

DATE: July 26, 2021

FILE: 3090-20 / DV 2A 21

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 – 8991 Island Hwy South
(3L Developments Inc.)
Baynes Sound – Denman/Hornby Islands (Electoral Area A)
Lot 29, Newcastle District, except therefrom the right of way of the Esquimalt
and Nanaimo railway as shown on plan attached to DD4433-N,
PID 001-613-511**

Purpose

To consider a Development Variance Permit (DVP) to reduce the minimum frontage so that the owner may adjust the lot lines (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve Development Variance Permit DV 2A 21 (3L Developments Inc.) to reduce the required minimum frontage from 10 per cent to 4.25 per cent on property described as Lot 29, Newcastle District, except therefrom the right of way of the Esquimalt and Nanaimo railway as shown on plan attached to DD4433-N, PID 001-613-511 (8991 Island Highway South);

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

Executive Summary

- A DVP application has been received to reduce the regulated minimum frontage from 10 per cent to 4.25 per cent for the purposes of facilitating a lot line adjustment that is intended to move the lot line between two existing lots to a railway that currently cuts through the subject property.
- Both the Agricultural Advisory Planning Commission (APC) and the Area A APC reviewed the application.
- Staff are recommending that the variance be approved as the associated lot line adjustment will remove a barrier to accessing the land beyond the railway.

Prepared by:

Concurrence:

Concurrence:

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Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background / Current Situation

An application has been received to consider a DVP that would vary the zoning regulation that requires 10 per cent of the perimeter of a lot be frontage. The subject property (Figures 1 and 2) is a 64 hectare lot located within the Agricultural Land Reserve (ALR). The applicant is seeking to implement a lot line adjustment that would move approximately 25 hectares from this lot to the adjoining lot so that the new boundary between the two lots would be the railway (Figure 3). This will allow the two lots to be sold separately without the need of a rail-crossing or easement agreement. The resulting reconfiguration would leave the subject property with only 4.25 per cent of its perimeter fronting a road right-of-way.

Lot line adjustments of existing lots are processed in the same manner as subdivisions through the Ministry of Transportation and Infrastructure (MoTI). The applicants have made that application and MoTI has provided their Preliminary Layout Review listing the conditions required to approve the application, including approval of this variance through the Comox Valley Regional District (CVRD).

Zoning Bylaw Analysis

Section 501(1)(iii) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” states that

“The minimum frontage of a lot created by subdivision shall be 10 per cent of the perimeter of the lot unless specified otherwise elsewhere in this bylaw. For this purpose, the water boundary of any lot that abuts a water body or the sea is deemed to be frontage.”

Regulating frontage, which is the length of a lot’s perimeter that abuts a road right-of-way, avoids the creation of poorly accessed lots during subdivision.

The proposed lot line adjustment will leave the length of road frontage unchanged at approximately 130 metres. However, because the length of its perimeter is being reduced, the percent of frontage is being effectively increased, though the lot line adjustment does not involve dedication of any new road right-of-way. The frontage remains entirely off the Island Highway on the lots southwestern corner.

Zoning Bylaw	Variance	Regulated Minimum	Proposed
Section 501 (1) (iii)	Frontage	10 per cent	4.25 per cent

The subject property is zoned Rural-ALR (RU-ALR) which includes a minimum lot area of 8 hectares. As the lots involved in the lot line readjustment will remain over 8 hectares, it is consistent with this minimum lot area regulation.

Agricultural Land Reserve

The subject property is within the ALR. Lot line adjustments are permitted within the ALR under certain conditions. This proposal does not require approval of the Agricultural Land Commission (ALC).

If the variance application is refused and the applicant seeks to satisfy the 10 per cent frontage requirement through road dedication, then ALC approval will be required as this may result in the loss of agricultural land for road purposes.

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, or the development is not part of a phased development agreement.

Options

The board can either approve or deny the requested variance. Based on the analysis above, staff recommend approving the variance.

Financial Factors

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

Legal Factors

This report and the 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 variance requested does not conflict with any of the policies, principles, or objectives outlined within Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”.

Intergovernmental Factors

MoTI has reviewed the proposed lot line adjustment during the course of the subdivision application and did not require any new road dedication.

Interdepartmental Involvement

This application has been circulated to CVRD departments. No concerns were identified.

Citizen/Public Relations

The APC for Electoral Area A considered this application at their meeting held on July 6, 2021. The APC advised supporting the application as “it will improve the access to the land and will improve the agricultural use of the land.”

The Agricultural APC considered this application at its meeting on July 22, 2021. A verbal report of the meeting’s result will be provided.

