

DATE: January 18, 2021**FILE:** 3090-20/DV 3A 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 – 609 Lund Road (Roberts)
Baynes Sound – Denman/Hornby Islands (Electoral Area A)
Lot 2, District Lot 6, Newcastle District, Plan 23151, PID 003-049-761****Purpose**

To consider a Development Variance Permit (DVP) to reduce the front yard setback for the construction of a two-storey accessory building (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve the Development Variance Permit DV 3A 20 (Roberts) to reduce the minimum front yard setback from 7.5 metres to 5.5 metres for the foundation of a detached garage, and from 5.5 metres to 4.5 metres for the eaves of a detached garage, on property described as Lot 2, District Lot 6, Newcastle District, Plan 23151, PID 003-049-761 (609 Lund Road);

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

Executive Summary

- A DVP has been received to reduce the minimum front yard setback from 7.5 metres to 5.5 metres to allow for the construction of a two-storey garage with accessory space upstairs. Setbacks for the eaves are sought to be varied as well, from 5.5 metres to 4.5 metres for the same lot line.
- The Advisory Planning Commission (APC) abstained from a vote, opting to instead provide comments independent from a vote. The APC highlighted the importance of taking correspondence from neighbours into consideration.
- Staff are recommending that the variance be approved as care has been taken to not encroach upon the setback more than is necessary, the variance will allow some existing vegetation to remain in place, sightlines and safety measures that are improved by minimum setbacks are not impeded, and the variance is unlikely to alter the rural form and character of the surrounding development.

Prepared by:

Concurrence:

Concurrence:

T. Trieu***S. Smith***

Dylan Thiessen, MA, MCP
Planner

Ton Trieu, RPP, MCIP
Manager of Planning Services

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

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
-----------	---

Background/Current Situation

An application has been received to consider a DVP to reduce the front yard setback to allow for the construction of a two-storey accessory building. The variance sought is to reduce the front yard setback from 7.5 metres to 5.5 metres for the foundation, and from 5.5 metres to 4.5 metres for the eaves. The subject property is approximately 0.17 hectares in size, is zoned Country Residential One (CR-1), and is designated as being within a Rural Settlement Area. It is bounded by Lund Road to the north and similar residential properties to the east, west, and south (Figures 1 and 2). The development proposal includes the construction of a two-storey accessory building, which will feature a garage on the ground floor and accessory space on the top floor (Figures 3 and 4).

Policy Analysis

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider the 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 in a designated floodplain area, or the development is not part of a phased development agreement.

Official Community Plan and Regional Growth Strategy Analysis

Bylaw No. 337 and Bylaw No. 120, being the “Rural Comox Valley Official Community Plan Bylaw 337, 2014” and the “Comox Valley Regional District Regional Growth Strategy Bylaw 120, 2010” respectively, both designate the subject property as being within a Rural Settlement Area. These are lands that form an integral part of the Comox Valley Regional District (CVRD) and are to be developed in a way that maintains the rural form and character of the neighbourhoods and a rural lifestyle for residents. The proposed development is not in conflict with the residential policies, objectives, and goals for the Rural Settlement Area within either Bylaw No. 120 or Bylaw No. 337.

Zoning Bylaw Analysis

Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw 520, 2019,” stipulates a minimum front yard setback of 7.5 metres for any residential structure on a property zoned CR-1. In addition, Section 403(1) of Bylaw No. 520 allows for a reduced setback for eaves (and other features that project outward without adding floor area). With respect to eaves, the minimum required setback is reduced by 2.0 metres, providing a minimum setback of 5.5 metres. The variances sought are summarized in the table below.

Table 1: Variance Summary

Zoning Bylaw	Variance	Requirement	Proposed	Difference
Section 701 (4)	Front yard setback	7.5 metres	5.5 metres	2.0 metres
Section 403 (1)	Siting exemptions	5.5 metres	4.5 metres	1.0 metre

Recommendation and Rationale

Staff are in support of the application and are recommending that the Electoral Areas Services Committee (EASC) support the application. Minimum setback requirements are primarily put in place to increase vehicular and pedestrian visibility and safety, increase privacy for and from adjacent properties, and to maintain a rural form and character. The application does not infringe upon these reasons, as evidenced through the points below:

1. Keeping the foundation of the building at least 5.5 metres from the front lot line means that neither the foundation nor the eaves will encroach within 4.5 metres of the road right-of-way. This negates the need to involve, or receive a permit from, the Ministry of Transportation and Infrastructure (MoIT).

