

**DATE:** September 29, 2020

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

**TO:** Chair and Members  
Electoral Areas Services Committee

Supported by Russell Dyson  
Chief Administrative Officer

**FROM:** Russell Dyson  
Chief Administrative Officer

*R. Dyson*

**RE: Development Variance Permit, 4218 Forbidden Plateau Road (Nichol)  
Puntledge – Black Creek (Electoral Area C)  
Lot B, Section 16, Township 9, Comox District, Plan 40985, PID 000-409-499**

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### **Purpose**

The purpose of this report is to consider a Development Variance Permit (DVP) to increase the maximum accessory building floor area from 300 square metres to 345 square metres (Appendix A).

### **Recommendation from the Chief Administrative Officer:**

THAT the Board approve the Development Variance Permit DV 2C 20 (Nichol) to increase the maximum allowable floor area among accessory buildings to 345 square metres on the property described as Lot B, Section 16, Township 9, Comox District, Plan 40985, PID 000-409-499 (4218 Forbidden Plateau Road);

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

### **Executive Summary**

- An application has been received for the property at 4218 Forbidden Plateau Road to increase the maximum allowable floor area among accessory buildings by 45 square metres, to a total of 345 square metres.
- The property is zoned Rural Eight (RU-8), is roughly 2.4 hectares in size, and is heavily forested.
- The increased floor area will mostly come from the construction of a second floor in an accessory building, as well as the construction of an additional 15 square metre building.
- Property owners and tenants within a 100 metre radius were notified of this variance request, and the application was presented to the Area C Advisory Planning Commission (APC) at their September 17, 2020 meeting.
- APC C voted to support the application moving forward.
- Staff are recommending that the Electoral Areas Services Committee (EASC) support the application as it will not detract from the rural form and character of the neighbourhood, which is the main reason behind limiting the total combined floor area of accessory buildings.

Prepared by:

***D. Thiessen***

Dylan Thiessen, MA, MCP  
Planner

Concurrence:

***T. Trieu***

Ton Trieu, RPP, MCIP  
Manager of Planning Services

Concurrence:

***S. Smith***

Scott Smith, RPP, MCIP  
General Manager of  
Planning & 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 for a property located at 4218 Forbidden Plateau Road. The subject property is approximately 2.42 hectares in size, zoned Rural Eight (RU-8), and designated as being within a Rural Settlement Area (Figures 1 and 2). The proposal is to increase the maximum allowable floor area for accessory buildings from 300 square metres to 345 square metres. The applicant has an existing 98.8 square metre accessory building (Figure 3-4) and is in the process of constructing a second, taller accessory building that they will use as a garage and workshop, bringing them close to the 300 square metre maximum (Figure 5). The ground floor of this second accessory building will be 198.6 square metres, giving the applicants a total of 297.4 square metres of floor area between the two. It is worth noting that the height of this building will be under the 8.0 metre maximum for accessory buildings.

If the variance is approved, a second floor with just under 30 square metres of floor area would be added to this building, and a smaller 15 square metre accessory building would be constructed (Figure 4). While not noted on the site plan, the approximate location of the 15 square metre accessory building will be near the existing accessory building. It will be outside of all Development Permit Areas, respect all setback and siting specifications, and will be constructed within the period of time that this DVP will be valid, should it be approved.

**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

Both Bylaw No. 337 and Bylaw No. 120, being the “Rural Comox Valley Official Community Plan, Bylaw No. 337, 2014” and the “Comox Valley Regional District Regional Growth Strategy, Bylaw No. 120, 2010” respectively, designate the property as being within a Rural Settlement Area (RSA). The RSA designation is intended to preserve a rural way of life, largely by limiting development and maintaining a rural character. This proposal does not conflict with the residential policies outlined in either Bylaw.

Zoning Bylaw Analysis

Bylaw No 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” limits the floor area of all accessory buildings on properties zoned RU-8 to 300 square metres. The applicants are planning on building an accessory building that puts them just under this maximum, and they would like to build a second floor to the building in addition to a smaller 15 square metre accessory building, which would bring the total amount of floor area among all accessory buildings to 345

square metres. As such, the maximum floor area for accessory buildings is the subject of this variance.

