

DATE: April 2, 2020

FILE: 3060-20 / DP 4C 20

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
1429 Seaview Road (Guenette/ Rogers)
Puntledge – Black Creek (Electoral Area C)
Lot 5, Section 9, Township 5, Comox District, Plan 24335, PID 003-027-121**

Purpose

To consider a Development Permit (DP) (Appendix A) under the Farm Land Protection Guidelines related to the redevelopment of an accessory building.

Recommendation from the Chief Administrative Officer:

THAT the Board approve Development Permit DP 4C 20 (Guenette/ Rogers) on property described as Lot 5, Section 9, Township 5, Comox District, Plan 24335, PID 003-027-121 (1429 Seaview Road) for the redevelopment of an accessory building;

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

Executive Summary

- The applicants are proposing to redevelop an accessory building on a residential lot that backs onto an agricultural lot.
- The proposal requires issuance of a DP which is to be considered under the Farm Land Protection Guidelines whose objectives are to ensure that adequate buffers are provided to protect farming and agricultural potential of neighbouring lands.
- The Agricultural Advisory Planning Commissions (APC) reviewed the proposal with respect to the guidelines and recommended supporting the application as proposed.
- Staff recommends issuance of the DP with adherence to the landscape plan as a condition (Appendix A).

Prepared by:

J. MacLean

Jodi MacLean, RPP, MCIP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

S. Smith

Scott Smith, RPP, MCIP
General Manager of
Planning and Development
Services Branch

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 property is developed with a house at the front of the lot and several accessory buildings to the back. The applicant proposes to re-build an existing heated and plumbed accessory building for use as a studio and personal storage, approximately 71 square metres in area (Figure 3). The lot backs against an agricultural lot and a DP is required for construction of, addition to or alteration of a building adjacent to an agricultural area.

Planning Analysis

Official Community Plan

The Official Community Plan (OCP), Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, designates 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 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 Area

The intention of the Farm Land Protection DP is to create an agricultural interface that protects the agricultural potential of adjoining lands and 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 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 or 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.

With respect to this particular subject property, there exists a berm along the rear that extends down the subdivision. The berm is vegetated with native ferns, shrubs and trees (Figure 4). The lot line is located behind the berm. The applicant is proposing to further supplement this area with an additional 22 plantings, including two Douglas firs, two evergreens and five tall Oregon grapes, as well as placing a wire fence along the rear lot line. Regarding setbacks, the accessory building would be re-constructed with its original siting which is 19 metres from the rear lot line. Given the nature of the development and the maintenance of the proposed measures, this agricultural interface will be suitable for protection of the agricultural lands for farming purposes.

Zoning

The subject property is zoned Residential One (R-1), which allows residential use plus up to 300 square metres of accessory building gross floor area. The Zoning Bylaw requires a minimum rear

yard setback of 4.5 metres. The proposed building 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 could approve, deny or modify the draft DP (Appendix A). Given the above discussion, planning staff recommends approval of the DP.

Financial Factors

Applicable fees have been collected for this application under the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014.”

In order to ensure that the landscape plan is implemented, a landscape security deposit is required. The applicant provided a cost estimate of \$2,130.00 (without taxes) to implement the landscape plan and fencing. Therefore the landscape security deposit is \$2,662.50 (125 per cent of the cost estimate); this deposit is a condition of the execution of the DP.

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 Ministry of Agriculture for comment on this application. The Regional Agrologist responded: “*Given the proposed fence, setback and buffer specifications I have no objections to the proposal submitted.*” (Appendix B).

Interdepartmental Involvement

This DP has been circulated to internal departments for review and comments. No concerns were identified.

Citizen/Public Relations

Public notification is not required for a DP application. On March 19, 2020, the Agricultural APC reviewed this application as it relates to the farm land protection guidelines; the APC recommended approval of proposal, as proposed, citing no impact to the farm operations and the improvement to the agricultural interface.

Attachments: Appendix A – “Draft Development Permit DP 4C 20”
Appendix B – “Correspondence from Regional Agrologist”

