

DATE: December 18, 2018

FILE: 3090-20 / DV 8C 18

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
7762 Island Highway North (MacMillan/Klupsas)
Puntledge – Black Creek (Electoral Area C)
Lot A, Sections 29 and 30, Township 6 and of Block 29, Comox District,
Plan 9627, PID 005-367-280**

Purpose

To consider a Development Variance Permit (DVP) to increase the maximum height for an accessory building from 6.0 metres to 7.8 metres (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 8C 18 (MacMillan/Klupsas) to increase the maximum permitted height for an accessory building from 6.0 metres to 7.8 metres for property described as Lot A, Sections 29 and 30, Township 6 and of Block 29, Comox District, Plan 9627, PID 005-367-280 (7762 Island Highway North);

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

Executive Summary

- The subject property is 2.0 hectares in size and surrounded by rural/agricultural properties. The property contains two dwellings and an accessory building. The applicants are proposing to construct an additional accessory building 196 square metres in size.
- The applicants would like to increase the maximum height of the proposed accessory building from 6.0 metres to 7.8 metres for the purpose of storing and assembling building materials (Appendix B). Domestic industrial use is permitted in the Rural Eight (RU-8) zone (up to 200 square metres of enclosed space) provided the applicants obtain approval from the Comox Valley Regional District (CVRD) prior to using the proposed accessory building for this purpose.
- Due to the size of the property and the proposed siting of the accessory building being more than 30 metres from any lot line, the increased height of the accessory building is expected to have a negligible impact on adjacent property owners. In the ongoing zoning bylaw review, staff are reviewing options to increase the maximum height of an accessory building to 8.0 metres in certain zones including the RU-8 zone. For these reasons, staff supports the issuance of the DVP.

Prepared by:

Concurrence:

Concurrence:

B. Labute

T. Trieu

S. Smith

Brianne Labute
Planner

Ton Trieu, MCIP, RPP
Manager of Planning Services

Scott 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 for a DVP to increase the height of an accessory building from 6.0 metres to 7.8 metres. The subject property is 2.0 hectares in size and surrounded by an agricultural property to the north east and rural residential properties in all other directions (Figures 1 and 2). The property contains two dwellings and an accessory building. The applicants are proposing to construct an additional accessory building 196 square metres in size (Figure 3).

Planning Analysis

Official Community Plan Analysis

The subject property is designated Rural Settlement Area (RSA) in the Official Community Plan, being the “Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014”. The RSA designation seeks to maintain the rural character by minimizing the impact of new development on the existing neighbourhood.

Zoning Bylaw Analysis

The property is zoned RU-8 in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005” (Appendix C). The RU-8 zone allows a maximum combined gross floor area of 300 square metres for all accessory buildings, which the proposal meets. Section 309 (3) states the maximum height of an accessory building is 6.0 metres. The applicants are requesting an increased height of 7.8 metres to have sufficient space to store and assemble building materials for their proposed business (Appendix B). Domestic industrial use is permitted in this zone subject to the provisions of Section 307 of Bylaw No. 2781. The applicants are required to obtain approval from the CVRD prior to using the proposed accessory building for this purpose. The requested variance is detailed in Table 1 below.

Table 1: Variance Summary

Zoning Bylaw	Variance	Existing	Proposed	Difference
Section 309 (3) and 801 (6)	Accessory building height	6.0 metres	7.8 metres	1.8 metres

Due to the size of the property and the proposed siting of the accessory building being more than 30 metres from any lot line, the increased height of the accessory building is expected to have a negligible impact on adjacent property owners. In the ongoing zoning bylaw review, staff are reviewing options to increase the maximum height of an accessory building to 8.0 metres in certain zones including the RU-8 zone. Based on the above, planning staff support 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 approving the variance.

Financial Factors

Applicable fees have been collected for this application under Bylaw No. 328 being 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 CVRD bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The subject property is designated RSA in the Regional Growth Strategy, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The RSA designation permits residential uses that support a rural lifestyle.

Intergovernmental Factors

There are no intergovernmental factors.

