

DATE: January 24, 2018

FILE: 3090-20 / DV 5C 17

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit – 2485 England Road (Landry)
Puntledge – Black Creek (Electoral Area C)
Lot 2, District Lot 135, Comox District, Plan 24918, PID 002-836-203**

Purpose

To consider a Development Variance Permit (DVP) to allow an existing building to be considered a carriage house so the applicants can build a principal dwelling on the property. Specifically, to allow a carriage house to have access via an internal staircase, internal access to the accessory use below and a ground level floor area greater than the second storey (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 5C 17 (Landry) to allow an existing building to be considered a carriage house by allowing access via an internal staircase, internal access to the accessory use below and a ground level floor area greater than the second storey for a property described as Lot 2, District Lot 135, Comox District, Plan 24918, PID 002-836-203 (2485 England Road);

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

Executive Summary

- The applicants would like to vary the zoning bylaw to allow an existing building to be considered a carriage house enabling them to build a principal dwelling. Specifically, they are requesting that a carriage house can have access via an internal staircase, internal access to the accessory use below and a ground level floor area greater than the second storey.
- As part of the ongoing zoning bylaw review, staff are reviewing options to enable more flexibility in carriage house design.
- Allowing internal access for a carriage house can reduce hazardous conditions, create additional privacy from neighbours and provide an alternative aesthetic option. Allowing internal access to the accessory use below does not infer that residential uses are permitted on the main floor. The zoning bylaw clearly states that the residential component of the carriage house is limited to the second storey. The ground level (82 m²) is greater than the second storey (77m²) due to a small attached woodshed. As each level is under 90 m² there are no concerns. For these reasons, staff supports the issuance of the DVP.

Prepared by:

B. Labute

Brianne Labute
Planner

Concurrence:

A. Mullaly

Alana Mullaly, M.Pl., RPP, MCIP
Manager of Planning Services

Concurrence:

A. MacDonald

Ann MacDonald, RPP, MCIP
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 for a 0.9 hectare property in the Puntledge – Black Creek area (Electoral Area C) (Figure 1 and 2). The property contains a two storey building (built in 1980) with a garage below and dwelling unit above (Figure 3). The applicants would like to build a principal dwelling, however, the existing building does not meet the zoning bylaw, Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, provisions for a carriage house. In particular, the applicants require a variance to allow the carriage house to have access via an internal staircase, internal access to the accessory use below and a ground level floor area greater than the second storey.

Official Community Plan Analysis

The subject property is designated Settlement Expansion Area in the Official Community Plan (OCP), being the “Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014”. The proposed variance to allow the existing building to be considered a carriage house does not conflict with residential policies established in the OCP.

Zoning Bylaw Analysis

The property is zoned Country Residential One (CR-1) in Bylaw No. 2781 (Appendix B). The CR-1 zone permits a principal dwelling and a carriage house. The application seeks relief from the following zoning bylaw requirements for a carriage house:

Section 313 (6)

- iii) *“The second storey floor area occupied by the residential use must have no interior access to any part of the accessory use below.*
- iv) *The means of access and egress to the second storey residential use must be external to the structure and must not be enclosed by walls.*
- vi) *The floor area of the ground level of the structure must not exceed the floor area of the second storey”*

As part of the ongoing zoning bylaw review, staff are reviewing options to enable more flexibility in carriage house design. The rationale for supporting internal access for a carriage house can reduce hazardous conditions (e.g. ice on an outdoor staircase), create additional privacy from neighbours and provide an alternative aesthetic option.

Staff have no concerns with allowing internal access to the accessory use below. Allowing internal access does not infer that the main floor of a carriage house can be used for residential use. The zoning bylaw clearly states that the residential use is limited to the second storey. As part of the zoning bylaw review, staff will be recommending that the size of the landing area of the internal staircase is limited to 2.8m². The applicants’ landing area is 7.7m². The applicants are requesting the building be considered a carriage house in its current state. Since this bylaw provision is not in effect and changing the location of the staircase would be a major task, the size of the current landing is acceptable.

The total floor area occupied by the residential use must not exceed 90 m² and the floor area of the ground level of the structure must not exceed the floor area of the second storey. The second storey is 77.3 m² and the ground level is 82 m² due to a small attached woodshed. Staff do not see an issue with the ground level being larger than the second storey as each floor is under 90 m².

For these reasons, staff supports the issuance of the DVP.

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 recommends approval.

