

ADMINISTRATIVE REPORT



TO: Advisory Planning Commission
FROM: B. Newell, Chief Administrative Officer
DATE: September 12, 2022
RE: Temporary Use Permit – Electoral Area “E”

Purpose: To allow for a short-term tourist accommodation use. Folio: E-02048.110
Civic: 2152 Naramata Road Legal: Lot B, District Lot 206, SDYD, Plan 42326
OCP: Agriculture (AG) Zone: Agriculture One (AG1)

Proposed Development:

This application is seeking to operate a short-term tourist accommodation on the subject property through the issuance of a Temporary Use Permit (TUP).

In support of this proposal, the applicant has stated that:

The house is a 4 bedroom, 6 bathroom, 5280 sq. ft. structure...which will be surrounded by vineyard...The house will be rented throughout the entire year on a weekly + basis...Desert Star is set to be a year-round luxury vacation rental focused on Summer visitors as well as Winter travel and sport enthusiasts. Families or groups wanting a BC Ski holiday, Christmas, Family Day or Easter getaway together, will greatly appreciate the availability of Desert Star Estate. The size and amenities are extremely rare outside of Kelowna. In addition, the Penticton and area businesses will certainly benefit from Desert Star's efforts to contribute to the local "shoulder season" economy.

Site Context:

The subject property is approximately 7.06 ha in area and is situated on the east side of Naramata Road. It is understood that the parcel is currently vacant, with plans to develop the property to the subject single detached dwelling, vineyards, a barn, a caretaker's suite to house a groundskeeper for property maintenance and vineyard-related storage, and associated infrastructure.

The surrounding pattern of development is generally characterised by parcels of varying sizes under agricultural production and/or used for residential purposes. Many of the parcels to the north and northwest are either fully or partially within the Agricultural Land Reserve (ALR).

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on January 10, 1990 while available Regional District records indicate that building permits have been issued for a single detached dwelling (2021), accessory dwelling, covered patio roof and walkway addition, and a pool (2022).

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 2458, 2008, the subject property is currently designated Agriculture (AG), and is the subject of Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area designations.

Section 22.3.4 of Electoral Area “E” OCP Bylaw establishes the following criteria in evaluating a Temporary Use Permit application:

- The use must be clearly temporary or seasonal in nature;
- Compatibility of the proposal with adjacent uses;
- Impact of the proposed uses on the natural environment, including groundwater, wildlife, and all environmentally sensitive areas;
- Intensity of the proposed use;
- Opportunity to conduct the proposed use on land elsewhere in the community; and
- The remedial measures to be carried out to mitigate any damage to the natural environment as result of the temporary use.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture One (AG1) which permits a single detached dwelling.

The property is partially within the Agricultural Land Reserve (ALR), and the subject single detached dwelling proposed for vacation rental use is within the ALR portion of the property.

Section 34 of the *Agricultural Land Reserve Use Regulation* permits the use of a principal residence in the ALR for tourist accommodation if the accommodation is limited to 4 bedrooms in total and is provided on a short-term basis only.

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

Analysis:

In considering this application, Administration notes that the proposal is not in keeping with Section 22.3.4(a) of Electoral Area “E” OCP Bylaw (i.e., it is not temporary or seasonal in nature), and that the proposed use is more akin to commercial year-round “tourist accommodation” which is defined under the Zoning Bylaw to include “...tourist cabins, lodges, motels, hotels, inns, or hostels” and specifically excludes vacation rentals.

To the extent that the OCP speaks to supporting “vacation rental” uses in the agriculture zones, it is in relation to the occasional use of a residential dwelling (i.e. less than 50% of the year) and not a dedicated tourist accommodation building.

This requirement ensures that residential dwellings are used for residential purposes for a majority of the year, and that a vacation rental use does not become the predominate use of a residential dwelling. In this regard, the proposed use of a dwelling as a year-round vacation rental is not seen to be consistent with the intent of OCP Bylaw provisions surrounding vacation rentals.

Further, Administration recognises that agricultural land use planning is challenged by the need to preserve the limited agriculturally productive and capable land base while also allowing for ancillary uses which support, diversify, and enhance farm income and that are compatible with existing and

future agricultural uses. These challenges and desires are highlighted in the Agriculture objectives and supporting policies within the OCP Bylaw.

While “tourist accommodation” is not a permitted use in the AG1 Zone that applies to the subject property, the property owner would be permitted to operate “agri-tourism accommodation”, subject to regulations contained in the zoning bylaw (see below) and in association with agri-tourism activities on the property.

In this regard, there must be a principal farm use being carried out on the property in which the agri-tourism accommodation is accessory to (NOTE: the applicant has stated that they plan to plant grapes in May 2023, however, until this occurs accessory agri-tourism activities & accommodation cannot be commenced).

Alternative:

Conversely and as mentioned above, “agri-tourism accommodation” is a permitted accessory use in the AG1 Zone, subject to certain regulations such as:

- the property being classified as “farm”;
- a maximum length of stay of 30 days;
- a maximum of 5 sleeping units;
- design and floor plan (e.g. under one roof, no cooking facilities and a maximum floor area of 30 m²/unit); and
- on-site vehicle parking (1 space/unit).

