

REGIONAL DISTRICT OF NANAIMO
DEVELOPMENT SERVICES COMMITTEE MEETING
TUESDAY, FEBRUARY 27, 2001
(immediately following the Environmental Services Committee Meeting)
(Nanaimo City Council Chambers)

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BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

That pursuant to Section 242.2(I)(h) of the Local Government Act the Committee proceed to an In Camera Meeting to consider a matter of litigation or potential litigation affecting the Local Government.

ADJOURNMENT



**WILLIAMSON & ASSOCIATES
PROFESSIONAL SURVEYORS**
3088 BARONS ROAD, NANAIMO, B.C., V9T 4B5
PHONE: (250) 756-7723 FACSIMILE (250) 756-7724
email: william@nisa.net

FAX / TRANSMITTAL COVER PAGE

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TRANSMITTED BY: Pickup Courier Hand Mail
Facsimile Facsimile Number: **390-6513**

Date: February 15, 2001

Your File:

From: Brian Henning

Our File: 00011

To: Regional District of Nanaimo, Building Inspection

Attention: Stan Schopp

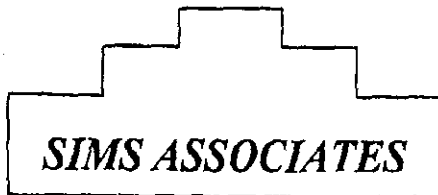
Rc: Lot 32, Nanoose District
2955 Dufferin Road

Stan, further to your letter to Christine Munro of February 12, 2001, we wish to be put on the agenda of the February 20, 2001 Development Services Committee meeting on behalf of our clients.

Yours truly,
Williamson & Associates, Professional Surveyors

Brian S. Henning, B.C.L.S.





LAND SURVEYING LTD

223 Fern Road West
 Qualicum Beach, B.C. V9K 1S4
 Telephone: (250) 752-9121 Facsimile: (250) 752-9241

TO: Linda

COMPANY: RDN

FAX: 250 390 4163

FROM: Helen Sims

DATE: 2001 02 19

No. of Pages 1 (including cover sheet)

File No:

COMMENTS:

Re: Lot 1, Plan 16020, D.L. 9, Cameron District - Perry

I would like to address the Development Services Committee @ the 27 Feb/01 meeting regarding 10% frontage relaxation for the above lot.

Please confirm that I am on the agenda.

Thanks

Helen

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE DEVELOPMENT SERVICES COMMITTEE
MEETING HELD ON TUESDAY, JANUARY 16, 2001, AT 7:30 PM
IN THE CITY OF NANAIMO COUNCIL CHAMBERS,
455 WALLACE STREET, NANAIMO, BC**

Present:

Director E. Hamilton	Chairperson
Director L. Elliott	Electoral Area A
Director B. Sperling	Electoral Area B
Director D. Haime	Electoral Area D
Director G. Holme	Electoral Area E
Director J. McLean	Electoral Area F
Director J. Stanhope	Electoral Area G
Director R. Quittenton	Electoral Area H
Director J. Macdonald	City of Parksville
Director T. Westbrook	Town of Qualicum Beach
Director L. Sherry	City of Nanaimo
Alternate	
Director T. Beech	City of Nanaimo
Director G. Korpan	City of Nanaimo
Director D. Rispin	City of Nanaimo
Alternate	
Director S. Lance	City of Nanaimo
Director B. Holdom	City of Nanaimo

Also in Attendance:

B. Lapham	General Manager, Development Services
S. Schopp	Manager, Inspection & Enforcement
P. Shaw	Manager, Community Planning
N. Tonn	Recording Secretary

ELECTION OF DEPUTY CHAIRPERSON

MOVED Director Westbrook, SECONDED Director Stanhope, that Director Holdom be elected Deputy Chairperson.

Director McLean put forward Director Haime's name for consideration.

Director Haime declined.

The question was called on the main motion.

The motion CARRIED.

DELEGATIONS

Mary Jane Puckrin, re Home Based Business.

Ms. Puckrin spoke in support of the Home Based Business Draft Review with the exception of the use of accessory buildings, allowable floor space usage, sales provisions, hours of operation and non-resident employee provisions.

Gail Adrienne, Nanaimo Area Land Trust, re Request for Annual Core Funding.

Ms. Adrienne and Gillian Butler distributed support letters to the Committee members and asked the Board's support for their request for annual Core funding.

LATE DELEGATIONS

MOVED Director Stanhope, SECONDED Director McLean, that the following late delegation be permitted to address the Committee.

CARRIED

Murray Hamilton, re Application No. 9630 – Horne Lake.

Mr. Hamilton, speaking on behalf of the Horne Lake License Holders Association, raised his concerns regarding public access to Mount Horne at the south boundary of the property via existing road and trail routes. A request was made to the Committee to exclude this item until after the sales agreement is completed, and until the Association members have had the opportunity for further discussion at their AGM.

MOVED Director Sherry, SECONDED Director Elliott, that the delegations be received.

CARRIED

MINUTES

MOVED Director Sherry, SECONDED Director Stanhope, that the minutes of the regular Development Services Committee meeting held on December 19, 2000, be adopted.

CARRIED

CORRESPONDENCE/COMMUNICATION

R.K. Phillips, re Nanaimo Area Land Trust Core Funding.

MOVED Director Korpan, SECONDED Director Sherry, that the correspondence received from R. Phillips with respect to support for the Nanaimo Area Land Trust Stewardship Centre's Core funding appeal, be received for information.

CARRIED

Alain Magnan, Fisheries and Oceans, re Horne Lake.

MOVED Director Korpan, SECONDED Director Sherry, that the correspondence received from Fisheries and Oceans with respect to the Horne Lake Zoning Amendment Application No. 9630, be received for information.

CARRIED

Neil Banera, Ministry of Environment and Lands, re Horne Lake.

MOVED Director Korpan, SECONDED Director Sherry, that the correspondence received from the Ministry of Environment and Lands with respect to the proposed zoning amendment application of part of District Lot 251 and Block 40, Alberni District, be received for information.

CARRIED

Glenn Gibson, Central Vancouver Island Health Region, re Horne Lake.

MOVED Director Korpan, SECONDED Director Sherry, that the correspondence received from the Central Vancouver Island Health Region with respect to Amendment Application No. 9630, be received for information.

CARRIED

Dorthe Jakobsen, Ministry of Energy and Mines, re Horne Lake.

MOVED Director Korpan, SECONDED Director Sherry, that the correspondence received from the Ministry of Energy and Mines with respect to the proposed zoning amendment application No. 9630, be received for information.

CARRIED

BUILDING INSPECTION

Section 700 Filings.

The Chairperson listed each filing and asked that any property owner in the audience wishing to address the Committee come forward when their name was called.

MOVED Director Holme, SECONDED Director Sherry, that a notice be filed against the titles of the properties listed, pursuant to Section 700 of the Local Government Act and that if the infractions are not rectified within ninety (90) days, legal action will be pursued:

- (a) Lot 1, District Lot 110, Plan 46589, Nanoose Land District, 1390 Dorcas Point Road, Electoral Area 'E', owned by B. and F. Horner.;
- (b) Lot A, Block 668, Plan VIS4814, Nanoose Land District, 2920 Matthew Road, Electoral Area 'E', owned by H. and B. Fredheim;
- (c) Lot 3, District Lot 102, Plan VIS3905, Nanoose Land District, 1900 Delanice Way, Electoral Area 'E', owned by T. Davidson.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. 9630 – Horne Lake License Holders Association on behalf of Texada Land Corporation – Area H.

MOVED Director Quittenton, SECONDED Director Holme, that Amendment Application No. 9630 submitted by the Horne Lake Association on behalf of Texada Land Corporation be approved, subject to completion of the agreements and undertakings as outlined in the staff report with the exception of yet to be concluded provisions for public access to Mount Horne at the south boundary of the property via existing road and trail routes in a form satisfactory to the Board at the time of 1st reading of the proposed amendment bylaw.

MOVED Director Sherry, SECONDED Director Macdonald, that the motion be amended to remove the words "with the exception of yet to be concluded provisions for public access to Mount Horne at the south boundary of the property via existing road and trail routes".

CARRIED

The question was called on the main motion as amended.

The motion CARRIED.

DEVELOPMENT PERMIT APPLICATIONS

Application No. 0022 – Lapi & Johnson/Fong – 3251 Island Highway – Area A.

MOVED Director Elliott, SECONDED Director Sherry, that Development Permit 0022 to renovate an existing commercial use on the property legally described as Lot 1, District Lot 2, Bright District, Plan 7407 be approved as outlined in Schedule 1 and subject to the notification requirements of the Local Government Act.

CARRIED

DEVELOPMENT VARIANCE PERMIT

Application No. 0015 – School District 68/Vincent – 1644 MacMillan Road – Area A.

MOVED Director Elliott, SECONDED Director Holme, that Development Variance Permit Application No. 0015, submitted by David Vincent, Agent, on behalf of School District #68 to legalize the siting of an existing structure and vary the minimum setback requirement from 8.0 metres to 2.2 metres for the property legally described as Lot A, Section 16, Range 8 and Section 16, Range 1, Plan 46768, be approved subject to the notification procedures pursuant to the Local Government Act.

CARRIED

FRONTAGE RELAXATION

Ken Kyler on behalf of Wayne Duncan – 1095 Spider Lake Road – Area H.

MOVED Director Quittenton, SECONDED Director Stanhope,:

1. That the request from Ken Kyler, BCLS, on behalf of Wayne Duncan, to amend Covenant Document No. EL061937, to substitute a reconfigured plan of subdivision as shown on the plan prepared by Ken Kyler, BCLS and dated December 5, 2000, be approved subject to all costs associated with the registration of the amended covenant to be paid by the applicant and to the satisfaction of the Regional District.
2. That the request from Ken Kyler, BCLS, on behalf of Wayne Duncan, to relax the minimum 10% frontage requirement for the proposed Lot A, shown on the plan of subdivision prepared by Ken Kyler and Dated December 5, 2000, be approved.

CARRIED

OTHER

Nanaimo Area Land Trust Request for Annual Core Funding.

MOVED Director Korpan, SECONDED Director Sherry, that NALT apply for project funding through the Grants-in-Aid program that is available on an annual basis and that staff continue to work with NALT on contract related services as well as other committees and projects.

CARRIED

Home Based Business Review.

MOVED Director Haime, SECONDED Director Quittenton,:

1. That the summaries of the Community Forums on the Home Based Business Draft Strategy and written submissions from the public, be received for information.
2. That the public consultation process as outlined in Schedule 1, be endorsed.
3. That the application to the provincial government for business licensing be formally rescinded.

CARRIED

IN CAMERA

MOVED Director Holme, SECONDED Director Korpan, that pursuant to Section 242.2(1)(h) of the Local Government Act the Committee proceed to an In Camera Meeting to consider a matter of litigation or potential litigation affecting the Local Government.

CARRIED

ADJOURNMENT

MOVED Director Holme, SECONDED Director Sherry, that this meeting terminate.

CARRIED

TIME: 8:53 PM

CHAIRPERSON

MEMBER NOTICE

TO: Mayor and Council Chair and Regional District Board	REGIONAL DISTRICT OF NANAIMO	
FROM: Chair Robert Hobson Chair, UBCM Environment Committee	FEB - 8 2001	
DATE: February 7, 2001	CHAIR	GMCrS
RE: STREAMSIDE PROTECTION REGULATION	CAO	GMDS
	GMCmS	GMES
	<i>DSC [Signature]</i>	

The provincial cabinet on January 19, 2001 approved a new regulation under the Fish Protection Act to protect fish habitat in urban areas.

Outlined below is a summary of local government participation in the development of the regulation and general highlights of the new regulation.

BACKGROUND

Local government, since the passage of the Fish Protection Act in the summer of 1997, has had ongoing consultations with the provincial government on the development of a regulation to protect riparian habitat. A local government workshop was held in December of 1997; a series of regional and technical workshops were held in 1998 and 1999; and consultation sessions were held on the protection of fish habitat at the 1997, 1998 and 1999 UBCM Convention.

At the 2000 UBCM Convention the Ministry of Environment Lands and Parks provided local government with a draft of the regulation for review. A policy session was held at the conference where local government could raise any concerns that it might have.

The delegates at the conference endorsed the following recommendation:

UBCM indicate that it has been consulted on the Streamside Protection Regulation, and if the federal and provincial government provide the technical assistance and financial resources required for local government to implement the regulation at the community level, it is willing to consider support for the regulation currently outlined.

STREAMSIDE PROTECTION REGULATION

The Streamside Protection regulation will allow local government to use a planning approach to address streamside issues and give it the flexibility to determine the type of process which will work best in their community – watershed management plans; stormwater management; development areas etc.

The regulation establishes a five year time frame for implementing the regulation.

The regulation applies **only** in the following regional districts and all municipalities within them: Capital, Central Okanagan, Columbia-Shuswap, Comox-Strathcona, Cowichan Valley, Fraser Valley, Greater Vancouver, Nanaimo, North Okanagan, Okanagan-Similkameen, Powell River, Squamish-Lillooet, Sunshine Coast, Thompson-Nicola. It also applies to the trust area under the Islands Trust Act.

The regulation addresses a number of concerns identified by local government as follows:

Liability protection

The new regulation provides for clearer liability protection - "due diligence" defence where a local government follows the directive. Fisheries and Oceans Canada has indicated that the measures outlined for the protection of streamside areas in the regulation meet its requirements.

Compensation to private landowners

The new regulation gives local government the ability to address the protection of fish habitat within a planning context using its existing land use powers. Local government within its current planning powers may establish setbacks or right-of-ways deemed to be in the public interest (i.e. sidewalks, roads, parks etc.) when development is proposed. If a local government chooses to expropriate the land it will need to provide compensation as it does today. If the federal or provincial government want to protect a site from development they will need to purchase the property from the owner.

Cost to local government

The current system is costing local government time and resources due to bottlenecks in the decision making process with the agencies, lack of consultation between the three levels of government and general inefficiency in the process. We need to find a better way to do business in this area and the regulation provides an opportunity to do that through the development of partnerships.

Cooperation/Consultation

The regulation takes a cooperative approach to the implementation of the directive through the development of MOU's. The process provides a framework for determining how each level of government will work with the other, what the concerns are and how the concerns will be addressed.

Strategic Approach

The process outlined in the regulation will allow local government to approach the issue in a strategic manner, focusing on those streams most at risk, an MOU process to ensure that a partnership is established and the technical and financial resources are in place to implement the initiative.

Financing

The federal and provincial government has indicated that they will continue to provide funding for:

Mapping and inventory of streams
Technical Assistance
Best Practices Guide

CONCLUSION

The Streamside Protection regulation does not address all of local government concerns related to the provision of technical assistance and the provision of the resources needed to implement it.

The regulation does however provide a framework for local government to identify its needs and to focus its efforts in the community on those areas where a partnership can be developed.

Overall the Streamside Protection Regulation is a positive initiative which will assist in the protection of fish habitat, promote cooperation between the three levels of government, and provide a more effective and efficient framework for decision-making.

More information is available on the Streamside Protection Regulation at http://www.elp.gov.bc.ca/fsh/protection_act/sppd on the Ministry of Environment, Lands and Parks Web site.

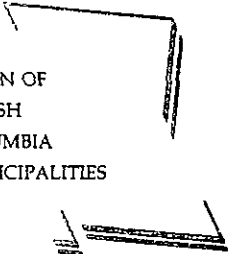
IMPORTANT NOTICE - UBCM RESOLUTIONS

TO: UBCM MEMBERS

FROM: Richard Taylor, Executive Director

DATE: February 6, 2001

RE: 2001 RESOLUTION PROCESS



UNION OF
BRITISH
COLUMBIA
MUNICIPALITIES

Suite 15
10551 Shellbridge Way
Richmond
British Columbia
Canada V6X 2W9
(604) 270-8226
Fax (604) 270-9116
ubcm@civicnet.gov.bc.ca

This memo is designed to assist you in preparing your resolutions and to clarify the procedures employed by the UBCM Resolutions Committee in categorizing resolutions for the UBCM Convention. We urge all elected officials and staff to read the following information.

The Resolutions Committee met on January 25 and reviewed the various comments and concerns received from the membership. You have been heard and we are taking action. The objective for the Resolutions Committee is to consider ALL resolutions at the 2001 Convention. In order to achieve that objective the following strategy and recommendations have been endorsed.

Strategy:

- Ensure there is adequate time for resolutions.
- Disciplined scheduling by all Executive chairs (to cut-off times) for speeches and policy papers.
- Firm chairing – adhere to rules on repetitive speakers.
- Clearer more concise communications to delegates on procedures.

Recommendations:

- That the Resolutions Committee request the Convention Committee to consider allocating an additional 30 minutes for resolutions / policy paper discussion to ensure there is adequate time for all policy matters.
- That the introductory resolutions session, which outlines the resolutions process, be streamlined to provide more time to debate resolutions.
- That session Chairs ensure that speakers are aware of, and adhere to, their allocated time and be firm when enforcing the rules on repetitive debate.
- That prior to Convention, a memo be sent to all members with a copy of the Conference Rules and Procedures for Handling Resolutions indicating that these are the rules and request that all delegates read them prior to attending the Convention.
- That the Committee consider more technological improvements (i.e., visual support for policy papers) but that these improvements not be to the detriment of the flow of the resolution sessions.
- That a minor amendment be made to s. 41. of the Conference Rules and Procedures for Handling Resolutions so the section now reads:
“All resolutions originating at a Convention workshop or seminar (i.e., workshops, Tuesday Forums, etc.) that is not held as a regular plenary session shall be referred to the Executive unless handled pursuant to Step 39 or 40.”

PROCEDURES FOR SUBMITTING RESOLUTIONS TO UBCM

1. DEADLINE FOR RESOLUTIONS

All resolutions must be received in the UBCM office by:

June 30th, 2001

[The deadline is set by UBCM Bylaws - s. 14(a)]

2. SUBMISSION TO AREA ASSOCIATIONS

UBCM encourages all members to submit their resolutions to their respective Area Association for consideration. The Resolutions Book will indicate whether or not the resolution has been endorsed, not endorsed or not presented to the Area Association.

3. SUBMISSION REQUIREMENTS

Resolutions submitted to the UBCM for consideration shall be submitted as follows:

- one copy of the resolution;
- the resolution should not contain more than **TWO** recital ("whereas") clauses;
- background documentation must accompany each resolution submitted, explaining the nature of the problem or concern.

Sponsors should be prepared to speak to their resolutions on the Convention floor (as the resolutions will not be "read" to the delegates by the Resolutions Committee). Resolutions should address topics that are of local government concern province-wide.

NOTE: THE UBCM MUST RECEIVE A HARD COPY OF ALL RESOLUTIONS, PREVIOUSLY FAXED, TO THE UBCM OFFICE FOR CONSIDERATION BY THE DEADLINE DATE FOR RESOLUTIONS - JUNE 30TH.

4. RESOLUTIONS COMMITTEE CONSIDERATION

UBCM policy provides for the separation of resolutions into **three** sections. The following guidelines shall be used in determining the appropriate section a resolution shall be placed in:

- a. **SECTION A** shall contain resolutions of importance to local government that have not previously been debated at the Convention.
- b. **SECTION B** shall be divided into two parts :
 - Part I - Resolutions to be Considered as a Block
These resolutions include:
 - previously considered and endorsed resolutions;
 - resolutions in keeping with the UBCM policy; or
 - other major previously approved policy papers/documents.
 - Part II - Resolutions For Individual Consideration
These resolutions will include:
 - resolutions on topics not previously considered
 - previously considered but **not** endorsed resolutions;
 - topics of local or regional significance;

- topics of national significance and recommended, as appropriate, for consideration by FCM.

Resolutions under Part II that have not been debated by the Convention will be submitted to the Executive for appropriate action [note that the recommendation is printed in the Resolutions Book] and the sponsors advised of the Executive action.

SECTION B resolutions will only be considered after all **SECTION A** resolutions have been completed.

SECTION B resolutions will be dealt with on the Convention floor in the order in which they appear in the Resolutions Book.

- c. **SECTION C** shall contain resolutions that have been consolidated or grouped with other resolutions under **SECTIONS A or B**. Therefore, C resolutions will not be discussed on the floor of the Convention. C resolutions that have been referred to Regional District Day and the Small Talk Forum come forward to the floor of the Convention on Friday and the full membership has an opportunity to consider their recommendations.
- d. The Resolutions Committee shall combine resolutions on similar or related topics wherever possible. This is often done in the form of policy papers. For example, Section C resolutions pertaining to the same topic area are often incorporated into a policy paper or report that will be discussed at the Convention. (ie. *Environment Action Plan*).

5. RESOLUTIONS RECEIVED AFTER THE DEADLINE

Resolutions received after June 30th are not printed in the Resolutions Book and can only be admitted for debate by special motion during the Convention. The criteria for determining what is deemed to be an emergency can be found under item c (as listed below).

- a. Resolutions submitted following the expiry of the regular deadline shall comply with all other submission requirements and be forwarded to the UBCM by the Friday noon preceding the date of the Annual Conference.
- b. Resolutions received after the June 30th deadline shall be examined by the Resolutions Committee and shall be separated into the following categories:
 - **Emergency** resolutions recommended to be placed before the Convention for Plenary discussion.
 - **Late Resolutions** not recommended to be admitted for Plenary discussion.
- c. **Emergency** resolutions are deemed appropriate for discussion only if the topic is such that it has arisen since the regular deadline date for submission of resolutions.
- d. **Emergency** resolutions shall be available for discussion after all **SECTION A** resolutions printed in the Resolutions Book have been debated but not before the time printed in the Convention Program.

6. RESOLUTIONS PROCEDURES

The membership adopted a number of amendments to improve the resolutions sessions and increase the time available for debate. These procedures will continue in 2001:

1. The process for introducing 'B' resolutions will not require each individual resolution to be moved and seconded for introduction to the floor. 'B' resolutions will be introduced as a block to the floor and then discussion will commence on each of the resolutions.
 - *This procedure increases the time available for debate by removing the requirement to have each 'B' resolution moved for consideration.*

2. A category of "emergency" resolutions has been established. Emergency resolutions would only include issues that have emerged after the June 30th deadline and would be recommended to be admitted for debate. Late resolutions not classified as **emergency** (therefore not admitted for debate) would be carried over to next year, and would be referred to the Area Associations for a recommendation.
 - *By creating this category of "emergency" resolutions the membership is made aware that only resolutions of urgency are deemed appropriate for debate. Also, by referring late resolutions that are not classified as emergency to the next year's Convention, members are ensured that these issues are not lost. They will also be forwarded to the relevant Area Association for consideration to ensure the broader membership has an opportunity to make a recommendation on the resolution.*

3. Previously considered and endorsed "B" resolutions are placed into a separate block and moved as a block to avoid repetitive debate on issues that continue to be brought forward and endorsed each year. The Chair will allow exemptions so individual resolutions can be withdrawn from the block for discussion.
 - *This procedure for categorizing 'B' resolution should alleviate much of the repetitive debate that takes place each year on resolutions that are already part of established UBCM policy.*

7. OTHER MATTERS AFFECTING RESOLUTIONS HANDLING

The Resolutions Committee has indicated that:

- it will continue colour coding the covers of policy documents to assist members in identifying which policy matters are being dealt with at different times during the Convention;
- it will be very strict in adhering to the guidelines and will make every effort to ensure that sponsors' resolutions are clear and concise.
- it will endeavour to consider all resolutions submitted (as per guidelines) during the time allocated at the 2001 Convention (see page 1 reference to January 25, 2001 Executive meeting decisions).

Members should be aware that the above policies are not exhaustive but are in addition to the UBCM Bylaws and to the "Conference Rules and Procedures for Handling of Resolutions" that are adopted each year by the Convention.

8. ATTACHMENTS

- 1) Model Resolution
- 2) Guidelines for preparing resolutions to be presented at the UBCM Convention.

MODEL RESOLUTION

SHORT TITLE

Sponsor's Name

WHEREAS ;

AND WHEREAS :

THEREFORE BE IT RESOLVED that

(Note: A second "operative" clause, if it is absolutely required, should start as follows:

AND BE IT FURTHER RESOLVED that

GUIDELINES ON PREPARING RESOLUTIONS FOR UBCM

INTRODUCTION

Outlined below are guidelines to be used in the preparation of a resolution to the UBCM.

THE CONSTRUCTION OF A RESOLUTION

All resolutions contain a preamble and operative clause. The **preamble** describes the issue and the **operative** clause outlines the action being requested. The resolution should answer the following three questions:

- What's the problem?
- What's causing the problem?
- What's the best way to solve the problem?

Preamble:

The preamble commences with a recital, "WHEREAS" clause. Each clause is a separate but concise paragraph providing information as to the nature of the problem or the reason for the request. The preamble should not contain more than two "WHEREAS" clauses.

The preliminary clauses should clearly and briefly set out the reasons for the resolution. If the sponsor believes that the rationale cannot be explained in a few preliminary clauses, the problem should be more fully stated in supporting documentation.

Operative clause:

The "operative clause" begins with the words "THEREFORE BE IT RESOLVED". This clause should be as short as possible and it must clearly describe the action being requested.

The operative clause of the resolution must clearly set out its intent, stating a specific proposal for action by the UBCM. The wording should leave no doubt as to the action being requested and be appropriate to the problem outlined in the preamble.

HOW TO DRAFT A RESOLUTION FOR UBCM

1. *The language of a resolution should be simple, action oriented and free of ambiguous terms.*

A resolution that contains well-chosen words will receive the greatest understanding and will, most likely, succeed in achieving its goal.

2. *Each resolution should embody only one single specific subject.*

Since your community seeks to influence attitudes and actions, the resolution should directly state the desired action. Persuasive communication is unlikely if the audience does not have a clear idea of what action is being requested.

3. *Council or Board resolutions submitted to UBCM should be accompanied by factual information.*

Even the most perfectly constructed resolution, at times, fails to clearly indicate the intent of the action being requested. Where possible a resolution should be accompanied by background information to ensure that the "intent" of the resolution is understood.

Two methods to enhance the clarification of the "intent" of the resolution are:

i. **Supplementary Information:**

The inclusion of a short memo (two paragraphs) from the author, which puts into perspective the background that gave rise to the presentation and eventual adoption of the resolution by local government.

- ii. If a report on the subject matter was presented to council/board in conjunction with the resolution, then a copy of the report should accompany the resolution. If it is not possible to send an entire report, then the essential background information should be extracted and sent with the resolution.

Resolutions submitted without adequate background documentation/information may delay consideration of the resolution until the sponsor has been consulted and material provided outlining the intent of the resolution.

4. ***Resolutions should be properly titled.***

A title will assist in identifying the intent of the resolution and, furthermore, eliminate the possibility of misinterpretation.

A title is usually determined from the "operative clause" of the resolution. For ease of printing in the "Resolutions Book" and for clarity of intent, a title should not comprise more than three or four words.

5. ***Resolutions should contain accurate legislative references.***

The local government who is sponsoring the resolution should ensure that the jurisdictional responsibility has been correctly identified (e.g. ministry or department within the federal or provincial governments).

When references are made within a resolution to particular legislation and responsible ministry, the local government should ensure that the correct Act has been identified.

6. ***Resolutions should deal with issues that are province-wide.***

It is important to ensure that the issue identified in the resolution is relevant to other local governments across the province. This will provide for proper debate on the issue and assist UBCM in effectively representing your concern to the provincial/federal government on behalf of all BC municipalities and regional districts.

Ph 468-9576 esmith@macn.bc.ca

REGIONAL DISTRICT OF NANAIMO	
JAN 29 2001	
CHAIR	SENIOR
CLERK	MEMBER
Bred Info	

2420 Nanoose Road
Nanoose Bay BC,
V9P 9E6
29th January 2001

Regional District of Nanaimo,
6300 Hammond Bay Road,
Nanaimo, B.C. V9T 6N2

Dear Sirs,

Nanoose Bay Rezoning Application for 2470 Apollo Drive

I am writing to express my opposition to rezoning at this time 2470 Apollo Drive, Nanoose Bay, from RS1 to CM7 because it would represent a disorderly extension of the commercial zone in Red Gap Village Centre, in apparent contravention of policies contained in By-Law 1118.

S. 2.1.7 requires commercial development to be "in and around the Red Gap Village Centre core" whereas this site is neither in nor adjacent to the core.

S. 2.1.15(b) requires the evaluation of a rezoning application with respect to its incorporation of building and landscape themes that are compatible with a village centre, whereas this proposal comprises an architectural theme that will be partly residential and partly business and lacking that compatibility.

S. 2.1.15(g) requires that methods of integrating existing and new developments be evaluated for any rezoning application, and this proposed commercial development is not integrated with anything - it would stand alone.

The Village Centre core identified in by-law 1118 currently comprises one of five contiguous lots within an encircling paved highway. Any extension of commercial zoning should commence among the four lots that adjoin the present Village Centre core, for reasons of appearance, parking and traffic compatibility, maintaining visible separation from residential properties, and attractiveness to most commercial entrepreneurs. To now assign priority to an isolated lot away from the commercial core would surely require special conditions. I know of none.

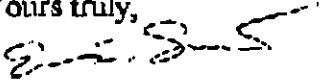
Such special conditions as might exist seem to operate against this rezoning rather than in favour of it. Firstly, this small site is located at a busy intersection in a school zone, with no sidewalk and is therefore hardly the place to encourage business traffic to be entering and leaving a driveway. Secondly, there are already two vacant spaces in the Village Centre core awaiting business occupancy. Should anyone wish to open a medical centre, there is no need to rezone anything.

