

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, APRIL 23, 2002
7:00 PM

(Nanaimo City Council Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

- 3 Ross Rainsford, re DP Application No. 0218 - Horne Lake Cave Road - Area H.
George Tinga, re Water 1 Zone to Exclude Aquaculture.

MINUTES

- 4-6 Minutes of the Electoral Area Planning Committee meeting held Tuesday, March 26, 2002.

CORRESPONDENCE/COMMUNICATIONS

BUSINESS ARISING FROM THE MINUTES

PLANNING

AMENDMENT APPLICATIONS

- 7-13 Zoning Amendment Application - PRA Holdings Ltd. - Harold Road - Area A.
14-35 Zoning Amendment Application - Cedar View Estates Ltd. - Cedar & Hemer Roads - Area A.

DEVELOPMENT PERMIT APPLICATIONS

- 36-43 DP Application No. 0215 - Fairwinds/Dafoc - 3730 Fairwinds Drive - Area E.
44-51 DP Application No. 0218 - Rainsford - Horne Lake Cave Road - Area H.
52-57 DP Application No. 0220 - Bulger - Horne Lake Cave Road - Area H.
58-66 DP Application No. 0221 - Gerard/Fern Road Consulting - Lot 14, Amberwood Lane - Area E.
67-73 DP Application No. 0222 - Mauriks/Fern Road Consulting - 1429 Dorcas Point Road - Area E.

OTHER

74-76

Home Based Business Regulations - RDN Land Use & Subdivision Amendment
Bylaw No. 500.270 - Areas A, C, D, E, G & H.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

M. GRIFFIN LTD.

941 VIEW STREET
VICTORIA, B.C. V8V 3L6

Facsimile Cover Sheet

To: Brigid Reynolds
Company: RDN
Phone: _____
Fax: 1-250-390 4163

From: Ross Rainsford
Company: M. Griffin Ltd.
Phone: (250) 382-5159
Fax: (250) 382-2515

Date: 15/08/02 No. of Pages (including cover sheet) 1 of 1

Original to Follow via mail: Yes _____ No _____

Re: Development Variance Permit Committee
meeting April 23/02 @ 6pm. Brigid I would
like to be @ this meeting, and take a
moment of the committee's time to talk
to them. Could you reply back and
let me know if this is okay

Thank Ross Rainsford

Confirm Address of meeting
6300 Harbour Bay Rd

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, MARCH 26, 2002, AT 6:00 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 R. Quittenton	Electoral Area H

Also in Attendance:

B. Lapham	General Manager of Development Services
P. Shaw	Manager of Community Planning
N. Tonn	Recording Secretary

MINUTES

MOVED Director Holme, SECONDED Director Elliott, that the minutes of the Electoral Area Planning Committee meeting held Tuesday, February 26, 2002 be adopted.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application – Chouinard – 7184 Lantzville Road – Area D.

MOVED Director Haime, SECONDED Director McLean,:

1. That the minutes of the Public Information Meeting held March 14, 2002 for Amendment Application No. 0201, submitted by Winnifred Chouinard, to amend the Commercial 2 (CM2) zone by removing site area requirements for Residential Use, and specifically for the subject property legally described as Lot 6, District Lot 27G (Formerly Known as District Lot 27), Wellington District, Plan 6757, be received for information.
2. That Amendment Application No. 0201, submitted by Winnifred Chouinard, to amend the Commercial 2 (CM2) zone by removing site area requirements for Residential Use, and specifically for the subject property legally described as Lot 6, District Lot 27G (Formerly Known as District Lot 27), Wellington District, Plan 6757, be given 1st and 2nd reading.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.282, 2002" be advanced to a public hearing.
4. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.282, 2002" be delegated to Director Haime or her alternate.

CARRIED

PAGE
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DEVELOPMENT PERMIT APPLICATIONS

DP Application No. 0207 – Smith – Cave Road – Area H.

MOVED Director Quittenton, SECONDED Director Holme, that Development Permit Application No. 0207, to facilitate the relocation of a recreational residence and decks to be located a minimum of 10.5 metres and an accessory building to be located a minimum of 8.0 metres and the stairs to be located a minimum of 1.2 metres from the natural boundary of Horne Lake located within the Environmentally Sensitive Areas Development Permit Area on the property legally described as Strata Lot 52, District Lot 251, Alberni District, Plan VIS5160 be approved subject to the conditions outlined in Schedule No. 2.

CARRIED

DP Application No. 0208 – A & W Food Services of Canada/Nanoose Hill Station Ltd. – 1666 East Island Highway – Area E.

MOVED Director Holme, SECONDED Director McLean, that Development Permit No. 0208 for the changes to the signage to the A & W Restaurant Building on the property legally described as Lot 1, of Amended Lot 167 (DD 66169-N), Nanoose District, Plan 9428 Except Parcel A (DD 80609-N) Thereof; and Except Part in Plan 19267 be approved subject to the conditions as outlined in Schedule '1' of the staff report.

CARRIED

DP Application No. 0209 – Groves – 5457 West Island Highway – Area H.

MOVED Director Quittenton, SECONDED Director Elliott, that Development Permit Application No. 0209 to vary the maximum height of a dwelling unit in the Residential 2 zone pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" from 8.0 metres to 9.5 metres to facilitate the construction of a single dwelling unit and the removal of a single dwelling unit within the Hazard Lands Development Permit Area pursuant to "Shaw Hill-Deep Bay Official Community Plan Bylaw No. 1007, 1996" for the property legally described as Lot 3, District Lot 16, Newcastle District, Plan 15105 be approved subject to the conditions outlined in Schedule No. '1' and pursuant to the notification requirements of the *Local Government Act*.

CARRIED

DP Application No. 0212 – Stull – Cave Road – Area H.

MOVED Director Quittenton, SECONDED Director Elliott, that Development Permit Application No. 0212 to facilitate the construction of a recreational residence and decks to be located a minimum of 8.0 metres from the natural boundary of Horne Lake and located within the Environmentally Sensitive Areas Lands Development Permit Area on the property legally described as Strata Lot 119, District Lot 251, Alberni District, Plan VIS5160 be approved subject to the conditions outlined in Schedule No. 2.

CARRIED

DP Application No. 0214 – Kristjanson – Higginson Road – Area E.

MOVED Director Holme, SECONDED Director Haime, that Development Permit Application No. 0214 to permit the construction of a shoreline protection device, consisting of granite rock, in place of the damaged retaining wall, on the property legally described as Lot 10, District Lot 102, Nanoose District, Plan 21022 be approved, subject to the conditions outlined in Schedule No. 1 of this report.

CARRIED

DEVELOPMENT VARIANCE PERMIT

DVP Application No. 0209– Lyon – Chartwell Road – Area G.

MOVED Director Haime, SECONDED Director McLean, that Development Variance Permit No. 0209, submitted by Lynda Middlemass, Agent, acting on behalf of Nancy Joan Lyon, to facilitate the development of a single dwelling unit and vary the minimum setback requirement for a building or structure within a Residential 1 zone from 5.0 metres to 3.2 metres for the other lot line located along Miraloma Drive for the property legally described as Lot 33, District Lot 88, Nanoose Land District, Plan VIP57488, be approved as submitted subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

ADJOURNMENT

MOVED Director McLean, SECONDED Director Quittenton, that this meeting terminate.

CARRIED

TIME: 6:10 PM

CHAIRPERSON



APR 15 2002

CHAIR	GMCrs
CAO	GMDS
GMCms	GMES

C.A. Planning

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: April 11, 2002

FROM: Susan Cornie
Senior Planner

FILE: 3360 30 0204

SUBJECT: Zoning Amendment Application – PRA Holdings Ltd.
Electoral Area 'A', Harold Road

PURPOSE

To consider an application to rezone a portion of the subject property from Industrial 1 (IN1) to Industrial 2 (IN2) in order to facilitate a lot line adjustment subdivision for the purposes of relocating the driveway access and to eventually expand the existing building on the adjacent parcel.

BACKGROUND

The portion of the subject property under consideration for rezoning (Lot 9, Section 12, Range 7, Cranberry District, Plan 27070) and proposed to be added to the adjacent Lot 11 is approximately 0.11 ha in size and is located adjacent to Harold Road within the South Wellington Industrial Area of Electoral Area 'A' (see Attachment No. 1 for location of subject property). The subject property is currently zoned Industrial 1 (IN1) and is within Subdivision District 'J' (1.0 ha without community services) pursuant to the RDN Land Use and Subdivision Bylaw No. 500, 1987 while the adjacent Lot 11 is currently zoned Industrial 2 (IN2) and is within the same Subdivision District 'J'.

The subject property is designated within the South Wellington Commercial Industrial Land Use Designation pursuant to the Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001 (OCP). The OCP provides for industrial related development and therefore this application is consistent with the objectives and policies of the OCP. In addition, the OCP designates the subject property within the South Wellington Development Permit Area No. 1.

The subject property, which varies in topography, is bordered on all sides by industrial zoned lands.

Proposal as Submitted

The applicant is proposing a boundary adjustment subdivision between Lots 9 and 11 by adding approximately 0.11 ha of land to Lot 11, which is currently zoned Industrial 2 in order to relocate the access driveway and to facilitate the future expansion of the existing building located on Lot 11 (see Attachment No. 2 for proposal). While the proposed driveway could be accommodated without a zoning change, the applicant has requested the zoning change to ensure future zoning compliance.

Despite the minimum parcel size requirements, Bylaw No. 500, 1987 contains provision for a lot line adjustment subdivision provided the adjustment in the boundary does not result in the reduction of either parcel by 20% or more of its original parcel size. In this case, the proposal is to reduce the size of Lot 9 by 9.0%, therefore meeting the bylaw provisions.

Public Information Meeting

A public information meeting was held on April 4, 2002 at the Waterloo Elementary School. Notification of the meeting was advertised in the Harbour City Star, along with a direct mail out to all property owners within 100 metres of the subject property. 1 person attended the information meeting and provided his comments following the applicant's presentation of an overview of the proposal (*see Attachment No. 3 'Minutes of the Public Information Meeting'*). There were no issues raised at the public information meeting with respect to this application.

ALTERNATIVES

1. To approve the amendment application to rezone the subject property from Industrial 1 (IN1) to Industrial 2 (IN2) as submitted by the applicant.
2. To approve the application to rezone the subject property from Industrial 1 (IN1) to Industrial 2 (IN2) subject to the conditions outlined in Schedule No. 1.
3. To not approve the amendment application.

PUBLIC CONSULTATION IMPLICATIONS

There were no issues raised by the public with respect to this application.

OFFICIAL COMMUNITY PLAN / DEVELOPMENT PERMIT IMPLICATIONS

Under the Exemptions section of the South Wellington Development Permit Area, this application is exempt from requiring a development permit at the time of subdivision of land. The applicant has indicated that future plans are to construct an addition to the existing building on Lot 11; therefore a development permit would be required at that time.

ENVIRONMENTALLY SENSITIVE AREAS ATLAS/LOT CONFIGURATION IMPLICATIONS

The Environmentally Sensitive Areas Atlas does not indicate the presence of environmentally sensitive areas within the subject properties.

Due to the topography of Lot 11 and the location of the existing building, access to the rear of the lot is only available from Harold Road. This boundary adjustment subdivision will permit access to the rear of Lot 11. The applicant has indicated that a reciprocal access easement over Lot 9 is not a viable option because it involves a legal notation on title. In addition, the proposed boundary adjustment will allow room for a future addition to the existing building and still meet the required setbacks.

MINISTRY OF TRANSPORTATION IMPLICATIONS

The Ministry of Transportation has supplied comments on this application. These comments will be addressed at the time of subdivision.

MINISTRY OF HEALTH

The applicant has submitted current Ministry of Health records with respect to the existing septic disposal system on Lot 11 (Lot 9 is currently vacant). Septic disposal approval will be confirmed as part of the subdivision application process.

VOTING


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

SUMMARY

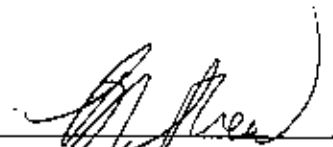
The applicant is requesting consideration of a zoning amendment application in order to facilitate a boundary adjustment subdivision for the purposes of relocating the driveway access to permit entry into the rear of the property and to eventually construct an addition to the existing building on Lot 11. A public information meeting was held and no issues concerning the application were raised. Issues raised by the Ministry of Health and the Ministry of Transportation will be resolved during the subdivision process. Therefore, as no public issues have been raised and the application will be subject to subdivision approval at which time the provincial ministries will review the application, staff recommend Alternative No. 2, to approve the application for 1st and 2nd reading subject to the conditions outlined in Schedule No. 1 of this report.

RECOMMENDATIONS

1. That Amendment Application No. 0204 submitted by PRA Holdings Ltd. to rezone a portion of the property legally described as Lot 9, Section 12, Range 7, Cranberry District, Plan 27070 from Industrial 1(IN1) to Industrial 2 (IN2) be advanced to a public hearing subject to the conditions outlined in Schedule No. 1.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.285, 2002" be given 1st and 2nd reading and proceed to Public Hearing.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.271, 2000" be delegated to Director Elliott or his alternate.



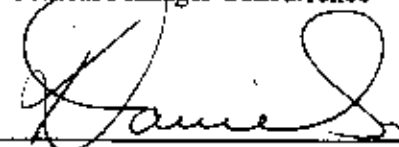
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

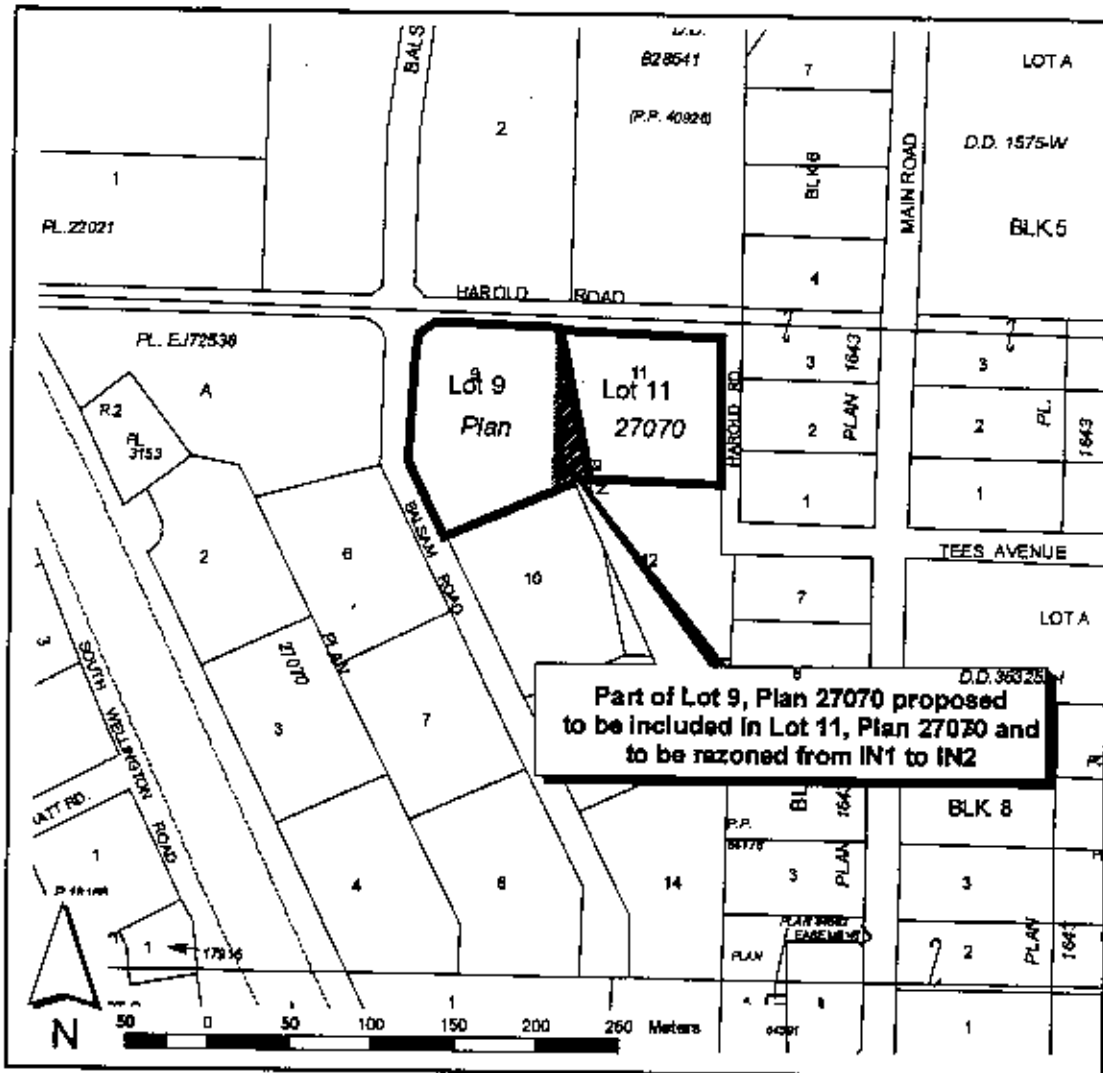
devvsr/reports/2002/za3360 30 0204 ap pra holdings 1st & 2nd.doc

SCHEDULE NO. 1

**Conditions for Approval
Zoning Amendment Application No. 0204**

1. Applicant to provide proof of registration of boundary adjustment subdivision at Land Title Office prior to consideration of 4th reading of "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.285, 2002".