Interdepartmental Involvement

This DVP application was circulated to relevant departments within the CVRD for comment. At the time of writing this report, 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 Electoral Areas Services Committee (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 8C 18”
Appendix B – “Applicant Rationale, received December 11, 2018”
Appendix C – “Copy of RU-8 Zone”

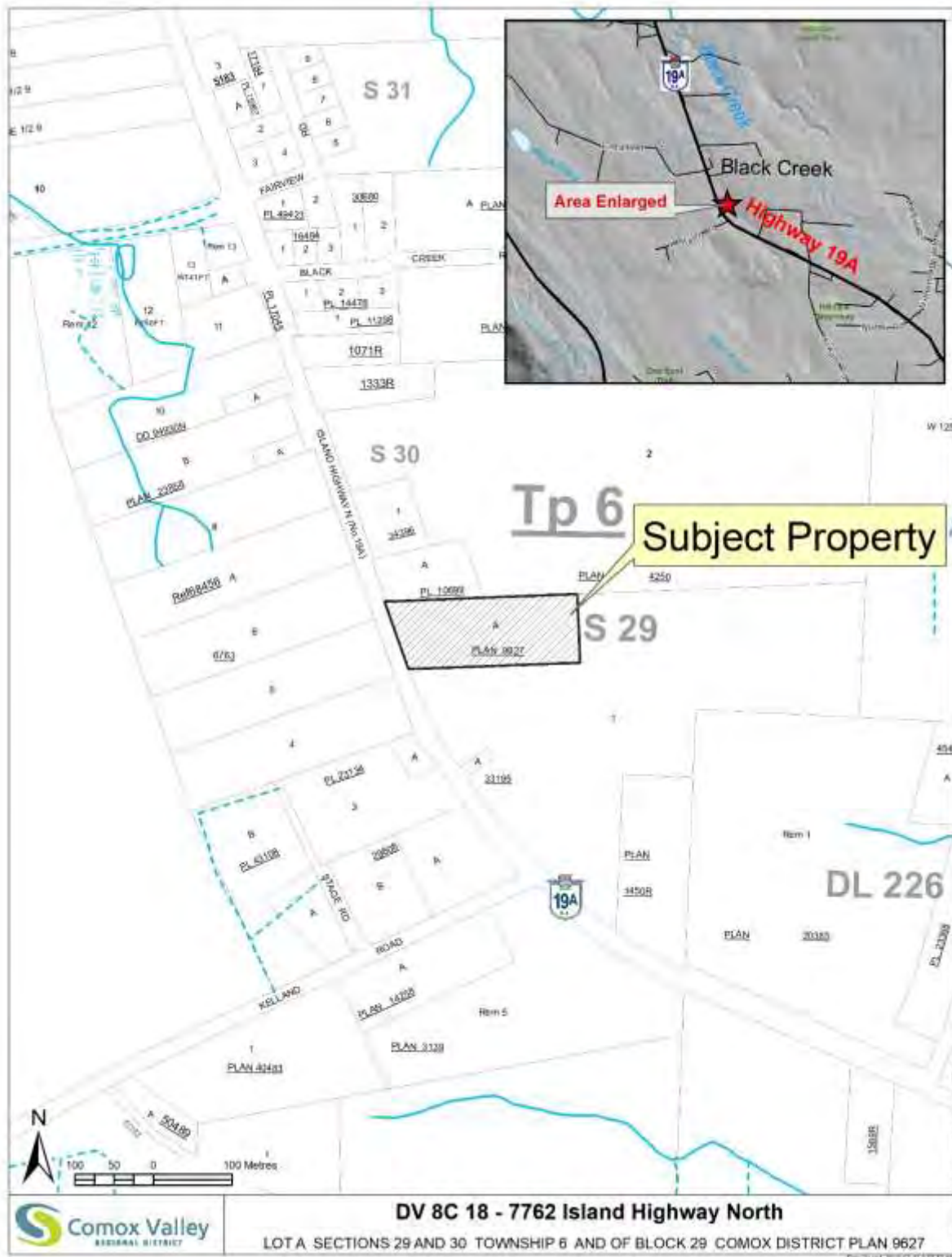
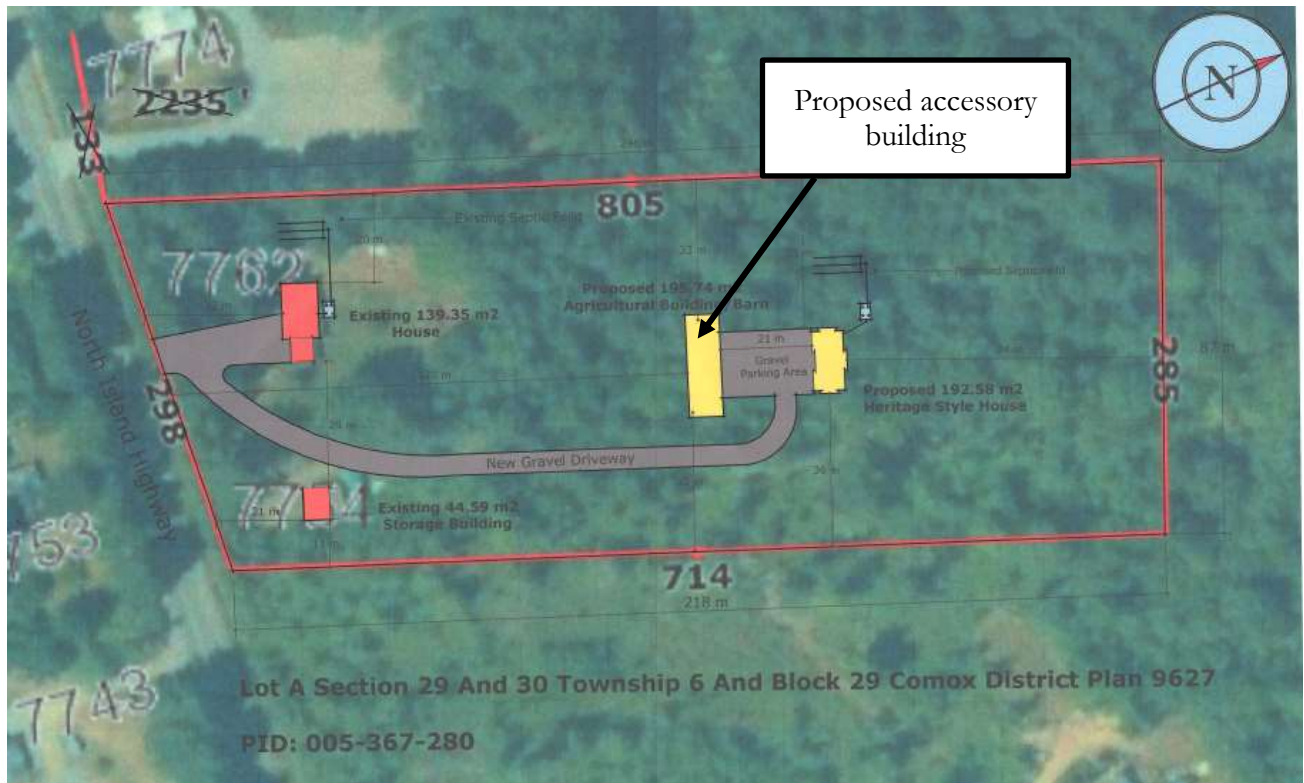


