

DATE: February 28, 2019**FILE:** 3090-20 / DV 2B 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
Unaddressed lot along Sand Pines Crescent (Nap)
Lazo North (Electoral Area B)
Lot B, District Lot 245, Comox District, Plan EPP36758, PID 029-260-388****Purpose**

To consider a Development Variance Permit (DVP) to increase the maximum allowable height for a house along Sand Pines Crescent (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 2B 19 (Nap) to increase the maximum building height from 10.0 metres to 11.2 metres for a proposed principal building at property described as Lot B, District Lot 245, Comox District, Plan EPP36758, PID 029-260-388;

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

Executive Summary

- The subject property is a 4.5 hectare lot, which is part of a drained wetland, cleared for agricultural purposes within the Lazo Creek watershed.
- The applicants are seeking to construct a two-storey house on the property with 1.2 to 1.6 metres of fill to address wet ground conditions (Appendix B).
- As the regulated height of a building includes fill, the applicants are seeking a variance to that maximum allowable height, from 10 metres to 11.2 metres.
- Notification was sent to property owners within 100 metres of the subject property.
- Because the neighbouring houses are constructed on substantially higher elevation and proposed location includes significant setbacks, the additional height of the proposed house will not adversely affect the use of neighbouring properties or rural character of the neighbourhood. Staff supports the issuance of the variance.

Prepared by:

Concurrence:

Concurrence:

J. MacLean**T. Trieu****S. Smith**Jodi MacLean, MCIP, RPP
Rural PlannerTon Trieu, MCIP, RPP
Manager of Planning ServicesScott Smith, MCIP, RPP
General Manager of Planning
and Development Services
Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

The subject property is an unaddressed parcel along Sand Pines Crescent in the Lazo area (Figures 1 and 2). In the past, the property was cleared and used for growing field crops. Along with the neighbouring agricultural fields, this property is in a low area, only a little above sea level. There are ditches along the western and northern boundaries that direct drainage off this and other properties towards the Queen's Ditch.

The new property owners are proposing to construct a house on the subject property. The proposed house is two-stories tall with a 10/12 roof pitch, sitting on 1.2 to 1.6 metres of fill, giving the final structure a height of 11.2 metres. Because the regulated maximum height is 10 metres, a development variance permit is required.

Planning AnalysisOfficial Community Plan Analysis

The subject property is designated Settlement Expansion Area (SEA) in the Official Community Plan (OCP), being the "Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014". Development in SEAs must generally maintain a rural character with on-site servicing and low densities. The proposed house does not conflict with the 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". The R-RU permits a single detached dwelling. The variance request is detailed below:

Zoning Bylaw	Variance	Required	Proposed	Difference
Section 706 (4)	Height of Principal Building	10 metres	11.2 metres	1.2 metres

The zoning bylaw defines the height of a building as "*the vertical distance from the average natural grade level of the building footprint to the highest part of the roof surface*". Therefore, any fill added to the natural grade is included in the height calculation. The applicants consulted with an engineer regarding flood risk and the engineer recommended the house be placed on 1.2 to 1.6 metres of fill. The combination of 1.6 metres of fill and a second storey on the house results in a potential maximum height of 11.2 metres.

The Comox Valley Regional District (CVRD) Floodplain Management Bylaw requires a flood construction level of at least 1.5 metres above the natural boundary of a watercourse. While the closest applicable watercourse is over 200 metres away (to the north) and at a slightly lower elevation, the added fill will help achieve the required flood construction level.

The house is proposed to be located toward the front of the parcel, approximately 40 metres from the road and other property lines. This substantial setback ensures that the proposed house will not interfere with neighbouring residential uses in terms of privacy and shadows despite the additional height. At this location, the land is substantially lower than where the neighbouring houses are located (Figure 3). Views in the area are dominated by tall trees and the additional height at this location will not interfere with these views.

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 recommend 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 No. 328, 2014”.

Legal Factors

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

Regional Growth Strategy Implications

The subject property is designated SEA in the Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The proposed variance does not conflict with growth policies established in the RGS.

