

DATE: May 31, 2021

FILE: 3090-20/DV 1C 21

TO: Chair and Directors
Electoral Area Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit – 6329 Eagles Drive (Parkin Marine Ltd.)
Puntledge - Black Creek (Electoral Area C)
Lot 29, Block 29, Comox District, Plan 22661, PID 003-284-841**

Purpose

To consider a Development Variance Permit (DVP) to reduce the rear yard setback for the construction of an addition to an existing dwelling unit, from 7.5 metres to 5.5 metres for the foundation, and from 5.5 metres to 4.5 metres for the eaves (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve the Development Variance Permit DV 1C 21 (Parkin Marine Ltd.) to reduce the rear yard setback from 7.5 metres to 5.5 metres for the foundation of an addition to an existing dwelling, and from 5.5 metres to 4.5 metres for the eaves, for property described as Lot 29, Block 29, Comox District, Plan 22661, PID 003-284-841 (6329 Eagles Drive);

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 to allow for the construction of an addition to an existing dwelling, from 7.5 metres to 5.5 metres for the foundation and from 5.5 metres to 4.5 metres for the eaves.
- The Advisory Planning Commission (APC) for Area C considered this file at their May 13, 2021 meeting, voting to support the application moving forward. In addition, adjacent property owners within a 100 metre radius were notified of the variance request.
- Staff are recommending that the variance be approved as there is sufficient space to maintain the building, sightlines remain unimpeded, and the proposed development will not detract from the rural form and character of the neighbourhood or surrounding development.

Prepared by:

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Planner

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

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 allow the construction of an addition to an existing dwelling. The subject property is located at 6329 Eagles Drive, is zoned Country Residential One (CR-1) and is designated as being within a Rural Settlement Area (RSA) (Figures 1 and 2). Existing development consists of a single detached dwelling, accessory building, septic field and driveway (Figures 3 and 4). Aside from a small number of large trees, the property is cleared with grassy lawn and is mostly flat. The property owner, unaware of more significant minimum setback requirements for the rear lot line, did pour a foundation for the addition (Figures 5 and 6), but stopped all subsequent construction after realizing the need for a DVP to lessen the setback.

The variance request is for 2.0 metre setback reduction for the foundation of the addition, from 7.5 metres to 5.5 metres, pertaining to the rear yard lot line. The request for the eaves is a reduction of 1.0 metre, from 5.5 metres to 4.5 metres. The purpose of minimum setback distances are multifold. While safety issues pertaining to sightlines do not generally come into question for rear yard lot lines, they still help increase and maintain privacy between adjacent properties and ensure that there is adequate spacing to allow for the maintenance and repair of a building.

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, or the development is not part of a phased development agreement.

Official Community Plan and Regional Growth Strategy 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 337, 2014,” both designate the property within the RSA land use designation. The RSA land use designation is designed to preserve a rural form and character and rural way of life by ensuring that development is relatively small-scale in nature. The proposed development does not conflict with the residential goals, policies, and objectives outlined for the RSA.

Zoning Bylaw Analysis

Per Zoning Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the subject property is zoned CR-1, which stipulates a minimum 7.5 metre rear yard setback for a dwelling unit. The existing dwelling does meet this minimum setback, but the proposed addition will encroach upon the minimum setback. The variance request is for a reduction of 2.0 metres, from 7.5 metres to 5.5 metres. Additionally, because Section 403(1) of Bylaw No. 520 (Appendix B) provides provisions for more lenient setbacks for features such as eaves, this too must be varied. The minimum setback for eaves is 5.5 metres, the setback distance can be reduced by 50 per cent or by up to 2.0 metres, whichever is lesser. The variance request for the eaves is 1.0 metre, from 5.5 metres to 4.5 metres, and both variances are summarized in the table below.

Zoning Bylaw	Variance	Zoning Requirement	Proposed	Difference
Section 703(5)	Rear yard setback	7.5 metres	5.5 metres	2.0 metres
Section 403(1)	Siting exemptions	5.5 metres	4.5 metres	1.0 metre

Recommendation and Rationale

Staff are in support of the application and are recommending that the Electoral Areas Services Committee (EASC) support, and that the Board approve, the application for the following reasons:

1. Sightlines remain unimpeded given that it is a rear lot line setback.
2. The proposed development will not detract from the rural form and character of the neighbourhood or surrounding development.

