



Committee Report

Date of Report: 11, 11, 2022
Date & Type of Meeting: 12, 07, 2022, Rural Affairs Committee
Author: Zachari Giacomazzo, Planner
Subject: DEVELOPMENT VARIANCE PERMIT
File: V2211F
Electoral Area/Municipality F

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 'F'. The applicant wishes to convert an existing one-family dwelling unit with a gross floor area (GFA) of 122 m² to an accessory building. A variance is being sought to exceed the maximum GFA of 100 m² allowable for accessory buildings. Staff recommend that the Board approve the Development Variance Permit.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owners: Timothy D. Jackson

Property Location: 3239 Heddle Road, Electoral Area 'F'

Legal Description: LOT 2 DISTRICT LOT 7601 KOOTENAY DISTRICT PLAN NEP87156 (PID: 027-626-199)

Property Size: 0.6 hectare (1.5 acres)

Current Zoning: Suburban Residential F (R1F)

Current Official Community Plan Designation: Suburban Residential (SR)

SURROUNDING LAND USES

North: Suburban Residential (SR)

East: Suburban Residential (SR)

South: Suburban Residential (SR)

West: Suburban Residential (SR)

Background Information and Subject Property

The subject property is located in Electoral Area 'F' approximately 9 km north-east of the City of Nelson. The property is part of a four lot subdivision created in 2008. The property is surrounded by the Suburban Residential F (R1F) zone (see Figure 2). The surrounding neighbourhood is characterized mostly by lots 0.2 ha – 0.8 ha size, improved with single family dwellings and private water and sewer servicing.

There is a septic system already installed on the property and water is supplied by a domestic well. The existing well and existing septic system will be used to service a dwelling that will be constructed in the future (not being

considered by this application) and the existing dwelling that will be decommissioned and converted to an accessory building (the structure being considered by this application). See “Figure 3 – Site Plan” for the existing building location and the proposed location of the future dwelling on the subject property.

The proposal is to convert the 122 m² existing one-family dwelling to an accessory building in order to allow the construction of a larger one-family dwelling in a different location on the subject property. A Development Variance Permit Application is required because the existing building exceeds the maximum permitted GFA (100 m²) for an individual accessory building. The existing building will comply with all other applicable zoning regulations. The only regulation that requires a variance is the maximum permitted GFA.

3239 Heddle Road (V2211F) - Location 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

Legend

-  Streams and Shorelines
-  Electoral Areas
-  RDCK Roads
-  Cadastre
-  Civic Address

Map Scale:

