

REGIONAL DISTRICT OF NANAIMO

**DEVELOPMENT SERVICES COMMITTEE
TUESDAY, NOVEMBER 20, 2001
7:30 PM**

(Nanaimo City Council Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

3 Charlotte Caswell, Stan Wheat & Chuck Lang, re Horne Lake Park Management Plan.

4 Richard Varela, re Horne Lake Park Management Plan.

MINUTES

5-8 Minutes of the regular Development Services Committee meeting held on October 16, 2001.

CORRESPONDENCE/COMMUNICATIONS

9-12 Charlotte Caswell, re Horne Lake Park Management Plan.

BUSINESS ARISING FROM THE MINUTES

UNFINISHED BUSINESS

BUILDING INSPECTION

13-16 Section 700 Filings.

PLANNING

AMENDMENT APPLICATIONS

17-34 Application No. 0106 & Development Permit No. 0125 Maibach Industries/
Brown - 2093 South Wellington Road - Area A.

35-39 Application No. 0107 - Bruce & Cindy Senini - Dickinson Road - Area D.

DEVELOPMENT PERMIT APPLICATIONS

40-47 Temporary Use Permit 0103 & Development Permit No. 0117 - Nanoose Harbour
Holdings - 3500 Fairwinds Drive - Area E.

DEVELOPMENT VARIANCE PERMIT

48-59 Application No. 0014 - Inkahute - 2655 & 2665 East Island Highway - Area E.

OTHER

- 60-88 ALR Exclusion - Wosk - 365 Meadow View Place - Area G
- 89-108 ALR Exclusion - Law & Devereaux - Godfrey Road - Area C.
- 109-127 Noise Control Establishing and Regulatory Bylaws - Areas 'D' and 'H'.
- 128-133 Temporary Commercial Use Permit No. 0108 - Tower Fence Products - 1882
Fielding Road - Area A.
- 134-141 Horne Lake Park Management Plan - Area H.

2002 Provisional Budget Presentation.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

That pursuant to Section 242.2(I)(e) of the Local Government Act the Committee proceed to an In Camera Meeting to consider a matter of acquisition of land affecting the Local Government.

ADJOURNMENT

TO: BOB LAPHAM

Nov 14/01

We would like to make a presentation to pick up our letter at the Nov 20th Planning meeting in regards to the RV lot Holders & Paradise Bay / Scout Camp area on Horne Lake.

Could we please be put on the agenda.

Thanks

CHARLOTTE CASWELL 722-2799
STAN WHEAT 758-4880
CHUCK LANG 753-1007

PLANNING DEPT

-11- 14 2001

RECEIVED

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Island Pacific Adventures Ltd.

Box 3531 Str. Main Courtenay, B.C. V9N 6Z8
(250) 339-0555 ph. or fax

Horne Lake Caves Provincial Park / Outdoor Adventure Camp

Board of Directors
Regional District of Nanaimo
6300 Hammond Bay Rd.
Nanaimo, BC
V0R 2H0

PLANNING DEPT

-11- 14 2001

RECEIVED

I am writing to request an opportunity to address the Board at their next scheduled Board meeting on Nov. 20th, 2001. I would like to speak on some issues regarding the upcoming Park Management Plan for Horne Lake Park located in Block 40, Alberni Land District, the site of the old Horne Lake Campground.

Island Pacific Adventures Ltd. has been conducting outdoor education programs for many years at Horne Lake and continues to maintain a contract with BC Parks to operate the adjacent Horne Lake Caves Provincial Park. As some directors may already know, we also ran the Horne Lake Campground for seven years. During that time, in response to requests from teachers and recreation programmers, we developed a very successful outdoor education program that became well-respected by teaching "Outward Bound" style activities and philosophies to schools, scouting groups and even with our local rec. centres. Thousands of adults and children benefited from this program, many of them from our local area. Unfortunately, this all came to an unexpected halt when Texada Land Corporation came to town and shut down use of the campground. During the last two years our business has suffered greatly. What was once a thriving new local industry that provided training and employment opportunities for local youth, is now struggling for survival due in large part to a lack of planning and perceived land use conflicts.

I am thrilled to hear that the long overdue process of land use planning at Horne Lake is finally being started. The RDN will soon have a great new park that can be enjoyed by all without the threat of closure or further logging. Along with that comes the custodianship of one of our local area's best natural jewels. In order to create a plan that will address the needs of past and future park visitors, the Board needs to consider a broad range of options. There are many supporters that would like to see high quality outdoor education programs return to Horne Lake. I personally would like to ensure that this and other perspectives be adequately represented in the future planning of Horne Lake Regional Park.

Thank you for your consideration. I look forward to your response.

Sincerely,



Richard Varela - Program Director
Island Pacific Adventures Ltd.

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REGIONAL DISTRICT OF NANAIMO

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

Present:

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

Also in Attendance:

K. Daniels	Chief Administrative Officer
B. Lapham	General Manager of Development Services
P. Shaw	Manager of Community Planning
S. Schopp	Manager of Inspection & Enforcement
G. Garbutt	Senior Planner
N. Tonn	Recording Secretary

DELEGATIONS

Neil Christensen, re Area F Zoning Bylaw.

Chris Christensen, speaking for her husband, raised their concerns with respect to fecal contamination of the area's groundwater, public safety risks from increased industrial traffic, health risks due to airborne pollutants, increased industrial noise and decreased property values.

Ray Farmer, re Area F Zoning Bylaw.

Peter Ramsey, speaking on behalf of Mr. Farmer, spoke in opposition to the rezoning of Mr. Farmer's property from a C3 zoning designation in the first draft of the Area F zoning bylaw to a CD3 designation, noting that a number of other properties with comparable business enterprises have been zoned C3. Mr. Ramsay requested that the Board not zone this business location non-conforming and requested that at least 3 of the lots facing the Island Highway be designated C3.

Development Services Committee Minutes

October 16, 2001

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LATE DELEGATIONS

MOVED Director Stanhope, SECONDED Director Holme, that late delegations noted on the Addendum be permitted to address the Committee. CARRIED

Jim Champoux, re Soil Conservation Permit Application No. 0104 – 3230 Palmer Road – Area F.

Mr. Champoux made himself available for any questions by the Committee.

Ross Harvey, Wicklow West Holdings Ltd., re Area F Zoning Bylaw.

Mr. Harvey raised his concerns with the proposed zoning designation for the Qualicum River Estates subdivision and requested that the Board consider a zoning designation which would allow the placement of 2 dwellings on the lots.

Dave Munro, re Area F Zoning Bylaw.

Mr. Munro spoke in opposition to the present zoning designation given his property under the proposed RDN zoning bylaw and noted that he has approached the ALR, who are reportedly willing to remove 2.5 acres of the property from the ALR to allow it to be zoned for commercial use.

Julian Fell, re Area F Zoning Bylaw.

Mr. Fell noted that residents of Electoral Area 'F' are not against zoning if it meets the needs of its residents and requested that the Board support a more public process which would allow for public information meetings and thereby accepting more public input.

MOVED Director McLean, SECONDED Director Stanhope, that an additional delegation be permitted to address the Committee CARRIED

Red Williams, re Area F Zoning Bylaw.

Mr. Williams raised his concerns with respect to the constant changes to the zoning maps, the distribution of the proposed zoning bylaws to municipalities prior to community review and the lack of community input in the zoning bylaw process.

MOVED Director McLean, SECONDED Director Haime, that the delegations be received. CARRIED

MINUTES

MOVED Director Sherry, SECONDED Director Rispin, that the minutes of the regular Development Services Committee meeting held September 18, 2001, be adopted. CARRIED

UNFINISHED BUSINESS

Soil Conservation Permit Application No. 0104 – Allan Stewart/Champoux – 3230 Palmer Road – Area F.

MOVED Director Westbroek, SECONDED Director Macdonald, that the resolutions of September 11, 2001 regarding the Soil Conservation Permit Application No. 0104 be reconsidered. DEFEATED

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BUILDING INSPECTION

Section 700 Filings.

MOVED Director Holme, SECONDED Director Stanhope, that the Section 700 Filings staff report be referred to the next Board meeting.

CARRIED

OTHER

Request for Acceptance of Cash-in-Lieu of Park Land and Relaxation of the Minimum 10% Perimeter Requirement – WR Hutchinson - Woobank, Morland & Storey Roads – Area A.

MOVED Director Elliott, SECONDED Director Stanhope, that the requests, submitted by WR Hutchinson, BCLS, on behalf of Dragonwyke Enterprises Ltd. And 426187 BC Ltd., for cash-in-lieu of park land dedication be accepted and to relax the minimum 10% frontage requirement for proposed Lots 7 and 8, as shown on the plan of subdivision of Lot 2, Section 12, Range 2, Cedar District, Plan VIP53334, Except Part in Plan VIP64754, be approved.

CARRIED

School Sites Acquisition Agreement Amendment – School District No. 69.

MOVED Director McLean, SECONDED Director Macdonald, that the Regional District of Nanaimo accept the revised School District No. 69 Eligible School Sites Proposal as submitted.

CARRIED

MOVED Director Westbrook, SECONDED Director McLean, that the Board seek to expand the charge to include other school site development.

MOVED Director McLean, SECONDED Director Westbrook, that the motion be referred back to staff for further consultation.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Application No. 0121 – Carman Fine Cars/Yost – 7193 Lantzville Road – Area D.

MOVED Director Haime, SECONDED Director Stanhope, that Development Permit No. 0121, submitted by Gunter Yost, on behalf of Carman Fine Cars (formerly Lantzville Auto Services), be approved, subject to the notification requirements pursuant to the *Local Government Act* and conditions set out in Schedule No. 2 with the following amendments:

1. That a changeable copy sign not be permitted as a building fascia sign.
2. That a maximum of one freestanding sign shall be permitted with the maximum sign face area to be increased by one foot in additional height beyond the existing sign area to allow for fuel pricing.
3. That no sandwich board signage be permitted.

CARRIED

OTHER

Area F Zoning Bylaw 1155, 2001.

The General Manager of Development Services presented a visual overview with respect to the Electoral Area 'F' zoning and subdivision bylaw process.

MOVED Director McLean, SECONDED Director Pipes, that the Electoral Area 'F' Zoning and Subdivision Bylaw be received and that it be referred back to staff with direction to prepare a comprehensive consultation strategy and report back with detailed recommendations on approaches to improve the Draft Bylaw.

DEFEATED

MOVED Director Sherry, SECONDED Director McLean,:

1. That the staff report and supporting documentation to Electoral Area F Zoning and Subdivision bylaw be received.
2. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1155, 2001" be introduced for first reading.
3. That a Select Committee of Regional Board Directors be appointed to investigate issue areas.
4. That the Select Committee hold a Public Information Meeting in Electoral Area 'F' with all recommendations to come forward in a report to the Board.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 10:21 PM

CHAIRPERSON

REGIONAL DISTRICT
OF NANAIMO

NOV 14 2001

CHAIR		GMCrs	
CAO		GMDS	
GMCmS		GMES	
		Dsc.	

RV Lot Holders
Paradise Bay/Scout Camp Area
(Not Lot Holders at the old Horne Lake Campsite)
Horne Lake BC

November 13, 2001

Mr. Bob Lapham
Regional District of Nanaimo
Planning Division
6300 Hammond Bay Road
Nanaimo BC

Re: Presentation to Planning Meeting on November 20, 2001.

I am writing this letter to you on behalf of the attached list of RV Lot Holders in the Paradise Bay and Scout Camp Area of Lot 40 on Horne Lake. These individuals have agreed to present this letter to you to take forward to your planning meeting on November 20th.

To date none of us have received any correspondence from Texada Land Management letting us know what is happening with the land around Horne Lake. Almost all of us have been at these campsites since they were created five years ago. We have always understood that at the end of each calendar year we had to clear all our camping equipment and not leave anything that was not natural to the area. Historically we were allowed to leave our docks, our woodpile (they could be tarped) and our picnic tables. We had been told that we could do improvements to the campsites as long as we only used materials from the immediate area. These improvements could also stay at the end of each season.

The last rumour we had heard was that the Horne Lake Lease Holders were buying the land we sit on and they would be letting us stay under the present conditions but controlled by them. It was a big shock to hear individuals that had phoned Sharon Kobe, Texada Land Management, say she has a bulldozer coming into our area on December 16, 2001 and will be levelling everything including our docks. I phoned Sharon myself and got this same message.

On behalf of the RV Lot Holders in Paradise Bay and Scout Camp, I then talked to some friends that are Lease Holders and they gave me the phone number of John Heisterman. I called John and he said that the Lease Holders will be closing a land deal with Texada on December 19th and in turn, Lot 40 will be transferred from the Lease Holders to the Regional District of Nanaimo so public access can be restored to Horne Lake. John said he would phone Murray Hamilton and have him phone me with more details.

Murray phoned me back and confirmed that Texada is selling the land around Horne lake to the Lease Holders Association effective December 19th with the condition that Lot 40 be returned to its bare land condition as part of the sales agreement. At that time, the Regional District has agreed to let the Lease Holders have bare land strata status with the preapproval that this land can be sold out as strata lots. To get this approval the Lease Holders had to give up some lake front access for the Regional District to form a regional park for public access. Lot 40 will belong to the RDN as of Dec 19th. Murray then gave me your name as the RDN contact.

As you know, I did phone you last week and you confirmed what John and Murray had told me. You had also said that a Public Use Policy Committee would be struck to determine how Lot 40 will be used and would like to have something in place by the summer season. You mentioned that this committee will have representatives from the Provincial Parks, Fisheries, RDN, Lease Holders and the public at large.

Our immediate concern is the total disregard by which we have been treated by Texada Land Management and the fact that they have not left time to give us sufficient notice before our December 15th deadline so we can remove all our presence from the RV lots. It is now low water and any removal or deactivation of the RV lots is either impossible or not environmentally smart. A large number of the RV lot holders have already cleared off to the historical requirements and may not be able to come back in time to meet the December 15th deadline. As I already mentioned, none of us have received written notice to date and some holders could not be contacted to discuss this presentation with.

We would like to propose at the November 20th planning meeting that the RDN consider letting us continue renting this area from you, as is, until you can put your future planning committee in place at which time we can present our input. This would give the RDN approximately \$55,000.00 for the next season to help start implementing public access at the old Horne Lake Campsite area which is very separate from the Paradise Bay/Scout Camp area. This will also help keep the present stable atmosphere that Horne Lake is now enjoying and protect the area's waterfront environment. Since we have been in the Paradise Bay/Scout Camp area of the lake we have discouraged squatters and revellers, put out unattended campfires on the river, cleared garbage out of the lake and the river, helped disabled boaters, removed water hazards and helped other area users. We have camp rules and regulations and we police ourselves as a group and the only service we have are two toilets – one at Paradise Bay and the other at Scout Camp. Texada had these pumped out twice this calendar year and did supply some toilet paper – we could do this ourselves. We do not have garbage collection as we don't want it as we have a healthy population of bears close in.

Mr. Lapham would it be possible for two or three of us to come to the November 20th meeting and answer any questions you may have? This is so very important to us as most of us have been camping on Horne Lake for the past twenty years and we know we have been fortunate to have use of these RV lots. Our other immediate concern is the lack of time to vacant the lots completely, as we could without any negative impact to the area, if the RDN and Texada can agree to having our lots stay as is until the planning committee decides further.

Sincerely,



Charlotte (Ron) Caswell

Home 250-722-2799

Work 250-741-5402 (voice mail if not available)

c.c. Horne Lake Lease Holders Association
Texada Land Management
Paradise Bay/Scout Camp RV Lot Holders

Dave & Sheila Beecroft & 3 children, Sooke, BC 250-642-5783

Steve & Libby Greenwood & 3 children, Nanaimo, BC 250-753-0164

Neil & Karen Roine, Nanaimo, BC 250-722-3506

Randy & Donna Zutz, Nanaimo, BC 250-758-2215

Stan & Hazel Valenta, Nanaimo, BC 250-722-3016

Fred & Edna Ellis, Nanaimo, BC 250-753-5826

Ron & Charlotte Caswell, Nanaimo, BC 250-722-2799

Vicky & Irene McNeill, Nanaimo, BC 250-751-1835

Stan & Gail Wheat, Nanaimo, BC 250-758-4880

Keith & Darlene Crosley, Port Alberni, BC 250-723-8440

Lester & Dianne Caswell, Nanaimo, BC 250-758-0680

Al & Beeze, Nanoose, BC 250-468-1937

Paul, Arrlington Inn at Nanoose

Derek & Andrea Wilson, Victoria BC 250-663-3444

Chris & Marianne Lane & 3 children, Victoria, BC 250-479-6444

Chuck & Carol Lang, Nanaimo, BC 250-753-1007

Norm & Lois Black, Victoria, BC 250-381-4628

Al & Linda Girard, Nanaimo, BC 250-758-1509

Tim Galovian, 250-743-9195

Brian & Dawn, Errington, BC 250-248-2071

Others had expressed these concerns but couldn't be reached on short notice to get permission to ad their names to this list.

TO: Stan Schopp
Manager, Building Inspection Services

DATE: November 9, 2001

FROM: Allan Dick
Senior Building Inspector

FILE: 3810-20

SUBJECT: Local Government Act - Section 700 - Contravention of Bylaw
Meeting Date - November 20, 2001

PURPOSE

To provide for the Committee's review, proposed Section 700 filings on properties which have outstanding occupancy or safety issues that contravene Building Bylaw No. 1250.

BACKGROUND

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

SUMMARY OF INDIVIDUAL INFRACTIONS

Electoral Area 'A'

1. Owners Name: Druid Holdings Ltd.
(Venco Products Ltd.)
Legal Description: Lot 2, Section 13, Range 1, Plan 11269, Cedar Land District
Street Address: **1960 Cedar Road**
Summary of Infraction: August 24, 2001 - permit required notice posted for accessory/storage building constructed without a building permit
August 25, 2000 - permit required letter sent
September 13, 2000 - verification of certified mail received
September 21, 2000 - BP application received
March 19, 2001 - application soon to expire; permit ready to issue as of March 19th; owner has been contacted
August 30, 2001 - letter couriered to registered owner as well as permit holder (occupant); permit expired - no activity
October 29, 2001 - Sr. Inspector contacted agent who indicated owner was unwilling to proceed with project to its conclusion, owners engineer unable to certify construction

2. Owners Name: Jasson Vickers
Philip Grandison
Legal Description: Lot 4, Section 8, Range 3, Plan 30579, Cedar Land District
Street Address: **2477 Enefer Road**
Summary of Infraction: July 5, 2001 – stop work order posted; letter sent certified mail
August 1, 2001 – spoke with Jason Vickers; said he would apply for permit prior to August 7, 2001
August 13, 2001 – John Tuck informed inspector that he would seal plans and they would be in this week
September 12, 2001 – spoke with J. Vickers who said he would speak with J. Tuck to find out when plans are ready
September 20, 2001 – J. Tuck said he would contact J. Vickers and have him commit to plans
October 10, 2001 – sent letter via courier; pending enforcement action
November 5, 2001 – Senior inspector contacted owner who indicated he would pickup permit in two weeks. 700 filing process explained to client

Electoral Area 'B'

1. Owners Name: William Hamilton
Legal Description: Lot 62, Section 12, Plan 23619, Nanaimo District, Gabriola Island
Street Address: **1150 Chappel Place**
Summary of Infraction: April 9, 2001 – letter sent; occupancy required
April 12, 2001 – spoke with owner; he will call for status inspection early May.
May 11, 2001 – site visit; status list left with owner; will call for update by June 15th
September 19, 2001 – letter sent certified mail; pre-enforcement as owner not responding
September 25, 2001 – verification of certified mail received
October 9, 2001 – no response from owners; building is occupied and 10' above ground deck is a safety concern
October 29, 2001 – Sr. Inspector attempted to contact owner; no response
2. Owners Name: Julia Allen
Legal Description: Lot 2, Section 6, Plan 42450, Nanaimo Land District, Gabriola Island
Street Address: **2925 North Road**
Summary of Infraction: October 19, 2001 – complaint received; studio converted to dwelling unit and is occupied by tenants
October 29, 2001 – inspection notice left on site
October 31, 2001 – letter sent certified mail; follow up to notice
November 1, 2001 – owner contacted; 700 filing process explained to her
3. Owners Name: Ike MacKay
Legal Description: Lot 6, Block 9, Section 23, Plan 1673, Nanaimo Land District
Street Address: **1034 Berry Point Road**
Summary of Infraction: August 1, 2001 – stop work posted for studio/workshop addition; letter sent certified mail
September 7, 2001 – senior inspector attempt to contact owner; left message on machine
September 20, 2001 – verification of certified mail received
November 6, 2001 – application received for building permit

November 7, 2001 – owner advised 700 filing would proceed until permit activated

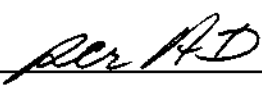
4. Owners Name: Michael and Maureen Bowman
Legal Description: Lot 3, Section 21, Plan 23484, Nanaimo Land District, Gabriola Island
Street Address: **333 Malaspina Drive**
Summary of Infraction: April 1998 - complaint indicated two additions to a travel trailer and owner living in it for at least three (3) years
October 1998 - filed contravention notice on title
May 1999 - structural removal bylaw; no appeal
June 1999 - owners attended and applied for building permit
July 1999 - owner appeared before Board and wanted concessions; building permit application incomplete and not processed further.
October 1999 - to Board for injunction; approved.
January 2000 – received BP application subsequent to demand letter from RDN solicitor
September 27, 2000 - building permits for SFD, temporary living facility and detached accessory building issued
October 27, 2000 - 700 filing removed at request from Bank to facilitate financing of new home.
February 27, 2001 - letter sent stating that unless inspection called prior to March 27, 2001, permits would expire
March 28, 2001 - called for water line inspection (existing water line servicing travel trailer, not new SFD), therefore not approved
all three permits are now technically expired

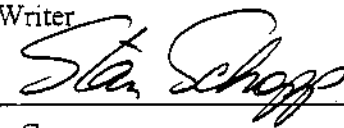
Electoral Area 'E'

1. Owners Name: Douglas and Samantha Miller
Legal Description: That part of Lot 1, District Lot 79, Nanoose District, Plan 4877, lying to the south east of a boundary parallel to and perpendicularly distant 100 feet from the North West boundary of said Lot, except part in Plan 41577
Street Address: **2419 East Island Highway**
Summary of Infraction: March 7, 2001 – application for permit to complete construction received
September 26, 2001 – permit not yet picked up; attempted to contact owner
October 10, 2001 – attempted to contact owner; left message on machine
October 17, 2001 – attempted to contact owner; left message on machine
October 25, 2001 – attempted to contact owner; left message on machine
October 31, 2001 – no response from owner; forward for 700 filing
2. Owners Name: 616393 BC Ltd.
Rocking Horse Pub
Legal Description: Lot A, Plan VIP55692, District Lot 39, Nanoose Land District
Street Address: **2038 Rocking Horse Place**
Summary of Infraction: May 25, 2001 – letter sent; occupancy required
June 6, 2001 – letter returned; address unknown; resent to address shown on company title search
August 28, 2001 – letter sent via courier directly to Rocking Horse Pub; pending 698 action regarding several health and safety deficiencies
November 1, 2001 – owner has not responded to occupancy permit requirements; intend to bring forward for 698 bylaw once title filing in place


RECOMMENDATION

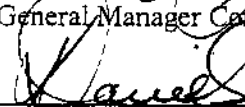
That a notice be filed against the titles of the properties listed, pursuant to Section 700 of the *Local Government Act* and that if the infractions are not rectified within ninety (90) days, legal action will be pursued.



Report Writer


Manager Concurrence



General Manager Concurrence


C.A.O. Concurrence

COMMENTS:
devsvs/reports/2001/3810-20-section700 November.doc



REGIONAL DISTRICT OF NANAIMO			
NOV 14 2001			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMES	
		DSE	✓
		DATE:	November 9, 2001

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: November 9, 2001

FROM: Deborah Jensen
Planner

FILE: 3360 30 0106 & 3060 30 0125

SUBJECT: Zoning Amendment Application No. 0106 and Development Permit No. 0125 Maibach Industries/Brown
Lot 1, Section 12, Range 7, Cranberry District, Plan 18166
Electoral Area 'A' - 2093 South Wellington Road

PURPOSE

To consider a rezoning application to amend the text definition of permitted uses in Commercial 4 (CM4) to include the "display, sale or rental of heavy equipment" and a concurrent development permit application for a property in Electoral Area 'A' of the RDN.

BACKGROUND

The Regional District of Nanaimo has received an application to amend the text for a Commercial 4 (CM4) zone to allow for the "display, sale or rental of heavy equipment" (see Schedule No. 2). The subject property is located adjacent to South Wellington Road (see Attachment No. 1).

Pursuant to the Electoral Area 'A' Official Community Plan Bylaw No. 1116, 1998, the subject property is located within the South Wellington Development Permit Area (see Schedule No. 3). The Development Permit Area was established to provide objectives for the form and character of commercial and industrial development, and for protection of the natural environment. Although Development Permit No. 89, issued in 1995, is registered on title for the development and landscaping of an office/outdoor storage facility for Maibach Industries Ltd., a subsequent development permit is required for uses and signage on the site not considered in the previous development permit (see Schedule No. 4). The Development Permit Area guidelines applicable to the facility in question focus on the integration of the development with surrounding land uses, particularly as they pertain to signage.

The 0.53-hectare (1.3 acres) subject property is currently the site of Maibach Industries Ltd., a commercial roofing facility, and Wajax Equipment Ltd., a retailer of heavy equipment and parts. Subsequent to a bylaw enforcement review, it was determined that the heavy equipment outdoor display area did not meet the definition of Outdoor Sales as a permitted use within a Commercial 4 zone. In addition, the existing signage has not been addressed under an approved development permit and does not meet the requirements of RDN Bylaw No. 993, 1995, "A Bylaw to Regulate Signs." Therefore, the applicant has, in conjunction with an application for a development permit, applied to rezone the property to allow for continued outdoor display of heavy equipment. This text amendment could be applied on a site-specific basis only to the subject property or it could, as a second option, affect all properties zoned Commercial 4 (CM4) in the RDN. This could include 15 properties throughout the Regional District of Nanaimo (see Schedule No. 5).

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

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Proposed Text Amendment

Currently, Commercial 4 zoning allows for "Outdoor Sales," which is defined as the use of land, buildings or structures for the retail sale of lumber and building products and the display, sale or rental of recreational vehicles, automobiles, mobile homes and boats, and includes accessory servicing of such equipment.

The applicant has requested that the Commercial 4 zone be amended to allow for the display, sale or rental of heavy equipment. Staff notes the definition of Outdoor Sales could be replaced with current definition of "Heavy Equipment Display," which allows for the use of land, buildings or structures for the display, sale or rental of mobile homes, industrial vehicles and machinery, and includes outdoor sales, and includes accessory servicing of such equipment." Heavy Equipment Display is currently a permitted use in the Industrial 1 (IN1) zone and is subject to the same site area requirements as those for an Outdoor Sales use.

ALTERNATIVES

1. **Subject property only:** approve the amendment application for and create a new Comprehensive Development Zone which will amend the current Commercial 4 (CM4) zone by replacing "Outdoor Sales" with "Heavy Equipment Display," and approve the requested development permit, subject to the conditions outlined in Schedule No. 1.
2. **All Commercial 4 (CM4) zoned properties:** approve the amendment application for all properties zoned Commercial 4 (CM4) in the RDN by replacing "Outdoor Sales" with "Heavy Equipment Display".
3. To not approve the amendment application or the development permit application for the subject property.
4. To not approve the amendment application for all properties zoned Commercial 4 (CM4).

PUBLIC CONSULTATION IMPLICATIONS

The subject property is located in an area of commercial or industrial zoned properties. Given adjacent zoning and the recent extensive public consultation process for the Area's Official Community Plan (where the community supported limited industrial expansion in the vicinity of the subject property), the option for public information meeting (generally held in advance of the report to the Development Services Committee) was waived, subsequent to staff consultation with the Electoral Area 'A' Director. However, notification was sent to all Commercial 4 zone property owners within the Regional District of Nanaimo advising of proposed changes to this zone. To date, this office has received four inquiries with respect to the change in zoning, and no concerns have been expressed with respect to the proposed text amendment.

Should the application be given 1st and 2nd reading, the property will be posted, notification will be provided in local newspapers, and a public hearing will be held pursuant to the requirements of the *Local Government Act*.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The Regional District of Nanaimo Growth Management Plan Bylaw No. 985, 1995 designates the subject property as "Industrial," which is intended to allow for industrial activity while minimizing commercial, residential or other uses, thereby reducing any conflicts between residential and industrial use.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Electoral Area 'A' Official Community Plan Bylaw No. 1116, 1998 (*the Board will recall that the new Electoral Area 'A' Official Community Plan No. 1240, 2001 has received 3rd reading and has been referred to the Province; however, as this Bylaw has not been adopted by the Board, the objectives and policies of the current official community plan remain relevant to this application*) designates the subject property as "South Wellington Industrial – Commercial Area" lands, a designation characterized by uses including outdoor sales, manufacturing and auto wrecking yards. No amendment to the OCP is required for this rezoning application. The subject property is located in a Development Permit Area and the development permit application is being processed concurrently with the application for rezoning. Staff notes that all properties in the RDN subject to Commercial 4 zoning are also located in development permit areas.

Development Permit Requirements and Proposed Variances

Pursuant to Electoral Area 'A' Official Community Plan Bylaw No. 1116, 1998, the subject property is located within the South Wellington Development Permit Area. A development permit must be in place for the existing signage located on site.

The applicant currently has six signs located on site. These include one indirectly illuminated free standing sign, two large signs attached to the gate and fence, one logo and one fascia sign attached to the building exterior, and one directional sign attached to the fence (*see Schedules No. 1 and 6*). The applicant is proposing to increase the maximum number of allowable signs from two to four to allow for existing signage, yet removing the two large signs located on the fence and gate. The Development Permit provides guidelines requiring that signage generally be visually unobtrusive and grouped whenever possible. The applicant is proposing to comply with these guidelines with the removal of the two large signs. In addition, the RDN Bylaw No. 993, 1995, "A Bylaw to Regulate Signs," applies to the subject property.

The Development Permit guidelines also address issues such as parking. The applicant is proposing to construct two additional buildings on site at a later date (*see Schedule No. 7*). A subsequent development permit will be required that addresses the increase and placement of parking, landscaping, and signage when the applicant chooses to proceed with the additional development.

LAND USE IMPLICATIONS

The proposed amendment to a Comprehensive Development (CD 11) zone allowing for Commercial 4 uses as well as outdoor display of heavy equipment, would permit the continued operation of Wajax Industries, a retail tenant of heavy equipment and parts located on the subject property. Development of the site may eventually include an additional 1155 m² (12,439 ft²) of warehouse and office space (not addressed in this permit) that would be located to the rear of the site (*see Schedule No. 6*).

The Ministry of Transportation has issued an access permit based upon the current and proposed operations occurring on the subject property.

Other properties currently zoned Commercial 4 (CM4) are located in the Shaw Hill – Deep Bay Official Community Plan, the French Creek Official Community Plan, the Nanoose Official Community Plan, and the Electoral Area 'A' Official Community Plan. In all cases, the properties are subject to development permit areas for form and character, with the exception of one property, which is subject to an environmentally sensitive development permit area.

In staff's assessment, several of these properties are located within village centres or on an existing developed site where the proposed amended use may not be appropriate. In addition, Area Directors and the public have not been consulted on the specific change of uses proposed for these Commercial 4 (CM4) zoned properties. As such, staff

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would not recommend proceeding with a wholesale amendment to the CM4 zone until the ramifications of the change could be assessed for each individual parcel.

SUMMARY/CONCLUSIONS

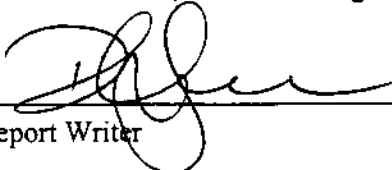
This is an application to amend the text for a Commercial 4 (CM4) zone for a property located within South Wellington in Electoral Area 'A' by removing "Outdoor Sales" as a permitted use and replacing it with "Heavy Equipment Display." This amendment would affect only the subject property. It is noted that there are 15 properties throughout the RDN zoned Commercial 4 (CM4); it is not recommended that this proposed text change affect all CM4 zoned parcels as the ramifications of the additional use have not been assessed for each parcel, and several of the 15 properties are within village centers or locations where the additional use may not be appropriate.

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


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

RECOMMENDATIONS

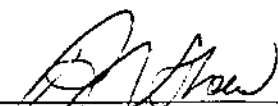
1. That Development Permit Application No. 0125 submitted by Keith Brown, acting as agent for Maibach Industries, to allow for the authorized operation of outdoor display of heavy equipment and vary the signage requirements on the property legally described as Lot 1, Section 12, Range 7, Cranberry District, Plan 18166, be approved subject to notification procedures pursuant to the *Local Government Act* and subject to the conditions outlined in Schedule No. 1.
2. That Amendment Application No. 0106 to create a new Comprehensive Development (CD 11) zone by amending the text for a Commercial 4 (CM4) zone by removing "Outdoor Sales" as a permitted use and replacing it with "Heavy Equipment Display" for the property legally described as Lot 1, Section 12, Range 7, Cranberry District, Plan 18166 be given 1st and 2nd reading subject to the conditions outlined in Schedule No. 1.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.279, 2001" proceed to Public Hearing.
4. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.279, 2001" be delegated to Director Elliott or his alternate.



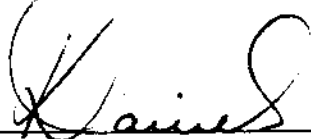
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

levsvs/reports/2001/za3360 30 0106 no Maibach 1st & 2nd.doc

Schedule No. 1
Conditions for Approval for 1st and 2nd Reading
Zoning Amendment Application No. 0106
Development Permit Application No. 0125
Maibach Industries Ltd.

1. Applicant to provide confirmation of sign height and sign setbacks from lot lines for the free-standing, indirectly illuminated sign within a Commercial 4 zone as subject to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" height and minimum setback requirements.
2. Approval from Ministry of Transportation for placement of existing freestanding indirectly illuminated sign within 4.5-meter road allowance.
3. Applicant to provide confirmation of: sign dimensions; subject to the Regional District of Nanaimo Bylaw No. 993, 1995, "A Bylaw to Regulate Signs.
4. Vary the Regional District of Nanaimo Bylaw No. 993, 1995, "A Bylaw to Regulate Signs, by:

a) increasing the maximum number of allowable signs from two to four by:

<i>Signage</i>	<i>Dimensions</i>
• removing the existing "Wajax" sign attached to the fence facing South Wellington Road	≈ 4' x 16' (5.88 m ²)
• removing the existing "Wajax" sign attached to the gate facing South Wellington Road	≈ 4' x 16' (5.88 m ²)
• retaining the existing free-standing indirectly illuminated "Wajax Industries Limited" sign located south of the building	≈ 2' x 11' (2.04 m ²) ≈ 4.9 m height
• retaining the existing "Wajax" logo attached to the front building exterior	≈ 2 ½' x 3' (0.84 m ²)
• retaining the existing directional parts and service sign attached to the fence facing South Wellington Road	≈ 2' x 3' (0.56 m ²)
• retaining the existing "G&G Roofing" fascia sign attached to the front building exterior	≈ 2 ½' x 16' (3.72 m ²)

- b) varying the minimum setback requirements for a front lot line from 8.0 metres (26.2 feet) to 1.2 metres (4.0 feet) to allow for placement of the existing freestanding sign.

to allow for existing signage subject to all signs meeting the minimum setback and maximum surface area requirements.

Schedule No. 2
Letter of Application



MAIBACH IND. LTD.

P.O. Box 1049, Station "A", Nanaimo, British Columbia, V9R 5Z2

Telephone: (250) 753-4913 / Fax: (250) 753-2823

December 05 , 2000

Regional District of Nanaimo
6300 Hammond Bay Road
Lantzville, B.C.

**RE: AMENDED ZONING
2093 SOUTH WELLINGTON**

Dear Sirs:

Maibach Industries Ltd. is located at 2093 South Wellington Road on 1.3 acres, currently zoned C4.

The premises include an office and sheet metal workshop area, approximately 2547 square feet in total. The remainder of the property is leveled gravel area for yard storage. Maibach Industries Ltd. is in the business of commercial roofing and employs 15 to 30 individuals seasonally, with a maximum of 4 staff working in the office/shop on site.

Additionally, approximately one third of the building is occupied by tenant Wajax Equipment Ltd., who primarily retail heavy equipment parts with very minimal display of heavy equipment for sale.

Relating to environmental issues, please be advised that there is on site one propane fueling station and no other storage of oil, gasoline or diesel fuels.

The object of Maibach Industries Ltd. is to amend the zoning by-law to bring Wajax Equipment's tenancy into conformity with the current regulations of the land use by-law No. 500.