3. Enough space remains between the dwelling and the lot lines for the maintenance of the dwelling.

Options

The board can either approve or deny the DVP application. Staff recommend that the application be approved based on the analysis provided above.

Financial Factors

All applicable fees for this application have been collected in accordance with Bylaw No. 328, being the “Comox Valley Regional District 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 goals for the RSA.

Intergovernmental Factors

There are no intergovernmental factors associated with this application.

Interdepartmental Involvement

An interdepartmental referral was sent to staff within the bylaw enforcement, fire services, and building departments. No issues or concerns were raised, but staff in the building department noted that the existing foundation and proposed development would both be subject to all building permit requirements.

Citizen/Public Relations

The APC for Electoral Area C considered this application at their May 13, 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 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 1C 21

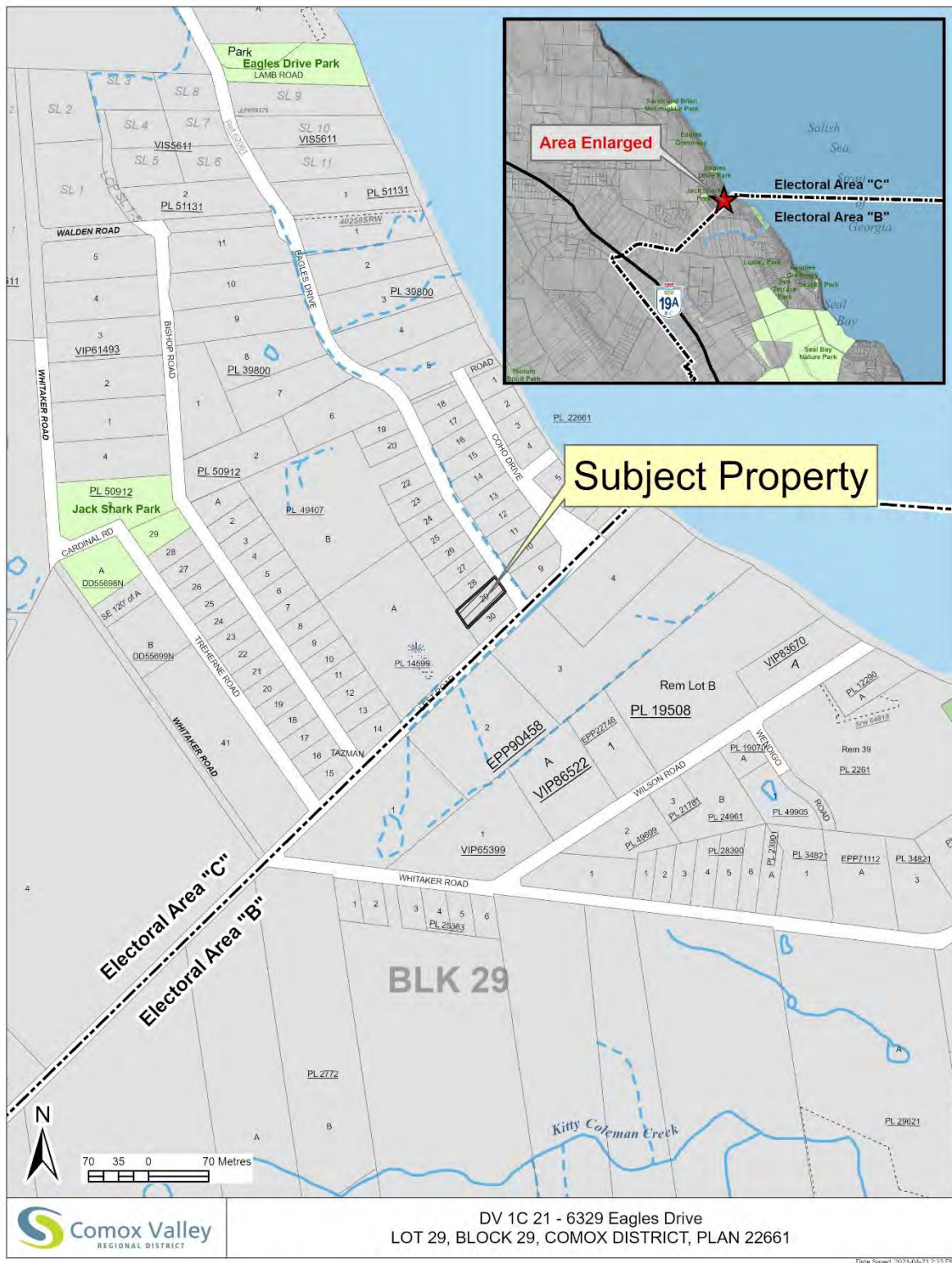


Figure 1: Subject Property Map



Figure 2: Air Photo

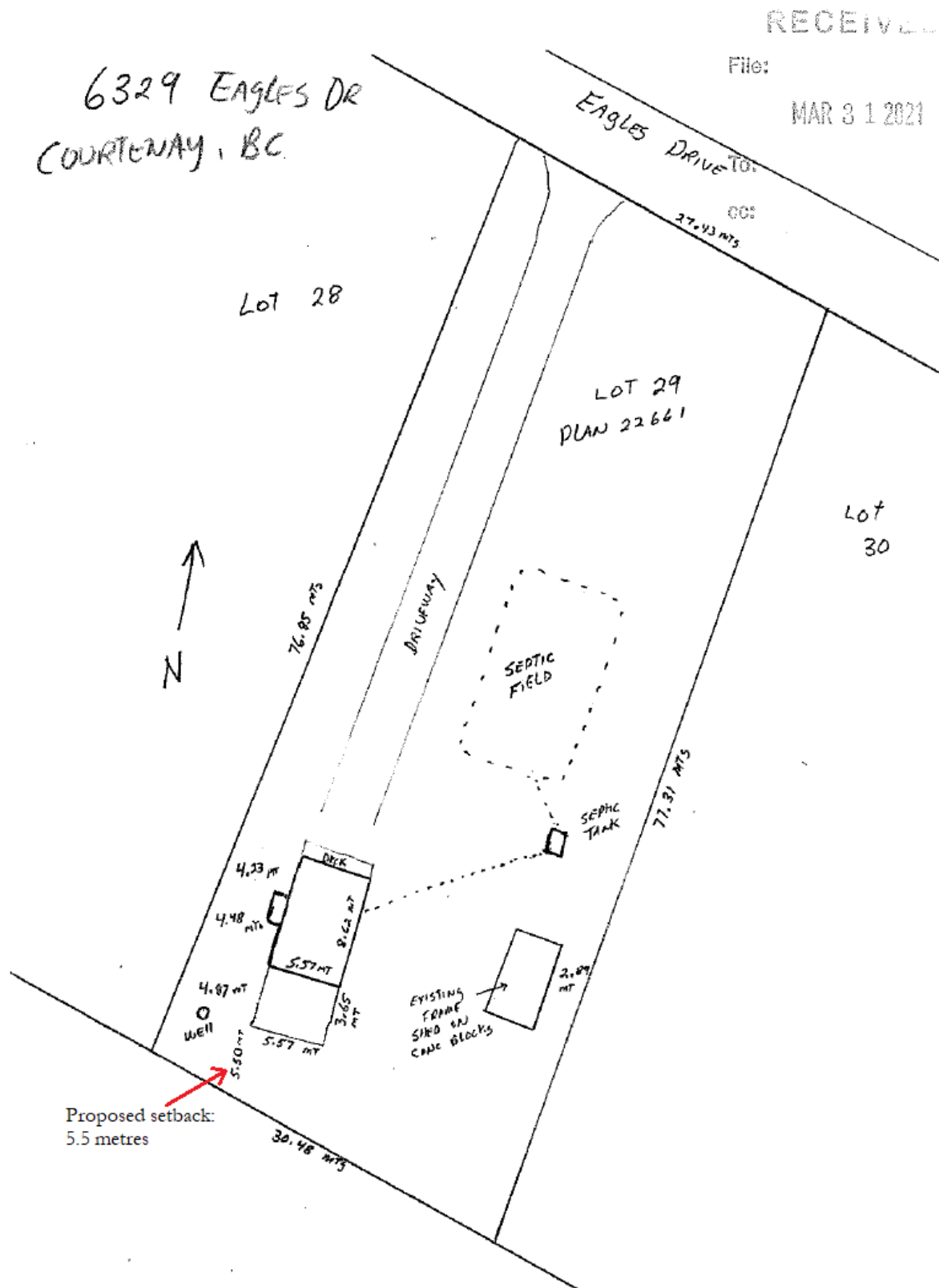


Figure 3: Site Plan

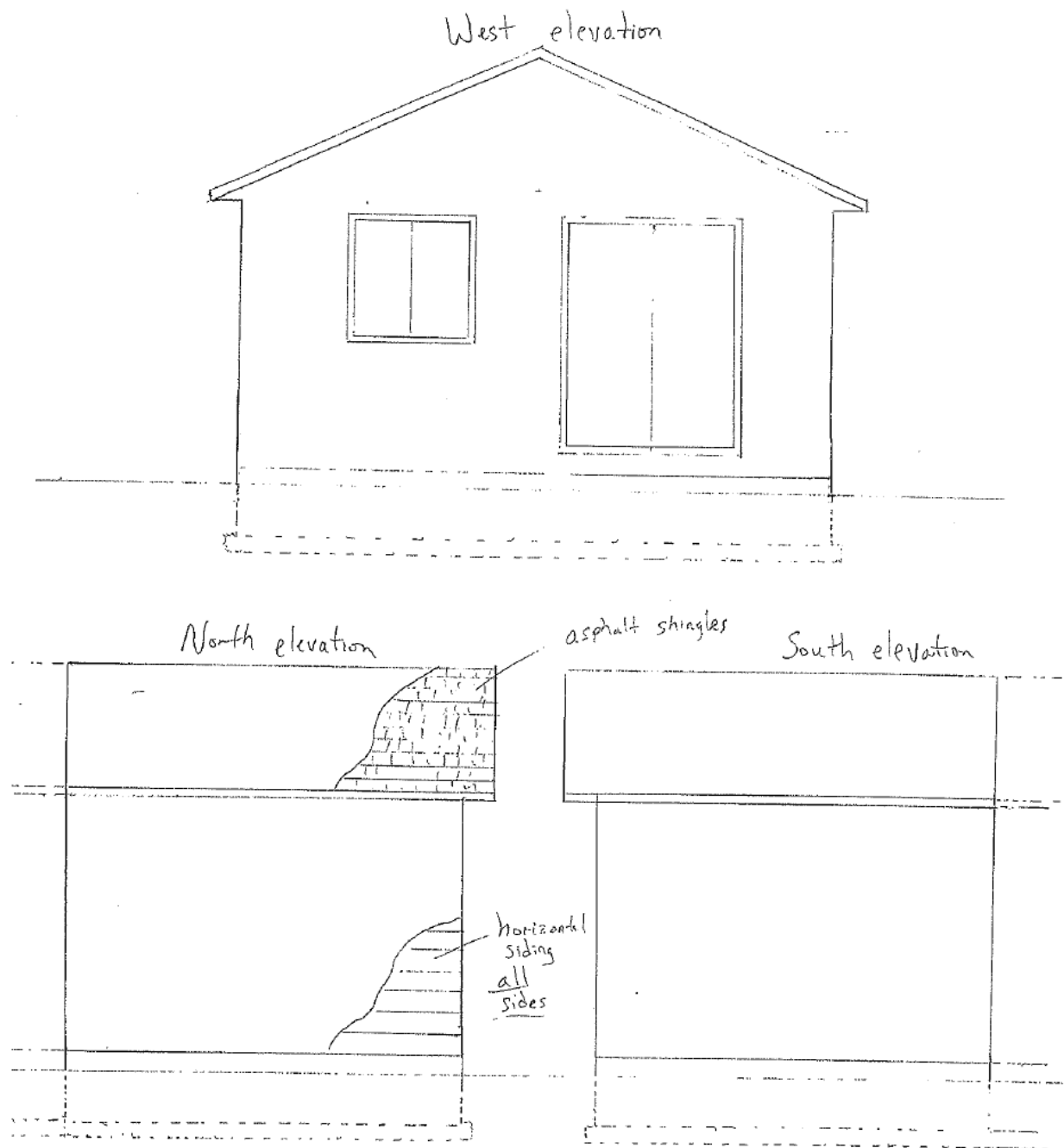


Figure 4: Elevation Drawings



Figure 5: Site Photo (Looking Northeast)



Figure 6: Site Photo (Looking Southwest)

DV 1C 21**TO: J. Parkin Marine Ltd.**

1. This Development Variance Permit (DV 1C 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 29, Block 29, Comox District, Plan 22661
Parcel Identifier (PID): 003-284-841 **Folio:** 04851.058
Civic Address: 6329 Eagles Drive
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 1C 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. A Building Permit application will be required after the approval of this Development 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, and Site Photos”

Schedule A

File: DV 1C 21

Applicants: J. Parkin Marine Ltd.

