

DATE: May 3, 2018

FILE: 3090-20 / DV 1B 18

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit
1758 Astra Road (Tomlinson/ Snow-Tomlinson)
Lazo North (Electoral Area B)
Lot B, District Lot 172, Comox District, Plan 32341, PID 000-103-489**

Purpose

To report back on the Electoral Areas Services Committee's (EASC) motion to defer the Development Variance Permit (DVP) application to the May 14, 2018 EASC meeting. Since the meeting, the applicants have amended their application and are requesting a reduced front yard setback from 4.5 metres to 3.0 metres for an accessory building (Figure 1).

Recommendation from the Chief Administrative Officer

THAT the board deny the Development Variance Permit DV 1B 18 (Tomlinson/Snow-Tomlinson) to decrease the minimum front yard setback from 4.5 metres to 3.0 metres for the construction of an accessory building on a property described as Lot B, District Lot 172, Comox District, Plan 32341, PID 000-103-489 (1758 Astra Road).

Executive Summary

- On April 9, 2018, the EASC considered a DVP (Appendix A) and deferred the application to give staff time to review alternative options with the applicant and concerned neighbours.
- The applicants have changed their proposal requesting a reduced minimum front yard setback from 4.5 metres to 3.0 metres (the original proposal was for 1.5 metres).
- Planning staff are not supportive of a variance in this location for the reasons presented in the previous staff report; specifically, potential for vehicle encroachment on the public road, potential to exacerbate existing drainage issues on Astra Road and potential to impact future activities within the road right-of-way if the property is annexed into the Town of Comox (Appendix A). Moving the accessory building to 3.0 metres does not alleviate these concerns.
- Based on the reasons presented above, staff recommend the board deny the application. Alternatively, the board could support the proposed variance and direct staff to prepare a development variance permit.
- The Advisory Planning Commission (APC) will re-review the amended application at their meeting on May 3, 2018. The minutes from the meeting will be forwarded to the EASC.
- Another notice of the requested variance has been mailed to adjacent property owners within 100 metres of the subject property. 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 Comox Valley Regional District 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.

Prepared by:

B. Labute

Brianne Labute
Planner

Concurrence:

A. Mullaly

Alana Mullaly, M.Pl., RPP, MCIP
Acting General Manager of
Planning and Development
Services Branch

Attachments: Appendix A – “Staff report, dated March 27, 2018”