1:5,000

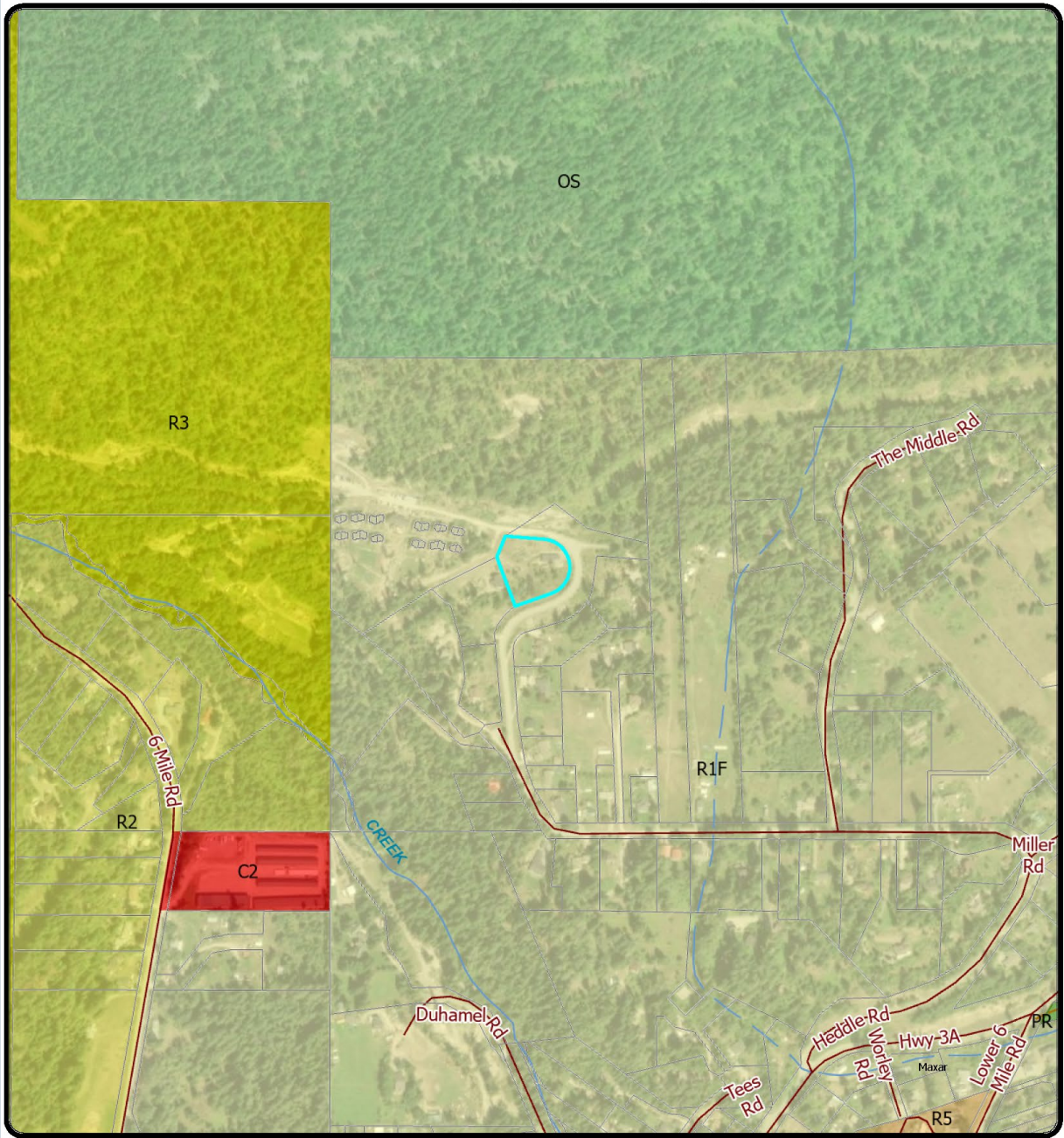


Date: October 7, 2022

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 1: Location Map

3239 Heddle Road (V2211F) - Zoning Map



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Zoning Class

- Commercial
- Open Space
- Parks and Recreation
- Residential 1
- Residential 2
- Residential 3

Legend

- Residential 5
- Parks and Rec
- Trails
- Streams and Shorelines
- Electoral Areas
- RDCK Roads
- Cadastre

Map Scale:

