



Making a difference...together

VAR-09-11 – Hacmanjek

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JANUARY 17, 2012**

SUBJECT **DEVELOPMENT VARIANCE PERMIT FOR LOT 20, SECTION 15, OTTER DISTRICT,
PLAN VIP87643**

ISSUE

A request has been made for a development variance permit to relax the side yard setback from 7.5m to 7.1m for the purpose of legalizing the siting a single-family dwelling under construction.

BACKGROUND

The 0.82ha property is located at 7574 LeMare Crescent in Otter Point and is zoned Rural Residential A (RR-A) in the Sooke Land Use Bylaw, Bylaw No. 2040 (Appendix 1). The property is within The Woods development which was created through an Official Community Plan and zoning amendment and subdivided in 2010. The property fronts onto LeMare Crescent to the west, undeveloped properties to the north and east, and a residential property to the south, all with similar zoning.

A building permit application to construct a single family dwelling on the property was issued in September 2011 (Appendix 2). In November, the building inspector requested a survey to confirm the location of the structure on the property. The survey indicates that the building was constructed within the 7.5m side yard setback of the RR-A zone (Appendix 3). The building inspector has issued a conditional certificate of occupancy pending approval of a variance to relax the side yard setback.

ALTERNATIVES

1. Approve the development variance permit to relax the side yard setback from 7.5m to 7.1m for the purpose of legalizing the siting of the single-family dwelling;
2. Deny the development variance permit to relax the side yard setback and require the structure to comply with zoning requirements.
3. Refer the application back to staff for more information.

LAND USE IMPLICATIONS

The owner made a building permit application in September 2011 to construct a one-story, 130m² dwelling with attached garage and 62m² attached studio on the subject property. The site plan submitted with the building permit application indicated the proposed siting would conform to the RR-A zoning setbacks. The RR-A zone requires a 7.5m front yard setback, a 7.5m side yard setback and a 10m rear yard setback. The building permit was issued as the proposed siting complied with the zoning requirements. The building inspector requested a survey to confirm the location of the structure in November and the survey indicates the building encroaches into the 7.5m side yard setback by 0.4m.

When the building permit was issued, the site plan indicated that the building would be sited well in compliance with the setback requirements; however, when the building was constructed there was an encroachment and due to the speed of the construction the error was not verified until after the building was completed. As a result the applicant is requesting a variance to bring the property into compliance with the zoning bylaw. The builder claims that they inadvertently sited the building due to the larger lots and greater setbacks in the neighbourhood. With respect to the impact of the encroachment there is significant separation between buildings and depending on the views of the neighbouring property owners there would be a minimal impact. If the variance is not approved there would be a significant hardship on the owners that have subsequently purchased the property. As such, the proposal to relax the side yard setback for the purpose of legalizing the siting of the residence is recommended to be considered subject to public notification.

LEGISLATIVE IMPLICATIONS

The Sooke Land Use Bylaw No. 2040 specifies the setback requirements for principal buildings in the RR-A zone; to vary these requirements, a development variance permit is necessary.

PUBLIC CONSULTATION IMPLICATIONS

Pursuant to the *Local Government Act*, Section 922(4), if a local government is proposing to pass a resolution to issue a development variance permit it must give notice to each resident/tenant within a given distance as specified by bylaw. Capital Regional District Bylaw No. 3110, Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 metres. Any responses received from the public will be presented at the January 17, 2012 Land Use Committee meeting.

CONCLUSION

The applicant is requesting a variance to relax the side yard setback from 7.5m to 7.1m for the purpose of legalizing the construction of a one-story residence with attached garage and studio. The building permit was issued as the proposed site plan complied with the setbacks required in the RR-A zone. However, the building inspector requested a survey prior to final occupancy and the survey indicates the dwelling encroaches 0.4m into the side yard setback. The variance request is recommended to be considered subject to public notification.

RECOMMENDATION

That the Land Use Committee recommends to the Capital Regional District Board:

1. That Development Variance Permit (VAR-09-11) for Lot 20, Section 15, Otter District, Plan VIP87643 to relax the side yard setback from 7.5m to 7.1m, as shown in Appendix 3, for the purpose of legalizing the siting of the residence be approved.



