

DATE: September 7, 2018**FILE:** 3360-20/RZ 3C 18**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative OfficerR. Dyson**RE: Proposed Zoning Bylaw Amendment – Forbidden Plateau Road
(Fry / Taylor)
Puntledge – Black Creek (Electoral Area C)
Lot 4, Block 249, Comox District, Plan EPP11657, PID 028-704-550****Purpose**

To update the board regarding its request for staff to meet with the applicants to consider alternatives and an agency referral list.

Recommendation from the Chief Administrative Officer:

THAT the board deny application RZ 3C 18 (Fry/Taylor) to rezone Lot 4, Block 249, Comox District, Plan EPP11657, PID 028-704-550, which would have enabled subdivision to create 4 hectare parcels.

Executive Summary

- At its meeting of July 9, 2018, the Electoral Areas Services Committee (EASC) received the rezoning proposal concerning the above noted property and the staff report recommending it be refused on the basis of inconsistencies with the Regional Growth Strategy (RGS) and the Official Community Plan (OCP).
- EASC approved the resolution “*That the rezoning application RZ 3C 18 be referred to staff to consider alternatives with the applicant and to further develop an agency referral list to report back to a future meeting of the Electoral Areas Services Committee.*”
- The applicant’s agent met with staff on August 14, 2018.
- On September 4, 2018, the applicant provided an updated proposal attached as Appendix A. In contrast to the original, it deletes the proposed fire hall lot and identifies 4.7 hectares that may be held in a conservation covenant subject to the agreement of an authorized covenant holder. The updates also acknowledge that an updated *Riparian Area Regulation Assessment Report* and Rainwater Management Plan will be required to replace existing covenants.
- The rezoning request remains unchanged: creation of a zone that would allow for subdivision of the property into four lots with a minimum lot area of 4 hectares.
- Staff recommends that the application be refused on the basis of inconsistencies with the RGS and OCP with respect to road access and increasing density and residential investment in the watershed, working landscape, and forest interface area with no fire protection coverage.
- If the board opts to advance this application to external agency referral instead, an agency referral list is included as Appendix B.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

A. Mullaly

Alana Mullaly, M.Pl., MCIP, RPP
Acting General Manager of Planning
and Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

At its meeting of July 9, 2018, the EASC received the rezoning proposal (File RZ 3C 18) concerning the above noted property, an undeveloped 20 hectare lot located off the gravelled portion of Forbidden Plateau Road (Figure 1). The property is zoned Rural Twenty (RU-20) which includes a subdivision requirement that new lots achieve a minimum lot area of 20 hectares. It is the applicant’s objective to subdivide the property into four lots with a minimum lot area of 4 hectares so that they can be developed for residential use.

The staff report, also received by EASC at the July 9, 2018 meeting, provides an analysis of the proposal based on policies and objectives of the RGS and OCP. The property’s RSA designation states that minimum lot areas should be established somewhere between 4 and 20 hectares based on the considerations outlined in the policies. Based on this analysis, the staff report recommended the proposed rezoning be refused citing issues such as:

- Increasing the density within the drinking water supply watershed;
- Increasing the residential density and development within the working landscape (forestry);
- Inconsistency with the framework for public dedication of greenspace or environmental protection;
- Necessity of 500 metres of new dead-end road over steep terrain to access the rear three proposed lots without secondary access; and
- Residential development in the forest interface area with a lack of fire protection coverage.

At the July 9, 2018 meeting, in consideration of the proposal and the staff report, EASC approved the following resolution:

“THAT the rezoning application RZ 3C 18 be referred to staff to consider alternatives with the applicant and to further develop an agency referral list to report back to a future meeting of the Electoral Areas Services Committee.”

In response, the applicant’s agent met with staff on August 14, 2018 and discussed both the rezoning proposal and the staff report. Subsequently, on September 4, 2018, the applicants submitted a revised conceptual subdivision plan along with an explanatory letter (Appendix A).

