

DATE: July 4, 2019

FILE: 3090-20 / DV 4A 19

TO: Chair and Directors
Electoral Areas Services Committee

Supported by Russell Dyson
Chief Administrative Officer

FROM: Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit - 9 Little Bear Way (Bell)
Baynes Sounds - Denman/Hornby Islands (Electoral Area A)
Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591,
PID 026-010-836**

Purpose

To consider a Development Variance Permit (DVP) to reduce the minimum rear and side yard setbacks to allow for an 163 square metre accessory building (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board deny Development Variance Permit DV 4A 19 (Bell) to decrease the minimum rear yard setback from 7.5 metres to 1.7 metres, the side yard setback from 3.5 metres to 1.7 metres, and both the front and side eaves setback to 1.1 metres for the purpose of constructing an accessory building on a property described as Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591, PID 026-010-836 (9 Little Bear Way).

Executive Summary

- The 0.21 hectare property is developed with a house along the Little Bear Way cul-de-sac road.
- The applicants would like to construct a 163 square metre accessory building and propose to site it 1.7 metres from the rear and side yard property lines. Because this involves construction within the rear and side yard setback area, a DVP is required.
- The Area A Advisory Planning Commission (APC) recommended the application be approved, as presented.
- However, due to the size of the proposed building necessitating it be constructed within the setback areas, uncharacteristic of neighbourhood development and the restrictions to maintaining the building when constructed so close to a property lines (e.g. ability to safely extend a ladder), staff recommends the application be refused.

Prepared by:

J. MacLean

Jodi MacLean, 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 a 0.21 hectare lot near the end of a cul-de-sac road (Figure 1). It is located within a strata subdivision, created in 2004, with the road (Little Bear Way) and Lot 13 (septic field that serves the entire subdivision) being common property owned and maintained by the strata lot owners. The subject property is cleared and developed with a single detached dwelling near the middle of the lot (Figure 2). The other properties in the Little Bear Way strata subdivision are similarly developed. The properties to the rear are part of a separate strata subdivision.

The applicants are seeking to construct a new accessory building for the purpose of storing personal vehicles (Figure 3) and providing a room for “accessory flex space”. The proposed building would be 163 square metres (15.24 metres long by 10.67 metres wide) and 6.4 metres tall. The applicants are proposing to locate this accessory building over the end of the driveway, mostly within the regulated setback area, necessitating a development variance permit.

Zoning Bylaw

The property is zoned Residential-Rural (R-RU) in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, which lists a minimum rear yard setback of 7.5 metres applicable to all buildings over 4.6 metres in height and a minimum side yard setback of 3.5 metres on properties with over 31 metres of road frontage (Appendix B). The eaves are only permitted to project no more than 2 metres into the setback area. As illustrated in the surveyor’s certificate submitted by the applicants (Appendix A), the building is proposed to be located 1.1 metres off the side and rear property lines. The applicants have since clarified that the 1.1 metre refers to the eaves as the outward-most projecting features which would be 0.6 metres beyond the face of the building.

The requested variances to the Zoning Bylaw’s required setbacks are as follows:

	Required Setback	Proposed Setback	Variance Difference
Foundation (rear)	7.5 m	1.7 m	5.8 m
Eaves (rear)	5.5 m	1.1 m	4.4 m
Foundation (side)	3.5 m	1.7 m	1.8 m
Eaves (side)	1.75 m	1.1 m	0.65 m

The R-RU zone allows for up to 200 square metres of accessory building floor area with a maximum height of 6.0 metres. The proposed accessory building would be 6.4 metres tall; however, according to the application, by locating it in the setback area it can be embedded into a slope so that it would be approximately 5.8 metres high, as calculated from average natural grade. The Zoning Bylaw defines height as from the average natural grade of the building footprint to the highest part of the roof surface. Locating the proposed accessory building further away from the lot lines or in the building envelope may necessitate a variance of the height regulation as the average natural grade advantage would be lost.

The Zoning Bylaw permits accessory buildings 4.5 metres or less to be setback 1.0 metre from the rear and side yard property lines and requires taller buildings be setback further. Taller buildings typically require more space for maintenance (e.g. for extending a ladder) and typically have more impact on neighbouring properties (e.g. sight lines, shadow). The proposed 1.1 metre setback would not provide sufficient space to safely extend a ladder to access the side eaves.

