

**DATE:** May 7, 2019**FILE:** 3110-20/ALR 1C 19**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** James Warren  
General Manager of Corporate Services BranchSupported by James Warren  
General Manager of  
Corporate Services Branch**J. Warren****RE:** Agricultural Land Reserve Non-Farm Use (Non-Adhering Residential Use)  
7884 Sturgess Road (Zimmerman)  
Puntledge – Black Creek (Electoral Area C)  
Lot B, Block 29, Comox District, Plan VIP25801, PID 002-682-222**Purpose**

To consider an application (Appendix A) to allow the property owner to remain living in an existing manufactured home on their property, within the Agricultural Land Reserve (ALR), while constructing a new house on the same property.

**Recommendation from the General Manager of Corporate Services Branch:**

THAT the Agricultural Land Commission be advised that the Comox Valley Regional District supports Agricultural Land Reserve Non-Farm Use application ALR 1C 19 (Zimmerman) concerning the temporary occupancy of an additional dwelling located on Lot B, Block 29, Comox District, Plan VIP25801, PID 002-682-222 (7884 Sturgess Road), with the condition that the manufactured home be demolished or decommissioned forthwith upon the approved occupancy of the new dwelling or no more than two years after the issuance of the building permit for the new house;

AND FINALLY THAT the application ALR 1C 19 (Zimmerman) for the non-farm use of property within the Agricultural Land Reserve be forwarded to the Agricultural Land Commission for final consideration.

**Executive Summary**

- The subject property is a 1.3 hectare lot developed with a manufactured home.
- The property owners would like to remain living in that manufactured home as they construct a new house on the same property.
- The new ALR regulations deem this arrangement (residing in a dwelling while a new dwelling is constructed on the same property) as a non-adhering residential use requiring Agricultural Land Commission (ALC) approval.
- The proposal is consistent with the zoning bylaw which has a provisions for the temporary occupancy of an additional dwelling while a new dwelling is constructed on the same property and the property's Rural-ALR zone allows for additional dwellings as permitted by the orders of the ALC.
- The Agricultural Advisory Planning Commission (AAPC) recommended the application be forwarded to the ALC with the recommendation that a financial security be held sufficient to ensure the manufactured home is removed. Should the ALC believe additional assurance is required to gain compliance with the conditions of an approval, they have the ability to

add a financial security condition. Board approval would be required if the Comox Valley Regional District (CVRD) were to become involved in holding such a financial security.

- The Regional Agrologist has no concerns with the application, as presented.
- Staff recommends the application be supported and forwarded to the ALC with the recommendation that the original dwelling be demolished or decommissioned within two years of the Building Permit issuance for the new dwelling.

Prepared by:

***J. MacLean***

Jodi MacLean, MCIP, RPP  
Rural Planner

Concurrence:

***T. Trieu***

Ton Trieu, MCIP, RPP  
Manager of Planning Services

Concurrence:

***S. Smith***

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

### Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
-----------	---

### Background/Current Situation

The subject property is a 1.3 hectare lot along Sturgess Road in the Black Creek area (Figures 1 and 2). It is developed with a manufactured home, a small orchard/garden area and a backyard facility for laying hens. The property currently does not have farm classification under the *Assessment Act*. The property owner is intending to replace the manufactured home with a new house of approximately 330 square metres total floor area (Figure 3). In order to remain living in the existing dwelling as the new house is constructed, ALC approval is required as a non-adhering residential use.

According to the Canada Land Inventory (Figure 4), the subject property has an unimproved soil classification of 4PA, but is improvable to Class 4P(70 per cent) - 3PA(30 per cent). Land with class 3-4 soils have limitations that require moderately intensive or special management practices or have a severely restricted range of crops, or both. The subclass P refers to a limitation due to stoniness and A refers to a soil moisture deficiency due to insufficient precipitation or droughtiness caused by low soil water holding capacity.

### Planning Analysis

#### Agricultural Land Reserve

Revisions to the *ALC Act* and its *Agricultural Land Reserve Use Regulation* came into force in February 2019. Amongst the revisions, the allowance for an additional dwelling in the form of a manufactured home inhabited by the property owner was removed, which is what the property owner had been intending to do during house construction. Section 29(1) of the regulation now defines a residential structure as “*A structure used, whether permanently or temporarily, to provide or in connection with providing accommodation...*”. Section 20.1 of the Act now specifies that a property “*may have no more than one residence per parcel*” with exceptions for “*pre-existing residential structures*” and dwellings approved through a non-farm/residential use application. ALC staff have reviewed this situation with the applicants (e.g. living in the existing dwelling while building another one) and determined that this Non-Adhering Residential Use application is required.

