

DATE: April 1, 2019**FILE:** 3090-20/DV 2A 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 - 3847 Marine Drive (Aikman)
Baynes Sound – Denman/Hornby Islands (Electoral Area A)
Lot 11, Block J, Section 6A, Nelson District, Plan 1478, PID 000-494-704****Purpose**

To consider a Development Variance Permit (DVP) to allow a proposed carriage house to have interior access to the accessory use below via an internal staircase, and to increase the maximum height from 7.0 metres to 8.0 metres (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 2A 19 (Aikman) to allow a carriage house to have access via an internal staircase, internal access to the accessory use below and to increase the maximum height from 7.0 metres to 8.0 metres for a property described as Lot 11, Block J, Section 6A, Nelson District, Plan 1478, PID 000-494-704 (3847 Marine Drive) with the condition that a visual buffer along the portion of the proposed carriage house be implemented and maintained for the life of this building;

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

Executive Summary

- The applicant is currently building a single detached dwelling and wishes to build a carriage house behind the dwelling shortly after.
- The applicants would like to vary the Zoning Bylaw to allow a carriage house to have access via an internal staircase, internal access to the accessory use below and to increase the maximum height from 7.0 metres to 8.0 metres.
- The request to have an internal access would improve accessibility for the occupants with limited mobility. The request to increase the building height is to provide some ocean views and to mitigate flood risk.
- The increased height is not expected to impact adjacent property owners due to the location of the proposed carriage house behind the single detached dwelling. The applicant is willing to plant a row of hedge to provide visual screening between the proposed carriage house and the adjacent owner to the west.
- As part of the ongoing Zoning Bylaw review, staff are reviewing options to enable more flexibility in carriage house design. The proposed Zoning Bylaw increases the maximum height of a carriage house to 8.0 metres, and permits enclosed, interior access to the residential use on the second storey from the accessory use on the ground floor. The interior entryway, landing or similar space will be limited to 2.8 square metres in area. These proposed changes can improve safety, create additional privacy from neighbours and provide an alternative aesthetic option. The variance requests are consistent with the draft Zoning Bylaw.
- Staff recommends the issuance of the DVP with the condition of providing the aforementioned

screening.

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)

Applicant	✓
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Background/Current Situation

The subject property is located at 3847 Marine Drive in the Baynes Sound – Denman/Hornby Islands Electoral Area (Electoral Area A) (Figures 1 and 2). The property is approximately 0.1 hectares in size. The property is bound by Marine Drive to the north, commercial zoned properties to the east and south (i.e. Roy's Towne Pub), and residential properties to the west. A single detached dwelling is under construction with an active building permit (file: BP 10883) (Figure 3). The applicant would like to build a carriage house behind this dwelling shortly after. For this proposed carriage house, the applicant wishes to vary the following carriage house regulations in the Zoning Bylaw, Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005":

1. To increase the maximum building height limit from 7.0 metres to 8.0 metres;
2. To have interior access between the residential use on the second storey and the accessory use on the ground floor; and
3. To have an internal staircase enclosed by walls (Figure 4).

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 Settlement Expansion Areas (SEA). The OCP is supportive of secondary dwellings, including carriage houses, in the SEAs (Section 29(1)).

Zoning Bylaw Analysis

The subject property is zoned Residential One (R-1). This zone permits a carriage house as a secondary dwelling unit. The requested variances are as follows:

Zoning Bylaw No. 2781	Zoning Bylaw Regulation	Request
Section 309(3)	The maximum height of carriage houses is 7.0 metres.	The maximum height of the proposed carriage house is 8.0 metres.
Section 313(6)(iii)	The second storey floor area occupied by the residential use must have no interior access to any part of the accessory use below.	The second storey floor area occupied by the residential use has an interior access to the accessory use below. Interior entryway, landing or similar space will be limited to 2.8 square metres.
Section 313(6)(iv)	The means of access and egress to the second storey residential use must be external to the structure and must not be enclosed by walls.	The means of access and egress to the second storey residential use is internal to the structure and is enclosed by walls.

