

**DATE:** September 4, 2019**FILE:** 3060-20/DP 13B 19**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** Russell Dyson  
Chief Administrative OfficerSupported by Russell Dyson  
Chief Administrative Officer*R. Dyson***RE:** Development Permit – 5910 Island Highway North (Bailey)  
Lazo North (Electoral Area B)  
Lot 2, District Lot 162, Comox District, Plan 22921, PID 003-201-236**Purpose**

To consider issuance of a Farmland Protection Development Permit (DP) that would formalize a buffer between a non-farm and farm property (Appendix B).

**Recommendation from the Chief Administrative Officer:**

THAT the board approve the Farm Land Protection Development Permit DP 13B 19 (Bailey) on the property described as Lot 2, District Lot 162, Comox District, Plan 22921, PID 003-201-236 (5910 Island Highway N.) for the construction of an accessory building with a minimum 15 metre setback from the agricultural property and a 3 metre wide vegetative buffer to extend between the rear of the new accessory to the rear of the house;

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

**Executive Summary**

- The owner of a 34 meter wide residential property adjacent to an agricultural property is applying to construct a new accessory building (Appendix A).
- Construction of buildings within 30 metres of an agricultural property requires issuance of a development permit consistent with the farmland protection guidelines.
- To address the guidelines, the applicant is proposing a setback of at least 15 metres with a vegetated buffer ranging between 2.5 to 3 metres in width consisting of the existing vegetation, which is predominately native shrubs, extending from the rear of the proposed accessory building to the rear of another existing accessory building.
- As the existing accessory building is scheduled to be removed as part of this development, staff recommends issuance of the permit with the condition that the vegetated buffer be extended to the rear of the house and that the entire length of the vegetative buffer be at least 3 metres in width with at least two rows of shrubs.

Prepared by:

*J. MacLean*

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Jodi MacLean, MCIP, RPP  
Rural Planner

Concurrence:

*T. Trieu*

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Ton Trieu, MCIP, RPP  
Manager of Planning Services

Concurrence:

*S. Smith*

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Scott Smith, MCIP, RPP  
General Manager of  
Planning and Development  
Services Branch

**Stakeholder Distribution (Upon Agenda Publication)**

Applicant and Agent	✓
Owner of Neighbouring agricultural property	✓

**Background/Current Situation**

The subject property is a 0.3 hectare lot that abuts an agricultural property to the southeast along the Island Highway (Figure 1). The subject property is 34 metres wide and developed with a house and several small accessory buildings. The property owner is seeking to construct a new accessory building, intended to be 12 metres by 10 metres and designed as a two-car garage. Because this new construction will occur within 30 metres of the agricultural areas designation (Figure 2), a DP consistent with the Farm Land Protection guidelines is required. These DPs can affect screening, landscaping, fencing and siting of buildings or other structures.

To address these DP guidelines, the applicant is proposing to locate the accessory building at least 15 metres from the side parcel line abutting the neighbouring agricultural land. For a vegetative buffer the applicant proposes to maintain the existing 2.5 to 3 metre vegetated area, currently consisting predominately of native shrubs (Figure 3), including Nootka rose, hardhack and snowberry, as well as one alder tree. There is an existing, intact fence along the property line within the shrubs. There are numerous mature trees behind the fence, on the agricultural property. The neighbouring agricultural property is currently used for raising pigs, as well as a variety of garden produce.

**Planning Analysis**Official Community Plan

The Official Community Plan (OCP), Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, designates the property as Rural Settlement Area. Section 44.(5) within this designation directs the Comox Valley Regional District (CVRD) to “*Ensure new development in the rural settlement area maintains the rural character of the surrounding area and supports a functioning working landscape. In circumstances where proposed new development is adjacent to an active working parcel or ALR land consider a buffer to protect the integrity of the working landscape and implement through development permits...*”. The CVRD implements this through the Farm Land Protection DP which is the subject of this application.

Development Permit Guidelines

The intention of the Farm Land Protection DP is to create an agricultural interface that mitigates potential for land use conflicts (e.g. farm trespass, vandalism to crops and equipment, pets, disturbance to farm animals, capture some dust and spray drift, reduction of invasive species and litter, nuisance complaints, etc.). As a best practice, these DP guidelines recommend locating principal structures and accessory buildings at least 30 metres away from a common boundary with agricultural areas, with 15 metres being a vegetated buffer, including fencing, consistent with the Ministry of Agriculture’s *Guide to Edge Planning* and the Agricultural Land Commission’s *Landscaped Buffer Specifications*. When locating the building 30 metres back from the agricultural parcel is not possible, this DP is triggered to create a buffer between farm uses and non-farm development in accordance with the above noted guide and specifications. These guides identify the agricultural side as a working landscape and recommend the landscaped buffer to be placed on the non-agricultural side during subdivision and development. The specifications provide a variety of options regarding the type and height of fencing and vegetation to accommodate proposed development while achieving particular objectives.

The proposed vegetated buffer in this application (Figure 4) is sufficient to provide visual screening and to protect against trespass by humans and pets. This vegetated buffer should be maintained by removing invasive species, such as Himalayan blackberry, and by replanting disturbed areas. Once the permit is issued, it is registered on title and is applicable to all future property owners. Should the buffer area be modified or cleared in the future, it must be re-vegetated or the permit amended accordingly. A 3 metre wide buffer is sufficient space for two rows of shrubs and as the existing shrubs illustrate, they can be over 2 metres in height and thick enough to provide screening.

The proposed vegetated buffer extends from the rear of the new accessory building to the rear of an existing accessory building (Figure 4). However, that existing accessory building is proposed to be removed to make way for a new driveway. This will leave a gap in the farm/non-farm interface. The draft DP (Appendix B) includes a recommended condition that the proposed vegetated buffer be extended to the rear of the house parallel with the driveway. This amount to an additional ~7 metres of length and, with two rows of shrubs. As this area is already partially vegetated (behind the existing building) it is anticipated only several new plants would be necessary.

### Zoning

The subject property is zoned Rural Eight (RU-8), which allows residential use plus up to 300 square metres of accessory building gross floor area. The proposed accessory building is 119 square metres and the other existing accessory buildings on the property currently amount to a total of 69 square metres. The Zoning Bylaw requires a minimum side yard setback of 3.5 metres. The proposed building is consistent with Zoning Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”.

### **Policy Analysis**

Sections 488-490 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to designate Development Permit Areas (DPA) within an OCP and establish guidelines for each DPA for specific purposes, including protection of farming. Section 491(6) allows DPs for the protection of farming to be issued with conditions related to screening, landscaping, fencing and siting of buildings or other structures.

Section 86 of Bylaw No. 337 establishes a DPA for the purpose of farm land protection in the area 30 metres from land designated as agricultural area or Agricultural Land Reserve. Construction of a building within the DPA requires the issuance of a DP prior to the issuance of a building permit.

### **Options**

The board may approve the DP as presented, amend the conditions, or deny the DP. Given the above analysis, planning staff recommends approval of the DP as presented.

### **Financial Factors**

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

To extend the proposed vegetative buffer to the rear of the house, upon the removal of the accessory building, a security deposit of \$300 is recommended to be retained by the CVRD, paid by the applicant prior to the issuance of the permit. The security deposit may be used by the CVRD to complete the landscaping if the owner is unable or is otherwise is returned to the applicant upon confirmation of the vegetative buffer is complete.

**Legal Factors**

This report and the recommendations contained herein are in compliance with the LGA and CVRD bylaws.

**Regional Growth Strategy Implications**

One of the goals of the Regional Growth Strategy, Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010, is to support and enhance agricultural sector and increase local food security (Goal 6). Within this goal, there are policies to protect agricultural land and associated activities to support stronger local economics for a longstanding way of life and preservation of the valley’s rural character. One of these policies is the need for appropriate buffers and transition zones between working landscapes and residential areas to minimize conflicts (supporting Policies 6A-3). Accordingly, this DP should provide a sufficient separation and buffer between agricultural land from the proposed development to effectively address these policies.

