



# Committee Report

**Date of Report:** November 25, 2021  
**Date & Type of Meeting:** December 8, 2021, Rural Affairs Committee Meeting  
**Author:** Stephanie Johnson, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2111F-04862.050-TICE-DVP000227  
**Electoral Area/Municipality:** Area 'F'

## SECTION 1: EXECUTIVE SUMMARY

This report seeks the Board's consideration of a Development Variance Permit (DVP) application to increase the maximum gross floor area from 200 m<sup>2</sup> to 264 m<sup>2</sup> for an accessory structure to construct a building for storage, workshop and personal office use at 965 Highway 3A on the North Shore, Electoral Area 'F'.

An existing residence and the partially constructed unauthorized accessory structure currently occupy the site.

Staff recommend approving the issuance of this Development Variance Permit.

## SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION	
<b>Property Owners:</b>	Randy Tice
<b>Property Location:</b>	965 Highway 3A, North Shore
<b>Legal Description:</b>	LOT 6 PLAN NEP2046 DISTRICT LOT 908 KOOTENAY LAND DISTRICT (PID: 013-138-286)
<b>Property Size:</b>	1.4 hectares (ha)
<b>Zoning Designation:</b>	Country Residential (R2)
<b>OCP Designation:</b>	Country Residential (CR)

ORIENTATION	ZONING	LAND USE
North	Open Space (OS)	Forested land
East	Open Space (OS)	Forested land
South	Country Residential (R2)	Single family residential uses and Highway 3A
West	Country Residential (R2)	Single family residential uses

### Site Context

The property is bounded by residential uses and Highway 3A to the south, residential uses to the west and open space designated lands to the north and east. An existing residence currently occupies the site.

