

# MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



**DATE:** May 10, 2023  
**TO:** Christopher Garrish, Planning Manager  
**FROM:** Ben Kent, Planner I  
**RE:** Development Variance Permit (DVP) — Electoral Area “D”

**FILE NO.:** D2023.018-DVP

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Owner: Ted Battiston & Marla Zucht      Agent: NA      Folio: D-00796.110

Civic: 449 Hody Drive      Legal: Lot 1, Plan KAP47247, District Lot 337, SDYD

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## Proposed Development:

This application is seeking variances to the front and rear parcel line setbacks that apply to the subject property in order to undertake construction of a single detached dwelling.

Specifically, it is being proposed to vary the front parcel line setback from 7.5 metres to 6.7 metres and to vary the rear parcel line setback from 7.5 metres to 3.6 metres for a principal building.

In support of this request, the applicant has stated that “the proposed development is virtually identical to the house design shared in the Spring 2022 DVP application process. Compared to the previously shared house design, there are two small differences:

1. The roofline at the north west corner of the house has been reduced by 4’1” (1.25m) and no longer projects into the original front setback, thereby reducing the massing of the north west corner of the house.
2. The north wall of the lower floor of the house has been shifted 2’6” northward to line up directly below the north wall of the upper floor (i.e. removing the cantilever of the upper floor as per the previous design).

## Site Context:

The subject property is approximately 588 m<sup>2</sup> in area and is situated on the east side of Hody Drive. The property is understood to be vacant.

The surrounding pattern of development is generally characterised by similar residential development.

## Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on May 27, 1992, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated Low Density Residential (LR).

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Low Density Residential Two (RS2) which lists single detached dwelling as a permitted principal use.

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BC Assessment has classified the property as “Residential” (Class 01).

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

On April 21, 2022, the Regional District Board approved development variance permit No. D2022.011-DVP for the subject property, which proposed identical setback distances to the current proposal. The current proposal consists of minor structural alterations to the proposed dwelling only and does not impact the previously approved setback distances.

**Public Process:**

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on April 13, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of May 4, 2023, being 15 working days from the date of notification, approximately 3 representations have been received electronically or by submission at the Regional District office.

**Delegated Authority:**

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the degree of the requested variances, the requested setback distances were previously approved by the Regional District Board and remain unchanged. It is considered that a reduction in the front parcel line setback from 7.5 metres to 6.7 metres and a reduction in the rear parcel line setback from 7.5 metres to 3.6 metres is minor.

With regard to the proximity of the proposed dwelling to neighbouring properties, the nearest parcel line is approximately 1.5 metres to the north and the total footprint of the dwelling remains unchanged from the previously approved permit. For this reason, the requested variances are seen minor and unlikely to adversely impact adjacent properties.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of a dwelling within 6.7 metres of the front parcel line is common in this area while the placement of a dwelling within 3.6 metres of the rear parcel line is not common in this area. For this reason, the requested variances are not considered minor.

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For these reasons, the proposed variances are deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

**Analysis:**

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

In this instance the Zoning Bylaw’s use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding. When a parcel is also adjacent a roadway, setbacks are further employed to maintain adequate sightlines for vehicle traffic movements.

In the agricultural zones, setbacks are further used to mitigate the potential for conflict between land uses with the Ministry of Agriculture recommending that setbacks be used to “avoid farming right up to the back wall of [a] residence.”

The front parcel line variance is requested to accommodate the roofline, which exceeds the allowable projection distance under the zoning bylaw. This variance will not impact traffic safety or adjacent properties.

The rear parcel line is adjacent to agricultural land and for this reason the requested rear parcel line variance is unlikely to result in conflict between land uses.

Alternative:

Conversely, Administration recognises that the setbacks in the zoning bylaw are intended to maintain separation between neighbours.

For these reasons, Administration supports the requested variances and is recommending approval.

**Recommendation:**

THAT Development Variance Permit No. D2023.018-DVP, to allow for the construction of a single detached dwelling at 449 Hody Drive, be approved.

