

**DATE:** September 10, 2018**FILE:** 3110-20/ALR 4C 18**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** James Warren  
General Manager of Corporate ServicesSupported by James Warren  
General Manager of Corporate Services*J. Warren***RE:** **Subdivision within the Agricultural Land Reserve  
Puntledge – Black Creek (Electoral Area C)  
9314 Doyle Road (Proctor)  
Lot 1, Block 29, Comox District, Plan 24877, PID 002-837-803****Purpose**

To recommend refusal of an application (Appendix A) to subdivide a property within the Agricultural Land Reserve (ALR).

**Recommendation from the Chief Administrative Officer:**

THAT the Agricultural Land Reserve application ALR 4C 18 (Proctor) to subdivide lands known as Lot 1, Block 29, Comox District, Plan 24877, be refused;

AND FINALLY THAT the application not be referred to the Agricultural Land Commission.

**Executive Summary**

- The subject property is an 18 hectare agricultural lot along Doyle Road, south of the Oyster River.
- The property owners would like to subdivide a 4.8 hectare lot from the front of the property and leave a 13 hectare remainder in the rear.
- The property is within the ALR so any subdivision requires the approval of the Agricultural Land Commission (ALC). The ALC allows the local government to review a subdivision application first and decide whether to forward the application to the ALC with comments and recommendations or to refuse the application.
- The CVRD Agricultural Advisory Planning Commission reviewed the application and recommended refusal of the application.
- Staff recommends refusal of the application on the basis that the proposal is not consistent with the zoning bylaw requirements for a minimum lot area of 8 hectares or minimum road frontage of 10 per cent of the lot perimeter and it is not consistent with the direction of the Official Community Plan (OCP) regarding subdivision within the Agricultural Areas.

Prepared by:

*J. MacLean*

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Jodi MacLean, MCIP, RPP  
Rural Planner

Concurrence:

*A. Mullaly*

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

**Stakeholder Distribution (Upon Agenda Publication)**

|           |   |
|-----------|---|
| Applicant | ✓ |
|-----------|---|

**Background/Current Situation**

The subject property (Figures 1 and 2) is an 18 hectare lot located along Doyle Road, towards the west end of Macaulay Road. The property is currently developed with a house and a secondary dwelling, each with a detached garage/workshop. Other buildings on the property include a barn, hayshed, and various small accessory buildings. The secondary dwelling is a manufactured home currently unoccupied but, according to the applicants, was previously occupied by the parents of the owner. The front half of the property is cleared and fenced for livestock, and includes pasture land, a hayfield, and a riding ring with a round pen.

The applicants propose to subdivide the property along a natural contour in the land to create a 4.8 hectare lot along Doyle Road with a 13 hectare remainder in the rear (Appendix A). This configuration would place the manufactured home and most of the agricultural improvements on the front lot. The rear lot would be accessed off Doyle Road by a ~200 metre long panhandle driveway to the main house and the remainder of the proposed lot.

Agricultural Land Reserve

The property is located within the ALR. Section 21(2) of the *Agricultural Land Commission Act* allows an owner of property within the ALR to apply to the ALC to subdivide that property. However, Section 25(3) requires that such an application first be authorized by the local government to proceed to the ALC.

The ALR Regulations allow for the secondary dwelling (manufactured home) on the property but only for use by a member of the owner's immediate family. The proposed subdivision would make that manufactured home the primary dwelling of the proposed lot and it could be used by the owners of the lot or rented.

Official Community Plan

The subject property is designated Agricultural Areas within the OCP, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”. Policy 58(1) of this designation states: “*Discourage subdivision of land in the ALR for residential use, other than an ALC-approved home site severance.*” Also, Section 58(6) states: “*Avoid considering multiple dwellings on a property as a justification for subdivision.*” The proposal does not qualify as a homesite severance so the subdivision proposal is not consistent with the direction of the OCP.

Policy 58(12) in this designation states: “*Require an applicant proposing to subdivide land in the agricultural area to demonstrate how the proposal will benefit the agriculture and aquaculture industries.*” According to the application, the subdivision would allow the owner to sell unused farm land.