Neighbourhood Character

In relation to the three other accessory buildings on the three neighbouring properties around the southwest corner of the subject property, they were constructed in accordance with the setback

regulations. The property to the rear, whose zone does not regulate accessory building floor area, has hedging and a drainage channel separating the large building (423 square metres in area and 5.8 metres tall on a 0.46 hectare lot) from the property line. The accessory building (72 square metres) to the south is separated from the property line by a solid fence (Figure 3). If the requested variances are approved a condition of the permit may be the completion of the fencing behind the building.

The lot was developed with the house sited in the middle of the property, approximately 12 metres from either side and 20 metres from the rear. That siting limited the feasibility of locating a large accessory building within the lot's building envelope. The lots in the Little Bear Way subdivision are similarly developed with a house near the middle, though some extend towards the side lot line with attached garages. Several of the lots have accessory buildings, the largest being a 117 square metre accessory building located on a 0.40 ha lot. The large accessory building necessitating construction within the setback areas would be uncharacteristic of the character of the neighbourhood.

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 Zoning 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 Comox Valley Regional District (CVRD) Board could refuse the requested variances or approve the requested variance and could make approval of the variances conditional on installing a fence behind the proposed accessory building (Appendix C). Based on the analysis above, staff recommends denying the requested 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 CVRD bylaws. DVP's are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The subject property is designated Settlement Expansion Area (SEA) in the Regional Growth Strategy, being the "Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010". The SEA designation permits residential uses that will not impact future annexation into municipal areas.

Intergovernmental Factors

There are no intergovernmental factors involved with this DVP application.

Interdepartmental Involvement

This DVP application was circulated to relevant departments within the CVRD for comment. Should the variance be granted, the building will have to meet the BC Building Code provisions for building separations (e.g. openings, fire ratings, etc.). No concerns were identified.

Citizen/Public Relations

The APC reviewed this application at their meeting on June 11, 2019. The APC recommended the variances be approved, as presented.

Notice of the requested variance was mailed to adjacent property owners within 100 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 – “Application submissions”
Appendix B – “Copy of Residential – Rural Zone”
Appendix C – “Draft Development Variance Permit – DV 4A 19”

