

DATE: August 29, 2018

FILE: 3090-20/DV 4B 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 – 1561 McDonald Rd (Swan)
Lazo North (Electoral Area B)
Parcel A (DD 389220I) of Lot F, Section 5, Comox District, Plan 10028,
PID 005-486-556**

Purpose

To consider a Development Variance Permit (DVP) to enable the conversion of an existing accessory building into a carriage house (Appendix A).

Recommendations from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 4B 18 (Swan) to vary the following zoning bylaw regulations:

- To reduce the rear setback of the proposed carriage house from 7.5 metres to 3.1 metres;
- To reduce the left (northeast) side yard setback of the proposed carriage house from 3.5 metres to 3.1 metres;
- To reduce the rear setback of the proposed eaves of the carriage house from 5.5 metres to 2.7 metres; and
- To vary Section 313(6)(vi) of the zoning bylaw to permit the floor area of the ground level to be greater than the floor area of the second storey;

for property described as Parcel A (DD 389220I) of Lot F, Section 5, Comox District, Plan 10028, PID 005-486-556 (1561 McDonald Road);

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

Executive Summary

- The subject property is approximately 0.14 hectares in area. The property currently has a single detached dwelling, an accessory building and a greenhouse.
- The applicants would like to convert the existing accessory building into a carriage house by adding a second storey of residential use.
- This conversion changes the minimum setback requirements, which will make the location of the converted carriage house nonconforming to the rear and side yard setbacks.
- In addition, the floor area of the existing accessory building is approximately 107 square metres, and the proposed floor area of the residential use is approximately 88 square metres. However, there is a zoning bylaw regulation that requires the floor area of the ground level to be equal to or smaller than the floor area of the second storey. Therefore, there is a need to vary this zoning bylaw regulation.
- Planning staff supports the issuance of the permit due to elevation change and dense vegetation, which when combined, does not anticipate to have significant impact on the visual and noise matters.

Prepared by:

Concurrence:

B. Chow**A. Mullaly**

 Brian Chow, MCIP, RPP
 Rural Planner

 Alana Mullaly, M.Pl., MCIP, RPP
 Acting General Manager of Planning and
 Development Services
Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

The subject property is approximately 0.14 hectares in area (Figures 1 and 2). The property currently has a single detached dwelling, an accessory building (i.e., garage and shop), and a greenhouse (Figure 3). The applicants would like to convert the existing accessory building into a carriage house by adding a second storey of residential use (Figures 4 to 6).

This proposed conversion changes the use of the building from accessory to principal, and therefore, changes the minimum setback requirements. Subsequently, the applicants are seeking a DVP to vary the following:

- To reduce the rear setback of the proposed carriage house from 7.5 metres to 3.1 metres;
- To reduce the left (northeast) side yard setback of the proposed carriage house from 3.5 metres to 3.1 metres; and
- To reduce the rear setback of the proposed eaves of the carriage house from 5.5 metres to 2.7 metres.

Further, the applicants would like to vary the following zoning bylaw regulation: to vary Section 313(6)(vi) of the zoning bylaw to permit the floor area of the ground level to be greater than the floor area of the second storey.

Official Community Plan Analysis

The subject property is designated Settlement Expansion Area in the Official Community Plan (OCP), being the “Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014.” 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. The proposed variance does not conflict with residential policies in the OCP.

Zoning Bylaw Analysis

The property is zoned Rural Eight (RU-8) in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005” (Appendix A). In this zone, the existing accessory building meets the minimum rear and side yard setbacks of 1.0 metre. As mentioned earlier, the proposed conversion of this existing accessory building changes the minimum setback requirements (Figures 7 to 9).

