

**DATE:** January 15, 2021**FILE:** 3090-20/DV 5A 20**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 - 3550 Eagleview Drive (Morgan)  
Baynes Sound – Denman/Hornby Islands (Electoral Area A)  
Lot 1, Section 28, Township 11, Nelson District, Plan VIP81228,  
PID 026-732-467****Purpose**

To consider a Development Variance Permit (DVP) (Appendix A) to enable the conversion of an existing dwelling to a carriage house by increasing the maximum permitted floor area of its entryway.

**Recommendation from the Chief Administrative Officer:**

THAT the Comox Valley Regional District Board approve the Development Variance Permit DV 5A 20 (Morgan) to enable the conversion of an existing dwelling to a carriage house by increasing the maximum floor area of its interior entryway, landing or similar space from 2.8 square metres to 5.2 square metres on property described as Lot 1, Section 28, Township 11, Nelson District, Plan VIP81228, PID 026-732-467 (3550 Eagleview Drive) with the condition that the door leading to storage, mechanical room, laundry and shared space be sealed prior to the construction of a single detached dwelling on the subject property;

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

**Executive Summary**

- An application has been received to increase the maximum floor area of the interior entryway of an existing single detached dwelling to facilitate its conversion to a carriage house.
- A carriage house permits an internal staircase for weather protection and safety, but it restricts the size of interior entryway, landing or similar space on the first floor. The existing dwelling was designed to be converted to a carriage house in the future, but the interior entry included a hallway, which exceeds the maximum permitted floor area.
- Planning staff supports the issuance of the permit as the scale of the existing dwelling is consistent with that of a carriage house; and the subject condition of sealing the door leading to a room with accessory uses maintains the intent of limiting almost all of the residential use to the second floor.

Prepared by:

**B. Chow**Brian Chow, RPP, MCIP  
Planner II

Concurrence:

**T. Trieu**Ton Trieu, RPP, MCIP  
Manager of Planning Services

Concurrence:

**S. Smith**Scott Smith, RPP, MCIP  
General Manager of Planning and  
Development Services

**Government Partners and Stakeholder Distribution (Upon Agenda Publication)**

Applicants	✓
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**Background/Current Situation**

The subject property is located at 3550 Eagleview Drive in the Baynes Sound – Denman/Hornby Islands Electoral Area (Electoral Area A) (Figures 1 and 2). The property is approximately 0.54 hectares in area and is bound by Cameron Road to the north, Eagleview Drive to the east and south, and a residential lot to the west. The subject property presently has a single detached dwelling (Figures 3 and 4). The applicants propose to convert this dwelling to a carriage house so that they can construct a single detached dwelling elsewhere on the subject property. This proposed conversion would require a DVP to increase the maximum permitted interior entryway and landing space from 2.8 square metres to 5.2 square metres (Figures 5 and 6).

In support of their application, the applicants submitted a written brief to provide background information (Appendix B). According to the applicants, when they designed this dwelling in 2017, they were aware that in the draft Zoning Bylaw at that time, a carriage house would permit an internal staircase to access the residential use on the second floor for weather protection and safety. As such, the draft bylaw would also permit a limited amount of interior entryway and landing space on the first floor. Therefore, they designed such a space that featured a hallway to reach an internal staircase; however, this design choice exceeded the maximum permitted floor area of an interior entryway and landing space under the Zoning Bylaw adopted on October 29, 2019.

Official Community Plan Analysis

Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP) designates the subject property within Settlement Expansion Areas. This DVP application does not conflict with residential policies in the OCP.

Zoning Bylaw Analysis

Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019” zones the subject property as Residential One B (R-1B). In this zone, there is a maximum permitted density of two dwellings, but the second one must be a secondary suite, secondary dwelling or carriage house. In order for the applicants to build a new single detached dwelling on the subject property, there is a need to convert the existing dwelling as either a secondary dwelling or a carriage house. Given that it was designed and built as a carriage house in mind, this proposed conversion would require compliance with carriage house regulations.