### Recommendation and Rationale

Staff are recommending support for the following reasons:

1. The purpose of setting limits on the cumulative floor area of accessory buildings is in order to maintain a rural-residential form and character by avoiding the proliferation of larger accessory buildings on individual lots that may be more suitable for commercial or industrial zones. However, the majority of the excess floor area requested through this variance will come through the construction of the second floor of a building, meaning that neither the number of buildings nor their footprint will be greatly expanded. The additional 15 square metre building is not problematic because of its size.
2. The lot is quite large at 2.4 hectares and is heavily forested, providing additional screening measures from roads and adjacent properties.

### **Options**

The EASC could either deny or support the requested variance. For the reasons listed above, staff recommend supporting the variance.

### **Financial Factors**

Applicable fees have been collected for this application under the “Comox Valley Regional District Planning and Procedures 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**

Bylaw No. 120 designates the subject property as being within a Rural Settlement Area. The proposed variance to allow for an increase in the maximum allowable accessory building floor area does not conflict with the residential policies of this bylaw.

### **Intergovernmental Factors**

There are no intergovernmental factors with this DVP application.

### **Interdepartmental Involvement**

This DVP application was referred to CVRD staff within the bylaw compliance, fire services, and engineering departments. No concerns were raised.

### **Citizen/Public Relations**

This DVP application was presented to the Electoral Area C APC’s September 2020 meeting. APC members voted unanimously to support the application, providing the following reasons:

1. The second storey to be added is largely an attic and mezzanine.
2. The proposal does not conflict with the residential policies outlined in the bylaws because of the size of the variance requested being fairly small.
3. The footprint and shape of the most significant building will not change, as the primary construction area will occur within the building envelope.
4. The overall building is conforming to the property and Plateau Creek that transects the property.

Further, 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 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 2C 20”

