

DATE: October 26, 2020**FILE:** 3090-20/DV 5B 20**TO:** Chair and Members
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer**R. Dyson****RE: Development Variance Permit – Unaddressed lot, Galleon Way
(116032 BC Ltd)
Lazo North (Electoral Area B)
North 1/2 of the South 1/2 of District Lot 206, Comox District, Except
Thereout Anderton Road as Shown on Plan 425 RW and Except Parts in Plans
31744, 34264 and 35732, PID 002-132-141****Purpose**

To consider a Development Variance Permit (DVP) (Appendix A) to increase the maximum allowable height for a single detached dwelling from 10.0 metres to 12.2 metres.

Recommendation from the Chief Administrative Officer:

THAT the Board approve the Development Variance Permit DV 5B 20 (1160322 BC Ltd) to increase the maximum allowable height for a single detached dwelling from 10.0 metres to 12.2 metres, on property described as the North 1/2 of the South 1/2 of District Lot 206, Comox District, Except Thereout Anderton Road as Shown on Plan 425 RW and Except Parts in Plans 31744, 34264 and 35732, PID 002-132-141 (Unaddressed lot on Galleon Way);

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

Executive Summary

- A DVP application has been received to increase the maximum allowable height for a single detached dwelling from 10.0 metres to 12.2 metres.
- The subject property is approximately 9.2 hectares in size, is zoned Country Residential One (CR-1), and is bounded by other residential lots to the east, a par 3 golf course to the south, and land within the municipal boundary of the City of Courtenay to the west and north.
- The property is currently undeveloped and heavily forested.
- The Advisory Planning Commission (APC) for Electoral Area B considered the file at their October 20, 2020 meeting, though while comments for and against were provided, no motion to support or oppose the application going forward was passed.
- Staff are recommending that the variance be supported as the size of the lot, location of the dwelling on the lot, and additional buffering will offset the increase in height.

Prepared by:

D. ThiessenDylan Thiessen, MA, MCP
Planner

Concurrence:

T. TrieuTon Trieu, RPP, MCIP
Manager of Planning
Services

Concurrence:

S. SmithScott Smith, RPP, MCIP
General Manager of Planning and
Development Services Branch

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 in order to vary the maximum height allowed for a principal dwelling unit, from 10.0 metres to 12.2 metres. The subject property is 9.2 hectares in size, is zoned CR-1, and is bounded by other residential lots to the east, a large park and par 3 golf course to the south, and land within the municipal boundary of the City of Courtenay to the west and north (Figures 1 and 2). The property is currently undeveloped and heavily forested, and the proposed single detached dwelling reaches a maximum height of 12.19 metres (Figures 3-5). Maximum building heights are prescribed by Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019” in order to ensure privacy for property owners and neighbours, as well as to maintain a rural form and character among developments.

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.

Official Community Plan and Regional Growth Strategy Analysis

The property is designated as a Settlement Expansion Area in both the Regional Growth Strategy and the Official Community Plan, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” and the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2104” respectively. According to both Bylaws, lands within the Settlement Expansion Area are considered to be potential areas of incorporation into one of the Comox Valley Regional District’s member municipalities, and until such a time arises, are to be developed with minimal density to ensure adequate levels of servicing. The application in question does not conflict with the residential policies, goals, or objectives contained within the Bylaws.

Zoning Bylaw Analysis

Given that the subject property is zoned CR-1 in Bylaw No. 520, the maximum height for a principal dwelling structure is set at 10.0 metres. As seen on the elevation drawings (Figures 4 and 5), there is a portion of the roof over the main entryway that exceeds this height and reaches a height of 12.19 metres. This variance would allow the dwelling unit to be constructed as it is portrayed in the drawings, and would not extend to any future buildings or structures on the property, which would need to meet the maximum heights listed in Bylaw No. 520.

Recommendation and Rationale

Staff recommend that the Electoral Areas Services Committee (EASC) support the application. The main consideration with building height has to do with privacy for neighbouring properties. This issue is addressed given that the proposed single detached dwelling is sited on the side of the par 3 golf course rather than closer to other residential lots, has set the dwelling a considerable distance back from the access road, and is retaining a large number of trees that are taller than the house. These buffering and screening measures also work to maintain the rural form and character of the neighbourhood – something that could be at risk with a larger house, as it could seem more out of place without the screening measures.

