

DATE: April 22, 2021

FILE: 3090-20 / DV 1A 21

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit – 6650 Island Highway South (Latta)
Baynes Sound – Denman/Hornby Islands (Electoral Area A)
Lot 1 of Lot 31G of Section 2A, Nelson District, Plan 23003, PID 003-213-447**

Purpose

To consider a Development Variance Permit (DVP) to reduce the minimum front yard setback as it pertains to Craft Road from 7.5 metres to 6.0 metres for the foundation of a single detached dwelling (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board approve Development Variance Permit DV 1A 21 (Latta) to reduce the front yard setback pertaining to Craft Road from 7.5 metres to 6.0 metres for the foundation of a new single detached dwelling, on property described as Lot 1 of Lot 31G of Section 2A, Nelson District, Plan 23003, PID 003-213-447 (6650 Island Highway South);

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

Executive Summary

- A DVP application has been received to reduce the front yard setback pertaining to Craft Road from 7.5 metres to 6.0 metres for the foundation of a single detached dwelling.
- The Advisory Planning Commission (APC) for Area A considered the file at their April 6, 2021 meeting, voting to support the application as presented.
- Staff are recommending that the variance be approved as there is sufficient space for the maintenance of the building, and safety and privacy concerns are mitigated and addressed through various measures.

Prepared by:

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Dylan Thiessen, MA, MCP
Planner

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

A. Mullaly

Alana Mullaly, RPP, MCIP
General Manager of Planning
and Development Services

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

An application has been received to consider a DVP to allow the construction of a detached dwelling with a 6.0 metre front yard setback rather than the standard 7.5 metres. The subject property is a corner lot located at 6650 Island Highway South (Figures 1 and 2), and the setback variance would only apply to Craft Road, a small unopened road right-of-way – not Island Highway South. The subject property is zoned Country Residential One (CR-1) and is designated as being within a Rural Settlement Area. Existing development consists of a small shed, which will remain, and the development proposal is for a single detached dwelling with a garage connected via a breezeway (Figures 3-5). The subject property is mostly flat, with a gentle slope towards the sea.

Policy Analysis

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

Regional Growth Strategy and Official Community Plan Analysis

Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010,” and Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014,” both designate the property with the Rural Settlement Area land use designation. The Rural Settlement Area is a land use designation designed to preserve a rural form and character and rural way of life by ensuring development is relatively small-scale in nature. The proposed development does not conflict with the residential goals, policies, and objectives outlined for the Rural Settlement Area.

Given that this is a waterfront property, an Aquatic and Riparian Habitat Development Permit will be required, per Section 80 of Bylaw No. 337. The applicants want to determine the siting of the house first and will follow up with the appropriate development permit application.

Zoning Bylaw Analysis

Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” outlines the specifications and regulations that dictate how a property may be used and developed. The proposed dwelling is within the maximum building height and lot coverage requirements, and the minimum setback distance is maintained for the eaves of the house pertaining to all lot lines. Per Section 403(1) of Bylaw No. 520, eaves and other features that protrude from a foundation without adding floor area have a more lenient setback, as the required minimum setback can be reduced by up to 50 per cent or 2.0 metres, whichever is lesser. As such, the eaves have a 5.5 metre setback per the Zoning Bylaw and the proposed setback for the eaves is 5.53 metres, meaning they do not need to be considered in this variance application.

Zoning Bylaw	Variance	Zoning	Proposed	Variance
Section 701 (4)	Front yard setback	7.5 metres	6.0 metres	1.5 metres

Recommendation and Rationale

Staff are in support of the application and are recommending that the Electoral Areas Services Committee (EASC) support the application for the following reasons:

1. Planning staff are in the process of drafting and presenting to the Board minor updates to the Zoning Bylaw. If these updates are approved, the lot line subject to this variance would be considered a “side yard lot line abutting a road” and would be subject to a 4.5 metre setback, rather than the 7.5 metre front yard lot line setback.
2. The presence of the unopened right-of-way, Craft Road, mitigates privacy concerns to and from adjacent properties that may be impinged upon through encroachment into a setback.
3. The requested setback leaves sufficient space for the ongoing maintenance and upkeep of the dwelling.
4. While it is unlikely that Craft Road will be opened as a roadway, a 6.0 metre setback still provides sufficient space for sightlines to ensure vehicular and pedestrian safety should this right-of-way be opened in the future.
5. It is not likely for this development as proposed to alter the rural form and character of the neighbourhood and surrounding development.

