

Memo

File: 3090-20 / DV 2B 21

DATE: August 17, 2021

TO: Advisory Planning Commission
Lazo North (Electoral Area B)

FROM: Planning and Development Services

RE: **Development Variance Permit – 2113 Austin Road (Henderson/ Gordon)
Lot 12, District Lot 206, Comox District, Plan 30535, PID 001-251-333**

The attached development proposal is for commission members' review and comment.

Application Description

An application has been received to consider a Development Variance Application for the property located at 2113 Austin Road. The subject property is zoned Country Residential One (CR-1) and is designated as being within a Settlement Expansion Area (SEA). The property is approximately 0.1 hectare in size and current development includes a single detached dwelling, detached garage, and several small outbuildings (Figures 1 and 2). The front half of the property has a gentle slope from north to south (front to rear) before levelling out, and has trees and vegetation throughout the front third of the property.

The variance requested is to reduce the rear yard setback for a proposed carriage house, and to reduce the side yard setback for a staircase on the exterior of a principal dwelling (Figures 3 and 4). There is an existing garage with minimal setbacks in the southeast corner of the lot which was built without a permit prior to the owners occupying the property in 2005, and will be demolished and removed. The specific variances being requested are outlined in the Zoning Bylaw section below. Minimum setbacks are stipulated for numerous reasons. While sightlines and safety concerns do not factor in as much for lot lines not adjacent to roadways, side and rear lot line setbacks still help ensure privacy between neighbouring properties and ensure that the maintenance of the structure in question is possible.

Regional Growth Strategy and Official Community Plan Analysis

Both Bylaw No. 120, being the "Comox Valley Regional District Regional Growth Strategy, Bylaw No. 120, 2010," and Bylaw No. 337, being the "Rural Comox Valley Official Community Plan, Bylaw No. 337, 2014," designate this property as being within the SEA. The SEA land use designation is provided for properties near a municipal boundary and the development of the area through subdivision or rezoning is strongly discouraged until the lands in question are incorporated into a municipality. The proposed development does not conflict with the residential goals, policies or objectives contained within either Bylaw No. 120 or Bylaw No. 337.

Zoning Bylaw Analysis

Per Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the subject property is zoned CR-1 (Appendix A and B). Given this zoning, the minimum setbacks for the proposed carriage house is 7.5 metres for the foundation (proposed setback is 3.0 metres), and 5.5 metres for the eaves (proposed setback is 2.4 metres) (Figures 3 and 4). Additionally, the required setback for the principal dwelling is 1.75 metres for a side yard lot line, although this can be reduced to 1.15 metres for exterior staircases per Section 403(1) of the bylaw. The existing staircase has a setback of 0.86 metres, so is also subject to this variance request. The existing garage with the 0.3 metre setbacks is the building that will be removed prior to the construction of the carriage house. The variances being sought are summarized in Table 1 below and will be presented to the Electoral Areas Services Committee as individual recommendations.

Table 1: Variance Summary

Zoning Bylaw	Variance	Zoning	Proposed	Difference
Proposed Carriage House				
Section 703 (5)	Rear yard setback	7.5 metres	3.0 metres	4.5 metres
Section 403 (1)	Siting exemptions	5.5 metres	2.4 metres	3.1 metres
Principal dwelling (staircase)				
Section 403 (1)	Siting exemptions	1.15 metres	0.8 metres	0.35 metres

Sincerely,

T. Trieu

Ton Trieu, RPP, MCIP
 Manager of Planning Services
 Planning and Development Services

/dt

Attachments Appendix A – Section 703 of Bylaw No. 520
 Appendix B – Section 403 of Bylaw No. 520

