

DATE: January 22, 2019**FILE:** 3090-20 / DV 1B 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer***R. Dyson*****RE: Development Variance Permit
1327 Clipper Place (Cornish)
Lazo North (Electoral Area B)
Lot 4, District Lot 206, Comox District, Plan 35732, PID 000-216-151****Purpose**

To consider a Development Variance Permit (DVP) to reduce the minimum front yard setback (Galleon Road) for a covered deck (Appendix A).

Recommendations from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 1B 19 (Cornish) to:

1. Reduce the minimum front yard setback for a proposed deck from 7.5 metres to 4.1 metres; and
2. Reduce the minimum front yard setback for the eaves of the proposed deck from 5.5 metres to 3.6 metres;
for property described as Lot 4, District Lot 206, Comox District, Plan 35732, PID 000-216-151 (1327 Clipper Place);

AND FINALLY THAT the Corporate Legislative Officer be authorized to execute the permit upon receipt of a setback permit from the Ministry of Transportation and Infrastructure.

Executive Summary

- The subject property is 0.3 hectares in size and located in the Settlement Expansion Area between the City of Courtenay and Town of Comox.
- An application has been made for a DVP to reduce the minimum front yard setback (Galleon Way) from 7.5 metres to 4.1 metres for a covered deck and to reduce the minimum front yard setback for the eaves from 5.5 metres to 3.6 metres. The deck will be located at the front of the dwelling.
- According to the owner, the front of the house is exposed to the elements and a covered deck would provide additional weather protection and improve aesthetics (Appendix B).
- A minimum front yard setback of 4.1 metres (3.6 metres including the eaves) is appropriate on this property as Galleon Road is a quiet, dead end road. The septic is located at the front of the lot, which limits the above ground use of this area, allowing for sufficient separation between the private use of the property and public use of the road right of way.

Prepared by:

Concurrence:

Concurrence:

B. Labute***T. Trieu******S. Smith***Brienne Labute
PlannerTon Trieu, MCIP, RPP
Manager of Planning ServicesScott Smith, MCIP, RPP
General Manager of Planning
and Development Services
Branch**Stakeholder Distribution (Upon Agenda Publication)**

Applicants	✓
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Background/Current Situation

An application has been received to consider a DVP to reduce the minimum front yard setback for a proposed deck at the front of an existing dwelling. The subject property is 0.3 hectares in size and surrounded by residential properties (Figures 1 and 2). The property contains a single detached dwelling that is setback 6.59 metres from the front line as approved by a variance in 1992. A BC Land Surveyor (BCLS) confirmed the proposed deck would be a minimum of 4.1 metres to the front lot line (Galleon Way). The overhang on the deck will be a maximum of 0.5 metres, therefore, the setback to the eaves will be 3.6 metres (Figures 3 and 4). The applicants' rationale for the proposed variance is provided in Appendix B. The applicants have made an application to the Ministry of Transportation and Infrastructure (MoTI) to reduce the minimum road setback of 4.5 metres. Should the board approve the variance, the DVP would not be executed until the applicants provide a copy of a setback permit from MoTI.

Planning AnalysisOfficial Community Plan Analysis

The subject property is designated Settlement Expansion Area (SEA) in the Official Community Plan (OCP), being the "Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014". Development in SEAs must generally maintain a rural character with on-site servicing and low densities. The proposed deck does not conflict with the policies in the OCP.

Zoning Bylaw Analysis

The property is zoned Country Residential One (CR-1) in Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005" (Appendix C). The CR-1 permits a single detached dwelling and covered deck. The variance request is detailed below:

Zoning Bylaw No. 2781	Zoning Bylaw Regulations	Required	Proposed	Difference
Section 402 (2) and 707 (4)	Minimum Front yard/ Road setback	7.5 metres	4.1 metres	3.4 metres
Section 403 (2)	Minimum Front Yard Setback of Eaves	5.5 metres	3.6 metres	1.9 metres

A minimum front yard setback of 4.1 metres (3.6 metres including the eaves) is appropriate on this property as it is a quiet, dead end road. The septic is located at the front of the lot, which limits the above ground use of this area, allowing for sufficient separation between the private use of the property and public use of the road right of way.