While the rezoning requests remains the same, the applicant is seeking to address some of the concerns noted in the report. Specifically, the proposed road overlapping with a Streamside Protection and Enhancement Area (specified in a *Riparian Area Regulation* report registered on title as a covenant); the technical inability to provide alternative road access at Forbidden Plateau Road; the need to update the rainwater management plan registered on title as a covenant to address the new lot areas; the deletion of the proposed “fire hall lot”; and inclusion of a proposal for environmental protection over 4.7 hectares in the form of a conservation covenant pending the acceptance of an authorized covenant holder.

While the revision makes progress in addressing the proposal's inconsistency with Policy 43(4) of the OCP concerning the framework for applying new lot areas established through a rezoning process with respect to greenspace and environmental protection, the proposal remains inconsistent with the RGS and OCP policies (noted above) concerning road access and increasing density and residential investment in the watershed, working landscape, and forest interface area with no fire protection coverage.

Policy Analysis

Section 479 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to regulate, through bylaw, the use, density, the size and shape of land, buildings and structures. Section 460 of the LGA states that a local government must define procedures by which a property owner may apply for a bylaw amendment.

Options

The board may deny the application or refer the application to external agencies listed in Appendix B.

Staff recommends the application be refused on the basis of inconsistencies with the RGS and OCP policies.

Financial Factors

A \$2,000 rezoning application fee has been collected under the "Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014." If the application proceeds, to public hearing, the applicant will incur an additional statutory fee of \$1,500. If the property is successfully rezoned, future fees will be incurred during the subdivision and development permit processes.

Legal Factors

This report and the recommendations contained herein are in compliance with the LGA and Comox Valley Regional District (CVRD) bylaws. The LGA authorizes a local government to regulate the use of land and buildings. Part 13 of the LGA requires that all bylaws and services adopted following adoption of an RGS must be consistent with the RGS.

Regional Growth Strategy Implications

See previous staff report, dated June 20, 2018, and received by EASC on July 9, 2018, for the detailed analysis of the proposal with respect to the RGS.

Intergovernmental Factors

If the application proceeds, Appendix B contains a list of agencies and First Nations which the application may be referred to for comment.

Interdepartmental Involvement

Planning staff consulted with other CVRD departments, including engineering services, fire services, community parks and long range planning. The concerns of these departments are outlined in the Background section of this report.

Citizen/Public Relations

If the application proceeds to bylaw preparation, community consultation will be held in accordance with Bylaw No. 328 (i.e. statutory mailing and public hearing).

Attachments: Appendix A – "Letter and conceptual subdivision plan dated September 4, 2018"
Appendix B – "Agency Referral List"