Intergovernmental Factors

As the property is within the SEA, a referral was sent to the Town of Comox. 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. The CVRD Engineering Department noted that *“As the applicant’s engineer has noted, current and future flooding in this area is a known concern. In response to residents’ concerns of flooding in this area, the CVRD has been investigating the feasibility of a local service area to manage drainage in the Lower Lazo Watershed. As part of this work, McElbanney [Consulting Services] has been hired to assess the effectiveness of various wetland reconstruction/ managed retreat options in mitigating flooding issues in the Lower Lazo Watershed. This work will be brought to the Electoral Area Services Committee for their consideration in the coming months.”*

Citizen/Public Relations

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 2B 19”
Appendix B – “Letter from the applicants – DV 2B 19”

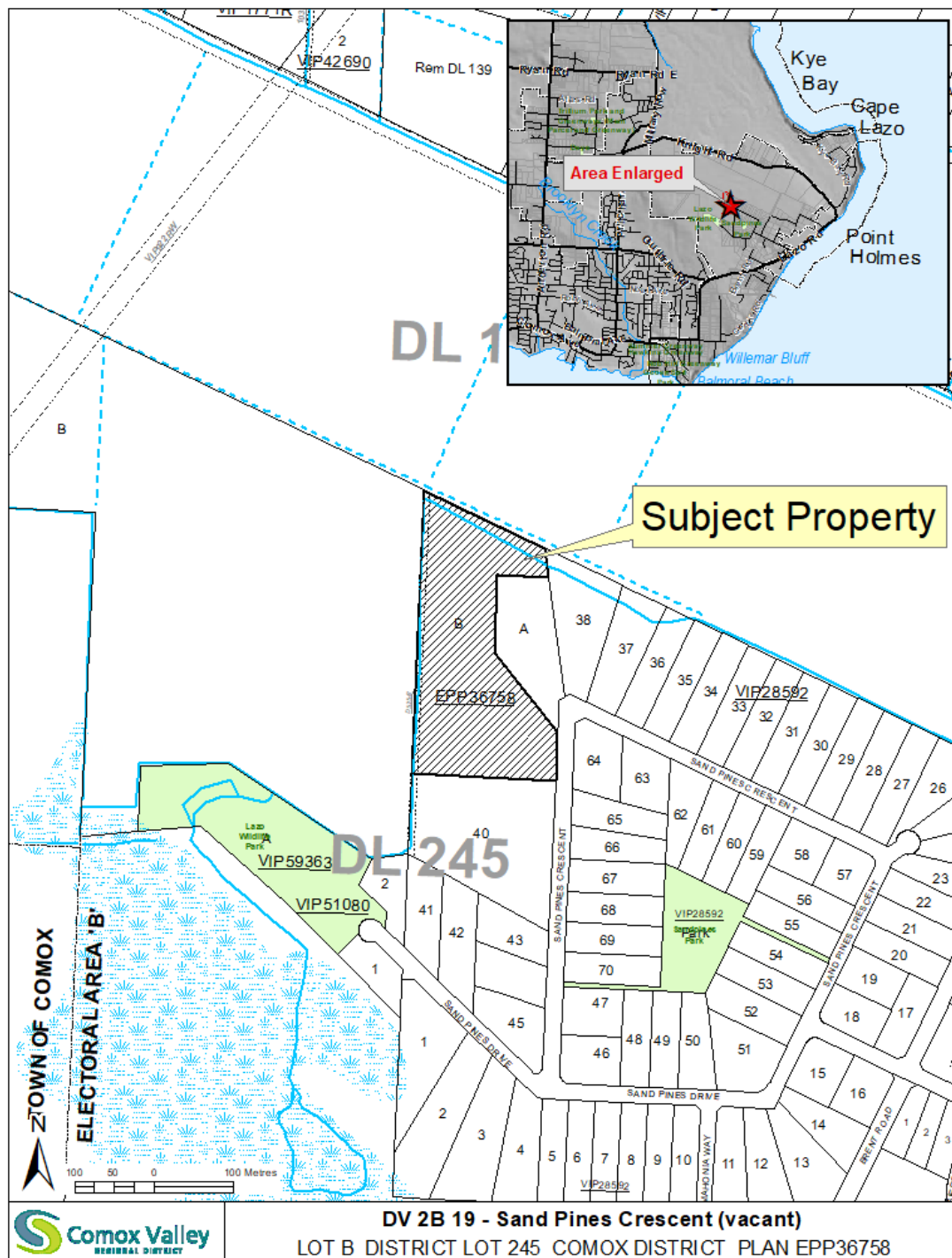


Figure 1: Subject Property



Figure 2: Air Photo (2016)



Figure 3: Looking Northeast at Neighbouring Houses (Background) with Chairs on the Subject Property (Foreground) Marking the Approximate Location of the Proposed House