**Intergovernmental Factors**

A referral was issued to the Ministry of Agriculture for comment on this application. The response will be forwarded to the Electoral Areas Services Committee if it is received before the meeting.

**Interdepartmental Involvement**

This application was circulated to other departments. No concerns were identified.

**Citizen/Public Relations**

The owners of the adjacent farm property was consulted by the applicant and independently by staff. They have no objection to the development as proposed.

The Agricultural Advisory Planning Commission was to consider this application at their scheduled meeting of August 22, 2019, however the Commission failed to establish quorum and the meeting was not held.

Attachments: Appendix A – “Letter and building drawing from applicant”  
Appendix B – “Draft Development Permit DP 13B 19”

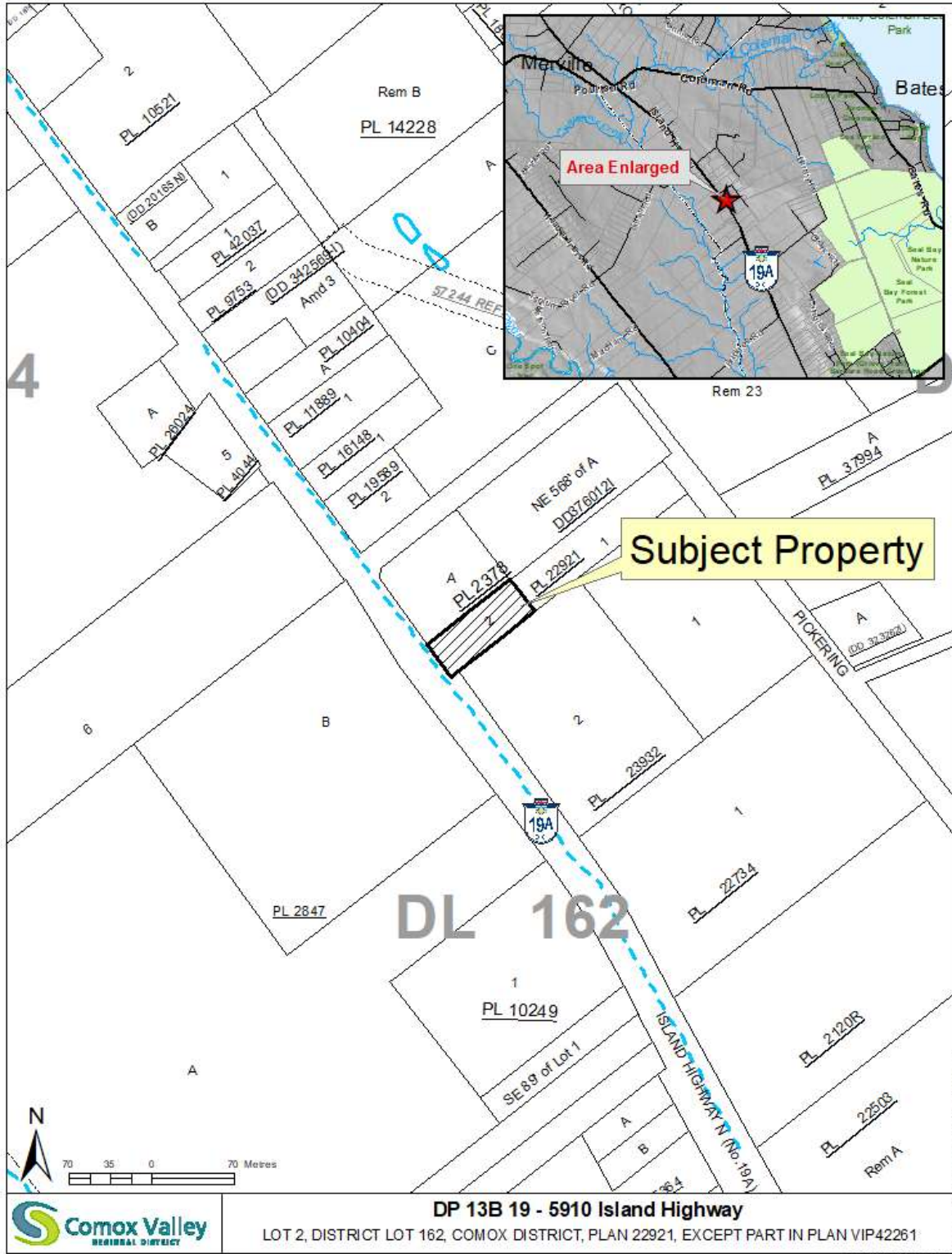


Figure 1: Subject Property





Figure 2: Air Photo (2018), Illustrating the Farm Property (centre) and the Extent of the Farm Land Protection Development Permit Area



**Figure 3: Subject Property, Looking at the Back of the House (August 2019)  
Existing Vegetative Buffer on Left Side  
The Tall Trees in the Shrubs are Located on the Agricultural Property**