The existing dwelling does not comply with Section 315(2)(iv) of the Zoning Bylaw, which states,

“The second storey floor area occupied by the residential use may contain interior access to any part of the accessory use below. The interior entryway, landing or similar space must not exceed 2.8 square metres in area.”

The floor area of the existing interior entryway and landing space is approximately 5.2 square metres. Therefore, the DVP application proposes to increase the maximum permitted floor area of the interior entryway, landing or similar space. Table 1 summarizes the proposed variance:

**Table 1: Summary of Proposed Variance**

<b>Bylaw No. 520</b>	<b>Maximum Floor Area</b>	<b>Proposed Floor Area</b>	<b>Difference</b>
Section 315(2)(iv)	2.8 square metres	5.2 square metres	2.4 square metres

The carriage house regulations permit an internal staircase for a safe and protected access to the second floor. As such, there is a companion provision for a limited interior staircase landing and entryway on the first floor. The intent of a maximum floor area of this space is to constrict residential use on the first floor. Almost all of the residential use within a carriage house should be on the second floor. The first floor is intended for accessory uses, such as a garage.

Figure 5 shows that the hallway on the first floor has a door leading to a storage, mechanical room, laundry and shared space. In order to have a clear separation between residential and accessory uses, this door needs to be sealed. The decommissioning of this door is a subject condition of the DVP. The applicants' written brief (Appendix B) states that they would agree to seal this door prior to building the proposed single detached dwelling on the subject property.

The subject dwelling meets all other carriage house regulations. For example, the maximum total floor area of residential use is 90 square metres, and the total floor area of residential use is approximately 84 square metres. The maximum building height is 8 metres, and the building height is approximately 7.1 metres.

Planning staff recommends the issuance of this variance application as the scale of the existing dwelling is consistent with that of a carriage house. The only noncompliant matter with this building is the excessive interior floor area of the entryway, and the variance would not result in any exterior changes. If approved, the outcome would yield a new single detached dwelling and a carriage house, which is in keeping with the residential character of the neighbourhood. Finally, by including a subject condition to seal the door leading to a room with accessory uses, this variance would not defeat the intent to direct almost all of the residential use on the second floor.

### **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 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, 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**

Bylaw No. 120, being the "Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010" (RGS) designates the subject property within Settlement Expansion Areas. The proposed conversion of an existing dwelling to a carriage house does not conflict with residential policies in the RGS.

**Intergovernmental Factors**

There are no intergovernmental factors associated with this DVP application.

**Interdepartmental Involvement**

A referral was circulated to internal departments for review and comment. None of the departments had any concerns or comments.

**Citizen/Public Relations**

The Advisory Planning Commission A reviewed this application on January 5, 2021. The commission supported the application because the proposal does not change the size of the building, and is still in keeping with the maximum 90 square metres of residential floor area for a carriage house. The approval of this variance would not require the applicants to have unnecessary interior building renovation to comply with the bylaw regulation.

Notice of the requested variance was mailed to adjacent property owners within 100 metres of the subject properties 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 lands that are 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.

Attachments: Appendix A – “Development Variance permit – DV 5A 20”  
Appendix B – “Applicants’ Written Brief”

