



# Committee Report

**Date of Report:** April 7, 2022  
**Date & Type of Meeting:** April 20, 2022, Rural Affairs Committee Meeting  
**Author:** Stephanie Johnson, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2114J-01477.400-WHITEHEAD-DVP000220  
**Electoral Area/Municipality:** Area 'J'

## SECTION 1: EXECUTIVE SUMMARY

This report seeks the Board's consideration of a Development Variance Permit (DVP) application to increase the maximum height and gross floor area, and to reduce the interior side (eastern) setback for an accessory structure to construct a building for storage and workshop use at 3195 Upper Levels Road in Robson, Electoral Area 'J'.

An existing residence, unenclosed storage structure, driveway, and garden area currently occupy the site.

Staff recommend that the Board approve the issuance of this DVP.

## SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION	
<b>Property Owners:</b>	Martin Whitehead and Taya Whitehead
<b>Property Location:</b>	3195 Upper Levels Road, Robson
<b>Legal Description:</b>	LOT A DISTRICT LOT 301A KOOTENAY DISTRICT PLAN 14092 EXCEPT PART INCLUDED IN PLAN 16758 (PID: 009-150-251)
<b>Property Size:</b>	1.9 hectares (ha)
<b>Zoning Designation:</b>	Suburban Residential (R1)
<b>OCP Designation:</b>	Suburban Residential (SR)

ORIENTATION	ZONING	LAND USE
North	Open Space (OS)	Forested land
East	Suburban Residential (R1)	Single family residential uses
South	Suburban Residential (R1)	Single family residential uses and Upper Levels Road
West	Suburban Residential (R1)	Single family residential uses

**Site Context**

The property is bounded by suburban residential uses and Upper Levels Road to the south, suburban residential development to the west and east, and open space lands to the north. An existing residence, unenclosed storage structure, driveway, and garden area currently occupy the site.

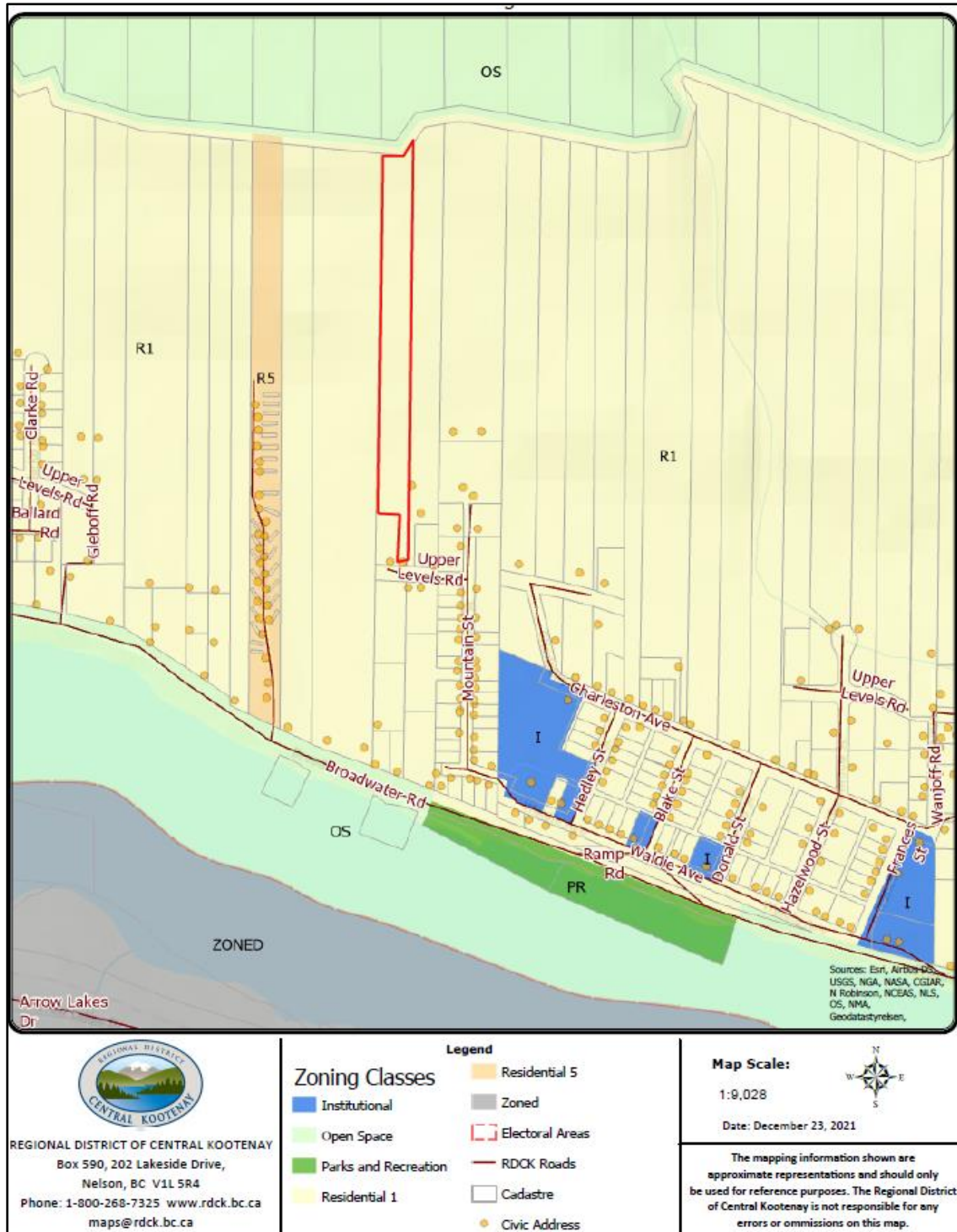
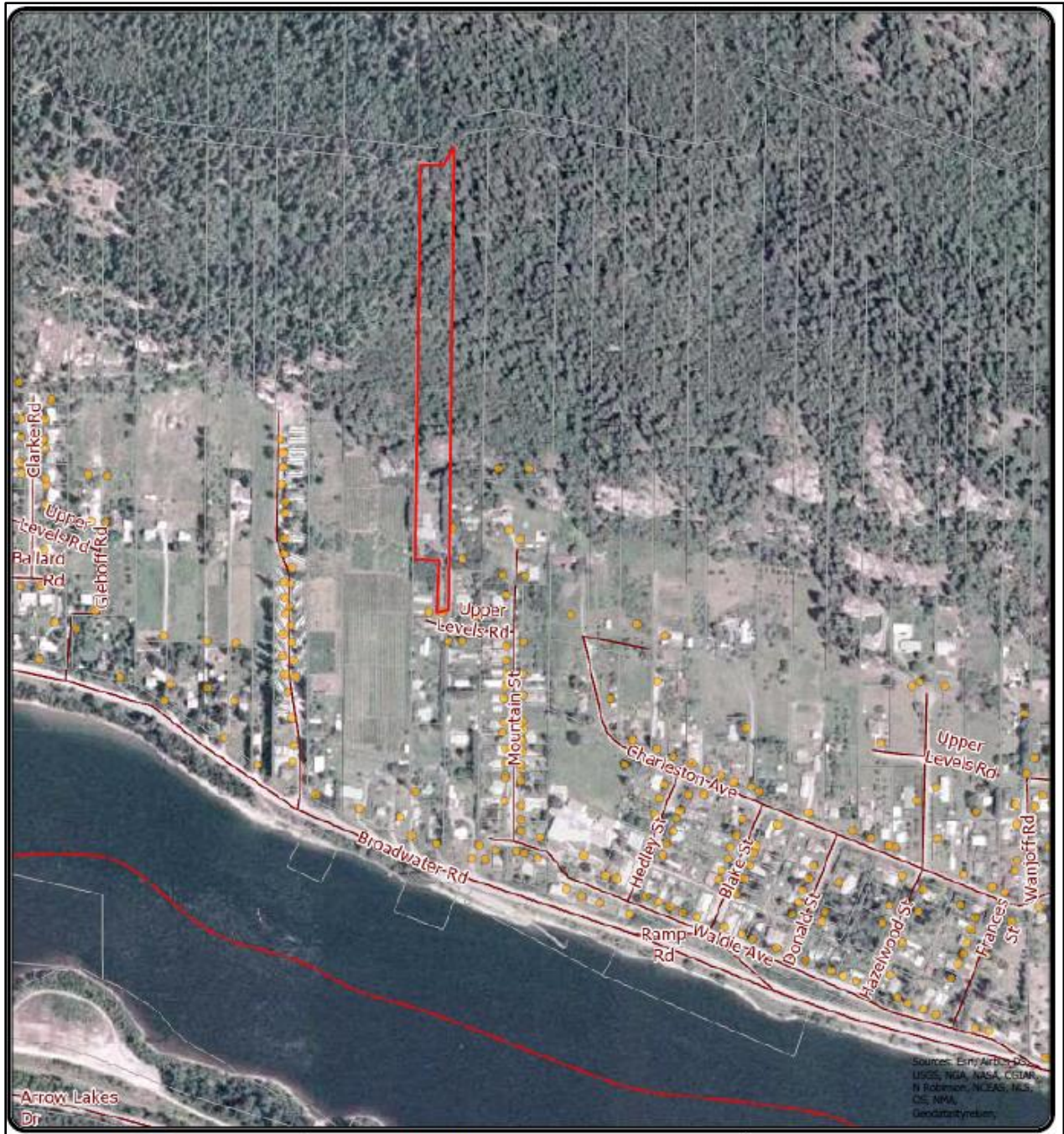