Policy Analysis

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider issuance of a DVP that varies the provision of a bylaw, provided that the use or density of the land is not being varied, the land is not designated floodplain, or the development is not part of a phased development agreement.

Options

The board could either approve or deny the requested variance. Based on the analysis above, staff recommend the variance be approved.

Financial Factors

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

Legal Factors

The report and recommendations contained herein are in compliance with the LGA and the Comox Valley Regional District (CVRD) bylaws. DVP’s are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The subject property is designated SEA in the Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The proposed variance does not conflict with growth policies established in the RGS.

Intergovernmental Factors

As the property is within the SEA, a referral was sent to the City of Courtenay and the Town of Comox. The City of Courtenay has no concerns. At the time of writing this report, no response had been received from the Town of Comox. Should any concerns arise, they will be presented at the Electoral Areas Services Committee (EASC) meeting.

Interdepartmental Involvement

This DVP application was circulated to relevant departments within the CVRD for comment. No concerns were identified.

Citizen/Public Relations

Notice of the requested variance will be mailed to adjacent property owners within 100 metres of the subject property at least 10 days prior to the EASC meeting. The notice informs these property owners/tenants as to the purpose of the permit, the land that is the subject of the permit and that further information of the proposed permit is available at the CVRD office. It also provides the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners/tenants is through their written comments received prior to the EASC meeting or their attendance at the EASC meeting.

Attachments: Appendix A – “Development Variance Permit – DV 1B 19”
Appendix B – “Letter from the applicants, dated January 3, 2019”
Appendix C – “Copy of CR-1 zone, Bylaw 2781”

