



File No.: PLDVP20240174  
(SS-BP-2022.149)

DATE OF MEETING: November 7, 2024  
TO: Salt Spring Island Local Trust Committee  
FROM: Milad Panahifar, Planner 1  
Salt Spring Island Team  
COPY: Chris Hutton  
SUBJECT: PLDVP20240174  
Applicant: Jonathon Mishrigi  
Location: 237 Isabella Point Road – PID: 028-581-598

## RECOMMENDATION

- 1. That the Salt Spring Island Local Trust Committee approve issuance of Development Variance Permit PLDVP20240174 (237 Isabella Point Road)**

## REPORT SUMMARY

This Development Variance Permit (DVP) application seeks to vary the Salt Spring Island Land Use Bylaw No. 355 (LUB) Section 3.8.1 to allow an increase in allowable number of storeys from 2 to 3 and raise the maximum height for structures from 7.6 m (24.93 ft), to 8.7 (28.54) such that it facilitates the proposed dwelling's roof and floor to ceiling/roof heights in accordance with figure 1 and figure 2. The applicant obtained a Building Permit (BP) from the CRD in May 2023 but later revised the plans, resulting in structural challenges that increased the building's average height. At that time, the applicants were unaware that these changes exceeded the height and storey limits.

## RATIONALE FOR VARIANCE

The Staff recommendation is to approve the DVP (Attachment 4) for the following reasons: (Please refer to Attachment 5 – Project Narrative for the applicant's rationale.)

- 1) The variance is not anticipated to negatively impact the surrounding neighbourhood;
- 2) The existing room was constructed within the existing building envelope.
- 3) The variance involves minor building elements and do not significantly impact the total floor area. (a small storage and pergola)
- 4) The proposed variance would not significantly impact the overall massing of the building. The existing stair tower structure is legally in place, and the heights of the storage structures and pergolas will remain below that of the stair tower. Therefore, the visual profile of the building will remain consistent regardless of whether the variance is granted.

## BACKGROUND

In 2021, the applicant purchased the land and added necessary services, including hydro, septic, and water. By 2023, they expedited the building permit process but realized the approved plans weren't suitable for their retirement home and made adjustments. During construction, due to errors made by the builder, amendments were required to the building structure at two different stages. These changes (detailed in the Attachment 5 - Project Narrative) resulted in a 0.76-meter (2.49-foot) difference in height from the original plan.

In 2024, the CRD flagged the building height, requiring the applicant to apply for a building permit and development variance permit (BP/DVP) to legalize the unit. During this review, Islands Trust Staff identified that new building design also violated the two-storey maximum regulation. The applicant is now in the process of applying for both the building permit and development variance permit to address these non-conformities.

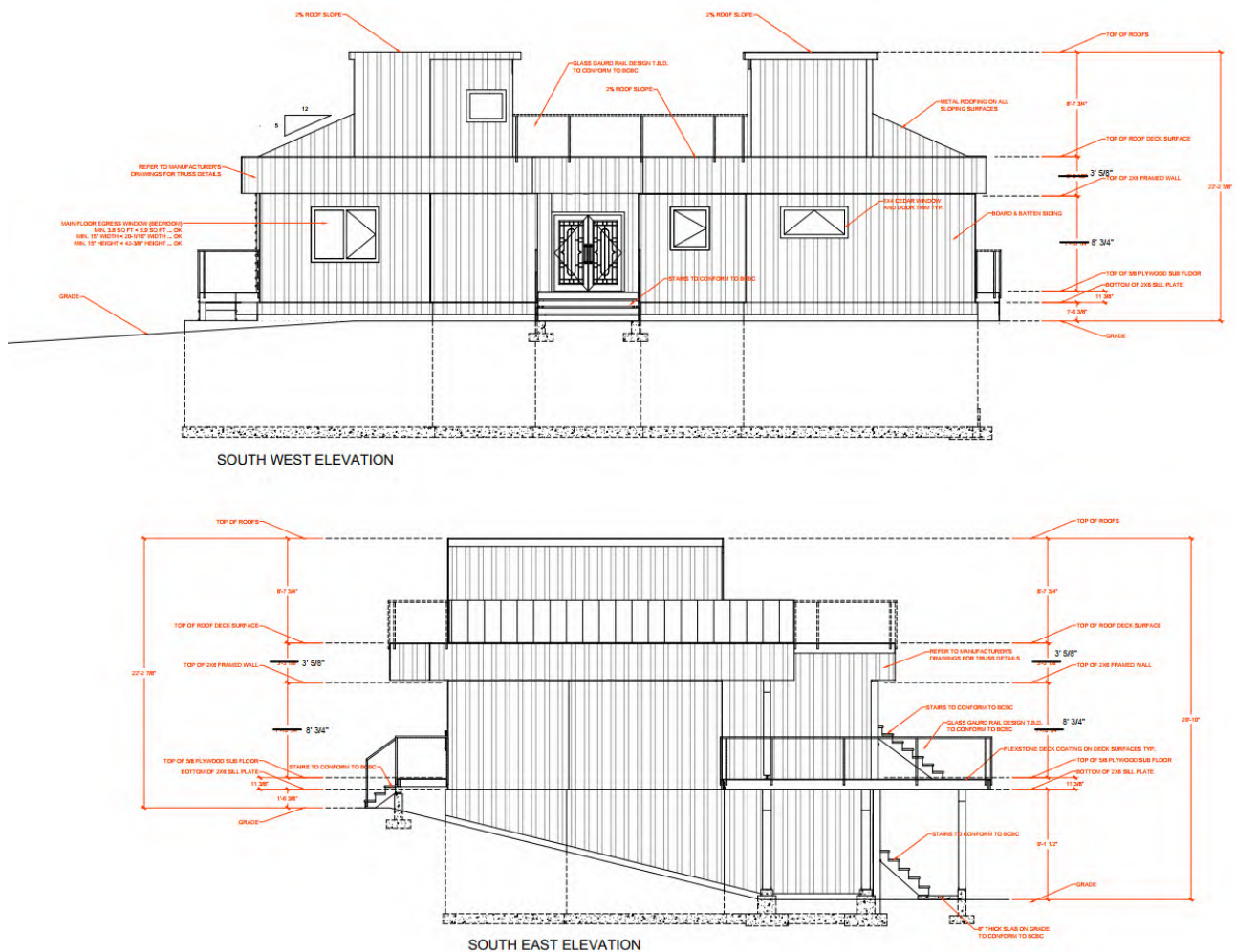
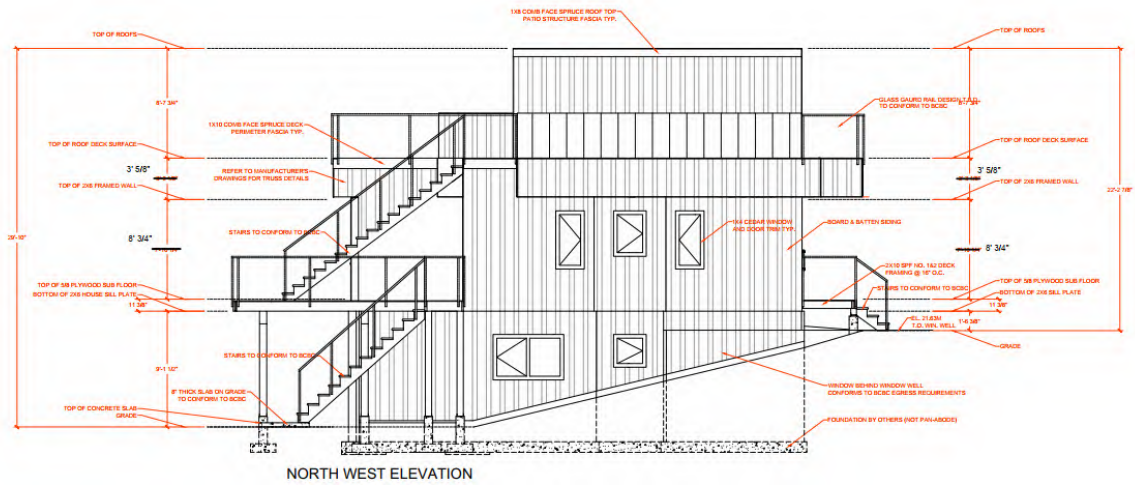
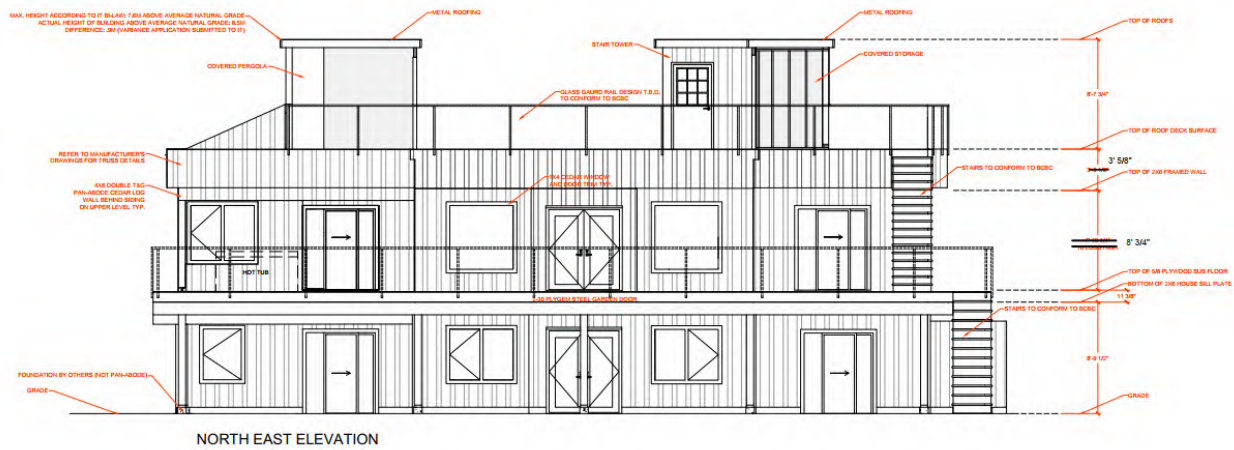
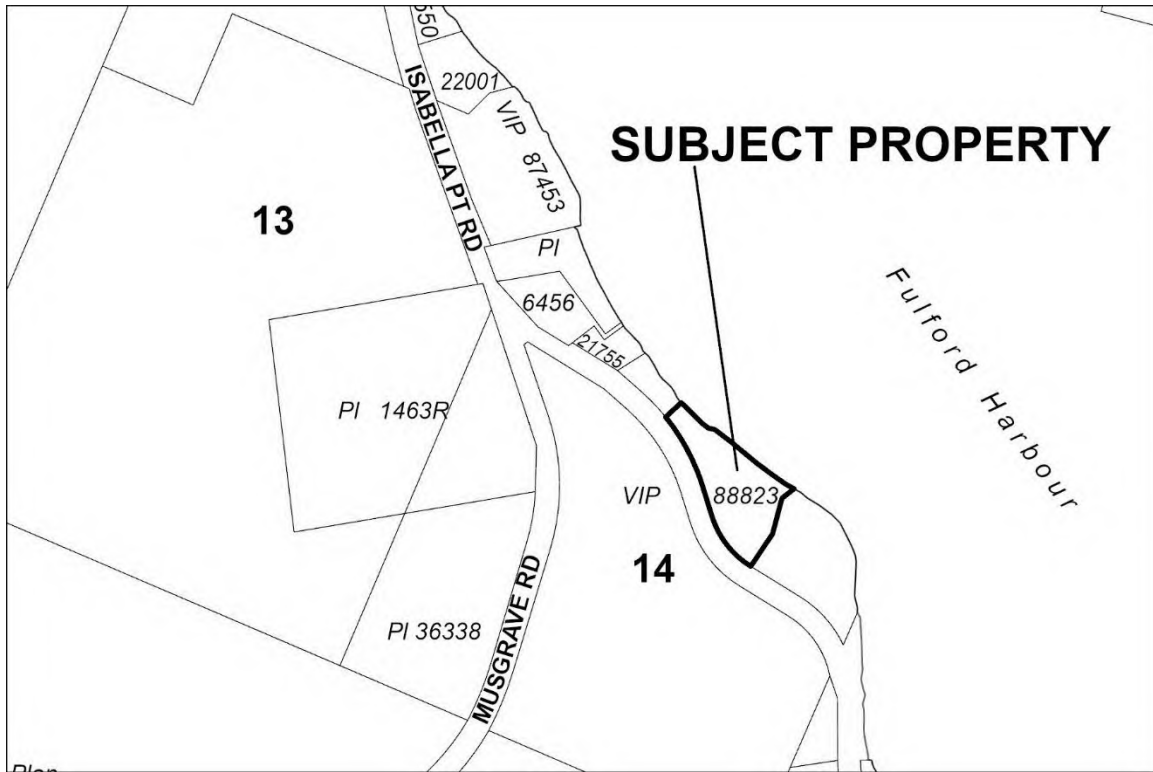


