



DATE OF MEETING: April 11, 2024
TO: Salt Spring Island Local Trust Committee
FROM: Bruce Belcher, Planner 1
Salt Spring Island Team
COPY: Chris Hutton, Regional Planning Manager
SUBJECT: SS-DVP-2024.4
Applicant: Everest MacDonald
Location: 541 Anna's Drive, Salt Spring Island

RECOMMENDATION

1. That the Salt Spring Island Local Trust Committee approve issuance of Development Variance Permit application SS-DVP-202.4.4 (MacDonald)

REPORT SUMMARY

The purpose of this report is to consider a Development Variance Permit (DVP) to vary the maximum height permitted for a structure.

BACKGROUND

The specific variance is to the maximum permitted height in the Salt Spring Island Land Use Bylaw No. 355, 1999 (LUB).

- Section 3.8.1 which states that unless otherwise specified, the maximum height for structures is **7.6 metres**, provided that not more than two storeys are permitted in any structure is varied to permit a proposed single family dwelling to be built with a maximum height of 9.8 metres.

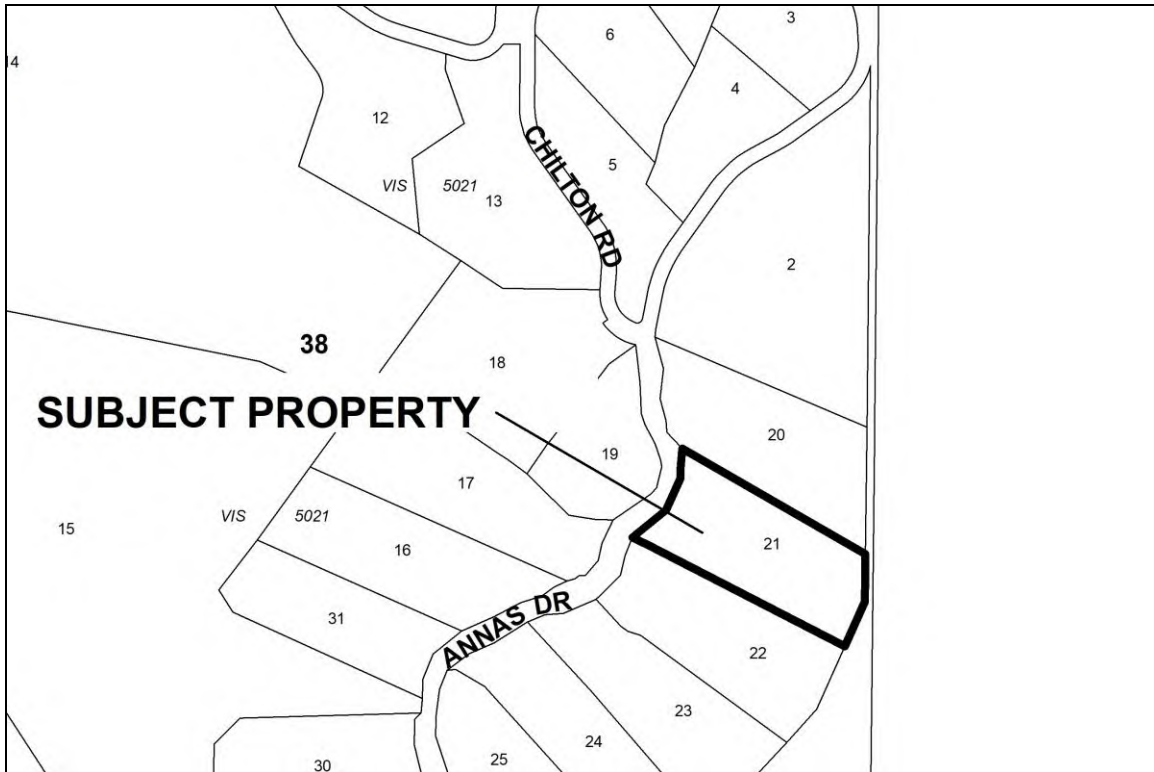
The 3.69 ha (9.12 ac) in area subject property is a strata lot located at 541 Anna's Drive on the south end of Salt Spring Island, facing south east onto Satellite Channel. The property is steep and has roughly 90 metres (295 feet) of vertical elevation gain from the rear lot line to the front lot line.

The proposed 362.3 sq m (3,900 sq ft) dwelling construction would be sited roughly in the centre of the lot at the end of the constructed driveway. Previous modifications were made to the selected building site by the previous owner, who removed three trees and began to level the ground. Locating the dwelling elsewhere on the property would likely require more roadwork and extensive modifications to the building site. The location of the dwelling is not visible from the road or the two neighbouring lots as there is significant forest coverage on either side.

A copy of the notice and proposed permit SS-DVP-2024.4 (MacDonald) are attached as Attachment 4 and 5. Staff conducted a site visit on March 14th, 2024. Staff observed the proposed building site and given the large

elevation changes through the property the proposal appears adequate to facilitate the development. Photos of the property are included as Attachment 2.

Figure 1 – Subject Property Map



ANALYSIS

Policy/Regulatory

Section 498 of the *Local Government Act* enables the Local Trust Committee to approve a DVP in order to vary a siting regulation in the LUB. A DVP may not be used to vary density or land use. In this case, a variance to siting regulations is being sought.

