

DATE: October 10, 2017

FILE: 3110-20/ALR 4C 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: **Non-Farm use within the Agricultural Land Reserve**
2859 Davis Road (Williamson), Puntledge – Black Creek (Electoral Area C)
Lot 12, District Lot 200, Comox District, Plan 30731, PID 000-244-392

Purpose

To recommend forwarding an application (Appendix A) to the Agricultural Land Commission (ALC) regarding the placement of a second house on a property as a non-farm use in the Agricultural Land Reserve (ALR).

Recommendation from the Chief Administrative Officer

THAT Agricultural Land Commission be advised that the Comox Valley Regional District supports Agricultural Land Reserve application ALR 4C 17 (Williamson) on lands known as Lot 12, District Lot 200, Comox District, Plan 30731 (PID 000-244-392), for the purpose adding a second house to a property;

AND FURTHER THAT the Comox Valley Regional District recommends the Agricultural Land Commission place a condition on the approval that the second dwelling be restricted to use by the owner or a member of the owner's immediate family;

AND FURTHER THAT the Comox Valley Regional District recommends the Agricultural Land Commission consider alternative siting arrangements of the second dwelling so that a second driveway, well, and septic field may not be necessarily required so as to create the least impact on the property's agricultural potential;

AND FURTHER THAT the Comox Valley Regional District recommends the Agricultural Land Commission register a Section 219 restrictive covenant on title to decommission the second dwelling once it is no longer required for occupancy by the owners or the owners' immediate family;

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

Executive Summary

- The proposal is to add a second, accessible house to the 2.4 hectare subject property within the ALR for use by the daughter of the property owners;
- The regulations specify that the second dwelling must be a manufactured home up to 9 metres in width for use of the property owner or the immediate family of the owner;
- The applicants have found buying a custom manufactured home or retrofitting an existing manufactured home that meets the regulations is cost-prohibitive for them and instead have found purchasing a recycled (moved-on) house that meets their specific needs to be achievable;

- Because the recycled (moved-on) house does not qualify as a manufactured home, and the house is 14 metres wide rather than 9 metres, this application is required;
- Both the Regional Agrologist and the Agricultural Advisory Planning Commission (AAPC) recommended the application be refused;
- The Regional Growth Strategy (RGS) seeks to reinforce the policies of the ALC, and in this case, the policy is to permit a movable second dwelling for family members;
- The Official Community Plan (OCP) seeks to locate additional dwellings in areas that will not interfere with agricultural potential of properties;
- Staff recommends the application be forwarded to the ALC with the recommendation that the dwelling be restricted to use by the owner or a member of the owner's immediate family and that the dwelling be located or sited in an area where it would have the least impact on the property's agricultural potential and that it be removed once it is no longer required for use by the owner or the owner's immediate family.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural 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)

Applicant	✓
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Background/Current Situation

The subject property is located near the end of Davis Road in the Merville area (Figures 1 & 2). It is 2.4 hectares in area and one of four lots at the end of Davis Road that are within the ALR (Figure 3). The property is developed with a single detached house near the rear and the remainder of the lot is mostly treed. It currently does not have farm classification under the *Assessment Act*.

The objective of the applicant is to develop a second house with accessible design features (i.e. wider halls and doorways) on the property for the purpose of providing a separate residence for their daughter. The ALC regulations and Comox Valley Regional District (CVRD) bylaws require that the second house take the form of a manufactured home up to 9 metres in width. As an alternative to purchasing a new custom-built manufactured home or retrofitting an older one, both of which the applicant has found to be cost-prohibitive for them, they propose to move a recycled house onto the property.

Planning Analysis

Agricultural Land Reserve

For additional dwellings on a single property, which does not have farm status but is within the ALR, the ALC regulations allow for one secondary suite for use by anybody and one manufactured home up to 9 metres in width for use by the property owners or their immediate family. The applicant's proposal varies from this in two ways:

- The house is a moved-on (recycled) house on a full foundation, and
- The house is 14.3 metres wide.

The ALC specifies that a manufactured home may be built on a concrete pile or surface pier foundation system. The foundations for the moved-on (recycled) house would need to be determined and approved by an engineer. The ALC's 9 metre width requirement is meant to accommodate the standardized 'double-wide' manufactured home. Varying these in this manner as proposed, requires approval of the ALC through this non-farm use application process.