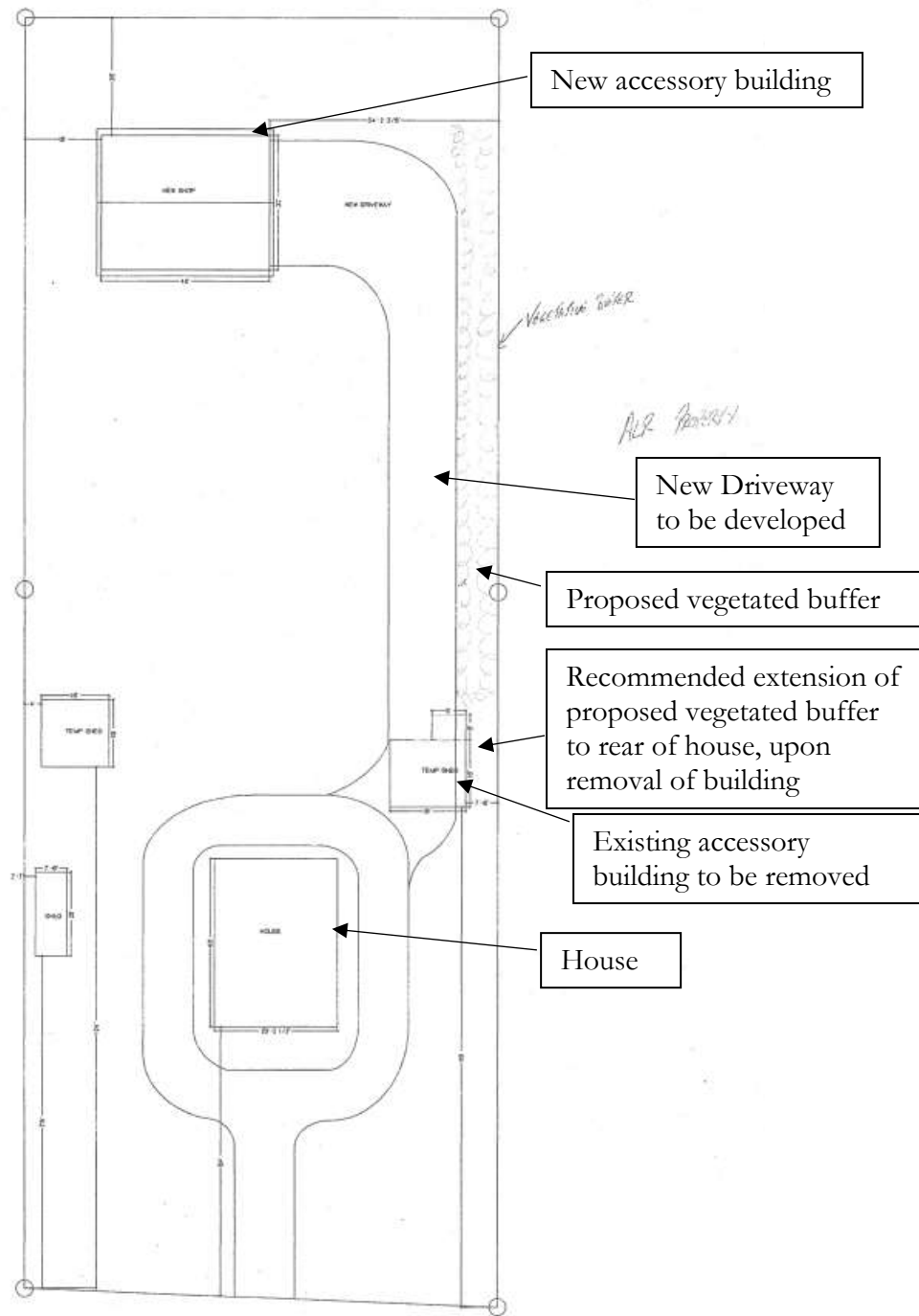


Figure 4: Proposed Site Plan



**Comox Valley Regional District**

600 Comox Rd. Courtenay, BC

We are applying for a Development Permit so we can construct a 1280sq' accessory building at 5910 Island Highway North which is located next to ALR property at 5888 Island Highway North.

The proposed accessory building will be placed at the North East corner of the site so as to keep as far away from the ALR property as possible as well as using an already cleared location to eliminate having to remove any vegetative buffering between the two lots. There is an existing fence as well as approximately 2.5-3M of Vegetation and trees that provide a visual and physical buffer that we intend to leave as is. The site is only 34M wide so a 30M buffer is not possible but we are able to provide a 15M buffer to the building.

We are leaving the existing access off highway 19A as is so we will not be disturbing the watercourse along the West end of site.

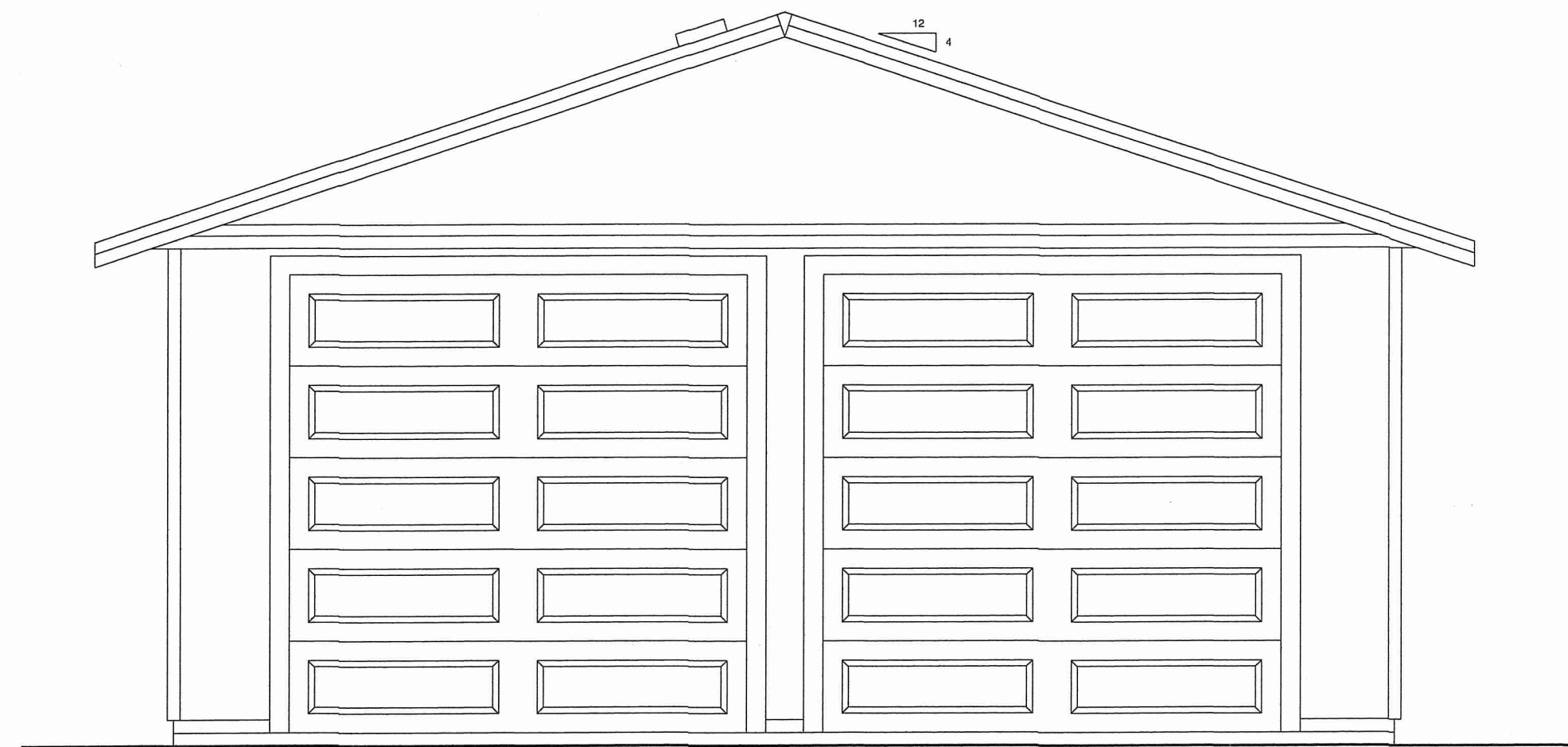
The owner of the ALR property has been contacted and informed of the proposed accessory building and had expressed no concerns.



