

**DATE:** October 2, 2017

**FILE:** 3090-20 / DV 2C 17

**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 – 7045 Railway Avenue (Lowe)  
Puntledge – Black Creek (Electoral Area C)  
Lot 6, Block 29, Comox District, Plan 28688, PID 001-739-387

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### Purpose

To consider a Development Variance Permit (DVP) to increase the maximum height for an accessory building from 6.0 metres to 9.1 metres.

### Recommendation from the Chief Administrative Officer

THAT the board approve the Development Variance Permit DV 2C 17 (Lowe) to increase the height for an accessory building from 6.0 metres to 9.1 metres for a property described as Lot 6, Block 29, Comox District, Plan 28688, PID 001-739-387 (7045 Railway Avenue) with the condition that a visual buffer of coniferous trees along the west property line be maintained for the life of the accessory building;

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

### Executive Summary

- The 2.4 hectare property is within the Agricultural Land Reserve (ALR) and contains a single detached dwelling and detached garage.
- The applicant plans to build a 223 m<sup>2</sup> accessory building to be used for personal storage.
- The applicant wishes to increase the maximum height of an accessory building from 6.0 metres to 9.1 metres to accommodate the size of his boat and a mezzanine within the building for storage of smaller items.
- The 9.1 metre building height is measured from average natural grade, the building itself is 8.0 metres.
- Staff recommend the issuance of the DVP as the increased height is visually buffered by existing coniferous trees and the natural slope of the property. The increased building height will not affect the character of the agriculturally designated neighbourhood and may be beneficial should the property be used for agricultural purposes in the future. Staff also recommend the DVP contain a condition that the visual buffer of coniferous trees be maintained for the life of the accessory building.

Prepared by:

*B. Labute*

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Brianne Labute  
Planner

Concurrence:

*A. Mullaly*

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Alana Mullaly, RPP, MCIP  
Manager of Planning  
Services

Concurrence:

*A. MacDonald*

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Ann MacDonald, RPP, MCIP  
General Manager of Planning  
and Development Services

**Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
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**Background/Current Situation**

An application has been received to consider a DVP (Appendix A) for a 2.4 hectare property located at 7045 Railway Avenue. The property is within the Agricultural Land Reserve (ALR) and bound by ALR properties to the west and east, Tsolum River to the south and Railway Avenue to the north (Figure 1 and 2). The property contains a single detached dwelling and detached garage. There are no farming activities on the property. The applicant plans to build a new 223m<sup>2</sup> accessory building for storage purposes (Figure 3, 4 and 5). The building will not contain plumbing. The applicant is requesting a variance to the permitted height of an accessory building from 6 metres to 9.1 metres. According to the applicant, the increased height is required for the height of his boat and to accommodate a mezzanine within the building for storage of smaller items.

Official Community Plan Analysis

The subject property is designated Agricultural Area in the Official Community Plan, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”. The proposed accessory building does not conflict with residential policies in the OCP.

Zoning Bylaw Analysis

The RU-ALR zone in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw No. 2781, 2005” (Appendix B), permits accessory buildings as an accessory use. It establishes maximum height, minimum setbacks and maximum lot coverage for all buildings and structures on the property. See Table 1 for a summary of the requested variance.

**Table 1: Variance Summary**

Zoning Bylaw	Variance	Existing	Proposed	Difference
Section 803	Accessory height	6.0 metres	9.1 metres	3.1 metres

The zoning bylaw defines height as the vertical distance from average natural grade of the building footprint to the peak of the roof. For this application, the average natural grade was confirmed by a BC Land Surveyor (Appendix A). The building itself is 8.0 metres, but when measured from average natural grade it is considered to be 9.1 metres. While a 9.1 metre accessory building is quite high, the natural slope of the property and existing row of coniferous trees mitigate the visual impact (Figure 5). The increased building height will not affect the character of the agriculturally designated neighbourhood as there are similar sized farm buildings in the area. Although the property is not currently farmed, the increased height may be beneficial if it becomes a farm building in the future. For these reasons, staff recommend the issuance of the DVP with the condition that a visual buffer of coniferous trees be maintained along the west property line for the life of the accessory building.