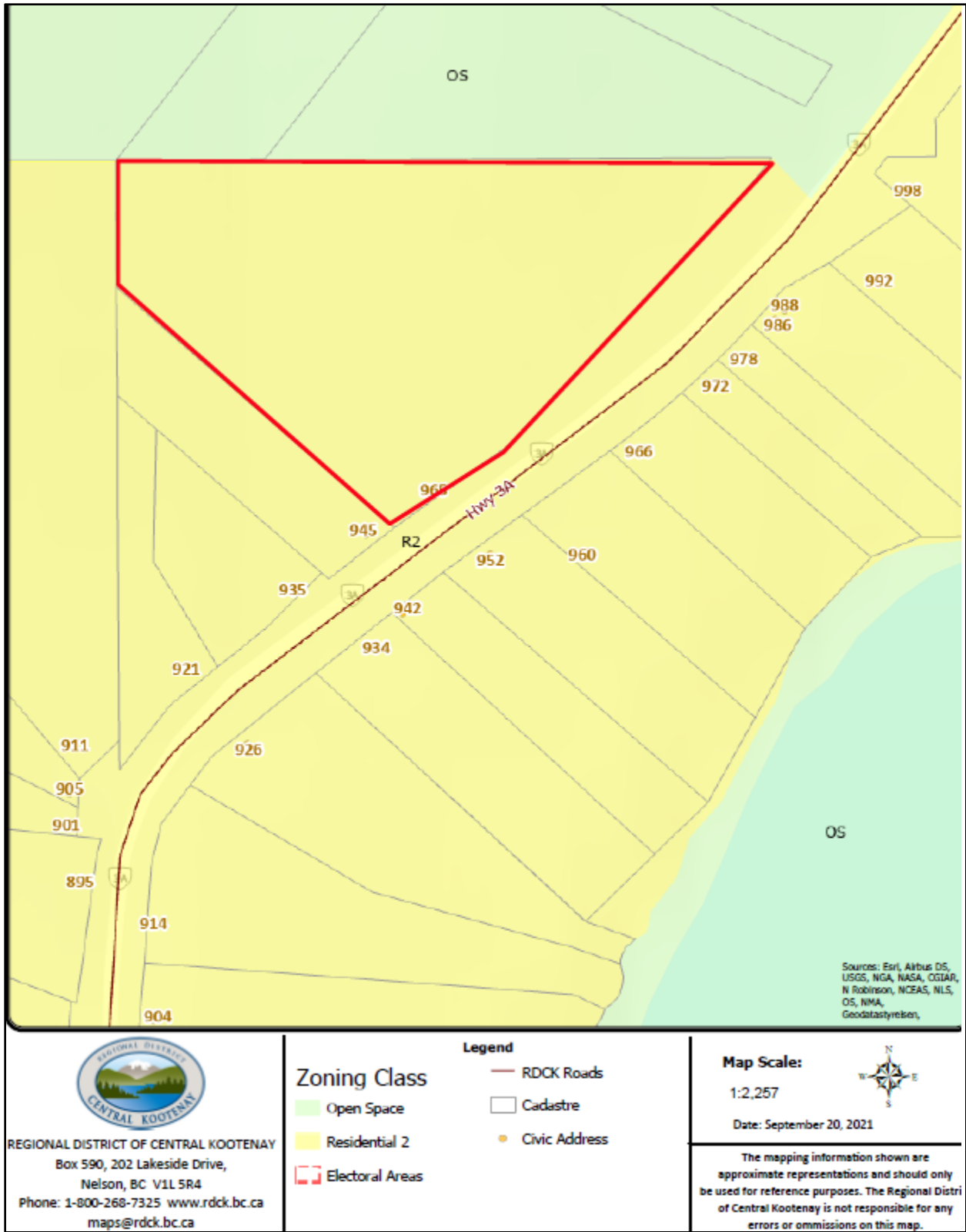


Figure 1: Zoning Overview Map



Figure 2: Air Photo Subject Property Overview

Development Proposal

This Development DVP application seeks to vary Section 1101 (10) of RDCK *Zoning Bylaw No. 1675, 2004*. The applicant is requesting to increase the maximum gross floor area (GFA) of an accessory building under the Country Residential (R2) Zone from 200 m<sup>2</sup> to 264 m<sup>2</sup> to permit the construction of a two-storey accessory building for a garage (176 m<sup>2</sup> in GFA) on the ground level, with office space (totaling 88 m<sup>2</sup> in GFA) on the second level.

