

DATE: June 2, 2021

FILE: 3060-20/DP 10C 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 – 1615 Seaview Road (Farrer)
Puntledge – Black Creek (Electoral Area C)
Lot 14, Section 9, Township 5, Comox District, Plan 9182, PID 005-565-316**

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 10C 21 (Farrer) on the property described as Lot 14, Section 9, Township 5, Comox District, Plan 9182, PID 005-565-316 (1615 Seaview Road) for the construction of a house setback at least 20 metres setback from the boundary with the neighbouring agricultural property;

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 0.17 hectare lot within the Farmland Protection DP area with a new house. 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 site plan that illustrates a proposed setback and vegetative buffer (Appendix A). The Agricultural Advisory Planning Commission (AAPC) and the Ministry of Agriculture, Food and Fisheries (MoAFF) reviewed the proposal and provided comments.
- Staff recommends issuance of the DP for a 20 metre building setback with 9 metres of vegetative buffering and a new fence.

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 0.17 hectare residential lot along Seaview Road (Figures 1 and 2). The lot was previously developed with a house which was moved off the lot in 2018. The owners intend to construct a new house in the same general location on the lot, though with a different size and orientation (Figure 3). 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 house no closer than 20 metres from the lot line shared with the neighbouring agricultural property. The back end of the house is intended to be setback approximately 23 metres but an outdoor sheltered area is planned to extend out to the 20 metre mark. The applicants propose to reserve the rearmost 9 metres for a vegetative buffer consisting of existing native vegetation, predominately sword fern and dwarf Oregon grape supplemented by a row of new cedars at the top of the slope adjacent to the existing wire fence.

Neighbouring Agricultural Property

The neighbouring agricultural property is part of a larger farming operation that spans several lots behind the Seaview Road subdivision. According to the Canada Land Inventory, improved soil rating in the area is 3AP. Class 3 soils have moderately severe limitations that restrict the range of crops or require special conservation practices. 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. The neighbouring farmer has reviewed and provided input into the proposal.

Planning AnalysisOfficial 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 Agricultural Land Reserve 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 Residential One (R-1), which allows residential use plus up to 200 square metres of accessory building gross floor area. The Zoning Bylaw requires a minimum building setback of 4.5 metres to the front or rear lot lines. 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 \$1,120 and fencing is \$480, inclusive of materials and labour. Pursuant to the CVRD procedures Bylaw No. 328, 125 per cent of the cost estimate (totalling \$2,000) 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 and fencing 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 MoAFF for comment on this application. Regional Agrologist Angela Boss and Land Use Planner Reed Bailey reviewed the application and recommends conducting the land alterations necessary to maintain a 30 metre building setback (Appendix B).

The applicant and CVRD staff have reviewed and considered these comments. The applicant selected this particular siting on the lot as the most forward that can still utilize the elevated topography without creating a steep slope and the lot features from the previous building. According to the applicant’s agents (AFC Construction) and the neighbouring farmer, the ditches on this stretch of Seaview Road is subject to seasonal flooding and the use of the topography helps avoid the need for an excessively large foundation. Because this lot is within 100 metres of the shoreline, the Floodplain Management Bylaw requires (at the Building Permit stage) the applicants to have a professional engineer prescribe a flood construction level for the house. The proposed siting, which results in a 15 metre setback between the front lot line and the front of the foundation based on the intended house design (Figure 3), also allows for the retention of mature douglas fir trees in the front yard affecting the character of the neighbourhood.

CVRD staff, with the input from the AAPC and the neighbouring farmer, are satisfied the proposed mitigative measures are sufficient to compensate for the proposed siting with 20 metres between this house as designed (Figure 3) and the lot line.

Interdepartmental Involvement

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

Citizen/Public Relations

The AAPC reviewed this application at their meeting of May 20, 2021. The applicants and the neighbouring farmer were in attendance. The AAPC was informed of the MoAFF comments but recommended the siting and vegetative buffer be approved as proposed, and that a new fence be included into the permit, with the rationale that given the proposed measures (e.g. siting, vegetation and fencing) there will be no encroachment on farming activities.

