

DATE: October 1, 2019**FILE:** 3090-20 / DV 4A 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer**R. Dyson****RE: Development Variance Permit - 9 Little Bear Way (Bell)
Baynes Sounds - Denman/Hornby Islands (Electoral Area A)
Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591,
PID 026-010-836****Purpose**

To consider a Development Variance Permit (DVP) to reduce the minimum rear and side yard setbacks for the purposes of constructing an accessory building (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve Development Variance Permit DV 4A 19 (Bell) to decrease the minimum side yard setback from 3.5 metres to 2.6 metres and the rear yard setback from 7.5 metres to 1.3 metres and the rear eaves setback to 1.0 metre for the purpose of constructing an accessory building on a property described as Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591, PID 026-010-836 (9 Little Bear Way);

AND FINALLY THAT the Corporate Legislative Officer be authorized to execute the permit.

Executive Summary

- The subject property is a 0.21 hectare lot developed with a house along the Little Bear Way cul-de-sac road.
- The applicants would like to construct a 163 square metre accessory building in the southwest corner of the property. Because this involves construction within the rear and side yard setback area, a DVP is required.
- The Electoral Area Services Committee (EASC) previously reviewed a similar proposal but it was referred back to staff to consider alternatives with the applicant. This revised plan shifts the same building away from the side property line and has a lower pitched roof to reduce its height.
- In considering the original proposal, the neighbour to the side submitted a letter of objection (Appendix B) and the neighbour to the rear submitted a letter of support (Appendix C).
- As the requested variances adhere to the intent of the setback regulations, staff supports issuance of the permit.

Prepared by:

Concurrence:

Concurrence:

J. MacLean***T. Trieu******S. Smith***Jodi MacLean, RPP, MCIP
Rural PlannerTon Trieu, RPP, MCIP
Manager of Planning ServicesScott Smith, RPP, MCIP
General Manager of Planning and
Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

The owners of the subject property (Figures 1 and 2) would like to construct a 163 square metre accessory building in the southwest corner of the lot. To site this size of building in that corner, given the location of the existing house and driveway, the owners propose to vary the regulated side and rear yard setback areas (Appendix A).

The Electoral Area Services Committee reviewed the proposal at its meeting of July 15, 2019. DVPs are subject to public notification and after hearing from an adjacent property owner, the following resolution was adopted

“THAT the Development Variance Permit DV 4A 19 (Bell) be referred back to staff to work towards alternative solutions with the applicant and adjacent neighbour and to report back to the next Electoral Areas Services Committee.”

Following the meeting, the concerned neighbour submitted a written letter of opposition dated July 23, 2019 (Appendix B) and the applicant requested additional time to make adjustment to the building plans. On August 6, 2019, the neighbour to the rear submitted a letter of support (Appendix C). On September 20, 2019, the applicant submitted a revised proposal (Appendix A) that shifts the proposed building further away from the side property line, but still within the side yard setback area, and reduced the height of the building to 5.6 metres by using a lower pitch roof.

Zoning Bylaw

The property is zoned Residential-Rural (R-RU) in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, which permits up to a maximum of 200 square metres of accessory building floor area on the property. This zone requires accessory buildings over 4.6 metres in height be setback 3.5 metres from the side property line with eaves permitted to project up to 1.75 metres into the setback area. The applicant proposes to site the building 2.6 metres from the side property line with eaves projecting 0.6 metres beyond the face of the building.

Regarding the rear yard setback area, the zone requires accessory buildings over 4.6 metres in height be setback 7.5 metres. The applicant wishes to site the building as close to the rear property line as possible and has proposed a setback of 1.3 metres with 0.3 metre eaves projecting off the face of the building.

The requested variances to the Zoning Bylaw’s required setbacks are as follows:

	Required Setback	Revised Proposed Setback	Variance Difference	Original Proposed Setback
Foundation (side)	3.5 m	2.6 m	0.9 m	1.7 m*
Foundation (rear)	7.5 m	1.3 m	6.2 m	1.7 m
Eaves (rear)	5.5 m	1.0 m	4.5 m	1.1 m

*The original side setback included a requested variance for the eaves projection but the revised side setback can accommodate the eaves without a variance.

The Zoning Bylaw permits accessory buildings 4.5 metres or less to be setback 1.0 metre from the rear and side yard property lines and requires taller buildings be setback further. Taller buildings typically require more space for maintenance (e.g. for extending a ladder) and typically have more impact on neighbouring properties (e.g. sight lines, shadow).

The rear face of the building, facing the property to the rear, is intended to be approximately 4.0 metres in height and act as separated room from the remainder of the building. The rear property is also a residential lot but its zone has no regulated limit to accessory floor area. The house on that rear property is developed approximately 50 metres to the north and a large accessory building faces the subject property (Figure 3).

The south side of the proposed accessory building is not proposed to have any openings (e.g. windows, doors). Due to an elevation difference, the bottom (approximately) 1 metre would be below the grade of the southern lot (Figure 4). The southern property is also a residential lot with the same zone (and belongs to the same strata development) as the subject property. That southern lot is similarly developed as the subject property with a house in the middle of the lot but also with a small accessory building in its northwestern corner.

Official Community Plan

The property is designated as being within the Settlement Expansion Areas in Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”. The objective of this designation is to generally maintain a rural character with on-site servicing and low densities. The proposal is consistent with this objective.

Policy Analysis

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider issuance of a DVP that varies the provision of a Zoning Bylaw, provided that the use or density of the land is not being varied, the land is not designated floodplain, or the development is not part of a phased development agreement.

Options

The CVRD Board may:

1. Approve the requested variances, as presented.
2. Approve the requested variances to the rear setbacks but refuse the proposed variance to the side setback.
3. Refuse the requested variances, as presented.

Based on the considerations above, staff recommends option 1.

Financial Factors

Applicable fees have been collected for this application under the Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014.

Legal Factors

The report and recommendations contained herein are in compliance with the LGA and CVRD bylaws. DVP's are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The subject property is designated Settlement Expansion Area (SEA) in the Regional Growth Strategy, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The SEA designation permits residential uses that will not impact future incorporation into municipal areas.

Intergovernmental Factors

There are no intergovernmental factors involved with this DVP application.

Interdepartmental Involvement

This DVP application was circulated to relevant departments within the CVRD for comment. Should the variance be granted, the building will have to meet the BC Building Code provisions for building separations (e.g. openings, fire ratings, etc.). No concerns were identified.

Citizen/Public Relations

The Advisory Planning Commission reviewed the original proposal at their meeting on June 11, 2019, and recommended those variances be approved, as presented.

Notice of the original requested variances was mailed to adjacent property owners within 100 metres of the subject property on July 4, 2019. Notice of the revised requested variances was mailed at least 10 days prior to the EASC meeting. The notice informs these property owners/tenants as to the purpose of the permit, the land that is the subject of the permit and that further information of the proposed permit is available at the CVRD office. It also provides the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners/tenants is through their written comments received prior to the EASC meeting or their attendance at the EASC meeting.

