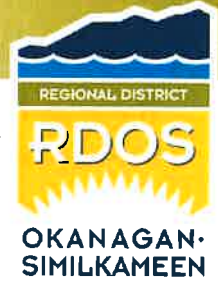


MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



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

FILE NO.: A2023.009-DVP

Owner: Verine & William Hunt Agent: NA Folio: A-05918.500
Civic: 19217 95th Street Legal: Lot 14, Plan KAP2310, District Lot 2450S, SDYD

Proposed Development:

This application is seeking a variance to the front parcel line setback that applies to the subject property in order to undertake a garage addition to a single detached dwelling.

Specifically, it is being proposed to vary the front parcel line setback from 7.5 metres to 4.5 metres.

In support of this request, the applicant has stated that

- *Our application will not unduly impact the neighbourhood, if anything it will enhance the neighbourhood by us upgrading our 1988 home to today's standards and appeal.*
- *Neighbouring homes have garages closer to the roadway.*

Site Context:

The subject property is approximately 1986 m² in area and is situated on the east side of 95th Street, approximately 3 km north from the boundary with Town of Osoyoos. 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 November 12th, 1931, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2905, 2021, the subject property is currently designated Low Density Residential (LR), and is the subject of a Watercourse Development Permit (WDP) designation.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Low Density Residential Two (RS2) which requires a front parcel line setback of 7.5m.

Under Section 8.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Osoyoos Lake and requires a flood construction level of 280.70 metres GSC datum.

The property has been the subject of a Stop Work Notice for “for extensive renovations of the single detached dwelling without a building permit”).

The property is within the Agricultural Land Reserve (ALR) and BC Assessment has classified the property as “Residential” (Class 01).

While the subject property is located within the Agricultural Land Reserve (ALR), Section 23(1) (Exceptions) of the *Agricultural Land Commission Act*, states that restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act* (1960), less than 2.0 acres (0.81 ha) in area.

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 March 15, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of April 5, 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 40% decrease in the front parcel line setback from 7.5 metres to 4.5 metres is not minor.

With regard to the proximity of the proposed garage addition to neighbouring properties, the nearest parcel lines is approximately 4 metres to the north. For this reason, the requested variance is seen minor and unlikely to adversely impact the use of adjacent.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of a single detached dwellings within 4.5 metres of the front parcel line is common in this area.

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.*

In this instance, the Zoning Bylaw’s use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding. When a parcel is also adjacent a roadway, setbacks are further employed to maintain adequate sightlines for vehicle traffic movements.

Front parcel line setbacks are further used to avoid impacts to the character of the streetscape.

The requested variance is seen to address a physical constraint on the subject property due to the presence of a watercourse development permit area and regulated floodplain on the subject property.

The Plan of Subdivision for this area consists of narrow ‘finger’ lots along the lakefront, which has resulted in a development pattern of single detached dwellings being constructed with shallow front yards. For this reason, the proposed development is seen to be consistent with the character of the surrounding neighbourhood and to not result in undue impacts to the streetscape.

It is also noted that the Electoral Area “A” OCP contains policies that speak to encouraging the relaxation of parcel line setbacks to preserve riparian areas.

In consideration of these reasons, the requested variance is seen to be consistent with the intent of the RS2 zone and strict compliance with the zoning regulation is seen to be unreasonable.

Alternative

Conversely, it may be possible to avoid the requested variance either by redesigning the garage addition or constructing a smaller addition.

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

Recommendation:

THAT Development Variance Permit No. A2023.009-DVP, to allow for a garage addition to a single detached dwelling at 19217 95th Street, be approved.