If the property owner were to conduct agri-tourism activities in association with the proposed accommodation use and is able to meet the various requirements under Section 7.3 of the Zoning Bylaw, the use would fall under the definition of “agri-tourism accommodation” which is ordinarily permitted as an accessory use under the AG1 zoning of the property; otherwise, a rezoning is required.

Summary:

In summary, the proposal is not seen to be consistent with the AG designation which applies to the property, nor is it seen to be consistent with the Temporary Use Permit criteria laid out under the OCP Bylaw. As such, Administration does not support the application and is recommending denial.

Administrative Recommendation:

THAT the APC recommends to the RDOS Board of Directors that the proposed temporary use be denied.

Options:

1. THAT the APC recommends to the RDOS Board of Directors that the proposed temporary use be approved.
2. THAT the APC recommends to the RDOS Board of Directors that the proposed temporary use be approved with the following conditions:

i) *TBD*

3. THAT the APC recommends to the RDOS Board of Directors that the proposed temporary use be denied.

Respectfully submitted:



Shannon Duong, Planner II

Endorsed By:



C. Garrish, Planning Manager

Attachments: No. 1 – Context Maps

No. 2 – Applicant’s Site Plan

No. 3 – Location of Proposed Vacation Rental

No. 4 – Applicant’s Basement/Foundation Plan

No. 5 – Applicant’s Main Floor Plan

No. 6 – Applicant’s Building Elevations (East & South)

No. 7 – Applicant’s Building Elevations (West & North)

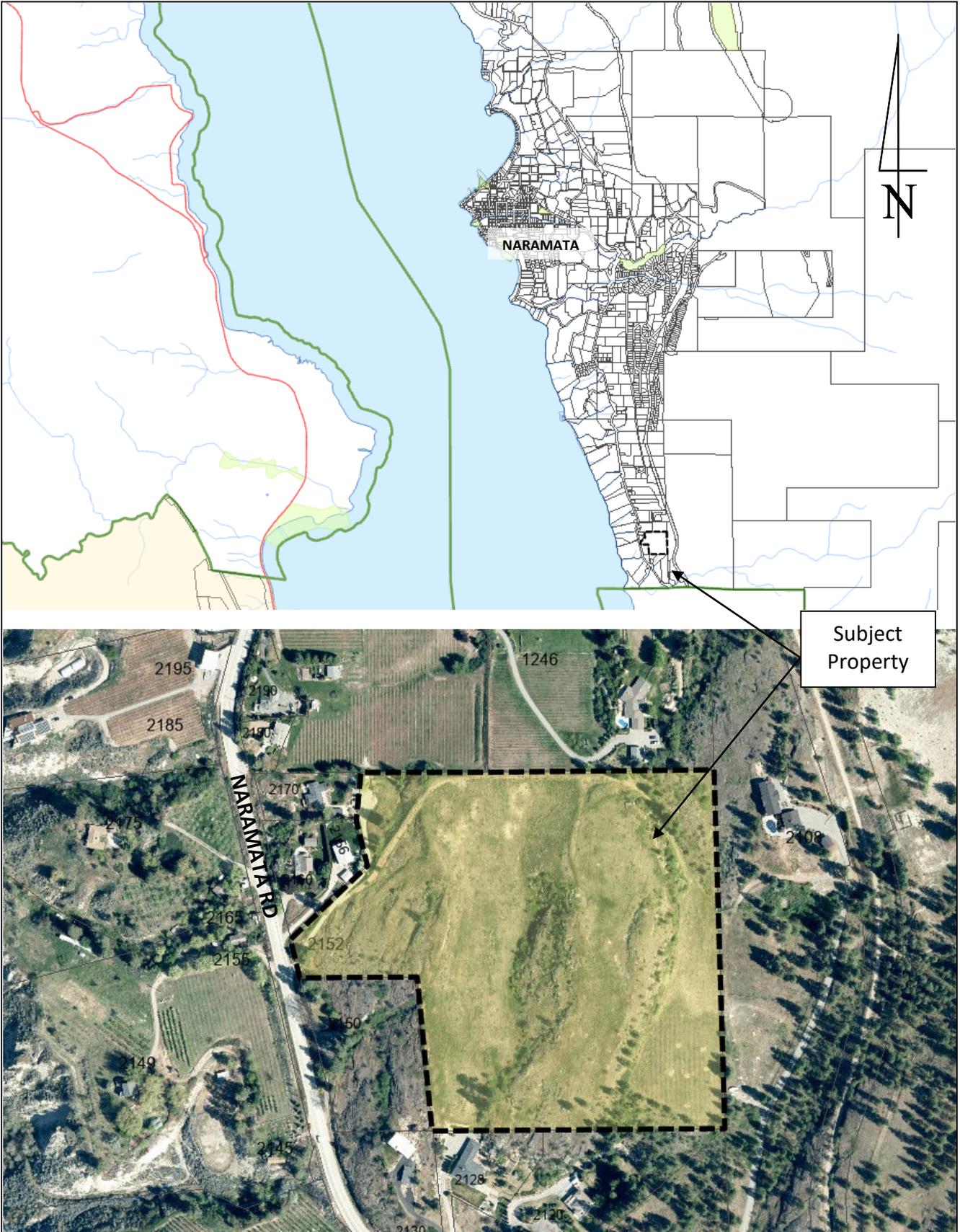
No. 8 – Applicant’s Building Sections

No. 9 – 3D Renderings (Looking Southeast)

