

**MEMORANDUM**  
DEVELOPMENT SERVICES DEPARTMENT



**DATE:** September 15, 2022  
**TO:** Christopher Garrish, Planning Manager  
**FROM:** Shannon Duong, Planner II  
**RE:** Development Variance Permit (DVP) — Electoral Area “A”

**FILE NO.:** A2022.040-DVP

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**Administrative Recommendation:**

**THAT Development Variance Permit No. A2022.040-DVP, to allow for the construction of an accessory building at 8709 108<sup>th</sup> Ave, be approved.**

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<u>Owners:</u> Guy and Lisa Armstrong	<u>Agent:</u> Guy Armstrong	<u>Folio:</u> A-06066.005
<u>Civic:</u> 8709 108 <sup>th</sup> Ave	<u>Legal:</u> Lot A, District Lot 2450S, SDYD, Plan 13510 Except Plan 26345	

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**Proposed Development:**

This application is seeking a variance to the maximum height that applies to the subject property in order to facilitate the construction of a detached garage.

Specifically, it is being proposed to increase the maximum height for an accessory building on a parcel less than 2,500 m<sup>2</sup> in area from 4.5 metres to 5.43 metres.

In support of this request, the applicant has stated:

- *the additional height is needed to allow a vehicle lift that will be in the garage to lift to full height with a truck or other tall vehicle on it;*
- *a 3/12 roof slope has been used to reduce height, with scissor trusses to maximize interior height;*
- *the house located on this lot has a height of 5.03 m above grade, so the garage will only be 0.40 m above the house height.*

**Site Context:**

The subject property is approximately 1,008 m<sup>2</sup> in area and is situated on the east side of 108<sup>th</sup> Ave approximately 750 metres northwest from the boundary of the Town of Osoyoos. The property is understood to contain one (1) singled detached dwelling.

The surrounding pattern of development is generally characterised by agricultural production.

**Background:**

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on October 8<sup>th</sup>, 1975 following a previous subdivision on September 30, 1963, while available Regional District records indicate that a building permit was issued for an addition and repair to an existing single detached dwelling (1998).

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Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2905, 2021, the subject property is currently designated Agriculture (AG1).

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture One (AG1) which permits “accessory dwelling or structure, subject to Section 7.1” as an accessory use.

The property is within the Agricultural Land Reserve (ALR).

While the subject property is located within the Agricultural Land Reserve (ALR), Section 23(1) (Exceptions) of the *Agricultural Land Commission Act*, states that restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act* (1960), less than 2.0 acres (0.81 ha) in area. Despite this, the Regional District does not have record of official confirmation of this exception nor does it apply to this particular development proposal.

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* ...”

**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 August 15, 2022, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of September 6, 2022, being 15 working days from the date of notification, no representations had 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 variance it is considered that an approximately 20.7% increase in accessory building height is considered to be minor in nature.

With regard to the proximity of the proposed detached garage to neighbouring properties, the nearest parcel lines is approximately 2.05 metres to the southwest, while the applicable minimum rear parcel line setback is ordinarily 1.0 metres for accessory buildings. For this reason, the requested

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variance is seen minor and unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing.

With regard to the final criteria and the character of development in the vicinity of the subject property, it is not common to find over-height accessory buildings in the surrounding neighbourhood; however, it is noted the subject property is an exception to the established pattern of larger agricultural parcels in the general vicinity.

For these reasons, the proposed variance is 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.*

Regulating the height of accessory structures through the Zoning Bylaw is done to ensure that a building does not impact the shade and outdoor privacy of adjacent properties, or views to significant landmarks, water bodies or other natural features.

Building height is also an important component of the built form of a neighbourhood and, depending upon the location of an accessory structure (i.e. near a street frontage) an excessive height can have an impact upon established streetscape characteristics.

Accordingly, when assessing variance requests a number of factors are taken into account, including the intent of the regulation; the presence of any potential limiting physical features on the subject property; established streetscape characteristics; and whether the proposed development would have a detrimental impact upon the amenity of the area and/or adjoining uses.

In this instance, while there are typically concerns with respect to privacy and overshadowing, Administration notes that the subject property is a small residential lot located in an area which is predominantly consisting of larger agricultural parcels. With this in mind, the proposed increase in accessory building height is not seen to have same concerns which would otherwise have been more relevant in a residential setting.