Options

The EASC could either approve or deny the requested variance. Based on the analysis above, staff recommend approving the variance as presented.

Financial Factors

Applicable fees have been collected for this application under Bylaw No. 328, being the “Comox Valley Planning Procedures and Fees Bylaw, No. 328, 2014.”

Legal Factors

The report and 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 the residential policies, principles, or objectives outlined within Bylaw No. 120.

Intergovernmental Factors

Because this property is directly adjacent to lands within the municipal boundaries of the City of Courtenay, a referral letter has been sent to their staff. There was not enough time to receive feedback from the City and include it in this report, but the feedback will be included in the oral presentation of the file at the EASC meeting.

Interdepartmental Involvement

This DVP application was referred to staff within the bylaw enforcement, fire services, and engineering departments in order for them to provide comments and/or feedback. No issues or concerns were raised during this process.

Citizen/Public Relations

The APC for Electoral Area B met on October 20, 2020 to discuss this variance application, and a motion to support the application was defeated. Feedback from the members in opposition can generally be summarized as follows:

- The possibility for setting a precedence for taller buildings
- The fact that the maximum height was known prior to the design
- That 2.2 metres is an excessive request
- There is no hardship on the owner
- Other designs could have been pursued that would conform to the Zoning Bylaw.

Alternatively, comments in favour of the file were that the height variance requested was reasonable because of the nature of the property – the large property and very tall trees that would remain around the house are sufficient to address privacy concerns and maintain a rural form and character.

Further, notice of the requested variance was mailed to adjacent property owners within 100 meters 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 comments received prior to the EASC meeting or their attendance at the EASC meeting.

Attachments: Appendix A – “Development Variance Permit DV 5B 20”

