

**DATE:** July 30, 2019

**FILE:** 3090-20/DV 5C 19

**TO:** Chair and Directors  
Electoral Areas Service Committee

**FROM:** Russell Dyson  
Chief Administrative Officer

Supported by Russell Dyson  
Chief Administrative Officer

*R. Dyson*

**RE: Development Variance Permit  
8575 Lory Road (Lockett and Holehouse)  
Puntledge – Black Creek (Electoral Area C)  
Lot 7, Block 29, Comox District, Plan 28903, PID 001-453-793**

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### **Purpose**

To consider a Development Variance Permit (DVP) to increase the maximum building height from 6.0 metres to 6.91 metres for a partially constructed accessory building (Appendix A).

### **Recommendation from the Chief Administrative Officer:**

THAT the board approve the Development Variance Permit DV 5C 19 (Lockett and Holehouse) to increase the maximum building height from 6.0 metres to 6.91 metres for an accessory building at property described as Lot 7, Block 29, Comox District, Plan 28903, PID 001-453-793 (8575 Lory Road);

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

### **Executive Summary**

- The subject property is located at 8575 Lory Road in the Puntledge – Black Creek Electoral Area (Electoral Area C). The property is in the Agricultural Land Reserve (ALR) and is zoned Rural ALR (RU-ALR).
- The applicants were building a carriage house without the benefit of a permit. Due to ALR Regulations, a carriage house is not permitted without approval from the Agricultural Land Commission (ALC). To bring this building in compliance, the applicants stopped construction and wished to convert this structure into an accessory building.
- BCLS Surveyor confirmed the building height to be 6.91 metres from the average natural grade to the highest point of the building. The maximum permitted building height for an accessory building is 6.0 metres. Therefore, a DVP is required.
- The increased height is not expected to impact adjacent property owners due to the dense trees and vegetation. The accessory building is towards the rear of the lot; whereas, the adjacent owner's dwellings and buildings are towards the front of their lot.
- As part of the ongoing Zoning Bylaw review, staff are recommending the maximum height of an accessory building in the RU-ALR zone is increased to 8.0 metres. The building is consistent with the recommend change.
- The requested variance meets the intent of the maximum building height regulations for an accessory building, staff recommends the issuance of the DVP.

Prepared by:

***B. Chow***Brian Chow, MCIP, RPP  
Rural Planner

Concurrence:

***T. Trieu***Ton Trieu, MCIP, RPP  
Manager of Planning Services

Concurrence:

***S. Smith***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**

The subject property is located at 8575 Lory Road in the Puntledge – Black Creek Electoral Area (Electoral Area C) (Figures 1 and 2). The size of this lot is approximately 2.4 hectares in area and is in the ALR. There is currently a single detached dwelling and several accessory buildings (Figure 3).

The applicants were building a carriage house without the benefit of a permit (Figure 4). Due to ALR Regulations, a carriage house is not permitted without approval from the ALC. To bring this building in compliance, the applicants stopped construction and wished to convert this structure into an accessory building. This building will become a two car garage with a workspace and storage area above (Figure 5). The applicants provide their rationales in their written brief attached as Appendix B.

As part of the compliance process, a building height survey was requested. A building height confirmation from a BCLS Surveyor indicates that the building height, as measured from the average natural grade to the highest point of the building, is 6.91 metres (Appendix A).

Official Community Plan Analysis

Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP), designates the subject property within Agricultural Area. The accessory building does not conflict with agricultural policies within the OCP.

Zoning Bylaw Analysis

The subject property is zoned Rural ALR (RU-ALR) in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”. ALR Regulations and this zone permits accessory buildings as accessory uses. The requested variance is as follows:

Zoning Bylaw No. 2781	Zoning Bylaw Regulation	Request	Difference
Sections 803(5)	Maximum Building Height of Accessory Building: 6.0 metres	6.91 metres	0.91 metre

The intent of the maximum building height limit is to provide a relative scale between principal buildings, such as single detached dwellings at 10.0 metres, and accessory buildings at 6.0 metres. The intent also provides consistent form and character of the community, maintains privacy and minimizes the impacts of shadows onto adjacent lots.

The location of the accessory building is next to dense trees and vegetation, and therefore, there should be sufficient visual screening from neighbours’ buildings (Figures 6 to 7). Further, the location of the accessory building is towards the rear of the subject property; whereas, the adjacent owners’ dwellings and buildings are towards the front yard of their property. As such, the building is

unlikely to affect the form and character of the community and cause shadows onto the adjacent lot.

