



Committee Report

Date of Report: September 7, 2022
Date & Type of Meeting: September 21, 2022, Rural Affairs Committee
Author: Zachari Giacomazzo, Planner
Subject: DEVELOPMENT VARIANCE PERMIT
File: V2208J - Clasby
Electoral Area/Municipality J

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider a Development Variance Permit in Electoral Area 'J'. The variance would authorize the applicant to construct an accessory building in the Ootischenia Suburban Residential (R1A) zone 1.2 metres from an interior lot line whereas the Zoning Bylaw requires a 2.5 metre setback. Staff recommend that the Board approve the Development Variance Permit.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owners: Scott David Maxwell and Brooke Anne McNicol Clasby

Property Location: 845 Waterloo Road, Electoral Area 'J'

Legal Description: LOT 5 DISTRICT LOT 4598 KOOTENAY DISTRICT PLAN NEP90764
(PID: 028-211-537)

Property Size: 0.2 hectare (0.49 acres)

Current Zoning: Ootischenia Suburban Residential (R1A)

Current Official Community Plan Designation: Ootischenia Suburban Residential (SR1)

SURROUNDING LAND USES

North: Ootischenia Suburban Residential (SR1)

East: Ootischenia Suburban Residential (SR1)

South: Ootischenia Suburban Residential (SR1)

West: Ootischenia Suburban Residential (SR1)

Background Information and Subject Property

The subject property is located in Electoral Area 'J' south of the City of Castlegar in Ootischenia. The property is part of survey plan NEP90764, a six lot subdivision created in 2010. The property is surrounded by the Ootischenia Suburban Residential (R1A) zone (see Figure 2).

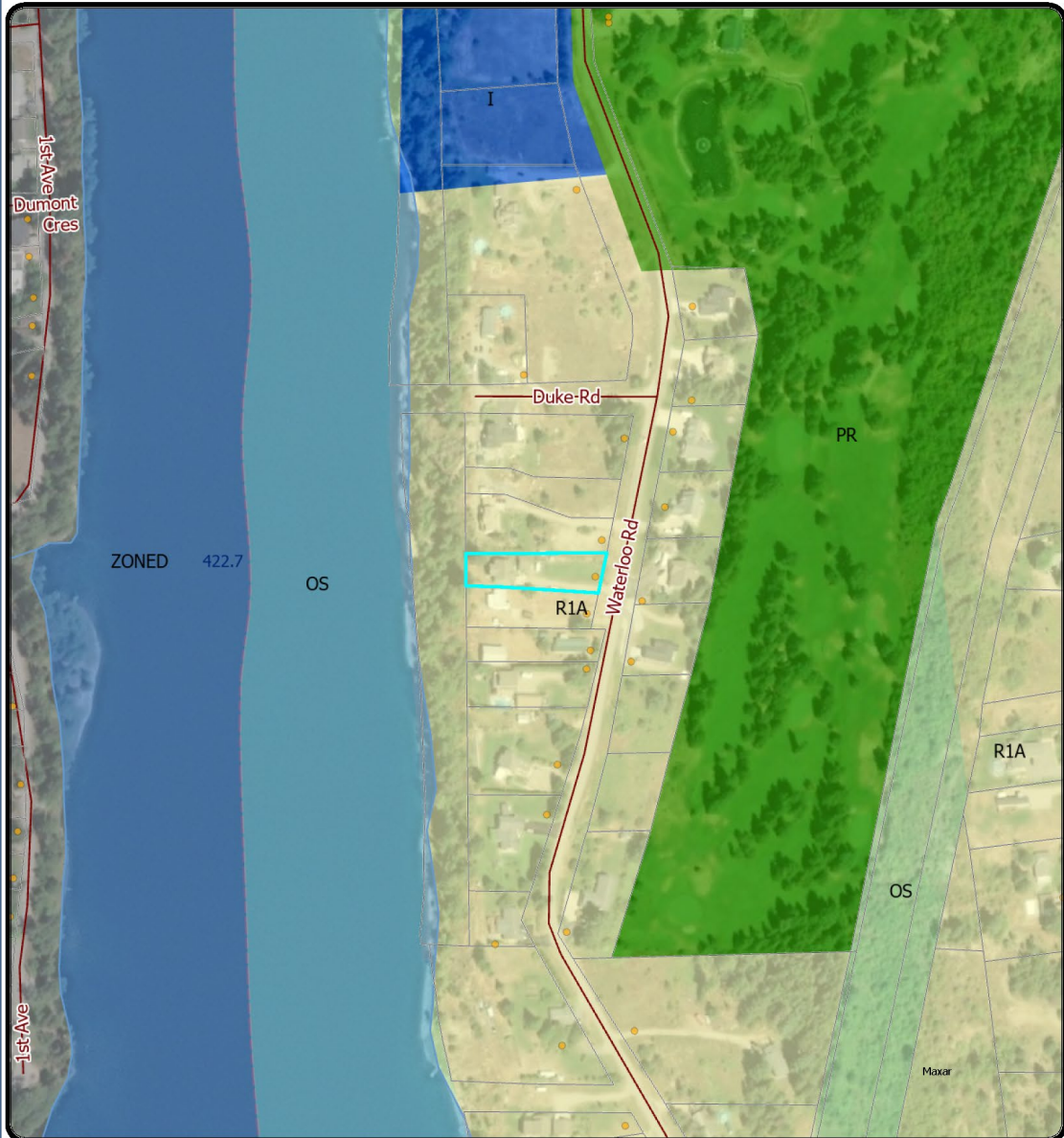
There is a septic system already installed on the property. The existing dwelling is serviced by a water connection as part of Ootischneia Improvement District (OID).