**Respectfully submitted:**

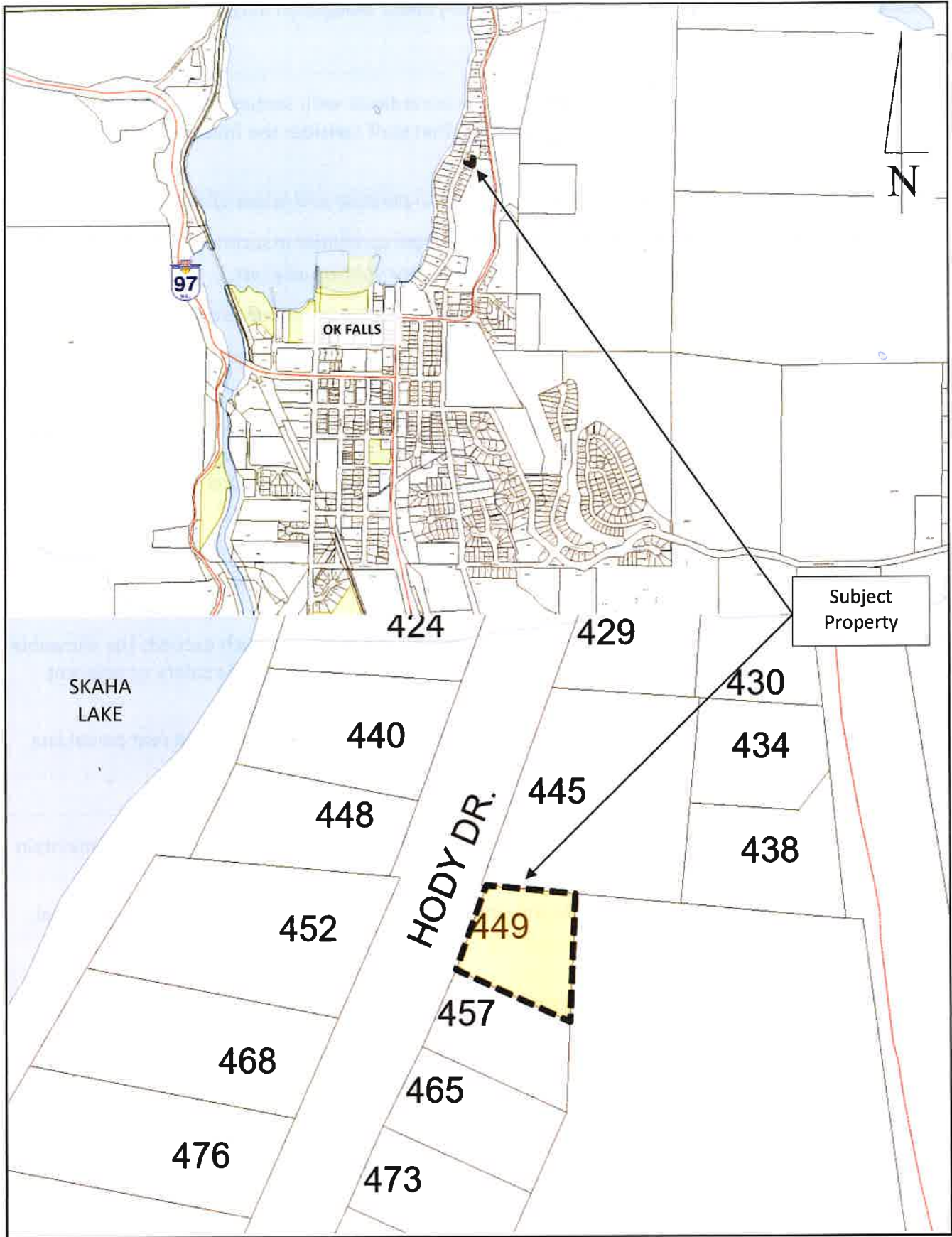
Ben Kent

Ben Kent, Planner I

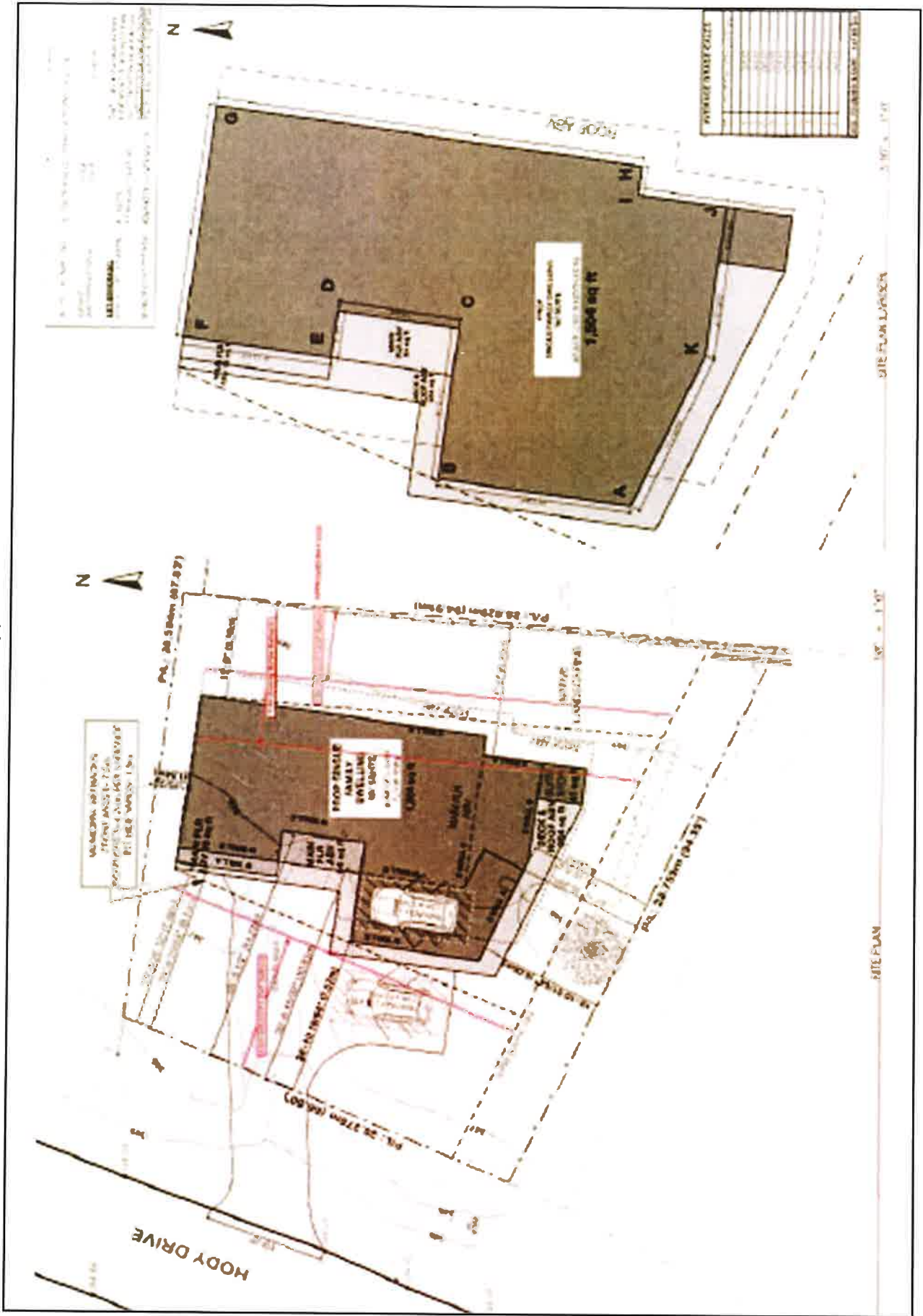
Attachments:

- No. 1 — Context Maps
- No. 2 — Applicant’s Site Plan
- No. 3 — Site Photo
- No. 4 — Aerial Photo