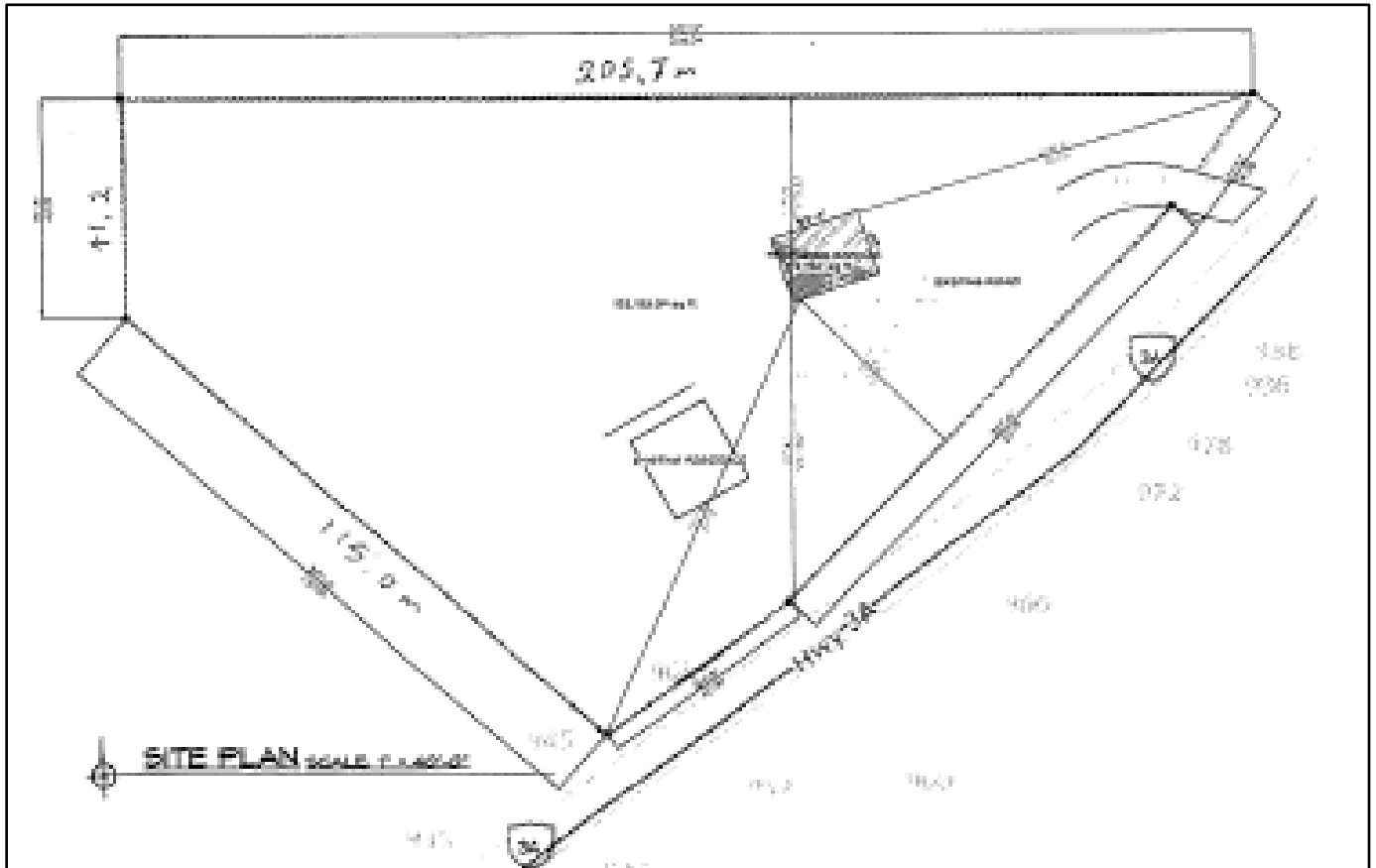


Figure 4: Site Plan

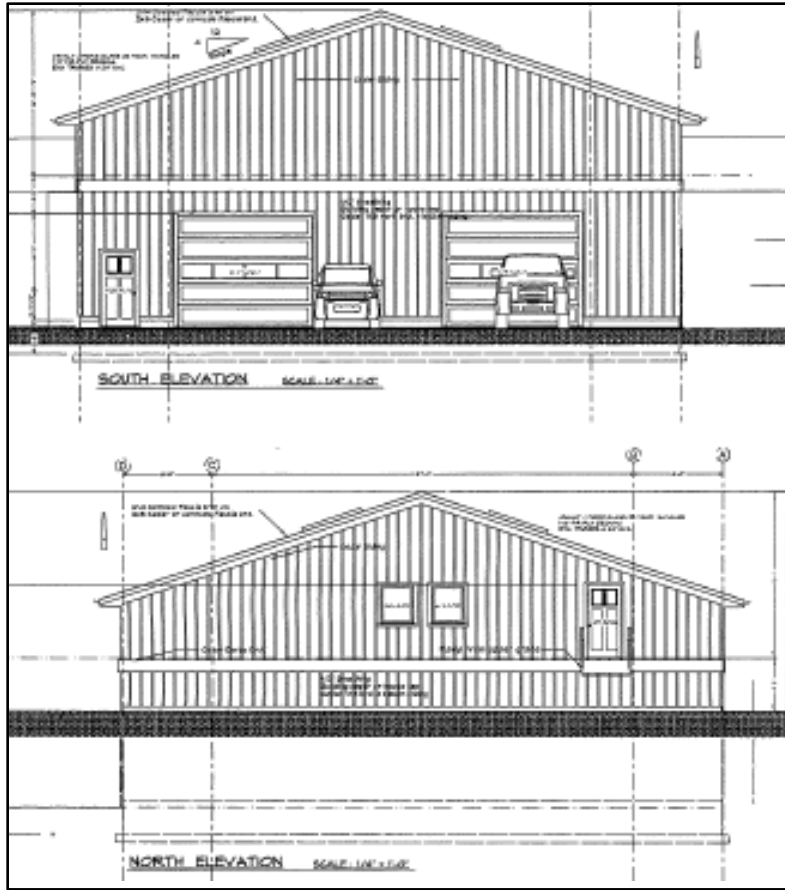


Figure 5: Proposed Building Elevations

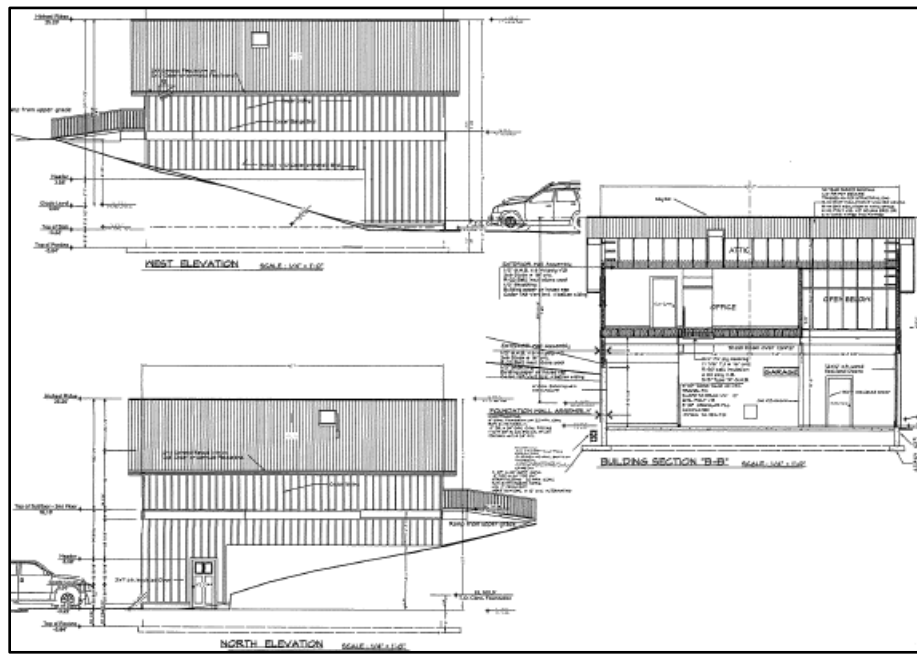


Figure 5: Proposed Building Elevations & Office Space

**Electoral Area 'F' Official Community Plan Bylaw No. 2214, 2011**

*Relevant General Residential Objectives:*

- 1. Protect the existing quality of life and character of existing neighbourhoods.
- 6. Encourage high quality design, building, development and landscaping standards that improve energy efficiency, and maintain and enhance rural character.

*Relevant Rural, Country, and Suburban Residential Policies:*

The Regional Board:

- 11.4.1 Considers that new Rural, Country, and Suburban Residential development may be created in the rural area, but that the development must respect the character of the rural area, and therefore, the Regional Board will use the following criteria, in addition to those listed under General Residential policies where appropriate, to assess future development:
  - a. location near parks or community facilities, and connected by pedestrian circulation to these amenities;
  - b. exhibits an attractive and safe streetscape by providing for adequate off-street parking requirements, on-site landscaping and screening, and appropriate signage;
  - c. respects lake and mountain views, and access to sunlight of adjacent properties; and,
  - d. provides access without constructing new roads or utility corridors through Environmental Reserves, hazard areas, and without creating permanent scarring on slopes visible from major roads or residential areas.

**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 \$500.00 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**

Since construction of the accessory structure occurred prior to obtaining the necessary Planning and Building Permits, the site has already been disturbed and any opportunity for staff to observe pre-construction conditions were not available. Recognizing that the subject property backs on to open space land, staff outline that the referral comments from the Province's Terrestrial Resource Management Division "*has determined that this project should not impact the Resource Management Division's legislated responsibilities*".

**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 September 21, 2021. To date, Planning staff have fielded one inquiry from an adjacent property owner inquiring clarification on the variances requested and disappointed related to the building occurring prior to receiving and RDCK planning and building approvals.

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

The Ministry of Transportation and Infrastructure (MOTI)

The "MOTI does not have any concerns" with this DVP application.

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

"The FLNROD's Terrestrial Resource Management Division [has] reviewed this Development Variance Permit...and has determined that this project should not impact the Resource Management Division's legislated responsibilities".

Building Services

A stop work order has been placed on the subject property. "The [accessory] building will require a geotechnical and structural engineer to be retained," as part of the building permitting process.

