

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, APRIL 27, 2004
6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-4 Minutes of the Electoral Area Planning Committee meeting held Tuesday, March 23, 2004.

BUSINESS ARISING FROM THE MINUTES

COMMUNICATIONS/CORRESPONDENCE

- 5-6 **Kathy Minard & Fred Karlzen**, re Difference of Boundary Effecting Properties: Parcel A (DD 387518-1) of Lot 2, Salvation Army Lots, Plan 1115, Nanoose District and Parcel B (DD 26358-W) of Lot 2, Salvation Army Lots, Plan 1115, Nanoose District – Area F.

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 7-15 DP Application No. 60407 – Heck – 1885 & 1879 Widgeon Road – Area H.
- 16-23 DP Application No. 60412 – Davies – 3855 Charleton Drive – Area H.
- 24-33 DP Application No. 60414 – Bales – 2632 East Side Road – Area H.
- 34-42 DP Application No. 60415 – Morton – 2870 Sunset Terrace – Area H.
- 43-49 DP Application No. 60416 – Fairway Pointe Properties Ltd. (Quail's Landing) – 730 Barclay Crescent – Area G.
- 50-56 DP Application No. 60417 – Zychlinski (Quality Foods) – 2443 Collins Crescent – Area E.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 57-63 DVP Application No. 90408 – Heung – 2023 Seahaven Road – Area E.

OTHER

64-69

Request for Relaxation of the Minimum 10% Perimeter Requirement – WR
Hutchinson, BCIS on behalf of DJ & ML Carr – 5735 Takala Road – Area C.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, MARCH 23, 2004, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director E. Hamilton	Chairperson
Director H. Kreiberg Alternate	Electoral Area A
Director B. Jepson	Electoral Area D
Director P. Bibby Alternate	Electoral Area E
Director I. Neden	Electoral Area F
Director Joe Stanhope	Electoral Area G
Director D. Bartram	Electoral Area H

Also in Attendance:

B. Lapham	General Manager, Development Services
N. Tomm	Recording Secretary

MINUTES

MOVED Director Kreiberg, SECONDED Director Bibby, that the minutes of the Electoral Area Planning Committee meeting held February 24, 2004 be adopted.

PLANNING

CARRIED

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0401 – Bob Colclough, on behalf of BC Building Corporation – 1329 Kipp Road – Area A.

MOVED Director Kreiberg, SECONDED Director Bartram,:

1. That the report of the Public Information Meeting held March 10, 2004 be received.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.299, 2004" be given 1st and 2nd reading.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.299, 2004" proceed to public hearing.
4. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.299, 2004" be delegated to Director Kreiberg or his alternate.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

DVP Application No. 90323 – Huddy, Fordham/Roder – 1950 Eagle Ridge Place – Area E.

MOVED Director Bibby, SECONDED Director Bartram, that Development Variance Permit Application No. 90323, submitted by Rosalinda Roder and Hans Roder on behalf of Simon Huddy and Jane Fordham to vary the minimum setback requirement for the interior side lot line from 2.0 metres to 0.0 metres to legalize the existing retaining wall, raised pool deck, and swimming pool structures on the subject property legally described as Lot 23, District Lot 78, Nanoose District, Plan 25828 be approved, subject to the requirements outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

DVP Application No. 90405 – Deo – Fourneau Way – Area G.

MOVED Director Stanhope, SECONDED Director Bibby, that Development Variance Permit Application No. 90405, submitted by the property owners Anthony Deo and Cecilia Deo for the property legally described as Lot A (DD EB20873) of Lot 16, Block 419, Nanoose District, Plan 36697 to relax the maximum height requirements from 9.0 metres to 11.44 metres in order to allow for the construction of a dwelling unit as proposed by the applicants be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

OTHER

Review of Parkland Dedication in Conjunction with the Subdivision Application Process.

MOVED Director Bibby, SECONDED Director Bartram, that the Policy "Review of the Consideration of Park Land Dedication in Conjunction with the Subdivision Application Process" be approved.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:40 PM

CHAIRPERSON

Mrs. Kathy Minard and Mr. Fred Karlzen,
c/o P.O. Box 207, Coombs, BC V0R 1M0
Phone (250) 248-6721 Fax (250) 248-6545

April 18, 2004.

Regional District Board of Directors,
Regional District of Nanaimo,
6300 Hammond Bay Road,
Nanaimo, BC V9T 6N2

RE: Difference of boundary on
- Parcel A (D.D. 387518 - I) of Lot 2, Salvation Army Lots, Plan 1115,
Nanoose District and
- Parcel B (D.D. 26358 - W) of Lot 2, Salvation Army Lots, Plan 1115,
Nanoose District

Dear Sirs,

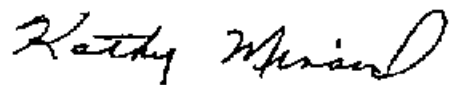
Fred Karlzen and myself met with Bob Lapham on Thursday, April 15, 2004 to discuss a difference of boundary affecting both of our properties and he advised us to write this letter to you.

At the time of the zoning being implemented my property was already a 18 lot mobile home park occupying the back 2/3 of my property, multi residential, and the front 1/3 fronting on Highway 4, Commercial. Mr Karlzens' property had already been passed by the health department for a similar 17 lot mobile home park with the same 2/3 multi residential and 1/3 commercial at the front.

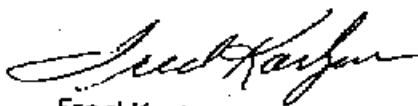
For whatever reason, when the actual division was drawn, over 100 feet was added to the commercial portions of both properties therefore the bottom 3 previously existing mobile home lots are now on "commercial" property, and Mr. Karlzen is unable to fit 17 reasonably sized mobile home lots on the multi residential portion of his property. It is quite likely at some point in time that these properties could be joined. Also there is separate access to both ends of both properties.

Because this change from 1/3 commercial and 2/3 multi residential was made without our knowledge, despite the fact our existing development had been discussed, in many meetings, from the beginning of the zoning process with both Pamela Shaw and Jeff Garbitt with assurances that no changes had been made from the original boundaries, we both would like to request an accommodation of our existing development as originally submitted, that being 1/3 Commercial at the front of the properties and the back 2/3 being multi residential, to accurately reflect the mobile home park portions of our properties.

Thank you for your attention to this matter,



Kathy Minard



Fred Karlzen

Cc:\Lou Biggemann



REGIONAL DISTRICT OF NANAIMO			
APR 20 2004			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
CARR ✓			

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: April 19, 2004

FROM: Blaine Russell
Planner

FILE: 3060 30 60407

SUBJECT: Development Permit Application No. 60407 - Heck
Electoral Area 'H' - 1885 & 1879 Widgeon Road

PURPOSE

To consider an application to permit the construction of a gazebo and an attached deck within the Hazard Lands Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

BACKGROUND

The subject property, legally described as Strata Lot 1, District Lot 89, Newcastle District, Strata Plan 1253, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1 is located at 1885 and 1879 Widgeon Road adjacent to the Strait of Georgia in Electoral Area 'H' (see Attachment No. 1).

The subject property is zoned 'Rural 1 (RU1)' subdivision district 'D' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." No variances to Bylaw No. 500 are requested as part of this application.

The Hazard Lands Development Permit Area was established to protect development from hazardous conditions. The entire subject property is designated within the Hazard Lands Development Permit Area, due to the potential bank instability in the general area, pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

The proposed gazebo and deck are approximately 77 m² in area and the gazebo as measured from the bottom of the floor joist to the highest point is 4.5 m in height. With the bank, and pilings required to elevate the deck and gazebo, the overall height of the building will be approximately 8.7 m.

The proposed gazebo as measured to the outermost portion of the structure, is proposed to be sited 80.5 metres from that part of the lot that is adjacent to crown land that is closest to the natural boundary of the Strait of Georgia. The proposed gazebo is 8.1 metres from the west interior side lot line and 23.5 metres from the east interior side lot line.

The subject property is bordered by crown land to the north that is adjacent to the Strait of Georgia, by other rural properties to the East and West, and by Widgeon Road to the South. The adjacent lot to the west of the subject property also has a gazebo in a similar location to the proposed gazebo.

There are restrictive covenants registered on the Title of the subject property by the Ministry of Transportation.

ALTERNATIVES

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

DEVELOPMENT IMPLICATIONS

The gazebo and deck are proposed to be constructed over top a bank that is approximately 4.2 m in height. Therefore, the deck and almost half of the gazebo will be constructed using pilings.

The applicants are proposing this location as the proposed siting of the gazebo and attached deck will have the least impact on the views of the adjacent neighbours and it provides better view scapes than from other locations. It should be noted that the adjacent property to the west has a gazebo and a large C-Band satellite antenna system in a similar location.

As the subject property is designated within a Hazard Land Development Permit Area due to the steep slopes and banks in the general area, a geotechnical report is required to ensure that the site is safe for the intended use. Davey Consulting and Engineering, completed a geotechnical report on February 9, 2004 which states "...from the available information the present building sites are stable for residential house construction, and will remain so for the foreseeable future, given that seismic events are moderate." The report also states "...given the surficial information we feel that a confidence level of 90% in a 50-year span can be provided." In addition, the report concludes with: "Following this field investigation and report we can certify that this lot is suitable for the purpose described, i.e. the construction and replacement of an existing building and the above recommendations are carried out. All works must be completed in accordance with the British Columbia Building Code and under the appropriate professional supervision." It is recommended that this report and any subsequent report be registered on the title of the subject property as a condition of the Development Permit approval, and the adherence to the recommendation of the report is included as a condition of this permit.

There are two restrictive covenants registered on the title of the subject property in favour of the Ministry of Transportation (MOT) (M17673 and J103099). These restrictive covenants prohibit the siting of structures or the removal of vegetation within the covenant area of which the gazebo and attached deck are proposed to be sited. However, the Ministry of Transportation has permitted the proposed development to proceed in their letter of March 19, 2004. The letter states:

"The Ministry of Transportation would not object to the Regional District of Nanaimo issuing a building permit for the proposed gazebo, provided that the placement and construction of the structure follow all the recommendations of the Davey Report and that the appropriate engineering certification be obtained during and after the completion of the works."

MOT has stated that as a matter of policy they will not require covenants to be amended. Therefore, it is also recommended that the March 19, 2004 letter from MOT be registered on the title of the property.

It is recommended that appropriate engineering certification be required to be obtained during and after completion of the works as a condition of this Development Permit. In addition to the geotechnical report, it is recommended that the applicants be required to prepare and register a Save Harmless Covenant on the property saving the Regional District harmless from any action or loss that might result from hazardous conditions that may exist on the property.

This covenant would require that the applicants fully acknowledge the concerns addressed in the geotechnical report with respect to slope stability resulting from vegetation removal and construction, and the hydrostatic pressure of the high water table. This covenant must be prepared to the satisfaction of the RDN.

Many coastal areas along the Strait of Georgia are known to be archaeologically significant. The applicants will be advised to develop the property in compliance with the provincial *Heritage Conservation Act*. Should the Board approve the proposed gazebo and deck, the applicants will be provided with Archaeology and Registry Services Branch contacts and frequently asked questions brochure with a copy of the Development Permit.

ENVIRONMENTAL IMPLICATIONS

Given that the gazebo and attached deck are proposed to be sited more than 80 metres from the natural boundary of the ocean, it is anticipated that the marine foreshore will not be adversely impacted. However, the proposed location is within an area where vegetation plays a critical role in maintaining bank stability. Therefore, vegetation removal is restricted except what is absolutely necessary in order to site the proposed structure. Vegetation root systems contribute to bank stability and their maintenance and replanting will be required as a condition of this permit.

The geotechnical report includes recommendations to direct perimeter and roof drainage down the bank to the marine foreshore, however, that is over a distance of 80 m and is not feasible. The RDN anticipates that another report will be submitted by the geotechnical engineer recommending alternatives to address the drainage. This subsequent report will also be required to be registered on the title of the property.

VOTING

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

SUMMARY/CONCLUSIONS


This is an application for a development permit to allow for the siting and construction of a gazebo and attached deck at 1885 and 1879 Widgeon Road within the Hazard Lands Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

There is a restrictive covenant registered on the title of the property prohibiting the siting of buildings and structures and the removal of vegetation over a large portion of the property including the proposed building envelope. However, MOT, the covenant holder, has permitted the works providing the recommendations of the geotechnical assessment are incorporated in the construction.


From staff's assessment of this application, the development permit area guidelines have been addressed provided the recommendations of the prepared geotechnical report and conditions of approval are adhered to, and the conditions of the Ministry of Transportation permission letter are honoured. With the geotechnical report and Ministry of Transportation recommendation put into practice, the application has technical merit to be approved subject to the Conditions of Approval outlined in Schedule No. 1. Therefore, staff recommends approval of the request subject to the conditions outlined in Schedules No. 1, 2 and 3.

RECOMMENDATION

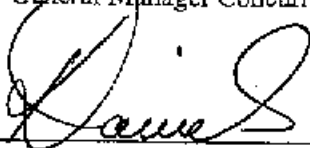
That Development Permit Application No. 60407, submitted by the applicants Brian and Camilla Heck to permit the construction of a gazebo and attached deck within the Hazard Lands Development Permit Area on the subject property legally described as Strata Lot 1, District Lot 89, Newcastle District, Strata Plan 1253, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1 be approved, subject to the Conditions of Approval outlined in Schedules No. 1, 2 and 3.



Report Writer



General Manager Concurrence



CAO Concurrence

COMMENTS:

de:\sva\reports\2003\dp ap 3050 30 60407 Heck

**Schedule No. 1
Conditions of Approval
Development Permit No. 60407**

The following conditions are to be completed as part of Development Permit No. 60407:

Development of Site

1. All uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987";
2. All development on the site must be in compliance with the *Heritage Conservation Act*;
3. All works must be completed in accordance with the British Columbia Building Code and under the appropriate professional supervision;

Gazebo

4. The gazebo shall not be used as habitable space;
5. The gazebo shall not be greater than 9.0 m in height;
6. The height of the gazebo is to be confirmed by a BCIS once it has been constructed.

Engineering

7. The recommendations established by the Geotechnical Report prepared by Davey Consulting and Engineering Division of Davey Holding Ltd. dated February 9, 2004 and subsequent reports shall be adhered to;
8. Engineering certification shall be provided to the RDN during and after completion of the works;

Covenants

9. The Geotechnical Report prepared by Davey Consulting and Engineering Division of Davey Holding Ltd. Date February 9, 2004 and subsequent reports is required to be registered on the Certificate of Title.
10. The March 19, 2004 Ministry of Transportation letter of permission is required to be registered on the Certificate of Title.
11. The applicants shall enter into a Restrictive Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the flood risk associated with the existing construction and occupancy of the dwelling unit on the property. This Covenant must be registered on the Certificate of Title prior to commencing construction at Land Titles Office Victoria to the satisfaction of the Regional District. All costs borne by the applicant.

Sediment and Erosion Controls

12. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite;
 - Direct run off flows away from Strait of Georgia using swales or low berms;
 - Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened;

- Cover temporary fills or soil stockpiles with polyethylene or tarps;

Drainage Control

13. Applicants shall provide a detailed plan indicating the location of the proposed drainage works to the satisfaction of the Regional District of Nanaimo prior to commencing construction;
14. The proposed drainage system shall be constructed to the satisfaction of the Regional District of Nanaimo;

Vegetation

15. Native vegetation within the Environmentally Sensitive Features Development Permit Area and the Hazard Lands Development Permit Area shall be retained and the replanting of native species is required;
16. No vegetation shall be removed except that which is absolutely necessary in order to site and construct the gazebo and attached deck and shown on Schedule No. 2.

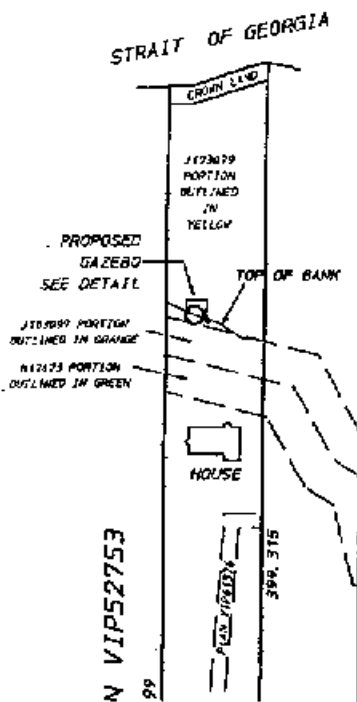
Schedule No. 2
Site Plan
Development Permit No. 60407

(As Submitted by Applicant / Modified to Fit This Page and to Include Conditions)

PLAN OF STRATA LOT 1, STRATA PLAN 1253,
DISTRICT LOT 89, NEWCASTLE DISTRICT,
TO ACCOMPANY DEVELOPMENT VARIANCE PERMIT.