Figure 1: Zoning Overview Map



  
**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**

-  Electoral Areas
-  RDCK Roads
-  Cadastre
-  Civic Address

**Map Scale:** 1:9,028

Date: December 23, 2021


  
 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: Air Photo Subject Property Overview

### Development Proposal

This DVP application seeks to vary Sections 605.1, 701 and 701.8 (Attachment B) under the RDCK's *Zoning Bylaw No. 1675, 2004* to allow for the siting of a prefabricated accessory structure for workshop and storage purposes. The variances requested are as follows, to:

- increase the maximum height of a proposed workshop accessory building from 6.0 metres to 6.7 metres;
- increase the maximum gross floor area from 100 m<sup>2</sup> to 186 m<sup>2</sup> to permit the construction of a proposed prefabricated accessory structure; and,
- reduce the internal side setback from 2.5 metres to 1.5 metres for the proposed workshop accessory building.

**Table 1: Relevant Development Regulations under the Suburban Residential (R1) Zone**

<b>Development Regulation</b>	<b>Maximum Allowable in R1 Zone</b>	<b>Proposed</b>
Maximum height	6.0 m	<b>6.7 m</b>
Maximum gross floor area for any accessory building	100 m <sup>2</sup>	<b>186 m<sup>2</sup></b>
Maximum cumulative gross floor area (GFA) of all accessory buildings  <i>*The existing <u>accessory structure</u> (i.e. wood shed) 20 m<sup>2</sup> in size is not considered under the GFA calculation because it is unenclosed.</i>	200 m <sup>2</sup>	186 m <sup>2</sup>
Maximum site coverage	50%	<5%
Minimum setbacks:		
Front	4.5 m	80 m (approx.)
Rear	2.5 m	>2.5 m
Exterior Side	4.5 m	N/A
Interior Side	2.5 m	<b>1.5 m</b>

