

## JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Wednesday, **November 3, 2021, 2021 at 6:00 pm**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

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### AGENDA

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of July 21, 2021
4. Planner's Report
5. Applications
  - a) BV000483 - Strata Lot 24, Section 31, Otter District, Strata Plan 1239 (24-7871 West Coast Road)
  - b) BV000485 – Lot B, Sections 7 and 118, Otter District, Plan VIP51493 (4527 Otter Point Road)
6. Adjournment

*Please note that during the COVID-19 situation, the public may attend the meeting electronically through video or teleconference. Should you wish to attend, please contact us by email at [jdfinfo@crd.bc.ca](mailto:jdfinfo@crd.bc.ca) so that staff may forward meeting details. Written submissions continue to be accepted until 4:00 pm the day before the meeting.*



Making a difference...together

**Minutes of a Meeting of the Juan de Fuca Board of Variance  
Held Wednesday, July 21, 2021, at the Juan de Fuca Local Area Services Building,  
#3 – 7450 Butler Road, Otter Point, BC**

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**PRESENT:** Paul Clarkston (Chair), Axel Joosting (EP)  
**Staff:** Iain Lawrence, Manager, Juan de Fuca Community Planning (EP);  
Regina Robinson, Planning Assistant (EP); Wendy Miller, Recorder (EP)  
**ABSENT:** Brad Fitchett  
**PUBLIC:** 1 EP

EP – Electronic Participation

The meeting was called to order at 6:00 pm.

**1. Approval of the Agenda**

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkston that the agenda be approved.

**CARRIED**

**2. Approval of the Supplementary Agenda**

No supplementary items.

**3. Adoption of the Minutes of June 1, 2021**

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkston that the minutes of June 1, 2021, be adopted.

**CARRIED**

**4. Planner's Report**

At its June 1, 2021 meeting the Board of Variance (BOV) considered an application for a property on West Coast Road (BV000480). During the staff presentation of the application it was implied that the site plan for the dwelling incorrectly reflected a front yard setback of 19.5 m; however, the site plan was correct and the location of the building had changed during construction.

**5. Applications**

**a) BV000481 - Common Property, Section 89, Sooke District, Strata Plan VIS5949 (7020/7022 East Sooke Road)**

Regina Robinson outlined the staff report and advised that the applicant is requesting relief from the BOV by reducing the required side yard setback from 1 m to 0.69 m and the rear yard setback from 1 m to 0 m on the Common Property of Section 89, Sooke District, Strata Plan VIS5949, for a deck.

Regina Robinson highlighted the subject property and photos of the accessory building with attached deck. It was advised that Development Permit DP000334 was issued to authorize the accessory building with deck within the Shoreline DP area after construction was completed.

Regina Robinson directed attention to the applicant's hardship statement as included in the staff report. The owners propose making minor alternations to the deck to eliminate the requirement for a Crown Lease. The owners want to avoid making alterations to the deck that require the foundation of the structure to be changed, leading to further disturbance in the development permit area.

Regina Robinson confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners within 50 m of the subject property.

The Chair confirmed that the applicant was present.

The applicant stated that the main dwelling on the property is a duplex and that the accessory building is used as a kayak shelter by the six strata owners. Prior to construction of the accessory building, kayaks were stored under tarps. The accessory building is considered neater and more secure.

The BOV noted that an unattached patio would not be considered part of an accessory building.

**MOVED** by Paul Clarkston, **SECONDED** by Axel Joosting that having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship would be caused to the applicant if Part 2, Section 4.01 (h) of Bylaw No. 2040 were complied with, that application BV000481 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040, Part 2, Section 4.01 (h)(i) by reducing the required side yard setback from 1 m to 0.69 m and the rear yard setback from 1 m to 0 m on the Common Property of Section 89, Sooke District, Strata Plan VIS5949, for a proposed deck, be approved and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

**CARRIED**

Iain Lawrence responded to a question from the BOV advising that the current encroachment over the rear property boundary adjacent to the sea will be addressed through the building permit process.

**b) BV000482 - Lot 121, Section 95, Renfrew District, Plan 26054 (2825 Denewood Place)**

Regina Robinson outlined the staff report and advised that the applicant is requesting relief from the Board of Variance by increasing the maximum height of an accessory building used for a detached accessory suite from 7 m to 8 m, on Lot 121, Section 95, Renfrew District, Plan 26054, for a proposed detached accessory suite and garage.

Regina Robinson highlighted the subject property and site plan with variance request. It was advised that the dwelling will be located in a previously cleared area and is located as to avoid any development permit areas.

Regina Robinson directed attention to the applicant's hardship statement as included in the staff report and confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners within 50 m of the subject property.

The Chair confirmed that the applicant was not present.

Regina Robinson responded to questions from the BOV advising that:

- the BOV considered an application for the subject property at its meeting of March 8, 2021
- at that meeting, an adjacent property owner expressed concern regarding an unmapped watercourse on the subject property
- since that meeting, the applicant has applied for a development permit for works within a Riparian Area (DP000337)
- the Province has approved the Riparian Areas Protection Regulation Assessment submitted for the subject property
- no concerns were raised by adjacent property owners in response to public notification for the present variance request

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkston that having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship would be caused to the applicant if Part 1, Section 4.20 of Bylaw No. 2040 were complied with, that application BV000482 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040, Part 1, Section 4.20(g) by increasing the maximum height of an accessory building used for a detached accessory suite from 7 m to 8 m, on Lot 121, Section 95, Renfrew District, Plan 26054, for a proposed detached accessory suite and garage, be approved and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

**CARRIED**

## 6. Adjournment

The meeting was adjourned at 6:13 pm.

