

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: July 21, 2023
TO: Christopher Garrish, Senior Manager of Planning
FROM: Ben Kent, Planner I
RE: Development Variance Permit (DVP) — Electoral Area “H”

FILE NO.: H2023.023-DVP

Owner: Lena & William Yurick Agent: NA Folio: H-01111.248
Civic: 4057 Princeton-Summerland Road Legal: Lot A, Plan KAP41279, District Lot 2086, KDYD

Proposed Development:

This application is seeking a variance to the maximum accessory building height regulation that applies to the subject property in order to construct a new garage.

Specifically, it is being proposed to vary the maximum height for an accessory building from 4.5 metres to 5.3 metres.

In support of this request, the applicant has stated that:

- *The property slopes up fast on the west side and we can't move building closer to the house. If we don't raise the building height, we will only have 6' ceiling on the west half of the shop.*
- *The height we are asking for does not in any way affect anyone else in the neighbourhood. In fact the roof will still be below the road.*

Site Context:

The subject property is approximately 3,613 m² in area and is situated on the south side of Lakesyde Road, approximately 29 km west from the boundary with District of Summerland. The property is understood to contain one (1) singled detached dwelling.

The surrounding pattern of development is generally characterised by similar residential development.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on June 19, 1989, while available Regional District records indicate that a building permit for an addition to a cottage (1990) has previously been issued for this property.

Under the Electoral Area “H” Official Community Plan (OCP) Bylaw No. 2497, 2012, the subject property is currently designated Low Density Residential (LR), and is the subject of a Watercourse Development Permit (WDP).

Under the Electoral Area “H” Zoning Bylaw No. 2498, 2012, the property is currently zoned Residential Single Family One (RS1) which lists “accessory building or structure” as a permitted accessory use.

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Osprey Lake and the flood construction level is 1.5 metres above the natural boundary of the lake.

BC Assessment has classified the property as Residential” (Class 01).

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act ...*”

Public Process:

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on June 20, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of July 12, 2023, being 15 working days from the date of notification, approximately 0 representations have been received electronically or by submission at the Regional District office.

Delegated Authority:

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the degree of the requested variance it is considered that a 17% increase in the maximum height of an accessory building from 4.5 metres to 5.3 metres is minor because it is unlikely to impact adjacent properties.

With regard to the proximity of the proposed accessory building to neighbouring properties, the nearest parcel lines is approximately 1.8 metres to the southwest. For this reason, the requested variance is seen to be not minor as the proximity to the parcel line increases the likelihood of impacts to the adjacent parcel.

With regard to the final criteria and the character of development in the vicinity of the subject property, an over height accessory building was approved on the adjacent parcel.

For these reasons, the proposed variance is deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

Analysis:

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

Regulating the height of accessory structures through the Zoning Bylaw is done to ensure that a building does not impact the enjoyment of adjacent properties.

Building height is also an important component of the built form of a neighbourhood and, depending upon the location of an accessory structure (i.e. near a street frontage) an excessive height can have an impact upon established streetscape characteristics.

Accordingly, when assessing variance requests a number of factors are taken into account, including the intent of the regulation; the presence of any potential limiting physical features on the subject property; established streetscape characteristics; and whether the proposed development would have a detrimental impact upon the amenity of the area and/or adjoining uses.

In this instance, the requested variance is unlikely to impact the streetscape as the proposed building location is below the grade of the roadway and partly screened by an embankment.

While the proposed building is approximately 1.8 metres to the adjacent property line, it is approximately 20 metres from the adjacent dwelling and for this reason is unlikely to impact adjacent uses.

The proposed height of 5.3 metres maintains the subordinate and ancillary nature of accessory buildings and for this reason, it satisfies the general intent of the zoning provision.

Conversely, the zoning bylaw measures building height from the average finished grade and alternate measures to address the slope of the lot are likely available.

For these reasons, it is recommended that the requested variances be approved.

Recommendation:

THAT Development Variance Permit No. H2023.023-DVP, to allow for the construction of an accessory building at 4057 Princeton-Summerland Road, be approved.

