

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

R2021-216	DVP-2021-06 - 517 Marine Drive
	MOVED by Councillor Croal SECONDED by Councillor De Andrade
	THAT the DVP-2021-06 application for 517 Marine Dr as submitted be denied;
	AND THAT the owners be requested to:
	Option 1 – revise their design to conform to the zoning bylaw regulations; or Option 2 - revise their DVP application to lessen the impact on the side yard and front lot line setbacks.
	CARRIED

This staff report considers the applicant’s updated proposal, which was revised to meet the second requested option by proposing front and side setbacks complying with the zoning bylaw. As noted above, a DVP application is still required due to the proposed gross floor area.

The purpose of the report is to provide Council with the application details and obtain direction on whether to proceed with the notification of neighbours, prior to Council’s decision on the variance request.

DISCUSSION

Site and Context

The subject property is zoned Single Family Residential 3 (R-3) and is currently developed with a single-family home. The small, rectangular lot has lot lines abutting Marine Drive (front) and McCall Lane (rear) and is oriented towards the water. The site’s gradient exhibits a consistent slope upwards from the water-facing side. Surrounding properties have many similar physical characteristics and are developed with low density single-family residential uses.

Proposal

The applicant is proposing to tear down the existing single-family dwelling and build a new duplex with a secondary suite in each unit. Proposed development plans are enclosed with this report as Attachment A. Figure 2 below shows a cross section of the proposed duplex. The secondary suites are shown in purple, and the duplex units are shown in yellow. Access to all units is proposed from McCall Lane.

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites



Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

suite parking is proposed to be located on Marine Drive, the entrances to both suites are proposed to be located at the top of the site, adjacent to McCall Lane. No pedestrian connections through the site are shown in the proposed drawings, and no additional paving could be installed to provide for walkways/steps up the relatively steep site, as lot coverage is at the maximum 50% without them. On-street parking is not available or permitted on McCall Lane. Staff confirms the proposal meets the zoning bylaw regulations related to secondary suite parking, but Council may want to consider if this parking orientation is appropriate for proposal.

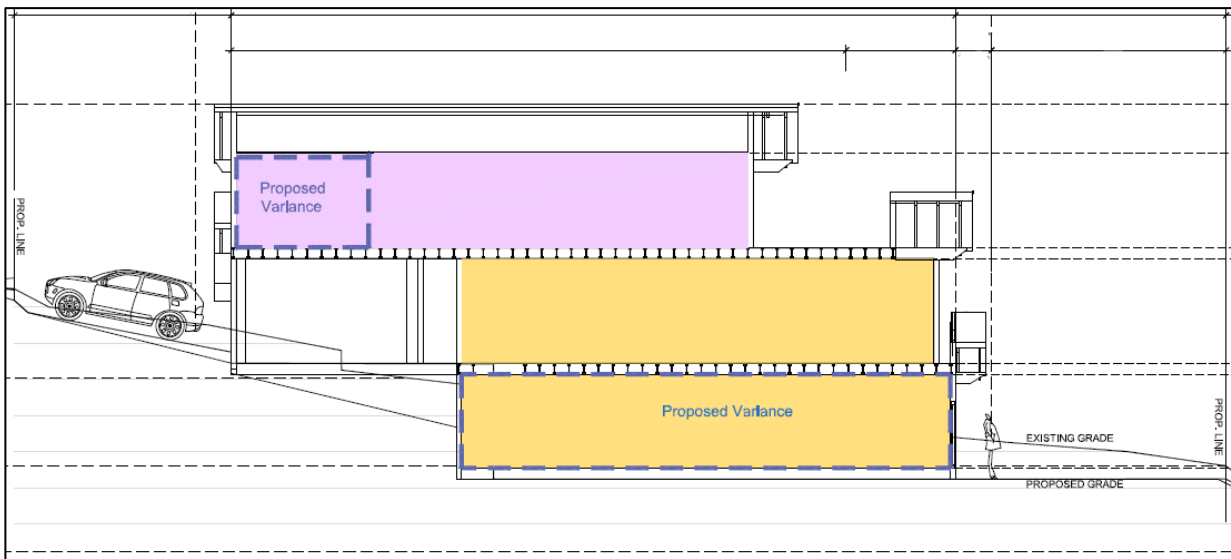


Figure 2: section view of proposed dwelling from south showing duplex unit (yellow) and secondary suite (purple). Dashed “proposed variance” areas illustrate excess gross floor area.

Zoning

The subject property is zoned Single-Family and Two-Family Residential 3 (R-3) and is located within View Protection sub-area E – attached to the Zoning Bylaw as Schedule B, as seen in Figure 3. Staff note that sub-area E applies to all twenty-three R-3 zoned lots on the inland side of Marine Drive.

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites



Figure 3: All 23 properties subject to both the R-3 zoning and view protection sub-area E (outlined in red) with location of subject site shown

When the regulations of the View Protection Sub-areas differ from the setback and building height regulations of the zone, the provisions of the View Protection area take precedence. In the case of the subject lot, this leads to a situation where bulk and massing regulations (setbacks, height, lot coverage, and gross floor area) are informed from three different sections of the zoning bylaw. These regulations are defined in Table 1.

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

Table 1 – Applicable bulk and massing regulations

	Governed By	Regulation	Proposed
Front setback	R3 zone	7.5m	7.5m
Side setbacks	general view protection regulations Section 5.1(1)(b)	Sum of side setbacks 4.5m and 1.5m for the least side	Sum: 4.5m; least side: 2.25m
Rear setback	Sub-area E section 5.8(2)	6m	6m
Height	Sub-area E Section 5.8(1)	10 m from Marine Drive	9.3m
Gross floor area	general view protection regulations Section 5.1(a),	limits floor area based on lot area: Maximum 232m ² or 2500 ft ²	385 m ² (4,144 ft ²)
Lot coverage	R3 zone	50%	50%
Suite Size	Definitions (Part 3)	Not more than 40% of primary dwelling gross floor area	40%

Variance Request

The requested Variance is as follows:

Vary section 5.1(1)(a) of the Zoning Bylaw No. 1065, 2007 by 153 m², from 232 m² to 385 m² to allow construction of a new duplex dwelling with two secondary suites.

POLICY / PLAN IMPLICATIONS

Council Policy 3.9

Council Policy 3.9 provides a framework for Council to assess variance requests. Staff have reviewed the proposal at 517 Marine Drive with the Policy's criteria as outlined below:

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

(1) The request is not within the jurisdiction of the Board of Variance;

Under Section 540 of the Local Government Act, an application to the Board of Variance is to vary or exempt an individual to relieve hardship. This application does not show hardship, as the proposal is for a new build. **Met**

(2) The same request has not been previously denied by the Board of Variance;

The application has not been presented to the Board of Variance. **Met**

(3) The variance will not result in significant negative impacts on neighbouring properties;

While the redevelopment of a property from single family home to duplex will inevitably have some degree of adverse effects upon neighbouring properties, such impacts are not in this case considered to be significantly negative. Upon Council's consideration of DVP-2021-06 on May 18, 2021, members recommended the applicant to revise the then proposed design to reduce adverse impacts related to front and side setback infringements. While the current proposal is for a taller building than previously proposed, it is considered that the revisions have appropriately addressed Council's recommended changes. This is because the setbacks are now proposed to be met, and also because the removal of proposed rooftop balconies reduces overlooking impacts to the neighbours. Furthermore, views from the houses on the opposite, uphill side of McCall Lane from the subject site will maintain their views towards the water above the proposed building. **Met**

(4) There is a demonstrated need for the variance in order to permit reasonable use of the property;

Staff would note that reasonable use and permitted use can be construed as different considerations. A duplex is a permitted use in the R-3 zone and as per Section 8.9, each duplex dwelling is permitted to include a secondary suite. However, given the gross floor area restriction would allow only 84 m² duplex units and 32 m² secondary suites, the reasonableness of this permitted use is unclear. The variance is needed to permit the proposed maximized development of the site. However, because other permitted uses exist for the site, approving the requested variance is not necessary to permit *any* reasonable use on the site. Alternatives could include a duplex without secondary suites, a single-family dwelling with suite, or some combination of these with a reduced building size. **Not met**

(5) The overall intent of the original bylaw requirement or standard is not compromised;

The intent of any zoning regulation related to the bulk and massing of a development (minimum setbacks, maximum coverage, maximum height, etc.) is to maintain the scale and character desired in a particular area or neighborhood. Because the zoning bylaw is in place to give effect to Gibsons' Official Community Plan (OCP), we should turn to the OCP to understand the scale and character desired for the Heritage Hill neighbourhood and Lower Gibsons more generally.