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P. Clarkston, Chair



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE  
MEETING OF NOVEMBER 3, 2021**

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**File No:** BV000483  
**Location:** 24-7871 West Coast Road  
**Legal:** Strata Lot 24, Section 31, Otter District, Strata Plan 1239  
**Zoning:** Mobile Home Park (RM) – Bylaw No. 2040 and Bylaw No. 377  
**Land Use Designation:** Settlement Area 1 – Bylaw No. 3819  
**Adjacent Uses:** N – Strata Road/RM zone    W – Strata Road/RM zone  
S – Dedicated Road RoW/Strait of Juan de Fuca    E – RM zone

**REQUESTED VARIANCE**

The applicant has requested that the Board of Variance approve a minor variance to relieve hardship, in accordance with Section 540(a) of the *Local Government Act (LGA)*, to decrease the setback requirement that no mobile home shall be located within 5' (1.5 m) of rear and side mobile home space lines specified by the CRD Mobile Home Parks Bylaw No. 1, 1977, Bylaw No. 377, for the purpose of authorizing construction of a deck.

**LEGISLATIVE IMPLICATIONS**

Section 542(1) of the *LGA* outlines that the Board of Variance may order that a minor variance be permitted from the requirements of the applicable bylaw, if the Board of Variance:

- (a) has heard from the applicant and any person notified under Section 541;
- (b) finds that undue hardship would be caused to the applicant if the bylaw or Section 531(1) is complied with; and
- (c) is of the opinion that the variance or exemption does not do any of the following:
  - (i) result in inappropriate development of the site;
  - (ii) adversely affect the natural environment;
  - (iii) substantially affect the use and enjoyment of adjacent land;
  - (iv) vary permitted uses and densities under the applicable bylaw;
  - (v) defeat the intent of the bylaw;
  - (vi) vary the application of an applicable bylaw in relation to residential rental tenure.

Section 542(3) of the *LGA* outlines that in relation to an order under Section 542(1),

- (a) if the order sets a time within which the construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time, or
  - (b) if that construction is not substantially started within 2 years after the order was made, or within a longer or shorter time period established by the order,
- the permission or exemption terminates and the bylaw or section 531(1), as the case may be, applies.

## **STAFF COMMENTS**

### *Background:*

The 325.8 m<sup>2</sup> property located at 27-7871 West Coast Road in Otter Point was created by bare land strata subdivision in 1982 (Appendix A). The property is zoned Mobile Home Park (RM) in the Juan de Fuca Land Use Bylaw No. 2040 and Bylaw No. 377.

Building Permits 25480, 26983, and 27139 authorized a single wide mobile home, construction of a deck, and a sunroom addition on the parcel. In 1993, the Board of Variance granted approval (BV000187) to reduce the rear yard setback requirement to 0.45 m on the parcel for a 15 m<sup>2</sup> deck replacement completed under Building Permit 41471.

The mobile home deck was recently repaired and expanded (Appendix B). In response to a stop work order, the owners applied for a Building Permit (BP007203) to authorize construction. Site plans submitted as part of the application show that the deck does not meet side and rear yard setbacks specified in the Mobile Home Parks Bylaw No. 377.

### *Variance Request:*

A variance is being requested to reduce the requirement of section 4.9(3) of Bylaw No. 377 which states that no structure shall be located within five feet (1.5 m) of side and rear lot lines. Decks that require a building permit and that include an air space beneath them (i.e. they are not directly resting on the ground), are considered structures and must meet the required setbacks. This request includes a reduction of the 1.5 m setback requirements to 1.22 m on the east side and 0.61 m on the west side for the 40.7 m<sup>2</sup> deck (Appendix C).

The proposed development will occur outside of the 15 m setback from the natural boundary of the sea and the Marine Shoreline development permit area in the Otter Point Official Community Plan Bylaw No. 3819. The application was referred to the Ministry of Transportation as the deck will be within 4.6 m of an undeveloped designated road right of way beyond the rear lot line to the south; the Ministry had no concerns with the proposal. The development meets all other requirements of the bylaw.

The owner has provided a statement of hardship in support of the application (Appendix D). The Mobile Park Strata signed an authorization letter agreeing to the application. The development is not expected to adversely affect the natural environment or alter the use and enjoyment of adjacent land.

Pursuant to the Juan de Fuca Board of Variance Bylaw, Bylaw No. 4288, notification letters have been sent to the applicant, as well as to owners and occupants within 50 m of the subject property. Any responses received will be presented at the November 3, 2021 Board of Variance hearing. If the Board of Variance finds that not granting the variance would result in undue hardship, considers the requested variance to be minor and finds that it meets the considerations of Section 542(1)(c) of the LGA, an order granting a minor variance may be permitted.

