

REGIONAL DISTRICT OF NANAIMO

**ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, SEPTEMBER 13, 2005
6:30 PM**

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

- 3 **Michael Procter**, re Development Permit Application No. 60542 – Proctor & Kruse / Fern Road Consulting – 6435 & 6445 West Island Highway – Area H.

MINUTES

- 4-6 Minutes of the Electoral Area Planning Committee meeting held Tuesday, August 9, 2005.

BUSINESS ARISING FROM THE MINUTES

PLANNING

AMENDMENT APPLICATIONS

- 7-15 Zoning Amendment Application No. ZA0501 – Keith Brown & Associates, on behalf of Nanaimo Mini Storage – 2180 South Wellington Road – Area A.
- 16-24 Zoning Amendment Application No. ZA0509 – Oceanside Forest Products Ltd./Keith Brown Associates Ltd. – 1429 Springhill Road – Area F.

DEVELOPMENT PERMIT APPLICATIONS

- 25-35 Development Permit Application No. 60536 – McCaul and Farrell/Allen – 927 McFeely Drive – Area G.
- 36-43 Development Permit Application No. 60538 – North Wind Development – 615 Viking Way – Area G.
- 44-54 Development Permit Application No. 60542 – Proctor & Kruse / Fern Road Consulting – 6435 & 6445 West Island Highway – Area H.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 55-60 Development Variance Permit Application No. 90516 – NCID/Johnston – 2100 Yellow Point Road – Area A.

61-68 Development Variance Permit Application No. 90517 – AJA Tan Enterprises Ltd. – Blackbeard Drive & Maple Guard Drive -- Area H.

OTHER

69-73 Request for a Board Resolution for a Patron Participation Entertainment Endorsement for the Juniper Café – 2930 Trans Canada Highway – Area A.

74-78 Minimum Parcel Size Amendment to Bylaw No. 500 for Subdivisions Pursuant to Section 946 of the Local Government Act – Areas A, C, D, E, F, G & H.

79-91 Request to Reconsider the Location of Park Land Dedication – Timberlake – Jones Engineering Ltd. on behalf of Timberstone Development – Northwest Bay Road – Area E.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

SEP - 7 2005

MICHAEL PROCTER
Site 115, Comp. 8, R.R. #1
Bowser, B.C.
V0R1G0
E-mail: michaelprocter@shaw.ca
Phone: 250-757-8803

September 6, 2005

Regional District of Nanaimo
Planning Department
6300 Hammond Bay Road
Nanaimo, B.C.
V9T6N2

Attn: Brigid Reynolds and Susan Cormie

Dear Brigid and Susan,

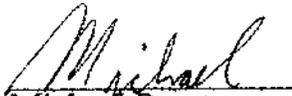
**Re: Proposed Subdivision of Lots 2 & 3, District Lot 22,
Newcastle District, Plan 22808**

Further to our discussion this afternoon Susan I will attend the Regional District meeting on Tuesday evening, September 13th at 6:00 P.M. at the R.D.N. office. I would like to be placed on the agenda if possible for a very brief comment and to answer questions if necessary. Helen Sims will be away and will not be able to attend.

Thank you for your assistance in this item.

Sincerely,

C.C. Fern Road Consulting Ltd.
Helen Sims


Michael Procter

Mr. and Mrs Kruse

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, AUGUST 9, 2005, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

| | |
|-----------------------|------------------|
| Director E. Hamilton | Chairperson |
| Director H. Kreiberg | Electoral Area A |
| Alternate | |
| Director B. Jepson | Electoral Area D |
| Director G. Holme | Electoral Area E |
| Director L. Biggemann | Electoral Area F |
| Director J. Stanhope | Electoral Area G |
| Director D. Bartram | Electoral Area H |

Also in Attendance:

| | |
|--------------|------------------------------------|
| B. Lapham | Deputy Administrator |
| J. Llewellyn | Manager of Community Planning |
| M. Pearse | Manager of Administrative Services |
| N. Tonn | Recording Secretary |

CALL TO ORDER

The Chairperson welcomed Alternate Director Jepson to the meeting.

MINUTES

MOVED Director Bartram, SECONDED Director Kreiberg, that the minutes of the Electoral Area Planning Committee meeting held July 12, 2005 be adopted.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0510 – Cedar Estates – Robert Boyle Architecture Inc. on behalf of 700805 BC Ltd and Lot 6 Holdings – Cedar & Hemer Roads – Area A.

MOVED Director Kreiberg, SECONDED Director Holme, that Zoning Amendment Application No. ZA0510 to rezone the properties legally described as ‘Lot A, Section 14, Range 7, Cedar District, Plan VIP57874, Except Part in Plan VIP59634, VIP67432 and VIP76260’ and ‘Lot 6, Section 14, Range 1, Cedar District, Plan VIP59634’, from Commercial 2 Subdivision District M (CM2M) to Comprehensive Development 29 (CD29) in order to facilitate the development of a mix of residential housing options and personal care uses be approved to proceed to a second public information meeting and to public hearing, subject to the conditions outlined in Schedule No. 1.

CARRIED

MOVED Director Kreiberg, SECONDED Director Bartram,:

1. That “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.323, 2005” be given 1st and 2nd reading.

2. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.323, 2005" be delegated to Director Kreiberg or his alternate.

CARRIED

The Chairperson noted that the Development Permit applications would be addressed in the order of Applications 60531, 60537 and 60535.

Director Holme left the meeting citing a possible conflict of interest with Development Permit applications Nos. 60531 and 60537.

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60531 – Johnson/JE Anderson & Associates – 1338 Madrona Drive – Area E.

MOVED Director Kreiberg, SECONDED Director Stanhope, that Development Permit Application No. 60531 with variances to the front lot line setback and the setback from the top of the bank adjacent to the ocean to facilitate the construction of a new dwelling unit at 1338 Madrona Drive be approved according to the terms outlined in Schedule No. 1 and subject to the Board's consideration of comments received as a result of public notification.

CARRIED

Development Permit Application No. 60537 – 64203 BC Ltd./Voigt – Paradise Place – Area E.

MOVED Director Biggemann, SECONDED Director Kreiberg, that Development Permit Application No. 60537, including variances, be approved to allow the replacement of a bridge over a watercourse according to the terms outlined in Schedule No. 1, and subject to the Board's consideration of comments received as a result of public notification.

CARRIED

Director Holme returned to the meeting.

Development Permit Application No. 60535 – Dunville/Allen – Rockhampton Road – Area E.

MOVED Director Holme, SECONDED Director Bartram, that Development Permit Application No. 60535 be approved to allow the construction of a single family dwelling unit on Rockhampton Road according to the terms outlined in Schedule No. 1.

CARRIED

OTHER

Land Use and Subdivision Amendment Bylaw No. 500.324 – Text Amendment – Nanoose Bay Official Community Plan Implementation – Area E.

MOVED Director Holme, SECONDED Director Stanhope,:

1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.324, 2005" be given 1st and 2nd reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.324, 2005" proceed to a Public Hearing.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.324, 2005" be delegated to Director Holme or his alternate.

CARRIED

ADJOURNMENT

MOVED Director Bartram, SECONDED Director Stanhope, that this meeting terminate.

CARRIED

TIME: 6:41 PM

CHAIRPERSON



| | | | |
|------------------------------|--|--------|--|
| REGIONAL DISTRICT OF NANAIMO | | | |
| CHAIR | | GM Cms | |
| CAO | | GM ES | |
| DA CCD | | MoF | |
| SEP 01 2005 | | | |
| EAPC | | | |

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 31, 2005

FROM: Greg Keller
Planner

FILE: 3360 30 0501

SUBJECT: Zoning Amendment Application No. ZA0501
Keith Brown & Associates, on behalf of Nanaimo Mini Storage
Electoral Area 'A' – 2180 South Wellington Road

PURPOSE

To consider an application to rezone the subject property from Residential 2 Subdivision District 'F' (RS2F) / Industrial 1 Subdivision District 'M' (IN1M) to Comprehensive Development Zone 28 (CD28) in order to facilitate the future development of light industrial uses.

BACKGROUND

The Planning Department has received a zoning amendment application for the property legally described as Lot A, Section 11, Range 7, Cranberry District, Plan VIP76453 and located between the Trans Canada Highway and South Wellington Road in the South Wellington area of Electoral Area 'A' (see Attachment No. 1 for location of subject property). The subject property is 2.37 ha in size and is currently split zoned Residential 2 Subdivision District 'F' (RS2F) / Industrial 1 Subdivision District 'M' (IN1M) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

Pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001" (OCP), the subject property is designated within the South Wellington Industrial - Commercial Land Use Designation. The OCP policies for this designation recognize and support the use of the land for light industrial uses. The OCP designates the subject property within the South Wellington Development Permit Area No. 1, which was designated for the protection of the natural environment, its ecosystems and biological diversity and the regulation of the form and character of commercial and industrial development. The OCP also designates a watercourse starting at the southern edge of the subject property and crossing the adjacent highway right-of-way and adjacent property. As a result, the OCP designates the watercourse as within the Watercourse Development Permit Area No. 5. It is staff's understanding that this watercourse is a Ministry of Transportation drainage ditch.

Currently, there are a number of uses established on the site including Nanaimo Mini Storage, U-Haul Truck Rental, ABC Water Systems, and a boat repair business. The bulk of the existing uses are located on the south portion of the subject parcel, which is zoned IN1; however, some vehicle and equipment storage uses are occurring on the northern portion of the site zoned for residential use. It is recommended that these uses be removed from the residential lands prior to final approval of the rezoning application.

Surrounding uses include a public zoned parcel (South Wellington School) and Residential 2 zoned parcels to the west, separated from the subject parcel by South Wellington Road, a commercial zoned parcel and a pedestrian access trail to the south. The Trans Canada Highway separates the subject parcel from the adjacent industrial and commercial uses on the east side of the subject parcel. The subject parcel is highly visible from the Trans Canada Highway and South Wellington Road.

There are currently no community water or community sewer services within the area, nor are services anticipated in the future. The subject property is within an RDN Building Inspection area.

Proposal

The applicant is requesting an amendment to Bylaw No. 500, 1987 to rezone the subject property from Residential 2 Subdivision District 'F' (RS2F) / Industrial 1 Subdivision District 'M' (IN1M) to Comprehensive Development Zone 28 (CD28) in order to accommodate the existing Nanaimo Mini Storage and allow for a number of light industrial and manufacturing uses (*see Schedule No. 2 for proposed CD28 zone*).

Public Information Meeting

As the proposal is consistent with the OCP and there has been relatively low attendance at similar Public Information Meetings in the area, in consultation with the Electoral Area Director, it was decided, pursuant to the Impact Assessment Bylaw No. 1165, that a Public Information Meeting would not be held for this application.

ALTERNATIVES

1. To approve the amendment application as submitted for 1st and 2nd reading and proceed to Public Hearing.
2. To not approve the amendment application.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

"Regional District of Nanaimo Electoral Area 'A' Official Community Plan No. 1240, 2001" policies support the rezoning of the subject parcel to a comprehensive development zone for a light industrial use in this location.

DEVELOPMENT IMPLICATIONS

Land Use Implications

The subject property is designated industrial in the OCP; however, the area is adjacent to a school and residential development and is highly visible from the Highway. Therefore, staff has concerns that all industrial uses may not be appropriate for the site. Staff worked closely with the applicant to identify uses appropriate for the site and to identify additional requirements that reflect the unique nature of this industrial property. The proposed uses are contained in the proposed Comprehensive Development Zone 28 (CD28). The proposed uses are intended to be visually unobtrusive and sensitive to the surrounding public and residential land uses and the highway traffic. The uses are relatively low impact with respect to traffic generation and noise. In addition they are, for the most part, required to be fully contained within a building to reduce the aesthetic and noise impacts on the area.

The only proposed use not required to be fully contained within a building is Recreational Vehicle Sales and Storage, which is to be limited to a maximum of 10% of the parcel area and is required to be developed and located in accordance with the proposed CD zone. The proposed area, which is a maximum of 2370.5 m² and located on the northern tip of the property, was selected in order to provide the applicant some highway visibility but also ensure that the entire Highway frontage is not used for sale and display purposes.

In order to ensure that future subdivision of the subject parcel is consistent with that permitted under the current zoning, staff proposes to establish a minimum parcel size of 1.0 hectares. If approved, the proposed zoning would permit the subdivision of the subject parcel into two parcels, including the remainder, subject to the approval of all authorities having jurisdictions.

Landscaping and Screening

Due to the visual sensitivity of the area and in order to ensure that the future uses of the subject property are visually compatible with the surrounding commercial, public, and residential uses, staff is proposing a higher standard of landscaping and screening adjacent to the perimeter of the Recreational Vehicle Sales and Storage Area than what is required pursuant to Bylaw No. 500. Also, as South Wellington Road accommodates pedestrian traffic to and from the school, staff considers it important to ensure that access and egress points from the site are clearly identified through appropriate landscaping.

There is also concern regarding the visual impact of the outdoor recreational vehicle sales and storage area. This type of use is only considered suitable for the subject property if it is appropriately landscaped, screened, and clearly delineated from the remainder of the subject property to ensure it is restricted to the area identified. In order to address these concerns, staff has included site specific landscaping requirements, which specify the location, type, and density of landscaping and screening to be provided along the perimeter of the outdoor Recreational Vehicle Sales and Storage Area.

In order to ensure an appropriate standard of landscaping is provided, staff recommends that the applicant be required to submit a landscaping plan to the Regional District of Nanaimo prior to the Public Hearing for this application detailing the landscaping adjacent to the Trans Canada Highway, South Wellington Road, and along the perimeter of the outdoor recreational vehicle sales and storage area. Further to the above, staff also recommends that the applicant, prior to final approval, be required to register a Section 219 covenant on the title of the subject property registering their commitment to undertake the proposed landscaping prior to the use of the undeveloped portion of the site. In addition it is recommended that this covenant include provisions prohibiting the use of pennants, streamers, and banners to reduce visual clutter and to ensure signage is consistent with the South Development Permit Area guidelines.

The proposed covenant would require the applicant to obtain a Development Permit and implement the landscaping plan and submit a security deposit in an amount equal to the total estimated cost of materials and labour at the time of installation, prior to the applicant establishing any new uses on the portion of the property currently zoned residential. The said covenant would allow for the incremental implementation of the landscape plan provided that the applicant provides landscaping adjacent to all new uses as they are developed and/or established and the overall plan is implemented as the remainder of the subject property is developed. The applicant is in concurrence with this request; however, as of the date of this report the applicant has not submitted a landscaping plan. The applicant has agreed to provide this information prior to the Public Hearing for this application.

The remainder of the subject property is also subject to the landscaping requirements of Bylaw No. 500. The landscaping required on the remainder of the subject property will be secured through a landscape security deposit at the time of issuance of a Development Permit for the future development.

Development Permit Implications

No specific development is proposed at this time. However, if this application is approved, future development of light industrial or manufacturing uses shall be subject to the South Wellington Development Permit Area No. 1 guidelines. The development permit process will trigger the landscaping requirement adjacent to South Wellington Road and the Trans Canada Highway as well as other issues including access signage, drainage, and protection of the aquifer.

PUBLIC CONSULTATION IMPLICATIONS

If the application proceeds, a Public Hearing will be required as part of the zoning amendment process.

ENVIRONMENTAL IMPLICATIONS

The Environmentally Sensitive Areas Atlas indicates that there is a watercourse that runs through the adjacent property to the south and just crosses the southern boundary of the subject parcel. As no new development is proposed at this time and the area adjacent to the watercourse is currently developed with a mini storage use, no environmental impacts are anticipated.

The applicant also has completed a Waste Management Site Profile, which indicates there have not been any Schedule No. 2 activities on the subject parcel.

INTERGOVERNMENTAL IMPLICATIONS

Ministry of Transportation – the Ministry has forwarded the following conditions concerning this application: the applicant to meet the current 4.5 metre setback from the Trans Canada Highway and South Wellington Road, no off-site drainage to impact the road surfaces of South Wellington Road and the Trans Canada Highway, and no direct access to the Island Highway will be permitted. The applicant has submitted an access permit for expanding the existing mini warehouse storage facility.

It should be noted, that the applicant may require an updated access permit at the time of development in order to permit additional light industrial uses. It is also noted that an amendment bylaw is subject to the approval of the Ministry pursuant the *Highway Act*.

Vancouver Island Health Authority – Staff has referred this application to the Vancouver Island Health Authority and has received correspondence stating that they have no objections to the proposed zoning amendment.

Cranberry District Local Fire Chief – The Planning Department, in consideration of fire safety issues, refers applications for rezonings or OCP amendments to local fire departments. To date, comments have not been received on this application. Staff shall follow up to ensure that local fire officials provide input.

VOTING

Electoral Area Directors - one vote, except Electoral Area 'B'.

SUMMARY

This is a request to amend Bylaw No. 500, 1987 to permit future industrial related uses on property located between South Wellington Road and the Trans Canada Highway in the South Wellington area of Electoral Area 'A'.

The Electoral Area 'A' OCP designates the subject property within the South Wellington Development Permit Area No. 1. Although the applicant is not proposing further development at this time, any future development of the property is subject to the South Wellington Development Permit Area guidelines and a Development Permit will be required to address the following issues: signage, lighting, drainage, landscaping, etc.

Given the surrounding commercial, public and residential uses, and close proximity to the highway, staff have included site specific use and landscaping requirements in the proposed CD zone. There is a higher

standard of landscaping adjacent to the proposed outdoor Recreational Vehicle Sales and Storage Area than that currently required pursuant to Bylaw No. 500.

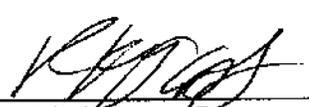
In conclusion, the OCP supports the proposed industrial uses on the subject property. In staff's assessment, the proposed uses are compatible with the adjacent uses if developed in accordance with the proposed CD zone. Therefore, staff recommends Alternative No. 1, to approve the amendment application subject to the conditions set out in Schedule No. 1 for 1st and 2nd reading and to proceed to Public Hearing.

RECOMMENDATIONS

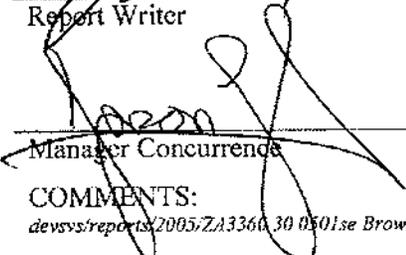
1. That Zoning Amendment Application No. ZA0501 to rezone the property legally described as Lot A, Section 11, Range 7, Cranberry District, Plan VIP76453 from Residential 2 Subdivision District 'F' (RS2F) / Industrial 1 Subdivision District 'M' to Comprehensive Development 28 (CD28) to allow the industrial use of the property, be approved to proceed to Public Hearing subject to the conditions identified in Schedule 1.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.327, 2005" be given 1st and 2nd reading.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.327, 2005" be delegated to Director Kreiberg or his alternate.



Report Writer



Deputy Administrator Concurrence



Manager Concurrence

COMMENTS:

devsvs/reports/2005/ZA3360_30 0501.se Brown Nanaimo Mini Storage 1st and 2nd

Schedule No. 1
Conditions of Approval
Zoning Amendment Application No. ZA0501
Lot A Section 11, Range 7,
Cranberry District, Plan VIP76453 - 2180 South Wellington Road

The following conditions are to be completed prior to the Public Hearing for Amendment Bylaw No. 500.327, 2005:

1. Applicant shall submit a site plan detailing the location of landscaping and fencing to be provided on the property adjacent to Trans Canada Highway, South Wellington Road, and along the perimeter of the recreational vehicle sales and storage area and must include the following:
 - a. an itemized list of the individual plant species and number of plant species to be planted;
 - b. height of all proposed plantings;
 - c. a list of the materials to be used including curb, fencing if applicable;
 - d. all existing vegetation which is proposed to be maintained or removed; and,
 - e. detailed drawings indicating how all access and egress points will be identified.

The following conditions are to be completed prior to consideration of Amendment Bylaw No. 500.327, 2005 for final reading:

1. The applicant shall, at their expense, and to the satisfaction of the Regional District, register on title a Section 219 covenant requiring the issuance of a Development Permit that includes the provision of landscaping in accordance with the landscaping plan submitted by the applicant under the above condition No. 1 prior to any use or development occurring on the portion of the property subject property currently zoned residential.
2. The applicant shall, at their expense, and to the satisfaction of the Regional District, register on title a Section 219 covenant restricting the placement of streamers, banners, or pennants on the subject property.
3. Applicant to submit written proof indicating that all conditions imposed by the Ministry of Transportation in the letter dated May 18, 2005 and any subsequent requests have been satisfied.
4. All equipment storage, truck parking, and other uses not permitted by the current or proposed zoning shall be removed from the subject property at the applicant's expense.

Schedule No. 2 (page 1 of 2)
Proposed CD28 Zone
Zoning Amendment Application No. ZA0501
Lot A Section 11, Range 7, Cranberry District, Plan VIP76453 - 2180 South Wellington Road

DRAFT SOUTH WELLINGTON LIGHT INDUSTRIAL
COMPREHENSIVE DEVELOPMENT ZONE 28

CD28

3.4.128.1 Permitted Uses and Density

Permitted Uses

- a) Light Industry
- b) Manufacturing Use
- c) Recreational Vehicle Sales and Storage
- d) Residential Use

3.4.128.2 Maximum Number and Size of Buildings and Structures

| | |
|-----------------------|-------|
| Dwelling units/parcel | 1 |
| Height of buildings | 8.0 m |
| Parcel coverage | 60% |

3.4.128.3 Minimum Parcel Size: 1.0 hectares

3.4.128.4 Minimum Setback Requirements

| | |
|-----------------|------------|
| Front Lot Line | 8.0 metres |
| Other lot lines | 5.0 metres |

3.4.128.5 Other Regulations

For the purpose of this zone:

- a) *Manufacturing Use* means the assembling and manufacturing of a product or products in a building only and may include accessory retail sales of the product(s) produced to a maximum of 10% of the floor area of the building and may include an accessory office use.
- b) *Recreational Vehicle Sales or Storage* means the use of land or buildings for the sale or storage of recreational vehicles to a maximum of 10% of the area of the parcel and is permitted only in the hatched area as shown in Table No. 1 in Section 3.4.128.6.
- c) The Recreational Vehicle Sales or Storage area must be clearly separated from the remainder of the parcel and other uses by landscaping and or fencing or combination of the above to create a continuous barrier at least one metre in height, excluding entrances.