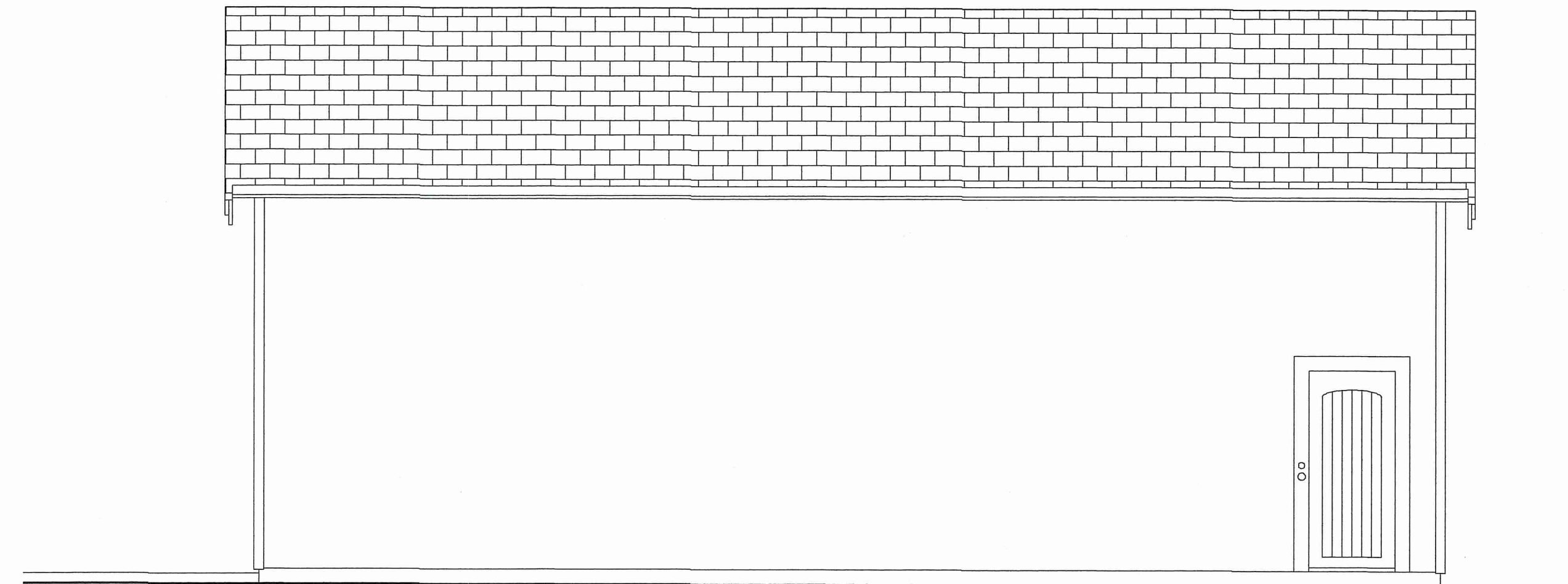
Sincerely,

Brian Dyck

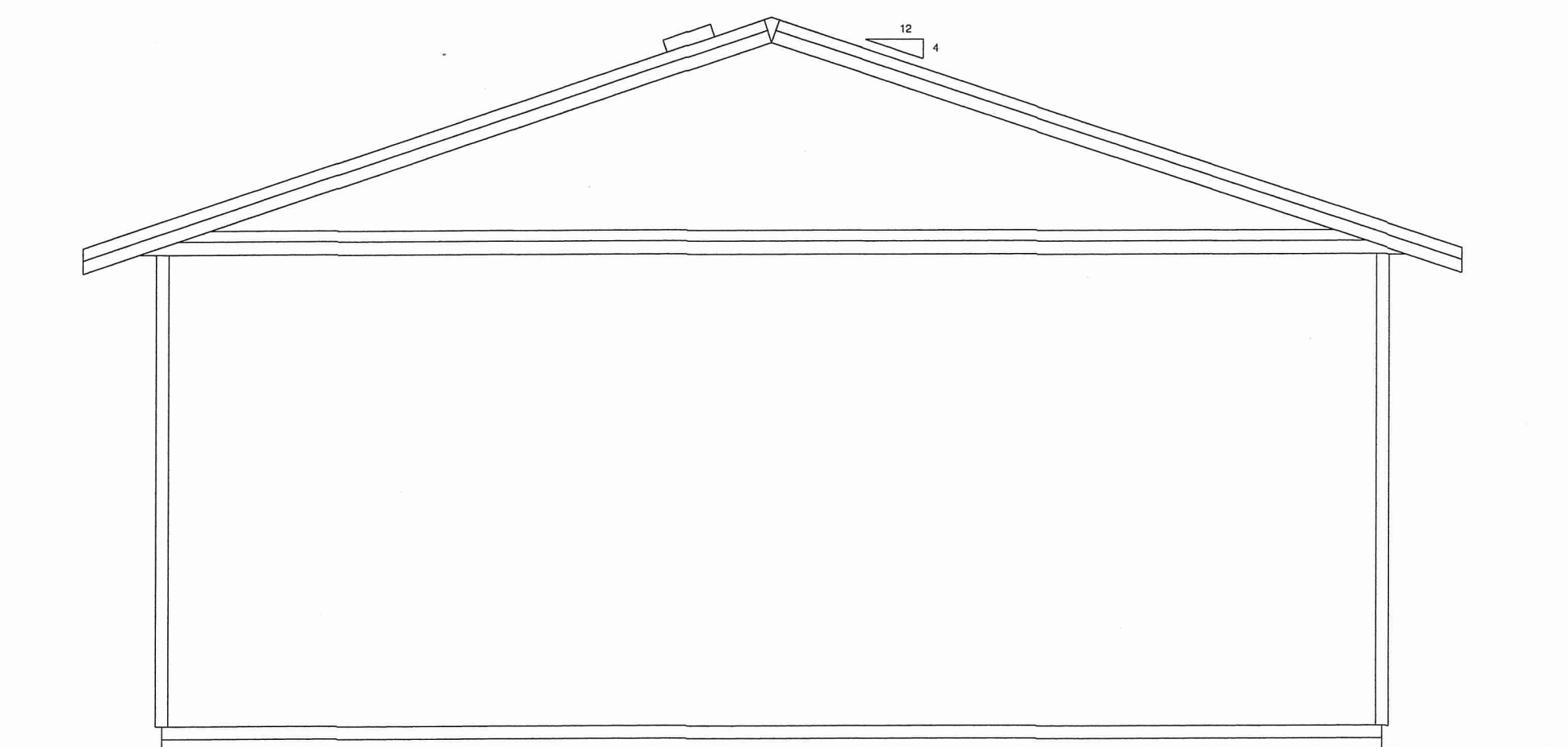
**Your Name**



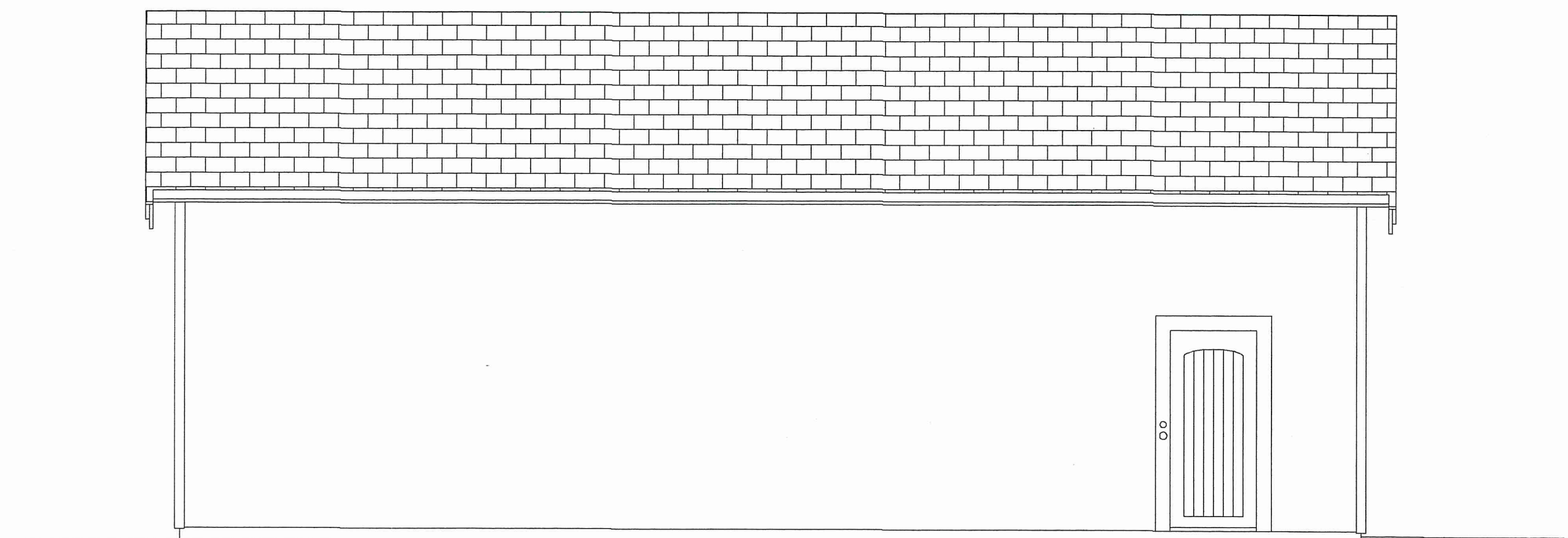
**FRONT ELEVATION**  
1/4" = 1'-0"