I also want to express opposition to this particular rezoning on the grounds that it would, I believe, impair the integrity of the planning process by encouraging unlawful development activities. This site has already been publicly posted as a "Medical Centre". A medical business is apparently being carried on there without the required development permit. If rezoning took

place, the integrity of due process would I think be impaired - by conveying a public perception that the readiness of the Regional District to implement planning principles and by-laws can be weakened by any property owner who, hoping to obtain rezoning for a new development, first establishes and conducts the intended use unlawfully.

I feel it is important to the strength of this community that the Board encourage the growth of business and expansion of commercial enterprise here. We need to attract serious long-term entrepreneurship. This would not be helped by fostering a scattering of the commercial focus among Red Gap's residential properties that lack appropriate traffic and pedestrian access, adequate parking, good commercial architecture and compatible landscaping. Nor would it be helped by encouraging would-be developers to first establish their enterprises in areas where they have no authority to locate, especially when properly-located purpose-built commercial facilities are standing empty.

Yours truly,



Eric Smith

c.c. George Holme, RDN Chairman and Director representing Nanoose Bay



REGIONAL DISTRICT OF NANAIMO			
FEB 19 2001			
CHAIR		GMCrS	
CAO		GMDS	
GMCrS		GMES	
		DSE	

MEMORANDUM

TO: Stan Schopp
 Manager, Building Inspection Services

DATE: February 16, 2001

FROM: Allan Dick
 Senior Building Inspector

FILE: 3810-20

SUBJECT: Local Government Act - Section 700 - Contravention of Bylaw Meeting Date - February 27, 2001

PURPOSE

To provide for the Committee's review, proposed Section 700 filings on properties which have outstanding occupancy or safety issues that contravene Building Bylaw No. 1000.

BACKGROUND

The individual area inspectors have worked closely with the property owners to resolve outstanding issues prior to the sending of letters. A minimum of two letters addressing deficiencies has been sent to the registered property owners. Where required, the Manager and/or the Senior Building Inspector have been involved with proposed resolutions. At this time we are unable to approve construction at the indicated addresses.

SUMMARY OF INDIVIDUAL INFRACTIONS

Electoral Area 'D'

- Owners Name: David and Pamela Stalker

Legal Description: Lot 2, Section 12, Range 3, Mountain District, Plan 38230

Street Address: 3033 Jameson Road

Summary of Infraction:

 - owner agreed with bylaw officer to reduce non-conforming kennel to 100 sq. m. August 1999
 - complaint received; Bylaw Enforcement Officer attended site and observed facilities expanded. Owner was informed building permit were required and to reduce size of operation
 - letter sent outlining compliance requirements
 - owner responded requesting more time
 - letter sent informing owner 700 filing recommended
- Owners Name: Trevor Wilkie

Legal Description: Lot 1, Section 7, Wellington District, Plan 26447

Street Address: 6761 Alger Road

Summary of Infraction:

 - 1977 - 1998 Building permit issued and seven (7) subsequent renewals
 - occupancy permit issued for garage in 1992
 - 1998 - decision made for no further renewals
 - 2000 - status inspection performed
 - January 2001 - contacted owner; owner unwilling to commit to time frame for completion

Electoral Area 'E'

1. Owners Name: Christine Munro
Legal Description: Lot 32, Nanoose District
Street Address: 2955 Dufferin Road
Summary of Infraction:
- Stop Work Order posted September 18, 2000 for construction without a valid building permit
 - certified letter sent September 19, 2000
 - received BP application for addition to existing building October 23, 2000
 - letter sent outlining development permit requirements for BP issuance December 14, 2000
 - February 7, 2001 – no development permit application to date

Electoral Area 'G'

1. Owners Name: David and Wendy Zuehlke
Legal Description: Lot 10, District Lot 81, Nanoose District, Plan VIP51544
Street Address: 949 Riley Road
Summary of Infraction:
- permit required notice posted July 6, 2000
 - building permit application received for deck July 12, 2000
 - BP 22970 issued August 23, 2000
 - letter sent December 5, 2000 – no inspections called and deck in use; no response
 - send second letter to call for inspection December 29, 2000
 - attempted to contact owner February 6, 2001; no response; no answering machine
 - again attempted to contact owner February 7, 2001; no response; no answering machine
2. Owners Name: Debra Larsen
Legal Description: Lot A, District Lot 88, Nanoose District, Plan VIP71580
Street Address: 1075/1085 Ravensbourne Lane
Summary of Infraction:
- locating two mobile homes without valid building permits
 - construction of a workshop (196m²) without a valid building permit
 - Board resolution to file contravention notice February 8, 2000
 - Contravention notice filed LTO March 7, 2000
 - Contravention notice removed by Registrar when subdivision registered November 10, 2000.
 - BP issues still not resolved.

RECOMMENDATION

That a notice be filed against the titles of the properties listed, pursuant to Section 700 of the *Local Government Act* and that if the infractions are not rectified within ninety (90) days, legal action will be pursued.

Report Writer

Manager Concurrence

General Manager Concurrence

C.A.O. Concurrence



REGIONAL DISTRICT OF NANAIMO			
FEB 19 2001			
CHAIR		GMCrS	
CAO		GMDS	
GMCrS		GMES	
DSCU			

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

DATE: February 19, 2001

FROM: Stan Schopp
Manager of Inspection and Enforcement

FILE: 3900 20 1000

SUBJECT: Amendment to "Regional District of Nanaimo Building Regulations and Fees Bylaw No. 1000, 1995"

PURPOSE

To review and revise Building Regulations and Fees Bylaw No. 1000, 1995 to reflect current changes in Building Code, legal precedents, implications of the *Homeowners Protection Act*, and expand provisions for temporary structures.

BACKGROUND

Building Bylaw No. 1000 was enacted in 1995 and has been amended (with minor modifications) three times. Permit fees have been reviewed on a continuing basis by staff and have not been increased since 1995. A current review indicates that permit costs are generally consistent with other similar sized jurisdictions and from an operations perspective there is no need for increases at this time as the department is operating in accordance with Board policy at a 70% average cost recovery of fees to tax requisition.

However, several issues are emerging which require consideration of amendments to Bylaw No. 1000. These issues are outlined below:

First, changes to Bylaw No. 1000 are being proposed pursuant to recommendations from our insurers, the Municipal Insurance Association. These changes are in reference to reports of a recent claims experience in an omnibus report on building regulations. The report highlights the need to clarify plan review and inspection policy and specify the duty of the owner in the permit process. These recommendations have been incorporated into the proposed amendments or clarification of the purpose of the bylaw, permit conditions, application requirements and will also be included on the face of the permit.

Staff note that some definitions also require rewording for clarification or harmonization between "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and "Regional District of Nanaimo Building Regulations and Fees Bylaw No. 1000, 1995". This rewording has also been included in the proposed amendments.

Second, the issue of *temporary living facilities* while building a dwelling unit has recently been the subject of some debate. The RDN is one of the few municipalities that allow an applicant to temporarily reside on site while building a home. A previous amendment to Bylaw No. 1000 increased the bonding for this privilege to \$2000 from \$500 and decreased the time frame for temporary occupation from two years to one year. These amendments were necessary due to difficulty in removing the second residence and a large volume of complaints from neighbours. The situation has now reversed itself with a considerable number of concerns being expressed from applicants and representatives of the Island

PAGE 24

Trust, that the time frames are too short and the bonding requirement is onerous. Therefore staff are recommending an increase in the temporary living facilities timeframe from one year to two years and a decrease in the bond from \$2000 to \$1000. Staff has some concerns about these amendments in that they may contribute to difficulties and expense to remove second dwelling units once the new home is complete however, given the changes to enforcement policy and the use of legal consent orders staff support the proposed changes.

Third, prefabricated polyethylene structures have become prevalent in recent years and are readily available at most building supply outlets. These structures are temporary in nature but do not conform to any standards in building code and are unable to be certified on site by a professional engineer. Failing compliance to the above conditions has made it impossible to issue a permit for these structures without amending Bylaw No. 1000. Staff propose amendments to accommodate these *temporary tents* to a certain size and height as long as they conform to current zoning and setbacks from property lines. Amendment of the land use or zoning bylaw would be required to exempt these structures from setbacks, lot coverage or height restrictions should the Board wish to pursue the matter further.

Fourth, RDN solicitors recommend an increase in the plan checking credit given to applications that are certified by professional engineers or architects from 2.5% to 10% to more fairly compensate the applicant for the expense of such certification and transfer the liability for the plan check to the professional.

A synopsis of the major changes proposed in Bylaw No. 1250 is attached. (*See Attachment No. 1*) In addition the newly consolidated bylaw with all proposed amendments has been included for consideration.

ALTERNATIVES

1. To approve first three readings of "Regional District of Nanaimo Building Regulations and Fees Bylaw No.1250, 2001" and refer the bylaw to public notification.
2. Not to approve the bylaw and continue to operate in accordance with Building Regulation and Fees Bylaw No. 1000.
3. To defer approval of Bylaw 1250, directing staff to revise and evaluate specific sections of the bylaw and report back to the next Development Services Committee meeting.

FINANCIAL IMPLICATIONS

There are no significant financial implications other than increased protection for the RDN from liability claims. The additional proposed plan check credit for professional certification applies to a low percentage of building permits and will not appreciably affect department revenue.

LEGAL IMPLICATIONS

The proposed amendments and clarification of the purpose of the bylaw, permit conditions and application requirements as recommended by legal council for the MIA and RDN will serve to limit liability to the greatest extent possible without legislative amendments. Recent decisions by the courts highlight the need to clarify the limits of the inspection process and the responsibilities of the owner.

SUMMARY/CONCLUSIONS

The RDN's Building Regulations and Fees Bylaw, No. 1000, 1995 has undergone only minor amendments since its adoption. However, recent recommendations from legal council, a number of specific issues relating to temporary buildings and ongoing efforts to clarify the application and inspection process require the bylaw to be considered for amendment. The implementation of recommendations from our insurers regarding liability is considered to be most urgent relative to recent decisions by the courts and a review of the bylaw by the RDN solicitor. Other, issues concerning temporary living facilities and temporary tents, as well as improvements to the clarity of the bylaw are intended to respond to issues raised by applicants and the Board.

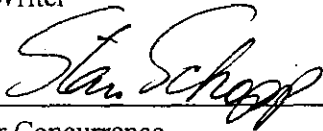
Staff note that the construction industry has undergone significant change throughout the last six years and it is an appropriate time to replace Bylaw 1000 with an updated version and include additional definitions, disclaimers of liability and building descriptions. Further as a result of the failure building envelopes, primary associated with multi-family construction, it is important to provide clear information related to the purpose of the bylaw, inspection process and limitations in liability so that applicants can better understand their responsibility in the construction process. Staff recommend Alternative No. 1 that the amendments to the Building Regulations and Fees Bylaw be introduced and given three readings and be referred to public notification.

RECOMMENDATIONS

1. That "Regional District of Nanaimo Building Regulations and Fees Bylaw No.1250, 2001" be introduced and given three (3) readings.
2. That "Regional District of Nanaimo Building Regulations and Fees Bylaw Amendment Bylaw No. 1250, 2001" be advertised in accordance with the *Local Government Act*.



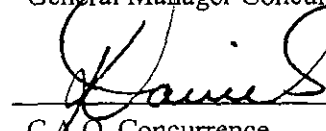
Report Writer



Manager Concurrence



General Manager Concurrence



C.A.O. Concurrence

COMMENTS:

Attachment 1

Synopsis of major changes proposed in Bylaw No. 1250 are:

1. **2. Interpretation - definitions**

- ***Building*** has an expanded definition
- ***Building Inspector*** has been defined
- ***Chief Building Inspector*** has been redefined
- ***Parcel*** has been reworded to include recent amendments to the Strata Property Act.
- ***Structure*** has been reworded to include 'temporary tents'
- ***Temporary detached tent*** has been redefined
- ***Tent*** has been redefined
- ***Zoning Bylaw*** has been amended to include Islands Trust

3. Prohibitions

Sections 1 – 8 have been reorganized for clarity

4. Authority of Chief Building Inspector

Paragraph (e) has been added:

"to act where specifically authorized to do so under this bylaw"

5. Enforcement Authority

Sections (1) and (2) have been clarified to give the Building Inspector access to occupied buildings as well as the property.

Section (4) clarification of 'Stop Work' conditions

6. Plans and Certifications

Sections 1 – 3 disclaimers have been added as recommended by Municipal Insurance Association and RDN Solicitor.

7. Permits

Section (1) Clarification that a Building Inspector may issue a building permit (no longer must be issued by Chief Inspector)

Section 3(i) specific conditions for when building permit fees may be refunded

Section 3 (k) and (l) rewording of existing disclaimers

Section 4 permission for Chief Building Inspector to issue a building permit to correct a deficiency for a specified time frame shorter than two (2) years.

Section 9 rewording of fee reduction for Professional Certification of plans

Section 10.1 added to include '*temporary detached tents*'

18. Moved on Buildings

Section 3a reduction of bonding to \$1,000.

Section 3b increase of time frame to complete to two (2) years

21.1 Administrative Charges

Reinstatement of penalty clause for building without a permit – double permit fees to a maximum of \$750.

Schedule 'B'

Section 3 reduction of permit fees for certification by registered professionals



REGIONAL
DISTRICT
OF NANAIMO

BUILDING REGULATION AND FEES

BYLAW NO. 1250, 2001

Publication Date
March 13, 2001

For inquiries regarding this
document
please contact

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**REGIONAL DISTRICT OF NANAIMO
BUILDING REGULATIONS AND FEES BYLAW NO. 1250**

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REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1250

A BYLAW TO PROVIDE FOR THE ADMINISTRATION
OF THE BUILDING CODE

The Board of the Regional District of Nanaimo in open meeting assembled, enacts as follows:

1. CITATION AND APPLICATION

- (1) This Bylaw may be cited for all purposes as "Regional District of Nanaimo Building Regulations and Fees Bylaw No. 1250, 2001".
- (2) This Bylaw applies to Electoral Areas D and G of the Regional District of Nanaimo as well as parts of Electoral Areas A, B, C, and E of the Regional District of Nanaimo as outlined in attached plans in Schedule '1' of The Building Inspection Extended Service Establishment Bylaw No. 787, 1989.
- (3) If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court such section, subsection, sentence, clause or phrase may be severed from the remaining portion of the Bylaw.

2. INTERPRETATION

For the purposes of this Bylaw, the following words and expressions are defined, and where the same words and expressions are defined in the Building Code, those definitions do not extend to the use of words and expressions in this Bylaw:

Agent includes a person representing the owner by designation or contract who may be granted Permits for work.

Applicant means a person applying for or holding any permit, notice or certificate issued pursuant to this Bylaw, whether the owner of the land or the owner's authorized agent.

Authority having jurisdiction as used in the Building Code for the purposes of this Bylaw means the Regional District of Nanaimo or the Chief Building Inspector.

Board means the Board of the Regional District of Nanaimo.

Building does not include a structure exempted by regulation from the Building Code by size, use or occupancy, and includes plumbing contained in a building and any service connections to a building.

Building Code has the same meaning as the "British Columbia Building Code" in the Building Regulations of British Columbia made pursuant to the *Local Government Act*.

Building Inspector means the persons employed by the Regional District for administering and enforcing the Building Bylaw and includes Plan Checkers, Building Inspectors, and the Chief Building Inspector.

Building Permit means a permit for construction required or issued pursuant to this Bylaw.

Chief Building Inspector means the person holding the office of Manager of Inspection and Enforcement.

Construct includes to reconstruct, relocate, install, repair, alter, demolish, move, excavate and shore.

Construction includes reconstruction, relocation, installation, repair, alteration, demolition and moving.

Fee means the fee prescribed in Schedules 'B' and 'C' to this Bylaw.

Highway includes a street, road, lane, bridge, viaduct or any other way open to the use of the public, but specifically excludes private rights of way on private property.

Natural Boundary means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the bed of the lake, river, stream, or other body of water a character distinct from that of the banks thereof, in respect to vegetation as well as in respect to the nature of the soil itself, and also includes the edge of dormant side channels or any lake, river, stream or other body of water, and marshes.

Occupancy Permit means an Occupancy Permit issued pursuant to this Bylaw.

Parcel means the smallest area of land which is registered in the Land Title Office, except that a parcel divided pursuant to the *Strata Property Act of British Columbia* and not contained within a Bare Land Strata Plan shall not be considered subdivided for the purpose of this Bylaw.

Permit means a Permit required or issued pursuant to this Bylaw and includes a Building Permit, a Demolition Permit, a Plumbing Permit, a Building Moving Permit, a Chimney Permit, a Fireplace Permit and a Solid Fuel Burning Appliance Permit.

Premises includes land, the surface of water, buildings and structures.

Professional Engineer means a Professional Engineer registered in the Province of British Columbia as such under the *Engineers and Geoscientists Act* (British Columbia).

Regional District means the Regional District of Nanaimo.

Relocate means to move a building or structure from one location to another on the same parcel.

Signs includes the supporting structure for a sign.

Special Inspection means a request by an owner of premises for an inspection by the Chief Building Inspector of the Regional District for solid fuel burning appliances on a premise not covered by a valid Building Permit.

Structure includes anything that is constructed or erected, and includes swimming pools, mobile home space, tent camping space and major improvements accessory to the principal use of land, but does not include landscaping, paving improvements, signs under 1.0 m in height, retaining walls under 1.0 m in height that retain less than 1.0 m of earth, and fences under 2.0 m in height and temporary detached tents.

Swimming Pool means a water receptacle used for swimming or as a plunge or other bath designed to accommodate more than one bather at a time; but does not include irrigation, natural ponds, or man made ponds used for decorative or landscaping purposes or hot tubs.

Temporary Building includes a construction trailer, seasonal storage facility or a mobile home, or recreation vehicle not exceeding 75 square metres in floor area for use by the applicant while constructing a single family dwelling.

Temporary detached tent means a structure that consists of a prefabricated manufactured framework covered by a pliable membrane and is less than 35 square meters in floor area and six meters in height.

Tent includes structures consisting of prefabricated rigid manufactured framework covered by a pliable membrane that are greater than 35 square meters in area or 6 meters in height.

Use means the principal permissible purpose for which land, building or structures may be used as described in the applicable land use bylaws adopted by the Regional District or the Trust Committee of the Islands Trust.

Watercourse means any natural or man made depression with well defined banks and a bed of 0.6 metres or more below the surrounding land serving to give direction to a current of water at least six (6) months of the year or having an upstream drainage of two (2) square kilometres or more.

Zoning Bylaw means a Land Use and Subdivision Bylaw of the Regional District of Nanaimo or the Trust Committee of the Islands Trust in effect from time to time.

PURPOSE OF BYLAW

- (1) This bylaw shall be interpreted in accordance with this section despite any other provision of this bylaw.
- (2) This bylaw is enacted for the purpose of regulating construction within the Regional District and to permit the Regional District to carry out limited inspections for the purposes of reducing violations of this bylaw and the Building Code, which may affect public health or safety. The purpose of this bylaw does not extend:
 - (a) to the protection of owners or builders from economic loss;

- (b) to the assumption by the Regional District of any responsibility for ensuring compliance by any owner, builder, contractor, architect, engineer or any other person with the Building Code, this bylaw or any other applicable enactment;
- (c) to provide to any person a warranty that any building or structure constructed within the Regional District complies with the Building Code, this bylaw or any other applicable enactment;
- (d) to provide a warranty that any building or structure constructed within the Regional District is free from latent or any defects.

3. PROHIBITIONS

- (1) No person shall, unless exempted by this Bylaw or any other enactment, commence or continue to construct a building or structure prior to obtaining a Building Permit.
- (2) No person shall occupy or use a building or part of it after construction of that building or part of it without first obtaining an Occupancy Permit.
- (3) No person shall occupy or use a building following a change in class of occupancy of the building or part of it without first obtaining an Occupancy Permit for it.
- (4) No person shall occupy, use or continue to do any work on a building or structure contrary to the terms of any Permit, Notice, Certificate or Order given by the Regional District, the Chief Building Inspector or a Building Inspector. No person shall continue to do any work upon a building or structure or any portion of the construction after expiration of a Permit.
- (5) No person shall continue to do any work upon a building or structure or any portion of the construction without obtaining an inspection as required pursuant to this Bylaw.
- (6) No person shall do any work that is at variance with the description, plans and specifications for the building or structure for which a Permit has been issued, unless the variance has first been authorized in writing by the Chief Building Inspector.
- (7) No person shall, unless authorized by the Chief Building Inspector alter, reverse, deface, cover, remove or in any way tamper with any Notice, Permit or Certificate posted pursuant to the provisions of this Bylaw.
- (8) No Permit shall be issued for an alteration, addition or repair to a building that is in an unsafe condition unless that deficiency is corrected at the time of alteration, addition or repair.
- (9) No person shall do any work or carry out any construction contrary to a provision or requirement of this Bylaw or the Building Code.

4. AUTHORITY OF CHIEF BUILDING INSPECTOR

- 1. The Chief Building Inspector is authorized to:
 - (a) administer this Bylaw;
 - (b) keep records of applications received, Permits and Orders issued, inspections and tests made, and retain copies of all papers and documents connected with the administration of this Bylaw;

- (c) take such action that he or she considers necessary in order to establish whether any method or type of construction or material used in the construction of a building conforms with the requirements and provisions of the Building Code;
 - (d) assign a house number to a building, including renumbering of buildings previously numbered.
 - (e) act where specifically authorized to do so under this bylaw.
2. It is understood that the purpose of the function of the Chief Building Inspector is to enforce the provisions of this Bylaw and not to hold out or warrant to any person that a building is constructed in all respects in accordance with the Building Code or in a safe and proper manner.

5. **ENFORCEMENT AUTHORITY**

A Building Inspector is authorized:

- (1) to enter the property at all reasonable times subject to the regulations of this Bylaw and the Building Code in order to ascertain whether the regulations or directions under them are being observed.
- (2) to enter any occupied buildings with the consent of the owner or occupant or subject to providing notice twenty-four hours in advance of the entry pursuant to clause 5(1).
- (3) to order the correction of any construction which is being or has been improperly done under any Permit and prohibit the covering of such construction;
- (4) to order the immediate cessation or suspension of construction ('Stop Work') that is proceeding in contravention of this Bylaw or the Building Code or is being constructed without a Permit by placing a Notice on the construction and/or delivering such notice to the owner of the real property on which the building stands, at his/her address.
- (5) to, at the applicant's expense, order the work uncovered for inspection when there is reason to believe that part of a building that is covered or enclosed has not been constructed in compliance with this Bylaw or the Building Code or:
 - (a) the part was covered or enclosed contrary to an order not to cover under Sub-section (3) above; or
 - (b) the notice requesting inspection was not given in the time prescribed by Section 13(2).
- (6) to direct the applicant, at their expense, to perform tests as considered necessary to establish whether any method or type of construction or materials used in the construction of any building or structure conforms with the provisions of all relevant legislation and the Building Bylaw, and:
 - (a) to retain as public records copies of the results of all tests ordered and carried out under the Building Permit;
 - (b) to revoke or refuse to issue a Permit where the results of tests are not satisfactory;
 - (c) to order the correction of any work that is being or has been improperly done;

The Chief Building Inspector is authorized:

- (1) to accept a sealed certificate of compliance with the approved plans and Building Code, by a Professional Engineer or Architect, in lieu of inspections if in his or her judgement the registered professional has inspected the work during construction or has completed sufficient review of the work to certify the construction.

6. **PLANS AND CERTIFICATIONS**

(1) **Professional Certification**

Where the Building Inspector considers that

- (a) the site conditions, or
- (b) the size or complexity of
 - (i) the development, or
 - (ii) an aspect of the development to which a Building Permit relates

warrants a certification by a professional Engineer or Architect that the plans submitted with the application for the Permit, or specified aspects of those plans, comply with the Building Code and other applicable enactments respecting safety, the Building Inspector may require the owner to provide the certification of the plans.

(2) **Inspections by Professional**

Where plans or works are being certified by a professional, during the course of construction, the owner shall provide to the Building Inspector, certification that site inspections by the Registered Professional have been conducted in the form of inspection reports left on site and that the construction complies with the Building Code and other applicable enactments regarding safety.

(3) **Endorsement and Notice**

The following Notice shall be given to the owner by endorsing it on a Building Permit that is issued in reliance upon a certification by a Professional Engineer or Architect that the plans submitted in support of the application for the Permit comply with the British Columbia Building Code and other applicable enactments respecting safety of the building.

"Take notice that the Regional District of Nanaimo, in issuing this Permit has relied upon the certification of compliance of _____ (professional engineer or architect name or company) _____, Professional Engineer or Architect, submitted with the plans of construction, that the plans comply with the current British Columbia Building Code and other applicable enactments respecting safety of the building or structure."

7. **PERMITS**

(1) **Issuing Permit**

Where:

- (a) an application has been made;
- (b) the proposed work set out in the application complies with the Building Code, this Bylaw and all other applicable bylaws and enactments;

- (c) the applicant for a Permit has paid to the Regional District the fee or fees prescribed in Schedule 'B' and 'C' to this Bylaw;

The Building Inspector shall issue the Permit for which the application was made, unless the provisions of Section 7(2) apply or unless the Permit is being withheld pursuant to Section 929 of the *Local Government Act*.

(2) ***Withholding Permit***

The Chief Building Inspector is authorized to withhold issuance of any new building permits for a parcel in the event that previous construction on the parcel does not comply with provisions of the Building Code, this Bylaw and other applicable Bylaws.

(3) ***Permit Conditions***

Every Permit is issued upon the following conditions:

- (a) that on the parcel for which the Permit has been issued; the owner post the Permit, or notice issued by the Building Inspector in a place open to view from the street;
- (b) that the owner keep a copy of the approved drawings and specifications on site for which the Permit has been issued;
- (c) that construction shall be started (one required inspection requested and approved) within six (6) months from the date of issuing the Permit;
- (d) that the work will not be discontinued or suspended (one required inspection requested and approved) for a period of more than one (1) year;
- (e) that the Permit shall expire in the event that either condition 7.3(c) or 7.3(d) are not met;
- (f) that all Permits shall expire two (2) years from the date of issue;
- (g) that an expired Permit shall not be renewed nor the fee refunded;
- (h) that if construction is not completed when a Permit expires, a new Permit shall be required for the construction remaining;
- (i) that, at any time after the issuance of a Permit, but before the construction under the Permit has commenced, the Permit holder may apply for cancellation of the Permit and receive a refund of fifty (50%) of the fee paid provided that no refund shall be made for less than \$50.00;
- (j) that an additional re-inspection fee will be charged, as prescribed in Schedule 'B' attached hereto, where additional inspections to those required by this Bylaw are required due to violations or failure of the Permit holder to have the work accessible and ready at the time the inspection is requested;
- (k) that the registered owner of the land acknowledges the following in writing, which may be endorsed on the Permit:

"In consideration of the granting of this Permit, I/we agree to release and indemnify the Regional District of Nanaimo, its Board members, employees and agents from and against all liability, demands, claims, causes of action, suits, judgment, losses, damages, costs, expenses of whatever kind which I/we or any other person, partnership or corporation

or my/our respective heirs, successors, administrators or assignees may have or incur in consequence of or incidental to the granting of this Permit or any inspection, failure to inspect, certification, approval, enforcement or failure to enforce the British Columbia Building Code and I/we agree that the Regional District of Nanaimo owes me/us no duty of care in respect of these matters.

I/we have read the above agreement, release and indemnity and understand it."

- (1) That the registered owner of the land signs the following, which may be endorsed on the Permit:
 1. *I/We acknowledge that I/we are responsible for ensuring that the proposed construction complies with the Building Code, this Bylaw and any other applicable enactment or standard relating to the work authorized by the Permit whether or not the work is carried out by me/us or by any other person on my/our behalf.*
 2. *I/We acknowledge that neither the issuance of a Permit under this bylaw, the acceptance or review of plans, specifications, drawings or supporting documents, or inspections made by the Regional District constitute a representation, warranty or other assurance that the British Columbia Building Code, the Regional District Building Bylaw or any other applicable application or standard has been complied with.*
 3. *I/We understand that I/we should seek independent legal advice in respect of the responsibilities I/we are assuming upon the granting of a Permit and in respect of the above acknowledgements.*

(3.1) Permit Not Evidence of Compliance

No person shall rely upon any Permit issued under this bylaw as evidence that any work has been carried out or completed in accordance with the Building Code, this bylaw or any other enactment or that this bylaw has been administered or enforced according to its terms.

(4) Permit for Corrections

Despite subsection (3) the Chief Building Inspector may issue a permit for up to one year to allow for the correction of a deficiency or specified condition.