In support of their application, the applicants indicate that the property slopes down from the northeast to the southwest. The new residential development to the northeast will be at a higher elevation than their property. In addition, there are trees extending for at least 120 metres on the adjacent properties to the rear (Figure 8). Further, on the adjacent lots in the Town of Comox, there is a Statutory Right of Way for the Town of Comox’s water, sanitary and storm drainage services that runs along the side lot line. This Statutory Right of Way provides some distance separation to the proposed carriage house. As such, the visual impact of the proposed additional storey is unlikely

to be significant. The intent of minimum setback requirements is to provide adequate room for building maintenance and repair; and to provide sufficient separation between adjacent owners to minimize visual and noise impacts.

In addition, Section 313(6)(vi) of the zoning bylaw requires that *“The floor area of the ground level of the structure must not exceed the floor area of the second storey.”* As the current floor area of the accessory use on the ground floor is approximately 107 square metres, and the proposed floor area of the second storey is approximately 88 square metres, a variance is needed for this regulation. The intent of this regulation is to ensure that the accessory use on the ground floor does not get disproportionately larger than the residential use on the second storey.

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. It is recommended that the board 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 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 (RGS), 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. The proposed variance does not conflict with residential policies established in the RGS.

Intergovernmental Factors

As the property is within the Settlement Expansion Area, a referral was sent to the Town of Comox on August 22, 2018 for their comment. The Town of Comox has not provided a response as of the date of report preparation.

Interdepartmental Involvement

This DVP application was circulated to relevant departments within the Comox Valley Regional District (CVRD) for comment. No concerns were identified.

Citizen/Public Relations

The Advisory Planning Commission meeting was cancelled prior to the presentation 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.

Attachment: Appendix A – “DVP – DV 5A 18”

