



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, OCTOBER 16, 2012**

SUBJECT **DEVELOPMENT VARIANCE PERMIT FOR STRATA LOT 2, SECTION 85,
SOOKE DISTRICT, PLAN EPS411**

ISSUE

A request has been made for a development variance to reduce the side yard setback specified by the Rural A zone from 15 m to 8 m for the purpose of allowing the construction of an attached garage with second storey bedrooms.

BACKGROUND

The 4.05 ha property is located at 372 Becher Bay Road in East Sooke and is zoned Rural A in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix 1). The property fronts Becher Bay Road to the east, and lies adjacent to Rural A zoned properties to the north, south and west.

At the present time, four single-family dwellings are located on the property. The applicant now wishes to construct a two-storey addition, with a garage on the main floor and habitable living space on the second floor (Appendices 2, 3 and 4). The addition is to be attached to the principal building via a breezeway. In order to site the building in the proposed location, a development variance permit to reduce the side yard setback from 15 m to 8 m is required.

ALTERNATIVES

1. Approve the development variance permit to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 2.07(b), to reduce the side yard setback for lots greater than 1 ha where residential uses exceed a total floor area of 418 m² from 15 m to 8 m for the purpose of constructing an attached garage with second storey living space;
2. Deny the development variance permit to reduce the side yard setback and require the structure to comply with zoning requirements; or
3. Refer the application back to staff for more information.

LAND USE IMPLICATIONS

The side yard setback in the Rural A zone is 6 m, except on lots of greater than 1 ha in size and where residential uses exceed a total floor area of 418 m². In such cases, minimum side yards are a minimum of 15 m each side. The total floor area of residential buildings on Strata Plan EPS411 (building strata) is 537.7 m², therefore, the 15 m setback applies. At the present time, all existing residential buildings comply with the setback requirements of the zone. The proposed addition, however, will encroach into the setback by 7 m.

Planning staff note that locating the addition on the north side of the existing home is not practical as the main entry and foyer are located on the south side. The applicant has submitted additional information stating that siting the addition in conformity with the 15 m setback would mean additional land clearing near Becher Bay Road, as well as building in close proximity to a steep slope. The proposed building was cleared during site preparation for construction of the original dwellings.

Based on the layout and siting of the existing dwelling and the supplementary information provided by the applicant, Planning staff believe that the proposed addition location provides the most practical building siting in relation to the existing dwelling. It is also noted that the variance request for an 8 m setback exceeds the standard 6 m setback required by the zone where the total floor area of residential buildings is less than 418 m². Given the above, staff recommends approval of the variance subject to public notification.

LEGISLATIVE IMPLICATIONS

The Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, specifies that side yards shall be a minimum of 6 m except for lots of greater than 1 ha in size and where residential uses exceed a total floor area of 418 m², minimum side yards shall be 15 m each side. A development variance permit is required in order to allow the proposed reduction to 8 m.

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 October 16, 2012 Land Use Committee meeting.

CONCLUSION

The applicant is requesting a variance to reduce the side yard setback from 15 m to 8 m, in order to permit the construction of an attached garage and second storey living space. Given that the proposed location appears to provide the most practical building site in relation to the existing home, and that the variance request for a side yard setback of 8 m exceeds the standard 6 m setback required by the Rural A zone, staff recommend approval of the variance request subject to public notification.

RECOMMENDATION

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

1. That Development Variance Permit VAR-03-12 for Strata Lot 2, Section 85, Sooke District, Plan EPS411 to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 2.07(b), by reducing the minimum side yard setback from 15 m to 8 m, as shown on the attached Site Plan, "Ground Floor – Strata Lots 1 and 2" for the purpose of allowing the construction of an attached garage with second storey bedrooms, be approved.

