lots whose rear lot lines would be within 30 metres of land designated as Agricultural Areas.
- The proposal requires issuance of a DP which is to be considered under the Farm Land Protection Guidelines whose objectives are to ensure that adequate buffers are provided to protect farming and agricultural potential of neighbouring lands.
- The subdivision plan addresses the guidelines by off-setting the proposed rear lot line 24 metres from the designated boundary with the Agricultural Area. When combined with the Zoning Bylaw's required rear yard setback area, this creates building envelopes entirely outside the Development Permit Area (DPA).
- The Agricultural Advisory Planning Commissions (APC) reviewed the proposal with respect to the guidelines and recommended supporting the application as proposed.
- Staff recommends issuance of the DP with the proposed lot configuration (Appendix A).

Prepared by:

J. MacLean

Jodi MacLean, RPP, MCIP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

S. Smith

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

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

The subject property is an 8 hectare lot that extends from the Island Highway up to Anderson Road at the top of the hill (Figure 1). It is a split-zoned property in which the bottom portion is within the Agricultural Land Reserve (ALR) and is zoned Rural-ALR but the top portion is outside the ALR and is zoned Residential Rural (R-RU). The DPA, in which a DP is required under the Farm Land Protection Guidelines, is located within the area 30 metres from any land within the ALR or otherwise designated Agricultural Areas within the Official Community Plan (Figure 2). The applicant proposes to subdivide two lots out of the top residential portion of the property. Because this will create new lot lines within the DPA, this DP is required.

Planning AnalysisOfficial Community Plan

Within the Official Community Plan (OCP), Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Section 44.(5) 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.

Farm Land Protection Development Permit Area

The objective of the Farm Land Protection DP is to provide an interface between farm use and non-farm development that mitigates land use conflicts (e.g. farm trespass, vandalism to crops and equipment, 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.

With respect to subdivision, the objective is to ensure the new lots are able to accommodate the development potential of their zone without placing principal or accessory buildings within 30 metres of the agricultural boundary. Furthermore, the guidelines state:

- (a) *“Subdivision design must minimize potential negative impacts that may occur between farm and non-farm land uses. Avoid road endings or road frontage next to land designated agricultural area or agricultural land reserve except as may be necessary for access by farm vehicles.”*
- (b) *“Subdivision design and construction will minimize erosion through consideration of topography that will not result in neighbouring properties becoming the catchment area for additional runoff from roads and driveways.”*

To address these guidelines, the subdivision plan (Appendix A) places the two new lots no closer than 24 metres from the boundary with the ALR so that when combined with the Zoning Bylaw’s required 7.5 metre building setback, all future buildings sited on the lots must be outside the DPA. Addressing drainage down the slope, the applicant submitted a Rainwater Management Plan prepared by Jamie Alguire, P.Eng., of Maritime Pacific Engineering Ltd. According to the report, drainage from the residential area flows to the eastward (towards Anderson Road) while water from the slope flows westward to an existing retention pond at the base (Figure 3).

Zoning

The subject property is split zoned to match the boundary of the ALR, so that the bottom portion is within the ALR and zoned Rural-ALR. The top portion is outside the ALR and zoned Residential Rural (R-RU) (Figure 4). The R-RU zone allows for subdivision to a minimum of 0.8 hectares with a development potential of one single detached dwelling and a secondary dwelling limited in area to 90 square metres (or one carriage house or one secondary suite) and a maximum of 200 square metres of accessory building floor area on each lot. The proposed subdivision plan would create two 0.8 hectare lots which is a suitable size to accommodate that development potential.

Policy Analysis

Sections 488-490 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to designate DPAs 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 ALR. Subdivision and the construction of buildings within the DPA requires the issuance of a DP.