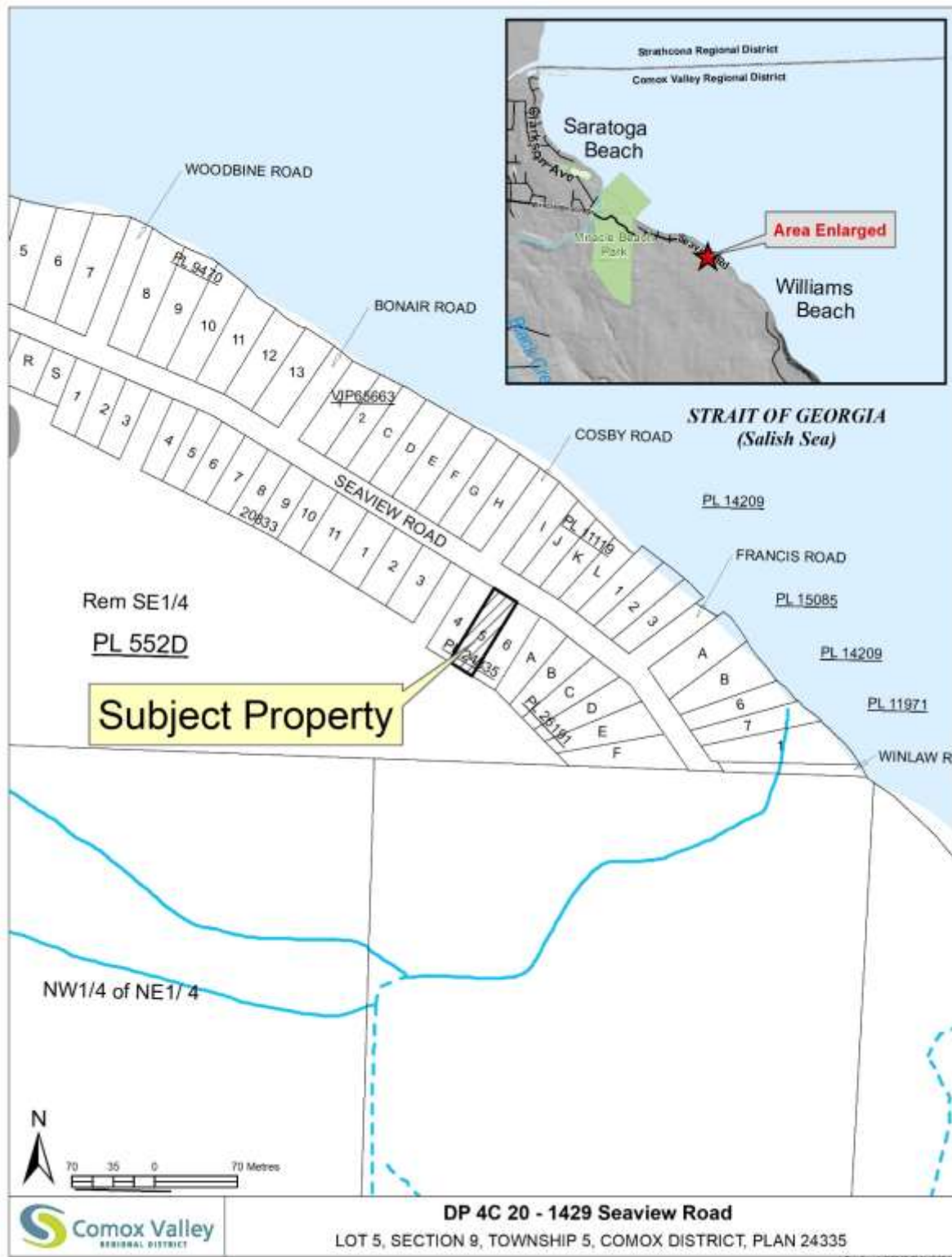


Figure 1: Subject Property



Figure 2: Air Photo Illustrating the Extent of the Development Permit Area



Figure 3: Accessory Building Being Altered



**Figure 4: Photo of Interface Behind Accessory Building;
Lot Line Boundary is Behind Berm**

DP 4C 20

TO: Julia Rogers and Kathryn Guenette

1. This Development Permit (DP 4C 20) 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 **purposes of re-developing an accessory building within the 30 metre farmland protection buffer 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, Section 9, Township 5, Comox District, Plan 24335	
Parcel Identifier (PID):	003-027-121	Folio: 771 05533.025
Civic Address:	1429 Seaview 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 the landscaping in the rear 10 metres of the property be completed and maintained in accordance with the submitted Landscape Plan hereto attached as Schedule B;
 - ii. THAT the landscaping be maintained as part of regular yard maintenance and kept free of invasive species;
 - iii. THAT a fence be constructed and maintained in the rear yard on or behind the berm identified in Schedule B;
 - iv. THAT the applicant provide a Landscape Security Deposit subject to the requirements of Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, in the form of an Irrevocable Letter of Credit or a Security Deposit in the amount of the full costs of the works totalling \$2,662.50. When all conditions of the permit are met, the deposit will be returned to the payee;
 - v. AND THAT the re-developed accessory building be sited in accordance with the siting illustrated in Schedule B.
4. This Development Permit (DP 4C 20) 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 _____.