Official Community Plan (OCP)

The property is designated Uplands (U) in the Salt Spring Island OCP. The property is not located in any development permit area.

Land Use Bylaw

The property is zoned **Rural Uplands 1 – RU1** in the LUB. The proposed building construction does meet the two storey maximum requirement within Section 3.8.1 of the LUB, as the average natural grade calculation allows the lowest level of the building to be defined as a basement. The remaining two levels are defined as storeys. The proposed use of a 2 storey single family dwelling with a basement is permitted and approval of the variance will bring the property into compliance with the LUB.

Issues and Opportunities

Rationale for Variance

The applicant's rationale for the variances are:

- Building site was chosen to capitalize on previous owners land alterations through tree removal and ground levelling.
- Selected building site would minimize blasting required for dwelling construction.
- The site is located at the bottom of the property and no other homes are visible from the site.
- Selected site enables the protection of an Arbutus tree to the south.

Intent of Regulations being varied

The overall purpose of interior side yard siting is to minimize impacts on adjacent properties related to:

- Limiting the visual impact of development on adjacent properties.
- Establishing a consistent development pattern within a local area.
- Protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
- Maintaining a rural character.
- Establishing certainty with respect to development by maintaining consistent siting regulations.

Potential impacts of granting to variance

Granting a variance can potentially create an expectation in the community with regard to future applications. As variances consider the unique circumstances pertaining to a particular situation that may warrant the relaxation of a specific zoning regulation each application should be evaluated on its own merits.

Impact on Neighbouring Properties

The most impacted neighbours by the proposed variance would be the neighbouring property to the north, strata lot 20, as the neighbouring property to the south has not been developed. Due to the proposed building site being about 50 metres below the road elevation and the property having sufficient tree coverage, the increase in height would have a negligible impact on the neighbouring properties views. The property also shares an east border with Mount Tuam Ecological Reserve.

Circulation

DVP Notices were circulated to surrounding property owners and residents on March 27, 2024. The notification period will end on April 10, 2024.

At the time of writing, staff have received no submissions in response to notification. Any submissions received prior to the LTC meeting will be forwarded to the LTC and reported at the meeting.

First Nations

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

Staff is recommending that the resolution on page 1 be supported for the following reasons:

- The rationale for the variance is reasonable.
- Impacts on neighbouring properties from approval of the variance would not be significant.
- The application precedes construction.
- The proposed variance would not challenge the intent of the regulation.
- At the time of writing, there has been no response to the notification.

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

2. Amend and Approve

The LTC may opt to make amendments to the permit as circulated provided the amendments *do not* allow further encroachments. Recommended wording for the resolution is as follows:

That the Salt Spring Island Local Trust Committee amend application SS-DVP-2024.4 (MacDonald) as follows: _____; and,

That the Salt Spring Island Local Trust Committee approve application SS-DVP-2024.4 (MacDonald) as amended.

3. Deny the application

The LTC may deny the application. If this alternative is selected, the LTC should state the reasons for denial.

Recommended wording for the resolution is as follows:

That the Salt Spring Island Local Trust Committee refuse application SS-DVP-2024.4 (MacDonald).

Submitted By:	Bruce Belcher, Planner 1	March 27, 2024
Concurrence:	Chris Hutton, Regional Planning Manager	April 3, 2024

ATTACHMENTS

1. Site Context
2. Maps, Plans, Photographs
3. Notice
4. Draft Development Variance Permit

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	STRATA LOT 21 SECTION 38 SOUTH SALT SPRING ISLAND COWICHAN DISTRICT STRATA PLAN VIS5021 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
PID	025-844-172
Civic Address	541 ANNA'S DR SALT SPRING ISLAND BC
Lot Size	3.69 ha (9.12 ac)

LAND USE

Current Land Use	Uplands
Surrounding Land Use	Uplands and Ecological Reserve

HISTORICAL ACTIVITY

File No.	Purpose
SS-DVP-2002.2	Related to Subdivision

POLICY/REGULATORY

Official Community Plan Designations	Salt Spring Island Official Community Plan Bylaw #434, 2008 – Uplands (U)
Land Use Bylaw	Salt Spring Island Land Use Bylaw #355, 1999 – Rural Uplands 1
Other Regulations	N/A
Covenants	EW6133, EW60582
Bylaw Enforcement	N/A

SITE INFLUENCES

Islands Trust Conservancy	There are no Conservancy covenants or properties in the direct area; therefore no referral has been made to the Board.
Species at Risk	N/A
Sensitive Ecosystems	N/A
Hazard Areas	High, Moderate, Low risk steep slopes
Archaeological Sites	Notwithstanding the foregoing, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the <i>Heritage Conservation Act</i> . If such material is encountered during development, all work should cease and Archaeology Branch should be contacted immediately as a <i>Heritage Conservation Act</i> permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.