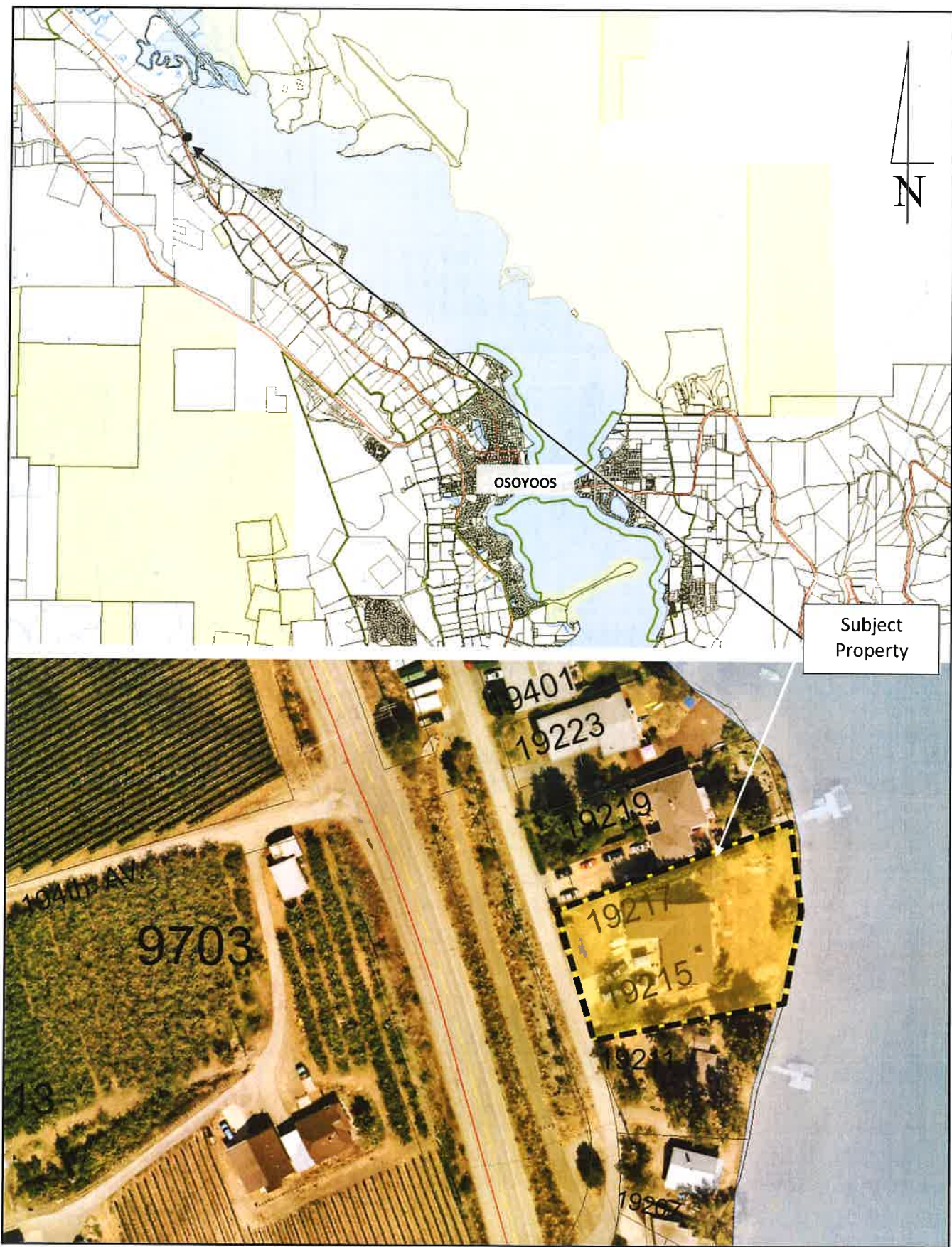
Respectfully submitted:

