

**JUAN DE FUCA BOARD OF VARIANCE**

Notice of Meeting on Tuesday, **October 8, 2024, at 6:00 pm**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

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**AGENDA**

1. Approval of Agenda
2. Adoption of Minutes of June 11, 2024
3. Planner's Report
4. Application
  - a) BV000500 - Section 85, Renfrew District (2880 Kirby Creek Road)
5. Adjournment

*PLEASE NOTE: The public may attend the meeting in-person or electronically through video or teleconference. To attend electronically, please contact us by email at [jdfinfo@crd.bc.ca](mailto:jdfinfo@crd.bc.ca) so that staff may forward meeting details.*



Making a difference...together

**Minutes of a Meeting of the Juan de Fuca Board of Variance  
Held Tuesday, June 11, 2024, at the Juan de Fuca Local Area Services Building,  
#3 – 7450 Butler Road, Otter Point, BC**

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**PRESENT:** Paul Clarkston (Chair), Axel Joosting (EP), Owen Poppy  
**Staff:** Iain Lawrence, Senior Manager, JdF Local Area Services;  
Wendy Miller, Recorder  
**PUBLIC:** 5 in person; 4 EP

EP – Electronic Participation

The meeting was called to order at 6:01 pm.

**1. Election of Chair**

Iain Lawrence called for nominations for the position of Chair of the Juan de Fuca Board of Variance (BOV) for 2024 and Paul Clarkston's name was put forward. Iain Lawrence called two additional times for further nominations and, as there was none, Paul Clarkston was acclaimed Chair.

At this time, the Chair introduced new appointee Owen Poppy.

**2. Approval of the Agenda**

**MOVED** by Axel Joosting, **SECONDED** by Owen Poppy that the agenda be approved.

**CARRIED**

**3. Adoption of the Minutes of August 22, 2023**

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkston that the minutes of August 22, 2023, be adopted.

**CARRIED**

**4. Planner's Report**

No report.

**5. Applications**

**a) BV000498 - Lot 1, District Lots 51 and 187, Malahat District, Plan 12268  
(4215 Okotoks Drive)**

Iain Lawrence outlined the staff report and advised that the applicant has requested a variance to increase the length of a manufactured or modular home used for a detached accessory suite from 13 m to 20.1 m.

The subject property, site plan, and requested variance were highlighted.

Attention was directed to the applicant's hardship statement as included in the staff report.

It was confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners/occupiers within 50 m of the subject property.

The Chair confirmed that the applicant was present.

The applicant spoke to the hardship statement.

The BOV noted that the location of the new manufactured home is narrow due to driveway easements and that the new single-wide manufactured home best configures to the siting location, as opposed to a shorter double-wide.

The BOV considered the requested variance and passed the following resolution:

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkston that having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship would be caused to the applicant if Section 2.1.17(11) of Bylaw No. 980 were complied with, that application BV000498 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 980, Section 2.1.17(11) by increasing the length of a manufactured or modular home used for a detached accessory suite from 13 m to 20.1 m on Lot 1, District Lots 51 and 187, Malahat District, Plan 12268, as shown on the Plans prepared by Modern Home Design, dated April 15, 2024, be approved.

**CARRIED**

At this time, the BOV forwarded support for continuing to retain a length of 13 m for a detached accessory suite to allow for variance proposals to be considered on a case-by-case basis.

**b) BV000499 - Lot 8, Sections 42 and 38, Otter District, Plan EPP63580 (Clark Road)**

Iain Lawrence outlined the staff report and advised that the applicant has requested a variance to increase the maximum floor area allowed for a detached accessory suite from 90 m<sup>2</sup> to 149 m<sup>2</sup> to permit construction of a detached accessory suite.

The subject property, site plan, and concept plan were highlighted.

Attention was directed to the applicant's hardship statement as included in the staff report.

It was confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners/occupiers within 50 m of the subject property.

The Chair confirmed that the applicant was present.

The applicant spoke to the hardship statement.

Public comment was received regarding potable water supply for the detached accessory suite.