DV 2B 19

TO: Stephen and Star Nap

1. This Development Variance Permit (DV 2B 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 B, District Lot 245, Comox District, Plan EPP36758
Parcel Identifier (PID): 029-260-388 **Folio:** 03732.325
Civic Address: Unaddressed lot on Sand Pines Crescent
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 2B 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 – “Building elevation”

Schedule A

File: DV 2B 19

Applicants: Stephen and Star Nap

Legal Description: Lot B, District Lot 245, Comox District, Plan EPP36758, PID 029-260-388

Specifications:

THAT WHEREAS pursuant to Section 706(4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the maximum height of a principal building is 10 metres;

AND WHEREAS the applicants, Stephen and Star Nap, wish to increase the maximum height of a principal building to 11.2 to accommodate a new house, as illustrated on Schedule B;

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:

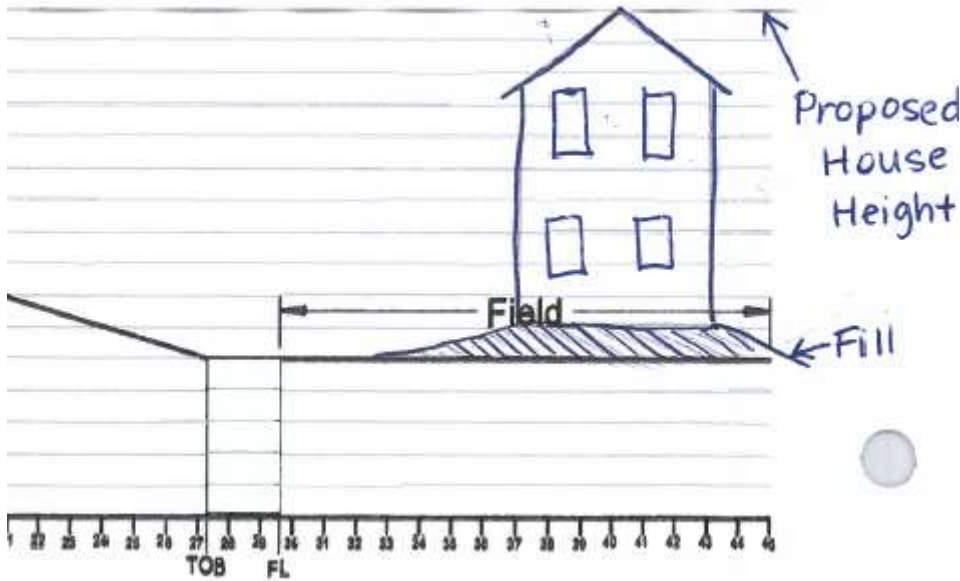
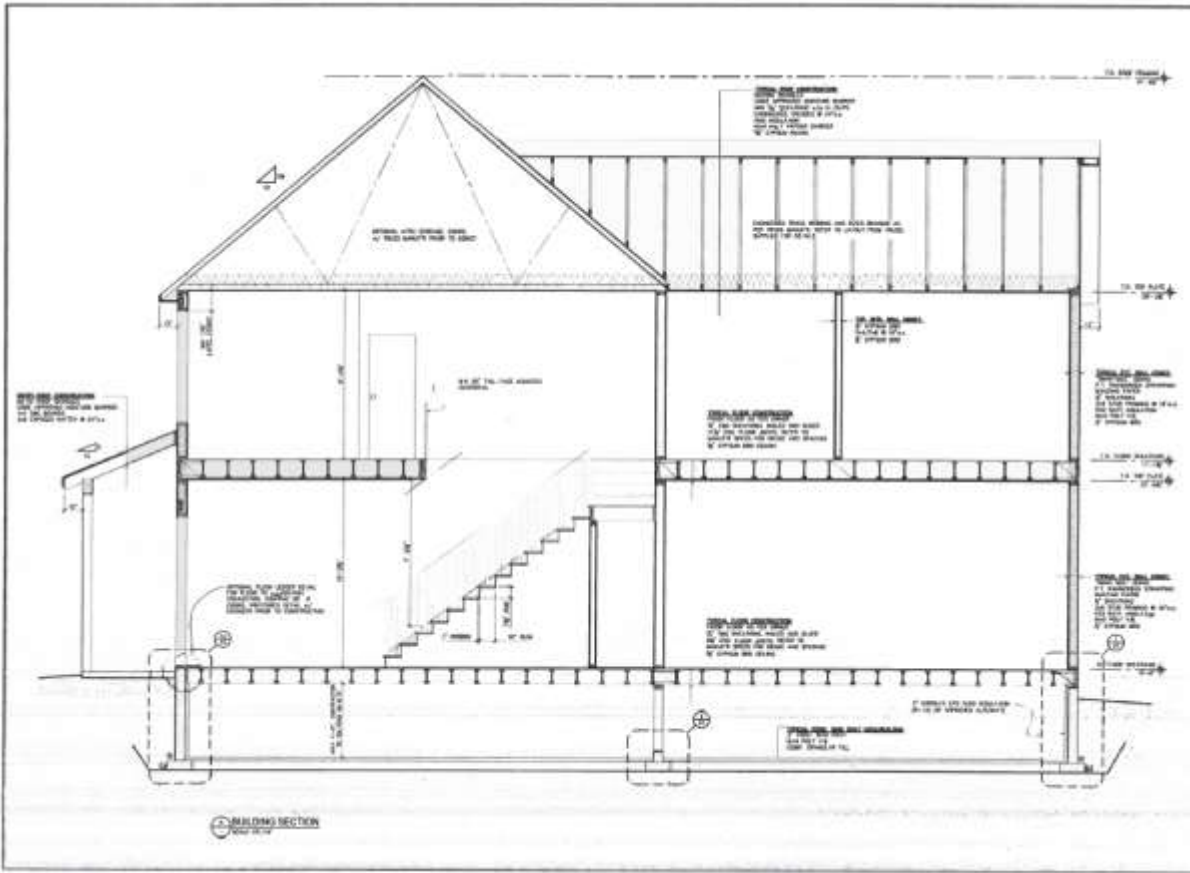
706(4) The maximum height of a principal building is 11.2 metres.