Ben Kent

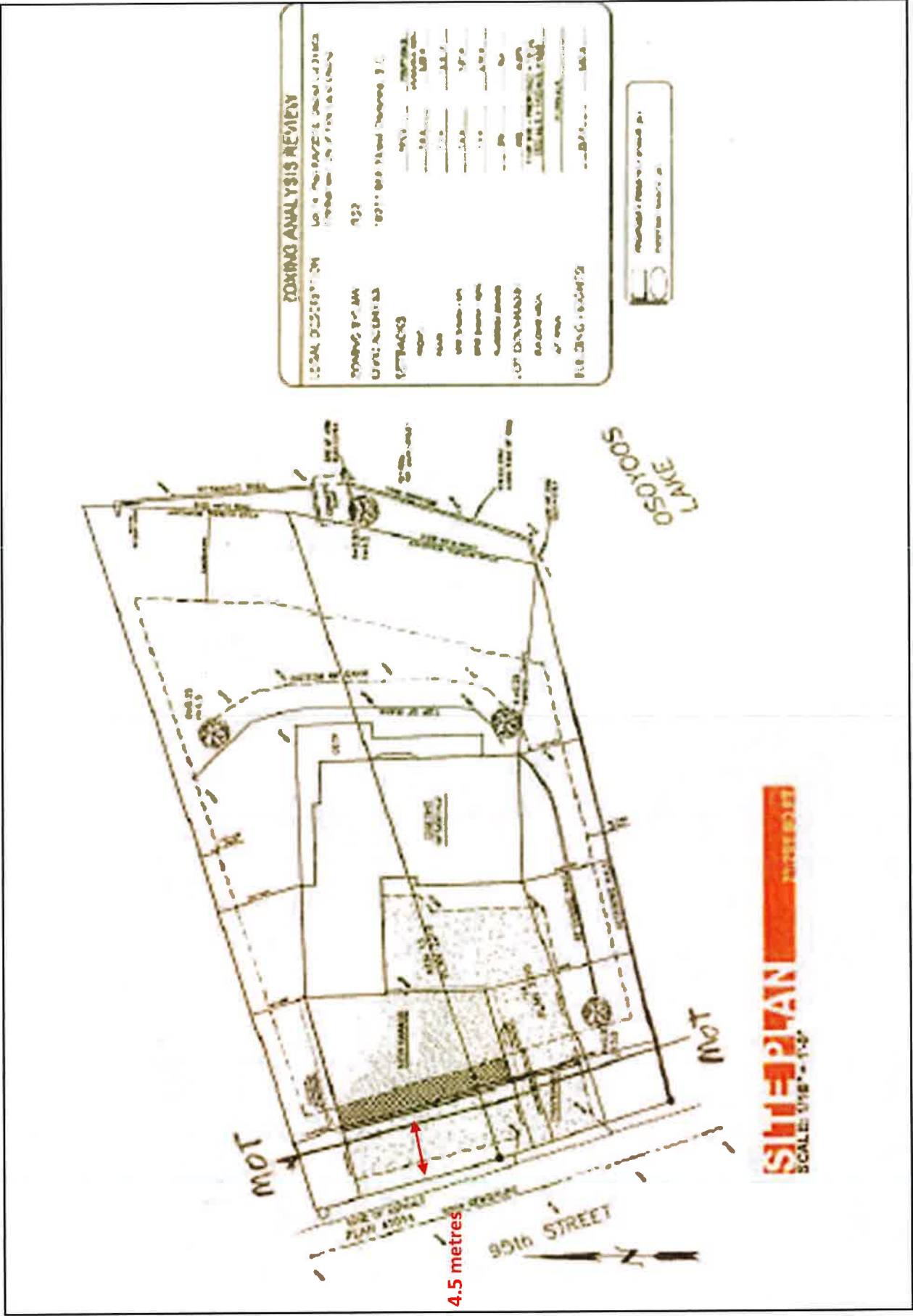
Ben Kent, Planner I

Attachments: No. 1 — Context Maps
 No. 2 — Applicant's Site Plan
 No. 3 — Applicant's Elevation Drawings