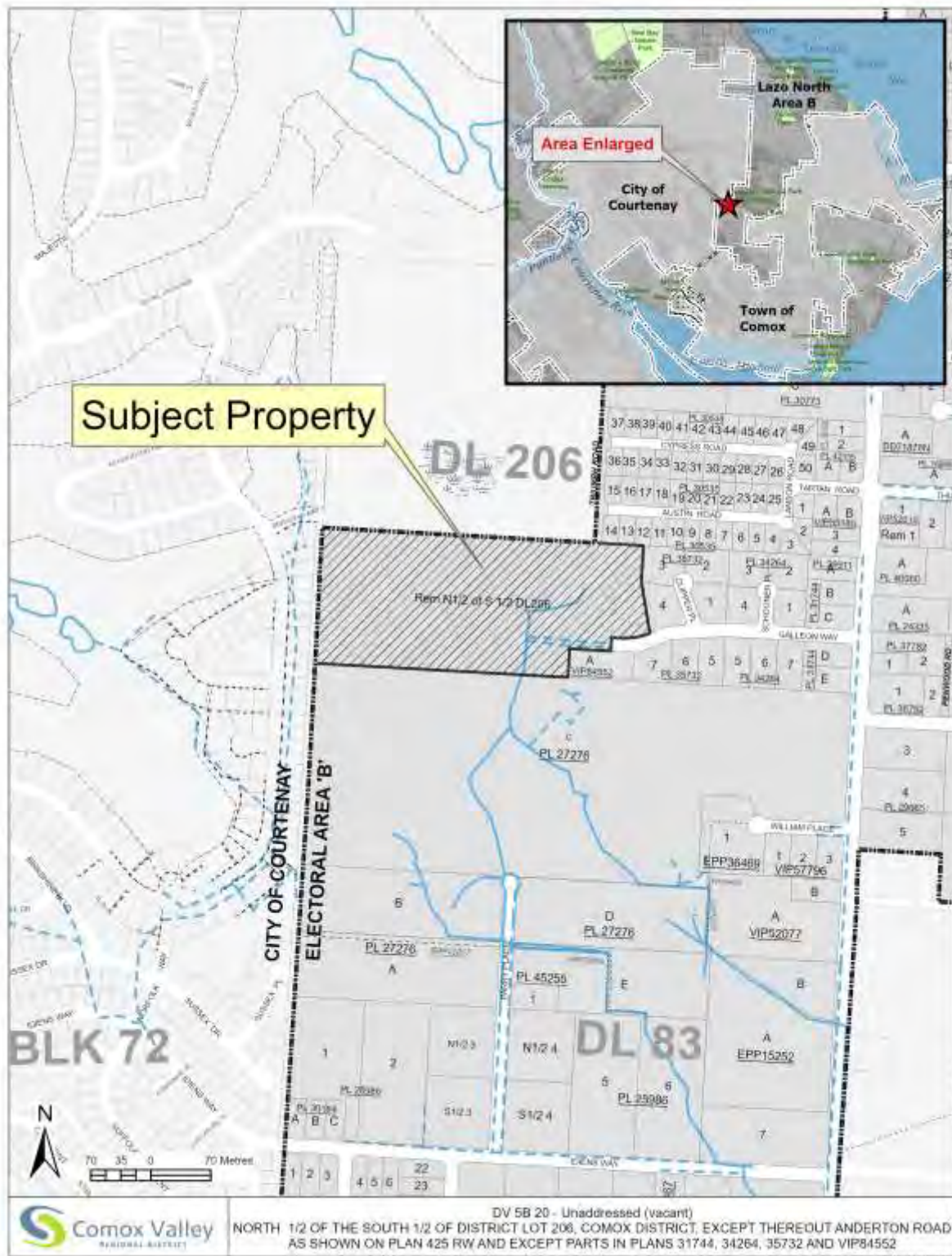


Figure 1: Subject Property Map

