

JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Monday, **May 16, 2022, at 6:00 pm**

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

AGENDA

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of March 16, 2022
4. Planner's Report
5. Application
 - a) BV000488 - Lot 1, Section 110, Sooke District, Plan 24649 (1292 Covina Drive)
6. Adjournment

PLEASE NOTE: During the COVID-19 situation, the public may attend the meeting in-person or electronically through video or teleconference. Should you wish to attend the meeting in-person, please contact the Juan de Fuca Community Planning Office at 250.642.8100. Should you wish to attend electronically, please contact us by email at jdfinfo@crd.bc.ca so that staff may forward meeting details. Written submissions continue to be accepted until 4:00 pm on May 13, 2022.



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**Minutes of a Meeting of the Juan de Fuca Board of Variance
Held Wednesday, March 16, 2022, at the Juan de Fuca Local Area Services Building,
#3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Paul Clarkston (Chair), Brad Fitchett
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services (EP)
Regina Robinson, Planning Assistant; Wendy Miller, Recorder
ABSENT: Axel Joosting
PUBLIC: 1

EP – Electronic Participation

The meeting was called to order at 6:04 pm.

1. Election of Chair

Iain Lawrence called for nominations for the position of Chair of the Juan de Fuca Board of Variance (BOV) for 2022 and Paul Clarkston's name was put forward. Iain Lawrence called two additional times for further nominations and, as there was none, Paul Clarkston was acclaimed Chair.

In accordance with the BOV's bylaw, an Acting Chair will be determined at such time that the Chair is unable to attend a meeting.

2. Approval of the Agenda

MOVED by Brad Fitchett, **SECONDED** by Paul Clarkston that the agenda be approved.

CARRIED

3. Approval of the Supplementary Agenda

MOVED by Paul Clarkston, **SECONDED** by Brad Fitchett that the supplementary agenda be approved.

CARRIED

4. Adoption of the Minutes of November 3, 2021

MOVED by Brad Fitchett, **SECONDED** by Paul Clarkson that the minutes of November 3, 2021, be adopted.

CARRIED

5. Planner's Report

No report.

6. Application

a) BV000487 - Lot D, Sections 7, 8, and 18, Otter District, Plan 49471 (4684/4686 Otter Point Place)

Regina Robinson outlined the staff report and advised that the applicant is requesting a variance to increase the maximum floor area permitted for secondary suites from 90 m² to 130 m², on Lot D, Sections 7, 8, and 18, Otter District, Plan 49471, to permit the conversion of an existing two-family dwelling into a single family dwelling with secondary suite.

Regina Robinson highlighted the subject property and proposed site plan. Regina Robinson directed attention to the applicant's hardship statement as included in the staff report and confirmed the two-family dwelling use and siting was incorrectly approved under the Rural A zone instead of the Agricultural zone when the structure was granted occupancy in 2000.

The applicant stated that:

- the two-family dwelling was never intended to be registered as a duplex
- at the time of construction, there was no limit on the size of the secondary suite
- it would be a hardship to reduce the size of the duplex to meet the current size requirement for a secondary suite
- conversion to a single family dwelling with secondary suite would permit a separate dwelling for his son and daughter-in-law
- help is now required from family members to allow the farm to continue

Regina Robinson addressed the comments received in the supplementary submission advising that the *Agricultural Land Reserve Regulation* was updated at the beginning of 2022 to allow for a second residence in addition to a secondary suite in the principal residence. The second residence and secondary suite do not require approvals from the Agricultural Land Commission (ALC). The application was referred to the ALC and they had no objections to the density proposed on this parcel. The floor area of the suite should be confirmed prior to the issuance of the change in use permit by the Building Division for the secondary suite.

Iain Lawrence responded to a question from the BOV confirming that the BC Building Code was recently updated to eliminate the size requirements for a secondary suite; the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, continues to regulate the floor area of a secondary suite.

MOVED by Brad Fitchett, **SECONDED** by Paul Clarkson 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 4.19(1)(d) of Bylaw No. 2040 was complied with, application BV000487, requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary Part 1, Section 4.19(1)(d) of Bylaw No. 2040, by increasing the maximum floor area permitted for secondary suites from 90 m² to 130 m², on Lot D, Sections 7, 8, and 18, Otter District, Plan 49471, to permit the conversion of an existing two-family dwelling into a single family dwelling with secondary suite is approved subject to the internal floor area of the suite being confirmed by survey prior to the issuance of a building permit for the additional dwelling.