Attachments: Appendix A – “Application submissions”
Appendix B – “Letter of objection from Catherine Hagen and Ernst Fibich dated July 23, 2019”
Appendix C – “Letter of support from Doug Parker dated August 6, 2019”
Appendix D – “Draft Development Variance Permit – DV 4A 19”

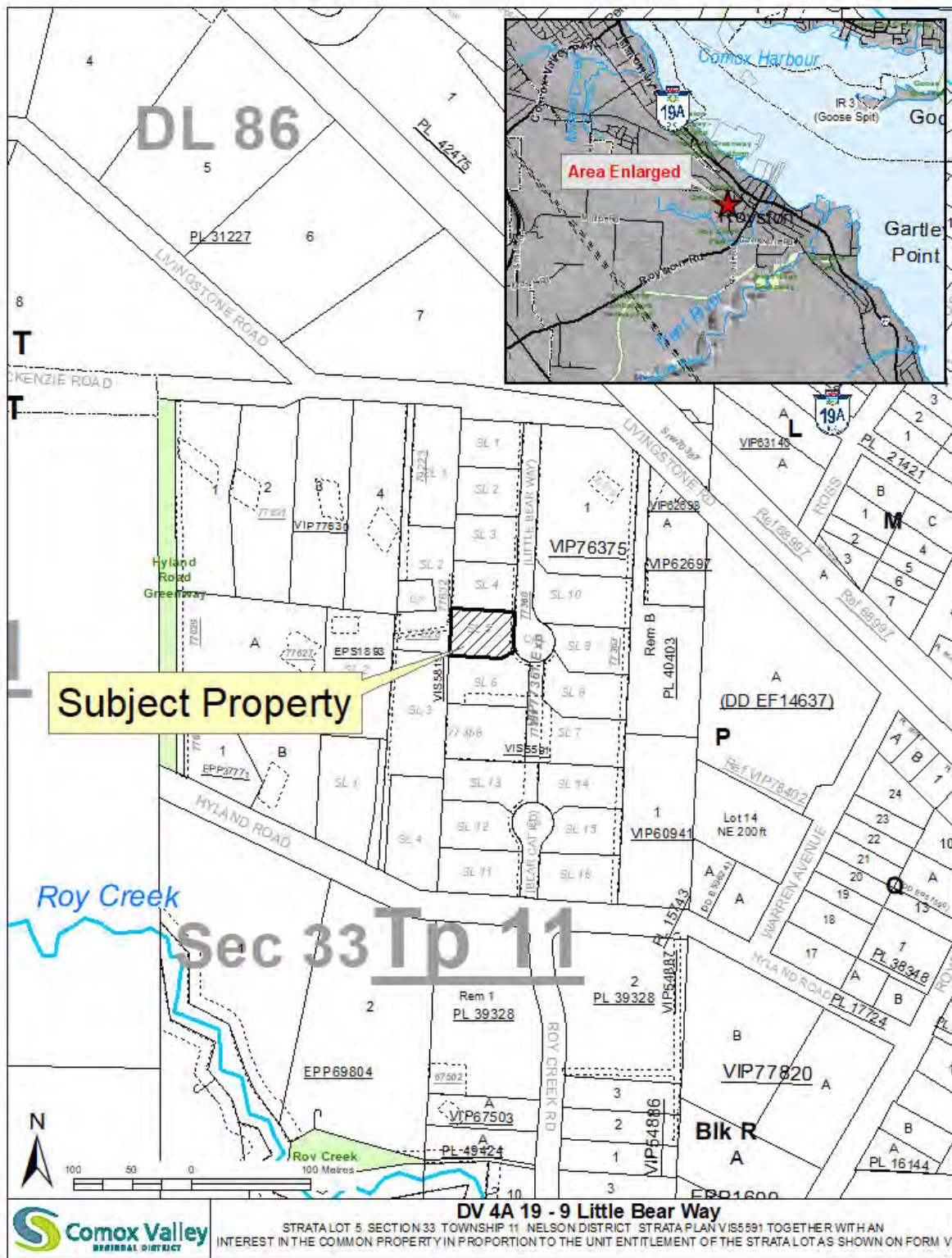


Figure 1: Subject Property



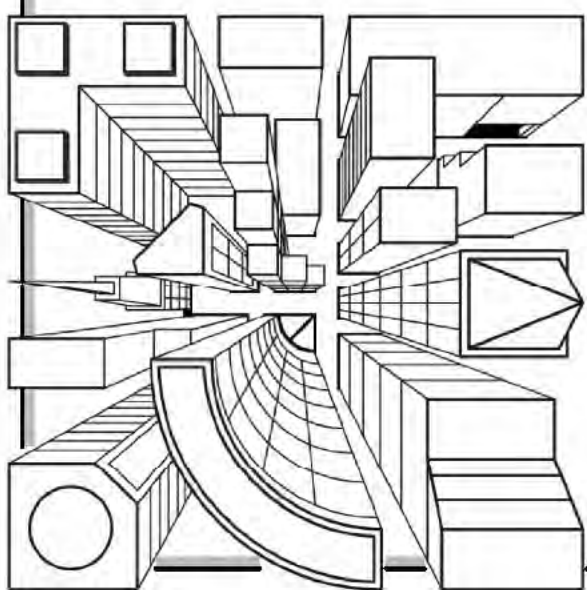
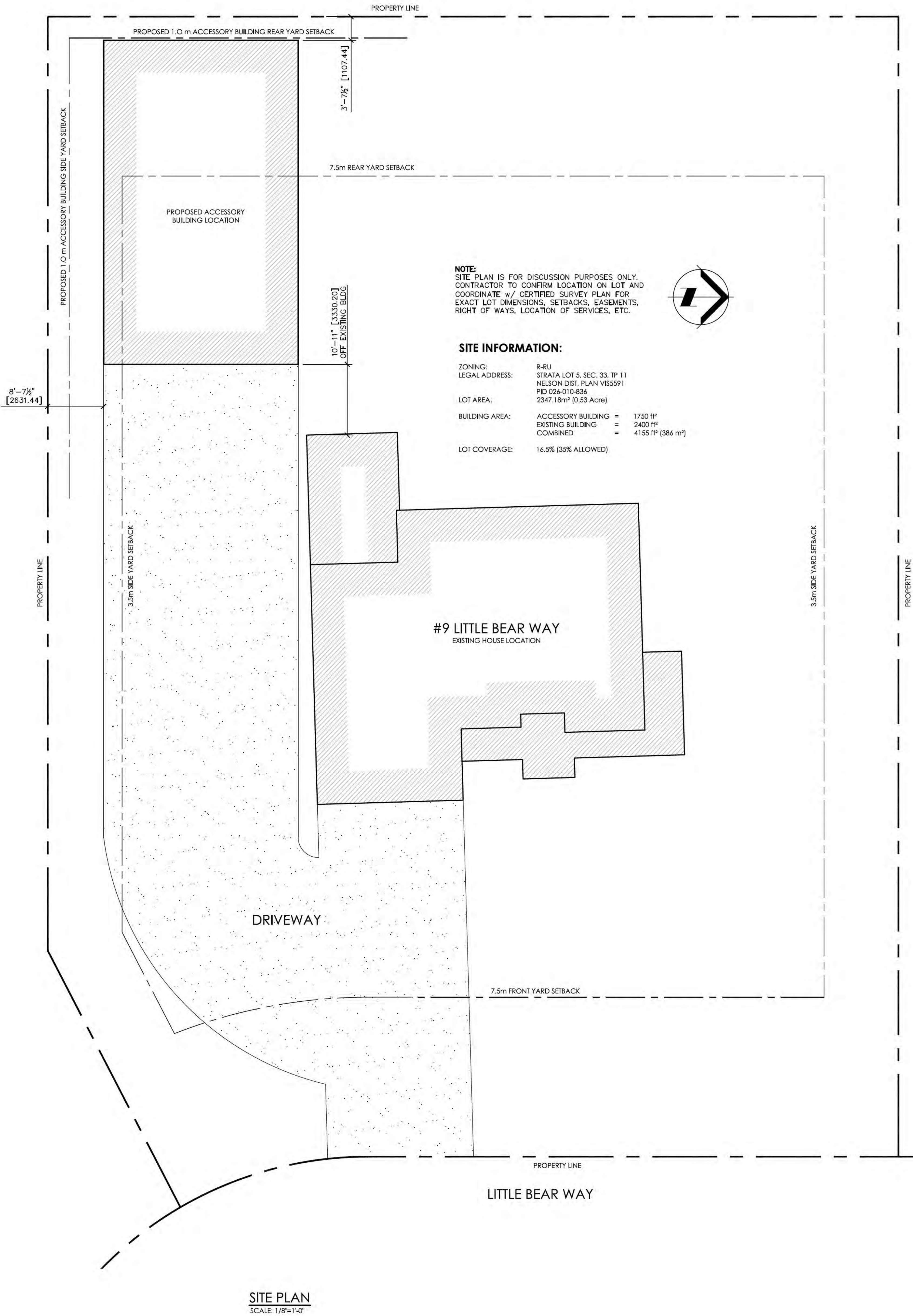
Figure 2: Air Photo (2018)