Zoning Bylaw

The property is zoned Rural-ALR (RU-ALR). Section 7 of this zone, titled “Subdivision Requirements” states the minimum lot area for new subdivisions shall be 8.0 hectares and the minimum lot frontage shall be 10 per cent of the perimeter of the lot. Because the proposed front lot is 4.8 hectares and the proposed rear lot’s frontage is less than 1 per cent, the proposed lot configuration is not consistent with this zone.

**Policy Analysis**

Sections 21 and 25 of the *Agricultural Land Commission Act* (ALCA) requires an owner of property within the ALR to apply to the ALC in order to subdivide the property. Section 25(3) states the

application may not proceed to the ALC unless authorized by a resolution of the local government. Section 34 states that the local government may include comments and recommendations regarding the application should it forward the application to the ALC.

### **Options**

The Comox Valley Regional District 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 the application be refused on the basis that it is not consistent with the OCP or zoning bylaws.

### **Financial Factors**

Fees of \$1,500 (\$300 for the Comox Valley Regional District (CVRD) and \$1,200 for the ALC) have been collected for this subdivision application in accordance with Section 35 of the ALCA. Should the board refuse to forward the application to the ALC, the \$1,200 ALC portion of the fee is 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**

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 Agricultural Areas, which were established using the ALR boundaries. The main objectives of this designation are to protect agricultural land and expand agricultural activities for local food security.

### **Intergovernmental Factors**

A referral was issued on August 24, 2018, to the Ministry of Agriculture for comment on this application. No response has been received as of the date of this report.

### **Interdepartmental Involvement**

This ALR application has been circulated to internal departments for comments. Other departments had no concerns with the application.

### **Citizen/Public Relations**

The Agricultural Advisory Planning Commission (AgAPC) reviewed the application at their meeting on August 30, 2018. The AgAPC recommended the application be refused on the basis that the two proposed smaller properties would have a higher per acre cost of ownership and be more difficult to economically farm.

Attachments: Appendix A – “ALC application submission - File ALR 4C 18”

