

DATE: September 5, 2017

FILE: 3110-20/ALR 1B 17

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

RE: Subdivision within the Agricultural Land Reserve (Hildreth/Allen)
1215 Wilkinson Road, Lazo North (Electoral Area B)
Lot A, District Lot 173, Comox District, Plan 2374, PID 006-521-801
Lot 1, District Lot 224, Comox District, Plan 20499, PID 002-901-340

Purpose

To forward an application for a lot line adjustment (Appendix A) to the Agricultural Land Commission (ALC) and recommend support.

Policy Analysis

Section 10(1) of the ALC Regulations allows lot line adjustments only if the following conditions are met: (1) involves not more than 4 parcels, (2) each parcel must be a minimum of 1 ha before and after the adjustment, and (3) boundary adjustments that, in the opinion of the Approving Officer, will allow for the enhancement of the owner's overall farm or for the better utilization of farm buildings for farm purposes. If the above conditions cannot be met, the owners must apply to the ALC pursuant to Sections 21 and 25 of the *Agricultural Land Commission Act* (ALCA) as a subdivision application.

Section 25(3) of the ALCA states the application may not proceed to the ALC unless authorized by a resolution of the local government. Section 34 states that the local government may include comments and recommendations regarding the application should it forward the application to the ALC.

Executive Summary

The proposal is to move the boundary between a residential lot and a Rural-ALR lot to a treed slope that separates the farm from the residential area.

- The effect of this lot line adjustment is to move a 725 square metre area to the residential lot;
- This 725 square metre area is inaccessible for farming without significant improvements to the slope and has historically been used as backyard area for the residential lot;
- The Agricultural Advisory Planning Commission (AAPC) recommended support the application.

Staff recommends forwarding the application to the ALC with the recommendation that it be approved.

Recommendation from the Chief Administrative Officer:

THAT the Agricultural Land Commission be advised that the Comox Valley Regional District supports Agricultural Land Reserve application ALR 1B 17 (Hildreth/Allen), as proposed, regarding

the lot line adjustment of parcels from lands known as Lot A, District Lot 173, Comox District, Plan 2374 (PID 006-521-801) and Lot 1, District Lot 224, Comox District, Plan 20499 (PID 002-901-340);

AND FINALLY THAT the application be forwarded to the Agricultural Land Commission for final consideration.

Respectfully:

R. Dyson

Russell Dyson
Chief Administrative Officer

Background/Current Situation

The northern boundary of the 15 hectare farm that is the subject of this application is a treed slope that descends down to a line of residential lots along Wilkinson Road in the Little River area (Figures 1 and 2). While the property boundary is a straight line, the treed slope curves resulting in an approximately 725 square metre portion of the lower residential plateau being legally part of the farm parcel. The objective of the applicants is to move ownership of that lower residential plateau from the farm parcel to the residential parcel (Figure 3).

The treed slope forms a natural division between the two properties (Figure 4). Adjusting the property boundaries will allow the owner of the residential property to use that area without making prior agreements or easements with the owner of the agricultural property.

Planning Analysis

Agricultural Land Reserve

The boundary between the two subject properties is the original District Lot boundary (between District Lots 173 and 224). The agricultural property was created from District Lot 173 in a 1921 subdivision and its boundaries have remained unaltered since then. The Agricultural Land Reserve (ALR) boundary was established along the property boundary.

The ALC Regulations makes provisions for lot line adjustments as a “permitted subdivision” only in cases where the proposal “*involves not more than 4 parcels, each of which is a minimum of 1 ha*”. Because this proposal involves a 0.3 ha lot, even though it is outside of the ALR, the subdivision approving officer may not authorize the lot line adjustment without the approval of the ALC.

Official Community Plan

The farm parcel is designated Agricultural Areas within the Official Community Plan, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”. This designation includes all lands that are within the ALR. Regarding the placement of property boundaries, this designation directs that contiguous areas of agricultural land be preserved, that the reduction of area for farm operations be discouraged and that the farming integrity and function of land be protected. Moving the property boundary to the treed slope, as proposed, does not conflict with these policies.

The residential parcel is designated Settlement Expansion Area (SEA). This designation is provided to those properties within the vicinity of municipalities and are intended to maintain a rural character with low density of development that does not detract from future municipal compact growth.

