

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, JUNE 10, 2008

6:00 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

- 3 **Sylvain Giroux, Lyons & Noble Developments Ltd.**, re Development Variance Permit Application No. 90806 – 3790 Mallard Place – Area ‘E’.

MINUTES

- 4-20 Minutes from the meeting of the Electoral Area Planning Committee held May 13, 2008.

BUSINESS ARISING FROM THE MINUTES

UNFINISHED BUSINESS

PLANNING

AMENDMENT APPLICATIONS

- 21-44 Zoning Amendment Bylaw No. 500.346 – Electoral Area ‘G’ Official Community Plan Implementation.

DEVELOPMENT PERMIT APPLICATIONS

- 45-51 Development Permit Application No. 60820 & Request for Relaxation – Fern Road Consulting Ltd., on behalf of Deas – Leon Road – Area ‘H’.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 52-73 Development Variance Permit Application No. 90809 – Lylyk – 3980 Bovanis Road – Area ‘H’.
- 74-82 Development Variance Permit Application No. 90806 – Mardaga – 3790 Mallard Place – Area ‘E’.

OTHER

Request for Relaxation – JE Anderson, BCLS on behalf of Arthur & Diablo
Arthur – Caledonia, Sontera & Bratt Roads – Area ‘A’. (to be circulated)

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

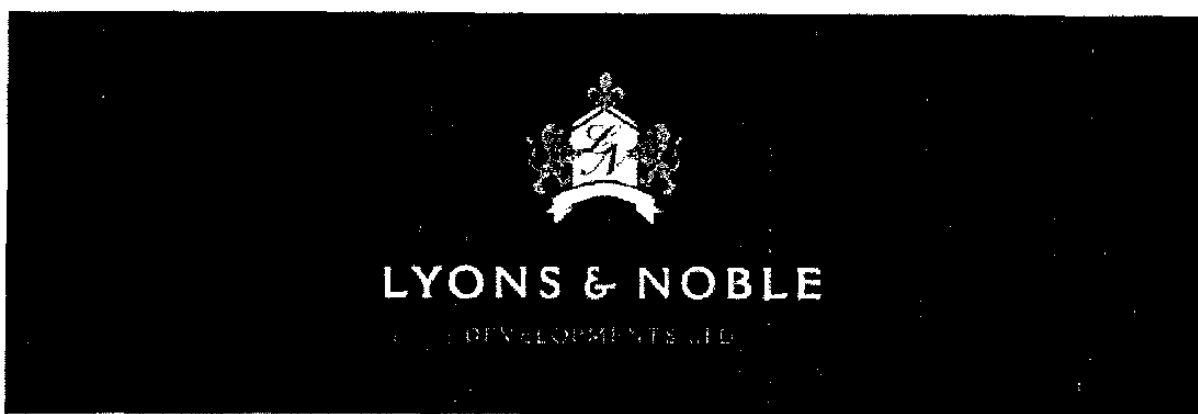
NEW BUSINESS

IN CAMERA

ADJOURNMENT

Lee, Clair

From: Sylvain Giroux [sylvaing@lyonsandnoble.com]
Sent: June 5, 2008 7:20 AM
To: Lee, Clair
Subject: Re: 3790 Mallard Place DP committee meeting delegate



After speaking with Kristy, I would like to be added as a delegate to speak before the committee prior to the review of our variance application on June 10th.

Regards,

Sylvain Giroux

sylvaing@lyonsandnoble.com

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REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE MEETING HELD ON TUESDAY, MAY 13 2008, AT 6:00 PM IN THE RDN BOARD CHAMBERS

Present:

Director D. Bartram	Chairperson
Director J. Burnett	Electoral Area A
Director M. Young	Electoral Area C
Alternate	
Director F. Van Eynde	Electoral Area E
Director L. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G

Also in Attendance:

M. Pearce	Senior Manager, Corporate Administration
P. Thorkelsson	General Manager, Development Services
G. Garbutt	Manager, Current Planning
N. Tonn	Recording Secretary

CALL TO ORDER

The Chairperson welcomed Alternate Director Van Eynde to the meeting.

MINUTES

MOVED Director Stanhope, SECONDED Director Biggemann, that the minutes of the Electoral Area Planning Committee meeting held April 8, 2008 be adopted.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60710 – Williamson – 5169 Gainsberg Road – Area 'H'.

MOVED Director Burnett, SECONDED Director Van Eynde, that Development Permit Application No. 60710, to permit the construction of a residential dwelling on the property legally described as Lot C, District Lot 27, Newcastle District, Plan 21952, and designated within the Environmentally Sensitive Features for Watercourse Protection and Fish Habitat Protection Development Permit Areas pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003", be approved subject to the conditions outlined in Schedules No. 1 to 6.

CARRIED

Development Permit Application No. 60813 – Graham – 1566 River Crescent – Area 'G'.

MOVED Director Stanhope, SECONDED Director Biggemann, that Development Permit Application No. 60813, for an addition to a residential accessory building on the subject property legally described as Lot 13, District Lot 28, Nanoose District, Plan 22685, municipally known as 1566 River Crescent, be approved subject to the conditions outlined in Schedules No. 1 to 4.

CARRIED

Development Permit Application No. 60818 – Fern Road Consulting Ltd., on behalf of Forevergreen Properties Ltd., Inland Island Highway & off Coldwater Road – Area ‘G’.

MOVED Director Stanhope, SECONDED Director Young, that Development Permit Application No. 60818, submitted by Fern Road Consulting Ltd., on behalf of Forevergreen Properties Ltd., in conjunction with the subdivision of the parcel legally described as Lot A, Block 1438, Nanoose District, Plan VIP64704, Except Plan VIP78701 and designated within the Inland Island Highway Development Permit Area, be approved subject to the conditions in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

Development Permit Application No. 60821 – Fern Road Consulting Ltd., on behalf of Sturlis – 1253 Prestwick Place – Area ‘G’.

MOVED Director Stanhope, SECONDED Director Burnett, that Development Permit Application No. 60821, for the construction of a single dwelling unit on the subject property legally described as Lot 26, District Lot 126, Nanoose District, Plan VIP69272, be approved subject to the conditions outlined in Schedules 1 to 4 of the corresponding staff report.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90807 – Francis – 2293 East Island Highway – Area ‘E’.

MOVED Director Van Eynde, SECONDED Director Young, that Development Variance Permit Application No. 90807, submitted by Angela Francis, on behalf of Robert Francis, in conjunction with the construction of a single dwelling unit on the parcel legally described as Lot 1, District Lot 30-A, Nanoose District, Plan 5019, be approved subject to Schedules No. 1, 2 and 3 as outlined in the corresponding staff report and to the notification procedure pursuant to the *Local Government Act*.

CARRIED

OTHER

Request to Discharge a Section 219 Covenant – Grimes – 2405 & 2393 Morland Road – Area ‘A’.

MOVED Director Burnett, SECONDED Director Young, that the request from Joseph Grimes to discharge the section 219 covenant concerning no further subdivision in conjunction with the parcels legally described as Lots 4 and 5, Both of Section 12, Range 2, Cedar District, Plan VIP75931, be approved subject to the conditions set out in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

ADJOURNMENT

MOVED Director Van Eynde, SECONDED Director Young, that this meeting terminate.

CARRIED

TIME: 6:22 PM

CHAIRPERSON



CAG APPROVAL	
EAP	✓ June 10th
COW	
JUN 02 2008	
RHD	
BOARD	

MEMORANDUM

TO: Paul Thompson
Manager of Long Range Planning

DATE: June 3, 2008

FROM: Greg Keller
Senior Planner

FILE: 3360 30 0803

SUBJECT: Electoral Area 'G' Official Community Plan Implementation

PURPOSE

To introduce "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.346, 2008 for consideration of 1st and 2nd reading and to proceed with public consultation followed by a Public Hearing.

BACKGROUND

The Electoral Area 'G' Official Community (OCP) Plan review process has been underway since the spring of 2006. This process included extensive public consultation involving residents, property owners, stakeholders, as well as municipal, provincial, and federal agencies. The review process also involved several open houses, workshops, community meetings, open houses, and the participation of community members in various forms. At the regularly scheduled Board meeting held on January 22, 2008, the Regional Board granted 1st and 2nd reading to "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008." A Public Hearing on Bylaw No. 1540 was held on March 18, 2008 where approximately 40 residents attended. Bylaw No. 1540 received 3rd reading at the April 8, 2008 regular Board meeting and is currently awaiting approval from the Ministry of Community Services.

Once the OCP is approved by the Ministry of Community Services, staff will be forwarding it to the Board for consideration of 4th reading at the next available Board meeting.

Like most other OCPs in the Regional District of Nanaimo, the Electoral Area 'G' OCP identifies a number of policies and objectives that require implementation. In this case, the OCP recommends a number of amendments be made to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (Bylaw 500) to ensure that the zoning regulations are consistent with the OCP and to help the community work towards its stated policies and objectives. The proposed amendments are the next logical step following the OCP review and are consistent with the direction provided by the Regional District of Nanaimo 2006-2009 Strategic Plan and the Regional District of Nanaimo Regional Growth Strategy.

Proposed bylaw amendment No. 500.346, 2008 is provided under separate cover for the Board's consideration. This report provides an explanation of the amendments to Bylaw 500 which staff are recommending to be considered at this time and which are identified in Section 11 of the Electoral Area 'G' OCP.

Overview of Proposed Amendments

A detailed overview including a listing of the corresponding OCP Section and Policy is attached as Attachment No. 2 of this report. The proposed amendments to Bylaw 500 are summarized as follows:

- a. the minimum parcel size is proposed to be amended for lands designated as Rural Residential 1, Rural Residential 2, Rural Residential 3, Rural, and Rural Resource;
- b. the applicable zones are proposed to be amended to specify a minimum site area requirement per dwelling unit to be equal to the minimum parcel size or the minimum parcel size supported by the OCP, whichever is greater;
- c. the current multi-family zoning for the lots developed for single residential dwellings along Viking Way is proposed to be amended to recognize the current use of the properties as single residential use;
- d. the zoning for three parcels located on View Road is proposed to be amended to remove Animal Care, Campground and Waste Disposal Site as permitted uses;
- e. the definition of Agriculture is proposed to be amended in support of a more diverse range of agricultural opportunities;
- f. the zoning on a lot located within the Englishman River floodplain is proposed to be amended to restrict its use to seasonal campground use only;
- g. the landscaping regulations are proposed to be amended by excluding Electoral Area 'G';
- h. the zoning of a small number of parcels located on McFeeley Drive is proposed to be amended to recognize the existing residential uses located on the properties which are currently zoned Commercial 5;
- i. the minimum required setback adjacent to the Vancouver Island Highway is proposed to be increased 15.0 metres; and,
- j. a new resort commercial zone that applies to all existing commercial properties located outside of the Urban Containment Boundary is proposed to be created.

ALTERNATIVES

1. To give Bylaw No. 500.346 1st and 2nd reading and proceed to Public Hearing.
2. To not give Bylaw 500.346 1st and 2nd reading and refer it back to staff with further direction.

LAND USE AND DEVELOPMENT IMPLICATIONS

The proposed amendments to Bylaw 500 are required to ensure that the zoning regulations are consistent with the OCP and help the community work towards its stated policies and objectives. In summary, the proposed amendments can be grouped in the following two categories: minimum parcel size and site area requirements and land use. The following explains the justification and land use implications for the proposed amendments.

Minimum Parcel Size and Minimum Site Area Requirements

The proposed amendments with respect to changes to the minimum parcel size and site area requirements are identified in Overview of Proposed Amendments (a) and (b) above. Most of the proposed minimum parcel sizes are the same as the previous Official Community Plans in Electoral Area 'G'. However, the minimum parcel size policies in those OCPs were never implemented.

The rationale for increasing the minimum parcel sizes and minimum site area requirements for properties located outside of the Urban Containment Boundary (UCB) is as follows:

To reduce transportation needs and Greenhouse Gas Emissions:

The average British Columbian emitted 16 tonnes of GHGs in 2005 based on a study conducted by Environment Canada in 2006¹. The two largest sources of GHG emissions are transportation and buildings. Transportation is the single biggest (73%) contributor of Greenhouse Gas Emissions (GHGs) in our region (Hyla Environmental Services, 2007²). Based on a study conducted by the Greater Vancouver Regional District in 2002, the average single occupant vehicle travelling 15 kilometres round trip to work five days per week emits approximately 1.1 tonnes of GHG emissions per work year. The same study suggests that the average single occupant vehicle travelling 60 kilometres round trip to work five days per week emits approximately 4.4 tonnes of GHG emission in a work year.

It becomes clear that there is a direct relationship between the distance travelled and the amount of GHG emitted. Land use, specifically limiting the location and amount of residential development located in rural areas and concentrating residential development in close proximity to village centres that include employment, recreational opportunities, goods and services, and education can significantly reduce the distance traveled thereby significantly reducing GHG emissions in the Plan Area.

The Regional District of Nanaimo, along with 122 other local governments (as of May 21, 2008) in British Columbia have signed the Climate Action Charter which, among other things pledges support for the creation of complete, compact, more energy efficient rural and urban communities that support a reduction of car dependency and energy use. The proposed increases to the minimum parcel size is consistent with the Climate Action Charter and would likely result in more development being redirected towards established UCB's in the future.

In addition to the above, the proposed amendments are also consistent with the direction provided by the 2006-2009 Board Strategic Plan and the state of sustainability recommendations provided by Section 2 – Regional Growth and Development and Section 3 Environmental Integrity of the Regional District of Nanaimo Recommendations for a Sustainable Future Report.

To encourage efficient development within the Urban Containment Boundary:

Increasing the minimum parcel sizes and minimum site area requirements on lands located outside of the UCB reduces the number of additional parcels and dwelling units which can potentially be created outside of the UCB. Based on the current zoning, it is estimated that there is potential for an additional 642 lots and an additional 1585 dwelling units outside of the UCB. The proposed zoning amendments would decrease these numbers to an estimated 99 lots and 919 dwelling units. This represents an estimated 543 fewer lots and 666 fewer dwelling units located outside of the UCB.

¹ Environment Canada. Canada's Fourth National Report on Climate Change: Actions to meet commitments under the UN Framework Convention on Climate Change. 2006

² Regional District of Nanaimo Community Energy and Emissions Workbook 2007. Prepared by Hyla Environmental Services, 2007.

In addition, increasing the minimum parcel size and minimum site area requirements also limits the percentage of the population living outside the UCB, thereby reducing the number of people who depend extensively on the use of private automobiles for their daily commuting needs. Should the current population trend and development rate continue, the proposed zoning amendments are likely to result in more development within the UCB; a beneficial outcome which is required to realize the full potential and purpose of the UCB.

Increased emphasis on development within the UCB not only reduces GHG emissions by reducing the commuting distance and frequency, but also supports further GHG reductions through opportunities for improved transit servicing and more efficient infrastructure which becomes more viable as densities increase. Further reductions in energy and water use can also be expected through the use of more energy and water efficient forms of housing and to provide opportunities to increase energy efficiency within the UCB.

To preserve lands for agriculture and resource use:

With rising fuel prices and in a time of economic uncertainty it is important to preserve large tracts of land for future agricultural production and resource extraction to reduce the need for imported agricultural products and become more self-sustaining. Reducing the need to import our food from elsewhere is also directly linked to a reduction in transportation requirements and a reduction in GHGs.

Increasing the minimum parcel size will also reduce fragmentation of land which may have value for future agriculture and/or resource extraction. In addition, increasing minimum parcel sizes will reduce land use conflicts between rural (residential) uses and agriculture and resource extraction operations.

Land Use

The proposed amendments with respect to changes to the use of land are identified in **Overview of Proposed Amendments** (c) and (j) above. The purpose of the amendments is to recognize historical uses, limit commercial uses located outside of the UCB to resort commercial uses, address health and safety concerns, and to support a diversified agricultural sector in the Plan Area.

Attachment No. 1 shows the properties impacted by Bylaw No. 500.346 with the above noted revisions to Bylaw 500.

PUBLIC CONSULTATION IMPLICATIONS

The only legal requirement for public consultation in accordance with Section 890 of the *Local Government Act* is a Public Hearing. However, staff recommends that an Open House be held prior to the Public Hearing to provide an opportunity for the community to get information on the proposed implementation bylaw. Staff is of the opinion that an Open House is an appropriate method of public consultation as it is conducive to one-on-one discussion and will allow staff to respond to specific questions and concerns.

Information on the proposed implementation bylaw and Open House will be made available on the Regional District of Nanaimo website. In addition, a notice will be published advertising the Open House in the Parksville Qualicum Beach News.

INTERGOVERNMENTAL IMPLICATIONS

Should the Board grant 1st and 2nd reading, referrals will be sent to the Department of Fisheries and Oceans, City of Parksville, Town of Qualicum Beach, Vancouver Island Health Authority, Ministry of Environment, Ministry of Transportation, Agricultural Land Commission, Integrated Land Management Bureau, School District 69, Qualicum First Nation, Nanoose First Nation, Ministry of Forests and Range, Ministry of Energy, Mines, and Petroleum Resources, Canadian Wildlife Service, Ministry of Agriculture, Little Qualicum Waterworks District, and EPCOR.

VOTING

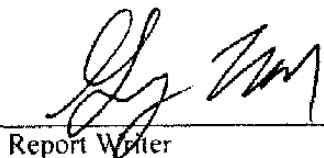
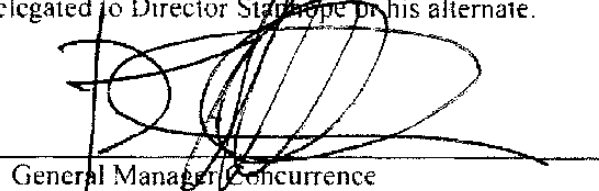
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

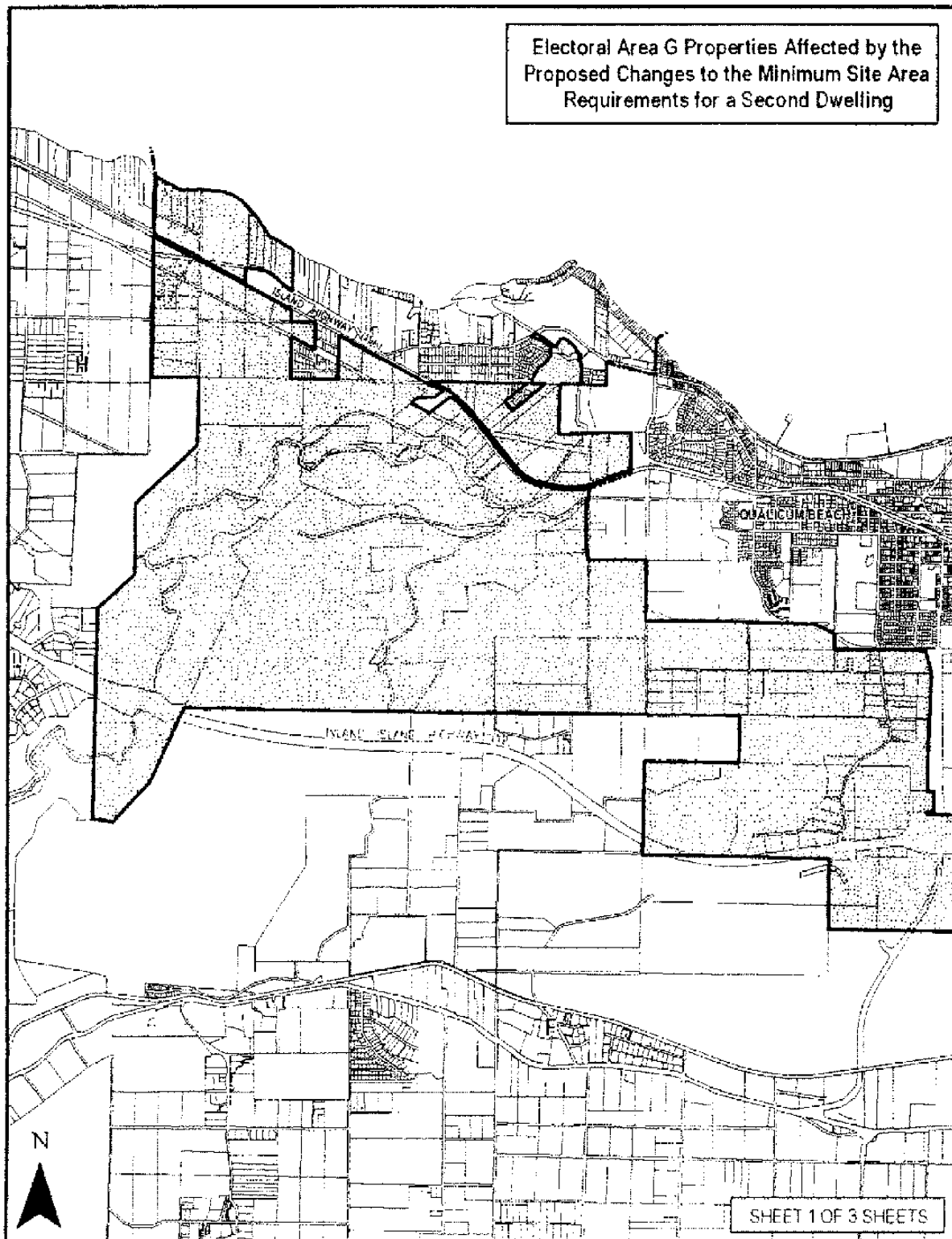
"Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008" includes an implementation strategy that among other things recommends changes to Bylaw 500. The purpose of the proposed amendments is to ensure that the zoning regulations are consistent with the OCP and to help the community work towards its stated policies and objectives. The proposed amendments are consistent with the direction provided by the Regional District of Nanaimo 2006-2009 Strategic Plan, the Regional District of Nanaimo Regional Growth Strategy, and the newly signed Climate Action Charter. Staff recommends that the Board grant 1st and 2nd reading to Bylaw 500.346 and that it proceed to public consultation followed by a Public Hearing.