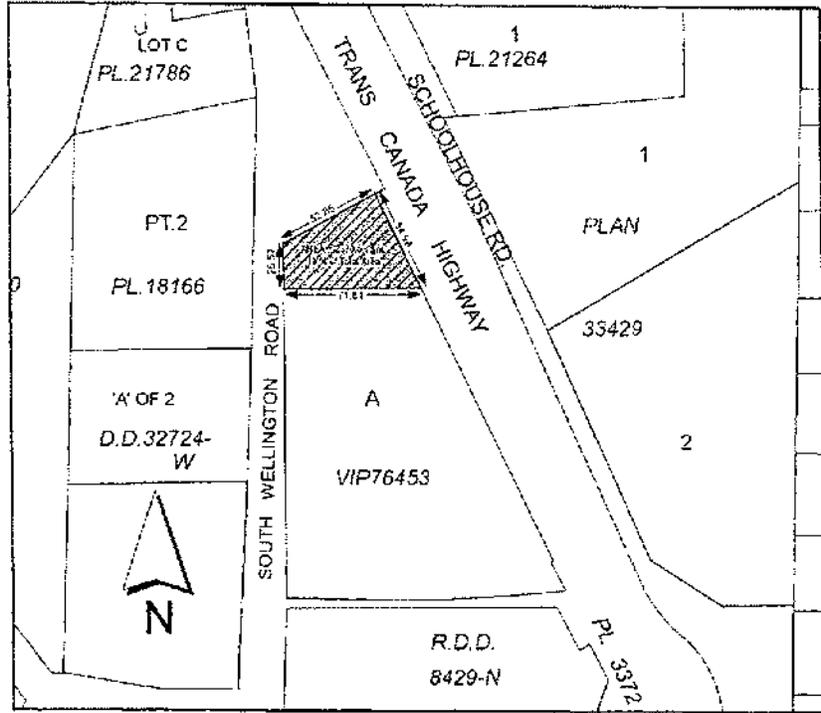
Schedule No. 2 (page 2 of 2)
Proposed CD28 Zone
Zoning Amendment Application No. ZA0501
Lot A Section 11, Range 7, Cranberry District, Plan VIP76453 - 2180 South Wellington Road

The Recreational Vehicle Sales or Storage area must be screened from view along all external property lines with landscaping and or fencing to meet or exceed the following landscaping criteria:

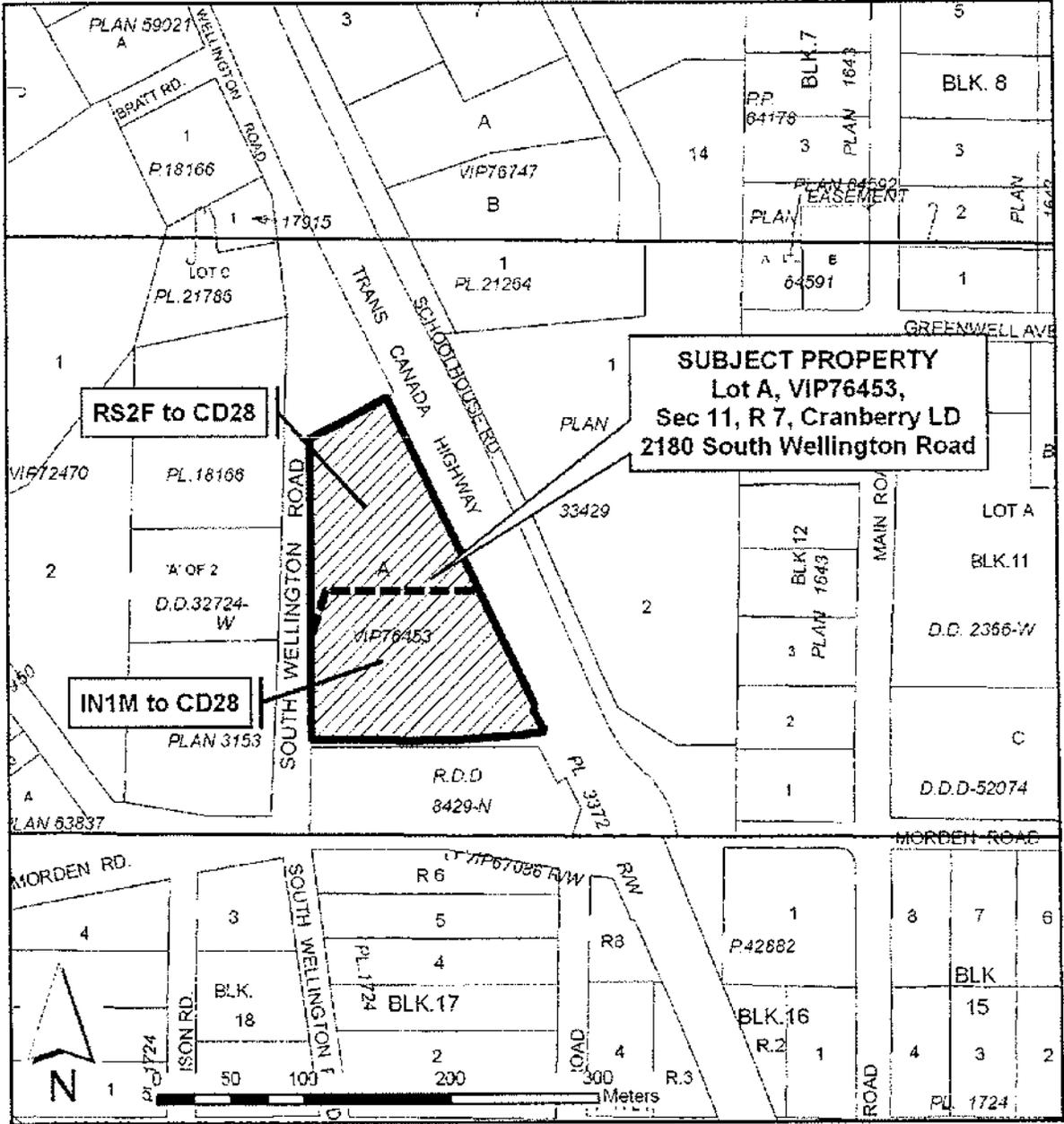
- i. landscaping shall be provided to the satisfaction of the Regional District of Nanaimo along the perimeter of the Recreational Vehicle Sales and Storage Area, and shall include, a minimum of seventy-five percent screening from grade level to a height of 3.0 metres and at least 25 percent screening from a height of 3.0 metres to 5.0 metres above grade.
 - ii. Provided the overall density of vegetation is provided, landscaping adjacent to South Wellington Road may be grouped. No other landscaping on site may be grouped.
 - iii. landscaping shall include planting one evergreen tree for every 3.0 metres of parcel frontage.
 - iv. all landscaping abutting parking or other vehicle access areas on site shall be protected by a permanent curb a minimum of 15 cm in height to protect landscaping from potential vehicular damage.
- d) Except where varied by this zone, landscaping shall be provided in accordance with **Schedule 3F – Landscaping Regulations and Standards of Bylaw No. 500.**
- e) Except for the Recreational Vehicle Sales and Storage, all uses must be fully contained within a building.

3.4.128.6 –Recreational Vehicle Sales or Storage Area

Table No. 1



Attachment No. 1
Subject Property Map



BCGS Map Sheet No. 92G.001.4.3



| | |
|------------------------------|--------|
| REGIONAL DISTRICT OF NANAIMO | |
| CHAIR | GM Cms |
| CAO | GM ES |
| DA CCD | Mof |
| AUG 24 2005 | |
| EAPC | |
| | |
| | |

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 22, 2005

FROM: Greg Keller
Planner

FILE: 3360 30 0509

SUBJECT: Zoning Amendment Application No. ZA0509
– Oceanside Forest Products Ltd/Keith Brown Associates Ltd.
Electoral Area 'F' – 1429 Springhill Road

PURPOSE

To consider an application to rezone the subject lot from I-1 (Industrial 1) to CD-17 (Comprehensive Development Zone 17) in order to facilitate the development of a Value Added Lumber Remanufacturing use including the storage and processing of raw logs.

BACKGROUND

The Planning Department has received a zoning amendment application for the lot legally described as Lot 5, District Lot 103, Nanoose District, Plan VIP73532, located at 1429 Springhill Road in Electoral Area 'F' (see Attachment No. 2 for location of subject property). The proposed use is Value Added Lumber Remanufacturing including the storage and processing of raw logs. The subject lot, which is approximately 2.16 ha in size, is currently zoned I-1 pursuant to the "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002." Pursuant to the "Regional District of Nanaimo Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999" (OCP), the subject lot is designated within the Industrial Lands Land Use Designation. The existing I-1 zone currently permits Value Added Lumber Remanufacturing; however, the processing of raw logs and outdoor storage, sorting, and bucking of raw logs is not permitted, therefore a zoning amendment is required.

The subject property is a relatively flat panhandle lot located on the west side of Church Road. Access to the subject lot is via Springhill Road. Adjacent land uses include other I-1 zoned properties to the west, north, and north east, which are developed or are in the process of being developed. The adjacent lot on the east side of Church Road is currently zoned T-1.1 (Institutional/Community Facility) and houses the Regional District of Nanaimo Waste Transfer Station. The property to the south is separated from the subject property by a railway right-of-way and is zoned Industrial 2 (I-2).

The subject lot has been cleared of native vegetation except for a buffer that consists of native and non-native tree and shrub species approximately 3.0 – 5.0 metres in width located on the east side of the subject property adjacent to Church Road and along the south of the property.

Land Use Proposal

The proposed rezoning, if approved, would permit the construction of a plant that prepares timbers to be sawn into veneer/flitch (veneer/flitch is a value added product that is sawn only from select portions of a log). The process includes the processing and outdoor storage of raw logs. An overview of the proposed process as submitted by the applicant is as follows: Raw Logs, primarily alder, arrive on site via truck and are unloaded on the log sort area. The logs are then scaled and bucked into the appropriate lengths in

preparation for sawing. The bucking/sorting area is then cleaned with the waste being loaded into a roll-on/roll-off bin. The sorted logs are fed through a debarker, if necessary, or straight to the primary breakdown mill. The logs are sawn with the intent of maximizing the veneer/flitch yield. The resulting product is then transported for slicing off site. The lumber fall down (i.e. the leftover wood, which is not appropriate for veneer/flitch and is cut into lumber) is run through an edger and trim saws and sorted by length and stickered for kiln drying. All wood waste from the saw, edger and trim saw is transported via blower and/or conveyor to bins and transported off site to a variety of markets. Once the lumber has been kiln dried, it is planed, graded, and packaged, and transported by truck to market.

The proposal as submitted by the applicant includes the following buildings and floor areas:

Table No. 1

| Building/Structure | Floor Area (m ²) |
|--------------------------------------|------------------------------|
| Electrical Building | 9.29 |
| Office | 111.48 |
| Remanufacturing and Storage Building | 668.9 |
| Kilns | 33.45 x 2 |
| Pump House | 5.94 |
| Mill | 1040.5 |
| Total | 1903.01 |
| Lot Size | 21600 |
| Parcel Coverage | 8.81% |

In support of their application, the applicant has provided a stormwater management plan prepared by Newcastle Engineering, which proposes to direct all stormwater flows from paved surfaces into a catchment basin and through an oil/water separator unit sized in accordance with the Ministry of Environment Guidelines. The applicant is proposing to pave a total of 4076 m² including the proposed log sort, bucking, and debarking area, as well as most of the areas surrounding the proposed buildings where industrial vehicular traffic would be most prevalent. The applicant has also submitted a letter of undertaking to maintain the oil/water separator unit in accordance with the engineer's recommendations.

Public Information Meeting

A Public Information Meeting was not held given the industrial nature of the surrounding area.

ALTERNATIVES

1. To approve the application as submitted, subject to the conditions outlined in Schedule No. 1, for 1st and 2nd reading, and proceed to a Public Hearing.
2. To deny the amendment application and provide staff with further direction.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The OCP, *Section 2: Industrial Lands*, supports sawmill/wood processing activities on lands designated Industrial. The OCP goal is that industrial operations comply with recognized standards and codes of practice and to avoid unreasonable impacts on the natural environment. Therefore, it is important to ensure that appropriate steps are taken to reduce the impact of the development and protect the natural environment. In staff's opinion, the proposed development is consistent with the Industrial Lands land use designation policies in this OCP. In addition to the use being supported by the OCP, the applicant is proposing mitigative measures such as removing all wood wastes from site; paving the outdoor log sort, bucking, storage, and debarking area; installing an engineered stormwater collection system including an oil/water separator; filtering airborne wood particulate emissions; and utilizing natural gas fired kilns.

DEVELOPMENT IMPLICATIONS

Land Use Implications

Noise generated from the subject property is not anticipated to negatively affect adjacent properties as they consist of industrial uses. These uses include a highway maintenance yard to the west, a manufactured home building facility to the north, a Regional District of Nanaimo Transfer Station to the east, and an active gravel pit to the south. Furthermore, the applicant is proposing to operate the mill 8 hours a day, five days a week. It should be noted that the kilns may operate 24 hours a day, 7 days a week, but no significant noise is generated by the kilns.

Staff has some concern over the scale of the proposed paved outdoor log sorting, bucking, and debarking area as this use is not a typical one in a light industrial zone. However, since the applicant is proposing to site the log sorting, bucking, and debarking area in the south of the property, adjacent to the railway right-of-way and the I-2 zoned adjacent property, which is currently developed with a gravel pit, staff are of the opinion that the proposed log sorting use at the proposed scale is appropriate. In order to ensure that this use is maintained in the proposed location at the proposed scale, staff have limited the area to approximately 4000 m² and restricted the location in the proposed CD zone to that proposed by the applicant.

Access/Parking

The applicant is proposing to access the property through the panhandle portion of the lot off Springhill Road. As the subject lot is in an established industrial area, in staff's assessment the proposed activity would not result in a notable negative impact on traffic.

The applicant is proposing to install 20 parking stalls to be located along the east side of the panhandle and constructed in accordance with Bylaw No. 1285 standards. Bylaw No. 1285 requires a minimum of 1 parking stall per 20 m² of floor area for all uses in a Comprehensive Development Zone (CD) except as specifically listed in the zone. Under the current parking regulations a minimum of 95 parking stalls would be required, which, in staff's opinion, is unreasonable given the proposed use. Therefore staff is proposing to include site specific parking regulations in the CD zone that specify a minimum of 1 parking stall per 100 m² of floor area or 1 per every 2 employees, whichever is greater. This number of stalls is consistent with the parking requirements for a manufacturing/product assembly use, which is similar to the proposed use and should be sufficient. Furthermore, given the relatively large size of the subject property, there is ample room for additional parking in the future if the need arises.

Environmental Implications

There are no environmentally sensitive features indicated on the Environmentally Sensitive Areas Atlas or in the Official Community Plan (OCP) associated with this property.

In order to minimize the environmental impact of the proposed development, the applicant is proposing to utilize natural gas fired kilns. The applicant is proposing to minimize airborne particulates by installing a cyclone with an afterfilter. The applicant has submitted proof of application to the Ministry of Environment for a waste discharge authorization permit under the *Environmental Management Act* for the operation of the kilns and the discharge of wood particulates from the cyclone and afterfilter. Staff recommends that the applicant be required to submit a copy of the issued waste discharge authorization permit prior to the Board's consideration of this application for final reading.

The applicant has submitted a copy of the Environmental Protection Notice, a requirement for an application for a permit under the provisions of the *Environmental Protection Act*. The notice indicates the rate of emissions from the proposed development would not exceed 3300 cfm. The operating period for the proposed facility will be 8 hours per day, 5 days per week. The notice indicates that

characteristics of the air emission are as follows: wood particulate of less than 115 mg/m³ and the type of treatment to be applied to the discharge is a cyclone with afterfilter. The operating period for the kilns is 24 hours per day, 7 days per week, and 52 weeks per year. The characteristics of the emissions from the kilns are typical of off-gases from a natural gas fired dry kiln.

The Ministry of Environment has the jurisdiction and expertise to manage air quality issues through the waste discharge authorization process. Regional District of Nanaimo staff do not have the expertise or mandate to evaluate the air quality issues associated with this application and are relying on the provincial permitting process to ensure that appropriate emissions standards are provided.

The proposed CD-17 zone limits the storage of wood wastes on site to a maximum volume of 250 m³ at any time, and prohibits the processing of wood waste, as these uses may lead to potential site contamination and other land use issues. The applicant is in concurrence with this restriction, and proposes to remove all wood wastes from the subject property via roll on/roll off bins for sale to a variety of markets.

Drainage from the site is managed through an engineered stormwater plan, which includes directing all run-off from paved surfaces through an oil/water separator and utilizing swales to direct runoff from unpaved surfaces off site. The applicant's engineer has confirmed that the proposed drainage system complies with Section 2.5 – Runoff Control Standards of Bylaw No. 1285. Section 2.5 requires all paved surfaces to be drained through an oil/water separator; therefore, if the applicant wishes to expand in the future and provide additional paving, these paved areas would have to be properly drained through an oil/water separator.

Signage and Landscaping

The applicant is proposing to install one freestanding sign approximately 3.3 metres in height with a sign face area of approximately 9.5 m². The sign is proposed to be constructed of natural materials, with two wooden pillars connected by the sign face area and covered by a shake or similar wood roof. The sign is proposed to be illuminated from the ground and located more than 4.5 metres from the external property line adjacent to Springhill Road.

The applicant is proposing to provide landscaping adjacent to Springhill Road to be secured through security deposit. The applicant has not yet submitted a landscaping plan or security deposit; however, the applicant has indicated that these will be submitted prior to this application proceeding to Public Hearing.

In order to provide visual separation from Church Road the applicant has voluntarily agreed to provide a 4.5 metre buffer of existing vegetation adjacent to Church Road. The proposed buffer would allow for the maintenance of the existing vegetation, removal of hazardous trees, as well as additional planting and would be secured by covenant. The applicant has agreed to this request and is proposing to submit this covenant prior to the Board's consideration of this application for final reading.

All of this landscaping is over and above that required by Bylaw No. 1285.

PROVINCIAL GOVERNMENT IMPLICATIONS

Ministry of Environment

As discussed above.

Vancouver Island Health Authority

The subject property is served by private on-site well and septic disposal system. It is not anticipated that sewer or water services will be extended to this area in the near future. The applicant has submitted proof of authorization to operate a sewage disposal system.

Ministry of Transportation

The Ministry of Transportation has submitted correspondence indicating that their interests are unaffected with respect to the subject application. Furthermore, the surface drainage from the subject lot was included in the overall subdivision and road design. The applicant has submitted a copy of the Highways Access Permit issued by the Ministry of Transportation for an industrial access off of Springhill Road.

VOTING

Electoral Area Directors - one vote, except Electoral Area 'B'.

SUMMARY

This is a request to amend "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" to permit the development of a Value Added Lumber Remanufacturing mill including the storage and processing of raw logs.

In staff's opinion, the applicant is proposing reasonable steps to mitigate potential environmental impacts such as paving the log storage and sorting area and areas with heavy industrial traffic, directing stormwater flows through an appropriately sized and maintained oil/water separator, and removing wood wastes off site. Also, they are utilizing natural gas fired kilns and installing a cyclone with an afterfilter to reduce airborne wood particulate emissions. The airborne emissions standards are regulated by the Ministry of Environment and are subject to their approval.

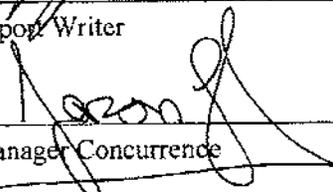
In staff's assessment, the proposed development is compatible with the surrounding industrial land uses and is consistent with the Industrial Lands land use designation policies pursuant to the Electoral Area 'F' OCP. Therefore, staff recommends that the Board receive Bylaw 1285.08, 2005 for 1st and 2nd reading subject to the applicant satisfying all conditions set out in Schedule No. 1.

RECOMMENDATIONS

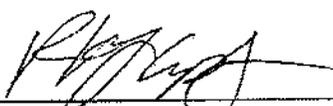
1. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.08, 2005" be given 1st and 2nd reading, subject to the Conditions of Approval outlined in Schedule No. 1.
2. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.08, 2005" proceed to Public Hearing.
3. That the Public Hearing on "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.08, 2005" be delegated to Director Biggemann or his alternate.



Report Writer



Manager Concurrence



Deputy Administrator Concurrence

COMMENTS:
devsvs/reports/2005/ZA3360 30 0509 au Oceanside 1st and 2nd

SCHEDULE NO. 1
Conditions for Approval for
Zoning Amendment Application No. ZA0509
Keith Brown Associated Ltd. on behalf of Oceanside Forest Products Ltd.

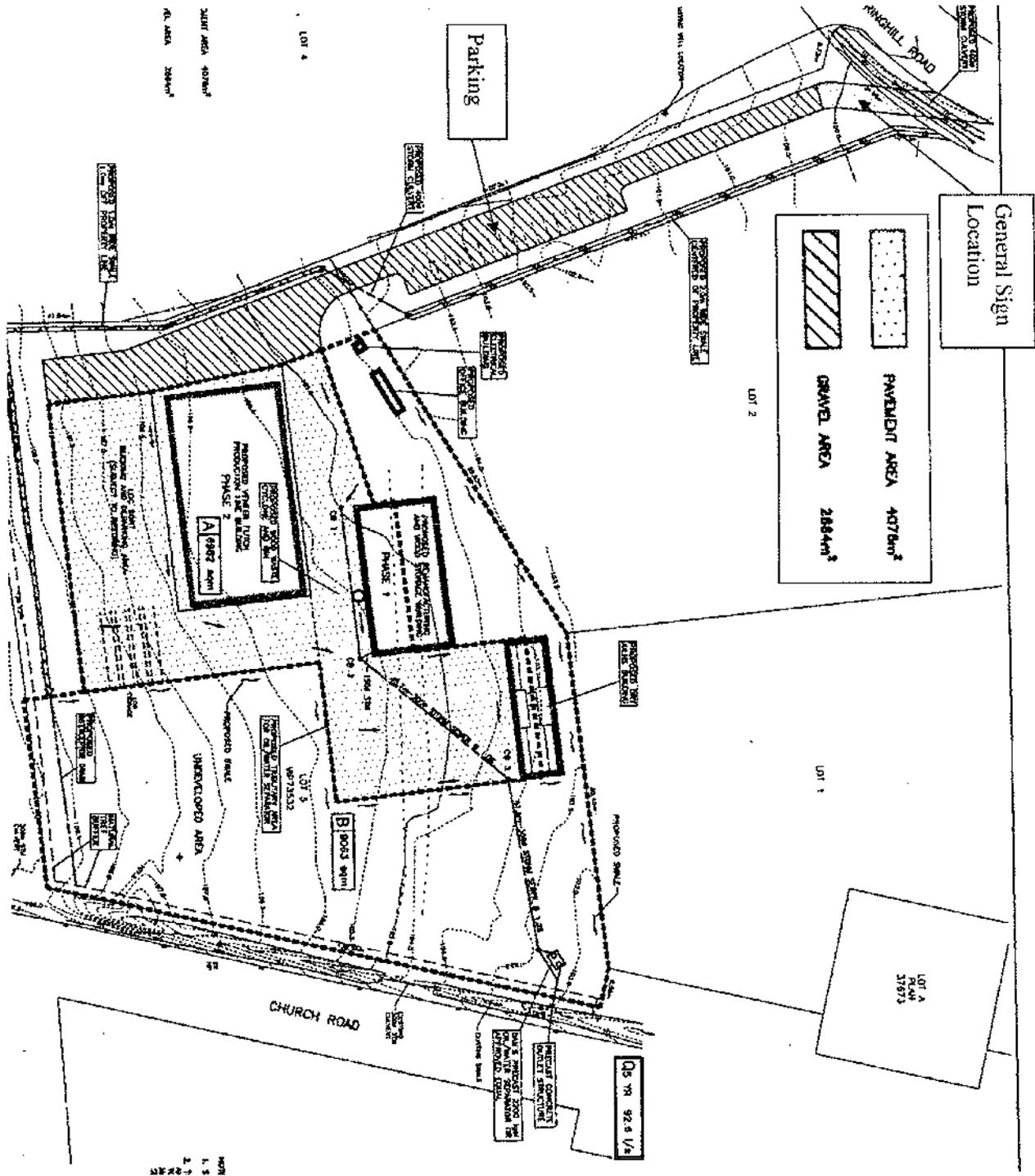
The following condition must be met prior to the Public Hearing for the application:

1. Applicant to submit a landscape plan and itemized cost estimate of landscaping to the satisfaction of the Regional District of Nanaimo.
2. Applicant to submit a security deposit in the amount equal to the total costs of materials and installation in the form of cash, cheque, or irrevocable letter of credit with an automatic extension clause to the satisfaction of the Regional District of Nanaimo.

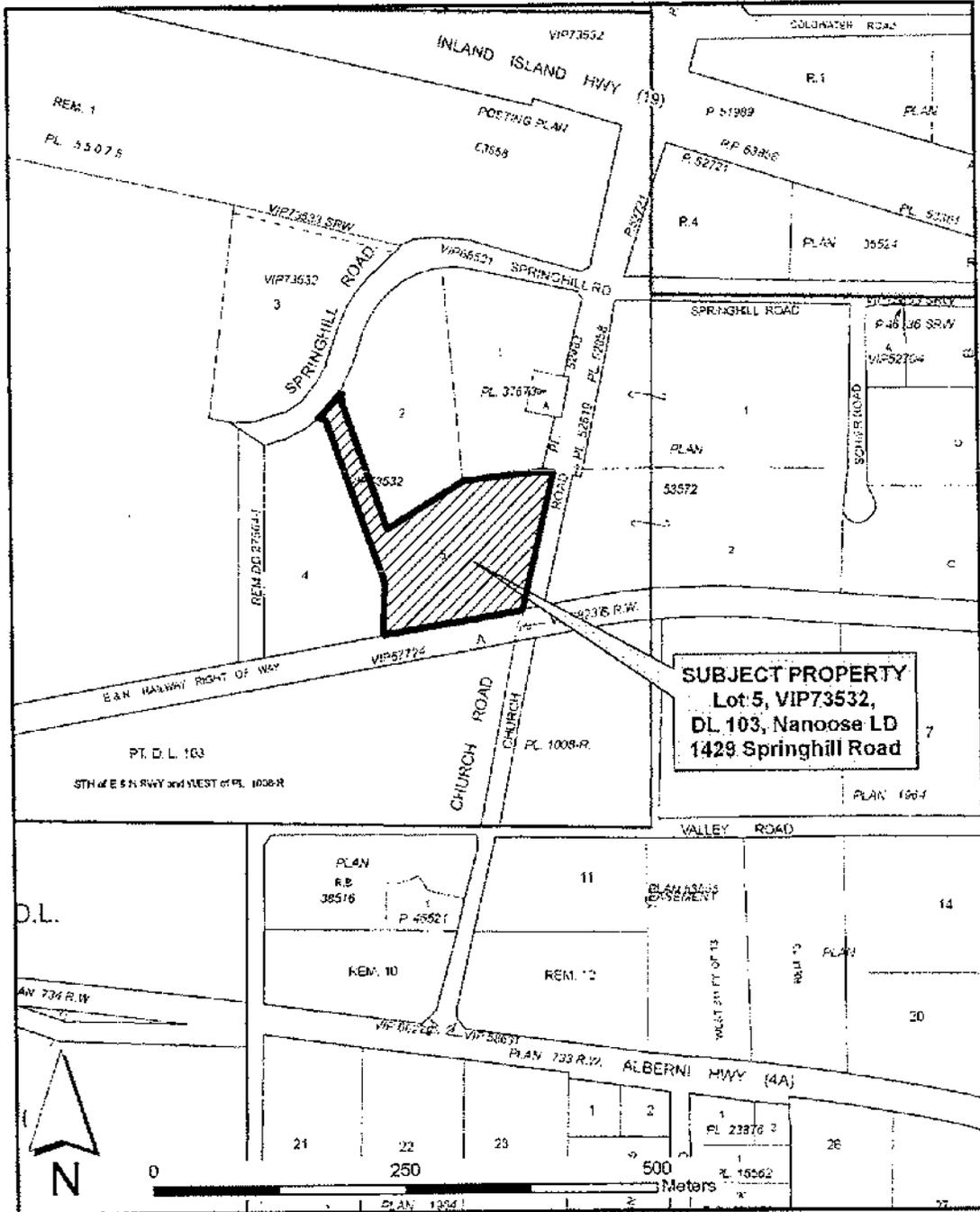
The following conditions must be met prior to the Board's consideration of final reading for the application:

1. The applicant, at the applicant's expense, to prepare and register to the satisfaction of the Regional District of Nanaimo, a Section 219 covenant restricting vegetation removal within 4.5 metres of the property line adjacent to Church Road.
2. Applicant to submit a copy of the waste discharge authorization as issued by the Ministry of Environment.

