

DATE OF MEETING August 29, 2022

AUTHORED BY PAYTON CARTER, PLANNING ASSISTANT, CURRENT PLANNING

**SUBJECT DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP435  
– 740 HALIBURTON STREET**

## **OVERVIEW**

### **Purpose of Report**

To present for Council’s consideration, a development variance permit application to reduce the minimum side yard setback requirement from 1.5m to 0.5m to allow the siting of an existing non-conforming single residential dwelling at 740 Haliburton Street.

### **Recommendation**

That Council issue Development Variance Permit No. DVP435 at 740 Haliburton Street to reduce the minimum required side yard setback on the south property line from 1.5m to 0.5m.

## **BACKGROUND**

A development variance permit application, DVP435, was received from ER Homes Ltd., to vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) to reduce the minimum side yard setback requirement for an existing non-conforming single residential dwelling. The property contains a single residential dwelling and a detached garage. The house was originally constructed in the early 1900s, prior to the establishment of zoning setback requirements.

In 2018, a Building Permit (BP124674) was issued to facilitate a renovation with a secondary suite. The scope of work approved through BP124674 was within the limits provided for with regard to non-conforming structure under the *Local Government Action* Section 532 (1). During the course of a regular inspection, the inspector observed that the work had gone beyond the scope of the permit in that the dwelling had been fully reconstructed. A Stop Work Order was issued. The applicant subsequently applied to the Board of Variance in December 2019; however, the application was denied. On 2020-MAR-05, Council approved that a Notice of a Bylaw Contravention be registered on the property title.

Following discussions with Staff, a development variance permit application was received in August 2022, to allow the reconstruction of the non-conforming dwelling to be completed.

### **Subject Property**

<i>Zoning</i>	R1 – Single Dwelling Residential
<i>Location</i>	The subject property is located on the west side of Haliburton Street, north of Woodhouse Street and south of Robins Street.
<i>Total Lot Area</i>	808m <sup>2</sup>

<i>City Plan</i>	Schedule 2, Future Land Use Designations – Neighbourhood Schedule 9, Development Permit Area (DPA) 4: Abandoned Mine Workings Hazard Schedule 13, Development Permit Area (DPA) 8: Form and Character
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Statutory Notification has taken place prior to Council’s consideration of the variance.

**DISCUSSION**

**Proposed Development**

The applicant proposes to complete the reconstruction of the dwelling including elevating the building to add a secondary suite on the lower level, within the existing foundation.

**Proposed Variance**

*Minimum Required Side Yard Setback*

The minimum required side yard setback for a single residential dwelling in the R1 zone is 1.5m. The applicant proposes to reduce the minimum required side yard setback on the south side from 1.5m to 0.5m. This represents a variance of 1.0m.

Staff support the proposed side yard (south) setback variance, which will allow the completion of the dwelling reconstruction on the original foundation. There is an existing storm sewer line located within the northern portion of the subject property. The location of the storm sewer line limits the buildable area of the site to the southern portion of the property. The dwelling adheres to all other zoning requirements, and the proposed variance will not impact the residential use of the subject property.

As a condition of the Development Variance Permit, the applicant will be required to enter into an agreement for a Statutory Right-of-Way for the existing unprotected storm sewer line, to be registered prior to final inspection.

The applicant has provided letters of support from neighbours at 725, 729, 734, 743, and 745 Haliburton Street.

**SUMMARY POINTS**

- Development Variance Permit No. DVP435 proposes a variance to reduce the minimum side yard setback (south side) from 1.5m to 0.5m to allow reconstruction of an existing non-conforming single residential dwelling.
- The applicant has submitted several letters of support from neighbouring property owners.
- Staff support the proposed variance.

**ATTACHMENTS:**

ATTACHMENT A: Permit Terms and Conditions  
ATTACHMENT B: Context Map  
ATTACHMENT C: Location Plan  
ATTACHMENT D: Site Survey  
ATTACHMENT E: Building Elevations  
ATTACHMENT F: Aerial Photo