Emma Taylor, MA
Planner



June Klassen, MCIP
Manager, Local Area Planning



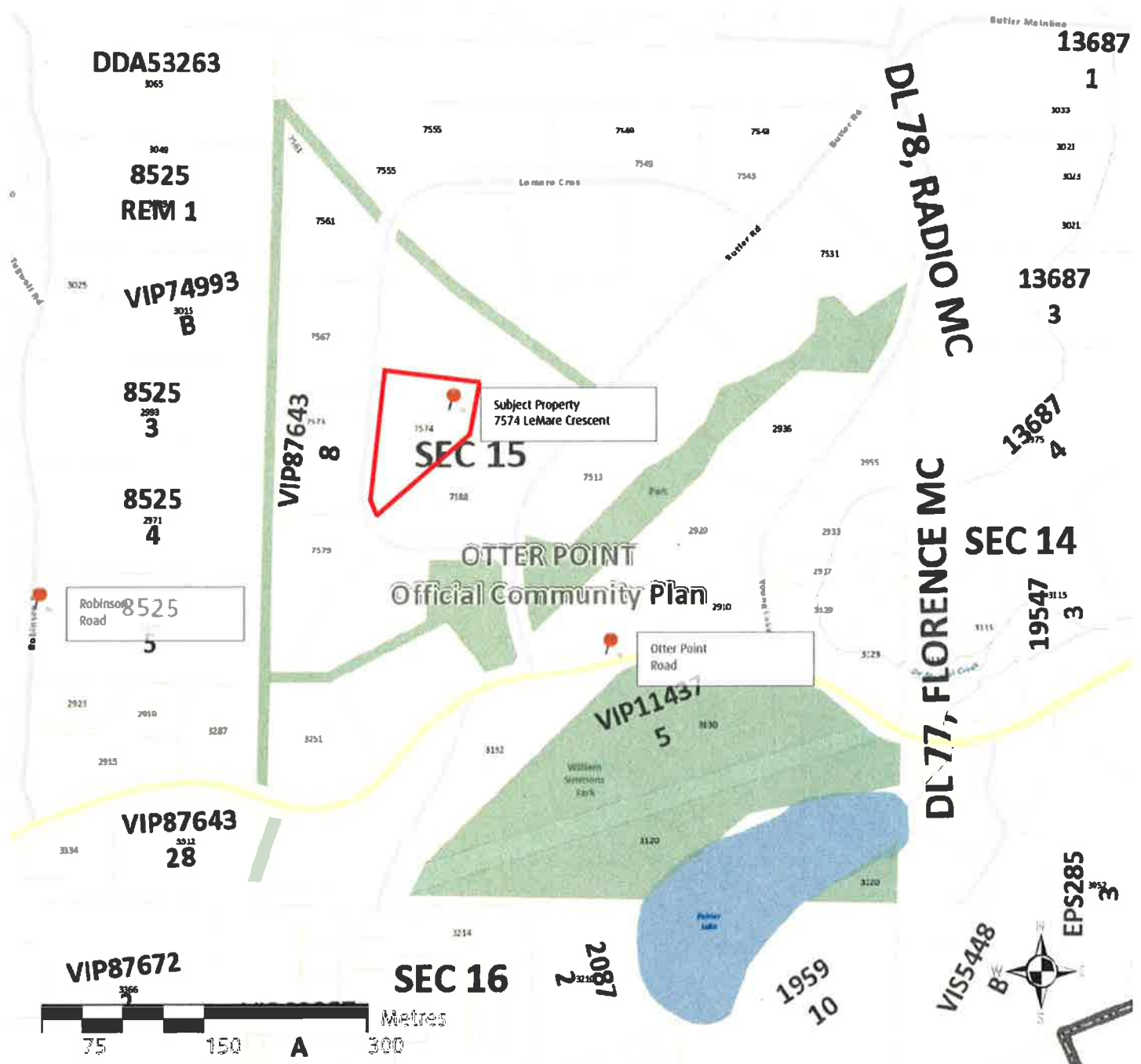
Robert Lapham, MCIP
General Manager, Planning & Protective Services



Kelly Daniels
Chief Administrative Officer
Concurrence

Appendices:

1. Location
2. Building Plans
3. Survey



Important

This map is for general information purposes only. The Capital Regional District (CRD) makes no representations or warranties regarding the accuracy or completeness of this map or the suitability of the map for any purpose. This map is not for navigation. The CRD will not be liable for any damage, loss or injury resulting from the use of the map or information on the map and the map may be changed by the CRD at any time.

7574 LeMare Crescent

VAR-09-11

Intramap 2.0

Capital Regional District
gis@crd.bc.ca
<http://www.crd.bc.ca>



FOUNDATION SPECIFICATIONS

Foundation Type	Depth (ft)	Width (ft)	Notes
1. CONCRETE	4.0	1.0	For all walls and footings.
2. GRAVEL	6.0	1.0	For all walls and footings.
3. SAND	8.0	1.0	For all walls and footings.
4. CLAY	10.0	1.0	For all walls and footings.
5. ROCK	12.0	1.0	For all walls and footings.