(5) Contents of Application for Permit

The application for a Permit shall be made prior to the commencement of construction and shall:

- (a) be made in the form prescribed by the Regional District;
- (b) be signed by the owner or his/her agent;
- (c) state the intended use or uses of the building;
- (d) state the true value of the proposed work;
- (e) include as exhibits, plans in duplicate of the specifications and scale drawings of the building with respect to which work is to be carried out showing:

- (i) the dimensions of the building including area of each floor;
 - (ii) the dimensions, area and proposed use of each room or floor area;
 - (iii) the dimensions of the parcel on which the building is, or is to be situated;
 - (iv) the proposed siting of the new building and the siting, use, and horizontal dimensions of all existing buildings on the parcel referred to in subclause (iii) on a scaled plan;
 - (v) the location of a watercourse adjacent to or contained within the parcel;
 - (vi) the technical information specified in other parts of this Bylaw and the Building Code required to be included on the drawings related to those parts;
 - (vii) such other information as is necessary to illustrate all essential features of the design of the building; and
 - (viii) the name, address and telephone number of the designer.
- (f) contain any and all other information necessary to establish compliance with this Bylaw, the Land Use and Subdivision Bylaw, the Floodplain Bylaw and any other applicable enactment;
 - (g) include a Surveyors Certificate by a registered British Columbia Land Surveyor of the existing natural grade elevations for all new construction when the proposed construction will be within 0.3m of the maximum height restriction of the applicable Land Use and Subdivision regulations;
 - (h) be accompanied with a non-refundable application fee as per Schedule 'C' of this Bylaw.
 - (i) Include all information required by any form prescribed under Section 30 of the Homeowner Protection Act.
 - (j) method of sewage disposal and location of system as approved by the relevant authority or proof of connection to community services;
 - (k) highway access as approved by the relevant authority.

(6) Additional Information

When required by the Chief Building Inspector, the application shall also be accompanied by:

- (a) details of the grades and elevations of the streets and public services, including sewer and drainage, abutting the parcel referred to in subsection (5)(e)(iii) and showing access to the buildings, parking, driveways, or site drainage and finished grades in relation to geodetic datum where available;
- (b) a plan that shows the location and size of every building drain and or every trap or inspection piece that is on a building drain;
- (c) a sectional drawing that shows the size and location of every soil or waste pipe, trap and vent pipe. The plans and specifications shall be submitted in the form and quantities required by the Chief Building Inspector and shall have on them complete design and calculation criteria so that the Building Inspector has this information available for examination, and shall bear the name, address and telephone number of the designer;
- (d) a graphic drawing of proposed plumbing work showing the size and location of the plumbing system and containing complete design and calculation criteria;

- (e) a survey of the building site by a registered British Columbia Land Surveyor whenever one of the following conditions exist:
 - (i) there is doubt as to the location of the lot lines
 - (ii) there are no existing legal survey pins within sixty (60) metres of the building site

(7) Property of Regional District

The application for a Permit and the supporting drawings and documents shall become the property of the Regional District of Nanaimo.

(8) Lapse

The Permit application lapses and the Chief Building Inspector is authorized to dispose of a Permit application after six (6) months of receipt of the application if the applicant has not picked up the Permit or completed the requirements for issuance of the Permit.

(9) Fee Reduction

Where the Regional District relies on certification of compliance by a professional under Section 6 of this Bylaw, the fees payable for the Permit shall be reduced by the amount of the fees set out in Schedule 'B' and attributable to the cost of determining whether the plans or aspects of the plans certified to comply with the Building Code, do in fact comply with the British Columbia Building Code, and other applicable enactments respecting safety, to the extent that the certification has relieved the Building Inspector from this determination.

(10) Minor Work

No Permit shall be required for the clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, or when a replacement water heater is installed.

8. REVOCATION OF PERMIT

- (1) The Chief Building Inspector may revoke a Permit where there is a violation of:
 - (a) a condition under which the Permit was issued;
 - (b) a provision of the Building Code, this Bylaw or other applicable Bylaws or enactments; or
 - (c) where the Permit was issued based on mistaken, false or incorrect information.
- (2) The revocation shall be in writing and transmitted to the Permit holder by courier or registered mail, and deemed served at the expiration of three (3) days after the date of mailing.

9. PHASED CONSTRUCTION

- (1) (a) The Building Inspector may issue a partial Occupancy Permit for part of a building other than a single family dwelling provided that the building complies with the Building Code, and other enactments and that all health and safety requirements have been met; and

- (b) prior to the issuance of a partial Occupancy Permit for part of a building, the owner shall pay the Regional District a fee equivalent to five (5%) percent of the value of the construction, and complete the construction for final inspection and approval within six (6) months of the issuance of the partial Occupancy Permit.
- (2) Upon the expiration of six (6) months after the issuance of an Occupancy Permit for part of a building, if the remaining construction has been completed, the fee paid under subparagraph two (9(1)b) shall be refunded to the owner without interest, and if construction has not been completed, the fee shall become the property of the Regional District.
- (3) Occupancy and final inspection of a single family dwelling are considered the same inspection and an occupancy permit shall not be issued until all Bylaw and Building Code requirements are satisfied.
- (4) Nothing in this section relieves the owner from complying with the requirements of the Building Code and this Bylaw.

10. TEMPORARY BUILDINGS

- (1) Subject to compliance with other applicable Bylaws, the Chief Building Inspector may issue a Permit for the erection or placement of the following temporary buildings for the following uses if he/she is satisfied that the building is safe for the stated use and duration;
 - (a) construction site offices;
 - (b) seasonal storage facilities;
 - (c) special events facilities;
 - (d) living facility used while constructing a dwelling unit;provided that such uses are permitted pursuant to other applicable Bylaws of the Regional District and the temporary building meets the health and safety standards of all relevant enactments.
- (1) A Permit for a temporary building shall expire two (2) years from the date of issuance for temporary living facilities or upon issuance of an occupancy permit for the principle dwelling unit on the parcel, whichever occurs first; and one year from the date of issuance for (a), (b), and (c) in clause one above.
- (2) A temporary building shall be removed or demolished upon expiration of the Permit for the temporary building.
- (4) No extensions or renewals shall be permitted for a Permit for a temporary building without the consent of the Chief Building Inspector.
- (5) In the case of 10(1)(d) the temporary living facility shall consist of a portable construction trailer, mobile home, or recreation vehicle not exceeding 75 m² in area.
- (7) Applications for a Permit to construct or locate a temporary building shall be made in writing to the Chief Building Inspector accompanied by:
 - (a) plans showing the location of the building on the site and construction details of the building;

- (b) a statement of the intended use and duration of the use, in addition to application fees in Schedule 'C'; and
- (c) a bond or certified cheque in the amount of ONE THOUSAND (\$1,000.00) DOLLARS which will guarantee that the building will be removed or demolished entirely and the site left in a safe and sanitary condition.

10.1 TEMPORARY BUILDINGS (TENTS)

- (1) A Building Permit is not required for a temporary detached tent.
- (2) A person who wishes to place a temporary detached tent on a parcel shall apply to the Building Inspector for a siting permit and pay the applicable fee prescribed in Schedule 'B'.
- (3) The Building Inspector shall issue the siting permit where he is satisfied that the temporary detached tent meets all setbacks, height, size and other restrictions applicable to structures contained in the applicable land use bylaw.

11. RESPONSIBILITY OF THE OWNER

- (1) Before construction commences, the owner shall:
 - (a) determine that the building site is safe and will not be affected by flooding water caused by surface run-off or otherwise, or by land slip or other hazards;
 - (b) incorporate into the design and plans submitted for a Permit the climatic data in Section 15;
 - (c) determine that there will be an adequate source of potable water;
 - (d) determine that there will be an adequate facility for storm drainage discharge;
 - (e) determine that there will be an adequate facility for sewage disposal.

12. GENERAL DUTIES OF THE OWNER BEFORE CONSTRUCTION

- (1) An owner of real property shall:
 - (a) permit the Building Inspector to enter his/her building or premises at any reasonable time for the purpose of inspection;
 - (b) obtain from the Regional District, or other authority having jurisdiction, where applicable, permits relating to demolition, excavation, building, repair of buildings, zoning, change in classification of occupancy, swimming pools, sewers, water, plumbing, signs, canopies, awnings, marquees, blasting, street occupancy, electricity, building to be moved, and all other permits required in connection with the proposed work prior to the commencement of the work;
 - (c) when required by the Chief Building Inspector, give at least 48 hours notice to the Building Inspector of the intention to start work on the construction site;
 - (d) obtain elevation and construction requirements relative to Provincial Flood Plain restrictions from the relevant Authority;
 - (e) post near the street access, in clear view from the street, the number (address) as assigned on the Building Permit prior to requesting inspections and permanently affix this number prior to occupancy of a building; and

- (f) not place or maintain, nor shall any owner or agent permit to remain on any building or premises, a building number other than that required under the provisions of this Bylaw.
- (1.1) It shall be the full and sole responsibility of the owner and the owner's agent where applicable to carry out the work in respect of which the Permit was issued in compliance with the British Columbia Building Code, this bylaw and all other applicable enactments.
- (2) Neither the granting of a Permit nor the acceptance of plans and specifications, nor inspections made by or on behalf of the Regional District, shall in any way relieve the owner from full responsibility to perform the work in strict accordance with this Bylaw, the Building Code and all other applicable enactments.

13. RESPONSIBILITY OF OWNER DURING CONSTRUCTION

The Owner shall, during construction:

- (1) ensure that no work is done on any part of the building or structure beyond that point indicated in each successive inspection report without first obtaining the written approval of the Chief Building Inspector;
- (2) request the Building Inspector to make or cause to be made the following inspections, by giving notice to the Building Inspector a minimum of two (2) working days (48 hours exclusive of Saturday, Sunday and Statutory Holidays) prior to the inspection being required:
 - (a) after the forms for footings are complete, but prior to placing of any concrete therein;
 - (b) after removal of formwork from a concrete foundation and installation of perimeter drain tiles and damp-proofing, but prior to backfilling against foundation;
 - (c) when framing and sheathing of the building are complete, including fire-stopping, bracing, chimney, duct work, plumbing, gas venting, wiring, but before any insulation, lath or other interior or exterior finish is applied which would conceal such work;
 - (d) when insulation and vapour barrier are complete;
 - (e) after installation but before any building drain, building storm drain, sanitary or storm sewer, or water service is covered;
 - (f)
 - (i) before installing waterline determine that an adequate supply of potable water exists provided that the Regional District shall not be responsible for inspecting the quality of water nor the source;
 - (ii) before installing storm drainage pipe determine an adequate discharge location and design provided that the Regional District shall not be responsible for inspecting the design or location of the storm drainage facility;
 - (iii) before installing a sanitary sewer pipe ensure the discharge facility must be approved by the relevant authority.
 - (g) after the building or portion thereof is complete and ready for occupancy, but before occupancy takes place of the whole or a portion of the building.

- (3) where it is deemed necessary by the Building Inspector, provide specialized professional information at the owner's cost, and the owner shall not proceed with any further work which would prevent a thorough inspection until the inspection has been done and approved;
- (4) ensure that the building or structure is built in compliance with the Building Code and this Bylaw;
- (5) supply a Surveyor's Certificate prepared by a registered British Columbia Land Surveyor, for all new construction within a residential zone of the applicable land use regulation at the foundation stage;
- (6) with the exception of a single family dwelling, prior to the completion of any building, or part of it, obtain from the Building Inspector written permission to occupy part of it, if partial occupancy is desired;
- (7) prior to the occupancy of any building, or part of it, after completion of construction of the building, or part of it, or prior to any change in class of occupancy of any building, or part of it, obtain from the Building Inspector an Occupancy Permit, which may be withheld by the Building Inspector until the building or part of it complies with the requirements of this Bylaw, the Building Code and all other health and safety requirements of any enactment;
- (8) obtain from the Building Inspector written permission prior to resuming construction which has been suspended on any building;
- (9) where tests of any materials are required by the Building Inspector to ensure conformity with the requirements of this Bylaw, transmit to the Building Inspector records of the test results;
- (10) in all cases where it is required to conduct the waste from plumbing fixtures or trade waste to a sanitary sewer, make certain, by inquiring from the relevant authority, that the sanitary sewer is at sufficient depth and capacity to receive the discharge; and also to arrange the plumbing to suit the location of the connection provided for the parcel by the Regional District;
- (11) where it is desired to connect a building or storm sewer with any building or storm sewer extension, furnish such information as the Building Inspector may require to show that the proposed sewers will be laid at such depth, and in such position as to connect the property with the building or storm sewer extensions;
- (12) in cases where the existing building or buildings are demolished, destroyed, or otherwise removed from property and were connected to the sanitary sewage system or to the storm sewer system, or water service, make arrangements for disconnection to the satisfaction of the Chief Building Inspector in default of which the Operations Department of the Regional District shall cap off the sanitary sewer or storm sewer connection at the property line and the owner shall be liable for the fee provided for in Schedule 'B';
- (13) during construction, keep
 - (a) posted in a conspicuous place on the property in respect of which the Permit was issued a copy of the Permit;
 - (b) a copy of the Permit drawings and specifications on the property in respect of which the Permit was issued.

14. **FENCES AND WALKWAYS**

If, in the opinion of the Chief Building Inspector, a fence or covered walkway is necessary for the protection and safety of the public during the construction or maintenance of a building, it shall be erected in accordance with the Building Code.

15. **CLIMATIC DATA**

*Climatic data for the design of buildings in the Regional District is:

(a) Design Temperature for heating and air conditioning systems

January	2 1/2%	-7°c
January	1%	-9°c
July	2 1/2%	
Dry		26°c
Wet		18°c

(b) Maximum Rainfall

15 Minutes	8 mm
One day	85 mm
Ground Snow Load	S _S 2.1 kPa
Rain Load	S _R 0.4 kPa
Annual total precipitation	1050 mm

(c) Hourly Wind Pressure

probability	1/10	.47 kPa
probability	1/30	.58 kPa
probability	1/100	.71 kPa

(d) Seismic Data

Z _a	4
Z _v	4
Zonal velocity ratio, v	.20

* Subject to change in accordance with the Building Code.

16. **ESSENTIAL SERVICES**

(1) No Permit for the construction of any residential, commercial or industrial building shall be issued unless the following essential services are provided for:

- (a) Highway Access;
- (b) Sewage disposal by an approved connection to a community system or proof of approval of a private disposal system by the relevant authority is supplied.

17. **FIREPLACE AND CHIMNEY REGULATIONS**

No person shall construct a fireplace or chimney without first obtaining a Permit from the Building Inspector.

18. **MOVED ON BUILDINGS**

- (1) No person shall move or cause to be moved any building into the Regional District, or from one parcel to another in the Regional District without first obtaining a Permit to carry out such move and to site the building on the parcel to which it is to be moved.
- (2) Within a residential zone of the applicable land use regulation, no building intended for residential purposes shall be moved onto a parcel within the Regional District subject to the provisions of the Bylaw from any source, location or parcel unless:
 - (a) the building was completed under a Building Permit as issued by the Regional District of Nanaimo as a dwelling unit;
 - (b) the assessed value of the building above its foundation is \$60,000.00 or greater as determined by the BC Assessment Authority or an appraisal at the cost to the applicant by an accredited appraiser (A.A.C.I.);
 - (c) the floor area of the building is 75 m² or greater;

except that these provisions do not apply to a certified factory built house that meets or exceed the CAN/CSA Z240 MH Series M86 Standard and the CSA A-277 - M1990.

- (3) The following conditions apply to all moved on buildings in respect of which an application has been made:
 - (a) the application for a Permit to move shall be accompanied by detailed plans and specifications of the proposed relocation and rehabilitation of the building and by a standby irrevocable letter of credit without an expiry date or a certified cheque in the amount of ONE THOUSAND (\$1,000.00) DOLLARS payable to Regional District in addition to fees in Schedule 'B' & 'C';
 - (b) the letter of credit may be drawn upon by the Regional District in an amount sufficient to complete the work specified in the plans submitted if the work is not completed in its entirety within 24 months from the date of issuance of the Permit to locate, or the building has been occupied, and the deposit or the balance thereof (if any) remaining in the hands of the Regional District shall be returned to the depositor after an Occupancy Permit in respect of the work has been issued.

19. **SWIMMING POOLS**

- (1) An application for a Permit for the construction of a pool shall be accompanied by a Plan showing the location of the proposed pool, and all other buildings on site;
- (2) The following conditions apply to swimming pools:
 - (a) a swimming pool shall be enclosed within a fence of not less than 1.5 metres in height with no openings greater than 10cm in their least dimension, and access through the fence enclosing the swimming pool shall be equipped with a self-closing gate so designed as to cause the gate to return to a locked position when not in use and secured by a spring lock which can be opened on the swimming

pool side only and such lock shall be located not less than 150mm from the top of the gate and not less than 1.0m above grade;

- (b) the location of a swimming pool shall meet the requirements and provisions of the Land Use and Subdivision Bylaw with respect to setbacks from lot lines;
- (c) a Back Flow Prevention Device, installed to the requirements of the BC Plumbing Code, shall be installed to protect contamination of the potable water supply by treated water from the swimming pool.

20. OTHER STRUCTURES

- (1) A Permit is not required to construct an accessory building less than 10m² in building area but such buildings must comply with Land Use and Subdivision regulations.
- (2) A tent may be constructed on a parcel provided that:
 - (a) the construction complies with the applicable zoning bylaw; and
 - (b) the tent is anchored to the ground in accordance with the manufacturers recommendations.
- (3) Structures not specifically mentioned in this Bylaw shall be designed and built to withstand wind and snow loads and shall be structurally sound.

21. RESTRICTIONS ON LIABILITY

(1) No Duty of Care

This Bylaw does not create any duty of care whatsoever on the Regional District, the Board Members; the Chief Building Inspector, or any employees or agents of the Regional District in respect of:

- (a) the issuance of a Permit under this Bylaw;
- (b) the review and approval of the drawings, plans and specifications submitted with the application for a Permit;
- (c) inspections made by the Building Inspector or failure to make such inspections; or
- (d) the enforcement or failure to enforce the current editions of the Building Code or the provisions of this Bylaw.

Words defining the responsibility and the authority of the Chief Building Inspector shall not be construed as creating any duty upon the Chief Building Inspector or the Regional District, but as internal Administrative directions only.

(2) No Cause of Action

Neither a failure to administer, nor enforce, nor the incomplete, nor inadequate administration or enforcement of the Building Code, or the provisions of this Bylaw, nor any error, omission or other neglect in relation to the issuance of a Permit under this Bylaw, the review and approval of the drawings, plans and specifications, or inspections made by the Building Inspector, shall give rise to a cause of action in favour of any person whomsoever, including the owner and his/her agent.

(3) ***No Warranty or Representation***

Neither the issuance of a Permit under this Bylaw, the review and approval of the drawings, plans and specification, nor inspections made by the Building Inspector, shall in any way constitute a representation, warranty or statement that the Building Code or this Bylaw has been complied with and no person shall rely on any of those actions as establishing compliance with the Building Code or this Bylaw.

21.1 ADMINISTRATIVE CHARGES

These charges are to compensate the department for additional inspections, expanded plan review processes, review of professional engineers documentation, and administrative enforcement costs associated with construction commenced without permits issued.

An owner who continues construction without a Permit contrary to a 'Stop Work Order' and does not apply for a Building Permit within ten (10) business days of issuance notice shall pay to the Regional District a charge which is double the amount which the owner must otherwise be required to pay under Part 1(1) of Schedule 'B' to a maximum of \$750.

22. PENALTIES

- (1) A person who:
 - (a) violates a provision of the Building Code or this Bylaw;
 - (b) causes, suffers or permits an act or thing to be done in contravention or in violation of the Building Code or this Bylaw;
 - (c) neglects or refrains from doing anything required to be done by the Building Code or this Bylaw;
 - (d) carries out or suffers, causes or permits to be carried out any construction in a manner prohibited by or contrary to the Building Code or this Bylaw; or
 - (e) fails to comply with an order, direction or notice given under the Building Code or this Bylaw;commits an offence and is liable on conviction to a fine and penalties as prescribed in the Offence Act.
- (2) For each day that a violation of the provisions of this Bylaw is permitted to exist, it shall constitute a separate offence without limiting any other remedy available to the Regional District.
- (3) The Regional District may file a notice on property title in accordance with Section 700 of the ***Local Government Act*** and recover expenses from the property owner as per Schedule 'B'.
- (4) The Regional District may direct that construction in violation of the Building Code or this bylaw shall be corrected or demolished by passing a bylaw under Section 698 of the ***Local Government Act***, at the expense of the property owner. The Regional District may recover the expense for such action in accordance with the ***Local Government Act***.
- (5) A penalty of "double" permit fees to a maximum of \$750 will be charged where the applicant has continued construction without a Permit in violation of a 'Stop Work Order'

or has not applied for a permit within 10 working days after issuance of a 'Stop Work Order' or 'Notice of Permits Required'.

23. REPEAL OF BYLAWS

Building Bylaw No. 1000 and amendments 1000.01, 1000.02, 1000.03, are hereby repealed.

Introduced and read three (3) times this _____ day of _____, 2001.

Advertised pursuant to the **Local Government Act** this _____ day of _____, 2001

Adopted this _____ day of _____ 2001.

Chairperson

General Manager, Corporate Services

REGIONAL DISTRICT OF NANAIMO

BUILDING BYLAW NO. 1250

SCHEDULE 'A'

DESCRIPTION AND MAPS OF ELECTORAL AREAS REGULATED

AREAS OF APPLICATION

This Bylaw shall have application to and be in force in Electoral Areas D and G of the Regional District of Nanaimo, as well as those parts of Electoral Areas A, B, C and E of the Regional District of Nanaimo as outlined on the map forming Schedule 1 of Building Inspection Establishment Bylaw 787, 1989.

REGIONAL DISTRICT OF NANAIMO
BUILDING REGULATION AND FEES BYLAW NO. 1250

SCHEDULE 'B'

FEES FOR BUILDING PERMIT

FEES

1. (1) **Building Permit Fees**

The fees payable for a Permit for construction, reconstruction, addition, extension, alteration and repair of any building or any other construction requiring a Permit and not specifically listed here shall be as follows:

Estimated Value of Construction by Marshall-Swift Valuation system	Fee :
\$0- \$1,000.00	\$45.00
For each additional \$1,000.00 or part thereof up to \$150,000	\$10.00
For each \$1,000.00 or part thereof by which the estimated value exceeds \$150,000.00 up to \$500,000.00	\$6.50
For each \$1,000.00 or part thereof by which the estimated value exceeds \$500,000.00	\$3.50
Re-inspection Fee	\$50.00

(2) **Related Building Permit Fees**

Separate Chimney/Fireplace construction	\$50.00
Demolition Permit	\$45.00
Single-wide or Double-wide Mobile Home placement or moved on building, Fee based on 50% of a one storey single family dwelling of equal value, plus values of all new work on site such as basements, decks, additions, garages and plumbing	
Temporary Building Permit (plus a \$1,000.00 Bond for removal as per Section 10(7)(c))	\$125.00
Restrictive Covenant Filing (Section 699 of the Local Government Act)	\$80.00
Discharge of Section 700 Title Registration	\$190.00
Confirmation of Title	\$15.00
Permit Assign or Transfer Fee	\$30.00
Confirmation of Building Permit and Zoning Information per parcel	\$40.00
Special Inspection Fee for recalled inspections or solid fuel burning appliances.	\$50.00
Temporary Tents less than 35 square meters	\$15.00
Double Building Permit Fees to a maximum of \$750 will be charged on any construction described in Section 22(5) – Contravention of 'Stop Work'.	

(3) **Plumbing Permit Fee**

First Fixture	\$20.00
Each additional fixture	\$10.00
Each Rain Water Leader	\$10.00
Each plumbing fixture in a factory built building	\$7.00
Minimum Fee	\$20.00
Lawn Sprinklers - inspection for protection of potable water system	\$40.00
Fire Sprinklers - - minimum fee plus \$.40 per each head	\$40.00

Administration fees for site servicing and reviewing professional engineers schedules, inspection reports, fire flow calculations; determining service locations, confirming connection to services and creating initial billing accounts for those services, the permit fees are:

1. Fire sprinklers, minimum fee plus \$.40 per each head
 2. Water, Storm and Building Sewer lines minimum fee per unit plus \$.70 per lineal meter of pipe on site to connection
- \$85.00

Where the fee payable is determined by the value of proposed work, that value shall be assessed by the Regional District based on the Marshall Swift Valuation system.

2. Service Line Inspection and Witness of Water Test

1. Water service line	Single Family Dwelling	\$65.00
2. Sanitary sewer service line	Single Family Dwelling	\$85.00
3. Storm drain service line	Single Family Dwelling	\$85.00
4. Foundation Drains	Single Family Dwelling	\$40.00
5. Other foundation drains minimum fee per unit plus \$.70 per lineal meter of pipe on site to connection		\$85.00
6. Disconnection of services (cap-off) per connection		\$50.00

3. Building Permit Fee Reduction

Pursuant to Section 694(5) of the *Local Government Act* and where Section 6(2) and 6(3) of this Bylaw are applicable, the Building Permit fee shall be reduced by 10% upon submission of sealed plans and schedules by a Registered Coordinating Professional and 5% for a geo-technical report or sealed plans by a structural engineer for foundations or complete building, to reflect compensation for the cost of work that would otherwise be undertaken by the Chief Building Inspector to review plans for Building Code conformance. Spot engineering is not included in this reduced fee section.

4. Method of Payment

- (1) Permit fees shall be paid by way of cash, cheque, interac debit card or money order, payable to the Regional District of Nanaimo.
- (2) A Permit for which a cheque is returned to the Regional District of Nanaimo from the applicant's bank will be treated as unissued and no inspections will be completed until such time as the cheque is certified or replaced with cash or a money order.

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1250, 2001

SCHEDULE 'C'

FEEES FOR APPLICATION FOR PERMIT

APPLICATION FEES

1. Application Permit fees paid upon acceptance of a Building Permit application are non-refundable and shall be in accordance with the following table:

	APPLICATION FEE
(1) Construction less than \$25,000	\$ 20.00
(2) Construction from \$25,000 to \$150,000	\$100.00
(3) Construction over \$150,000	\$225.00

Building Permit application fees will be credited to the outstanding balance of the building permit fee prior to issuance.



REGIONAL DISTRICT OF NANAIMO		
FEB 19 2001		
CHAIR		GMCrS
CAO		GMDS
		GMES
DSC DATE: ✓		
FILE: 2320 20		

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

FROM: Stan Schopp
Manager of Inspection and Enforcement

SUBJECT: Animal Control Contracts

PURPOSE

To consider renewal of the terms of agreement with Nanaimo Animal Shelter and District 69 SPCA to provide animal control services for the RDN.

BACKGROUND

The Regional District has been regulating control of dogs in Electoral Areas A, B, C, D, E, F, G and H since 1995. Electoral Area 'F' has participated in a 'vicious dog only' portion of the service while the balance of Electoral Areas have a more full service arrangement that includes picking up of confined or stray dogs. Electoral Areas E, G, and H also have established a dog licensing function that provides the added ability to impound unlicensed dogs and raise revenue to off-set the cost of the service.

As this is a rather complex function involving specialized equipment, personnel training and an impound facility, the RDN has contracted work to two independent contractors. There are very few contractors in the area with the expertise and correct zoning and facilities to bid on the work. These particular contractors have performed the work over six years with a high degree of efficiency. Attached statistical tables indicate the numbers of animal control calls and public complaints fielded in the year 2000. In addition to requests for service indicated in the table, contractors answered several hundred complaints regarding barking dogs, of which 71 were referred to Bylaw Enforcement staff for follow up under our noise regulations. Parksville/Qualicum SPCA also sold the bulk of dog licenses in 2000 for a total of \$7233.50. The revenue from these licenses is used to reduce requisition costs for the service in Electoral areas E, G and H.

	Electoral Area A, B, C, D	Electoral Area E, F, G, H
Vicious	8	62
At large	111	119
Impounded	93	28
Dog claimed	48	24
Total Complaints	212	209

ALTERNATIVES

1. To authorize new two year animal control services contracts engaging the services of the Parksville-Quailicum SPCA and Nanaimo Animal Shelter Ltd. for the term from March 1, 2001 to February 28, 2003.
2. To direct staff to prepare a Request for Proposal and place the animal control contracts out to public tender.

FINANCIAL IMPLICATIONS

Both contractors have provided animal control services from 1997 to 2001 with an increase in cost to the RDN of only 1% in 1999 and 2000. Contractors are offering to extend the current agreement for an addition two years with an increase of 1% per annum in electoral areas A, B, C and D and approximately 1.3% per annum in Electoral Areas E, F, G and H according to hourly apportionments. The rental agreement for the City of Nanaimo Animal Shelter is an associated contract with the overall Nanaimo Animal Shelter Ltd. Service and is able to be renewed at the same rental charge of \$250 per month for the term of the agreement.

The year 2000 amounts for these contract services are \$43,931.04 for Electoral Areas A, B, C, and D and \$68,428.32 for Electoral Areas E, F, G, and H. Over the two year term of the contract the cost of the contract service would increase to \$44,814 for Electoral Areas A, B, C, and D and to \$70,319.25 for Electoral Areas E, F, G, and H.


The cost of the contract service for Electoral Area F is apportioned based on the hours of service and as part of the total amount will increase from \$6,870 to \$7,050.

SUMMARY/CONCLUSIONS

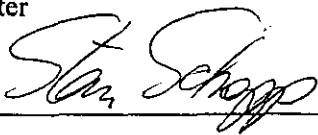
The level of animal control services provided and delivery of that service by the contractors has been an excellent value to the RDN. Very few complaints have been received regarding the contractor's performance and staff recommends that the Board endorse the renewal of the contracts under the current conditions.

RECOMMENDATION


That the Chairperson and the General Manager of Corporate Services be authorized to sign the Animal Control Contract on behalf of the Regional District of Nanaimo to engage the services of Parksville-Qualicum SPCA and Nanaimo Animal Shelter Ltd. to provide animal control services for the term of March 1,2001 to February 28,2003.