No. 10 – 3D Renderings (Looking Southwest)

No. 11 – 3D Renderings (Looking Northeast)

Attachment No. 1 – Context Maps



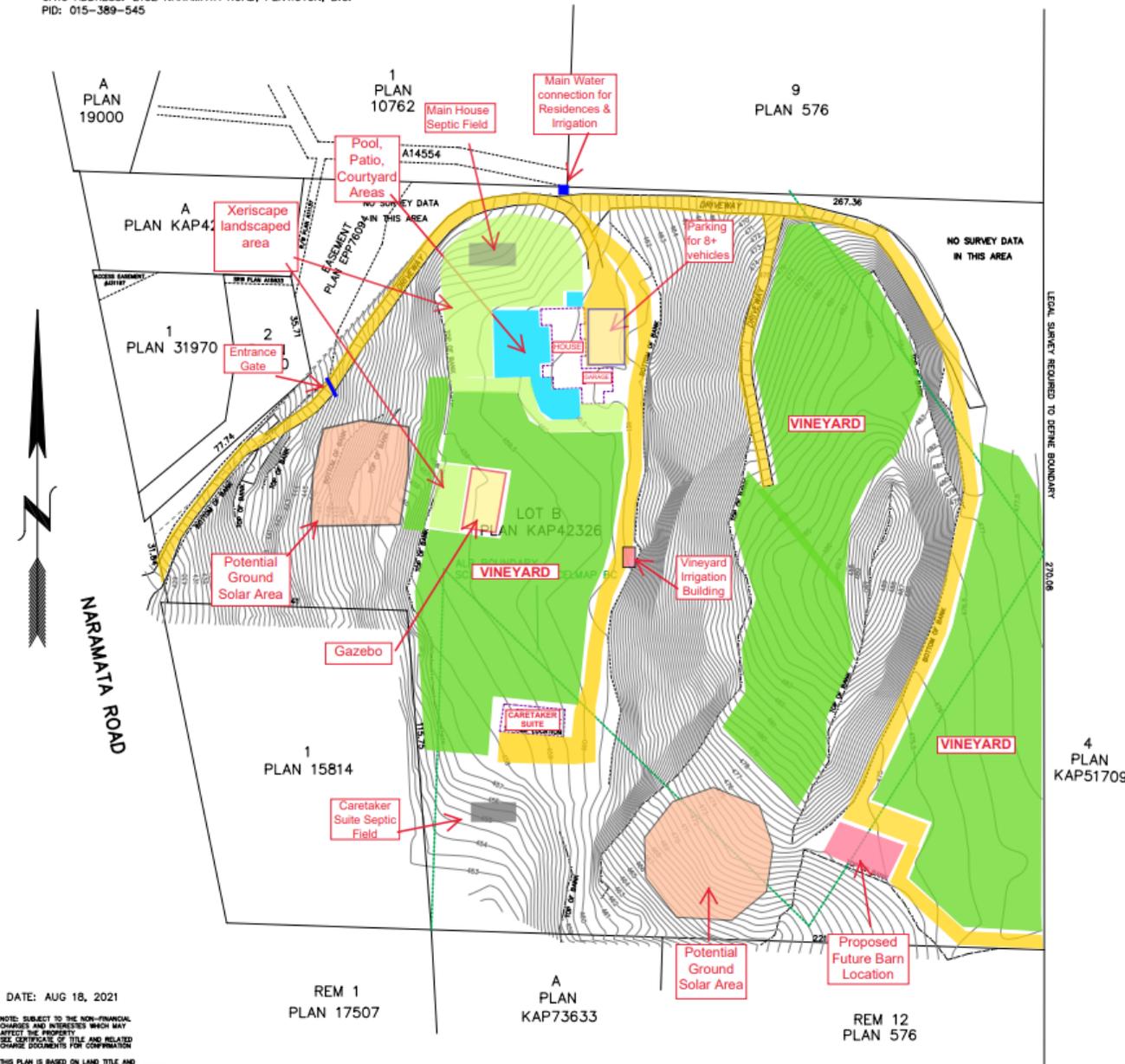
Attachment No. 2 – Applicant’s Site Plan

SITE PLAN SHOWING CERTAIN TOPOGRAPHIC FEATURES ON LOT B, DL 206, SDYD, PLAN 42326

SCALE 1:1000



CIVIC ADDRESS: 2152 NARAMATA ROAD, PENTICTON, B.C.
PID: 015-389-545



DATE: AUG 18, 2021

NOTE: SUBJECT TO THE NON-FINANCIAL CHARGES AND INTERESTS WHICH MAY AFFECT THE PROPERTY SEE CERTIFICATE OF TITLE AND RELATED CHANGE DOCUMENTS FOR CONFIRMATION

THIS PLAN IS BASED ON LAND TITLE AND SURVEY AUTHORITY RECORDS AND A FIELD SURVEY. UNREGISTERED INTERESTS HAVE NOT BEEN CONSIDERED.