RECOMMENDATIONS

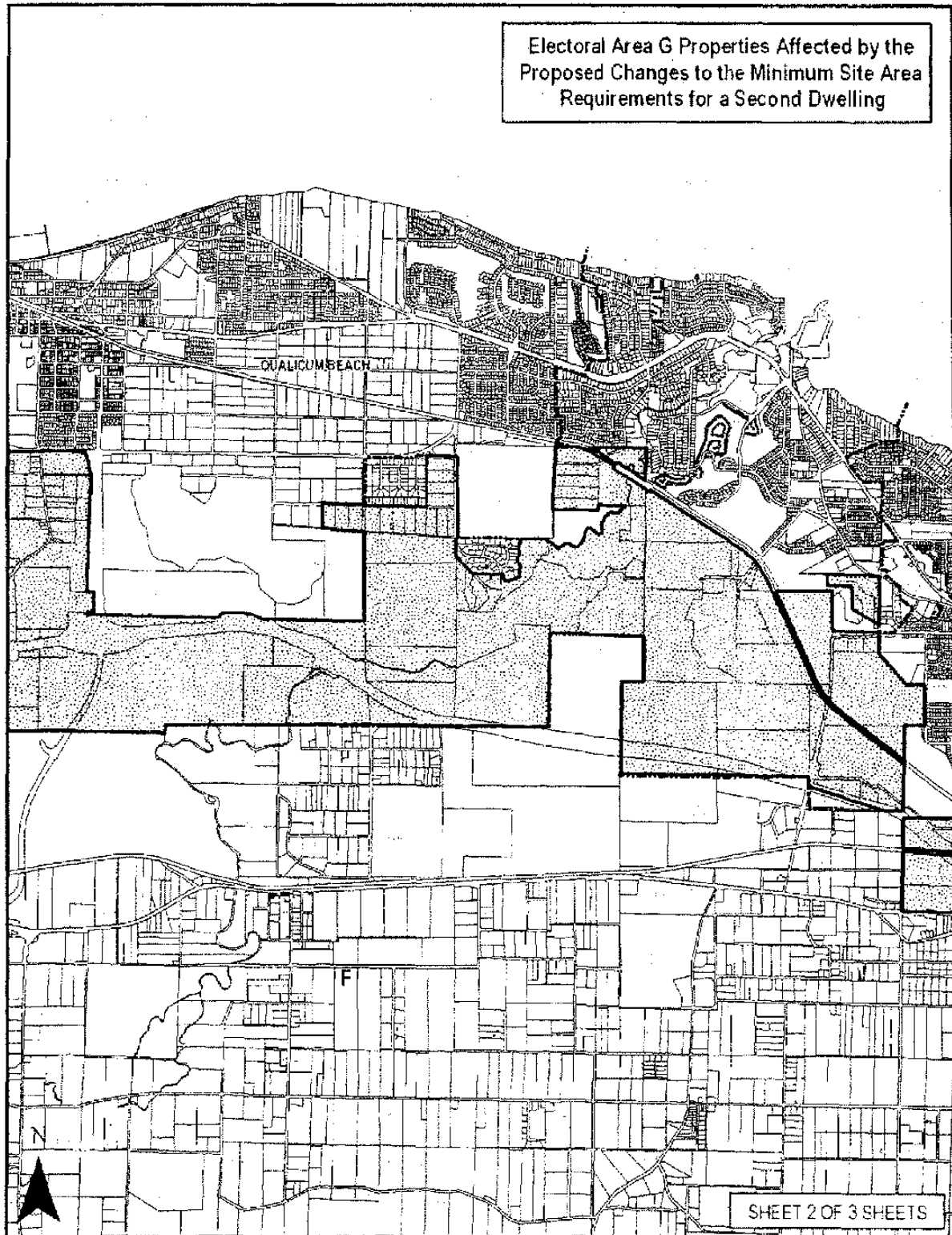
1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.346, 2008" is given 1st and 2nd reading.
2. That staff hold an Open House prior to the Public Hearing.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.346, 2008" proceed to a Public Hearing.
4. That the Public Hearing on the amended "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.346, 2008" be delegated to Director Starhope or his alternate.


Report Writer
Manager Concurrence
General Manager Concurrence
CAO Concurrence

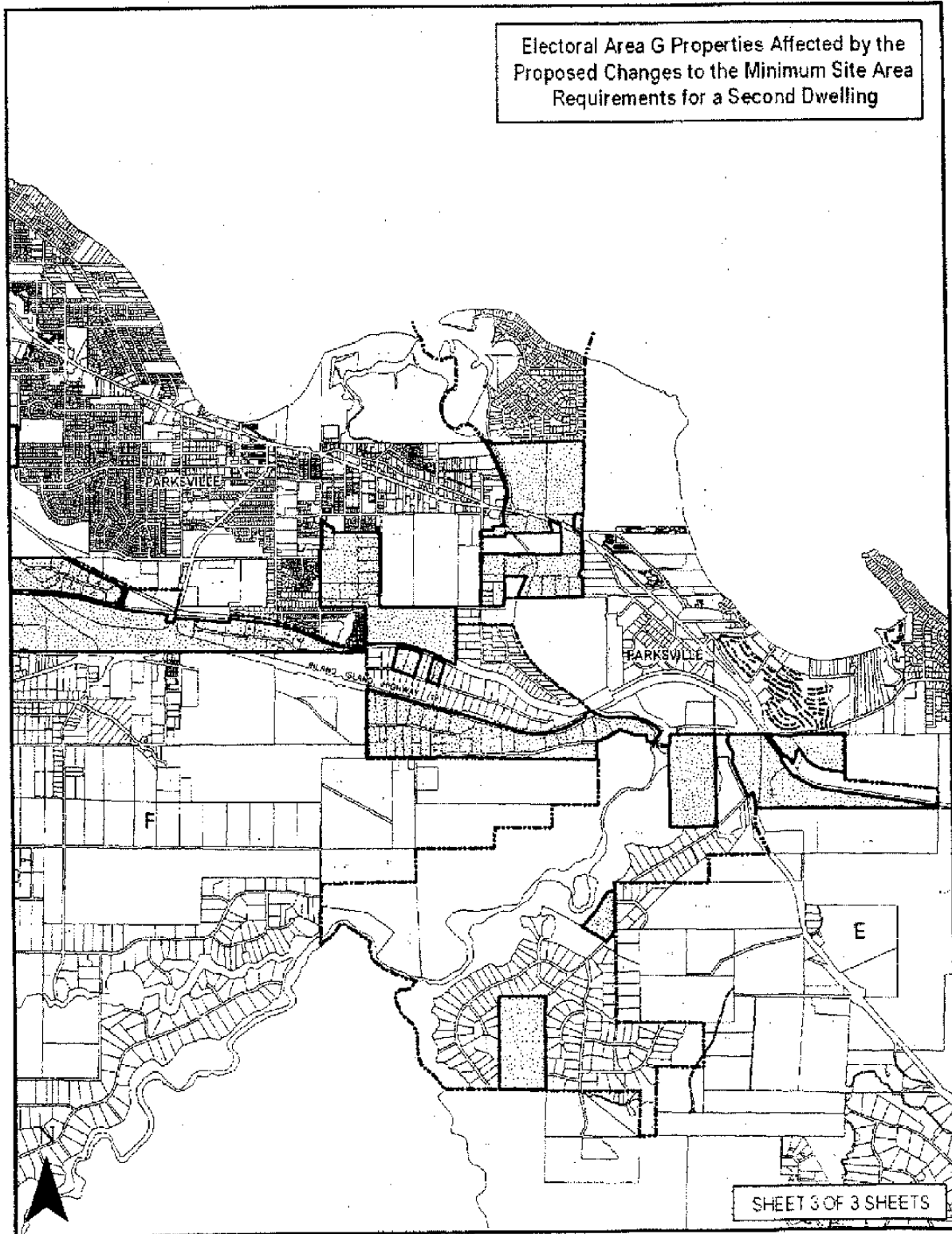
Attachment No. 1 (Page 1 of 6)
Properties Affected by Proposed Bylaw 500.346



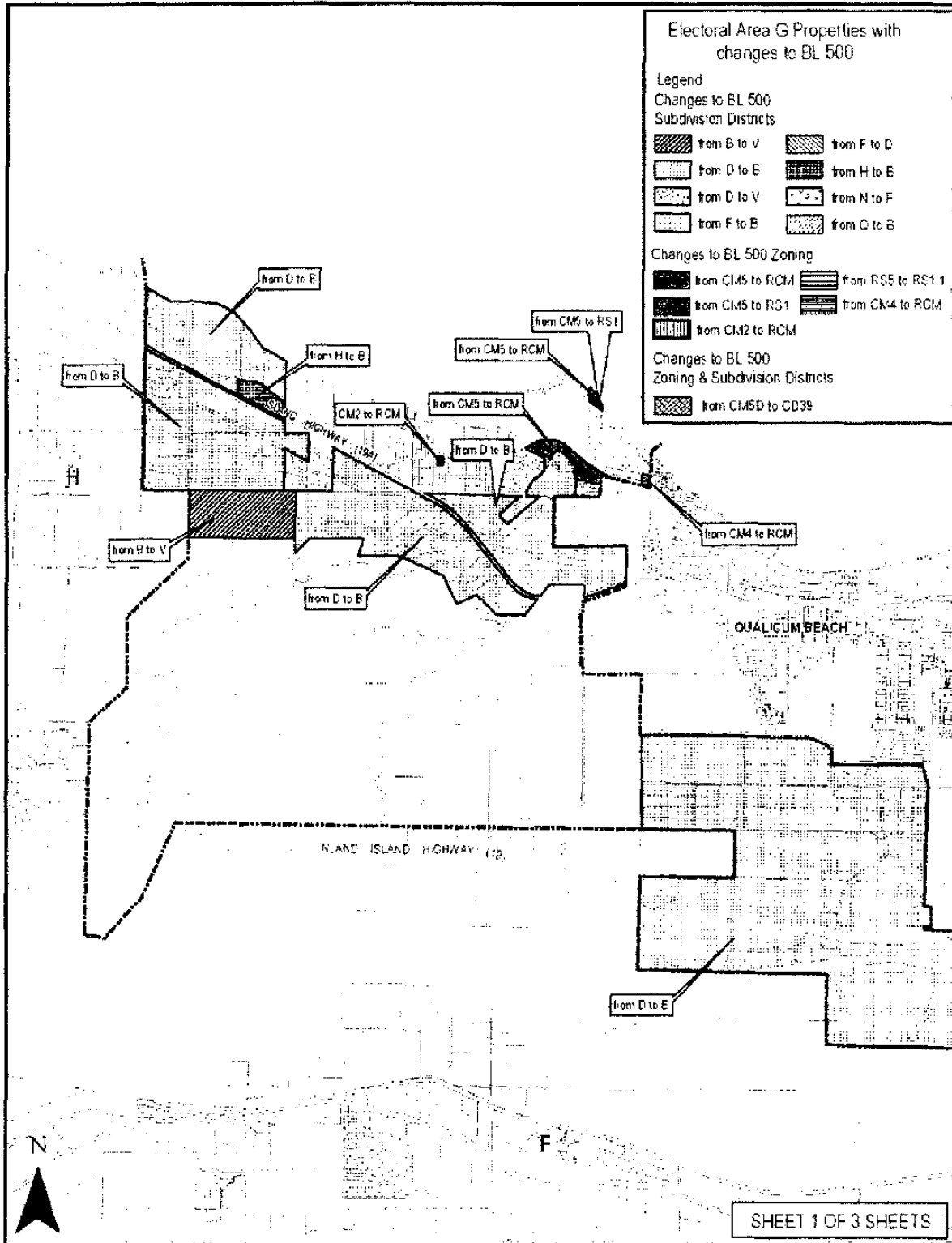
Attachment No. 1 (Page 2 of 6)
Properties Affected by Proposed Bylaw 500.346



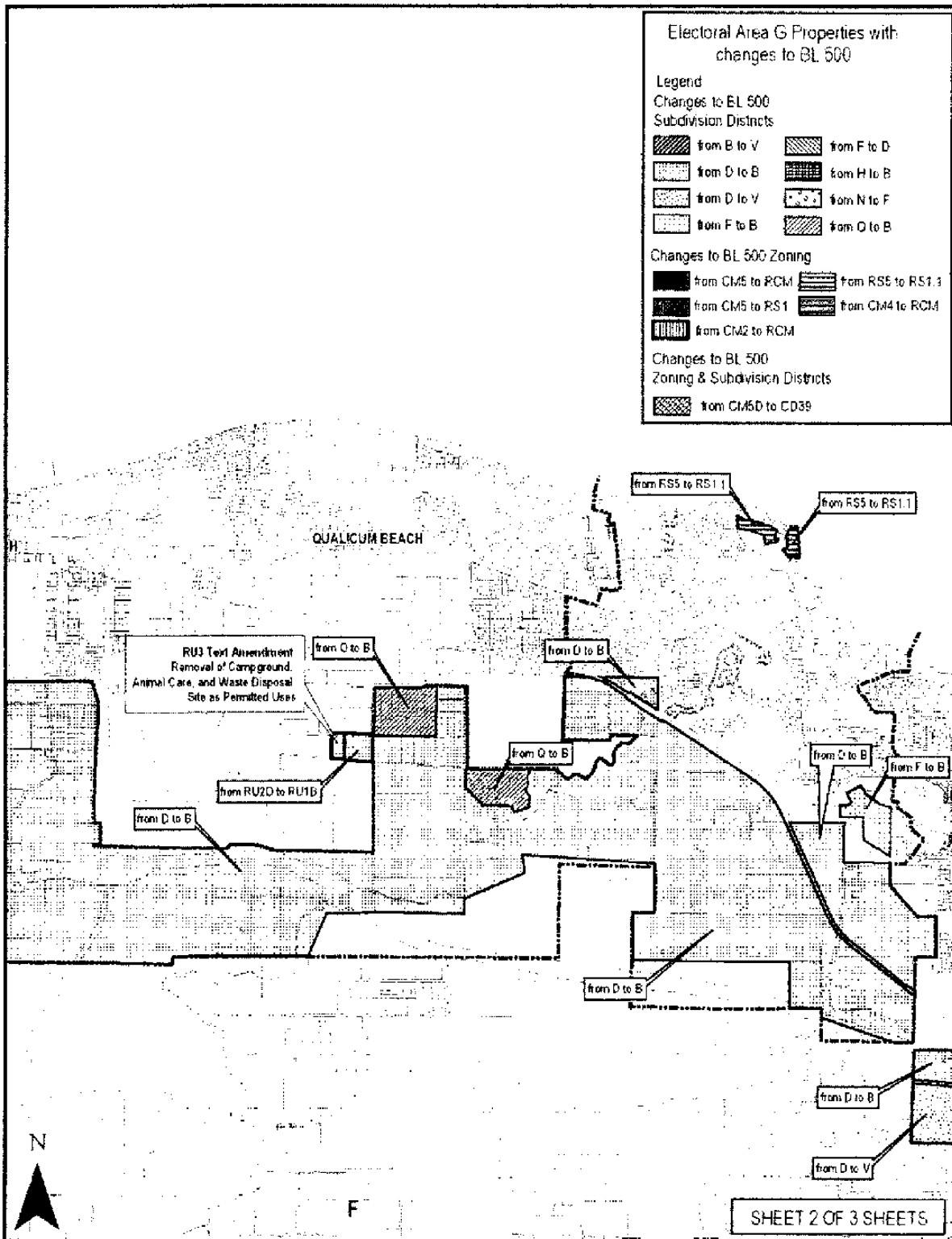
Attachment No. 1 (Page 3 of 6)
Properties Affected by Proposed Bylaw 500.346



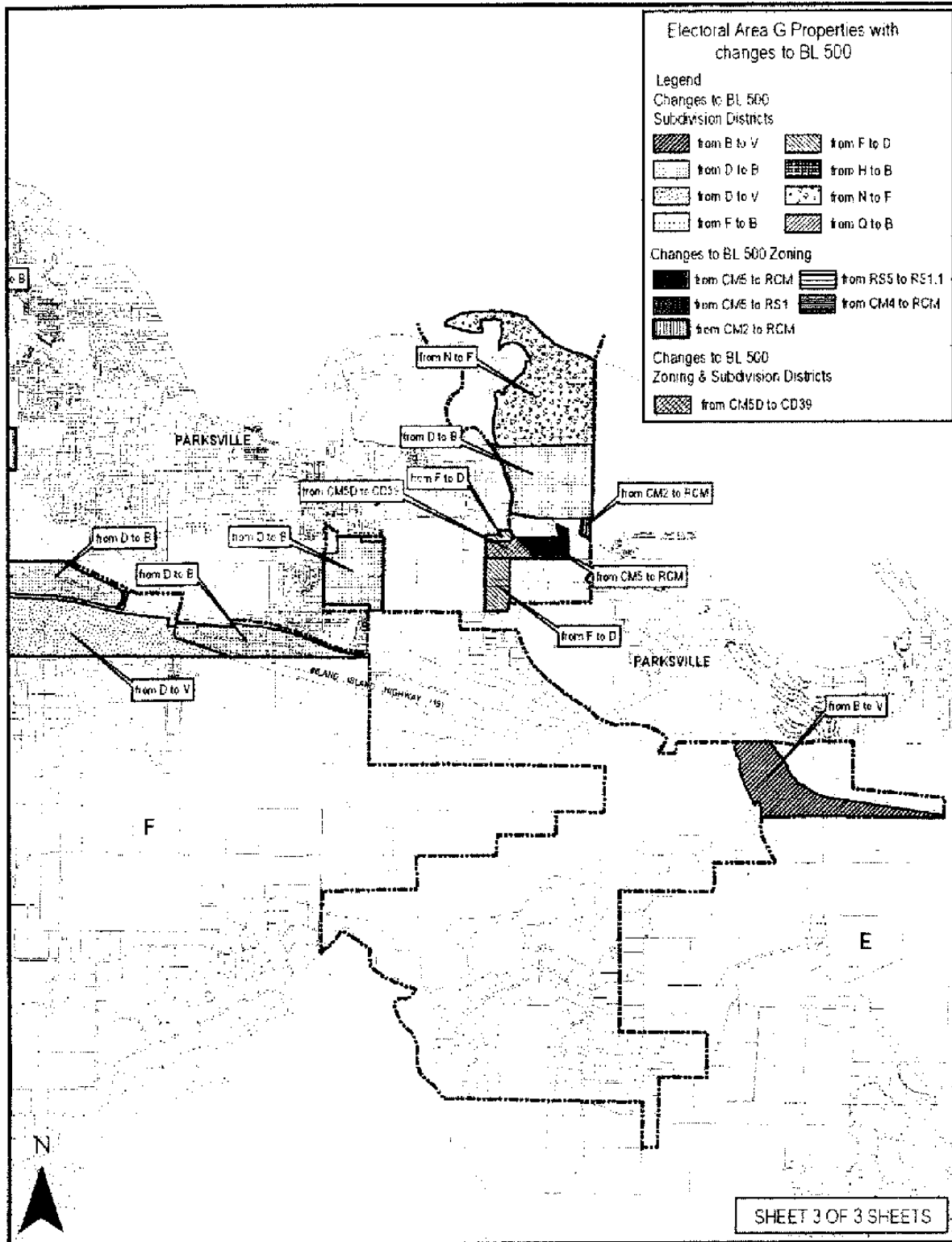
Attachment No. 1 (Page 4 of 6)
Properties Affected by Proposed Bylaw 500.346



Attachment No. 1 (Page 5 of 6)
Properties Affected by Proposed Bylaw 500.346



Attachment No. 1 (Page 6 of 6)
Properties Affected by Proposed Bylaw 500.346



Attachment No. 2
Overview of Proposed Amendments to Bylaw 500

The following table provides an overview of the proposed amendments to Bylaw 500 including a listing of the corresponding OCP Section and Policy

OCP Section	OCP Policy	Proposed Amendment	Detailed Description
3.2	Policy 3 <i>"The Regional District of Nanaimo shall consider rezoning the parcels affected by Development Permit No. 77 that have been subdivided for single residential use as of the date of the adoption of this Plan from Residential 5 to a single residential zone to recognize the existing single residential use."</i>	Rezone the lands subject to Development Permit No. 77 which have been subdivided into single residential lots to recognize the existing single residential status and the variances granted by Development Permit No. 77.	Create a new Residential 1.1 zone and amend Schedule 3A to change the zoning designation from Residential 5 to Residential 1.1 and institute setbacks and height requirements to be consistent with other lots in the neighbourhood.
5.1	Policy 8 <i>"The minimum parcel size for lands within the Rural Residential 1 land use designation shall be 1.0 ha."</i>	Rezone all lands within the 'Rural Residential 1' land use designation to increase the minimum parcel size to 1.0 hectare, excluding lands in Dashwood.	Amend Schedule 4A – Subdivision District Maps
5.1	Policy 12 <i>"The minimum parcel size for lands within the Rural Residential 2 land use designation shall be 2.0 ha although this Plan recognizes that there are existing parcels smaller than 2.0."</i>	Rezone all lands within the 'Rural Residential 2' land use designation to increase the minimum parcel size to 2.0 hectares.	Amend Schedule 4A – Subdivision District Maps
5.1	Policy 19 <i>"The minimum parcel size within the Rural Residential 3 designation shall be 8 hectares although this Plan recognizes that there are existing parcels smaller than 8 hectares."</i>	Rezone all lands within the 'Rural Residential 3' land use designation to increase the minimum parcel size to 8.0 hectares.	Amend Schedule 4A – Subdivision District Maps
5.1	Policy 22 <i>"The minimum parcel size for lands within the rural land use designation shall be 8 hectares although this Plan recognizes that there are existing parcels smaller than 8 hectares in area."</i>	Rezone all lands within the 'Rural' land use designation to increase the minimum parcel size to 8.0 hectares.	Amend Schedule 4A – Subdivision District Maps