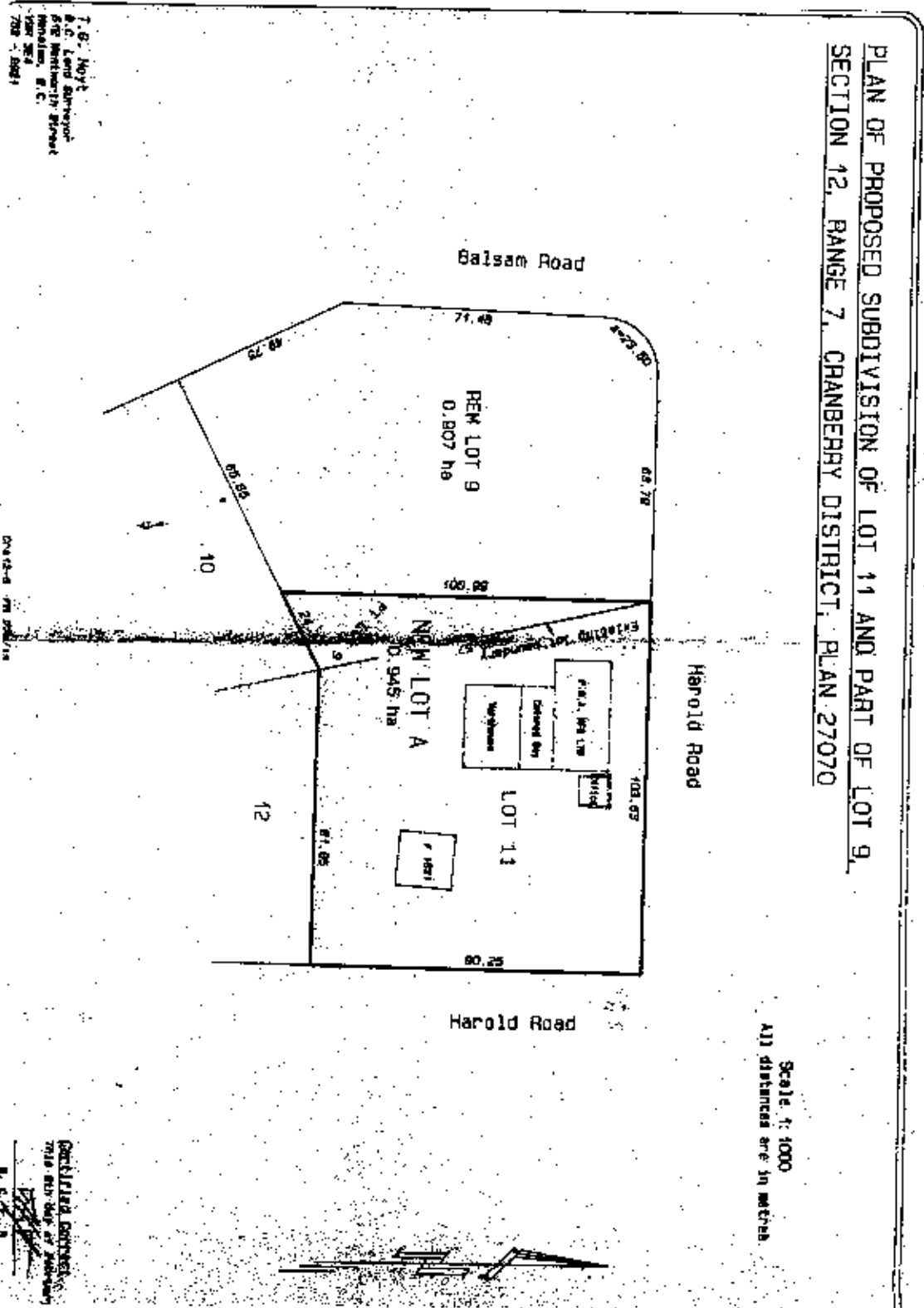
ATTACHMENT NO. 1 Location of Subject Properties



Map No. 110111.1

ATTACHMENT NO. 2

**Proposed Boundary Adjustment Subdivision
 (as submitted by applicant)**



ATTACHMENT NO. 3

**Minutes of Public Information Meeting
Held at Waterloo Elementary School
3519 Hallberg Road, Cassidy, BC
April 4, 2002 at 7:00 pm
On Proposed Zoning Amendment Application for a Portion of Lot 9, Section 12,
Range 7, Cranberry District, Plan 27070**

Note: these minutes are not a verbatim recording of the proceedings, but are intended to summarize the comments of those in attendance at the Public Information Meeting.

There was 1 person in attendance.

Present for the Regional District:

Chairperson L Elliott, Director, Electoral Area 'A'
Susan Cormie, Senior Planner

Present for the Applicant:

Mr. Roger Coleman

Director L Elliott opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting and introduced the head table. The Chair stated the purpose of the public information meeting and requested the Senior Planner to provide background information concerning the zoning amendment process.

The Chair then invited Mr. Roger Coleman, applicant, to give a presentation of the proposed zoning amendment. Mr. Coleman outlined the elements of the proposal.

The Chair invited questions and comments from the audience.

Mr. Jaswal, owner of Lot 12, Plan 27070, stated that he was concerned about his own property and was at the information meeting to listen.

The Chair asked if there were any other questions or comments.

Being none, the Chair thanked those in attendance and announced that the public information meeting was closed.

The meeting concluded at 7:07 pm.

Susan Cormie
Recording Secretary



REGIONAL DISTRICT OF NANAIMO		
APR 16 2002		
CHAIR		GMCrS
CAO		GMDS
GMCmS		GMES
EAPC ✓		

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: April 16, 2002

FROM: Susan Cormie
Senior Planner

FILE: 3360 30 9809

SUBJECT: Zoning Amendment Application - Cedar View Estates Ltd.
Electoral Area 'A', Cedar and Hemer Roads

PURPOSE

To consider an application to rezone the subject properties from Commercial 2 (CM2) to Comprehensive Development 12 (CD12) in order to facilitate a mixed-use residential and commercial development.

BACKGROUND

The subject properties under consideration for rezoning and legally described as a Portion of Lot A, Plan VIP57874 and Lot 6, Plan VIP59634 Both of Section 14, Range 1, Cedar District, are approximately 3.1 ha in size and located adjacent to Cedar and Hemer Roads within the Cedar Village Area of Electoral Area 'A' (see Attachment No. 1 for location of subject properties). The properties are currently zoned Commercial 2 (CM2) and are within Subdivision District 'M' (2000 m² with community water service) pursuant to the RDN Land Use and Subdivision Bylaw No. 500, 1987.

The subject properties are designated within the Cedar Village Centre Land Use Designation pursuant to the Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001 (OCP). These properties are also situated within the Urban Containment Boundary as designated in the OCP (see Attachment 1 for location). The OCP provides for a mixed-use development including up to 100 residential dwelling units and seniors' housing for up to 75 residents to be located within the Cedar Village Centre. Therefore, the proposal is consistent with the relevant objectives and policies of the OCP.

In addition, the subject properties are designated within the Cedar Village & Cedar Commercial/Industrial Development Permit Area No. 3 pursuant to the OCP.

The subject properties, which are gently sloping to the north west in topography, are bordered to the north by land located within the Agricultural Land Reserve (ALR) and the natural boundary of York Lake; to the east by residentially zoned lands; and to the south and west by residentially and commercially zoned lands. In addition, the Morden Colliery Trail crosses the site dividing the properties into 2 separate areas.

Proposal as Submitted

The applicant is proposing to develop the site as a mixed use development comprised of:

- a commercial component consistent with existing zoning,
- 100 residential dwelling units,
- a seniors' housing complex for 75 residents,
- an optional connection to the neighbouring commercial area by a crossing of the Morden Colliery Trail and Park, and
- a trail parking and staging area (*see Schedule No. 2 for proposal*).

Public Information Meeting

A public information meeting was held on March 14, 2002 at the Woodbank Elementary School Gymnasium. Notification of the meeting was advertised in the Harbour City Star, along with a direct mail out to all property owners within 100 metres of the subject property. Approximately 40 people attended the information meeting and provided their comments with respect to the proposal following the applicant's presentation of an overview of the proposal (*see Attachment No. 2 - Minutes of the Public Information Meeting*). The purpose of the public information meeting is to present the proposal to the public and to respond to questions, providing the applicant with an opportunity to respond to community issues as part of the consideration of the application by the Electoral Area Planning Committee.

Issues raised at the public information meeting included the following:

- Concern for pedestrian and vehicular traffic safety and access on Hemer and Cedar Roads; traffic noise and traffic lights; additional outside traffic coming into the area;
- Drainage of the site & protection of the wetland area as an environmentally sensitive area; possible dedication of the lake foreshore area as a nature preserve;
- Cross over of park land - concern for design and the necessity;
- Proposed uses on adjacent ALR lands;
- Proposed density of multi family component;
- Design of the proposed buildings and impact on adjacent properties and views, including, height of buildings and off-street parking areas and locations;
- Availability of community water and community sewer services;
- Phasing of development and demonstrated need for commercial space and a seniors' complex; and
- Proposed locations of commercial area and seniors' centre.

In addition to the Public Information Meeting, additional comments that have been received to date are attached (*see Attachment No. 3*).

ALTERNATIVES

1. To approve the amendment application to rezone the subject property from Commercial 2 (CM2) to Comprehensive Development 12 (CD12) as submitted by the applicant.
2. To approve the application to rezone the subject property from Commercial 2 (CM2) to Comprehensive Development 12 (CD12) subject to the conditions outlined in Schedule No. 1.
3. To not approve the amendment application.

PUBLIC CONSULTATION IMPLICATONS

Comments and written correspondence from the public have raised a number of issues. The applicant has stated that he believes the majority of these issues can be addressed and is in concurrence with amending the proposal to address public concerns. Issues raised by the public, along with applicant and staff comments, are outlined below:

Traffic safety and access issues

With respect to traffic safety and access issues, residents raised a number of concerns including the lack of a safe area for pedestrian traffic along Hemer Road; the relocating of the proposed access from the site onto Hemer Road; the necessity of restricting traffic at the intersection of Hemer and Cedar Roads; and the need for a signalized intersection on Cedar Road.

As a result of comments received, the applicant has offered to upgrade a section of Hemer Road on the south side between Cedar Road and the northern boundary of the property, by providing a minimum ½ - metre wide shoulder for pedestrian use. Due to the existing utilities and the main drainage ditch being located adjacent to the north side of Hemer Road, the applicant does not believe that a walking area within the road right-of-way is technically feasible; however, the applicant believes that there may be sufficient space along the south side of Hemer Road (opposite side from subject properties) for a walking area. This proposal will have to be confirmed and approved by the Ministry of Transportation.

Following the Public Information Meeting, RDN staff and the applicant met with Ministry of Transportation staff to review the Hemer Road issues along with the various other issues raised by the public. Out of these discussions, the Ministry of Transportation has indicated that it is prepared to permit the applicant to construct works on Hemer Road in order to provide for a widened shoulder for pedestrian use. Any proposed works will be subject to Ministry approval.

With respect to the issue raised of re-locating the proposed access farther down Hemer Road, the Ministry supports the proposed location from both a technical and traffic safety point of view. It was felt that moving the access closer to the pipeline easement restricts the traffic sight line.

With respect to the issue raised concerning the Hemer and Cedar Road intersection, the Ministry is in agreement to allow a right in / right out/ left in access provided the proposed middle turning lane on Cedar Road is extended to Hemer Road. The only proposed restricted movement will be left out turning from Hemer Road onto Cedar Road.

With respect to the issue concerning the need for signalized traffic lights, the Ministry indicated that there is no need for signalized lights on Cedar Road at this time. The Ministry noted that the proposed new intersection at Cedar View Road (proposed new road) would become the main intersection.

Staff recommends that, if this rezoning proceeds, improvements to Hemer Road for pedestrian use, improvements to the Hemer / Cedar Road intersection, and the inclusion of a third lane on Cedar Road be required as a condition of development subject to approval of the Ministry of Transportation and the Regional District.

Drainage issues and protection of York Lake

Some residents have voiced a concern about the drainage of the subject property, the management of a drainage system, and the protection of York Lake.

The applicant has indicated that they will provide an engineered on-site drainage system complete with an infiltration and retention system. This system would re-circulate and hold back the on-site storm water prior to being released. In addition, a maintenance program would be put in place to ensure the system

functions properly. The Ministry of Transportation has indicated that drainage from the development may not impact the Hemer Road area and that a statutory right-of-way would be required for the drainage from the proposed fee simple road (Cedar View Road).

In respect to the protection of York Lake, verification of the flood level would be required. Currently, there is no development permit area for the protection of watercourses within Electoral Area 'A'. Despite this and to address public concerns, the applicant has indicated that he is in concurrence to enter into a protective covenant for the protection of the wetland area located along a portion of the north boundary and as generally shown on the Environmentally Sensitive Areas Atlas.

Staff recommends that if this rezoning should proceed, that provisions for storm water and the protection of the wetland area be included within the development agreement.

Proposed cross over of trail & park land to provide an access road

Some comments have been received questioning the need for a vehicular cross over of the Morden Colliery Trail and adjacent park land and, if permitted, the design of such a crossing.

As a result of public consultation, the applicant has indicated that, if requested, he will eliminate this cross over road from the proposal; however the applicant is willing to include this feature and construct the crossing with a pedestrian friendly theme (such as a 'rail crossing' sign) if this feature is required by the RDN or other government agency.

Staff notes that the applicant is still offering to provide a parking area for park users in a location adjacent to the trail. If the cross over road is not provided, the proposed parking area will be inaccessible by vehicles. Further, the cross over road provides a strong link between the existing commercial area of the Village and the proposed commercial area. As a result, staff recommends that the option remain in the development proposal pending the comments received at the public hearing.

Use of adjacent ALR lands

Comments were received enquiring on the use of the adjacent Agricultural Land Reserve (ALR) lands, which are not part of the amendment application, but are legally included with one of the parcels under consideration for rezoning.

The applicant has indicated that the ALR portion of the land will remain within the ALR and used as agricultural lands.

Design of proposed buildings and impact on adjacent properties and views; including height issues

Some residents have stated that they are concerned with the negative impact a number of large buildings will have on the surrounding residential area as well as view corridors.

With respect to building design, to address public concerns, the applicant has indicated that he will provide a mix of residential units, some 2 storeys and some 3 storeys with the 3rd storey built into the roof lines in a variety of building types.

Staff notes that the size and scale of the proposed buildings will have to be consistent with the development permit guidelines. The buildings, proposed to be 3 storeys in height with the 3rd storey built into the roof line, should maintain the maximum height provision of 8.0 metres. Staff recommends that, if this rezoning proceeds, the development permit process run concurrently with the amendment process and building design criteria be included in the development agreement.

Availability of community water and community sewer services

Some members of the public voiced concern over the availability of community water and community sewer services being available to the site.

The applicant has indicated that the development could not proceed without community water and community sewer being in place and is in agreement that this servicing must be available to serve the development.

Staff recommends that if this rezoning proceeds, confirmation from the North Cedar Improvement District outlining that community water is available to serve the proposal will be required. A community sewer connection will also be required to proceed with the development.

Proposed location of seniors' housing complex

A number of comments were submitted by residents concerned about the location of the proposed seniors' housing complex being too close to the high water boundary of York Lake, not being in a central location for easier integration into the community, and not being situated on a more level area of land. Public comments also asked if there was demonstrated need for seniors' housing complex.

As a result of these comments, to address public concerns, the applicant is proposing to relocate the seniors' housing complex to the north east area of the subject properties, relocate the proposed residential area to behind adjacent Lot 1, Plan 27400, and reduce the amount of commercial space. The applicant is confident that there is a need for seniors' housing in the Cedar area and does not wish to reduce the proposed number of residences.

With respect to the former location of the seniors' housing complex in the north west corner of the subject properties, the applicant has indicated that he will leave this portion of the property vacant.

Staff notes that these changes support the public comments received in that the seniors' housing complex would be located in a more central location, closer to amenities, and still be able to retain some view areas of York Lake and the adjacent wetland. In addition, relocating some of the residential area and reducing the amount of commercial space accommodates the suggestions from the public.

Staff recommends that, if this rezoning proceeds, the location and density of the seniors' housing complex be outlined in the development agreement.

Proposed location of commercial area and demonstrated need for additional commercial area

Public comments included concern for the commercial area being located adjacent to the east property line of the site and the need for additional commercial space in the Village.

The applicant has reviewed these issues raised by the public and has offered to amend the site plan to reduce the amount of commercial area and to relocate a portion of the residential area next to the east property line.

Staff recommends that, if this rezoning proceeds, the amount and location of residential and commercial space be included in the development agreement.

OFFICIAL COMMUNITY PLAN / DEVELOPMENT PERMIT IMPLICATIONS

The subject properties are within the Cedar Village & Cedar Commercial/Industrial Development Permit Area No. 3 and therefore will be subject to the consideration of a development permit. In order to ensure the development will be consistent with the development permit guidelines, it is recommended that the development permit process run concurrently with the zoning amendment application and that this requirement be reflected in the development agreement.

ENVIRONMENTALLY SENSITIVE AREAS ATLAS

The Environmentally Sensitive Areas Atlas indicates that a wetland area exists adjacent to the north boundary line of the subject properties. As stated above, the applicant is in concurrence to covenant the wetland portion of the site for protection of the watercourse.

With respect to storm water, the applicant is in concurrence to provide an engineered on-site drainage system complete with an infiltration and retention system that would be designed so as to not have a negative impact on the adjacent wetland area.

MINISTRY OF TRANSPORTATION IMPLICATIONS

As outlined above, the Ministry of Transportation have commented on this application with respect to the proposed land uses and subdivision. As the applicant is proposing to complete a block subdivision for the subject properties, the Ministry will review this application through the subdivision approval process.

SERVICING IMPLICATIONS

As outlined above, the density of the proposed development will require connections to both community water and sewer services. It is anticipated that the North Cedar Improvement District will provide community water service, however, confirmation of the availability of this service will be required. While the subject properties are located with the urban containment boundary and community sewer is expected to be extended into the Cedar Village and surrounding residential area, community sewer is currently not extended to the subject properties. Therefore, it is recommended that connections to both community water and community sewer services be a condition of the development agreement.

AMENITY TO EXISTING PARK IMPLICATIONS

The subject properties, under a previous subdivision application, dedicated park land in the amount of 5%. Therefore, the park land requirement has been met. The applicant is offering to enhance the park land area by giving a parking and staging area for Morden Colliery Historical Park users. However, this area is only fully useable if the vehicular cross over of Morden Colliery Historical Park is constructed. The applicant has indicated that the cross over road is not necessary to the viability of the development and will not be included in the development if the community does not want it. Staff recommends that, if this application is advanced, this proposal for the vehicular cross over be included as part of the overall development pending the outcome of the public hearing.

VOTING

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

SUMMARY

The applicant is requesting consideration of a zoning amendment application in order to facilitate the construction of a mixed-use residential and commercial development. The development proposal is consistent with the objectives and policies of the Area 'A' OCP. A public information meeting was held at which time residents raised a number of concerns and issues with respect to the proposal. Some written correspondence concerning the application has also been received. As a result of the issues raised by the public, the applicant has amended the proposal. The Ministry of Transportation, as approving authority for subdivision, has commented on the proposal and is in agreement to a dedicated road through the site itself as well as some off-site improvements including upgrading of Cedar Road to include a 3rd lane for left turn movements and changes to the Hemer / Cedar Roads intersection. The proposed upgrading of

itself as well as some off-site improvements including upgrading of Cedar Road to include a 3rd lane for left turn movements and changes to the Hemer / Cedar Roads intersection. The proposed upgrading of Hemer Road to include a pedestrian shoulder along the length of the property is pending approval from the Ministry.