Legal Description: Lot 29, Block 29, Comox District, Plan 22661

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 pursuant to Section 403(1) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum rear yard setback for features of construction that protrude toward the lot line without incorporating floor area is 5.5 meters;

AND WHEREAS the applicant, J. Parkin Marine Ltd, wishes to construct an addition to an existing dwelling, shown in Schedule B, with the siting specifications listed below:

- Rear yard lot line setback of 5.5 metres for the foundation of the dwelling
- Rear yard lot line setback of 4.5 metres for the eaves of the dwelling

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 the setback of the dwelling unit shown on Schedule B is 5.5 metres for the foundation.”

403(1) “The minimum rear yard setback for the dwelling unit shown on Schedule B is 4.5 metres for the eaves.”

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 1C 21.

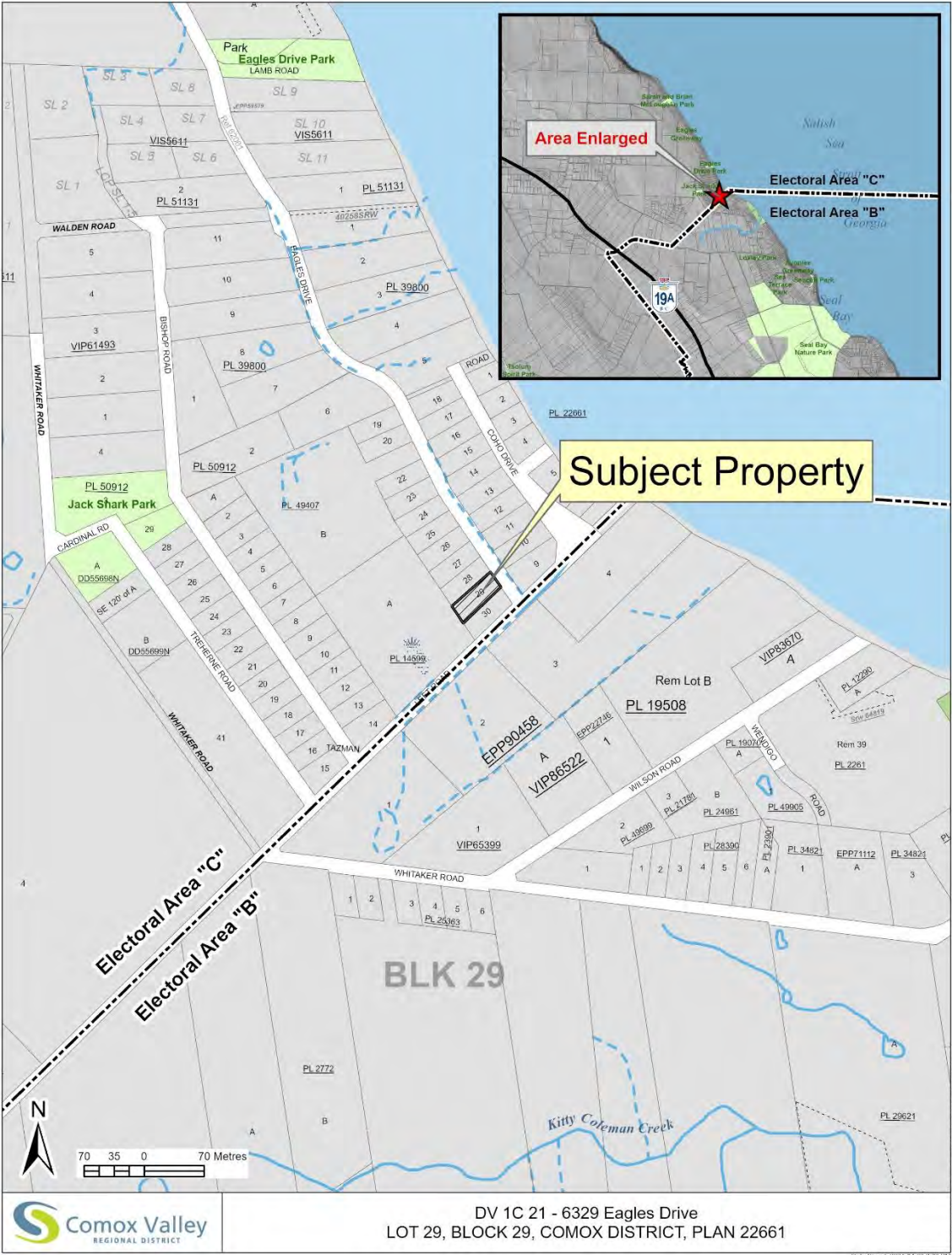
Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