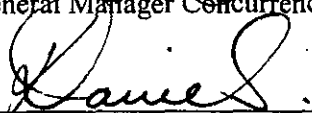
Report Writer



Manager Concurrence



General Manager Concurrence



C.A.O. Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO			
FEB 13 2001			
CHAIR		GMCrS	
CAO		GMDS	
GMCrS		GMES	
DSE			
TO:		DATE:	
FROM:		FILE:	
SUBJECT:			

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: February 12, 2001

FROM: Deborah Jensen
Planner

FILE: 3360 30 0101

SUBJECT: Zoning Amendment Application – Brown/Madsen
Electoral Area 'C' – Timberlands Road

PURPOSE

To consider an application to rezone the subject property from Resource Management 9 (RM9) to Resource Management 10 (RM10) in order to facilitate development of a pole peeling facility.

BACKGROUND

The Regional District of Nanaimo has received an application to rezone an 8.08 ha property (19.97 acres) from Resource Management 9 (RM9) to Resource Management 10 (RM10). The subject property is located along Timberlands Road (see Attachment No. 1).

The Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1997 designates the subject property as "Resource Lands and Open Spaces" land.

The Arrowsmith-Benson/Cranberry Bright Official Community Plan, Bylaw No. 1148, 1999 designates the subject property as "Resource" land (see Attachment No. 2).

The Land Use and Subdivision Bylaw No. 500, 1987 zones the subject property as Resource Management 9 (RM9).

The applicant has indicated the purpose of this application is to rezone the property to allow for development of a pole peeling facility. Staff notes that the application is consistent with the Official Community Plan and the Regional Growth Management Plan.

Proposal as Submitted

The applicant is proposing to amend Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, by changing the zoning designation for the subject property from Resource Management 9 (RM9) to Resource Management 10 (RM10), which is a new Resource Management zone. The intent of this amendment is to develop a pole peeling facility that would process up to a maximum to 500 m³/day. It is estimated that there will be approximately 5 full-time staff on site in addition to intermittent truck traffic consisting of approximately six to ten truck loads per day. Development of the site would consist of:

- (a) approximately 23,441 m² log storage and sorting yard;
- (b) peeler machine;
- (c) 5,000 gallon water reservoir;
- (d) oil storage envirotrend tank;
- (e) approximately 140 m² office space; and
- (f) parking facilities consisting of approximately 6 parking spaces (see Attachment No. 3).

The applicant has indicated a number of site selection criteria were utilized in the choosing of this site. The preferred site selection criteria included:

- isolation from surrounding neighbours;
- proximity to the Duke Point Ferry Terminal;
- access to a central road;
- adequate drainage on site; and
- flat topography and sufficient property size.

ALTERNATIVES

1. To approve the amendment application to rezone the subject property from Resource Management 9 (RM9) to Resource Management 10 (RM10) as submitted by the applicant.
2. To approve the amendment application to rezone the subject property from Resource Management 9 (RM9) to Resource Management 10 (RM10) subject to the conditions outlined in Schedule No. 1.
3. To not approve the amendment application to rezone the subject property from Resource Management 9 (RM9) to Resource Management 10 (RM10).

PUBLIC CONSULTATION IMPLICATIONS

The subject property is located in an area of large properties zoned Resource Management or Industrial. Currently, there are few residents in close proximity to the site. Through discussion with Electoral Area 'C' Director, a public information meeting was not deemed necessary and was not held. As an alternative, notification was mailed to owners and/or residents of all properties with any portion within a 200-metre radius, informing them of the proposed rezoning and directing any inquiries to the Regional District of Nanaimo.

Pursuant to the Land Use and Subdivision Bylaw No. 500, notice of a bylaw amendment that alters the permitted use shall be mailed and/or delivered to owners and tenants within a 200 metre radius of the subject property zoned Resource Management. Although there are no such requirements for a public information meeting, notification was still provided for the 200-metre radius. In addition, the subject property has been posted with a "RDN Notice of Rezoning Application" sign since January 26, 2001.

To date, there have been two inquiries regarding this application. Concerns include the current condition of Timberlands Road, and the potential for road conditions to worsen with increased traffic due to this proposal. The Ministry of Transportation and Highways is aware of this application and has granted a 180-day approval in principle for an access permit subject to receipt of further information for the subject property. The Ministry of Health has issued a health permit for the property. The applicant (through testing) has indicated that a sufficient water supply is available for the property.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1997 recognizes the need for a resource land base and designates lands as "Resource Lands and Open Space"; uses on these lands includes resource company operations (in compliance with local, regional and senior government regulations). However, the RGMP also encourages these companies to operate in a manner that does not harm the functioning of natural ecosystems.

The proposed resource activity is directly related to resource extraction activities, but is predominately a value-added operation. The RGMP states that proposed development in the "Resource Lands and Open Space" category needs to be consistent with parks, ecological, protection, agriculture, and forestry. The proposed operation does have a direct link to forestry activity and should be encouraged to operate in a sustainable manner. In addition, Policy 6B requires that the RDN Official Community Plans provide for balanced economic development that is consistent with a changing global and regional economy.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999 designates the subject property as "Resource" land, a designation that applies primarily to forestry, resource extraction, agricultural production or environmental conservation. Although lands in this designation typically are contained within the Forest Land Reserve or Agricultural Land Reserve, the subject property does not lie within either of these reserves.

The OCP also supports the policies of Goal 6 in the Growth Management Plan to create a vibrant and sustainable economy. For the Resource land use designation, this allows for permitted uses including, but not limited to, forestry, agriculture, aggregate or mineral extraction or processing, and residential uses. It is the above listed uses, particularly forestry, for which the applicant is seeking approval to operate on the subject property. The pole peeling operation would be the primary activity.

LAND USE IMPLICATIONS

The subject property, which is generally flat to sloping in topography, is surrounded by Resource Management zoned lands. The only exception to this is an Industrial 4 (IN4) zoned parcel that is located directly to the east of the subject property.

The proposed Resource Management 10 zone is attached (*see Attachment No. 4*). The permitted uses permitted in the new include:

- Log processing
- log storage and sorting yard (ancillary to the log processing);
- extraction and primary processing;
- residential use; and
- silviculture.

The subdivision district 'B' (8 ha minimum parcel size) would remain unchanged. The proposed parcel coverage for the combined footprint of buildings and structures would be 10% of the parcel area or approximately (8,080 m²). It is noted that the property is not within the building inspection area.

The Environmentally Sensitive Atlas does not indicate any environmentally sensitive areas within the subject property.

OTHER BYLAW IMPLICATIONS

Staff notes that the proposal is subject to the requirements of Bylaw No. 1103 "A Bylaw to Regulate or Prohibit Objectionable Noise Within Electoral Area 'C', 1998". Under this bylaw, operation of noise generating equipment would be restricted to the hours between 7:00 am and 10:00 pm.

SUMMARY/CONCLUSIONS


This is an application to rezone an 8.08 ha property (19.97 acres) from Resource Management 9 (RM9) to Resource Management 10 (RM10), with the intention of developing a pole peeling facility. The subject property is located near Timberlands Road.

The applicant has indicated that no suitable sites are available within existing industrial areas and that the proposed use is generally compatible with resource management uses. In response to the issues raised about noise and traffic, the applicant has obtained a temporary access permit to the site from the Ministry of Transportation and Highways. Further it is noted that access to the Island Highway is available via a signalized intersection at Timberlands Road. The applicant intends to operate within the limitations of the existing noise control bylaw that would restrict the operation of noise generating equipment to the hours between 7:00 am and 10:00 pm.


As the proposed use is consistent with the Regional Growth Management Plan and Official Community Plan and is considered to be compatible with other resource management uses staff recommends Alternative No. 2 to approve the application for 1st and 2nd reading subject to the conditions outlined in Schedule No. 1 of this report.

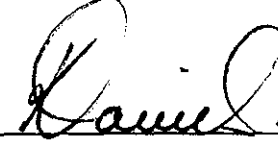
RECOMMENDATIONS

1. That Amendment Application No. 0101 submitted by Anders Madsen, acting as Agent for Nancy Brown, to rezone the subject property legally described as Lot B, Block 87, Bright, Douglas and Cranberry Districts (Lying Within Said Bright District), Plan VIP54950, from Resource Management 9 (RM9) to Resource Management 10 (RM10) be advanced to a public hearing subject to the conditions outlined in Schedule No. 1.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.272, 2001" be given 1st and 2nd reading and proceed to Public Hearing.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.272, 2001" be delegated to Director Hamilton or her alternate.


Report Writer


General Manager Concurrence


Manager Concurrence


CAO Concurrence

COMMENTS

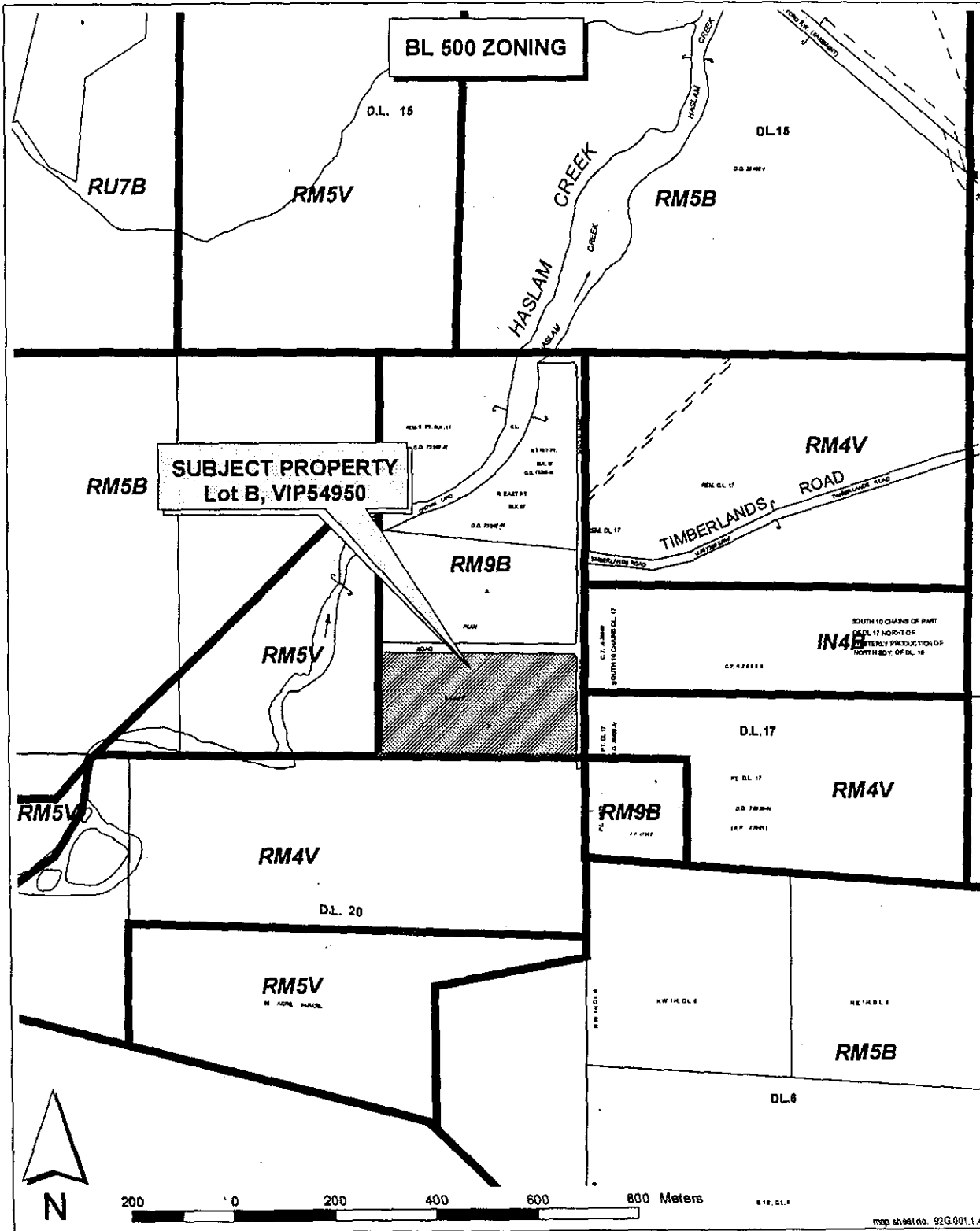
devsvs/reports/2001/3360 30 0101 fe Brown Madsen 1st 2nd.doc

SCHEDULE NO. 1

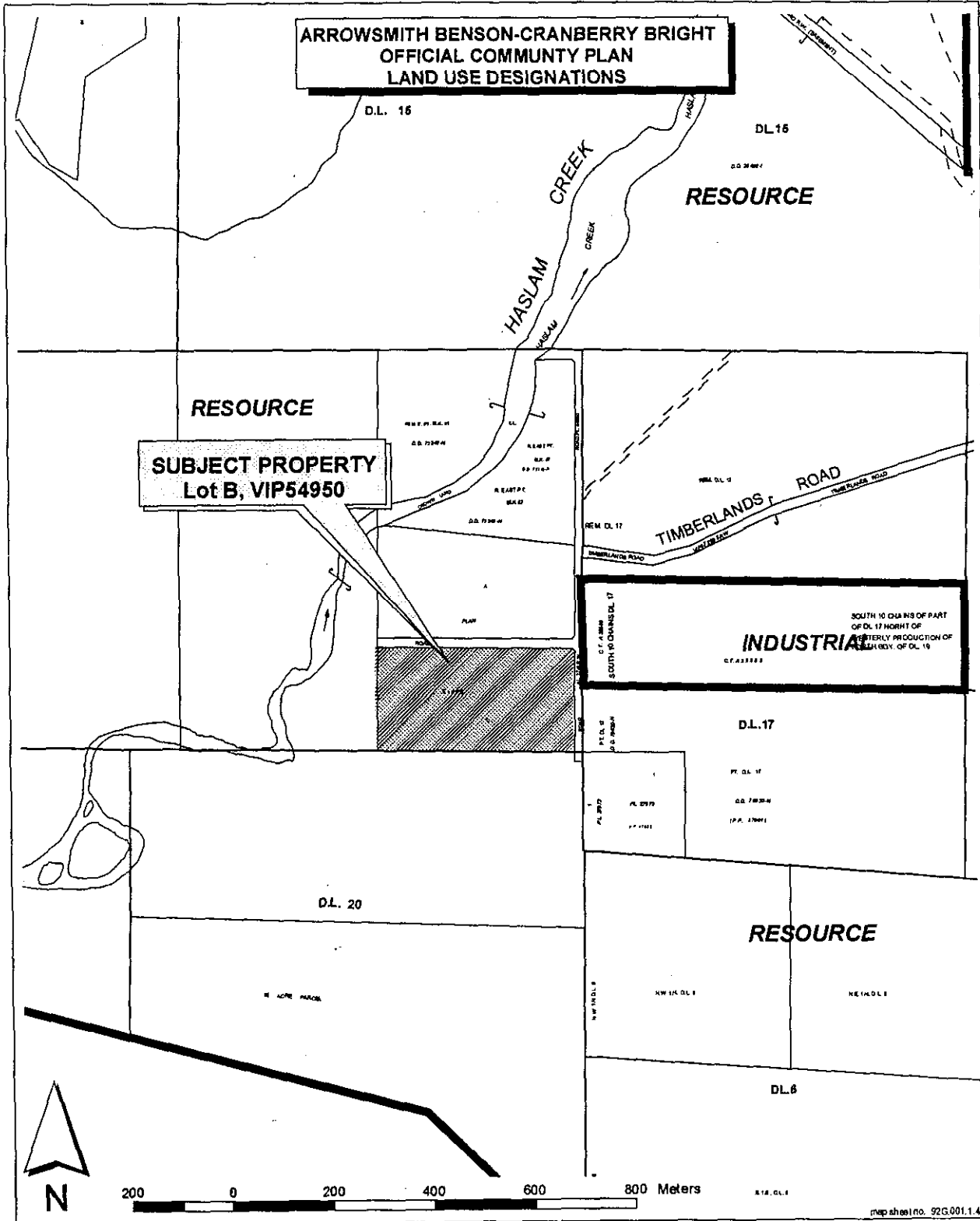
**Conditions for Approval for 1st and 2nd Reading
Zoning Amendment Application No. 0101
Brown**

1. Applicant to provide an access permit issued by Ministry of Transportation and Highways for the proposed use.
2. Applicant to prepare and register a Section 219 covenant on title of the subject property to secure the following:
 - No outdoor burning of waste products resulting from pole peeling operations

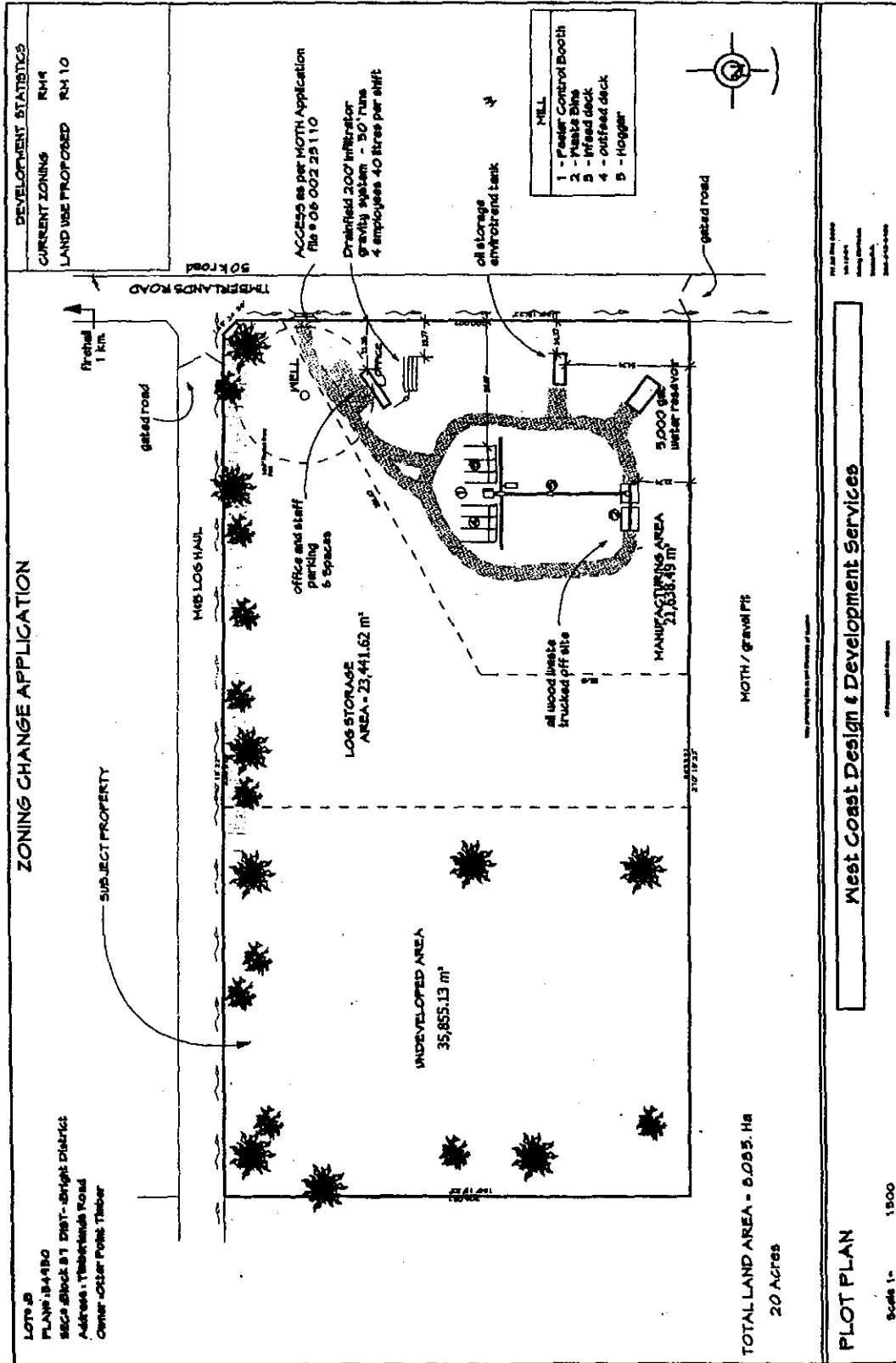
ATTACHMENT NO. 1



ATTACHMENT NO. 2



ATTACHMENT NO. 3



ATTACHMENT NO. 4

Section 6.4.80

RESOURCE MANAGEMENT 10

RM10

Permitted uses and Minimum Site Area

Permitted Uses

Extraction Use
Log Storage and Sorting Yard
Primary Processing
Log Processing
Residential Use
Silviculture

Maximum Number and Size of Buildings and Structures

- | | |
|----------------------------|-------|
| (a) Dwelling units/parcel: | 1 |
| (b) Height | 9.0 m |
| (c) Parcel coverage | 10% |

Minimum Parcel Area

Subject to Section 7.4.4, no parcel having an area less than the applicable subdivision district as stated in Section 7.1 may be created by subdivision, and for the purposes of this subsection, "parcel" includes a lot created by deposit of a strata plan under the **Condominium Act** (British Columbia) but excludes a bareland strata lot.

Minimum Setback Requirements

- (a) All buildings and structures
All lot lines - 8.0 m;
except where any part of a parcel is adjacent to or contains a watercourse then the regulations in Section 6.3.8 shall apply.

Log Processing means a building, structure or equipment operating during normal daylight hours, processing less than 500 m³ of logs per day including the preparation of logs, fence posts, landscape ties, poles or firewood.



REGIONAL DISTRICT OF NANAIMO	
FEB 15 2001	
CHAIR	GMCrS
CAO	GMDS
GMCrS	SMES
DATE: February 12, 2000	
FILE: 3060 30 0102 & 3060 30 0101	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

FROM: Deborah Jensen
Planner

SUBJECT: Zoning Amendment and Development Permit Application - James
Electoral Area 'E' - 2470 Apollo Drive

PURPOSE

To consider an application to rezone the subject property from Residential 1 (RS1) to Commercial 7 (CM7) and to concurrently consider an application for a Development Permit in the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" Form and Character Development Permit Area to facilitate the development of a medical clinic facility.

BACKGROUND

The Regional District of Nanaimo has received an application to rezone an 0.11-hectare property (0.26 acres) from Residential 1 (RS1) to Commercial 7 (CM7). The subject property is located adjacent to Apollo Drive (see Attachment No. 1) and is surrounded by a mix of zoning classifications (see Attachment No. 2). Residential zoned properties are located adjacent to the north, west and south of the subject property. Nanoose Place, located in a Public Use zone, is situated on the eastern side of the subject property, immediately across Northwest Bay Road. A Commercial 2 zone (Red Gap Centre) is west of the property.

Pursuant to Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 the subject property is located within the Red Gap Village Centre Land Use Designation and within a Form and Character Development Permit Area (see Attachment 3). The Development Permit Area was established to provide objectives for the form and character of commercial, industrial and multiple family residential developments. A development permit must be in place for the continued operation of the medical clinic facility. The Development Permit Area guidelines applicable to the facility in question focus on the integration of the development with surrounding land uses, particularly as they pertain to parking and signage.

The subject property is the site of a medical clinic, which, subsequent to a bylaw enforcement review, was determined to not meet the definition of a "Home Occupation Use". The applicant, therefore, has applied to rezone the property to allow for continued operation of a medical facility (see Attachment No. 4- Survey Plan and Attachment No. 5- Parking Plan).

Staff note that this rezoning application is consistent with the objectives of the Regional Growth Management Plan and the Official Community Plan. However, the subject property is within a development permit area, therefore the application for a development permit is presented in this report for the Board's concurrent consideration with the rezoning.

Public Information Meeting

A public information meeting was held on February 1, 2001 at Nanoose Place. Notification of the meeting was advertised in the Parksville-Qualicum News, along with a direct mail-out to all property owners within 100 metres of the subject property. 21 people attended the meeting and provided their comments with respect to the proposal following the applicant's presentation of an overview of the proposal (*see Attachment No. 6 "Minutes of the Public Information Meeting"*). Issues raised at the public information meeting included traffic safety and access, future commercial space, and future site use.

ALTERNATIVES

1. To approve the amendment application to rezone the subject property from Residential 1 (RS1) to Commercial 7 (CM7) and approve the requested development permit, as submitted by the applicant.
2. To approve the amendment application to rezone the subject property from Residential 1 (RS1) to Commercial 7 (CM7) and approve the requested development permit subject to the conditions outlined in Schedule No. 1.
3. To not approve the amendment application to rezone the subject property from Residential 1 (RS1) to Commercial 7 (CM7) and not approve the development permit application.

PUBLIC CONSULTATION IMPLICATIONS

In addition to the Public Information Meeting, verbal and written comments have been received on this application (*see Attachment No. 7*). These concerns, along with staff comments, are outlined below:

Traffic Safety and Access

Residents have stated a number of concerns relating to traffic safety and access issues within the area. In particular, residents are concerned with: the degree of traffic congestion occurring at or near the intersection of Apollo Drive and Northwest Bay Road; the mix of pedestrian and vehicle traffic; the flow of children from the nearby school; and the lack of sidewalks within the area.

The Ministry of Transportation and Highways (MOTH) has issued an access permit for the subject property. The Ministry has also commented there are no restrictions for parking along Apollo Drive as long as vehicles are not parked in the travel lane. According to the Ministry, traffic safety issues along Apollo Drive have not escalated to a point that would warrant the installation of "No Parking" signs.

Commercial Space

The public has indicated that other sites may be available for the applicant to site a medical clinic. In particular, residents indicated that the medical office should be located within the Red Gap Shopping Centre complex rather than the proposed site, thereby containing commercial space within the core area.

Staff notes the RGMP and OCP have both designated the subject property as lying within a village centre. Therefore, a commercial use sited at this location would be supported by the OCP and RGMP.

Future Site Use

The public has expressed concerns pertaining to future land use at this site should the rezoning be approved. Staff notes the proposed zoning will restrict any future use to a limited number of options. In addition, site area for the subject property does not allow for a multitude of uses on this site.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1997 designates the subject property as "Village Centres" land, which is intended to provide for limited development of service centers outside of existing urbanized areas.

Policy 2A of the RGMP states the Official Community Plans will direct development into nodes, and discourage development elsewhere. Goal 5 of the RGMP indicates nodal communities can support improved mobility and accessibility by a variety of transportation modes, emphasizing walking, cycling, and transit. The applicant has indicated that a substantial portion of the clientele resides within walking distance of the subject property and, therefore, may discourage use of vehicular transportation.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 designates the subject property as "Red Gap Village Centre" land, a designation that allows for personal services, including medical facilities. No amendment to the OCP is required for this application for rezoning. The subject property is located in a Development Permit Area and the application for this development permit is being processed concurrently with the application for rezoning.

Development Permit Requirements and Proposed Variances

Pursuant to Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 the subject property is located within a Form and Character Development Permit Area. A development permit must be in place for the continued operation of the medical facility. The relevant Development Permit Area guidelines concern the integration of the development with surrounding land uses, and reference parking and signage issues.

The Development Permit provides guidelines for signage which state "signage shall complement the design of buildings and structures, be visually unobtrusive, grouped together and use a minimum amount of lighting." In addition, the RDN Bylaw No. 993, 1995, "A Bylaw to Regulate Signs," applies to the subject property.

The applicant currently has one freestanding sign located on the front property line. The applicant is proposing to increase the maximum number of allowable signs from two to three to allow for the existing sign and addition of two directional parking signs and is proposing to reduce the minimum setback from the front property line from 8.0 metres to 0.0 metres to legalize the placement of the freestanding sign.

The Development Permit guidelines for parking state "off-street parking areas shall primarily be located to the rear of buildings or in other locations that are not visible from roads." In addition, the RDN Land Use and Subdivision Bylaw No. 500, 1987, Schedule 6B, contains policies regulating the minimum number of parking spaces required for specific land uses. Six (6) parking spaces are required for the operation of the medical office and a one-bedroom residential unit proposed for the subject property.

The current site layout restricts the amount of parking that is available to the rear of the site. The applicant has established a parking plan that would allow for the required amount of parking spaces on site; however, it was necessary to establish some parking spaces at the front of the building (*see Attachment No. 5*). In addition, the lot limitations prohibit the designation of a 'loading space'; it is anticipated that this service would be provided from the proposed parking spaces at the front of the building. The applicant is proposing that two (2) off-street parking spaces be permitted at the front of the building, and is proposing that the minimum setback from the exterior side lot line be reduced from 5.0 metres to 2.0 metres to allow for off-street parking requirements.

LAND USE IMPLICATIONS

The proposed amendment to a new Commercial 7 zone would permit the continued operation of a medical clinic and residential use (*see Attachment No. 8*). Development of the site may eventually include approximately 48 m² (516 ft²) of personal service use that would be located adjacent to the existing medical office on the upper floor, subject to the provision of community water and sewer services to the subject property. The subdivision district and parcel coverage would remain unchanged.

The Ministry of Transportation and Highways has issued an access permit based upon operation of the existing medical clinic and a single dwelling unit (subject to an approved parking layout). The Ministry of Health has indicated that the existing septic disposal system is adequate for the medical facility and a one-bedroom dwelling unit.

SUMMARY/CONCLUSIONS


This is an application to rezone a 0.11-hectare property (0.26 acres) from Residential 1 (RS1) to Commercial 7 (CM7) to allow the continuing operation of a medical clinic. The Ministries of Health and Transportation and Highways have issued relevant approvals for the development.

The applicant has requested variances to the number and siting of allowable signs and the siting of parking spaces, as outlined in Schedule No. '1'.

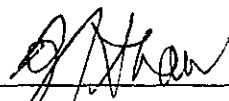
Staff recommends Alternative No. 2, to approve the rezoning application for 1st and 2nd reading and approve the Development Permit application, subject to the conditions outlined in Schedule No. 1 of this report, and subject to notification procedures pursuant to the *Local Government Act*.

