

**DATE:** July 30, 2019**FILE:** 3090-20 / DV 5A 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 - 3719 Cameron Road (Staples)  
Baynes Sounds - Denman/Hornby Islands (Electoral Area A)  
Lot B, Section 28, Township 11, Nelson District, Plan VIP77130**

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**Purpose**

To consider a Development Variance Permit (DVP) that would increase the maximum regulated height of a house from 10 metres to 10.45 metres on the subject property (Appendices A and B).

**Recommendation from the Chief Administrative Officer:**

THAT the Board approve the Development Variance Permit DV 5A 19 (Staples) to increase the maximum permitted height of the principal building from 10.0 metres to 10.45 metres on the property described as Lot B, Section 28, Township 11, Nelson District, Plan VIP77130, PID 025-965-506 (3719 Cameron Road);

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

**Executive Summary**

- The 0.8 hectare lot is being further developed with a new house in the vicinity of Roy Creek.
- The owners began construction on the 8.76 metre tall house (two-stories with 12:9 pitched roof) with the intention of adding a crawlspace and fill underneath to raise the house above the flood construction level.
- However, after adding the trusses they found that the actual height exceeded the 10 metre regulated height limit.
- In order to complete the house as designed, the owners have applied for a variance to this height limit.
- The Area A Advisory Planning Commission (APC) recommended the application be approved, as presented.
- Staff supports issuance of the permit, as proposed, as the additional height will not affect adjacent use or development.

Prepared by:

*J. MacLean*

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Jodi MacLean, MCIP, RPP  
Rural Planner

Concurrence:

*T. Trieu*

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Ton Trieu, MCIP, RPP  
Manager of Planning Services

Concurrence:

*S. Smith*

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

**Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
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**Background/Current Situation**

The subject property is a 0.8 hectare lot on the corner of Royston Road and Cameron Road (Figures 1 and 2). It is developed with a single detached dwelling and several accessory buildings. The owners are now developing a new principal dwelling on the Cameron Road side of the property.

Roy Creek, which is a watercourse subject to flooding, affects the property and a covenant registered on title requires the underside of the floor system of the house to be elevated 1.5 metres above the natural boundary of the creek. Even though the house's location is beyond 30 metres from the creek, the covenant applies to the entirety of the property.

The owners obtained a building permit for an 8.76 metre tall house, consisting of two-stories plus a 12:9 pitched roof (Figure 3). According to the application, the owners believed they were of sufficient distance and height above the creek to be under the regulated height limit of 10 metres even with the addition of fill. However, the surveyor found the underside of the floor system was constructed 1.63 metres above the natural boundary of Roy Creek and after the trusses were added, that the height, from average natural grade to the top of the trusses was 10.37 metres. The owners are requesting the height regulation be varied to 10.45 metres to allow the roof to be completed.

**Zoning Bylaw**

The property is zoned Residential-Rural (R-RU) in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, which lists a maximum height of 10 metres applicable to the principal residential building. Height is calculated from the average natural grade to the highest part of the roof surface. Any fill added on top of the natural grade is included in that height calculation.

As the framing of the house is mostly completed, the impact of the variance can be visualized. It is sited ~ 33 metres from the road and ~ 50 metres to the nearest neighbouring houses to the east and to the south. The subject property is mostly cleared except for along Roy Creek and a stand of tall trees along Cameron Road which currently provides a backdrop to the views of the new house from the neighbouring properties. The additional height will not significantly impact the neighbour's use or development of their property or affect the character of the neighbourhood.

**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 Zoning 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 approve or refuse the requested variance. Based on the review above, staff recommends approving the requested 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 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 (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**

There are no intergovernmental factors involved with this DVP application.

**Interdepartmental Involvement**

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

**Citizen/Public Relations**

The APC reviewed this application at their meeting on July 16, 2019. The APC recommended the variances be approved, as presented, citing reasons such as the additional height is minor, does not appear to impede views of neighbours, involved a floodplain covenant, and was not intentionally planned.