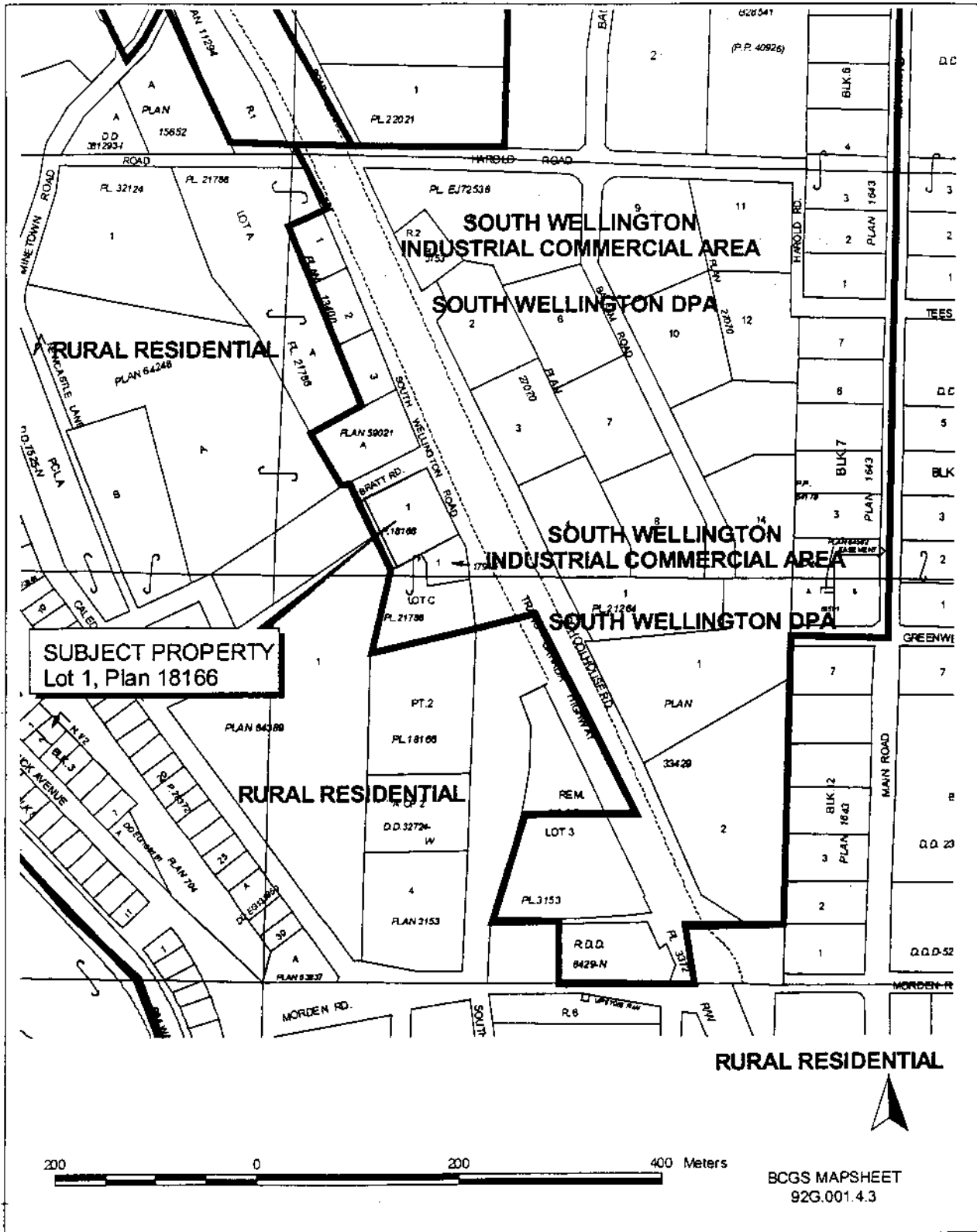
Thank you for your consideration.

Regards,

Jill Maibach, President
Maibach Industries Ltd.

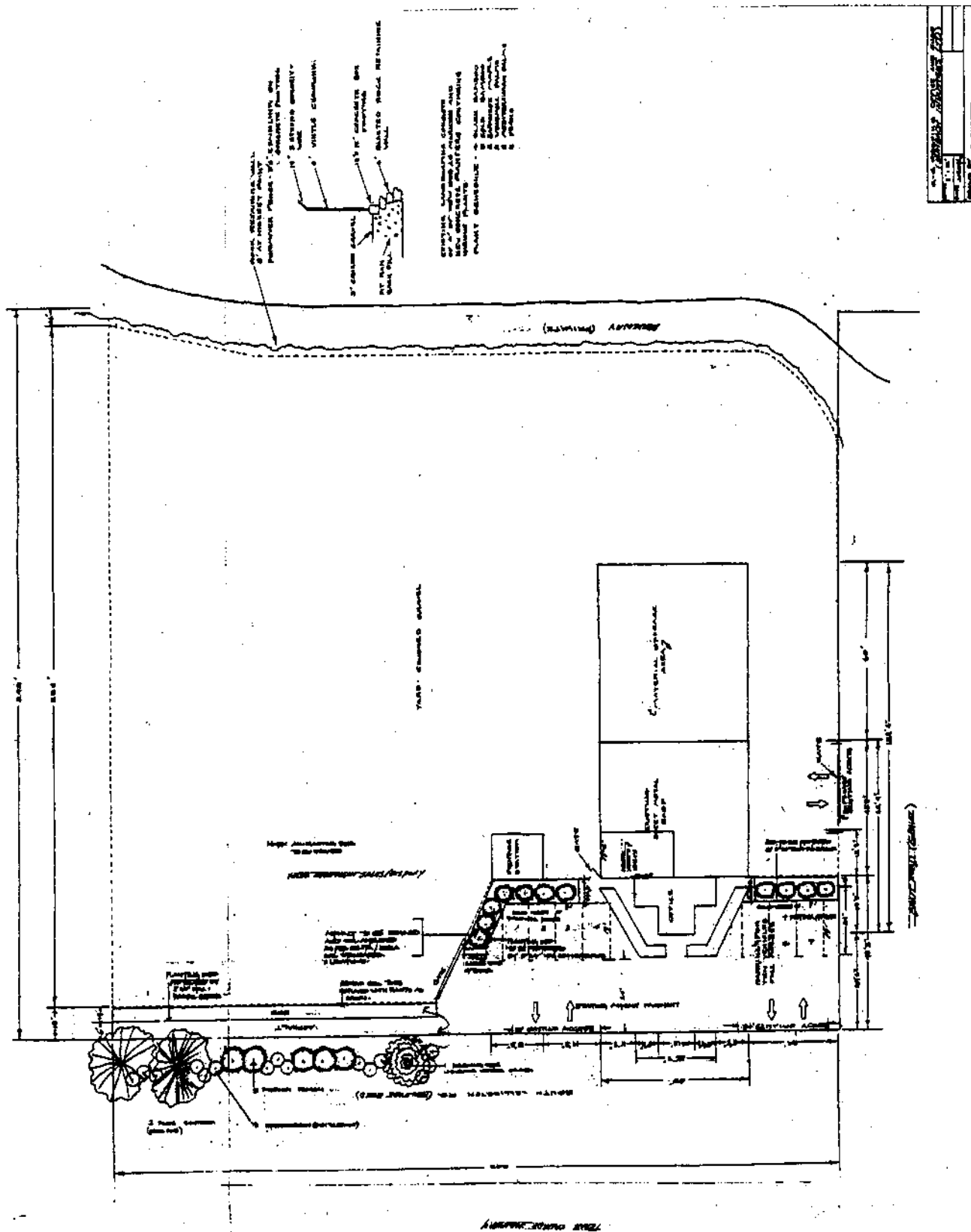
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Schedule No. 3 OCP Land Use Designation



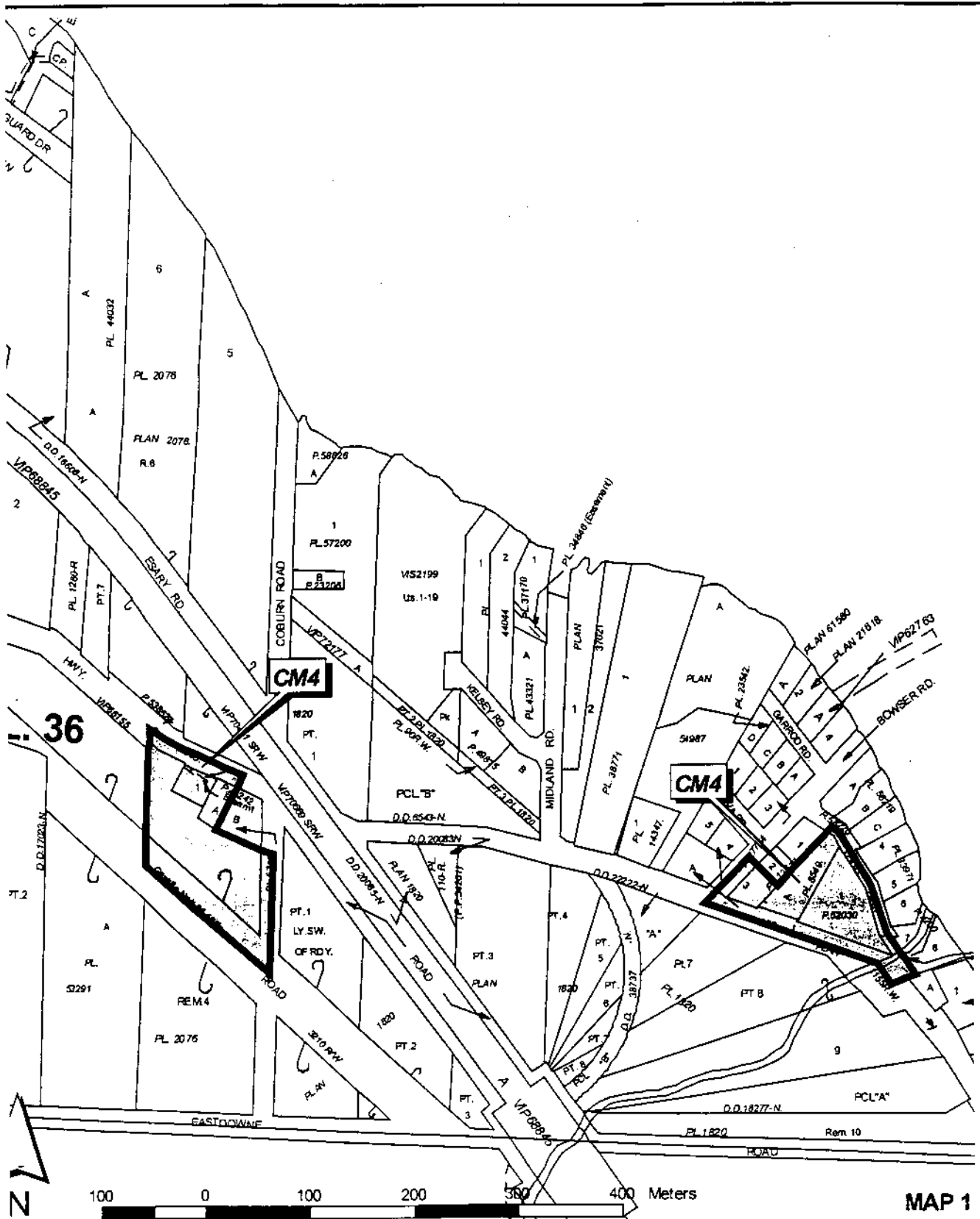
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Schedule No. 4 Site Profile

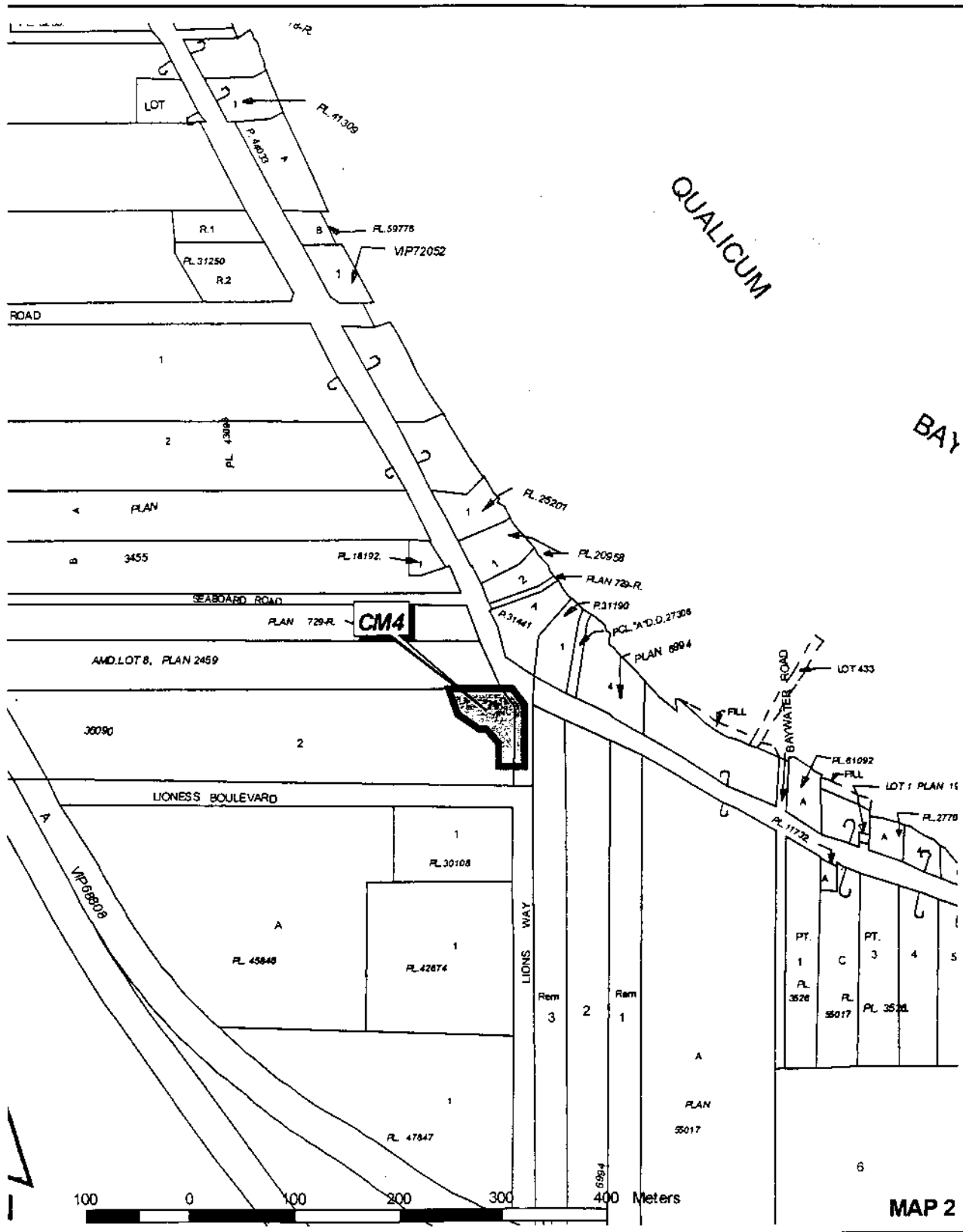


DATE	NOV 9 2001
PROJECT	MAIBACH INDUSTRIES ZA0106 AND DP 0125
DRAWN BY	C. GILBERT

Schedule No. 5 (Page 1 of 7)
CM4 Properties

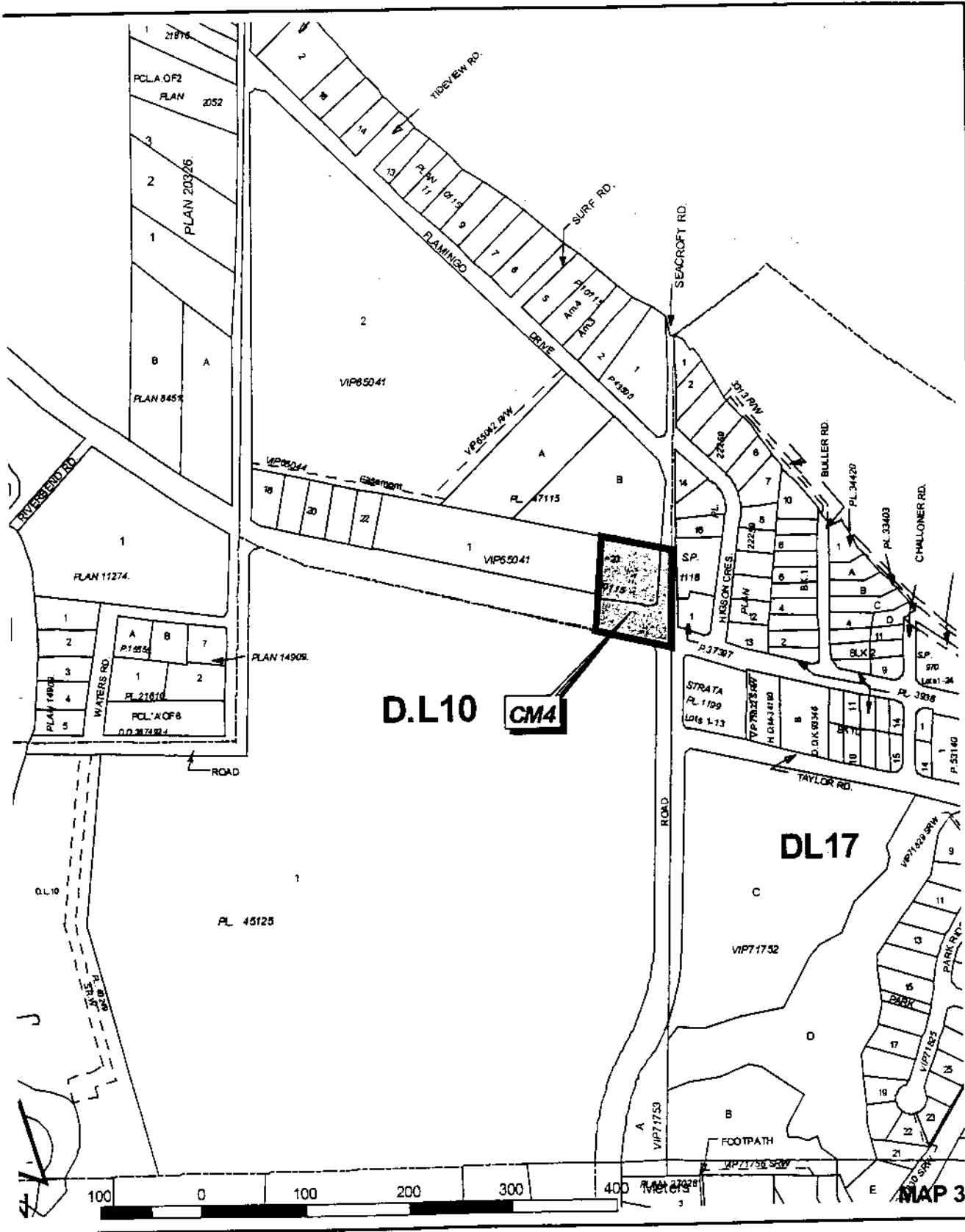


Schedule No. 5 (Page 2 of 7)
CM4 Properties

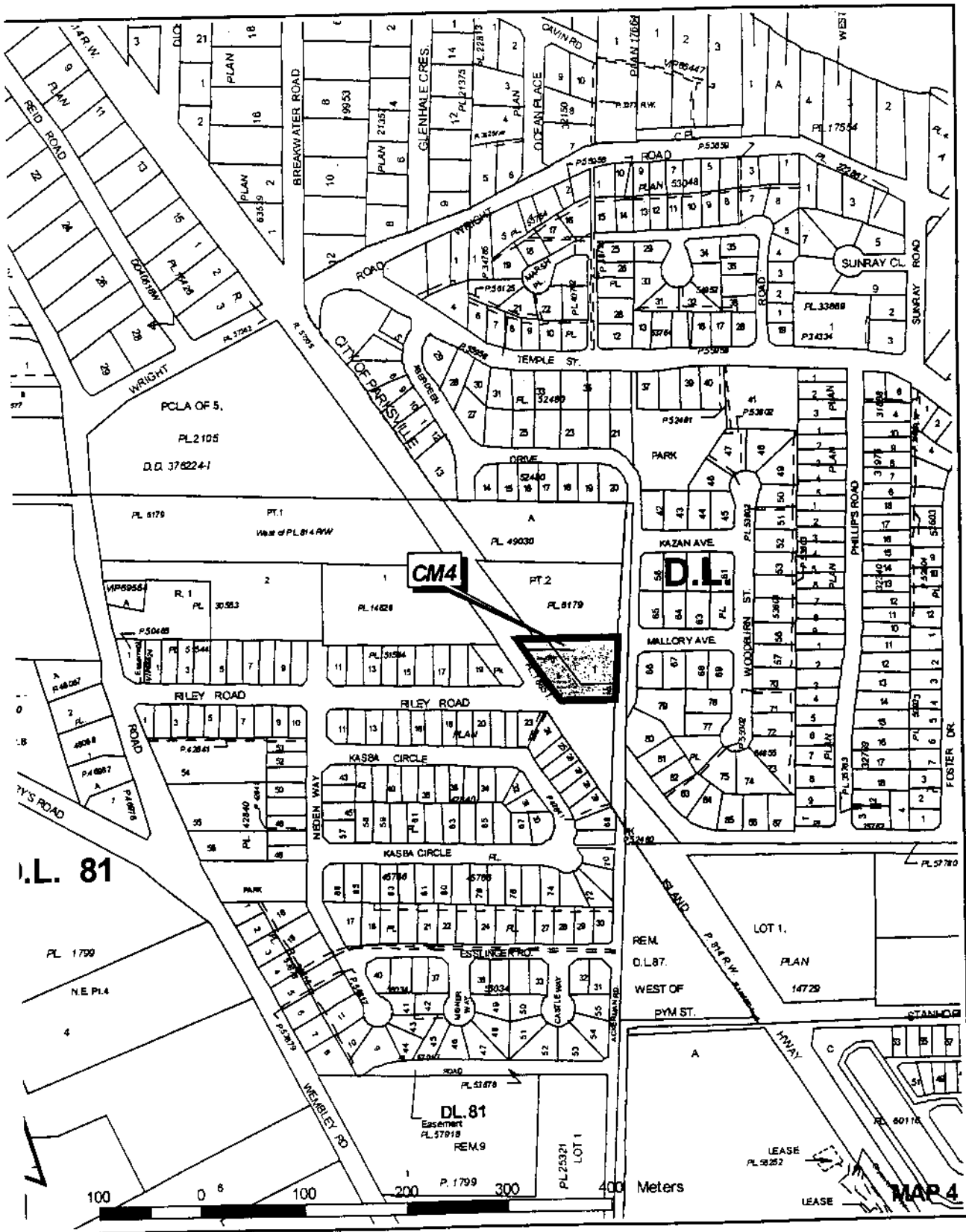


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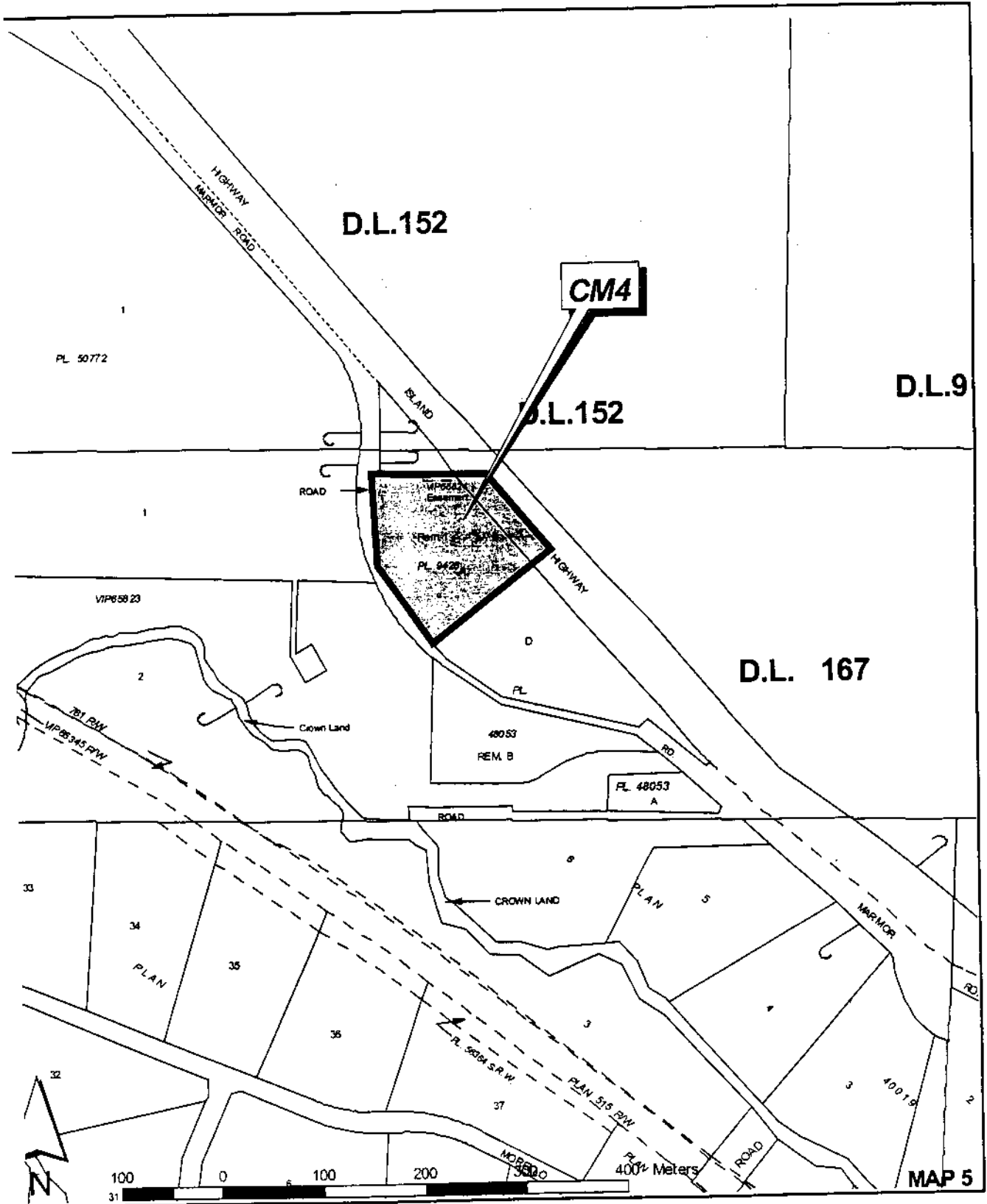
Schedule No. 5 (Page 3 of 7)
CM4 Properties



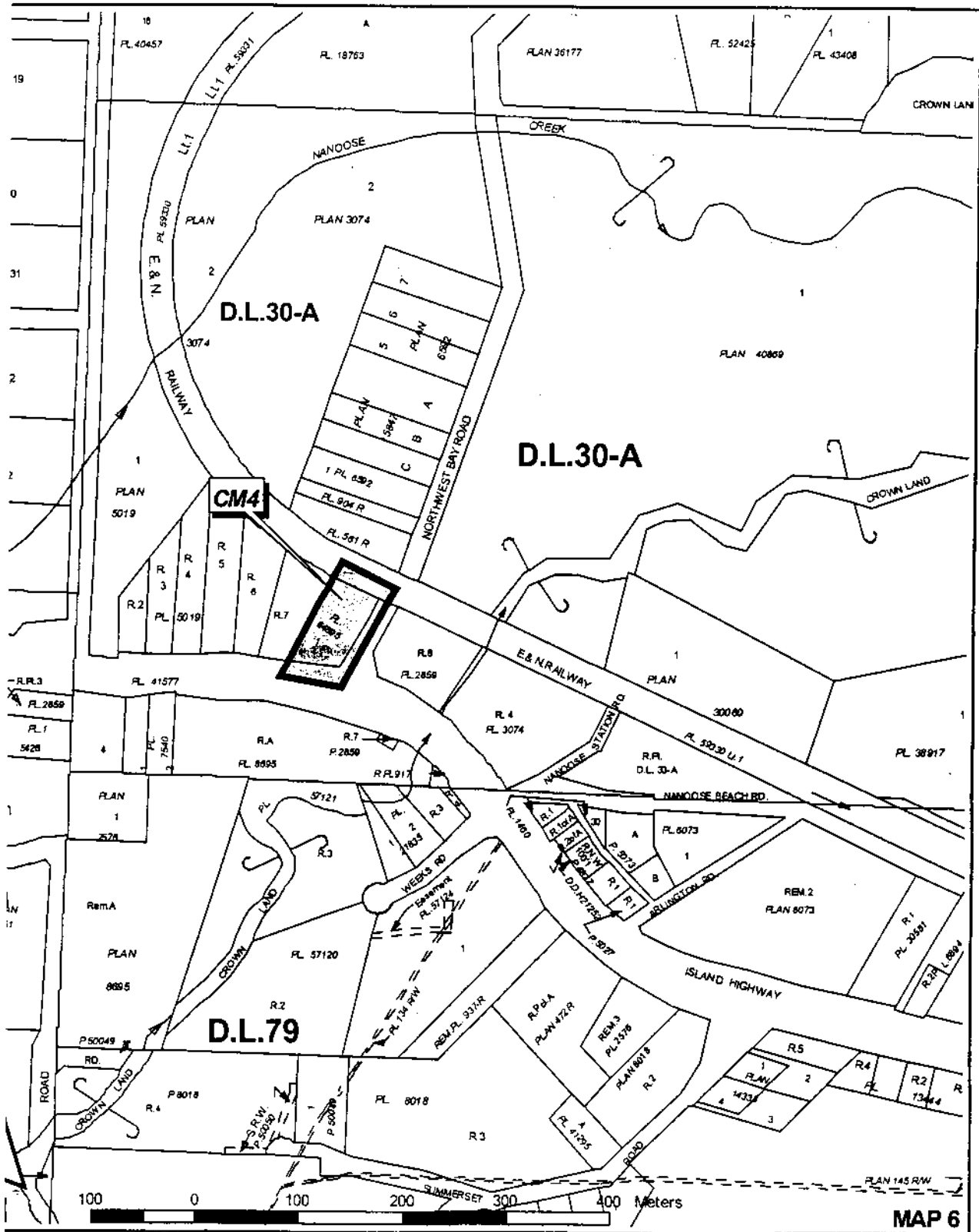
Schedule No. 5 (Page 4 of 7)
CM4 Properties



Schedule No. 5 (Page 5 of 7)
CM4 Properties

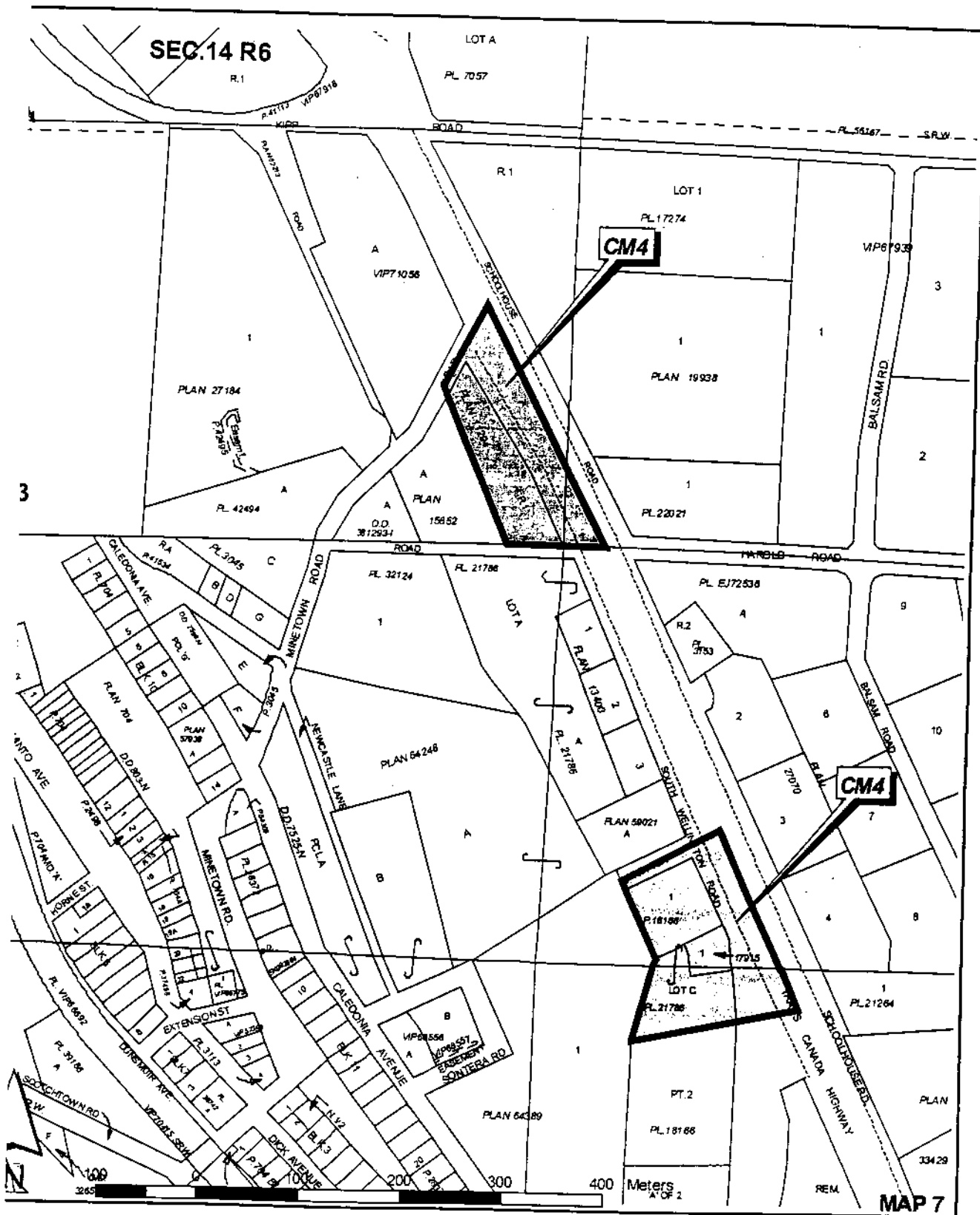


Schedule No. 5 (Page 6 of 7)
CM4 Properties



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Schedule No. 5 (Page 7 of 7)
CM4 Properties

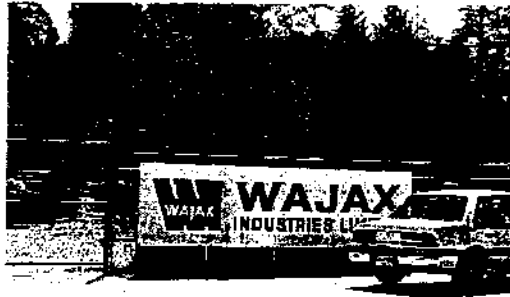


**Schedule No. 6
Existing Signage**

Signage To be Removed:



“Wajax Industries” sign attached to fence facing South Wellington Road

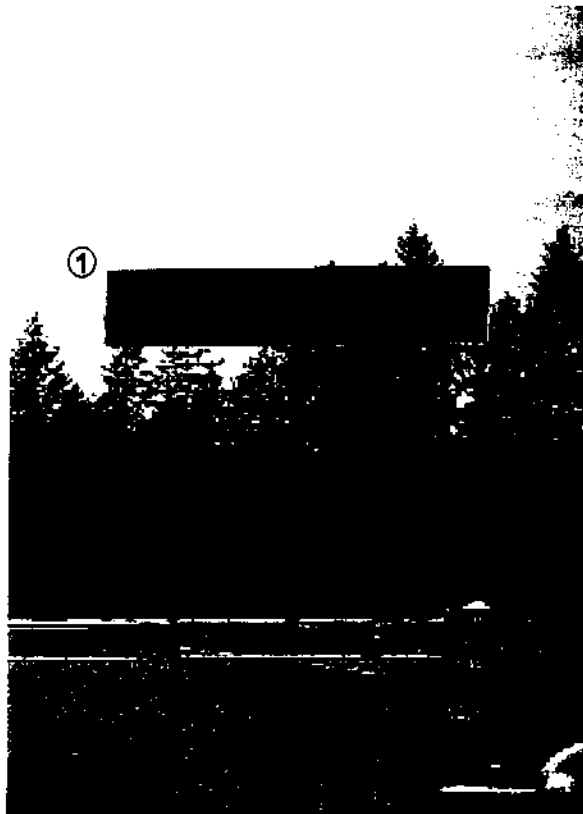


“Wajax Industries” sign attached to gate facing South Wellington Road

Signage Addressed under Development Permit Application:

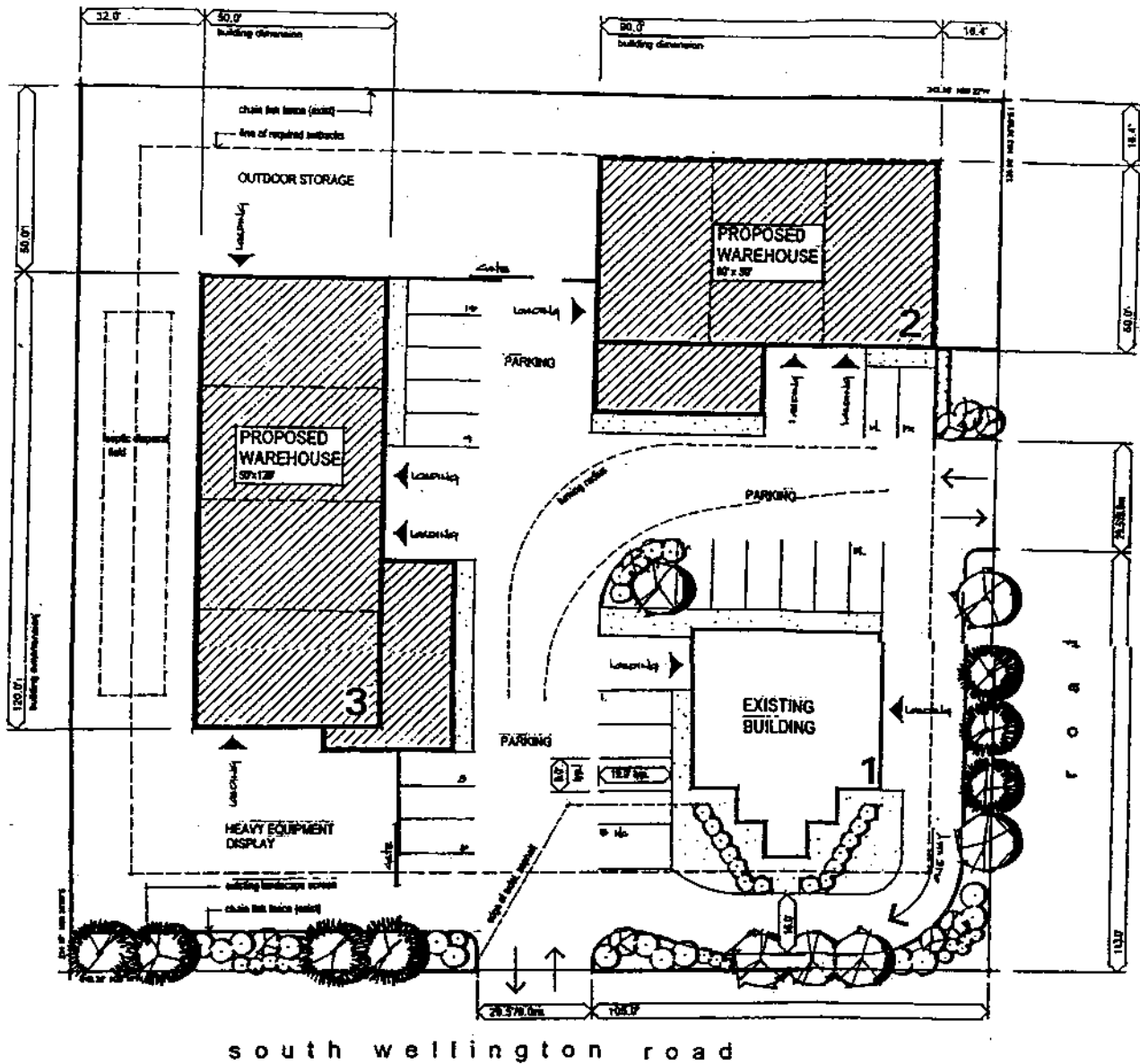


1. “Wajax” logo attached to front building exterior
2. “G&G Roofing” fascia sign attached to front building exterior.