2. Keeping a setback of 5.5 metres for the foundation helps maintain sightlines which contribute to pedestrian and vehicular safety. The fact that MoTI does not need to be involved in this variance application indicates the degree to which safety for both pedestrians and drivers is considered and retained.
3. The requested variance keeps sufficient space to allow for the maintenance of the building.
4. The variance will likely have minimal effect on the rural form and character of the surrounding development.

Options

The EASC can vote to either approve or deny the issuance of this DVP. Staff recommend that the DVP be approved.

Financial Factors

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

Legal Factors

The report and recommendations contained herein are in compliance with the LGA and applicable CVRD bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

This application does not have any implications for the Regional Growth Strategy, as the variances requested do not conflict with any of the residential policies, principles or objectives outlined for this area within Bylaw No. 120.

Intergovernmental Factors

There are no intergovernmental factors with respect to this application.

Interdepartmental Involvement

This DVP application was referred to staff within the Bylaw Enforcement, Fire Services, Building Services, and Engineering departments in order for them to provide comments and/or feedback. No issues or concerns were raised during this process.

Citizen/Public Relations

The APC for Electoral Area A met on January 5, 2020, to discuss this variance application. The commission decided to abstain from voting on whether to support the application going forward, instead noting the importance of feedback from adjacent neighbours, particularly as it relates to the impact the structure would have on the views from certain properties. However, the APC considered the file when the requested variance was from 7.5 metres to 4.5 metres. The applicant revised the variance request to avoid the need to involve MoTI in the variance application.

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

Attachments: Appendix A – “Development Variance Permit DV 3A 20”

