

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, AUGUST 26, 2003

6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

2-4 Minutes of the Electoral Area Planning Committee meeting held Tuesday, July 22, 2003.

BUSINESS ARISING FROM THE MINUTES

PLANNING

AMENDMENT APPLICATIONS

5-24 ZA0309 – Culverden Holdings (Arbutus Meadows) – 1515 E Island Highway – Area E.

DEVELOPMENT PERMIT APPLICATIONS

25-33 DP No. 60338 – Griffin -- Strata Lot 3, Miller Road – Area G.

34-44 DP No. 60339 – Thompson – Lot 21, Miller Road -- Area G.

45-50 DP No. 60340 - Astrakan/Kyler & Myrfield – Widgcon Road - Area H.

51-62 DP No. 60341 – BC Conservation Foundation – Little Qualicum River Regional Park -- Area F.

63-70 DP No. 60342 – Sokol - 1558 Madrona Drive – Area E.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

71-77 DVP No. 90316 – Ballance – 2830 Benson View Road – Area D.

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, JULY 22, 2003, AT 6:30 PM
IN THE RDN BOARD CHAMBERS

Present:

Director E. Hamilton	Chairperson
Director H. Kreiberg	Electoral Area A
Director D. Haime	Electoral Area D
Director P. Bibby	Electoral Area E
Director L. Biggemann	Electoral Area F
Director Joe Stanhope	Electoral Area G
Director D. Bartram	Electoral Area H
Director I. Sherry	City of Nanaimo

Also in Attendance:

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

DELEGATIONS

Dennis Shaw re DVP No. 90314 – Shaw – 3531 Vera Way – Area D.

Mr. Shaw was not in attendance.

MINUTES

MOVED Director Bartram SECONDED Director D. Haime, that the minutes of the Electoral Area Planning Committee meeting held June 24, 2003 be adopted.

CARRIED

PLANNING

Request for Temporary Commercial Use Permit Application No. 0301 – Michael Rosen & Associates on Behalf of Englishman River Land Corporation – Kaye Road – Area G.

MOVED Director Stanhope, SECONDED Director Bibby, that Temporary Commercial Use Permit No. 0301, submitted by Michael Rosen & Associates on behalf of Englishman River Land Corporation for the property legally described as Lot A, Block 564, Nanoose District, Plan VIP75278, to allow a temporary realty sales office use be approved subject to the conditions outlined in Schedules No. 1 and 2 and the notification requirements pursuant to the *Local Government Act*.

CARRIED

Request for Park Land Dedication – Peter Mason, BCLS on behalf of G. Greer & K. Butchko – Davenham Road & Dolphin Drive – Area E.

MOVED Director Bibby, SECONDED Director Biggemann, that the request, submitted by Peter Mason, BCLS, on behalf of George Greer and Kathleen Butchko, to dedicate park land be refused and the applicants be required to provide cash in-lieu-of park land dedication as part of the five-lot subdivision proposal of Lot 3, District Lot 137, Nanoose District, Plan 31921.

CARRIED

The Chairperson noted that the delegation was not in attendance.

Dennis Shaw re DVP No. 90314 – Shaw – 3531 Vera Way – Area D.

Mr. Shaw provided information with regard to his development variance permit application. Mr. Shaw also noted that the cost of his development variance permit application was greater than the value of the building for which the application was required and requested a review of Bylaw 500 with respect to application fees.

DEVELOPMENT PERMIT APPLICATIONS

DP Application No. 60307a – Horinga – Strata Lot 1, 799 Miller Road – Area G.

MOVED Director Stanhope, SECONDED Director Biggemann, that Development Application No. 60307a, to legalize the drainage works within the Watercourse Protection and Sensitive Lands Development Permit Areas on the property legally described as Strata Lot 1, District Lot 28, Nanoose District, Plan VIS4363, be approved subject to the conditions outlined in Schedules No. 1 and 2.

CARRIED

DP Application No. 60329 – Friesen on behalf of Ming's Stores Ltd. Inc. – 1694 Cedar Road – Area A.

MOVED Director Kreiberg, SECONDED Director Bartram, that Development Permit Application No. 60329, submitted by Friesen's Rentals and Hardware on behalf of Ming's Stores Ltd. Inc., to construct an addition to the principal building and allow for signage on a parcel located within the Cedar Village and Cedar Commercial/Industrial Properties Development Permit Area No. 3 for Lot A, Section 15 and 16, Range 8, Cranberry District, Plan VIP71569 be approved, subject to the conditions outlined in Schedule Nos. 1, 2, 3 and 4 of the corresponding staff report and to the notification requirements of the *Local Government Act*.

CARRIED

DP Application No. 60335 – Janes – 2353 Higginson Road – Area E.

MOVED Director Bibby, SECONDED Director Biggemann, that Development Permit Application No. 60335 to construct a shoreline protection device in the form of a retaining wall for the property legally described as Lot 12, District Lot 102, Nanoose District, Plan 21022 be approved, subject to the conditions outlined in Scheduled Nos. 1, 2, 3 and 4 of the corresponding staff report and to the notification requirements pursuant to the *Local Government Act*.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

DVP Application No. 90314 – Shaw – 3531 Vera Way – Area D.

MOVED Director D. Haime, SECONDED Director Bartram,:

1. That Development Variance Permit Application No. 90314 to vary the minimum setback from a watercourse from 15.0 metres to 4.0 metres to legalize the siting of a recently constructed 5.5 m² pump house on the property legally described as Lot B, Section 17, Range 4, Mountain District, Plan 24600 be approved subject to the requirements outlined in Schedules No. 1, 2, 3 and 4 and subject to notification requirements pursuant to the *Local Government Act*.
2. That staff be directed to include the issue of exemptions from setbacks in the technical review of Bylaw No. 500.

CARRIED

DVP Application No. 90315 – Clan Oil Inc. – 1025 Qualicum Road – Area G.

MOVED Director Stanhope, SECONDED Director Biggemann, that Development Variance Permit Application No. 90315 to vary the minimum setback from a watercourse from 15.0 metres to 0.0 metres to facilitate the construction of two pump houses on the property legally described as Remainder of Lot 1, Sections 3 and 4, District Lots 42 and 78, Newcastle District, and District Lot 144, Nanoose District, Plan 11091 Except Plan 38048 and 42931 be approved subject to the requirements outlined in Schedules No. 1, 2 and 3 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

ADJOURNMENT

MOVED Director D. Haime, SECONDED Director Bartram, that this meeting terminate.

CARRIED

TIME: 6:46 PM

CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO			
AUG 19 2003			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
		EAP	✓

MEMORANDUM

TO: Pamela Shaw
 Manager of Community Planning

DATE: August 15, 2003

FROM: Keeva Kehler
 Planner

FILE: 3360 30 0309

SUBJECT: **Covenant Amendment Application – Culverden Holdings (Arbutus Meadows)
 Electoral Area 'E' – 1515 East Island Highway**

PURPOSE

To consider an application to amend a land use covenant in order to permit the expansion of the existing public assembly uses to include non-equestrian public assembly events within the existing arena.

BACKGROUND

The Regional District has received an application to amend a Restrictive Covenant for the property located at 1515 East Island Highway within Electoral Area 'E' and legally described as District Lot 56, Nanoose District, Except Parts in Plans 466R, 950R, 351RW, 6761, 18519, 22727, 25734 and 39893 (see Attachment No. 1 for location of subject property). The portion of the subject property under consideration for expanded public assembly uses is approximately 2.0 ha in size and is located adjacent to the Island Highway. This portion of the property is currently zoned Commercial 6 (CM6) pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. In addition, there is another portion of the property, approximately 3.7 ha in area, with a CM6 designation, which is intended to be developed as a guest ranch, accessory to the agricultural uses on the property. The remaining 25 ha of the property are zoned Rural 5 (RU5) and are used for agricultural purposes.

The entire property is located within the Provincial Agricultural Land Reserve (ALR). The Provincial Agricultural Land Commission (PALC) has granted approval for the expanded non-agricultural public assembly events provided the primary use of the arena remains equestrian related and the non-agricultural events do not exceed more than 50% of the total events held at the arena.

There are five properties at the northwest corner of the subject property zoned for light industrial uses. The proposed expansion of public assembly uses will not require any alteration of the existing riding arena at this time. Any future changes to the structure will trigger a Building Inspection review and may require a Development Permit Application. The arena is located at the northwest corner of the property adjacent to the industrial uses and the Island Highway.

The subject property is designated as a Rural Tourist Centre pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 (OCP). The OCP policies for this designation recognize the importance of commercial uses to the economy consistent with the Regional Growth Strategy. It recognizes the importance of these activities by directing them to potentially more viable locations. For

PAGE 5

example, neighbourhood and village oriented commercial activities are focused onto lands within more urban areas where they can better serve the resident population. Existing commercial activities outside the urban areas are intended to evolve into less intensive commercial uses that draw on the surrounding rural and resource lands for their character, consistent with the direction of the Regional Growth Strategy, to link economic activities with the protection of rural integrity and the natural environment. The rural and resource land base of Nanoose Bay provides an excellent setting for tourist and recreational activities requiring a large natural land base. Rural tourist centres are intended to provide for limited development of tourism and recreation facilities that focus on recreational uses that maintain and enhance the rural character of the area.

The subject property is located within the Nanoose Bay Form and Character Development Permit Area. The Development Permit Area is established to provide guidelines for the form and character of commercial, industrial and multiple family residential developments. The applicants are not proposing any physical alteration to the existing buildings, signage or parking facilities at this time and therefore, a Development Permit Application is not required.

Proposal as Submitted

The applicant is proposing to amend the Restrictive Land Use Covenant [FD129940] currently registered on the Title of the subject property in order to facilitate the expansion of the public assembly uses. In addition to the existing equestrian and agricultural events, the applicant proposes to hold a variety of non-equestrian public assembly events, such as Arenacross (motor cross racing), dog and cat shows, truck/boat/ RV shows, religious assemblies, concerts, indoor soccer, paintball, antique shows, home and garden shows. The applicant is proposing to amend the Restrictive Covenant to permit general public assembly uses consistent with the definition of 'Public Assembly' pursuant to RDN Bylaw No. 500, 1987. The applicant is requesting that the events not be restricted by event type.

Public Information Meeting

A Public Information Meeting was held on August 6, 2003 at Nanoose place in Nanoose Bay. Notification of the meeting was advertised in the July 29, 2003 edition of the PQ News, along with a direct mail out to all property owners within 200 metres of the subject property. Approximately 18 people attended the information meeting and those who spoke made comments supporting the expanded uses, especially the Arenacross use (*see Attachment No. 3 'Report of the Public Information Meeting'*). To date, the Planning Department has not received any written comments with respect to this application.

ALTERNATIVES

1. To approve the covenant amendment application to permit unrestricted non-equestrian public assembly uses on the CM6 portion of the property as submitted by the applicant.
2. To approve the covenant amendment application to permit certain restricted non-equestrian events as proposed by staff.
3. To not approve the amendment application.

LAND USE IMPLICATIONS

Access to the site is via a private frontage road required by the Ministry of Transportation at the time of the arena construction in 1990. Currently the parking requirements are met in part by using portions of the RU5 property as overflow areas. However, the approved public uses to date have been agricultural and equestrian in nature only and therefore accessory to the rural use of the property. Given that the proposed

expansion of public assembly uses has received approval from the PALC, and that portions of the RU5 zone are already developed for parking space, the RDN is prepared to consider the temporary use of these RUS areas for parking as accessory to the agricultural use of the property.

At the time of the original application, the Nanoose Bay Volunteer Fire Department provided comments and suggestions for the arena structure. The Fire Department required that suitable fire lanes be provided around all buildings ensuring access for fire trucks and that ladders be installed inside the building providing access to the roof portions. The Fire Department also wanted the applicant to install a water system with sufficient water volume and pressure for fire fighting purposes. The applicant has discussed the proposed expansion of public assembly uses with the Nanoose Bay Fire Chief. There is a large reservoir on the property, which would provide water in the case of a fire. If the amendment were approved, the Fire Department's comments would be included as conditions of the approval (*see Schedule No. 1*).

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Nanoose Bay Official Community Plan policies for properties within the Rural Tourist Centre designation recognize and support the use of the land for recreation and tourist activities that require a large natural land base. However, the uses should maintain and enhance the rural character of the area. The OCP supports the limited development of such uses where the rural integrity of the area can be enhanced. It can be argued that unrestricted public assembly events may negatively affect the rural integrity of the property and its surrounding area. Some of the proposed events require accessory urban services to support the event participants and may be better suited to a more urban facility where these services are already established. Such services include public transit, accommodation, restaurant and retail services.

In order to be consistent with the OCP policies, it is suggested that only those public assembly events with a primarily recreational or tourism focus be supported in this arena. Those events where the proposed use of the facility is solely for the gathering of people for seminars, presentations, religious or social events would be better suited to an urban environment with full services provided in the immediate vicinity.

In order to maintain the rural integrity of the subject property and ensure that the facility remains primarily involved in equestrian and agricultural events, the arena should not host public assembly uses that would require permanent modification of the structure from its present form. Such modifications include the addition of a permanent floor, permanent seating or the installation of ice sheets. In addition, the non-agricultural/ equestrian public assembly uses should not commence prior to 8:00 am or continue beyond 10:00 pm.

LEGAL IMPLICATIONS

The Restrictive Covenant was registered on the Title of the property on December 7, 1990 as a condition of approval for the rezoning application. The Covenant restricts the public assembly uses on the property to equestrian events only and was registered in response to concerns with respect to the rural integrity of the area voiced by the PALC, the RDN and the public at the time of the original zoning amendment application. The PALC has since reviewed the applicant's request to expand the public assembly uses to include non-agricultural events and has granted a conditional approval to amend the Covenant. The

Covenant will have to be amended as indicated on *Schedule No. 2*. The existing Covenant is attached as *Schedule No. 3*.

ENVIRONMENTAL IMPLICATIONS

The Environmentally Sensitive Areas Atlas indicates the presence of Fish Habitat in a Photo-Interpreted Stream on the RU5 portion of the subject property. The Atlas Also indicates the presence of Sensitive Ecosystems, specifically Older Forest, on the RU5 portion of the subject property. The arena and associated parking facilities are located away from these features at the northwest section of the property. There are no Development Permits for protection of environmental features on the subject property.

INTERGOVERNMENTAL IMPLICATIONS

The applicant has received approval from the Provincial Agricultural Land Commission (PALC) to expand the existing equestrian/ agricultural public assembly uses to include non-equestrian events, provide those events do not equal more than fifty percent of the events hosted at the arena (*see Attachment No. 4*).

The Ministry of Transportation has provided written comments that it has no objection to the proposed change in public assembly events subject to compliance with the Agricultural Land Commission's requirements and the Regional District of Nanaimo approval (*see Attachment No. 5*).

The Vancouver Island Health Authority (VIHA) has also stated that it has no concerns with the proposed expansion of the public assembly uses, provided the applicant obtains the necessary permits and approvals from the VIHA office prior to each event.

PUBLIC CONSULTATION IMPLICATIONS

No issues have been raised to date by the public with respect to this application.

VOTING

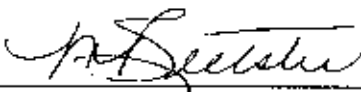
Electoral Area Directors – one vote, except Electoral Area 'B'.


SUMMARY

The applicant is requesting consideration of a Restrictive Covenant amendment in order to facilitate the expansion of the existing equestrian public assembly uses to include general unrestricted public assembly events. A public information meeting was held and no issues concerning the application were raised. Given the site location and the OCP policies, staff feels that the public assembly events should be restricted to those events that will maintain or enhance the rural integrity of the area. If the Board approves the Covenant amendment, staff feels that the approval should be subject to the conditions contained in Schedule No. 1. Staff further recommends that this application proceed to public hearing.

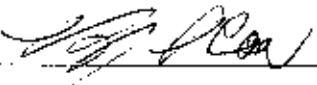
RECOMMENDATIONS

1. That the minutes from the Public Information Meeting be received.
2. That Amendment Application No. 0309 submitted by Robert Bau on behalf of Samuel Bau to amend a Restrictive Covenant for the property legally described as District Lot 56, Nanoose District, Except Parts in Plans 466R, 950R, 351RW, 6761, 18519, 22727, 25734 and 39893 to permit the expansion of the existing public assembly use to include non-equestrian related events proceed to Public Hearing.
3. That the Public Hearing on the proposed Covenant amendment be delegated to Director Bibby or her alternate.
4. That any approval to permit expanded public assembly events be approved subject to the conditions outlined in Schedule No. 1 and subject to public notification pursuant to the *Local Government Act*.

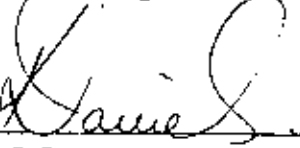

per _____
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devsvs/reports/2003/za3360 30 0309 au Culverden Hldgs Arbutus Meadows

**Schedule No. 1
Conditions of Approval
Covenant Amendment Application No. 0309**

The following conditions must be completed as part of the approval process for the proposed Covenant amendment.

1. All public assembly events and associated accessory uses, such as concessions and retail facilities shall be contained within the horse-riding arena.
2. There shall be no public assembly events where the proposed use of the horse riding arena facility is solely for the purpose of gathering people for seminars, presentations, rallies, religious or social types of events or meetings.
3. Agricultural / equestrian events are to remain the dominant use of the facility and the number of non-agricultural events must number less than 50% of the agricultural /equestrian events hosted in the horse riding arena.
4. There shall be no public assembly events where the existing arena facility would require permanent modification from its present form and capabilities of providing agricultural events such as the placement of a permanent floor, permanent seating or the installation of a permanent or temporary ice surface.
5. Non-agricultural events held at the arena shall not commence prior to 8.00 a.m. and shall not continue past 10.00 p.m.
6. All storage of fuel or temporary fuel dispensing for the purpose of public assembly events shall be located on a curbed, non-permeable surface capable of containing any potential spill and able to prevent any discharge of fuel to the ground.
7. The applicant is to satisfy the requirements of Vancouver Island Health Authority for each public assembly event.
8. The applicant is to confirm the maximum occupant load for the building which may be conditional on works, services or other building improvements set out in the existing building occupancy permit as approved by the RDN. A building permit may be required to change the current restrictions on the occupant load to accommodate certain public assembly events.
9. The applicant is to ensure that the suggestions provided by the Nanoose Bay Volunteer Fire Department in their May 3, 1990 letter are implemented, including:
 - a) The installation of four steel ladders starting approximately 3.6 metres above grade to the roof and continuing up to the peak to provide access to the lower edge of the roof.
 - b) Suitable fire lanes are to be provided around all buildings to ensure adequate access for fire trucks
 - c) A water system with sufficient volume and pressure to the satisfaction of the Fire Department is to be maintained on the property for use in case of a fire emergency. The applicant stated that there is a reservoir on the property, which is acceptable to the Fire Department for fire fighting purposes.

