

**DATE:** August 1, 2017

**FILE:** 3060-20/DP 15C 17

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

**FROM:** Ann MacDonald, MCIP, RPP  
Acting Chief Administrative Officer

**RE: Farm Land Protection Development Permit  
Puntledge – Black Creek (Electoral Area C)  
6611 Poulton Road (Perich)  
Lot 22, Block 29, Comox District, Plan 2270, PID 006-415-491**

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### **Purpose**

To consider a Farm Land Protection Development Permit (DP) that would establish a buffer between a rural residential property and an agricultural property.

### **Policy Analysis**

Sections 488-491 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorize 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 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 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, 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 (ALR). Construction of a building within the DPA requires the issuance of a DP prior to the issuance of a building permit.

### **Executive Summary**

- The property is adjacent to ALR lands on the east and south side.
- The applicants have applied to construct a house within the Farm Land Protection DPA. To accomplish the objectives of the DPA, they propose a 20 metres setback between the abutting agricultural property and the rear corner of the principal dwelling.
- According to the applicants (Appendix B), the siting of the principal dwelling is necessary in order to accommodate a second dwelling and accessory building (both outside of the DPA) while maintaining desired space between buildings.
- There is a wire fence along the east property line and no buffer along the rear lot line. The applicants have requested no further buffering measures be required.
- The neighbouring farm owners were consulted and are supportive of the proposal, as presented.
- The Agricultural Advisory Planning Committee (AACP) reviewed the application and recommend a 30 metre setback.
- Although the adjacent farmers are supportive of the proposal and the applicants request no buffering, the staff recommendation seeks to mitigate future issues should the owners and/or

agricultural use change. Staff recommend issuance of the DP (Appendix A) with a 20 metre setback for the principal dwelling and 30 metres for other buildings, a fence along the rear property line and one row of trees or shrubs within 4 metres of the rear property line. This buffering meets the intent of the DP and the Ministry of Agriculture's *Guide to Edge Planning*.

**Recommendation from the Chief Administrative Officer:**

THAT the board approve the Farm Land Protection Development Permit DP 15C 17 (Perich) on the property described as Lot 22, Block 29, Comox District, Plan 2270, PID 006-415-491 (6611 Poulton Road) for the construction of the principal dwelling with a minimum 20 metre setback from the agricultural property, along with a fence and row of trees or shrubs within 4 metres of the rear property line.

Respectfully:

***A. MacDonald***

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Ann MacDonald, MCIP RPP  
Acting Chief Administrative  
Officer

**Background/Current Situation**

An application has been received to consider a Farm Land Protection DP to enable the construction of a single family dwelling within 20 metres of an agricultural property (Figure 3). Pursuant to Section 491(6) of the LGA farm land protection DPs are restricted to conditions relating to screening, landscaping, fencing and siting of buildings or other structures.

The subject property is a 0.42 hectare (1.03 acre) rural residential lot. The west lot line abuts a rural residential parcel. The east and rear property line abut an agricultural property (Figure 1 and 2). The residential property is cleared and was formerly farmed as part of the adjacent farm. The applicants intend to construct a 122m<sup>2</sup> single family dwelling, 89m<sup>2</sup> secondary dwelling and a 26m<sup>2</sup> accessory building (Figure 3). They propose a 20.0 metre setback for the principal dwelling and that no fencing or landscaping be required (Appendix B). The applicants are requesting this configuration to accommodate an accessory building and second dwelling outside the DPA while keeping desired space between the buildings.

With the exception of a wire fence along the eastern portion of the lot, no buffer exists between the two properties (Figure 4 and 5). The applicants provided a letter from the owner of the neighbouring agricultural property stating he does not feel he will be negatively affected by this proposal (Appendix C).

**Planning Analysis**

Official Community Plan

The Rural Comox Valley OCP designates 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.

#### Zoning Bylaw

The subject property is zoned Rural Eight (RU-8), which allows residential uses. The principal dwelling, secondary dwelling and accessory building, as proposed, are consistent with Zoning Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”.

#### Development Permit Guidelines

The intention of the farm land protection DP is to mitigate potential for land use conflicts between agricultural and residential uses (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*.