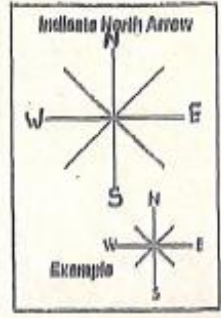
# SITE PLAN

Owner's Name: Martin Whitehead

Legal Description: Lot Plan A NEP14092 district lot 301A

Civic Address: 3195 upper levels rd Robson BC

**AN INCOMPLETE SITE PLAN WILL DELAY YOUR PERMIT**



Scale: 1/4" = 10ft

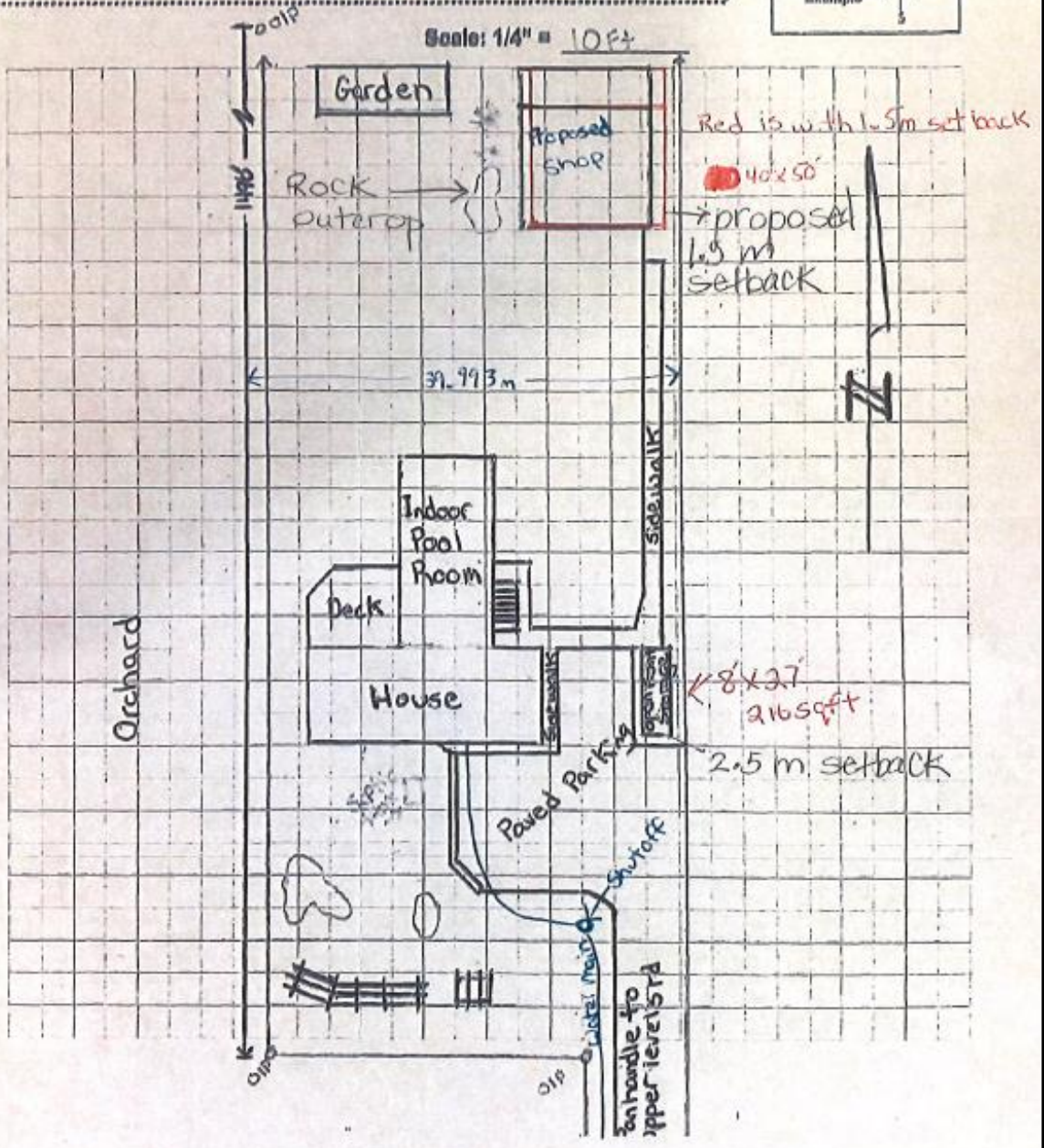


Figure 4: Site Plan

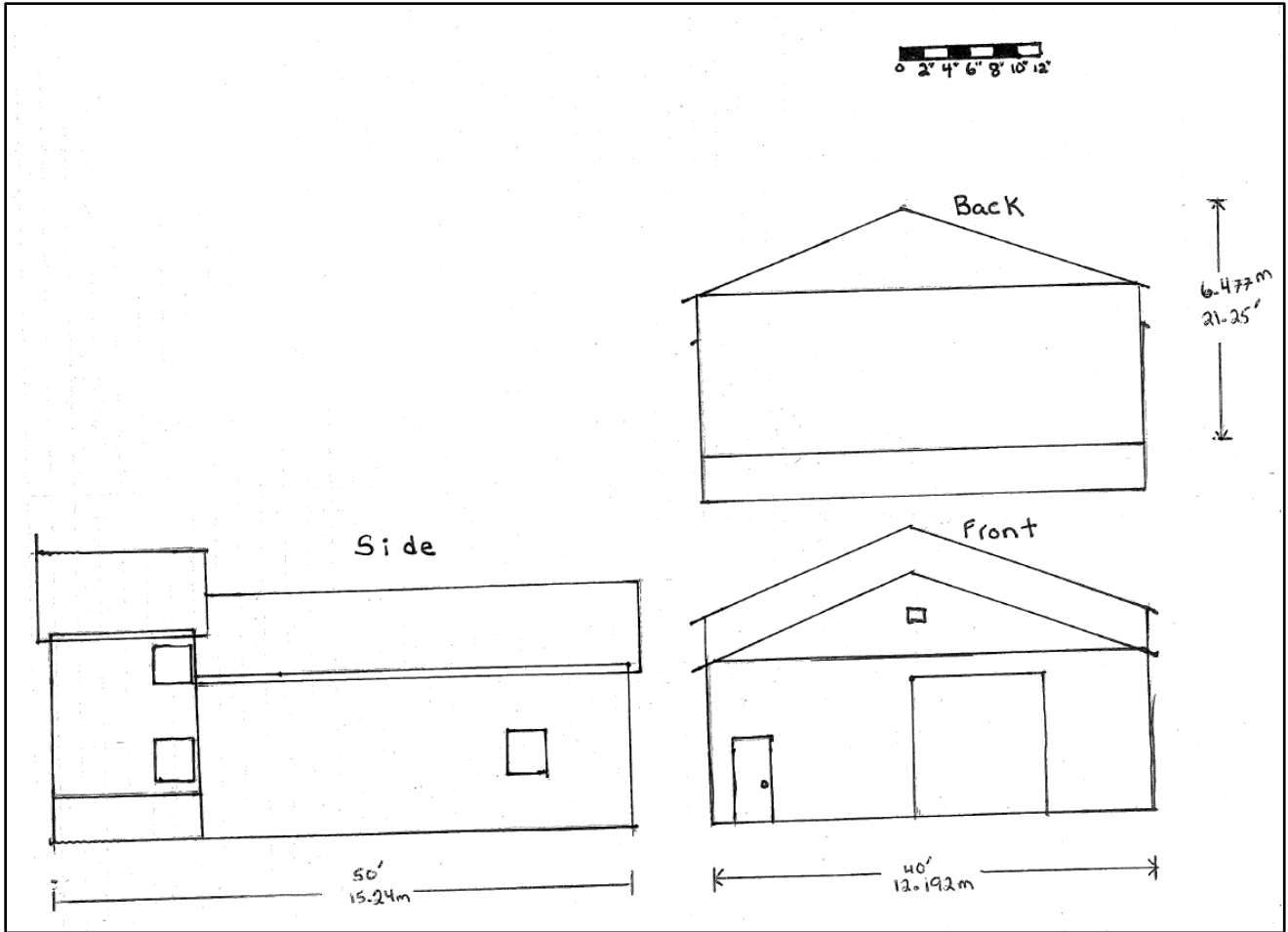


Figure 5: Proposed Building Elevations

**Electoral Area 'J' Official Community Plan Bylaw No. 1157, 1996**

*Relevant Suburban Residential Policies:*

- 3.2.2.1 The principal use shall be residential.
- 3.2.2.2 The minimum lot size shall be 2000 square metres.
- 3.2.2.3 One dwelling unit shall be permitted per 2000 square metres of site area.
- 3.2.2.4 Shall be serviced by a community water system.

**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 \$500 fee for a DVP was paid pursuant to *RDCK Planning Procedures and Fees Bylaw No. 2457, 2015*.

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

Under Section 498 of the *Local Government Act (LGA)*, the Board has the authority to vary provisions of a Zoning Bylaw (other than use or density) through a DVP.

### 3.3 Environmental Considerations

No negative environmental considerations are anticipated should this DVP application be approved.

### 3.4 Social Considerations:

No negative social considerations are anticipated from this DVP application.

### 3.5 Economic Considerations:

No economic considerations are anticipated from this DVP application.

### 3.6 Communication Considerations:

In accordance with the *LGA* and the RDCK's *Planning Procedures and Fees Bylaw No. 2457, 2015* a sign describing the proposal was posted on the subject property, and notices were mailed to surrounding neighbours within a 100 metre radius of the subject property on January 6, 2022. To date, no correspondence has been received in response to the above notification and or notice sign posted.

Planning staff referred the application to all relevant government agencies, First Nations, internal RDCK departments and the Director for Electoral Area 'J' for review. The following comments were received:

#### The Ministry of Transportation and Infrastructure (MOTI)

The "interests of the MOTI are unaffected by the proposed bylaw variance[s]".

#### Interior Health

The IH Healthy Community Development Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at Healthy Built Environment. An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal".

#### Ministry of Forest Lands Natural Resource Operations & Rural Development (FLNROD)

"This project should not create significant adverse environmental impacts if the proponent follows Section 34 of the Wildlife Act regarding tree removal and implements measures to prevent introduction and/or reduce the spread or establishment of invasive plants on site" as outlined below.

<b>Concern</b>	<b>Details</b>