1. “Wajax Industries Limited” free-standing, indirectly illuminated sign located south of existing building
2. Directional parts and service sign attached to fence facing South Wellington Road

Schedule No. 7
 Proposed Site Development



south wellington road

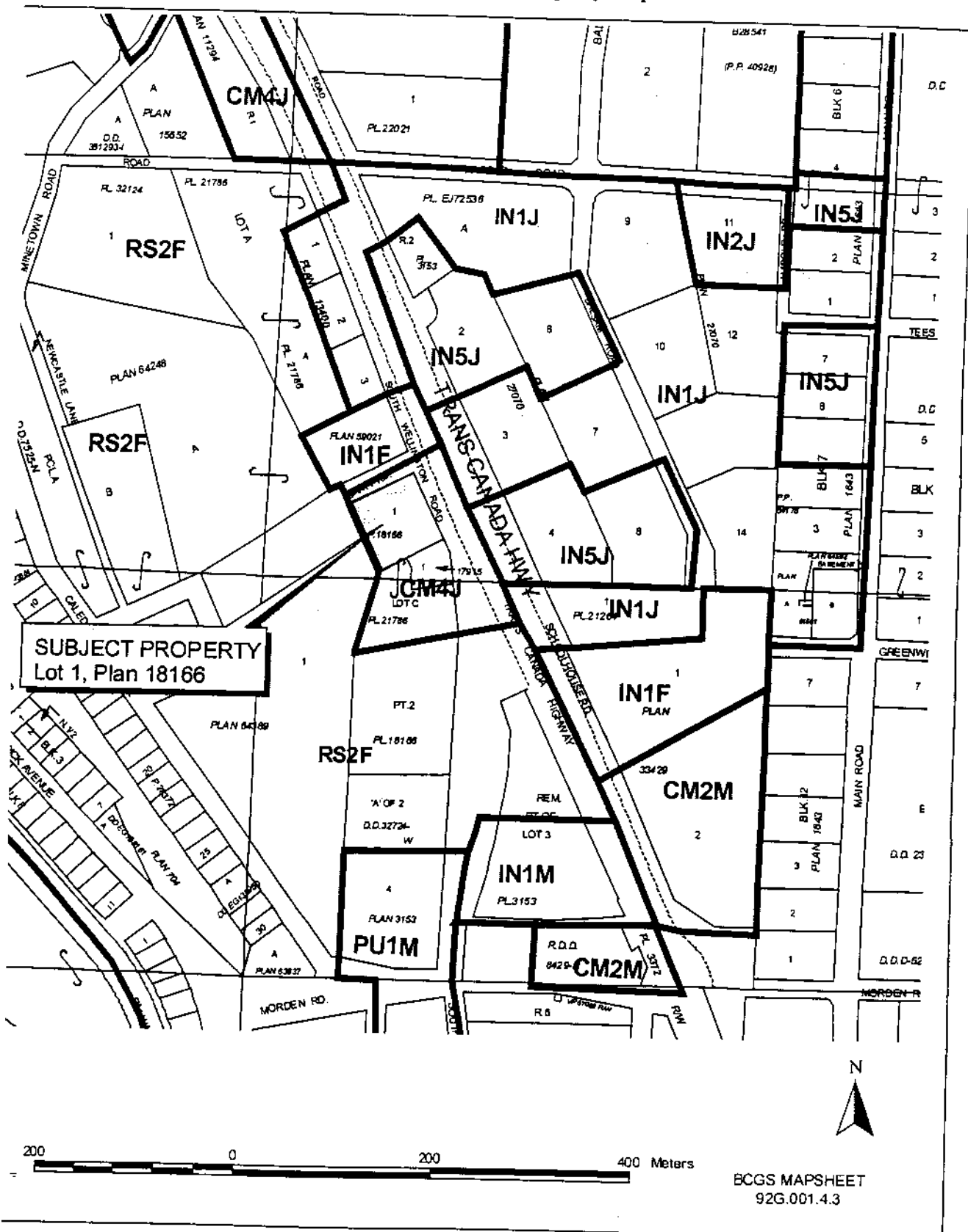
PROJECT DATA:

LEGAL DESCRIPTION:
 LOT 1, SECTION 12, RANGE 7,
 PLAN 18156, CRANBURY DISTRICT
 CITY ADDRESS:
 3093 SOUTH WELLINGTON ROAD
 PROPOSED ZONING:
 INDUSTRIAL 1
 LAND USE:
 LIGHT INDUSTRY / HEAVY EQUIPMENT DISPLAY
 LOT AREA:
 0.519 HA. / 1.31 ACRES

BUILDING AREAS:	2,250 SQ. FT. / 208.0 SQ. M.
BUILDING 1 (EXIST)	400 SQ. FT. / 37.2 SQ. M.
OFFICE	
BUILDING 2	4,500 SQ. FT. / 415.0 SQ. M.
WAREHOUSE	858 SQ. FT. / 79.1 SQ. M.
OFFICE	
BUILDING 3	6,000 SQ. FT. / 557.4 SQ. M.
WAREHOUSE	3,085 SQ. FT. / 285.8 SQ. M.
OFFICE	
TOTAL WAREHOUSE	12,750 SQ. FT. / 1,184.5 SQ. M.
TOTAL OFFICE	4,383 SQ. FT. / 405.4 SQ. M.
GROSS FLOOR AREA	15,090 SQ. FT. / 1,401.9 SQ. M.
LOT COVERAGE:	26.5%

PARKING:	PROVIDED:	STANDARD
	20	
	0	
	0	
	21	
	TOTAL	

Attachment No. 1
Subject Property Map



BCGS MAPSHEET
92G.001.4.3



CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMS	

TO: Pamela Shaw
Manager, Community Planning

DSC
DATE: November 9, 2001

FROM: Deborah Jensen
Planner

FILE: 3360 30 0107

SUBJECT: Zoning Amendment Application - Senini
Lot 2, District Lot 37, Wellington District, Plan VIP64358
Electoral Area 'D' - Dickinson Road

PURPOSE

To consider an application to rezone the subject property from Residential 2 (RS2), Subdivision District 'D' to Residential 1 (RS1), Subdivision District 'F' to facilitate the development of a two-lot subdivision.

BACKGROUND

The Regional District of Nanaimo has received an application to rezone a 2.62 hectares (6.47 acres) property from Residential 2 (RS2), Subdivision District 'D' to Residential 1 (RS1), Subdivision District 'F'. The subject property is located adjacent to Dickinson Road (*see Attachment No. 1*) and is surrounded by Residential 1 zoned properties. The currently vacant subject property is a non-contiguous parcel, separated by the undeveloped Owen Road dedication.

Pursuant to Section 6.4.61 of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," the Residential 2 zone allows for a density of two dwelling units on the subject property. The property does not meet minimum parcel size requirements for a proposed subdivision under the current zoning, therefore an application for a zoning amendment has been submitted to facilitate a two-lot subdivision along the Owen Road dedication.

A zoning amendment was applied to the parent parcel in 1993, which rezoned the property from Residential 1 (RS1), Subdivision District 'L', to Residential 2 (RS2), Subdivision District 'D', to allow for a second dwelling unit. An application for subdivision to two parcels, separated by Dickinson Road, was subsequently approved in 1996, but the approval for this subdivision specified that Lot 2 (the property under consideration in this application) would require a drainage impact assessment prior to future development.

Restrictive Covenants

Two restrictive covenants are registered on title for the subject property. One covenant, registered to the Regional District of Nanaimo, speaks to the geotechnical stability of the property and refers to a geotechnical evaluation prepared by Lewkowich Geotechnical Engineering Ltd. in July, 1995. This report concludes that the site is geotechnically safe and suitable for residential development.

The Ministry of Transportation holds a covenant that states the "covenanted" area, a strip of land approximately 3.0 metres in width and located along each side of Dickinson Road, shall remain free from the development of any buildings or structures.

ALTERNATIVES

1. To approve the amendment application to rezone the subject property from Residential 2 (RS2), Subdivision District 'D' to Residential 1 (RS1), Subdivision District 'F', as submitted by the applicant.
2. To approve the amendment application to rezone the subject property from Residential 2 (RS2), Subdivision District 'D' to Residential 1 (RS1), Subdivision District 'F' subject to the conditions outlined in Schedule No. 1.
3. To not approve the amendment application to rezone the subject property from Residential 2 (RS2), Subdivision District 'D' to Residential 1 (RS1), Subdivision District 'F'.

PUBLIC CONSULTATION IMPLICATIONS

The subject property is located in an area of Residential 1 (RS1) zoned properties. Given that rezoning is proposed to return the property to a Residential 1 (RS1) zone and given that the proposed rezoning will not increase the density of possible residential development, an assessment of the application by the General Manager, in consultation with the Electoral Area 'D' Director, resulted in a decision to not hold a public information meeting in advance of the report to the Development Services Committee. Should the application be given 1st and 2nd reading, the property will be posted, notification will be provided in local newspapers, and a public hearing will be held pursuant to the requirements of the *Local Government Act*.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The Growth Management Plan designates the subject property as "Present Status Lands," and is located outside of the Urban Containment Boundary (UCB). For present status lands located outside of the UCB, present zoning may continue to control the development potential of land, but no future increases in density or intensity of use should be approved. The proposed change to zoning and minimum parcel size of the subject property will not result in any density increases.

Policy 1C of the GMP also states that urban development should be allowed only within UCBs, in Village Centres that may lie beyond UCBs, and in Present Status Areas, where limited suburban development is permitted under existing zoning and servicing agreements, and that the relevant lot sizes should be as defined in the relevant OCP.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Lantzville Official Community Plan Bylaw No. 974, 1995 designates the subject property as "Suburban Residential" land, a designation that allows for maximum densities of 5 units per hectare and, if greater than 2.5 units per hectare, require community water and sewer systems. The intent of this designation is to allow for single dwelling unit development. Given the applicant's proposal for a two-lot subdivision, no amendment to the OCP is required.

LAND USE IMPLICATIONS

The subject property is located along Dickinson Road, and slopes upward from Dickinson Road to the undeveloped Owen Road right-of-way. The OCP and Environmentally Sensitive Areas Atlas do not indicate the presence of any environmentally sensitive or hazardous areas. The current Residential 2 (RS2) zoning allows for two dwelling units on the subject property.

The proposal for Residential 1 (RS1) zoning will allow for one dwelling unit on the subject property, but pending subdivision approval, will allow one dwelling unit on each of the two separate titles.

Amending the property to a Residential 1 (RS1) zone, which permits one dwelling unit per parcel, would enhance consistency with the surrounding RS1 zoned area. Amendment of the Subdivision District from 'D' to 'F' would allow a 1.0 hectare (2.5 acres) minimum parcel size, therefore, the overall density of development on the subject property would remain unchanged. Staff notes that the proposed parcel located south of Owen Road would be smaller than that allowed under the proposed minimum parcel size, but parcel averaging would facilitate a possible subdivision.

The Ministry of Transportation has been notified of this application for a zoning amendment and has verbally indicated there are no concerns regarding access at this time. Access and potential road construction will be addressed during the application for subdivision. However, several items were not available at the time of this report and are included as conditions of approval for the rezoning. Completion of these items must occur prior to a public hearing being held. These include a report indicating adequate water potability for each proposed parcel, and Ministry of Health approval indicating sewage disposal for each potential new parcel can be met on-site.

SUMMARY/CONCLUSIONS

This is an application to rezone a 2.62 hectares (6.47 acres) property from Residential 2 (RS2), Subdivision District 'D' to Residential 1 (RS1), Subdivision District 'F' to facilitate the development of a two-lot subdivision. The subject property is located adjacent to Dickinson Road and surrounded by Residential 1 zoned properties. The currently vacant subject property is a non-contiguous parcel, separated by the undeveloped Owen Road dedication. The property does not meet minimum parcel size requirements for a proposed subdivision under the current zoning, therefore an application for a zoning amendment has been submitted to facilitate a two-lot subdivision along the Owen Road dedication.

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

RECOMMENDATIONS

1. That Amendment Application No. 0107, submitted by Bruce Senini and Cindy Senini, to rezone the subject property legally described as Lot 2, District Lot 37, Wellington District, Plan VIP64358, from Residential 2 (RS2), Subdivision District 'D' to Residential 1 (RS1), Subdivision District 'F' be given 1st and 2nd reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.280, 2001" be advanced to a public hearing subject to the conditions outlined in Schedule No. 1.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.280, 2001" be delegated to Director Haime or her alternate.

Report Writer

General Manager Concurrence

Manager Concurrence

CAO Concurrence

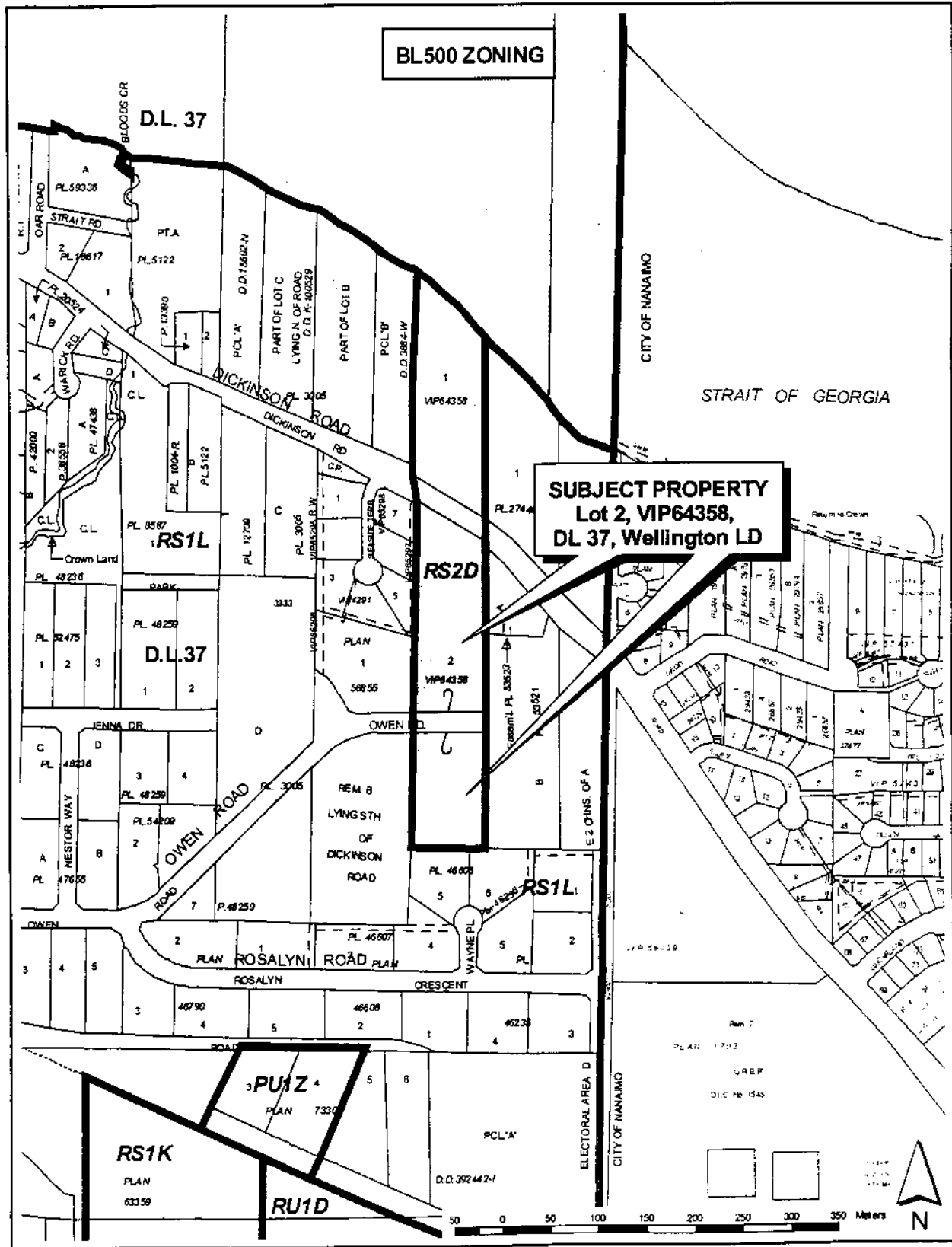
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Schedule No. 1
Conditions of Approval
Rezoning Application ZA 0107

1. Confirmation from the Ministry of Health indicating that septic disposal needs for each of the proposed two lots can be met on-site.
2. Confirmation of an adequate year-round potable water supply for each of the proposed two lots, acceptable to the Regional District of Nanaimo.

Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO			
NOV 13 2001			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
DSC ✓			

MEMORANDUM

TO: Pamela Shaw
 Manager, Community Planning **DATE:** November 9, 2001

FROM: Lindsay Chase
 Planner **FILE:** 3360 50 0103
 3060 30 0117

SUBJECT: Temporary Use Permit 0103 & Development Permit No. 0117
 Nanoose Harbour Holdings, Electoral Area 'E' – 3500 Fairwinds Drive

PURPOSE

To consider revised applications for a temporary commercial use permit and a development permit for the property located on 3500 Fairwinds Drive in the Fairwinds development in Nanoose Bay.

BACKGROUND

The RDN has received an application to site a commercial real estate office at 3500 Fairwinds Drive. The Board will recall that this application initially came forward with a proposal to relocate an existing commercial real estate office to Andover Drive. The applicant subsequently requested that the application be held in abeyance after the public information meeting in order to explore alternate sites. The applicant is submitting an amended application, and has changed the proposed location of the real estate office from Andover Drive back to its current location on Fairwinds Drive.

The realty office will continue to be accessed from Fairwinds Drive. The subject property is zoned Residential 1 (RS1), Subdivision District 'N' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." Pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998," the subject property is designated within the Fairwinds Land Use designation and both the Form and Character and Sensitive Ecosystem Protection Development Permit Areas (see Attachment No. 1 for Location).

The OCP also includes Policy No. 2.2.13, which states that the Regional Board may consider the issuance of a temporary commercial use permit for real estate offices, show homes and construction offices within the Fairwinds area to be located on non-commercially zoned parcels.

The realty office has been in use on its current site at 3500 Fairwinds Drive since 1990, operating under a series of temporary commercial use permits. The agent for the application has indicated that Royal LePage has an agreement with Fairwinds to be located on the current site until March of 2003. The latest issued temporary commercial use permit has now expired. As the property does not have commercial zoning, the applicant is applying for a new temporary commercial use permit.

The property is served with both community water and community sewer.

Pursuant to the *Local Government Act*, a temporary use permit is valid for a period of 2 years and, at the end of 2 years, the applicant may apply to renew the permit for an additional 2 years.

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ALTERNATIVES

1. To consider the applications for a Temporary Commercial Use Permit and a Development Permit to allow the siting of a temporary real estate office subject to the application proceeding to a public information meeting, subject to the conditions outlined in Schedule No. 1, and subject to the notification requirements pursuant to the *Local Government Act*.
2. To deny the applications for a Temporary Commercial Use Permit and a Development Permit.

LAND USE IMPLICATIONS

Development Permit Implications

The subject property is designated within the Form and Character Development Permit Area and the Sensitive Ecosystems Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 and therefore, a Development Permit is required. The applicant is proposing to meet the development permit guidelines by utilizing the existing temporary office facility with the existing façade. The applicant is providing off-street parking adjacent to the building above the minimum bylaw requirements and has submitted a landscaping plan indicating that the existing landscaping will be retained and that no additional plantings are intended (*see Attachments No. 2 & 3*). This application will utilize the existing signage on the property, which meets the requirements of "Regional District of Nanaimo Sign Bylaw No. 993, 1995." Photos of the existing landscaping and signage are included in this report (*see Attachment No. 4*).

Map No. 4, Inventory of Natural Environment Features of the Nanoose Official Community Plan does not indicate the presence of any sensitive features on the subject property; therefore, a Sensitive Ecosystems Protection Development Permit is not required.

Zoning Implications

The subject property is located on Fairwinds Drive, and as such, is subject to Schedule '6F' Landscaping Regulations and Standards of Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The applicant has provided a landscape plan indicating the existing evergreen ground cover will be retained and that no additional plantings are intended. The applicant has verbally indicated that additional chip rock may be added to the parking area after Centra Gas has completed works in the vicinity.

Schedule '6B' of Bylaw 500 specifies parking standards for various uses. The applicant is proposing to provide 10 off street parking spaces, which exceeds the minimum parking requirements of the Bylaw.

PUBLIC CONSULTATION IMPLICATIONS

At the August 2, 2001 Public Information Meeting held in conjunction with the initial application for a Temporary Use Permit to relocate the sales office to Andover Drive, residents indicated that the current site on Fairwinds Drive was a good location as it is sited on a major road (and therefore will not attract additional traffic into a residential neighbourhood) and is an existing use recognized in the community.

However, concerns were raised at the Public Information Meeting with respect to the siting of temporary commercial uses in the area and with the appearance of the current site. Due to concerns about this application by residents in the area and in consultation with the applicant, staff has scheduled a second

PAGE
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Public Information Meeting on this application for November 29, 2001 at Fairwinds Schooner Cove Resort. The minutes of the Public Information Meeting will be available at the December 2001 Board meeting when the Board considers approval of the temporary commercial use permit and development permit applications.

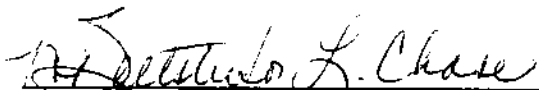
SUMMARY/CONCLUSIONS

This is an application for a Temporary Commercial Use Permit and a Development Permit for a real estate office use on the Remainder of District Lot 78, Nanoose District on Fairwinds Drive in the Fairwinds community in Nanoose Bay. The proposed temporary use meets the applicable OCP policy relating to the placement of temporary uses in the Fairwinds Area. The applicant has indicated that the proposal, which is designated within the Fairwinds Form and Character Development Permit Area, will meet the applicable guidelines of the DPA. Nearby neighbors have raised issues with regards to the siting of other temporary commercial uses in the area and the appearance of the current site. As a result, a Public Information Meeting has been scheduled for November 29, 2001.

It is staff's assessment that this application has merit to proceed to a public information meeting prior to being considered by the Board. Therefore, staff recommends that the applications proceed to a public information meeting prior to being considered for approval by the Board, subject to the conditions outlined in Schedule No. 1 and the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION


That Temporary Commercial Use Permit No. 0103 and Development Permit No. 0117 submitted by Nanoose Harbour Holdings Ltd for the property legally described as Part of District Lot 78, Nanoose District to allow a temporary real estate office use, proceed to a public information meeting prior to the Board's consideration of these permits, subject to the conditions outlined in Schedule No. 1 and the notification requirements pursuant to the *Local Government Act*.



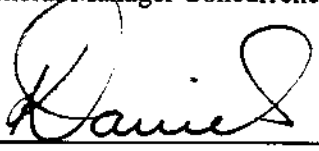
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devsvs/reports/2001/tup3360 50 0103 no fairwinds.doc

Schedule No. 1
Conditions of Approval for Development Permit No. 0117

1. Building Development

The building shall be sited in accordance with *Attachment No. 2* of the staff report.

2. Off-Street Parking Spaces and Aisle Ways

- A minimum of 10 off-street parking spaces shall be provided.
- The off-street parking spaces shall be located as indicated on *Attachment No. 2*.
- All parking areas, including aisle ways, shall be constructed to Bylaw No. 500 standard including being clearly delineated through the use of parking stops on a compacted and dust free surface.

3. Signage

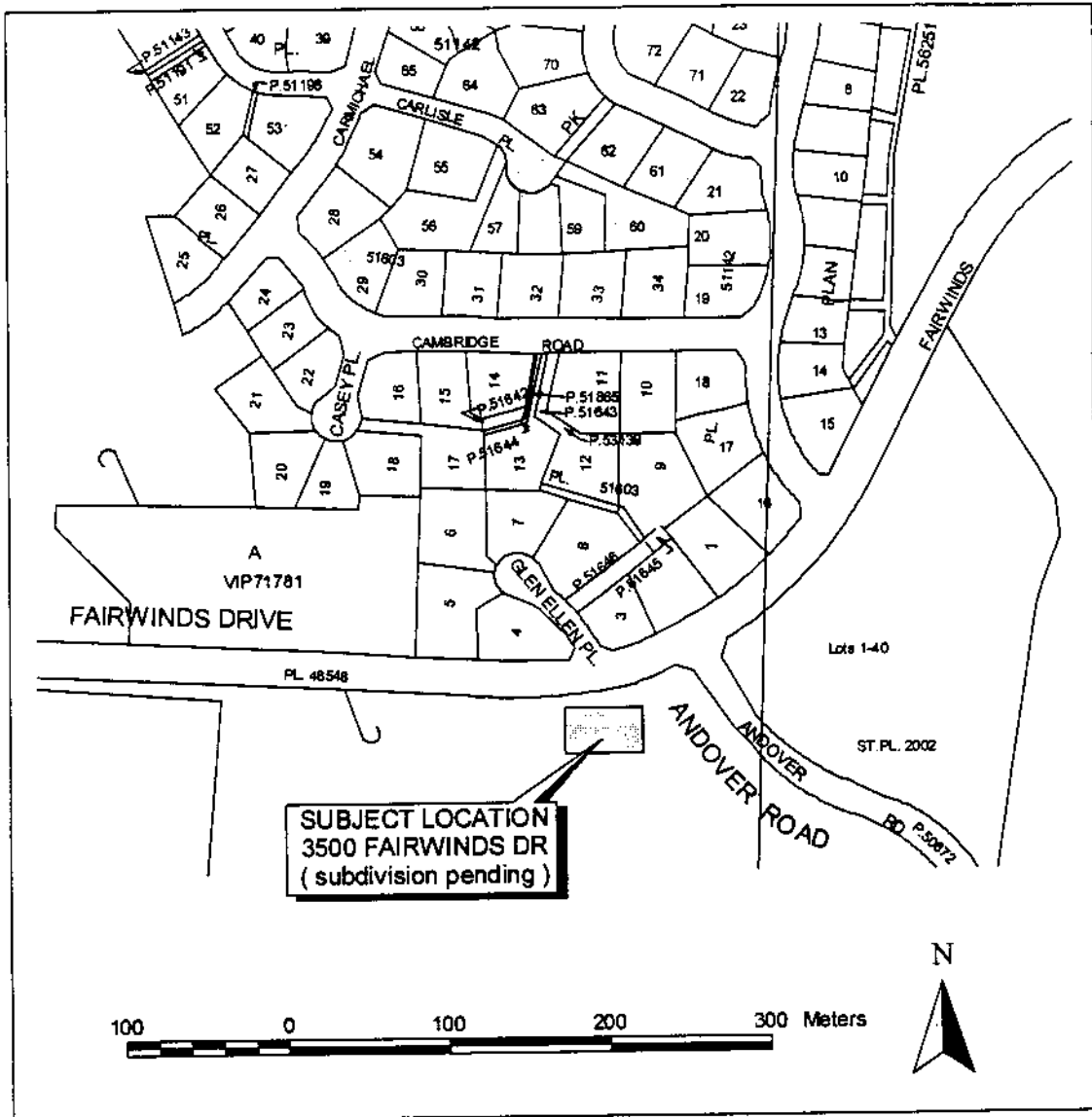
There shall be no changes to the existing signage on the subject property as part of this development permit application.

4. Landscaping Provisions

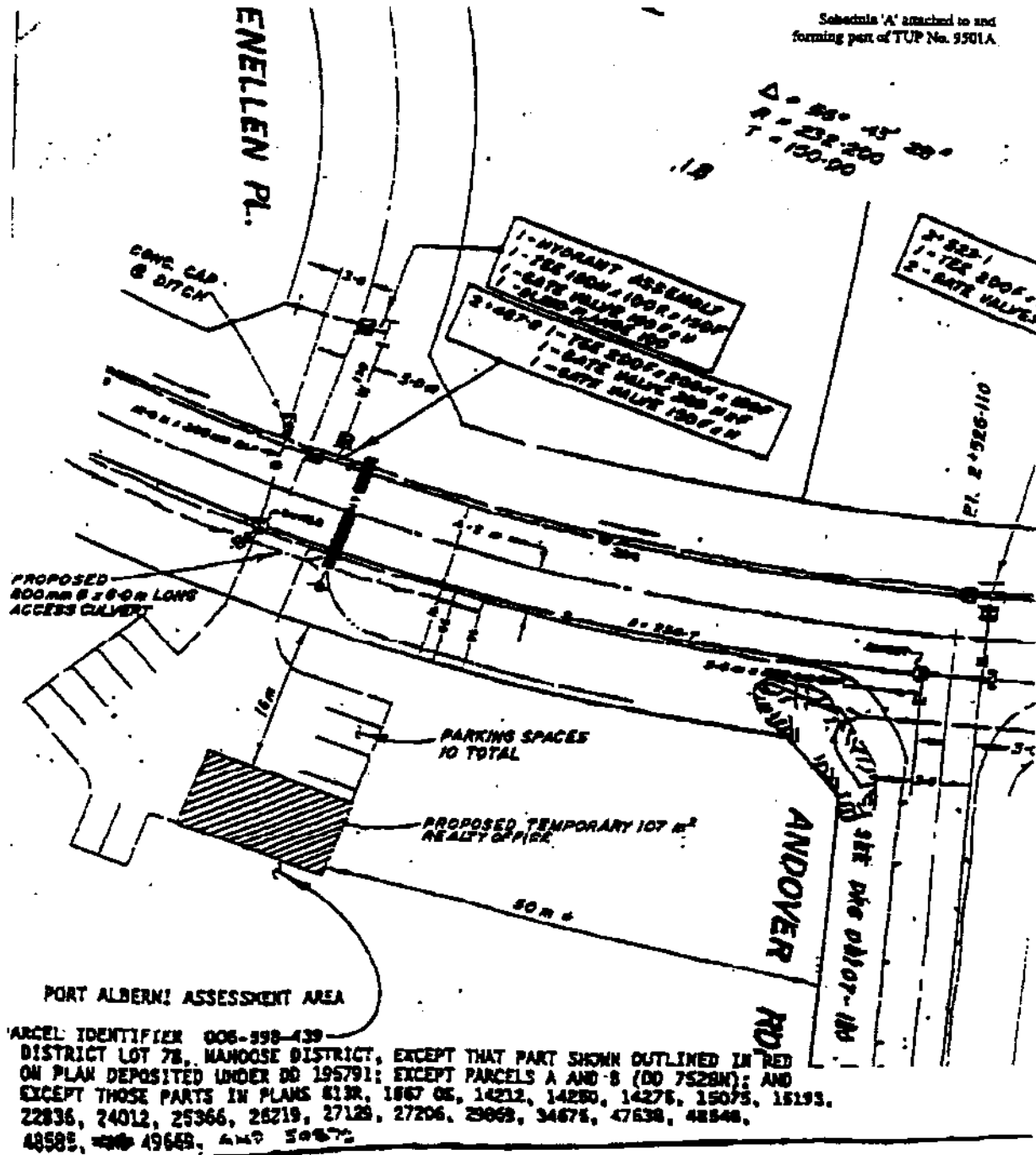
Provision of a minimum of the landscaped areas in the areas designated on *Attachment No. 3*. The landscaped area shall enhance the proposed temporary real estate office, and shall, at a minimum, satisfy the following criteria:

- *Landscaping shall be totally comprised of drought resistant plants and vegetation.*
- *Individual plants to be used in the landscaping shall have normal, well developed branches and vigorous, fibrous root systems; such plants shall be healthy, vigorous and free from defects, decay, disfiguring roots, sunscald, injuries, abrasions of the bark, plant diseases, insect pests' eggs, borers and all forms of infestation or objectionable disfigurements.*
- *all landscaping shall be permanently maintained in good condition with, at a minimum, the same quality and quantity of landscaping as was initially approved and without alteration of the approved design; the owner shall make provisions for the permanent irrigation works necessary to water the landscaping.*
- *a permanent curb of a minimum of 15 cm in height shall be provided to protect landscaped areas from potential vehicular damage.*
- *the design of landscaping shall be such that the growth of roots, trunks, and branches of natural or introduced vegetation or the location of planted berms shall not conflict with the utilities, structures, necessary access, or required sight triangle.*

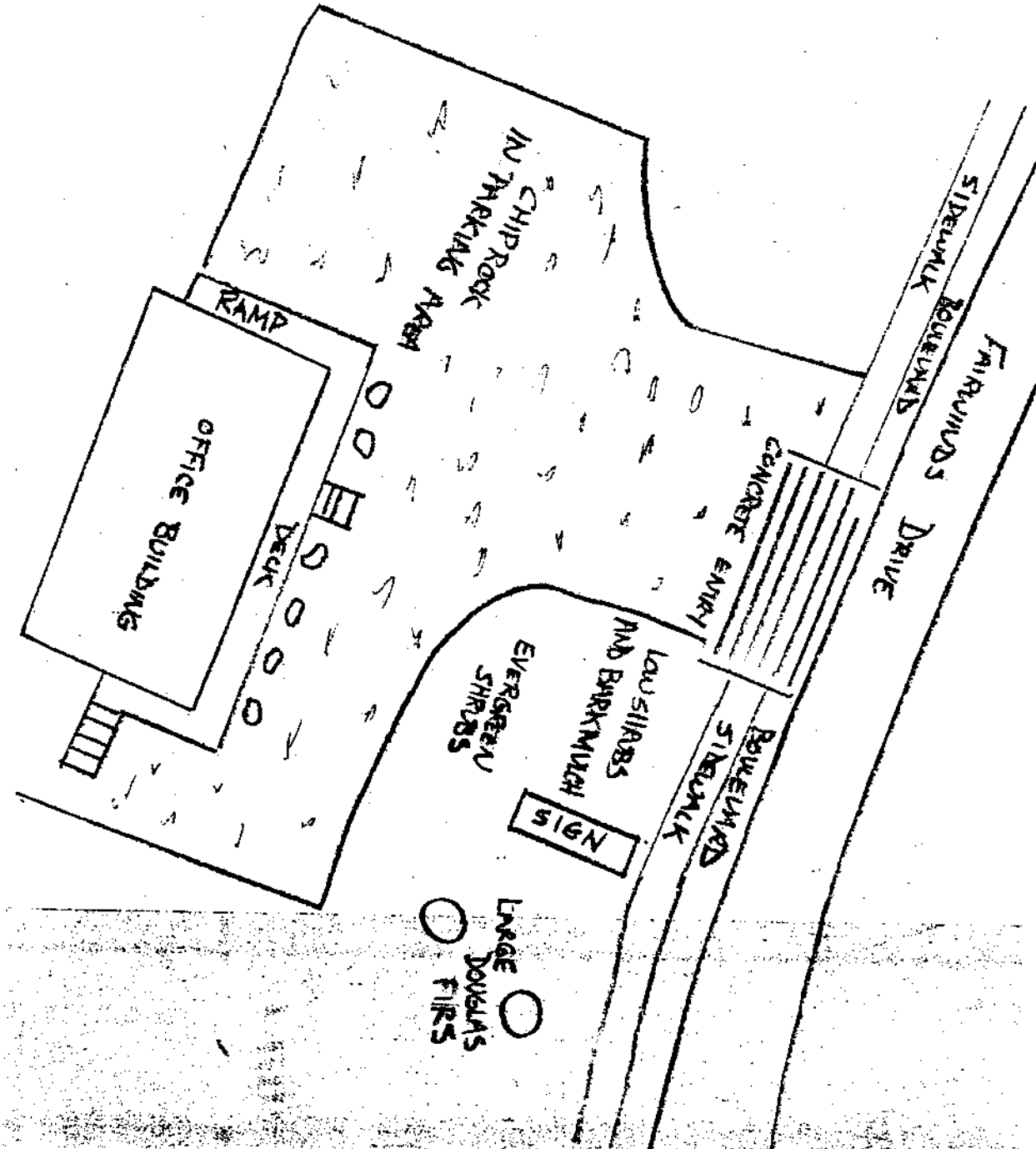
Attachment No. 1
Subject Property Location



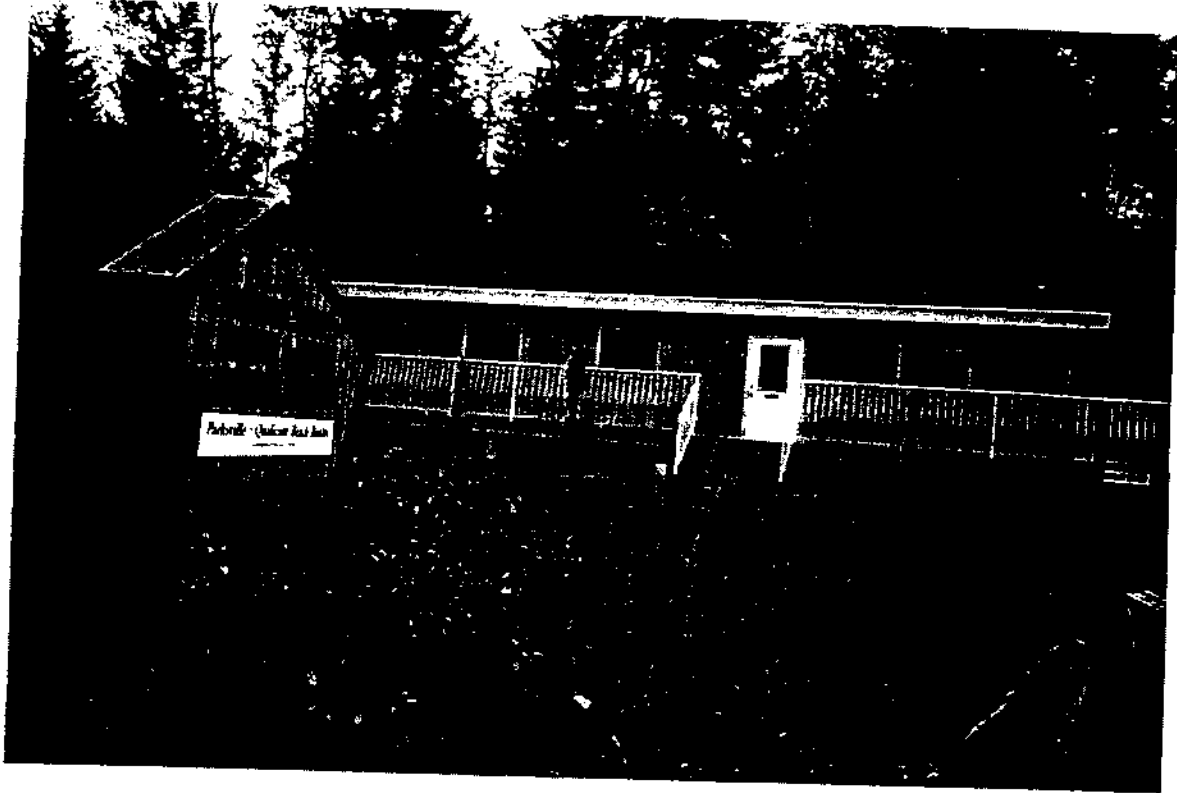
Attachment No. 2
Site Plan as Submitted by Applicant



Attachment No. 3
Landscape Plan as Submitted by Applicant



Attachment No. 4
Photos of Site Submitted by Applicant



3500 FAIRWINDS DRIVE
EVERGREEN SHRUBS,
DAISIES, SIGNAGE





REGIONAL DISTRICT OF NANAIMO			
NOV 13 2001			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
DSC ✓			
DATE: November 9, 2001			

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

FROM: Deborah Jensen
Planner FILE: 3090 30 0014

SUBJECT: Development Variance Permit Application No. 0014 - Inkahute
Lot 2, Plan 14576 and the Remainder of Block B, Plan 1610,
Both of District Lot 79, Nanoose District
Electoral Area 'E' 2655 and 2665 East Island Highway

PURPOSE

To consider an application for a Development Variance Permit to vary Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 requirements in order to legalize the siting of two existing dwelling units and several accessory buildings and structures.