OCP Section	OCP Policy	Proposed Amendment	Detailed Description
5.1	<p>Policy 10</p> <p><i>"New residential development shall be permitted at a maximum density of 1 dwelling unit per parcel."</i></p>	Amend the minimum site area requirement per dwelling unit for all land within the Rural Residential 1 land use designation to 1 dwelling unit per hectare to a maximum of 1 dwelling unit per parcel, excluding lands in Dashwood.	Amend Part 3 accordingly by including a new minimum site area requirement for a second dwelling unit to be 1.0 hectare or equal to the minimum parcel size, whichever is greater.
5.1	<p>Policy 14</p> <p><i>"New residential development shall be permitted at a maximum density of 1 dwelling unit per 2 hectares to a maximum of 2 per parcel."</i></p>	Amend the minimum site area requirement per dwelling unit for all land within the Rural Residential 2 land use designation to 1 dwelling unit per 2 hectares to a maximum of 2 dwelling units per parcel.	Amend Part 3 accordingly by including a new minimum site area requirement of 2.0 hectares for a dwelling unit and limiting development to one dwelling per 2 hectares to a maximum of 2 per parcel.
5.1	<p>Policy 21</p> <p><i>"New residential development shall be permitted at densities of 1 dwelling unit per 8 hectares to a maximum of 2 dwelling units per parcel."</i></p>	Amend the minimum site area requirement per dwelling unit for all land within the Rural Residential 3 land use designation to 1 dwelling unit per 8 hectares to a maximum of 2 dwelling units per parcel.	Amend Part 3 accordingly by including a new minimum site area requirement of 8.0 hectares for a dwelling unit and limiting development to one dwelling per eight hectares to a maximum of 2 per parcel.
5.1	<p>Policy 25</p> <p><i>"New residential development shall be permitted at densities of 1 dwelling unit per 8 hectares to a maximum of two dwelling units per parcel."</i></p>	Amend the minimum site area requirement per dwelling unit for all land within the Rural land use designation to 1 dwelling unit per 8 hectares to a maximum of 2 dwelling units per parcel.	Amend Part 3 accordingly by including a new minimum site area requirement of 8.0 hectares for a dwelling unit and limiting development to one dwelling per eight hectares to a maximum of 2 per parcel.
5.1	<p>Policy 5</p> <p><i>"This Plan does not support lands within the Plan Area being pre-zoned for Animal Care. Lands within this Plan Area with existing Rural 2 and Rural 3 zoning may be considered for rezoning to remove 'Animal Care' as a permitted use, which may include changing the zoning designation to</i></p>	Rezone Lots 4, 5, and 6, Block 20, District Lot 68, Nanoose Land District Plan 1694 to remove 'Animal Care' and 'Campground' as permitted uses.	Amend Schedule 3A - Zoning Maps by changing the zoning of lots 4 and 5 to Rural 1 and Amend section 3.4.83 by removing Animal Care, Campground, and Waste Disposal Site as permitted uses.

OCP Section	OCP Policy	Proposed Amendment	Detailed Description
	<p><i>be consistent with the existing surrounding zoning designations."</i></p> <p><i>Permitted uses shall be rural uses, rural residential uses, and uses accessory to rural and rural residential uses.</i></p>		
5.2	<p>Policy 2</p> <p><i>"Lands within the Rural Resource designation shall have a minimum parcel size of 50 hectares although it is recognized that there are existing parcels smaller than 50 hectares."</i></p>	Rezone all lands within the 'Rural Resource' land use designation to increase the minimum parcel size to 50.0 hectares.	Amend Schedule 4A – Subdivision District Maps
5.2	<p>Policy 3</p> <p><i>"New residential development shall be permitted to a maximum density of one dwelling unit per 50 hectares."</i></p>	Amend minimum site area requirement per dwelling unit for all land within the Rural Resource land use designation to 1 dwelling unit per 50 hectares to a maximum of 2 dwelling units per parcel.	Amend Part 3 accordingly by including a new minimum site area requirement of 50.0 hectares for a dwelling unit and limiting development to one dwelling per fifty hectares to a maximum of 2 per parcel.
8.1	<p>Policy 2</p> <p><i>"A full range of agricultural and complementary uses in the ALR is supported and value-added activities are encouraged that can improve farm viability. It is recognized that approval from the ALC may be required."</i></p> <p>Policy 3</p> <p><i>"Broad-based agricultural activities including livestock and horticultural uses of a farm, and the processing, production, distribution and sale of agricultural products grown and reared on that farm, shall also be encouraged and supported on agricultural lands. In order to ensure that such activities, including those of an intensive nature, do not give rise to conflicts with adjoining uses or the environment, the RND requires that they be conducted in accordance with recognized codes of</i></p>	Amend the definition of Agriculture for Electoral Area 'G' to permit a more diverse range of agricultural uses including, but not limited to value-added and eco-tourism.	Amend Section 2.1 Definitions to include additional agricultural uses in Area G.

OCP Section	OCP Policy	Proposed Amendment	Detailed Description
	<i>practice, standards and environmental guidelines."</i>		
8.5	<p>Policy 3</p> <p><i>"Sites designated commercial by this Plan located outside of the UCB shall be restricted to resort commercial uses. The rezoning of any commercially designated site located outside of the UCB to permit other forms of commercial use is not supported."</i></p>	Rezone lands designated as 'Commercial' by this Plan that are located outside of the Urban Containment Boundary to limit commercial uses to resort commercial and those commercial uses which are typically associated with resort commercial.	Amend Schedule 3A to change the zoning designation from Commercial to a new Resort Commercial Zone.
9.5	<p>Policy 3</p> <p><i>"The Regional District of Nanaimo supports the goals and objectives of the Vancouver Island Highway Agreement and may take steps towards implementation of the agreement by considering the following:</i></p> <p><i>a. increasing the minimum setback requirements for buildings and structures to preserve the aesthetic quality of the corridor; and/or,</i></p>	Amend Bylaw No. 500 by increasing the minimum setback requirements from the Island Highway corridor as defined by the Vancouver Island Highway Agreement.	Amend Section 3.3 – General Regulations by inserting subsection 13 – Setbacks Vancouver Island Highway No. 19.
10	<p>Introduction</p> <p><i>"The landscaping and screening requirements of this Plan may not be consistent with RDN Land Use and Subdivision Bylaw No. 500, 1987. Therefore, the RDN should consider amending Bylaw No. 500 to bring it in to conformity with this Plan."</i></p>	Amend Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 to exclude Electoral Area 'G' from the landscaping requirements as specified by Bylaw No. 500.	Amend Schedule 3F – Landscaping Regulations and Standards.
Map 3	Subject properties are designated Rural Residential 1 which supports rural use, rural residential uses, and uses accessory to rural and rural residential uses.	With the Exception of Lot A, District Lot 9, Newcastle Land District, Plan 40682 rezone all lands adjacent to McFeely Drive that are currently zoned Commercial 5 to Residential 1 to recognize the current residential use of the properties.	Amend Schedule 3A to change the zoning designation from Commercial 5 to Residential 1

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 500.346

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 2, INTERPRETATION, DEFINITIONS** is hereby amended by adding the following to the definition of 'agriculture':

"Notwithstanding the above, for Electoral Area 'G' only, the following accessory uses on lands classified as farm under the *Assessment Act*:

- a. retail sales of goods wholly produced on the farm where the sales are taking place;
- b. storing, packing, product preparation, or processing of farm products if at least 50% of the farm product is produced on the farm or is feed required for farm production purposes on the farm;
- c. temporary and seasonal accommodation on a farm in campsites, seasonal cabins, or short term use of bedrooms including bed and breakfast to a maximum of one accommodation unit per hectare not exceeding a maximum of 10 per parcel provided the total developed area for buildings, landscaping, and access for accommodation is less than 5% of the parcel;
- d. the breeding of household animals; and,
- e. agricultural research and education provided that the combined total of any associated buildings and structures required for education and/or research do not exceed 100 m².

2. **PART 3, SECTION 3.2(3) GENERAL OPERATIVE CLAUSES** is hereby amended as follows:

- i. by numbering the section as paragraph 3.2(3)(a); and
- ii. by adding the following paragraph 3.2(3)(b):

For the purposes of this Bylaw, the size of a parcel shall be determined by reference to parcel size established by a B.C. Land Surveyor based on the following table:

Expression of Parcel Areas

Parcel Size	Maximum Number of Decimal Places Accepted
up to 0.1 ha	quote to 0.1m ²
from 0.1 ha up to 1 ha	quote to 0.001 ha
from 1 ha up to 10 ha	quote to 0.01 ha
from 10 ha up to 100 ha	quote to 0.1 ha
from 100 ha and over	quote to 1 ha

3. **PART 3, SECTION 3.3 GENERAL REGULATIONS** is hereby amended by inserting the following as number 13:

"Notwithstanding the setbacks prescribed in each zone, in Electoral Area 'G' the minimum required building setback from Vancouver Island Highway No. 19 shall be 15.0 m."

4. **PART 3A LAND USE REGULATIONS** is hereby amended by inserting a new zone as Section 3.4.18 titled "Resort Commercial (RCM)" attached as Schedule No.1.
5. **PART 3A LAND USE REGULATIONS** is hereby amended by inserting a new zone as Section 3.4.61.1 titled "Residential 1.1 (RS1.1)" attached as Schedule No.2.
6. **PART 3A LAND USE REGULATIONS** is hereby amended by inserting a new zone as Section 3.4.136 titled 'Martindale Road Comprehensive Development Zone 39' (CD39) attached as Schedule No.3.
7. **PART 3A LAND USE REGULATIONS, Section 3.4.71 – 'Resource Management 1 Zone, Maximum Number and Size of Buildings and Structures'** is hereby amended by inserting the following after "b) on a parcel having an area greater than 8.0 ha
- a) *"c) notwithstanding a and b above, in Electoral Area 'G', the minimum site area requirement per dwelling unit shall be 8.0 hectares or equal to the minimum parcel size, whichever is greater as established by Schedule 4B*

– Subdivision Districts of this Bylaw and the number of dwelling units per parcel shall not exceed 2."

8. **PART 3A LAND USE REGULATIONS, Section 3.4.81 – 'Rural 1 Zone, Maximum Number and Size of Buildings and Structures'** is hereby amended by inserting the following after "b) on a parcel having an area greater than 2.0 ha – 2"

a) *"c) notwithstanding a and b above, in Electoral Area 'G', the minimum site area requirement per dwelling unit shall be 1.0 hectare or equal to the minimum parcel size, whichever is greater as established by Schedule 4B – Subdivision Districts of this Bylaw and the number of dwelling units per parcel shall not exceed 2."*

9. **PART 3A LAND USE REGULATIONS, Section 3.4.82 – 'Rural 2 Zone, Maximum Number and Size of Buildings and Structures'** is hereby amended by inserting the following after "b) on a parcel having an area greater than 2.0 ha – 2"

a) *"c) notwithstanding a and b above, in Electoral Area 'G', the minimum site area requirement per dwelling unit shall be 1.0 hectare or equal to the minimum parcel size, whichever is greater as established by Schedule 4B – Subdivision Districts of this Bylaw and the number of dwelling units per parcel shall not exceed 2."*

10. **PART 3A LAND USE REGULATIONS, Section 3.4.83 – 'Rural 3 Zone, Maximum Number and Size of Buildings and Structures'** is hereby amended by inserting the following after "b) on a parcel having an area greater than 2.0 ha – 2"

a) *"c) notwithstanding a and b above, in Electoral Area 'G', the minimum site area requirement per dwelling unit shall be 1.0 hectare or equal to the minimum parcel size, whichever is greater as established by Schedule 4B – Subdivision Districts of this Bylaw and the number of dwelling units per parcel shall not exceed 2."*

10. **PART 3A LAND USE REGULATIONS, Section 3.4.83 – 'Rural 3 Zone, Permitted Uses'** is hereby amended by deleting 'Animal Care', 'Campground', and 'Waste Disposal Site' as permitted uses.

11. **PART 3A LAND USE REGULATIONS, Section 3.4.83 – 'Rural 3 Zone, Maximum Number and Size of Buildings and Structures'** is hereby amended by deleting the following:

"Campground 30 camping spaces per parcel, developed in accordance with schedule '3C'"

12. **PART 3A LAND USE REGULATIONS, SCHEDULE '3A' Zoning Maps** is hereby amended as follows:

- a. by changing the zone from 'Commercial 5' to 'Residential 1' the lands legally described as:

- i. Lots 1-4 (inclusive) of District Lot 9, Newcastle Land District, Plan 40884 and,
- ii. Lot 6, District Lot 9, Newcastle District, Plan 11816

as shown of Schedule '4', which is attached to and forms part of this Bylaw.

13. PART 3A LAND USE REGULATIONS, SCHEDULE '3A' Zoning Maps is hereby amended as follows:

- a. by changing the zone from 'Rural 2' to 'Rural 1' the lands legally described as:

- i. Lot 5 Block 20, District Lot 78, Nanoose and Newcastle Districts, Plan 1694; and,
- ii. Lot 6 Block 20, District Lot 78, Nanoose and Newcastle Districts, Plan 1694

as shown of Schedule '5', which is attached to and forms part of this Bylaw.

14. PART 3A LAND USE REGULATIONS, SCHEDULE '3A' Zoning Maps is hereby amended as follows:

- a. by changing the zone from 'Commercial 2' (CM2) to 'Resort Commercial (RCM)' for the lands legally described as:

- i. Lot 1, District Lot 129, Nanoose District, Plan 20083
- ii. That Part of lot 1 in Block 4 of District Lot 11, Newcastle District, Plan 1223, Lying to the South of a Boundary Parallel to and Perpendicularly Distant 90 Feet from the Southern Boundary of Said Lot 1.

as shown on Schedule '6' which is attached to and forms part of this Bylaw;

- b. by changing the zone from 'Commercial 4' (CM4) to 'Resort Commercial (RCM)' for the lands legally described as:

- i. Lot 23, District Lot 10, Newcastle District, Plan 10115

as shown on Schedule '7' which is attached to and forms part of this Bylaw;
and,

- c. by changing the zone from 'Commercial 5' (CM5) to 'Resort Commercial (RCM)' for the lands legally described as:

- i. Lot 2 and 3, District Lot 129, Nanoose District, Plan 8659.

- ii. Lot 1, District Lot 9, Newcastle District, Plan 11274.
- iii. Lot C (DD 25242N), District Lot 9, Newcastle District, Plan 1932, Except Those Parts in Plans 11274, 14223, and 14909.
- iv. Lot A, District Lot 9, Newcastle District, Plan 40682

as shown on Schedule '8 which is attached to and forms part of this Bylaw.

15. PART 3A LAND USE REGULATIONS, SCHEDULE '3A' Zoning Maps, is hereby amended as follows:

- a. By changing the zone from 'Residential 5' (RS5) to 'Residential 1.1' (RS1.1) for the properties shown on Schedule No. '9'.

16. PART 3A LAND USE REGULATIONS, SCHEDULE '3A' Zoning Maps, is hereby amended as follows:

- a. By changing the zone from 'Commercial 5' (CM5) to 'Martindale Road Comprehensive Development Zone 39' (CD39) for land legally described as follows:
 - i. Lot A, District Lots 42 and 128, Nanoose District, Plan 30121

as shown on Schedule '10', which is attached to and forms part of this Bylaw.

17. PART 3 LANDSCAPING REGULATIONS, SCHEDULE '3F' is hereby amended by inserting a new Section following Section 2.4 as follows:

2.5 "Applicability

Notwithstanding any other regulation in this Bylaw, the landscaping regulations and standards prescribed herein shall not apply to Electoral Area 'G' of the Regional District of Nanaimo."

18. PART 3 LANDSCAPING REGULATIONS, SCHEDULE '3F' TABLE OF CONTENTS is hereby amended by inserting a reference to Section 2.5 Applicability.

**19. PART 4 SUBDIVISION REGULATIONS, SCHEDULE '4A',
SUBDIVISION DISTRICT MAPS** is hereby amended as follows:

- a. by changing the Subdivision District from 'D' to 'B';
- b. by changing the Subdivision District from 'B' to 'V';
- c. by changing the Subdivision District from 'H' to 'B';
- d. by changing the Subdivision District from 'Q' to 'B';
- e. by changing the Subdivision District from 'F' to 'B';
- f. by changing the Subdivision District from 'D' to 'V';
- g. by changing the Subdivision District from 'F' to 'B';
- h. by changing the Subdivision District from 'D' to 'CD39';
- i. by changing the Subdivision District from 'N' to 'F'; and,
- j. by changing the Subdivision District from 'F' to 'D'

for those parcels shown on Schedule '11' which is attached to and forms part of this Bylaw.

B. This Bylaw may be cited as "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.346, 2008".

Introduced and read two times this day of , 2008.

Public Hearing held pursuant to Section 890 of the *Local Government Act* this day of , 2008.

Read a third time this day of , 2008.

Received approval pursuant to the *Transportation Act* this day of , 2008.

Adopted this day of , 2008.

Chairperson

Sr. Mgr., Corporate Administration

Schedule '1' to accompany "Regional District of
Nanaimo Land Use and Subdivision Bylaw Amendment
Bylaw No. 500.346, 2008"

Chairperson

Sr. Mgr., Corporate Administration

RESORT COMMERCIAL

RCM

Permitted uses and Minimum Site Area

Permitted Uses	Required Site Area:
a) Tourist Store	2000 m ²
b) Residential Use	500 m ²
c) Outdoor Recreation	10000 m ²
d) Resort Vehicle Park	400 m ²
e) Recreation Facility	8000 m ²
f) Gas Bar on the land identified on Illustration No. 1 and 2 below	8000 m ²
g) Gasoline Service Station on the land identified on Illustration 3 below.	2000 m ²
Dwelling units/parcel	-1
Floor area ratio	-0.6
Height	-9.0
Parcel coverage	-40%
Resort Vehicle Park	25 camping spaces/ha to a maximum of 150 camping spaces per parcel developed in accordance with Schedule '3C', 'Campground Regulations and Standards'.

Minimum Setback Requirements

except where:

- a) the adjoining parcel is zoned industrial or commercial then the setback from the common interior side lot line may be reduced to zero;
- b) any part of a parcel is adjacent to or contains a watercourse then regulations in Section 3.3.8 shall apply.

Illustration No. 2 - Gas Bar is permitted on the property shown below.

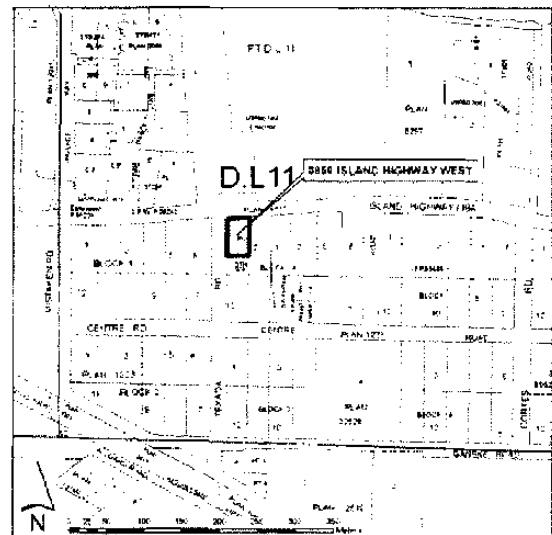
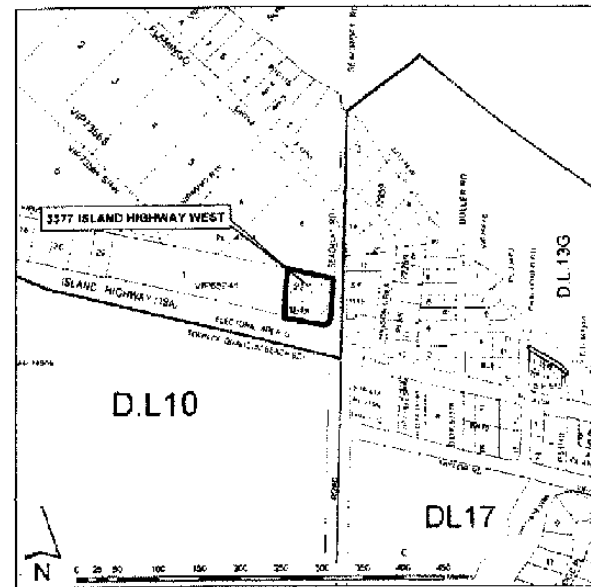


Illustration No. 3 Gasoline Service Station is permitted on the property shown below.



Schedule '2' to accompany "Regional District of
Nanaimo Land Use and Subdivision Bylaw Amendment
Bylaw No. 500.346, 2008"

Chairperson

Sr. Mgr., Corporate Administration

RESIDENTIAL 1.1	RS1.1
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Permitted uses and Minimum Site Area

Permitted Uses	Required Site Area with:		
	Community Water & Sewer System	Community Water System	No Community Services
a) Home Based Business	n/a	n/a	n/a
b) Residential Use	n/a	n/a	n/a

Maximum Number and Size of Buildings and Structures

Accessory buildings	- combined floor area of 100 m ² or 8% of area of parcel whichever is greater, but shall not exceed 250 m ² .
Accessory building height	- 6.0 m
Dwelling units/parcel	- 1
Dwelling unit height	- 10.0 m
Parcel coverage	- 35%

Minimum Setback Requirements

Front lot line	- 5.0 m
Exterior side lot line	- 5.0 m
Other lot lines	- 2.0 m

except where any part of a parcel is adjacent to or contains a watercourse then the regulations in Section 3.3.8 shall apply.

