

**DATE:** October 3, 2017

**FILE:** 3060-20 / DP 16B 17

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

**FROM:** Russell Dyson  
Chief Administrative Officer

Supported by Russell Dyson  
Chief Administrative Officer

***R. Dyson***

**RE:** Farm Land Protection Development Permit  
Lot 5, Plan 25363, Whitaker Road (Salo)  
Lazo North (Electoral Area B)  
Lot 5, Block 29, Comox District, Plan 25363, PID 002-906-872

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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.

### **Recommendation from the Chief Administrative Officer**

THAT the board approve the Farm Land Protection Development Permit DP 16B 17 (Salo) on the property described as Lot 5, Block 29, Comox District, Plan 25363 (Lot 5, Plan 25363, Whitaker Road) for the construction of a principal dwelling with the condition that the dwelling be setback a minimum of 15 metres from the agriculturally designated property, a fence along the rear property line be maintained and a 3 metre wide vegetative buffer consisting of one row of coniferous trees and two rows of trespass inhibiting shrubs is planted within 4 metres of the rear property line;

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

### **Executive Summary**

- The 0.23 hectare residential property borders a 22.9 hectare agriculturally designated property to the rear.
- The applicants have applied to situate a modular home within the 30 metre Farm Land Protection Development Permit Area (DPA). To accomplish the objectives of the DPA, the applicants propose a 13.1 metres setback from the rear of the dwelling to the abutting agricultural property.
- Around the perimeter of the residential property there is a wire fence and a few trees. The applicants are not proposing any additional buffering measures.
- The neighbouring farm owner was consulted and is supportive of the proposal, as presented.
- The Regional Agrologist and the Agricultural Advisory Planning Committee (AAPC) recommend a 3 metre wide vegetative buffer along the rear property line to mitigate any future changes in agricultural use. The AAPC also recommended the dwelling be setback a minimum of 15 metres from the agricultural property.
- Staff recommend issuance of the DP (Appendix A) for the construction of a principal dwelling with the condition that the dwelling be setback a minimum of 15 metres from the agriculturally designated property, a fence along the rear property line be maintained and a 3 metre wide vegetative buffer is planted within 4 metres of the rear property line. This buffering meets the intent of the DP guidelines, the Ministry of Agriculture's *Guide to Edge Planning* and the Agricultural Land Commission's *Landscaped Buffer Specifications*.

Prepared by:

***B. Labute***

Brianne Labute  
Planner

Concurrence:

***A. Mullaly***

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

Concurrence:

***A. MacDonald***

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

**Stakeholder Distribution (Upon Agenda Publication)**

Applicants	✓
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**Background/Current Situation**

An application has been received to consider a Farm Land Protection DP to enable a modular home to be situated within 30 metres of an agricultural property. Pursuant to Section 491(6) of the *Local Government Act* (RSBC, 2015, c. 1) (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 0.23 hectare (0.58 acre) rural residential lot abutting an agricultural property to the rear. It is one of six half acre lots that were subdivided from the original farm parcel in 1971 (Figure 1 and 2). The property currently has a shed, well and septic. The applicants propose to situate a modular home within 13.1 metres of the abutting agriculturally designated property (Figure 3). The application form cites increased traffic noise from Whitaker Road and location of existing well and septic as a rationale for decreasing the recommended 30 metre setback. The existing buffer is a wire fence and a few trees along the perimeter of the property (Figure 4). The applicants are not proposing any further buffering measures.

Official Community Plan Analysis

The Rural Comox Valley Official Community Plan (OCP) designates the property as Rural Settlement Area. Section 44 (5) of the OCP 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 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 a building is proposed within 30 metres of an agricultural parcel, 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 fences (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.

#### Proposed Buffer Analysis

The neighbouring agricultural parcel is 22.9 hectares (56.5 acres) in area. A large portion of the property is forested. Other than a personal orchard, there are no agricultural activities on the property. A majority of the agricultural parcel has a Canada Land Inventory Soil (Improved) Classification of 3AP. Class 3 soils have moderate limitations that restrict the range of crops or require special conservation practices. Subclass A refers to soil moisture deficiency and subclass P refers to stoniness. A number of other farms are in the vicinity, which suggests this property is viable for agricultural use. On the six residential lots that were subdivided from the original agricultural property, the setback from the dwellings to the agricultural parcel ranges from 15 to 35 metres.