According to the applicant, the request to have an internal access to the residential use on the second storey would improve accessibility for them, as they plan to install a chairlift (Appendix B). The request to increase the building height is to provide some ocean views and to mitigate flood risk. The location of the carriage house is behind the section of the single detached dwelling that has a lower building height than its maximum height. To mitigate flood risk, the proposed bathroom and storage space on the ground floor will be raised by 2 or 3 steps up from the garage slab at grade. Therefore, additional building height is needed to have sufficient ceiling height for these spaces. Staff confirm that this proposal is outside of the floodplain requirement.

In the Zoning Bylaw, the intent of the carriage house regulations to prohibit interior access to the residential use in the second storey from the accessory use on the ground floor is to prevent owners from converting the accessory use on the ground floor into residential use in the future. An external staircase to access the second storey is visible to neighbours and discourages such residential conversion. However, the requirement for an external staircase reduces the safety for access during inclement weather. External staircases are challenging for those with limited mobility and for seniors to age in place. Allowing internal access does not infer that the ground level of a carriage house can be used for residential use. The Zoning Bylaw clearly states that the residential use is limited to the second storey.

The intent of the maximum building height limit is to provide a relative scale between the principal and secondary residential dwellings, such as single detached dwellings at 10.0 metres and carriage houses at 7.0 metres. As the location of the proposed carriage house is behind the single detached dwelling, the visual impact of the additional height would be mitigated, and the relative scale between the two dwellings remains.

Another intent of the maximum building height limit is to provide privacy between neighbours. There is currently a mesh fence between the subject property and the property to the west (Figure 5). The proposed carriage house is close to this adjacent property. In order to improve privacy, the applicant offers to plant a row of hedge in front of this proposed carriage house. A solid visual barrier is a subject condition for the DVP.

Finally, as part of the ongoing Zoning Bylaw review, staff is recommending the maximum height of a carriage house increase to 8.0 metres. Another proposed carriage house regulation includes permitting interior access between the two floors. The interior entryway, landing or similar space will be limited to 2.8 square metres in area to prevent the ground level from being used for residential uses. The proposed carriage house is consistent with the recommend changes, and therefore, the proposed carriage house is unlikely to result in any 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. The board is 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 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 Settlement Expansion Area (SEA). The proposed carriage house does not conflict with the residential policies of the RGS.

Intergovernmental Factors

As the RGS designates the subject property within SEAs, a referral was sent to the City of Courtenay. The Director of Development Services of the City of Courtenay did not have any concerns with the proposed variances.

Interdepartmental Involvement

This DVP application was referred to relevant internal departments. No concerns were identified. The outcome of this application will determine next steps in the building permit process.

Citizen/Public Relations

As of the preparation of this staff report, an Advisory Planning Commission has been formed, but their first meeting will be in late April, after the April 15, 2019, Electoral Areas Services Committee (EASC) meeting.

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 – “Development Variance Permit – DV 2A 19”
Appendix B – “Written Brief from Applicant Regarding the Variance Request”