### **OUTLINE MOTION**

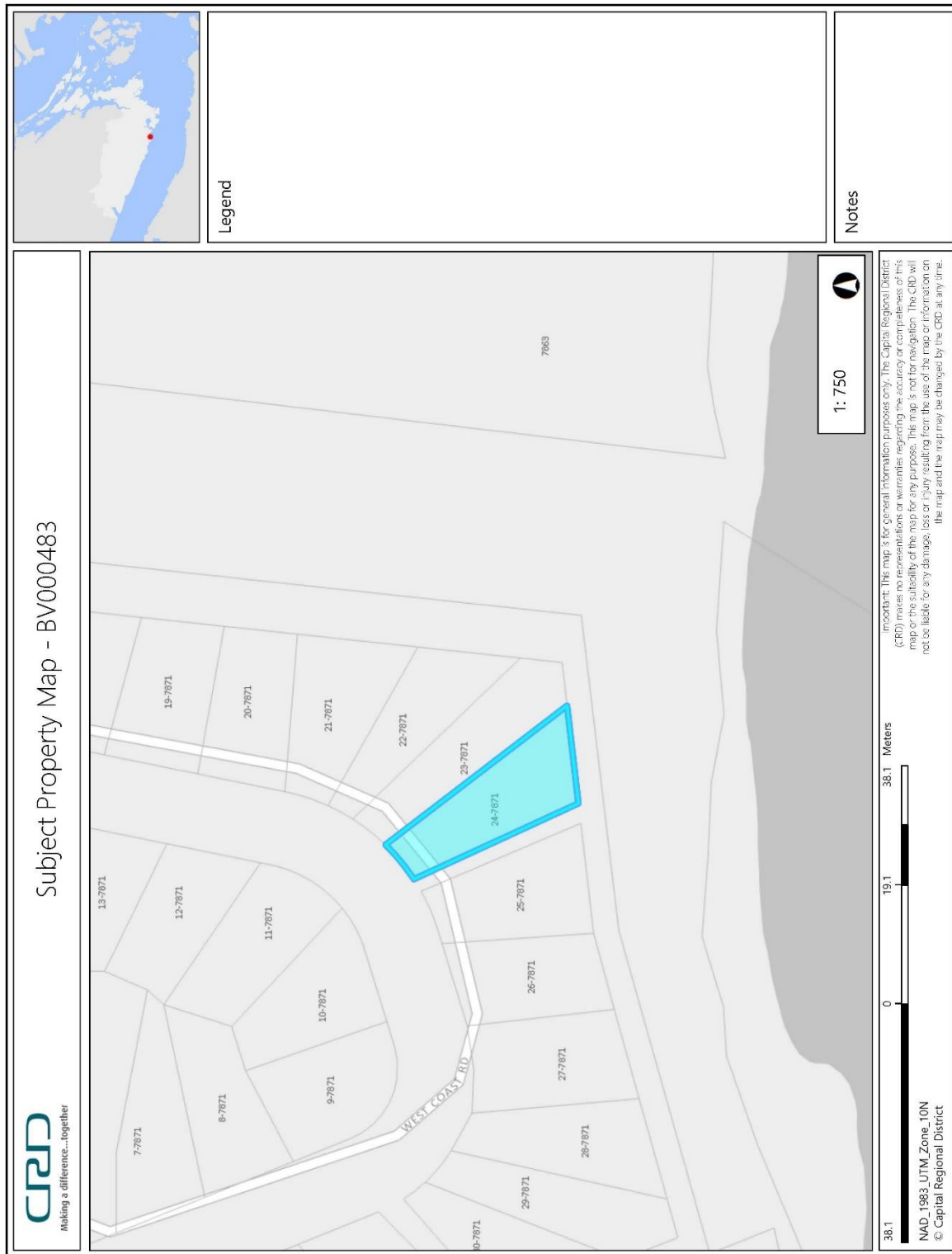
Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship <**would/would not**> be caused to the applicant if Section 4.9(3) of CRD Mobile Home Parks Bylaw No. 377, was complied with, that application BV000483 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 377, 4.9(3) by reducing the required side yard setback from 1.5 m to 1.22 m and the rear yard setback from 1.5 m to 0.61 m on Strata Lot 24, Section 31, Otter District, Strata Plan 1239, for the purpose of authorizing construction of a deck, be <**approved/denied**> and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

Submitted by:	Regina Robinson, Planning Assistant, JdF Community Planning
Concurrence:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance

### **ATTACHMENTS**

Appendix A: Subject Property Map  
Appendix B: Photos of Deck  
Appendix C: Site Plan and Variance Request  
Appendix D: Hardship Statement from Applicant