CARRIED

7. Adjournment

The meeting was adjourned at 6:20 pm.

P. Clarkston, Chair

**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF MAY 16, 2022**

File No: BV000488
Location: 1292 Covina Drive
Legal: Lot 1, Section 110, Sooke District, Plan 24649
Zoning: Agricultural (AG) – JdF Land Use Bylaw No. 2040
Land Use Designation: Settlement (S) – East Sooke OCP Bylaw No. 4000
Adjacent Uses: N – Sooke Basin S – AG zoned parcel
W – AG zoned parcel E – Covina Drive

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 front yard setback requirements for “all other permitted uses and buildings” in the AG zone for the purpose of converting an accessory building to a single-family dwelling.

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 0.36 ha property, located at 1292 Covina Drive, is zoned Agricultural (AG) under the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A), but is not in the Agricultural Land Reserve (ALR). A portion of the property is designated as a Shoreline Protection Development Permit Area in the East Sooke Official Community Plan, Bylaw No. 4000, and an unmapped watercourse bisects the parcel. The 30 m strip on either side of the stream is designated as a Riparian Assessment Area as per the definition in the *Riparian Areas Protection Regulations (RAPR)*.

In 1971, Building Permit #1674 was issued for construction of a two-storey single-family dwelling with a ~60 m² building footprint. Records indicate that the building was finished and occupied in 1972, but that no final inspection was completed. A site survey dated March 14, 2022, confirmed that the dwelling no longer exists, but that there are two smaller accessory structures consisting of a 21.62 m² shed, a 37.09 m² covered area/carport, and a container (Appendix B). Building Inspection records indicate that neither a demolition permit to remove the dwelling, nor building permit applications for the accessory structures on the parcel were ever submitted.

Variance Request:

The owners have requested a variance to reduce the front yard setback from 7.5 m to 1.7 m to convert the accessory structure labelled as the “covered area” on the survey site plan to a single-family dwelling (Appendices C and D). Requirements to convert the existing structure to a dwelling will be verified through the Building Permit process. Since the parcel is approximately 28 m deep, compliance with the standard front and rear yard setbacks would leave a building envelope dimension of approximately 10 m (Appendix E). Therefore, if conversion is not possible, the owners have requested that any new foundation required for the dwelling be sited in the same location. The owners’ statement of hardship indicating the rationale for the requested variance is attached as Appendix F.

The owners have applied to the Ministry of Transportation and Infrastructure (MoTI) for a setback permit since the accessory building is proposed to be located within 4.5 m of Covina Place. MoTI reviews the permit application for safety concerns, planned road improvements and transportation objectives. Any future interests in the right-of-way by the CRD for public access to the foreshore are not anticipated to be affected by the reduced setback as the dwelling would be physically separated from access by a row of large, mature trees located within the right-of-way.

Staff are of the opinion that the proposal is considered appropriate for the site and complies with the other requirements of the AG zone, including allowable lot coverage. Given the narrow configuration of the lot and presence of the watercourse, there are limited choices for the siting of a dwelling. The development is not expected to adversely affect the natural environment since it is located to avoid any development permit areas and mature trees. Granting of the variance is not anticipated to negatively impact 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 May 16, 2022, Board of Variance hearing. If the Board of Variance finds that not granting the variance would result in undue hardship and finds that the variance meets the considerations of Section 542(1)(c) of the LGA, the Board may order that a minor variance from the requirements of the bylaw be permitted.