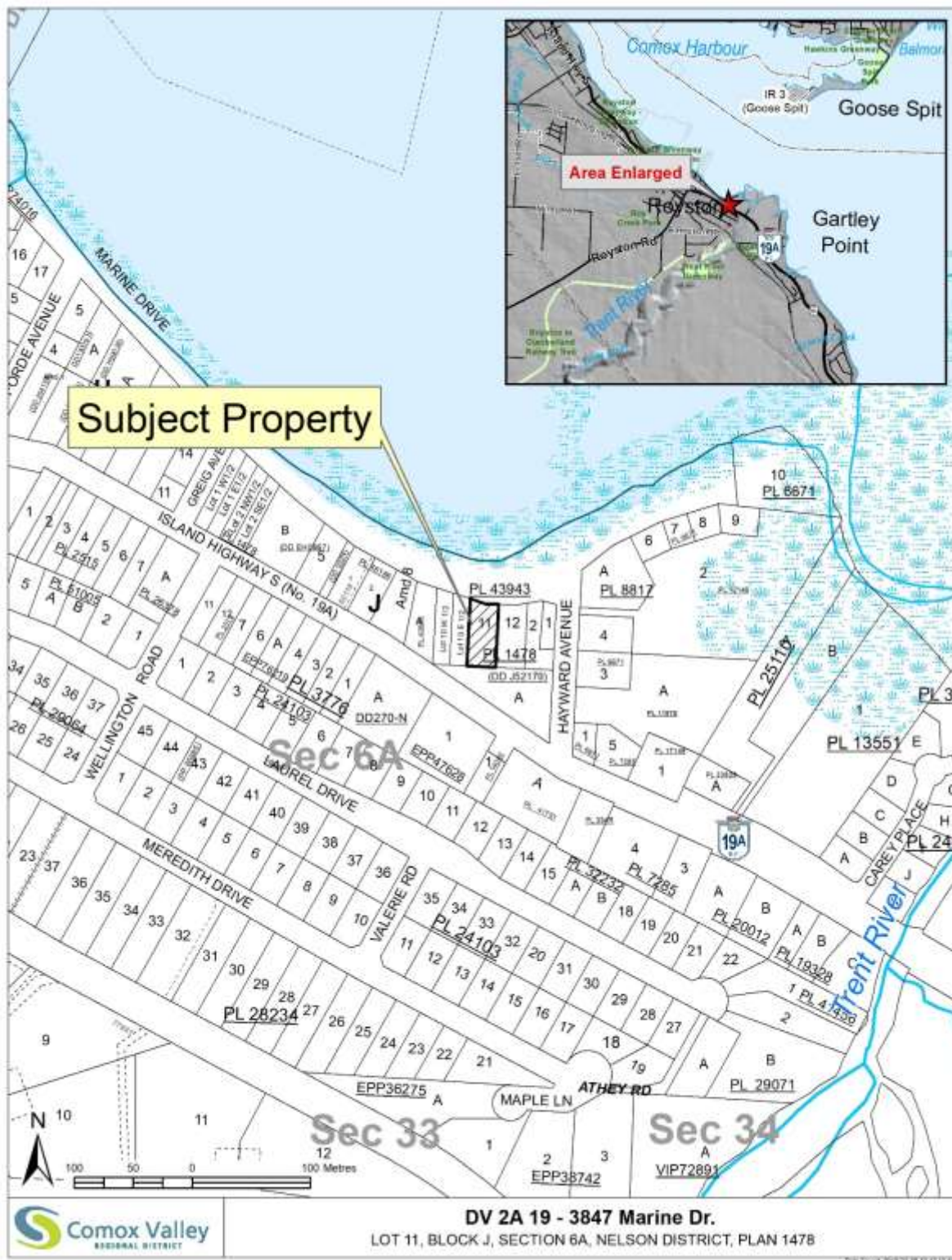


Figure 1: Subject Property Map

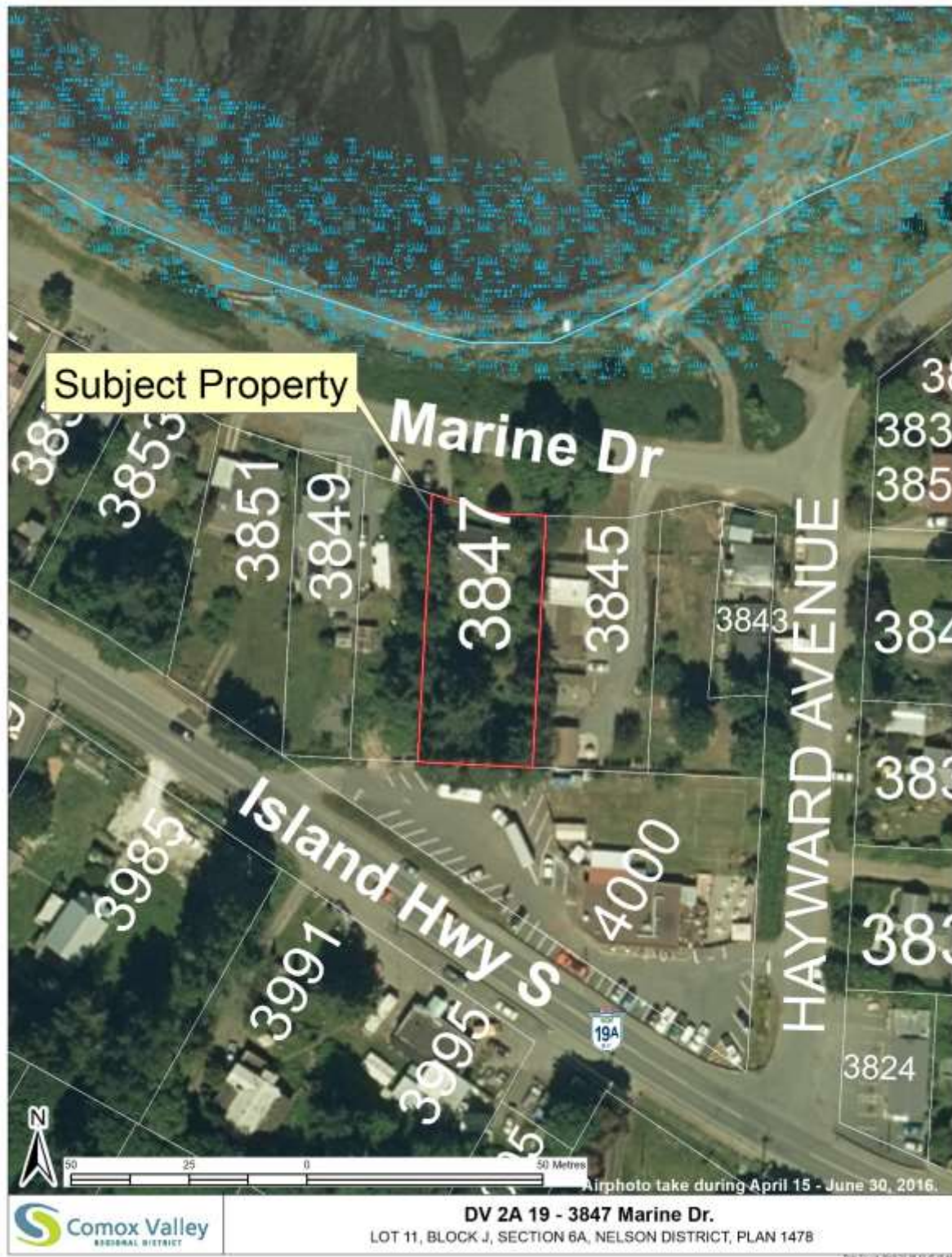


Figure 2: Air Photo



Figure 3: Site Plan



Figure 4: Perspective Drawings



Figure 5: Mesh Fence between the Proposed Carriage House and the Adjacent Lot to the West

DV 2A 19

TO: Dianne Louise Aikman

1. This Development Variance Permit (DV 2A 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 11, Block J, Section 6A, Nelson District, Plan 1478
Parcel Identifier (PID): 000-494-704 **Folio:** 771 09147.000
Civic Address: 3847 Marine Drive
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;
 - ii. THAT a solid fence or a thick hedge to achieve a visual buffer be implemented along the portion of the carriage house shown on Schedule B;
 - iii. THAT the solid fence or a thick hedge be maintained for the life of the carriage house shown on Schedule 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 2A 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.
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 – “Site Plan”