**RIGHT ELEVATION**  
1/4" = 1'-0"



**REAR ELEVATION**  
1/4" = 1'-0"



**LEFT ELEVATION**  
1/4" = 1'-0"

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EXTERIOR DIMENSIONS ARE TO SHEATHING  
ROOM DIMENSIONS ARE TO INTERIOR OF WALL  
ALL DIMENSIONS AND HIDDEN ELEMENTS OF DESIGN MUST BE CONFIRMED PRIOR TO CONSTRUCTION

**COMOX BUILDERS LTD.**

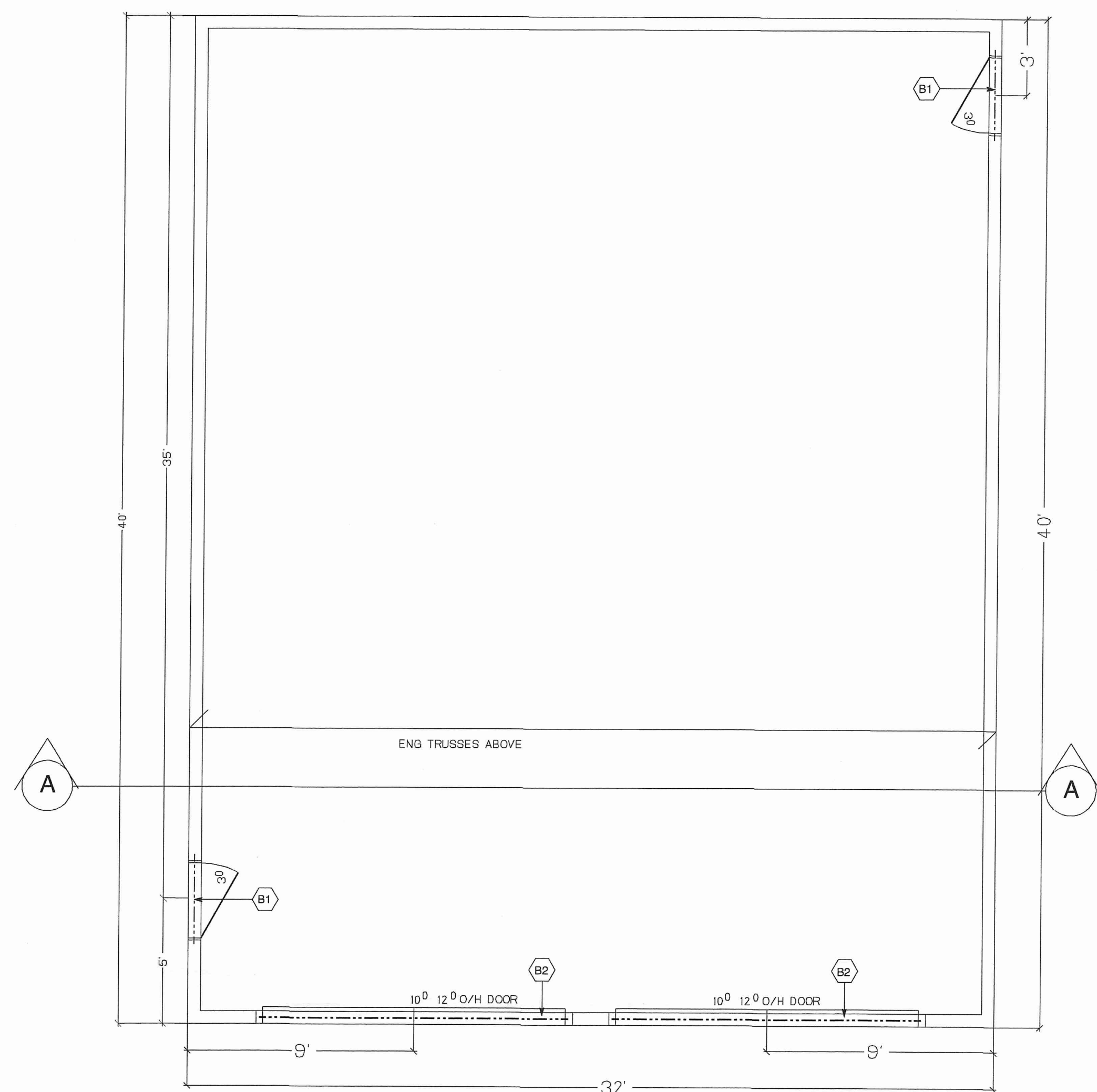
1547 Little River Road, Comox, BC  
Phone: 250-339-6549 Fax: 250-690-9136  
E-Mail: atand@comoxbuilders.com

**SHOP**  
5910 ISLAND HWY N

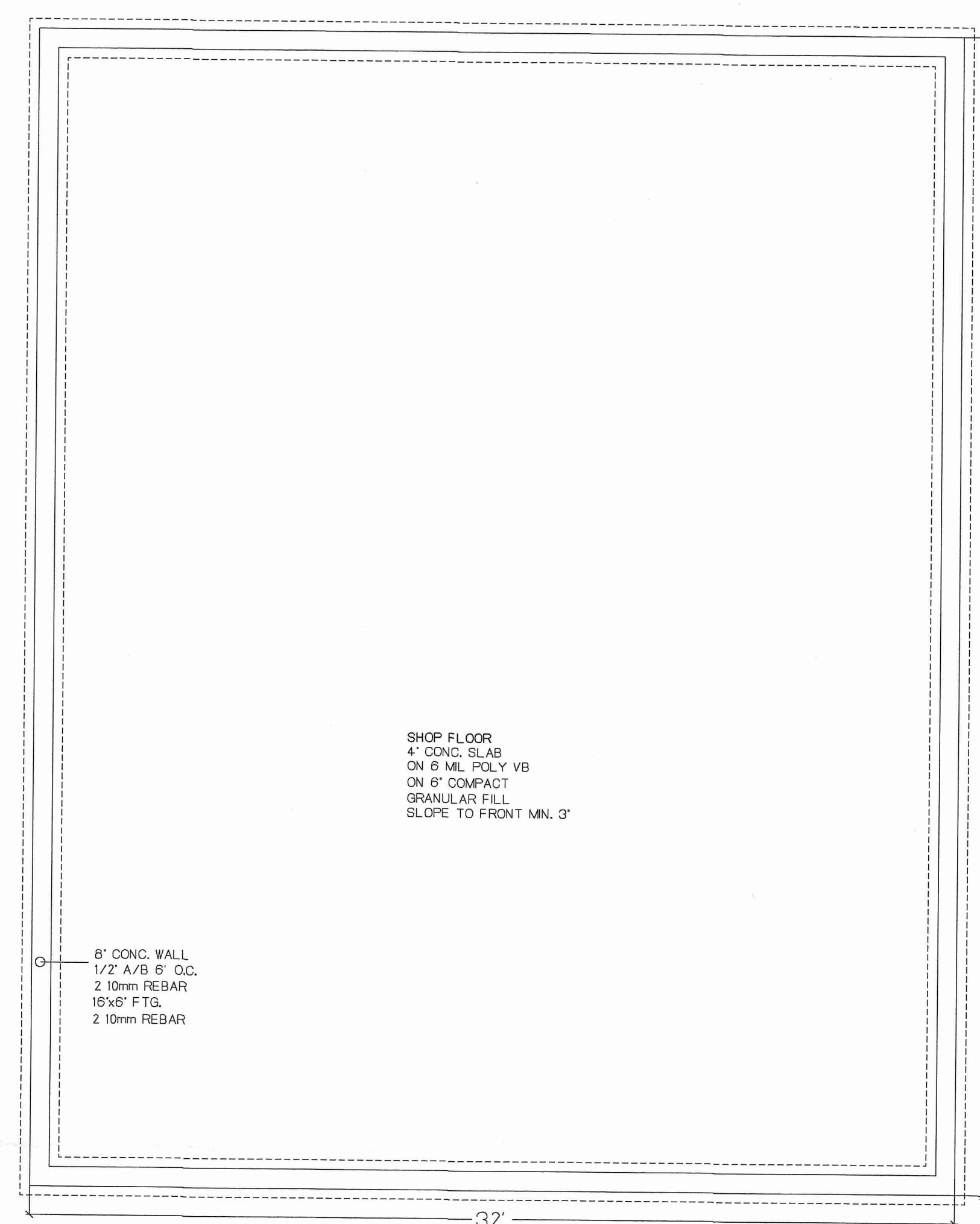
Date: JUL 2019  
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Author: AD