ATTACHMENT NO. 1 (Page 2 of 2)
 Proposed Site Plan
 (as submitted by applicant, enlarged for convenience)



Attachment No. 2
 Location of Subject Property



BOSS MAPSHEET NO. 92F.029.11



| REGIONAL DISTRICT OF NANAIMO | | | |
|------------------------------|-----------|--------|--|
| CHAIR | | GM Cms | |
| CAO | | GM ES | |
| DA CCD | <i>BA</i> | MoF | |
| SEP 06 2005 | | | |
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MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: September 2, 2005

FROM: Blaine Russell
Planner

FILE: 3060 30 60536

SUBJECT: Development Permit Application No. 60536 – McCaul and Farrell/Allen
Electoral Area 'G' – 927 McFeely Drive

PURPOSE

To consider an application to vary the maximum dwelling unit height from 8.0 metres to 8.6 metres within the 'Natural Hazard and Environmentally Sensitive Areas' Development Permit Area pursuant to the "Regional District of Nanaimo Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996."

BACKGROUND

The subject property, legally described as Lot 7, District Lot 9, Newcastle District, Plan VIP69413, is located at 927 McFeely Drive adjacent to the Strait of Georgia and near the Little Qualicum River Estuary in Electoral Area 'G' (see Attachment No. 1).

The 0.214 hectare subject property is zoned 'Residential 2' (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures adjacent to the sea are 8.0 metres horizontal distance from the natural boundary. The maximum height for the dwelling unit is 8.0 metres and 6.0 metres for accessory buildings and structures. The applicant is requesting to vary the maximum dwelling unit height to 8.6 metres in order to meet the Flood Construction Level and maintain the proposed dwelling unit design. The lot is relatively level and is 'walk-on' waterfront property.

As the subject property is within the RDN building inspection area, "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" applies. Bylaw No. 843 requires a floodplain setback of 15.0 metres from the natural boundary of the sea, except that this setback may be reduced to 8.0 metres where the sea frontage is protected from erosion by works designed by a professional engineer and maintained by the owner. It should be noted that engineered erosion works are not being proposed and thus the minimum 15.0 metre floodplain setback would be required. In addition, Bylaw No. 843 requires a flood construction elevation of 3.8 metres Geodetic Survey of Canada (GSC) on the subject property.

The Environmentally Sensitive Area Development Permit Area was established to protect the natural environment; this portion of the Development Permit Area is measured 15.0 metres from the natural boundary. The Hazard Lands Development Permit Area was established to protect development from hazardous conditions. The entire subject property is designated as being within the Natural Hazard Development Permit Area due to the potential flood hazard.

The subject property is bound by residential lots to the east and west, to the north by the Strait of Georgia and to the south by McFeely Drive. Across from McFeely Drive is the 'Conservation 1 (ES1)' zoned Marshall-Stevenson Wildlife Sanctuary that features the Little Qualicum River Estuary.

Geotechnical Covenants are registered on title of the subject property.

RDN community water and community sewer service is available to the subject property.

ALTERNATIVES

1. To approve the requested variance and development permit subject to the conditions outlined in Schedules No. 1, 2, 3, and 4.
2. To deny the requested variance and development permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested variance would permit the construction of a dwelling unit of 8.6 metres in height within Hazard Lands Development Permit Area. The variance request is made due to the requirement to meet flood construction elevations on the subject property. All other lot lines and watercourse setbacks are proposed to be compliant.

The plans submitted with the application indicate that there is an additional bathroom and laundry facility above the attached garage. It is noted that staff are working with the applicants via their agent to revise the floor plans to ensure that a second dwelling is not created. The property owners will need to provide a written declaration that the space above the attached garage will not function as a suite.

The dwelling unit is proposed to be sited over 30.0 metres from the natural boundary of the ocean. This siting exceeds the minimum 8.0 metre zoning setback requirement and is outside of the 15.0 metres Sensitive Lands Development Permit Area. It is also proposed to exceed the minimum 15.0 metre floodplain setback requirement and to comply with the 3.8 metres GSC flood construction elevation pursuant to Bylaw No. 843.

SITING IMPLICATIONS

Views of adjacent Lots 6 and 8 are likely to be marginally impacted by the siting of the dwelling unit as they are located adjacent to the interior side lot lines of the subject property. At this time Lot 6 contains a dwelling unit but Lot 8 is unoccupied. All the properties that were part of this subdivision, Plan VIP69413, have the same geotechnical and covenant restrictions. The property's view that would be most affected by the height variance is the 'Conservation 1' (ES1) zoned property across from McFeely Drive. As the estuary will not be developed, the issuance of a height variance should be negligible. It should also be noted that the RDN Board has issued other height variances, concurrent with development permit applications within the 8 lot subdivision, of between 8.3 metres and 8.6 metres including an 8.3 metre height relaxation on Lot 6 next door.

GEOTECHNICAL AND FLOOD ELEVATION IMPLICATIONS

A geotechnical report was completed by Lewkowich Geotechnical Engineering Ltd. on December 18, 1996 that states "the site is geotechnically safe and suitable for the intended use provided

the recommendations of the report are followed during the design and construction of the proposed development." This report was registered on the title of the subject property at time of subdivision.

A supplementary geotechnical report prepared by Tom W. Oxland, P.Eng., of Lewkowich Geotechnical Engineering Ltd., on August 4, 2005 was submitted with the application. The report re-confirms the previous assessment that the shoreline or natural boundary along the northern edge of the site is subject to fluctuations due to erosion from severe storm events. The dwelling unit is proposed to be more than 32.0 metres from the natural boundary, beyond the minimum 30 metre setback recommended in this geotechnical report.

The Building Inspection Department may require that the supplemental geotechnical report be registered on title as a condition of issuing the building permit.

ENVIRONMENTAL IMPLICATIONS

Given the location of the property on the foreshore and proximity to the Conservation Area, staff recommends that drainage from the perimeter drains, roof leaders and other hard surfaces be directed away from the ocean towards McFeely Drive in order to prevent erosion of the unconsolidated sediments on the lot. The applicants have not indicated the location of the drainage systems on the site plan submitted with the application; therefore, staff recommend that the Board approve the Development Permit with the condition that the drainage works be to the satisfaction of the Chief Building Inspector. *(See Schedule No. 1)*

The property contains a vegetated area towards the foreshore, which should be maintained to reduce the potential for erosion. Existing vegetation mostly consists of aquatic grasses and low shrubs. The replanting of native vegetation shall be encouraged in this area to reduce the potential for erosion from the site.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby residents and property owners will have an opportunity to comment on the proposal prior to the Board's consideration of the permit.

VOTING

Electoral Area Directors – one vote, except Electoral Area 'B'

SUMMARY/CONCLUSIONS

This is an application to permit the construction of a dwelling unit and attached garage within the Hazard Lands Development Permit Area. In addition, the applicants are requesting to vary the maximum dwelling unit height, pursuant to section 3.4.62 of the "Regional District of Nanaimo Subdivision and Land Use Bylaw No. 500, 1987", from 8.0 metres to 8.6 metres.

Previous erosion of the parcel and the restriction on the building site related to the flood protection setback and elevation requirements has resulted in constraints to the development of the property. The requested variances are directly related to the site constraints and the flood plain requirements for the subject property. Therefore, staff suggests that the application has technical merit to proceed and

the recommendations of the report are followed during the design and construction of the proposed development." This report was registered on the title of the subject property at time of subdivision.

A supplementary geotechnical report prepared by Tom W. Oxland, P.Eng., of Lewkowich Geotechnical Engineering Ltd., on August 4, 2005 was submitted with the application. The report re-confirms the previous assessment that the shoreline or natural boundary along the northern edge of the site is subject to fluctuations due to erosion from severe storm events. The dwelling unit is proposed to be more than 32.0 metres from the natural boundary, beyond the minimum 30 metre setback recommended in this geotechnical report.

The Building Inspection Department may require that the supplemental geotechnical report be registered on title as a condition of issuing the building permit.

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The property contains a vegetated area towards the foreshore, which should be maintained to reduce the potential for erosion. Existing vegetation mostly consists of aquatic grasses and low shrubs. The replanting of native vegetation shall be encouraged in this area to reduce the potential for erosion from the site.

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VOTING

Electoral Area Directors -- one vote, except Electoral Area 'B'

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Previous erosion of the parcel and the restriction on the building site related to the flood protection setback and elevation requirements has resulted in constraints to the development of the property. The requested variances are directly related to the site constraints and the flood plain requirements for the subject property. Therefore, staff suggests that the application has technical merit to proceed and

RECOMMENDATIONS

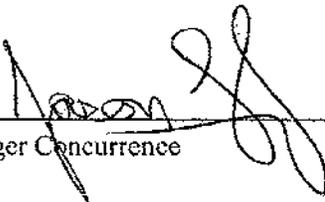
That Development Variance Permit Application No. 90517 to relax the minimum setback to a top of slope greater than 5% adjacent to a watercourse from 9.0 metres to 3.0 metres to establish a building envelope to facilitate the siting of a dwelling unit be approved according to the terms outlined in schedule No. 1 and subject to the Board's consideration of comments received as a result of public notification.



Report Writer



General Manager Concurrence



Manager Concurrence

COMMENTS:

devsrv\reports\dvp ap 3090 30 90517 AJA Tan Ltd

Schedule No. 1 (Part 1 of 2)
Terms of Development Permit No. 60536
Lot 7, District Lot 9, Newcastle District, Plan VIP69413
927 McFeely Drive

Proposed Variances

With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, the following variances are proposed:

1. Section 3.4.62 Maximum Number and Size of Buildings and Structures – Dwelling Unit Height varied from 8.0 metres to 8.6 metres.

Development of Site

2. Subject property to be developed in accordance with Schedule No. 1 and substantial compliance with Schedules No. 2 and 3.
3. All construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" except where varied by this permit.
4. All development on the site must be in compliance with the *Heritage Conservation Act*.
5. All works must be completed in accordance with the *British Columbia Building Code* and a building permit shall be obtained prior to commencement.
6. Drainage works shall be to the satisfaction of the Chief Building Inspector.
7. Land alteration that is necessary to provide community water and sewer connection shall be permitted provided the sediment and erosion control measures list below are adhered to.
8. Residential landscaping consisting of trees, shrubs, lawn, native vegetation and a driveway shall be permitted on the subject property provided these works are more than 15 metres from the natural boundary of the ocean.
9. Vegetation enhancement on the subject property less than 15 metres from the natural boundary of the ocean permitted provided it consists of native vegetation that is salt hardy shall be permitted.
10. Land alteration and development shall be consistent with the restrictive covenants EN77170, EN77171, and EN77172 registered at the Land Titles Office.

Geotechnical Report

11. That all recommendations established by the Geotechnical Report of Lewkowich Geotechnical Engineering Ltd., date stamped December 18, 1996 and registered as a Section 219 Covenant on the subject property shall be undertaken.
12. That all recommendations established by the Geotechnical Report of Lewkowich Geotechnical Engineering Ltd., date stamped August 4, 2005 and subsequent geotechnical reports shall be undertaken.
13. All geotechnical reports shall be registered on title, if deemed necessary by the Chief Building Inspector.

Schedule No. 1 (Part 2 of 2)
Terms of Development Permit No. 60536
Lot 7, District Lot 9, Newcastle District, Plan VIP69413
927 McFeely Drive

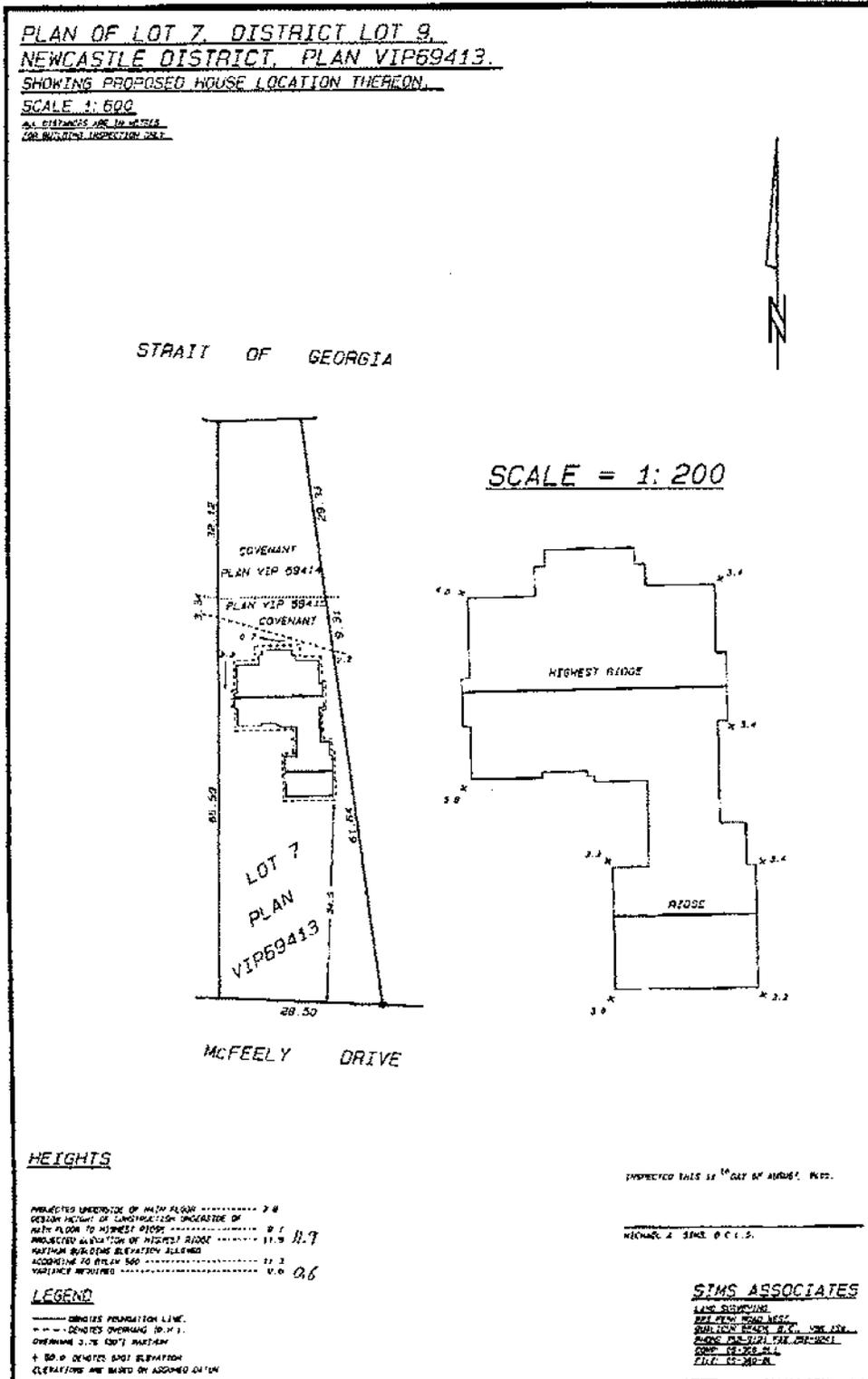
Survey

14. The applicants are to provide a final survey certified by a British Columbia Land Surveyor (BCLS), if deemed necessary by the Chief Building Inspector.

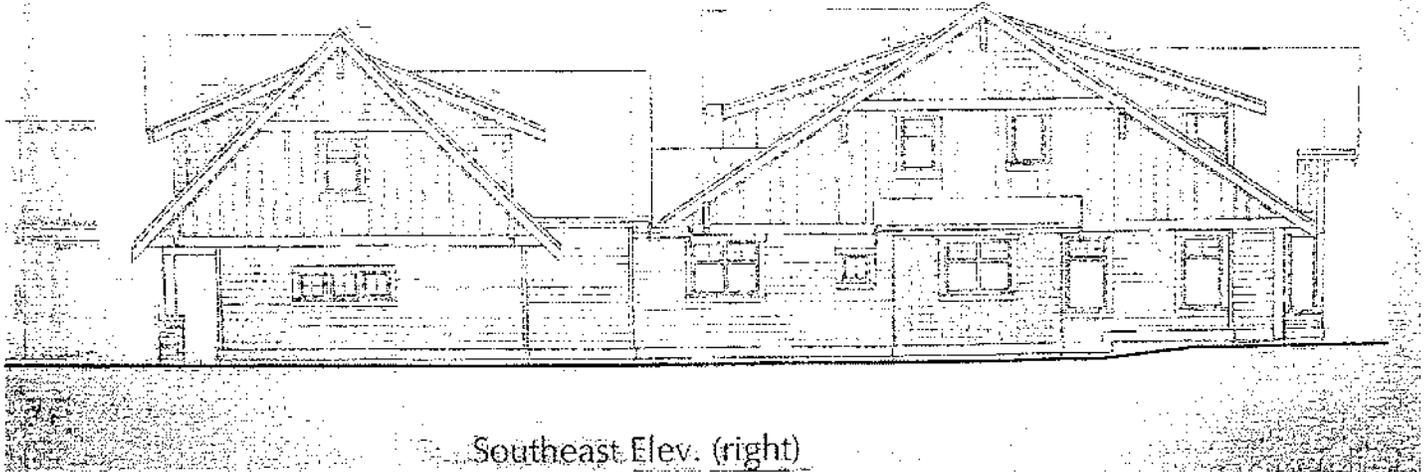
Development Permit Protection Measures

15. No habitation or building machinery or storage of items damageable by flood waters shall be located below the flood elevation of 3.8 metres GSC.
16. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - Direct run off flows away from Strait of Georgia using swales or low berms.
 - Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - Cover temporary fills or soil stockpiles with polyethylene or tarps.
 - The discharge of surface drainage, including drainage from perimeter drains, roof leaders, driveways and other hard surfaces, shall be directed away from the ocean (Strait of Georgia).

Schedule No. 2
 Site Plan - Development Permit No. 60536
 Lot 7, District Lot 9, Newcastle District, Plan VIP69413
 927 McFeely Drive

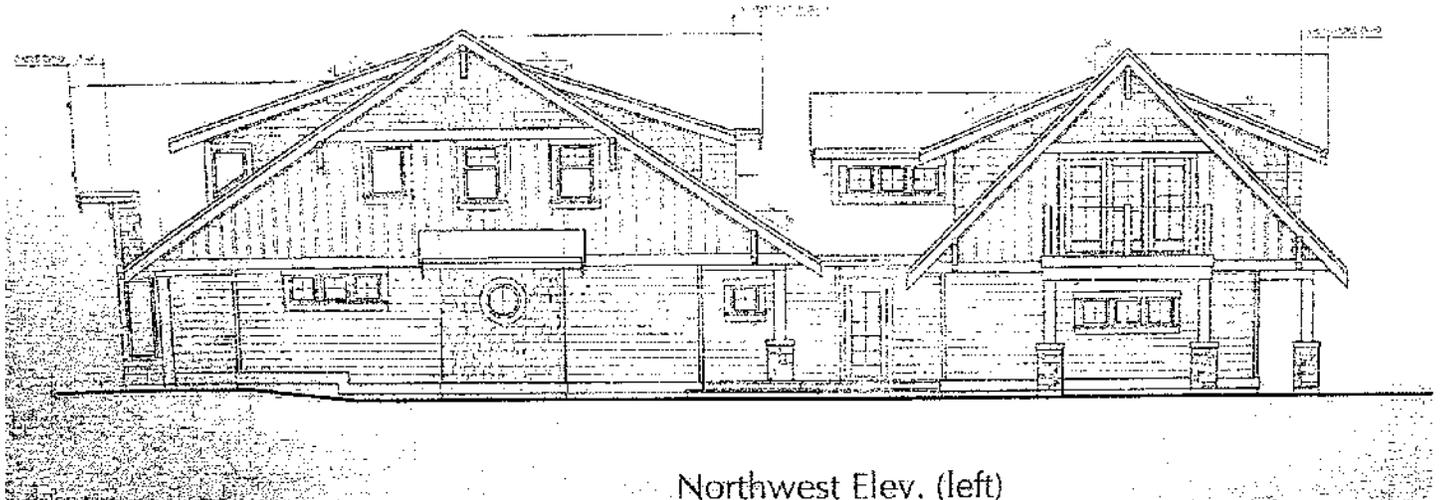


Schedule No. 3 (part 2 of 2)
Profile Plan - Development Permit No. 60536
Lot 7, District Lot 9, Newcastle District, Plan VIP69413
927 McFeely Drive



Southeast Elev. (right)

Maximum height 8.6 metres - dwelling
unit and attached garage



Northwest Elev. (left)



| | | |
|---------------------------------|-----------|--------|
| REGIONAL DISTRICT OF NANAIMO | | |
| CHAIR | | GM Cms |
| CAO | | GM ES |
| DA CCD | <i>RZ</i> | MoF |
| AUG 31 2005 | | |
| <i>EAPC</i> | | |
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MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: August 30, 2005

FROM: Keeva Kehler
Planner

FILE: 3060 30 60538

SUBJECT: Development Permit Application No. 60538 – North Wind Development
Electoral Area 'G' – 615 Viking Way

PURPOSE

To consider an application to amend a development permit to vary the minimum setback requirement from the front lot line from 8.0 metres to 5.1 metres in order to facilitate the construction of a dwelling unit.

BACKGROUND

The property, legally described as Lot 35, District Lot 28, Nanoose District, Plan VIP76143, is located at 615 Viking Way in the Columbia Beach area of Electoral Area 'G' (*see Attachment No. 1*). The subject property is zoned Residential 5 (RS5) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The Residential 5 zone has a minimum setback requirement for buildings and structures, excluding multiple dwelling units, of 8.0 metres from the front and exterior lot lines and 3.0 metres from other lot lines.

Development Permit No. 77 was issued in 1994 and facilitated the subdivision of the subject property and surrounding lots. Development Permit No. 77 varied the interior side and rear setbacks to 2.0 metres for the lots and varied the height for the lots to 8.0 metres above the flood level as defined by the Ministry of Environment (MOE).

A section 219 covenant was registered over a portion of the property providing a vegetated buffer to protect the eagle nesting tree. The covenant was established in 1995 when the parent parcel, Lot 2, DL 28, Nanoose District, Plan VIP62528, was created. The section 219 covenant does not permit the removal of vegetation without prior permission from the Ministry of Environment.

This Development Permit Application requests a variance to the minimum front lot line setback requirement in order to facilitate construction of a dwelling unit on the subject property away from the covenanted eagle tree setback area.

ALTERNATIVES

1. To approve the development permit amendment and variance request, as submitted, according to the terms outlined in Schedule No. 1 and subject to the Board considering comments received as a result of public notification.
2. To deny the requested development permit amendment application as submitted.

LAND USE AND DEVELOPMENT IMPLICATIONS

As noted, this Development Permit application is to request a variance to the front lot line setback from 8.0 metres to 5.1 metres in order to accommodate the siting of a dwelling unit and attached garage away from the covenanted eagle tree setback area. A similar variance request was approved by the Board on lots 38 and 39 west of the subject property (*see DP No. 60508*).

The section 219 covenant complicated the development and use of the site. The covenant area extends approximately 6.0 metres into the rear of Lot 35. As a result, without the requested variance the useable backyard would be approximately 1.0 metre deep. There is concern that the covenant area would be encroached upon during construction and over time by property owners, given the narrow width of the useable rear yard. Also, the applicants propose to include a small patio space at the rear of the dwelling unit, measuring approximately 3.6 metres in depth. This will not be possible without varying the front lot line setback and locating the dwelling closer to Viking Way. In staff's opinion, a patio area is a reasonable accessory use for a dwelling unit and justifies the need for the covenant. In addition, as the dwelling must meet the required flood plain elevation, there is an elevation drop-off of approximately 1.0 metre, which the developer proposes to slope gently into the rear yard. Approval of the requested variance will facilitate the gentler slope and increase the utility of the rear yard, while reducing the potential encroachment onto the covenant area.

