

DATE: May 27, 2021**FILE:** 3090-20 / DV 4B 21**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 – 347 Butchers Road (Gottmann)
Lazo North (Electoral Area B)
Lot B, District Lot 186, Comox District, Plan 38036, PID 001-004-760**

Purpose

To consider a Development Variance Permit (DVP) to reduce the minimum rear yard setback from 7.5 metres to 6.75 metres to allow for the construction of a sundeck (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve the Development Variance Permit DV 4B 21 (Gottmann) to reduce the rear yard setback from 7.5 metres to 6.75 metres to allow the construction of a sundeck on property described as Lot B, District Lot 186, Comox District, Plan 38036, PID 001-004-760 (347 Butchers Road);

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

Executive Summary

- A DVP application has been received to reduce the rear yard setback from 7.5 metres to 6.75 metres for the construction of a sundeck.
- The Advisory Planning Commission (APC) for Area B considered this file at their May 18, 2021 meeting voting to support the file. In addition, adjacent property owners and tenants within a 100 metre radius were notified of the request, and a referral was sent to planning staff at the Town of Comox. No response was received from the Town.
- Staff are recommending that the variance be approved as there is sufficient space remaining for the maintenance of the dwelling, sightlines are uninhibited, and the development as proposed will not detract from the rural form and character of the neighbourhood and surrounding development.

Prepared by:

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Concurrence:

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Concurrence:

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Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

An application has been received to consider a DVP to reduce the rear yard setback for property at 347 Butchers Road. The subject property is approximately 0.18 hectares, is zoned Country Residential One (CR-1), and is designated as being within a Settlement Expansion Area (SEA). Current development on the property is limited to a single detached dwelling and the property has retained several trees and vegetation (Figures 1 and 2). The proposed development includes the construction of a sundeck onto the rear portion of the house, encroaching upon the 7.5 metre rear yard setback (Figures 3 and 4). Because the property borders the Town of Comox (the access road is within the Town's jurisdiction), planning staff at the Town of Comox will receive a referral for comment as well. Minimum setbacks are prescribed by the Zoning Bylaw for a multitude of reasons. They ensure sightlines are maintained which help increase pedestrian and vehicular safety, provide privacy to and from adjacent properties, and ensure that there is enough space around a structure for it to be maintained.

Policy Analysis

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider the 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 in a designated floodplain area, or the development is not part of a phased development agreement.

Regional Growth Strategy and Official Community Plan Analysis

Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010,” and Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014,” both designate the subject property as being within the SEA. The SEA land use designation is used for properties close to a member municipality and is intended to ensure minimal development until such a time as the property can be incorporated into a member municipality's jurisdiction. The proposed development does not conflict with the residential goals, objectives, and policies outlined in either bylaw for the SEA.

Zoning Bylaw Analysis

Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” stipulates minimum setback distances that structures must maintain from all property lines, which is the subject of this variance application. The dwelling on the property currently meets the 7.5 metre rear yard setback, but the addition of a sundeck will encroach upon this minimum setback. The reduction sought is 0.75 metres, for a reduced rear yard setback of 6.75 metres.

Recommendation and Rationale

Staff are in support of the application and are recommending that the variance be approved for the following reasons:

1. Because the setback request is for the rear yard, sightlines are unimpeded.
2. Significant space will remain post-development for the maintenance of the dwelling. The request is very minor in nature.
3. The proposed development will not detract from the rural form and character of the neighbourhood and surrounding development.

Options

The board could either approve or deny the requested variance. Based on the analysis above, staff recommend that the variance be approved.

Financial Factors

All applicable fees have been collected for this application in accordance with Bylaw No. 328, being the “Comox Valley Planning Procedures and Fees Bylaw No. 328, 2014.”

Legal Factors

The report and the recommendations contained herein are in compliance with the LGA and applicable Comox Valley Regional District (CVRD) bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

This application does not have any implications for the Regional Growth Strategy as the variance requested does not conflict with any of its residential policies, principles or objectives for the SEA.

Intergovernmental Factors

Because the subject property is bordering the municipal boundary of the Town of Comox, a referral package was sent to planning staff at the Town of Comox. No response was received.

Interdepartmental Involvement

An interdepartmental referral was sent to staff within the bylaw enforcement, fire services, and building departments. No issues or concerns were raised.