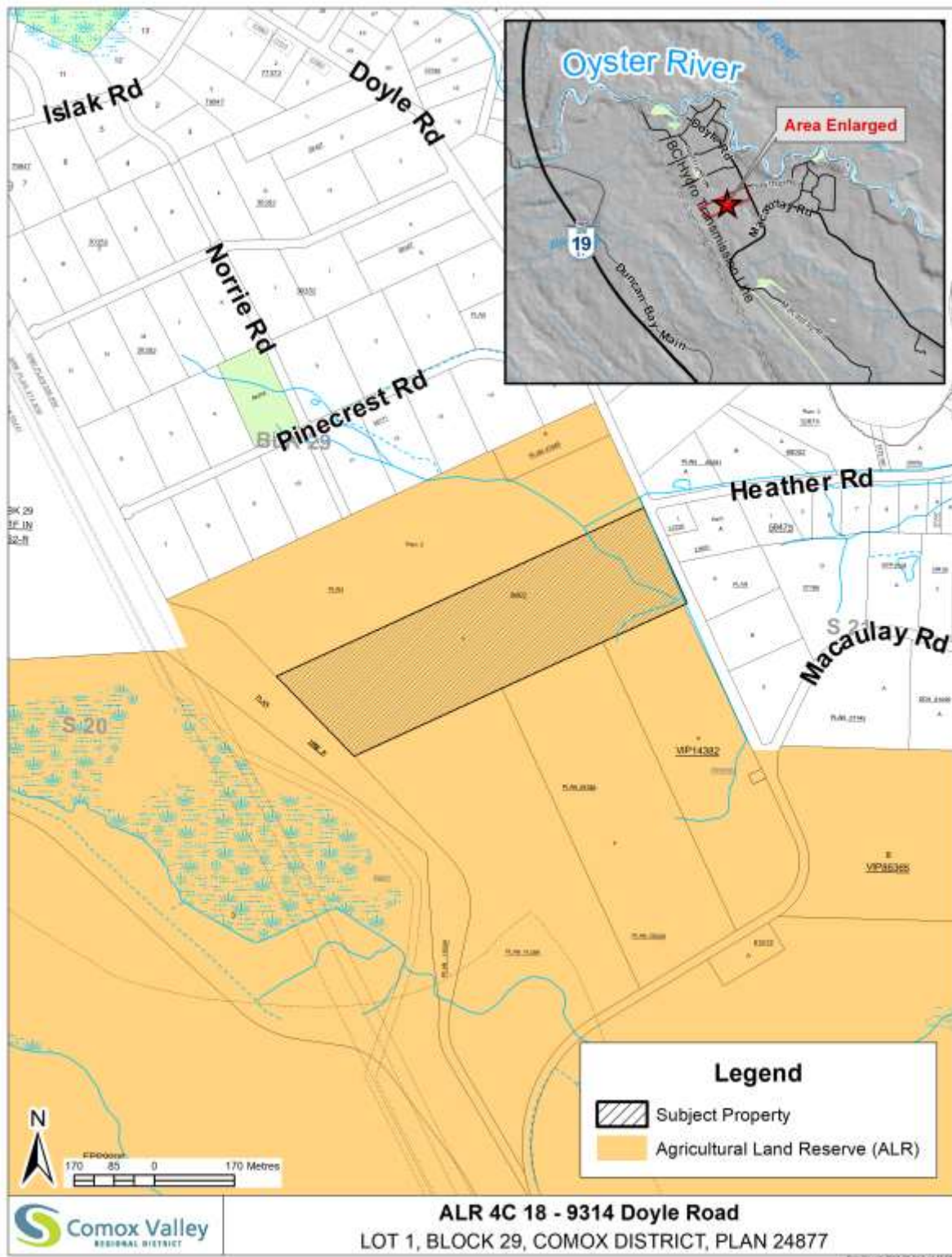


Figure 1: Subject Property

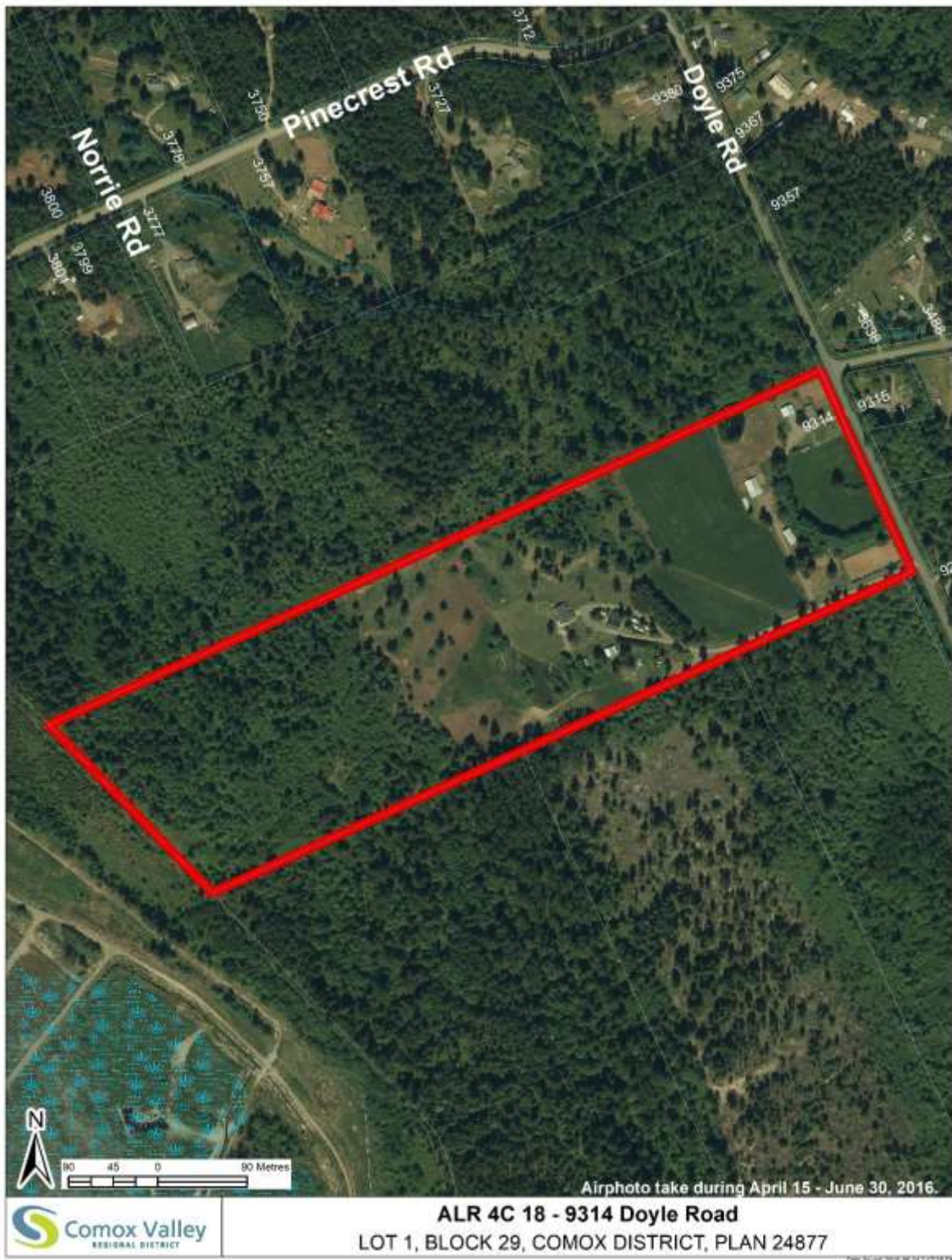


Figure 2: Air Photo (2016)



# Provincial Agricultural Land Commission - Applicant Submission

**Application ID:** 57901

**Application Status:** Under LG Review

**Applicant:** Patricia Proctor , James Proctor

**Local Government:** Comox Valley Regional District

**Local Government Date of Receipt:** 08/16/2018

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

**Proposal Type:** Subdivision

**Proposal:** Since purchasing in 1989, I have lived and worked together with my parents to develop the property from raw land into a farm where my children were raised and we have lived together generationally for almost 3 decades. Practicality dictated development of buildings and infrastructure to support a livestock operation was focused heavily at the front of the property near the manufactured home where my parents lived. The larger hay field and a rocky ridge separate those improvements from the house which is situated mid-property on the ridge and is where my husband and I reside.

My father was the driving force behind the livestock and with his decline, so did the operation. My father has passed and my mother has needed to be moved to town. The manufactured home has been vacant for over a year; additionally, we have not had animals for a few years now, yet all the assets remain. The upkeep and maintenance is significant even though barns are vacant and land use limited to hay crop. We do not see ourselves resuming agricultural land use involving animals. We harvest on average 600 bales of hay for which we have no need.

To divide the existing lot into two parcels would allow the significant land improvements and investments made in Lot 1 to be utilized for what they were designed without compromising the agricultural utility of what would be two parcels. Current land prices have made farming difficult for new and young entrepreneurial farmers. Numerous examples exist in our regional district of productive 5 and 10 acre small scale and successful agriculture enterprises. The proposed front lot at 12 acres (4.8h) preserves the objectives of the ALR and provides an affordable opportunity for new ownership and farm use supporting local agriculture. We would be relieved of the prohibitive cost incurred to maintain the improvements and buildings that have been vacant for over the past couple of years.

The proposed Lot 1 parcel with its hay production, buildings and lot size at 12 acres (4.8 h) would accommodate a broad range of farm based activities while preserving the objectives of the ALR regarding land use as well and remain consistent with the regional growth plan classification as agricultural area. It would provide an affordable opportunity for new ownership and actual farm use supporting rural local agriculture per the CVRD Community Plan. At 33 acres (13.6 h), Lot 2 would continue to be a large parcel of excellent agriculture land, no longer tied to capital investments specific to livestock, with near limitless opportunities for crop based agriculture with the option to leave the brush/treed area or invest in further clearing to expand the current cleared area planted in hay/pasture.

