

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, NOVEMBER 10, 2015
6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

3-6 Minutes of the Regular Electoral Area Planning Committee meeting held Tuesday, October 13, 2015.

BUSINESS ARISING FROM THE MINUTES

COMMUNICATIONS/CORRESPONDENCE

DEVELOPMENT PERMIT

7-13 Development Permit Application No. PL2015-127 – 1764, 1768 and 1772 Cedar Road, Electoral Area 'A'.

DEVELOPMENT PERMIT WITH VARIANCE

14-44 Development Permit with Variance Application No. PL2015-026 – 1604 Cedar Road, Electoral Area 'A'.

45-53 Development Permit with Variance Application No. PL2015-115 – 1100 Pepper Place, Electoral Area 'G'.

54-62 Development Permit with Variance Application No. PL2015-123 – 5451 Island Highway West, Electoral Area 'H'.

OTHER

63-83 Electoral Area 'H' Official Community Plan Review.

84-101 Ministry of Agriculture's Discussion Paper and Proposed Minister's Bylaw Standards Regulating Agri-tourism and Farm Retail Sales in the Agricultural Land Reserve.

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, OCTOBER 13, 2015 AT 6:00 PM IN THE
RDN BOARD CHAMBERS**

In Attendance:

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

Also in Attendance:

P. Thorkelsson	Chief Administrative Officer
J. Harrison	Director of Corporate Services
R. Alexander	Gen. Mg. Regional and 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. Midgley	Mgr. Energy and Sustainability
C. Golding	Recording Secretary

CALL TO ORDER

The Chairperson called the meeting to order and respectfully acknowledged the Coast Salish Nations on whose traditional territory the meeting took place.

DELEGATIONS

Jack Anderson, Greenplan, re Development Permit with Variance – 1604 Cedar Road, Electoral Area ‘A’.

Jack Anderson provided a visual presentation along with details of changes the property owner is willing to make to the original application by reducing the number of signs requested, lessening the height of the free-standing sign, and limiting the amount of backlighting to the sign.

ELECTORAL AREA PLANNING COMMITTEE MINUTES

Minutes of the Regular Electoral Area Planning Committee meeting held Tuesday, September 8, 2015.

MOVED Director Stanhope, SECONDED Director Rogers, that the minutes of the Regular Electoral Area Planning Committee meeting held Tuesday, September 8, 2015, be adopted.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Jack Anderson, Greenplan, re Development Permit with Variance – 1604 Cedar Road, Electoral Area 'A'.

MOVED Director Stanhope, SECONDED Director Rogers, that the correspondence from Jack Anderson, Greenplan, regarding Development Permit with Variance – 1604 Cedar Road, Electoral Area 'A', be received.

CARRIED

Ministry of Agriculture, re Regulating Agri-Tourism and Farm Retail Sales in the Agricultural Land Reserve – Discussion Paper and Proposed Minister's Bylaw Standards.

MOVED Director Stanhope, SECONDED Director Rogers, that the correspondence from the Ministry of Agriculture regarding regulating agri-tourism and farm retail sales in the Agricultural Land Reserve – Discussion Paper and Proposed Minister's Bylaw Standards be received.

CARRIED

DEVELOPMENT PERMIT WITH VARIANCE

Development Permit with Variance Application No. PL2015-026 – 1604 Cedar Road, Electoral Area 'A'.

MOVED Director McPherson, SECONDED Director Stanhope, that Development Permit with Variance Application No. PL2015-026 be referred back to staff for further discussion with the applicant.

CARRIED

Development Permit with Variance Application No. PL2015-117 – 1713 Admiral Tyron Boulevard, Electoral Area 'G'.

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

CARRIED

MOVED Director Stanhope, SECONDED Director Fell, that Development Permit with Variance Application No. PL2015-117 to permit the construction of a rip rap seawall on the subject property be approved subject to the conditions outlined in Attachments 2 to 4.

CARRIED

ZONING AMENDMENT

Zoning Amendment Application No. PL2015-025 – Electoral Area 'H' – Amendment Bylaw No. 500.400 – 1st and 2nd Reading.

MOVED Director Stanhope, SECONDED Director Fell, that the Summary of the Public Information Meeting held on August 10, 2015, be received.

CARRIED

MOVED Director Stanhope, SECONDED Director Fell, that the conditions set out in Attachment 2 of the staff report be completed prior to Amendment Bylaw No. 500.400 being considered for adoption.

CARRIED

MOVED Director Stanhope, SECONDED Director Fell, that "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.400, 2015", be introduced and read two times.

CARRIED

MOVED Director Stanhope, SECONDED Director Fell, that the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.400, 2015" be chaired by Director Veenhof or his alternate.

CARRIED

PERIMETER FRONTAGE

Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement in Relation to Subdivision Application No. PL2015-055 – 2855 Ashcraft Road, Electoral Area 'E'.

MOVED Director Rogers, SECONDED Director Stanhope, that the request to relax the minimum 10% perimeter frontage requirements for the proposed remainder of Lot 5 in relation to Subdivision Application No. PL2015-055 be approved.

CARRIED

Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement in Relation to Subdivision Application No. PL2015-067 – 2045 Fisher Road, Electoral Area 'F'.

MOVED Director Fell, SECONDED Director Stanhope, that the request to relax the minimum 10% perimeter frontage requirements for Lot 1 District Lot 75 and the Remainder of the District Lot 155 in relation to Subdivision Application No. PL2015-067 be approved.

CARRIED

Request for Relaxation of the Minimum Perimeter Frontage Requirement in Relation to Subdivision Application No. PL2015-112 – Electoral Area 'F'.

MOVED Director Fell, SECONDED Director Stanhope, that the request to relax the minimum perimeter frontage requirement from 80.0 metres to 63.0 metres for proposed Lot 2 in relation to Subdivision Application No. PL2015-112 be approved.

CARRIED

OTHER

Sustainability Review of Regional District of Nanaimo Official Community Plans.

MOVED Director Stanhope, SECONDED Director Fell, that the Regional District of Nanaimo Board of Directors direct staff to explore policies that enable on-site renewable energy generation as an economic opportunity for residents and businesses in the Regional District of Nanaimo.

CARRIED

MOVED Director Stanhope, SECONDED Director Fell, that the Regional District of Nanaimo Board of Directors direct staff to explore criteria for evaluating community impacts of renewable energy systems and develop various policy alternatives for future consideration.

CARRIED

MOVED Director Stanhope, SECONDED Director McPherson, that the Regional District of Nanaimo Board of Directors direct staff to complete a renewable energy capacity analysis for the region.

DEFEATED

MOVED Director Stanhope, SECONDED Director Fell, that the Regional District of Nanaimo Board of Directors direct staff to consider area-specific climate change mitigation and adaptation measures for inclusion in Official Community Plans through the public consultation process used during future Official Community Plans reviews.

CARRIED

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

Ministry of Agriculture, re Regulating Agri-Tourism and Farm Retail Sales in the Agricultural Land Reserve – Discussion Paper and Proposed Minister’s Bylaw Standards.

MOVED Director Stanhope, SECONDED Director Fell, that the correspondence from the Ministry of Agriculture regarding regulating agri-tourism and farm retail sales in the Agricultural Land Reserve – Discussion Paper and Proposed Minister’s Bylaw Standards be referred to the Agricultural Advisory Committee.

CARRIED

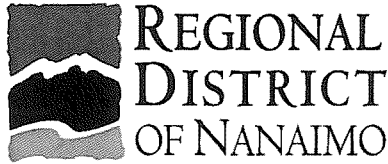
MOVED Director Young, SECONDED Director McPherson, that this meeting be adjourned.

CARRIED

TIME: 6:49 PM

CHAIRPERSON

CORPORATE OFFICER



RDN REPORT	
CAO APPROVAL <input checked="" type="checkbox"/>	
EAP	<input checked="" type="checkbox"/>
COW	<input type="checkbox"/>
NOV 02 2015	
RHD	<input type="checkbox"/>
BOARD	<input type="checkbox"/>

STAFF REPORT

TO: Jeremy Holm
Manager, Current Planning

DATE: October 29, 2015

FROM: Kelsey Chandler
Planning Technician

MEETING: EAPC – November 10, 2015

FILE: PL2015-127

SUBJECT: Development Permit Application No. PL2015-127
1764 & 1768 Cedar Road – Lot A, Section 15, Range 8, Cranberry District, Plan 30449
1772 Cedar Road – Lot B, Section 15, Range 8, Cranberry District, Plan 30449
Electoral Area 'A'

RECOMMENDATION

That Development Permit Application No. PL2015-127 in conjunction with a proposed lot line adjustment and a three-lot subdivision be approved subject to the conditions outlined in Attachments 2 to 4.

PURPOSE

To consider an application for a development permit in conjunction with two subdivision applications: a proposed lot line adjustment and a three-lot subdivision within the subject properties.

BACKGROUND

The Regional District of Nanaimo (RDN) has received a development permit application from Robyn Kelln on behalf of York Lake Equities Ltd. in conjunction with a proposed lot line adjustment and a three-lot subdivision of the subject properties. The development permit application is based substantially on previously approved Development Permit No. PL2012-106, which expired on April 23, 2015 prior to the conditions of approval being met. The existing lots are approximately 2.18 ha (Lot A) and 0.36 ha (Lot B) in area and are zoned Residential 2 (RS2), Subdivision District 'M', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment 1, Subject Property Map).

The subject properties are surrounded by the York Lake wetland to the north and east, developed residential parcels to the south, and Cedar Road and developed residential and commercial parcels to the west. Lot A currently contains two dwelling units and an accessory building, and Lot B contains one dwelling unit and accessory buildings.

The proposed development is subject to the following Development Permit Areas (DPAs) as per "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1620, 2011":

- Nanaimo River Floodplain; and
- Watercourse and Fish Habitat Protection.

Proposed Development

The applicant proposes to adjust the lot line between Lots A and B, resulting in Lots 1 and 2, in order to retain an existing accessory building and then to subdivide Lot 2 into three parcels (Lots A, B, and C) as shown on the proposed plan of subdivision (see Attachment 3 for proposed lot line adjustment and three lot subdivision). Proposed Lots A and B will be serviced with community water and sewer and proposed Lot C will be serviced by on-site well and community sewer. Proposed Lot A (2300 m²) and Lot B (1702 m²) will meet the parcel averaging provisions of Bylaw No. 500. Proposed Lot C will be 1.69 ha in area and meets the minimum parcel size of 1.0 ha without a community water connection. In order to permit these subdivisions, the applicant is required to obtain development permit approval.

ALTERNATIVES

1. To approve the Development Permit Application No. PL2015-127 subject to the conditions outlined in Attachments 2 to 4.
2. To deny the Development Permit Application No. PL2015-127.

LAND USE IMPLICATIONS

Development Implications

To address the Nanaimo River Floodplain DPA guidelines, the applicant submitted a geotechnical report prepared by Brimmell Engineering Ltd. originally dated October 22, 2012, and revised on February 21, 2013, which includes recommendations for the preparation of the site prior to the construction of a dwelling unit on proposed Lot C where the existing elevation is below the recommended minimum floodplain elevation. The report was reviewed by Brimmell Engineering Ltd. on July 2, 2015, and it was concluded that no changes were required to update the report.

The geotechnical report concludes that the site is safe for the intended residential use and that the proposed development will not result in a detrimental impact on the environment or adjoining properties. In addition, the applicants have provided a report prepared by JE Anderson & Associates dated March 7, 2013 that discusses potential flooding associated with York Lake and the Nanaimo River. This report recommends a 200-year return flood level of 7.5 metres geodetic and confirms that any fill required to meet the recommended flood construction elevation will not restrict the passage of flood waters, redirect flows, decrease natural flood storage, or result in higher than normal flood flows or flood potential elsewhere. As per the DPA guidelines, staff recommends that the applicant be required to register a Section 219 covenant that registers the reports prepared by both Brimmell Engineering Ltd. and JE Anderson and Associates on the property titles, and includes a save harmless clause that releases the RDN from all losses and damages as a result of potential geotechnical and flood hazards. Registration of this covenant is included in the Conditions of Approval (Attachment 2).

To address the Watercourse and Fish Habitat Protection DPA guidelines, the applicant provided a Riparian Areas Assessment prepared by Balanced Environmental Services Ltd. dated October 19, 2012. The report was reviewed by Keystone Environmental Ltd. on September 18, 2015, and it was confirmed that the recommendations provided still apply as stated and that no other updates are necessary. This report establishes a 15.0 metre Streamside Protection and Enhancement Area (SPEA) and includes recommendations for the protection of the SPEA including tree planting and long-term maintenance within the SPEA. The report further recommends that a 1.0 metre high split-rail fence or similar design

be installed along the perimeter of the SPEA boundary and that signage noting the area to be protected be permanently secured to the fence every 20 metres. Development of the site in accordance with the recommendations contained in this report is included in the Conditions of Approval (Attachment 2).

The applicant's engineer has advised that extensive fill has been placed on the subject property over the past several years. The applicant has submitted a subdivision grading plan indicating existing grade, proposed finished grade, and a potential future building location (see Attachment 4, Proposed Subdivision Grading Plan). Given the minimum floodplain elevation of 7.5 metres and an existing grade of 5.0 metres, a height variance of 2.5 metres or more may be required in order to accommodate a dwelling unit on proposed Lot C. Prior to construction on proposed Lot C, the location of the proposed building, the natural grade at the proposed building site, and the height of any proposed buildings or structures must be established. The need, if any, for a height variance would be considered through a separate development variance permit application at that time.

FINANCIAL IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

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

INTER-GOVERNMENTAL IMPLICATIONS

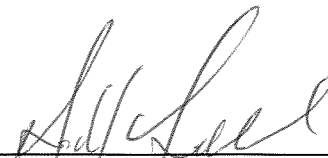
The Ministry of Transportation and Infrastructure has indicated that it has no concerns with the proposed lot line adjustment and the three-lot subdivision, and has issued preliminary layout approvals for both subdivisions.

SUMMARY/CONCLUSIONS

This is an application for a development permit in conjunction with a lot line adjustment and a three-lot subdivision of the subject properties within the Nanaimo River Floodplain and the Watercourse and Fish Habitat Protection DPAs pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1620, 2011". The applicant has provided a Riparian Areas Assessment, geotechnical report, and a subdivision grading plan in support of the application. Given that the proposed development is consistent with the applicable DPA guidelines, staff recommends that the Board approve this application.



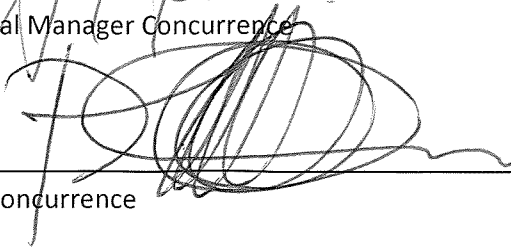
Report Writer



General Manager Concurrence

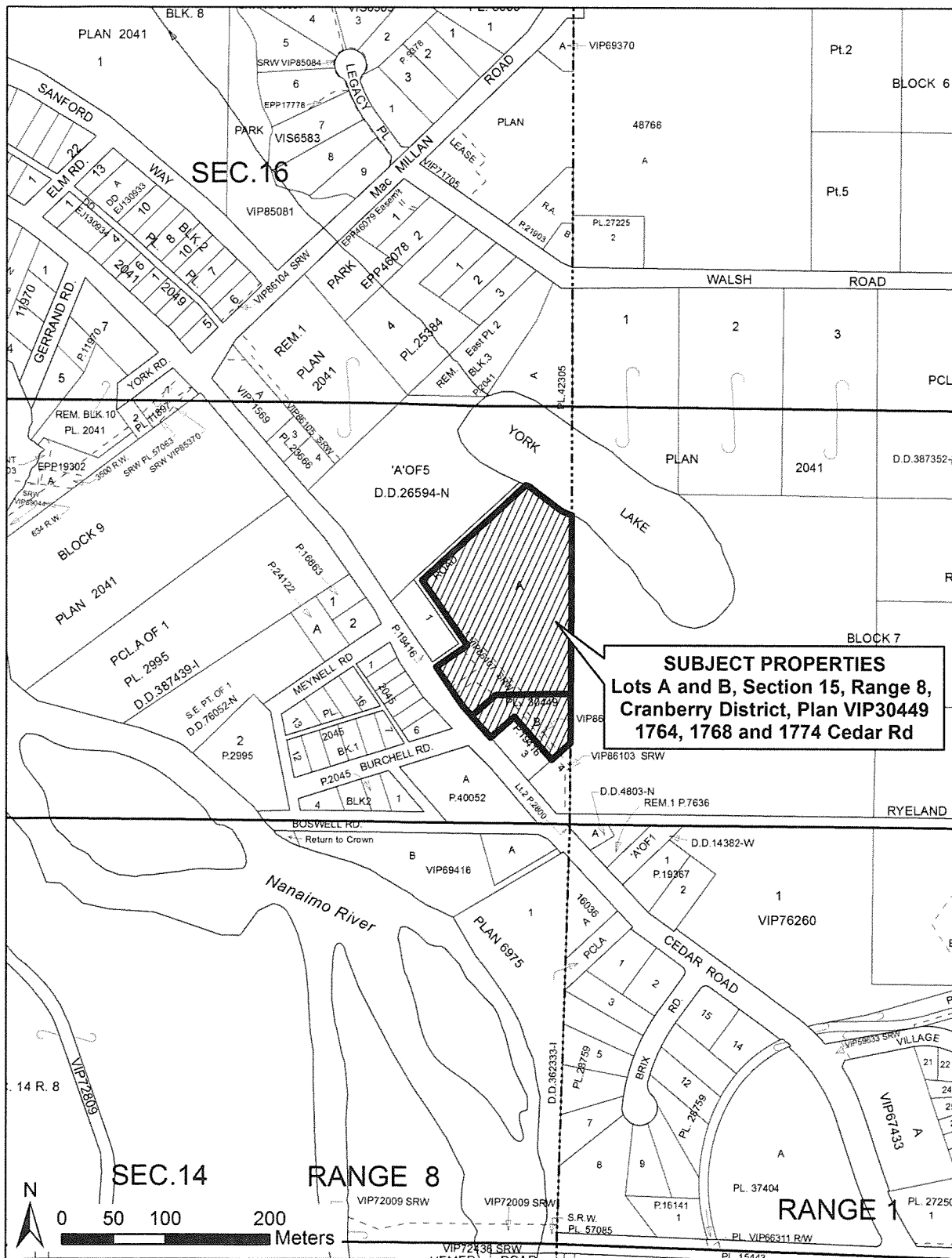


Manager Concurrence



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 Application No. PL2015-127:

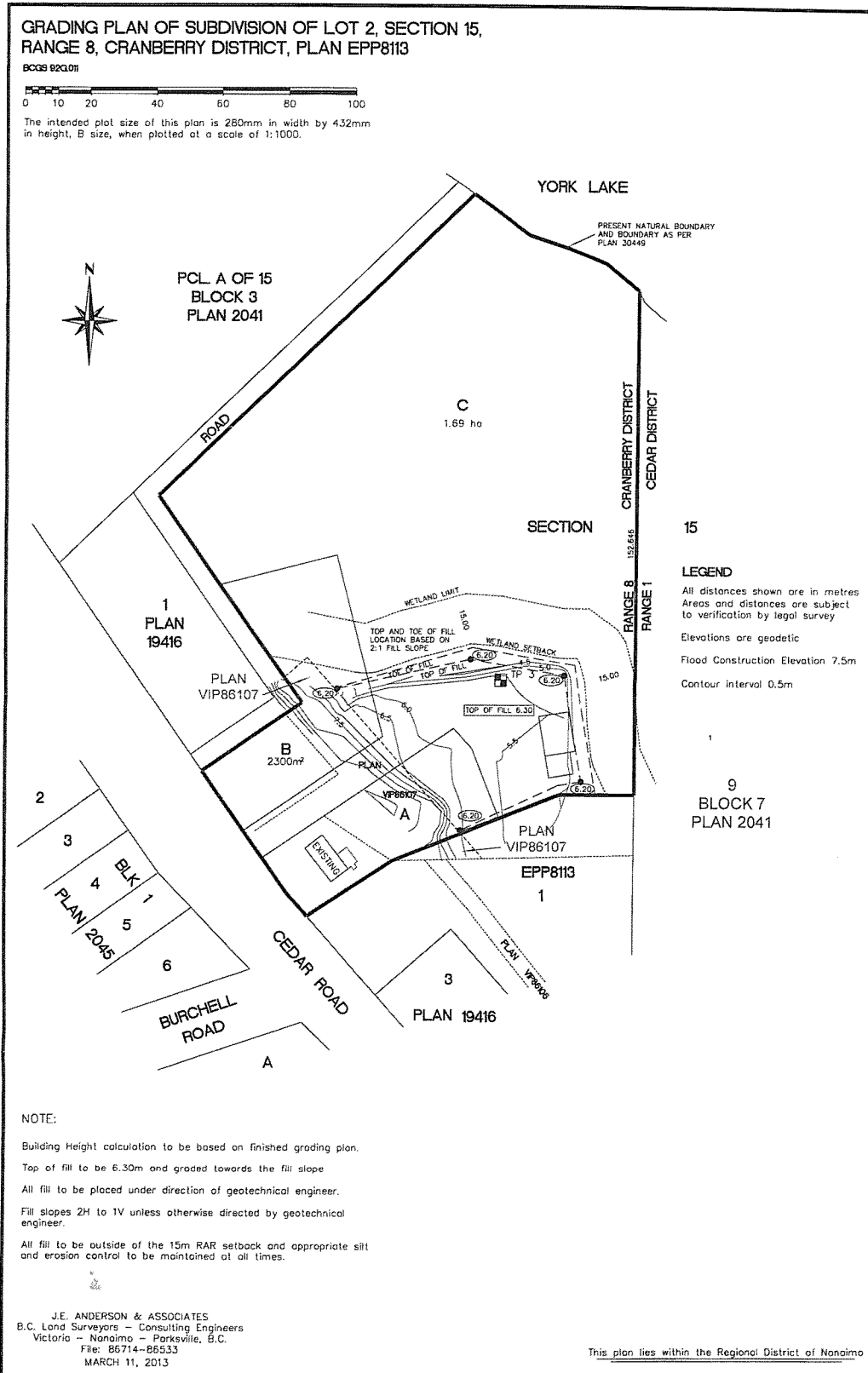
Conditions of Approval

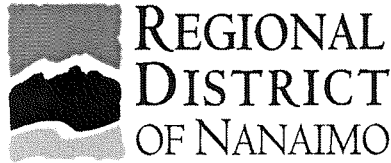
1. The subdivision shall be developed in general accordance with the proposed lot line adjustment and three-lot subdivision plans prepared by JE Anderson & Associates dated July 31, 2012, attached as Attachment 3.
2. The Lands shall be developed in general accordance with the grading plan of subdivision prepared by JE Anderson and Associates dated March 11, 2013, attached as Attachment 4.
3. The Lands shall be developed in accordance with the recommendations of the Riparian Areas Assessment prepared by Balanced Environmental Services Inc. dated October 19, 2012.
4. The applicant shall install a minimum 1.0 metre high split-rail fence or similar fence along the SPEA boundary. In addition, one sign identifying the SPEA as a protected area must be permanently secured to the fence at twenty metre intervals within the subject properties. The applicant shall request a site inspection to confirm the installation of the fencing and signage prior to RDN confirmation of subdivision compliance and to the satisfaction of the General Manager of the Strategic and Community Development Department.
5. The Lands shall be developed in accordance with the Report of Geotechnical Investigation prepared by Brimmell Engineering Ltd. dated October 22, 2012, and revised on February 21, 2013.

Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 covenant on the property titles containing the Report of Geotechnical Investigation prepared by Brimmell Engineering Ltd. dated October 22, 2012, and revised February 21, 2013, and the 200-Year Flood Level and Effect of Filling on Flood Levels Report prepared by JE Anderson and Associates dated March 7, 2013, and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages to life and property as a result of potential geotechnical and flood hazards.

6. The Lands shall be developed in accordance with the 200-Year Flood Level report prepared by JE Anderson & Associates dated March 7, 2013.

Attachment 4
Proposed Subdivision Grading Plan





RDN REPORT		
CAO APPROVAL		
EAP	✓	
COW		
NOV 04 2015		
RHD		
BOARD		

STAFF REPORT

TO: Jeremy Holm
Manager, Current Planning

DATE: November 4, 2015

FROM: Greg Keller
Senior Planner

MEETING: EAPC - November 10, 2015

FILE: PL2015-026

SUBJECT: Development Permit with Variance Application No. PL2015-026
The Northerly 135 Feet of the Westerly 198 Feet of Section 16, Range 8, Cranberry District, Except Part in Plan VIP63251
1604 Cedar Road
Electoral Area 'A'

RECOMMENDATION

That the Board not approve Development Permit with Variance No. PL2015-026 as proposed.

PURPOSE

To consider an application for a Development Permit with Variance to permit building façade and landscaping improvements, a roof overhang, and to relax the minimum front lot line setback requirement, maximum height requirement, and number and type of permitted signs to allow exterior renovations to an existing building and the installation of a new freestanding sign on the subject property.

BACKGROUND

This application was received by the Board at its meeting of October 27, 2015, and was referred back to staff for further discussion with the applicant. The purpose of this report is to highlight the changes that the applicant has made to the application in response to it being referred back to staff. For a more complete assessment of the application please refer to the staff report dated October 6, 2015 included as Attachment 4.

Proposed Development and Variances

The applicant proposes to vary the following regulations from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (Bylaw 500):

1. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum other lot line setback requirement from 5.0 m to 4.57 m for a portion of the proposed roof overhang as shown on Attachment 1.

2. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum other lot line setback requirement from 5.0 m to 2.5 m for a portion of the proposed freestanding sign as shown on Attachment 1.
3. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum front lot line setback requirement from 8.0 m to 1.7 m for a portion of the proposed freestanding sign as shown on Attachment 1.

It is noted that no changes have been proposed to the requested variances to Bylaw 500.

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Sign Bylaw No. 993, 1995”:

1. **Section 5(a)** – to increase the maximum number of signs from two to three including one free standing sign, one projecting sign, and one fascia sign in the locations shown on Attachment 1.
2. **Section 5(b)** – to allow one projecting and one freestanding sign on the subject property as shown on Attachments 1 and 2.
3. **Section 5(c)** – to increase the maximum sign height from 4.0 m to 6.2 m for the proposed freestanding sign as shown on Attachment 1.