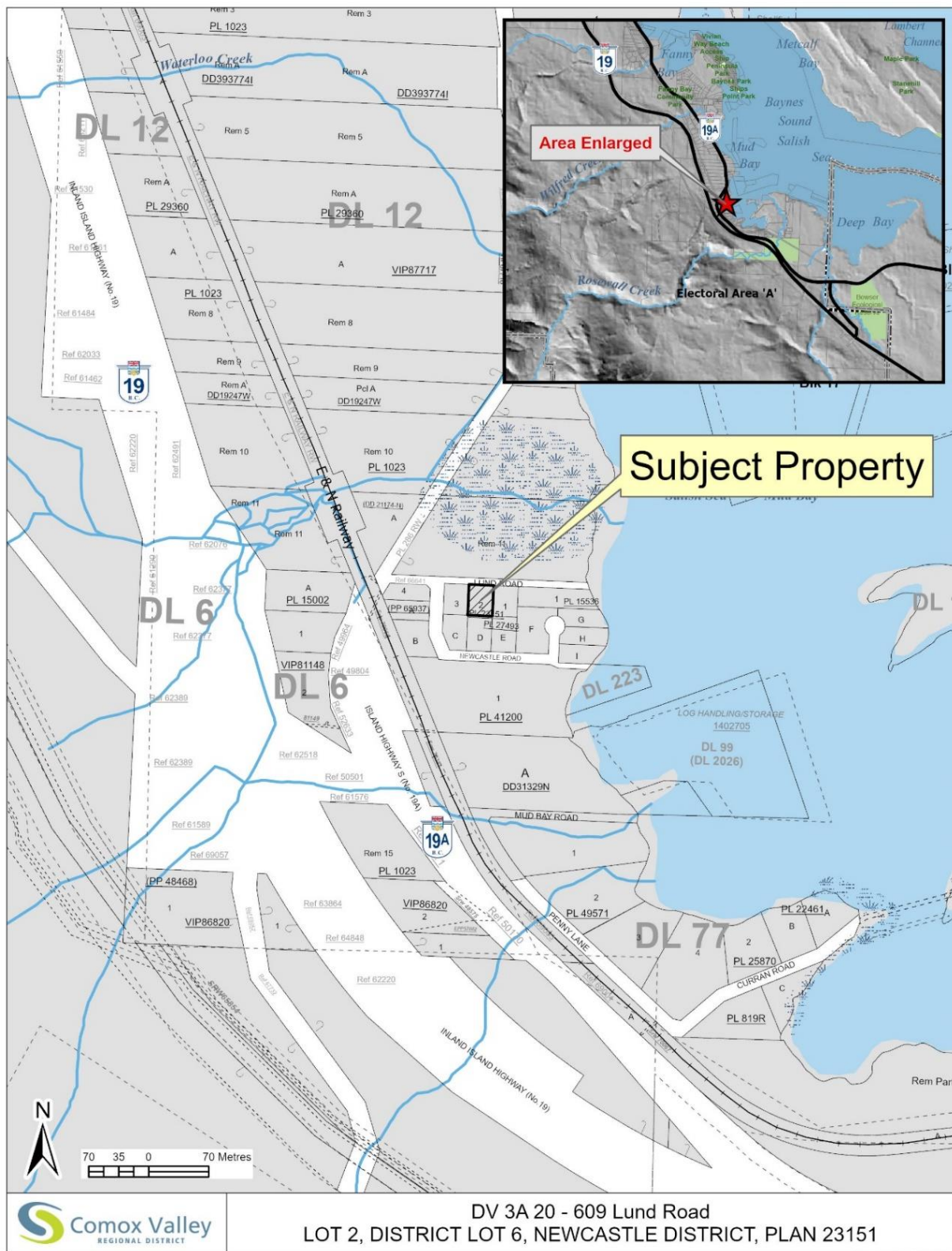


Figure 1: Subject Property Map



Figure 2: Air Photo

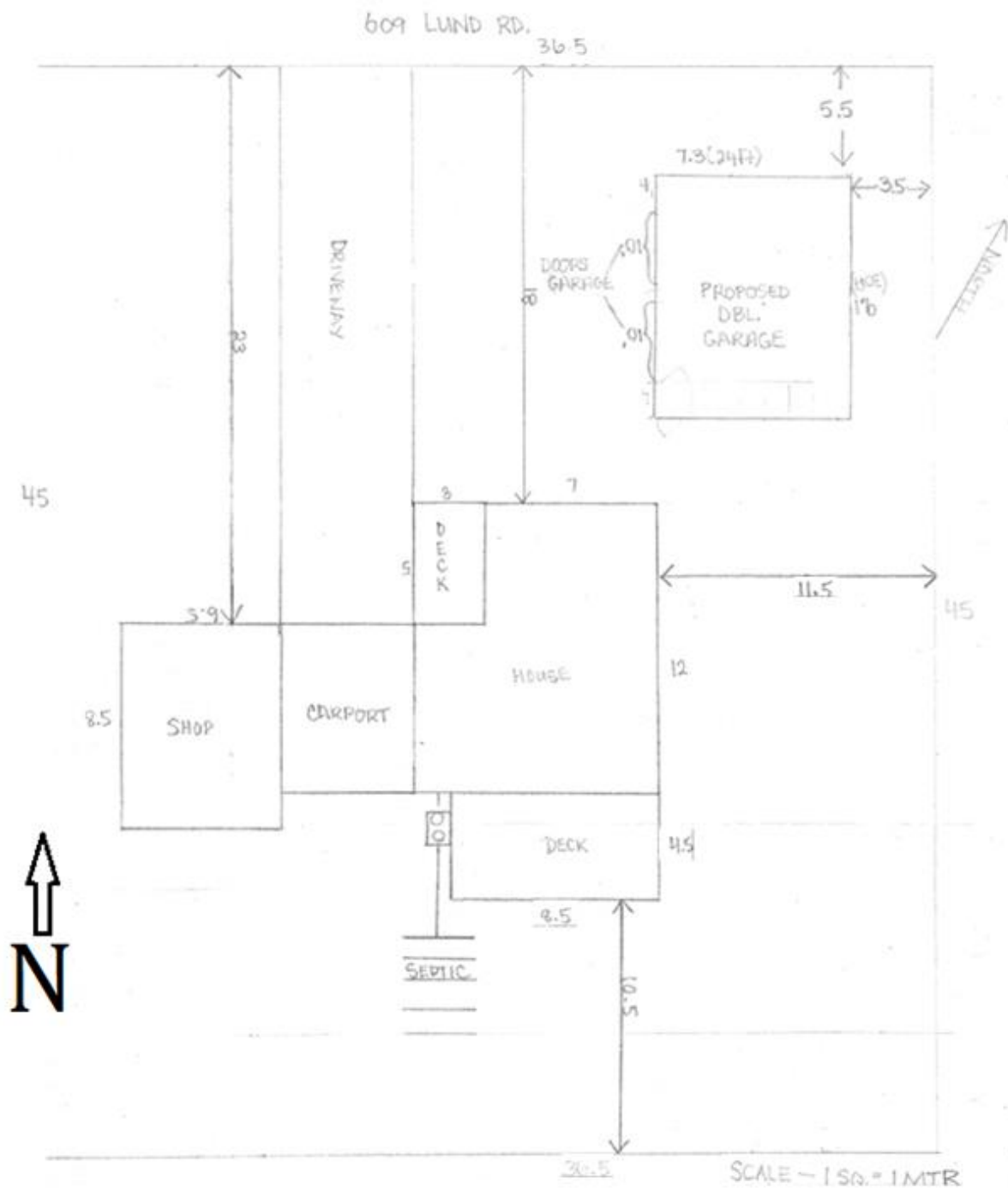


Figure 3: Site Plan



Figure 4: Elevation Profile

DV 3A 20**TO: Sherry Roberts**

1. This Development Variance Permit (DV 3A 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 2, District Lot 6, Newcastle District, Plan 23151
Parcel Identifier (PID): 003-049-761 **Folio:** 11334.005
Civic Address: 609 Lund Road
3. The land described herein (Schedule A) 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.
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 3A 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, Air Photo, Site Plan, and Draft Rendering”

Schedule A

File: DV 3A 20

Applicants: Sherry Roberts