*Shop*





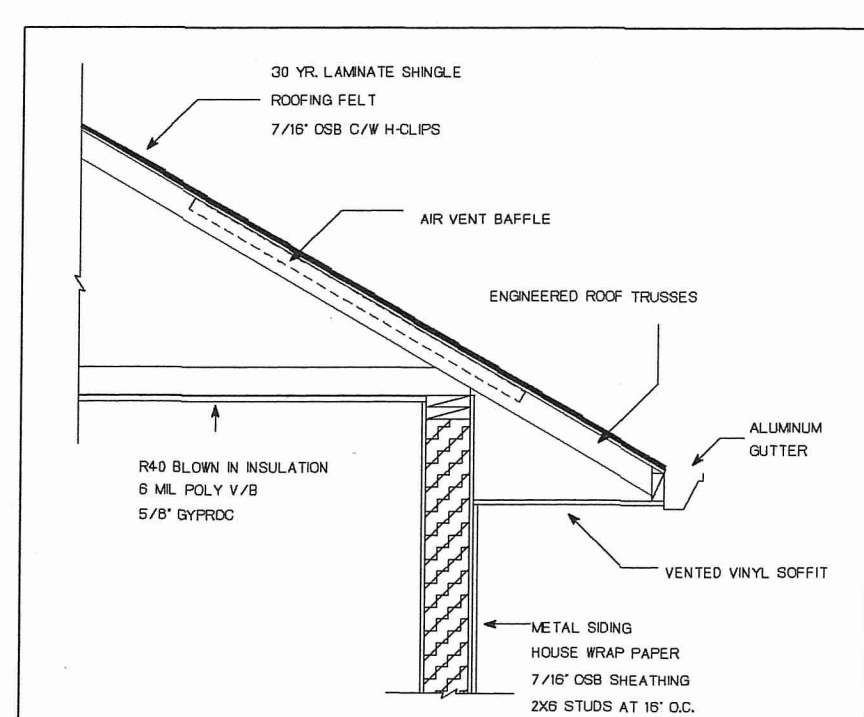
**MAIN FLOOR PLAN**  
1/4" = 1'-0"



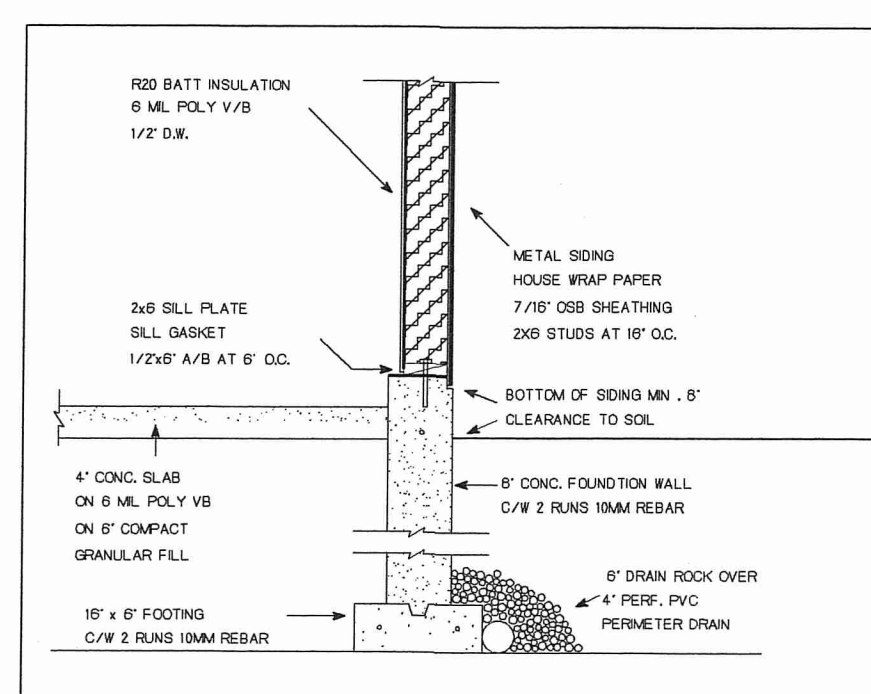
**FOUNDATION PLAN**  
1/4" = 1'-0"

BEAM AND HEADER SCHEDULE	
(B1)	2 PLY 2X10 BU NQ1/NO.2 SPF BEAM
(B2)	3 PLY 2X10 BU NQ1/NO.2 SPF BEAM
(B3)	
POST SCHEDULE	
(P1)	POINT LOAD - EXTRA STUDS REQUIRED 2 PLY BU SPF POST UNLESS OTHER WISE NOTED SQUASH BLOCKS REQUIRED IN FLOOR JOISTS
(P2)	

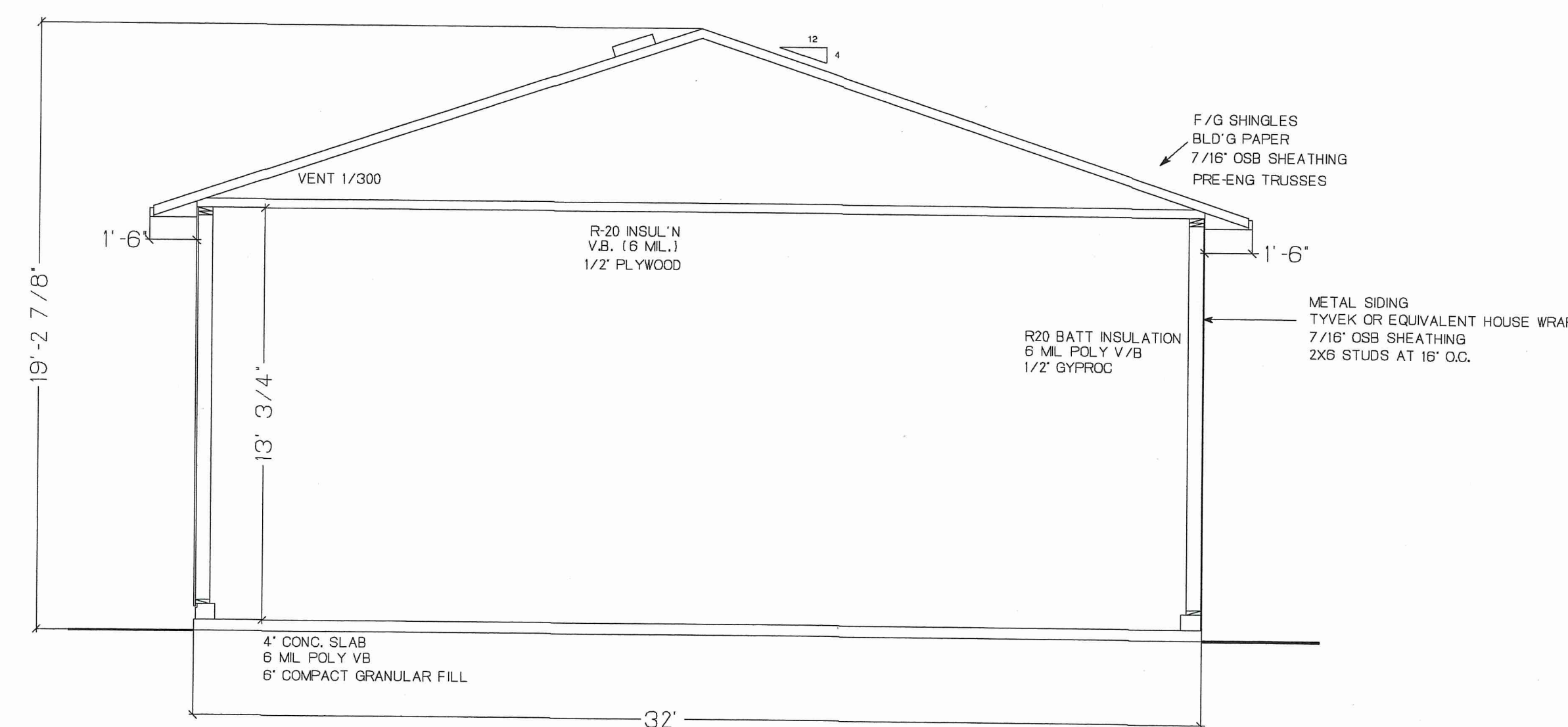
REFER TO ENGINEERED TRUSS AND FLOORING LAYOUTS TO VERIFY ALL GRIDERS, BEAMS AND POINT LOADS.  
ENSURE PROPER BEARING AS REQUIRED.