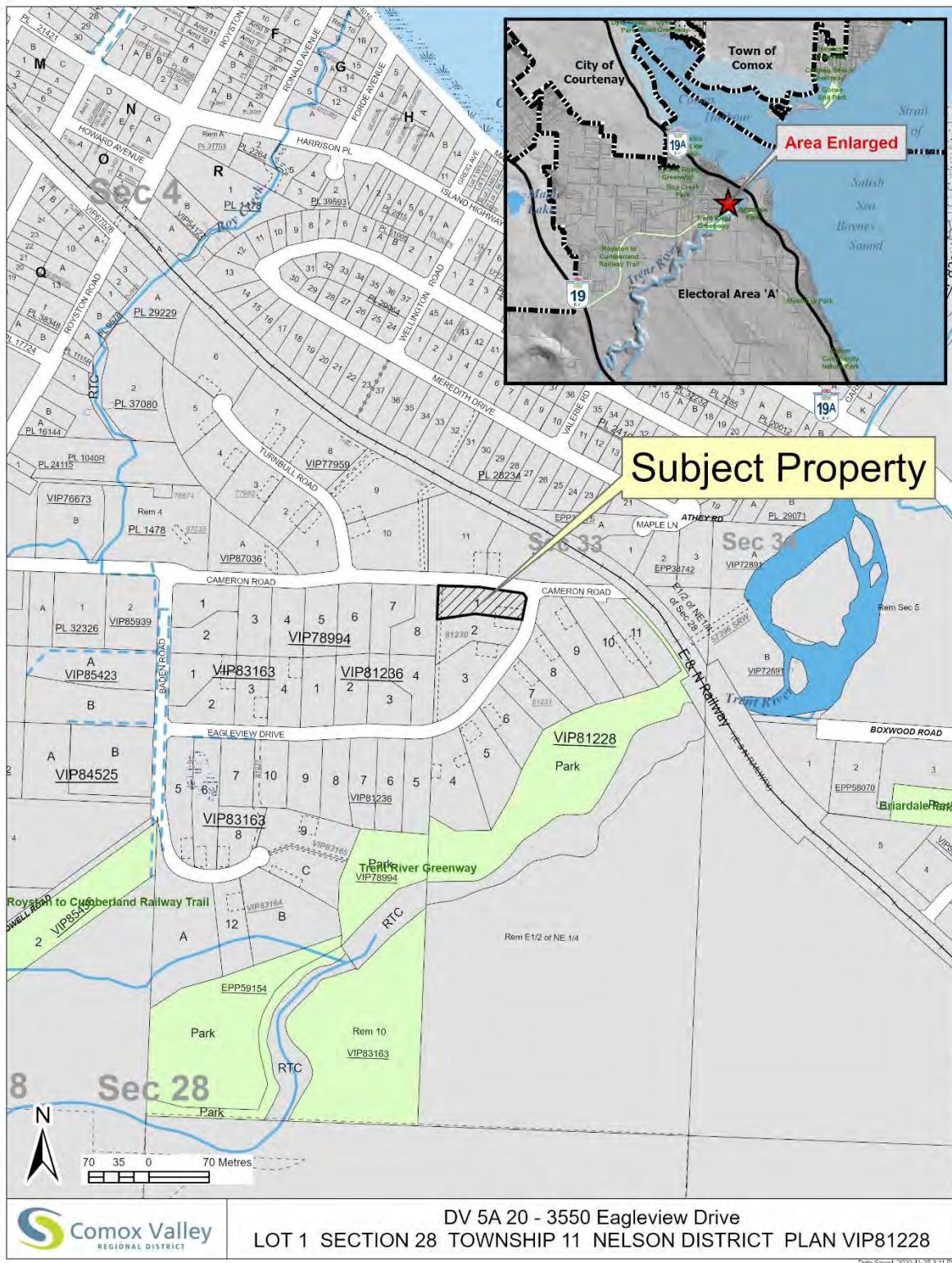


Figure 1: Subject Property Map



Figure 2: Air Photo

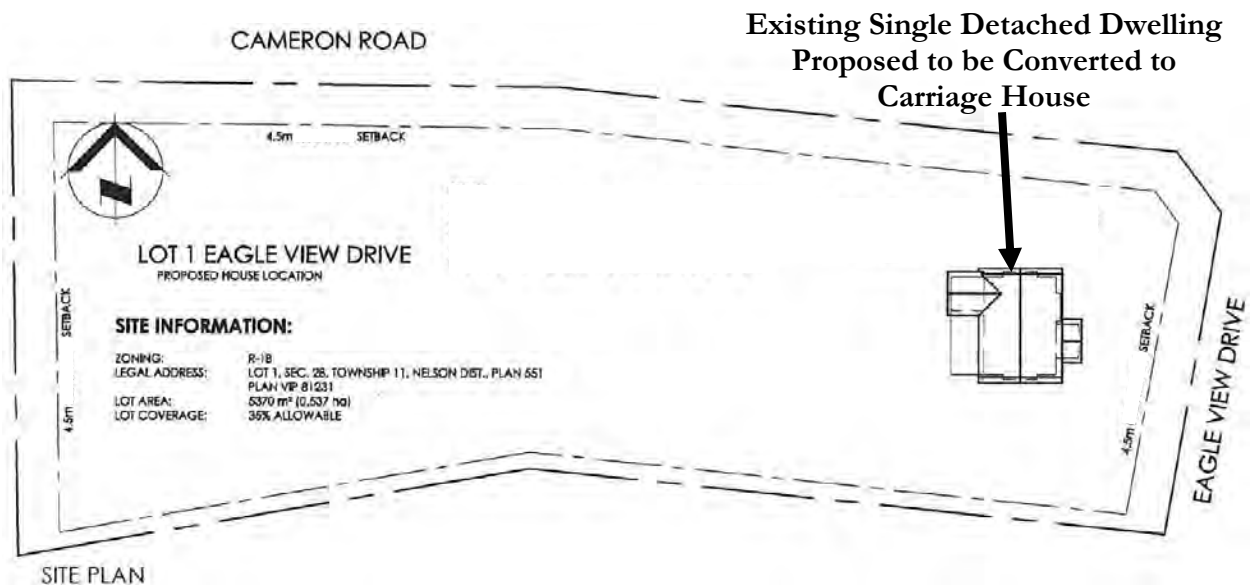


Figure 3: Site Plan



Front Door View from Eagleview Drive



Garage View from Cameron Road



Rear Balcony View



Side View

**Figure 4: Photos of Subject Dwelling**

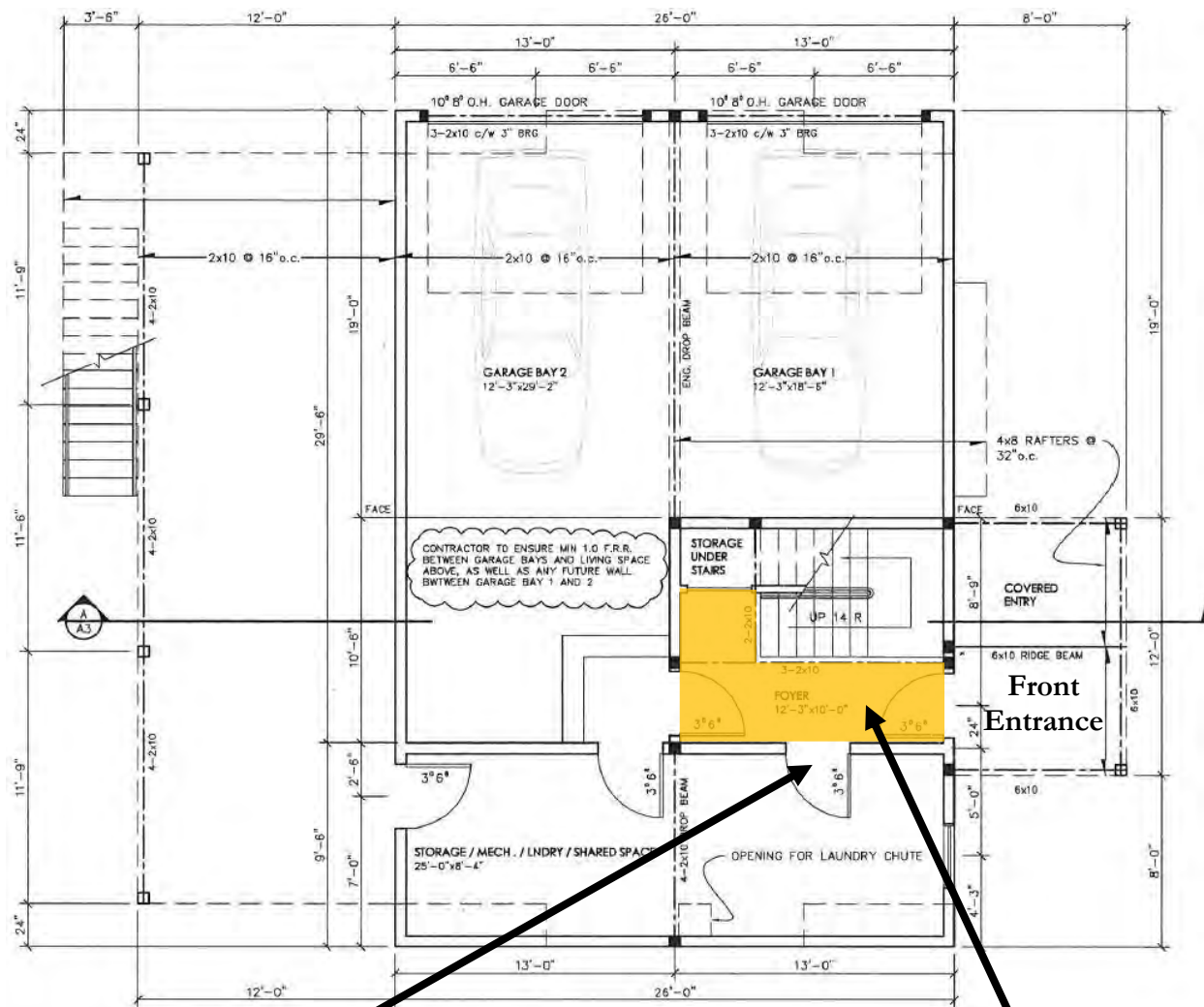


Figure 5: Floor Plan of the Ground Floor

Note that This Door was Moved  
towards the End (See Figure 6);  
This Door will be Sealed

Request to Increase the Maximum  
Floor Area of Interior Entryway and  
Landing from 2.8 square metres to  
5.2 square metres



**Figure 6: Photo of Interior Entryway and Landing Space**  
**(Photo Taken Standing at the Doorway that will be Sealed)**

**DV 5A 20****TO: Timothy Gordon Morgan and Melissa Genevieve Morgan**

1. This Development Variance Permit (DV 5A 20) 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 1, Section 28, Township 11, Nelson District, Plan VIP81228  