Affordability has become a defining deterrent for new agriculture as land prices rise as seen in the significant increase in boutique, small scale backyard marketing. Few buyers with the intent for agriculture can afford the investment of a large tract of land, nor do they expect to generate the annual income necessary to service the debt associated. Of note, many larger tracts of land are being purchased for residential use and the development of an estate rather than improvements for agriculture. The proposed subdivision would enable farm land use be resumed on Lot 1 through new ownership and encourages new improvements and agriculture capabilities on Lot 2 while preserving capacity for agriculture under the protection of the ALR and consistent with the the CVRD Community Plan.

**Applicant:** Patricia Proctor , James Proctor

This subdivision would free capital and allow our family to redirect assets and settle affairs thus providing more appropriate permanent housing for my aging mother and create new opportunity for agriculture improvements on Lot 2.

**Mailing Address:**

9314 Doyle Road  
Black Creek , BC  
V9J 1E5  
Canada

**Primary Phone:** [REDACTED]

**Mobile Phone:** [REDACTED]

**Email:** [REDACTED]

**Parcel Information**

**Parcel(s) Under Application**

1. **Ownership Type:** Fee Simple  
**Parcel Identifier:** 002-837-803  
**Legal Description:** L 1 BK 29 COMOX PL 24877  
**Parcel Area:** 18.4 ha  
**Civic Address:** 9314A Doyle Rd.  
**Date of Purchase:** 12/13/1989  
**Farm Classification:** No  
**Owners**

1. **Name:** Patricia Proctor

**Address:**

9314 Doyle Road  
Black Creek , BC  
V9J 1E5  
Canada

**Phone:** [REDACTED]

**Cell:** [REDACTED]

**Email:** [REDACTED]

2. **Name:** James Proctor

**Address:**

9314A Doyle Rd.  
Black Creek, BC  
V9J 1E5  
Canada

**Phone:** [REDACTED]

**Email:** [REDACTED]

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**Current Use of Parcels Under Application**

1. **Quantify and describe in detail all agriculture that currently takes place on the parcel(s).**

*~15 + acres in hay and pasture land producing on average 600 bales of hay with a single crop;*

*~3 acres in barns, hay shed, holding pens, fenced areas and corrals for livestock; ~0.5 acre in gardens*

**Applicant:** Patricia Proctor , James Proctor

and orchard.

**2. Quantify and describe in detail all agricultural improvements made to the parcel(s).**

*Over the past 29 years clearing and development of approximately 25 acres. This includes: ~15 acres in hay fields and pasture; Construction of barns, hay shed, equipment shed, and turkey shed, corrals, holding pen, round pen; Perimeter, fenced and cross fenced as well as extensive drainage ditches, ponds for irrigation and water for livestock.*

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

*House, manufactured home, detached garage, carpenters workshop, and various outbuildings including woodshed and storage.*

**Adjacent Land Uses**

**North**

**Land Use Type:** Unused

**Specify Activity:** Uninhabited. Wooded. Unused.

**East**

**Land Use Type:** Residential

**Specify Activity:** Lots and small parcels of land with single family dwellings.

**South**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** Large parcels. Single family dwelling. Limited agriculture activity limited to market gardening.