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 Settlement Expansion Area in the Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The proposed variance to allow an existing building to be considered a carriage house does not conflict with the growth management policies in the RGS.

Intergovernmental Factors

There are no intergovernmental factors.

Interdepartmental Involvement

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

Citizen/Public Relations

The Advisory Planning Commission will review this application at their meeting scheduled for January 24, 2017. The minutes from the meeting will be forwarded to the Electoral Areas Services Committee (EASC).

Notice of the requested variance will be mailed to adjacent property owners within 100.0 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 5C 17”
Appendix B – “Copy of CR-1 Zone”

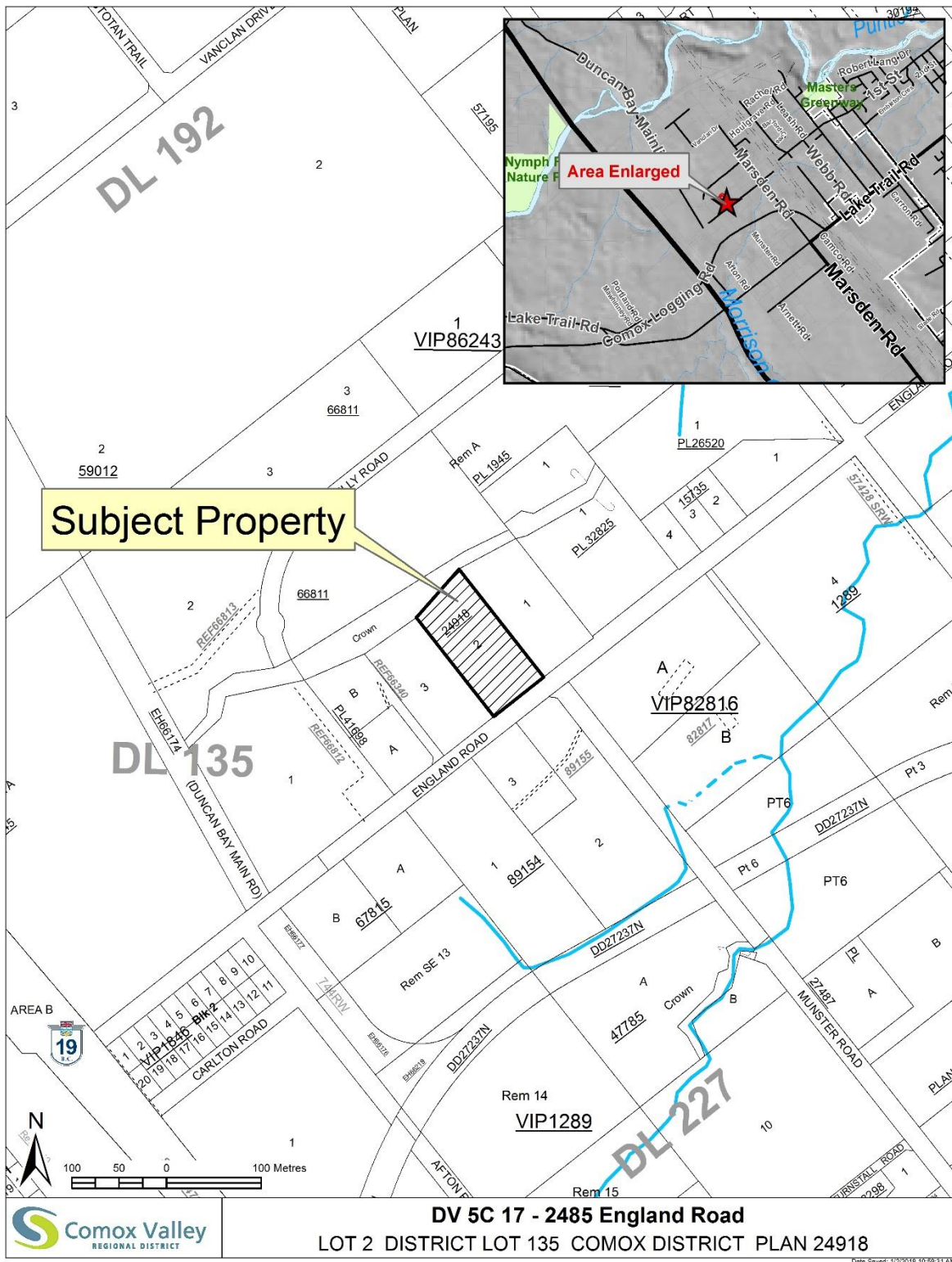


Figure 1: Subject Property Map

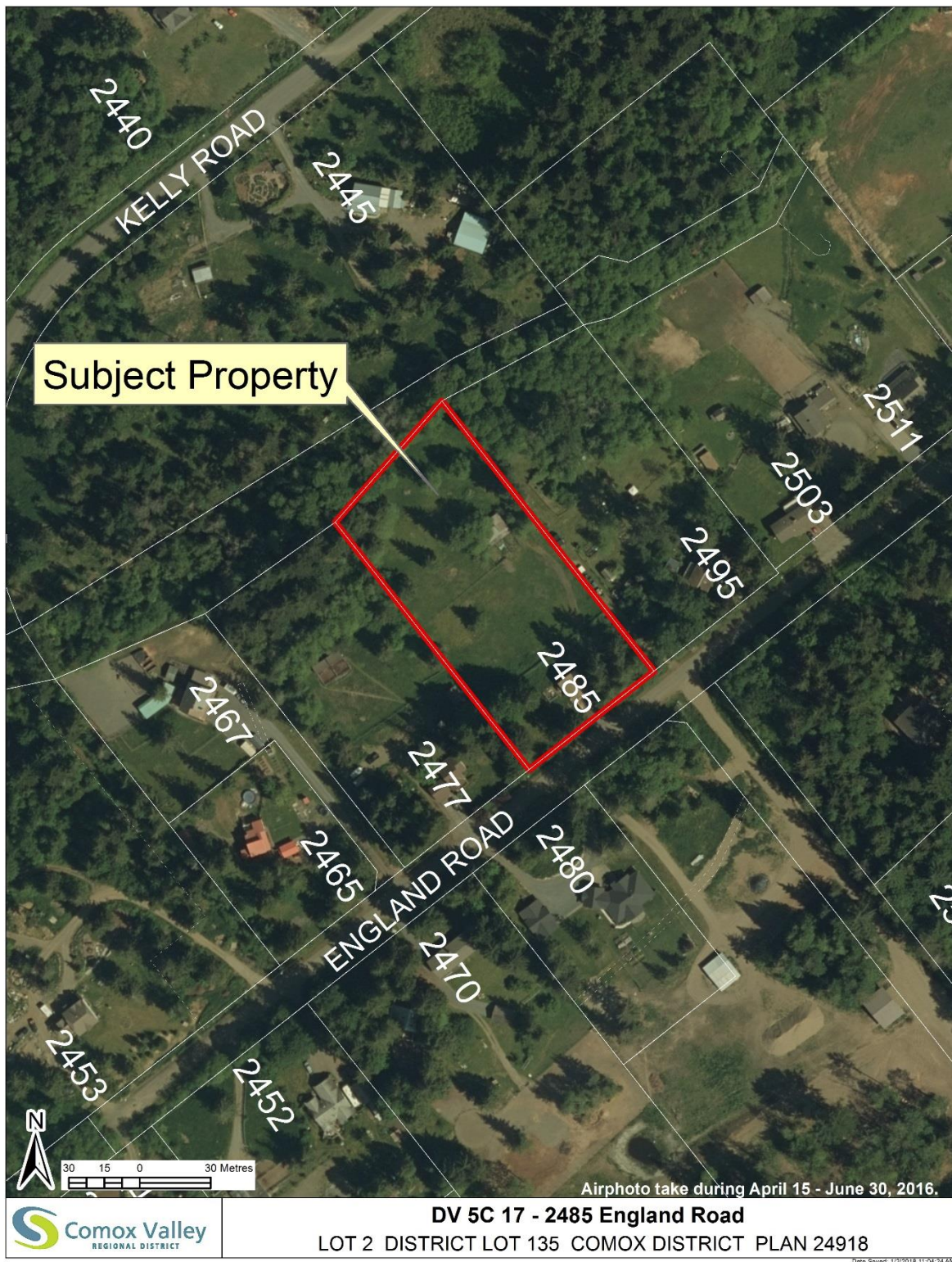


Figure 2: Aerial Photo

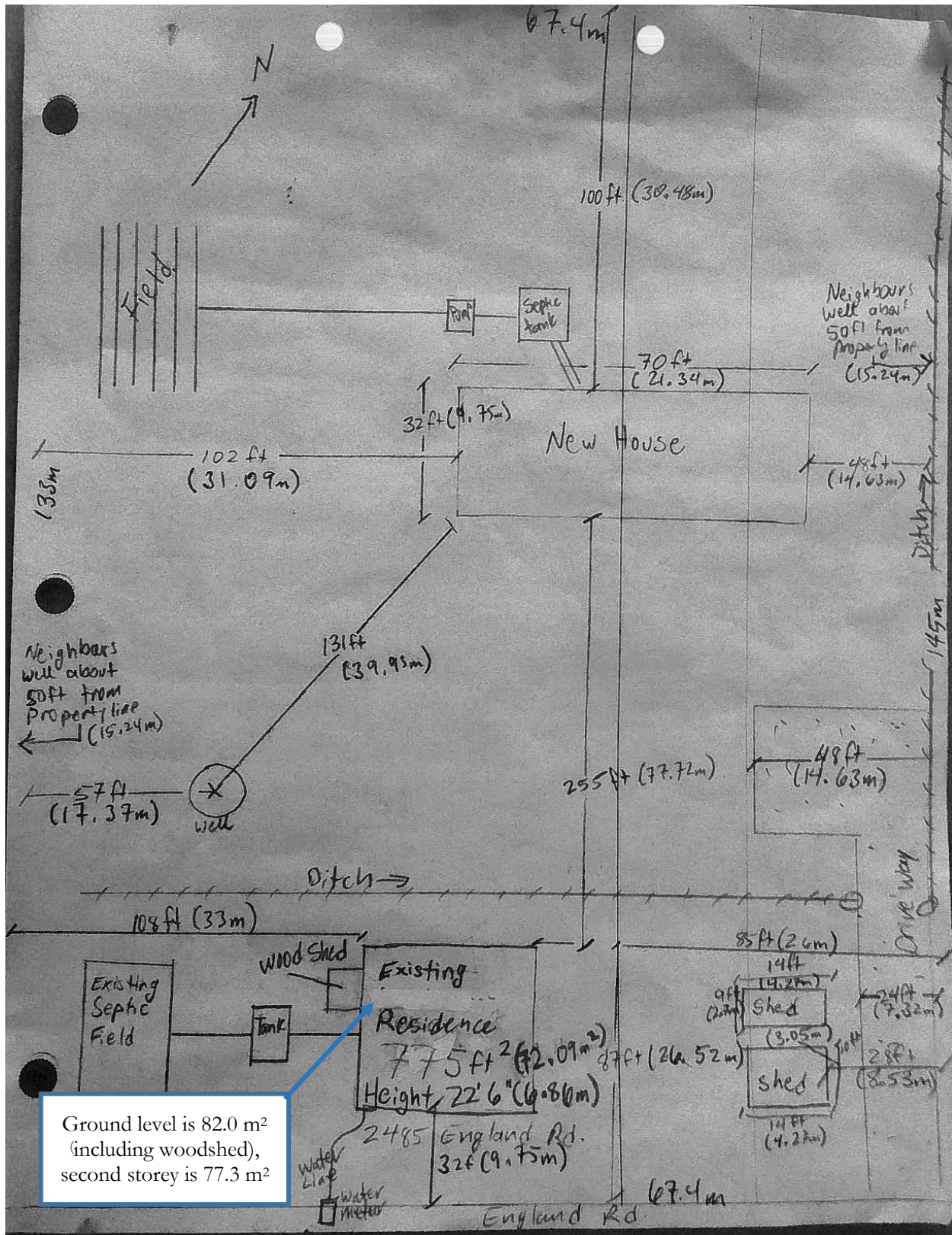


Figure 3: Site Plan, as Submitted by Applicants

DV 5C 17

TO: Jordan and Carla Landry

1. This Development Variance Permit (DV 5C 17) 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 2, District Lot 135, Comox District, Plan 24918
Parcel Identifier (PID): 002-836-203 Folio: 771 02224.015
Civic Address: 2485 England Road
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 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 5C 17) 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 of 2485 Seaview Road”

Schedule A

File: DV 5C 17

Applicants: Jordan and Carla Landry

Legal Description: Lot 2, District Lot 135, Comox District, Plan 24918, pid 002-836-203

Specifications:

THAT WHEREAS pursuant to Section 313 (6) iii. of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the second storey floor area occupied by the residential use must have no interior access to any part of the accessory use below;

AND WHEREAS pursuant to Section 313 (6) iv. of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the means of access and egress to the second storey residential use must be external to the structure and must not be enclosed by walls;

AND WHEREAS pursuant to Section 313 (6) vi. of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the floor area of the ground level of the structure must not exceed the floor area of the second storey;