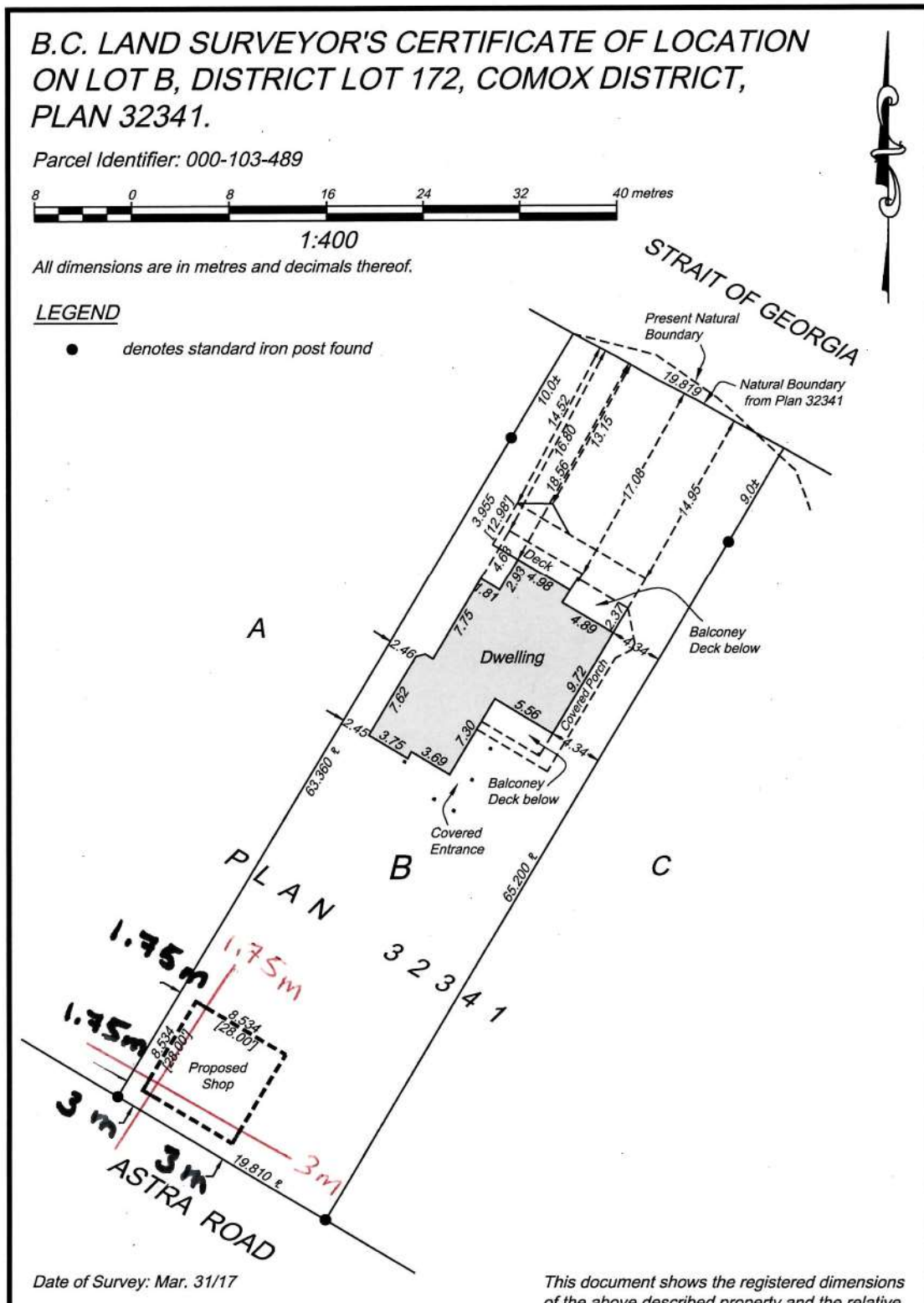


Figure 1: Revised Site Plan, as Submitted by Applicant

DATE: March 27, 2018**FILE:** 3090-20 / DV 1B 18**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
1758 Astra Road (Tomlinson/ Snow-Tomlinson)
Lazo North (Electoral Area B)
Lot B, District Lot 172, Comox District, Plan 32341, PID 000-103-489****Purpose**

To recommend refusal of a Development Variance Permit (DVP) to decrease the minimum front yard setback from 4.5 metres to 1.5 metres to allow for the construction of an accessory building.

Recommendation from the Chief Administrative Officer

THAT the board deny the Development Variance Permit DV 1B 18 (Tomlinson/Snow-Tomlinson) to decrease the minimum front yard setback from 4.5 metres to 1.5 metres for the construction of an accessory building on a property described as Lot B, District Lot 172, Comox District, Plan 32341, PID 000-103-489 (1758 Astra Road).

Executive Summary

- The subject property is a 0.15 hectare waterfront lot located on Astra Road.
- The applicants would like to build an 84 m² accessory building for a shop and storage of personal possessions.
- The location of the septic system and existing infrastructure limit the available space for such a building. The applicants are requesting a reduced minimum front yard setback from 4.5 metres to 1.5 metres for the accessory building.
- Planning staff have concerns with the proposed building and its proximity to the road right-of-way. Increasing impermeable area near the road could exacerbate existing drainage issues in the area and there is greater potential for vehicle encroachment onto the public road. The property is within the settlement expansion area and may be annexed into the Town of Comox in the future. A building in such close proximity to the road right-of-way could impact future activities within the road right-of-way (e.g. installation of municipal services). As the proposal does not meet the intent of the front yard setback, it is recommended that the board deny the application.

Prepared by:

B. Labute

 Brianne Labute
 Planner

Concurrence:

A. Mullaly

 Alana Mullaly, M.Pl., RPP, MCIP
 Manager of Planning Services

Concurrence:

A. MacDonald

 Ann MacDonald, RPP, MCIP
 General Manager of Planning
 and Development Services
Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

An application has been received to consider a DVP for a 0.15 hectare waterfront lot located on Astra Road (Figure 1 and 2). The property is surrounded by residential properties to the northwest and southeast. The property currently contains a single detached dwelling with an attached garage, chicken coop, greenhouse and a small utility shed. The applicants would like to build an 84 m² accessory building for a shop and personal storage (Figure 3 and 4). The siting of the proposed building is affected by the location of the existing buildings and septic system. As such, the applicants are requesting a minimum 1.5 metre front yard setback for the accessory building. The applicants have obtained a setback permit from the Ministry of Transportation and Infrastructure for a decreased road setback (Appendix A).

