

# Report

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Date December 15, 2021 File: 3080-20 21.04  
Subject Development Variance Permit Application No. DVP00069 for 9909 Willow Street

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## **PURPOSE**

To consider an application for a development variance permit to vary Section 58(6)(b) of Zoning Bylaw No. 2950 to reduce the required front yard setback to 1 metre to allow the reconstruction of a non-conforming accessory building. A staff presentation will be provided at the meeting.

## **BACKGROUND**

The subject property (PID: 000-835-846) is located within the Urban Containment Boundary, in the community of Chemainus in the Old-Town neighbourhood, an area comprised mostly of one and two-storey dwellings (Attachment 1). The subject property contains a two-storey single-family dwelling and formerly had a single-storey accessory building that encroached into both the front and side yard setback requirements of the R3 zone (Attachment 2).

- Address: 9909 Willow Street
- Zone: Residential One and Two Family (R3) (Attachment 3)
- Property Area: 664.78m<sup>2</sup> (0.16 Acres)
- Agricultural Land Reserve: No

The home on the subject property was originally constructed in 1923-24, with the accessory building constructed shortly after that. The accessory building was initially located 0.43 metres from the front lot line and 0.67 metres from the north side property line (Attachment 4).

### Proposal

The applicant wishes to pour a concrete foundation and rebuild the accessory building while maintaining its original form and character (Attachment 5). The accessory building is proposed to be moved back from the front and side property lines to a 1-metre setback and be reduced in length from 5.56 metres (18.25 feet) to 5 metres (16.37 feet) in order to comply with S.16 of Zoning Bylaw - building separation requirements (Attachment 6). To achieve this, the applicant requests to relax S, 58(6)(b) of Zoning Bylaw No. 2950 to reduce the required front yard setback from 5 metres (16.4 feet) to 1 metre (3.28 feet).

## **DISCUSSION**

The accessory building has decayed beyond repair with nearly a century of weathering. With wood rot and the lack of a foundation, the owner determined that the accessory building was a hazard and has recently removed it from the property (Attachment 7). The proposed reconstruction substantially maintains the form and character of the original building, with only a slight change to the pitch of the roof in order to match the single-family dwelling (Attachment 8).

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## Policy Context

Section 498 of the Local Government Act (LGA), establishes a process for property owners to request a variance to land regulations such as S.58(6)(b) of Zoning Bylaw No. 2950. Official Community Plan Bylaw No. 3450 (OCP) provides goals and objectives to guide Council, staff, and the public when considering variance applications.

- *Appendix 5 of the OCP outlines site planning and design practices criteria in support of the proposed:*
  - Make appropriate site choice
    - Located within the Chemainus village old town neighbourhood - walkable, pedestrian-scaled area.
    - Maintains sightlines and views.
    - No increase in vehicles or impacts to neighbours is anticipated; since the structure has been located in this approximate location for the last hundred years.
  - Contribute to complete community
    - In compliance with the Chemainus Revitalization Plan, 2011.
    - Streetscape improvements.
    - Use land efficiently; the applicant aims to reuse materials where feasible.
  - Building Form and Character
    - The proposed structure will maintain the historical form and character of the original building.
    - No trees or native/mature vegetation will be lost.

In addition to the fulfillment of the above OCP criteria, the single-family dwelling is located centrally in the front of the property, leaving little room in the front or side yards for an alternative location in compliance with the Zoning Bylaw. The intended use of the accessory building is to store work related tools and equipment, so they are easily accessible for transport to various job sites. Since the subject property doesn't have secondary access from a laneway, the proposal is not practical in the rear yard. In addition, the dwelling was not constructed with a garage or sufficient storage capacity, further giving rise to the proposal.

As there are no other viable options for situating the proposed structure in compliance with the 5 metre front yard setback requirement and the proposed location and structure are compatible with the character of Old Town Chemainus, approval of the application is recommended.

Communications and Engagement

Pursuant to section 499 of the LGA and section 5(3)(d) of the Delegation of Authority Bylaw, notification letters have been sent to all owners and occupants within a 60 metre radius of the subject property. Any responses will be presented to Council at the December 15, 2021, Council Meeting. The notice includes the subject matter of the application, the date and time where the application will be heard, along with applicable North Cowichan staff contact information. The application is available for public inspection by contacting municipal staff during regular business hours.

**OPTIONS**

1. **(Recommended Option)**

THAT Council:

- (1) Vary Section 58(6)(b) of Zoning Bylaw 1997, No. 2950 by reducing the required front yard setback for an accessory building from 5 metres to 1 metre for 9909 Willow Street; and
- (2) Issue Development Variance Permit DVP00069 for 9909 Willow Street.