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 2B 19.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B
Building elevation



Star and Stephen Nap
Lot B Sandpines Cresecent

Regarding: Application for a Variance for house height
February 2018

Dear Committee,

Thank you for reviewing our application for a variance. We would like to request a variance in the height of our single family dwelling. We request that the building height be extended from 10 m to 11.2 m.

There is a significant reason for this request:

We have met with an engineer on our property (Jim Mitchell from Emerald Sea Engineering). Mr. Mitchell knows the property well, having prepared a riparian report and subdivision assessment of the property in 2013. Mr. Mitchell advised us that the home site requires 3-4 feet of fill, in order to provide protection from flooding in the future. We would like to err on the conservative side, and use 4' of fill below the house. We are asking the regional district to grant us the height of the fill back towards the house height, so that the house itself will be within the 10m restriction, but it will be allowed to be placed on 4' of fill.

We plan to build a single family home that is 32.8 feet (10m) tall. It will have four bedrooms and will be approximately 2900 square feet. It will be two stories tall (main floor with kitchen/ living rooms and second floor with bedrooms), but we would like to have the attic space within the roof available, in case at a later date we need extra space (we have three young boys). For this reason we have allowed for a 10:12 roof pitch. This roof pitch also allows us to have a longer life span on a cedar shake roof.

We do not believe that an extra 1.2m in height will negatively impact our neighbours for the following reasons:

- We are on an 11 acre property. This means that we have no "near" neighbours.
- The nearest house is 1026 Sandpines Crescent. The home is on an 11m (36.2 ft.) hill (see attached diagram taken from the engineer's report prepared for the regional district in 2013). This means that the highest point of our proposed roof (32.8' house + 4' of fill) will only protrude 0.2m above the neighbours driveway. In no way will this home block views, cause shade, or encroach on their privacy. Additionally, our proposed building site is quite a far distance from their home, and is separated by a thick band of trees (both deciduous and evergreen) that separate the view of the two properties. These trees are likely to remain long-

term, as per an agreement with the regional district regarding the steep slope the home resides on.

- Our only other neighbour is to the South. Our proposed building site is approximately 142 feet away from our property line to the South. Additionally, the neighbours house is separated from our land by a several acre potato field. Our proposed building site is at least 500-600 feet away from their home. Their home is also located on a hill, and a slight increase in the building height of our home is unlikely to be observable from that great distance.

Thank you so much for your consideration. We really appreciate it, and we look forward to hearing from you at your convenience.