**Parcel Identifier (PID):** 026-732-467 **Folio:** 771 10860.050  
**Civic Address:** 3550 Eagleview Drive
3. The land described herein shall be developed 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; and
  - ii. THAT the door that leads to storage/ mechanical/ laundry/ shared space, as illustrated on Schedule B, be sealed prior to the construction of a single detached dwelling on the subject property as shown on Schedule B.
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 5A 20) 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 \_\_\_\_\_.

\_\_\_\_\_  
Jake Martens  
Deputy Corporate Legislative Officer

Certified on \_\_\_\_\_

Attachments: Schedule A – “Resolution”  
Schedule B – “Subject Property Map, Site Plan and Floor Plan of the first floor of  
the subject dwelling”

## Schedule A

**File: DV 5A 20**

**Applicants:** Timothy Gordon Morgan and Melissa Genevieve Morgan

**Legal Description:** Lot 1, Section 28, Township 11, Nelson District, Plan VIP81228, PID 026-732-467

### Specifications:

THAT WHEREAS pursuant to Section 315(2.)(iv) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the interior entryway, landing or similar space of a carriage house must not exceed 2.8 square metres in area.;

AND WHEREAS the applicants, Timothy Gordon Morgan and Melissa Genevieve Morgan, wish to increase the maximum permitted floor area to 5.2 square metres;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on \_\_\_\_\_, the provisions of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” as they apply to the above-noted property are to be varied as follows:

315(2.)(iv) The second storey floor area occupied by the residential use may contain interior access to any part of the accessory use below. The interior entryway, landing or similar space must not exceed 5.2 square metres in area.

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 5A 20.