Figure 1 – Current Elevations A



**Figure 2 - Current Elevations B**



**Figure 3 - Subject Property**

**ANALYSIS**

Intent of Regulations being varied

**Official Community Plan**

Designation

The property is designated as Rural Neighbourhoods (RL) in the Salt Spring Island Official Community Plan (OCP), which aims “*To continue to provide adequate land zoned for medium density residential use and other traditional and compatible rural land uses.*”

Development permit

Some sections of the lot are located within DPA 6, which is designated as an Unstable Slope and Soil Erosion Hazard Area, and is subject to a delegated Development Permit. The applicant has been informed that a geotechnical report is required and this DP will be reviewed separately.

**Land Use Bylaw (LUB):**

The subject property is zoned **Rural (zone variant I) – R(I)** in the LUB.

Section 3.8 provides general height regulations to all building and structures on Salt Spring Island. The maximum height under subsection 3.8.1 establishes a 7.6 metre maximum height for all structures, provided that such structure does not contain more than two storeys.

According to LUB Part 1 – Interpretation, a “storey” is defined as “a portion of a building, with the exception of a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including any space where the floor to ceiling height is greater than or equal to 1.8 m. And “basement” means that portion of a building between two floor levels that is partly underground and that has its finished ceiling an average of less than **1.2 m above grade**.

The current floor-to-ceiling height for the first floor is approximately 2.69 meters, and the ceiling is an average of 1.6 meters above grade. This indicates that the first floor cannot be classified as a “basement”; and it is a separate storey, making the whole building a 3-storey structure.

### Potential Development Impacts

Granting a variance does not set a precedent and the Salt Spring Island Local Trust Committee (SS LTC) is unfettered in its ability to grant or deny variances. However, the granting of variances regarding building height or siting may create expectation in the community with regard to future applications. The DVP process enables property owners to relax minor land use bylaw regulations, while providing certainty for adjacent property owners and minimizing negative impacts on neighbours.

Due to the steep decline on the property, Staff believe that granting a variance would not pose a visual obstruction from the roadway or neighbouring properties. Additionally, the subject storage room does not increase the visual building massing and offers a small floor area of 8m<sup>2</sup> (86 sqft).

### **Circulation**

In accordance with [Section 499\(3\)](#) of the *Local Government Act* and Section 8 of the [Salt Spring Island Development Procedures Bylaw No. 304](#), statutory notice of the proposed variance was delivered to all owners and tenants in occupation of properties within 100 metres of the subject property’s boundaries on December 5, 2024.

No correspondence has been received at time of submission of this report. Staff will verbally indicate if any correspondence has been received subsequent to submission of this report at the SS LTC meeting.

### **First Nations**

This proposal does not require First Nations referral. As the variance would not involve any further land altering activities. The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the application is consistent with respect to LTC Standing Resolutions on reconciliation. Notwithstanding, to provide applicants with awareness regarding unknown archaeological areas, staff forwarded the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on Heritage Act directly to the applicants with the initial application.

### **Rationale for Recommendation**

The recommendation of staff is to approve this DVP as the variance is considered minor and the residential character is not anticipated to be negatively impacted. The subject storage room does not increase the building envelope nor does it significantly impact the visual profile of the building.

### **ALTERNATIVES**

The LTC may consider the following alternatives to the staff recommendation:

**1. Request further information**

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

*That the Salt Spring Island Local Trust Committee request that the applicant submit to the Islands Trust a [specify type of report], completed by a Professional [specify professional] which identifies the specific [identify concerns] (PLDVP20240174 - 237 Isabella Point Road)*

....