SCALE 1:2000

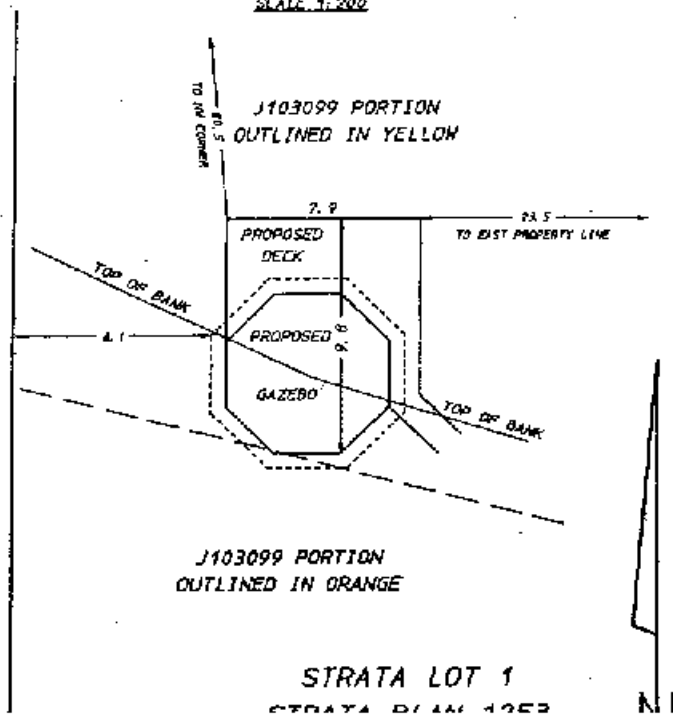
ALL DISTANCES IN METRES



LOT 4 PLAN VIP52753

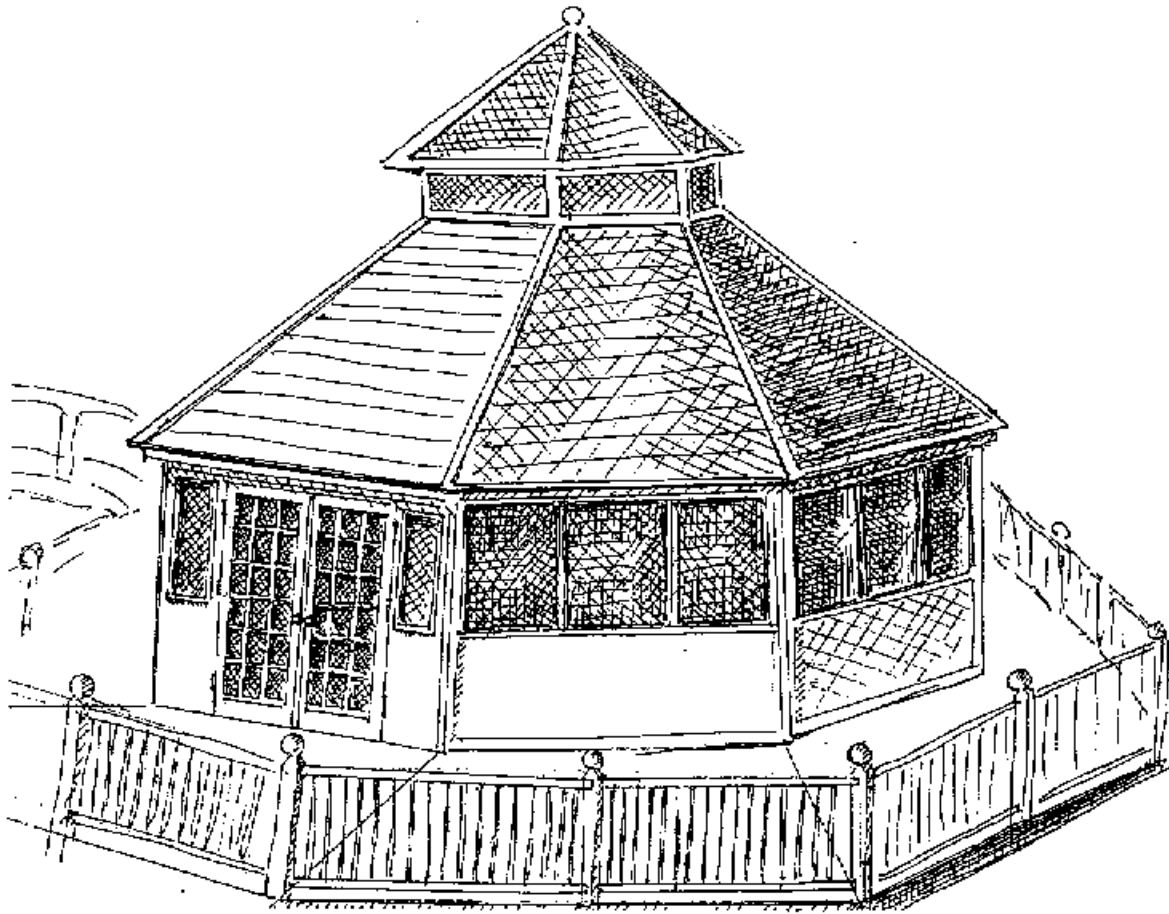
DETAIL

SCALE 1:200

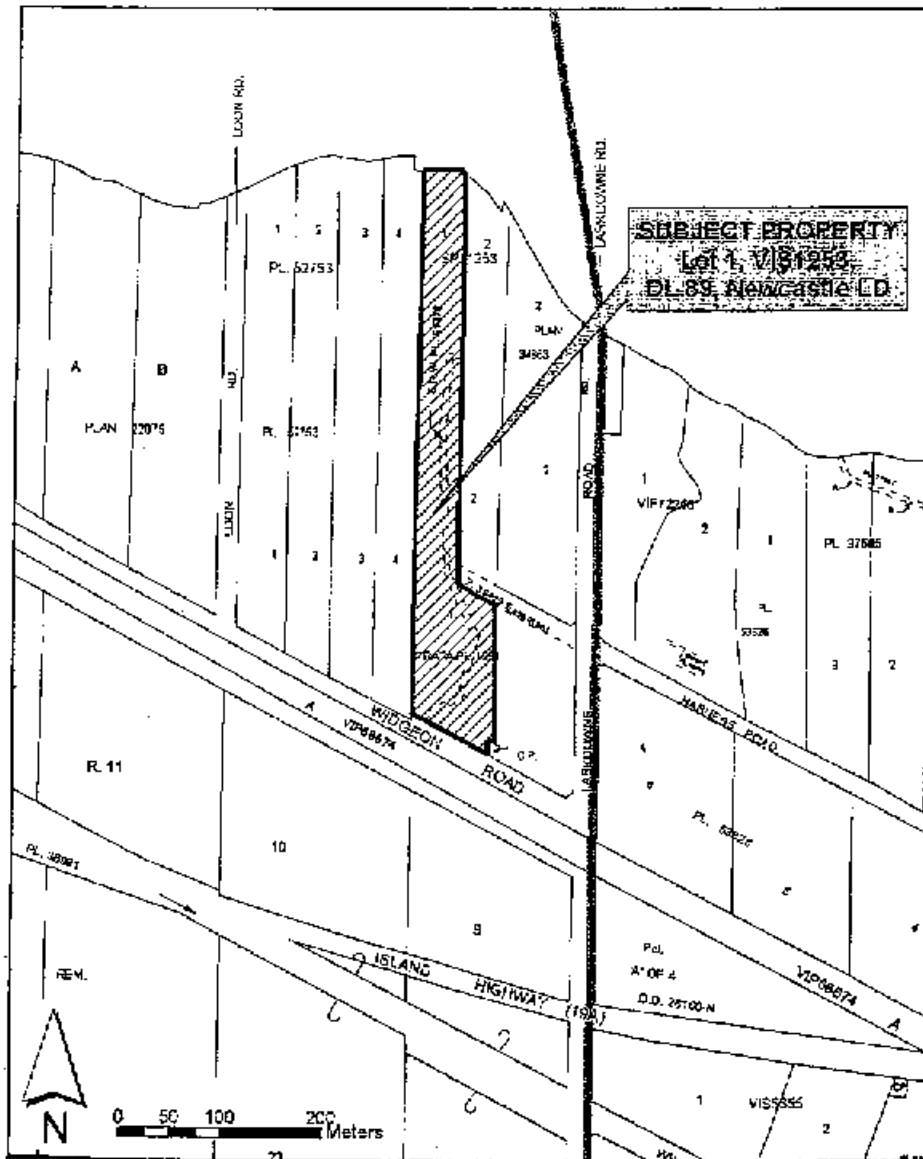


Schedule No. 3
Profile Plan
Development Permit No. 60407

(As Submitted by Applicant / Modified to Fit This Page and to Include Conditions)



Attachment No. 1
Subject Property
Development Permit No. 60407





REGIONAL DISTRICT OF NANAIMO	
APR 19 2004	
CHAIR	GMCrS
CAO	GMDS
GMCms	GMES
EAPC ✓	

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

DATE: April 16, 2004

FROM: Bridgid Reynolds
Senior Planner

FILE: 3090 30 60412

SUBJECT: Development Permit Application No. 60412 - Davics
Electoral Area 'H' - 3855 Charleton Drive

PURPOSE

To consider an application for a development permit to facilitate land alteration and landscaping works within the Environmentally Sensitive Features Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

BACKGROUND

The subject property, legally described as Lot 10, District Lot 22, Newcastle District, Plan 30558, is located at 3855 Charleton Drive adjacent to Nile Creek in Electoral Area 'H' (see Attachment No. 1).

The subject property is zoned 'Residential 2' (RS2) 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 and no construction is proposed on the property at this time.

The Watercourse Protection Development Permit Area (DPA) was established to protect the natural environment. In the case of Nile Creek, the DPA is measured 30.0 metres from the natural boundary.

The lot is currently undeveloped and is vegetated with Alders, Douglas Firs, shrubs and understory. A man made depression that is approximately 800 m² in area with a maximum depth of 1 - 1.5 m was excavated within the 30 metre Development Permit Area. The depression is not connected to Nile Creek although there is an 'opening' approximately 1.5 metres in width at the top of the bank, approximately 1.5 metres from the natural boundary of Nile Creek. This depression is not a back channel of Nile Creek. The depression contains small amounts of standing water, approximately 20 Alders, shrubs and understory, as well as other organic and non-organic debris. The applicant proposes to remove the debris and vegetation in the depression and fill it with pit run gravel, top it with soil, and landscape the area. No buildings or structures are proposed to be located within the Development Permit Area.

A restrictive covenant is registered on the title of the property establishing a flood construction elevation of 2.7 m above the natural boundary of Nile Creek and flood setbacks of 15.0 metres from the natural boundary of Nile Creek.

The adjacent lots have all been developed and this lot is one of the last remaining undeveloped lots on Charleton Road.

ALTERNATIVES

1. To approve the requested development permit subject to the conditions outlined in Schedule Nos. 1, and 2.
2. To deny the requested development permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

No buildings and structures are proposed to be constructed at this time and will not be located within 30.0 metres of the natural boundary of Nile Creek. The only proposed works within the DPA is to remove organic and non-organic debris and vegetation within the man made depression and replant with native vegetation within 15 metres of the natural boundary and non-native vegetation within 15 to 30 metres of the natural boundary (*see Attachment No. 2 Site Plan*).

The restrictive covenant registered on the title of the property establishes a flood construction elevation of 2.7 m above the natural boundary of Nile Creek and requires that no habitable buildings shall be constructed within flood setback of 15.0 metres from the natural boundary of Nile Creek. In addition, the covenant states that the placement of fill is not permitted within 15.0 metres of the natural boundary of Nile Creek for the purposes of raising the natural ground elevation to achieve the flood construction elevation. In this case, the gravel and soil is being placed within a man made depression for the purposes of landscaping and is not for the purposes of achieving the flood construction elevation. The covenant also requires that the toe of the slope shall be adequately protected against erosion from flood flows. The applicant proposes to plant two large Maple stumps at the opening closest to Nile Creek to contain the introduced gravel, soil and landscaping within the depression. In addition, the applicant proposes to begin planting as soon as the permit is issued to take advantage of the remaining planting season and to plant again in the fall when the conditions are suitable.

For the purposes of construction, where the flood construction elevation must be achieved by structural means or landfill the applicant is required to register a save harmless covenant in favour of the RDN. However, the applicant does not propose any construction for approximately two years and any proposed construction will be undertaken outside of the 30.0 metre Development Permit Area. As a condition of this permit the applicant is required to obtain a survey to confirm the elevations of the property and if the natural grade must be raised to achieve the 2.7 metres flood construction elevation, a geotechnical assessment must be done to confirm the property is safe for the intended use and a save harmless covenant must be registered on the title of the property.

ENVIRONMENTAL IMPLICATIONS

Nile Creek is a fish bearing stream that holds runs of Chum, Coho, and Pink salmon, as well as a small number of Steelhead and Cutthroat trout. This system has also been the subject of fisheries assessment and enhancement works. Contact was made with the local streamkeeper for Nile Creek to confirm that this depression is not off channel habitat.

The man made depression comprises an area of approximately 800 m² and is located wholly within the 30 metre Development Permit Area. The depression contains approximately 12 Alder trees, Salmonberry,

ferns, skunk cabbage, and periwinkle. Some of the Alder appear to be unhealthy and are likely to rot within the near future. The depression also contains old stumps, pieces of concrete and other debris that have been dumped over the years and is also likely the result of previous vegetation clearing and tree falling on the lot. There is an opening approximately 2 metres wide on the top of the bank, however this opening is man made and is not a back channel to Nile Creek. The water in the depression is likely the result of the water table and rainfall.

The applicant proposes to remove the debris and vegetation within the depression. The stumps of any trees to be removed shall remain to avoid creating more erosion potential. The vegetation on the top of the banks of the depression shall not be removed. Clean pit run and a top dressing of soil is proposed to be brought on site to fill the depression prior to planting.

The applicant proposes to replant the area within 15 metres of the natural boundary with native vegetation including Broadleaf maple, Red Alder, Western Red Cedar, Mountain Ash, Salmonberry, Nootka Rose, Snowberry and Sword fern, and to replant the area within 15 to 30 metres of the natural boundary with non-native vegetation including fruit trees, ornamental plants and lawn. The proposed works to enhance the riparian vegetation on the subject property is consistent with assessments done of Nile Creek.

VOTING

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

SUMMARY/CONCLUSIONS

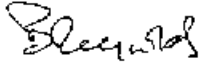
This is an application for land alteration and landscaping works within a Watercourse Protection Development Permit Area. There is an existing man made depression that encompasses approximately 80% of the Development Permit Area on the property. The depression contains organic and non-organic debris, as well as vegetation. The proposed works consist of cleaning the depression of the debris and vegetation and filling it with clean pit run, soils and within 15 metres of the natural boundary, planting with native vegetation.

There is a restrictive covenant registered on the title of the property establishing a flood setback and flood construction elevation. In addition, the covenant requires that if the flood construction elevation must be achieved to site a dwelling unit, a save harmless covenant is required. No construction is proposed at this time; however, as a condition of this permit a geotechnical assessment and save harmless covenant will be required if the natural grade of the proposed building site envelope is less than 2.7 metres above the natural boundary of Nile Creek.

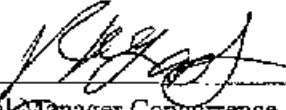
From staff's assessment of this application Development Permit No. 60412 should be approved as the proposed land alteration and landscaping works within the Development Permit Area involve cleaning the depression out and filling and landscaping the riparian area to a greater extent than currently exists and the existing vegetation on the banks of the depression will not be disturbed.

RECOMMENDATION

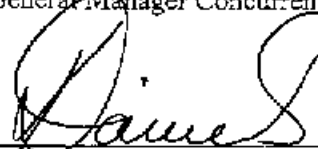
That Development Permit Application No. 60412 submitted by Keith Davies to permit land alteration works within the 30.0 metre watercourse protection development permit area that consist of removing organic and non-organic debris, and vegetation from a man made depression and then filling the depression with clean pit run, soils and native and non-native vegetation on the property legally described as Lot 10, District Lot 22, Newcastle District, Plan 30558, be approved subject to the requirements outlined in Schedule Nos. 1, 2, and 3.



Report Writer



General Manager Concurrence



CAO Concurrence

COMMENTS:

devrs/reports/2004/idp ap 3069 30 60412 Davies

Schedule No. 1
Conditions of Approval
Development Permit No. 60412

Machinery

1. The excavator shall remain behind 7 metres of the natural boundary of Nile Creek.
2. The machine 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 100 m of the watercourse.
3. A spill kit 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.

Sediment and Erosion Control

4. Temporary fills or soil stock piles shall be covered with polyethylene or tarps.
5. Excavated materials shall be placed outside of the 30.0 metre development permit area.
6. Seeding shall be undertaken in damaged areas as soon as possible after the works are completed and when soil conditions are suitable.
7. The maple stumps shall be keyed into the soil and any excavation required for this purpose shall be done by hand.
8. No soils or fines shall be introduced into Nile Creek.