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 minimum recommended specifications, which provides protection from trespass and vandalism, is a 3 metre wide vegetated buffer consisting of a double row of trespass inhibiting shrubs with wire fencing at least 1 metre in height. Solid fencings (wood or chain link with privacy slats) and evergreen hedges or trees are also acceptable and would provide visual screening. Should movement of dust or pesticide spray be a factor, the specifications recommend increasing the vegetated buffer width to at least 6 metres with a row of trees (2.5 metres in height if coniferous or 6 centimetre caliper if deciduous), as well as the screening hedges and a triple row of trespass inhibiting shrubs. Should airborne particles, odours, light, or higher density development be a factor, the specifications recommend a minimum of 15 metre buffer with a double row of trees, as well as a double row of screening hedges, a triple row of trespass inhibiting shrubs, and additional ground cover shrubs, as necessary. Other features that may be integrated into the buffer area include berms, ditches, and water features.

#### Analysis

The agricultural property is 4 hectares in size with Portuguese Creek traversing through the middle of the property. The area immediately adjacent to the residential property is part of a small field that had previously been used for crop cultivation and the remainder of the property is forested. The current owners have chickens and may want to add a few larger animals in the future.

The concurrent development of an accessory building, secondary dwelling and septic field (outside the 30 m DPA) on the residential property is resulting in this proposed siting of the principal dwelling. The principal dwelling is parallel to the road with the side and rear of the dwelling oriented towards the agricultural property. The dwelling could be oriented so it is parallel to the agricultural property to allow it to be further away, but the configuration would be awkward. Although the

applicants have requested that no fencing or landscaping be required, the recommendation needs to take into consideration future property owners and potential changes in agricultural use. A farm land protection development permit is only triggered at time of development or subdivision, therefore, creating a buffer now is an opportunity to prevent future issues.

On the east property line, there is an existing fence and the proposed buildings will be setback more than 30.0 metres. As such, no further buffering measures are recommend along the east lot line. To meet the development permit guidelines, minimum buffer specifications should be in place along the rear property line to prevent trespassing by humans, pets or wildlife and to provide visual screening. To achieve this, the Agricultural Land Commission's Landscaped Buffer Specifications recommend a fence, single row of deciduous trees, triple row of trespass inhibiting shrubs and single row of screening shrubs as a minimum vegetative screen. Taking into consideration the site conditions (size, topography, etc.) of the agricultural property, it is likely this property will be used as a hobby farm or small scale farm. Based on this intensity and the proposed 20 metre setback, it would be appropriate to scale back the minimum vegetative screening to a fence no less than 1 metre in height and a minimum of one row of shrubs or trees planted within 4 metres of the rear property line.

### **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 fencing and landscaping is \$2600. Pursuant to the CVRD procedures and fees bylaw, 125 per cent of the cost estimate (\$3250) is recommended to be retained by the CVRD as a security deposit, paid by the applicants prior to the issuance of the permit to ensure the completion of the fence and landscaping.

### **Legal Factors**

This report and the recommendations contained herein are in compliance with the LGA and CVRD bylaws. Development permits are permitted in certain circumstances under Sections 488 to 491 of the LGA.

### **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 subject property within the Rural Settlement Areas. In the RGS, there are two policies (2C-5 and 6A-3) to ensure appropriate buffers and transition zones between agricultural land and rural areas. Adequate buffers will minimize negative impacts arise from the interface between the two land uses, with the intent that the non-farm uses do not impede on agricultural activities within the ALR. The farm land protection DP provides site specific conditions on buffers and transition zones between the proposed buildings and the ALR land.

### **Intergovernmental Factors**

A referral was issued to the Ministry of Agriculture for comment. The response will be forwarded to the Electoral Areas Services Committee if it received before the meeting.

**Interdepartmental Involvement**

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

**Citizen/Public Relations**

The owner of the farm property to the rear was consulted. After reviewing the plans, he had no objection to the development.

The AACCP met on July 19, 2017, with applicants, the neighbouring farmer and staff present, to consider the application. The AACCP recommended a 30 metre setback for the principal dwelling.