Options

The Board can either approve or deny the requested variance. Based on the analysis above, staff recommend approving the setback variance.

Financial Factors

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

Legal Factors

This report and the recommendations contained herein are in compliance with the LGA and applicable CVRD bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

This application does not have any implications for the Regional Growth Strategy, as the variance requested does not conflict with any of the residential policies, principles, or objectives outlined within Bylaw No. 120.

Intergovernmental Factors

There are no intergovernmental factors with respect to this application given that it is for a single residential property that does not border a member municipality.

Interdepartmental Involvement

This application was referred to staff within the bylaw enforcement, fire services, building, and engineering departments to provide staff an opportunity to comment on the application. Aside from noting that a building permit will be required, no further comments were received and no concerns were raised.

Citizen/Public Relations

The APC for Electoral Area A considered this application at their meeting held on April 6, 2021. The APC decided to vote in support of the application, noting that maintenance, privacy, and safety issues are addressed through the application and that it seems likely that the required setback for this particular lot line will only be 4.5 metres at some point in the near future.

Additionally, notice of the requested variance was mailed to adjacent property owners within 100 metres of the subject property at least 10 days prior to the EASC meeting. This notice informs those property owners and/or tenants as to the purpose of the application and permit, the land that is the

subject of the permit, and that further information on the proposed permit is available at the CVRD office. It also provided the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners and/or tenants is through their written comments received prior to or during the EASC meeting.

Attachments: Appendix A – “Development Variance Permit DV 1A 21”