Schedule No. 2
Proposed Covenant Amendments
Covenant Amendment Application No. 0309

Replace Item No. 2 (c) as follows:

"Public assembly events and such uses considered accessory to the events, including temporary concessions, retail and souvenir stores wholly contained within the horse riding arena"

Item No. 2 (c) shall be renamed Item No. 2 (d):

Add Item No. 3 (e) as follows:

Conduct public assembly events where the proposed use of the horse riding arena facility is solely for the purpose of gathering people for seminars, presentations, rallies, religious or social events;

Add Item No. 3(f) as follows:

Conduct more than 50% of the events in the horse riding arena as non-agricultural /equestrian events in order to maintain the dominant use of the horse riding arena as a agricultural / equestrian facility.

Add Item No. 3 (g) as follows:

Alter the Equestrian Riding Arena from its present form and capabilities of providing agricultural events by constructing a permanent floor, permanent seating or the installation of a permanent or temporary ice surface;

Add Item No. 3 (h) as follows:

Allow non-agricultural public assembly events to commence prior to 8:00 a.m. or continue past 10:00 p.m.;

Add Item No. 3 (i) as follows

Allow fuel to be stored or fuel to be dispensed for the purpose of public assembly events unless the fuel is stored on a curbed, non-permeable surface capable of containing any potential spill and preventing any discharge to the ground.

Schedule No. 3 (5 pages)
 Covenant Amendment Application No. 0309

Covenant Document Appendix

LAND TITLE ACT
 FORM C

90 DE 13 10 15 3

ED129940

RECEIVED
 LAND TITLE OFFICE
 VICTORIA

MEMORANDUM OF REGISTRATION
 Registered: 2003/08/15
 00
 PAGE 1 of 4 pages

Province of
 British Columbia

GENERAL DOCUMENT

1. APPLICATION: (Name, address, office number and signature of applicant, applicant's solicitor or agent)

Clark and Company
 Barristers & Solicitors
 P.O. Box 879, 710 Memorial Ave.
 Qualicum Beach, B.C.
 V0R 2T0 752-5615

KITTO REGISTRY

[Signature]
 Signature of applicant, applicant's solicitor or agent

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: *

004-918-487 DIST LOT 56, MANOUSE DIST EXCEPT PARTS IN PLAN 456R, 950R,
 351RW, 6761, 18519, 2727, 25734, 39893

3. NATURE OF INTEREST: *

COVENANT

ENTIRE DOCUMENT

REGIONAL DISTRICT OF
 NANAINO

4. TRANSFEROR(S): *

ARBUTUS MEADOWS INVESTMENT INC.

5. TRANSFEREE(S) (including names of the lender, mortgagee and guarantor(s)) *

REGIONAL DISTRICT OF NANAINO

6000 Hammond Day Road
 P.O. Box 40, LANZVILLE, B.C. V0R 2H0

12/13/90 D38976 CHG W0R 35.00

6. EXECUTION(S): * By signing this document you are affecting the land in the manner described in item 1.

Officer Signature(s)
[Signature]

T. SCOTT ROWNEY
 BARRISTER & SOLICITOR
 POST OFFICE BOX 879
 QUALICUM BEACH, B.C.
 752-5615 V0R 2T0

Execution Date

Y	M	D
90	12	7

Party(ies) Signature(s)

ARBUTUS MEADOWS INVESTMENTS INC.
 by its authorized signatory

[Signature]
 Samuel Bau

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, insert "SEE SCHEDULE" and attach schedule in Form E
 ** If space insufficient, continue over previous or additional pages in Form E

MACK

PAGE
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Page 2 of 4

COVENANT

WHEREAS:

A. The Transferor is the registered owner in fee simple of lands legally described as Parcel Identifier 004-918-487, District Lot 56, Nanoose District except parts in Plan 466R, 950R, 351RW, 6761, 18519, 2727, 25734, 39893 (herein called "the lands");

B. Section 215 of the Land Title Act, R.S.B.C. [1979] c.219 permits the registration of a covenant in a negative or positive nature in favour of a Regional District in respect of the use of land or the use of a building to be erected on land and the subdivision of land;

NOW THEREFORE IN CONSIDERATION OF the \$1.00 now paid by the Transferee to the Transferor and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Transferor covenants and agrees with the Transferee as follows:

- (1) The Transferor as registered owner in fee simple of the lands agrees that the lands shall be built upon and used only in accordance with this covenant and agreement.
- (2) The Transferor may use the lands in accordance with the bylaws of The Regional District of Nanaimo and all relevant legislation subject to Transferor obtaining all necessary approvals in order to provide the following services (herein called the "services and uses"):
 - (a) an Equestrian Riding Arena and Outdoor Jumping, Show and Rodeo Rings (the "Equestrian Facilities") and such uses as are accessory to and contained within such Equestrian Facilities including Public Assemblies, concessions, restaurants, tack and souvenir stores related to the permitted uses of the lands.
 - (b) a guest ranch for the provision of accommodation to guests on a temporary basis, ancilliary outdoor recreational facilities and such uses as are accessory to and contained within the guest ranch
 - (c) administration, operational and ancilliary

3

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facilities required for the operation of the Equestrian Facilities and the guest ranch including facilities for staff, students and employees accessory to and contained within the Equestrian Riding Arena and buildings associated with the Equestrian Riding Arena;

- (3) Notwithstanding any of the foregoing, the Transferor covenants and agrees that the Transferor shall not:
 - (a) in the guest ranch provide more than 75 hotel units for temporary guest accommodation;
 - (b) subdivide the land into strata lots pursuant to the Condominium Act, R.S.B.C. 1979, c.61, as amended from time to time or any Act or legislation in substitution thereof;
 - (c) use the Equestrian Facilities for horse racing or pari-mutual betting;
 - (d) construct or develop campground facilities on the lands or construct or develop hook-up facilities for campground use on the lands.
- (4) This covenant and agreement runs with the lands.
- (5) This covenant and agreement may be amended or modified by the agreement of both parties hereto from time to time in writing.
- (6) The Transferor shall release, indemnify and save the Transferee harmless from and against all actions, causes of actions, loss, damage, costs and demands whatsoever by any person, arising out of, or in any way due to the existence of, this covenant and agreement.
- (7) This covenant and agreement enures to the benefit of and is binding on the parties and their respective successors.
- (8) Every reference in this agreement to the Transferor or the Transferee includes the officers and employees of each party.
- (9) Whenever the singular or masculine is used in this covenant and agreement the same is deemed to include the

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4

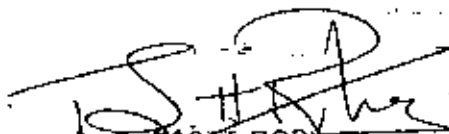
plural or body corporate as the context requires.

(10) Waiver of any default by the Transferee shall not be deemed to be a waiver of any subsequent default.

Officer's Signature


Execution Date
Y / M / D

Parties Signatures

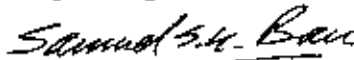


SCOTT RODVAT
BARRISTER & SOLICITOR
POST OFFICE BOX 874
QUALICUM BEACH, B.C.
752 5615 VOR 2T0

90	12	7
90	12	11

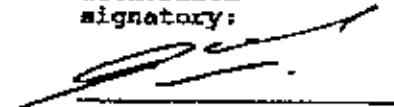

Denis Heppelle
A Commission for taking
affidavits for British Columbia
(as to both signatures)

ARBUTUS MEADOWS
INVESTMENTS INC. by
its authorized
signatory

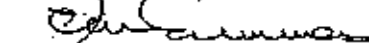


Samuel Bau

THE REGIONAL DISTRICT
OF NANAIMO by its
authorized
signatory:



Anton Kruyt
Deputy Chairman



Gordon Summers
Secretary

END OF DOCUMENT



5 Kite
Date _____
Signature _____

Application ED 129940
Land Title Office, Victoria, B. C.
Date 18/12/90

IN THE MATTER of the above application to register Covenant re:
District Lot 56, Nemosa District, except pts in Plans 466R, 950R, 351RW, 676L, 15519.
PID NO(s) 22727, 25734 and 39893
Sit/Hadam: 004 918 487

TAKE NOTICE that I refuse to affect registration in accordance with the tenor of the above application. My reason for such refusal and my requirements are as follows:

The transferors name does not agree with the name on title -
Arbutus Meadows Investments Inc. and Arbutus Meadows Investments Inc.
Item 2 - one of the Plan numbers appears incorrect, should be
22727.

12/28/90 H69136 DEFECT 10.00
12/28/90 H69136 F736 17 10.00
12/28/90 H69136 V010 10.00

Sec. 215 Covenant O.K'd by M. Frantz

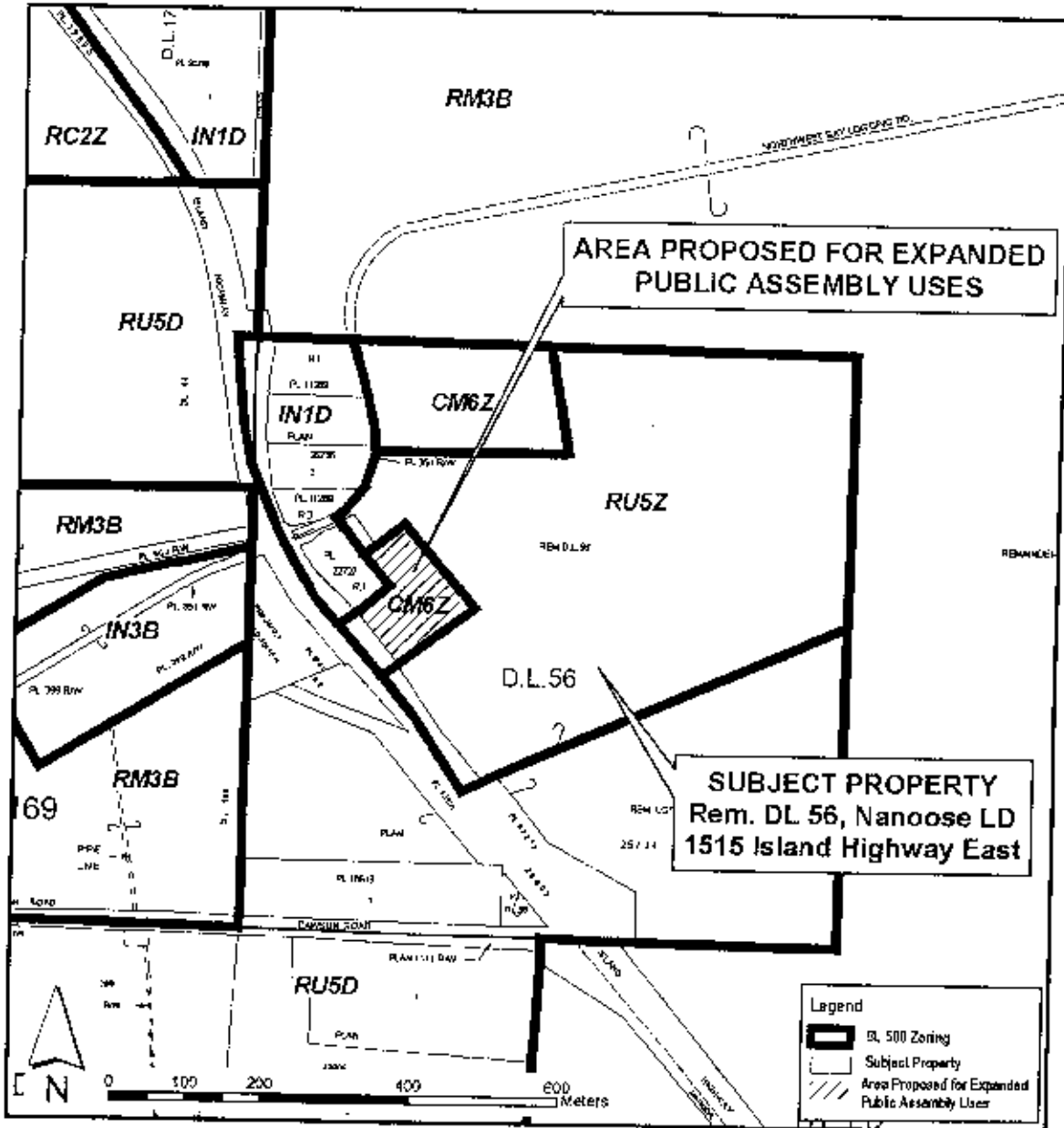
AND FURTHER TAKE NOTICE that under the provisions of Section 290 of the Land Title Act, this notice is deemed to have been received by you within ten days from the posting, which is the same as the date hereof; and that unless you comply with the provisions of Sections 288 and 289 of this Act, this application shall be deemed to be cancelled and void.

N.B. See print of Sections 288 and 289 on back hereof.
Fee for this notice, \$10.00.
Fee if application cancelled, \$10.00.

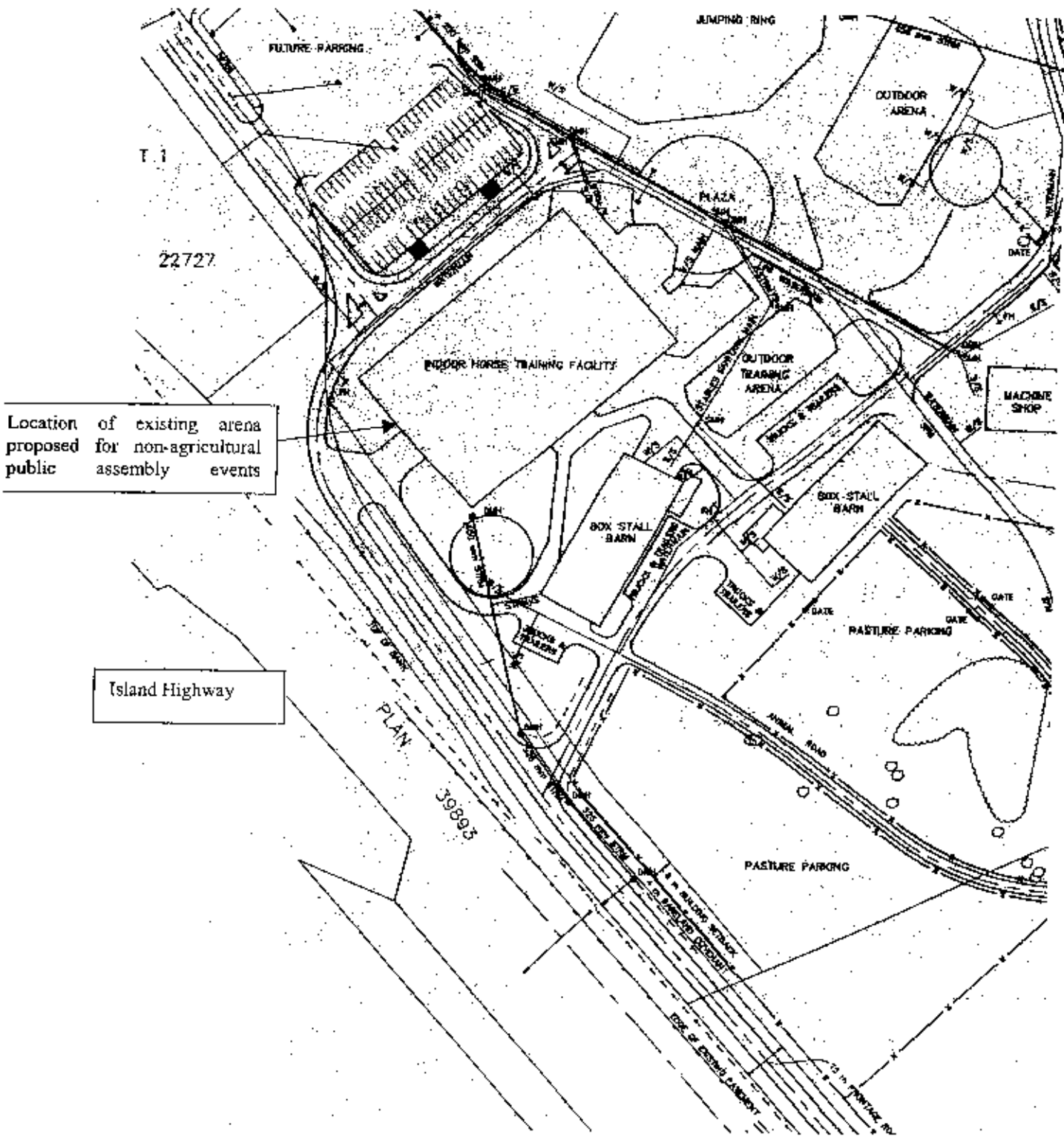
K.D. Jacques, Registrar
Per: AMO

TO: Clark and Company
P.O. Box 879
Qualicum Beach, B.C.
VR 2T0

ATTACHMENT NO. 1
Location of Subject Property



ATTACHEMENT NO. 2
Site Plan (excerpt only)
(As submitted by applicant)



Location of existing arena proposed for non-agricultural public assembly events

Island Highway

ATTACHMENT NO. 3
Summary of the Public Information Proceedings

Report of the Public Information Meeting

Held at Nanoose Place Multi-Use Room 1
2925 Northwest bay Road, Nanoose Bay, BC
August 6, 2003 at 7:00 pm

**Summary of the Minutes on Proposed Land Use Covenant
Amendment Application for District Lot 56, Nanoose District
Except Plan 466R, 950R, 351RW, 6761, 18519.**

Note: this summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments of those in attendance at the Public Information Meeting.