BACKGROUND

The application involves two dwelling units and several accessory buildings and structures located on the property at 2655 and 2665 East Island Highway.

Due to history of non-permitted uses and undetermined non-conforming status on the subject properties, Bylaw enforcement action was initiated in 1999. RDN staff identified buildings and structures that were in contravention of building permit requirements and in contravention of density, setback, height requirements pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." As a result of bylaw enforcement action, the applicant is proposing to rationalize the existing uses on the site through this application for a development variance permit, a subdivision application, and subsequent applications for building permits.

The subject property containing the two dwelling units is a 0.4 hectare (1.0 acre) parcel located adjacent to the Island Highway and zoned Residential 1 (RS1), Subdivision District 'N' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1). The RS1 zone allows for one dwelling unit on a parcel, with the minimum setback requirements for buildings and structures in this zone being: 8.0 metres from the front lot line; 2.0 metres from the interior side lot line; 2.0 metres from the rear lot line; and 5.0 metres from other lot lines. The maximum dwelling unit height in this zone is 8.0 metres. Subdivision District 'N' allows for a 1.0-hectare minimum parcel size where community water and sewer systems are not available.

Proposed variances:

Both dwelling units are sited within the setback area and both are currently occupied. Numerous accessory buildings are located, as well, within setback areas or within the road right-of-way. The applicant is requesting variances to the minimum setback requirements and maximum dwelling unit height as shown on Schedule No. 2. The siting and dimensions of the existing dwelling units and accessory buildings are shown in Schedules No. 3 and 4.

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Proposed subdivision:

In order to separate the two dwelling units, the applicant is required to adjust the lot line between Lot 2 (which contains the two dwelling units) and Block B (adjacent to Lot 2 and owned by the applicant). This will result in one dwelling unit on each proposed parcel. However, to do so will reduce the minimum permitted lot size of Lot 2 to less than the 1.0 hectare size permitted in Subdivision District 'N'.

However, Section 7.5.1 of the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 states parcels within land to be subdivided may be reduced to 80% of the size otherwise permitted in the applicable subdivision district, subject to certain provisions. A variance under this Section of the Bylaw must be addressed and approved in order for a subdivision application to proceed, as, in this case, the applicant requires a reduction to 48% for the existing Lot 2. Board approval of this variance would result in the placement of one dwelling unit on each new lot.

Proposal for building permits:

As the subject property is within a Building Inspection Area, permits are required for any buildings or structures. To date, no building permits have been issued on the subject property and no occupancy permits have been issued for the two dwelling units. The applicant must apply for all necessary permits for buildings and structures allowed by the issuance of the development variance permit and allowed by the approval of the proposed subdivision.

Other issues:

A third foundation has been developed on the property, presumably for the construction of a third residence, however it has not been developed and the applicant is aware that this use would be in contravention to Bylaw No. 500.

It should be noted the applicant has extended the use of the property to encroach into the adjacent road right-of-way for the Island Highway. A "retaining wall" has recently been constructed and appears to be within the road right-of-way. The encroachment will not be addressed within this application; however, the Ministry of Transportation has been notified of the encroachment, and has issued a Highway Encroachment Permit for two sheds and a fence (*see Schedule No. 5*). A Permit to Reduce Building Setback less than 4.5 metres from a property line fronting a highway has also been issued by the Ministry, and addresses all buildings and structures located within the 4.5 metre setback (*see Schedule No. 6*).

ALTERNATIVES

1. To approve Development Variance Permit No. 0014 subject to the conditions outlined in Schedule No. '1'.
2. To deny the requested development variance permit.

ENVIRONMENTAL IMPLICATIONS

The subject property is located in a steep slope area as designated by the Nanoose Bay Official Community Plan, Bylaw No. 1118, 1998. The property is located on a steep slope rising sharply from the coast line and railway to the north, forming a ledge, and rising again to the Island Highway located above and to the south of the subject property.

Two man-made ponds that are connected to a culvert, ditch and catch basin have been constructed on the property. Staff has determined this system, which is intended to divert water runoff from the Island

Highway, does not meet the definition of a watercourse under the RDN Bylaw No. 500. Therefore, setback requirements to watercourses do not apply.

LAND USE IMPLICATIONS

From staff's assessment of this application, the potential impact of the height and setback variances is reduced due to isolated location of the subject parcels, the location of the subject parcel on the highway, unopened rights-of-way surrounding the property, and site topography. Staff notes the topography of the site does result in a limited developable area for buildings and structures. However, the applicant has sited buildings and structures immediately adjacent, or encroaching into, the road right-of-way.

The Ministry of Transportation has issued a Highway Encroachment Permit for two sheds and a fence that encroach into the road right-of-way. The Ministry of Health has also issued a statement indicating the existing septic disposal system reserves for both dwelling units are adequate.

If the applicant does not receive approval for the proposed variances, staff note the applicant could be required to: (a) remove or relocate accessory buildings to within setbacks; and (b) remove one of the currently occupied dwelling units.

SUMMARY/CONCLUSIONS

This is an application for a development variance permit to legalize two existing dwelling units and accessory buildings and structures located on the subject properties and includes a request to vary minimum setback and maximum dwelling unit height requirements within a Residential 1 zone as shown on Schedule No. 2. The applicant is attempting to correct the non-conforming status of uses on the property by applying for a lot line adjustment subdivision. Should the Board approve the requested variances, the applicant must apply for all necessary building and occupancy permits. Given the historical non-conforming use of the property, site topography, and minimal visual impact of the site's buildings on adjacent properties, staff recommends this application be approved subject to the conditions outlined in Schedule No. 1 and the notification procedures pursuant to the *Local Government Act*.

RECOMMENDATIONS

That Development Variance Permit Application No. 0014, submitted by Fern Road Consulting Ltd. on behalf of Inkahute Development Corporation, for the property legally described as Lot 2, Plan 14576, and the Remainder of Block B, Plan 1610, both of District Lot 79, Nanoose Land District, to vary the minimum setback requirements, maximum dwelling unit height, and minimum parcel size requirement as shown on Schedule No. 2, be approved, subject to notification requirements pursuant to the *Local Government Act*.


Report Writer


Manager Concurrence


General Manager Concurrence


CAO Concurrence

COMMENTS:

devsvs/reports/2000/dvp no 3090 30 0014 Inkahute.doc

Schedule No. 1
Conditions of Approval
Development Variance Permit No. 0014

1. Variances are subject to compliance with building permit regulations.
2. Variances are subject to Ministry of Transportation approval for relaxation within the 4.5-meter road allowance.
3. Variances are subject to Ministry of Transportation approval of a proposed lot line adjustment subdivision creating two separate lots.

**Schedule No. 2
Required Variances**

Proposed Lot A (from parent parcel Lot 2, District Lot 79, Nanoose District, Plan 14576)

Maximum Dwelling Unit Height

The maximum dwelling unit height is varied from 8.0 metres (26.2 feet) to 10.1 metres (33.1 feet).

Minimum Setback Requirements

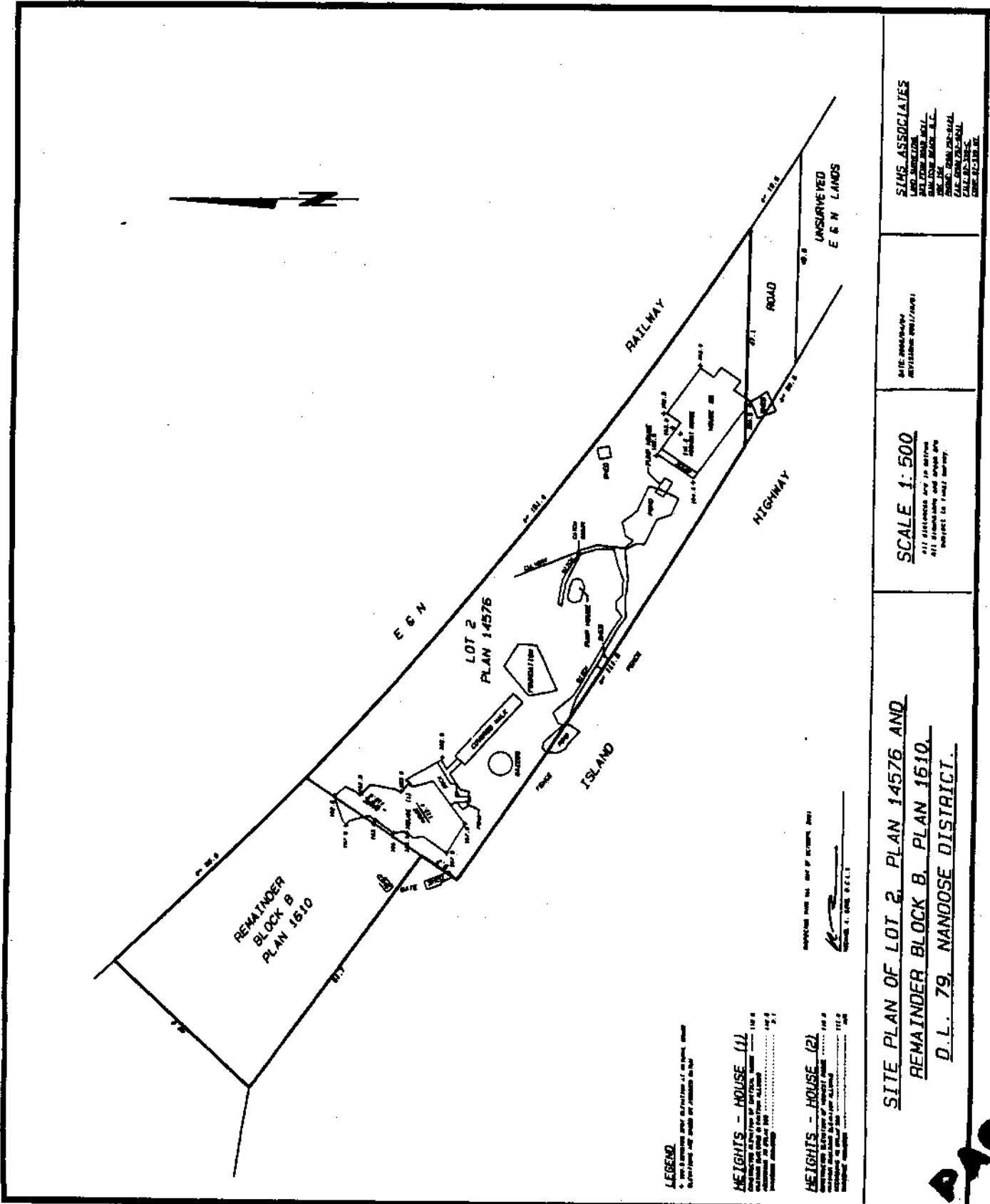
- House: The minimum setback requirement for a front lot line is varied from 8.0 metres (26.2 feet) to 3.5 metres (11.5 feet).
- Shed: The minimum setback requirement for an other lot line is varied from 5.0 metres (16.4 feet) to 0.9 metres (3.0 feet).
- Shed: The minimum setback requirement for a front lot line is varied from 8.0 metres (26.2 feet) to 0.0 metres (0.0 feet).
The minimum setback requirement for an other lot line is varied from 5.0 metres (16.4 feet) to 1.2 metres (3.6 feet).
- Gazebo: The minimum setback requirement for an other lot line is varied from 5.0 metres (16.4 feet) to 4.3 metres (14.1 feet).
- Parcel Size: A reduction to 48% of the minimum parcel size pursuant to Section 7.5.1 of the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987

Proposed Lot B (from parent parcel Lot 2, District Lot 79, Nanoose District, Plan 14576)

Minimum Setback Requirements

- House: The minimum setback requirement for a front lot line is varied from 8.0 metres (26.2 feet) to 0.0 metres (0.0 feet).
- Shed: The minimum setback requirement for an other lot line is varied from 5.0 metres (16.4 feet) to 0.1 metres (0.3 feet).
The minimum setback requirement for an interior side lot line is varied from 2.0 metres (6.6 feet) to 0.4 metres (1.3 feet)
- Shed: The minimum setback requirement for a rear lot line is varied from 2.0 metres (6.6 feet) to 1.1 metres (3.6 feet).

Schedule No. 3
 Survey Plan of Subject Property



SIMS ASSOCIATES
 LAND SURVEYORS
 201 JOHN STREET, S.E.
 SUITE 200
 WASHINGTON, D.C. 20003
 TEL: (202) 638-1111
 FAX: (202) 638-1112
 WWW.SIMS-ASSOCIATES.COM

DATE: 10/26/01
 REVISION: 001/1/01

SCALE 1:500
 ALL DIMENSIONS ARE TO CENTER
 ALL DISTANCES AND ANGLES ARE
 SUBJECT TO FIELD SURVEY

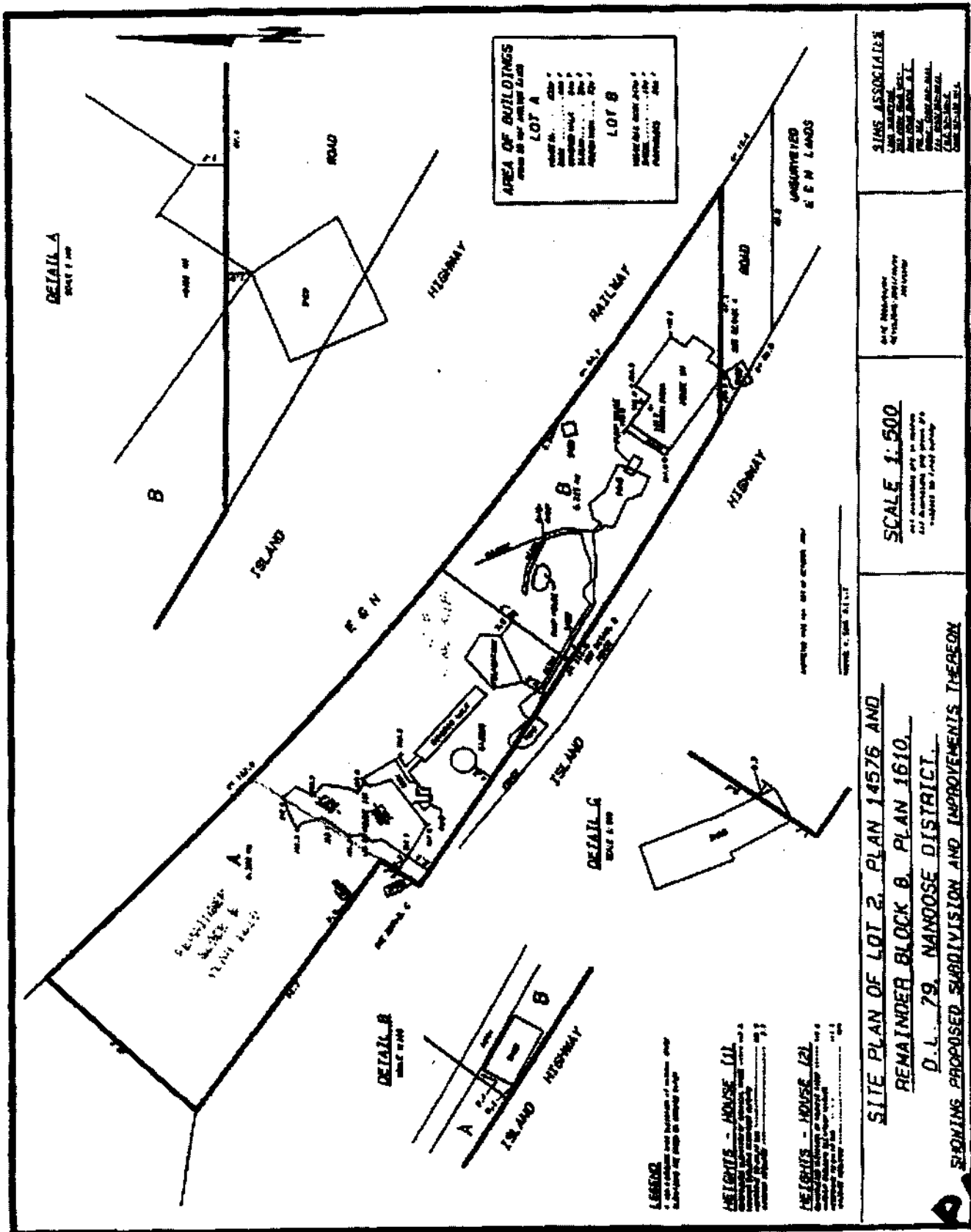
**SITE PLAN OF LOT 2, PLAN 14576 AND
 REMAINDER BLOCK B, PLAN 1610.
 D.L. 79, NANDOSE DISTRICT.**

LEGEND
 * - 1/4" = 1'00" (1:480) SCALE
 - - - - - BOUNDARY OF UNSURVEYED E & N LANDS
 - - - - - BOUNDARY OF UNSURVEYED E & N LANDS
 - - - - - BOUNDARY OF UNSURVEYED E & N LANDS

HEIGHTS - HOUSE (1)
 FINISHED FLOOR TO FINISHED FLOOR 10.0
 FINISHED FLOOR TO FINISHED FLOOR 10.0
 FINISHED FLOOR TO FINISHED FLOOR 10.0

HEIGHTS - HOUSE (2)
 FINISHED FLOOR TO FINISHED FLOOR 10.0
 FINISHED FLOOR TO FINISHED FLOOR 10.0
 FINISHED FLOOR TO FINISHED FLOOR 10.0

Schedule No. 4
Survey Plan of Proposed Subdivision



AREA OF BUILDINGS
 LOT A
 HOUSE 121
 HOUSE 122
 HOUSE 123
 HOUSE 124
 HOUSE 125
 HOUSE 126
 HOUSE 127
 HOUSE 128
 HOUSE 129
 HOUSE 130
 HOUSE 131
 HOUSE 132
 HOUSE 133
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 HOUSE 199
 HOUSE 200

SIMS ASSOCIATES
 LAND SURVEYOR
 1100 BAYVIEW AVENUE
 SUITE 100
 VICTORIA, B.C. V8M 2M6
 TEL: 250-861-1111
 FAX: 250-861-1112
 E-MAIL: SIMS@SIMS-ASSOCIATES.COM
 WWW: WWW.SIMS-ASSOCIATES.COM

SCALE 1:500
 ALL DIMENSIONS ARE IN METERS
 UNLESS OTHERWISE SPECIFIED

**SITE PLAN OF LOT 2, PLAN 14576 AND
 REMAINDER BLOCK 8, PLAN 1610,
 D.L. 79, NANOOSE DISTRICT,
 SHOWING PROPOSED SUBDIVISION AND IMPROVEMENTS THEREON**

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Schedule No. 5 (Page 1 of 3)
Highway Encroachment Permit



Ministry of
Transportation
and Highways

HIGHWAY ENCROACHMENT PERMIT

Permit Number
CI 23233

The personal information on this form is collected under the authority of the Highway Act. The information collected will be used to identify the permittee on the Highway Encroachment Permit. If you have any questions about the collection, use and disclosure of this information, contact the local Ministry of Transportation and Highways District Development Technician.

HIGHWAY ACT 14 (I), R.S.B.C. 1996

PERMIT TO AUTHORIZE EXISTING STRUCTURES
CONSTRUCTED WITHIN THE RIGHT-OF-WAY OF ANY
ARTERIAL HIGHWAY WITHIN A MUNICIPALITY OR
ANY HIGHWAY IN A RURAL AREA

B.C. Regulation 174/70, section 4.01 Consent

Permission is hereby granted by Her Majesty the Queen in the Right of the Province of British Columbia as represented by the Minister of Transportation and Highways (the "Minister") to the "Permittee" to use and maintain the structure comprising of permission for one shed to encroach 3.5 m, one shed to encroach 5.0 m and a fence to encroach 6.0 m onto the right of way of the Island Highway #19

(the "Structure")

in so far as they relate to the use of that portion (the "Encroachment Area") of the public highway, described as and located at:
Remainder Block B, amended Plan 1610, and Lot 2, Plan 14576, all in District Lot 79, Nanoose District.

as shown on the plan prepared by:

Sims Associates

B.C. Land Surveyor

certified correct on the 13 day of April, 2000, attached hereto as Schedule A.

If the Structure is part of a legal lot (the "Property") adjacent to the Encroachment Area the permittee will provide the legal description of the Property and produce a Certificate of Title for the Property.

Legal Description:

Block B, Amended Plan 1610 Except Part in Plan 14576 and Lot 2, Plan 14576, All in District Lot 79, Nanoose District

Agreed to by the Permittee:

Name Michel Lelain, Inkanhute Development Corporation

Address c/o Sims Associates

223 Fern Road West

Qualicum Beach BC V9K 1S4

Telephone _____

Signed by
Registered Owner(s)

Michel LELAIN
Print Name(s)

01/06/04
Date (yyyy/mm/dd)

D. O'Brien
For Minister of Transportation and Highways

D.L. O'Brien
Print Name

2001/06/15
Date (yyyy/mm/dd)

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Schedule No. 5 (Page 2 of 3) Highway Encroachment Permit

This Permit is at all times subject to the following conditions, which are agreed to and accepted by the Permittee in consideration of the granting of this Permit.

1. Except to the extent permitted herein, the Permittee will ensure that the Structure at all times conforms with all legislation applicable to the Structure with respect to the construction and maintenance of the Structure and all specifications by regulatory bodies having jurisdiction over the Structure.
2. The Regional Director, as appointed from time to time by the Minister, having jurisdiction with respect to the Encroachment Area, or such person as the Minister may from time to time designate must have full and free access at any and all times to inspect the Structure or for such other purposes as the Regional Director may consider necessary.
3. Where the Structure comes in contact with any bridge, culvert, ditch or other existing work (the "Existing Works") the Permittee will ensure that the Structure is properly maintained and supported in such manner as not to interfere with the proper functions of the Existing Works during the existence of the Structure.
4. The Permittee will at all times take every possible precaution to ensure the safety of the public, and if requested by the Regional Director ensure that the Structure and all excavations, materials, or other obstructions in connection with the Structure are fenced, illuminated, and guarded.
5. The Permittee acknowledges that this Permit is granted only for such times as the Encroachment Area is within the jurisdiction of the Minister. This permit must not be construed as being granted for all time, and does not vest in the Permittee any right, title, or interest in or to the Encroachment Area. If the Encroachment Area becomes included within an incorporated municipality or city, this Permit is terminated unless the Highway on which the Structure is located is classified as an Arterial Highway pursuant to Part III of the Highway Act.
6. This Permit may be cancelled at any time without recourse at the discretion of the Regional Director by 30 days notice in writing in the manner herein provided. Not later than 90 days after the date on which this notice has been given by or on behalf of the Minister, the Permittee must ensure that all work has been completed in connection the removal, moving or alteration of the structure in the manner required by any notice. All costs of removing, moving or altering the Structure must be borne by the Permittee.
7. Where any public works are contemplated the Permittee will cooperate with any person designated by the Regional Director in connection with any construction, extension, alteration or improvement of the public works involving the Encroachment Area.
8. The Permittee acknowledges that the Minister and any employees, agents or contractors of the Minister will not be responsible for any damage to the Structure or any property of the Permittee and the Permittee hereby expressly waives any claim for damages and forever releases and discharges all such persons with respect thereto.
9. The permissions herein granted to the Permittee will be in force only during such time as the Structure is used, maintained and owned by the Permittee in strict compliance with this Permit. The Permittee will notify the Minister if the Property is offered for sale and inform any purchasers of the Property of this Permit prior to sale. The Permittee will remain liable to the Minister hereunder until such time as a subsequent permittee has agreed to assume the same liabilities and obligations with respect to the Structure.
10. This Permit is valid only for the Structure as described herein. The Permittee acknowledges that routine maintenance of the Structure is permitted but the Structure must not be expanded, increased, or its use changed in any way except as provided for in section 4 of this permit.
11. The Permittee will provide:
 - (a) the location of the Structure in relation to the Encroachment Area and the Property on Schedule A; and
 - (b) a written description of the Structure
 both in form and content satisfactory to the Regional Director, Ministry of Transportation and Highways for the Region in which the Structure is located.
12. The attached plan, indicated as Schedule A, showing location or position of the Structure constitutes a part of this Permit and any change without prior consent of the Regional Director will forthwith render this Permit terminated subject to section 18 of this Permit.
13. The Permittee will notify the Regional Director of any damage done to the Structure. If in the opinion of the Regional Director the Structure is destroyed or damaged such that reconstruction within the encroachment area is unwarranted this permit is terminated. The Structure must not be replaced or reconstructed on the Highway or in the Encroachment Area.
14. The Permittee shall be solely responsible for all loss or damage arising or occurring out of any act or omission, including the use, possession, control and custody, or any of them, of the Encroachment Area, of or by the Permittee, or the heirs, executors, administrators, and assigns of the Permittee, and shall indemnify and save harmless the Minister, together with the employees, agents, and contractors of the Minister, from and against any and all losses, claims, liabilities, demands, damages, actions, causes of action, costs and expenses, fines, penalties, assessments, and levies that the Minister or any of the employees, agents or contractors of the Minister may sustain, incur, suffer or be put to at any time or times (whether before or after the expiration or sooner termination of this Permit).
15. The Permittee will not interfere with any Highway or public works without separate written permission issued by the Regional Director.
16. All notices required to be given hereunder by the Minister will be effectively given if sent by mail to the address of the Permittee shown below and must be deemed to have been given at 12:00 noon on the third day after mailing. Notices to be given to the Minister by the Permittee will be effectively given if delivered to the Regional Director and must be effectively given upon delivery.
17. No termination or cancellation of this Permit will relieve or abate the obligations of the Permittee contained herein arising prior to such termination or cancellation all of which must survive the termination or cancellation of the Permit and must constitute continuing obligations of the Permittee.
18. No variation or alteration of the Permit will be effective unless in writing signed by or with the authority of the Minister.
19. The Permittee shall obtain and maintain during the term of this Permit and at the Permittee's own expense, liability insurance against third party claims arising as a result of the Permittee's possession, use, control and/or custody of the Encroachment Area shown in Schedule A.
Such liability insurance shall have coverage limits of not less than ONE MILLION DOLLARS (\$1,000,000) for bodily injury, including death, and property damage and shall be endorsed as follows:
It is understood and agreed that Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Transportation and Highways, together with the employees, agents and servants of the Minister, hereinafter referred to as the Additional Named Insured, is added as an Additional Named Insured.
The policy shall contain a cross liability clause and a clause giving notice of cancellation or material alteration to the Minister.
The Permittee shall submit evidence satisfactory to the Minister that the above insurance has been obtained and remains in force and effect.
20. This permit is subject to any other terms or conditions as specified on the attached Schedule B.
21. Any reference to a party includes heirs, executors, administrators and assigns.

**Schedule No. 5 (Page 3 of 3)
Highway Encroachment Permit**

CI 23233
May 28, 2001

22. This encroachment permit is issued in conjunction with subdivision file 06 002 22797.
23. The Statutory Declaration dated May 3, 2001 forms part of this permit and the following conditions are to be met:
 - a) If either Lot is transferred to a new registered owner, the encroaching structures of the said Lot will be removed at the current owner's expense prior to transfer of the property.
 - b) The Current property owner will removal all encroaching structures at his expense in the event that the Ministry of Transportation & Highways deems it necessary that the structures be removed.
 - c) Should any of the encroaching structures be destroyed or substantially damaged, the structure will be reconstructed entirely within the boundaries of the Lot and all debris from the damaged or destroyed structure will be removed from the right of way.
24. The Ministry reserves the right to cancel this permit at any time should it be necessary to do so.

Cc: Regional District of Nanaimo – Planning
Cc: 06 002 22797

Schedule No. 6
Permit to Reduce Building Setback



Ministry of
Transportation

NOV 02 01 17:03 No. 008 P.02

PERMIT TO REDUCE BUILDING SETBACK
(LESS THAN 4.5 METRES FROM
PROPERTY LINE FRONTING A HIGHWAY)

Highway District CENTRAL ISLAND DISTRICT	File/Permit Number 06 002 23881
--	---

The Minister of Transportation has approved, subject as to the conditions as set out in this permit, the construction of a building, the location of which does not conform with British Columbia Regulation 174/70 made pursuant to section 39 (1) of the Highway Act, R.S. British Columbia 1996, namely:

Setback relaxation starting at the West end of Remainder Block B, Plan 1610 to the East end of Lot 2, Plan 14576, all within District Lot 79, Nanoose District, adjacent to the Island Highway #19:

One (1) shed at a 0.9m offset, one (1) shed at 0.m offset, one (1) house at 3.5m offset, one (1) gazebo at 4.3m offset, one (1) shed at 0.1m offset and one (1) house at 0.m offset.

The permit is issued to the property owner as described below:

Michael Lelain, Inkahute Development Corporation
c/o Sims Associates
223 Fern Road West
QUALICUM BEACH BC V9K 1S4

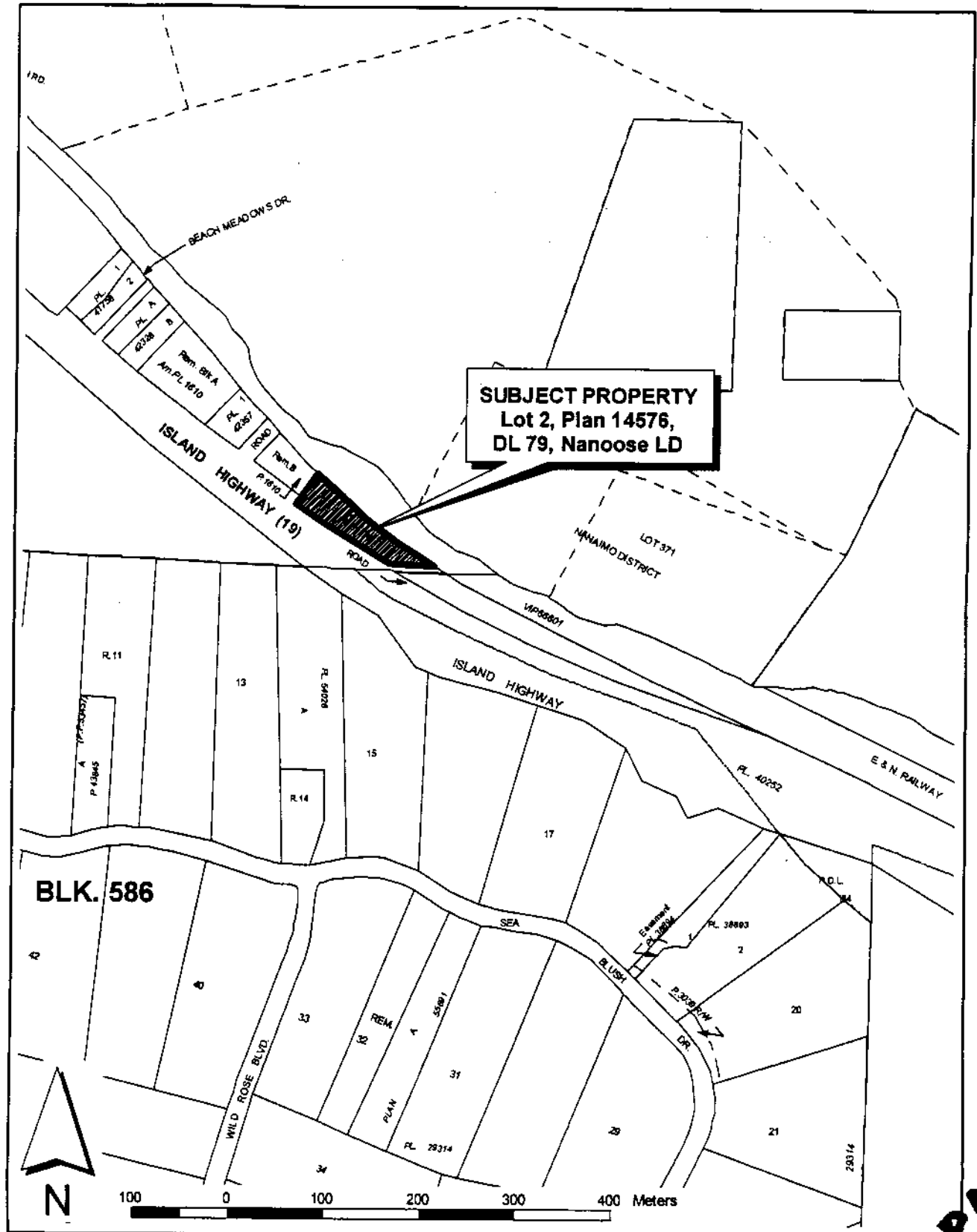
This permit may be terminated at any time at the discretion of the Minister of Transportation, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.

This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.

Approval Signature (for Deputy Minister of Transportation) <i>D. O'Brien</i>	Print Name Debbie O'Brien
Position Title District Development Technician	Date (yyyy/mm/dd) 2001/11/02

cc. Stan Schopp, Chief Building Inspector, Regional District of Nanaimo - Via Fax only: (250) 390-6513

**Attachment No. 1
Subject Property Map**





REGIONAL DISTRICT OF NANAIMO		
NOV 13 2001		
CHAIR		GMCrS
CAO		GMDS
GMCmS		GMES
DSC		
DATE:		

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

November 9, 2001

FROM: Deborah Jensen
Planner

FILE: 6635 02 0112

SUBJECT: ALR Exclusion - Wosk
Lot G, District Lot 12, Nanoose District, Plan 30913
Electoral Area 'G' - 365 Meadow View Place

PURPOSE

To consider an application for exclusion of land from the Agricultural Land Reserve.

BACKGROUND

The Regional District of Nanaimo has received an application to exclude approximately 12.2 hectares (30.19 acres) of land from the Agricultural Land Reserve (see Schedules 1 and 2). Applications for exclusion are forwarded to the Board for its consideration due to Regional Growth Management Plan issues and to highlight potential OCP amendment or rezoning implications. However, it is noted that if the Regional Board decides to deny an application this is inconsistent with an approved Plan, the Land Reserve Act does not require the applications to be heard by the Land Reserve Commission (Section 22(4)(2)(b) and therefore it may be denied by the Regional Board.

The subject parcel is located adjacent to Meadow View Place and Corfield Street, and lies along the City of Parksville boundary (see Attachment No. 1). Lands to the south and east are located within the ALR and consist of large lot residential properties and hobby farms. Lands to the north and west are smaller lot residential subdivisions. Corfield Street forms a buffer between the subject property and higher density uses. The applicant's stated intent is to exclude the subject property for the purpose of constructing a bare land strata residential development consisting of small lot patio homes, duplexes and studios.

The Growth Management Plan (GMP) designates the subject property as "Rural Residential" land (see Schedule No. 3), however, the policies contained within the GMP actually designate all ALR Lands as 'Resource Lands and Open Space' and therefore the Plan map is incorrect and should show the land as being included in the 'Resource Lands and Open Space' designation.

The Englishman River Official Community Plan Bylaw No. 814, 1990 designates the subject property as "Rural" land (see Schedule No. 4).

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

PAGE 60

Previous applications have been made to exclude the subject property from the ALR. The Commission, by Resolution #10916/79 refused an application for exclusion of the subject property in 1979, stating the property had high agricultural capability for producing a wide range of crops with the implementation of irrigation and drainage schemes. The Commission expressed concerns that development of the subject property could have impacts on lands east of the property, which were considered to have a similar high agricultural capability. A subsequent request for appeal was refused. In 1993, by Resolution #1367/92, the Commission again refused an application for exclusion of the subject property, citing good agricultural capability rating and a parcel size allowing a wide range of crops to be grown. The 1995 Resolution #1091/94, refused an application for exclusion of the subject property, again reiterating that the property has excellent agricultural potential based on its size and soils capability rating. Reconsideration of this application was refused.

Nearby property has also been refused for exclusion. Lot F of Plan 30913, located to the southwest of the subject property, was refused for exclusion by Resolution #974/83 in 1983 on the grounds that the land has good capability for agriculture.

Director Stanhope has indicated he does not support this application. Director Stanhope's comments are attached (*see Schedule No. 8*).

ALTERNATIVES

1. To deny the application for exclusion of land from the ALR and advise the Land Reserve Commission that the application is not proceeding.
2. To provide a Board Resolution recommending the ALR exclusion be considered for approval subject to an amendment to the Growth Management Plan.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The Regional District of Nanaimo Growth Management Plan contains policies that do not support the subject application. In the interest of containing urban sprawl, Policies 1C and 2A require future urban development be directed to community nodes, including Urban Containment Boundaries, Village Centres or Present Status lands. The subject property is not located within the Urban Containment Boundary or any of the other categories. Furthermore, Policy 3D of the GMP states that OCPs will include policies supporting retention of land in the Agricultural Land Reserve.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Englishman River Official Community Plan Bylaw No. 814, 1990, designates the subject property as "Rural" lands that are intended to act as a buffer zone between resource lands and more intensive suburban land uses. These parcels are characterized by large lot residential and hobby farm activities and shall have a minimum parcel size of 2.0 hectares.