The applicants would like to locate the modular home 13.1 metres from the agriculturally designated property. Despite some constraints on the property (existing water line, septic and well), the setback from the dwelling to the agricultural property could be increased. The applicants have not proposed a vegetative buffer, but are willing to plant what is necessary to site their dwelling within the DPA. The neighbouring agricultural property owner does not feel a buffer is necessary, as his property is heavily forested. However, the buffer 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 within 30 metres of an agriculturally designated property, therefore, creating a buffer now is an opportunity to prevent future issues.

There is an existing wire fence and a few trees around the perimeter of the residential property. The recommended buffer needs to balance the potential of the agricultural parcel, the existing non-farm interface (six abutting residential lots), existing constraints, applicants' preferences and comments from the adjacent owner, AAPC and Regional Agrologist. Staff recommend increasing the minimum setback from the agricultural property to the dwelling to 15 metres to create greater separation between the parcels, that a fence be maintained along the rear property line, and that a 3 metre wide vegetative buffer consisting of a row of coniferous trees and two rows of trespass inhibiting shrubs be planted within 4 metres of the rear property line. At minimum, this buffer will prevent trespassing by humans, pets or wildlife and provide some visual screening. As the current owner of the agricultural property has no intentions to use the property for agriculture while he owns the property, a height requirement for the trees at time of planting is not recommended. The recommended buffering meets the intent of the DP guidelines, the Ministry of Agriculture's *Guide to Edge Planning* and the Agricultural Land Commission's *Landscaped Buffer Specifications*.

### Zoning Bylaw Analysis

The property is zoned Country Residential One (CR-1) The CR-1 zoning allows for a single detached dwelling and secondary residential use (e.g. carriage house) and accessory buildings. The proposed development of the property is consistent with Zoning Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, No. 2781, 2005”.

### **Policy Analysis**

Sections 488-491 of the LGA authorize 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 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.

### **Options**

The board may approve the DP as presented, amend the conditions, or deny the DP. Based on the analysis above, staff recommend that the DP is approved with the condition that the dwelling be setback a minimum of 15 metres from the agriculturally designated property, the fence be maintained, and a 3 metre wide vegetative buffer be planted within 4 metres of the rear property line.

### **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 recommended landscaping is \$2,700. Pursuant to the CVRD procedures and fees bylaw, 125 per cent of the cost estimate (\$3,375) 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 landscaping.

### **Legal Factors**

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

### **Regional Growth Strategy Implications**

The Regional Growth Strategy (RGS), 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 farmland protection development permit provides site specific conditions on buffers and transition zones between the proposed single detached dwelling and the ALR land.

### **Intergovernmental Factors**

A referral was issued to the Ministry of Agriculture for comment. The Regional Agrologist from the Ministry of Agriculture recommended a 3 metre wide vegetative buffer on the residential property to mitigate issues if the abutting property increases its agricultural intensity (Appendix B).

**Interdepartmental Involvement**

This DP application was referred to relevant internal departments. No concerns were identified.

**Citizen/Public Relations**

The adjacent property owner was contacted. Other than a personal orchard, there are no agricultural activities on the property and he has no intention of using the property for agriculture. As such, he does not see the need for any additional buffering on the subject property.

The AAPC met on-site on September 27, 2017 to review the proposal. They recommended the dwelling be setback a minimum of 15 metres from the agricultural property and a 3 metre wide vegetative buffer be planted along the rear property line.

Attachments: Appendix A – “Farm Land Development Permit DP 16B 17”  
Appendix B – “Comments from the Regional Agrologist”