Citizen/Public Relations

The APC for Electoral Area B considered this application at their May 18, 2021 meeting, deciding to vote in favor of the application. The reasons for the vote were the minor nature of the variance request and that it will not increase the height of the existing dwelling.

Further, notice of the requested variance was mailed to adjacent property owners and tenants within a 100.0 metre radius of the subject property at least 10 days prior to the Electoral Areas Services Committee (EASC) meeting. This notice informs those property owners and/or tenants as to the purpose of the permit, the land that is the subject of the permit, and that further information on the proposed permit is available at the CVRD office. It also provided the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners and/or tenants is through their written correspondence received prior to the EASC meeting or their attendance at the EASC meeting.

Attachments: Appendix A – “Development Variance Permit DV 4B 21”

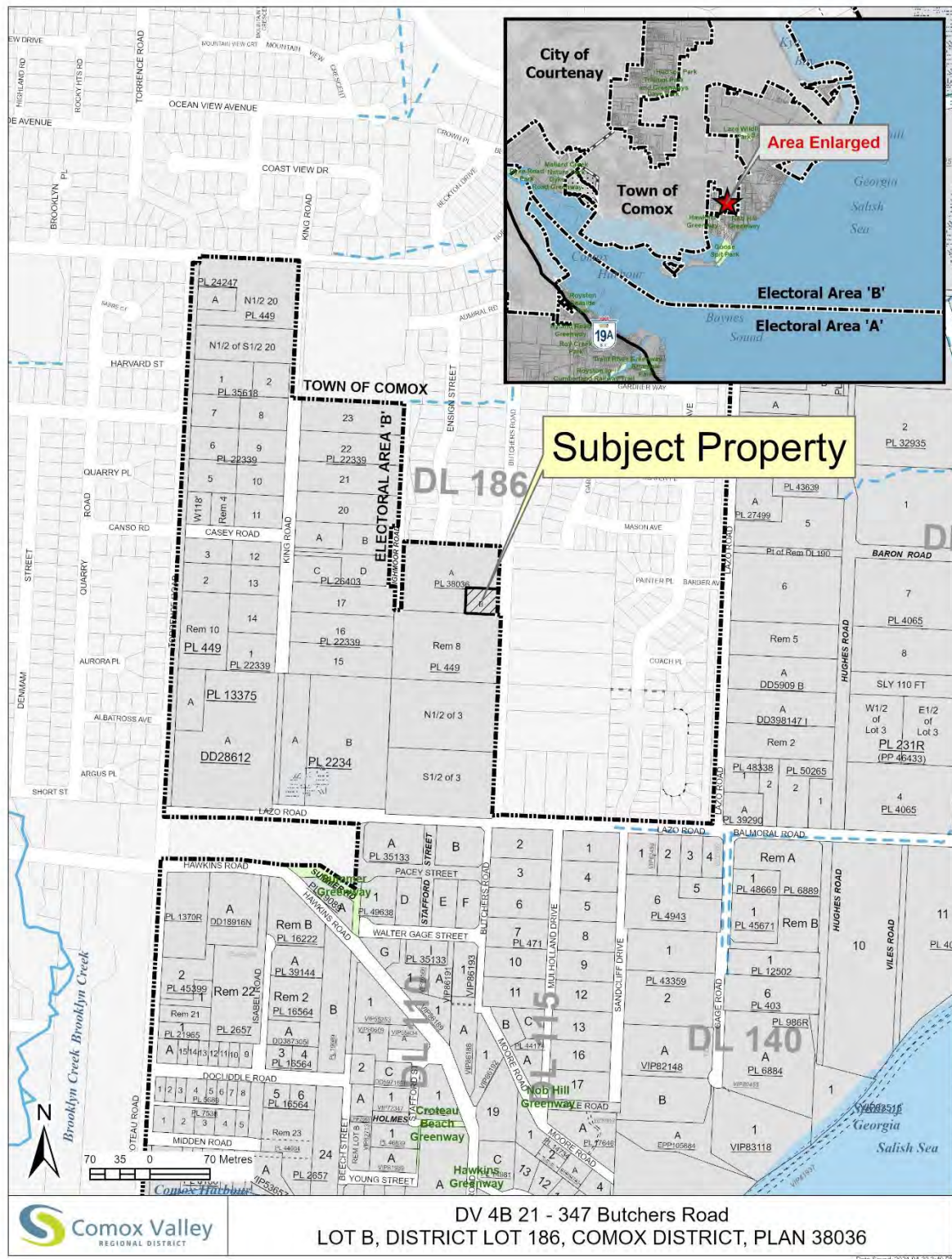


Figure 1: Subject Property Map



Figure 2: Air Photo

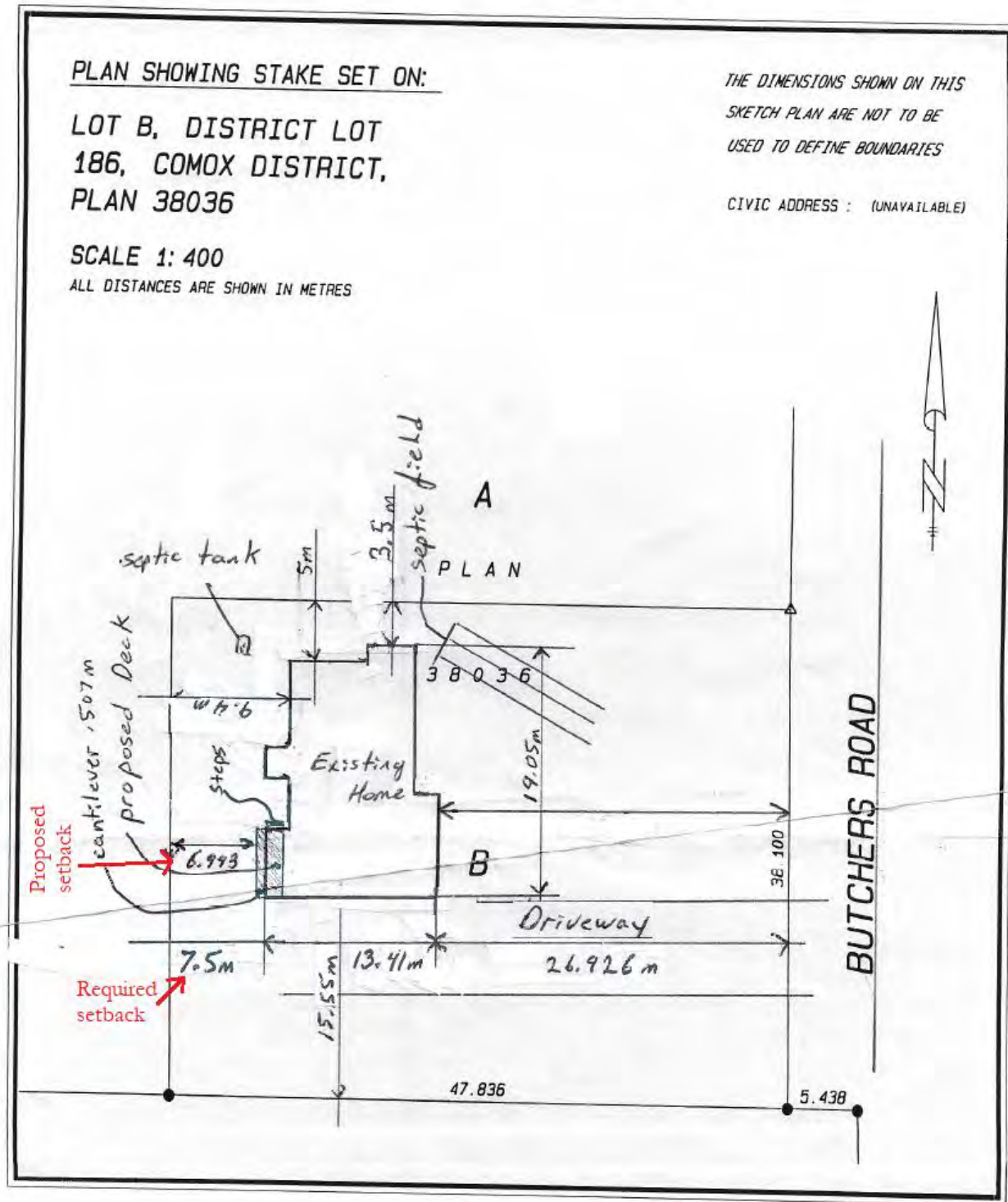


Figure 3: Site Plan

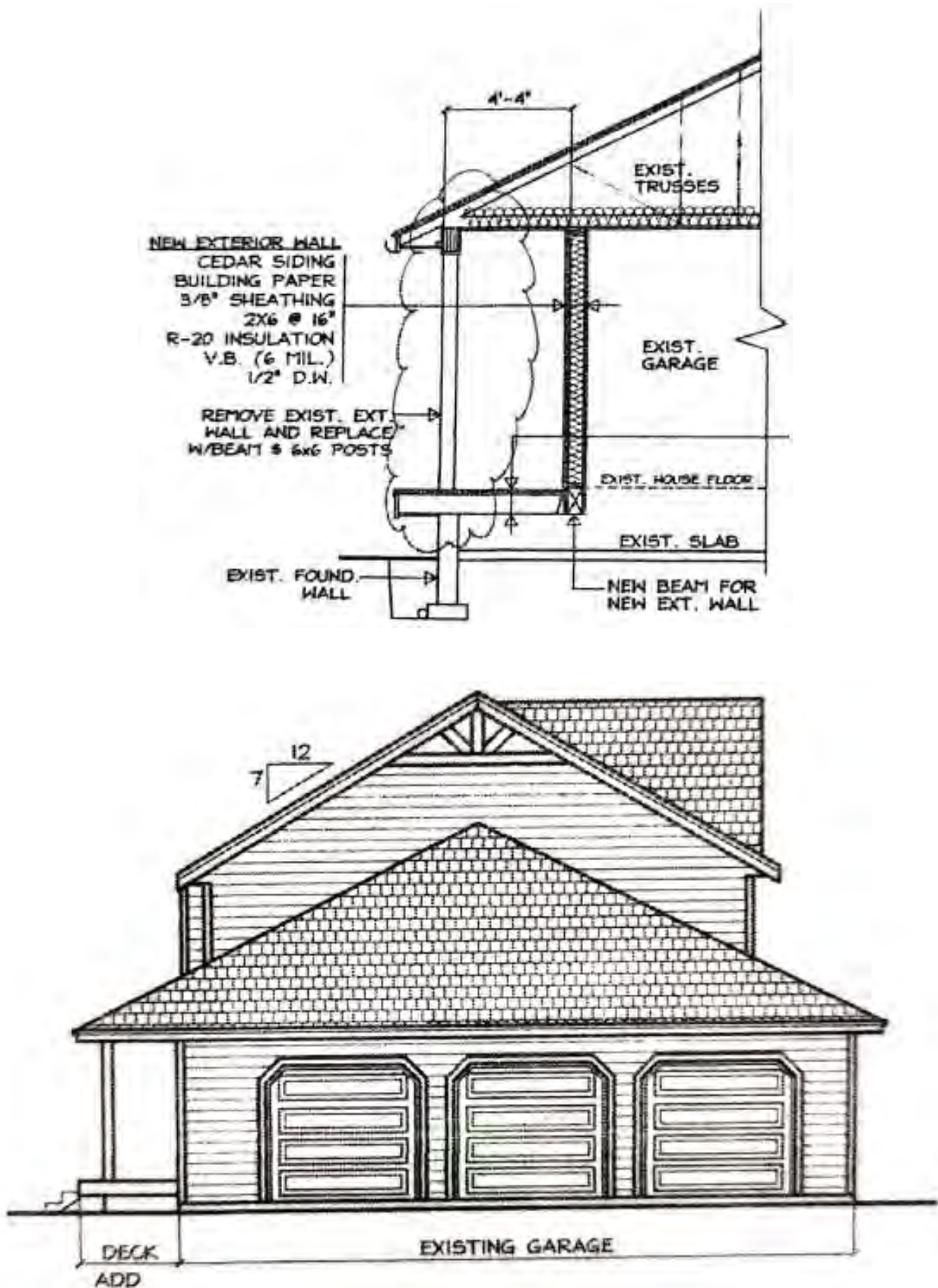


Figure 4: Elevation Drawings

DV 4B 21**TO: Charlene and Stefan Gottmann**

1. This Development Variance Permit (DV 4B 21) 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 106, Comox District, Plan 38036
Parcel Identifier (PID): 001-004-760 Folio: 02949.255
Civic Address: 347 Butchers Road
3. The land described herein shall be developed 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 21) 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 _____.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Subject Property Map, Air Photo, Site Plan, and Elevation Drawings”

