

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, MAY 13, 2014

6:00 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

2-4 Minutes of the regular Electoral Area Planning Committee meeting held Tuesday, March 11, 2014.

BUSINESS ARISING FROM THE MINUTES

DEVELOPMENT PERMIT WITH VARIANCE APPLICATION

5-13 Development Permit with Variance Application No. PL2013-126 – Mohan – Admiral Tryon Boulevard, Electoral Area ‘G’.

DEVELOPMENT VARIANCE PERMIT APPLICATION

14-19 Development Variance Permit Application No. PL2013-053 – Morpak/Sheremeta – 3068 Hillview Road, Electoral Area ‘E’.

20-27 Development Variance Permit Application No. PL2014-012 – Pasioka – 3097 Landmark Crescent, Electoral Area ‘C’.

28-35 Development Variance Permit Application No. PL2014-023 – Meadows – 1963 Seahaven Road, Electoral Area ‘E’.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE MEETING
OF THE REGIONAL DISTRICT OF NANAIMO HELD ON
TUESDAY, MARCH 11, 2014 AT 6:30 PM IN THE
RDN BOARD CHAMBERS**

In Attendance:

Director G. Holme	Chairperson
Director A. McPherson	Electoral Area A
Director M. Young	Electoral Area C
Director J. Fell	Electoral Area F
Director J. Stanhope	Electoral Area G
Director B. Veenhof	Electoral Area H

Also in Attendance:

P. Thorkelsson	Chief Administrative Officer
J. Harrison	Director of Corporate Services
R. Alexander	Gen. Mgr. Regional & Community Utilities
G. Garbutt	Gen. Mgr. Strategic & Community Development
D. Trudeau	Gen. Mgr. Transportation & Solid Waste
J. Holm	Mgr. Current Planning
J. Hill	Mgr. Administrative Services
C. Golding	Recording Secretary

CALL TO ORDER

The Chairperson called the meeting to order.

ELECTORAL AREA PLANNING COMMITTEE MINUTES

Minutes of the regular Electoral Area Planning Committee meeting held Tuesday, February 11, 2014.

MOVED Director Stanhope, SECONDED Director McPherson, that the minutes of the Electoral Area Planning Committee meeting held Tuesday, February 11, 2014 be adopted.

CARRIED

DEVELOPMENT PERMIT APPLICATION

Development Permit and Site Specific Exemption Application No. PL2013-115 – Anderson – 1045 Forgotten Drive, Electoral Area ‘G’.

MOVED Director Stanhope, SECONDED Director Young, that Development Permit and Site Specific Exemption Application No. PL2013-115 to allow the construction of a garage/workshop and shed on the subject property be approved subject to the conditions outlined in Attachments 2 to 4.

CARRIED

DEVELOPMENT PERMIT WITH VARIANCE APPLICATIONS

Development Permit with Variance Application No. PL2012-118 – Wilson – 2505 Blokker Road, Electoral Area ‘E’.

MOVED Director Stanhope, SECONDED Director Veenhof, that staff be directed to complete the required notification.

CARRIED

MOVED Director Stanhope, SECONDED Director Veenhof, that Development Permit with Variance Application No. PL2012-118 to permit the construction of a dwelling unit and related improvements be approved subject to the conditions outlined in Attachments 2 to 4.

CARRIED

Development Permit with Variance and Site Specific Exemption Application No. PL2013-081 – Carey – 3718 Jingle Pot Road, Electoral Area ‘C’.

MOVED Director Young, SECONDED Director McPherson, that staff be directed to complete the required notification.

CARRIED

MOVED Director Young, SECONDED Director McPherson, that Development Permit with Variance and Site Specific Exemption Application No. PL2013-081 to allow the construction of an addition to a dwelling unit on the subject property be approved subject to the conditions outlined in Attachments 2 to 4.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATION

Development Variance Permit Application No. PL2014-002 – Birchland Resources Inc. – 3617 Dolphin Drive, Electoral Area ‘E’.

MOVED Director Stanhope, SECONDED Director McPherson, that staff be directed to complete the required notification.

CARRIED

MOVED Director Stanhope, SECONDED Director McPherson, that Development Variance Permit Application No. PL2014-002 be approved subject to the conditions outlined in Attachment 4.

CARRIED

ZONING AMENDMENT APPLICATION

Zoning Amendment Application No. PL2013-064 – Bylaw 1285.21 – 2619 Alberni Highway, Electoral Area 'F'.

MOVED Director Fell, SECONDED Director Veenhof, that "Electoral Area `F' Zoning and Subdivision Amendment Bylaw No. 1285.21, 2014", be introduced and read two times.

CARRIED

MOVED Director Fell, SECONDED Director Veenhof, that the Public Hearing on "Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.21, 2014", be chaired by Director Fell or his alternate.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:41 PM

CHAIRPERSON

CORPORATE OFFICER



RDN REPORT	
CAO APPROVAL	
EAP	✓
COW	
MAY 05 2014	
RHD	
BOARD	

MEMORANDUM

TO: Jeremy Holm
Manager, Current Planning

DATE: May 1, 2014

FROM: Robert Stover
Planning Technician

FILE: PL2013-126

SUBJECT: Development Permit with Variance Application No. PL2013-126 – Mohan
Lot 15, District Lot 28, Nanoose District, Plan VIP62528 – Lot 15 Admiral Tryon Boulevard
Electoral Area 'G'

PURPOSE

To consider an application for a Development Permit with Variance to allow the construction of a dwelling unit and marine retaining wall on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Fern Road Consulting Ltd. on behalf of James Mohan in order to permit the construction of a dwelling unit and marine retaining wall on the subject property. The subject property is approximately 0.8 hectares (756 m²) in area and is zoned Residential 1.1 (RS1.1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment 1 - Location of Subject Property).

The subject property is currently vacant and slopes toward the ocean and natural boundary. The property is vegetated primarily with grasses and weeds and a variety of native and non-native species along the slope and is bound by Admiral Tryon Boulevard to the northwest, a developed residential parcel to the northeast, the French Creek Estuary to the southeast, and an unconstructed road dedication to the southwest.

The proposed development is subject to the following development permit areas as per the "Regional District of Nanaimo Electoral Area 'G' Official Community Plan Bylaw No. 1540, 2008":

- Environmentally Sensitive Features for Coastal and Wetland Protection;
- Hazard Lands.

A restrictive covenant registered on the title of the subject property at the time of subdivision in 1995 prohibits the construction of buildings within 15.0 metres of the natural boundary of the Strait of Georgia and prohibits vegetation removal within 7.5 metres of the natural boundary of the Strait of Georgia without prior written consent of the Province of British Columbia and the RDN. The applicants by way of this application have requested written consent from the RDN to undertake construction and vegetation removal within the covenant areas. As written consent of the Province is also required for the works proposed within the covenant areas, the applicant has concurrently requested and received permission from the Ministry of Natural Resource Operations and Ministry of Transportation and Infrastructure to permit the construction of the proposed dwelling and marine retaining wall.

Proposed Development and Variances

The applicant has stated that they are requesting the following setback variances for the proposed house and marine retaining wall due to the setback constraints placed on the lot by the presence of the undeveloped road dedication to the southwest, and the relatively narrow width of the parcel.

Proposed House

The applicant is requesting a variance to the minimum setback from the exterior side lot line from 5.0 metres to 2.0 metres in order to construct a 241 m² dwelling unit.

Marine Retaining Wall

The applicant is also requesting variances to the setback from the natural boundary of the sea from 8.0 metres to 3.5 metres, from the exterior side lot line from 5.0 metres to 0.0 metres, and from the (other) interior lot line from 2.0 metres to 0.0 metres in order to permit the construction of an engineered rip-rap marine retaining wall (see Attachment 3 - Proposed Site Plan; Attachment 4 - Proposed Building Elevations).

ALTERNATIVES

1. To approve Development Permit with Variance No. PL2013-126 subject to the conditions outlined in Attachments 2 to 4.
2. To deny Development Permit with Variance No. PL2013-126.

LAND USE IMPLICATIONS

Development Implications

In order to address the Environmentally Sensitive Features Development Permit Area (DPA) guidelines the applicant has provided a report prepared by Polster Environmental Services Ltd. dated March 2014. This report does not identify any rare plant or wildlife species on the property, and recommends that the proposed rip-rap seawall be covered in 1.0 metre of soil to allow native grasses to be established upon it. Development of the property in accordance with the recommendations contained in this report is included as a requirement in the Terms and Conditions of Permit set out in Attachment 2.

The applicant has supplied a flood hazard assessment, prepared by Lewkowich Engineering Associates Ltd. and dated November 7, 2013, to satisfy the Hazard Lands DPA requirements. The report assesses the potential for coastal flood risk and sea level rise, and recommends a minimum flood construction level (FCL) of 4.4 metres GSC for the proposed house. The report also recommends the construction of an engineered rip-rap marine retaining wall to mitigate erosion on the subject property. The report concludes that the property is safe for the intended use provided the recommendations outlined within it are followed. The proposed siting and construction of the wall is consistent with the requirements set out in RDN Policy No. B1.9 for marine retaining walls. The accompanying flood hazard assessment concludes that there will be no detrimental impacts on the surrounding properties as a result of the walls construction (see Attachment 5 – Marine Retaining Wall Cross-Section).

The applicant will be required, at the applicant's expense, to register a Section 219 covenant that registers the flood hazard assessment prepared by Lewkowich Engineering Associates Ltd., and includes a save harmless clause that releases the RDN from all losses or damages to life or property as a result of the hazard. Development of the property in accordance with the recommendations of this report is also included in the Terms and Conditions of Permit set out in Attachment 2.

As the proposal includes an engineered marine retaining wall, and the house is proposed to be sited greater than 8.0 metres from the natural boundary of the Strait of Georgia, a site specific exemption from the floodplain management bylaw is not required.

Strategic Plan Implications

Staff have reviewed the application and note that the proposal has no implications related to the Board’s 2013 – 2015 Strategic Plan.

