An appeal was received on April 30, 2021, from the applicant, appealing the Municipal Planning Commission's decision to deny a development permit for a detached garage with guest house at 805 Sunhaven Way (Lot 10 Block 7 Plan 1823MC) in the Summer Village of Sunbreaker Cove, due to non-compliance with the Land Use Bylaw.

Under the provisions of the *MGA* the Subdivision and Appeal Board may deny the appeal and refuse the permit; or allow the appeal and approve the application; or allow the appeal and approve the application with variations to the permit.

NOTICE BEING GIVEN by mail to the appellant/applicant and owners of property located within 200' radius of the proposed development on May 6<sup>th</sup>, 2021, and by publication in the Sylvan Lake News on May 13<sup>th</sup> & May 20<sup>th</sup>.

#### **Summer Village of Sunbreaker Cove – Municipal Planning Commission**

**April 12, 2021** 

Agenda Item

#### **Development Permit Application**

#### **Background:**

An application was submitted on behalf of the registered owners of 805 Sunhaven Way (Lot 10, Block 7, Plan 1823MC), in the village of Sunbreaker Cove for demolition of the existing garage and a new garage with guest house. This property is located in the R1 District (Residential District). The proposed garage with guest house meets the height requirement and the proposed parcel coverage is 23.8% and under the maximum 50%. 2 or 3 trees will be removed, these trees will be replanted on the east side of the proposed driveway and parking area. This will be a side entry garage and the proposed size of the garage will be 57.85m² (622.75ft²), which is permitted. The Land Use Bylaw states that accessory building's combined footprints shall be no larger than 8% of the parcel's total area, with the proposed development this footprint would be at 7.4%.

#### **Discussion:**

This application is before MPC for the following reasons:

- Guest House is listed as a discretionary use; therefore, the decision must come from the Municipal Planning Commission.
- The proposed side yard setback of 0.91m (3ft.) does not meet the minimum requirement of 1m (3.28ft) and requires a 0.08m (0.28ft) variance.
- The proposed front yard setback of 1.82m (6ft.) does not meet the minimum requirement of 3.65m (12ft.) and requires a 1.82m (6ft.) variance.

#### **Recommendation:**

A "discretionary use" means a use which may be compatible with other uses in the district, for which a Development Permit may be issued upon an application having been made. The proposed size is comparable to other similar developments in the village.

"The Development Authority may approve an application for Development Permit even though the proposed development does not comply with this bylaw, if in the opinion of the Development Authority; The proposed development would not:

- (i) Unduly interfere with the amenities of the neighbourhood, or
- (ii) Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land."

Administration feels that the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels. The setback variances will allow the existing foundation to be used for the proposed development and will provide an adequate distance between the dwelling and the garage with guest house. After reviewing all relevant planning documents, it is the recommendation of administration to approve the application for the detached garage with guest house as a discretionary use with the side and front yard variance requested.

#### **Conditions:**

If approved, Administration would recommend the following conditions:

- All parcels shall be graded to ensure that storm water is directed to a drainage ditch without crossing adjacent land, except as permitted by the Development Authority. All maintenance and upkeep shall be the responsibly of the property owner. A lot grade certificate may be required at completion to ensure that proper drainage on the property exists.
- Exterior of the garage to be finished to match or compliment the finish of the existing dwelling.
- Completions Deposit of \$5,000.00.
- An accessory building erected or placed on a parcel shall not be used as a dwelling unit.
- Electrical power from the property line to any buildings situated on this parcel to be constructed underground.
- Trees to be replanted according to landscaping plan.
- Height of the garage with guest house shall not exceed 25ft.
- Footing check survey required from an Alberta Land Surveyor at the time of footings prior to continuation of construction to ensure compliant with setbacks.
- The guest house shall not have a kitchen or other cooking facilities.
- In situations where a detached dwelling is being rented out and there is a guest house on the parcel, the guest house shall not to be rented out to a separate party other than those renting the detached dwelling.

#### **Authorities:**

The MPC may:

- Grant a variance to reduce the requirements of any use of the LUB and that use will be deemed to comply with LUB.
- Approve application even though the proposed development does not comply or is a non-conforming building if:
  - o It would not unduly interfere with the amenities of the neighborhood, or

- Materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land, And
- o It conforms with the use prescribed for that land or building in the bylaw.
- Consider a Variance only where warranted by the merits of the proposed development and in response to irregular lot lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements, except there shall be no variance for Parcel Coverage or Building Height.

For a discretionary use in any district:

- The Municipal Planning Commission may approve an application for a Development Permit:
  - With or without conditions;
  - Based on the merits of the proposed development, including it's relationship to any approved statutory plan, non-statutory plan, or approved policy, affecting the site;
  - Where the proposed development conforms in every respect to this Land Use Bylaw; or
- May refuse an application for a development permit based on the merits of the proposed development, even though it meets the requirements of the Land Use Bylaw; or
- Subject to provisions of section 2.4 (2), the Municipal Planning Commission shall refuse an application for a development permit if the proposed development does not conform in every respect to the Land Use Bylaw.

#### **Decision:**

In order to retain transparency of the Commission, Administration recommends one of the following:

- 1. Approve the application with or without conditions (Section 642 of the MGA), or
- 2. Deny the application stating reasons why (Section 642(4) of the MGA).

To the attention of the Sylvan Summer Villages Development Authority,



#### **Existing and Proposed uses**

We are long time summer residents of Sunbreaker Cove; having owned the property since 1975. In all those years we have always enjoyed spending weekends and time in the summer at the cottage, as well working in our garden and using the lake. We hope to continue using our property in the summer for many years to come with all the wonderful friends and neighbours we have been lucky to meet. Over the years the family has grown from a single family with 3 kids and now includes 5 grandkids and more adults. Our existing structure has 2 bedrooms and 1 bathroom and regularly has a family of 5 plus grandparents there.

There is also a small original uninsulated garage that was built many years ago. Our dream is to replace the old garage with a new structure that would contain a double garage with 2 bedrooms and a bathroom above. This would allow us to spread out our family more and to invite more of the family to stay at one time.

With the proposed site plan, storm water will be diverted into the road allowance to ensure it does not affect the existing property or the neighbouring properties.

Water supply and sewage treatment will be connected to the existing facilities on the property. The septic tank was inspected to ensure it could accommodate the proposed development. Please refer to the "A11 Septic tank inspection report" document

#### Demolition plan

There is an existing original wooden uninsulated single garage which we would be interesting in replacing with our new double garage. Our intention would be to dismantle it by hand using crowbars and hammers. The roof which is a straight seamed metal roof will be removed first. Then by pulling off each of the existing boards one at a time or in small panels of boards, there should be little to no dust or noise resulting. The floor is only wooden boards as well, so the impact on the existing land is minimal and the land will ultimately be dug up for the new garage structure.

#### Tree/Shrub removal

When the property was first purchased in 1975 it looked to be farmland as there were no trees on it. We have since planted all the trees and bushes that now exist on the property. To accommodate the new garage structure, we would need to remove two large pine trees (T-10 &T-7 indicated on the "A10 Vegetation Site Map" document).

When they are cut down, they can fall into a short grass area. This will not affect any other trees or bushes. We may have to remove one more pine tree (T-6 on the "10 Vegetation Site Map" document) if we find that it impedes our ability to properly use the driveway, as it is on the outer edge of the proposed shift in the driveway. This pine tree can also be dopped in a short grass area within the property without affecting any other trees or bushes. Once construction is complete, two or three new trees will be planted on the east side of the proposed Driveway & Parking area.