Invasive Species	<p>Practices should prevent introduction and reduce spread/establishment of invasive plants on site. To control invasive plants:</p> <ul style="list-style-type: none"><li>• Treat invasive plants <b>prior</b> to any activities (preferably using a qualified professional).</li><li>• Ensure that equipment brought onto site is free of soil and plant material to reduce the possibility of invasive plant species spread/establishment.</li></ul> <p>The proponent should maintain records of herbicide treatments, and should report invasive plants using the Report-A-Weed program (<a href="https://www.reportaweedbc.ca/">https://www.reportaweedbc.ca/</a>)</p>

	<i>The primary risk of concern from the proposed activities is introduction and spread of invasive plants. Invasive plants are typically introduced to British Columbia through human activities. These invasive plants lack natural predators and pathogens that would otherwise keep their populations in check. Invasive plants often establish themselves in soils disturbed from development of roads, utility lines, trails, commercial recreation sites, agriculture, etc. Once established, invasive plants have a tremendous capacity to invade adjacent, undisturbed natural plant communities displace wildlife and disrupt natural ecosystem functions.</i>
<i>Tree Removal</i>	<i>See Section 34 of the Wildlife Act regarding tree removal. Remove trees outside of the sensitive nesting period (generally April to August), and check for existing or active nests prior to tree removal. Avoid the removal of large diameter trees (dbh &gt; 30 cm: live and dead), especially deciduous, and that are actively used by wildlife (e.g. contains visible nests and tree cavities).</i>

Building Services

The following comments were received from Building Services:

*“The structure is a shop [186 m<sup>2</sup>] that has been purchased from a prior owner and will be relocated to the [subject site]. As the structure is over height and is being relocated it will have to be signed off by an Engineer. The applicant is aware of this requirement and engineered drawings will be forthcoming. At that time decision will be made whether a mezzanine will be added on side furthest from property line.*

*Depending on the exact distance [the building is sited] to the property line, likely restrictions [would include]:*

- No unprotected openings (doors or windows) adjacent to the property line.*
- 45 minute fire separation will be required on the wall facing the property line/*
- Siding on the side facing the property line will have to be non-combustible (structure has metal siding).*
- Soffits will have to be solid non-venting type on the side adjacent to the property line.*

*All of the above restrictions along with the requirements that come with being designated an F3 Occupancy (due to size in excess of 150 m<sup>2</sup>) have been communicated with the client”.*

Robson-Raspberry Improvement District (RRID)

The RRID has “no objections” to this DVP application.