#### 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”. It is the objective

of this area designation “*to promote agriculture and aquaculture as an important economic sector of the Comox Valley*”. The relevant general policies are to “*require new development to support the primary function of agriculture*” and to “*protect farming integrity and function of land designated agricultural area*”. Regarding residential uses in this designation Policy 59(4) states “*Minimize the residential impact on arable farm land by dwelling units and related residential infrastructure*”. The applicant does not propose to retain the manufactured house as an additional dwelling. If the manufactured house is removed, that area can be re-purposed for other uses in the future (e.g. accessory building or farm uses).

### Zoning Bylaw

The proposal is consistent with the CVRD Zoning Bylaw which, in Section 310, allows for the temporary occupation of an additional dwelling while another dwelling is constructed on the same property. This provision includes the condition of entering into a covenant to demolish or decommission the original dwelling forthwith upon the approved occupancy of the new dwelling, or within two years of building permit issuance, or another date specifically requested by the CVRD and only to the extent which the ALC allows, as well as agreeing to a \$5000.00 rent charge if the original dwelling is not demolished or decommissioned as specified in the covenant.

However, the property is zoned Rural-ALR which allows for a residential density of one single detached dwelling plus additional dwelling units that are specifically permitted by the ALC. Should the ALC approve the application, the approved use would be consistent with the Rural-ALR zone’s allowance for additional dwellings without the use of Section 310 of the Zoning Bylaw.

### **Policy Analysis**

Section 20(2) of the *Agricultural Land Commission Act* (ALCA) enables a property owner to apply to the ALC to seek approval for non-farm use of agricultural land. Section 25(3) of the ALCA states that this type of application may not proceed to the ALC unless authorized by a resolution from the local government.

### **Options**

The CVRD Board may support forwarding the application to the ALC or refuse to forward the application. The board may also provide recommendations concerning the application for ALC consideration. Staff recommends forwarding the application to the ALC with a recommendation that the ALC approve the application with the condition that the manufactured home be demolished or decommissioned forthwith upon the approved occupancy of the new dwelling.

### **Financial Factors**

Fees of \$1,500.00 (\$300.00 for the CVRD and \$1,200.00 for the ALC) have been collected for this non-farm use application in accordance with Section 35 of the ALCA.

### **Legal Factors**

This report and the recommendations contained herein are in compliance with the ALCA, 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 for comment on this application. The Regional Agrologist responded in an email dated April 25, 2019, noting she has no concerns with the application, as presented.

**Interdepartmental Involvement**

This ALR application has been circulated to CVRD departments and no concerns were expressed.

**Citizen/Public Relations**

The AAPC reviewed the application at their meeting on April 25, 2019. The AAPC recommended the application be supported and forwarded to the ALC with a recommendation that a financial security be held for the purpose of ensuring the manufactured home is removed from the lot, in a timely manner, once the owner moves into the new house. Should the application be approved and the ALC believe additional assurance is required to gain compliance with the conditions of their order, they have the ability to add a financial security condition. Otherwise, financial securities are held in those cases where it can be used to complete a defaulted condition, such as land remediation, on behalf of an owner. Alternatively, in order to apply a specified financial penalty for a defaulted condition a rent charge incorporated into a covenant is used (See zoning section above).

Attachments: Appendix A – “ALC application submission ALR 1C 19”