In staff's opinion, the proposed variance does not negatively impact the view corridors or use and enjoyment of adjacent property owners; however, as the proposal includes a variance request, affected property owners will be notified directly of the applicant's request and will be afforded an opportunity to provide comment directly to the Board.

Also, in order to ensure this rear yard remains as useable open space, as requested, staff recommend a Section 219 covenant restricting any building within 8.0 metres of the rear property line. This was a condition of the development permit issued for Lots 38 and 39.

ENVIRONMENTAL IMPLICATIONS

Development of the lots with the covenant has encroached into the covenant area and numerous complaints have been received from adjacent property owners, the Wildlife Tree Stewards, and the French Creek Residents' Association. However, due to the nature of section 219 covenants, enforcement tools are limited and the MOE has not been prepared to undertake enforcement action regarding the encroachments. To reduce potential impacts and future encroachment, MOE staff support relaxing the setback to the front and exterior lot lines on these lots and any other lots that have not yet been developed. It is recommended that the applicant be required to fence off the covenant area during construction so that no encroachment of equipment occurs.

DEVELOPMENT PERMIT AREA IMPLICATIONS

Pursuant to the previous OCP, "French Creek Official Community Plan Bylaw No. 741, 1987", the subject property was designated within Development Permit Area 'D' French Creek (the DPA). The purpose of this DPA was to protect the natural environment, to protect development against hazardous conditions, and to address the form and character of commercial and multi-family development. Development Permit No. 77, which applies to the subject property, was issued pursuant to this previous designation. However, when "French Creek Official Community Plan Bylaw No. 1115" was adopted in 1998, this Development Permit area designation was removed. Therefore, the current application, although not currently within a DPA, requires an amendment to the original Development Permit No. 77.

VOTING

Electoral Area Directors — one vote, except Electoral Area 'B'.

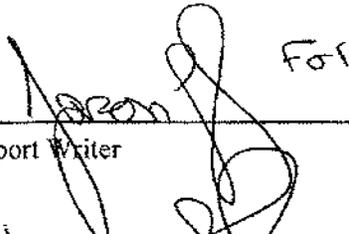
SUMMARY/CONCLUSIONS

This is an application to amend Development Permit No. 77 by varying the minimum setback requirement from the front lot line of the RS5 zone for the subject property from 8.0 metres to 5.1 metres for the building sited and designed in compliance with Schedules No. 2 and 3 to facilitate the construction of a dwelling unit.

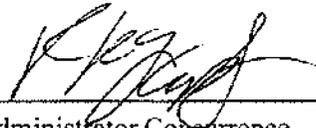
The reduced front yard setback will provide a small useable back yard and will allow an increased setback from an eagle tree adjacent to the rear of the property which is protected by a section 219 covenant. The Ministry of Environment supported and encouraged varying the front lot line setbacks for neighbouring properties to reduce further encroachments into the covenant area and potential impacts to the active eagle nest tree. The dwelling unit layout and design are consistent to those existing in the neighbourhood and in staff's opinion, there is limited negative impact on the surrounding lots as a result of the variance; therefore, staff recommends approval of the application.

RECOMMENDATION

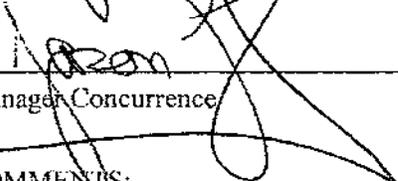
That Development Permit Application No. 60538, with a request to vary the front lot line setback requirement from 8.0 metres to 5.1 metres in order to permit the construction of a dwelling unit at 615 Viking Way, be approved according to the terms outlined in Schedule No. 1 and subject to the Board's consideration of comments received as a result of public notification.

 For

Report Writer



Deputy Administrator Concurrence



Manager Concurrence

COMMENTS:
devsvs/reports/2005/dp_3060_30_60538_se_North_Wind_Development

Schedule No. 1
Terms of Approval
Development Permit No. 60538
Lot 35, DL 28, Nanoose District, Plan VIP76143

Issuance of Permit

- a) Development Permit No. 60538 shall not be issued by staff until a Section 219 covenant that restricts building within 8.0 metres of the rear property line is registered on the title of the subject property at the applicants expense and to the satisfaction of the Regional District of Nanaimo.

Development of Site

- b) Uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", except where varied by this Permit. The terms of this permit are in addition to those of Development Permit No. 77.
- c) Applicant to obtain a building permit from the RDN prior to commencing works on the property.
- d) Development on the property shall be in substantial compliance with Schedules No. 2 and 3.
- e) Applicant to install high-visibility or snow fencing around the covenant area during construction to ensure that machinery and equipment does not encroach into the covenant area.

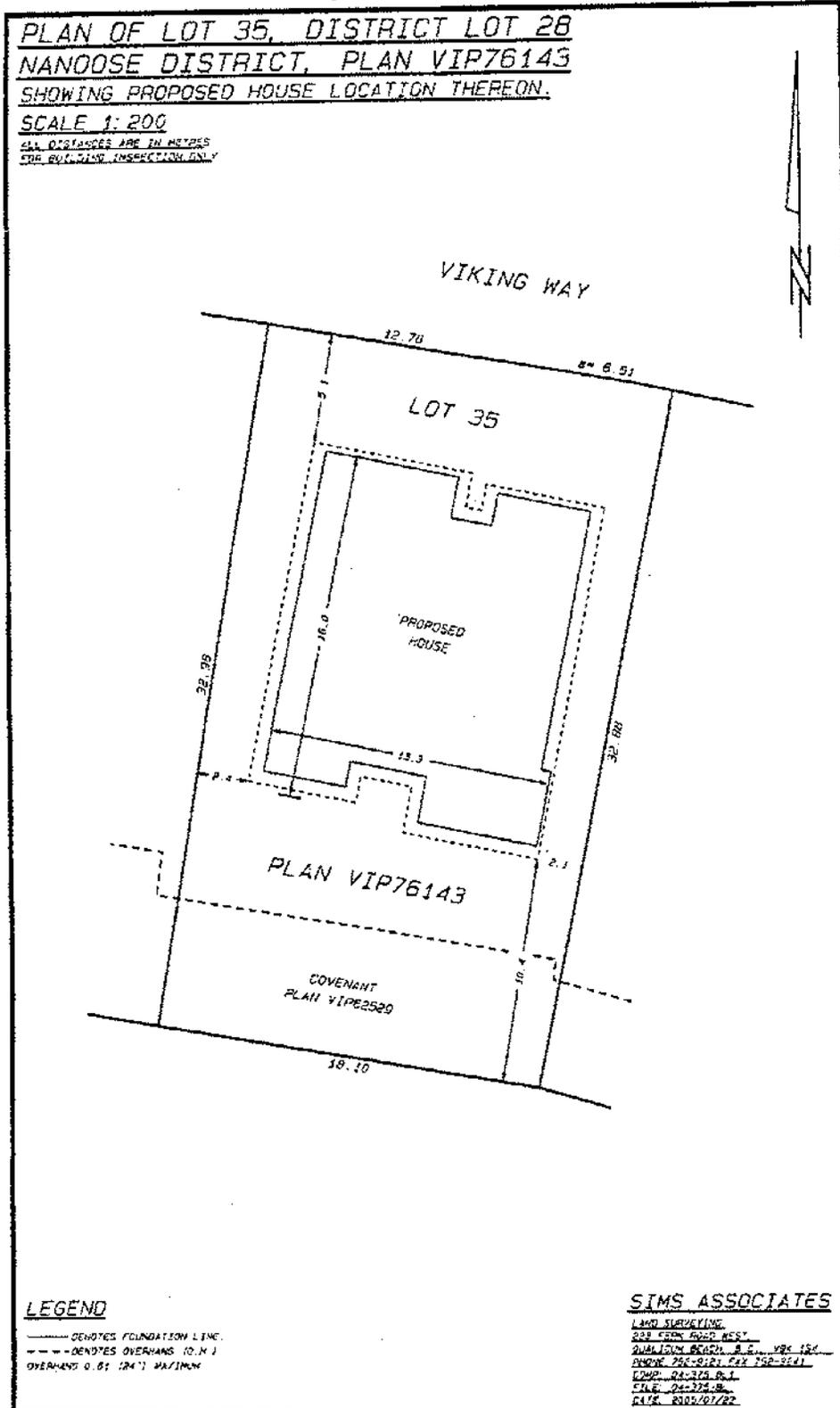
Survey

- f) A survey prepared by a British Columbia Land Surveyor (BCLS) is required upon completion of the dwelling unit and prior to occupancy, to confirm its siting. This survey should include indication of the outermost part of the building (i.e. the overhang, gutters, etc.) and shall be prepared to the satisfaction of the Regional District of Nanaimo.

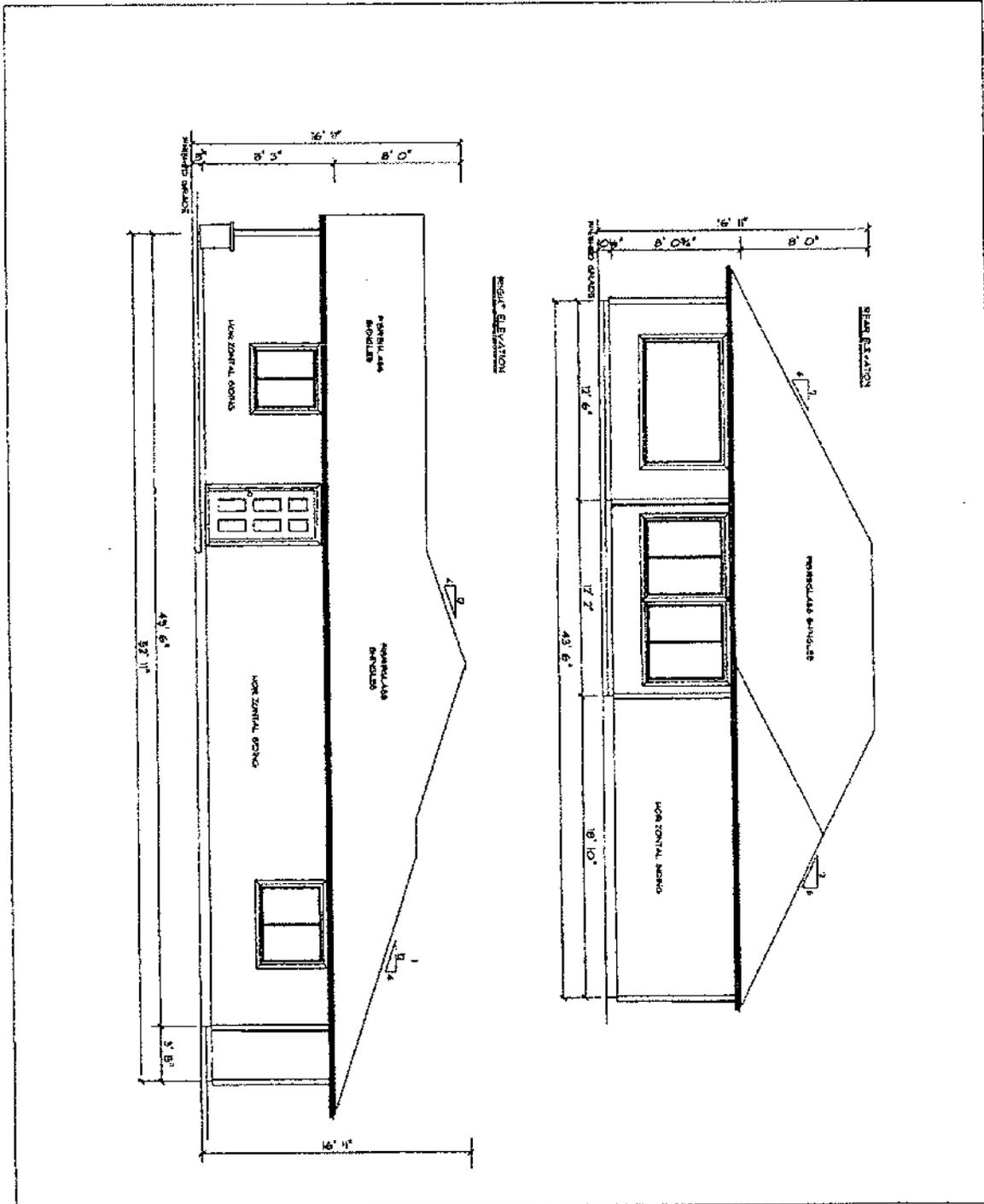
Variances

- g) With respect to the Lands, the following variance to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is approved:
Section 3.4.65 Minimum Setback Requirements Front and Exterior Lot Line is varied from 8.0 metres to 5.1 metres to facilitate the construction of a dwelling unit as shown on Schedules No. 2 and 3.
- b) This variance applies only to a dwelling unit located and constructed as shown on Schedules No. 2 and 3.

Schedule No. 2
Site Plan (submitted by applicant, reduced for convenience)
Lot 35, DL 28, Nanoose District, Plan VIP76143
Development Permit No. 60538

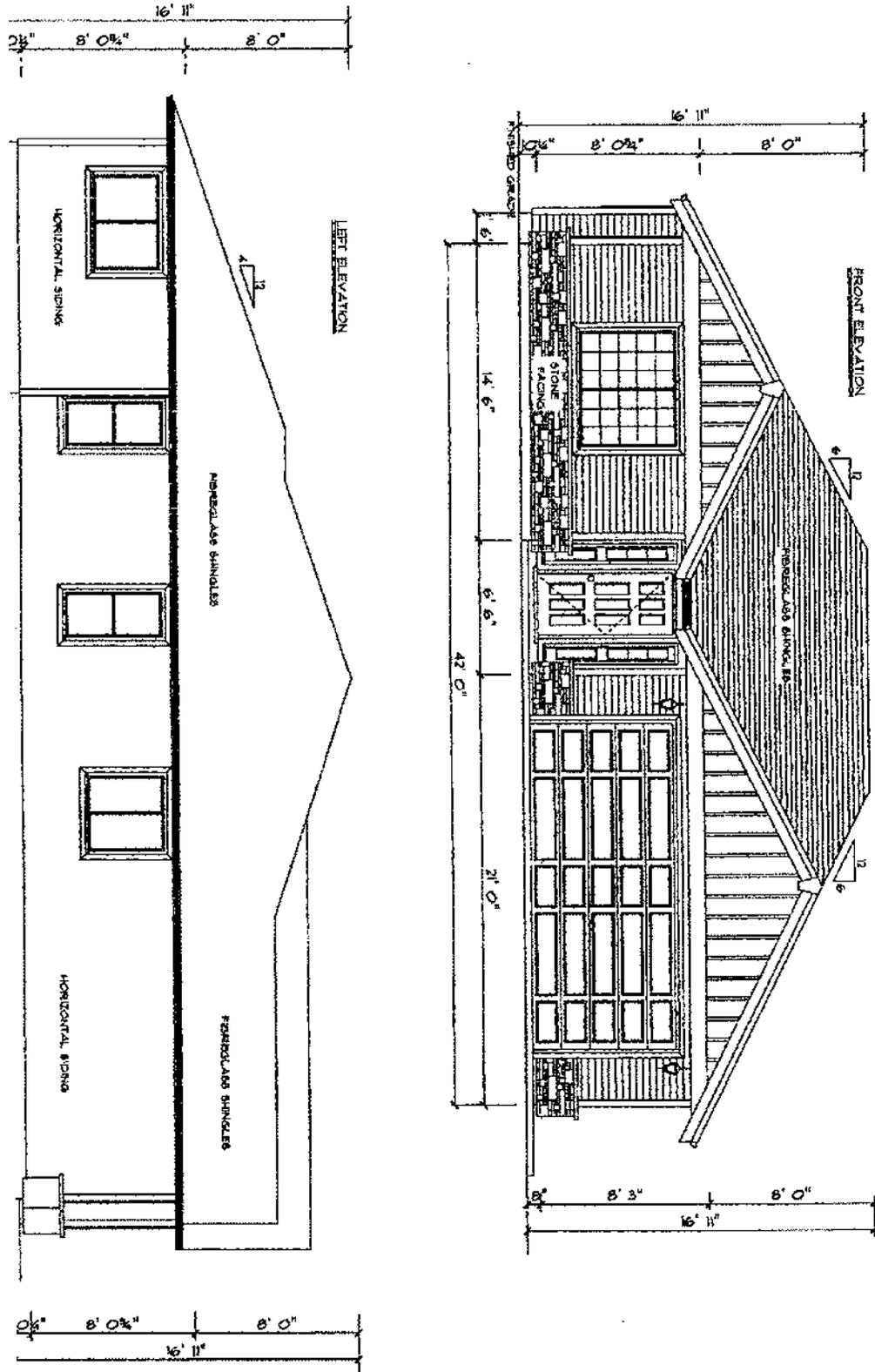


Schedule No. 3 (Page 1 of 2)
 Building Profiles (submitted by applicant, reduced for convenience)
 Lot 35, DL 28, Nanoose District, Plan VIP76143
 Development Permit No. 60538



| | | |
|---|---|------|
| CLIENT : NORTHWINDS DEV. 618 VIKING WAY | Scale : 1/8" = 1'0" Plan No. : R-530 Date : JULY 15, 2005 | PAGE |
| It is the responsibility of the Builder / Contractor to verify all dimensions, details, quantities etc. and meet all municipal and National Building Codes. | | 2 |
| Drawn by: Bob Swan Em. - 756-4235 - Ian Swanson | | |

Schedule No. 3 (Page 2 of 2)
Building Profiles (submitted by applicant, reduced for convenience)
Lot 35, DL 28, Nanoose District, Plan VIP76143
Development Permit No. 60538





**REGIONAL
DISTRICT
OF NANAIMO**

| | |
|---------------------------------|--------|
| REGIONAL DISTRICT OF NANAIMO | |
| CHAIR | GM Cms |
| CAO | GM ES |
| DA CCD | MoF |
| SEP 06 2005 | |
| EAPC | |

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: September 2, 2005

FROM: Brigid Reynolds
Senior Planner

FILE: 3060 30 60542

SUBJECT: Development Permit Application No. 60542
- Proctor & Kruse / Fern Road Consulting
Electoral Area 'H' - 6435 & 6445 West Island Highway

PURPOSE

To consider an application for a Development Permit with variances to permit some land alteration and to facilitate the subdivision of land within the Environmentally Sensitive Features and Natural Hazard Development Permit Areas pursuant to the "Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003."

BACKGROUND

This is an application for a Development Permit to facilitate the development and subdivision of the land and to recognize the siting of an existing shed/carport on the properties legally described as Lots 2 and 3, District Lot 22, Newcastle District, Plan 22808 (*see Attachment No. 1*). The subject properties are flat waterfront parcels located at 6436 and 6445 West Island Highway in the Nile Creek area of Electoral Area 'H'.

The subject properties are located within Rural Residential designation in the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003." The properties are also located within the Natural Hazard and Environmentally Sensitive Features Development Permit Areas (DPA) designated by this OCP.

The subject properties are zoned Residential 2, Subdivision District 'M' (RS2M) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the interior side and rear lot lines; 5.0 metres from all other lot lines, and 8.0 metres horizontal distance from the natural boundary of the ocean or top of a slope of 30%, whichever is greater. As part of this application, the applicants are requesting to vary the setback to the dedicated road and the interior side lot line to legalize the siting of an existing shed/carport.

The subject properties are flat waterfront parcels that have generally been cleared of vegetation. Both parcels have dwelling units located on them. The dwelling unit and accessory buildings on Lot 3 are located east of the dedicated road and adjacent to the Strait of Georgia. The existing garage is located within the side yard setback. A shed/carport is also located west of the dedicated road and is 0.4 metres from the side yard setback as well as 0.1 metre from the dedicated road. The dwelling unit on Lot 2 is located between the dedicated road and the Island Highway. Lot 2 also has a second septic tank and disposal field that is located approximately 11.5 metres from the natural boundary of the ocean.

Application

The applicant is proposing to undertake two separate but concurrent subdivision actions. The first step is to re-subdivide the two subject properties (by way of a lot line adjustment) such that the lot adjacent to the Island Highway is 2518 m² (proposed Lot A) and the lot adjacent to the Strait of Georgia is 5159 m² (proposed Lot B) (*see Schedule No. 2*). Proposed Lot B is then proposed to be further 'subdivided' into two bareland strata lots (*see Schedule No. 3*). As part of this development permit application, on Lot 2 the applicants are proposing to level existing fill piles and introduce a small amount of fill in the Development Permit Area between 20 metres and 30 metres from the natural boundary of the ocean in order to allow the soils to settle.

The applicant has submitted the following in support of their application:

- Geotechnical report prepared by Lewkowich Geotechnical Engineering, dated August 2, 2005.
- Archeological report prepared by I. R. Wilson Consultants Ltd., dated June 2005.
- A letter from Bowser Waterworks District confirming an available water connection, undated.
- Letter from Vancouver Island Health Authority recommending a "type 2/package treatment system", dated May 4, 2005.

ALTERNATIVES

1. To approve Development Permit No. 60542 subject to the terms outlined in Schedules No. 1, 2, and 3, and subject to Board considerations of comments received as a result of notification.
2. To deny the requested permit as submitted.

LAND USE AND DEVELOPMENT IMPLICATIONS

Due to the siting of the existing shed/carport and the proximity to the interior side lot line and dedicated road, a variance is being requested in order to legalize the siting. The applicant does not want to move the shed/carport as it has concrete footings and a concrete floor and is therefore not easy to move. The Ministry of Transportation has not yet issued an encroachment permit but has verbally stated that they support the encroachment into their setback in principal providing the RDN approves it.

The geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. states that the proposed development site is geotechnically safe and suitable for the intended purpose of a three lot subdivision provided the recommendations are adhered to. The report recommends a minimum flood construction elevation of 1.5 m above the natural boundary of the ocean, as well as a setback of 10.0 metres from the natural boundary of the ocean for new construction. Given that the recommendations of the geotechnical report address hazard issues, staff recommend that the geotechnical report be registered on title together with a 'save harmless' covenant.

Development Permit Implications

The Environmentally Sensitive Features Development Permit Area for this property is established for the coastal area, which applies to any land alteration activity within 30 metres of the natural boundary of the ocean as well as for the protection of the aquifer.

With regards to the aquifer, the geotechnical report states that "the proposed development should not impact any practicable supply aquifer." Additionally, as the permitted and proposed use is residential the potential for negative impacts to the aquifer is low.

As yet, the applicant does not have a proposed building plan or building location. In the past the land has been filled such that there are small fill piles around the property that have been left and vegetation has grown over. The applicant is proposing to level these fill piles close to the natural boundary. The fill is then proposed to be moved back to the area between 20 metres and 30 metres from the natural boundary of the ocean. The environmental impacts are minimal and as a condition of the permit staff recommend that the disturbed area be seeded to reduce the potential for erosion of the newly disturbed soils. Any extensive filling of the property is proposed to occur outside of the development permit area. Also, the geotechnical report provides details regarding the compaction of the introduced fill.

There is an existing septic field and tank located approximately 11.5 metres from the natural boundary of the ocean on Lot 2. While this septic field and tank have a health permit issued by the Vancouver Island Health Authority (VIHA) it is not proposed that this field be used and if the tank will be used it will be moved from this location. As part of the subdivision application, VIHA is requiring that a "type 2/package treatment system" be installed and located outside of the development permit area. As the dwelling unit is not likely to be constructed within the next year and the location of the existing tank and field is so close to the ocean, staff recommend that the a section 219 covenant be registered on title that prohibits the use of the field and the tank in the current location.

An archeological assessment was undertaken and submitted as part of the application. The report indicates that there is evidence of an archeological site on the subject property, specifically in the middle of Lot 3 and partially on the dedicated road (*see Attachment No. 2*) and outside the DPA. This site is the northernmost point of a well recorded midden. The report recommends that the remaining portion of the intact midden be capped with a permeable fill of fine gravel to minimize impacts to it. No land alteration activities are proposed on Lot 3 as part of this application. In the future, if any land alteration activities are going to be undertaken in or within 1 metre of the identified archaeological site, the report recommends that the site area be capped and a site alteration permit pursuant to the *Heritage Conservation Act* would be required.

This application is for subdivision only, and does not authorize any building or soil placement for the creation of a building site. This must be deal with through a subsequent development permit application.

Zoning Implications

As mentioned above and as outlined in Schedule No. 1, this application includes a request to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." There is an existing shed/carport located a minimum of 0.1 metre from the dedicated road that runs through the subject properties and 0.4 metres from the interior lot line between Lots 2 and 3. This lot line is proposed to remain unchanged as part of the subdivision. The shed/carport was constructed by the previous owners and is approximately 19 m² and is on a concrete foundation. The applicant does not want to move the shed/carport as it is difficult to move due to the foundation.

An encroachment permit has been applied for and the Ministry of Transportation has verbally stated that they do not take issue with the location of the shed/carport in proximity to the dedicated road provided the Regional Board grants the variance. There is little likelihood that the road shall be constructed. No views would be impacted by the shed location.