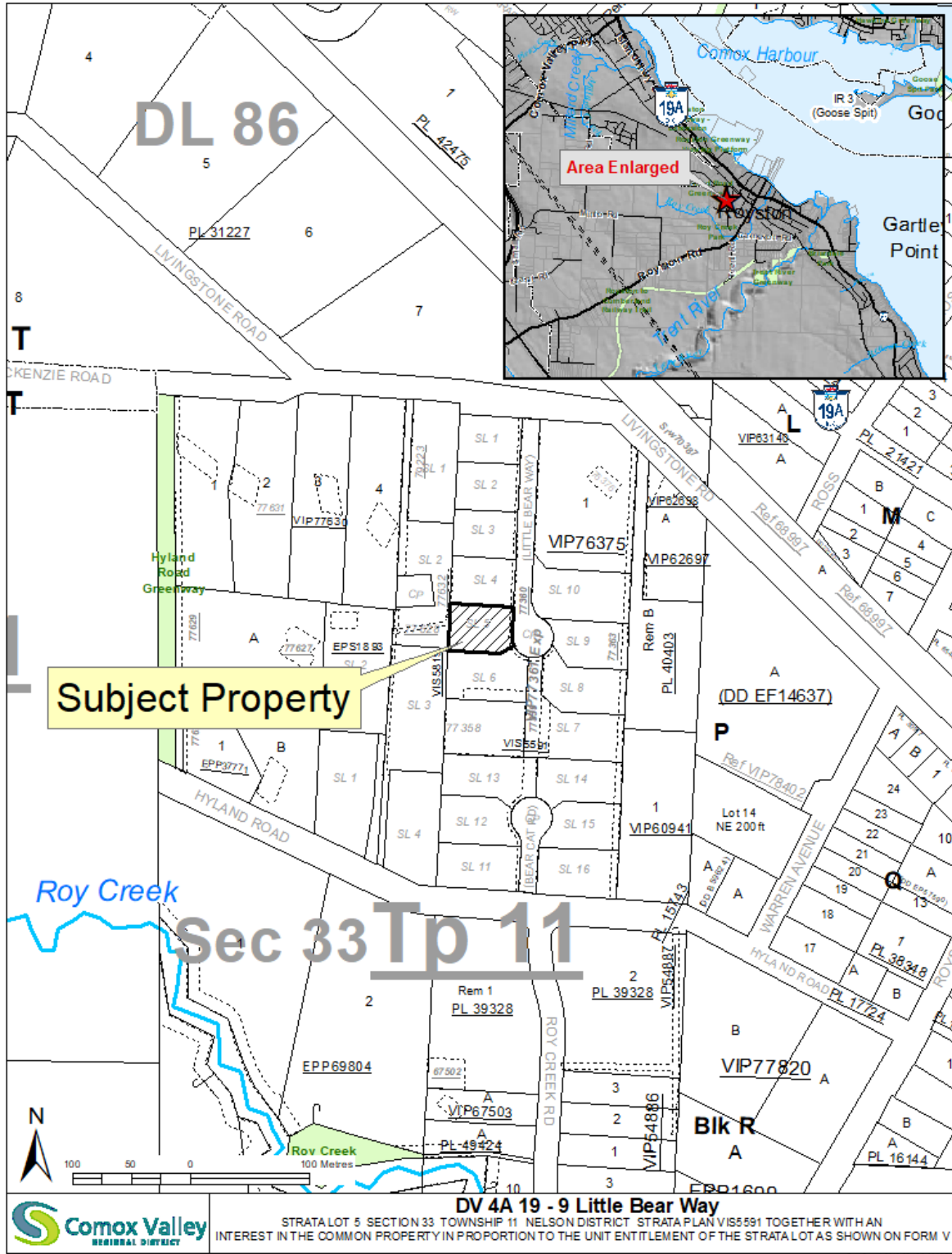


Figure 1: Subject Property



Figure 2: Air Photo (2018)



**Figure 3: Photo of Proposed Location for Accessory Building
(Approximately covering the gravelled area)**

To Whom It May Concern:

We are writing this letter in an effort to obtain a variance on one side yard set back and rear yard set back. We are proposing to build a detached shop to accommodate storage of a recreational vehicle, based on overage grade overall height will be 19 feet, tall enough to store recreational vehicles such as our trailer. This has an overall positive impact on the community as it keeps storage of items inside instead of in plain site. Based on the design elevation and current bylaw setback the only option would be to remove our existing patio at a significant cost and loss of use of our home. We are asking requesting a variance of the rear and side yard setback to 1.1 m. Surrounding the proposed shop are three other large size detached secondary garage/ shop buildings with higher floor elevations then our property, therefore there would be no undue undue burden on any neighboring residences. The proposed style and structure of the secondary building on our property is in step with the existing house and neighboring homes which all have large detached shops (one as large as 4800 square feet on the property to the rear of ours).