**Submitted by:**

Lainya Rowett  
Manager, Current Planning

**Concurrence by:**

Jeremy Holm  
Director, Development Approvals

Dale Lindsay  
General Manager, Development Services  
/ Deputy CAO

# ATTACHMENT A

## PERMIT TERMS AND CONDITIONS

### TERMS OF PERMIT

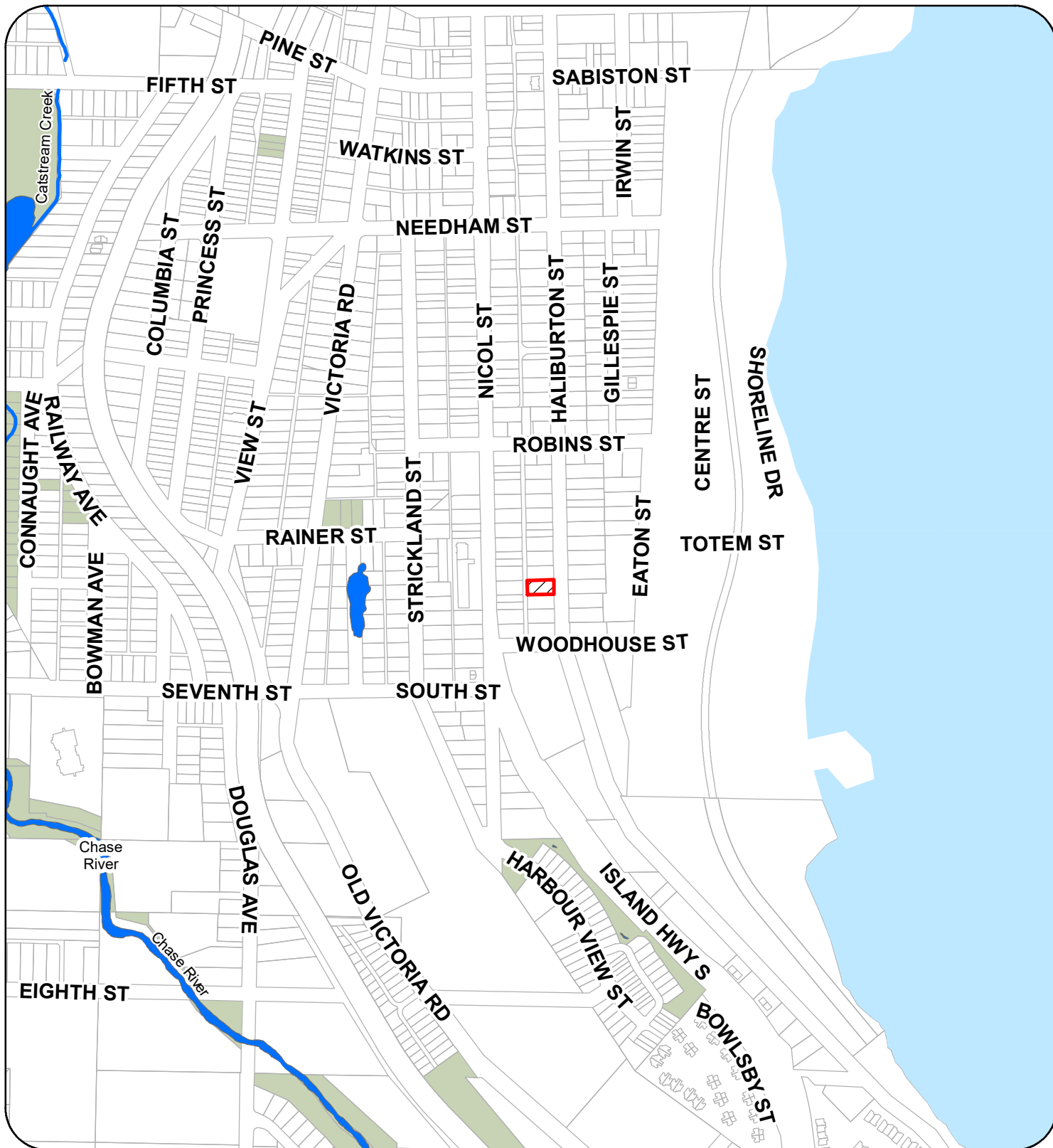
The “City of Nanaimo Bylaw 2011 No. 4500” is varied as follows:

1. *Section 7.5.1 Siting of Buildings* – to reduce the minimum required (south) side yard setback from 1.5m to 0.5m for the proposed development.