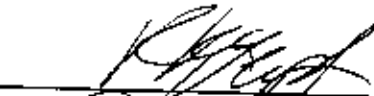

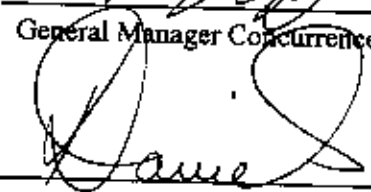
The issues including the supply of both community water and community sewers, development permit requirements, drainage, off-site highways works, will be outlined in a development agreement to be registered on title in order to ensure that the development would take place as outlined to the public. Staff recommends that the application has merit to proceed to public hearing. Therefore, staff recommends Alternative No. 2, to approve the application for 1st and 2nd reading subject to the conditions outlined in Schedule No. 1 of this report.

RECOMMENDATIONS

1. That Amendment Application No. 9809 submitted by Cedar View Estates Ltd. to rezone a portion of the property legally described as Lot 1, Plan VIP53334, Section 12, Range 1, Cedar District, and Lot from Commercial 2 (CM2) to Comprehensive Development 12 (CD12) be advanced to a public hearing subject to the conditions outlined in Schedule No. 1.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.284, 2002" be given 1st and 2nd reading and proceed to Public Hearing.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.284, 2002" be delegated to Director Elliott or his alternate.



Report Writer


General Manager Concurrence
Manager Concurrence
CAO Concurrence

COMMENTS:

devsvr/reports/2002/za3360 30 9809 ap cedar view 1st & 2nd.doc

SCHEDULE NO. 1

**Zoning Amendment Application No. 9809
Cedar View Estates Ltd.
Conditions of Approval**

The following conditions are required to be included within a development agreement to be registered on title as a section 219 covenant prior to consideration of 4th reading of the corresponding "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.284, 2002"

Land Uses and Subdivision

Land uses shall be limited to 100 residential dwelling units, a senior's housing complex for 75 residents, a commercial component, and a trail parking and staging area for use of the Morden Colliery Historical Park.

A vehicular connection to the neighbouring commercial area by a crossing of the Morden Colliery Trail is optional, but if included will be as shown in the location on the attached Schedule No. 2.

These uses shall be limited to the size and location as shown on Schedule No. 2.

Community Water Services

Applicant to supply proof to the Regional District of Nanaimo that community water has been supplied to the Development and complete with statutory rights-of-way as required, to the satisfaction of the North Cedar Improvement District.

Community Sanitary Sewer Services

Applicant to provide community sanitary sewer service to the Development, as designed and constructed by a Professional Engineer and complete with statutory rights-of-way as required, to the satisfaction of the Regional District of Nanaimo.

On-Site Drainage

Applicant to provide a storm water infiltration system complete with retention ponds on site, as designed and constructed by a Professional Engineer, to the satisfaction of the Regional District.

Applicant to provide proof that there shall be no net increase in peak storm water flow from the Development.

Applicant to provide statutory rights-of-way, as required for the purposes of storm water management for dedicated highway purposes to the satisfaction of the Ministry of Transportation and the RDN.

Protection of Wetland of York Lake

Applicant to prepare and register a protective covenant for wetland area as measured 15 metres from the natural boundary of the wetland adjacent to York Lake.

Building Design / Development Permit Requirements

Applicant to enter into a development permit to be considered concurrently with 4th reading of the bylaw. The guidelines of the development permit area, including landscaping provisions, location of off-street parking, building design, pedestrian circulation and connections, signage, outdoor refuse and storage areas, lighting, and vehicular circulation shall be applicable.

Building design of residential buildings shall include a mix of residential units, including 2-storey and 3-storeys high buildings provided the 3rd storey is built into the roof lines in order to maintain maximum height

requirement pursuant to Bylaw No. 500, 1987 and to be compatible with the surrounding neighbourhood. A variety of building types such as 4-, 6-, and 8-plexes shall be encouraged.

Applicant to design buildings in a design complimentary to the existing commercial buildings located within the Village and use building materials that are durable.

Applicant to provide path ways throughout the development for pedestrian traffic, including connections to the Morden Colliery Historical Park.

All required off-street parking is to be located within the site and be consistent with the development permit guidelines.

Roads / Ministry of Transportation

Applicant to dedicate proposed road as shown on Schedule No. 2 to the satisfaction of MOT and RDN. Dedicated road to be designed and constructed, complete with sidewalks, to the satisfaction of the Ministry of Transportation.

Applicant to upgrade Hemer and Cedar Roads intersection to allow right in /right out/ left in managed movements to the satisfaction of the Ministry of Transportation.

Application to upgrade Hemer Road at Cedar Road with an add-on right turn lane within the current right-of-way to the satisfaction of the Ministry of Transportation.

Applicant to design and construct a center lane along Cedar Road to allow left turn traffic movements from Hemer Road to the access located on Lot 1 Plan VIP62706 within the existing road right-of-way to the satisfaction of the Ministry of Transportation.

Applicant to provide statutory rights-of-way for storm drainage as required to the satisfaction of the Ministry of Transportation.

Crown Lands / Park Disposition

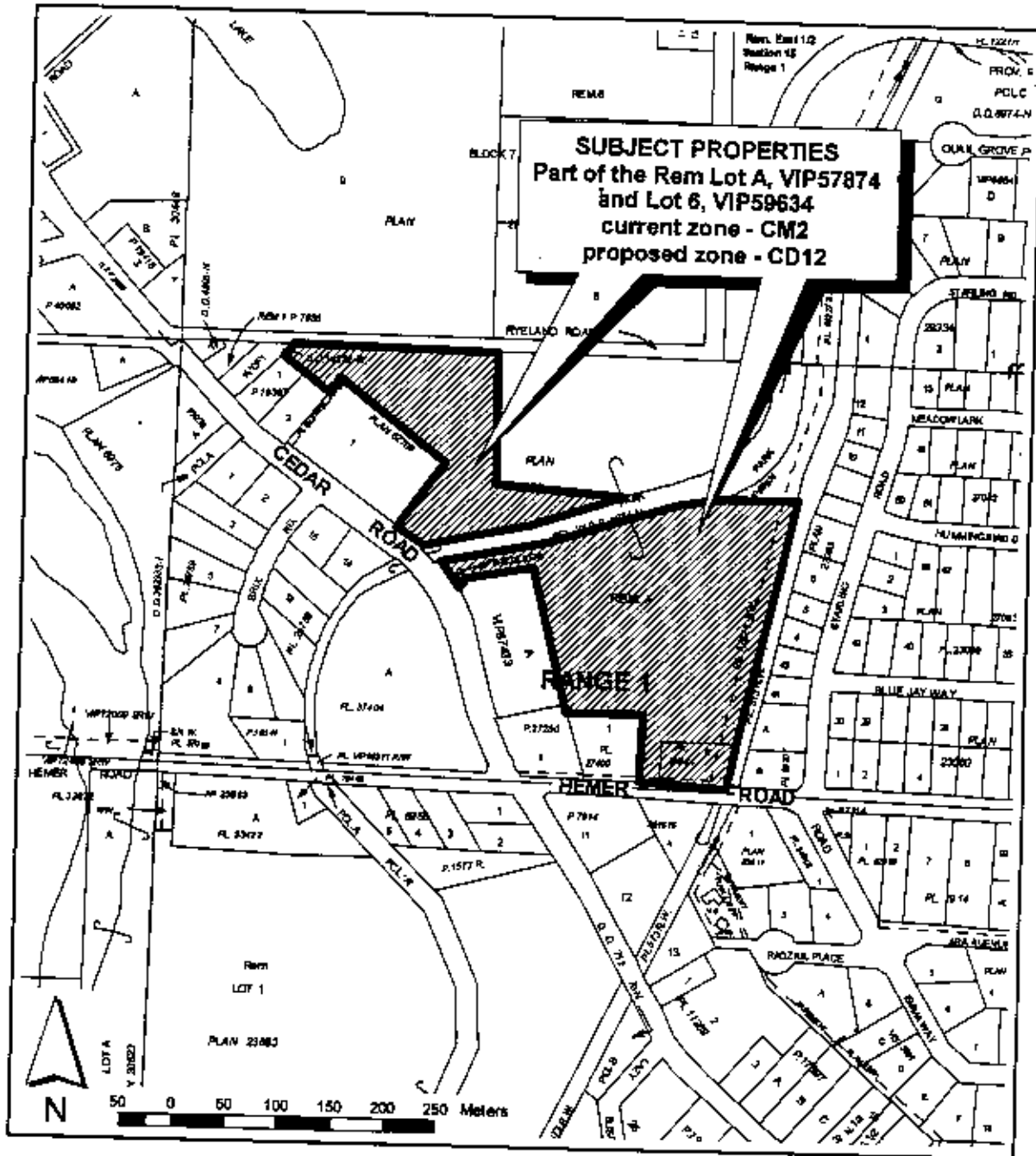
As an option, applicant to dedicate, design and construct a cross over road of the Morden Colliery Historical Park and adjacent park land to the satisfaction of provincial Crown Lands, the Ministry of Transportation, and the Regional District of Nanaimo. Crossing to be designed to be pedestrian friendly complete with rail theme signage.

Amenities

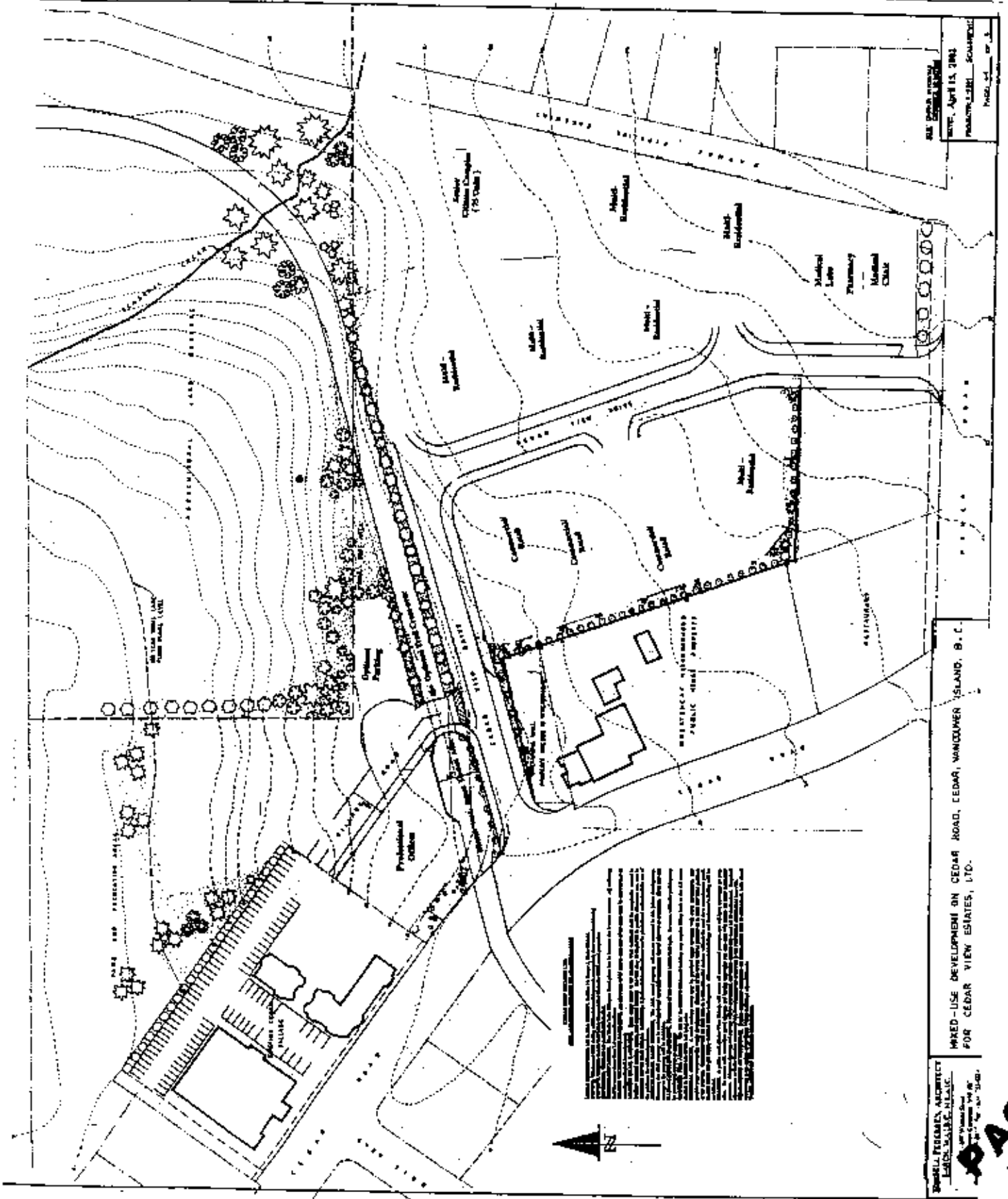
Applicant to provide a parking / staging area for the Morden Colliery Trail in the area as shown on Schedule No. 2.

ATTACHMENT NO. 1

Location of Subject Properties

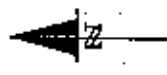


SCHEDULE NO. 2 Proposed Land Uses (as submitted by applicant)



NOTES:

1. All proposed buildings shall be constructed in accordance with the Building Code of Vancouver, B.C.
2. All proposed roads shall be constructed in accordance with the Municipal Engineering Department's standards.
3. All proposed landscaping shall be installed in accordance with the Planting Schedule.
4. All proposed utilities shall be installed in accordance with the relevant utility companies' standards.
5. All proposed earthworks shall be installed in accordance with the relevant engineering standards.
6. All proposed site works shall be installed in accordance with the relevant engineering standards.
7. All proposed site works shall be installed in accordance with the relevant engineering standards.
8. All proposed site works shall be installed in accordance with the relevant engineering standards.
9. All proposed site works shall be installed in accordance with the relevant engineering standards.
10. All proposed site works shall be installed in accordance with the relevant engineering standards.



PREPARED BY: [Name]
 DATE: April 15, 2002
 PROJECT: CEDAR VIEW ESTATES, B.C.
 FOR: CEDAR VIEW ESTATES, LTD.

ATTACHMENT NO. 2

Minutes Of a Public Information Meeting

Held at Woodbank Elementary School

1984 Woobank Road, Cedar, BC

March 14, 2002 at 7:00 pm

On Proposed Zoning Amendment Application for a Portion of Lot A, Section 14, Range 1, Cedar District, Plan VIP57874 Except Plan VIP59634 & VIP67433 and Lot 6, Cedar District, Section 14, Range 1, Plan VIP59634

Note: these minutes are not a verbatim recording of the proceedings, but are intended to summarize the comments of those in attendance at the Public Information Meeting.

There were approximately 40 persons in attendance.

Present for the Regional District:

Chairperson L Elliott, Director, Electoral Area 'A'
Robert Lapham, General Manager, Development Services
Susan Cormie, Senior Planner

Present for the Applicant:

Mr. Rob Fuller
Mr. Bruce McLay

Director L Elliott opened the meeting at 7:06 pm and outlined the agenda for the evening's meeting and introduced the head table. The Chair stated the purpose of the public information meeting and requested the General Manager of Development Services to provide background information concerning the zoning amendment process.

The Chair then invited Mr. Rob Fuller, applicant, to give a presentation of the proposed zoning amendment. Mr. Fuller outlined the elements of the proposal.

The Chair invited questions and comments from the audience.

Len Linquist, 1885 Starling Road, asked how high the buildings are proposed to be and will the multi family units be for rent? Mr. Linquist stated that his view of the river would be obliterated if the buildings were too high. Mr. Linquist commented that cars crossing the trail are outrageous and they should not be allowed to cross; bikes are o.k. Mr. Linquist stated that the proposed seniors' building needs to have easy access to the medical centre, as it is uphill from the seniors' complex. Mr. Linquist then asked if Hemer Road would be updated and commented that it is difficult to access Cedar and Hemer Road now. Mr. Linquist stated that if traffic were going to be added to Hemer Road, it would be good to upgrade the road. Mr. Linquist also asked when Phase 1 would occur?

Mr. Fuller indicated that the buildings would be 30 feet or 3 storeys and that they are intended for strata, not rental. The applicant stated that they have studied the Galloping Goose Trail in Victoria and believe that the trail functions adequately with numerous vehicular crossings and here the traffic would be less. Mr. Fuller stated that the project is long term and will not be started until community sewers are available.

The General Manager explained that Hemer Road is under the jurisdiction of the Ministry of Transportation and the Ministry has indicated that there will be some minor improvements within the Hemer Road right-of-way that the applicant will be required to do.

Patti Grand, 3150 Ingram Road, asked if the exterior finishes have been picked for the buildings yet and will the Regional District of Nanaimo have a final say on the building look? Ms. Grand stated that she is concerned with the quality of the finish and that the commercial area next door looks good all the time because of the finish and she would not like to see stucco or some similar finish. Ms. Grand also asked if the ownership of the medical centre would be strata and if someone else would own the seniors centre. Ms. Grand asked if the applicant is looking for a landlord situation for any of the buildings? Ms. Grand then asked if a new report for the NCID water would be a requirement?

Mr. Fuller stated that the building finishes are not finalized, but they will not be stucco. Mr. Fuller thought the finish would be Hardi-board, which is very sturdy and long lasting. Mr. Fuller stated that the ownership of buildings would be strata-type and that the seniors' complex would be under the ownership of someone who specializes in this type of development.

The General Manager explained that, as part of the development permit process, some design feature will be included, but items like colours would not be specified. The General Manager also explained that a requirement of the zoning amendment would include proof of water to the satisfaction of the Improvement District.

Joan Roy, Holden Corso Road, stated that she thought it is a great concept, but her objection is Woobank and Hemer Roads and the amount of congestion there. Ms. Roy stated that there is no place to walk on these roads as there are no shoulders and this includes a walking area for school children.

Michel Clements, 1777 Starling Road, stated that he thought there was a rule in Cedar that you have to have ½ acre sized lots. Mr. Clements also stated that kids are walking on the streets now and there are no sidewalks in Cedar and now 100 more units will add to this situation.

The General Manager explained that the Cedar Village area is designated for 100 dwelling units under the official community plan.

Sandra Dovey, 2195 Hemer Road, stated that the traffic on Hemer Road is notorious and that the proposed access onto Hemer will be bad especially with the number of children in the area. Ms. Dovey commented that the commercial buildings in the area are not full now and that the infrastructure would have to be in place, including roads, before any more development occurs.

D. Potvin, 2120 Hemer Road, stated that there are no buildings in Cedar now that are 3 storeys and this is not Vancouver or Victoria, but Cedar and we want to keep it small. Mr. Potvin asked if the 1-bedroom apartments are for families. Mr. Potvin also asked about where the parking for the entire commercial area is going to be and commented that you cannot put the buildings in and then have all the parking on the streets. Mr. Potvin stated that he is concerned about the parking in front and along the side of his house.