Riparian Planting

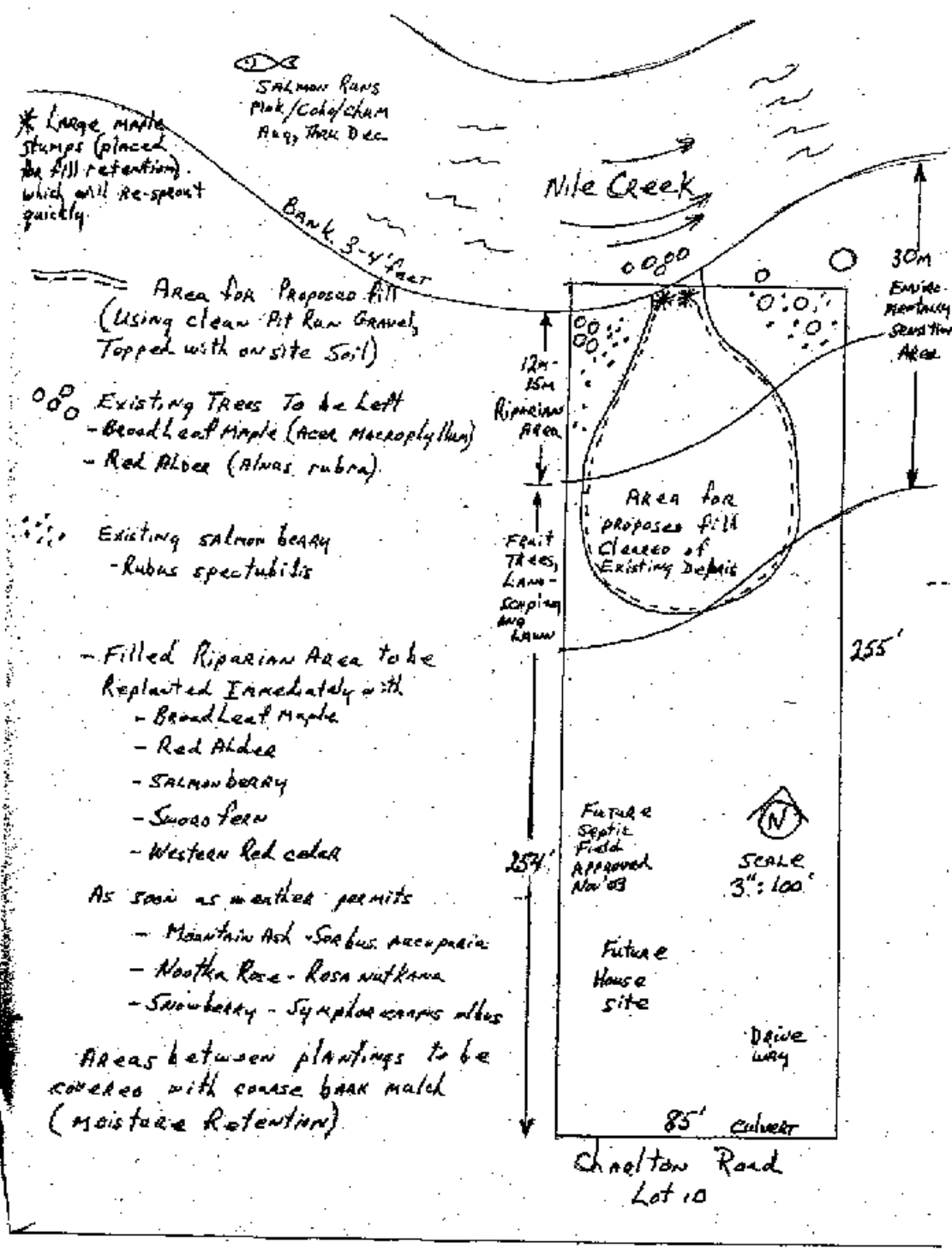
9. Existing vegetation on the bank above the depression shall not be removed.
10. Native vegetation only shall be planted within 15 metres of the natural boundary of Nile Creek.
11. Native vegetation shall consist of:
 - a) *Acer macrophyllum* (broadleaf maple)
 - b) *Alnus Rubra* (red alder)
 - c) *Thuja plicata* (western red cedar)
 - d) *Sorbus aucuparia* (European mountain ash)
 - e) *Rosa nutkana* (Nootka rose)
 - f) *Rubus spectabilis* (salmonberry)
 - g) *Symphoricarpos albus* (snowberry)
 - h) *Polystichum munitum* (sword fern)
 - i) *Gaultheria shallon* (Salal)
 - j) Any substitutes or additions must be approved by the RDN.
12. Landscape layouts shall incorporate the following planting standards:
 - a) The disturbed area within the DPA shall be seeded immediately using
 - b) Minimum native tree stock of 1.2 to 1.5 meters in height
 - c) Minimum planting density of 1.5 to 2.0 metre centres for trees
 - d) Shrubs and smaller species shall be planted between 0.5 and 1.0 metre centres
 - e) Coniferous trees shall comprise not less than 10% nor more than 25% of the tree stock planted
13. Planting on a given area being enhanced must be successful to an 80% take. If more than 20% die over one year, replanting is required.
14. The landscaping shall enhance the remaining riparian area, and shall, at a minimum, satisfy the following criteria:

- a) Individual plants to be used in the landscaping shall have normal, well-developed branches and vigorous, fibrous root systems; such plants shall be healthy, vigorous and free from defects, decay, disfiguring roots, sunscald, injuries, abrasions of the bark, plant diseases, insect pests' eggs, borers and all forms of infestation or objectionable disfigurements;
- b) All landscaping shall be permanently maintained in good condition with, at a minimum, the same quality and quantity of landscaping as was initially approved and without alteration of the approved design; the owner shall make provisions for the irrigation necessary to water the landscaping;
- c) The design of the landscaping shall be such that the growth of roots, trunks, and branches of natural or introduced vegetation or the location of planted berms shall not conflict with the utilities, structures, necessary access, or required sight triangle.

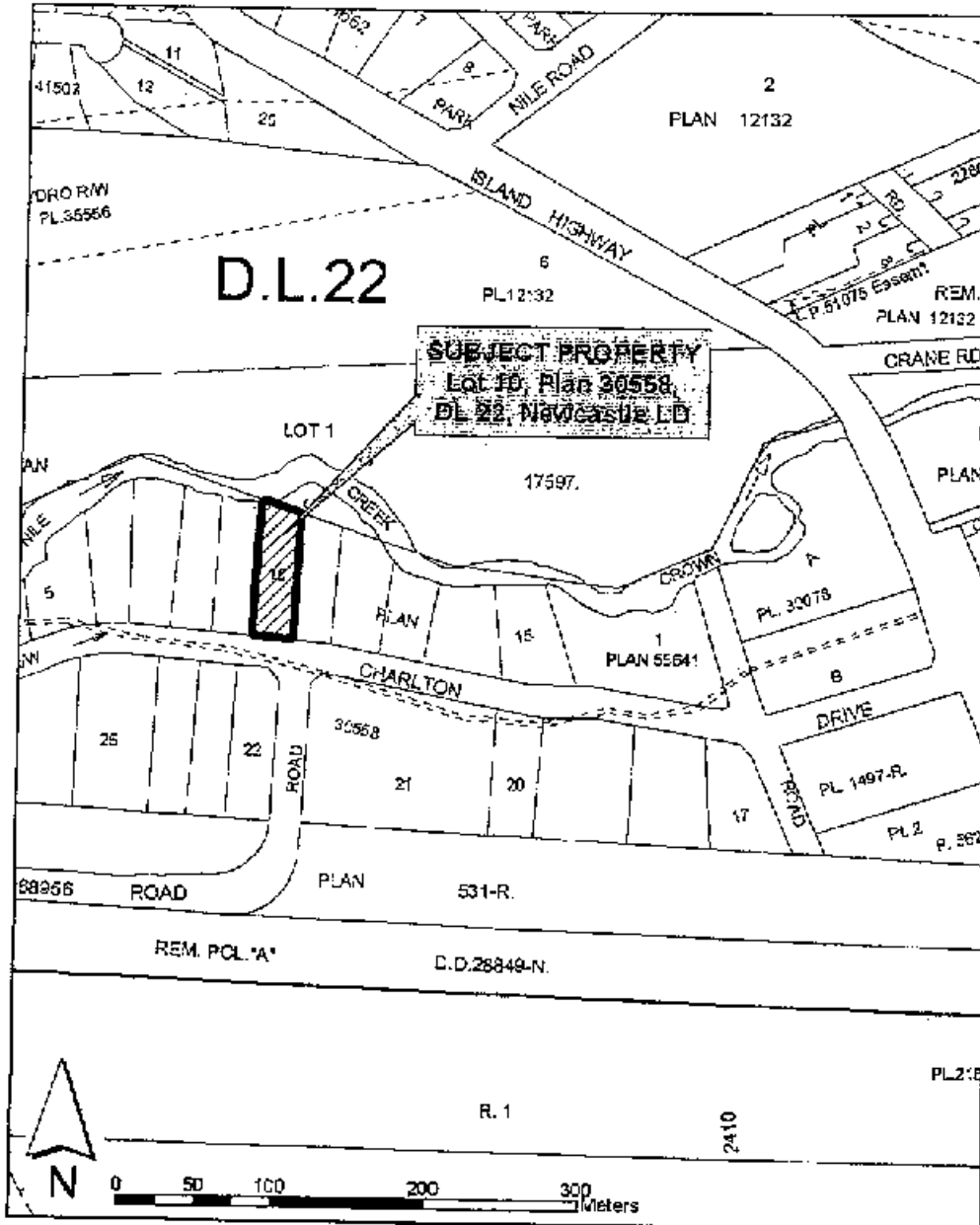
Restrictive Covenant

- 15. A survey by a BCLS confirming that the proposed future building site envelope is greater than 2.7 metres above the natural boundary of Nile Creek and if not, a geotechnical assessment is required to determine the site is safe for the intended use and a 'save harmless' covenant to be registered on title at Land Titles Office Victoria to the satisfaction of the Regional District. All costs to be borne by the applicant.

Schedule No. 3
Site Map
Development Permit No. 60412



Attachment No. 1
Subject Property
Development Permit No. 60412



BCS Map Sheet No. 92F.047.22



REGIONAL DISTRICT OF NANAIMO			
APR 19 2004			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMS	
EAPC ✓			
DATE:			
FILE			

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

FROM: Blaine Russell
Planner

SUBJECT: Development Permit Application No. 60414 – Bales
Electoral Area 'H' – 2632 East Side Road

April 19, 2004

3060 30 60414

PURPOSE

To consider a Development Permit Application, with variance, to facilitate the raising of an existing cabin at Horne Lake.

BACKGROUND

This is an application to facilitate the partial demolition of the existing cabin, the construction of a main floor and loft addition and to legalize the siting of an existing shed within the Resort Commercial and Recreational Lands development permit area pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

The subject property, legally described as: Strata Lot 284, District Lot 251, Alberni District, Strata Plan VIS5160, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V and located at 2632 East Side Road in the Horne Lake Strata Development area of Electoral Area 'H' (see Attachment No. 1) is zoned Horne Lake Comprehensive Development Zone 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The subject property is bordered by Horne Lake to the North, a common property to the South (in this case East Side Road), common property to the West (in this case a common property lot that features a creek), and a recreational residential property to the East that features an existing cabin.

Pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003" (OCP) the subject property is designated within the Resort Commercial and Recreational Lands Development Permit Area (DPA). Lands within this designation that are located at Horne Lake are subject to the conditions and guidelines of Development Permit No. 0120. The purpose of this DPA at Horne Lake is to protect both the lake and other watercourses.

As part of this application, the applicant is requesting a relaxation to the minimum setback requirements from the top of bank of a watercourse that is located on adjacent common property. The recreational residence is proposed to be raised to meet or exceed Flood Elevation requirements of 121.7 metres Geodetic Survey of Canada Datum (GSC) as required within the CD9 zone.

The applicant will be required to make a pump and haul application prior to December 31, 2004.

Requested Variance

The applicant is requesting a relaxation to the minimum setback requirement for the top of bank from 15.0 metres to 3.7 metres in order to facilitate the raising and modification of the cabin which is adjacent to the top of bank of a stream that is located to the west of the subject property (See Schedule No. 2). Therefore, a variance to Bylaw No. 500, 1987 is required.

ALTERNATIVES

1. To approve Development Permit No. 60414 subject to the conditions outlined in Schedules No. 1, 2 and 3.
2. To deny the requested development permit.

DEVELOPMENT IMPLICATIONS

The applicant is proposing to raise the existing cabin to meet flood elevation requirements of 121.7 metres GSC by building a new foundation. In addition, the applicant is proposing to demolish an existing section of the cabin, which in this case, is that portion of the cabin closest to the top of bank. The applicant is also proposing to build a new addition to both the main floor and loft. The applicant is also proposing some vegetation removal and to legalize the siting of an existing shed.

The applicant is not proposing to move the existing cabin, as it is more than 15.0 metres from Horne Lake, with the exception of part of an existing staircase. (see Schedule No. 2 attached.) The face of the pre-existing cabin is more than 18.0 metres from the natural boundary of Horne Lake and the existing 7.88 m² accessory building is proposed to remain as is, and no additional accessory buildings are proposed at this time.

The watercourse that flows between Strata Lot 284 and 285 is over 0.6 metres deep and has a slope gradient of approximately 12%. Although this watercourse is often dry, it has enough flow to be considered a watercourse. The bed of the watercourse is comprised primarily with jagged rocks. There is no indication that this watercourse acts as fish habitat, its flows are too irregular and it is too steep. Basically this watercourse functions as a drainage ditch. As the watercourse is not located on or adjacent to the subject property, Bylaw No. 500, 1987 watercourse setback requirements are not applicable; however, as the top of bank is partially located on the subject property Bylaw No. 500, 1987 Section 3.4.107.4 top of bank setbacks are applicable. As the stability of the top of bank is important a minimum of 2.0 metres vegetative buffer shall be provided adjacent to the west interior side lot line.

IMPLICATIONS RELATED TO DEVELOPMENT PERMIT NO. 0120

Vegetation removal, within the Development Permit Area, will be limited to that which is required to facilitate the raising and modification of the existing cabin. The applicant is proposing to remove two trees subject to DP No. 0120 guidelines. The tree closest to Horne Lake is partially dead and poses a potential hazard. The tree directly adjacent to the cabin is essentially within the cabin's building envelope as it creates an obstacle to the construction of new of the foundation.

Development permit area guidelines stipulate that replanting shall be undertaken, especially adjacent riparian areas. Please refer to Schedule No. 1 "Conditions of Approval" for details on vegetation maintenance and replanting outlined in Schedules No. 1 and 2 that will reduce any potential negative impacts to the adjacent watercourse and Horne Lake. As well, works undertaken as part of this permit must be consistent with the detailed guidelines outlined in Development Permit No. 0120, except where modified by this permit.

The applicant is proposing to install a pump and haul tank service system on the subject property by December 31, 2004, as required.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a development permit to facilitate the raising of an existing cabin which will also include: a partial demolition of the existing cabin, the construction of both ground level and loft additions and to legalize the siting of an existing shed with variance within the Resort Commercial and Recreational Lands development permit area pursuant to "Regional District of Nanaimo Electoral Area H' Official Community Plan Bylaw No. 1335, 2003". As the proposed construction will generally be consistent with development permit area guidelines and there are no apparent impacts on adjacent properties, staff recommends that the application be approved.

RECOMMENDATION

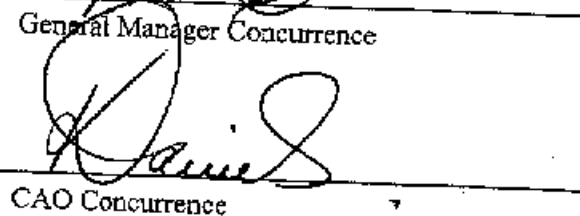
That Development Permit Application No. 60414, submitted by the property owners Donald Bales and Elizabeth Bales for the subject property legally described as Strata Lot 284, District Lot 251, Alberni District, Strata Plan VIS5160, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V requesting to relax the minimum setback requirements from the top of bank of the watercourse that is located on adjacent common property from 15.0 metres to 3.7 metres in order to facilitate the raising of an existing cabin which is proposed to include the partial demolition of a portion of the existing cabin and the construction of main floor and loft addition and the legalization of the siting of an existing shed be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1 (1 of 3)
Conditions of Approval
Development Permit No. 60414**

The following conditions are to be completed as part of Development Permit No. 60414:

1. Subject property to be developed in accordance with Development Permit No. 0120, excluding section "Construction" subsection 1 through 4, except where altered by this permit;
2. The accessory building with water storage system must be constructed to meet or exceed British Columbia Building Code requirements and shall be constructed so as to be structurally sound for the intended purpose.

Building Site

3. The siting of the raised recreational residence, deck and additions are to be sited as shown on Schedule No. 2;
4. The recreational residence must meet all setback requirements except where varied by this permit;

Maximum Height

5. The height of all structures shall be in compliance with Horne Lake Comprehensive Development Zone 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987";

Dimensions

6. The main floor of recreational residence shall have a floor area that does not exceed 70 m²;
7. The loft of the recreational residence shall have a floor area that does not exceed 50% of the main floor area;
8. All structural decks and porches shall not have a combined floor area that does not exceed 40 m²;

Site Survey

9. A legal site survey completed by a BCLS confirming the siting of all buildings and structures on the lot must be submitted to the Regional District of Nanaimo prior to occupancy of the recreational residence. In addition, this survey shall include the elevation of the recreational residence as measured to the bottom of the floor joists to Geodetic Survey of Canada Datum. This survey shall also include conformation of height of all structures. This survey must be prepared to the satisfaction of the Regional District of Nanaimo;

Schedule No. 1 (2 of 3)
Conditions of Approval
Development Permit No. 60414

Flood Construction Level

10. The Flood Construction Level may be achieved by structural elevation, provided however that for any building or structure within fifteen (15) metres from the natural boundary of Home Lake, the Flood Construction Level may not be achieved by means of fill unless the property owner first secures the written approval of the RDN acting in accordance with a Memorandum of Understanding between DFO, the Province and the RDN, and, in either case, DFO may, in its discretion, withhold its approval. Where landfill is used to raise the natural ground elevation, the toe of the landfill slope shall be no closer to the natural boundary of Home Lake than fifteen (15) metres unless permitted by the RDN pursuant to written approvals given pursuant to this paragraph 4. The face of the landfill slope shall be adequately protected against erosion and flood flows;
11. In no event shall the area below the required elevation be used for human occupancy, commercial sales, business or storage of goods, the installation of furnaces or other fixed equipment damageable by floodwater or erosion, or the storage or use of contaminants;
12. There shall be no windows or doorways within the raised foundation of the recreational residence (that part of which is below the main floor) except 1 crawlspace access for the sole purpose of providing access for maintenance repair to the structure and this access shall not exceed 1.0 metre in width;

Vegetation Removal and Maintenance

13. Vegetation removal, within the Development Permit Area, shall consist of that which is required to order to facilitate the raising of an existing cabin which is proposed to include the partial demolition of the existing cabin and the construction of an addition and shall be consistent with the Vegetation Management and Landscaping Guidelines of Development Permit No. 0120. In addition, vegetation removal may also include that vegetation which indicated on Schedule No.2 for removal, provided that the conditions indicated on Schedules No. 2 are complied with;
14. Replanting shall be undertaken in the late fall or spring when plants are best able to establish roots and temperatures are not extreme;
15. Replanting shall consist of trees, shrubs or groundcover native to the area and selected to suit soil, light and moisture conditions of the site;
16. A 2.0 metre wide vegetation buffer shall be provided adjacent West interior side lot line to improve the stability of the top of bank.