Prepared by:

Concurrence:

***B. Labute***

***A. Mullaly***

***A. MacDonald***

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Brianne Labute  
Planner

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Alana Mullaly, M.Pl., MCIP, RPP  
Manager of Planning Services

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Ann MacDonald, MCIP, RPP  
General Manager of Planning  
and Development Services  
Branch

Attachments: Appendix A – “Farm Land Protection Development Permit DP 15C 17”  
Appendix B – “Letter from Applicants”  
Appendix C – “Letter from Adjacent Property Owner”





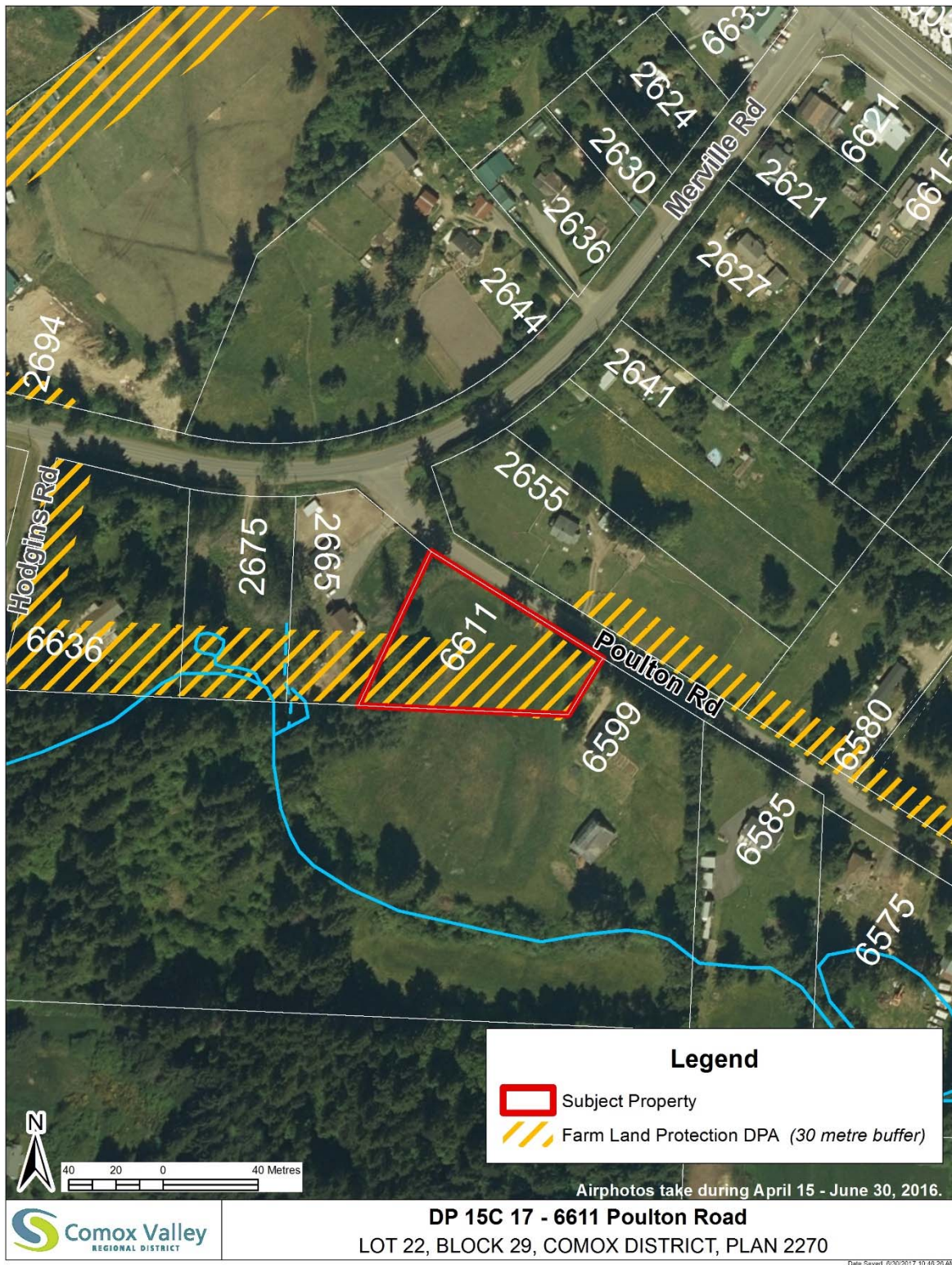


Figure 2: Aerial Photo (2016) with the 30 m Farm Land Protection DPA highlighted

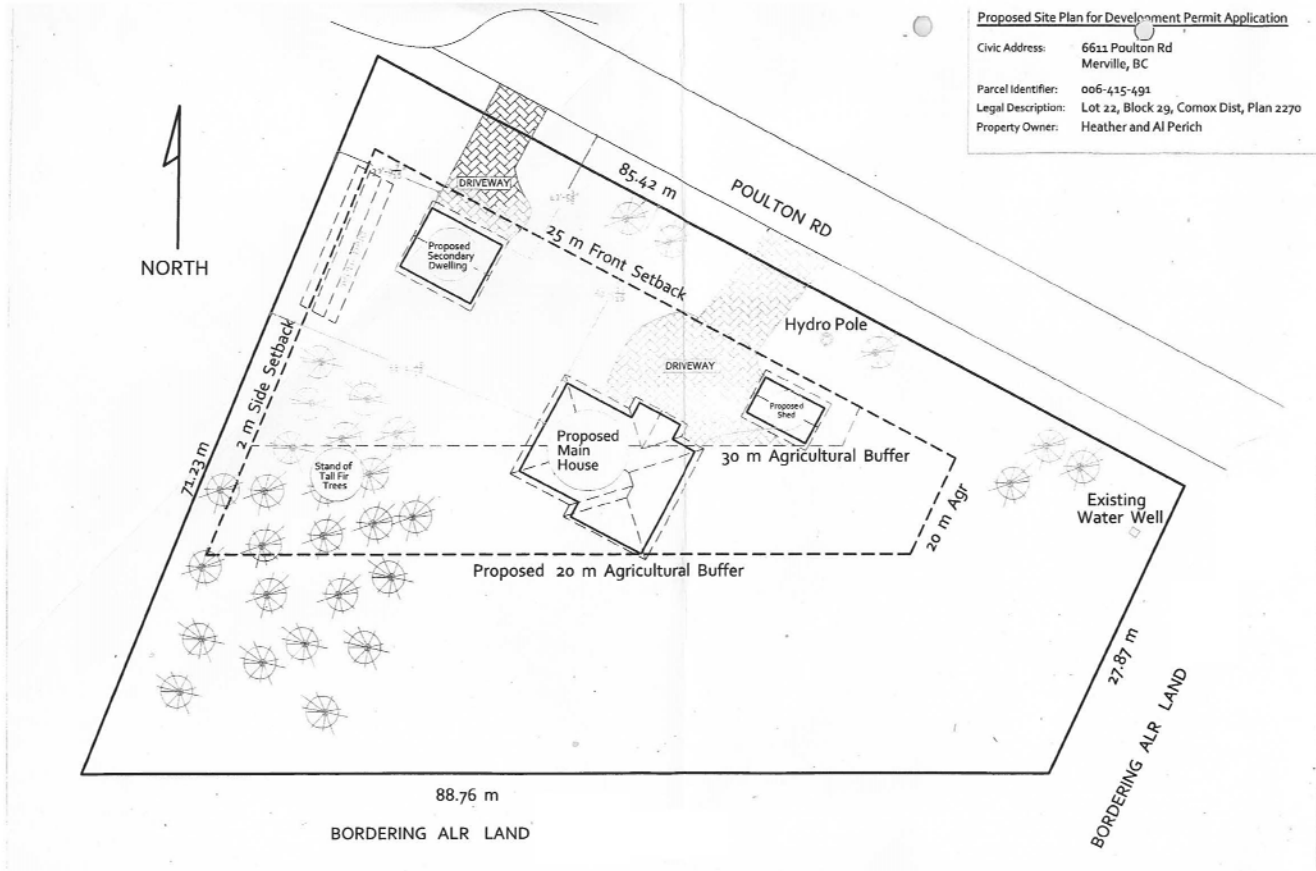


Figure 3: Site Plan, as Submitted by Applicants