It is noted that the applicant has amended the application to reduce the requested maximum number of signs from four to three and to reduce the requested height of the proposed freestanding sign from 6.8 to 6.2 m.

ALTERNATIVES

1. To not approve Development Permit with Variance No. PL2015-026.
2. To approve Development Permit with Variance No. PL2015-026 as proposed subject to the conditions outlined in Attachments 1-3 and direct staff to proceed with notification.

LAND USE IMPLICATIONS

Free Standing Sign

Previously it was not clear that the letter board portion of the freestanding sign would be lit in a manner consistent with Development Permit Area (DPA) Guidelines. The letter board sign in the bottom panel of the freestanding sign is now proposed to be illuminated with channelized LED lighting which is designed to project light downward on to the sign face in a manner consistent with the DPA Guidelines (see Attachment 1 – Page 3 of 4).

While the applicant has revised the application to light the letter board sign in a manner consistent with the DPA Guidelines, the upper sign panel is still proposed to be backlit. Signs which are backlit are not supported by and are not consistent with the DPA Guidelines. The applicant has been advised that staff

cannot recommend support for an application that is inconsistent with the DPA Guidelines. The applicant has requested that the application proceed to the Board as proposed.

Staff continue to be concerned with the type of illumination especially given the scale and highly visible and somewhat obtrusive location of the sign being proposed. Given these concerns and the sign's inconsistency with the DPA guidelines staff recommend the Board not approve the application as proposed.

Should the Board choose to approve the Development Permit with Variance as proposed, in a manner which does not conform with the DPA Guidelines, staff recommends that the applicant be required to register a Section 219 covenant securing the back coating on the sign and prohibiting reader board, neon, flashing, animated, rotating, and other sign types which project light beyond the sign's surface or towards the sky on the subject property. Staff have prepared draft conditions which are included as Attachment 3 and would form conditions of approval if the Board chooses to approve the application as per Alternative 2.

Assessment of Proposed Sign Variances

The applicant has proposed to modify the sign structure to reduce the sign height from 6.8 m as originally requested to 6.2 m. The modified design reduces the height of the proposed sign by 0.6 m while maintaining enough cedar elements to tie in with the proposed pub alterations. The proposed sign would be 6.2 m in height, which requires a variance of 2.2 m to the maximum 4.0 m height requirement of Bylaw 993. While the applicant has not provided a strong land use justification to support the requested height variance for the proposed free standing sign, the applicant has made efforts to reduce the extent of the requested height variance from what was originally proposed.

With respect to the total number and type of signs located on the subject property, the applicant has revised the application to remove one existing fascia sign located on the east side of the building and to retain an existing fascia sign on the west side of the building. Although the backlighting of the existing fascia sign is not consistent with the DPA Guidelines, the sign predates the introduction of the Cedar Main Street Development Permit Area. In addition, the applicant has amended the application by proposing to maintain the existing projecting sign containing the Cranberry Arms crest located on the south side of the building. Staff support keeping the existing projecting sign as it is consistent with the DPA Guidelines.

With consideration of the assessment provided in the October 6th staff report (see Attachment 4) and given the lack of justification for the requested sign height variance and the inconsistency of the proposed backlighting of the upper freestanding sign panel with DPA Guidelines, staff recommend that the Board deny the Development Permit with Variance application as proposed.

FINANCIAL IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

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

PUBLIC CONSULTATION IMPLICATIONS

Should the Committee choose to recommend that the Board approve the Development Permit with Variance in accordance with alternative 2, notification will take place pursuant to the **Local Government Act** and the “Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005” as outlined in the attached staff report (see Attachment 4).

SUMMARY/CONCLUSIONS

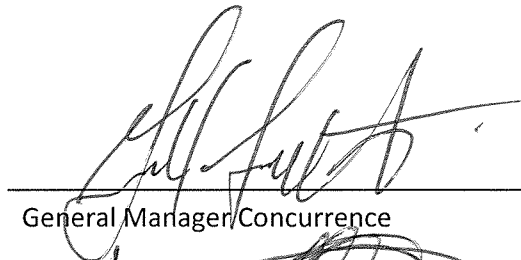
This is an application for a Development Permit with Variance to permit building façade improvements, the construction of a roof overhang, a freestanding sign, and landscaping within the Cedar Main Street Development Permit Area. The applicant has revised the application in response to it being referred back to staff by the Board on October 27, 2015.

With the exception of the variance to sign height, the requested variances are supportable given the site context and the land use justification provided in the staff report dated October 6, 2015 included as Attachment 4. However, the proposed building façade and landscaping are consistent with the DPA Guidelines, the backlighting of the proposed freestanding sign is contrary to the DPA Guidelines.

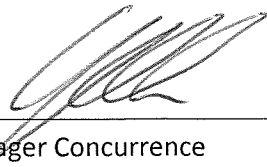
Although the applicant has attempted to reduce the extent of the requested height variance for the freestanding sign and variance to the number of signs permitted, the applicant has not demonstrated a satisfactory land use justification for the proposed height variance. Given that the back lighting of the proposed freestanding sign does not conform to the DPA Guidelines and that the applicant has not provided sufficient justification for the requested variance to sign height, staff recommend that the Board deny the requested Development Permit with Variance application as proposed.



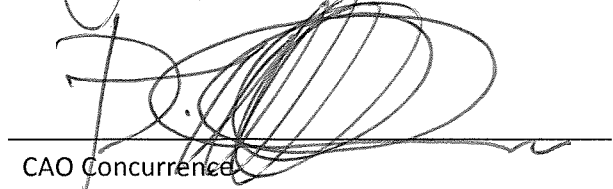
Report Writer



General Manager/Concurrence

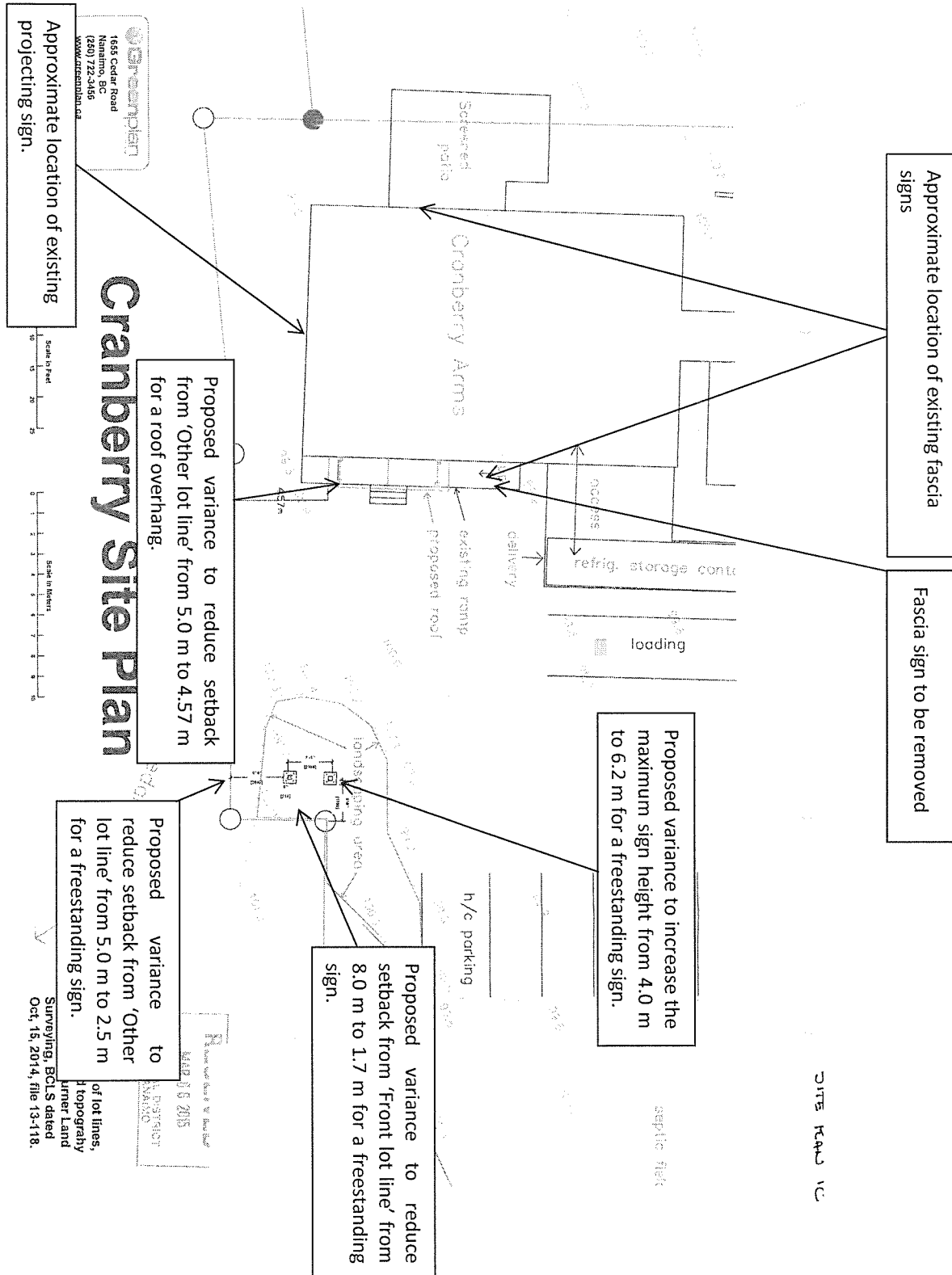


Manager Concurrence

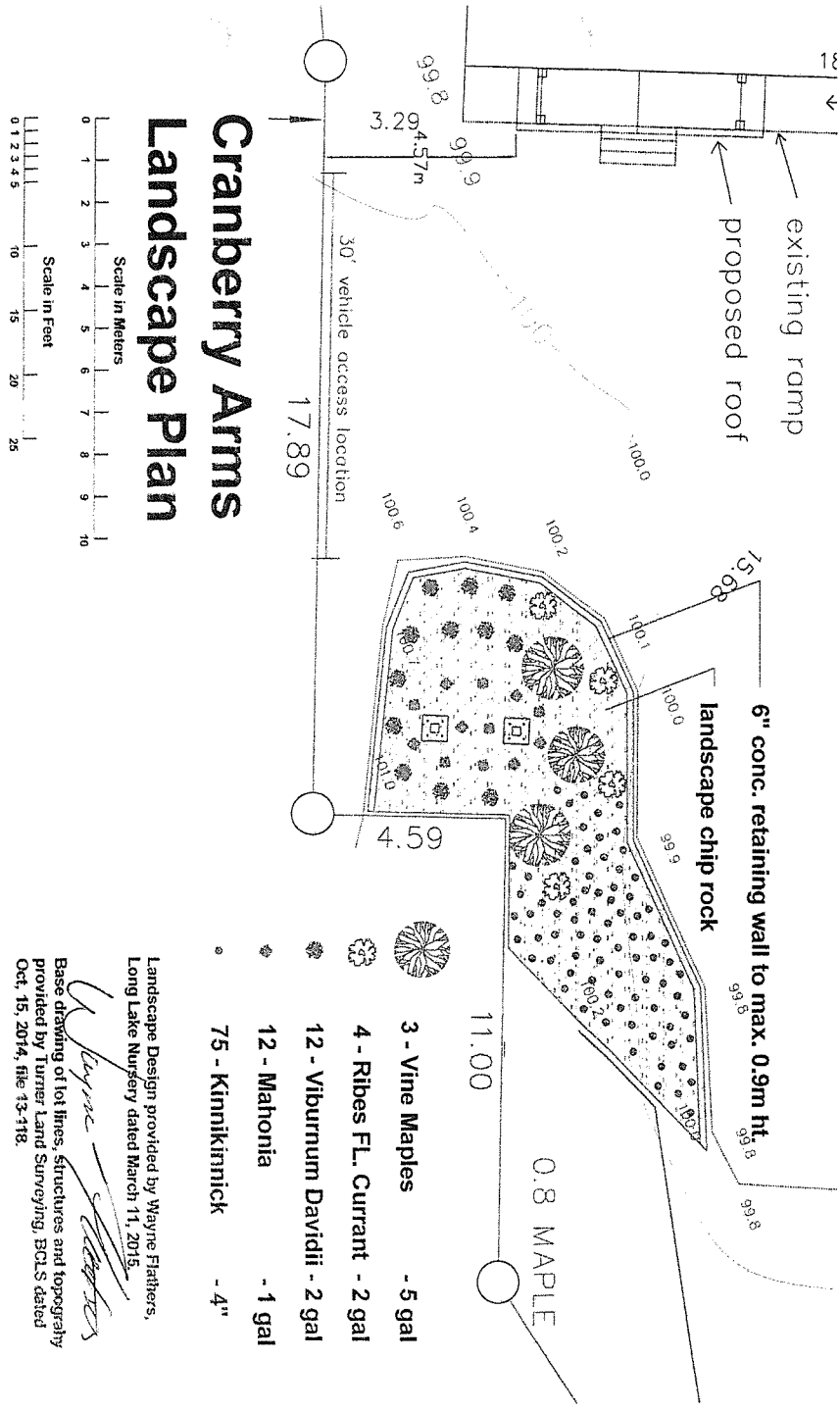


CAO Concurrence

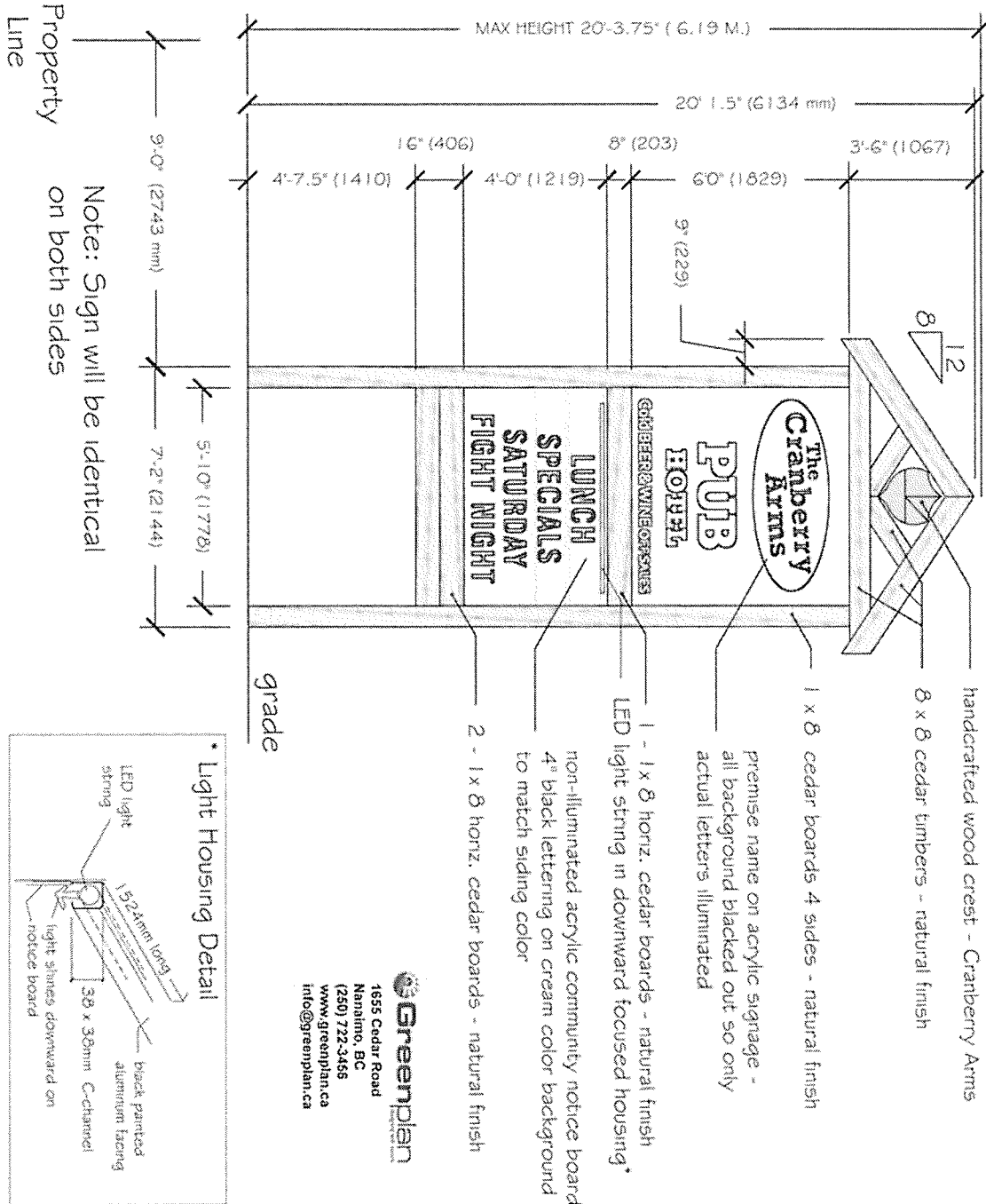
Attachment 1 (Page 1 of 4)
Proposed Site Plan and Variances



**Attachment 1 (Page 2 of 4)
Proposed Landscaping Plan**



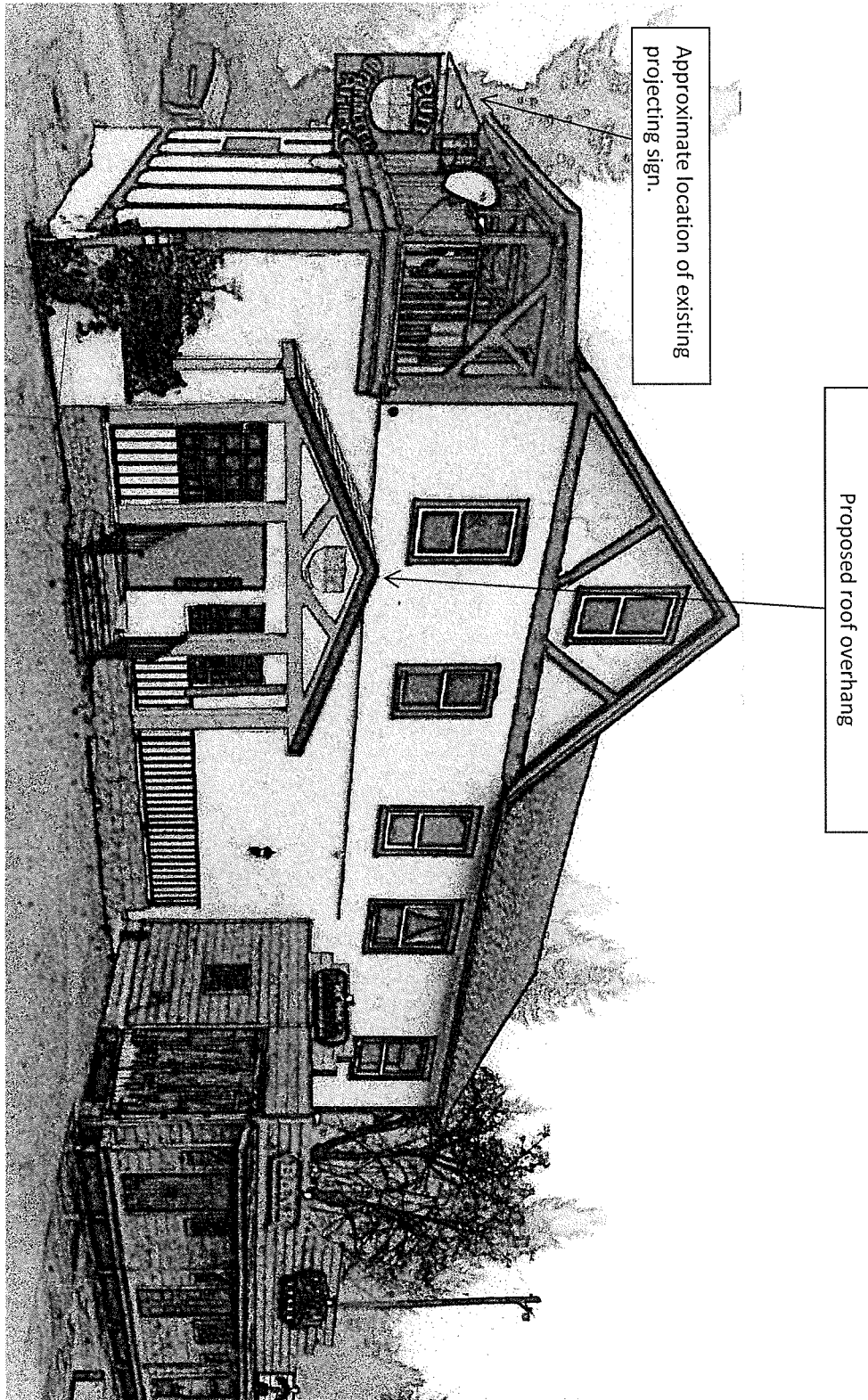
**Attachment 1 (Page 3 of 4)
Freestanding Sign Elevation**



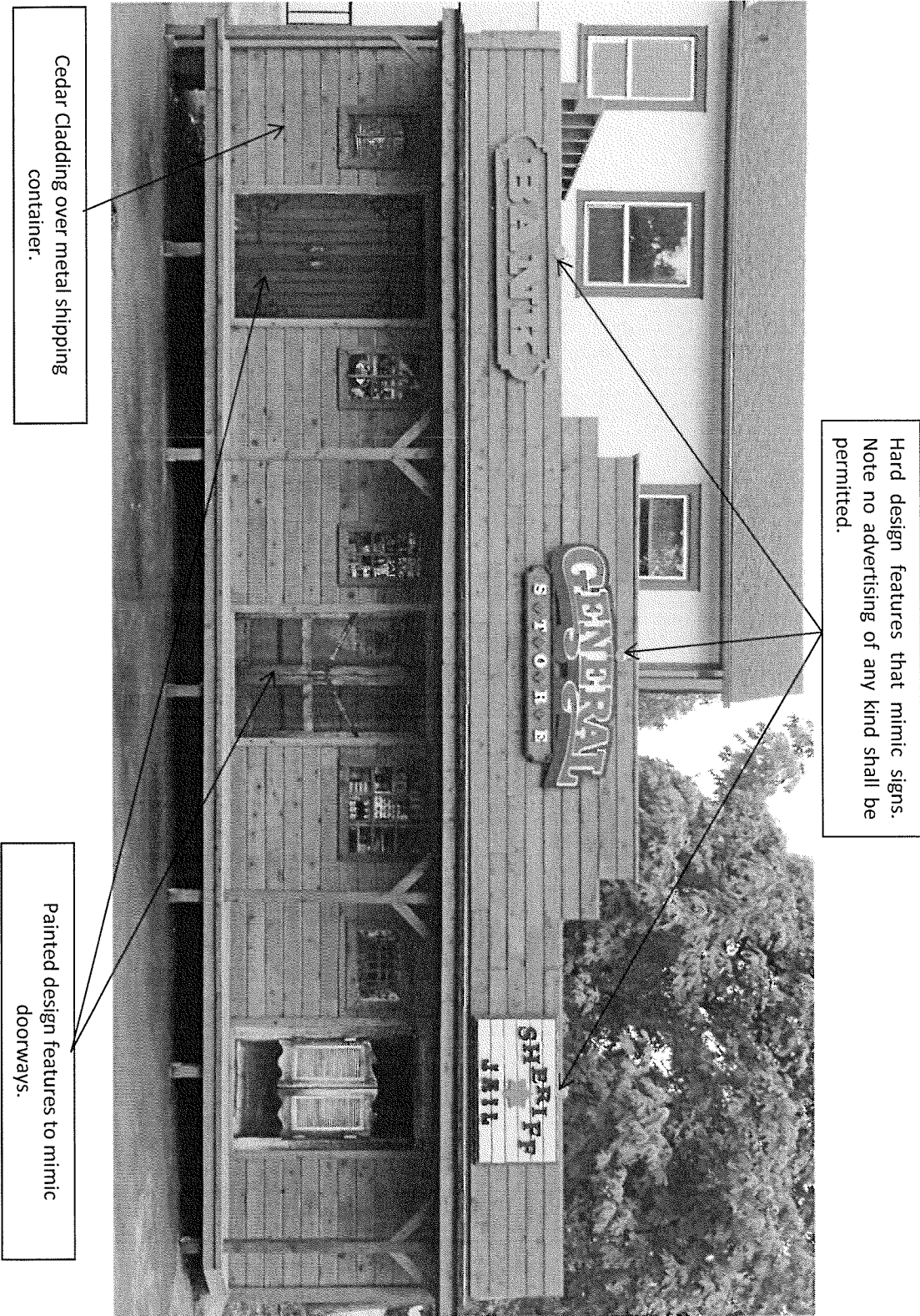
Attachment 1 (Page 4 of 4)
Proposed Site Plan and Variances



Attachment 2 (Page 1 of 3)
Proposed Roof Elevation

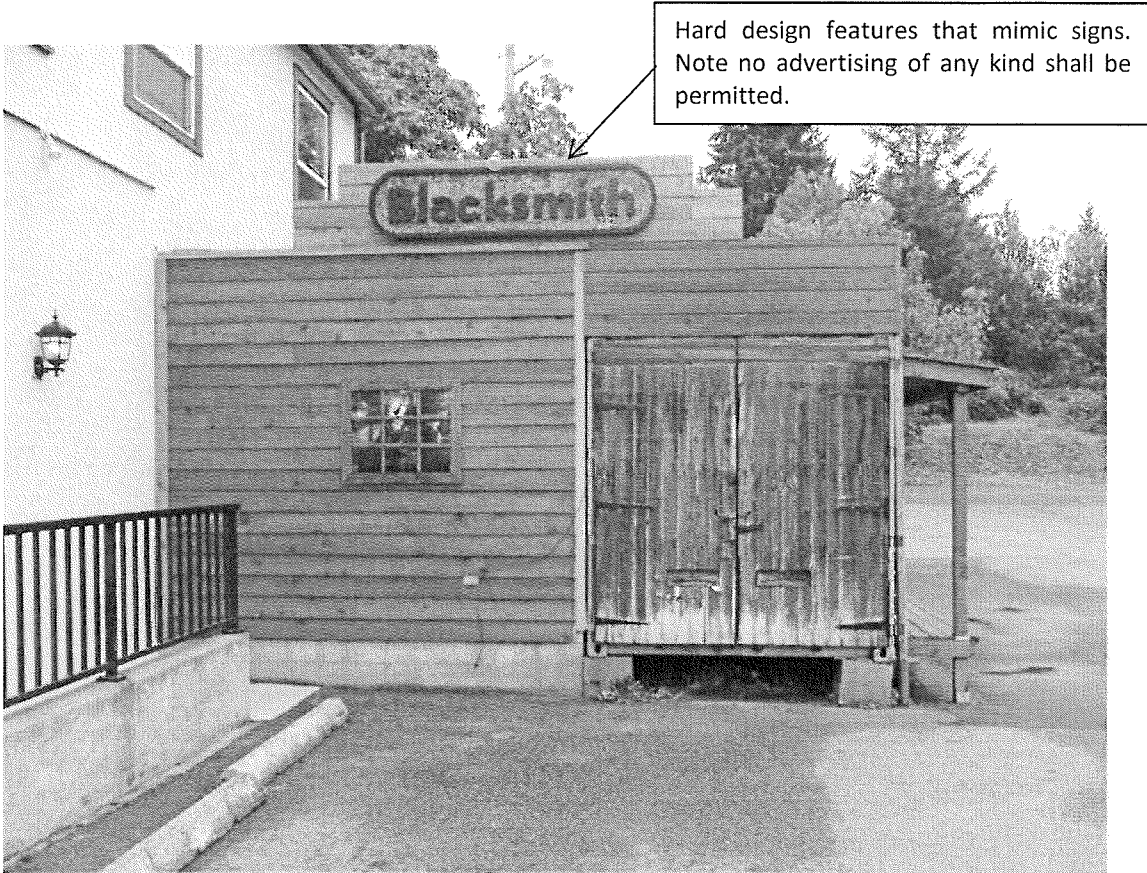


Attachment 2 (Page 2 of 3)
Façade Elevation



Attachment 2 (Page 3 of 3)

Façade Elevation



**Attachment 3
Draft Conditions (Page 1 of 2)**

The following sets out the terms and conditions of Development Permit with Variance No. PL2015-026:

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:

4. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum other lot line setback requirement from 5.0 m to 4.57 m for a portion of the proposed roof overhang as shown on Attachment 1.
5. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum other lot line setback requirement from 5.0 m to 2.5 m for a portion of the proposed freestanding sign as shown on Attachment 1.
6. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum front lot line setback requirement from 8.0 m to 1.7 m for a portion of the proposed freestanding sign as shown on Attachment 1.