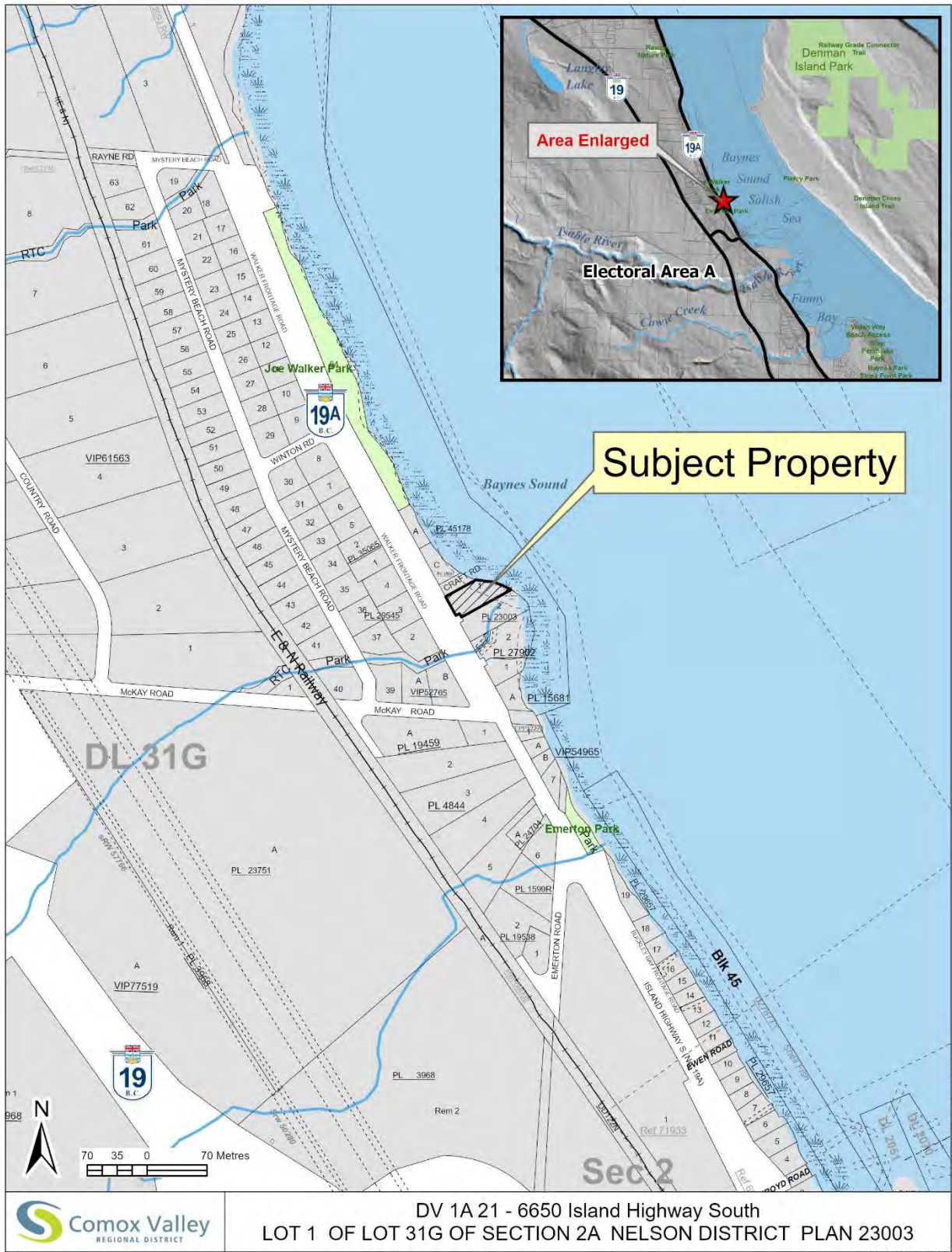


Figure 1: Subject Property Map

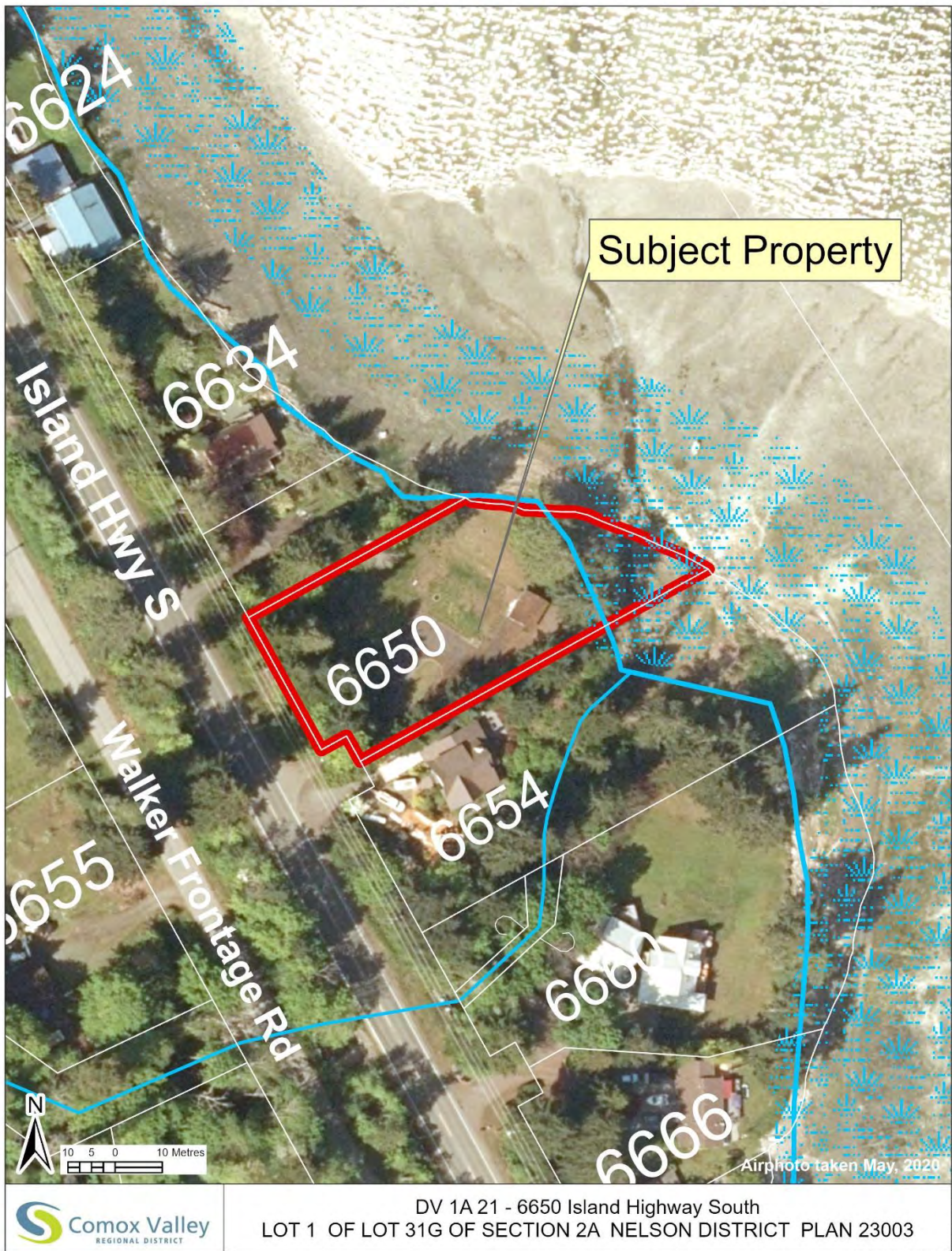


Figure 2: Air Photo

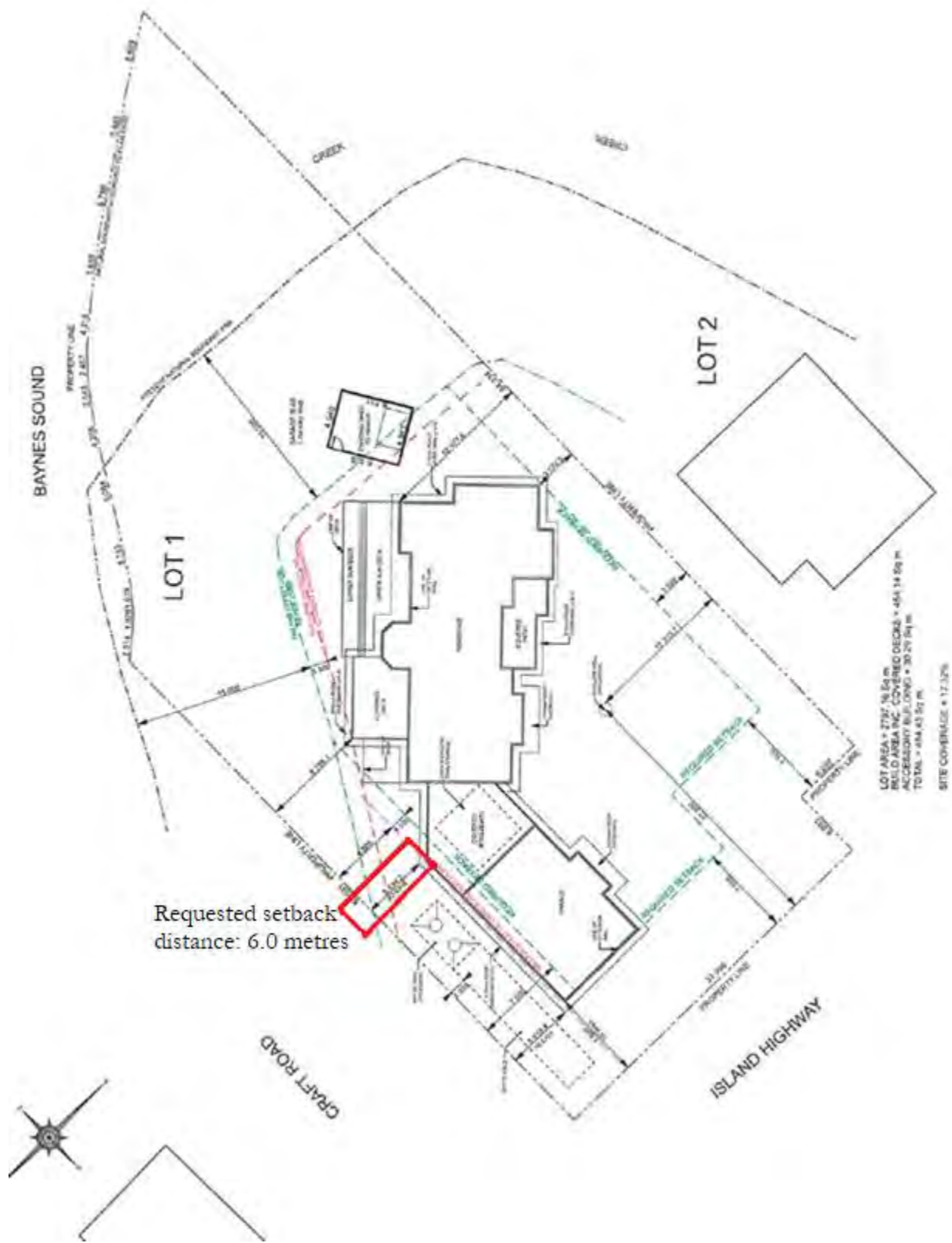


Figure 3: Site Plan



Figure 5: Elevation Drawings

DV 1A 21

TO: Michael and Roswitha Latta

1. This Development Variance Permit (DV 1A 21) 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: Lot 1 of Lot 31G of Section 2A, Nelson District, Plan 23003
Parcel Identifier (PID): 003-213-447 Folio: 10281.000