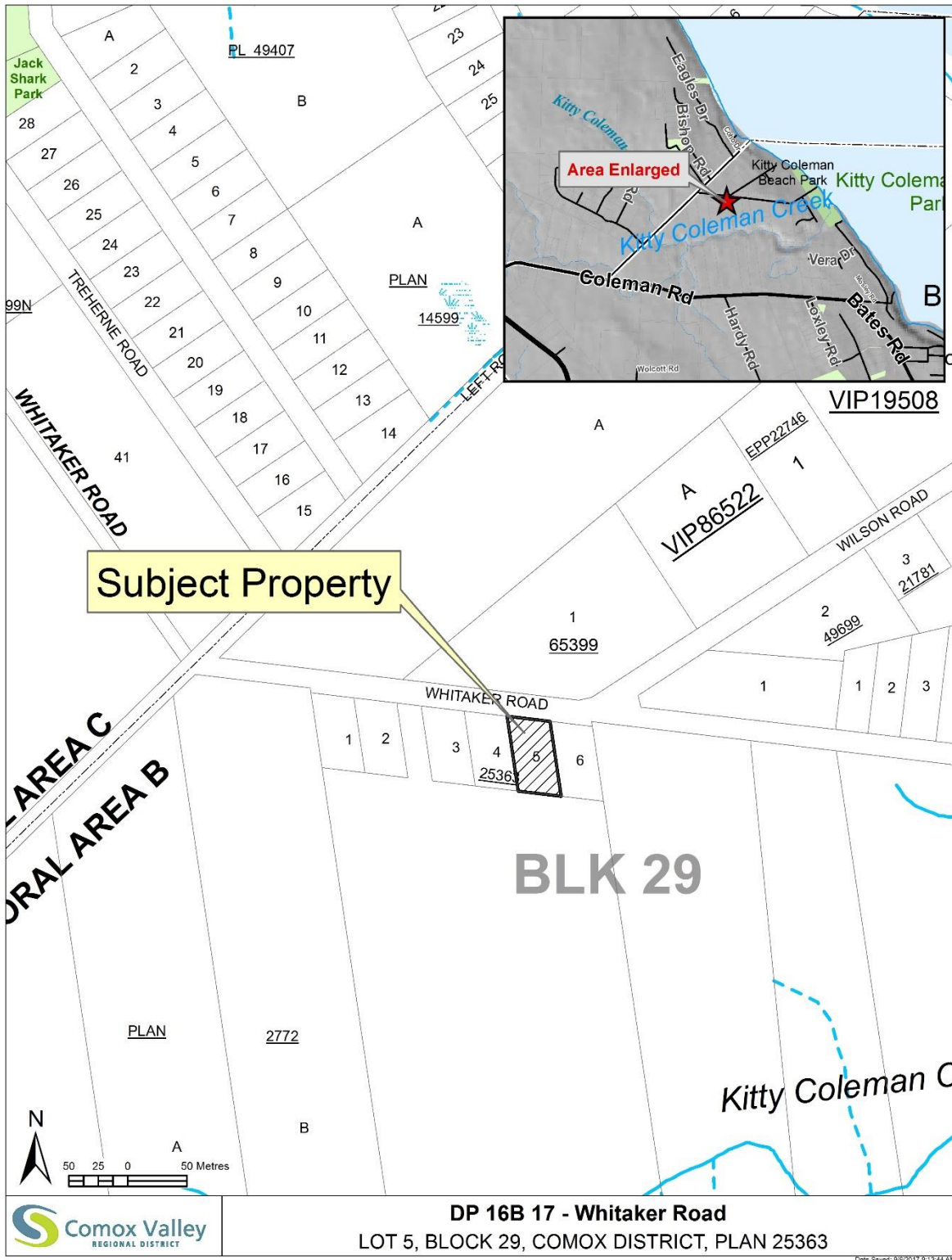


Figure 1: Subject Property Map

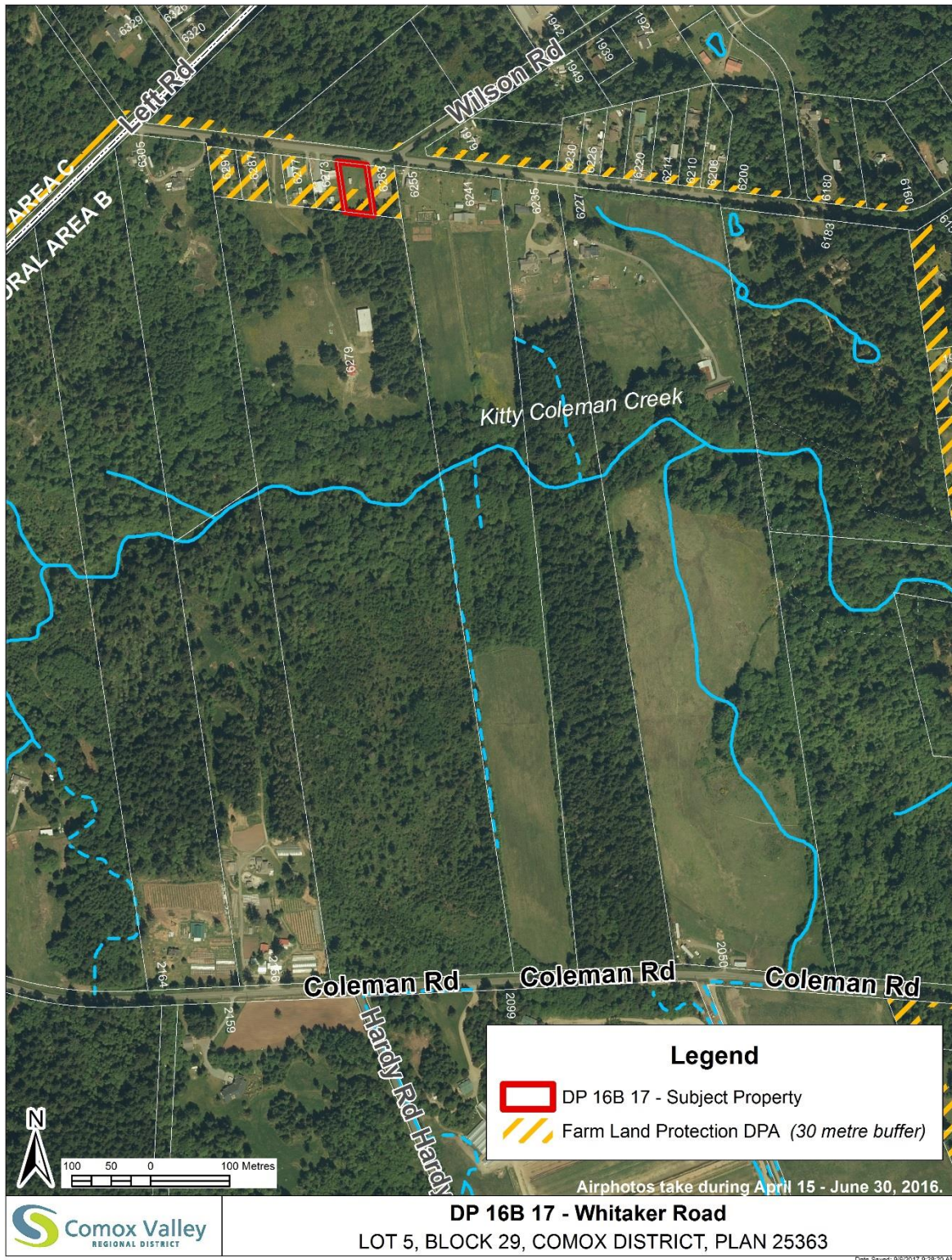


Figure 2: Aerial Photo with Farm Land Protection DPA Overlay

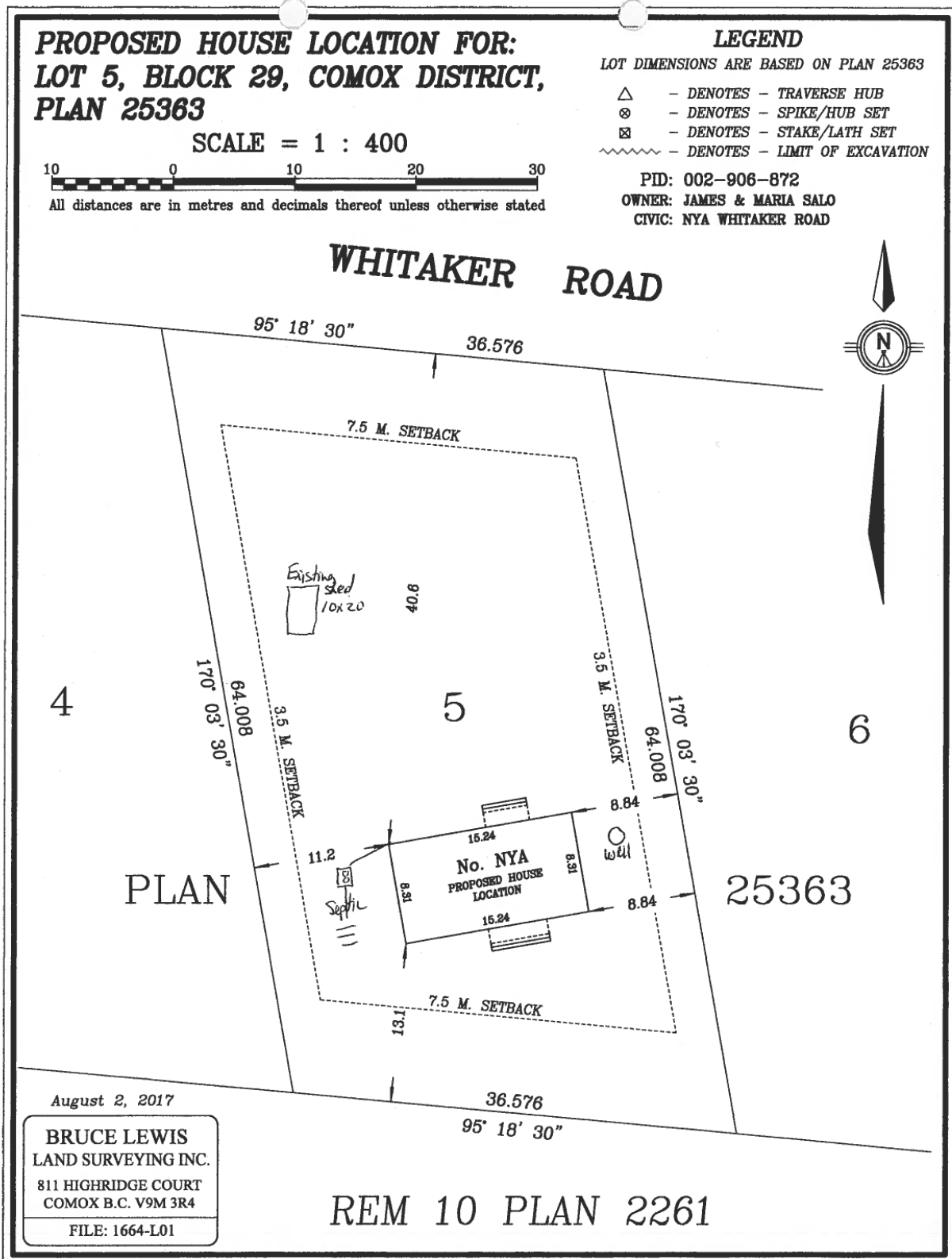


Figure 3: Site Plan, as Submitted by Applicants





**Figure 4: Wire Fencing Along the Side and Rear Property Line and Flagged Location of Proposed Modular Home**

**DP 16B 17**

**TO:** Maria Salo

**OF:** PO Box 1307, Barriere, BC V0E 1E0

1. This development permit (DP 16B 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 a dwelling within the 30 metre farm land protection development permit 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 5, Block 29, Comox District, Plan 25363

**Parcel Identifier (PID):** 002-906-872 **Folio:** 771 04873.120

**Civic Address:** Lot 5, Plan 25363, Whitaker 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 no building shall be setback less than 15 metres from the rear property line;
- ii) THAT a fence shall be maintained along the rear property line;
- iii) THAT a 3 metre wide vegetative buffer consisting of one row of coniferous trees and two rows of trespass inhibiting shrubs shall be planted within 4 metres of the rear property line;
- iv) THAT shrubs have a maximum spacing of 1 metre between plantings and trees a maximum spacing of 5 metres;
- v) AND THAT a security deposit in the form of an irrevocable letter of credit or a security bond in the amount of \$3,375 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, 2014".

4. This development permit is issued following the receipt of an appropriate site declaration from the Property Owner.

5. This development permit (DP 16B 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). 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.

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 October XX, 2017.