Iain Lawrence responded to questions from the BOV advising that:

- the floor area of the detached accessory suite would be applied to the maximum combined total floor area of all accessory buildings and structures
- source of potable water for the detached accessory suite may be provided by well or engineered system
- potable water supply for the detached accessory suite would be addressed at part of the building permit process

The BOV noted that the subject property is large and that the proposal is in keeping with the character of zone.

The BOV considered the requested variance and passed the following resolution:

**MOVED** by Paul Clarkston, **SECONDED** by Axel Joosting that having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship would be caused to the applicant if Part 1, Section 4.20 of Bylaw No. 2040 were complied with, that application BV000499 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040, Part 1, Section 4.20(f) by increasing the maximum floor area allowed for a detached accessory suite from 90 m<sup>2</sup> to 149 m<sup>2</sup> on Lot 8, Sections 42 and 38, Otter District, Plan EPP63580 to permit construction of a detached accessory suite, be approved, and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

**CARRIED**

## **6. Adjournment**

The meeting was adjourned at 6:32 pm.

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P. Clarkston, Chair



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE  
MEETING OF OCTOBER 8, 2024**

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**File No:** BV000500  
**Location:** 2880 Kirby Creek Road  
**Legal:** Section 85, Renfrew District  
**Zoning:** Forestry (AF) – JdF Land Use Bylaw No. 2040  
**Land Use Designation:** Coastal Upland (CU) – Bylaw No. 4001  
**Adjacent Uses:** N – Resource Lands (RL) parcel (Rural Resource Lands OCP Area)  
E – Forestry (AF)  
S – Kirby Creek Road and Rural 2 (RU-2) parcels  
W – Resource Lands (RL) and Forestry (AF) parcels

**REQUESTED VARIANCE**

The applicant has requested that the Board of Variance approve a minor variance to relieve hardship, in accordance with Section 540(a) of the *Local Government Act (LGA)*, by increasing the maximum combined total floor area allowance for accessory buildings and structures from 250 m<sup>2</sup> to 500 m<sup>2</sup> on a lot with an area of more than 5,000 m<sup>2</sup>, for the purpose of constructing four bed and breakfast units.

**LEGISLATIVE IMPLICATIONS**

Section 542(1) of the *LGA* outlines that the Board of Variance may order that a minor variance be permitted from the requirements of the applicable bylaw, if the Board of Variance:

- (a) has heard from the applicant and any person notified under Section 541;
- (b) finds that undue hardship would be caused to the applicant if the bylaw or Section 531(1) is complied with; and
- (c) is of the opinion that the variance or exemption does not do any of the following:
  - (i) result in inappropriate development of the site;
  - (ii) adversely affect the natural environment;
  - (iii) substantially affect the use and enjoyment of adjacent land;
  - (iv) vary permitted uses and densities under the applicable bylaw;
  - (v) defeat the intent of the bylaw;
  - (vi) vary the application of an applicable bylaw in relation to residential rental tenure.

Section 542(3) of the *LGA* outlines that in relation to an order under Section 542(1),

- (a) if the order sets a time within which the construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time, or
  - (b) if that construction is not substantially started within 2 years after the order was made, or within a longer or shorter time period established by the order,
- the permission or exemption terminates and the bylaw or section 531(1), as the case may be, applies.

## **STAFF COMMENTS**

The 64.7 ha property is located at 2880 Kirby Creek Road and is zoned Forestry (AF) in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). The land was removed from Private Managed Forestry Land (PMFL) designation in 2011, but logged under Development Permit DP000212. Numerous historical access roads remain on the parcel. Four tributaries to Kirby Creek were previously identified on the parcel, and Development Permit application DP000396 is in progress to authorize two water crossings installed in 2019 by the previous owner. The largest watercourse runs roughly from west to southeast within a ravine located along the southern half of the parcel. All development proposed under this variance request is located to the south of the ravine and outside the Riparian Assessment Area (RAA).