Civic Address: 6650 Island Highway South
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 is issued following the receipt of an appropriate site declaration from the property owner.
5. This Development Variance Permit (DV 1A 21) 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.
6. 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 _____.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Property Maps, Air Photo, Site Plan, and Elevation Drawings”

Schedule A

File: DV 1A 21

Applicants: Michael and Roswitha Latta

Legal Description: Lot 1 of Lot 31G of Section 2A, Nelson District, Plan 23003

Specifications:

THAT WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 500, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum front lot line setback is 7.5 metres;

AND WHEREAS the applicants, Michael and Roswitha Latta, wish to construct a single detached dwelling within 6.0 metres of the lot line adjacent to Craft Road;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on _____, the provisions of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” as they apply to the above-noted property are to be varied as follows:

703(5)(i) “The minimum front yard setback pertaining to Craft Road for the single detached dwelling shown on Schedule B is 6.0 metres for the foundation.”

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 1A 21.

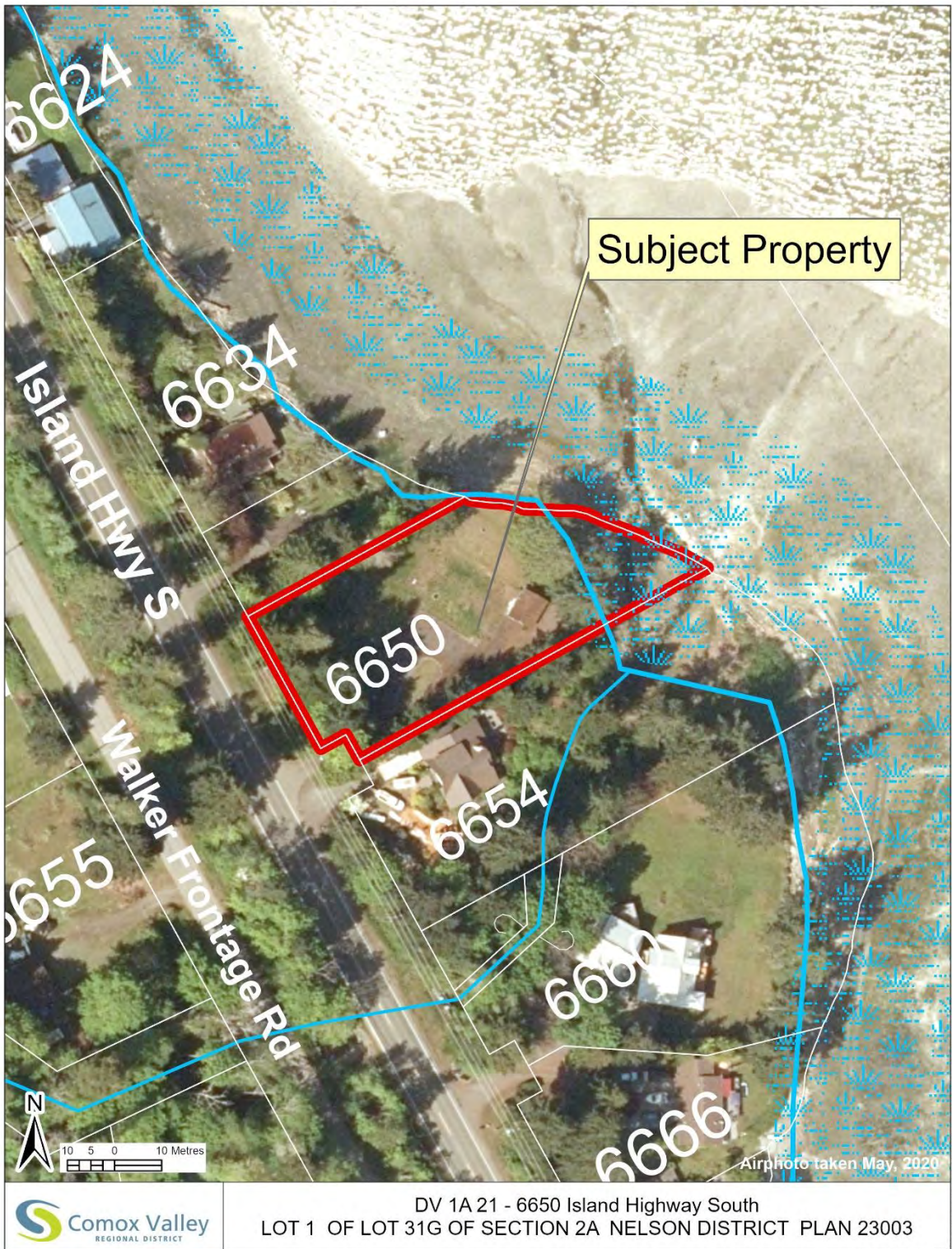
Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