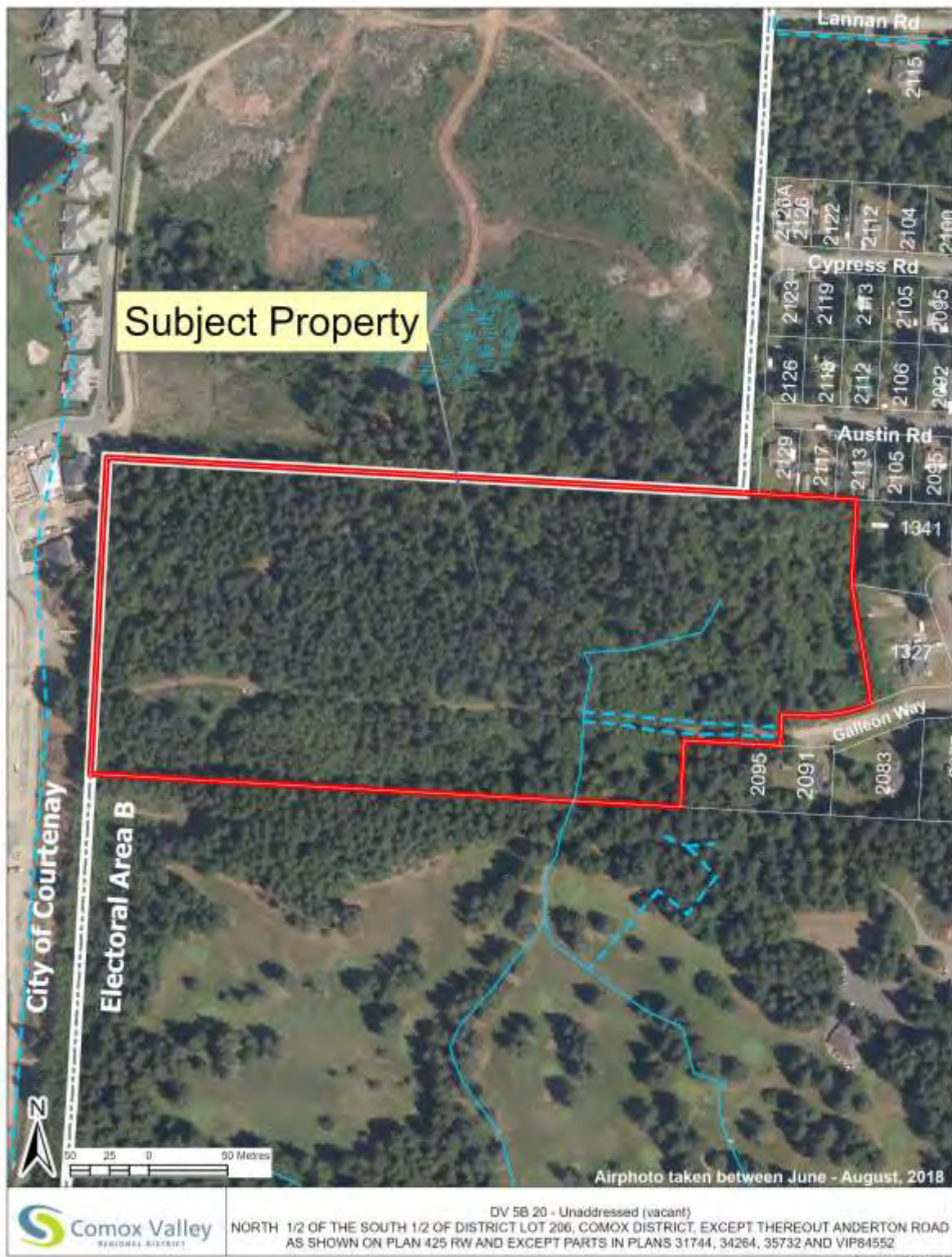


Figure 2: Air Photo

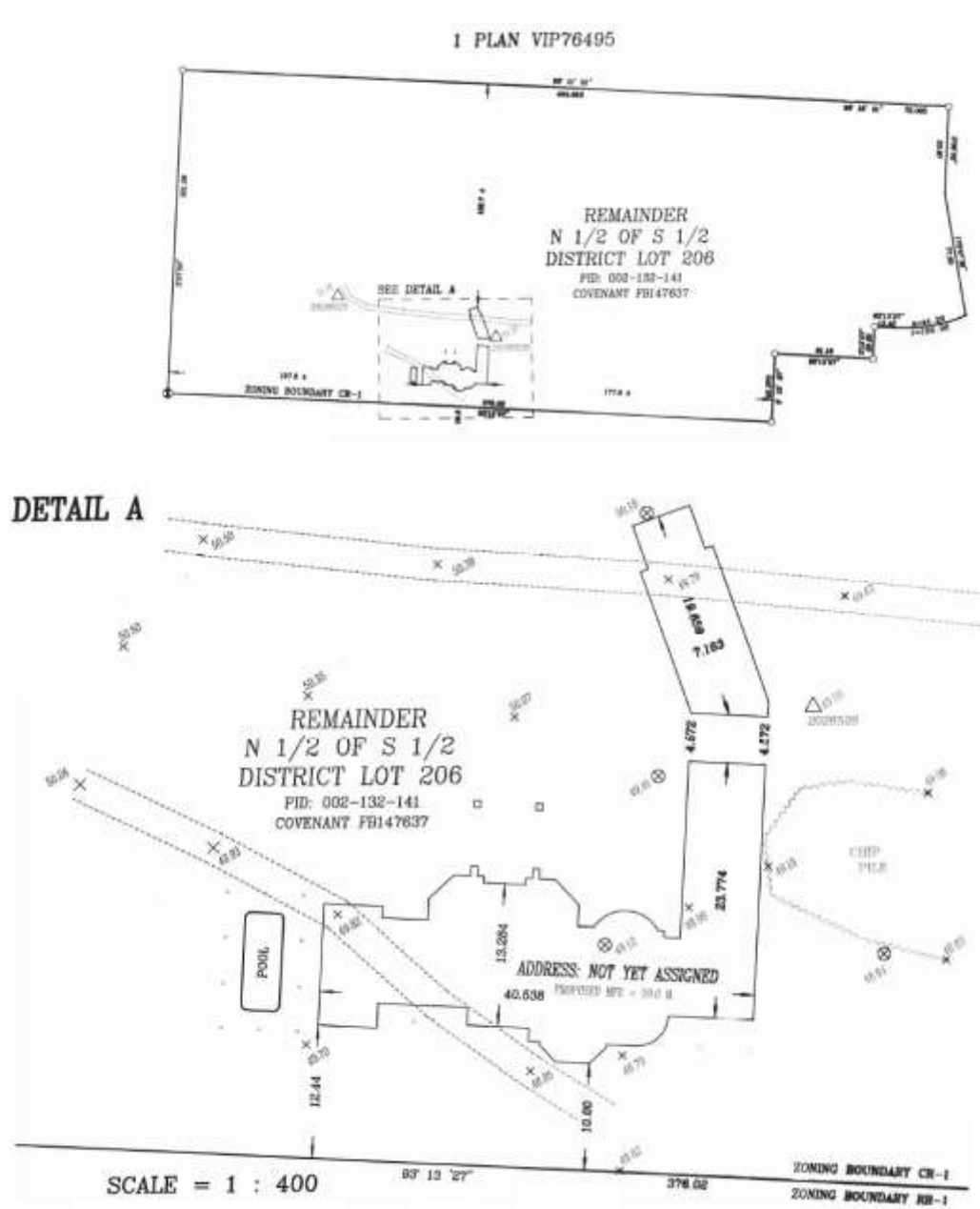