Schedule A

File: DV 2A 19

Applicant: Dianne Louise Aikman

Legal Description: Lot 11, Block J, Section 6A, Nelson District, Plan 1478,
PID 000-494-704

Specifications:

THAT WHEREAS pursuant to Section 309(3) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the maximum height of all accessory buildings is 6.0 metres except for structures containing a residential use, such as carriage houses, which have a maximum permitted height of 7.0 metres;

WHEREAS pursuant to Section 313(6)(iii) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the second storey floor area occupied by the residential use must have no interior access to any part of the accessory use below;

WHEREAS pursuant to Section 313(6)(iv) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the means of access and egress to the second storey residential use must be external to the structure and must not be enclosed by walls;

AND WHEREAS the applicant, Dianne Louise Aikman, wishes to vary the following for the carriage house shown on Schedule B:

1. To increase the maximum building height from 7.0 metres to 8.0 metres;
2. To permit an interior access to the residential use on the second storey from the accessory use on the ground floor; and
3. To permit an internal staircase enclosed by walls to access the second storey residential use.

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:

- 309(3) The maximum height of the carriage house shown on Schedule B is 8.0 metres.
- 313(6)(iii) The second storey floor area occupied by the residential use of the carriage house shown on Schedule B has an interior access to the accessory use below. The interior entryway, landing or similar space must not exceed 2.8 square metres in area.
- 313(6)(iv) The means of access and egress to the second storey residential use of the carriage house shown on Schedule B is internal to the structure and is enclosed by walls.

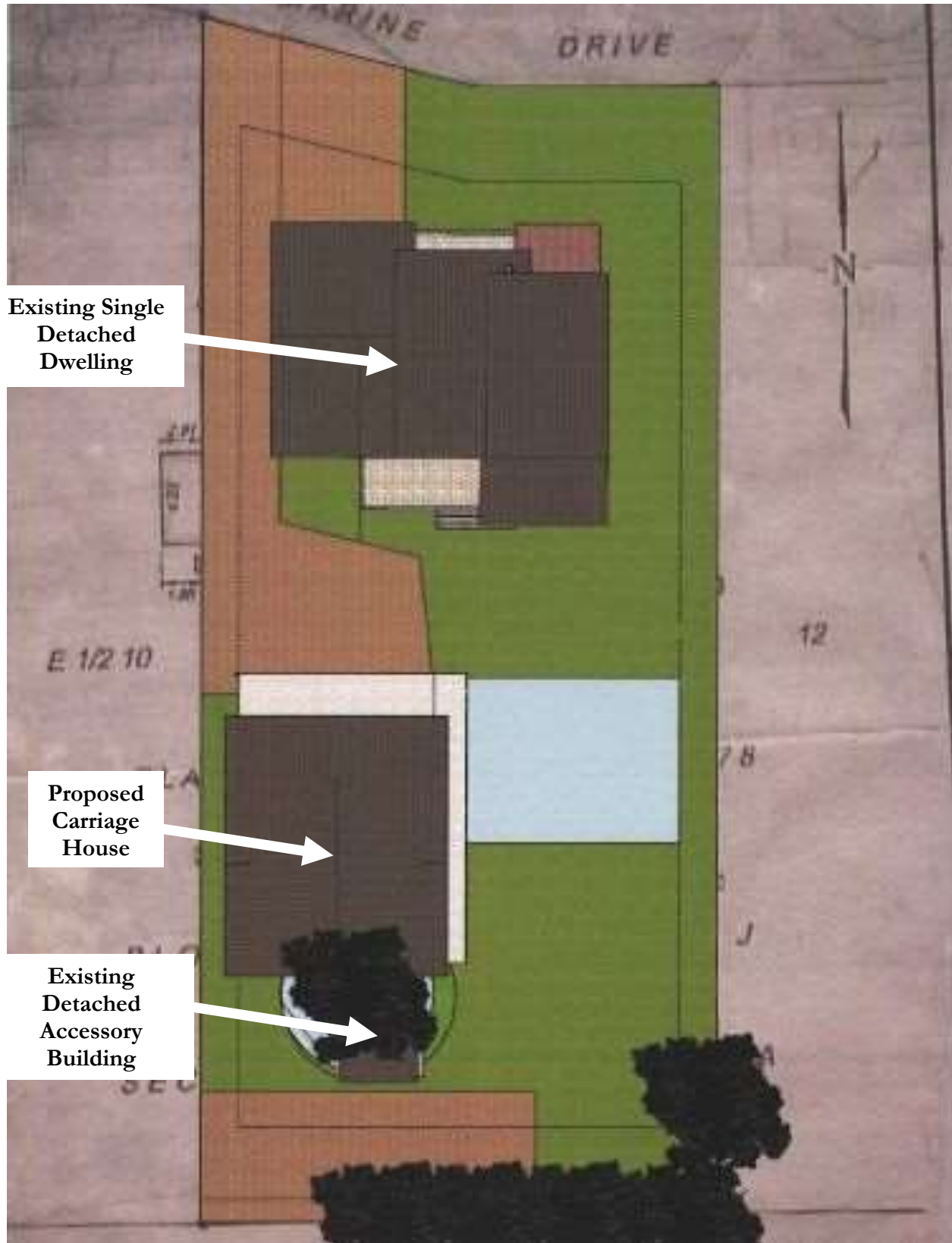
I HEREBY CERTIFY this copy to be a true
and correct copy of Schedule A being the
terms and conditions of Development
Variance Permit File DV 2A 19.