Adding a second house to a property will likely raise the property's sale price, and therefore, its borrowing and mortgage payment amounts. In the agricultural context, this additional cost impacts what can be economically produced, as well as increasing the non-farm income required to pay a mortgage and, in general, development expectations of other agricultural properties. Requiring the additional house be a manufactured home which is designed to be transportable and only used by an owner or an immediate relative, helps ensure the house gets removed before the property is sold, mitigating the price increase for agricultural land. This is a key principle used by the ALC to attempt to keep agricultural land viable for farming and prevent the conversion of farm land to rural estate development. Ensuring that the house is temporary by removing or decommissioning before the property is sold would help mitigate this.

Regional Growth Strategy

The RGS designates the subject property as Agricultural Areas. The intent of the RGS and this designation is to reinforce the policies and procedures of the ALR in order to support agricultural practices. The ALC's policy towards secondary dwellings is that they be restricted to providing residence for a property owner or their immediate family members and removed once they are no longer required for that purpose. If the proposed dwelling is limited to providing residence for the property owner's daughter and removed once it is no longer required for that purpose, the development would maintain the intent of the policy.

Official Community Plan

The OCP, Bylaw No. 337 being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014", designates the subject property as Agricultural Areas. Within this designation Policy 58(2) states "*Require new development to support the primary function of agriculture.*" The intent of the proposal is to further develop the property for residential use.

Regarding locating secondary dwellings, the OCP policies direct that the dwelling units and related residential infrastructure should attempt to minimize the impact on arable farm land by, for example, grouping buildings, sharing infrastructure, and preserving existing contiguous tracts of land. The applicants intend to locate the second dwelling to the front of the property, close to the power lines, where it can have a small driveway but it will require independent water and septic systems. The principal dwelling has been placed in the rear end of the property (Figure 3). This agricultural property's small size means the residential footprint's size and location (inclusive of its infrastructure) can have large impacts on what agricultural activities can occur on the lot in the future. Though the land is not currently used for agriculture, its development should not interfere with future agricultural potential. The permanent siting of a second house in this location, opposite of the principal house, is not consistent with the OCP.

Zoning

The subject property is zoned Rural-ALR (RU-ALR). This zone allows for one single detached dwelling, additional dwellings for farm employees, and other dwellings as permitted by the ALR Regulations and orders only if the property is within the ALR. The “other dwellings” that are permitted by the ALR Regulations are: (1) a secondary suite, (2) a manufactured home up to 9 metres in width for use by a member of the owner's immediate family, and (3) an accommodation that is constructed above an existing building on a farm. However, because this zone allows dwellings approved by an ALC order, a zoning amendment is not required if this application is approved.

Policy Analysis

Section 3(1)(b) of the ALR *Use, Subdivision and Procedure Regulation* (ALC regulations) limits additional dwellings on a property within the ALR to a secondary suite and either (1) one manufactured home, up to nine metres in width, for use by a member of the owner's immediate family; or (2) an accommodation that is constructed above an existing building on the farm and that has only a single level. The placement or occupation of a secondary dwelling that exceeds these limitations requires approval from the ALC.

Section 20(3) 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 (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 that the second dwelling be permitted subject to its use being restricted to the owner or a member of the owner's immediate family and that the dwelling be sited in an area where it would have the least impact on the property's agricultural potential (i.e. does not trigger a requirement for second driveway, second well and second septic system).

Financial Factors

Fees of \$1500 (\$300 for the CVRD and \$1200 for the ALC) have been collected for this 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 will be 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

Discussed above.

Intergovernmental Factors

A referral was issued on August 18, 2017, to the Ministry of Agriculture for comment on this application. On September 15, 2017, the Regional Agrologist, Jill Hatfield, P.Ag., responded, “*While I am sympathetic to the issue facing the applicant the small size of this parcel and the option to provide a manufactured home is available; for these reasons I cannot support this application as proposed. I suggest the applicant contact the staff at the ALC to see if other opportunities may be available to them given their circumstances.*” (Appendix B).

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. The AAPC met to discuss the proposal at the site on August 30, 2017, with the applicant and CVRD staff present. The consensus recommended by the AAPC is that the application be refused.