A large circular driveway enters along the southern boundary of the lot and accesses a single-family dwelling and 249 m<sup>2</sup> garage/workshop (Building Permit #BP005029 and BP#009172). Both structures were completed in compliance with the AF Zone and General regulations. The owner now wishes to construct four bed and breakfast units in accessory buildings on the parcel (Appendix B). Plans for the proposed structures, prepared by West Coast Design and Development Services, show a floor area of 44.7 m<sup>2</sup> and a 22.4 m<sup>2</sup> storage loft for each unit (Appendix C). There are no kitchen facilities proposed within the units. When the variance request was referred for comment, JdF Building Inspection advised that the loft areas would not be considered habitable space; as such, these areas are not included in the total accessory building floor area calculations. Therefore, each of the units is in compliance with the requirement that the maximum size of an accessory structure devoted to a bed and breakfast unit not exceed 45 m<sup>2</sup>; however, a variance is required to authorize the proposed structures since construction would increase the total accessory building floor area on the parcel to approximately 428 m<sup>2</sup> (Appendix D). The owners have requested a maximum 500 m<sup>2</sup> of total accessory building floor area for the parcel to accommodate the proposed bed and breakfast units and to allow a buffer for additional accessory structures that may be required in the future. The owners have provided a statement of hardship indicating the rationale for the requested variance (Appendix E).