Mr. Fuller stated that parking would be on the site in the commercial areas.

The General Manager explained that bylaw requirements include off-street parking areas and the amount of required parking is a standard used across the Province.

Chris Potvin, 2120 Hemer Road, stated that the applicant indicated that he had spoken to the community and yet we live next door and he has not spoken to us. Ms. Potvin stated that she did not want the access road next door to their property. Ms. Potvin stated that there are other options for the location of this access road and this should be moved so we will be able to get out of our driveway. Ms. Potvin

stated that the commercial is shown right next to our property. Ms. Potvin also commented that Hemer Road is barely wide enough to accommodate 2 lanes.

D. Potvin, 2120 Hemer Road, stated that there is not enough room to leave the site and go onto Hemer and Cedar Roads and that the cars stack up now on the commercial site next door.

The General Manager explained that the RDN would have to go back to the Ministry of Transportation to ascertain the full situation for Hemer Road. The General Manager also commented that the portion of Cedar Road through the Village area would become a 3-lane road with the centre lane as a turning lane.

Dianna Elliott, 2980 Giovanni Road, asked about the professional space and how far down the road do you plan to build this? Ms. Elliott commented that there is empty commercial space next door and a doctor needs at least 600 patients to have a feasible practice in rented space while an optometrist needs to draw from at least 8000 residents to be viable. Ms. Elliott inquired if the commercial area were not economically feasible, what would be done to fill up the space? Ms. Elliott also asked how much water does the NCID actually have and if a bigger development came in, would this put a stretch on the water supply?

Mr. Fuller stated that the professional medical space would be dependant on when the seniors' complex starts up, as this will be the catalyst for the medical offices.

Ms. Patti Grand, 3150 Ingram Road, a former NCID trustee, explained the water supply for NCID.

The General Manager explained that one of the requirements of the zoning amendment would be that the applicant would supply proof of compliance with the NCID requirements concerning water supply.

Neil Lawson, 2001 Walsh Road, asked what environmental studies have been done on York Lake and what is the impact of the development on the lake?

Mr. Fuller stated that the proposal includes a groundwater recharge system, which does not allow runoff to go directly in the lake. Mr. Fuller also stated that setbacks from the lake have to be maintained.

The General Manager explained that groundwater recharge system and that the development permit would include provisions for protection of the lake.

Mary Shakespeare, 2455 Ingram Road, stated that she liked the idea of a seniors' complex and thought that the location is good because it is near services. Ms. Shakespeare asked how the developer arrived a 75 residents and what was the demonstrated community need? Ms. Shakespeare asked if the applicant was aware of the new complex moving to Ladysmith?

Mr. Fuller explained that 75 residents is the maximum number the OCP allows and this number works for the optimum number of 50 to 100 residents which the industry recommends for a seniors' complex. Mr. Fuller said that the residents would come from adjacent areas also well as from Cedar.

Josh Gourlay, 2800 Twin Oaks Road, stated that the seniors' complex is located too close to the lake and was concerned about fill being placed in this area near the lake. Mr. Gourlay asked if the building would be built on the lakebed? Mr. Gourlay felt that it is a good plan except for the seniors' complex being too close to the lake.

Mr. Fuller stated that the seniors' complex will actually meet the minimum setback requirements from the high water mark.

The General Manager stated that a geotechnical report may be required as part of the development.

Jim Brown, 2228 Hummingbird Way, asked what is the time frame for completing this project and will the residential units be pre-sold? Mr. Brown stated that he thought the project is a good idea, except for Hemer Road scenario.

Michel Clements, 1777 Starling Road, stated that he is presuming that the residential or seniors' complex will be built first and asked if the commercial area would become residential too if there was already enough commercial in the area. Mr. Clements also asked how much parking is required for the residential use? Mr. Clements commented that most families have 2 cars today.

Mr. Fuller explained that the total maximum number of dwelling units allowed in the Village would be 100 as set out in the OCP and so the commercial would not convert to residential units.

The General Manager stated that the parking for residential use is based on bylaw requirements of 1.5 spaces per unit.

Joan Roy, Holden Corso Road, stated that she would like to really impress that Hemer Road needs to be fixed and asked if Hemer Road will be widened?

The General Manager stated that the Regional District of Nanaimo and the developer would have to meet with the Ministry of Transportation to discuss this issue.

Len Linquist, 1885 Starling Road, asked if the applicant would be willing to lower the height of the residential buildings and adjusting the number of 1-bedroom units down so that more families could be accommodated? Mr. Linquist commented that the buildings appear to be the same as those flat roof buildings you see downtown. Mr. Linquist stated that he thought the dormer style building would be a great idea.

Neil Lawson, 2001 Walsh Road, stated that he had concerns with Hemer Road and that he and his family have had to stand right off the road to let a car go by. Mr. Lawson further commented that even with the new school built, the road has still not been improved.

Mary Shakespeare, 2455 Ingram Road, stated that she liked the mixed-use concept and appreciates the staging area for the park. Ms. Shakespeare asked what other public benefits such playground equipment or a public meeting area will be included in the development?

Mr. Fuller stated that there will be a playground in the residential area and improvements to the trailhead and the trail itself.

Dianna Elliott, 2980 Giovanni Road, asked what is the price range for the residential units?

Mr. Fuller stated that the price range will be middle field, not high end, but not low end either. Mr. Fuller thought the price would be around \$100,000.00.

Donna Sweeney, 2704 Cedar Height Crescent, asked if the ALR land will stay undeveloped?

Mr. Fuller stated that it may, but a related ALR use may be put on the site, such as a winery.

Ms. Sweeney, 2704 Cedar Height Crescent, asked if the winery would require a rezoning and can you apply to remove the property from the ALR? Ms. Sweeney also asked how the filtration of water from

the site will be handled such as having a maintenance schedule? Ms. Sweeney stated that she is also concerned about Hemer Road, especially with the potential increase in traffic.

The General Manager explained that the flood level would be required to be verified and that the filtration system would be engineered and would include a maintenance program.

Julie Monjo, 2293 Quennell Road, asked what happens to the lake at the seniors' complex? Ms. Monjo stated that it looked like the complex will be located too close to the lake. Ms. Monjo also stated that the dining area on the lower level would not be good for seniors who have to climb stairs. Ms. Monjo also asked if elevators were going in the residential housing buildings to help the seniors' population? Ms. Monjo also noted that there is nothing separating seniors from children.

Mr. Fuller commented that elevators would be built into the seniors' complex and into the residential buildings as required.

Sharon Bennett, commented that the Ministry of Transportation did not require upgrading of Cedar Road when other properties were developed.

Patti Grand, 3150 Ingram Road, commented that Berwicke is charging \$1,400.00 per month for seniors for a studio unit with no kitchen and 3 meals a day. Ms. Grand asked if this is the price range the applicant is thinking of? Ms. Grand commented that this seems reasonable considering there is 24 - 7 potential care.

Mary Shakespeare, 2455 Ingram Road, asked if people will be invited to other forums and can letters be submitted later?

The General Manager stated that if this application proceeds, there will be a public hearing and that people are welcome to submit letters to be included in the committee report next month.

D. Potvin, 2120 Hemer Road, asked if there was a noise bylaw and that the traffic will be very noisy.

The General Manager stated that there is a noise bylaw for Area 'A', but traffic noise is exempt.

The Chair asked if there were any other questions or comments.

Being none, **the Chair** thanked those in attendance and announced that the public information meeting was closed.

The meeting concluded at approximately 9:49 pm.



Susan Cormie
Recording Secretary

ATTACHMENT NO. 3

Additional Correspondence Residents

From Janelle Park
1821 Cedar Rd
(850) 722 2962

Some of My Concerns re Cedar View Estates Ltd.

- ① Drainage - the large amount of runoff which will accrue from precipitation on so many buildings, roads and parking areas is of great concern.

Where is this drainage to be directed?

My property has already been SEVERELY impacted by run off from previous development. A "diversion" culvert actually directs run off through my land causing erosion, tree loss and deposits debris.

If there is even a remote possibility that drainage from this development will flow to my land - you will be meeting with my legal representative.

- ② Parking - totally inadequately planned for - 49th Parallel at this time uses part of the planned development area for parking for customers and staff.

Additional parking is NOT available on Cedar Rd or Hemer Rd.

What requirements does R.D.N. have for on site parking? Commercial? Residential? Institutional?

③ Pedestrian Traffic - Safety requirements

For the proposed number of residents and employees must surely show the necessity of sidewalks other than the Morden Collins Trail. - Through the last winter - Knee boots were a necessity in several sections of the trail (Portions shown tastefully decorated in sketched plans)

Hemer Road has no sidewalks and no shoulder on which to safely walk. Access from Blue Jay etc at this time to 49th Parallel by Pedestrians is through the planned development. Alternate Safe Access for Pedestrians appears to be inadequate.

④ Traffic - Commercial traffic at this time is frequently a traffic hazard as it backs into loading area. Trucks U-turn in Wheat Sheaf property and in North Cedar Fire Hall location. Residential traffic is sometimes hazardous from driveways - with pockets of traffic from Harmer Highway, school start/end times.

⑤ Medical Aid - Ambulance service is from Ladysmith OR Nanaimo. Not close at hand for a Senior's location.

Cormie, Susan

From: Mary Shakespeare [shakespeare@telus.net]
Sent: Wednesday, March 20, 2002 11:18 AM
To: devsrv@rdn.bc.ca
Subject: Cedar View Estates Proposal

Attention: Susan Cormie

Laurence;

I was pleased to see the "CEDAR VIEW ESTATES LTD" proposal brought to the community at last week's public information meeting.

I support the idea of Cedar having "a balanced, mixed use Village Center whereby residents can live, work, shop and retire in a Village setting..."

But, after the public information meeting, I do have a number of concerns:

Is there adequate water in Cedar, and has the developer arranged to have sufficient quantity dedicated to this project?

Adequate sewage services are needed for future development in our Cedar node, particularly in environmentally sensitive areas surrounding York Lake.

Transportation issues: Hemer and Cedar Roads are already dangerous for vehicles and pedestrians, plus increased population suggests increased need for bus service.

In addition to these concerns about infrastructure, I also am concerned that the developer has not understood that "Area A is a community with a strong emphasis on rural values...with some independence from rapid social change... more important than urban amenities." This development seems too much, too soon.

Our Community Vision would suggest diversity of ages, income, and ways of life. For example, the developers could partner with a local community group to create a plan which, rather than segregating seniors, could encourage the integration of seniors with housing options, such as congregate living.

Our Community Plan also suggests the preservation and enhancement of rural atmosphere and character, particularly natural aquatic features. I would hope that any more development in the area of York Lake would include the dedication of the lake foreshore area as a nature preserve.

Again, thanks for your work on behalf of our community.

Mary Shakespeare

2704 Cedar Heights Cres.
Nanaimo, B.C., V9X 1N4

March 24, 2002

*faxed to Director Elliott
March 25, 2002*

Director Lawrence Elliott
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, B.C.

Dear Mr. Elliott:

Re: Cedar View Estates Ltd. proposal

I found the public meeting last week regarding the proposal for multi family housing, commercial space and a seniors' residence by Cedar View Estates Ltd. to be very disturbing. The few areas where I had personal knowledge (ie: numerous meetings with the local APC) were quite inaccurate and various people in the audience pointed out other inaccuracies as well. At the same time, there were no real concrete details on how the development was going to be serviced which is a major hurdle in my mind. I am very opposed to existing homeowners on the water system paying for new water sources to service a new development. The same applies to the sewer system. Forcing the Cedar Village area to pay for a sewer line to service this new development would be wrong and yet that was the impression I got at the meeting as to how servicing would be handled. Then there is the issue of multi family housing. I still do not understand how the small area to be developed qualifies for such a high density of housing. I had understood the OCP allowed for a higher density than one house per 1/2 acre but not as high as being proposed. Certainly if it had been explained to me that the new zoning for the village centre would allow 20 houses per acre I would have voted against it. This is far too high a density for our area. As to the multi family housing, with 45 units being one bedroom, there is no intention of these units being marketed to families. It is strictly an apartment type development for singles or couples with no children.


On the subject of commercial/medical space, I cannot see the area having the population to support this space for a long time to come. As many pointed out, a portion of the existing mall is unoccupied.

With regards to the senior care facility. I agree that it would be nice to keep the seniors living in Cedar but I'm afraid putting them in the swamp would not be conducive to keeping them here for long. The drawings show the facility built beyond the 100 year flood plain but normal building practices put construction above the 200 year flood plain. Given how flat the area is, I doubt it is above this level. Also, I worry about the fact that the facility will have to draw seniors from up and down the island as this will presumably increase traffic from outsiders coming to visit relatives in the facility. We have enough traffic problems with residents due to the narrowness of our roads without adding outsider traffic to the mix. And as we know from other subdivisions in our area, the Ministry of Highways does not require serious upgrading of roads by the developer to accommodate the traffic they generate.

I was annoyed with the term "left in, left out" intersection on Cedar Road. Only half way through the meeting was it revealed that this meant a traffic light. If the RDN is supporting a development that requires a signal then they should state that clearly. I certainly don't support traffic lights in Cedar.

So in summary, I would like to see a proven need for the commercial space and a seniors' care facility with details on how the servicing and traffic problems will be handled without cost to the local taxpayer and a reduction in the density of the multi family housing. Thank-you for looking after the taxpayers.

Yours truly,


Donna Sweeney

cc: RDN, Planning Services Dept.

Comments received from Dave Williamson:

Park / playground – what happened to it? Who uses it?

If sales not immediate, low income rentals will prevail.

Rental of commercial space with McBain ¼ empty?



REGIONAL DISTRICT OF NANAIMO	
APR 15 2002	
CHAIR	GMCrs
CAO	GMDS
GMCms	GMES
E.R.	

MEMORANDUM

TO: Pamela Shaw
 Manager of Community Planning

DATE: April 11, 2002

FROM: Brigid Reynolds
 Planner

FILE: 3090 30 0215

SUBJECT: Development Permit Application No. 0215 - Fairwinds/Dafoe
 Electoral Area 'E' - 3730 Fairwinds Drive

PURPOSE

To consider a development permit to facilitate bank stabilization works on a 45-metre length along a watercourse contained within the Fairwinds Golf Course.

BACKGROUND

The subject property, legally described as Lot 1, District Lot 8, 30 and 78, Nanoose District, Plan 48585, Except Part in Plan 51142, is located on the Fairwinds Golf Course in the Fairwinds area of Electoral Area 'E' (see Attachment 1).

The subject property is zoned Recreation 2 (RC2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". No variances to Bylaw No. 500 are being requested as part of this application.

The subject property is located within a Watercourse Protection Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998". The purpose of this Development Permit Area is to protect the natural environment; its ecosystems and biological diversity. The bank stabilization works are proposed to be undertaken on both banks adjacent to Dolphin Creek that flows out of Dolphin Lake and through the golf course. The works will run the total length of 45 metres.

The works are required as the banks are failing and causing sediment to enter the watercourse. The proposed works will be comprised of rip rap rock, sand and gravel and backfilled to reduce the grade of the banks. The completed rip rap wall is proposed to be less than 1 metre in height and is therefore not considered a structure pursuant to Bylaw No. 500.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the development permit variance would facilitate the construction of a rip rap bank stabilization wall on both banks adjacent to a watercourse that flows through the golf course. As these works constitute "works in and about a stream" pursuant to the Provincial *Water Act*, a Section 9 permit from the Ministry of Water, Land and Air Protection is required prior to the works being undertaken.

The proposed works will not exceed 1 metre in height and is therefore not considered a structure pursuant to Bylaw No. 500. The site plan is attached as Schedule No. 1 and identifies the existing bank grade and the proposed bank grade. The site plan also indicates the proposed height of the works and the depth of the existing channel.

ENVIRONMENTAL IMPLICATIONS

Dolphin Creek, where the works are proposed to be undertaken flows out of Dolphin Lake through the Fairwinds subdivision and through the golf course. The Regional District of Nanaimo Environmentally Sensitive Areas Atlas identifies that Dolphin Lake and Dolphin Creek are unknown fish habitat, however, due diligence is required when working within the watercourse and riparian area.

As part of the application, the applicant has submitted a work plan, which includes methods to mitigate for sediment and erosion control. In addition, when the works are being carried out, that portion of the system will be isolated to prevent water flowing through it. The work plan is attached as Schedule No. 2. These efforts, in addition to conditions outlined in Schedule No. 3 will mitigate for any potential negative impacts that may occur.

VOTING

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

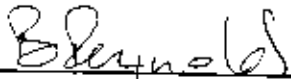
SUMMARY/CONCLUSIONS

This is an application to facilitate the construction of bank stabilization works on approximately 45 metres of stream banks adjacent to Dolphin Creek within a Watercourse Protection Development Permit Area. The setback for the development permit area is measured 30.0 metres from the natural boundary of the watercourse. Conditions outlined in Schedule No. 3 will reduce the potential negative impacts

From staff's assessment of this application, the development permit should be approved, as the works are required in order to reduce the amount of sediment currently entering the system as a result of the failing stream banks. Due diligence will be exercised to mitigate for any negative impacts to the stream.

RECOMMENDATION

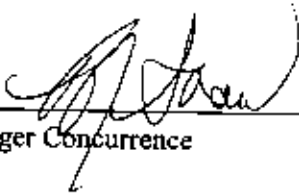
That Development Permit Application No. 0215 to facilitate bank stabilization works on 45 metres of stream channel on Dolphin Creek within a Watercourse Protection Development Permit Area on the property legally described as Lot 1, District Lot 8, 30 and 78, Nanoose District, Plan 48585, Except Part in Plan 51142 be approved subject to the conditions outlined in Schedule No. 1, 2, and 3.