BC Hydro

“BC Hydro has no works on the subject property and accordingly has no objection to the proposal”.

FortisBC

*“There are FortisBC Inc (Electric) (“FBC(E)”) primary distribution facilities within Upper Levels Road and within the boundary of the subject property.*

*FBC(E) requests appropriate land rights to protect the existing infrastructure to ensure proper delivery and maintenance of the service. **The applicant should contact the undersigned at 250-681-3365 or [steven.danielson@fortisbc.com](mailto:steven.danielson@fortisbc.com) for further instruction on land rights and servicing requirements.***

***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. All costs and land right***



requirements associated with changes to the subject property's existing service are the responsibility of the applicant. Furthermore, 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.

**In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847). Please have the following information available in order for FBC(E) to set up the file when you call.**

- Electrician's Name and Phone number
- [FortisBC Total Connected Load Form](#)
- Other technical information relative to electrical servicing

For more information, please refer to FBC(E)'s overhead and underground design requirements:

FortisBC Overhead Design Requirements

<http://fortisbc.com/ServiceMeterGuide>

FortisBC Underground Design Specification

<http://www.fortisbc.com/InstallGuide>

Otherwise, FBC(E) has no concerns with this circulation”.

### **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 & PROS / CONS**

### Planning Discussion

Planning staff support the issuance of this DVP since:

- The proposal is consistent with the relevant suburban residential objectives and policies in *Electoral Area 'J' Official Community Plan Bylaw No. 1157, 1996*.
- The proposed siting of the accessory structure in the rear yard would have a minimal visual impact since it is proposed to be located approximately 30 metres to the closest neighbouring residence to the east, and is well screened by existing mature vegetation.
- The 1.9 ha size of the subject property is almost 10 times larger in area, than the 0.2 ha minimum parcel size regulation for site's on community water under the R1 Zone, and would be able to accommodate an accessory building of this increased scale.
- The proposed size and scale of the accessory structure would also be subordinate to the existing residential primary use established on site, especially given is proposed siting in the rear yard.
- No neighbourhood feedback in response to the development notice sign posted on the subject property and or notices mailed to adjacent property residents about the proposed variances was received.
- The proposed accessory structure is a prefabricated building, and the applicant is being proactive with the requested setback variance to allow for some construction flexibility during the proposed placement given the unique siting considerations (i.e. rocky feature).

It is for the above reasons that staff recommend that the Board proceed with the issuance of the DVP.

### Options

**Option 1:** That the Board APPROVE the issuance of Development Variance Permit V2114J- 01477.400 to Martin and Taya Whitehead for the property located at 3195 Upper Levels Road and legally described as LOT A DISTRICT LOT 301A KOOTENAY DISTRICT PLAN 14092 EXCEPT PART INCLUDED IN PLAN 16758 (PID: 009-150-251) to vary Sections 605.1, 701.7 and 701.8 of *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* as follows:

1. increase the maximum height of a proposed workshop accessory building from 6.0 metres to 6.7 metres;
2. increase the maximum gross floor area from 100 m<sup>2</sup> to 186 m<sup>2</sup> to permit the construction of a proposed; and,
3. reduce the internal side setback from 2.5 metres to 1.5 metres for the proposed workshop accessory building.

**Option 2:** That the Board NOT APPROVE the issuance of Development Variance Permit V2114J- 01477.400 to Martin and Taya Whitehead for the property located at 3195 Upper Levels Road and legally described as LOT A DISTRICT LOT 301A KOOTENAY DISTRICT PLAN 14092 EXCEPT PART INCLUDED IN PLAN 16758 (PID: 009-150-251) to vary Sections 605.1, 701.7 and 701.8 of *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* as follows:

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2. increase the maximum gross floor area from 100 m<sup>2</sup> to 186 m<sup>2</sup> to permit the construction of a proposed; and,
3. reduce the internal side setback from 2.5 metres to 1.5 metres for the proposed workshop accessory building.

## SECTION 5: RECOMMENDATION

That the Board APPROVE the issuance of Development Variance Permit V2114J- 01477.400 to Martin and Taya Whitehead for the property located at 3195 Upper Levels Road and legally described as LOT A DISTRICT LOT 301A KOOTENAY DISTRICT PLAN 14092 EXCEPT PART INCLUDED IN PLAN 16758 (PID: 009-150-251) to vary Sections 605.1, 701.7 and 701.8 of *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* as follows:

1. increase the maximum height of a proposed workshop accessory building from 6.0 metres to 6.7 metres;
2. increase the maximum gross floor area from 100 m<sup>2</sup> to 186 m<sup>2</sup> to permit the construction of a proposed; and,
3. reduce the internal side setback from 2.5 metres to 1.5 metres for the proposed workshop accessory building.

Respectfully submitted,

*"Submitted electronically"*

Stephanie Johnson

## CONCURRENCE

Planning Manager – Nelson Wight

General Manager of Development and Community Sustainability – Sangita Sudan

Chief Administrative Officer – Stuart Horn

### ATTACHMENTS:

**Attachment A – Draft Development Variance Permit**

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



**REGIONAL DISTRICT OF CENTRAL KOOTENAY**

**DEVELOPMENT VARIANCE PERMIT**

**Planning File No. V2111F**

Date:

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

TO: Martin and Taya Whitehead

**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: 3195 Upper Levels Road, Robson

Legal: LOT A DISTRICT LOT 301A KOOTENAY DISTRICT PLAN 14092 EXCEPT  
PART INCLUDED IN PLAN 16758

PID: 009-150-251

**CONDITIONS**

5. Development Variance

Electoral Areas F, I, J, and K Zoning Bylaw No. 1675, 2004, Section 1101 (10), is varied as follows for the accessory building shown in Schedules '2' and '3':

1. The maximum height of the proposed accessory building is increased from 6.0 metres to 6.7 metres;
2. The maximum gross floor area for the accessory building is increased from 100 m<sup>2</sup> to 186 m<sup>2</sup> to permit the construction and placement of an accessory structure; and,

3. The minimum interior side (eastern) setback for the proposed accessory structure is reduced from 2.5 metres to 1.5 metres.