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

The OCP's Harbour Area Plan describes the Harbour Area as "quaint", "historic", and "small scale". The ability of the area to maintain these descriptors is attributed to the "grain" of the existing development patterns - a network of opportunities for pedestrian movement and many opportunities for glimpses through and between buildings. The particular "grain" apparent in the Heritage Hill neighbourhood is unique in comparison to other low density residential areas in Town, despite being subject to the same Single-Family and Two-Family Residential 3 (R-3) zone (and associated bulk and massing controls) as many other areas. So what maintains this difference? It could be argued that the desired scale and character has been protected by the view protection regulations, as these regulations apply more in Heritage Hill than they do to any other comparable residential neighbourhood. With a range of maximum setback and height regulations not too dissimilar to the general R-3 regulations, the biggest difference imposed by Part 5 in this area is the control on building gross floor area. If any home were designed to maximum allowances of setbacks, height, and lot coverage (as is nearly the case with the proposed development), then it would easily exceed the gross floor area for the lot. If Council considers that the intent of maximum gross floor area regulations applicable to this site is to maintain the Harbour Area's "grain" by promoting built forms that fit within, but do not fill, the largest allowable building envelopes as defined by other bulk and massing controls, then staff would point out that **approval of the requested variance would directly compromise the intent of the original bylaw requirement.**

However, while the Harbour Area Plan identifies those qualities that help to make Heritage Hill so endearing to the "quaint" village character, it also recognizes that it is necessary to balance these values with the growth "necessary for an economically viable, sustainable and vibrant community". This view towards growth is reflected in the OCP's Residential lands policies applicable to Heritage Hill. Policy 9.1.2 identifies that demand for redevelopment and low-density multi-unit housing uses should be focused on the perimeter of the neighbourhood along Marine Drive and Jack's Lane. The requested variance is for a property in Heritage Hill along Marine Drive and is in support of a proposed duplex development with secondary suites - which staff consider to represent the anticipated "low density multi-unit housing". The specific residential land use designation the OCP applies to the subject site is Multi-unit Residential Special Character, which intends to allow the proposed multiple units within a single-detached building form. As previously described in this report, the applicant notes that a strict application of the maximum 232 m² gross floor area would result in the proposed duplex units being 84 m², and secondary suites 32 m² - and that such limited unit sizes is not economically conducive to the multi-unit redevelopment anticipated by the OCP's policies. If Council considers that the proposed four residential units (two principal, two secondary) is a reasonable use of the property, then staff would note that **approval of the requested variance would be in support of the OCP policies underpinning the original bylaw requirement.**

- (6) *The variance does not appear to establish a precedent for other properties but responds to a site-specific situation or difficulty.*

Staff considers that **approval of the requested variance will appear to establish a precedent for other properties**, as the subject site is similar in its characteristics to many

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

other residential properties along the inland side of Marine Drive and Heritage Hill more generally.

With view protection gross floor area regulations being applied *in addition* to the other bulk and massing controls applicable to any R-3 property, the outcome of the regulation is to restrict the permitted building size further than the R-3 regulations do on their own. Rather than identifying the maximum allowable dimensions for buildings on a site, the R-3 and view protection minimum setback, maximum coverage, and maximum building height regulations instead identify an envelope into which a smaller building must be designed to fit within. Due to this, homes in the Heritage Hill neighbourhood are required to be smaller than in many other residential neighbourhoods in Town. Despite this, the applicant has proposed the construction of a residential building that maximizes all other bulk and massing regulations then uses the fact that none of these other regulations are *exceeded* to justify the extra 153 m² gross floor area. But, just as an over-height building wouldn't be approved simply because that building marginally complied with minimum setbacks, staff does not consider this justification for the variance request discussed in this staff report.

Approving the request would create a precedent for the gross floor area restrictions of the view protection regulations to be ignored if all other regulations for building size are met. For subarea E of the view protection area specifically (all R-3 properties on Marine Drive thereby sharing the same set of restrictions), this precedent *may* be appropriate, particularly for developments proposing more than one single-family dwelling, as the regulation makes development of the low-density multi-unit development anticipated by the OCP's residential policies less achievable. For any other property within a low-density residential zone (R-1, R-2, R-3) subject only to the general view protection regulations (gross floor area and minimum side setbacks), this precedent could erode the applicability of the view protection regulations and lead to opportunities for large view-obscuring single-family homes to be approved in the future.

(7) *As per the Local Government Act provisions, does not result in a change in land use or an increase in permitted density;*

A duplex is a permitted use in the R-3 zone, and as per Section 8.9 each duplex dwelling is permitted to include a secondary suite. The requested variance would not result in a change in land use or an increase in this permitted density, but rather would facilitate the financially achievable provision of the density. **Met**

(8) *The variance results in suitable development that is an asset and compatible in the context of the surrounding uses;*

Whether the proposed development would be considered an asset or compatible with the surrounding context or not is dependent on the prioritization of either policies retaining special character, or policies promoting additional residential density. The implications of such prioritization have been discussed sufficiently above. On the one hand, the proposal could create a precedent that allows the erosion of the existing "grain", while on the other hand, additional housing can address a need and bring more people to help make Gibsons Landing a more vibrant and economically productive area.

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

(9) In the case of variance of specific development standards for off-site servicing, that any additional costs that may be incurred by the municipality or future landowners are considered.

The request does not include variances to off-site servicing standards. **Not applicable**

In this report, staff have sought to demonstrate that there is no clear policy guidance supporting either approval or denial of the requested variance. The Residential and Harbour Area Plan sections of the Official Community Plan outline desired outcomes which are difficult to reconcile. Council will need to consider which is a more appropriate goal: maintaining the existing neighbourhood scale and “grain” with opportunities for varied views or recognizing that a certain degree of change to the established character of Heritage Hill and Marine Drive is necessary to provide needed housing in an appropriate location. To this extent, staff are recommending notification so that the views of nearby residents can assist Council, in determining which policy direction to prioritize, and to decide to either approve or deny the application.

COMMUNICATION

Referrals

The application was referred to the Infrastructure Services and Building Departments at the Town, and the Gibsons and District Volunteer Fire Department on 4/6/22.

At the time of writing, the following comments have been received:

Referral	Date	Summary of Comments
Infrastructure Services	4/11/22 <i>(Updated</i> 4/28/22 – Driveways)	Prowse Road latecomers applies. Separate water and sanitary services required. Applicant to ensure lot drainage is addressed according to bylaw and to provide tree plan with building permit application. Two driveways no wider than 4m each (at property line) are supported.
Building Department		<i>No comments received by time of writing</i>
Gibsons and District Volunteer Fire Department	4/6/22	Approval recommended

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

Notification

The *Local Government Act* requires neighbours to be notified of the application and the date Council will decide on it. The Town's *Development Applications Procedures Bylaw No. 1166, 2014* requires letters to be delivered to neighbours within 50 m of the property. A draft neighbour notification letter is enclosed as Attachment B. A notification sign has also been posted on the property.

Should Council wish to consider the application, staff recommends that it direct staff to begin notifications for the Development Variance Permit Application at 517 Marine Drive (DVP-2022-02). Staff will report back with submissions received.

OPTIONS

The Committee of the Whole may choose one of the following options to recommend to Council for a decision:

1. Option 1 – direct staff to notify neighbours of the date of Council's decision on the DVP request to vary Section 9.9 of the Zoning Bylaw

THAT neighbours be notified of the date of Council's decision on the issuance of the development variance permit requesting to vary Section 5.1(1)(a) of the Zoning Bylaw No. 1065, 2007 by 153 m², from 232 m² to 385 m² to allow construction of a new duplex dwelling with two secondary suites.

2. Option 2 – Deny the DVP request.

THAT Council does not support the request to vary Section 5.1(1)(a) of the Zoning Bylaw No. 1065, 2007 by 153 m², from 232 m² to 385 m² to allow construction of a new duplex dwelling with two secondary suites.

NEXT STEPS

With Council's authorization, staff will notify neighbours of the variance request and date of Council decision on the application. Staff will then report back with neighbour submissions and referral comments received for Council's decision prior to deciding on the DVP request.

Should the variance be approved, the property owner would then apply for a building permit and (if needed) tree removal permit. A demolition permit will be required for the removal of the existing single-family dwelling.

RECOMMENDATIONS/ ALTERNATIVES

Staff recommends that the Council direct staff to begin notifications for the Development Variance Permit Application at 517 Marine Drive (DVP-2022-02). Recommendations are listed on Page 1 of this report.