There were approximately 18 persons in attendance.

Present for the Regional District:

Director Pauline Bibby, Electoral Area 'E'
Robert Lapham, General Manager, Development Services
Keeva Kehler, Planner

Present for the Applicant:

Mr. Robert Bau, agent for applicant

Director Pauline Bibby opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting and introduced the head table. The Chairperson then introduced Mr. Rob Bau, agent on behalf of the applicant.

Keeva Kehler gave a brief overview of the proposal and the application process including the Agricultural Land Commission approval and condition that the non-equestrian events total less than 50% of the public assembly events held at the property.

The Chairperson then invited Mr. Rob Bau, agent on behalf of the applicant, to give a presentation of the proposed land use covenant amendment. Mr. Bau gave an overview of the proposal using overhead air photos and printed text listing the proposed public assembly uses.

Mr. Bau explained that the property is located at 1515 East Island Highway. Mr. Bau outlined the surrounding land uses and mentioned that the majority of adjacent uses are agricultural or industrial in nature. There is only one residential neighbour directly across from the arena. Some of the companies in close proximity to the subject property include Harvest Cedar homes, Hub City RV, Big Boy Toys, Beban Logging and Weyerhaeuser.

Mr. Bau then presented a history of the activities at the property. In 1991, they applied for a development permit to construct the equestrian centre. The arena is 200 feet by 300 feet and was developed in 1993. At the time there were existing barns and accessory buildings and an old residence. The hope was to develop a top-notch arena to serve as an amenity for the community.

Mr. Bau then discussed the proposal. He indicated that two portions of the property are currently zoned Commercial 6 (CM6) and that one of these areas is under application for the additional activities. At the moment, the uses are restricted to equestrian events only. Mr. Bau provided a definition of "public assembly use" from the Regional District of Nanaimo Subdivision and Land Use Bylaw No. 500, 1987. He then listed some examples of the uses that they were hoping to have in the arena. These uses included car/ truck/ boat shows, dog/ cat shows, Arenacross, BMX, paintball, indoor soccer, hobby/ leisure shows, religious assemblies.

Mr. Bau explained that the reason why they are requesting this change stems from the fact that the farm has been struggling financially. They have been there for 10 years now and conduct trail rides, grow hay, hold equestrian and agricultural events. The lot is large and the taxes and insurance costs are very high. It is tough to keep the farm going with limited number of events. Mr. Bau explained that he has had people approach him to hold these expanded events and he feels that the arena is currently being underused. The Agricultural Land Commission has granted approval for the expanded uses provided the equestrian events remain the predominant uses and the non-equestrian events total less than 50% of the events held. Mr. Bau stated that they wish to serve the horse community and that they want to remain a predominantly equestrian facility with more flexibility over permitted uses. Ministry of Transportation has also given them an approval and stated that they have no concerns with respect to access or parking for the expanded uses. They were required to put in a frontage road and create the intersection when the arena was constructed which was very costly. Mr. Bau stated that they have already done a lot of work to appease a lot of people.

Mr. Bau then discussed the benefits he felt the expanded uses would bring to the community. He stated that the arena is an amenity to the people without requiring civic taxpayer funding. The arena is privately set up. Mr. Bau would like to see more community events in the arena, which would allow them to upgrade the facility and provide better service to the community.

Mr. Bau stated that the current public assembly events draw people from all over BC and Alberta and Washington State. Many of the events are multi-day events and generate significant economic benefits in the community. Restaurants, accommodation providers such as hotels and motels, retail outlets and gas stations in the area all benefit from the extra business. The proposed events would happen mostly in the winter months when tourism is in a dry spell.

Mr. Bau closed his presentation by thanking people for the support he has received to date and thanked people for attending the meeting.

Chairperson Bibby then opened the floor for questions and comments.

Gabriel Cartledge, 2443 Garry Oak Drive, Nanoose Bay asked whom Mr. Bau was referring to when he said 'they' put a covenant on the property.

Mr. Bau answered that the Regional District of Nanaimo placed the restrictive covenant on the property.

Nelson Bradley, 2697 Beaver Creek Road, Nanaimo is a member of the Motocross Society which is a non-profit society that has been in operation in Nanaimo for 11 years. He stated that it would be a "dream

come true" for the society and its members if the arena could be used for motocross racing. He stated that the races are family oriented and that people come to Nanaimo from all over the world to attend their event in June. Expansion into such a facility would be great for the sport and the area. Approximately 300 riders and their families attended the event in Nanaimo in June. He stated that the event generated \$8 million in revenue for the community and provided an economic boost. Many of the riders in the community are very supportive of the expansion into this arena.

Bill Fisher, 1860 Ballenas Road said that he was recently camping at Miracle Beach close to the Saratoga Speedway and experienced significant noise levels from the racing and partying. He stated that he was concerned about the noise as he lives close to the facility.

Nelson Bradley addressed the question from the audience. He said that it is crucial to involve the neighbours and work closely with them for these events. Brannen Lake is currently where arena cross takes place but it is outside.

Mr. Fisher asked what will be happening outside the arena if this use is allowed to go ahead.

Mr. Bradley stated that absolutely nothing would occur outside. There are no drugs or alcohol tolerated. Motocross is an inherently dangerous sport and so there is no partying. It is a family event. Pit areas will be located inside.

Rob Galey, 4150 Blenkinsop Road, Victoria stated that he has dealt with similar events in identical buildings. From 150 feet away you cannot hear the noise from inside the building, but you can hear the traffic from the highway from 500 feet. The riders at the events are serious athletes and there is no outside riding.

Leonard Fong, 1680 Gerald Place asked a question about the 50% of events being restricted to equestrian events. Mr. Fong said that he is a motocross supporter.

Mr. Bau explained that the Agricultural Land Commission has limited the non-equestrian events to less than 50% of the total events to ensure that the equestrian use remains the predominant use.

Mr. Fong stated that he felt the arena had potential for a circuit series. The sport is expanding all the time and he was supportive of the use in the Arbutus Arena.

Farran Ferguson, Tourism Nanaimo, 923 Chelsea Place stated that he could attest to the amount of times Rob has had to say no to events. He is happy to endorse the proposal and lend his support to this sport tourism initiative. He stated that these types of events bring people to the area and promote the region. Mr. Ferguson stated that the \$8 million figure mentioned by Mr. Bradley is an actual figure. People will come to the events in poor weather because they are indoor events. Mr. Ferguson stated that he was at the meeting in an official capacity to state Tourism Nanaimo's support for the proposal.

Glen Cooper, 568 Hawthorne Rise stated that he supported the proposal. He asked if the ALC has permitted 50% of the events to be 'equestrian' or 'agricultural'?

Mr. Bau explained that they are permitted to hold both equestrian and agricultural events now.

Mr. Cooper supported the current and proposed events.

Mr. Bau reiterated the desire for Arbutus Meadows to remain primarily equestrian.

Terry Zutz, 1480 East Island Highway is the closest resident neighbour to the arena. Mr. Zutz stated that over the years they have witnessed many events at the arena and have never been bothered by noise. He felt that it was wasteful to leave the building empty and was supportive of the expansion of public assembly uses.

Marcus Hershad, 162 East Hoylake Road stated that he is supportive of the proposed amendment to permit the expansion of the public assembly uses.

The General Manager explained that this area is outside of the bulk water supply and is not eligible for hooking into that system.

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

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

The meeting concluded at 7.50 pm.

Keeva Kehler
Recording Secretary

ATTACHMENT NO. 4
Copy of ALC Approval Letter with
Respect to the Expanded Uses



Land Reserve Commission
Working Farms, Working Forests

March 6, 2003

Reply to the attention of Gordon Bednard

Culverden Holdings Ltd
1398 Madrona Drive
Nanoose Bay, BC V9P 9C9

Dear Dr. Samuel SK Bau:

Re: Application #S-34640
District Lot 56, Nanoose District, EXCEPT Parts in Plan 466R, 950R, 351RW, 6761,
1881B, 22727, 25734, 39893

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to use an existing indoor riding ring for non-farm activities when it is not being used for equine events and training. Such public assembly uses might include motocross racing, dog shows, RV, and car shows. You have stated that upgrades to the facilities financed by these non-farm users would aid in the development of agricultural uses such as farm markets, and agricultural expos. Revenue from non-farm events would also provide for the purchase of irrigation equipment and fertilization for the balance of the property. The application was submitted pursuant to section 20(3) of the *Agricultural Land Commission Act* (the "ALCA").

In accordance with section 25(5) of the ALCA, the Commission writes to advise that it approved your application subject to the understanding that agricultural/equestrian events are to remain the dominant use of the facility and that the number of non-agricultural events must number less than 50% of the special events hosted in the building. This conditional approval is also subject to compliance with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment. The Commission suggests you contact the Nanaimo Regional District at your earliest convenience.

The decision noted above is recorded as Resolution #51/2003.

Please quote your application number in any future correspondence.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

K. B. Miller, Chief Executive Officer

cc: Regional District of Nanaimo - Attn: Keeva Kehler (#6635-05-0221)
BC Assessment, Nanaimo
Arbutus Meadows, 1515 Island Highway E, Nanoose Bay, BC V9P 9A3

GB/v

ATTACHMENT NO. 5
Copy of MOT Letter of Approval with
Respect to Expanded Uses



VIA FAX: (250) 468-9489

File: 01 002 25144

May 27, 2003

Arbutus Meadows Equestrian Centre
1515 East Island Highway
Nanoose Bay BC V9P 9A3

Attention: Robert A.W. Bau, Manager

**Re: Non-Equestrian Events Adjacent to the Island Highway #19 within the Remainder
of Lot 1, District Lot 56, Plan 25734, and the Remainder of District Lot 56, all in
Nanoose District**

Thank you for your letter dated April 21st, 2003, which was received in this office on April 25th, 2003. I apologize for the lengthy delay in responding to your letter.

The Ministry of Transportation has reviewed your request to allow non-equestrian events on your property. We advise that we would have no objection to this change in the covenant registered against your property, subject to compliance with the Land Reserve Commission requirements, and the Regional District of Nanaimo approval. The property in question has ample on-site parking, and provided there is adequate on-site traffic control/marshalling, these events would not have an impact on the Island Highway #19.

If you require additional information regarding this matter, please do not hesitate to contact me by phone at (250) 390-6274, or via email at Debbie.O'Brien@gems9.gov.bc.ca.

Yours truly,

Handwritten signature of Debbie O'Brien.

Debbie O'Brien
District Development Technician

DLOV/25144

cc: Regional District of Nanaimo - At: Keeva Kehler (#6635-05-22)
Land Reserve Commission - At: Gordon Bednard (5/1/2003)



REGIONAL DISTRICT OF NANAIMO			
AUG 18 2003			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
			EAP ✓
			DATE:
			FILE:

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

FROM: Keeva Kehler
Planner

SUBJECT: Development Permit Application No. 60338 - Griffin
Electoral Area 'G' - Lot 3 Miller Road

DATE: August 15, 2003

FILE: 3060 30 60338

PURPOSE

To consider an application for a development permit with a variance to facilitate the construction of a single bay garage within the Sensitive Lands Development Permit Area pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998."

BACKGROUND

The 0.2 ha subject property, legally described as Strata Lot 3, District Lot 28, Nanoose District, Plan VIS4363, is located on Miller Road in the French Creek area of Electoral Area 'G' (see Attachment No. 1).

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirement for buildings in this zone are as follows: 8.0 m from the front lot line; 2.0 m from the interior side lot lines; 2.0 m from the rear lot line. The maximum accessory building height permitted is 6.0 metres above natural grade.

The site plan indicates the proposed garage height will be 9.1 metres, but this is based on the natural elevation being 0.9 metres above French Creek, therefore, the actual height of the building is proposed to be 8.2 metres above the natural grade. That is, due to the placement of fill on the property, the approximate height of the garage is proposed to be 4.0 metres above finished grade. The applicants are requesting to vary the maximum permitted height pursuant to Bylaw No. 500, 1987 as part of this application.

Although the property is contained within a Watercourse Development Permit Area pursuant to "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998", the proposed development is located beyond 30 metres from the natural boundary of French Creek and the applicant does not plan to remove any of the vegetation from the Watercourse Development Permit Area for the proposed construction. Therefore, the applicant does not require a Watercourse Development Permit.

Board approval is required for this development as the subject property is also within the Sensitive Lands Development Permit Area pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998." This Development Permit Area was established to protect the natural environment and to protect development from hazardous conditions and is designated over the entire parcel. The subject property is located within the French Creek floodplain; therefore, there is a flood hazard associated with the parcel. The garage is proposed to be located at the front end of the property adjacent to Miller Road as far away as possible from the natural boundary of French Creek.

Fill has been deposited on the parcel in the general location proposed for the garage. The Board issued Development Permit No. 0105 on April 11, 2001 for the construction of a dwelling unit on the parcel. The

Building Inspection Department required that a geotechnical report be registered on the Title prior to issuing occupancy for the dwelling. Approximately 3.6 metres of non-native fill were discovered on the property by Levelton Engineering Solutions during a site inspection on March 12, 2001. Building Inspection will either require a geotechnical report for the accessory structure or they may require that an engineer sign off on the foundation stating that the area is safe for the intended use despite the introduced fill. It can be expected that a similar depth of non-native soil will be encountered during construction for the garage.

As a requirement of the bare land strata subdivision, three covenants were registered on the Title of the parent parcel. Two of the three covenants were registered in favour of the Regional District of Nanaimo and the Crown Province (Ministry of Water, Land, and Air Protection). One covenant was required for the purposes of defining a flood construction elevation of 3.0 metres above the natural boundary of French Creek and the other two covenants restricted the removal of vegetation and the construction of buildings within the covenant areas. In addition to these, a building scheme, the geotechnical report for the dwelling and a five (5) metre wide easement are registered on the title of Strata Lot 3 (*see legal notations below*).

ALTERNATIVES

1. To approve the Development Permit Application No. 60338 subject to the conditions outlined in Schedule Nos. 1, 2, 3, and 4.
2. To deny the requested development permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested development permit would permit the construction of a single bay garage at the front of the parcel (*see Schedule No. 3*).

There is a flood hazard associated with this property. As the subject property is located within the Building Inspection area "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" applies. However, the garage is exempt from meeting the flood construction elevations as required by Bylaw No. 843. In addition to the bylaw requirements, there is a covenant defining the flood construction elevation, which has been registered on Title. The covenant specifies that no area used for storage of goods damageable by floodwaters shall be located at an elevation that is less than 3.0 metres above the natural boundary of French Creek. Due to the introduced fill on the property, the proposed development meets this flood construction elevation requirement.

Due to the nature of the development in the area, the proposed height variance is not expected to have any negative impacts on the views from neighbouring lots. The dwellings across the street are constructed at a higher elevation than the subject property. The elevation of the garage will actually be approximately 4 metres above the existing ground. In staff's opinion, the site-specific constraints created by the substantial amounts of introduced fill limits alternatives to the requested variance.

ENVIRONMENTAL IMPLICATIONS

The applicants are proposing to locate the garage towards the front of the parcel, thereby reducing any potential negative impacts on French Creek. The area has already been cleared and developed for residential purposes and the applicants are not proposing to remove any additional native vegetation for the proposed garage development. Due to the proximity of the property to French Creek, sediment and erosion control measures will be required during construction to ensure that no deleterious substances enter the waters of French Creek. In

staff's opinion, there will be no additional environmental impacts on French Creek or the property from the proposed construction.

The amount of fill tapers off towards the rear of the lot, which would reduce the need for a variance to height in this location, but the applicants would then be encroaching into the Watercourse Development Permit Area and increasing the potential risk for environmental impacts on French Creek.

VOTING

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

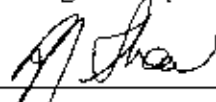
SUMMARY/CONCLUSIONS

This is an application to permit the construction of a single bay garage within a Sensitive Lands Development Permit Area pursuant to the French Creek Official Community Plan. The entire parcel is located within the Development Permit Area; therefore, there are no means to reduce or eliminate the encroachment into the Development Permit Area. There is a flood hazard associated with this parcel; however, the garage will be located 3.0 metres above the natural boundary of French Creek. The proposed building site, which is on the northeast portion of the parcel, contains a substantial amount of introduced soil and fill materials. As a result extensive excavation will be required to undertake this development; therefore, sediment and erosion control measures must be utilized during the proposed construction works. In addition, the Building Inspection Department will require either a geotechnical report or an engineer's sign off on the foundation prior to issuing an occupancy permit for the garage.

As there is no building site available outside the Development Permit Area and the applicant is proposing to locate the garage as far from the natural boundary of French Creek as possible, while still meeting front lot line setbacks, staff recommends approval of the application subject to sediment and erosion control measures during construction.

RECOMMENDATION

That Development Permit Application No. 60338 submitted by Henry and Heather Griffin, to construct a single bay garage in a Sensitive Lands Development Permit Area pursuant to the Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998 and to vary the maximum permitted height for an accessory building from 6.0 metres to 8.2 metres for the property legally described as Strata Lot 3, District Lot 28, Nanoose District, Plan VIS4363 be approved, subject to the conditions outlined in Schedule Nos. 1 to 5 of the corresponding staff report and notification requirements pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60338**

The following conditions are to be completed as part of Development Permit Application No. 60338

1. Covenants

- a.) No vegetation removal is to occur in the Watercourse Development Permit Area without written permission from the RDN.
- b.) No construction or alteration of land is to occur in the covenant areas without written consent from the RDN and the Ministry of Water, Land and Air Protection.

2. Sediment and Erosion Control

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 the following:

- 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 the works;
- c.) Cover temporary fill or soil stockpiles with polyethylene or tarps.