Inter-Governmental Implications

Staff referred the application to the Ministry of Transportation and Infrastructure and Ministry of Natural Resource Operations for comment on the proposal in relation to the aforementioned covenant area and works within 4.5 metres from a road right-of-way. Both ministries have advised that they have no concerns with the proposed works and agreed to relax the terms of the covenant to permit construction within the covenant area, provided the recommendations in the professionals’ reports submitted in support of the applications are followed. The recommendations from these reports have been included in the Terms and Conditions of Permit as shown on Attachment 2.

SUMMARY/CONCLUSIONS

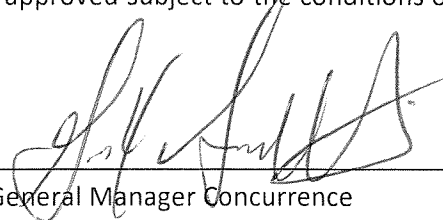
This is an application for a Development Permit with Variance to allow the construction of a dwelling unit and marine retaining wall on the subject property. The applicant has submitted a site plan, building elevations, Biologist’s report and geotechnical flood hazard assessment in support of the application. In staff’s assessment, this proposal is consistent with the guidelines of the “Regional District of Nanaimo Electoral Area ‘G’ Official Community Plan Bylaw No. 1540, 2008” Environmentally Sensitive Features and Hazard Lands DPA’s, and provides sufficient rationale for requesting setback variances. The Ministry of Transportation and Infrastructure and Ministry of Natural Resource Operations have advised that they have no concerns with the proposal, and will permit construction within the covenant area on the parcel provided the recommendations provided in the supporting professional’s reports are followed.

RECOMMENDATIONS

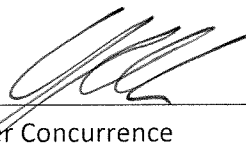
1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2013-126 to allow the construction of a dwelling unit and marine retaining wall on the subject property be approved subject to the conditions outlined in Attachments 2 to 4.



Report Writer



General Manager Concurrence

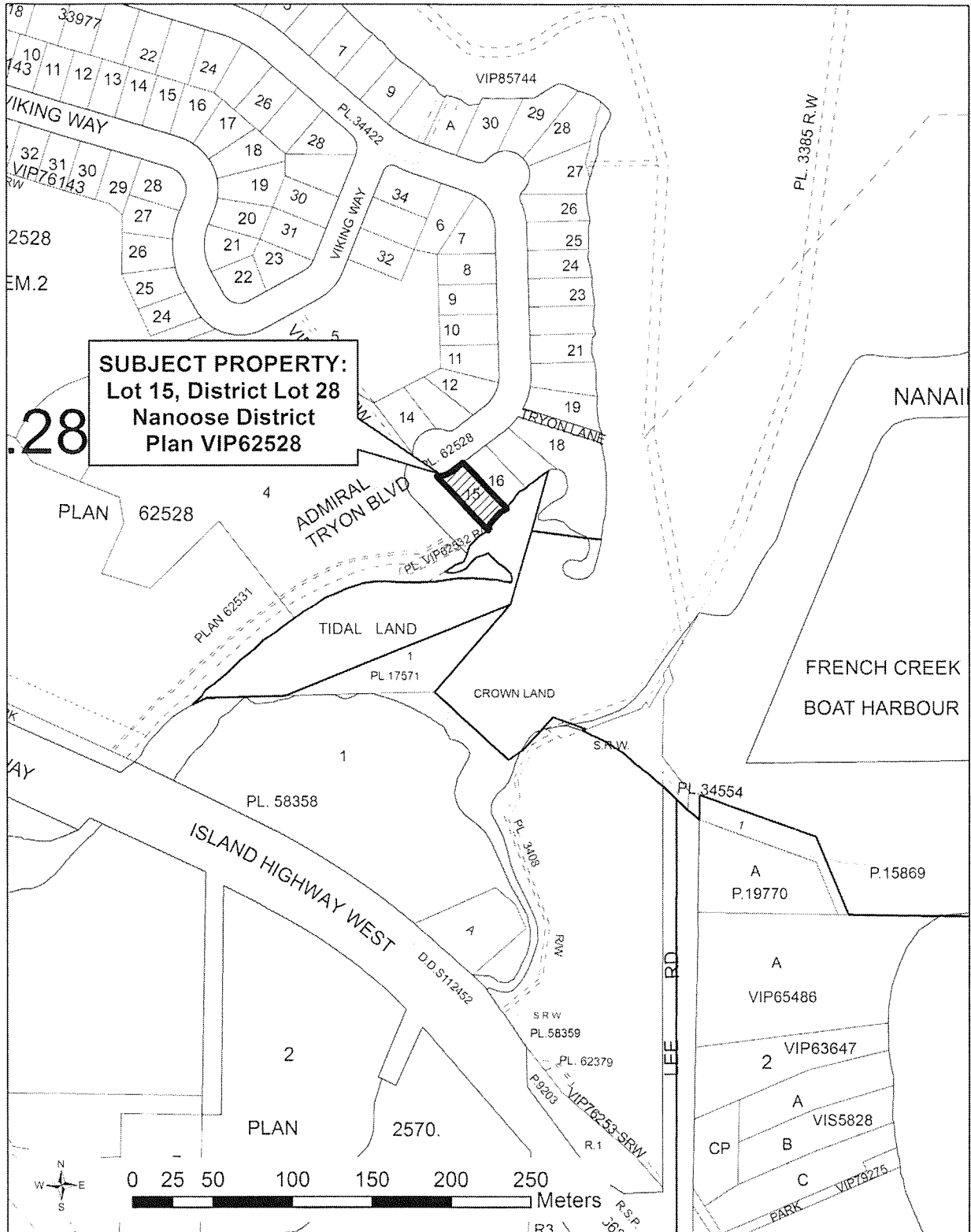


Manager Concurrence



CAO Concurrence

Attachment 1 Subject Property Map



Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Permit with Variance Application No. PL2013-126:

Bylaw No. 500, 1987 Variances:

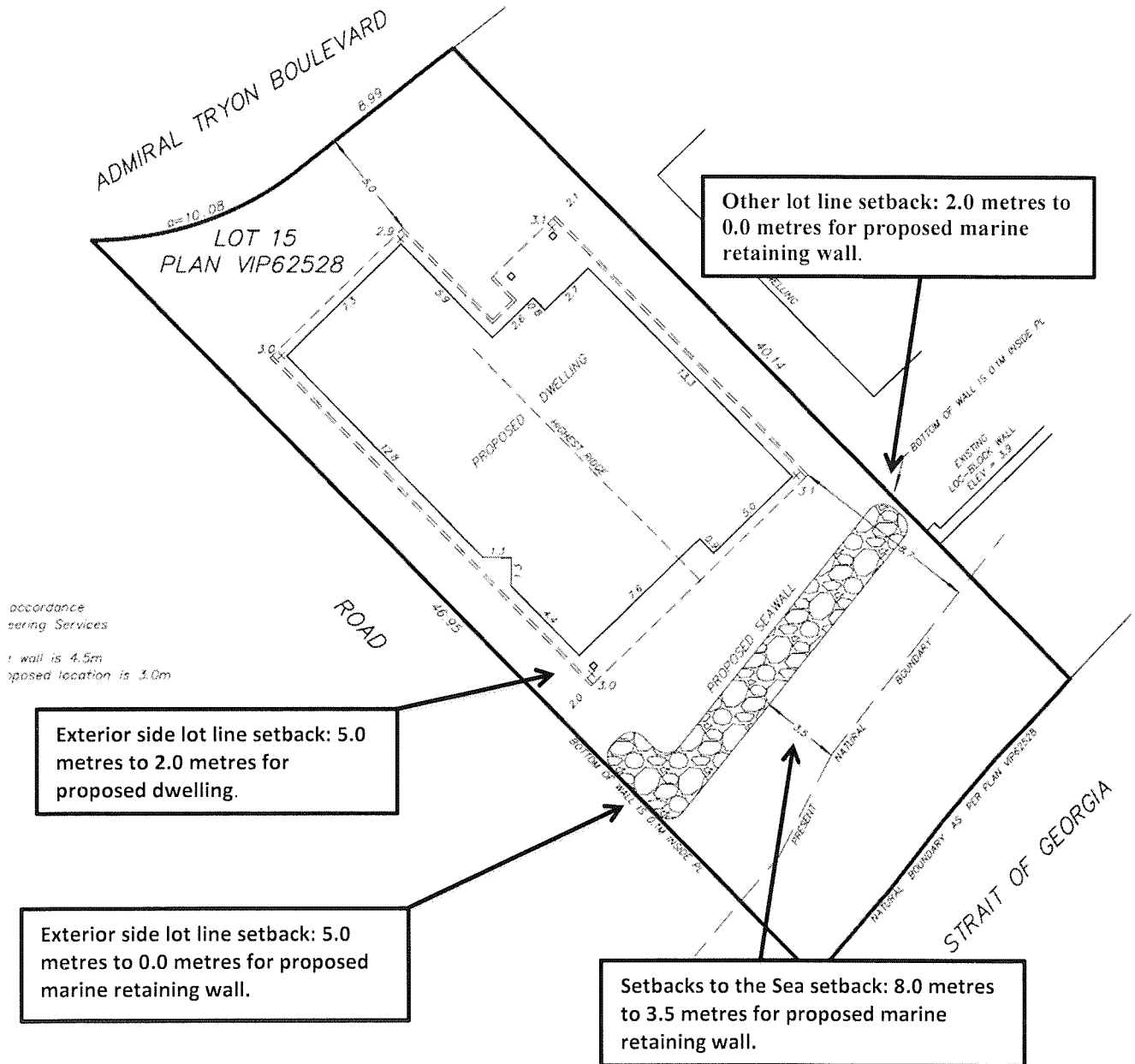
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

1. Section 3.4.61.1 **Minimum Setback Requirements** by reducing the minimum required setback from the exterior side lot line from 5.0 metres to 2.0 metres for the proposed dwelling.
2. Section 3.4.61.1 **Minimum Setback Requirements** by reducing the minimum required setback from the exterior side lot line from 5.0 metres to 0.0 metres for the proposed marine retaining wall.
3. Section 3.4.61.1 **Minimum Setback Requirements** by reducing the minimum required setback from the other lot line from 2.0 metres to 0.0 metres for the proposed marine retaining wall.
4. Section 3.3 9) a) ii) **Setbacks – Sea** by reducing the minimum required setback from the natural boundary of the Strait of Georgia from 8.0 metres to 3.5 metres for the proposed marine retaining wall.