Official Community Plan Analysis

The subject property is designated Settlement Expansion Area in the Official Community Plan, being the Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014. The settlement expansion areas have been identified as future growth areas for the adjacent urban municipalities. Significant change to the existing land use that increases the density, impact or intensity of use of land is not envisioned until these areas have been amalgamated with the adjacent municipality.

Zoning Bylaw Analysis

The property is zoned Residential One (R-1) in Bylaw No. 2781, being the Comox Valley Zoning Bylaw, 2005 (Appendix B). The R-1 zone permits an accessory building. The requested setback reduction is detailed below.

Table 1: Variance Summary

Zoning Bylaw	Variance	Existing	Proposed	Difference
Section 701 (4)	Front yard setback	4.5 metres	1.5 metres	3.0 metres

Planning staff have concerns with the proposed building and its proximity to the road right-of-way. Increasing impermeable area near the road could exacerbate existing drainage issues in the area. The building elevation drawings (Figure 4) indicate there will be a garage door on the southwest side of the accessory building, which leaves limited space to navigate in front of the building without relying on the use of the public road right-of-way. The property is within the settlement expansion area, which is an area identified as a future growth area for adjacent urban municipalities. In the interim, development should only occur in a controlled matter that would not impact the future potential of the area. A building in such close proximity to the road right-of-way could impact future activities within the road right-of-way (e.g. installation of municipal services). As the proposal does not meet the intent of the front yard setback, it is recommended that the board deny the application.

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

Based on the analysis above, staff recommends that the board deny the application. Alternatively, the board could support the proposed variance and direct staff to prepare a development variance permit.

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

The subject property is designated Settlement Expansion Area in the Regional Growth Strategy, being the Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010. Development in the Settlement Expansion Area designation must generally maintain a rural character and must not detract from future municipal compact growth until such time as the adjacent municipal area has obtained an approved boundary expansion.

Intergovernmental Factors

As the property is within the Settlement Expansion Area, a referral was sent to the Town of Comox on March 12, 2018 for their comment. At the time of writing this report, no comments had been received.

Interdepartmental Involvement

This DVP application was circulated to relevant departments within the CVRD for comment. The Bylaw Compliance department noted there could be concerns with the reduction relative to the future use of the building (e.g. home occupation) as the setback may not be sufficient for these uses.

Citizen/Public Relations

The Advisory Planning Commission (APC) reviewed the application at their meeting on March 22, 2018. The APC supported the proposal to reduce the front yard setback. The minutes from the meeting will be forwarded to the Electoral Areas Services Committee (EASC).

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 – “Ministry of Transportation of Infrastructure Setback Permit”
Appendix B – “Copy of Residential One (R-1) Zone”