LAND SURVEYING COMPANY AND SURVEYOR ACCEPT NO RESPONSIBILITY FOR AND HEREBY DISCLAIM ALL OBLIGATIONS AND LIABILITIES FOR DAMAGES INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY DIRECT OR INDIRECT USE.

THIS PLAN IS PREPARED SOLELY FOR A LIMITED CONTRACTUAL USE BETWEEN MANDEVILLE LAND SURVEYING AND OUR CLIENT. IT IS NOT TO BE USED FOR THE LOCATION OF PROPERTY LINES. WE ACCEPT NO RESPONSIBILITY FOR ANY UNAUTHORIZED USE.

FIELD SURVEY COMPLETED THIS 13th DAY OF AUGUST, 2021

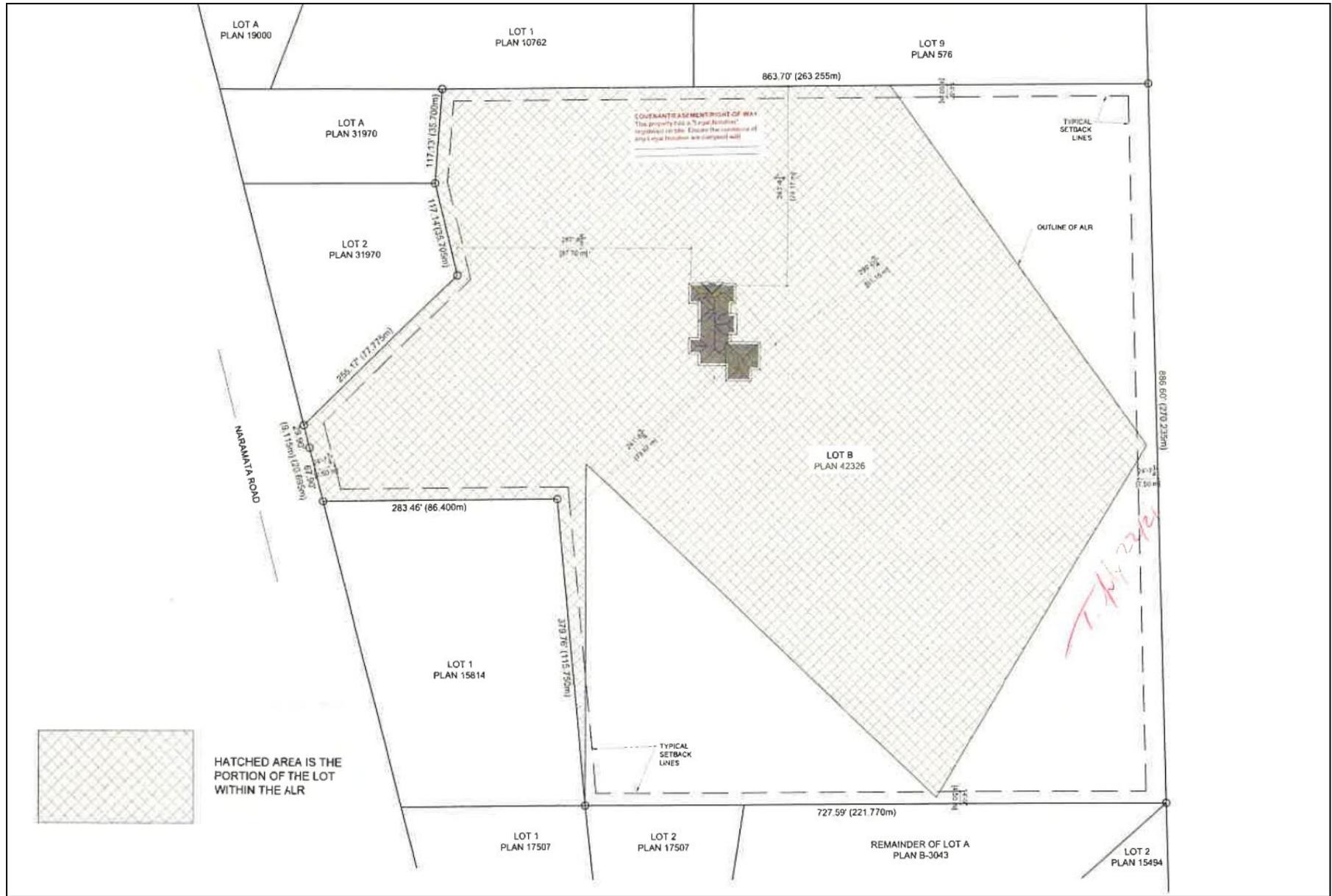
ELEVATIONS ARE GEODETIC (ORTHOMETRIC HTV2.0) DERIVED FROM CROSS OBSERVATION AND PRECISE POINT POSITIONING (PPP). ALL DIMENSIONS ARE IN METRES AND DECIMALS THEREOF UNLESS OTHERWISE NOTED

SIGNIFICANT PLAN DISCREPANCIES FOR EAST BOUNDARY A FULL LEGAL SURVEY IS RECOMMENDED TO PROPERLY DEFINE BOUNDARIES.