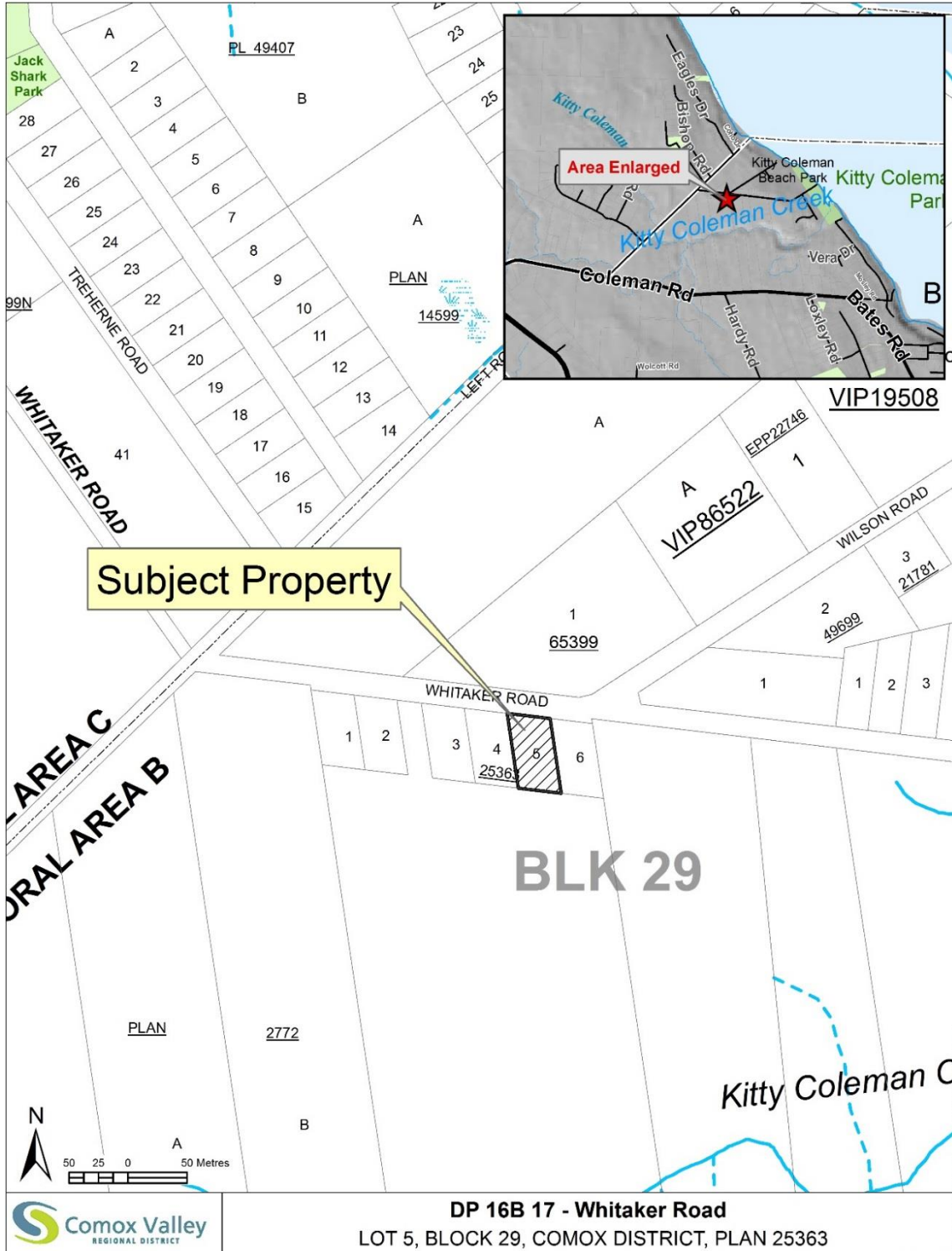
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James Warren  
Corporate Legislative Officer

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

Attachments: Schedule A – “Subject Property Map”

DRAFT

# Schedule A Subject Property Map



AAPC Referral – File: DP 16B 17 (Salo)

**MoA Referral Response Summary Form**

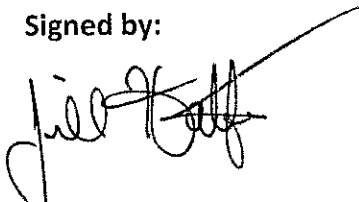
**File: 3060-20 / DP 6B 17– Lot 5, Whitaker Road (Salo)  
(Planner: Brianne Labute)**

- |                                     |  |                          |  |
|-------------------------------------|--|--------------------------|--|
| <input type="checkbox"/>            | <b>General comments</b>                                | <input type="checkbox"/> | <b>Interests unaffected</b>                  |
| <input checked="" type="checkbox"/> | <b>Issues requiring attention – see comments below</b> | <input type="checkbox"/> | <b>Opposed due to reasons outlined below</b> |

**Comments:**

Two issues flagged on this application; First, what are the concerns, if any, from the owner of the adjacent agricultural property related to this application. The other factor is the absence of a vegetated buffer on the residential property. The incorporation of a 3 metre buffer with the existing fence should be sufficient to mitigate issues if the property increases in agricultural intensity in the future.

**Signed by:**



Jill Hatfield P.Ag

**Title:** . Regional agrologist  
BC Ministry of Agriculture

**Date:** September 15, 2017