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.

Authorized resolution [*enter resolution number*] passed by the RDCK Board on the day of \_\_\_\_\_, 20\_\_\_\_.

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

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Aimee Watson, Board Chair

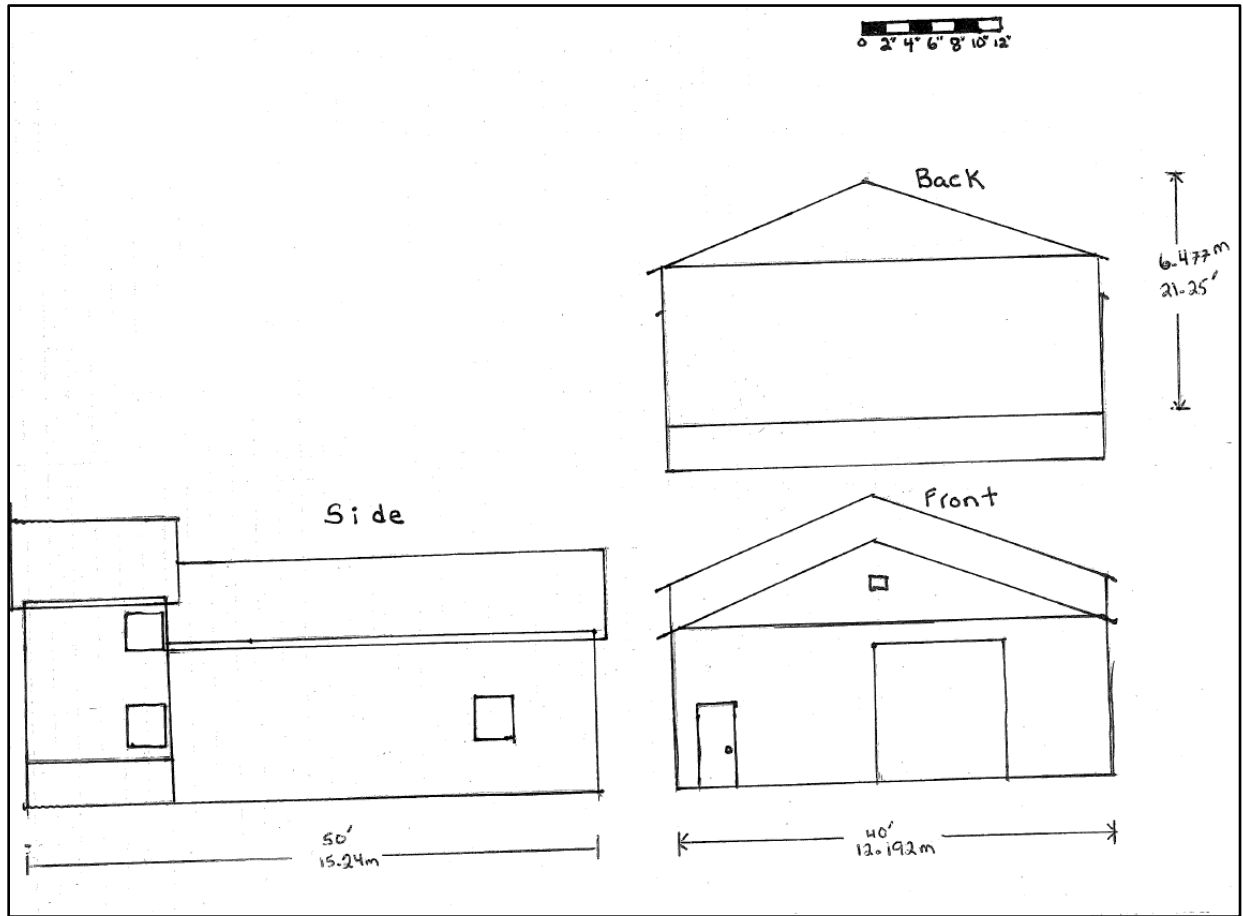
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Mike Morrison, Corporate Officer