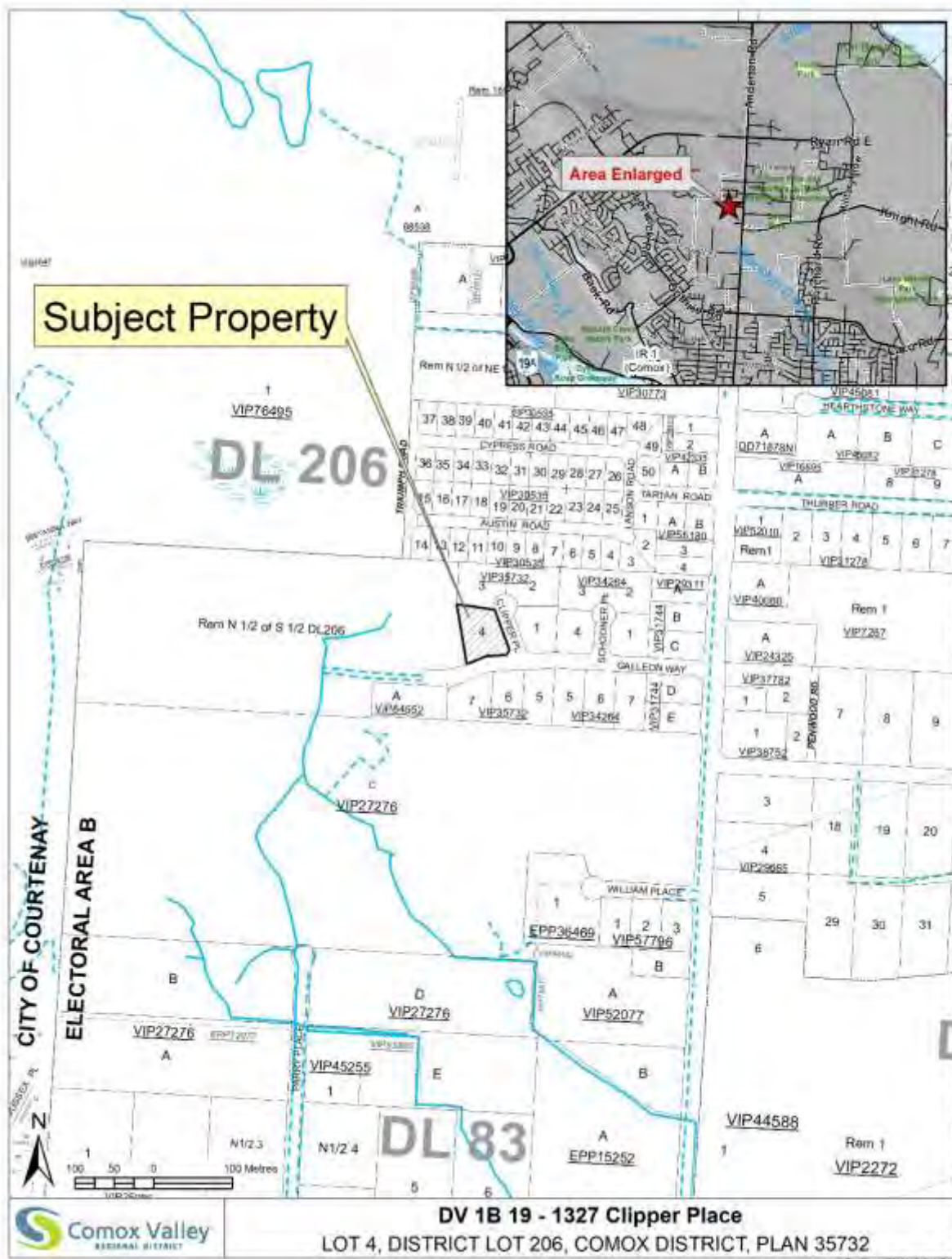


Figure 1: Subject Property Map



Figure 2: Aerial Photo



Figure 3: Site Plan

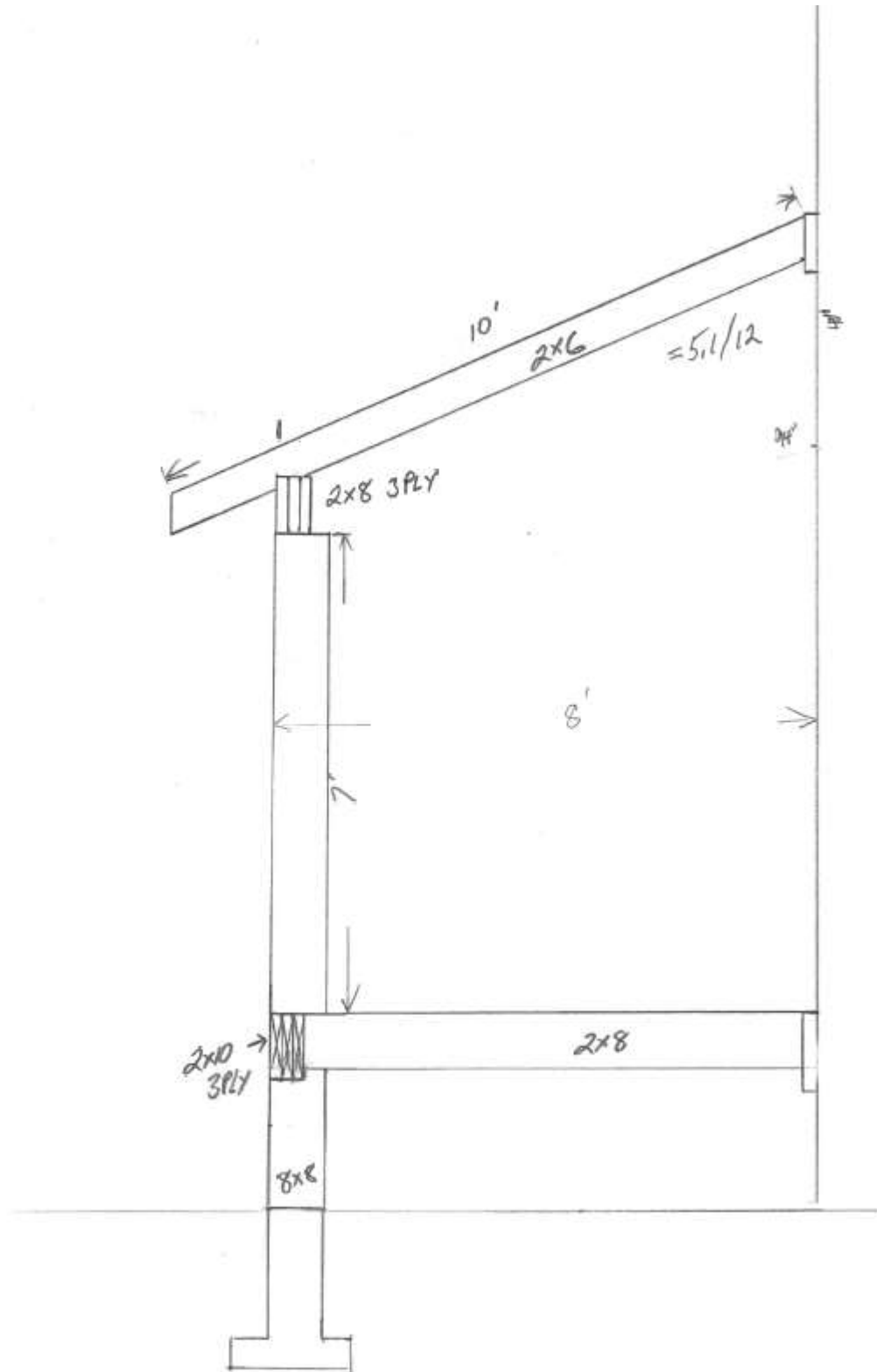


Figure 4: Proposed Covered Deck

DV 1B 19**TO: Kenneth and Debra Cornish**

1. This Development Variance Permit (DV 1B 19) 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.
2. This Development Variance Permit applies to and only to those lands within the Comox Valley Regional District described below:
Legal Description: Lot 4, District Lot 206, Comox District, Plan 35732
Parcel Identifier (PID): 000-216-151 Folio: 771 03326.250
Civic Address: 1327 Clipper Place
3. The land described herein shall be developed strictly in accordance with the following terms and provisions of this permit:
 - i. THAT the development shall be carried out according to the plans and specifications attached hereto which form a part of this permit as the attached Schedules A and B;
 - ii. THAT the owners are required to obtain a setback permit from the Ministry of Transportation and Infrastructure to reduce the minimum road setback for the covered deck shown on Schedule B;
 - iii. THAT all other buildings and structures must meet zoning requirements.
4. This Development Variance Permit is issued following the receipt of an appropriate site declaration from the property owner.
5. This Development Variance Permit (DV 1B 19) 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 Variance Permit (see below). Lapsed permits cannot be renewed; therefore application for a new development permit must be made, and permit granted by the Comox Valley Regional District Board, in order to proceed.
6. This Development Variance Permit is **not** a Building Permit.

CERTIFIED as the **DEVELOPMENT VARIANCE PERMIT** issued by resolution of the board of the Comox Valley Regional District on _____.

James Warren
Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Site Plan”

Schedule A

File: DV 1B 19

Applicants: Kenneth and Debra Cornish

Legal Description: Lot 4, District Lot 206, Comox District, Plan 35732, PID 000-216-151

Specifications:

THAT WHEREAS pursuant to Section 402 (2) and 707 (4) of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," the minimum front yard setback is 7.5 metres;

WHEREAS Section 403(2) of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," the setback of the eaves of a structure can be reduced by not more than 50 per cent of the minimum setback, up to a maximum of 2 metres;

AND WHEREAS the applicants, Kenneth and Debra Cornish, wish to reduce the minimum front yard setback for a covered deck as shown on Schedule B;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on _____, the provisions of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," as they apply to the above-noted property are to be varied as follows:

- | | |
|---------------------|-----------------------------------------------------------------------------------------------------|
| 402 (2) and 707 (4) | The minimum front yard setback for the covered deck is 4.1 metres as shown on Schedule B. |
| 403 (2) | The minimum front yard setback of the eaves of the proposed deck shown on Schedule B is 3.6 metres. |