#### Letter of Intent for Variance Request

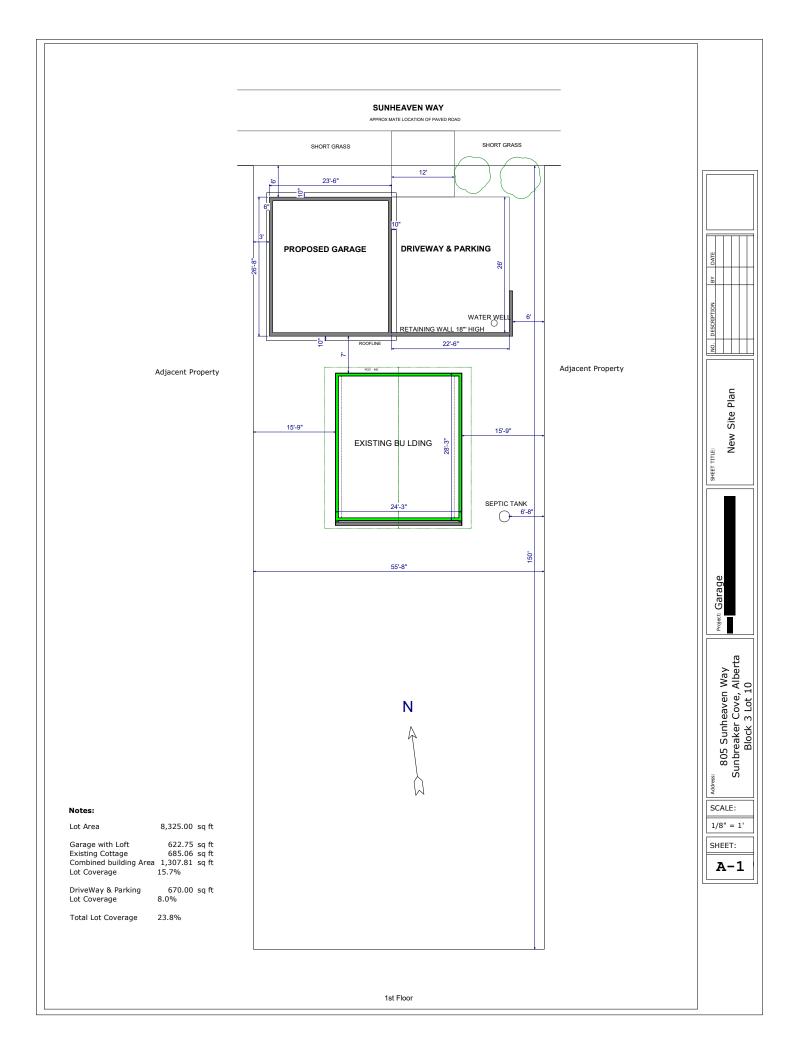
We are kindly requesting the following variance to the existing requirements. The existing garage is 3 feet from the west property line and 4 feet to the property line facing the road. The existing garage is facing the road. We would like to replace the existing garage with a double garage and face it parallel to the road. The variances requested would be

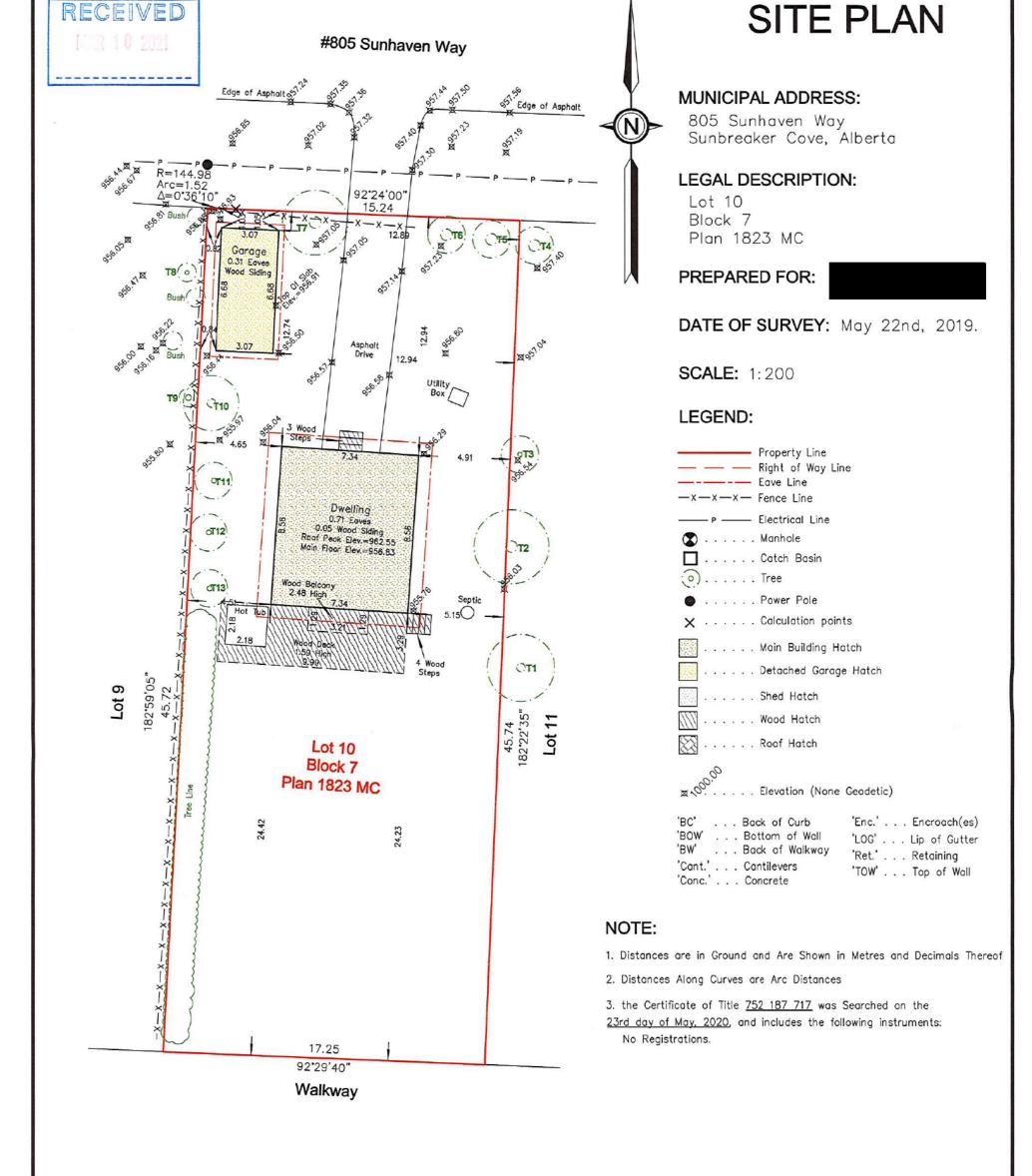
- 1. To keep the wall distance to the west property at 3 feet. Eves to be 2 ¾ feet from the property line
- 2. The distance to the north property line beside the road to be 6 feet to ensure it remains 8 feet away from the existing cottage.

We will be utilizing stucco for the exterior finish and the roof will also be corrugated metal to increase the fire rating.

This property is on the outside of a curve of Sunhaven Way and would not impede any sight lines for drivers. We are directly across from a farmer's field so there is no impact on access or views from adjacent residents, as there are none. The property to the east is our own unimproved property and, on a corner, so there is no impact there. We have already spoken to the owners to the property to the west of us and they have no concerns about our plans. We feel that by your discretion and permission for the above requested variance we will be able to build the structure we would like and not have it sitting so close to our existing cottage. We believe that there will be little impact to the community as we realistically only have one neighbour and the proposed structure would not affect traffic on Sunhaven Way. Thanks for kindling considering our request.