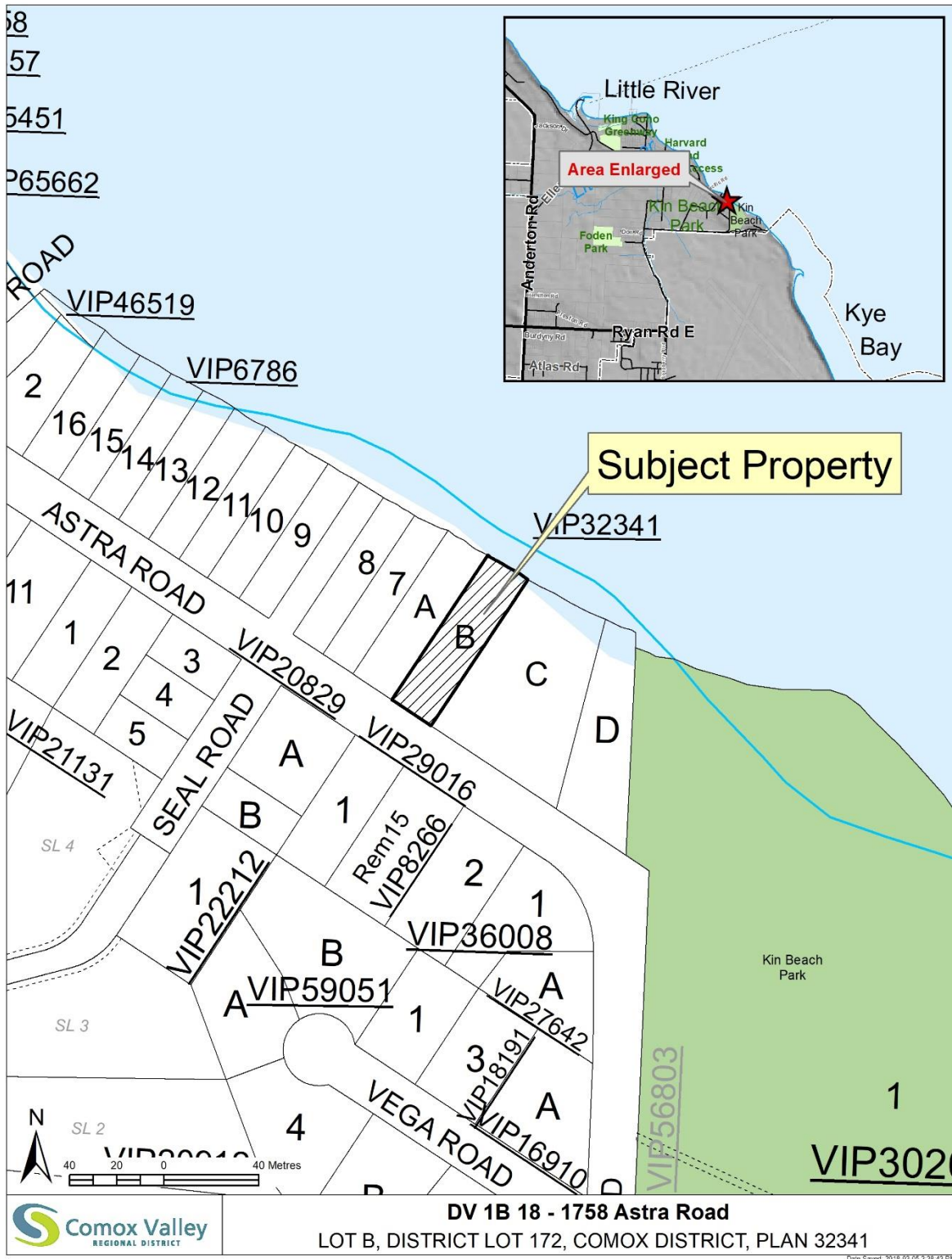


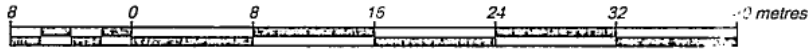
Figure 1: Subject Property Map



Figure 2: Aerial Photo

B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION ON LOT B, DISTRICT LOT 172, COMOX DISTRICT PLAN 32341.

Parcel Identifier: 000-103-489



1:400

All dimensions are in metres and decimals thereof.