Regarding lot line adjustments, Policy 37(2) of this designation states that when they involve parcels less than the minimum parcel size of 4 ha, they should be considered when the adjustment does not create an opportunity for increased density, the adjustment accommodates a servicing requirement or addresses errors in a survey or a building encroachment, and where no portion of a parcel lies beyond the SEA designation. While this proposal does resolve a building encroachment and does not enable an increased density of development, it does involve a parcel that lies beyond the SEA designation. The intent of the latter is, in part, to prevent fragmentation of rural lands through property speculation (i.e. pulling land out of the rural area into core settlement area lands in advance of a future boundary extension). That is not the case in this instance and the intent of the policy is maintained.

Zoning

The two subject properties are zoned Rural-ALR (RU-ALR) and Residential One (R-1) respectively in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”. Section 503(2)(i)(b) allows for lot line adjustments where no additional lots are created, the lots are contiguous, and the area of the non-ALR lot changes by no more than 25 per cent. The proposal is consistent with the zoning bylaw.

Options

The board may forward the application to the ALC and provide comments and recommendations or the board may refuse to forward the application.

Staff recommends the application be supported as it creates a legal boundary that better matches the natural land features and existing use of the two properties.

Financial Factors

Fees of \$1500 (\$300 for the Comox Valley Regional District (CVRD) and \$1200 for the ALC) have been collected for this subdivision application in accordance with section 35 of the ALCA. Should the board refuse to forward the application to the ALC, the \$1200 ALC portion of the fee is returned to the applicant.

Legal Factors

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

Regional Growth Strategy Implications

The Regional Growth Strategy (RGS), Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”, designates the agricultural property within Agricultural Areas, and the residential property within Settlement Expansion Areas. The proposed lot line adjustment will reduce the size of agricultural land and increase the size of the non-agricultural land. It appears that such proposal would be inconsistent with the intent and policies of the RGS to protect agricultural land (Goal 6 and Objective 6- A). However, this proposal has unique circumstances that may result in increasing farming activity in the Comox Valley (Objective 6-D). One of the unique circumstances is the area of agricultural land that will be given to the residential property has been traditionally used as a septic field for this residential property. This area has not been and cannot be used for farming. The sale of this area could finance the current blueberry farm on the agricultural land.

Intergovernmental Factors

A referral was issued on August 18, 2017, to the Ministry of Agriculture for comment on this application. As of the writing of this report, response has not been received. Should a response be

received prior to the date of the Electoral Areas Services Committee (EASC) meeting, it will be added to the agenda.

Interdepartmental Involvement

This ALR application has been circulated to internal departments for comments. Other departments had no concerns with the application.

Citizen/Public Relations

A referral was forwarded to the AAPC for review and comment. At its meeting on August 30, 2017, the AAPC supported the application. The results of the meeting will be provided at the EASC meeting.

Prepared by:

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Attachments: Appendix A – “ALC application submission - File ALR 1B 17”