**2. Deny the application**

The SS LTC may deny the application. As a result, the file would be closed and the property owner would be required to amend the proposal to proceed with a building permit application. The applicant could choose to make an application to the Board of Variance if hardship can be demonstrated. If this alternative is selected, the SS LTC should state the reasons for denial. Recommended wording for resolution:

*That the Salt Spring Island Local Trust Committee deny issuance of Development Variance Permit PLDVP20240174 for the following reasons: [list reasons] (PLDVP20240174, 237 Isabella Point Road)*

Submitted By:	Milad Panahifar, Planner 1	November 6, 2024
Concurrence:	Chris Hutton, Regional Planning Manager	December 3, 2024

**ATTACHMENTS**

1. Site Context
2. Maps, Plans, Photographs
3. Notice
4. Draft Development Variance Permit
5. Applicant’s Project Narrative

## ATTACHMENT 1 – SITE CONTEXT

### LOCATION

Legal Description	LOT 2 SECTION 14 RANGE 1 SOUTH SALT SPRING ISLAND COWICHAN DISTRICT PLAN VIP88823
PID	028-581-598
Civic Address	237 ISABELLA POINT ROAD SALT SPRING ISLAND BC
Lot Size	0.65 ha (1.6 ac)

### LAND USE

Current Land Use	Rural (zone variant I) – R(I)
Surrounding Land Use	Agriculture 1 (zone variant e) - A1(e), Shoreline 6 - S6

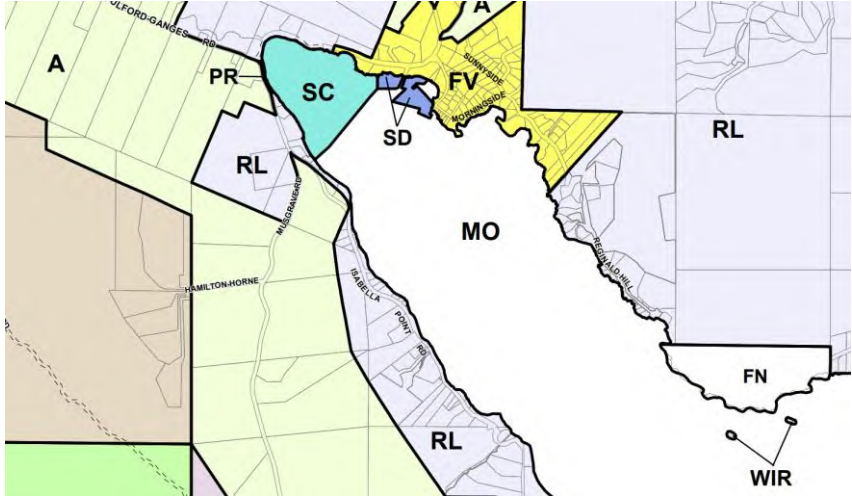

The map displays various land use zones. A central area is highlighted in yellow and labeled 'R(I)'. To its left is a light green area labeled 'A1(e)'. Further left, there are areas labeled 'R' and 'R(f)'. To the right of the yellow area, there are blue-shaded areas labeled 'S6' and 'S8', representing shoreline zones. The map shows a coastline with a road or path running along it.

### HISTORICAL ACTIVITY

File No.	Purpose
SS-SUB-2008.13	2 Parcel Subdivision
SS-SUB-2008.10	3 Parcel Subdivision
SS-SDP-2010.2	Environmental DP in support of subdivision application
SS-RZ-2006.8	To allow an additional density on this property in exchange for land for community-owned farmland. (203 Musgrave Rd)
SS-ALR-2006.7	Non-Farm Use and Subdivision in ALR
SS-ALR-2007.1	Application for subdivision and non-farm use in the ALR in order to add a density and re-align the road
SS-DP-2010.5	Isabella and Musgrave proposed road and site alter.
SS-BP-2022.149	New SFD



**POLICY/REGULATORY**



<p>Official Community Plan Designations</p>	<p>Salt Spring Island Official Community Plan Bylaw #434, 2008 – Rural Neighbourhoods - RL</p>  <p>Some sections of the lot are within DPA 6, which is designated as an Unstable Slope and Soil Erosion Hazard Area</p> <p><b>DPA6 - Map23 - Unstable Slope and Soil Erosion Hazard</b></p> 
<p>Land Use Bylaw</p>	<p>Salt Spring Island Land Use Bylaw #355, 1999 – Rural (R)</p> <p>“R” permits the following principal uses:</p> <ul style="list-style-type: none"> <li>• Single-family dwellings</li> <li>• Two family dwellings constructed before July 31, 1990</li> <li>• Dental and medical offices for a maximum of two medical practitioners</li> <li>• Elementary schools, pre-schools and child day care</li> <li>• Public health care facilities</li> </ul>




	<ul style="list-style-type: none"> <li>• Community halls</li> <li>• Churches and cemeteries</li> <li>• Veterinarian clinics and animal hospitals</li> <li>• Pet boarding services and kennels</li> <li>• Pounds</li> <li>• Active outdoor non-commercial recreation, excluding golf courses and activities primarily involving the use of power-driven means of conveyance</li> <li>• Agriculture</li> <li>• Public service uses</li> </ul> <p>The R also permits the following accessory uses:</p> <ul style="list-style-type: none"> <li>• Seasonal cottages subject to Section 3.14</li> <li>• Home-based business use, subject to Section 3.13</li> </ul> <p>3.12.5 With the exception of a seasonal cottage or other permitted accessory dwelling unit, the total floor area of all accessory buildings and structures on a lot must not exceed 70 square metres for lots that are 1.2 ha or less in area and 185 square metres for lots that are greater than 1.2 ha in area. One building with a floor area less than 25 square metres may be excluded from the calculation of total floor area for accessory buildings and structures.</p> <p>4.3.1 Unless otherwise specified, no building or structure except a fence, pumphouse, public utility structure or underground utility may be constructed within the following setbacks from lot lines or road access easements:</p> <ol style="list-style-type: none"> <li>(1) Setback from front lot line: 7.5 m</li> <li>(2) Setback from rear lot line: 7.5 m</li> <li>(3) Setback from interior side lot line: 3.0 m</li> <li>(4) Setback from exterior side lot line: 4.5 m</li> </ol> <p>except that on any lot, one structure with a floor area no more than 10 square metres and a height no greater than 2.5 m may be placed within the setback area from an interior side or rear lot line, and</p> <p>except that on any lot, where a structure has existed since before January 13, 1971, an addition to that structure may be placed within the setback area from an interior side or rear lot line, provided the addition is no closer to the lot line than the existing structure, and that the floor area of the addition does not exceed 10 per cent of the floor area of the existing structure.</p> <p><b>Rural (zone variant I) – R(I) - 9.10.4 (14-15)</b></p> <p>9.10.4.14 - The maximum number of lots permitted within the entire area zoned R(I) shall not exceed 2.</p> <p>9.10.4.15 - The minimum area of an individual lot that may be created through subdivision is 0.6 ha.</p>
Other Regulations	N/A
Covenants	Statutory Right of Way: FB409124 (Hydro), FB409125 (Telus) Exceptions and Reservations: FB409130 (Crown – Inter Alia)

	Covenant: FB409141 (CRD): Use the land as in engineer's report
Bylaw Enforcement	SS-BE-2005.38 – Soil Removal

**SITE INFLUENCES**

Islands Trust Conservancy	N/A
Species at Risk	<p>Within 100m distance from raptor's nest but it is highly unlikely that the variance proposed would impact the Raptor.</p> 
Sensitive Ecosystems	N/A
Hazard Areas	<p>Moderate, Low risk steep slopes</p> 
Archaeological Sites	<p>Remote Access to Archaeological Data (RAAD) mapping indicates the subject property has a known archaeological site. The owner should contact the BC Archaeology Branch for further information. (BORDENNUMB DeRu-168)</p>

	
Climate Change Adaptation and Mitigation	No additional impacts to GHG emissions anticipated as a result of this application.
Shoreline Classification	Sediment Shoreline - Pebble/Sand
Shoreline Data in TAPIS	N/A