Figure 3: Site Plan

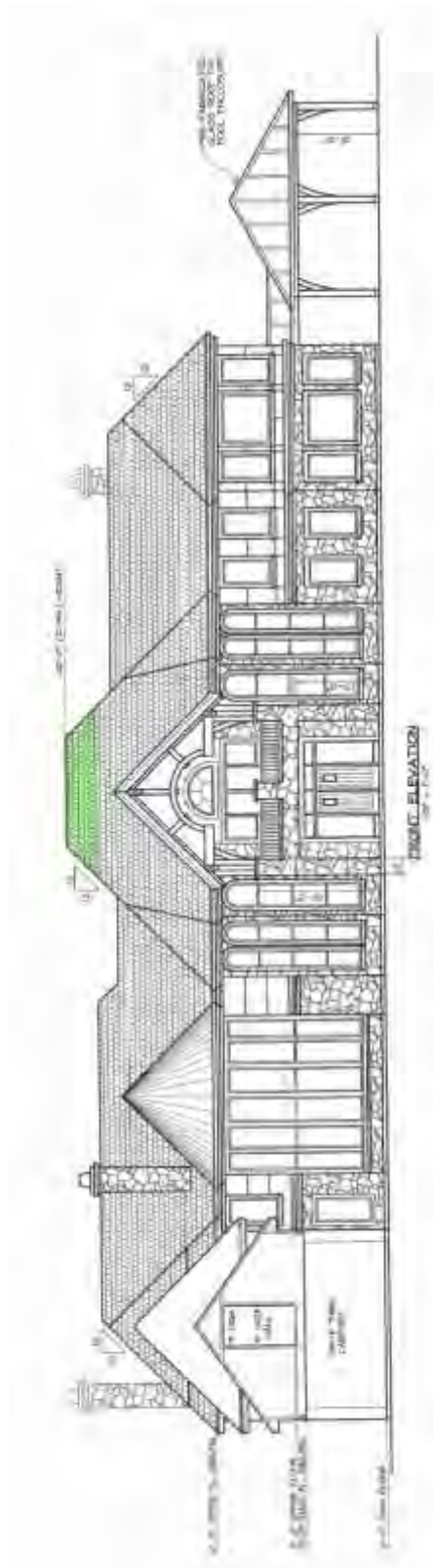


Figure 4: Elevation Drawing (Front)