Bylaw No. 993, 1995 Variances:

With respect to the lands, "Regional District of Nanaimo Sign Bylaw No. 993, 1995" is varied as follows:

4. **Section 5(a)** – to increase the maximum number of signs from two to three including one free standing sign, one projecting sign, and one fascia sign in the locations shown on Attachment 1.
5. **Section 5(b)** – to allow one projecting and one freestanding sign on the subject property as shown on Attachments 1 and 2.
6. **Section 5(c)** – to increase the maximum sign height from 4.0 m to 6.2 m for the proposed freestanding sign as shown on Attachment 1.

Conditions of Approval:

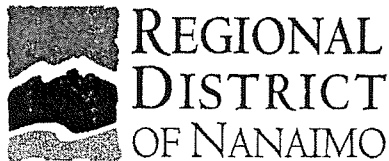
1. Staff shall withhold the issuance of this Development Permit with Variance until the applicant, at the applicant's expense and to the satisfaction of the Regional District of Nanaimo, registers a Section 219 covenant on the property title securing the back coating on the sign and prohibiting reader board, neon, flashing, animated, rotating, and other sign types which project light beyond the signs surface or towards the sky on the subject property.
2. Staff shall withhold the issuance of this permit until the applicant provides a landscaping security deposit in the amount of \$3,000.00 which is equal to the total cost of materials and labour.
3. The site is to be developed in accordance with the Site Plan prepared by Greenplan, dated October 16, 2014, and attached as Attachment 1.

**Attachment 3
Draft Conditions (Page 2 of 2)**

4. Back lighting shall be limited to sign lettering of the upper sign panel only. No additional back lit, reader board, neon, flashing, animated, rotating, or other signs which project light beyond the signs surface or towards the sky shall be permitted.
5. The proposed development is to be in general compliance with the plans and elevations attached as Attachments 1 and 2.
6. All development to be in accordance with the Ministry of Transportation and Infrastructure requirements with respect to access and minimum setbacks from a public highway.
7. The proposed landscaping shall be provided and maintained in accordance with the Landscaping Plan prepared by Wayne Flathers, dated March 11, 2015, and attached as Attachment 1.
8. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.

Attachment 4
October 6th, 2015 Staff Report

Attachment 4



COUNCIL		
OCT 07 2015		
RHD		
BOARD		
DATE:		October 6, 2015

STAFF REPORT

TO: Jeremy Holm
Manager, Current Planning

MEETING: EAPC - October 13, 2015

FROM: Greg Keller
Senior Planner

FILE: PL2015-026

SUBJECT: Development Permit with Variance Application No. PL2015-026
The Northerly 135 Feet of the Westerly 198 Feet of Section 16, Range 8, Cranberry District, Except Part in Plan VIP63251
1604 Cedar Road – Electoral Area 'A'

RECOMMENDATION

That the Board not approve Development Permit with Variance No. PL2015-026 as proposed.

PURPOSE

To consider an application for a Development Permit with Variance to permit building façade and landscaping improvements, a roof overhang, and to relax the minimum front lot line setback requirement, maximum height requirement, and number and type of permitted signs to allow exterior renovations to an existing building and the installation of a new freestanding sign on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Jack Anderson on behalf of Cranberry Arms Holdings to permit building façade and landscaping improvements and the installation of a freestanding sign. The subject property is approximately 1,507m² in area and is zoned Commercial 5 Subdivision District M (CM5M), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is located to the north of Cedar Road just west of the Duke Point Highway overpass in Cedar (see Attachment 1 – Subject Property Map).

The Cranberry Arms Pub (the Pub) is located on the subject property and it is serviced by North Cedar Improvement District Water and onsite wastewater disposal.

The proposed development is subject to the Cedar Main Street Development Permit Area in accordance with the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1620, 2011".

Proposed Development and Variances

The Pub is a two-storey historic building that has been a fixture in the community for many years. The Pub is in a location with high visibility as all vehicular traffic travelling along Cedar Road passes by the Pub. Visibility at this location is enhanced as a result of the narrow and winding road pattern. The Pub has a Tudor-inspired architectural styling with minimal character and detail.

In response to a lack of interior space, a previous owner added a metal shipping container located on the east side of the building for use as refrigerated storage. Although the exact date that the storage container was located on the property is unknown, it has been there for a number of years. The Pub is internally connected to the shipping container with a hallway to provide quick access.

Recently, in an attempt to improve the aesthetic appeal of the Pub, the applicant installed a western-themed façade enclosing the shipping container. This work was done without the required Development Permit and Building Permit. As a result, a stop work order was issued.

The applicant is also proposing to construct a roof overhang over the entranceway on the east side of the building, construct a freestanding sign, and install landscaping at the base of the sign. A Development Permit is required to recognize the façade improvements and to allow the proposed roof overhang, freestanding sign, and landscaping.

It should be noted that this application is limited to an assessment of the identified development activities and proposed variances. As the Pub has been in existence for many years prior to the adoption of zoning and no significant alterations to the building are being proposed at this time, this application does not address issues such as land use, siting of existing buildings and structures, minimum parking requirements, etc. Should the property be redeveloped or a building addition be proposed, the RDN would review the project for overall bylaw compliance at that time.

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

1. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum other lot line setback requirement from 5.0 m to 4.57 m for a portion of the proposed roof overhang as shown on Attachment 2.
2. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum other lot line setback requirement from 5.0 m to 2.5 m for a portion of the proposed freestanding sign as shown on Attachment 2.
3. **Section 3.4.15 – Minimum Setback Requirements** to reduce the minimum front lot line setback requirement from 8.0 m to 1.7 m for a portion of the proposed roof overhang as shown on Attachment 2.

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Sign Bylaw No. 993, 1995”:

1. **Section 5(a)** – to increase the maximum number of signs from two to four including one free standing sign, one projecting sign, and two fascia signs in the locations shown on Attachment 2.
2. **Section 5(b)** – to allow one projecting and one freestanding sign on the subject property as shown on Attachments 2 and 3.
3. **Section 5(c)** – to increase the maximum sign height from 4.0 m to 6.8 m for the proposed freestanding sign as shown on Attachment 2.

ALTERNATIVES

1. To not approve Development Permit with Variance No. PL2015-026.
2. To approve Development Permit with Variance No. PL2015-026 as proposed and direct staff to proceed with notification.

LAND USE IMPLICATIONS

Development Implications

In support of the application, the applicant has provided a site plan illustrating the proposed improvements as well as an elevation drawing showing the proposed freestanding sign (see Attachment 2 – Site Plan). A landscaping plan prepared by Long Lake Nursery dated October 13, 2014, has also been provided that proposes landscaping at the base of the freestanding sign (see Attachment 2 – Landscaping Plan). Artist renderings and photographs have also been provided showing the proposed roof and façade (see Attachment 3 – Roof and Façade Elevations).

The Cedar Main Street Development Permit Area Guidelines (DPA Guidelines) provide detailed guidance on building façade design, architectural detailing, landscape design, and signage which are applicable to the proposed development. Staff's assessment of this proposal is limited to the applicable DPA Guidelines. The DPA Guidelines are very specific to the Cedar area and were developed through the Cedar Main Street Village Planning Project which included significant stakeholder input in to the crafting of the guidelines which capture the community's vision for the area. The DPA Guidelines reflect the community's desire to preserve rural character, control building scale and massing, and protect against the impacts of light pollution. The Guidelines are a result of extensive and broad community input and are a primary tool used to ensure that proposed development within the Cedar Main Street Land Use Designation is consistent with community objectives and the vision set out in the Official Community Plan.

Building Façade

The proposed façade improvements are intended to increase the aesthetic appeal of the metal shipping container. The proposed façade is a western theme that mimics a western store front. The façade contains a number of design features including paintings meant to look like windows and doors and other 'hard' design features meant to replicate typical signage that may have been used to identify uses of a western building such as 'General Store', 'Bank', 'Sheriff Jail' and 'Blacksmith'. Although these 'hard' design features have the appearance of signs, for the purpose of this Development Permit, they are considered architectural elements rather than signs as they are clearly meant to add visual interest to the façade and do not advertise any real business, profession, service, activity, or entertainment. Any future alteration of these design features would require a development permit.

Materials used in the façade design are of high quality and are primarily cedar cladding. The use of at least three different complimentary colours has been included on the façade. Although the western architectural style of the façade design is not consistent with the Tudor-inspired architectural style of the Pub, the DPA Guidelines do not require a unified design scheme and in staff's assessment the proposal represents an overall improvement in aesthetic quality of the building.

The proposed roof overhang is well integrated into the overall architectural design of the Pub and includes exposed timber posts and beams. This will help to add visual interest to the building by breaking up a large building face and will also provide weather protection.

Staff are of the opinion that the proposed façade improvements and roof overhang have satisfied the DPA Guidelines.

Landscaping

Landscaping is proposed at the base of the sign which generally consists of native plants and shrubs. In staffs' assessment, the proposed landscaping is consistent with the DPA Guidelines.

Free Standing Sign

With respect to the freestanding sign, the applicant proposes to repurpose an existing metal freestanding sign frame, reface it with natural cedar building materials, and fit it with new sign content. The proposed sign would include a post and beam type aesthetic which is in keeping with the Pub design. The proposed sign would include two double-sided panels. While the bottom panel is proposed to be a changeable letter board sign which will not be illuminated or electronic, the top panel is proposed to be back lit. Signs which are back lit are not supported by and are not consistent with the DPA Guidelines. The DPA Guidelines specifically do not support the following sign types: back lit, reader board, neon, flashing, animated, rotating, or other signs which project light beyond the signs surface or towards the sky (see Attachment 4 – DPA Sign Guidelines).

Compliance with the DPA Guidelines could be achieved in many ways such as by installing gooseneck style lighting similar to the sign located in Cedar Village at Village Square or by choosing not to illuminate the sign. The applicant has been advised that staff cannot recommend support for an application that is inconsistent with the DPA Guidelines. The applicant has requested that the application proceed to the Board as proposed.

In an attempt to reduce the sign's intensity, the applicant is proposing to back coat the upper sign panel such that the back lit illumination would be limited to sign lettering. Despite the attempt to reduce the signs intensity, the proposed sign is back lit and is therefore not consistent with the DPA Guidelines. Staff are concerned with the type of illumination especially given the scale and highly visible and somewhat obtrusive location of the sign being proposed. Given these concerns and the sign's inconsistency with the DPA guidelines staff recommend the Board not approve the application as proposed.

Should the Board choose to approve the Development Permit with Variance as proposed, in a manner which does not conform with the DPA Guidelines, staff recommends that the applicant be required to register a Section 219 covenant securing the back coating on the sign and prohibiting reader board, neon, flashing, animated, rotating, and other sign types which project light beyond the signs surface or towards the sky on the subject property.

Assessment of Proposed Sign Variances

The applicant is requesting a number of discretionary approvals (variances) which relate to the proposed freestanding sign including a reduced minimum front lot line setback, an increase to the maximum sign height, and an increase in the total number and type of signs permitted on the subject property. The following is an assessment of the proposed variances.

Regional District of Nanaimo Development Variance Permit, Development Permit with Variance, and Floodplain Exemption Application Evaluation Policy B1.5 (Policy B1.5) provides staff with guidance when reviewing and evaluating requests for variances.

Policy B1.5 states that an application should demonstrate both an acceptable land use justification and also that reasonable effort has been made to avoid the need for, or reduce the extent of a variance. A typical example of an acceptable land use justification includes a topographical constraint such as a steep slope or rock outcrop which makes it difficult to comply with bylaw requirements. Typically applicants are expected to demonstrate efforts to reduce the need for a variance such as amending the design, scale, or siting of a structure or altering its height or location.

In accordance with Policy B.1.5, failure to demonstrate an acceptable land use justification or reasonable efforts to reduce the need for, or extent of the variance may be grounds for staff to recommend that the application be denied by the Board.

The applicant is proposing to locate the freestanding sign on the south east corner of the subject property. The proposed location has historically been used for a ground level moveable non-illuminated community announcement sign. The applicant indicates that the proposed sign location was chosen as it is one of the few spots on the subject property that is visible to passing motorists but does not have any negative impacts on highway visibility or traffic flow or parking within the site. Due to sloping topography and the location of the Pub and associated parking areas, there appear to be limited options for the placement of a freestanding sign. As a result, a variance to the minimum setback requirements is being requested to allow for the placement of the sign. The applicant has provided a reasonable land use justification in support of the proposed variance to the minimum setback requirements for the freestanding sign based on demonstrated constraints to suitable location for the sign on the property.

With respect to sign height, the applicant is proposing to reuse an existing metal sign frame and add a cedar post and beam truss. The existing sign frame without the cedar post and beam truss would be approximately 5.2 metres above natural grade. Adding the cedar post and beam truss, which would significantly improve the aesthetic appeal of the sign and better integrate it with the Pub's design, results in the proposed sign being 6.8 m above natural grade. A variance is required to allow the proposed sign as it exceeds the maximum 4.0 metre height requirement in accordance with Bylaw 993.

Although repurposing an existing metal sign frame is consistent with Official Community Plan policies related to encouraging sustainable development, the applicant has not demonstrated that a reasonable effort has been made to reduce the need for, or reduce the extent of the requested height variance. It may be possible to reduce the sign height in a cost effective manner by making alterations to the sign frame while maintaining its overall visibility and effectiveness.

In addition to the above, the DPA Guidelines encourage signage at a pedestrian scale and in a manner which is unobtrusive and requires a minimal amount of lighting or boldness to be effective. The proposed sign is at a highly visible location and would require a minimal amount of lighting and scale to be effective. The applicant has not demonstrated that the height variance and type of illumination proposed are necessary to attract the travelling public given the highly visible location of the pub and given that the sign is on a narrow winding road with relatively slow traffic speeds and is in a location that does not compete with other signage.

Given the height of the sign, the proposed back lighting and the proposed location of the sign it will likely also be visible from Duke Point Highway. The application of the DPA Guidelines suggest that concerns related to the scale of the sign could be addressed by proposing a ground-oriented freestanding sign which is more pedestrian oriented and provides good visibility and effectiveness.

With respect to the total number and type of signs located on the subject property, the applicant has not provided a land use justification and is not proposing any measures to reduce the overall number of signs. This could be addressed by removing the existing fascia signs and/or proposing to consolidate signage on the subject property.

Although the proposed variances are not anticipated to have a direct impact on adjacent property owners as a result of the subject property being separated from adjacent properties by the Duke Point overpass, it is anticipated that the proposed variances may result in visual distraction and a sign which exceeds a scale which is necessary to effectively attract the travelling public. In addition, the applicant has not demonstrated a satisfactory land use justification nor has reasonable effort been made to avoid the need for, or reduce the extent of the requested variances. Given the lack of justification and inconsistency with applicable DPA Guidelines, it is recommended that the Board deny the requested variances and encourage the applicant to work with staff to propose an overall approach to signage on the subject property which is consistent with the DPA Guidelines and which attempts to avoid the need for, or reduce the extent of any requested variances.

FINANCIAL IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

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

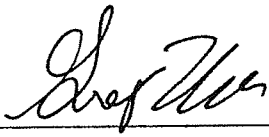
PUBLIC CONSULTATION IMPLICATIONS

Should the Committee choose to recommend that the Board approve the Development Permit with Variance in accordance with Alternative 2 notification will take place 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 a 50 metre radius 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.

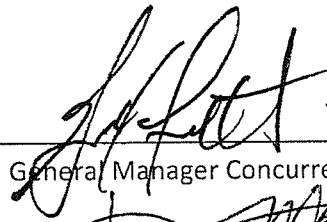
SUMMARY/CONCLUSIONS

This is an application for a Development Permit with Variance to permit building façade improvements, the construction of a roof overhang, a freestanding sign, and landscaping within the Cedar Main Street Development Permit Area. The applicant has requested a significant number of variances. With the exception of the variances to sign height and number of signs, the requested variances are supportable given the site context and the land use justification provided. The backlighting of the proposed free standing sign is contrary to the Development Permit Area guidelines.

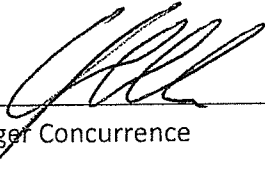
The proposed freestanding sign may result in a visual distraction on the narrow winding section of road and is of a scale that exceeds what is necessary to effectively attract the travelling public given that it is in a location that does not compete with other signage or visual clutter in the area. The applicant has not demonstrated a satisfactory land use justification nor undertaken reasonable effort to avoid the need for, or reduce the extent of the requested height variance for the free standing sign and variance to the number of signs permitted. Given that the proposed freestanding sign does not conform to the DPA Guidelines and that the applicant has not provided sufficient justification for the requested variances to sign height and number of signs, staff recommend that the Board deny the requested Development Permit with Variance application and encourage the applicant to work with staff to propose an overall approach to signage on the subject property which is consistent with the DPA Guidelines and which attempts to avoid the need for, or reduce the extent of any requested variances.