**West**

**Land Use Type:** Agricultural/Farm

**Specify Activity:** Powerline and Cranberry farm.

**Proposal**

**1. Enter the total number of lots proposed for your property.**

4.8 ha

13.6 ha

**2. What is the purpose of the proposal?**

*Since purchasing in 1989, I have lived and worked together with my parents to develop the property from raw land into a farm where my children were raised and we have lived together generationally for almost 3 decades. Practicality dictated development of buildings and infrastructure to support a livestock operation was focused heavily at the front of the property near the manufactured home where my parents lived. The larger hay field and a rocky ridge separate those improvements from the house which is situated mid-property on the ridge and is where my husband and I reside.*

*My father was the driving force behind the livestock and with his decline, so did the operation. My father has passed and my mother has needed to be moved to town. The manufactured home has been vacant for over a year; additionally, we have not had animals for a few years now, yet all the assets remain. The upkeep and maintenance is significant even though barns are vacant and land use limited to hay crop. We do not see ourselves resuming agricultural land use involving animals. We harvest on average 600 bales of hay for which we have no need.*

**Applicant:** Patricia Proctor , James Proctor



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*The proposed Lot 1 parcel with its hay production, buildings and lot size at 12 acres (4.8 h) would accommodate a broad range of farm based activities while preserving the objectives of the ALR regarding land use as well and remain consistent with the regional growth plan classification as agricultural area. It would provide an affordable opportunity for new ownership and actual farm use supporting rural local agriculture per the CVRD Community Plan. At 33 acres (13.6 h), Lot 2 would continue to be a large parcel of excellent agriculture land, no longer tied to capital investments specific to livestock, with near limitless opportunities for crop based agriculture with the option to leave the brush/treed area or invest in further clearing to expand the current cleared area planted in hay/pasture.*

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*This subdivision would free capital and allow our family to redirect assets and settle affairs thus providing more appropriate permanent housing for my aging mother and create new opportunity for agriculture improvements on Lot 2.*

### **3. Why do you believe this parcel is suitable for subdivision?**

*The driveway to the main house runs the current south property line. See Photo #1. The rocky ridge that extends the width of the property along with the existing driveway provide a natural division between parcels without encroaching on cultivatable land or compromising agriculture utility. Proposed Lot 1 at ~12 acres (4.8 hectares) is of adequate size to be self sustaining in terms of crop size, water, arable land, foraging, and infrastructure. As proposed, its boundaries respect the natural contour and characteristics of the land. Lot 2, (the remaining ~33 acres) would continue to hold high quality agricultural potential and utility with extensive options for row or field crop based agricultural practices including berries, hops, seeds, vegetables etc. Potential for further clearing of brush and trees exists. The existing driveway is a well built road with a generous allowance of 15 metres including ditching and provides reliable access to the proposed Lot 2 and is paralleled by the hydro line. The main house and outbuildings site is located on a rocky clay ridge mid property and was selected where crops were not likely to be planted to preserve the areas with soil best suited for cultivation. In addition to buildings referenced, this rocky clay ridge is treed and fenced providing good foraging and has excellent exposure making this area a good choice for greenhouses. To that end, our proposal suggests an exception to the CVRD zoning guideline for subdivision of minimum 8 hectares is in the interest of the ALR and Community Plan as it respects the natural contours thus usability of the land itself allowing Lot 2 to remain of significant size as well as preserving the cultivatable area within its perimeter.*

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

*Both. In the short- term, Lot 1 could resume agricultural activities immediately contributing to the local*

*community while remaining consistent with the long - term objectives of the ALR including preserving land for agriculture. Lot 2 holds immediate short term agriculture potential as is and unlimited long - term potential either repurposing current cleared land that is planted in pasture with crop based practices or utilizing as is with the opportunity for further clearing and land development. Both lots would remain under the protection of the ALR and consistent with the CVRD Community Plan.*