Attachments: Appendix A – Draft Development Permit DP 10C 21
Appendix B – Ministry of Agriculture, Food and Fisheries Comments



Figure 1: Subject property



Figure 2: Air Photo (2020)

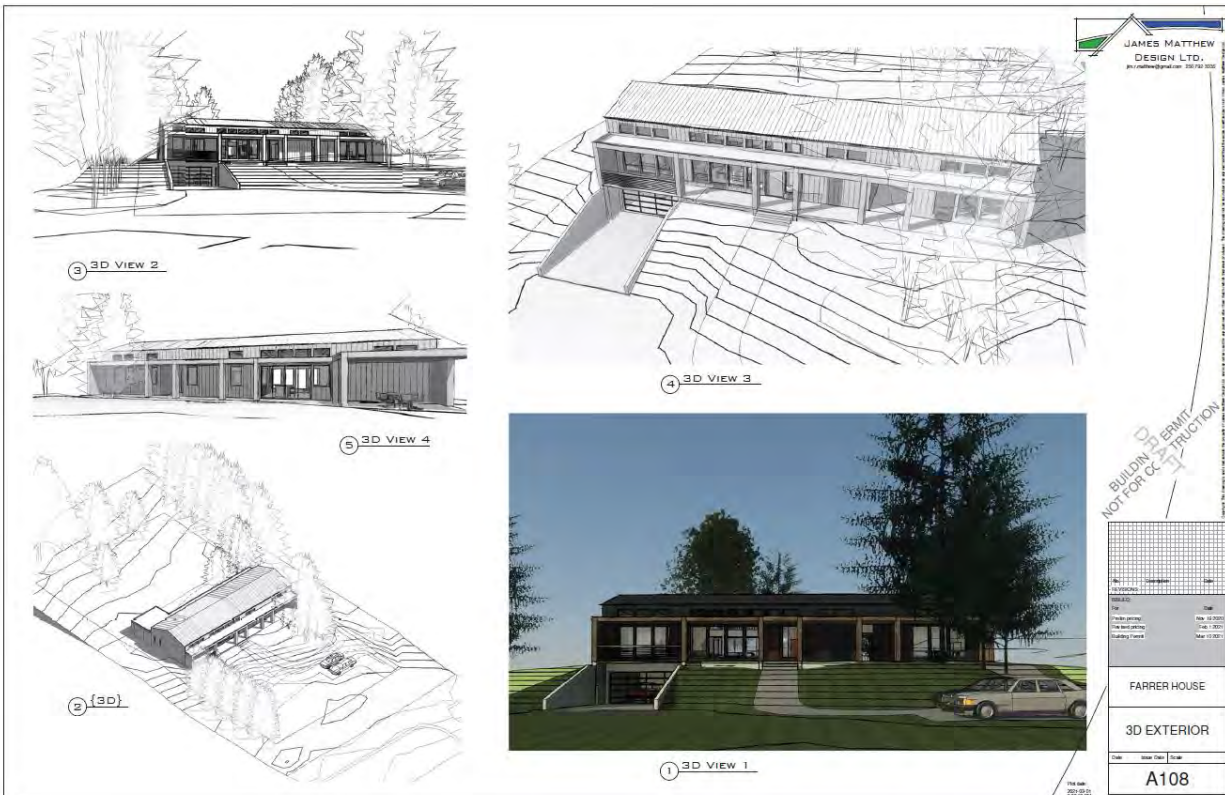


Figure 3: Illustrations of proposed development, as submitted by applicant

DP 10C 21

TO: Christopher Paul Farrer and Anne Michelle Farrer

1. This Development Permit (DP 10C 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 the construction of a house within 30 metres of an agricultural designated area.**

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

Legal Description: Lot 14, Section 9, Township 5, Comox District, Plan 9182

Parcel Identifier (PID): 005-565-316 **Roll Number:** 05466.000

Civic Address: 1615 Seaview Road

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 20 metres from a lot line shared with the adjacent agricultural-designated property, as illustrated in Schedule B;

Landscaping and Fencing:

- ii. THAT a 9 metre wide vegetative buffer be provided adjacent to the lot line shared with the adjacent agricultural-designated property;
- iii. THAT the vegetative buffer be filled with native shrubs, ferns and trees, and one row of cedar trees or hedges as illustrated in Schedule B;
- iv. THAT the vegetative buffer be maintained, protected from degradation, and kept free of invasive species, with disturbed areas in excess of 1 square metre being replanted;
- v. THAT a security deposit in the form of a Security Bond of \$1,400 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";
- vi. THAT a fence be sited along the lot line 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*.
- vii. THAT a security deposit in the form of a Security Bond of \$600 be provided for the implementation of the fencing. 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" upon completion of the fencing;

4. This Development Permit (DP 10C 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



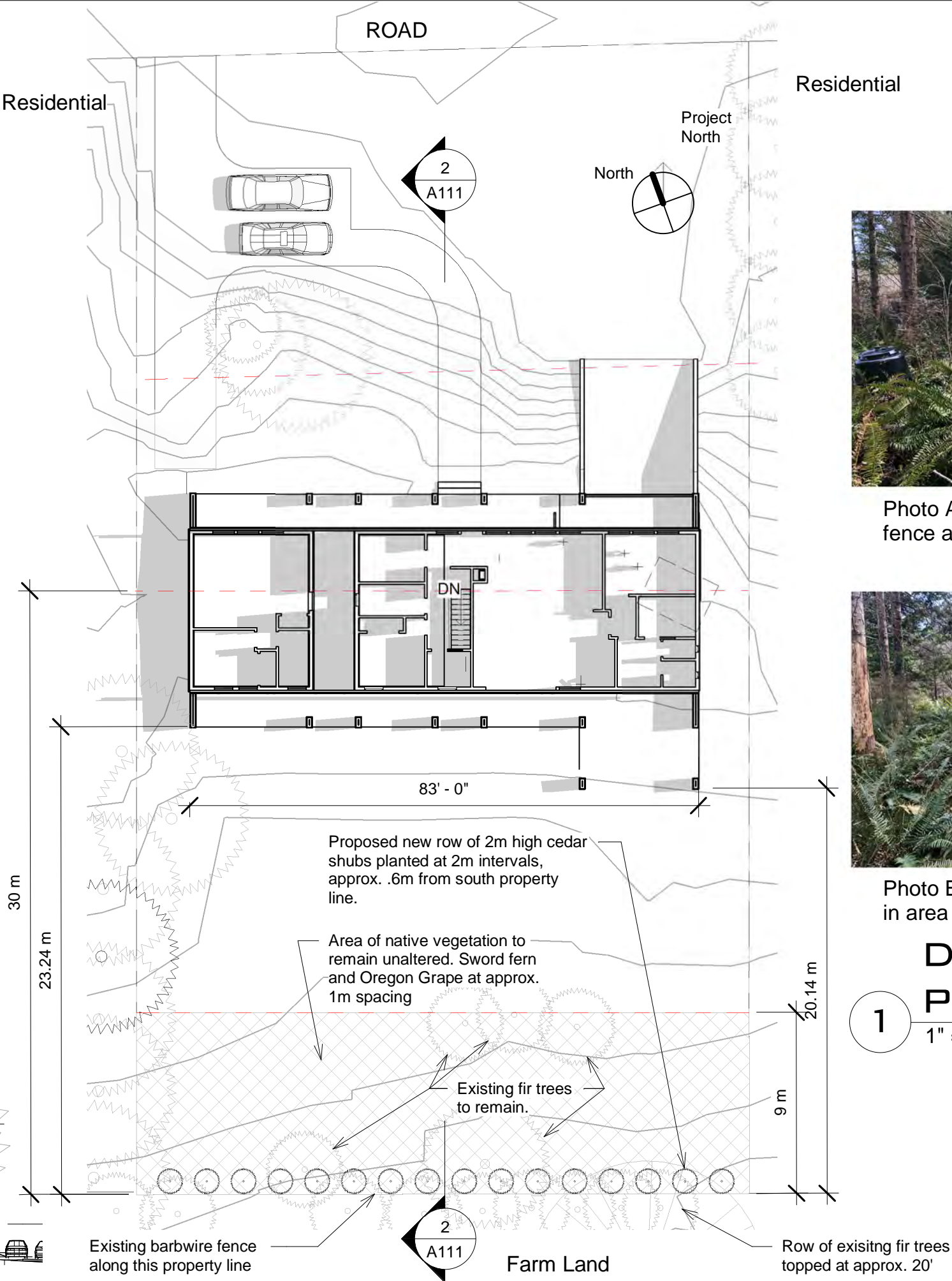
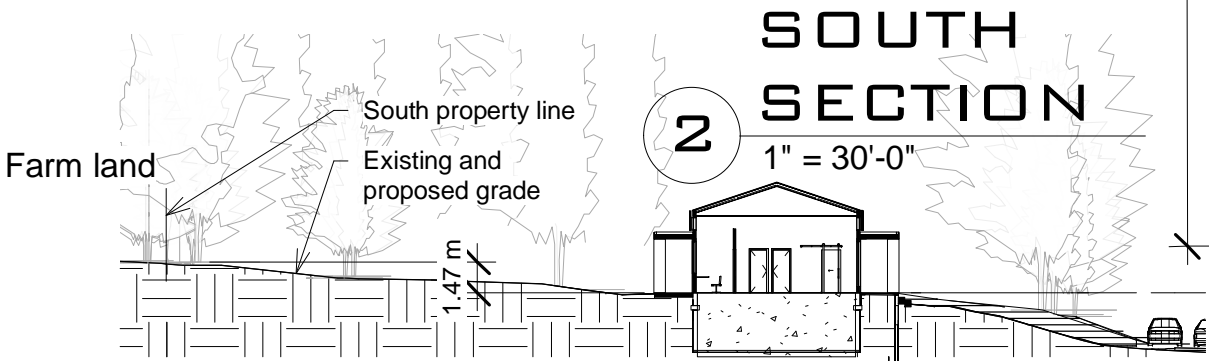
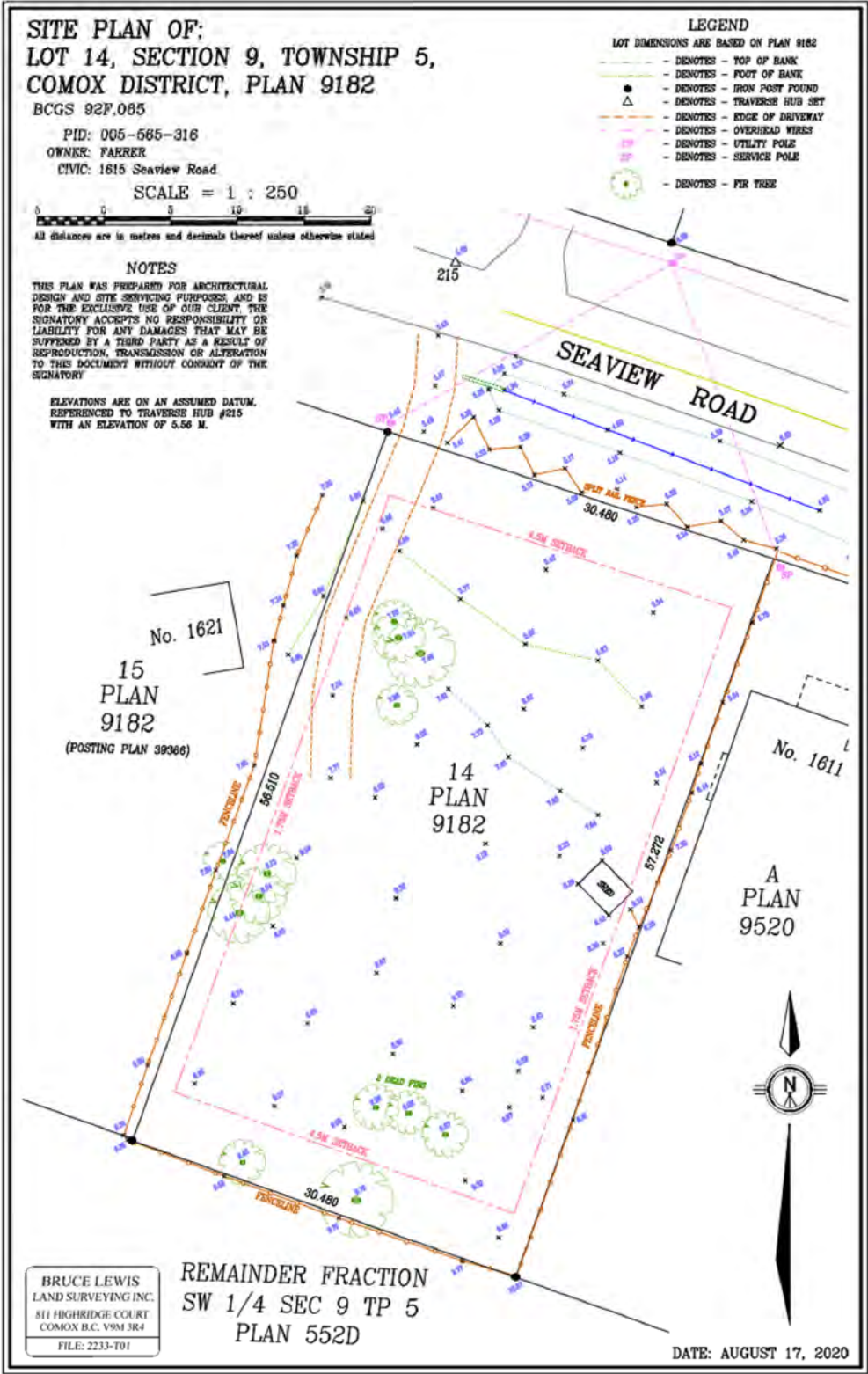