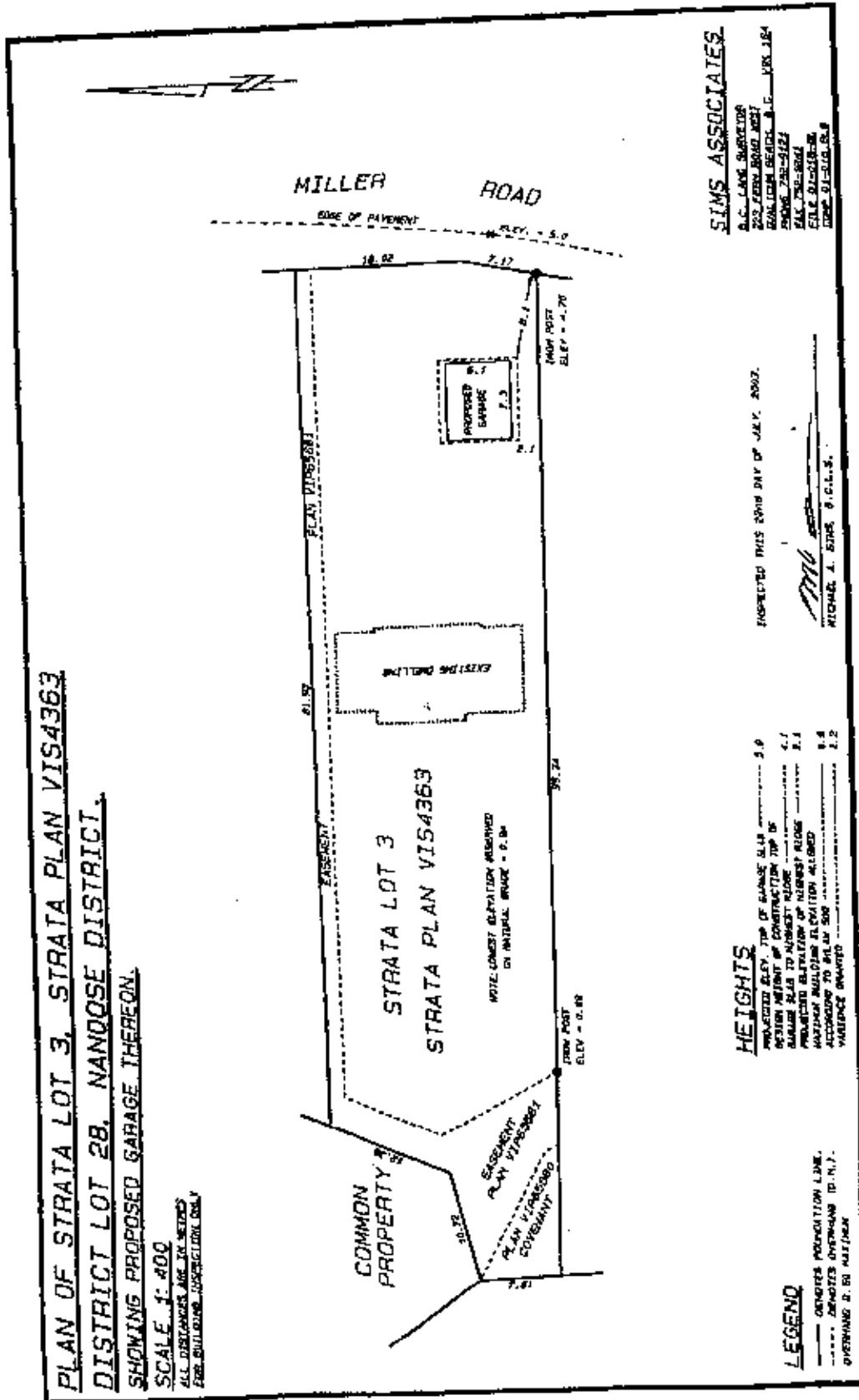
3. Drainage Mitigation

Drainage from perimeter drains and roof leaders is to be directed into a rock drainage pit/ settlement pond for energy dissipation and infiltration and no surface drainage is to be directed into the waters of French Creek

4. Development of Site

- a.) The subject property is to be developed in accordance with Schedule Nos. 1, 2, 3, 4 and 5.
- b.) All construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Subdivision and Land Use Bylaw No. 500, 1987."

Schedule No. 2
 Site Plan
 Development Permit Application No. 60338
 (As Supplied by Applicants)



**PLAN OF STRATA LOT 3, STRATA PLAN VIS4363
 DISTRICT LOT 28, NANOOSE DISTRICT,
 SHOWING PROPOSED GARAGE THEREON.**

SCALE: 1:400
 ALL DISTANCES ARE IN METERS
 FOR BUILDING CONSTRUCTION ONLY

SIMS ASSOCIATES
 A.C. LANE, SURVEYOR
 203 FERN ROAD WEST
 NANAIMO, B.C. V9S 1E4
 PHONE: 785-9124
 FAX: 785-5843
 E-MAIL: alane@simc.bc.ca
 DATE: 01-20-03

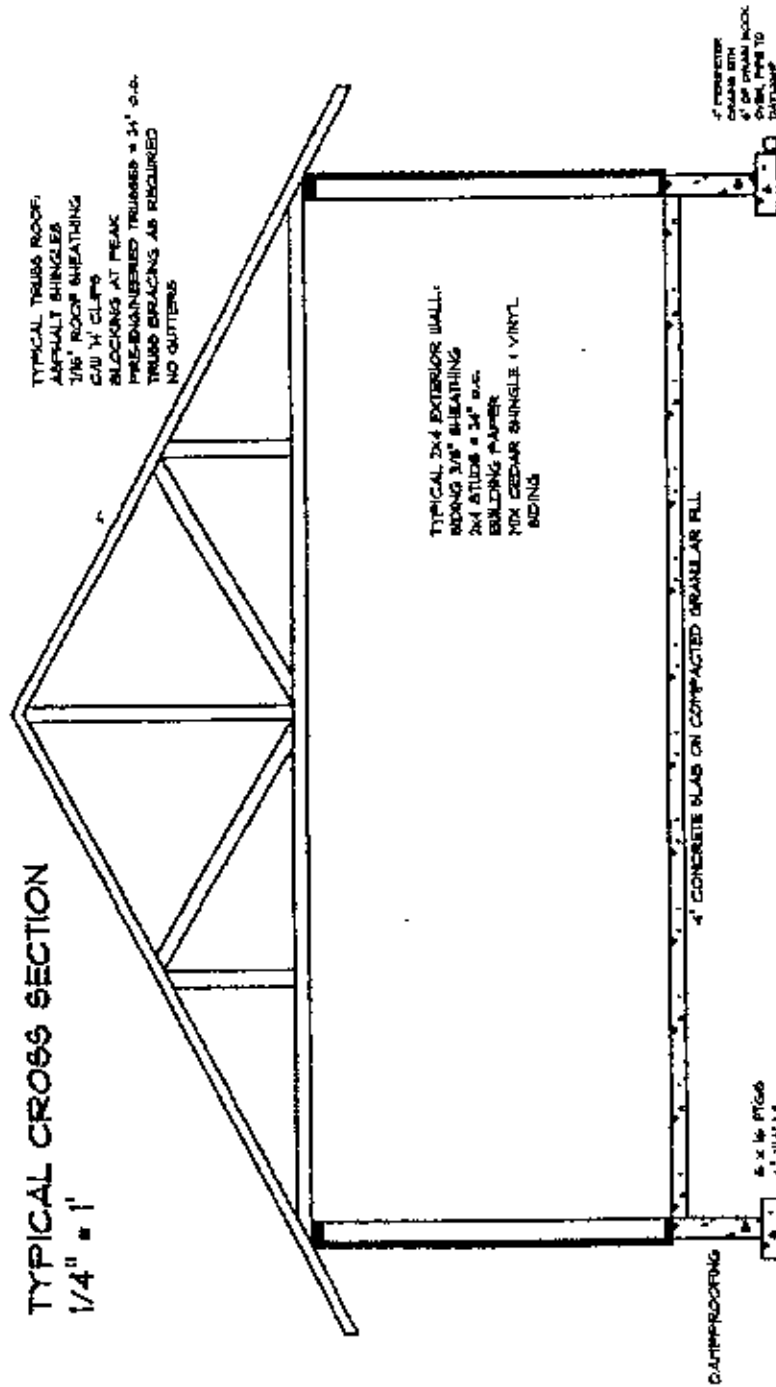
PROPOSED THIS 20th DAY OF JULY, 2003.
 RICHARD J. SIMS, P. ENG.
 (Signature)

HEIGHTS

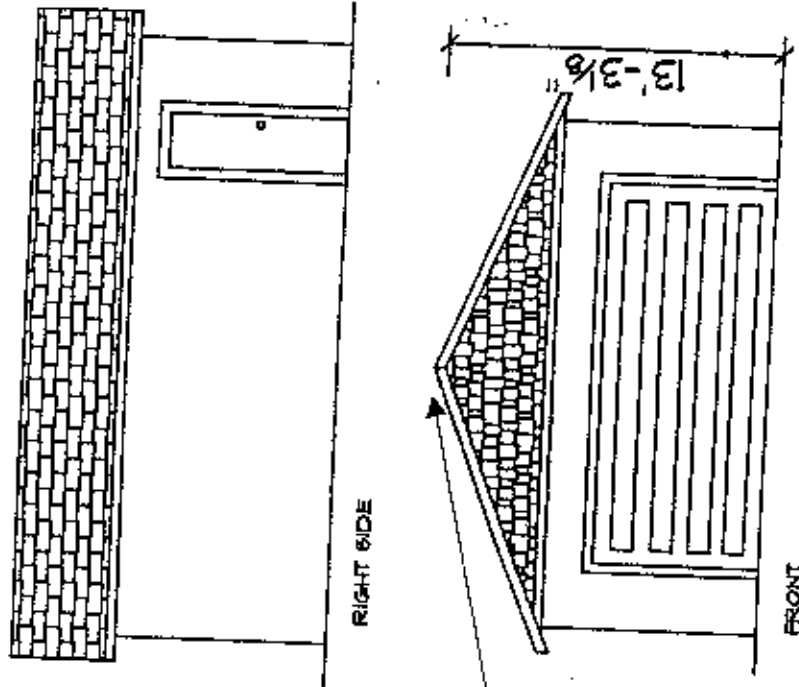
PROPOSED ELEV. TOP OF GARAGE SLAB	5.0
PROPOSED ELEV. TOP OF CONSTRUCTION TOP OF EXISTING BUILDING	4.1
PROPOSED ELEV. TOP OF GARAGE SLAB TO ALLOW FOR ROOF RISE	5.1
PROPOSED ELEVATION OF FLOOR ALLOWED	5.4
FINISH FLOOR ELEV. OF EXISTING BUILDING	5.4
FINISH FLOOR ELEV. OF PROPOSED GARAGE	2.2

LEGEND
 --- BOUNDARY OVERLAP LINE
 - - - - - DEMOTES OVERLAP TO N.Y.
 - - - - - OVERLAP TO SO ALLIANCE

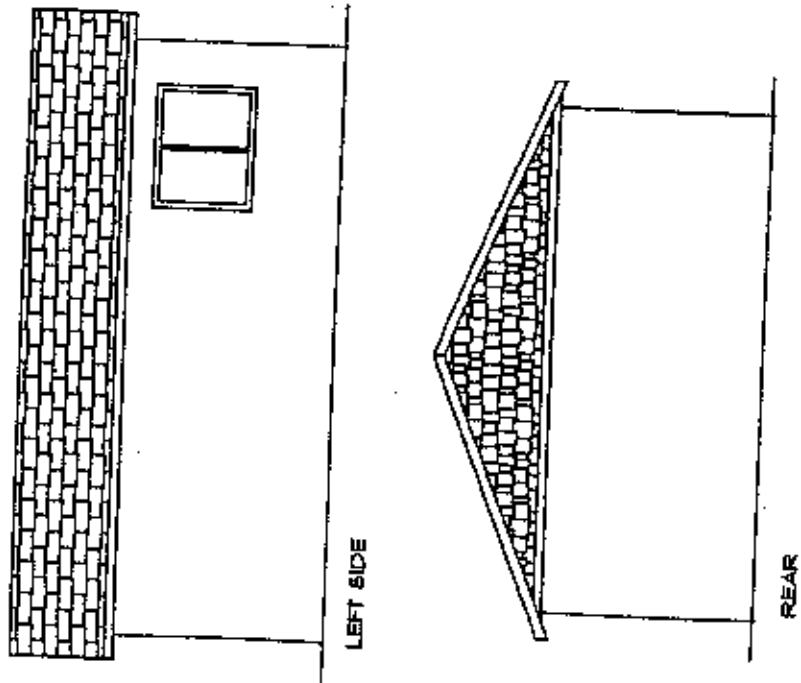
Schedule No. 3
Building Profile
Development Permit Application No. 60338
(As Supplied by Applicants)



Schedule No. 4
Building Profiles
Development Permit Application No. 60338
(As Supplied by Applicants)



Requested variance for height from 6 m to 8.2 metres above natural grade due to introduced fill on the lot

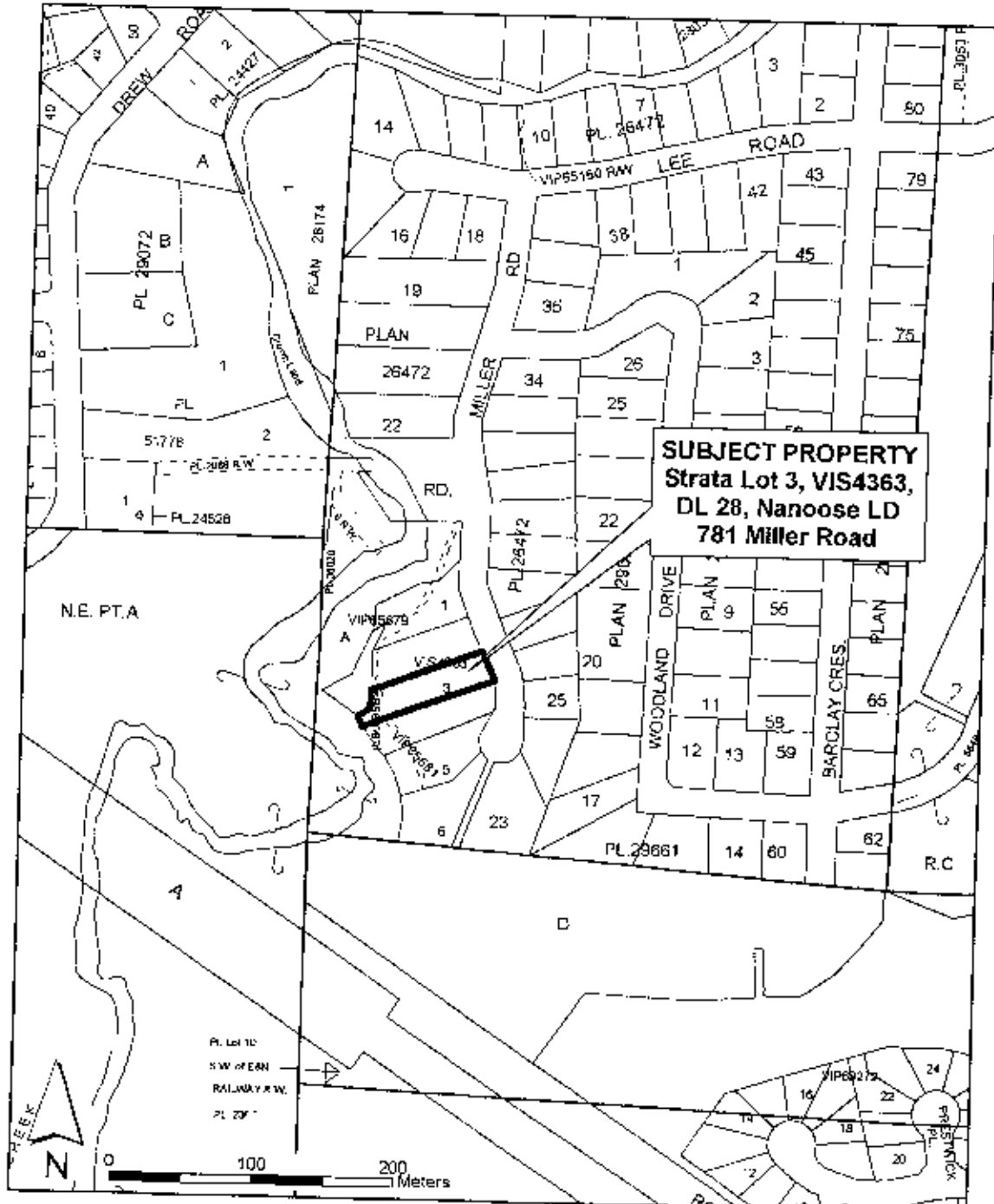


**Schedule No. 5
Requested Variance
Development Permit Application No. 60338**

With respect to the lands, the following variance to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is proposed as part of this Development Permit Application:

Section 3.4.61 Maximum Accessory building height is proposed to be varied from 6.0 metres to 8.2 metres to facilitate the construction of a single bay garage.

Attachment No.1
Development Permit Application No. 60307
Subject Property Location
(Attached for Convenience only)
Development Permit No. 60338
Subject Property



SUBJECT PROPERTY
Strata Lot 3, VIS4363,
DL 28, Nanoose LD
781 Miller Road



REGIONAL DISTRICT OF NANAIMO		
AUG 18 2003		
CHAIR		GMCrS
CAO		GMDS
GMCms		GMES
EAP ✓		

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: August 15, 2003

FROM: Deborah Jensen
Planner

FILE: 3060 30 60339

SUBJECT: Development Permit Application No. 60339 - Thompson
Electoral Area 'G' - Miller Road

PURPOSE

To consider an application for a Development Permit pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998" Sensitive Lands Development Permit Area to facilitate the construction of a single dwelling unit, accessory building and retaining wall. This application includes a request to vary the maximum permitted height for the dwelling unit and accessory building, and vary the minimum permitted setback for the retaining wall.

BACKGROUND

This is an application to facilitate the development of a single dwelling unit, accessory building, and retaining wall on a residential property located in French Creek (see Attachment No. 1). The subject property, legally described as Lot 21, District Lot 28, Nanoose District, Plan 26472, is a 0.3-hectare parcel sited along Miller Road.