Conditions of Approval

1. The dwelling unit and marine retaining wall shall be sited in accordance with the Site Plan prepared by Sims Associates Land Surveying Ltd. labeled as drawing file 13-135 BL4.
2. The property shall be developed in accordance with the recommendations outlined in the biologist's report prepared by Polster Environmental Services Ltd. and dated March 2014.
3. The property shall be developed in accordance with the recommendations of the Geotechnical Hazards Assessment prepared by Lewkowich Engineering Associates Ltd. dated November 7, 2013.
4. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 covenant that registers the Geotechnical Hazards Assessment prepared by Lewkowich Engineering Associates Ltd. dated November 7, 2013 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of the potential hazard.
5. The property owner shall obtain the necessary building permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Attachment 3
Proposed Site Plan and Variances



Attachment 4 – Page 1 of 2
Building Elevations

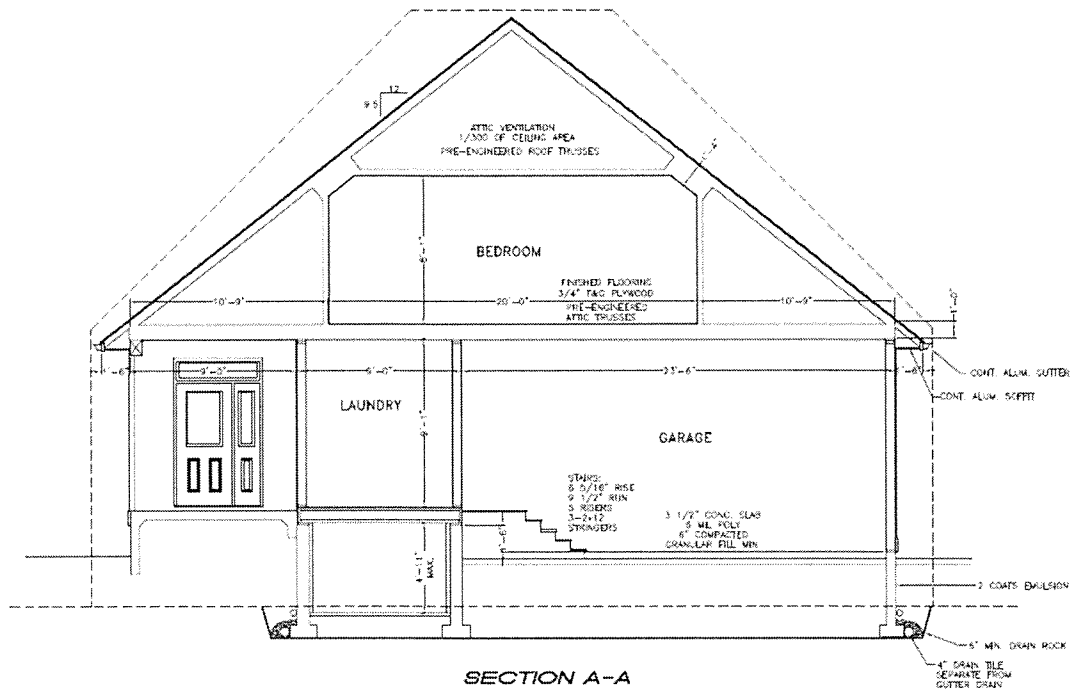
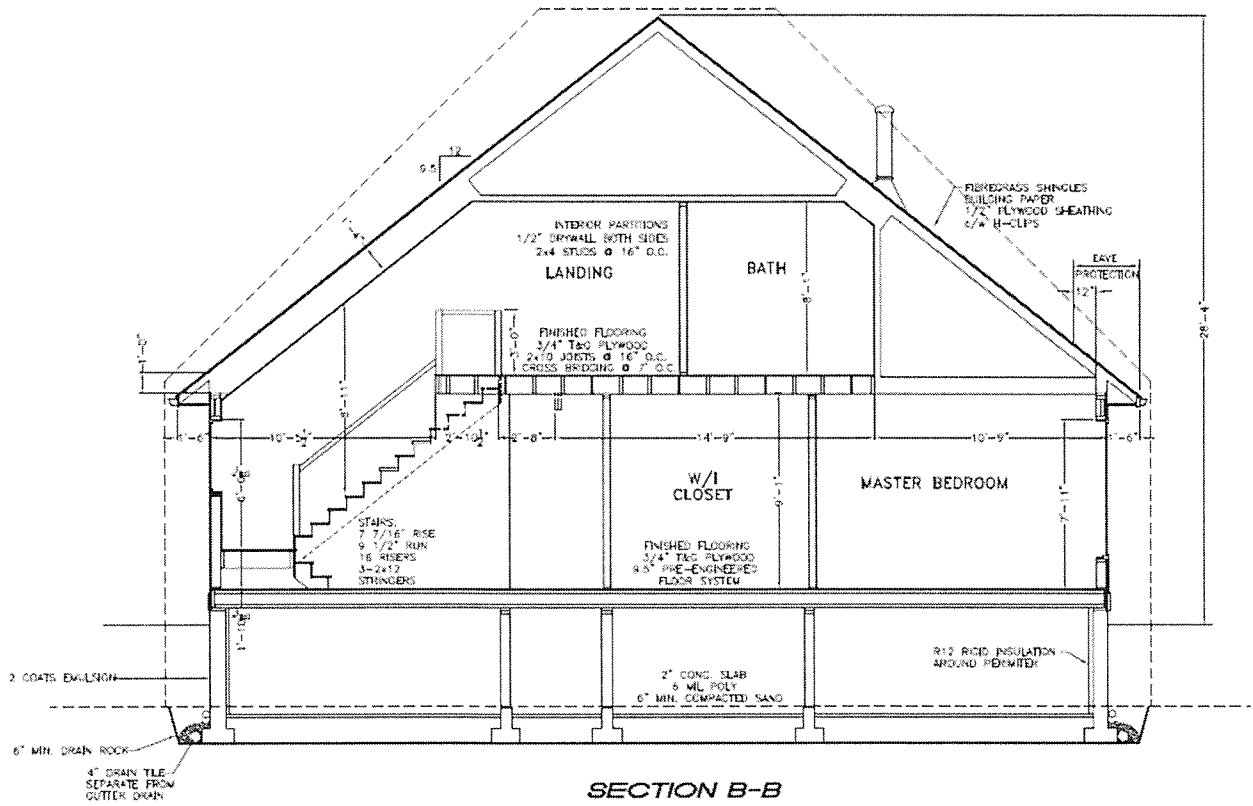


FRONT ELEVATION

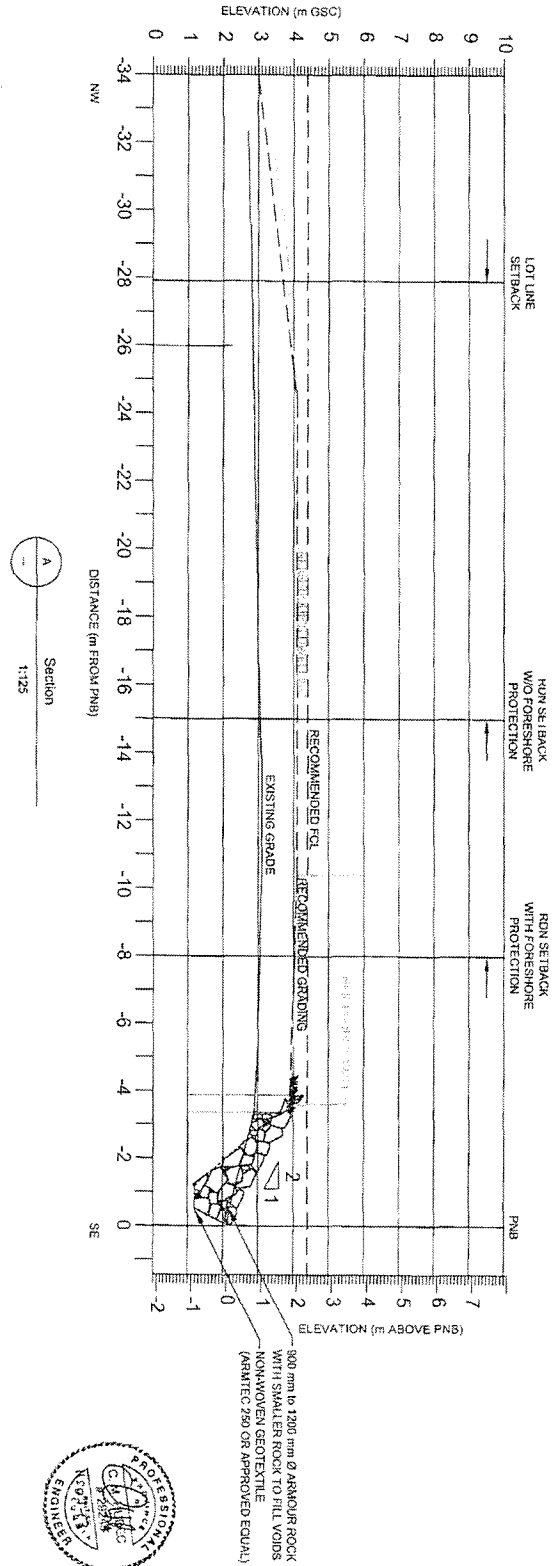


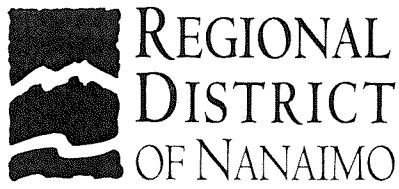
REAR ELEVATION

Attachment 4 – Page 2 of 2
Building Elevations



Attachment 5 Marine Retaining Wall Cross-Section





RDN REPORT	
CAO APPROVAL	
EAP	<input checked="" type="checkbox"/>
COW	<input type="checkbox"/>
MAY 02 2014	
RHD	<input type="checkbox"/>
BOARD	<input type="checkbox"/>

MEMORANDUM

TO: Jeremy Holm
Manager, Current Planning

DATE: May 1, 2014

FROM: Robert Stover
Planning Technician

FILE: PL2013-053

SUBJECT: Development Variance Permit Application No. PL2013-053 – Morpak/Sheremeta Lot 14, District Lot 117, Nanoose District, Plan 10367 – 3068 Hillview Road Electoral Area ‘E’

PURPOSE

To consider an application for a Development Variance Permit to reduce the front lot line and top of bank setbacks to legalize the siting of two retaining walls and permit the construction of an addition to the dwelling unit on the subject property.

