

DATE: May 27, 2019**FILE:** 3090-20 / DV 4B 19**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
1551 Hudson Road (Acorn)
Electoral Area B (Lazo North)
Lot A, District Lot 239, Comox District, Plan EPP36680, Except Part in Plan
EPP38389, PID 029-269-377****Purpose**

To consider a Development Variance Permit (DVP) to increase the maximum height for an accessory building from 6.0 metres to 7.5 metres (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve the Development Variance Permit DV 4B 19 (Acorn) to increase the maximum permitted height for an accessory building from 6.0 metres to 7.5 metres for property described as Lot A, District Lot 239, Comox District, Plan EPP36680, Except Part in Plan EPP38389, PID 029-269-377(1551 Hudson Road);

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

Executive Summary

- The subject property is 1.9 hectare in size and contains a single detached dwelling.
- The applicants would like to construct a 111 square metre accessory building with a maximum height of 7.5 metres in order to accommodate the storage of a large boat.
- As part of the ongoing zoning bylaw review, staff are recommending the maximum height of an accessory building is increased to 7.0 metres.
- Certain properties may warrant additional height depending on the characteristics of the lot. It is a large parcel and the proposed accessory building is at least 35 metres from the closest lot line. In addition, the property is surrounded by ditches and any tree removal within 30 metres would trigger an Aquatic and Riparian Habitat Development Permit (DP). Through the DP process, a streamside protection and enhancement area (SPEA) would be assigned, which would maintain a permanent vegetated buffer between the proposed accessory building and neighbouring properties. The neighbouring property owners are not expected to be impacted. For these reasons, staff support the issuance of the DVP.

Prepared by:

Concurrence:

Concurrence:

B. Labute***T. Trieu******S. Smith***

 Brianne Labute, MCIP, RPP
 Planner

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 Manager of Planning Services

 Scott Smith, MCIP, RPP
 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 to increase the maximum height for an accessory building from 6.0 metres to 7.5 metres. The subject property is 1.9 hectares in size and is bound by rural residential properties to the north and west, Hudson Road to the east and Fleetwood Road to the south (Figures 1 and 2). The property contains a single detached dwelling. The applicants would like to construct a 111 square metre accessory building with extra height to enable storage of their boat (Figure 3).

Planning AnalysisOfficial 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”. The proposed height increase for an accessory building does not conflict with the residential policies established in the OCP.

Zoning Bylaw Analysis

The property is zoned Country Residential One (CR-1) in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005” (Appendix B). The CR-1 zone permits an accessory building up to 6.0 metres in height. The variance would provide relief from Section 309 (3) and 707 (4) and allow the accessory building to be a maximum of 7.5 metres in height. The requested variance is detailed in Table 1 below.

Table 1: Variance Summary

Zoning Bylaw	Variance	Existing	Proposed	Difference
Section 309 (3) and 707 (4)	Accessory building height	6.0 metres	7.5 metres	1.5 metres

As part of the ongoing zoning bylaw review, staff are recommending the maximum height of an accessory building is increased from 6.0 metres to 7.0 metres. A height of 7.0 metres has been identified as appropriate for most properties regardless of individual characteristics (size, topography, location of existing buildings, etc). Certain properties may warrant additional accessory building height depending on the characteristics of the lot. In this case, the lot is 1.9 hectares in size and the proposed accessory building is at least 35 metres from the closest lot line. In addition, the property is surrounded by ditches and any tree removal within 30 metres would trigger an Aquatic and Riparian Habitat DP. Through the DP process, a SPEA would be assigned, which would maintain a permanent vegetated buffer between the proposed accessory building and neighbouring properties. The neighbouring property owners are not expected to be impacted. For these reasons, staff support the issuance of the variance.

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 Comox Valley Regional District (CVRD) Board could 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 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 CVRD bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The subject property is designated Settlement Expansion Area (SEA) in the Regional Growth Strategy, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The SEA designation permits residential uses that will not impact future annexation into municipal areas.

Intergovernmental Factors

As the property is within the SEA, a referral was sent to the City of Courtenay and the Town of Comox. The City of Courtenay has no concerns. At the time of writing this report, no response had been received from the Town of Comox. Should any concerns arise, they will be presented at the Electoral Areas Services Committee (EASC) meeting.

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 (APC) reviewed the application at its May 21, 2019 meeting. The APC was in support of the application. The minutes from the meeting will be forwarded to the 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 4B 19”
Appendix B – “Copy of CR-1 Zone”

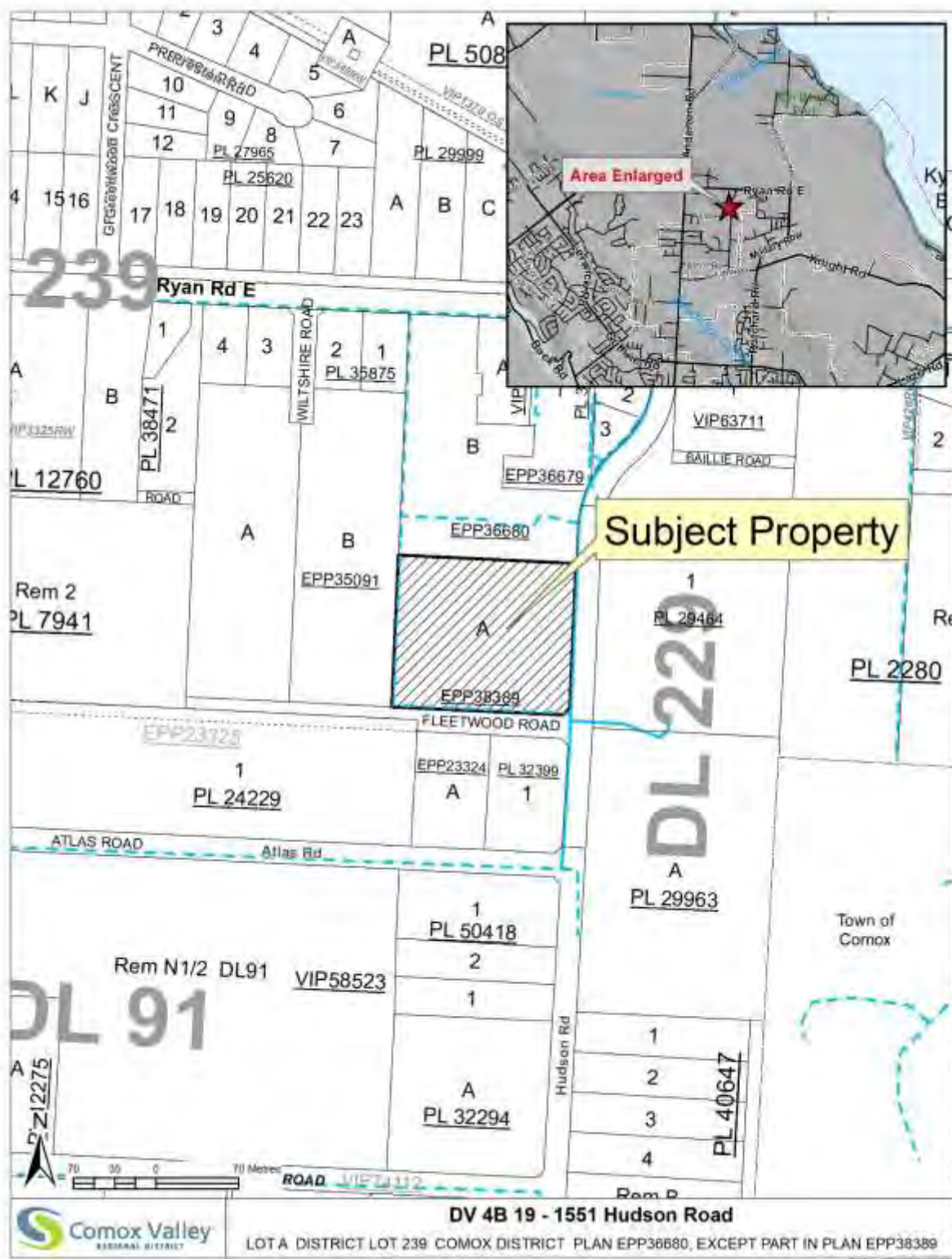


Figure 1: Subject Properties Map



Figure 2: Aerial Photo

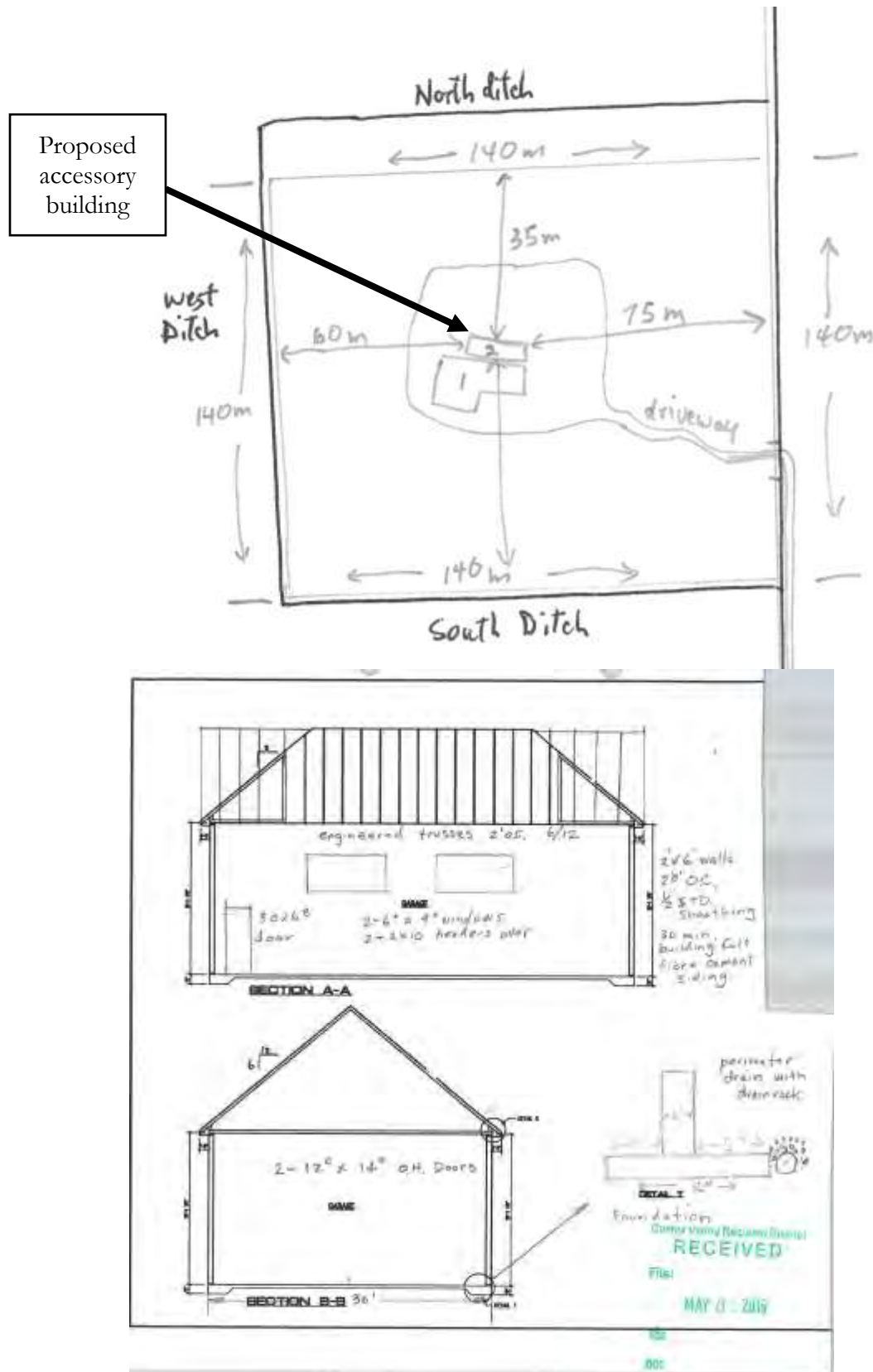


Figure 3: Site Plan and Building Drawing, as submitted by Applicants

DV 4B 19**TO: Robert and Marylynn Acorn**

1. This Development Variance Permit (DV 4B 19) 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 A, District Lot 239, Comox District, Plan EPP36680, Except Part in Plan EPP38389
Parcel Identifier (PID): 029-269-377 **Folio:** 771 03724.496
Civic Address: 1551 Hudson 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.
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 4B 19) 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 – “Subject Property Map and Site Plan”

Schedule A

File: DV 4B 19

Applicants: Robert and Marylynn Acorn

**Legal Description: Lot A, District Lot 239, Comox District, Plan EPP36680,
Except Part in Plan EPP38389**

Specifications:

THAT WHEREAS pursuant to Section 309 (3) and 707 (4) of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," the maximum height of all accessory buildings is 6.0 metres;

AND WHEREAS the applicants, Robert and Marylynn Acorn, wish to increase the maximum height for the accessory building shown on Schedule B to 7.5 metres;

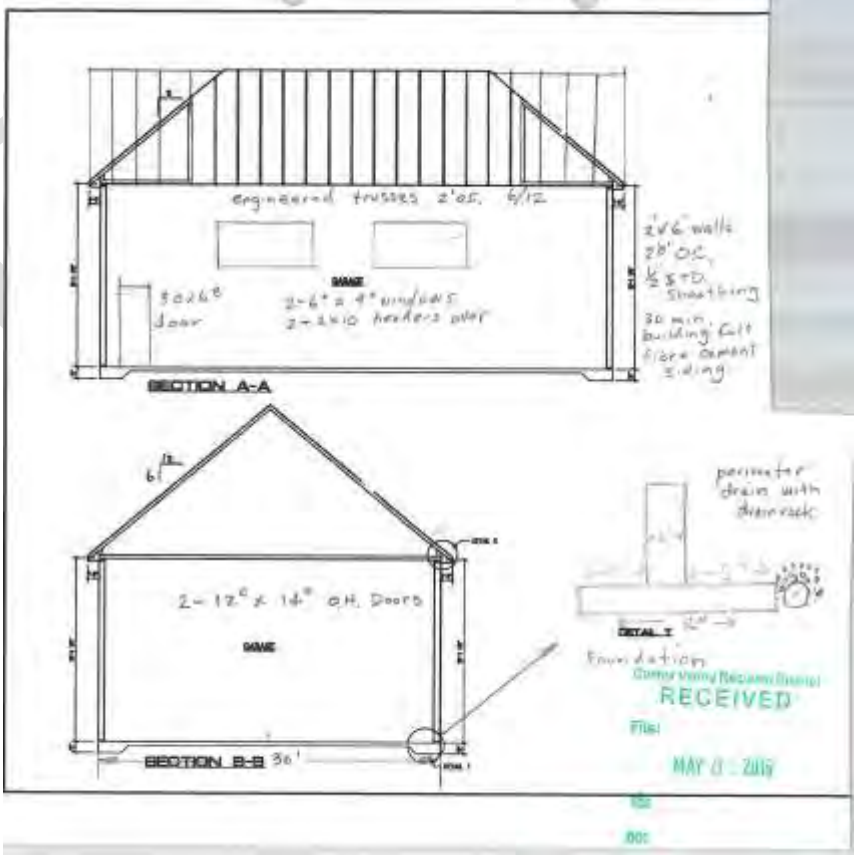
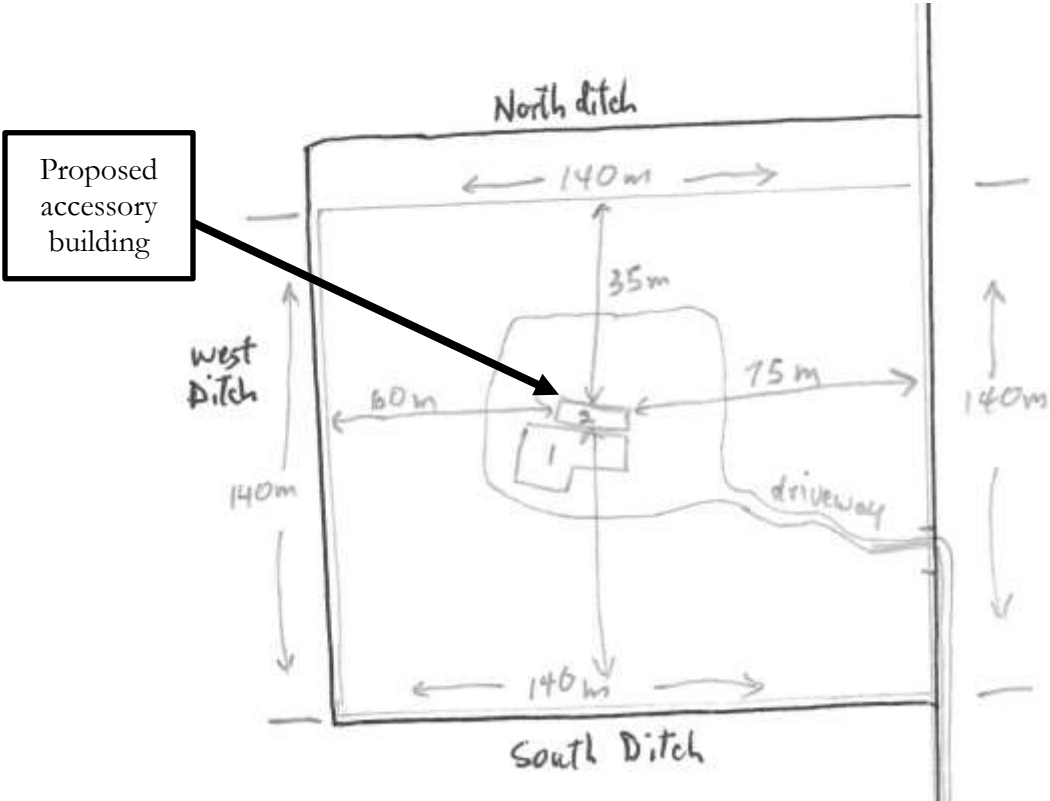
THEREFORE BY A RESOLUTION of the Board of the Comox Valley Regional District on _____, the provisions of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," as they apply to the above-noted property are to be varied as follows:

309 (3) and 707 (4) The maximum height of the proposed accessory building shown on Schedule B is 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 4B 19.

James Warren
Corporate Legislative Officer

Certified on _____



707**Country Residential One (CR-1)****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

- i) **On any lot:**
 - a) Home occupation use;
 - b) Accessory buildings; and
 - c) Bed and Breakfast
- ii) **On any lot 2.0 hectares (4.9 acres) or larger:**
 - a) Animal kennels.

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 metres² (968.8 feet²).
- ii) **On any lot 1.0 hectare (2.5 acres) and over:** Two single detached dwellings.

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4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Country Residential One 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 (32.8ft)	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. [Note: 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.

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- 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 2.0 hectares (4.9 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 • CR-1