Figure 1: Subject Property Map



Figure 2: Aerial Photo



3D House & Shop Design

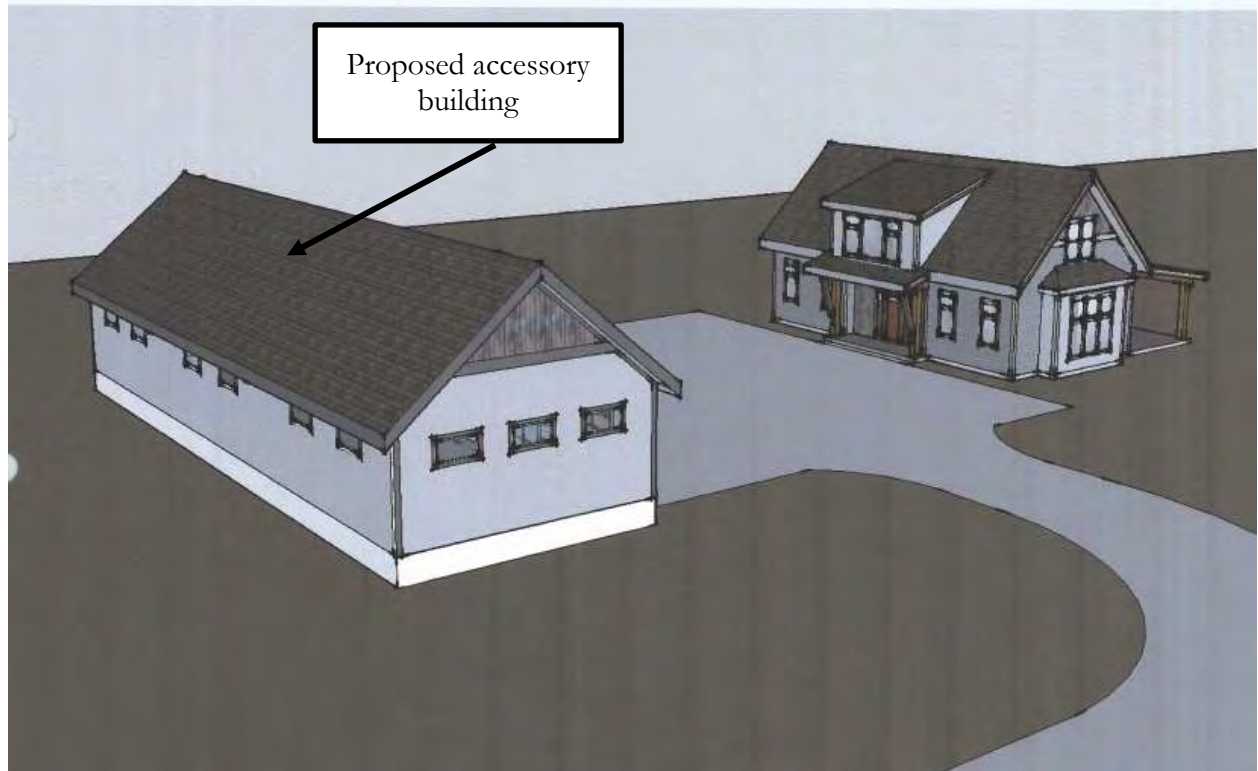


Figure 3: Site Plan and Building Drawing

DV 8C 18**TO: Conor MacMillan and Kristine Klupsas**

1. This Development Variance Permit (DV 8C 18) 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 A, Sections 29 and 30, Township 6 and of Block 29, Comox District, Plan 9627
Parcel Identifier (PID): 005-367-280 **Folio:** 771 04345.000
Civic Address: 7762 Island Highway North
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 8C 18) 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 8C 18

Applicants: Conor MacMillan and Kristine Klupsas
Legal Description: Lot A, Sections 29 and 30, Township 6 and of Block 29, Comox District, Plan 9627, PID 005-367-280

Specifications:

THAT WHEREAS pursuant to Section 309 (3) and 801(6) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the maximum height of all accessory buildings is 6.0 metres;

AND WHEREAS the applicants, Conor MacMillan and Kristine Klupsas, wish to increase the maximum height for the accessory building shown on Schedule B to 7.8 metres;

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:

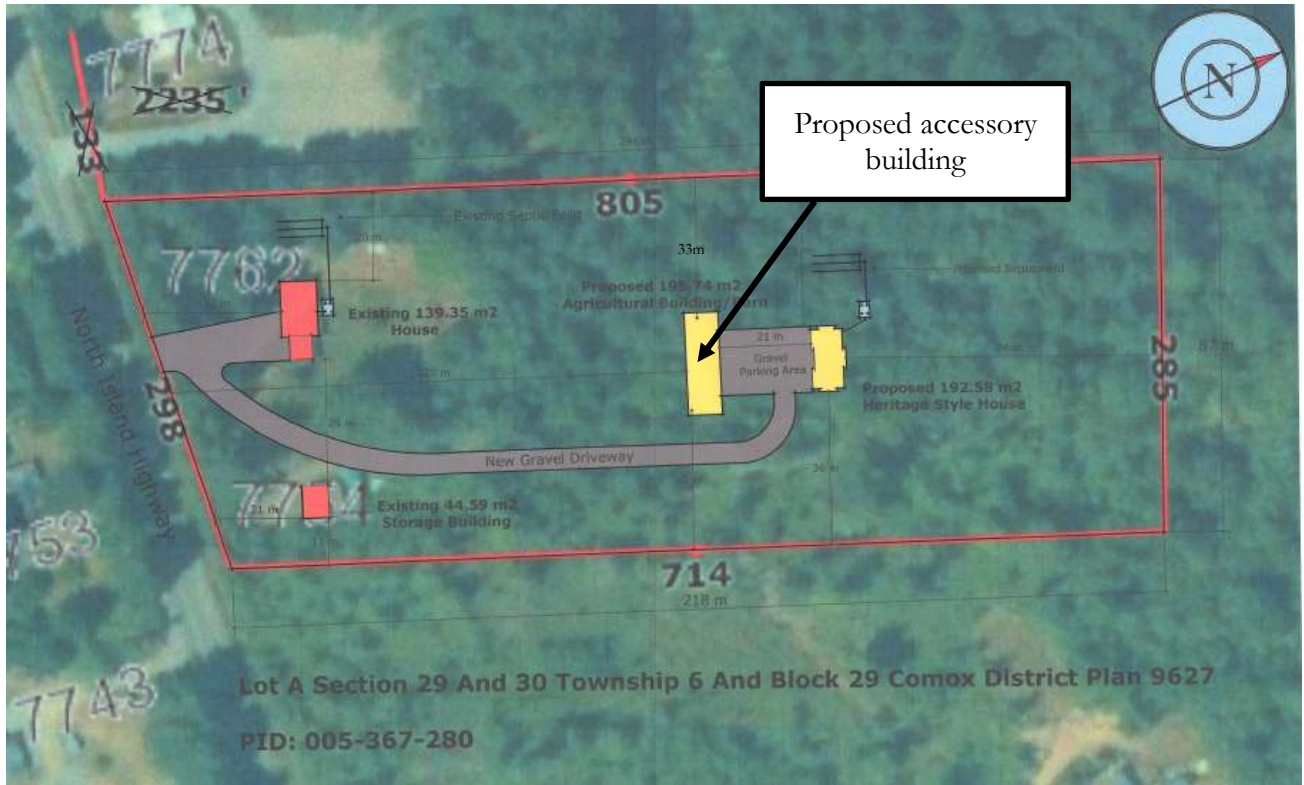
309 (3) and 801 (6) The maximum height of the proposed accessory building shown on Schedule B is 7.8 metres.

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 8C 18.

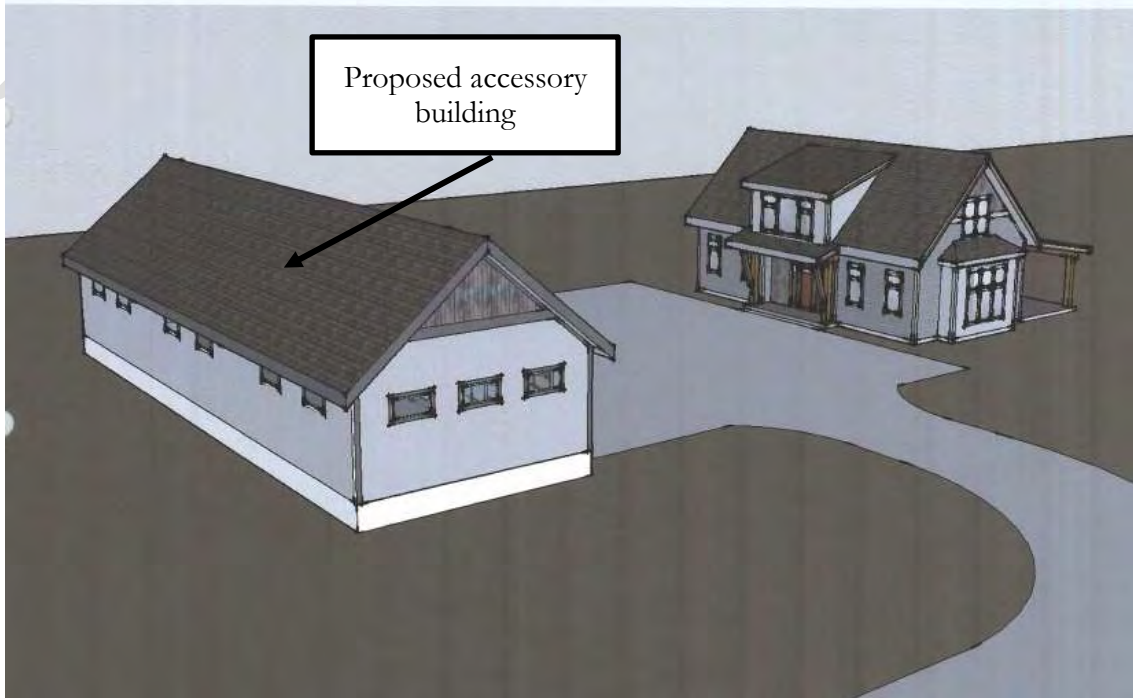
James Warren
Corporate Legislative Officer