**Figure 3: Photo of Proposed Location for Accessory Building
(Approximately covering the gravelled area)**



**Figure 4: Photo of Proposed Location for Accessory Building
(As seen from the rear with the Property Owner's House on the left and
the Southern Neighbour's Fence to the right)**



SITE PLAN

REV. NO. 3
DWG. NO. A-1 of 3

BELL RESIDENCE - DETACHED SHOP

#9 LITTLE BEAR WAY, ROYSTON, BC
BIRDS EYE DRAFTING AND CONSULTING SERVICE
COMOX, BC EMAIL: bruce@birdseyedrafting.com PHONE: (250)465-8772

No.	REVISION:	DATE:
1	ISSUED FOR PRELIM REVIEW	APR. 8/19
2	ISSUED FOR FINAL REVIEW	APR. 19/19
3	REVISION TO WIDTH AND SLOPE	SEPT. 19/19

NOTE:
GIRDER TRUSS LOCATIONS TO BE DETERMINED BY TRUSS MANUF'R. ANY DISCREPANCIES TO BE DISCUSSED w/ ENGINEER PRIOR TO CONSTRUCTION.

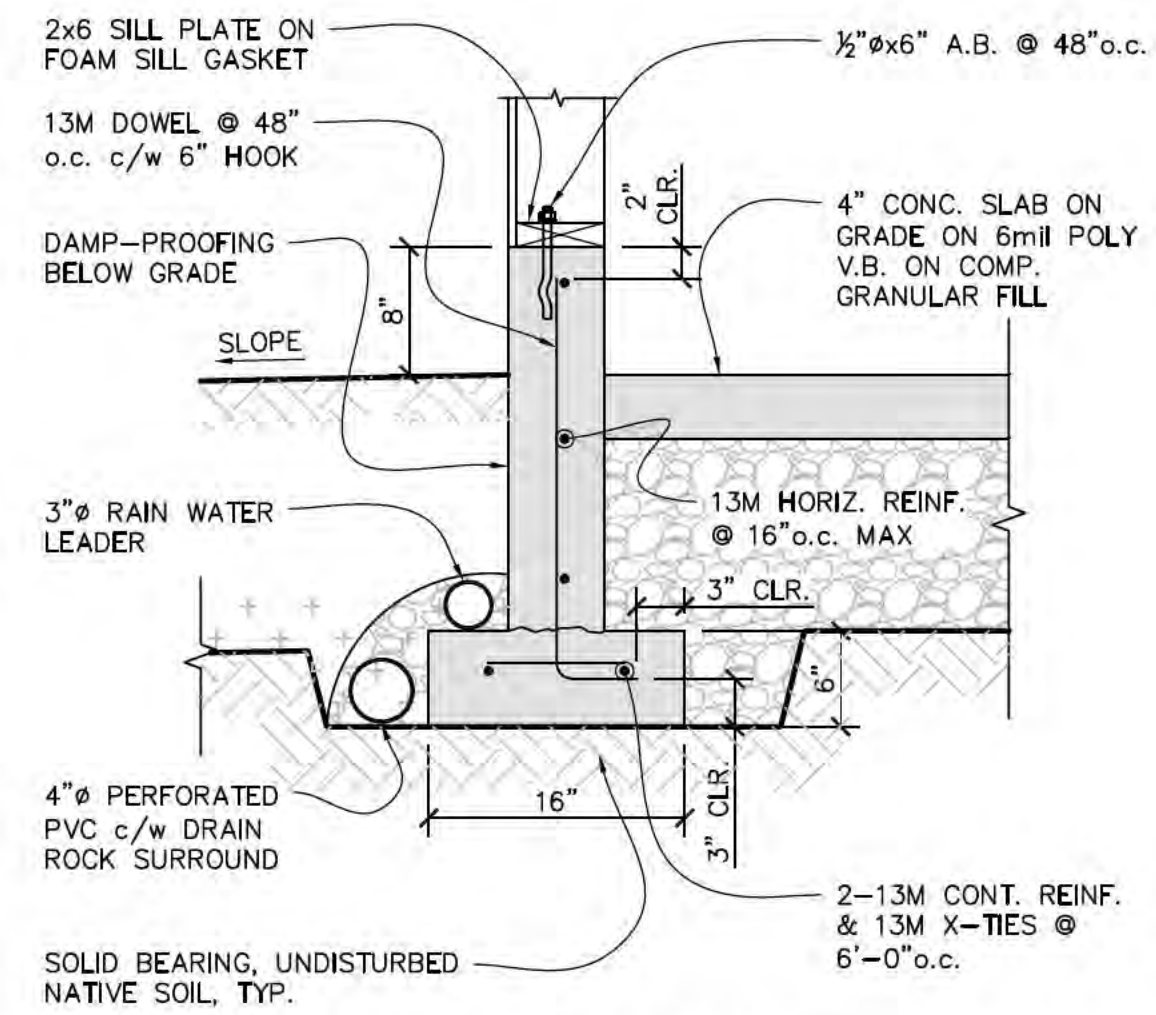
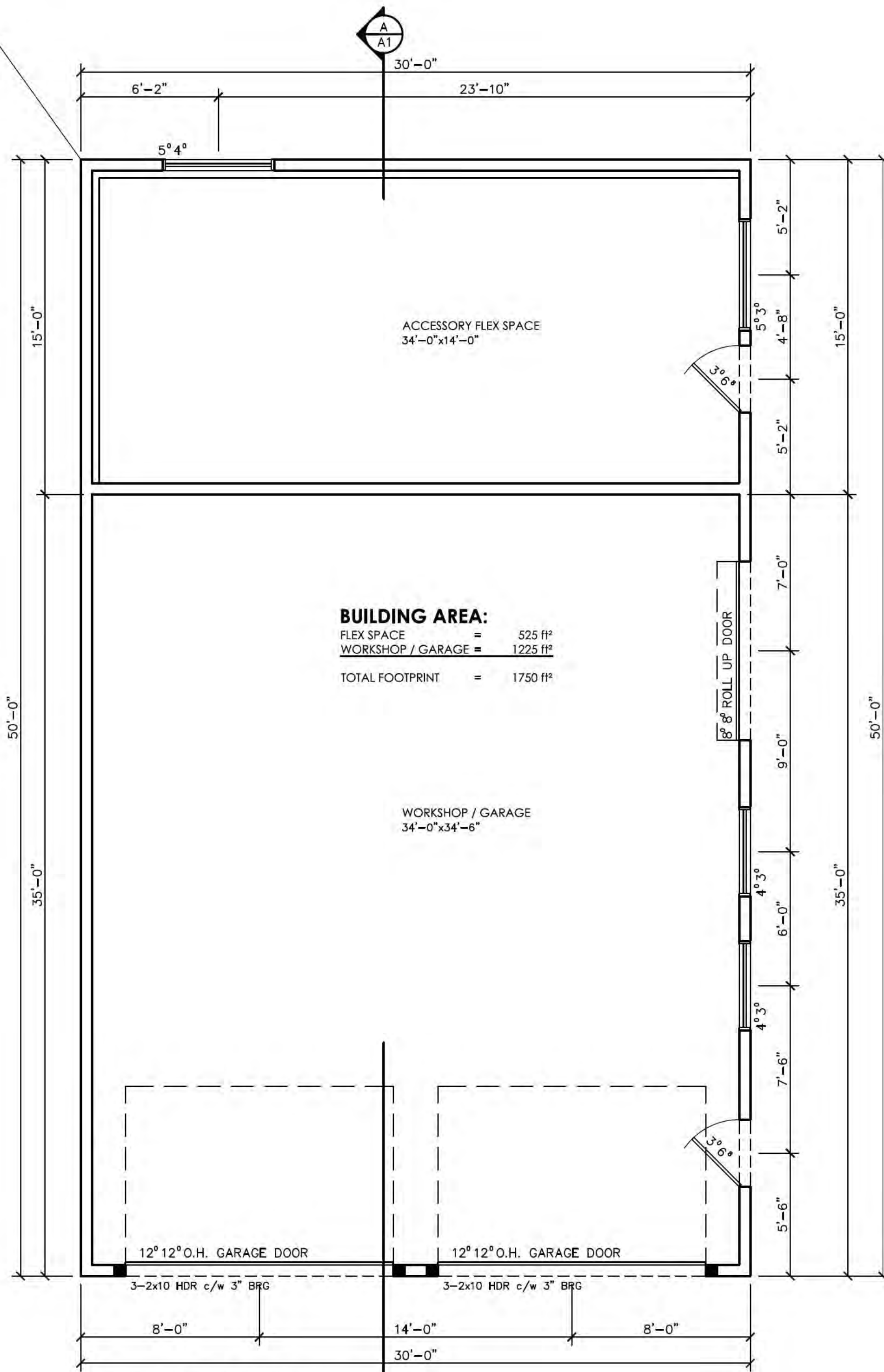
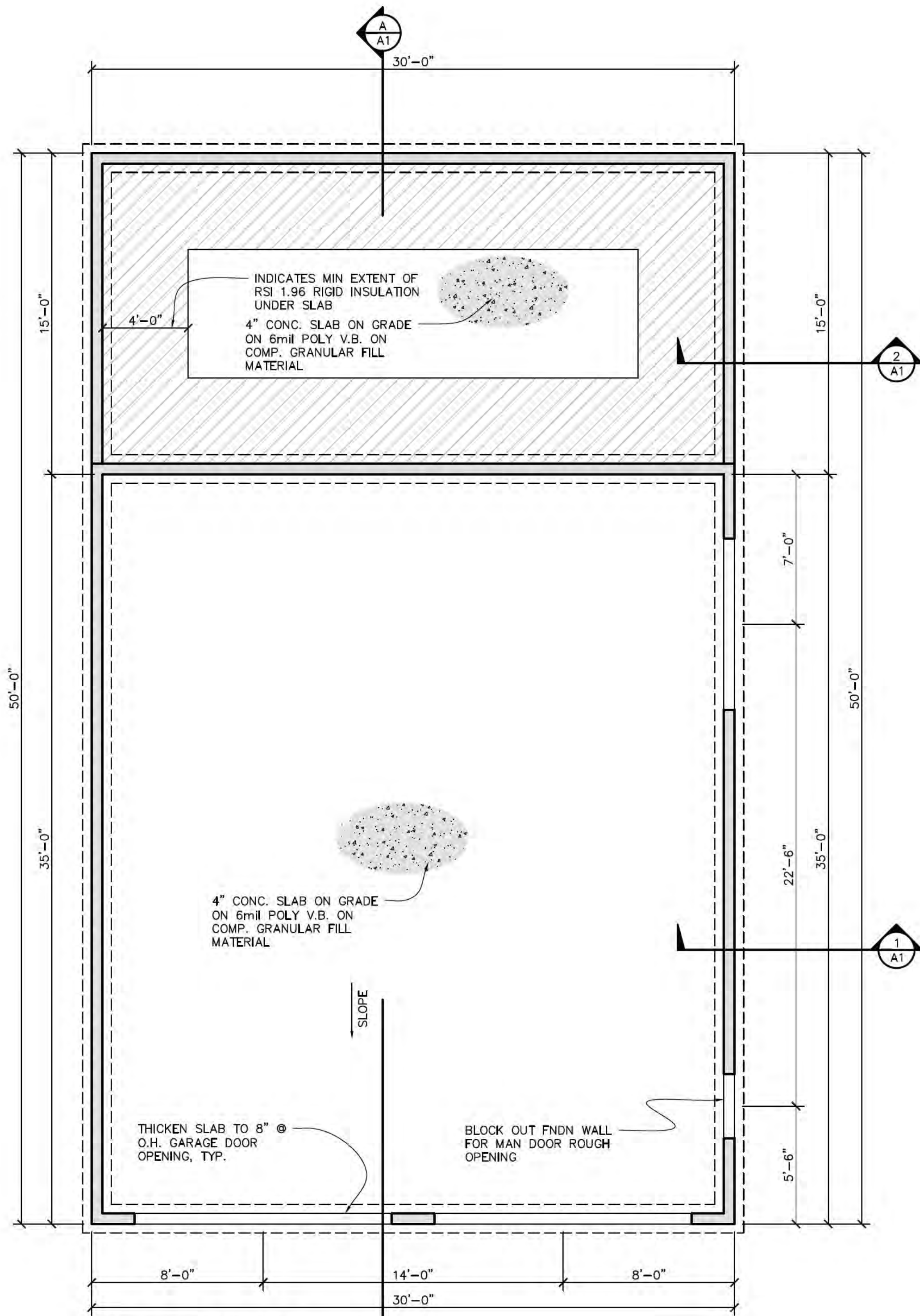
ALL POINT LOADS FROM ABOVE TO CONTINUE THRU FLOOR JOIST CAVITY, DOWN TO FOUNDATION BELOW.