- 2. THAT Council deny Development Variance Permit Application DVP00069 to reduce the required front yard setback for an accessory building under Section 58(6)(b) of Zoning Bylaw 1997, No. 2950 from 5 metres to 1 metre for 9909 Willow Street.

**IMPLICATIONS**

Should the proposal be denied by Council, the accessory building will not be reconstructed as proposed. The applicant would be subject to building within the provisions of Zoning Bylaw No. 2950.

**RECOMMENDATION**

THAT Council:

- (1) Vary Section 58(6)(b) of Zoning Bylaw 1997, No. 2950 by reducing the required front yard setback for an accessory building from 5 metres to 1 metre for 9909 Willow Street; and,
- (2) Issue Development Variance Permit DVP00069 for 9909 Willow Street.

Report prepared by:



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Anthony Price  
Development Planner

Report reviewed by:



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Rob Conway  
Director, Planning and Building

**Approved to be forwarded to Council:**

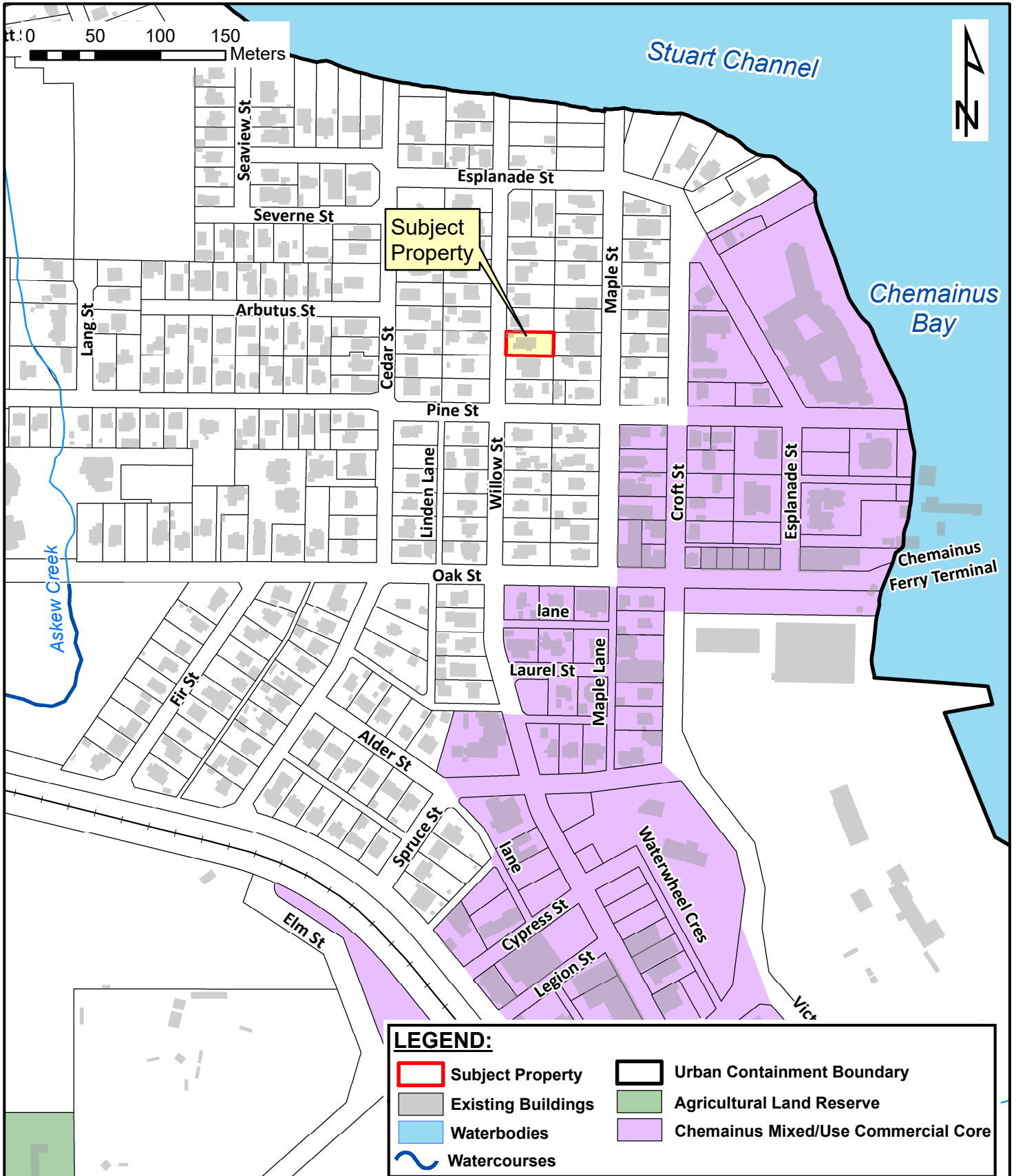


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Ted Swabey  
Chief Administrative Officer