OUTLINE MOTION

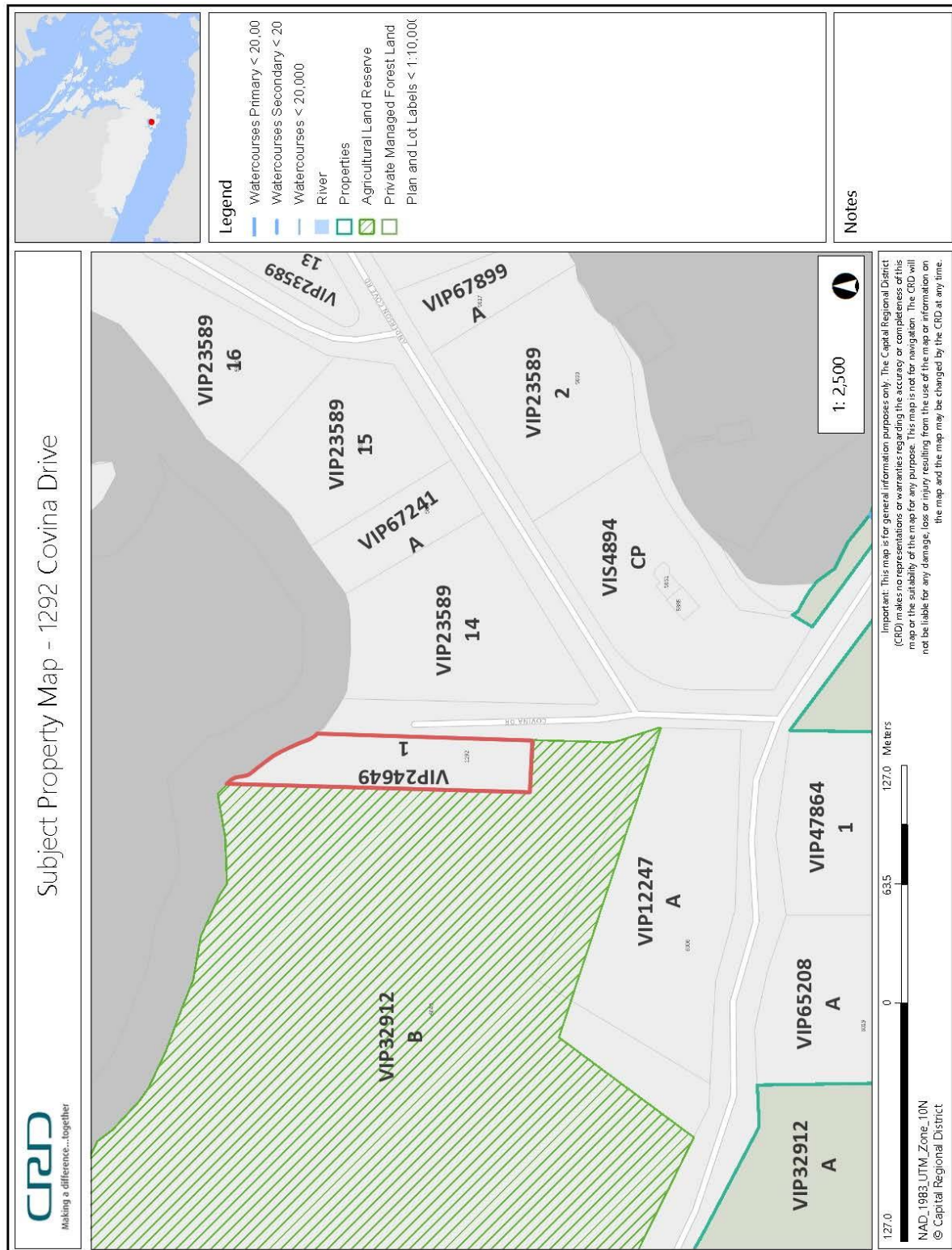
Having considered the matters set out in Section 542(1) of the *Local Government Act*, and having found that undue hardship <**would/would not**> be caused to the applicant if Bylaw No. 2040 were complied with, the Board of Variance hereby orders that a minor variance to Bylaw No. 2040, Part 2, Section 4.10(a), by reducing the required front yard setback for a single-family dwelling from 7.5 m to 1.7 m on Lot 1, Section 110, Sooke District, Plan 24649, be <**permitted/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