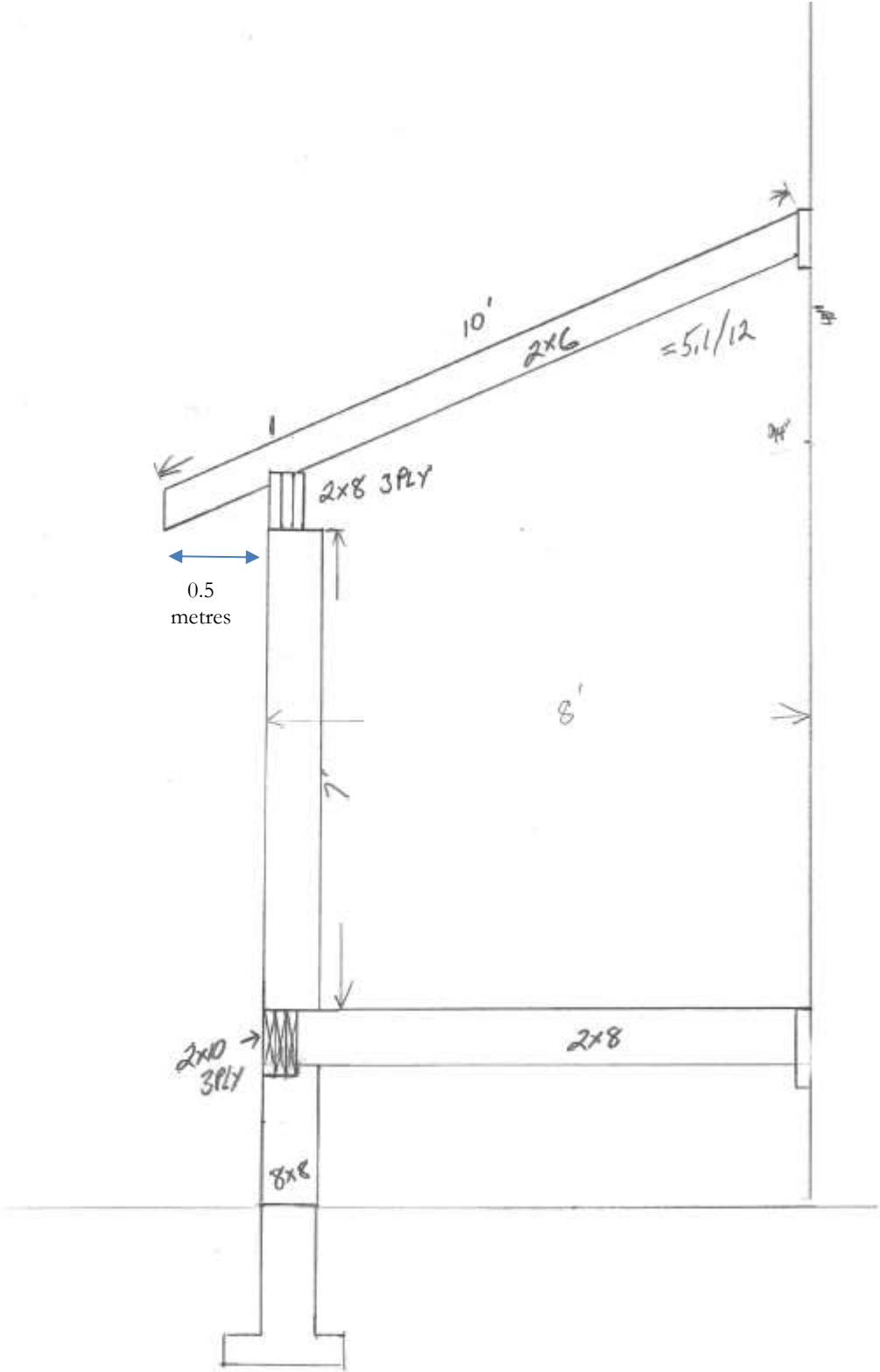
I HEREBY CERTIFY this copy to be a true and correct copy of Schedule A being the terms and conditions of Development Variance Permit File DV 1B 19.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B
Site Plan and Sketch of Proposed Deck





January 03, 2019-01-03

To whom it may concern,

We purchased our house at 1327 Clipper Place, Comox, B.C. at the end of March 2017. Our realtor recommended a contractor to help us with some water damage under the vinyl siding at the front of the house. We waited all summer for him and mid winter he eventually told us that he was too busy and that we should find someone else. In the spring of 2018 we contacted the district to see if we required a building permit to take off the vinyl siding and repair water damage. We were told no if we did not penetrate the vapor barrier.