**Schedule No. 1 (3 of 3)
Conditions of Approval
Development Permit No. 60414**

Sediment and Erosion Control Measures

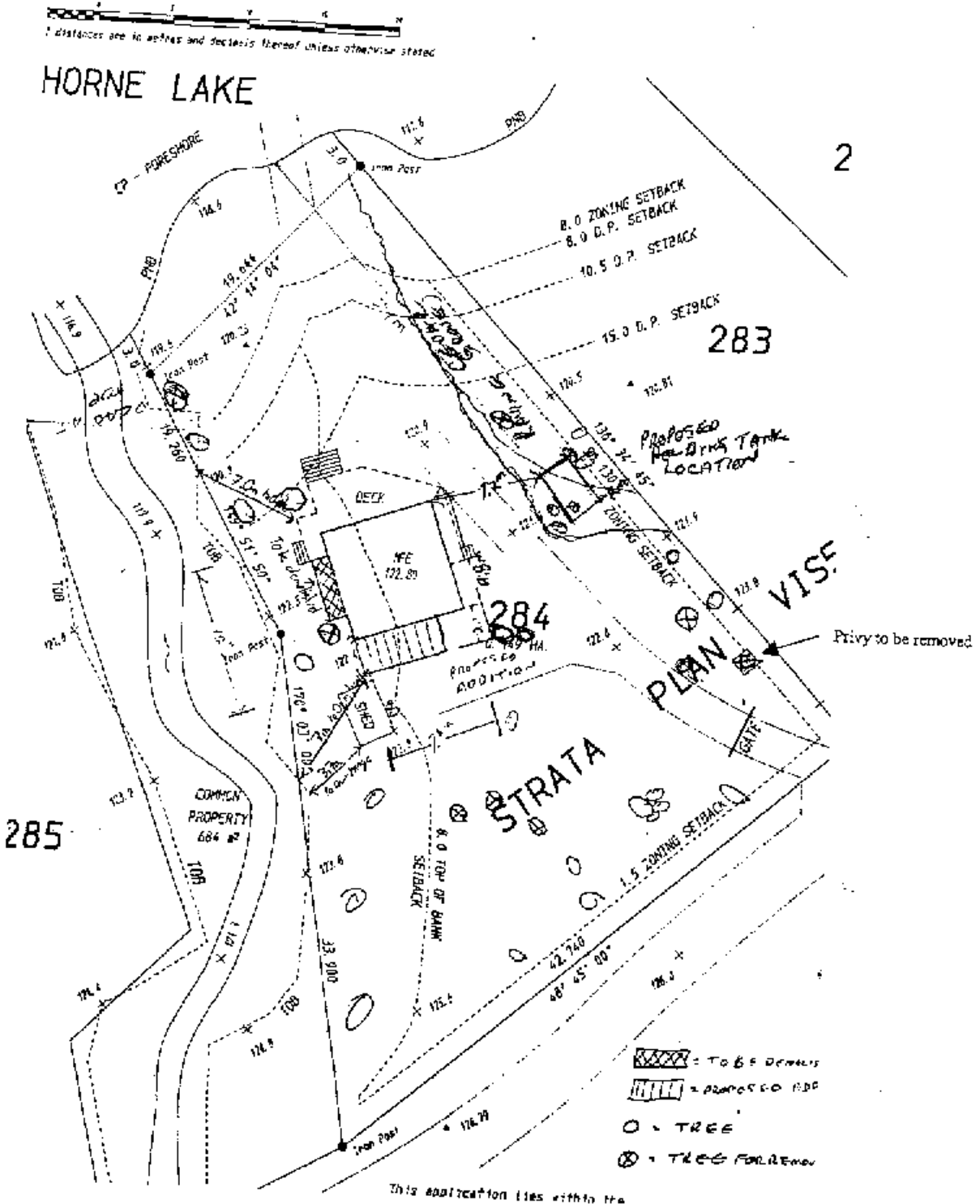
17. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works, and to stabilize the site after construction is complete. These measures must include:
- a) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be on site;
 - 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 polyethylenic or tarps;
16. All drainage systems must incorporate measures that prevent the loss of upland soils into the aquatic environment and generally direct drainage away from the marine foreshore when not impractical;
17. All excavated material must be placed such that there is no potential for introduction onto the foreshore;
18. Replant vegetation within disturbed part of the development permit area. Preferred plantings to be trees, shrubs and ground cover native to the area;

Pump & Haul Sewage Collection Service

19. A condition of the issuance of this permit is a completed pump and haul holding tank and authorized connection be established by December 31, 2004 and that said pump and haul connection be established pursuant to "Home Lake Service Area Sewage Disposal Regulation Bylaw No. 1218, 2001";
20. Access to the pump and haul tank hatch shall not be obstructed;
21. Existing privies with be required to be decommissions prior to the commencement of pump and haul service.

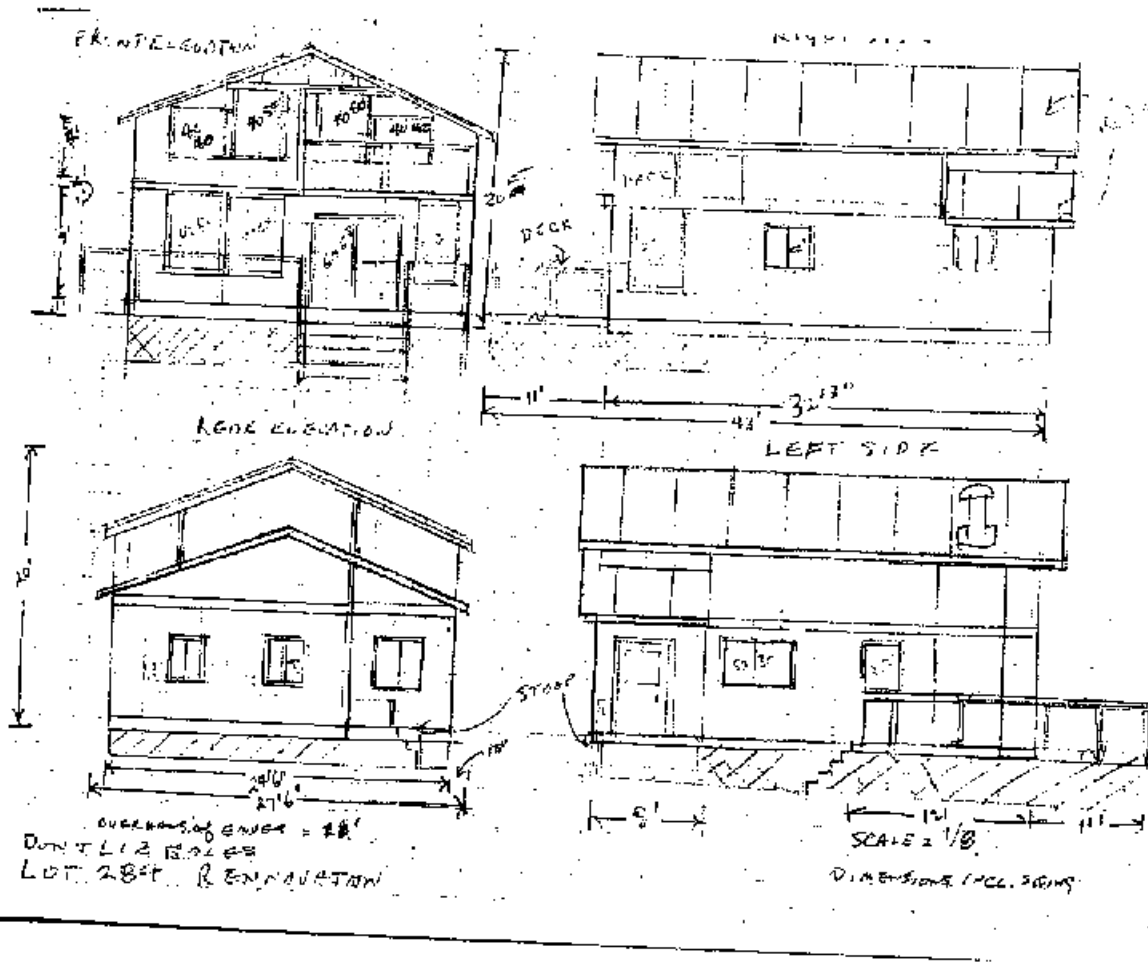
Schedule No. 2
 Site Plan
 Development Permit No. 60414

(As Submitted by Applicant / Modified to Fit This Page and to Include Conditions)



Schedule No. 3
Profile Plan
Development Permit No. 60414

(As Submitted by Applicant / Modified to Fit This Page and to Include Conditions)

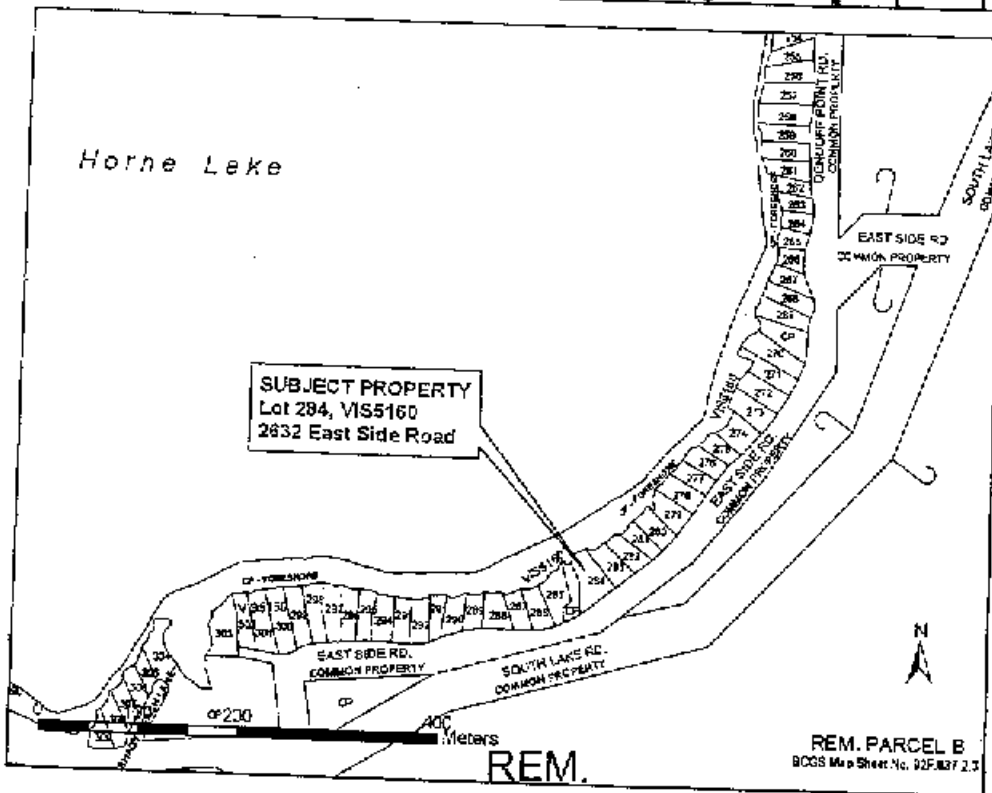
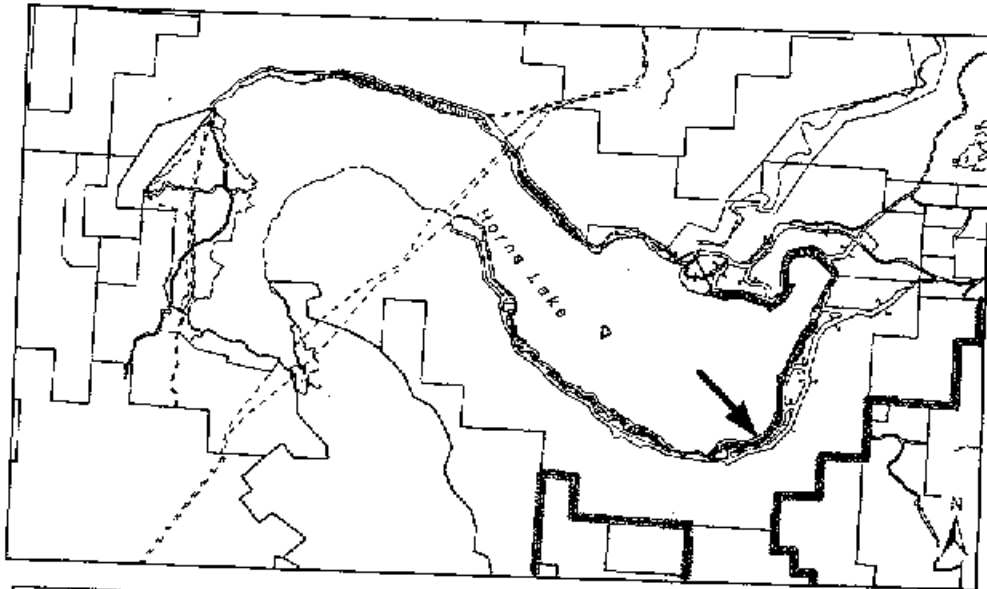


**Schedule No. 3
Requested Variances
Development Permit No. 60414**

Development Permit No. 60414 is proposed to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

1. By relaxing Section 3.4.107.4 - **Minimum Setback Requirement - All Watercourses, Except Horne Lake** - the minimum setback requirements for all watercourses except Horne Lake of 15.0 metres from the top of bank to 3.7 metres in order to accommodate the siting of a recreational residence, with additions, and an existing shed as shown on Schedule No. 2.

Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO			
APR 19 2004			
CHAIR		GMCrS	
CAO		GMDS	
GMCms		GMES	
		<i>EMPS</i>	<input checked="" type="checkbox"/>
DATE: April 16, 2004			
FILE: 3060 30 60415			

MEMORANDUM

TO: Robert Laphan,
General Manager, Development Services

FROM: Blaine Russell
Planner

SUBJECT: Development Permit Application No. 60415— Morton
Electoral Area 'H' - 2870 Sunset Terrace - Horne Lake

PURPOSE

To consider an application for a Development Permit with a requested variance to the maximum permitted height of an accessory building for the proposed construction of an accessory building on a recreational cabin site at Horne Lake.

BACKGROUND

This is application for a Development Permit to permit the construction of an accessory building with a proposed variance to the maximum permitted height to accommodate the placement of water storage system within the roof rafters of the building. The subject property is legally described as: Strata Lot 226, District Lot 251, Alberni District, Strata Plan V155160, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V and located at 2870 Sunset Terrace in the Horne Lake Strata Development area of Electoral Area 'H' (see Attachment No. 1).

The subject property is zoned Home Lake Comprehensive Development Zone 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

Pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003" (OCP) the subject property is designated within the Resort Commercial and Recreational Lands Development Permit Area (DPA). Lands within this designation that are located at Horne Lake are subject to the conditions and guidelines of Development Permit No. 0120. The purpose of this DPA at Horne Lake is to protect both the lake and other watercourses.

The subject property is bordered by two other recreational residence properties. The property that is adjacent and to the Northeast is presently vacant while the property to the Southwest presently features a cabin. Horne Lake to the Northwest and common property (in this case the internal road named Sunset Terrace) to the Southeast.

The proposed general siting and dimensions of the accessory building are shown on Schedule 2. The proposed building would be sited so that it is at least the following distances from the natural boundary of Horne Lake and property lines:

- 40.0 metres from the natural boundary of Horne Lake;
- 7.0 metres from the property line adjacent the common property road;
- 2.0 metres to the Southwestern interior side lot line;
- 12.0 metres from the Northwest interior side lot line.

The accessory building is proposed to have a floor area of no more than 10m² and is proposed to overhangs of no more than 1.0 metre, with the overhang adjacent the closet interior side lot line having an overhang of less than 0.40 of a metre.

The proposed accessory building will exceed Flood Elevation requirements of 121.7 metres Geodetic Survey of Canada Datum (GSC) as required within the CD9 zone.

The property is not located within a building inspection service area; therefore building permits are not required. However, the applicant will be required to make a pump and haul application before December 31, 2004.

Requested Variance

The applicant is requesting a relaxation to the maximum permitted height of Section 3.4.107.2 pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" from 3.0 metres to 3.84 metres to facilitate the construction of the proposed accessory building that includes a water storage system (See Schedule No. 3).

ALTERNATIVES

1. To approve Development Permit No. 60415, with the associated variance, subject to the conditions outlined in Schedules No. 1, 2 and 3.
2. To deny the requested permit.

DEVELOPMENT IMPLICATIONS

The subject property is zoned 'Comprehensive Development 9 (CD9)' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The maximum permitted height for accessory building in this zone is 3.0 metres. The new accessory building is proposed to be 3.84 metres in height in order to incorporate a water storage system; therefore, a variance to Section 3.4.107.2 of Bylaw No. 500, 1987 is being requested. Many of the cabins at Home Lake have non-conforming water storage tanks that predate the present zoning. The proposal, by the applicant, is innovative in that it incorporates the water storage system into the accessory storage shed.

The siting of the proposed accessory building is behind the cabin on the subject property away from Home Lake. Additionally, the accessory building is farther from Home Lake than the existing cabin on the adjacent property to the Southwest. The applicant has included a letter of support signed by both adjacent recreational property owners showing support in the past for the proposed application.

The subject property is outside of a Regional District of Nanaimo building inspection area therefore the Regional District does not issue building permits; however, the applicant is required to construct the building to the standards of the British Columbia Building Code and this will be noted in the permit together with the suggestion that an engineering review be obtained to ensure safe construction.

IMPLICATIONS RELATED TO DEVELOPMENT PERMIT NO. 0120

Works undertaken, as part of this permit, must be consistent with the detailed guidelines outlined in Development Permit No. 0120, except where modified by this permit.

In this case, the proposed development is sufficiently removed from the natural boundary of the lake that any disturbances to vegetation in the vicinity of the proposed structure will unlikely have any impact on Home Lake.

It should be noted that had the applicant not requested a variance for height that the proposed location of the accessory building would have been covered under DP No. 0120 and that this application would not have been required provided that the conditions of DP. No. 0120 were complied with.

As a condition of this approval, works undertaken as part of this permit must be consistent with the detailed guidelines outlined in Development Permit No. 0120 excluding Section "Construction" Subsection 1 through 4 and except where varied or enhanced by this permit and sediment and erosion control methods will be required to be utilized.

PUBLIC CONSULTATION IMPLICATIONS

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

VOTING

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

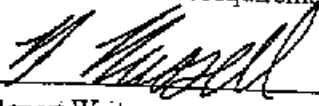
SUMMARY/CONCLUSIONS

This is an application for a development variance permit to vary the maximum permitted height from 3.0 metres to 3.84 metres in order to accommodate the proposed construction of a new accessory building that includes an internal water storage system.

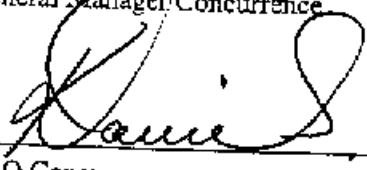
The proposed height variance does not appear to impact views or have other impacts on neighbouring property owners due to the location of the of the proposed accessory building and its modest size. Therefore, staff recommends approval of the request subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

That Development Permit Application No. 60415, submitted by the property owners Tod Morton and Veronica Morton for the subject property legally described as Strata Lot 226, District Lot 251, Alberni District, Strata Plan VIS5160, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V requesting to relax the maximum height requirements from 3.0 metres to 3.84 metres in order to accommodate the construction of a new accessory building be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.