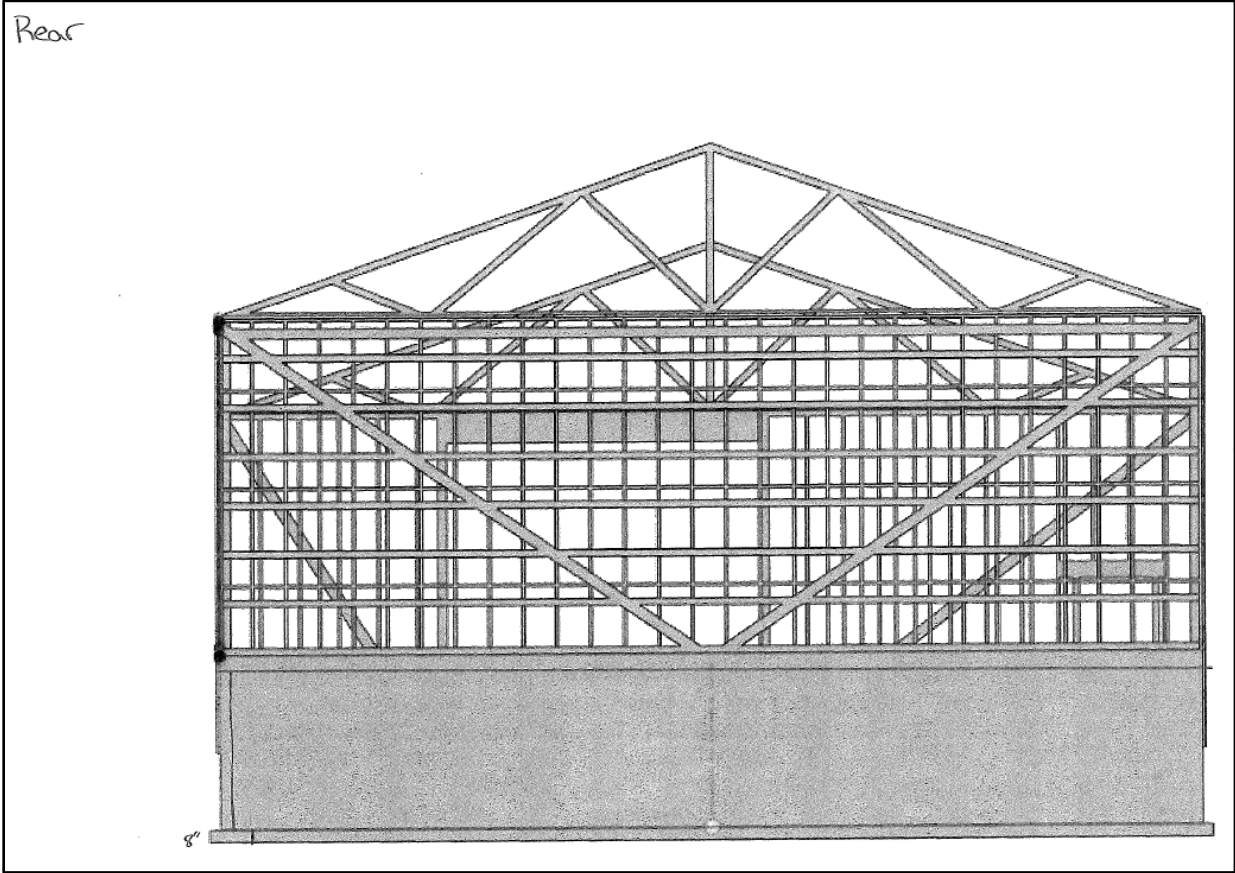
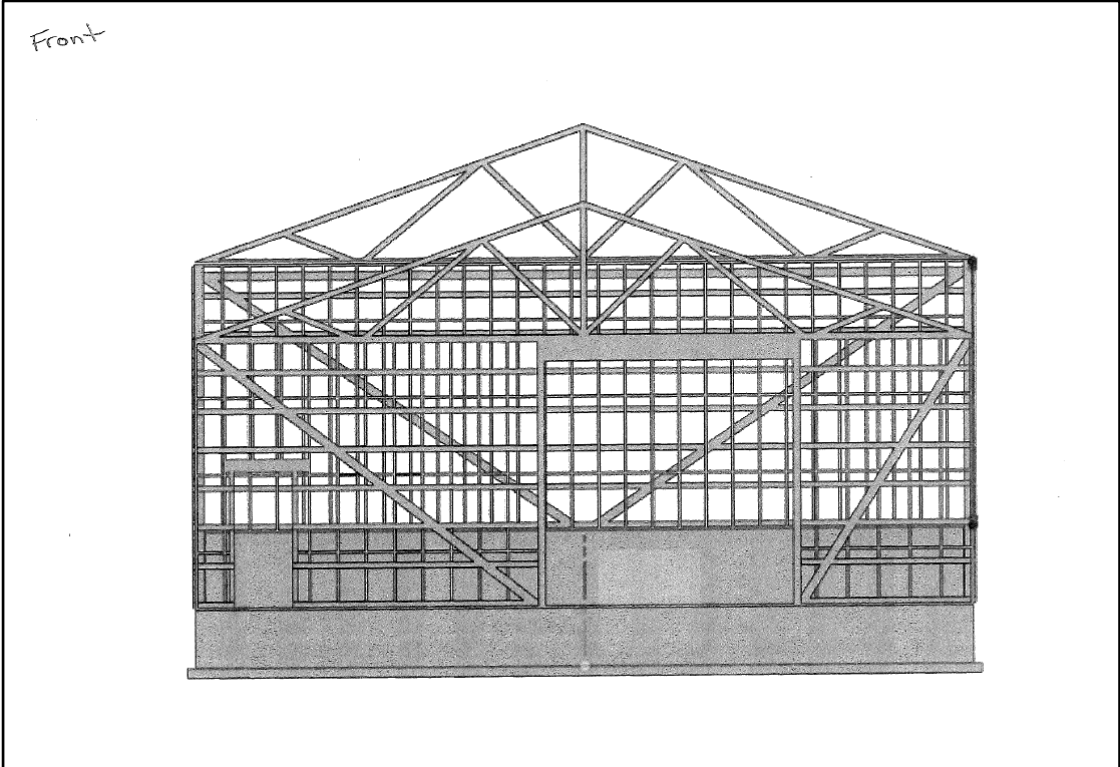