1:10,000

Date: October 7, 2022



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Figure 2: Zoning Map

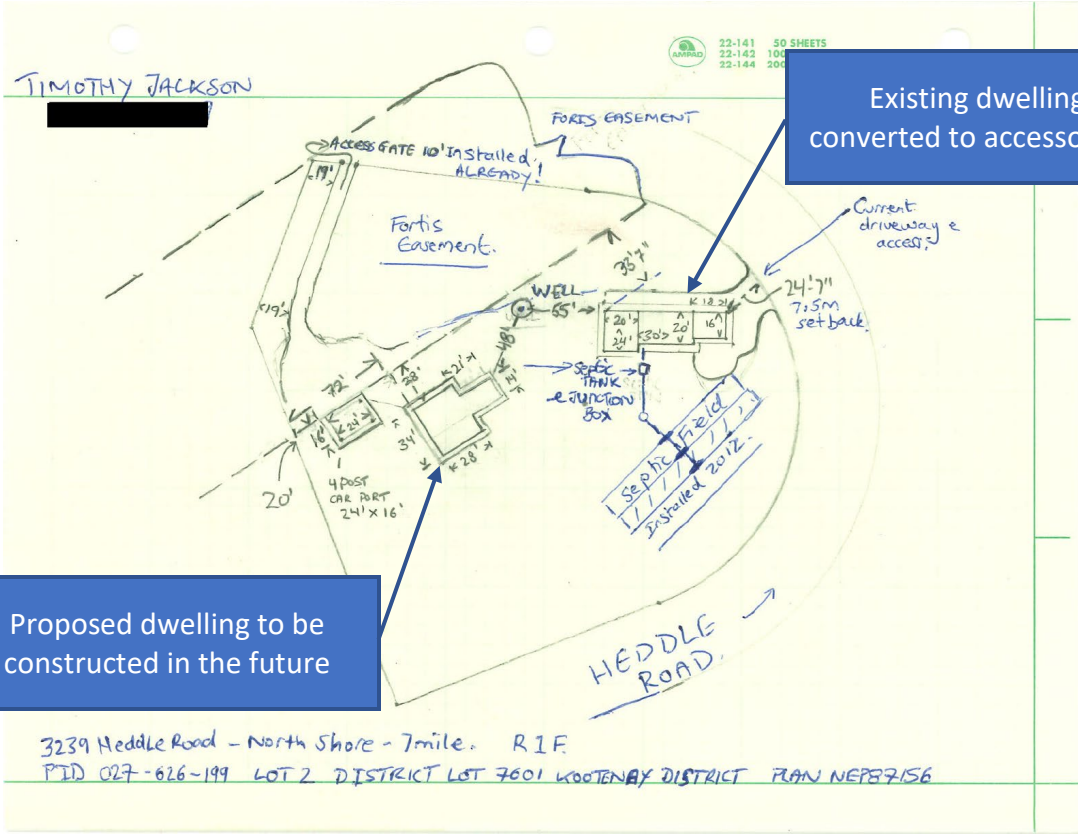


Figure 3: Site Plan

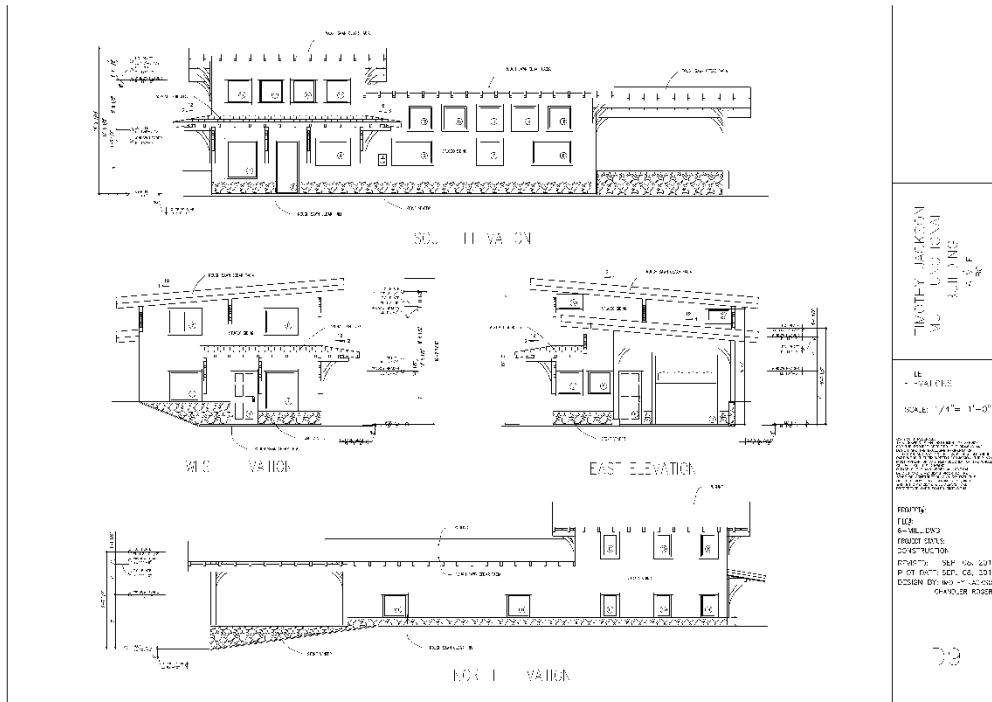


Figure 4: Existing Building Elevations



Figure 5: Facing West toward the existing building that will be converted to an accessory structure.