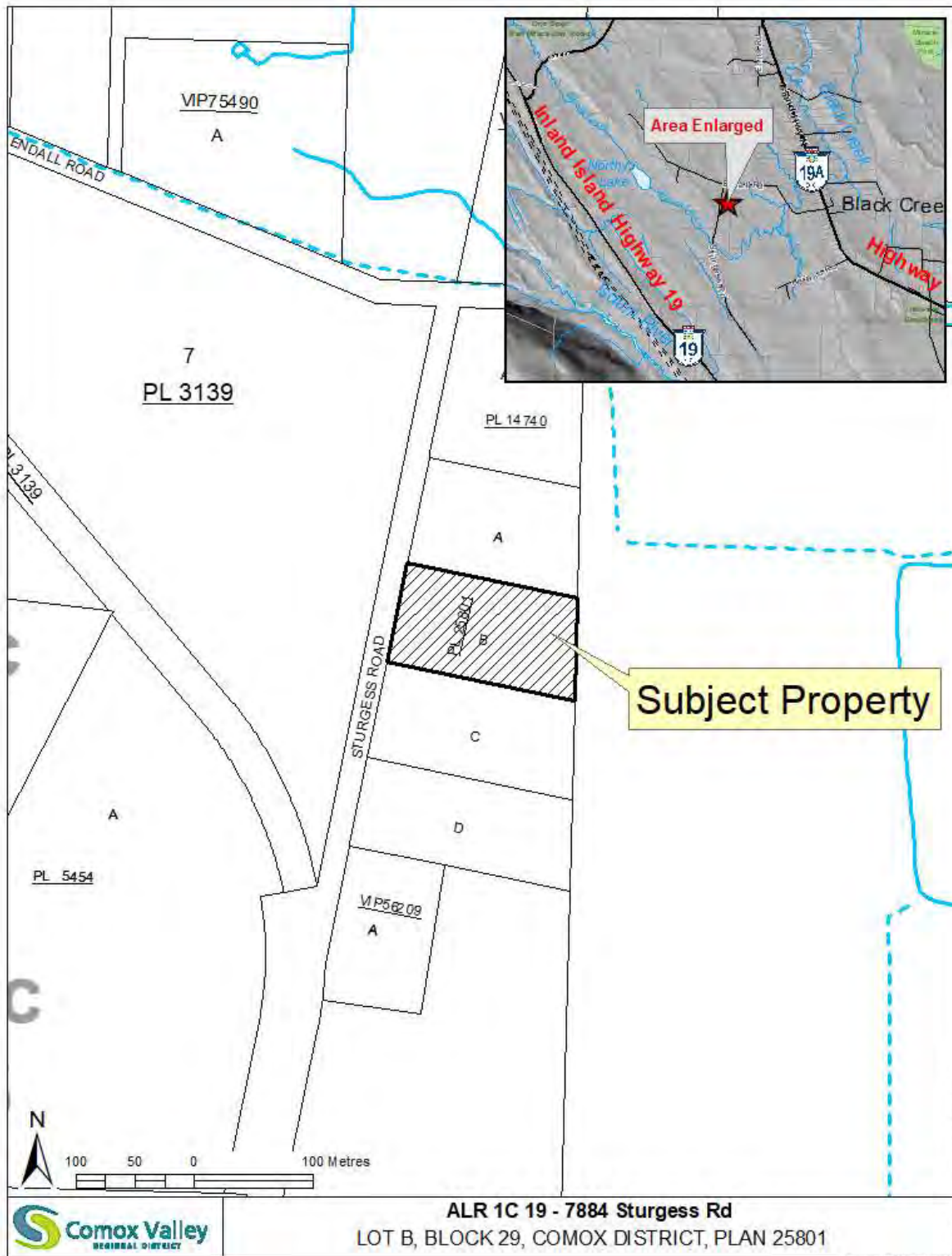


Figure 1: Subject Property