### CONDITIONS OF PERMIT

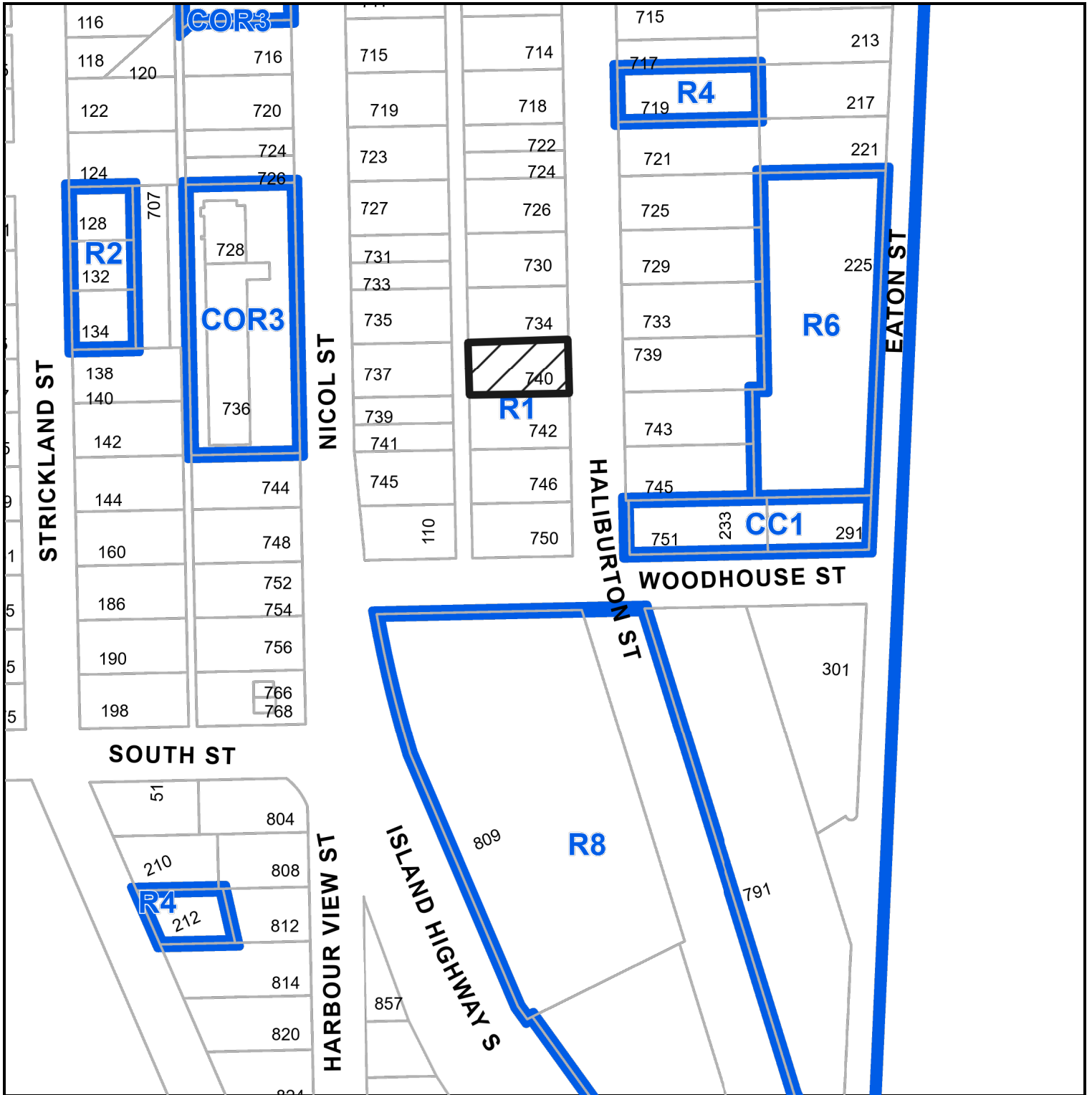
1. The subject property shall be developed in accordance with the Site Survey, prepared by Turner & Associates Land Surveying Inc., dated 2022-JUL-20, as shown in Attachment D.
2. Registration of a 4.0m wide Statutory Right-of-Way for an existing unprotected storm sewer line prior to final inspection.