UNLESS SPECIFIED OTHERWISE, CONSTRUCTION TO BE IN ACCORDANCE WITH PART 9 OF THE B.C. BLDG CODE, 2018. ALTERNATE HEADER, BEAM, BUILT UP COLUMN SIZES AND FLOOR JOIST SPACING TO BE DETERMINED UPON ENGINEERS REVIEW. ENGINEERS MARKUPS SUPERCEDE ANY NOTES INDICATED ON THESE PLANS.

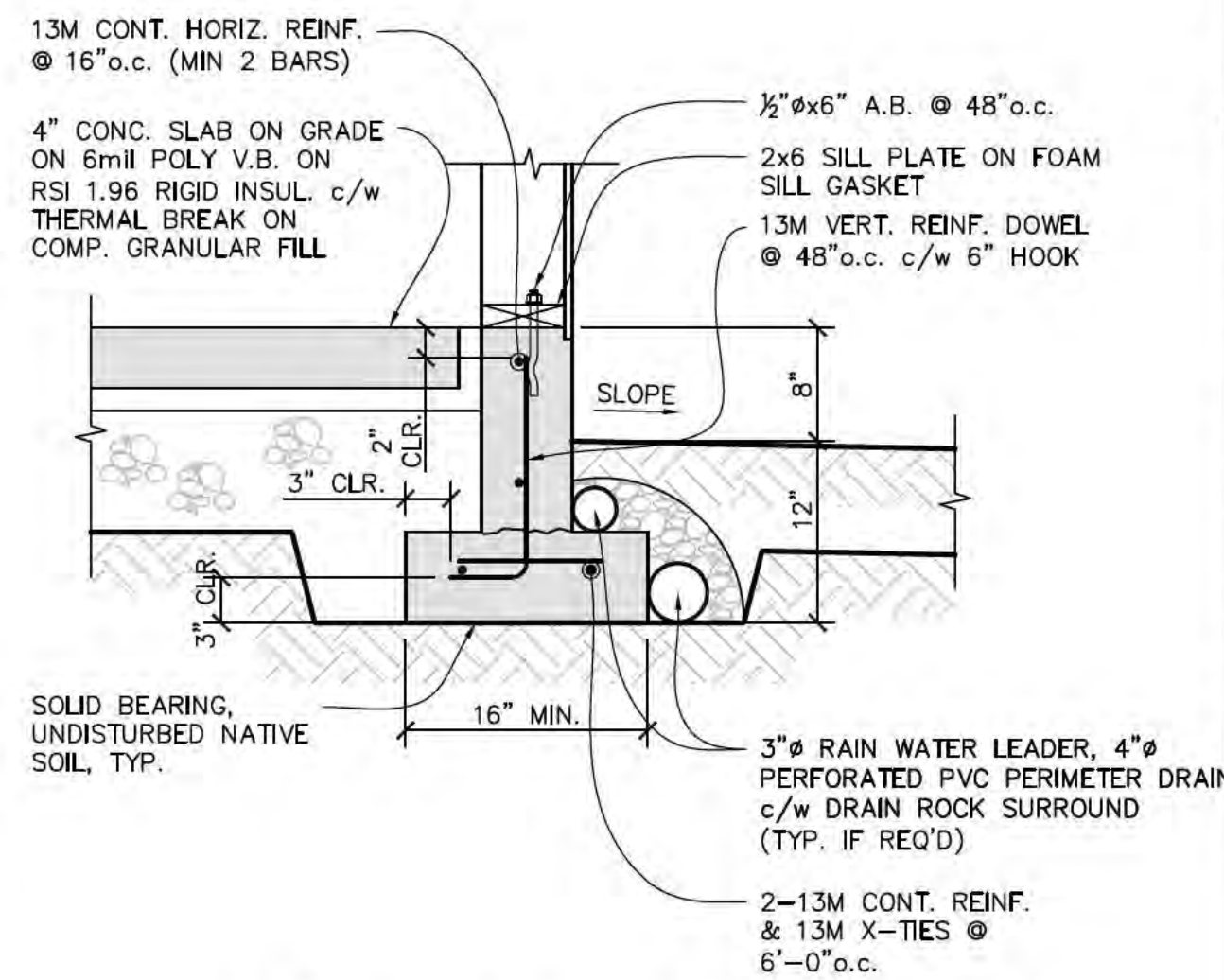
KITCHEN AND FURNITURE LAYOUT IS CONCEPTUAL AND FOR DISCUSSION PURPOSES ONLY. DOOR AND WINDOW SIZES AND LOC'N MAY BE ADJUSTED. CONTRACTOR TO COORDINATE WITH ENGINEER PRIOR TO CONSTRUCTION IF ADJUSTMENTS AFFECT STRUCTURAL COMPONENTS.

NOTE:
ALL EXTERIOR DIMENSIONS ARE TO OUTSIDE OF SHEATHING. ALL INTERIOR DIMENSIONS ARE TO CENTER OF WALL, UNLESS NOTED OTHERWISE. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ALL DIMENSIONS AND REQUIRED CLEARANCES ON SITE PRIOR TO CONSTRUCTION. ANY DISCREPANCIES TO BE DISCUSSED w/ ENGINEER PRIOR TO CONSTRUCTION.