#### TREE SCHEDULE:

Tree No.	Variety	Callliper (±)	Canopy (±)	Height (±)	Location	Disposition
T1	Coniferous Tree	0.23	1.50	3.60	in Adjacent Property	to Stay
T2	Coniferous Tree	0.31	2.00	7.20	in Adjacent Property	to Stay
<i>T3</i>	Deciduous Tree	0.12	1.00	3.60	in Adjacent Property	to Stay
T4	Coniferous Tree	0.31	1.00	10.00	in Adjacent Property	to Stay
T5	Coniferous Tree	0.31	1.00	10.00	In Subject Property	to be Decided
T6	Coniferous Tree	0.31	1.00	10.00	In Subject Property	to be Decided
<i>T7</i>	Coniferous Tree	0.31	1.80	10.00	In Subject Property	to be Decided
T8	Deciduous Tree	0.11	0.50	7.20	in Adjacent Property	to Stay
Т9	Deciduous Tree	0.16	0.50	4.50	in Adjacent Property	to Stay
T10	Coniferous Tree	0.23	1.50	9.00	In Subject Property	to be Decided
T11	Coniferous Tree	0.13	1.00	7.20	In Subject Property	to be Decided
T12	Coniferous Tree	0.13	1.00	7.20	In Subject Property	to be Decided
T13	Coniferous Tree	0.13	1.00	7.20	In Subject Property	to be Decided

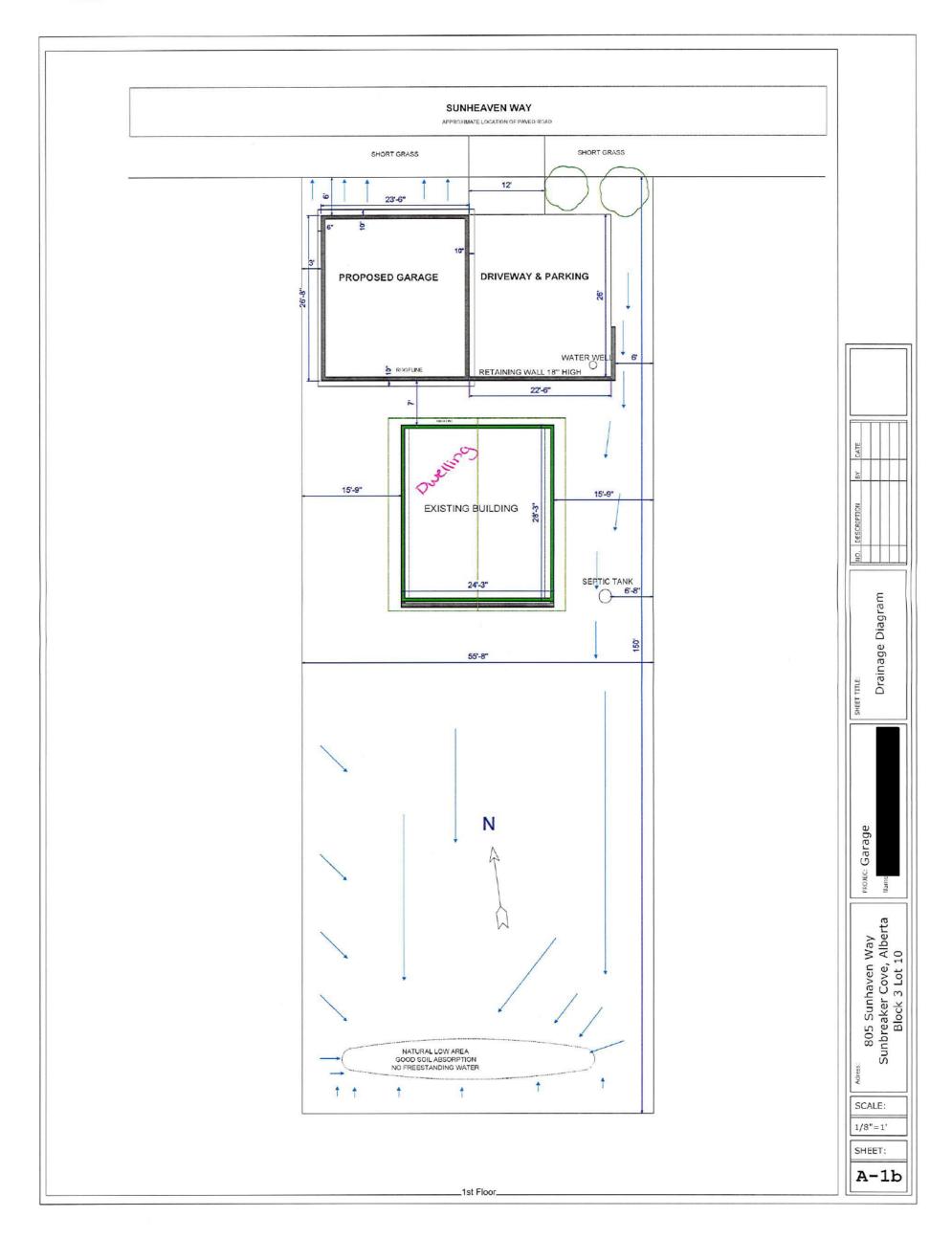


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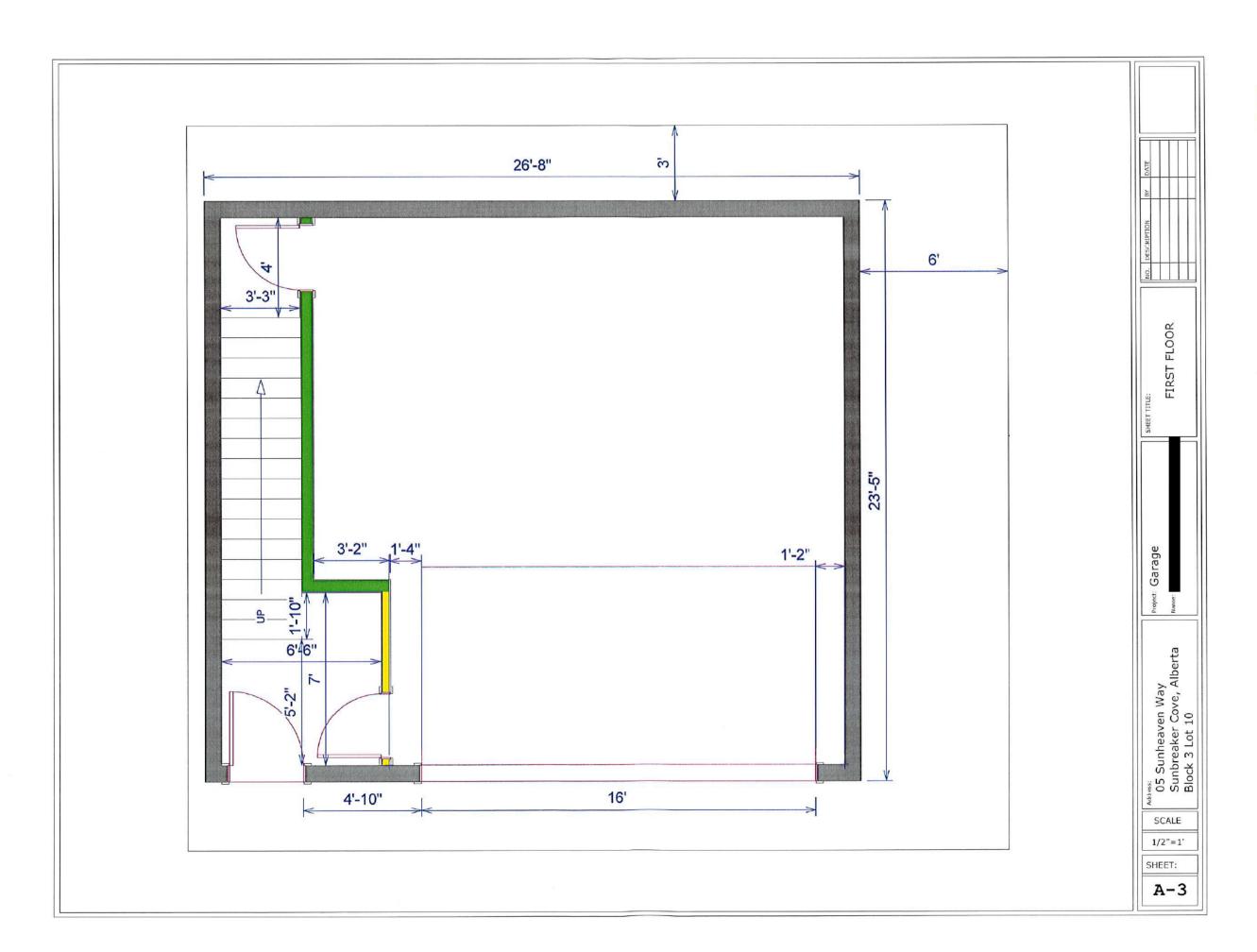
Surveyed: AJ Drawn: SZ