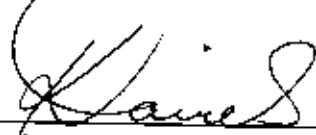
Report Writer



General Manager Concurrence



Manager Concurrence

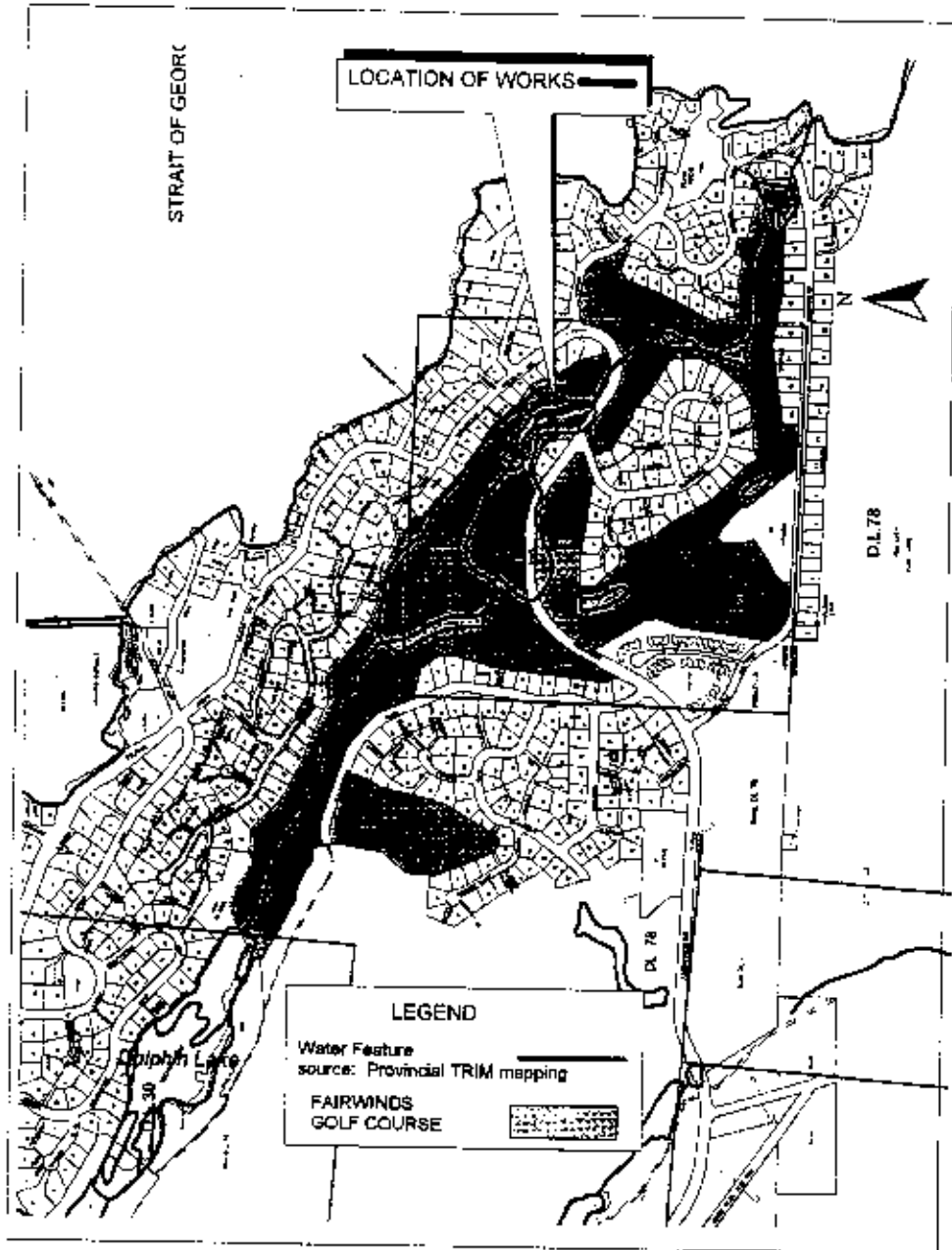


CAO Concurrence

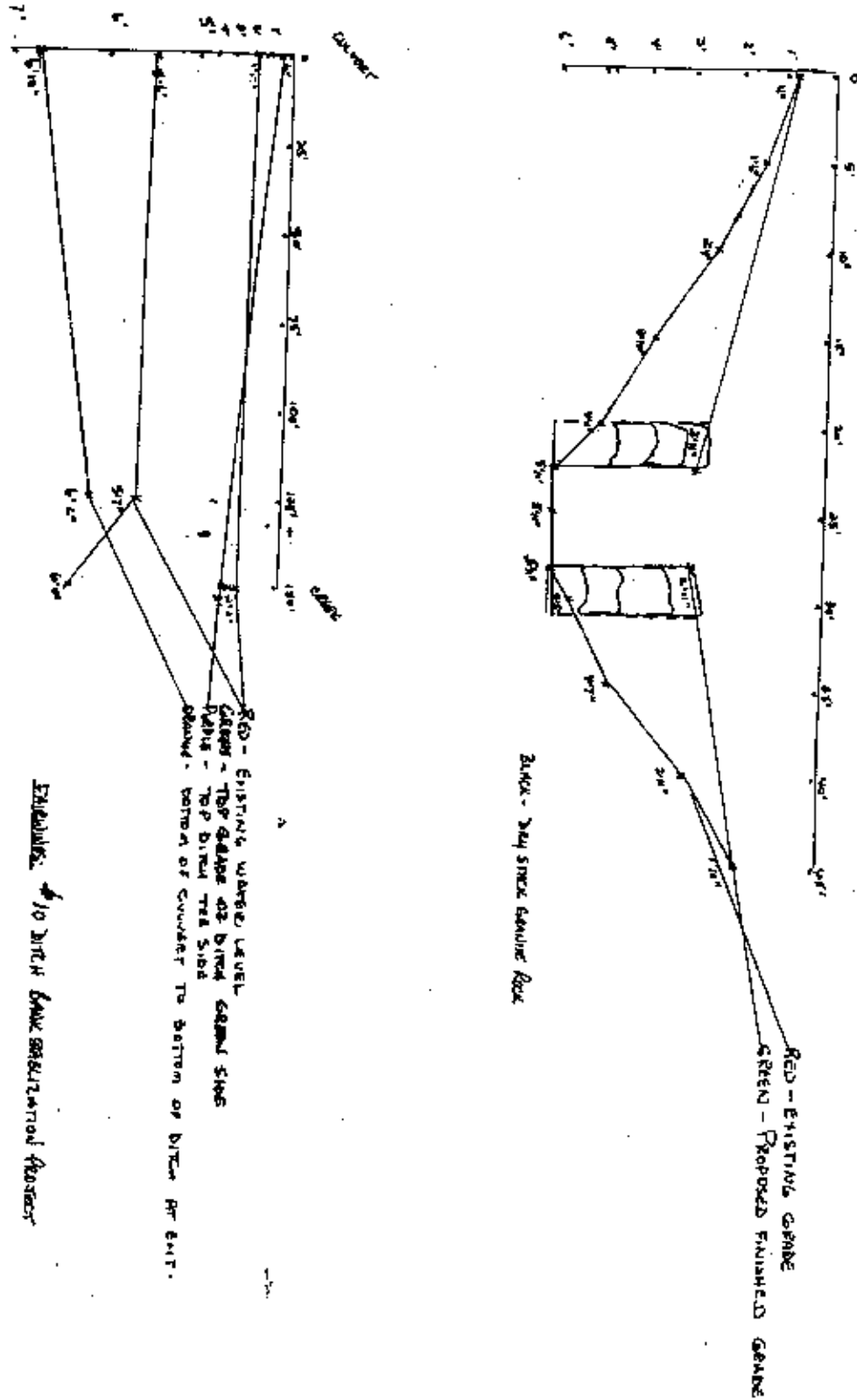
COMMENTS:

devs/reports/2002/dp ap 3060 30 0215 far/winds dafoe

Attachment No. 1
Subject Property
Development Permit No. 0215
3730 Fairwinds Drive



Schedule No. 1
Site Plan
Development Permit No. 0215
3730 Fairwinds Drive



EXISTING: 10 DITCH BANK RESTORATION PROJECT

Schedule No. 2
Work Plan
Development Permit No. 0215
3730 Fairwinds Drive



March 26, 2002

Dear Ms. Reynolds,

**RE: Development Permit Application for Lot 1, District Lot 8, 30 and 78,
Nanoose District Plan 48585 Man Reference No. 92E030.3.4**

(2) Sediment and Erosion Control Plan

Up Stream Plan:

1. Put stop boards in #18 dam to create water retention of approximately 1,000,000 gals.

Down Stream Plan:

1. Placement of straw bales and silt fencing before culverts under Fairwinds Drive.
2. Put stop boards in 3 down stream ponds to retain water from discharging into the ocean.

Erosion Control:

1. Area to be worked on is fully turfed.
2. After completion of rock retaining wall the newly finished area will be completely sodded.
3. Straw bales and silt fencing will remain for approximately 1 month.

(3) Steps Proposed for Proposed works

1. Person doing work - Doug Nash Contracting.
2. Post construction signs on Fairwinds Drive.
3. 2 flag people on site during construction for trucks bringing & removing material.

Schedule No. 2 (cont'd)
Work Plan
Development Permit No. 0215
3730 Fairwinds Drive

4. Oil spill kit at construction site.
5. Remove existing material from original grade as per drawing with Hitachi 120 Excavator. Machine will sit on green side of ditch only.
6. Drain rock base used for rock wall footings and creek bed.
7. Granite rock wall (rocks from Fairwinds Site) stacked on both sides as per drawing.
8. Back fill rock retaining wall with drain rock in a 2' strip parallel to retaining wall.
9. All excavated materials beyond item #3 will be 3" minus pit run (Lussiers) to approximately 6" below rock wall grade.
10. Remaining 5" of material for seed bed will be garden sand. (Lussiers)
11. Final stage will be sand grown sod to finished grade.
12. Proposed work to be completed by second week of May.

Sincerely,

FAIRWINDS COMMUNITY AND RESORT



Jim Dafoe
Golf Course Superintendent

**Schedule No. 3
Conditions of Approval
Development Permit No. 0215
3730 Fairwinds Drive**

Sediment and Erosion Control

1. Sediment and Erosion control measures must be utilized to control sediment during construction to ensure water entering the work site will be pumped out, and to stabilize the site after construction is complete. These measures must include:
 - a) The work site must be isolated as all works must be conducted in the dry;
 - b) Pumps with fish screens must be on site during the works;
 - c) Exposed soils must be seeded as soon as possible to reduce erosion during rain events;
 - d) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite during the works;

Construction

2. Any excavated materials must be placed upland such that there is no potential for reintroduction into the stream.
3. Machinery must be in good working order and no fuels, lubricants or construction wastes are permitted to enter any watercourse. Machine work must be done from the upland and is not permitted to occur from within the stream. No refueling of machinery is to be conducted within 50 metres of a watercourse.
4. A spill kits should be on-site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.

Water Act

5. A Section 9 permit pursuant to the *Water Act* must be obtained prior to any works being undertaken.

RDN Bylaws

6. The bank stabilization works shall not exceed 1 metre in height.

Native Plantings

7. Native plants, appropriate to the soil and moisture conditions of the site, shall be planted interspersed in rip rap wall to provide shading of the creek.



REGIONAL DISTRICT OF NANAIMO			
APR 15 2002			
CHAIR		GMCrS	
CAC		GMDS	
MEMBERS		GMES	
EHP. ✓			

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: April 11, 2002

FROM: Brigid Reynolds
Planner

FILE: 3090 30 0218

SUBJECT: Development Permit Application No. 0218 - Rainsford
Electoral Area 'H' - Horne Lake Cave Road

PURPOSE

To consider an application to vary the permitted floor area and height of a recreational residence, locate a deck, to permit vegetation removal and the allow for the development of a beach access within the Environmentally Sensitive Areas Development Permit Area pursuant to the Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996."

BACKGROUND

The subject property is legally described as Strata Lot 26, District Lot 251, Alberni District, Plan VIS5160 is located on Cave Road at Horne Lake in Electoral Area 'H' (see Attachment 1).

The subject property is zoned Comprehensive Development 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The bylaw states that: the maximum floor area of the main floor of the recreational residence shall not exceed 70 m²; the maximum floor area of the second story shall not exceed 35 m²; and the maximum building height shall not exceed 6.1 metres (the crawl space is permitted to be a maximum of 1.9 metres permitting an overall building height of 8.0 metres). The applicant is requesting to vary the floor area of the main floor area to 72 m² and the second story to 45 m² and the building height of 6.5 metres plus a crawl space of .7 metres to an overall height of 7.2 metres.

This is also an application to permit a ground-level deck to be located a minimum of 12.5 metres from the natural boundary, the removal of vegetation, and the development of a beach access within the Environmentally Sensitive Areas Development Permit Area pursuant to the Shaw Hill - Deep Bay OCP.

In November 2001, prior to final approval of the Bare Land Strata subdivision, a geotechnical assessment was undertaken which required that 19 recreational residences be relocated due to a potentially unstable slope behind these residences. The subject recreational residence was built 'oversize' when it was originally constructed. In order to facilitate the relocation of this recreational residence, the owners have removed the components that could be removed including a carport, sundecks on the lower level, and a storage locker under the deck.

The Environmentally Sensitive Areas Development Permit Area was established to protect the natural environment. The Development Permit Area is measured 15.0 metres from the top of bank of the

watercourse. In the case of Horne Lake, many properties do not have a verifiable top of bank so the setback is measured from the natural boundary of Horne Lake as shown on Plan VTS5160. The landscape deck will be located on a cleared rail bed that runs through the parcel.

Concurrent with the adoption of Bylaw No. 500.275 (which created the CD9 zone and rezoning portions of the land surrounding Horne Lake to CD9 for the creation of a maximum of 400 Bare Land Strata Lots) Development Permit No. 0120 was issued as a blanket development permit over all the strata lots at Horne Lake. DP 0120 provided detailed guidelines and conditions related to stormwater management; fill placement; construction and maintenance of docks; walkways and trails; foreshore and watercourse management; construction; vegetation management and landscaping; and sediment and erosion protection. Any new construction or land alteration must be consistent with DP 0120.

The proposed beach access will not exceed 1 metre in width and runs the length of the Development Permit Area down to the lake. Any vegetation removal will be required to be consistent with the Vegetation Management Guidelines that are currently being developed by staff.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

The applicant is requesting to vary the floor area of the main floor area to 72 m² and the second story to 45 m² and the building height to a total of 7.2 metres (6.5 metres building height plus .7 crawl space). The overall footprint of the recreational residence including landscape deck and patios is 106 m², approximately 25 m² of which is proposed to be located within the DPA.

Approval of the requested variance would facilitate the relocation of an oversize and over-height recreational residence. The recreational residence must be relocated due to the geotechnical hazard that was identified in its original location. If the geotechnical hazard did not exist, the recreational residence would be permitted to remain in its current location and in its current state.

There are currently over 200 lots that have recreational residences on them. Some of these residences are oversized and do not conform to Bylaw No. 500. However, as part of the subdivision and rezoning of the lands those buildings and structures that do not conform are permitted to remain in their current state and location provided no structural alterations are undertaken. Any structural alteration would trigger the requirement for applying for a site specific variance or that the building or structure be made to conform to Bylaw No. 500.

Should the variance be granted, staff is concerned that a precedent will be set and other lot owners will want to make applications to increase the floor area and height of their recreational residence. However, given the specific circumstances of this situation (that the existing cabin must be relocated and that the owners have removed portions of the cabin to more closely comply to the Bylaw, staff would support the

variances. Staff would not support any other request for variances to increase the floor area with new construction.

ENVIRONMENTAL IMPLICATIONS

This is also an application to permit a ground level landscape deck to be located a minimum of 12.5 metres from the natural boundary of Horne lake, the removal of vegetation, and the development of a 1 metre wide beach access within the Environmentally Sensitive Areas Development Permit Area pursuant to the Shaw Hill – Deep Bay OCP.

There is an existing 5 metres wide rail bed that bisects the parcel. The landscape deck is proposed to be located a minimum of 12.5 metres from the natural boundary of Horne Lake and would sit on the rail bed. No vegetation will be removed within the Development Permit Area to locate the landscape patio.

The strata lot owner proposes to remove vegetation and develop a 1-metre wide beach access through the Development Permit Area. Staff is currently developing Vegetation Management Guidelines for Horne Lake, which will provide guidance for Horne Lake lot owners who are proposing to remove vegetation within the Development Permit Area. These guidelines are being developed together with staff from the Ministry of Water, Land and Air Protection and Fisheries and Oceans Canada.

Horne Lake is fish bearing and the aquatic resources as well as water quality have the potential for being impacted by shoreline development. Therefore, Conditions of Approval outlined in Schedule No. 2 will reduce any potential negative impacts to Horne Lake. As well, works undertaken as part of this permit must be consistent with the detailed guidelines outlined in Development Permit No. 0120.

VOTING

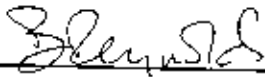
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

As a result of staff's assessment of this application, the request to vary the main floor area from 70 m² to 72 m² and the second story floor area from 35 m² to 45 m² and the building height from 6.1 metres to 6.5 metres is recommended for approval. The owner must relocate the recreational residence due to a geotechnical hazard. The recreational residence is currently constructed and all removable portions of the residence have been removed. The request for the development permit to locate the structural deck a minimum of 12.5 metres from the natural boundary and to remove vegetation and construct a 1 metre wide beach access should be supported as the structural deck will not impact the riparian vegetation as it will be located on an existing rail bed. In addition, any vegetation removal will be required to be consistent with the Vegetation Management Guidelines that are currently being development and the development of the 1 metre wide beach access will be consistent with the conditions outlined in Schedule No. 3.

RECOMMENDATION

That Development Permit Application No. 0218 to vary the maximum floor area of the main floor of the recreational residence from 70 m² to 72 m²; the maximum floor area of the second story from 35 m² to 45 m²; and the maximum building height of 6.1 metres to 6.5 metres pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 to permit the relocation of a recreational residence and to permit a landscape deck to be located a minimum of 12.5 metres from the natural boundary, the removal of vegetation, and the development of a 1 metre wide beach access within the Environmentally Sensitive Areas Development Permit Area on the property legally described as Strata Lot 26, District Lot 251, Alberni District, Plan VIS5160, be approved subject to the requirements outlined in Schedules No. 1, 2, and 3.