OCP policy states that the Regional District supports the Land Reserve Commission (LRC) in their mandate to preserve agricultural land, particularly as large land holdings. The Board may support the use of agricultural land for non-farm purposes provided that permission for the proposed use is granted by the Land Reserve Commission, the proposed use will not reduce the future agricultural potential of the land, and the use is compatible with surrounding land use patterns.

OCP policy addresses the existing and potential needs for upgrading the road network. Despard Avenue was identified as a potential major road network connector, and this could affect the subject property. The Ministry of Transportation has confirmed there are no plans for physical works to take place along Despard Avenue at this time, but the proposed connector route should be protected for future development (*see Schedule No. 5*). However, it should be noted that construction, upgrading or dedication of these routes cannot proceed without approval of the Land Reserve Commission.

INTERGOVERNMENTAL IMPLICATIONS

The applicant has suggested the subject property be incorporated into the City of Parksville municipal boundaries. Although a municipality may submit a proposal to the Province to extend a municipal boundary for any reason, the 1998 Urban Containment and Fringe Area Management Implementation Agreement specifically states that revision of urban containment boundaries should occur only when:

- lands within the urban containment boundary are not sufficient for community needs;
- when the land is not in the ALR or FLR;
- when land can be serviced in a cost effective manner; and
- when the adjustment will not lead to adverse changes to the resource productivity of adjacent lands.

Therefore, potential inclusion of the subject property within the City of Parksville limits is not supported by, and would be contrary to, this Implementation Agreement.

The City of Parksville was notified of the application for exclusion of the subject property from the ALR. Comments received from the City of Parksville staff indicate servicing requirements, including water, sewer, storm drainage and transportation networks, for potential exclusion would need to be reviewed for feasibility (*see Schedule No. 6*).

LAND USE IMPLICATIONS

The applicant's primary argument for exclusion of the subject property from the ALR is that the land is not viable for agricultural use. Further, the applicant has indicated that this property is a logical extension for residential development within the area, particularly given proximity to the City of Parksville municipal boundary and given that the property lying within an isolated pocket of ALR land. Staff notes that due to topography and soil conditions, large portions of the ALR are within isolated pockets on Vancouver Island, and the subject property is not unique in that it is proximate to non-ALR lands.

PUBLIC CONSULTATION IMPLICATIONS

To date, three inquiries have been received as a result of this application. These inquiries have confirmed that the subject property has previously been utilized as productive farmland, and have expressed concerns with the subject property and surrounding area being incorporated into the City of Parksville. Written submissions are attached in *Schedule No. 7*.

SUMMARY/CONCLUSIONS

The Regional Board is requested to provide a resolution to be forwarded to the Land Reserve Commission for an application to exclude approximately 12.2 hectares (30.19 acres) of land from the ALR for the purpose of constructing a comprehensive residential development consisting of small lot

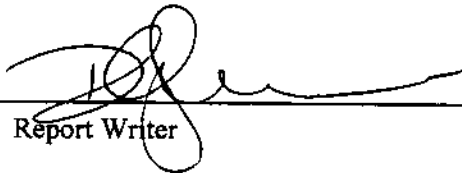
patio homes, duplexes and studios. Applications for exclusion have previously been submitted and refused by the Commission in 1979, 1993 and 1995.

Policies in the Regional Growth Management Plan and the Englishman River Official Community Plan do not support the applicant's proposal.


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

RECOMMENDATION:

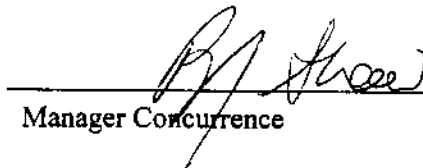
1. That the application for exclusion from the Agricultural Land Reserve for the property legally described as Lot G, District Lot 12, Nanoose District, Plan 30913 be denied and that the Land Reserve Commission be advised that the application is not proceeding.



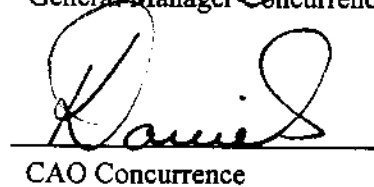
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2001/6635 02 0112 no alr Wosk.doc

Schedule No. 1 (Page 1 of 2)
 Application for Exclusion from the ALR



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

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

PART 1 APPLICANT

Registered Owner: SONNY WOSK (373019 BC LTD)		Agent: ARY COWIE	
Address: SUITE 1604		Address: 5747 Mackenzie ST.	
591 WEST 57 th AVE.		VANCOUVER, BC, 1	
VANCOUVER BC	Postal Code V6P1R9		Postal Code V6N-4J6
Tel. (home) 604-324-0589 (work)	E-mail	Tel. 604-266-1736	Fax. 604-266-7736
Fax.		E-mail	arikospin@RememberNow.com

PART 2 TYPE OF APPLICATION (Check appropriate)

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

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

REGIONAL DISTRICT OF NANAIMO

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

Legal Description:	Size of Each Parcel (Ha.)	Date Acquired (Mo.) (Yr.)
LOT G, DISTRICT 12, NANOOSE DISTRICT, PLAN 30913	12.2 Ha (30.19 acres)	Jan. 31 1994
Total Hectares:		

Schedule No. 1 (Page 2 of 2)
 Application for Exclusion from the ALR

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

Legal description:	Present use:
<u>SKETCH IN TERA PLANNING LTD. REPORT</u> <u>& CONCEPT PLAN ATTACHED</u>	<u>UNUSED FARM</u>

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

List all existing uses on the entire parcel: orchard, hayfield, pasture, wooded, etc.
THE PROPERTY IS NOT BEING USED FOR FARMING

Describe all buildings: THE HOME IS REASONABLE CONDITION - SO IS THE BARN

Describe the main physical characteristics: flat, hilly, rocky, clay or sandy soil, watercourses, roads, etc.
FLAT WITH LOW GRADE IN CENTRE

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

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

North SINGLE LOT SUBDIVISION & STRATA TOWN HOMES
 East FIVE ACRE (APPROX.) RURAL LOTS
 South TWO RURAL LOTS & SMALL LOT SUBDIVISION
 West SMALL LOT SUBDIVISION

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

COMPREHENSIVE RESIDENTIAL DEVELOPMENT WITH
SMALL LOT PATIO HOMES, DUPLEX TOWN HOMES &
STUDIOS.

PART 9: DECLARATION

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

October 4th 2001 373019 B.C. LTD.
 Date Signature of Owner(s)

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

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

PAGE
65

Schedule No. 2 (Page 1 of 10)
Information to Accompany
Application for Exclusion from the ALR

Ekos Planning Inc.

**Proposal to remove
Property from the ALR**

**Regional District of Nanaimo /
Land Reserve Commission**

Sonny Wosk
365 Meadow View Place
Parksville, B.C.

Oct. 9th, 2001

Schedule No. 2 (Page 2 of 10)
Information to Accompany
Application for Exclusion from the ALR

Preface

Mr. Sonny Wosk has asked me to review the Agricultural Land Reserve (ALR) designation for his 30 acre land parcel, at 365 Meadow View Place, Parksville, B.C., with the objective of having the ALR designation removed. After reviewing the situation with the regional district and municipal planning departments, file information provided me by Sonny Wosk regarding a 1995 application for exclusion, the City of Parksville Official Community Plan (OCP) and Amendments, the Regional Growth Management Plan Review Terms of Reference, requirements for making an application for ALR exclusion, Environmental Assessment and Agricultural Assessment prepared by Tera Planning Ltd. in 1994, Subdivision plans prepared by Weber & Associates and the application information form and information package, I have concluded that this parcel of land should not be in the ALR. As part of this review I also took a look and photographed the parcel itself and the surrounding land.

Observations

1. The updated OCP Future Land Use Map (1997) shows this parcel and adjacent acreage property completely surrounded by existing and proposed urban development. Land to the west, across Corfield Street, has been partially developed as small lot single family housing, to the north there is an older single family subdivision and to the south there is a small lot subdivision called Corfield Glades. To the immediate east there is 5 acre rural parcels and a trailer park. A large parcel east of this has been designated Future Development Area (FDA) and approximately a 30 acre area on Island Highway has been designated Highway Commercial (HC). Mr. Wosk's parcel and land to the east and a small parcel to the south are in the ALR.
2. The City of Parksville OCP and past correspondence from the city since 1993 clearly indicates that the Wosk property is envisioned for future residential use. In a City of Parksville policy report dated December 21, 1998 clause 8.2.4.4, it states: "District Lot 12, Block 607 and Block 419 north of the Island Highway are good candidates for incorporation within the boundaries of the City of Parksville. It is further recommended that the Inland Island Highway form the new municipal boundary between the Albernie Interchange and Craig's Crossing". Notes taken in the past on the ALR Exclusion Application # S-29393, indicate that the Regional Board was not opposed to the Wosk property being included within the City of Parksville boundary.
3. Corfield Street is a major roadway on the west property boundary and where there is a sanitary sewer connection available to service the property. The OCP Road Network Plan envisions two alternatives for a major collector going through the middle of the parcel. Past correspondence questions the need for an east west connector at all going through the property. It is my understanding in speaking with Gayle Jackson, planning director for Parksville, that the need for this connector is being reevaluated.

Schedule No. 2 (Page 3 of 10)
Information to Accompany
Application for Exclusion from the ALR

4. The 1994 Tera Planning Ltd. report clarifies that the soil rating is Class 3 and 5. The northern class 3 soils with a clay base are best because of their fertility and high water holding capacity. The southern soils have more sand and gravel and therefore classified as 5. Water availability is a major problem. There is not sufficient water for crops and future water for this purpose will not be made available by the City of Parksville. There has been attempts to grow turf but even this use of the land is not possible because of the lack of water. The land is currently left unattended. The original Tera report is being resubmitted along with a one page update by Helmut Urhahn, agronomist.
5. My, observation and discussion with real estate professionals confirms that the market for new housing in Parksville is weak at the present time. Research that I have done recently indicates a fairly strong housing demand further north in the Comox, Courtenay and Campbell River communities, especially for the retired market. The current population growth in Courtenay is about 1.9%. With the new provincial government in place, and after a one or two year economic adjustment period, the market for housing in the Parksville area is expected to recover. Vancouver Island is recognized as a safe and good environment to live. The most recent terrorist attack on the now vanished World Trade Center in New York has made people evaluate where they want to live. While no place on earth seems safe, Vancouver Island has to be one of the most safe places on earth to live. I know of some friends talking of moving to the Parksville to Campbell River area for this reason. I believe, an imaginative housing development for the Wosk property could be marketable in 4 to 5 years. This property is in a good location within a 10 to 15 minute walk from the new city hall and commercial and waterfront facilities. The target housing market will probably remain as moderately priced homes but slightly up market from some of the surrounding developments. Because of the 30 acre size of the property, it is possible to plan for some extra amenities that appeal to the retired and empty nester population. The housing types should be especially designed for this market.
6. After discussions with the Regional District of Nanaimo and City of Parksville planning officials, I concluded it was best to apply for the ALR exclusion through the regional district and not become at this time with the issue of Parksville boundary extension issue. The Wosk property geographically should logically belong within the City of Parksville boundary and I can only assume that this matter will be resolved in the near future, perhaps through the Regional District of Nanaimo Growth Management Plan review.
7. In planning for a future housing development on the Wosk property and keeping some of the objectives of the Regional Growth Management Plan in mind, particularly the containment boundary, it would seem appropriate to service the site only from Corfield Street. This servicing strategy would help contain the urban growth to the east boundary of the property next to properties that are currently being used for 5 acre rural residential use. The east boundary, if provided with a tree screen, would make an excellent transition between urban and rural uses. This new containment boundary also

Schedule No. 2 (Page 4 of 10)
Information to Accompany
Application for Exclusion from the ALR

eliminates the obvious intrusion of ALR into the middle of existing residential land on three sides of the Wosk property.

8. Sonny Wosk purchased this 30 acre property in the early 1990's with the goal of developing it for residential purposes to meet the growing need of housing at the time. A combination of the ALR restrictions and a downfall in the residential market on Central Vancouver Island, especially in the Nanaimo area, prevented the property from being developed. Other properties, on three sides, within the City of Parksville boundaries, have been developed since. This property is an isolated portion of the ALR. The City of Parksville it is in favor of having the property developed. The property is currently valued at \$500,000, approximately 30% of it's purchase price of \$1.6 Million, which has caused considerable hardship. Without adequate water for irrigation there has been no way to maintain even a turf farm, which is permitted under the ALR legislation.

Goals of Application

1. Sonny Wosk needs to find a long term development solution to the property.
2. The solution that is being proposed is to first have the property removed from the ALR so that a 5 year development plan can be prepared for the property that fits with the City of Parksville OCP and development objectives. As mentioned under objectives Council seems the city will support a residential subdivision that is based on a quality design approach. Once the removal from the ALR has taken place, the 30 acre site should be included within the City of Parksville, where it logically belongs.
3. A 5 year management plan will allow Sonny Wosk to arrange for the development of the site in a manner that is consistant with several of the goals outlined in the Regional District of Nanaimo Growth Management Plan.
 - The development concept envisioned would contribute to a strong urban containment. The concept sketch plan attached prooposes a cluster approach with a large open space in the centre with a lake and park like ambiance together with the original house that can be relocated and renovated as a clubhouse.
 - The proposed layout with friendly pedestrian open spaces will act as a node welcoming friends and members of the community.
 - A tree buffer will separate the urban residential development within the development from the rural land to the east.
 - Further urban development will be discouraged by having only one main road access off Corfield Street and no service roads, sanitary or water services extended toward the eastern boundary of the site.
 - The proposed layout of homes, service roads and pedestrian pathways encourage walking and cycling. The property is only 10 to 15 minutes from the centre of Parksville commercial and waterfront area. Should a mini-bus service be required by the residents of what we call Meadowville Estates, arrangements can be easily arranged through the community

Schedule No. 2 (Page 5 of 10)
Information to Accompany
Application for Exclusion from the ALR

organization. It is proposed that the property will be developed as a bare land strata project with the residents responsible for maintaining the parks and renovated existing home which will serve as a clubhouse or community centre.

4. The concept plan envisions that most of the homes will be targeted to the retired and empty nester market. Two types of dwellings are proposed; duplexes and patio homes. Some provision has been proposed for a number of studios to be owned by adjacent home owners. This is a popular idea found in several retirement communities on Vancouver Island. It allows a couple or individual to have a home business, craft or hobby. The studio could also be used as guest accommodation for a relative or friend. A typical studio is illustrated on the photo sheet labeled Typical House Types.
5. A residential development such as envisioned requires 5 to 10 years to plan and execute. This is one reason why Sonny Wosk wants to deal with the ALR request for exclusion now, well in advance of an expected recovery in the housing market. Another compelling reason is that the Regional Management Plan is currently being reviewed and the intention is to only review it every 5 years. To wait another 5 years before this property can be considered for development would create yet another extreme hardship for Sonny Wosk.

Conclusion

As stated in the December 21, 1998 City of Parksville Policy document, the Wosk property is a good candidate for inclusion within the city boundary with the obvious intention to develop the property for future housing.

While the land at one time had agricultural potential, if sufficient water were available, and surrounding development were curtailed, it is obvious that agriculture is no longer a valid use, or even possible. The concept sketch plan that I have suggested will help stabilize the rural urban boundary which is a concern of the Land Commission. This could be one of the first "Green Concept" subdivisions in the Parksville area and serve as a model for other development.

I recommend that the Regional Board approve the Wosk application for ALR Exclusion and recommend approval to the Land Commission.

Prepared for Eikos Planning Inc. by Art Cowie PIBC, FCSLA
For further information on Art Cowie and Eikos, kindly consult
Website: www.RememberNow.com.

Schedule No. 2 (Page 6 of 10)
Information to Accompany
Application for Exclusion from the ALR

Appendix

- Area Future Land Use Plan showing location of Wosk property
- Concept Sketch Plan for the Wosk property
- Wosk property existing photos
- Typical house types to illustrate housing proposed for the development

Attached:

Environmental Assessment and Agricultural Assessment 1994 prepared by Tera Planning Ltd. along with an update letter by Helmut Urhahn.

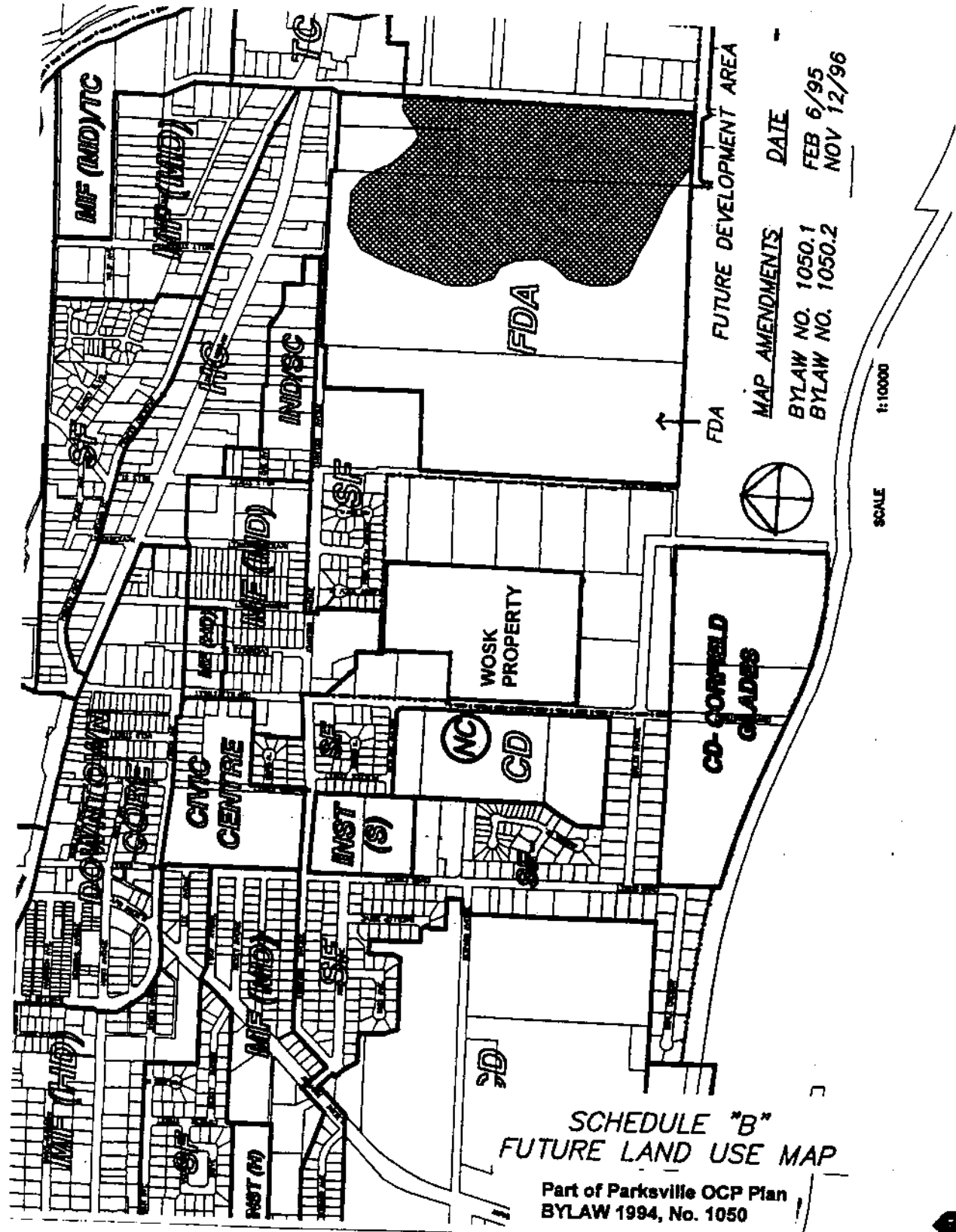
Copy of Property Tax Notice marked paid

Copy of list of owners who were sent notice

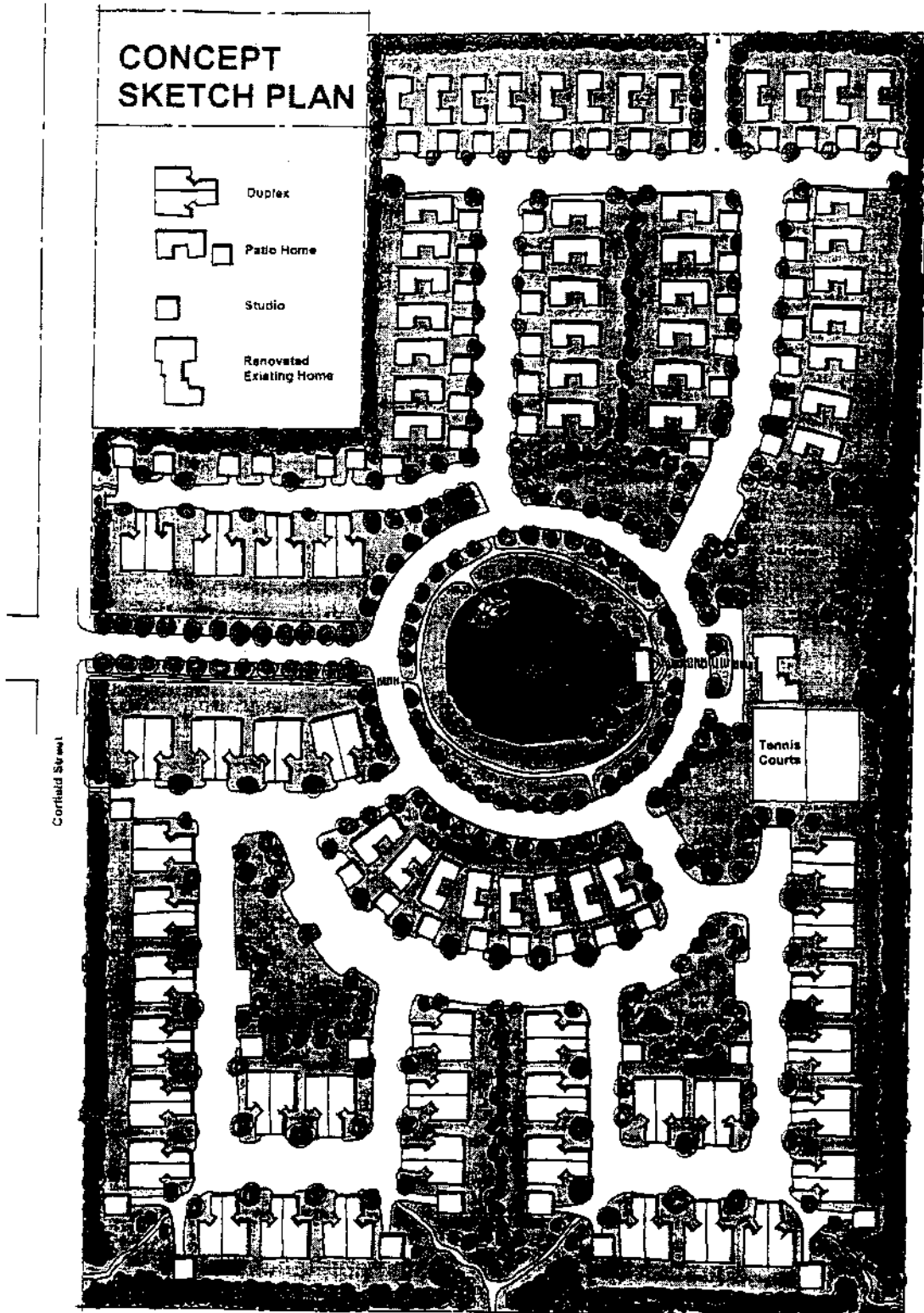
Copy of cheque made out to the Regional District of Nanaimo

Note: A photo of the notice sign in location on site will be sent by mail

Schedule No. 2 (Page 7 of 10)
 Information to Accompany
 Application for Exclusion from the ALR



Schedule No. 2 (Page 8 of 10)
Information to Accompany
Application for Exclusion from the ALR



**MEADOWVILLE
ESTATES**

365 Meadow View Place
Parkville, B.C.



Reduced Scale 1:2000
Date: September 2001

Eikos Planning Inc.

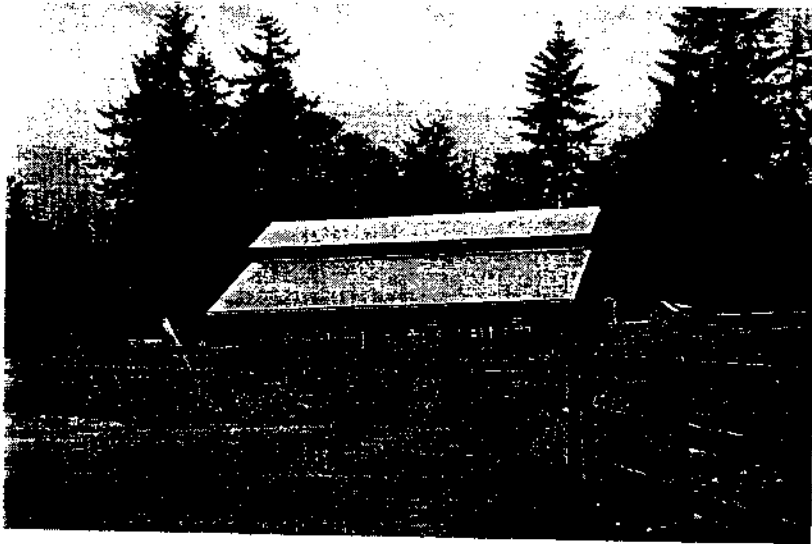
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Schedule No. 2 (Page 9 of 10)
Information to Accompany
Application for Exclusion from the ALR

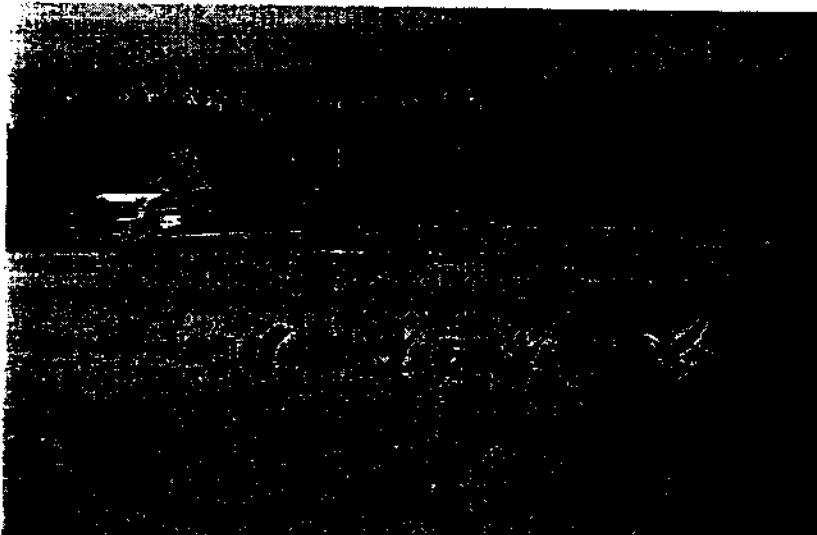


**Wosk
Property**

Existing House

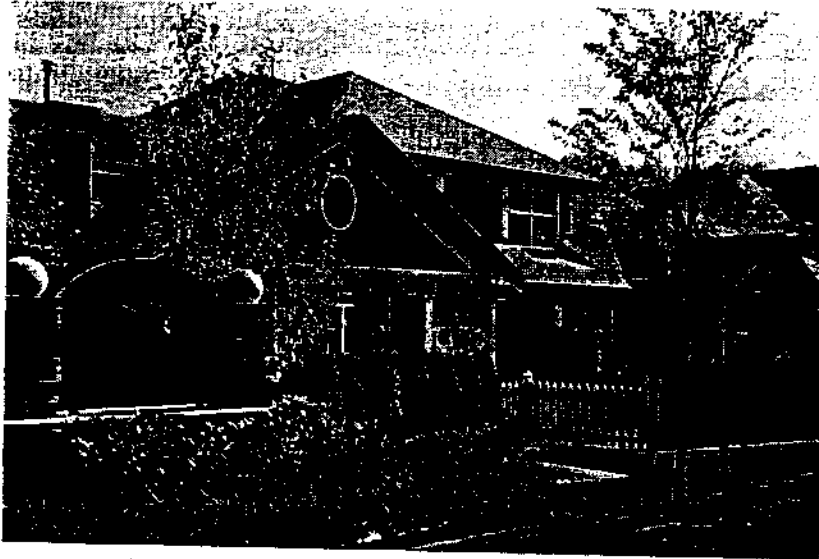


The Barn



The Meadow

Schedule No. 2 (Page 10 of 10)
Information to Accompany
Application for Exclusion from the ALR



**Typical
House
Types**

**Duplex
"Chesapeake
Landing"**



**Patio Home
"Wellburn
Estates"**



**Studio
"Sunset
Nursery"**

Schedule No. 2 (Page 11 of 13)
Information to Accompany
Application for Exclusion from the ALR



September 27th, 2001

Art Cowie
Eikos Planning Inc
5747 Mackenzie St
Vancouver, B.C.
V6N 4J6

Dear Art Cowie:

RE: Proposal to Remove Property from the Agricultural Land Reserve
365 Meadowview Place, Parksville B.C.

I have re-read our Phase 1 *Environmental Assessment and Agricultural Assessment of the Parksville Wosk Property in the Regional District of Nanaimo*. TERA conducted this report on behalf of Sunny Wosk in 1996. At that time, our report was part of an application to the Agricultural Land Commission to exclude the property from the land reserve. On March 7th 1996, the Agricultural Land Commission refused the exclusion on the grounds that adequate water supply was available to continue agricultural activity.

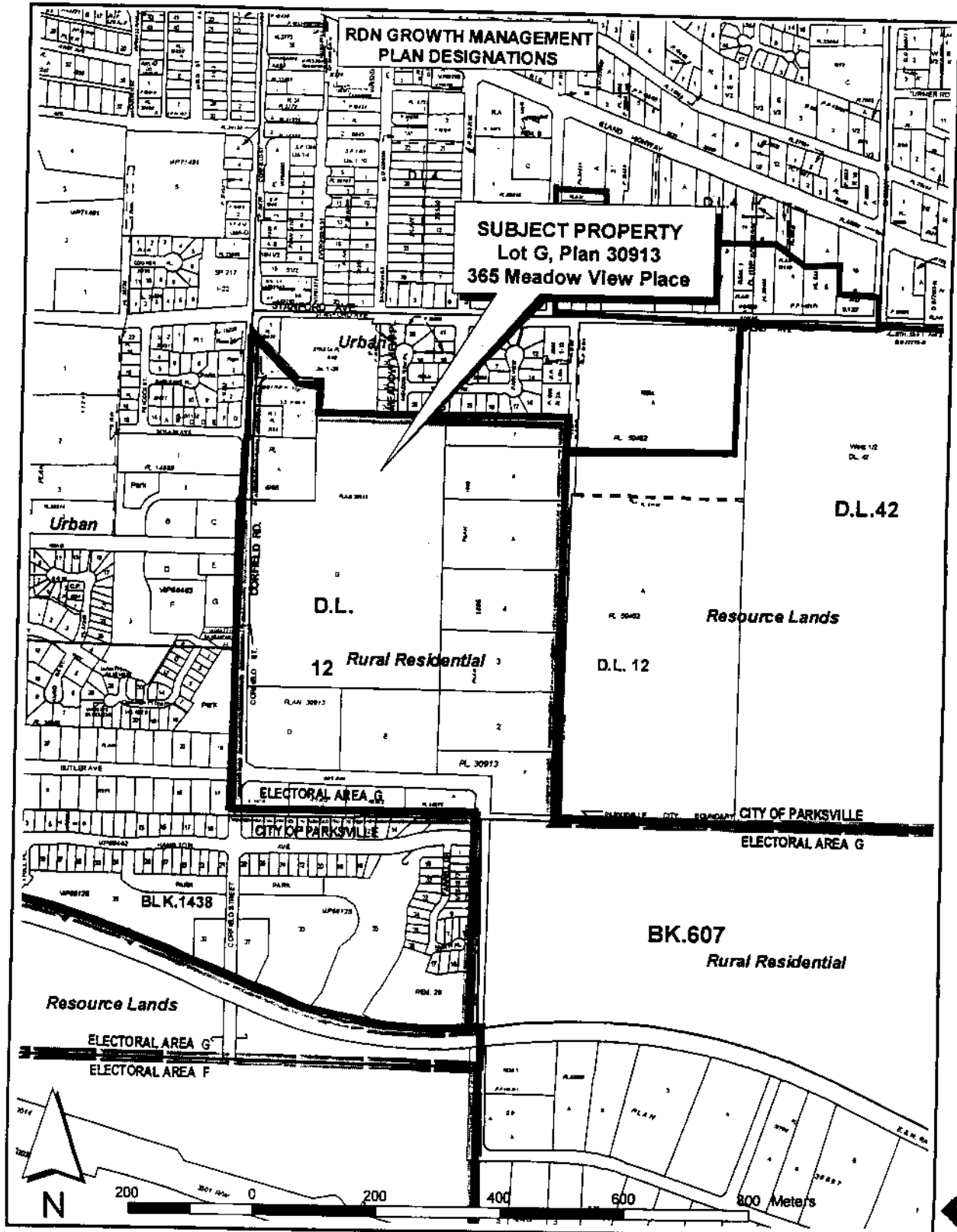
Since that time, a number of changes have occurred on and surrounding the property. These changes include:

- 1) The turf farm ceased operations because of further reduction of surface and groundwater supply, specifically due to the extension of Corefield Road which has removed 22 hectares of recharge draining into the dugout. This removed almost 40 percent of the total recharge to groundwater and the ditches and dugout.
- 2) Parksville's water supply is used for drinking water only and does not have the capacity to supply irrigation water. Given the fact that even in the past both groundwater and the dugout water supply only irrigated a portion of the turf farm, this further water supply reduction makes ongoing operation on the turf farm impossible.
- 3) The property is now surrounded by urban development. This agricultural pocket has now been isolated into a small island. This neighborhood is historically not in favor of intensive farming activities and, therefore, the ability to farm this parcel is seriously degraded.

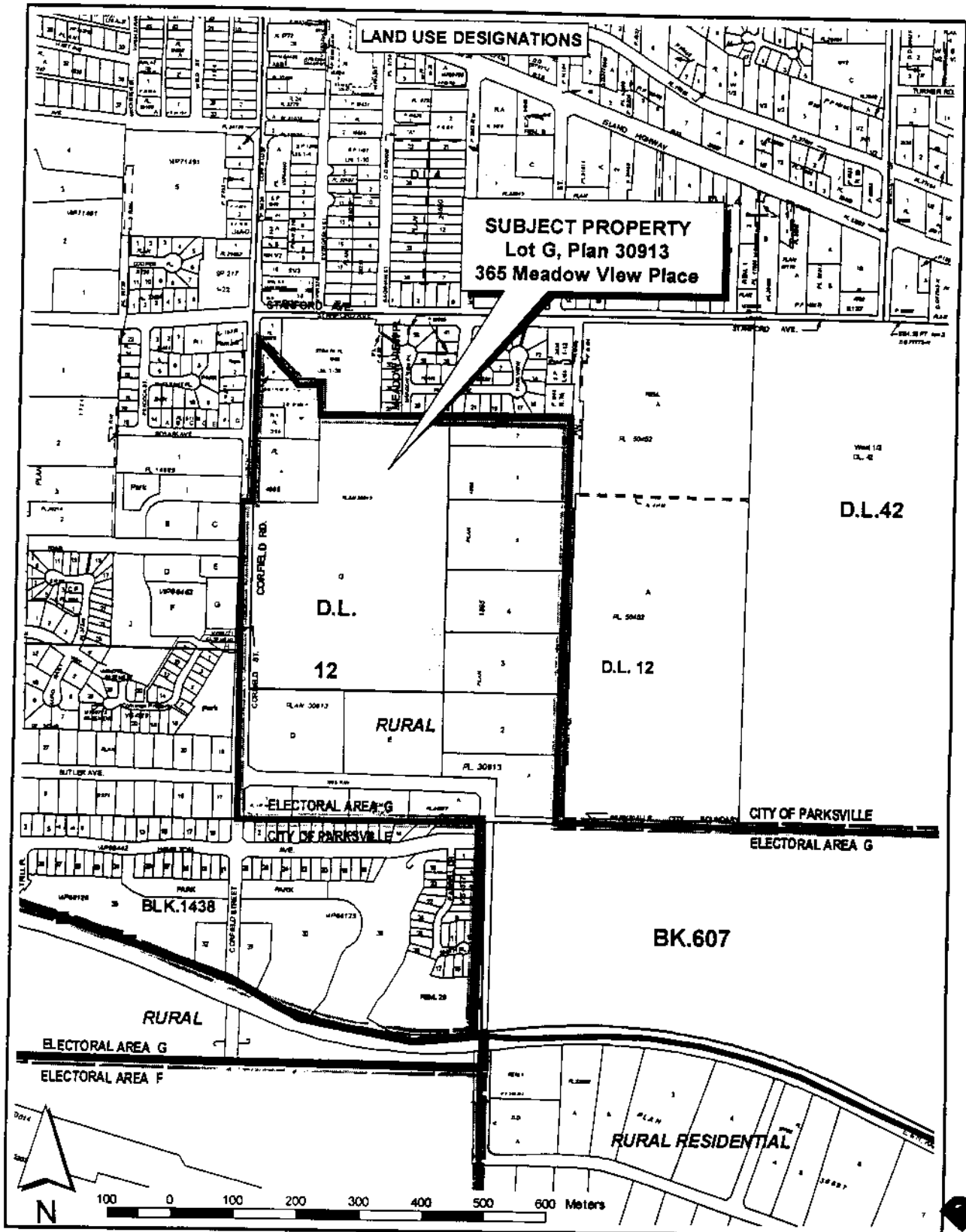
I have reviewed the proposed development plan and established that it proposes a green urban infrastructure for stormwater management. This will include the maintenance of pre development flows, rate control, and water quality treatment. This will protect the integrity of the eastern drainage of Shelly Creek including its fisheries and value.