#1, 3175 68 Street N.W. P. 403-542-0679 Calgary, Alberta, T3B 2J4 F. 403-775-4171

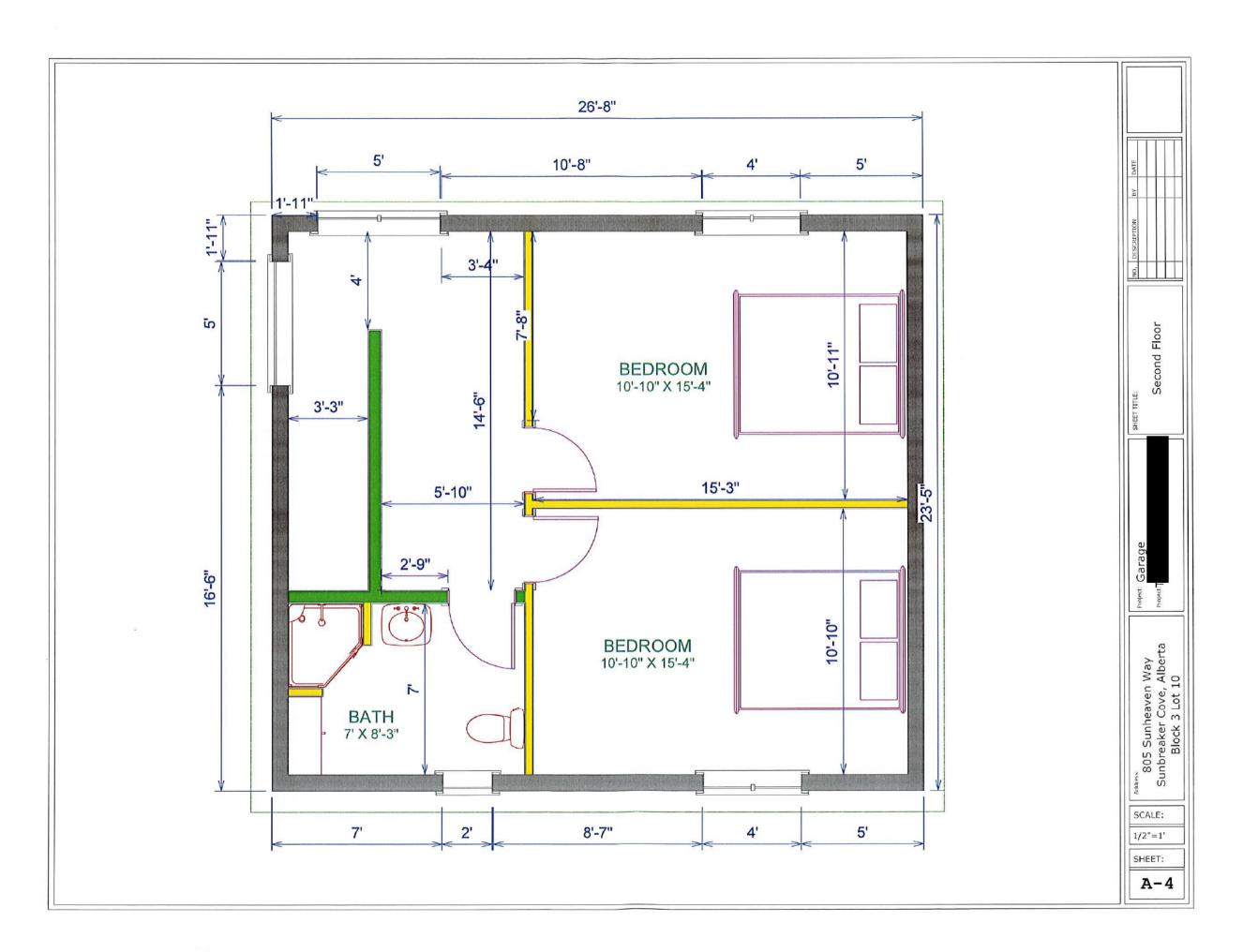






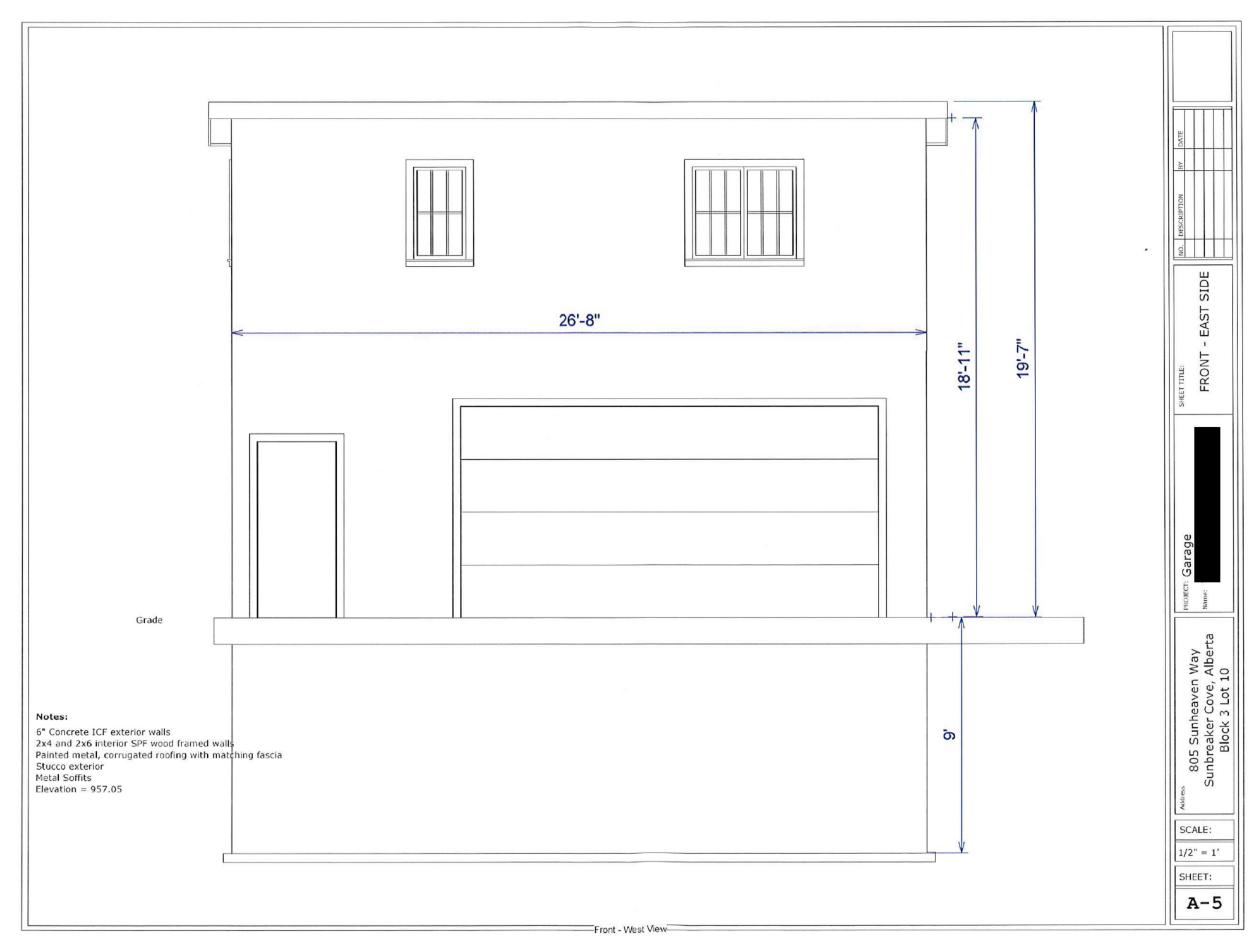


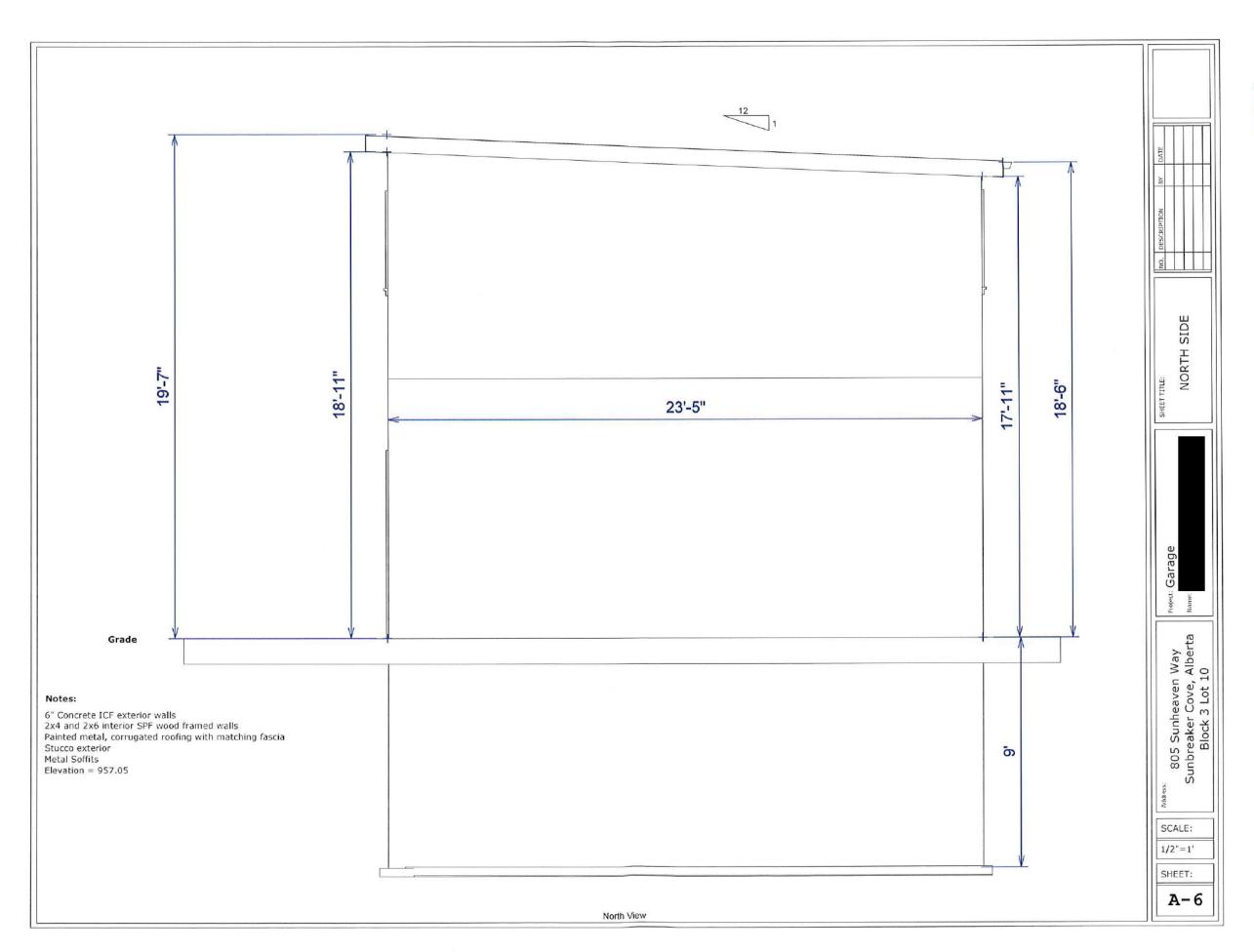




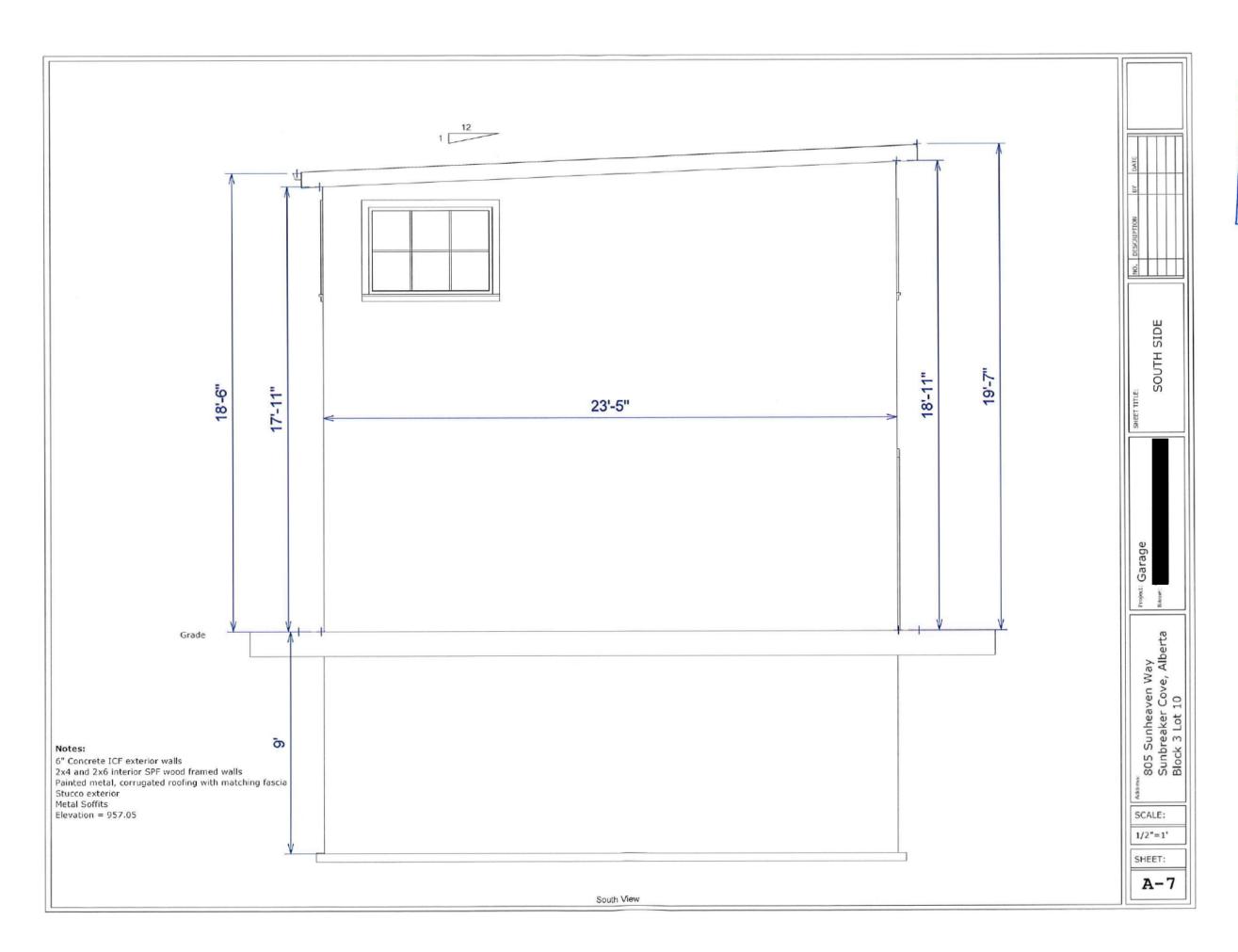
