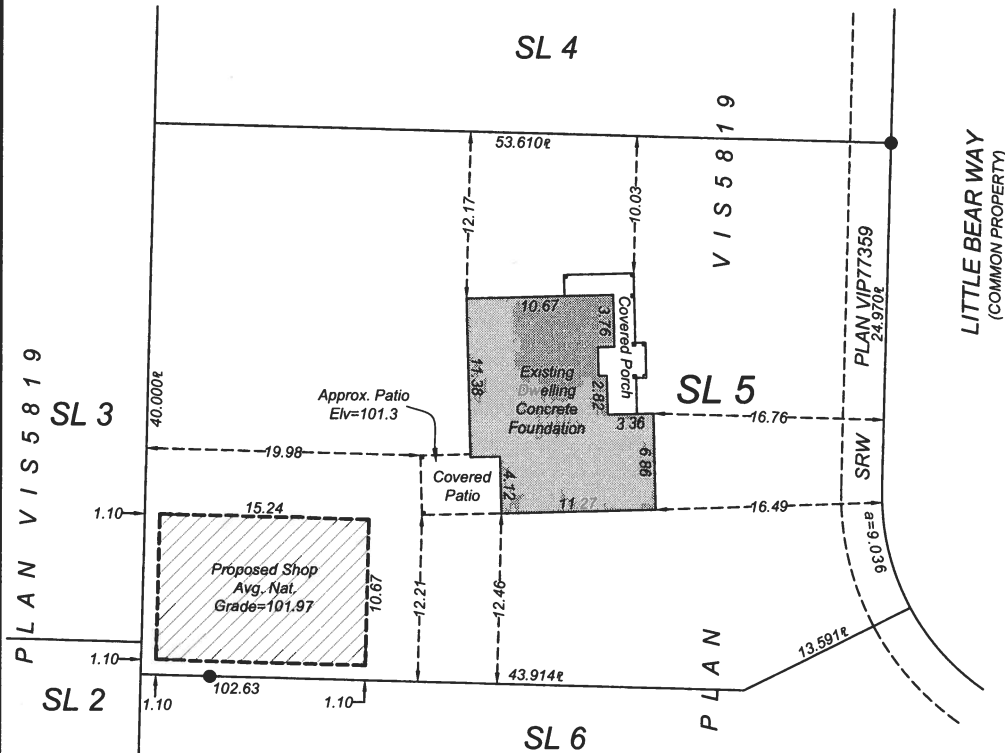
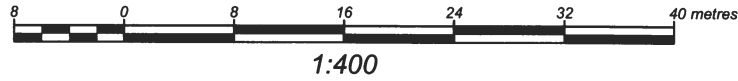
Thank you for you time and consideration.

Sincerely,

Jennifer and Dean Bell

**B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION
ON STRATA LOT 5, SECTION 33, TOWNSHIP 11,
NELSON DISTRICT, STRATA PLAN VIS5591, TOGETHER
WITH AN INTEREST IN THE COMMON PROPERTY IN
PROPORTION TO THE UNIT ENTITLEMENT OF THE
STRATA LOT AS SHOWN ON FORM V**

Parcel Identifier: 026-010-836



Date of Survey: Apr. 2, 2019

Civic Address
9 Little Bear Way
Royston, BC

Offset dimensions are to the exterior of the siding/main foundation wall and are perpendicular to the property lines.

This document shows the registered dimensions of the above described property and the relative location of the surveyed structures and features with respect to the property boundaries. This document shall not be used to define property lines or property corners.