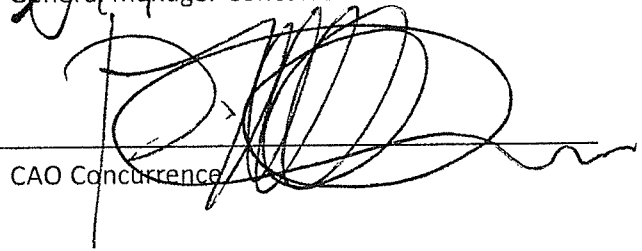
Report Writer



General Manager Concurrence

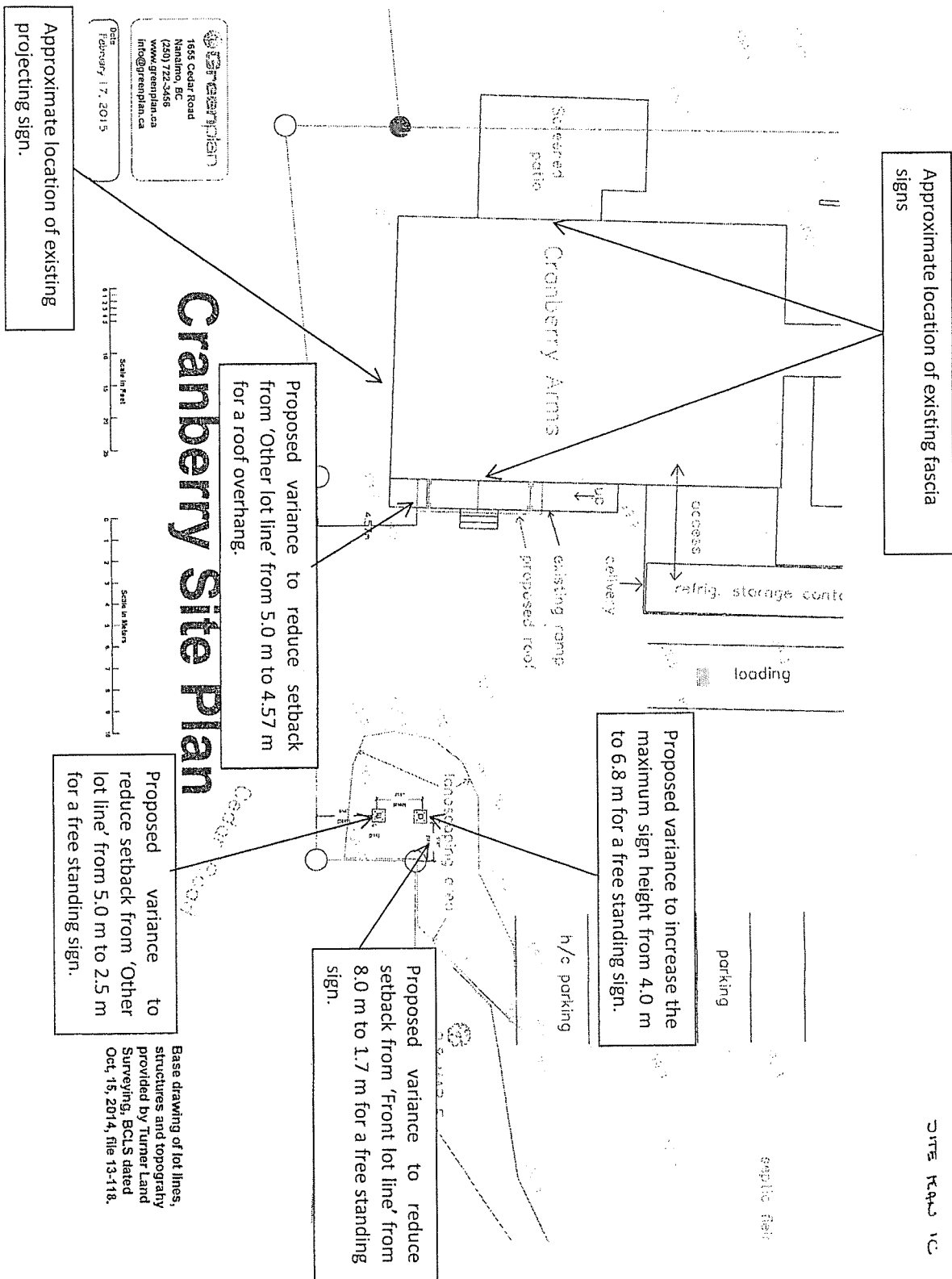


Manager Concurrence

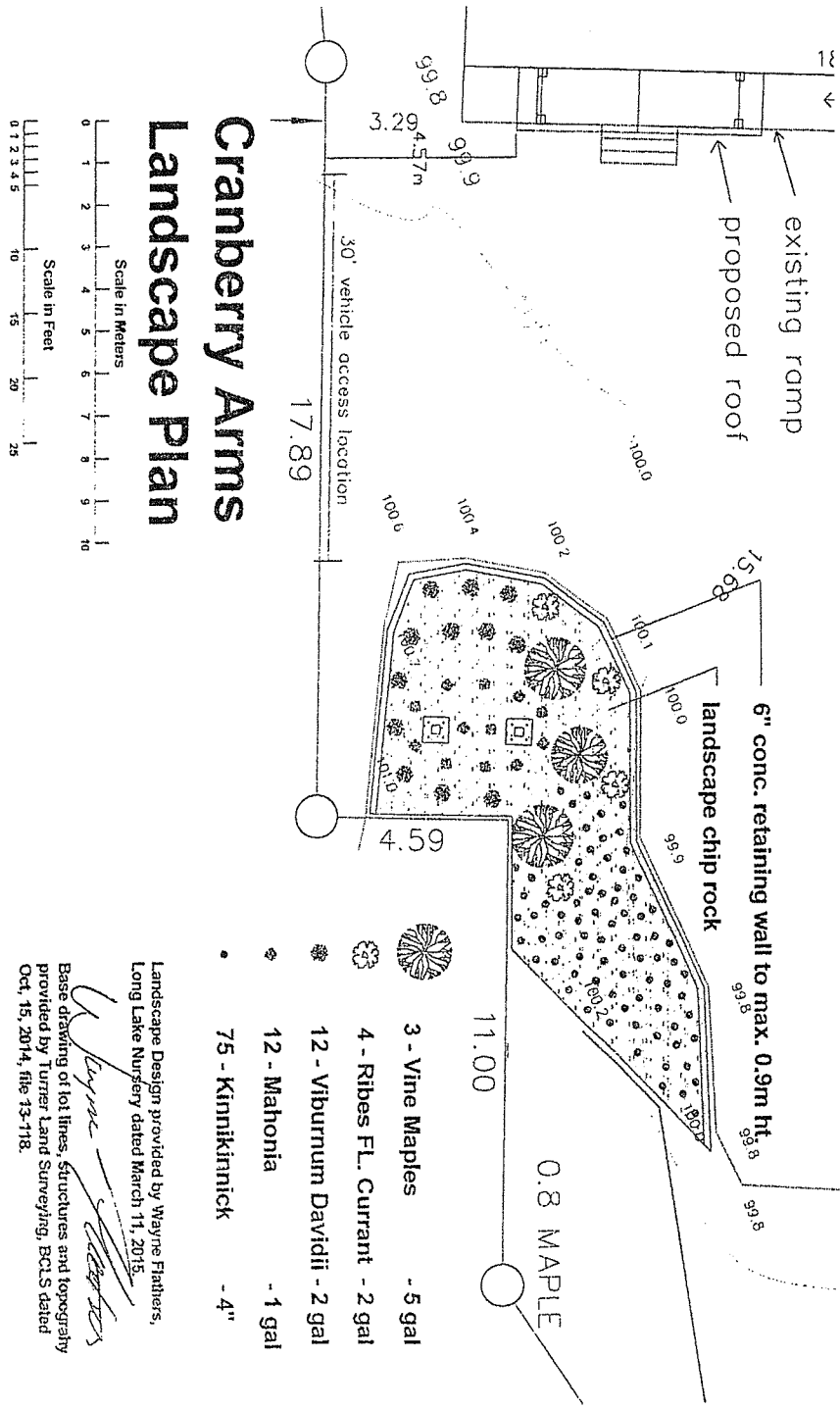


CAO Concurrence

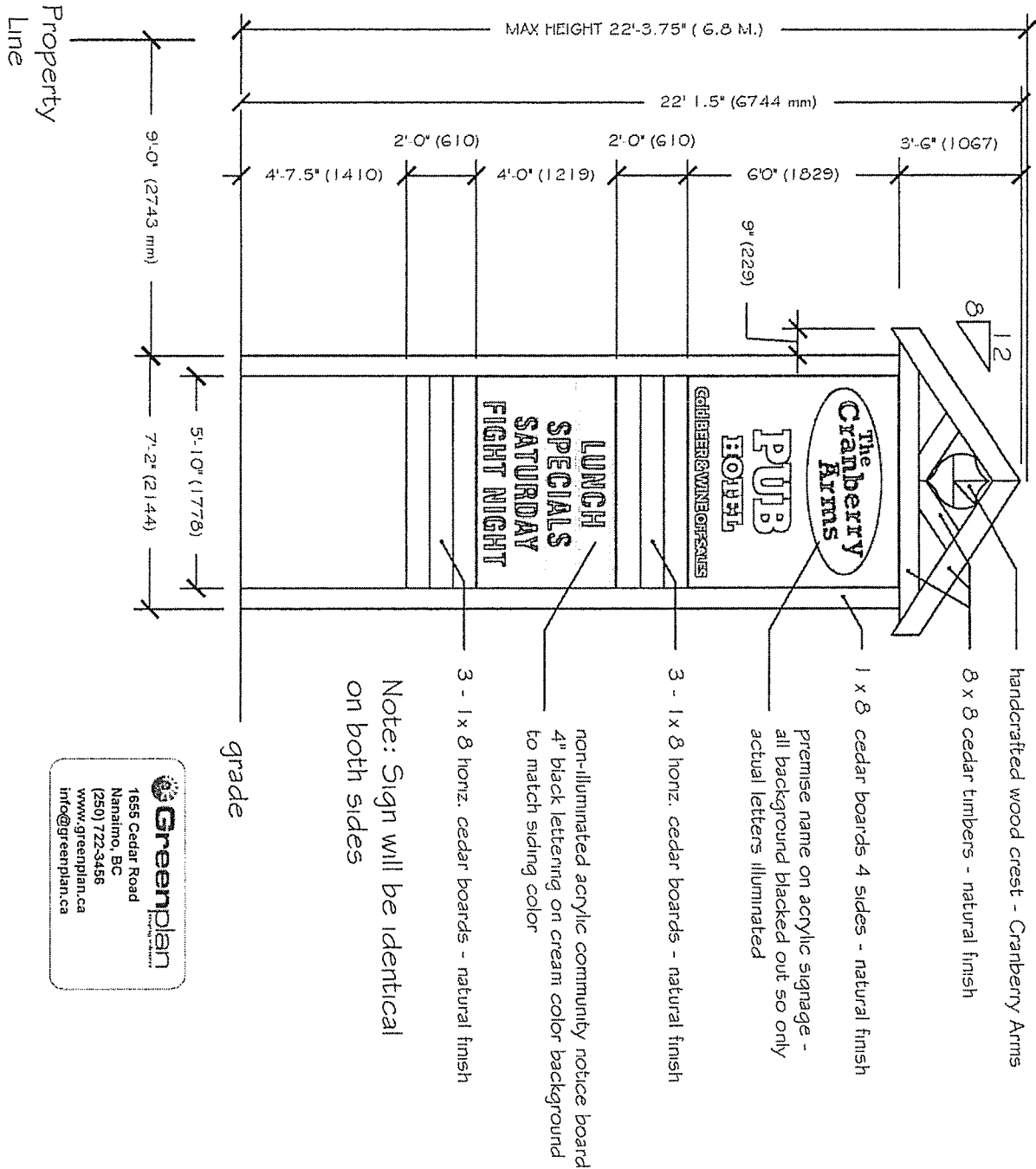
Attachment 2 (Page 1 of 4)
 Proposed Site Plan and Variances



Attachment 2 (Page 2 of 4)
Proposed Landscaping Plan



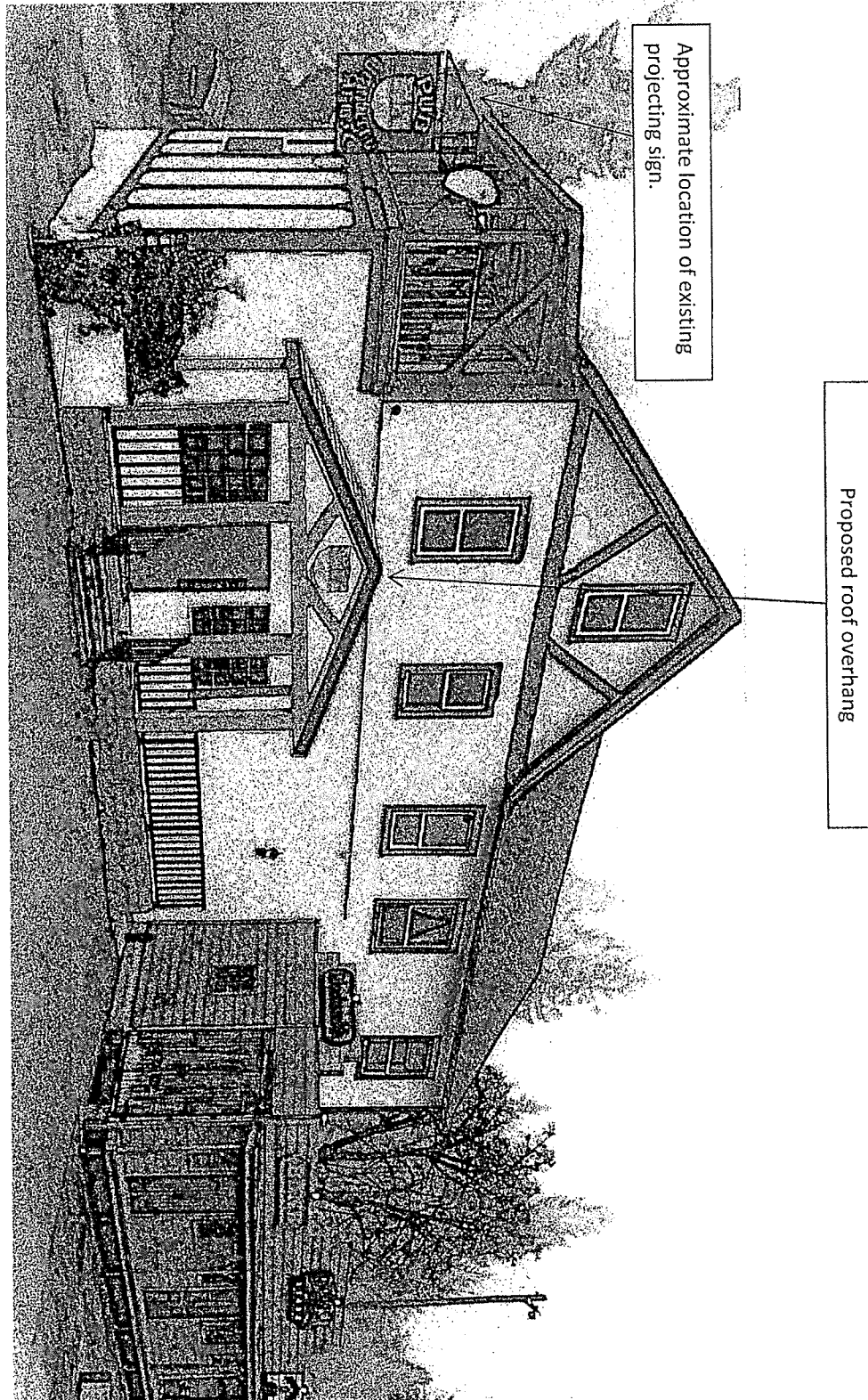
**Attachment 2 (Page 3 of 4)
Freestanding Sign Elevation**



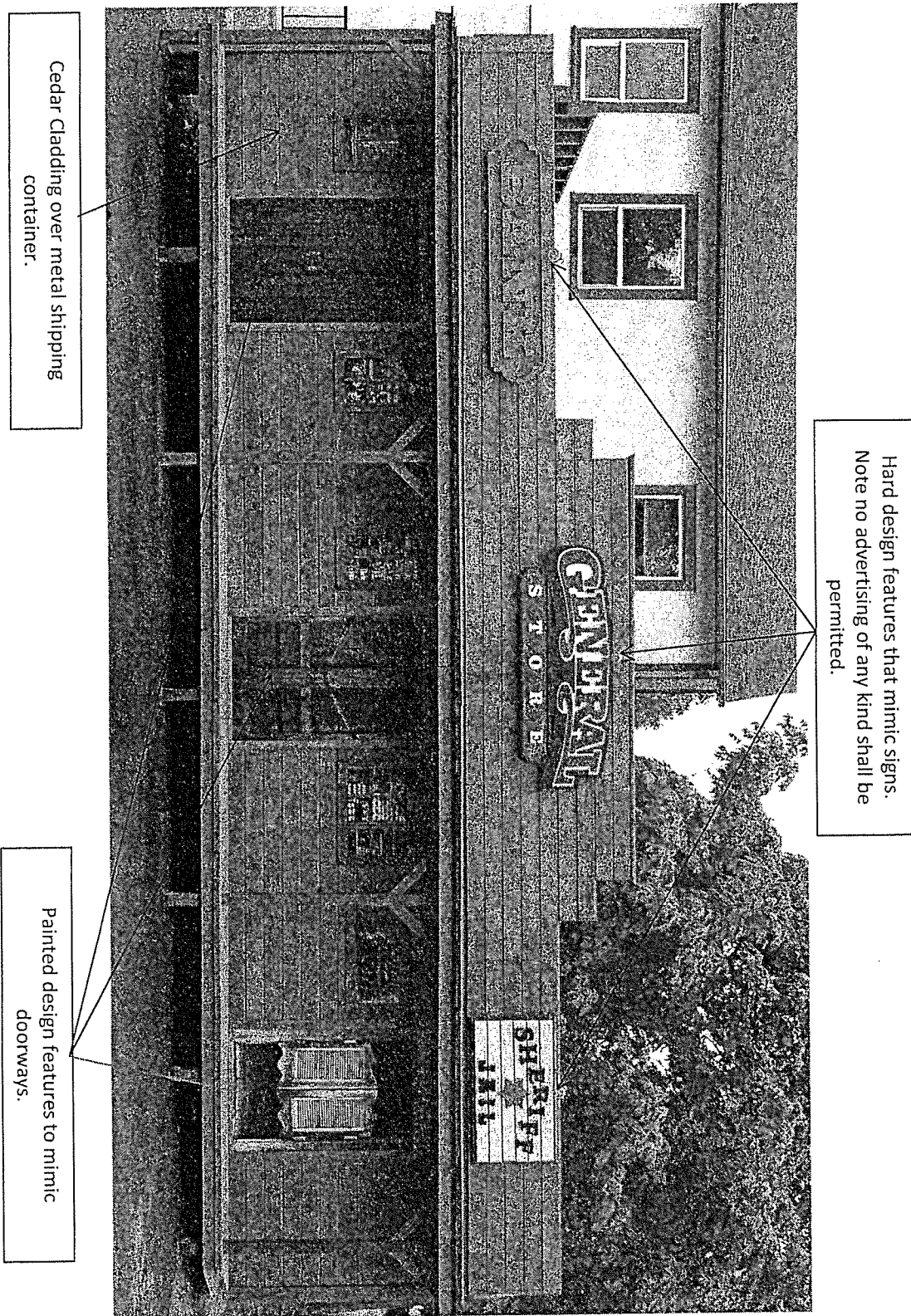
Attachment 2 (Page 4 of 4)
Proposed Site Plan and Variances



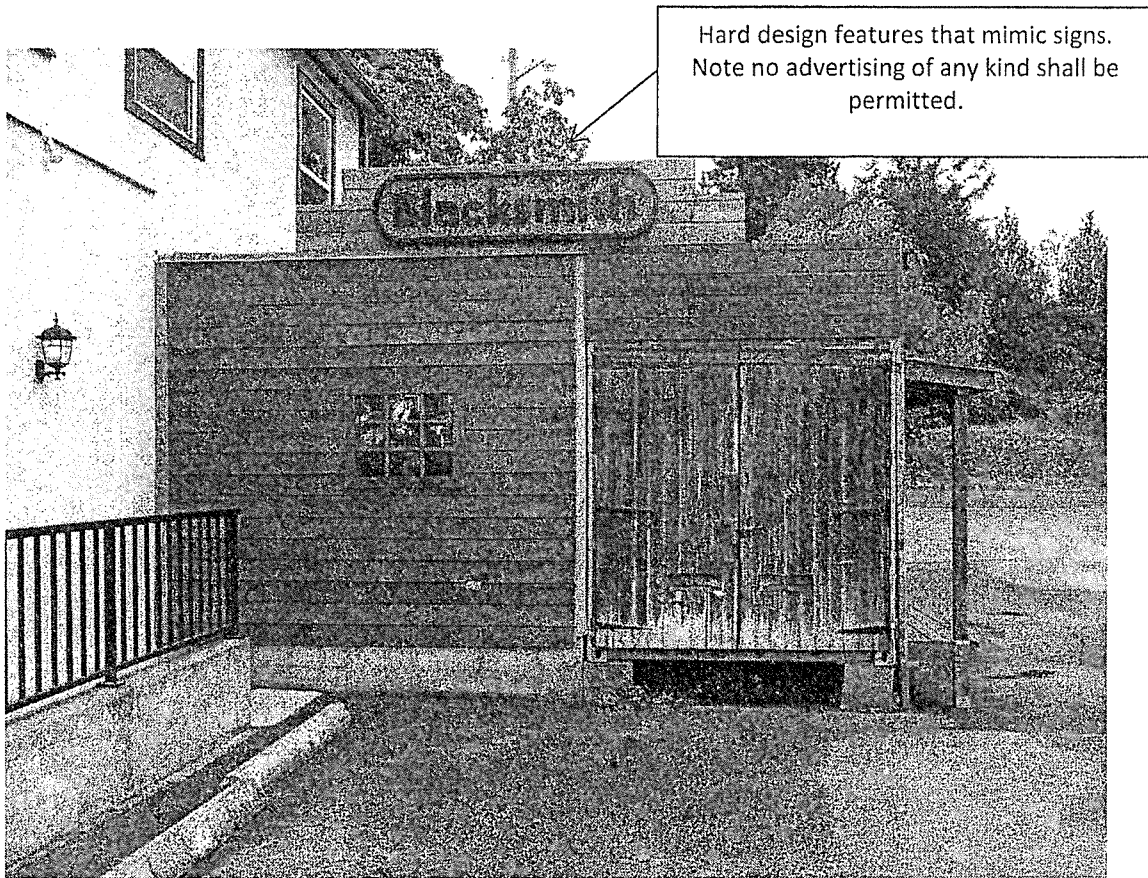
Attachment 3 (Page 1 of 3)
Proposed Roof Elevation



Attachment 3 (Page 2 of 3)
Facade Elevation



Attachment 3 (Page 3 of 3)
Facade Elevation



Hard design features that mimic signs.
Note no advertising of any kind shall be permitted.

Attachment 4 (Page 1 of 2)
Cedar Main Street Signage Development Permit Area Guidelines

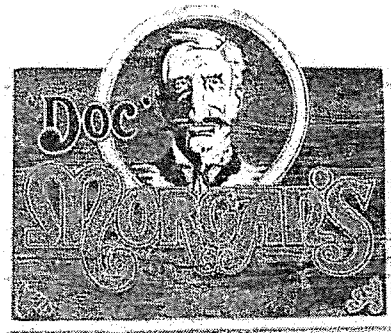
6.8.9 Signage

1. Signs should be hand crafted and provide individuality to each establishment.
2. Materials chosen for signage should be durable enough to last for several years of continuous use, except for the special cases of temporary signage or banners.
3. The following types of signs are not considered acceptable:

- a. reader board;
- b. neon;
- c. flashing;
- d. animated;
- e. rotating,
- f. backlit; and,
- g. signs which are illuminated in a way which projects light beyond the sign's surface or results in light being directed beyond the sign's surface or towards the sky.

4. Signs should be designed to cater to the pedestrian (limit height, size, and placement) and be in scale with the building and be related to a use or a business within.

SAMPLE ONLY



Example of a hand crafted sign



Example of a consolidated free standing sign

SAMPLE ONLY



Example of a fascia sign that is complementary to the design of the building and graphically communicates a message.

5. Free standing signage should be consolidated where possible with other businesses or uses as illustrated.

6. Creativity in how signs are designed (i.e. different shapes, colours, materials, and fonts) is supported.

7. The size, location, and design of freestanding signage shall be architecturally integrated with the overall design of the buildings and

Section 6: Cedar Main Street Development Permit Area

Attachment 4 (Page 2 of 2)
Cedar Main Street Signage Development Permit Area Guidelines

landscaping. The design of fascia signs containing individual business signage shall be complementary to the design of the building.

- 8. Signage should be visually unobtrusive and particular emphasis should be given to signage which is aesthetically pleasing and requires a minimal amount of lighting or boldness to be effective.
- 9. Signs should graphically communicate a message.
- 10. If there is a conflict between these DPA guidelines and the RDN Sign Bylaw No. 993, 1995 as amended or replaced from time to time, these guidelines shall prevail. However, a variance to the sign bylaw may be required.

6.8.10 Lighting

- 1. The use of solar lighting is encouraged.
- 2. Lighting should be designed for security and safety in accordance with Crime Prevention Through Environmental Design (CPTED) principles.
- 3. Site illumination must not result in glare directed towards neighbouring properties, adjacent roads, or light directed towards the sky.
- 4. Building façades may be discreetly illuminated through the use of strategically placed lighting which shines down from the buildings surface.
- 5. All new, replacement, and upgraded exterior lighting in existing and proposed developments shall be Full Cut-off Flat Lens (FCO/FL) luminaries to light roads, parking, loading, and pedestrian areas. Exterior building lighting will also be required to have FCO lighting fixtures.
- 6. Decorative street lights which are compatible with existing decorative street lighting and are in scale with their surroundings are encouraged.

SAMPLE ONLY

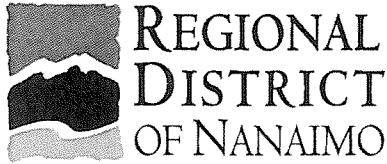


Full cut off light fixtures direct light below the horizontal plane reducing light pollution and protecting the night sky.

6.8.11 Parking and Loading

- 1. If on street parking is proposed, it must be designed by a Professional Engineer and approved by the Ministry of Transportation and Infrastructure.
- 2. On site parking and loading areas should generally be located to the rear or side of buildings, should be screened from view from the adjacent road, and be located outside of the minimum required building setback. The screening should consist of landscaping, fencing, or a combination of landscaping and fencing.

Section 6: Cedar Main Street Development Permit Area



ROW REPORT	
CAO APPROVAL	
EAP	✓
COW	
NOV 02 2015	
RHD	
BOARD	

STAFF REPORT

TO: Jeremy Holm
Manager, Current Planning

DATE: October 30, 2015

FROM: Stephen Boogaards
Planner

MEETING: EAPC – November 10, 2015

FILE: PL2015-115

SUBJECT: Development Permit with Variance Application No. PL2015-115
Lot 40, District Lot 29, Nanoose District, Plan 45632
1100 Pepper Place – Electoral Area ‘G’

RECOMMENDATIONS

1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2015-115 to reduce the front lot line setback from 8.0 metres to 3.5 metres for a dwelling footprint be approved subject to the conditions outlined in Attachments 2 and 3.

PURPOSE

To consider an application for a Development Permit with Variance to reduce the front lot line setback to permit the construction of a dwelling unit on the subject property.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Ken Lyle to permit the construction of a dwelling unit 3.5 m from the front lot line. The proposed variance is to allow for a sufficient building envelope on a small parcel that is constrained by Morningstar Creek, a statutory right-of-way and a 7.0 m building scheme setback to the Morningstar Golf Course. The variance would allow the owner to sell the property with a sufficient building envelope for the future owner. The subject property is approximately 778.9 m² in area and is zoned Residential 1 (RS1) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is located south and east of other small lot residential properties, and northeast of the Morningstar Golf Club and Morningstar Creek (see Attachment 1 – Subject Property Map).

The property is currently vacant, although lawn has been established on the majority of the property up to a covenanted area for Morningstar Creek. The covenanted area consists of the existing riparian forest cover and a steep ravine that slopes 5.0 m to the creek

The proposed development is subject to the following Development Permit Areas per the “Regional District of Nanaimo Electoral Area ‘G’ Official Community Plan Bylaw No. 1540, 2008”:

1. Fish Habitat Protection Development Permit Area; and
2. Environmentally Sensitive Features Development Permit Area for Sensitive Ecosystems

Proposed Development and Variance

The applicant proposes to construct a dwelling within the front lot line setback. The minimum required setback under the RS1 zone is 8.0 metres. The applicant proposes to vary the following regulation from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

- **Section 3.4.61 – Minimum Setback Requirements** to reduce the minimum front lot line setback from 8.0 metres to 3.5 metres for a proposed dwelling unit.

ALTERNATIVES

1. To approve Development Permit with Variance No. PL2015-115 subject to the conditions outlined in Attachments 2 and 3.
2. To deny Development Permit with Variance No. PL2015-115.

LAND USE IMPLICATIONS

Development Implications

The applicants propose to establish a dwelling footprint on a constrained small lot and have requested a variance to the front lot line setback (see Attachment 3 – Site Plan and Variances). The variance for the dwelling footprint would allow the owner to establish a building envelope on the property for the future sale and construction on the property. Currently, the building envelope is limited by setbacks to the creek, a statutory right-of-way and a large building scheme setback to the golf course. The lot was originally created in 1987, and the approval process likely did not consider that a large building scheme setback would be required.

The statutory building scheme was registered by the developer at the time of subdivision. The statutory building scheme establishes a 7.0 metre setback for the lot boundaries adjacent to the golf course, which applies to the southern property boundary for the subject property. The building scheme also requires a two car garage and a minimum floor area for the dwelling of 130 m² (1,400 ft²), exclusive of garages, carports or annexes. Even though the RDN does not enforce building schemes, the applicant could risk enforcement of building scheme by the original developer or neighbours if he was to construct the house within the setback. The applicant's legal counsel has advised that the building scheme can only be removed with written approval of all owners of the 99 lots in the subdivision, which is unlikely. The lot is also constrained by a statutory right-of-way held by the Ministry of Transportation and Infrastructure for drainage and the 4.5 m setback to the Pepper Place road right-of-way.

Due to the proximity of Morningstar Creek, the property is subject to the Fish Habitat Development Permit Area and zoning watercourse setbacks. The applicant has submitted a Riparian Area Regulation Assessment Report prepared Aquaparian Environmental Consulting Ltd, and dated October 15, 2015, which establishes a Streamside Protection and Enhancement Area (SPEA) of 16.0 metres. The proposed building footprint will encroach into the SPEA by the eaves only. The Qualified Environmental

Professional (QEP) recommends additional planting up to 5.0 metres from the top of bank to improve riparian vegetation and that the SPEA be identified with a split rail fence or other visual marker to prevent encroachment. Staff recommends that the assessment report be registered as a Section 219 covenant as a condition of the Development Permit with Variance. The proposal does not encroach into the required watercourse setbacks.

Board Policy B1.5 for evaluation of Development Permit with Variance Applications requires that there is an adequate demonstration of land use justification prior to the Board's consideration. The building scheme establishes that a minimum building floor area of 130 m² (1,400 ft²), excluding the garage, must be provided. The applicant proposes a dwelling footprint of 153 m² (1,649 ft²) excluding the garage to comply with the building scheme requirement. The conceptual dwelling unit footprint submitted in support of the application demonstrates development within the constraints of the lot, with the exception of the front lot line setback. For the portion of the proposed dwelling footprint within the 8.0 metre front lot line setback, the applicant has demonstrated a sufficient distance between the face of the garage and the front property line to accommodate a driveway on the property, with space in the garage for the two required off-street parking spaces. Due to the location of the lot on a cul-de-sac and the limited ability to provide off-street parking within setbacks on the lot, staff recommends the applicant register a Section 219 covenant on the property title prohibiting secondary suite and home based business uses. Such a covenant would generally be consistent with restrictions in the current building scheme.

Given the land use constraints imposed by the building scheme, the statutory right-of-way and the watercourse regulations, the applicant has demonstrated sufficient justification for the requested variance of 3.5 metres to the front lot line. The applicant has also attempted to minimize the impact of the variance by reducing the building footprint and staying outside of the SPEA, with the exception of a supportable minor encroachment. While the site plan provided in support of the application (Attachment 3) demonstrates the feasibility of a front lot line setback variance for a two car garage, it provides only a conceptual dwelling footprint for the portion of the lot that complies with required setbacks. As such, the conditions of approval will require the siting of a future dwelling in accordance with the attached site plan for only the portion of the building footprint within the front lot line setback. This will allow flexibility in future development within the portion of the lot that complies with setback requirements, while providing a slightly expanded building envelope on this constrained lot. The proposed garage orientation relative to the fronting street results in a garage face at a sufficient distance from the front property line for clear driveway access. The garage orientation is included as a condition of approval of the requested front lot line setback variance.

Environmental Implications

The QEP establishes that the building will have a slight roof overhang into the SPEA and that construction of the foundation will likely disturb 2.0 metres into the SPEA. The QEP justifies the encroachment based on hardship. Under the *Riparian Area Regulations* and the Fish Habitat Development Permit Area, approval from the Department of Fisheries and Oceans (DFO) is required for any encroachment into the SPEA. However, changes to the *Fisheries Act* in 2012 have established that DFO will only review projects that are likely to cause 'serious harm' to commercial, aboriginal or recreational fisheries. As the project will not cause serious harm, the QEP advises that it can proceed using Department of Fisheries and Oceans Best Management Practices for working near water.