Options

The Board could approve, deny or modify the draft DP (Appendix A). Given the above discussion, planning staff recommends approval of 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 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 for comment on this application. The Regional Agrologist noted that the lot configuration was sufficient but to consider an agricultural awareness notation on title (Appendix B). The draft permit (Appendix A) which will be registered on the titles includes the agricultural awareness statement: “*The subject property is adjacent to an agricultural operation where normal farm practices may result in noise, dust, odour and/or other disturbances. The Farm Practices Protection (Right to Farm) Act (FPPA) protects normal farm practice as defined by the FPPA and protects farmers from nuisance claims.*”

Interdepartmental Involvement

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

Citizen/Public Relations

Public notification is not required for a DP application. On April 23, 2020, the Agricultural APC reviewed this application as it relates to the farm land protection guidelines; the APC recommended approval of proposal, as proposed, citing the lot configuration would not create interference with agricultural activities on the remainder.

Attachments: Appendix A – “Draft Development Permit DP 4B 20”
Appendix B – “Correspondence from Regional Agrologist”

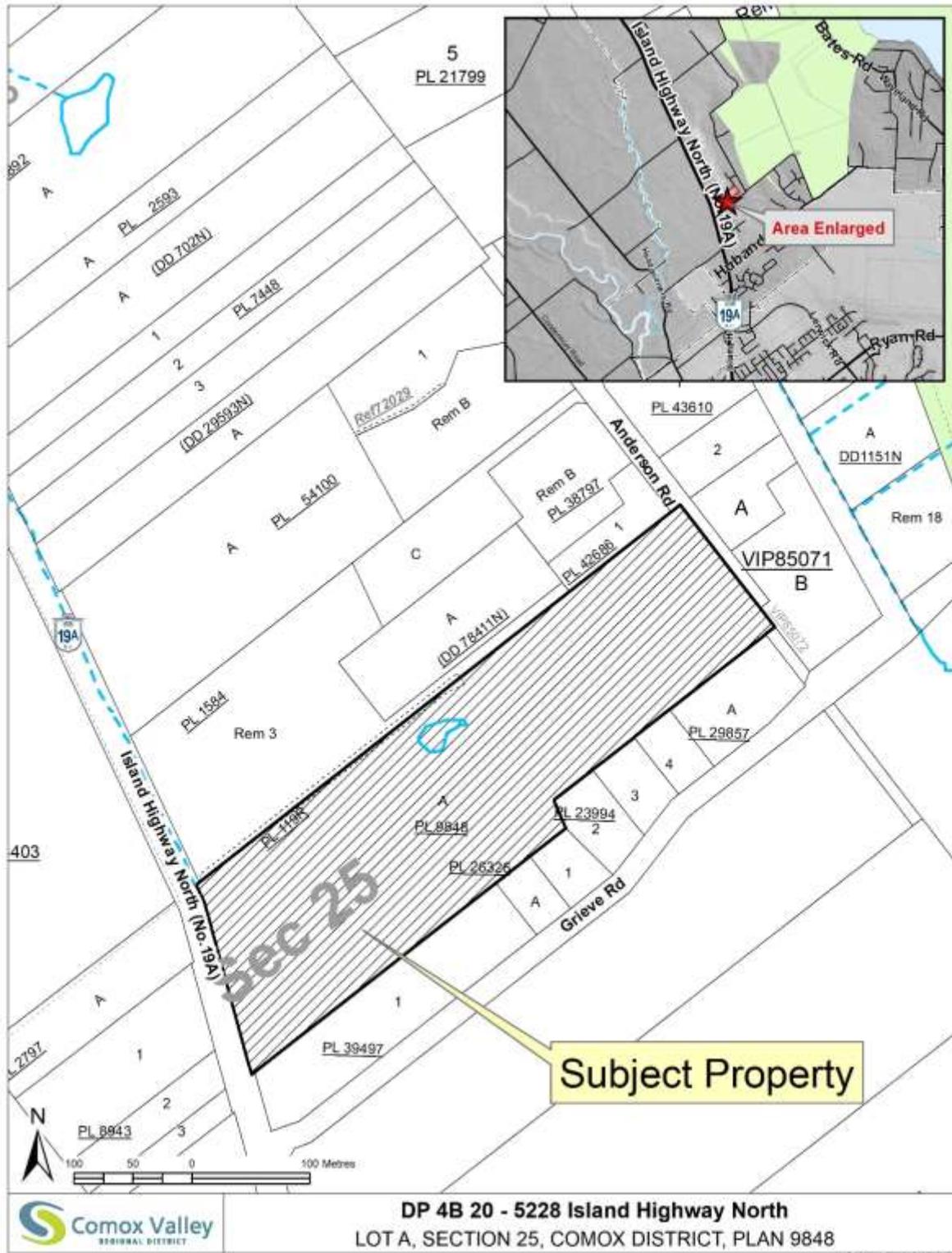


Figure 1: Subject Property

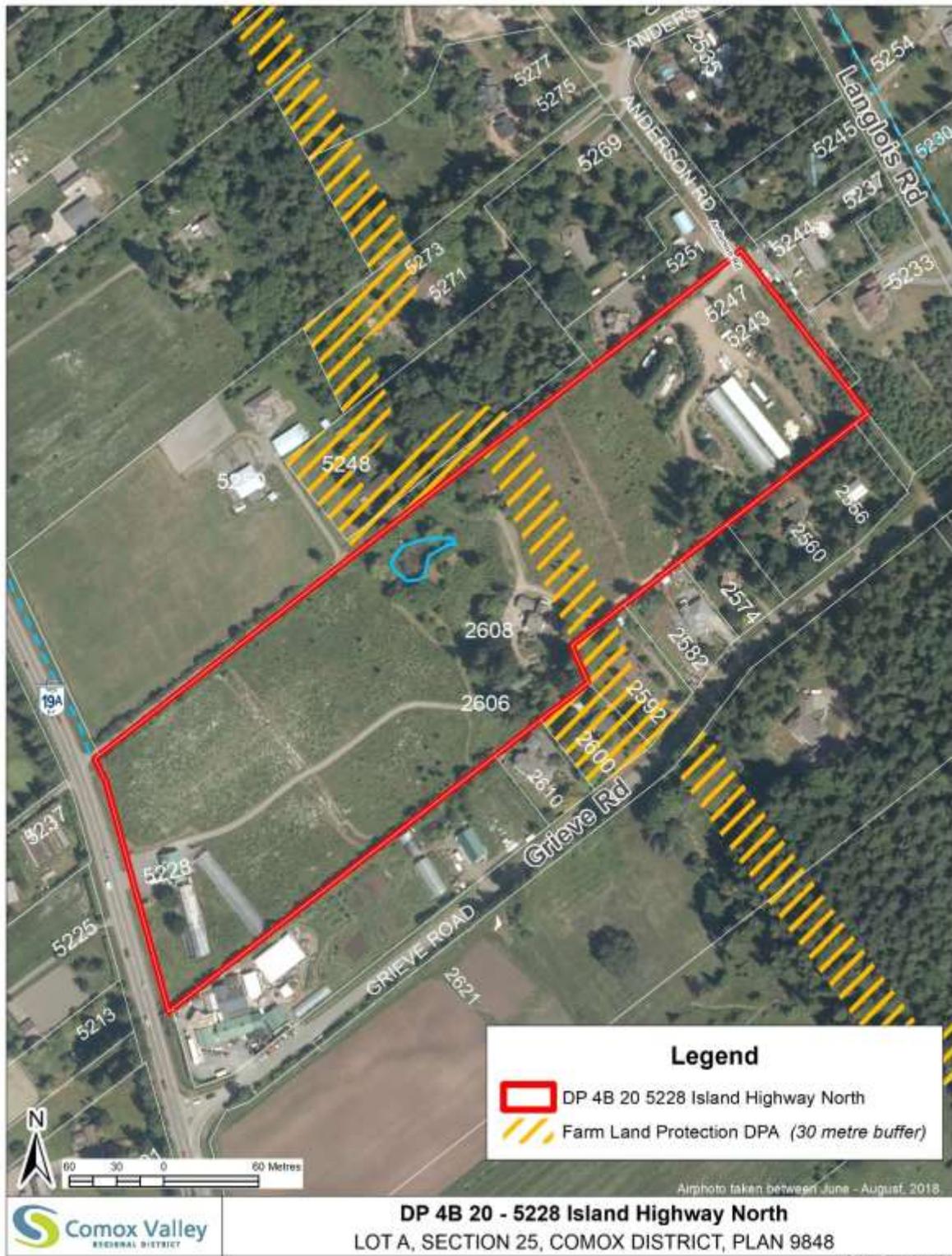


Figure 2: Air Photo of Subject Property with the Development Permit Area highlighted