**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.

**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. DVP’s are permitted in certain circumstances under Section 498 of the LGA.

**Regional Growth Strategy Implications**

The Regional Growth Strategy, being the “Comox Valley Regional Growth Strategy Bylaw, 120, 2010” designates the subject property within Agricultural Areas. One of the eight goals in the RGS is to support and enhance the agricultural sector for local food security. There are policies to ensure that Agricultural Land Reserve lands are protected for existing and future agricultural activities. None of these policies are applicable to the proposed accessory building that requires a building height variance.

**Intergovernmental Factors**

There are no intergovernmental factors.

**Interdepartmental Involvement**

This DVP application was referred to relevant internal departments. No concerns were identified.

**Citizen/Public Relations**

The Advisory Planning Commission will review this application at their meeting scheduled for September 27, 2017. 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 500.0 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 2C 17”  
Appendix B – “Copy of RU-ALR Zone”

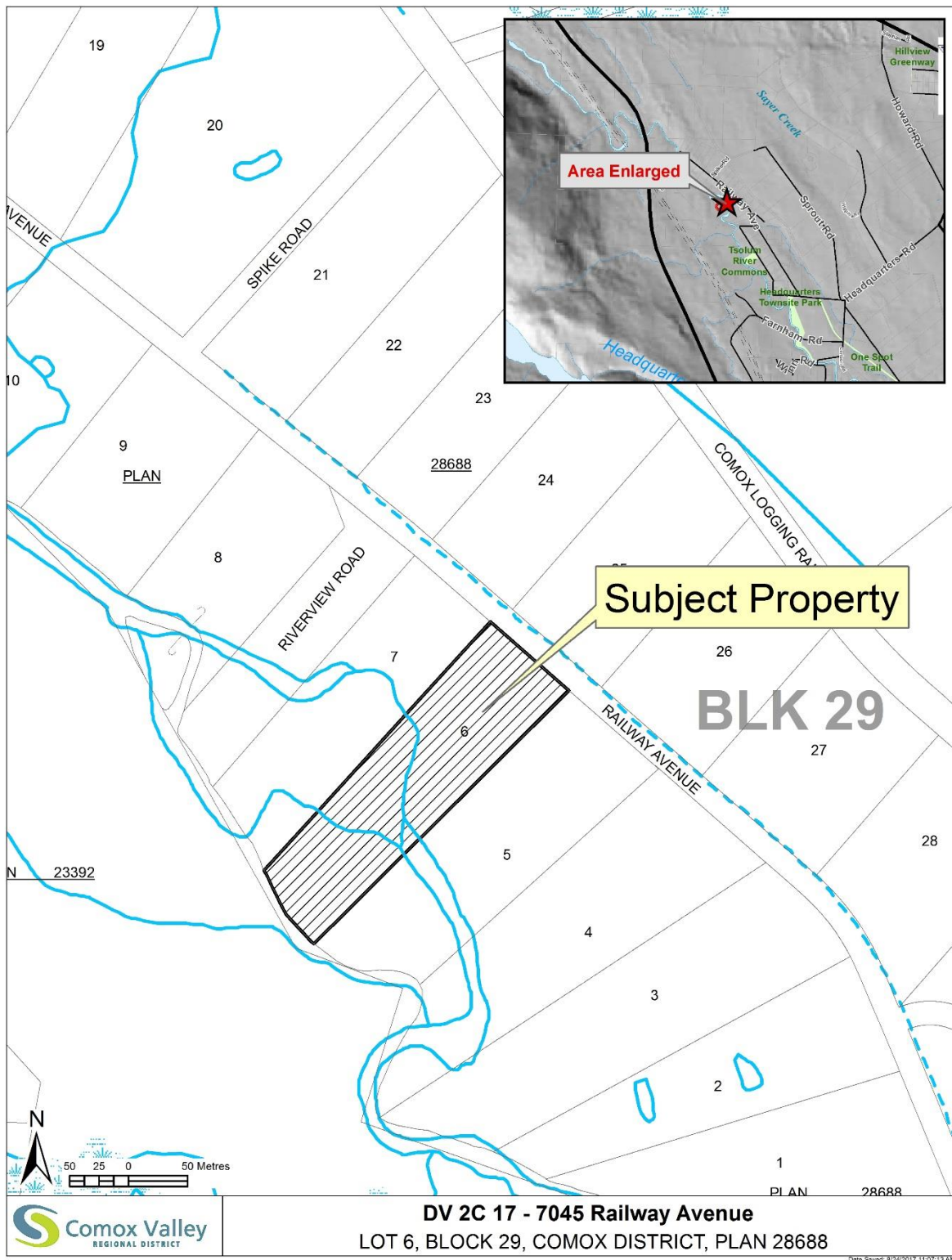


Figure 1: Subject Property Map

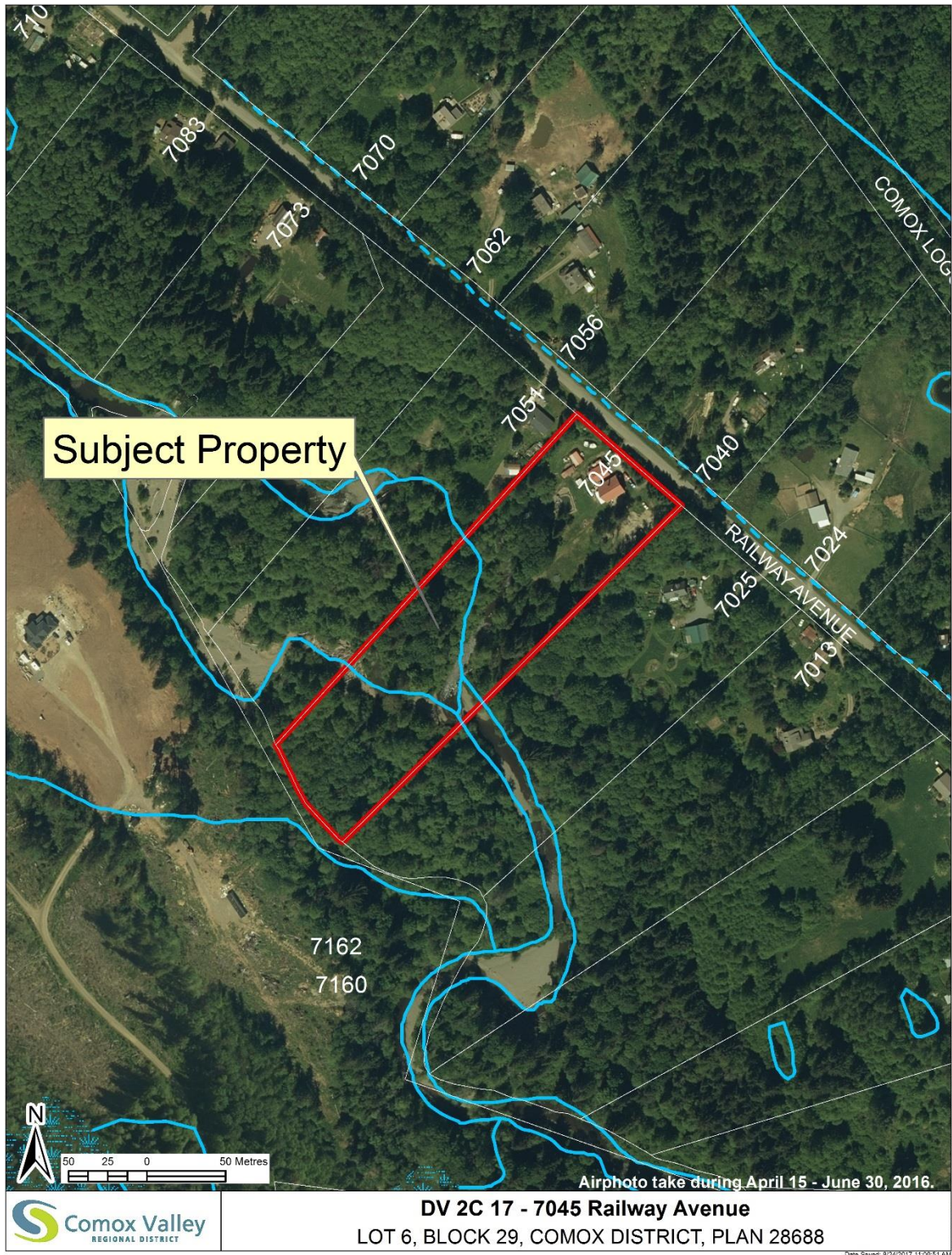