**5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.**

*No*

### **Applicant Attachments**

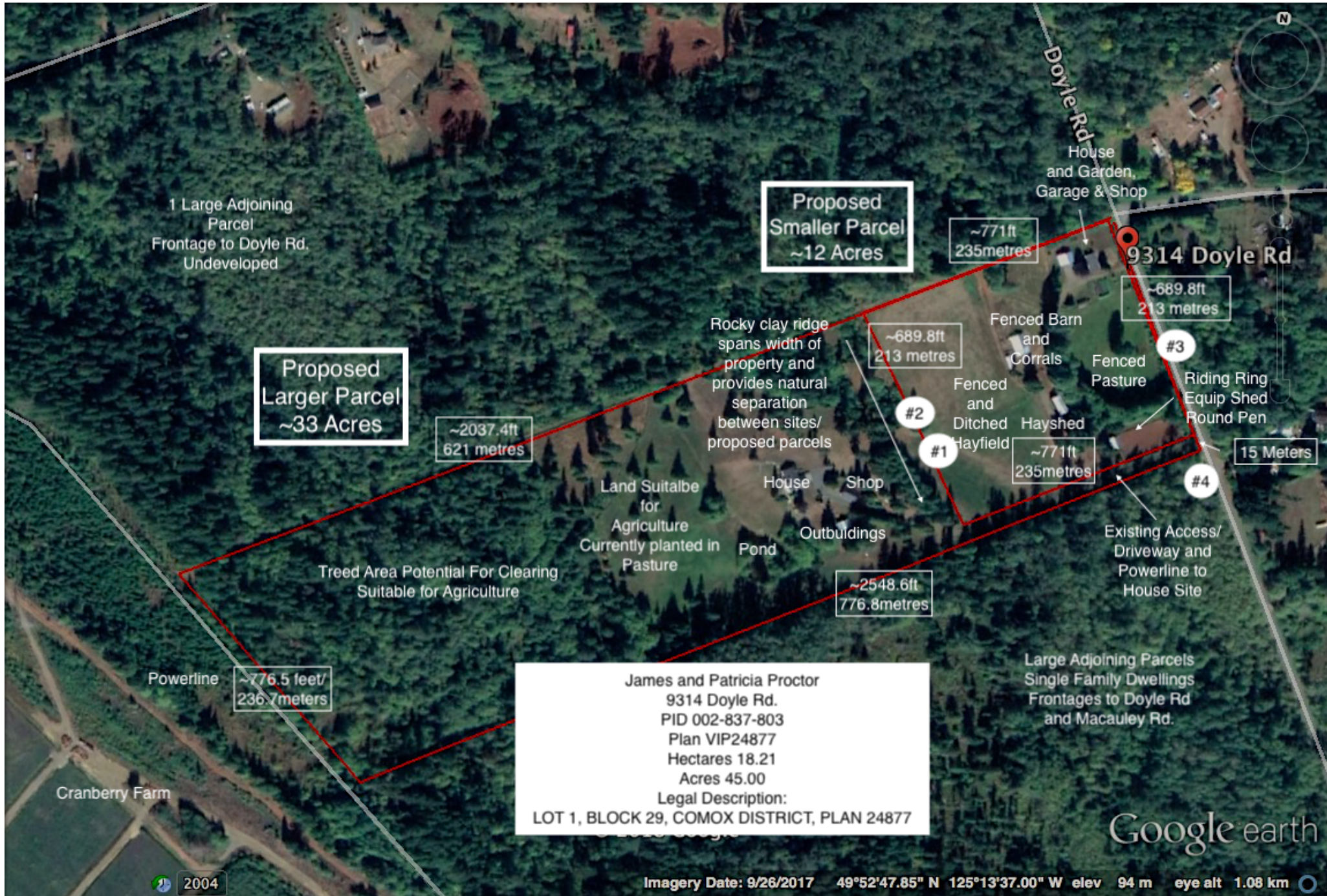
- Site Photo - Photo #1
- Site Photo - Photo #2
- Site Photo - Photo #3
- Site Photo - Photo #4
- Proposal Sketch - 57901
- Certificate of Title - 002-837-803

### **ALC Attachments**

None.

### **Decisions**

None.





North Property Line

Proposed  
Lot 1

Photo #1  
Facing East

South Property  
Line  
Driveway to Main  
House from Doyle  
Rd.

Ridge edge



South Property Line

North Property Line

Proposed  
Lot 2  
Photo #2  
Facing West

North  
Property Line



Proposed  
Lot 1  
Frontage  
Photo #3

Driveway

Doyle  
Rd.



Proposed  
Lot 2

Photo#4

Frontage  
Doyle Rd

South Property  
Line

15 Metre  
Panhandle  
for Driveway