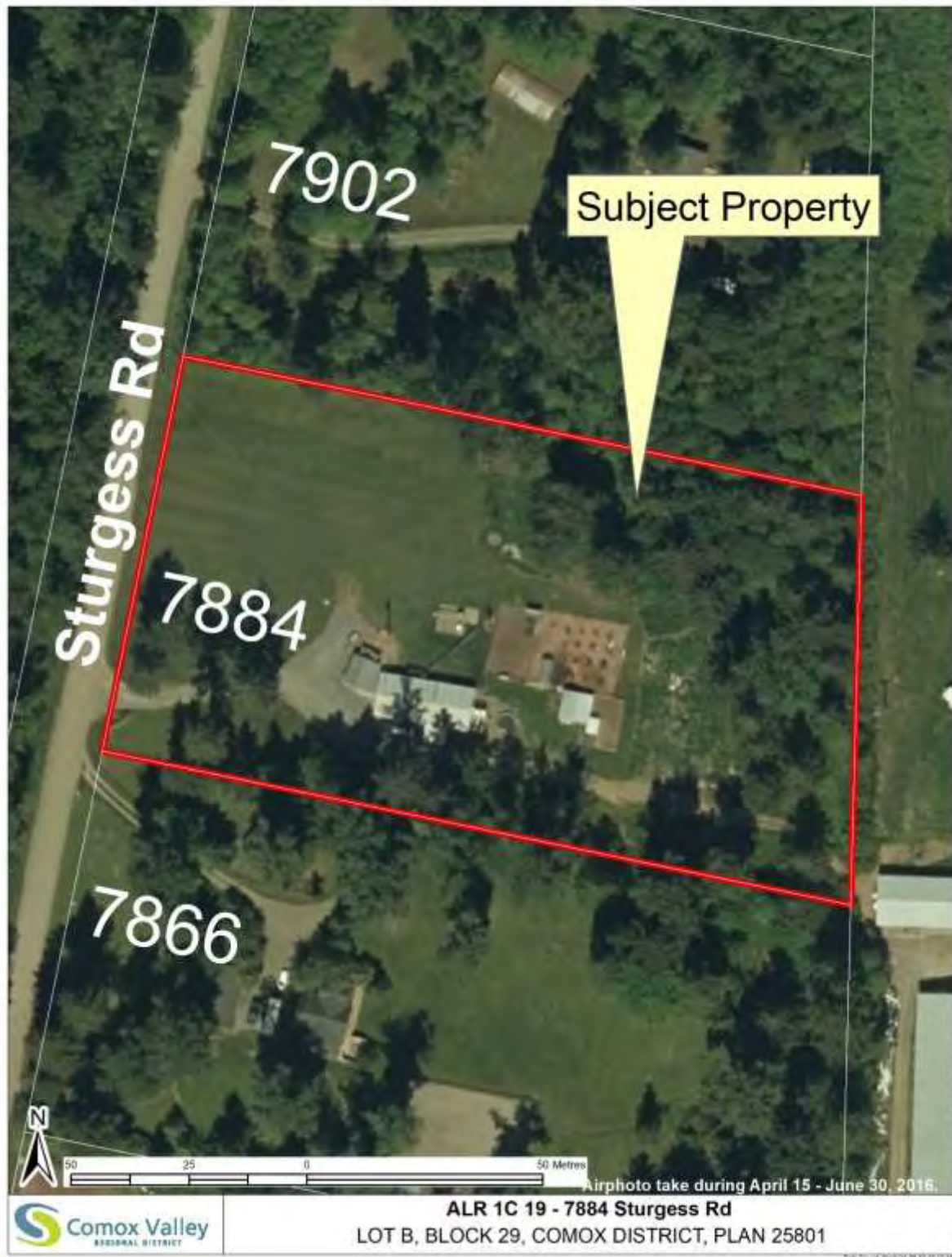