Schedule A

File: DV 4B 21

Applicants: Charlene and Stefan Gottmann

Legal Description: Lot B, District Lot 186, Comox District, Plan 38036

Specifications:

THAT WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum rear yard setback for principal dwellings on the property is 7.5 metres;

AND WHEREAS the applicant, Stefan Gottmann, wishes to construct a sundeck on the rear of the dwelling that will encroach within the required setback distance by up to 0.75 metres;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on _____, the provisions of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” as they apply to the above-noted property are to be varied as follows:

701(5) “The minimum rear yard setback for a principal dwelling for the property described in Schedule B is 6.75 metres for the foundation.”

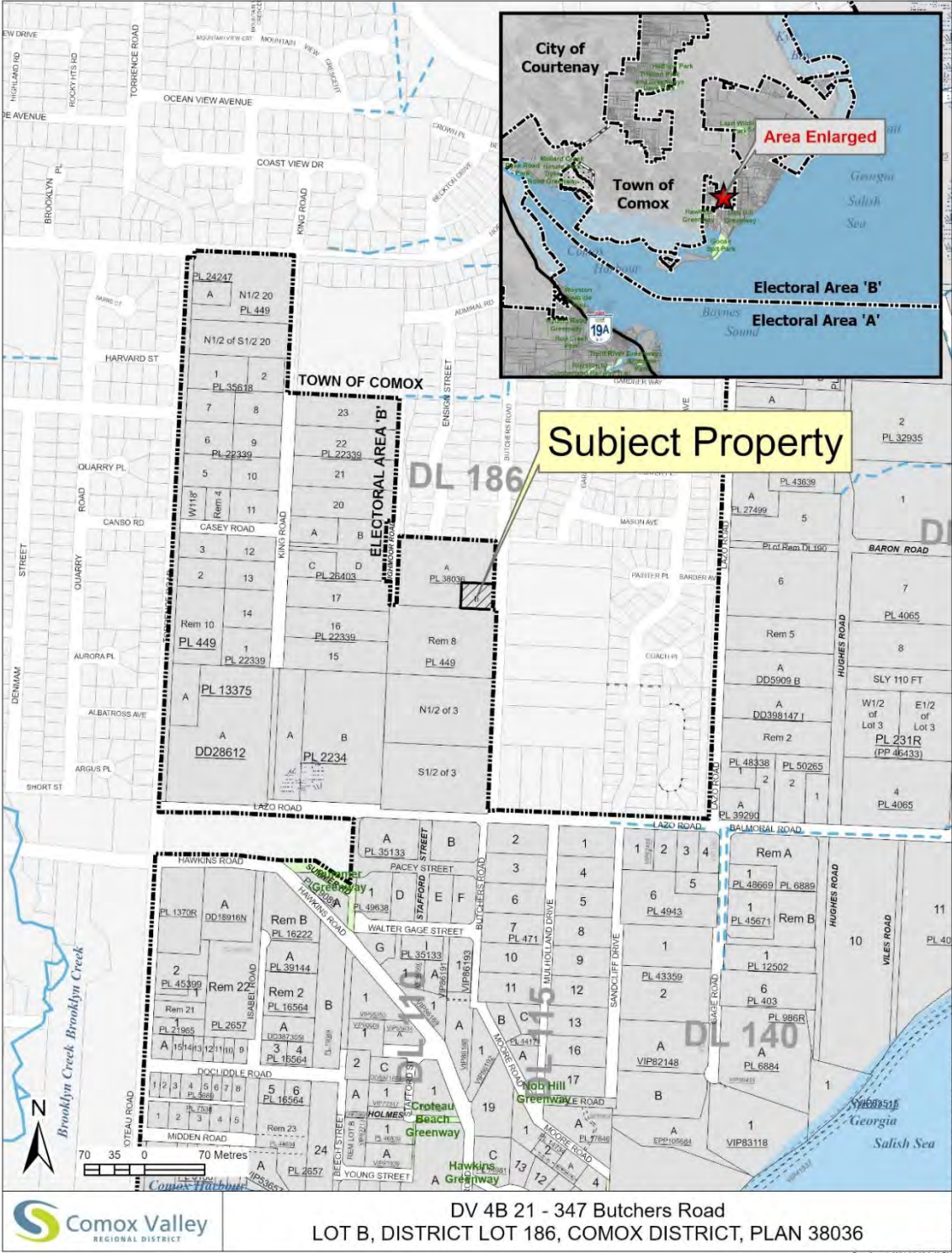
I HEREBY CERTIFY this copy to be a true and correct copy of Schedule A being the terms and conditions of Development Variance Permit File DV 4B 21.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Schedule B