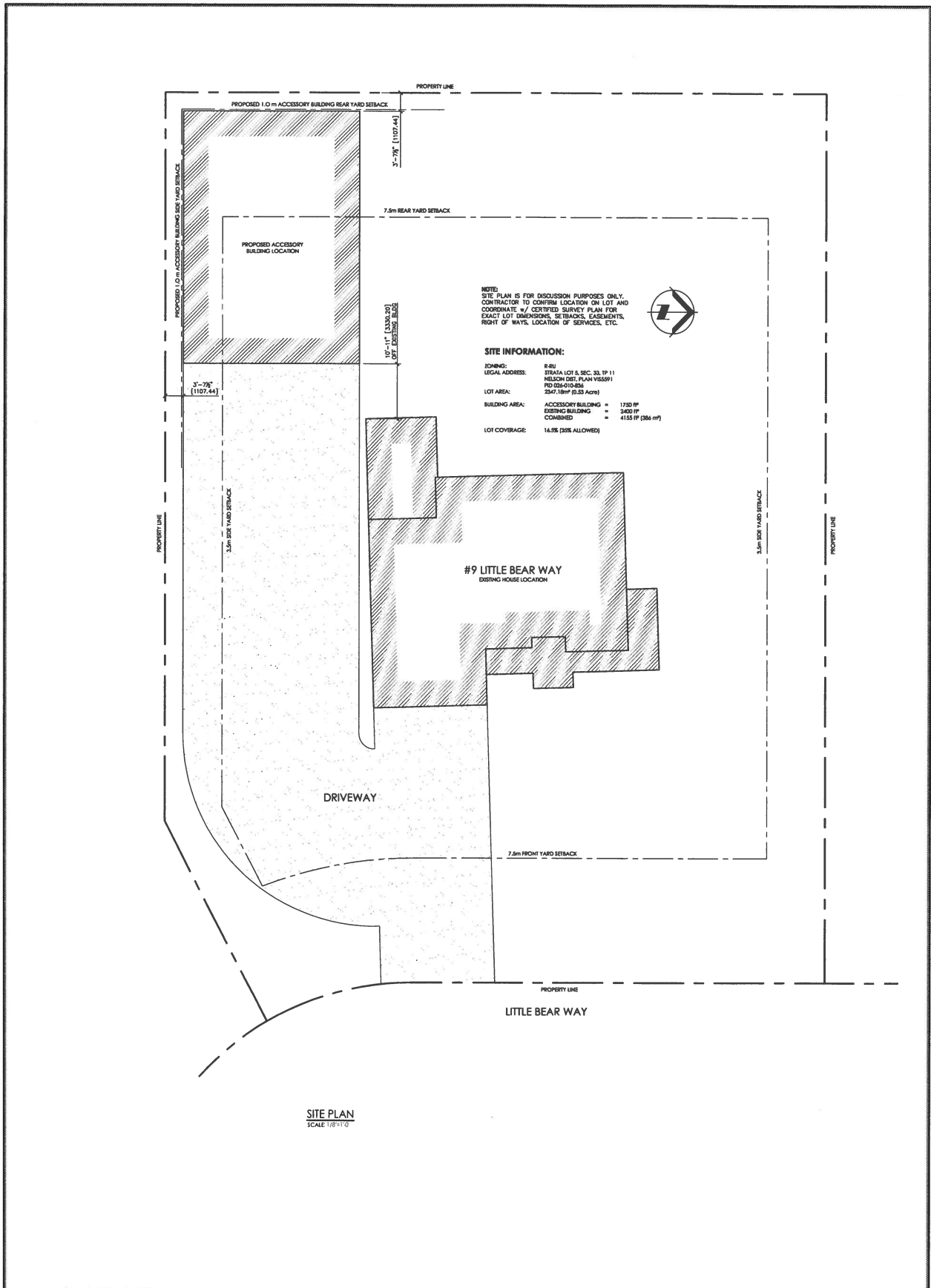
DN: c=CA, cn=Donald Grant
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ou=Verify ID at
www.juricert.com/LKUP.cfm?
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Date: 2019.04.29 15:09:18
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This document is not valid unless digitally signed.



NOTE:
 SITE PLAN IS FOR DISCUSSION PURPOSES ONLY.
 CONTRACTOR TO CONFIRM LOCATION ON LOT AND
 COORDINATE w/ CERTIFIED SURVEY PLAN FOR
 EXACT LOT DIMENSIONS, SETBACKS, EASEMENTS,
 RIGHT OF WAYS, LOCATION OF SERVICES, ETC.

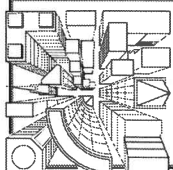


SITE INFORMATION:

ZONING: R-8U
 LEGAL ADDRESS: STRATA LOT 6, SEC. 33, TP 11
 NELSON CO. PLAN V33891
 PD 024-010-054
 LOT AREA: 2547.18sqf (0.58 Acres)
 BUILDING AREA: ACCESSORY BUILDING = 1720 SF
 EXISTING BUILDING = 2400 SF
 COMBINED = 4155 SF (886 sqf)
 LOT COVERAGE: 16.3% (33% ALLOWED)

#9 LITTLE BEAR WAY
 EXISTING HOUSE LOCATION

SITE PLAN
 SCALE: 1/8"=1'-0"