... 2

Schedule No. 3
Growth Management Plan
Land Use Designation



Schedule No. 4
Official Community Plan
Land Use Designation



Schedule No. 5
Road Network Expansion



FAX: 390-4183

File: 06 002 23841

October 24, 2001

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo British Columbia V9T 6N2

Attention: Deborah Jensen, Planner

**Re: Application for Exclusion from the ALR - Lot G, District Lot 12,
Nanose District, Plan 30913 - 365 Meadow View Place**

In response to your letter dated October 23rd, 2001, regarding the extension of Despard Avenue through the above-noted property.

The Ministry has reviewed the network plans with the Regional District and it was agreed that Despard Avenue becomes a network road requirement for this area. The Ministry has no plans for any physical works to take place on Despard Avenue at this time. However, there is a need for Despard Avenue to be protected through the subject area to comply with the OCP projections. The Ministry recommends that Despard Avenue be protected through the property.

Should you have any questions, please do not hesitate to contact me at 390-6291.

Yours truly,

Handwritten signature of Dean Anderson in black ink.

**Dean Anderson
Sr. District Development Technician**

DAVf

cc: Mac Nanton, Regional Planning Engineer

Ministry of
Transportation

Central Island District

Mailing Address:
6475 Motral Drive
Nanaimo, British Columbia
V9T 2L9

Site Address:
Telephones: (250) 390-6100
Facsimile: (250) 390-6206
Development Approvals
Facsimile: (250) 390-6297

Web Address:
www.gov.bc.ca/tran

Schedule No. 6 (Page 1 of 2)
City of Parksville Comments



City of PARKSVILLE

PO Box 1390, 100 E. Jensen Avenue, Parksville, BC, V9P 2H3
Telephone: (250) 248-6144 Fax: (250) 248-6650
www.city.parksville.bc.ca

November 2, 2001

VIA FAX: 1-250-390-4163

PAGE 1 OF 2

Regional District of Nanaimo
6300 Hammond Bay Road
P.O. Box 40 Lantzville, B.C.
V0R 2H0

ATTENTION: DEBORAH JENSEN, PLANNER

Dear Ms. Jensen:

SUBJECT: APPLICATION FOR EXCLUSION FROM THE AGRICULTURAL
LAND RESERVE OF LOT G, DISTRICT LOT 12, NANOOSE
DISTRICT, PLAN 30913 (365 MEADOW VIEW PLACE)

Thank you for the referral of the Application for Exclusion from the Agricultural Land Reserve. Our comments follow.

Located to the west of the subject property is the Cedarcrest Development. This property is designated Comprehensive Development in the City's Official Community Plan and the potential build out for this area is 212 units. Located to the north of the subject property are properties that are designated as Multifamily (medium density) and Single Family Residential.

This application has raised some issues regarding servicing. In a general sense, since the subject property lies outside the City of Parksville boundaries and is currently within the ALR designation, the servicing implications and associated costs of a change in the land use need to be identified.

A water and sewer analysis would need to be completed to confirm the upgrading and new construction requirements to serve the area and the proposed land use change. The local storm drainage system is being developed based on the existing ALR designation; any change would require an analysis to identify the impacts of the proposed changes. The Road Network Plan in the City's Official Community Plan shows a future arterial roadway extending through the subject property. The City currently is conducting a Transportation Plan Update, so the specific impact of the any development is unknown at this time. There will be a need to study and identify the internal road network requirements to suit any change in land use.

.../2

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82

Schedule No. 6 (Page 2 of 2)
City of Parkville Comments

D. Jensen
November 2, 2001
Page 2

If you wish to discuss this matter further or require additional information, please do not hesitate to contact me.

Yours truly,



DAVID WIDDIS
Assistant City Planner

DDW/sh

gj/0480-RDN/Jensen-1.

cc G. A. Jackson, Director Community Planning
G. O'Rourke, P. Eng., Director of Engineering and Operations

Schedule No. 7 (Page 1 of 3)
Submissions

D. Hewitt
Box 11
Nanoose Bay, B.C.
V9P 9J9
(Telephone: (250) 248-5977

October 24, 2001

PLANNING DEPT
-11- - 5 2001
RECEIVED

Deborah Jensen
Planning Department
Regional District of Nanaimo

Dear Ms. Jensen and others concerned:

With respect to the application for exclusion from the ALR made upon Lot G, D.L. 12, Nanoose L.D., Plan 30913, by owner, SONNY WOSK, 373019 B.C. Ltd., I would like to offer the following comments.

I am the owner of an adjoining property described as Lot 25, D.L. 12, Nanoose L.D., Plan 33538. Ownership of this lot passed to me from the original owners, my parents. My late father and I built the existing home in 1980 - 1981. This has given me the opportunity to observe activities on the applicant's property for better than 20 years, even to the extent of walking freely on it in those bygone days.

At that time, regular annual haying operations were conducted on the property by the McLean brothers of Coombs, B.C. who harvested what appeared to be a bountiful crop, year after year.

A change of ownership brought the construction of a large single family home by Mr. and Mrs. Dick Allin. Mr. Allin developed the bulk of the property as a turf farm, which operated continuously during his tenure. We watched as many truckloads of very healthy, looking turf passed our home.

On the upper portion of the property, Mr. Allin constructed a large modern barn, farm outbuildings or corrals, and hundreds of yards of fencing, some with steel gates and electric components. The interest was horses, and a number were boarded and pastured without the need for outsourcing hay. The above mentioned improvements for the keeping of livestock appear to be in good order for re-activation to this day.

In recent years, the current owners have apparently abandoned agricultural uses of Lot G, perhaps with any eye to the more lucrative world of non-agricultural development. However, the parcel remains, in my opinion, eminently viable as agricultural land. The majority of it is archetypal "bottom land", with rich soil and a high water table which facilitates plant growth during dry summers. It seems to me to be the very sort of land which the ALR was designed to protect.

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Schedule No. 7 (Page 2 of 3)
Submissions

2

I would also like to express my concern at the potentially misleading statements made by the applicant's agent, Mr. Art Cowie, in the letters of notification sent to adjoining landowners. I have included a copy of this letter for your perusal.

In the second sentence we will find the following claims:

- a). "the property cannot be farmed....."

This is purely an opinion, and indeed the property's history shows just the opposite to be true. A determination of this type is rightfully made only by the Commission.

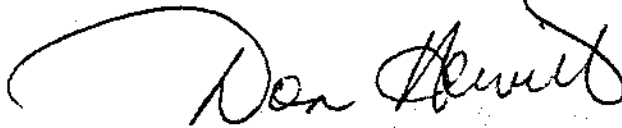
- b). "..... future plans of the City of Parksville envisage (the property) used for residential use".

This statement prompted me to call the City of Parksville to seek verification. Their planning department promptly disclaimed having given any such indication, either express or implied. The property under application is, of course, not in the City of Parksville, but is under Regional District of Nanaimo jurisdiction. A further call to the RDN planning department produced a similar disclaimer.

I suggest that these statements may be improper in an applicant's notification process, and am concerned that the air of authority which they convey may have discouraged legitimate opposition.

Agriculturally viable lands are a finite resource in need of continuing protection. I strongly urge that the Commission make use of its expert evaluation resources and give this one all the scrutiny that it warrants.

Thank you for your kind consideration of my comments.



DON HEWITT

Schedule No. 7 (Page 3 of 3)
Submissions

5747 MacKenzie St.
Vancouver, BC, V6N 4J6
Tel: (604) 266-1736
Fax: (604) 266-4736

PLANNING DEPT

-11- - 5 2001

RECEIVED

Dear Neighbour:

Re: 30 Acre Parcel
365 Meadow View Place
Parksville, BC

Sonny Wosk is applying to have his above property taken out of the Agricultural Land Reserve (ALR). The property cannot be farmed and future plans of the City of Parksville envisage it used for residential use. Attached is a copy of the application to exclude the property from the ALR, a location plan indicating surrounding uses as indicated on the Official Community Plan and a concept sketch plan.

You can see from the concept sketch plan that the project is intended to be a quality development with considerable open space. The type of houses that are applied for will depend on the market at the time of actual development in the next few years. We expect the market will be for duplex units with individual gardens and one level patio homes. We envision the opportunity for some units to have studios that can be used for hobby space or home offices. This is popular in many quality developments and provides flexibility, particularly for the middle age and retirement housing market.

If you would like more information, you can call me. I am a planner and Mr. Wosk's agent for the application. If you have any comments, you can direct them to Deborah Jenson, Planning Department, Regional District of Nanaimo, P.O. Box 40, Lantzville, BC, V0R 2H0 by October 24th, 2001.

Regards,


Art Cowie

Schedule No. 8
Director Comments



REGIONAL
DISTRICT
OF NANAIMO

File: ALR 0112

October 11, 2001

Director J. Stanhope
1025 West Island Highway
Parksville, BC
V9P 2E1

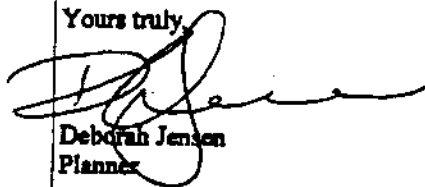
Dear Director Stanhope:

RE: *ALR Application 0112*
Lot G, District Lot 12, Plan 30913, Nanoose Land District
Meadow View Place Electoral Area: 'G'
RDN Map Reference No: 92F.039.1.2

Enclosed is a copy of an application for exclusion within the Agricultural Land Reserve on the above-mentioned property located in Electoral Area G. This is an application to exclude approximately 12.2 hectares of land, and to subsequently develop an approximately 119 unit residential subdivision. The property is currently zoned Rural 1 (RU1), with a land use designation of Rural within the Englishman River Official Community Plan Bylaw No. 814, 1990.

Your comments with respect to this application would be appreciated by October 26, 2001. These comments will be forwarded, along with the application prepared by staff, to the LRC for their decision.

Yours truly,

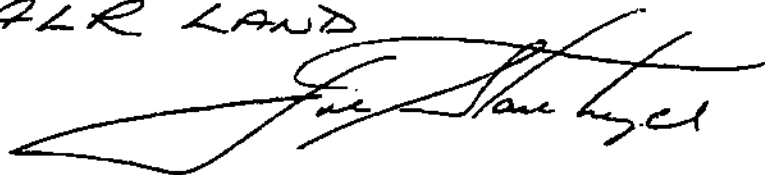


Deborah Jensen
Planner

Enclosures
1. ALR Application

DIRECTOR'S COMMENTS:

*I DO NOT SUPPORT EXCLUSION
OF ALR LAND*



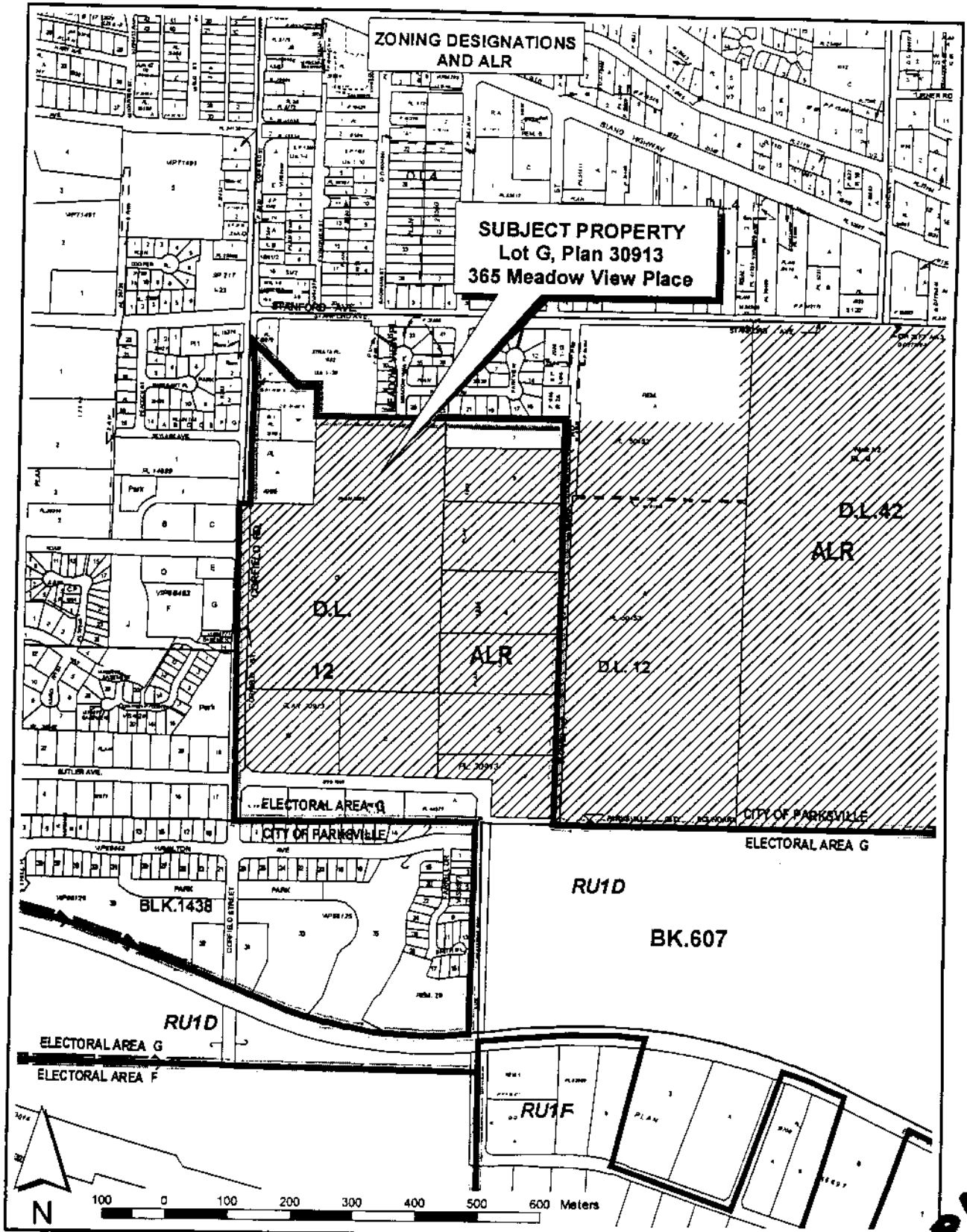
**PAGE
87**

6300 Hammond Bay Rd.
Nanaimo, B.C.
V9T 6N2

Ph: (250)390-4111
Toll Free: 1-877-607-4111
Fax: (250)390-4163

RDN Website: www.rdn.bc.ca

Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO		
NOV 14 2001		
CHAIR		GMCrS
CAO		GMDS
GMDS		GMES
		ISC ✓

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: November 13, 2001

FROM: Deborah Jensen
Planner

FILE: 6635 02 0109

SUBJECT: ALR Exclusion - Law & Devereaux
Lot 1, Section 10, Range 3 and of Section 11, Ranges 2 and 3, Cranberry District, VIP60641
Electoral Area 'C' - Godfrey Road

PURPOSE

To consider an application to the Land Reserve Commission for exclusion or transfer of lands (to include arable hayfields and exclude rocky areas) and to provide a resolution by the Board to be forwarded to the Land Reserve Commission as input for their decision.

BACKGROUND

The Regional District of Nanaimo has received an application to exclude an approximately 3.5 hectares (8.6 acres) portion of the subject property from the Agricultural Land Reserve (ALR). Applications for exclusion are forwarded to the Board for its consideration due to Regional Growth Management Plan issues and to highlight potential OCP amendment or rezoning implications. However, it is noted that if the Regional Board denies an application that is inconsistent with an approved Plan, the Agricultural Land Reserve Act does not require the application to be heard by the Land Reserve Commission (Section 22(4)(2)(b) and therefore it may be denied or withheld by the Regional Board.

The subject parcel is located adjacent to Godfrey Road in the Extension area (see Attachment No. 1). Much of the surrounding area is located within the Forest Land Reserve or Agricultural Land Reserve, with only a portion of the subject property contained within the ALR. The applicant originally submitted an application to exclude one portion and include another portion of the property into the ALR. The applicant has amended the application to exclude the entire ALR portion of the subject property, but has indicated they would still entertain the proposal set out in the original application. The intention of the applicant is to eventually rezone and subdivide the subject property into two parcels about 2.5 hectares (6.2 acres) and 4.4 hectares (10.9 acres) in size (see Schedules No. 1, 2 and 3).

The parent parcel was previously subdivided in 1995, creating the subject property and another parcel. No formal application for subdivision within the ALR was made to the Land Reserve Commission (LRC) as the subdivision did not affect the ALR portion of the property. However, a review of the area indicated that two applications have been made for exclusion from the ALR. One application for a narrow strip of land adjacent to the subject property, along Godfrey Road, was approved in 1976, and another similar application within the same area was approved in 1991. A third application for exclusion was made in 1981 for land to the northwest of the subject property, but was refused; however, the Commission indicated they would consider a two-parcel subdivision.

Zoning and Restrictive Covenants

The Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 zones the property as R-9 (RU9), Subdivision Districts 'D' and 'Z' (see Schedule No. 4). The property is also subject to a restrictive covenant,

PAGE 87

held by the Regional District of Nanaimo, which refers to a 7.5 metres and 15.0 metres setback from the natural boundary of Harewood Lake or the natural boundary of any nearby watercourse, respectively, and addresses flood levels and removal of vegetation along any watercourses.

Director Hamilton has indicated support for the ALR exclusion based upon the property's topography (*see Schedule No. 8*).

ALTERNATIVES

1. To provide a Board Resolution recommending the ALR/non-ALR transfer of lands be approved.
2. To provide a Board Resolution recommending the ALR/non-ALR transfer of lands be denied.
3. To provide a Board Resolution recommending the ALR exclusion only of lands be denied.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The subject property has a split Growth Management Plan land use designation of Rural Residential and Resource Lands and Open Space (*see Schedule No. 5*). Given the proposal for a zoning amendment and subdivision to two new parcels, an amendment of the GMP land use designations would be required to allow for the transfer and the ultimate subdivision of the lands (as proposed in the applicant's letter/application to the Land Reserve Commission).

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Arrowsmith Benson – Cranberry Bright Official Community Plan, Bylaw No. 1148, 1999 designates a portion of the subject property as "Rural Residential" land, and a portion as "Resource" land (*see Schedule No. 6*). The "Rural Residential" designation applies to existing rural residential developments, mobile home parks, campgrounds and recreational vehicle parks, and is characterized by residential and hobby farm uses on lots less than 4.0 hectares in size. Policies applicable to this land use designation require new lots to have a minimum parcel size of 2.0 hectares.

Lands designated "Resource" are characterized as land valued primarily for forestry, resource extraction, agricultural production or environmental conservation, and residential use. These lands have an existing resource zoning or are within the ALR and have a minimum parcel size of 8.0 hectares (FLR lands in this designation have a minimum permitted parcel size of 50.0 ha). That portion of the subject property proposed for exclusion is located within the Resource land use designation and currently has a minimum permitted parcel size of 8.0 hectares.

The subject property lies within a Farm Land Protection Development Permit Area that provides for a 15-metre wide buffer between ALR and non-ALR lands. The property is also subject to a Watercourse Protection Development Permit Area that requires a 15-metre setback for alteration of land from the natural boundary of Harewood Lake.

LAND USE IMPLICATIONS

The subject property is located adjacent to Godfrey Road, southeast of the village of Extension. Pockets of ALR land are located to the south and northwest. Large tracts of FLR land are located to the northeast and southwest of the subject property. The applicant's primary argument for exclusion of land from the ALR is that the ALR portion of the subject property is not viable for agricultural use. However, other portions of the applicant's lands (not in the ALR) could be used for agriculture.

The topography of the subject property ranges from low-lying wetlands to rock outcrops. A portion of the ALR consists of rock outcrops and steep slopes, with the remainder including wetlands and a small watercourse (*see*

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Schedule No. 7). The applicant has stated the low-lying, non-ALR area was utilized as productive hay fields, and another portion has potential for a tree-growing operation.

To date, one inquiry has been received as a result of this application, expressing concern with respect to the Harewood Lake water table should the subject property be further subdivided into two parcels.

SUMMARY

The Regional Board is requested to provide a resolution to be forwarded to the Land Reserve Commission for an application to exclude approximately 3.5 hectares (8.6 acres) of land from the ALR for the purpose of applying for a zoning amendment and subdivision into two parcels. As an alternative to full exclusion, the applicant is proposing to exclude portions of the lands (approximately 1.0 hectare) of land from the ALR and include other portions of the land (approximately 1.9 hectares).

The application was referred to Director Hamilton (Area 'C') for comment. Director Hamilton indicated support for the removal of the rocky portions of the property from the ALR (see Schedule No. 8).

This application has Growth Management Plan implications in that an amendment to the Growth Management Plan, and subsequent official community plan and rezoning amendments, would be required for the applicant to achieve their stated intentions. Staff would suggest that an application for transfer of lands from the ALR has merit to proceed to the Growth Management Plan Review Process. The Board can then provide further consideration and a recommendation to the Land Reserve Commission.

RECOMMENDATION

1. That the application for exclusion from the Agricultural Land Reserve for the property legally described as Lot 1, Section 10, Range 3 and of Section 11, Ranges 2 and 3, Cranberry District, VIP60641 be denied.
2. That an application for a transfer of lands in the Agricultural Land Reserve for the property legally described as Lot 1, Section 10, Range 3 and of Section 11, Ranges 2 and 3, Cranberry District, VIP60641 be referred to the Growth Management Review Process as an amendment consideration; therefore the referral of a resolution by the Board to the Land Reserve Commission as input for LRC's decision will be withheld pending the results of the Growth Management Review Process.

Report Writer

Manager Concurrence

General Manager Concurrence

CAO Concurrence

COMMENTS:

devsvs/reports/2001/6635 02 0109 no alr Law.doc

Schedule No. 1 (Page 1 of 3)
Letter of Application

Chris C Everett BCLS
British Columbia and Canada Land Surveyors

111 55 Victoria Road
Nanaimo
BC
V9R 5N9

Telephone: 250-716-0086
Fax: 250-716-0043
Email: cccebcls@msn.com

Agricultural Land Reserve Commission
133-4940 Canada Way
Burnaby
BC
V5G 4K6

PLANNING DEPT
-10- 29 2001
RECEIVED
October 28, 2001

**Reference: application for exclusion in Section 10, Range 3, Cranberry District
Bruce Law and Arlene Devereaux Lot 1 Plan VIP60641**

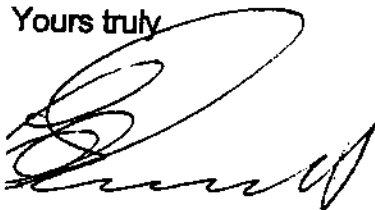
The attached application is to include part of lot 1 plan VIP60641 not already in the Land reserve and to exclude parts of the lot already within the reserve. We wish to modify our application.

Subsequent to our filing of the above noted application it has been pointed out by the planning Dept at the RDN that in order to minimize fragmentation of the lands in the area it would be more appropriate to apply for exclusion of **all of Lot 1**, rather than a part of it.

We find this acceptable, hence the change. Although our offer to exchange lands as per the original application still stands.

We hope you find this satisfactory and await your response.

Yours truly



C.C. Everett BCLS.

Schedule No. 1 (Page 2 of 3)
Letter of Application

Chris C Everett BCLS
British Columbia Land Surveyor

111 55 Victoria Road
Nanaimo
BC
V9R 5N9

Phone 250 718 0088
Fax. 250 718 0043
Email cccebcls@msn.com

August 30, 2001

Planning Dept
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC

Attn: Debra Jensen

Dear Ms Jensen

**Reference: Lot 1 Section 10 Range 3 and Section 11 Range 2 & 3 Cranberry
District Plan VIP60641 - Bruce Law and Arden Devereaux – Agricultural;
Land Reserve.**

I enclose the following:

1. **Completed application to exclude land from the AGRICULTURAL LAND RESERVE (ALR).**
2. **Completed application to include land into the ALR**
3. **Current Title**
4. **Tax receipt**
5. **Evidence of publication in the Nanaimo Daily News on July 28th 20001 and Aug 4th 2001**
6. **Series of photographs showing displayed sign on the site.**
7. **Certified and signed sheet showing "Proof of Serving Notice" to adjacent owners**
8. **Document appointing the writer as agent for the owners.**
9. **Cheque in the amount of \$750.00 to cover application fees.**

Please receive and process these applications together. If it is decided that either of the two applications is unacceptable then we will withdraw both of them.

The sketches attached to the applications indicate clearly that the land to be excluded comprises unusable rock outcrop (hence, the odd shape).

The land to be included is good hay meadowland for the most and the part adjacent to Parcel E is an old railway right of way through the forest.

Schedule No. 2 (Page 3 of 3)
Letter of Application

● Page 2

August 30, 2001

It should be noted that 1 ha is to be removed from the ALR and for this 1.5 ha will be included. The net result will be more land in the ALR and at that, more suitable land.

I have had no written (or even verbal) comments from the public regarding these applications. I therefore conclude there are no objections concerning this development from adjacent landowners.

When this application is approved, my clients will then apply for a rezoning to permit a subdivision of lot 1 as shown and permit the construction of two homes on the new proposed Parcel A.

We trust you have all the information you require to consider these applications to the ALR, and if not do not hesitate to contact me for more information.

We look forward to your response and hope for an early reply.

Sincerely,



Chris C Everett BCLS

CC. Bruce Law and Arden Devereaux

Schedule No. 2 (Page 1 of 5)
Additional Information to Amend
Application for Exclusion

**Notes to accompany an application to exclude Part of LOT 1 Plan VIP
60641 on Godfrey Road, Nanaimo Regional District, from the ALR.**

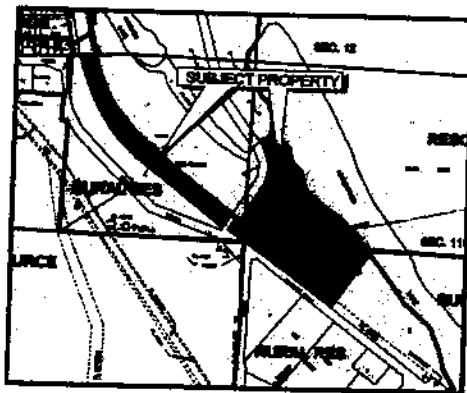
Prepared by Chris C Everett BCLS on behalf of Bruce Law and Arden Devereaux – Land owners

29 September 2001.

Introduction

This application to remove a part of Lot 1 (that part to the south of Scannell road, herein after referred to as the subject property) Plan VIP60641 from the Agricultural Land Reserve is hereby made in order to maximize the site potential for all the stakeholders. These will include the general public, the existing resident bio-mass in terms of plants and wildlife, the neighboring community and lastly the owners who represent the custodians of this resource for future generations. We believe that by excluding this land from the Reserve more can be done with this site to the benefit of all of these interested groups. To do this we will maintain the rural setting and preserve its natural beauty and at the same time promote the productivity of the fertile parts of the property.

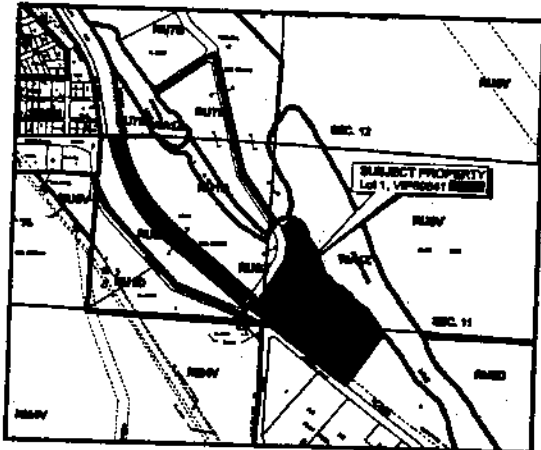
Location of Property



Part of Lot 1 is presently designated as "Resource" in the Official Community Plan, is in the ALR, whereas another part is in land designated Rural Residential. The dividing line between the two is the arbitrary Section line (south boundary section 11) drawn as a straight line without consideration for the natural topography and existing land uses. The land to the South and to the West of the lot is designated Rural Residential. The Easterly boundary of lot 1 is bounded by the bank of Harewood Lake, leaving the small triangular wedge in section 11 as an isolated and fragmented part. The area of the subject portion is 3.5 hectares. This is well below the optimum eight-hectare minimum parcel size for the Resource land use designation.

Schedule No. 2 (Page 2 of 5)
Additional Information to Amend
Application for Exclusion

Part of official Community Plan



Topography

The entire Lot 1 in its entirety comprises **three distinctive topographic elements**. Each of these three elements presently supports different land uses and each has different potentials.

Rock Outcrop



The site is dominated by a rock outcrop sparsely covered with struggling evergreens with little or no topsoil or underburden. The rock rises 30 metres with steep slopes rising above flat hay meadows to the West and the bank of Harewood Lake to the East. About 50 % of the rock is in the subject property and 50% already out of the ALR. The amount of "rocky area" in the subject property is 1 Ha. or 23 % of the area. This rock has little or no value as farmland. However, with careful and creative design a single-family dwelling could be placed on this rock. The dwelling would be secluded and offering seclusion out of sight and sound from any traffic of Godfrey road. The potential building site would offer a breathtaking view across Westwood Lake and beyond.

Harewood

Schedule No. 2 (Page 3 of 5)
Additional Information to Amend
Application for Exclusion

Old Right of Way



Along the Westerly boundary of lot 1 and not presently in the ALR is strip of land 30.5 metres in width that was once a owned by a coal company and designated as a right of way. The right of way was built up using coal dust and tailings. This killed the natural vegetation (which was the point of it) in the center 5 metres but over the intervening years vegetation is gradually returning. On either side of the five-meter pathway good land supporting tree growth appears unaffected and has good potential for the "Christmas tree farm my client envisages.

Wetlands



The balance of Lot 1 and the subject area is wetland, supporting a standing crop of various grasses and supporting a diversity of wildlife. It is the writers understanding that in recent years this part was actively farmed for hay and prior to that supported extensive vegetable gardening. With some development and the proposed readjustments this is again a possibility. With minimal effort, the area could be well drained and the potential to return the area to full productivity would be further enhanced. This would then maximize the available area for the proposed hobby farm.

**Schedule No. 2 (Page 12 of 13)
Information to Accompany
Application for Exclusion from the ALR**

September 27th, 2001
Art Cowie (cont'd)
page two

I wish to conclude that in the last five years intensive expansion of urban development has significantly reduced the irrigation potential of the property precluding viable agricultural activities on this property. Therefore, the improved capability of the soils cannot be achieved.

If you have any questions, please don't hesitate to call the undersigned.

Yours truly,

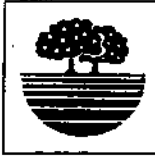


Helmut J. Urhahn
President

HJU/jml

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Schedule No. 2 (Page 13 of 13)
Information to Accompany
Application for Exclusion from the ALR



Provincial Agricultural Land Commission

133 - 4940 Canada Way, Burnaby, B.C. V5G 4K6
Telephone: (604) 660-7000
Fax: (604) 660-7033

March 7, 1996

Reply to the attention of
Martin Collins

Helmut J. Urhahn
Tera Planning Limited
P.O. Box 39107
Point Grey RPO
Vancouver, B.C.
V6R 4P1

Dear Mr. Urhahn:

Re: ALC Application # S-29383

Thank you for your letter dated March 4, 1996 in which you request a reconsideration of the above noted application on the grounds that the 1995 referendum for the improvement of the water supply and services to the City of Parksville was defeated, thus supporting your argument that the unavailability of water limits the agricultural utilization of the 12 ha property.

The Commission believes that the recent decision not to improve the City's water supply is not sufficient rationale to permit the urban development of the subject property. The land has good agricultural potential and has been used for agricultural purposes in the past. Its use for non farm purposes represents a substantial "real" loss of a valuable and irreplaceable agricultural resource and would call into question the effectiveness of the agricultural land preservation program. The lack of immediate improvement in the local water system does not mean that at some future date the water availability problem may be addressed and the land brought into agricultural production.

As noted in the Commission's previous letter (April 28, 1995), acceding to pressure to convert farmland to urban uses will only destabilize the rural urban boundary, foster speculation and increase efforts to purchase and convert additional agricultural land to non farm uses.

In light of the above the Commission does not believe that a reconsideration is warranted. Its previous decision, by Resolution #1091/94, stands.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

per:


K. B. Miller, General Manager

cc: City of Parksville
Regional District of Nanaimo, File #913

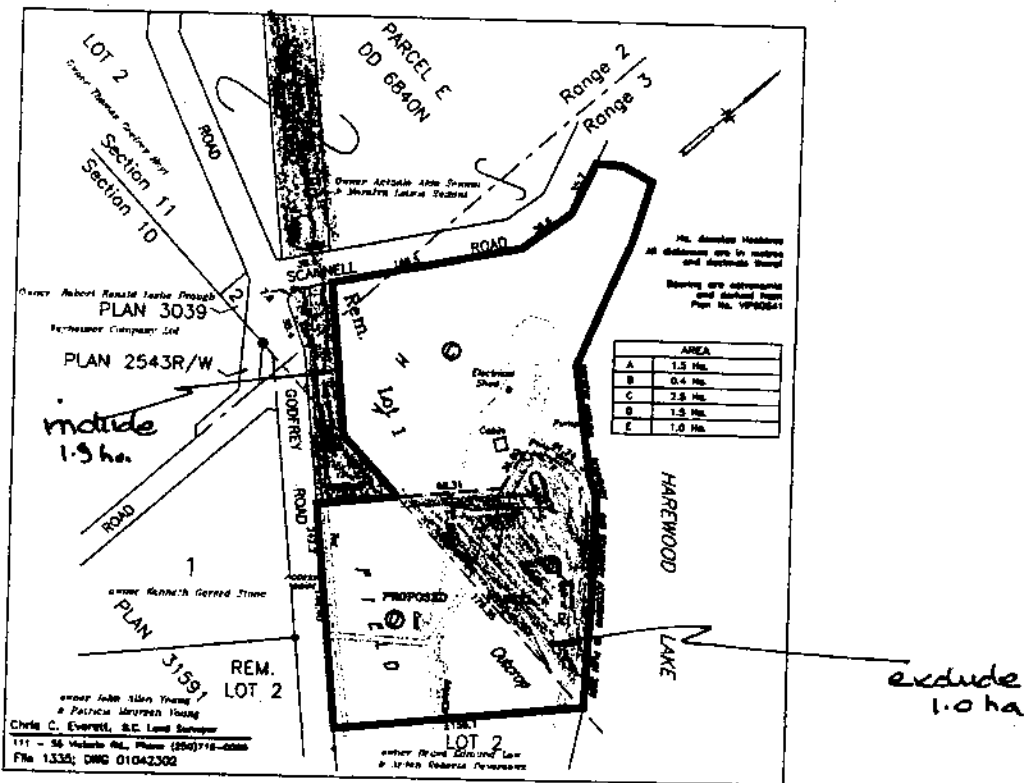
MC/eg

PAGE
18

Schedule No. 2 (Page 4 of 5)
 Additional Information to Amend
 Application for Exclusion

Alternative to full exclusion

Should the Commission feel that the agricultural benefits could be enhanced by us agreeing to have only the “rocky” area removed from the ALR and in return granting and inclusion into the ALR of that portion with some agricultural potential, then we would be willing to discuss this possibility. In fact this would mean taking out 1.0 hectare of land and putting in 1.9 hectares, with net gain to the ALR.

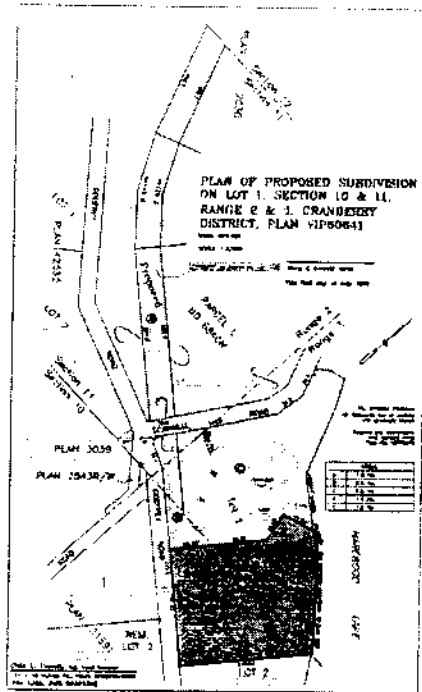


Development reasons

This application is made in order to provide for two controlled estate quality retirement properties, taking full advantage of and preserving the natural rural atmosphere provided by the surrounding community.

We have not simply requested a subdivision of Lot 1 into two lots, leaving the ALR as is, because we feel this will further fragment the subject property and feel confident the Commission would not be happy with such solution.

**Schedule No. 2 (Page 5 of 5)
Additional Information to Amend
Application for Exclusion**



*Proposed Subdivision
after
Removal from ALR,
Zoning and CCP amendments*

Finally, if there are **other solutions** to development of this that could be recommended we are more than willing to consider them.

Concerns of Others

During our advertising in the paper, with the sign and by personally visiting each of the adjacent owners beyond this, **we did not receive any concerns or complaints.**

We have heard that there have been some concerns raised with regard to the **water table** if the Land is developed with more than one or two residencies. Such a development is not contemplated. In fact development of the property as we envisage would enhance the water quality by returning groundwater from the flood plain to the lake.

Concluding remarks

There is still work required to finalize our plans for the development of this site and we are asking for this exclusion to consolidate Lot 1 south of Scannell Road out of the ALR to give us maximum flexibility in the planning process. We are aware of the Zoning, Community Growth plan factors, and the environmental and watercourse protection issues all of which will be addressed. Guidelines for controlled development, which help to ensure the safeguarding of the rural setting, have already been supported and promoted by this applicant at numerous public meetings. We will develop this property in strict accordance to these guidelines, to its maximum potential and to the **benefit of all.** To achieve this we believe it would be beneficial for the Agricultural Land Commission to approve this application.