## Google Maps 805 Sunhaven Way



Map data @2021, Map data @2021

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# 805 Sunhaven Way











Directions

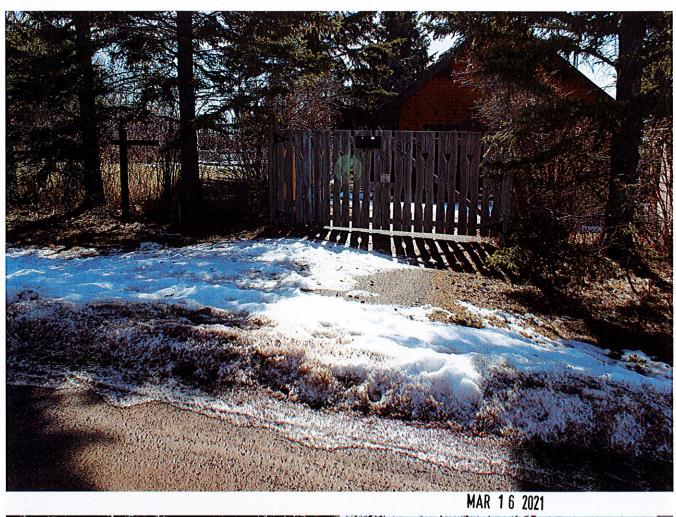
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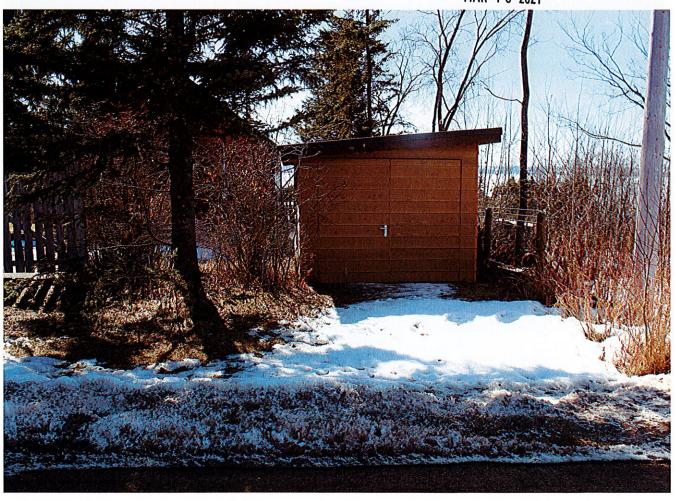
Nearby