SITE PLAN
 1
 A-1
 of 3

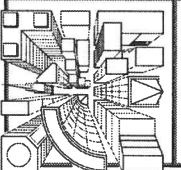
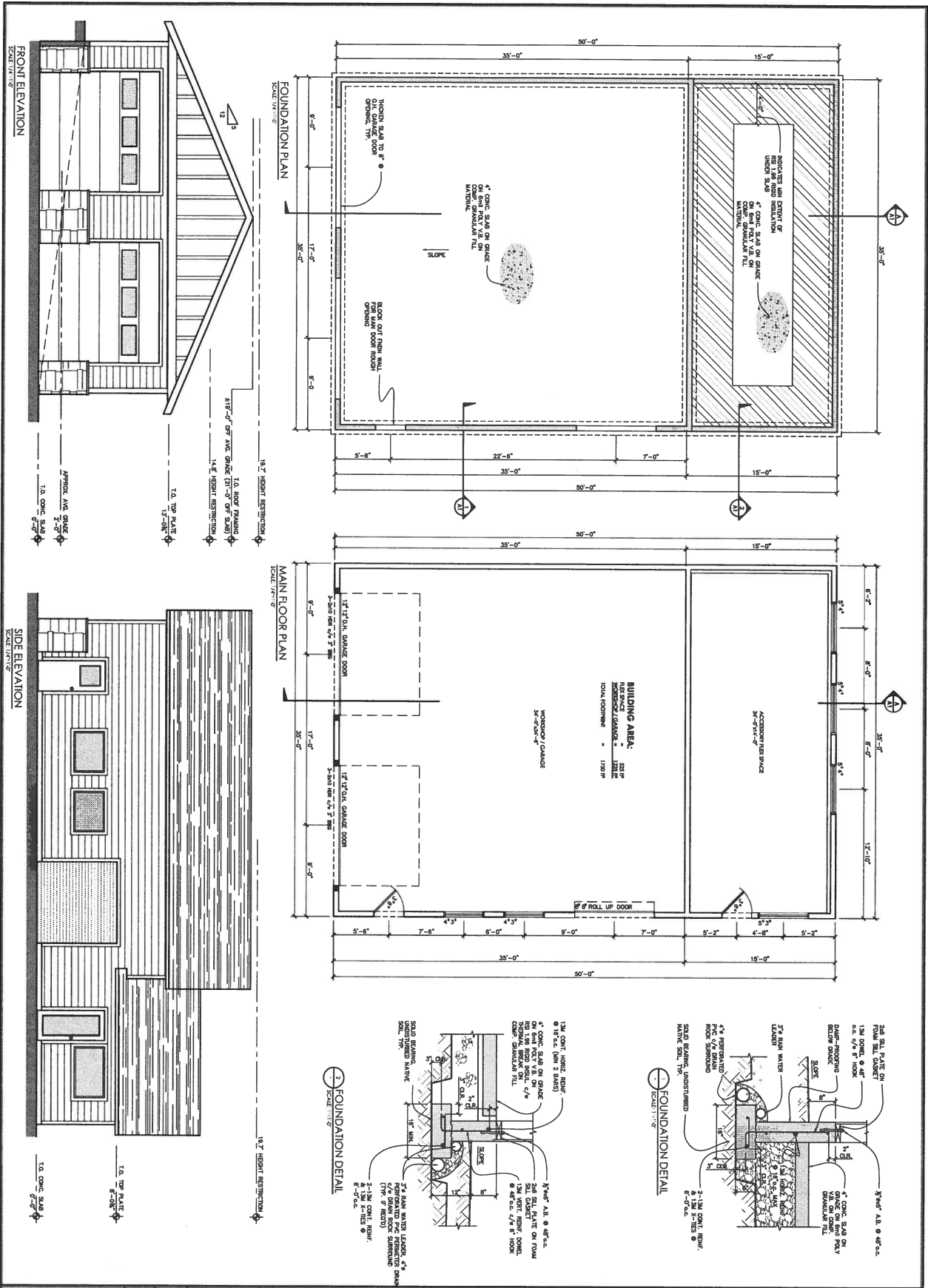
BELL RESIDENCE - DETACHED SHOP

#9 LITTLE BEAR WAY, ROYSTON, BC
 BIRDS EYE DRAFTING AND CONSULTING SERVICE
 COMOX, BC EMAIL: bruce@birdsseyedrafting.com PHONE: 250-464-6272