Original Signed _____

Iain Lawrence
Planner

Original Signed _____

June Klassen, MCIP
Manager, Local Area Planning
Concurrence

Original Signed _____

Robert Lapham, MCIP
General Manager Planning & Protective Services
Concurrence

Original Signed _____

Kelly Daniels
Chief Administrative Officer
Concurrence

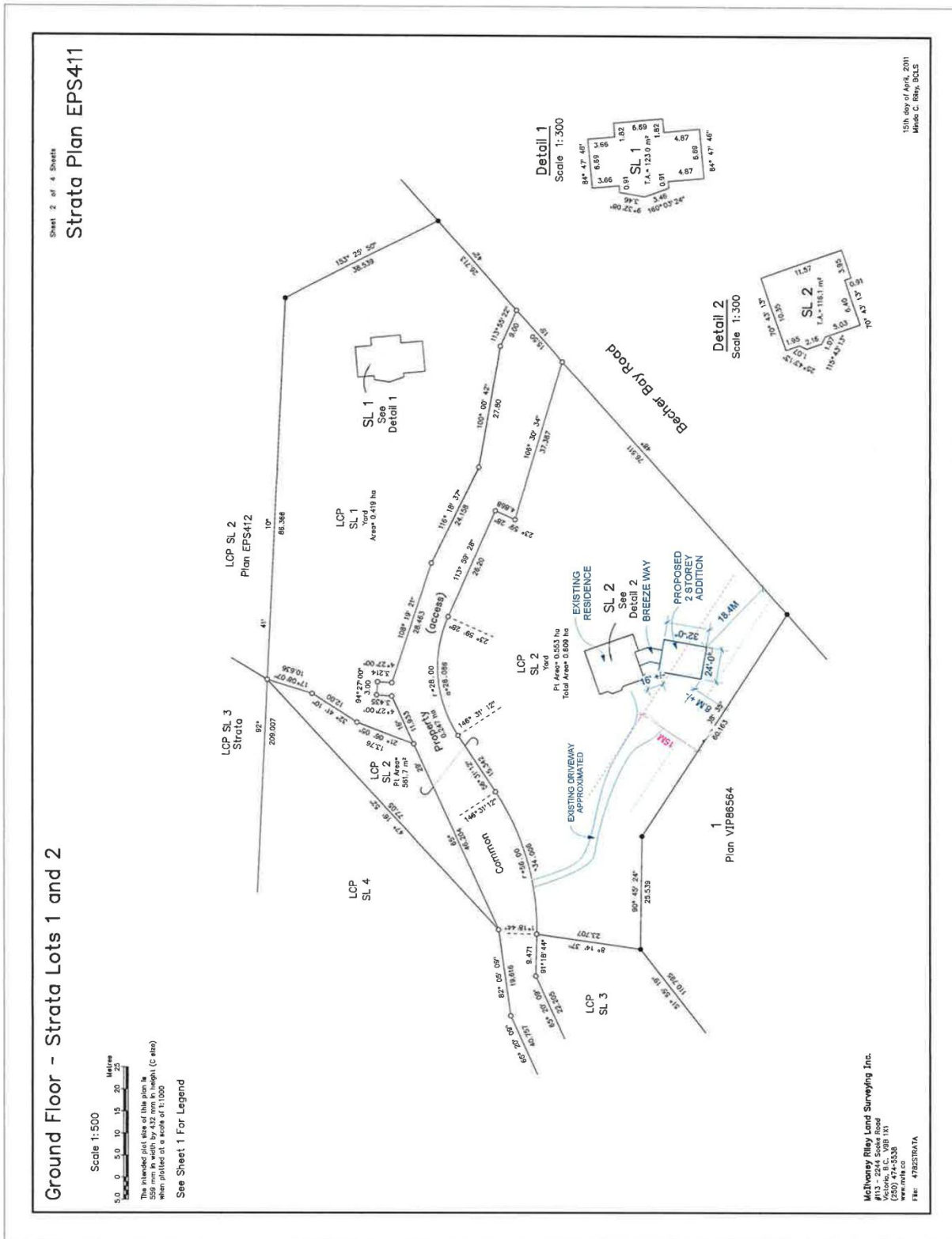
Appendices:

1. Subject Property Map
2. Site Plan: "Ground Floor – Strata Lots 1 and 2", McIlvaney Riley Land Surveying Inc., April 15, 2012
3. Building Floor Plans: Colwood Design Line, September 2012
4. Building Elevation Drawings: Colwood Design Line, September 2012