LEGEND

○ denotes standard iron post found

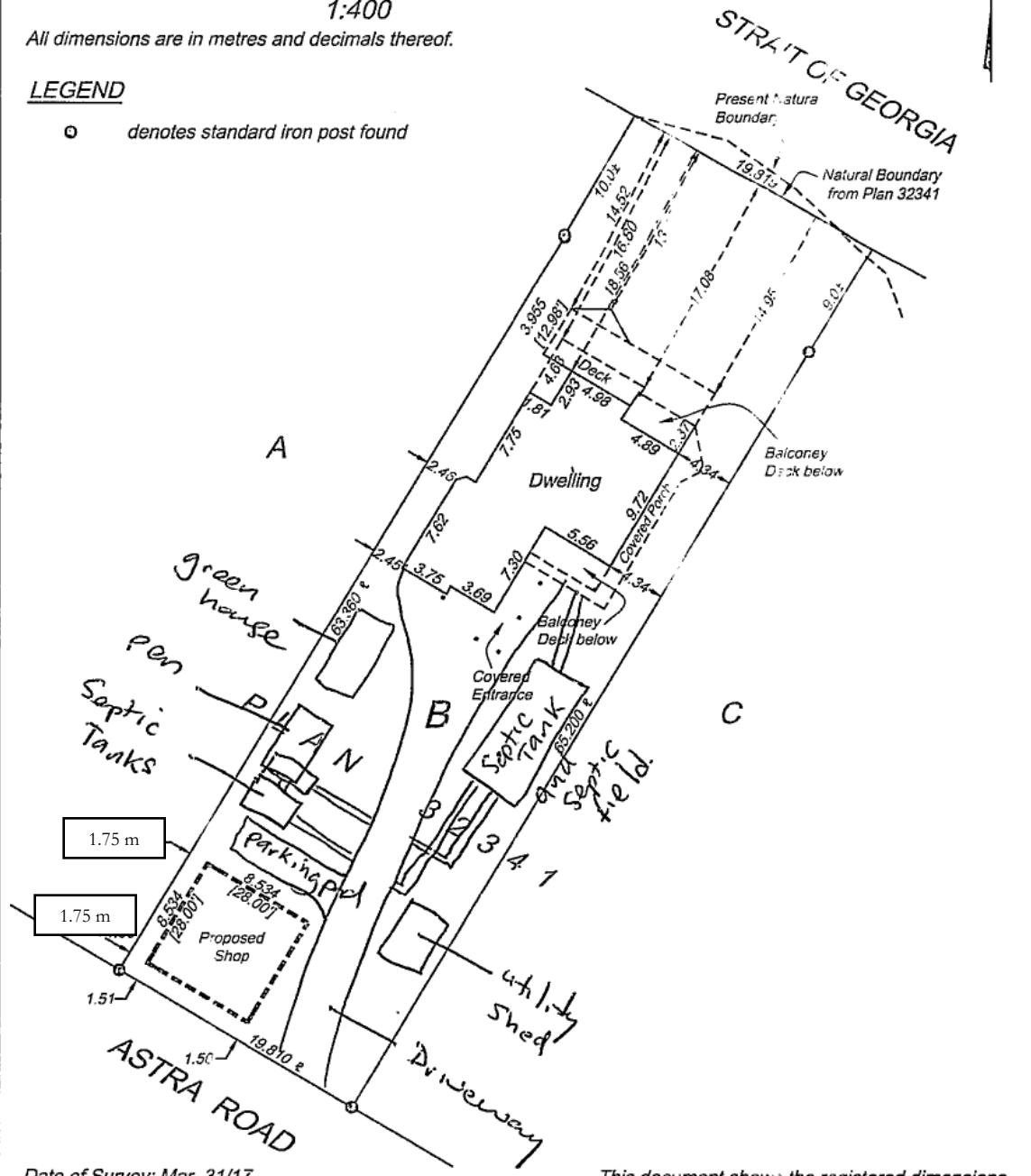
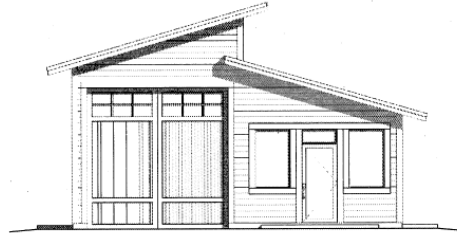
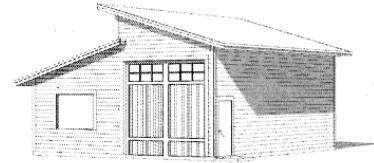
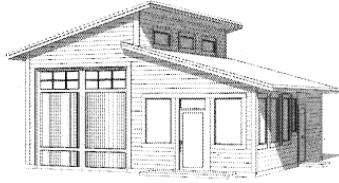


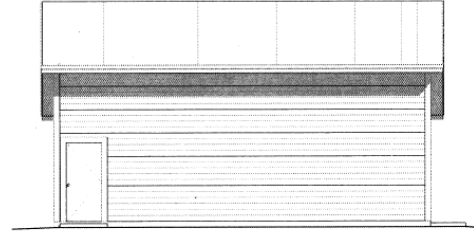
Figure 3: Site Survey



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

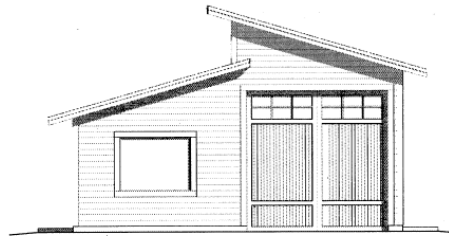
PLEASE NOTE:
WINDOW OPENINGS ARE
TO BE CONFIRMED
BY OWNER/CONTRACTOR

Southwest



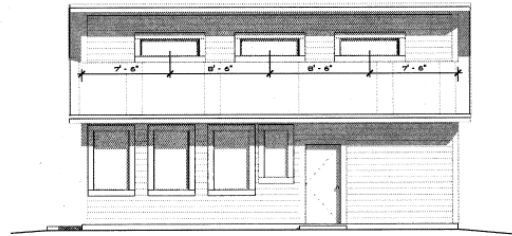
RIGHT ELEVATION
SCALE: 1/4" = 1'-0"