It is noted that the proposed variance is not addressing a physical or legal constraint on the property, but rather, is meant to support the addition of a vehicle lift.

However, given that the subject property is not located within a residential setting and the requested increase in height is minor in nature, strict compliance with the Zoning Bylaw with respect to accessory building height is not seen to be necessary.

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With respect to impacts on streetscape, Administration notes that the proposed detached garage would be sited towards the rear of property, away from 108th Avenue. In this regard, the proposed increase in accessory building height is not seen to unduly impact the character of the currently established streetscape.

Conversely, the Zoning Bylaw is clear in its regulation that the maximum height for an accessory building on a parcel of this size should be 4.5 metres.

For these reasons, it is recommended that the requested variances be approved.

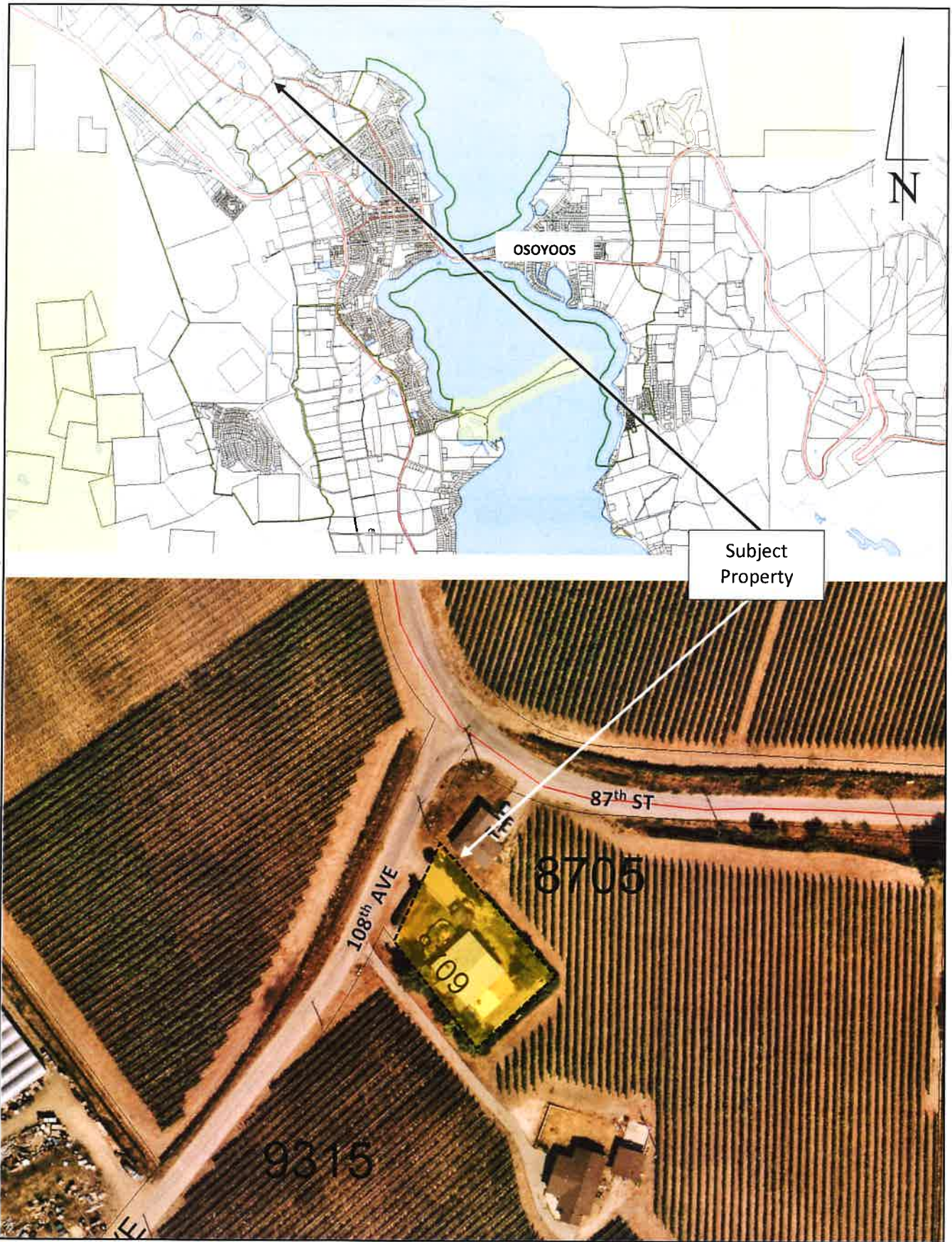
**Respectfully submitted:**



Shannon Duong, Planner II

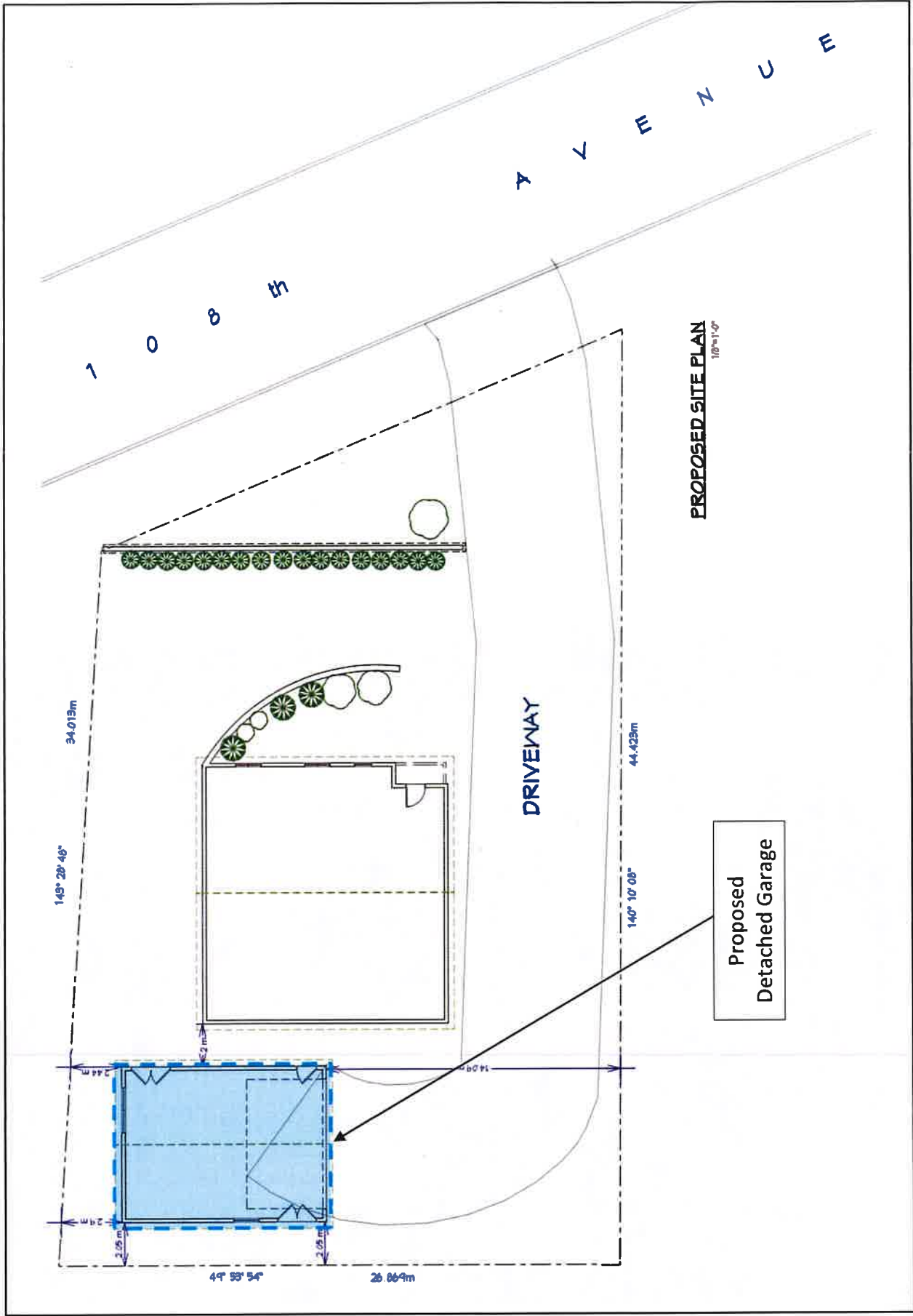
- Attachments:
- No. 1 — Context Maps
  - No. 2 — Applicant's Site Plan
  - No. 3 — Applicant's Foundation, Floor, and Roof Plan & Cross Section
  - No. 4 — Applicant's Elevations
  - No. 5 — Applicant's 3D Rendering (Existing Single Detached Dwelling; Looking Southeast)
  - No. 6 — Applicant's 3D Rendering (Proposed Detached Garage; Looking West)
  - No. 7 — Aerial Photo
  - No. 8 — Site Photo (Google Streetview – 2012)