Sincerely,



Mrs. Star Nap



Dr. Stephen Nap

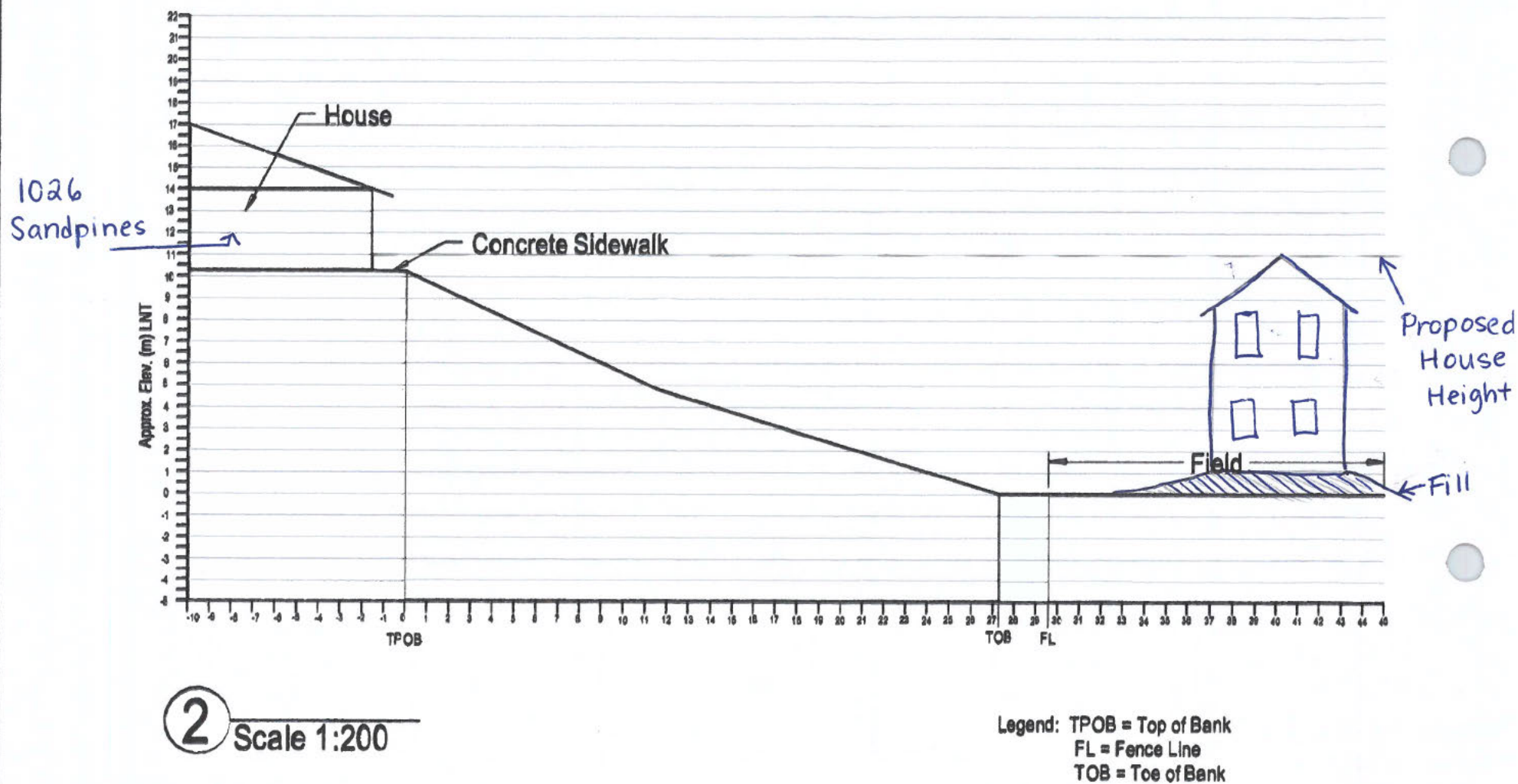
Comox Valley Regional District
RECEIVED

File:

FEB 12 2019

To:

cc:



from a report by Emerald Sea Engineering in 2013.



FRONT ELEVATION
SCALE 1/4"=1'-0"



LEFT SIDE ELEVATION
SCALE: 1/4" = 1'-0"



REAR ELEVATION
SCALE 1/4"=1'-0"



RIGHT SIDE ELEVATION
SCALE 1/4" = 1'-0"

[illegible]

NAP RESIDENCE

SANDPINES DR., COURTENAY, BC
BIRDS EYE DRAFTING AND CONSULTING SERVICE

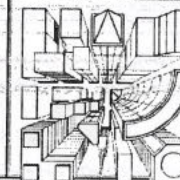
COM-BOX, INC. EMAIL: bruce@bruceydrftg.com PHONE (250) 465-6772