Attachments: Appendix A – “ALC application submission - File ALR 4C 17”
Appendix B – “Referral response from Regional Agriologist, dated September 15, 2017”

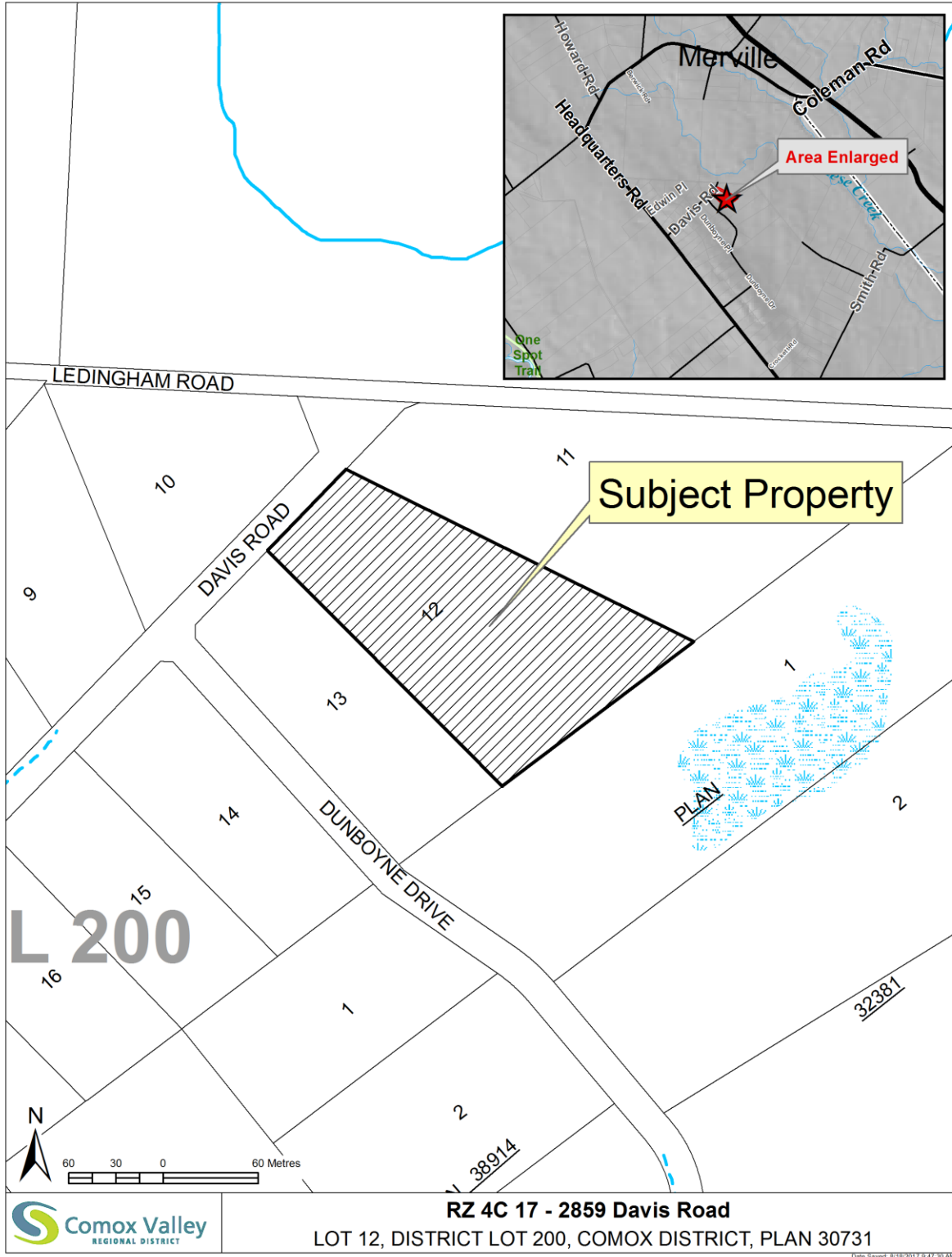


Figure 1: Subject Property Map, Illustrating Location.



Figure 2: Air Photo (2016)