Attachment No. 1 – Context Maps

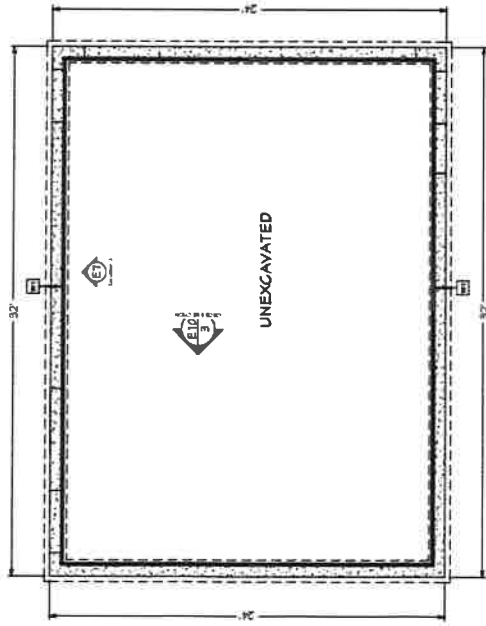


Subject Property

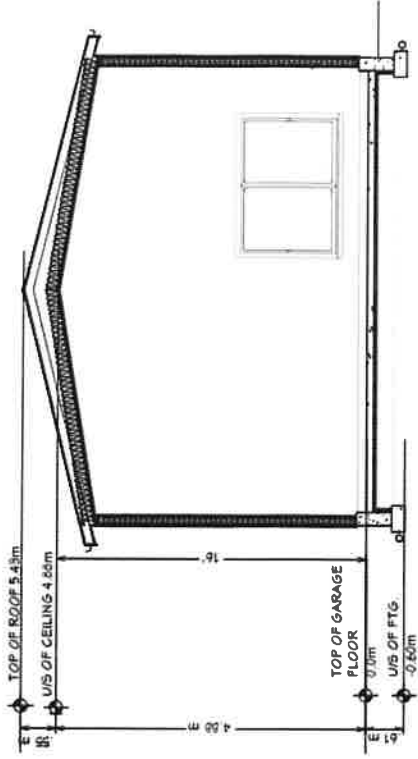
Attachment No. 2 – Applicant’s Site Plan



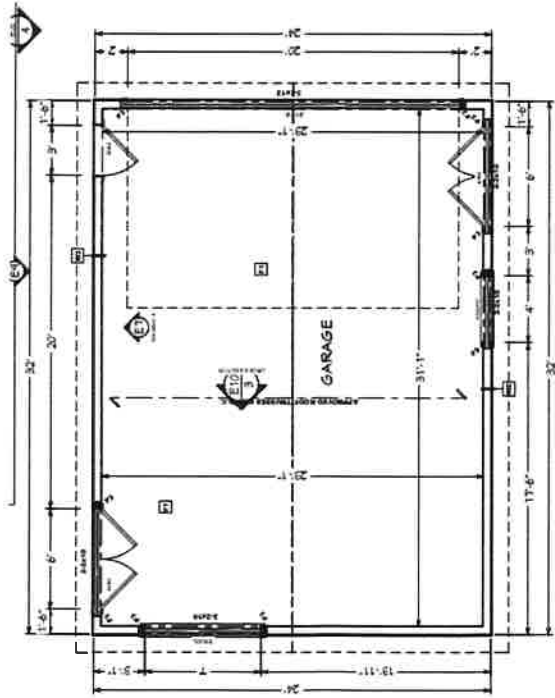
Attachment No. 3 – Applicant’s Foundation, Floor, and Roof Plan & Cross Section