The proposal is to construct an accessory building that has a Gross Floor Area of approximately 35 square metres and a building height of approximately 4.3 metres at the highest point. The proposed accessory building complies with the maximum size and maximum height regulations in the Zoning Bylaw. The only regulation that requires a variance is the setback from the northern interior lot line. See Figure 3 for the proposed building location in the rear yard.



Figure 1: Location Map

845 Waterloo Road (V2208J) - Zoning Map



REGIONAL DISTRICT OF CENTRAL KOOTENAY
 Box 590, 202 Lakeside Drive,
 Nelson, BC V1L 5R4
 Phone: 1-800-268-7325 www.rdck.bc.ca
 maps@rdck.bc.ca

Zoning Class

- Institutional
- Open Space
- Parks and Recreation
- Residential 1
- Zoned

Legend

- Streams and Shorelines
- Flood Construction Levels - 1990
- Electoral Areas
- RDCK Roads
- Cadastre
- Civic Address

Map Scale:

1:5,000

Date: August 16, 2022



The mapping information shown are approximate representations and should only be used for reference purposes. The Regional District of Central Kootenay is not responsible for any errors or omissions on this map.

Figure 2: Zoning Map

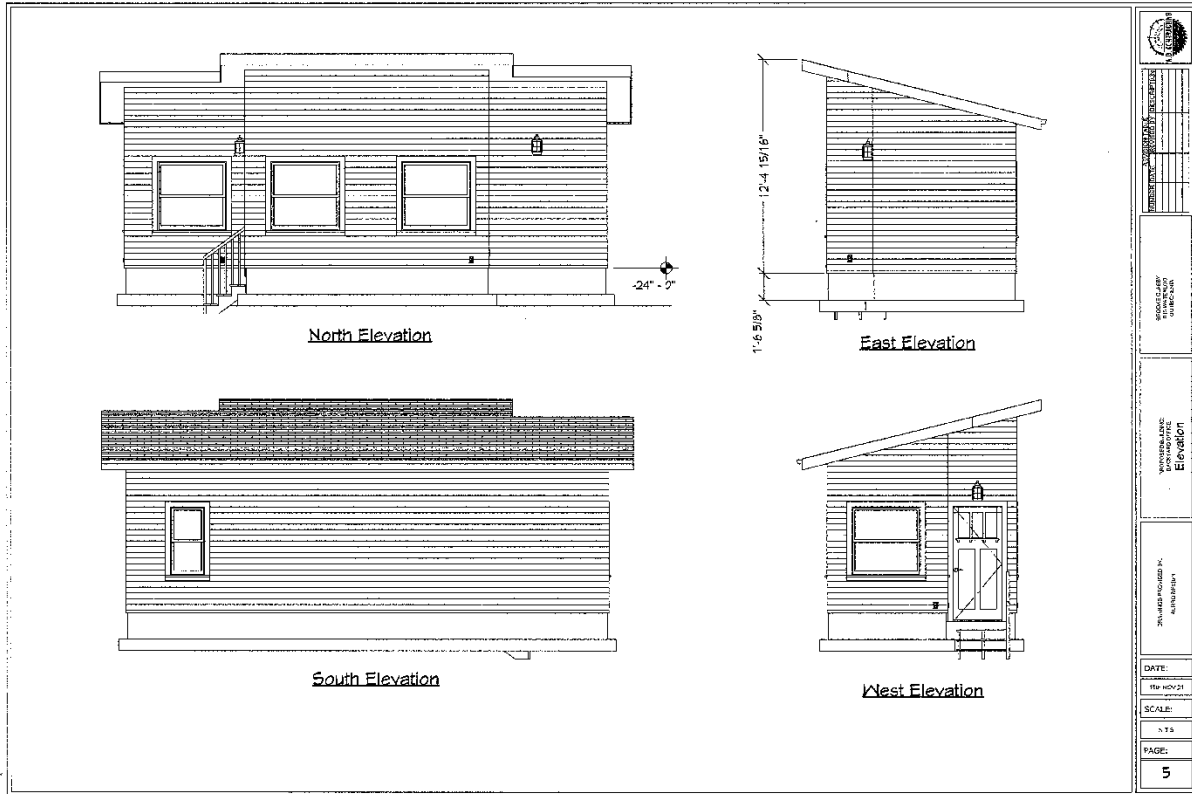


Figure 4: Proposed Building Elevations



Figure 5: Facing North West toward the building site. The wooden fence is the approximate location of the northern interior lot line.



Figure 6: Facing East towards the building site from the rear property line.

Planning Policy

Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996

Community Specific Policies

3.10.3

Ootischenia Community Specific Policies

3.10.3.1

Residential Development Policies

3.10.3.1.11

Home Based Business and Accessory Tourist Accommodation operations shall be permitted on land designated as residential on Schedule 'B' subject to the requirements of the Zoning Bylaw.

3.10.3.1.12

On land designated Ootischenia Suburban Residential as shown on Schedule ‘B’ the gross floor area of an accessory building or structure shall not exceed 150 square meters and the total gross floor area devoted to all accessory buildings and structures shall not exceed the cumulative gross floor area of all permitted dwellings.

SECTION 3: DETAILED ANALYSIS

3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: Yes No Financial Plan Amendment: Yes No
Debt Bylaw Required: Yes No Public/Gov’t Approvals Required: Yes No

The application fee has been paid in full pursuant to the Planning Fees and Procedures Bylaw No. 2457, 2015.

3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

Section 498 of the Local Government Act gives authority to vary provisions of a zoning bylaw provided that they do not affect use and density.

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

None anticipated.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

The application was referred to internal departments, other government agencies and 14 surrounding property owners. No responses were received from property owners. The following responses were received from government agencies:

Interior Health Authority – Team Leader: Healthy Community Development

Any building that is not connected to a community sewer system needs a method for getting rid of human waste. All buildings with indoor plumbing must have a sewerage system in compliance with the [BC Sewerage System Regulation](#). I’ve provided a link to the page on our public website that speaks to [Sewerage, Subdivisions & Healthier Industries | IH \(interiorhealth.ca\)](#) for the applicants reference.