Additionally, notice of the requested variance was mailed to adjacent property owners within 500 metres of the subject property at least 10 days prior to the Electoral Areas Services Committee (EASC) meeting. This notice informs those property owners and/or tenants as to the purpose of the application and 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 comments received prior to or during the EASC meeting.

Attachments: Appendix A – Development Variance Permit DV 2A 21



Figure 1: Subject Property Map

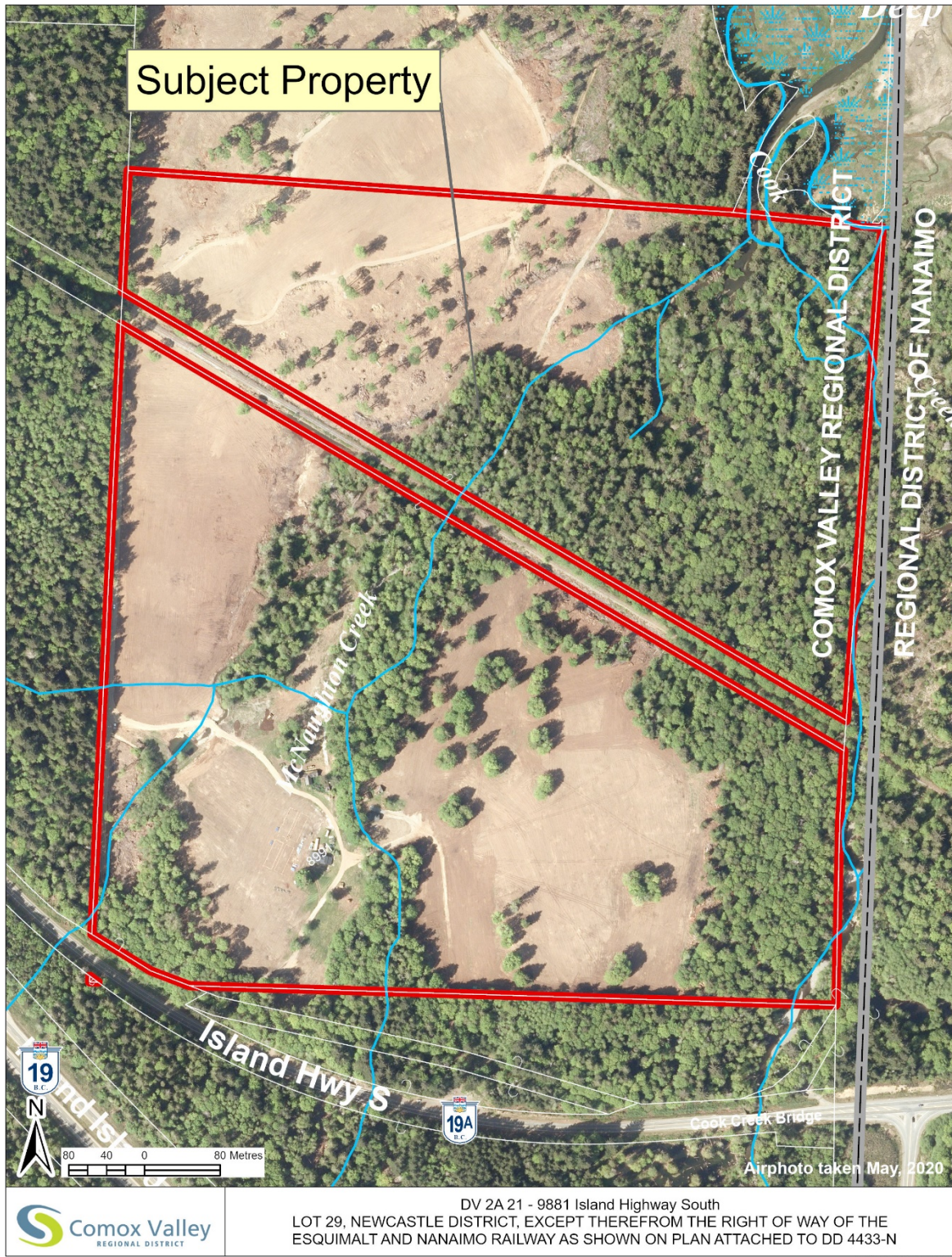


Figure 2: Air Photo

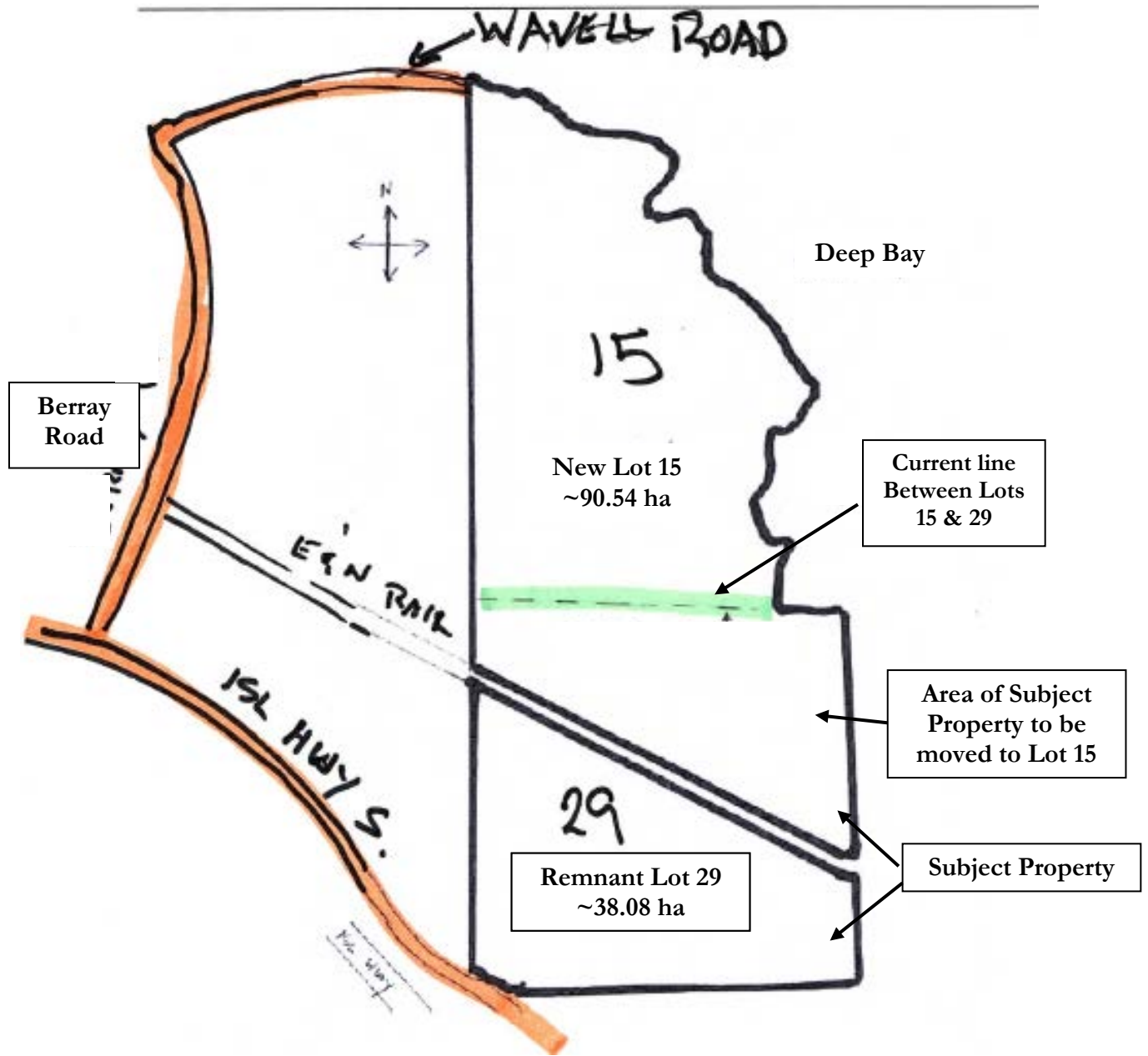


Figure 3: Site Plan
Illustrating how the lots are accessed from existing roads

DV 2A 21

TO: 3L Developments Inc.

1. This Development Variance Permit (DV 2A 21) 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 29, Newcastle District, except therefrom the right of way of the Esquimalt and Nanaimo railway as shown on plan attached to DD4433-N
Parcel Identifier (PID): 001-613-511 **Folio:** 12180. 000
Civic Address: 8991 Island Hwy South
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.
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 2A 21) shall lapse if development 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 and Site Plan

Schedule A

File: DV 2A 21

Applicants: 3L Developments Inc.

Legal Description: Lot 29, Newcastle District, except therefrom the right of way of the Esquimalt and Nanaimo railway as shown on plan attached to DD4433-N

Specifications:

THAT WHEREAS pursuant to Section 501(1)(iii) of Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019," the minimum frontage of a lot created by subdivision shall be 10 per cent of the perimeter of the lot;

AND WHEREAS the applicant, 3L Developments Inc., wishes to pursue a lot line adjustment subdivision which would result in the property's road frontage being no less than 4.25 per cent;

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:

501(1)(iii) "The minimum frontage of a lot created by subdivision shall be 4.25 per cent of the perimeter of the lot."

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 2A 21.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Schedule B

Subject Property



Site Plan