Figure 4: Fence Line Represents Property Line to the East

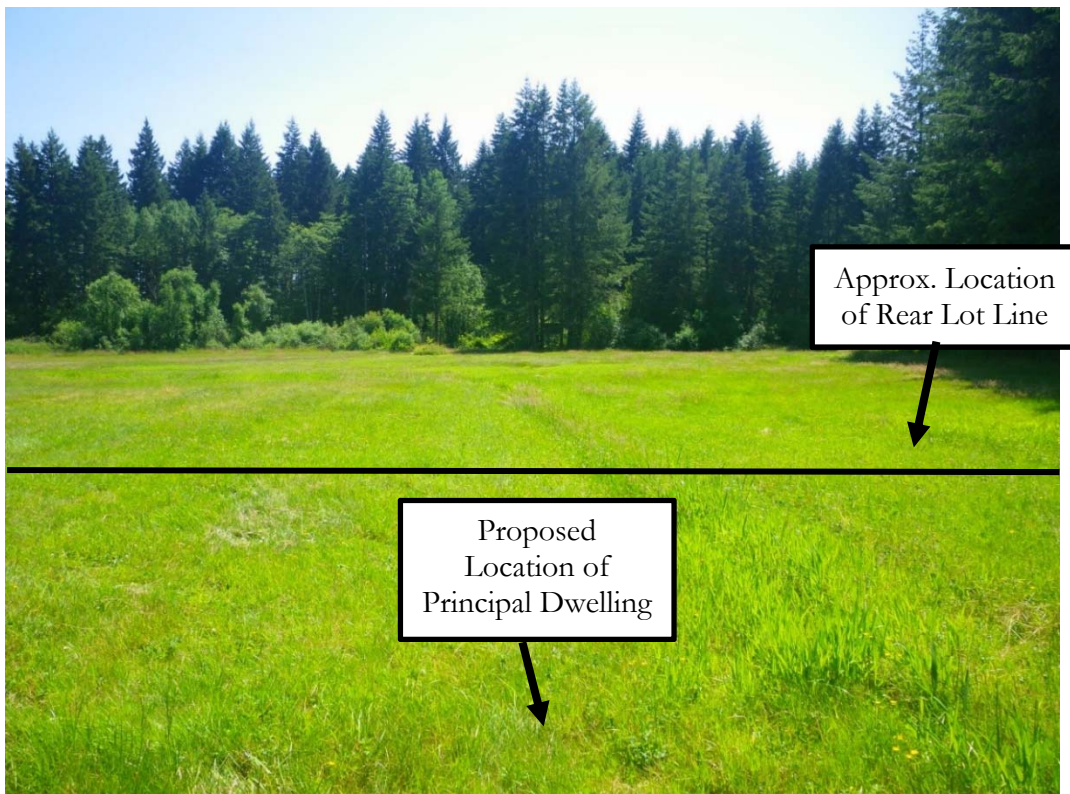


Figure 5: Proposed Location of Principal Dwelling

**DP 15C 17**

**TO:** Allan and Heather Perich

**OF:** Box 358, Merville BC V0R 2M0

1. This development permit (DP 15C 17) 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 **construction of the primary dwelling 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 22, Block 29, Comox District, Plan 2270

**Parcel identifier (PID):** 006-415-491      **Folio:** 771 04046.005

**Civic address:** 6611 Poulton Road
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 development shall be carried out according to the site plan attached hereto which form a part of this permit as the attached Schedule B;
  - ii) THAT no building be sited less than 20 metres from the rear property line and 30 metres from the east property line;
  - iii) THAT a fence, no less than 1 metre in height, be placed along the rear property line;
  - iv) THAT a single row of trees or shrubs shall be planted within 4 metres of the rear property line;
  - v) THAT shrubs have a maximum spacing of 1 metre between plantings and trees a maximum spacing of 5 metres;
  - vi) THAT tree plantings have a minimum height of 1.5 metres at the time of planting;
  - vii) AND THAT a security deposit in the form of an irrevocable letter of credit or a security bond in the amount of \$3,250 be provided for the fencing and 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”.
4. This development permit (DP 15C 17) 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).
5. This development permit is issued following the receipt of an appropriate site declaration from the property owners.