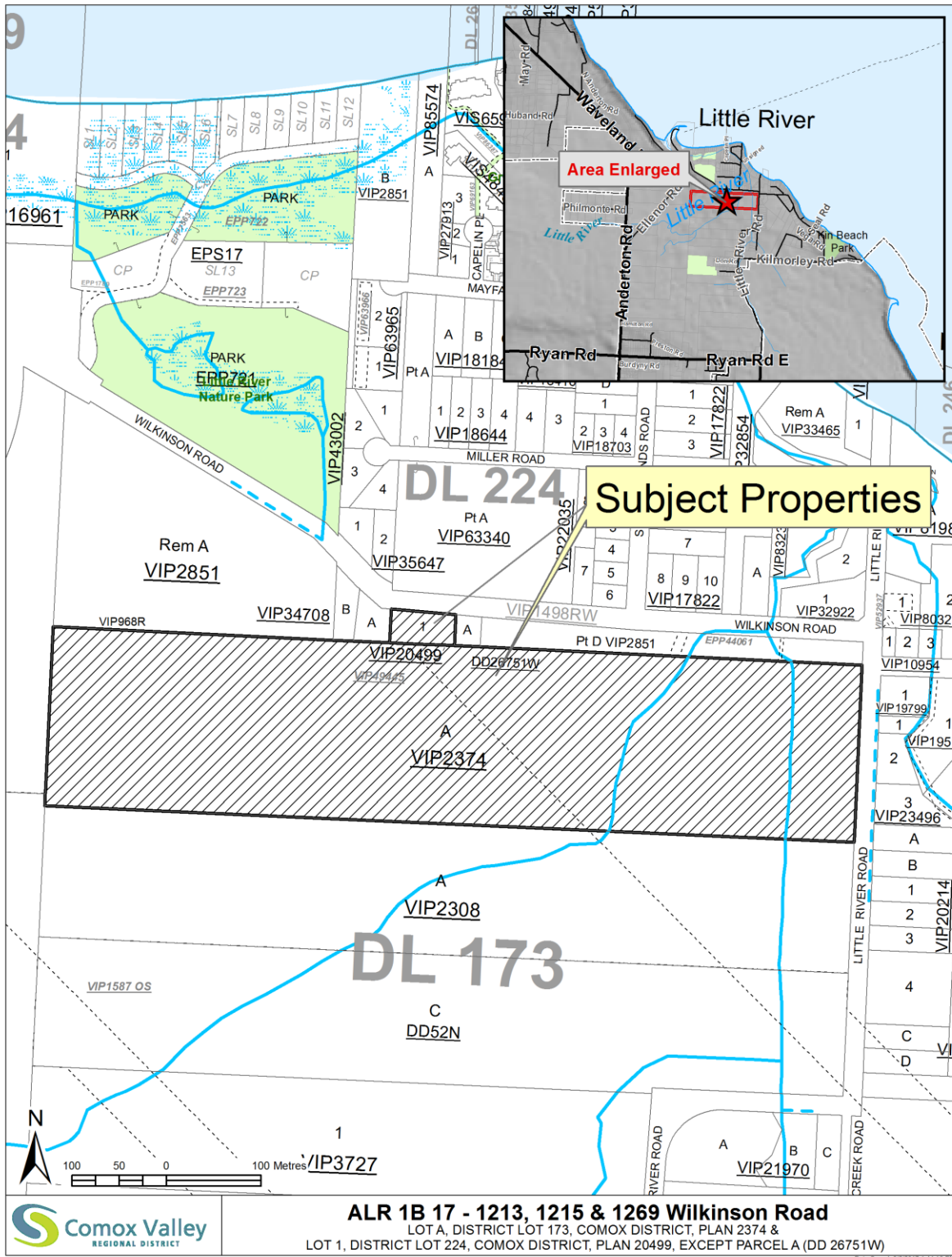


Figure 1: Subject Properties

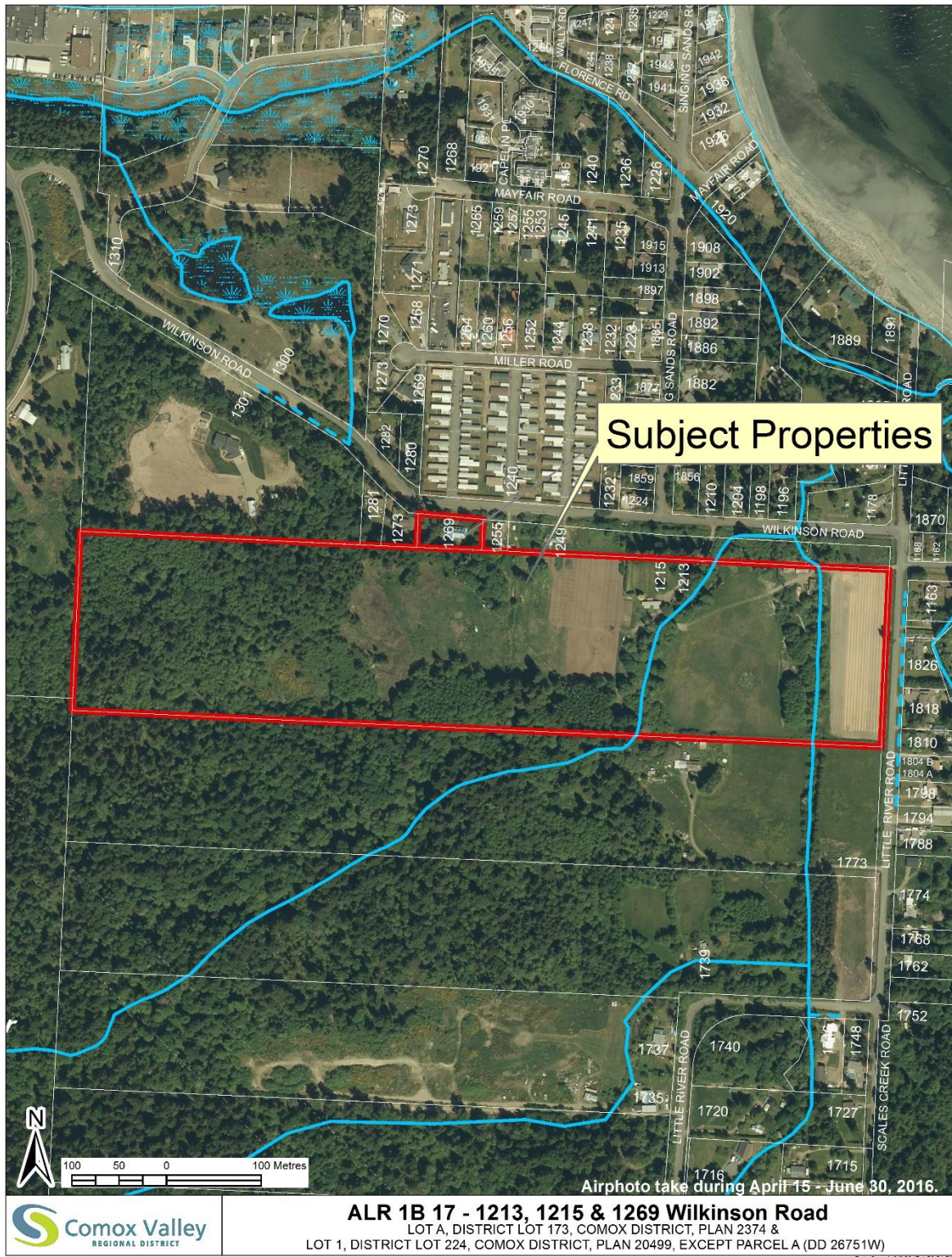


Figure 2: Air Photo (2016)

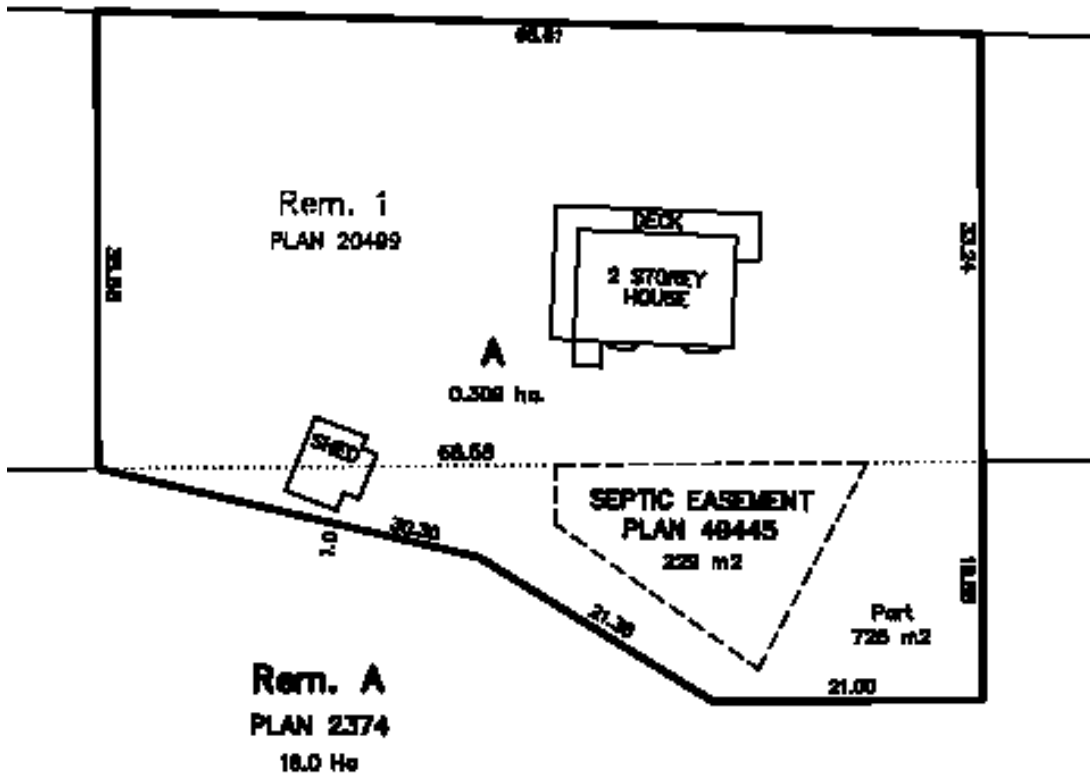


Figure 3: Site Plan of Lot 1 Illustrating the Southern 725 Square Metres Proposed to be Transferred from Lot A to Lot 1



Figure 4: Photograph of 725 Square Metre Subject Area with Red Line Indicating Approximate Location of Current Property Line and Farm behind Trees

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 56640

Application Status: Under LG Review

Applicant: John Hildreth

Agent: Hoerburger Land Surveying

Local Government: Comox Valley Regional District

Local Government Date of Receipt: 07/21/2017

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

Proposal Type: Subdivision

Proposal: The proposal allows the smaller property to purchase the small amount of land that their septic system is built on. The septic system occupies a legal easement area over part of the farm, so that portion of the proposal isn't usable farm land now.