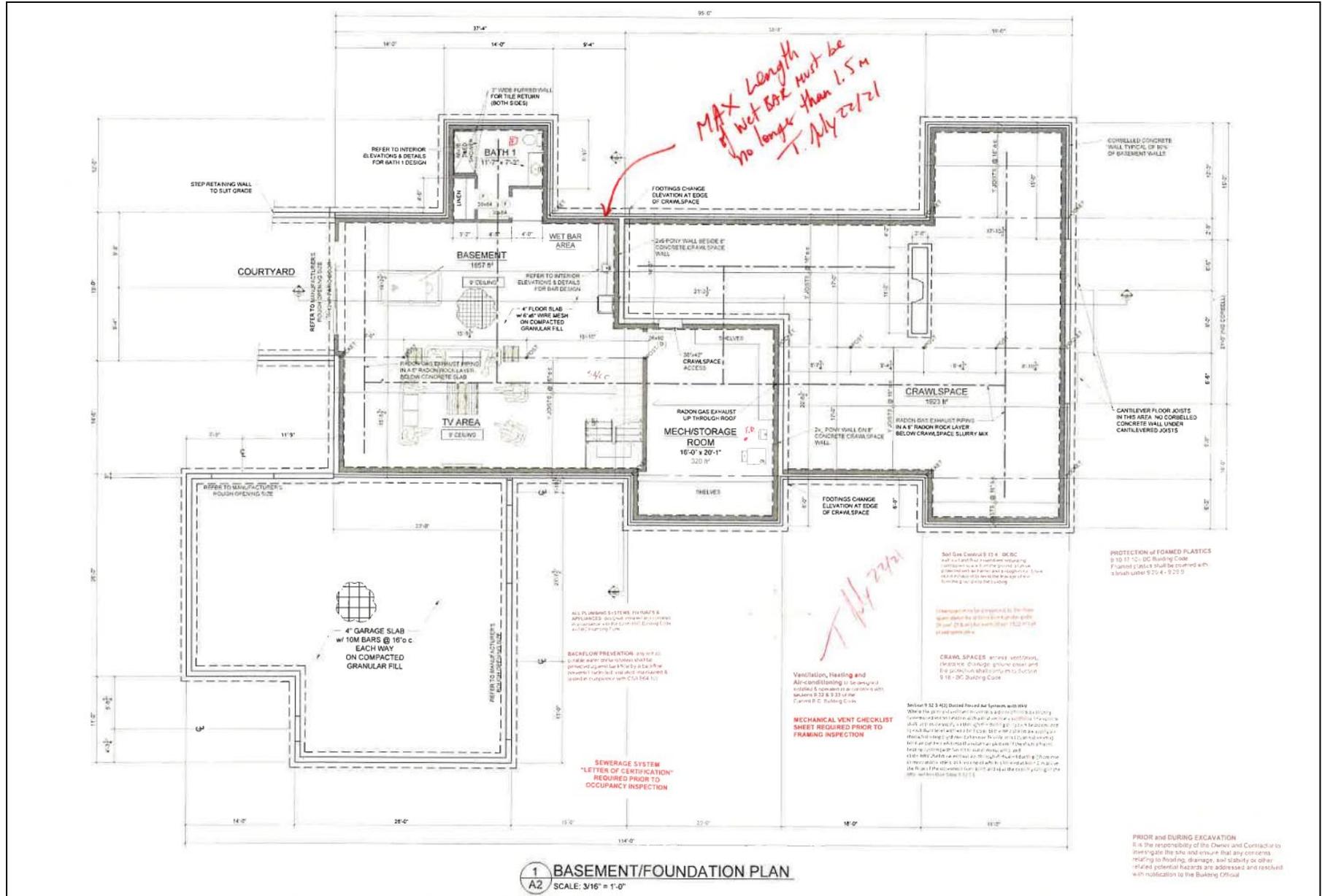
LEGEND
- - - CONTOUR ELEVATION

MANDEVILLE LAND SURVEYING INC.
PROFESSIONAL B.C. AND CANADA LAND SURVEYORS
582 MARTIN STREET, PENTICTON, B.C.
PH: 250-488-6377 WEB: MSURVEYING.COM
FILE: 21-048 DWG: 21-048B