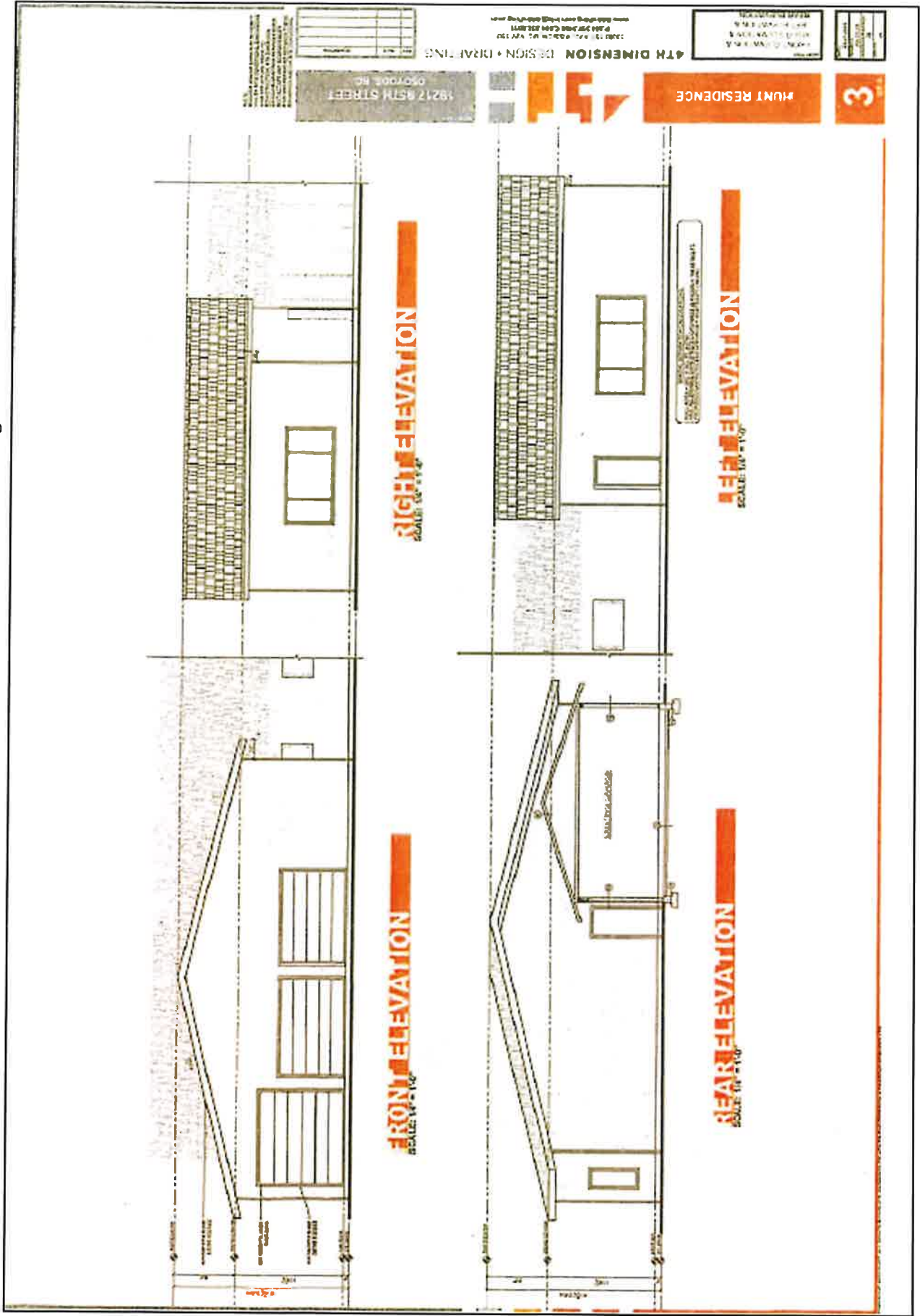
Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Applicant's Elevation Drawings



Attachment No. 4 – Site Photo (Street View – 2012)