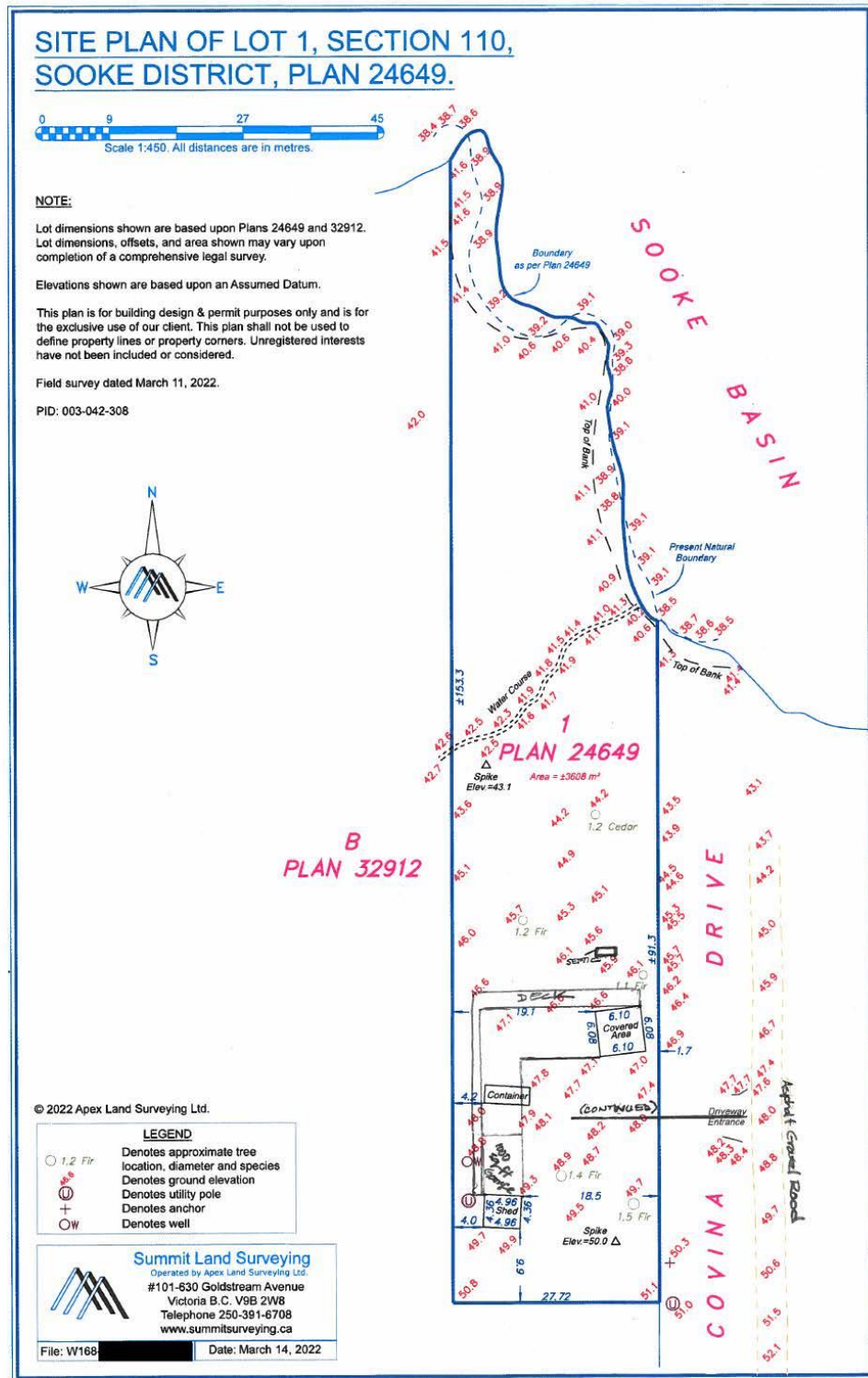
ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Site Plan Survey
Appendix C: Building Concept Plans
Appendix D: Proposed Site Plan including Front Yard Variance Request
Appendix E: Building Envelope
Appendix F: Hardship Statement from Applicant