RECOMMENDATIONS

1. That Amendment Application No. 0102 submitted by Dr. and Mrs. DE James, to rezone the subject property legally described as Lot 36, District Lot 6, Plan 23588, Nanoose District, from Residential 1 (RS1) to Commercial 7 (CM7) be advanced to a public hearing subject to the conditions outlined in Schedule 1.
2. That Development Permit Application No. 0101 to allow for the authorized operation of a medical clinic facility and vary the signage and parking requirements on the property legally described as Lot 36, Plan 23588, District Lot 6, Nanoose Land District, be approved subject to notification procedures pursuant to the *Local Government Act* and subject to the conditions outlined in Schedule '1'.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.273, 2001" be given 1st and 2nd reading and proceed to Public Hearing.
4. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.273, 2001" be delegated to Director Holme or his alternate.




Report Writer



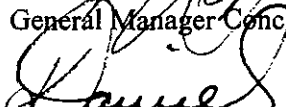
Manager Concurrence

COMMENTS:

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General Manager Concurrence



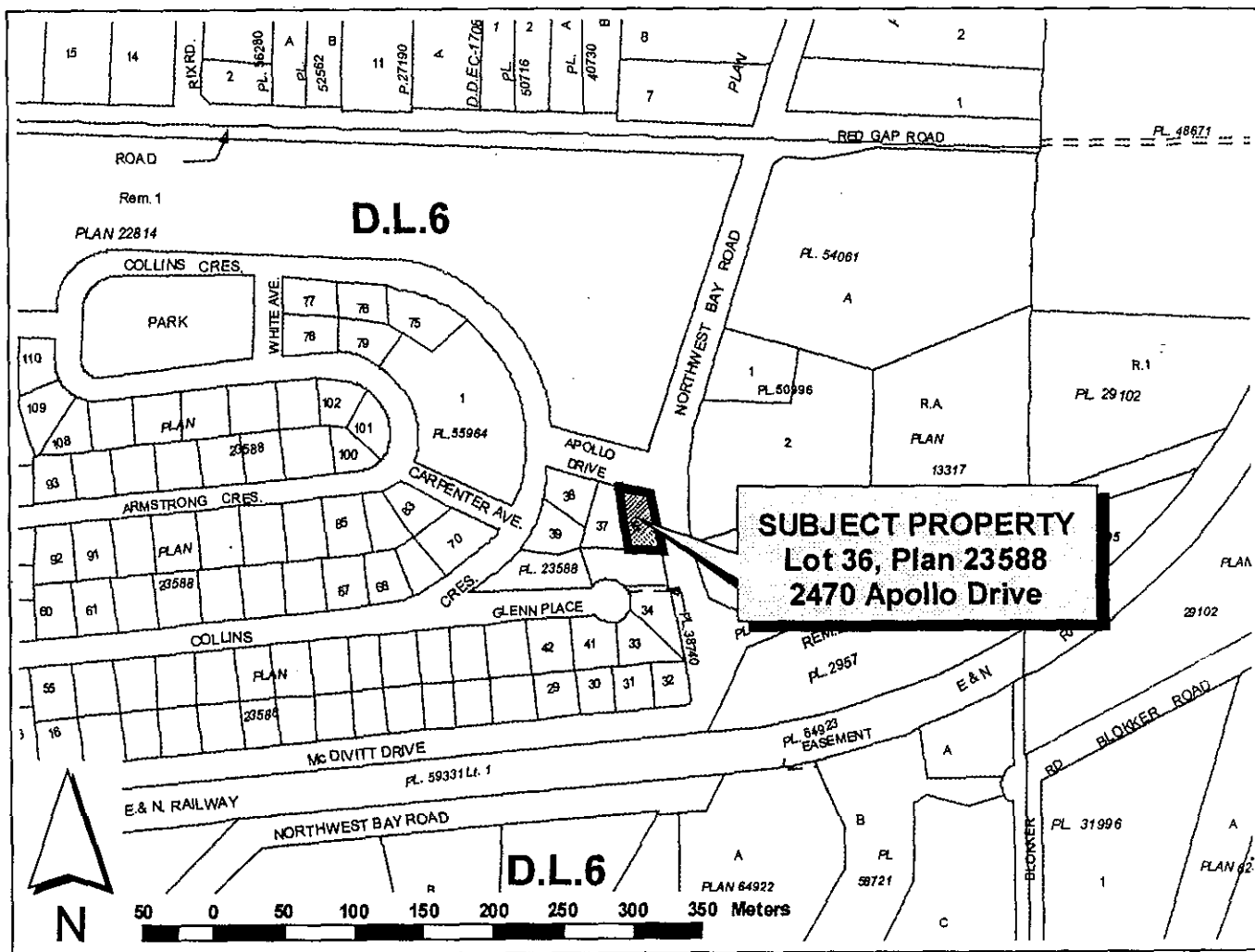
CAO Concurrence

SCHEDULE NO. 1

**Conditions for Approval for 1st and 2nd Reading
Zoning Amendment Application No. 0102
Development Permit Application No. 0101
James**

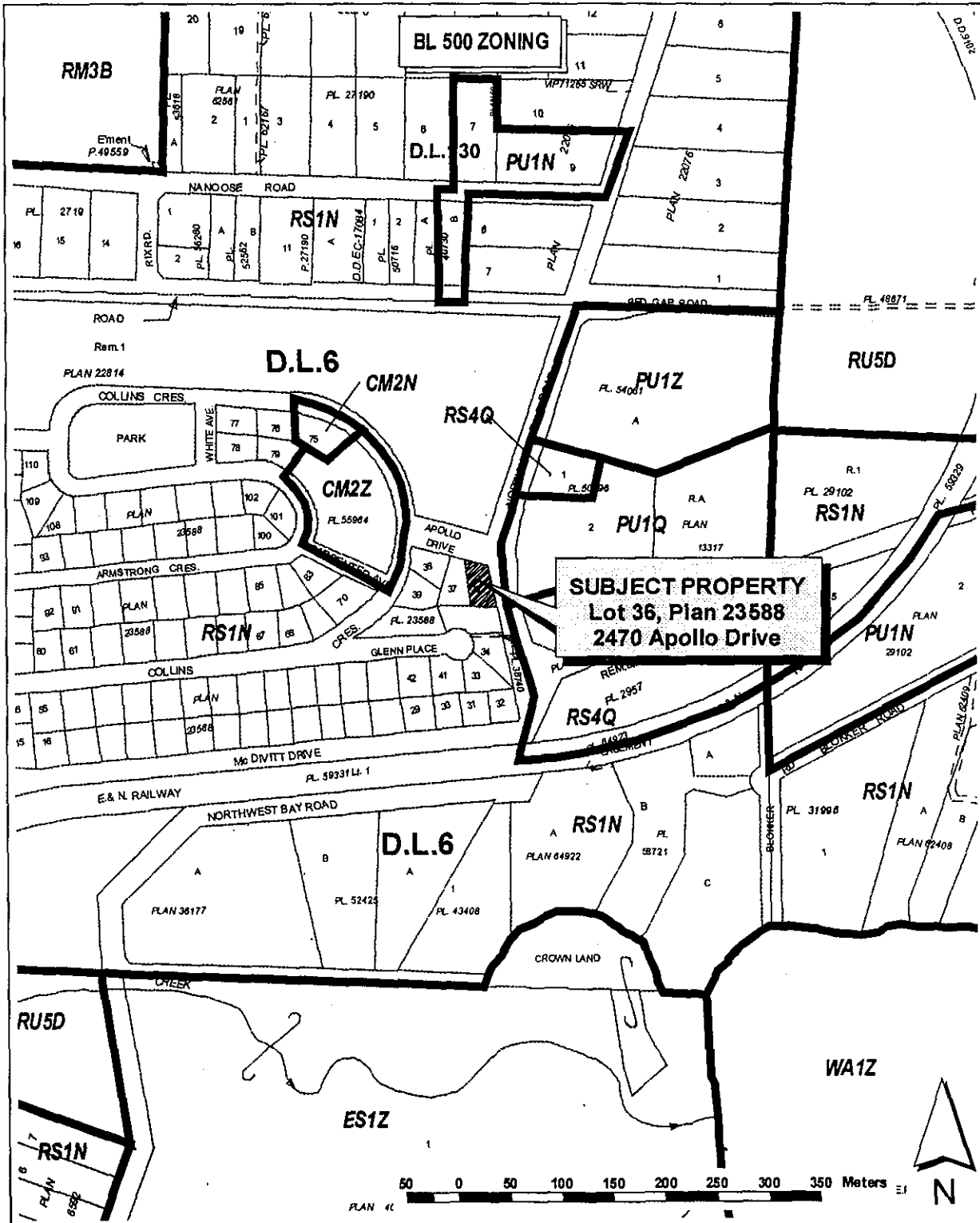
1. Applicant to provide a valid access permit, with revised parking plan, from the Ministry of Transportation and Highways for the proposed use.
2. Vary the Regional District of Nanaimo Bylaw No. 993, 1995, "A Bylaw to Regulate Signs," by:
 - a. increasing the maximum number of allowable signs from two (2) to three (3) to allow for the existing freestanding sign and addition of two directional parking signs.
 - b. reducing the minimum setback from the front property line from 8.0 metres to 0.0 metres to allow for placement of the existing freestanding sign.
3. Vary the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 to:
 - a. Allow for two (2) off-street parking spaces located at the front of the building.
 - b. Reduce the minimum setback from the other lot line from 5.0 metres to 2.0 metres to allow for off-street parking requirements.

ATTACHMENT NO. 1

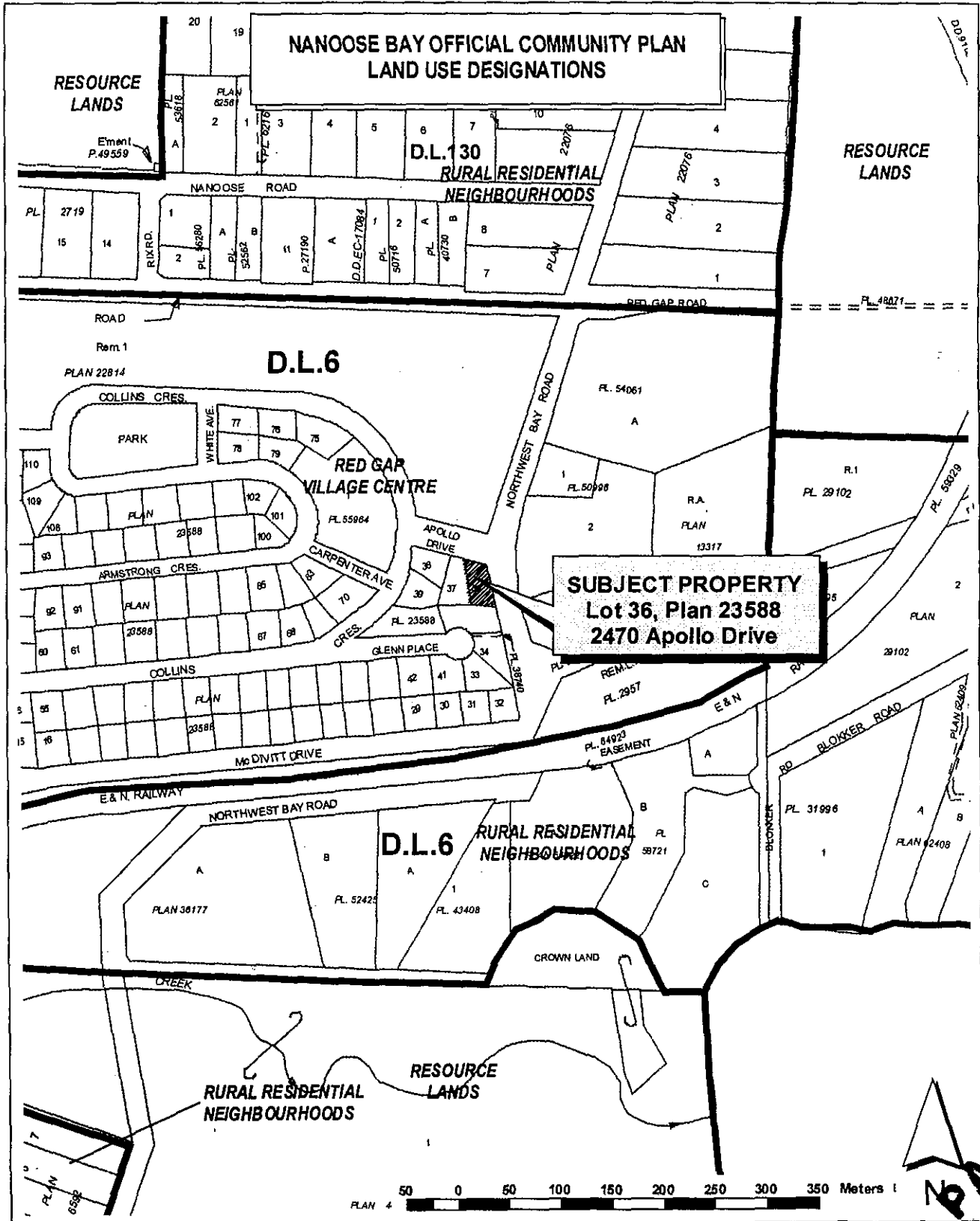


SUBJECT PROPERTY
Lot 36, Plan 23588
2470 Apollo Drive

ATTACHMENT NO. 2

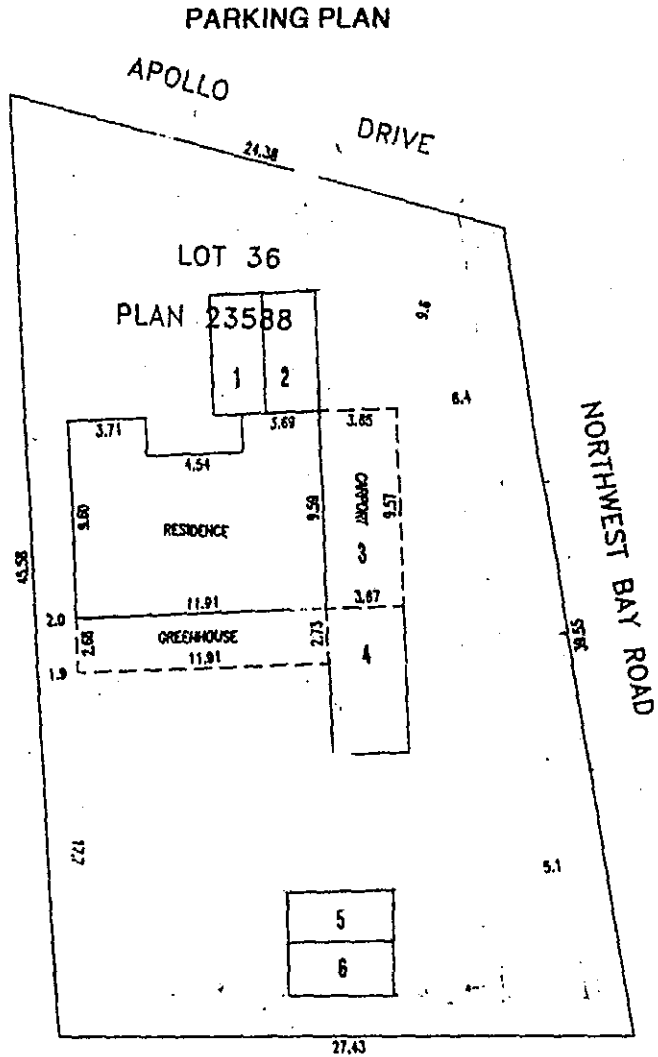


ATTACHMENT NO. 3



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ATTACHMENT NO. 5



Subject to Approval
by Ministry of Transportation and Highways

REGIONAL DISTRICT OF NANAIMO

SUMMARY OF PROCEEDINGS OF A PUBLIC INFORMATION MEETING
HELD THURSDAY, FEBRUARY 1, 2001 AT 7:00 PM
AT NANOOSE PLACE
TO CONSIDER BYLAW NO. 500.273, 2001

Note that these minutes are not a verbatim recording of the proceedings, but are intended to summarize the comments of those in attendance at the Public Information Meeting.

Present:

G. Holme	Chairperson, Director, Electoral Area 'E'
Larry McNabb	Alternate Chairperson, Director, City of Nanaimo
Dr. and Yvette James	Applicant
Deborah Jensen	Planner

There were approximately 21 people in attendance.

Chairperson Holme opened the meeting at 7:00 pm and followed with greetings to the public and an introduction of the head table.

The Chairperson stated the purpose of the public meeting.

Deborah Jensen provided a general overview of the proposed bylaw amendment for the Apollo Drive rezoning.

Dr. and Mrs. James provided a general overview and their reasons for the proposed rezoning.

The Chairperson invited questions from the audience.

Jim English, 2461 Collins Crescent, Nanoose Bay, BC, stated he moved to Nanoose Bay 20 years ago, and Dr. James' practice has been good for the community. He stated Nanoose Bay needs essential services in the community core, including this medical practice, and feels very positive about the rezoning.

Trish Widdershoven, 1485 Madrona Drive, Nanoose Bay, BC, stated Nanoose Bay has an OCP which describes the Red Gap area as local commercial and detached housing, and states commercial uses should be concentrated in the core area. She stated the Red Gap mall currently has empty space and residents are paying taxes for services. She also stated the Regional Board is allowing people who have contravened the bylaw to become legal.

Maurice Hedges, 2469 McDivitt Drive, Nanoose Bay, BC stated he objects to the rezoning due to traffic issues, and finds it difficult to walk in an area of primarily vehicle traffic, especially with no sidewalk present. He inquired what is to stop the applicant from placing more offices on site and creating more congestion. Mr. Hedges stated the medical clinic should be sited in the commercial area where there is ample parking. Mr. Hedges stated it would be more acceptable if the whole block was acquired for commercial development and parking would be dealt with.

Philip Thomas, 3314 Blueback Drive, Nanaimo, BC, stated he has attended the medical office with no traffic problems, and was more concerned with supply truck traffic from Quality Foods.

Al Barker, 2465 Apollo Drive, Nanoose Bay, BC, stated he works in the trailer park located across the street from the subject property, and spends approximately 5 to 6 hours per week at the corner of Apollo Drive and Northwest Bay Road. He stated he has never seen traffic congestion and has not noticed a safety issue for children.

Donna Kimpton, 2393 Armstrong Crescent, Nanoose Bay, BC, stated there have been no problems with traffic, and the school bus stop is actually a greater cause of congestion. She stated she used to be a volunteer driver for the medical clinic, and it was more difficult to obtain adequate parking in the mall area than at its current location, particularly if a disabled patient was involved.

Peter Kimpton, 2393 Armstrong Crescent, Nanoose Bay, BC, stated the entrance to the Red Gap Shopping Centre is more of a problem, and he supports this application. He believes the expansion of the office is a good idea.

Hans Zychlinski, 2045 Fisher Road, Errington, BC, stated the Ministry of Transportation and Highways (MOTH) directed him to develop the Red Gap Shopping Centre entrance as it is currently sited. He stated Dr. James rented space in the mall, and was not supposed to move to Apollo Drive when he did. Mr. Zychlinski also stated he had to conform with RDN requirements up to the last shrub, including posting a \$25,000 bond, and feels Dr. James should also conform.

Eric Smith, 2420 Nanoose Road, Nanoose Bay, BC, stated the core commercial area is not yet complete and there are still another 3 lots that are more suitable for commercial development. There is a plan for the commercial core and subsequent expansion, and converting the subject property to a commercial zone would be in contravention. He stated there will be no guarantee of future uses when Dr. James leaves his medical practice. He also stated there should be compatibility with landscaping and design, and does not see any evidence of this. In addition, he also believes people are using their property in contravention of bylaws for as long as they can and the RDN subsequently considers their application, which just encourages others to do the same since they are guaranteed to obtain the appropriate zoning.

Yvette James responded by stating they are applying for commercial zoning for one doctor, and that Dr. James will continue working for quite some time. She stated they moved out of the mall because they were at the end of their lease, and felt the tenant/owner relationship was not conducive to renewing their lease. Mrs. James is of the understanding that the Red Gap area is designated a community-based service area and indicated: that she does not understand why the public would assume a medical doctor has to be in a mall; that MOTH has already issued an access permit; that neighbours have not been bothered by parking, including people parking along Apollo Drive other than patients; and that landscaping is in place.

Dr. James responded that nothing structural will be done to the house, and that caveats can be put on the property to restrict uses.

Shelagh-Ann Hedges, 2469 McDivitt Drive, Nanoose Bay, BC, wanted confirmation that a caveat will be placed on the property and inquired what will happen with the commercial zoning when Dr. James is no longer at this address.

Yvette James responded there will only be one doctor in the building and they are simply asking for expansion of the medical area.

Philip Thomas, 3314 Blueback Drive, Nanaimo, BC, stated there is probably more traffic congestion on Bingo night with traffic exiting from Nanoose Place.

Trish Widdershoven, 1485 Madrona Drive, Nanoose Bay, BC, stated the area already has a commercial core, and many people do not want to see more commercial zoning. Rather, she agrees with the residential component of the area and that the dwelling should be owner occupied as a home based business.

Maurice Hedges, 2469 McDivitt Drive, Nanoose Bay, BC, stated the application is being approached in the wrong way. He stated that, if Dr. James runs the clinic as a home based business, then the property would revert back to residential when Dr. James leaves, and there is no need to rezone the property.

Al Barker, 2465 Apollo Drive, Nanoose Bay, BC, stated he remembers discussions whereby the entire District Lot 6 would become commercial property.

Hans Zychlinski, 2045 Fisher Road, Errington, BC, stated he intends to move back to Nanoose Bay so there are guarantees you know what will happen next door as opposed to open zoning.

Dr. James responded that when the mall was under construction, there were other small businesses showing an interest in the area.

The Chairperson asked if there were any final questions or comments. Being none, the Chairperson thanked those in attendance and announced that the public information meeting was closed.

The meeting concluded at approximately 7:35 pm.


Deborah Jensen
Recording Secretary

FEB 1 / 01

REGIONAL DISTRICT
OF NANAIMO

WE ARE SUBMITTING THIS LETTER TO SHOW OUR SUPPORT TO REZONE THE PROPERTY DEFINED AS LOT 36 PLAN 23588 2470 APOLLO DR. FROM RESIDENTIAL 1 (RS1) TO COMMERCIAL 7 (CM7) FOR THE DEVELOPMENT OF A MEDICAL OFFICE.

MY WIFE AND I MANAGE SCHOONER BAY MAJOR SENIORS MOBILE HOME PARK AND HAVE HEARD THAT A MEDICAL OFFICE AT THAT LOCATION WOULD CAUSE CONGESTION AT THE CORNER OF APOLLO DR AND N WEST BAY RD. WE SPEND FOUR TO SIX HRS. PER WEEK GARDENING & CUTTING THE LAWN IN THAT CORNER OF THE PARK AND HAVE NEVER SEEN ANY SIGNS OF CONGESTION, ALSO THE MAIN ENTRANCE TO THE PARK IS A VERY SHORT DISTANCE FROM N WEST BAY RD ON APOLLO DR. TO DATE NEITHER WE NOR OUR TENANTS HAVE HAD TO WAIT FOR TRAFFIC TO CLEAR TO MAKE THE LEFT TURN OUT OF THE PARK IN ORDER TO ACCESS N WEST BAY RD.

RESPECTIVELY SUBMITTED



AL BARKER

2420, Nanoose Road,
Nanoose Bay
V9P 9E6.
February 1, 2001

This is to express my hope that the RDN Directors will not sanction a zoning change on Apollo Drive. This is another instance of a businessman establishing a commercial operation first and applying for re-zoning after the fact. We have commercial space available (with plenty of parking) at the Red Gap Centre.

My second concern is that this corner is very busy with traffic accessing Red Gap and is within the school zone with cross-walk adjacent. Surely two good reasons to maintain the status quo.

Diana Prestidge.
DIANA PRESTIDGE

Jensen, Deborah

From: Beetstra, Marion
Sent: Wednesday, February 07, 2001 12:04 PM
To: Jensen, Deborah; Burgoyne, Linda
Subject: FW: Attn: G. Holme

-----Original Message-----

From: Vince R. Ditrich [mailto:vditrich@island.net]
Sent: Wednesday, February 07, 2001 12:33 PM
To: Planning@rdn.bc.ca
Cc: dyjames@island.net
Subject: Attn: G. Holme

Dear Mr. Holme,

I write to voice my support of the application to re-zone from RS-1 to CM-7 status by Dr. Don James of Nanoose.

As the town grows, it's need for a physician constantly increases. It is obvious that Dr. James is attempting to meet this growing demand for his essential service by adding a second operatory to his extant medical office, thereby allowing him to more efficiently treat his patients and allow them more flexibility in scheduling special treatments.

His plan would require no physical change to the outside of the building nor to the layout or landscaping of the lot.

Additionally, I cannot imagine that any sensible community member could consider it an inconvenience or a traffic impediment in having closer and more direct access to his or her doctor. The sick, injured and elderly of Nanoose no doubt appreciate the fact.

Yours,

Vince R. Ditrich
2796 Northwest Bay Road
Nanoose Bay, BC
V9P 9E6
250 468 9624

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Jensen, Deborah

From: Beetstra, Marion
Sent: Wednesday, January 24, 2001 8:32 AM
To: Jensen, Deborah
Cc: Shaw, Pamela
Subject: FW: Rezoning application

-----Original Message-----

From: Maurice Hedges [mailto:mesa@mindless.com]
Sent: Tuesday, January 23, 2001 6:13 PM
To: planning@rdn.bc.ca
Subject: Rezoning application

I wish to place on record my objection to the proposed change of use of the property located on Apollo Drive, Nanoose Bay from Residential 1 (RS1) to Commercial 7 (CM7). I see no merit in the holding of a Public Information meeting on February 1st, 2001, particularly as this is not to be a public hearing on the application.

My objection is based on the property in question being at the junction of Northwest Bay Road and Apollo Drive where a high volume of foot and vehicular traffic passes at all times of the day in order to access the Red Gap shopping and postal facilities. Since this house has been in use for some months as a medical office I have had a good opportunity to observe the congestion that is being caused by patients visiting, in advance of a rezoning application being made. Cars are frequently left outside the property, obliging pedestrians to walk in front of oncoming traffic, there being no sidewalk. As a motorist I regularly drive from Red Gap and find that cars belonging to patients, whether parked or exiting the property's driveway, present an unwanted hazard.

In my opinion it would be most unwise to rezone the property from its existing RS1 category and, accordingly, the existing single-family use should be enforced. The former site of a medical office, being in the Red Gap business area, presented no traffic hazard.

Maurice E. Hedges 2469 McDivitt Drive
Nanoose Bay

468-1665

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Mr & Mrs Philip Thomas
3314 Blueback Drive
NanOOSE Bay, BC V9P 9J1

31 January 2001

Reference: NanOOSE Bay Medical Centre, 2470 Apollo Drive

Regional District of Nanaimo

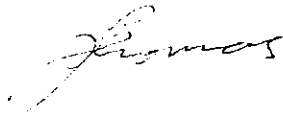
To Whom It May Concern:

We have been patients of Dr. Donald E James for the last three and a half years, and having the medical centre in NanOOSE Bay is extremely convenient. Dr. James is the only doctor in the NanOOSE Bay area; the next nearest doctor would be in Lantzville or Parksville. With the aging population, having a doctor in the neighbourhood is really advantageous in the case of an emergency situation. We have an 87 year old senior living with us and it's very comforting to know that there a doctor in such close proximity should we need him. Many older patients dislike having to drive to Parksville or further to visit their doctor, and many of Dr. James's patients are even able to walk to his office.

We have never experienced a problem parking at the medical centre and neither have we seen any congestion in the area outside. The fact that Dr. James is trying to improve his services to his patients should be commended and encouraged particularly at a time when dwindling health care resources is a major concern for BC residents and many doctors and nurses are leaving the province.

It would seem to us to be an ideal opportunity for the RDN to take a positive leadership position in a matter that is of great concern to many NanOOSE Bay residents.

Yours truly,



Marjorie Thomas
Philip Thomas
mmt

Dr. James C. English

2461 - Collins Crescent

(General Delivery)

Nanoose Bay, B.C.

VOR 2R0

Phone: 468-7132

Fax: 468-5291

1 February 2001

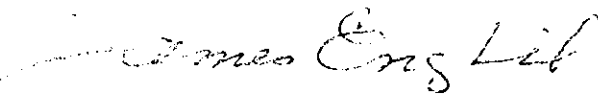
Mr. George Holmes
Director - Area E
Regional District of Nanaimo
4700 Hammond Bay Road
Nanaimo, B.C.

Dear Mr. Holmes:

RE: DR. JAMES -ZONING APPLICATION

We who reside in Nanoose Bay are extremely fortunate to live in one of the most beautiful places on Vancouver Island, if not all of B.C. Mild weather and a rural atmosphere a short ten minutes from every amenity that one needs makes this a very desirable location. However, there are some services that are an integral part of any community, and we are indeed fortunate that Dr. Don James has chosen Nanoose Bay to build his medical practice. He gives a great deal to our community and now it is our opportunity to support him in his bid to permanently establish his medical practice here. I personally greatly appreciate his presence in our community with his skill and expertise, and I would urge all present to join me in expressing support for Dr. James.

Yours truly,



James English, D.D.S.