FINANCIAL IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

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

INTER-GOVERNMENTAL IMPLICATIONS

The building envelope is constrained by a statutory right-of-way along the northern property boundary, held by the Ministry of Transportation and Infrastructure for drainage. The Ministry has stated that they cannot support any encroachment into the right-of-way. However, the Ministry has provided the applicant with a setback permit to locate the dwelling footprint 3.41 metres to the Pepper Place right-of-way.

PUBLIC CONSULTATION IMPLICATIONS

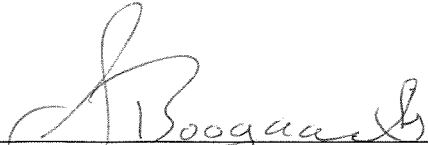
Pending the Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005", property owners and tenants of parcels located within a 50 metre radius of the subject property will receive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

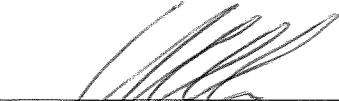
The applicant requests a development permit with variance for a building footprint on a constrained lot to enable the sale of the property. The lot is constrained by building scheme setback of 7.0 metres to the golf course, the Morningstar Creek SPEA and a statutory right-of-way for drainage. The building scheme also requires habitable space of each dwelling unit to be a minimum floor area of 130 m² (1,400 ft²) and requires a two car garage. As the applicant cannot remove the building scheme or encroach within the statutory right-of-way, the applicant proposes to move the dwelling footprint further into the front lot line setback to avoid these restrictions.

The applicant's proposal is for a small building footprint within the front lot line setback to reduce the impact on the SPEA, and not to encroach into the setback, building scheme or drainage right-of-way. Based on the proposed dwelling footprint, the proposed dwelling would be smaller than surrounding dwellings. The applicant has also received approval from the Ministry of Transportation and Infrastructure to locate the dwelling footprint 3.41 metres from the Pepper Place right-of-way.

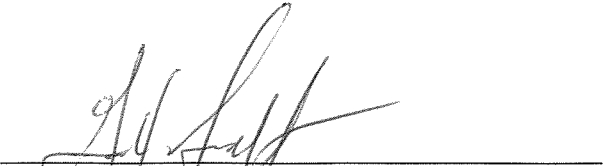
Given that the variance for the dwelling is not anticipated to have any negative impacts on neighbouring properties and will comply with the Development Permit Area guidelines, staff recommends that the Board approve the variance pending the outcome of public notification and subject to the terms and conditions outlined in Attachment 2.



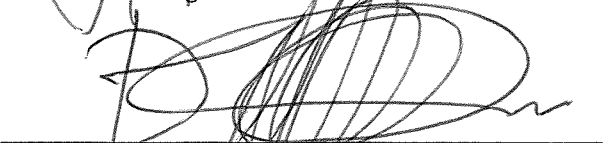
Report Writer



Manager Concurrence

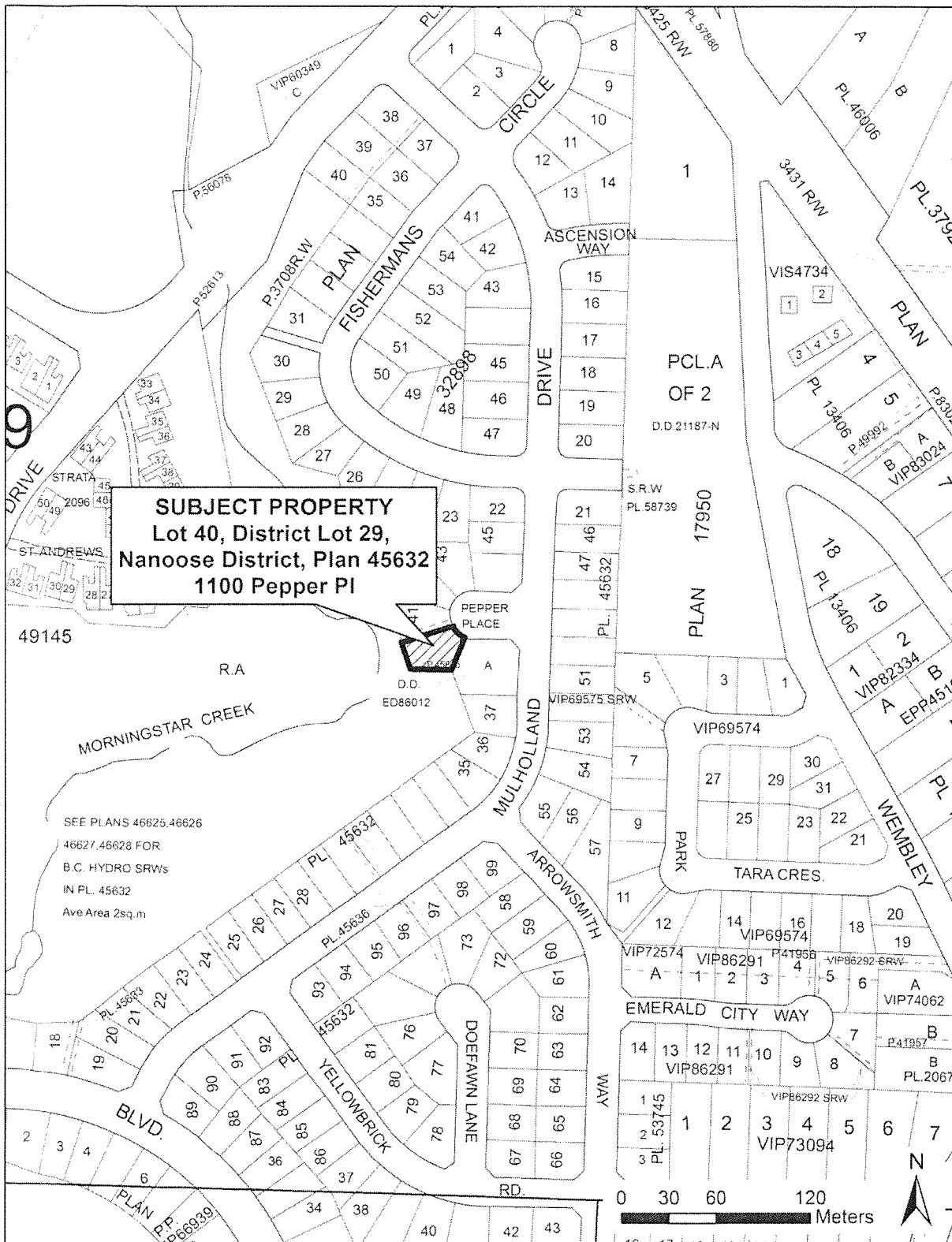


General Manager Concurrence



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 No. PL2015-115:

Bylaw No. 500, 1987 Variances:

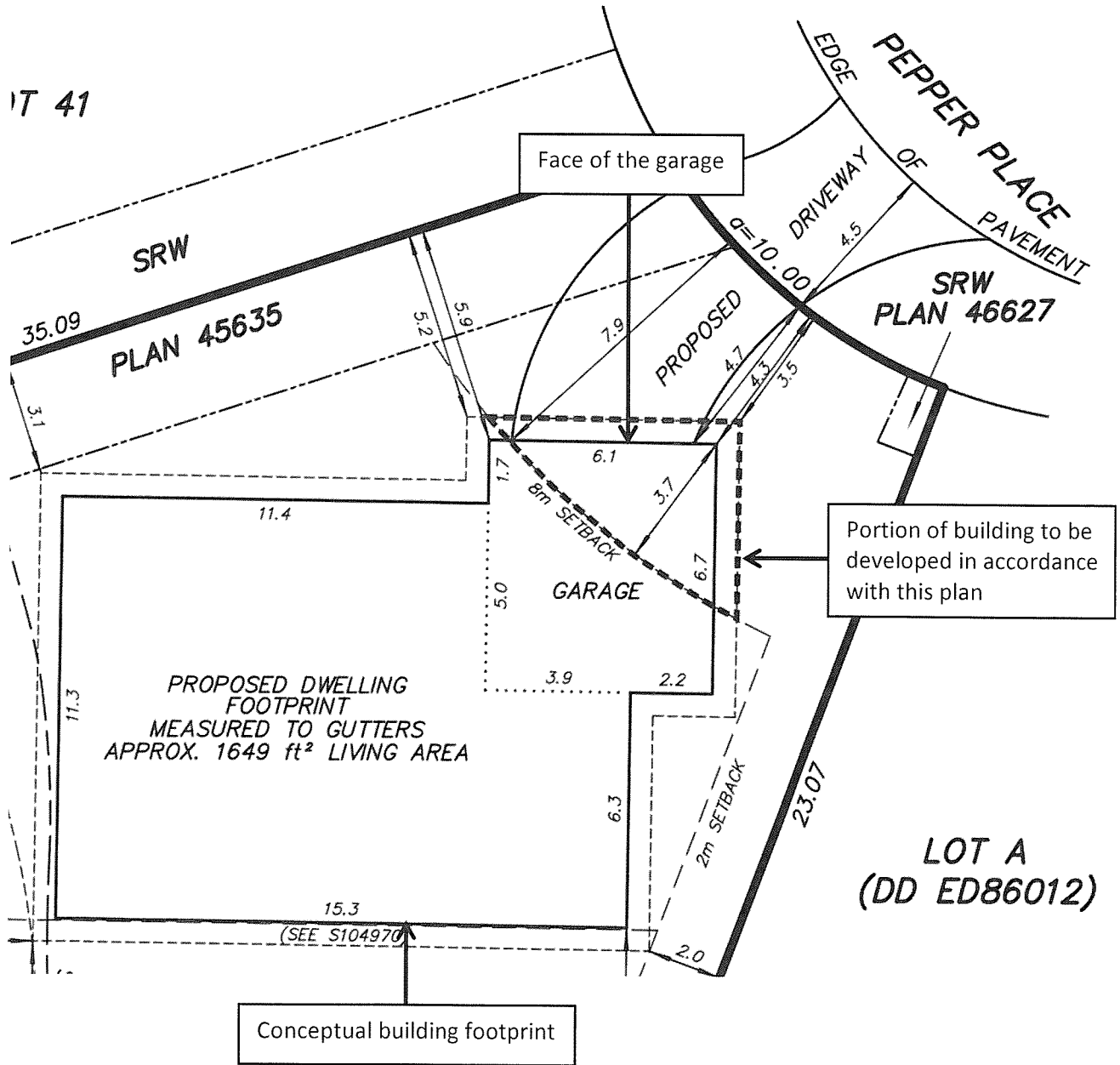
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

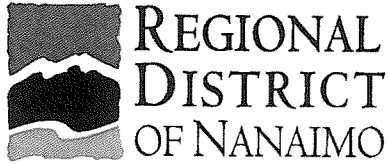
- **Section 3.4.61 – Minimum Setback Requirements** to reduce the front lot line setback from 8.0 metres to 3.5 metres for a dwelling footprint.

Conditions of Approval:

1. The portion of the site between the 8 metre setback and the 3.5 metre variance is developed in accordance with the Survey Plan prepared by Sims Associates, dated October 7, 2015 and attached as Attachment 3.
2. The subject property shall be developed in accordance with the recommendations contained in the Riparian Areas Assessment prepared by Aquaparian Environmental Consulting Ltd., dated October 15, 2015.
3. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 Covenant on the property title containing the Riparian Area Assessment prepared by Aquaparian Environmental Consulting Ltd., dated October 15, 2015.
4. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense registers a Section 219 Covenant on the property title to prohibit secondary suite and home based businesses use.
5. 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 (Page 2 of 2)





RDN REPORT	
CAO APPROVAL	
EAP	<input checked="" type="checkbox"/>
COW	<input type="checkbox"/>
NOV 02 2015	
RHD	<input type="checkbox"/>
BOARD	<input type="checkbox"/>

STAFF REPORT

TO: Jeremy Holm
Manager, Current Planning

DATE: October 29, 2015

FROM: Tyler Brown
Planner

MEETING: EAPC – November 10, 2015

FILE: PL2015-123

SUBJECT: Development Permit with Variance Application No. PL2015-123
Lot 4, District Lot 16, Newcastle District, Plan 15105
5451 Island Highway West – Electoral Area ‘H’

RECOMMENDATIONS

1. That staff be directed to complete the required notification.
2. That Development Permit with Variance No. PL2015-123 to permit the renovation and minor expansion of an existing dwelling unit be approved subject to the conditions outlined in Attachments 2 to 4.

PURPOSE

To consider an application for a Development Permit with Variance to permit the renovation and minor expansion of a dwelling unit within the existing building footprint on the subject property.

BACKGROUND

The Regional District of Nanaimo has received an application from Rina Knoesen on behalf of Lino and Janet Vella-Gregory to permit the renovation and minor expansion of an existing dwelling unit which does not conform to the setback and height requirements of the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” (Bylaw No. 500). The subject property is approximately 0.18 ha in area and is zoned Residential 2 (RS2), pursuant to Bylaw No. 500. The property is bordered by and accessed from the Island Highway West to the southwest, bordered by the Strait of Georgia to the northeast and flanked by RS2 zoned parcels (see Attachment 1 – Subject Property Map). The proposed development is subject to the Hazards Lands Development Permit Area per the “Regional District of Nanaimo Electoral Area ‘H’ Official Community Plan Bylaw No. 1335, 2015”. A watercourse, known locally as Westgate Brook, traverses the eastern boundary of the subject property.

Proposed Development and Variance

The applicant is proposing to enclose a portion of existing deck on the north side of the dwelling unit to create additional living space, amalgamate three existing dormers into one dormer and deck on the second story and construct a covered main entry to the residence (see Attachment 3 – Site Plan and Attachment 4 – Building Elevations). The proposed enclosure of the deck and increase in dormer size would result in approximately 16.6 m² of additional living space which is equal to approximately 14% of the current ground floor living area. The elevation of the existing deck floor is the same elevation of the

existing ground floor elevation of the interior space of the dwelling unit. To permit the development proposal the applicant proposed to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”

1. **Section 3.3 8 b) i) – Setbacks – Watercourse, excluding the Sea** to reduce the required minimum setback distance for buildings and structures from 15.0 metres to 9.1 metres for the partial enclosure of the existing deck, from 15.0 metres to 6.3 metres for the unification of the upper story dormers and deck addition, and from 15.0 metres to 3.5 for the addition of a covered front entrance porch as shown on Attachments 3 and 4.
2. **Section 3.4.62 – Maximum Number and size of Buildings and Structures - Height** to increase the maximum permitted height from 8.0 metres to 10.5 metres to permit the unification of the upper story dormers and deck addition and from 8.0 metres to 9.0 metres for the addition of a covered front entrance porch as shown on Attachments 3 and 4.

ALTERNATIVES

1. To approve the Development Permit with Variance No. PL2015-123 subject to the conditions outlined in Attachments 2 to 4.
2. To deny the Development Permit with Variance No. PL2015-123.

LAND USE IMPLICATIONS

Development Implications

The applicant has submitted a Geotechnical Hazard Assessment, prepared by Lewkowich Engineering Associates Ltd., dated October 22, 2015, to address the Hazards Lands Development Permit Area guidelines. The report concludes that the site is considered safe and suitable from a geotechnical perspective with regard to the proposed renovation and minor expansion of the existing dwelling unit. Further, the report concludes that the proposed renovations will not have a detrimental impact to the subject or adjoining properties. The report acknowledges that the existing main floor elevation is below the flood construction level, as calculated in the assessment report, and that the existing main floor area, as well as the proposed main floor area addition, could be inundated with flood waters during a flooding event.

Although the property and development are currently subject to the “Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006” (Floodplain Bylaw) and Building Inspection and Bylaw No. 500, the owner, building designer and geotechnical engineer have commented that the dwelling unit predates all three regulations. As such, the siting of the house does not meet current zoning and Floodplain Bylaw setbacks, nor does the ground floor meet the minimum flood construction level prescribed in the Floodplain Bylaw (see Attachment 3 – Site Plan and Variances). Although the house is reported to be constructed before the applicability of the Floodplain Bylaw, new construction must meet the regulations of the bylaw. The Floodplain Bylaw exempts additions to a dwelling unit from meeting the required flood construction level if the addition is less than 25% of the ground floor area. The addition as proposed results in additional living area equal to approximately 14% of the total ground floor area and therefore is exempt from meeting minimum flood construction level.

With regards to the zoning bylaw, the current siting of the dwelling unit on the subject property does not conform to the required 15.0 metre zoning setback from the top of slope of Westgate Brook which traverses the eastern boundary of the subject property (see Attachment 3 – Site Plan and Variances). Furthermore, the roof ridge elevation of the existing dwelling (10.5 metres) exceeds the maximum permitted height in the RS2 zone by approximately 2.5 metres and the proposed covered front entrance porch (9.0 metres) exceeds the maximum permitted height by approximately 1.0 metres (see Attachment 4 – Building Elevations).

The applicant's proposal to enclose a portion of the existing covered deck to add additional living space on the rear of the house will not result in an increase to the building footprint nor is the addition closer to Westgate Brook than existing portions of the dwelling unit. The applicant's proposal to unify the existing upper level dormers and add a small deck on the upper story will not result in an increase to the existing building height nor will it expand the dwelling further towards Westgate Brook. The applicant's stated intent for renovating the upper story and the area below is that the dwelling unit has suffered heavy internal water damage resulting from a leaking roof. Lastly, the applicant's proposal to add a covered front porch to the existing dwelling requires a height variance and variance to the setback to Westgate Creek. Due to the location of the existing dwelling, and that zoning setbacks if adhered to preclude the existence of a reasonable building envelope, the applicant would be unable to make any addition to the majority of the dwelling unit without requiring a variance to zoning setbacks (see Attachment 3 – Site Plan and Variances). As the front entrance is currently elevated and the dwelling unit over height, to blend with the existing architectural features the covered porch requires a variance to the maximum permitted height (See Attachment 4 – Building Elevations).

If the Development Permit application is approved, the property owner will be required to obtain the necessary permits in accordance with Regional District of Nanaimo Building Regulations (see Attachment 2 – Terms and Conditions of Permit). However, as the existing dwelling unit and proposed deck enclosure are below the flood construction level, staff recommend that the applicant be required to register the Geotechnical Hazard Assessment on the property title as a Section 219 covenant with a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of the potential hazard (see Attachment 2 – Terms and Conditions of Permit).

The plan of subdivision which created the subject property was deposited in the Land Registry Office in 1962. Notwithstanding the later applicability of floodplain and zoning regulations, staff note the importance of creating parcels through subdivision which provide for safe and suitable building envelopes in the near and long term to protect property owners from sea level rise, flooding and other hazards. As subdivision approval is within the jurisdiction of the Provincial Approval Officer (PAO), staff will continue to encourage the PAO to consider factors that may impact the long-term viability of proposed parcels as a matter of public interest when evaluating subdivision applications. Considering the date the subject parcel was created, the lack of building envelope on the property without a zoning bylaw variance, and that the applicant's proposal is not anticipated to impact neighbouring properties, it is staff's opinion that the applicant's variance request is reasonable.

Environmental Implications

The applicant has submitted an Environmental Site Assessment Letter, prepared by Aquaparian Environmental Consulting Ltd., dated September 14, 2015, stating that because the proposed works are contained within the existing structure footprint an assessment under the provincial Riparian Areas Regulation is not required.

FINANCIAL IMPLICATIONS

Staff have reviewed the proposed development and note that the proposal has no implications related to the Board 2015 – 2019 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

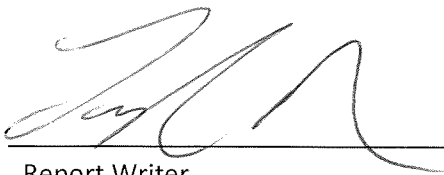
Staff have reviewed the proposed development and note that the proposal has no implications for the 2013 – 2015 Board Strategic Plan.

PUBLIC CONSULTATION IMPLICATIONS

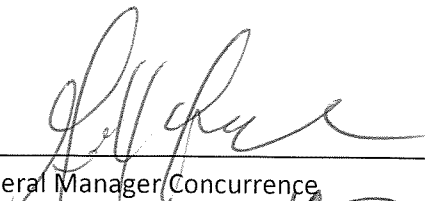
Pending the Committee’s recommendation and pursuant to the *Local Government Act* and the “Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005”, property owners and tenants of parcels located within a 50 metre radius of the subject property will receive 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 to enclose a portion of existing deck on the north side of an existing dwelling unit and unify the upper level dormers to create approximately 16.3 m² of additional living space. In addition, the applicant proposes to construct a small deck addition on the upper floor and a covered main entry to the residence. The applicant has submitted a site plan, a geotechnical assessment, building elevations, and an environmental site assessment in support of the application. In staff’s assessment, the proposal is consistent with the Hazards Lands Development Permit Area Guidelines. Staff have reviewed the variance request and do not anticipate any view implications or other negative impacts for neighbouring properties. Considering the date the subject parcel was created and the lack of building envelope on the property without a zoning bylaw variance, it is staff’s opinion that the applicant’s variance request is justified. As such, staff recommend approval of the Development Permit with Variance pending the outcome of public consultation subject to the conditions in Attachment 2.




Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Permit with Variance No. PL2015-123:

Bylaw No. 500, 1987 Variances:

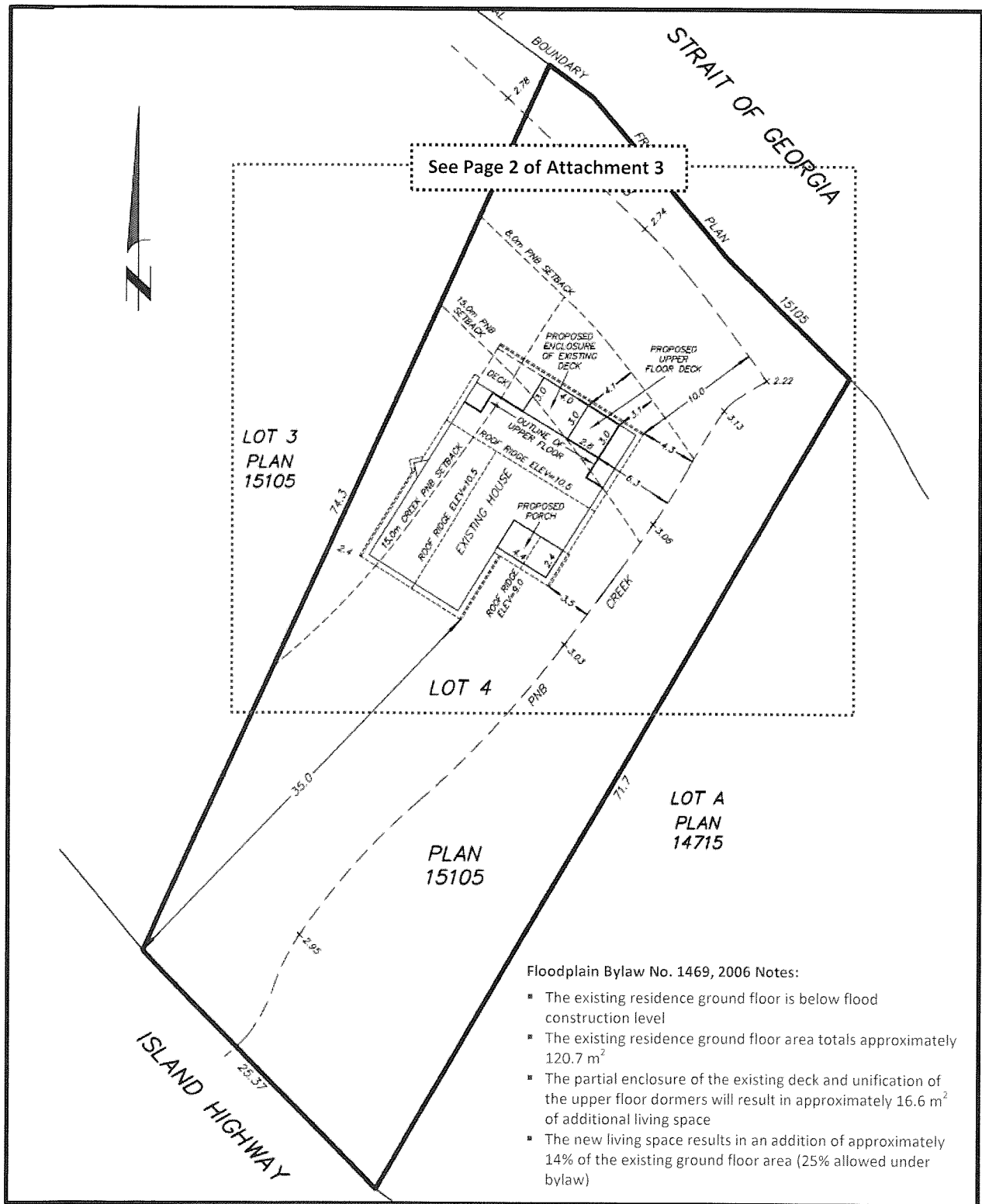
With respect to the lands, "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied as follows:

3. **Section 3.3 8 b) i) – Setbacks – Watercourse, excluding the Sea** to reduce the required minimum setback distance for buildings and structures from 15.0 metres to 9.1 metres for the partial enclosure of the existing deck, from 15.0 metres to 6.3 metres for the unification of the upper story dormers and deck addition, and from 15.0 metres to 3.5 for the addition of a covered front entrance porch as shown on Attachments 3 and 4.
4. **Section 3.4.62 – Maximum Number and size of Buildings and Structures - Height** to increase the maximum permitted height from 8.0 metres to 10.5 metres to permit the unification of the upper story dormers and deck addition and from 8.0 metres to 9.0 metres for the addition of a covered front entrance porch as shown on Attachments 3 and 4.

Conditions of Approval:

1. The site is developed in accordance with the Site Plan prepared by Sims Associates Land Surveying Ltd., dated October 27, 2015.
2. The proposed dwelling unit renovation is in general compliance with the plans and elevations prepared by Rina Knoesen, dated July of 2015, and attached as Attachment 4.
3. The subject property shall be developed in accordance with the recommendations contained in the Environmental Site Assessment Letter prepared by Aquaparian Environmental Consulting Ltd., dated September 14, 2015.
4. The subject property shall be developed in accordance with the recommendations contained in the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd., dated October 22, 2015.
5. Staff shall withhold the issuance of this Permit until the applicant, at the applicant's expense, registers a Section 219 Covenant on the property title containing the Geotechnical Hazard Assessment prepared by Lewkowich Engineering Associates Ltd., dated October 22, 2015, 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.
6. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.
7. The variances associated with Development Permit with Variance No. PL2015-123 applies only to new construction in accordance with the plans and specifications included in Attachments 3 and 4.