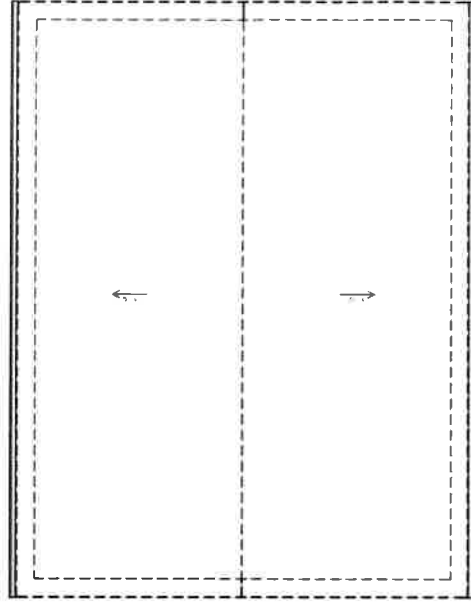
PROPOSED FOUNDATION PLAN  
1/4"=1'



PROPOSED CROSS SECTION  
1/4"=1'

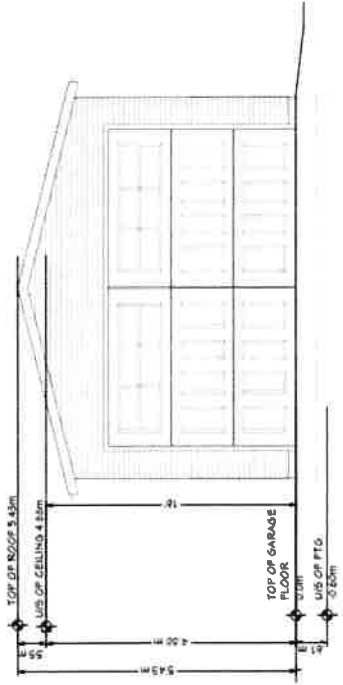


PROPOSED MAIN FLOOR PLAN  
1/4"=1'

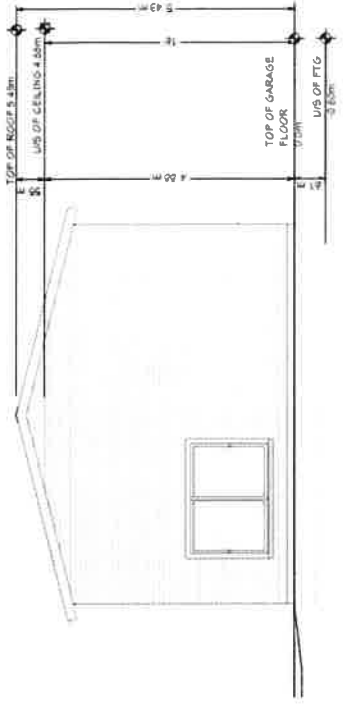


PROPOSED ROOF PLAN  
1/4"=1'

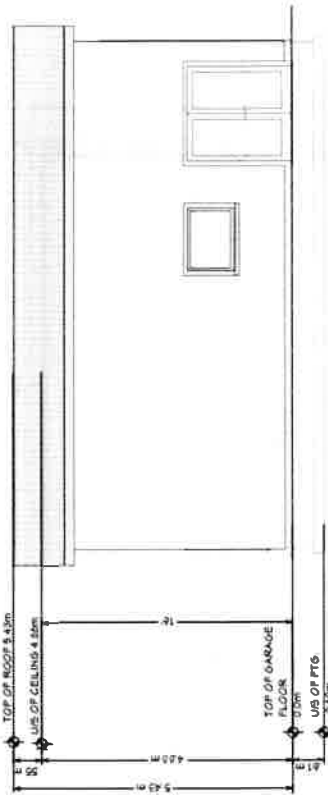
Attachment No. 4 – Applicant’s Elevations



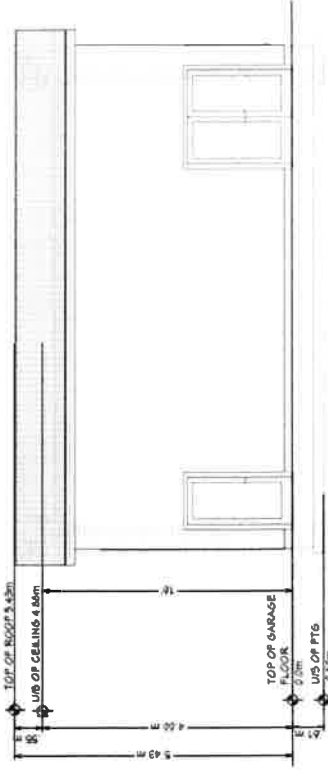
**PROPOSED FRONT ELEVATION**  
1/4"=1'