No setback from an interior or rear lot line shall be required for one accessory building not exceeding a floor area of 10 m² and with a maximum height of 3.0 metres.

Schedule '3' to accompany "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.346, 2008"

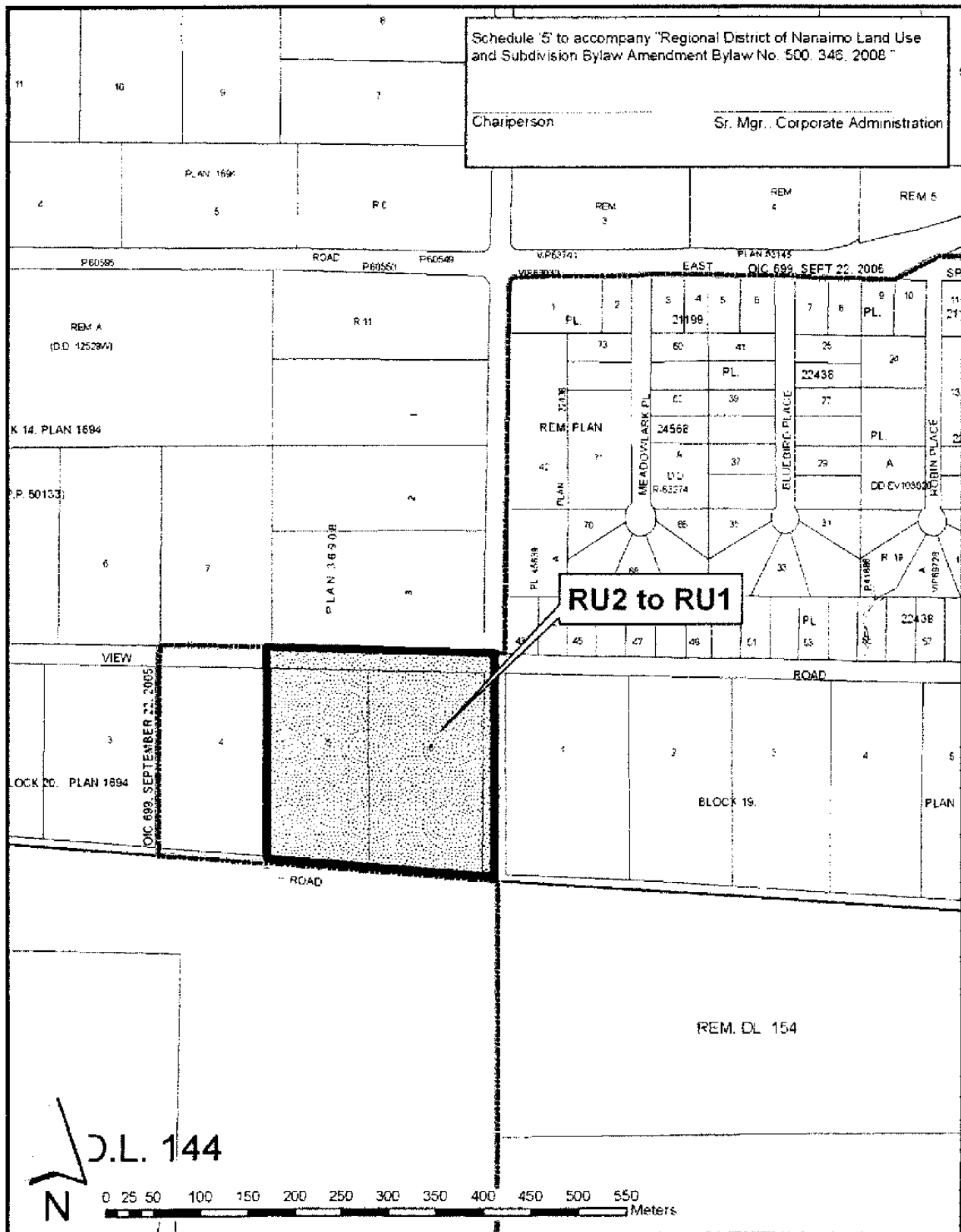
Chairperson

Sr. Mgr., Corporate Administration

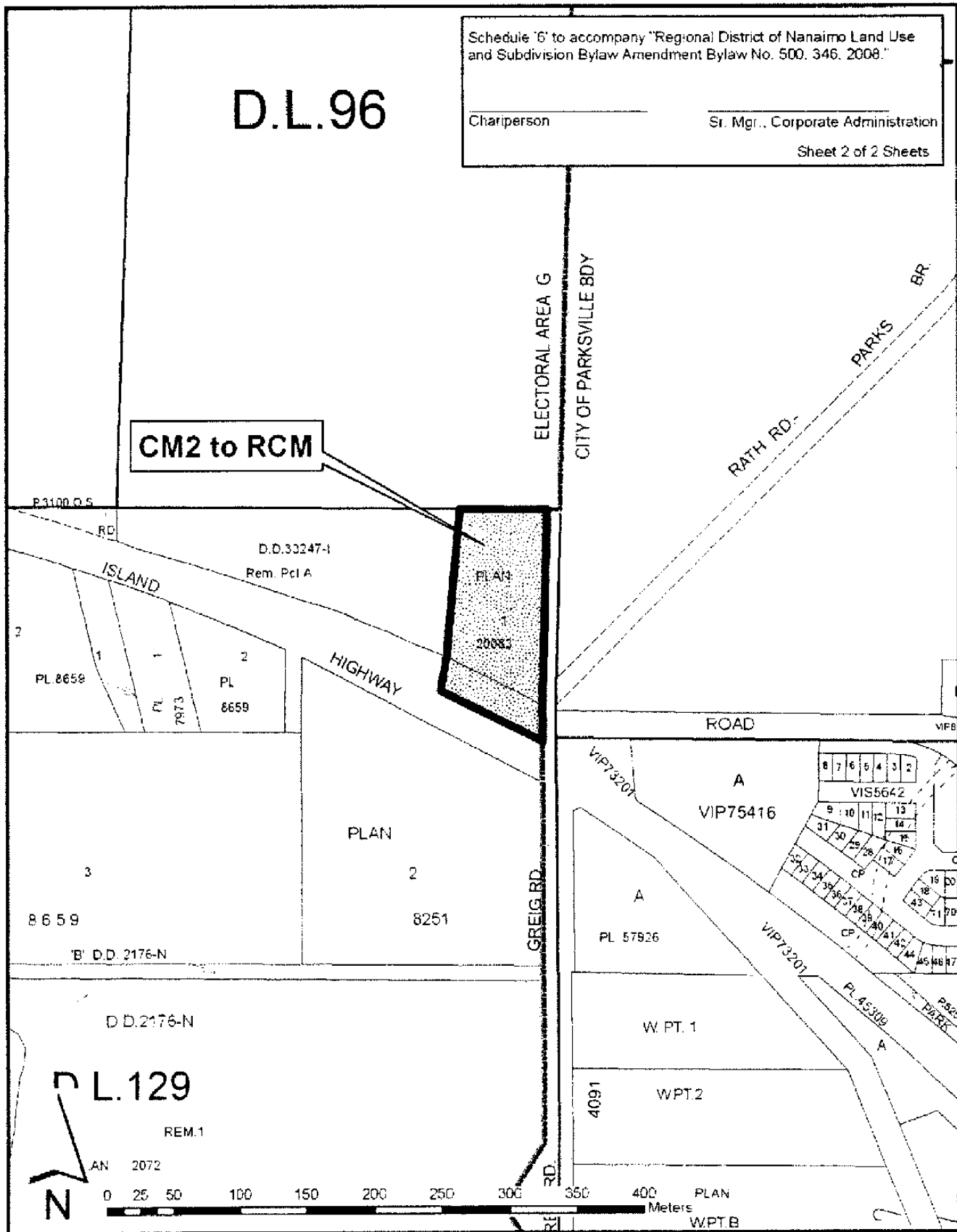
MARTINDALE ROAD COMPREHENSIVE DEVELOPMENT ZONE 39		CD39
3.4.139.1 Permitted Uses & Density		
Permitted Uses		
a) Campground Use		
b) Residential Use		
c) Agriculture		
3.4.139.2 Maximum Number and Size of Buildings and Structures		
Number of Camping Spaces	Camping spaces shall be developed in accordance with Schedule '3C' - Campground Regulations.	
Dwelling units/parcel	1	
Maximum Height of buildings	<p>a. 8.0 m above the 200 year designated flood level for all buildings and structures subject to the flood construction level requirements of "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006".</p> <p>b. 8.0 metres above the natural grade for all buildings and structures exempt from the flood construction level requirements of "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006".</p> <p>c. Notwithstanding (a) and (b) above, in the case where a building or structure exempt from the flood construction level requirements of "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006" is proposed to constructed above the 200 year designated flood level, the maximum height shall be</p>	

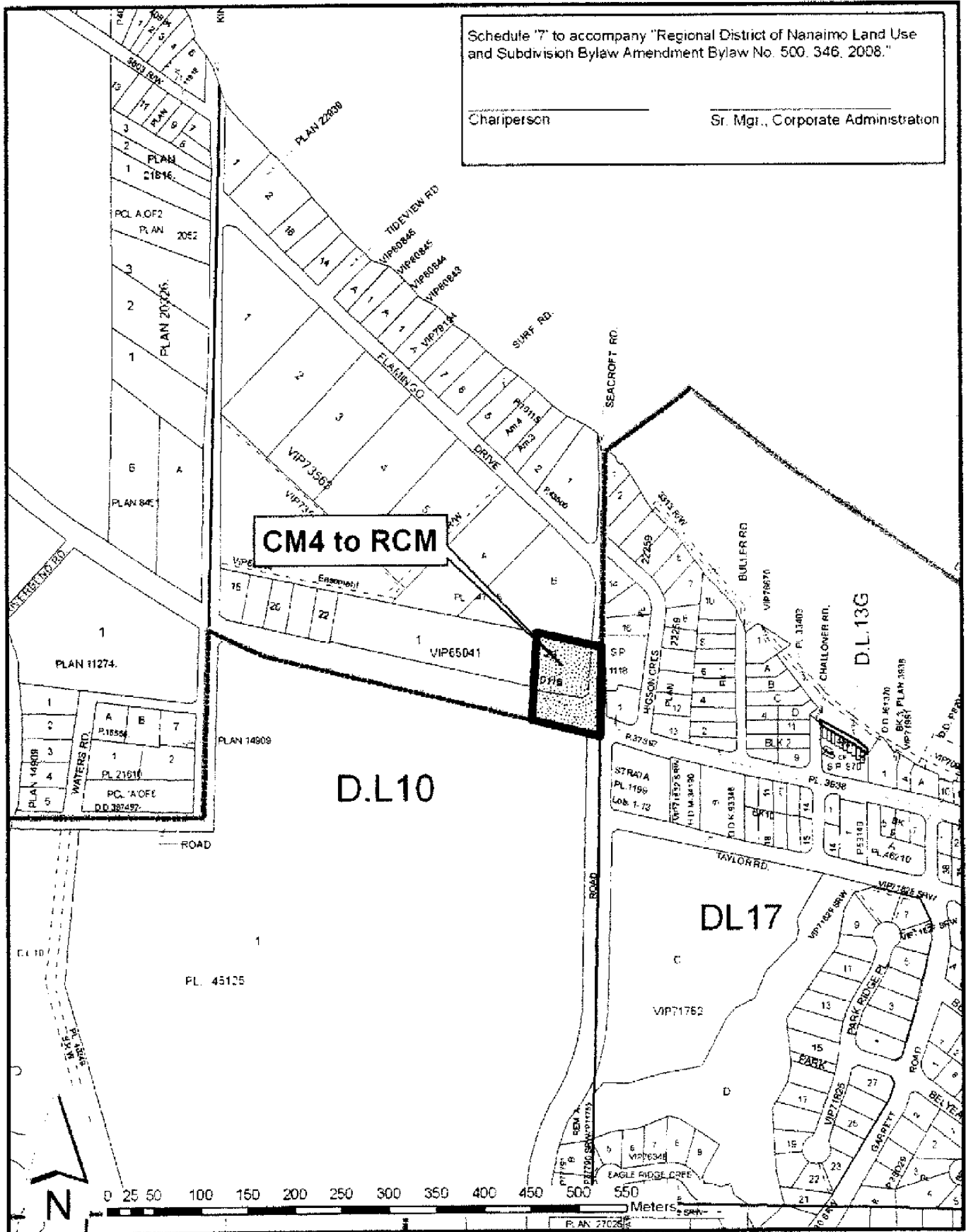
	8.0 metres above the 200 year designated flood level.
Maximum Parcel coverage	10 %
3.4.139.3 Minimum Setback Requirements	
For all buildings and structures:	
Front Lot line	8.0 metres
All other lot lines	5.0 metres
Lot lines adjacent to the Englishman River	The regulations of Section 3.3.8 apply
3.4.139.4 Minimum Parcel Size	
2.0 hectares	
3.4.139.5 Other Regulations	
For the purpose of this zone:	
a) In this zone Campground Use means the use of a parcel for providing temporary accommodation for travelers who stay no more than 60 days in a calendar year using tents or recreational vehicles, but specifically excludes a mobile home park or hotel. The following uses shall be permitted in conjunction with and accessory to a campground use: retail sales up to a maximum of 100 m ² of floor area, public assembly, non-motorized recreational vehicle rentals, concession stand, and recreational use.	
b) Non-Motorized Recreational Vehicle Rentals means the use of land, and or a building or structure not exceeding a maximum floor area of 100 m ² for the purpose of renting non-motorized recreational vehicles and equipment and may include accessory guiding and lessons.	
c) Concession Stand means the use of a building or structure not exceeding 15 m ² in floor area not including outdoor eating and sitting areas for the sale of food and beverages to be consumed on the subject property, but specifically excludes neighbourhood pub and fast food outlet.	
d) Recreational Use means the use of land for the conduct of outdoor sports and outdoor leisure activities which may include accessory buildings and structures in association with a recreational use.	
e) Intensive Agricultural Uses including feed lot, fur farm, mushroom farm, horse boarding stable, and intensive swine operation are not permitted in this zone.	
f) All Recreational Vehicles shall be licensed for use on public roads, have wheels, have no structural skirting, and have no associated decks, patios, additions, or other structural improvements.	
g) The 200 year designated flood level shall be determined by interpretation of the "Province of British Columbia, Ministry of Environment – Water Management Branch Floodplain Mapping - Englishman River, drawing number 83-23-1,1980" and may be groundtruthed by a registered hydrologist or geotechnical engineer qualified to determine site specific flood construction levels to determine building-site specific flood construction levels.	