Photo A: Existing barbwire fence at property line



Photo B: Existing vegetation in area to remain unaltered

DP SITE
PLAN
1
1" = 20'-0"

FARRER HOUSE

DP SITE

Scale	Date
As indicated	Issue Date
A111	
Project number	Sheet

Plot date: 2021-04-08 2:04:19 PM

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May 20, 2021

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

Sent by email

Dear Jodi:

Re: File 3060-20/DP 10C 21 – Farm Land Protection Development Permit at 1615 Seaview Road (PID: 005-565-316) – 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 10C 21 that proposes to construct a new residence and garage on the Subject Property within 30 metres of the adjacent Agricultural Land Reserve (ALR) boundary. From an agricultural perspective, the Ministry offers the following summary and comments:

- The 0.17 ha Subject Property is not located within the ALR and currently contains no buildings or structures.
- The Subject Property borders non-ALR land to the north, west and east and ALR land to the south that contains an active agricultural operation.
- 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 a residence within 30 metres of the ALR boundary.
- The applicants have submitted a report and site plan prepared by AFC Construction dated April 8, 2021, that claims that the proposed residence cannot be located on the Subject Property without infringing upon the 30 metre DPA because of "Limited depth of the property", "Steep slope contour near the front of the property" and "Septic field". With respect to these 'limitations' the Ministry offers the following comments:
 - Virtually all properties along Seaview Road that border the adjacent ALR parcel are the same size as the Subject Property and when viewing these properties on Google Earth, it appears that most structures located on these properties are located in excess of 30 metres from the ALR boundary.
 - The Ministry notes that largely due to competing land uses in valley bottoms/flat land, many communities in BC are developing residential neighbourhoods on hills/mountains that contain extremely steep slopes. A common practice to flatten the hill/mountain is to

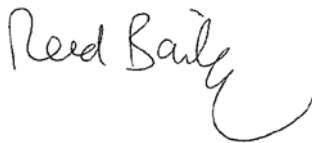
remove often large quantities of rock/soil so that the land is suitable for residential development. With respect to the Subject Property, the “steep slope contour near the front of the property” could be levelled to a gentle slope by removing a modest quantity of rock/soil from the Subject Property. Alternatively, the site plan could be adjusted to accommodate the “steep slope” which may reduce the need to remove rock/soil from the Subject Property.

- The Ministry notes that as per both the DPA and section 3.4 of the Ministry’s Guide to Edge Planning (Guide), a minimum setback of 30 metres (of which 15 metres is a vegetated buffer) is required between a residence and the ALR boundary. Given the dimensions of the Subject Property, the Ministry believes that the 30-metre setback and 15 metre vegetated buffer can be achieved.
- 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.
- Ministry staff believe that with a moderate amount of land development, the proposed residence could be constructed closer to Seaview Road and not within the 30 metre DPA.

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,



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Cc: Shannon Lambie – Regional Planner, Agricultural Land Commission