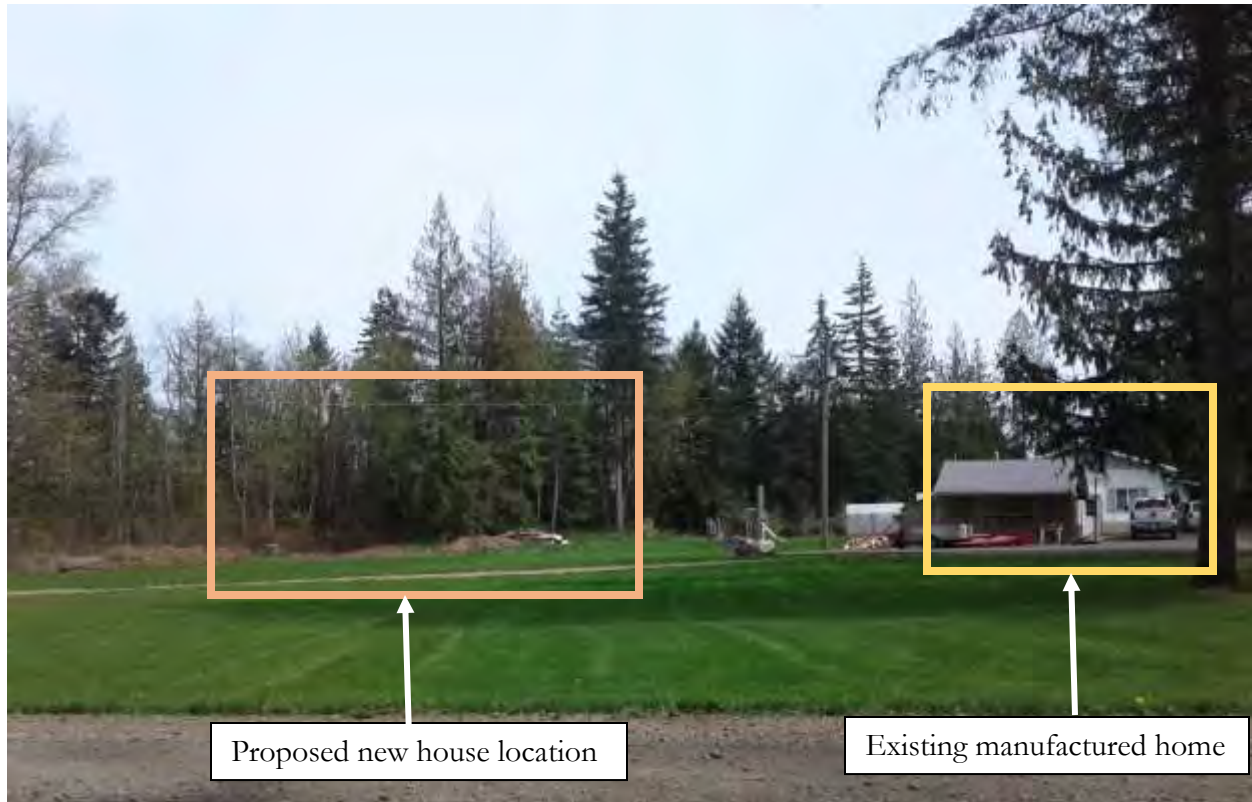
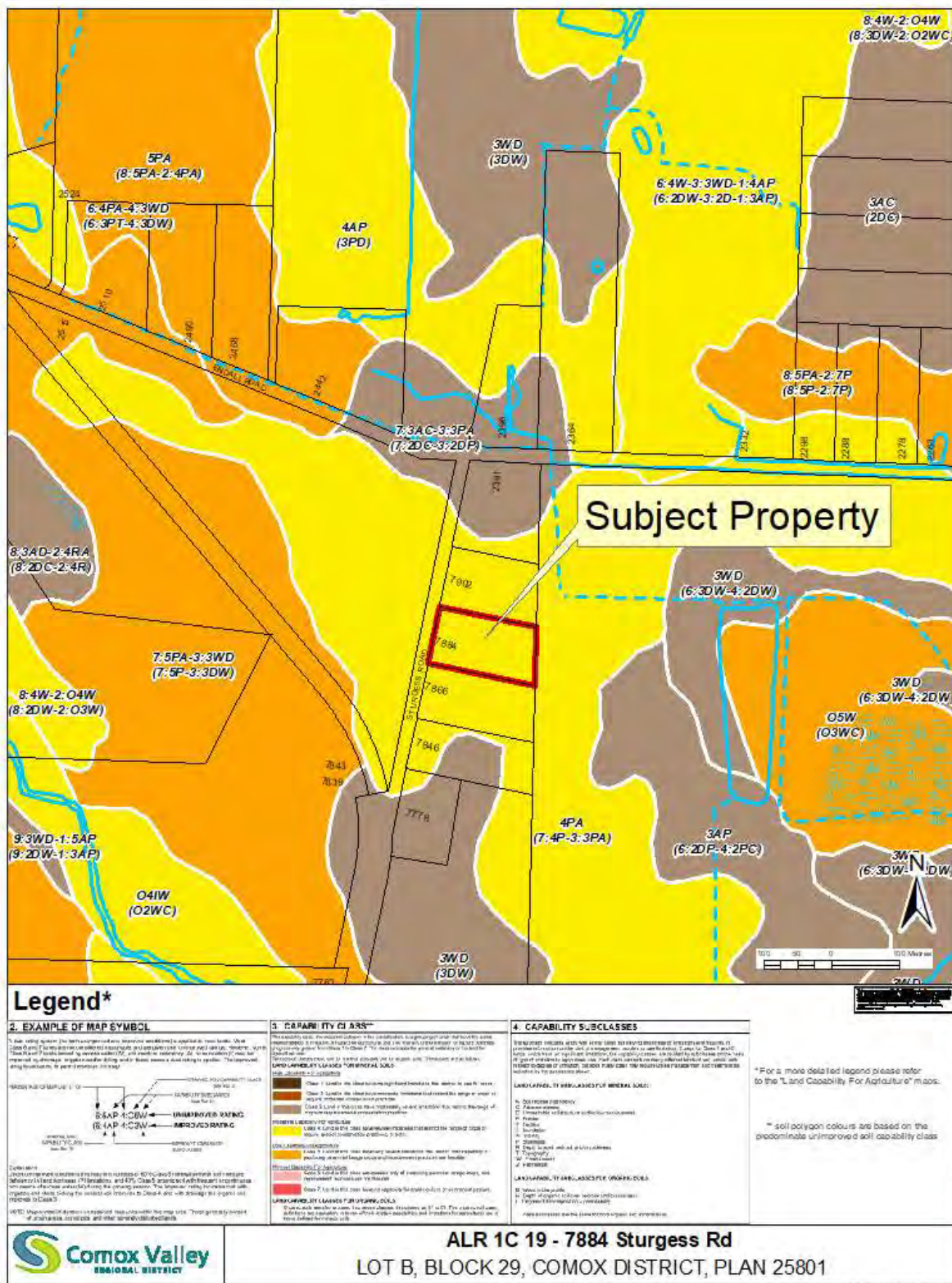