## ATTACHMENT 2 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS

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### 2.1 MAP TITLE

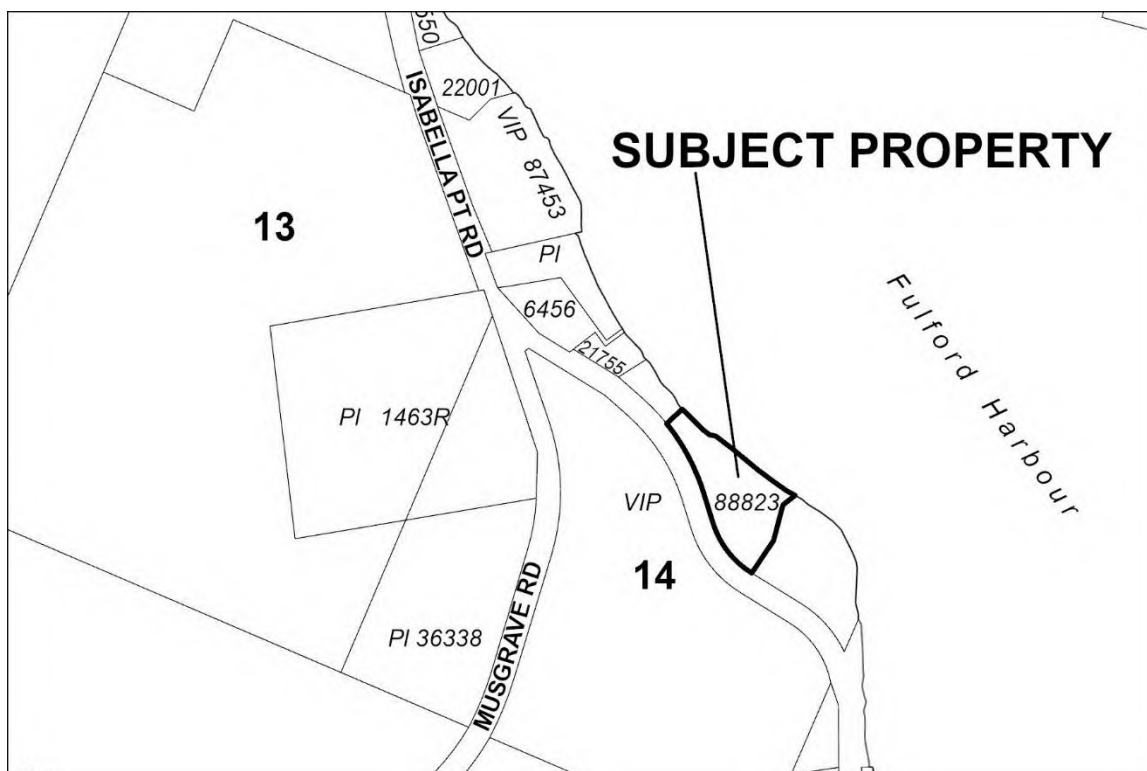


Figure 1 - Subject Property - 273 Isabella Point Road



*Figure 2 – Subject Property Zoning*



Figure 3 - Subject Property Satellite View



*Figure 4 - Unstable Slope and Soil Erosion Hazard (Map 23)*

## 2.2 PLAN TITLE



**SITE PLAN OF LOT 2, SECTION 14, RANGE 1, SOUTH SALT SPRING ISLAND,  
COWICHAN DISTRICT, PLAN VIP88823**

PID 028-581-598



The intended plot size of this plan is 560mm in width by 432mm in height (C-Size) when plotted at a scale of 1:500.

All distances are in metres and decimals thereof, unless otherwise noted.

Setbacks are derived from field survey completed on May 8th, 2024, and are measured from foundation and deck.

The civic address of the building is:  
237 Isabella Point Road, BC.

The following non-financial charges are shown on the current Certificate of Title and may affect the property:

- FB408124 - STATUTORY RIGHT OF WAY
- FB408125 - STATUTORY RIGHT OF WAY
- FB408130 - EXCEPTIONS AND RESERVATIONS
- FB408141 - COVENANT
- FB408147 - EASEMENT

Contours are shown at 0.5 metre intervals.

Elevations are referred to the CGVD28 Datum.

Average finished grade is 20.27 metres, based on formula for average natural grade set out in the Salt Spring Island Land Use Bylaw.

Average natural grade (pre-construction) is 19.99 metres.

**LEGEND**

- denotes Standard iron Post found
- denotes Traverse Hub placed

This document shows the relative location of the surveyed buildings and features with respect to the boundaries of the parcel described herein. This document shall not be used to define property lines or property corners.

Feature labels are descriptive. The user is encouraged to refer to the appropriate land use bylaw for specific feature definitions.

Polaris Land Surveying Inc. accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decisions made, or actions taken based on this document.

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Mailing & delivery address  
204 - 149 Fulford-Ganges Road,  
Salt Spring Island, BC, V8K 2T9

Toll Free: (877) 603 7308  
Telephone: (250) 537 5502  
SSi@pbi.ca  
www.pbi.ca

Date: 2024-09-13  
File: 2265-01  
Drawing: 2265-01-LO and BLC.dwg  
Layout: C-Size

This site plan is certified correct as of the 8th day of May, 2024.

*Jordan Litke*  
Jordan Litke N4UKQ9  
2024.09.13 11:04:00-0700  
Jordan Elliot Litke, BCLS 905