NO.	REVISION	DATE
1	ISSUED FOR PRELIM REVIEW	APR. 8/19
2	ISSUED FOR FINAL REVIEW	APR. 10/19

NOTE:
 ORDER TRUSS LOCATIONS TO BE DETERMINED BY TRUSS MANUFACTURER. ANY
 DISCREPANCIES TO BE DISCUSSED w/ ENGINEER PRIOR TO CONSTRUCTION.
 ALL POINT LOADS FROM ABOVE TO CONTINUE THRU FLOOR JOIST CAVITY,
 DOWN TO FOUNDATION BELOW.
 UNLESS SPECIFIED OTHERWISE, CONSTRUCTION TO BE IN ACCORDANCE
 WITH PART 9 OF THE B.C. BLDG CODE, 2018. ALTERNATE HEADER, BEAM,
 BUILT UP COLUMN SIZES AND FLOOR JOIST SPACING TO BE DETERMINED
 UPON ENGINEERS REVIEW. ENGINEERS MARKUPS SUPERCEDE ANY NOTES
 INDICATED ON THESE PLANS.
 KITCHEN AND FURNITURE LAYOUT IS CONCEPTUAL AND FOR DISCUSSION
 PURPOSES ONLY. DOOR AND WINDOW SIZES AND LOCN MAY BE ADJUSTED.
 CONTRACTOR TO COORDINATE WITH ENGINEER PRIOR TO CONSTRUCTION IF
 ADJUSTMENTS AFFECT STRUCTURAL COMPONENTS.

NOTE:
 ALL EXTERIOR DIMENSIONS ARE TO OUTSIDE OF
 SHEATHING. ALL INTERIOR DIMENSIONS ARE TO
 CENTER OF WALL UNLESS NOTED OTHERWISE.
 IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO
 VERIFY ALL DIMENSIONS AND REQUIRED
 CLEARANCES ON SITE PRIOR TO CONSTRUCTION.
 ANY DISCREPANCIES TO BE DISCUSSED w/
 ENGINEER PRIOR TO CONSTRUCTION.
 THESE DRAWINGS ARE THE EXCLUSIVE PROPERTY OF
 BIRDS EYE DRAFTING AND ARE NOT TO BE REPRODUCED
 WITHOUT WRITTEN CONSENT. THESE DOCUMENTS HAVE
 BEEN DESIGNED SPECIFICALLY FOR THE PURCHASER
 (INDIVIDUAL AND/OR COMPANY) AND BUILDING SITE
 INDICATED. ANY ALTERATION TO THE INFORMATION
 SHOWN IN THE TITLE BLOCK INDICATES THAT THESE
 DRAWINGS HAVE BEEN ILLEGALLY REPRODUCED.



BELL RESIDENCE - DETACHED SHOP

#9 LITTLE BEAR WAY, ROYSTON, BC
 BIRDS EYE DRAFTING AND CONSULTING SERVICE
 COMOX, BC EMAIL: bruce@birds eyedrafting.com PHONE: (250) 455-8772

NO.	REVISION	DATE
1	ISSUED FOR PRELIM REVIEW	APR. 22/19
2	ISSUED FOR FINAL REVIEW	APR. 15/19

NO. 1
A-2 of 3

NOTE:
 TRUSS LOCATIONS TO BE DETERMINED BY TRUSS MANUFACTURER. ANY DISCREPANCIES TO BE DISCUSSED w/ ENGINEER PRIOR TO CONSTRUCTION.
 ALL POINT LOADS FROM ABOVE TO CONTINUE THRU FLOOR JOIST CAVITY, DOWN TO FOUNDATION BELOW.
 UNLESS SPECIFIED OTHERWISE, CONSTRUCTION TO BE IN ACCORDANCE WITH PART 3 OF THE B.C. BUILDING CODE, 2018. ALTERNATE HEADERS, BEAM, BUILT UP COLUMN SIZES AND FLOOR JOIST SPACING TO BE DETERMINED UPON ENGINEER'S REVIEW. ENGINEERS MARKINGS SUPERCEDE ANY NOTES INDICATED ON THESE PLANS.
 KITCHEN AND FURNITURE LAYOUT IS CONCEPTUAL AND FOR DISCUSSION PURPOSES ONLY. DOOR AND WINDOW SIZES AND LOCATION MAY BE ADJUSTED. CONTRACTOR TO COORDINATE WITH ENGINEER PRIOR TO CONSTRUCTION IF ADJUSTMENTS AFFECT STRUCTURAL ELEMENTS.
 THESE DRAWINGS ARE THE EXCLUSIVE PROPERTY OF BIRDS EYE DRAFTING AND ARE NOT TO BE REPRODUCED WITHOUT WRITTEN CONSENT. THESE DRAWINGS HAVE BEEN DESIGNED SPECIFICALLY FOR THE PURCHASER. CONTRACTOR TO OBTAIN WRITTEN CONSENT FROM BIRDS EYE DRAFTING AND CONSULTING SERVICE PRIOR TO CONSTRUCTION. ANY ALTERATION TO THE INFORMATION SHOWN IN THESE DRAWINGS INDICATES THAT THESE DRAWINGS HAVE BEEN ILLEGALLY REPRODUCED.