Figure 2: Aerial Photo

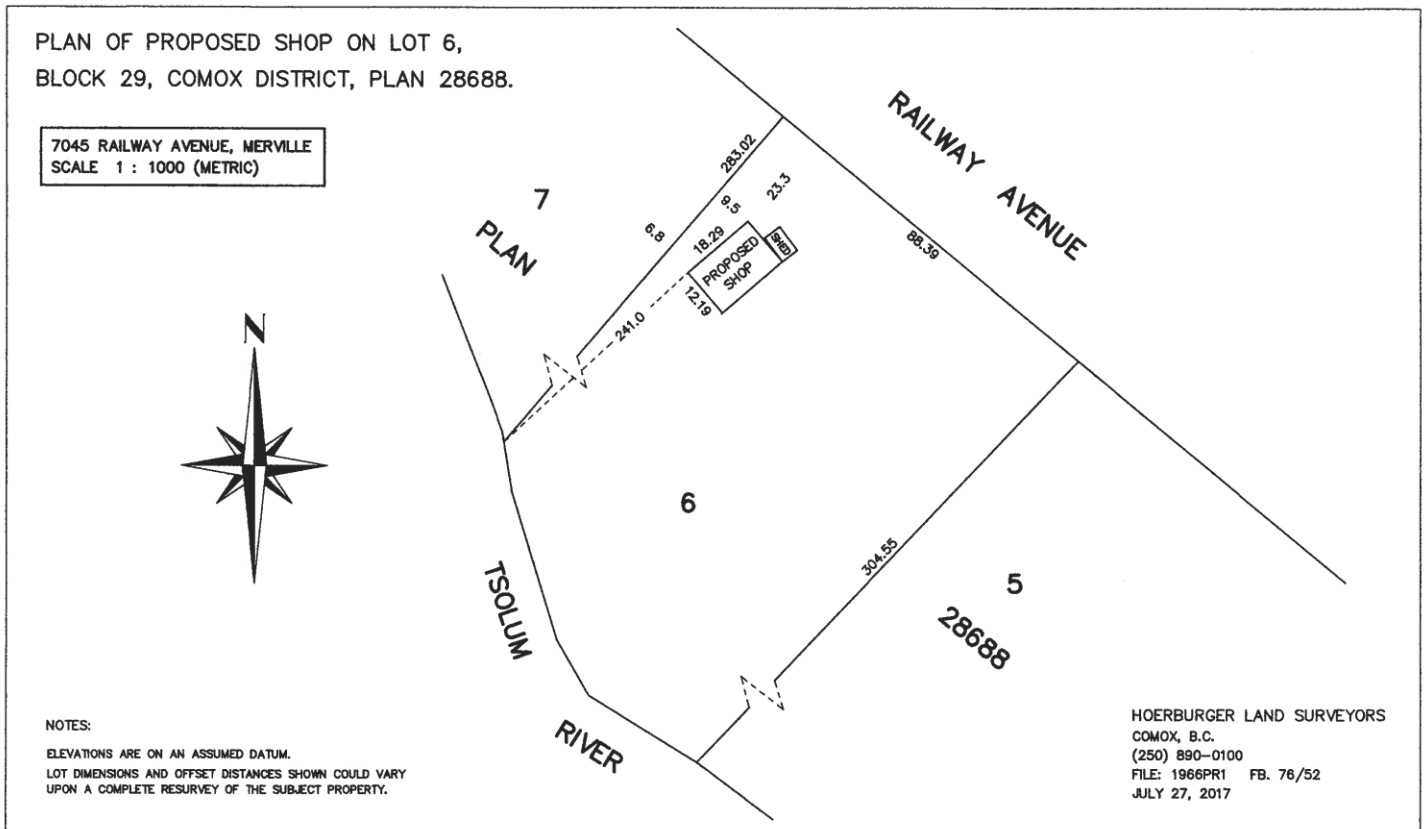


Figure 3: Site Plan

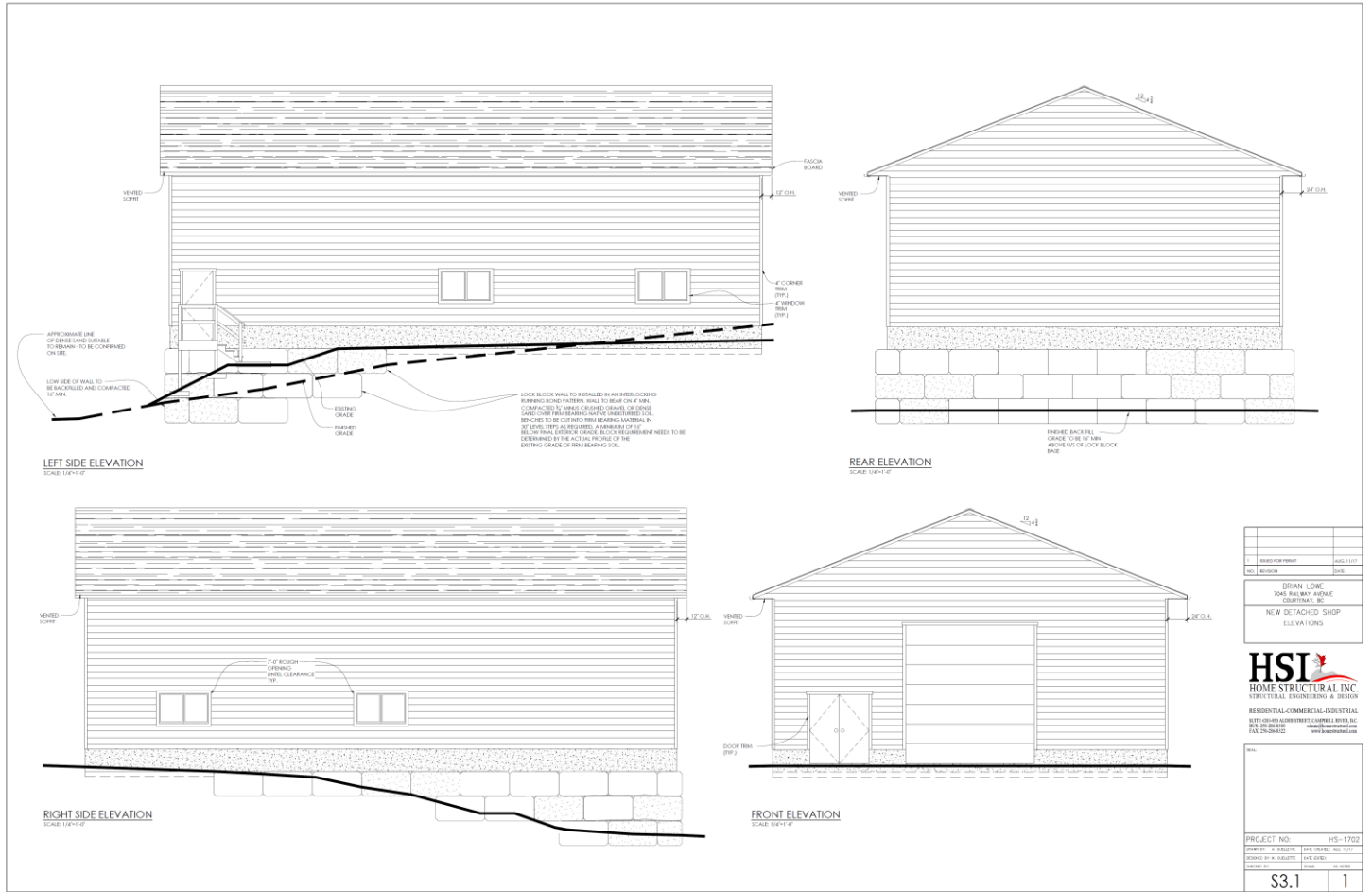


Figure 4: Building Plans



**Figure 5: (L-R) Site of Proposed Accessory Building, Buffer Between Building Site and Neighbouring Property, and Size of Boat**



DV 2C 17

**TO:** Brian Lowe

**OF:** 7045 Railway Avenue, Courtenay BC V9J 1N4

1. This development variance permit (DV 2C 17) 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 6, Block 29, Comox District, Plan 28688  
**Parcel Identifier (PID):** 001-739-387 Folio: 771 04890.280  
**Civic Address:** 7045 Railway Avenue
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, B and C;