February 1, 2001

2393 Armstrong Circuit
Nanose Bay, BC

Planning Department
Regional District of Nanaimo
6300 Hammond Bay Rd.
Nanaimo BC
V9T 6N2

Mrs. Sims:

RE: REZONING APPLICATION FOR 2470 APOLLO DRIVE, NANMOOSE

We are writing in support of this application.

This property provides an ideal location in the community for the local doctor's office. It is easily accessible and highly visible in contrast to its previous mall location where the convoluted entrance and adjacent parking were a drawback.

It is difficult to think of any objections to this rezoning. The usual objections heard to such requests - e.g. - increased noise, pollution, density, inappropriateness, traffic congestion do not apply.

This application should be readily approved by the Board.

Sincerely,

Pete Kimpton

Donna A. Kimpton

PETER T. KIMPTON

DONNA A. KIMPTON

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Jensen, Deborah

From: Beetstra, Marion
Sent: Tuesday, February 06, 2001 8:23 AM
To: Jensen, Deborah
Cc: Lapham, Bob; Shaw, Pamela
Subject: FW: 2470 Apollo Drive Nanoose Bay

-----Original Message-----

From: Ingo Neill-St.Clair [mailto:ingonstc@home.com]
Sent: Monday, February 05, 2001 10:22 PM
To: planning@rdn.bc.ca
Subject: re: 2470 Apollo Drive Nanoose Bay

To whom it may concern,(re: 2470 Apollo Drive)

I am very much in favour of rezoning from RS1 to CM7 for the following reasons, all of which greatly benefit Dr. James' patients and Nanoose as a whole:

1) I find the doctor's office must easier to access. For example, when it was located at the Red Gap stores, the parking lot was always congested with people zipping in and out. At the present location it is very quiet. Last time I visited a very elderly, infirm and arthritic lady patient was just leaving. She had great difficulty getting into her elderly daughter's car. But because the office is so quiet and uncongested the car could be pulled right up to the walkway, and several of us could help her into the car. This would not have been possible at the crowded, difficult to find a spot to park shopping center. With so may elderly patients in Nanoose having Dr. James' office located in the house is a great benefit.

2) Dr. James needs another workroom. It's ridiculous for the only doctor in Nanoose to only have one office. Some procedures and examinations require the patient to be in the office for longer than the normal time. If there were another office the doctor could help another patient. To restrict the only doctor in Nanoose to one room is not in the best interest of the community at large.

3) Having the doctor's office in a house is good for the psychological welfare of his patients. People really prefer to go to a house rather than a cold and informal shopping center office.

For these reasons I would like you to act in favour of the applicant and approve the zoning change.

I. Neill-St. Clair
3160 Northwest Bay Rd.
468-9720

Jensen, Deborah

From: Beetstra, Marion
Sent: Tuesday, February 06, 2001 9:42 AM
To: Jensen, Deborah
Cc: Lapham, Bob; Shaw, Pamela
Subject: FW: Rezoning property Apollo Dr. Electoral Area E

-----Original Message-----

From: CAROL MATCHETTE [mailto:carnoos@hotmail.com]
Sent: Tuesday, February 06, 2001 9:46 AM
To: planning@rdn.bc.ca
Subject: Rezoning property Apollo Dr. Electoral Area E

My husband and I attended the meeting last Thursday (Feb. 1/01) evening in the Nanoose Community Center re: rezoning of the James property. We have lived here 7 years and this is the first meeting of this kind that we have attended and found that this community is no different than any other with its assortment of individuals that do not want any change for good or bad and some with personal grudges. What the Jame's are trying to do we feel is a betterment to the community as a whole. The Red Gap area is the "business center" of Nanoose and the surrounding properties of the center itself would enhance the area for small business if proper criteria is met. The only people that should have some say in these matters are property owners close to a subjects property.

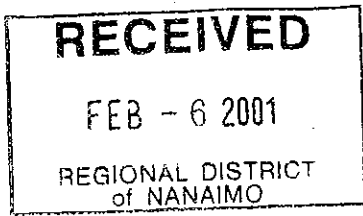
As far as traffic congestion, we have not seen any, we frequent the Red Gap Center, average 3-4 times a week, the Jame's have off street parking for approximately 4 - 5 vehicles, the "wide spot" on the road (Apollo Dr) in front of the Jame's property where vehicles often park, some patients of Dr. James some not. Vehicles were parking there long before the Jame's owned the property. Most often vehicles are completely off the road and do not pose any hazard that we have seen.

We are in complete favor of the rezoning of the Jame's property.

Yours truly,

Gerry & Carol Matchette
1610 Stewart Road,
Nanoose Bay, BC
V9P 9E7

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Feb. 5, 2001
P.O. Box 251
Nanaimo Bay, BC.
V9P 9J9

Deborah Jensen
RDN, Planning Dept.
6300 Hammond Bay Rd.
Nanaimo, BC.
V9T 6N2

Dear Ms. Jensen:

Further to the public information meeting held, Thursday, Feb. 1 at Nanaimo Place regarding the rezoning application for 2470 Apollo in Nanaimo, we would like to submit the following comments:

- 1) The speaker at the meeting indicated he had only seen Dr. James once but concluded he was near retirement and would soon be selling his practice, meaning that any type of business could come to that commercially-zoned property. We feel that this was a discriminatory remark based on age which should not be considered in any way regarding this rezoning. The applicant also stated a caveat was being placed on the property stating it would only be a one-doctor office.
- 2) Another speaker, a known local realtor, stated that Dr. James had acquired the property at a bargain price and so intended to make only money out of this rezoning. We felt that her business access to confidential information should not be a factor in considering this application.
- 3) Someone stated that a home-based business, as it now is, could only have three (3) customers per day according to an RDN Bylaw. We would submit that we know of at least two (2) home-based beauty salons in the area that certainly service more than 3 clients per day. This should be clarified at the Board as it seems totally impractical in

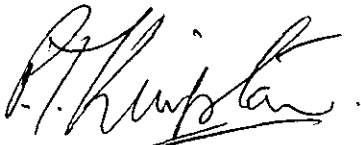
any event.

- 4) One speaker stated that Mr. James, whose previous office was located in the Red Gap Centre, left the Centre because he didn't like to pay commercial taxes. Not only is the applicant obviously prepared to pay commercial taxes if his present application is approved, but he stated he moved as his lease had expired.
- 5) There appears to be confusion regarding the planned commercial area in this region. We gathered that the Red Gap Village area is meant to encompass more than the present Red Gap Centre in creating a commercial core. In that event, the property in question would fit right into the commercial "village".

We would ask you to consider these points at your next meeting concerning this application.

Yours sincerely,

Donna A. Kimpton



DONNA A. KIMPTON
 PETER T. KIMPTON
 2393 ARMSTRONG CRES.
 NANOOSE BAY, B.C.

ATTACHMENT NO. 8

Section 6.4.17

COMMERCIAL 7

CM7

Permitted uses and Minimum Site Area

Permitted Uses	Required Site Area with:	
	<i>Community Water & Sewer System</i>	<i>No Community Services</i>
Office	500 m ²	1000 m ²
Personal Service Use	500 m ²	-
Residential Use	n/a	n/a

Maximum Number and Size of Buildings and Structures

Dwelling units/parcel	- 1
Floor area ratio	- 0.2
Height	- 8.0 m
Parcel coverage	- 20%

Minimum Setback Requirements

Front lot line	8.0 m
Interior side lot lines	2.0 m
Rear lot line	2.0 m
Exterior side lot line	5.0 m

except where:

- a) the adjoining parcel is zoned industrial or commercial then the setback from the common interior side lot line may be reduced to zero;
- b) any part of a parcel is adjacent to or contains a watercourse then the regulations in Section 6.3.8 shall apply.

- Vary the minimum setback requirement for the maximum dwelling unit height from 8.0 metres to 8.4 metres in order to accommodate the proposed roof overhang;
- Vary the minimum setback requirement for the watercourse protection development permit area from 15.0 metres to 11.1 metres in order to accommodate the addition; and
- Vary the minimum setback requirement for the front setback from 8.0 metres to 6.6 metres in order to legalize an accessory building.

ALTERNATIVES

1. To approve the requested variance.
2. To deny the requested variance.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested variance would permit the renovation of a single family home and legalize the location of the existing legal non-conforming accessory building.

The proposed renovation includes recovering the existing roof and improving its slope from 3/12 to 5/12. The peak of the renovated section is the highest point. As a result, the replacement roof will be 0.4 metres over height. In addition, the replacement roof overhang on the south west corner of the dwelling unit encroaches into the setback by 0.9 metres. The replacement roof will facilitate better water shedding.

The proposed renovation includes the construction of a large addition to be situated on the northwest side and rear of the existing dwelling unit. Given the existing location of the dwelling unit, topographic constraints (large bedrock formations), and the location of the septic field there is no other acceptable building site outside of the development permit area.

The impact this development will have on the views of the neighbouring property (lot 56) is minimal. That portion of the addition located within the Watercourse Protection Development Permit Area is one storey, approximately 7.7 m in height.

The existing accessory building is legal non-conforming. Relocating this structure presents hardship due to the elevation change from the street to the existing dwelling unit, the location of the septic field on the south side of the structure, and the rock formation located on the north side of the accessory building. The accessory building encroaches into the front yard setback by 1.4 metres.

ENVIRONMENTAL IMPLICATIONS

The property is located within the Watercourse Protection Development Permit Area for the foreshore. The ESA Atlas identifies this parcel as being located on a Coastal Bluff sensitive ecosystem. It is not possible to locate the addition on the front west side of the structure because of the proximity of the accessory building and the location of the septic field.

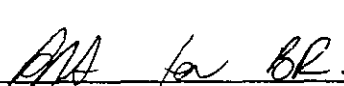
SUMMARY/CONCLUSIONS

This is an application to vary the minimum side yard setback requirement for the south west side yard lot line; to vary the maximum building height; and to vary the Watercourse Protection Development Permit Area setback to facilitate the renovation of and addition to a single family home; and to vary the front yard setback to legalize the existing legal non-conforming accessory building on a residential property (RS1).

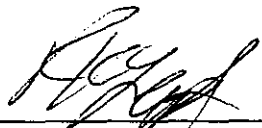
The level of encroachment is considered to be moderate as the requested variance is 3.9 metres or 26 percent from the bylaw standard. The applicant's agent has agreed to minimize impact on the ecosystem by the erecting temporary fencing which will prevent any construction activity from occurring within any more of the setback area than necessary. Revegetation of the areas that have been cleared will further reduce the negative impacts and therefore staff recommend that the application be approved subject to the conditions outlined in Schedule No. 1 (attached).

RECOMMENDATION

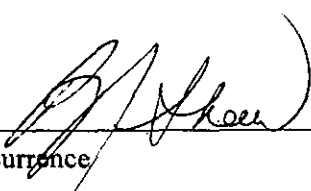
That Development Permit Application No. 0102 to vary the minimum 2.0 metre setback from the side lot line to 1.18 metres, to vary the maximum height of 8.0 metres to 8.4 metres and to vary the Watercourse Protection Development Permit Area of 15.0 metres from the natural boundary to 11.1 metres to construct an addition to a single family home and to vary the minimum 8.0 metres setback from the front lot lines to 6.6 metres to legalize an historical accessory building on the property legally described as Lot 57, Plan 15983, DL 78, Nanoose District, be approved, subject to notification procedures pursuant to the **Local Government Act**.



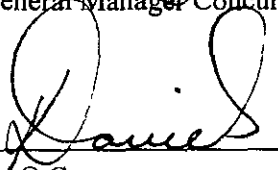
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2001/dp fe 3060 30 0102 meyer-homes by Kimberly.doc

SCHEDULE NO. 1

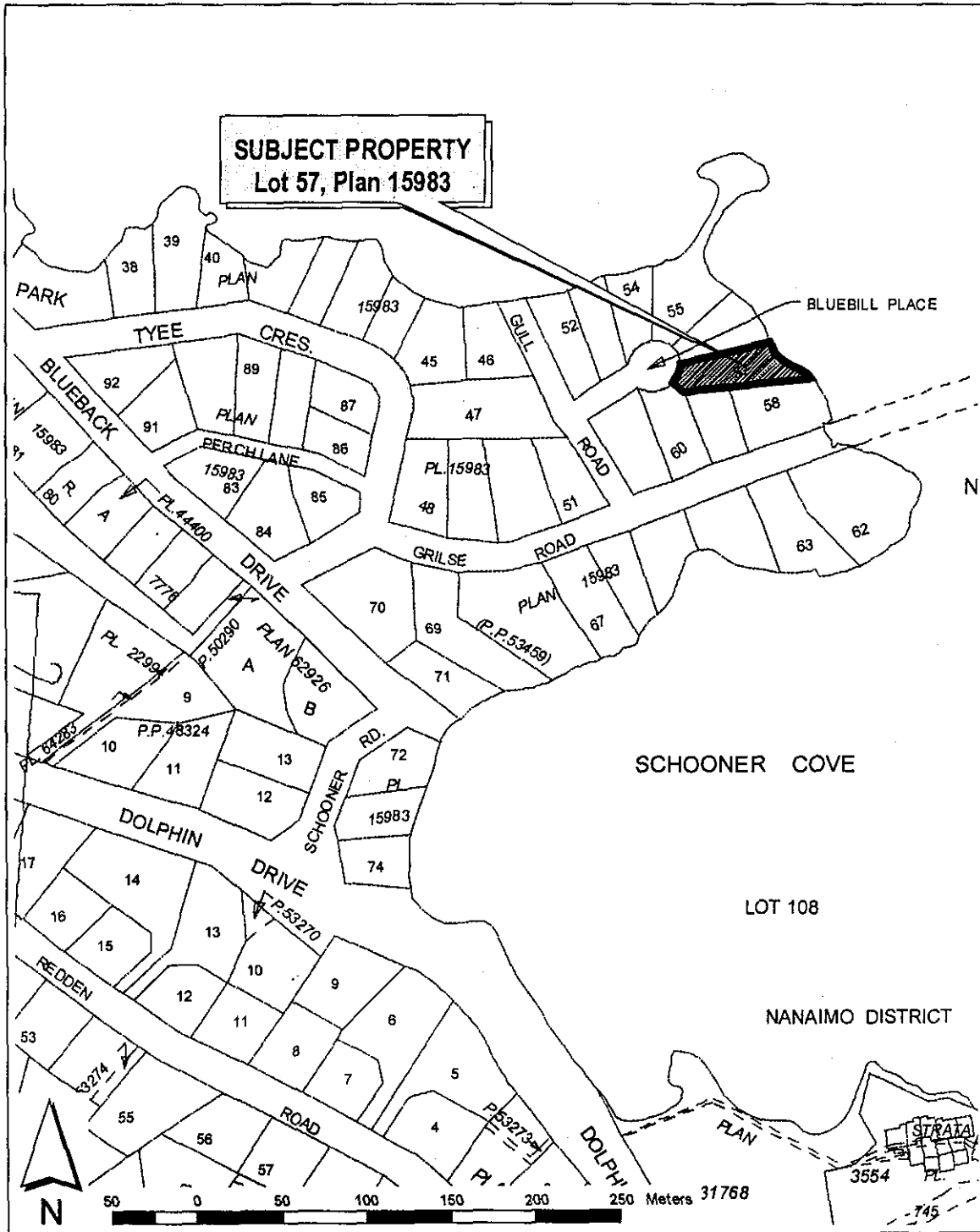
CONDITIONS OF APPROVAL FOR DEVELOPMENT PERMIT NO. 0102

3512 BLUEBILL PLACE

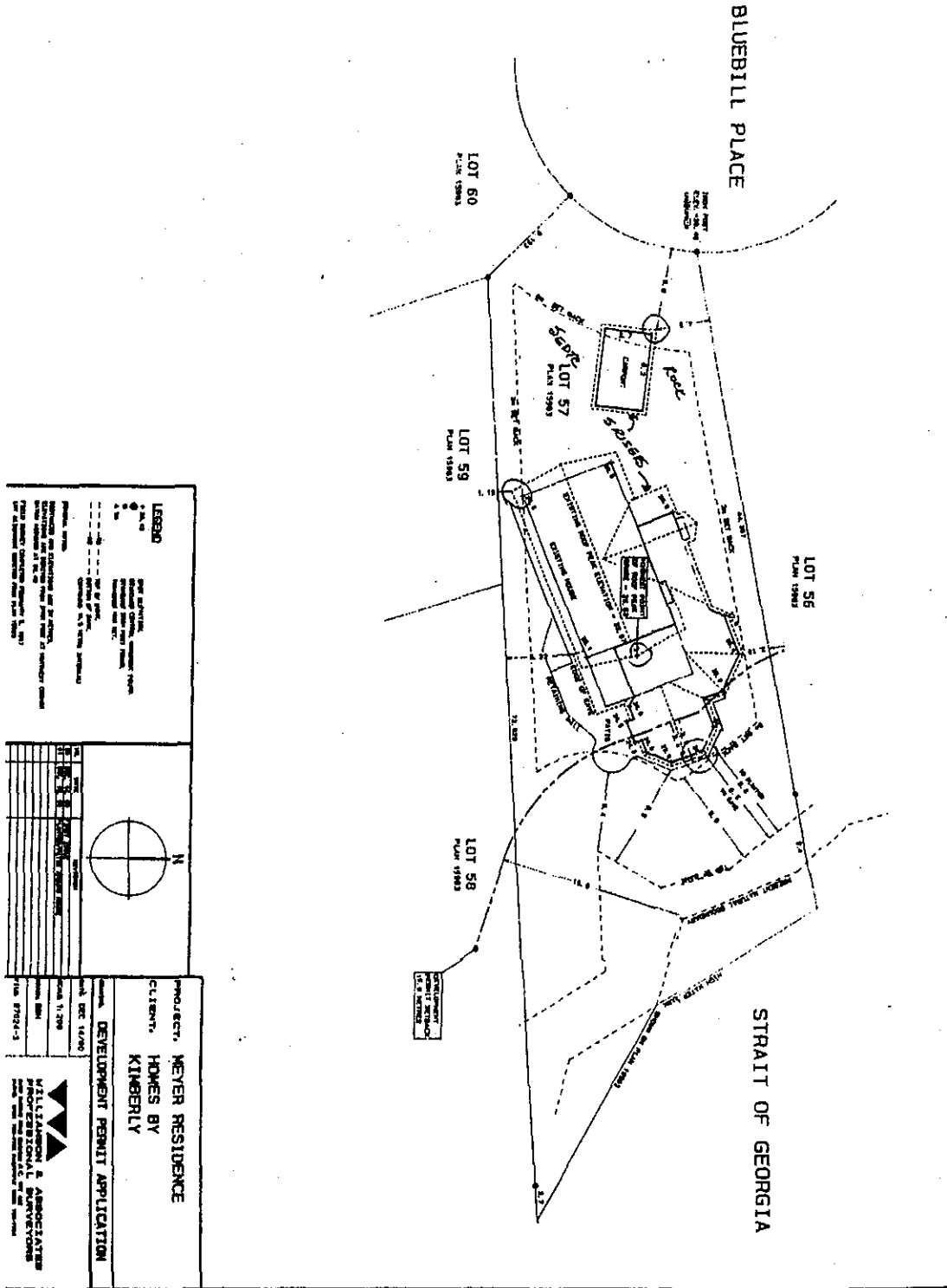
LOT 57, PLAN 15983, DL 78, NANOOSE DISTRICT

1. Install temporary fence (snow or 'hi-vis' fence) 8 metres from the top of the bank to demarcate the setback prior to any construction activity. Leave the temporary fencing in place until after construction is complete and materials and equipment are moved offsite.
2. Replant vegetation within the disturbed area. Replanting to use trees, shrubs and ground cover native to the area and selected to suit soil, light and groundcover conditions of the site.
 - Minimum native tree stock of 1.5 metres in height.
 - Minimum planting density of 2.0 metres for trees.
 - Shrubs and smaller species should be planted at between 0.5 and 1.0 metre centers.
 - Fall (September to October) or spring (March to April) planting is recommended to maximize survival.

ATTACHMENT NO. 1



ATTACHMENT NO. 2



LEGEND

- 10' SETBACK
- 20' SETBACK
- 30' SETBACK
- 40' SETBACK
- 50' SETBACK
- 60' SETBACK
- 70' SETBACK
- 80' SETBACK
- 90' SETBACK
- 100' SETBACK
- 110' SETBACK
- 120' SETBACK
- 130' SETBACK
- 140' SETBACK
- 150' SETBACK
- 160' SETBACK
- 170' SETBACK
- 180' SETBACK
- 190' SETBACK
- 200' SETBACK

PROJECT: MEYER RESIDENCE
 CLIENT: HOMES BY KIMBERLY

DEVELOPMENT PERMIT APPLICATION

WILLIAMSON & ASSOCIATES
 PROFESSIONAL SURVEYORS

DATE: FEB 12 2001
 TIME: 10:00 AM



REGIONAL DISTRICT OF NANAIMO		
FEB 19 2001		
CHAIR	GMCrs	
CAO	GMDS	
GMCmS	GMES	
	DS?	✓

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: February 19, 2001

FROM: Susan Cormie
Senior Planner

FILE: 3320 00

SUBJECT: Request to Review the Requirement for
Minimum 10% Perimeter Frontage Relaxation for Electoral Area 'F'

PURPOSE

To consider a request asking the Board to reconsider the current Board policy concerning requests to relax the minimum 10% perimeter frontage in Electoral Area 'F'.

BACKGROUND

Ms. Helen Sims of Sims Associates, has verbally requested that the current Board moratorium on 10% frontage relaxation requests for properties in Electoral Area 'F' be amended to permit the Board to consider such requests. This request has come about due to a proposed subdivision application in Electoral Area 'F' that would need a relaxation of the frontage requirement to be considered for approval.

In May 1996, the Regional Board of Directors placed a moratorium on relaxing the minimum 10% perimeter frontage as part of a subdivision approval process for applications in Electoral Area 'F'. At that time, the Board was considering a number of applications that involved relaxation of the minimum 10% perimeter frontage requirement for new parcels. The Board indicated that further review was needed in the evaluation of these types of requests. Since that time, applications for subdivision in Electoral Area 'F' has been required to meet the minimum 10% perimeter requirement or the application would not proceed.

ALTERNATIVES

1. To amend Board policy that currently places a moratorium on frontage relaxations in Electoral Area 'F' and consider such requests on an application-by-application basis.
2. To amend Board policy that currently places a moratorium on frontage relaxations in Electoral Area 'F' and consider such requests only where the proposal is consistent with the Electoral Area F Official Community Plan.
3. To maintain the current Board policy that minimum 10% frontage relaxation requests will not be considered in Electoral Area F until they are addressed as part of the proposed zoning and subdivision regulations.

DEVELOPMENT IMPLICATIONS

As the Board is aware, the Electoral Area 'F' Planning Process is currently underway. The Official Community Plan for the Area has been adopted and the zoning bylaw is currently under preparation. At this time, the minimum parcels sizes for creating new parcels are established through the *Local Services Act*, which is administered by the Ministry of Transportation and Highways.

The new zoning bylaw is anticipated to address issues such as subdivision layout and minimum parcel size requirements. Once this bylaw has been adopted, parcel configuration and minimum parcel sizes for subdivision applications within Electoral Area 'F' will be administered by the RDN. In the interim it is possible that subdivision applications may come forward that are contrary to the direction of the Electoral Area F Official Community Plan with respect to parcel sizes and conflicts with development permit area designations. In order to maintain the policy direction of the Plan it is recommended that frontage relaxations only be considered for approval where they are consistent with Electoral Area F Official Community Plan.

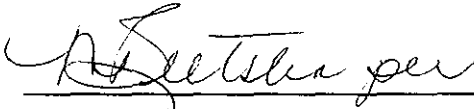
SUMMARY

This is a request to reconsider the Board resolution with respect to its moratorium on relaxing the minimum 10% perimeter requirement for the subdivision of parcels in Electoral Area 'F' pursuant to Section 944 of the *Local Government Act*. It has been proposed that such requests be considered on an application-by-application basis.

Until the zoning bylaw for Electoral Area 'F' is adopted, the Ministry of Transportation and Highways pursuant to the *Local Services Act* continues to administer the minimum parcel size requirement. However, given that an Official Community Plan has been adopted for Electoral Area F there is now some policy direction to be evaluated when considering applications for frontage relations. Therefore, until parcel sizes and lot configuration provisions are administered by the RDN, staff supports Alternative No. 2, that the Board reconsider its resolution with respect to the moratorium and allow requests for the minimum perimeter frontage relaxations to be considered only where the proposal is consistent with the Electoral Area F Official Community Plan.

RECOMMENDATIONS

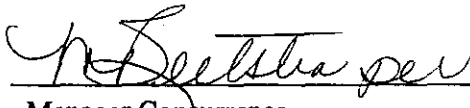
That the Board reconsider its resolution of May 1996 and allow requests for the minimum 10% perimeter frontage requirements for the subdivision of parcels in Electoral Area 'F' to be considered only where the proposal is consistent with the Electoral Area F Official Community Plan.



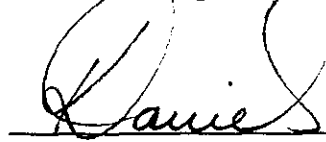
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2001/frige 3320 00 fe 10%.EA'F'.doc



REGIONAL DISTRICT OF NANAIMO			
FEB 13 2001			
CHAIR		GMCRS	
CAO		GMDS	
GMCMs		GMES	
		DSC	✓
		DATE:	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

February 12, 2001

FROM: Deborah Jensen
Planner

FILE: 6635 03 0010

SUBJECT: ALR 0010 Inclusion – Qualicum Farms
Those Parts of District Lot 78, Newcastle District, Shown Outlined in Red on Plan 310R, Except That Part in Plan 9359, VIP61315 and VIP61732
Electoral Area 'G' – Rupert Road

PURPOSE

To consider an application for inclusion of land within the Agricultural Land Reserve and to provide a resolution by the Board to be forwarded to the Land Reserve Commission as input for their decision.

BACKGROUND

The Regional District of Nanaimo has received an application to include approximately 9.4 hectares (23.2 acres) property within the Agricultural Land Reserve (ALR). Applications for inclusion are forwarded to the Board for its consideration due to Regional Growth Management Plan issues and to highlight potential OCP amendment or rezoning implications.

The subject parcel is located adjacent to Rupert Road in Qualicum Beach (see Attachment No. 1). The majority of surrounding lands, including the Glengarry Golf Course, are located within the Agricultural Land Reserve. Under direction from the Land Reserve Commission (LRC), the applicant's stated intention is to include the land within the ALR, and subsequently develop a 3-lot subdivision (see Attachment No. 2).

The Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1997 designates the subject property as "Resource Lands and Open Spaces" land.

The French Creek Official Community Plan, Bylaw No. 1115, 1998 designates the subject property as Rural land (see Attachment No. 3).

The Land Use and Subdivision Bylaw 500, 1987 zones the subject property as Rural 1 (RU1D) (see Attachment No. 4).

A prior application for exclusion from the Forest Land Reserve (FLR) was made for the purpose of subdividing the subject property into five lots. This exclusion application was considered by the RDN Board at its regular meeting held on March 14, 2000, and the following resolution supporting the subdivision of the property into three lots was forwarded to the Land Reserve Commission:

MOVED Director Hamilton, SECONDED Director Stanhope, that the application for exclusion of the property legally described as the Remainder of Plan 310-R of District Lot 78, Newcastle Land District from the FLR be denied; however, the Regional District recommends that the Forest Land Commission consider a proposal to subdivide the subject property into three parcels in the form as presented in Schedule 1.

This application to exclude property from the FLR was conditionally approved by the Land Reserve Commission in August 2000 (see Attachment No. 5). The LRC conditionally allowed the “application for removal and subdivision of the subject lands subject to:

- 1) receipt of an application for the inclusion of the subject lands into the Agricultural Land Reserve,
- 2) consolidation into one lot of the two farm properties discussed in the application,
- 3) receipt of the recapture charge levied under the FLRA.”

Through subsequent discussions with staff and the LRC, the applicant is requesting the subject property be included within the ALR for the purpose of subdividing the property into 3 lots as recommended by the Board and approved by the Land Reserve Commission (see Attachment No. 6 and 7).

ALTERNATIVES

1. To provide a Board Resolution recommending the ALR inclusion application be approved.
2. To provide a Board Resolution recommending the ALR inclusion application be denied.

GROWTH MANAGEMENT PLAN IMPLICATIONS

In the interest of containing urban sprawl, Policies 1C and 2A of the Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1997 require that future urban development be directed to community nodes, including Urban Containment Boundaries, Village Centers or Present Status lands. The subject property is not located within these categories.

Policy 3C of the RGMP states that Official Community Plans will contain policies that support the Forest Land Reserve. As well, Policy 3D states that OCPs will include policies supporting retention of land in the Agricultural Land Reserve. Either of these policies would act in support of the application for retention of the subject property within the ALR or FLR.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The French Creek Official Community Plan, Bylaw No. 1115, 1998, designates the subject property as “Rural” land, a designation characterized by large lots, and includes existing large farm operations, forest lands, hobby farms, and rural neighbourhoods which are outside of the urban boundaries identified in the Regional Growth Management Plan. These lands are intended to serve as a buffer between resource land and more urban lands, as well as providing for traditional rural pursuits.

OCP policy states that the Regional District will support the Land Reserve Commission (LRC) in their mandate to protect farm land by the retention of larger land holdings for present and future agricultural food production. In addition, OCP policy states the Regional District will support the LRC in their mandate to retain large land holdings for forestry production and sustainability. There is also provision for restricting subdivision of land within the ALR or FLR to a parcel size no smaller than 8.0 hectares. However, staff notes that the current zoning of the subject property would permit the subdivision as proposed.