Report Writer


General Manager Concurrence


CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Variance Permit No. 60415**

Development Permit No. 0120

1. Subject property to be developed in accordance with Development Permit No. 0120 excluding Section "Construction" Subsection 1 through 4;

Construction

2. The accessory building with water storage system must be constructed to meet or exceed British Columbia Building Code requirements and shall be constructed so as to be structurally sound for the intended purpose.

Siting

3. The accessory building shall sited be in compliance with Home Lake Comprehensive Development Zone 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and as shown on Schedule No. 2;

Maximum Roof Overhang

4. The roof overhang of the accessory building shall not exceed 1.0 metre;

Maximum Height

5. The accessory building shall not exceed 3.84 metres in height;
6. Except where varied by this permit, the height of all structures shall be in compliance with Home Lake Comprehensive Development Zone 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987";

Maximum Floor Area

7. The floor area of the accessory building shall not exceed 10 m²;
8. All structures on the subject property shall be in compliance with the floor area provision of Home Lake Comprehensive Development Zone 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987";

Existing Accessory Building Removal

9. The existing accessory building, as shown on Schedule No. 2, that does not meet the interior side lot line setback shall be removed prior to construction;

Sediment and Erosion Control

10. Sediment and erosion control measures must be utilized to control sediment during construction and to stabilize the site after construction is complete;

These measures must include:

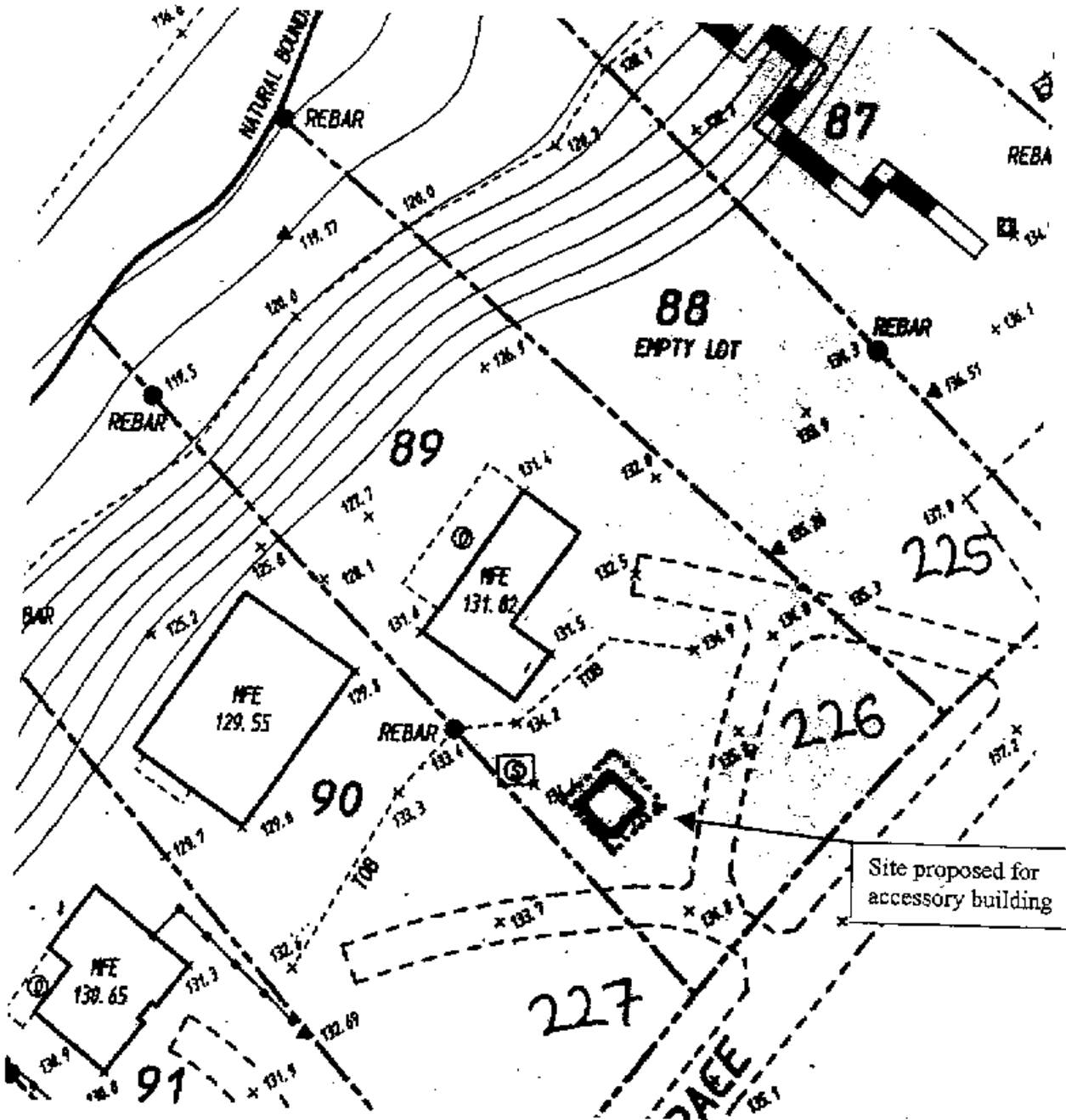
- a. Exposed soils must be seeded as soon as possible to reduce erosion during rain events;
- b. Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite during works;
- c. Cover temporary fills or soil stockpiles with polyethylene or tarps;

Pump & Haul Sewage Collection Service

11. Completed Pump and Haul holding tank and authorized connection to be established by December 31, 2004 and that the pump and haul connection be established pursuant to "Horne Lake Service Area Sewage Disposal Regulation Bylaw No. 1218, 2001".
12. Access to the pump and haul tank shall not be obstructed.

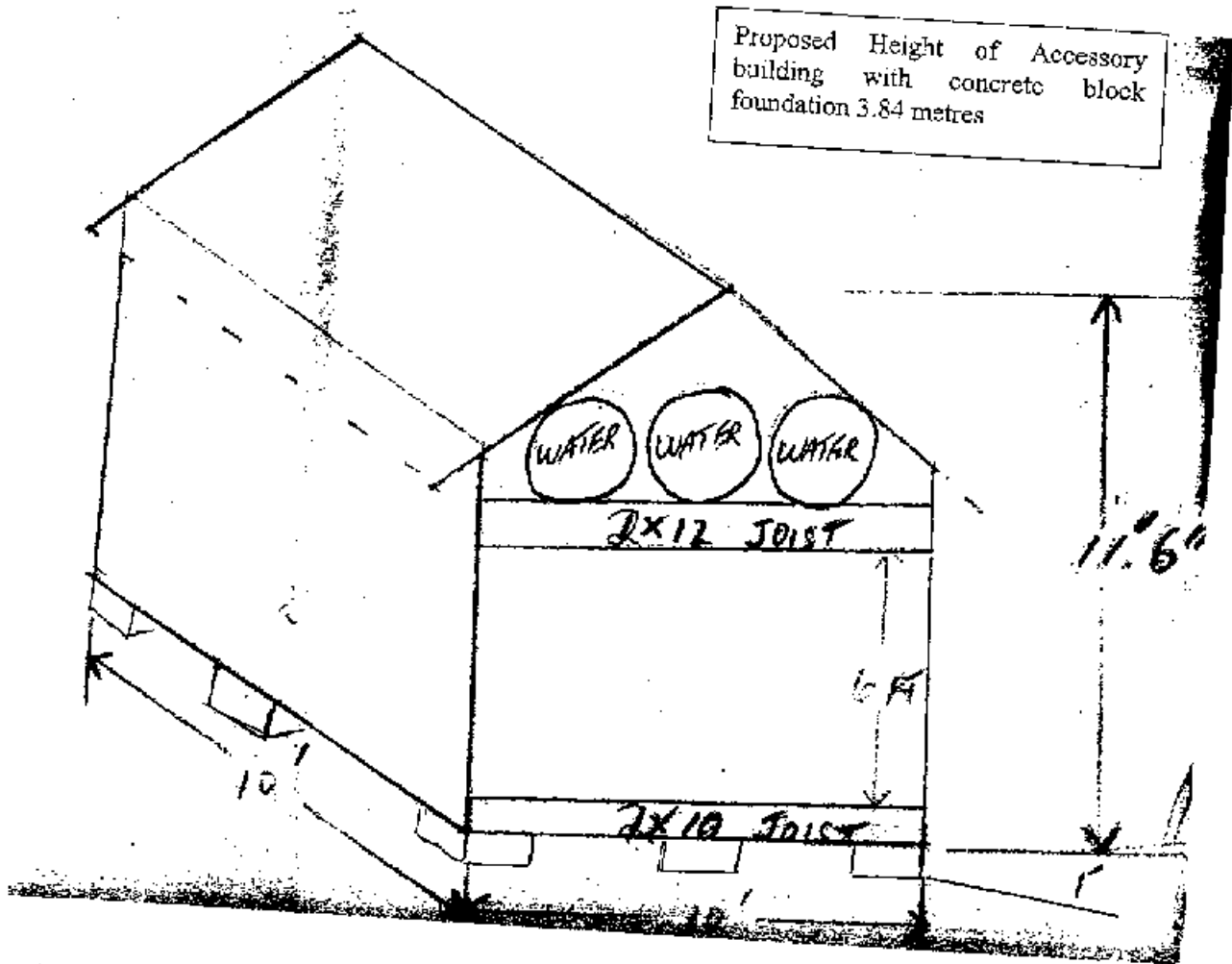
Schedule No. 2
Site Plan
Development Permit No. 60415

(As Submitted by Applicant / Modified to Fit This Page)



Schedule No. 3
Profile Plan
Development Permit No. 60415

(As Submitted by Applicant / Modified to Fit This Page)

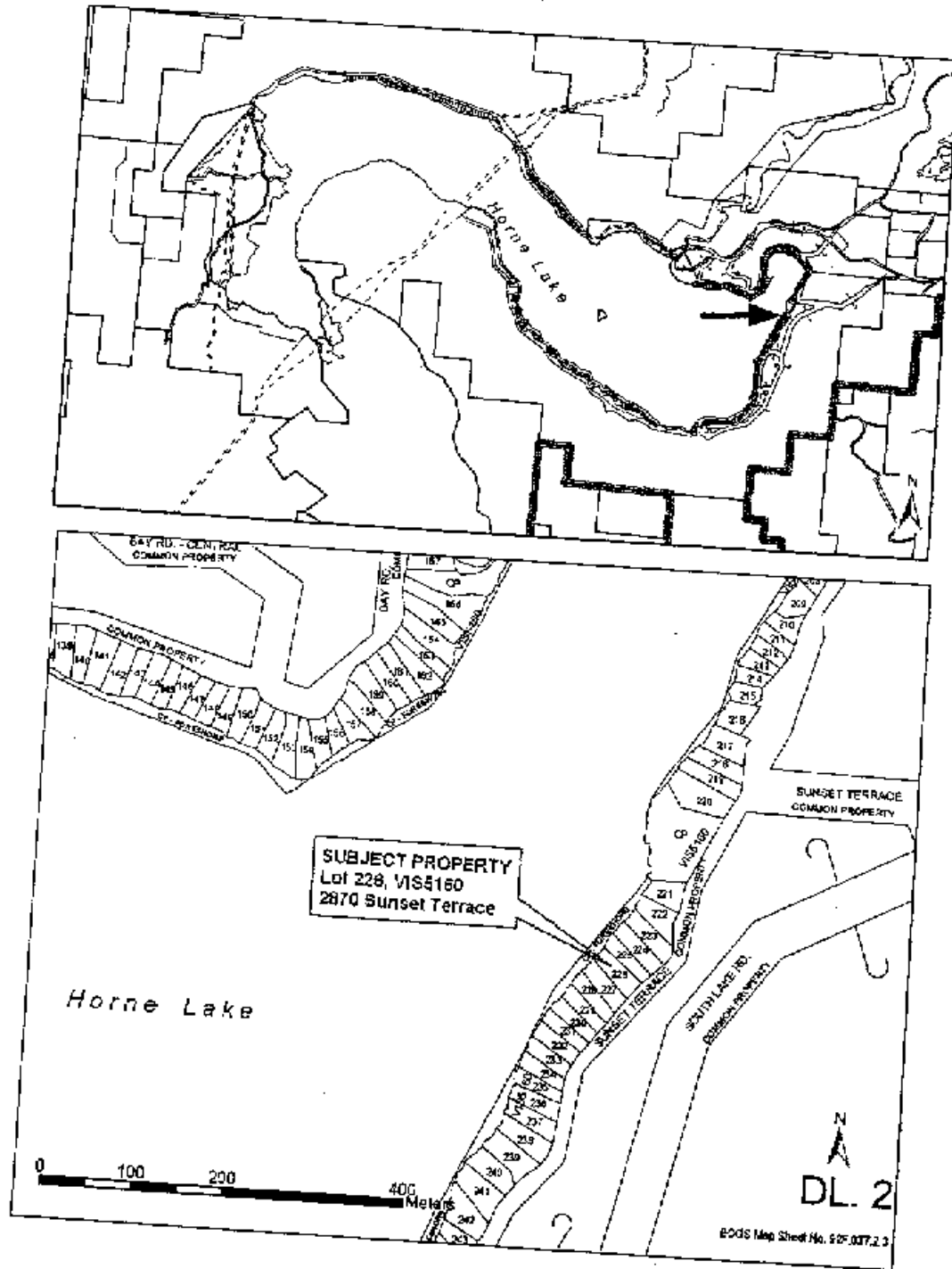


Schedule No. 4
Requested Variances
Development Permit No. 60415

Development Permit No. 60415 is proposed to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987";

1. By relaxing **Section 3.4.107.2 - Maximum Number and Size of Building and Structures and Uses - Height: Accessory Buildings and Structures** - the maximum height requirement for accessory buildings and structures from 3.0 metres to 3.84 metres in order to accommodate the accessory building.

Attachment No. 1
Subject Property Map





OF NANAIMO

APR 19 2004

CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
		EAP	✓

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: April 19, 2004

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 60416

SUBJECT: Development Permit Application DP 60416 - Fairway Pointe Properties Ltd.
(Quail's Landing)
Electoral Area 'G', 730 Barclay Crescent

PURPOSE

To consider an application for an amendment to a development permit, with variances, in conjunction with the 54-unit multiple family residential phased strata complex currently being developed in the French Creek area of Electoral Area 'G'.

BACKGROUND

The subject property, legally described as Lot 1 District Lot 126 Nanoose District Plan VIP76030 (formerly Lot D, Plan 49145), is located at the end of Barclay Crescent within Electoral Area 'G' (see Attachment 'I' for location). The property is zoned Residential 5 (RS5) and is within Subdivision District 'Q' (development portion) and Subdivision District 'D' (park land area) pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

Development Permit No. 60319 was issued approving the development of site with a 54-unit multiple residential development consisting of 27 duplex units with 4 styles of housing varying in size from 134 m² to 162 m². Various elements involving the site layout such as location of buildings, access route, and landscaping have been secured under this Permit. In addition, a development covenant, which was registered at the time of rezoning of the property, secures a number of conditions including off-site sanitary sewer works, the dedication of park land and the construction of a trail, the upgrading of Robertson Boulevard, a statutory right-of-way crossing the site to provide public access to the undeveloped road south of the property, and the design and construction of a storm water management plan. These conditions are also secured in Development Permit No. 60319.

The applicant, as part of Development Permit No. 60319, received variances from the minimum 10-metre setback requirement from the lot lines adjacent to the future park land lot line located along the top of the steep bank, the proposed retention ponds, and the adjacent golf course ponds.

Construction has now begun on the development and due to market demand, the applicant would like to amend the current site plan by interchanging some of the building styles (for example Building Style C (2 storey) to Building Style D (1 storey)). This request would be in substantial compliance with the existing site plan built to date. As a result of this change in unit design coupled with a misinterpretation of Bylaw No. 500, 1987 provisions by the applicant's surveyor, the applicant is also requesting variances to the minimum setback requirement for a number of the units proposed to be situated adjacent to the lot lines adjacent to the golf course and the undeveloped road right-of-way.

Proposed Bylaw Variances

The proposed variances are outlined in Schedule No. 2 and may be considered with the development permit application.

ALTERNATIVES

1. To approve the development permit as submitted with the variances subject to the conditions outlined in Schedules No. 1 and 2 and the notification procedure pursuant to the *Local Government Act*.
2. To deny the development permit as submitted.

DEVELOPMENT IMPLICATIONS

The overall development of the site has been secured under Development Permit No. 60319. This includes the dedication of park land (recently completed), trail building through the park land, a statutory right-of-way over the property to allow access to the unnamed road to the south of the property (future trail location), and engineering works and services associated with the development of the site.

Due to a misunderstanding of the Regional District requirements with respect to how the minimum setback requirement is measured, the applicant's surveyor inadvertently measured from the foundations instead of the outermost portion of the buildings. In addition, a wider internal access route for emergency vehicle access was requested. Therefore, the minimum setback requirement for a number of the proposed duplex units cannot be fully achieved.

The Ministry of Transportation staff has indicated verbally that they have no objection to the request for variance adjacent to the unobstructed dedicated road right-of-way. However, a formal approval is required to be submitted by the applicant to the Ministry. This item can be secured in the development permit conditions.

The site plan attached to the report also shows additional driveway areas in front of a number of the units. Staff has recommended that these driveways be relocated to grouped visitor parking areas throughout the development lessening the impact on the design and character of the buildings. The applicant is in concurrence with this change. It is noted that the visitor parking requirements for the development will continue to be met with these changes.

VOTING

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

SUMMARY


This is an application for a development permit for the property located at the top of Barclay Crescent within the French Creek area of Electoral Area 'G' for the purposes of modifying the site plan approved under Development Permit No. 60319. The applicant would like to interchange some of the dwelling unit styles to address the current market demands. In addition, variances to some of the dwelling units adjacent to the golf course property and an unnamed road right-of-way have been requested. These variances take into account the additional access route being widened to support emergency vehicle access and a misinterpretation of the bylaw setback requirements by the surveyor. It is noted that there

are no variances proposed adjacent to the existing residential neighbourhood located along the north property boundaries.


As the request is in substantial compliance with the terms of Development Permit No. 60319, staff recommends Alternative No. 1, to approve the development permit subject to conditions outlined in Schedule Nos. 1 and 2 and to notification procedures with respect to the proposed variances.