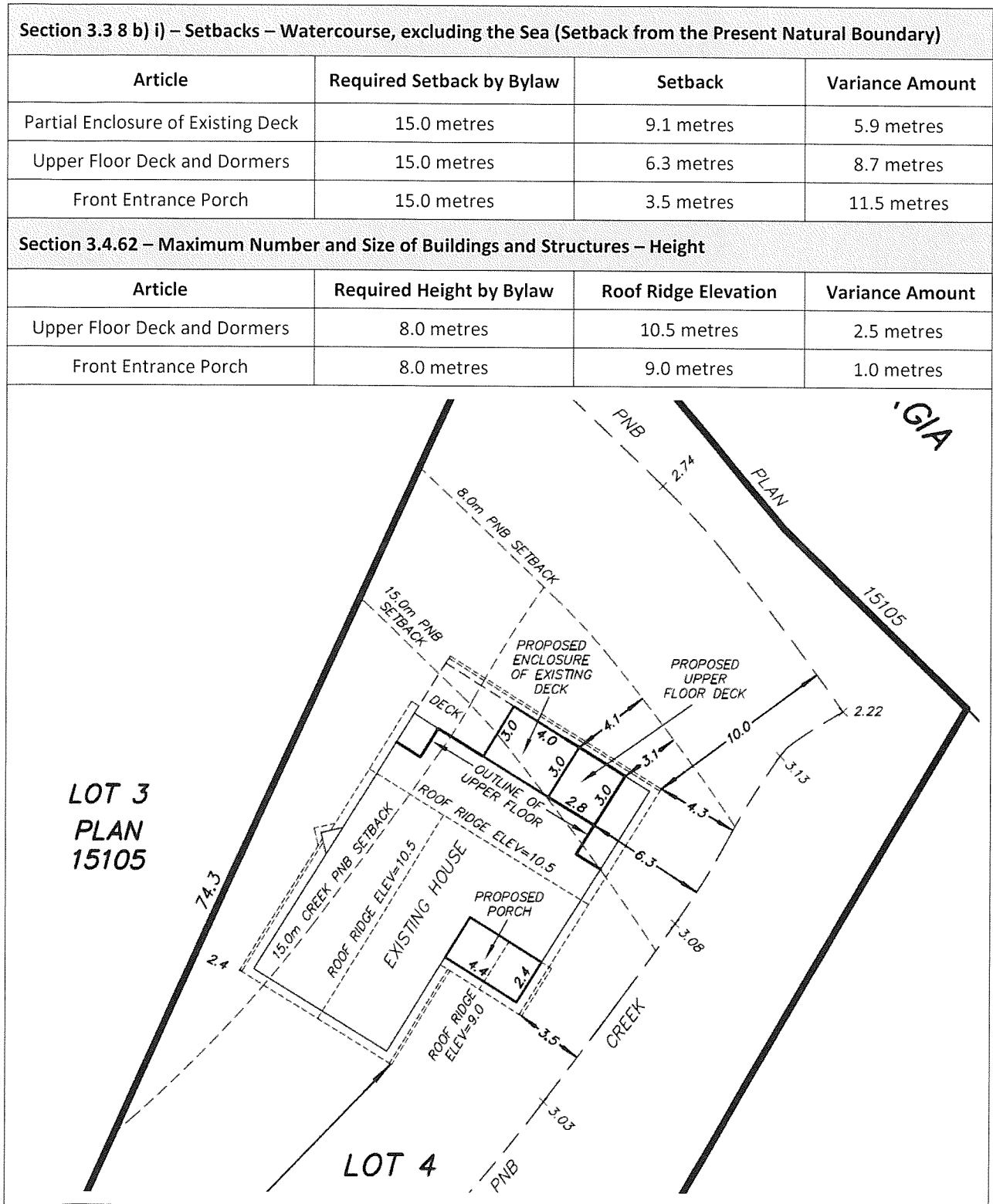
Attachment 3
Site Plan and Variances (Page 1 of 2)



Floodplain Bylaw No. 1469, 2006 Notes:

- The existing residence ground floor is below flood construction level
- The existing residence ground floor area totals approximately 120.7 m²
- The partial enclosure of the existing deck and unification of the upper floor dormers will result in approximately 16.6 m² of additional living space
- The new living space results in an addition of approximately 14% of the existing ground floor area (25% allowed under bylaw)

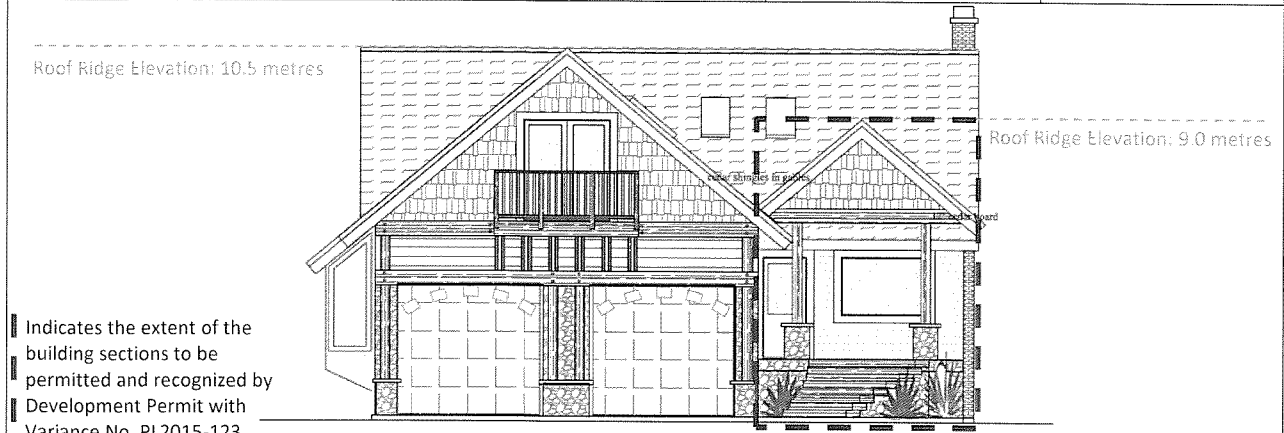
**Attachment 3
Site Plan and Variances (Page 2 of 2)**



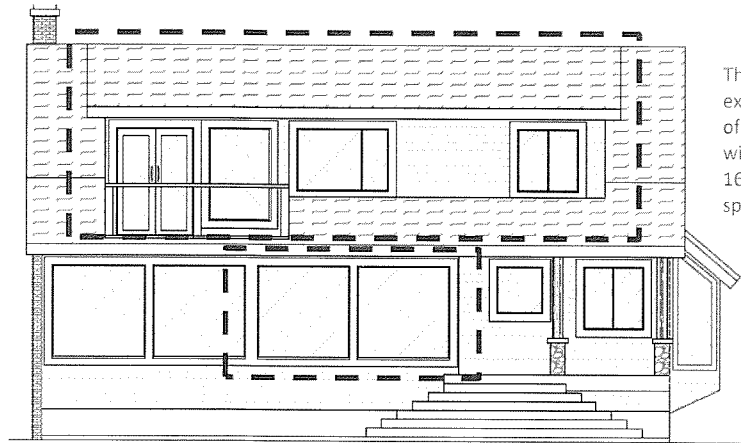
**Attachment 4
Building Elevations**

Section 3.4.62 – Maximum Number and Size of Buildings and Structures – Height

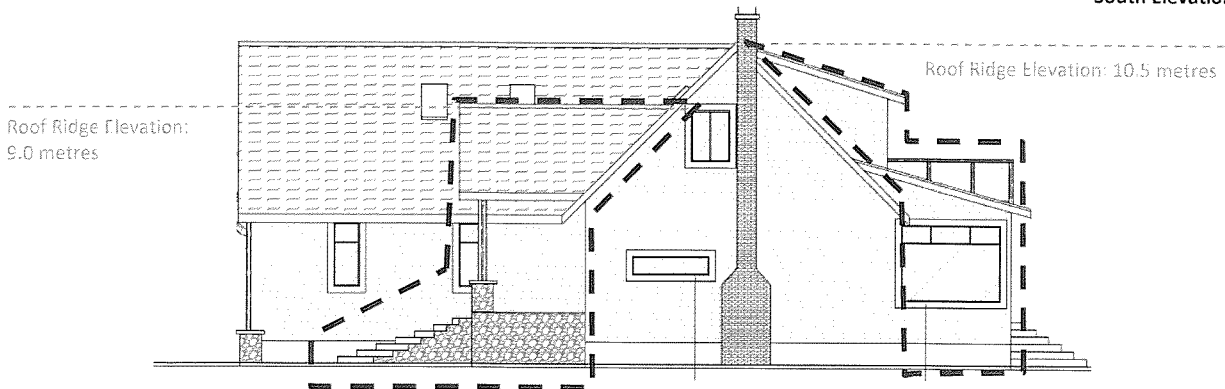
Article	Required Height by Bylaw	Roof Ridge Elevation	Variance Amount
Upper Floor Deck and Dormers	8.0 metres	10.5 metres	2.5 metres
Front Entrance Porch	8.0 metres	9.0 metres	1.0 metres



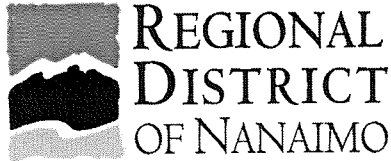
North Elevation



South Elevation



East Elevation



RDN REPORT		
CAO APPROVAL		
EAP		
COW	✓	
OCT 30 2015		
RHD		
BOARD		

STAFF REPORT

TO: Paul Thompson
 Manager, Long Range Planning

DATE: October 30, 2015

FROM: Courtney Simpson
 Senior Planner

MEETING: COW - November 10, 2015

FILE: 6480 00 EAH

SUBJECT: Electoral Area H Official Community Plan Review

RECOMMENDATION

That the Electoral Area H Official Community Plan Review Project be initiated through endorsement of the Terms of Reference and Engagement Plan as attached.

PURPOSE

To present the Terms of Reference (Attachment 1) and Engagement Plan (Attachment 2) for the Electoral Area H Official Community Plan Review for endorsement.

BACKGROUND

An Official Community Plan (OCP) describes a long-term vision for the future of a community and a course of action to achieve it. The course of action is described in objectives and policies to guide land use, servicing, and physical, social and economic changes in the community over the long term. An OCP has legal status which requires that all development and use of land be consistent with the policies of the Plan. Implementing the vision of the OCP occurs through zoning and other detailed development-related tools.

The current Electoral Area H OCP (Regional District of Nanaimo Electoral Area H Official Community Plan Bylaw No. 1335, 2003) was adopted in 2004, and in 2010 the Bowser Village Plan was adopted as part of this bylaw. These two plans were created through extensive public engagement, with many community members volunteering their time to provide input and to help achieve a unified community vision.

In the 11 years since the OCP was adopted, the pace of development has been slower than anticipated and notable changes have occurred in the area including: establishment of the VIU Centre of Shellfish Research in Deep Bay, expansion of Deep Bay Harbour, changes to provincial legislation such as the *Riparian Areas Regulation*, allowance for secondary suites, and introduction of building inspection.

At the request of the Area Director, and in consideration of changes in the community over the past decade, the 2015 RDN Work Plan identifies a scoping and background exercise for an Electoral Area H OCP Review. The scoping has been completed, and the resulting Terms of Reference and Engagement Plan are attached to this staff report for endorsement. Background work is underway and a full

Background Report is on track for completion by the end of 2015. Funding is allocated in 2016 for professional studies and public engagement for the project. The OCP review will be structured around a list of topic areas and will recognize that many of the objectives and policies are still relevant, rather than build a new OCP from a blank slate. The project is designed to be completed over a period of 18 months.

ALTERNATIVES

1. Initiate the Electoral Area H Official Community Plan Review project by endorsing the Terms of Reference and Engagement Plan as attached.
2. Provide alternate direction.

FINANCIAL IMPLICATIONS

The budget for this project is \$127,000 with the majority of expenditures occurring in the 2016 calendar year. The Long Range Planning budget is contributing \$67,000, and an additional \$60,000 has been allocated from the Community Works Fund for background studies. One full-time staff equivalent and mapping resources will be assigned to the project through to completion.

STRATEGIC PLAN IMPLICATIONS

Development of OCPs is one of the ways in which the RDN fulfills its mission, as stated in the 2013-2015 Strategic Plan. The objectives and policies in an OCP address the “self-sufficiency” and “economic viability” priorities of the Strategic Plan, and the process of reviewing an OCP addresses the “regional collaboration” and “monitoring and communication” priorities. Many of the Strategic Plan’s goals and actions can be advanced through OCP policies such as in the areas of sustainability and community resilience, increasing affordable, adaptable housing, improving community self-sufficiency, and recognizing agriculture and aquaculture as important contributors to the region.

The Terms of Reference for this project will be reviewed against the new strategic plan currently under development, and any necessary adjustments will be made. Specific goals and actions from the new strategic plan can be advanced through revised OCP objectives and policies.

PUBLIC CONSULTATION IMPLICATIONS

The attached Engagement Plan was developed pursuant to the RDN “Coordinated Public Consultation/Community Framework” which states the RDN’s commitment to on-going and meaningful public consultation. The Engagement Plan includes a series of general community meetings and smaller community working group meetings, and a variety of other print, online and live communication and engagement strategies.

INTERGOVERNMENTAL IMPLICATIONS

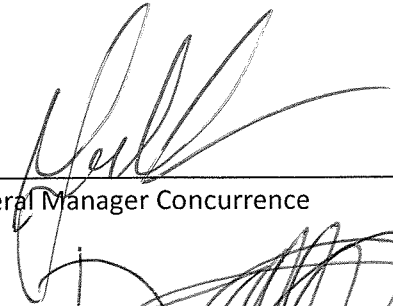
First Nations will be engaged on an early and ongoing basis, as outlined in the Engagement Plan. Adjacent regional districts, the Town of Qualicum Beach, and a number of federal and provincial ministries and agencies will be consulted during the project.

SUMMARY/CONCLUSIONS

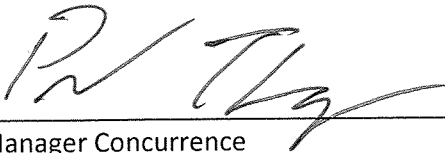
Pursuant to the 2015 Work Plan, scoping and background work for a review of the Electoral Area H OCP is underway, and a Terms of Reference and Engagement Plan for the project are presented to the Board through this staff report. The OCP review will respond to changes in the community that have occurred in the decade since the current OCP was adopted, and will review the community's vision for the future and course of action to achieve it. Once the project is initiated by the Board, a full Background Report will be completed, and community engagement will begin in early 2016. The majority of the project will be undertaken in 2016, with the public hearing and bylaw adoption process completing in 2017.



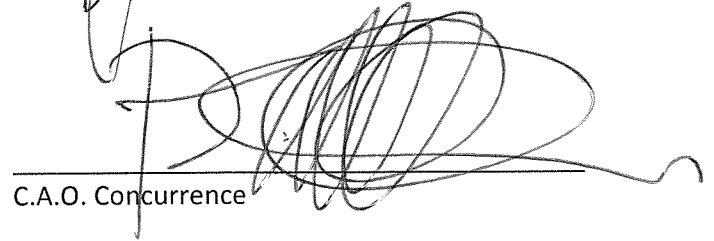
Report Writer



General Manager Concurrence



Manager Concurrence

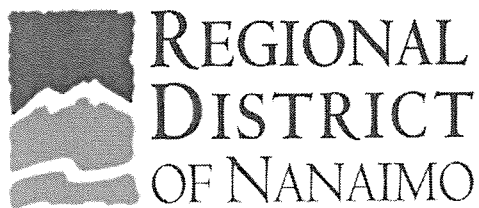
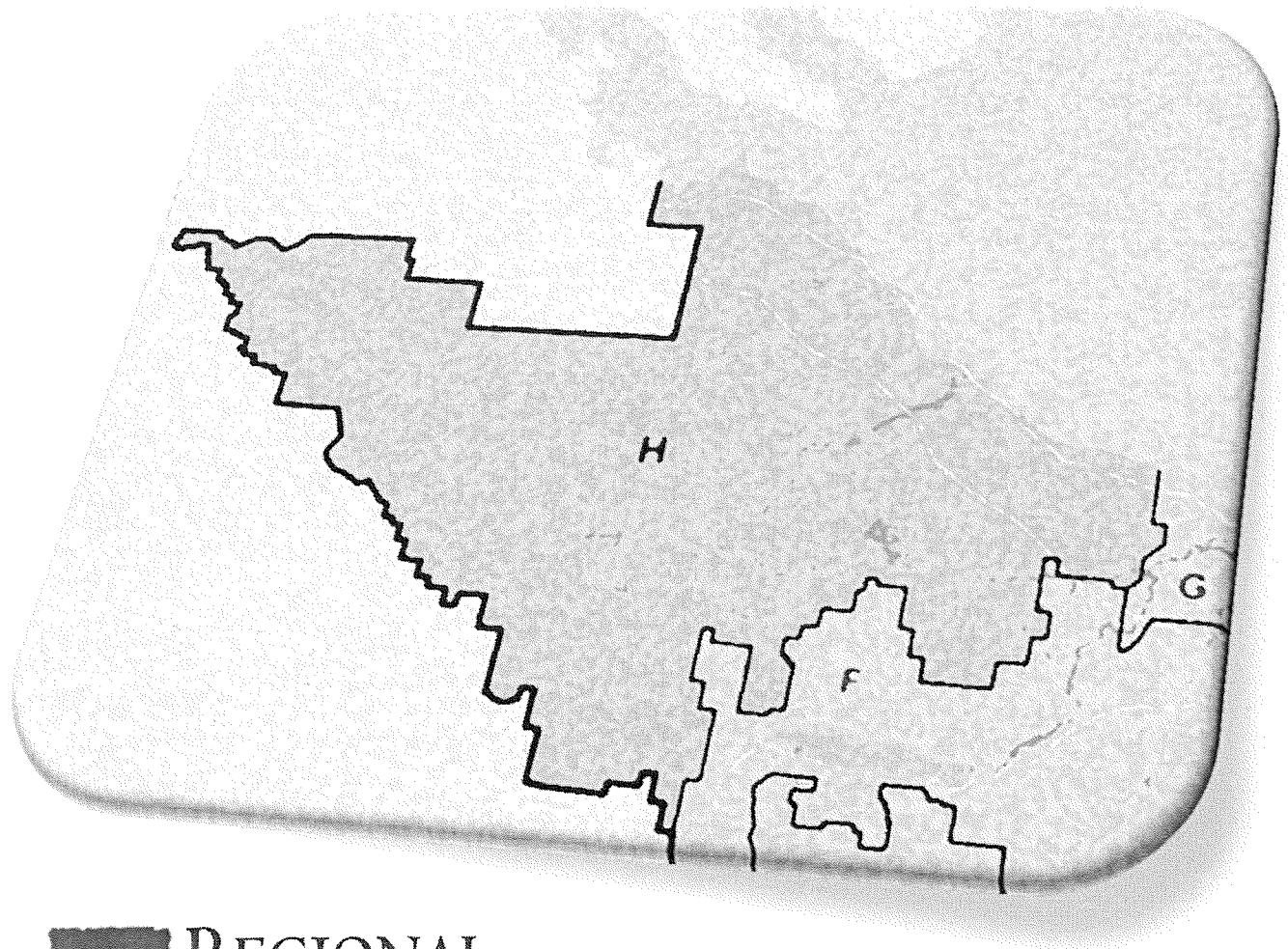


C.A.O. Concurrence

Electoral Area H Official Community Plan Review

Terms of Reference

October 30, 2015



1. Background

An Official Community Plan (OCP) describes a long-term vision for the future and a course of action to achieve it. The course of action is described in objectives and policies to guide land use, servicing, and physical, social and economic changes in the community over the long term.

An OCP has legal status which requires that all development and use of land be consistent with the policies of the Plan. Implementing the vision of the OCP occurs through zoning and other detailed development-related tools.

The current Electoral Area H Official Community Plan (OCP) was adopted in 2004, and in 2010 the Bowser Village Plan was adopted as part of this OCP. These two plans were created through extensive public engagement, with many community members volunteering their time to provide input and to help achieve a unified community vision.

In the 10 years since the OCP was adopted the pace of development has been slower than anticipated and notable changes have occurred in the area including: establishment of the Vancouver Island University (VIU) Centre of Shellfish Research in Deep Bay, expansion of Deep Bay Harbour, changes to provincial legislation such as the *Riparian Areas Regulation*, allowance for secondary suites, and introduction of building inspection.

Many action items in the 2004 OCP have been accomplished, and some are outstanding. Some new items to be addressed have emerged, and new strategies to achieve long-standing community goals may be needed. This OCP review project will be structured around a list of topic areas and recognize that many of the objectives and policies are still relevant, rather than build a new OCP from a blank slate.

1.1. Goal

To revise identified topic areas of the Electoral Area H Official Community Plan so it continues to be a relevant and effective plan able to achieve the community vision.

1.2. Objectives

- Provide early and ongoing information and opportunity for First Nations to engage in the OCP review process
- Provide meaningful opportunities for public and agency input and participation
- Review OCP policies that do not appear to be achieving their objectives
- Consider adding new OCP objectives and policies to address emerging issues
- Consider relevant RDN planning projects completed in recent years
- Coordinate amendments with Bowser Village Plan for ease of interpretation
- Consider recommended OCP language from relevant sources such as provincial ministries and independent organizations
- Meet all **Local Government Act** required OCP content
- Meet or exceed **Local Government Act** required consultation

2. Scope of Work

This project is proposed as a “targeted” OCP review, meaning that it is not a complete re-write but will be focused on amending those areas in need of change, or adding topics currently absent. Below is a list of topics that have been identified by staff and the Area Director as in need of review. These topics are grouped under main topic areas to suggest how they could be divided into a series of working group sessions. The topics and groupings will be presented to the community for review and amendment at the first general community meeting. When complete, this process will constitute a full OCP review.

Proposed Topics for Review

	Topic	Sub-topics
1	Economy	Tourism Tourist accommodation Aquaculture cultivation & processing Agricultural Land Reserve Commercial development
2	Housing	Seniors housing Affordable housing
3	Natural Environment	Environmentally sensitive areas Coastal zone and sea level rise Groundwater Surface water Streams and lakes Steep slope hazard Development permit areas
4	Transportation	Cycling & pedestrian infrastructure Roadside trail Traffic calming E&N Railway Corridor Highway corridors Transit
5	Deep Bay	Access Parking Economic development Residential development
6	Horne Lake	Vision for Horne Lake Recreation Area Community services

The initial stages of the project will involve discussion with First Nations and the public about the scope as outlined by the topic areas above. There is an opportunity to amend the scope based on those discussions. Once the scope has been confirmed, it is intended that the project will stay focused on the topics in order to complete it on time, and any new issues brought forward may be set aside for a future project.

The OCP Review project will be aligned with the schedule for the Bowser Sewer Study underway through the Wastewater Services department of the RDN. Their preliminary consultation schedule includes two public events in the first few months of 2016. Long Range Planning will coordinate with Wastewater Services to ensure consistent and clear messaging, and to take advantage of opportunities to engage with the public.

Pursuant to the **Local Government Act**, an OCP is a statement of objectives and policies to guide decisions on planning and land use management; the intent of an OCP is to set out the community vision and 'course of action' for the plan area through a document that outlines the community's goals and the policies needed to achieve those goals. The OCP will serve as the primary plan that guides future land use in electoral area. In addition, as the RDN has an adopted Regional Growth Strategy (RGS), the **Local Government Act** requires that the OCP be consistent with the RGS.

2.1. Required and Optional OCP Content

The **Local Government Act** requires that an OCP include policy statements and map designations respecting the following:

- location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years;
- location, amount and type of present and proposed commercial, industrial, institutional, agricultural, recreational and public utility land uses;
- location and area of sand and gravel deposits that are suitable for future sand and gravel extraction;
- restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive to development;
- location and phasing of any major road, sewer and water systems;
- location of present and proposed public facilities, including schools, parks and waste treatment and disposal sites;
- policies with respect to affordable housing, rental housing and special needs housing; and
- targets for the reduction of greenhouse gas emissions in the area covered by the plan, and policies and actions of the local government proposed with respect to achieving those targets.

In addition to the required content outlined above, an OCP may include the following:

- policies relating to social needs, social well-being, and social development;

- policies respecting the maintenance and enhancement of farming on land in a farming area or in an area designated for agricultural use in the OCP; and,
- policies relating to the preservation, protection, restoration, and enhancement of the natural environment, its ecosystems, and biological diversity.

From a legislative and Regional District policy perspective, the new Electoral Area H OCP should also address the following:

- policies contained in the Regional Growth Strategy, Community Energy and Emissions Plan, and other plans and policies for the Regional District of Nanaimo;
- updated information from the Regional Parks and Trails Plan (2005) and Community Parks and Trails Strategic Plan (2014); and,
- applicable changes to federal and provincial legislation

2.2. Background Report & Acquiring New Information

Preparing a background report is one of the first steps in this OCP Review project. The background report will compile the most current information from numerous sources to create a “community profile” of Electoral Area H, including topics such as demographic trends, land use, public amenities, transportation, environmentally sensitive areas, etc. The audience for the background report is both internal and external; it will be a resource for staff and elected officials, as well as the interested public.