Certified on _____

Schedule B Site Plan



3D House & Shop Design



Comox Valley Regional District
RECEIVED

File:

DEC 11 2018



I am writing this letter to explain my request for a height variance on my shop/ accessory building on my property in Black Creek. It is currently zoned RU-8 and the maximum height for accessory buildings is currently 6 meters.

About the project:

The centre of the building will be a heated wood workshop with the two outer work bays being used for dry wood storage. The additional space requested will greatly increase the amount of dry storage for lumber which is immensely helpful.

I am looking for a height increase of 1.77 meters for a total height of 7.77 meters. The shop currently has approved engineering and permits (Permit #10496, 7762 Island Hwy Black Creek) in place as of June 30 2017. The shop foundation was poured at the same time as the house foundation (August 18th 2017) and final inspection of the main house is scheduled to take place in late December of 2018. The shop is currently sitting ready for framing to begin upon final decision on variance request.

Reason for Height increase:

- My business plan is to start stock piling and pre-fabricating house components through the winters getting them ready for new house projects in the spring and summer months. Many of these items are quite large (timber frame sections, Large piles of painted wood siding and trims, and full exterior wall sections) and in order to stock pile and have them ready I need the extra storage space.
- The most economical way to increase overall storage is to build up, keeping my existing footprint, while increasing storage capabilities.



Homeowner
Protection Office
Branch of BC Housing

Comox Valley Regional District

RECEIVED

File:

DEC 11 2018

MHH MacMillan
Heritage
Homes

Why this should be approved:

- There is no negative impact to neighbours or the public
 - The plot plan provided and attached to this application demonstrates the distance of the proposed project from both surrounding neighbours as well as the highway and traffic that passes by.
 - Shop/accessory building is isolated on the center of a 4.95 acre treed property.
 - The plot plan shows the shop being 120 meters from the highway, the shop is also 31 meters from the side yard property lines and neighbours views will not be obstructed or affected at all by the additional height increase requested.
- Value added to property
 - I have also attached a couple of 3D drawings to demonstrate how the increased height of the shop will help match the existing house next to it. The steep roof pitch design is an important piece to making the shop suit and fit in with the existing house, the height increase will make this a reality.

Thank you for taking the time to review my application.

TRAVELERS J 



Homeowner
Protection Office
Branch of BC Housing

PART 800
RURAL / RESOURCE ZONES
801
Rural Eight (RU-8)
1. PRINCIPAL USE
i) On any lot:

- a) Residential use;
- b) Agricultural use;
- c) Garden nurseries;
- d) Riding academies;
- e) Silviculture;
- f) Aquaculture;
- g) Animal hospital;
- h) Fish hatchery (including community based).

ii) On any lot 2.0 hectares (4.9 acres) or larger:

- a) Animal kennels.

iii) On any lot 8.0 hectares (19.8 acres) or larger:

- a) Wood processing or permanent sawmills occupying an area of not more than 1000.0 metres² (0.3 acres) including vehicle parking, and log sort and lumber storage areas; and
- b) Crushing and screening of sand and gravel.

iv) On any lot 20 hectares (49.5 acres) or larger:

- a) Horse-related event where paid admission to view the event is required including rodeos, equestrian shows, dances, concerts, and a licensed facility pursuant to the *Liquor Control and Licensing Act* during the time of the horse-related event and subject to:
 - 1) the event being sponsored by the registered property owner or registered organization, association, club, or group registered under the *Society Act*;
 - 2) the event being no longer than three days in duration;
 - 3) notifying the Regional District in writing prior to the holding of a licensed event pursuant to the *Liquor Control and Licensing Act* for the first two events in a calendar year under this section;
 - 4) obtaining written approval of the Regional District at least 30 days prior to the holding of a licensed event pursuant to the *Liquor Control and Licensing Act* for each event after the two events have been held in a calendar year under Subsection 3.

2. ACCESSORY USES

On any lot:

- i) Home occupations;
- ii) Bed and breakfast;
- iii) Accessory buildings;
- iv) Domestic business use;
- v) Domestic industrial use;
- vi) Pet crematorium.

3. CONDITIONS OF USE

- i) **All gravel and sand processing operations or animal kennels shall be subject to the following conditions:**
 - a) Maintain a minimum yard setback of 15.0 metres (49.2 feet) along all property lines.
 - b) Uses abutting riparian areas shall be setback a minimum of 30.0 metres (98.4 feet) from the top of bank.
 - c) No parking, loading or storage areas shall be located in any required yard setbacks.
 - d) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation.
 - e) The maximum lot coverage for the above uses shall not exceed 25%.
- ii) **All sawmill uses or portable sawmill uses shall be subject to the following conditions:**
 - a) Minimum yard clearance along all property lines of 30.0 metres (98.4 feet).
 - b) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation of not less than 2.0 metres (6.6 feet) in height.
 - c) Uses abutting an area zoned under Part 700 Residential Zones shall be screened and buffered from adjacent properties through the use of fencing, berming and evergreen vegetation being not less than 1.5 metres (4.9 feet) in height. All screening shall be well maintained and painted as required.
- iii) **All buildings and structures related to gravel, or sand crushing and screening operations shall be subject to the following conditions:**
 - a) Minimum yard clearance along all property lines of 30.0 metres (98.4 feet).
 - b) Minimum yard clearance of 60.0 metres (196.9 feet) from any lot where gravel, sand or soil extraction occurs within or abutting an area zoned under Part 700 Residential Zones.
 - c) No parking, loading or storage areas shall be located in any required yards.
 - d) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation of not less than 2.0 metres (6.6 feet) in height.

e) Uses abutting an area zoned under Part 700 Residential Zones shall be screened and buffered from adjacent properties through the use of fencing, berming and evergreen vegetation being not less than 2.0 metres (6.6 feet) in height. All screening shall be well maintained and painted as required.

f) Uses abutting riparian or environmentally sensitive areas (ESA’s) shall be setback a minimum of 30.0 metres (98.4 feet).

iv) Residential use is limited to:

a) 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 90.0 metres² (968.8 feet²).

b) On any lot 1.0 hectare (2.5 acres) and over: Two single detached dwellings.

5. FLOOR AREA REQUIREMENTS

i) The maximum combined gross floor area of all accessory buildings shall not exceed 300.0 square metres (3229.3 square feet).

6. SITING OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Rural Eight zone shall be as set out in the table below.

Type of Structure	Heights	Required Setback				
		Front yard	Rear yard	Side yard		Side yard abutting road
				Frontage <31m	Frontage >31m	
Principal	10.0m (32.8ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.7ft)	3.5m (11.5ft)	7.5m (24.6ft)
Accessory	4.5m or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)	7.5m (24.6ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.7ft)	3.5m (11.5ft)	7.5m (24.6ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [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.]

7. LOT COVERAGE

i) The maximum lot coverage of all buildings and structures shall not exceed 15%.

8. SUBDIVISION REQUIREMENTS

i) Minimum lot area: 8.0 hectares (19.8 acres)

Existing lots below the minimum lot area within this zone may be used for the permitted uses within this zone, subject to compliance with the other requirements of this zone.

End – RU-8