# ATTACHMENT B CONTEXT MAP



740 HALIBURTON STREET

# ATTACHMENT C LOCATION PLAN



**DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP00435**

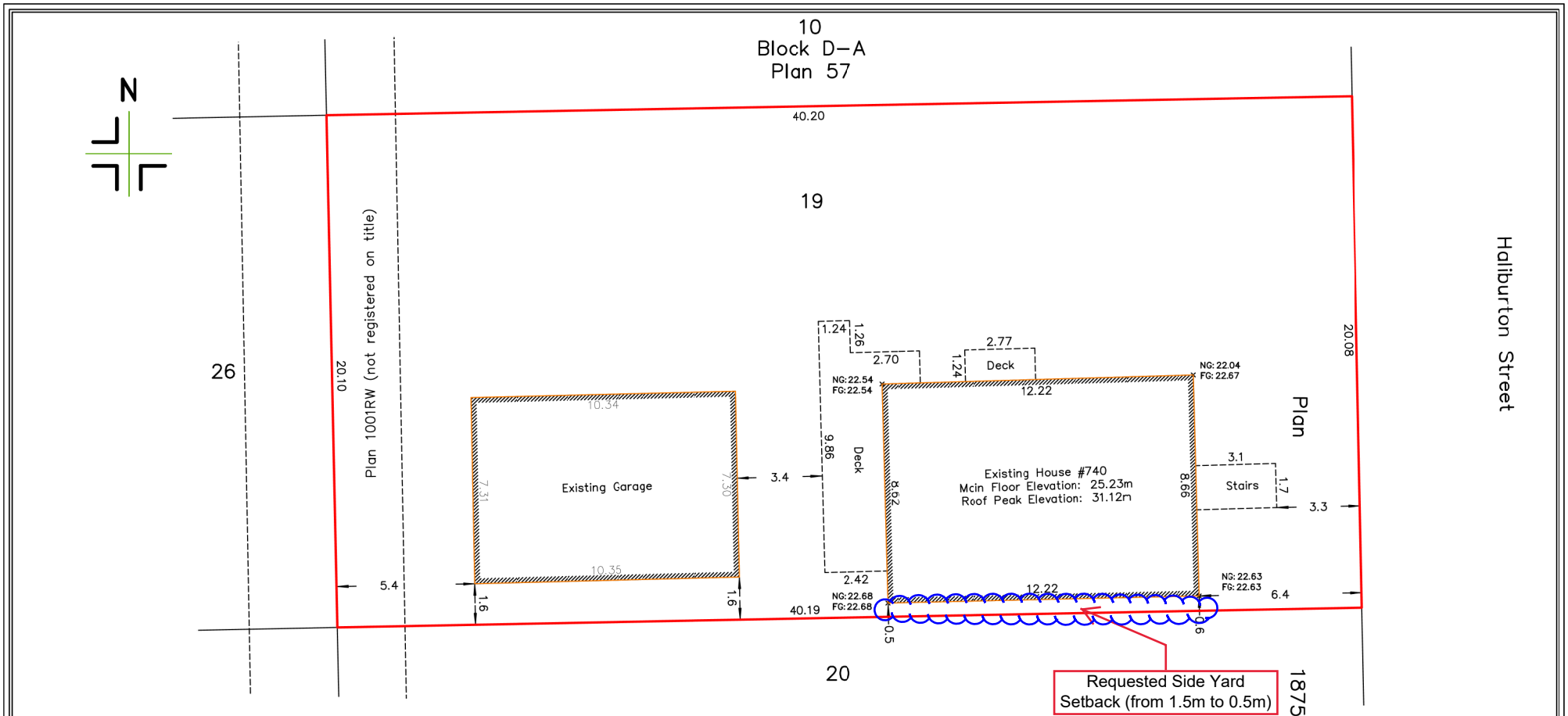


**Subject Property**

CIVIC: 740 HALIBURTON STREET

LEGAL: LOT 19, SECTION 1, NANAIMO DISTRICT, PLAN 1875

# ATTACHMENT D SITE SURVEY



THIS SITE PLAN SHOWS THE RELATIVE LOCATION OF THE EXISTING AND PROPOSED STRUCTURES/IMPROVEMENTS WITH RESPECT TO THE BOUNDARIES OF THE DESCRIBED PARCEL ONLY.

THIS SITE PLAN SHALL NOT BE USED TO DEFINE PROPERTY LINES OR PROPERTY CORNERS.

THE SIGNATORY ACCEPTS NO RESPONSIBILITY FOR AND HEREBY DISCLAIM ALL OBLIGATIONS AND LIABILITIES FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY DIRECT OR INDIRECT USE OR RELIANCE UPON THE SITE PLAN BEYOND ITS INTENDED USE.