FOUNDATION LAYOUT

The foundation layout shows the placement of walls and footings. Key dimensions include:

- Overall width: 24'-0"
- Overall depth: 24'-0"
- Foundation width: 12'-0"
- Foundation depth: 12'-0"

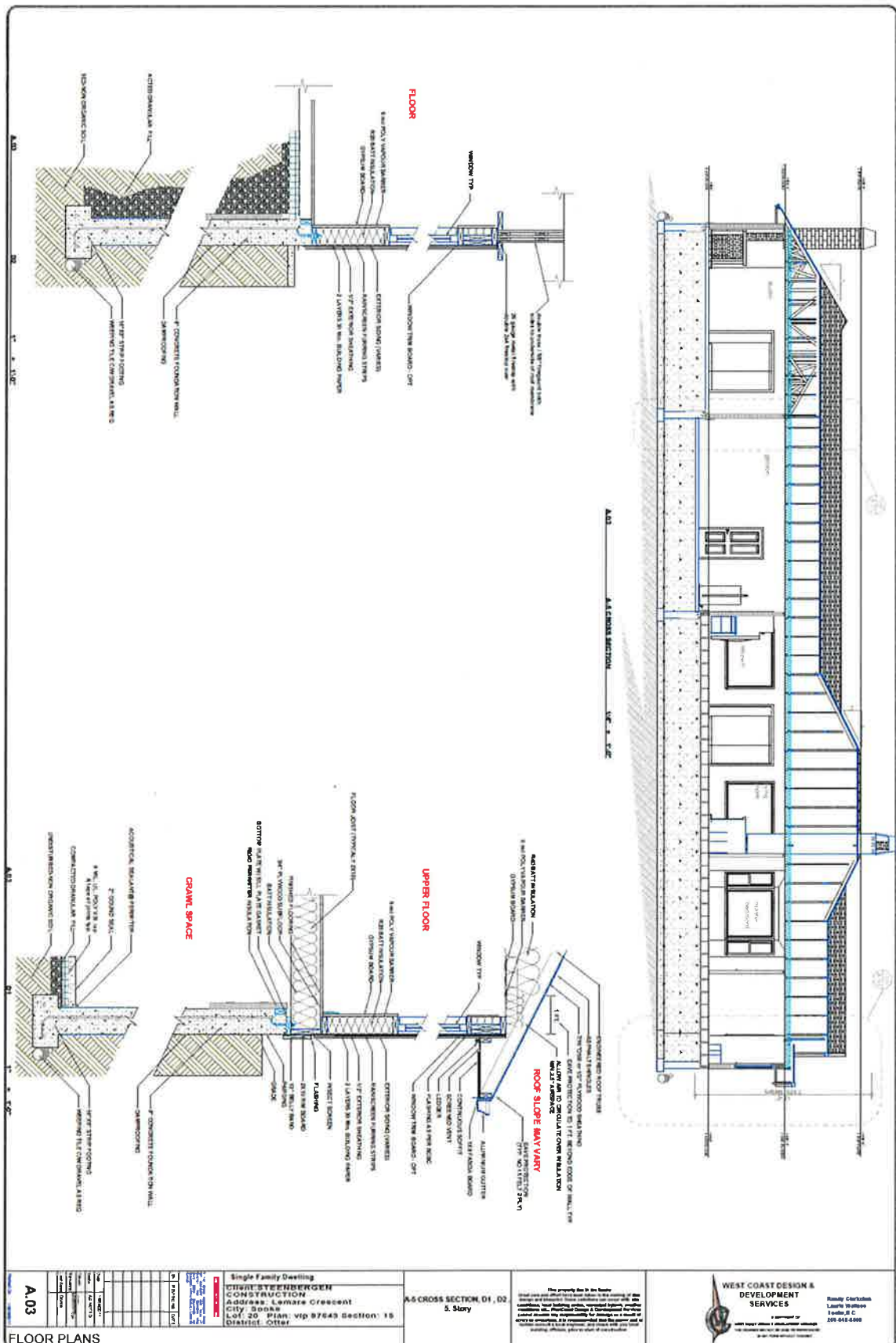
Plot Plan

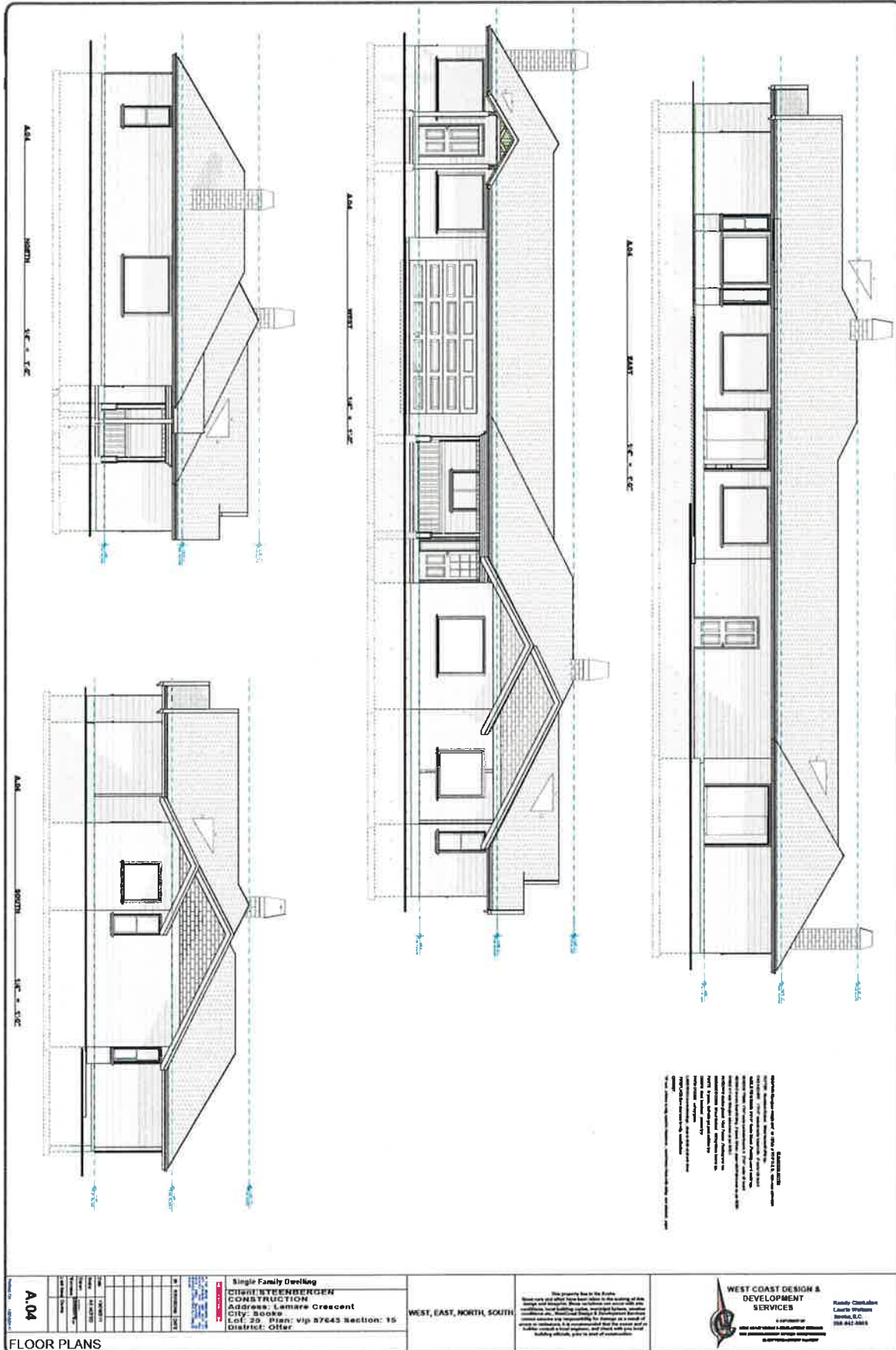
The plot plan shows the property boundaries and surrounding context. Key features include:

- Property boundaries: 24'-0" x 24'-0"
- Surrounding context: Neighboring properties, streets, and landmarks.
- Orientation: North arrow pointing towards the top right.



Randy Dierksen
Laurie Wallace
Jude E.C.
100 442 8309





ISLAND
LAND SURVEYING LTD.

1-15 CADILLAC AVENUE
VICTORIA, B.C. V8Z 1T3
Tel 250.475.1515 Fax 250.475.1516
www.islandsurveying.ca
OUR FILE: W147-STEENBERGEN-CO20

**B.C. LAND SURVEYORS CERTIFICATE
OF LOCATION OF DWELLING ON**

LOT 20, SECTION 15,
OTTER DISTRICT, PLAN VP87643.

PID: 028-146-972

I have examined the residential premises shown and hereby certify that the said structure is situate with respect to nearby boundaries as shown. This document is prepared for building inspection or mortgage purposes only and is for the exclusive use of our client. This document is not valid unless originally signed and sealed. This document shall not be used to define property lines or property corners. Unregistered interests have not been included or considered.



Jason C. Kozina
Jason C. Kozina, BCLS.

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Field survey dated this 26th day of October, 2011.

SCALE=1:1000. All distances are in metres.

NOTE: The parcel is subject
to Statutory Building
Scheme FB336862.