Development Variance Permit Application at 517 Marine Drive, to increase the maximum permitted Gross Floor Area by 153 square meters for a new duplex dwelling with two secondary suites

Alternatively, Council may deny the request with the following resolution:

THAT Council does not support the request to vary Section 5.1(1)(a) of the Zoning Bylaw No. 1065, 2007 by 153 m², from 232 m² to 385 m² to allow construction of a new duplex dwelling with two secondary suites.

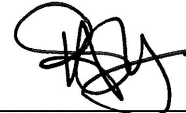
ATTACHMENTS

- Attachment A – Development Plans
- Attachment B – Draft Neighbour Notification Letter
- Attachment C – 5/18/21 Staff Report for DVP-2021-06

Respectfully Submitted,



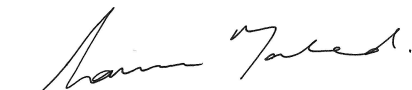
Kirsten Dafoe
Planner I



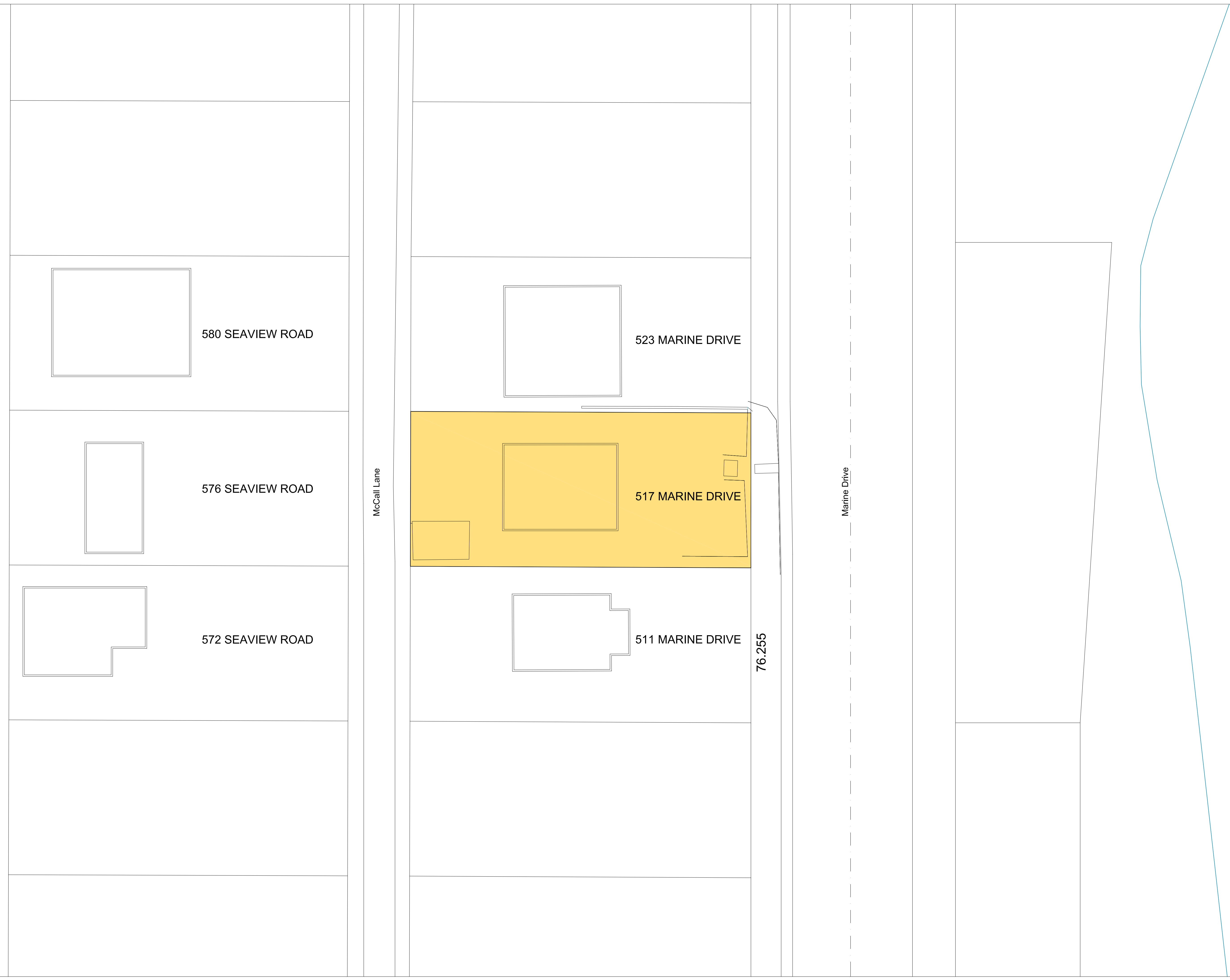
Lesley-Anne Staats, MCIP, RPP
Director of Planning

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I have reviewed the report and support the recommendation(s).



Emanuel Machado
Chief Administrative Officer



This SITE PLAN is based on a CAD drawing file issued by Bennett Land Surveying Ltd. with topographic data compiled in a land survey made on April 1st, 2021.