As proposed, the bed and breakfast units comply with the Home Based Business regulations in Section 4.06 of Bylaw No. 2040. The proposed structures conform to the height and yard requirements of the general regulations for accessory buildings and structures, and the combined footprint of all buildings located on the property is less than the 10% lot coverage allowance specified by the AF zone. Due to the substantial yard setbacks indicated on the site plan, staff are of the opinion that the proposal is considered appropriate for the site and that the variance is not anticipated to alter the use and enjoyment of adjacent land.

Pursuant to the Juan de Fuca Board of Variance Bylaw, Bylaw No. 4288, notification letters have been sent to the applicant, as well as to owners and occupants within 50 m of the subject property. Any responses received will be presented at the October 8, 2024, Board of Variance hearing.

If the Board of Variance finds that not granting the variance would result in undue hardship, considers the requested variance to be a minor and finds that it meets the considerations of section 542(1)(c), an order granting a minor variance may be permitted.

**OUTLINE MOTION**

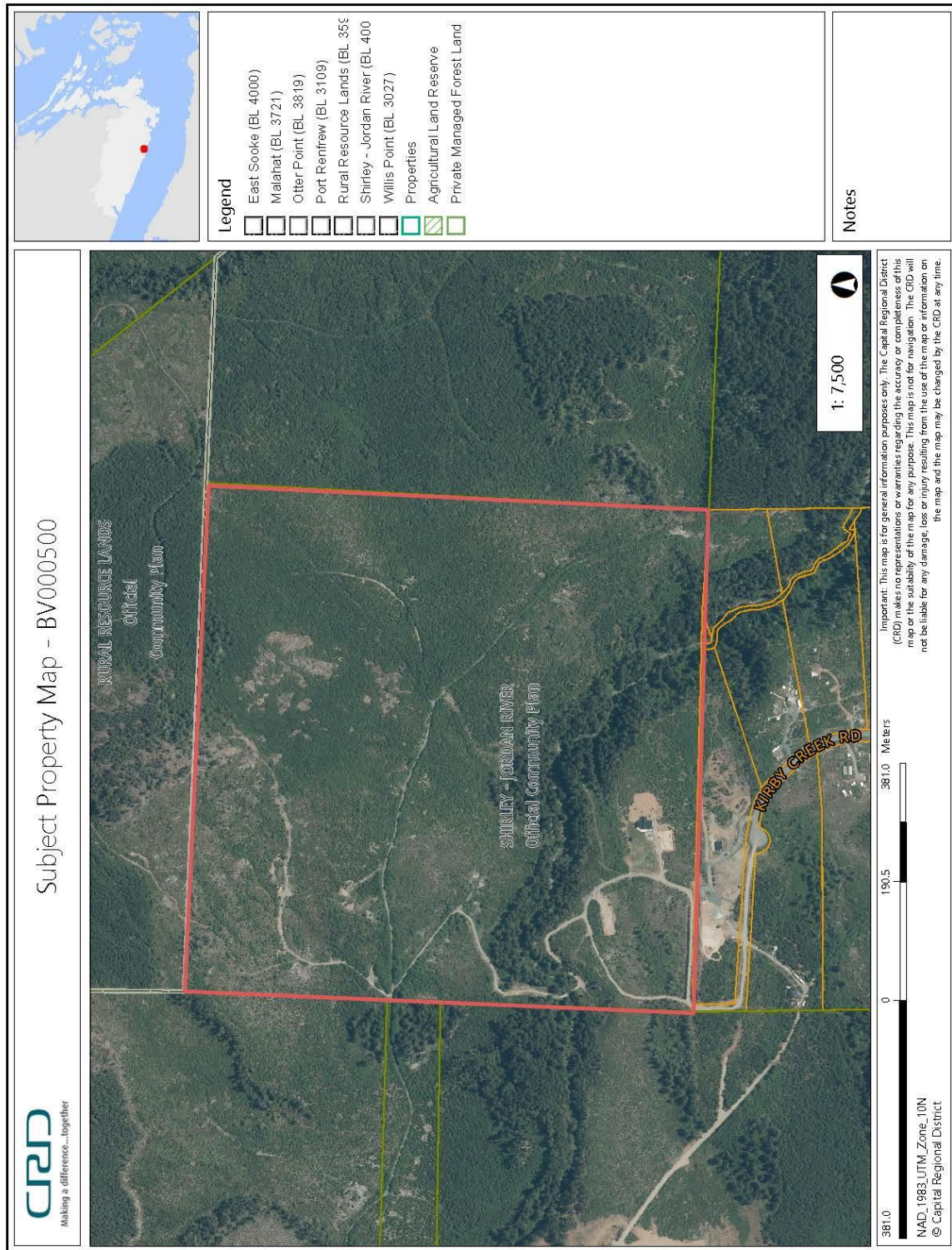
Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship **<would/would not>** be caused to the applicant if Part 1, Section 4.01 2(c) of Bylaw No. 2040 were complied with, that application BV000500 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance by increasing the maximum combined total floor area allowance for accessory buildings and structures on a lot with an area of more than 5,000 m<sup>2</sup> from 250 m<sup>2</sup> to 500 m<sup>2</sup> on Section 85, Renfrew District, to construct four bed and breakfast units, be **<approved/denied>** and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