As part of the ongoing Zoning Bylaw review, staff are recommending the maximum height of an accessory building is increased to 8.0 metres in the RU-ALR zone. The accessory building is consistent with the recommend change, and therefore, the proposed accessory building is unlikely to result in any potential nonconformity in the future. Given these reasons, staff supports the issuance of the DVP.

### **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 recommended to approve 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 Comox Valley Regional District (CVRD) bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

### **Regional Growth Strategy Implications**

Bylaw No. 120, being “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” (RGS) designates the subject property within Agricultural Area. The accessory building does not conflict with the agricultural policies of the RGS.

### **Intergovernmental Factors**

There are no intergovernmental factors involved with this DVP application.

### **Interdepartmental Involvement**

This DVP application was referred to relevant internal departments. Building services staff are working with planning staff to bring this building into compliance. The Manager of Building Services stated that this building was being constructed as a carriage house. Further, a secondary suite is being constructed in the main dwelling under a Building Permit. The outcome of this application will determine next steps in the building permit process.

### **Citizen/Public Relations**

The Advisory Planning Commission met on July 18, 2019, to review this application. The Commission supported this variance request. They supported the variance because the subject accessory building is in keeping with the neighbourhood character and that the building is sufficiently screened with trees from the closest neighbour.

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. 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 5C 19”  
Appendix B – “Written Brief from Applicants Regarding the Variance Request”