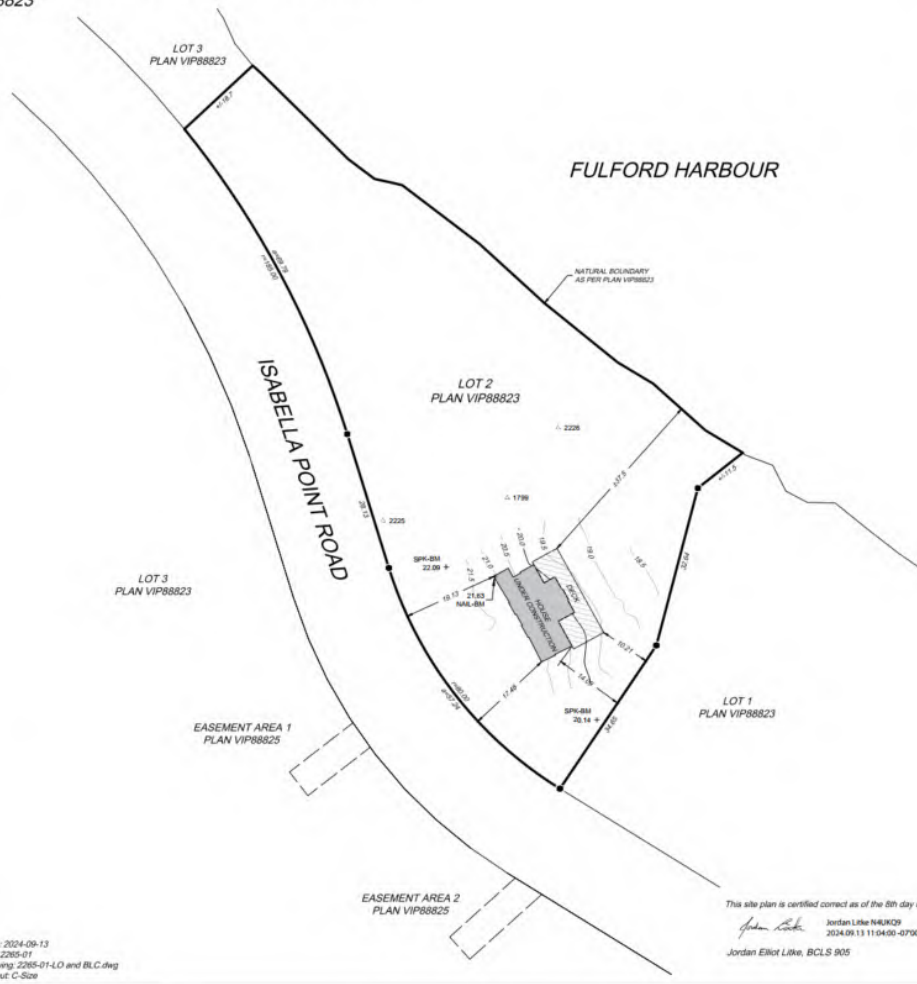


Figure 5 - Site Plan

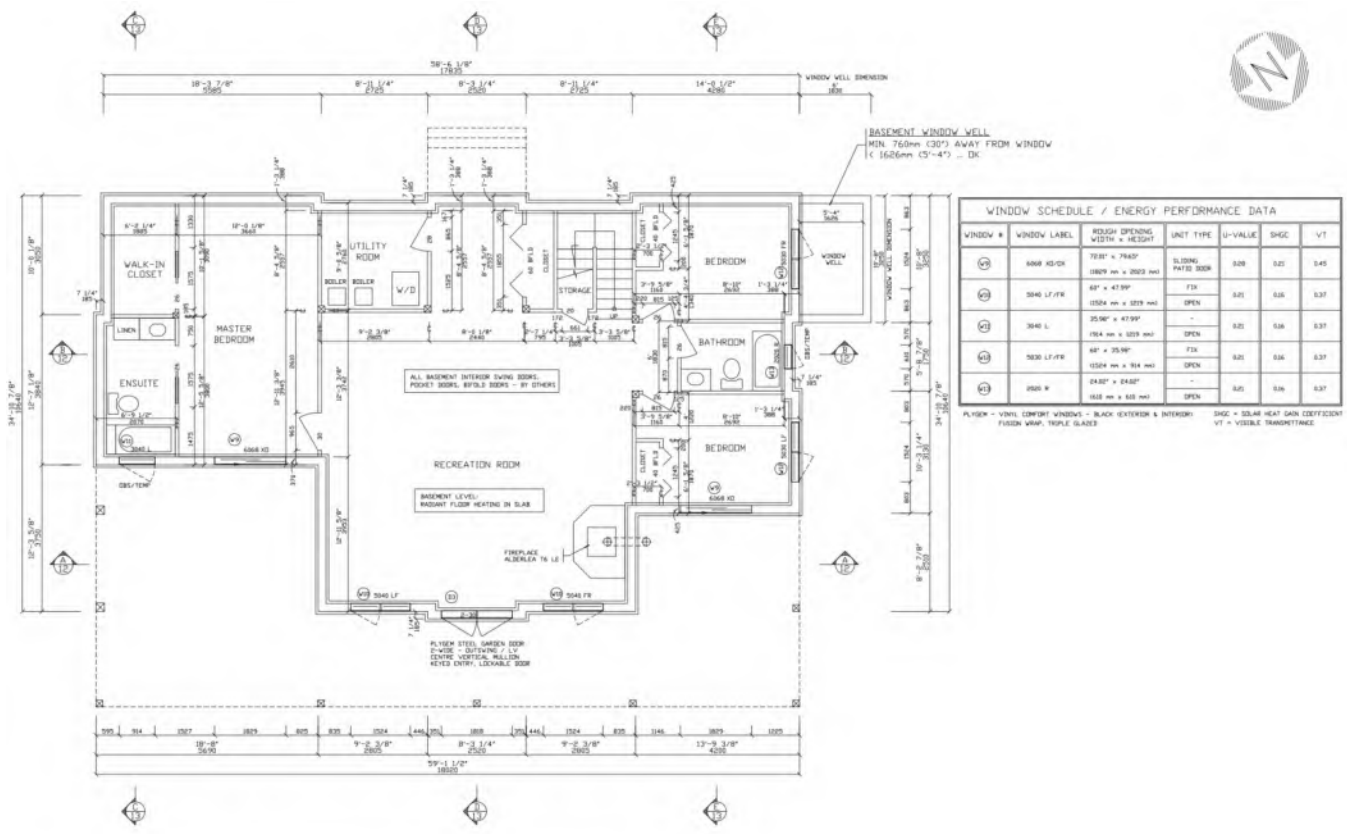


Figure 6 - Basement Plan

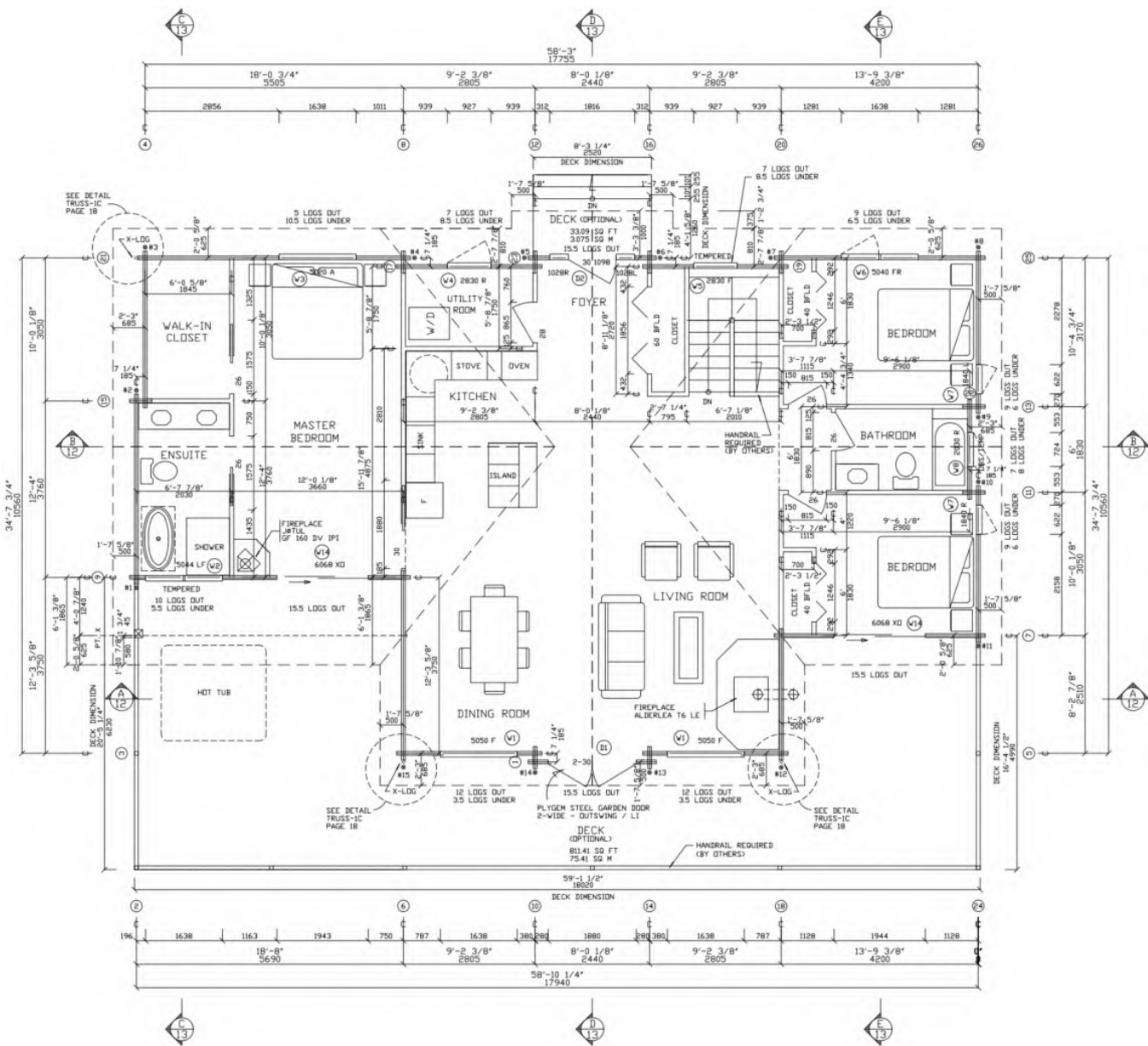


Figure 7 - Main Floor Plan

2.3 DRAWING TITLE







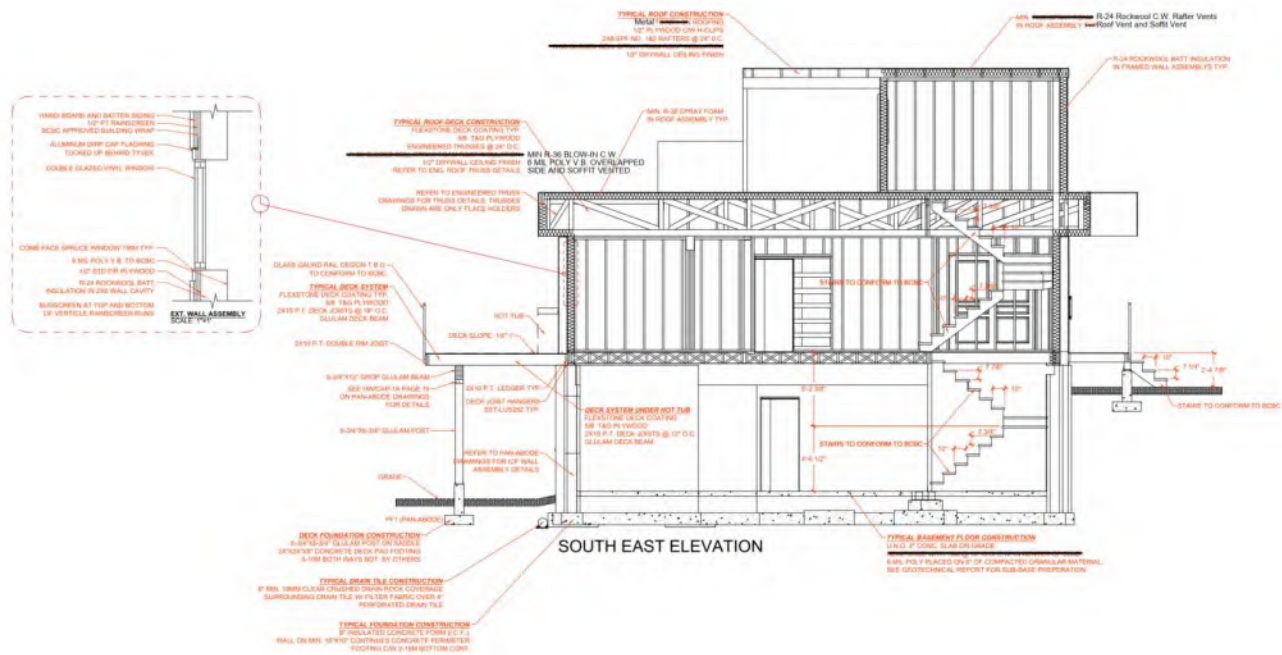


Figure 10 - Section

## 2.4 PHOTOGRAPH TITLE



*Figure 11 – North West Elevation*





*Figure 12 - View from Isabella Point Road*



*Figure 13 - South East Elevation*





*Figure 14 - South East Elevation 2*





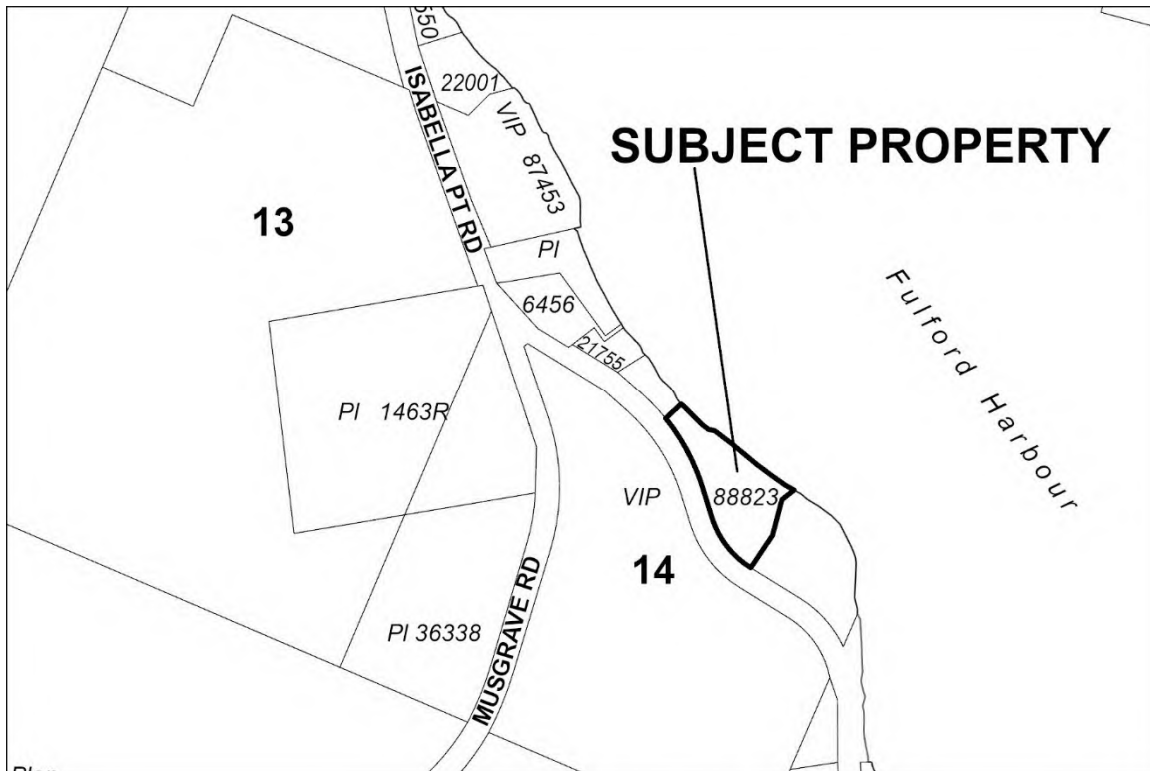
**NOTICE**  
**PLDVP20240174**  
**SALT SPRING ISLAND LOCAL TRUST COMMITTEE**

**NOTICE** is hereby given pursuant to Section 499 of the *Local Government Act* that the Salt Spring Island Local Trust Committee will be considering a resolution allowing for the issuance of a Development Variance Permit, the proposed permit would vary the the Salt Spring Island Land Use Bylaw No. 355 by:

- Varying Section 3.8.1 to:
  - 1) To raise the maximum height for structures from 7.6 (24.93 ft) meters, to 8.7 meters (28.54 ft)
  - 2) Increase in allowable number of storeys from 2 to 3, for a proposed single family dwelling.

The property is located at 237 Isabella Point Road and is legally described as:  
 LOT 2 SECTION 14 RANGE 1 SOUTH SALT SPRING ISLAND COWICHAN DISTRICT PLAN VIP88823.

The general location of the subject property is shown on the following sketch:



A copy of the proposed permit may be inspected at the Islands Trust Office, 200 – 1627 Fort Street Victoria, BC V8R 1H8 between the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday, excluding statutory holidays, commencing **December 2, 2024** and continuing up to and including **December 11, 2024**.

For the convenience of the public only, and not to satisfy Section 499 (2) (c) of the *Local Government Act*, additional copies of the Proposed Permit may be inspected at various Notice Boards on Salt Spring Island.

Enquiries or comments should be directed to Milad Panahifar Planner 1, at (250) 537-9144, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 660-2421 and elsewhere in BC 1-800-663-7867; or by fax (250) 405-5155; or by email to: [ssiinfo@islandstrust.bc.ca](mailto:ssiinfo@islandstrust.bc.ca) before 4:30 pm, **December 11, 2024**.