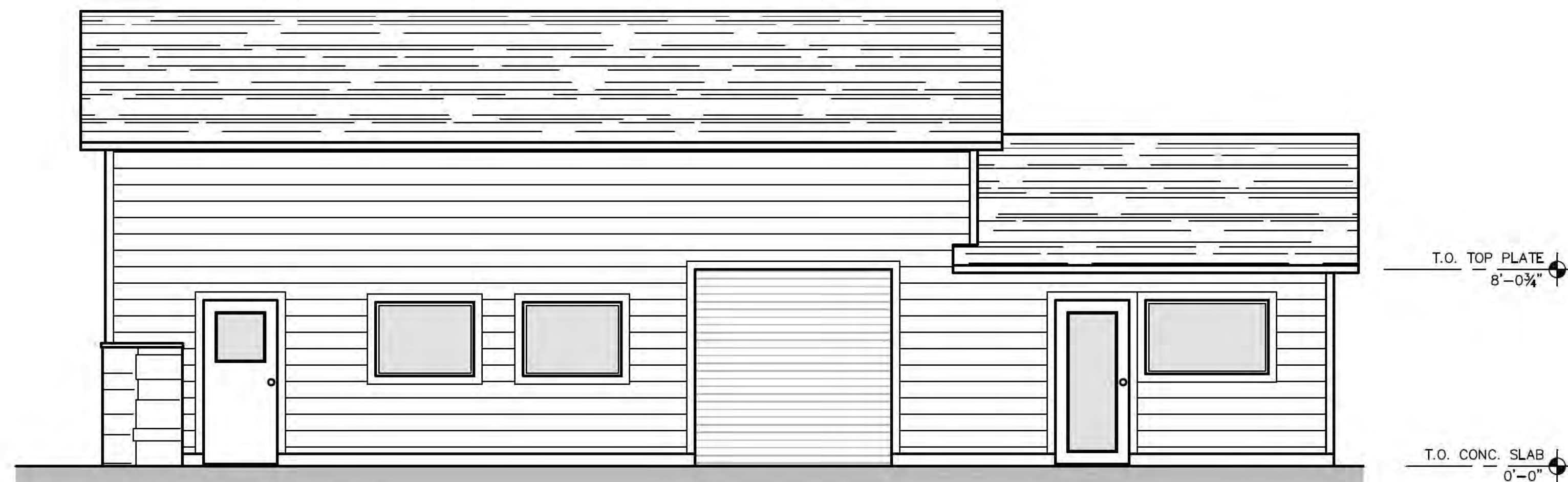
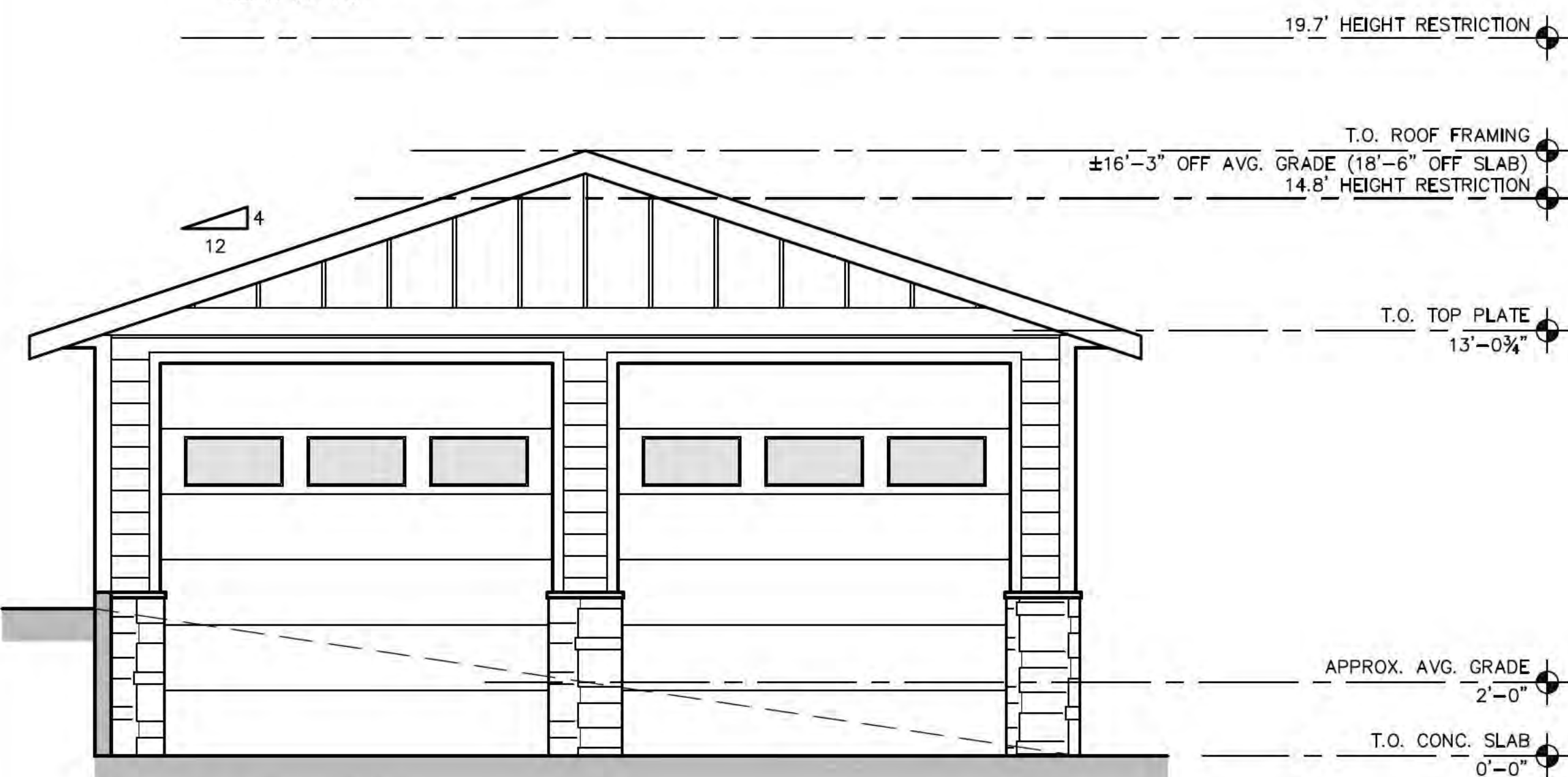
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1 FOUNDATION DETAIL
SCALE: 1"=1'-0"



2 FOUNDATION DETAIL
SCALE: 1"=1'-0"



NOTE: ALL EXTERIOR DIMENSIONS ARE TO OUTSIDE OF SHEATHING. ALL INTERIOR DIMENSIONS ARE TO CENTER OF PARTITION OR OTHER DIVIDER UNLESS OTHERWISE NOTED. CONTRACTOR TO VERIFY ALL DIMENSIONS AND REQUIRED CLEARANCES ON SITE PRIOR TO CONSTRUCTION. ANY DISCREPANCIES TO BE DISCUSSED w/ ENGINEER PRIOR TO CONSTRUCTION.

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NOTE: ORDER TRUSS LOCATIONS TO BE DETERMINED BY TRUSS MANUF. ANY DISCREPANCIES TO BE DISCUSSED w/ ENGINEER PRIOR TO CONSTRUCTION. ALL POINT LOADS FROM ABOVE TO CONTINUE THRU FLOOR JOIST CAVITY, DOWN TO FOUNDATION BELOW.

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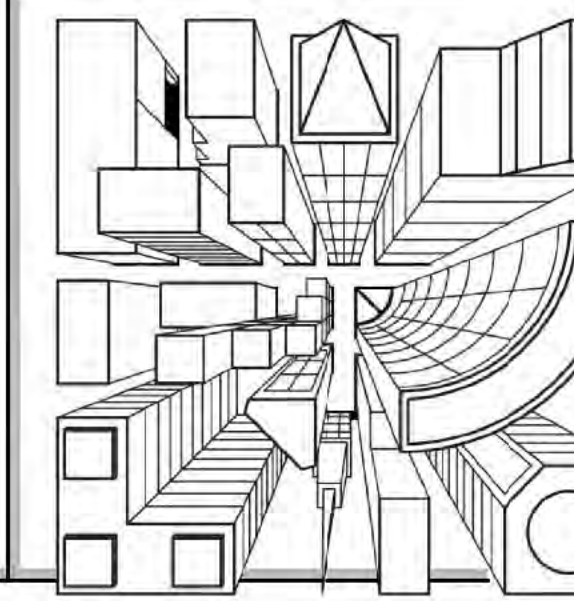
BELL RESIDENCE - DETACHED SHOP