Climate Change Adaptation and Mitigation	No additional impacts to GHG emissions anticipated as a result of this application.
Shoreline Classification	Not Applicable
Shoreline Data in TAPIS	N/A

ATTACHMENT 2 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS

2.1 ORTHOZONING



2.2 TWO METRE CONTOURS



2.3 SURVEY PLAN

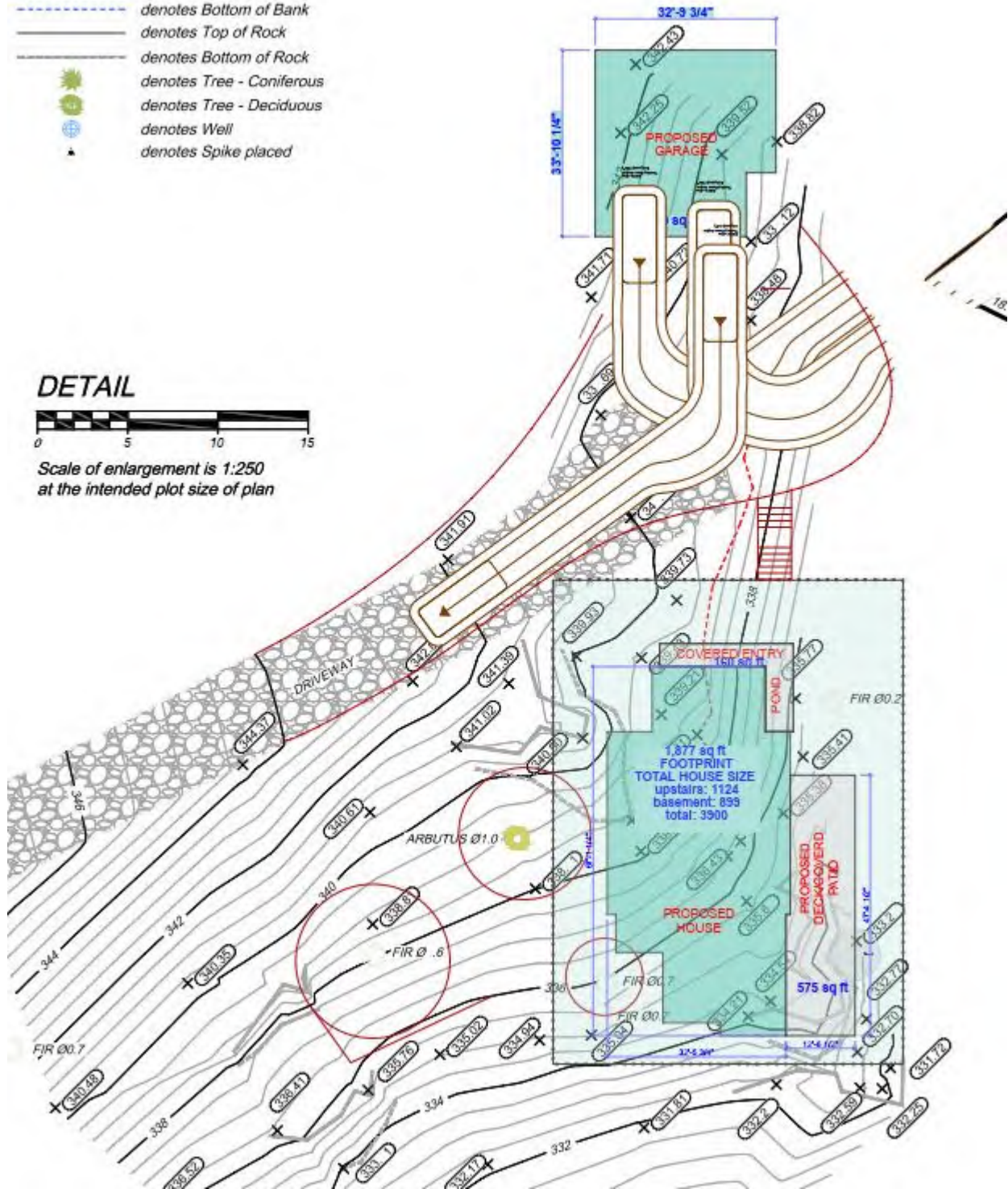
LEGEND

- denotes Top of Bank
- denotes Bottom of Bank
- denotes Top of Rock
- denotes Bottom of Rock
-  denotes Tree - Coniferous
-  denotes Tree - Deciduous
-  denotes Well
-  denotes Spike placed