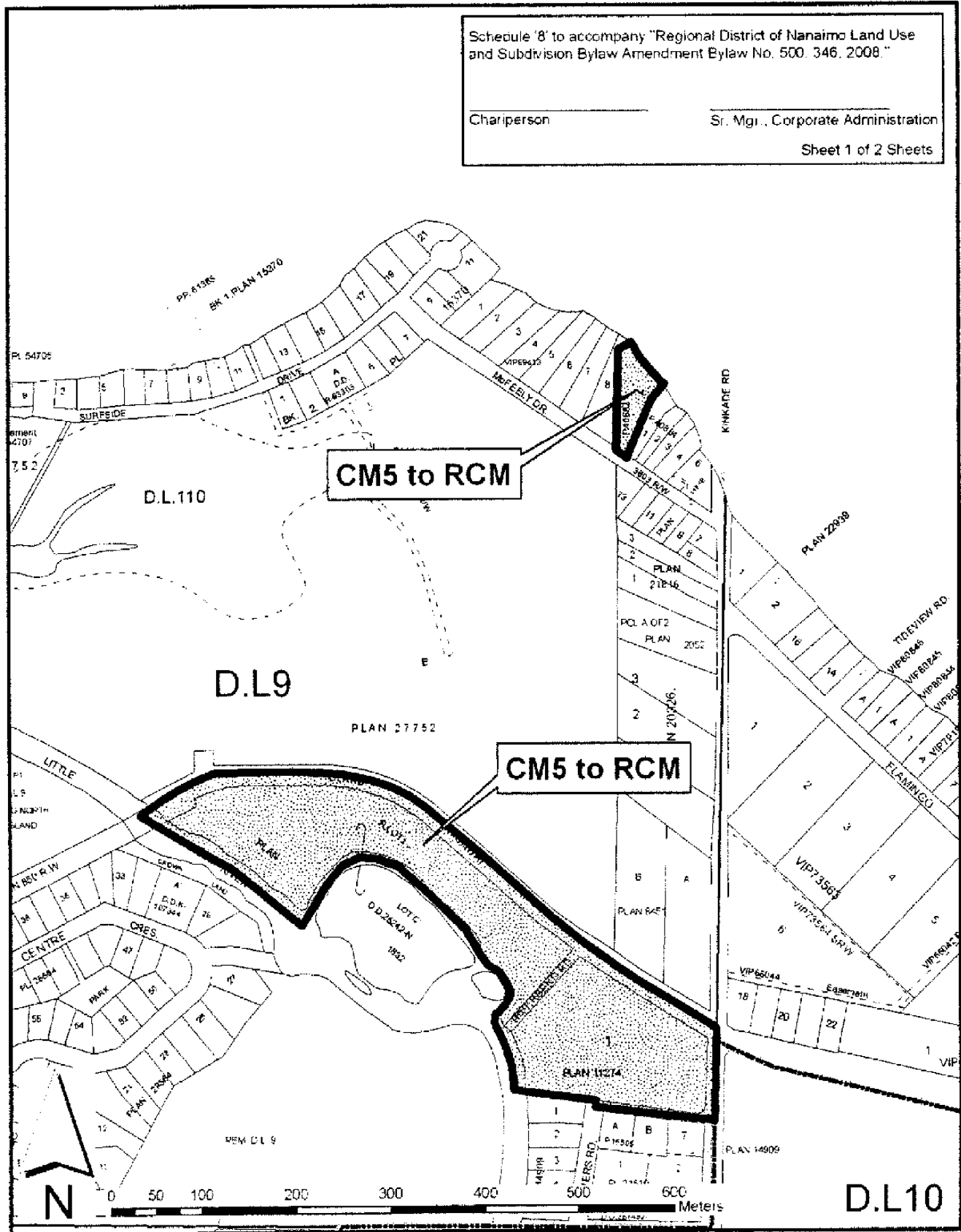










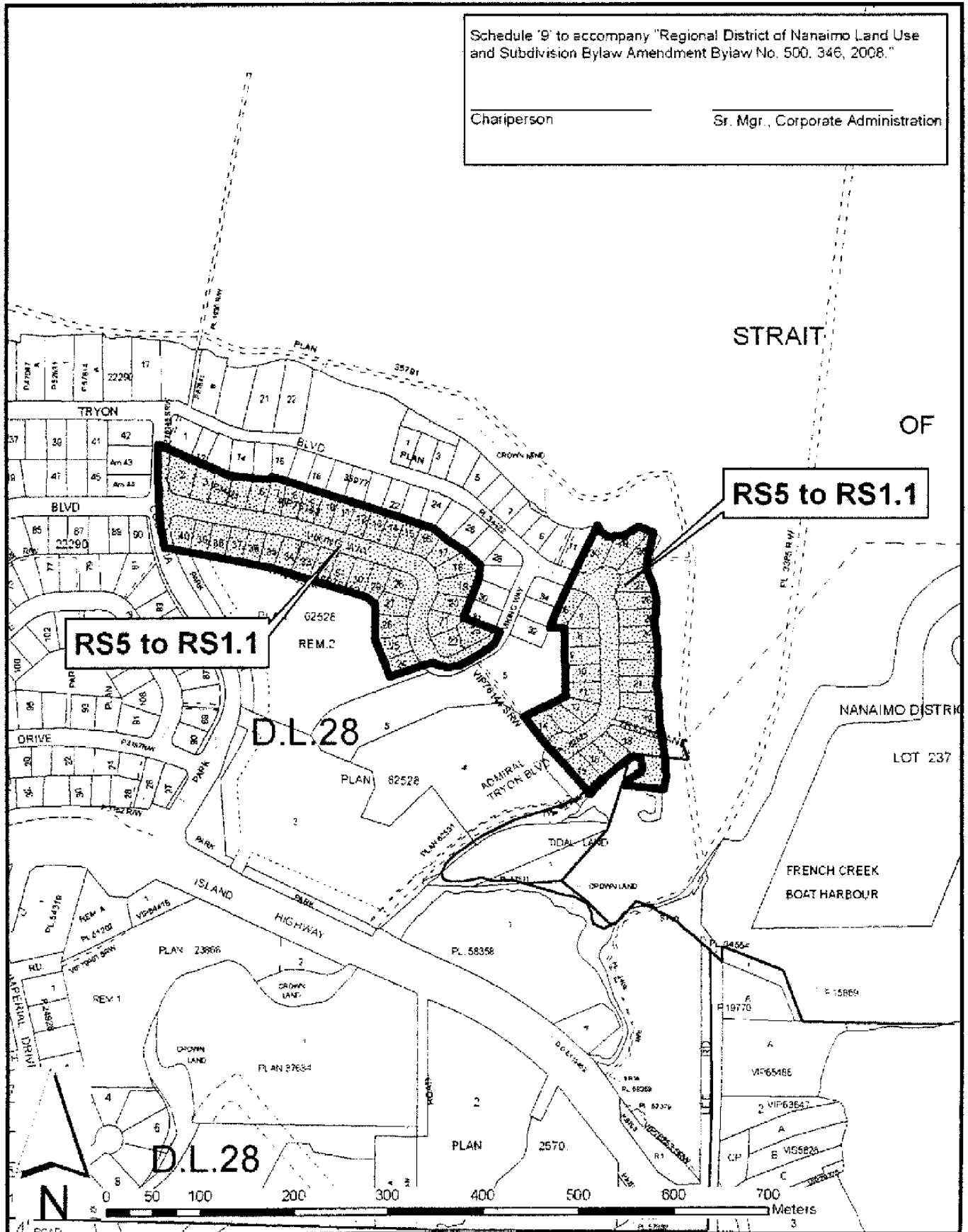


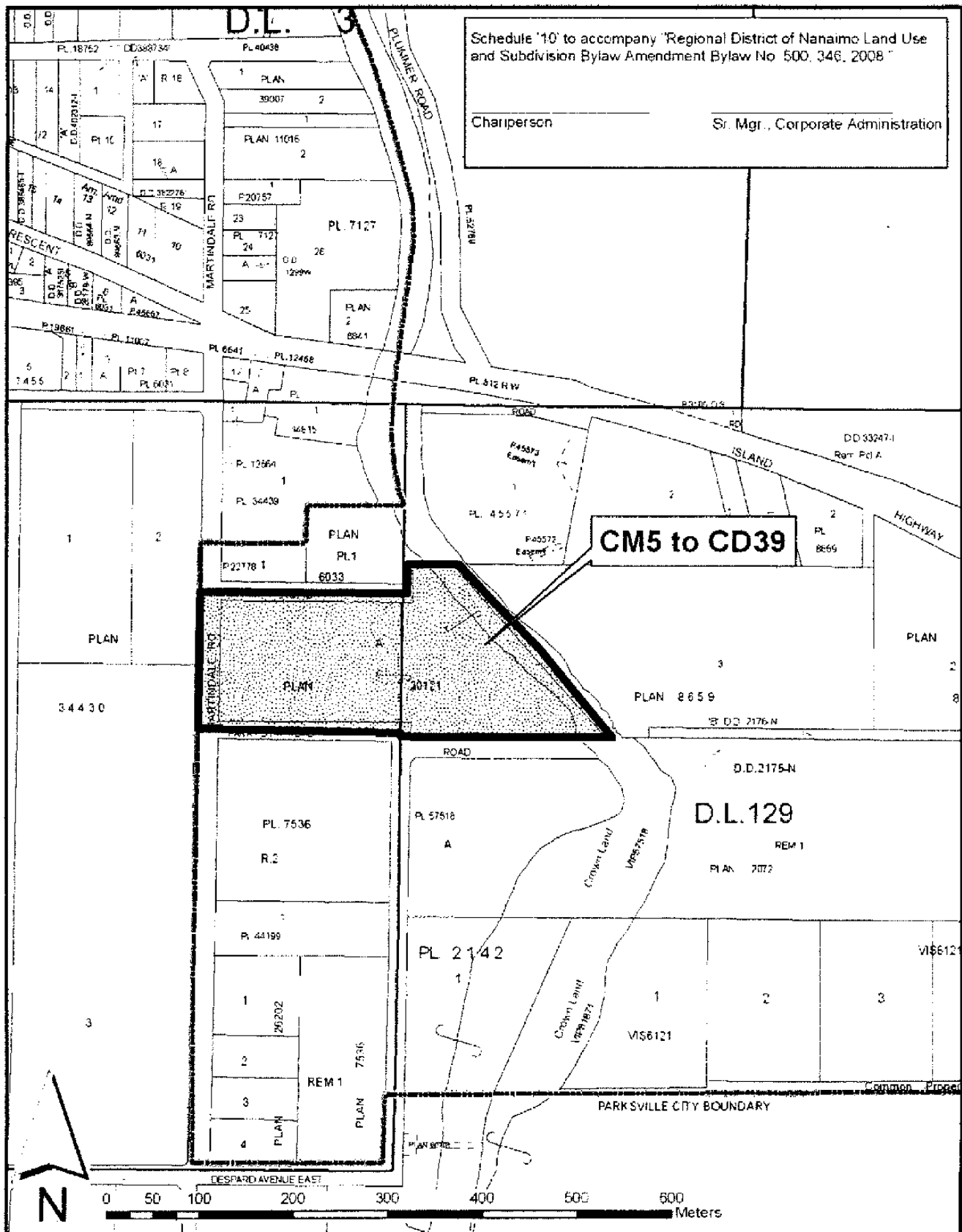


Schedule '9' to accompany "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500. 346, 2008."

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Sr. Mgr., Corporate Administration



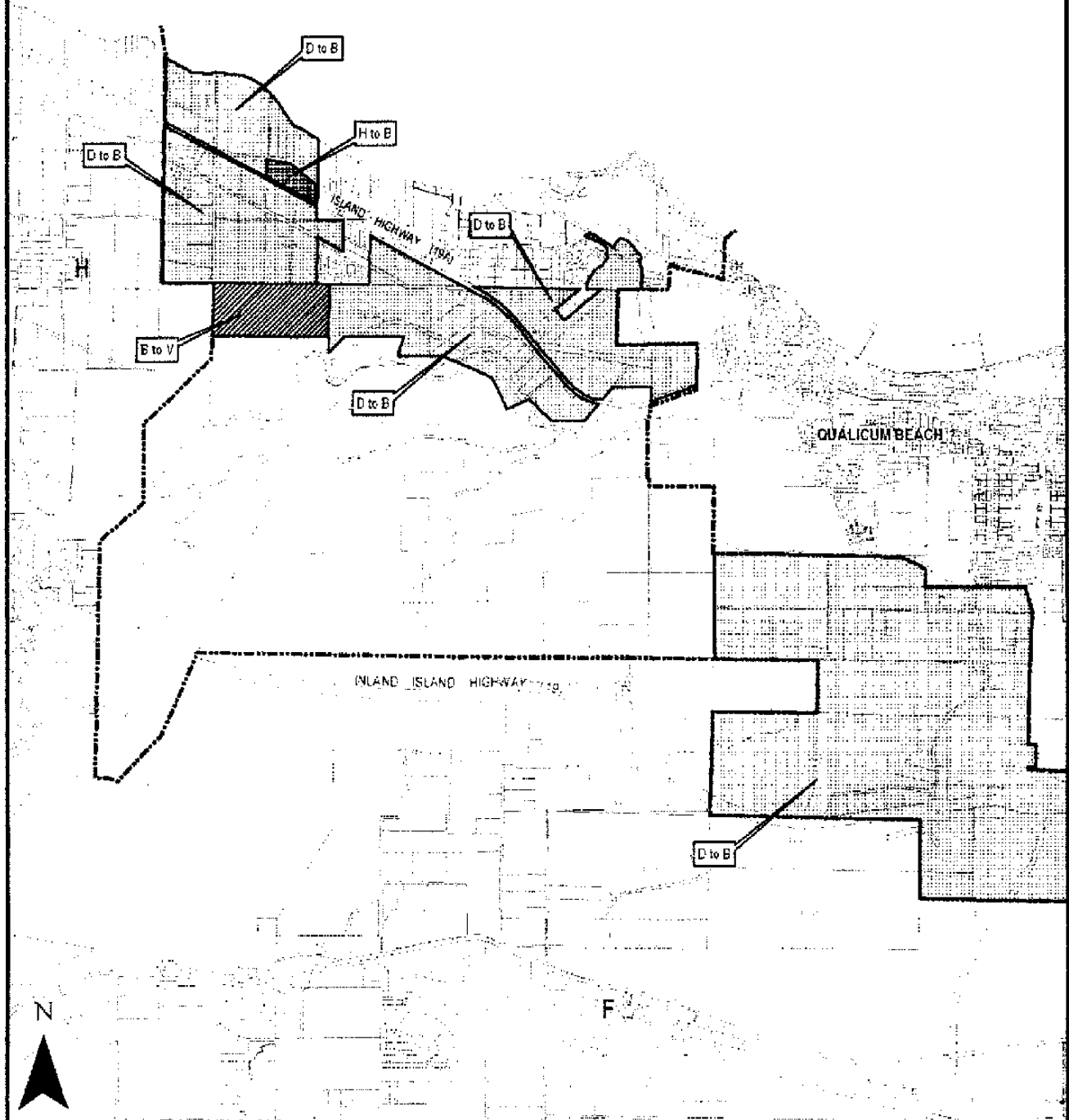


Schedule '11' to accompany "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500. 346, 2008."

Chairperson _____

Sr. Mgr., Corporate Administration _____

Sheet 1 of 3 Sheets

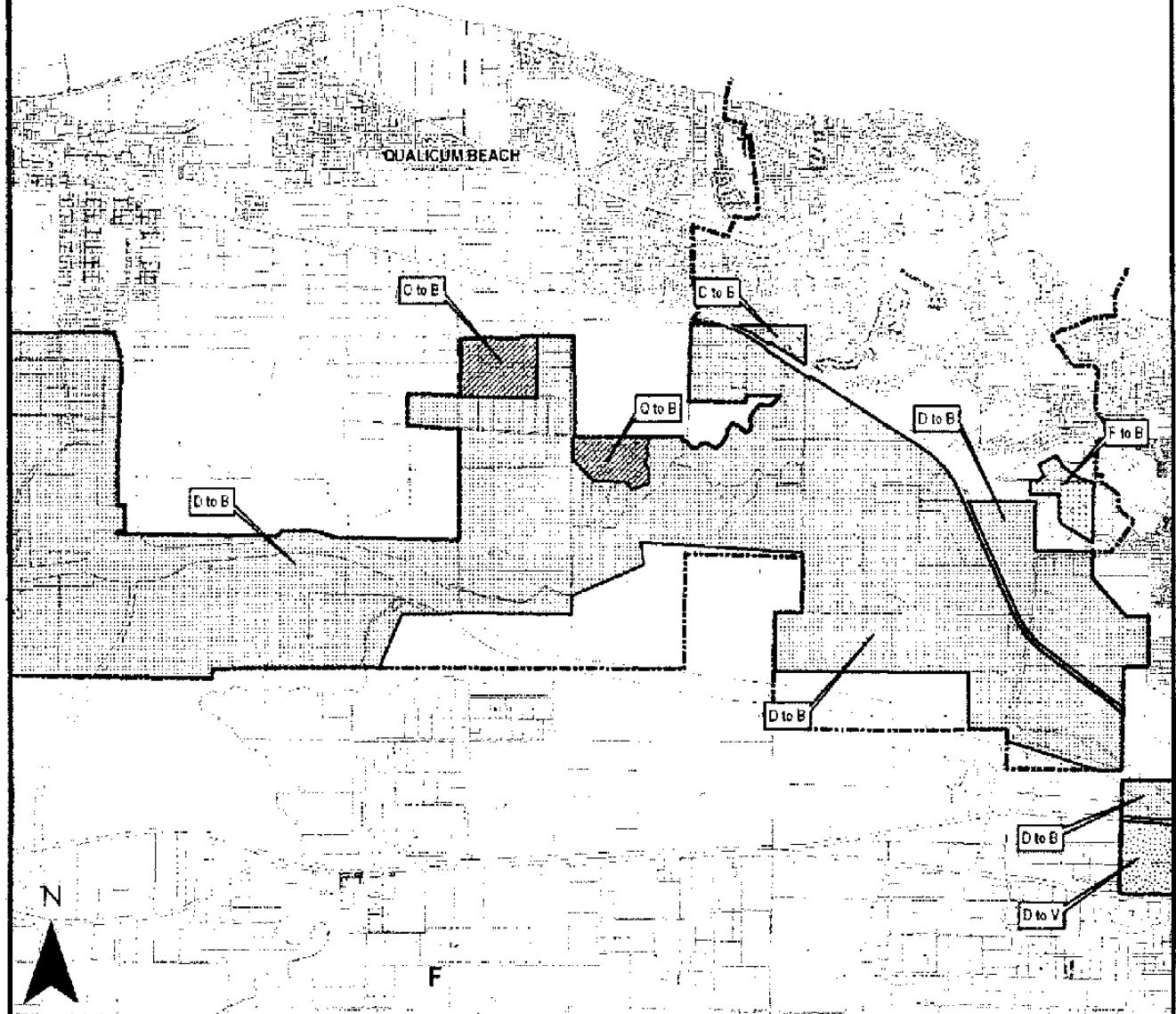


Schedule '11' to accompany "Regional District of Nanaimo Land Use
and Subdivision Bylaw Amendment Bylaw No. 500. 346, 2008."

Chairperson

Sr. Mgr., Corporate Administration

Sheet 2 of 3 Sheets

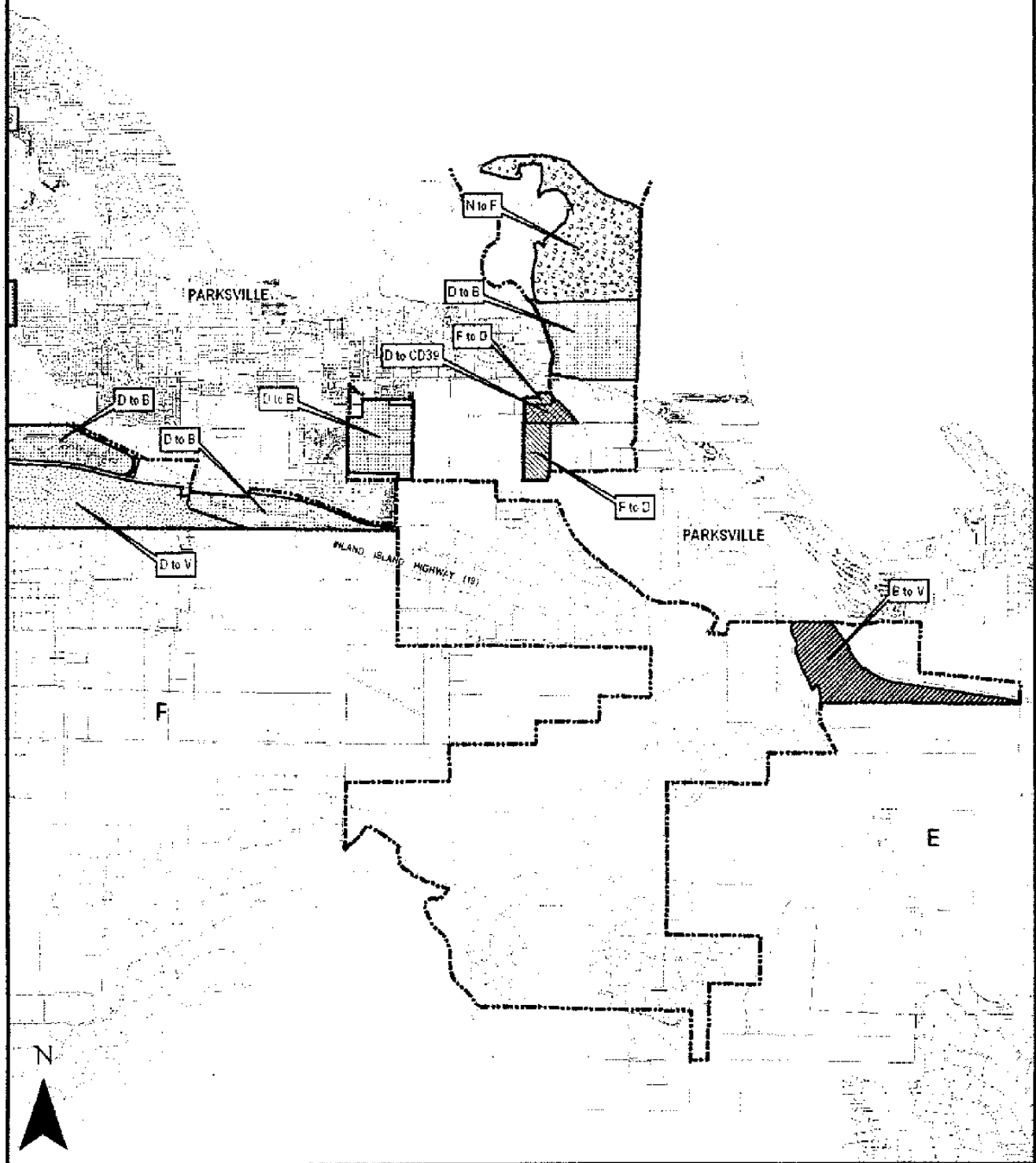


Schedule '11' to accompany "Regional District of Nahalmo Land Use and Subdivision Bylaw Amendment Bylaw No. 500. 346, 2008."

Chairperson

Sr. Mgr., Corporate Administration

Sheet 3 of 3 Sheets





DEVELOPMENT PERMIT	
CAO APPROVAL	<i>[Signature]</i>
EAP	<i>[Signature]</i>
CCW	
MAY 30 2008	
RHD	
BOARD	

MEMORANDUM

TO: Geoff Garbutt
Manager, Current Planning

DATE: May 26, 2008

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 60820
c/r SD27760

SUBJECT: Development Permit Application No. 60820 & Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement
Applicant: Fern Road Consulting Ltd. on behalf of James Deas
Electoral Area 'H', Leon Road

PURPOSE

To consider a Development Permit application and a request for relaxation of the minimum 10% perimeter frontage requirement for one of the proposed parcels in conjunction with a lot line adjustment subdivision application on properties located in the Dunsmuir Village area of Electoral Area 'H'.

This is a lot line adjustment subdivision application involving a Development Permit and a request to relax the minimum perimeter frontage requirement for one of the two proposed parcels for the properties legally described as Lots C and D Both of District Lot 19 Newcastle District Plan VIP77157 and located adjacent to Leon Road in the Dunsmuir Village area of Electoral Area 'H' (*see Attachment No.1 for location of subject properties*).

The subject properties are currently zoned Residential 2 (RS2) and are within Subdivision District 'M' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing a lot line adjustment between the parent parcels (*see Schedule No. 2 for proposed subdivision*). The parcels are proposed to be greater than 2000 m² in size, which meets the minimum parcel size requirement. It is noted that the original subdivision was approved under the parcel averaging provision set out Bylaw No. 500, 1987. At that time, the provisions of the bylaw were met as up to 50% of the proposed parcels were parcel averaged and no parcel was greater than twice the minimum parcel size requirement.

Surrounding land uses include a residential zoned parcel to the north, a rural zoned parcel in the ALR to the east, Leon Road and residential zoned parcels to the south, and a residential zoned parcel to the west.

The parent parcels are designated within the following Development Permits Areas pursuant to the Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003:

- The Environmentally Sensitive Features Development Permit Area in this case for the protection of the aquifer;
- The Fish Habitat Protection Development Permit Area (DPA) for the purposes of protecting riparian areas for the protection of fish habitat. In this case, as there are no streams within the parent parcels or within 30 metres of the parent parcels, the exemption requirements of the DPA will be able to be met; and

- The Village Centres Development Permit Area (Dunsmuir) (DPA), in this case for the protection of the adjacent Agricultural Land Reserve lands. This application will meet the exemption provisions of the DPA. It is noted that there is currently a 15 metre wide 'no building/vegetation retention section 219 covenant registered on title of proposed Lot 2 to provide a buffer to the adjacent ALR lands.

As the applicant is proposing to subdivide the land, a Development Permit concerning the Environmentally Sensitive Features Development Permit Area is required.

Minimum 10% Perimeter Frontage Requirement

The proposed remainder of Lot 2, as shown on the submitted plan of subdivision, does not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage is as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
Lot 2	35.6 m	11.5 m	3.2 %

Therefore, as this proposed parcel does not meet the minimum 10% parcel frontage requirement pursuant to section 944 of the *Local Government Act*, approval of the Regional District Board of Directors is required.

As part of the Development Permit Application, the applicant's agent submitted a Hydrogeological Assessment prepared by EBA Engineering Ltd. and dated April 3, 2008.

The parent parcels are not within a RDN Building Services area. The parcels are proposed to be serviced by individual private septic disposal systems and community water service connections.

In addition, the applicant provided a completed Sustainability Checklist as per Board policy and there are no implications related to this application.

ALTERNATIVES

1. To approve Development Permit Application No. 60820, as submitted, subject to the conditions outlined in Schedules No. 1 and 2 of the staff report and approve the request to relax the minimum 10% perimeter frontage requirement for proposed Lot 2.
2. To deny the Development Permit as submitted and provide staff with further direction and deny the request to relax the minimum 10% perimeter frontage requirement.

DEVELOPMENT IMPLICATIONS

Development Permit / Environmental Implications

With respect to the Development Permit guidelines for protection of the aquifer, the submitted Hydrogeological Assessment concludes that the proposed subdivision will represent a low risk of potential environmental impairment to the underlying groundwater aquifer. The report includes a recommendation that no underground storage tanks for heating oil be permitted. Therefore, to ensure protection of the aquifer, it is recommended that the Development Permit conditions of approval include this recommendation (*see Schedule No. 1 for Conditions of Approval*).

Lot Configuration Implications

Proposed Lot 2 is bordered on the east by lands currently located within the Provincial Agricultural Land Reserve. In keeping with the guidelines of the Land Reserve Commission **not** to extend roads into the ALR as well as the requirements of the *Land Title Act* to limit roads being extended into ALR lands, Leon Road was constructed as a cul-de-sac with no extension to the adjacent ALR lands. This means that, due to the configuration of the cul-de-sac, meeting the minimum 10% frontage requirement is not possible for the proposed Lot 2. It is noted that at the time of the original subdivision, Lot D (one of the parent parcels) was granted relaxation of the minimum 10% perimeter frontage requirement.