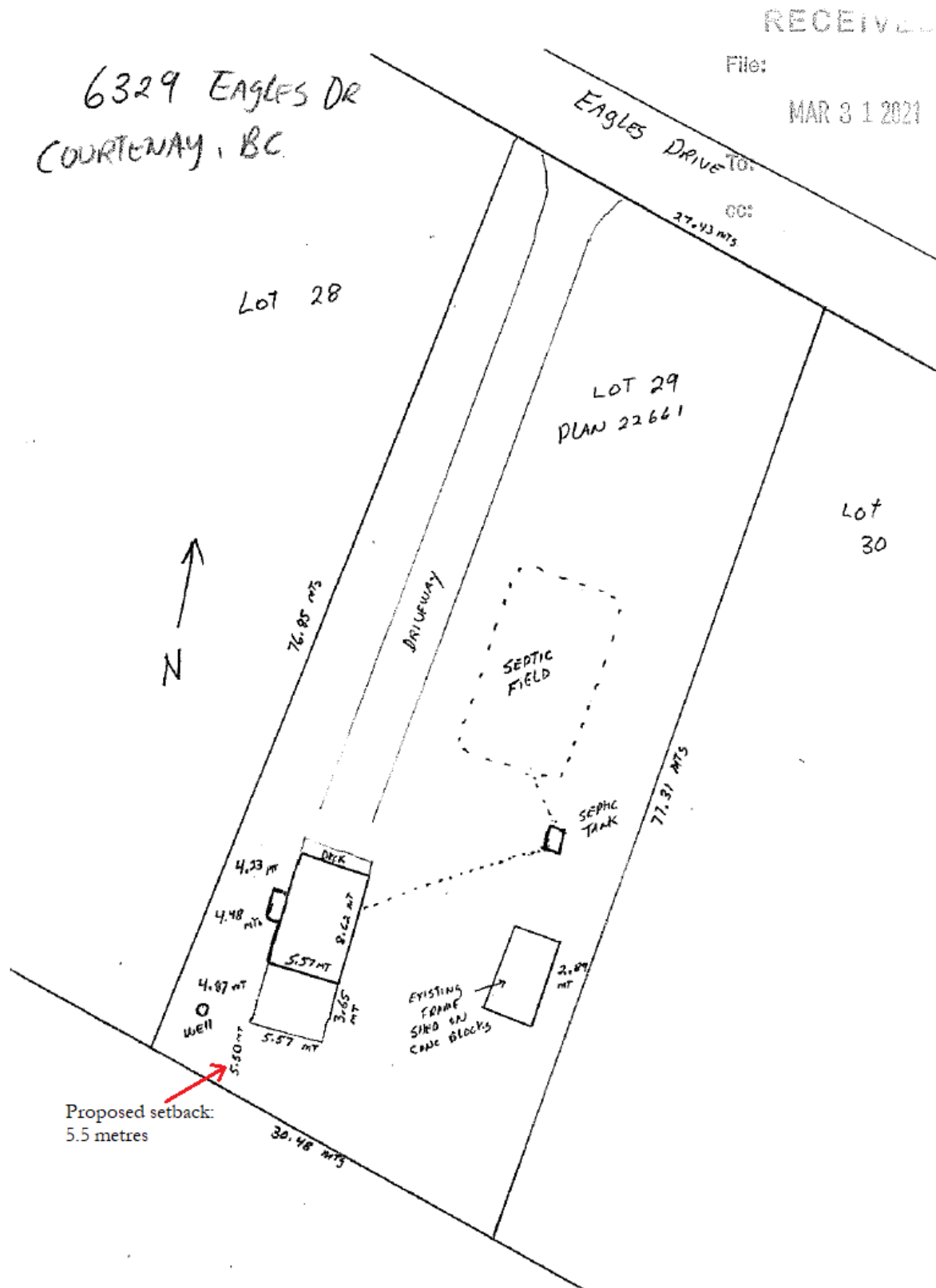
Comox Valley Regional District

Schedule B

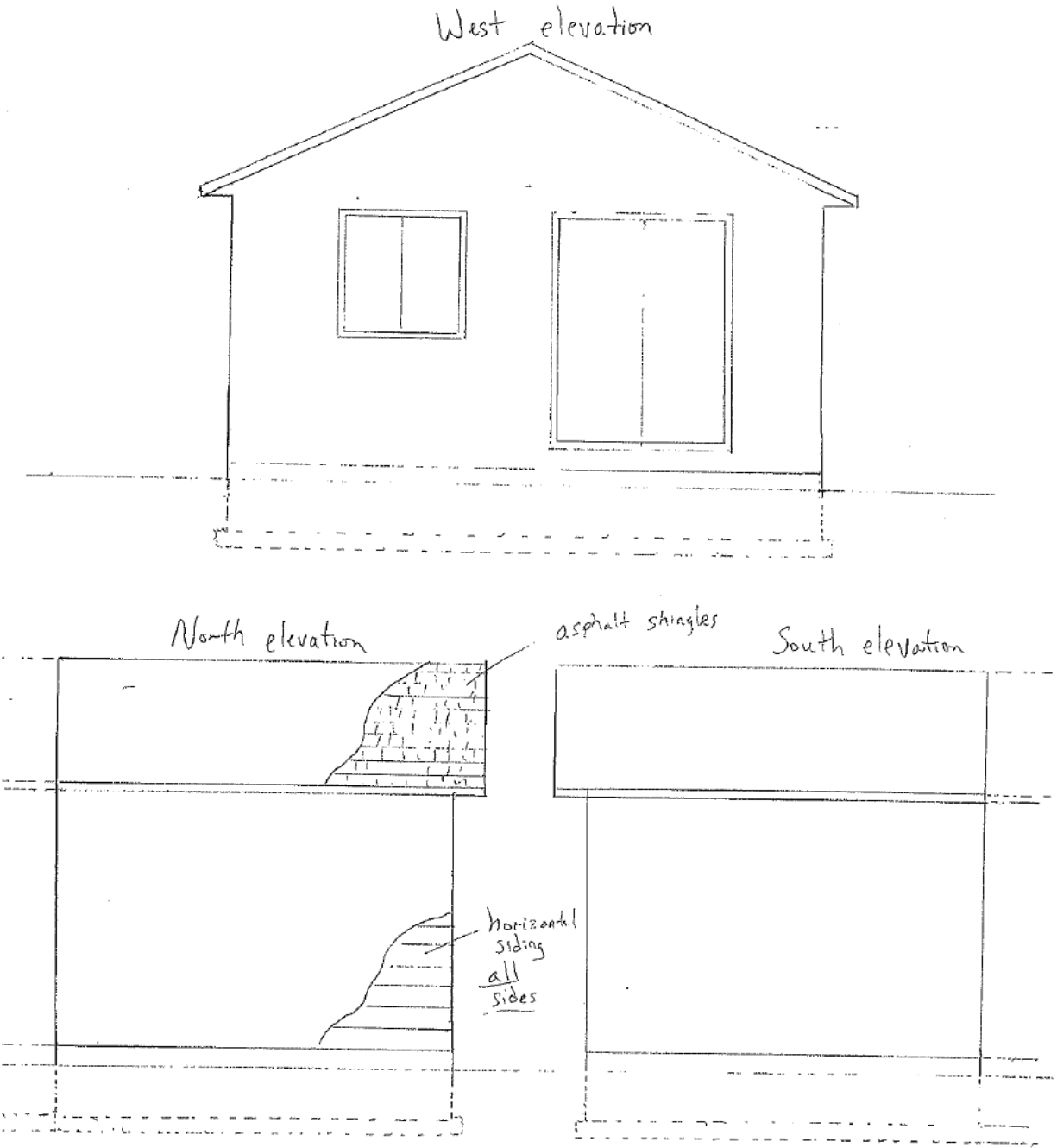
Subject Property Map



Site Plan



Elevation Drawings



Site Photo (Looking Northeast)



Site Photo (Looking Southwest)