Figure 6: Facing North West towards the subject property from Heddle Road.

Planning Policy

Electoral Area 'F' Official Community Plan Bylaw No. 2214, 2011

There are no policies relevant to accessory structures on residential properties in the Official Community Plan.

RDCK Zoning Bylaw No. 1675, 2004

Section 901(9) of the Zoning Bylaw indicates that the maximum gross floor area of any accessory building or structure shall not exceed 100 m². The proposal to convert the existing 122 m² dwelling to an accessory building would not comply this specific requirement. This Development Variance Permit is being submitted in order to permit an existing building to function as an accessory building. The proposal meets all other applicable development regulations and no other variances are required.

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:

There was no opposition to the application. Staff conducted a site visit and noted that the dwelling on the adjacent property to the north is approximately 10 metres away from the mutual property line. Based on the foregoing, Staff expect that the overall impact of the variance on the adjacent property would be negligible.

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

Onsite Sewerage Disposal:

Based on the information provided within the referral sheet and based on the applicant's proposed intended use, the connection from the existing residence (which will become an accessory building) to the existing onsite sewerage disposal system will be severed once the new proposed residence is constructed. Prior to approving the application, we recommend the applicant provide records of the Filing and Letter of Certification for the existing sewerage disposal system, as well as 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.

Addendum:

Given the applicant intends to have sewerage wastewater from 2 buildings going into the existing onsite sewerage disposal system, and that this system has been installed and in use for approximately 10 years, we offer that it is important consideration for the assessment and performance inspection to be completed by an Authorized Person (e.g. ROWP).

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

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.

The proponent must be aware of, and comply with, obligations under the Species at Risk Act, BC Wildlife Act), Local Government Act or any other legislation related to the proposed works.

This project should not create significant adverse environmental impacts if the proponent implements measures to prevent introduction and/or reduce the spread or establishment of invasive plants on site, assesses the site and reports species at risk presence (nests, dens etc.), follows Section 34 of the Wildlife Act regarding tree removal and the migratory bird window, and adequately secures wildlife attractants.

Fortis BC

Land Rights Comments

- *There are no immediate concerns or requests for additional land rights.*

Operational & Design Comments

- *There are FortisBC Inc (Electric) (“FBC(E)”) transmission facilities crossing the north portion of the subject property. FBC(E) has some concerns regarding roads crossing the right of way and construction therein. It should be noted that proposals for any construction within the right of way, including, but not limited to, driveways, roads, water, sewer and other utilities must be reviewed and approved by FBC(E) prior to installation for safety and operational purposes. No elevation changes are permitted within all right of way areas without review and approval by FBC(E). Typically, only crossings will be permitted subject to appropriate conditions. Parallel construction within the right of way will not likely be approved. The applicant is responsible for costs related to the detailed review of their proposal in addition to any other costs which may arise or be required related to this development's potential or actual impact on the transmission corridor.*
- *To date, arrangements have not been made to initiate the review process surrounding the proposed work within the right of way area.*
- *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.*

Ministry of Transportation and Infrastructure – District Technician

Ministry of Transportation has no objections to this development variance application provided the following conditions are satisfied:

1. *The applicant shall not construct any new driveways from Heddle Road.*
2. *The applicant shall not place any permanent structure exceeding 0.6 metres within a distance of 4.5m from the property line shared with Heddle Road.*

RDCK Building Department

Should the Development Variance Permit be approved, issuing occupancy on the newly constructed dwelling will be predicated on the existing dwelling being decommissioned as a dwelling to the satisfaction of the building official. Without having visited and inspected the existing dwelling it is hard to comment on the exact requirements but typically removal of the kitchen and range wiring / gas lines would be a minimum.

RDCK Fire Department

I have no concerns about this variance.

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

Since first commencing development on this site, the property owner intended to decommission the existing dwelling and constructing a new dwelling in a different location on the subject property. The existing services, location of the existing dwelling and overall site design were all completed with this in mind, however there was an oversight related to the floor space calculation of the loft in the existing dwelling. This is why the building exceeds the maximum permitted GFA for an accessory building.