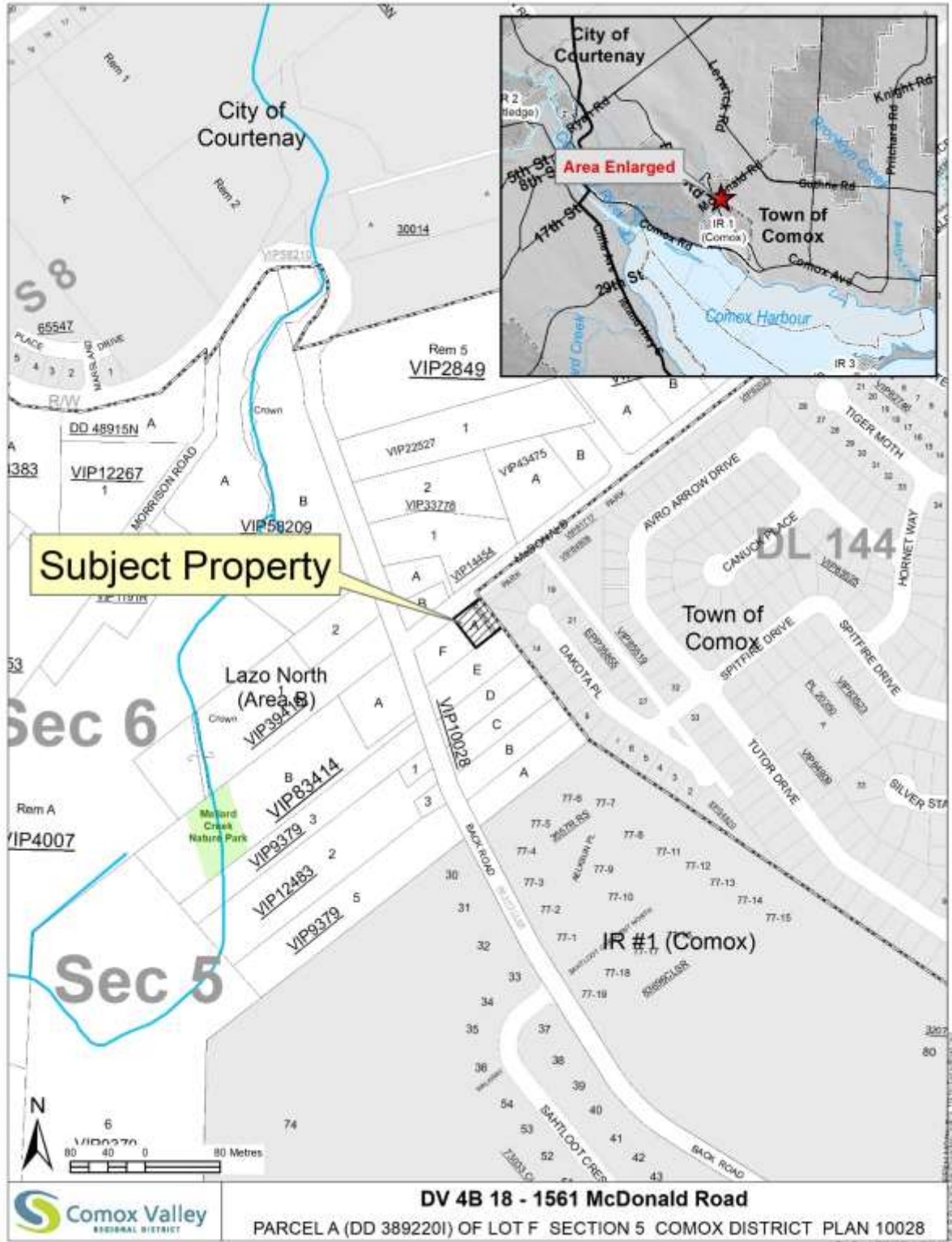


Figure 1: Subject Property Map



Figure 2: Air Photo

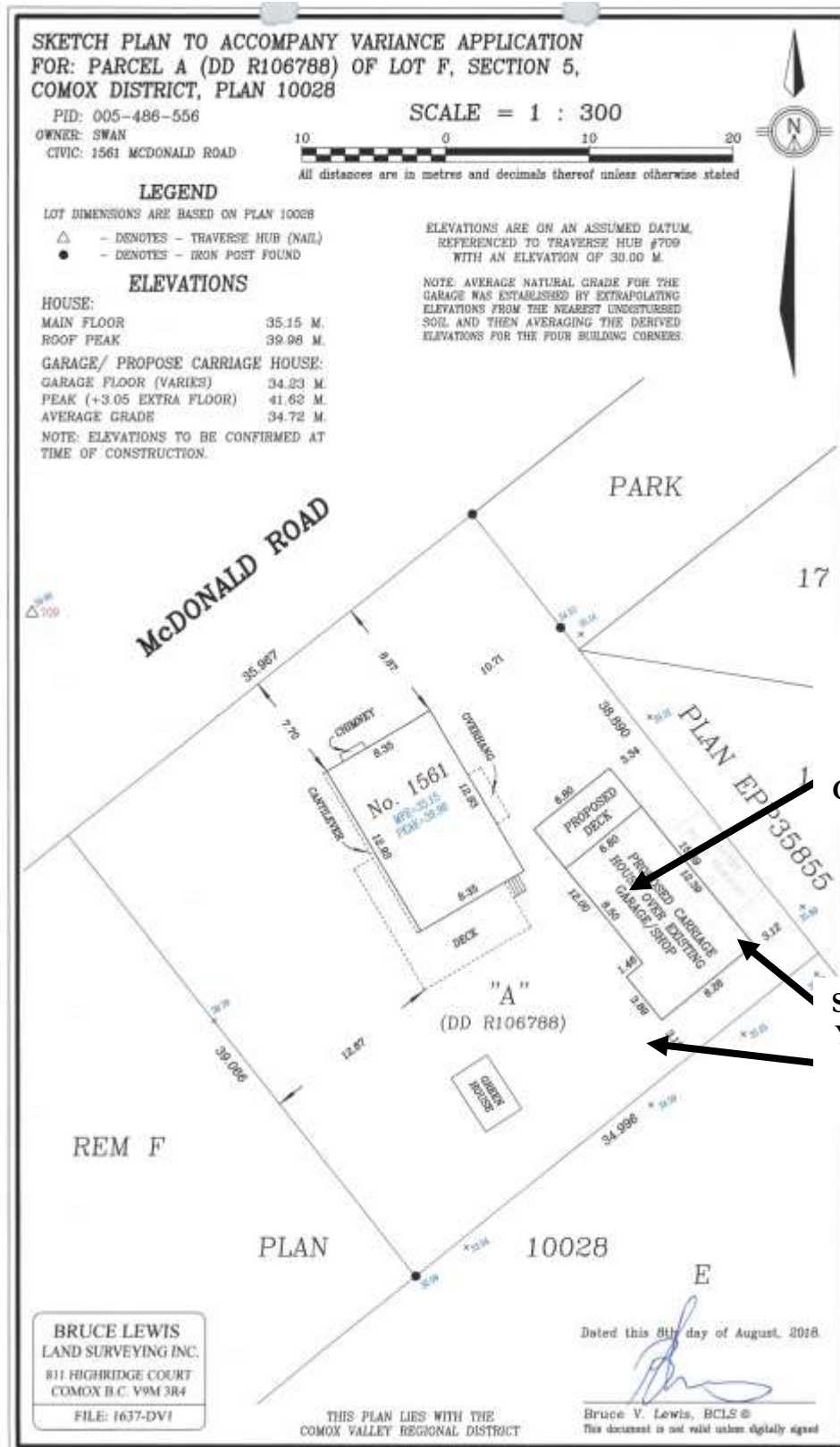


Figure 3: Site Survey



Figure 4: Existing Accessory Building



Figure 5: Approximate Rendering of the Accessory Building



Figure 6: Approximate Rendering of the Proposed Carriage House



Figure 7: Rear Yard Setback of the Existing Accessory Building



Figure 8: Trees beyond the Rear Yard



**Figure 9: Left (Northeast) Side Yard Setback of the Existing Accessory Building
(Note that the carport will be removed.)**

DV 4B 18

TO: Daryl Evan Swan and Michelle Rae Swan

1. This Development Variance Permit (DV 4B 18) 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: Parcel A (DD 389220I) of Lot F, Section 5, Comox District, Plan 10028
Parcel Identifier (PID): 005-486-556 Folio: 771 00016.000
Civic Address: 1561 McDonald Road
3. The land described herein shall be developed 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 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 4B 18) 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 _____, 2018.

James Warren
Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Site Plan”

Schedule A

File: DV 4B 18

Applicants: Daryl Evan Swan and Michelle Rae Swan

Legal Description: Parcel A (DD 389220I) of Lot F, Section 5, Comox District, Plan 10028, PID 005-486-556

Specifications:

THAT WHEREAS pursuant to Section 801(6) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum rear yard setback for a principal building is 7.5 metres and the minimum side yard setback is 3.5 metres, if the lot has highway frontage greater than 31 metres;

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;

WHEREAS pursuant to Section 313(6)(vi) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the floor area of the ground level of a carriage house must not exceed the floor area of the second storey;

AND WHEREAS the applicants, Daryl and Michelle Swan, wish to convert the existing accessory building shown on Schedule B into a carriage house by adding a second storey with residential use;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on _____, 2018 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:

801(6) The minimum rear yard setback of the proposed carriage house shown on Schedule B is reduced from 7.5 metres to 3.1 metres; and

The minimum left (northeast) side yard setback of the proposed carriage house shown on Schedule B is reduced from 3.5 metres to 3.1 metres;

403(3) The minimum rear yard setback of the eaves of the proposed carriage house shown on Schedule B is reduced from 5.5 metres to 2.7 metres; and