Attachments:

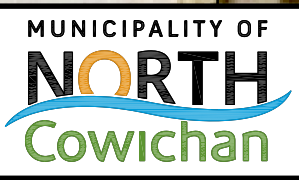
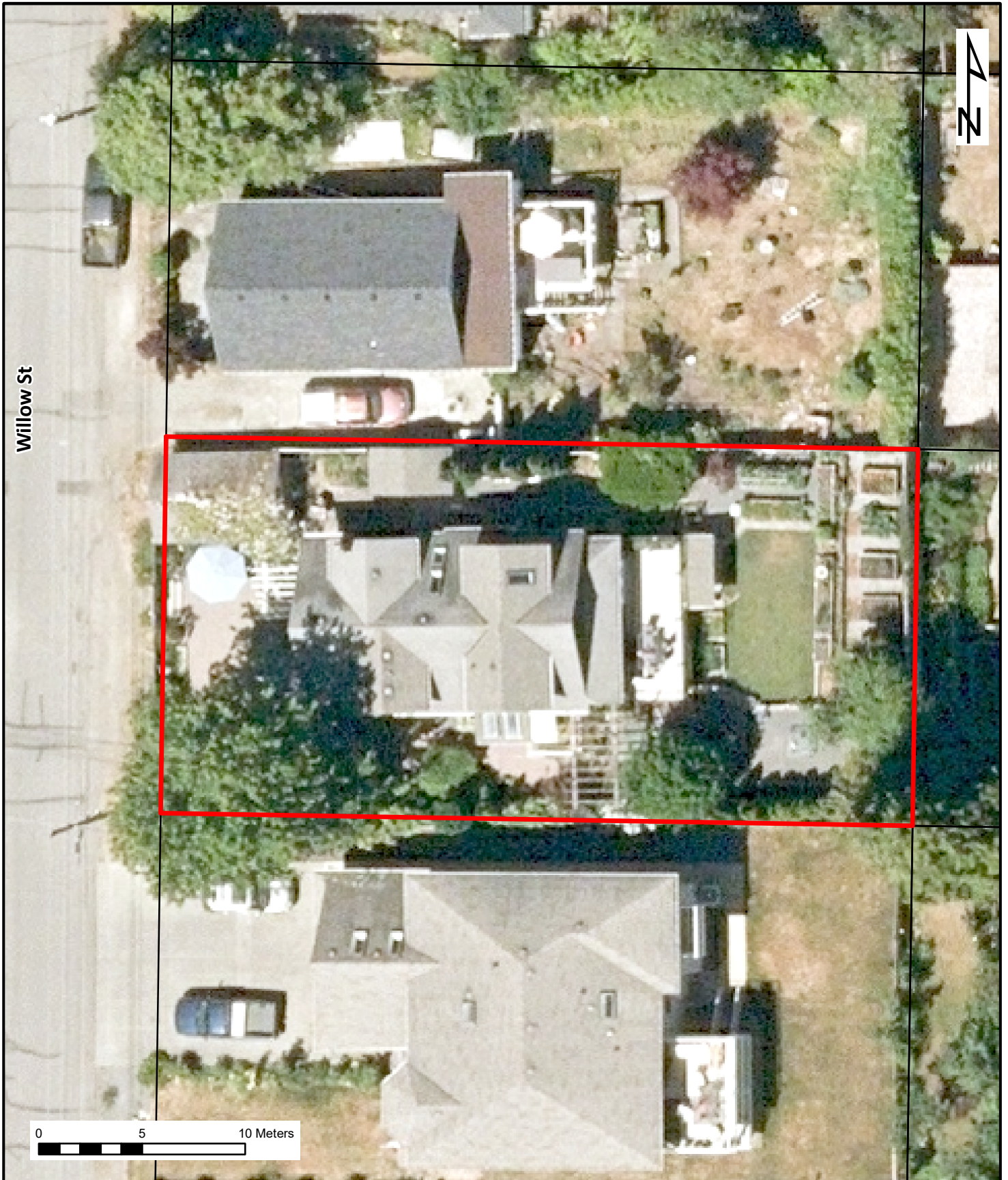
- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) Survey 1992-03-20
- (5) Letter of Rationale
- (6) Site Plan 2021-03-31
- (7) Site Photos 2021-05-04
- (8) Building Plans 2021-03-31
- (9) Draft Development Variance Permit