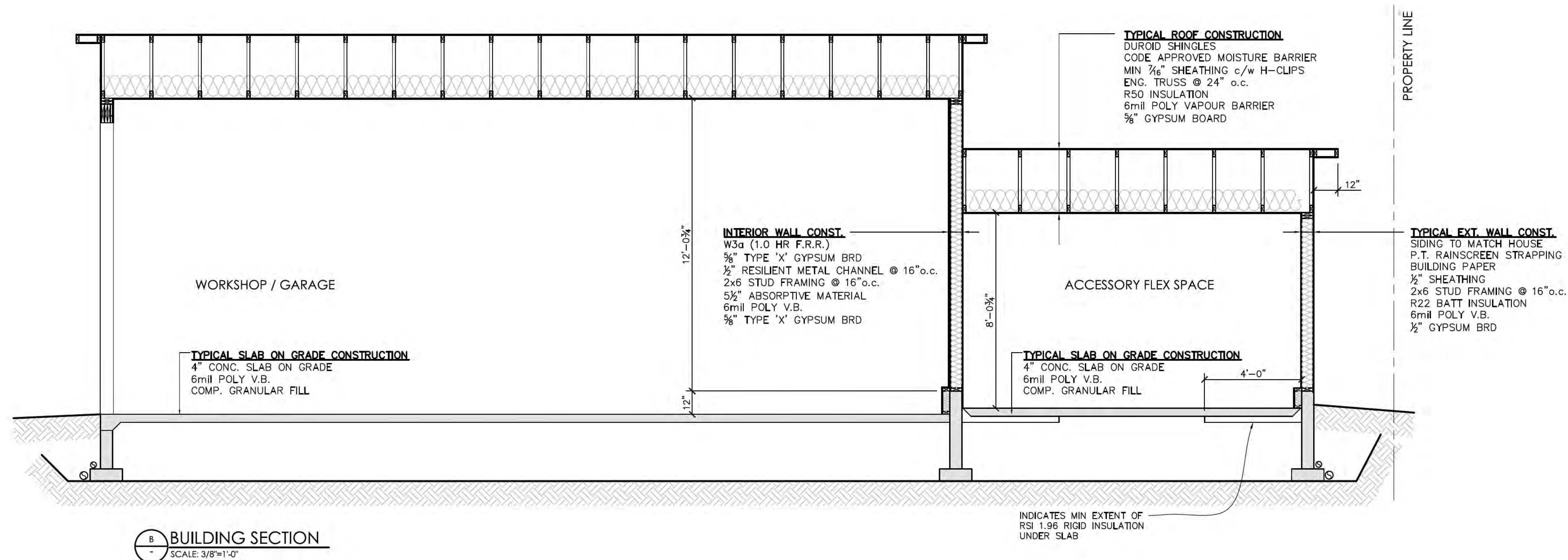
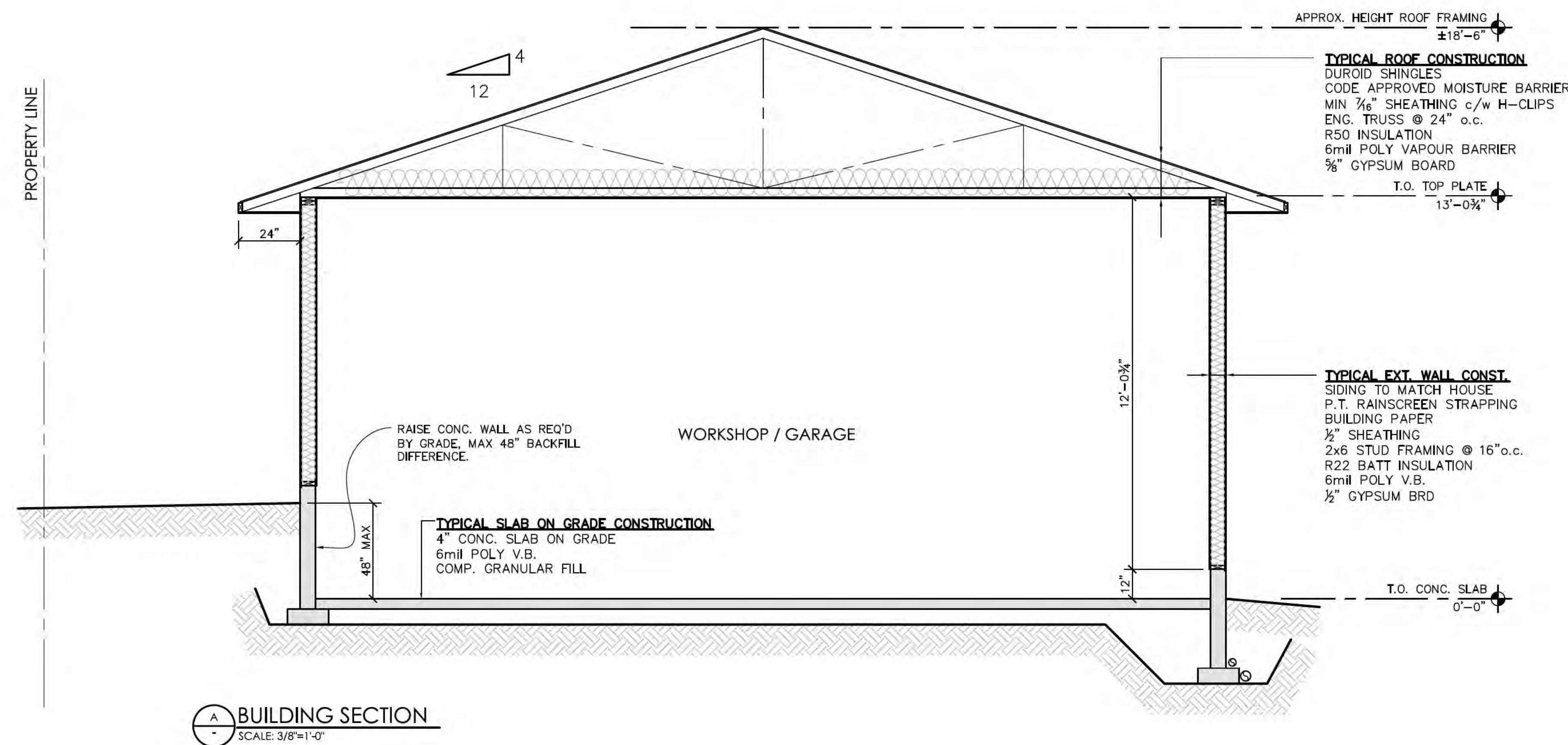
#9 LITTLE BEAR WAY, ROYSTON, BC
BIRDS EYE DRAFTING AND CONSULTING SERVICE

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3	REVISION TO WIDTH AND SLOPE	SEPT. 19/19

REV. NO. 3 DWG. NO. A-2 of 3

FOUNDATION PLAN
MAIN FLOOR PLAN
ELEVATIONS





NOTE: ALL EXTERIOR DIMENSIONS ARE TO OUTSIDE OF SHEATHING. ALL INTERIOR DIMENSIONS ARE TO CENTER OF STUDDED JOINTS UNLESS NOTED OTHERWISE. CONTRACTOR ASSUMES ALL RESPONSIBILITIES REQUIRED TO VERIFY ALL DIMENSIONS AND REQUIRE CLEARANCES ON SITE PRIOR TO CONSTRUCTION. ANY DISCREPANCIES TO BE DISCUSSED w/ ENGINEER PRIOR TO CONSTRUCTION.