We removed the siding and damaged tar paper. The damaged OSB board was replaced. We found that the water damage was mostly caused by an improperly installed roof above the front door and the damage extended around the front door and extended behind the cement front stairs. As the stairs were not built to code, and we couldn't gain access to the damaged side of the house behind them, we had to remove them and the improperly installed roof. The old stairs also directed the user to the front of the house towards the septic field. After the repairs were made to the woodwork, we recovered the front of the house with Tyvek and are now waiting for the vinyl siding to be installed.

When enquiring to replace the roof and stairs, we found that we should have requested a demolition permit.

We have been advised to go in front of the Board of Variance for Undue Hardship, minor in nature. Our house is very exposed to the hard rain, to add additional weather protection and to improve aesthetics, we are requesting to install a wrap around roof and deck. The new stairs installed at the end of the deck will now direct the user towards the existing sidewalk.

We have had the property re-surveyed on the recommendation of the district showing the proposed new deck.

This new porch will add much needed weather protection to our home, improve aesthetics to our home and improve the value of the neighborhood. We have received very good feedback from our neighbors when discussing our plans.

Please see plans, drawings and surveyors documents attached.

Sincerely,

Ken and Debra Cornish
1327 Clipper Place,
Comox, B.C.
250-941-7885

707**Country Residential One (CR-1)****1. PRINCIPAL USE**

- i) **On any lot:**
 - a) Residential use.
- ii) **On any lot over 4000 metres² (1.0 acre):**
 - a) Agricultural use.

2. ACCESSORY USES

- i) **On any lot:**
 - a) Home occupation use;
 - b) Accessory buildings; and
 - c) Bed and Breakfast
- ii) **On any lot 2.0 hectares (4.9 acres) or larger:**
 - a) Animal kennels.

3. DENSITY**Residential use is limited to:**

- i) **On any lot:** One single detached dwelling and secondary suite, or one single detached dwelling and one carriage house, or one single detached dwelling and one secondary dwelling limited in area to 90 metres² (968.8 feet²).
- ii) **On any lot 1.0 hectare (2.5 acres) and over:** Two single detached dwellings.

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4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Country Residential One zone shall be as set out in the table below.

Type of Structure	Height	Required Setback			
		Front yard	Rear yard	Side yard	
				Frontage <31m	Frontage >31m
Principal	10.0m (32.8ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Note: Part 400, Siting Exceptions, of this bylaw and Bylaw No. 1836 being the “Floodplain Management Bylaw, 1997” may affect the siting of structures adjacent to major roads and the natural boundaries of watercourses and the sea, respectively.]

5. LOT COVERAGE

- i) The maximum lot coverage of all buildings and structures shall not exceed 35% of the total lot area.

6. FLOOR AREA REQUIREMENTS

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 200.0 metres² (2152.9 feet²).

7. SUBDIVISION REQUIREMENTS

- i) Despite any other provision of this bylaw, the minimum permitted lot area within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010” is 4.0 hectares.

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- ii) Despite any other provision of this bylaw, for the purpose of subdivision, the following sections of this bylaw do not apply to lots within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010”:

- a) Section 503 Subdivision Standards 1. AREA AND FRONTAGE REQUIREMENTS i);
- b) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS i) a); and
- c) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS iii).

- iii) **Lot Area**

The minimum lot area permitted shall be 2.0 hectares (4.9 acres)

Despite (iii), a subdivision with lots smaller than identified above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot area permitted.

End • CR-1