Given the difficulty in moving the shed/carport, the lack of impact on the area, and the verbal support from the MOT staff does not object to the proposed variance to the other lot line and the side yard lot line. Staff recommends that as a condition of this development permit an encroachment permit from MOT be provided to the RDN, or the shed be removed from the site, prior to subdivision approval.

The garage on Lot 3 does not currently meet setbacks to the interior side lot line between Lots 2 and 3; however, with the subdivision the lot line will be located such that the garage will meet setbacks and therefore no variance is required.

PUBLIC CONSULTATION IMPLICATIONS

As the application includes a request to vary the zoning bylaw requirements in order to legalize an existing shed/carport, the Regional District will notify adjacent landowners of the Development Permit application in accordance with the notification procedures in accordance with the *RDN Development Approvals Procedures and Notification Bylaw No. 1432, 2005*. In this case, all property owners within 50 metres of the subject properties will receive direct notice of the proposal and will be afforded an opportunity to comment on the requested variance.

VOTING

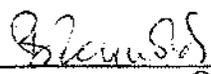
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

This is an application for a Development Permit with variances to permit the relocation of fill on site and to facilitate the subdivision of the land. The application includes a request to vary the minimum setback from the other lot line from 5.0 metres to 0.1 metres and from the interior side lot line from 2.0 metres to 0.4 metres for an existing shed/carport. The carport has a concrete foundation and is not easy to move, no views will be impacted, and the Ministry of Transportation has verbally stated they will issue an encroachment permit. The applicant has submitted a geotechnical report prepared by a professional engineer stating the site is safe for the intended use. Staff support the subdivision as proposed.

RECOMMENDATION

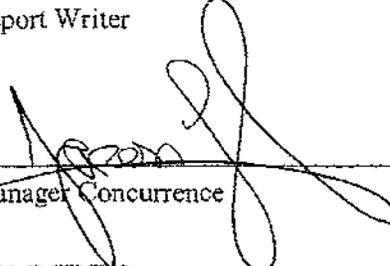
That Development Permit Application No. 60542 with variances to the side and other lot line setbacks to legalize the siting of an existing shed/carport and to facilitate the subdivision of the lands at 6435 and 6445 West Island Highway be approved according to the terms outlined in Schedule No. 1 and subject to the Board's consideration of comments received as a result of public notification.



Report Writer



Deputy Administrator Concurrence



Manager Concurrence

COMMENTS:
devvs/reports/2005/dp 3960 30 60542 se Proctor Fern Rd

Schedule No. 1
Terms of Development Permit Application No. 60542
Lots 2 and 3, District Lot 22, Newcastle District, Plan 22808
6445 West Island Highway

Proposed Variances

1. The following variance to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" apply only to a shed/carport sited as shown on Schedule No. 2.

Section 3.4.62 Minimum Setback Requirements - Other Lot Line is proposed to be varied from 5.0 metres to 0.1 metres to legalize the siting of the existing shed/carport.

Section 3.4.62 Minimum Setback Requirements – Interior Side Lot Line is proposed to be varied from 2.0 metres to 0.4 metres to legalize the siting of the existing shed/carport.

General Requirements

1. The subject properties shall be developed in accordance with Schedules No. 1, 2, and 3.
2. The proposed development shall be conducted in accordance with the provisions of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", except as varied by this Development Permit.
3. No fill placed in the archeological sensitive area defined in the report prepared by I.R. Wilson unless an archeological assessment has been undertaken and a permit obtained pursuant to the *Heritage Conservation Act* and a development permit has been issued by the RDN.
4. The property owner shall provide the RDN with a copy of the encroachment permit from the Ministry of Transportation for the shed / carport subject to the variance, or remove that shed / carport from the property, prior to subdivision approval.

Geotechnical Report

1. Recommendations established by the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd, date stamped August 2, 2005, shall be undertaken during the leveling and installation of fill in the development permit area. As a condition of approval, the Geotechnical Report prepared by Lewkowich Geotechnical Engineering will be required to be registered on the Certificate of Title as a Section 219 Covenant at the expense of the applicant.
2. The applicant shall include a clause within the Restrictive Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the potential flood and erosion risk associated with the development of the land. This covenant must be registered on the Certificate of Title at the time of subdivision.

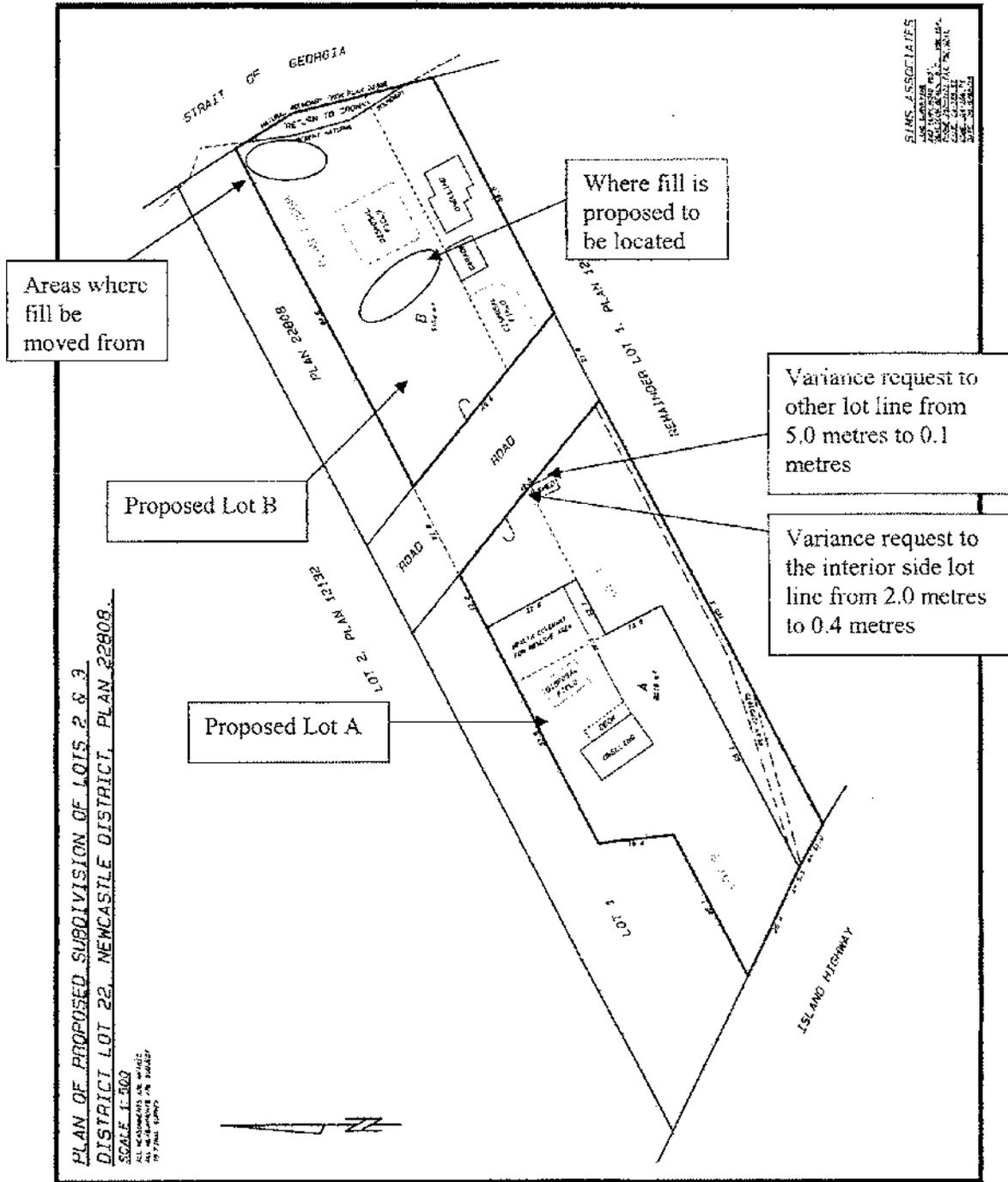
Development Permit Protection Measures

1. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include that:
 - tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - direct run off flows away from Strait of Georgia using swales or low berms.
 - exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - temporary fills or soil stockpiles are to be covered with polyethylene or tarps.
2. The areas from which the fill is being removed adjacent to the natural boundary of the ocean and where the fill is being placed in the development permit area shall be reseeded as soon after the disturbance as reasonably possible. The reseeded shall incorporate native salt tolerant grasses.
3. The applicant shall enter into a Restrictive Covenant to be registered on the Certificate of Title that prohibits the use of the septic tank/system located between the Strait of Georgia and the unnamed dedicated road on Lot 2. The covenant is to be prepared at the expense of the applicant and to the satisfaction of the RDN. This covenant must be registered on the Certificate of Title at the time of subdivision.

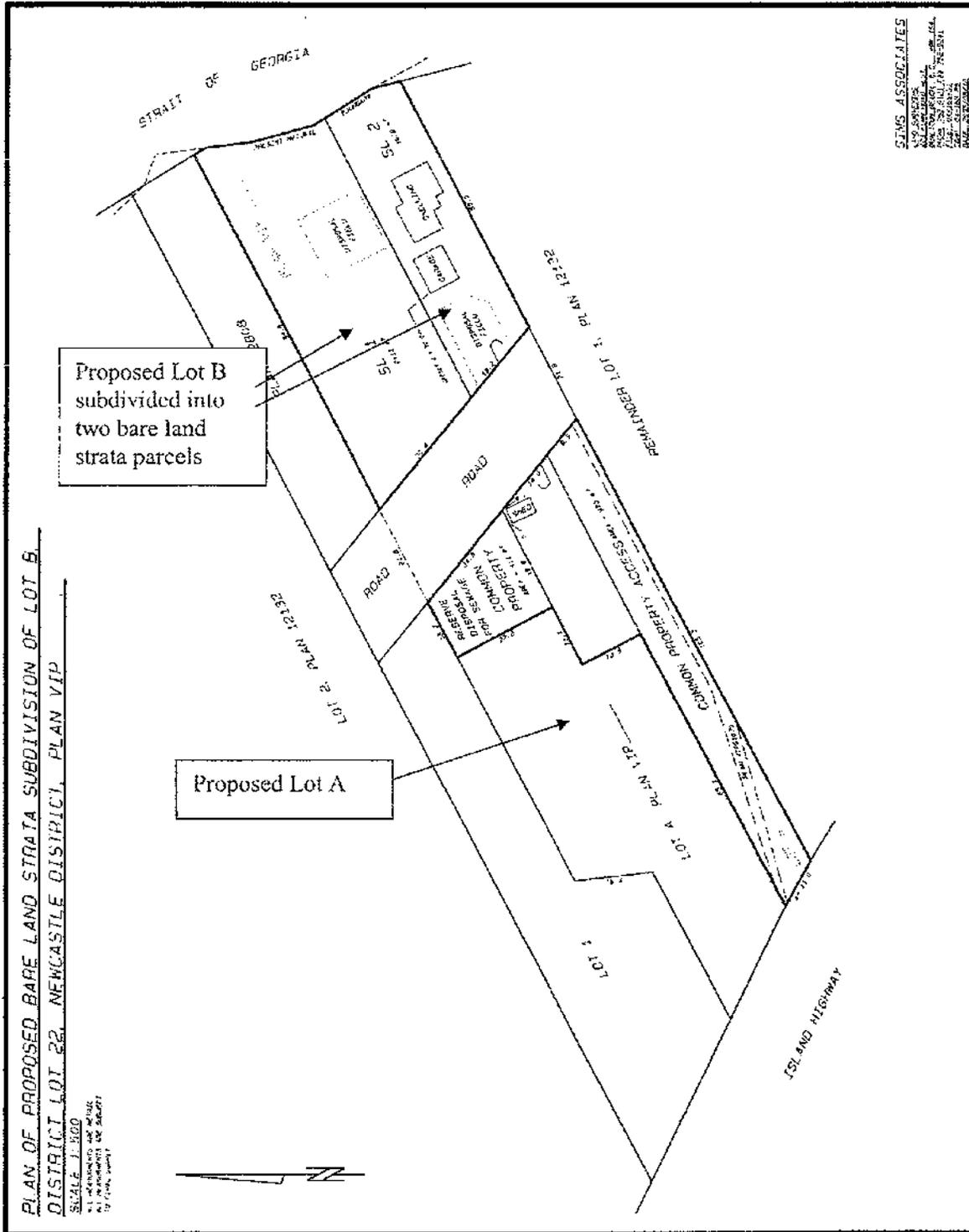
Future Development

1. This permit does not authorize the siting of a dwelling unit within the development permit area.

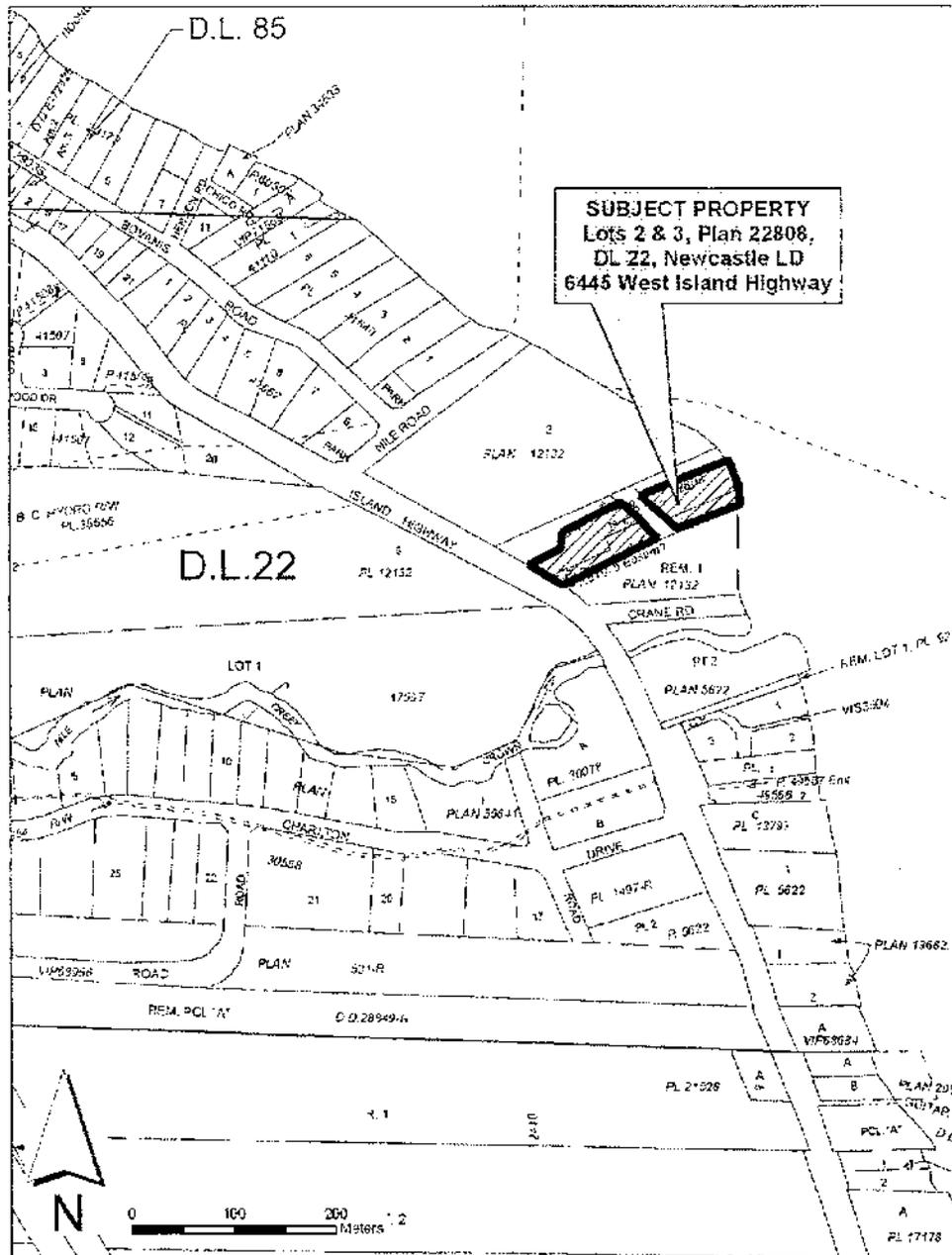
Schedule No. 2
Proposed Subdivision Layout
Development Permit Application No. 60542
Lots 2 and 3, District Lot 22, Newcastle District, Plan 22808



Schedule No. 3
Proposed Bare Land Strata Subdivision Layout
Development Permit Application No. 60542
Lots 2 and 3, District Lot 22, Newcastle District, Plan 22808



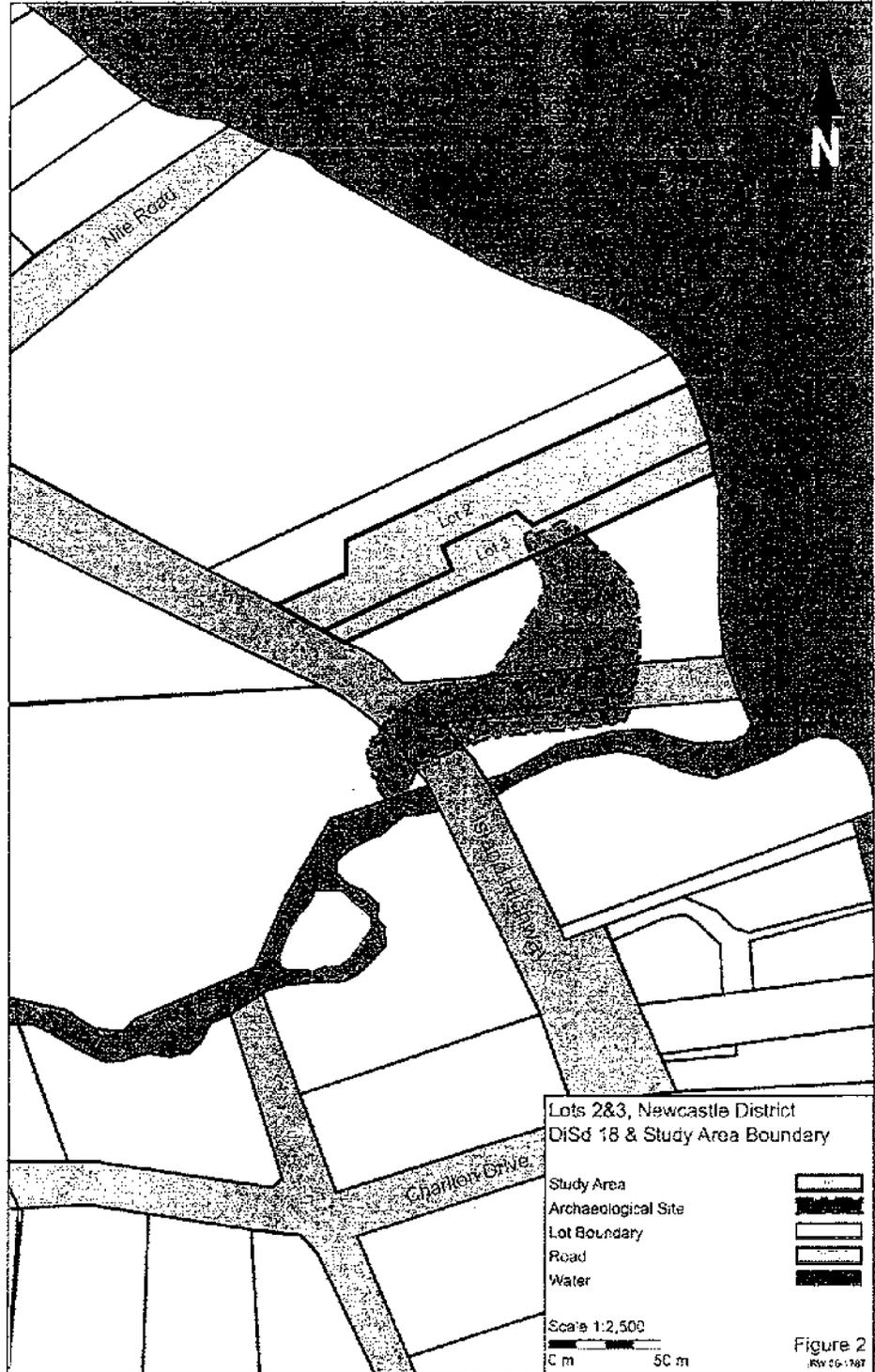
Subject Property Location
Development Permit Application No. 60542
Lots 2 and 3, District Lot 22, Newcastle District, Plan 22808



BCGS Map Sheet No. 92F.047.2.2

Attachment No. 2
Location of Archeological Midden (Page 1 of 2)
Development Permit Application No. 60542
Lots 2 and 3, District Lot 22, Newcastle District, Plan 22808

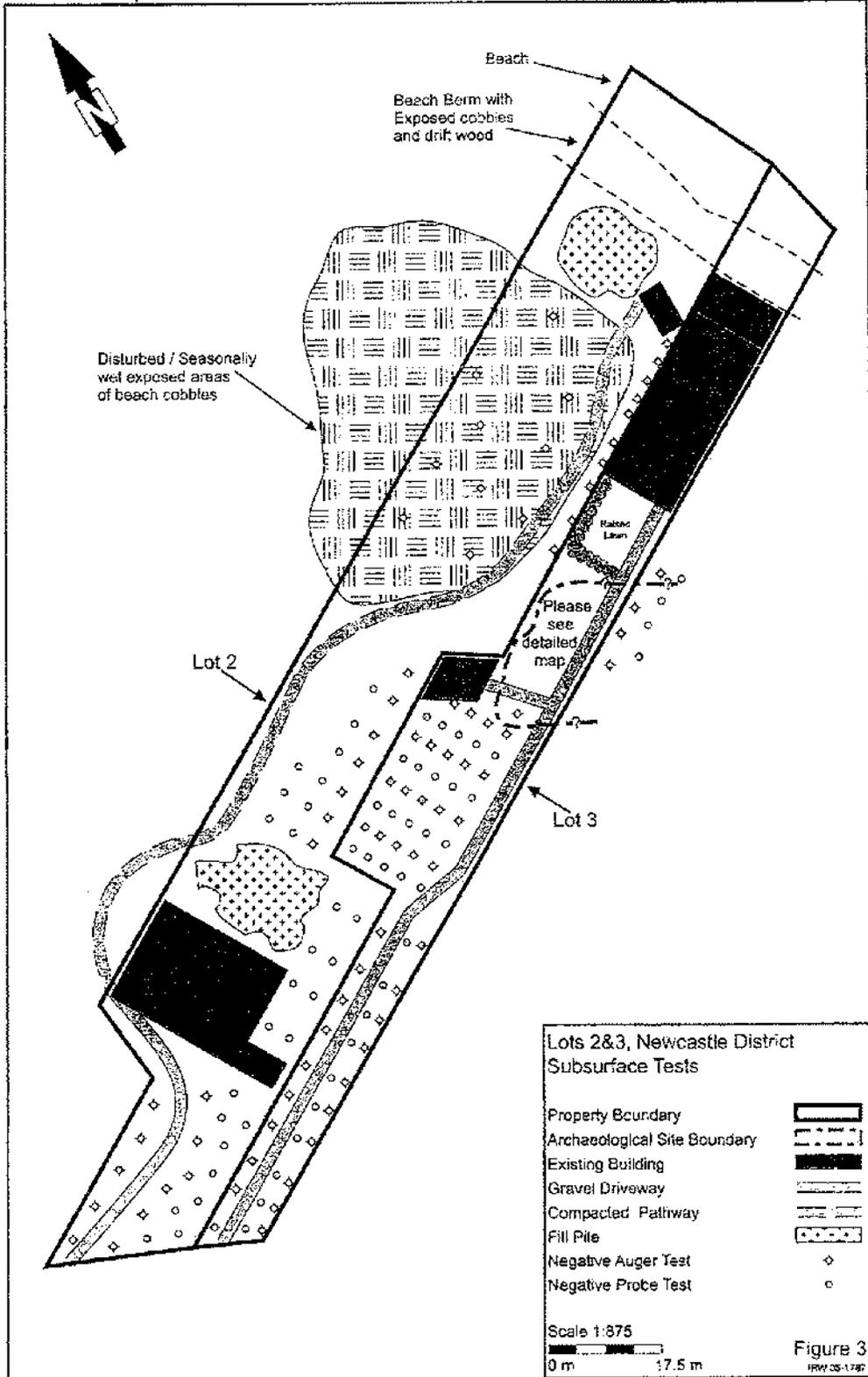
HCA Site Inspection Permit 05-227 AIA Lots 2&3, Newcastle District



Attachment No. 2
Location of Archeological Midden (Page 2 of 2)
Development Permit Application No. 60542
Lots 2 and 3, District Lot 22, Newcastle District, Plan 22808

HCA Site Inspection Permit 05-227

AIA Lots 2&3, Newcastle District



ALTERNATIVES

1. To approve the application for Development Variance Permit as submitted, according to Schedules No. 1 and 2 and subject to consideration of comments received as a result of notification procedures.
2. To deny the Development Variance Permit application as submitted.