Zoning and Proposed Variances

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the rear lot line and interior side lot lines; and 5.0 metres from other lot lines. The maximum height within this zone is 8.0 metres for dwelling units and 6.0 metres for accessory buildings. The property is also located within a building inspection area; therefore, the "Floodplain Management Bylaw" (RDN Bylaw No. 843) applies to this property. In this instance, the floodplain setback from French Creek is 30.0 metres, and the flood level is set at 3.0 metres above the natural boundary of the creek. Staff notes that the proposed construction is located more than 40.0 metres from French Creek, and that the proposed construction has been designed to meet flood levels (therefore meeting the requirements of Bylaw No. 843).

The siting and dimensions of the dwelling unit and accessory building are shown in Schedules No. 2 and 3. The applicants are proposing to construct a single dwelling unit, with the detached garage (ie. the accessory building) being constructed at a later date. The required septic system will be located at the front of the parcel to maximize the distance between the septic field and French Creek. A concrete retaining wall will be constructed parallel to the northern interior side lot line to retain the fill required for construction, with existing vegetation being retained to reduce the visual impact of the retaining wall and other construction from the adjacent property. Due to the architectural design and the necessity to place

fill such that the structures meet flood level requirements, the applicants are requesting a proposed variance to the maximum permitted height of a single dwelling unit from 8.0 metres to 8.9 metres, and to the maximum permitted height of an accessory building from 6.0 metres to 6.3 metres. A request is also being made to reduce the minimum permitted setback from an interior side lot line from 2.0 metres to 0.9 metres for construction of the retaining wall.

Development Permit Requirements

The subject property is located within two development permit areas.

The property is subject to a Watercourse Development Permit Area pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998." No variances are required that are applicable to this Development Permit Area as the proposed structures are located more than 40.0 metres from French Creek. While the applicant is proposing to remove several piles of woody debris, scrap metal and garbage within the western portion of the subject property, as noted on *Schedule No. 2*, there is no intention to remove any natural vegetation.

The entire subject property is also located within the Sensitive Lands Development Permit Area, which is intended to address flood prone lands, protect the natural environment, and protect development from hazardous conditions. The proposed construction meets the required flood construction elevation and setbacks, and does not appear to add to the flood hazard. However, given that the property is located in a hazardous lands DPA, Board approval is required to permit the proposed development.

Legal Notations

A restrictive covenant is registered to the title of the property addressing the protection of French Creek from any pollution originating on the subject property. A notation for a building scheme is also registered to the title of the subject property; however, it should be noted the RDN does not enforce building scheme covenants and it is the responsibility of the property owner to ensure any development meets the requirements of this building scheme.

ALTERNATIVES

1. To approve Development Permit No. 60339 subject to the conditions outlined in Schedules No. 1, 2 and 3.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested permit would allow the construction of a dwelling unit, accessory building and retaining wall as shown on Schedules No. 1 to 4, *as attached*. As the parcel is located within the RDN Building Inspection area, the "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" applies and requires the dwelling unit be raised 3.0 metres above the natural boundary of French Creek, and that the area below shall not be habitable. As a result, it is difficult to accommodate the proposed dwelling unit and accessory building without a variance to the height of the structures. Placement of the required fill also necessitates the construction of a retaining wall to retain fill and reduce the potential for sloughing onto the adjacent property.

The retaining wall will be sited away from the natural boundary of French Creek and should not have any impact on the remaining riparian area or result in an additional flood hazard. Due to the placement of fill on the site and the location of the subject property within the Sensitive Lands Development Permit Area, staff recommends that a geotechnical report be required as part of the building permit during the construction stage.

The proposed structures will be visible from neighbouring parcels. However, that property located across Miller Road is at a substantially higher elevation from the proposed construction, and the potential visual impact of the requested height variance to other residences should be reduced through retention of existing vegetation.

ENVIRONMENTAL IMPLICATIONS

The subject property is relatively flat, sloping slightly downward from south to north, and from east to west. The western portion of the parcel that is adjacent to French Creek contains native mature vegetation and understory, including several large mature cedar, balsam and maple trees. The applicants have indicated they are not intending to remove any of this vegetation, but intend only to remove several piles of wood debris, scrap metal and garbage located on the parcel, thus resulting in the retention of a riparian buffer between the proposed development and French Creek.

The proposed location for the dwelling unit, accessory building and retaining wall is located more than 40.0 metres from the natural boundary of French Creek. However, as previously noted, due to the flood hazard associated with the location of the subject property and the necessity to place fill on the parcel, staff recommends that a geotechnical report be required as a condition of approval. This report should include statements outlining mitigation strategies with respect to the natural hazard and vegetation protection, and retention measures. As well, the report should address any requirements for sediment and erosion control measures, including perimeter drainage, detention ponds, and/or rock pits.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a development permit within the French Creek Official Community Plan, Bylaw No. 1115, 1998 Sensitive Lands Development Permit Area. The application includes a request to vary the maximum permitted dwelling unit height from 8.0 metres to 8.9 metres, to vary the maximum permitted accessory building height from 6.0 metres to 6.3 metres, and to vary the minimum setback requirement from 2.0 metres to 0.9 metres for construction of a retaining wall. As the entire property is located within the Development Permit Area, there is no opportunity to reduce encroachment into the Permit Area. The placement of fill due to floodplain requirements further necessitates the need for height variances and construction of a retaining wall.

Therefore, based on site constraints and the minimal impact of construction on adjacent properties, staff recommends the requested Development Permit be approved subject to the conditions outlined in Schedule Nos. 1, 2 and 3 of this report and subject to notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

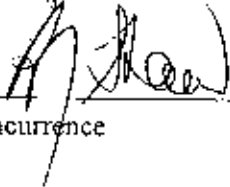
That Development Permit Application No. 60339, submitted by K.G. Kyler, Agent, on behalf of Audrey Thompson and Dale Thompson, to facilitate the development of a single dwelling unit, accessory building and retaining wall, and vary the maximum height of buildings and minimum setback requirements within the Residential 1 (RS1) zone as set out in Schedule Nos. 1, 2 and 3 of this staff report, for the property legally described as Lot 21, District Lot 28, Nanoose District, Plan 26472, be approved as submitted subject to the notification requirements pursuant to the *Local Government Act*.



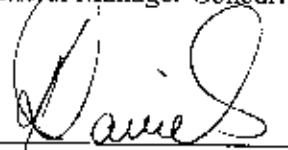
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60339**

Construction

1. Submission of a Health Permit, as issued by the Ministry of Health, for the septic system.
2. The subject property is to be developed in accordance with Schedules No. 1, 2 and 3 of this staff report.
3. Submission of engineered drawings, as required by the RDN Building Inspection, for construction of the retaining wall.
4. A geotechnical report outlining mitigation strategies with respect to the natural hazard and vegetation protection and retention measures is required to be registered on title prior to the RDN Building Inspection Department issuing an occupancy permit. The geotechnical report should also address any requirements for sediment and erosion control measures, including perimeter drainage, detention ponds, and/or rock pits.

Vegetation

5. The subject property shall be replanted with vegetation consisting of native species within disturbed areas.
6. No removal of vegetation shall occur along interior side lot lines where vegetation creates a hedge between the subject property and adjacent properties.
7. No vegetation removal shall occur within the 30-metre leave strip of the Watercourse Protection Development Permit Area without written permission from the RDN.

Sediment and Erosion Control

8. 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 the works; and
 - c) Cover temporary fill or soil stockpiles with polyethylene or tarps.

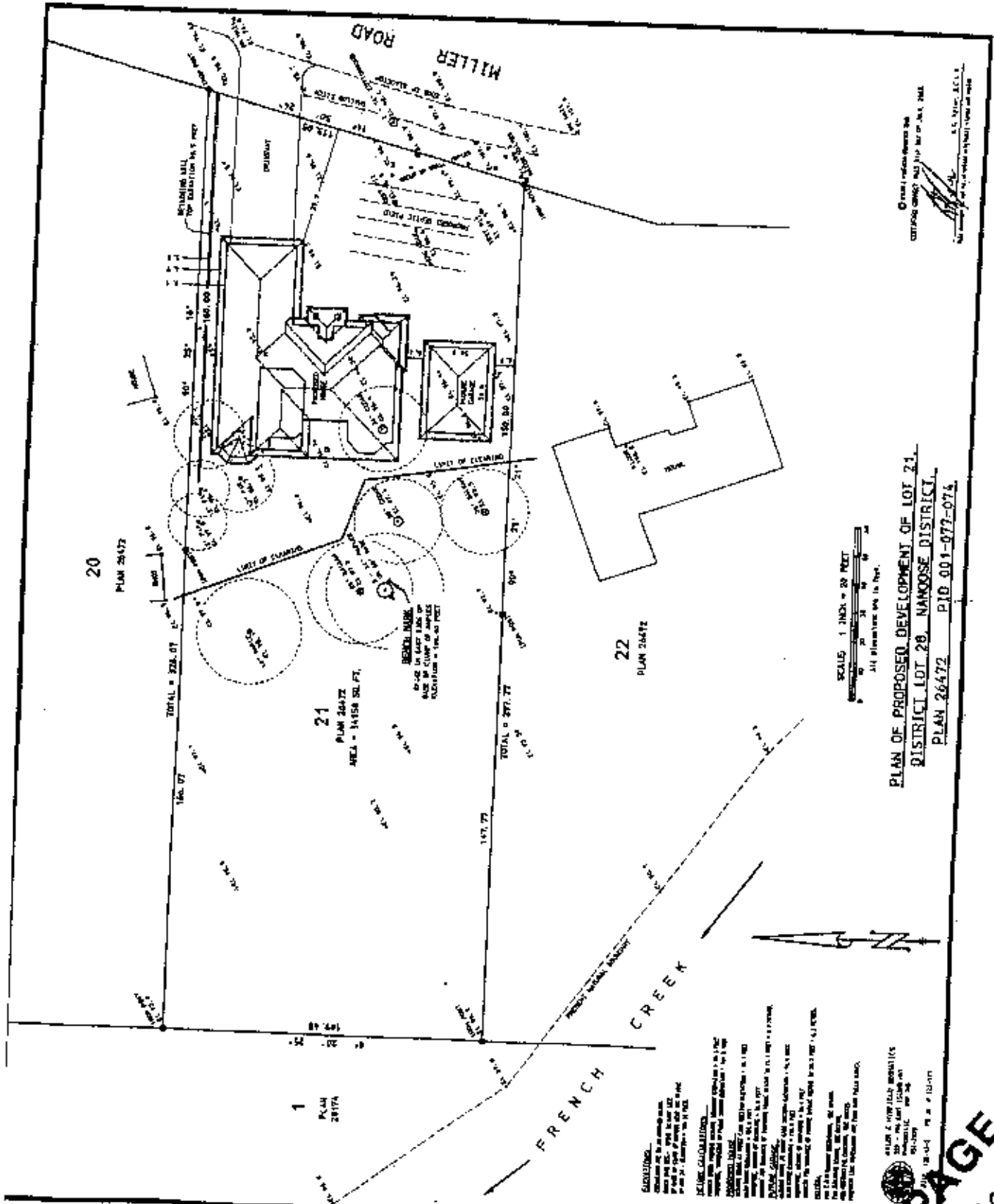
**Schedule No. 2
Proposed Variances
Development Permit Application No. 60339**

Variances

The following variances are approved based upon completion of the above-noted conditions:

1. Relaxation of the maximum dwelling unit height from 8.0 metres to 8.9 metres to facilitate the construction of a dwelling unit;
2. Relaxation of the maximum accessory building height from 6.0 metres to 6.3 metres to facilitate the construction of an accessory building; and
3. relaxation of north interior side lot line from 2.0 metres to 0.9 metres to facilitate the construction of a retaining wall.

Schedule No. 3
Survey Plan
(As Submitted by Applicant)
Development Permit Application No. 60339



© 1997, 1998, 1999, 2000, 2001, 2002, 2003
 CUTTING SHEET: 1/2" x 11" (1/4" x 11")
 U.S. MAP, 2001, 2002, 2003
 ALL DIMENSIONS ARE IN FEET

SCALE: 1 INCH = 20 FEET
 ALL DIMENSIONS ARE IN FEET

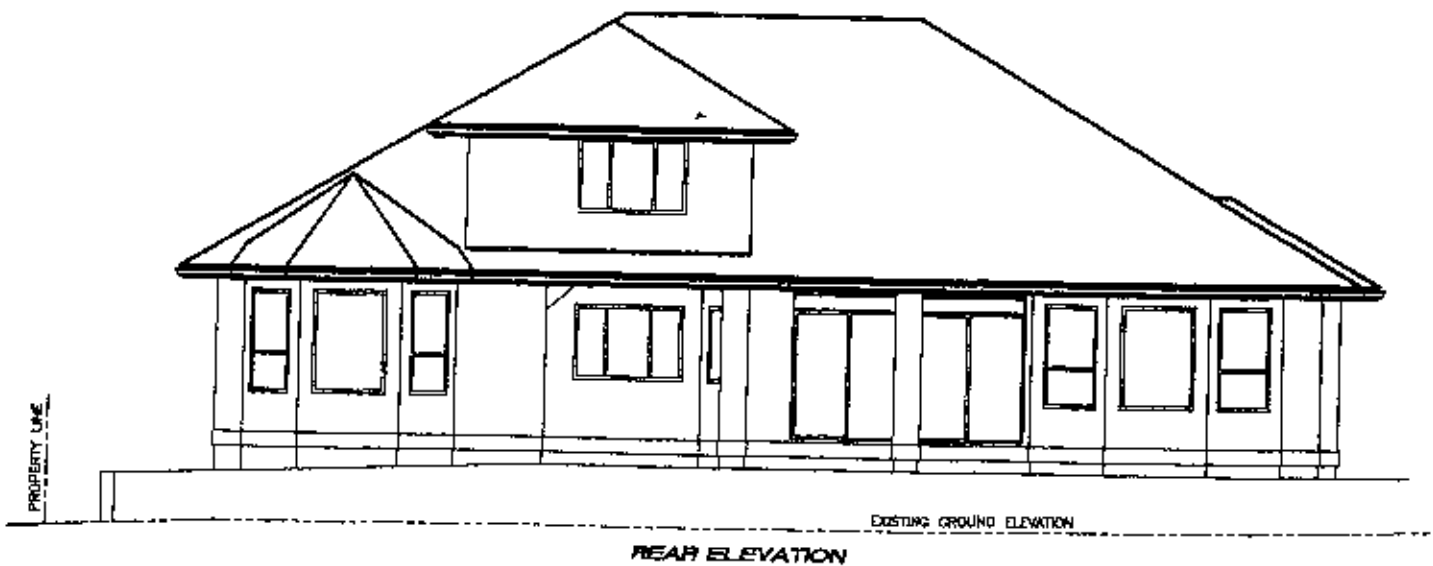
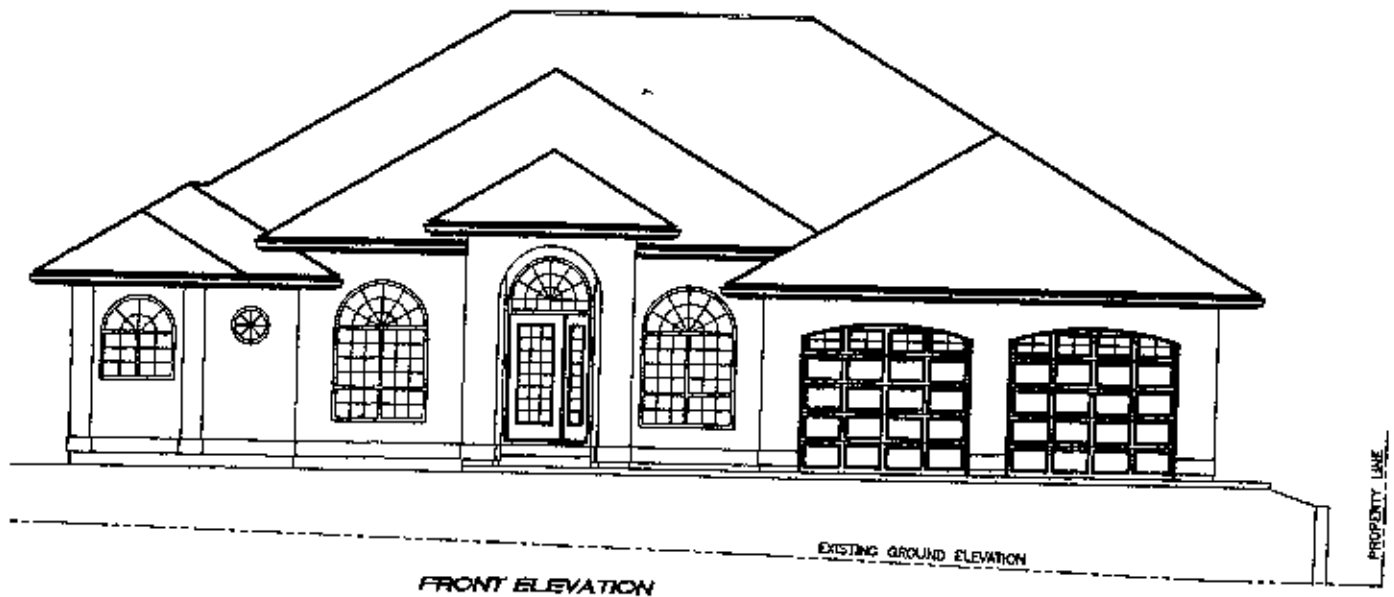
PLAN OF PROPOSED DEVELOPMENT OF LOT 21,
 DISTRICT LOT 20, NANKOSE DISTRICT,
 PLAN 26472 P10 001-877-074

SURVEYOR'S NOTES:
 1. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACT, R.S. 24:51, 24:52, 24:53, 24:54, 24:55, 24:56, 24:57, 24:58, 24:59, 24:60, 24:61, 24:62, 24:63, 24:64, 24:65, 24:66, 24:67, 24:68, 24:69, 24:70, 24:71, 24:72, 24:73, 24:74, 24:75, 24:76, 24:77, 24:78, 24:79, 24:80, 24:81, 24:82, 24:83, 24:84, 24:85, 24:86, 24:87, 24:88, 24:89, 24:90, 24:91, 24:92, 24:93, 24:94, 24:95, 24:96, 24:97, 24:98, 24:99, 24:100.