Send to your phone

Share

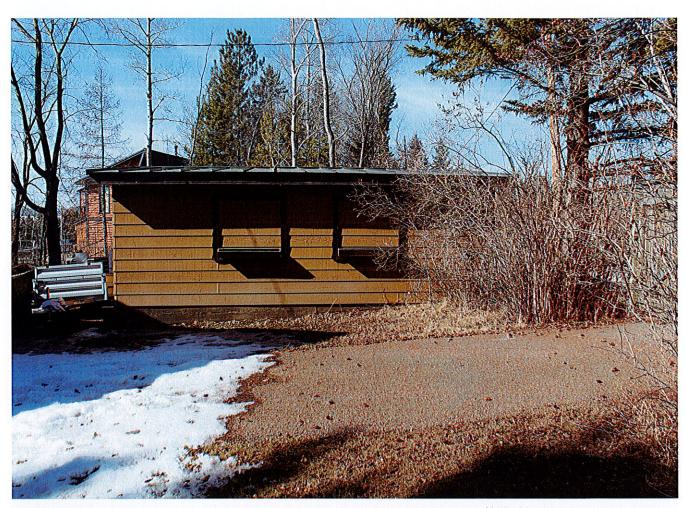
#### **Photos**







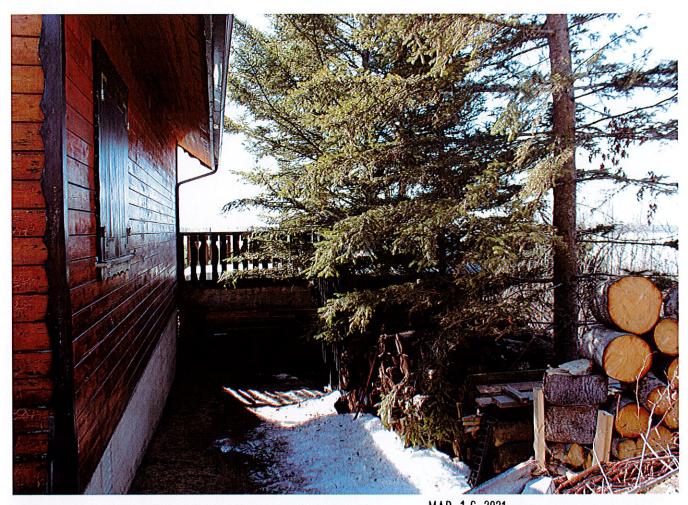


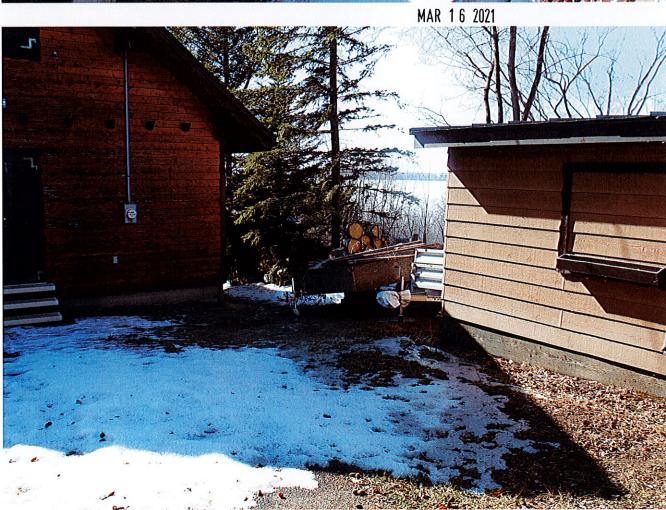


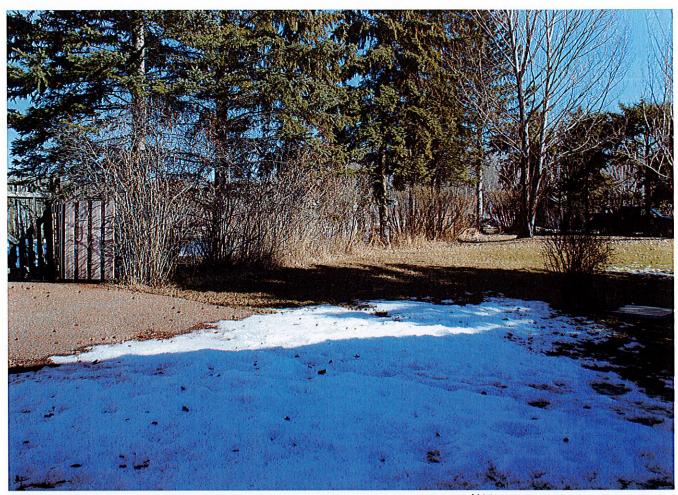




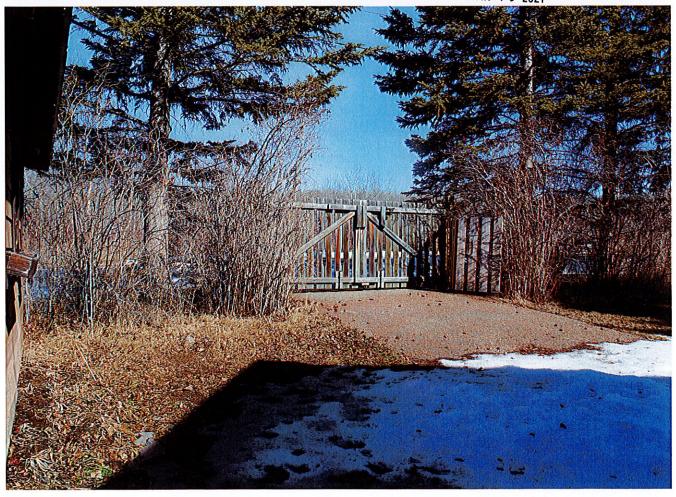






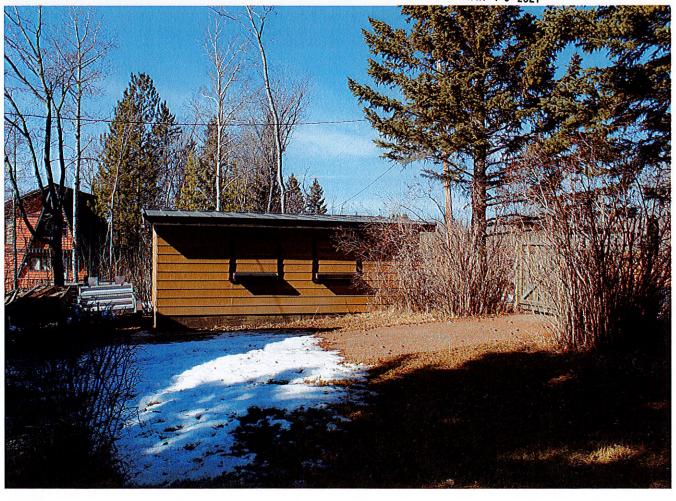


MAR 1 6 2021











#### Summer Village of Sunbreaker Cove March 15, 2021 Municipal Planning Commission Minutes Page 1 of 2

Minutes of a Municipal Planning Commission Meeting of the Summer Village of Sunbreaker Cove, Province of Alberta, held March 15, 2021, at the Summer Village Administration Office in Sylvan Lake, Alberta.

PRESENT: Keith Kimball via Zoom

Member-at-Large: Debbie Ricalton via Zoom
Member-at-Large: Harald Mueller via Zoom
CAO: Tanner Evans via Zoom
Development Officer: Kara Kashuba via Zoom

Recording Secretary: Teri Musseau

Applicant(s): Robert Christen via Zoom

Colette Gilbert via Zoom

Gallery: Andrea Hunt via Zoom

**CALL TO ORDER:** Chair Kimball called the meeting to order at 9:04 a.m.

**AGENDA:** 

MPC-21-004 Moved by Debbie Ricalton to approve the agenda as presented.

CARRIED

#### **DEVELOPMENT APPLICATIONS**

#### 1. 1126 Breakers Way - Tourist Home

Application for a Tourist Home at 1126 Breakers Way (Lot 6 Block 6 Plan 4146RS)

#### 2. 805 Sunhaven Way – Detached Garage with Guest House

Application for a Tourist Home at 1309 Breakers Way (Lot 10 Block 7 Plan 1823MC)

Kara Kashuba, Robert Christen, Colette Gilbert, and Andrea Hunt left the meeting at 9:12 a.m.

#### **DECISIONS**

MPC-21-005

Moved by Keith Kimball to approve the application for a tourist home at 1126 Breakers Way subject to the following conditions being met to the satisfaction of the Development Officer:

- The development permit is only valid for 1 year from the date of issuance. A new development approval will be required at the time should the applicant wish to continue with the tourist home use.
- Tourist homes shall be contained within the principle building and therefore garage suites shall not be used.
- Notwithstanding part three, section 2(3) of the Land Use Bylaw, no recreation vehicle shall be used as accommodation for tourist home guests.

Initials

#### Summer Village of Sunbreaker Cove March 15, 2021 Municipal Planning Commission Minutes Page 2 of 2

- The maximum number of people staying overnight in a tourist home shall be 8.
- The owner/operator of the tourist home is responsible for informing the Summer Village Office of any changes in the alternate owner/operator's information.
- The minimum length of stay shall be no less than 7 days in the peak season between May 1 until September 30. Otherwise, it shall be no less than 3 days.