LAND USE AND DEVELOPMENT IMPLICATIONS

Comprehensive Development zone 17 (CD17) restricts the maximum height for buildings and structures to 10.0 m. This maximum height was established as at the time of the zoning amendment application the architectural design had not been finalized. In addition, during the zoning amendment process, some community members expressed concern about the total building height being too high. However, the proposed height variance applies to approximately 2% of the total building floor area.

Construction for the proposed fire hall and NCID administrative offices is currently underway. When the building permit application was made in April 7, 2005 the applicants were informed that a variance would be required to accommodate the hose tower.

The hose tower is a necessary component of a fire hall. The tower is used to dry the hoses that are used for fire fighting. These hoses are very long and must be hung to dry in between use. The proposed height of 11.2 m is the minimum height to accommodate the hoses. The floor area of the tower is approximately 19 m² and therefore a very small area of the overall development.

The section 219 covenant registered on title is a development agreement outlining that the applicant shall develop the lands in accordance with the detailed information submitted as part of their application. That the covenant restricts the maximum height to 10.0 metres does not preclude the applicant from applying for a variance. If the Board supports this Development Variance Permit Application it is adequate for the Board to acknowledge that the NCID height restriction in the covenant shall not be met. It is not necessary that the covenant be amended as once the requirement of the covenant have been met to the satisfaction of the Regional district of Nanaimo the covenant can be discharged at the request of the applicant.

PUBLIC CONSULTATION IMPLICATIONS

At the public information meeting for the zoning amendment application a number of concerns were raised by community members, which include: noise resulting from sirens as well as general operational noise; negative impact on surrounding property values and quiet residential area; negative impact of night lighting on adjacent neighbourhoods; traffic safety and access concerns; and possible future expansion plans. Where possible and practicable, the applicants have included different features and made revisions to their proposal to address these concerns. In addition, as a result of community concerns a section 219 covenant was registered on the title of the property that includes the following restrictions:

- No outdoor burning related to training exercises; and
- No training exercises on statutory holidays, between 4 pm and 8 pm on Sundays and between 9 pm and 8 am any other day.

This covenant is not proposed to be changed.

As the proposed application requires a variance to section 3.4.117.2 of "Regional District of Nanaimo Bylaw No. 500, 1987, adjacent landowners and tenants within a 50 metre radius of the subject property will be notified of the proposed variance, in accordance with the notification procedures outlined in the *Local Government Act*.

VOTING

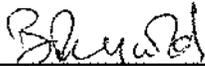
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to relax the maximum height requirements from 10.0 metres to 11.2 metres in order to facilitate the construction of a hose drying tower for the North Cedar Improvement District's fire hall and administrative offices at 2100 Yellow Point Road, in Electoral Area 'A'. A section 219 covenant is registered on the title of the property detailing various development requirements including the maximum height of 10.0 metres. It is adequate for the Board to acknowledge that the height restriction in the covenant shall not be enforced by staff; therefore, staff do not recommend amending the section 219 covenant as it shall be discharged once all the requirements have been met to the RDN's satisfaction. As the area of the height variance is only 19m² and is proposed to be located to the rear of the building, it is not expected to have a large negative impact on neighbouring property owners. Therefore, staff recommends approval of the request subject to the conditions outlined in Schedule No. 1 and subject to the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

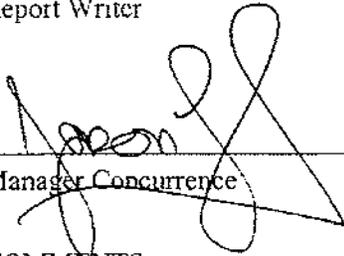
That Development Variance Permit Application No. 90516 to vary Section 3.4.117.2 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to increase the maximum building height from 10.0 metres to 11.2 metres, for the North Cedar Improvement District's fire hall and administrative offices at 2100 Yellow Point Road according to the terms outlined in Schedule No.1, be approved subject to the Board's consideration of comments received as a result of public notification pursuant to the *Local Government Act*.



Report Writer



Deputy Administrator Concurrence



Manager Concurrence

COMMENTS:

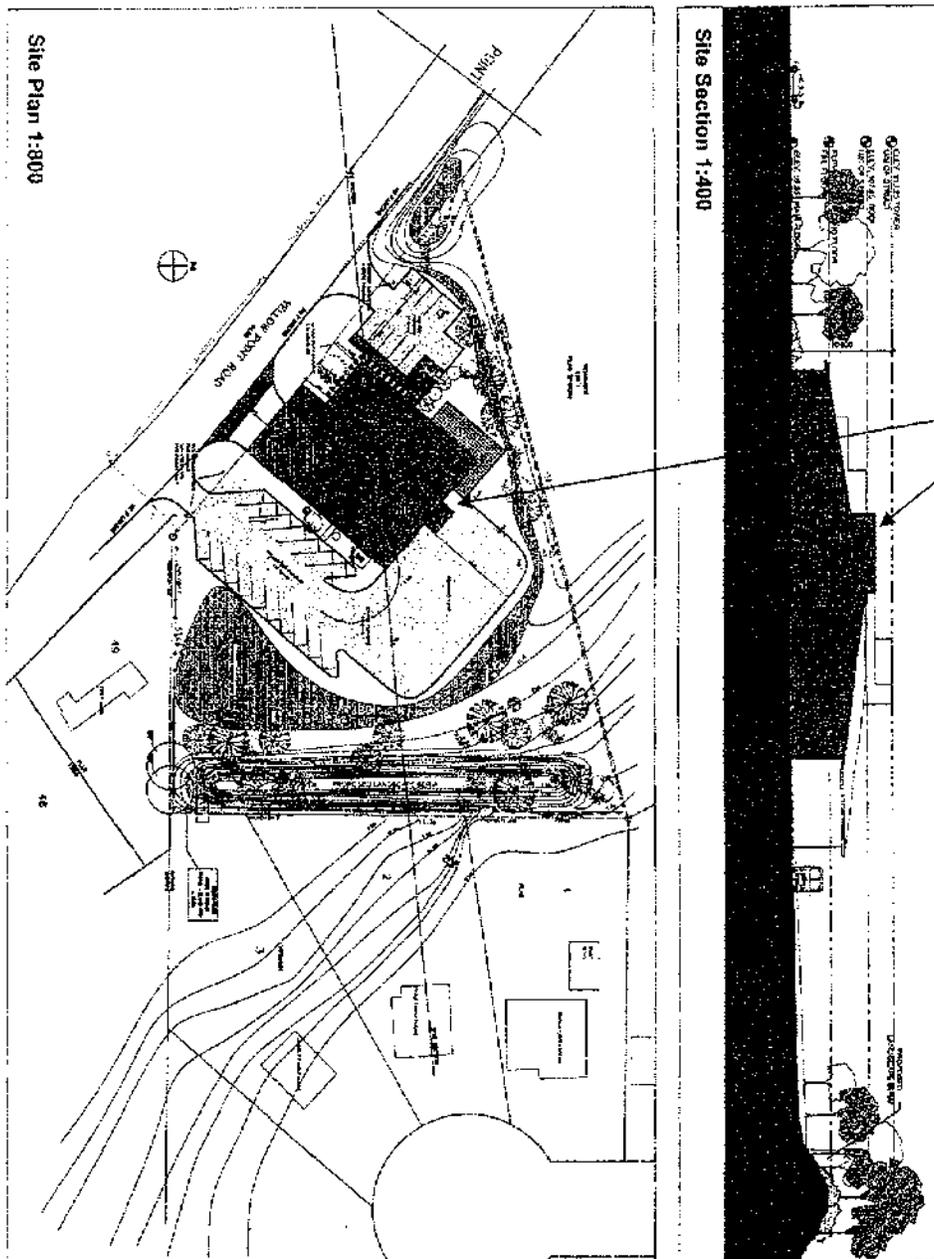
devsvs/reports/2005/dvp se 3099 30 90516 NCID

Schedule No. 1

**Terms of Development Variance Permit No. 90516
Lot A, Section 12, Range 2, Cedar District, Plan VIP71957**

1. **Section 3.4.117.2 Maximum Number and Size of Building and Structures** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied from 10.0 metres to 11.2 metres.
2. This variance applies only to the building located and designed in substantial compliance with Schedules No. 2.
3. The siting of the buildings and structures shall be in compliance with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" except where varied by this permit.
4. The applicant shall submit a survey, prepared by a British Columbia Land Surveyor (BCLS), confirming the height and siting of the building, if deemed necessary by the Building Inspector.

Schedule No. 2
Site Plan
Development Variance Permit No. 90516
(As Submitted by Applicant / Modified to Fit This Page)



Proposed
variance from
10.0 m to 11.2
m



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MEMORANDUM

TO: Jason Llewellyn
 Manager, Community Planning

DATE: Sept 2, 2005

FROM: Blaine Russell
 Planner

FILE: 3090 30 90517

SUBJECT: Development Variance Permit Application No. 90517 – AJA Tan Enterprises Ltd.
 Electoral Area 'H' – Blackbeard Drive & Maple Guard Drive -Map No. 92F.047.2.3

PURPOSE

To consider an application for a Development Variance Permit to relax the minimum setback from the top of back of a watercourse for a building envelope to facilitate the siting of a dwelling unit on the subject property.

BACKGROUND

The subject property is legally described as Lot 1, District Lot 40, Newcastle District, Plan 16121 and is located that the southern corner of the Blackbeard Drive and Maple Guard Drive intersection in the Deep Bay Area of Electoral Area 'H' (see Attachment No. 1). The approximately 1650 m² subject property is zoned Residential 2 (RS2) subdivision district 'M' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The subject property is bordered by similarly sized residential zoned properties. To the north are waterfront properties and a public beach access. The subject property and surrounding properties are, in general, heavily treed and not conducive to ocean views. The subject property slopes downward from the south to the north (towards the Strait of Georgia) and is bisected by a watercourse in a ravine. The watercourse, Whitman Creek, flows diagonally across the property from the southeast to the northwest corner then changes direction and flows to the east parallel to Maple Guard Drive.

The applicant is requesting a variance to Section 3.3.8 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to relax the minimum setback to a top of slope greater than 5% adjacent a watercourse from 9.0 metres to 3.0 metres. This request is to establish a building envelope to facilitate the siting of a dwelling unit on the subject property. The establishment of a building site is a condition of the sale of the property.

The property is designated 'Rural Residential' within the "Electoral Area 'H' Official Community Plan, Bylaw No. 1335, 2003". The property is located within the Environmentally Sensitive Features Development Permit Area for Aquifer protection of which the proposed single dwelling unit is exempt. The portions of Whitman Creek that flows through the property is not designated as development permit area. In addition, the Environmentally Sensitive Areas Atlas does not indicate the presence of any environmentally sensitive features, including the existing watercourse, on the subject property. The property is not located in a Building Inspection area; therefore, "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" is not applicable.

The Board of Variance, on November 13, 1991, granted a relaxation to the minimum setback to the top of slope adjacent a watercourse for another building site, located on to northeast of the property, and a bridge for access (BOV 91-44). This approval has lapsed as only minimal works were undertaken and no activity has occurred for a number of years.

The Deep Bay Water Works District services the property with Community Water.

ALTERNATIVES

1. To approve Development Variance Permit No. 90517 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

DEVELOPMENT IMPLICATIONS

The applicant is requesting the variance in order to facilitate the sale of the parcel with the intention that the purchaser would construct a dwelling within the building envelope. This parcel is physically constrained by a riparian ravine that bisects the property diagonally and the associated watercourse setback requirements. The two locations on the subject property where a dwelling unit could potential be sited both require a relaxation to watercourse setbacks. There is no area on the property where a relaxation to setback is not required to develop the property. The proposed building envelope does not require a bridge for access. The alternative site, approved by the lapsed Board of Variance decision, requires a bridge access and is, therefore, not preferred.

The subject property is heavily treed in a generally well-treed residential neighborhood. Views of the ocean from the surrounding properties on Blackbeard Drive and Maple Guard Drive are minimal and any building in the proposed location, built to the maximum height of 8.0 metres allowed in the RS 2 zone, would have little impact on adjacent properties.

The applicant would like to establish a building envelope of 102.21 m² (1088 Sq Ft), which is in keeping with the general size of dwellings in the area, and in order to realize this envelope it is necessary to encroach into the top of bank setback required under Bylaw No. 500. Therefore a relaxation to setback requirement, from 9.0 metres to 3.0 metres, for a top of bank adjacent to Whitman Creek is being requested. It should be noted that there is little opportunity to relax the 5.0 metres setback to an exterior lot line in order to move the envelope further away from the top of bank as the Ministry of Transportation requires a setback of 4.5 metres for dwelling units.

No building plans have been submitted as part of this application and the parcel is not within the Building Inspection Area. Therefore, as a condition of this variance, the RDN will require that all construction is consistent with RDN bylaws except where relaxation has been granted by this permit.

GEOTECHNICAL IMPLICATIONS

A geotechnical report, dated August 2, 2005 was prepared by G.F (Gerry) Lewkowich P. Eng of Lewkowich Engineering Ltd. This report concludes that the property is geotechnically safe and suitable for the intended purpose with a minimum setback of 3.0 metres and the preservation of vegetation on the slope in its current mature state. Any trees that are lost should be replaced with similar indigenous species. Staff recommend that as a term of this permit that the applicant enter into a save harmless covenant in favour of the Regional District, and that the Geotechnical Report prepared by Lewkowich

Engineering be registered on title to ensure that the land is used in accordance with the conditions contained in the report.

PUMP AND HAUL IMPLICATIONS

The Lewkowich report indicates that an on-site sewage disposal system cannot be designed that will meet the new Sewerage Regulation without significant works on site; therefore, a pump and haul system is recommended. An application (file 4520-20-67) to amend Pump and Haul Bylaw No. 975, to include the subject property into the Pump and Haul Service Area, has been made to the Environmental Services Department for consideration of the Board of the Regional District at the regular meeting held Tuesday, September 20th, 2005.

ENVIRONMENTAL IMPLICATIONS

The watercourse, Whitman Creek, that traverses the subject property is not identified as a Sensitive Ecosystem or Natural Hazard Development Permit Area in the Electoral Area 'H' Official Community Plan or identified as a watercourse on the RDN Sensitive Areas Atlas. It is evident that Whitman Creek is not a seasonal stream and that little is known with respect to its value as fish habitat. However, as the building envelope is proposed to be setback from the top of the ravine, and the covenant prohibits vegetation removal along the bank, the proposed setback relaxation will, in staff's opinion, have minimal impacts on the riparian area or the watercourse. As a condition of the proposed variances, the RDN will require that no modifications of the stream take place without approval of the Department of Fisheries and Oceans (DFO) and the Ministry of Environment (MOE).

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent property owners will be given notice of their opportunity to comment on the proposal prior to the Board's consideration of the permit.

VOTING

Electoral Area Directors -- one vote, except Electoral Area 'B'.

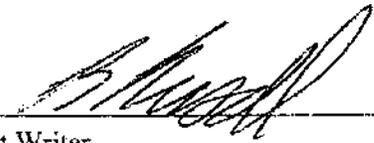
SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to relax the minimum setback to a top of slope greater than 5% adjacent a watercourse, pursuant to section 3.3.8 of the "Regional District of Nanaimo Subdivision and Land Use Bylaw No. 500, 1987", from 9.0 metres to 3.0 metres to establish a building envelope to facilitate the siting of a dwelling unit on the subject property, a property that is bisected by a watercourse.

It is clear that there are constraints to development on the subject property due to the bisection of the subject property by Whitman Creek and the associated setback requirements. The requested variance is directly related to these site constraints; therefore, staff suggests that the application has technical merit to proceed and recommends the application be approved, subject to consultation resulting from the public notification process.

RECOMMENDATIONS

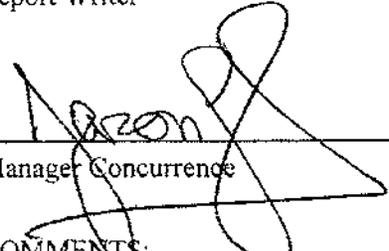
That Development Variance Permit Application No. 90517 to relax the minimum setback to a top of slope greater than 5% adjacent to a watercourse from 9.0 metres to 3.0 metres to establish a building envelope to facilitate the siting of a dwelling unit be approved according to the terms outlined in schedule No. 1 and subject to the Board's consideration of comments received as a result of public notification.



Report Writer



General Manager Concurrence



Manager Concurrence

COMMENTS:
devsrv/reports/dvp ap 3090 30 90517 AJA Tan Ltd

Schedule No. 1 (part 1 of 2)
Terms of Development Variance Permit No. 90517
Lot 1, District Lot 40, Newcastle District, Plan 16121

VariANCES

- 1) With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:
 - a) Section 3.3.8 - the minimum setback to a top of slope greater than 5% adjacent a watercourse is proposed to be relaxed from 9.0 metres to 3.0 metres to establish a building envelope to facilitate the siting of a dwelling unit.
 - b) This variance applies only to a building sited within the building envelope in accordance with Schedule No. 2.

Development of Site

- 2) Subject property to be developed in accordance with Schedule No. 1 and 2.
- 3) All construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" except where varied by this permit.
- 4) All development on the site must be in compliance with the *Heritage Conservation Act*.
- 5) All works must be completed in accordance with the *British Columbia Building Code*.
- 6) That the site be serviced with an approved sewage disposal system pursuant to Provincial Sewage Disposal Regulation.

Survey

- 7) The applicants are to provide a final survey, certified by a British Columbia Land Surveyor (BCLS), confirming the siting of the dwelling unit, all costs borne by the applicant

Geotechnical Report

- 8) That the Geotechnical Report prepared by G.F Lewkowich, P. Eng. of Lekowich Geotechnical Engineering Ltd, dated August 2, 2005 shall be registered on title as a Section 219 Covenant, all costs borne by the applicant.
- 9) That all recommendations established by the Geotechnical Report prepared by G.F Lewkowich, P. Eng. of Lekowich Geotechnical Engineering Ltd, dated August 2, 2005 and subsequent reports shall be followed, all costs borne by the applicant.

Save Harmless Covenant

- 10) The applicant is required to enter into a section 219 covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the hazards associated with the existing construction and occupancy of the dwelling unit on the property. This Covenant to be registered on Title of Lot 1, District Lot 40, Newcastle District, Plan 16121 at the Land Title Office prior to the commencement of construction. This covenant is to be prepared and registered by the applicant to the satisfaction for the Regional District of Nanaimo, all costs to be borne by the applicant.

Schedule No. 1 (part 2 of 2)
Terms of Development Variance Permit No. 90517
Lot 1, District Lot 40, Newcastle District, Plan 16121

Vegetation Removal Restriction Covenant

- 11) The applicant is required to restrict the removal of vegetation between the natural boundary of the watercourse and the building envelope provided it is consistent with the Geotechnical Report prepared by G.F. Lewkowich, P. Eng. of Lekowich Geotechnical Engineering Ltd, dated August 2, 2005 and provided that:
- a) Vegetation on the slope between the building envelope and the natural boundary of the watercourse shall be maintained in its current mature state.
 - b) No existing trees or vegetation shall be removed or disturbed between the building envelope and natural boundary of the watercourse with the exception of invasive plants or noxious weeds including; but not limited to: Scotch broom, Himalayan blackberry, morning glory, and purple loosestrife.
 - c) Invasive plants and noxious weeds shall only be removed on a small scale provided that provided that erosion protection measures to avoid sediment or debris being discharged into the watercourse are taken and that the disturbed area be replanted with native vegetation to a similar or higher density of that which was removed.
 - d) The planting of native trees or shrubs for the purpose of enhancing the habitat values and/or soil stability shall be permitted between the building envelope and the watercourse.
 - e) All planting shall be carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 published by DFO and MELP and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP, or any subsequent editions; and the information Brochure entitled Planting Criterion and Recommended Native Tree and Shrub Species for Reforestation and Enhancement of Fish and Wildlife Habitat, dated July 1998.
 - f) All planting shall be undertaken in the late fall or spring when plants are best able to establish roots and temperatures are not extreme.

Development Protection Measures

- 12) Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
- b) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - c) Direct run off flows away from Strait of Georgia using swales or low berms.
 - d) Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - e) Cover temporary fills or soil stockpiles with polyethylene or tarps.
- 13) The direct discharge of surface drainage, including drainage from perimeter drains, roof leaders, driveways and other hard surfaces, to the watercourse shall not be permitted.
- 14) No modifications of the stream shall take place without approval of the Department of Fisheries and Oceans (DFO) and the Ministry of Environment (MOE).



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| REGIONAL DISTRICT OF NANAIMO | |
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MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 29, 2005

FROM: Greg Keller
Planner

FILE: 4320-20-Juniper Cafe

SUBJECT: Request for a Board Resolution for a Patron Participation Entertainment Endorsement for the Juniper Cafe
Electoral Area 'A' - 2930 Trans Canada Highway

PURPOSE

To consider an application to the Liquor Control and Licensing Branch (LCLB) to amend the existing food-primary liquor license to include patron participation entertainment.

BACKGROUND

This is a request for a Board Resolution to amend an existing food-primary liquor license to include a patron participation entertainment endorsement for the property located at 2930 Trans Canada Highway in the Cassidy area of Electoral Area 'A', legally described as Lot A, Section 3, Range 8, Cranberry District, Plan VIP54591, (see Attachment No. 1 for location). The applicant is requesting the LCLB to permit patron entertainment including, stand-up comedy, belly dancing and belly dancing lessons, improv, karaoke, and open mike, in conjunction with the existing restaurant. This application does not include a request to extend the hours of operation or to increase the seating capacity of the establishment.

Patron participation entertainment is defined as any form of live entertainment that entails the active involvement of patrons or results in patrons leaving their seats, including but not limited to karaoke, dancing, and amateur nights. Patron participation entertainment differs from patron non-participation entertainment, which is defined as any form of live entertainment that does not entail the active involvement of patrons or result in patrons leaving their seats including, but not limited to live music and stage performances. Currently, the applicant's food-primary liquor license does not permit any form of entertainment.

The Regional District of Nanaimo Liquor License Application Policy requires all applications for a local government resolution to be presented to the Board for consideration at a Regular meeting of the Board. Local government resolutions must take the form prescribed in the document *Role of Local Government and First Nations in the Provincial Liquor Licensing Process* prepared by the Liquor Control and Licensing Branch (LCLB).

Pursuant to Regional District of Nanaimo Liquor License Application Policy, prior to the Board's consideration of this application, staff is required to post a notice of the application on the subject property, mail or otherwise deliver notice to owners and tenants in occupation of a parcel within 200 metres of the subject parcel, place advertisements in a local newspaper, and provide the public an opportunity to give input at the same meeting in which the Board considers the application.

The subject property is currently split zoned Commercial 5 (CM5) / Rural 4 (RU4), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." Under the CM5 zone, a restaurant

is a permitted use. In addition, the subject property is designated within the Cassidy Development Permit Area (DPA) pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001", which was established for, in this case, the form and character of the commercial and industrial development and the protection of the natural environment. It should be noted, a Development Permit would be required prior to any future development. However, as no new development is being proposed by this application, a development permit is not required.

Referrals were sent to Bylaw Services and the RCMP and no objection or negative comments in relation to this application have been received.

The I.CLB requested that the Regional District of Nanaimo consider and provide a resolution commenting on a number of factors regarding the liquor license amendment application. These considerations are discussed below.

SUBJECT PROPERTY BYLAW COMPLIANCE

The CM5 zone permits 'restaurant' as a permitted use. In staff's assessment, the proposed patron participation entertainment (karaoke, belly dancing, stand-up comedy) is considered an accessory use to the principle use of the facility as a restaurant. It should be noted that 'Neighbourhood Pub' is also a permitted use in the CM5 zone.

LAND USE IMPLICATIONS

If approved, the subject restaurant will be authorized to provide live entertainment with public participation, in conjunction with the primary use of the facility as a restaurant. The facility would not be authorized to operate as a pub and must continue to be a food serving establishment.

Location of the Establishment and Surrounding Uses

The subject property is located at 2930 Trans Canada Highway in the Cassidy Area of Electoral Area 'A' in an area designated for commercial purposes pursuant to the Electoral Area 'A' OCP. The subject property is adjacent to the Cassidy Pub and is separated from the closest residential use by existing vegetation and a distance of greater than 125 metres. Therefore, staff is of the opinion that the proposed amendment is compatible with the surrounding area.

Occupant Load and Hours of Operation

The applicant is not proposing any amendments to the current occupant load or hours of liquor service.

Whether the Proposed Amendment Will Result in the Establishment Being Operated in a Manner that is Contrary to Its Primary Purpose

The primary use of the subject building is as a restaurant and the proposed patron participation uses are considered accessory to that use. Furthermore, the applicant is required to operate the business as a restaurant, with the primary purpose of serving food.

Traffic, Noise, and Parking

With respect to the potential for noise, the subject property is in an area designated for commercial purposes, is adjacent to another liquor-serving establishment, and is adequately separated from the closest residential use. Therefore, it is not anticipated that the adjacent property owners will be negatively impacted by noise if the proposed amendment is approved. In addition to the above, given the relatively small floor area of the subject building, the applicant has indicated that there is not adequate room to house a full band. Therefore, the applicant is proposing to have a maximum of three musicians at one

time. The applicant has indicated that the intent of the entertainment is to provide background music. The other proposed entertainment uses (karaoke, stand-up comedy, belly dancing and belly dancing lessons) are not typically noise generating uses.