The Inland Island Highway Development Permit Area affects the most westerly portion of the subject property fronting Memorial Avenue. The purpose of this development permit is to establish objectives and provide guidelines for the visual form and character of existing industrial and rural lands that may be visible from the Inland Island Highway and the interchanges with Highways 4 and 4A. Inclusion of the subject property into the ALR will exempt the property from the highway buffer requirement.

SUMMARY/CONCLUSIONS

The Regional Board is requested to provide a resolution to be forwarded to the Land Reserve Commission with regard to an application to include approximately 9.4 hectares (23.2 acres) of land within the Agricultural Land Reserve. The proposed inclusion is for the purpose of complying with the conditional approval of the Land Reserve Commission to remove the subject property from the Forest Land Reserve and develop a 3-lot subdivision.


The application was referred to the Electoral Area 'G' Director Stanhope for comment. Director Stanhope indicated support for the proposal (*see Attachment No. 8*).

Policies in the Regional Growth Management Plan and the French Creek Official Community Plan support the applicant's proposal.

RDN staff would recommend, in the interests of compliance with RGMP policy, OCP policy, and current zoning regulations, and for the preservation of the ALR, that the Board resolution recommend approval of this inclusion application.

RECOMMENDATION

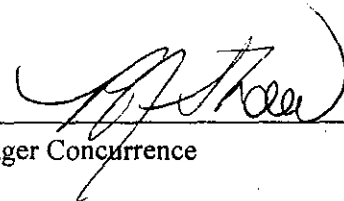
That the Board of the Regional District of Nanaimo, in recognition of policies contained in the Regional Growth Management Plan, the French Creek Official Community Plan, Bylaw No. 1115, 1998, and regulations within Land Use and Subdivision Bylaw No. 500, 1987, recommend that the application for inclusion within the Agricultural Land Reserve for the property legally described as Those Parts of District Lot 78, Newcastle District, Shown Outlined in Red on Plan 310R, Except That Part in Plan 9359, VIP61315 and VIP61732, be supported.



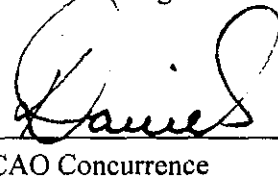
Report Writer



General Manager Concurrence



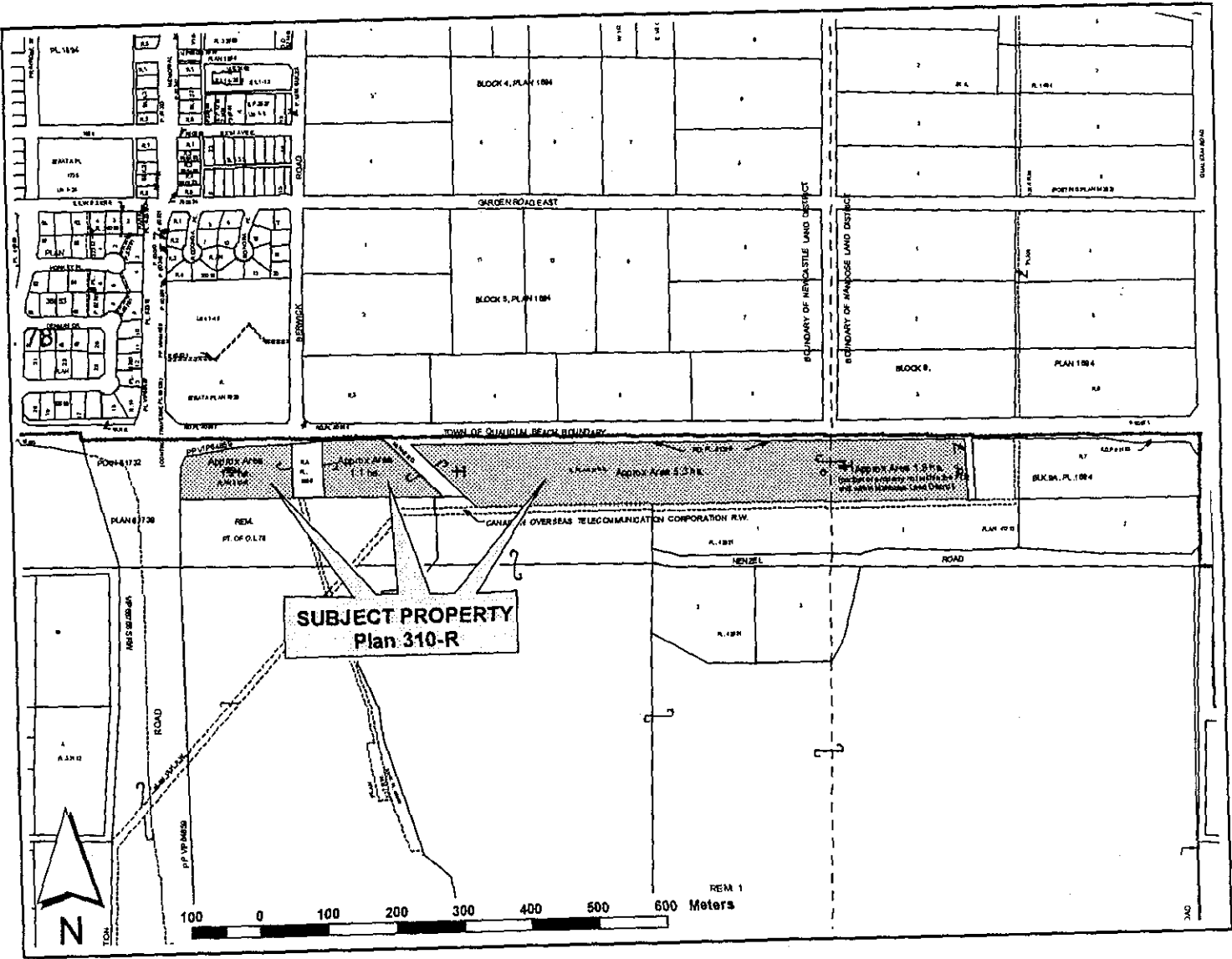
Manager Concurrence



CAO Concurrence

COMMENTS:
devsvs/reports/2001/6635 03 0010 fe Qualicum Farms alr.doc

ATTACHMENT NO. 1



ATTACHMENT NO. 2 (1 of 2)



APPLICATION BY LAND OWNER
 under Section 13 (6), 15 (1) or 22 (1) of the Agricultural Land Reserve Act
 or
 under Section 34 or 36 of the Agricultural Land Reserve Procedure Regulation

NOTE: The information on this form is collected to process your application under the Agricultural Land Reserve Act. All applications are available for review by the public. If you have any questions about the collection and use of this information, contact the Land Reserve Commission and ask for the staff member who will be handling your application.

PART 1 APPLICANT

Registered Owner: Qualicum Farms Ltd.		Agent: Patrick Evans	
Address: 250 Hilltop Rd Qualicum Beach		Address: 5848 Hazelglen Rd	
B.C.		Creston B.C.	
Postal Code V9K-1W1		Postal Code M1W-7L3	
Tel. (home): 250-226-8773 (work)		Tel. 250-226-8773 Fax.	
E-mail: pke@qualicum.com		E-mail: pke@qualicum.com	

PART 2 TYPE OF APPLICATION (Check appropriate box)

<input checked="" type="checkbox"/> INCLUSION under Sec. 13 (6) of the Act	<input type="checkbox"/> SPECIAL CASE SUBDIVISION in the ALR under Sec. 36 of the Regulation (subdivision along the ALR boundary)
<input type="checkbox"/> EXCLUSION under Sec. 15 (1) of the Act	<input type="checkbox"/> SPECIAL CASE USE in the ALR under Sec. 34 of the Regulation
<input type="checkbox"/> SUBDIVISION or USE in the ALR under Sec. 22 (1) of the Act	State which paragraph of Sec. 34 (2) describes the proposed use <input type="checkbox"/>

PART 3 LOCAL GOVERNMENT JURISDICTION (Indicate Regional District or Municipality)

Regional District of Nanaimo

PART 4 IDENTIFICATION OF LAND UNDER APPLICATION (Show land on plan or sketch)

Legal Description:	Size of Each Parcel (Ha.)	Date Acquired (Mo.) (Yr.)
1 District lot 78 plan 30	10.9	
Total Hectares:	10.9	

ATTACHMENT NO. 2 (2 of 2)

PART 5 OTHER LANDS OWNED OR LEASED WITHIN THIS COMMUNITY
 (Show information on plan or sketch)

Legal description: _____ Present use: _____
 Lot 1 PL 14 99 DL 8 except plan 4488, 12057, 41850/88 and 4488
 Lot 1 PL 14 003 DL 8 except plan 41852/89 (agriculture) all
 Lot PL 13 354 DL 8-41 except D 12058/88 21058 with 3007, 11058/89

PART 6 CURRENT USE OF LAND UNDER APPLICATION (Show information on plan or sketch)

List all existing uses on the entire parcel, orchard, hayfield, pasture, wooded, etc.
 Gas, home, concrete, asphalt, fields, wooded
 Describe all buildings: Gas, concrete, asphalt, fields, wooded
 Describe the main physical characteristics: flat, hilly, rocky, clay or sandy soil, watercourses, roads, etc.
 flat, sandy soil

PART 7 USES ON ADJACENT LOTS (Show information on plan or sketch)

Describe all uses: pasture, hay, vegetables, poultry, dairy, trailer park, community hall, etc.
 Describe all buildings: house, barn, school, etc.
 North: _____
 East: _____
 South: _____
 West: _____

PART 8 PROPOSAL AND REASONS FOR APPLICATION (Show on plan or sketch if appropriate)

Return to application # 359

PART 9 DECLARATION

I declare that the information contained in the application is, to the best of my knowledge, true and correct.

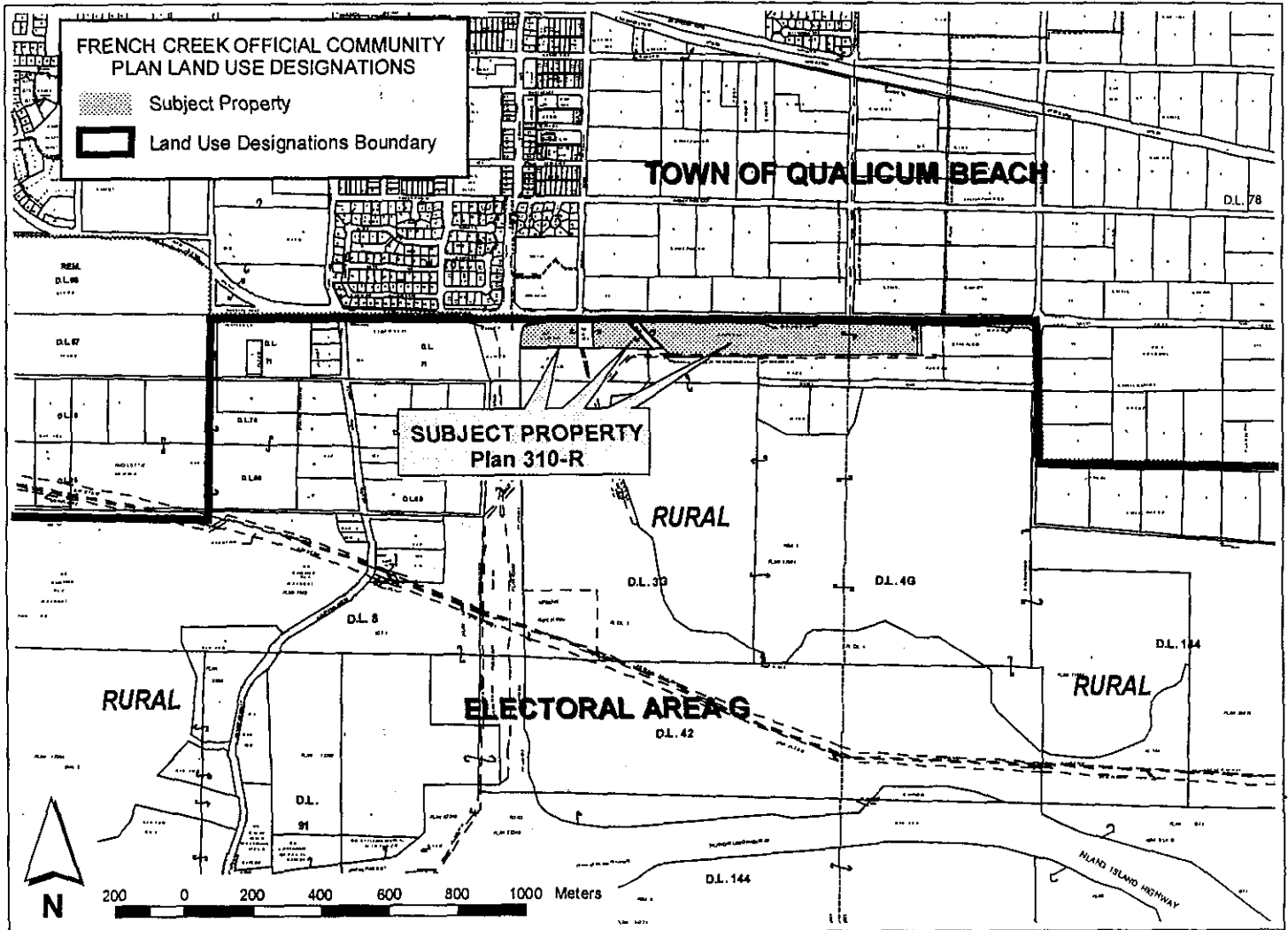
 Date Signature of Owner(s)

- The following must be enclosed:
- Application fee
 - Certificate of Title or Title Search Print
 - Assessment/Tax Notice
 - Agent authorization (if using agent)
 - Map or sketch showing details requested
 - Proof of Notice of Application *(See instructions)
 - Photographs (optional)
- All are included in application # 359

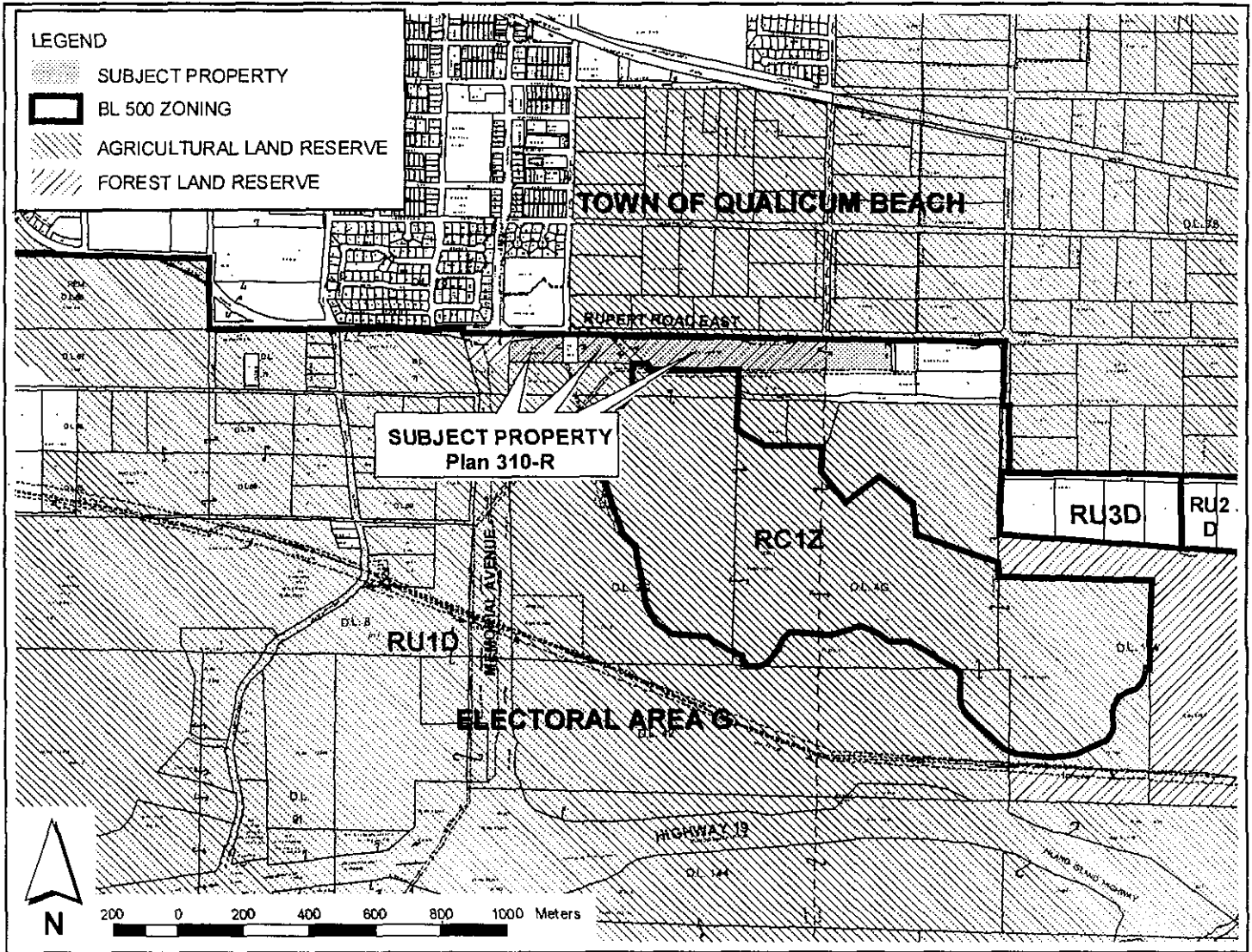
INCOMPLETE OR MISSING INFORMATION WILL DELAY YOUR APPLICATION.
 Should this application be successful, it in no way implies that other necessary approvals or permits will be granted. Zoning, subdivision, building, sewage disposal, access and availability of services, including water, should be checked by all applicants.

PAGE 102

ATTACHMENT NO. 3



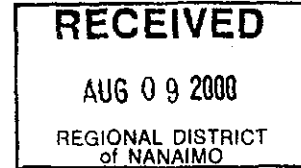
ATTACHMENT NO. 4



ATTACHMENT NO. 5 (1 of 3)



Land Reserve Commission
Working Farms, Working Forests



August 2, 2000

Reply to the attention of Gordon Bednard

Qualicum Farms Ltd
5848 Headquarters Road
Courtenay, BC
V9J 1M4

Attention: Patrick Evans

Re: Application #359
Those parts of District Lot 78, New Castle District, shown on outlined in red on Plan 310R,
except that part in Plan 9359, VIP61315 and VIP61732, PID 000-914-011

Further to the hearing on the above noted lands, we write to advise that the Land Reserve Commission ("the Commission"), pursuant to section 18 of the *Forest Land Reserve Act (FLRA)*, has conditionally allowed your application for removal and subdivision of the subject lands subject to:

- 1) receipt of an application for the inclusion of the subject lands into the Agricultural Land Reserve,
- 2) consolidation into one lot of the two farm properties discussed in the application,
- 3) receipt of the recapture charge levied under the FLRA.

The area approved for removal is shown on the attached map.

Please be advised that the Commission cannot authorize the removal of the Forest Land Reserve (FLR) designation until the recapture charge levied under Section 21 to 24 of the FLRA has been received by the Ministry of Finance. The amount of this charge will be calculated by the Commission, and communicated to you shortly.

This approval in no way relieves the owner or occupier of the responsibility of adhering to all other enactments and legislation that may apply to the lands. This includes zoning, land use bylaws and decisions of any other authority that may have jurisdiction.

Upon fulfillment of the above conditions, the Commission will issue an order removing the land from the FLR. Please quote the above application #359 in any future correspondence.

Yours truly,

LAND RESERVE COMMISSION

per 

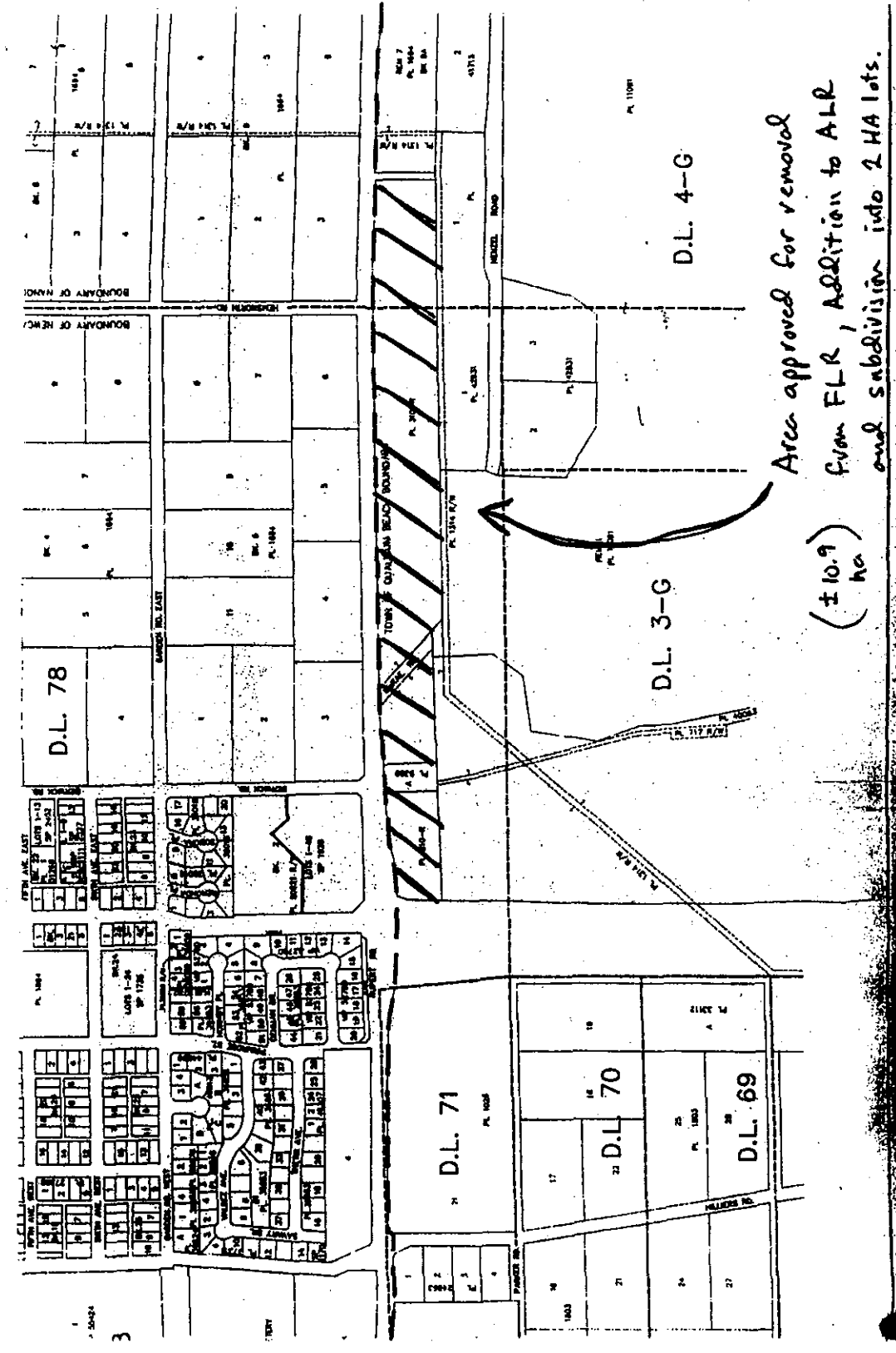
A. Chambers, Chair

Enclosure - Maps

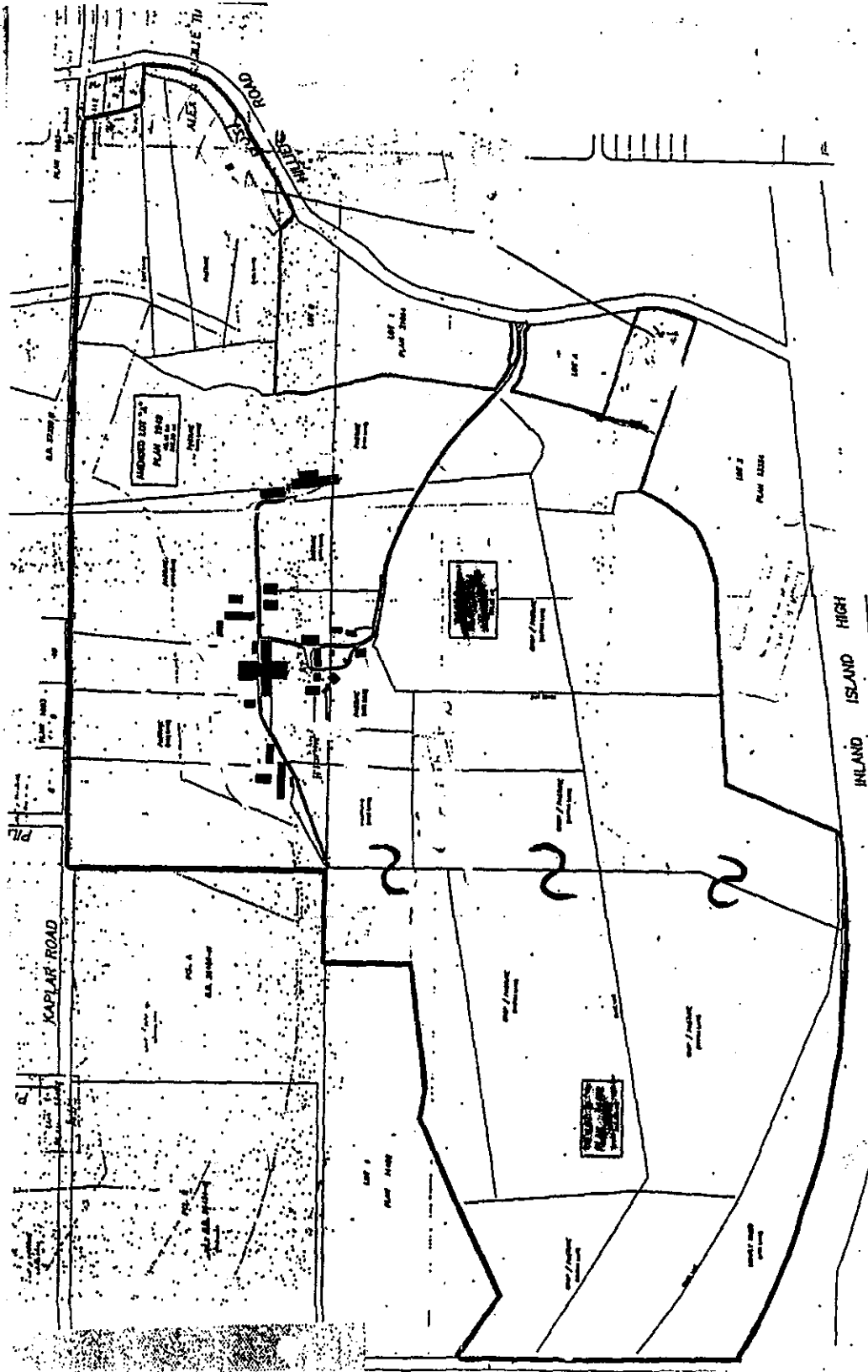
cc: Nanaimo Regional District, Attention: Jack Anderson
 BC Assessment, Victoria, Attention: Mike Lane

GB/sf

ATTACHMENT NO. 5 (2 of 3)



ATTACHMENT NO. 5 (3 of 3)



consolidation lots - condition of FLR removal.

ATTACHMENT NO. 6

RR# 4 headquarters Rd
Courtenay B.C
V9N-7J3

Qualicum Farms Ltd

PLANNING DEPT

August 27, 2000

-08- 2 9 2000

To: The Land Reserve Commission

RECEIVED

From: Patrick Evans

Re: Application #359

The RDN has indicated that this above application does not support the "Growth Management Plan" however they are willing to allow subdivision of district lot 78 into three parcels as described in the plan. The RDN had indicated that there is no concessions for other properties to be considered. So with some regret we would like to make an amendment to our subdivision

We would like to withdraw the amalgamation of the two farm properties discussed in our application

Subdivide district lot 78 into 3 parcels -two being in the Land reserve and the final in BL 500

District lot 78 plan 310 then put into the ALR

Any questions regarding the above amendment please do not hesitate to call me at

Ph/fax 1250-334-0919 or email mkevans@uniserve.com

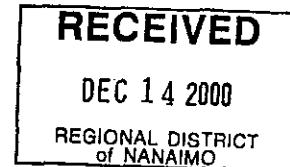
Best regards Patrick Evans

Patrick Evans

ATTACHMENT NO. 7 (1 of 2)



Land Reserve Commission
Working Farms, Working Forests



December 6, 2000

Reply to the attention of Gordon Bednard

Qualicum Farms Ltd
5848 Headquarters Road
Courtenay, BC
V9J 1M4

Attention: Patrick Evans

Re: Application # FLR 359

Legal: Those parts of District Lot 78, New Castle District, shown on outlined in red on Plan 310R, except that part in Plan 9359, VIP61315 and VIP61732, PID 000-914-011

Further to your letter of August 27, 2000, we write to advise that the Land Reserve Commission ("the Commission"), by Resolution # 653/00, has refused your request to modify the conditions of approval for your application as set out in the Commission's letter of August 2, 2000 (copy attached)

The Commission further understands that, following a telephone conversation with staff member Gordon Bednard wherein you were informed of this decision, you verbally indicated to staff that you were prepared to accept the original conditions and proceed with the application.