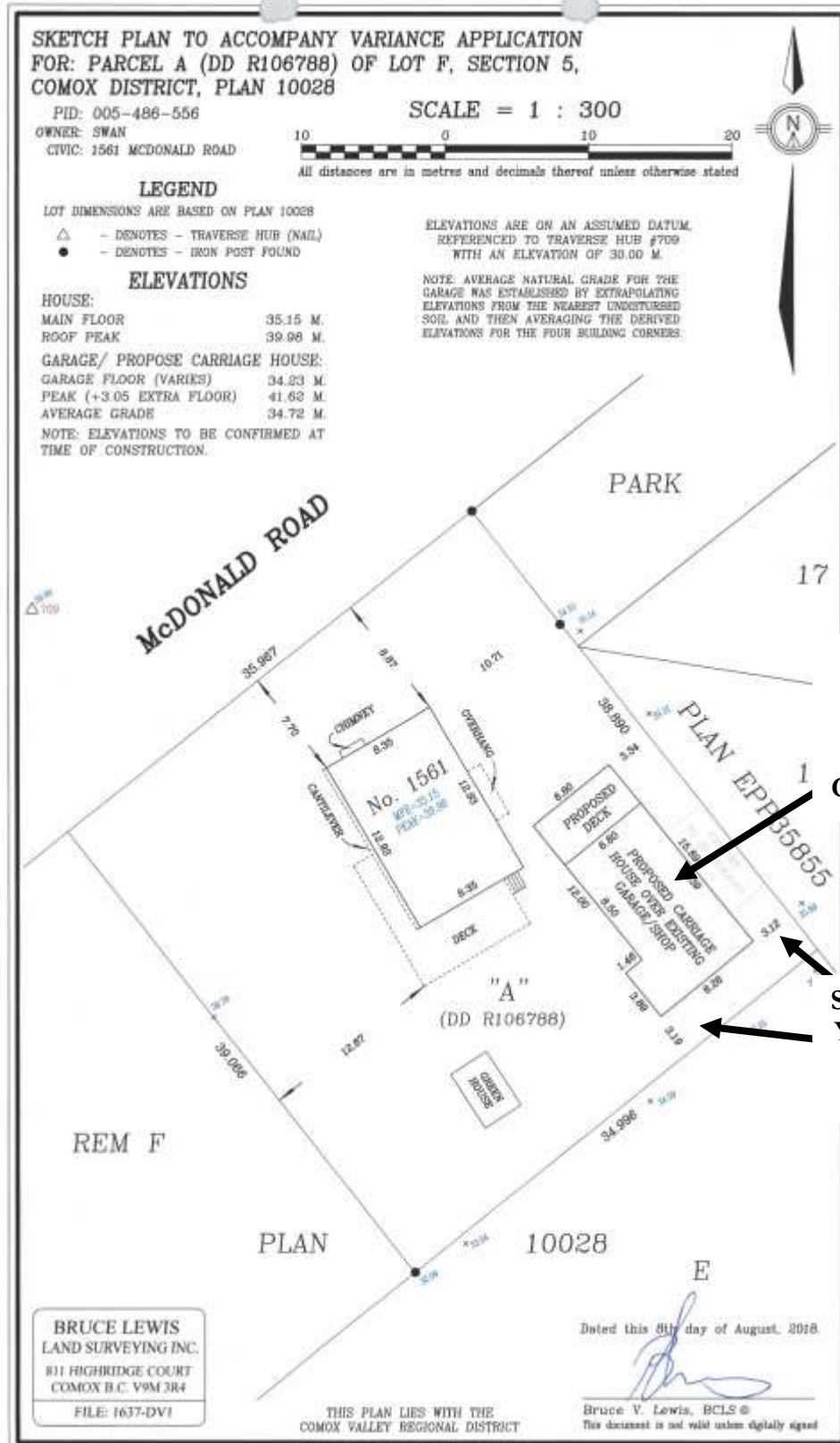
313(6)(vi) The floor area of the ground level of the proposed carriage house shown on Schedule B is greater than the floor area of the second storey.

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 4B 18.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B Site Plan



Proposed Conversion of Accessory Building to a Carriage House

Side and Rear Yard Setback Reductions Requested