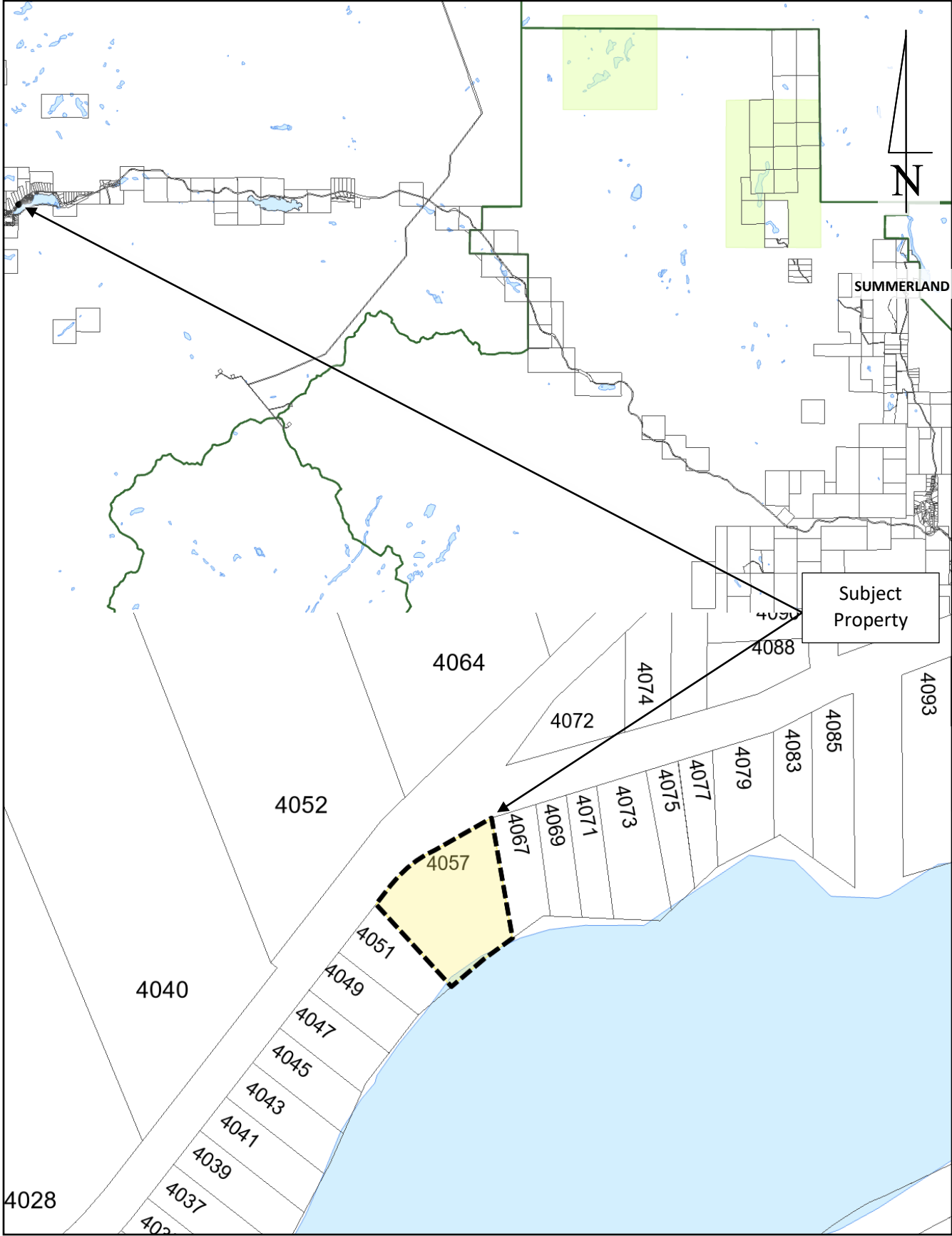
Respectfully submitted:

Ben Kent

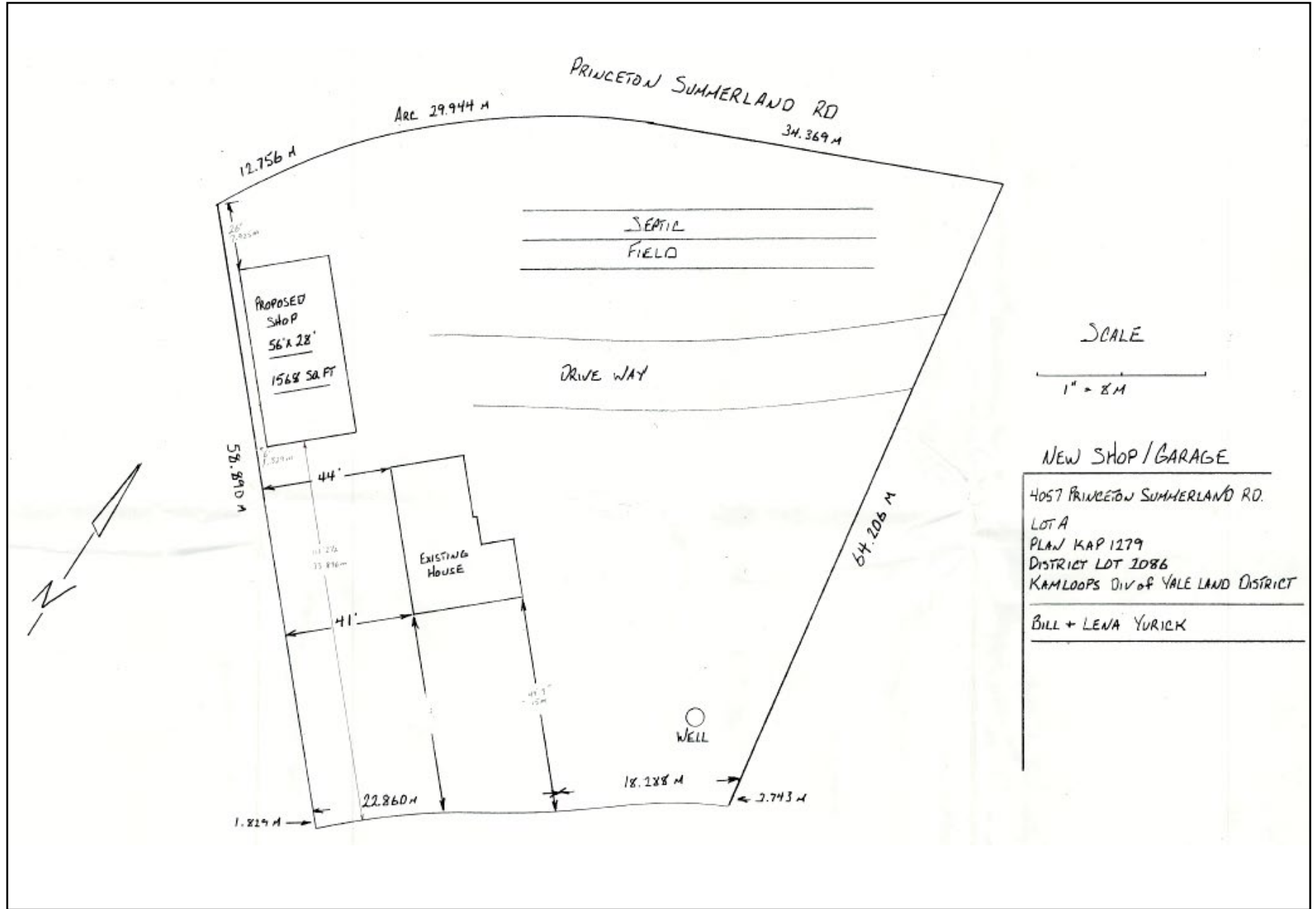
Ben Kent, Planner I

Attachments: No. 1 — Context Maps
No. 2 — Applicant’s Site Plan
No. 3 — Site Photo