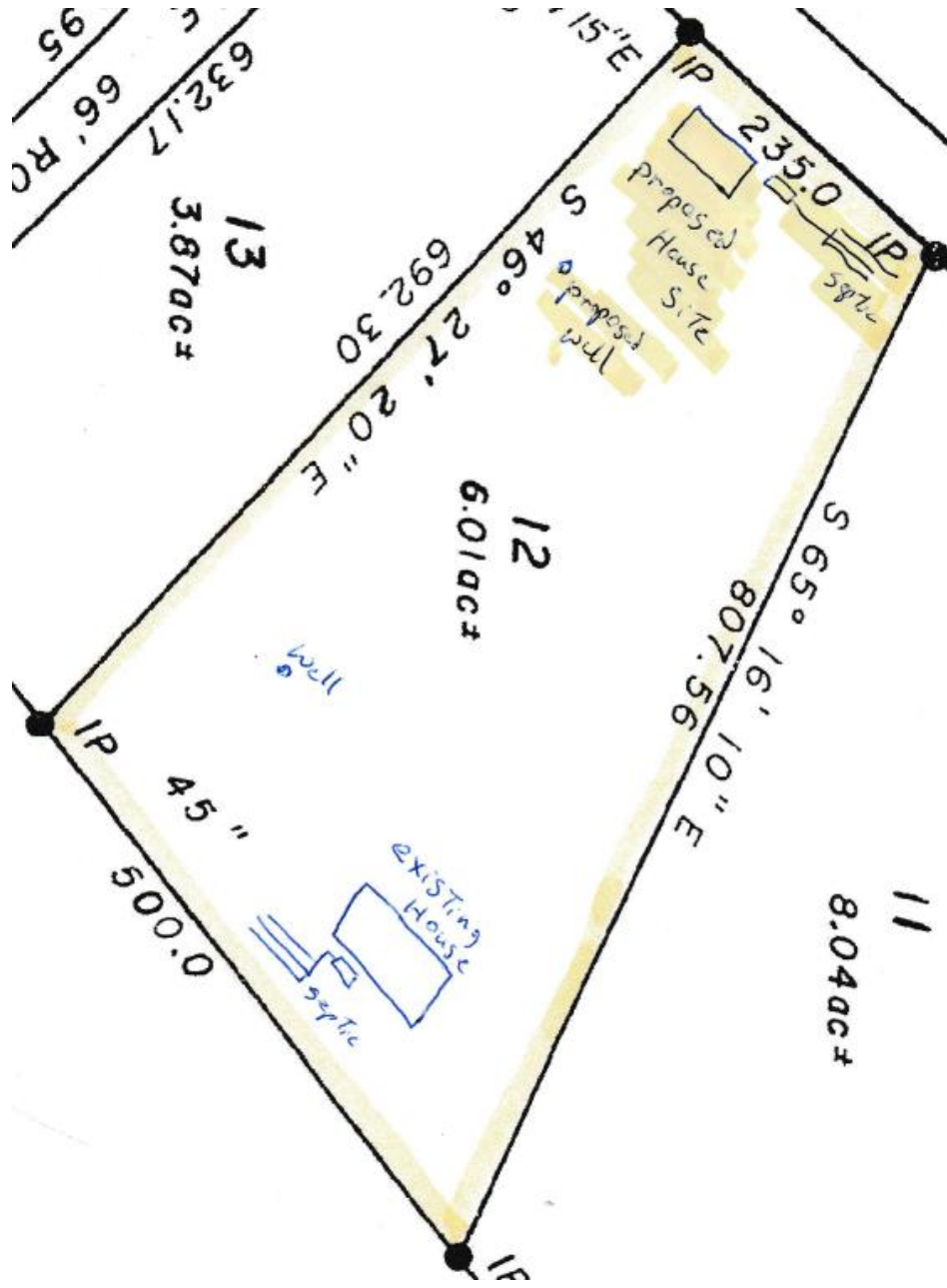


Figure 3: Site Plan, as Submitted by the Applicant

Provincial Agricultural Land Commission - Applicant Submission

Application ID: 56752

Application Status: Under LG Review

Applicant: Tasha Williamson , Boyd Williamson

Local Government: Comox Valley Regional District

Local Government Date of Receipt: 08/10/2017

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

Proposal Type: Non-Farm Use

Proposal: Hello, we are currently allowed to have a secondary dwelling a mobile/modular home up to 9 meters wide. We are wanting permission to please instead have a house, a simple rancher. It would be a recycled home moved onto the front part of the property. It will be for our daughter who is disabled and has mobility issues. We need a structure that we can accommodate to her such as wider door ways, open spaces, step in shower with a seat and ramps into and out of the home. Our daughter has a genetic disorder called Ehlers Danlos. It causes her to have defective connective tissue. It carries a long list of cormorbidities such as heart issues, POTS and mast cells issues, vascular issues... and unfortunately there is no cure and is progressive. Her connective tissue is weak causing many dislocations, chronic pain and trouble with large muscle movements. She needs space to maneuver and use a wheel chair. A mobile home or a double wide would not suit her purpose and work with in the parameters of her needs as it would not be able to be adjusted to her living requirements. A modular home we could custom order but that would cost us a lot of money approx. \$200,000. This would not only be well out of our budget with our household having one working member(husband) and 2 disabled members(daughter and myself) but it was also go against the ALC preference in that the second dwelling not add value to the land. A older, recycled home would be the best fit for our daughters physical needs. And I believe that we could do it in a way that would satisfy the ALCs desired protocol to not add major value to the land and be as easily removable as a modular home. The older recycled rancher we are looking at is \$50,000 and is 34'Dx47'W. If it is still available if we get the permission that is what we would hope to purchase for our daughter, Grace.