Agent Information

Agent: Hoerburger Land Surveying

Mailing Address:

280A Anderton Road

Comox, BC

V9M 1Y2

Canada

Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple
Parcel Identifier: 006-521-801
Legal Description: L A DL 173 COMOX PL 2374
Parcel Area: 14.9 ha
Civic Address: 1215 Wilkinson Road
Date of Purchase: 09/10/2014
Farm Classification: Yes

Owners

1. **Name:** John Hildreth
Address:
1215 Wilkinson Road
Comox, BC
V9M 4B9
Canada

2. Ownership Type: Fee Simple

Parcel Identifier: 002-901-340

Legal Description: Lot 1, D.L. 224, Comox District, Plan 20499, except Parcel A (DD26751W)

Parcel Area: 0.3 ha

Civic Address:

Date of Purchase: 09/19/2011

Farm Classification: No

Owners

1. Name: Charles Allen

Address:

1269 Wilkinson Road

Comox, BC

V9M 4B8

Canada

Current Use of Parcels Under Application

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

Lot A is presently being planted as a blueberry farm, with about 4 ha. being in production now. The farmers, John and Tanya Hildreth, plan to continue to increase the area under cultivation as their budget permits. The sale of this small amount of land will allow them to finish the planting.

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

The Hildreth's purchased the farm in September, 2014 and have made the following improvements since:

- removal of a non productive vineyard 1 ha. in extent;*
- removal of 2000 small coniferous trees;*
- removal of 1.2 ha. of wild blackberries 3.0 metres feet high;*
- removal of several tons of scrap metal found on or buried in the ground;*
- Deer fences and irrigation installed on 1.2 ha. on the east end of the property;*
- Planted 1.0 ha. of blueberries, raspberries and blackberries.*
- Re-roofing of the equipment shed and renovation of the barn to accommodate repairing and storing farm equipment;*
- Plowed and made soil amemdments for further planting of 5 acres of blue berries in 2018*
- Deer fencing installed on 2.0 ha. and planted 450 fruit trees within;*
- Tree and broom removal, plowing and power harrowing of an additional 2.0 ha. for future planting of fruit trees*

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

The owners of the farm live in a small mobile home, but all other uses are agricultural. Lot 1 is a small rural residential property and has no agricultural useage.

Applicant: John Hildreth

Adjacent Land Uses

North

Land Use Type: Residential

Specify Activity: rural residential

East

Land Use Type: Residential

Specify Activity: rural residential

South

Land Use Type: Agricultural/Farm

Specify Activity: not currently being farmed

West

Land Use Type: Residential

Specify Activity: rural residential

Proposal

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

0.3 ha

14.9 ha

2. What is the purpose of the proposal?

The proposal allows the smaller property to purchase the small amount of land that their septic system is built on. The septic system occupies a legal easement area over part of the farm, so that portion of the proposal isn't usable farm land now.

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

One third of the small area proposed to be sold is already an easement for the smaller lot's septic system, so it can't be used by the farm. Also, the proposed transfer area is bounded by the toe of a steep bank so it is difficult for the farm to access and utilize. The money realized from the sale of the land will allow the farmers to complete the planting of their agricultural operation.

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

In the short term it definitely supports agriculture as it provides the financial capital the farmers need to complete the planting of their farm. This land was unused for decades before being purchased by a young couple who's goal was to create a viable farm business. They live in a modest mobile home on the property and have limited resources, so the planting has occurred as it became financially possible. This sale would provide enough capital to complete their planting.

In the long term it removes 725 square metres from the farm, but 229 square metres are already encumbered by a septic system easement. Effectively only 496 square metres will be removed from the farm, and all of this is below a steep bank and difficult for the farmer to access.

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: John Hildreth

Applicant Attachments

- Agent Agreement - Hoerburger Land Surveying
- Proposal Sketch - 56640
- Certificate of Title - 006-521-801
- Certificate of Title - 002-901-340

ALC Attachments

None.

Decisions

None.