Appendix A: Subject Property Map





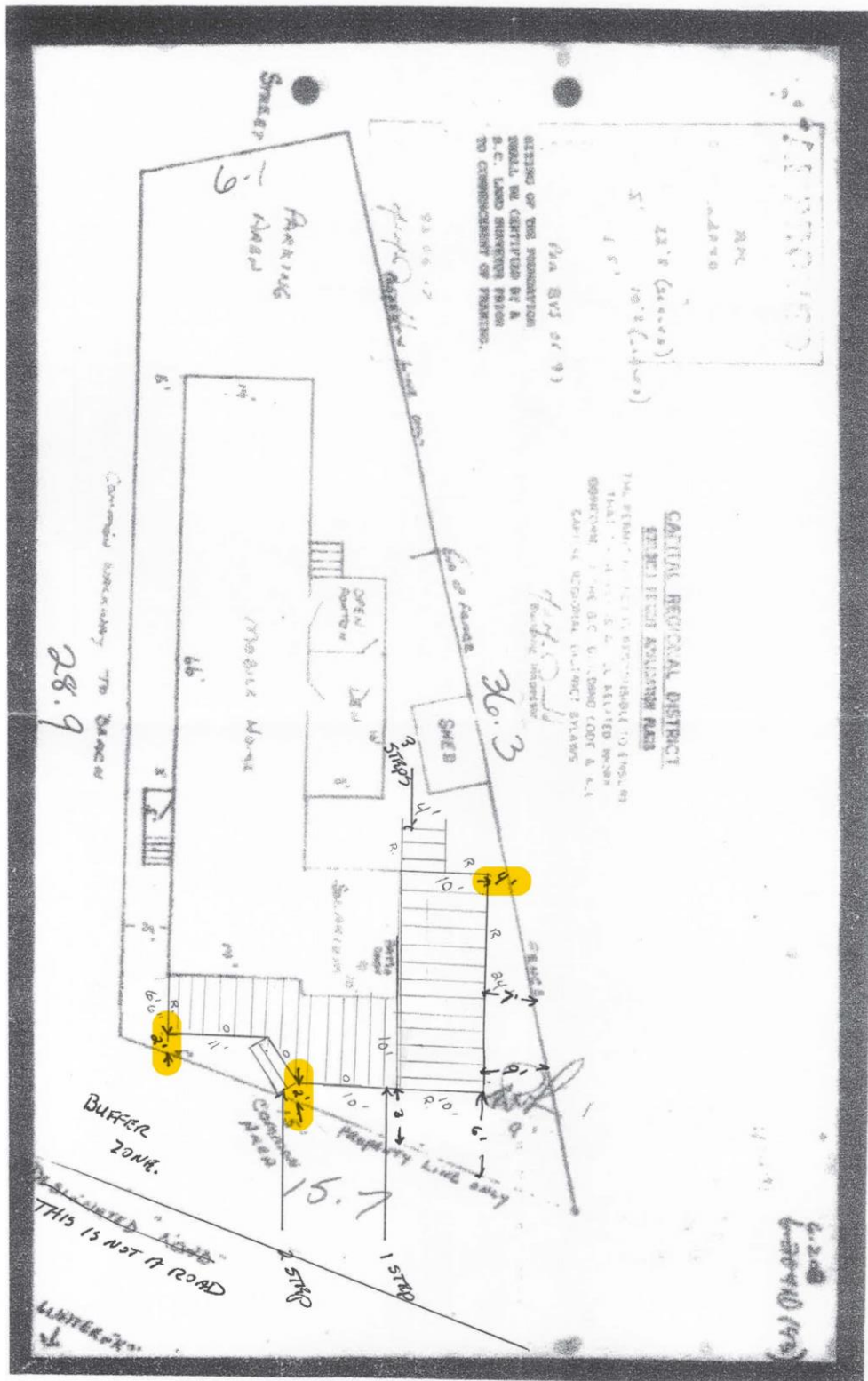
Appendix B: Site Photos







Appendix C: Site Plan and Variance Request



Appendix D: Hardship Statement

[REDACTED]

CRD Board

July 20, 2021

Re: 24-7871 West Coast Road

Please see the information below.

We repaired an existing deck out the front of the trailer, which was rotten, narrow and was a hazard to walk around on. We made the footprint larger in one area to give easier access off the front, to the lawn below, through the garden area.

While we were making the repairs to the front deck, we decided to extend the side landing out of the trailer to make it a more useful size deck. Strata council gave us permission to build the deck and fence on that side of the property and I was not aware we had to take out a building permit to repair and add on to the deck.

The original deck in the front of the trailer came out to within 2' of the property line then there is a 15' buffer zone then the area to the beach. There is a road allowance down the left side of the strata's common area property which is one site over from our trailer which is shown on the Anderson Co. site survey map.

The matter of us needing a permit came up when a renter in the complex who complains about everything, and everyone made a complaint to CRD about our deck. We made the required application, that is when we found out that we were within 5' of the property line in a couple spots, which we didn't realize was a problem because the existing deck was already within 2'.

It has also come to my attention whether right or wrong, that a non-connecting deck could extend out to the property line, and our deck is not connected to our trailer.

If you have any questions or need any clarification regarding this matter, please feel free to call me my phone number is [REDACTED]

Respectfully submitted,

[REDACTED]

24-7871 West Coast Road,  
Sooke BC V9Z 0R6

[REDACTED]



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE  
MEETING OF NOVEMBER 3, 2021**

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**File No:** BV000485  
**Location:** 4527 Otter Point Road  
**Legal:** Lot B, Sections 7 and 118, Otter District, Plan VIP51493  
**Zoning:** Agricultural (AG) – JdF Land Use Bylaw No. 2040  
**Land Use Designation:** Rural (RUR)/Agricultural (ALR) – Otter Point OCP Bylaw No. 3819  
**Adjacent Uses:** N – AG parcel S – AG parcel  
W – AG parcel E – Otter Point Road

**REQUESTED VARIANCE**

The applicant has requested that the Board of Variance approve a minor variance to relieve hardship, in accordance with Section 540(a) of the *Local Government Act (LGA)*, by reducing the required front yard setback for accessory buildings from 15 m to 6.6 m for the purpose of authorizing the completion of a studio that does not conform with the siting requirements for accessory buildings and structures.

**LEGISLATIVE IMPLICATIONS**

Section 542(1) of the *LGA* outlines that the Board of Variance may order that a minor variance be permitted from the requirements of the applicable bylaw, if the Board of Variance:

- (a) has heard from the applicant and any person notified under Section 541;
- (b) finds that undue hardship would be caused to the applicant if the bylaw or Section 531(1) is complied with; and
- (c) is of the opinion that the variance or exemption does not do any of the following:
  - (i) result in inappropriate development of the site;
  - (ii) adversely affect the natural environment;
  - (iii) substantially affect the use and enjoyment of adjacent land;
  - (iv) vary permitted uses and densities under the applicable bylaw;
  - (v) defeat the intent of the bylaw;
  - (vi) vary the application of an applicable bylaw in relation to residential rental tenure.

Section 542(3) of the *LGA* outlines that in relation to an order under Section 542(1),

- (a) if the order sets a time within which the construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time, or
  - (b) if that construction is not substantially started within 2 years after the order was made, or within a longer or shorter time period established by the order,
- the permission or exemption terminates and the bylaw or section 531(1), as the case may be, applies.

## **STAFF COMMENTS**

### *Background:*

The 3.42 ha property is located at 4527 Otter Point Road. The land is in the Agricultural Land Reserve (ALR), and is zoned Agricultural (AG) under the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). Portions of the property are designated as Steep Slopes and Riparian Development Permit (DP) Areas by the Otter Point Official Community Plan, Bylaw No. 3819; however, the proposed construction is located outside those DP areas.

The owners are currently building a 55.74 m<sup>2</sup> accessory studio (File: BP007135) adjacent to Otter Point Road (Appendix C). Prior to issuance of the building permit, the owners requested a variance to reduce the front yard setback from 15 m to 8.42. The variance was approved by the Board of Variance as part of application BV000475.

### *Variance Request:*

Bylaw No. 2040, Section 4.01(d) –Accessory Building and Structures– specifies that, “No accessory building shall be located closer to the front lot line than the principal building, except that where the distance between the principal building and the front lot line is greater than 15 m, the accessory building shall be not less than 15 m from the front lot line.”

