

DATE: August 27, 2020**FILE:** 3090-20/DV 3C 20**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer***R. Dyson*****RE: Development Variance Permit - 4040 Marsden Road (Holbrook and Vorster)
Puntledge – Black Creek Electoral Area (Electoral Area C)
Lot 1, District Lot 234, Comox District, Plan 27683, PID 002-165-261****Purpose**

To consider a Development Variance permit (DVP) (Appendix A) to reduce the side yard setbacks for the relocation of a mobile home.

Recommendation from the Chief Administrative Officer:

THAT the Board approve the Development Variance Permit DV 3C 20 (Holbrook and Vorster) to reduce the side yard setbacks for the relocation of a mobile home from 3.5 metres to 1.25 metres for its foundation, and from 1.75 metres to 1.1 metres for its gutters on property described as Lot 1, District Lot 234, Comox District, Plan 27683, PID 002-165-261 (4040 Marsden Road) with the condition that a visual buffer along the portion of the mobile home be implemented and maintained for the life of this building;

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

Executive Summary

- The subject property is located at 4040 Marsden Road. The property currently has a mobile home and four accessory buildings.
- The applicants wish to move the existing mobile home to the southern portion of the lot, and then construct a new single detached dwelling at the former site of the mobile home.
- In order to minimize tree removal, the applicants propose a location for the mobile home that does not meet the minimum side yard setbacks. Therefore, the applicants submitted a DVP to reduce the side yard setbacks of the mobile home from 3.5 metres to 1.25 metres for its foundation and from 1.75 metres to 1.1 metres for its gutters.
- The DVP is supportable as the applicants are committed to put a fence between the mobile home and their neighbour. In addition, the scale of the mobile home is not likely to generate shadow and privacy concerns with the neighbour.
- The Advisory Planning Commission (APC) C supported the variances.
- On condition that the applicants provide a visual barrier with a solid fence or vegetation and to ensure that this buffer is maintained, planning staff recommend that a DVP be issued.

Prepared by:

Concurrence:

Concurrence:

B. Chow***T. Trieu******S. Smith***Brian Chow, RPP, MCIP
Rural PlannerTon Trieu, RPP, MCIP
Manager of Planning ServicesScott Smith, RPP, MCIP
General Manager of Planning and
Development Services Branch

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

The subject property is located at 4040 Marsden Road in the Puntledge – Black Creek Electoral Area (Electoral Area C) (Figures 1 and 2). The property is approximately 0.4 hectares in size, and it currently has a mobile home and four accessory buildings: one carport, two wood sheds and one accessory building (Figures 3 and 4). The applicants would like to move the existing mobile home to the southern portion of the lot, and then construct a new single detached dwelling at the former location of the mobile home (Figure 4). The mobile home will then become a secondary dwelling. Note that as part of the move of the mobile home, the existing front porch (Figure 5) will be part of the move, but the solarium and back deck will be removed (Figure 3).

The applicants want to minimize the removal of trees, so they proposed a location for the mobile home that does not meet the minimum side yard setback. The applicants submitted a DVP application to reduce the minimum side yard setbacks from 3.5 metres to 1.25 metres for the foundation, and from 1.75 metres to 1.1 metres for the gutters.

Planning AnalysisOfficial Community Plan Analysis

Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP) designates the subject property within Settlement Expansion Areas (SEAs). The proposed residential development does not conflict with residential policies in the OCP.

Zoning Bylaw Analysis

The subject property is zoned Country Residential One (CR-1) by Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”. Table 1 summarizes the proposed reductions of the south side yard setbacks:

Table 1: South Side Yard Setback Reductions

Bylaw No. 520	Minimum Setback Requirement	Proposed Setback	Difference
Section 703 (5)(i)	3.5 metres (foundation)	1.25 metres	2.25 metres
Section 403 (1)	1.75 metres (gutters)	1.1 metres	0.65 metres

The proposal meets all other CR-1 zone requirements, such as the maximum lot coverage of 35 per cent.

According to the applicants, the proposed location of the mobile home is selected due to the property layout, existing driveway, old and new septic fields, well, trees and other accessory buildings (Figure 4). There is sufficient vegetation to provide visual screening year round between the mobile home and the neighbour, and between the mobile home and road (Figure 6). The owner consulted with the building services department, and would be prepared to make the necessary changes to the side wall facing the neighbour to meet fire separation requirements. The proposed 1.25 metre setback would still provide sufficient room for future maintenance of the building. Overall, they feel that the proposed location will not impact the form and character of their neighbourhood. Please refer to Appendix B for the applicants’ written brief for additional reasons.