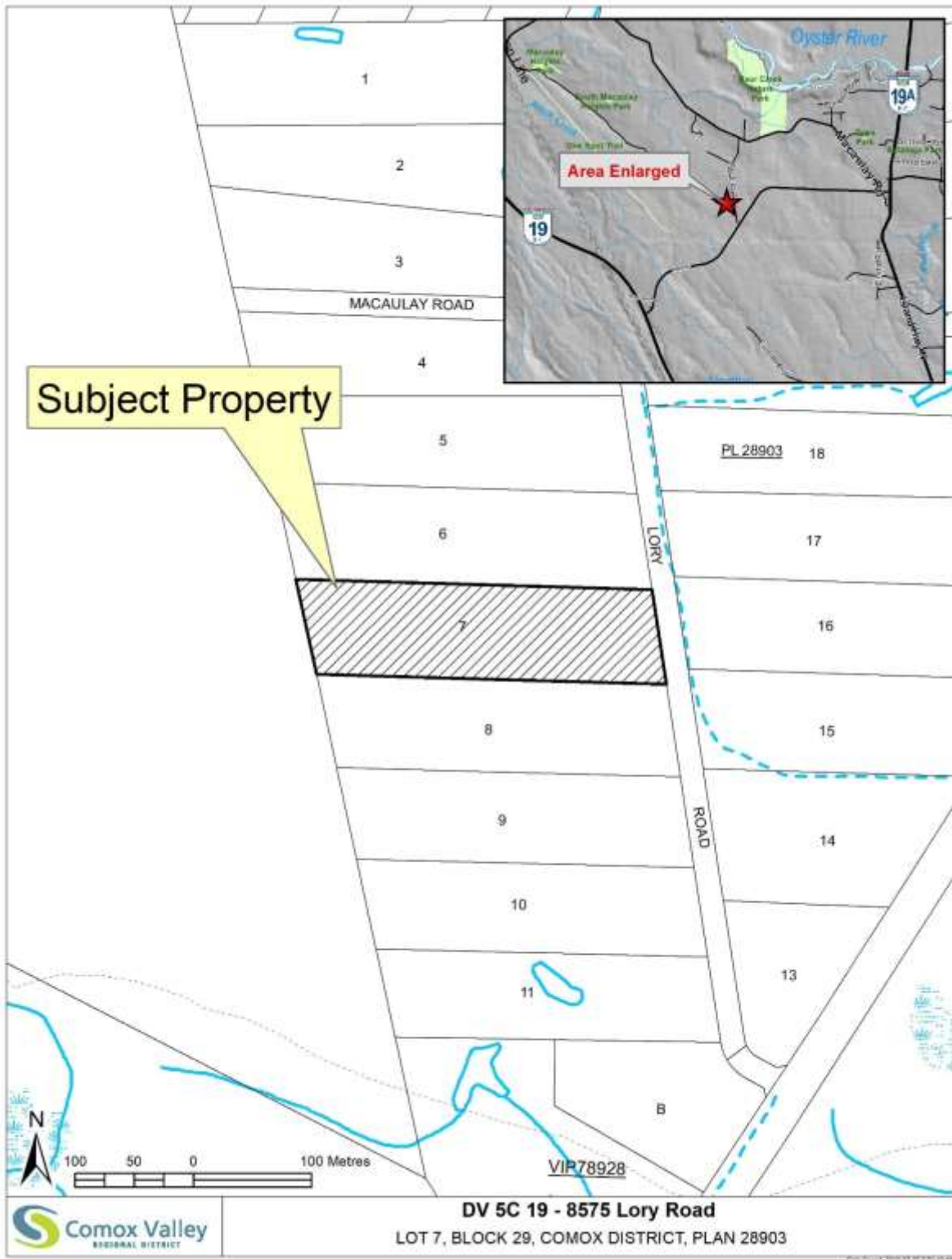


Figure 1: Subject Property Map



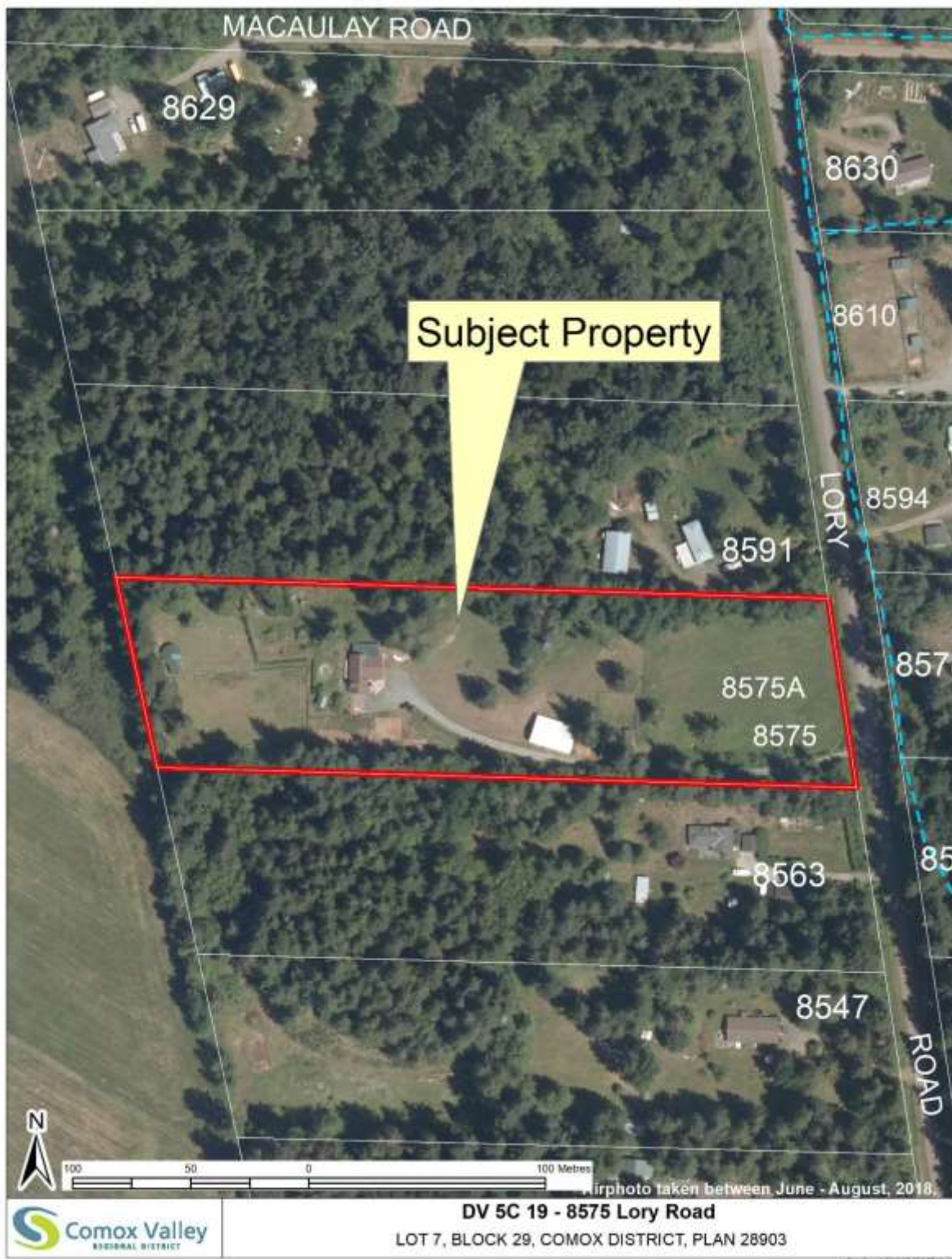