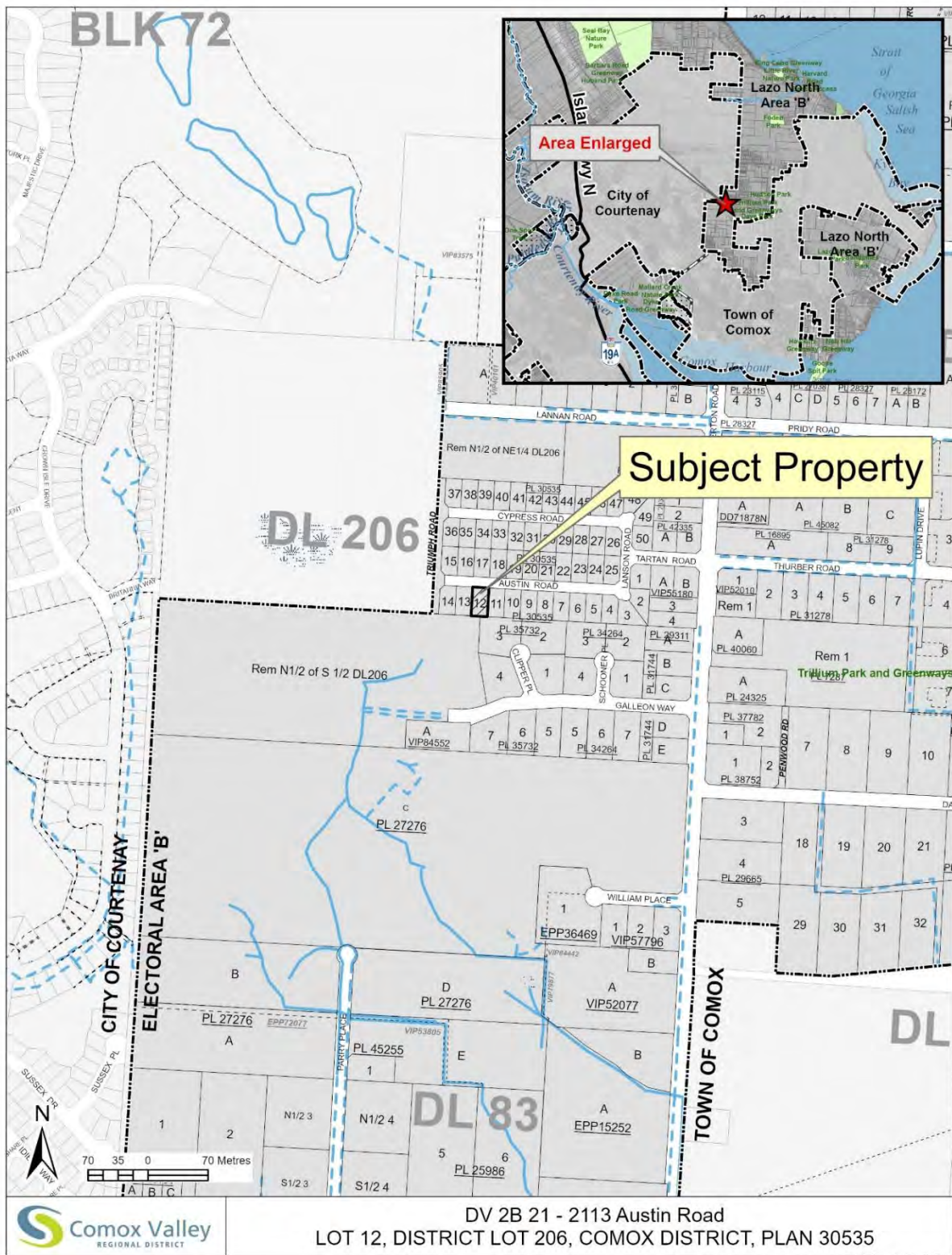


Figure 1: Subject Property Map



Figure 2: Air Photo

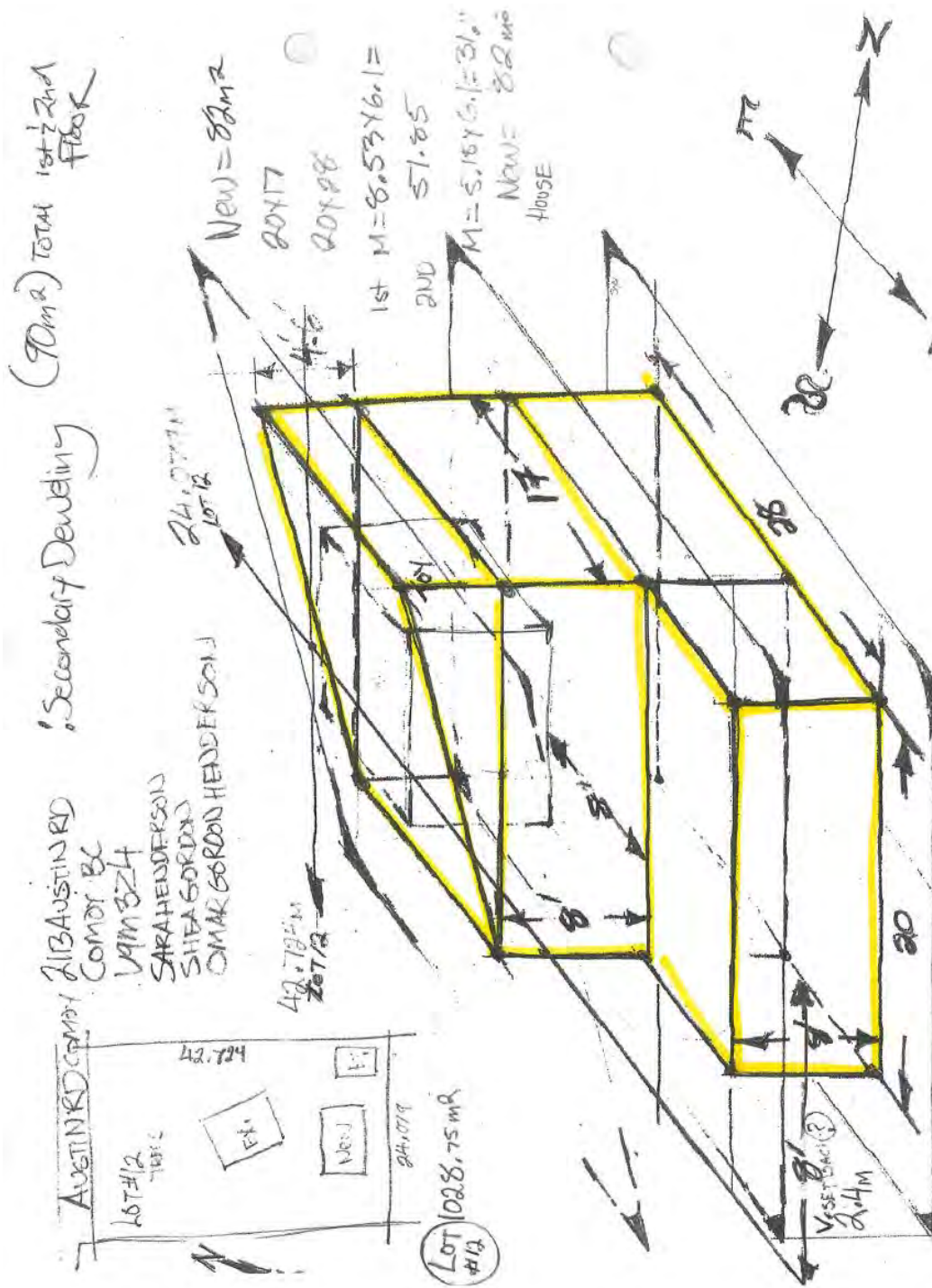


Figure 3: 3D Measurements of Carriage House

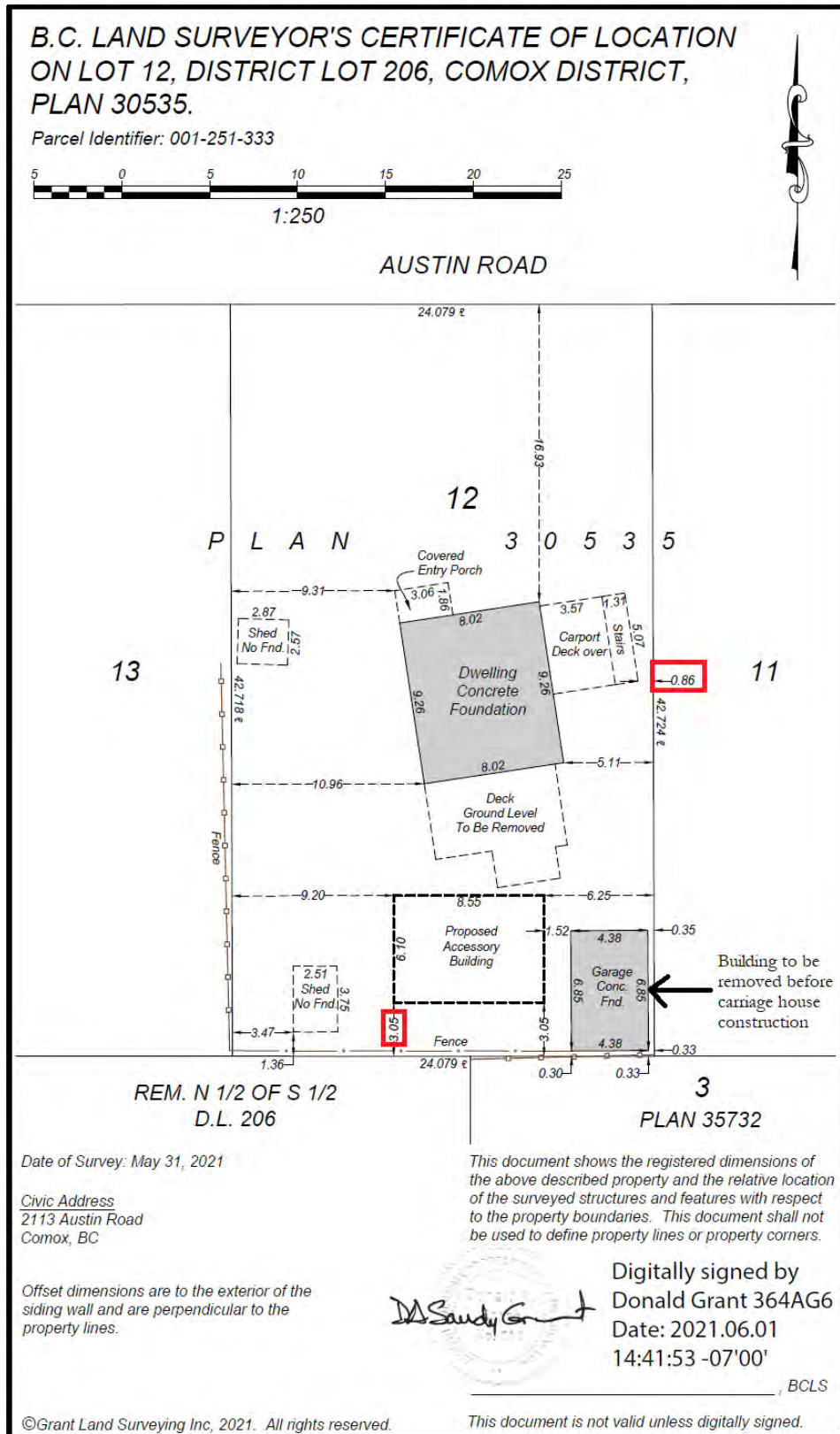


Figure 4: Site Plan

703**Country Residential One (CR-1)****1. Principal Use**

- i) **On any lot:**
 - a) Single detached dwelling
- iii) **On any lot over 4000 square metres in area:**
 - a) Agricultural use

2. Accessory Uses

- i) **On any lot:**
 - a) Carriage house
 - b) Secondary suite
 - c) Secondary dwelling
 - d) Home occupation use
 - e) Bed and Breakfast
- ii) **On any lot 2000 square metres in area or larger:**
 - a) Domestic agriculture
- iii) **On any lot 2.0 hectares in area or larger:**
 - a) Domestic industrial use
 - b) Animal kennel

3. Conditions of Use

- i) **Animal kennels shall be subject to the following conditions:**
 - a) A minimum setback for buildings and structures of 15.0 metres along all lot lines.
 - b) A minimum setback for buildings and structures of 30.0 metres from any lot line abutting a lot zoned under Part 700, Residential Zones.
 - c) All structures and area utilized in association with the animal kennel, shall be sited at least 30.0 metres from the boundary of any lake, sea, watercourse or wetlands.
 - d) No loading or storage areas shall be located in any required setback.
 - e) Screening shall be provided of not less than 1.5 metres in height for animal kennel use abutting a lot zoned under Part 700, Residential Zones.
 - f) No more than one sign, not exceeding 1.0 square metre in area on each side may be placed on the lot on which the animal kennel use is carried out.