Ministry of Transportation staff has indicated that they have no objection to the request for relaxation of the minimum 10% frontage requirement.

Parcel Averaging Implications

The parent parcel was originally subdivided under the parcel averaging provision as set out in Bylaw No. 500, 1987. At that time, 3 of the 8 parcels were created at less than the minimum 2000 m² parcel size with community water service connections. Under the bylaw provisions, these parcels were permitted as the overall parcel averaging for the subdivision parcel met the minimum parcel size of 2000 m². In addition, under the bylaw provisions, where a parcel is able to further subdivide, in this case 4000 m² or larger, a section 219 covenant is also required restricting no further subdivision. As there were no parcels 4000 m² or larger at the time of the original subdivision, a covenant was not required.

Under this subdivision application, the applicant is proposing one of the parcels (proposed Lot 2) be greater than 4000 m². In addition, the Hydrogeological Assessment indicates that the applicant would like to further subdivide this proposed parcel. In order that the provisions of Bylaw No. 500, 1987 will be met, a section 219 covenant is required to be registered on proposed Lot 2 restricting further subdivision. This covenant requirement is set out in *Schedule No. 1 – Conditions of Approval*.

ENVIRONMENTAL IMPLICATIONS

The Regional District of Nanaimo Environmentally Sensitive Areas Atlas indicates that there are no environmentally sensitive areas within the subject property.

VOTING

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

SUMMARY

This is a subdivision application involving a Development Permit for the protection of the aquifer and a request for relaxation of the minimum 10% frontage requirement for one of the proposed parcels in conjunction with a lot line adjustment subdivision for the property located adjacent to Leon Road in the Dunsmuir Village area of Electoral Area 'H'.

The parent parcels are designated within the Environmentally Sensitive Features Development Permit Area (DPA) pursuant to the Electoral Area 'H' OCP, in this case for the protection of the aquifer. The applicant has submitted a hydrogeological report which concludes that the proposed subdivision will represent a low risk of potential environmental impairment to the underlying groundwater aquifer and provides a recommendation that no underground storage tanks for heating oil be permitted. This requirement has been included in the Conditions of Approval (*see Schedule No. 1 for Conditions of Approval*).


With respect to the request for relaxation of the minimum 10% perimeter frontage for proposed Lot 2, a buildable site area to support intended residential uses is available to this parcel despite the narrower frontage. In addition, the Ministry of Transportation staff has indicated that they have no objection to the request for relaxation of the minimum 10% frontage requirement.

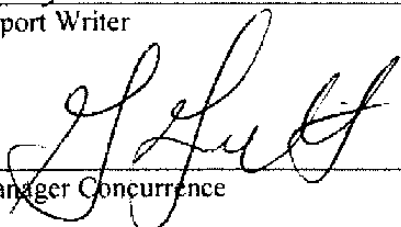
In order that the Bylaw No. 500, 1987 provisions related to parcel averaging that were permitted under the original subdivision application are met, the applicant is required to register a section 219 covenant restricting any further subdivision of proposed Lot 2 (*see Schedule No. 1 – Conditions of Approval*).

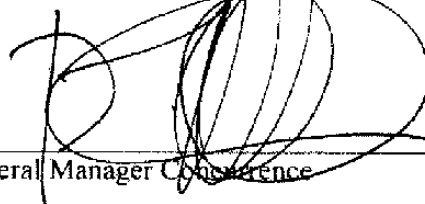
As the proposed subdivision is consistent with the applicable guidelines concerning protection of the aquifer as outlined in the Environmentally Sensitive Features Development Permit Area, that Bylaw No. 500, 1987 parcel averaging provisions will be secured, and as there is a building site area on the proposed Lot 2 for residential uses, staff recommends approval of the Development Permit and the request for relaxation of the minimum 10% frontage requirement subject to conditions outlined in *Schedules No. 1 and 2*.


RECOMMENDATIONS

1. That Development Permit Application No. 60820, submitted by Fern Road Consulting Ltd., on behalf of J Deas, in conjunction with the subdivision of the parcels legally described as Lots C and D Both of District Lot 19 Newcastle District Plan VIP77157 and designated within the Environmentally Sensitive Features Development Permit Area, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.
2. That the request for relaxation of the minimum 10% frontage requirement for the proposed Lot 2, as shown on the plan of subdivision of Lots C and D Both of District Lot 19 Newcastle District Plan VIP77157, be approved subject to the conditions set out in *Schedule No. 1* of the corresponding staff report.


Report Writer


Manager Concurrence


General Manager Concurrence


CAO Concurrence

Schedule No. 1
Development Permit Application No. 60820 / Relaxation of the Minimum 10% Perimeter Frontage
Conditions of Approval

The following sets out the conditions of approval in conjunction with Development Permit No. 60820:

1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2 (to be attached to and forming part of this Development Permit).

2. Section 219 Covenant

- a. The applicant shall prepare and register a section 219 covenant on proposed Lot 2 restricting no further subdivision of the land including a subdivision under the *Strata Property Act*.
- b. Applicant to submit draft covenant to Regional District for review prior to registration at Land Title Office. This covenant is to be reviewed and accepted by the Regional District prior to registration. Applicant's solicitor to submit legal letter undertaking to register this covenant concurrently with the Plan of Subdivision at Land Title Office, Victoria, BC.

3. Hydrological Report

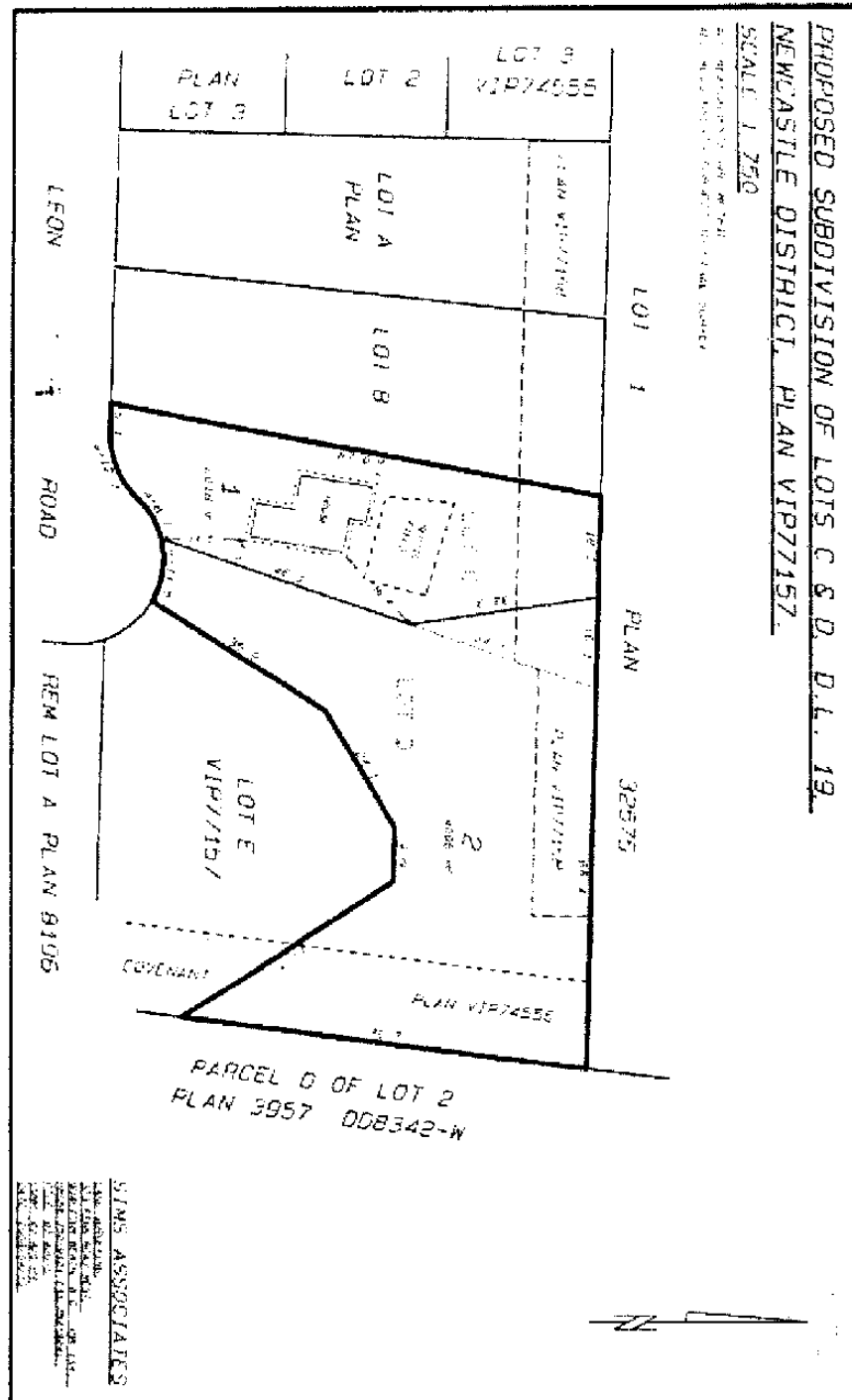
- a. The recommendations as set out in the Hydrogeological Assessment prepared by EBA Engineering Ltd. and dated April 3, 2008 (to be attached to and forming part of this Development Permit as Schedule No. 3) shall be followed. Applicants' professional engineer to provide written certification to the Regional District of Nanaimo that the recommendations as set out in this report have been completed.
- b. No underground storage tanks for heating oil shall be permitted.

4. Protection of Aquifer / Sediment and Erosion Control

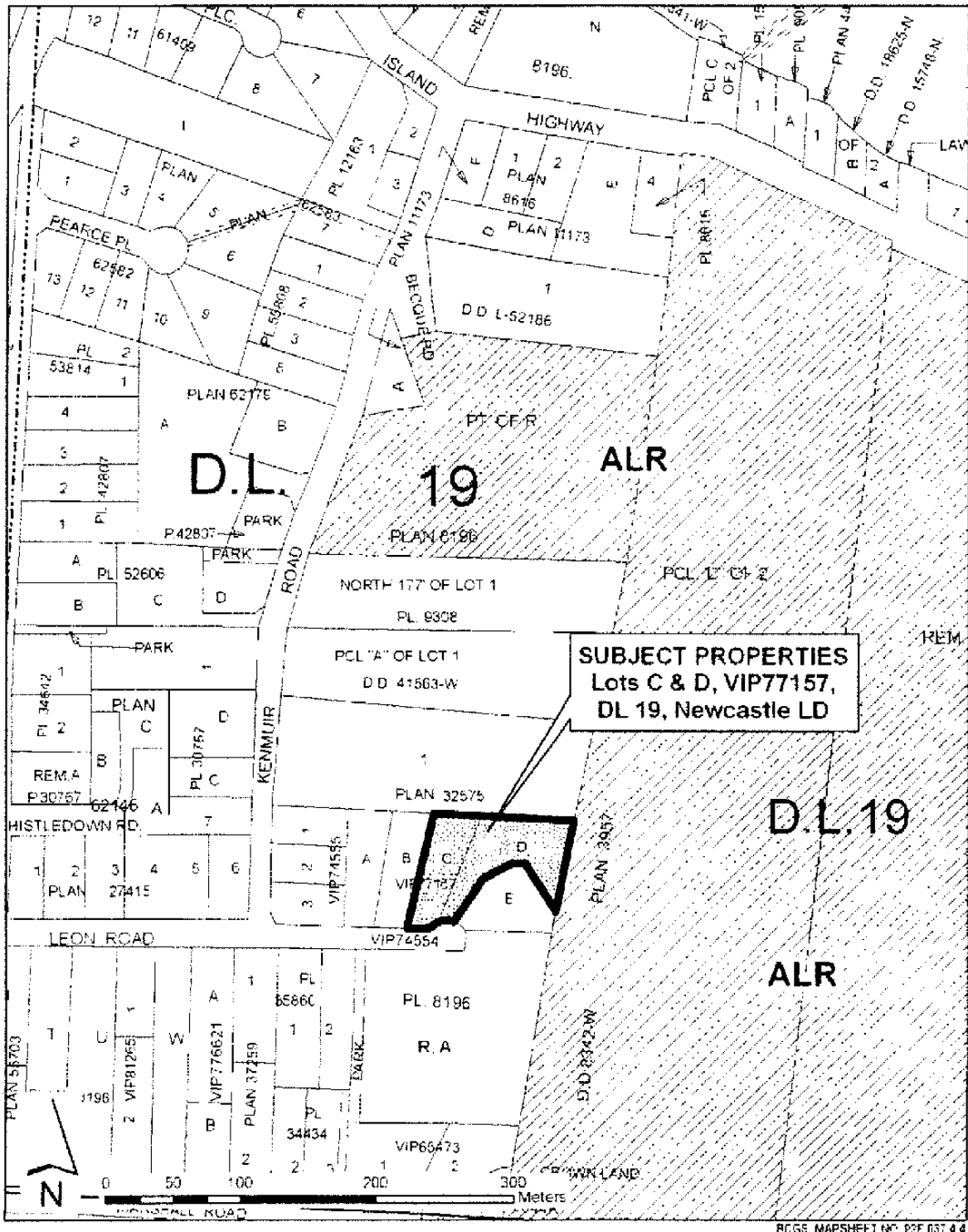
During construction, the following applies:

- a. All machines on-site must be in good working order and no fuels, lubricants or construction wastes are permitted to enter the environment.
- b. A spill kit shall be on-site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.
- c. As required, sediment and erosion control measures, must be utilized to control sediment during construction and to stabilize the site after construction is complete. These measures must include:
 - i. Tarps, sandbags, poly plastic sheeting and/or filter fabric are required to be on-site during works.
 - ii. Cover temporary fills or soil stock piles with polyethylene or tarps.
 - iii. Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened in advance of seeding.

**Development Permit Application No. 60820 / Relaxation of the Minimum 10% Perimeter Frontage
Proposed Plan of Subdivision**



Attachment No. 1
Location of Subject Properties





RDN REPORT	
CAO APPROVAL	
EAP	✓
COW	
MAY 30 2008	
RHD	
BOARD	

MEMORANDUM

TO: Geoff Garbutt
Manager, Community Planning

DATE: May 26, 2008

FROM: Elaine Leung
Planner

FILE: 3090 30 90809

SUBJECT: Development Variance Permit Application No. 90809 – Lylyk
Lot 12, District Lot 85, Newcastle District, Plan 23173
Electoral Area 'H', RDN Map Ref. No. – 92F.047.2.1

PURPOSE

To consider an application for a Development Variance Permit for the construction of a single family dwelling approximately 222.9 m² in size, located at 3980 Bovanis Road.

BACKGROUND

The subject property is legally described as Lot 12, District Lot 85, Newcastle District, Plan 23173 in Electoral Area 'H' (*See attached subject property map*). The parcel is approximately 0.11 hectares in area and is zoned Residential 2 (RS2), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The subject property lies within the Fish Habitat Protection Development Permit Area (DPA), Aquifer Development Permit Area (DPA) and the Highway Corridors Development Permit Area (DPA). There are no streams on or within 30 metres of the subject property, and is therefore exempt from the requirements of the Fish Habitat DPA. Construction of a single family dwelling is exempt from the Aquifer DPA. With respect to the Highway Corridors DPA, the applicants have obtained a permit from the Ministry of Transportation to reduce building setback (less than 4.5 metres from property line fronting a highway).

The applicant has completed the "Sustainable Community Builder Checklist", as per Board policy. There are no sustainability implications related to this application. This application represents infill development by utilizing an existing residential lot within a coastal residential neighbourhood.

Requested Variances

The applicants have applied to vary Section 3.4.62 – Minimum Setback Requirements of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

1. The maximum height is requested to be increased from 8.0 metres to 9.2 metres as shown on the survey submitted by the applicant.
2. The exterior side lot line setback is requested to be relaxed from 5.0 metres to 2.7 metres as shown on the survey submitted by the applicant.
3. The front lot line setback is requested to be varied from 8.0 metres to 5.0 metres as shown on the survey submitted by the applicant.

ALTERNATIVES

1. To approve Development Variance Permit No. 90809 to permit the construction of a single family dwelling as submitted.
2. To deny the request for a Development Variance Permit.

BOARD POLICY B1.5

Regional District of Nanaimo Development Permit Application Policy B1.5 Evaluation provides staff with guidelines for reviewing and evaluating development variance permit applications. The policy requires that the potential impacts of the variance are warranted by the need for the variance.

The applicants have submitted a report prepared by Ground Control Geotechnical Engineering Ltd. (see Schedule No. 5) in support of the application. Due to the proximity of the subject property to the embankment slope of the Island Highway to the south, and the ocean to the north, they recommend that the minimum floor elevation be 1.5 metres above the natural boundary of the Strait of Georgia. In addition, the applicants have submitted a septic assessment prepared by Jim Anderson (see Schedule No. 4). He notes that due to the environmental constraints, the available area required for the disposal area, located to south, would result in a limited area for the proposed dwelling.

LAND USE AND DEVELOPMENT IMPLICATIONS

The location of the proposed dwelling and requested setback variances are outlined on the survey prepared by Sims Associates attached as *Schedule No. 2*. Building elevations for the proposed dwelling are outlined on *Schedule No. 3*.

The applicants have provided building plans showing the height of the proposed dwelling to be 7.7 metres at the highest ridge, which complies with the RS2 Zone pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." However, in order to comply with flood plain channel hazard elevations, Ground Control has recommended an additional to the 1.5 metres above the natural boundary of the Strait of Georgia. The resulting height of the dwelling will be 9.2 metres. Consequently, as outlined above, the applicants request to increase the maximum height from 8 metres to 9.2 metres.

Due to the placement of an on site sewage system, a limited available building envelope exists for the proposed dwelling. As a result, to accommodate both a sewage field and dwelling in addition to the environmental constraints, the applicants are requesting to vary the front yard setback from 8 metres to 5 metres, and the exterior yard setback (fronting Noonday Road) from 5 metres to 2.7 metres.

Staff feel that the proposed development will not adversely affect the road allowance on Bovanis Road, should any future expansion be required.

Public Consultation Process

As part of the required public notification process, pursuant to the *Local Government Act*, property owners and tenants located within a 50 metre radius will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance, prior to the Board's consideration of the application.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to vary maximum height, front lot line setback and exterior side lot line setbacks in order to construct a single family dwelling. The proposed variances, if approved, would vary Section 3.4.62 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," (Minimum Setback Requirements) as shown on attached Schedule No. 1.

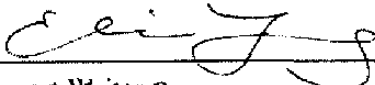
Given the slope of the land, in addition to accommodating a septic field, a limited building envelope exists located to the north side of the property. As a result, the applicants are proposing to construct a dwelling closer to the front yard lot line and exterior side yard, than typically required. The applicants have been granted permission from the Ministry of Transportation to construct closer to the highway than typically permitted.

The applicants' initial proposed building meets maximum building height requirements. However, due to flood level concerns, an additional 1.5 metres above the flood plain channel hazard as suggested by the prepared geotechnical report, results in the applicants' proposed dwelling to be 1.2 metres over the maximum height permitted.

Staff recommend that the requested Development Variance Permit be approved subject to the terms outlined in Schedules No. 1 - 5 of the report, and subject to notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

That Development Variance Permit Application No. 90809 to construct a single family dwelling located at Lot 12, District Lot 85, Newcastle District, Plan 23173 be approved subject to the conditions outlined in Schedules No. 1 - 5 and notification requirements of the *Local Government Act*.



Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

Schedule No. 1
Terms of Development Permit No. 90809

Variances

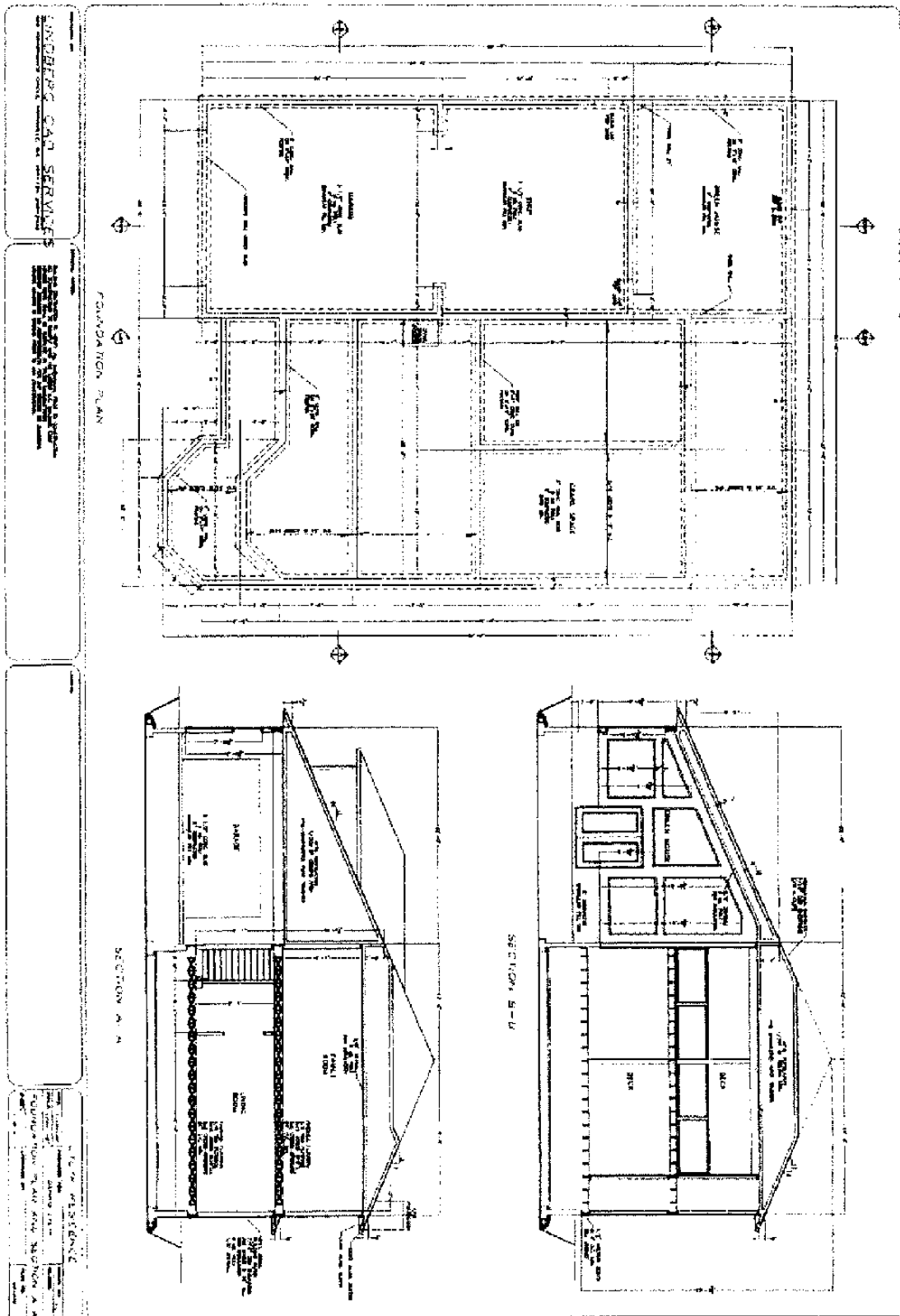
Development Variance Permit No. 90809 varies **Section 3.4.62 – Minimum Setback Requirements of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,"** as follows:

1. The front line setback is requested to be varied from 8.0 metres to 5.0 metres for the proposed single family dwelling as shown on the survey submitted by the applicant and attached as Schedule No. 2.
2. The exterior side lot line setback is requested to be varied from 5.0 metres to 2.7 metres for the proposed single family dwelling as shown on the survey submitted by the applicant and attached as Schedule No. 2.
3. The maximum height is requested to be varied from 8.0 metres to 9.2 metres for the proposed single family dwelling as shown on the survey submitted by the applicant.

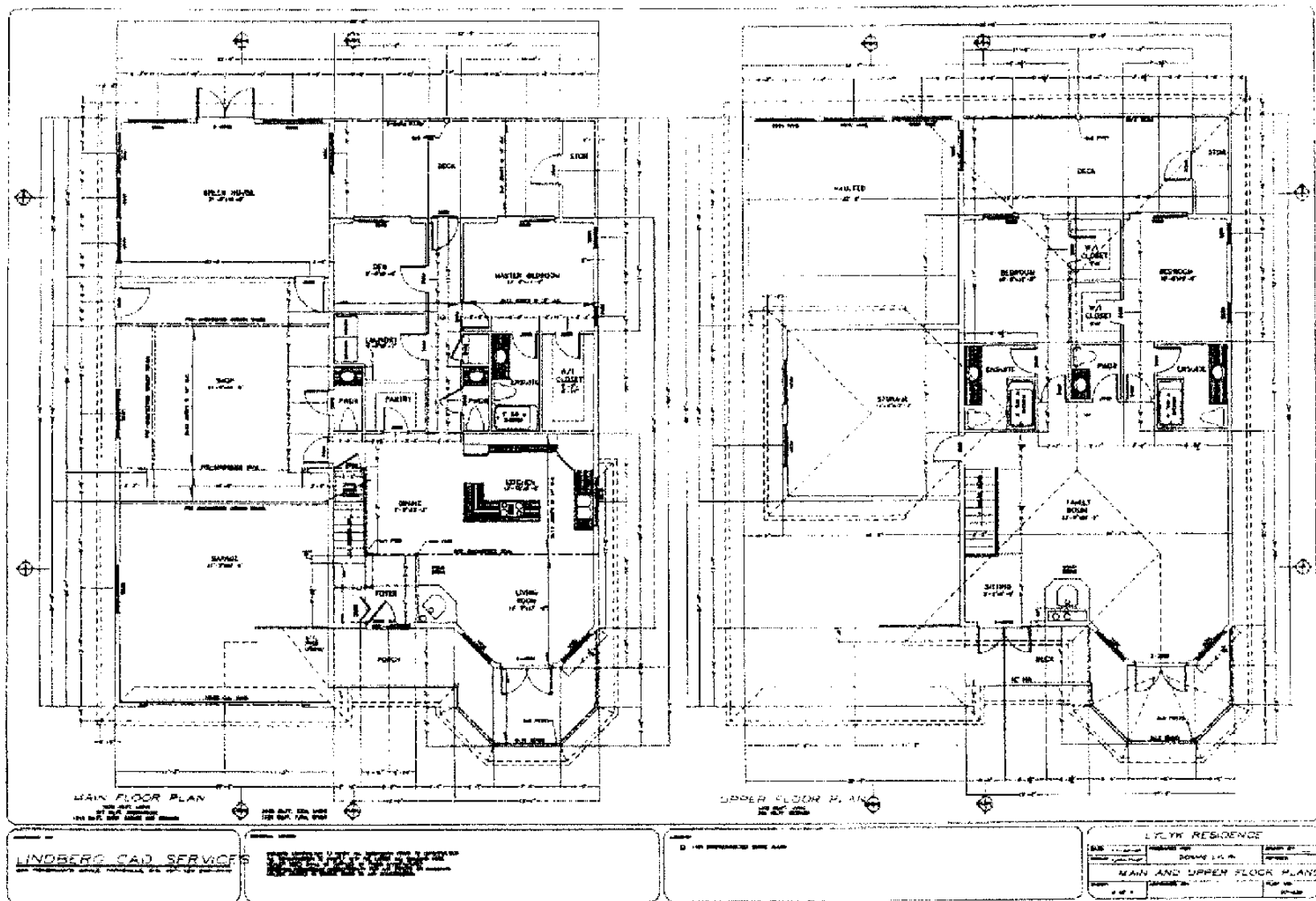
Schedule No. 3
Building Elevations

 <p>RECEIVED</p>			
FRONT ELEVATION		RIGHT ELEVATION	
			
REAR ELEVATION		LEFT ELEVATION	
<p>LINDBERG CAD SERVICES</p> <p>1000 10th Ave S, Suite 100 Minneapolis, MN 55415 Phone: 612-338-1111 Fax: 612-338-1112 Email: info@lindbergcad.com</p>		<p>LYLYK RESIDENCE</p> <p>1000 10th Ave S, Suite 100 Minneapolis, MN 55415 Phone: 612-338-1111 Fax: 612-338-1112 Email: info@lindbergcad.com</p>	

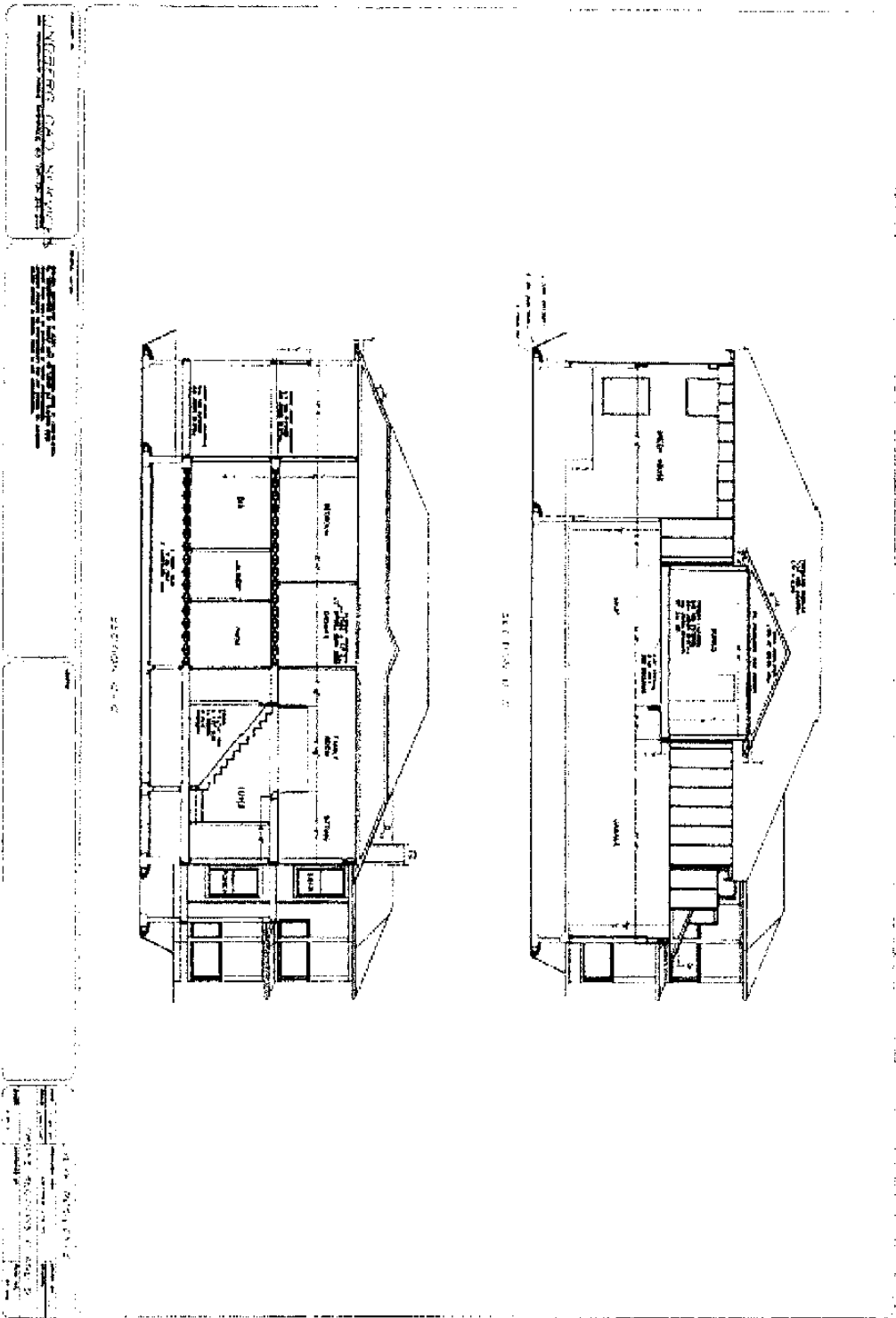
Building Elevations
 2 of 4




3 of 4



Building Elevations
4 of 4



Schedule No. 5 Geotechnical Assessment

GROUND CONTROL 
GEOTECHNICAL ENGINEERING LTD.
2761 Fern Road, Markham, Ont. L3R 9V7
Phone: (905) 468-1756

File: DEL-G01
February 15, 2008

Mr. Dennis Lylyk
20 Gundy Lake Bay
Winnipeg, B.C.
R3T 5T3

SUBJECT: GEOTECHNICAL HAZARDS ASSESSMENT
PROJECT: NEW HOUSE
LOCATION: 3980 BOVANIS ROAD, BOWSER, BC
LEGAL: LOT 12, DL 85, NEWCASTLE DISTRICT, PLAN 23173

Dear Mr. Lylyk:

1. Introduction

- a. As requested, Ground Control Geotechnical Engineering Ltd. (Ground Control) has carried out a geotechnical hazards assessment of the above site. This report provides a summary of our findings and recommendations.
- c. Authorization to undertake this assessment was given by Ms. Helen Sims of Fern Road Consulting Ltd. acting on your behalf.

2. Background

- a. Based on a Sims Associates survey plan provided for our use by Fern Road Consulting (copy attached), the existing lot will be developed with a single residential house. We understand that the proposed building will be a typical low-rise single-family residential buildings of wood frame construction supported on a concrete foundation.
- c. As part of the Development Permit process, a geotechnical hazards assessment has been requested for the site. Although the site is not located within a Hazardous Lands Development Permit area, an assessment was considered prudent due to the proximity of the embankment slope of the Island Highway to the south, and due to the proximity of the ocean to the north.

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Geotechnical Hazards Assessment
File: DFE1-001
February 15, 2008
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3. Assessment Objectives

- a. Our assessment, as summarized within this report, is intended to meet the following objectives:
 - i. Determine whether the land is geotechnically safe and suitable for the intended purpose (residential house as described above), where "safe" is defined as a probability of a geotechnical failure or another substantial geotechnical hazard resulting in property damage of less than 10 percent in 50 years;
 - ii. Identify any geotechnical deficiency that might impact the design and construction of the development, and prescribe the geotechnical works and any changes in the standards of the design and construction of the development that are required to ensure the land, buildings, and Works and Services are developed and maintained safely for the use intended; and
 - iii. Acknowledge that Approving Officers may rely on this Report when making a decision on applications for the subdivision or development of the land.

4. Assessment Methodology

- a. Aerial photographs for the site (2003) were reviewed to assess visible land features.
- b. A site reconnaissance was carried out on February 1, 2006 to observe site conditions and identify apparent geotechnical hazards on and around the lot. Shallow excavations were made on the Island Highway (Hwy 15A) embankment slope and within the level areas of the lot to determine typical soil conditions.

GROUND CONDITION
GEOLOGICAL ENGINEERING

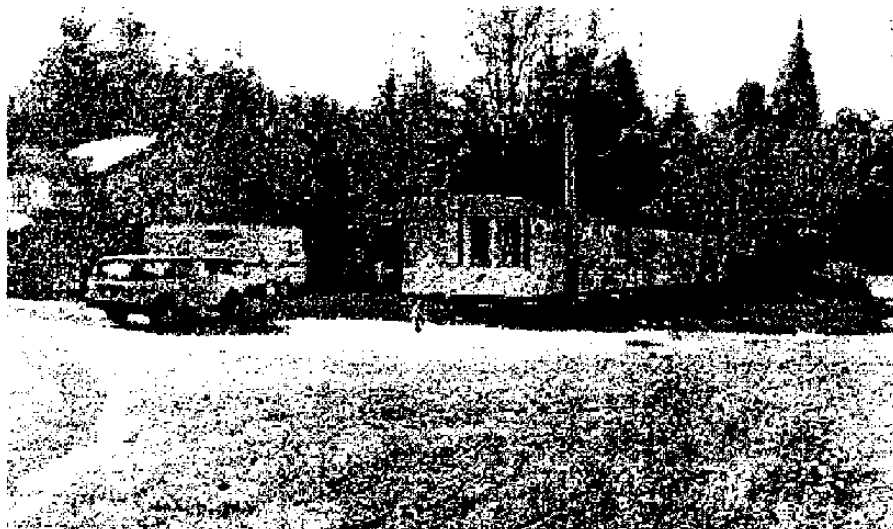
Geotechnical Assessment Page 3 of 11

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5. Site Conditions

5.1. General

- a. The existing lot is located south of Bovaris Road, north of the Island Highway, and east of Noonday Road in an area of existing residential homes. The attached plan by Sims Associates shows the lot boundaries, the proposed house location, and other features.
- b. The picture below provides an overview of the site, looking in a southeast to south direction. The intersection of Bovaris Road and Noonday Road is in the foreground, the property (with older mobile home and a travel trailer) is in the centre, and the highway embankment is visible rising in the background.



- c. As shown, the majority of the site is relatively flat with a grass cover.

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- d. At the rear of the lot a small terrace about 6m wide and about 2m above the rest of the site is occupied by an old shed and a covered trailer parking area, as shown in the photo below.



- e. The Island Highway embankment is located at the south end of the property and the toe of the embankment extends into the property by about five metres. The slope, shown in the photo below, is about nine metres high with a gradient of about 1 Horizontal:1 Vertical (i.e. 45 degrees).



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February 15, 2008
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- f. No significant soil slumps, cracks, or exposures that might indicate recent movements or instability of slope soils were observed.
- g. The slope is well vegetated with blackberries, ferns, sals etc. There are few mature trees on the slope behind the property, but mature trees are present on the slope in nearby areas to the east and west.
- h. The site is located about 85 metres south of the natural boundary of the Strait of Georgia. The photograph below looks north from the site towards the ocean.



5.2. Soil Conditions

- a. A shallow excavation within the centre of the lot encountered a layer of black topsoil mixed with rotted wood debris to a depth of 0.45m. Below this upper layer, natural deposits of compact, brown, damp, poorly-graded sand with gravel were encountered. These underlying soils appear to be pre-historic beach deposits and are expected to extend well beyond the depth of the proposed construction.
- b. Soils within the highway embankment consisted of dense, poorly-graded sand, light grey in colour and with a damp moisture condition.

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Geotechnical Assessment

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5.3. Groundwater Conditions

- a. Groundwater seepage was not observed on the face of the highway embankment, however, some minor surface water was noted to be ponded along the toe. This water is believed to be accumulated surface runoff as the ponded area is slightly depressed and probably does not drain well. These surface waters should not affect the stability of the slope.
- b. No groundwater was encountered in the shallow excavation within the centre of the site. The pre-historic beach deposits underlying the site are relatively 'clean' and free draining, so groundwater is expected to be roughly coincident with the level of the ocean. Significant groundwater is not expected within the depth of construction of the proposed house.
- c. Groundwater levels can be expected to fluctuate seasonally with cycles of precipitation. Groundwater conditions at other times and locations can differ from those observed within the test pits at the time of our assessment.

6. Conclusions & Recommendations

6.1. General

- a. From a geotechnical perspective and under the conditions outlined within this report the proposed development is considered safe and suitable for the intended use, provided the recommendations in this report are followed. Detailed recommendations are provided below.
- b. Geotechnical hazards appear to be limited to:
 - i. Slope hazards associated with the Is and Highway embankment; and
 - ii. Flooding hazards associated with the nearby ocean.
- c. Safe development of the site will require maintaining a suitable separation of the proposed developments from these hazards.

URS
6150 DEER CREEK AVENUE, SUITE 100
DENVER, CO 80231
TEL: 303.751.1000
WWW.URS.COM

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6.2 Slopes

- a. The existing highway embankment appears to be stable, with no indications of past slumps or failures. Nevertheless, there may be a potential for future slope failure under unusual or extreme conditions such as a large earthquake.
- b. Landslide debris from such a slope failure could impact areas of the subject site located below. The potential area of impact from a landslide will be confined to areas immediately adjacent to the slope, as the slope soils are dense sands that should not be prone to deep failures, liquefaction or debris flows.
- c. For safety, we recommend that no occupied or high-value buildings be located within a ten-metre (10m) horizontal distance beyond the toe of the existing highway embankment. Current plans indicate that the proposed house will be located about 15m away from the highway embankment, which meets this requirement.
- d. The prescribed setback is considered to be conservative and it might be possible to prescribe a slightly reduced setback by carrying out a more comprehensive (i.e. expensive) field investigation and testing program; however, we understand that the current scope of work, and the setback prescribed above, are both suitable for the owner's purposes at this time.

6.3 Flooding

- a. The site is located about 85 metres back from the natural boundary of the Strait of Georgia and, as such, appears to be well protected from ocean surges and wave action. Ocean flooding and waves would have to overtop the natural boundary, travel a significant distance inland, and then overtop Boyanis Road to reach the developable portions of the site.
- b. Nevertheless, to ensure the development is safe from flooding hazards we understand that a design flood elevation has been selected below which no development will take place. The design flood level selected for the project is based on the elevation of the ocean's Natural Boundary plus an additional 1.5 metres. Minimum building floor elevations will be above this design flood elevation, to keep living areas, mechanical areas, etc. above the flood elevation.

GROUND CONTROL 
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- c. Based on our observations of the site and surrounding lands, the selected design flood elevation is safe and suitable for the proposed development.

6.4. Foundation Support Conditions

- a. The site appears to be suitable for the support of foundations for residential structures on standard spread/strip footings meeting the requirements of the BC Building Code.
- b. The surface layer of black sandy loessal and rotted wood debris (about half a metre thick) is not suitable for foundation support and will have to be removed to expose the underlying natural clean brown sand deposits below. These underlying pre-historic beach deposits typically have a relatively high bearing capacity and should can easily support residential foundation loads if maintained in their natural and undisturbed state. Any soils loosened or softened by construction activity or weather should be removed from footing areas to expose only compact unyielding soils prior to placement of concrete.
- c. The above expectations regarding foundation support conditions are based on limited observations within isolated hand-excavations. The bearing soils will be more readily observable during construction when the area is fully excavated and exposed. If any unexpected or questionable conditions (old fills, organic soils, soft soils) are encountered during excavation, a Geotechnical Engineer should be retained to provide recommendations for achieving suitable bearing conditions.

6.5. Seismic Issues

- a. No compressible or liquefiable soils have been identified at this site, nor are any expected below the investigation depth.
- b. No unusual seismic design requirements have been identified for this site.

BRAND CONSULTING
GEOTECHNICAL ENGINEERING LTD.

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6.5. Permanent Drainage

- a. No unusual groundwater conditions have been identified that might require unusual permanent drainage provisions. As such, conventional requirements of the B.C. Building Code pertaining to building drainage are considered suitable at this site.
- b. Building drainage requirements as outlined by the B.C. Building Code typically include damp-proofing of foundation walls, installation of a standard footing-level perimeter drainage pipe system, drain rock burial of the perforated piping, roof drainage connected to a separate drainage system constructed from solid piping, and a provision for gravity drainage of all collected waters to a suitable discharge point down-slope and away from the building.
- c. If required, the site appears to be well suited to the use of a rock-pit for storm-water disposal, as the clean, sand soils underlying the site are well drained and highly pervious.
- d. Flooding risks due to groundwater will be eliminated when there are no below-grade building areas (e.g. main floor slab-on-grade construction). Consequently, requirements for a perimeter drainage system can usually be waived for building areas where the minimum floor slab elevation will be above the surrounding ground surface by 0.15m or more.
- e. Lot surfaces should be graded to direct surface water well away from buildings. Due to the typical loose placement of backfill by home builders, low areas commonly form around foundations as the backfill settles, becoming undesirable collection points for surface water. In this regard, any settlement of backfill around foundations should be immediately corrected by placement of additional backfill to restore proper surface drainage away from buildings.