Staff is in support of this application due to the visual screening that the applicants are committed to implement between the mobile home and their neighbour. Accordingly, a solid visual barrier by way

of a row of hedges or a fence is a condition of the DVP. As a mobile home, which is one storey in height, and as a secondary dwelling, which has a maximum floor area of 90 square metres, the scale of the mobile home is not likely to generate shadow and privacy concerns with the neighbour. In addition, the reduced side yard setback should yield sufficient space between the lot line and building for access and maintenance. The proposed location is in keeping with the rural 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 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. Based on the analysis above, staff recommends the variance be approved.

Financial Factors

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

Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” (RGS) designates the subject property within SEAs. The proposed residential development does not conflict with residential policies in the RGS.

Intergovernmental Factors

There are no intergovernmental factors.

Interdepartmental Involvement

The application was referred to internal departments for review and comments. Fire services department forwarded comments from the Courtenay Fire Department. They stated that while the property falls outside of their 10 minute average response time, fire department access to the mobile home is not an issue because the existing driveway provides them with clear access to the building. They recommended that vegetation overgrowth be cleared for better access to the property.

Citizen/Public Relations

The APC C reviewed this application on August 13, 2020. The commission supported the DVP application because the proposal has minimal environmental impact with respect to tree removal, and it suits the form and character of the neighbourhood.

Notice of the requested variance was mailed to adjacent property owners within 100 metres of the subject properties 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 lands that are 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 3C 20”
Appendix B – “Applicants’ Written Brief”