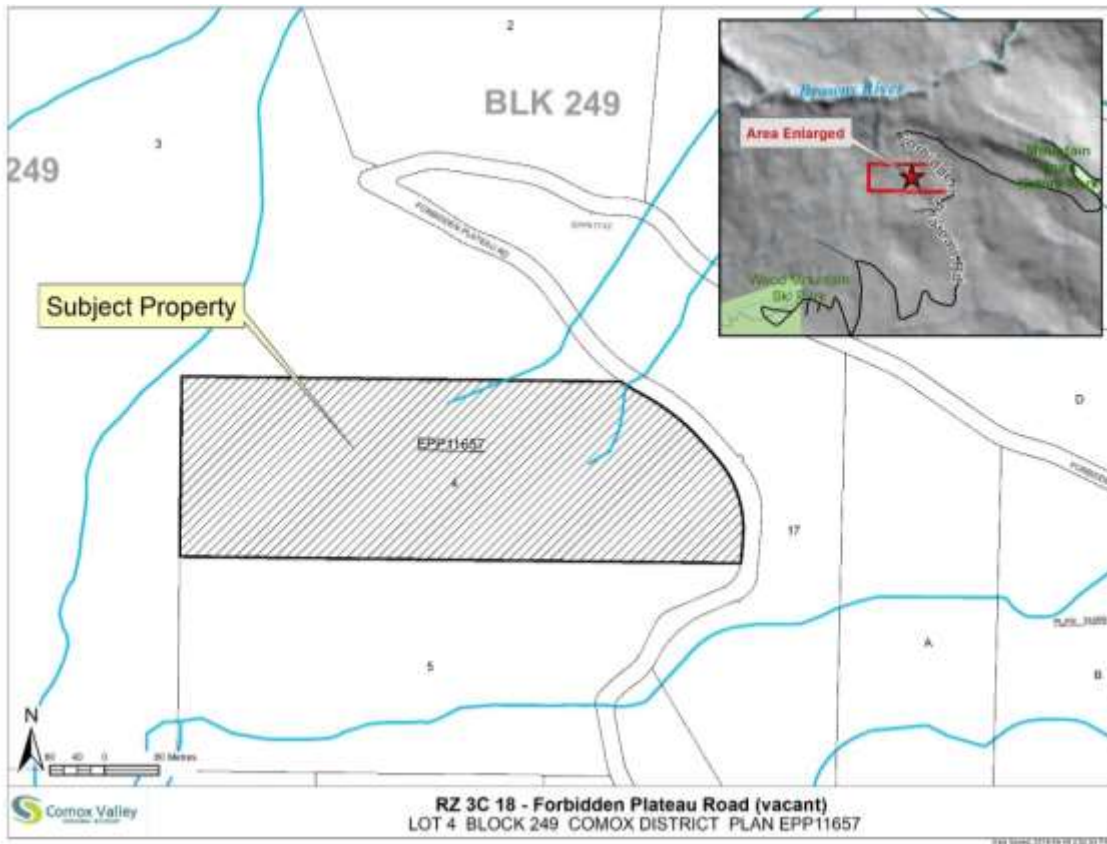


Figure 1: Subject Property



J.E. Anderson and Associates
 1250 F Cedar Street
 Campbell River, BC V9W 2W5
 Ph: 250-287-4865 Fax: 250-287-9502

Our File : 120-072

September 4, 2018

Comox Valley Regional District
 Planning and Development Services Branch
 600 Comox Road
 Courtenay, BC, V9N 3P6

RE: Revisions of Proposal for Re-Zoning

*Lot 4, Block 249, Comox District, Plan EPP11657 – Forbidden Plateau Road
 Registered Owners: Fry, Taylor*

A presentation of our proposal was made at the Electoral Service Committee meeting on July 9, 2018, a decision was reached to consider alternatives to our proposal to better address aspects of the planning staff report. A meeting was held with Jodi MacLean, Rural Planner on August 14, 2018, where alternatives were discussed. The following changes to the proposal are summarized below.

1. Proposed Road Location:

There is some concern that the access road location as proposed would cross riparian zones, two of which have been identified in covenant CA2234895. The Map included in the RAR report prepared by Steve Toth, R.P. Bio, is limited in scope with regards to the portions of the creeks within Lot 4, identified as Creek 1 and 2, map attached. We propose to obtain a more detailed RAR report from a QEP to address these two riparian zones and confirm whether the proposed road would be feasible. A professional Engineer would be retained to review the RAR report and consider an alternative road alignment if necessary.

An easement over the existing logging road would be created to provide alternative access when necessary to the new lots proposed, due to poor sighting distances on Forbidden Plateau road at the logging road entrance, a new road in this location is not feasible.

2. Watershed Concerns:

There is some concern that the proposed development, particularly the front 15 hectares would adversely affect Puntledge River watershed and the Comox Valley water System. The existing rainwater management plan contained within covenant CA2234893, is generalized applying to the entire original subdivision with one paragraph devoted to Lot 4 (attached). We would propose to have a new storm water management plan for Lot 4 prepared by a Professional Engineer to address the concerns of what impact the development may have on the watershed.