CONSTRUCTED BUILDING HEIGHT-HOUSE	
Average natural grade	22.47
Average finished grade	22.63
Maximum building height (R1 Zone)	9.00
Maximum building elevation	31.47
Constructed roof peak elevation	31.12
Constructed main floor elevation	25.23

**RECEIVED**  
**DVP435**  
**2022-AUG-16**

Current Planning

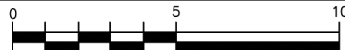
**NOTE:**

THE REGISTERED TITLE OF THIS PROPERTY IS AFFECTED BY THE FOLLOWING LEGAL NOTATIONS AND REGISTERED CHARGES, LIENS AND INTERESTS:  
M76301

THIS SITE PLAN DOES NOT VERIFY COMPLIANCE WITH THE ABOVE NOTED DOCUMENTS.

**SITE PLAN SHOWING:**  
LOT 19, SECTION 1,  
NANAIMO DISTRICT, PLAN 1875.

Client: ER HOMES LTD	Civic Address: 740 HALIBURTON STREET, NANAIMO
File: 18-132	Property Zoning: R1



SCALE 1:150

DISTANCES AND ELEVATIONS ARE IN METRES.

GEODETTIC ELEVATIONS ARE DERIVED FROM CONTROL MONUMENT 77H5099 (CGVD28BC DATUM).

Certified correct this 20th day of July, 2022.

**Ryan Turner**  
YNBXB2

Digitally signed by Ryan  
Turner YNBXB2  
Date: 2022.08.16  
14:37:06 -07'00'

B.C.L.S.

(This document is not valid unless originally signed and sealed.)

**Turner & Associates**  
land surveying™

250.753.9778  
435 Terminal Avenue North  
Nanaimo, BC V9S 4J8  
www.turnersurveys.ca

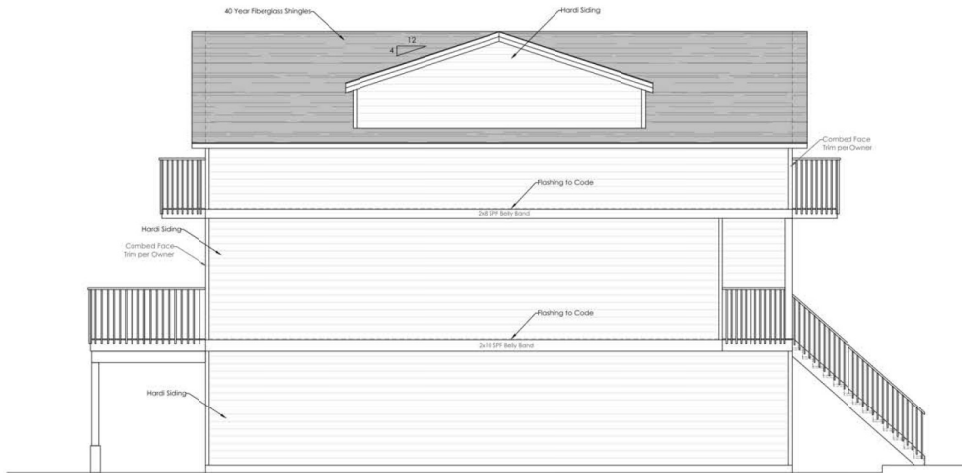
# ATTACHMENT E BUILDING ELEVATIONS



NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION

- Roof truss system is to be designed by professional and sealed by their engineer in accordance with applicable design standards
- Contractor is responsible to provide cladding and/or exterior finishes details demonstrating compliance with BCRC 2018 9.17
- Heating and/or HVAC system to be designed and installed by a professional contractor in that field in compliance with BCRC 2018 9.12
- Energy consultant is to provide Effective R Value calculations and ensure installation to minimum code standards per BCRC 2018 9.36
- Client to provide window type, orientation, etc. to window supplier when ordering window products. Only window size is shown on plan

This and all other drawings included in this drawing set are the exclusive property of SKYLINE DRAFTING and DESIGN 1190183 BC LTD are not to be duplicated in whole or in part or reproduced in any way without their written consent

Engineer Seal is for structural capacity of components of the building, including anchorage and seismic restraint.



