

DATE: June 26, 2018

FILE: 3090-20 / DV 3B 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
2651 Baxter Road (Woods)
Lazo North (Electoral Area B)
Lot 1, Section 23, Comox District, Plan EPP13981, PID 028-836-031**

Purpose

To consider a Development Variance Permit (DVP) to reduce the rear yard setback from 7.5 metres to 3.6 metres for a partially built accessory building (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 3B 18 (Woods) to reduce the minimum rear yard setback from 7.5 metres to 3.6 metres for a partially built accessory building on a property described as Lot 1, Section 23, Comox District, Plan EPP13981, PID 028-836-031 (2651 Baxter Road);

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

Executive Summary

- An application has been received to reduce the minimum rear yard setback from 7.5 metres to 3.6 metres for a partially built accessory building.
- The property is 0.88 hectares in size and fronts onto Baxter Road, but is accessed by a long driveway parallel to the northeast side lot line.
- A building permit was issued for an accessory building under 4.5 metres in height, which required a minimum rear yard setback of 1.0 metre. A change in roof pitch resulted in a building height of 5.45 metres triggering a minimum 7.5 metre rear yard setback.
- The buildings on the subject property and adjacent property front onto the private driveway rather than the highway. As such, the rear yard of the subject property functions more like a side yard, which requires a minimum setback of 3.5 metres. Due to the existing development pattern, the proposed variance is appropriate and expected to have minimal impact on the adjacent neighbour.

Prepared by:

Concurrence:

B. Labute

A. Mullaly

Brianne Labute
Planner

Alana Mullaly, M.Pl., RPP, MCIP
Acting 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 to consider a DVP for a 0.88 hectare property on Baxter Road. The subject property is surrounded by a watercourse to the southwest, Baxter Road to the northwest and residential properties in all other directions (Figure 1 and 2). The property contains a single detached dwelling and a partially built 104m² accessory building. The building permit application indicated the accessory building would be under 4.5 metres in height, which requires a minimum 1.0 metre rear yard setback. A change in roof pitch resulted in a building height of 5.45 metres triggering a minimum 7.5 metre rear yard setback. The applicants are requesting to reduce the minimum rear yard setback to 3.6 metres for the partially built accessory building (Figure 3).

Official Community Plan Analysis

The subject property is designated Settlement Expansion Area in the Official Community Plan (OCP), being the “Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014”. Development in the Settlement Expansion Area designation must generally maintain a rural character and must not detract from future municipal compact growth until such time as the adjacent municipal area has obtained an approved boundary expansion. The proposed variance does not conflict with residential policies in the OCP.

Zoning Bylaw Analysis

The property is zoned Residential Rural (R-RU) in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005” (Appendix B). The R-RU zone permits an accessory building. The application seeks relief from the minimum 7.5 metre rear yard setback and is requesting a minimum setback of 3.6 metres. All other zoning requirements are met. The requested variance is detailed in Table 1 below.

Table 1: Variance Summary

Zoning Bylaw	Variance	Existing	Proposed	Difference
Section 706 (4)	Rear yard setback	7.5 metres	3.6 metres	3.9 metres

Both the subject property and the neighbouring property (2525 Cathy Crescent) access their properties from a shared private driveway that runs parallel to the northeast side lot line as shown on Figure 2. The buildings on both properties front onto the private driveway rather than the highway. As such, the rear yard of the subject property functions more like a side yard, which would require a minimum setback of 3.5 metres. The closest building on the neighbouring property is a garage (Figure 4). Due to the existing development pattern, the proposed variance is appropriate and expected to have minimal visual impact on the adjacent neighbour.

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 is approved.

Financial Factors

Applicable fees have been collected for this application under 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. DVP’s are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The subject property is designated Settlement Expansion Area in the Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. Development in the Settlement Expansion Area designation must generally maintain a rural character and must not detract from future municipal compact growth until such time as the adjacent municipal area has obtained an approved boundary expansion. The proposed variance does not conflict with residential policies established in the RGS.

Intergovernmental Factors

As the property is within the Settlement Expansion Area, a referral was sent to the City of Courtenay on June 13, 2018 for their comment. The City of Courtenay responded that they have no concerns with the proposed variance.

Interdepartmental Involvement

This DVP application was circulated to relevant departments within the CVRD for comment. No concerns were identified.

Citizen/Public Relations

The Advisory Planning Commission will review this application at their meeting scheduled for June 27, 2018. The minutes from the meeting will be forwarded to the Electoral Areas Services Committee (EASC).

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 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 3B 18”
Appendix B – “Copy of R-RU Zone”

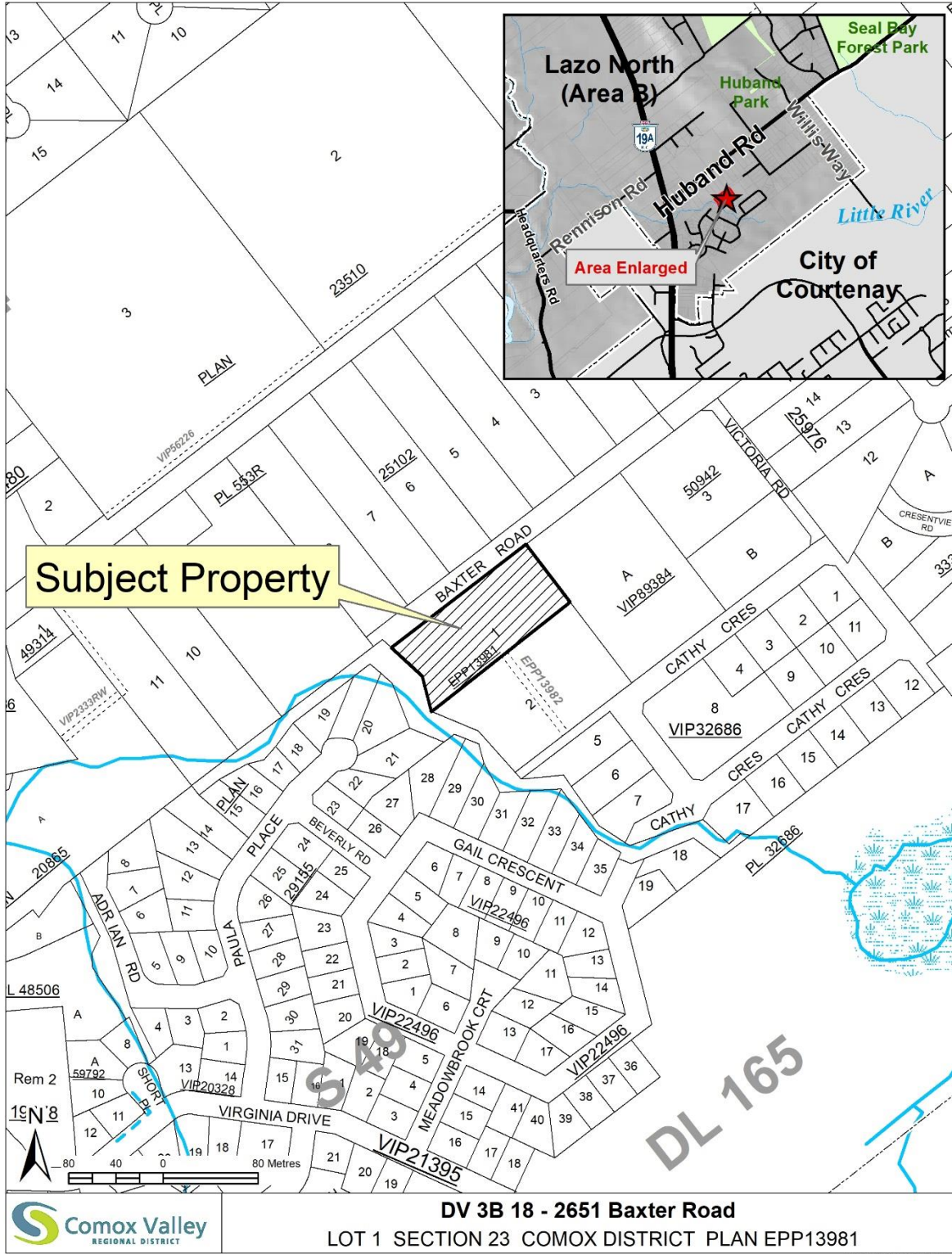


Figure 1: Subject Property Map

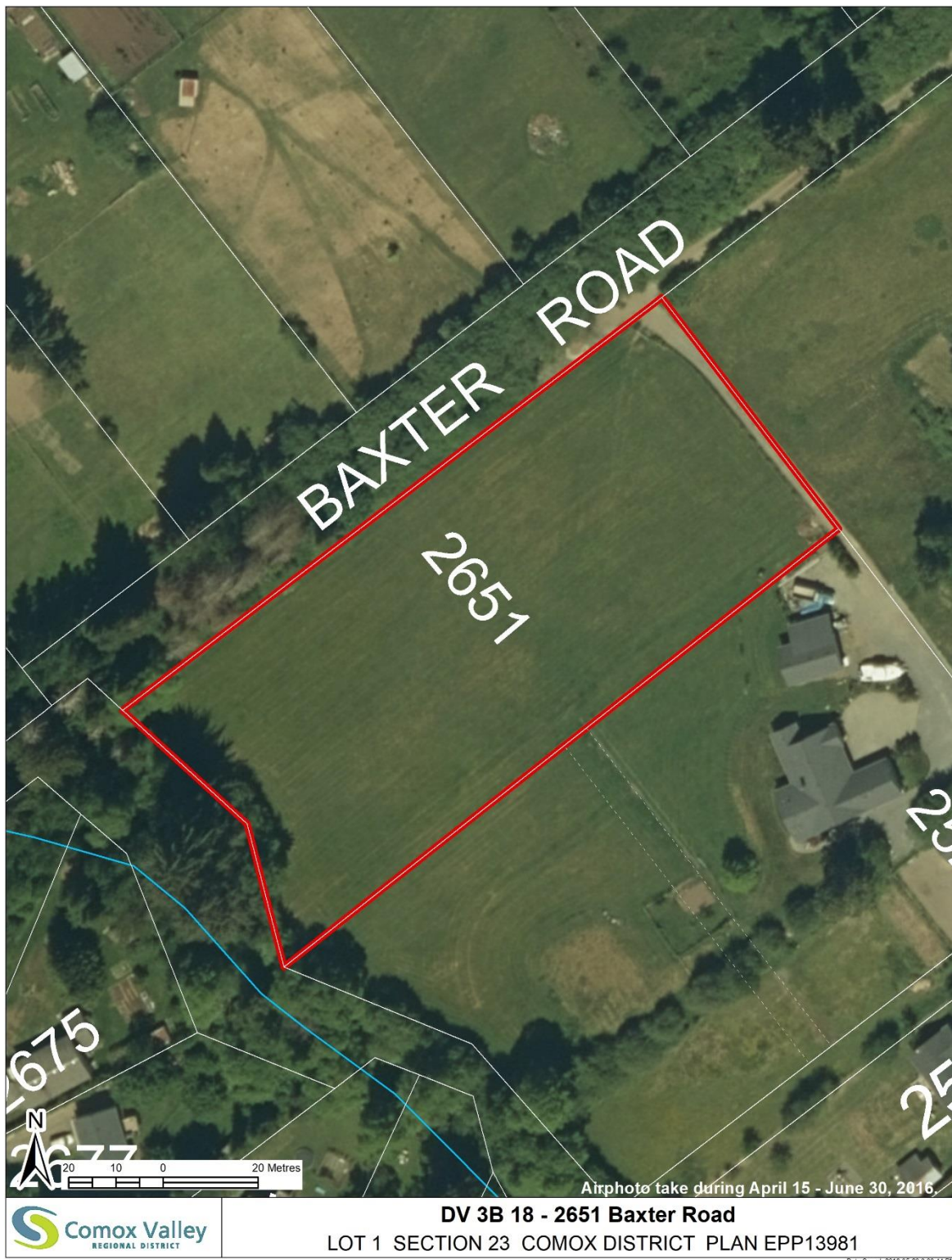


Figure 2: Aerial Photo

Comox Valley Regional District

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File:

MAY 10 2018

To:

CC: **DETAIL**

SCALE 1:500

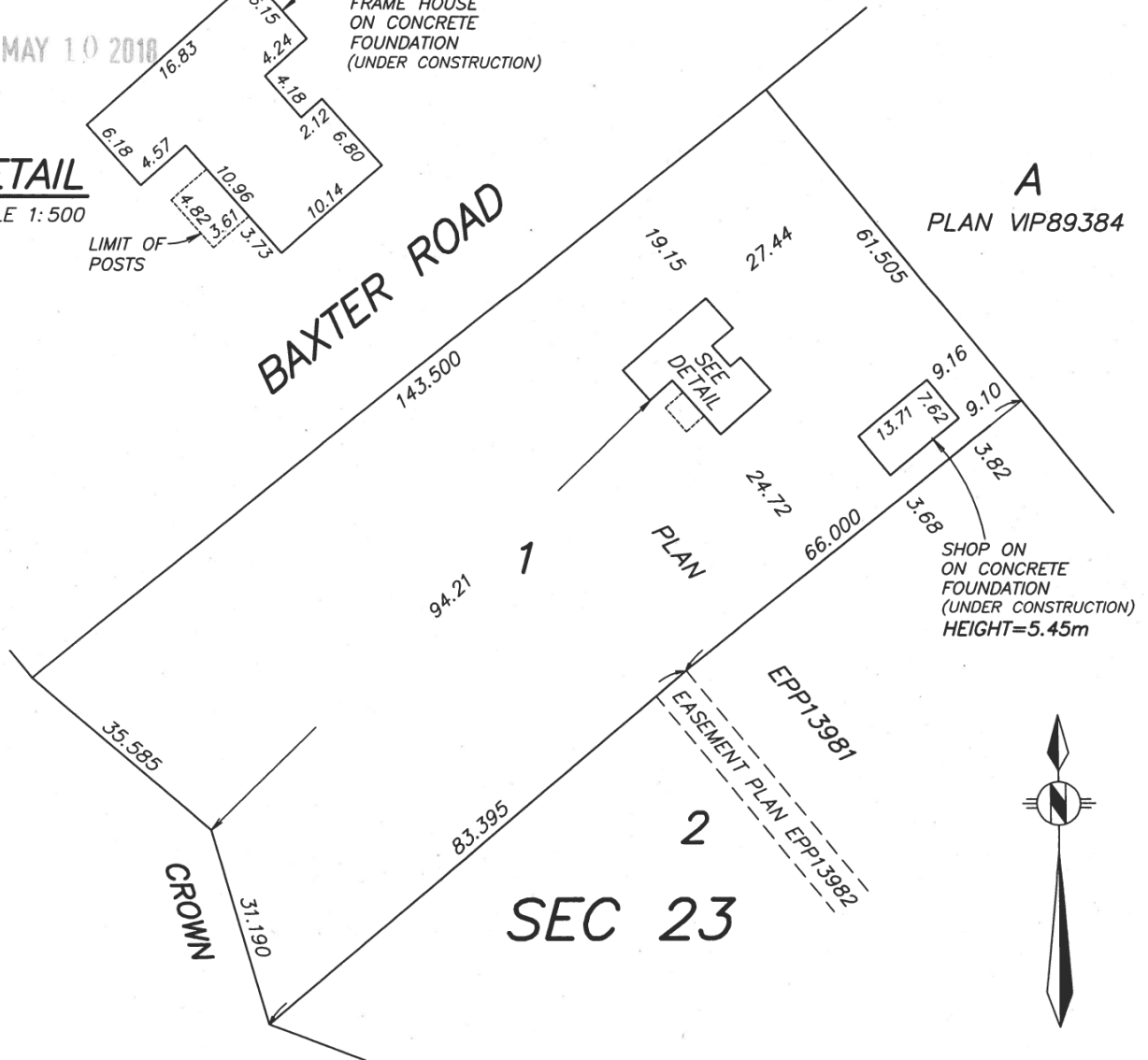
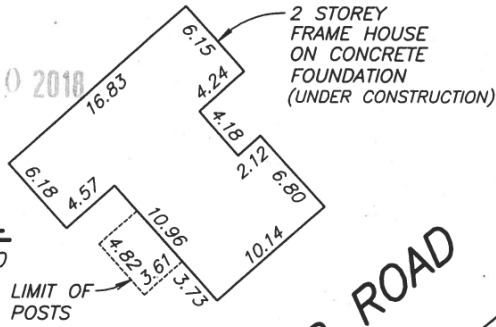


Figure 3: Site Plan



Figure 4: Site Visit Photos

DV 3B 18

TO: Jonathan and Amy Woods

1. This Development Variance Permit (DV 3B 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 1, Section 23, Comox District, Plan EPP13981
Parcel Identifier (PID): 028-836-031 Folio: 771 00432.025
Civic Address: 2651 Baxter Road
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 3B 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 3B 18

Applicants: Jonathan and Amy Woods

Legal Description: Lot 1, Section 23, Comox District, Plan EPP13981, PID 028-836-031

Specifications:

THAT WHEREAS pursuant to Section 706 (4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum rear yard setback for an accessory building over 4.5 metres in height is 7.5 metres;

AND WHEREAS the applicants, Jonathan and Amy Woods, wish to reduce the minimum rear yard setback to 3.6 metres for a partially built accessory building;

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:

706 (4) The minimum rear yard setback for the accessory building shown on Schedule B is 3.6 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 3B 18.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B Site Plan

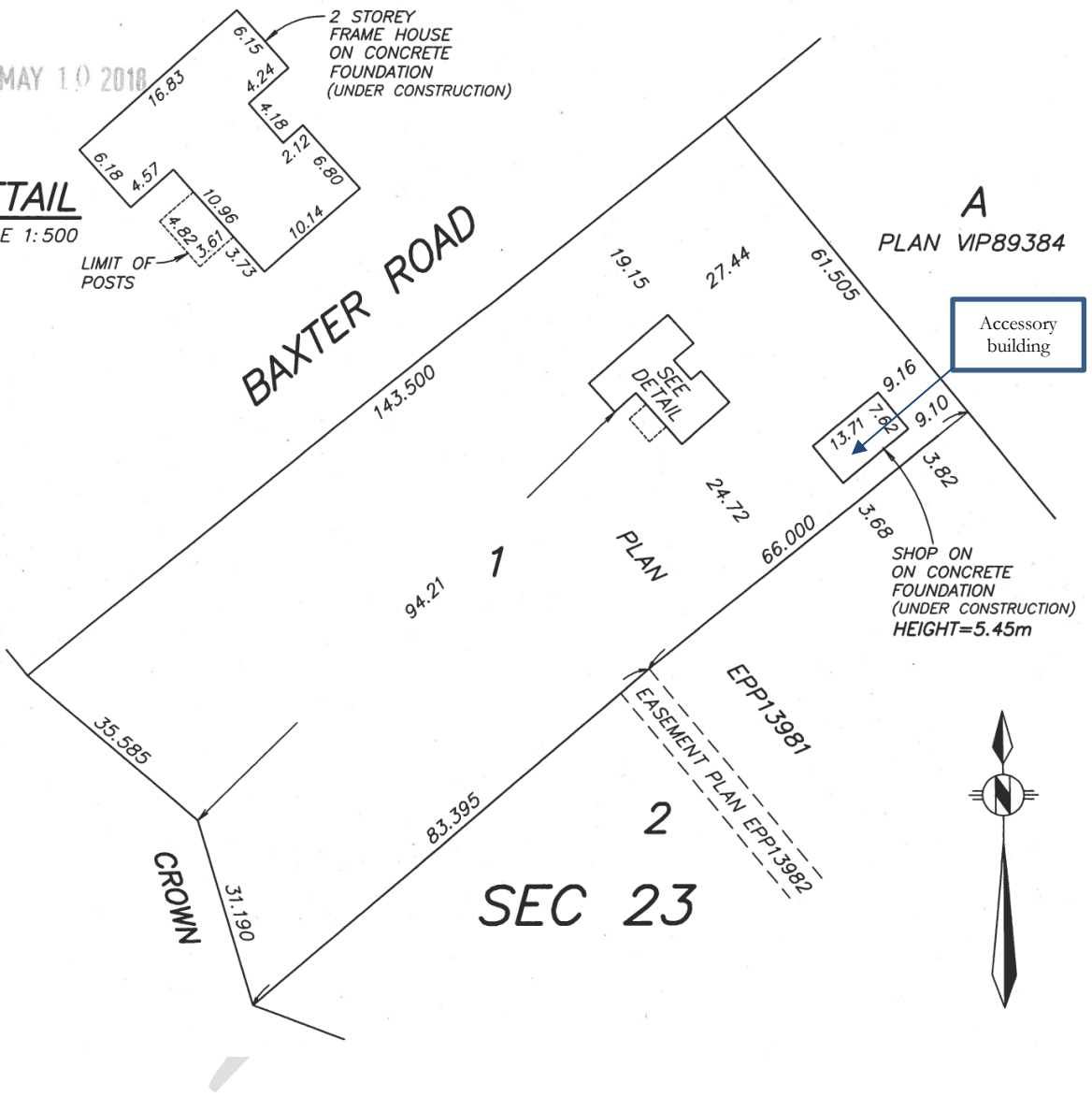
Comox Valley Regional District
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MAY 10 2018

To:

CC: **DETAIL**
SCALE 1:500



706 Residential-Rural (R-RU)

1. PRINCIPAL USE

- i) **On any lot:**
 - a) Residential use.
- ii) **On any lot over 4000 metres² (1.0 acre):**
 - a) Agricultural use.

2. ACCESSORY USES

On any lot:

- i) Secondary suite;
- ii) Home occupation use;
- iii) Accessory buildings;
- iv) Bed and Breakfast.

#4

3. DENSITY

Residential use is limited to:

- i) **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).

#112

4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES

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

Type of Structure	Height	Required Setback			
		Front yard	Rear yard	Side yard	
				Frontage <31m	Frontage >31m
Principal	10.0m (32.8 ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)

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.]

5. LOT COVERAGE

- i) The maximum lot coverage of all buildings and structures shall not exceed 35% of the total lot area.

6. FLOOR AREA REQUIREMENTS

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 200.0 metres² (2152.9 feet²).

7. SUBDIVISION REQUIREMENTS

- i) Despite any other provision of this bylaw, the minimum permitted lot area within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010” is 4.0 hectares. #200
- ii) Despite any other provision of this bylaw, for the purpose of subdivision, the following sections of this bylaw do not apply to lots within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010”:
- a) Section 503 Subdivision Standards 1. AREA AND FRONTAGE REQUIREMENTS i);
- b) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS i) a); and
- c) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS iii).

iii) **Lot Area**

The minimum lot area permitted shall be 0.8 hectares (2.0 acres)

Despite (iii), a subdivision with lots smaller than identified above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot area permitted.

End • R-RU