**WALL / ROOF DETAIL**  
1/2" = 1'-0"



**WALL / SLAB DETAIL**  
1/2" = 1'-0"



**X-SECTION "A"**  
1/4" = 1'-0"

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5910 ISLAND HWY N

Date: JUL 219  
Page: 2 OF 2  
Scale: AS NOTED  
Author: AD

**DP 13B 19**

**TO:** Billy-Ray Harvey Bailey

1. This Development Permit (DP 13B 19) 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 for **the purpose of developing a new accessory building.**
2. This Development Permit applies to, and only to, those lands within the Comox Valley Regional District described below:

**Legal Description:** Lot 2, District Lot 162, Comox District, Plan 22921, except part in plan VIP42261

**Parcel Identifier (PID):** 003-201-236

**Civic Address:** 5910 Island Highway North

3. The land described herein (Schedule A) shall be developed in accordance with the following terms and conditions and provisions of this permit:

**Siting**

- i. THAT the accessory building be sited not less than 15 metres from the side lot line shared with the adjacent agricultural-designated property, as illustrated in Schedule B;

**Landscaping:**

- ii. THAT a 3 metre wide vegetative buffer be provided on the subject property along the side lot line shared with the adjacent agricultural-designated property, between the rear of the house and the rear of the new accessory building, as illustrated in Schedule B;
- iii. THAT the vegetative buffer consist of a minimum of two rows of shrubs that are at least 1.5 metres in height and whose species are native to the Comox Valley;
- iv. THAT the shrubs within the vegetative buffer be planted with a maximum spacing of 1 metre between shrubs or 2 metres from a tree that is over 2.5 metres in height;
- v. THAT the vegetative buffer be maintained, protected from degradation, kept free of invasive species, and disturbed areas replanted;
- vi. THAT a security deposit in the form of a Security Bond of \$300 be provided for the implementation of the landscaping. The security deposit will be released in accordance with Bylaw No. 328 being the "Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328".

**Fencing**

- vii. THAT a fence at least 1 metre in height be sited along the side lot line shared with the adjacent agricultural-designated property.
4. This Development Permit (DP 13B 19) 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 permit (see below). Lapsed permits cannot be

renewed; however, a new application for a second development permit can be applied for in order to complete the remainder of the work.

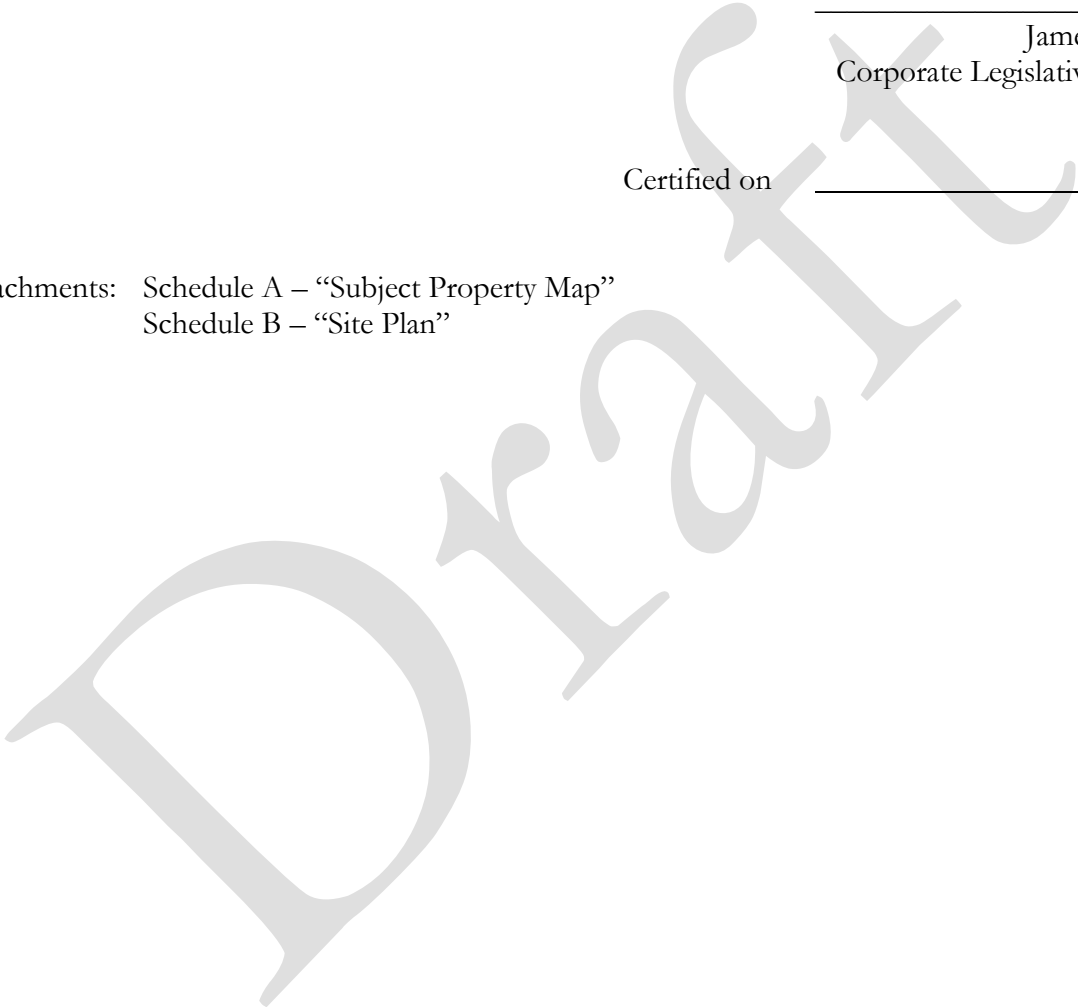
- 5. This Development Permit is *not* a Building Permit.

CERTIFIED as the **DEVELOPMENT PERMIT** issued by resolution of the board of the Comox Valley Regional District on \_\_\_\_\_.