517 Marine Drive
 PID: 010-080-686
 Lot 15
 Block 5
 Plan VAP4028
 District Lot 686
 Area 5,500 sf / 511 m²

1 / 350 11x17

N

CASA MAJA

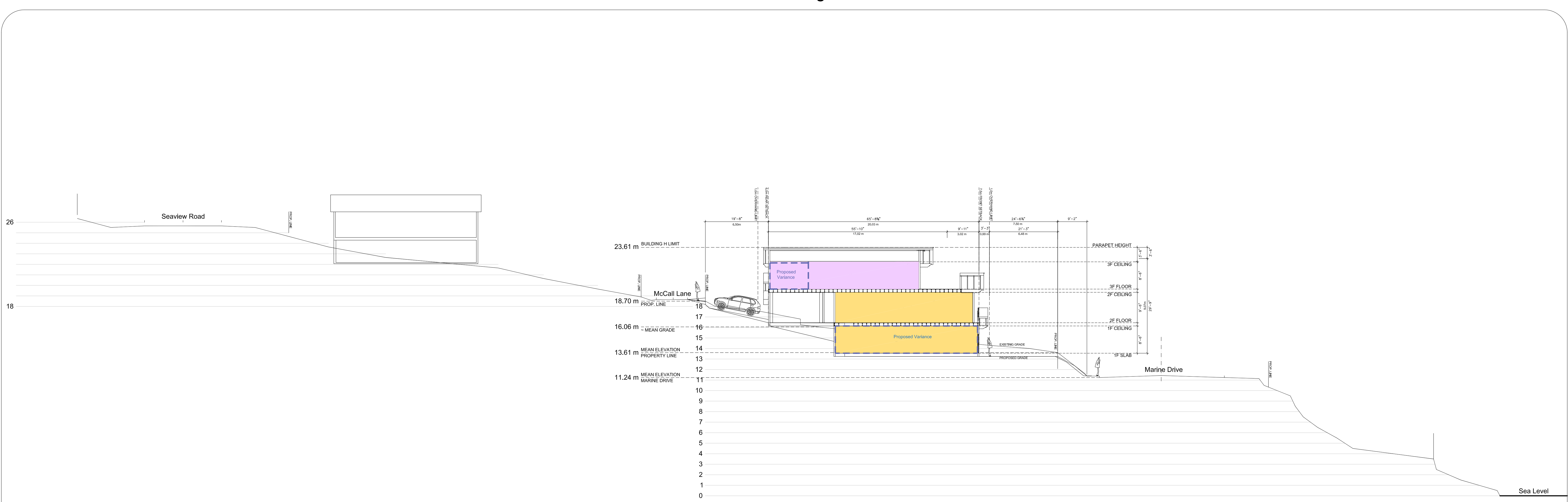
517 Marine Drive
 Gibsons, BC

Design:
 Ricardo Mondragon

SITE PLAN

2022.3.04
 Revised on:

01



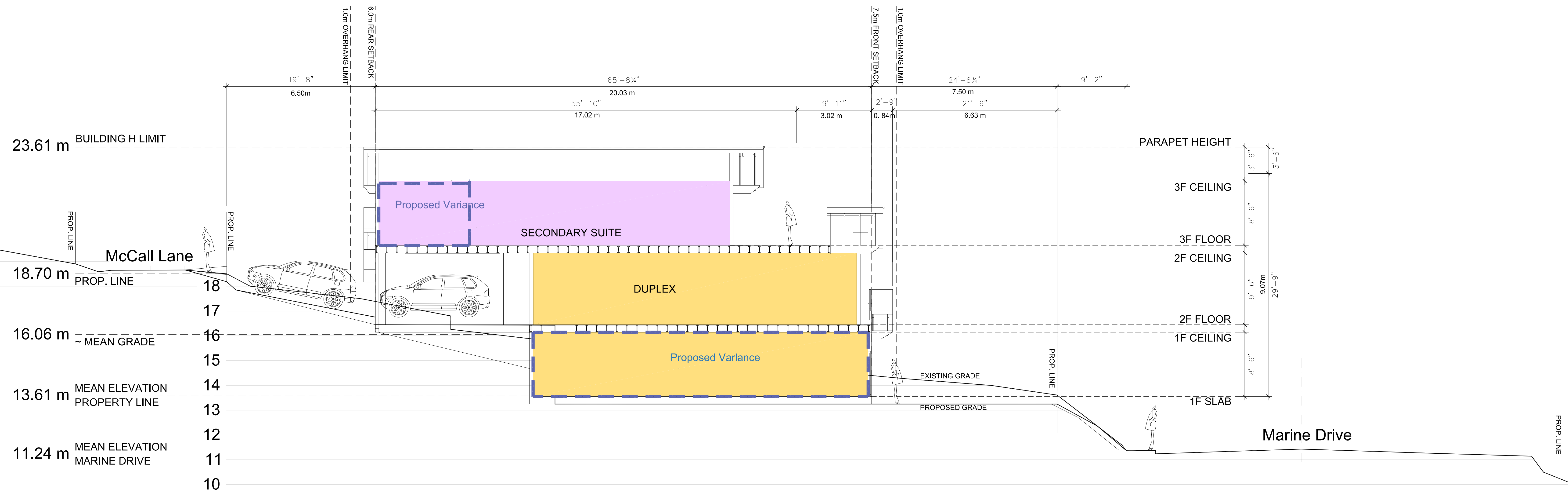
517 Marine Drive
 PID: 010-080-686
 Lot 15
 Block 5
 Plan VAP4028
 District Lot 686
 Area 5,500 sf / 511 m2

 1 / 350 11x17

CASA MAJA

 517 Marine Drive
 Gibsons, BC
 Design:
 Ricardo Mondragon

 CROSS SECTION **03**
 2022.3.04
 Revised on:



517 Marine Drive
 PID: 010-080-686
 Lot 15
 Block 5
 Plan VAP4028
 District Lot 686
 Area 5,500 sf / 511 m2

1 / 150 11x17

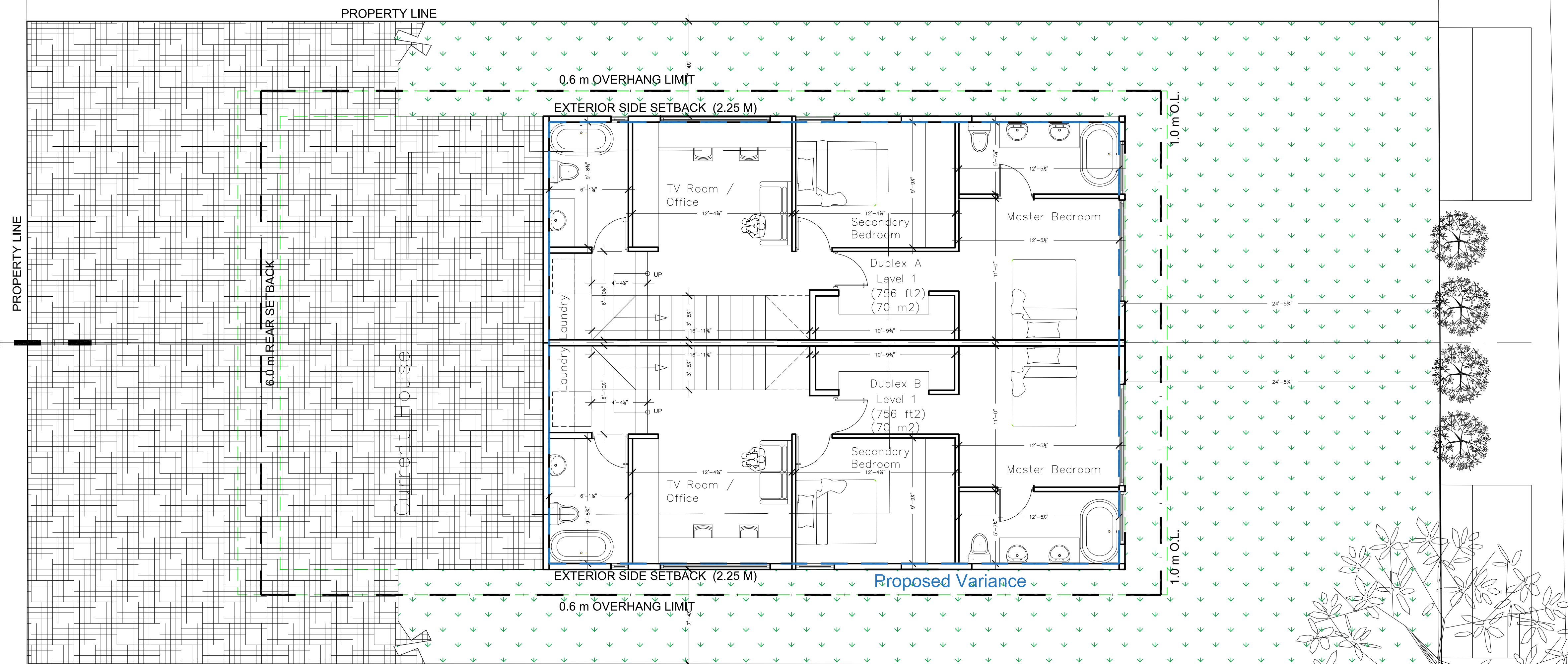
CASA MAJA

517 Marine Drive
 Gibsons, BC

Design:
 Ricardo Mondragon

CROSS SECTION **04**

2022.3.04
 Revised on:



LEVEL 1 . MARINE DRIVE STREET . Main House - Bedrooms

Gross Floor Area

	Proposed Variance		Current Bylaw	
Level 1.	1,512 ft ²	140.47 m ²	0 ft ²	0.0 m ²
Level 2.	1,450 ft ²	134.71 m ²	1,468 ft ²	152.18 m ²
Level 3.	1,186 ft ²	110.18 m ²	1,032 ft ²	95.87 m ²
TOTAL.	4,148 ft²	385.36 m²	2,500 ft²	248.05 m²