Figure 2: Air Photo (2018)



**Figure 3: Subject Property as Seen from Sturgess Road**





**Figure 4: Canada Land Inventory Soil Classification, Labeled with Unimproved and (Improved) Soil Ratings**





# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 58964

**Application Status:** Under LG Review

**Applicant:** Trevor Zimmerman , Denise Zimmerman

**Local Government:** Comox Valley Regional District

**Local Government Date of Receipt:** 04/09/2019

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

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

**Proposal:** We, Trevor and Denise, of 7884 Sturgess RD, Black Creek, along with our 4 children:  
are currently living in a mobile home. We have made the decision to build a new house to accommodate our growing family. We had planned to build our house on the property that we are living on currently and upon given occupancy of our new house we would move our mobile home off the property. Due to the high cost, disruption of our living, and insecurity to our family we would like to keep our mobile home on the property until we've been given occupancy of our new house.

**Mailing Address:**

7884 Sturgess  
Black Creek , BC  
V9J 1G7  
Canada

## Parcel Information

### Parcel(s) Under Application

1. **Ownership Type:** Fee Simple  
**Parcel Identifier:** 002-682-222  
**Legal Description:** L B BK 29 COMOX PL 25801  
**Parcel Area:** 1.3 ha  
**Civic Address:** 7884 Sturgess RD.  
**Date of Purchase:** 01/25/2012  
**Farm Classification:** Yes  
**Owners**
  1. **Name:** Trevor Zimmerman  
**Address:**  
7884 Sturgess  
Black Creek , BC  
V9J 1G7  
Canada

**Applicant:** Trevor Zimmerman , Denise Zimmerman

2. **Name:** Denise Zimmerman

**Address:**

7884 Sturgess

Black Creek , BC

V9J 1G7

Canada

---

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

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

*50 laying hens 20% vegetables and orchard.*

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

*300 ft.of Garden and orchard fence .*

*Planted 20 fruit trees*

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

*No non-agricultural activity, other than the 1500 square foot mobile home.*

### **Adjacent Land Uses**

#### **North**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** agricultural

#### **East**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** agricultural

#### **South**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** agricultural

#### **West**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** agricultural

### **Proposal**

**Applicant:** Trevor Zimmerman , Denise Zimmerman

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

*We, Trevor and Denise, of 7884 Sturgess RD, Black Creek, along with our 4 children: T are currently living in a mobile home. We have made the decision to build a new house to accommodate our growing family. We had planned to build our house on the property that we are living on currently and upon given occupancy of our new house we would move our mobile home off the property. Due to the high cost, disruption of our living, and insecurity to our family we would like to keep our mobile home on the property until we've been given occupancy of our new house.*

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

*N/A*

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

*270 m<sup>2</sup>*

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

*6*

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

- the existing location of the mobile home is tight to the south property line.*
- the new location will situate the house on the sunny side of the property to conserve energy.*
- Original house site will be reclaimed to grass land*
- The proposed building site is not suitable for livestock due to the wetness of the site during the wet winter months; and also the location to the well, which would contaminate our water supply.*

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

- 1500 sq ft mobile home*
- family of 6: 2 adults & 4 children*

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

*N/A*

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

*Yes*

*Long Term:*

- extending our orchard on the drier side of the property where soil conditions are more conducive to growth of fruit trees and vegetables.*
- we will be able to raise livestock, without the risk of contaminating our water supply.*

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

- 3000 sq ft Footprint of proposed home*
- 2000 sq ft footprint of driveway*
- 1000 sq ft footprint of new septic system*

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

*No*

**Applicant Attachments**

- Proposal Sketch - 58964
- Certificate of Title - 002-682-222

### **ALC Attachments**

None.