**LOCATION MAP**

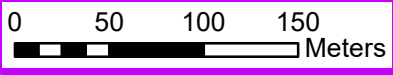
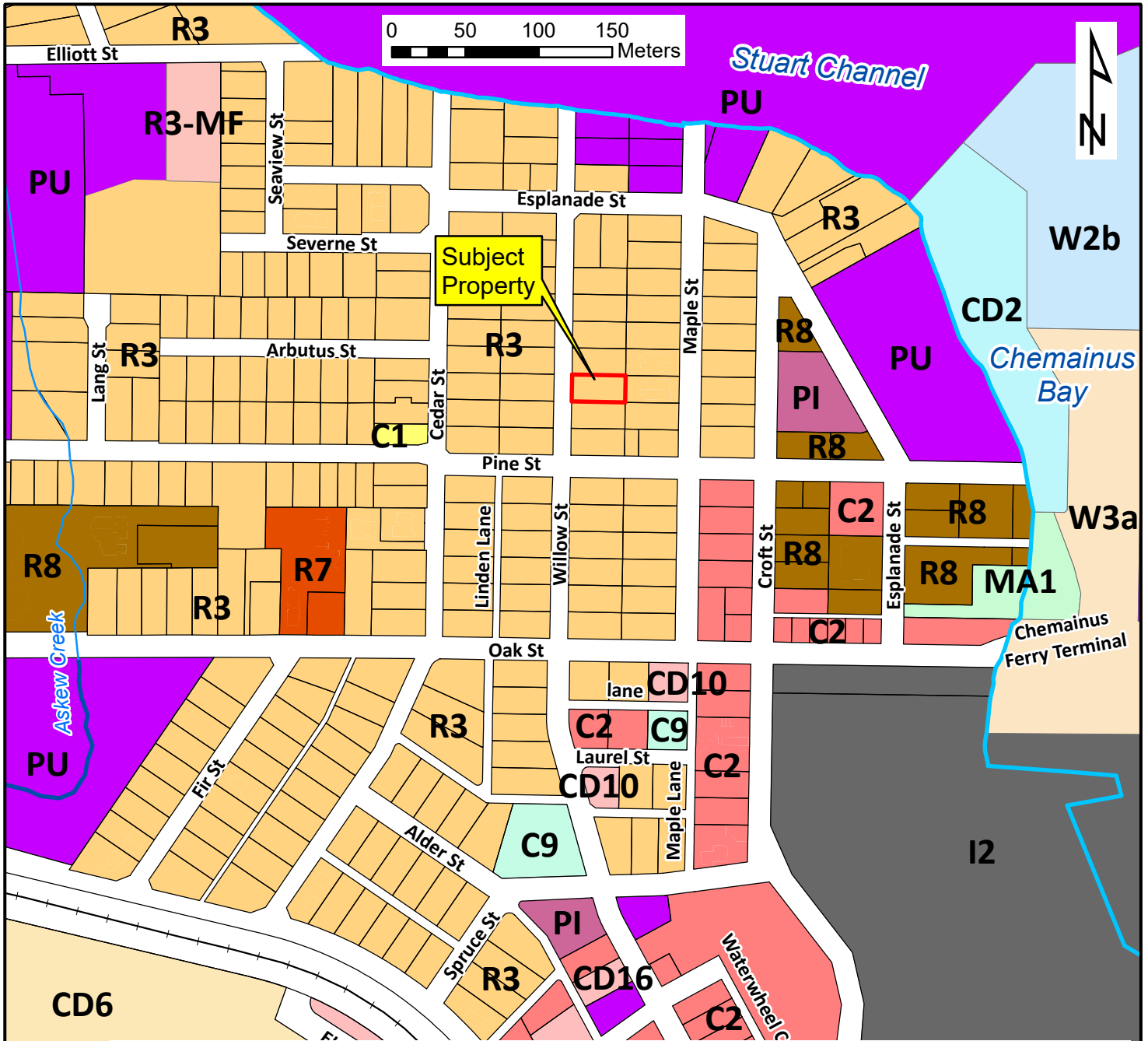
9909 Willow Street