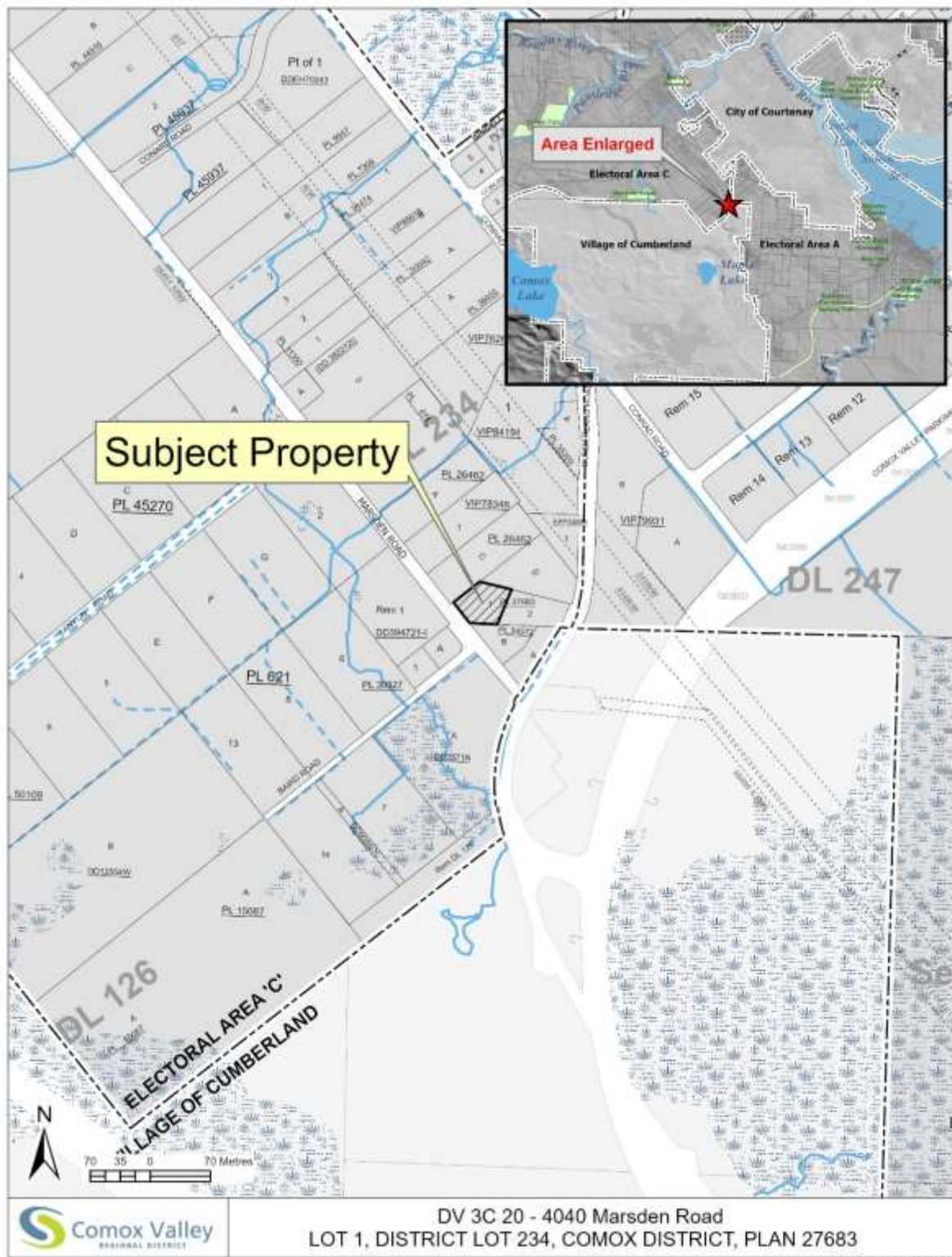


Figure 1: Subject Property Map



Figure 2: Air Photo

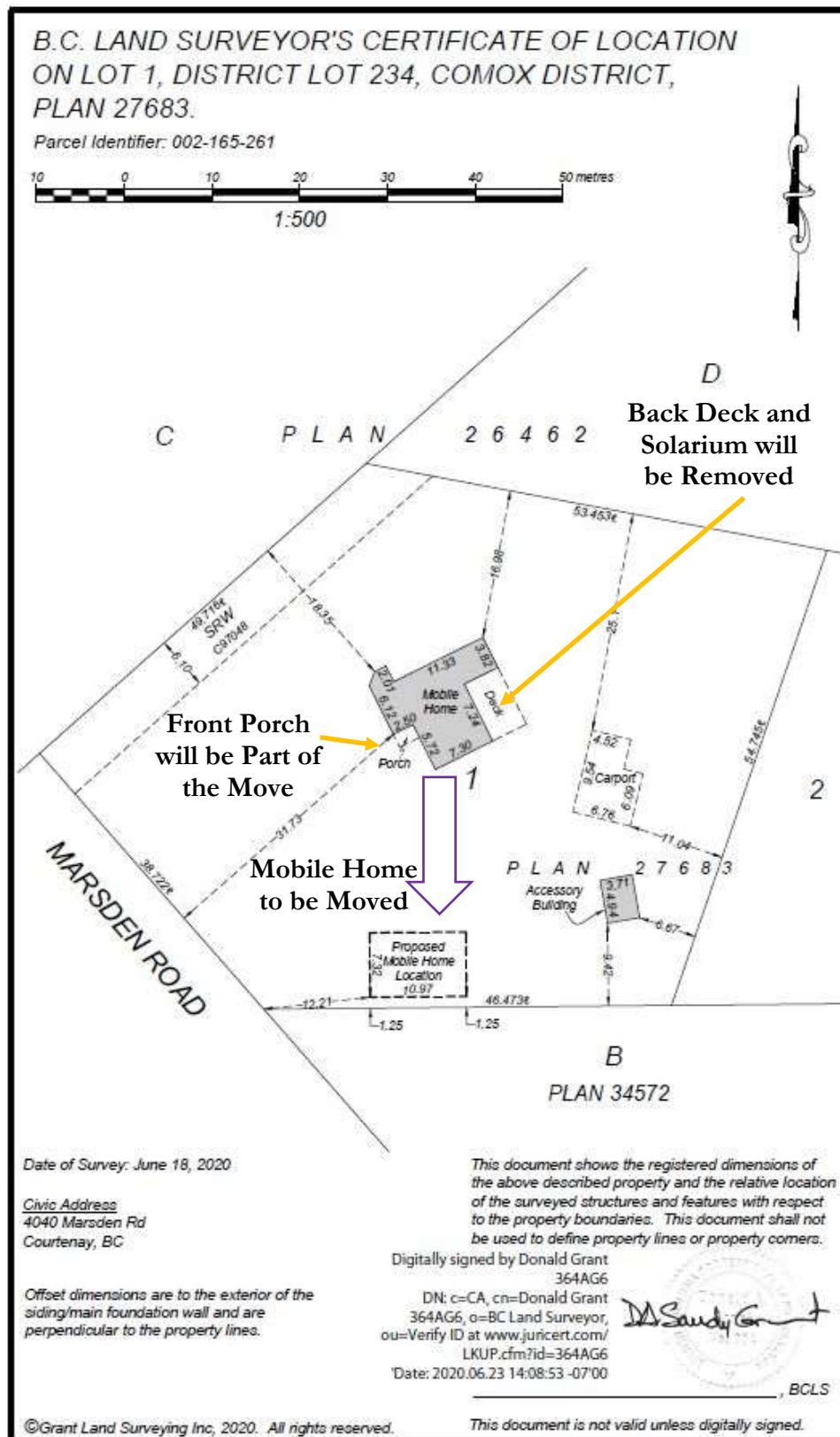


Figure 3: Site Survey



Figure 4: Site Plan Submitted by Applicants



**Figure 5: Subject Mobile Home with Front Porch
(Front Porch will be Moved along with the Mobile Home
Back Deck and Solarium will be Removed)**



Figure 6: Views of the Proposed Location of the Mobile Home

DV 3C 20

TO: Pieter Willem Vorster and Caila Dawn Reid Holbrook

1. This Development Variance Permit (DV 3C 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 1, District Lot 234, Comox District, Plan 27683
Parcel Identifier (PID): 002-165-261 **Folio:** 771 03699.030
Civic Address: 4040 Marsden 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 a solid fence or a hedge to achieve a visual buffer for the adjacent lot be implemented along the portion of the mobile home shown on Schedule B;
 - iii. THAT the solid fence or a hedge be maintained for the life of the mobile home shown on Schedule 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 3C 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
Deputy Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Subject Property Map, Site Survey and Site Plans”

Draft

Schedule A

File: DV 3C 20

Applicants: Pieter Willem Vorster and Caila Dawn Reid Holbrook
Legal Description: Lot 1, District Lot 234, Comox District, Plan 27683, PID 002-165-261

Specifications:

THAT WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019," the minimum side yard setback of principal buildings is 3.5 metres if the front lot line is greater than 31 metres in length;

THAT WHEREAS pursuant to Section 403(1) of Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019," the minimum side yard setback of the gutters of principal buildings is reduced by up to 50 per cent of the minimum side yard setback, which is 1.75 metres;

AND WHEREAS the applicants, Pieter Willem Vorster and Caila Dawn Reid Holbrook, wish to reduce the south side yard setback for the mobile home to 1.25 metres for its foundation and 1.1 metres for its gutters;

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:

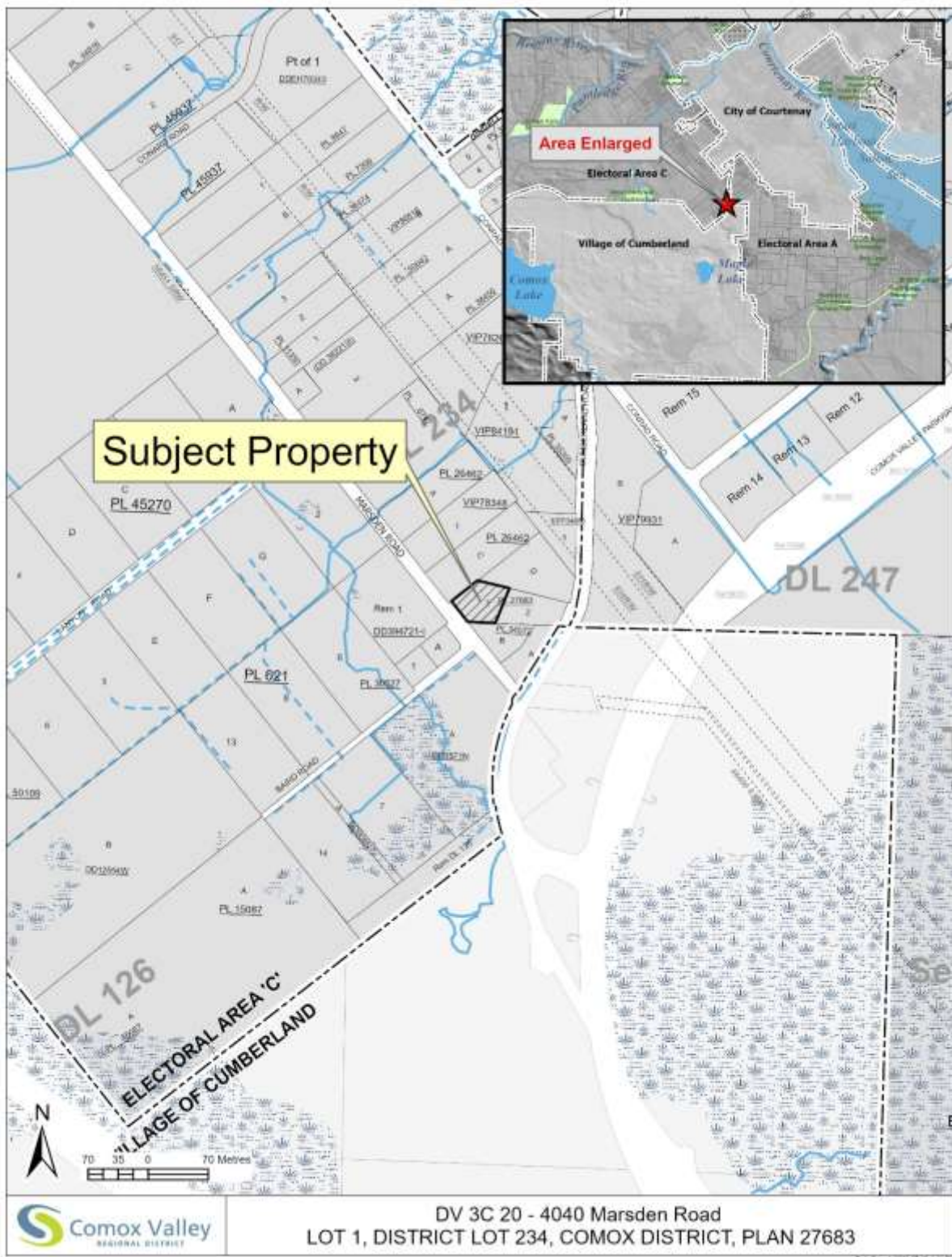
- 703(5)(i) The south side yard setback of the mobile home shown on Schedule B is 1.25 metres; and
- 403(1) The south side yard setback of the gutters of the mobile home shown on Schedule B is 1.1 metres.

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 3C 20.