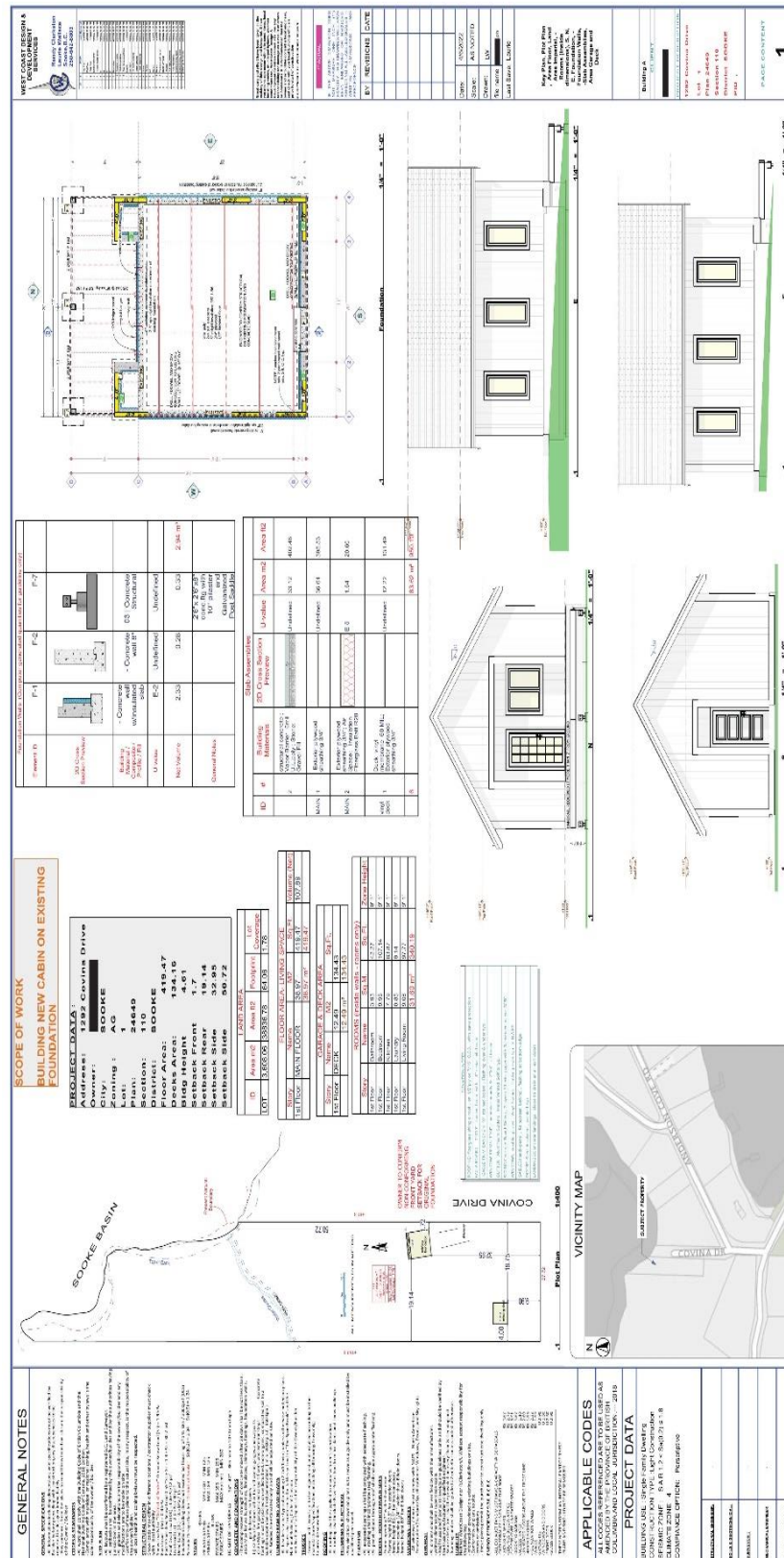
Appendix A: Subject Property Map

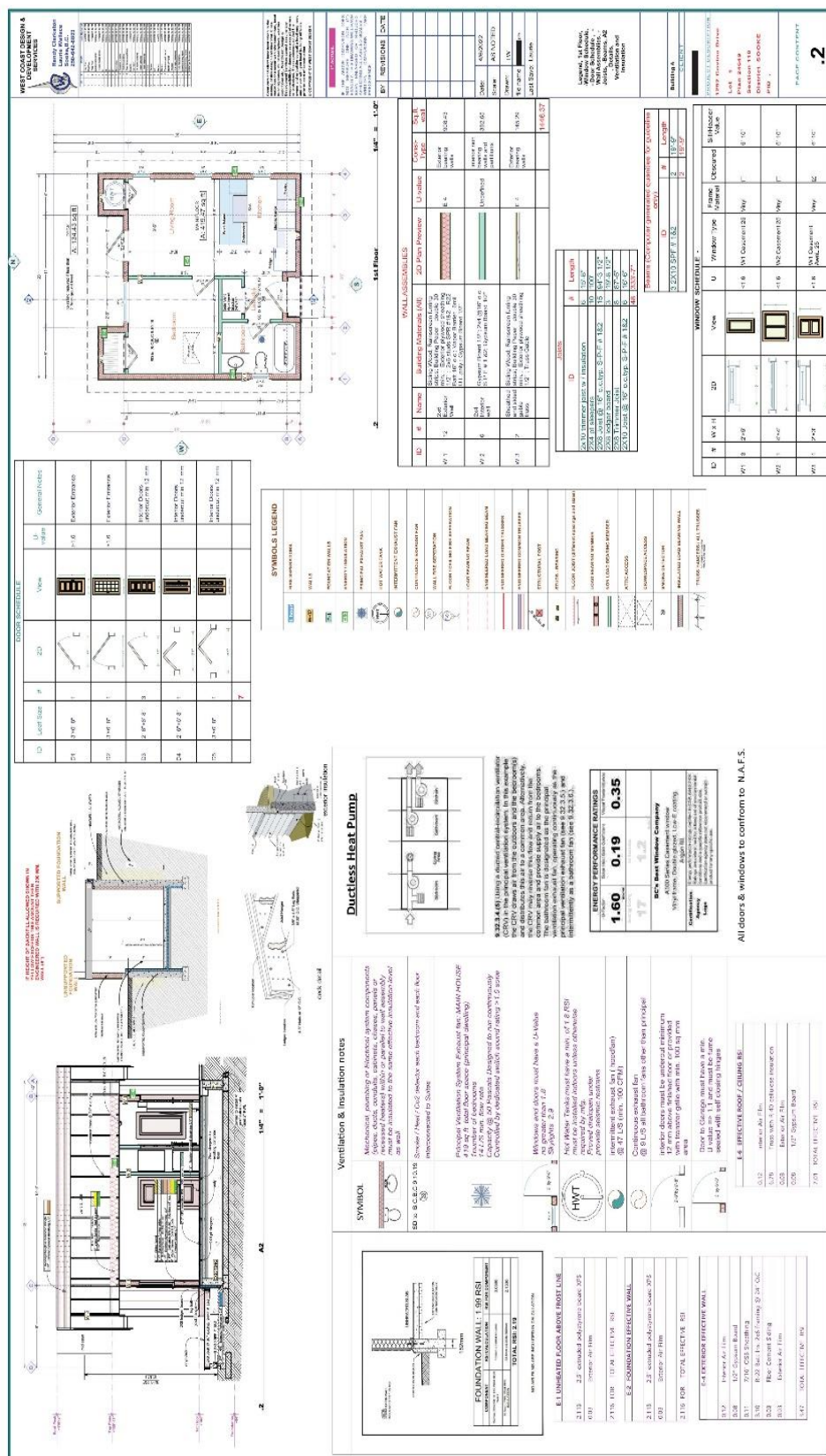


Appendix B: Site Plan Survey

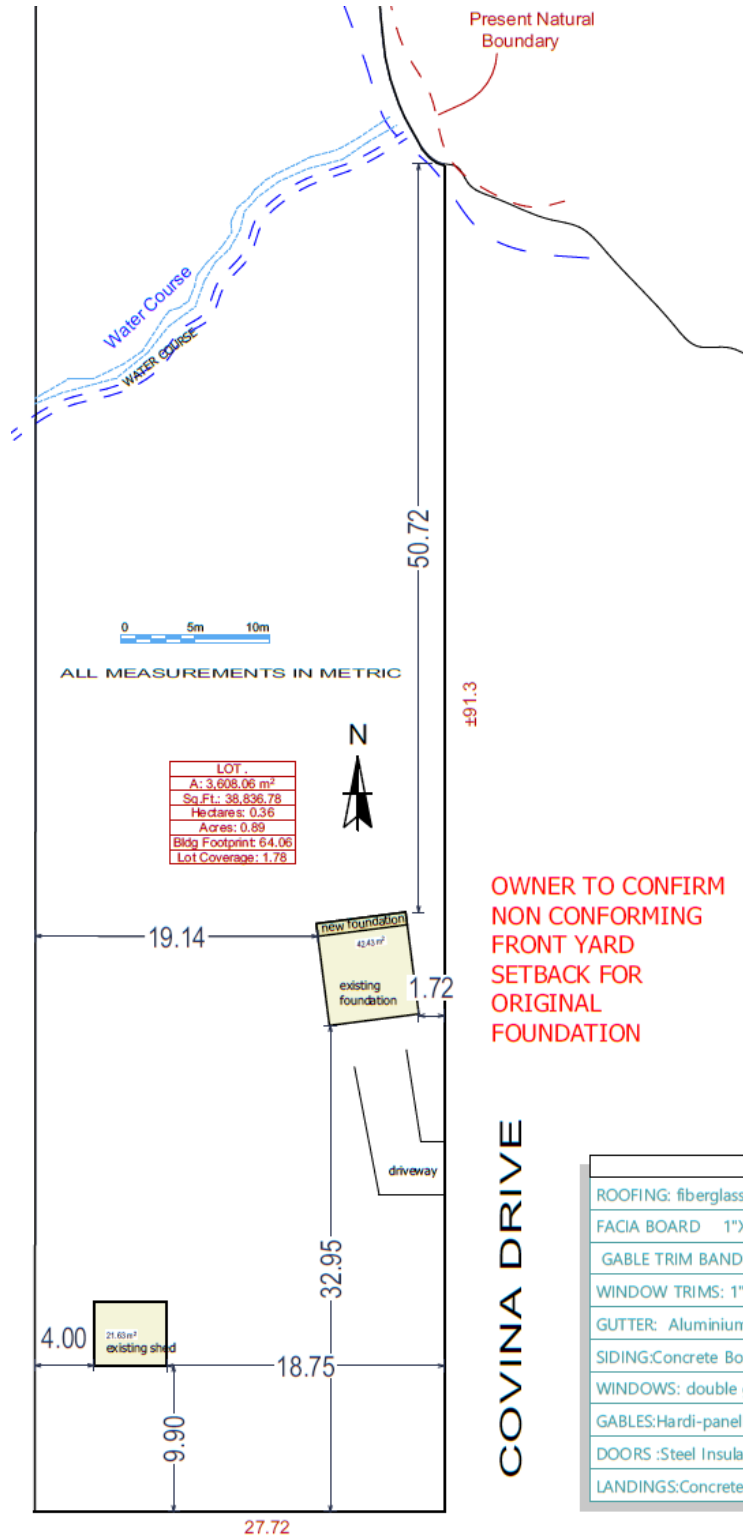


Appendix C: Building Plans



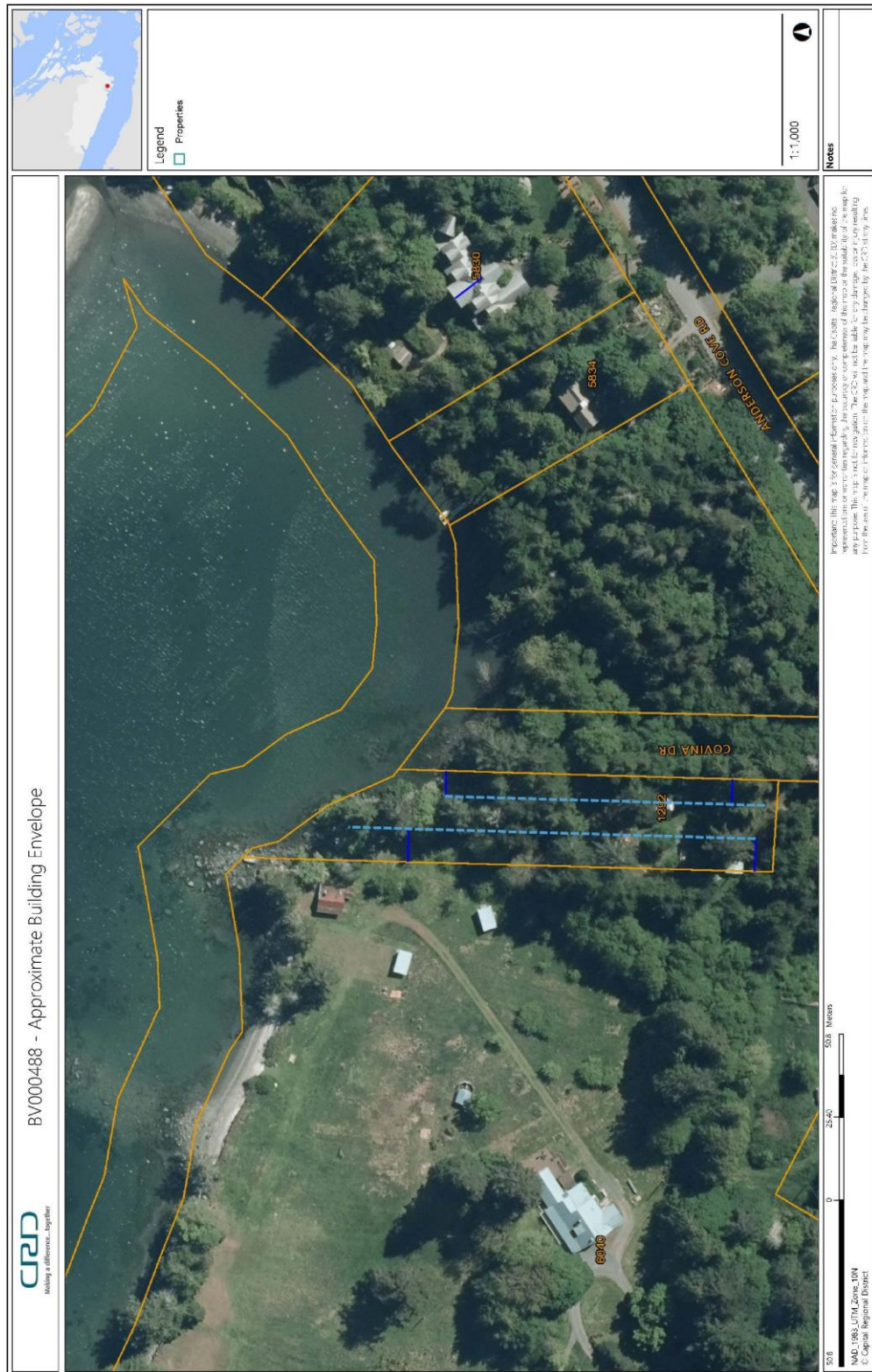


Appendix D: Proposed Site Plan including Front Yard Variance Request



1 Plot Plan 1:400

Appendix E: Building Envelope



Appendix F: Hardship Letter from Applicant

Statement of Hardship

██████████
1292 Covina Drive
Sooke, BC, V9Z 0Z7
(Owner as of April 29, 2022, 5pm)

March 22, 2022
CRD Variance Request
3-7450 Butler Road, Sooke, BC, V9Z 1N1

To Whom it May Concern,

I am writing this letter to ask for assistance, as our young family, with 3 kids needs a feasible place to live, with plans to build over the current footprint of the existing