The Salt Spring Island Local Trust Committee may consider a resolution allowing for the issuance of the permit during the business meeting starting at **December 12, 2024** starting at 9:30 a.m. at the Salt Spring Legion, Meaden Hall, 120



Blain Road, Salt Spring Island. Typically, applications are considered in the afternoon portion of the meeting, which begins at 12 noon. Please refer to the agenda available on the Salt Spring Island LTC Meeting Calendar webpage at the beginning of that week for an indication of where this application may be placed on the agenda and to view the staff report for the application.

All applications are available for review by the public with prior appointment. Written comments made in response to this notice will also be available for public review.

Rob Pingle, Deputy Secretary



**PROPOSED**

**SALT SPRING ISLAND LOCAL TRUST COMMITTEE  
DEVELOPMENT VARIANCE PERMIT  
PLDVP20240174**

To: Jonathon Daniel Mishrigi, Natalie Michelle Mishrigi

1. This Development Variance Permit applies to the land described below:

LOT 2 SECTION 14 RANGE 1 SOUTH SALT SPRING ISLAND COWICHAN DISTRICT PLAN VIP88823  
(PID: 028-581-598)

2. Salt Spring Island Land Use Bylaw 355, 1999 is varied as follows:

- a) Subsection 3.8.1 which states that the maximum height for structures is 7.6 m (24.93 ft), provided that not more than two storeys are permitted in any structure, is varied to permit the construction of a three storey dwelling with 8.7 m (28.54 ft) height such that it facilitates the proposed dwelling's roof and floor to ceiling/roof heights in accordance with Schedule 'B' and Schedule 'C'.

The development shall be consistent with Schedules 'A', 'B' and 'C' which are attached to and form part of this permit.

3. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of Salt Spring Island Land Use Bylaw No. 355, 1999" and to obtain other approvals necessary for completion of the proposed development, including approval of the Capital Regional District and Ministry of Transportation and Infrastructure.