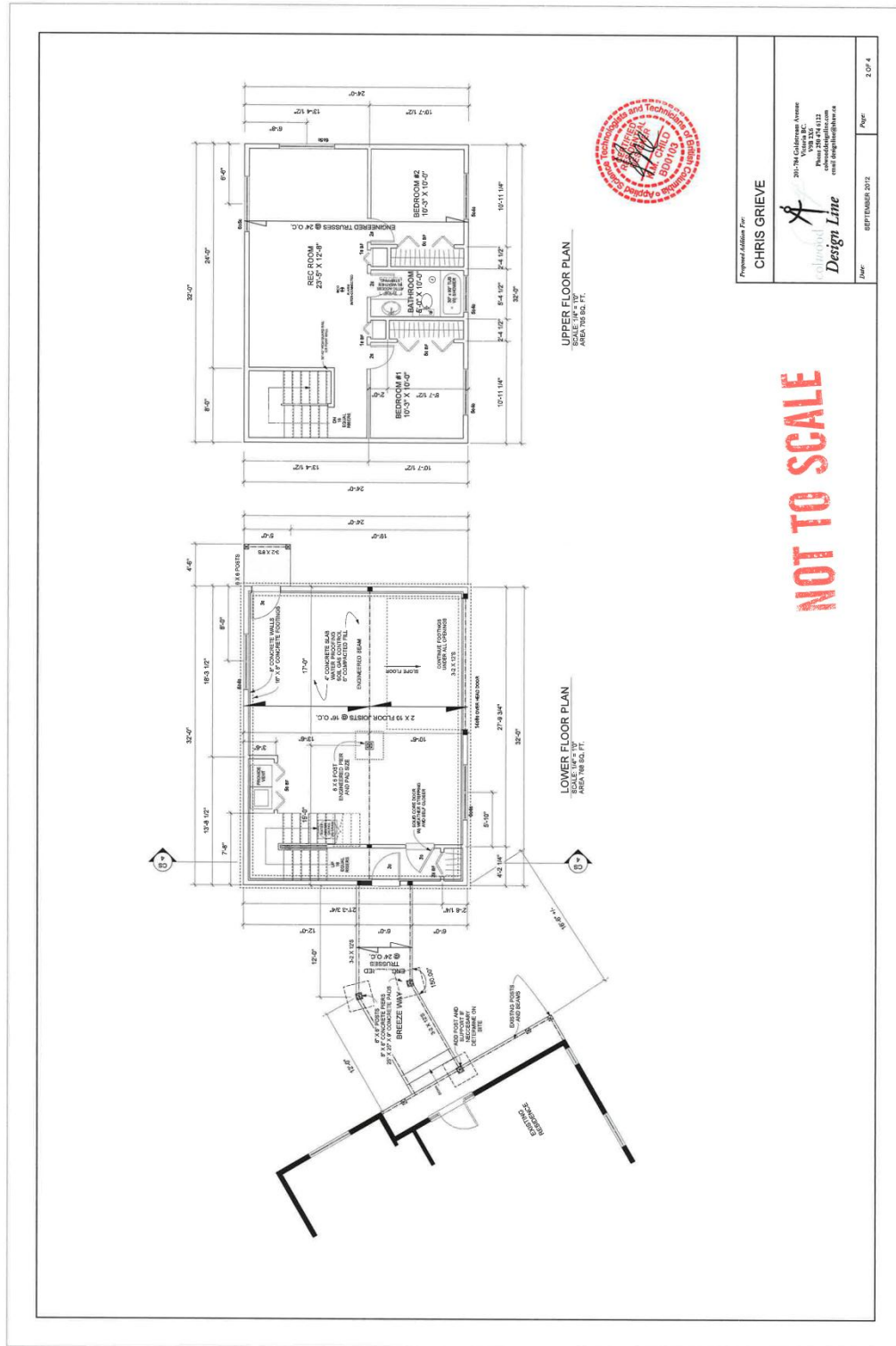
Appendix 1: Subject Property Map



Appendix 2: Site Plan: "Ground Floor – Strata Lots 1 and 2"



Appendix 3: Building Floor Plans



Appendix 4: Building Elevation Drawings