Submitted by:	Regina Robinson, Planning Assistant, JdF Community Planning
Concurrence:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance

**ATTACHMENTS**

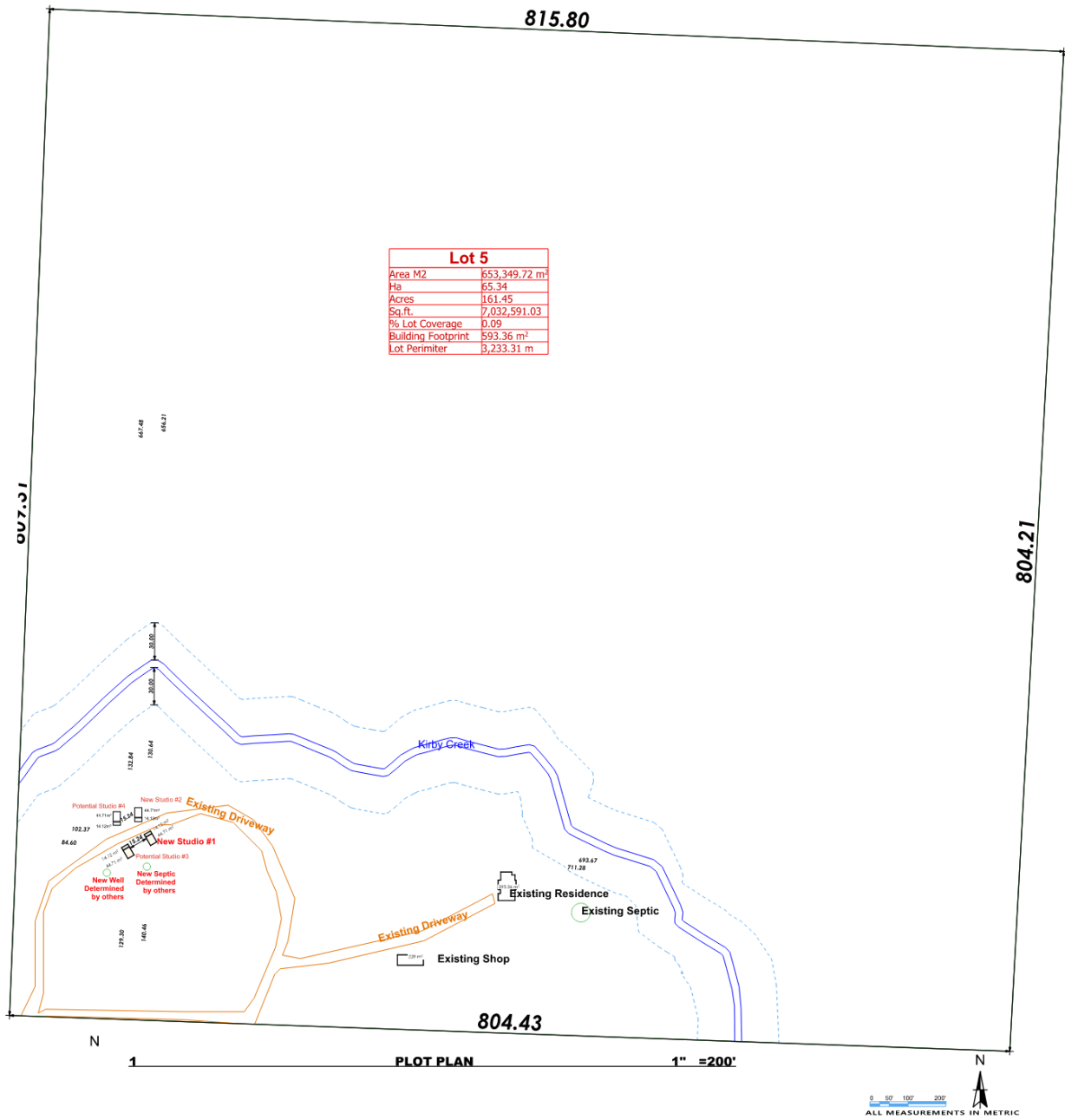
- Appendix A: Subject Property Map
- Appendix B: Site Plan
- Appendix C: Proposed Building Plans
- Appendix D: Requested Variance
- Appendix E: Hardship Letter from Applicant

Appendix A: Subject Property Map





Appendix B: Site Plan



Appendix C: Proposed Building Plans

**GENERAL NOTES**

**APPLICABLE CODES**

**PROJECT DATA**

**PROJECT DATA**

Address: 3886 Kirby Creek Rd  
 Owner: [Redacted]  
 City: Shirley-Jordan Bldg  
 Section: A-F  
 Lot: Scotton 85 Rentrow Port = Trce Farm 39  
 Section: 85  
 Property: Rentrow  
 Blk Height: Studio 1 - 5.08m Studio 2-5.08m  
 Bedrock Front: Studio 1 - 129.39m Studio 2 - 140.46m  
 Bedrock Rear: Studio 1 - 657.48m Studio 2 - 656.23m  
 Bedrock Side: Studio 1 - 84.58m Studio 2 - 102.37m  
 Bedrock Side: Studio 1 - 714.22m Studio 2 - 699.67m

**CRD Electrical Area - Residential Windows, Doors and Skylights Minimum Standards**

Location: Jordan River  
 Building: 2023  
 Plotting: 11/4/24  
 Max Allow Pressure: 200pa  
 Min All Height: A2

**Ventilation and Insulation**

**Basboard heaters and Wood Stove**

**SCOPE OF WORK**

Two New Studios  
 Studio are identical

**CRD COUNTY DESIGN & DEVELOPMENT SERVICES**

Project: [Redacted]  
 Location: [Redacted]  
 Date: [Redacted]

**REVISIONS**

NO.	DESCRIPTION	DATE

Scale: AS SHOWN  
 Date: [Redacted]  
 Location: [Redacted]

Project: [Redacted]  
 Location: [Redacted]  
 Date: [Redacted]

Scale: AS SHOWN  
 Date: [Redacted]  
 Location: [Redacted]

Project: [Redacted]  
 Location: [Redacted]  
 Date: [Redacted]

Scale: AS SHOWN  
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 Location: [Redacted]