Planning staff support the issuance of this DVP since:

- Increasing the maximum permitted GFA for an accessory building from 100 m² to 122 m² shows flexibility similar to that extended to other comparable variance requests.
- The requested variance relates to an existing building, therefore staff does not have concerns related to the form and character of the building that is subject to this application.
- The proposal is consistent with all other zoning regulations within the RDCK's 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 written notice that was mailed to surrounding landowners.
- Granting this increase in floor area is more desirable than the alternatives, as detailed below:
 - attachment option – adding the new home to this existing structure would create a structure whose form and massing deviate from the established norms in the area and does not achieve the applicant's original goals for the property
 - partial demolition option – removing 22 m² of floor area from the structure is both wasteful of resources and difficult to execute without compromising functionality of the established floor areas

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 V2211F to Timothy David Jackson for the property located at 3239 Heddle Road and legally described as LOT 2 DISTRICT LOT 7601 KOOTENAY DISTRICT PLAN NEP87156 (PID: 027-626-199) to vary Section 901(9) of RDCK Zoning Bylaw No. 1675, 2004 from 100 m² to 122 m².

Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2211F to Timothy David Jackson for the property located at 3239 Heddle Road and legally described as LOT 2 DISTRICT LOT 7601 KOOTENAY DISTRICT PLAN NEP87156 (PID: 027-626-199) to vary Section 901(9) of RDCK Zoning Bylaw No. 1675, 2004 from 100 m² to 122 m².

SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2211F to Timothy David Jackson for the property located at 3239 Heddle Road and legally described as LOT 2 DISTRICT LOT 7601 KOOTENAY DISTRICT PLAN NEP87156 (PID: 027-626-199) to vary Section 901(9) of RDCK Zoning Bylaw No. 1675, 2004 from 100 m² to 122 m².

Respectfully submitted,

Zachari Giacomazzo

CONCURRENCE

Planning Manager – Digitally approved by Nelson Wight.

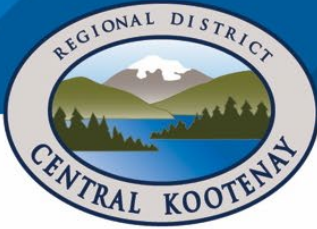
General Manager Development & Sustainability – Digitally approved by Sangita Sudan.

Chief Administrative Officer – Digitally approved by Stuart Horn.

ATTACHMENTS:

Attachment A – Development Variance Permit

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



Attachment 'A' Development Variance Permit

V2211F (Jackson)

Date: November 24, 2022

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

TO: Timothy David Jackson

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: 3239 Heddle Road, Seven Mile, Electoral Area 'F'

Legal: LOT 2 DISTRICT LOT 7601 KOOTENAY DISTRICT PLAN NEP87156

PID: 027-626-199

CONDITIONS

5. Development Variance

Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, Section 901 (9) is varied as follows:

From: The maximum gross floor area of any accessory building or structure shall not exceed 100 square metres.

To: The maximum gross floor area of any accessory building or structure shall not exceed 122 square metres, 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 8th day of December, 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