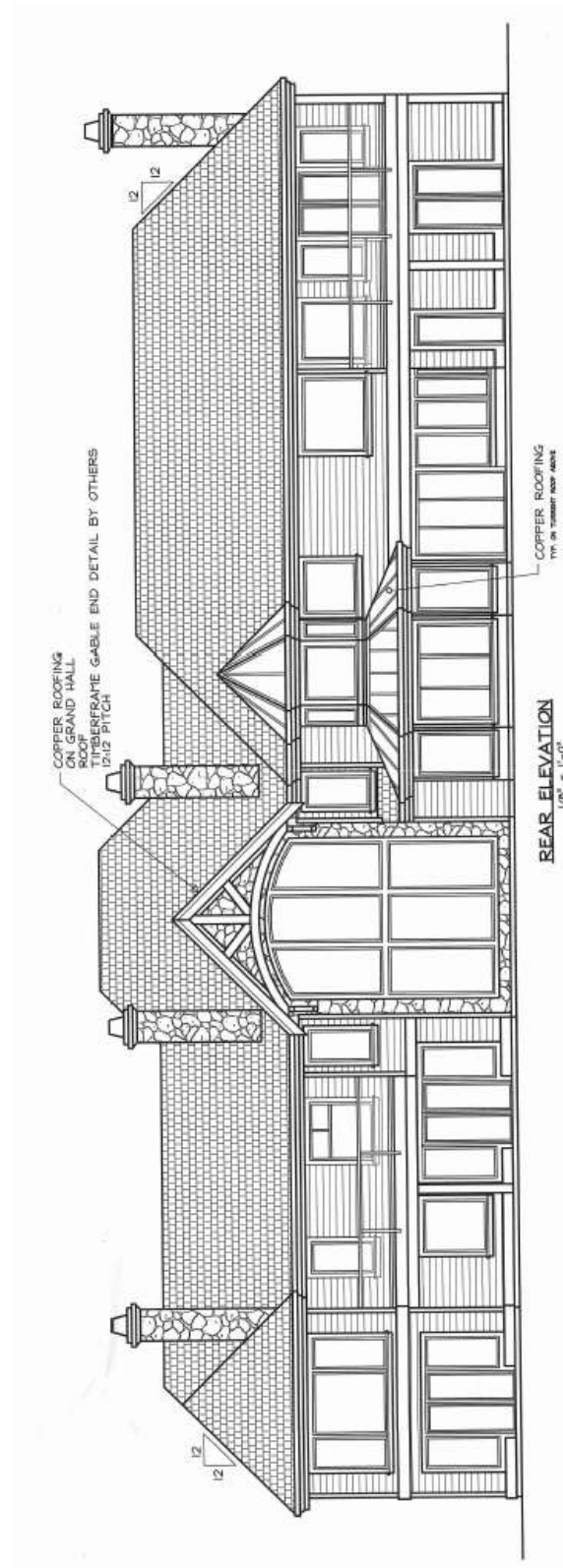


Figure 5: Elevation Drawing (Rear)

DV 5B 20**TO: 1160322 BC Ltd.**

1. This Development Variance Permit (DV 5B 20) 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: North 1/2 of the South 1/2 of District Lot 206, Comox District, Except Thereout Anderton Road as Shown on Plan 425 RW and Except Parts in Plans 31744, 34264 and 35732
Parcel Identifier (PID): 002-132-141 **Folio:** 03324.000
Civic Address: Unaddressed Lot (Galleon 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.
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 5B 20) 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
Corporate Legislative Officer

Certified on _____

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

Schedule A

File: DV 5B 20

Applicants: 1160322 BC Ltd. / Jason Welsh

Legal Description: North ½ of the South ½ of District Lot 206, Comox District, Except Thereout Anderton Road as Shown on Plan 425 RW and Except Parts in Plans 31744, 34264 and 35732

Specifications:

THAT WHEREAS pursuant to Section 703(5) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the maximum height for a single detached dwelling is 10.0 metres;

AND WHEREAS the applicants, 1160322 BC Ltd/Jayson Welsh, wishes to construct a single detached dwelling that has a maximum height of 12.2 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:

703(5) The maximum height of a single detached dwelling shall be 12.2 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 5B 20.