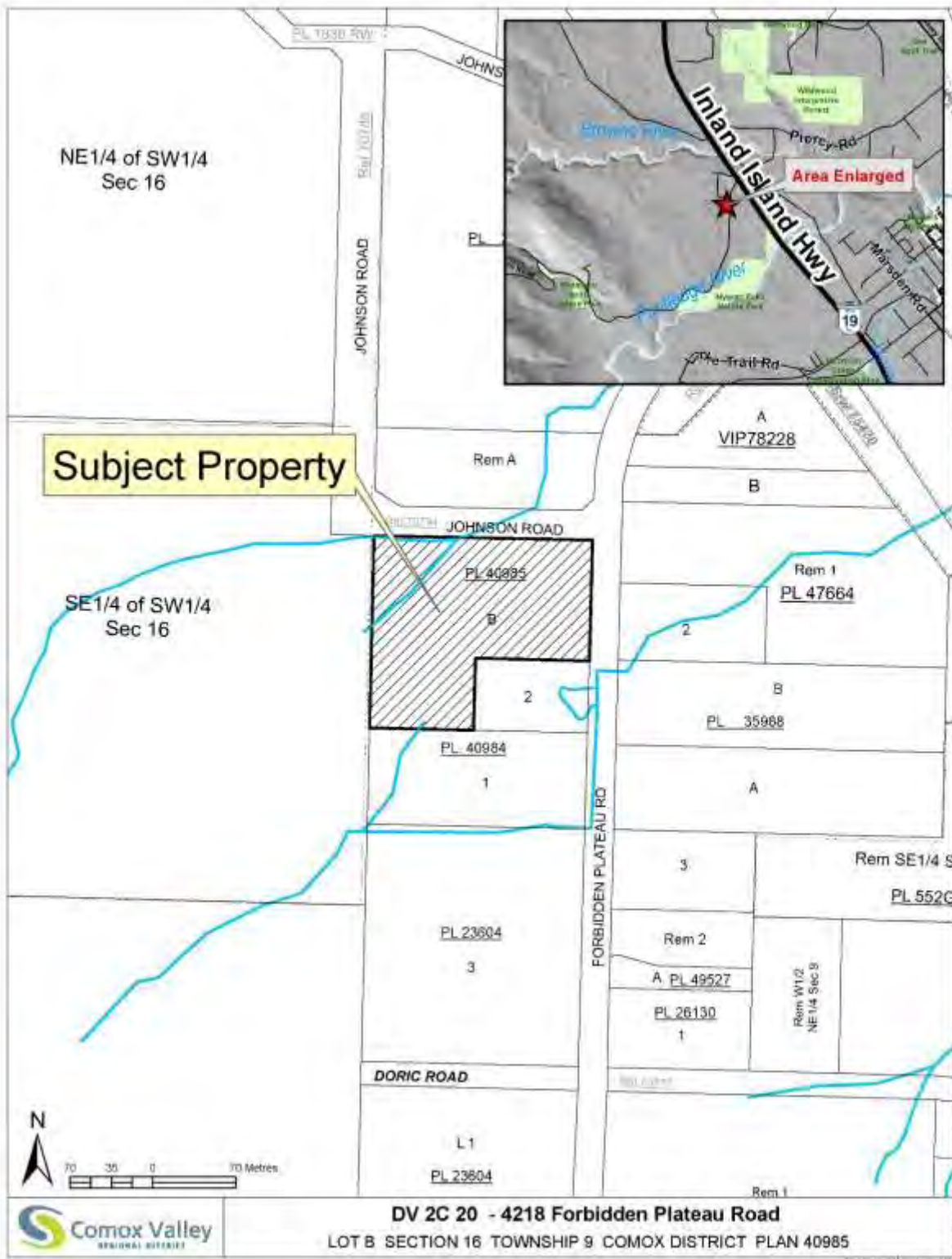


Figure 1: Subject Property Map



Figure 2: Air Photo

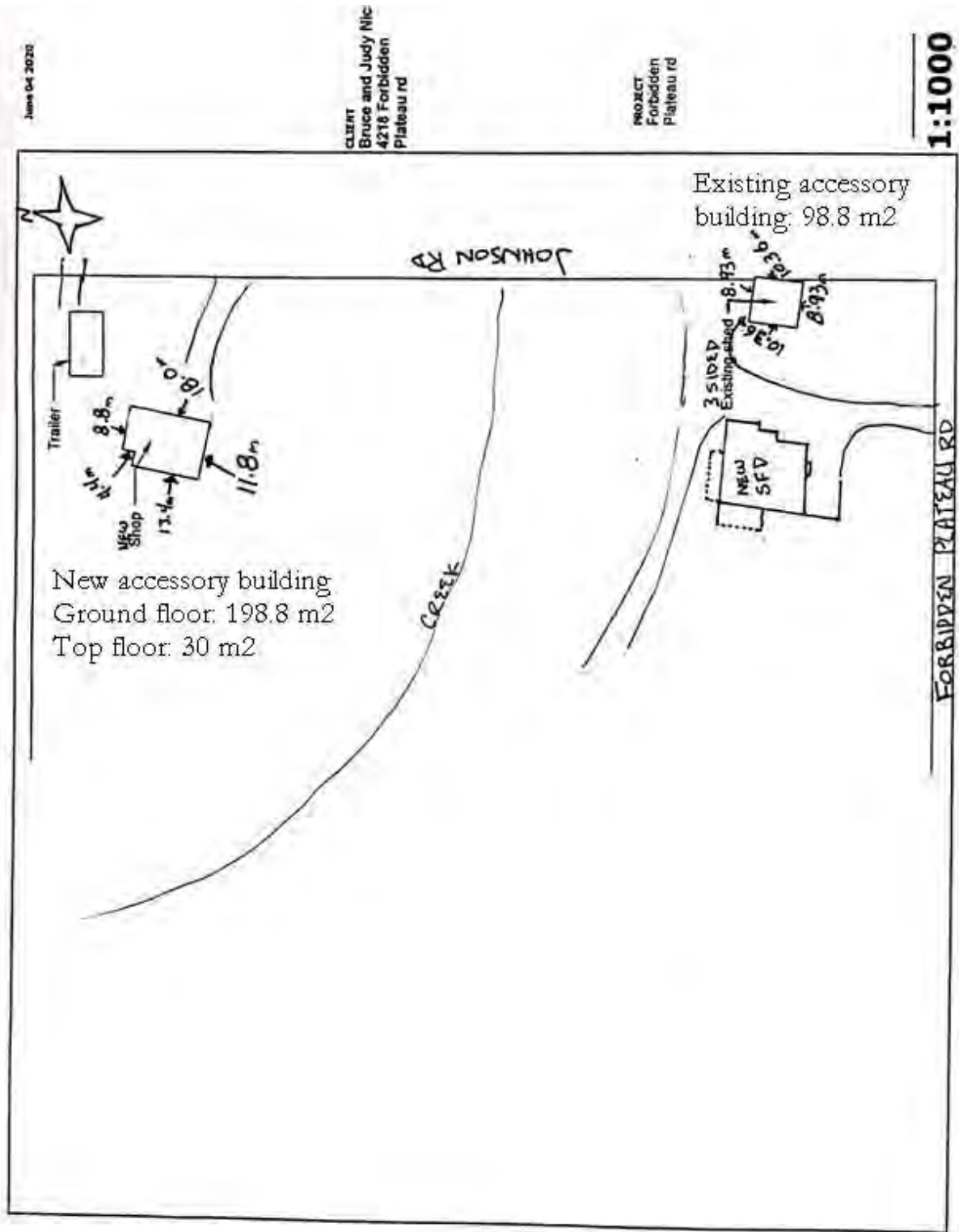


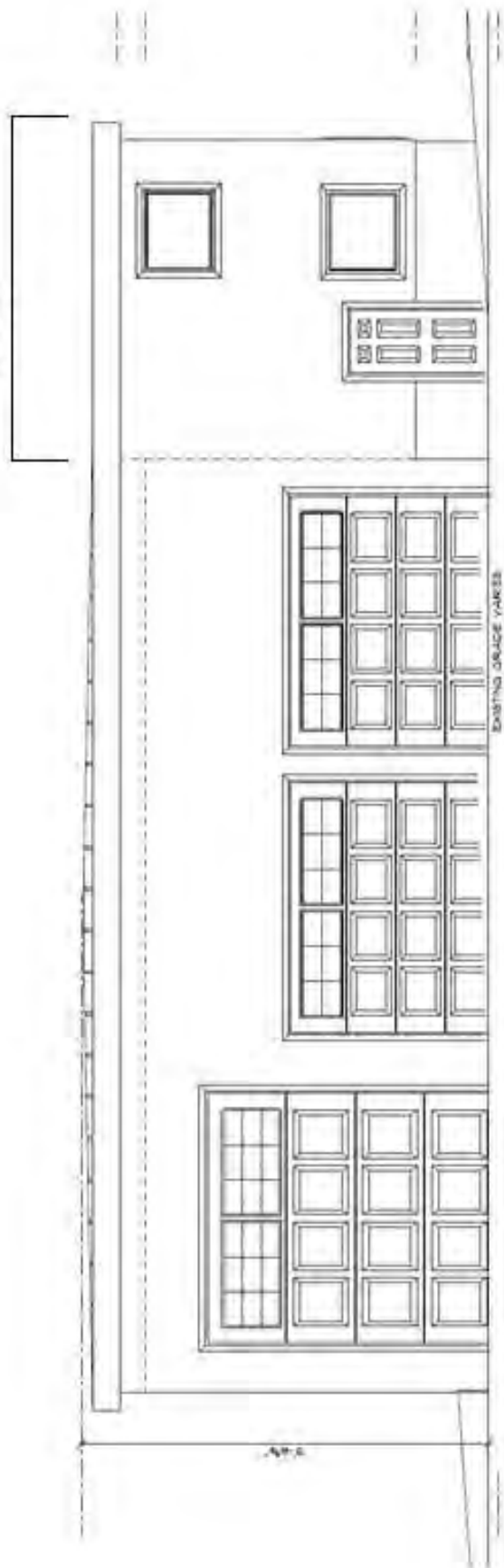
Figure 3: Site Plan



Figure 4: Existing Accessory Building



Portion of  
building to  
have second  
floor



FRONT ELEVATION  
EXISTING GRADE MARKS

Figure 5: Elevation Drawing (Front)