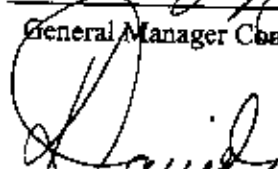
Report Writer



General Manager Concurrence



Manager Concurrence

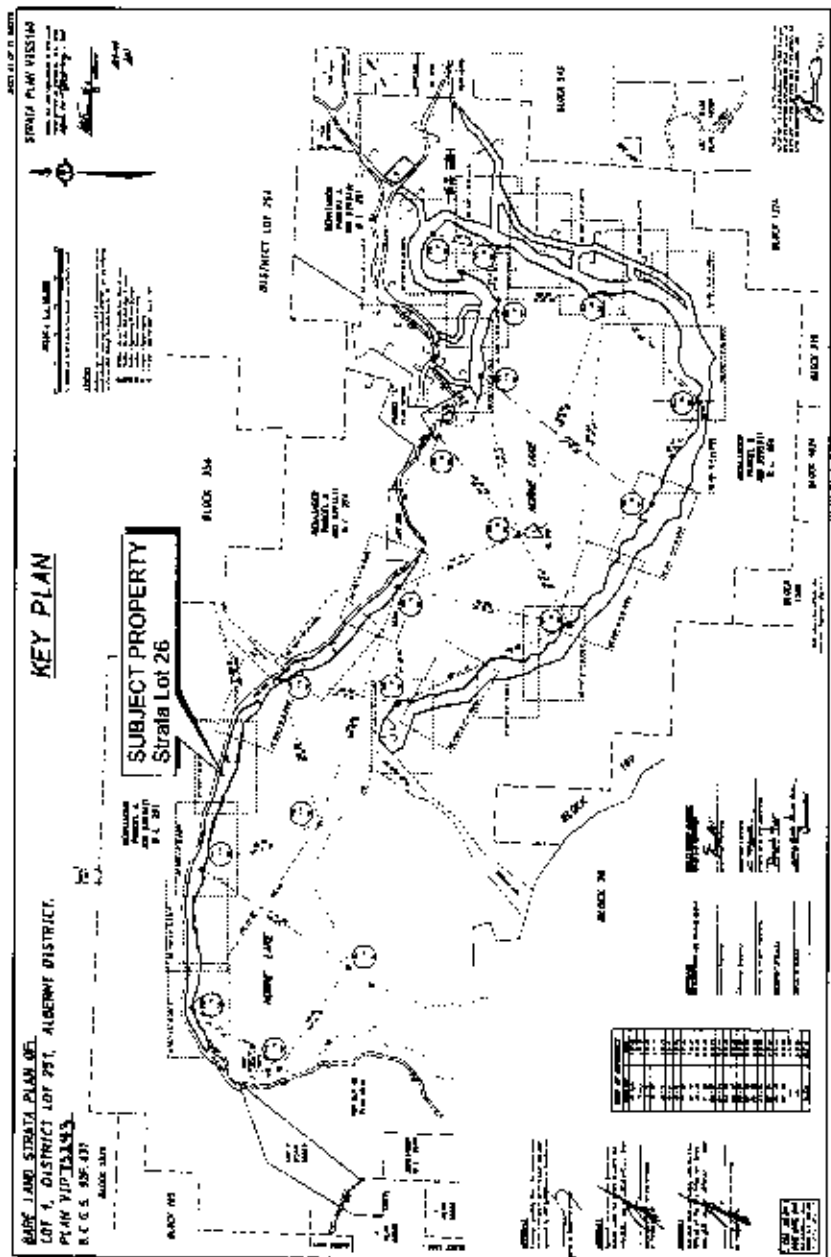


CAO Concurrence

COMMENTS:

divvs/reports/2002/dp ap 3060 30 0218 rainsford horne lk sl26

Attachment No. 1
Subject Property
Development Permit No. 0218



**Schedule No. 2
Requested Variances
Development Permit No. 0218**

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

1. Section 6.4.107.2 Maximum Number and Size of Buildings Structures and Uses, Subsection (c) Floor Area i) Cabin - 70 m² is varied to a maximum of 72m²
2. Section 6.4.107.2 Maximum Number and Size of Buildings Structures and Uses, Subsection (d) Height i) Cabin – 6.1 metres is varied to a maximum of 6.5 metres.
3. Section 6.4.107.6 Other Regulations, Subsection (ix) up to 35m² floor area that is located on a second storey is varied to a maximum of 45m².

**Schedule No. 3
Conditions of Approval
Development Permit No. 0218**

Bylaw No. 500

1. The recreational residence shall not exceed a maximum height of 7.2 metres (foundation of 0.7 metres and building of 6.5 metres).
2. The combined footprint of the recreational residence, porches, and landscape decks shall not exceed 106m².

Development Permit No. 0120

3. Works shall be undertaken in accordance with Development Permit No. 0120

Vegetation Removal

4. Vegetation removal within the Development Permit Area shall be consistent with the Vegetation Management Guidelines.

Beach Trail

5. Only one beach trail is permitted.
6. The beach trail shall not exceed 1 metre in width.
7. The beach trail is for personal, non-vehicular use only.
8. The surface of the beach trail shall consist of permeable non-toxic material, for example, clean gravel.
9. Stairs for the beach access shall not exceed .6 metres in height.
10. Vegetation removal to construct the beach trail shall be consistent with the Vegetation Management Guidelines.

Flood Construction

11. Certification of Flood Construction Level must be submitted to the Regional District of Nanaimo prior to the completion of the proposed works.
12. A signed 'Release and Indemnity' form regarding renovations and construction being undertaken prior to the completion of the Horne Lake Dam reconstruction, must be submitted to the Regional District of Nanaimo prior to beginning construction.



REGIONAL DISTRICT OF NANAIMO	
APR 15 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
EAPC. ✓	

MEMORANDUM

TO: Pam Shaw
Manager of Community Planning

DATE: April 11, 2002

FROM: Brigid Reynolds
Planner

FILE: 3090 30 0220

SUBJECT: Development Permit Application No. 0220 - Bulger
Electoral Area 'H' - Horne Lake Cave Road

PURPOSE

To consider an application for a development permit to facilitate the relocation of a recreational residence, deck and accessory building and to develop a beach access within the Environmentally Sensitive Areas Development Permit Area pursuant to "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996."

BACKGROUND

The subject property legally described as Strata Lot 58, District Lot 251, Alberni District, Plan VIS5160 is located on Horne Lake Cave Road in Electoral Area 'H' (see Attachment No. 1).

The subject property is zoned Comprehensive Development 9 (CD 9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The bylaw states that the minimum setback is 8.0 metres from the natural boundary of Horne Lake, however no variances to Bylaw No. 500 are being requested as part of this application.

The Environmentally Sensitive Areas Development Permit Area was established to protect the natural environment. The Development Permit Area is measured 15.0 metres from the top of bank of the watercourse. In the case of Horne Lake, many properties do not have a top of bank so the setback is measured from the natural boundary of Horne Lake as shown on Plan VIS5160. The deck and recreational residence are proposed to be located a minimum of 8 metres and one accessory building is proposed to be located a minimum of 11 metres from the natural boundary of Horne Lake.

In November 2001, prior to final approval of the Bare Land Strata subdivision, a geotechnical assessment was undertaken which required that 19 recreational residences must be relocated due to a potentially unstable slope behind these residences. This recreational residence must be moved.

Concurrent with the adoption of Bylaw No. 500.275, creating the CD9 zone and rezoning portions of the land surrounding Horne Lake to CD9 for the creation of a maximum of 400 Bare Land Strata Lots, Development Permit No. 0120 was issued as blanket development permit. DP 0120 provided detailed guidelines and conditions related to stormwater management; fill placement; construction and maintenance of docks; walkways and trails; foreshore and watercourse management; construction; vegetation management and landscaping; and sediment and erosion protection. Any new construction or land alteration must be consistent with DP 0120.

PAGE
52

The proposed beach access is an existing clearing and will not exceed 1 metre in width and runs the length of the Development Permit Area down to the lake.

Due to the topography of the properties surrounding Horne Lake, many bare land strata lots contain steep banks, including Strata Lot 58. The lot contains a 5-metre wide rail bed that is located between 8.5 and 5 metres from the natural boundary and runs the width of the property. Behind the proposed location of the recreational residence there is a steep bank, which must be excavated in order to accommodate the recreational residence. A geotechnical report was prepared on 5 April 2002 by Bob Davey of Davey Consulting and Engineering, which provides recommendations for the proposed works. The proposed location is in an existing hollow where tree and vegetation removal would be at a minimum. The proposed location of the accessory building is also in an existing clearing whereby vegetation removal is limited. This is a narrow lot, which also limits potential sites.

ALTERNATIVES

1. To approve the requested development permit subject to the conditions outlined in Schedule No. 1 and 2.
2. To deny the requested development permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested development permit would facilitate the relocation of a recreational residence, deck and accessory building within the Environmentally Sensitive Areas Development Permit Area pursuant to the Shaw Hill – Deep Bay Official Community Plan.

The location of the recreational residence and deck is proposed to be a minimum of 8.0 metres from the natural boundary. This location is behind the rail bed that runs through the lot, however excavation is necessary. The geotechnical report outlines parameters for foundation design and load bearing and conclude that the lot is safe for the intended use providing the recommendations are adhered to. One of the recommended conditions of approval is that the geotechnical report be registered on title.

ENVIRONMENTAL IMPLICATIONS

This is an application to permit the relocation of a recreational residence and deck to be located a minimum of 8.0 metres and an accessory building 11 metres from the natural boundary, within the Development Permit Area. These proposed locations are on the upland side of a graded and cleared rail bed. The proposed locations for the recreational residence, deck, and accessory building are in existing clearings whereby vegetation removal would be at a minimum. The geotechnical report indicates that some trees located on the slope behind the proposed recreational residential site show signs of soil slumpage and therefore, recommends maintaining as much of the existing vegetation as possible.

The strata lot owner proposes to develop a 1-metre wide beach access through the Development Permit Area. The proposed location is an existing clearing therefore no vegetation will be removed.

Horne Lake is fish bearing and the aquatic resources as well as water quality have the potential for being impacted by shoreline development. Therefore, Conditions of Approval outlined in Schedule No. 2 will reduce any potential negative impacts to Horne Lake. As well, works undertaken as part of this permit must be consistent with the detailed guidelines outlined in Development Permit No. 0120.

VOTING

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

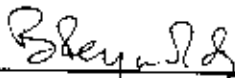
SUMMARY/CONCLUSIONS

This is an application to for a development permit to facilitate the relocation of a recreational residence, deck and accessory building and to develop a beach access within the Environmentally Sensitive Areas Development Permit Area pursuant to the Shaw Hill – Deep Bay Official Community Plan. The setback for the Development Permit Area is measured 15.0 metres from the natural boundary of Horne Lake, as shown on Plan VIS5160. On the subject property, the proposed location of the recreational residence and deck is a minimum of 8.0 metres and the accessory building a minimum of 11 metres from the natural boundary. In addition, a beach access will be developed across the Development Permit Area.

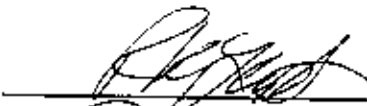
From staff's assessment of this application, Development Permit No. 0220 can be supported as the proposed location of the recreational residence and deck is the most feasible given the physical site constraints of the steep bank and that the structure is being moved, which limits where it can be located on the lot. The proposed location of the accessory building is in an existing clearing and as a result little vegetation would be removed. In addition, the geotechnical report provided recommendations and guidelines for the proposed excavation and foundation construction.

RECOMMENDATION

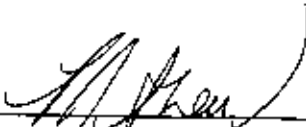
That Development Permit Application No. 0202 to facilitate the relocation of a recreational residence and deck to be located a minimum of 8 metres, an accessory building to be located a minimum of 11 metres from the natural boundary of Horne Lake, and a 1 metre wide beach access located within the Environmentally Sensitive Areas Development Permit Area on the property legally described as Strata Lot 58, District Lot 251, Alberni District, Plan VIS5160 be approved subject to the conditions outlined in Schedule 1 and 2.



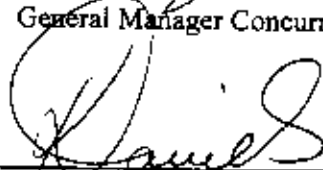
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devs/reports/2002/dp ap 3060 30 0220 bulger horne lk sl58

**Schedule No. 2
Conditions of Approval
Development Permit No. 0219**

Development Permit No. 0120

1. Works shall be undertaken in accordance with Development Permit No. 0120

Vegetation Removal

2. Vegetation removal within the Development Permit Area shall be consistent with the Vegetation Management Guidelines.

Beach Trail

3. Only one beach trail is permitted.
4. The beach trail shall not exceed 1 metre in width.
5. The beach trail is for personal, non-vehicular use only.
6. The surface of the beach trail shall consist of permeable non-toxic material, for example, clean gravel.
7. Stairs for the beach access shall not exceed .6 metres in height.
8. Vegetation removal to construct the beach trail shall be consistent with the Vegetation Management Guidelines.

Flood Construction

11. Certification of Flood Construction Level must be submitted to the Regional District of Nanaimo prior to the completion of the proposed works.
12. A signed 'Release and Idemnity' form regarding renovations and construction being undertaken prior to the completion of the Home Lake Dam reconstruction, must be submitted to the Regional District of Nanaimo prior to beginning construction.

Vegetation Removal

13. Vegetation removal within the Development Permit Are shall consist of that which is required to locate the recreational residence, deck and accessory building.

Geotechnical Assessment

14. Recommendations of the geotechnical engineer contained in the report prepared by Davey Consulting and Engineering dated April 5, 2002 and any subsequent amendments must be adhered to.
15. The geotechnical report prepared by Davey Consulting and Engineering dated April 5, 2002 and any subsequent amendments must be registered on title prior to construction.



REGIONAL DISTRICT OF NANAIMO			
APR 15 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
EAPC ✓			

MEMORANDUM

TO: Pamela Shaw
 Manager, Community Planning

DATE: April 11, 2002

FROM: Lindsay Chase
 Planner

FILE: 3090 30 0221

SUBJECT: Development Permit Application No. 0221 – Gerard/Fern Road Consulting
 Electoral Area 'E' – Lot 14, Amberwood Lane

PURPOSE

To consider an application for a Development Permit with a variance to facilitate the construction of a single dwelling unit in the Coast Watercourse Protection Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998."

BACKGROUND

This is an application to facilitate the construction of a single dwelling unit in the Coast Watercourse Protection Development Permit Area pursuant to the Nanoose Bay OCP on a waterfront residential property in the Fairwinds area. The subject property is located on Amberwood Lane in Electoral Area 'E'.

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are 8.0 metres from the front lot line, 2.0 metres from an interior side lot line, 5.0 metres from an other lot line and 8.0 metres from the top of a slope of 30% or greater adjacent to the sea. The maximum height of a dwelling unit in this zone is 8.0 metres. Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" also requires an 8.0 metre setback from the natural boundary where the sea frontage is protected by natural bedrock formation or works designed by a professional engineer and maintained by the owner. In this case, the sea frontage appears to be comprised of bedrock.

The parcel has a slightly irregular configuration, as it is narrower where it fronts Amberwood Lane and widens out at the waterfront. The parcel is very rocky, with a rock face running almost the length of the parcel on the west lot line. Site works were initiated on the subject property approximately 10 years ago. At that time, the proposed location for the dwelling unit was excavated and blasted. The property slopes down towards the water from the road, and the proposed building site is located in a slight depression on the parcel. The building area is roughly level and portions are within 8.0 metres of the top of the bank and the natural boundary. No variance to Bylaw No. 500 is required to locate the dwelling unit in this location, although the proposed patio and retaining walls do require a variance.

The applicant is requesting the side lot line setback be varied from 2.0 metres to 0.5 metres in order to facilitate construction of retaining walls adjacent to the proposed garage, and a variance to the lot line fronting the ocean to facilitate construction of a patio. As the patio is proposed to be less than 8.0 metres from the natural boundary, the applicant must also request a site-specific exemption from the Water

PAGE 158

Management Branch. The applicant is also requesting a variance to the Watercourse Protection Development Permit Area as the proposed house site is located within the 15.0 metre required leave strip.

The Watercourse Protection Development Permit Area was established to protect the natural environment, its ecosystems and biological diversity. The Development Permit Area requires a leave strip of 15.0 metres from the top of the bank. The applicant is proposing to locate a dwelling unit 8.7 metres from the natural boundary; however, the proposed patio will be 6.4 metres from the natural boundary, therefore a variance to Bylaw No. 500 is required to locate the patio. In addition to these variances, the applicant is also requesting a variance to locate retaining walls 0.5 metres from the interior side lot line (*see Schedule Nos. 2 and 3 for site plans*).

ALTERNATIVES

1. To approve Development Permit No. 0221 subject to the conditions outlined in Schedule No. '1'.
2. To deny Development Permit No. 0221.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the Development Permit and the requested variances would permit the construction of a single dwelling unit, an attached patio, and a hot tub area within the Watercourse Protection Development Permit Area leave strip, the construction of retaining walls in the interior side setbacks, and the construction of stairs cut into the rock face leading down to the ocean. The stairs do not require a variance to zoning as they will be less than 1.0 metre in height and are considered 'landscaping' pursuant to the zoning bylaw.

The parcel slopes down from the road to the waterfront, and the proposed location for the dwelling unit is located in a slight depression on the parcel, thus minimizing the impact of the new development on adjacent parcels. No variance to the height of the dwelling unit is requested. The proposed dwelling unit will be able to meet the minimum flood elevations specified in Bylaw No. 843, which requires a minimum floor elevation construction of at least 1.5 metres above the natural boundary.

ENVIRONMENTAL IMPLICATIONS

The applicant is proposing to locate the dwelling unit in the same location as was excavated approximately 10 years ago. However, this site is located within the 15.0 metre leave strip, thus a variance to the Development Permit leave strip is requested. The applicant has indicated that the existing excavation site is being used to minimize the additional removal of vegetation and disturbance of the site through additional blasting. However, given the conditions of the site, the applicant has indicated that some additional blasting may be required.

PUBLIC CONSULTATION IMPLICATIONS

The Nanoose Bay Official Community Plan does provide for some exemptions to the requirement for a development permit however, this application does not meet the conditions for an exemption as construction is proposed within the 15.0 metre leave strip.

The adjacent properties have been developed. This application may impact the views of the parcel across the street; however, the dwelling unit is proposed to be located in a slight depression on the parcel, which minimizes the impact on views. No height variance is being requested as part of this application, but a

variances to interior side lot lines are being requested, neighboring properties within a 50-metre radius will be notified pursuant to the requirements of the *Local Government Act*.

VOTING


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

SUMMARY/CONCLUSIONS


This is an application for a Development Permit with variances to facilitate the construction of a new dwelling unit within the Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan. A variance is requested to the interior side lot line in order to permit the construction of retaining walls greater than 1.0 metre in height. In addition, the applicant is requesting a variance to the setback to the sea from 8.0 metres to 6.4 metres in order to site a patio and a hot tub. The applicant is aware that a site-specific exemption is required from the Water Management Branch in order to relax this setback. No variances to the dwelling unit height are requested. The applicant requires a development permit to proceed, as the proposed building site is located within the 15.0 metre development permit area leave strip. As the site was excavated and blasted 10 years ago for a dwelling unit that was not constructed, the applicant is proposing to locate the dwelling unit in this location to minimize any further disturbance of the site through excavation works or blasting. Due to site configuration and the presence of existing excavations works, staff recommends that this application be approved subject to the conditions and variances outlined in Schedule No. '1' and the notification requirements of the *Local Government Act*.