Figure 2: Air Photo

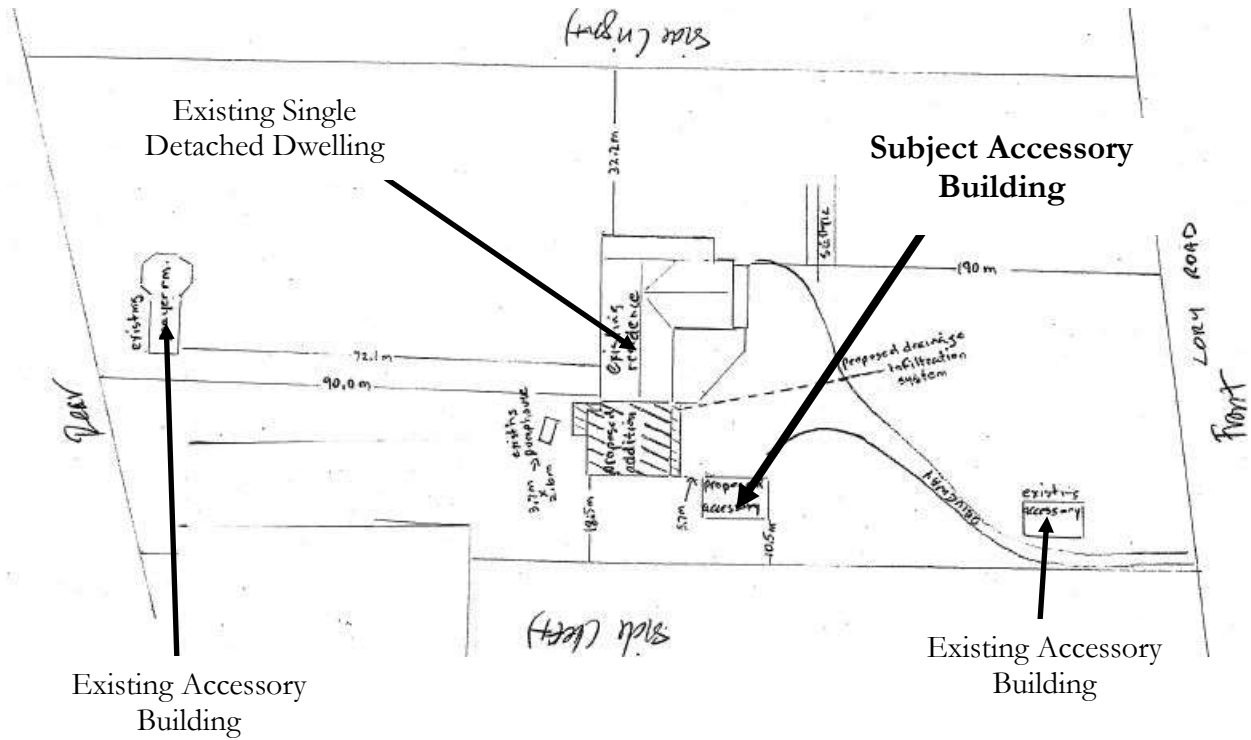
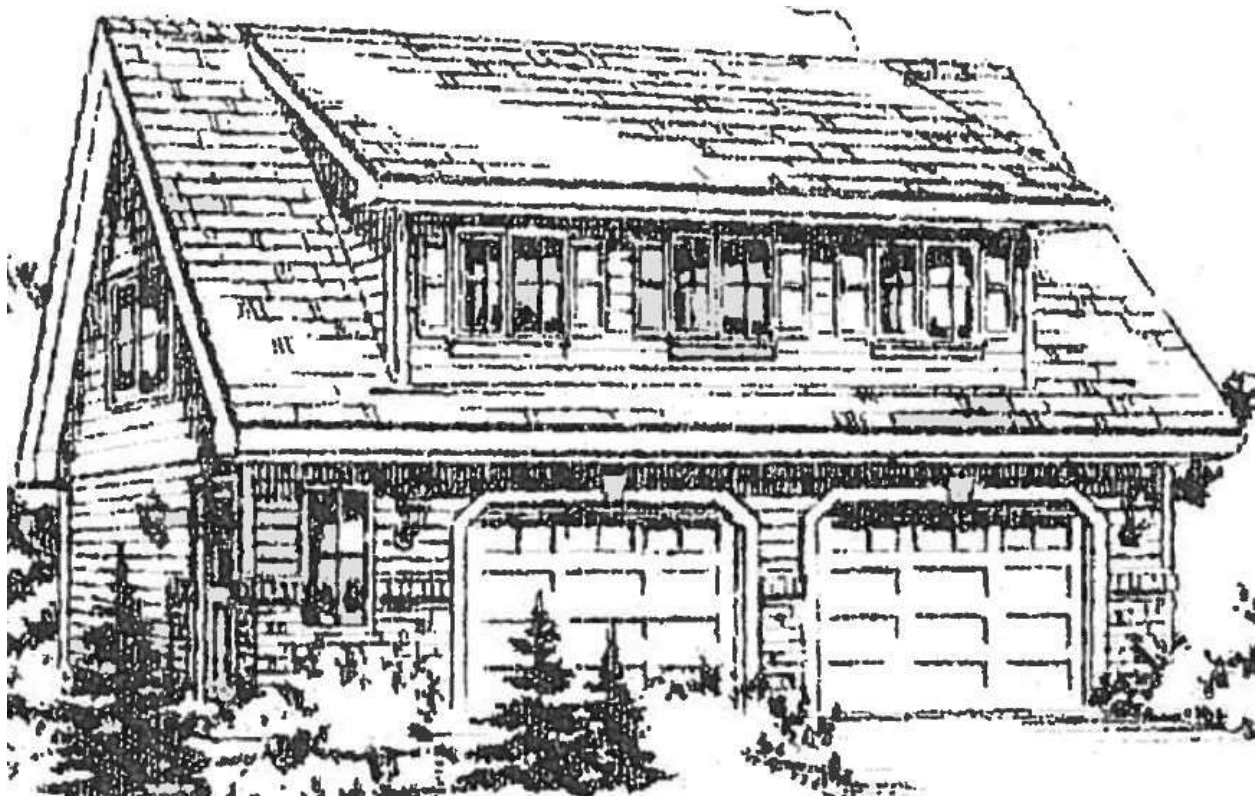