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

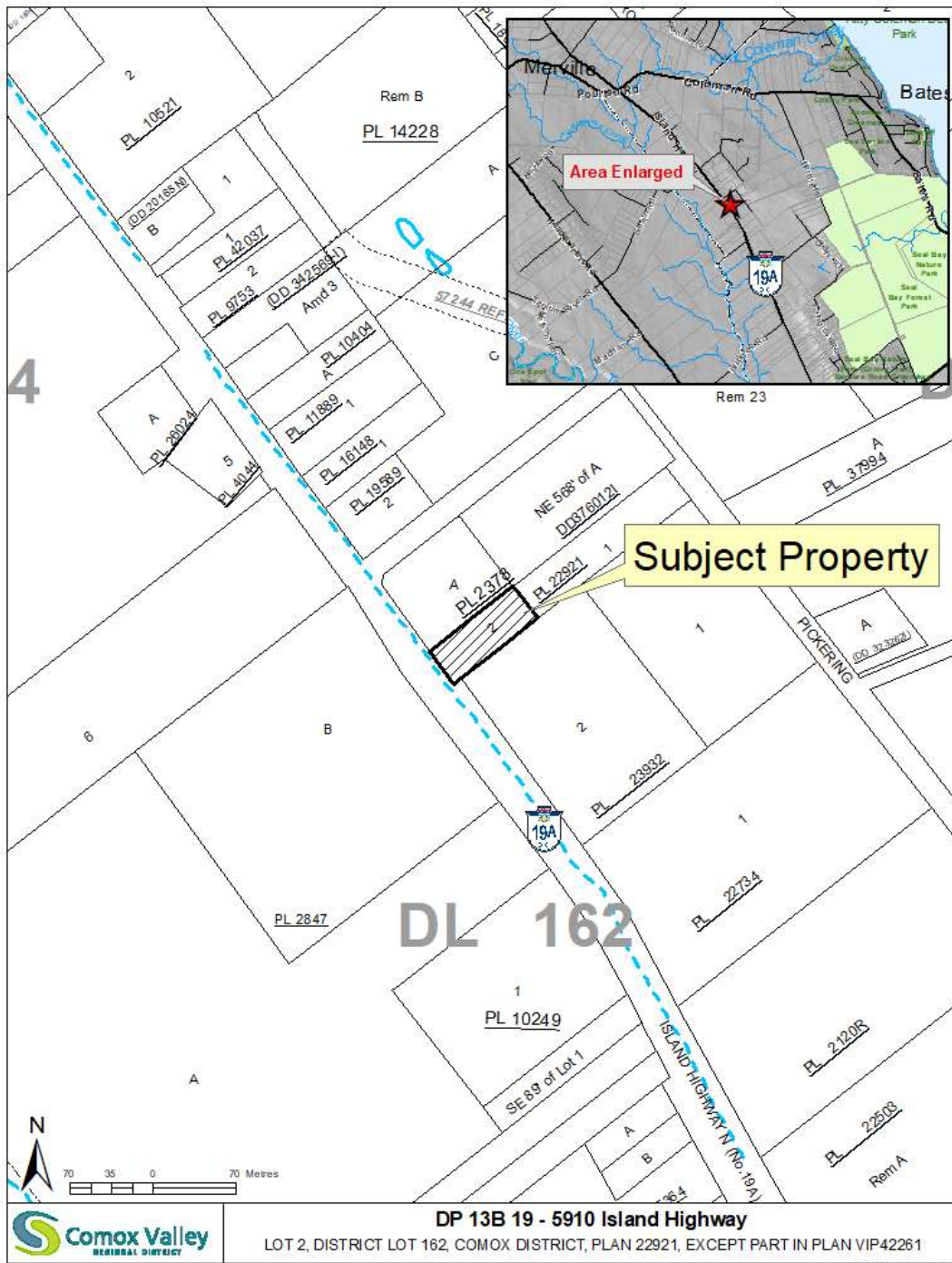
Certified on \_\_\_\_\_

Attachments: Schedule A – “Subject Property Map”  
Schedule B – “Site Plan”





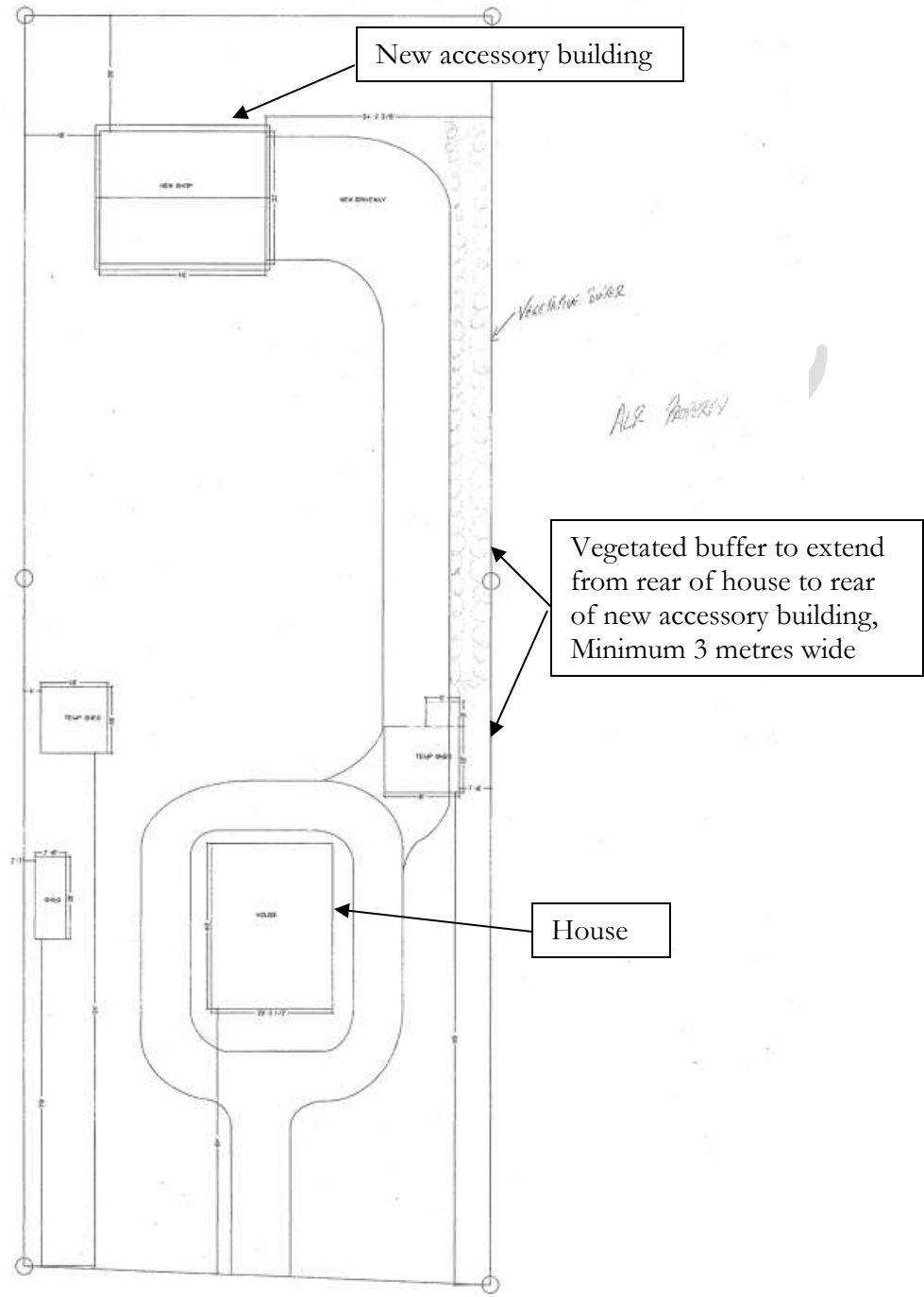
### Schedule A Subject Property Map



**DP 13B 19 - 5910 Island Highway**  
LOT 2, DISTRICT LOT 162, COMOX DISTRICT, PLAN 22921, EXCEPT PART IN PLAN VIP42261

DATE ISSUED: 2015-10-16 09:23:37 AM

### Schedule B Site Plan



5910 ISLAND HWY N  
PLOT PLAN  
3/32" = 1'-0"