RECOMMENDATION

That Development Permit Application No. 0221 submitted by Helen Sims, on behalf of Patricia Gerard to facilitate construction of a single dwelling, attached patio, patio for hot tub, and retaining walls within the Watercourse Protection Development Permit Area pursuant to "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" for the property legally described as Lot 14, District Lot 78, Nanoose District, Plan 47638 be approved subject to the conditions and variances outlined in Schedule No. '1' and notification requirements pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

dp ap 3060 30 0221 Gerard Fern Road Consulting.doc

**Schedule No. 1
Development Permit No. 0221
Conditions of Approval**

Location

1. The dwelling unit, patio, hot tub patio and retaining walls are to be located as shown on Schedule No. '2', '3' & '4'.

Sediment and Erosion Control Measures

2. Sediment and erosion control measures must be utilized to control sediment during dwelling unit construction, any land clearing works and to stabilize the site after construction is complete. These measures must include:
 - a) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - b) Direct run off flows away from the marine environment using swales or low berms.
 - c) Exposed soils must be seeded immediately after disturbance.
 - d) Cover temporary fills or soil stock piled with polyethylene or tarps.
3. Replant vegetation within disturbed part of the development permit area. Preferred plantings to be trees, shrubs and ground cover native to the area; all replantings to maintain and enhance the natural characteristics of the riparian area.

Construction

4. Any excavated materials must be placed upland such that there is no potential for introduction onto the foreshore.
5. Machinery should be in good working condition and no fuels, lubricants or construction wastes are permitted to enter the marine or fresh water environments. No refueling of machinery is to be conducted within 100 metres of the watercourse. Machinery should operate from the upland only.
6. Prior to any construction commencing install temporary fencing (snow or 'hi-vis' fence) to delineate where heavy machinery or land alteration is not permitted. The fencing shall be removed once all development activity has been completed.
7. A spill kit should be onsite to prevent the introduction any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.
8. Concrete poured onsite must be fully contained in forms. Concrete, concrete fines, concrete wash, concrete dust or other concrete materials are not permitted to enter any watercourse as these concrete materials are extremely toxic to fish and other marine organisms when uncured. It is your responsibility to ensure that materials necessary to ensure that concrete materials are contained and prohibited from entering the watercourse will be on site for use during and after construction.

Site Specific Exemption

9. Applicant to secure a Site Specific Exemption from the Water Management Branch of the Ministry of Water, Land, and Air Protection to relax the minimum setback from the natural boundary 8.0 metres to 6.7 metres for the attached patio and 8.0 metres to 6.4 metres for the hot tub patio prior to issuance of a Development Permit.

Requested Variances

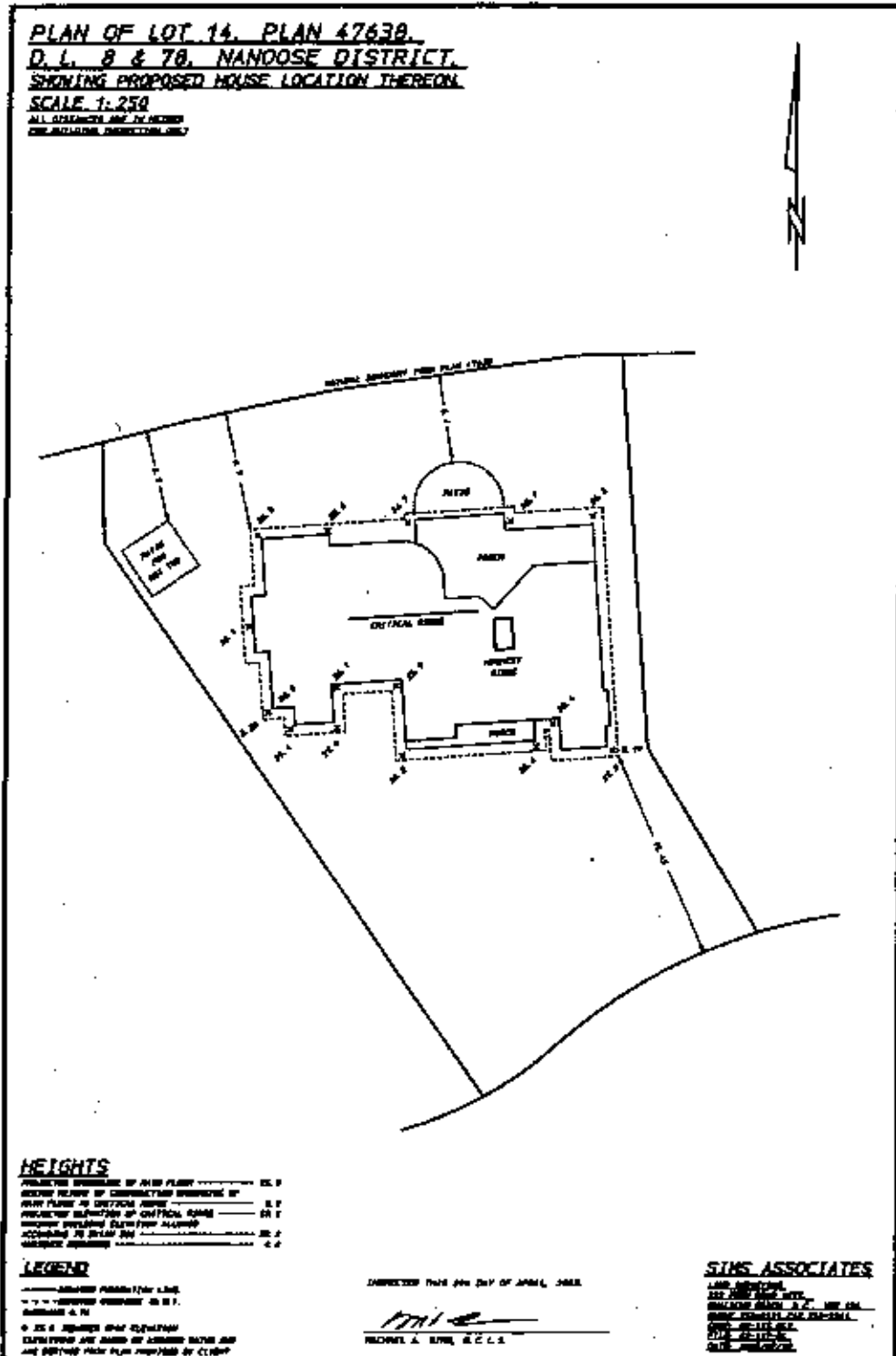
With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 the following variances are requested:

Section 6.4.61 Minimum setback requirements for the Interior Side Lot line is proposed to be varied from 2.0 metres to 0.5 metres in order to situate a retaining wall.

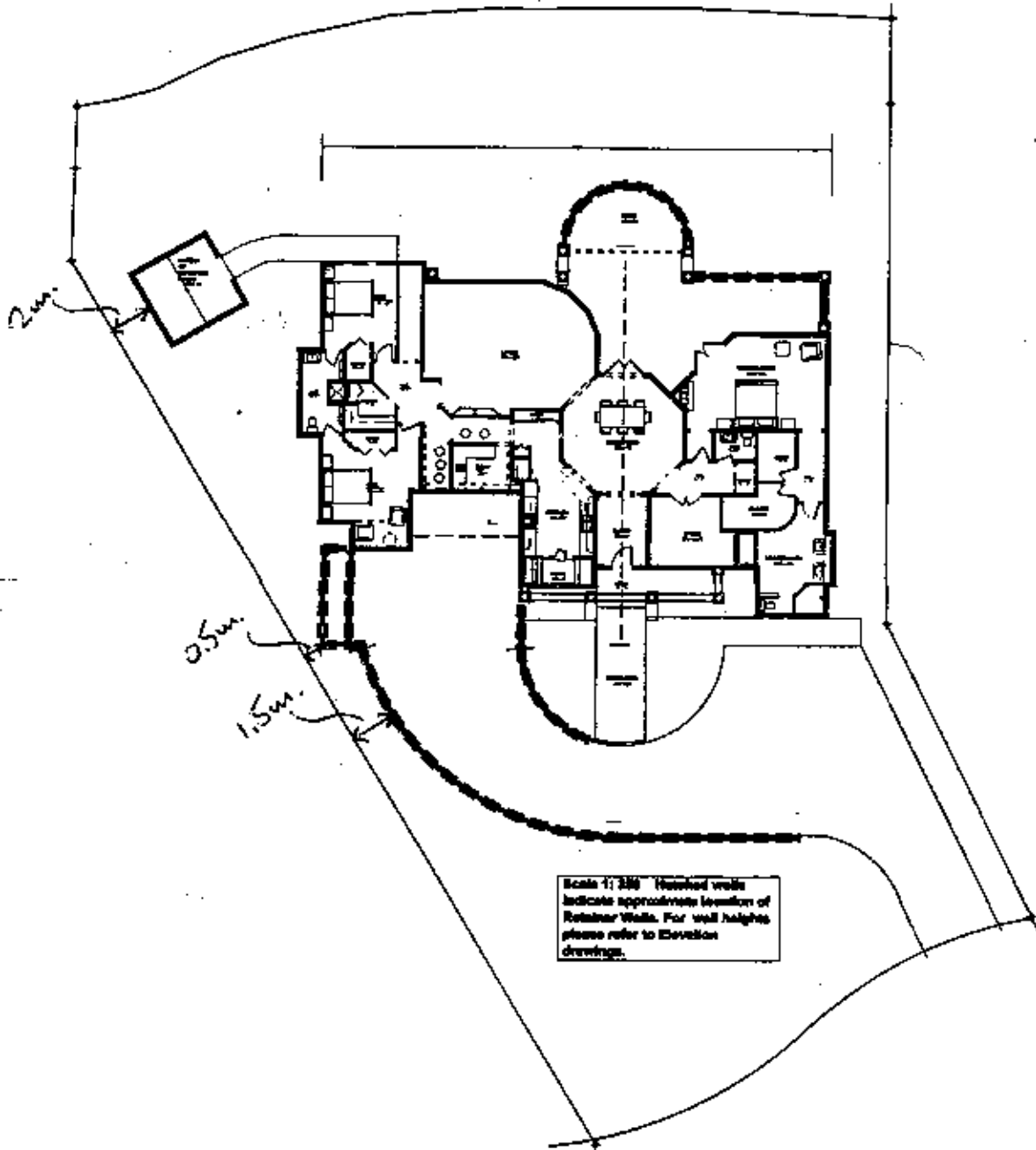
Section 6.3.9 Minimum setback requirements to the sea is proposed to be varied from 8.0 meters to 6.4 metres to facilitate construction of a patio as shown on Schedule '2' & '3'.

Section 6.3.9 Minimum setback requirements to the sea is proposed to be varied from 8.0 metres to 6.7 metres in order to site a hot tub as shown on Schedule '2' & '3'.

Schedule No. 2
 Site Plan #1 as Submitted by Applicant



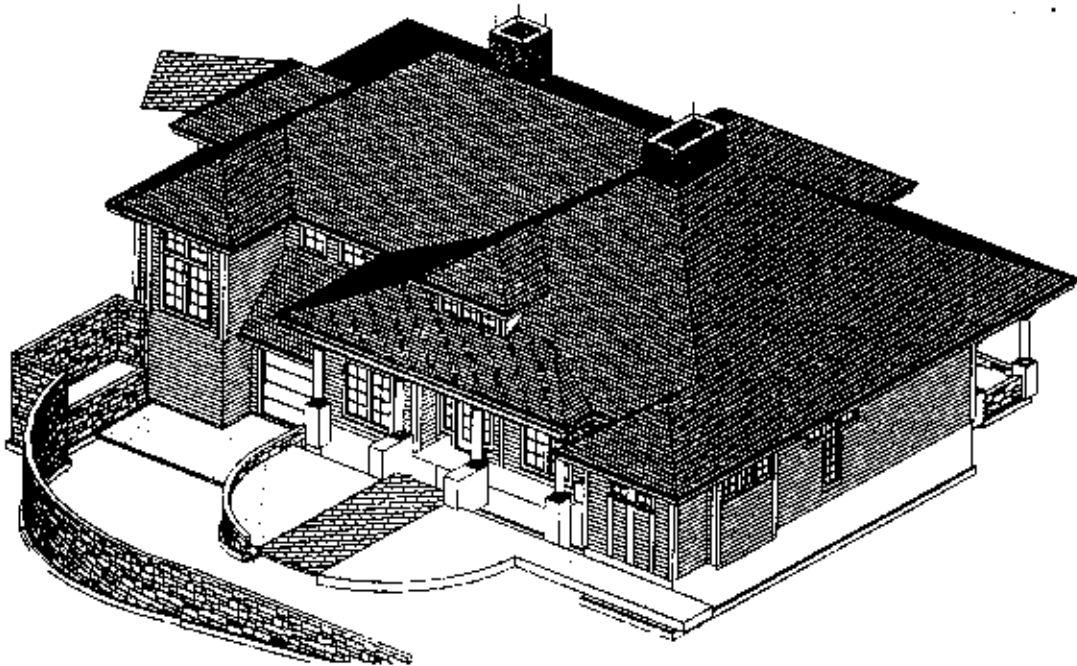
Schedule No. 3
Site Plan #2 as Submitted by Applicant



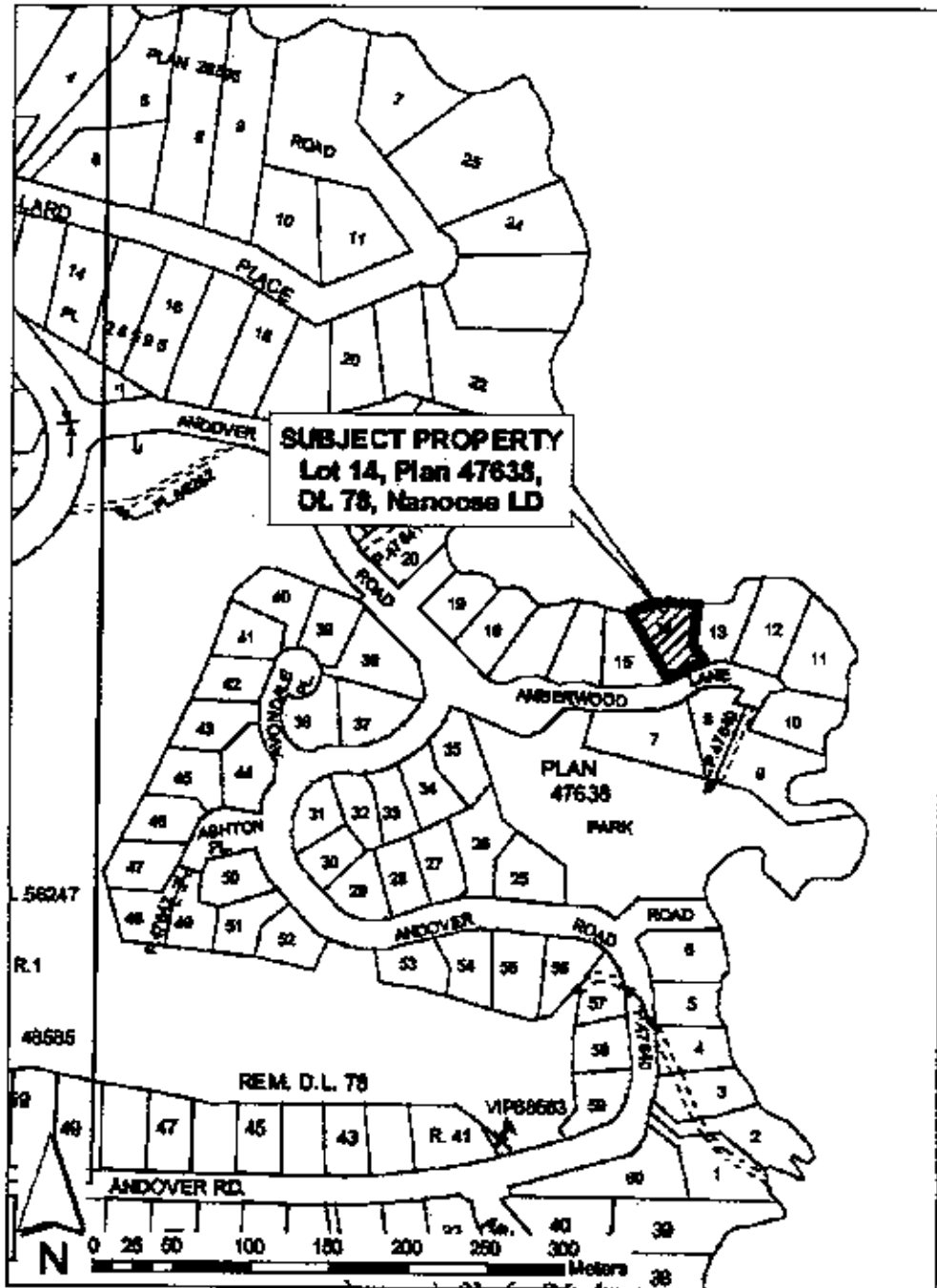
Schedule No. 3
Elevations of Proposed Dwelling Unit as Submitted by Applicant



Elevation View of West Building Wall



Attachment No. 1
Subject Property Location





REGIONAL DISTRICT OF NANAIMO	
APR 15 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
EAPC ✓	
DATE:	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

FROM: Lindsay Chase
Planner

SUBJECT: Development Permit Application No. 0222—Mauriks/Fern Road Consulting
Electoral Area 'E' – 1429 Dorcas Point Road

FILE: 3090 30 0222

DATE: April 12, 2002

PURPOSE

To consider an application for a Development Permit to vary the maximum permitted height of a dwelling unit in order to facilitate renovations and to legalize the siting of an existing single dwelling unit within the Watercourse Protection Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998."

BACKGROUND

This is an application to facilitate the renovation of a single dwelling unit that was constructed prior to the creation of the Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan on a residential property in the Dorcas Point area. The subject property is located at 1429 Dorcas Point Road.

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are 8.0 metres from the front lot line, 2.0 metres from an interior side lot line and 8.0 metres from the top of a slope 30% or greater adjacent to the natural boundary of the sea. The maximum height of a dwelling unit in this zone is 8.0 metres. Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" also requires an 8.0 metre setback from the natural boundary where the sea frontage is protected by natural bedrock formation or works designed by a professional engineer and maintained by the owner. In this case, the sea frontage does not appear to be comprised of bedrock and the building inspection department may require a geotechnical report.