AND WHEREAS the applicants, Jordan and Carla Landry, wish to allow the carriage house to have access by means of an internal staircase, internal access to the accessory use below and a ground level with a greater floor area than the second storey;

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:

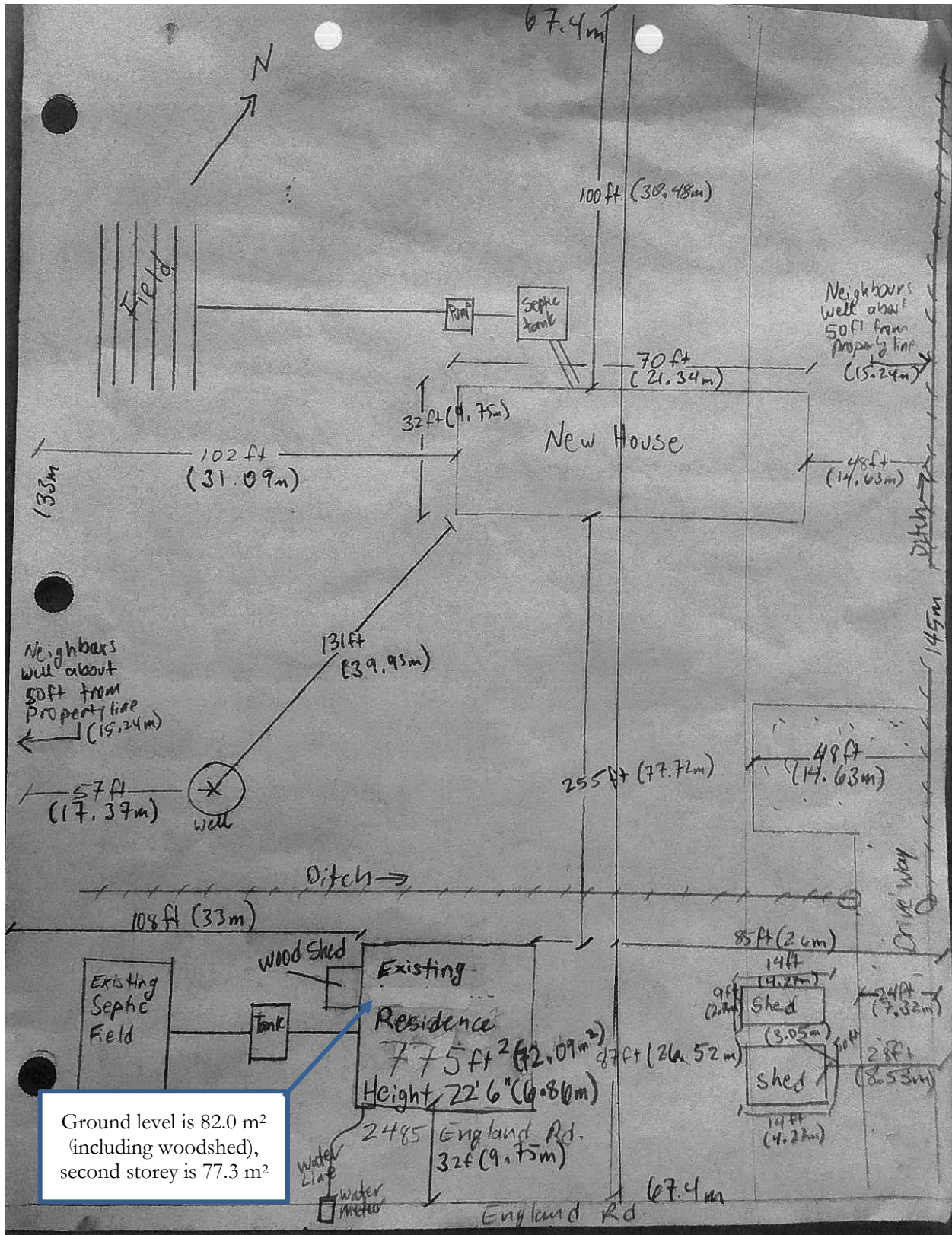
- 313(6) iii. The second storey floor area occupied by the residential use may have interior access to any part of the accessory use below.
- 313 (6) iv. The means of access and egress to the second storey residential use may be internal to the structure.
- 313 (6) vi. The floor area of the ground level of the structure may be greater than the floor area of the second storey to a maximum of 82 m².

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 5C 17.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B Site Plan



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.

#112

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. #200

- 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