**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 country residential objectives and policies in *Electoral Area 'F' Official Community Plan Bylaw No. 1157, 1996*, and all other zoning regulations within *Zoning Bylaw No. 1675, 2004*, including height and site coverage.
- The proposed siting for the accessory structure utilizes the existing secondary driveway access, is located away from the septic filed, and sited towards the rear of the property.
- The proposed siting of the garage would be located approximately 60 metres for the closest neighbouring residence across Highway 3A to the south.
- The 1.4 ha size of the subject property is approximately two to three times larger in area, than the adjacent lots zoned Country Residential in the immediate vicinity, and able to accommodate an accessory building of this scale.
- The proposed size and scale of the accessory structure would also be subordinate to the existing house.
- While the applicant has stated that there is no intention to operate a home based business on site, staff outline that a home based business is a permitted accessory use under the R2 Zone, provided it meets

the related regulations to adopted to maintain the residential character of an area and quality of life, or generate any undue land use conflicts.

- The proposed location of the detached accessory structure will be visible heading west on Highway 3A as this is an elevated lot. Staff outline that should the variances not be approved and the owners build within the zoning regulations for an accessory structure the visual impact would be similar in nature.
- This variance request represents an opportunity to legitimize an existing partially constructed unauthorized structure.

While processing land use application in response to Stop Work Orders related to unauthorized construction, is always disappointing, it is for the above reasons that staff recommend that the Board proceed with the issuance of this DVP.

### Options

**Option 1:** That the Board APPROVE the issuance of Development Variance Permit V2111F- 04862.050 to Randy Tice for the property located at 965 Highway 3A and legally described as LOT 6 PLAN NEP2046 DISTRICT LOT 908 KOOTENAY LAND DISTRICT (PID: 013-138-286) to vary Section 1101 (10) of *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* as follows:

1. The maximum gross floor area of an accessory building from 200 m<sup>2</sup> to 264 m<sup>2</sup>.

**Option 2:** That the Board NOT APPROVE the issuance of Development Variance Permit V2111F- 04862.050 to Randy Tice for the property located at 965 Highway 3A and legally described as LOT 6 PLAN NEP2046 DISTRICT LOT 908 KOOTENAY LAND DISTRICT (PID: 013-138-286) to vary Section 1101 (10) of *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* as follows:

1. The maximum gross floor area of an accessory building from 200 m<sup>2</sup> to 264 m<sup>2</sup>.

## SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2111F- 04862.050 to Randy Tice for the property located at 965 Highway 3A and legally described as LOT 6 PLAN NEP2046 DISTRICT LOT 908 KOOTENAY LAND DISTRICT (PID: 013-138-286) to vary Section 1101 (10) of *Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004* as follows:

1. The maximum gross floor area of an accessory building from 200 m<sup>2</sup> to 264 m<sup>2</sup>.

Respectfully submitted,

Stephanie Johnson

## CONCURRENCE

Planning Manager – Nelson Wight

General Manager of Development and Community Sustainability Services – 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: Randy Tice

**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: 965 Highway 3A

Legal: LOT 6 DISTRICT LOT 908 KOOTENAY LAND DISTRICT PLAN NEP2046

PID: (013-138-286)

**CONDITIONS**

5. Development Variance

Electoral Areas F, I, J, and K Zoning Bylaw No. 1675, 2004, Section 1101 (10), is varied as follows:

1. The maximum gross floor area (GFA) for the accessory building shown in Schedules '2' and '3' is increased from 200 m<sup>2</sup> to 264 m<sup>2</sup> to permit the construction of a two-storey structure for a garage (176 m<sup>2</sup> in GFA) on the ground level with office (totaling 88 m<sup>2</sup> in GFA) space on the second level.

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:

\_\_\_\_\_  
Aimee Watson, Board Chair

\_\_\_\_\_  
Mike Morrison, Corporate Officer

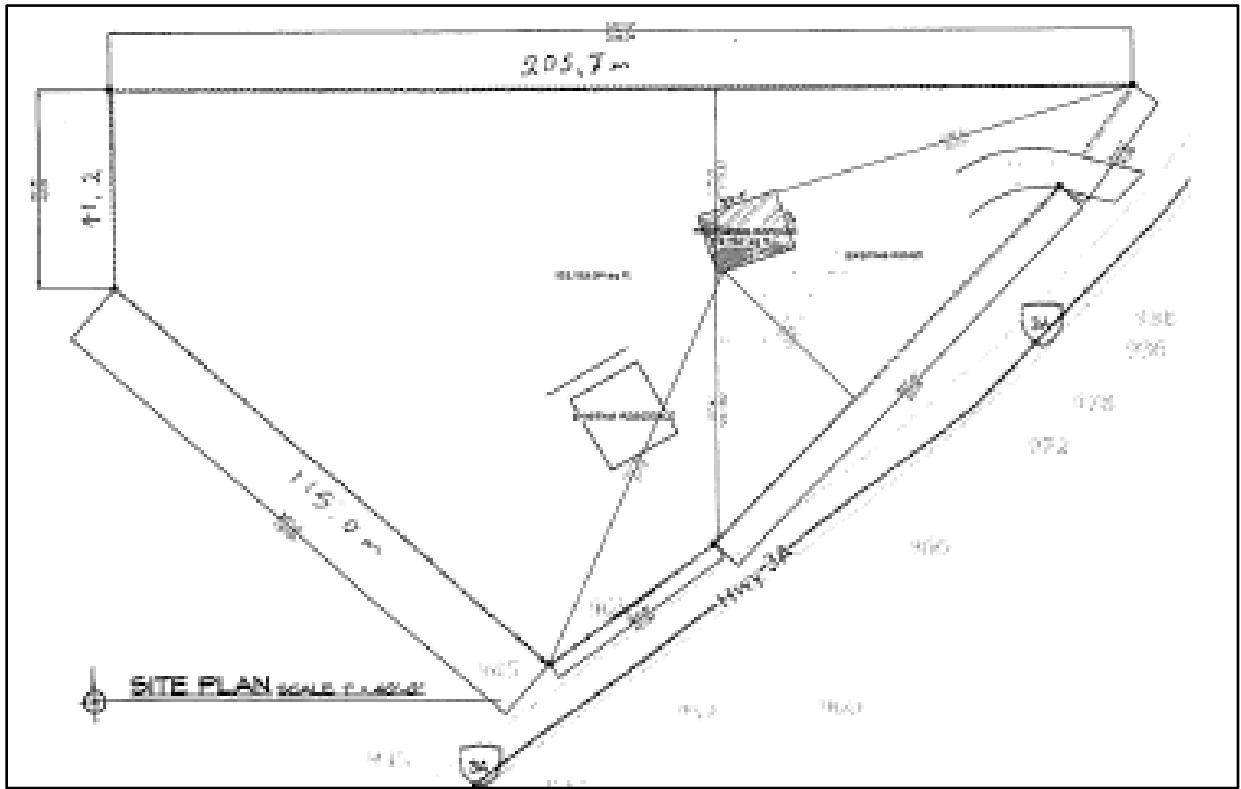
Schedule 1: Subject Property



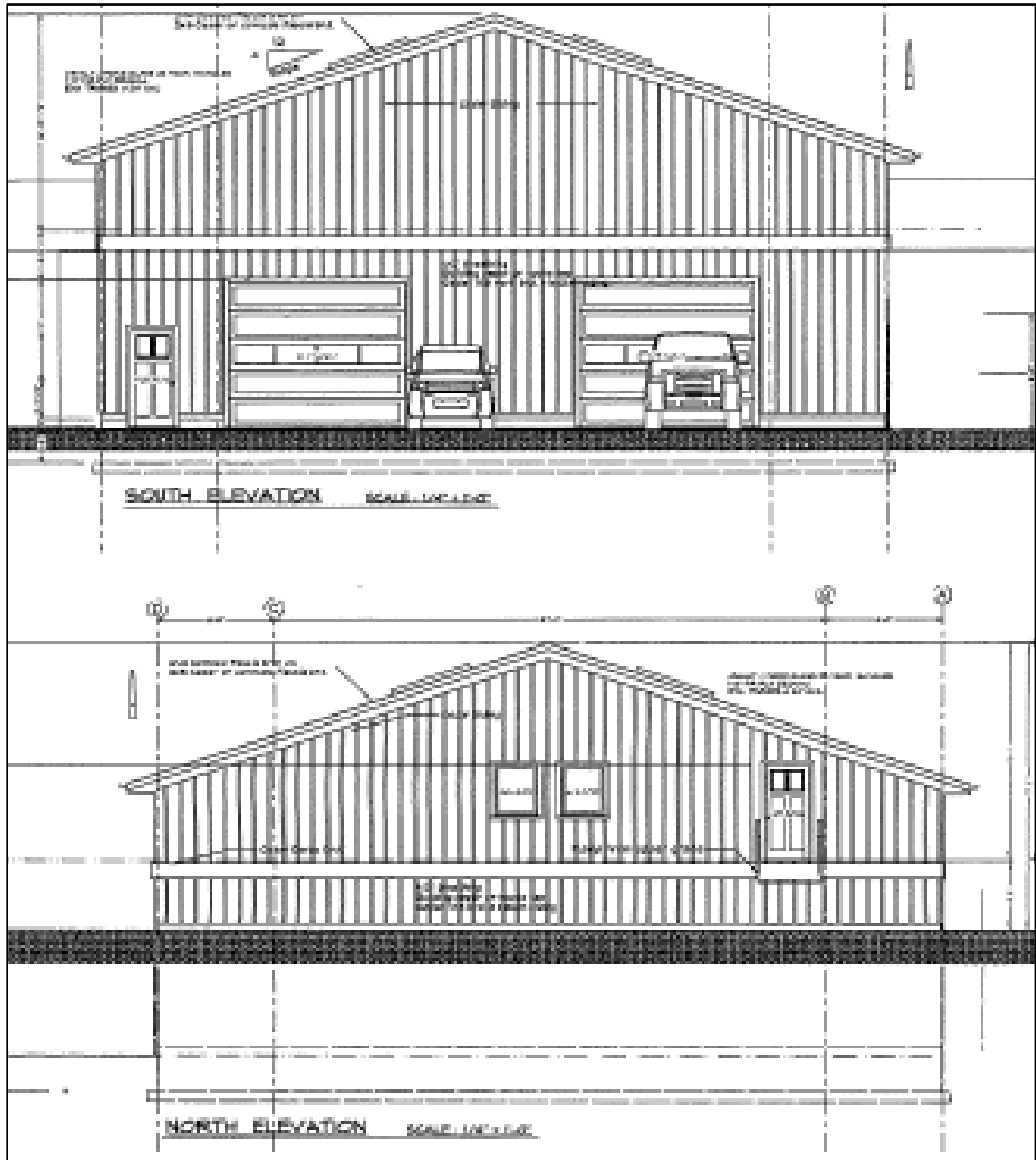
Sources: Esri, Airbus DS, USGS, NGA, NASA, OGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatasystemen,

 <p>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</p>	<p><b>Legend</b></p> <ul style="list-style-type: none"><li> Electoral Areas</li><li> RDCK Roads</li><li> Cadastre</li><li> Civic Address</li></ul>	<p><b>Map Scale:</b></p> <p>1:2,257</p> <p>Date: September 20, 2021</p>  <p>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.</p>
---	--	--

Schedule 2: Site Plan



Schedule 3: Building Elevations





**DIVISION 11 COUNTRY RESIDENTIAL (R2)**

**Permitted Uses**

1100 Land, buildings and structures in the Country Residential (R2) 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
- Portable Sawmills for processing of material harvested on site only

**Development Regulations**

1101

- 1 The minimum site area for each permitted use shall be one (1) hectare.
- 2 The minimum parcel size for a parcel subdivided for a relative under Section 514 of the *Local Government Act*, with the approval of the Interior Health Authority shall be 0.8 hectare.
- 3 The maximum site coverage permitted shall be 50 percent of the lot area.
- 4 The keeping of farm animals shall comply with the requirements of section 613.
- 5 One-family dwellings and two-family dwellings shall be permitted subject to conformance with the density provisions of Section 1101(1).
- 6 Buildings and structures in the case of a lot that may be further subdivided shall be sited so as to facilitate further subdivision of the lot or adjacent lots.
- 7 Portable Sawmills shall be located a minimum of 30 metres from any property line.
- 8 A garage may be constructed on a lot prior to construction of a dwelling subject to the maximum size of 56 square metres.
- 9 The maximum height of any accessory building or structure shall not exceed 8 metres.
- 10 The maximum gross floor area of any accessory building or structure shall not exceed 200 square metres.



- 11 The cumulative gross floor area of all accessory buildings or structures shall not exceed 400 square metres.

**Site Specific** - Lot 13 District Lot 6300 Kootenay District Plan NEP21755 (PID 019-022-069) from Country Residential (R2) to Country Residential (R2) 'site specific' to enable a second dwelling to be constructed up to a maximum height of 6.5 meters, with a minimum 6.5 meter setback from a front lot line of and a minimum 5 meter setback from an interior side lot line.