The parcel is roughly a pie shape, and widens as it approaches the waterfront. The property is heavily treed and slopes slightly to the existing house site. Adjacent properties appear to have similar vegetation. The existing dwelling unit footprint is located within 4.1 metres of the top of the bank and within 11.0 metres of the natural boundary. The applicant is requesting a variance in order to legalize the siting of the existing dwelling unit, which was constructed prior to the Watercourse Development Permit area being implemented. In addition, the renovations that are proposed for the dwelling unit involve raising the roof. In order to facilitate this renovation, a relaxation of the maximum permitted height from 8.0 metres to 9.1 metres is required. The height of the highest ridge on the existing dwelling unit is presently 8.8 metres.

In summary, the applicant is requesting a variance to the maximum permitted height of a dwelling unit, variances to the setbacks to the top of a bank adjacent to a watercourse, and a variance to the setback to the natural boundary in order to legalize the siting of the existing dwelling unit.

ALTERNATIVES

1. To approve Development Permit No. 0222 subject to the conditions outlined in Schedule No. '1'.
2. To deny Development Variance Permit No. 0222.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the Development Permit and the requested variances would legalize the siting of the existing dwelling unit and allow for the roof to be raised, adding additional living area to the dwelling unit. The proposed new roofline will minimally impact adjacent properties and will not be visible from Dorcas Point Road. The proposed addition to the roofline will be 0.4 metres higher than the existing highest point of the roof. Therefore, the requested variance of 1.1 metres to the Bylaw No. 500 maximum height of 8.0 metres is not significant for adjacent property owners as their view corridors are already established by the location and height of the existing dwelling unit. The existing dwelling unit appears to meet the flood elevation standard of 1.5 metres above the natural boundary required by Bylaw 843; however, the applicant must also secure a site specific exemption for the setback to the natural boundary from the Water management Branch of the Ministry of Water, Land, and Air. It is also likely that the Building Inspection Department will require a geotechnical report as part of the building permit process.

ENVIRONMENTAL IMPLICATIONS

The applicant is proposing to increase the existing deck area in the Development Permit Area only by an overhang of 0.8 metres. No other alteration in the Development Permit Area is proposed. The area immediately adjacent to the top of the bank is covered in grass and has some trees. As this area is located within the 15.0 metre leave strip, a variance to the Development Permit leave strip requirement is requested.

PUBLIC CONSULTATION IMPLICATIONS

As previously noted, the subject property is located within the Watercourse Protection Development Permit Area. While the Nanoose Bay OCP does provide for some exemptions to the requirement for a development permit, this application does not meet the conditions for an exemption as construction is proposed within the 15.0 metre leave strip.

The adjacent properties have been developed. This application is unlikely to impact the views of adjacent parcels as view corridors have already been established by the location of the existing dwelling unit however, as variances to Bylaw No. 500 are being requested, neighboring properties within a 50 metre radius will be notified pursuant to the requirements of the *Local Government Act*.

VOTING

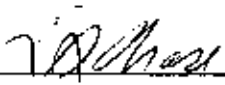
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

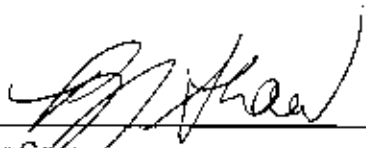
This is an application for a Development Permit with variances to facilitate the renovation of an existing dwelling unit within the Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan. A variance is requested to the setback to the top of a bank adjacent to the sea from 8.0 metres to 4.1 metres and a relaxation of the maximum height of a dwelling unit from 8.0 metres to 9.1 metres. The applicant requires a Development Permit to proceed with the proposed addition to the roof of the existing dwelling, and for a small increase in the existing deck overhang of 0.8 metres. The building footprint within the Development Permit Area was established when the dwelling was initially constructed, and it is staff's assessment that the minor increase proposed will not significantly impact this area. In addition, it is unlikely that the proposed variance to the height of the dwelling will impact neighboring properties' view as the proposed addition will be 0.4 metres higher than the existing dwelling unit, and any view corridors are already established. Staff recommends that this application be approved subject to the conditions and variances outlined in Schedule No. '1' and the notification requirements of the *Local Government Act*.

RECOMMENDATION

That Development Permit Application No. 0222, submitted by Helen Sims on behalf of Patricia Mauriks to legalize the siting and renovation of an existing dwelling unit within the Watercourse Protection Development Permit Area pursuant to "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" for the property legally described as Lot 5, District Lot 110, Nanoose District, Plan 17536 be approved subject to the conditions and variances outlined in Schedule No. '1' and notification requirements pursuant to the *Local Government Act*.



Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

Schedule No. 1
Conditions of Approval of Development Permit no. 0222

Location

1. The dwelling unit is to be located as shown on Schedule No. '2'.

Sediment and Erosion Control Measures

2. Sediment and erosion control measures must be utilized to control sediment during dwelling unit construction, any land clearing works and to stabilize the site after construction is complete. These measures must include:
 - a) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - b) Direct run off flows away from the marine environment using swales or low berms.
 - c) Exposed soils must be seeded immediately after disturbance.
 - d) Cover temporary fills or soil stock piled with polyethylene or tarps.
3. Replant vegetation within disturbed part of the development permit area. Preferred plantings to be trees, shrubs and ground cover native to the area; all replantings to maintain and enhance the natural characteristics of the riparian area.

Construction

4. Any excavated materials must be placed upland such that there is no potential for introduction onto the foreshore.
5. Machinery should be in good working condition and no fuels, lubricants or construction wastes are permitted to enter the marine or fresh water environments. No refueling of machinery is to be conducted within 100 metres of the watercourse. Machinery should operate from the upland only.
6. Prior to any construction commencing install temporary fencing (snow or 'hi-vis' fence) to delineate where heavy machinery or land alteration is not permitted. The fencing shall be removed once all development activity has been completed.
7. A spill kit should be onsite to prevent the introduction any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.
8. Concrete poured onsite must be fully contained in forms. Concrete, concrete fines, concrete wash, concrete dust or other concrete materials are not permitted to enter any watercourse as these concrete materials are extremely toxic to fish and other marine organisms when uncured. It is your responsibility to ensure that materials necessary to ensure that concrete materials are contained and prohibited from entering the watercourse will be on site for use during and after construction.

Site Specific Exemption

9. Applicant to secure a Site Specific Exemption from the Water Management Branch of the Ministry of Water, Land, and Air Protection to relax the minimum setback from the natural boundary 15.0 metres to 11.0 metres for the existing dwelling unit and proposed reconstructed deck overhang prior to issuance of a Development Permit.

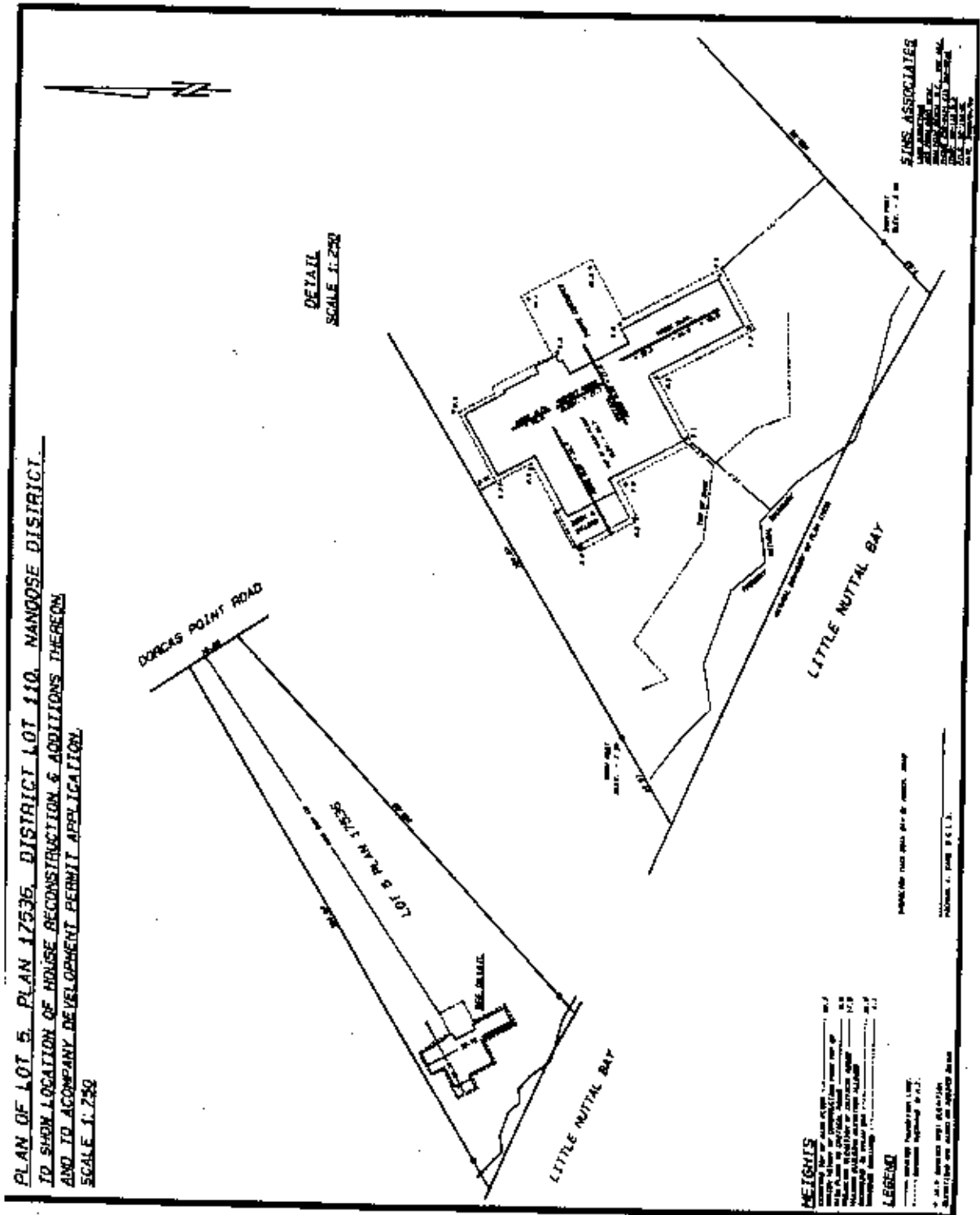
Requested Variances

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

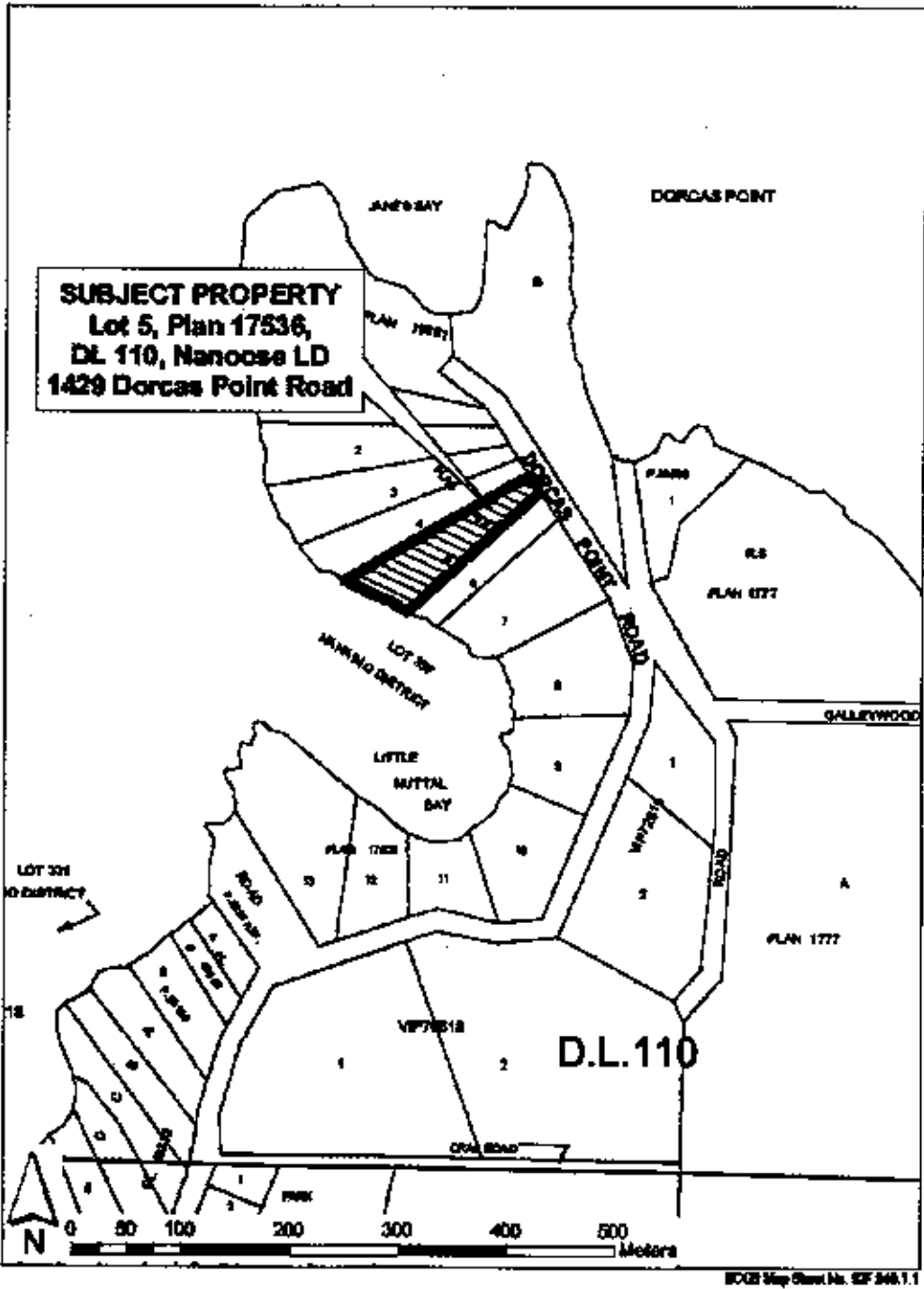
Section 6.4.61 Maximum height of a dwelling unit is varied from 8.0 metres to 9.1 metres in order to facilitate an addition on the roof.

Section 6.3.9 – Setbacks to the sea within 8.0 metres inland from the top of a slope of 30% or greater is varied from 8.0 metres to 4.1 metres to legalize the siting of the existing dwelling unit.

Schedule No. 2
 Site Plan as Submitted by Applicant



Attachment No. 1
Subject Property Location





REGIONAL DISTRICT OF NANAIMO			
APR 15 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
		GAPE	✓

MEMORANDUM

TO: Pamela Shaw Manager, Community Planning DATE: April 12, 2002

FROM: Deborah Jensen Planner FILE: 3360 30 0206

SUBJECT: Home Based Business (HBB) Regulations – RDN Land Use and Subdivision Bylaw Amendment Bylaw No. 500.270, 2001 Electoral Areas A, C, D, E, G and H

PURPOSE

To consider minor amendments to the Home Based Business regulations, adopted in November 2001 under Amendment Bylaw No. 500.270.

BACKGROUND

The "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.270, 2001" pertaining to home based business regulations was adopted in November 2001. This bylaw replaced previous home occupation and domestic industry use regulations with new home based business requirements.

These new regulations were the culmination of two years of research and public consultation. This process also involved extensive consultation with various agencies, including the Ministry of Health, Ministry of Transportation, and the Land Reserve Commission. The end result was new provisions for home based business permitted uses, locations, floor area, signage, parking, and implementation of a business registry.

The intent of the HBB regulations was to restrict only activities with health or safety implications, or that generated traffic, noise, odour, fumes, smoke or dust – that is, those uses that were deemed to be incompatible with the residential use and enjoyment of properties in the RDN. The bylaw amendment was then structured to provide a list of identified prohibited uses. A report submitted to the RDN Board July 10, 2001 stated that if, in the future, additional uses were determined to be in conflict with the residential use of properties, they would be recommended as additions to this list of prohibited uses.

Subsequent to adoption of Bylaw No. 500.270, complaints have been received with respect to the generation of "fast food outlets" as a home based business operation. Under Section 6.3 (b) (xxv) of Bylaw No. 500 (Prohibited Uses), one of the prohibited home based business uses is the "sale of food and/or beverages for immediate consumption on the premises, other than breakfast served by a bed and breakfast to the traveling public who have been provided with overnight accommodation." As the intent of the home based business regulations was never to allow for the operation of fast food outlets or restaurants as a home based business, staff is responding to these complaints by proposing a text amendment to the above-noted prohibited use concerning food and beverages.

ALTERNATIVES

1. To give Bylaw No. 500.286 1st and 2nd reading and be referred to a public hearing.
2. To deny Bylaw No. 500.286.

PUBLIC CONSULTATION IMPLICATIONS

During the process of adopting Amendment Bylaw No. 500.270 (Home Based Business Regulations), numerous open forums, open houses and a public hearing were held. Up to the date of adoption, no significant concerns were raised with respect to the preparation and sale of foods and/or beverages as a home based business activity. A public hearing held for this text amendment would provide the public an additional venue to express any concerns regarding this activity.

LAND USE IMPLICATIONS

Operations such as fast food outlets, restaurants and convenience stores have a greater potential to create nuisance issues such as odours, noise, traffic congestion, and general conflict within a neighbourhood. In fact, some local governments specifically exclude food processing from their home based business regulations. The intent of the RDN Home Based Business regulations was to restrict these types of operations while still allowing for operations such as catering or cake decorating, where prepared or semi-prepared food was delivered to other destinations. Therefore, staff proposes the following text amendment to refine HBB prohibited uses:

Existing text:

sale of food and/or beverages for immediate consumption on the premises, other than breakfast served by a bed and breakfast to the traveling public who have been provided with overnight accommodation

Proposed replacement text:

sale of food and/or beverages for immediate consumption on or off the premises by an individual or household, *and specifically including convenience stores, fast food outlets, neighbourhood pubs, and restaurants, but not including breakfast served by a bed and breakfast to the traveling public who have been provided with overnight accommodation.*

This text amendment will serve to clarify that these activities are considered incompatible with residential uses and clearly are not intended to be permitted as a home based business activity.

VOTING

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


SUMMARY/CONCLUSIONS

This is an amendment to the "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.270, 2001" Home Based Business Regulations. The proposed amendment, submitted as Bylaw No. 500.286, is a result of complaints received by RDN Bylaw Enforcement staff with respect to the operation of "fast food outlets" as home based businesses. In response, staff proposes to prohibit the operation of fast food outlets, restaurants, and neighbourhood pubs as a home based business.

Staff recommends that Bylaw No. 500.286 be given 1st and 2nd reading, and that the proposed bylaw amendment proceed to public hearing.

RECOMMENDATIONS


1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.286, 2002" be introduced and given 1st and 2nd reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.286, 2002" be advanced to a public hearing.
3. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.286, 2002" be delegated to Director Holme or his alternate.



Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS: