

DATE: December 20, 2018

FILE: 3090-20/DV 7C 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 - 6864 Railway Avenue (Dick/Macleod)
Puntledge – Black Creek (Electoral Area C)
6864 Railway Ave
Block O, District Lot 166, Comox District, Plan 1845, PID 003-417-841**

Purpose

To consider a Development Variance Permit (DVP) that would allow for a carriage house to be constructed higher than the maximum permitted height for carriage houses (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve Development Variance Permit DV 7C 18 (Dick/Macleod) to increase the maximum permitted height of a carriage house building from 7.0 metres to 7.5 metres for the property described as Block O, District Lot 166, Comox District, Plan 1845, PID 003-417-841 (6864 Railway Avenue);

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

Executive Summary

- The subject property is a 0.78 hectare triangle-shaped, triple-fronting lot.
- It is developed with a single detached dwelling and the applicants are in the process of building a carriage house.
- The Zoning Bylaw sets a maximum height of 7.0 metres for carriage houses.
- While the applicants were constructing a carriage house in accordance with a Building Permit which listed a 6.98 metre height, once the roof was added the surveyor calculated a 7.2 metre height.
- The difference between the anticipated and actual heights was found to be the result of adding a 0.15 metre layer of compacted granular fill under the concrete slab floor and, according to the applicants (Appendix B), a miscalculation was made regarding the average natural grade.
- To complete the carriage house as designed, a DVP addressing the height is required.
- Notification was sent to property owners within 100 metres of the subject property.
- Staff reviewed the proposed height and found that it will not impact the rural character of the neighbourhood or adversely affect the use of neighbouring properties. In the ongoing zoning review, staff are reviewing options to increase the maximum height of a carriage house to 8.0 m. Staff supports the issuance of the variance.

Prepared by:

J. MacLean

 Jodi MacLean, MCIP, RPP
 Rural Planner

Concurrence:

T. Trieu

 Ton Trieu, MCIP, RPP
 Manager of Planning Services

Concurrence:

S. Smith

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

Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

The subject property is a 0.78 hectare triangle-shaped lot with frontage along Railway Avenue and two unconstructed road rights-of-way, located in the Headquarters area (Figures 1 and 2). The property is developed with a single detached dwelling and the owners are currently building a secondary dwelling in the form of a carriage house (Figure 3).

A building permit was issued in August 2018 for the carriage house, listed as 6.98 metres in height. The applicants were notified by the Building Official that a surveyor's certificate to confirm the height would be required. This process requires a benchmark be established on-site from which height measurements may be made. If the benchmark is set early in the building process, such as at the excavation stage, adjustments can be made during construction to keep the actual height consistent with plans, like a shorter foundation wall. However, after the applicants added compacted granular fill which was not accounted for in the original height calculations, and adjustments were not made during construction, the surveyor's certificate calculated a 7.2 metre building height after the roof frame was added (Figure 4). Metal roofing material has since been added. As the regulated height limit for a carriage house is 7.0 metres, a DVP is required to finish the building as designed.

Zoning Bylaw

The property is zoned Rural Twenty (RU-20). The residential density provisions of this zone allow for a single detached dwelling and a secondary dwelling on properties under 1.0 hectares in area. The floor area of the secondary dwelling is limited to 90 square metres and when the secondary dwelling takes the form of a carriage house the maximum height is 7.0 metres. The Zoning Bylaw calculates height from the "average natural grade level" to the "highest part of the roof surface". In the ongoing zoning review, staff are reviewing options to increase the maximum height of a carriage house to 8.0 m.

The carriage house was constructed according to the building plans submitted for the Building Permit, with a 3.05 metre tall first storey on a 0.10 metre concrete slab floor, 2.46 metre tall second storey with 0.25 metres between floors, and a 1.12 metre tall roof structure, amounting to 6.98 metres total. However, in determining the "average natural grade level", the surveyor added the 0.15 metre layer of compacted granular fill that was placed under the concrete slab floor and found the height, as defined by the bylaw, to be 7.2 metres. Finishing the roof will add several inches but the agent expects it to be no higher than 7.5 metres.

Official Community Plan

The property is designated as being within a Rural Settlement Area (RSA) in the Official Community Plan. The relevant objective of this designation is to minimize the impact of new development on existing neighbourhoods and the relevant policy is to ensure new development maintains the rural character of the surrounding area. The lots in this particular neighbourhood were created as part of

the historical Headquarters Townsite which resulted in numerous road rights-of-way being dedicated but not constructed. The subject property is surrounded by such rights-of-way. Should a road be constructed behind the lot, the carriage house's 9 metre setback from both roads is sufficient that sight lines and the use of the roads would not be affected.

Since the building is already partly constructed, the increased height allowance would likely only impact the slope of the roof structure (without the applied for variance, the roof would need to be replaced) and the dwelling's windows and second floor deck would remain at their current height. The neighbouring lots, beyond the rights-of-way, are of similar sizes or larger, ~0.8 to 8 hectares, and developed with single detached dwellings. Given the distances between dwellings and the vegetation in between, the increased height is unlikely to impact the use of the neighbouring properties. The proposal does not conflict with the policies of this RSA designation.

Notice of Bylaw Contravention

In 2002 the Regional District of Comox-Strathcona placed a Notice of Contravention of Bylaw on the title of the subject property in relation to a carport that was added to the single detached dwelling without the required Building Permit. Since this contravention relates to a different building and does not contravene the zoning bylaw, the variance permit and building permit may proceed.

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. The board is recommended to approve 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 the Comox Valley Regional District (CVRD) bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The Comox Valley Regional District Regional Growth Strategy designates the subject property as within the RSA. The intent of this designation is to maintain the rural form and character. The proposed conversion to an accessory building is consistent with this land use designation.

Intergovernmental Factors

There are no intergovernmental factors.

Interdepartmental Involvement

This DVP application was referred to relevant internal departments. The building subject to this variance request is being constructed under Building Permit File 10869 and requires this variance or an amendment to the building permit to be completed. No concerns were otherwise identified.

Citizen/Public Relations

As of the preparation of this staff report, an Advisory Planning Commission has not been formed for Electoral Area C.

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 7C 18”
Appendix B – “Letter from agent, dated November 29, 2018”

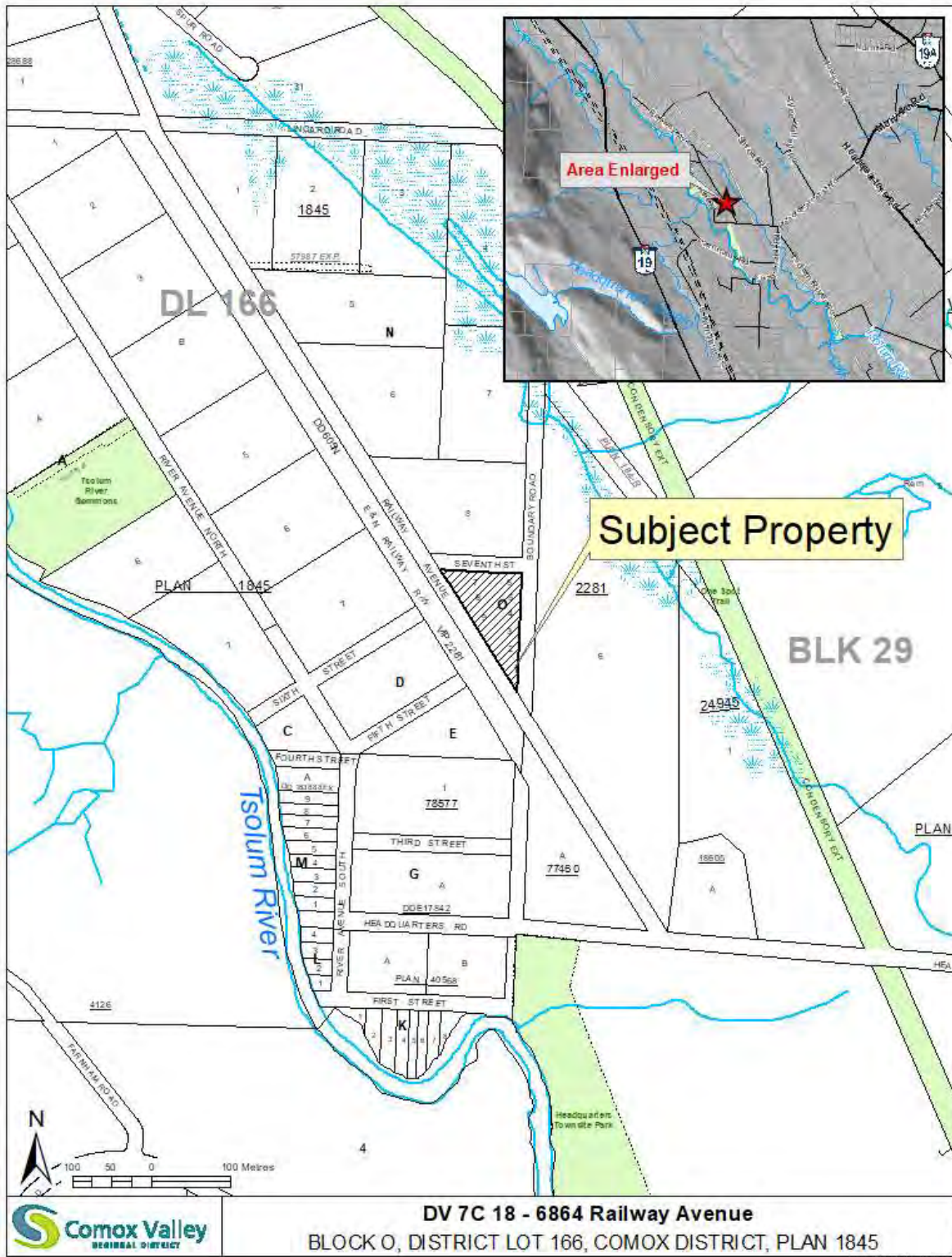


Figure 1: Subject Property



Figure 2: Air Photo (2016)



Figure 3: Photo of Unfinished Carriage House as Seen from Railway Avenue

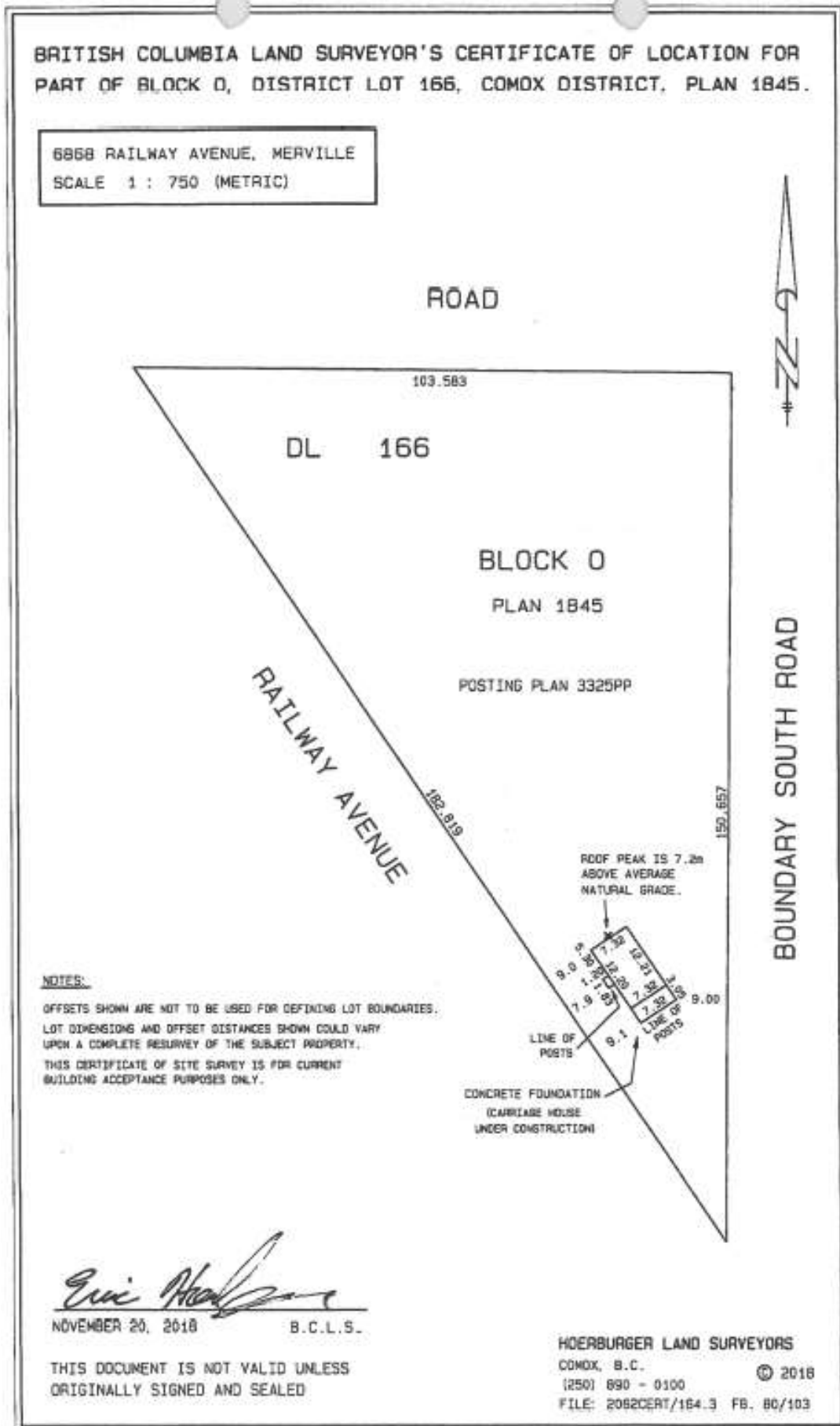


Figure 4: Surveyor's Certificate, as Submitted by Applicant

DV 7C 18**TO: Jeremy Dick & Suzi Macleod**

1. This Development Variance Permit (DV 7C 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: Block O, District Lot 166, Comox District, Plan 1845
Parcel Identifier (PID): 003-417-841 Folio: 02619.050
Civic Address: 6864 Railway Avenue
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 7C 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 7C 18

Applicant: Jeremy Dick & Suzi Macleod

Legal Description: Block O, District Lot 166, Comox District, Plan 1845, PID 003-417-841

Specifications:

THAT WHEREAS pursuant to Section 309(3) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the maximum height of all accessory buildings is 6.0 metres except for structures containing a residential use, such as carriage houses, which have a maximum permitted height of 7.0 metres;

AND WHEREAS the applicants, Jeremy Dick & Suzi Macleod, wish to increase the maximum height of a carriage house to 7.5 metres 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:

309(3) The maximum height of all accessory buildings is 6.0 metres except for structures containing a residential use, such as carriage houses, which have a maximum permitted height of 7.5 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 7C 18.

James Warren
Corporate Legislative Officer

Certified on _____



Comox Valley Regional District
Planning and Development Services Branch
ttrieu@comoxvalleyrd.ca
250-334-6021

November 29, 2018

RE: OVERHEIGHT BUILDING – 6868 RAILWAY AVENUE, COURTENAY BC

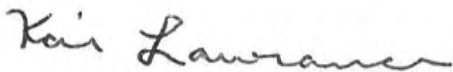
ATTN: Ton Trieu, MCIP, RPP – Manager of Planning Services

The above-mentioned building is currently over height by approximately 4" – 8". This occurred due to a miscalculation made using the natural grade measurements.

We are confident there will be no negative effects occurring because of the height of the structure, as there are no adjacent buildings in proximity. As a result, there will be no view impediments or obstruction of light to neighbours. Currently, there are several neighbouring properties that have over height buildings on them, with no negative effects. Upon building application, we were informed of an upcoming amendment to the height bylaw, raising the building height limit from 7 meters to 8 meters in height. When this change comes into effect, the structure at 6868 Railway will comply with bylaw.

Please contact me if you have any further questions or concerns regarding this matter.

Regards,



Kai Lawrance
Standingbear Construction Limited
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