Figure 3: Site Plan



Figure 4: Partially Built Building That Started as a Carriage House and Would Become an Accessory Building

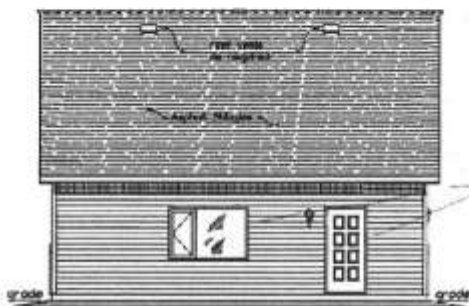




**LEFT ELEVATION** scale = 1/4" = 1' 0"



**FRONT ELEVATION** scale = 1/4" = 1' 0"



**REAR ELEVATION** scale = 1/4" = 1' 0"



**RIGHT ELEVATION** scale = 1/4" = 1' 0"

Figure 5: Elevation Drawings of the Accessory Building





Figure 6: Dense Trees along the Side Lot Line (Looking towards the Rear Yard)



Figure 7: Dense Trees along the Side Lot Line (Looking towards the Front Yard)

**DV 5C 19**

**TO: David Andrew Lockett and Rosanna Holehouse**

1. This Development Variance Permit (DV 5C 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 7, Block 29, Comox District, Plan 28903**  
**Parcel Identifier (PID): 001-453-793 Folio: 771 04890.354**
3. The land described herein shall be developed in accordance with the following term and provision 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.
5. This Development Variance Permit (DV 5C 19) 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 Variance 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, Site Plan and Elevation Drawings”

**Schedule A**

**File: DV 5C 19**

**Applicants: David Andrew Lockett and Rosanna Holehouse**

**Legal Description: Lot 7, Block 29, Comox District, Plan 28903, PID 001-453-793**

**Specifications:**

THAT WHEREAS pursuant to Section 803(5) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the height of accessory buildings shall not exceed 6.0 metres;