517 Marine Drive
 PID: 010-080-686
 Lot 15
 Block 5
 Plan VAP4028
 District Lot 686
 Area 5,500 sf / 511 m²

1 / 125 11x17

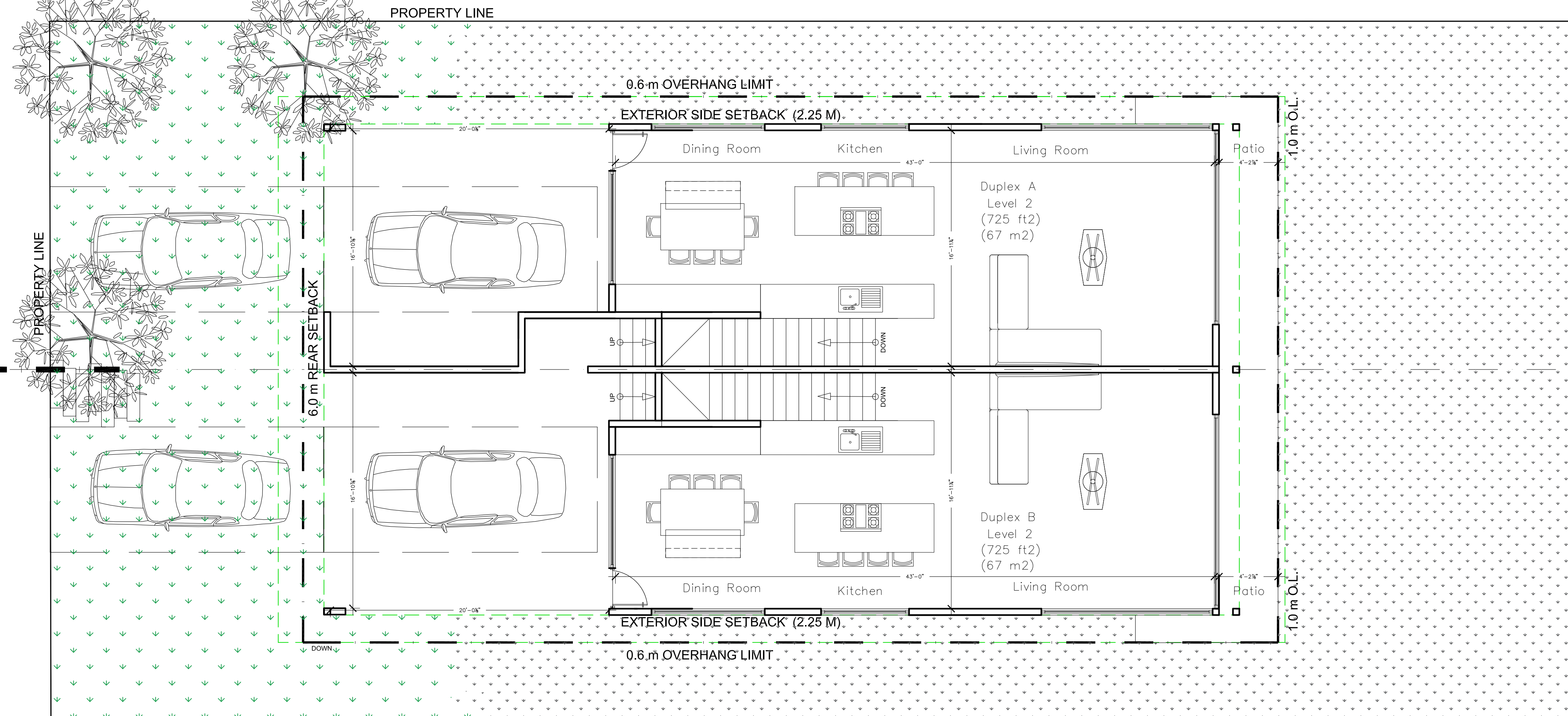


CASA MAJA
 517 Marine Drive
 Gibsons, BC
 Design:
 Ricardo Mondragon

1F FLOOR PLAN
 2022.3.04
 Revised on:

05

LEVEL 2 . Main House . Bedrooms



LEVEL 2 . Main House . Main House - Living, Dining, Kitchen

Gross Floor Area

	Proposed Variance		Current Bylaw	
Level 1.	1,512 ft ²	140.47 m ²	0 ft ²	0.0 m ²
Level 2.	1,450 ft ²	134.71 m ²	1,468 ft ²	152.18 m ²
Level 3.	1,186 ft ²	110.18 m ²	1,032 ft ²	95.87 m ²
TOTAL.	4,148 ft ²	385.36 m ²	2,500 ft ²	248.05 m ²



517 Marine Drive
 PID: 010-080-686
 Lot 15
 Block 5
 Plan VAP4028
 District Lot 686
 Area 5,500 sf / 511 m²

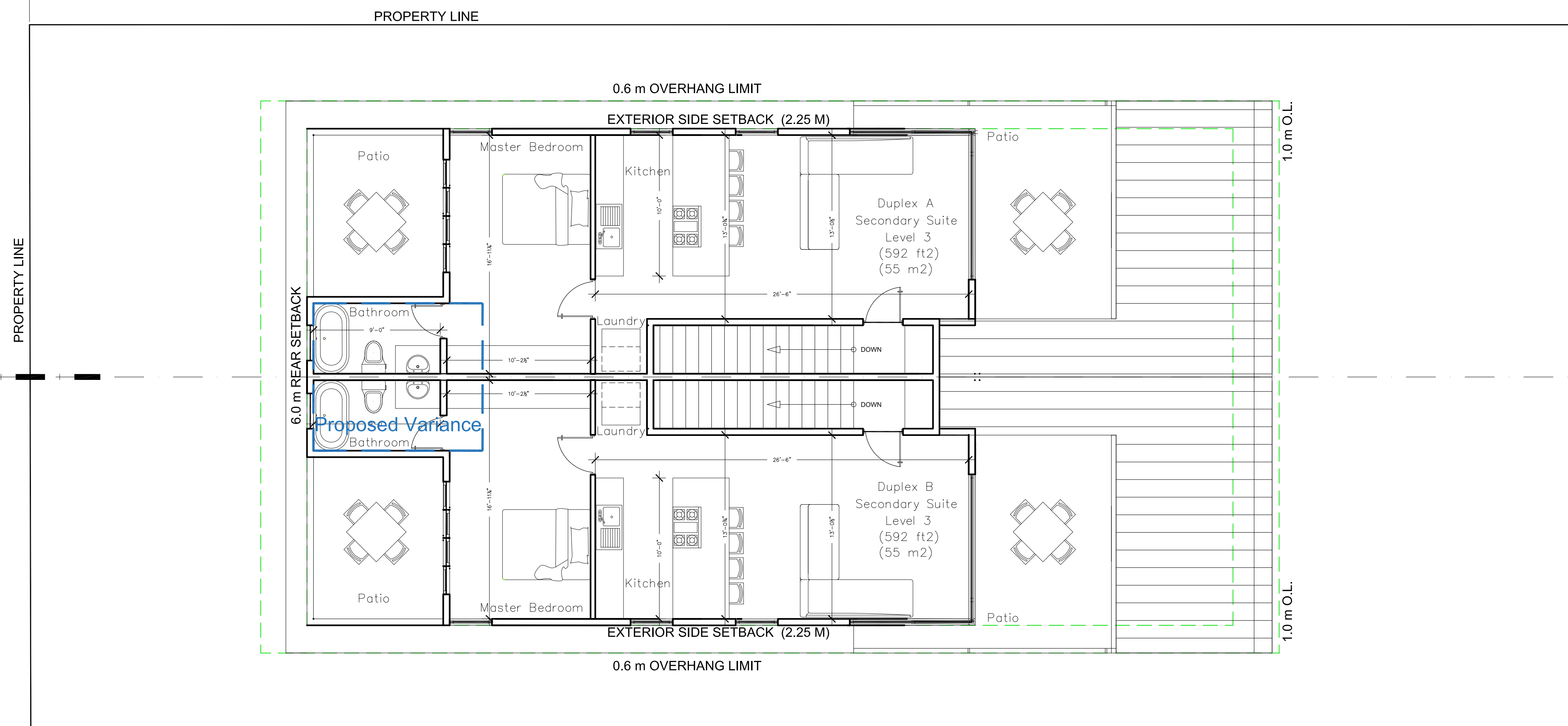
1 / 125 11x17



CASA MAJA
 517 Marine Drive
 Gibsons, BC
 Design:
 Ricardo Mondragon

2F FLOOR PLAN
 2022.3.04
 Revised on:

06



LEVEL 3 . Mc Call Lane . Secondary Suite

Gross Floor Area

	Proposed Variance		Current Bylaw	
Level 1.	1,512 ft2	140.47 m2	0 ft2	0.0 m2
Level 2.	1,450 ft2	134.71 m2	1,468 ft2	152.18 m2
Level 3.	1,186 ft2	110.18 m2	1,032 ft2	95.87 m2
TOTAL.	4,148 ft2	385.36 m2	2,500 ft2	248.05 m2