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Project: [Redacted]  
 Location: [Redacted]  
 Date: [Redacted]

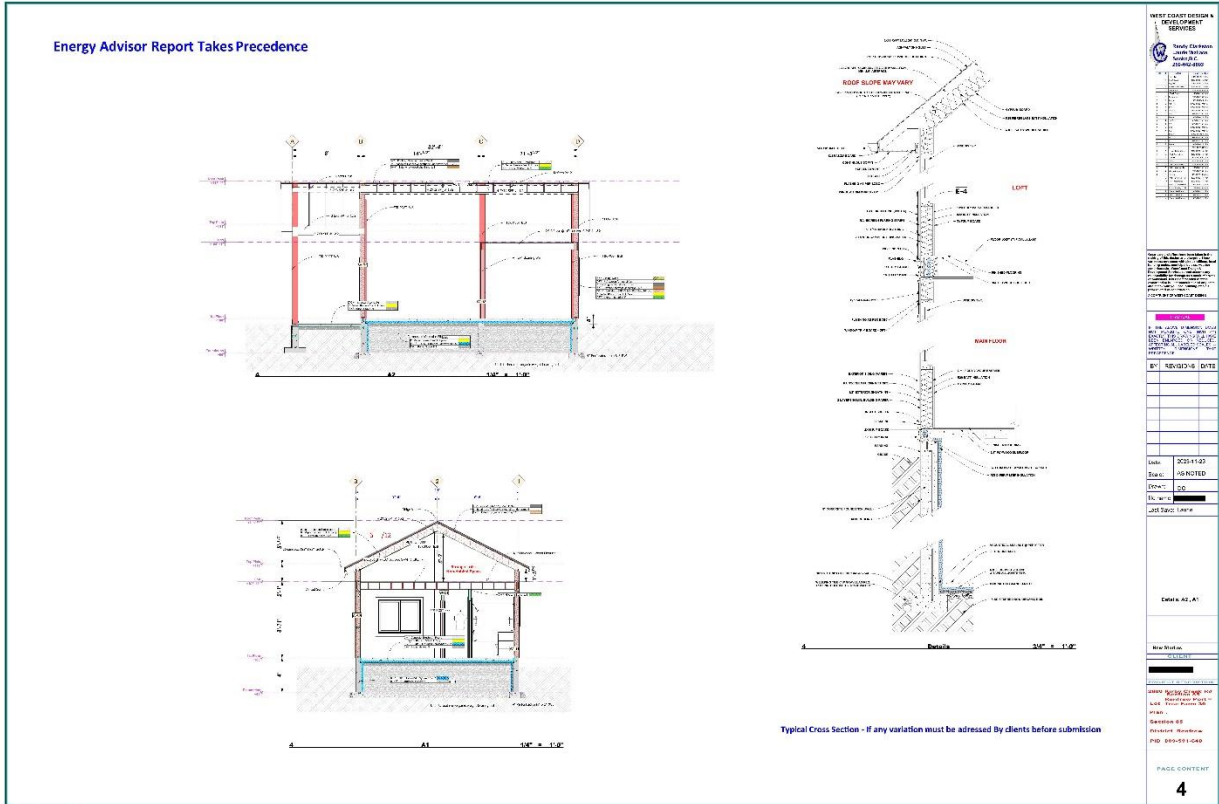
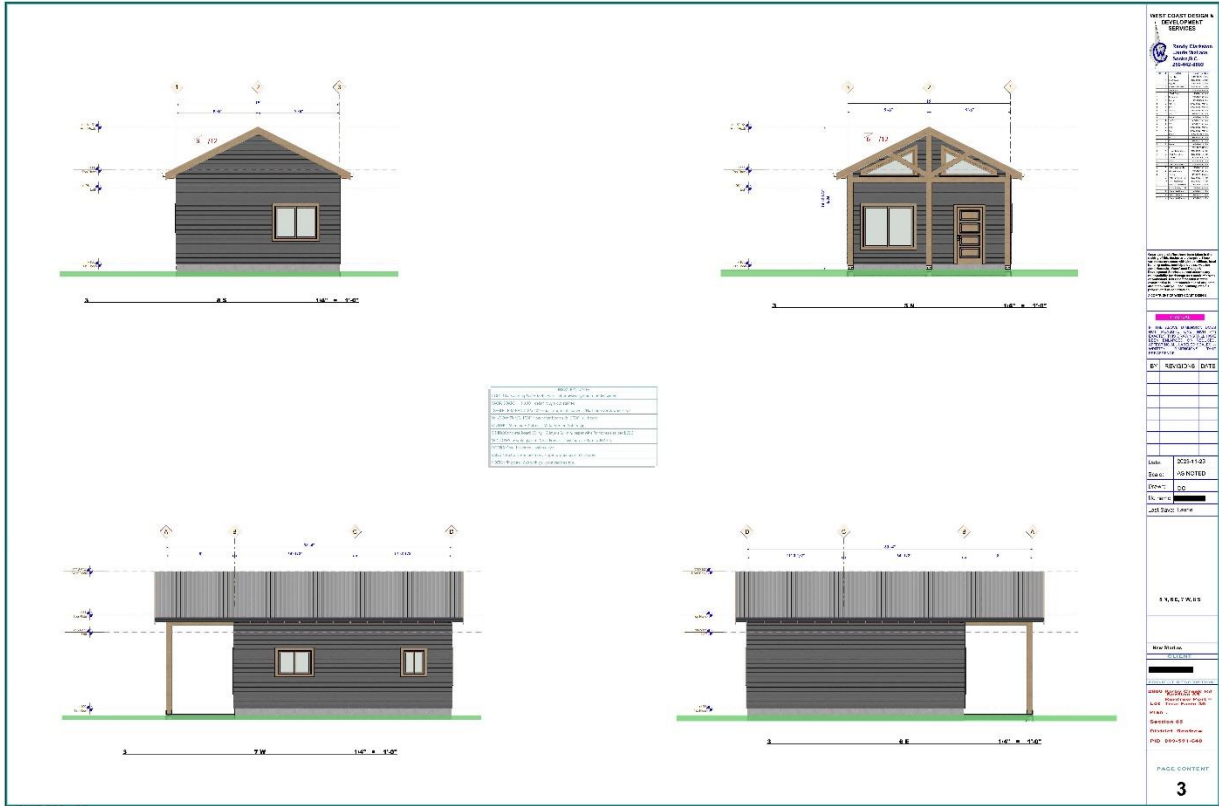
**REVISIONS**