Mailing Address:

2859 Davis Rd
Courtenay, BC
V9J 1N1
Canada

Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple
Parcel Identifier: 000-244-392
Legal Description: L 12 DL 200 COMOX PL 30731
Parcel Area: 2.6 ha
Civic Address: 2859 Davis Rd

Applicant: Tasha Williamson , Boyd Williamson

Date of Purchase: 11/15/2012

Farm Classification: No

Owners

1. **Name:** Tasha Williamson

Address:

2859 Davis Rd
Courtenay, BC
V9J 1N1
Canada

2. **Name:** Boyd Williamson

Address:

2859 Davis Rd
Courtenay, BC
V9J 1N1
Canada

Current Use of Parcels Under Application

1. **Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**
just personal laying hens, and meat birds and turkeys for our family

2. **Quantify and describe in detail all agricultural improvements made to the parcel(s).**
none

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

Adjacent Land Uses

North

Land Use Type: Residential
Specify Activity: single dwelling

East

Land Use Type: Residential
Specify Activity: single dwelling

South

Land Use Type: Residential
Specify Activity: single dwelling

West

Land Use Type: Residential

Applicant: Tasha Williamson , Boyd Williamson

Specify Activity: single dwelling

Proposal

1. How many hectares are proposed for non-farm use?

0.2 ha

2. What is the purpose of the proposal?

Hello, we are currently allowed to have a secondary dwelling a mobile/modular home up to 9 meters wide. We are wanting permission to please instead have a house, a simple rancher. It would be a recycled home moved onto the front part of the property. It will be for our daughter who is disabled and has mobility issues. We need a structure that we can accommodate to her such as wider door ways, open spaces, step in shower with a seat and ramps into and out of the home. Our daughter has a genetic disorder called Ehlers Danlos. It causes her to have defective connective tissue. It carries a long list of cormorbidities such as heart issues, POTS and mast cells issues, vascular issues... and unfortunately there is no cure and is progressive. Her connective tissue is weak causing many dislocations, chronic pain and trouble with large muscle movements. She needs space to maneuver and use a wheel chair. A mobile home or a double wide would not suit her purpose and work with in the parameters of her needs as it would not be able to be adjusted to her living requirements. A modular home we could custom order but that would cost us a lot of money approx. \$200,000. This would not only be well out of our budget with our household having one working member (husband) and 2 disabled members (daughter and myself) but it was also go against the ALC preference in that the second dwelling not add value to the land. A older, recycled home would be the best fit for our daughters physical needs. And I believe that we could do it in a way that would satisfy the ALCs desired protocol to not add major value to the land and be as easily removable as a modular home. The older recycled rancher we are looking at is \$50,000 and is 34'Dx47'W. If it is still available if we get the permission that is what we would hope to purchase for our daughter, Grace.

3. Could this proposal be accommodated on lands outside of the ALR? Please justify why the proposal cannot be carried out on lands outside the ALR.

Yes if we were to move and find a property outside the ALC that allowed two homes on the property and we could afford it. We need her to be close if she were to need us. Due to her mobility issues and instability she falls a lot. Also part of the cormorbidities of EDS she has something called Postural Orthostatic Tachycardia Syndrome (POTS) it a form of dysautonomia that causes her to pass out a lot. Her heart rate cannot regulate itself as the sympathetic and parasympathetic nervous systems are not able to sync properly. She needs some one to sit with her for safety reasons when she showers and on days that her heart is acting up.