517 Marine Drive
 PID: 010-080-686
 Lot 15
 Block 5
 Plan VAP4028
 District Lot 686
 Area 5,500 sf / 511 m2

1 / 125 11x17

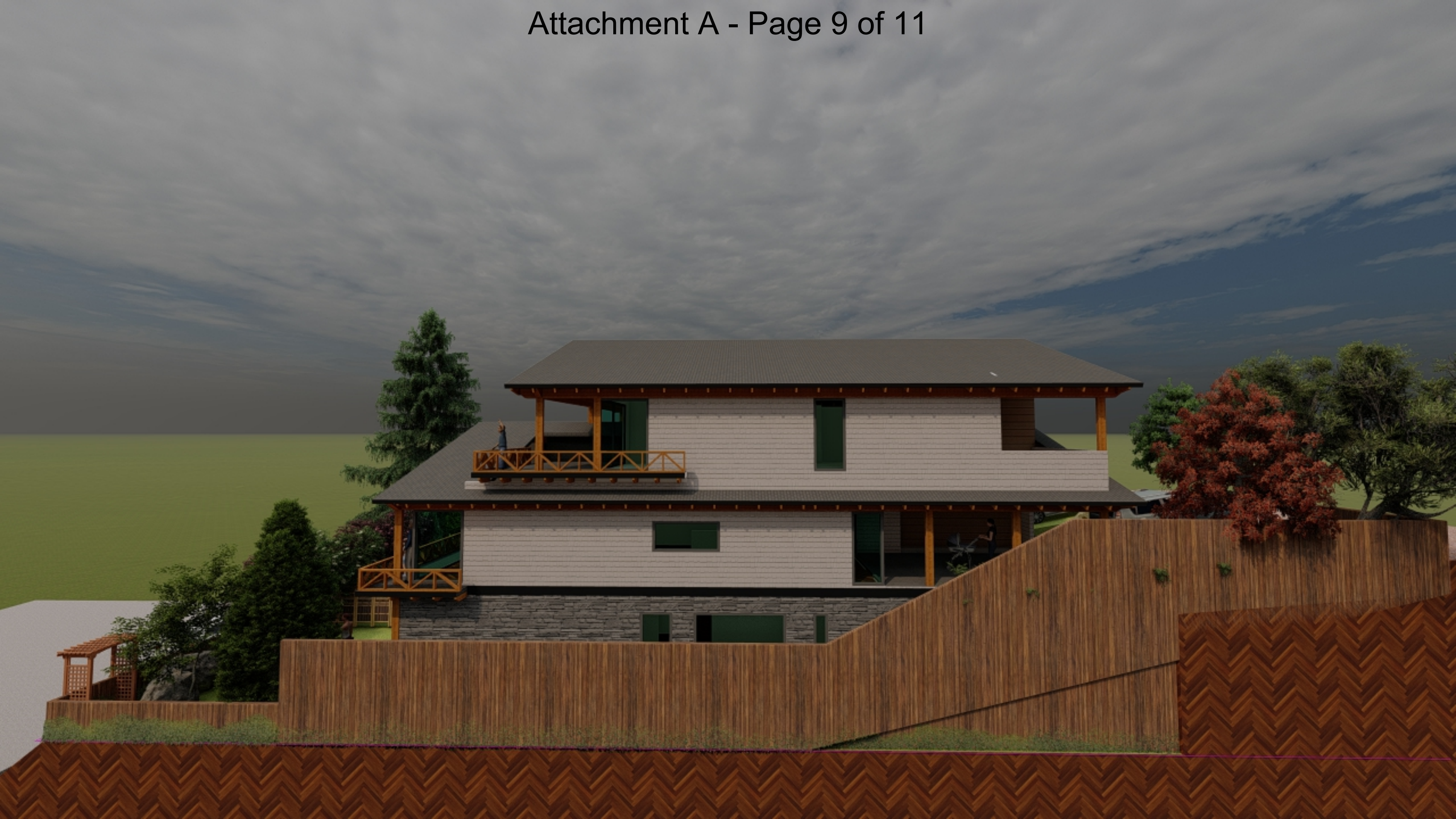


CASA MAJA
 517 Marine Drive
 Gibsons, BC
 Design:
 Ricardo Mondragon

3F FLOOR PLAN
 2022.3.04
 Revised on:

07











TOWN OF GIBSONS

PO Box 340
474 South Fletcher Road
Gibsons BC | V0N 1V0

info@gibsons.ca
www.gibsons.ca
604-886-2274

June 8, 2022

File No.: 3220-Marine-517

Dear Property Owner\Tenant;

Re: Notice of Application for Development Variance Permit for 517 Marine Drive

This letter is to advise you that the Town has received a Development Variance Permit application for the property at 517 Marine Drive

The applicant is requesting to increase the maximum permitted gross floor area from 232 m² to 385 m² to build a new duplex dwelling with two secondary suites.

Please take notice that Council will consider the application at its online meeting on Tuesday, June 21, 2022, beginning at 7:00 p.m.

1. **Before the meeting:** Written comments must be received by Kirsten Dafoe, Planner I, before noon on June 20, 2022, and may be submitted in one of the following ways:

Email: planning@gibsons.ca
Regular Mail: PO Box 340, Gibsons, BC, V0N 1V0
In Person: Gibsons' Town Hall, 474 South Fletcher Road, Gibsons, BC

2. **At the online meeting:** Individuals may attend the online meeting and will be provided an opportunity to present verbal submissions. The Council meeting is scheduled for **7 pm on Tuesday, June 21, 2022** and the meeting be held electronically on Zoom. The link to the meeting can be found at: www.gibsons.ca/online-meetings, instructions can be found on the reverse of this letter.

A copy of the application and staff report explaining the application in more detail are available for review on the Town of Gibsons website at: www.gibsons.ca/current-development-applications.

Regards,
TOWN OF GIBSONS

Kirsten Dafoe
Planner I

TOWN OF GIBSONS

"Nature is our most valuable asset"

Online Meetings

To ensure that our citizens may continue to actively participate in Council and committee meetings during the COVID-19 pandemic, the Town of Gibsons began conducting public online meetings on Tuesday, April 7th, 2020.

These meetings are to be convened by electronic means as authorized by Ministerial Order No. M192, *“Local Government Meetings and Bylaw Process (COVID-19) Order No. 3”* .

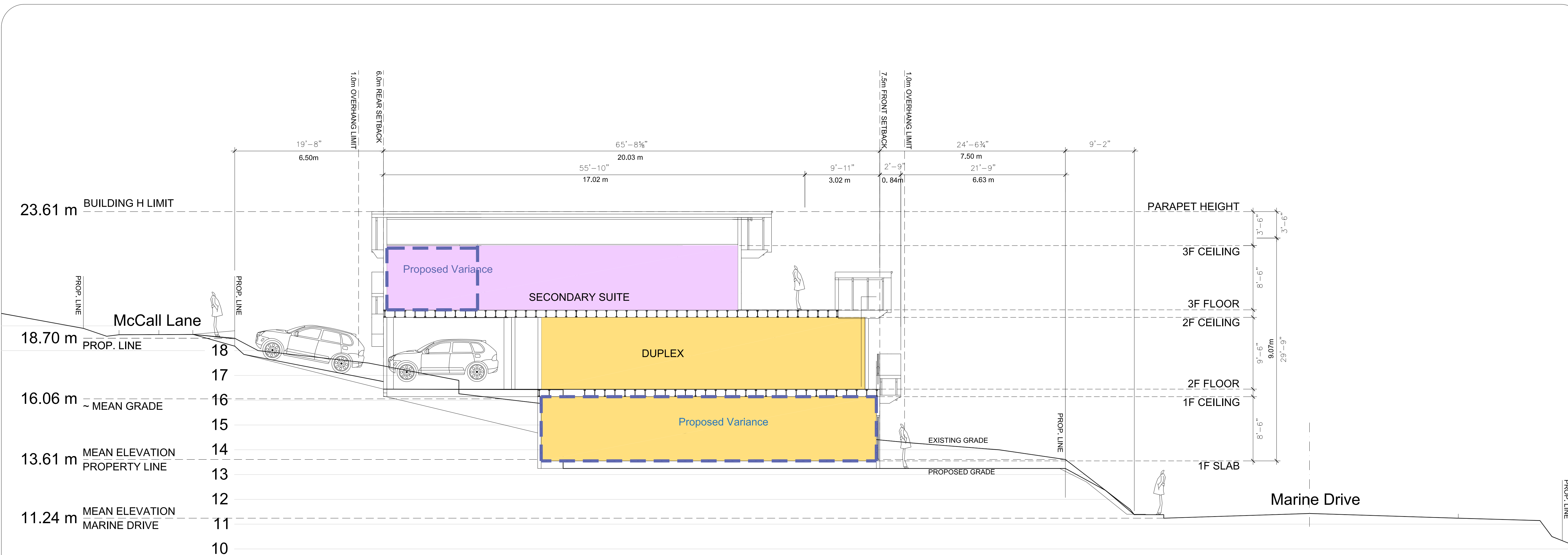
As of November 16, 2020, and due to new COVID-19 restrictions on gatherings, we are currently unable to offer seating at Town Hall for residents to view online meetings. We will update this policy as required, based on guidance from BC’s Public Health Officer.

To participate online, in real time

- Go to www.gibsons.ca/online-meetings
- Click on the link provided on the webpage: Council meeting June 21, 2022
- To ask a question during the Inquiry segment, please use the ‘raise hand’ feature by clicking on the red hand icon found at the bottom of your screen. The meeting administrator will then “unmute” you and you will be able to ask your question. You may also email questions in advance to: planning@gibsons.ca.

To view the meeting on YouTube

If the meeting has ended, or if you’d like to watch a meeting in process, but do not want to participate, you may view it on our YouTube channel.