James Warren
Corporate Legislative Officer

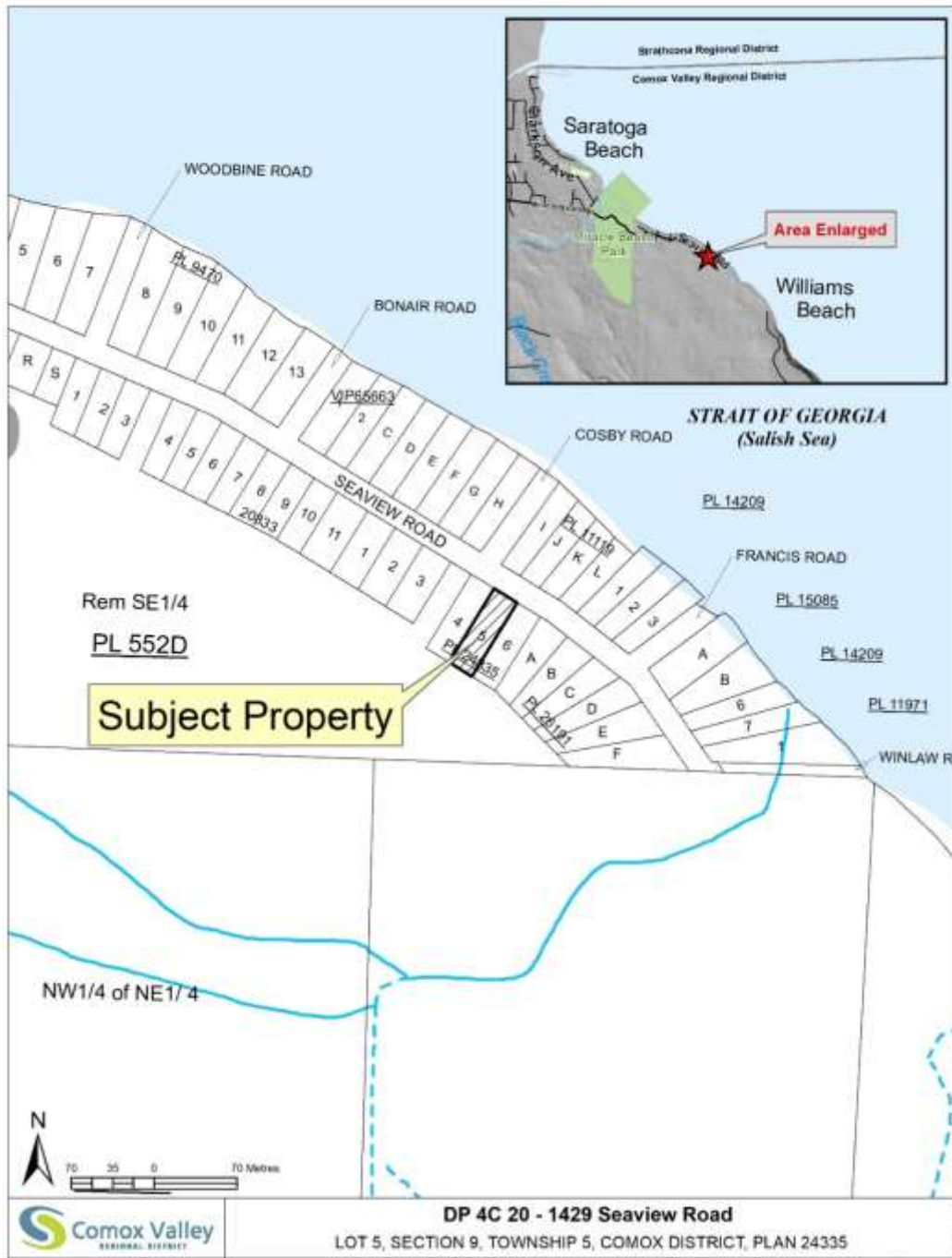
Certified on _____

Attachments: Schedule A – “Subject property map”
Schedule B – “Landscape Plan”

Draft

Schedule A

Subject Property Map



3060-20 / DP 4C 20

From: Jodi MacLean
Sent: Thursday, April 09, 2020 2:09 PM
To: Ton Trieu; Sylvia Stephens
Subject: FW: BC Ministry of Agriculture Referral - Roger/Guenette

From: Hatfield, Jill AGRI:EX [<mailto:Jill.Hatfield@gov.bc.ca>]
Sent: April 9, 2020 10:47 AM
To: Jodi MacLean
Subject: BC Ministry of Agriculture Referral - Roger/Guenette

Hi Jodi: I hope you are keeping well given the current situation. My apologies for the delay in responding. Here are the comments on the two referral's from early March.

Roger/Guenette; 1429 Seaview Road 3060-20/DP 4C 20

- This is one of a number of Development Permit under the Farmland Protection Guidelines for properties along Seaview Road.
- These properties were subdivided long before the DP for Farmland Protection was adopted and as such are not configured in such a way to be able to easily adhere to the building and buffering setback requirements.
- On the CVRD IMAP it appears that there are two civic addresses associated with this property, 1427 and 1429. According to zoning it allows for one single detached dwelling and one secondary dwelling no more than 90 square metres and 200 metres of accessory floor area.
- I assume that the development in question falls under the 200 metre accessory building.
- Given the proposed fence, setback and buffer specifications I have no objections to the proposal submitted.

Thank you

Jill Hatfield P.Ag | Regional Agrologist – Vancouver Island North
BC Ministry of Agriculture | cell: 250-334-7272 | email: Jill.Hatfield@gov.bc.ca

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