As this application does not propose a change in use or an increase to the seating capacity or hours of operation, there are no increased traffic or parking requirements. The applicant has indicated that there are currently 38 – 40 parking stalls available, which exceeds the Bylaw No. 500 requirement of 12 stalls.

Potential Impacts on the Community

With respect to the impact on the community, as no change in use, increase in seating capacity, or alteration in the hours of operation are proposed, this amendment is not expected to have a negative impact on the community. The property is in a commercial area, is adjacent to another liquor serving establishment, and is adequately separated from the residential development.

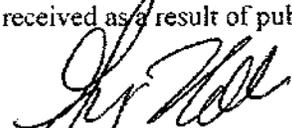
SUMMARY

The applicant, Juniper Cafe, has requested a Board resolution in support of an application for an amendment to its current food-primary liquor license to include the patron participation entertainment endorsement to allow live entertainment with public participation including music, karaoke, stand-up comedy, belly dancing and belly dancing lessons, and open mike. This application does not include a request to increase the seating capacity or hours of operation. In staff's opinion, the proposed entertainment uses are considered accessory to the principle use of the facility as a restaurant.

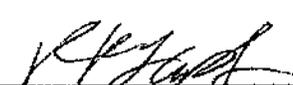
It is not anticipated that this application, if approved, would result in any negative impacts in the community. Therefore, staff recommends the Board of the Regional District of Nanaimo take no objection to the proposed liquor license amendment application and pass the resolution to support the application to the LCLB, attached as Schedule No. '1'.

RECOMMENDATION

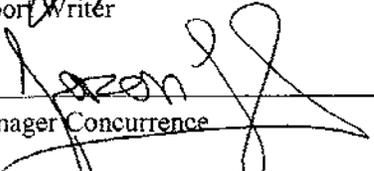
1. That the Board of the Regional District of Nanaimo pass the resolution attached as Schedule No. 1 to permit patron participation entertainment at the Juniper Café subject to consideration of the comments received as a result of public notification.



 Report Writer



 Deputy Administrator Concurrence



 Manager Concurrence

COMMENTS:

devsr\reports\2005\4320-20 se Juniper Cafe

SCHEDULE NO. 1
Regional District of Nanaimo Board Resolution
(attached on the following page)

Re: Application for patron participation entertainment endorsement as an amendment to an existing food-primary licence number 204187

"Be it resolved that:

1. The Board of the Regional District of Nanaimo recommends the amendment of the license for the following reasons: The proposed patron participation entertainment endorsement is considered accessory to the principle use of the facility as a restaurant and is consistent with the Commercial 5 zoning requirements which apply to the subject property. The subject property is in a commercially designated area adequately separated from the closest residential use and is adjacent to another liquor serving establishment. It is not anticipated that the amendment, if approved, would negatively affect the community.
2. The Regional District of Nanaimo Board's comments on the prescribed considerations are as follows:
 - (a) With respect to the potential for noise, the subject property is in a commercial area, is adjacent to another liquor-serving establishment, and is adequately separated from the closest residential use. Therefore, it is not anticipated that the adjacent property owners will be negatively impacted by noise if the proposed amendment is approved.
 - (b) With respect to the impact on the community, as there is no notable change in use, no increase in seating capacity, or any alteration in the hours of operation, this amendment is not expected to have a negative impact on the community.
 - (c) With respect to whether the proposed amendment will result in the establishment being operated in a manner that is contrary to its primary purpose, the primary use of the subject building is currently a restaurant and the proposed patron participation uses are accessory to the principle use of the building as a restaurant.
3. The Board's comments on the views of residents are as follows: No significant concerns were raised through the notification and hearing process. The Regional District of Nanaimo solicited the views of the public through posting a notice of the application on the subject property, mailing or otherwise delivering notice to owners and tenants in occupation of a parcel within 200 metres of the subject parcel, placing advertisements in two local newspapers, and provided an opportunity for the public to address the Board prior to consideration of this resolution."

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the Board of the Regional District of Nanaimo during its regular meeting held this ___ day of _____, 2005.

Sincerely,

Robert Lapham, Deputy Administrator
Regional District of Nanaimo



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| REGIONAL DISTRICT OF NANAIMO | |
| CHAIR | GM Cms |
| CAO | GM ES |
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MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 22, 2005

FROM: Keeva Kehler
Planner

FILE: 3360 30 0511

SUBJECT: Minimum Parcel Size Amendment to Bylaw No. 500, 1987 for Subdivisions pursuant to section 946 of the *Local Government Act* Electoral Areas 'A', 'C', 'D', 'E', 'F', 'G', & 'H'

PURPOSE

To consider an amendment to the Subdivision Regulations for Bylaw No. 500, 1987 in order to increase the minimum parcel size for new parcels being created pursuant to section 946 of the *Local Government Act* from 2500 m² to 1.0 ha (10,000m²) for parcels that are not serviced by a community water system.

BACKGROUND

The Board passed a motion giving 1st and 2nd Reading to Bylaw No. 500.320, 2005 at its May 24, 2005 meeting. The Bylaw was referred to the Board for consideration of 3rd Reading on July 26, 2005. Prior to the Board meeting, a concern was raised that the proposed amendment unfairly penalized property owners who own land that is currently located within a community water service area. At its Regular Meeting held on July 26, 2005, the Regional Board passed a motion referring the proposed text amendment to increase the minimum size for parcels being created pursuant to section 946 of the *Local Government Act* back to staff for further review.

PROPOSED BYLAW AMENDMENT

Currently Part 4.4.3 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" permits subdivision pursuant to section 946 of the *Local Government Act* provided that:

- a. all requirements of provincial legislation are satisfied;
- b. the new parcel being created by subdivision is a minimum of 2500m²;
- c. the size of the remainder of the parcel is the minimum size required under Schedules '4A' and '4B' of this Bylaw; and,
- d. all other requirements of this Bylaw are met.

Staff previously recommended that Part 4.4.3(b) be amended to read as follows:

"The new parcel being created by subdivision is a minimum of 1.0 ha."

Upon further review, as directed by the Board, staff recommends that Part 4.4.3(b) be amended to read as follows:

"The new parcel being created by subdivision is a minimum of 1.0 ha, except where the parent parcel was connected to a community water service prior to the adoption, on June 10, 2003, of the "Regional District of Nanaimo Regional Growth Strategy Bylaw No. 1309, 2002, then the minimum parcel size shall be no less than 2500m²."

ALTERNATIVES

1. To re-introduce Amendment Bylaw No. 500.320, 2005 and give 1st and 2nd readings to the Bylaw as amended, to accommodate subdivisions to a minimum size of 2500m² where the property is connected to a community water service prior to the adoption of the Regional Growth Strategy.
2. To receive this report for information and proceed to give 3rd reading to the existing Bylaw No. 500.320, 2005.

REGIONAL GROWTH STRATEGY IMPLICATIONS

As outlined in the previous staff report, the Regional Growth Strategy (RGS) includes a number of policies that relate to residential densities and protecting rural integrity throughout the RDN. Policy 7B of the RGS states that the RDN does not support the provision of community water or sewer services to land designated Rural Residential or Resource Lands to accommodate future growth and development. However, the RGS contains policies for extending community services to parcels for health or environmental reasons. It is reasonable to expect that the creation of new parcels in rural areas equaling less than 1.0 ha may have implications for the RGS in terms of creating health or environmental concerns when these properties are serviced by individual wells and/ or septic systems.

The RGS establishes urban containment boundaries where smaller parcel sizes and higher densities are encouraged. The RGS contains policies that encourage the retention of large rural holdings on lands designated Resource and Rural Residential. Policy 3A states that the minimum parcel size should not be less than the size established in the Official Community Plan.

The proposed amendment to increase the minimum size of new parcels created pursuant to section 946, which will not be serviced by a community water or sewer system, to a minimum of 1.0 ha. is consistent with the RGS.

OFFICIAL COMMUNITY PLANS IMPLICATIONS

Official Community Plans (OCPs) provide guidance on land use and development and include minimum parcel sizes for properties within each land use designation. Generally, the OCPs contain policies with respect to protecting rural integrity and limiting densities in rural areas to a maximum density of one dwelling unit per hectare. The amendment to increase the minimum parcel size for subdivisions pursuant to section 946 for parcels, where no community services are provided, to 1.0 ha is consistent with the policies contained in the RDN's OCP Bylaws.

DEVELOPMENT IMPLICATIONS

Parcel Averaging

The RDN's current parcel averaging provisions allow for a boundary adjustment between two parcels where the result is not to increase the size of one of the parcels by more than 20% or to reduce the size of the other parcel to less than 80% of its original size. Once a subdivision is approved pursuant to section 946, a landowner may apply to adjust the boundary between the lots and create a new parcel that is smaller than that originally approved. If the proposed text amendment is approved by the Board, the minimum parcel size that would result in the case of a 1.0 ha parcel created pursuant to section 946 is 0.8 ha (2 acres) and for a 2500 m² parcel is 2000 m² (0.5 acres).

Parcels located outside community service areas -- serviced by well and septic systems

It should be noted that a landowner may apply for a subdivision pursuant to section 946 every five years and this provision is not a 'one-off' exemption to the minimum parcel sizes established by the zoning bylaw. Limiting the minimum parcel size to 1.0 ha will limit the potential incremental loss of larger holdings in rural areas over time through the section 946 exemptions. The proposed text amendment will

clarify the RDN's position on the minimum parcel sizes that are acceptable for a family subdivision where no community services are provided to the land proposed to be subdivided.

According to MOT representatives, the medical health officer can still override the RDN's minimum parcel size pursuant to section 946 if it is deemed that the property can sustain residential development on a smaller sized lot. However, discussions with the Deputy Approving Officer suggest that the current standard in the RDN for subdivision pursuant to section 946 is 1.0 ha. In addition, should the RDN have a minimum size of 1.0 ha established by Bylaw No. 500, 1987, it is unlikely the medical health officer would approve the creation of a parcel that is inconsistent with this size. Further, should the medical health officer feel strongly that the creation of a 2500 m² parcel would not have any environmental or health implications, the RDN can be satisfied that, in the rare cases where a smaller parcel is created on lands that are not serviced by community water or community sewer, there will be no negative impacts on the property or adjacent lands.

Parcels within a community water service area

There are few properties in the RDN that are currently zoned rural or resource and located within an existing community water local service area. Therefore, providing an exemption for parcels within water services areas, to allow landowners in a water service area to apply for a subdivision pursuant to section 946 for a parcel that is a minimum of 2500 m², is not expected to result in an increased negatively impact to the rural integrity of an area. The majority of properties within a local service area will have residential zoning or be located in areas that are predominantly suburban or urban in nature. Further, the RGS policies do not support the extension of community water service to rural or resource lands to facilitate new development. Staff believe that this exemption for parent parcels within the existing water local service areas is reasonable from a planning perspective.

As previously outlined, parcels designated in a Subdivision District with a minimum parcel size of 2,000 m² or less would not benefit from applying for subdivision pursuant to section 946, as they can apply for a fee simple subdivision without the additional restrictions that are associated with a section 946 approval. The proposed text amendment affects rural properties where the creation of a 1.0 ha fee simple lot would not be permitted under the properties' current Subdivision District.

HEALTH AND ENVIRONMENTAL IMPLICATIONS

Increased densities of septic disposal systems in rural areas have the potential to negatively impact groundwater reserves and the quality of drinking water provided by wells. By ensuring that the minimum parcel size does not decrease below 1.0 ha in areas located outside existing water local service areas, the potential impacts will be mitigated as the density of development will be at least one dwelling unit per one hectare, rather than one dwelling per 2500 m². This proposed amendment is consistent with the RDN's Drinking Water Protection Action Plan.

It should be noted, however, that where the proposed new lot will be serviced by a community water system, the concerns with respect to increased residential densities and potential impacts on water quality may remain. The vast majority of RDN community water systems are from groundwater sources that may be affected by an increase in the number of septic systems for residential use. For this reason, VIHA has historically limited the size of lots created pursuant to section 946 to a minimum of 1.0 ha. The provincial authorities will retain the ability to ensure that lot sizes exceed 2500 m² regardless of the RDN exemption within the zoning bylaw, where this may be advisable.

Staff do not anticipate that the proposed exemption for parcels within an existing community water local service area will result in a large number of lots being created that are less than 1.0 ha and therefore, it is the opinion of staff that the exemption will not result in increased environmental or health concerns.

PUBLIC CONSULTATION IMPLICATIONS

The proposed text amendment affects more than 10 properties with more than 10 different landowners and; therefore, the *Local Government Act* exempts the RDN from notifying all property owners directly

of the proposed parcel size increase. As the proposed text amendment is consistent with the RGS and OCP policies, staff originally recommended that the Board consider waiving the Public Hearing and give notice of the intent to adopt the text amendment in the local newspapers (*The PQ News* and *The Bulletin*) and on the RDN website.

However, given that there has been public input from interested parties, staff recommends that the Board consider holding a Public Hearing to allow all of the public an opportunity to provide input prior to the Board considering 3rd Reading of the re-introduced Bylaw.

VOTING

Electoral Area Directors - one vote, except Electoral Area 'B'.

SUMMARY

Bylaw No. 500.320, 2005 was given 1st and 2nd Reading on May 24, 2005. However, prior to the Board considering 3rd Reading of the proposed Bylaw, a concern was raised that the Bylaw would unfairly penalize landowners with properties located in an existing community water service area.

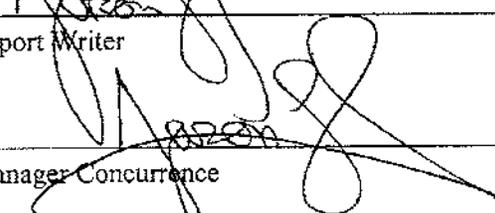
It is proposed that the minimum parcel size for parcels created pursuant to section 946 of the *Local Government Act* be increased from 2500m² to 1.0 ha where no community services (community water and sewer) are provided. Given that there are relatively few rural properties that are currently located within a community water local service area that would benefit from this proposed amendment, staff proposes that the Board allow property owners with land located in existing community water service areas to apply for a subdivision pursuant to section 946 to create a parcel that is not less than 2500 m², subject to provincial approvals. The proposed amendment is not expected to result in the creation of a notable number of 2500m² lots throughout the region.

The RDN's policies outlined in the Regional Growth Strategy, Official Community Plans and recent drinking water and sustainability initiatives support the increased parcel size for subdivisions pursuant to section 946 where no services are provided; therefore, staff recommends that Bylaw No. 500.320, 2005 be amended as discussed, re-introduced for 1st and 2nd Reading, and forwarded to a Public Hearing.

RECOMMENDATIONS

1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500. 320, 2005," as amended, be given 1st and 2nd reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500. 320, 2005" be approved to proceed to Public Hearing.
3. That the Public Hearing for proposed Amendment Bylaw No. 500.320, 2005 be delegated to Director Joe Stanhope as a representative of the Board.


Report Writer


Manager Concurrence


Deputy Administrator Concurrence

COMMENTS:

devsvs/reports/2005 se 3360 30 0511 section 946 txt 0511.doc

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 500.320, 2005

A Bylaw to Amend Regional District of Nanaimo
Land Use and Subdivision Bylaw No. 500, 1987

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

A. **Schedule 'A'** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", is hereby amended as follows:

1. **PART 4 – SUBDIVISION REGULATIONS Section 4.4 Parcels Exempt from Minimum Parcel Size Requirements:**

The existing text under subsection 3b) is hereby deleted and replaced with the following:

the new parcel being created by subdivision is a minimum of 1.0 ha., except where the parent parcel was connected to a community water service prior to the adoption, on June 10, 2003 of the "Regional District of Nanaimo Regional Growth Strategy Bylaw No. 1309, 2002, then the minimum parcel size shall be no less than 2500m²; and

B. This Bylaw may be cited as "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.320, 2005".

Introduced and read two times this day of , 2005.

Public Hearing held pursuant to Section 890 of the *Local Government Act* this day of , 2005.

Notification published this , 2005 in the Harbour City Star newspaper.

Read a third time this day of , 2005.

Received approval pursuant to the *Transportation Act* this day of 2005.

Adopted this day of , 2005.

Chairperson

Deputy Administrator



| | |
|---------------------------------|--------|
| REGIONAL DISTRICT OF NANAIMO | |
| CHAIR | GM Cms |
| CAO | GM ES |
| DA CCD | MoF |
| SEP 06 2005 | |
| ERPC ✓ | |
| | |
| | |

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

DATE: September 7, 2005

FROM: Susan Cormie
Senior Planner

FILE: 3320 20 25850

SUBJECT: Request to Reconsider the Location of Park Land Dedication
Timberlake-Jones Engineering Ltd. on behalf of Timberstone Development
Electoral Area 'E' – Northwest Bay Road

PURPOSE

To consider a request for the reconsideration of the dedication of park land as part of a proposed phased 73-lot subdivision development.

BACKGROUND

This is a subdivision application which is subject to the consideration of park land or cash in-lieu-of park land or a combination of both for the properties legally described as Lot 1, DL 68 Nanoose District, Plan 3940 & District Lot 68 Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680, 27026, 27376 and 30341 and located adjacent to Northwest Bay Road in the Madrona area of Electoral Area 'E' (see Attachment No. 1 on page 8 for location of subject properties).

Board members may recall that at the Regular Board Meeting held on October 26 2004, a resolution was carried that required the applicant to dedicate park land in the amount and location as shown on Attachment No. 2 on page 9. A number of conditions were attached to the dedication of this park land including general clean up of the proposed park land site, providing services, and installing fencing surrounding the expanded eagle tree protection area.

Due to changes in the servicing of the proposed subdivision, the applicant has reconfigured the subdivision lot layout and is requesting that the October 2004 park land resolution be rescinded and the Board accepts a new proposal. A Preliminary Layout Approval has been issued by the Regional Approving Officer for the first 12 lots of the subdivision proposal. A condition of this approval is that the park land be dedicated at the completion of this first phase.

Park Land Requirements

Where an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. In this case, the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 specifies that park land dedication may be considered at the time of subdivision subject to meeting the preferred park land criteria set out in the Plan. It is also noted that the Nanoose Bay Official Community Plan Bylaw No. 1400, 2005 is currently at 3rd reading. This bylaw contains similar park land acquisition related policies to the current OCP Bylaw No. 1118.

Pursuant to the *Local Government Act*, the maximum amount of park land that the Regional District may request for this property is 5% of the total site area, in this case, approximately 1.09 ha.

In addition to the policies contained in the OCP, Electoral Area 'E' has a Parks and Open Space Plan, which also provide criteria when considering the acquisition of park land.

Proposal:

The applicant is proposing to dedicate a 1.2 ha rectangle shaped area for park land adjacent to Northwest Bay Road which contains a series of water features and trails (*see Schedule No. 1 on page 7*). This proposed size is slightly greater than the maximum 5% (1.09 ha) which can be required under the provisions of the *Local Government Act*. The applicants' agent also confirmed that the applicant has offered to construct ponds within the park land with 1 in 4 side slopes, construct fencing around the ponds, clean up the proposed park land area including grading and grassing, replace newly planted vegetation that dies within 1 year, construct bridges and walking trails, and construct a small parking area. The applicant will also provided detailed drawings and will work with a professional landscape person in the development of the pond features. The proposed park land is slightly larger in size than the previously accepted park land.

It is also noted that the south east corner of the proposed park land includes wells that will transferred to the Regional District as community water wells. This area has not been included in the total 1.2 ha proposed park land area.

The park land proposal was referred to the Nanoose Bay Parks and Open Space Advisory Committee on August 22, 2005 and presented at a Public Information Meeting held on September 6, 2005.

ALTERNATIVES

1. To rescind the Board Resolution concerning the dedication of park land in conjunction with the subdivision and accept the reconfigured park land proposal as submitted by the applicant for 1.2 ha park land dedication as shown in the location on Schedule No. 1.
2. To not accept the reconfigured park land proposal as submitted by the applicant as shown on Schedule No. 1 and require park land in the location and amount as previously accepted.

DEVELOPMENT IMPLICATIONS

Official Community Plan Implications

The Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 contains park land related policies which stipulates that park land is desirable where preferred criteria may be met such as improving waterfront access, protecting environmentally sensitive areas or archaeological features, or providing opportunities view points and opportunities for nature appreciation. The Parks and Open Space Plan for Nanoose Bay include similar preferred criteria to be considered when park land is being acquired. In this case, the applicant is offering a park land, which includes providing opportunities for nature appreciation. Therefore, the proposed park land meets the preferred criteria set out in the OCP and the Parks Plan.

Nanoose Bay Parks and Open Space Advisory Committee Implications

The Nanoose Bay Parks and Open Space Advisory Committee supports the park land proposal as submitted. The Advisory Committee made a number of comments to be considered by the developer, the RDN staff, and the Electoral Area Planning Committee (*See Attachment No. 3 on page 10 for Advisory Committee comments*). These comments were included with the information circulated at the Public Information Meeting.

PUBLIC IMPLICATIONS

A Public Information Meeting (PIM) was held on September 6, 2005. Approximately 10 persons attended this meeting. (*see Attachment No. 4 on page 11 for minutes of Public Information Meeting*).

PARK LAND IMPLICATIONS

While the Advisory Committee supports the relocation of the park land as proposed by the applicant, the Committee raised a number of concerns which it felt needed to be addressed as part of the development of the park land. The applicants' agent has indicated that the applicant is in concurrence to meet these concerns of the Advisory Committee. Recreation and Parks staff concurs with the concerns raised by the Advisory Committee. As a result, staff recommends that the development of the park land be included as conditions of development (*see Schedule No. 1 for list of conditions*).

It is noted that Department of Fisheries and Ocean and The Nature Trust staff have verbally indicated support of the pond development and have indicated that the water features would not be a detriment to Craig Creek (the water would still naturally filter through to the creek) and may provide habitat value for aquatic, terrestrial, and avian species.

Park land related issues raised at the Public Information Meeting included access to and from the proposed park land, mosquito breeding, and stocking of the ponds. The applicants' agent indicated that the applicant would provide a parking area for park land users and there would be no pedestrian access to Northwest Bay Road or the adjacent parcel. With respect to possible mosquito breeding, the applicants' agent indicated that the ponds contain moving water which reduces the chances of breeding. With respect to stocking the ponds, the applicants' agent indicated that the applicant has been working with the Provincial fisheries, but at this time, the ponds are not expected to be stocked.

Recreation and Parks staff also note that the park land will be situated in a more central location for access to the surrounding neighbourhood and offers a community park with sought after features including trails, natural environment, and a wildlife habitat.

Community Water Wells

As the community water wells are situated within the proposed park land area (but are not included in the park land calculation), staff recommends that the park land area be transferred to the Regional District as a fee simple parcel. This will allow a statutory right-of-way to be placed over the well area rather than requiring a separate parcel to be created for the well area (park land does not have title; therefore a statutory right-of-way would not be possible). The statutory right-of-way will be required through the subdivision review process.

Eagle Nesting Tree

There is an eagle nesting tree located within the subject properties, and south of the proposed park land (*shown on Attachment No. 2 on page 8*) which is currently not designated as a development permit area. The applicants' agent has indicated that the applicant will provide a conservation covenant for the protection of this tree. Staff will forward this information to the Regional Approving Officer as part of the subdivision referral process.

VOTING

Electoral Area Directors -- one vote, except Electoral Area 'B'.

SUMMARY

This is a request for re-consideration of park land dedication as part of a 73-lot subdivision development for properties located in the Madrona area of Electoral Area 'E'

The reconfigured park land proposal, as submitted by the applicant, was referred to the Nanoose Bay Parks and Open Spaces Advisory Committee, which supports the revised park land as proposed. The Advisory Committee also provided a number of comments dealing with construct of the site and safety issues. As a result of the Advisory Committee comments, the applicant's agent has indicated that the applicant is in concurrence to construct the park land. The reconfigured park land was presented at the Public Information Meeting (PIM) held on September 6, 2005. Issues of access to the park land, stocking of the ponds, and the possibility of mosquito breeding was raised at the PIM.

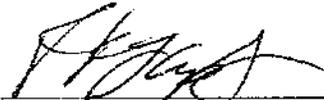
Therefore, given that the Advisory Committee supports the amount and location of park land and the applicant is in concurrence to develop the park land as suggested by the Advisory Committee, staff recommends Alternative No. 1, to rescind the previous park land acceptance and accept the park land dedication proposal, subject to the conditions, as outlined on Schedule No. 1.

RECOMMENDATIONS

1. That the Board Resolution concerning the acceptance of park land adopted at the Regular Board Meeting held on October 26, 2004 be rescinded.
2. That the reconfigured park land proposal submitted by Timberlake-Jones Engineering Ltd., on behalf of Timberstone Development in conjunction with the subdivision of Lot 1, DL 68 Nanoose District, Plan 3940 & District Lot 68 Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680, 27026, 27376 and 30341 be accepted subject to the conditions set out in Schedule No. 1 of the staff report.