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 Electoral Areas Services Committee (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 – “Application submissions”  
Appendix B – “Draft Development Variance Permit – DV 5A 19”

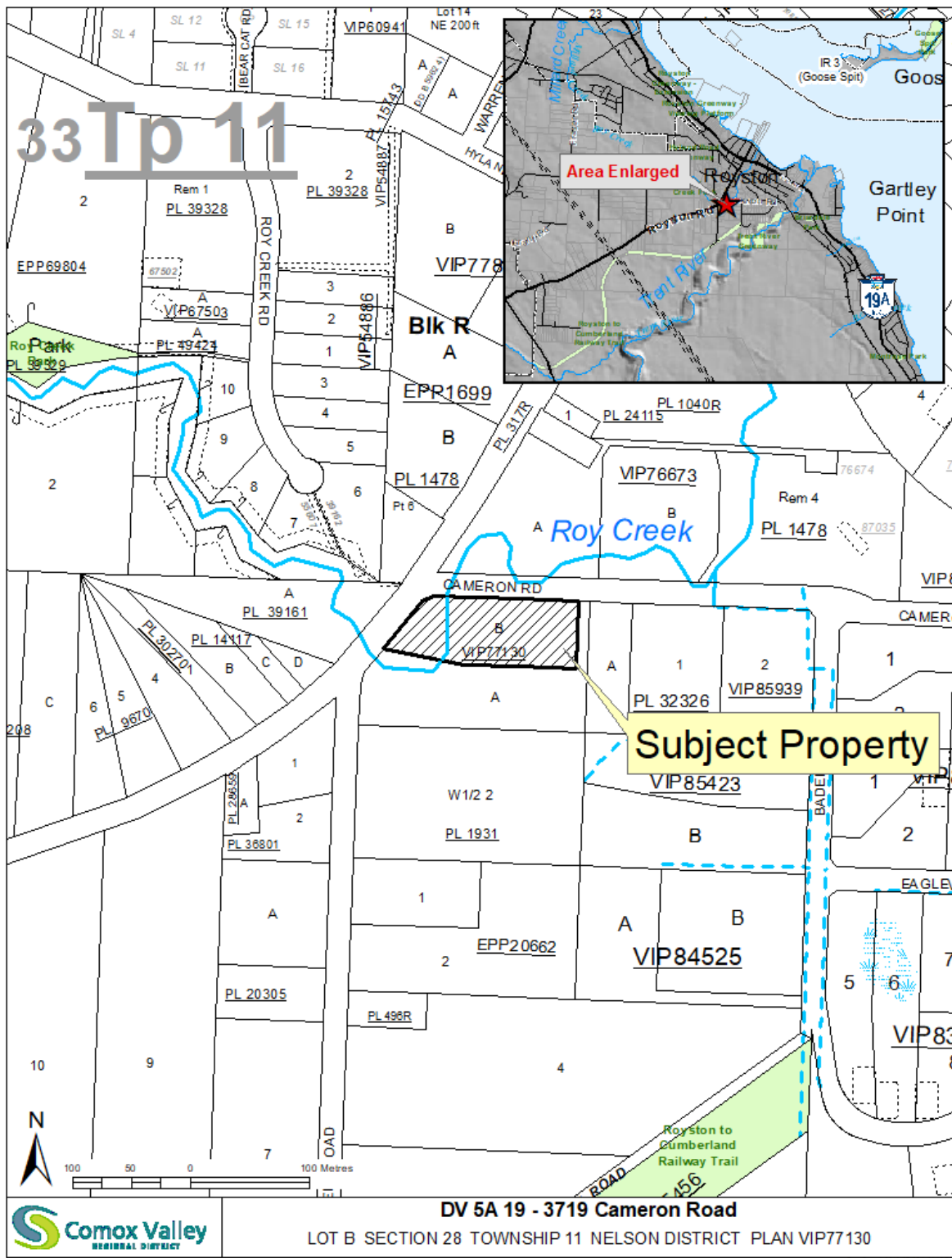


Figure 1: Subject Property

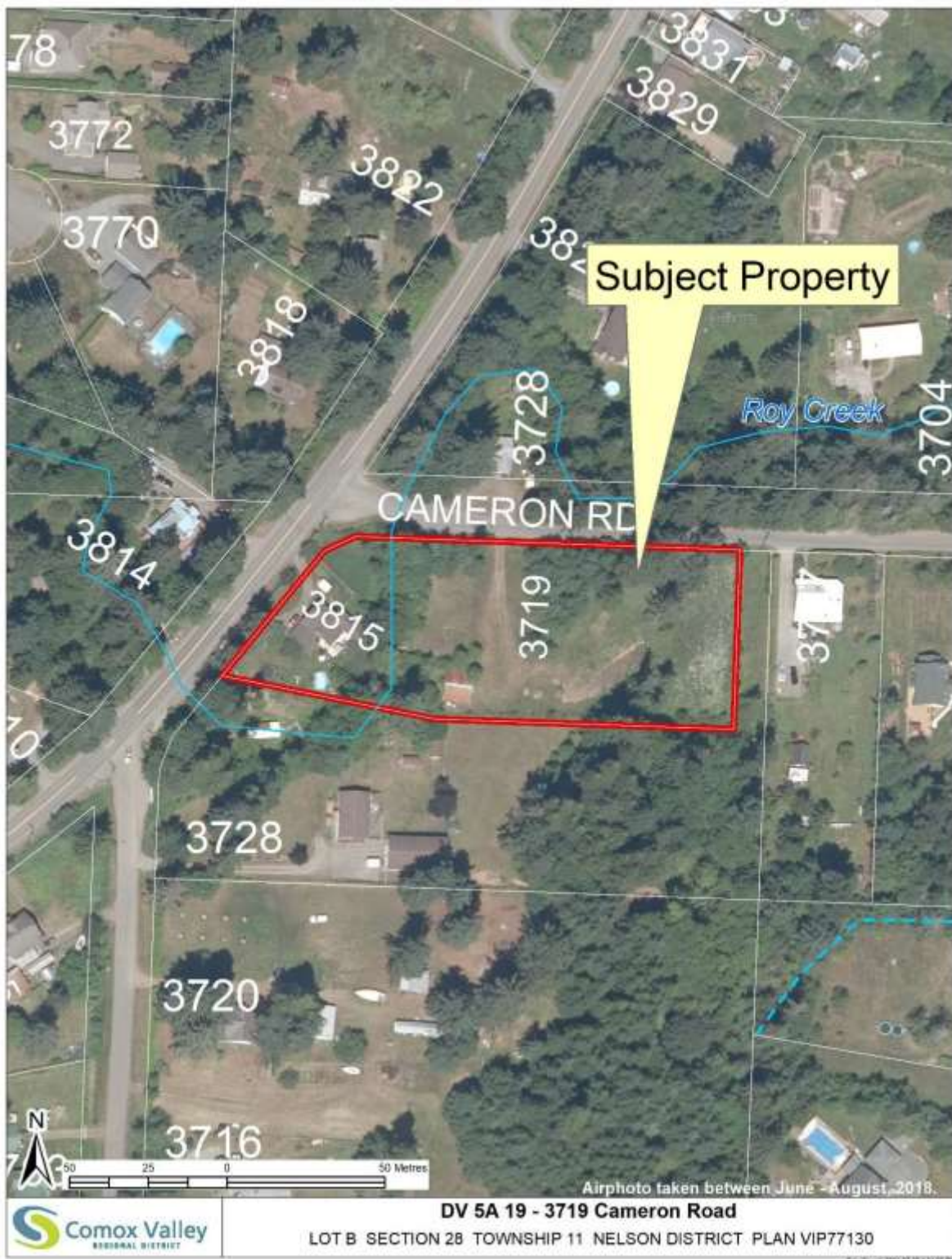


Figure 2: Air Photo (2018)



**Figure 3: The House at 3719 Cameron Road under Construction (July 5, 2019)**

Variance for Max height @ 10.45 meters as height was over because there was a flood plane covenant on the property (old covenant for the whole property). The underside of the floor system had to be 1.5M above the natural boundary line of Roy Creek. We positioned our house with adequate distance from the creek to meet all set back and boundary lines. We had a surveyor come out and measure to conclude that those measurements were met.

We planned and tried our hardest to meet all requirements and setbacks and we've encountered all these issues as we've gone through and have been trying our hardest to meet all requirements and have adapted along the way

As a result of this covenant we were originally planning a 4 ft crawl and had to change our foundation height to a 6 ft to meet the height of the covenant which in return made the max height of the ridge slightly over 10M.

Based on the builder's expertise we hung the underside of our floor system to lower our overall height. Builder believed height was taken from average grade and would be under the 10M max height

We really wanted to build a 2 story house to reduce footprint size and build a bonus room above our garage as we were not able to put in a basement which calculated for the truss height.