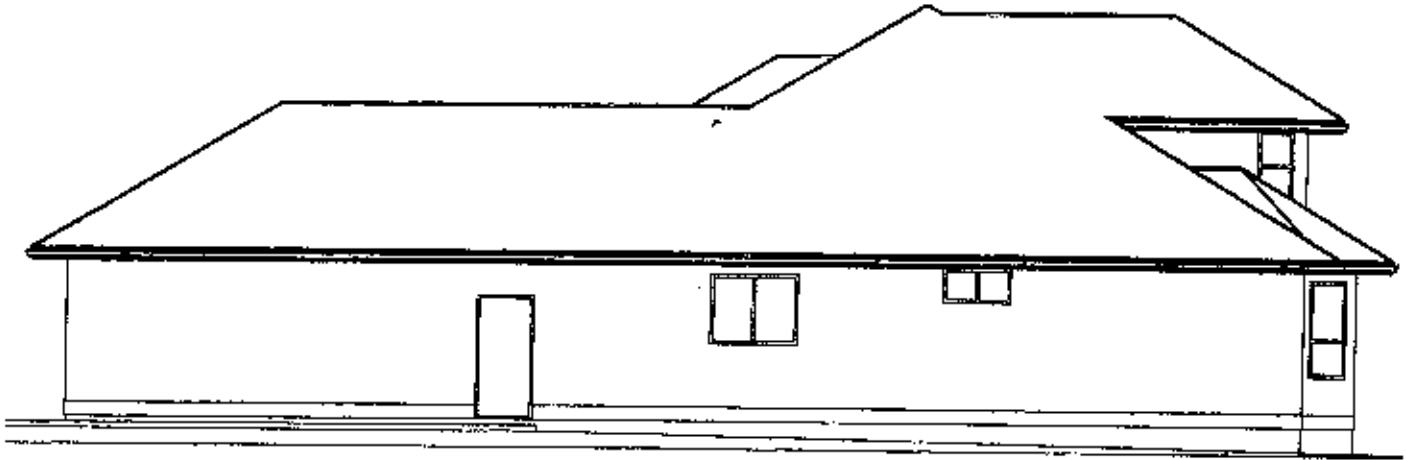
ALLIANCE SURVEYING & MAPPING
 10101 W. 10th Street, Suite 100
 Minneapolis, MN 55426
 612-835-1111
 612-835-1112
 612-835-1113
 612-835-1114
 612-835-1115
 612-835-1116
 612-835-1117
 612-835-1118
 612-835-1119
 612-835-1120

PAGE
 40

Schedule No. 4
Building Profile
(As Submitted by Applicant)
Development Permit Application No. 60339
Page 1 of 3



Schedule No. 4
Building Profile
(As Submitted by Applicant)
Development Permit Application No. 60339
Page 2 of 3



EXISTING GROUND ELEVATION

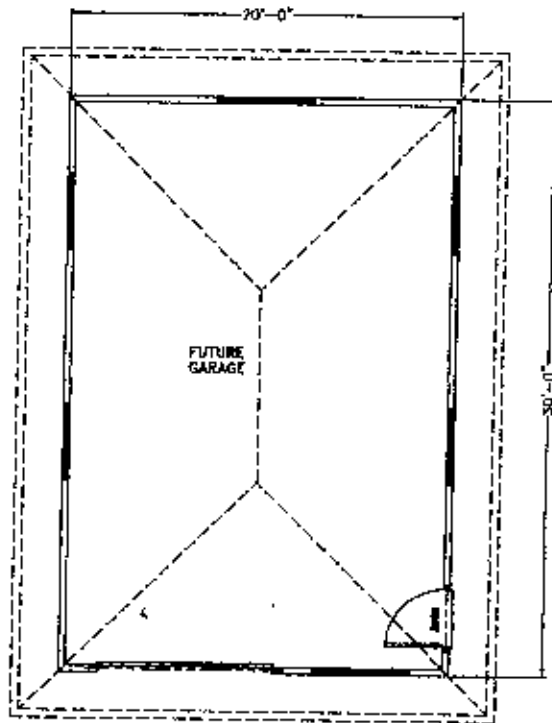
RIGHT ELEVATION



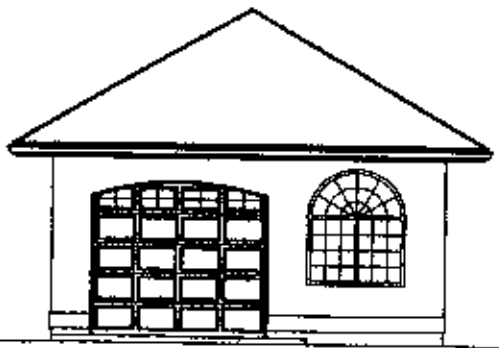
EXISTING GROUND ELEVATION

LEFT ELEVATION

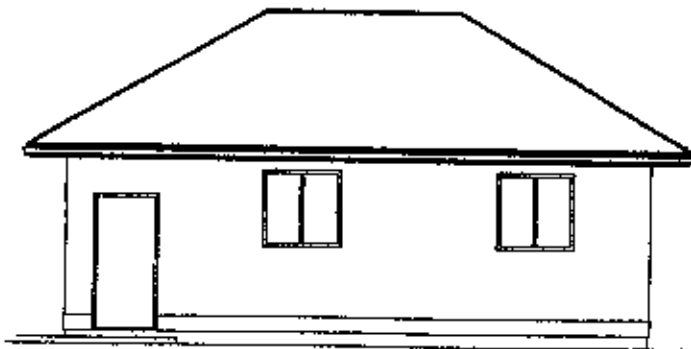
Schedule No. 4
Building Profile
(As Submitted by Applicant)
Development Permit Application No. 60339
Page 3 of 3



FLOOR PLAN

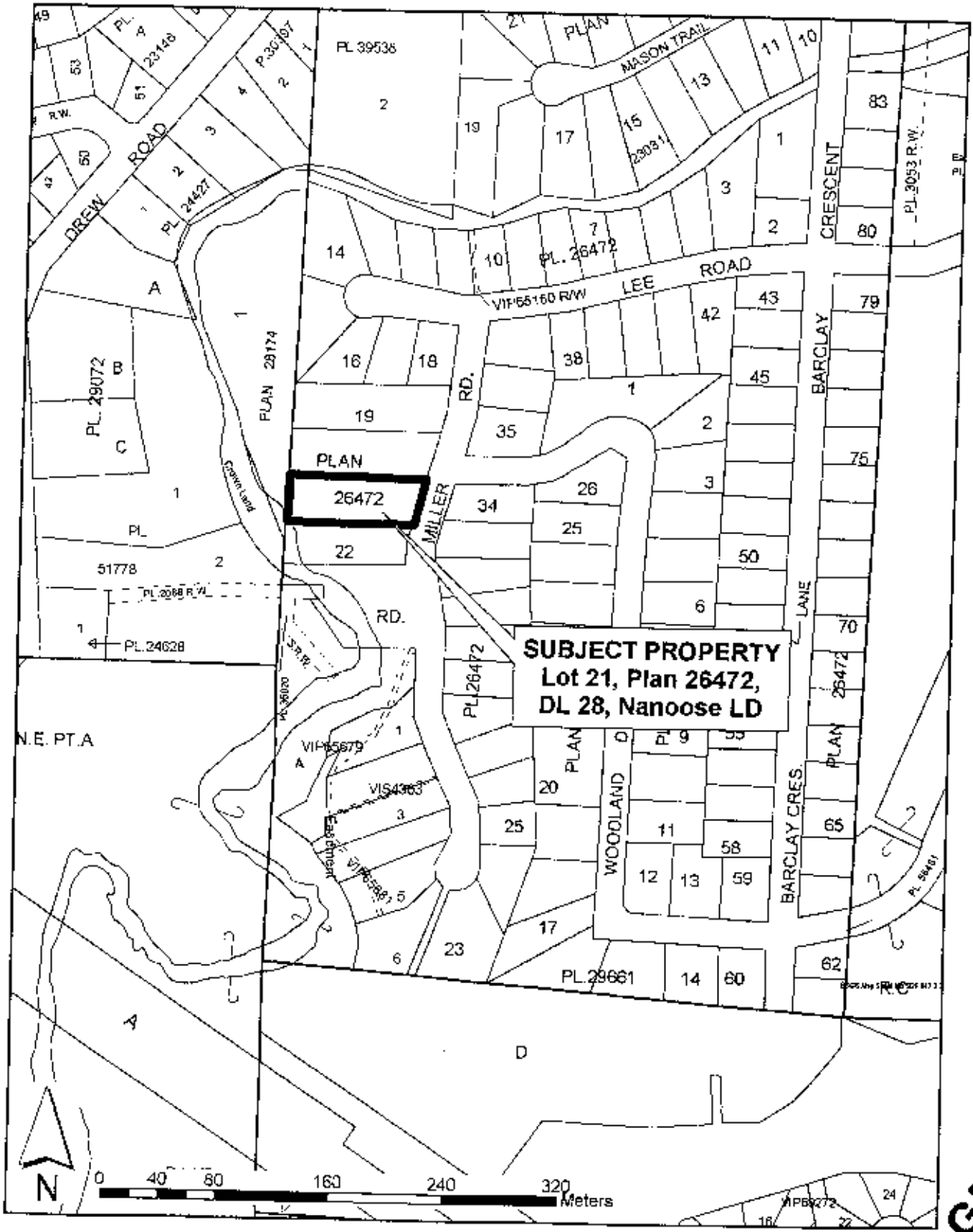


EXISTING GROUND ELEVATION
FRONT ELEVATION



EXISTING GROUND ELEVATION
LEFT ELEVATION

Attachment No. 1
Subject Property Map



EAP. L

REGIONAL DISTRICT
OF NANAIMO

AUG 19 2003



REGIONAL
DISTRICT
OF NANAIMO

CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
EAP ✓	

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: August 15, 2003

FROM: Brigid Reynolds
Planner

FILE: 3060 30 60340

SUBJECT: Development Permit Application No. 60340 – Kyler & Myrfield Geomatics Ltd., on behalf of Astrakan
Electoral Area 'H' – Widgeon Road

PURPOSE

To consider an application for a development permit to facilitate a 2-lot subdivision on a parcel designated within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas.

BACKGROUND

The subject property, legally described as Lot 4, District Lot 89, Newcastle District, Plan 1886 is located at Widgeon Road in Electoral Area 'H' (See Attachment 1 for location). The property is currently zoned Rural 1 (RU1) and is within Subdivision District 'D' (minimum parcel size 2.0 ha with or without community services) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant, at this time, is proposing to subdivide the property into 2 parcels, both greater than 2.0 ha in parcel size, therefore meeting the minimum parcel size requirement of Bylaw No. 500 (Schedule No.2 for proposal).

Pursuant to the "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996", the subject property is designated within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas (DPA), which was established for, in this case, protection of development from the steep slope located on the parcel adjacent to the Strait of Georgia and for the protection of the natural environment. As the applicant is proposing a subdivision, which includes a proposed lot line crossing the development permit area, a development permit is required.

The subject property is bordered by Widgeon and Oakdowne Roads to the south and east, rural zoned property to the west, and the Strait of Georgia to the north. The subject property contains a steep bank approximately 30.0 metres in height and with a slope ranging from near vertical to approximately 45%. The steep slope is well vegetated with mature conifers and thick undergrowth. There are indications that the bank has experienced some sloughing. A large area at the top of bank of proposed Lot A has previously been cleared of vegetation. Proposed Lot B is undeveloped and well vegetated with mature vegetation.

The property, which is outside of a Building Inspection Area, currently supports a cabin sited a minimum of 5.0 metres from the top of bank and an accessory building sited a minimum of 57.0 metres from the top of bank, both located on proposed Lot A. The property owner has requested that the cabin remain and

will be used as a guest house. As the proposed parcel is more than 2.0 ha in size, the zoning permits two dwelling units, however the siting of the cabin is contrary to the geotechnical report.

The subdivision is proposed to be serviced by a private well and individual septic disposal systems.

A geotechnical assessment dated July 31, 2003 has been prepared by Lewkovich Geotechnical Engineering Ltd due to the steep slope located on the subject property, adjacent to the Strait of Georgia. As a result of discussions with staff, the geotechnical engineer has provided an addendum, dated August 11, 2003. One of the conditions of this permit is that the geotechnical assessment and addendum be registered on title.

ALTERNATIVES

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

DEVELOPMENT IMPLICATIONS

The applicant has provided a geotechnical report which supports the intended residential uses provided the recommendations, as outlined in the report and addendum, are adhered to. The geotechnical report recommends a building setback of 18.0 metres from the top of bank for permanent residences.

The existing cabin on proposed Lot A is sited 5.0 metres from the top of bank, within the geotechnical setback. The property owners have stated they would like to use the cabin as a guest house. The geotechnical report states that ancillary buildings and decks may be located within the setback provided their foundations are completely separate from those of the dwelling unit, they do not form an integral part of the dwelling units structure and they are not occupied on a permanent basis. However, the RDN cannot regulate whether the cabin is occupied on a temporary or permanent basis and therefore by permitting the cabin to remain in its present location and to be used for habitation, either temporary or permanent, would be contrary to the geotechnical assessment. Therefore, staff recommend that the existing cabin be used as an accessory building only and is not to be used for habitation.

Any future expansion of the existing cabin or the construction of any other ancillary buildings or decks within 15.0 metres from the top of bank would require a development permit. A condition of the permit is to register the geotechnical report and addendum, as well as a 'save harmless' covenant, on title.

Ministry of Transportation Implications

The Ministry of Transportation staff has forwarded the subdivision application to the Regional District and staff has verbally indicated that they have no comments with respect to the development permit.

Ministry of Health Implications

The existing cabin on proposed Lot A is not currently connected to the septic field as the facilities are an outhouse. The cabin must not be connected to the septic field and the outhouse must be removed.

ENVIRONMENTAL IMPLICATIONS

As the steep slope adjacent to the Strait of Georgia shows signs of sloughing, maintaining the existing vegetation is critical. In addition, the geotechnical report recommends that the existing vegetation within the geotechnical setback area on proposed Lot B be maintained and that the area should not be clear cut. This application is to facilitate the subdivision and any land alteration activity would therefore require a development permit. There has been extensive clearing within the 18.0 metre geotechnical setback area on proposed Lot A. Therefore, replanting within this setback area is necessary to improve stability at the top of bank. The planting of native vegetation is recommended, as it does not require extensive irrigation.

Perimeter and roof drainage from the dwelling units shall be directed away from the top of bank into a rock pit located outside of the geotechnical setback area.

VOTING

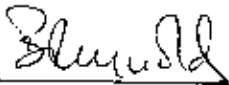
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

This is an application for a development permit to facilitate a proposed 2-lot subdivision on the property located at 3506 Widgeon Road in Electoral Area 'H' and designated within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas pursuant to the Shaw Hill – Deep Bay Official Community Plan Bylaw 1007, 1996. The applicant concurs with the conditions outlined in Schedules No. 1, 2, and 3 of this staff report, with the exception of the requirement to use the cabin as an accessory building only. As a result, staff supports Alternative No. 1, to approve the development permit to allow a 2-lot subdivision providing the cabin is not used for habitation.

RECOMMENDATION

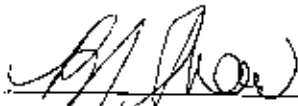
That Development Permit Application No. 60340 submitted by Kyler & Mryfield Geomatics Ltd., on behalf of Y & L Astrakhan for a 2-lot subdivision within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas on the property legally described as Lot 4, District Lot 89, Newcastle District, Plan 1884, be approved, subject to the conditions outlined in Schedules No. 1, 2, and 3 of the corresponding staff report.



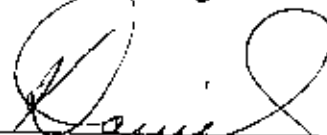
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2003/dp au 3060 30 60340

**Schedule No. 1
Conditions of Approval
Development Permit No. 60340
Lot 4, District Lot 89, Newcastle District, Plan 1884**

The following sets out the conditions of approval:

Development of Site

1. Any land alteration or construction of buildings and structures proposed within 15.0 metres from the top of bank requires a development permit.
2. The cabin is permitted to be used as an accessory building only and must not be used for habitation.
3. The outhouse must be removed prior to the issuance of the development permit.