4. Density

- i) **Residential density is limited to two dwelling units:**
- a) **On any lot:** one single detached dwelling and one carriage house, secondary suite, or secondary dwelling limited in area to 90 square metres are permitted.
- b) **On a lot 1.0 hectare or larger:** two single detached dwellings.

5. Siting and Height of Buildings and Structures

The maximum height of single detached dwellings is 10.0 metres and the maximum height of accessory buildings is 7.0 metres.

- i) The minimum setbacks required for buildings and structures shall be as set out in the table below.

Type of Use	Height of Structure	Required Setback				
		Front Yard	Rear Yard	Side Yard		Side Yard Abutting Road
				Front Lot Line <31m	Front Lot Line >31m	
Principal	10.0m	7.5m	7.5m	1.75m	3.5m	4.5m
Accessory	4.5m or less	7.5m	1.0m	1.0m	1.0m	4.5m
Accessory	7.0m - 4.6m	7.5m	7.5m	1.75m	3.5m	4.5m

6. Lot Coverage

- i) The lot coverage of all buildings and structures shall not exceed 35 per cent.

7. Floor Area Requirements

- i) The combined floor area of all accessory buildings excluding the floor area of any secondary residential use shall not exceed 200.0 square metres.

8. Subdivision Requirements

- i) The minimum permitted lot area for lands shown in the zoning bylaw layer at <http://imap2.comoxvalleyrd.ca/imapviewer/> is 4.0 hectares.

ii) Lot Area for All Other Lands:

The minimum lot area for subdivision is 2.0 hectares.

For property legally described as Lot 1 and 2, Section 6, Plan EPP56666, a subdivision with lots smaller than 2.0 hectares may be created provided that the average lot area within the subdivision is a minimum of 2.0 hectares.

End • CR-1

Part 400**Siting Specifications****401 Sight Triangles**

1. No person, being the owner, occupier or lessee of any land at the intersection of two highways shall place or permit to be placed or grow any tree, shrub, plant, fence or other structure with any horizontal dimension exceeding 0.6 metres within the sight triangle above an elevation such that an eye 0.9 metres above the surface of one highway cannot see an object 0.9 metres above the surface of the other highway.
2. All buildings and structures shall be setback a minimum of 4.5 metres from the sight triangle.

402 Road Setbacks**1. Island Highway No. 19A**

- i) No part of any building or structure shall be located within 22.5 metres of the centre line of the Island Highway except that in Electoral Area A on the ocean side of the Island Highway a minimum setback of 19.5 metres from the centre line of the highway is required.
- ii) An additional 7.5 metres setback for frontage road purposes will be required where specified by the Ministry of Transportation and Infrastructure. Unless otherwise required by this Ministry, the road right-of-way for this highway is 30.0 metres.

2. Local Roads

- i) No part of any building or structure shall be located within 4.5 metres of a property line that abuts a highway.

3. Exceptions

- i) Where the siting requirements of any zone specify a larger setback than is provided for in this section, the most restrictive applies.

403 Siting Exemptions

The setback requirements of this Bylaw shall not apply with respect to the following features only:

1. Bay windows, eaves and gutters, cornices, rainwater leaders, ornamental features including pilasters, service station canopies, sills, stairs, sunlight control projections including sunshades, and other similar features not incorporating floor area, provided that such projections does not exceed 0.6 metres measured horizontally into the setback area or 0.76 metres in the case of eaves and gutters. Where eaves and gutters and sunlight controls project beyond the face of a building, the minimum distance to an abutting front, rear and side lot line required elsewhere in this bylaw may be reduced by not more than 50 per cent of such distance up to a maximum of 2.0 metres, provided that such reduction shall apply only to the projecting feature.
2. Open terraces, decks or patios without a roof structure, not exceeding 0.6 metres above the finished grade.

3. Free standing light poles, warning devices, antennas, utility poles, wires required for a public utility use, flagpoles, shoreline protection devices and retaining walls less than 2.0 metres in height.
4. Uncovered swimming pools provided that the pool is at a least 3.0 metres to any lot lines unless the pool is constructed with its surface at finished grade, in which case, the swimming pool shall be at least 1.5 metres from any lot line.