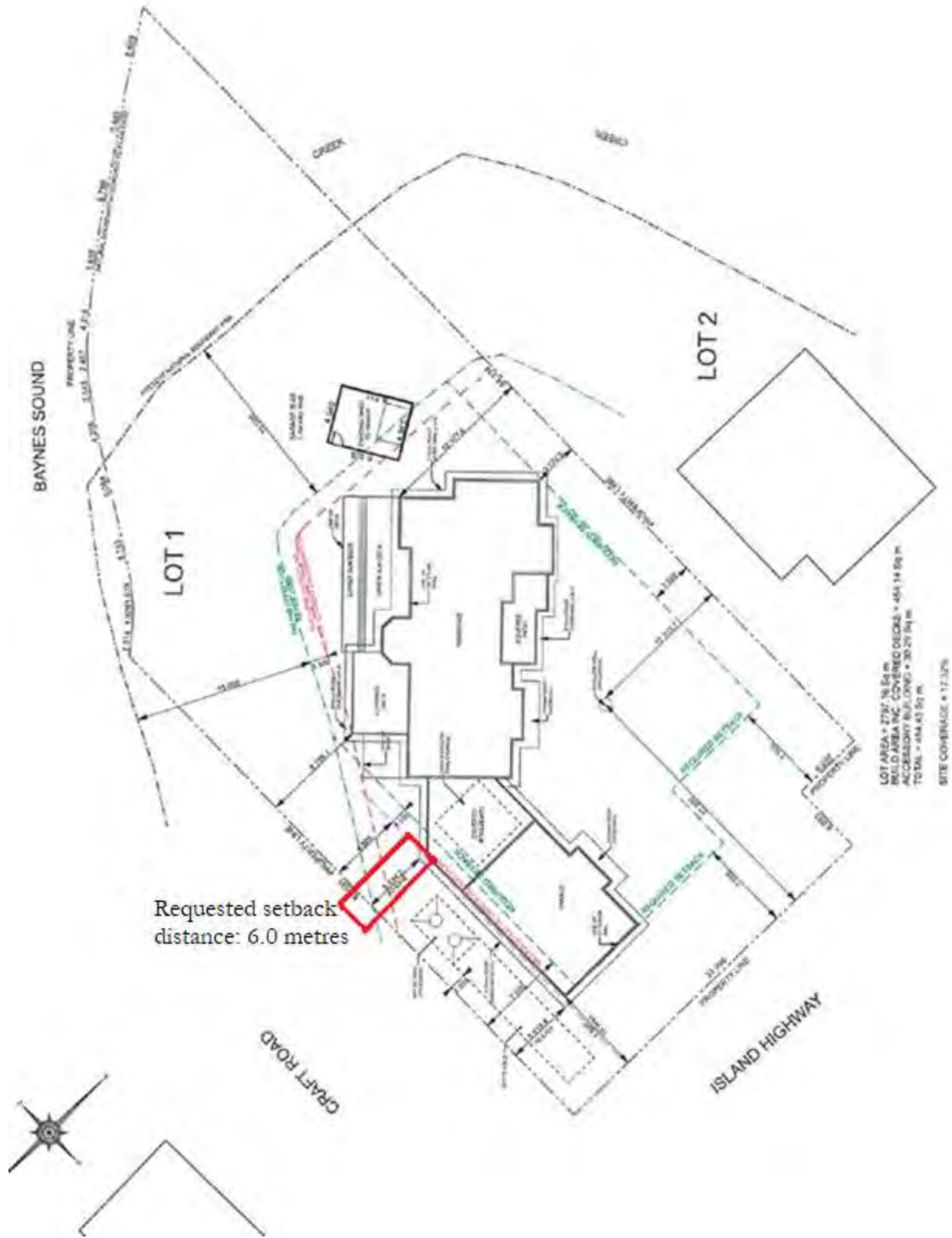
Schedule B



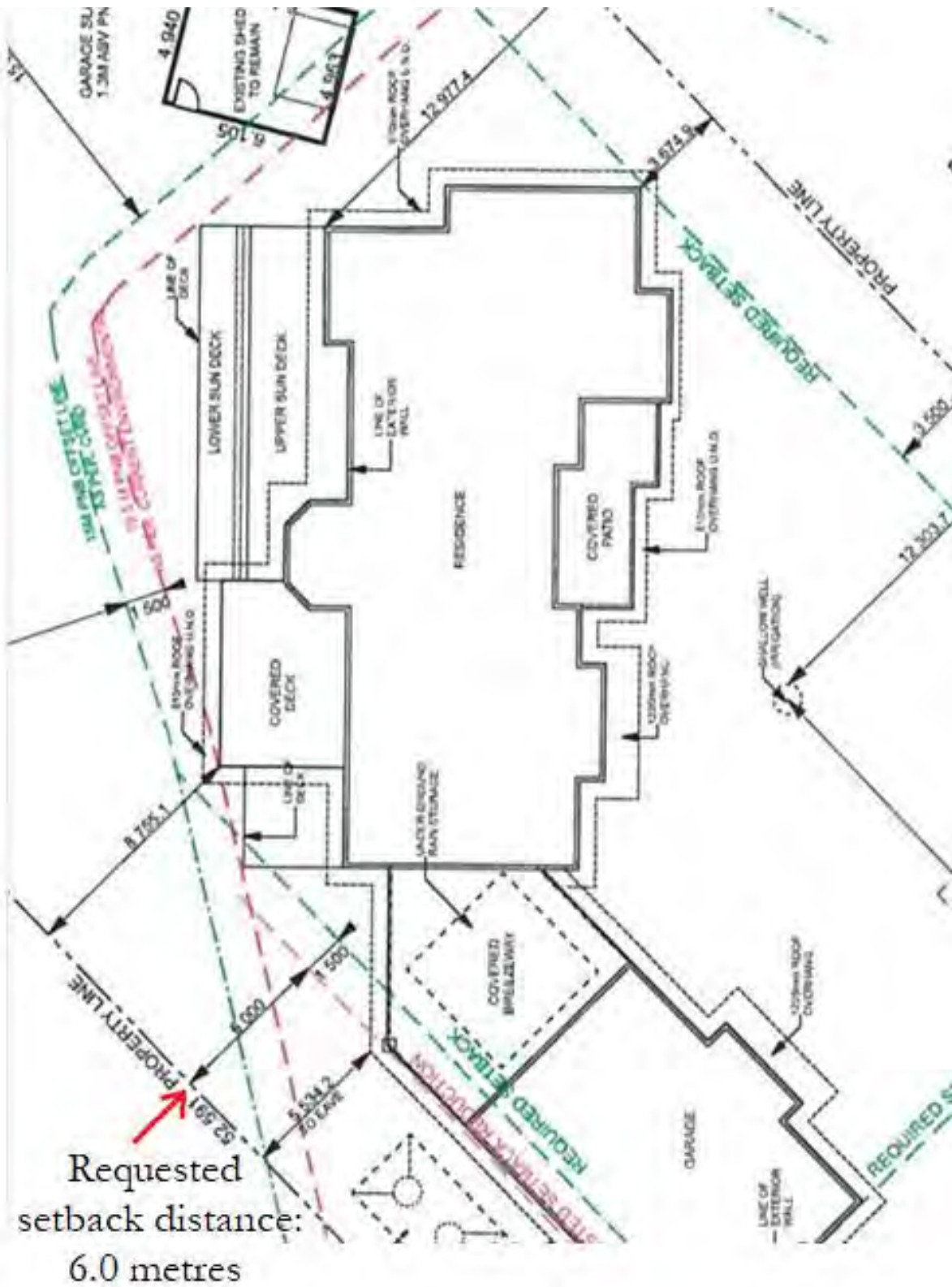
Subject Property Map



Air Photo



Site Plan



Site Plan (Zoomed In)



Elevation Drawings