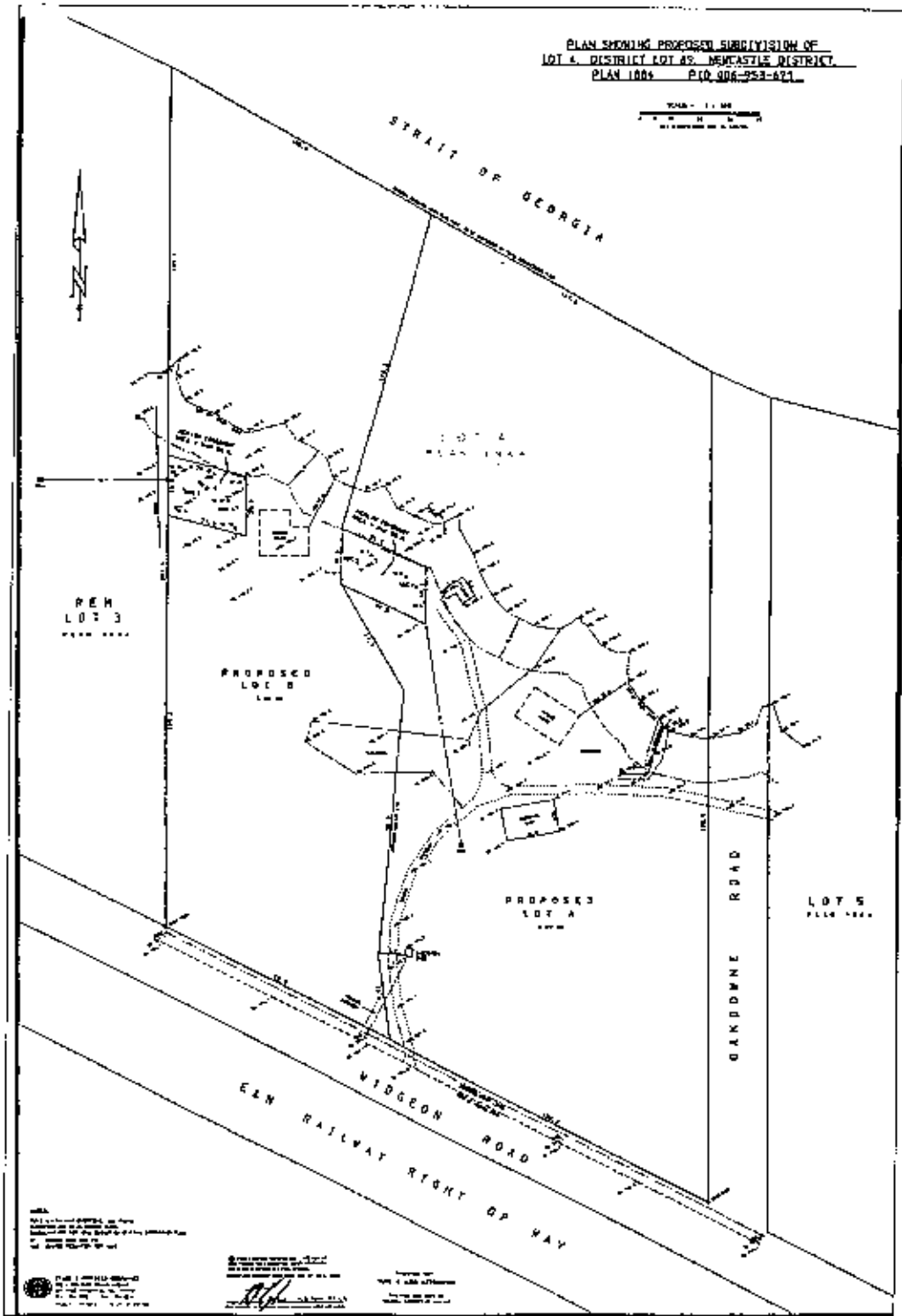
Section 219 Covenant

4. Written confirmation that the geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. dated July 31, 2003, the addendum dated August 11, 2003, and a 'save harmless' covenant will be registered on title prior to the issuance of the PLA at Land Titles Office Victoria to the satisfaction of the Regional District. All costs borne by the applicant.

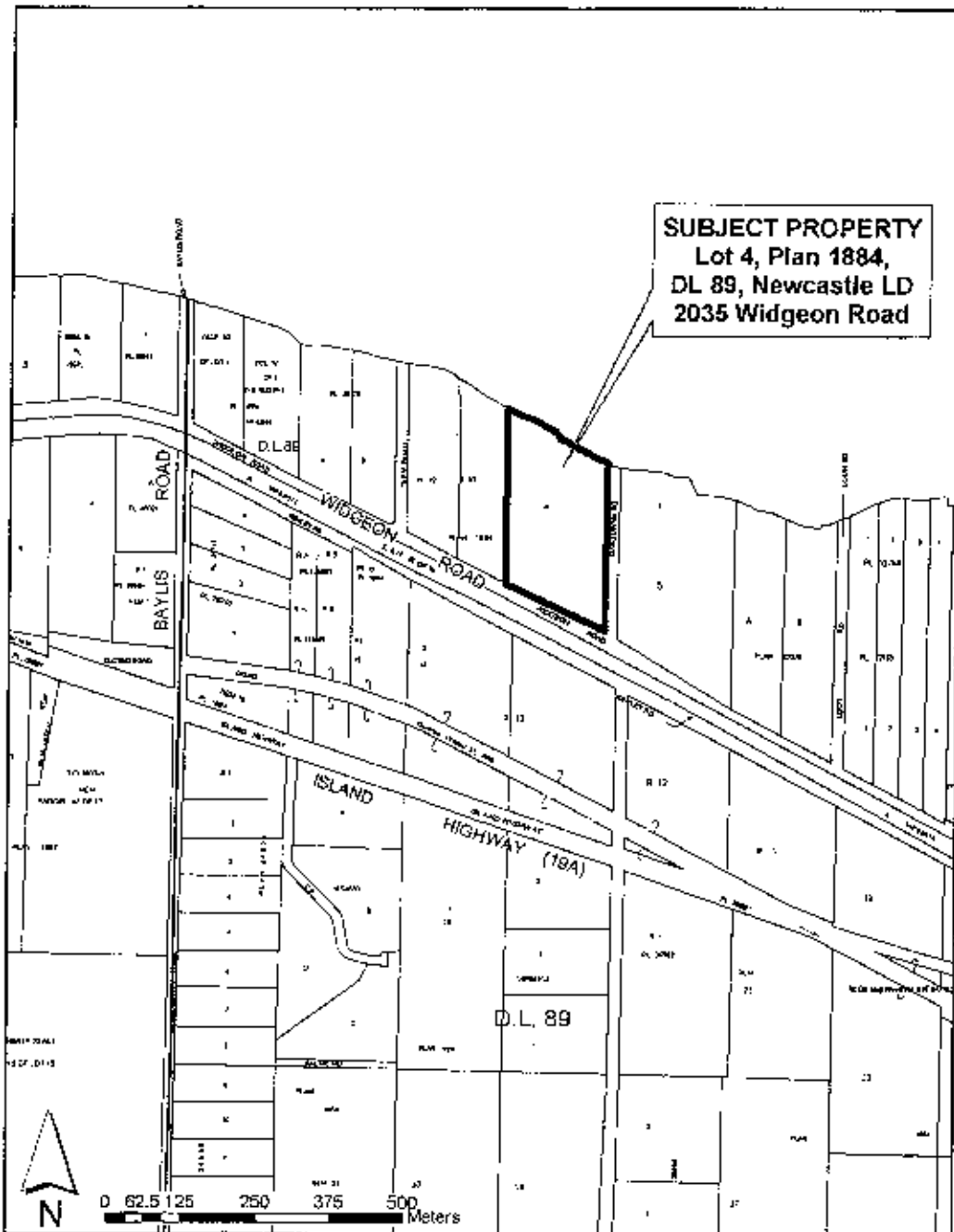
Development Permit Area Protection Measures

5. A 5.0 metre strip of vegetation shall be planted on Proposed Lot A from the top of bank upland in the cleared area.
6. Vegetation planting within 15.0 metres of the top of bank shall consist of trees, shrubs, and ground cover native to the area.
7. Any underground sprinkler system is not permitted within the geotechnical setback.

Schedule No. 2
Site Plan
(as submitted by applicant / reduced for convenience)
Development Permit No. 60340
Lot 4, District Lot 89, Newcastle District, Plan 1884



Attachment No. 1
Location of Subject Property



BCGS Map Sheet No. 92F038.3.4

EAP - ✓



REGIONAL DISTRICT OF NANAIMO			
AUG 19 2003			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
		EAP	✓
TO:		DATE:	

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services
DATE: August 15, 2003

FROM: Brigid Reynolds
Planner
FILE: 3060 30 60341

SUBJECT: Development Permit Application No. 60341 - Regional District of Nanaimo/Craig Electoral Area 'F' - Little Qualicum River Regional Park

PURPOSE

To consider a request for the issuance of a development permit to facilitate the development of fish habitat enhancement works within the Watercourse Protection Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999".

BACKGROUND

The subject property, legally described as Lot 1, Block 359, Newcastle Land District, Plan VIP69346, is the Little Qualicum River Regional Park in Electoral Area 'F' (See Attachment No. 1).

The subject property is zoned Parks and Open Space 1 (P-1) pursuant to the "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002". No variances to Bylaw No. 1285 are being requested as part of this application.

The Watercourse Protection Development Permit Area (DPA) was established to protect the natural environment. In the case of the Little Qualicum River, the DPA is measured 30.0 metres from the natural boundary. The works are proposed to locate within the main channel of the Little Qualicum River and will be anchored to the banks of the river (See Schedule No. 4 for proposed site locations).

The BC Conservation Foundation (BCCF) is a federally registered charity dedicated to the conservation and stewardship of British Columbia's ecosystems and species. They are proposing to undertake fish habitat enhancement works by constructing structures that resemble naturally occurring structures in six separate sites on the Little Qualicum River. BCCF have constructed similar structures on the Englishman River and further down stream on the Little Qualicum River. These other projects are on private property and Development Permit No. 60336 was issued pursuant to "Regional District of Nanaimo Delegation of Authority Bylaw No. 1166, 1999" to permit this construction within a development permit area.

Bylaw No. 1166 allows works that "enhance and restore riparian areas and fish habitat" to be approved by the General Manager of Development Services. However, given that the works are proposed to be located within a regional park and after seeking legal advice, staff chose to seek approval from the Regional Board for the issuance of the proposed development permit. A Legal Agreement between the BCCF and RDN outlining the responsibilities of BCCF is being drafted and the main clauses are outlined in Schedule No. 2.

PAGE 51

ALTERNATIVES

1. To approve the requested development permit subject to the conditions outlined in Schedule Nos. 1, 2, 3, and 4.
2. To deny the requested development permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

The works for the Little Qualicum River are based on the study "Fish Habitat Restoration Designs for Five East Vancouver Island Watersheds" by Marc Gaboury and Mike McCulloch (2002) for the Ministry of Water, Land and Air Protection. The restoration designs are intended to target all life stages of salmonids. The works will be done on both sides of the river and in some cases within the channel. Schedule No. 4 shows the proposed site locations of the works. The works generally consist of large logs being secured by cable to root wads and boulders to mimic natural in stream large woody debris. Cross sections of the structures are attached in Schedule No. 3. As the works are on the stream bank and in the channel it is anticipated that the proposed works will not restrict access to the park land nor limit use of the park land for park visitors.

Access to the proposed location of works is through an adjacent property. Landowner permission has been received. Approvals have been received from Federal Fisheries and Oceans and the applicants have obtained Section 9 approval from the Ministry of Water, Land, and Air Protection.

During the works, riparian vegetation will be disturbed by an excavator entering the stream channel, the construction of paths within the DPA and by the placement of large woody debris structures (which will be partially buried in the stream bank). BCCF has confirmed that they will be working with local streamkeepers to undertake replanting and reseeding in the fall once the works are complete. Conditions outlined in Schedule No. 1 are intended to mitigate any potential damage to the riparian area and the stream.

LEGAL IMPLICATIONS

As the proposed works are within the RDN Little Qualicum River Regional Park staff sought legal advice with regards to the liability associated with permitting these structures on RDN property. As a result, staff requested that legal council to draft a Legal Agreement. The main clauses of the Legal Agreement are outlined in Schedule No. 2. The legal agreement is intended to ensure that the long-term viability of the structures is maintained and that any liability associated with the failure of these structures is not attributed to the RDN.

VOTING

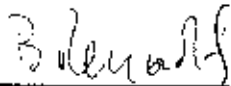
1. Electoral Area Directors - one vote, except Electoral Area 'B'.
2. Recommendation No. 2 will require All Directors - one vote each, when this item is considered for approval by the RDN Board.

SUMMARY

This is an application to facilitate the development of fish habitat enhancement works by constructing structures in six separate locations on the Little Qualicum River within the RDN Little Qualicum River Regional Park. The applicants have received approvals from DFO and MWLAP, in addition the adjacent landowner has granted permission to access the park land through his property. As a condition of this permit, the RDN requires that BCCF enter into a Legal Agreement with the applicants to ensure the long-term viability of the structures is maintained.

RECOMMENDATIONS

1. That Development Permit Application No. 60341, submitted by the BC Conservation Foundation, to construct fish habitat enhancement structures on the property legally described as Lot 1, Block 359, Newcastle Land District, Plan VIP69346, be issued subject to the requirements outlined in Schedules No. 1, 2, 3, and 4.
2. That the RDN enter into an agreement with the BC Conservation Foundation which grants the Association access over the RDN Little Qualicum River Regional Park to construct structures in six separate locations on the Little Qualicum River to improve fish habitat, subject to obtaining the necessary approvals and ensuring that the long-term viability of the structures is maintained and that any liability associated with the failure of these structures is not attributed to the RDN.



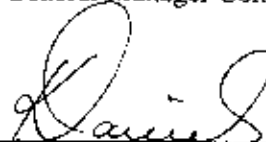
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2003/dp au 3060 30 60341 BCCF Craig

**Schedule No. 1
Conditions of Approval
Development Permit No. 60341**

Legal Agreement

1. BCCF agrees to enter into a Legal Agreement with the Regional District of Nanaimo to ensure the long term viability of the works is maintained.

Instream Works

2. Excavator to enter the stream where the bank is low, water is shallow, and the substrate is suitable size.
3. The numbers of stream crossings are to be limited to as few as possible.
4. A fisheries technician with experience in instream works or someone with equivalent experience shall be on site during construction to monitor and give instructions to heavy equipment operators.
5. Instream works to be undertaken within DFO's fisheries window.
6. Any machinery must be in good working order and no fuels, lubricants or construction wastes are permitted to enter any watercourse. No refueling of machinery is to be conducted within 30 metres of the watercourse. Biodegradable fluids shall be used for machinery used for instream work.
7. A spill kit shall 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.
8. The work sites on either side of the creek must be isolated, as all works must be conducted in the dry.
9. Pumps with fish screens must be on hand.
10. Clean water flow must always be maintained downstream of the work site to ensure the protection of fish habitat.
11. Applicant to continue to liaise with Arrowsmith Water Service as per Brian Hackwood's email correspondence of June 24, 2003.
12. Applicant to obtain Section 9 approval from MWLAP and approval from Federal Fisheries and Oceans (Approvals noted).

Riparian Planting

13. Dry seeding shall be spread at a minimum density of 80 kg/ha and fertilized with 19-20-12 at a minimum rate of 400 kg/ha.
14. Planting of shrubs and small trees shall be undertaken using species native to the area.
15. 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.

Sediment and Erosion Control

16. Temporary fills or soil stock piles shall be covered with polyethylene or tarps.
17. Excavated materials shall be placed upland away from the top of bank to prevent introduction into the stream.
18. Seeding shall be undertaken in damaged areas as soon as possible after instream works are completed and when soil conditions are suitable.

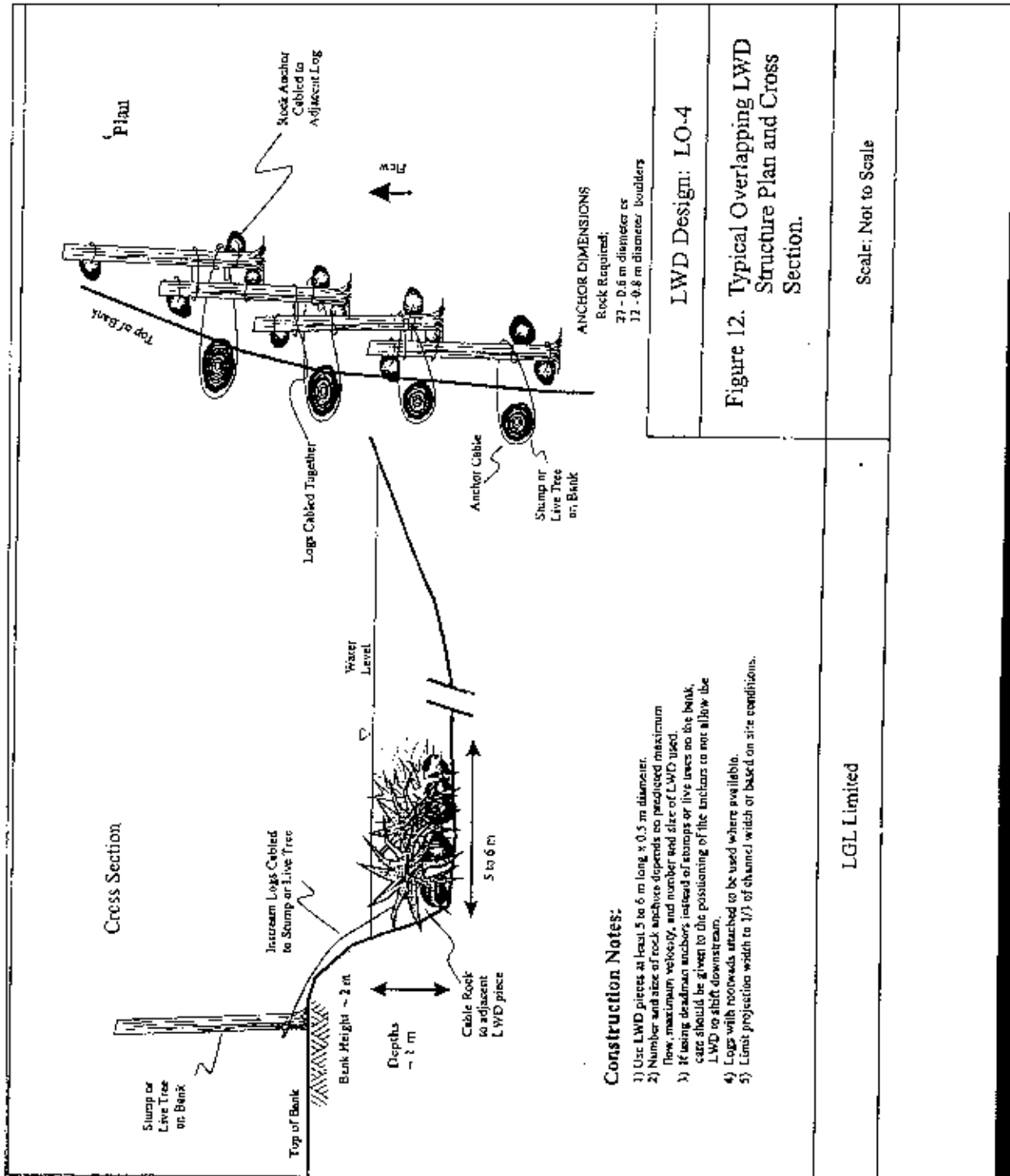
Schedule No. 2
Proposed Draft Clauses for the Legal Agreement between
BCCF and RDN
Development Permit No. 60341