3. Green Space, Environmental Protection and Community Amenities:

In our initial proposal, we had proposed dedication of a 1 acre lot for a fire hall, however subsequent to our application it had been decided that the CVRD would not establish fire protection services for this area. The Regional Growth strategy suggests up to 30 % of a development containing 4 hectare lots be dedicated as green space, environmental protection or contributions for community amenities as described in the OCP. We are proposing to provide for 2 areas for environmental protection, one being part of the proposed Lot A where a creek exists and a significant stand of second growth trees exists (+/- 2 ha). The second area would be a 25 meter wide buffer along the west and south boundaries for a wild life corridor (+/- 2.7 ha). The two areas would total 4.7 ha being 23.5 % of the 20 ha parcel. Covenants on title would be established for these 2 areas, we would approach a nature trust to be the covenant holder, 3 possibilities being the Nature Trust of BC, Nature Conservancy of Canada or the Comox Valley Land Trust, they have not been contacted at this stage. We would also consider a contribution for community amenities, we have not identified what would be appropriate at this point, we would be open to suggestions from the CVRD.

Please find a revised map to accompany this proposal revision and please feel free to contact our office at your convenience with any questions or comments you may have.

Sincerely;

Colin Burrige P.Eng, BCLS,CLS

cc. Jim Fry

120-072CVRD2.doc

Preliminary Geotechnical Review
 Forbidden Plateau Subdivision
 Couverdon

File Ref: VI10-2019-03 (R)
 19 July 2011
 Page 6



Parcel 2

Parcel 2 is situated immediately to the west of Parcel 1 and is also bounded on the south by Forbidden Plateau Road and on the north by Browns River. Medicine Bowls Road extends through Parcel 1 and into the northern portion of Parcel 2.

The traverse of Parcel 2 continued along Medicine Bowls Road with a loop down to Browns River and two small loops off Forbidden Plateau Road.

In general, the ground surface within Parcel 2 is irregular and broadly convex across the slope. The slope extends down from Forbidden Plateau Road at about 20° to a break to 5° to 15° that continues to Medicine Bowls Road. Similar to Parcel 1, a steep break of up to 45° extends below Medicine Bowls Road to Browns River.

Two test pits were excavated on this parcel. Test Pit #22 was located at the approximate centre of the southern boundary and Test Pit #25 was located in the north-eastern corner of the parcel. Soils observed in both of these pits were generally similar to those in Parcel 1, with a 0.05 to 0.10 m surficial layer of dark brown to black organics consisting of forest litter, organic debris, and roots overlying a 0.6 to 0.7 m thick weathered, red-brown zone of loose silt and sand with some gravel and trace cobbles. The loose zone transitioned through a dense, light brown layer of similar composition to hard, grey, sandy gravelly silt till with trace cobbles and boulders that begins (on average) at 1.0 m depth. Soils were interpreted to have "blanket" thickness down to the steep slopes within 50 m of Browns River. The near vertical sidewall of the Browns River channel exposed basaltic bedrock.

No water courses or standing water was observed on the parcel.

Parcel 3

Parcel 3 is scheduled for future timber harvesting and is not being considered for development at this time.