**AUTHORIZING RESOLUTION PASSED BY THE SALT SPRING ISLAND LOCAL TRUST COMMITTEE  
THIS \_\_\_ DAY OF \_\_\_, 20\_\_.**

\_\_\_\_\_  
Deputy Secretary, Islands Trust

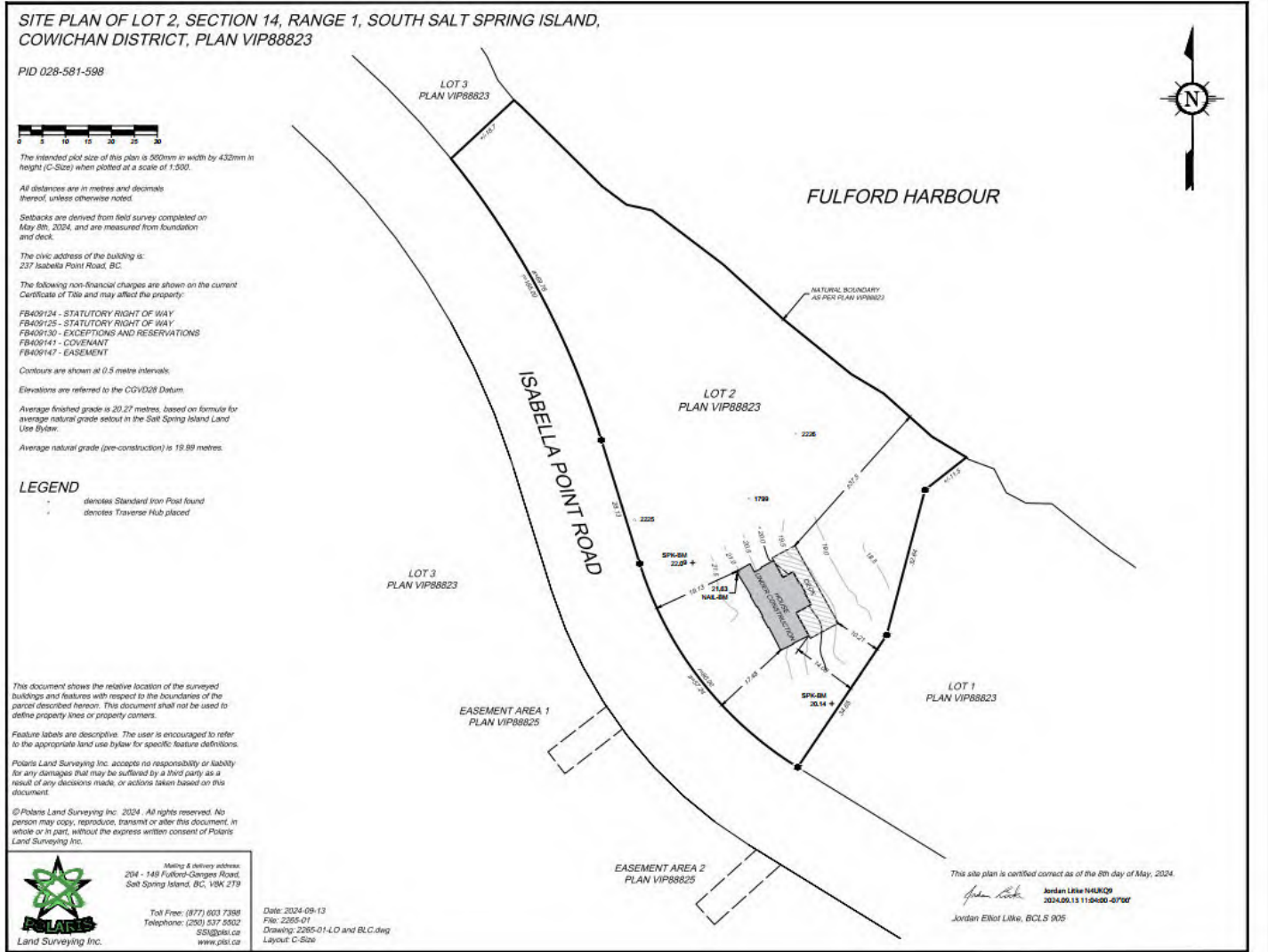
\_\_\_\_\_  
Date of Issuance

**IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY  
THE \_\_\_th DAY OF \_\_\_\_\_, 20\_\_ THIS PERMIT AUTOMATICALLY LAPSES.**