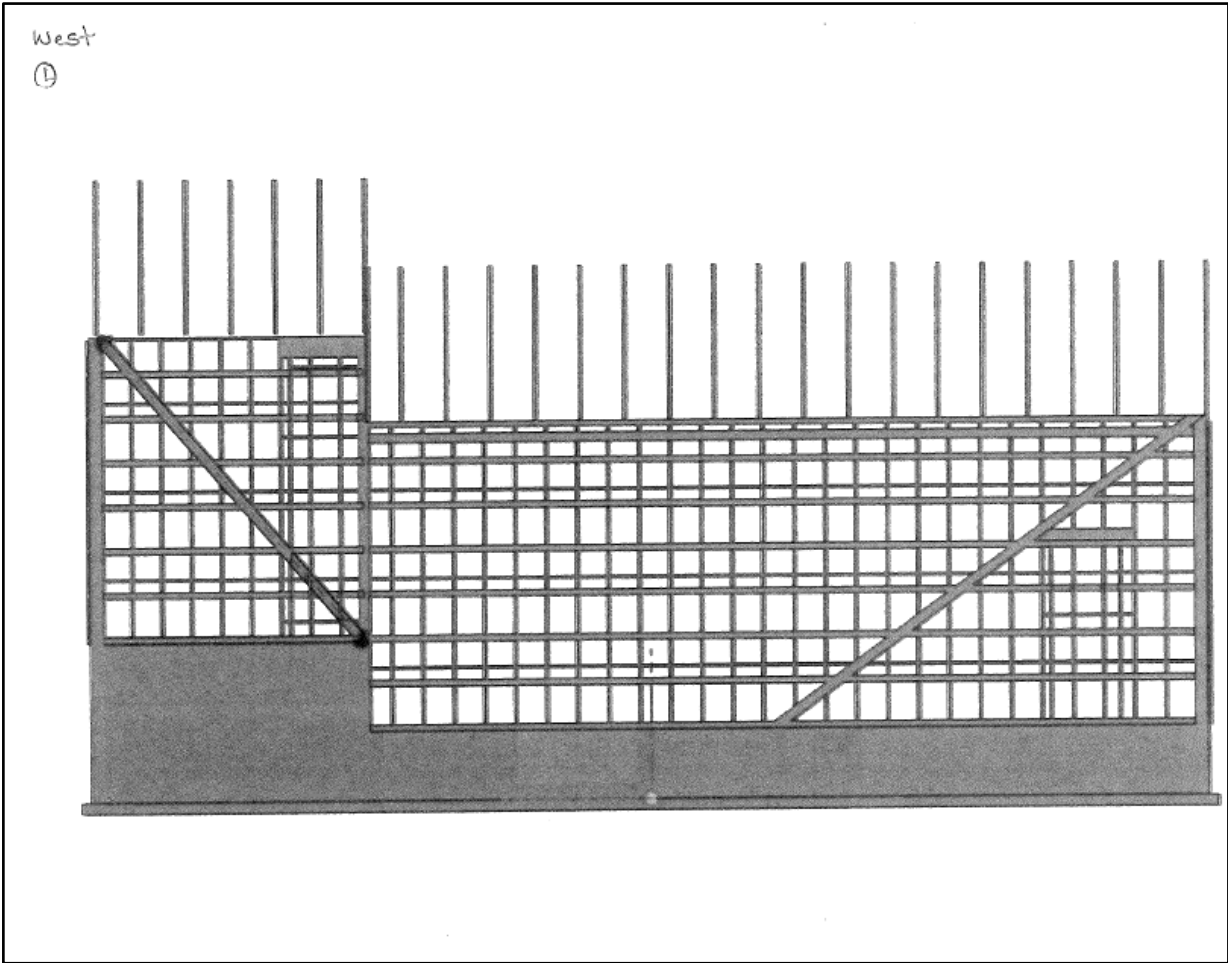
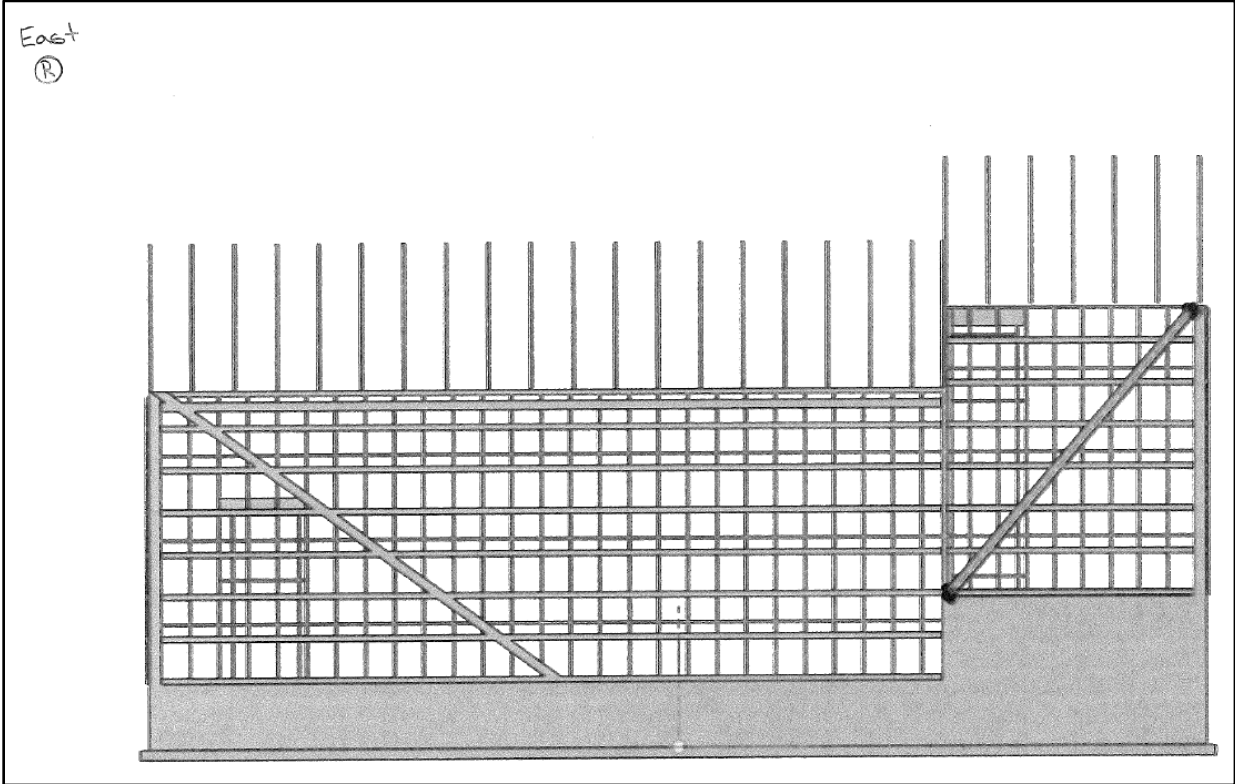


Schedule 3: Building Elevations









## **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.

**DIVISION 7      SUBURBAN RESIDENTIAL (R1)**

**Permitted Uses**

700 Land, buildings and structures in the Suburban Residential (R1) 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**

701

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	1.0 hectare
Two-Family Dwelling	1,000 square metres	0.4 hectare	1.0 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 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.

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

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

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

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

- 9 The cumulative gross floor area of all accessory buildings or structures shall not exceed 200 square metres.
- 10 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.
- 11 Landscape screens or fences not exceeding a height of one (1) metre may be sited on any portion of a lot.
- 12 Fences not exceeding a height of two (2) metres may be sited to the rear of the front lot line setback or exterior side setback on a lot.