- The tourist home shall always abide by the community standards bylaw regardless of who is occupying the home.
- Tourist homes shall not display any sign advertising the tourist home
- Parking must be in place on the property or the road allowance in front of the property, of a minimum of one stall.

**CARRIED** 

MPC-21-006

Moved by Debbie Ricalton to deny the application for a detached garage with guest house at 825 Sunhaven Way subject to the following reasons:

- Proposed development is in contravention of the setbacks as defined in the Land Use Bylaw
- The proposed 50% reduction of the front yard setback in combination with the proposed building height is considered to be excessive and may cause sightline issues along Sunhaven Way.
   CARRIED

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MPC-21-007

Moved by Chair Kimball that the Municipal Planning Commission meeting be adjourned at 9:39 a.m.

**CARRIED** 

KEITH KIMBALL, CHAIR
TANNER EVANS, CAO

Initials



#### Summer Villages Administration Office

Bay 8, 14 Thevenaz Industrial Trail Sylvan Lake, AB T4S 2J5 Ph: (403) 887-2822 Fax: (403) 887-2897

### **NOTICE OF DECISION**

# **Municipal Planning Commission**

April 12, 2021

Robert Christen



#### **RE: DEVELOPMENT APPLICATION – DETACHED GARAGE**

Robert Christen submitted an application on March 10<sup>th</sup>, 2021 for the construction of a detached garage with guest house, on the property located at 805 Sunhaven Way (Lot 10, Block 7, Plan 1823MC) in the Summer Village of Sunbreaker Cove.

#### FINDING OF FACT:

Upon hearing and considering the representations and the evidence of the parties concerned the Board find the facts in the matter to be as follows:

- 1. The proposed side yard setback of 0.91m (3ft.) does not meet the minimum requirement of 1m (3.28ft.) and requires a 0.08m (0.28ft.) variance.
- 2. The proposed front yard (street side) setback of 1.82m (6ft.) does not meet the minimum requirement of 3.65m (12ft.) and requires a 1.82m (6ft.) variance.

#### **DECISION OF THE MUNICIPAL PLANNING COMMISSION:**

The Summer Village of Sunbreaker Cove Municipal Planning Commission decided to deny the discretionary use/variance application for the construction of a detached garage and garage house for the following reasons:



#### Summer Villages Administration Office

Bay 8, 14 Thevenaz Industrial Trail Sylvan Lake, AB T4S 2J5 Ph: (403) 887-2822 Fax: (403) 887-2897

- 1. The proposed development is in contravention of the setbacks as defined in the Land Use Bylaw.
- 2. The proposed 50% reduction of the front yard setback in combination with the proposed building height is considered to be excessive and may cause sightline issues along Sunhaven Way.