Report Writer



Deputy Administrator Concurrence



Manager Concurrence

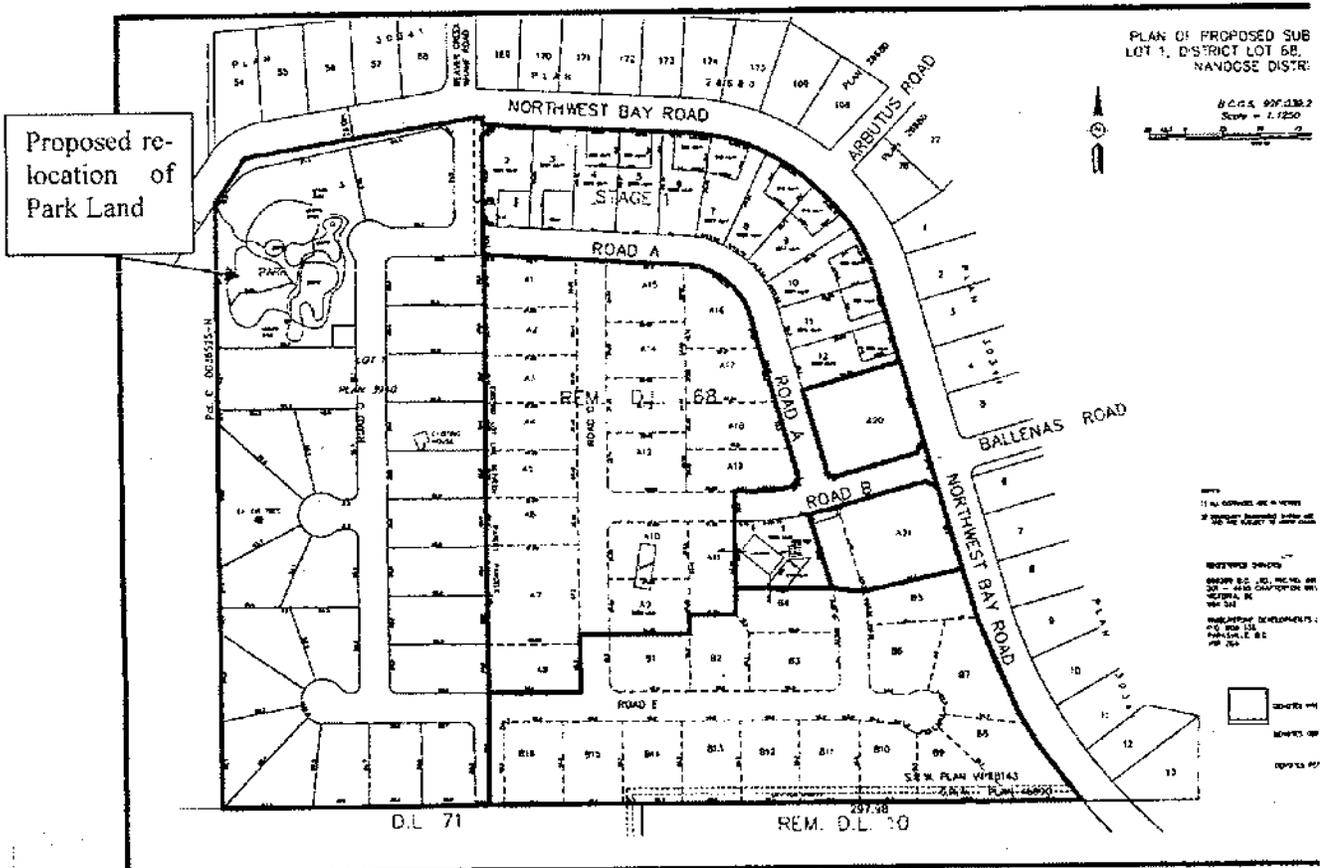
COMMENTS:

Devars/reports/2005se park land 3320 20 25850 Timberlake Jones DL68.doc

Schedule No. 1 (page 1 of 3)
 Park Land

In conjunction with the subdivision application for the properties legally described as of Lot 1, DL 68 Nanoose District, Plan 3940 & District Lot 68 Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680, 27026, 27376 and 30341

1. A minimum of 1.2 ha for park land purposes, exclusive of the community water works, to be dedicated as a fee simple parcel in the location as shown below:



Timberlake-Jones
 engineering

Suite 326 - 195 E Island Highway
 Prince George
 BC V2L 0P0
 Phone: 250-248-2001
 Fax: 250-248-2003
 Email: info@tjeng.ca
 Web: www.tjeng.ca

PROJECT: PROPOSED SUBDIVISION - STAGE 1
 CLIENT: 699399 B.C. LTD. AND TIMBERSTONE DEVELOPMENT
 Drawn by: MTE Date: JAN 05 Drawing No.: G076-PLA

**Schedule No. 1 (page 2 of 3)
Park Land**

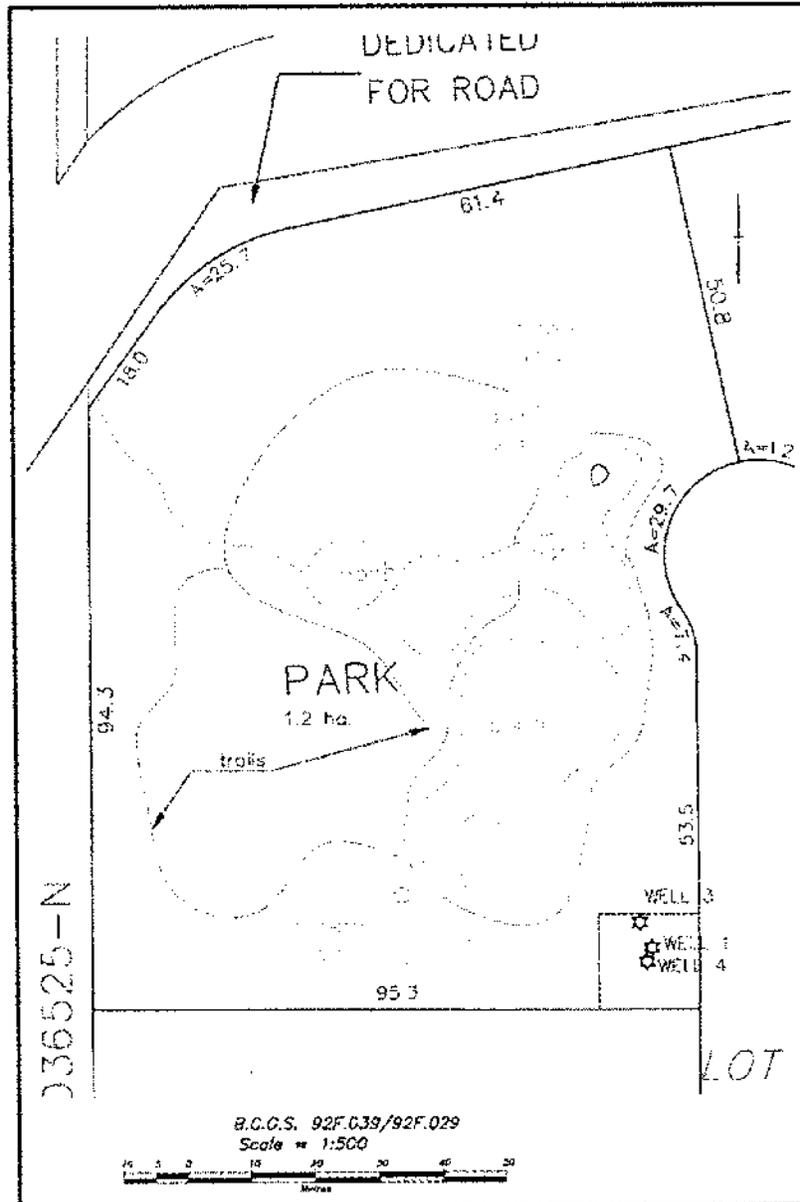
In conjunction with the subdivision application for the properties legally described as of Lot 1, DL 68 Nanoose District, Plan 3940 & District Lot 68 Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680, 27026, 27376 and 30341

2. The applicant is to construct and/or provide the following improvements as part of the development of the land being dedicated for park land purposes:
 - a. All ponds to be constructed with a minimum 1 in 4 side slope;
 - b. Split rail fencing to be constructed around all the pond features a minimum 1.2 metres in height;
 - c. Land to be cleaned up including grading and grassing of the site where necessary;
 - d. Buffer area to be established adjacent to Northwest Bay Road with no access to Northwest Bay Road from the park land area;
 - e. Edging of ponds to be planted. Any newly planted vegetation that dies within 1 year to be replaced by applicant;
 - f. All necessary bridges and the proposed walking trails to be constructed as shown on the enlarged park land proposal shown on page 3 of Schedule No. 1;
 - g. Off street parking area to be included within the park land and located and constructed to the satisfaction of the Recreation and Parks Department;
 - h. Applicant to provide detailed waterscape and landscape drawings to the Recreation and Parks Department prior to construction;
 - i. Applicant to consult with a professional landscape person during the development of the pond features;
 - j. All construction and works to be approved by the Regional District recreation and parks staff;
 - k. No totems to be placed within park land area without prior approval of Recreation and Parks Department;
 - l. Applicant to provide 1 water service connection and hydro connection to the park land;
 - m. Land for park land purposes to be created as a fee simple parcel to be transferred to the Regional District of Nanaimo concurrently with the final plan of subdivision of Phase 1; and
 - n. Applicant to enter into a Works and Services Agreement with the Regional District to complete any outstanding works including providing security in the form of a letter of credit or cash to the Regional District prior to the transfer of the lands to the Regional District.

Schedule No. 1 (page 3 of 3)

Park Land

In conjunction with the subdivision application for the properties legally described as of Lot 1, DL 68 Nanoose District, Plan 3940 & District Lot 68 Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680, 27026, 27376 and 30341

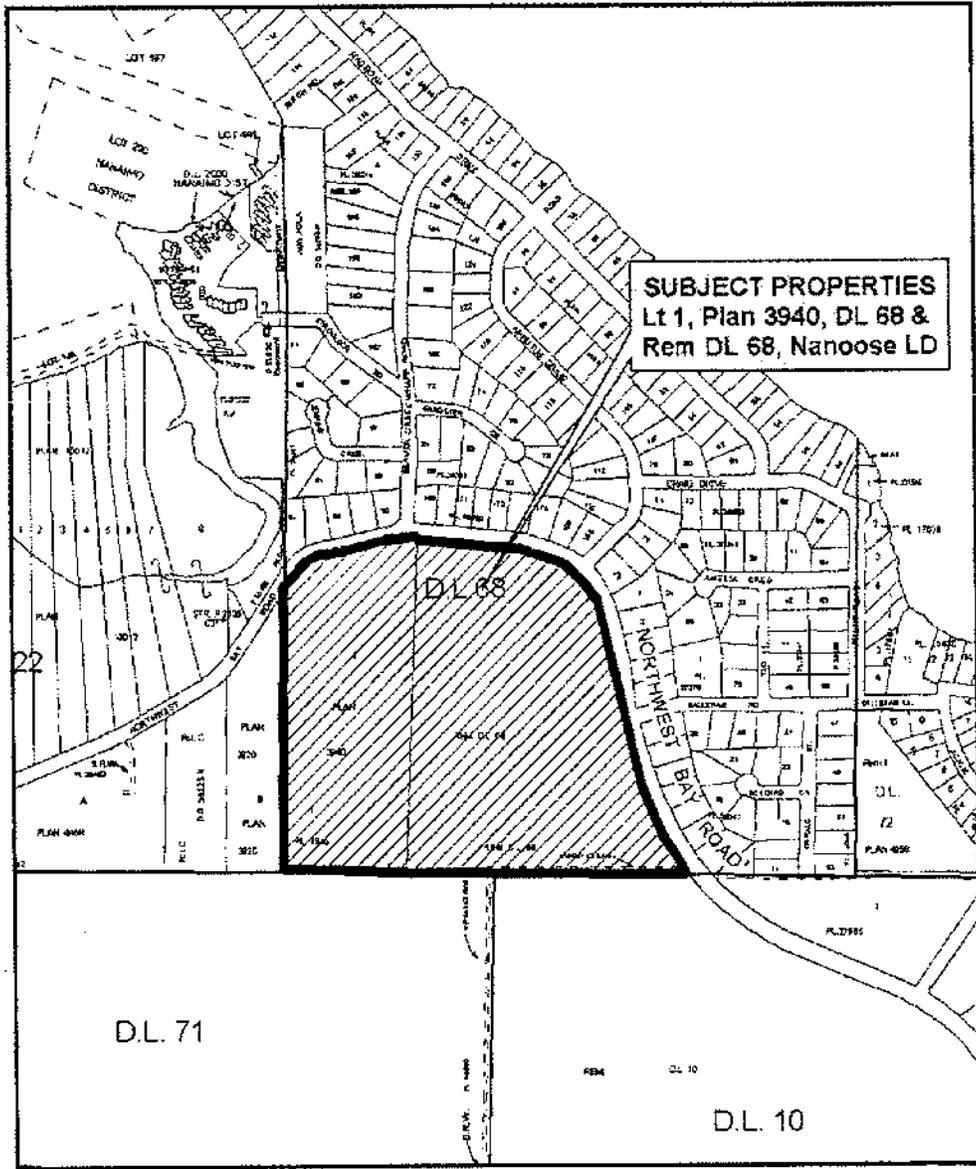


Timberlake-Jones
 engineering

Scale 1:500 = 100 ft
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 1:500 = 100 ft

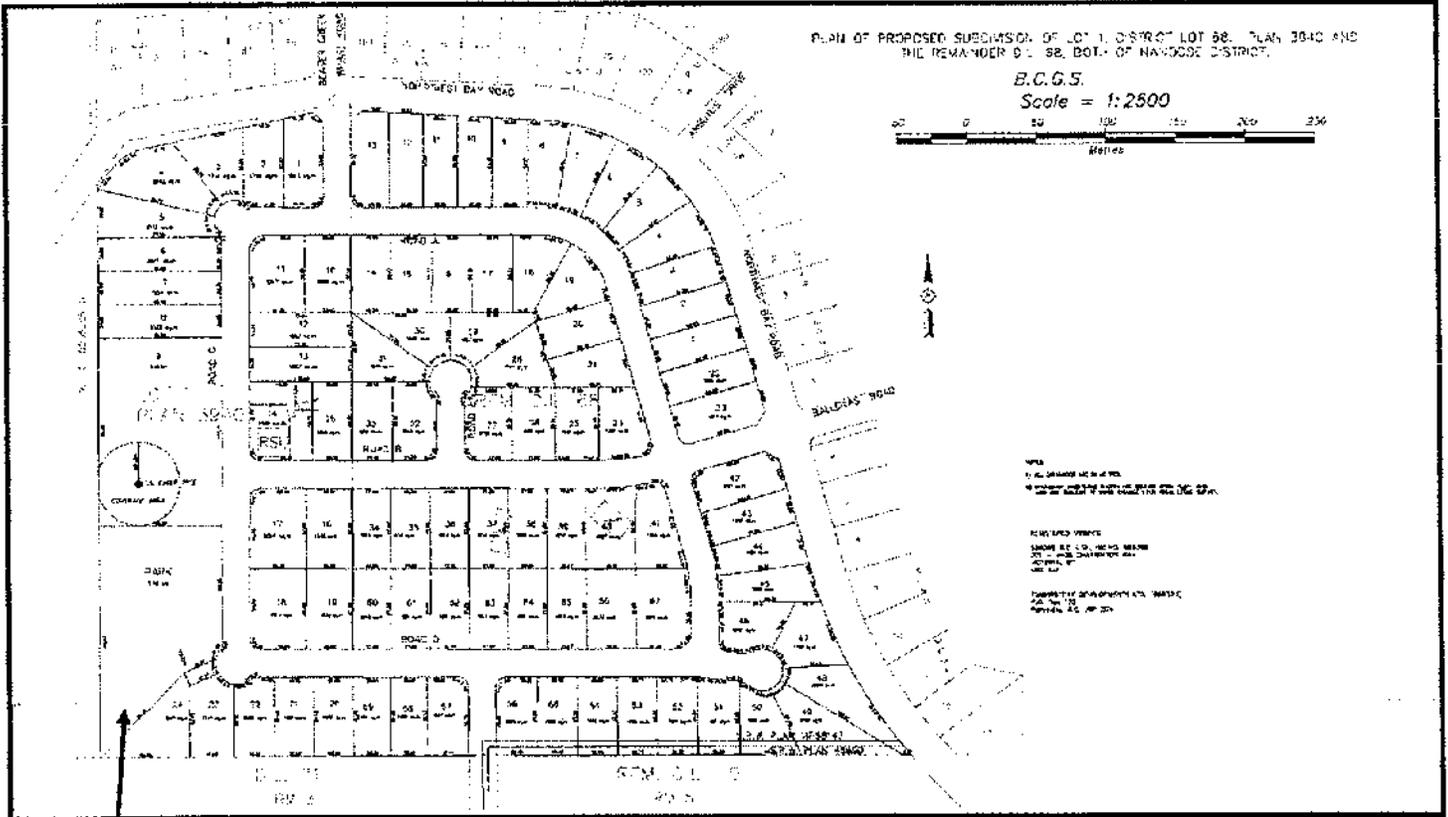
PROJECT: PROPOSED PARK DEVELOPMENT
 CLIENT: TIMBERSTONE DEVELOPMENTS LTD. & 893399 BC LTD.
 DRAWN BY: [Name] DATE: [Date] CHECKED BY: [Name] DATE: [Date]

Attachment No. 1
Location of Subject Properties



BCGIS MAP SHEET NO. 20F 039 2 2

Attachment No. 2
Conceptual Plan of Subdivision Showing Location of Previously Accepted Park Land
(as submitted by applicant)



Timberlake-Jones
 engineering

Suite 202, 198 E. Wood Highway
 Eugene, Oregon 97401
 Phone: 503-253-2300
 Fax: 503-253-2301
 Email: info@tjeng.com

Location of
 Park Land
 Previously
 Accepted by
 RDN

List of Conditions:
 The applicant has agreed to provide general clean up of the proposed park land site, include service connections as part of the proposed subdivision and install fencing surrounding the expanded eagle tree protection area.

Attachment No. 3
Correspondence from the Electoral Area 'E' Parks & Open Space Advisory Committee



PARK LAND DEDICATION REVIEW

Referral Form

Parks and Open Space Advisory Committee

In conjunction with the subdivision application for the property legally described as:

Lot 1, DL 68 Nanoose District, Plan 3940 and District Lot 68 Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plan 3940, 26680, 27026, 27376, and 30341 located off of Northwest Bay Road, Electoral Area 'E'

Attachments:

- Location map
- Park Proposal Map
- Other _____

The Nanoose Bay Parks and Open Space Advisory Committee has considered the request submitted by the applicant/owner and forwarded by the Regional District Planning Department for either dedication of park land or cash in-lieu-of park land or a combination of both and has the following advisory comments:



Support park land in the amount and location as proposed.



Do not support park land in the amount and location as proposed.

Comments:

There was consensus amongst the Committee that the proposal was good, however there were a few areas of concern that would need to be addressed including:

- Insuring the slope to the ponds and in the ponds be reduced to limit any potential slipping hazards into the water.
- Having the pond area fenced.
- Insuring the park is properly graded and grassed to ensure ease of maintenance.
- Need for a detailed conceptual landscape and waterscape drawings.
- Developer to commit to replacing any newly planted vegetation that may die within a year.
- Develop the park as natural as possible, there is no need for totems or other structures to be constructed in the park.
- Developer to commit to completing the park by an agreed upon stage with the Regional District including any construction trails, bridges, laying of grass and improvements to the buffer area.
- Developer to work with a professional in the development of the pond features.


Chairperson

Meeting held on: August 22, 2005

Attachment No. 4
Minutes of a Public Information Meeting
Held at the Nanoose Place Multi Purpose 1
2925 Northwest Bay Road, Nanoose Bay on September 6, 2004 at 7:00 pm
Subdivision Application No. 25850
For the properties legally described as Lot 1, DL 68 Nanoose District, Plan 3940 & District Lot 68
Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940,
26680, 27026, 27376 and 30341

Note: 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:

Public in attendance: 10 persons

For the Applicant:

Michelle Jones, Timberlake Jones Engineering Ltd.

For the RDN:

Chair: Director George Holme

Wayne Moorman, Manager, Engineering & Subdivisions

Susan Cornic, Senior Planner

The Chair opened the meeting at 7:00 pm and followed with greetings to the public and an introduction of the staff and applicants' agent.

The Chair stated the purpose of the public meeting and asked the Senior Planner to provide an overview of the statutory provisions as it relates to park land provision.

The Chair then asked the applicant's agent to give an overview of the park land proposal.

The applicants' agent provided a description of the park land proposal highlighting the features of the park including a series of ponds and walking trails. The applicants' agent also noted that the previous location is more isolated and would serve fewer people.

The Chair then invited comments and questions from the audience.

Neil Watson, 1616 Arbutus Drive, asked about the waste management issues associated with this area of the subject properties.

The applicants' agent stated that the bottom corner does not perc, but the balance of the site does. The applicants' agent also noted that there is separation between the ponds and the community wells and the nearest septic disposal areas and does not see this as a problem.

Mr. Watson asked about the protection of the wells.

The Manager of Engineering and Subdivisions indicated that approval for septic disposal is issued by the Central Vancouver Island Health Authority. The Manager also confirmed that the wells are artesian and are in a confined aquifer, which is felt to be ample security.

Mr. Watson then asked about the protection of the eagle tree.

The applicants' agent stated that the eagle tree will be protected by a conservation covenant which provides more protection than a section 219 covenant in that monitoring and enforcement are part of the conservation covenant.

Mr. Watson noted that the covenant area is not on the plan of subdivision.

The applicants' agent noted that the tree is not part of the park land issue as under the previous consideration for park land, the public did not want the eagle tree included as park.

Mr. Watson commented that there seems to be more parcels in the eagle tree area under the reconfigured plan whereas before under the previous plan of subdivision there were 2 large parcels proposed.

The applicants' agent stated that one of the large parcels is for park land and the second lot would likely be changed.

Mr. Watson asked if a preliminary letter of approval (PLA) has been issued by the Approving Officer for the subdivision.

The applicants' agent stated that a PLA has been issued for the first phase which includes 12 lots.

Mr. Watson commented that we are trying to bring people to a park land that will be located on a dangerous corner. Where will the people park?

The applicants' agent stated that the applicant will provide a parking area for the park and that there will be no walking trails connecting to Northwest Bay Road.

Gerry Klassen, 1848 Douglas Crescent asked if the area is a swamp; will it be stocked; and will there be a problem with mosquitoes.

The applicants' agent explained that the ponds will be 3 to 3.5 feet deep and they are man-made. The applicants' agent explained that the applicant is working with the fisheries, but at this point the ponds are not proposed to be stocked. The applicants' agent stated that the water circulates throughout the ponds and as a result, it will not encourage mosquito breeding.

Mr. Klassen asked if you could place a house in the area.

The applicants' agent stated that it would be possible to develop the site.

Mr. Klassen stated that he felt access to Northwest Bay Road would be dangerous. Mr. Klassen also stated that nice trails that are circular are needed in the area and asked how long the trail system would be.

The applicants' agent stated that she did not know the exact distance of the trails, but commented it would be a pleasant walk with natural features to look at.

Gay Cartledge, Garry Oak Drive, asked about the neighbouring property and would people be able to access from there.

The applicants' agent stated that the adjacent site is currently treed and access would be difficult.

The Chair asked how many lots are proposed in this subdivision as opposed to the previous subdivision layout.

The applicants' agent explained that there were 91 originally and 73 now. This is due to the road reconfiguration, the larger lots, and the location of septic fields.

Mr. Watson asked if this is the final plan.

The applicants' agent explained that there will be minor changes made to the plan in the future.

Mr. Watson stated that this does not instill confidence in the subdivision process.

The applicants' agent stated that there are always minor changes when going through the process.

Jackie, Northwest Bay Road commented that traffic is becoming horrendous and asked if a traffic study has been done. Jackie also noted that there are lots of people walking on Northwest Bay Road now.

The applicants' agent stated that the Ministry has not requested a traffic study at this time.

Mr. Watson asked about cost sharing the upgrading of Northwest Bay Road.

The applicants' agent stated that a traffic study may be asked for as part of a later phase of subdivision.

Jackie noted that there is limited visibility at Ballenas and Beaver Creek Wharf Road is becoming a busy corner.

The applicants' agent stated that they are ensuring that there are adequate sight distances at the intersections accessing the subdivision and noted that the applicant is dedicating the widening of the road and removal of some vegetation as part of the first phase.

Colin Springford, 1950 Northwest Bay Road, stated that he understood that there are general concerns about the subdivision, but we are here to listen to the park land proposal only.

The Chair asked if there were any further submissions. There being none, the Chair thanked those in attendance and closed the public information meeting.

The meeting concluded at 7:34 pm.

Susan Cormie
Recording Secretary