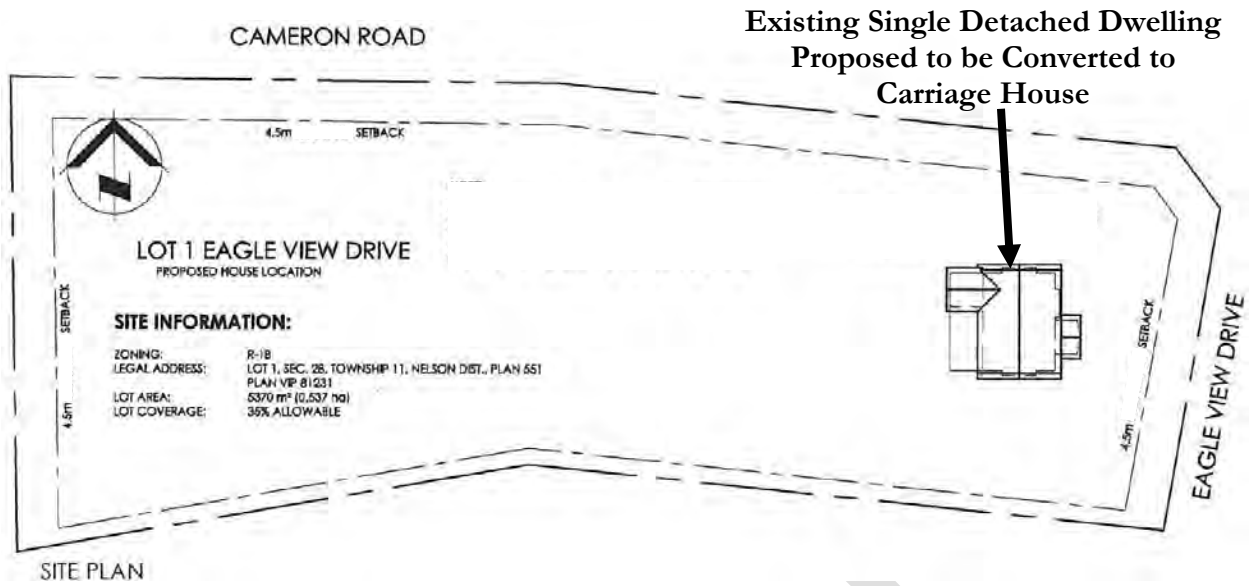
\_\_\_\_\_  
Jake Martens  
Deputy Corporate Legislative Officer