There is one RDN study running concurrent with this OCP review that is expected to provide background information that can inform OCP policy:

Water Information Update	Drinking Water & Watershed Protection has \$10,000 budgeted for Electoral Area H in 2016, currently planned to update information on surface and groundwater.
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Three additional background studies are budgeted for in this project:

Study	Description	Estimated budget
Hazard Mapping	Including steep slope and flooding hazard, this information will enable improvements to the development permit areas. Recently acquired elevation data will now allow us to contract with an engineering firm to undertake hazard mapping of the area.	\$40 - 50k
Active Transportation Plan	To set a specific plan for needed active transportation infrastructure such as to improve safety and accessibility of roadside walking and cycling. The plan will help to leverage grant funding for infrastructure	\$25 - \$30k

upgrades.		
ALR boundary analysis	To assess agricultural capability of land in the ALR as well as outside of the ALR, in support of boundary amendment application by the RDN. <i>To be completed in two phases:</i> <u>Phase 1</u> – Scoping study including reconnaissance survey <u>Phase 2</u> – In depth study including soil mapping (\$200k estimated) <i>Phase 1 only to be completed as part of this OCP review project.</i>	\$20k - \$30k

3. Tasks & Timeline

Project Timeline			
	MILESTONE	TARGET DATE	
INITIATE	Terms of Reference endorsed by Board	November, 2015	2015
	Background Report for Area H	December, 2015	
	Initiate dialogue with First Nations	January, 2016	
	General Community Meeting #1 – <i>scoping & prioritizing</i>	January, 2016	
EXPLORE ISSUES	Working Group Session #1 – <i>economy</i>	February, 2016	2016
	Working Group Session #2 – <i>housing</i>	March, 2016	
	Working Group Session #3 – <i>natural environment</i>	April, 2016	
	Working Group Session #4 – <i>transportation</i>	May, 2016	
	Horne Lake Community Meeting	May, 2016	
	Working Group Session #5 – <i>Deep Bay</i>	June, 2016	
	General Community Meeting #2 – <i>confirmation of direction</i>	June, 2016	
Working Group Session #6 – <i>review of community meeting</i>	July, 2016		
DRAFT PLAN	Official Community Plan Draft	September, 2016	2016
	Consider early referral of draft to agencies and First Nations	October, 2016	
	Working Group Session #7 – <i>review draft OCP</i>	October, 2016	
	Working Group Session #8 – <i>review draft OCP</i>	November, 2016	
	General Community Meeting #3 – <i>confirmation of draft OCP</i>	November, 2016	
ADOPT	Report to RDN Board requesting 1 st reading	January, 2017	2017
	Formal bylaw referral to agencies and First Nations	January, 2017	
	Report to Board requesting 2 nd reading	March, 2017	
	Public Hearing	April, 2017	
	Adoption	May, 2017	

4. Roles & Responsibilities

Staff: to provide project management and professional advice, organize, coordinate and facilitate public consultation, drafting and finalizing the OCP.

Electoral Area Director: to provide situational leadership throughout the community planning process by chairing and/or presenting at public events, and reporting to the RDN Electoral Area Planning Committee and Board on the process as required.

Electoral Area Planning Committee: to review the Project and final Plans from a regional and sub-regional perspective and make recommendations to the RDN Board on OCP or RGS amendments which may result from the project.

Community Working Group: to confirm and prioritize local issues, and act as information sources for the both the community as a whole and staff.

5. Stakeholders & Public Engagement

The RDN is committed to on-going and meaningful public consultation, and recognizes that not only do the people who live with the impacts of any of our plans, policies, programs or projects expect to share in the decision-making process but that better decisions are made through a shared approach¹.

An Engagement Plan has been prepared separately from this Terms of Reference, based on the following principles:

Inclusiveness – engage the widest possible audience through multiple consultation opportunities

Timeliness – offer early and ongoing opportunities for participation well before decisions are made

Transparency – records of all consultation activities will be made available to the public

Balance – provide opportunities for diverse perspectives and opinions to be raised and considered

Flexibility – adapt as required to meet the needs of participants

Traceability – demonstrate the impact of participation input on decision-making

The Engagement Plan details how information will be distributed, how and when online and live engagement will occur, and what outreach activities are planned. The Engagement Plan includes setting up a site office in the Electoral Area and coordination with Wastewater Services' planned consultation regarding the Bowser Sewer Study.

There is a statutory requirement for consultation in Section 879 of the **Local Government Act** which requires that during the development of an Official Community Plan, the Regional District must provide

¹ Regional District of Nanaimo, 2008. *A Coordinated Public Consultation/Community Framework*.

one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected. The Board must specifically consider whether consultation is required with the board of any regional district that is adjacent to the area covered by the plan, the council of any municipality that is adjacent to the area covered by the plan, First Nations, school district boards, greater boards and improvement district boards, and the Provincial and Federal governments and their agencies.

The following is a list of stakeholders for Board consideration pursuant to the requirements in the **Local Government Act**. First Nations engagement is addressed in the following section.

<p>Local</p> <ul style="list-style-type: none"> • Local resident associations • Owners of large properties • Deep Bay Waterworks • Bowser Waterworks • Qualicum Bay-Horne Lake Waterworks • Little Qualicum Waterworks • Bow Horn Bay Fire Protection • Dashwood Fire Protection • Deep Bay Harbour Authority • Lighthouse Country Business Association • Qualicum Beach Chamber of Commerce • Oceanside Construction and Development Association • School District No. 69 • Deep Bay Marine Field Station / VIU • Parksville Qualicum Beach Tourism Association • Island Corridor Foundation 	<p>Adjacent Local Governments</p> <ul style="list-style-type: none"> • Town of Qualicum Beach • Alberni-Clayoquot Regional District • Comox Valley Regional District • Islands Trust – Ballenas-Winchelsea Local Trust Committee • Islands Trust – Denman Island Local Trust Committee <p>Provincial</p> <ul style="list-style-type: none"> • Island Health • Agricultural Land Commission • Ministry of Agriculture • Ministry of Community, Sport and Cultural Development • Ministry of Energy & Mines • Ministry of Environment • Ministry of Forests, Lands & Natural Resource Operations • Ministry of Natural Gas Development (responsible for housing) • Ministry of Transportation & Infrastructure • Ministry of Small Business
<p>Federal</p> <ul style="list-style-type: none"> • Fisheries and Oceans Canada 	

6. First Nations

The Regional Growth Strategy recognizes the need to coordinate planning with First Nations: Policy 11.3 states that “the RDN wishes to involve First Nations in its planning processes in the same way it involves other levels of government”, and that the RDN will “continue dialogue with First Nations regarding land use planning in the RDN... for the purpose of building a mutual appreciation and understanding of land use planning processes”. The following First Nations have indicated interest in Electoral Area H, with the Qualicum and K’omoks First Nations expected to have the greatest interest in this project. The Engagement Plan, prepared separately, addresses First Nations engagement in more detail.

Qualicum First Nation	K’omoks First Nation
We Wai Kai First Nation	Sna’Naw’As Nation
We Wai Kum First Nation	Tseshahat First Nation
Homalco First Nation	Sliammon First Nation
Hupacaseth First Nation	

7. Budget & Resources

One full-time staff equivalent and mapping resources will be assigned to the project through to completion. Aside from specified background studies, all work to gather and collate data, consult with the public, produce and design documents/consultation materials and draft the Official Community Plan will be completed by RDN staff.

The total project budget is \$127,000, as outlined in the table below. Public consultation costs, including all materials, mailing, newsletters, web resources, and room and office rentals for the project are budgeted at \$10,000. The remainder of the budget is for background studies, and is funded by a combination of Area H OCP Review project budget, sea level rise adaptation project budget, and Community Works Funds.

		Area H OCP Project Budget	Sea Level Rise Adaptation budget	Community Works Funds	TOTAL
2016	Public consultation	\$10,000			\$10,000
	Hazard Mapping	\$25,500	\$30,000		\$55,500
	Active Transportation Plan			\$30,000	\$30,000
	ALR Boundary Scoping			\$30,000	\$30,000
2017	Public Hearing	\$1,500			\$1,500
	Total	\$37,000	\$30,000	\$60,000	\$127,000

Electoral Area H Official Community Plan Review

Engagement Plan

October 30, 2015



1. Introduction & Background

The Regional District of Nanaimo (RDN) is planning a review of the Electoral Area H Official Community Plan (OCP). Electoral Area H includes the communities of Dunsmuir, Qualicum Bay, Horne Lake, Spider Lake, Bowser, Deep Bay, and the rural areas in between. The Qualicum First Nation community is bordered on all sides by Electoral Area H.

An Official Community Plan (OCP) describes a long-term vision for the future and a course of action to achieve it. The course of action is described in objectives and policies to guide land use, servicing, and physical, social and economic changes in the community over the long term. This Engagement Plan is companion to the Terms of Reference, a separate document that outlines the overall project.

The current Electoral Area H OCP was adopted in 2004, and in 2010 the Bowser Village Plan was adopted as part of this OCP. These two plans were created through extensive public engagement, with many community members volunteering their time to provide input and to help achieve a unified community vision.

Public engagement in this process is critical to ensure the plan best reflects the community needs and aspirations, and the RDN recognizes First Nations engagement as an essential component of an OCP review.

Commitment to the Community

The RDN is committed to on-going and meaningful public consultation. We recognize that not only do the people who live with the impacts of any of our plans, policies, programs or projects expect to share in the decision-making process but that better decisions are made through a shared approach¹.

Goal & Principles

The goal of the project is: *To revise identified topic areas of the Area H Official Community Plan so it continues to be a relevant and effective plan able to achieve the community vision.*

Effective public engagement is one of the key ingredients to achieving the project goal. The project Terms of Reference establishes the public consultation principles that will be followed during this Area H OCP Review project:

Inclusiveness – engage the widest possible audience through multiple consultation opportunities

Timeliness – offer early and ongoing opportunities for participation well before decisions are made

Transparency – records of all consultation activities will be made available to the public

Balance – provide opportunities for diverse perspectives and opinions to be raised and considered

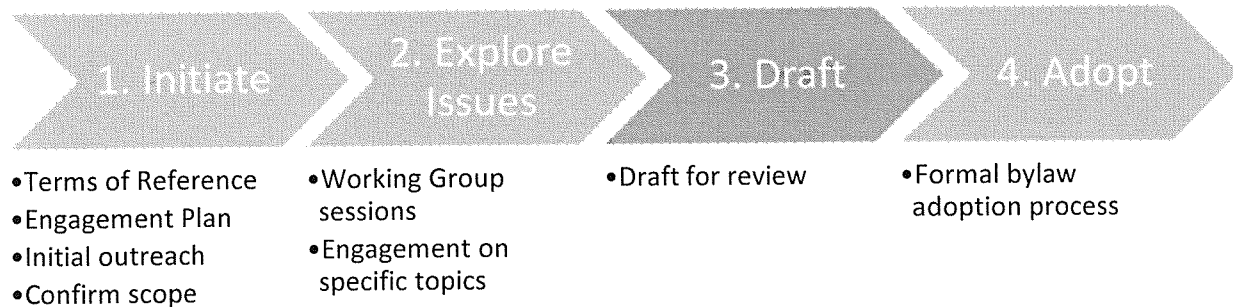
Flexibility – adapt as required to meet the needs of participants

Traceability – demonstrate the impact of participation input on decision-making

¹ Regional District of Nanaimo, 2008. *A Coordinated Public Consultation/Community Framework*.

Project Process

The project is divided into four main phases, with the majority of engagement occurring in Phases 2 and 3. There will be a variety of options for the public to learn about the project, provide input, and respond to the draft Plan.



2. Approach, Methods and Tools

A variety of methods and tools will be used to communicate and engage during the Official Community Plan Review. These methods and tools are divided into five approaches:

Information – The RDN will share information about the project throughout the process. Regular updates will be shared through RDN social media accounts and print materials such as the RDN Perspectives quarterly publication, and local flyers. The project website will be updated regularly and will act as the main source of information for the project. Community members will be encouraged to sign up for email alerts on the RDN website.

Online Consultation – The RDN will solicit comments and feedback online through the project website using tools such as online surveys and feedback forms.

Live Events – Open houses and public meetings will be held at various key points in the project.

Outreach – The RDN will proactively educate and solicit feedback from the community by establishing a community planning office in Area H, and engaging with existing local groups, residents and landowners.

Community Working Group – The purpose of the Community Working Group is to confirm and prioritize local issues, act as information sources for both the community as a whole and staff. The intent is that any number of interested volunteers including residents, landowners, and stakeholders, will work toward consensus on the issues that face the plan area. The individuals who attend the Community Working Group Sessions will participate through a series of public meetings to refine and confirm the direction of the development strategy, provide/present information at the General Public Events and provide feedback on the draft Official Community Plan for the area.

3. Outcomes & Products

One of the principles of this public engagement is transparency, and in order to achieve this, all information gathered from the public during the process will be posted to the project web page. An exception to this may be engagement with First Nations, where confidential or sensitive information may not be posted publicly.

Presenting vast amounts of public input can be challenging, and not everyone will be interested in reading it all. The project web page will be designed so that someone having a quick look will not be bogged down by volumes of additional information, but that this information can still be found easily.

4. Communication and Consultation Schedule

Phase 1: Initiate

The objectives of Phase 1 are to:

- Introduce the project
- Initiate dialogue with First Nations and the public
- Finalize the topic areas to be addressed in this OCP review

Table 1: Consultation Methods for Phase 1

Method	Details	Timing
Information	• Define style for project communication materials	December, 2015
	• Launch new project web page	December, 2015
	• Announce project on Facebook and Twitter	December, 2015
	• Ad or article in Eyes on BC	January, 2016
	• Direct mail to all property owners and residents	January, 2016
Online Consultation	• Consider setting up blog or Facebook page for the project	January, 2016
Live Events	• General Community Meeting #1 – Discuss proposed consultation method, scope of review, logistics (when and where of future meetings), invitation to attend Working Group sessions	January, 2016
Outreach	• Contact First Nations to invite participation in project	December, 2015
	• Request meetings with Qualicum and K’omoks	December, 2015
	• Notification to all referral agencies/groups	January, 2016
	• Information to other RDN departments	Dec-Jan, 2016
	• Set up Community Planning Office in Area H	February, 2016
Community Working Group	• N/A	

Phase 2 – Explore Issues

The objectives of Phase 2 are to:

- Collaborate with groups and individuals in the community to identify policy direction for all topic areas
- Engage with First Nations

Table 2: Consultation Methods for Phase 2

Method	Details	Timing
Information	• Develop background information on all topic areas	February – June, 2016
	• Update web page with background info and upcoming meeting dates	Ongoing
	• Develop display boards for Community Planning Office	February, 2016
	• Direct mail to property owners and residents with schedule of working group sessions and community meetings	February, 2016
	• Ads / articles in Eyes on BC	February – June, 2016
	• Facebook and Twitter updates	February – June, 2016
Online Consultation	• Consider online survey depending on topics and feedback sought	February – June, 2016
	• If a blog or Facebook page for the project was set up in Phase 1, maintain and initiate dialogue	February – June, 2016
Live Events	• General Community Meeting #2 – present policy direction defined in working group sessions for community review and input	June, 2016
	• Bowser Sewer Study Open House #1 – led by Wastewater Services. Opportunity to advertise OCP Review, coordinate messaging, explain difference between the two initiatives	Jan/Feb, 2016
	• Bowser Sewer Study Open House #2 – led by Wastewater Services. Coordinate with messages and topics of OCP Review. Create space for the planning discussion related to the sewer study.	April/May, 2016
Outreach	• Staff Community Planning Office in Area H	February – June, 2016
	• Meetings with First Nations as needed	February – June, 2016
	• Meet with community organizations and representatives of large properties	February – June, 2016
	• Second Sunday Market Qualicum Bay	Select dates TBD
	• Deep Bay Harbour Festival (confirm running in 2016)	Date TBA
	• Lighthouse Country trade show – set up booth, talk about project, some kind of info-gathering	April, 2016 (based on 2015 date)
	• Bike to Work Week promotion – tie in the “transportation” topic. Consider getting people to map	May 30 – June 5, 2016

	their bike trips that week, lead into working group session.	
	• Involve Bowser Elementary school class or classes	February – May, 2016
	• Liaise with other RDN departments	February – June, 2016
Community Working Group	• Working Group Sessions #1 - #6 – workshop-style discussion on identified topic areas to define the issues and way forward.	February – July, 2016

Phase 3 – Draft Plan

The objectives for Phase 3 are:

- To receive feedback on the draft Plan from the community, agencies and First Nations

Table 3: Consultation Methods for Phase 3

Method	Details	Timing
Information	• Update web page with background info and upcoming meeting dates	September, 2016
	• Update displays in Community Planning Office	September, 2016
	• Direct mail to property owners and residents regarding draft Plan	September, 2016
	• Hard copy of draft OCP in Bowser Library	September, 2016
Online Consultation	• Maintain blog or Facebook page, if using	Sept. – Nov., 2016
Live Events	• General Community Meeting #3 – present draft OCP and describe the engagement undertaken to get there. Solicit community feedback.	November, 2016
Outreach	• Lighthouse Country Fall Fair	Aug/Sept 2016 TBA
	• Meet with First Nations to review draft OCP	Sept. – Nov., 2016
	• Meet with community organizations and representatives of large properties to review draft OCP	Sept. – Nov., 2016
	• Referral of draft to other RDN departments	Sept. – Nov., 2016
	• Consider early referral of draft to agencies	Sept. – Nov., 2016
Community Working Group	• Working Group Sessions #7 - #8 to review the draft OCP	October - November, 2016

Phase 4 – Adopt

The objectives of Phase 4 are:

- To ensure the public is informed about the statutory process for bylaw adoption
- To ensure the public is aware of their final opportunities for input

Table 4: Consultation Methods for Phase 4

Method	Details	Timing
Information	• Update web page with bylaw process info and public hearing date	Jan - April, 2017
	• Formal Public Hearing Notice	March, 2017
	• Put hard copy of proposed OCP in Bowser Library	March, 2017
Online Consultation	• N/A	
Live Events	• Public Hearing	April, 2017
Outreach	• Respond to First Nations and referral agencies on how their comments were addressed in the OCP	January, 2017
Community Working Group	• Thank you event for community working group	May, 2017

5. Budget

There is a \$10,000 budget for public consultation costs, including all materials, mailing, newsletters, web resources, and room rentals for 2016. A detailed budget is being developed separately.

6. Monitoring & Evaluation

The RDN recognizes that engaging the public can be challenging, and is committed to developing new and innovative approaches to keep the community involved and informed as well as getting their feedback. Evaluating the public engagement for this project will be done throughout by using feedback forms, surveys, and polls to gauge to what extent the public's expectations are being met, in order to adapt the consultation methods during the project, and as a learning tool for future projects.

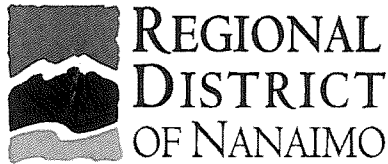
Appendix A: First Nations with interest in Electoral Area H

Based on the information available and experience with past planning projects, Qualicum and K’omoks First Nations have the greatest interest in this project. The We Wai Kai and We Wai Kum First Nations, represented by the Laich-Kwil-Tach Treaty Society, identify most of Area H in their Statement of Intent Map for treaty, and although they have not indicated a strong interest in participating in Electoral Area H planning projects in the past, it will be important to determine their level of interest in this project.

There are an additional 5 First Nations who may have identified aboriginal interests in the area, based on the Consultative Areas Database maintained by the Province. For these First Nations, the information we have available indicates their primary areas of interest do not include Electoral Area H, but they have indicated some level of interest in this area.

First Nations with interest in RDN Electoral Area H

First Nation	Comments	Treaty Process?
Qualicum	The Qualicum First Nation is the closest First Nation community to the Plan Area, having their reserve lands at the mouth of the Qualicum River and surrounded by Electoral Area H.	No
K’omoks	The K’omoks First Nation lands are located to the North of Electoral Area H, but this First Nation is in stage 5 of the treaty process, and their Agreement in Principle identifies their “Area”, which includes all of Electoral Area H. All specific “lands” in the Agreement in Principle are outside of the RDN and Electoral Area H. K’omoks may have a strong interest in this OCP as well.	Stage 5
We Wai Kai / We Wai Kum	The Laich-Kwil-Tach Treaty Society represents the We Wai Kai, We Wai Kum, and Kwiakah Nations, in the Campbell River/Quadra Island area. Their Statement of Intent Map includes most if not all of Electoral Area H. They are in Stage 4 of the treaty process.	Stage 4
Sna’Naw’As Nation	Nanosee area - Statement of intent area includes lands south and north of Electoral Area H.	Stage 4
Homalco First Nation (Xwemalhkwa)	Campbell River area	Stage 4
Tseshaht First Nation	Barkley Sound area, Nuuchahnulth	No
Hupacaseth First Nation	Alberni valley - Area of interest adjacent to the west of Electoral Area H.	Stage 4
Sliammon First Nation	Powell River area - Agreement in Principle area includes marine areas near Electoral Area H, and Vancouver Island to the north.	Stage 5



RDN REPORT		
CAO APPROVAL		
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BOARD		

STAFF REPORT

TO: Paul Thompson
Manager, Long Range Planning

DATE: October 27, 2015

FROM: Kristy Marks
Senior Planner

MEETING: EAP November 10, 2015

FILE: 3015 01 AGRI

SUBJECT: Ministry of Agriculture’s Discussion Paper and Proposed Minister’s Bylaw Standards Regulating Agri-tourism and Farm Retail Sales in the Agricultural Land Reserve

RECOMMENDATIONS

1. That the Board receive this report for information.
2. That the Minister’s proposed set of bylaw standards be considered when drafting new bylaws.
3. That the Regional District of Nanaimo respond to the Ministry of Agriculture’s request for comments on the draft criteria for developing local government bylaws related to agri-tourism, agri-tourism accommodation, and farm retail sales with the following comments:
 - a) that the Regional District of Nanaimo does not support the prohibition of cooking facilities within agri-tourism accommodation sleeping units, specifically cabins.
 - b) that the Agriculture Land Reserve Use, Subdivision, and Procedure Regulation and relevant Agricultural Land Commission Policies be updated, where appropriate, to be consistent with the Minister’s “Guide for Bylaw Development in Farming Areas”.

PURPOSE

To provide an overview of the Ministry of Agriculture’s discussion paper (see Attachment 1) and proposed criteria for developing local government bylaws related to agri-tourism and farm retail sales and recommend consideration of these draft criteria when preparing bylaws as part of the Regional District of Nanaimo’s (RDN) Agriculture Bylaw and Policy Updates Project.

BACKGROUND

The Ministry of Agriculture has invited the RDN to provide input on the establishment of a Minister’s Bylaw Standard to assist local government bylaw development regarding agri-tourism, agri-tourism accommodation and farm retail sales. The Ministry’s existing “Guide for Bylaw Development in Farming Areas” establishes standards to assist local governments with the preparation of bylaws related to agriculture while maintaining the flexibility required for local government community decision making and variation. The deadline for local governments to provide comment on the discussion paper and proposed criteria is November 30, 2015.

The discussion paper was referred to the Agricultural Advisory Committee (AAC) for their consideration. The AAC reviewed and considered the paper at its October 23, 2105 meeting but did not make any additional recommendations.

As the Board is aware, staff are working on the Agriculture Bylaw and Policy Updates Project as identified in the Agricultural Area Plan Implementation Action Plan and are currently reviewing existing RDN agriculture related policies and regulations have identified a number of barriers to agriculture that are a direct result of RDN zoning. Staff have been consulting with local area farmers and the community over the past couple of months and have drafted potential amendments to RDN zoning bylaws to help remove barriers to agriculture. The potential amendments are intended to provide greater clarity and support for farm uses on lands within the Agricultural Land Reserve and include new or amended regulations and definitions for agri-tourism, agri-tourism accommodation and farm retail sales that are consistent with the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (ALR USP Regulation).

LAND USE IMPLICATIONS

Intergovernmental Implications

The discussion paper and proposed Minister's Bylaw Standard criteria was prepared by the B.C. Ministry of Agriculture Strengthening Farming Program, Innovation and Adaptation Branch following the 2014 Ministry of Agriculture consultation on the ALR USP Regulation in which local governments expressed strong support for the Ministry to provide greater clarity in bylaw guidance for agri-tourism. The proposed Minister's Bylaw Standards are the result of input provided by the ALR, local governments and the agricultural sector. Following consultation with stakeholders and approval by the Minister, the bylaw criteria will become a Minister's Bylaw Standard and will be incorporated within the guide.

The discussion paper, focusing on agri-tourism and farm retail sales, outlines the process for establishing criteria or standards, provides an overview of current policy, legislation and regulation, and recommends new or revised standards. The Ministry has specifically requested comment on Part three of the paper which outlines the proposed set of criteria including revised or new definitions, clarification of accessory farm activities and agri-tourism use and that these uses must be seasonal and temporary as well as subordinate and customarily incidental to the active farm operation. In addition, the discussion paper provides greater clarity with respect to the current ALR Regulation and policies related to agri-tourism, agri-tourism accommodation, and farm retail sales in the ALR.

The RDN's Agriculture Bylaw and Policy Updates Project has outlined a number of regulatory barriers to agriculture in the region. Subsequently, staff have identified potential changes to RDN zoning bylaws intended to remove barriers to agriculture and are currently drafting proposed bylaw amendments and completing community consultation. Given that the RDN is currently reviewing existing regulations and considering new or revised regulations related to agri-tourism and farm retail sales, the Minister's recent discussion paper provides staff with an opportunity to consider the proposed criteria when drafting relevant bylaw amendments.

Agri-tourism, farm retail sales and agri-tourism accommodation are currently regulated by the ALR USP Regulation and the ALC has existing Policies and interpretations related to these uses. If the Ministry of Agriculture intends to provide further clarification of and bylaw standards for these uses within the Ministry's guide, staff recommend that comments to the Ministry include a request to ensure that any

changes to current regulation or interpretation of these uses be consistent within the ALR USP Regulation and/or relevant ALC Policies.

Agri-tourism

With respect to agri-tourism, the discussion paper aims to provide further clarification of permitted agri-tourism uses versus activities that require a non-farm use approval. Activities such as on-farm market, including u-pick and pumpkin patches, temporary corn mazes, farm tours, livestock shows, harvest festivals, and on-farm classes related to the farm operation are considered permitted agri-tourism activities. Activities that require a non-farm use approval from the ALC and may also require local government approval include commercial entertainment activities which do not have an agricultural component, such as paintball, dirt bike trails, and mini-train parks, as well as concerts, theatre or music festivals, and commercial weddings and banquets or any other commercial assembly activity. The discussion paper also clarifies that in most cases, bistros, cafes and restaurants are non-farm uses and that only winery, brewery, cidery, distillery, and meadery lounges are farm uses subject to specific criteria in the ALR Regulation. Staff recommend that the Minister's proposed set of bylaw standards be considered when drafting new bylaws related to agri-tourism.

Farm Retail Sales

Farm retail sales is a designated farm use that local governments may regulate but not prohibit. The ALR USP Regulation currently provides specific criteria under which retail sales is permitted including limiting the total area used for retail sales where off-farm products are sold in addition to products that are produced on the farm. The discussion paper clarifies what areas, that may be necessary for farm retail sales, are not calculated as part of the maximum permitted floor area. These may include storage space, office areas, washrooms, and driveways, parking and loading spaces. Staff recommend that the Minister's proposed set of bylaw standards be considered when drafting new bylaws related to farm retail sales.