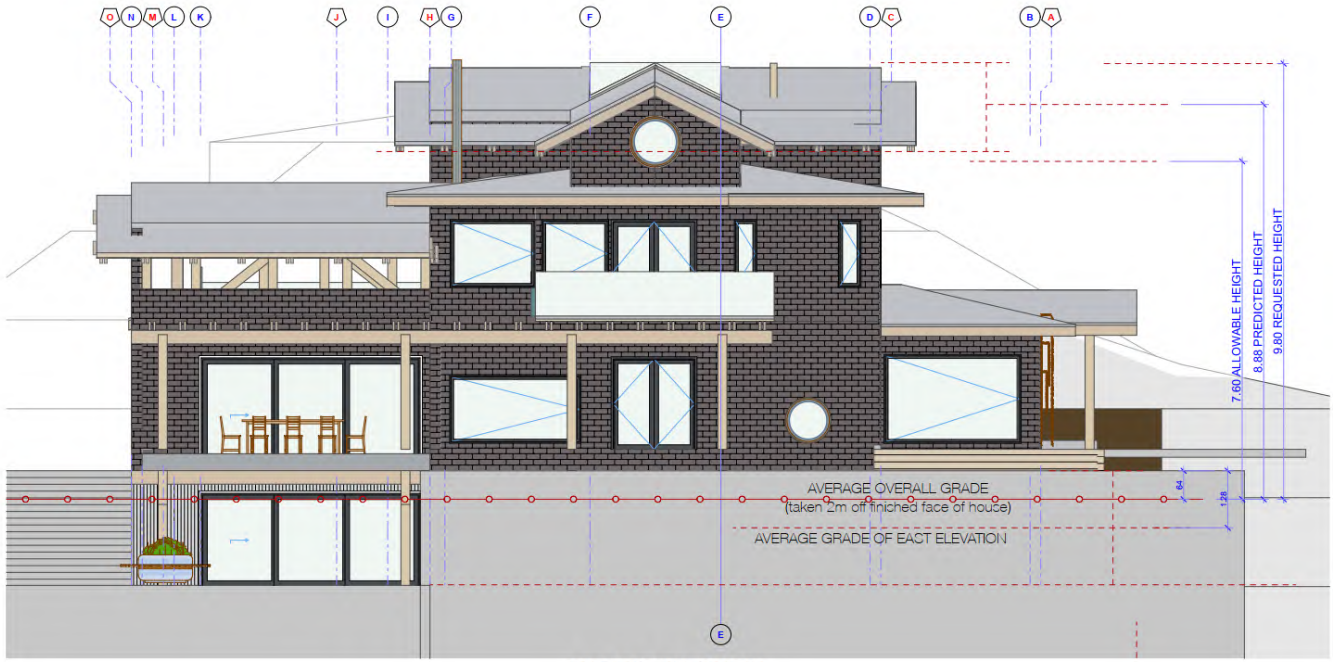
DETAIL



Scale of enlargement is 1:250
at the intended plot size of plan

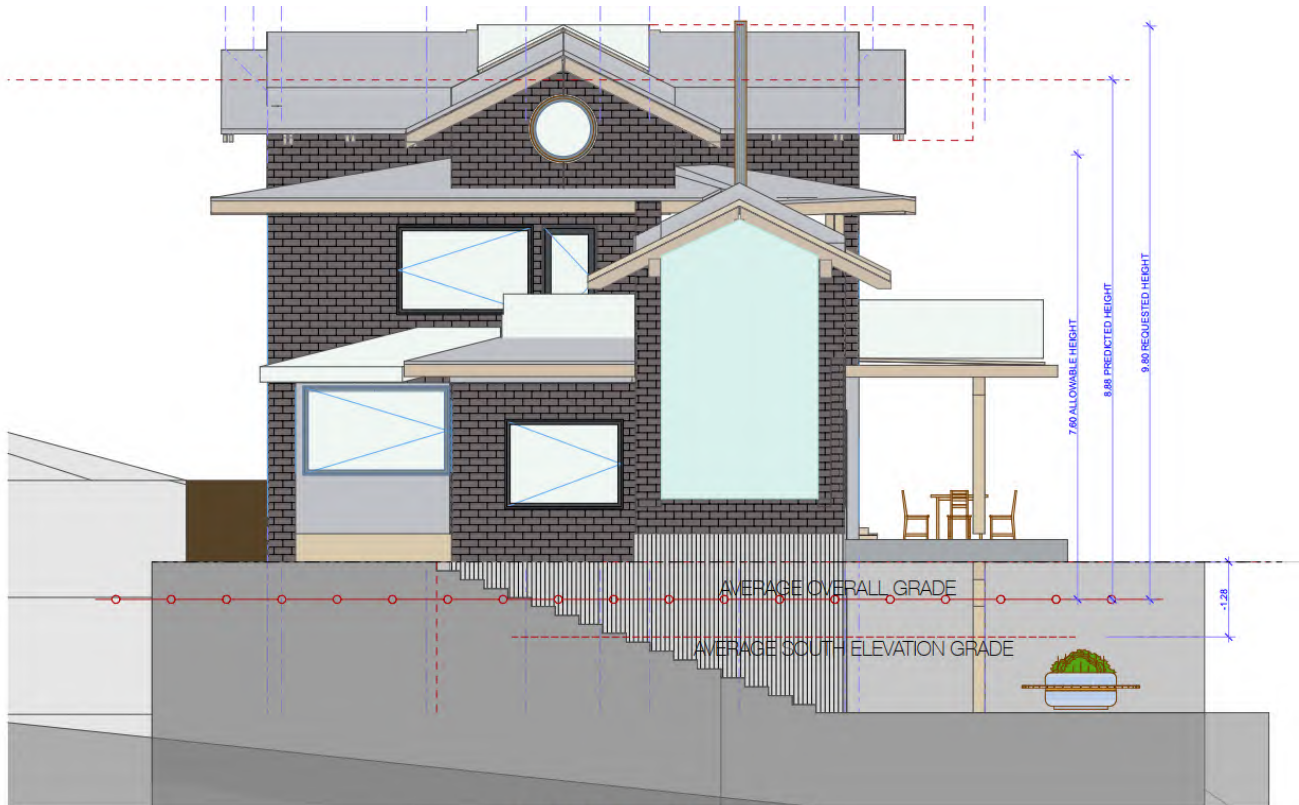