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

No but it also will not impede the land making it unusable. It will only be a very small place for a home. The land right now is all trees except for our home

Applicant Attachments

- Proposal Sketch - 56752
- Certificate of Title - 000-244-392

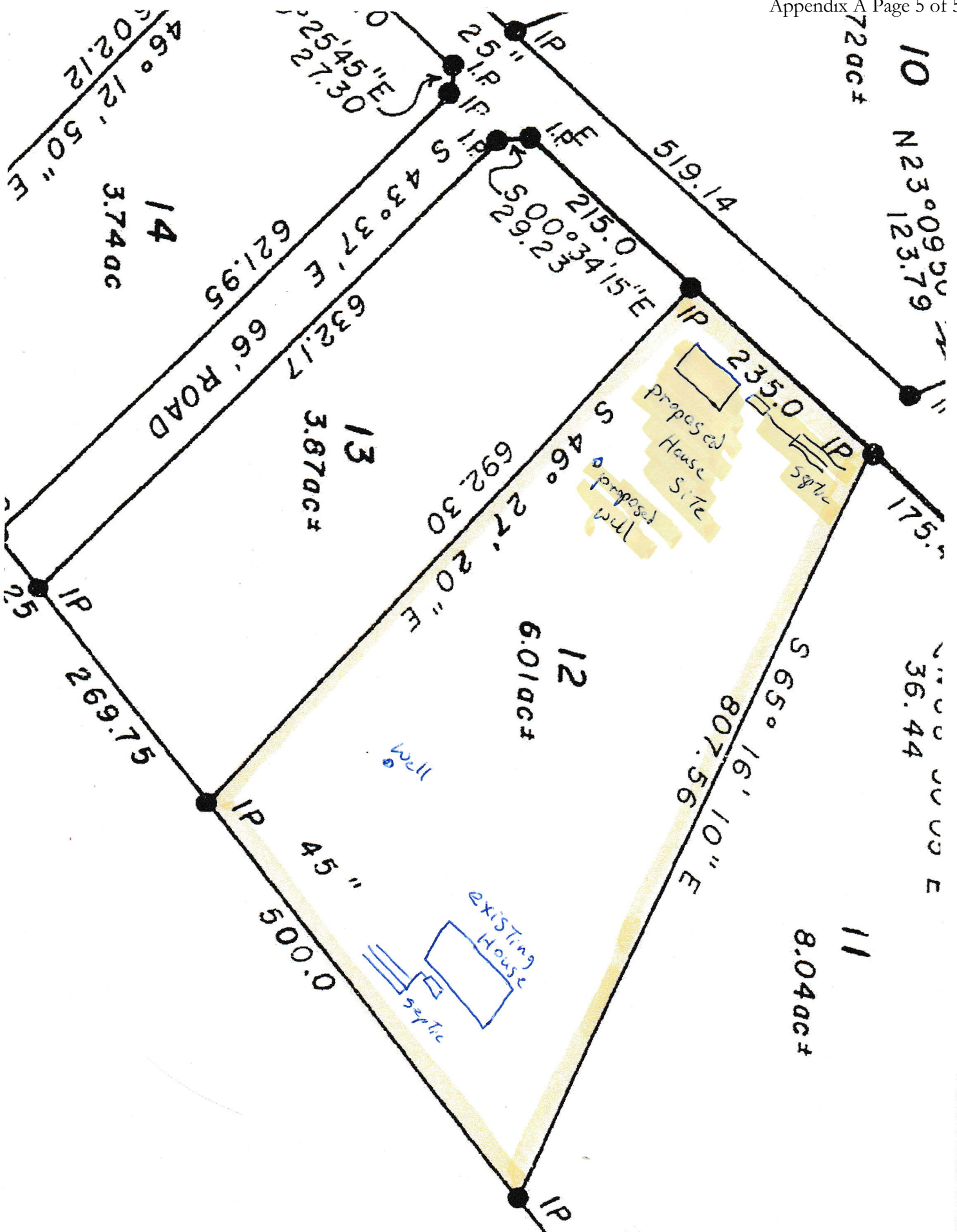
ALC Attachments

None.

Applicant: Tasha Williamson , Boyd Williamson

Decisions

None.



MoA Referral – File: ALR 4C 17

MoA Referral Response Summary Form

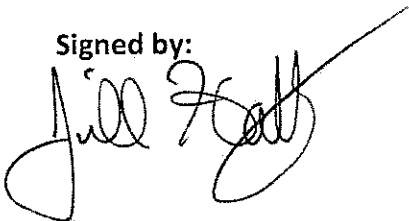
File: 3110-20 / ALR 4C 17 – 2859 Davis Road (Williamson)
(Planner: J. MacLean)

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

Comments:

While I am sympathetic to the issue facing the applicant the small size of this parcel and the option to provide a manufactured home is available; for these reasons I cannot support this application as proposed. I suggest the applicant contact the staff at the ALC to see if other opportunities may be available to them given their circumstances.

Signed by:



Jill Hatfield P.Ag

Title: . Regional agrologist
BC Ministry of Agriculture

Date: September 15, 2017