DATE:	May 7, 2021
TYPE:	Development Variance
FILE#:	DVP00069

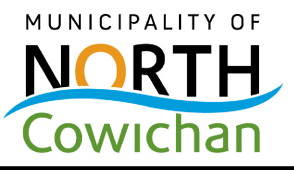


**ORTHOPHOTO MAP**  
( Orthophoto is from 2019 aerial photography )  
9909 Willow Street

DATE:	May 7, 2021
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LEGEND:	
<span style="display:inline-block; width:15px; height:15px; background-color:yellow;"></span> A2 - Rural	<span style="display:inline-block; width:15px; height:15px; background-color:grey;"></span> I2 - Industrial Heavy
<span style="display:inline-block; width:15px; height:15px; background-color:orange;"></span> C1 - Commercial Local	<span style="display:inline-block; width:15px; height:15px; background-color:lightgreen;"></span> MA1 - Upland Tourist Commercial Marine
<span style="display:inline-block; width:15px; height:15px; background-color:lightcoral;"></span> C2 - Commercial General	<span style="display:inline-block; width:15px; height:15px; background-color:purple;"></span> PU - Public Use
<span style="display:inline-block; width:15px; height:15px; background-color:lightcyan;"></span> C9 - Chemainus Commercial	<span style="display:inline-block; width:15px; height:15px; background-color:orangeyellow;"></span> R3 - Residential One and Two-Family
<span style="display:inline-block; width:15px; height:15px; background-color:lightblue;"></span> CD2 - Comp. Dev. (Chemainus Quay)	<span style="display:inline-block; width:15px; height:15px; background-color:lightpink;"></span> R3-MF - Residential Medium Density Multi-Family
<span style="display:inline-block; width:15px; height:15px; background-color:lightorange;"></span> CD6 - Comp. Dev. (Chemainus Aritsan Village)	<span style="display:inline-block; width:15px; height:15px; background-color:darkorange;"></span> R7 - Residential Multi-Family
<span style="display:inline-block; width:15px; height:15px; background-color:lightcoral;"></span> CD10 - Comp. Dev. (Urban Medium Density)	<span style="display:inline-block; width:15px; height:15px; background-color:darkred;"></span> R8 - Residential Multi-Family Apartment
<span style="display:inline-block; width:15px; height:15px; background-color:lightcoral;"></span> CD13 - Comp. Dev. (Grnd. Oriented Urban Res.)	<span style="display:inline-block; width:15px; height:15px; background-color:lightblue;"></span> W2b - Light Comm. Water Lot (Marine-Fueling, Hotel)
<span style="display:inline-block; width:15px; height:15px; background-color:lightcoral;"></span> CD16 - Mixed Use Commercial Core	<span style="display:inline-block; width:15px; height:15px; background-color:lightorange;"></span> W3a - Mixed Use Comm. Water Lot (Marine-Fueling)



**ZONING MAP**  
9909 Willow Street

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**POWELL CUNNIN LEWIS**  
**BC LAND SURVEYORS**

**ATTACHMENT 1**

Victoria, BC V8V 3L5

Phone: 382-8CLS/2257

Facsimile: 382-1377

File: 4891-G0

In the matter of:

*Lot 77, Section 18, Range 5, Chemainus District, Plan 303-A*

Parcel Identifier: 000-835-846

In the Municipality of North Cowichan

Owner: FROTT / MORRIS  
Solicitor: WONG & IVERSON  
Mortgagee: ROYAL BANK OF CANADA

I have inspected the residential premises shown at 9909 Willow Street and hereby certify that the said structures are situate with respect to nearby boundaries as shown on the sketch below. This document is prepared for mortgage or municipal inspection purposes only. There are no encroachments.

Field survey the 19th day of March, 1993.

Dated this 20th day of March, 1993.