2.4 BUILDING PLANS



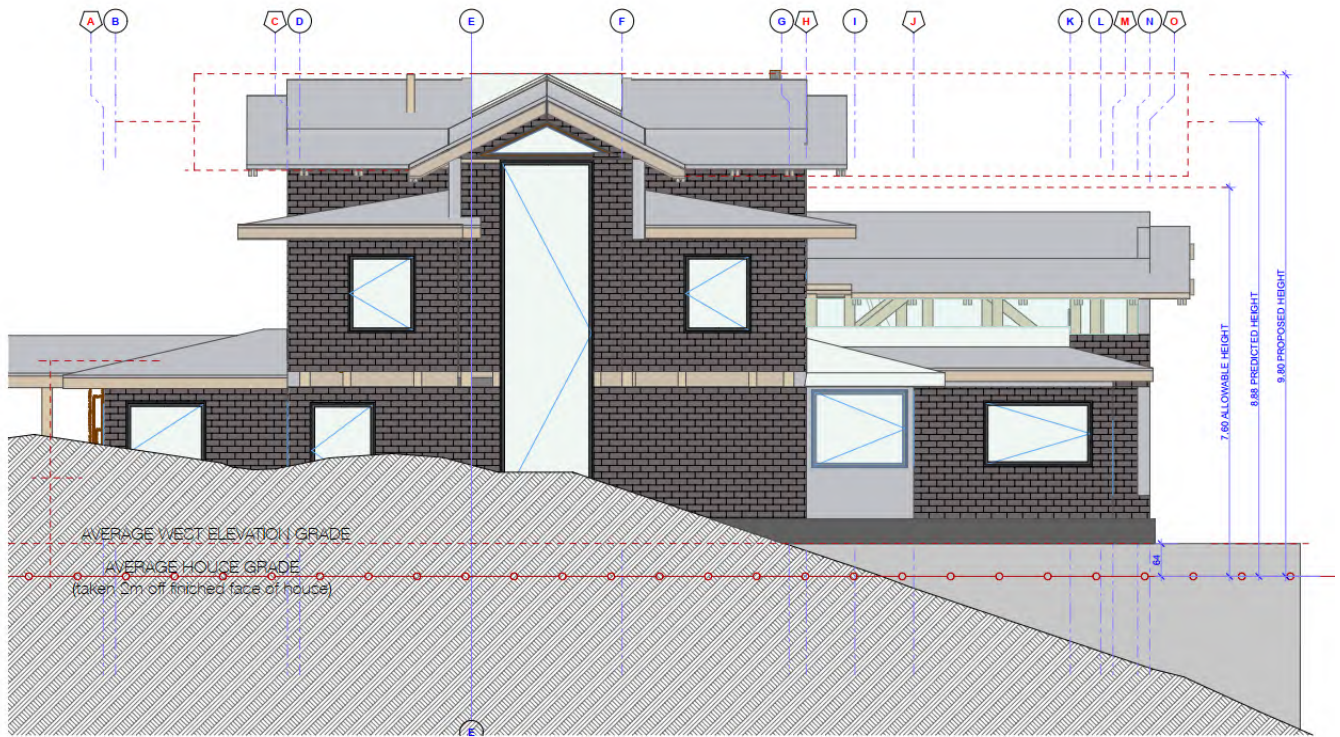
EAST ELEVATION (1)

SCALE: 1/4" = 1'-0"



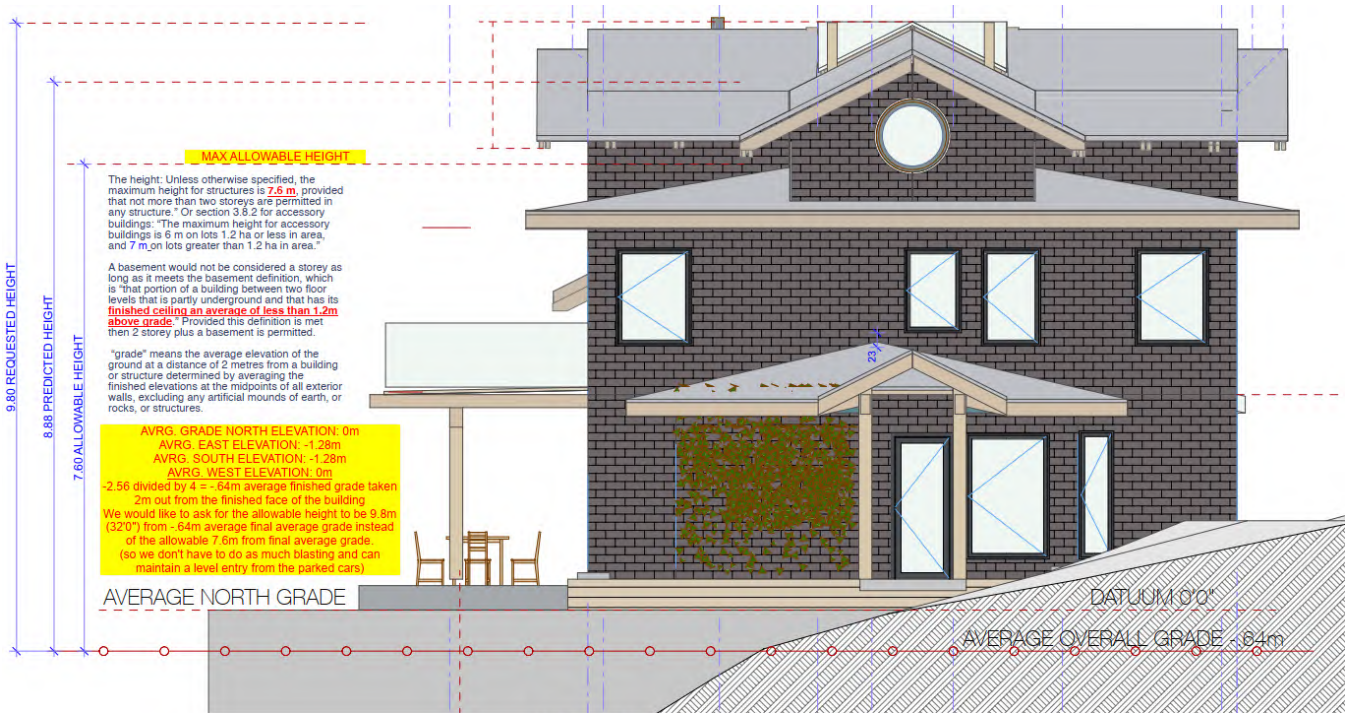
SOUTH ELEVATION (1)