Legal Description: Lot 2, District Lot 6, Newcastle District, Plan 23151

Specifications:

THAT WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019," the minimum front lot line setback is 7.5 metres;

AND WHEREAS the applicant, Sherry Roberts, wishes to construct an accessory building within 5.5 metres of the front yard lot line;

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:

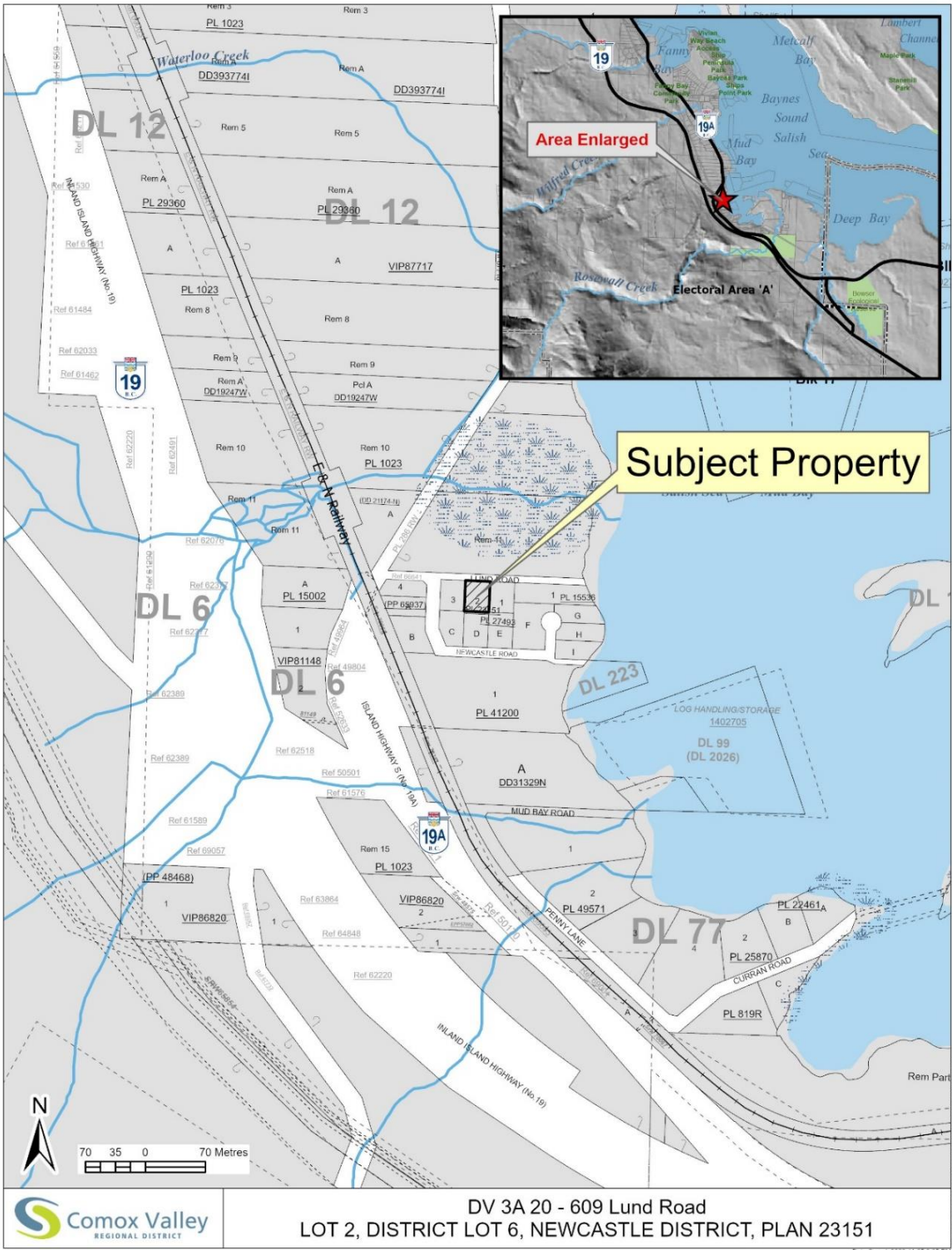
- 703(5)(i) The front lot line setback for the accessory building shown and described in Schedule B is 5.5 metres for the foundation of the structure; and,
- 403(1) The minimum front lot line setback for the accessory building shown and described in Schedule B is 4.5 metres for the eaves of the structure.