706**Residential-Rural (R-RU)****1. PRINCIPAL USE**

- i) **On any lot:**
 - a) Residential use.
- ii) **On any lot over 4000 metres² (1.0 acre):**
 - a) Agricultural use.

2. ACCESSORY USES**On any lot:**

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

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).

4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Residential Rural zone shall be as set out in the table below.

Type of Structure	Height	Required Setback			
		Front yard	Rear yard	Side yard	
				Frontage <31m	Frontage >31m
Principal	10.0m (32.8 ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Part 400, Siting Exceptions, of this bylaw and Bylaw No. 2782 being the "Floodplain Management Bylaw, 2005" 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. FLOOR AREA REQUIREMENTS

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 200.0 metres² (2152.9 feet²).

7. SUBDIVISION REQUIREMENTS

- a) 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.
- b) 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”:
 - c) a) Section 503 Subdivision Standards 1. AREA AND FRONTAGE REQUIREMENTS i);
 - d) 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 0.8 hectares (2.0 acres)

Despite (iii), a subdivision with lots smaller than identified above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot area permitted.

DV 4A 19

TO: Dean and Jennifer Bell

1. This Development Variance Permit (DV 4A 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: **Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591**
Parcel Identifier (PID): **026-010-836** **Folio: 771 10973.414**
Civic Address: **9 Little Bear Way**
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 fence be installed behind the accessory building along the rear and side yard property lines.
4. This Development Variance Permit (DV 4A 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.
5. 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 4A 19

Applicants: Dean and Jennifer Bell

Legal Description: Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591, PID 026-010-836

Specifications:

THAT WHEREAS pursuant to 706(4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum rear yard setback is 7.5 metres for accessory buildings over 4.6 metres in height;

WHEREAS pursuant to 706 (4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum side yard setback is 3.5 metres for accessory buildings on properties with frontage greater than 31 metres in length;

WHEREAS pursuant to 706 (4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum side yard setback for accessory buildings is 3.5 metres on properties with frontage greater than 31 metres in length;

WHEREAS pursuant to Section 403(2) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the setback of the eaves of a structure can be reduced by not more than 50 per cent of the minimum setback, up to a maximum of 2 metres;

AND WHEREAS the applicants, Dean and Jennifer Bell, wish to decrease the minimum rear and side yard setbacks for an accessory building shown on Schedule B;

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:

- 706(4) The minimum rear yard setback of the proposed accessory building shown on Schedule B is reduced from 7.5 metres to 1.7 metres; and
- The minimum left (south) side yard setback of the proposed accessory building shown on Schedule B is reduced from 3.5 metres to 1.7 metres;
- 403(2) The minimum rear and side yard setback of the eaves of the proposed accessory building shown on Schedule B is reduced to 1.1 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 4A 19.

James Warren
Corporate Legislative Officer

Certified on _____

Draft

Schedule B

B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION ON STRATA LOT 5, SECTION 33, TOWNSHIP 11, NELSON DISTRICT, STRATA PLAN VIS5591, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V

Parcel Identifier: 026-010-836



Date of Survey: Apr. 2, 2019

Civic Address
9 Little Bear Way
Royston, BC

Offset dimensions are to the exterior of the siding/main foundation wall and are perpendicular to the property lines.

This document shows the registered dimensions of the above described property and the relative location of the surveyed structures and features with respect to the property boundaries. This document shall not be used to define property lines or property corners.

DN: c=CA, cn=Donald Grant
364AG6, o=BC Land Surveyor,
ou=Verify ID at
www.juricert.com/LKUP.cfm?
id=364AG6
Date: 2019.04.29 15:09:18
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(604) 671-8988