AND WHEREAS the applicants, David Andrew Lockett and Rosanna Holehouse, wish to increase the building height of a partially constructed accessory building to 6.91 metres;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on \_\_\_\_\_, the provision of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” as they apply to the above-noted property is to be varied as illustrated in Schedule B and as follows:

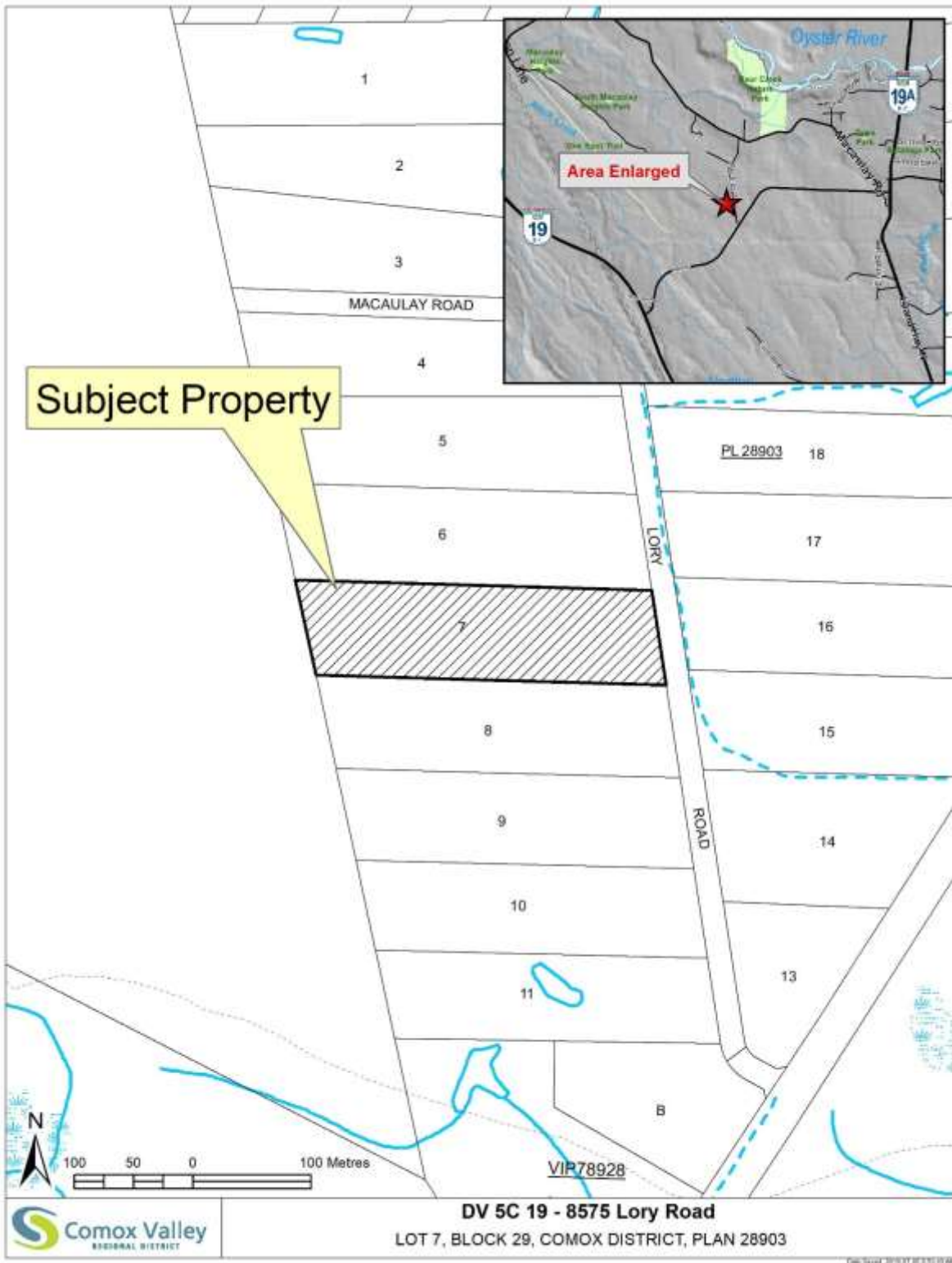
803(5) “The maximum height of the proposed accessory building shown on Schedule B is 6.91 metres.”

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 5C 19.