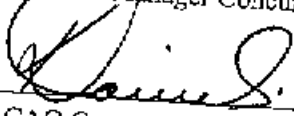
RECOMMENDATION

That Development Permit No. 60416, submitted by Fairway Pointe Properties Ltd. (Quail's Landing) for the property legally described as Lot 1 District Lot 126 Nanoose District Plan VIP76030, be approved, subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report and to the notification procedure subject to the *Local Government Act* with respect to the proposed variances.



Report Writer



General Manager Concurrence


CAO Concurrence

COMMENTS:
devs/reports/2004/dp ap 3660 30 60416 Fairway Pointe (Quail's Landing).doc

Schedule No. 1
Conditions of Approval
Development Permit Application No. 60416

The following sets out the conditions of approval:

1. Development Permit No. 60319

The conditions of Development Permit No. 60319 are applicable.

2. Building Development and site layout

- a. A maximum of 54 duplex residential units may be located on site as illustrated on Schedule No. 3.
- b. Parking areas adjacent to driveways to be relocated to grouped parking areas except where this is required to access parking garages.

3. MOT Approval

Applicant to submit written confirmation from the Ministry of Transportation with respect setback relaxation from the lot line adjacent to the undeveloped road right-of-way.

Schedule No. 2

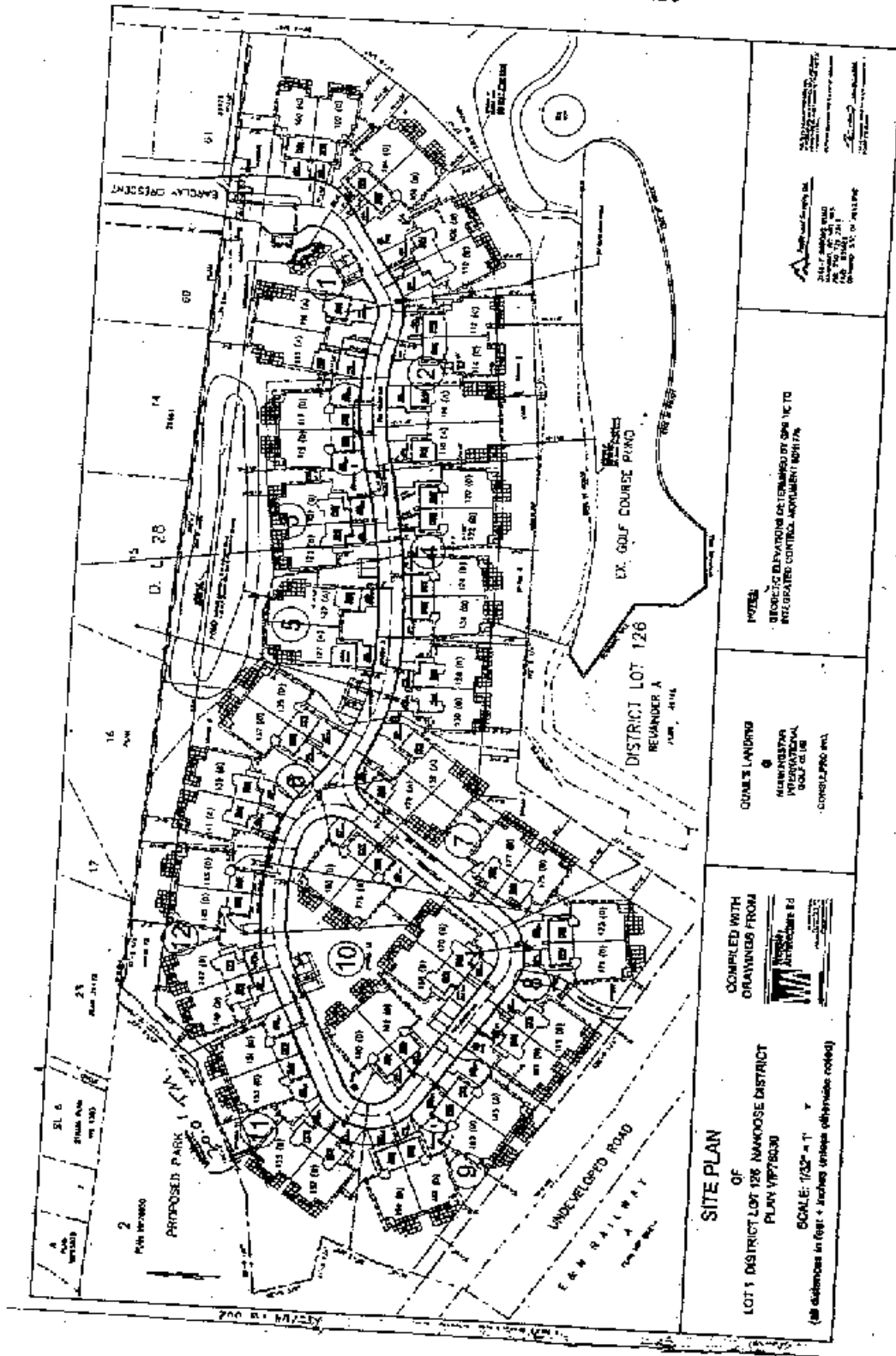
Bylaw No. 500, 1987 - Requested Variances
Development Permit Application No. 60416

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

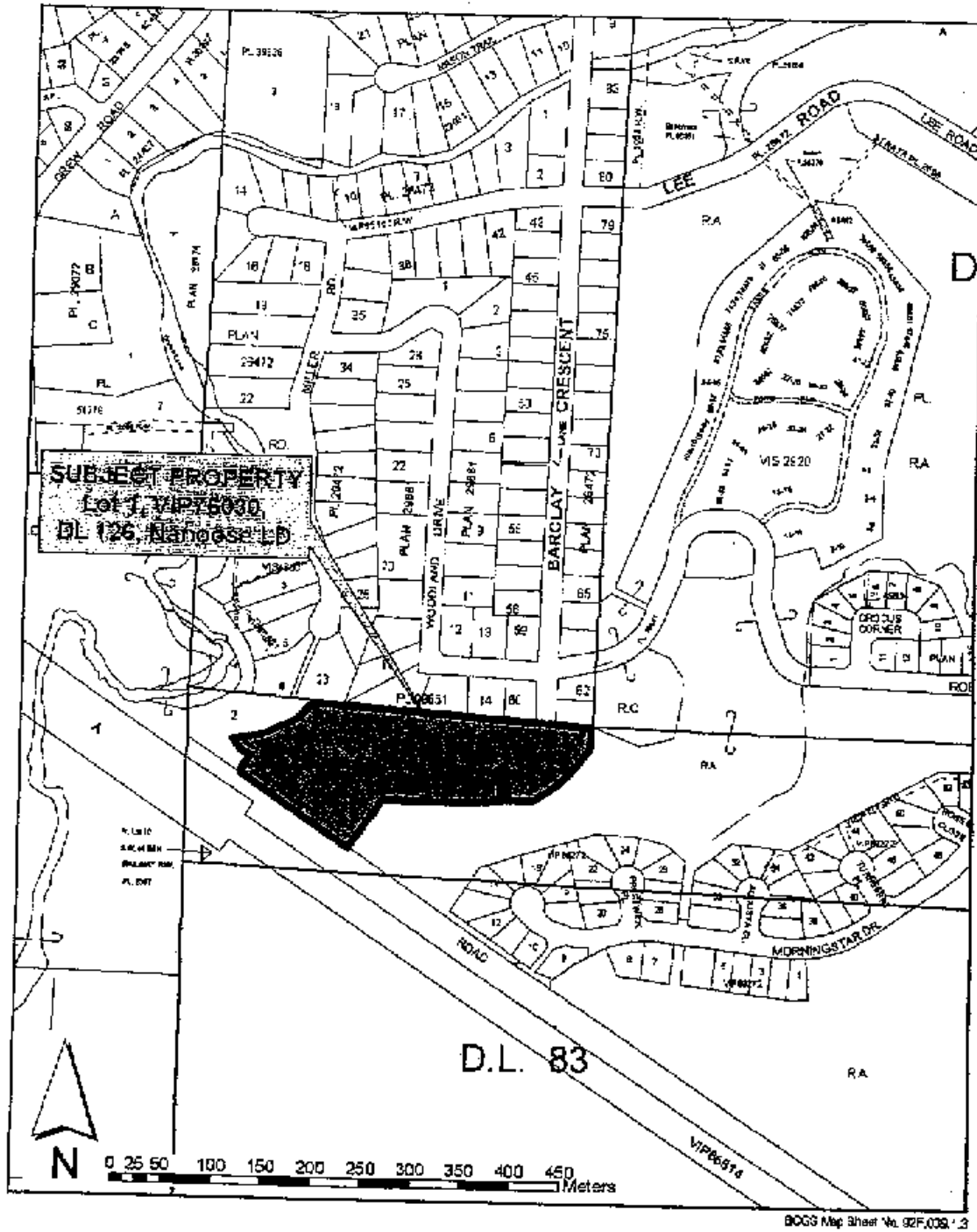
1. Setbacks from the exterior property lines adjacent to the Morningstar Golf Course proposed to be varied from 10.0 metres to:
 - a) 7.9 metres to accommodate Unit No. 102;
 - b) 7.7 metres to accommodate Unit No. 104 and 106;
 - c) 9.5 metres to accommodate Unit No. 108;
 - d) 9.6 metres to accommodate Unit No. 110;
 - e) 9.6 metres to accommodate Units No. 112 and 114; and
 - f) 9.4 metres to accommodate Units No. 116 and 118.

2. Setbacks from the exterior property lines adjacent to the unnamed / un-constructed road right-of way proposed to be varied from 10.0 metres to:
 - a) 3.9 metres to accommodate Unit No. 171; and
 - b) 4.0 metres to accommodate Units No. 163, 165, 167, and 169.

Schedule No. 3
Proposed Site Layout
Development Permit Application No. 60416



Attachment No. 1
Location of Subject Property



BOGS Map Sheet No. 92F.03G '2



REGIONAL DISTRICT OF NANAIMO	
APR 19 2004	
CHAIR	GMCrS
CAO	GMDS
CMCms	GMES
EAPC ✓	

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: April 19, 2004

FROM: Blaine Russell
Planner

FILE: 3060 30 60417

SUBJECT: Development Permit Application No. 60417- Zychlinski (Quality Foods)
Electoral Area 'E' - 2443 Collins Crescent

PURPOSE

To consider a development permit application with a variance to facilitate the addition of two prefabricated coolers to an existing supermarket, within the Red Gap Centre.

BACKGROUND

This is an application to allow for the installation of two prefabricated industrial coolers at Quality Foods in the Red Gap Centre. The subject property, legally described as: Strata Lot 1, District Lot 6, Nanoose District, Plan VIP 55964 ("the lands") and located at 2443 Collins Crescent in the Red Gap area of Electoral Area 'E' Nanoose (see Attachment No. 1). The subject property is zoned Commercial 2 (CM2) subdivisor, district 'Z' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

Pursuant to "Regional District of Nanaimo Electoral Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" (OCP) the subject property's land use designation is Red Gap Village and within the Form and Character Development Permit Area DPA1. As part of this application, the applicant is requesting a relaxation to the minimum setback requirements from the other lot line, in this case the lot line adjacent to Carpenter Avenue. Development Permits DP No. 69, DP No. 69a, DP No. 69b, and DP No. 69c have previously been issued on the subject property to facilitate construction of the shopping centre.

The subject property is bordered by residential properties to the North / Northwest, Carpenter Road to the South, Collins Crescent to the East, and Armstrong Crescent to the West. Properties that are across the road are comprised of Residential 1 (RS1) zoned properties, with an existing mobile home park property across Collins Crescent.

The subject property is within the Building Inspection Service Area.

Requested variance

The applicant is requesting that the other lot line, in this case the lot line adjacent to Carpenter Road be relaxed from 5.0 metres to 1.7 metres.

ALTERNATIVES

1. To approve the development permit application with variance as submitted, subject to notification procedures.
2. To deny the development permit application with variance.

DEVELOPMENT IMPLICATIONS

The applicant is proposing to install two prefabricated walk-in coolers at the rear of the existing supermarket. The proposed freezers will be sited 1.7 metres from the other lot line, in this case the lot line adjacent to Carpenter Road. As the applicant is requesting a variance of less than 4.5 metres adjacent to a statutory right-of-way as a condition of this permit the applicant will be required to obtain approval from the Ministry of Transportation prior to this application proceeding to the Board of the Regional District.

The applicant is proposing to screen the coolers from the view of Carpenter Road with a natural stained cedar fence that is approximately 1.83 metres in height and 4.88 metres in length. This fence is proposed to be located on the subject property approximately 0.3 metres from the coolers and is proposed to run parallel with Carpenter Road. General landscaping, on the subject property, has already been specified via Development Permit No. 69C. The conditions of DP No. 69C are still binding, except where altered by this permit. The prefabricated coolers are factory coloured white with enamel type paint. As the enamel base paint would not easily lend itself well to repainting, the applicant is proposing to leave the coolers white. The coolers are to be located on the same side of the building as the existing compressor room, therefore any increase in noise would likely be marginal.

The applicant has indicated that the two existing garbage bins that are located where the proposed addition is to be sited are proposed to be located along side the new addition slightly more towards Collins Crescent than presently sited.

As the proposed addition is less than 10% of the existing building area, additional parking remain in conformity with the zoning regulations if approved by the development permit.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby property owners will have an opportunity to comment on the proposal prior to the Board's consideration of the permit.

VOTING

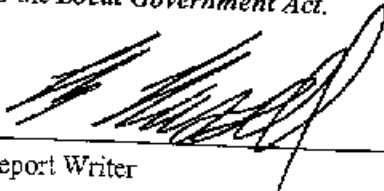
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

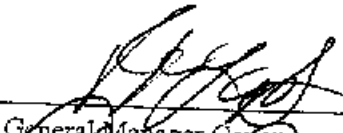
This is an application for a Development Permit within a Form and Character Development Permit Area of Nanoose Bay with variance to allow for a minor addition to an existing supermarket. As part of the application, the applicant has requested that the other lot line setback be relaxed from 5.0 to 1.7 metres to allow for the proposed addition.

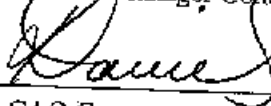
RECOMMENDATION

That Development Permit Application No. 60417 submitted by Ken Bowerman of Quality Foods Ltd on behalf of Hans Zychlinski and Irngard Zychlinski with a variance to relax the minimum other lot line setback requirement from 5.0 metres to 1.7 metres for the property legally described as Lot 1, District Lot 6, Nanoose District, Plan VIP 55964 to facilitate the addition of two prefabricated coolers to an existing supermarket, be approved subject to Schedules No. 1, 2 and 3 and the notification requirements pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence


CAO Concurrence

COMMENTS:

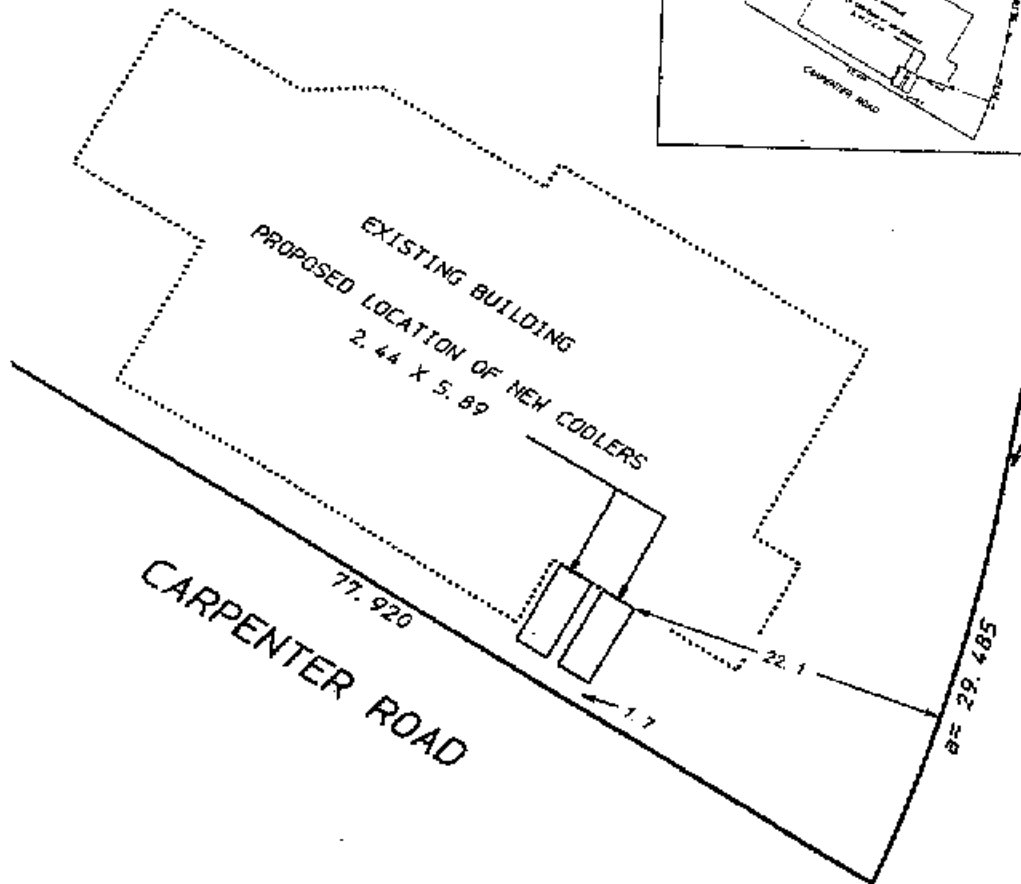
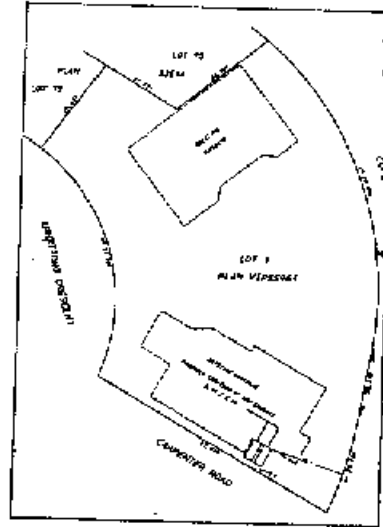
Schedule No. 1
Conditions of Approval
Development Permit No. 60417

The following conditions are to be completed as part of Development Permit No. 60417:

1. Subject property to be developed in accordance with Development Permit No. 69c, except where altered by this permit;
2. The two coolers shall be sited as shown on Schedule No. 2;
3. A solid wood fence of no less than 1.75 metres and no more than 1.99 metres in height having a length of at least 4.88 metres shall be located adjacent to the two coolers and parallel to Carpenter Avenue;
4. The fence shall be properly maintained;
5. The two garbage dumpsters shall be re-located to minimize visibility from any roadway and shall be located adjacent to the two coolers;
6. Confirmation of siting approval from the Ministry of Transportation.