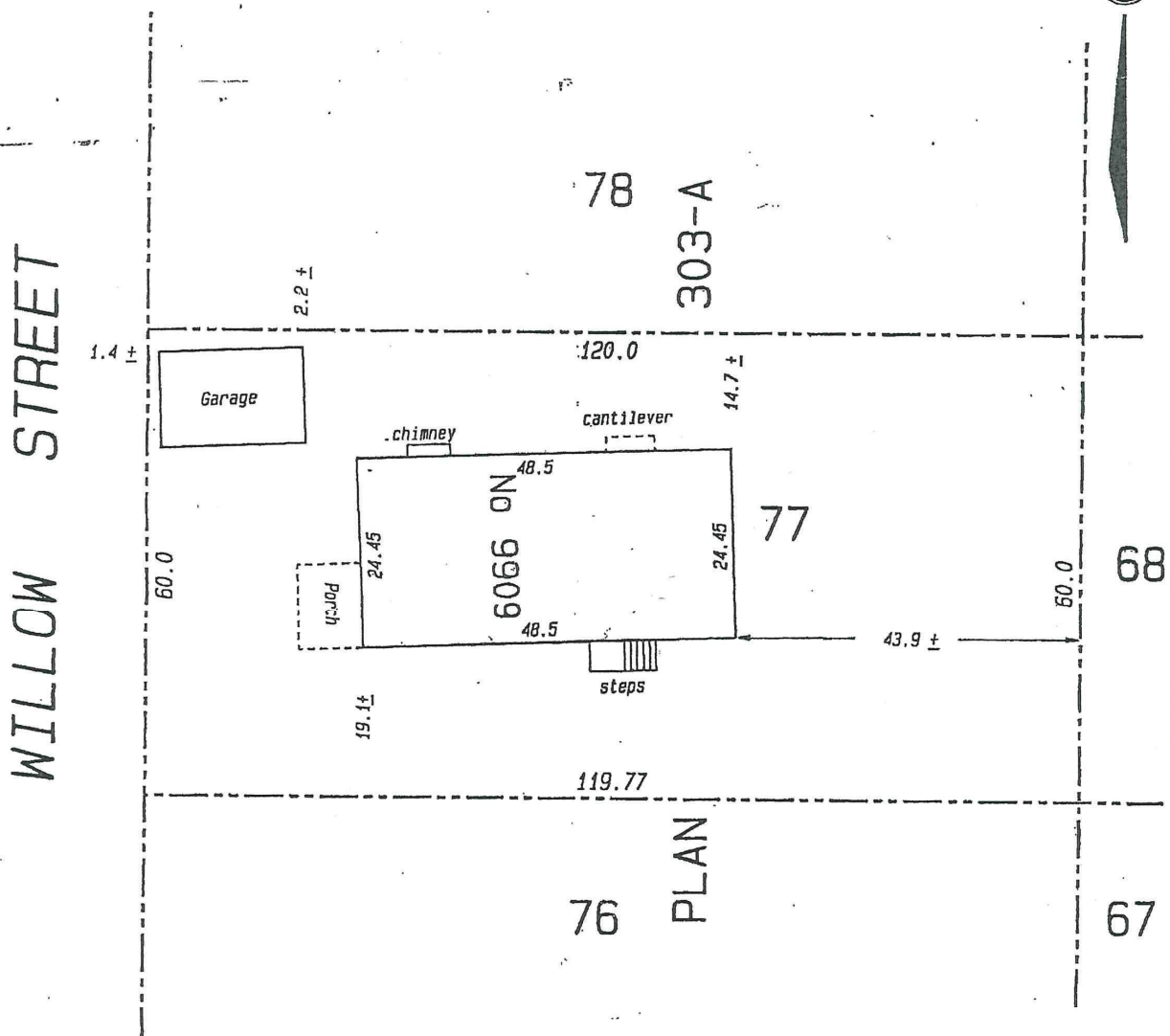
*S C A L E - 1 inch = 20 feet*

*All distances shown in feet and decimals thereof*

Bruce V Lewis, B.C.L.S. ©

Not a true copy unless sealed

*NOTE: No Lot Posts found, clearances may vary.*



My original intention was to repair the existing structure which was built in the in the late 1920's to early 1930's (see attached picture of this building dating from that time period). As work progressed we discovered the extent of decay in the foundation was considered non-repairable. (See pictures.) What I would like to do is pour a proper concrete foundation and replace the original decaying structure with new construction material.

I live in "Old-Town" Chemainus, in a home built almost 100 years ago (1923-24). My intention would be to keep the finished structure appearance the same as the house it sits beside, as it would be keeping with the same form and style of that era so it doesn't look out of place.

I would like to continue using this workspace/studio to store and repair equipment associated with my businesses (commercial seafood diver and professional fishing guide).

The current zoning is R3 with a permitted Front Yard Setback of 5.0 metres (Section 58 (6) b). My proposed Front Yard setback is 1.0 metre, a difference of 4.0 metres. I will move the structure away from the street .57 metres to achieve the proposed 1.0 metre FY setback. I will also reduce the accessory building's length by 1.88' from the original length of 18.25' to 16.37' to ensure a 4'1" separation (eve to eve) from the principle dwelling.

As the accessory building is not sited parallel with the property line I would like to adjust the east rear wall into my property by .3 metres to conform with the 1.0 metre Side Yard Setback (Section 58 (6) b). The street wall/corner already conforms with the 1.0 metre setback, it's just that the structure was built so long ago it isn't quite square with the property line.

In the past 90+ years the street surface level has increased by approximately 20" through infrastructure improvements. I would like to raise the floor level by the same amount so it's level with the street, which is the explanation for the 3 stairs to access the door.

The current roof pitch is a 6/12 and I would like to change that to an 8/12 pitch mimicking the house's pitch and adding consistency to the house and studio design.



**Site Photos 2021-05-04**



- North-west view of the front and side of the historic accessory building.



- Interior view, the building was temporarily braced in order to keep it from collapsing due to decay.