NO.	DESCRIPTION	DATE

Scale: AS SHOWN  
 Date: [Redacted]  
 Location: [Redacted]

Project: [Redacted]  
 Location: [Redacted]  
 Date: [Redacted]

Scale: AS SHOWN  
 Date: [Redacted]  
 Location: [Redacted]



Appendix D: Requested Variance



**Maximum Combined Total Floor Area of all Accessory Buildings and Structures on a lot with an area of more than 5000 m<sup>2</sup> is 250 m<sup>2</sup> as per the JdF Land Use Bylaw #2040 Section 4.01(2)(c).**

**Existing Workshop/Garage = 249 m<sup>2</sup>**

**Proposed Home Based Business Bed and Breakfast Units - 4 x 44.7 m<sup>2</sup> = 178.8 m<sup>2</sup>**

**Requested Variance:**  
 Increase the maximum combined total floor area from 250 m<sup>2</sup> to 500 m<sup>2</sup>.

Appendix E: Hardship Letter from Applicant

To Whom It May Concern,

We are writing to request a variance of Section 4.01 2(c) of the JdF Land Use Bylaw #2040.

In early 2024 we submitted plans for 2 Bed and Breakfast units (although 4 are planned for and allowable under our current zoning) on our approximately 160 acres parcel. What we were unaware of was that our current building structures max out the 250m<sup>2</sup> in allowable accessory buildings and as such we have been told we need a variance to move forward.

We have worked very hard the last few years to be in the position to build these B&B's. We are counting on the income that will be generated by these units for our future livelihood, not being able to move forward with building them would be hugely detrimental to our family. We feel these units will benefit not only us, but the community, as accommodations are hard to find for the growing tourism industry.

Please strongly consider this request, we are upstanding community members who are trying to go through the proper channels to improve our property, community and quality of life.

Sincerely,

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