  - ii. THAT a visual buffer of coniferous trees along the west property line be maintained for the life of the accessory building;
  - iii. AND THAT all other buildings and structures must meet zoning requirements.
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 2C 17) 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 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 \_\_\_\_\_.

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James Warren  
Corporate Legislative Officer

Certified on \_\_\_\_\_

Attachments: Schedule A – “Resolution”  
Schedule B – “Site Plan of 7045 Railway Avenue”  
Schedule C – “Proposed Accessory Building Height”

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**Schedule A**

**File: DV 2C 17**

**Applicant: Brian Lowe**

**Legal Description: Lot 6, Block 29, Comox District, Plan 28688**

**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;

AND WHEREAS the applicant, Brian Lowe, wishes to increase the maximum height of an accessory building to 9.1 metres;

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:

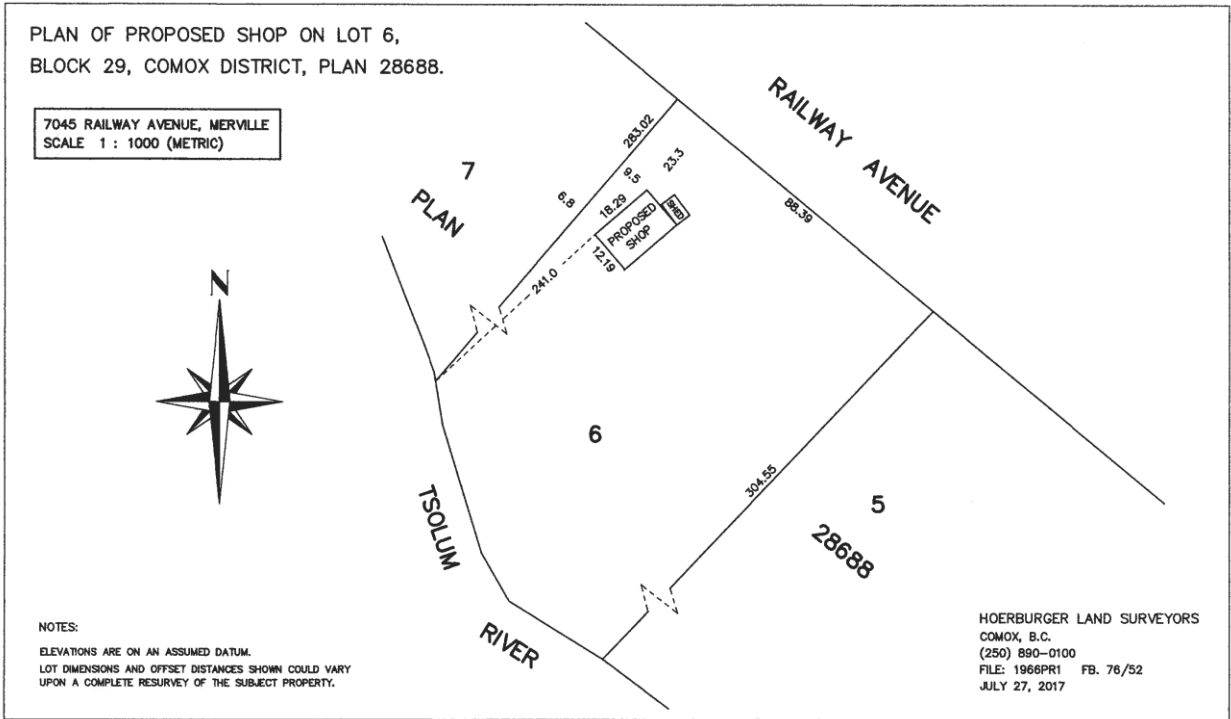
309(3) The maximum height of all accessory buildings is 9.1 metres except for structures containing a residential use, such as carriage houses, which have a maximum permitted height of 7.0 metres.