**DV 2C 20****TO: Bruce and Judy Nichol**

1. This Development Variance Permit (DV 2C 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: Lot B, Section 16, Township 9, Comox District, Plan 40985**  
**Parcel Identifier (PID): 000-409-499 Folio: 05768.575**  
**Civic Address: 4218 Forbidden Plateau Road**
3. The land described herein (Schedule B) 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 2C 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 \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jake Martens  
Deputy Corporate Legislative Officer

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

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

**Schedule A**

**File: DV 2C 20**

**Applicants: Judy and Bruce Nichol**

**Legal Description: Lot B, Section 16, Township 9, Comox District, Plan 40985**

**Specifications:**

THAT WHEREAS pursuant to Section 801 of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the combined floor area of all accessory buildings, excluding the floor area of any secondary residential use, shall not exceed 300 square metres;

AND WHEREAS the applicants, Bruce and Judy Nichol, wish to construct up to 345 square metres of floor area among all accessory buildings;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on October 27, 2020, 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:

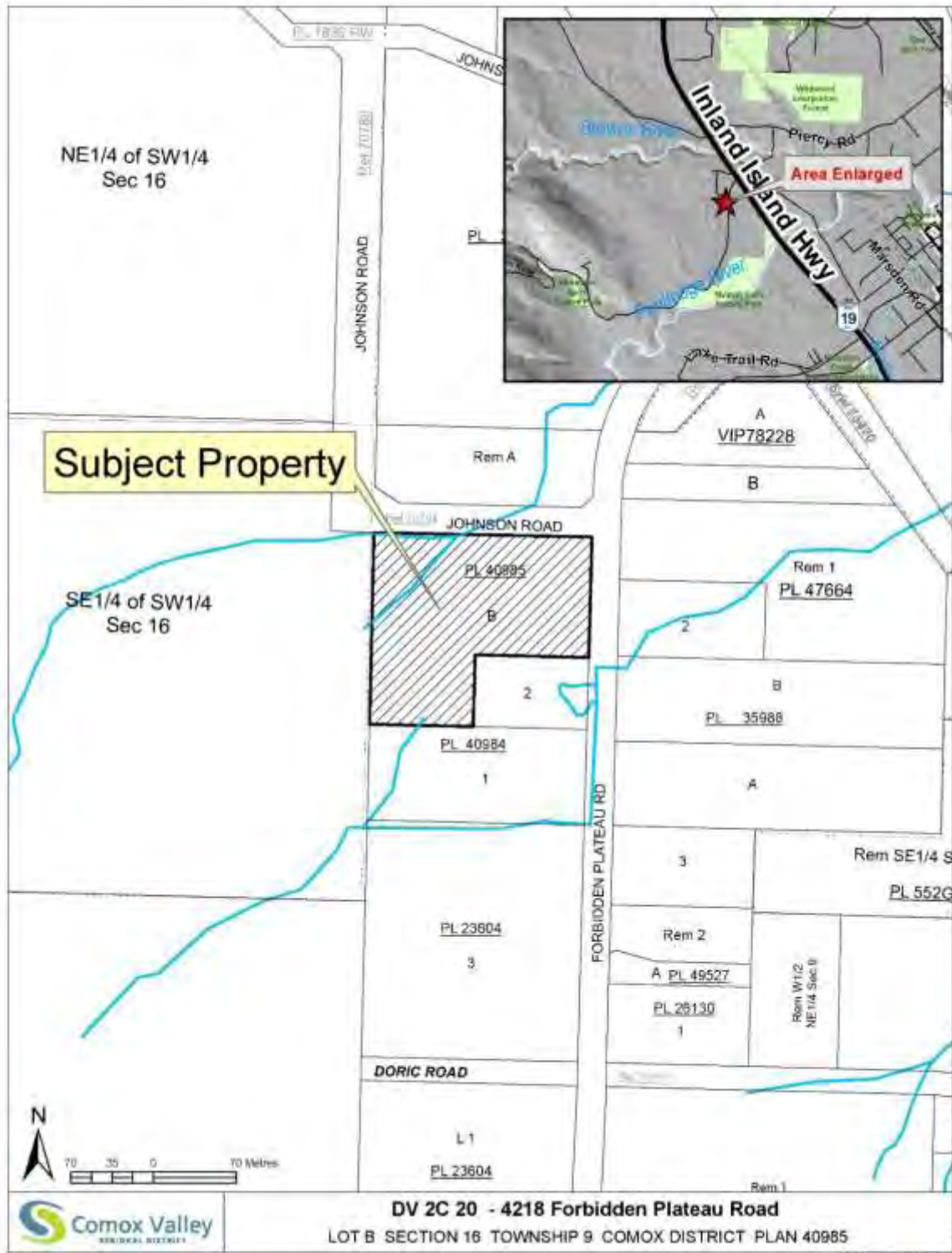
801(5)(i) The combined floor area of all accessory buildings excluding the floor area of any secondary residential use shall not exceed 345.0 square metres.