### **Decisions**

None.

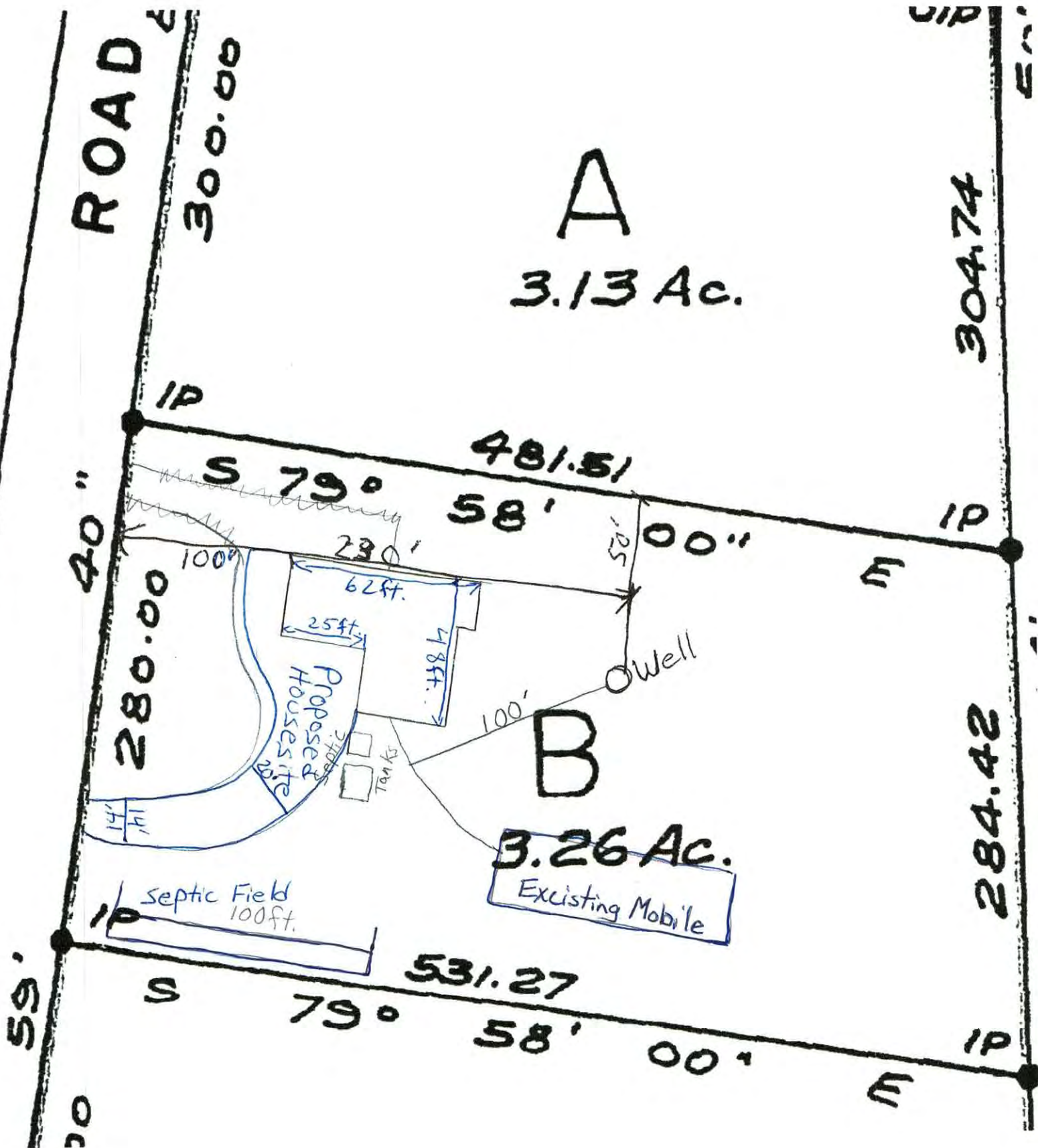














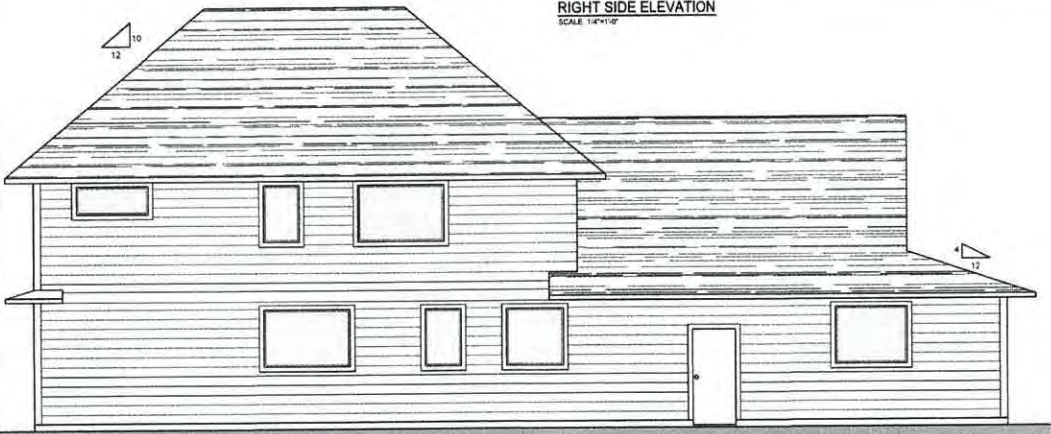
FRONT ELEVATION  
SCALE 1/4"=1'-0"



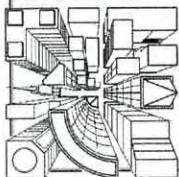
REAR ELEVATION  
SCALE 1/4"=1'-0"



RIGHT SIDE ELEVATION  
SCALE 1/4"=1'-0"



LEFT SIDE ELEVATION  
SCALE 1/4"=1'-0"



ZIMMERMAN RESIDENCE	
7884 STURGESS RD, BLACK CREEK, BC	
BIRDS EYE DRAFTING AND CONSULTING SERVICE	
COOMOX, BC EMAIL: bruce@birds eyedrafting.com PHONE: (250) 465-8772	
NO. 1	REVISION: ISSUED FOR PRELIM REVIEW
DATE	NOV. 27/18

NOTE:  
ORDER TRUSS LOCATIONS TO BE DETERMINED BY TRUSS MANUFACTURER. ANY DISCREPANCIES TO BE DISCUSSED W/ ENGINEER PRIOR TO CONSTRUCTION.  
ALL POINT LOADS FROM ABOVE TO CONTINUE THRU FLOOR JOIST CAVITY, DOWN TO FOUNDATION BELOW.  
UNLESS SPECIFIED OTHERWISE, CONSTRUCTION TO BE IN ACCORDANCE WITH PART 9 OF THE B.C. BLDG CODE, 2012. ALTERNATE: HEADER, BEAM, BUILT UP COLUMN SIZES AND FLOOR JOIST SPACING TO BE DETERMINED UPON ENGINEER'S REVIEW. ENGINEER'S MARKUPS SUPERCEDE ANY NOTES INDICATED ON THESE PLANS.  