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 2C 17

\_\_\_\_\_  
James Warren  
Corporate Legislative Officer

Certified on \_\_\_\_\_

### Schedule B Site Plan



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**Schedule C**  
**Letter from BC Land Surveyor**

**HOERBURGER LAND SURVEYORS**

280A Anderton Road, Comox, B.C. V9M 1Y2  
Ph. (250) 890 - 0100 Fax: (250) 890 - 0210

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August 25, 2017

**Brian Lowe**  
7045 Railway Avenue  
Merville, BC

**Re: Roof height for a proposed accessory building at 7045 Railway Avenue,  
Merville, BC; Lot 6, Plan 28688**

We surveyed the existing original grade at the footprint of your proposed new accessory building and found the grade to fall **2.26 metres** from front to rear. Therefore average original grade is 1.13 metres below the front of the site.

The proposed building is to be constructed 8.04 metres above it's slab height, and the slab is proposed to be set at 0.10 metres below the front of the site. The proposed building height calculates to  $1.13 - 0.10 + 8.04 = \mathbf{9.07 \text{ metres}}$  above average original grade.

I trust you will find the above in order, but please call me at 890-0100 if you have any questions.

  
Steven Hoerbunger, BCLS



**803****Rural ALR (RU-ALR)****1. PRINCIPAL USE****On any lot:**

- i) Residential use;
- ii) Agricultural use;
- iii) On any lot in the Agriculture Land Reserve any other use specifically permitted by the Provincial Land Reserve Commission under the *Agricultural Land Reserve Act*, regulations and orders.

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

- i) Accessory buildings.

**3. CONDITIONS OF USE**

- i) Any conditions imposed on applications made to the Provincial Land Reserve Commission under the *Agricultural Land Reserve Act*.
- ii) Any conditions or limitations imposed elsewhere in this bylaw (See Section 303).

**4. DENSITY****Residential Use is limited to:**

- i) **On any lot:** One single detached dwelling plus additional dwelling units (attached or detached) where the additional dwelling units are required by full time farm employees working on farm operations or are specifically permitted by the Provincial Land Reserve Commission under the *Agricultural Land Reserve Act*.

**5. SITING OF BUILDINGS AND STRUCTURES**

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

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

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.]

6. **LOT COVERAGE**

- i) The maximum lot coverage of all buildings and structures shall not exceed 15% (excluding greenhouses).

7. **SUBDIVISION REQUIREMENTS**

- i) Minimum lot area: 8.0 hectares (19.8 acres)
- ii) Minimum lot frontage: 10% of the perimeter of the lot.

*End • RU-ALR*