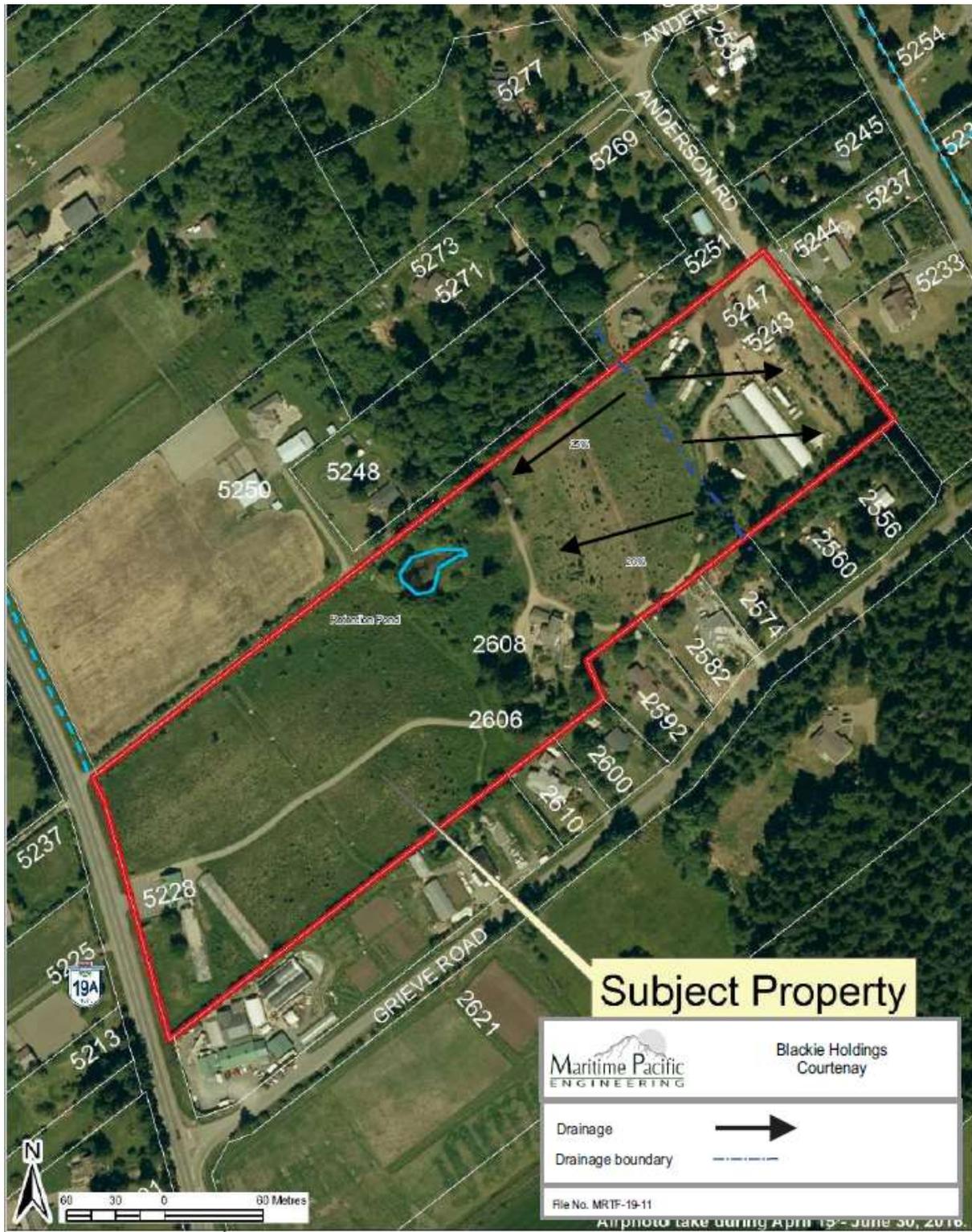


Figure 3: Surface Drainage Pattern on Lot

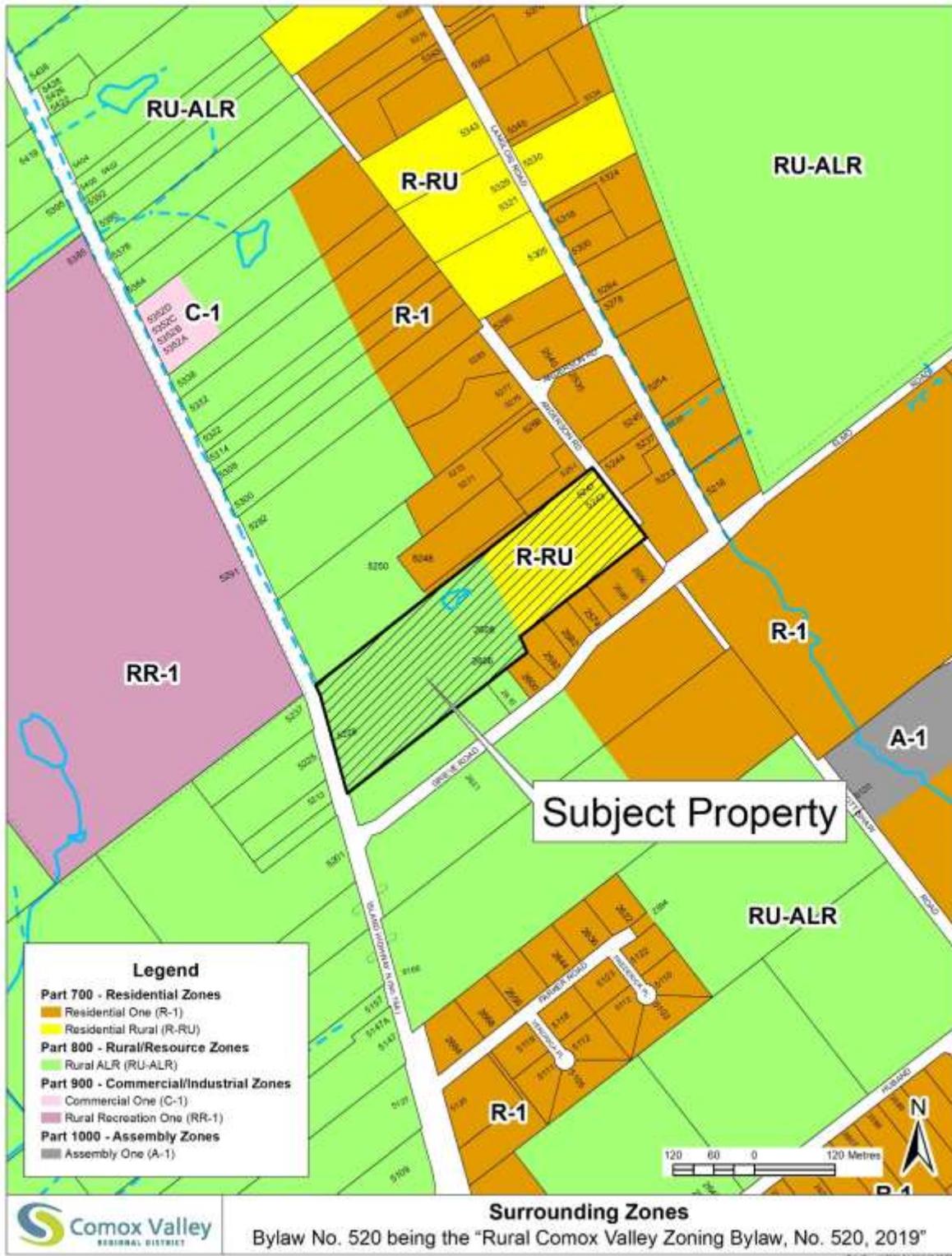


Figure 4: Zoning Bylaw Map

DP 4B 20

TO: Mountain Ridge Tree Farms Ltd

1. This Development Permit (DP 4B 20) 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 **purposes of subdividing land within the 30 metre farmland protection buffer area. The subject property is adjacent to an agricultural operation where normal farm practices may result in noise, dust, odour and/or other disturbances. The *Farm Practices Protection (Right to Farm) Act (FPPA)* protects normal farm practice as defined by the FPPA and protects farmers from nuisance claims.**
2. This Development Permit applies to, and only to, those lands within the Comox Valley Regional District described below:
Legal Description: Lot A, Section 25, Comox District, Plan 9848
Parcel Identifier (PID): 003-921-336 Folio: 771 00485.000
Civic Address: 5228 Island Highway North
3. The land described herein (Schedule A) shall be developed strictly in accordance with the following terms and conditions and provisions of this permit:
 - i. THAT the subdivision shall be carried out according to the submitted subdivision plan prepared by Bruce Lewis Land Surveying Inc. hereto attached as Schedule B;
 - ii. AND THAT any buildings shall be setback a minimum of 30 metres from agriculturally designated lands.
4. This Development Permit (DP 4B 20) shall lapse if subdivision 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.