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 3A 20.

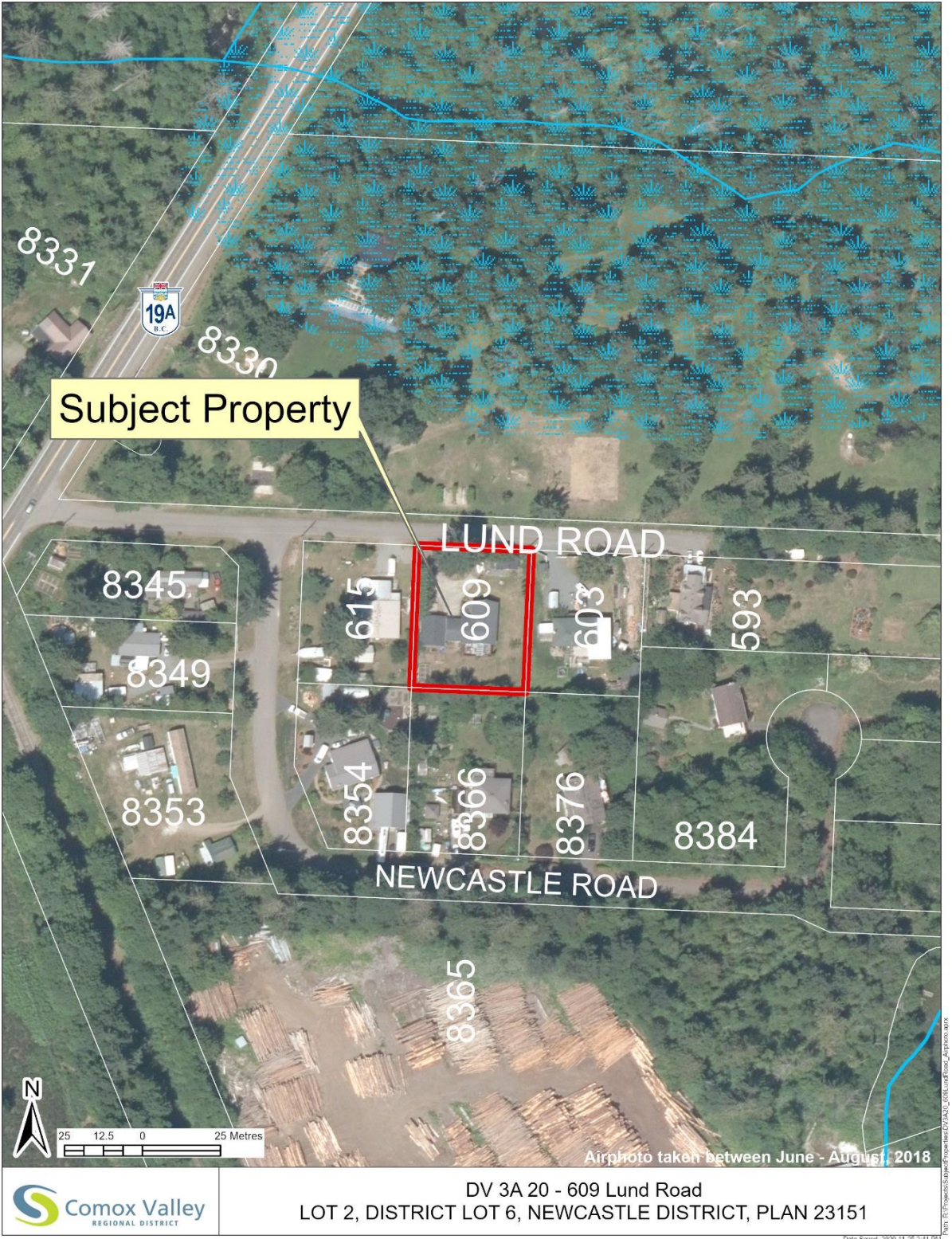
Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