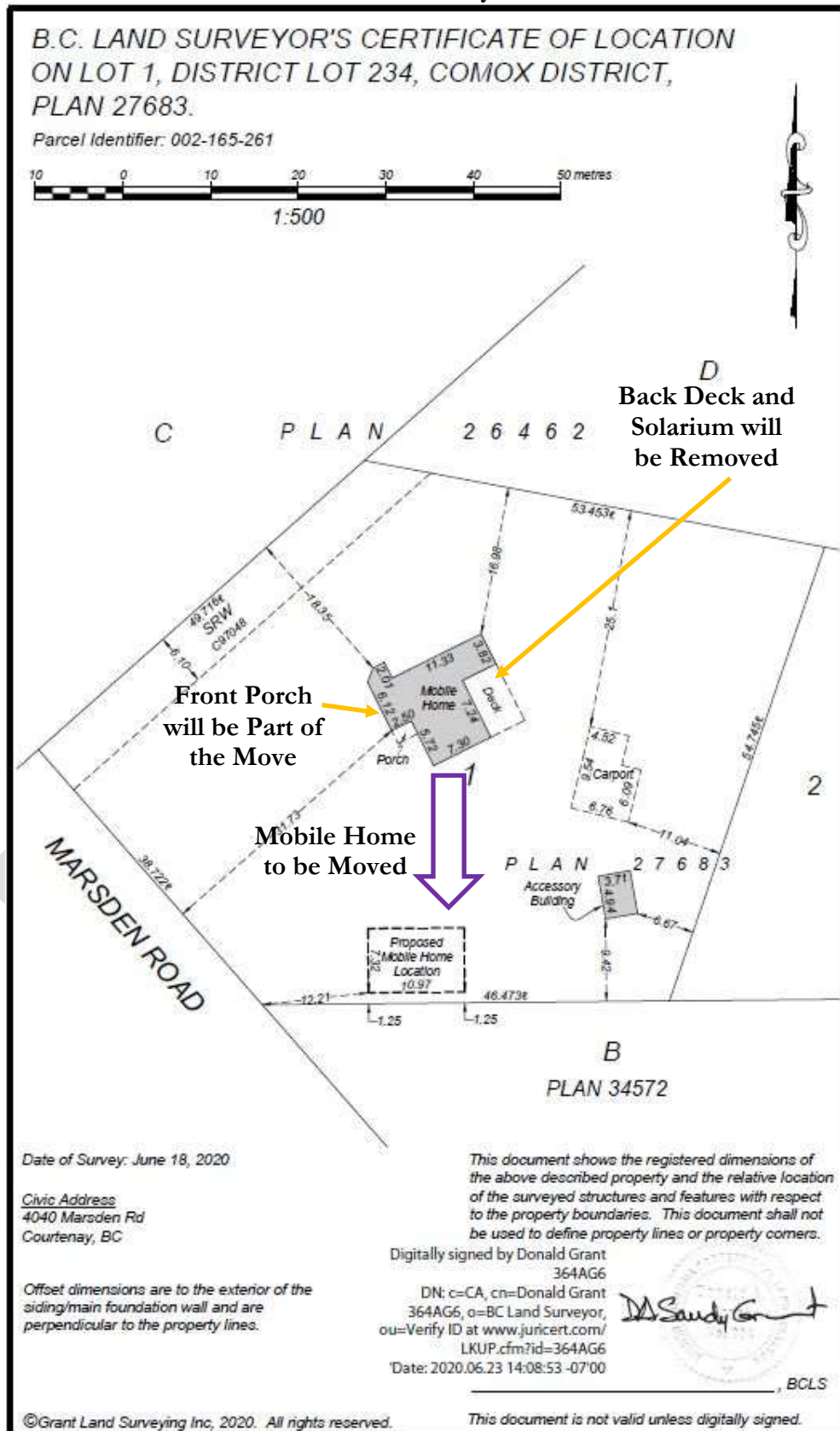
Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Schedule B
Subject Property Map



Site Survey



Site Plan



June 16th, 2020

To The Comox Valley Regional District Planning Department and Referral Agencies,

RE: Variance Request - reduce side yard setback from 3.5 meters to 1.25 meters (2.25 meter difference) and eave setback from 1.75 to 1.10 meters (0.65 meter difference)

We are relocating the mobile home on our property at 4040 Marsden Road to a new location on our property in order to build a house in the current location. Due to the layout of our property, the location of our refinished existing driveway, new and old septic fields, well, trees and other accessory buildings, there are few areas on the property that will accommodate this. The most optimal position for the mobile is 1.25 meters from our side yard property line. The gutters on the building extend beyond the mobile by 0.15 meters which means they will be 1.10 meters from the side yard property line. Therefore, we are applying for a side yard setback reduction of 2.25 meters and a side yard eave setback reduction of 0.65 meters. Once our new home is built the mobile will be used to house our mother-in-law and then as an office.

- We have talked to our neighbours on the adjoining property and they said that the location will not impact them. We had an RV parked in that location for a few months and the neighbours said they did not see or hear people in or around the RV.
- There is sufficient tree and shrub growth to form a year-round sight barrier between the bordering neighbor's property and the mobile as well as between the mobile and the road.
- We are prepared to side the outer wall facing the property line with metal siding and remove the sliding glass door, double french doors and the one small window (0.66 m x 0.77 m) on that side to conform to fire regulations.
- The remaining outer walls are sided with cedar shingles so that they will blend in with the surrounding natural environment.
- The 1.25 meter strip between the property line and the mobile is flat and free of plant growth which will allow us to perform any maintenance necessary on that side.
- The side yard setback for accessory buildings on properties in our area is one meter which is a smaller setback then we are requesting.
- Other neighboring properties have accessory buildings located a meter from their property lines.
- Once our mother-in-law moves on, the building will be used as an office and be categorized as an accessory building for which the setback is one meter.
- We feel that moving the mobile to the proposed location will impact the character of our property/neighbourhood less than removing trees to create a new space.

Thank you for your time and energy dealing with our request.

Sincerely,
Caila Holbrook and Pieter Vorster