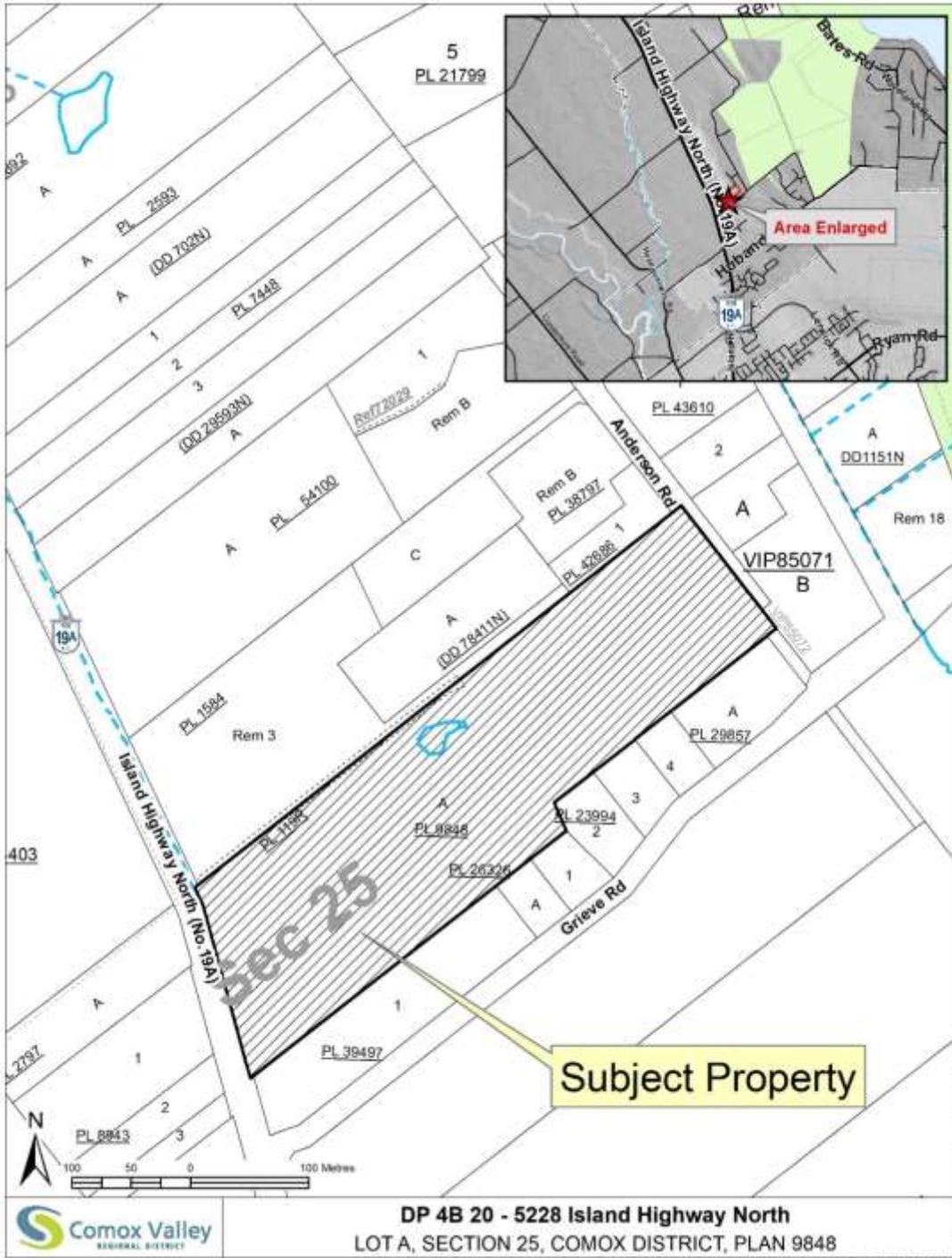
CERTIFIED as the **DEVELOPMENT PERMIT** issued by resolution of the board of the Comox Valley Regional District on _____.

James Warren
Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Subject property map”
Schedule B – “Subdivision Plan”

Schedule A Subject Property Map



Jodi MacLean

From: Hatfield, Jill AGRI:EX <Jill.Hatfield@gov.bc.ca>
Sent: April 24, 2020 10:06 AM
To: Jodi MacLean
Subject: RE: MoA referral (DP 4B 20)

Hi Jodi: Am I correct to assume that the 24 metre parcel lot line setback from the ALR boundary is to be considered the buffer area and the 7.5 metre building setback from the lot line achieves the required 30 metre building setback from the ALR boundary? The remnant ALR parcel would therefore contain the 24 metre non-ALR portion considered the required buffer. A little different approach, however, considering the topography of the parcel this should be sufficient.

The only issue I see with this referral is what happens when one or both lots are sold to new owners. It appears that the lots are going to continue to be operated as part of Mountain Tree Farm. I can see that requiring any additional buffers and/or fencing would impact the farm operation. This is also true with drainage mitigation measures as the tree farm at this point can manage any negative impacts to the cultivated area from storm water.

The potential for conflicts could arise if any one of these parcels is sold. It might be worth considering a notation on title for the all the lots. This would indicate to prospective buyers that these residential lots are adjacent to an active farming operation and seasonal disturbances from farming activities are to be expected. Also on the remnant farming parcel that the 24 metre non-ALR portion is a buffer and not available for development purposes. Just a consideration to avoid potential future issues.

Please let me know if you have any questions;

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

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