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 20.

\_\_\_\_\_  
Jake Martens  
Corporate Legislative Officer

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

### Schedule B



Subject Property Map



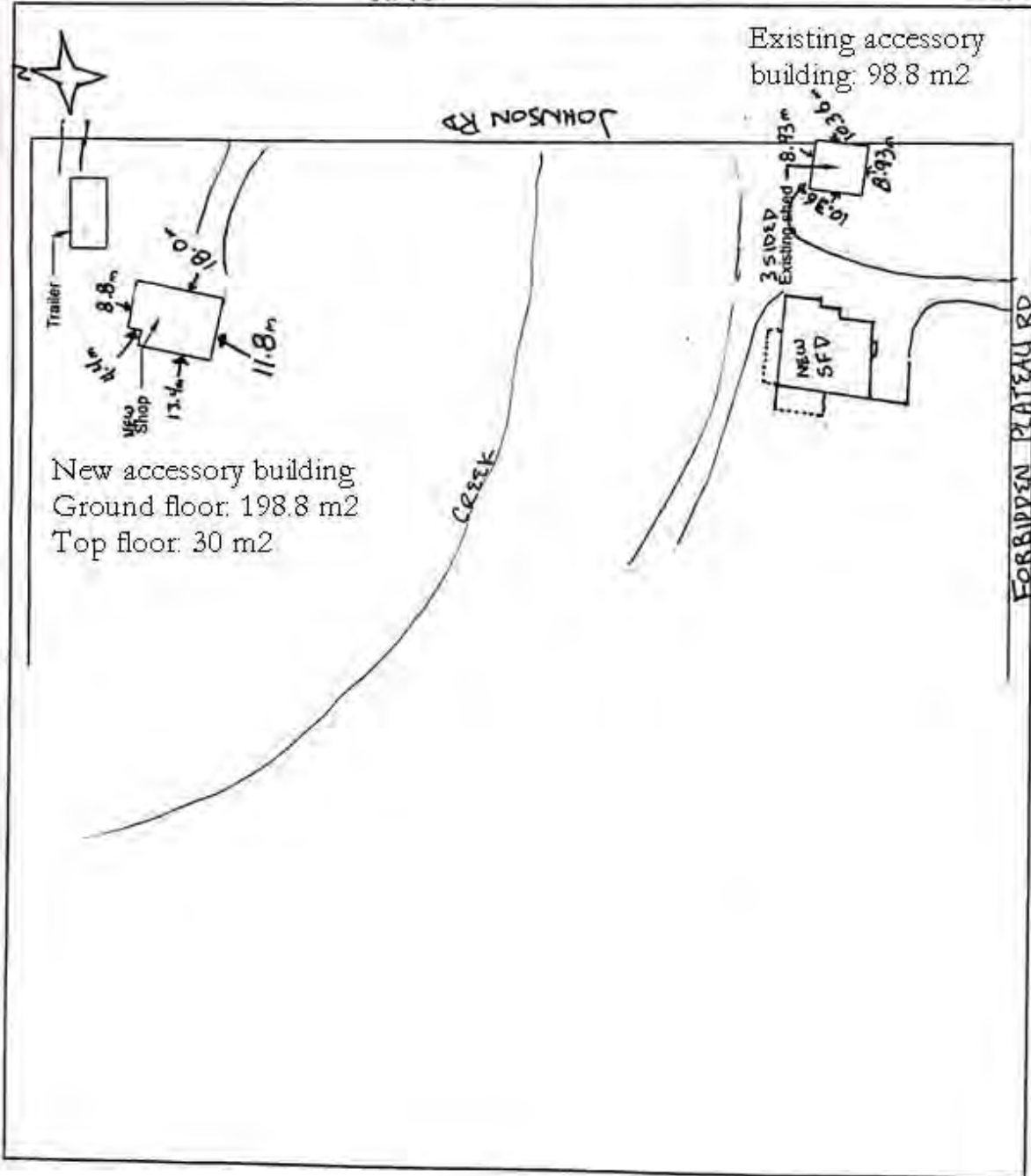
Air Photo

June 04 2020

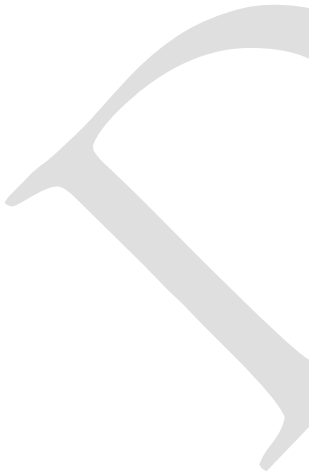