Northwest



BACK ELEVATION
SCALE: 1/4" = 1'-0"

Northeast



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

Southeast

Figure 4: Building Elevations

**BRITISH
COLUMBIA**Ministry of Transportation
and InfrastructurePermit/File Number: **2017-04305**Office: **Courtenay Area Office****PERMIT TO REDUCE BUILDING SETBACK LESS THAN 4.5 METRES FROM THE
PROPERTY LINE FRONTING A PROVINCIAL PUBLIC HIGHWAY****PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE
MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE
NISGA'A FINAL AGREEMENT ACT.****BETWEEN:**

The Minister of Transportation and Infrastructure

Courtenay Area Office
550 Comox Road
Courtenay, British Columbia V9N 3P6
Canada

("The Minister")

AND:Corey Tomlinson
Jennifer Snow-Tomlinson
1758 Astra Road
Comox, British Columbia V9M 4B7
Canada

("The Permittee")

WHEREAS:

- A.** The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;
- B.** The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

The construction of a building, the location of which does not conform with British Columbia Regulation 513/04 made pursuant to section 90 of the Transportation Act, S.B.C. 2004, namely; to allow construction of 8.5m X 8.5m Building at 1.5. setback from Astra Rd, located at Lot B, District Lot 172, Comox District, Plan 32341, as shown on BC Land Surveyors Certificate of Location dated March 31, 2017, prepared by Sandy Grant.

- C.** The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. This permit may be terminated at any time at the discretion of the Minister of Transportation and Infrastructure, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.
2. This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.



BRITISH
COLUMBIA

Ministry of Transportation
and Infrastructure

Permit/File Number: 2017-04305

Office: Courtenay Area Office

The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Courtenay, British Columbia, this 7 day of September, 2017

A handwritten signature in black ink, appearing to be 'S. H. ...'.

On Behalf of the Minister

PART 700

RESIDENTIAL ZONES

701

Residential One (R-1)

1. PRINCIPAL USE

On any lot:

- i) Residential use.

2. ACCESSORY USES

On any lot:

- i) Secondary suite;
- ii) Home occupation use;
- iii) Accessory buildings;
- iv) Bed and Breakfast.

#4

3. DENSITY

Residential use is limited to:

- i) **On any lot:** One single detached dwelling and secondary suite, or one single detached dwelling and one carriage house, or one single detached dwelling and one secondary dwelling limited in area to 90.0 metres² (968.8 feet²).

#112

4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Residential One zone are as set out in the table below.

Type of Structure	Height	Required Setback		
		Front yard	Rear yard	Side yard
Principal	10.0m (32.8ft)	4.5m (14.8 ft)	4.5m (14.8 ft)	1.75m (5.8 ft)
Accessory	4.5m-or less (14.7 ft or less)	4.5m (14.8 ft)	1.0m (3.3 ft)	1.0m (3.3 ft)
Accessory	6.0m-4.6m (19.68ft)	4.5m (14.8 ft)	4.5m (14.8 ft)	1.75m (5.8 ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Note: Part 400, Siting Exceptions, of this bylaw and Bylaw No. 1836 being the “Floodplain Management Bylaw, 1997” may affect the siting of structures adjacent to major roads, and the natural boundaries of watercourses and the sea, respectively.]

5. LOT COVERAGE

- i) The maximum lot coverage of all buildings and structures shall not exceed 35% of the total lot area.

6. SUBDIVISION REQUIREMENTS

- i) Despite any other provision of this bylaw, the minimum permitted lot area within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010” is 4.0 hectares. #200
- ii) Despite any other provision of this bylaw, for the purpose of subdivision, the following sections of this bylaw do not apply to lots within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010”:
- a) Section 503 Subdivision Standards 1. AREA AND FRONTAGE REQUIREMENTS i);
 - b) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS i) a); and
 - c) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS iii).

iii) **Lot Area**

The minimum lot area permitted shall be:

- a) When connected to community water and sewer: 600 metres² (6458.6 feet²)
- b) When connected to either community water or sewer: 4000 metres² (1.0 acre)
- c) When serviced by well and approved septic system: 1.0 hectare (2.5 acre)

Despite (iii), a subdivision with lots smaller than identified in (a), (b), and (c) above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot areas permitted based upon the available servicing.

End • R-1