DV 5A 19

**TO: Garrett and Ciele Staples**

1. This Development Variance Permit (DV 5A 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, Section 28, Township 11, Nelson District, Plan VIP77130  
**Parcel Identifier (PID):** 025-965-506 Folio: 771 10860.015  
**Civic Address:** 3719 Cameron 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 (DV 5A 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.
5. 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 5A 19**

**Applicants:** Garrett and Ciele Staples

**Legal Description:** Lot B, Section 28, Township 11, Nelson District, Plan VIP77130, PID 025-965-506

**Specifications:**

THAT WHEREAS pursuant to 706(4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the maximum height is 10.0 metres for principal buildings;

AND WHEREAS the applicants, Garrett and Ciele Staples, wish to increase the maximum height of the principal building shown 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:

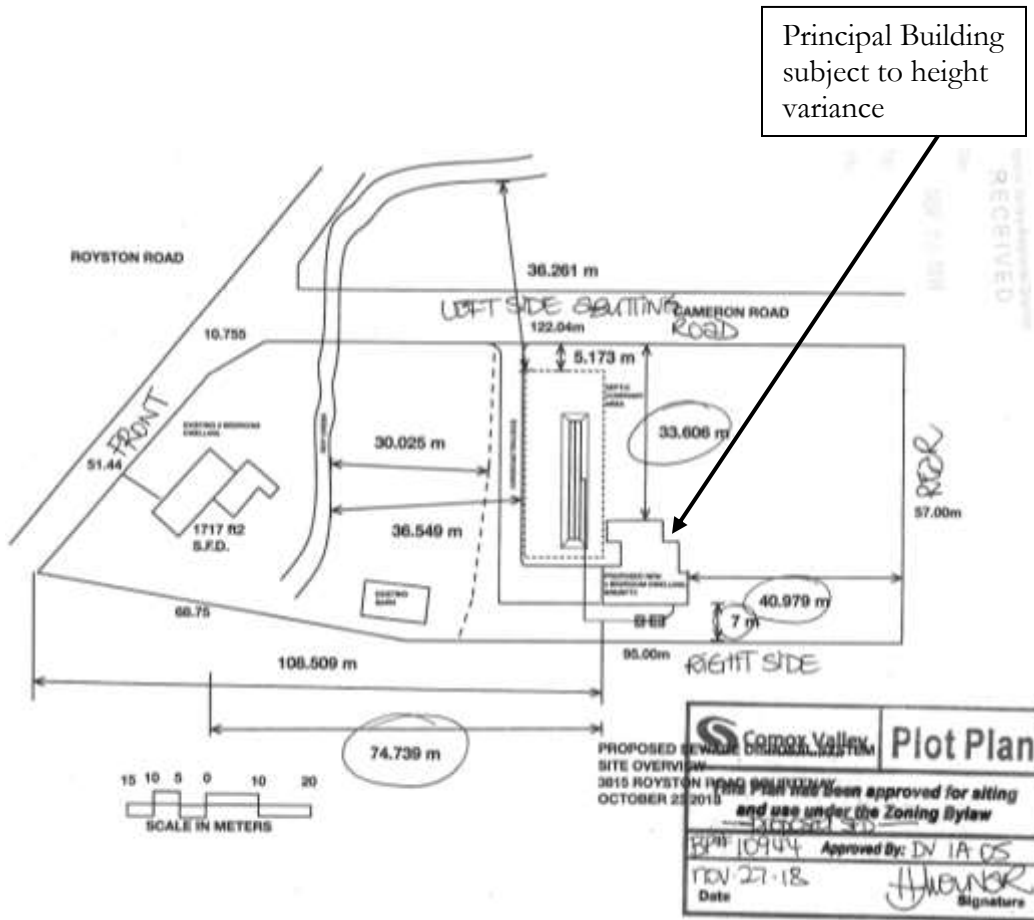
706(4) The maximum height of the proposed principal building shown on Schedule B is increased from 10.0 metres to 10.45 metres.

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 5A 19.

\_\_\_\_\_  
James Warren  
Corporate Legislative Officer

Certified on \_\_\_\_\_

Schedule B



Principal Building subject to height variance