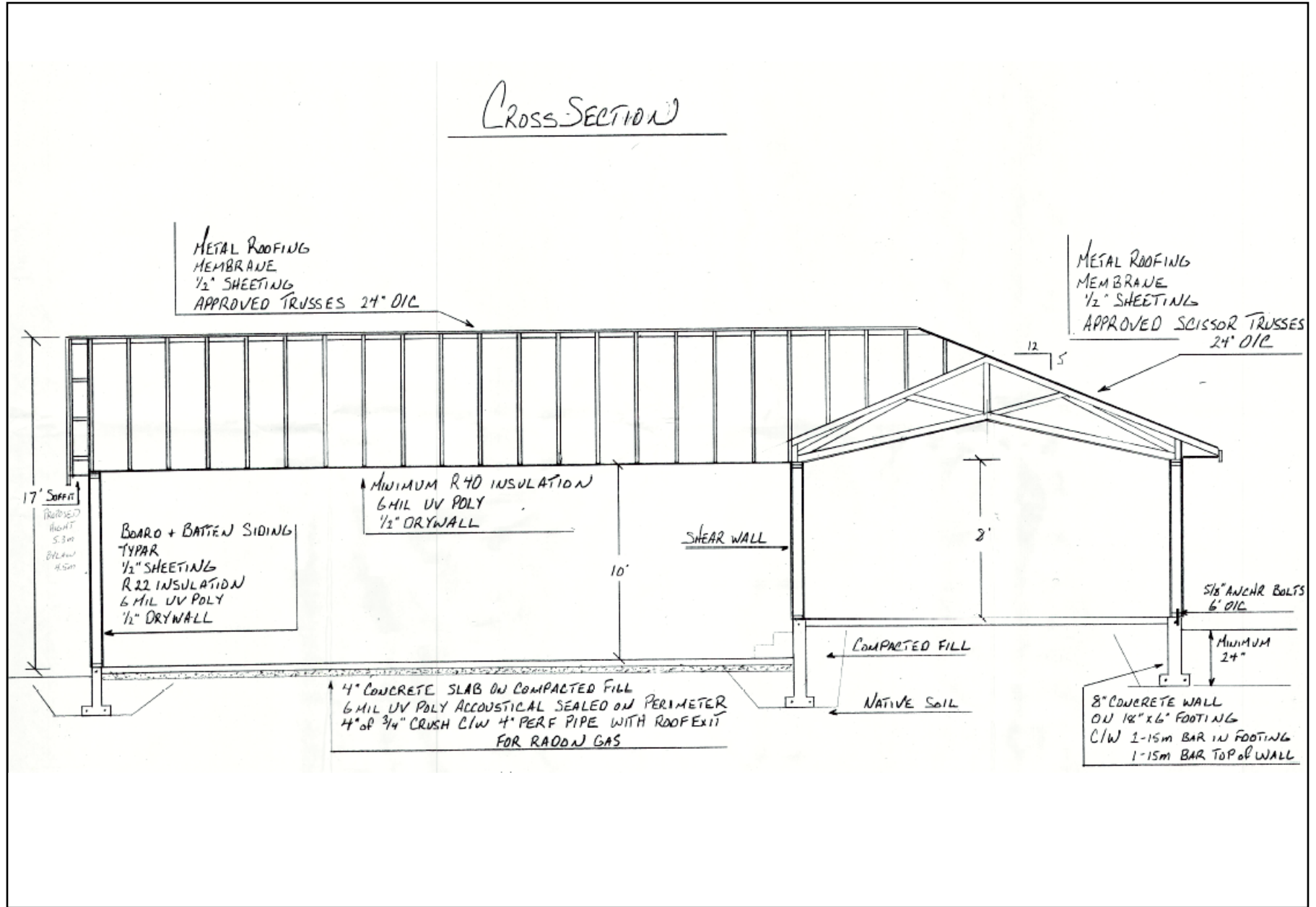
Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant's Site Plan



Attachment No. 3 – Applicant's Elevation Drawings



Attachment No. 4 – Site Photo