517 Marine Drive
 PID: 010-080-686
 Lot 15
 Block 5
 Plan VAP4028
 District Lot 686
 Area 5,500 sf / 511 m2

1 / 150 11x17

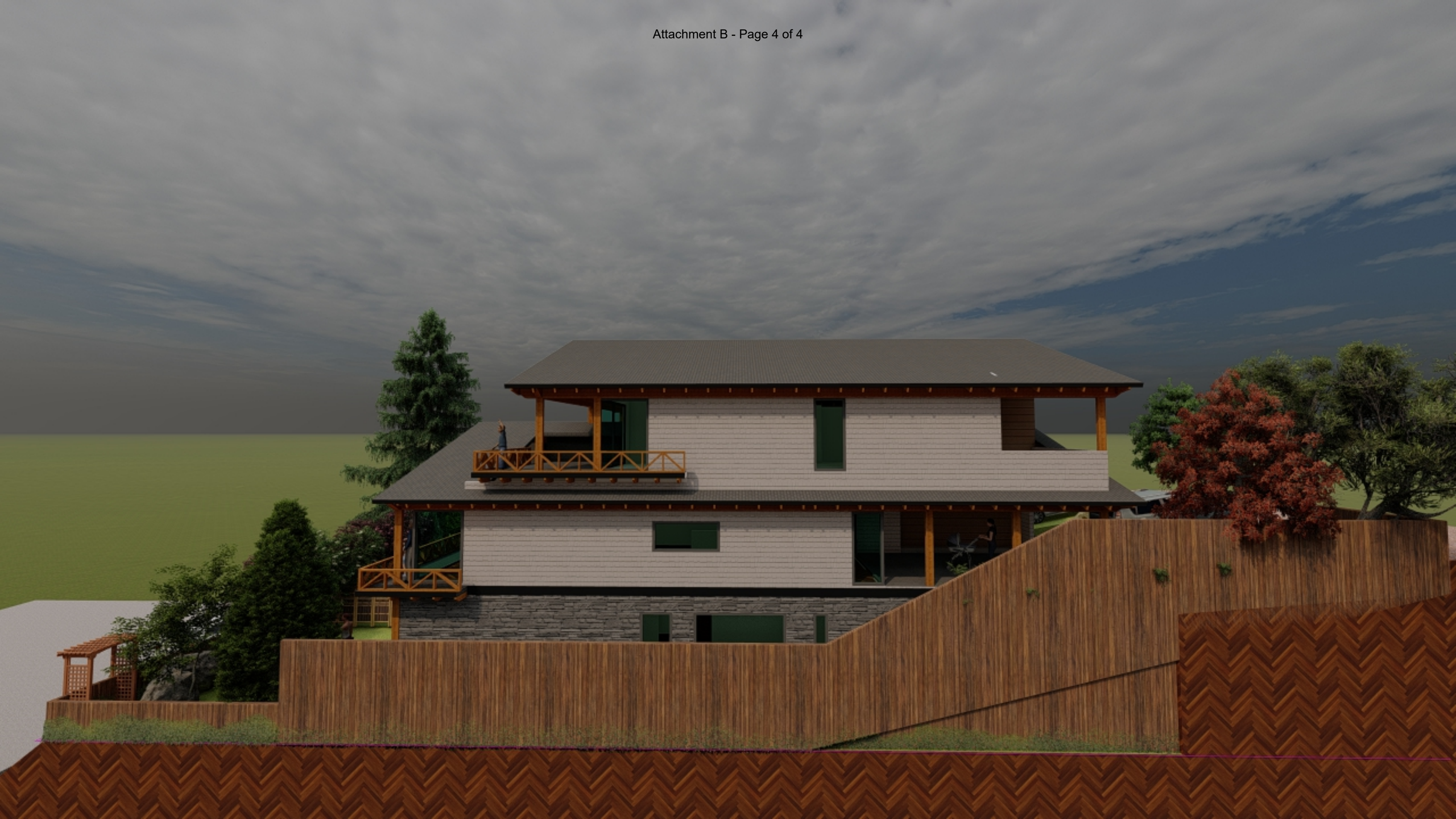
CASA MAJA

517 Marine Drive
 Gibsons, BC

Design:
 Ricardo Mondragon

CROSS SECTION **04**

2022.3.04
 Revised on:



DISCUSSION

Proposal

The applicant is proposing to tear down the existing single-family dwelling and build a new duplex with a secondary suite in each unit. Figure 2 below shows a cross section of the proposed duplex. The secondary suites are proposed to be accessed from Marine Drive (shown in purple), with the duplex units accessed from McCall Lane (shown in yellow). The applicant’s proposal summary is enclosed as Attachment A.

The total floor area for the entire proposed duplex building is 4360 ft². Each duplex unit is proposed to be 2180 ft² – 1580 ft² for the main unit and approximately 600 ft² for the secondary suite. The plans are enclosed as Attachment B.

The required four parking spaces for the building are proposed to be located on McCall Lane. The applicant has proposed one driveway on McCall Lane.

Figure 3 shows the proposal in relation to the uphill properties, the applicant proposes to conform to the 10 m height limitations set out under View Protection Subarea E.

Figure 5 and 6 show visuals of the proposal from Marine Drive and McCall Lane. Full visuals are enclosed as Attachment C.

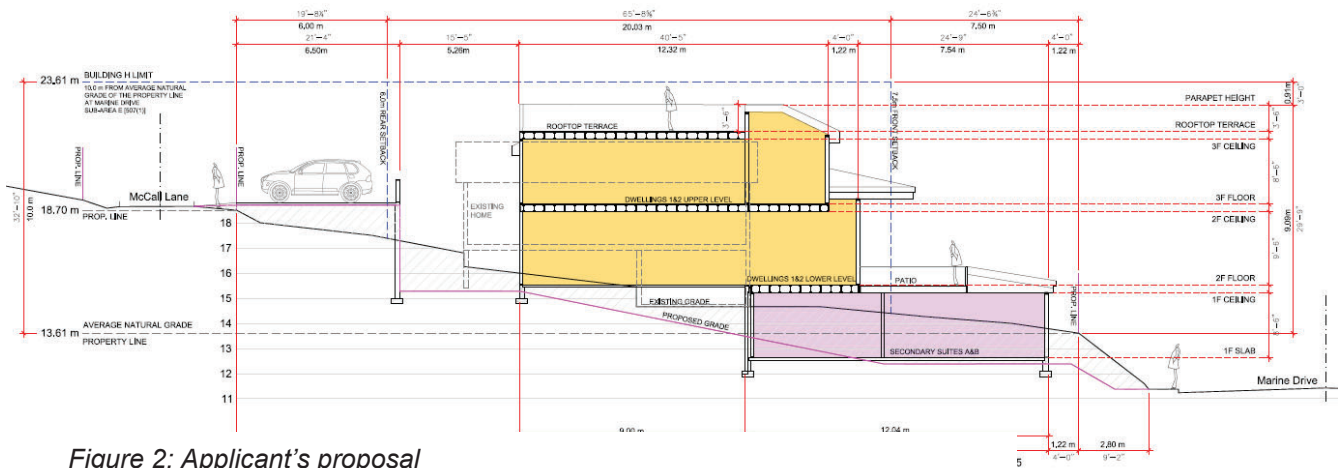


Figure 2: Applicant's proposal

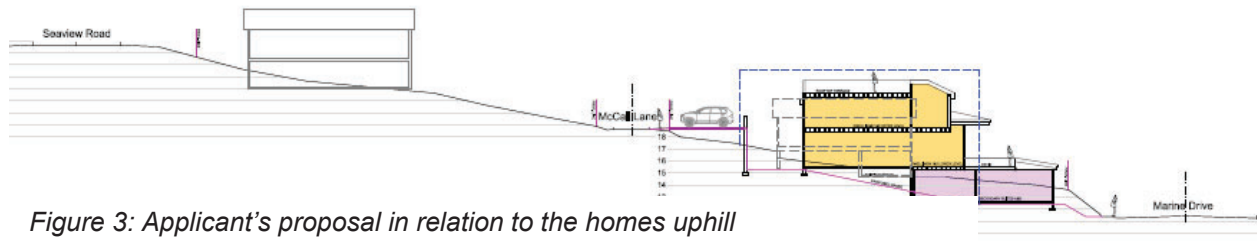


Figure 3: Applicant's proposal in relation to the homes uphill

Zoning

The subject property is zoned Single-Family and Two-Family Residential 3 (R-3) and is located within View Protection Sub-area E – attached to the Zoning Bylaw as Schedule B, as seen in Figures 2 and 3.

When the regulations of the View Protection Sub-areas differ from the setback and building height regulations of the designation zone, the provisions of the View Protection area takes precedence.

Unfortunately, in the case of Sub-area E, shown in Figure 4, the Sub-area only defines the rear setback and height, and therefore the rest of the setbacks are regulated by the R-3 zone or the general view protection regulations, which are in place for the majority of Lower Gibsons.