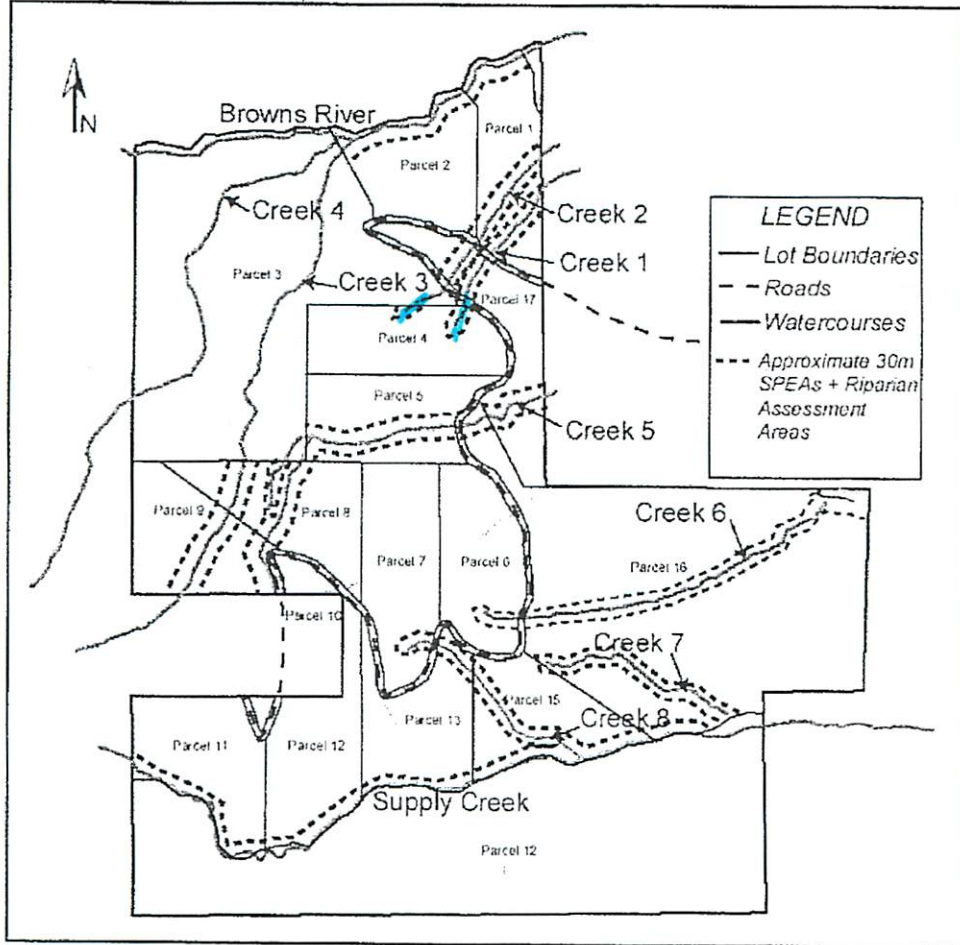
Parcel 4

The primary field traverse of Parcel 4 followed an existing forestry road (BR276) that entered the lot near the southeast corner and extended across the parcel to the north property line near the northwest corner. The secondary traverse followed an existing spur road from Parcel 5 (BR291) that intercepted the southwest corner of Parcel 4.

In general, the ground surface within the parcel sloped gently down to the east/northeast at about 10° to 15° from horizontal. The sloped ground surface was typically straight and slightly regular. There were some areas of local steepening to 20° to 25°.

FORM 1
Riparian Areas Regulation - Qualified Environmental Professional - Assessment Report

Figure 2. SPEAs and Riparian Assessment Areas



FORM 1
Riparian Areas Regulation - Qualified Environmental Professional - Assessment Report

Table 1. RAR assessable streams on PID 005-632-153.

Watercourse	Length on Property (m)	Affected Parcels	Flows to	Avg. Grade (%)	Channel Form
Browns River	1800	1, 2, and 3	Puntledge River	4.7	Canyon / Ravine >60m
Supply Creek	2820	11, 12, 13, 14, 15	Puntledge River	11.7	Not in ravine
Creek 1	647	1, 4, 16	Puntledge River	23.2	Ravine <60m
Creek 2	831	1, 3, 4, 16	Puntledge River	21.1	Ravine <60m
Creek 3	1940	2, 3, 8, 9	Browns River	18.9	Ravine <60m
Creek 4	1500	2, 3	Browns River	18.1	Ravine <60m
Creek 5	1620	5, 8, 9, 15, 16	Puntledge River	10.4	Ravine <60m
Creek 6	1620	6, 15	Puntledge River	14.6	Not in ravine
Creek 7	880	15	Supply Creek	14.5	Not in ravine
Creek 8	895	7, 13, 14	Supply Creek	7.1	Not in ravine

All of the assessable watercourses on the property have existing or potential streamside vegetation areas >30m in width, resulting in a Vegetation Category of 1 (Table 2). SPEA distances are 30m based on fish-bearing status or non fish-bearing permanent stream status (Figure 2), except Browns River which is located in a ravine > 60m in width and therefore has a 10m SPEA from top of ravine bank.