SCALE: 1/4" = 1'-0"



WEST ELEVATION (2)

SCALE: 1/4" = 1'-0"



NORTH ELEVATION (1)

SCALE: 1/4" = 1'-0"

MAX ALLOWABLE HEIGHT

The height: Unless otherwise specified, the maximum height for structures is **7.6 m**, provided that not more than two storeys are permitted in any structure. Or section 3.8.2 for accessory buildings: "The maximum height for accessory buildings is 6 m on lots 1.2 ha or less in area, and 7 m on lots greater than 1.2 ha in area."

A basement would not be considered a storey as long as it meets the basement definition, which is "that portion of a building between two floor levels that is partly underground and that has its finished ceiling an average of less than 1.2m above grade." Provided this definition is met then 2 storey plus a basement is permitted.

"grade" means the average elevation of the ground at a distance of 2 metres from a building or structure determined by averaging the finished elevations at the midpoints of all exterior walls, excluding any artificial mounds of earth, or rocks, or structures.

AVRG. GRADE NORTH ELEVATION: 0m
AVRG. EAST ELEVATION: -1.28m
AVRG. SOUTH ELEVATION: -1.28m
AVRG. WEST ELEVATION: 0m
 -2.56 divided by 4 = -64m average finished grade taken 2m out from the finished face of the building
 We would like to ask for the allowable height to be 9.8m (32'0") from -64m average final average grade instead of the allowable 7.6m from final average grade, (so we don't have to do as much blasting and can maintain a level entry from the parked cars)