Schedule No. 3 (Page 1 of 3)
 Application for Exclusion

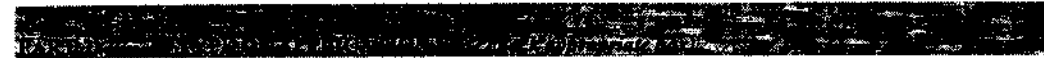


APPLICATION BY LAND OWNER
 under Section 13 (6), 15 (1) or 22 (1) of the Agricultural Land Reserve Act
 or
 under Section 34 or 36 of the Agricultural Land Reserve Procedure Regulation

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



Registered Owner: <i>Bruce E. Law & Arden R. Devereaux</i>		Agent: <i>Chris C. Everett, BCLS.</i>	
Address: <i>1940 Coal Tree Trail</i>		Address: <i>111-55 Victoria Road.</i>	
<i>Nanaimo BC</i>		<i>Nanaimo BC</i>	
Postal Code <i>V9R 6T3.</i>		Postal Code <i>V9R 5N9</i>	
Tel. (home) Fax.	(work) E-mail	Tel. <i>250-716-0066</i> E-mail <i>ccc@bclsr.com</i>	Fax. <i>716-0043</i>



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



Regional District of Nanaimo



Legal Description:	Size of Each Parcel (Ha.)	Date Acquired (Mo.) (Yr.)
<i>All that Part of Lot 1, Section 11, Range 3, Plan VIP 60641 as shown on a plan signed by Chris C Everett BCL dated July 2nd 2001 and attached hereto. and designated (E)</i>	<i>1.0</i>	<i>3 Feb 1995</i>
Total Hectares:	<i>1.0</i>	

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100

Schedule No. 3 (Page 2 of 3)
 Application for Exclusion

Legal description: <u>Lot 2, Plan VIP 60641</u> <u>Section 11, Page 3, Cranberry District</u>	Present use: <u>Residence</u>
---	----------------------------------

List all existing uses on the entire parcel: orchard, hayfield, pasture, wooded, etc.

Rock outcrop with some trees.

Describe all buildings: None

Describe the main physical characteristics: flat, hilly, rocky, clay or sandy soil, watercourses, roads, etc.

Very hilly, rock with some sandy overburden

Describe all uses: pasture, hay, vegetables, poultry, dairy, trailer park, community hall, etc.

Describe all buildings: house, barn, school, etc.

North Farmland. Some tree areas
 East LAKE - HAZELWOOD
 South Residential Site
 West Residential

Propose to transfer "hay meadows" into ALR and in exchange exclude non-viable ALR rocky outcrop. This is in order to facilitate a subdivision of Lot 1, thus enabling suitable foundation sites for a future single family dwelling.

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

July 10/01
 Date

AL Devereaux
 Signature of Owner(s)

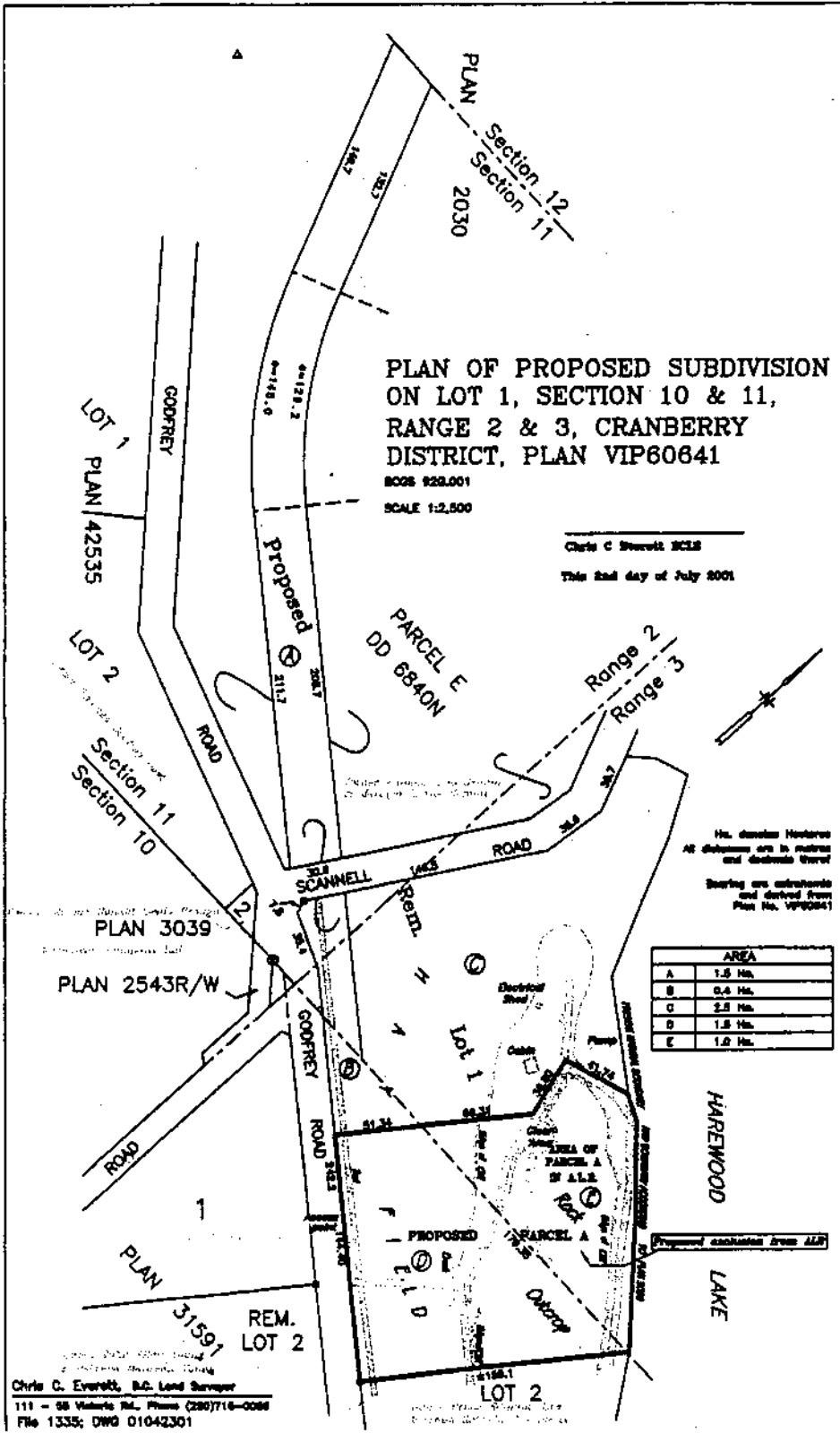
The following must be enclosed:

- Application fee
- Certificate of Title or Title Search Print
- Assessment/Tax Notice
- Agent authorization (if using agent)
- Map or sketch showing details requested
- Proof of Notice of Application *(See instructions)
- Photographs (optional)

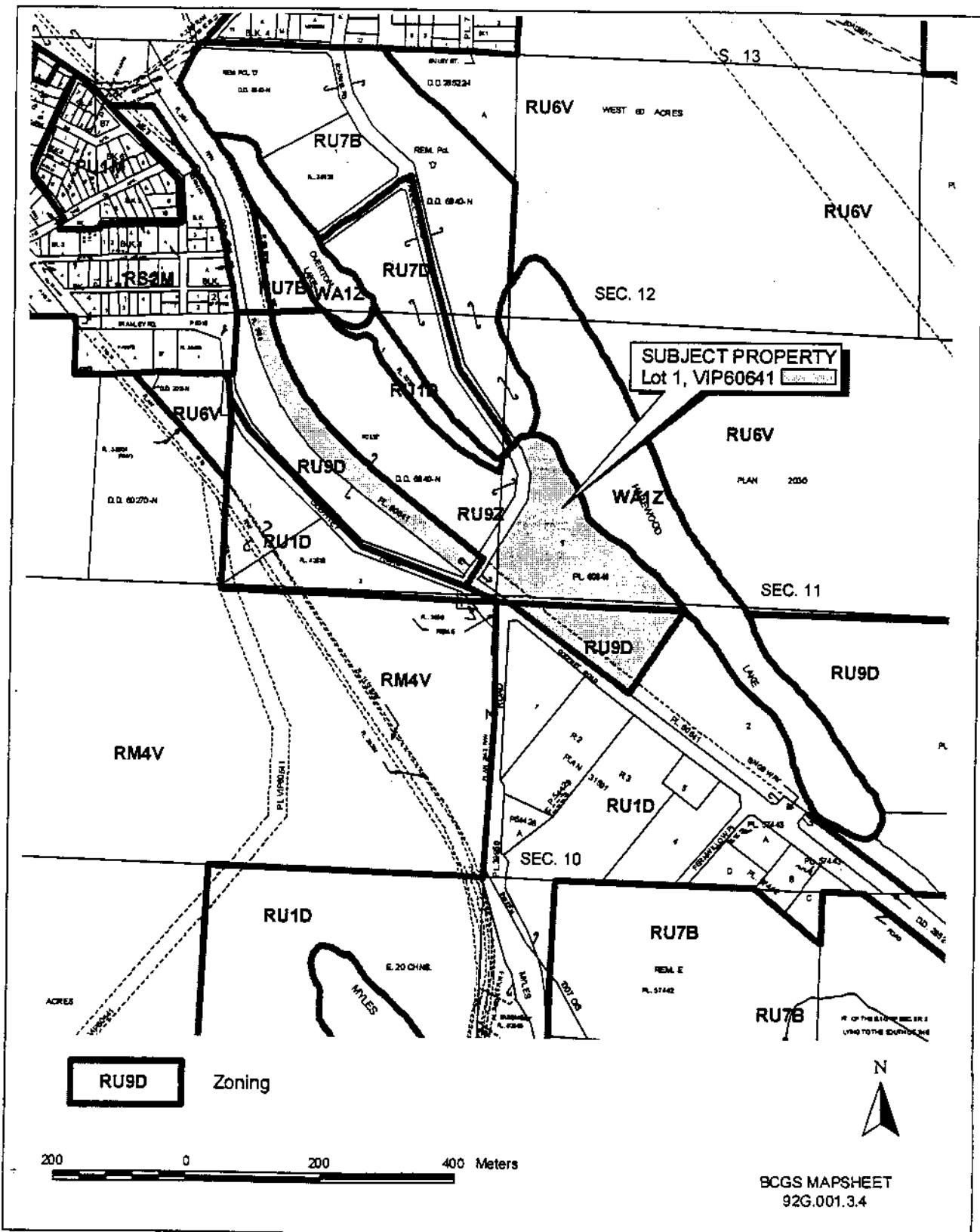
INCOMPLETE OR MISSING INFORMATION WILL DELAY YOUR APPLICATION

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

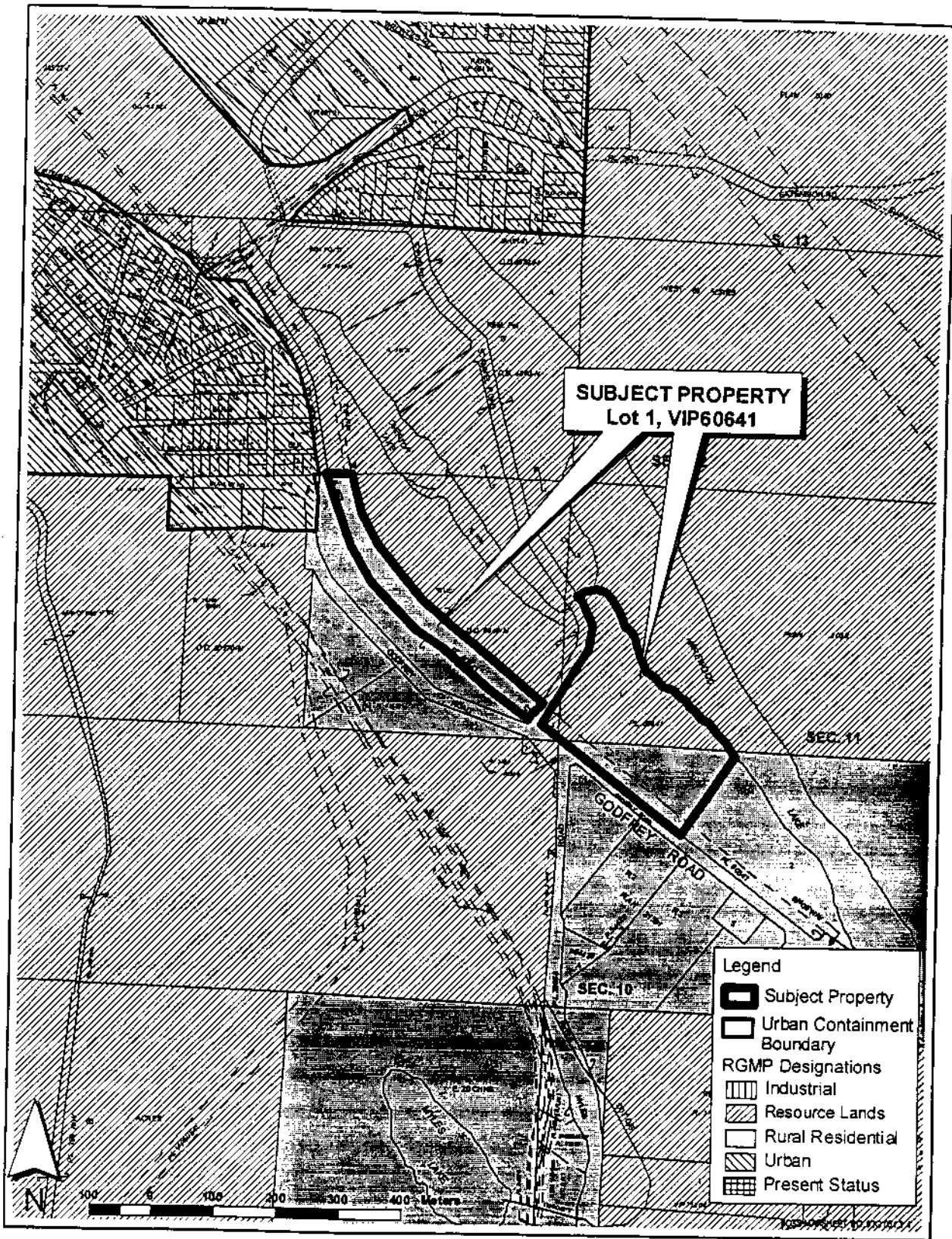
Schedule No. 3 (Page 3 of 3)
 Application for Exclusion



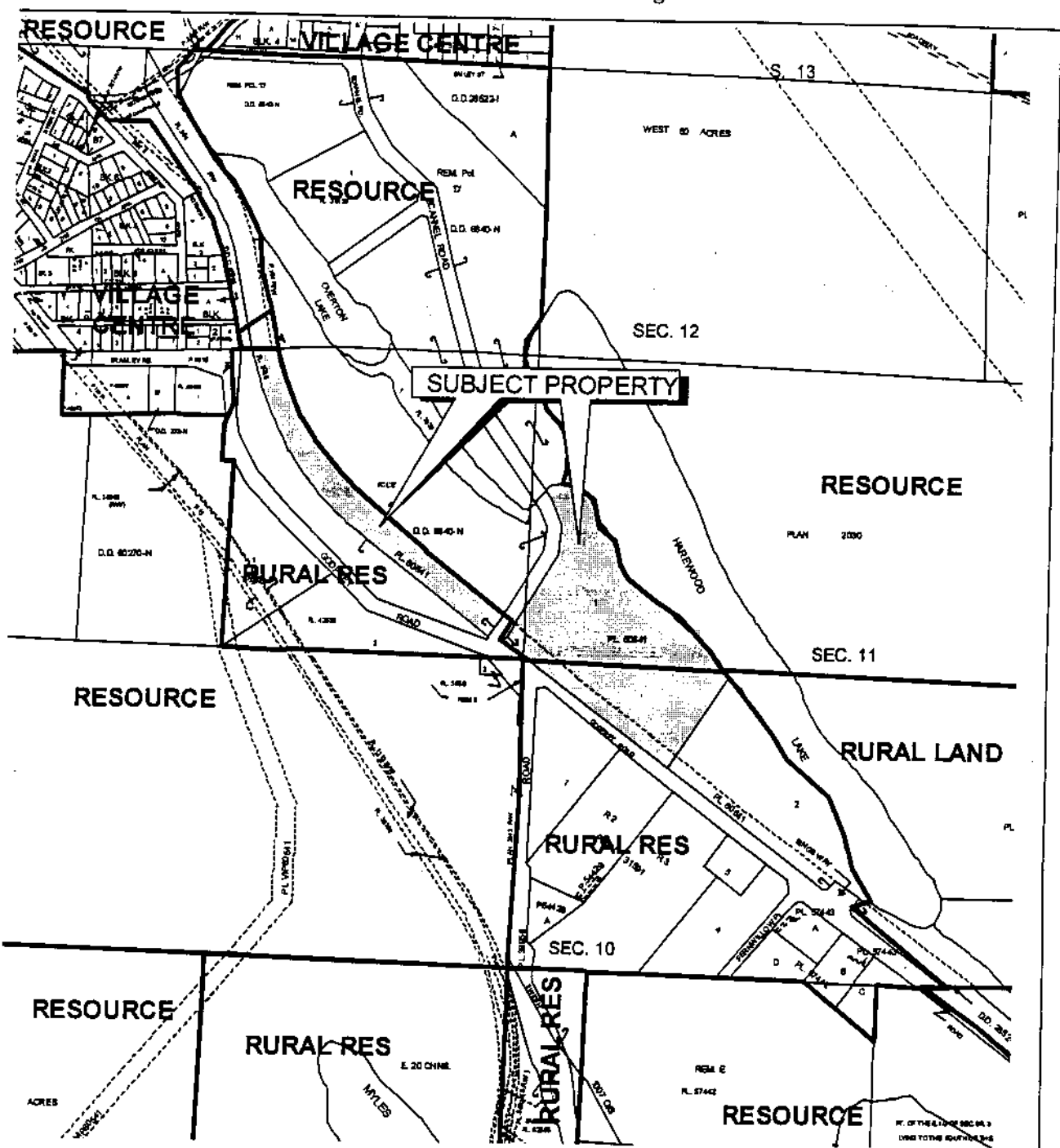
Schedule No. 4
Zoning



Schedule No. 5
Growth Management Plan Land Use Designation



Schedule No. 6
 OCP Land Use Designations



RESOURCE Official Community Plan Land Use Designation

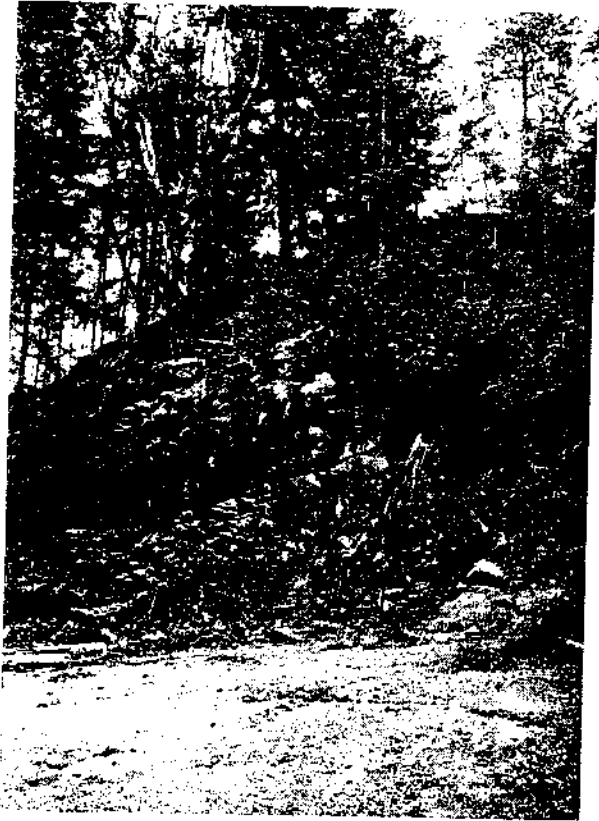
NOTE: Subject Property is affected by the Farm Land Protection Development Permit Area and the Watercourse Protection Development Permit Area.



BCGS MAPSHEET
 92G.001.3.4

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 105

Schedule No. 7
Subject Property Photos



Schedule No. 8
Director Comments

File: ALR 0109



REGIONAL
DISTRICT
OF NANAIMO

October 19, 2001

Director E. Hamilton
2049 Midora Road
Nanaimo, BC
V9X 1E8

Dear Director Hamilton:

RE: *ALR Application 0109*
Lot 1, Section 10, Range 3 and of Section 11, Ranges 3 and 3, Cranberry
District, V1P60641
Godfrey Road Electoral Area: 'C'
RDN Map Reference No: 92G.001.3.4

With reference to a copy of an application sent to you September 4, 2001, for inclusion and exclusion within the Agricultural Land Reserve on the above-mentioned property located in Electoral Area C, please be advised the applicant has revised the application for exclusion only.

Your comments with respect to this revised application would be appreciated by October 26, 2001. Comments can be faxed to (250) 390-7511. These comments will be forwarded, along with the application prepared by staff, to the LRC for their decision.

Yours truly,

Deborah Jensen
Planner

Enclosures

1. *Notes to accompany ALR Application*

DIRECTOR'S COMMENTS:

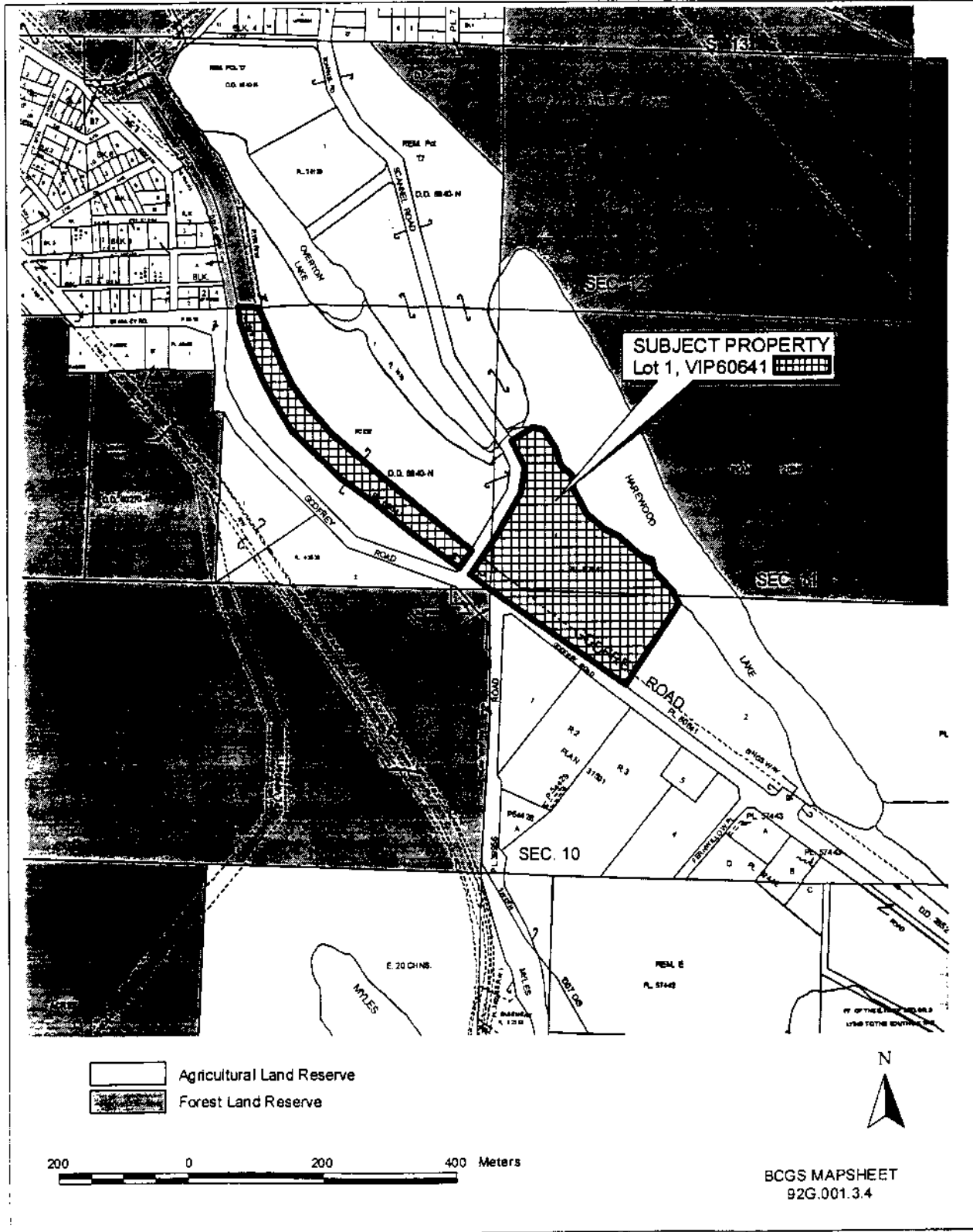
As stated in the application, this land is comprised of rock, the old railway grade and wetland created by the rising and flooding of Harewood Lake in the winter months. In my opinion most of this land is not suitable for agriculture and I would have no problem in supporting this application for removal.

30 Harewood Bay Rd.
Nanaimo, B.C.
V9T 6N2

tel: (250) 890-4331
fax: (250) 897-4111
tel: (250) 390-4163

Website: www.rdn.bc.ca

Attachment No. 1
Subject Property Map



REGIONAL DISTRICT OF NANAIMO			
NOV 13 2001			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMES	
DSC		DATE:	
		FILE:	

TO: Pamela Shaw
Manager of Community Planning

FROM: Geoff Garbutt
Senior Planner

SUBJECT: Noise Control Establishing and Regulatory Bylaws
Electoral Areas 'D' and 'H'

November 9, 2001

3900 20 1264/5/6/7

PURPOSE

To consider implementing Noise Control Bylaws in Electoral Areas 'D' and 'H' through the adoption of an Establishing Bylaw and a Regulatory Bylaw written specifically for each Electoral Area.

BACKGROUND

Section 796 (1) of the Local Government Act gives Regional Districts the power to establish noise control regulations for land located within Electoral Areas. Noise control regulations consist of two Bylaws, an Establishing Bylaw, which creates a service area for which the regulations apply and a Regulatory Bylaw that outlines the noise issues to be regulated.

In 1996, the Regional District drafted a series of Noise Control Bylaws for the Electoral Areas and noise control as a service was introduced to (or amended as a service) in Areas 'A', 'B', 'C', 'G' and 'E'. In Electoral Areas 'D' and 'H', the public opposed the introduction of noise control and the proposed bylaws were abandoned. The public indicated that the Bylaws were too restrictive, did not focus on the community issues and would have a negative impact on commercial properties as well as Home Based Business operators.

Over the past five years, nuisance complaints about noise in Electoral Areas 'D' and 'H' have increased. Between January and October of 2001, RDN Bylaw enforcement received 23 calls about noise in Electoral Area 'D' and 6 calls complaining about noise in Electoral Area 'H'. The majority of these calls are concerned with barking dogs and loud music. In addition to complaints received by the RDN, the Electoral Area Directors for Area 'D' and 'H' have received numerous calls and inquiries with respect to implementing noise control regulations.

During recent public consultation sessions regarding amendments to the Home Based Business (HBB) regulations, RDN Staff and the Area Directors received feedback from residents that indicated with expanded HBB provisions, the noise impacts on adjacent properties must be considered. In light of the input received, Director Haime and Director Quittenton both indicated that they would be interested in proposing noise bylaws in their Electoral Areas, subject to public consultation on this issue.

The Directors both indicated that any noise control bylaw must be fair, balancing commercial and community interests, it must be reasonable, easily understandable and the Bylaw must be written to address the specific noise issues raised by area residents. The Area Directors requested that Public Information Meetings be held to receive direct input on how to refine the proposed Bylaws, or to establish if a Noise Control Bylaw is needed in their Electoral Areas, prior to First Reading by the

Regional Board. Based on consultation with the Area Directors, RDN Staff have drafted Noise Control Bylaws that reflect community and Director input received to date.

ALTERNATIVES

1. Hold a Public Information Meeting to discuss aspects of the Noise Control Establishing and Regulatory Bylaws prior to First and Second Reading.
2. Do not proceed with public consultation on introducing noise control functions to Electoral Areas 'D' and 'H' at this time.

LAND USE IMPLICATIONS

In Electoral Areas 'D' and 'H', there is a broad mix of rural, residential, home based businesses and commercial developments that have been developed over the years. With this mix of uses there can be issues related to offsite impacts that specific uses have on other properties. With the creation of noise control regulations, the community has a dispute resolution mechanism. The community establishes specific types of noises that are a nuisance, establishes time periods when these nuisance noises are prohibited and provides a level of certainty for property owners knowing that between specified times noises will be controlled. The noise control regulations represent an opportunity to protect private property from nuisance noises while at the same time allowing people or businesses to conduct themselves within established regulations.

For Electoral Area 'D', the key issues identified for the community have been barking dogs, mechanical noise and loud music. For Electoral Area 'H', the key issues identified for the community have been barking dogs, long idling commercial vehicles, mechanical noise and loud music. In both cases, these nuisance noises currently stretch into the late hours of the evening or start in the very early morning hours. The Noise Control Bylaws have been drafted to address these issues specifically, while protecting the growth of home based businesses, commercial operations and ensuring that community events continue unimpeded. As in other Electoral Areas, the proposed Noise Control Bylaws are flexible and can be amended to meet changing community expectations and address additional nuisance noises as required. New uses can be added, others deleted and the Bylaw can be 'fine tuned' to work for each Electoral Area as uses or issues in the area evolve over time.

The proposed Electoral Area 'D' Noise Control Service Establishment Bylaw No. 1264, 2001 is attached as *Schedule 1*. The proposed Electoral Area 'D' Noise Control Regulatory Bylaw No. 1265, 2001 is attached as *Schedule 2*. The proposed Electoral Area 'H' Noise Control Service Establishment Bylaw No. 1266, 2001 is attached as *Schedule 3*. The proposed Electoral Area 'H' Noise Control Regulatory Bylaw No. 1267, 2001 is attached as *Schedule 4*.

PUBLIC CONSULTATION IMPLICATIONS

The intent of the proposed Noise Control Bylaws for Electoral Areas 'D' and 'H' is to provide a level of certainty for electoral area residents, with reasonable regulations that allow adjacent properties to coexist. RDN Staff and the Area Directors have received input on issue areas for noise control and these have been used to draft the proposed Bylaws. There has been no formal public consultation process with respect to these proposed Bylaws. When noise control regulations were initially proposed for these areas in 1996, the public indicated that consultation should have occurred prior to introducing the Bylaws for consideration by the Regional Board. To ensure public consultation on this proposal, the Area Directors have recommended that the Board not consider the Bylaws until Public Information Meetings have been held and the public has had an opportunity to comment on the Bylaws.

FINANCIAL IMPLICATIONS

Noise Control is a regulatory service that is established and funded by direct taxation from Electoral Area residents. The Regional District, as required by the *Local Government Act*, has established a tax rate to fund the administration of this service. The Regional District has established that approximately \$5,000 must be raised within the Electoral Area to fund this service. For Electoral Area 'D', the property tax rate has been established at .013 cents per 1,000 of assessed value when applied to the net taxable value of land and improvements, which translates into a total of \$4,845. For Electoral Area 'H', the property tax rate has been established at .016 cents per 1,000 of assessed value when applied to the net taxable value of land and improvements, which translates into a total of \$5,076.

SUMMARY/CONCLUSIONS

To consider implementing Noise Control Bylaws in Electoral Areas 'D' and 'H' through the adoption of an Establishing Bylaw and a Regulatory Bylaw written specifically for each Electoral Area. The *Local Government Act* gives Regional Districts the ability to establish noise control regulations on an area specific basis tailored to fit the needs of individual areas. The Electoral Area Directors have provided input on the proposed Bylaws and feel that prior to consideration by the Regional Board, Public Information Meetings should be held to receive formal input on the proposed regulations. Staff recommends that these bylaws have merit to proceed to Public Information Meetings prior to being considered by the Board for consideration.

RECOMMENDATIONS

1. That a Public Information Meeting be held on "Electoral Area 'D' Service Establishment Bylaw No. 1264, 2001" and "Electoral Area 'D' Noise Control Regulatory Bylaw No. 1265, 2001", to be chaired by Director Haime or her alternate, prior to the consideration of the Bylaws by the Board.
2. That a Public Information Meeting be held on "Electoral Area 'H' Service Establishment Bylaw No. 1266, 2001" and "Electoral Area 'H' Noise Control Regulatory Bylaw No. 1267, 2001", to be chaired by Director Quittenton or his alternate, prior to the consideration of the Bylaws by the Board.



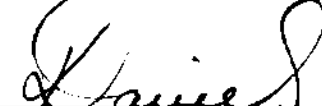
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2001/3900 30 ea d and h noise bylaw.doc

**REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1264**

**A BYLAW TO ESTABLISH CONTROL
OF NOISE AS A SERVICE
IN ELECTORAL AREA 'D'**

WHEREAS under Section 796(1) of the *Local Government Act* a Regional District may, by bylaw under Section 800, establish and operate control of noise as a service;

AND WHEREAS the Board of the Regional District of Nanaimo wishes to establish and operate control of noise as a service in Electoral Area 'D';

AND WHEREAS a bylaw establishing a service must meet the requirements of Section 800.1 of the *Local Government Act*;

AND WHEREAS the consent of the Director for Electoral Area 'D' has been received;

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

1. Control of noise is hereby established as a service.
2. The service area is coterminous with the boundaries of Electoral Area 'D'.
3. Electoral Area 'D' is the only participating area for this service.
4. The annual costs for of the service shall be recovered by property taxes imposed in accordance with Section 803(1)(a) and collected under Section 806.1(1)(a) of the *Local Government Act*.
5. The maximum amount that may be requisitioned under Section 800.1(e) for the service shall be the greater of
 - (a) five thousand dollars (\$5,000); or
 - (b) the property tax rate of one point three cents (\$0.013) per \$1,000 of assessed value when applied to the net taxable value of land and improvements, within the service area.

6. This bylaw may be cited as "Electoral Area 'D' Noise Control Service Establishment Bylaw No. 1264, 2001".

Introduced and read three times this ____ day of _____, 200__.

Received the approval of the Inspector of Municipalities this ____ day of _____, 200__.

Adopted this ____ day of _____, 200__.

Chairperson

General Manager, Corporate Services

DRAFT

REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1265

A BYLAW TO REGULATE OR PROHIBIT
OBJECTIONABLE NOISE WITHIN
ELECTORAL AREA 'D'

WHEREAS the Regional District of Nanaimo has established a general service for noise control under Section 796 (1) of the *Local Government Act*,

AND WHEREAS the Board believes that:

- (a) certain sounds are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public; and
- (b) it is desirable to regulate or prohibit them;

AND WHEREAS it is not the intent of the Board to prevent or prohibit those sounds customarily emitted or usually associated with the normal conduct of reasonable daily activity at reasonable times;

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

1. **INTERPRETATION**

In this bylaw:

“**Board**” means the Board of Directors of the Regional District of Nanaimo.

“**Bylaw Enforcement Officer**” includes a Peace Officer and a person appointed by the Board as a Bylaw Enforcement Officer.

“**District**” means the Regional District of Nanaimo.

“**Highway**” means as defined within the *Local Government Act* to include a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right of way on private property.

“**Motor Vehicle**” includes an automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or traction engine, farm tractor or self-propelled implement of husbandry.

“Real Property” means land other than a highway, together with all improvements which have been so affixed to the land as to make them in law a part of the land and includes land without improvements.

“Residential Premises” means land upon which is located a building or structure, including a mobile home used seasonally or permanently for human occupancy.

2. **TITLE**

This bylaw may be cited as the “Electoral Area ‘D’ Noise Control Regulatory Bylaw No. 1265, 2001”.

3. **JURISDICTION**

This bylaw is applicable to and enforceable within Electoral Area ‘D’.

4. **OBJECTIONABLE AND DISTURBING NOISES**

The acts listed in Schedule ‘A’ to this bylaw are considered by the Board to cause noises or sounds which are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public in the neighbourhood or vicinity of those acts.

5. **GENERAL PROHIBITION**

No person, being the owner, tenant or occupier of real property, shall allow or permit the real property to be used so that noise which occurs on or is emitted from that real property disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.

6. **PROHIBITION BY TIME OR PLACE**

Without limited Section 5 of this bylaw, no person shall commit, cause or permit the commission of an act listed in Schedule ‘A’ to this bylaw which results in the emission of a noise which is audible at a residential premises in the vicinity or in a public place during the period of time specified in respect of that act in Schedule ‘A’.

7. **EXCEPTIONS**

The prohibitions contained in Sections 5 and 6 of this bylaw do not apply to the emission of sound in connection with an act listed in Schedule ‘B’.

8. **INSPECTION AND ENTRY**

A Bylaw Enforcement Officer is hereby authorized to enter, at all reasonable times, on any property subject to the regulations or direction of the Board, to ascertain whether the regulations or directions of this bylaw are being observed.

9. **SCHEDULES**

Schedules 'A' and 'B' form a part of and are enforceable in the same manner as this bylaw.

10. **PENALTY**

- (a) A person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, or omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this bylaw, shall be liable on summary conviction for the first offence, to a penalty of not less than \$100 and not more than \$2,000, and for a second or subsequent offence, to a penalty of not less than \$250 and not more than \$2,000.
- (b) In the case of a continuing violation, each day that a violation continues to occur shall constitute a separate offence.

11. **SEVERABILITY**

If any provision of this bylaw is held to be beyond the power of the Regional District by any Court of competent jurisdiction, then the provision may be severed from the remainder of the bylaw without affecting the validity of any other provision.

Introduced and read three times this _____ day of _____, 200__.

Adopted this _____ day of _____, 200__.

Chairperson

General Manager, Corporate Services

Chairperson

Secretary

SCHEDULE 'A'
PROHIBITIONS OF TIME

Act	Prohibited Period of Time
1. The operation of an electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and designed for the production, reproduction or amplification of sound, including but not limited to radios, record players, compact disc players, televisions, receivers and audio and video tape players; and the playing of electric or electronic musical instruments or percussion instruments.	11:00 p.m. to 8:00 a.m.
2. The operation of an auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law.	10:00 p.m. to 8:00 a.m.
3. Persistent barking, calling, whining or other similar persistent sound made by a domestic pet, other animal or bird, kept or used for a purpose other than agriculture.	At all times
4. The operation of a motor vehicle other than on a highway, private road or for the purpose of travelling directly to and from a parking space in a parking lot.	11:00 p.m. to 8:00 a.m.
5. The operation of a mechanical device, including but not limited to power saws and compressors.	10:00 p.m. to 7:00 a.m.
6. The running of the engine of a stationary motor vehicle other than during a period of time required by an enactment for a particular type of motor vehicle.	11:00 p.m. to 5:00 a.m.