James Warren
Corporate Legislative Officer

Certified on _____

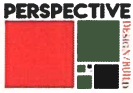
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Schedule B
Site Plan



Perspective Drawings





Perspective Design Build Ltd, 1160 4th Street, Courtenay, BC V9N 1H8

February 25, 2019

Comox Valley Regional District
600 Comox Road,
Courtenay, BC
V9N 3P6

RE: Comox Valley Zoning Bylaw 313 Secondary Residential Use – VARIANCE APPLICATION

To the Board of Variance;

My name is Peter Bain, co-owner of Perspective Design Build Ltd. My company is currently in the process of designing and building a secondary suite at 3847 Marine Drive in Royston for Lynn and Gordon Aikman.

With the current design that the homeowners have requested, I would like to apply for a variance on two sections of 313 Secondary Residential Use. The first variance is regarding number 6, iii which states "The second storey floor area occupied by the residential use must have no interior access to any part of the accessory use below." Along with iv which states, "The means of access and egress to the second story residential use must be external to the structure and must not be enclosed by walls." Lastly, the 3rd variance is to request that change of the height of the building from 7 meters to 8 meters.

The reasons we are asking for the 3 variances is the accessibility for the clients as they are Senior Citizens with some limited mobility. The suite would have an internal staircase along with a chair lift. This secondary suite is on the property of the clients' adult daughter and family and this allows the clients to maintain their independence while living in their own home. The variance would allow internal access to the garage from the interior staircase for easy accessibility.

The variance for changing the height of the suite is for the clients to have some ocean views. There are no neighbors behind the said property. The property on the side of this property is very large, 40 feet wide and 240 feet long. with their best location for main house (it is currently bare land) being at the front of the property. The property to the East is already zoned commercial and has multiple dwellings on it. Therefore, the height change would have little effect on the surrounding property owners. The other reason is, because the Flood construction level at this site is aprox' 2' higher then grade. With Half the lower accessory use area being more finished with a bathroom and storage. I'll be keeping the Garage slab at grade height, but having the East Half of the building 2 or 3 steps up from that because of the flood risk. Having the building 1m higher, will allow the east half of the accessory use to have proper ceiling heights.

I appreciate your time regarding the application for the variances and look forward to hearing from you soon.

Kind Regards,

Peter Bain
Co-Owner, Perspective Design Build Ltd.