Certified on \_\_\_\_\_

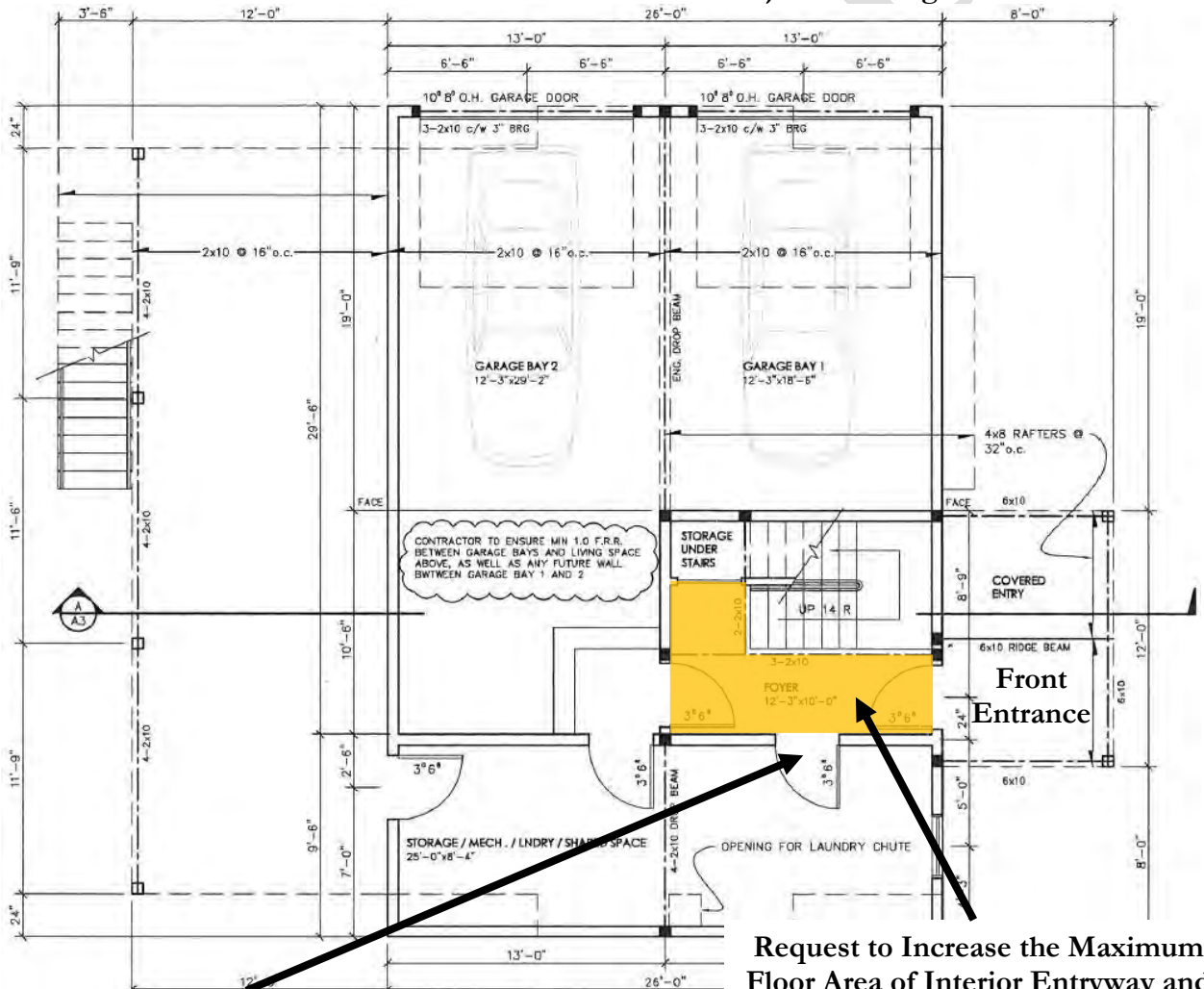
Schedule B  
Subject Property Map



## Site Plan



## Floor Plan of the First Floor of the Subject Dwelling



Note that This Door was Moved during Construction, and This Door will be Sealed

**Brian Chow**3090-20/DV 5A 20

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**From:** Tim morgan  
**Sent:** December 9, 2020 12:37 PM  
**To:** Brian Chow  
**Subject:** Re: Development Variance Permit Application Updates (File: DV 5A 20)

To Whom it May Concern at the Comox Valley Regional District:

We are writing this letter with respect to our development variance permit application in relation to our carriage house which we are currently using as a primary dwelling (our plan is to be build our main residence this spring and turn the carriage house into a secondary building. In particular, we are seeking a variance in relation to our interior landing of the carriage house.

This landing area in the carriage house is 5.2 sq meters. Pursuant to the current bylaw, the maximum interior access should only by 2.8 square meters. In short, upon first completing the plans and (2017/2018), it is our recall the bylaw was in a state of flux. It will be recalled that only recently were carriage houses able to have interior staircases. I am not sure that the previous bylaw specified an interior landing dimension. In any event, it is our belief that as a result of circumstances at the time, we simply built the entrance way bearing in mind a reasonable space for entry but mindful of the 90 square meter limit.

I hindsight if we had "turned around" the staircase it would made access to the garage from inside impossible. Further we did not want the top of our staircase to end at the living room area--this would be an awkward design in our view.

While the interior of the carriage house requires a variance, of approximately an additional 2.4 square meters, it is our belief that this does not dramatically run contrary to the intent of the overall by law scheme (s. 315 of the Rural Comox Valley Zoning Bylaw, No. 520, 2019). It will be observed, that importantly, our overall interior square living space is within the 90 square meters as permitted by the bylaw. We also assert that this variance request does not inherently run afoul of the character of the neighbourhood. We think it can be fairly characterized as a minor variance that does not fundamentally impinge on matters.

If the variance were not to be granted it remains unclear what we could short of a lower floor/upper floor significant structural renovation.

Finally, as previously mentioned, the carriage house is currently being used as a primary residence. It is our intention to seal the door (remove the door and seal it with drywall) before we seek a permit for the main house.

Should you have any questions or concerns, please do not hesitate to contact us.

Tim and Melissa Morgan