Attachment No. 1 – Context Maps

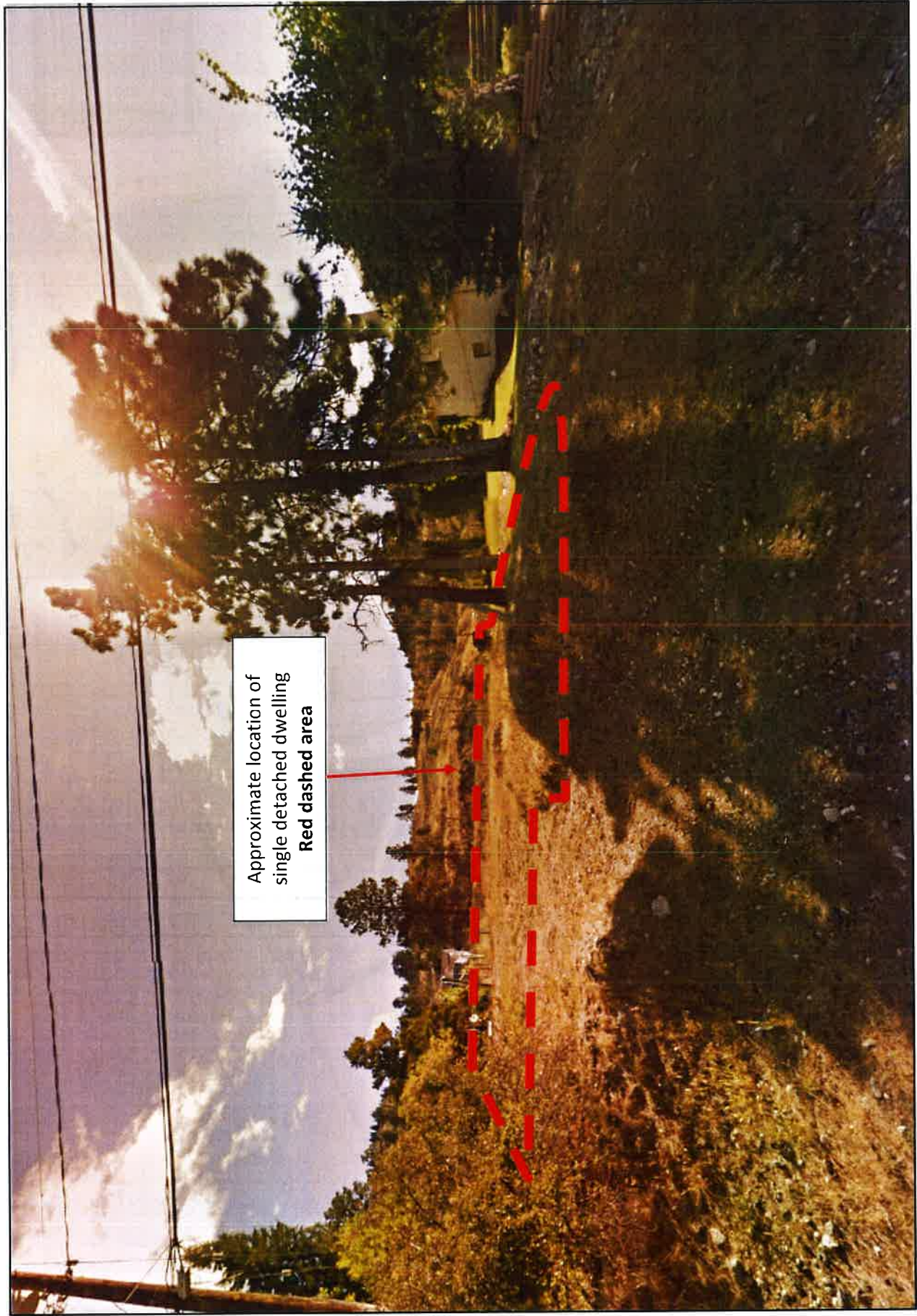


Attachment No. 2 – Applicant’s Site Plan





Attachment No. 3 – Site Photo





Attachment No. 4 – Aerial Photo