Schedule No. 2
Site Plan
Development Permit No. 60417

(As Submitted by Applicant / Modified to Fit This Page and to Include Conditions)

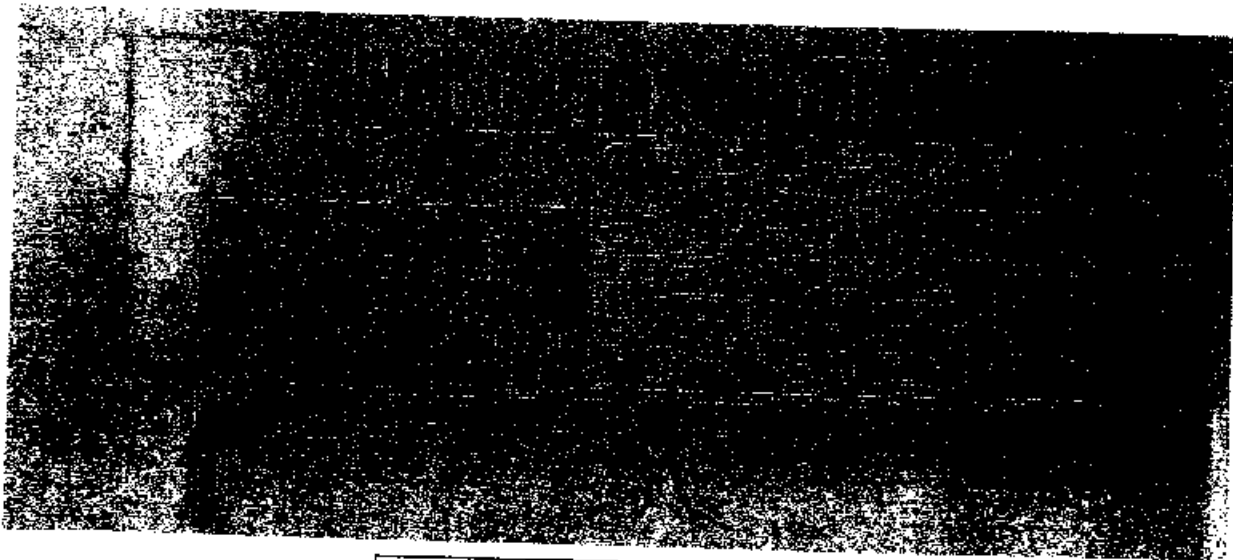


Schedule No. 3
Profile Plan
Development Permit No. 60417

(As Submitted by Applicant / Modified to Fit This Page and to Include Conditions)

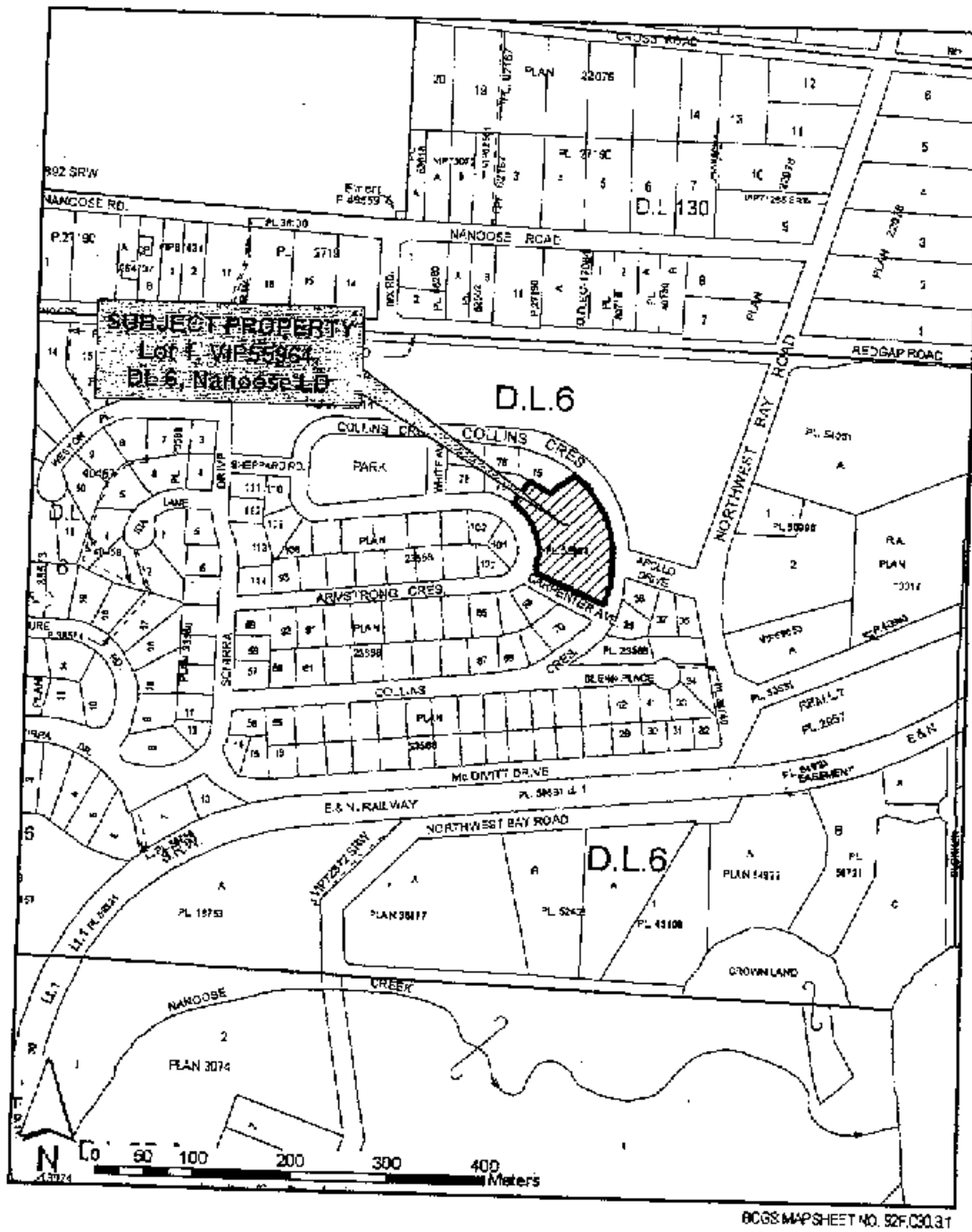


Profile from Carpenter Road



Profile from Collins Crescent

Attachment No. 1
Location of Subject Property





REGIONAL DISTRICT OF NANAIMO

APR 19 2004

CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
		<i>EAPC</i>	<input checked="" type="checkbox"/>

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: April 16, 2004

FROM: Keeva Kehler
Planner

FILE: 3090 30 90408

SUBJECT: Development Variance Permit Application No. 90408- Heung
Electoral Area 'E' - 2023 Seahaven Road, Nanoose Bay

PURPOSE

To consider an application for a Development Variance Permit to vary the maximum permitted dwelling unit height for a property located in Nanoose Bay.

BACKGROUND

This is an application to vary the maximum permitted dwelling unit height in order to facilitate the construction of a two storey house on the property legally described as Lot C, District Lot 51, Nanoose District, Plan 7705 (see Attachment No. 1). The subject property is a 1.95 hectare waterfront parcel located at 2023 Seahaven Road.

The subject property is located within the Coast Residential designation in the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998". Portions of the property are located within the Watercourse Protection Development Permit Area (DPA) designated by this Official Community Plan. The applicants are not planning to conduct any works within the 15 metre leave strip required by the DPA.

The subject property is zoned Residential 1, Subdivision District 'N' (RS1N) 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 the interior side lot lines, 2.0 metres from the rear lot line and 8.0 metres horizontal distance from the top of a slope of 30% or greater for a coastal watercourse. The maximum dwelling unit height is 8.0 metres as measured from the natural grade.

Proposed Variances

The applicant is proposing to construct a residential dwelling unit, with siting and dimensions as shown in Schedule No. 2. The proposed dwelling will consist of a two-storey home with attached garage (see

Schedules No. 4, 5, 6 and 7). The applicants are meeting the required setbacks from the ocean pursuant to the zoning bylaw and are not proposing any alteration of land within the DPA.

The applicants are requesting to vary Section 3.4.61 of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" by increasing the maximum dwelling unit height from 8.0 metres to 8.82 metres, as measured from the existing natural grade. The applicants cite architectural preference as the justification for the request. The applicants have indicated that they wish to construct a dormer style roof on the dwelling unit, which requires a higher roof pitch in order to permit sufficient headroom in the upstairs bedrooms. The designer has attempted to keep the roof pitch as low as possible to work with the proposed design of the home.

ALTERNATIVES

1. To approve Development Variance Permit No. 90408 subject to the conditions outlined in Schedule No. '1'.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

The property is a relatively large residential parcel and the lot is treed with a small cleared area where the existing 40 year old cottage stands. The applicants are attempting to minimize the disturbance to the lot by redeveloping the existing building site. They wish to minimize the removal of trees and vegetation on the property. The property is located at the end of Seahaven Road and has only one direct neighbour. The surrounding lots are waterfront properties and have unobstructed views of Northwest Bay. The neighbouring dwelling unit is well buffered by trees and it is doubtful that the proposed dwelling would be visible from any adjacent lot.

Staff feel that the potential visual impact of the height variance is reduced due to the size of the subject property and the existing vegetation, distance between dwelling units, the topography of the subject property and surrounding waterfront area. From staff's assessment of the application and building site there are no apparent impacts on adjacent properties from the proposed construction.

PUBLIC CONSULTATION IMPLICATIONS

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

VOTING

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

SUMMARY/CONCLUSIONS

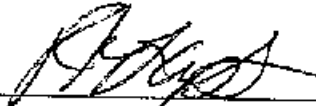
This is an application for a Development Variance Permit to vary the maximum permitted dwelling unit height in order to facilitate the development of a two storey dwelling unit. The application includes a request to vary Section 3.4.61 (maximum permitted dwelling unit height) of RDN Land Use and Subdivision Bylaw No. 500, 1987 from 8.0 metres to 8.82 metres. Given that the requested variance is justified by the architectural design of the dwelling and does not appear to impact any neighbouring properties, staff recommends this application be approved subject to notification procedures pursuant to the *Local Government Act*.

RECOMMENDATION

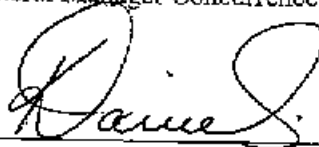
That Development Variance Permit Application No. 90408, submitted by Terry and Raymond Heung, to facilitate the development of a two storey dwelling unit and vary the maximum permitted dwelling unit height within the Residential 1 zone from 8.0 metres to 8.82 metres for the property legally described as Lot C, District Lot 51, Nanoose Land District, Plan 9915, be approved as submitted subject to Schedules No. 1, 2 and 3 and subject to the notification procedures pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



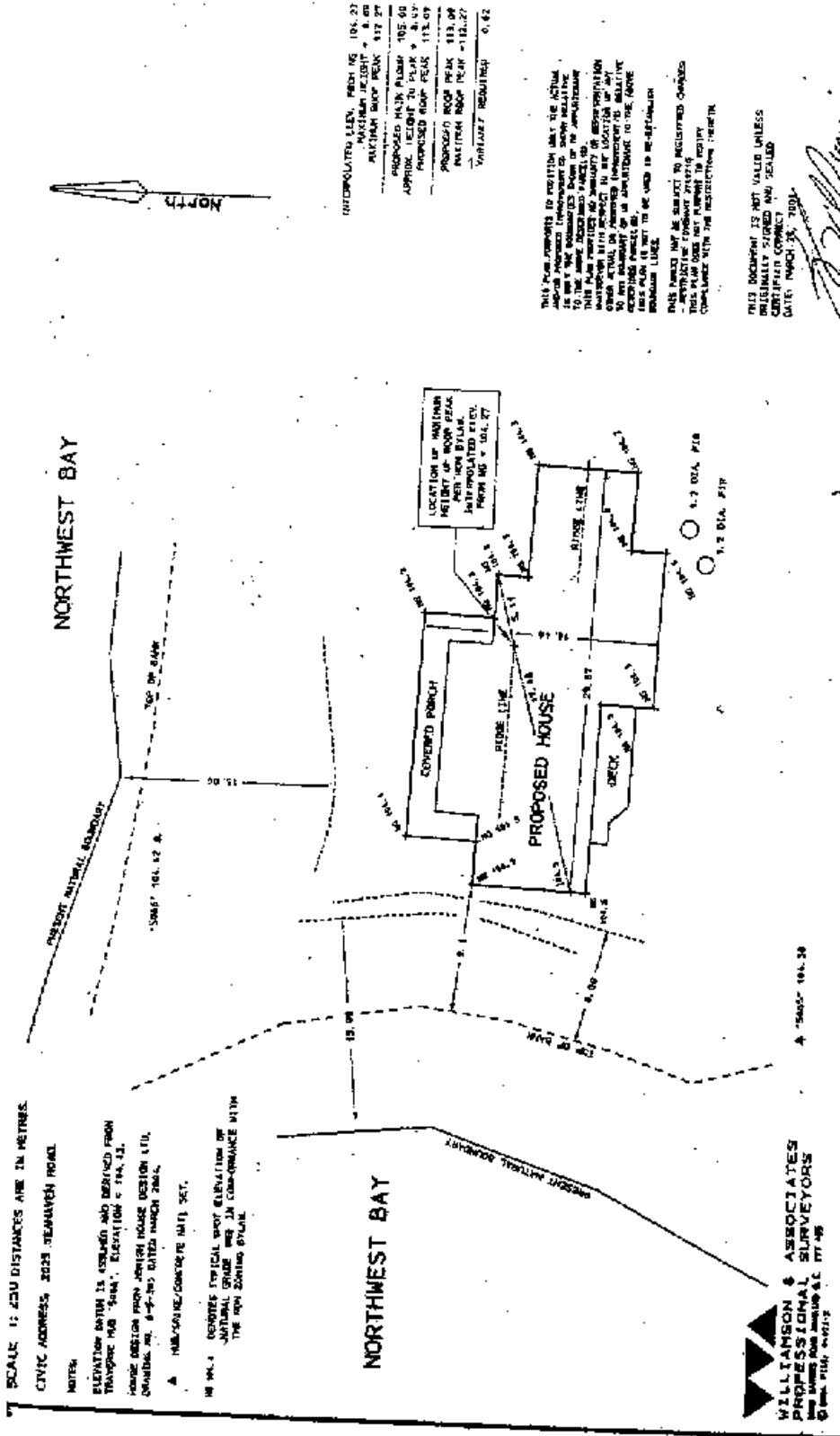
CAO Concurrence

COMMENTS:

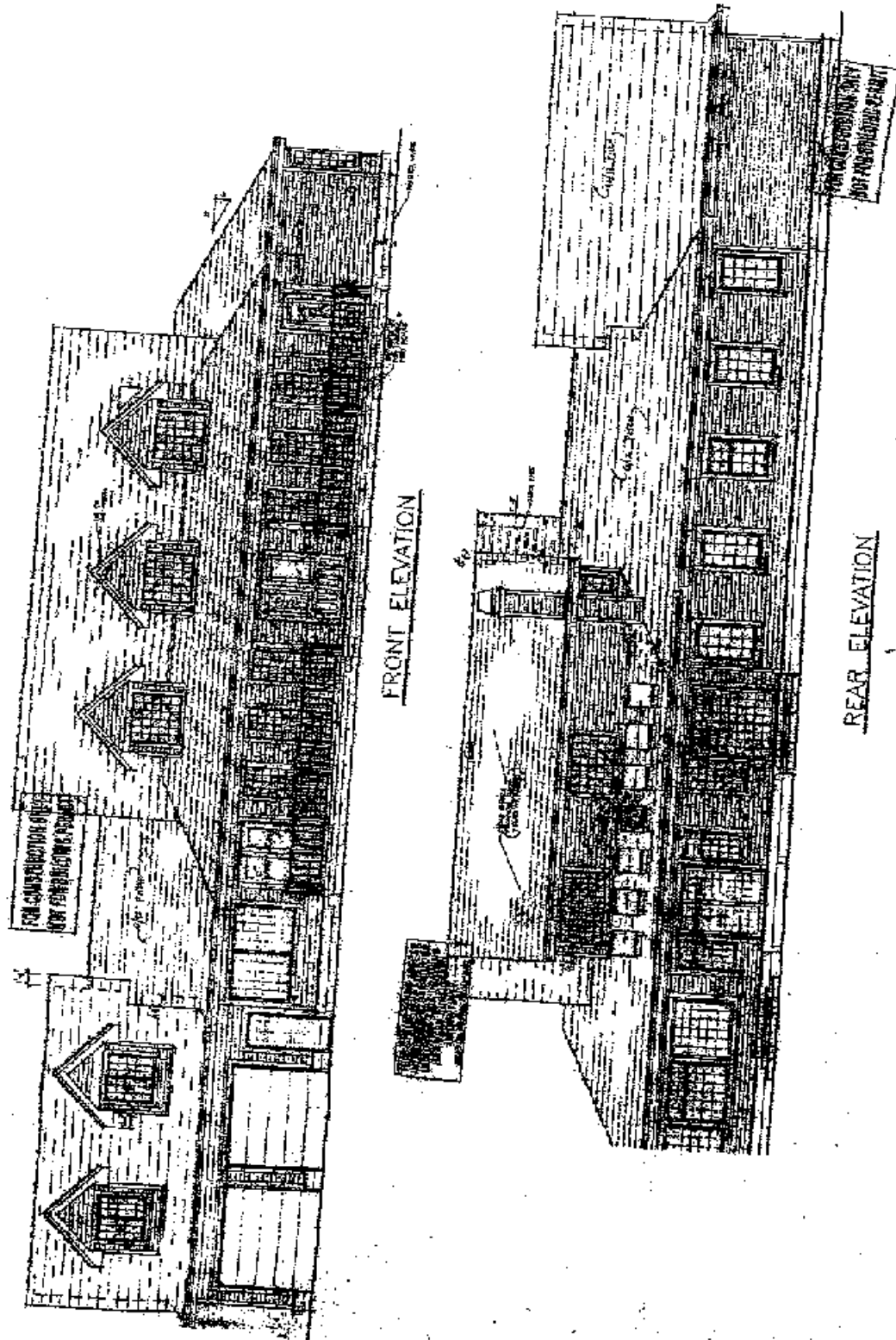
Schedule No. 1
Conditions of Approval
Development Variance Permit Application No. 90408

1. The proposed development shall be conducted in accordance with the provisions of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," except as varied by this Development Variance Permit. The maximum height of the dwelling unit shall not exceed 8.82 metres as measured from the existing natural grade.
2. The location of the proposed dwelling unit shall be consistent with the site plan submitted by the applicant and shown on Schedule No. 2.
3. The dwelling unit shall conform to the building plans submitted by the applicant and shown on Schedule No. 3.
4. A building permit shall be obtained from the RDN Building Inspection Department prior to the commencement of any works on the site.
5. There shall be no alteration of land within the 15 metre leave strip as established by the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" Watercourse Protection Development Permit Area, or any subsequent bylaw, without written approval from the Regional District of Nanaimo. This includes removal of vegetation or installation of drainage works associated with the construction of the dwelling unit.