carport structure, retaining the frame/trusses/concrete foundation, for a small cottage dwelling. This maintains a cottage-like structure and quaint concept on the property, retaining the existing front/side/rear yards. We are short of the required front setback and hope to frame in current carport (existing structure). This is very important to our family, whom needs a place to live and it is only feasible with turning the carport into a small cottage dwelling. We had hoped to use existing structures when we purchased the lot, as the financial costs of building a separate structure would pose a considerable additional burden for our young family. We love East Sooke so much and want to be thoughtful about using existing spaces and protecting the land and environment. The current configuration of the parcel and the current setbacks do not allow for the proposed build, only allowing a long, thin, skinny, rectangle house build permitted, with only one end side of the rectangle facing the water. We wish to have rooms facing the ocean for our family.

The existing structures, shed and carport are legal, non-confirming, as there were different setbacks in 1971, i.e. none and this would provide our family a hardship with the inability to frame in carport to a small cottage dwelling. There are currently minimal neighbours, with next to Covina Dr. as bare land & the Search and Rescue training base, so this proposal will not substantially alter the use and enjoyment of land. No further environmental impacts (proposal is outside of the watercourse and marine shoreline development permit areas) with development of framing in carport and mature trees will be retained. Our future plans include turning this cottage into a secondary suite or home counselling office, with AG zoning allowing for our family home in years to come. We hope to add onto our dream home within a few years, see attached proposed overall building plan (note rear setback request) as our children get older and need more room. Finally, we hope to add a therapy farm for Indigenous and non-Indigenous children, youth, and families, within the current footprint and no further environmental impacts. We envision a family home, as well as a place for therapy, education, healing, and hope and reconciliation with Indigenous peoples. We really hope this gets passed and thank you in advance for your consideration of our dream.

Thank you,
Kindly.