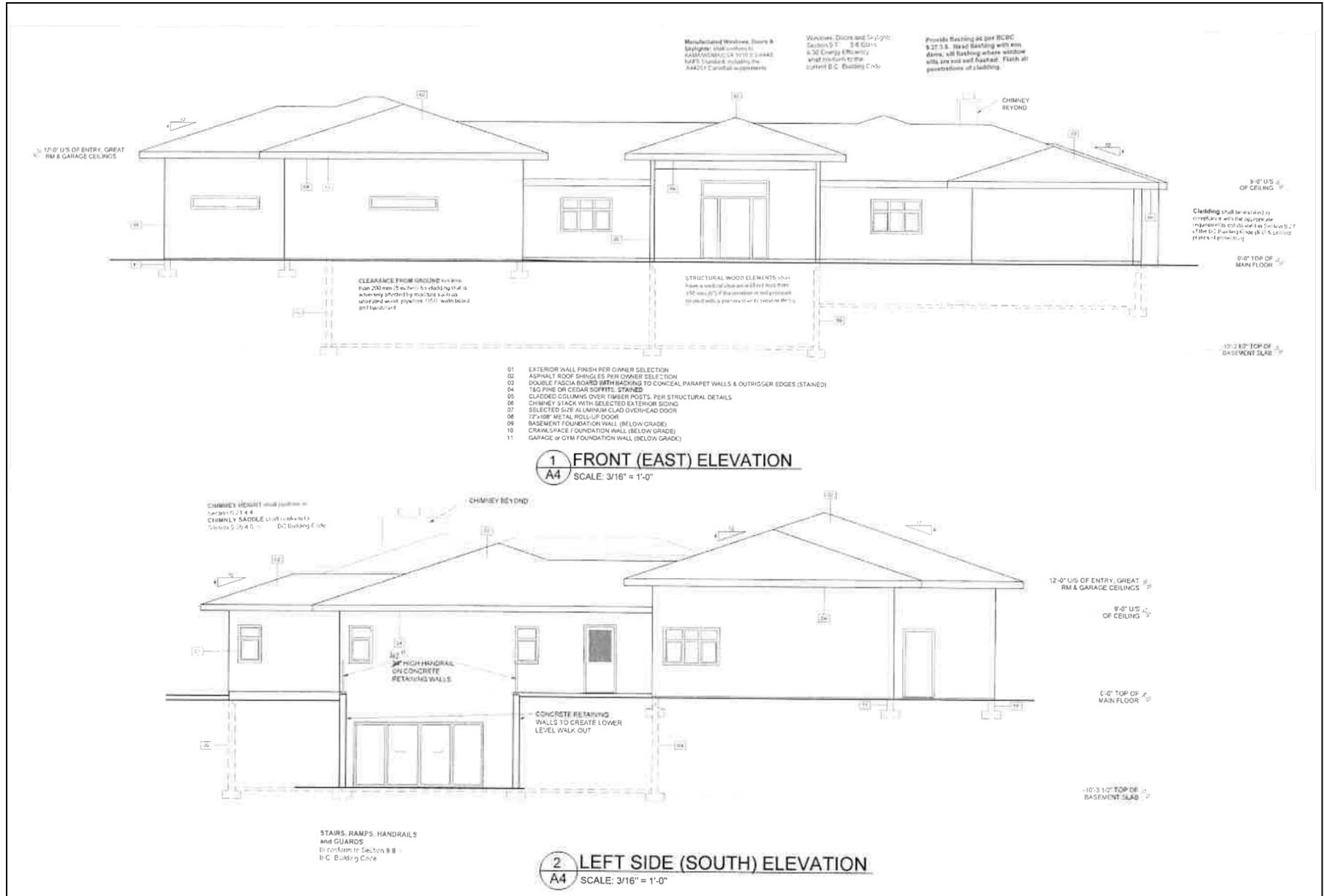
Attachment No. 3 – Location of Proposed Vacation Rental