#### Appeal:

Discretionary Use/Variance Request Applications are appealable to the Subdivision and Development Appeal Board, as provided for in Part 17, of the Municipal Government Act. Written statements relevant to the development and reasons for appeal along with a \$400.00 appeal fee should be submitted to the Secretary of the Subdivision and Development Appeal Board of the Summer Village of Sunbreaker Cove, Bay 8, 14 Thevenaz Industrial Trail, Sylvan Lake, Alberta T4S 2J5, within 21 days following the date of this notice. For further information contact the Secretary of the Subdivision and Development Appeal Board, Teri Musseau at 403-887-2822.

Sincerely,

Kara Kashuba

Junior Development Officer

Hemkeslih

Dear members of the Subdivision and Development Appeal Board,

An appeal is being sought based on the decision made by the Municipal Planning Commission which has denied the proposed variance requested. They include:

- The proposed development is in contravention of the setbacks as defined in the Land Use Bylaw.
- The proposed 50% reduction of the front yard setback in combination with the proposed building height is considered to be excessive and may cause sightline issues along Sunhaven Way.

The development application with variances was submitted with the premise that it would fit in with the character of the development, within the Summer Village. While each property is distinct, there are other properties in the Summer Village which were granted similar variances for their detached developments.

For the proposed development, the front yard variance of 6ft was requested for the side entry detached garage to comply with the "Crime Prevention Through Environmental Design" (CPTED) principles. The 7ft space will be utilized to discourage concealment opportunities between the main building and the proposed development. Another factor is the main building roof overhang is 4ft and the proposed development is 10 inches, which allows a 2ft separation between the two roofs for any potential maintenance.

A side yard variance of .28ft was also requested as this is where the existing garage wall is located today. It is facing the road and located 3ft from the front yard, 3ft from the side yard property lines, and extends 25ft down the side yard. The new wall could utilize the same footprint and move to start 6ft from the front yard, if the variance is accepted. This has been discussed with the affected neighbour and he has no issues with it. The walls will utilize ICF (concrete) and stucco to provide a 4 hour fire rating where the Building Code normally requires a 2 hour fire rating.

The building proposed has a height of 18ft 6inches closest to the property line and the max height will be 19ft 7inches which is within the 25ft maximum defined in the land use bylaw. The proposed building floor area is 622 sq. ft and is less than the 796 sq. ft maximum in the land use bylaw. The total coverage of buildings for the lot is 23.8% and is within the land use bylaw which allows for 50%. No sightline issues occur along the road as the proposed development is situated on the outside of a curve of Sunhaven Way and the total height is lower than the surrounding trees.

The front yard variance being sought will not interfered with the amenities of the neighbourhood or use, enjoyment, or value of neighbouring parcels of land. The building proposed is located on the north side of the property, will not affect daylight or sunlight amenities, and the adjacent property is a farmer's field. The roof height for the building proposed will be equivalent to the roof height of the main building on the property and is lower than neighboring buildings and trees. The proposed development will also utilize neutral colours to blend in with the surrounding foliage.

Other than the two variances requested, the proposed development complies with the bylaws of Sunbreaker Cove and sightlines. I hope the information provided will be accepted by the Appeal Board.

This property has been in the family for over 44 years and with that, the family has grown to include a few children and grandchildren who regularly use the property together. There have never been any thoughts given to renting out the property and will continue to keep it in the family for many generations to come. Sunbreaker Cove means so much to the family and we look forward to continue enjoying it with the family and neighbours.

Respectfully

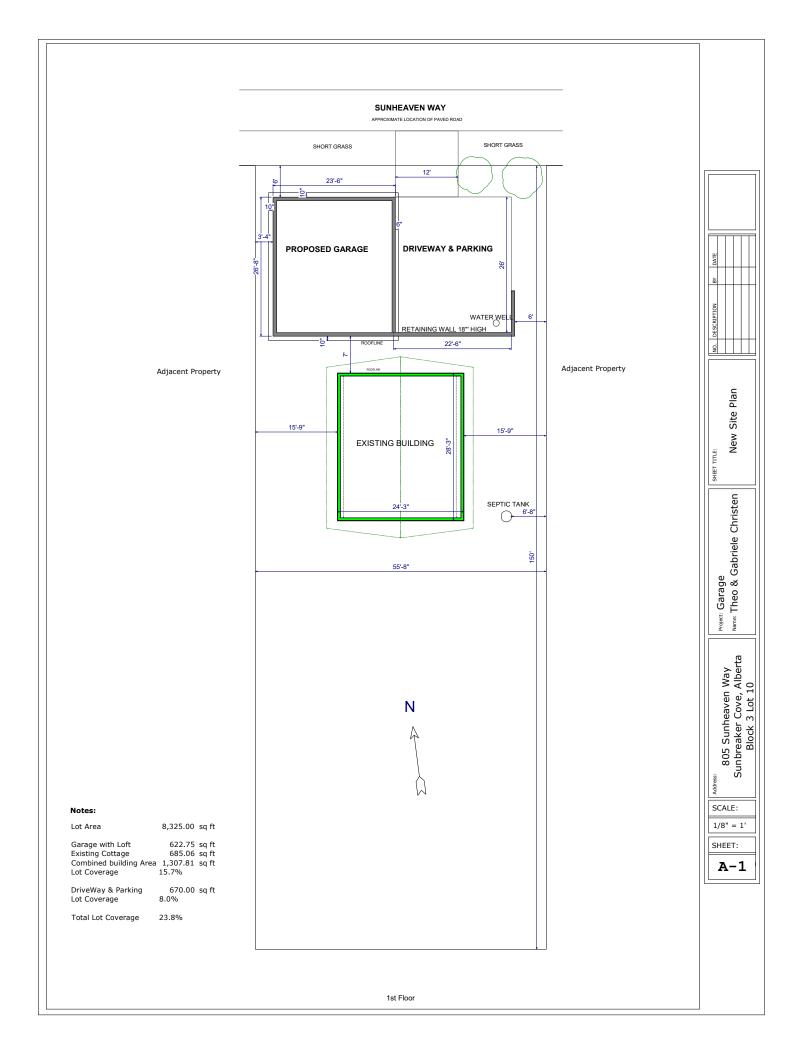
**Robert Christen** 











# SUMMER VILLAGE OF SUNBREAKER COVE PUBLIC NOTICE SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING

This is to advise that an appeal has been received on April 30, 2021, from the applicant, appealing the Municipal Planning Commission's decision to deny a development permit for a detached garage with guest house at 805 Sunhaven Way (Lot 10 Block 7 Plan 1823MC) in the Summer Village of Sunbreaker Cove, due to non-compliance with the Land Use Bylaw.

The Development Appeal Board Hearing will be held as follows:

**DATE:** Friday, May 28, 2021

TIME: 10:00 a.m.

**LOCATION:** Virtually (zoom link available on website)

Documents regarding the development permit, the Municipal Planning Commission's decision, and the notice of appeal are available for public inspection on the Summer Village Administration Office website. The Subdivision and Development Appeal Board will hear the appellant or any person acting on behalf of the appellant; the development authority or a person acting on behalf of the development authority; any person who received this notice and wishes to be heard or a person acting on behalf of that person; and any other person who claims to be affected by the decision.

Written submissions addressed to the Subdivision and Development Appeal Board Secretary and received at the Administration office prior to 4:00 p.m. on May 27, 2021, will be submitted to the Board at the Hearing.

Teri Musseau Subdivision and Development Appeal Board Secretary