2.5 PHOTOGRAPHS



PROPOSED BUILDING SITE LOOKING SOUTHEAST





BUILDING SITE LOOKING SOUTH AND WEST





UNDEVELOPED LAND LOOKING SOUTH, LOOKING DOWN ON PROPOSED BUILDING SITE





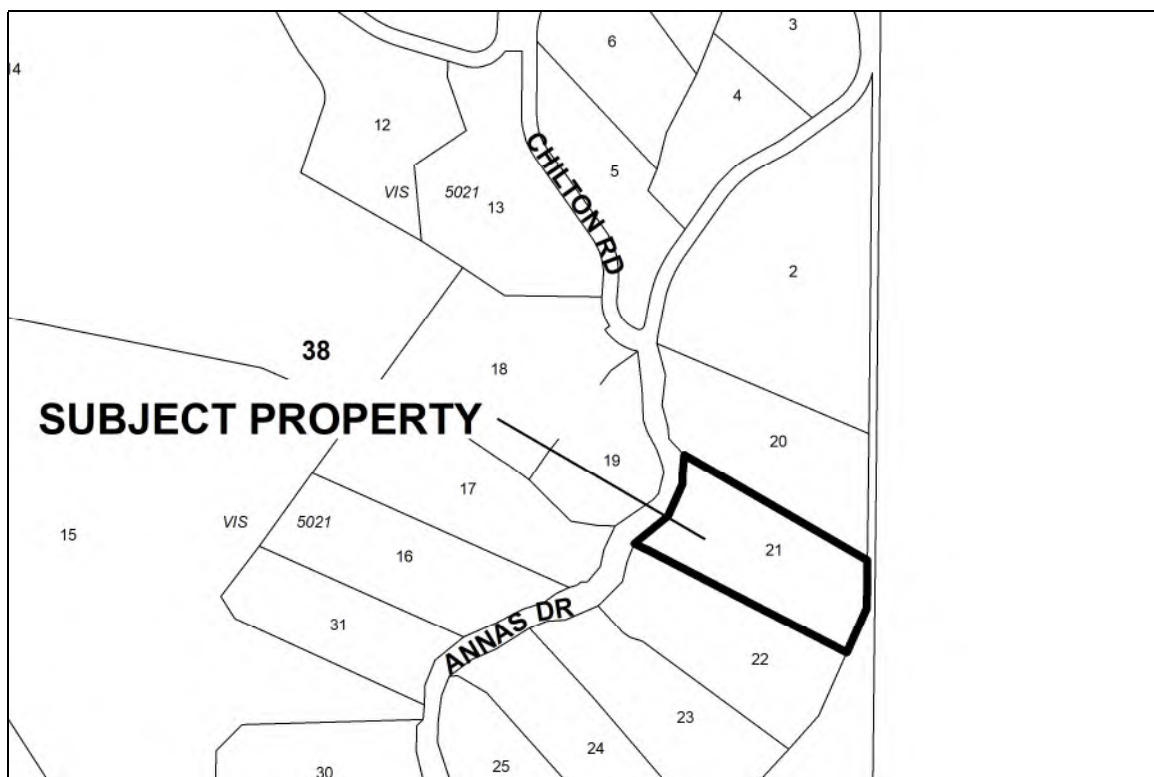
NOTICE
SS-DVP-2024.4
SALT SPRING ISLAND LOCAL TRUST COMMITTEE

NOTICE is hereby given pursuant to Section 499 of the *Local Government Act* that the North Pender Island Local Trust Committee will be considering a resolution allowing for the issuance of a Development Variance Permit, the proposed permit would vary the Salt Spring Island Land Use Bylaw No. 355, 1999 by:

- A variance to the 7.6 m maximum building height to permit a new single family dwelling with a proposed maximum height of 9.8 m.

The property is located at **541 Anna's Drive** and is legally described as STRATA LOT 21 SECTION 38 SOUTH SALT SPRING ISLAND COWICHAN DISTRICT STRATA PLAN VIS5021 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V (PID: 025-844-172).

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, 1-500 Lower Ganges Road, Salt Spring Island, BC V8K 2N8 between the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday inclusive, excluding statutory holidays, commencing **March 26, 2024** and continuing up to and including **April 10, 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 Bruce Belcher, Planner 1 at (250) 405-5179, 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 before 4:30 pm, **April 10, 2024**.

The Salt Spring Island Local Trust Committee may consider a resolution allowing for the issuance of the permit during the business meeting on **April 11, 2024** starting at 9:30 am 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

ATTACHMENT 4

SALT SPRING ISLAND LOCAL TRUST COMMITTEE DEVELOPMENT VARIANCE PERMIT SS-DVP-2024.4

To: Vincent Argiro & Margaret Cowhig
c/o Everest MacDonald

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

STRATA LOT 21 SECTION 38 SOUTH SALT SPRING ISLAND COWICHAN DISTRICT STRATA PLAN VIS5021 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V (PID: 025-844-172)

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

a) Subsection 3.8.1 which states that *unless otherwise specified, the maximum height for structures is 7.6 m, provided that not more than two storeys are permitted in any structure* is varied to permit the construction of a single family dwelling with a maximum height of 9.8 m.

The development shall be consistent with Schedule 'A' which is 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 ##th DAY OF [MONTH], [YEAR].