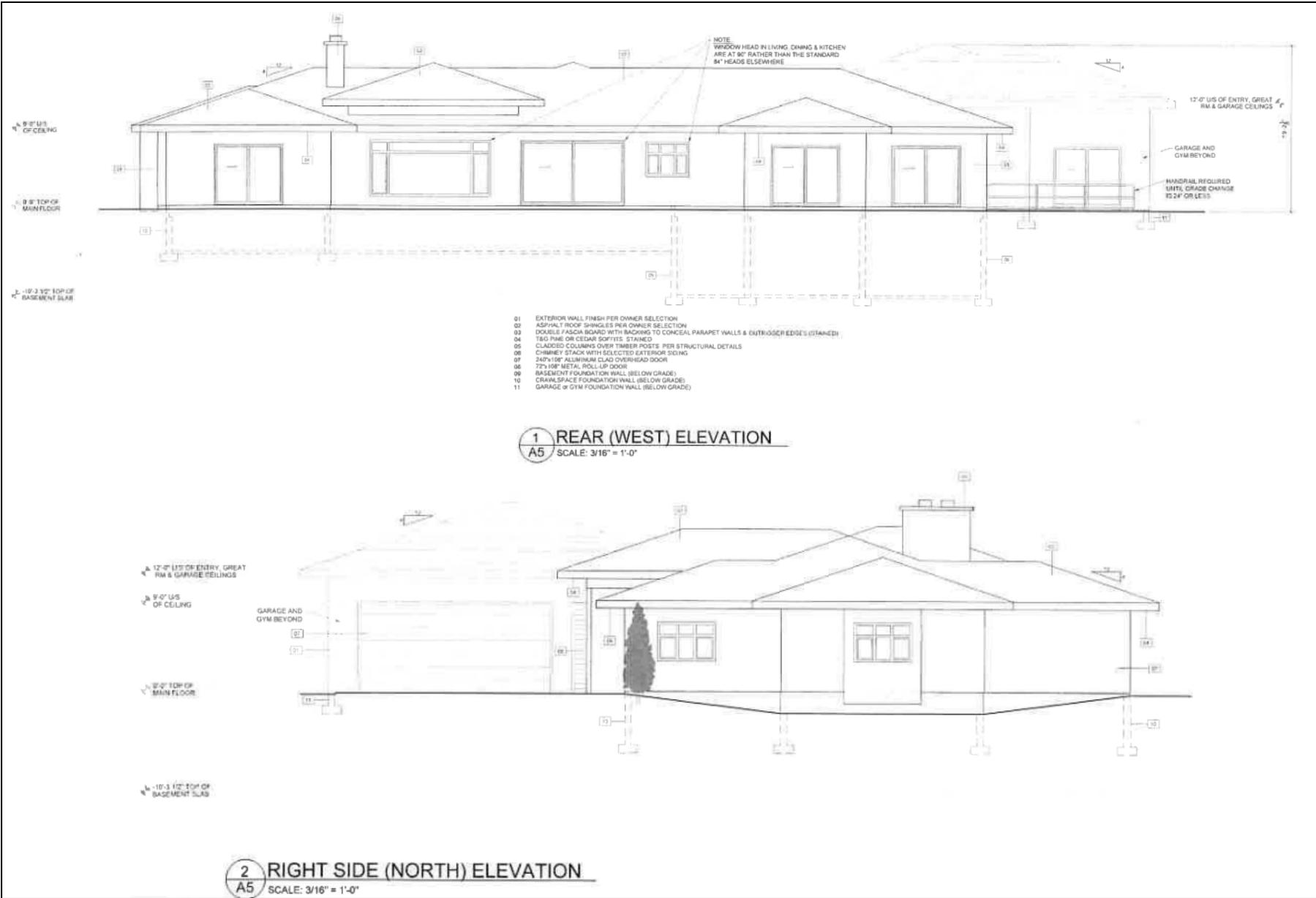
Attachment No. 4 – Applicant’s Basement/Foundation Plan



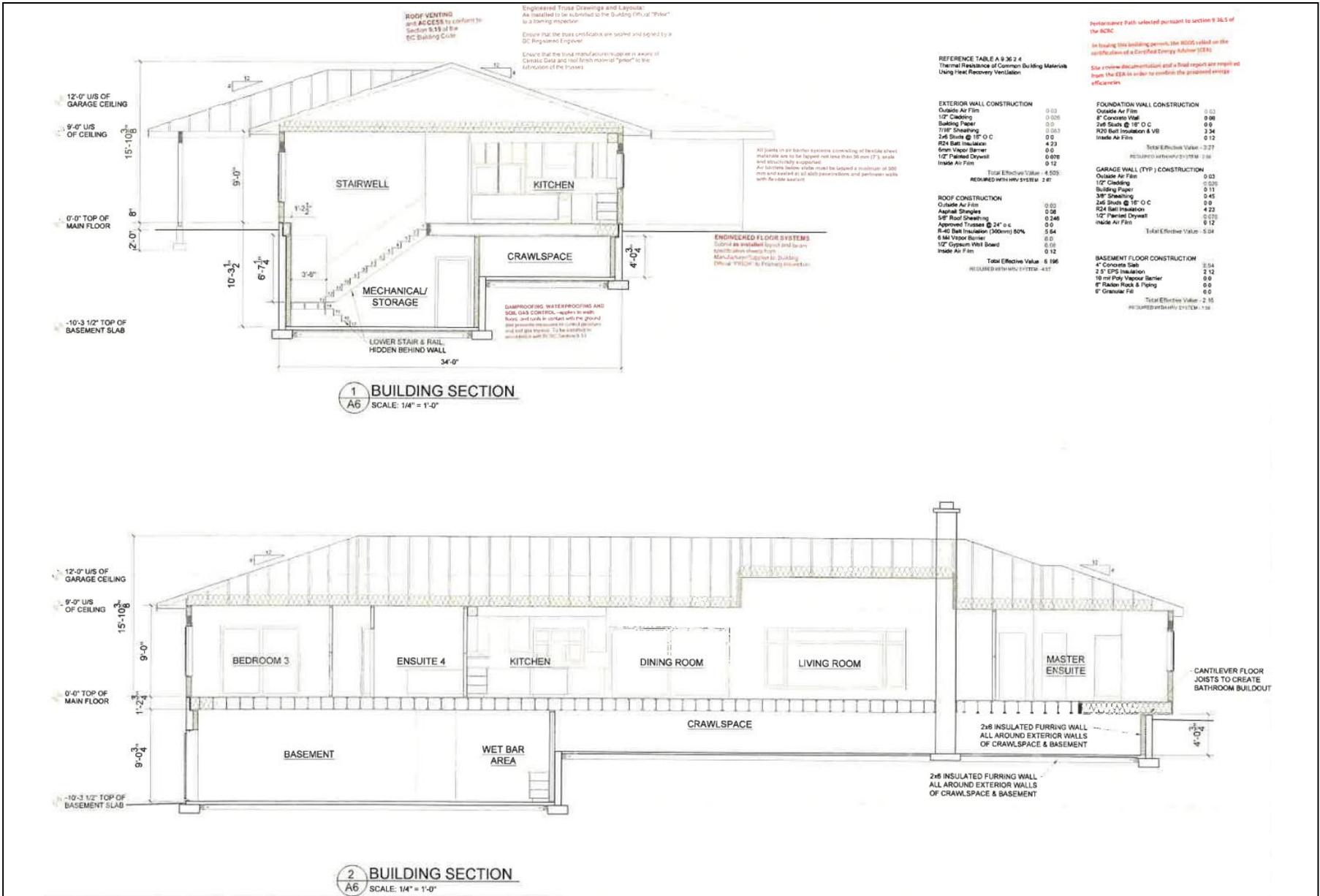
Attachment No. 6 – Applicant’s Building Elevations (East & South)