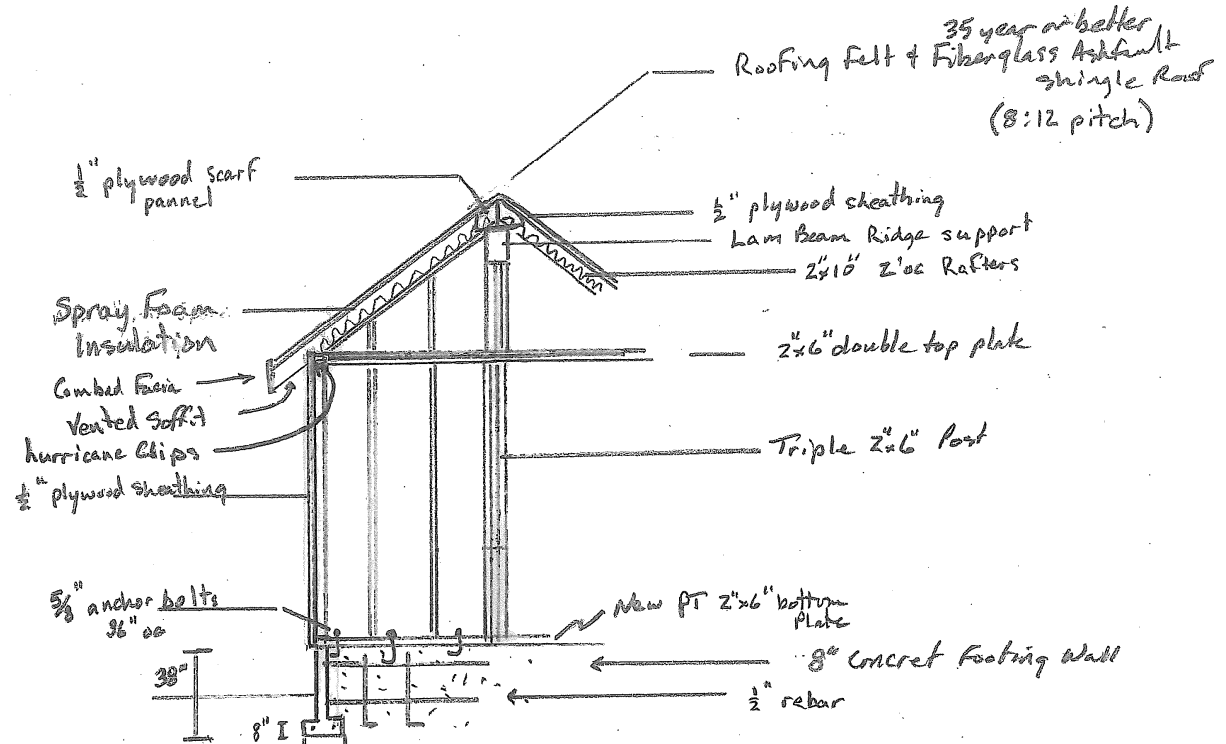
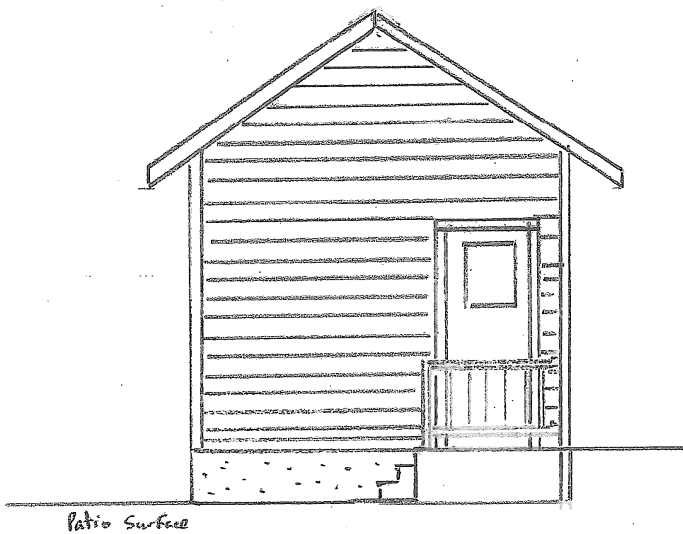


- View from the rear of the building, the applicant is requesting to reconstruct this accessory building as follows:
  - Pour a concrete foundation, and level the accessory building with the street.
  - Straighten the building and bring the side yard setback into compliance, from 0.67 metre to 1 metre.
  - Move the building back from the front lot line, from 0.57 metres to 1 metre (the proposal).
  - Reduce the building length from 5.56 metres to 5 metres in order to comply with the building separation requirements (S.16 of Zoning Bylaw No. 2950)
  - Adjust the roof pitch from 6/12 to 8/12 to be consistent with the principal single-family dwelling.