BACKGROUND

The subject property is approximately 0.164 ha in area and is zoned Residential 1 (RS1) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (see Attachment 1 - Location of Subject Property). The Regional District of Nanaimo (RDN) has received an application from Jeff Morpak and Roxann Sheremeta to reduce the front lot line setback and top of bank setbacks to legalize the siting of two existing retaining walls and permit the construction of a house addition (see Attachment 3 – Proposed Site Plan and Variances). The retaining walls were constructed without the required building permit and do not meet setback requirements.

The subject property currently contains a dwelling unit, a large retaining wall along the eastern property boundary adjacent to a ravine containing a watercourse, and a smaller retaining wall designed to accommodate a parking area on the lower part of the driveway. The subject property is surrounded by developed residential parcels to the east and west, Hillview Road to the north, and a steep embankment abutting a resource management zoned parcel to the south. The applicants have indicated that the larger retaining wall was constructed to prevent erosion that was occurring along the ravine bank during heavy rainfall events. The smaller retaining wall was constructed to accommodate a parking area on the lower portion of the driveway. The survey plan provided by the applicants indicates that portions of these retaining walls encroach into the Hillview Road right-of-way and top of bank setbacks.

Proposed Development and Variances

The applicants are requesting setback variances to legalize the siting of two retaining walls and permit the construction of a house addition. The requested variances are outlined below:

Retaining Walls

- Setback variance from front lot line from 8.0 metres to 0.0 metres to legalize the siting of two retaining walls;

- Setback variance from top of bank setback from 9.0 metres to 0.0 metres to legalize the siting of two retaining walls.

Proposed House Addition

- Setback variance from front lot line from 8.0 metres to 6.0 metres for proposed house addition;
- Setback variance from top of bank from the retaining wall from 9.0 metres to 6.0 metres for proposed house addition.

ALTERNATIVES

1. To approve the Development Variance Permit Application No. PL2013-053 subject to the conditions outlined in Attachment 2.
2. To deny the Development Variance Permit Application No. PL2013-053.

LAND USE IMPLICATIONS

Development Implications

This is an application for a development variance permit to facilitate the construction of a house addition, and to legalize the siting of portions of two existing retaining walls that encroach into the Hillview Road right-of-way and top of bank setbacks. The applicants have indicated that construction of the walls was necessary to prevent erosion that was occurring on the property as a result of heavy rainfall, and to accommodate a parking area on the lower portion of the driveway. The applicants have also stated that the southern portion of the property is steep, and does not provide a suitable building site for the proposed house addition. The larger retaining wall was back filled to create a level area on which the house addition could be constructed. The retaining walls do not exceed the 6.0 metre height provision for accessory structures in the RS1 zone, and the proposed addition meets the 8.0 metre height provision for dwellings in the RS1 zone.

The applicants have provided a geotechnical report prepared by Lewkowich Engineering Associates Ltd. dated March 31, 2014, that addresses the ability of the walls to retain earth and support the house addition. The report makes recommendations for maintenance of the walls, and recommends field reviews during construction of the house addition to ensure the land is safe for the use intended. The recommended field reviews will be required for the house addition as part of the building permit application requirements. Development and maintenance of the property in accordance with the recommendations of this report is proposed as a condition of approval of this development variance permit application.

The applicants have also supplied a watercourse assessment, prepared by Toth and Associates Environmental Services and dated July 20, 2010, to address the watercourse in the ravine. The assessment concludes that the small watercourse in the ravine does not support fish habitat and is not subject to the Riparian Areas Regulation, thereby meeting the exemption requirements in the Watercourse Development Permit Area. The applicants also supplied a survey plan prepared by T.G. Hoyt dated March 4, 2014, outlining the location of the existing retaining walls and proposed house addition as shown on Attachment 3. Should the Board approve the requested variances in relation to the retaining walls a building permit application for the walls will be required as provided for in the conditions of approval (see Attachment 2).

Strategic Plan Implications

Staff have reviewed the application and note that the proposal has no implications related to the Board's 2013 – 2015 Strategic Plan.

Inter-governmental Implications

Staff referred the application to the Ministry of Transportation and Infrastructure (MOTI) for comment on the portions of the retaining walls that encroach into the road right-of-way. Ministry staff indicated that MOTI will not require a permit for the works, as these portions of the walls do not affect drainage or access along the Hillview Road right-of-way.

Public Consultation Process

Pending the Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005", property owners and tenants of parcels located within 50 metres of the subject property will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variances prior to the Board's consideration of the application.

SUMMARY/CONCLUSIONS

This is a development variance permit application to legalize the siting of two existing retaining walls that encroach into the Hillview Road right-of-way and top of bank setbacks, and to relax the setback requirements from the front lot line and top of bank setbacks to facilitate the construction of a house addition on the subject property. The applicants have indicated that the retaining walls were constructed to prevent further erosion of the property along the eastern property boundary during heavy rainfall, and to create a parking area on the lower portion of the driveway. The proposed addition and retaining walls meet the height provisions in the RS1 zone.

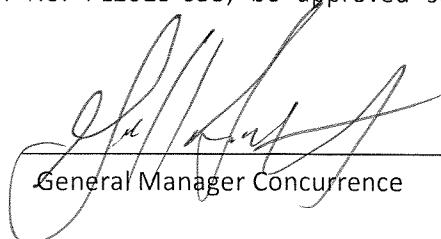
The applicants have provided a geotechnical report, watercourse assessment and survey plan in support of the application. As MOTI staff have no concerns about the siting of the retaining walls, and the applicants have provided professional's reports that address safety and environmental considerations of these structures, staff recommend approval of this development variance permit application.

RECOMMENDATIONS


1. That staff be directed to complete the required notification.
2. That Development Variance Permit Application No. PL2013-053, be approved subject to the conditions outlined in Attachment 2.




Report Writer



General Manager Concurrence

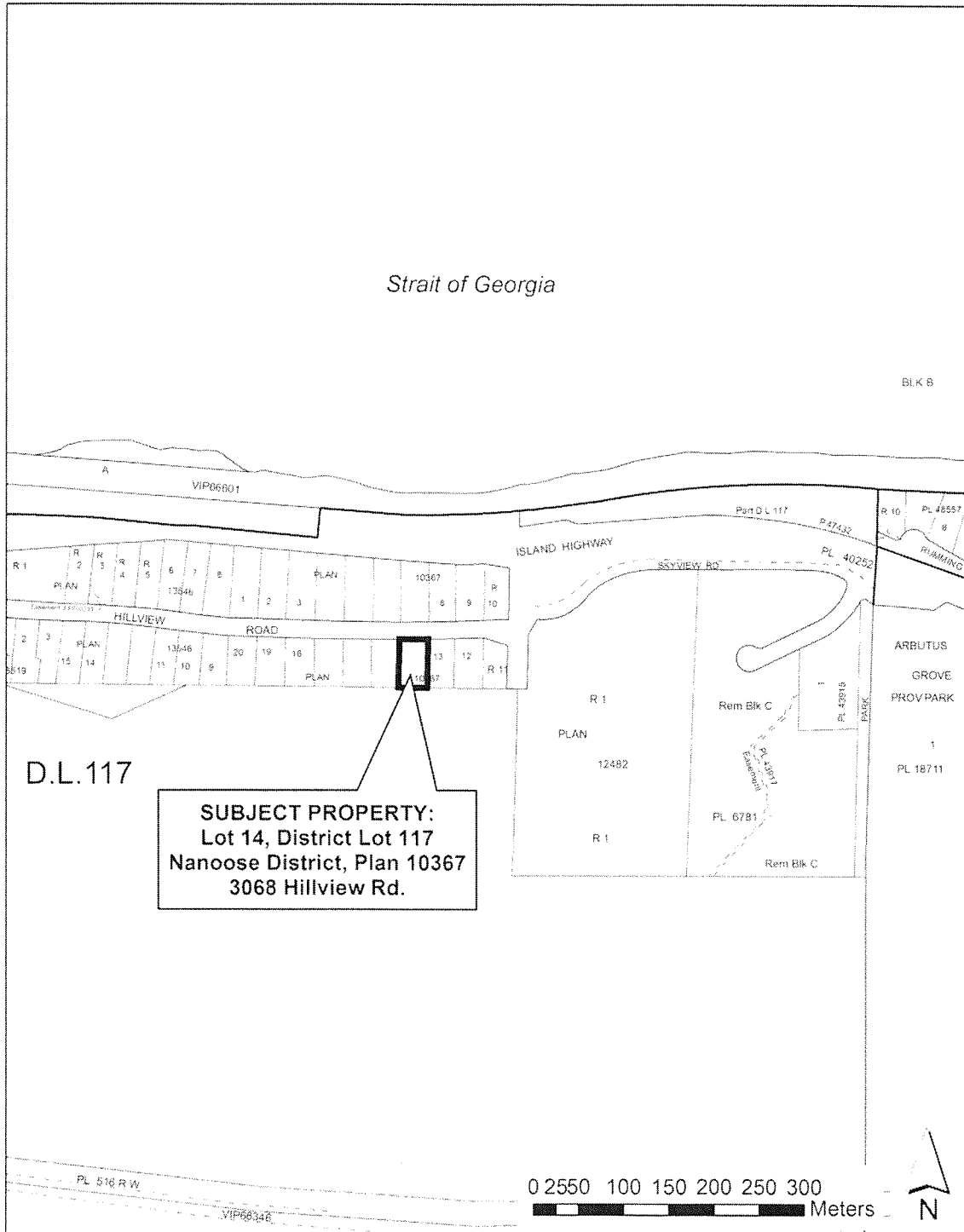


Manager Concurrence



CAO Concurrence

Attachment 1
Location of Subject Property



Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Variance Permit No. PL2013-053:

Bylaw No. 500, 1987 Variances:

With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

1. Section 3.4.61 **Minimum Setback Requirements** by reducing the minimum required setback from the front lot line from 8.0 metres to 0.0 metres for portions of two existing retaining walls.
2. Section 3.4.61 **Minimum Setback Requirements** by reducing the minimum required setback from the front lot line from 8.0 metres to 6.0 metres for the proposed house addition.
3. Section 3.3.8 b) i) **Setbacks – Watercourses, excluding the sea** by reducing the minimum required setback from a top of slope from 9.0 metres to 0.0 metres for two existing retaining walls.
4. Section 3.3.8 b) i) **Setbacks – Watercourses, excluding the sea** by reducing the minimum required setback from a top of slope from the large retaining wall from 9.0 metres to 6.0 metres for the proposed house addition.

Conditions of Approval:

1. The proposed house addition shall be constructed in accordance with the recommendations outlined in the geotechnical report prepared by Lewkowich Engineering Associates Ltd. dated March 31, 2014.
2. The existing retaining walls shall be maintained in accordance with the recommendations outlined in the geotechnical report prepared by Lewkowich Engineering Associates Ltd. dated March 31, 2014.
3. The lands shall be developed in substantial compliance with the survey plan prepared by T.G. Hoyt dated March 4, 2014.
4. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Attachment 3 Proposed Site Plan and Variances

SITE PLAN ON LOT 14, DISTRICT LOT 117,
NANOOSE DISTRICT, PLAN 10367

SCALE 1: 300

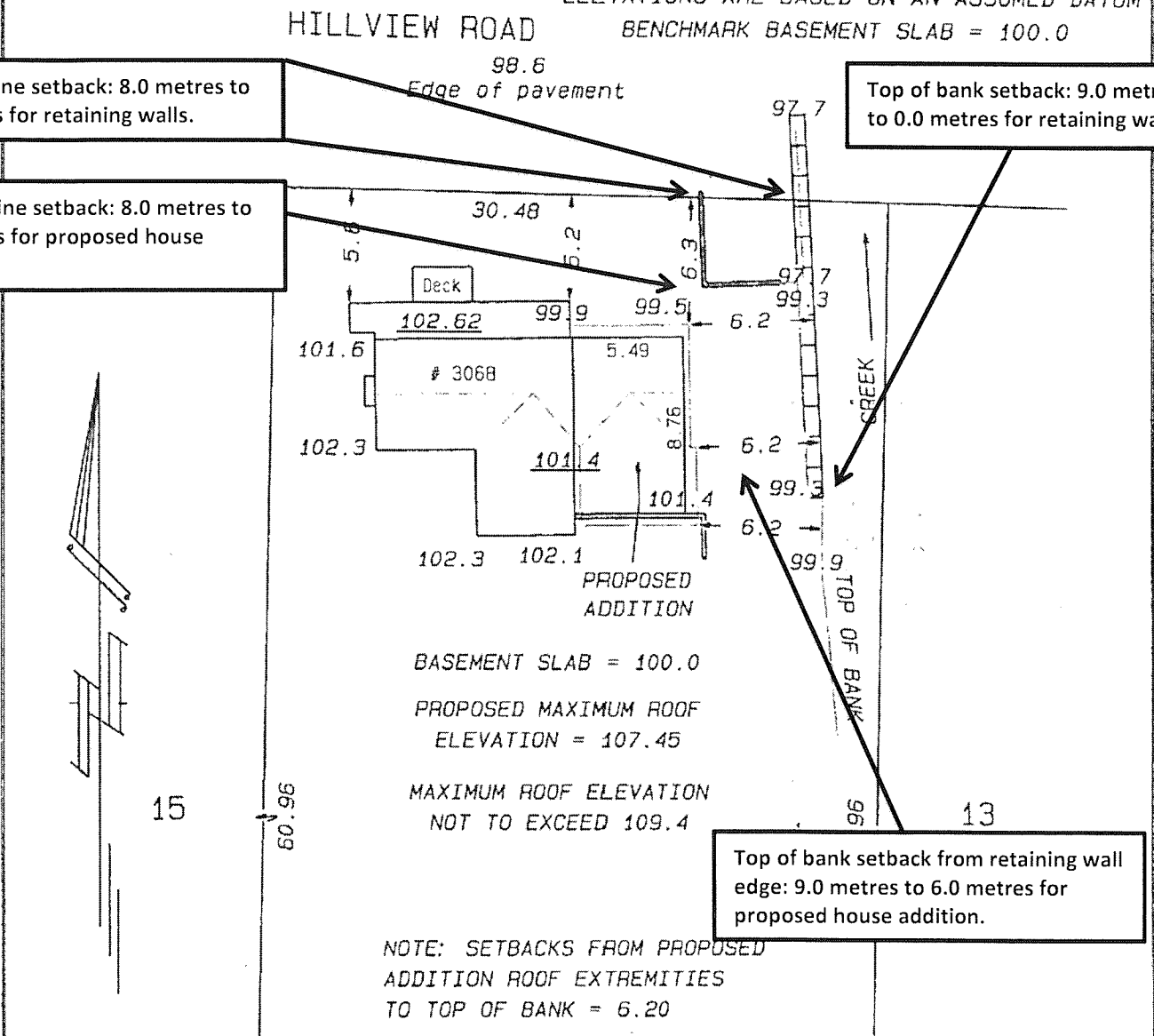
MEASUREMENTS ARE IN METRES
ELEVATIONS ARE BASED ON AN ASSUMED DATUM
BENCHMARK BASEMENT SLAB = 100.0

HILLVIEW ROAD

Front lot line setback: 8.0 metres to 0.0 metres for retaining walls.

Front lot line setback: 8.0 metres to 6.0 metres for proposed house addition.

Top of bank setback: 9.0 metres to 0.0 metres for retaining wall.





RDN REPORT	
CAO APPROVAL	
EAP	✓
COW	
MAY 01 2014	
RHD	
BOARD	

MEMORANDUM

TO: Jeremy Holm
Manager, Current Planning

DATE: April 22, 2014

FROM: Robert Stover
Planning Technician

FILE: PL2014-012

SUBJECT: Development Variance Permit Application No. PL2014-012 – Pasieka
Lot 7, Section 20, Range 3, Mountain District, Plan 31215 – 3097 Landmark Crescent
Electoral Area 'C'

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of an accessory building on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Boleslaw and Halina Pasieka to legalize the siting of an accessory building on the subject property. The subject property is approximately 2.02 hectares in area and is zoned Rural 1 (RU1) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (see Attachment 3 - Location of Subject Property).

The property contains two dwelling units, and is bound by the Millstone River to the west, a developed residential property to the south, and Landmark Crescent to the east. The northern lot line parallels the City of Nanaimo boundary, and shares a property line with a Rural Resource (AR1) zoned property that lies within the City of Nanaimo.

The existing accessory building proposed to be legalized is a 19 m² pump house which was constructed without a building permit, and was brought to the attention of the RDN Building Department through an unrelated bylaw complaint. Through subsequent investigation of the structure, it was determined that the pump house is large enough to require a building permit, and is subject to the 8.0 metre interior side lot line minimum setback required by the RU1 zone (see Attachment 5 for photo).

Proposed Development and Variance

The applicants have applied for a variance to Section 3.4.81 – Minimum Setback Requirements – of “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” to relax the minimum required setback from an interior side lot line from 8.0 metres to 2.5 metres to legalize the siting of an accessory building on the subject property. The requested variance is in relation to the northern

property boundary, which abuts a parcel within the City of Nanaimo (see Attachment 2 - Site Plan and Variance).

The applicants advise that they hired a contractor to rebuild an old pump house, who mistakenly assumed that the structure would not require a building permit. The property owners subsequently applied for a building permit for the structure, and it was determined that the pump house does not meet the required 8.0 metre minimum setback requirement outlined in the RU1 zone. The applicants are requesting a variance to retain the structure in its current location in order to utilize the existing well, and to retain plumbing and electrical services required for operation of the well pump.

ALTERNATIVES

1. To approve the Development Variance Permit Application No. PL2014-012 subject to the conditions outlined in Attachment 1.
2. To deny the Development Variance Permit Application No. PL2014-012.

LAND USE IMPLICATIONS

Development Implications

The applicants have requested a variance to legalize the siting of an accessory building on the subject property (see Attachment 2 - Site Plan and Variance). The pump house is sited outside of the 30.0 metre Floodplain Management Bylaw setback from the Millstone River, and is exempt from minimum flood construction level requirements. Staff have reviewed the application and have not identified any environmental or land use implications that would arise from approval of Development Variance Permit Application No. PL2014-012.

Strategic Plan Implications

Staff have reviewed the application and note that the proposal has no implications related to the Board's 2013 – 2015 Strategic Plan.

Inter-governmental Implications

Given that the subject property abuts the City of Nanaimo boundary, staff referred the application to City of Nanaimo staff for comment. City staff had no comment on the proposed variance.

Public Consultation Process

Pending the Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005", property owners and tenants of parcels located within 50 metres of the subject property 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.

SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to reduce the interior side lot line setback from 8.0 metres to 2.5 metres to legalize the siting of a pump house accessory building on the subject property. The applicants have stated that their contractor assumed that the structure did not require a

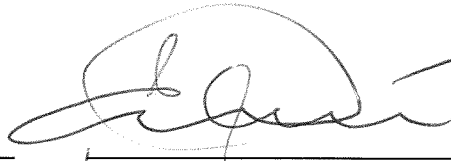
building permit when it was constructed. The applicants would like to retain the structure in its current location to use the existing well, plumbing and electrical services. The building came to the attention of RDN staff through an unrelated bylaw complaint. Given the structure has no anticipated environmental or land use implications, and is greater than 30.0 metres from the natural boundary of the Millstone River, staff recommend the Board approve the requested variance, pending public notification and subject to the terms and conditions outlined in Attachment 1.

RECOMMENDATIONS

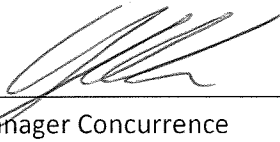
1. That staff be directed to complete the required notification.
2. That Development Variance Permit Application No. PL2014-012 to reduce the minimum setback requirement from the interior lot line from 8.0 metres to 2.5 metres, be approved subject to the conditions outlined in Attachment 1.



Report Writer



A/ General Manager Concurrence



Manager Concurrence



A/ CAO Concurrence

Attachment 1
Terms and Conditions of Permit

The following sets out the terms and conditions of Development Variance Permit Application No. PL2014-012:

Bylaw No. 500, 1987 Variance:

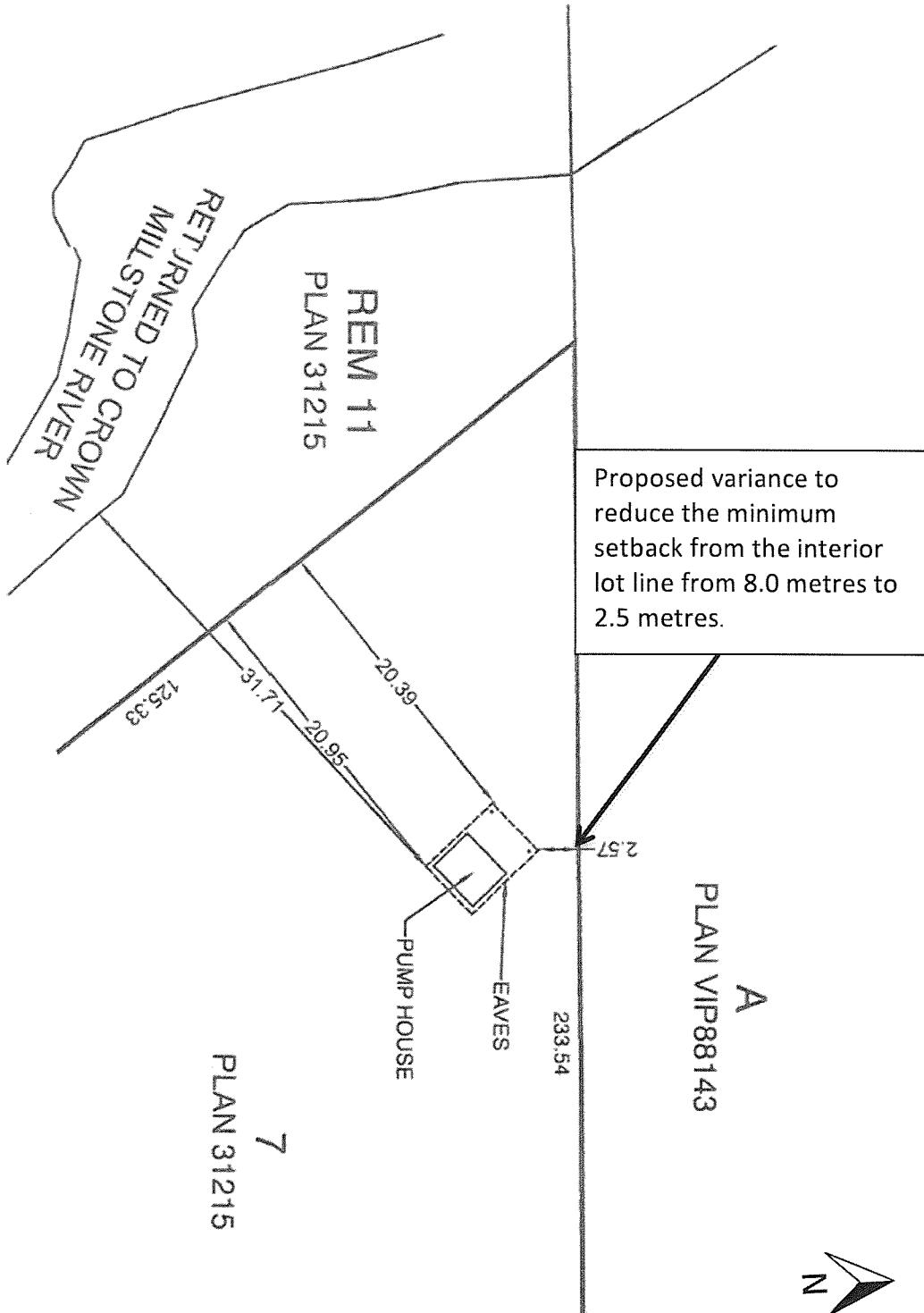
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

1. Section 3.4.81 **Minimum Setback Requirements** to reduce the minimum setback requirement from the interior lot from 8.0 metres to 2.5 metres to legalize the siting of an existing accessory building.

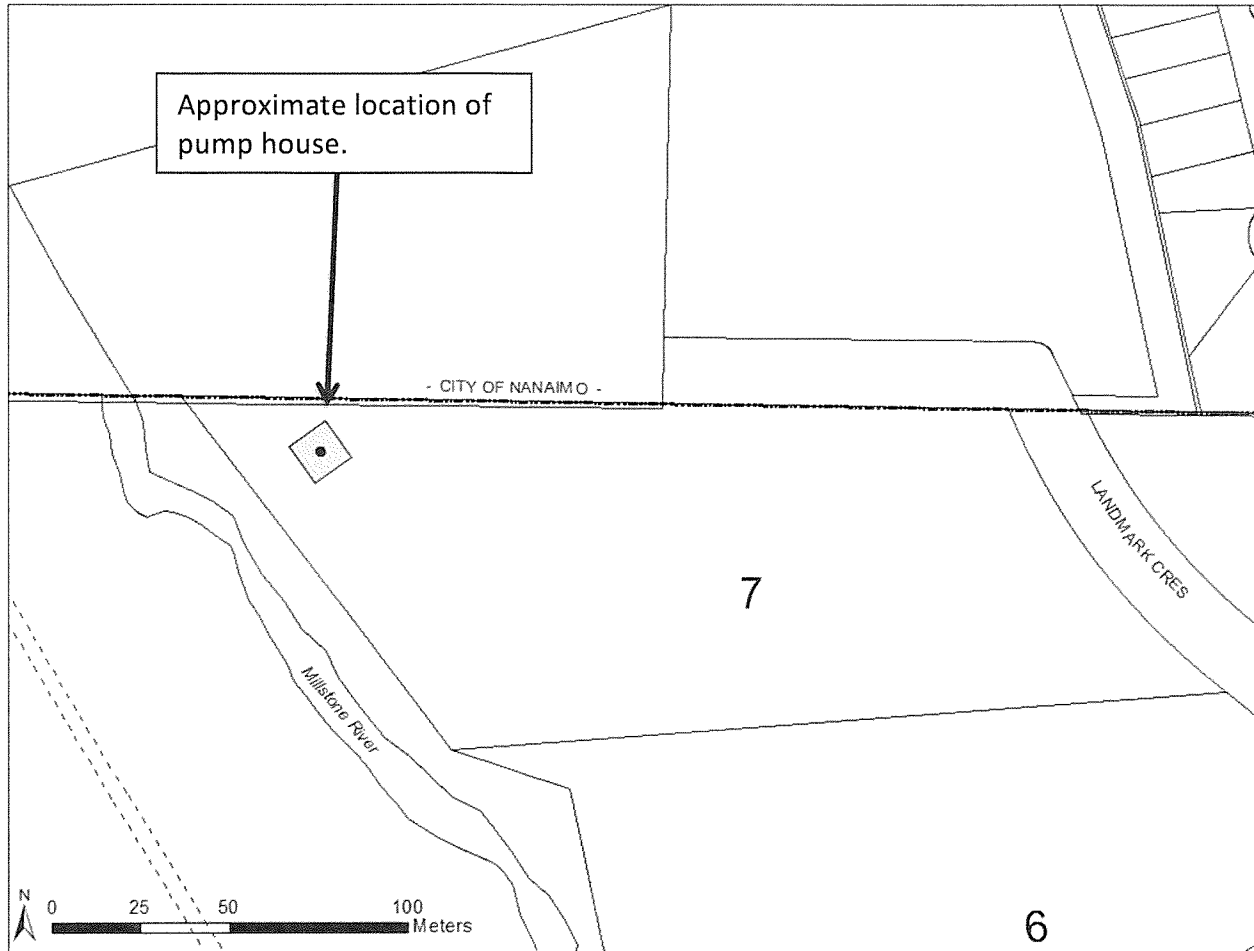
Conditions of Approval:

1. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

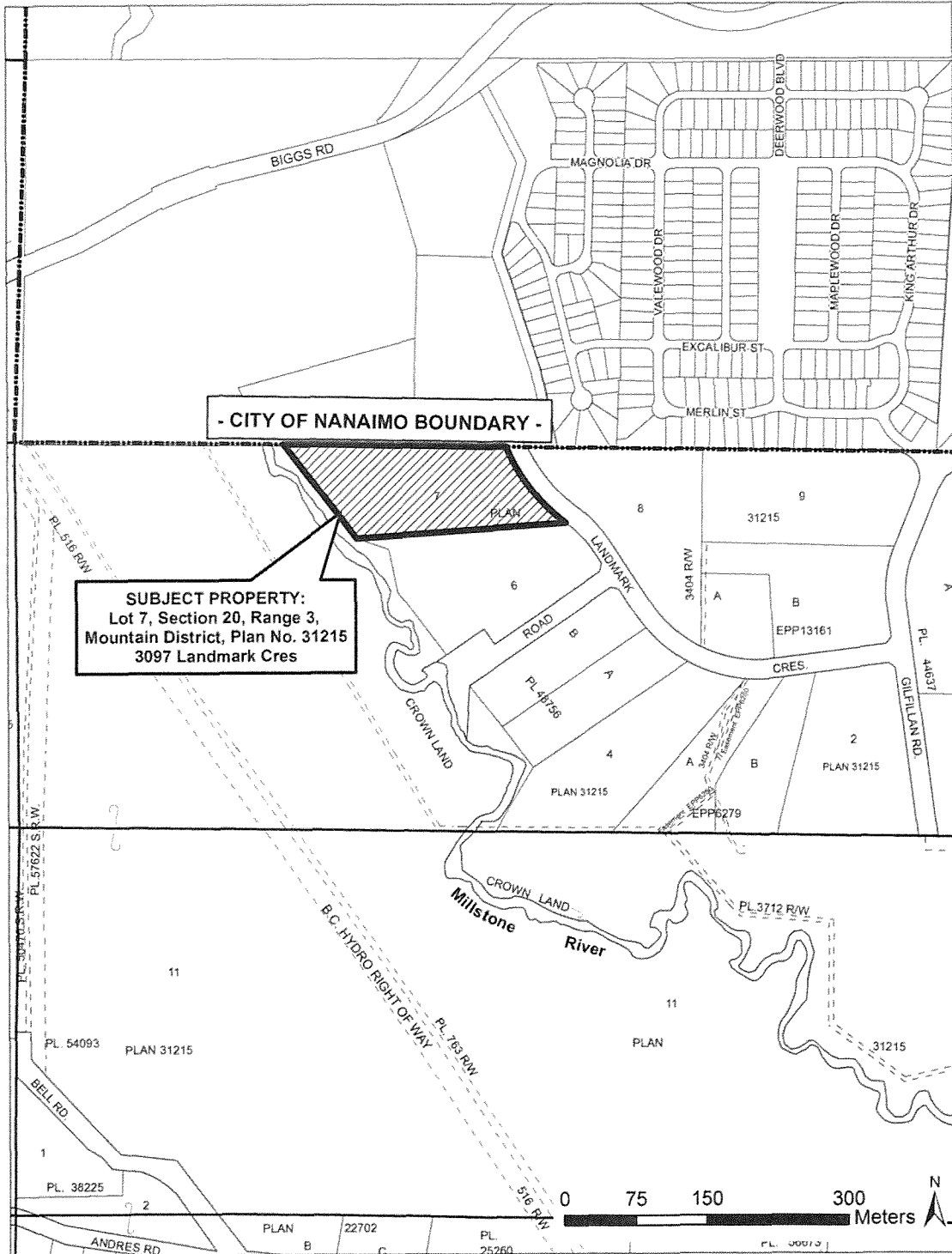
Attachment 2
Proposed Site Plan Detail and Variance



**Attachment 3
Site Plan Overview**

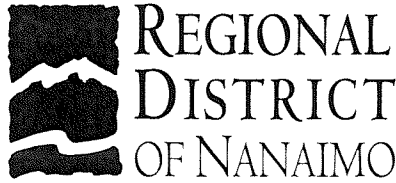


Attachment 4
Location of Subject Property



Attachment 5
Photo of Pump House





RDN REPORT	
CAO APPROVAL PL	
EAP	✓
COW	
MAY 06 2014	
RHD	
BOARD	

MEMORANDUM

TO: Jeremy Holm
Manager, Current Planning

DATE: May6, 2014

FROM: Angela Buick
Planner

FILE: PL2014-023

SUBJECT: Development Variance Permit Application No. PL2014-023 – Meadows Lot 6, District Lot 72, Nanoose District, Plan 7790 – 1963 Seahaven Road Electoral Area ‘E’

PURPOSE

To consider an application for a Development Variance Permit to vary building height and setback to the sea to permit the construction of a dwelling unit on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Fern Road Consulting Ltd. on behalf of Alan and Ruth Meadows to permit the construction of a 270 m² dwelling unit. The subject property is approximately 0.32 ha in area and is zoned Residential 1 (RS1) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (Bylaw No. 500).

The subject property is relatively flat and currently contains an existing sea wall that was originally constructed approximately 30 years ago. The subject property also contains an existing single-storey dwelling unit approximately 112 m² in size and a recently constructed garage. The subject property is surrounded by Northwest Bay coastline to the north, Seahaven Road right-of-way to the south and by residentially zoned lots to the east and west; (see Attachment 4 - Location of Subject Property). The proposed development is subject to “Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006” (Floodplain Bylaw) as it is located within 100 metres of the sea.

Proposed Development and Variance

The applicant is requesting a variance to the maximum allowable height and minimum setback to the sea requirements of Bylaw No. 500 to allow the construction of a dwelling unit on the subject property.

The requested variances include an increase to the maximum building height from 8.0 metres to 9.0 metres and a reduction to the minimum setback from the natural boundary of the sea from 15.0 metres to 8.0 metres for the proposed dwelling unit.

ALTERNATIVES

1. To approve Development Variance Permit No. PL2014-023 subject to the conditions outlined in Attachment 1.
2. To deny Development Variance Permit No. PL2014-023.

LAND USE IMPLICATIONS

Development Implications

The applicant has provided two geotechnical assessments from Emerald Sea Engineering dated March 12, 2014, and April 10, 2014, in order to confirm that the proposed residential use can occur safely in the location outlined on the site plan prepared by Sims Associates Land Surveying Ltd. dated April 30, 2014 (see Attachment 2 - Site Plan).

The applicant's Engineer, in the report dated April 10, 2014, recommends a minimum flood construction elevation of 4.27 metres GSC (Geodetic Survey of Canada). The minimum existing natural grade is 3.4 metres GSC, as such, the underside of the floor joists must be elevated by 0.87 metres above natural grade to meet the recommended flood construction level of 4.27 metres GSC. The applicant is requesting a height variance for the proposed dwelling unit from 8.0 metres to 9.0 metres in order to permit the construction of a two-storey dwelling unit while ensuring the underside of the floor joists will be situated above the recommended flood construction elevation (see Attachment 3 - Proposed Building Elevations). The recommended terms and conditions of approval include registration of a Land Title Act Section 219 covenant containing the Engineer's report and including a save harmless clause that releases the Regional District of Nanaimo from loss and damage that may result from the flood hazard.

The Floodplain Bylaw permits structures to be located as near as 8.0 metres from the natural boundary of the sea where the sea frontage is protected from erosion by a natural bedrock formation or works designed by a professional engineer. The applicant's Engineer in the report dated March 12, 2014, evaluated the existing marine retaining wall and confirmed that the design and construction of the wall is sufficient to protect the proposed dwelling unit from erosion and flooding with an 8.0 metre setback in accordance with the Floodplain Bylaw. The report provides recommendations for maintenance of the seawall to prevent failure and ensure longevity of the structure. The recommended terms and conditions of approval include registration of a Land Title Act Section 219 covenant containing the Engineer's report and including a save harmless clause that releases the Regional District of Nanaimo from loss and damage that may result from the flood hazard.

The Zoning Bylaw requires a minimum 15.0 metre setback for structures from the natural boundary of the sea; the applicant is requesting to reduce this setback to 8.0 metres for the proposed dwelling unit. The applicant's Engineer confirmed that the requested 8.0 metre setback from the present natural boundary would be safe and suitable for the proposed dwelling unit. The siting of the proposed dwelling unit is constrained by the location of the existing septic system, which is located between the existing garage, and the proposed building site. The location of the proposed dwelling unit is consistent with the location of adjacent dwelling units in relation to the present natural boundary.

Inter-governmental Implications

Provincial records indicate the presence of an archaeological site within the subject property which is a site protected under the *Heritage Conservation Act*. As a result, the property owners have applied for a Heritage Alteration Permit which was issued by the Ministry of Forests, Lands and Natural Resource Operations for the proposed works. First Nations that may have an interest in the archeological site have been made aware of the proposed works through the Ministry's permit approval process.

Strategic Plan Implications

Staff have reviewed the proposed development and note that the proposal has no implications for the Board’s 2013 – 2015 Strategic Plan.

Public Consultation Process


Pending the Committee’s recommendation and pursuant to the *Local Government Act* and the “Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005”, property owners and tenants of parcels located within 50.0 metres of the subject property 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 approval of the application.

SUMMARY/CONCLUSIONS

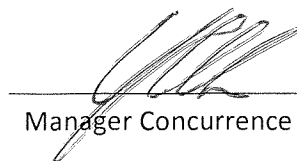
This is an application for variances to the height and setback to the sea requirements of “Regional District of Nanaimo Land Use and Subdivision Bylaw 500, 1987” for the construction of a dwelling unit on the subject property. The requested height variance from 8.0 metres to 9.0 metres is intended to allow for the construction of a two storey dwelling unit which meets the minimum recommended flood construction elevation of 4.27 metres GSC. The requested setback to the Sea variance from 15.0 metres to 8.0 metres from the natural boundary is supported by a building site that is constrained by the location of the existing septic system, and existing garage. The proposed dwelling unit is protected by an existing marine retaining wall and the proposed location is similar to adjacent dwellings in relation to the present natural boundary. The applicant has submitted a site plan, building elevations and geotechnical assessments in support of the application. In staff’s assessment, this proposal is consistent with the requirements of the “Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006” and the applicants Engineer has confirmed that the proposed development can be protected from the flood hazard. Staff recommends approval of the requested variances pending the outcome of statutory notification.