3239 Heddle Road (V2211F) - Location Map



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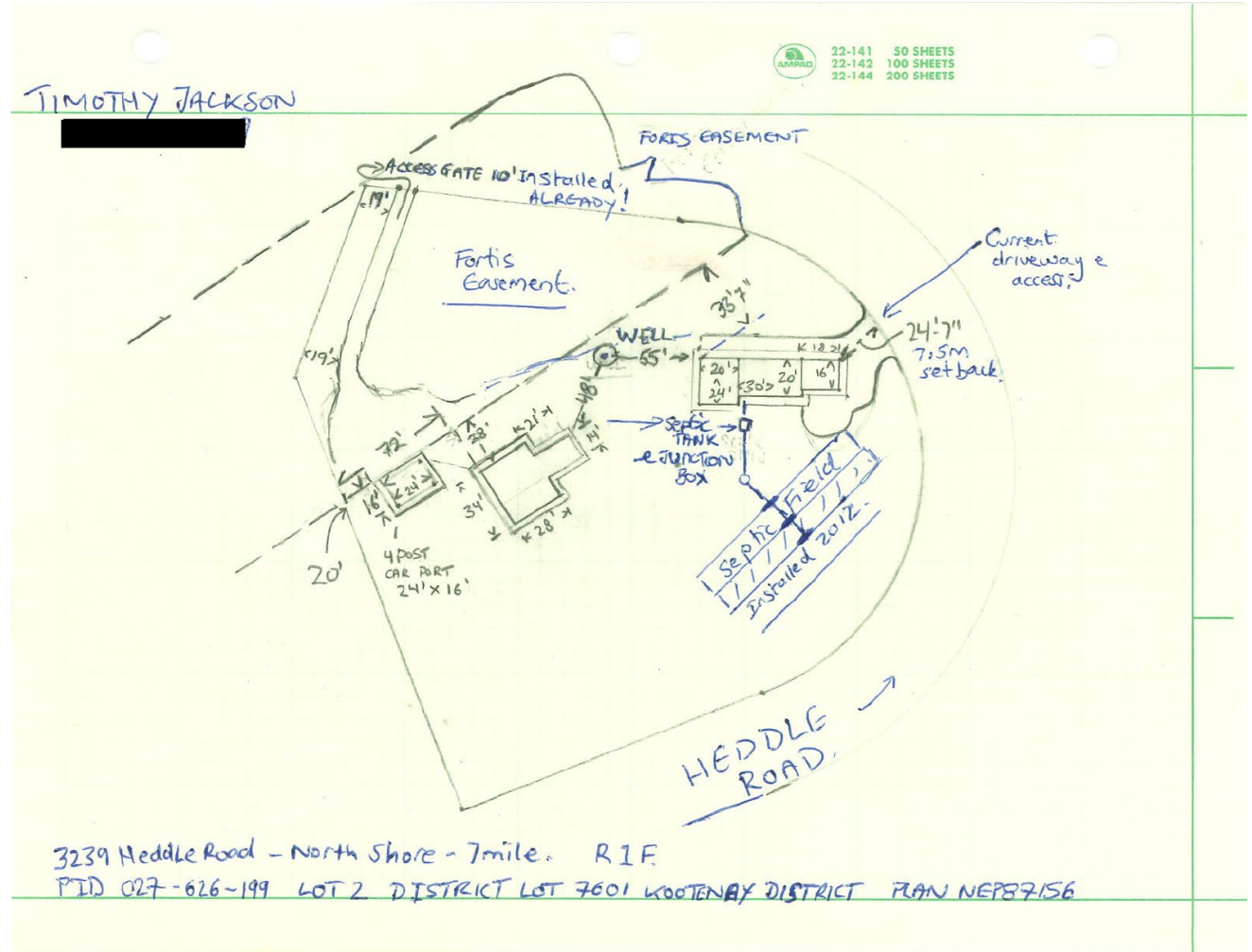
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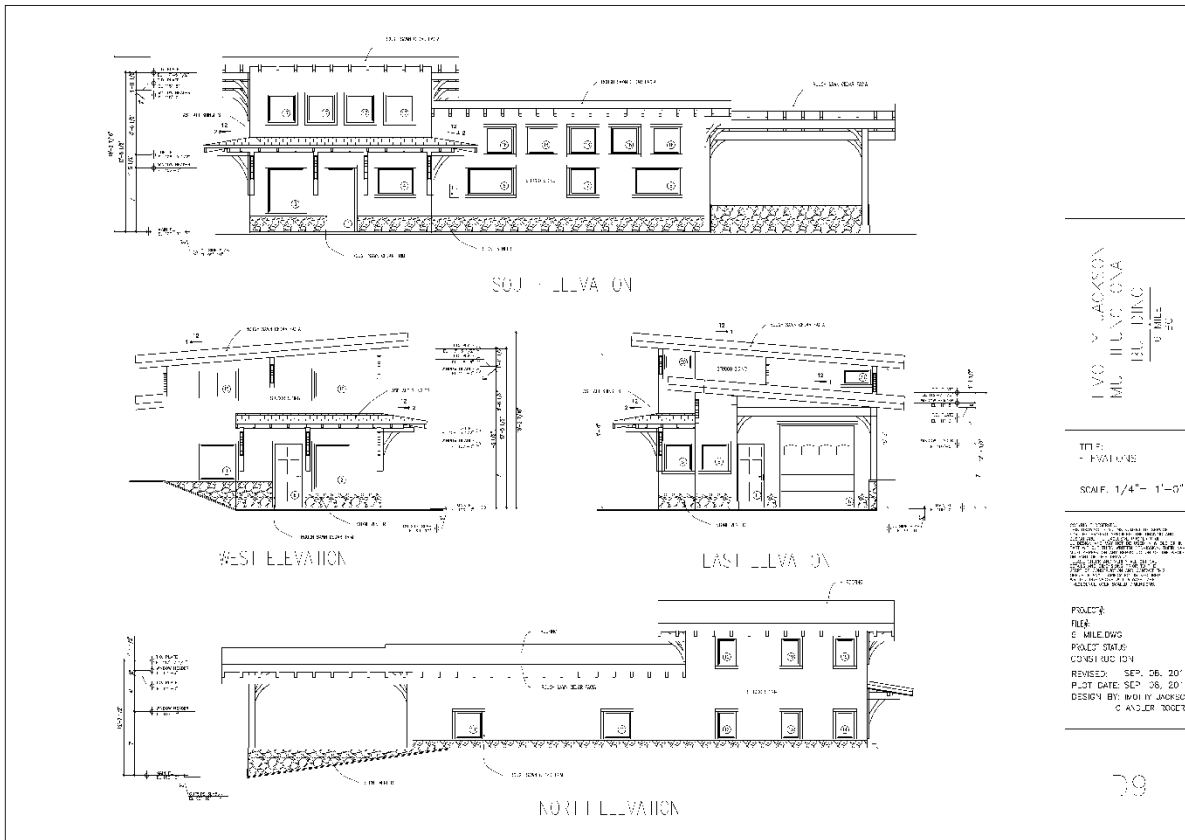


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Schedule 2: Site Plan



Schedule 3: Building Elevations



DIVISION 9 SUBURBAN RESIDENTIAL F (R1F)**Permitted Uses**

900 Land, buildings and structures in the Suburban Residential F (R1F) zone shall be used for the following purposes only:

Dwellings:

One-Family

Two-Family

Accessory Uses:

Accessory Buildings and Structures

Accessory Tourist Accommodation

Home Based Business

Horticulture

Keeping of Farm Animals

Sale of Site Grown Farm Products

Development Regulations

901

1 The minimum site area for the following uses shall be required as follows:

	Community Water Supply and Community Sewer System	Community Water Supply Only	On-Site Servicing Only
One-Family Dwelling	700 square metres	0.2 hectare	0.5 hectare
Two-Family Dwelling	1,000 square metres	0.4 hectare	0.5 hectare

2 The maximum site coverage is 50 percent of the site area.

3 Buildings and structures shall not cover more than 33 percent of the site area.

4 Subdivision of lots between 0.5 hectares to 1.0 hectares are subject to a qualified professional assessment of on-site water and sewer capacity prior to approval.

5 The keeping of farm animals shall comply with the requirements of section 613 except that under all circumstances swine shall not be kept on any lot.

6 Farm animals and poultry shall be caged, fenced or housed at all times.

7 No principal building may exceed ten (10) metres in height.

8 The maximum height of any accessory building or structure shall not exceed 6 metres.

- 9 The maximum gross floor area of any accessory building or structure shall not exceed 100 square metres.
- 10 The cumulative gross floor area of all accessory buildings or structures shall not exceed 200 square metres.
- 11 Buildings and structures in the case of a lot that may be further subdivided shall be sited so as to facilitate the further subdivision of the lot or adjacent lots.
- 12 Landscape screens or fences not exceeding a height of one (1) metre may be sited on any portion of a lot.
- 13 Fences not exceeding a height of two (2) metres may be sited to the rear of the required front lot line setback only.