KITCHEN AND FURNITURE LAYOUT IS CONCEPTUAL AND FOR DISCUSSION PURPOSES ONLY. DOOR AND WINDOW SIZES AND LOCATION MAY BE ADJUSTED CONTRACTOR TO COORDINATE WITH ENGINEER PRIOR TO CONSTRUCTION IF ADJUSTMENTS AFFECT STRUCTURAL COMPONENTS.

NOTE:  
ALL EXTERIOR DIMENSIONS ARE TO OUTSIDE OF SHEATHING. ALL INTERIOR DIMENSIONS ARE TO CENTER OF WALL UNLESS NOTED OTHERWISE.  
IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ALL DIMENSIONS AND REQUIRED CLEARANCES ON SITE PRIOR TO CONSTRUCTION. ANY DISCREPANCIES TO BE DISCUSSED W/ ENGINEER PRIOR TO CONSTRUCTION.  
THESE DRAWINGS ARE THE EXCLUSIVE PROPERTY OF BIRDS EYE DRAFTING AND ARE NOT TO BE REPRODUCED WITHOUT WRITTEN CONSENT. THESE DOCUMENTS HAVE BEEN DESIGNED SPECIFICALLY FOR THE PURCHASER INDIVIDUAL AND/OR COMPANY AND BUILDING SITE INDICATED. ANY ALTERATION TO THE INFORMATION SHOWN IN THE TITLE BLOCK INDICATES THAT THESE DRAWINGS HAVE BEEN ILLEGALLY REPRODUCED.