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

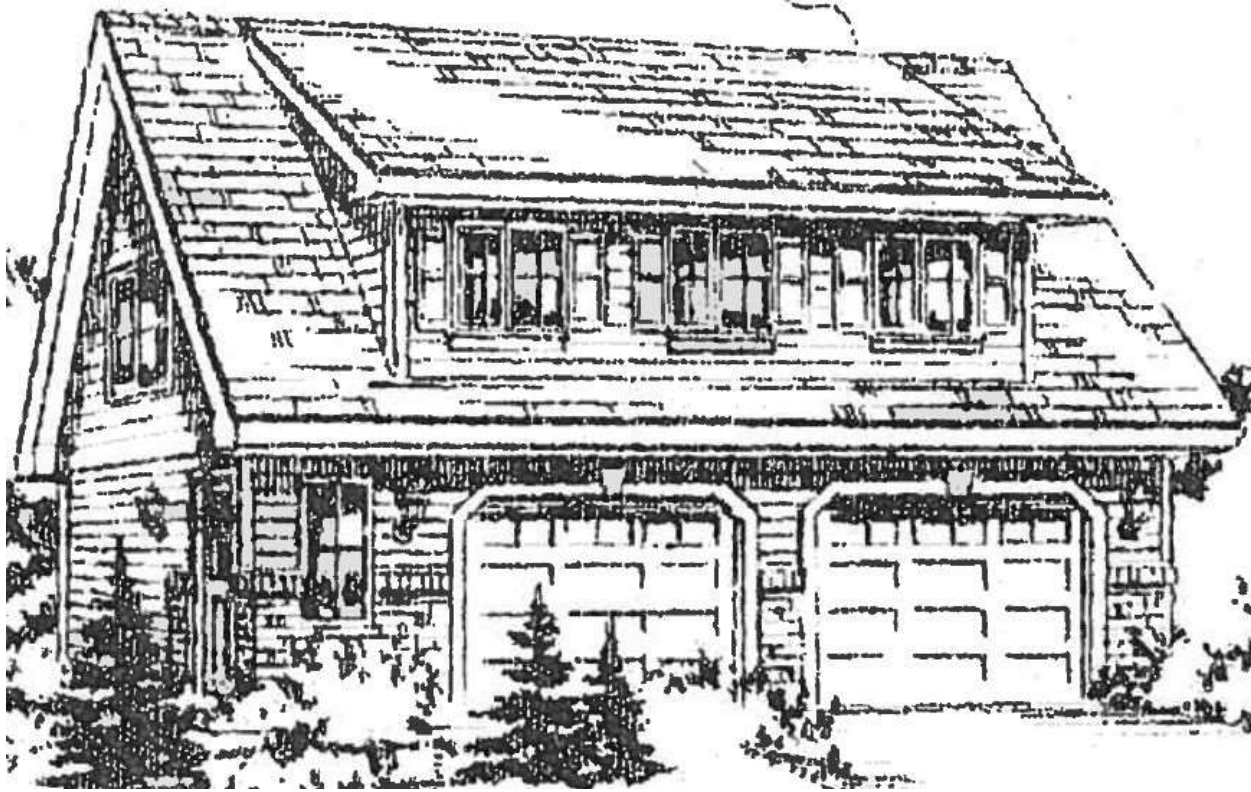
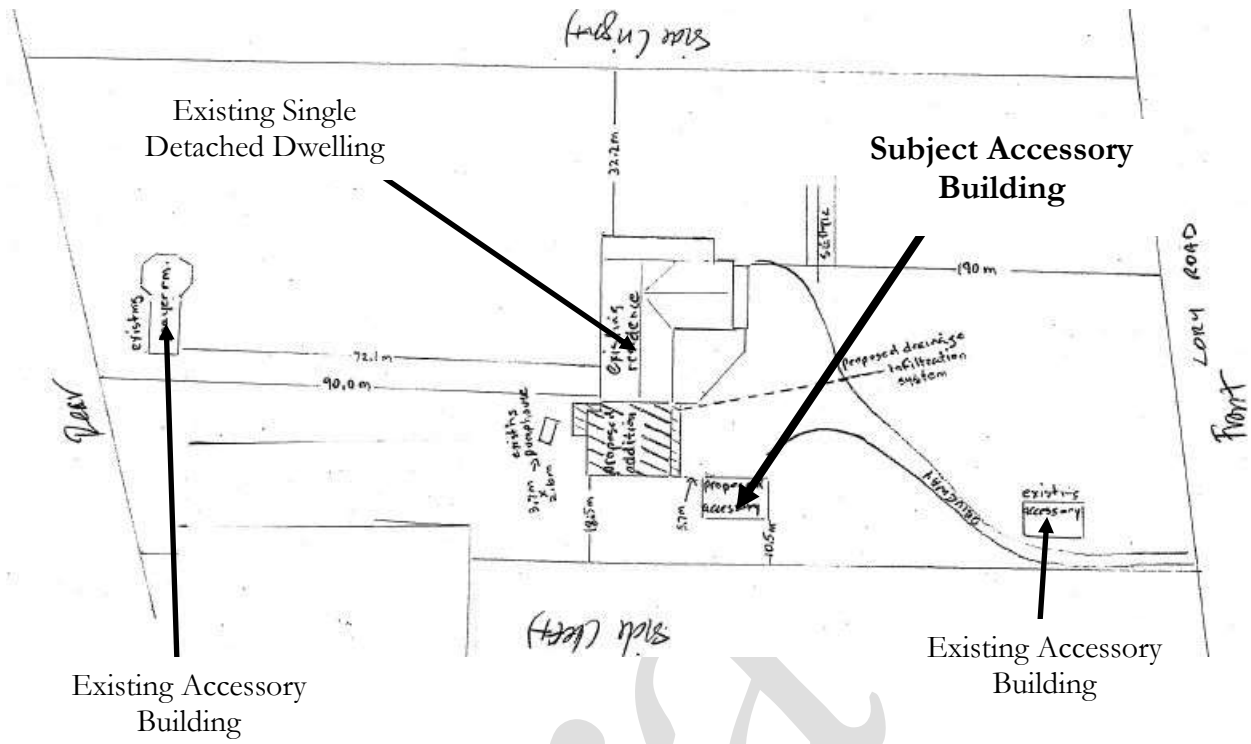
Certified on \_\_\_\_\_