**PROPOSED REAR ELEVATION**  
1/4"=1'



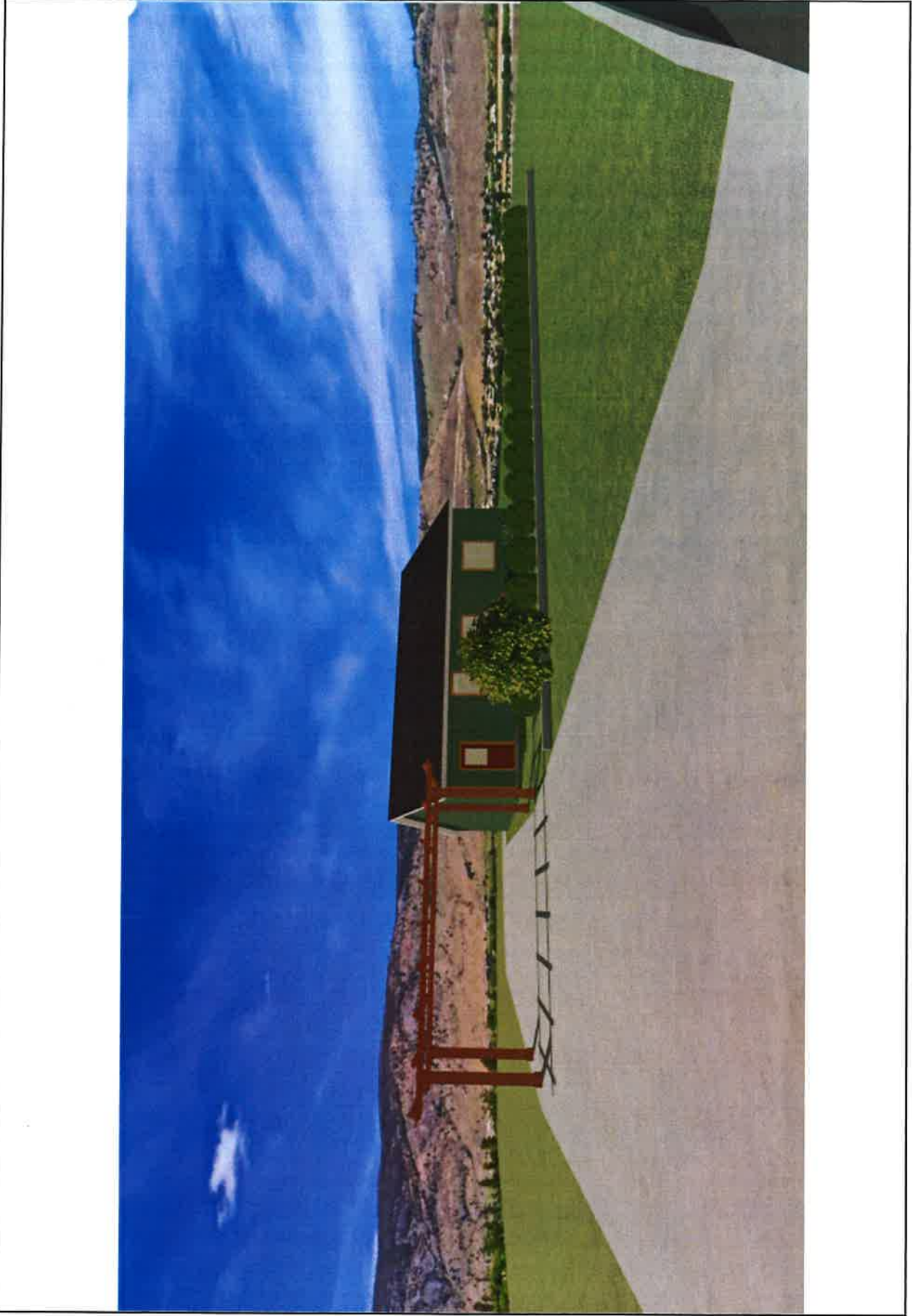
**PROPOSED SIDE ELEVATION**  
1/4"=1'