Table 2. SPEA setbacks

Watercourse	Vegetation Category	Fish Bearing	SPEA Width (m)	Avg. Grade (%)	SPEA Measured from:
Browns River	1	Yes	10	4.7	Top of Canyon / Ravine Bank
Supply Creek	1	Yes	30	11.7	Edge of active floodplain
Creek 1	1	No	30	23.2	Top of Ravine Bank
Creek 2	1	No	30	21.1	Top of Ravine Bank
Creek 3	1	No	30	18.9	Top of Ravine Bank
Creek 4	1	No	30	18.1	Top of Ravine Bank
Creek 5	1	No	30	10.4	Top of Ravine Bank
Creek 6	1	No	30	14.6	Edge of active floodplain
Creek 7	1	No	30	14.5	Edge of active floodplain
Creek 8	1	No	30	7.1	Edge of active floodplain

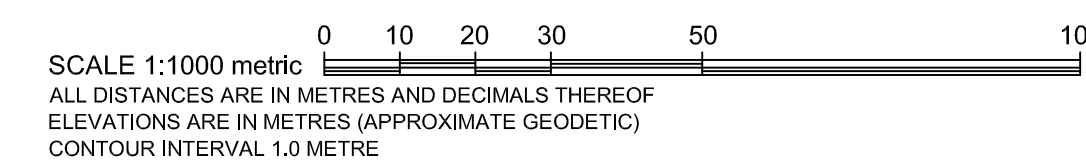
I, Steve Toth, hereby certify that:

- I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the *Fish Protection Act*;
- I am qualified to carry out this part of the assessment of the development proposal made by the developer Couverdon;
- I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report, and
- In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation

PLAN TO ACCOMPANY RE-ZONING APPLICATION: LOT 4, BLOCK 249, COMOX DISTRICT, PLAN EPP11657

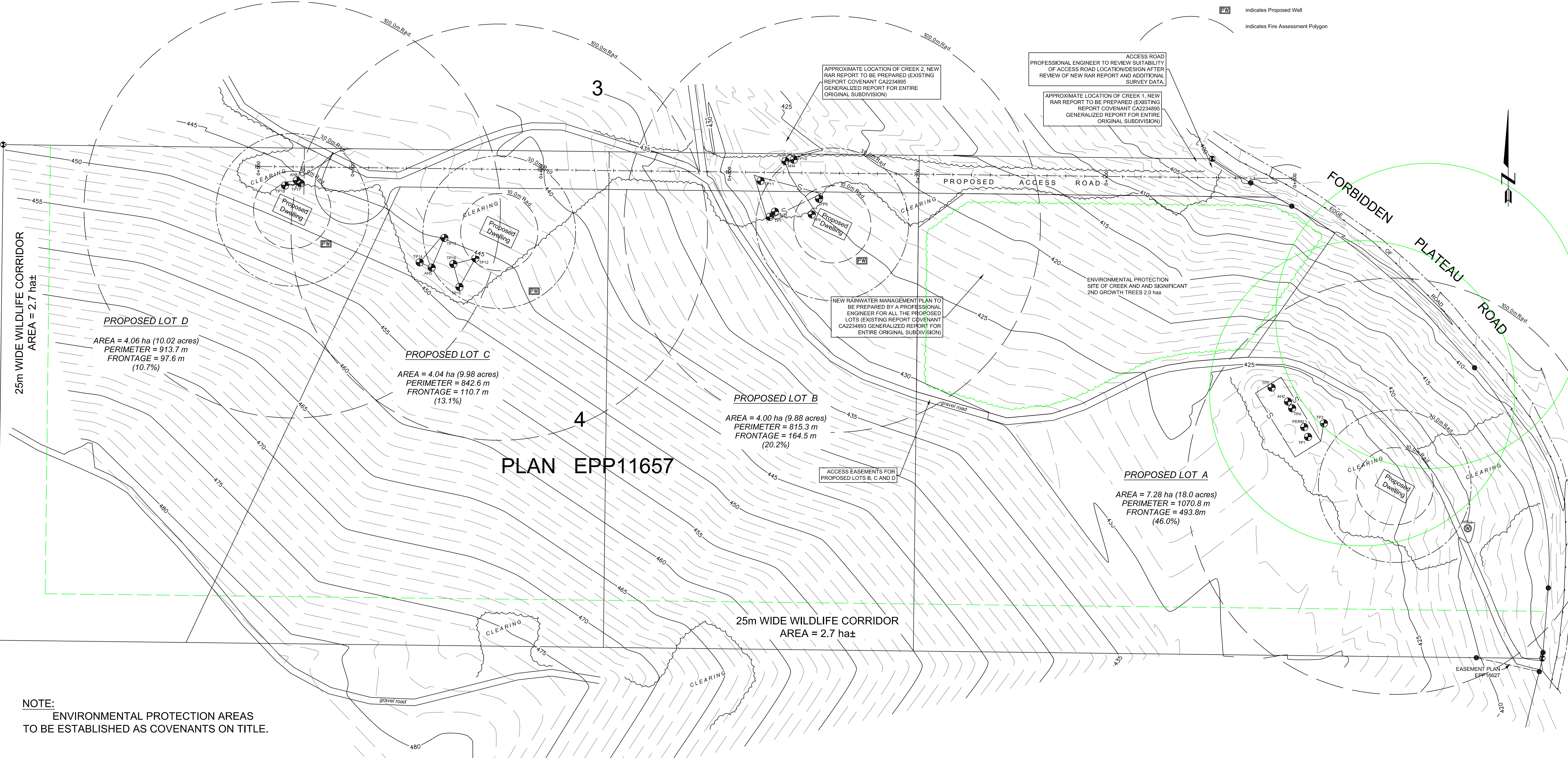
Forbidden Plateau Road

P.I.D.: 028-704-550



LEGEND

- indicates Capped Iron Post
- indicates Iron Pin
- indicates Test Pit
- indicates Existing Drilled Well
- indicates Proposed Well
- indicates Fire Assessment Polygon



PLAN EPP11657

25m WIDE WILDLIFE CORRIDOR
AREA = 2.7 ha±

FORBIDDEN PLATEAU ROAD

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J.E. ANDERSON & ASSOCIATES
Surveyors - Engineers
Victoria - Nanaimo - Parksville - Campbell River
F-1250 CEDAR STREET, CAMPBELL RIVER, BC, V9W 2W5
File: 120-072

REVISED DATE: 4th September, 2018
This Plan has been Prepared from Field
Survey and Land Title Office Records
Certified Correct this 6th day of April, 2018.

Colin A. Burridge, BC Land Surveyor

Agency and First Nations Referral List

The following agencies will receive a referral of the proposal .

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco (Xwemalhkwu) Indian Band
<input checked="" type="checkbox"/>	We Wai Kai Nation of the Laich-Kwil-Tach Treaty Society	<input checked="" type="checkbox"/>	We Wai Kum First Nation
<input checked="" type="checkbox"/>	Kwiakah First Nation		

Provincial Ministries and Agencies

	Agricultural Land Commission		Ministry of Community, Sport & Cultural Development (responsible for TransLink)
<input checked="" type="checkbox"/>	BC Assessment		Ministry of Energy & Mines
	BC Parks	<input checked="" type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations
	Ministry of Environment	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Tourism & Skills Training (responsible for Labour)
	Ministry of Agriculture		Ministry of Indigenous Relations and Reconciliation

Local Government

	Comox (Town of)		Alberni-Clayoquot Regional District
	Courtenay (City of)		Strathcona Regional District
	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Puntledge – Black Creek Area ‘C’ Advisory Planning Commission		Agricultural Advisory Planning Commission
<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)