Agri-tourism Accommodation

With respect to agri-tourism accommodation, the discussion paper includes a recommendation that unless ALC approval is received, agri-tourism accommodation must not include cooking facilities because doing so may result in long-term rental housing on farm land. Currently, the ALR USP Regulation and ALC Policy do not prohibit cooking facilities within agri-tourism accommodation cabins. "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" contains general regulations for agri-tourism accommodation which allows one kitchen within an agri-tourism accommodation cabin. To clarify, these regulations currently apply to one parcel in the RDN, an existing farm (PineRidge Farm) located in Electoral Area 'H'. The property is located within the ALR and was successfully rezoned in 2013 to a new Agriculture 1 zone which allows agri-tourism accommodation as an accessory use. To date, PineRidge Farm has developed 10 agri-tourism campsites and there are currently no cabins on-site. Staff recommend that the RDN provide comment to the Ministry with respect to the proposed bylaw standard related to the exclusion of cooking facilities with agri-tourism accommodation cabins for the following reasons: existing RDN zoning allows for kitchen facilities within an agri-tourism accommodation cabin; community feedback that we have received so far through the Bylaw and Policy Updates Project consultation has not identified kitchen facilities as a concern; and the ALR Regulations currently allow cooking facilities within agri-tourism accommodation units.

The discussion paper also recommends limiting the length of stay in the case of agri-tourism accommodation to a maximum of 30 consecutive days in any 12 month period. The existing regulations

within Bylaw 500 related to agri-tourism accommodation campsites and cabins state that the maximum length of stay is 90 days. In light of the potential change in the Minister's Bylaw Standard, concerns related to cabins becoming long-term rental housing and that potential RDN bylaw amendments would allow agri-tourism accommodation as an accessory use on all ALR land, staff recommend that this be considered as part of the Bylaw and Policy Updates Project.

STRATEGIC PLAN IMPLICATIONS

The 2013 – 2015 Strategic Plan recognizes that agriculture has a rich history in the region and remains an important contributor to the local economy, culture, and landscape. Changes to provincial guidelines and policies that encourage agriculture and help make it more viable are consistent with the Board's Strategic Plan.

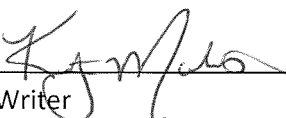
ALTERNATIVES

1. To receive this staff report for information purposes only.
2. To receive this staff report for information, and forward staff comments to the Ministry of Agriculture.


SUMMARY/CONCLUSIONS

The RDN has been invited by the Ministry of Agriculture to provide input on the establishment of a Minister's Bylaw Standard to assist local government bylaw development and interpretation regarding agri-tourism, agri-tourism accommodation and farm retail sales. The deadline for comments to be received is November 30, 2015.

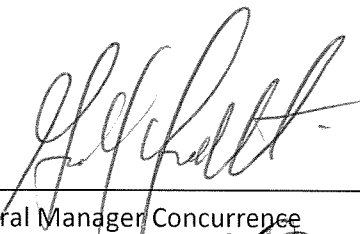
The discussion paper is primarily intended to clarify existing ALR Regulation and Policy with minor additions proposed to be included in the Ministry's "Guide for Bylaw Development in Farming Areas" and existing RDN regulations and potential bylaw amendments are generally consistent with the proposed set of criteria outlined in the discussion paper. Staff recommend consideration of the proposed criteria when drafting new bylaws and that the RDN forward comments on agri-tourism accommodation to the Ministry of Agriculture.



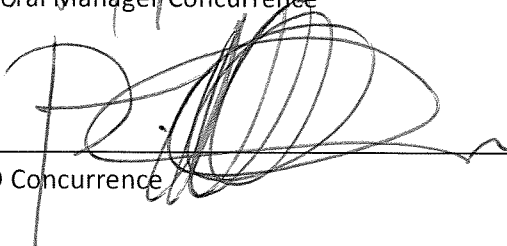
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

Attachment 1



**Regulating
Agri-tourism and Farm Retail Sales
in the Agricultural Land Reserve**

**DISCUSSION PAPER AND PROPOSED MINISTER'S BYLAW
STANDARDS**

September 14, 2015

**Prepared by:
Strengthening Farming Program
Innovation and Adaptation Services Branch**

Executive Summary

This discussion paper ('white paper') has been prepared by the B.C. Ministry of Agriculture (AGRI) Strengthening Farming Program, Innovation and Adaptation Branch for input on the establishment of a Minister's Bylaw Standard to assist local government bylaw development regarding agri-tourism, agri-tourism accommodation and farm retail sales.

Its preparation follows the 2014 AGRI's consultation on the Agricultural Land Reserve (ALR) Use, Subdivision and Procedure Regulation (ALR USP Regulation) in which local governments expressed strong support for AGRI to provide greater clarity in guidance to local government bylaws on agri-tourism.

The proposed Minister's Bylaw Standard criteria, set out in Part 3.0, result from input contributed by the Agricultural Land Commission (ALC), local governments and the agricultural sector. While the proposed Minister's Bylaw Standard provisions apply to land in the Agricultural Land Reserve (ALR), local governments may also wish to adopt for all agriculturally zoned property.

AGRI invites local governments to review the proposed Minister's Bylaw Standard and provide feedback to the contact listed on page 13 by November 30, 2015. Feedback received will be analysed by AGRI staff, with updates and improvements made to the proposed Minister's Bylaw Standard in preparation for the Minister of Agriculture's (Minister) consideration.

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Introduction

This paper outlines draft criteria to assist local governments in regulating their agri-tourism, agri-tourism accommodation and farm retail sales bylaws, aiming to encourage further discussion on the matter with local governments, the ALC and the farm sector. It is important that the bylaw standard criteria effectively guide local government land use regulations within the context, and intents, of the *Agricultural Land Commission, Farm Practices Protections (Right to Farm)*, and *Local Government and Community Charter Acts* and their regulations. The draft criteria reflect analysis undertaken by AGRI staff, previous consultations with local governments, the ALC, industry, and the Ministry of Community, Sport and Cultural Development (CSCD).

1.0 Part one – The Criteria Development Process

This paper explores and proposes land use regulation and policy guidance for local governments to address agri-tourism and farm retail sales issues in their communities, while recognizing these uses are permitted (with exceptions) within the ALR.

Following consultation with stakeholders and approval by the Minister, the bylaw criteria will become a Minister’s Bylaw Standard and incorporated within the “Guide for Bylaw Development in Farming Areas” (Bylaw Guide).¹

1.1 Purpose and Goals

The purposes of establishing land use regulation criteria to address local government concerns regarding agri-tourism and farm retail sales are to:

1. Establish a Minister’s Bylaw Standard that provides flexibility for local governments to shape agri-tourism activity in their community while ensuring that agriculture in the ALR continues as a priority use;
2. Address the needs of the agriculture sector/industry to supplement farming income;
3. Minimize the impact of agri-tourism and retail sales on farm practices and farming potential in farming areas;
4. Minimize loss and/or fragmentation of farmland due to agri-tourism and retail sales uses;
5. Reduce the financial imbalance that results from large scale commercial operations locating inexpensively in the ALR and outcompeting those that have located in appropriate commercial zones; and
6. Minimize the risk of agri-tourism and farm retail sales buildings and structures being used for non-farm purposes.

1.2 Stakeholders

Stakeholders involved in developing these Bylaw Standard criteria include:

¹ Under the *Local Government Act* (Part 26, Division 8, Section 916), the Minister responsible for the *Farm Practices Protection (Right to Farm) Act* can develop bylaw standards to guide the development of zoning and farm bylaws. Development of provincial standards is intended to promote consistency in the regulation of, and planning for, farming. However, provision has been made under Section 916(3) to allow the standards to differ, if necessary, to respond to BC’s diverse farming industry and land base.

- a) Local governments and their Agricultural Advisory Committees (AAC);
- b) Agriculture industry;
- c) ALC;
- d) Strengthening Farming Directors Committee,
- e) CSCD; and
- f) Ministry of Jobs, Tourism and Skills Training.

1.3 Objectives of the Process

The objectives of the process are to:

- 1. Create a set of Bylaw Standard criteria for stakeholder review;
- 2. Consult with stakeholders; and
- 3. Develop a Minister's Bylaw Standard that local governments can apply as regulation or policy.

1.4 Key Steps

The key steps in creating the Minister's Bylaw Standard are:

- 1. Review relevant literature including AGRI and ALC policies;
- 2. Review and compare local government regulations and policies;
- 3. Develop draft criteria;
- 4. Consult with internal and external stakeholders on the draft criteria;
- 5. Revise criteria for consideration by the Minister;
- 6. Seek Minister's approval; and
- 7. Encourage local governments to adopt and apply criteria.

1.5 Current Status (August 2015)

AGRI staff have:

- Reviewed previous agri-tourism and farm retail sales consultations with local governments, industry, the ALC and CSCD;
- Reviewed existing ALC policies on agri-tourism, agri-tourism accommodation and farm retail sales; and,
- Prepared this draft discussion 'white paper' on agri-tourism and farm retail sales land use bylaw guidance for further local government consultations over the 2015/2016 fall and winter.

1.6 Context for Bylaw Standard Establishment

AGRI has initiated Minister's Bylaw Standards in the past for three significant agricultural issues which have been approved by the Minister. AGRI staff use the Minister's Bylaw Standards to encourage local governments to adopt them into their land use bylaws. They are:

- Regulating Medical Marihuana Production Facilities in the ALR (2014);
- Combined Heat and Power Generation at Greenhouses in the ALR (2013); and

- Siting and Size of Residential Uses in the ALR (2011).

These Minister's Bylaw Standards can be found in AGRI's "Guide for Bylaw Development in Farming Areas" with additional information at:

<http://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/agricultural-land-and-environment/strengthening-farming/local-government-bylaw-standards-and-farm-bylaws>.

2.0 Part two - Background

2.1 Context

Farmers throughout B.C. are looking for options to increase their economic viability, including agri-tourism and farm retail sales. These two particular issues have become more prominent in recent years and local governments are amending their agri-tourism, agri-tourism accommodation and farm retail sales bylaws, sometimes causing frustration with farmers and the public. Sometimes there may be conflicting community views on what actually constitutes agri-tourism activities, and what 'accessory', 'seasonal', and 'temporary' within this context really mean.

While the ALC provides direction regarding agri-tourism and farm retail sales in the ALR, one of the questions asked during the Ministry's 2014 ALR USP Regulation consultation process included agri-tourism, with local governments indicating strong support for AGRI to develop greater clarity in bylaw guidance for agri-tourism. Incorporating analysis from previous consultation, AGRI staff anticipate strong response from stakeholders on the subject.

Ideally, developing this new Minister's Bylaw Standard will assist in balancing stakeholder concerns, minimize community frustration, and provide greater certainty while maintaining the flexibility required for local government community decision making and variation. The proposed Minister's Bylaw Standard applies to property in the ALR. Given, however, that agricultural activity in B.C. takes place both on ALR and non-ALR property, local governments with agriculturally zoned land may also consider adopting it.

2.2 Current Policy, Legislation and Regulation

Agri-tourism and farm retail sales are defined as farm uses by the ALR USP Regulation² of the *Agriculture Land Commission Act* where a farm use means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*:

- Agri-tourism is a tourist activity, service or facility accessory to ALR land classified as a farm under the *Assessment Act*, if the use is **temporary and seasonal**, and promotes or markets farm products grown, raised or processed on the farm.
- Farm retail sales if all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place

² B.C. Reg. 171/2002 Agricultural Land Reserve Use, Subdivision and Procedure Regulation. Last retrieved August 24, 2015 from <http://www.alc.gov.bc.ca/alc/content.page?id=A631A2319799460A98F62978A2FE60E3>

and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m².

Local governments cannot prohibit agri-tourism activities, other than agri-tourism accommodation, or farm retail sales regulated by the ALR USP Regulation unless by a Farm Bylaw designated by the Minister by Section 917 of the *Local Government Act*.

The ALC also publishes several policy documents on agri-tourism, agri-tourism accommodation and farm retail sales with respect to land in the ALR.

*“The policies of the Commission provide interpretation and clarification of the regulations; outline guidelines, strategies, rules or positions on various issues and provides clarification and courses of action consistently taken or adopted, formally or informally.”*³ - ALC

These ALC policies include their terms of ‘seasonal’ and ‘temporary’:

- **Temporary** –means a use or activity in a facility or area that is established and used on a limited time basis for agri-tourism activities. If a building or structure is required for this use, temporary use of the building or structure means a use for agri-tourism for less than 12 months of the year. The building or structure may be used for other permitted uses during the course of, or for the remainder of the year.
- **Seasonal** - means a use or activity in a facility or area for less than 12 months of the year.⁴

A recent 2015 B.C. Supreme Court ruling *Heather Hills Farm Society v. Agricultural Land Commission*, addresses the subject of agri-tourism, and in this case whether a particular golf course and sheep pasture is a permitted agri-tourism use. Interestingly, within the reasons for judgement that ultimately dismisses the petition; the judge also references what cannot be described as reasonably temporary, with respect to what is written in the ALR USP Regulation:

*[51] The Regulation also requires that an agri-tourism use be temporary and seasonal. A golf course requires alteration of the land in the form of particular landscaping, sand traps, water hazards etc. Photographs that were put into evidence show changes of precisely that kind to the petitioners’ property. Those changes must remain in place as long as operation of the golf course continues and cannot reasonably be described as temporary.*⁵

The intent of this proposed Bylaw Standard is to provide greater clarity on what constitutes agri-tourism, agri-tourism accommodation, farm retail sales, and the definitions of temporary and seasonal.

³ ALC. *Legislation and Regulation*. Last retrieved August 24, 2015 from <http://www.alc.gov.bc.ca/alc/content.page?id=4179AB0F33494261A5B6CEF2A4F8F296>

⁴ ALC. *Policy #4 Activities designated as Farm Use: Agri-tourism Activities in the ALR*, 2003. Last retrieved August 24, 2015 from http://www.alc.gov.bc.ca/alc/DownloadAsset?assetId=9A907E9B31224D808675BE2E5D78ADBB&filename=policy_4_agri-tourism_activities.pdf

⁵ *Heather Hills Farm Society v. Agricultural Land Commission*, 2015 BCSC 1108

For farm retail sales, the processing/marketing of off-farm products may not be protected under the *Farm Practices Protection Act* unless there are limits prescribed by the Minister under the *Farm Practices Protection Act*.⁶ This has implications for farms considering those options.

3.0 Part three – Proposed Set of Criteria

Part three introduces a set of criteria in which local governments would be encouraged to consider when developing or amending their own bylaws on agri-tourism, agri-tourism accommodation and farm retail sales. A rationale is provided for why certain criteria provisions should be introduced and a proposed list is summarized of criteria and definitions.

3.1 Proposed Definitions

Accessory (agri-tourism)	means that the <i>agri-tourism</i> is subordinate to the active <i>farm operation</i> on the same lot. <i>Agri-tourism</i> uses and activities only augment a farmer's regular farm income, not exceed or replace it.
Agri-tourism	is travel that combines agricultural or rural settings with products of agricultural operations – all within a tourism experience that is paid for by visitors. It is a tourist activity, service or facility which is <i>accessory</i> to a <i>farm operation</i> , as defined in the <i>Farm Practices Protection (Right to Farm) Act</i> , where the land is classified as a farm under the <i>Assessment Act</i> ; and, where the farm is in active operation each year.
Off-farm and non-farm products	means products that are not from the <i>farm unit</i> of which the subject property is part.
Regular Seasonal (agri-tourism)	means the occurrence over the same <i>season(s)</i> , or at the same time, each year.
Season (agri-tourism)	means: one of the four periods of the year: spring, summer, autumn or winter; the period of the year when something that regularly occurs every year happens; e.g. pumpkin festival before Halloween; and/or the period(s) when most people take their holidays, go to visit places, or take part in an activity outside of work.
Seasonal (agri-tourism)	means: relating to, dependant on, determined by, or characteristic of a particular <i>season</i> of the year; fluctuating according to the <i>season</i> ; and/or

⁶ For more information, readers may wish to review the September 7, 2011 BC Farm Industry Review Board decision *Maddalozzo v. Pacific Coast Fruit Products Ltd* last retrieved September 8, 2015 from http://www2.gov.bc.ca/assets/gov/business/natural-resource-industries/agriculture/agriculture-documents/bc-farm-industry-review-board-docs/maddalozzo_v_pcfp_dec_sep7_11.pdf

available, or used, during one or more *seasons*, or at specific times of the year - for less than twelve months of the year.

Small-scale (agri-tourism)

means to be minor or limited in size, scope, or extent. [Local governments could specify amounts.]

Temporary (agri-tourism)

means having a limited duration, lasting or designed to last for only a limited time each week, month, or year. E.g. an activity occurs each year at the same time at a nearby festival, or other event, or only a maximum duration of three days at a time.

3.2 Accessory Farm Activity

Local governments should identify *agri-tourism* as a permitted *accessory* use in all zones where agriculture or farming is a permitted use. *Accessory agri-tourism* use in the ALR is subordinate and customarily incidental to the active *farm operation* on the same lot. **Agri-tourism uses and activities only augment a farmer’s regular farm income, rather than exceed or replace it.**

Table 1. Examples of Agri-Tourism and Farm Incomes

Column A	Column B
Agri-tourism Income	Farm Income
Entry or participation fees, tour fees	Primary agricultural production income
Fees for tours, services and workshops related to the farm operation	Value-added operations: processing of <i>own farm products</i>
Retail sales of <i>off-farm or non-farm products</i>	Retail sales of <i>own farm products</i>
Agri-tourism accommodation charges	

To be considered *accessory*, the annual income from *agri-tourism* [Column A] must be no more than the annual regular farm income [Column B]. The ALC may allow a larger proportion of *agri-tourism* activity on a farm, if the farmer applies for a non-farm use approval.

Examples include a farmer intending to regularly host special events such as commercial weddings, conferences or an annual music festival. A local government could decide whether to support those commercial activities in its zoning if it is authorized by the ALC.

3.3 Farm Class

Income from *accessory agri-tourism* activities is not used to define *farm class* under the *Assessment Act* (Sec 23 and Farm Class Reg. 411/95). Income for the purposes of *farm class* is calculated based on the farm gate amounts for qualifying agricultural products and must be generated in one of two relevant reporting periods (i.e., once every two years).

3.4 Agri-tourism Temporary and Seasonal Use in the ALR

Local governments should regard *agri-tourism* uses as a *temporary* and *seasonal* use. See the definitions for guidance on defining these terms.

3.5 Permitted and ALC approval required agri-tourism activities

Table 2. Tiers of Agri-tourism Activities

Activities	Tier 1 Permitted Agri-tourism activities	Tier 2 Activities/events that require ALC approval
On-farm	<ul style="list-style-type: none"> • educational tours – general public, school children • on-farm marketing, including U-pick and pumpkin patches • temporary corn maze or Christmas tree maze • agricultural heritage events • ranch or farm tours • livestock shows • harvest festivals • on-farm classes and/or workshops related to the farm operation • farm stays or B&B • on-farm processing facility tours 	<ul style="list-style-type: none"> • Non-farm-uses and commercial entertainment activities which do not have an agricultural component: • e.g., paint ball course, dirt bike trails, all-terrain vehicles trails, mini-train parks, remote control runways, helicopter tours, etc. • event and facility rentals • concerts, theatre or music festivals • commercial weddings, banquets, celebrations and any other commercial assembly activity
Parking	<ul style="list-style-type: none"> • self-contained, off-road parking • some overflow could be on neighbouring farm(s) provided it's for infrequent events, no permanent alterations to the agricultural land, and no resurfacing such as with gravel or asphalt paving • allow for school and tour buses • on-road parking at the discretion of the local government or Ministry of Transportation in Regional Districts 	<ul style="list-style-type: none"> • Off-site overflow parking that is used on a frequent basis or that requires resurfacing
ALC non-farm use application approval or local government	<ul style="list-style-type: none"> • No local government temporary use or rezoning permits required,; outright use is permitted 	<ul style="list-style-type: none"> • ALC non-farm use application approval • Local government non-agriculture related activities or

permit requirements	<ul style="list-style-type: none"> No ALC non-farm use application approval 	events may also require a separate zone or temporary use permit <ul style="list-style-type: none"> Special local government permits - per event or per day, or both
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3.6 Agri-tourism Accommodation

Section 3 of the ALR USP Regulation permits *accessory* accommodation for agri-tourism on a farm in the ALR, but allows a local government to regulate and/or prohibit the use.

Where accommodation for agri-tourism is allowed by a local government the following standards are recommended:

- Total developed area for buildings, landscaping and access to the accommodation must be no more than 5% of the parcel area;
- Could include a maximum of 10 sleeping units composed of:
 - Seasonal* campsites, *seasonal* cabins, or bed-and-breakfast (B+B) bedrooms (**maximum of four** B+B bedrooms per legal parcel is recommended);
 - Unless ALC consent is received, accommodation must not include cooking facilities because doing so may result in long term rental housing on farm land;
 - The local government could specify the number of persons per unit;
 - Should an operator wish to have more than 10 sleeping units, he/she could apply to the local government and the ALC;
 - On smaller lots, a local government may wish to set a lower number of allowed sleeping units;
 - The BC Building Code should be the minimum standard applied for sleeping units such as cabins.
- Should be located close to the front of the lot, or an adjacent side road, and clustered with the *home plate(s)* of the farm residence(s). A farmer may wish to vary this location to minimise impact on his/her farm.
- Depending on the location of the farm, the *agri-tourism* accommodation may need to be available during more than one *season*, or its availability may vary with the *seasons*; e.g., horseback riding on trails in spring, summer, and fall, and cross-country skiing in the winter.
- Occupation of a lot *by agri-tourism* accommodation are only permitted to be *temporary, seasonal, and/or regular seasonal*, to a maximum stay per person or per family of 30 consecutive days in any 12 calendar-month period. The ALC may allow longer occupation if the farmer applies for a non-farm use; local zoning would also have to allow it.
- Each local government which permits *agri-tourism* accommodation could develop a monitoring methodology to ensure the occupation meets the above criteria.

3.7 Other Agri-tourism Criteria

3.7.1 Off-street Loading Areas and Parking

Off-street loading areas may be needed to transfer field products to a market stand/shop, and to the customer's vehicle. For criteria, see Part 2 of the "Guide for Bylaw Development in Farming Areas".

All vehicles visiting the *agri-tourism* activities must be parked on site, or as otherwise permitted by the local government. The parking capacity could be based on the average daily vehicle numbers (recommended); local parking bylaws may have a different measure and short term events with large numbers of people may require different parking standards. Overflow parking occurs on public roads should adhere to local bylaws including clearances for emergency vehicles and farm machinery.

For farm site parking overflow situations, *agri-tourism* operators should provide alternate means of transportation, such as shuttles, bicycle parking, or horse corrals and off-site horse trailer parking areas.

To minimise impacting farm land, parking should be along field edges, adjacent to farm roads, farm yard areas near farm structures.

- The parking and loading area surfaces should maximize infiltration of precipitation to limit impacting a farm's ground and surface water; pavement may not be appropriate.
- The depth and type of fill for *agri-tourism* parking and loading areas should facilitate possible future removal e.g., if the *agri-tourism* activity ceases.

3.7.2 Site Layout for Agri-tourism Activities

Site coverage and setbacks for *agri-tourism* structures must follow the standards for farm structures provided in Part 2 of the "Guide for Bylaw Development in Farming Areas". *Agri-tourism* facilities should be located to minimize coverage of farm land and minimise disturbance of the present and potential future operation of the farm, neighbouring farms or nearby urban uses; e.g., close to the road, and/or clustered with other farm structures.

3.7.3 Lights

Floodlights and spotlights for *agri-tourism* activities should be directed away and/or screened from adjacent farms and other land uses.

3.7.4 Signage

Each *agri-tourism* and farm retail operation, and the farm itself, should be allowed at least one sign of at least 1.0 square metre. Normally, signs are located at the farm entrance, but variation should be allowed for different building and site layouts and to ensure traffic safety. Third-party signs and lighting of signs should follow local bylaws.

3.7.5 Noise

Loudspeakers and other noise sources associated with the *agri-tourism* activity could be regulated with local government noise bylaws.

3.8 Farm Retail Sales and Marketing

For on-farm retail marketing, farmers sell their own *farm products*, and may sell some *off-farm or non-farm products* directly from the *farm unit* and may require a retail indoor and/or outdoor sales and display area.

Areas necessary for on-farm retail sales but not calculated as part of the on-farm retail sales area are:

- storage space for products awaiting display and/or bulk sales; larger storage areas may be available in a barn;
- an office area for doing sales and farm-related paperwork;
- washrooms;
- driveways, parking and loading areas; and
- some preparation space where products are put in packages for display or shipping.

Local governments should not limit retail sales area of a farmer's own *farm products* i.e. the *direct farm marketing area*. The ALR USP Regulation does not state an upper limit.

Local government regulations must allow for the possibility of a retail sales area for complementary *off-farm or non-farm products*. The ALR USP Regulation requires at least 50% of the total retail sales area be devoted to that farm's products, and where both *farm products* and *off-farm or non-farm products* being sold, the allowed upper limit of the total of the indoor and outdoor sales area is 300 square metres. This should be adopted by local governments and not reduced.

To develop a larger retail sales area, or to sell less than 50% of that farm's *farm products*, a farmer must have both local government and ALC non-farm use application approval.

3.9 Local Government Permits and Fees

Other than the usual permits and fees required for construction, local governments should only require permits and fees for operations that require a non-farm application to the ALC and should not require the use of temporary (commercial) use permits.

Local governments should only request reimbursement of extra local government costs generated by the event or operation; e.g., policing, fire service, road clean-up, and/or traffic management.

3.10 Commercial Weddings

The use of the ALR for commercial weddings is considered a non-farm use which requires approval of the ALC. Where a farm has received non-farm use approval from the ALC, the local

government may require a rezoning or temporary use permit. Temporary use permits are the preferred method of dealing with this use as the local government can place additional controls on the use that are not possible through zoning. These requirements could include hours of operation.

3.11 Bistros and Restaurants

Bistros, cafes and restaurants are considered in most cases non-farm uses which require non-farm use approval of the ALC. Under specific criteria in the ALR USP Regulation, however, winery, brewery, cidery, distillery, and meadery lounges are permitted which do not require non-farm use approval.

4.0 Ministry Contact Information

Stakeholders are welcome to provide feedback on the content of this discussion by email or letter.

Email: AgriServiceBC@gov.bc.ca
Mailing Address: Ministry of Agriculture, Strengthening Farming Program
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