6. This 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

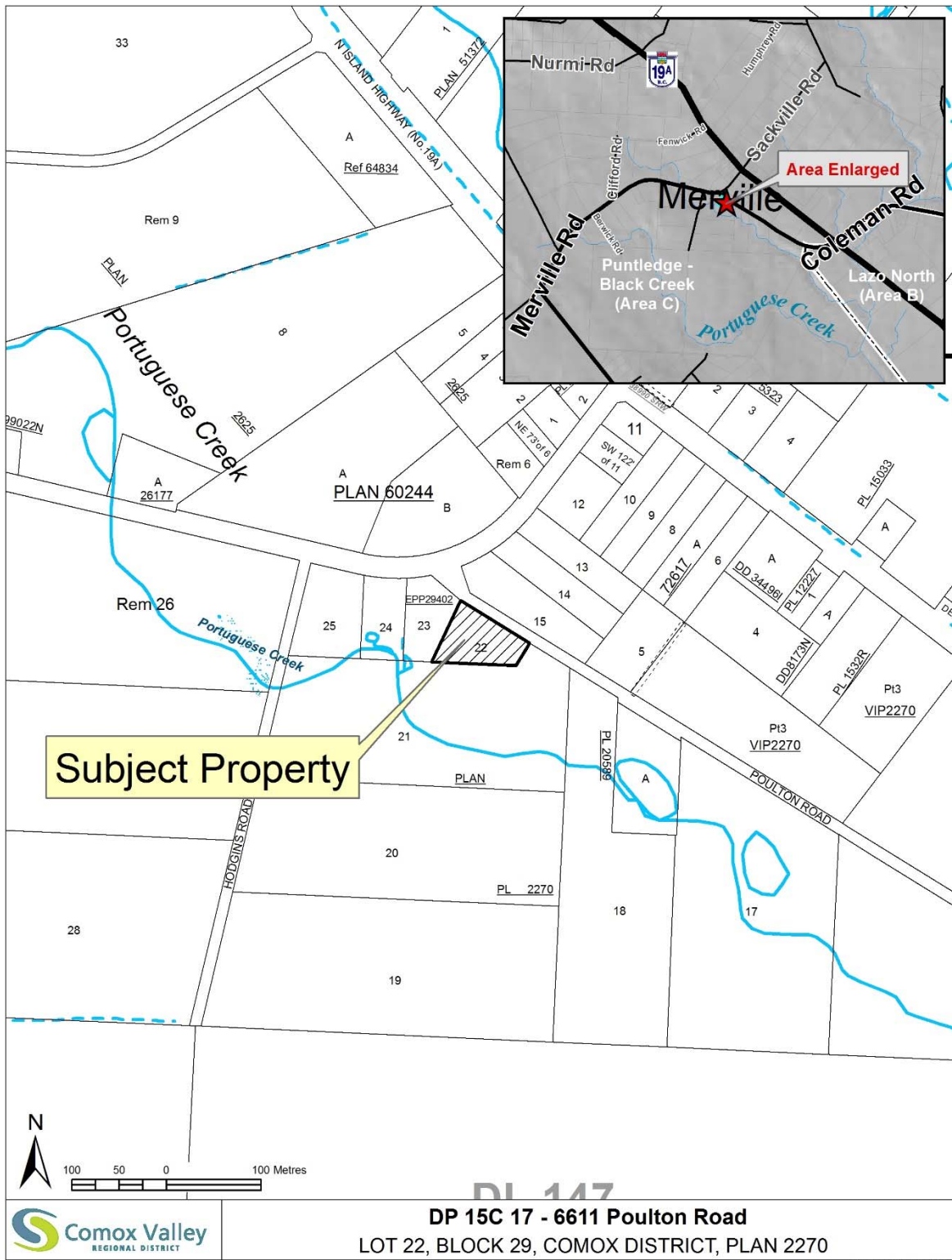
Certified on \_\_\_\_\_

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

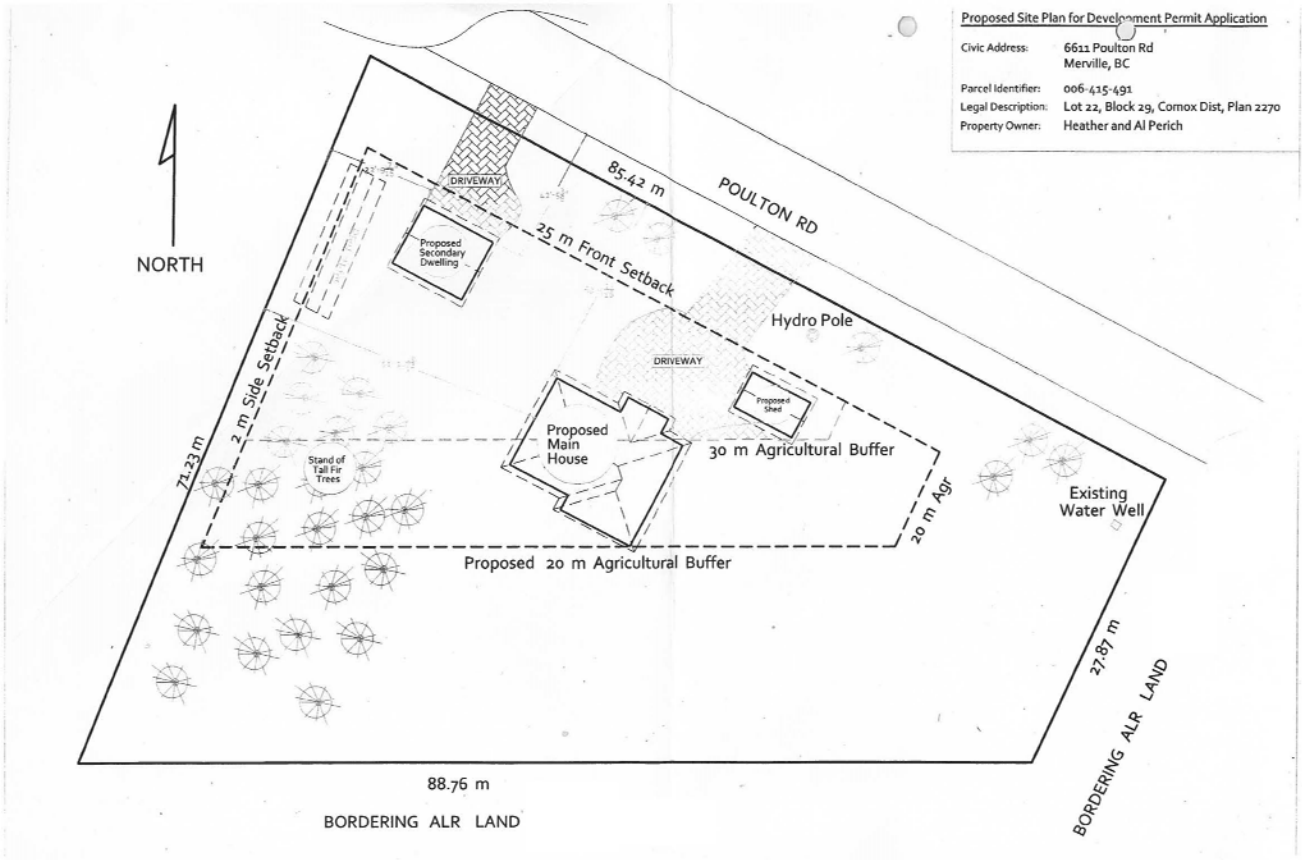
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### Schedule A Subject Property Map



# Schedule B Site Plan



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## Development Proposal

At present, a vacant lot of 1.03 acres with working well.

### Proposed plans :

To build two homes; one approximately 1320 sqft, the other approximately 960 sqft (2 story – 20X24). The larger home will be our residence; the smaller home will be a rental (to offset mortgage).

To build one storage shed (14X20)

Septic field is planned and is expected to be in place the first week of July.


Hydro pole is installed and connected.

In the placement of the three structures, we considered several factors (while still keeping the buffer zone in mind). We wanted to keep the large cluster of trees on the west side of the property. This would allow for a natural privacy buffer between us and our neighbours on this side. We wanted our home to be as far from Poulton Road as possible (for the safety of family pets and visiting grandkids). We also wanted the three buildings to be staggered in their placement (rather than side by side in a row along Poulton. We feel this staggered placement will make the property more esthetically pleasing.

We have discussed these plans with our neighbour, . He owns the property on the east side of us and along the backside of us. Please see attached note.



Allan Perich

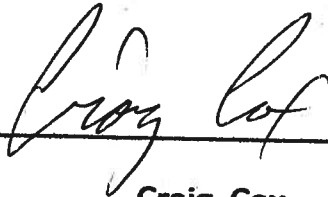


Heather Perich

June 14, 2017

Regarding Development Proposal for Lot 22, Block 29, Plan 2270, Comox Land District ; submitted by Allan and Heather Perich

I am aware of the development plans for the above noted property. I understand that the primary dwelling will be within the ALR buffer Zone and will be closer to my property line. I am agreeable to these plans and do not feel that they will impact my property in any way.

  
\_\_\_\_\_

Craig Cox