9909 WILLOW St Chemainus Bc

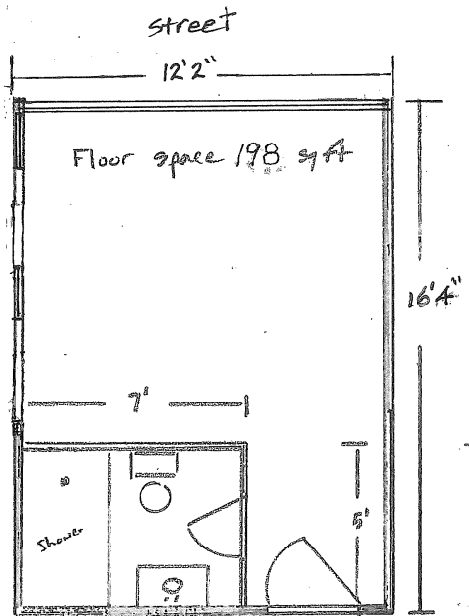
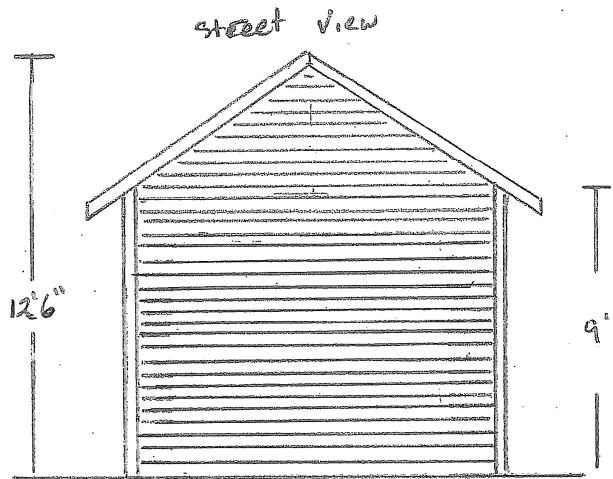
Building Specs

Back view



Scale 1/4" = 1 Ft

- \* Footing at 18" below grade
- \* exterior siding to match house installed with tyvek and rainscreen
- \* Floor 4" concrete slab on 2" foam and 6 mm vapour barrier

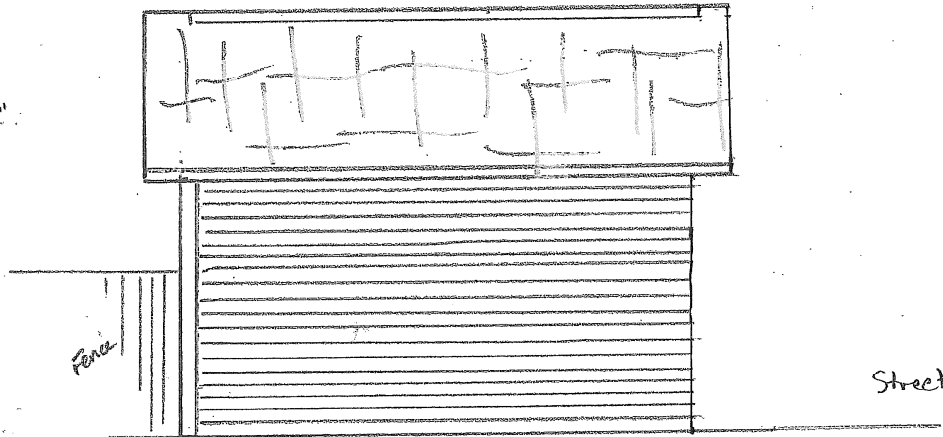


Conduit for water lines

Conduit for electrical

3" waste water pipe

9909 WILLOW ST Chemainus BC.



Scale 1/4" = 1 ft

## Development Variance Permit

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**Permit No:** DVP00069/21.05

**Registered Owner:** Derrick Biggar and Louise Bourassa

**Subject Property:** 9909 Willow Street      **Folio:** 15188-000

**Description of Land:**

Parcel Identifier: 000-835-846

Legal Description: Lot 77, Section 18, Range 5, Chemainus District, Plan 303-A

**Proposal:**      **To vary Section 58(6)(b) of Zoning Bylaw 1997, No. 2950 by reducing the required front yard setback for an accessory building from 5.0 metres to 1.0 metre.**

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1. This permit is issued subject to compliance with all relevant District of North Cowichan bylaws.
2. This permit applies to the lands described above, and any buildings, structures, and other development thereon (hereinafter called 'the Lands').
3. Pursuant to section 498 of the *Local Government Act* (RSBC 2015, c. 1), this permit varies Section 58(6)(b) of Zoning Bylaw 1997, No. 2950 by reducing the required front yard setback for an accessory building from 5.0 metres (16.4 feet) to 1.0 metre (3.28 feet).
4. The Lands subject to this permit shall be developed strictly in accordance with the terms and conditions of this permit and in accordance with Schedule 1 – Site Survey.
5. This permit is not a building permit.
6. Pursuant to section 504(1) of the *Local Government Act*, this permit lapses two years from date of issue if the holder of the permit does not substantially start any construction with respect to which this permit is issued.

**Date of Development Variance Permit Approval/Issue by Council or its Delegate:**

This permit was approved on **December 15, 2021** and issued on **December XX, 2021**.

This permit expires on **December XX, 2023**.

The Corporation of the District of North Cowichan

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**Designated Municipal Officer**