The setbacks are defined below:

	Governed By	Regulation
Front setback	R3 zone	7.5m
Side setbacks	general view protection regulations Section 5.1(1)(b)	Sum of side setbacks 4.5m and 1.5m for the least side
Rear setback	Sub-area E section 5.8(2)	6m
Height	Sub-area E Section 5.8(1)	10 m from Marine Drive
Gross floor area	general view protection regulations Section 5.1(a),	limits floor area based on lot area: Maximum 232m ² or 2500 ft ²
Lot coverage	R3 zone	50%

As the property itself is reasonably small at 511 m², the buildable area on the lot is significantly impeded by the demands of the setbacks and gross floor area limitations under the view protection area.

Variance Request

The applicant has requested the following variances to build a duplex with a secondary suite in each unit:

1. Reduce the front setback from 7.5m to 1m (variance to Zoning Bylaw)
2. Reduce the side setbacks to 1.5m on each side (variance to Zoning Bylaw)
3. Increase the gross floor area from 232m² to 450m² (variance to Zoning Bylaw)
4. Increase the 4.5m driveway width on McCall Lane (variance to Subdivision and Development Bylaw)

5.8 Regulations for Sub-area E

- (1) The building height must not exceed 10.0 m (32.8 ft) from the average natural grade of the property line at Marine Drive, provided that for a distance of not less than 60% of the lot width measured along the property line at Marine Drive, the building shall be limited to a height of 7.5 m (24.6 ft) from average natural grade of the property line at Marine Drive, for a horizontal distance of 9.0 m (29.8 ft) from a vertical plane at the property line at Marine Drive.
- (2) Buildings and structures must be sited no closer to a rear lot line than 6.0 m (19.7 ft).

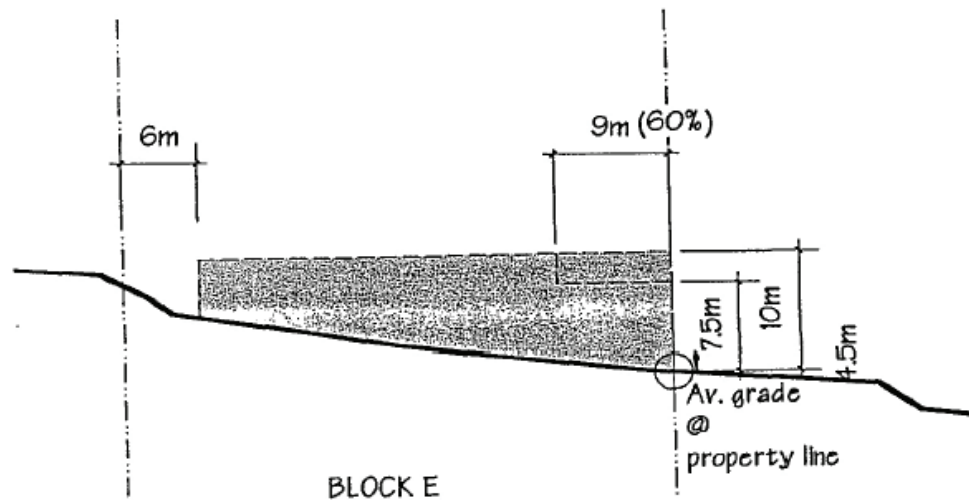


Figure 4: View Protection Sub-area E



Figure 5: Rendering showing proposed duplex from Marine Drive



Figure 6: Rendering showing proposed duplex from McCall Lane

Council Policy 3.9

Council Policy 3.9 provides a framework for Council to assess variance requests. Staff have reviewed the proposal at 517 Marine Drive with the Policy's criteria as outlined below:

- (1) *The request is not within the jurisdiction of the Board of Variance;*

Under Section 540 of the Local Government Act, an application to the Board of Variance is to vary or exempt an individual to relieve hardship. This application does not show hardship, as the proposal is for a new build.

- (2) *The same request has not been previously denied by the Board of Variance;*

The application has not been presented to the Board of Variance.

- (3) *The variance will not result in significant negative impacts on neighbouring properties;*

Figure 3 shows the proposal in relation to the uphill properties. The applicants are conforming to the maximum 10 m height from Marine Drive and therefore the homes across McCall Lane will maintain views over the proposed duplex. Neighbour notifications will solicit comments from neighbours.

The building massing steps back, as per the zoning enabling adjacent neighbours to continue to have a wide angle view of the ocean. Figures 5 and 6 show the rendering of the proposed duplex.

- (4) *There is a demonstrated need for the variance in order to permit reasonable use of the property*

The Zoning Bylaw permits the use, however the View Protection Area regulations in combination with the setbacks from the R-3 zone creates a unique situation that limits the buildable area significantly. The proposal to build a duplex with a secondary suite in each unit is permitted, and the units (duplex plus secondary suite) are 2180 ft² in size. Council may consider if this variance request is needed for the proposed use. The alternative is to reduce the size or remove the secondary suites.

- (5) *The overall intent of the original bylaw requirement or standard is not compromised.*

In 1996, the View Protection Sub-areas were introduced to Zoning Bylaw No. 555, 1986 with amending Bylaw 555-79. In 2007, the zoning bylaw was re-written and incorporated the 1996 View Protection Sub-Areas into Zoning Bylaw 1065 without any changes. Then, in 2008, the General View Protection Regulations were added to the Zoning Bylaw under Amending Bylaw 1065-06 without any amendments to the existing Sub-area regulations.

Staff determine that it is rare for both the general view protection regulations and the Sub-area regulations to apply to a single lot, and the cumulative impacts of the regulations may not have been the intent when the regulations were introduced. Further to this, allowing duplexes with secondary suites is a relatively new use and concept.

Given that the duplex is located downslope of the properties behind it, and that the properties behind will maintain ocean views, staff considers that the front and side setback relaxations would not compromise the views of neighbouring properties, nor the intent of the bylaw.

The variance request to almost double the gross floor area, however, is an impact of increasing housing units in Gibsons, and staff considers that this does compromise the intent of the bylaw – which appears to be to maintain smaller units on smaller lots. Council may consider whether this impact is appropriate for Gibsons.

- (6) *The variance does not appear to establish a precedent for other properties, but responds to a site-specific situation or difficulty;*

The variance request would set a precedent. This is the first time that a home on this particular block has been redeveloped under the View Protection Regulations. The 2020 Housing Needs Assessment showed that the Town of Gibsons had the highest proportion of renters on the Coast – with the 2016 census stating that 28% of Town resident's rent. This development looks to provide two one-bedroom rental units, which has been identified as a Core Housing Need.

The variance request also shows that Part 5 View Protection of the Zoning Bylaw should be reviewed in relation to the Housing Needs Implementation Framework, recent changes to allow secondary suites in more housing types, as well as the general regulations and the specific Sub-areas to ensure that each Sub-area defines appropriate setbacks for the permitted uses.

- (7) *As per the Local Government Act provisions, does not result in a change in land use or an increase in permitted density;*

The requested variance will not change the land use or increase the permitted density of the property. The R-3 zoning permits a duplex with a secondary suite.

- (8) *The variance results in suitable development that is an asset and compatible in the context of surrounding uses;*

The current development on the property conforms with the density and use according to the zoning regulations. The development looks to provide two rental units, which is considered an asset under the Housing Needs Assessment.

- (9) *In the case of variance of specific development standards for off-site servicing, that any additional costs that may be incurred by the municipality or future landowners are considered.*

Maximum driveway widths are incorporated within the Subdivision and Development Bylaw and therefore is deemed an off-site servicing item. The Town would not incur additional costs if the request were approved on this lot, as no culvert is required, and the owner is responsible for the driveway surface.

COMMUNICATION

The *Local Government Act* requires neighbours to be notified of the application and the date Council will decide on it. The Town's *Development Application Procedures Bylaw No. 1166, 2014* requires letters to be delivered to neighbours within 50 m of the property. A notification sign has also been posted on the property.

Staff recommends that Council directs staff to begin notifications for the Development Variance Permit application at 517 Marine Drive (DVP-2021-06).

NEXT STEPS

With Council's authorization, staff will notify neighbours of the variance request and date of Council decision on the application. Staff will then report back with neighbor submissions and referral comments received for Council's consideration prior to deciding on the DVP request.

Should the variance be approved, the property owner would then apply for their Building Permit.

RECOMMENDATIONS / ALTERNATIVES

Recommendations are listed on page 1 of this report. Alternatively, Council may ask for changes to the proposal, or deny the DVP request.

Attachments

- Attachment A – Proposal Summary
- Attachment B – 517 Marine Drive Preliminary drawings
- Attachment C – Renderings of the proposed duplex

Respectfully Submitted,




Katie Thomas
Planner I



Lesley-Anne Staats, MCIP, RPP
Director of Planning

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I have reviewed the report and support the recommendation(s).



Mark Brown
Chief Administrative Officer