A location certificate survey provided for Building Permit BP007135 confirmed that the foundation for the structure is located 6.6 m from the front lot line and does not meet the approved variance (Appendix D); as such, the owners have submitted an additional request to further reduce the front yard setback requirement to 6.6 m. The stated hardship provided by the applicants is that the 8.43 m front yard setback request amount in the first variance application was a measuring error (Appendix E). An additional variance request is being pursued to continue construction in the current location.

Staff are of the opinion that the proposal is still considered appropriate for the site and otherwise complies with the requirements of the zoning bylaw. The development is located behind a roadside hedge and outside the 4.5 m setback from a road right-of-way in accordance with the Ministry of Transportation and Infrastructure’s standards. The structure is not anticipated to adversely affect the natural environment and is located to avoid usable farm land.

In accordance with the Juan de Fuca Board of Variance Bylaw, Bylaw No. 4288, notification letters have been sent to the applicant, as well as to owners and occupants within 50 m of the subject property. Any responses received will be presented at the November 3, 2021 Board of Variance hearing.

If the Board of Variance finds that not granting the variance would result in undue hardship, considers the requested variance to be minor and finds that it meets the considerations of Section 542(1)(c) of the *LGA*, an order granting a minor variance may be permitted.

### **OUTLINE MOTION**

Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship **<would/would not>** be caused to the applicant if Part 2, Section 4.01 (d) of Bylaw No. 2040 were complied with, that application BV000485 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040, Part 2, Section 4.01(d) by reducing the required front yard setback for accessory buildings from 15 m to 6.6 m on Lot B, Sections 7 and 118, Otter District, Plan VIP51493, for a proposed studio, be **<approved/denied>** and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

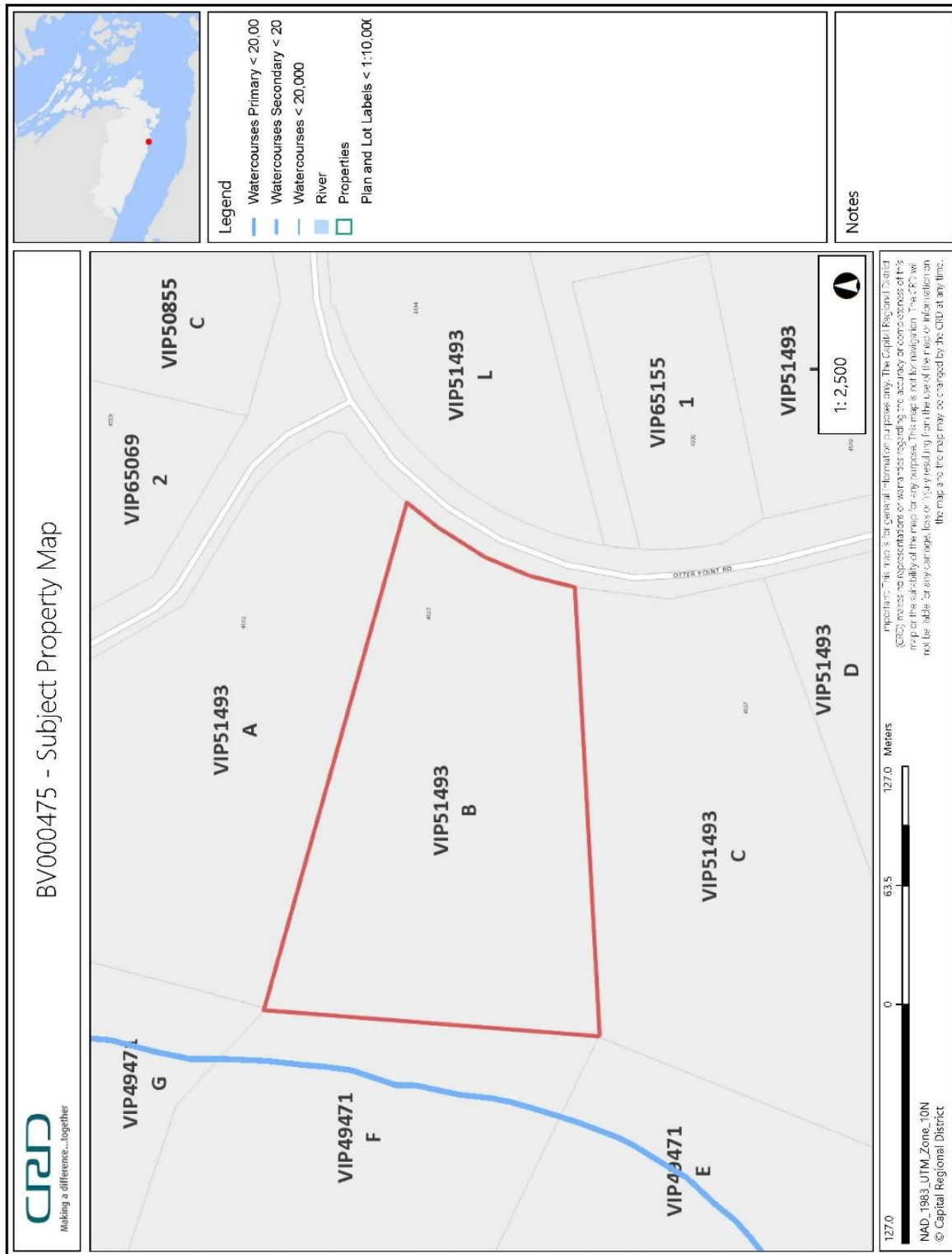
Submitted by:	Regina Robinson, Planning Assistant, JdF Community Planning
Concurrence:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance

### **ATTACHMENTS**

Appendix A: Subject Property Map  
Appendix B: Site Plan  
Appendix C: Building Plans and Elevations  
Appendix D: BCLS Foundation Location Certificate  
Appendix E: Hardship Statement from Applicant