Chairperson

Secretary

SCHEDULE 'B'

EXCEPTIONS

Sound emitted in connection with:

1. Emergency Measures Undertaken

- (a) for the immediate health, safety or welfare of any person or persons, or
- (b) for the preservation or restoration of property

unless the sound is of a longer duration or of a nature more disturbing than is reasonably necessary for the accomplishment of such emergency purpose.

2. Works or activity associated with and necessarily incidental to:

- (a) construction, erecting, reconstructing, altering, repairing or demolishing of buildings, structures or things;
- (b) excavating, grading or filling land;
- (c) installing, altering, repairing or removing public facilities or utilities;
- (d) repairing or raising a highway; or
- (e) well drilling.

between 7:00 a.m. and 10:00 p.m. on any day.

3. Traditional, religious or other activities listed below:

- (a) fireworks;

- (b) special events held under Regional District of Nanaimo Special Events Bylaw No. 1010, 1996;
 - (c) church bells.
4. Farm uses as outlined in the Farm Practices Protection (Right to Farm) Act.
 5. Designated community facilities rented on a periodic basis for functions (ie. community halls).

REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1266

A BYLAW TO ESTABLISH CONTROL
OF NOISE AS A SERVICE
IN ELECTORAL AREA 'H'

WHEREAS under Section 796(1) of the *Local Government Act* a Regional District may, by bylaw under Section 800, establish and operate control of noise as a service;

AND WHEREAS the Board of the Regional District of Nanaimo wishes to establish and operate control of noise as a service in Electoral Area 'H';

AND WHEREAS a bylaw establishing a service must meet the requirements of Section 800.1 of the *Local Government Act*;

AND WHEREAS the consent of the Director for Electoral Area 'H' has been received;

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

1. Control of noise is hereby established as a service.
2. The service area is coterminous with the boundaries of Electoral Area 'H'.
3. Electoral Area 'H' is the only participating area for this service.
4. The annual costs for of the service shall be recovered by property taxes imposed in accordance with Section 803(1)(a) and collected under Section 806.1(1)(a) of the *Local Government Act*.
5. The maximum amount that may be requisitioned under Section 800.1(e) for the service shall be the greater of:
 - (a) five thousand dollars (\$5,000); or
 - (b) the property tax rate of one point six cents (\$0.016) per \$1,000 of assessed value when applied to the net taxable value of land and improvements, within the service area.

6. This bylaw may be cited as "Regional District of Nanaimo Electoral Area 'H' Noise Control Service Establishment Bylaw No. 1266, 2001".

Introduced and read three times this ____ day of _____, 200__.

Received the approval of the Inspector of Municipalities this ____ day of _____, 200__.

Adopted this ____ day of _____, 200__.

Chairperson

General Manager, Corporate Services

REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1267

A BYLAW TO REGULATE OR PROHIBIT
OBJECTIONABLE NOISE WITHIN
ELECTORAL AREA 'H'

WHEREAS the Regional District of Nanaimo has established a general service for noise control under Section 796(1) of the *Local Government Act*;

AND WHEREAS the Board believes that:

- (a) certain sounds are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public; and
- (b) it is desirable to regulate or prohibit them;

AND WHEREAS it is not the intent of the Board to prevent or prohibit those sounds customarily emitted or usually associated with the normal conduct of reasonable daily activity at reasonable times;

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

1. **INTERPRETATION**

In this bylaw:

“**Board**” means the Board of Directors of the Regional District of Nanaimo.

“**Bylaw Enforcement Officer**” includes a Peace Officer and a person appointed by the Board as a Bylaw Enforcement Officer.

“**District**” means the Regional District of Nanaimo.

“**Highway**” means as defined within the *Local Government Act* to include a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right of way on private property.

“**Motor Vehicle**” includes an automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or traction engine, farm tractor or self-propelled implement of husbandry.

“Real Property” means land other than a highway, together with all improvements which have been so affixed to the land as to make them in law a part of the land and includes land without improvements.

“Residential Premises” means land upon which is located a building or structure, including a mobile home used seasonally or permanently for human occupancy.

2. **TITLE**

This bylaw may be cited as the “Regional District of Nanaimo Electoral Area ‘H’ Noise Control Regulatory Bylaw No. 1267, 2001”.

3. **JURISDICTION**

This bylaw is applicable to and enforceable within Electoral Area ‘H’ as defined by Letters Patent.

4. **OBJECTIONABLE AND DISTURBING NOISES**

The acts listed in Schedule ‘A’ to this bylaw are considered by the Board to cause noises or sounds which are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public in the neighbourhood or vicinity of those acts.

5. **GENERAL PROHIBITION**

No person, being the owner, tenant or occupier of real property, shall allow or permit the real property to be used so that noise which occurs on or is emitted from that real property disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.

6. **PROHIBITION BY TIME OR PLACE**

Without limiting Section 5 of this bylaw, no person shall commit, cause or permit the commission of an act listed in Schedule ‘A’ to this bylaw which results in the emission of a noise which is audible at a residential premises in the vicinity or in a public place during the period of time specified in respect of that act in Schedule ‘A’.

7. **EXCEPTIONS**

The prohibitions contained in Sections 5 and 6 of this bylaw do not apply to the emission of sound in connection with an act listed in Schedule ‘B’.

8. **INSPECTION AND ENTRY**

A Bylaw Enforcement Officer is hereby authorized to enter, at all reasonable times, on any property subject to the regulations or direction of the Board, to ascertain whether the regulations or directions of this bylaw are being observed.

9. **SCHEDULES**

Schedules 'A' and 'B' form a part of and are enforceable in the same manner as this bylaw.

10. **PENALTY**

(a) A person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, or omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this bylaw, shall be liable on summary conviction for the first offence, to a penalty of not less than \$100 and not more than \$2,000, and for a second or subsequent offence, to a penalty of not less than \$250 and not more than \$2,000.

(b) In the case of a continuing violation, each day that a violation continues to occur shall constitute a separate offence.

11. **SEVERABILITY**

If any provision of this bylaw is held to be beyond the power of the Regional District by any Court of competent jurisdiction, then the provision may be severed from the remainder of the bylaw without affecting the validity of any other provision.

Introduced and read three times this ____ day of _____, 200__.

Adopted this ____ day of _____, 200__.

Chairperson

General Manager, Corporate Services

Chairperson

Secretary

SCHEDULE 'A'

PROHIBITIONS OF TIME

Act	Prohibited Period of Time
1. The operation of an electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and designed for the production, reproduction or amplification of sound, including but not limited to radios, record players, compact disc players, televisions, receivers and audio and video tape players.	11:00 p.m. to 7:00 a.m.
2. Persistent barking, calling, whining or other similar persistent sound made by a domestic pet, other animal or bird, kept or used for a purpose other than agriculture.	At all times
3. The running of the engine of a stationary motor vehicle other than during a period of time required by an enactment for a particular type of motor vehicle.	12:00 p.m. to 6:00 a.m.
4. The operation of a mechanical device, including but not limited to power saws and compressors.	11:00 p.m. to 6:00 a.m.

Chairperson

Secretary

SCHEDULE 'B'

EXCEPTIONS

Sound emitted in connection with:

1. Emergency Measures Undertaken
 - (a) for the immediate health, safety or welfare of any person or persons, or
 - (b) for the preservation or restoration of propertyunless the sound is of a longer duration or of a nature more disturbing than is reasonably necessary for the accomplishment of such emergency purpose.
2. Works or activity associated with and necessarily incidental to:
 - (a) construction, erecting, reconstructing, altering, repairing or demolishing of buildings, structures or things;
 - (b) excavating, grading or filling land;
 - (c) installing, altering, repairing or removing public facilities or utilities;
 - (d) repairing or raising a highway; or
 - (e) well drilling.between 6:00 a.m. and 11:00 p.m. on any day.
3. Traditional, religious or other activities listed below:
 - (a) fireworks;
 - (b) special events held under Regional District of Nanaimo Special Events Bylaw No. 1010, 1996;
 - (c) church bells.
4. Shouting in relation to games played in a community park.
5. The operation of a generator, at any time, for the purpose of generating electricity used in connection with the occupancy of a dwelling unit not served by BC Hydro.
6. Industrial, commercial or resource management operations at any time, where the use is permitted by the applicable zoning regulations.

7. The operation of electric transformer stations at any time.
8. The operation of marine engines on water at any time.
9. All operations conducted within the Agricultural Land Reserve, the Forest Land Reserve and on lands of four (4) hectares or larger at any time.
10. The operation of a motor or pump system used in connection with the occupancy of a dwelling unit.

DRAFT



REGIONAL DISTRICT OF NANAIMO			
NOV 14 2001			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMES	
		DSC	✓

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: November 9, 2001

FROM: Susan Cormie
Senior Planner

FILE: 3360 50 0108

SUBJECT: Temporary Commercial Use Permit No. 0108 - Tower Fence Products
Electoral Area 'A' - 1882 Fielding Road

PURPOSE

To consider an application for a temporary industrial use permit for the property located at 1882 Fielding Road in Electoral Area 'A'.

BACKGROUND

The Planning Department has received an application for a temporary industrial use permit for Lot A, Section 14, Range 6, Cranberry District Plan 7057 situated in the South Wellington neighbourhood of Electoral Area 'A'. The subject property, which is 2.02 ha in size, is zoned Residential 2 (RS2) and is within Subdivision District 'F' (minimum 1.0 ha parcel size) pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 (*see Attachment No. 1 for location*). Pursuant to both the current Electoral Area 'A' Official Community Plan Bylaw No. 1116, 1998, and the pending Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001 (at third reading), the subject property is designated within the Rural Residential Land Use Designation. However, the new OCP Bylaw No. 1240 recommends that the subject property be designated into the South Wellington Industrial - Commercial Land Use Designation subject to Growth Management Plan review. Bylaw No. 1240 also recommends that if the subject property is re-designated as industrial, it also be included within the South Wellington Development Permit Area.

The subject property is proposed to be used for the manufacturing and sales of a variety of fencing products (*see Schedule No. 1 for proposal*). The subject property is served with on-site well water and septic disposal.

The applicant has indicated that he wishes to apply to rezone the property to an industrial zone pending the outcome of the Growth Management review and adoption of OCP Bylaw No. 1240. At that time, the applicant proposes to redevelop the site demolishing the existing buildings and reconstructing. In the meantime, the applicant wishes maintain the site in its present state and allow the business to function in the interim.

Pursuant to the *Local Government Act*, a temporary use permit is valid for a period of 2 years and, at the end of 2 years, the applicant may apply to renew the permit for an additional 2 years.

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ALTERNATIVES

1. To consider the application for a Temporary Industrial Use Permit to allow a temporary fence manufacturing and sales use subject to the notification requirements pursuant to the *Local Government Act*.
2. To deny the application for a Temporary Industrial Use Permit.

DEVELOPMENT IMPLICATIONS

The subject property is not designated within a development permit area at this time. However, a temporary use permit can specify terms and conditions to regulate the form and character of the development. The applicant wishes to utilize the existing buildings and outdoor storage areas in their present location (*see Schedule No. 1*). The only additional structure requested is one fascia sign to be situated on either the workshop building or the office display building (*see Schedule No. 2 for conditions*). Please note that the applicant has indicated that he wishes to redevelop the entire site in conjunction with a rezoning application.

If the Growth Management Plan review results in the expansion of the industrial area of South Wellington, the pending OCP will automatically change the land use designation to *South Wellington Industrial – Commercial Area* and designate the property within a development permit area. As the applicant has indicated he wishes to rezone and redevelop the site. At that time, all applicable development permit guidelines, including landscaping and off-street parking provisions, will be required to be met.

As the temporary use permit is valid only for a period of 2 years, the applicant will be required to either apply to rezone the property along with a development permit within the 2-year period or restore the site to a residential use. Staff would recommend that, should the applicant not make application for the rezoning within 2 years or should the Board not approve the rezoning application, no subsequent renewals of the temporary use permit should be considered.

PUBLIC CONSULTATION IMPLICATIONS

The recently completed public consultation process for the Electoral Area 'A' Official Community Plan Bylaw No. 1240 considered the issue of industrial uses in the South Wellington Area. This review indicated community support for additional industrial – commercial uses on a number of properties in this area including the subject property. Due to this recent community direction, staff recommends that a Public Information Meeting (PIM) is not required.

SUMMARY

This is an application for a Temporary Industrial Use Permit for a fence manufacturing and sales use at 1882 Fielding Road in the South Wellington area of Electoral Area 'A'. While the applicant has indicated that he wishes to rezone the property to an industrial zone and redevelop the entire site, such a zoning amendment application is dependant upon the outcome of the Growth Management review and adoption of the new OCP for Electoral Area 'A'. Changes to the OCP would include designating the subject property within both an industrial land use designation and a development permit area. In the meantime, the applicant wishes to proceed with the fence manufacturing and sales use. It is noted that, at the time of consideration of future rezoning, all applicable and bylaw requirements, including development permit

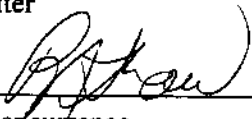
guidelines, will have to be met. Staff recommends that the application be approved subject to the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

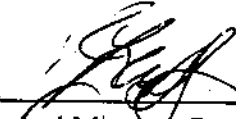
That Temporary Industrial Use Permit Application No. 0108, submitted by Tower Fence Products for the parcel legally described at Lot A, Section 14, Range 6, Cranberry District, Plan 7057 be approved as outlined on Schedules No. 1 and 2 and subject to the notification requirements pursuant to the *Local Government Act*.



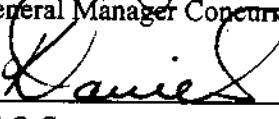
Report Writer



Manager Concurrence



General Manager Concurrence

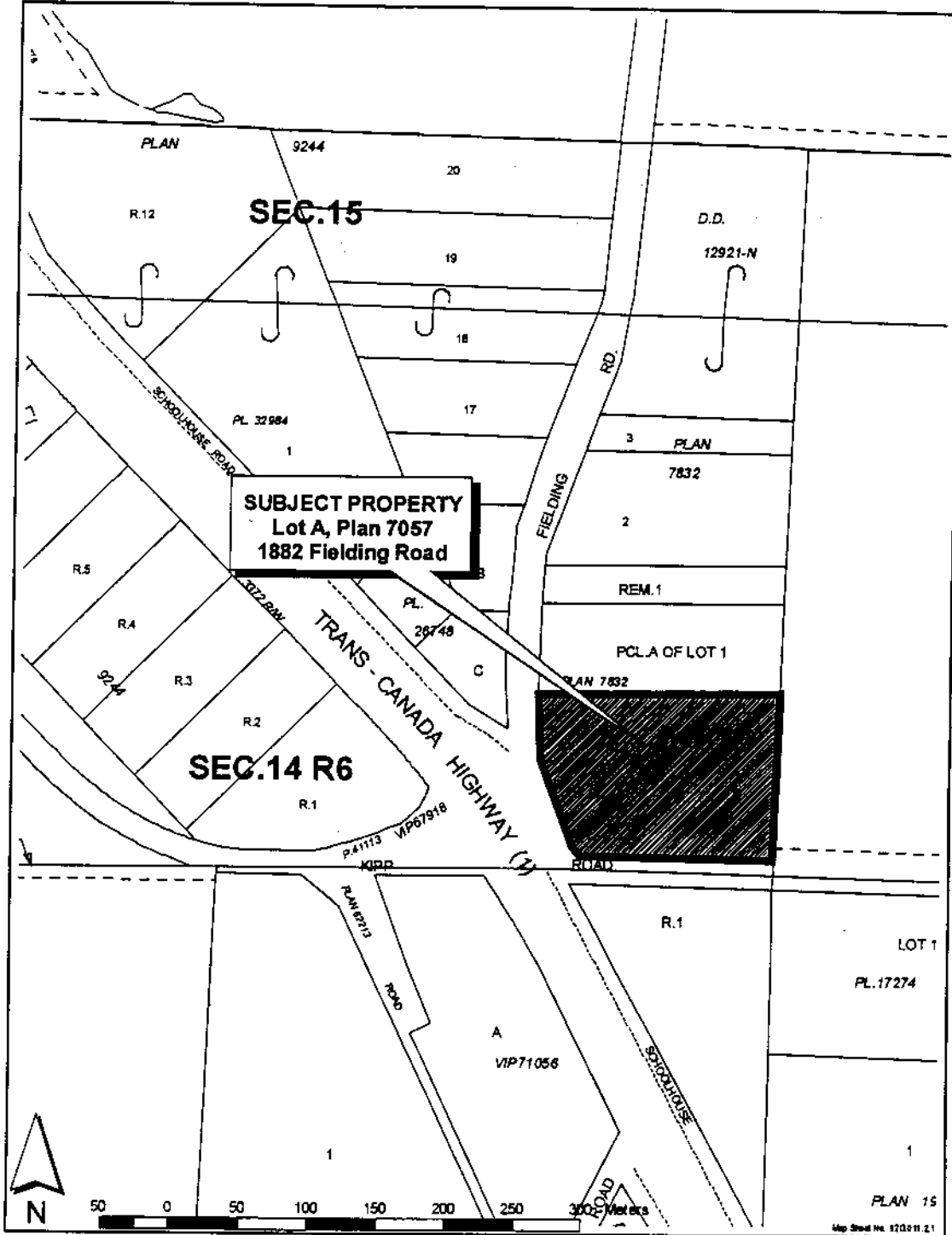


CAO Concurrence

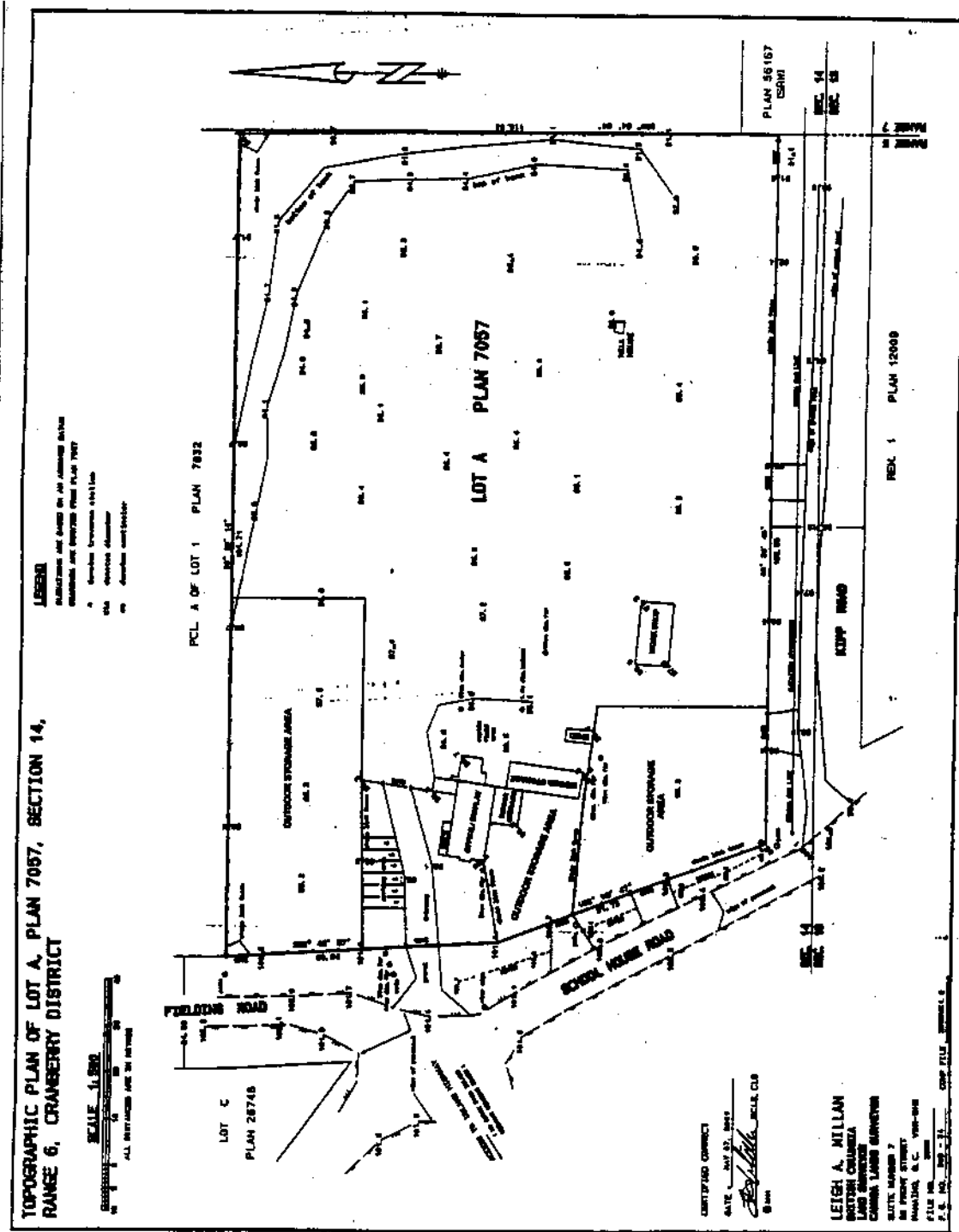
COMMENTS:

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Attachment No. 1
Location of Subject Property



Schedule No. 1
 Proposed Site Plan as Submitted by Applicant



Schedule No. 2

Conditions Attached to Temporary Industrial Use Permit No. 0108

Tower Fence Products

1. No additional development or outdoor storage permitted other than as shown on Schedule No. 1 with the exception of 1 fascia sign, which may be located on either the workshop building or the office/display building.



REGIONAL DISTRICT OF NANAIMO			
NOV 14 2001			
CHAIR		GMCrs	
CAO		MEMORANDUM	
GMCms		GMS	
		DSC	✓

TO: Kelly Daniels
CAO

DATE: November 13, 2001

FROM: Robert Lapham,
General Manager, Development Services

FILE: 6150 20 HOLA

SUBJECT: Horne Lake Park Management Plan
Block 40, Alberni District, Electoral Area 'H'

PURPOSE

To consider Terms of Reference for the appointment of a Advisory Committee to assist in the preparation of a Horne Lake Park Management Plan.

BACKGROUND

The Regional District will assume ownership of approximately 260 acres of land (Block 40, Alberni District) at the west end of Horne Lake upon the completion of the purchase of approximately 3000 acres of land around the Lake by members of the Horne Lake License Holders Association. The land is being transferred to the Regional District as Regional Park in consideration of park dedication requirements pursuant to the *Local Government Act* and as an amenity pursuant to the recent rezoning of the land.

The subject parcel is situated immediately between Horne Lake Caves Provincial Park and Horne Lake and is accessed from the north by Cave Road and from the south by a private logging road. (*see Attachment No. 1*) The logging road access, which is secured by easement in favour of Texada Logging, crosses the property from north to south and includes a bridge across the Qualicum River. A Centra Gas pipeline right-of-way also crosses the property from north to south; it is generally coincident with the boundary of the Forest Land Reserve that is designated over the west half of the land. An additional gazetted right-of-way corridor, known as the 1911 Gazette of the Horne Lake Trail, also crosses the land. While these encumbrances all represent exclusions or limitations on the land, the overall size of the parcel, the considerable amount of lake and river frontage, and remaining wooded areas offer outstanding opportunities for many types of parks and recreational uses.

Part of the site is currently developed as a campground with a combination residence/office/concession style store, storage yard, a number of pit privies, and a boat ramp. The Forest Land Reserve portion of the property and other parts of the property (outside the campground and riparian setbacks from the river and lake front) have been extensively logged. As a result of the recent, more exclusive occupancy of the land by 110 private campground license holders, there has been a considerable amount of site and shoreline alteration. This includes the construction of expanded camping areas, new road or trail accesses, retaining walls, temporary shelters, and private docks and boat launches. The operation of the campground and general security of the property has required a full time caretaker. In the past, the site was also used for group camping, adventure camps, and to marshal outdoor recreation activities such as mountain climbing and cave tours.

While the past operation of the site has had the benefit of a full time caretaker, access to the site was recently restricted due to concerns about vandalism, group gatherings or parties and the use of the land by off road motorized vehicles. However, one of the key objectives associated with the dedication of the land as park is to provide for public access to Horne Lake. In addition, given the importance of the

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subject property as a significant recreation area and a connector to the Regional District's trail network, the ability to offer overnight camping, is considered to be an important amenity for the public.

As part of the negotiations for the dedication of the land as park, the Horne Lake License Holders requested a contractual option to potentially assume the management and operation of the new park, subject to the terms and conditions of a Park Management Plan as approved by the RDN Board.

The park management option, if acted on, would provide for a 5-year operating agreement with the income from the campground (and potentially from other uses) to be collected and earned by the operator. All costs associated with the operation and maintenance of the park is to be undertaken by the operator (consistent with the terms and conditions of the Park Management Plan), with no costs to the Regional District. The option also provides for the Regional District to consider renewing the agreement for a further 5 years. If the Horne Lake License Holders decide not to manage the park or if the terms and conditions of the Park Management Plan are ultimately considered to be too onerous to implement based on projected revenue, the License Holders may elect not to opt to manage the park. The Regional District would then assume the direct management of the park and could consider other proposals to manage the park.

Further, the agreement requests provision for a representative of the Horne Lake License Holders to participate on a 'Park Advisory Committee'. This Committee is proposed to assist by providing recommendations on the preparation of a Park Management Plan (other agencies and or individuals with an interest will also be invited to participate in the preparation of the Park Management Plan). A Terms of Reference for the Park Advisory Committee is attached for the Board's consideration (see Attachment No. 2).

ALTERNATIVES

1. To approve the Terms of Reference for the appointment of a Park Advisory Committee that would assist in providing recommendations on the Park Management Plan.
2. To decide on other criteria or selection methods for the appointment of an Advisory Committee and provide direction to staff.
3. To not proceed with the appointment of a Park Advisory Committee.

VOTING

All Directors - one vote each.

LEGAL IMPLICATIONS

The approval of the Terms of Reference and the appointment of an Advisory Committee present no immediate legal implications for the RDN. However, the Parks Management Plan will contain contractual obligations and legal responsibilities that will have implications for the RDN and the contractor. Further legal counsel is required to ensure that liability and responsibility issues are fully addressed in the Park Management Plan for the protection of the RDN.

The RDN will likely take possession of the land in December 2001 or January 2002. An interim management plan will be necessary to secure the land and manage public access. Staff will provide verbal report outlining legal issues and implications associated with the change in ownership at an In-Camera Meeting following the regular Development Services Committee meeting.

FINANCIAL IMPLICATIONS

The approval of the Terms of Reference and the appointment of an Advisory Committee would not require additional expenditures beyond those already proposed in the 2002 Development Services Work Plan. Expenses incurred would include advertising for the Park Advisory Committee, hall rentals for Committee meetings and any other public events, legal costs associated with the review of the Parks Management Plan and web production costs to ensure any materials are posted for public viewing on the RDN website. The Planning Department will be responsible for the preparation of the Plan and once complete, the Park will be administered by the Parks and Recreation Department as a Regional Park.

Once the Park Management Plan is complete, and should the Horne Lake License Holders Association accept all conditions, the Agreement will specify that no costs be incurred by the RDN for the operation of the park. Financial implications would be limited to proportionate administration costs and individual initiatives, as approved by the Board. However, should the License Holders Association decline the 'first right of refusal' for the management of the park, the RDN will be responsible for park operation and management. At that time, Board direction will be requested on proposals to manage the park and the financial implications could be more substantial (ranging from minor costs for advertising a request for proposals to more substantial costs, though potentially recoverable from park income, should management of the park become an RDN core responsibility).

PUBLIC CONSULTATION IMPLICATIONS

It is anticipated that there will be public interest both in membership on the Park Advisory Committee and in the Park Management Plan, once the process is underway. The Terms of Reference recommends extensive advertising for membership on the Committee, and proposes a series of Committee meetings that would be open to the public. Further, the Terms of Reference proposes a public information meeting upon the completion of a draft of the Park Management Plan. In addition, the Terms of Reference proposes that the RDN web site be updated with information on this initiative as the project progresses. Staff will be responsible for the public information and advertising components of the project and will ensure that public information is readily available and the process is open and transparent.

SUMMARY/CONCLUSIONS

The Regional District will assume ownership of approximately 260 acres of land (Block 40, Alberni District) at the completion of the purchase of the lands at Horne Lake by the Horne Lake License Holders Association. The land is being transferred to the Regional District as Regional Park.

Throughout the rezoning process, residents indicated that the retention of public access to these lands is an important issue that must be negotiated by the RDN. As part of the negotiations for the dedication of the land as park, the Horne Lake License Holders requested a contractual option to potentially assume the management and operation of the new park, subject to the terms and conditions of a Park Management Plan as approved by the RDN Board.

The park management option, if acted on, would provide for a 5-year operating agreement with the income from the campground (and potentially from other uses) to be collected and earned by the operator. All costs associated with the operation and maintenance of the park are to be undertaken by the operator (consistent with the terms and conditions of the Park Management Plan), with no costs to the Regional District. The option also provides for the Regional District to consider renewing the agreement for a further 5 years. If the Horne Lake License Holders decide not to manage the park or if the terms and conditions of the Park Management Plan are ultimately considered to be too onerous to implement (specifically in consideration of the projected revenue), the License Holders may elect not to opt to manage the park. The Regional District would then assume the direct management of the park and could consider other park management proposals.

Further, the agreement requests provision for a representative of the Horne Lake License Holders to participate on a 'Park Advisory Committee'. This Committee is proposed to assist by providing recommendations on the preparation of a Park Management Plan (*other agencies and/or individuals with an interest will also be invited to participate in the preparation of the Park Management Plan*).

RECOMMENDATIONS

1. That the Draft Terms of Reference for the appointment of a Parks Advisory Committee be received for information by the Board.
2. That the Board direct staff to proceed with the selection criteria for the appointment of a Park Advisory Committee to assist in the completion of the Horne Lake Park Management Plan.
3. That staff be directed to proceed with the completion of a draft Horne Lake Park Management Plan, to be presented to the public at a public information meeting prior to consideration by the Board.



Report Writer

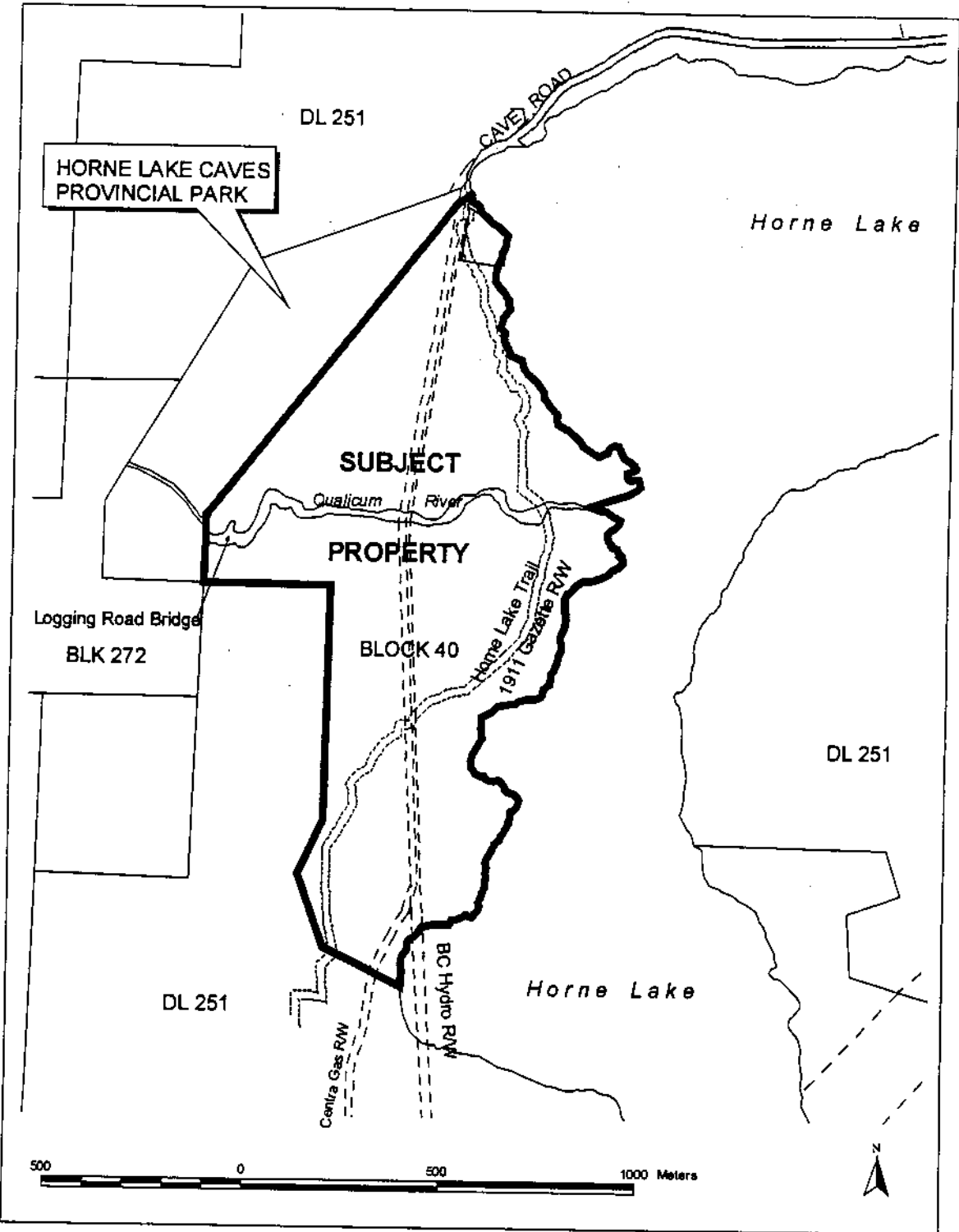


CAO Concurrence

COMMENTS:

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**ATTACHMENT NO. 1
SUBJECT PARCEL LOCATION**



ATTACHMENT NO. 2
TERMS OF REFERENCE
HORNE LAKE ADVISORY COMMITTEE



**Horne Lake Park
Advisory Committee**

TERMS OF REFERENCE
November 2001

1.0 SCOPE OF WORK

The scope of work of the Horne Lake Park Advisory Committee is to assist in the preparation of a Park Management Plan for Block 40, Alberni District by providing advise and recommendations with respect to how the land may be best managed and utilized as public park (with recognition given to: legal agreements between the RDN and the Horne Lake License Holders Association; the preservation of the environmental values of the land; and the interests of other provincial and federal agencies).

2.0 ESTABLISHMENT OF THE PARK ADVISORY COMMITTEE

The Park Advisory Committee will be established by the Board to work with staff on a Park Management Plan for the newly created Horne Lake Park. As this Park is viewed as an important resource to all residents in the Regional District of Nanaimo, a public notice will invite submissions from citizens of the Region who may wish to serve on the Committee. In addition, given that intergovernmental issues, such as the adjacent Provincial Park, Flood Protection and Habitat and Fish Protection Implications, representation will be invited of relevant provincial and federal ministries. Applications will be submitted to the Board Selection Committee, which will review the applications and provide recommendations for appointments to the Board.

Membership of the Committee shall consist of:

- a) Electoral Area 'H' Director as an ex-officio member of the Committee;
- b) Four members of the general public (representing a cross section of interests) who submit applications to the Board;
- c) One representative of the management group acting on behalf of the Horne Lake License Holders Association;
- d) One representative of Horne Lake License Holders Association, appointed by the Association;
- e) One representative of BC Parks, to be appointed by that ministry;
- f) One representative of the Ministry of Air, Land and Water; and
- g) One representative of the Department of Fisheries and Oceans, appointed by the ministry.

The General Manager of the Development Services Department will act as Project Administrator and a RDN Recreation and Parks Department staff member will act as Project Coordinator and Advisory Committee facilitator.

An invitation will also be extended to the Qualicum First Nation to attend Committee Meetings for information purposes.

3.0 ANTICIPATED COMMITMENT

Park Advisory Committee members will be asked to commit to approximately six to eight meetings in addition to attendance at a public information meeting.

4.0 RESOURCES

Internal staff resources will support this initiative. One permanent staff position will be assigned to the project to completion. Additional resources (planning, mapping, and technical support) will be brought on as required.

5.0 OBJECTIVES

The Committee objective is to work with the RDN to create a Horne Lake Park Management Plan that resolves the following types of issues:

- a) Assured public access to Horne Lake
- b) Park Access (Roads, Trails, Parking, day use, camping and Third Party Access)
- c) Protection and enhancement of provincial park interests
- d) Protection of environment (fish, wildlife, vegetation)
- e) Flood Protection and Emergency Planning
- f) Public Safety and Fire Protection
- g) Park Security (including regulatory authority and park bylaws)
- h) Development of park infrastructure and site improvements (extent to which park will be developed)
- i) Operation of a public boat ramp at Horne Lake (boating restrictions)
- j) Campground Operation (Fees and Charges, Types and Length of Occupancy, Number, Location and Types of Sites and Services)
- k) Accessory uses and services (one site caretaker, administration, store, third party)
- l) Recognition of monetary issues and the viability of facilities in consideration of a future operating contract with the Horne Lake License Holders Association (or other entity responsible for operation of the park)
- m) Other public interest issues as determined by the Committee, through staff research or through public consultation.

6.0 OPERATING GUIDELINES

A Draft of an "Operating Guidelines" document will be provided to the Committee at its inaugural meeting for discussion and modification. The document will clarify the roles and responsibilities of the RDN and Committee Members as follows:

The Committee shall be responsible for:

- Identification of base information requirements;
- Identification of additional issues to be addressed in the Park Management Plan;
- Understanding the nature and purpose of a Park Management Plan;
- Reviewing and providing comment on the Draft Horne Lake Park Management Plan; and
- Attending a Public Information Meeting on the Draft Horne Lake Park Management Plan.

Staff shall be responsible for:

- Providing base information to the Committee (mapping, research, assessments);
- Identifying models or approaches for a Park Management Plan;
- Developing a Draft Horne Lake Park Management Plan;
- Advertising and updating the RDN website with current information on the Park Management Plan process;
- Creating and implementing a public process to provide venues and means for the public to comment on the Draft Horne Lake Park Management Plan; and
- Presenting the Draft Horne Lake Park Management Plan to the RDN Board for consideration.

The Operating Guidelines shall also set out a proposed schedule of meetings and establish the rules and procedures for the Park Advisory Committee.

7.0 TIMING TARGET

The Horne Lake Park Management Plan shall be provided to the RDN Development Services Committee at the March 2002 Meeting.

8.0 BUDGET

To be included in the 2002 Development Services Department Work Plan requisition.