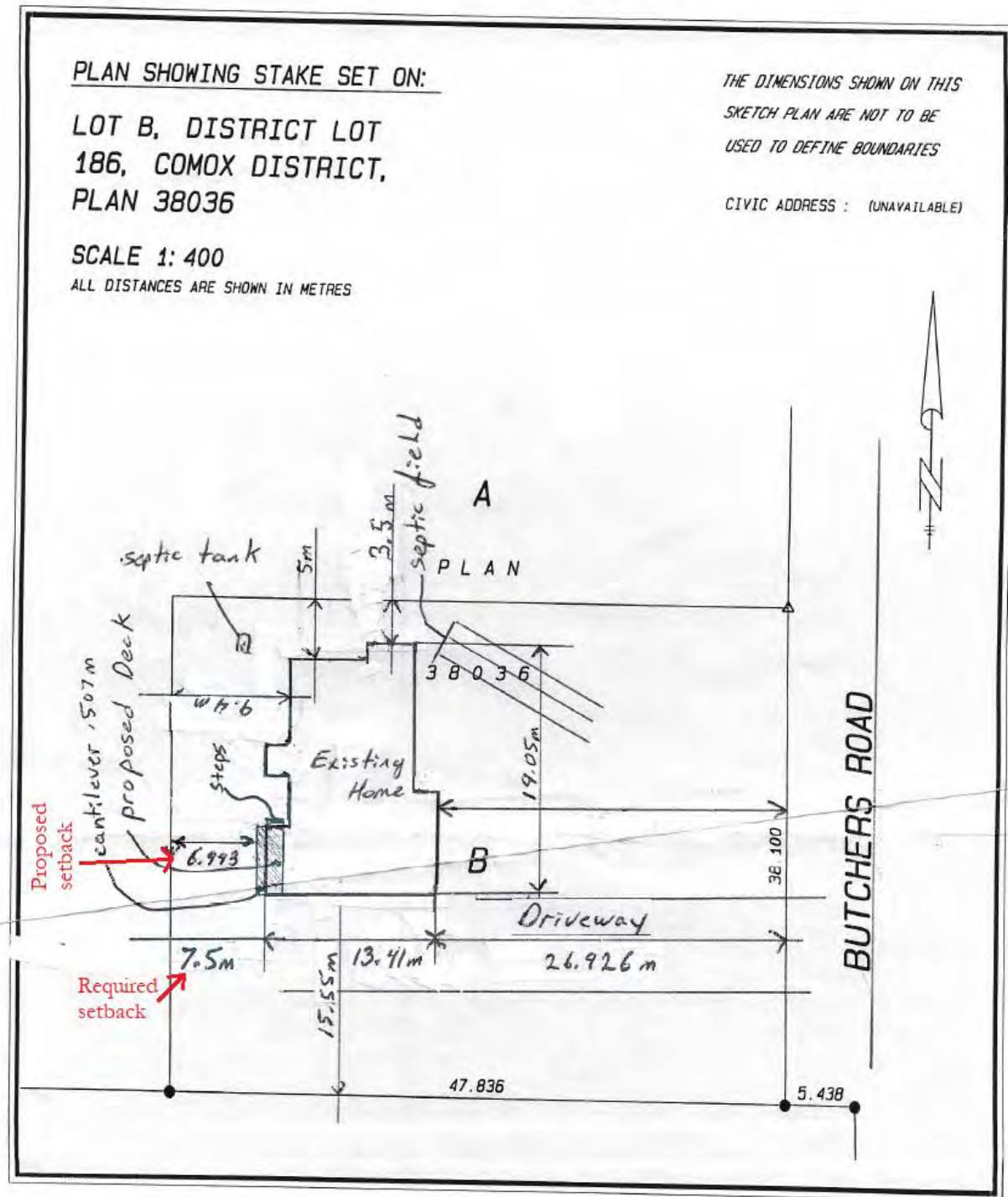
Subject Property Map



Air Photo



Site Plan



Elevation Drawings