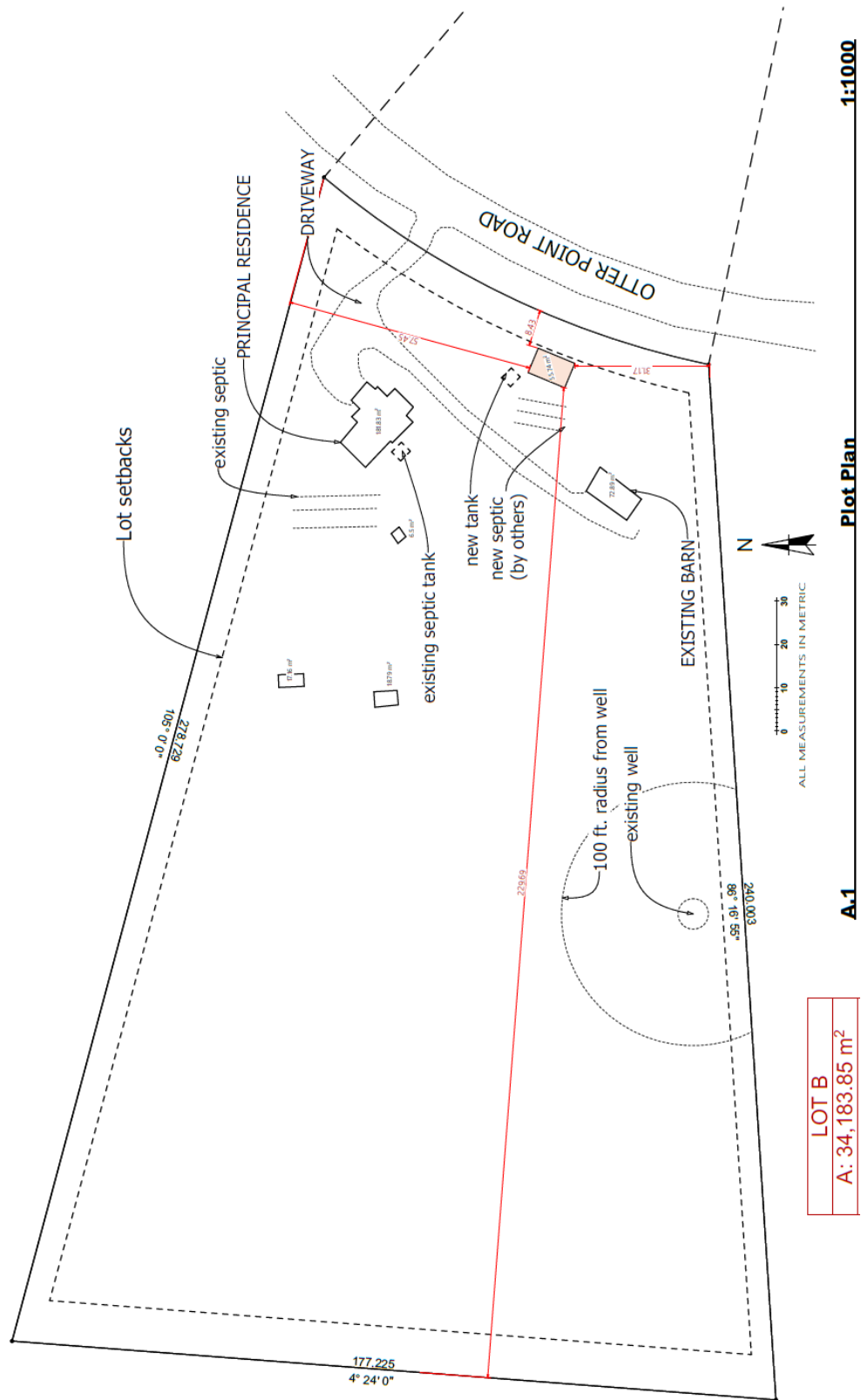


Appendix A: Subject Property Map

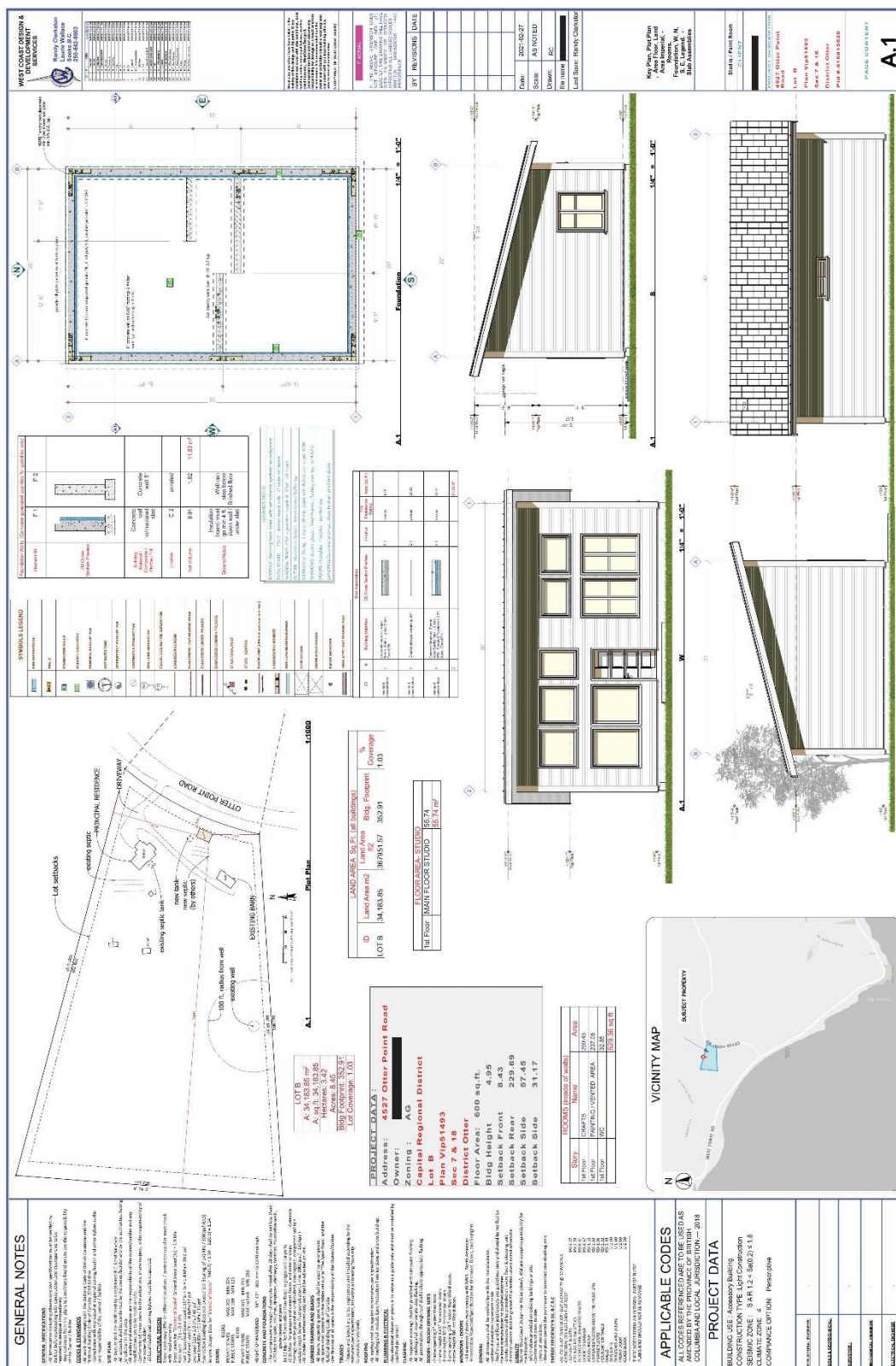


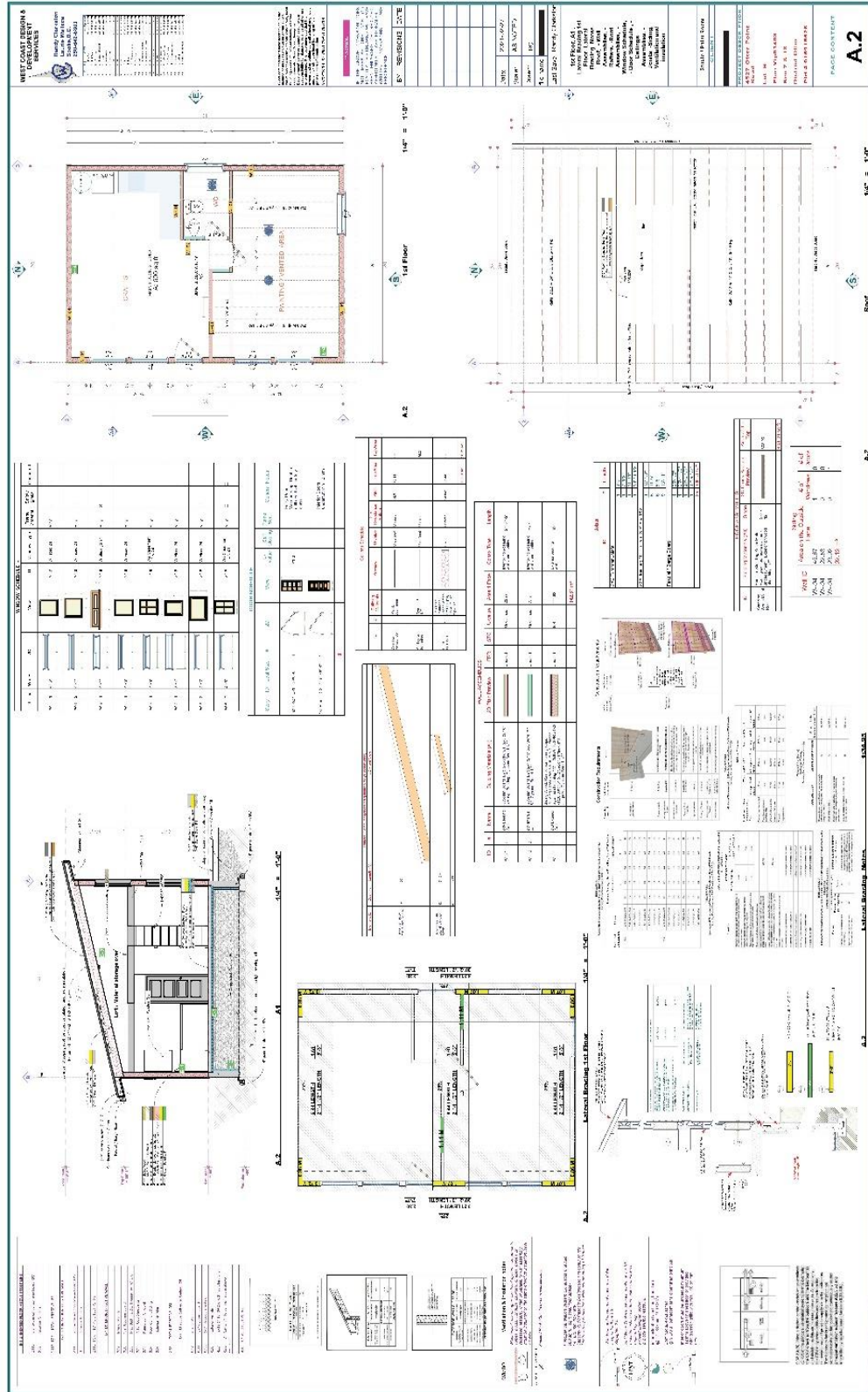


Appendix B: Site Plan



## Appendix C: Building Plans and Elevations





**B.C. LAND SURVEYOR'S CERTIFICATE OF  
LOCATION OF NEW FOUNDATION ON**

LOT B, SECTIONS 7 & 18,  
OTTER DISTRICT, PLAN VIP51493.  
PID:016-915-526

I have examined the new foundation shown and hereby certify that the said structure is situate with respect to nearby boundaries as shown. This document is prepared for building inspection or mortgage purposes only and is for the exclusive use of our client. This document shall not be valid unless originally signed and sealed. This document shall not be used to define property lines or property corners. Unregistered interests have not been included or considered.