### Schedule B Subject Property





Site Plan and Elevation Drawings

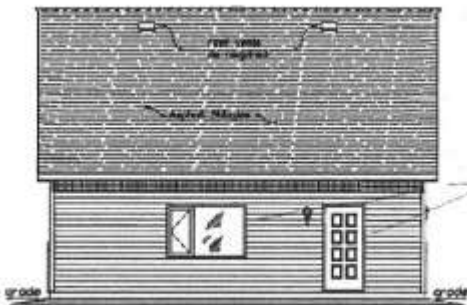




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**RIGHT ELEVATION** scale = 1/4" = 1' 0"



June 18, 2019

Our File: 2211-05710-00

NHA: s1695-HT

Comox Valley Regional District  
600 Comox Road  
Courtenay, BC  
V9N 1Y4

**Attention: Building Inspector**

Dear Sir,

**ACCESSORY BUILDING HEIGHT ON LOT 7, BLOCK 29, COMOX DISTRICT,  
PLAN 28903 – 8575 LORY ROAD**

This letter is to confirm that McElhanney Associates Land Surveying Ltd completed a field survey on June 7, 2019, to determine the roof peak height of the accessory building under construction on the parcel noted above, with respect to the average natural grade. The average natural grade elevation has been interpolated from the nearest available original ground in the vicinity of the building.

The height of the accessory building was established to be 6.91 metres above the average natural grade.

Please do not hesitate to call if you have any questions.

Yours truly,

McELHANNEY ASSOCIATES LAND SURVEYING LTD



Michael .J. Hansen, B.C.L.S.

MJH:tm

June 27/19

To whom it may concern,

We are requesting a variance permit, as we started construction on an accessory building without a permit. We are currently working with the CVRD to bring the building to compliance.

The building is a two (2) car garage with a workspace/storage ~~area~~ above.

The plan that we followed for construction was chosen to match the existing residential roof slope and roof line. Unfortunately, at a later date, we realized that it was over the allowed height for an accessory building, as per the zoning guidelines.

In regards to the impact on adjacent owners we outline why we ask that our request be supported. Firstly, our property is over five (5) acres in size and is heavily treed on either side, making it a very private setting. Secondly, the main residence and accessory building are towards the back of the property, with no view of the neighbours' residences in sight. It is therefore important to state that there is no impact on neighbours' privacy due to the height of the building. This goes for neighbours on either side, and across the road.

Please see the attached letter from the surveyor regarding exact height of the building.

Thank you for your time and consideration,

Rosanna Holehouse + David Lockett  
*R. Holehouse*