RECOMMENDATIONS

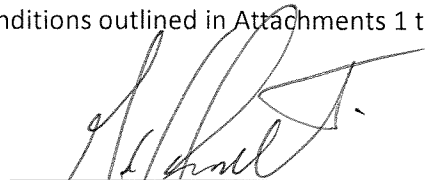
1. That staff be directed to complete the required notification.
2. That Development Variance Permit No. PL2014-023 to allow the construction of a dwelling unit on the subject property be approved subject to the conditions outlined in Attachments 1 to 3.



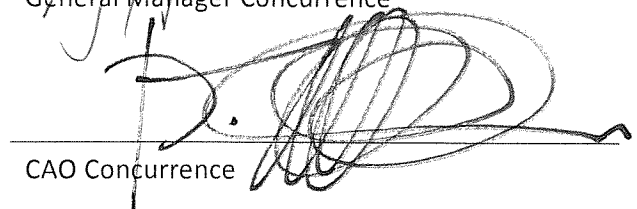
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

Attachment 1
Terms and Conditions of Development Variance Permit

The following sets out the terms and conditions of Development Variance Permit Application No. PL2014-023:

Bylaw No. 500, 1987, Variances:

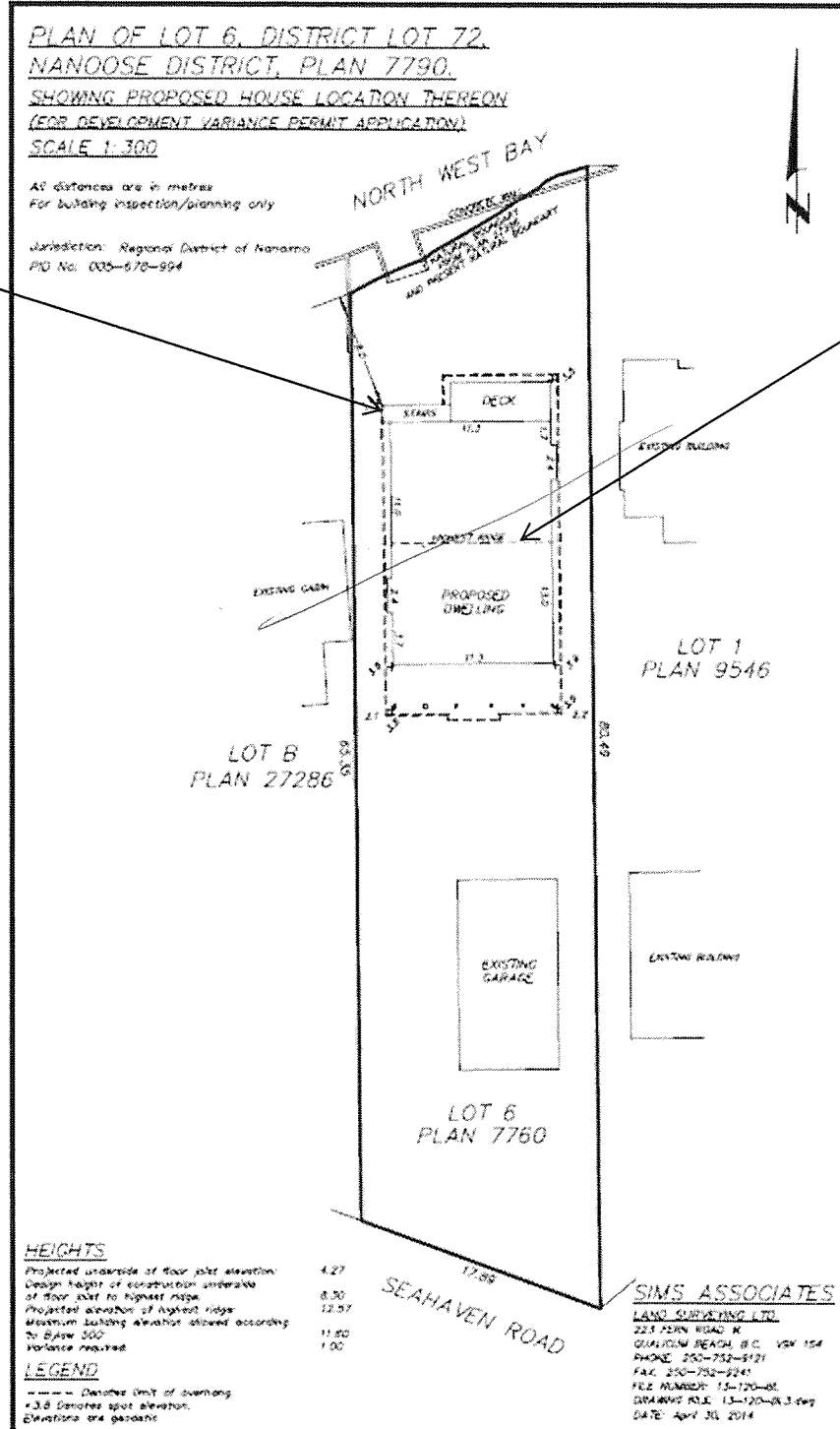
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

1. Section 3.3.8 Setbacks – Sea is hereby varied by reducing the minimum setback from the natural boundary of the sea from 15.0 metres to 8.0 metres.
2. Section 3.4.61 Maximum Number and Size of Buildings is hereby varied by increasing the maximum dwelling unit height from 8.0 metres to 9.0 metres.

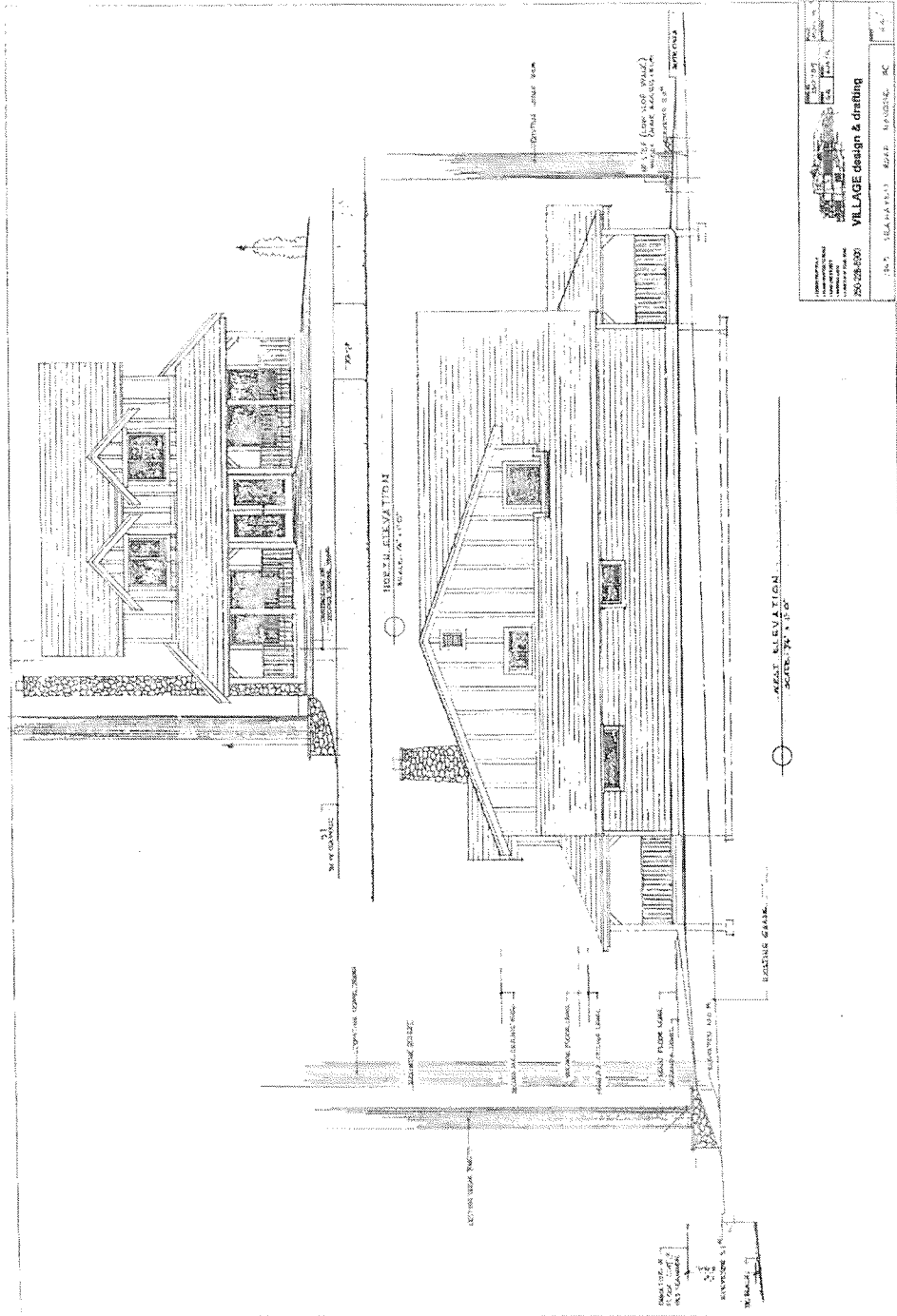
Conditions of Approval:

1. The dwelling unit shall be sited in accordance with the site plan prepared by Sims Associates Land Surveying Ltd. dated April 30, 2014, attached as Attachment 2
2. The dwelling unit shall be constructed in general accordance with the elevation drawings prepared by Village Design and Drafting dated August 2013, attached as Attachment 3
3. The sea wall shall be maintained in accordance with the geotechnical assessment prepared by Emerald Sea Engineering dated March 12, 2014.
4. The dwelling unit shall be constructed and sited in accordance with the geotechnical assessment prepared by Emerald Sea Engineering dated April 10, 2014.
5. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a section 219 restrictive covenant containing the geotechnical assessments prepared by Emerald Sea Engineering and dated March 12, 2014, and dated April 10, 2014, that requires development to be in accordance with the recommendation of the Engineer and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of the potential hazard.

Attachment 2
Proposed Site Plan and Variances



Attachment 3
Building Elevations (Page 1 of 2)
West Elevation



Attachment 4
Location of Subject Property