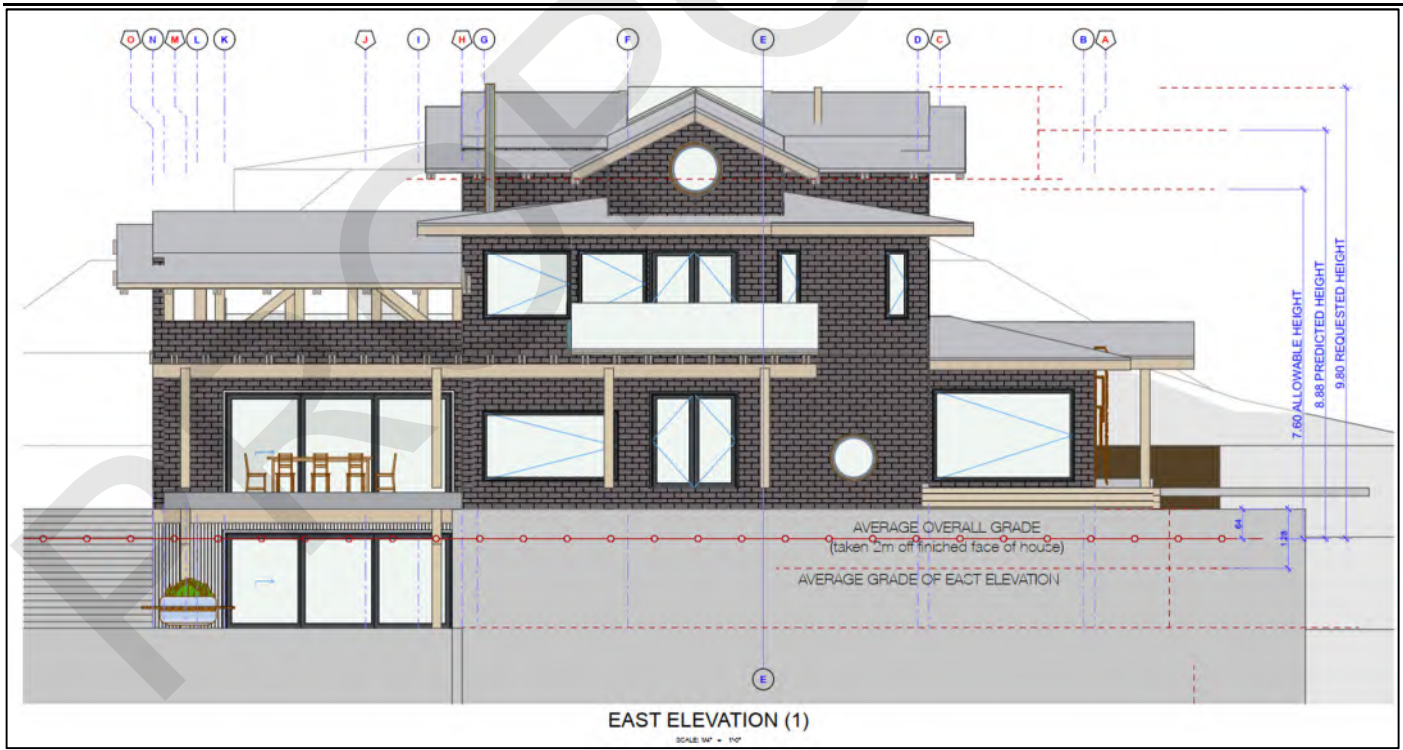
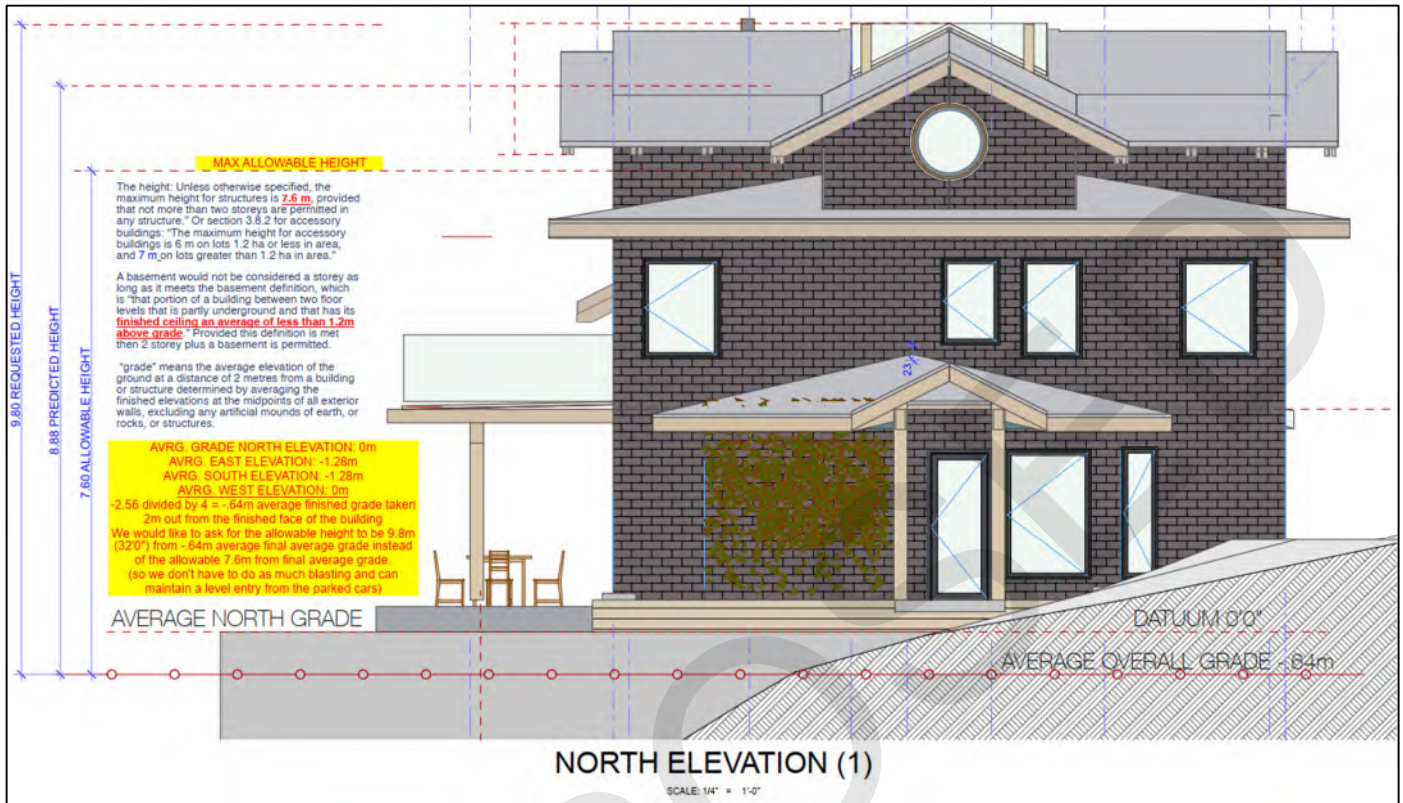
Deputy Secretary, Islands Trust

Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ##th DAY OF [MONTH], [YEAR] (2 YEARS FROM DATE OF ISSUANCE) THIS PERMIT AUTOMATICALLY LAPSES.

**SALT SPRING ISLAND LOCAL TRUST COMMITTEE
SS-DVP-2024.4**

SCHEDULE 'A'



SALT SPRING ISLAND LOCAL TRUST COMMITTEE
SS-DVP-2024.4