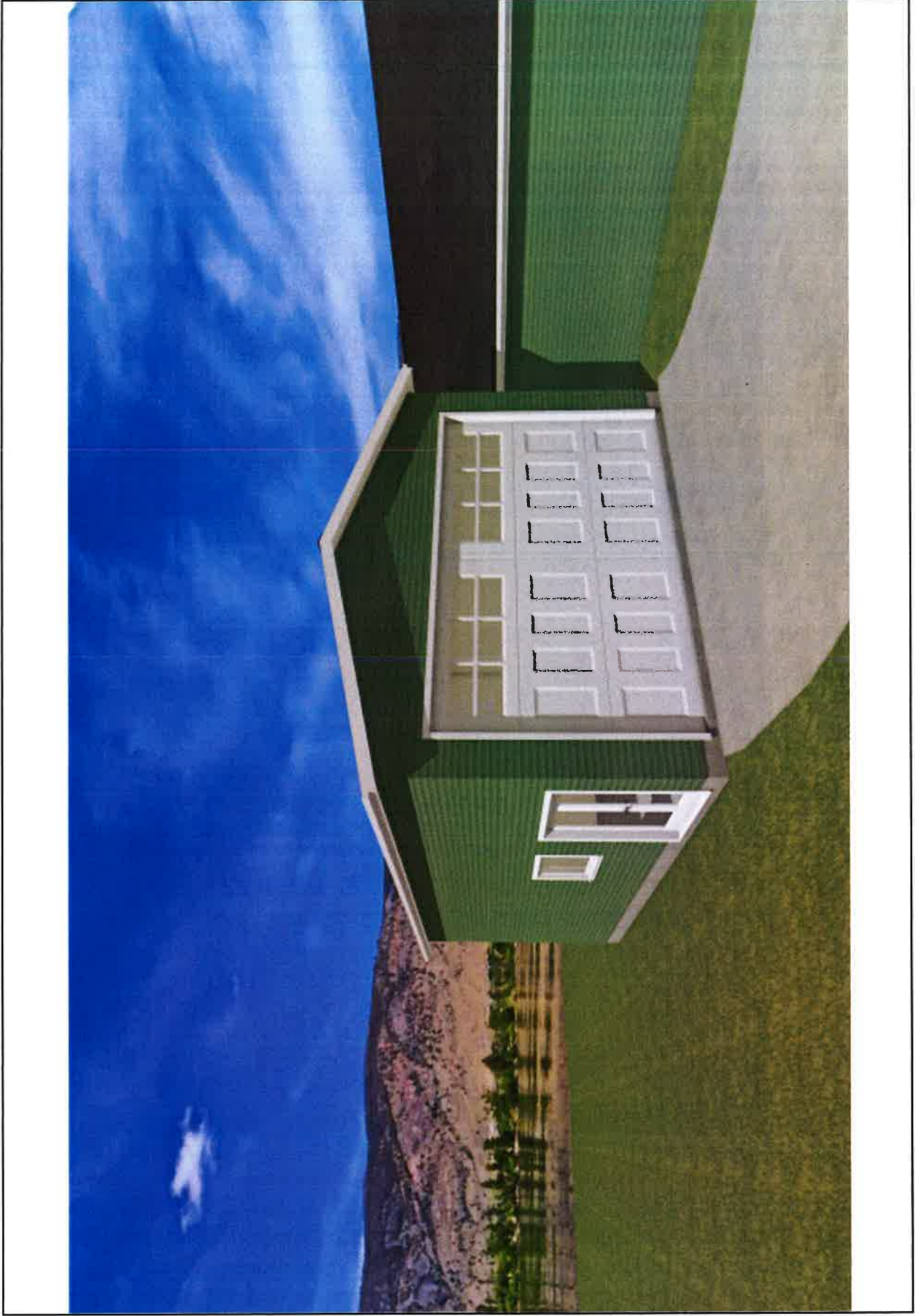
**PROPOSED SIDE ELEVATION**  
1/4"=1'



Attachment No. 5 – Applicant’s 3D Rendering (Existing Single Detached Dwelling; Looking Southeast)



Attachment No. 6 – Applicant’s 3D Rendering (Proposed Detached Garage; Looking West)



Attachment No. 7 – Aerial Photo



Attachment No. 8 – Site Photo (Google Streetview – 2012)