CLIENT  
Bruce and Judy Nic  
4218 Forbidden  
Plateau rd

PROJECT  
Forbidden  
Plateau rd

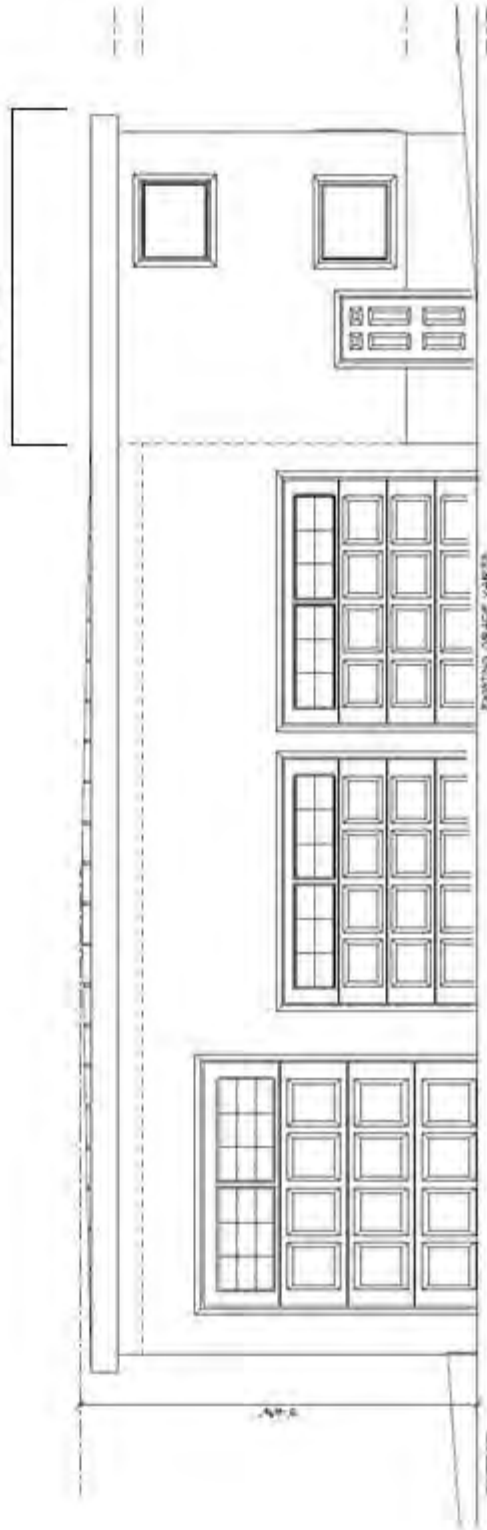
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Site Plan



Portion of  
building to  
have second  
floor



FRONT ELEVATION  
EXISTING

Elevation Drawing (Front)