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GEOTECHNICAL ENGINEERING LTD.

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7. Acknowledgements

- s. Ground Control Geotechnical Engineering Ltd. acknowledges that this report may be requested by Approving Officers and Building Inspectors as a precondition to the issuance of a building permit and that this report, or any conditions contained in this report, may be included in a restrictive covenant filed against the title to the subject property. It is acknowledged that the Approving Officers and Building Officials may rely on this report when making a decision on application for the subdivision or development of the land.
- b. We acknowledge that this report has been prepared solely for, and at the expense of, the owner of the subject land.

8. Limitations

- a. The conclusions and recommendations submitted in this report are based upon the data obtained from surface observations of the site and a limited number of widely spaced shallow subsurface explorations. Although not expected, should undiscovered conditions become apparent later (e.g. during excavation for construction) our office should be contacted immediately to allow reassessment of the recommendations provided.
- b. The current scope of investigation was selected to provide an assessment of obvious geotechnical hazards. If stakeholders desire a greater degree of certainty in these matters, additional detailed investigations can be carried out.
- c. Our recommendations apply to the specific proposed structure and building location described in Section 2. Other structures or locations may have unique requirements and so our recommendations should not be considered applicable to other locations or other developments, even within the same property.

GROUND CONTROL 
GEOTECHNICAL ENGINEERING LTD.

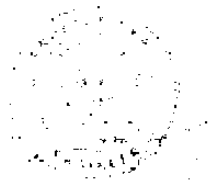
Geotechnical Assessment
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File: DEL-001
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9. Closure

- a. Ground Control Geotechnical Engineering Ltd. appreciates the opportunity to be of service on this project. If you have any comments, or additional requirements at this time, please contact us at your convenience.

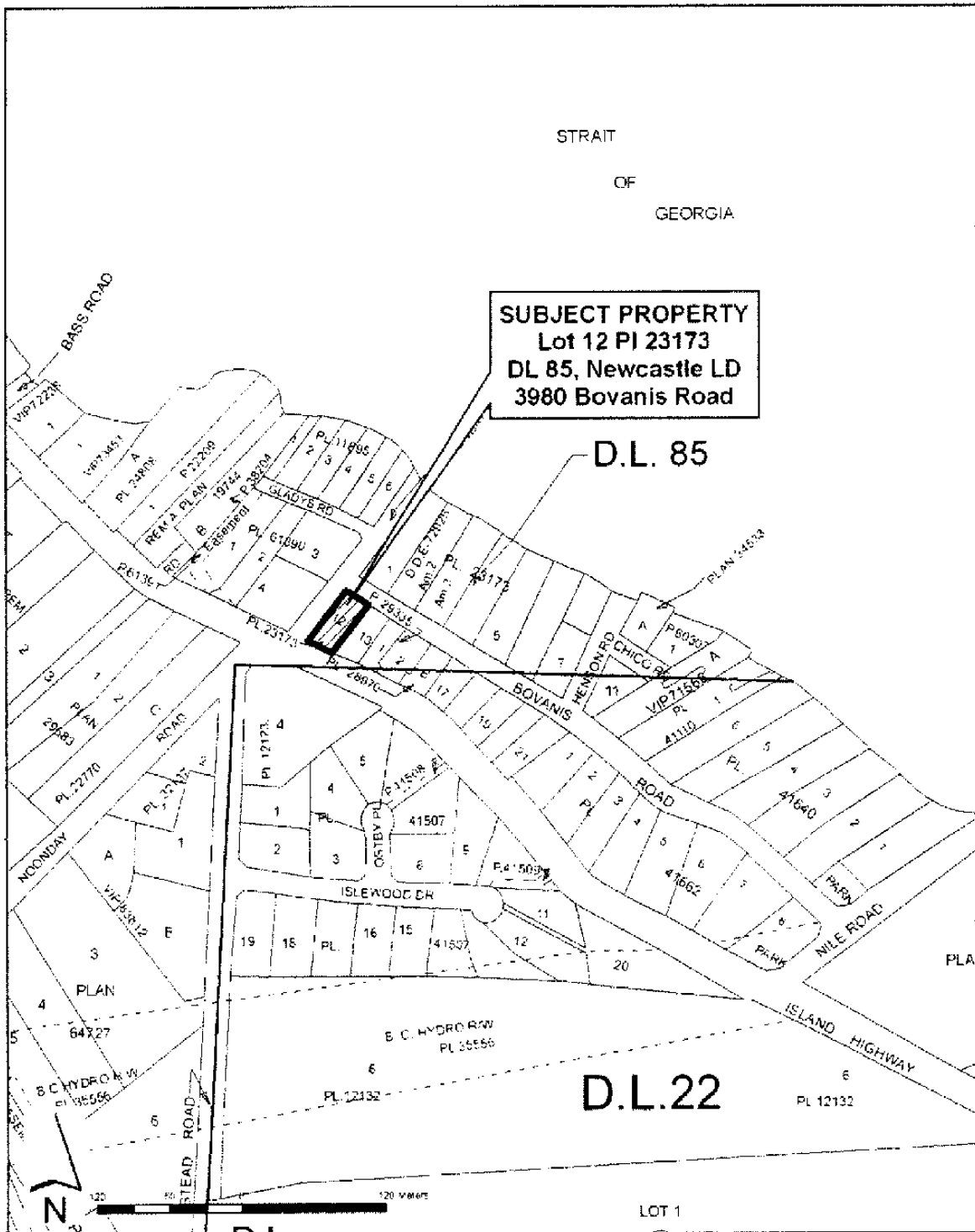
Respectfully Submitted,
Ground Control Geotechnical Engineering Ltd.



Richard McKinley P. Eng
Geotechnical Engineer

GROUND CONTROL 
GEOTECHNICAL ENGINEERING LTD.

Attachment No. 1
Location of Subject Property



CAO APPROVAL		CS
EAP	✓	JUNE 10th
COW		
JUN 02 2008		
RHD		
BOARD		

MEMORANDUM

TO: Geoff Garbutt
Manager of Current Planning

DATE: May 30, 2008

FROM: Kristy Marks
Planner

FILE: 3090 30 90806

SUBJECT: Development Variance Permit Application No. 90806 – Mardaga
Lot 22, District Lot 78, Nanoose District, Plan 28595
Electoral Area 'E', RDN Map Ref. No. – 92F.030.3.4

PURPOSE

To consider an application for a Development Variance Permit to allow the construction of a single residential dwelling and accessory building with a variance to the setback from the sea on a property located at 3790 Mallard Place.

BACKGROUND

The subject property, legally described as Lot 22, District Lot 78, Nanoose District, Plan 28595, is a coastal property located on Mallard Place in the Nanoose area of Electoral Area 'E' (*See Attachment No. 1 for location of subject property*). The subject property slopes to the east and contains a rocky vegetated outcrop and a steep coastal bluff. The parcel previously supported a dwelling unit and garage which were removed in 2006. The property is bordered by developed residential parcels on three sides and by the sea to the east.

The subject property is designated within the Sensitive Ecosystems Protection, Watercourse Protection, and Farmland Protection Development Permit Areas (DPA) pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005". The property is exempt from the Watercourse Protection and Farmland Protection DPA as the property is not adjacent to ALR land and all land development will be located greater than 30 m from a 'stream'. The applicant was issued Development Permit No. 60647 on November 28, 2006, for the proposed residential dwelling and accessory building, however at that time the requirement for a variance to the setback from the sea was not communicated to the applicant.

The parcel is approximately 0.49 ha in size and is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is requesting approval to construct a 608m² residential dwelling and accessory building with a variance to the setback from the natural boundary of the sea. The setback from the sea in Electoral Area 'E' is 8.0 metres horizontal distance inland from the top of a slope of 30% or greater; or 15.0 metres horizontal distance from the natural boundary, whichever is greater. As the property contains a steep rocky bluff adjacent to the sea, the 15.0 metre setback from the natural boundary applies to this property.

Requested Variance Summary - Section 3.3.9b Setbacks – Sea for Electoral Area 'E'

Required Maximum Setback	Proposed Setback	Requested Variance
15.0 m horizontal distance from natural boundary	9.6 m	5.4 m

In keeping with Regional District of Nanaimo Board policy, the applicant has completed the “Sustainable Community Builder Checklist”. The applicant has provided an Environmental Protection Plan and Vegetation Retention Objectives report prepared by EBA Engineering Consultants Ltd. dated October 2006 which includes a native replanting plan in order to protect and enhance existing vegetation. From a sustainability perspective the applicant is proposing to redevelop an existing property, retain sensitive vegetation and utilize the cleared portion of the site in order to reduce rock excavation required.

ALTERNATIVES

1. To approve Development Variance Permit No. 90806 subject to the conditions outlined in Schedules No. 1-3 and the notification requirements of the *Local Government Act*.
2. To deny the requested setback variance.

POLICY B1.5

Regional District of Nanaimo Development Variance Permit Application Policy B1.5 Evaluation provides staff with guidelines for reviewing and evaluating Development Variance Permit applications. The policy requires that the potential impacts of the variance are warranted by the need for the variance.

The applicants have provided the following justifications for the requested setback variance:

- The residential dwelling is proposed to be sited in the same location as the previously sited dwelling;
- The residential dwelling and accessory building have been sited in order to protect existing vegetation and minimize blasting and rock excavation;
- The applicant has submitted an Environmental Protection Plan including a replanting plan in order to enhance native vegetation near the foreshore.
- There are no views or privacy impacts related to the requested setback variance as this property is lower than the surrounding parcels.

LAND USE AND DEVELOPMENT IMPLICATIONS

As outlined above, the applicant is requesting approval for a setback variance to allow the redevelopment of a residential property at 3790 Mallard Place in Nanoose Bay. The location of the proposed residential dwelling and accessory building are outlined on *Schedule No. 2*. Building elevations for the proposed development are outlined on *Schedule No. 3*.

As outlined above, the applicant has indicated that the residential dwelling has been sited in order to incorporate the topography of the parcel, to minimize land alteration or vegetation removal and limit potential environmental implications. The applicant has obtained a Development Permit which focuses on siting the dwelling and accessory building to minimize impacts on the sensitive coastal bluff ecosystem and a coastal revegetation plan in accordance with the applicable Sensitive Ecosystems DPA guidelines.

Given that the subject property is lower than the surrounding properties and the development envelope utilizes the existing altered portion of the property, staff do not anticipate that the requested variance will impede the views of adjacent property owners. The proposed dwelling and accessory building reflects the location contemplated in the previously issued Development Permit.

PUBLIC CONSULTATION PROCESS

As part of the required public notification process, pursuant to the *Local Government Act*, property owners and tenants located within a 50 m radius, will receive a direct notice of the proposal, and will

have an opportunity to comment on the proposed variance, prior to the Board's consideration of the application.

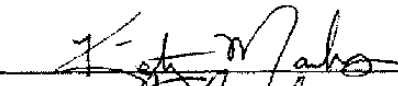
VOTING - Electoral Area Directors – one vote, except Electoral Area 'B'.


SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to reduce the setback from the natural boundary of the sea from 15.0 metres to 9.6 metres to facilitate the construction of a residential dwelling and accessory building at 3790 Mallard Place. Given that the applicant has obtained the necessary Development Permit, submitted an Environmental Protection Plan and Vegetation Retention Objectives report, and that staff do not anticipate impacts related to the requested setback variance, staff recommends that the requested Development Variance Permit be approved subject to the terms outlined in Schedules No. 1-3 of this report, and the notification requirements of the *Local Government Act*.

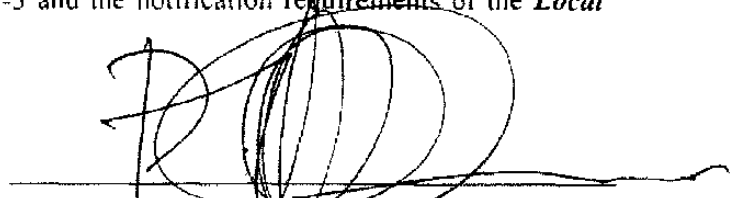
RECOMMENDATION


That Development Variance Permit Application No. 90806, to permit the construction of a residential dwelling and accessory building with a minimum setback from the natural boundary of the sea of 9.6 m on the property legally described as Lot 22, District Lot 78, Nanoose District, Plan 28595, be approved subject to the conditions outlined in Schedules No. 1-3 and the notification requirements of the *Local Government Act*.



Report Writer


Manager Concurrence



General Manager Concurrence


CAO Concurrence

Schedule No. 1
Terms of Development Variance Permit No. 90806

Bylaw No. 500, 1987 – Requested Variance

With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,” the following variance is proposed:

1. **Section 3.3.9b, Setbacks - Sea** is proposed to be varied by decreasing the minimum setback from the natural boundary of the sea for the dwelling unit and accessory building, located on Lot 22, District Lot 78, Nanoose District, Plan 28595 from 15.0 metres to 9.6 metres as shown on *Schedule No. 2*.

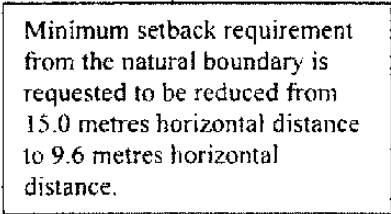
Conditions of Approval

2. The dwelling unit and accessory building shall be sited in accordance with the survey prepared Sim Associates dated February 22, 2008 attached as *Schedule No. 2*.
3. The dwelling unit and accessory building shall be developed in accordance with the building elevations prepared by Yeatts Architecture, Inc. attached as *Schedule No. 3*.

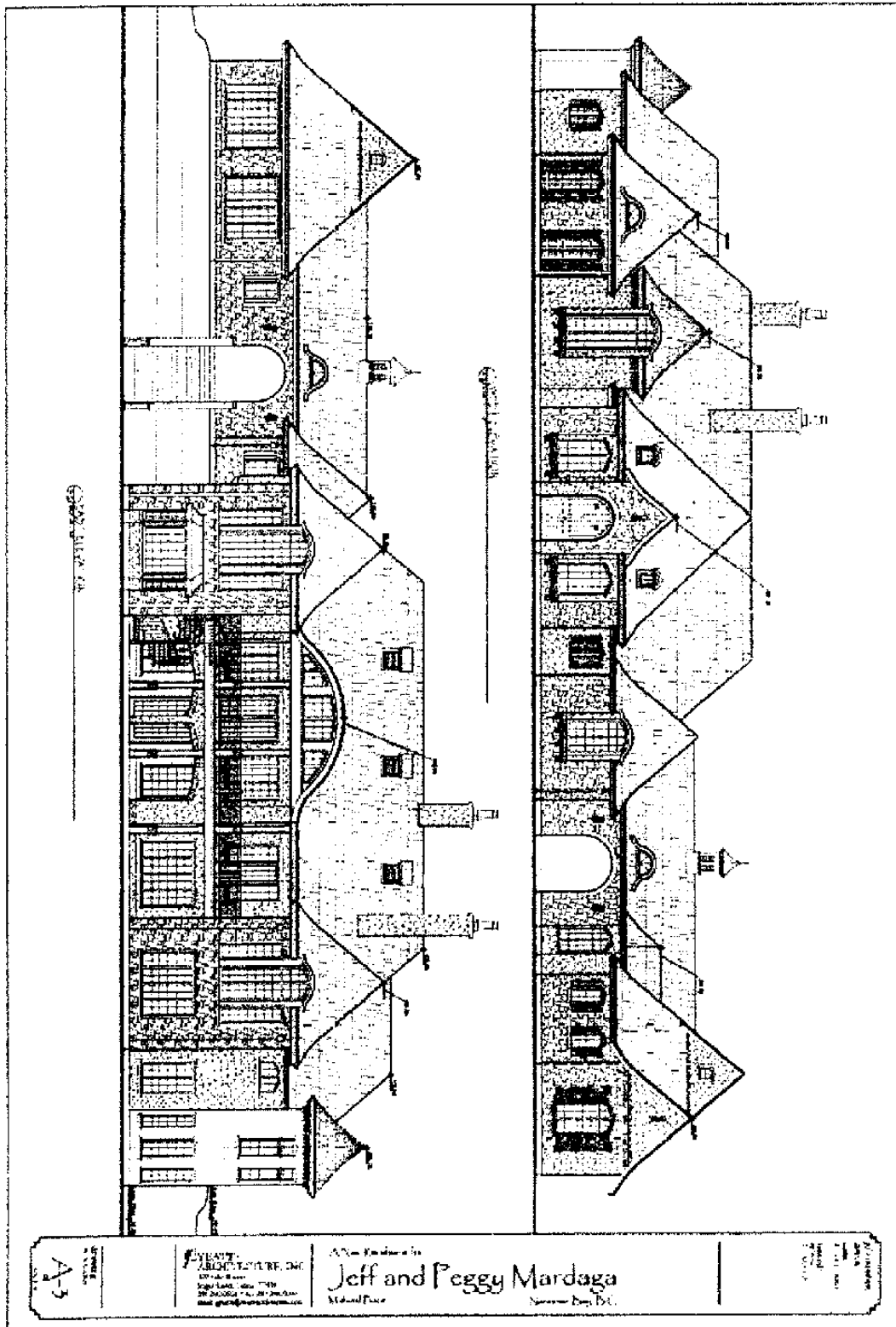
Schedule No. 2

Site Plan (enlarged for convenience)

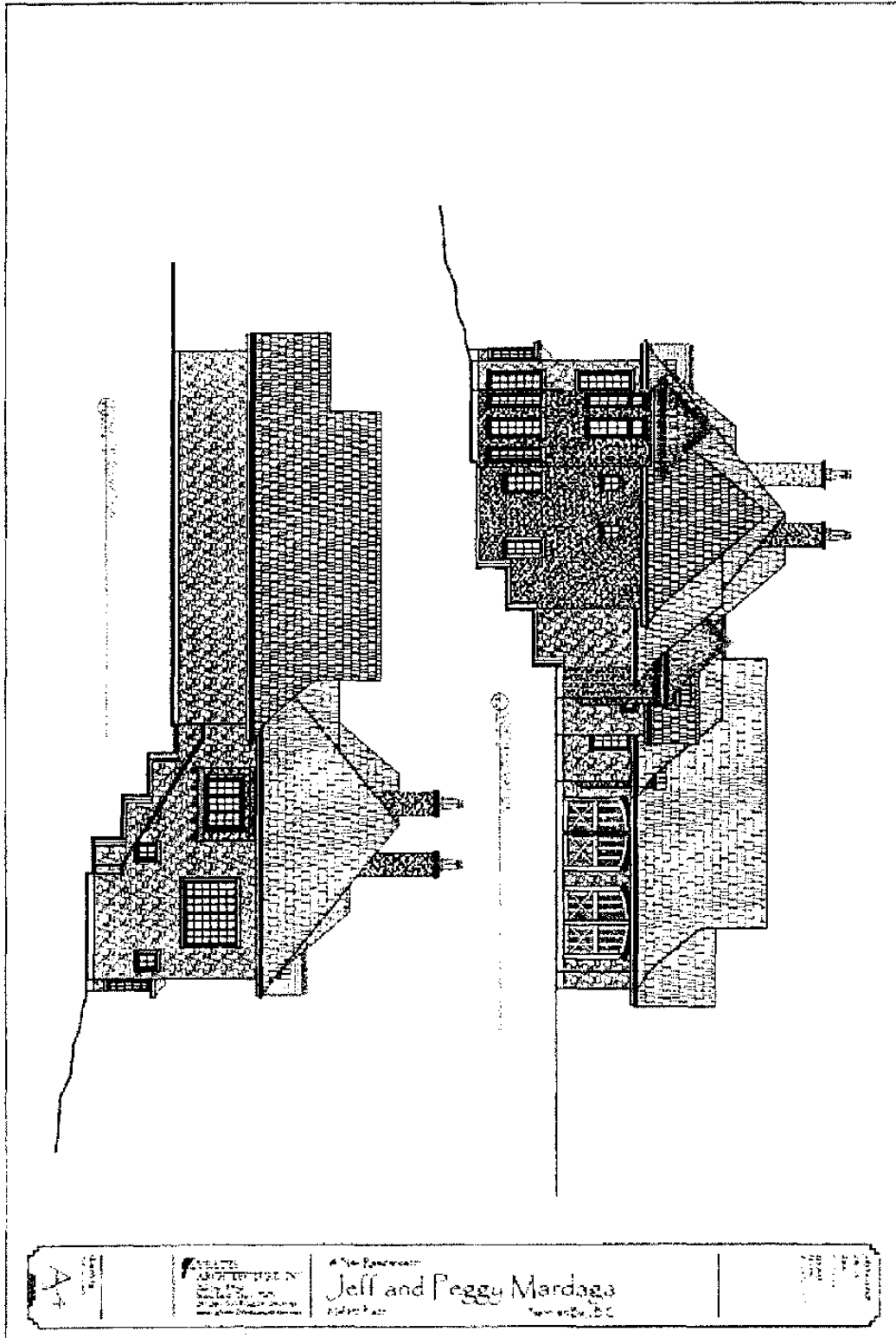
(Page 2 of 2)



Schedule No. 3
Building Elevations
(Page 1 of 2)



Schedule No. 3
Building Elevations
(Page 2 of 2)



Attachment No. 1
Location of Subject Property