If the applicant is intending for the new office to have indoor plumbing and connect it to an existing sewerage disposal system, prior to approving the application, we recommend the applicant provide proof of an Authorized Person (AP) as defined in the BC Sewerage System Regulation having performed perform a Performance Inspection on the existing sewerage dispersal system to confirm adequate performance, condition, size and location for the intended use (as per Section 7.2 of the Onsite Wastewater Certification Board Policy: APPENDIX 2, Registered Onsite Wastewater Practitioner (ROWP) Practice Guidelines). This assessment is to ensure the existing sewerage disposal system will be able to handle the flow / volume produced being connected to it, that it does not pose a health hazard/risk and that it meets the required vertical and horizontal separation distances as well as today’s Sewerage System Standard Practice Manual, Version 3 standards.

Staff Note: The above comments have been forwarded to Building Services to consider in their review of the building permit application for the proposed accessory structure.

Ministry of Forests – Habitat Biologist: Resource Management

Habitat Management’s legislated and professional responsibilities include, but are not limited to: the provincial Water Sustainability Act, the Wildlife Act, the Forest and Range Practices Act (FRPA) and the Government Actions Regulation under FRPA, as well as having provincial responsibility for the federal Species at Risk Act.

These are comments based on the information provided by the proponent in the referral package. They do not represent a comprehensive evaluation, rather some advice on what to consider for mitigation of possible negative ecosystem impacts of the proposed works. They also do not remove the obligation of the proponent to comply with ALL applicable laws and statutes.

This project should not create significant adverse environmental impacts. The proponent should be aware of, and comply with, obligations under the Species at Risk Act, BC Wildlife Act, BC Riparian Areas Protection Act (where applicable), Local Government Act or any other legislation related to the proposed works.

Fortis BC

Land Rights Comments

- *FBC(E) requests updated land rights to protect the existing infrastructure to ensure proper delivery and maintenance of the service.*

Operational & Design Comments

- *There are FortisBC Electric (FBC(E)) primary distribution facilities along Waterloo Road.*
- *All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.*
- *The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.*
- *For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.*

Ministry of Transportation and Infrastructure – District Technician

Thank you for the referral package and the opportunity to provide comments. The ministry has no concerns with the proposal.

Ootischenia Improvement District

The board has no comment.

BC Hydro – Property Coordinator

BC Hydro Properties has no comments at this time on the proposed plan.

Electoral Area ‘J’ Advisory Planning and Heritage Commission

That the Area J Advisory Planning and Heritage Commission SUPPORT the Development Variance Permit to Brooke Clasby for the property located at 845 Waterloo Road, Ootischenia and legally described as Lot 5 District Lot 4598 Kootenay District Plan NEP90764 to decrease the setback from an interior lot line from 2.5 metres to 1.2 metres to permit construction of a home office, provided that the neighbours do not have any objections to the proposal.

RDCK Building Department

The Building Department's concern of the structures proximity to a steep slope has been addressed by the report from the Geotechnical Engineer. Depending on the proximity of the roof overhang to the property line, non vented soffits may be required. The window on the back of the office will have to be moved to the side to meet spatial separation requirements and this was communicated to the owner prior to applying for the development permit. Given the current construction (non combustible Cement board siding) planned there should be no further building department issues with the structure being moved to within 1.2m of the property line.

RDCK Fire Services

No comments to add to this file.

3.7 Staffing/Departmental Workplace Considerations:

Should the Board support the requested variance, staff would issue the Permit and register a Notice of Permit on the property's Title. A Building Permit would then be required for the construction of the building.

3.8 Board Strategic Plan/Priorities Considerations:

This application falls under the operational role of Planning Services.