The Commission would appreciate written confirmation of this intention.

If it is your intention to proceed, the following may be of interest to you:

- 1) Attached is an application form for the inclusion of the subject lands into the ALR
- 2) When the final survey plans (or other forms as necessary) for the consolidation of the two farm parcels have been prepared, please send two paper prints to this office, well in advance of commencing registration procedures. The Commission will then authorize the Registrar of Land Titles to accept the application for deposit of the subdivision plan.
- 3) Based on assessment values provided by the BC Assessment Authority (see letter attached), and using the formula given in the FLR Act, the Recapture of Tax Benefit charge applicable to the removal of the subject lands from the FLR would be \$ 26,562.00. Please be aware that should you disagree with the determination of the Fair Market Value or Forest Land Value, you have 30 days following receipt of this letter in which to appeal to the Property Assessment Appeal Board. If either of the values are changed as a result of appeals, the Assessment Commissioner will communicate the new values to the Commission and the recapture charge will be re-calculated. Please also note that the charge must be paid within 30 days of this notice (unless the values are under appeal) to avoid interest charges being added, and that if not paid within 90 days, the approval of the Commission for the removal will cease to be effective.

This approval in no way relieves the owner or occupier of the responsibility of adhering to all other enactments and legislation that may apply to the lands. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction. Before your development can proceed, other approvals may be necessary and we urge you to check with the Nanaimo Regional District.

.../2

ATTACHMENT NO. 7 (2 of 2)

Page 2

The land referred to in the application will continue to be subject to the provisions of the *Forest Land Reserve Act* and regulations.

Please quote the above application # in any future correspondence.

Yours truly,

LAND RESERVE COMMISSION

per:


~~A. Chambers, Chair~~

cc: Highways Approving Officer, Nanaimo
Nanaimo Regional District, Attention: Jack Anderson

GB/sf/enc1

ATTACHMENT NO. 8



REGIONAL
DISTRICT
OF NANAIMO

File: ALR 0010

December 1, 2000

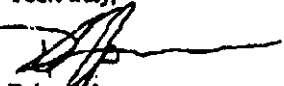
Director J. Stanhope
1025 West Island Highway
Parkville, BC
V9P 2D1

Dear Director Stanhope:

RE: **ALR Application 0010**
Those Parts of District Lot 78, Newcastle District, Shown Outlined in Red on
Plan 318R, Except That Part in Plan 9359, VIP61315 and VIP61732
Parkville, BC Electoral Area: 'G'
RDN Map Reference No: 92F.038.2.6

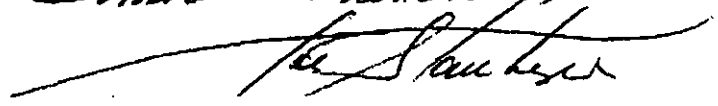
Enclosed is a copy of an application for inclusion into the Agricultural Land Reserve on the above-mentioned property located in Electoral Area G. Your comments with respect to this application would be appreciated by December 14, 2000. These comments will be forwarded, along with the application prepared by staff, to the LRC for their decision.

Yours truly,


Deborah Jensen
Planning Assistant

Enclosures
1. ALR Application

DIRECTOR'S COMMENTS:

I SUPPORT THE REQUEST TO
HAVE THE ABOVE PROPERTY INCLUDED
IN THE ALR. THIS ALSO
CONFORMS TO THE RDN BOARD
OF DIRECTORS DECISION ON
THE SAID PROPERTY.


6300 Kamead Bay Rd.
P.O. Box 40
Parkville, B.C.
V9P 2W0

Ph: (250)390-4111
District 69 Fax: (250)248-5511
Fax: (250)390-4163

RDN Website: www.rdn.bc.ca



REGIONAL DISTRICT OF NANAIMO			
FEB 15 2001			
CHAIR		CMCRS	
CAO		CMOS	
CMCRS		CMES	
		DSC	✓
TO:		DATE:	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

February 9, 2001

FROM: Deborah Jensen
Planner

FILE: 6660 05 0101

SUBJECT: FLR 0101 Exclusion – Wessex Enterprises Ltd.
Lot Z, Section 13, Range 1, Cranberry Land District, Portion Sections 12 and 13,
Range 2 (DD K83923)
Electoral Area 'C' – Extension Road

PURPOSE

To consider an application for exclusion of land from the Forest Land Reserve and to provide a resolution by the Board to be forwarded to the Land Reserve Commission as input for their decision.

BACKGROUND

The Regional District of Nanaimo has received an application to exclude approximately 19.0 hectares (46.9 acres) property from the Forest Land Reserve. Applications for exclusion are forwarded to the Board for its consideration due to Regional Growth Management Plan issues and to highlight potential OCP amendment or rezoning implications.

The subject parcel is located adjacent to Extension Road in Extension (*see Attachment 1*). Much of the surrounding area is located within the Forest Land Reserve; however, lands immediately adjacent to the west, east and south are not within the FLR (*see Attachment 2*). The applicant's stated intention is to amend the Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1997 by having the subject property included within the boundaries of the Extension Village Centre (*see Attachment 3*).

The *Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1997* designates the subject property as "Resource Lands and Open Spaces" land and "Village Centre" land. The majority of the subject property is designated "Resource Lands and Open Spaces" land.

The *Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999* designates the subject property as Resource Land, Village Centre and possible Rural Residential Expansion Area. The subject property is designated Resource Land because it is currently within the FLR; however, during the preparation of the OCP the community expressed support to see the land removed from the FLR and considered as part of the Village Core. While the site has very restricted development possibilities, it was recognized that some development together with significant protection of the environmental and historic features of the site would benefit the Extension Village Core (*see Attachment 4*).

The *Land Use and Subdivision Bylaw 500, 1987* zones the subject property as Rural 6 (RU6V), Rural 1 (RUID), and Residential 2 (RS2M). The majority of the subject property is located in the Rural 6 zone (see Attachment 5).

A prior FLR application for a special use permit to remove coal tailings was made for the subject property. This application for a special use permit is still pending.

The applicant has indicated the purpose of this application for exclusion is to amend the Growth Management Plan and include the subject property within the Extension Village Centre boundaries. The applicant has verbally expressed that the intent of the application is to subsequently develop the property into a residential subdivision, with a portion of the property set aside as parkland (containing historic characteristics of mining activity).

Director Hamilton has indicated support for the FLR exclusion. Director Hamilton's comments are attached (see Attachment 6).

ALTERNATIVES

1. To provide a Board Resolution recommending the FLR exclusion application be approved.
2. To provide a Board Resolution recommending the FLR exclusion application be denied.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The Growth Management Plan designates the subject property as "Resource Lands and Open Spaces."

The Growth Management Plan contains policies that would allow the application to be considered as part of the pending five year review. Policy 1D states that the Board may consider amendments to Urban Containment Boundaries at five-year intervals, but that these amendments should be limited in scope so as to control sprawl.

However, prior to the five year review, the policies of the Growth Management Plan do not support the subject application. Policies 1C and 2A require that future urban development be directed to nodes including Urban Containment Boundaries, Village Centers or Present Status lands. These policies are intended to direct development to areas within existing Urban Containment Boundaries. It is noted that Policy 3C generally supports the protection of FLR land for forestry, environmental stewardship and wilderness recreation. However in the absence of specific procedures for reviewing FLR applications, it is suggested that the potential support for the consideration of this proposal in the Arrowsmith Benson OCP warrants that the application be referred to the Growth Management review process.

It is recommended that given there is support for reconsideration of the land use designation in the Arrowsmith Benson OCP, the Regional District should provide no comment to the Land Reserve Commission and advise that the Regional District will refer the application to the Growth Management Plan review process for consideration. Should the application be approved by the Land Reserve Commission, the proposed change in the land use designation would be referred to the Growth Management Plan review process for consideration.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999 designates the bulk of the subject property as "Resource" land as it is currently within the Forest Land Reserve. However the plan specifically recognizes the subject property as a potential "Rural Residential

Expansion Area” subject to the removal of the land from the Forest Land Reserve. This designation was adopted due to the proximity of the parcel adjacent to the Village Core and recognition that portions of the property are environmentally sensitive and valuable to the community as a potential linkage between neighbourhoods. The community plan also recognized that following the successful removal of the land from the Forest Land Reserve a development proposal would need to be submitted to justify a proposed amendment to the Growth Management Plan.

Goal 7 of the OCP states that park land acquisition and/or partnerships with landowners will be encouraged to protect and provide public access to regionally significant recreational corridors such as the Trans Canada Trail, or those referenced in the RDN Parks System Plan, which includes the Extension Mine Shaft entrance. The Trans Canada Trail will be located next to the subject property, and the mine shaft is located on the property.

Staff note that the subject property is affected by a Watercourse Protection Development Permit Area, which is intended to protect the natural environment, its ecosystems and biological diversity. However, it is also noted that lands within the FLR are not affected by the development permit requirements.

SUMMARY/CONCLUSIONS

The Regional Board is requested to provide a resolution to be forwarded to the Land Reserve Commission for an application to exclude approximately 19.0 hectares (46.9 acres) of land from the FLR for the purpose of including the subject property within the Extension Village Centre boundaries.


Policies in the Arrowsmith Benson – Cranberry Bright Official Community Plan would allow consideration for the applicant’s proposal subject to removal of the land from the FLR. The policies of the Growth Management Plan only support removal of the land from the FLR for intended urban uses as part of the 5 year review process. The Land Reserve Commission may review the status of the land as FLR as part of the application process however it is recommended that the Regional District provide no comment until the status of the proposed land use designation in the Arrowsmith Benson OCP is considered as part of the Growth Management Plan review process.

RECOMMENDATION

That the Board of the Regional District of Nanaimo provide no comment on the application for exclusion from the Forest Land Reserve for the property legally described as Lot Z, Section 13, Range 1, Cranberry Land District, Portion Sections 12 and 13, Range 2 (DDK83923) and further that the Land Reserve Commission be advised that the land use designation of the property will be considered as part of the Growth Management Plan review process.



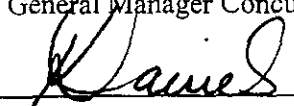
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

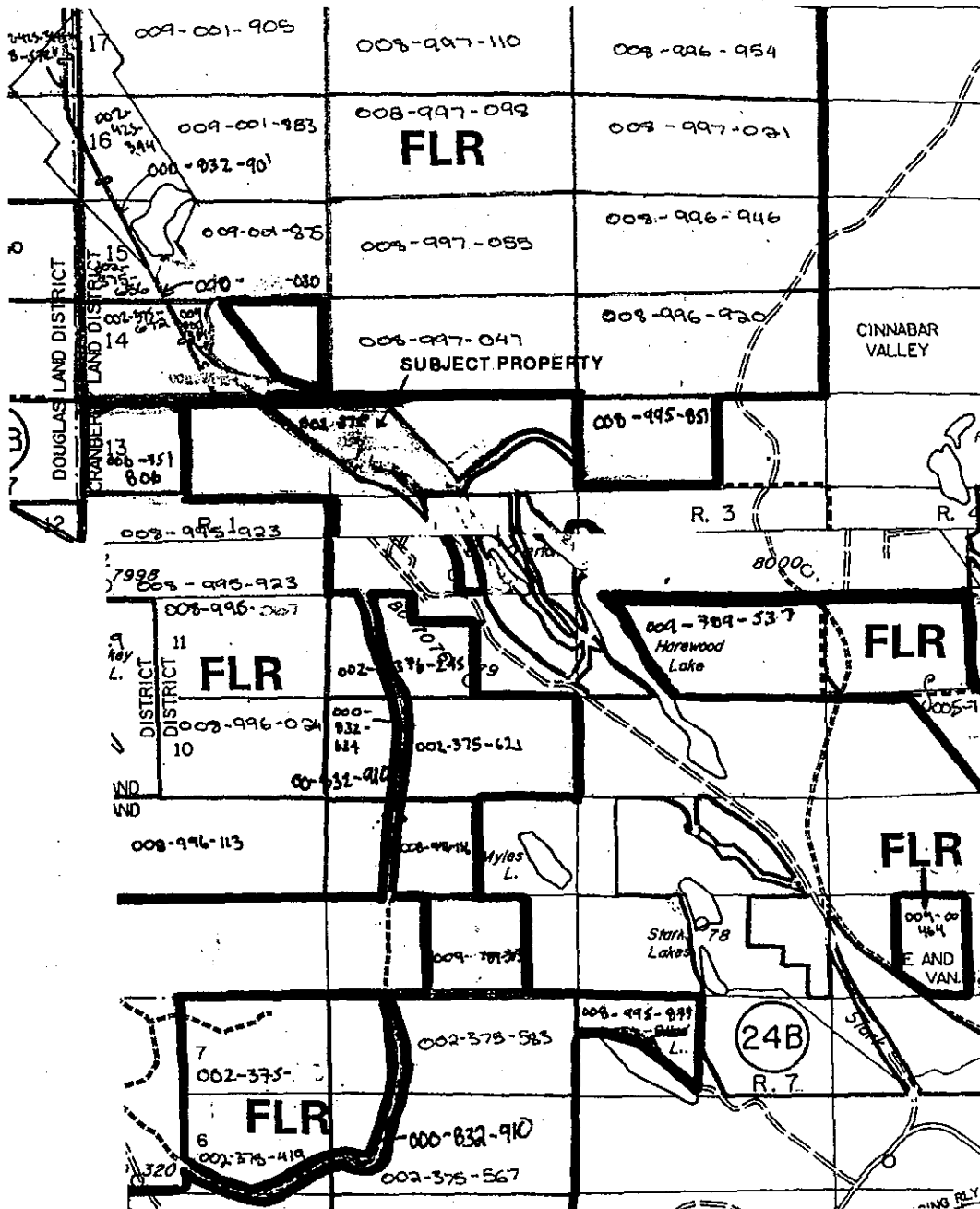
COMMENTS:

devsvs/reports/2001/6660 05 0101 fe Wessex flr.doc

ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3 (1 of 4)



APPLICATION UNDER THE FOREST LAND RESERVE ACT

NOTE: The information on this form is collected to process your application under the Forest Land Reserve Act. Confidentiality of information contained within this application and information gathered by the Commission is governed by the Freedom of Information and Protection of Privacy Act.

PART I APPLICANT

Registered Owner: Wessex Enterprises Ltd		Agent:	
Contact Person: Chuck Addison		Contact Person: N/A	
Telephone No. (250) 753-3650	Fax No. 741-8515	Telephone No. ()	Fax No.
Address: 2691 McLean's Rd.		Address:	
Nanaimo			
B.C.	Postal Code: V9X 1E3		Postal Code:

TYPE OF APPLICATION (check appropriate box)

- Inclusion in the Forest Land Reserve Under Section 11
- Special Use in the Forest Land Reserve Under Section 14
- Removal from the Forest Land Reserve Under Section 18
- Subdivision in the Forest Land Reserve Under Section 16

RECEIVED
 LAND RESERVE
 COMMISSION
 JAN 15 2001

Legal Description and PID Number	Total Area (ha.)	Application Area (ha.)	Date of Acquisition
Lot 2, Section 13, Range 1, Cranberry District, Portion SEC 12 + B R2, DDK 83923) Sec 768-04005-002	19 ha.	19 ha.	1998
01A9			

Assessment Roll Number(s) **768 29250.000** Managed Forest Number **0250**

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PART 4 LAND STATUS (check appropriate box)

- Private land not subject to a license under the Forest Act
- Private land subject to a Tree Farm License
- Private land subject to a Woodlot License

PART 5 LOCAL GOVERNMENT JURISDICTION (Specify Municipality or Regional District/Island/First Nation)

Nanaimo Regional District

Legal Description and PID Number:	Present Use:
N/A	

List all existing uses on the entire parcel: forestry, residential, recreational, etc.

Vacant land - Community uses it as a park - TransCanada Trail on boundary - see map.

Describe all buildings:

None

North Residential
 East Residential
 South Residential/School
 West FLR/Residential

ATTACHMENT 3 (3 of 4)

PART 9 PROPOSAL AND REASONS FOR APPLICATION (Show the plan or sketch if appropriate)

A special use permit was applied for and the file with the FLR remains open pending negotiations for removal of coal tailings pile. Removal requested in order to have property included in the boundaries of the Extension Village core in the Nanaimo Regional District

PART 10 OTHER APPROVALS REQUIRED

Specify if other approvals such as zoning amendment, subdivision, land use permits, etc. have been applied for.

None at this time, waiting for FLR Approval before proceeding

PART 11 DECLARATION

I declare that the information contained in the application is, to the best of my knowledge, true and correct.

Dec. 29 / 00
Date

Chuck Addison
Signature of Owner

CHUCK-ADDISON
Print Name

Dec. 29 / 00
Date

Linda Addison
Signature of Owner DIRECTOR
Wessex Enterprises Ltd.

Linda Addison
Print Name

PART 12 ACCOMPANYING DOCUMENTS

The following documents must accompany the application:

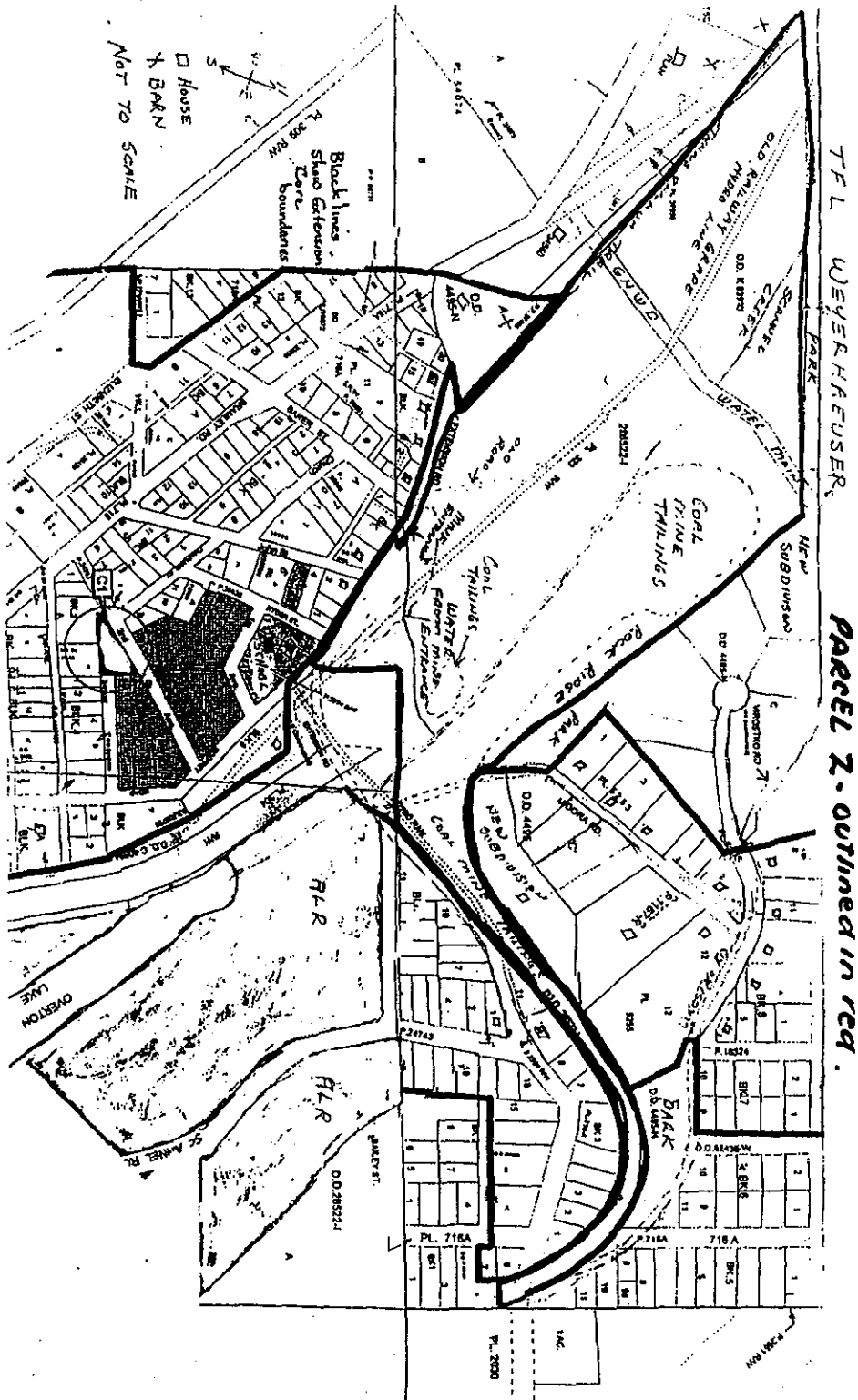
- Map
- Current Certificate of Title or Title Search Print
- Agent authorization (if using an agent) N/A
- Map or sketch showing details requested
- Current Property Tax Notice / ASSESSMENT NOTICE INCLUDED.
- Copy of current Forest Management Plan or proposed Plan
- Application Fee

RECEIVED
LAND RESERVE
COMMISSION
JAN 15 2001

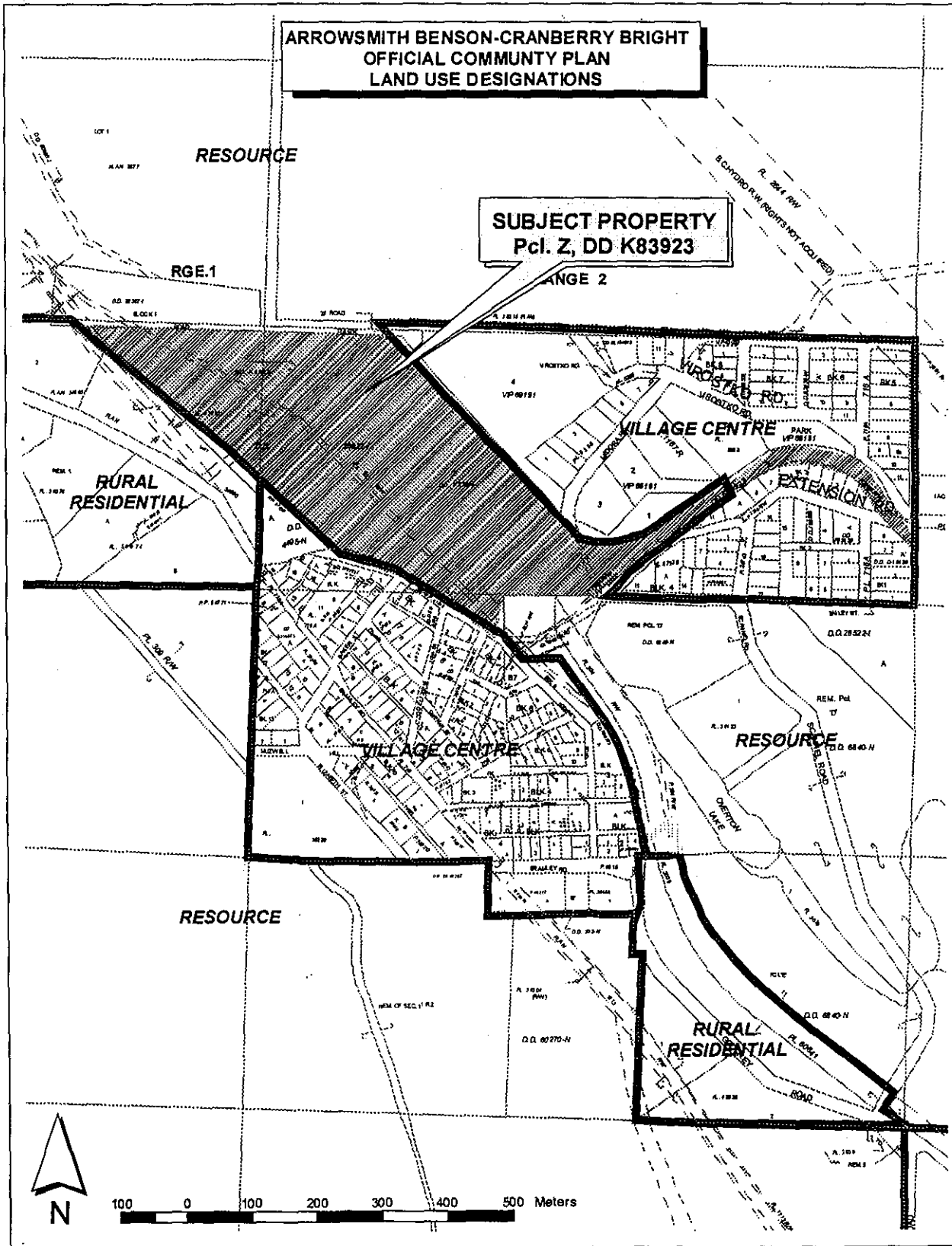
INCOMPLETE OR MISSING INFORMATION WILL DELAY YOUR APPLICATION

Should your application be successful, it in no way implies that other necessary approvals or permits will be granted by other authorities who may also have jurisdiction over the property.

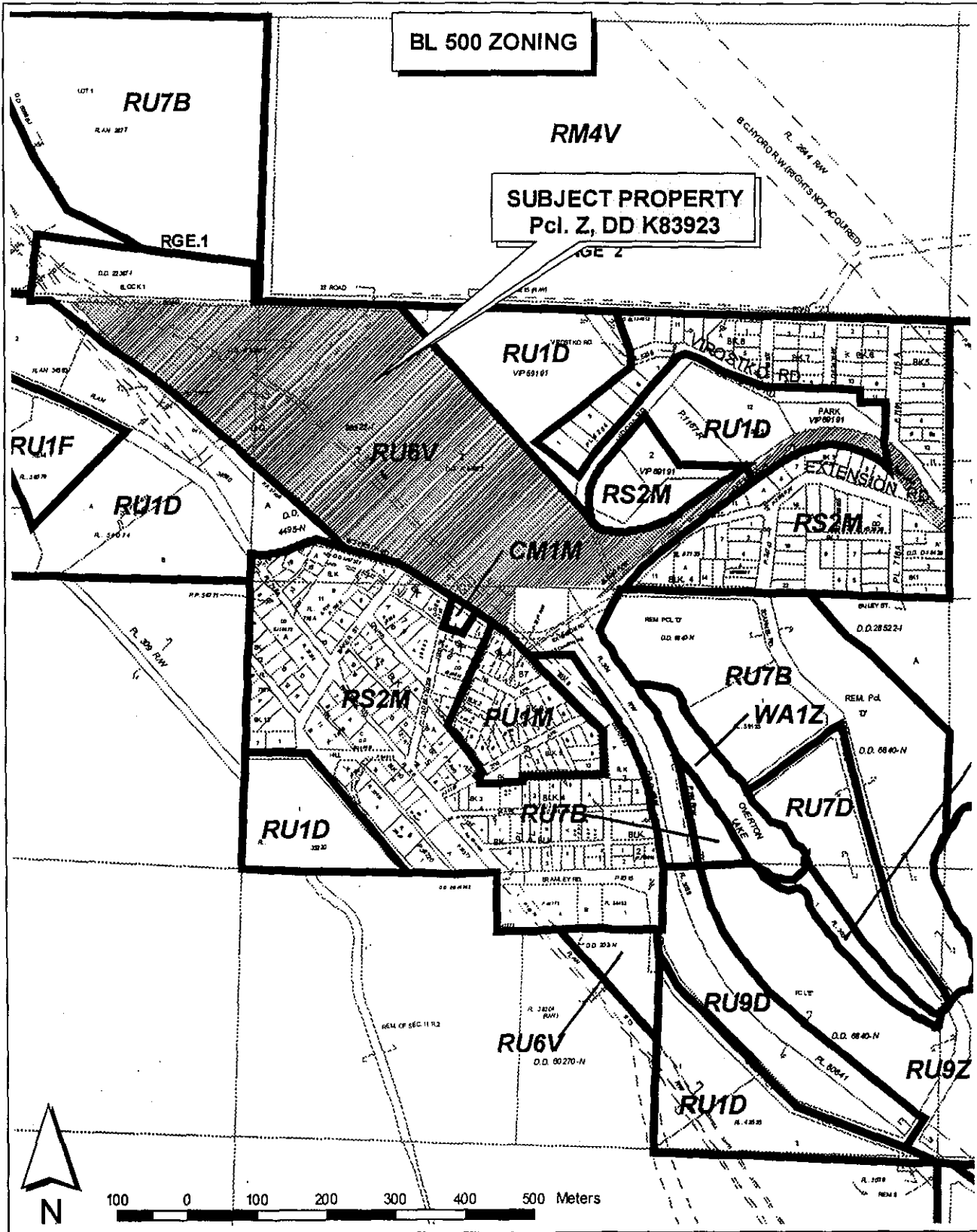
ATTACHMENT 3 (4 of 4)



ATTACHMENT 4



ATTACHMENT 5



ATTACHMENT 6

To: Deborah Jensen
Planning Department

From: Elaine Hamilton
Regional Director Area C

Re: FLR Application 0101
Lot Z, Section 13, Range, Cranberry Land District
Portion Sections 12 and 13, Range 2 (DDK83923)

The above property was the site of the Extension Coal Mine and was owned for many years by McMillan-Bloedel.

This property has coal tailings left from the mining days, Scannel Creek which connects to Overton Lake and an area that floods during the winter months from water which discharges from an old mine tunnel. This parcel also includes a section of the old railway grade.

This is one of several parcels in the Extension area which McMillan-Bloedel sold due to their lack of forest capability. There appears to be very little of the land suitable for a forestry operation, so would have no objection to this application being forwarded to the LRC for exclusion.