Attachment No. 7 – Applicant’s Building Elevations (West & North)



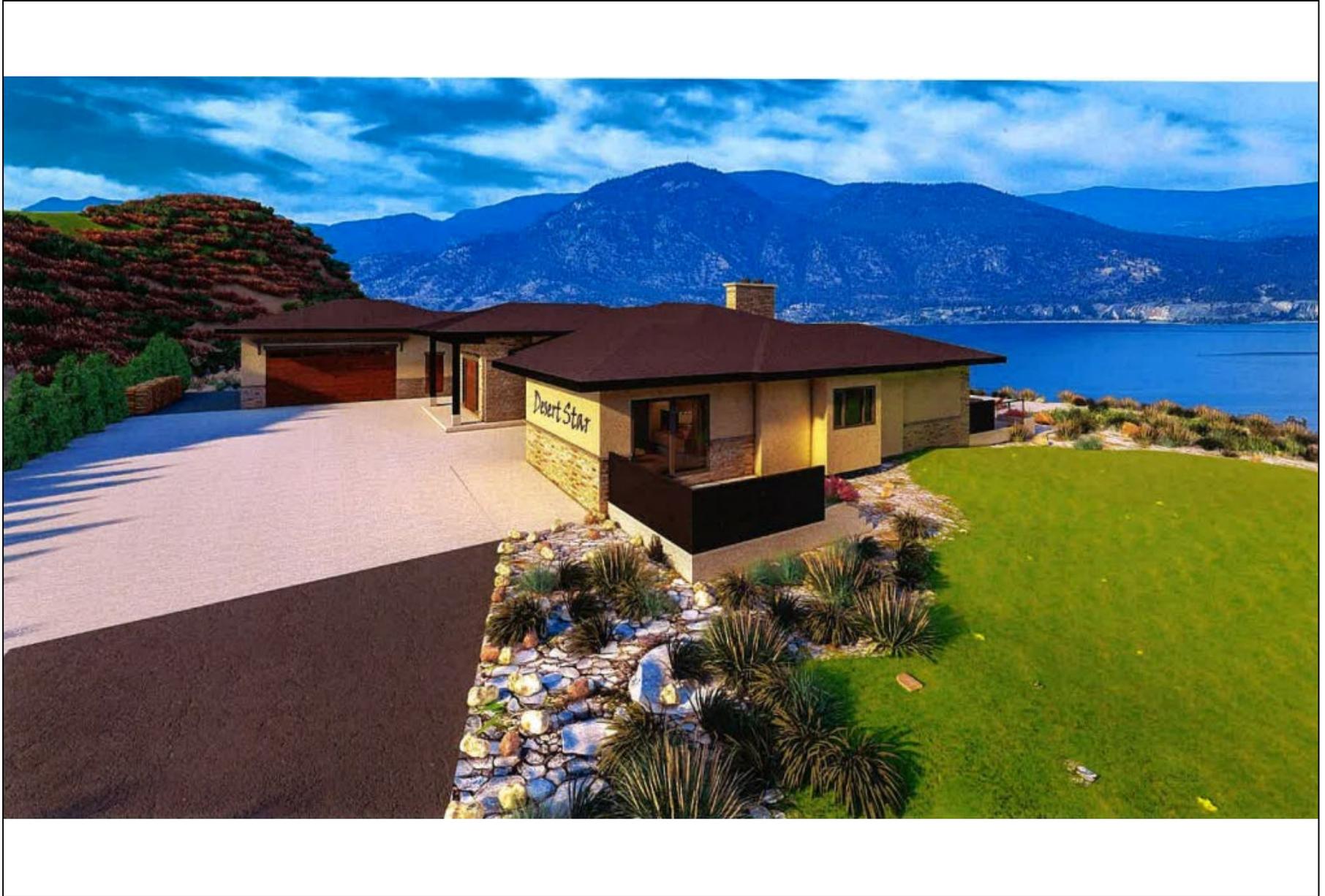
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