SECTION 4: OPTIONS

Planning Discussion

Planning staff support the issuance of this DVP since:

- The requested variance to reduce the required setback from 2.5 metres to 1.2 metres is a minor change.
- The proposal is consistent with the relevant Suburban Residential policies and objectives as well as the Ootischenia Community Specific policies in the Kootenay-Columbia Rivers Official Community Plan Bylaw No. 1157, 1996.
- Other than the requested setback variance, the proposal is consistent with all other zoning regulations in the RDCK Zoning Bylaw No. 1675, 2004.
- There has been no opposition or feedback in response to the notice of proposal sign posted on the subject property or the notice that was mailed to surrounding landowners.

Based on the above, staff recommend that the Board approve the issuance of the Development Variance Permit Application.

Option 1

That the Board APPROVE the issuance of Development Variance Permit V2208J to Scott David Maxwell and Brooke Anne McNicol Clasby for the property located at 845 Waterloo Road and legally described as LOT 5 DISTRICT LOT 4598 KOOTENAY DISTRICT PLAN NEP90764 (PID 028-211-537) to vary Section 605 (1) of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 from 2.5 metres to 1.2 metres setback from an interior lot line.

Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2208J to Scott David Maxwell and Brooke Anne McNicol Clasby for the property located at 845 Waterloo Road and legally described as LOT 5 DISTRICT LOT 4598 KOOTENAY DISTRICT PLAN NEP90764 (PID 028-211-537) to vary Section 605 (1) of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 from 2.5 metres to 1.2 metres setback from an interior lot line.

SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2208J to Scott David Maxwell and Brooke Anne McNicol Clasby for the property located at 845 Waterloo Road and legally described as LOT 5 DISTRICT LOT 4598 KOOTENAY DISTRICT PLAN NEP90764 (PID 028-211-537) to vary Section 605 (1) of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 from 2.5 metres to 1.2 metres setback from an interior lot line.

Respectfully submitted,

Zachari Giacomazzo

CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight.

General Manager Development & Sustainability – Digitally approved by Sandita Sudan.

Chief Administrative Officer – Digitally approved by Stuart Horn.

ATTACHMENTS:

Attachment A – Development Variance Permit

Attachment B – Excerpt from *RDCK Zoning Bylaw No. 1675, 2004*



Development Variance Permit

V2208J (Clasby)

Date:

Issued pursuant to Section 498 of the *Local Government Act*

TO: Brooke Anne McNicol Clasby and Scott David Maxwell

ADMINISTRATION

1. This Development Variance Permit (DVP) is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay (RDCK) applicable thereto, except as specifically varied or supplemented by this Permit.
2. The land described shall be developed strictly in accordance with the terms and conditions and provisions of this DVP, and any plans and specifications attached to this Permit that shall form a part thereof.
3. This DVP is not a Building Permit.

APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1', '2' and '3':

Address: 845 Waterloo Road, Ootischenia, Electoral Area 'J'

Legal: LOT 5 DISTRICT LOT 4598 KOOTENAY DISTRICT PLAN NEP90764

PID: 028-211-537

CONDITIONS

5. Development Variance

Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, Section 605 (1) is varied as follows:

From: Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.

To: Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 1.2 metres of any other lot line, as shown in Schedules '1', '2' and '3'.

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

Authorized resolution *[enter resolution number]* passed by the RDCK Board on the _____ day of _____, 2022.

The Corporate Seal of
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY
was hereunto affixed in the presence of:

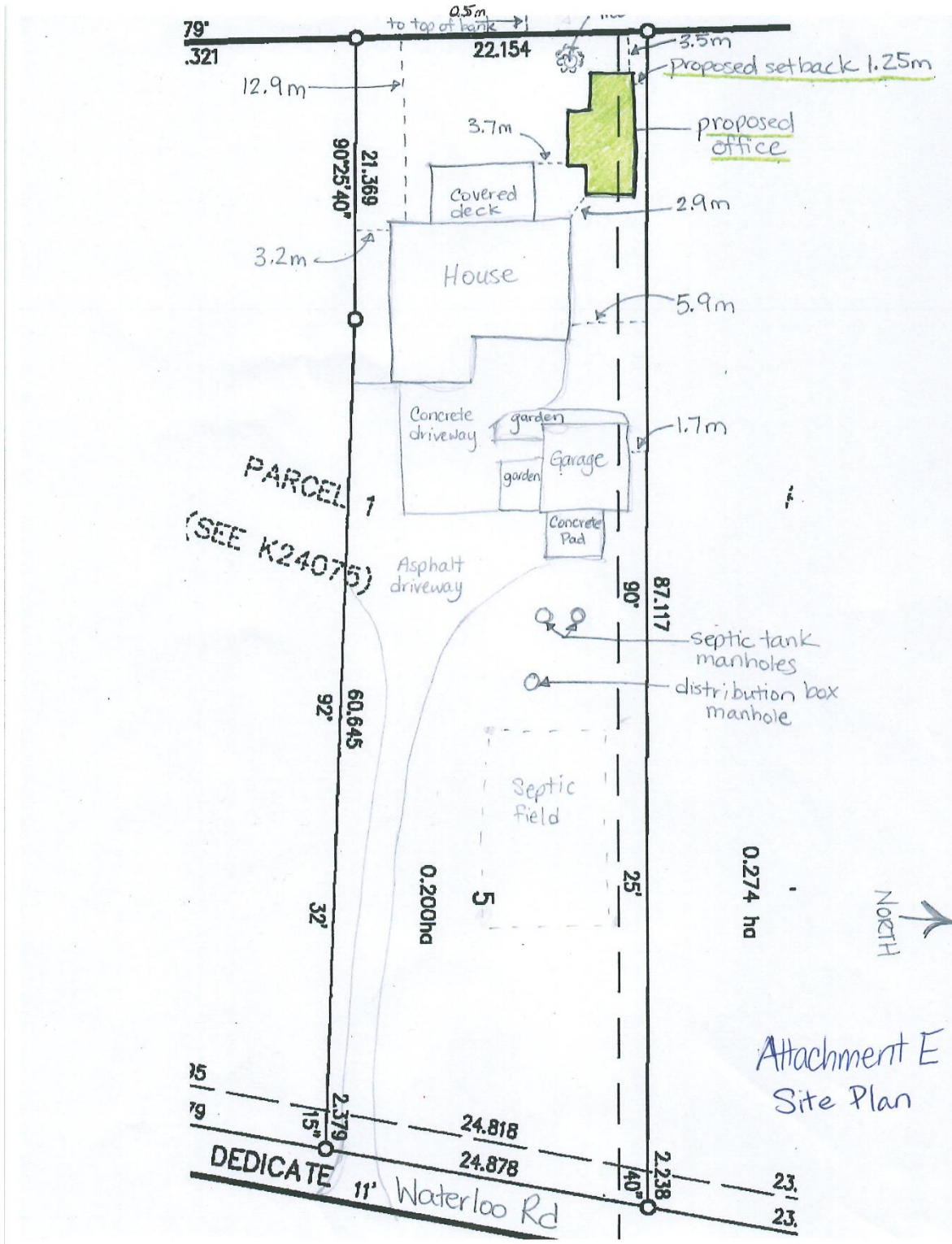
Aimee Watson, Board Chair

Mike Morrison, Corporate Officer

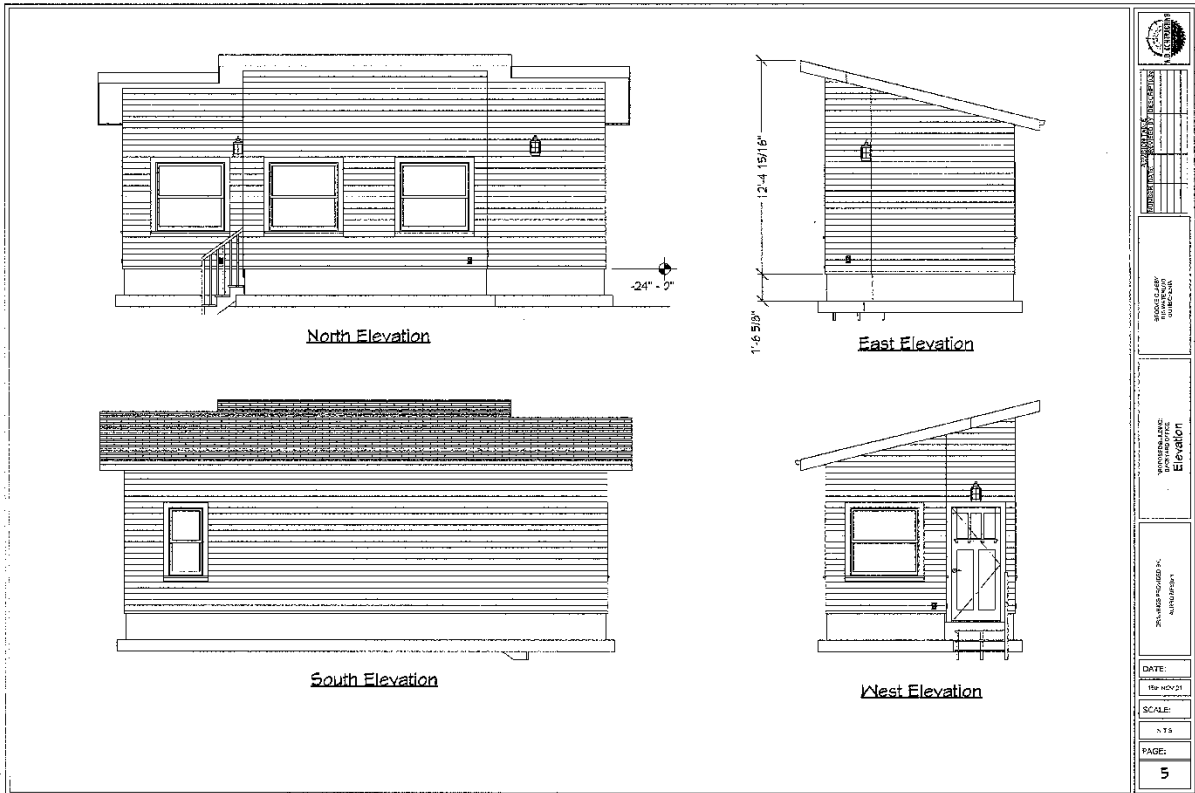
Schedule 1: Subject Property



Schedule 2: Site Plan



Schedule 3: Building Elevations



- 4 Despite Section 603(3), where a dwelling has been constructed across a legal property line prior to the adoption of this bylaw, lot lines may be adjusted so as to allow property owners to legitimize the structure as long as no lot is reduced in site area.
- 5 A reduction of the minimum lot size for a single lot for subdivision within any Agricultural zone shall be permitted subject to:
 - a. the lot being no smaller than 0.4 hectares in area;
 - b. where the lot is serviced by a community water system; and
 - c. where the remainder of the lot is consolidated with an adjacent property that has an agricultural tax assessment from the British Columbia Assessment Authority or is within the ALR or created under Section 514 of the *Local Government Act*.

Subdivision Servicing Requirements

604

- 1 All subdivisions shall comply with the provisions of the *Local Services Act* and the Subdivision Regulations thereto.
- 2 All subdivisions shall be in full compliance with any Regional District of Central Kootenay Subdivision Bylaw currently in effect for the area.
- 3 All subdivisions shall comply with the *Drinking Water Protection Act*, the *Public Health Act* and the *Environmental Management Act*.

Setback Requirements

605

- 1 Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.
- 2 Despite Section 605(1), on all lots adjacent to land zoned Agriculture, a minimum of a ten (10) metre setback shall be required from any portion of the Agricultural Land Reserve boundary.
- 3 Unless otherwise stated no portable sawmill may be located within 100 metres from a property line.
- 4 Despite Section 605(1), on all lots having a residential zone and are less than 0.2 hectares in area, the minimum setback to front or exterior lot lines shall be 4.5 metres.