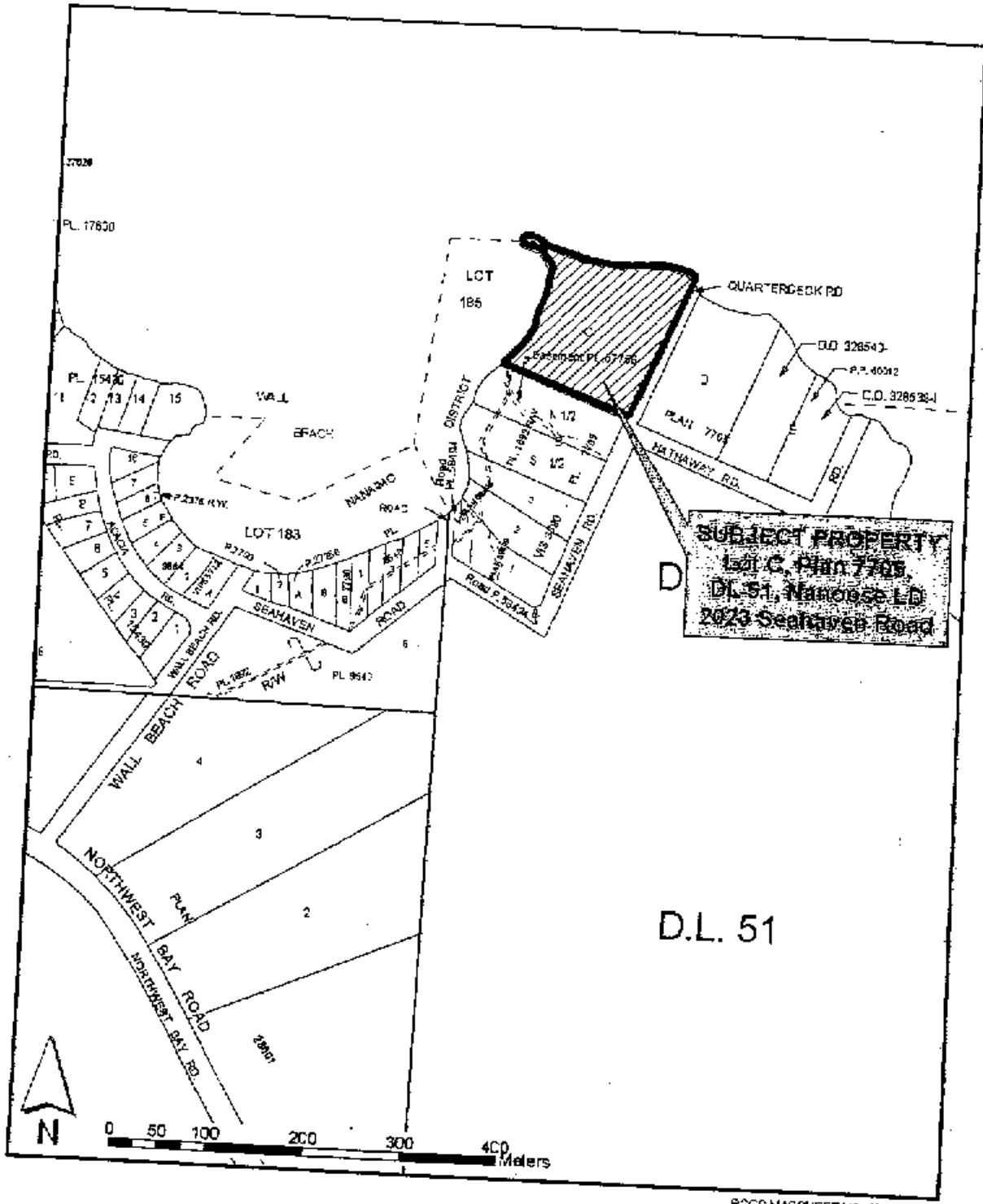
Schedule No. 2
 Site Plan (Submitted by applicant)
 Development Variance Permit Application No. 90408



Schedule No. 3
Building Profiles (Submitted by Applicant)
Development Variance Permit No. 90408



Attachment No. 1
Subject Property Map
Development Variance Permit Application No. 90408





REGIONAL DISTRICT OF NANAIMO			
APR 19 2004			
CHAIR		GMCS	
CAO		GMDS	
GMCS		GMES	
CARR ✓			
TO:		DATE:	
FROM:		FILE:	
SUBJECT:			

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: April 19, 2004

FROM: Susan Cornie
Senior Planner

FILE: 3320 20 24654

SUBJECT: Request for Relaxation of the Minimum 10% Perimeter Requirement
WR Hutchinson, BCLS on behalf of DJ & ML Carr
Electoral Area 'C' - 5735 Takala Road

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement in order to facilitate the creation of a two lot subdivision.

BACKGROUND

This is an application requesting relaxation of the minimum 10% perimeter frontage requirement for both proposed parcels as part of a 2-lot subdivision proposal for the property legally described as Lot A District Lot 19 Bright District Plan VIP58785 and located at 5735 Takala Road within Electoral Area 'C' (see Attachment No. 1 for location of parent parcel).

The subject property is currently zoned Resource Management 9 (RM9) and is within Subdivision District 'B' pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The property is also partially situated within the Provincial Agricultural Land Reserve. In addition, the subject property is designated within the Farmland Protection Development Permit Area pursuant to the Arrowsmith Benson - Cranberry Bright Official Community Plan Bylaw No. 1148, 1999.

The applicants are proposing to subdivide the parent parcel into 2 lots, which will be greater than the 8.0 ha minimum parcel size, therefore meeting the minimum parcel size requirement (see Schedule No. 2 for proposed subdivision).

The new parcels are proposed to be served by individual private septic disposal systems and private water wells.

10% Minimum Frontage Requirement

Proposed Lots 1 and the Remainder of A as shown on the plan of subdivision submitted by the applicants, do not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontages on these proposed parcels are as follows:

Proposed Lot No.	Required Frontage	Proposed Frontage	% of Perimeter
1	151.5 m	13.7 m	0.9 %
Remainder Lot A	153.5 m	13.7 m	0.8 %

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

ALTERNATIVES

1. To approve the request to relax the minimum 10% perimeter frontage requirement for proposed Lots 1 and the Remainder of A.
2. To deny the request to relax the minimum 10% perimeter frontage requirement.

DEVELOPMENT IMPLICATIONS

Ministry of Transportation staff has indicated that access to the proposed parcels will meet Ministry standards and therefore, have no concerns at this time with this request for relaxation of the minimum 10% frontage.

The Provincial Land Reserve Commission has allowed this application to create two parcels. It is noted that the Commission does not wish to encourage further subdivision of the ALR lands by providing additional roads.

The applicants' BCLS has confirmed that one farm building will not meet minimum setback requirements from the proposed lot lines. The applicants have indicated that this building will be moved in order to meet setback requirements or will be demolished. Confirmation of building setbacks will be confirmed as part of the subdivision review process.

With respect to the Farmland Protection Development Permit Area, as a section 219 covenant to provide a buffer strip adjacent to the ALR land will be registered concurrently with the subdivision approval process, the applicants are exempt from requiring to enter into a development permit.

VOTING

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

SUMMARY

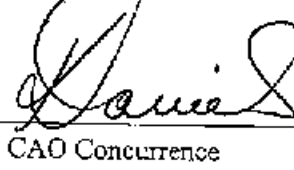
This is a request to relax the minimum 10% frontage requirement pursuant to Section 944 of the *Local Government Act* in order to facilitate the creation of a two lot subdivision. The Land Reserve Commission has approved the request for subdivision. The subject property is within a Farmland Protection Development Permit Area; however in this case, the applicants are exempt from requiring a development permit as they meet the exemption criteria, which includes a 15-metre buffer covenant being registered currently with the plan of subdivision. Given that the Land Reserve Commission has granted approval and the Ministry of Transportation is satisfied that acceptable accesses are achievable, staff recommend Alternative No. 1, to approve the relaxation of the minimum 10% frontage for proposed Lots 1 and the Remainder of Lot A, subject to the conditions set out in Schedule No. 1.

RECOMMENDATION

That the request from WR Hutchinson, BCLS, on behalf of JD and ML Carr, to relax the minimum 10% frontage requirement for proposed Lots 1 and the Remainder of Lot A, as shown on the plan of subdivision of Lot A District Lot 19 Bright District Plan VIP58785, subject to Schedules No. 1 and 2 be approved.



Report Writer


General Manager Concurrence
CAO Concurrence

COMMENTS:

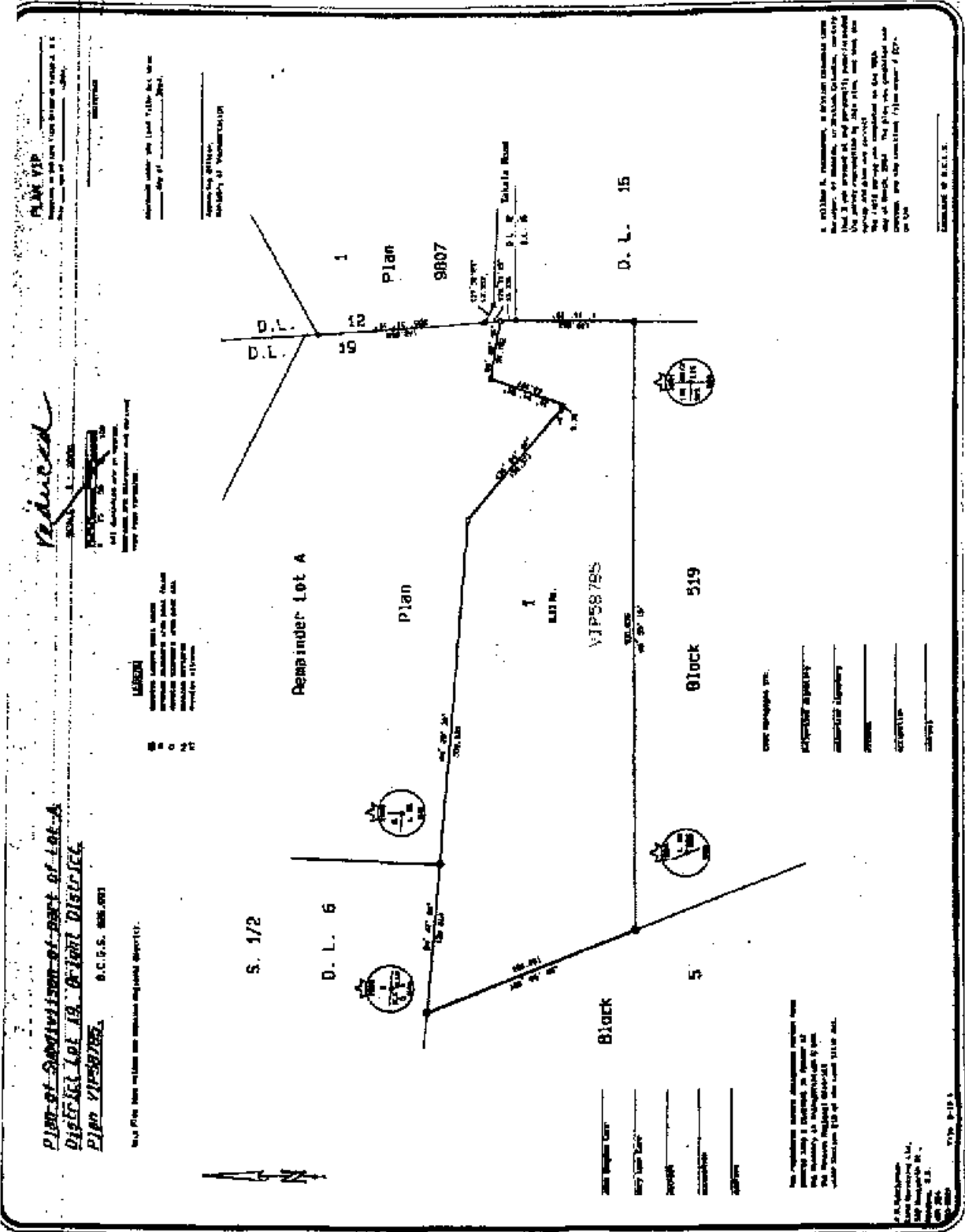
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SCHEDULE No. 1
Conditions of Approval

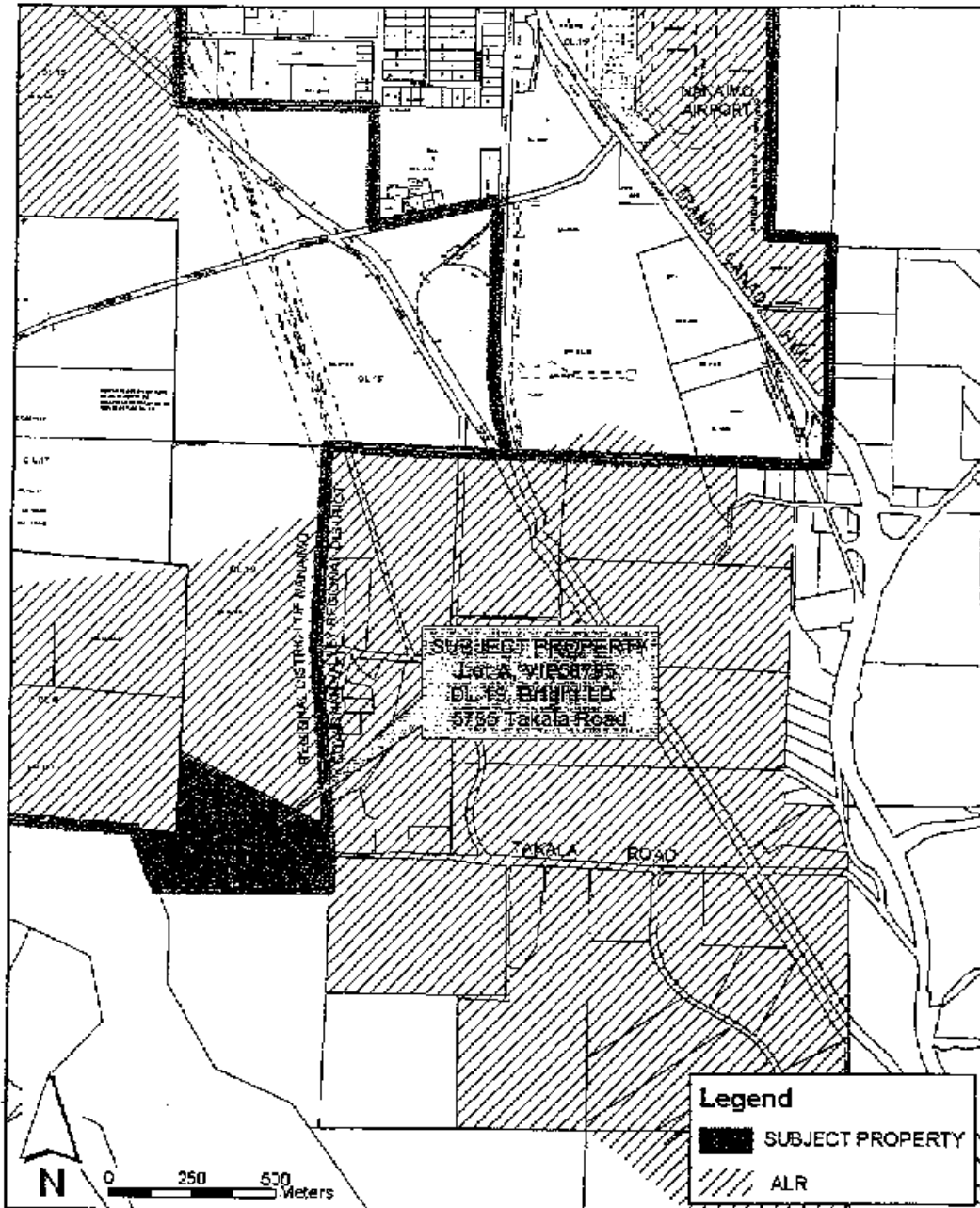
Covenant

The applicant shall prepare and register a section 219 covenant for the farmland protection 15-metre buffer strip adjacent to the ALR boundary as set out in the development permit guidelines. This covenant is to be reviewed and accepted by the Regional District prior to being registered on title concurrently with the plan of subdivision at Land Title Office. Applicant's solicitor is to provide a letter undertaking to register this covenant concurrently with the subdivision application.

SCHEDULE NO. 2
Proposed Plan of Subdivision
(As Submitted by Applicant)



ATTACHMENT NO. 1
Location of Subject Property



BCGS Map Sheet No. B2G.001.2.3