REV.	REVISION	DATE
1	ISSUED FOR PRELIM. REVIEW	APR. 1/19



REV. NO.	DWG. NO.
1	A-3 of 4

BEYARDON

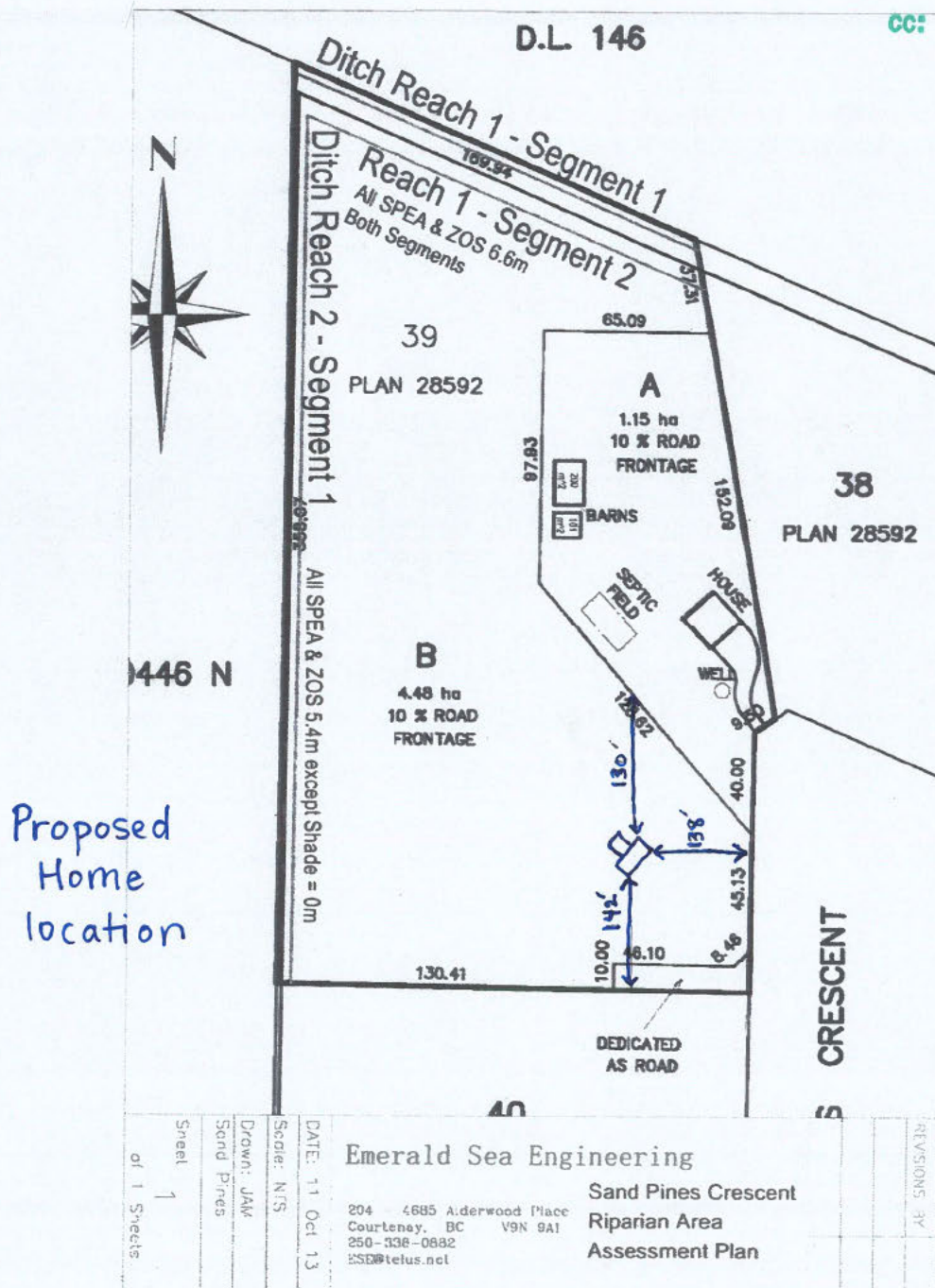


Nap House Plan

FEB 12 2019

CC:

Section 3. Site Plan



NAP House - adjusted house location (updated Feb. 12/19)

↑ Property continues

Proposed Building Site
Nap Residence

Property →
Continues

Scale $\square = 10\text{feet}$

Comox Valley Regional District
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File:

FEB 12 2019

To:

CC:

Neighbouring Potato Field

142'

House

130'

Proposed driveway

138'

thick tree cover
steep hill (10-11m)

existing road + gate

1026 Sandpines
Crescent

Sandpines Crescent