445 Hillcrest Avenue  
Nanaimo, BC V9R 3M2  
(250) 709-0490

Project Description:  
**RENOVATION**

Client Name: ER Homes  
Site Address: 740 Hollburton St.  
City: Nanaimo, BC  
Municipality: City of Nanaimo  
Telephone No: 250-714-2746

Drawing Description:  
**ELEVATIONS**

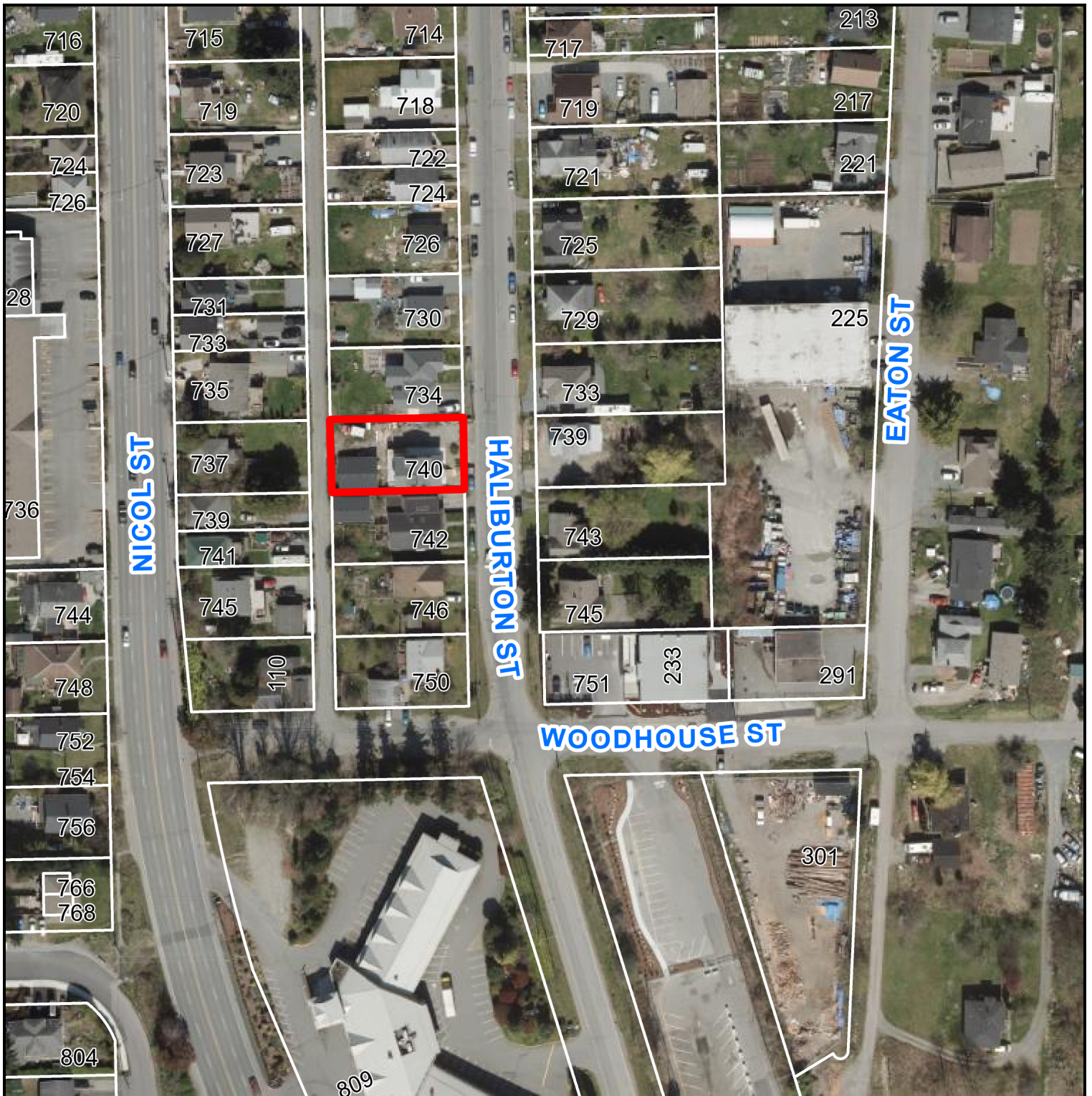
Drawn By: William Porter  
Checked By: W. Porter  
Dated: 30/11/2021  
Issued For: Preliminary  
Scale: As Noted Below  
File Number: 638-21

RECEIVED  
DVP4.35  
2022-JUL-21

Scale: 1/4" = 1'-0"  
Sheet No. Page 3

DIMENSIONS ARE TO THE OUTSIDE OF SHEATHING OR CONCRETE

**ATTACHMENT F  
AERIAL PHOTO**



**DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP00435**

 740 HALIBURTON STREET