Jason Kozina  
H88DFU

Jason C. Kozina, BCLS  
pex Land Surveying Ltd.

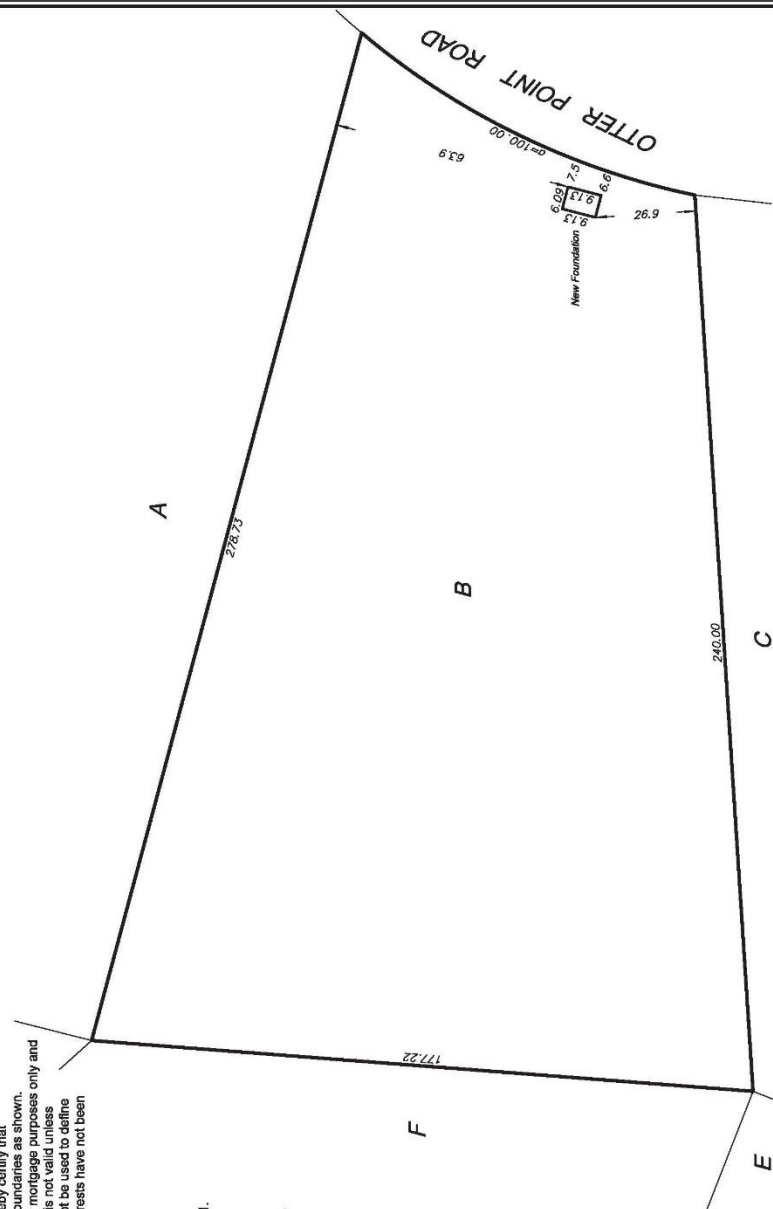
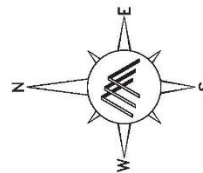
© 2021 Apex Land Surveying Ltd.  
dated this 29th day of September, 2021.

Field survey dated this 29th day of September, 2021.

Scale 1:1000. All distances are in metres.

**NOTE:**

**NOTE:**  
A comprehensive legal survey may reveal offsets to boundaries that differ from those shown.  
The parcel is subject to charges:  
- Covenants ED121781 & ED121782  
- Statutory Building Scheme ED121780



**Summit Land Surveying**  
 Operated by Apex Land Surveying Ltd.  
 #101-630 Goldstream Avenue  
 Victoria B.C. V9B 2W8  
 Telephone 250.391.6708  
[www.summitlandsurveying.ca](http://www.summitlandsurveying.ca)

File

Appendix E: Hardship Letter from Applicant

**Regina Robinson**

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**Subject:** FW: Board of Variance Application - BV000485 (4527 Otter Point)

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**From:** [REDACTED]  
**Sent:** Tuesday, October 05, 2021 5:09 PM  
**To:** Regina Robinson <rrobinson@crd.bc.ca>  
**Subject:** Re: Board of Variance Application - BV000485 (4527 Otter Point)

We have lived on this property for nearly 30 years and have expanded our farming operation over the last few years to include produce, sheep, pigs, horses, laying chickens and meat bird chickens. We also decided to put in a small studio and in order to protect our farming land, we chose the one, very rocky, unused portion of our property as the building site. Once the septic field was put in, it seemed to squeeze the site even tighter but we were convinced that the 8.43 meter setback would do the job. Formers came in and formed up the foundation and the inspector passed the forms and said we could pour concrete but that he needed to ensure the siting was correct before we could start framing.. We poured the foundation and commissioned Summit Survey to come and do a site survey. I was shocked that it didn't meet the setback requirement but in retrospect I shouldn't have been shocked. The site survey should have been done before the forms were built. I know that now. But now we are faced with losing all of the current investment, which for us is substantial. We are not developers but simply a retired couple trying to be farmers. Apart from the setback measuring error on my part, the site we chose is excellent because it is not visible from the road and it does not encroach in any way on our farming operation. Thanks for considering our request for a variance.

[REDACTED]