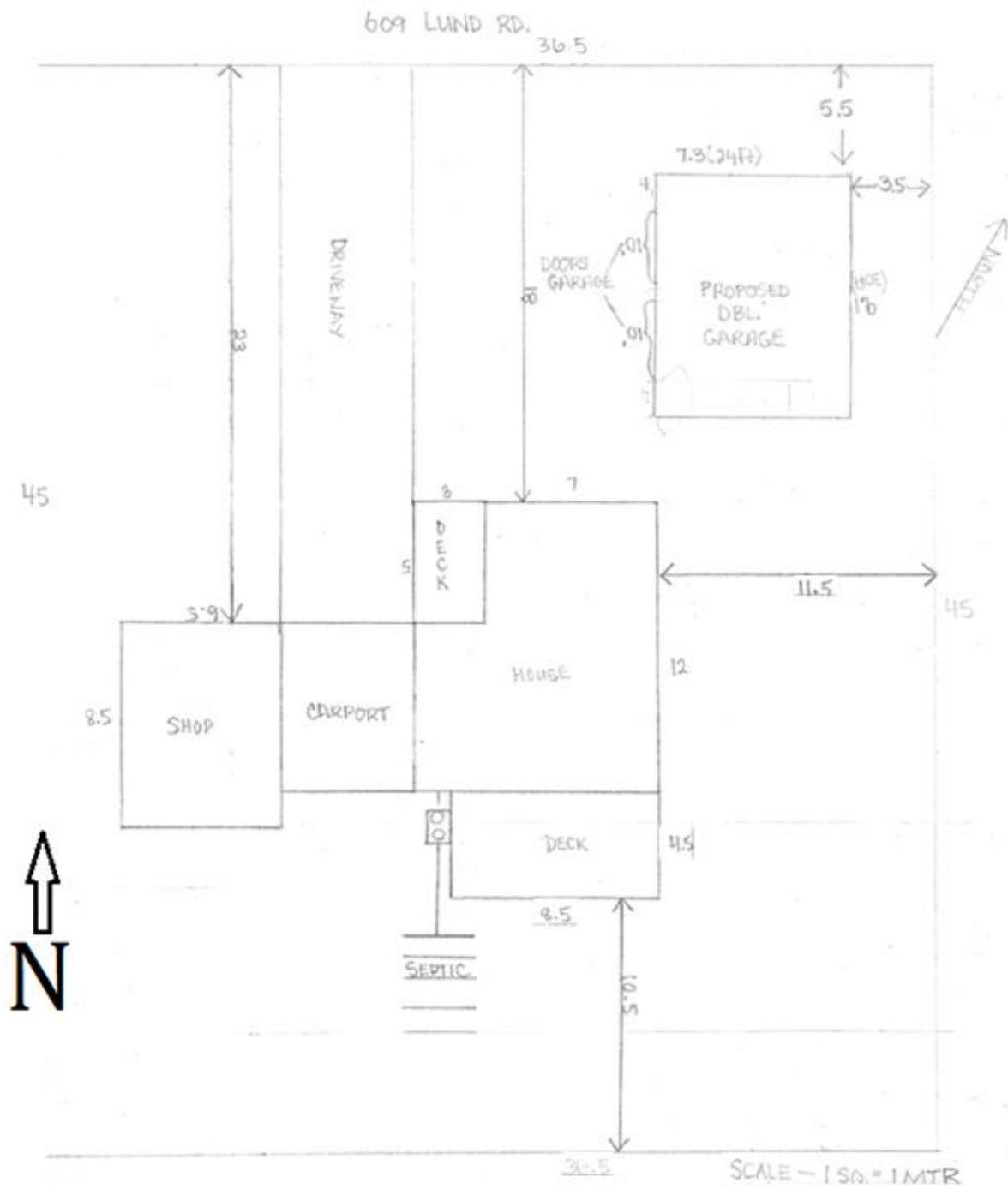
Schedule B



Subject Property Map



Air Photo



Site Plan



Elevation Profile