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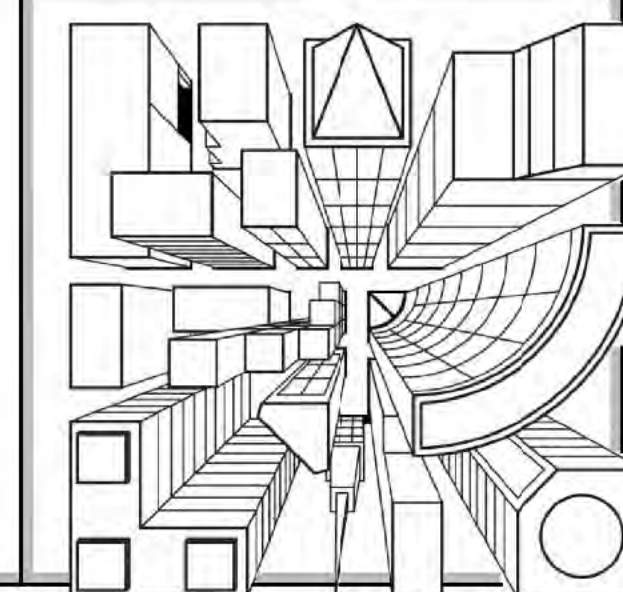
#9 LITTLE BEAR WAY, ROYSTON, BC
BIRDS EYE DRAFTING AND CONSULTING SERVICE
COMOX, BC EMAIL: bruce@birdseyedrafting.com PHONE: (250)465-8772

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REV. NC
3

DWG. NO.
A-3 of 3

BUILDING SECTION



Dr. Catherine A. Hagen, Dr. Ernst C. Fibich
11 Little Bear Way, Royston, BC V0R 2V0

July 23, 2019

Jodi MacLean
Rural Planner, Planning and Development Services Branch
Comox Valley Regional District
600 Comox Road, Courtenay BC V9N 3P6

Dear Ms. MacLean:

Re: File 3090-20 / DV 4A 19, Variance Permit Application 9 Little Bear Way, Strata Lot 5, Section 33
Township 11 Nelson District, Strata Plan VIS5591, PID 026-010-836

This letter is in response to yours, dated July 4th, 2019, and follows the EASC meeting, which took place on July 15th, 2019. I attended this meeting and registered my concerns regarding the Bell family application for several variances to the CVRD zoning bylaw in order to build a new accessory building. I live in the adjacent property to the south of the proposed building site, and am directly affected by the request to change the side yard setback from 3.5 to 1.7 metres, and the side eaves setback from 1.75 to 1.1 metres to accommodate a 193 square metre garage structure with attached variable use area.

My husband and I have, after consideration, the desire to register three principal objections to the proposed variance application.

The first is that we believe the beauty and privacy of our own home will be adversely affected by the placement of such a large structure within 1.1 metres of our property line. We believe that the CVRD bylaws are in part designed to protect property owners from the placement of large buildings at the extreme margins of property lines for various reasons, and in this case, the proposed structure is very close and very large, and within 10 m. of our kitchen window.

The second, which I brought up at the EASC meeting on July 15th, is that the excavation for the foundation of this proposed structure so close to our own property line and significantly below the existing grade, will destabilize our fence and vegetation.

The third objection is in response to several communications directed at us recently from the Bell family, in which they mention the urgency with which they wish to construct this accessory building is to house Mrs. Bell's mother in the flexible living space inside the proposed garage. Given the violation of the fire regulations as noted during the discussion prior to the EASC meeting, planning to allow housing for a ^{personal information removed}, in a garage structure

without safe fire access, doesn't seem to make sense, and certainly violates fire regulations.

While we appreciate Ms. Bell's desire to care for her mother, we believe other assisted living options are available and preferable.

Please feel free to contact us if you have additional questions.

We wish to be informed of any additional CVRD meetings at which this application will be considered.

Yours Sincerely,
Catherine A. Hagen, Ernst C. Fibich

3090-20 / DV 4A 19

J. MacLean

From: Doug Parker
Sent: Tuesday, August 06, 2019 9:54 AM
To: planningdevelopment@comoxvalleyrd.ca
Subject: Variance 9 Little Bear Way

Good morning,

I am writing in response to the letter you sent dated July 4, 2019.

I fully support that this variance be given approval. This will not impede any site lines or cause any disturbance or safety issues in any manner.

Also the proposed site and size will fit in with other buildings that have been constructed in the neighbourhood.

I believe others in the area have already been given a similar variance in the past so this is consistent with what has been approved.

If you have any further questions please feel to contact me by email or call me at Personal Information Removed

Thanks,

Doug Parker

DV 4A 19

TO: Dean and Jennifer Bell

1. This Development Variance Permit (DV 4A 19) is issued subject to compliance with all of the bylaws of the Comox Valley Regional District applicable thereto, except as specifically varied or supplemented by this permit.
2. This Development Variance Permit applies to and only to those lands within the Comox Valley Regional District described below:
Legal Description: Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591
Parcel Identifier (PID): 026-010-836 **Folio:** 771 10973.414
Civic Address: 9 Little Bear Way
3. The land described herein shall be developed strictly in accordance with the following terms and provisions of this permit:
 - i. THAT the development shall be carried out according to the plans and specifications attached hereto which form a part of this permit as the attached Schedules A and B.
4. This Development Variance Permit (DV 4A 19) shall lapse if construction is not substantially commenced within two (2) years of the Comox Valley Regional District Board's resolution regarding issuance of the Development Variance Permit (see below). Lapsed permits cannot be renewed; therefore application for a new development permit must be made, and permit granted by the Comox Valley Regional District Board, in order to proceed.
5. This Development Variance Permit is *not* a Building Permit.

CERTIFIED as the **DEVELOPMENT VARIANCE PERMIT** issued by resolution of the Board of the Comox Valley Regional District on _____.

James Warren
Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Site Plan”

Schedule A

File: DV 4A 19

Applicants: Dean and Jennifer Bell

Legal Description: Strata Lot 5, Section 33, Township 11, Nelson District, Strata Plan VIS5591, PID 026-010-836

Specifications:

THAT WHEREAS pursuant to 706(4) of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," the minimum rear yard setback for accessory buildings over 4.6 metres in height is 7.5 metres;

WHEREAS pursuant to 706 (4) of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," the minimum side yard setback for accessory buildings over 4.6 metres in height on properties with frontage greater than 31 metres in length is 3.5 metres;

WHEREAS pursuant to Section 403(2) of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," the setback of the eaves of a structure can be reduced by not more than 50 per cent of the minimum setback, up to a maximum of 2 metres;

AND WHEREAS the applicants, Dean and Jennifer Bell, wish to decrease the minimum rear and side yard setbacks for an accessory building shown on Schedule B;

THEREFORE BY A RESOLUTION of the Board of the Comox Valley Regional District on _____, the provisions of Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005," as they apply to the above-noted property are to be varied as follows:

706(4) The minimum rear yard setback of the proposed accessory building shown on Schedule B is reduced from 7.5 metres to 1.3 metres; and

The minimum left (south) side yard setback of the proposed accessory building shown on Schedule B is reduced from 3.5 metres to 2.6 metres;

403(2) The minimum rear yard setback of the eaves of the proposed accessory building shown on Schedule B is reduced to 1.0 metres.

I HEREBY CERTIFY this copy to be a true
and correct copy of Schedule A being the
terms and conditions of Development
Variance Permit File DV 4A 19.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B