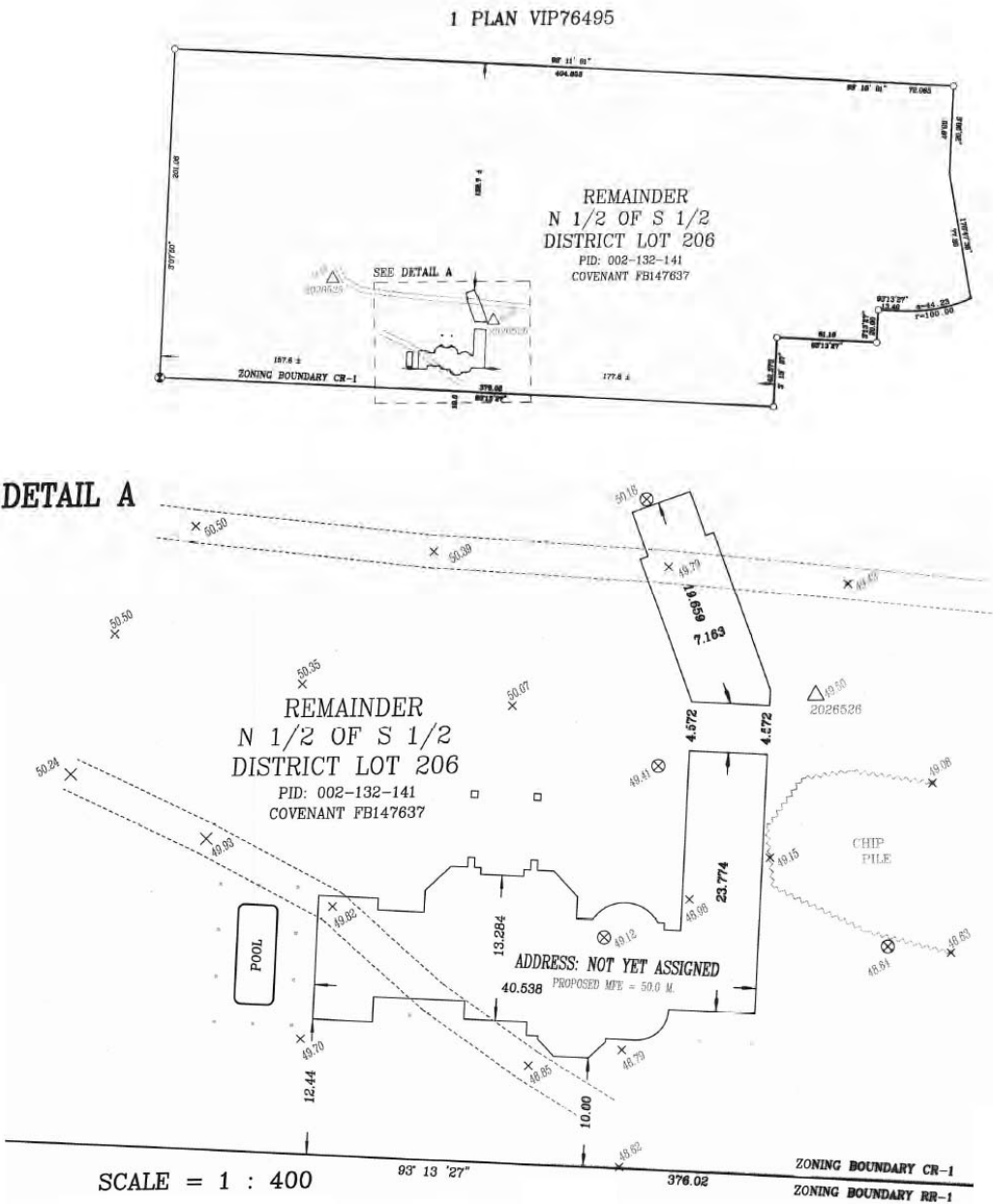
Jake Martens
Corporate Legislative Officer

Certified on _____

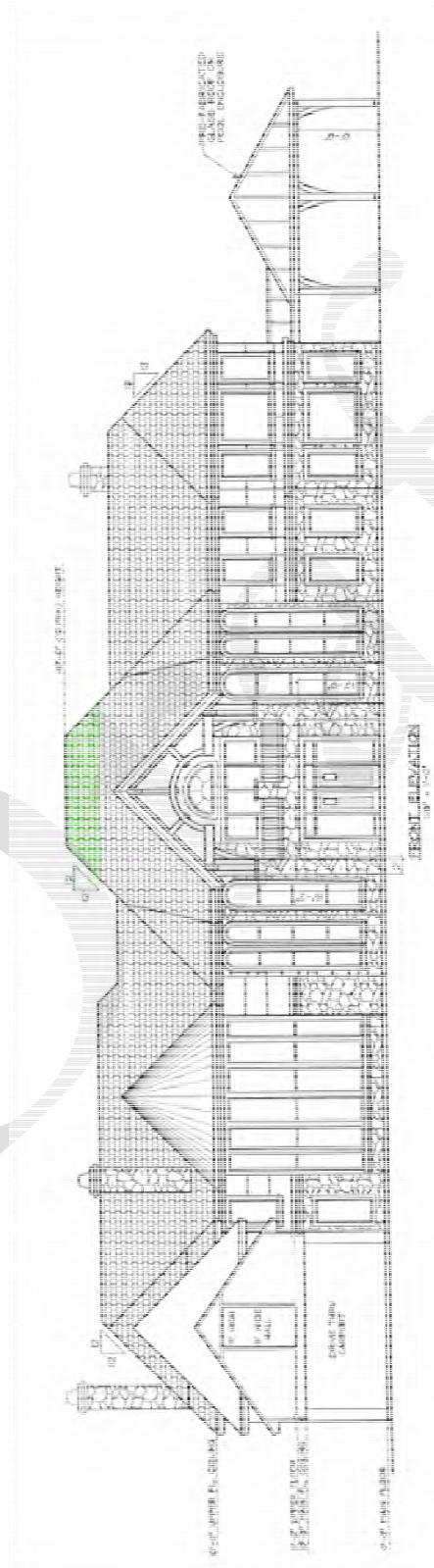
Air Photo



Site Plan



Elevation Drawing (Front)



Elevation Drawing (Rear)