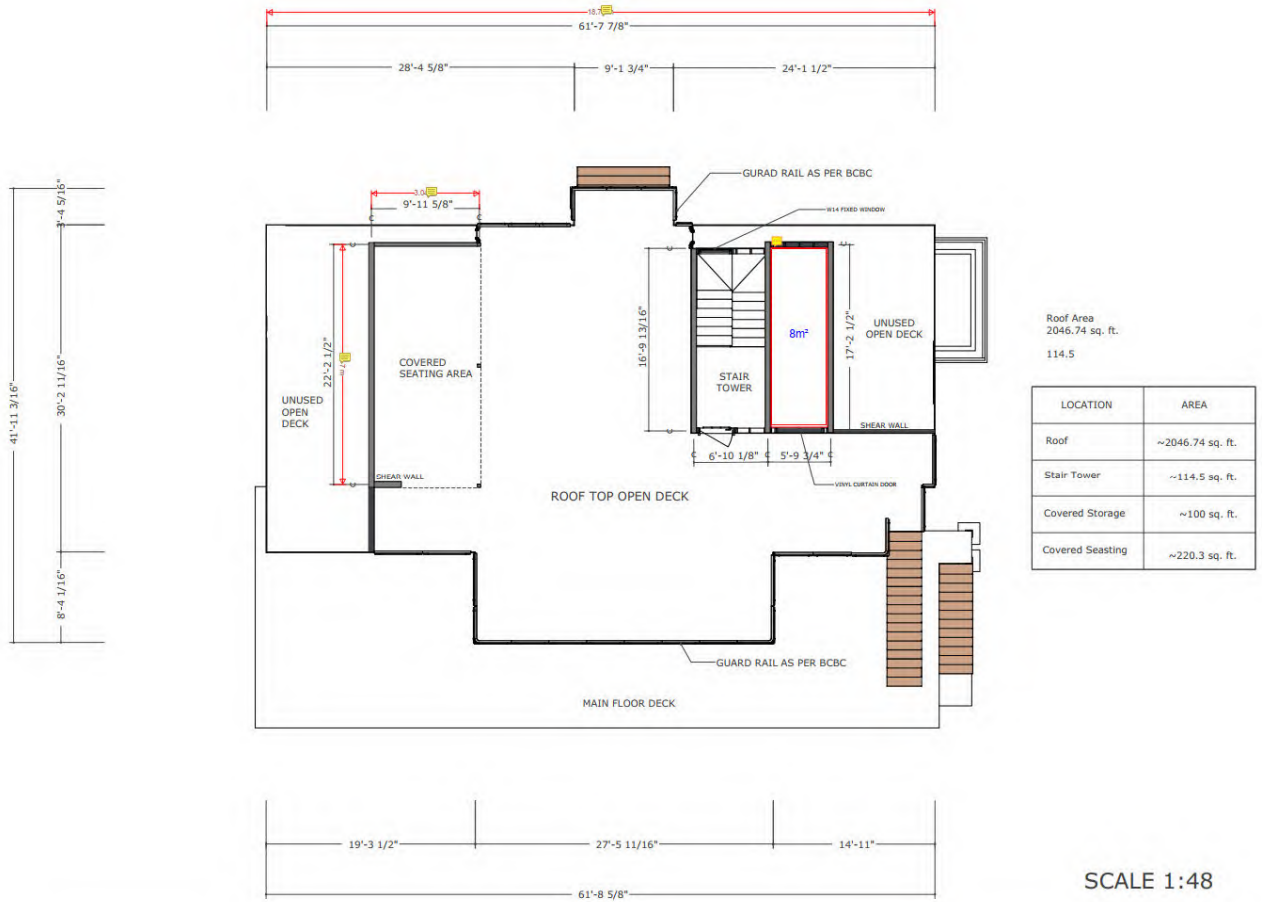
**SALT SPRING ISLAND LOCAL TRUST COMMITTEE  
PLDVP20240174**

**SCHEDULE 'A'  
[Site Plan]**



**SALT SPRING ISLAND LOCAL TRUST COMMITTEE  
PLDVP20240174**

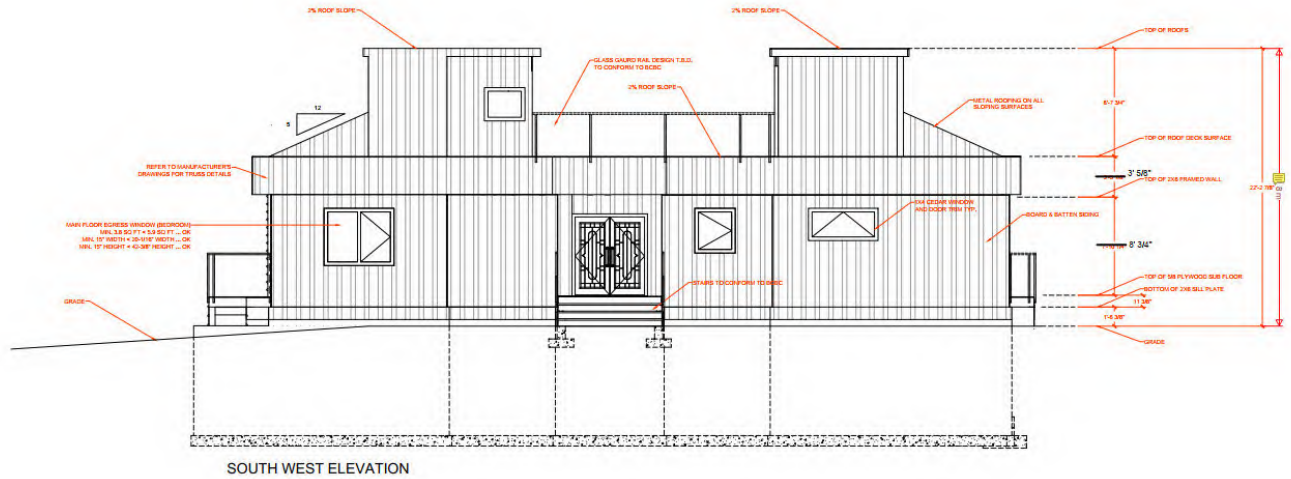
**SCHEDULE 'B'  
[Roof Plan]**

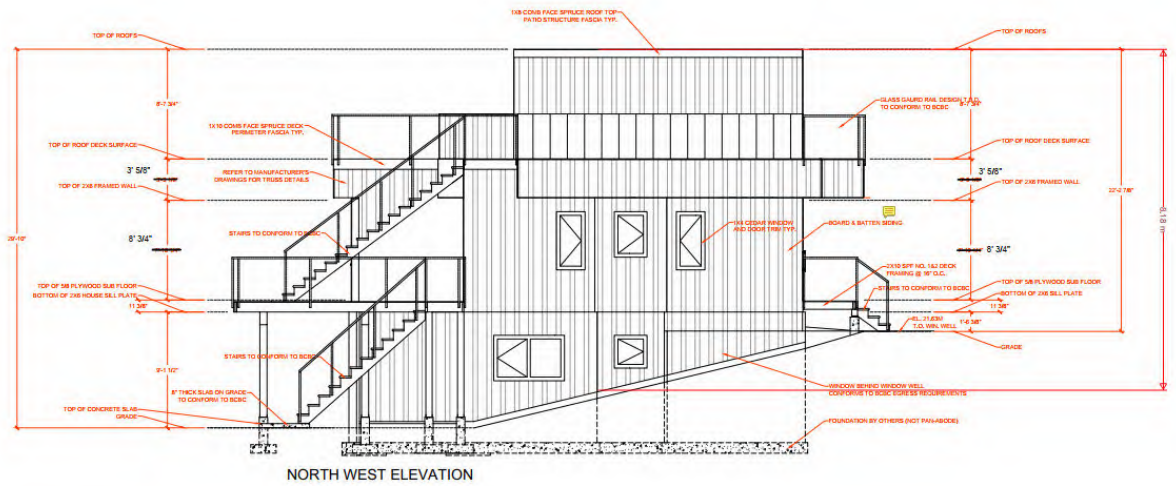
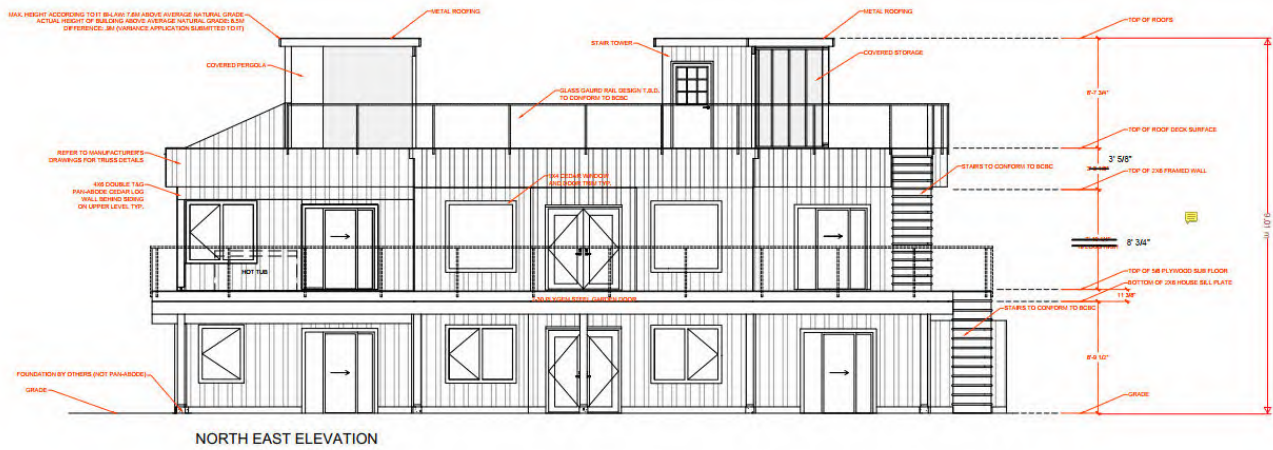


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**SALT SPRING ISLAND LOCAL TRUST COMMITTEE  
PLDVP20240174**

**SCHEDULE 'C'  
[Elevations]**





PRO

237 Isabella Point Rd. Variance Proposal

We started this project in 2021 after purchasing the land. We went through adding services first (Hydro, septic and water) prior to starting the build. In the mean time, we were undergoing the design phase with a company during skyrocketing inflation. Unfortunately, this resulted in some rushed and uniformed decisions on our part. We wanted to build our retirement home, but through the process, realized we could only afford to continue with many compromises. Our plan was to purchase a pre-fabricated milled log-home that we could build mostly ourselves to hopefully save the cost on labour. We were awarded our building permits in May of 2023 and have been building since. After breaking ground and beginning the foundation work, we realized the builder designed the bottom floor with a flush beam system. This was a huge error on their part since they knew our plan was to run HVAC and could not cut through engineered beams. Therefore, we had to add an additional 18" to accommodate due to the ICF blocks used for the bottom floor.

In the wake of Covid when we were ready to purchase the milled log home we were surprised to see that the builder's prices did not come down similar to other building materials. Also the milled logs were only 4" thick so our plan was to insulate on the inside later, but due to the higher price we could not afford that option. So we started working with our construction manager to figure out some options. At this point we had already built the foundation and subfloor. We met with another engineer and decided to go with a traditional stud framed house atop the ICF bottom. We were upset by the fact that we had to make certain sacrifices. However, our consolation was the idea that we could do a flat roof with a roof top patio. This would offer us the additional space we originally wanted with access to the breath taking views.

While undergoing the process we recently realized that we were encroaching on our maximum height above grade. Initially, we thought we could make our design fit to just below. However, the truss companies could not meet the load requirements with the two feet truss depth that was originally planned. Therefore, the trusses are now 3 feet depth and the roof top pergolas and storage spaces will have heights that are just too low to make work. Additionally, the plumbing vent stack is planned to protrude through some of the walls on the roof top. If we cannot build these a bit higher we will be subject to potential sewer gas smells on our roof top patio rendering the enjoyment of such an outdoor space unusable. Lastly, the rooftop structures are important to us because they will allow us to use the roof top patio almost all year around.

The 1.5 feet for the bottom floor issue mentioned above, plus the extra 1 foot of truss depth places us at 2.5 feet above our planned height. Therefore, we're asking for an additional 1 meter of height clearance to a maximum of 8.7m above grade in order to accommodate two rooftop structures. This includes 1 covered seating area and 1 covered storage area (depicted in drawings). There is another rooftop structure. However, this is the stair tower which is permitted above max height according to LUB No 355 – 3.8.4.

We understand that we're ultimately responsible for the situation we now find ourselves in and could not be more apologetic for time and effort it's costing other. Our only hope is that our mistake is forgiven and that our variance is granted in order to continue with our build in order to enjoy our future home.