Proposed draft clauses to be included in a Legal Agreement between BC Conservation Foundation and the Regional District of Nanaimo for fish habitat enhancement works to be undertaken in the Little Qualicum River Regional Park (Lot 1, Block 359, Newcastle District, Plan VIP69346):

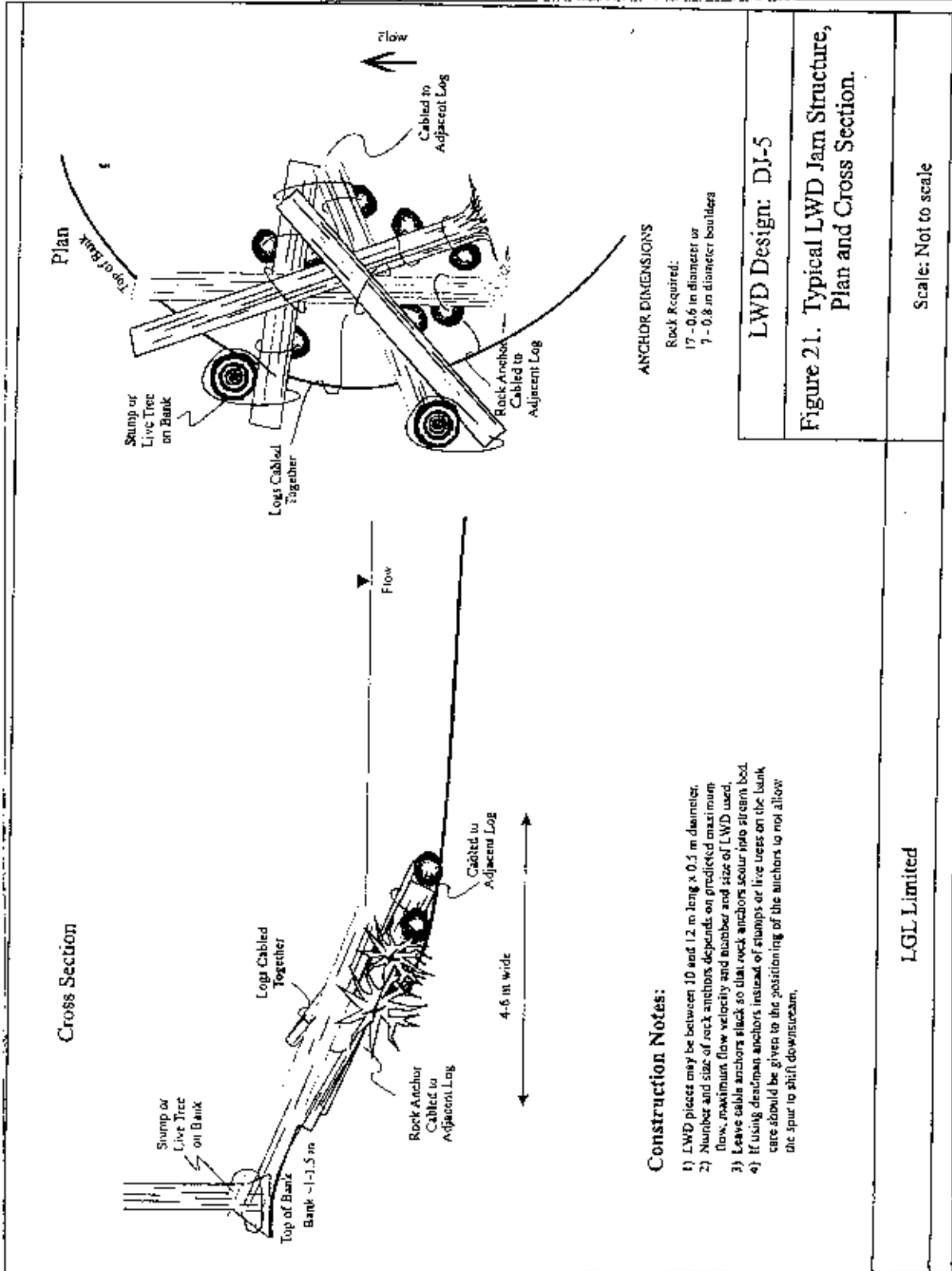
1. The RDN grants permission for BCCF to enter, install and maintain works on the subject property.
2. BCCF provides evidence of securing general liability insurance including for personal injury, bodily injury, and death resulting from the works and property damage, in the amount of not less than \$2 million per occurrence in respect to the installation and maintenance of the works, and will include the RDN as an additional named insured on that policy of insurance.
3. BCCF agrees to erect and maintain signage to advise of the purpose of the works and of their potential hazard.
4. BCCF agrees to monitor the works a minimum of two times a year (late spring and late fall) and immediately after a 10-year storm event.
5. BCCF agrees to maintain the works as necessary to ensure their long term viability (includes replacing cables and structural materials), at their expense.
6. BCCF agrees to removed any structure that fails, whether on Regional Park property or down stream.
7. BCCF agrees to indemnify and save harmless the Regional District from any and all losses, claims, damages or expenses arising from or due to the negligence of BCCF and their contractors, with regards to these works.
8. BCCF agrees to remove the works at their expense if the RDN deems the works to be a nuisance.

In consultation with RDN's legal council additional clauses may be included.

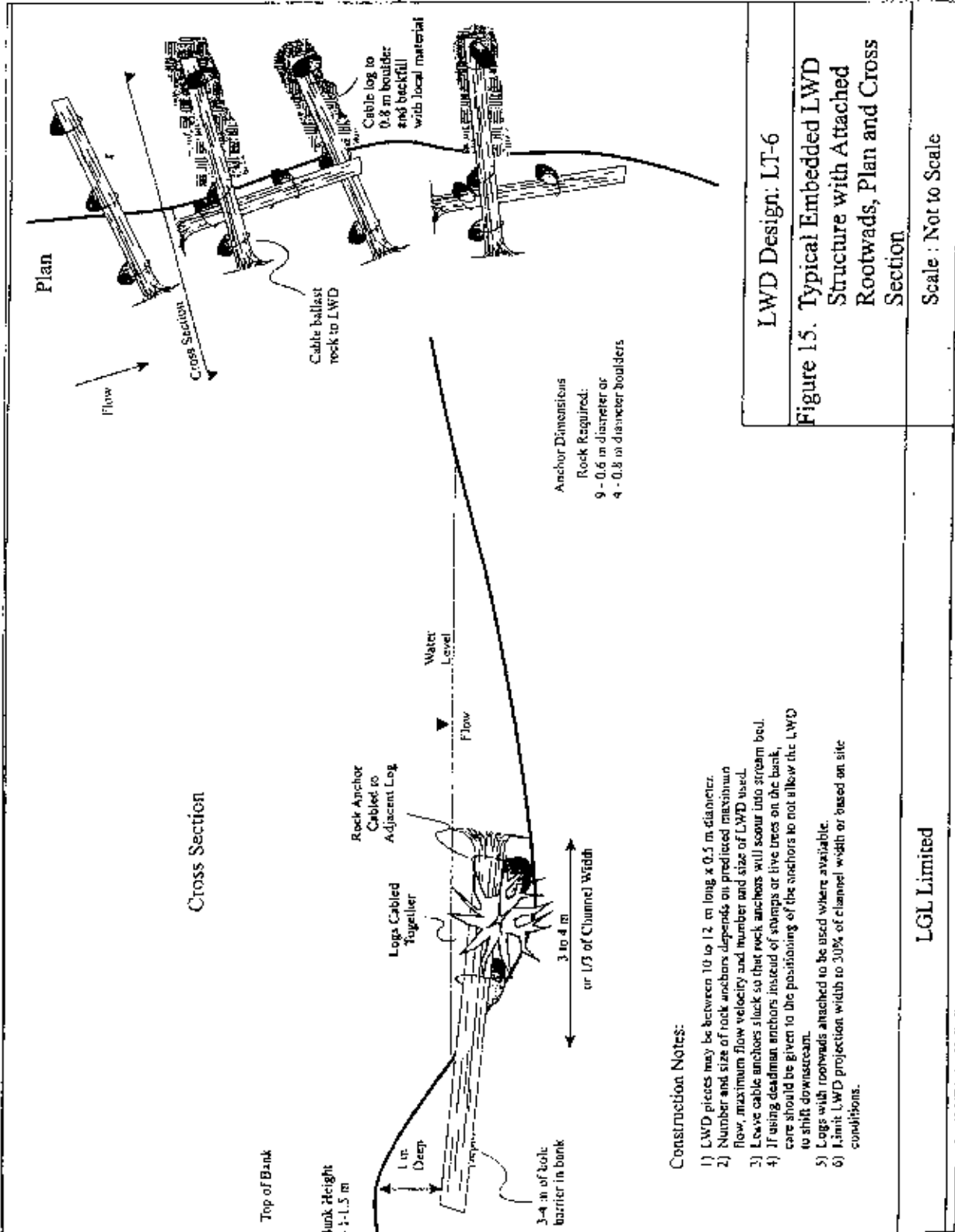
Schedule No. 3
 Structure Cross Sections (1 of 5)
 Development Permit No. 60341



Schedule No. 3
 Structure Cross Sections (2 of 5)
 Development Permit No. 60341



Schedule No. 3
 Structure Cross Sections (3 of 5)
 Development Permit No. 60341



LWD Design: LT-6

Figure 15. Typical Embedded LWD Structure with Attached Rootwads, Plan and Cross Section

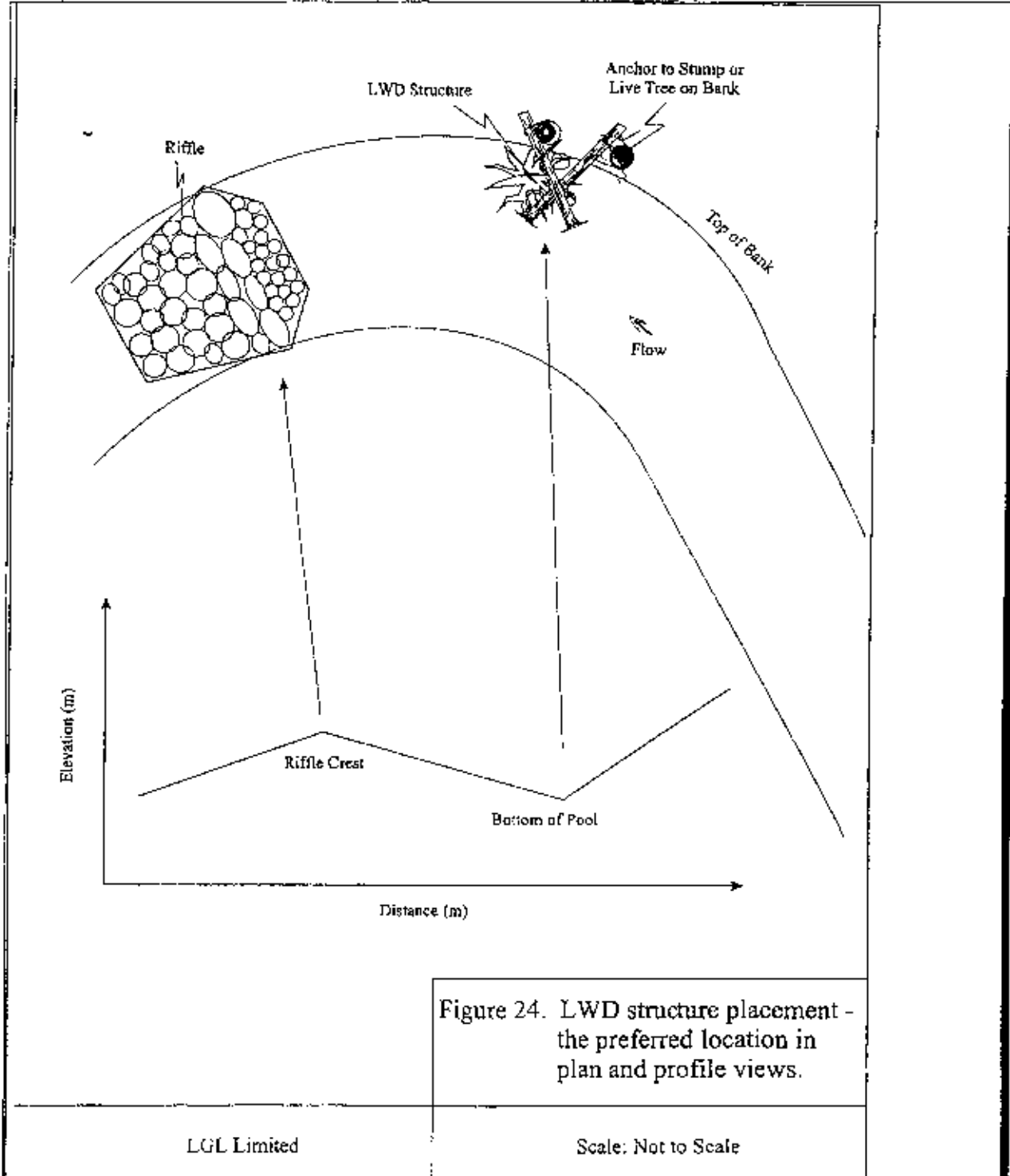
Scale: Not to Scale

Construction Notes:

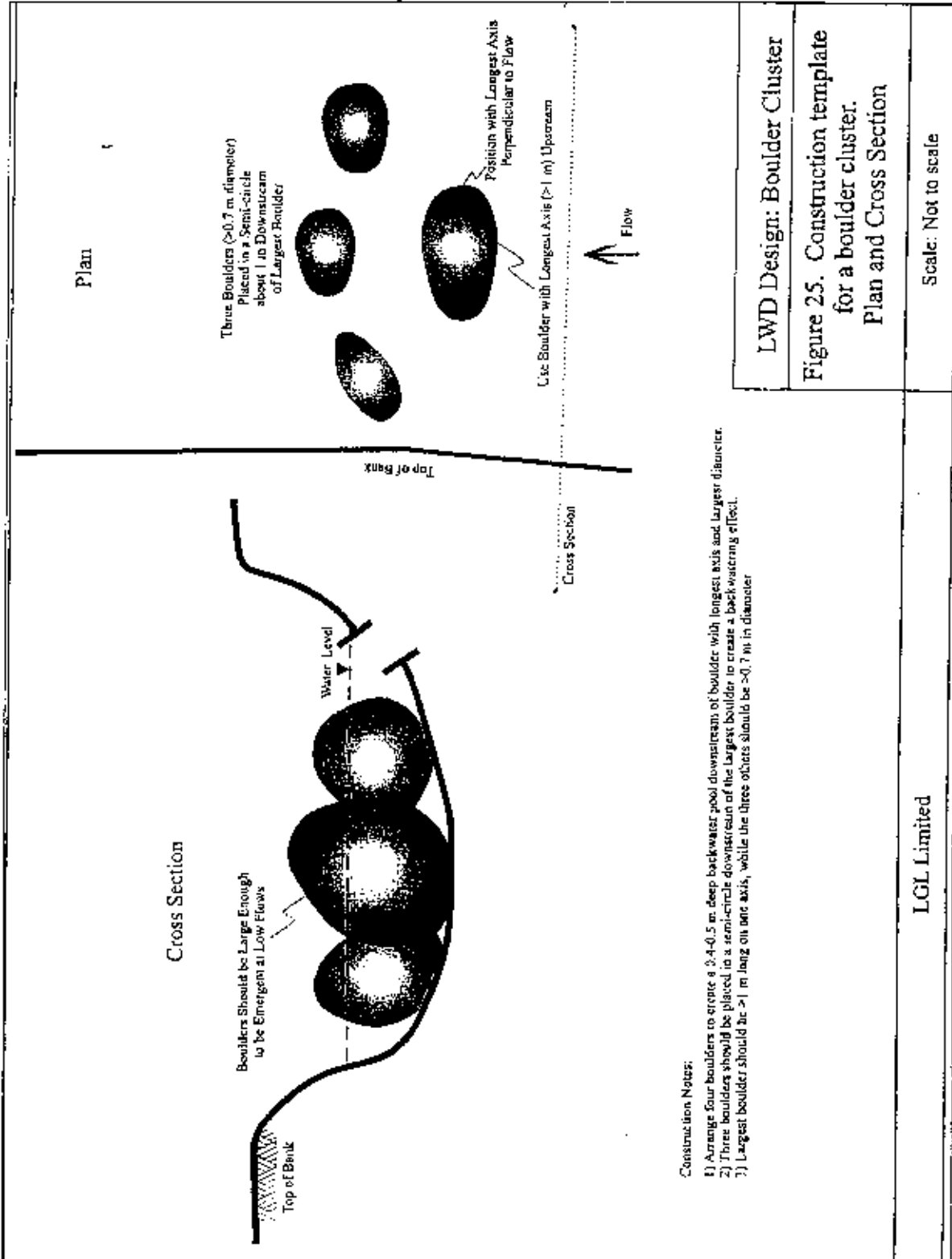
- 1) LWD pieces may be between 10 to 12 m long x 0.5 m diameter.
- 2) Number and size of rock anchors depends on predicted maximum flow, maximum flow velocity and number and size of LWD used.
- 3) Leave cable anchors slack so that rock anchors will scour into stream bed.
- 4) If using deadman anchors instead of stumps or live trees on the bank, care should be given to the positioning of the anchors to not allow the LWD to shift downstream.
- 5) Logs with rootwads attached to be used where available.
- 6) Limit LWD projection width to 30% of channel width or based on site conditions.

LGL Limited

Schedule No. 3
Structure Cross Sections (4 of 5)
Development Permit No. 60341



Schedule No. 3
 Structure Cross Sections (5 of 5)
 Development Permit No. 60341



Construction Notes:

- 1) Arrange four boulders to create a 3.4-0.5 m deep backwater pool downstream of boulder with longest axis and largest diameter.
- 2) Three boulders should be placed in a semi-circle downstream of the largest boulder to create a backwatering effect.
- 3) Largest boulder should be > 1 m long on one axis, while the three others should be > 0.7 m in diameter.

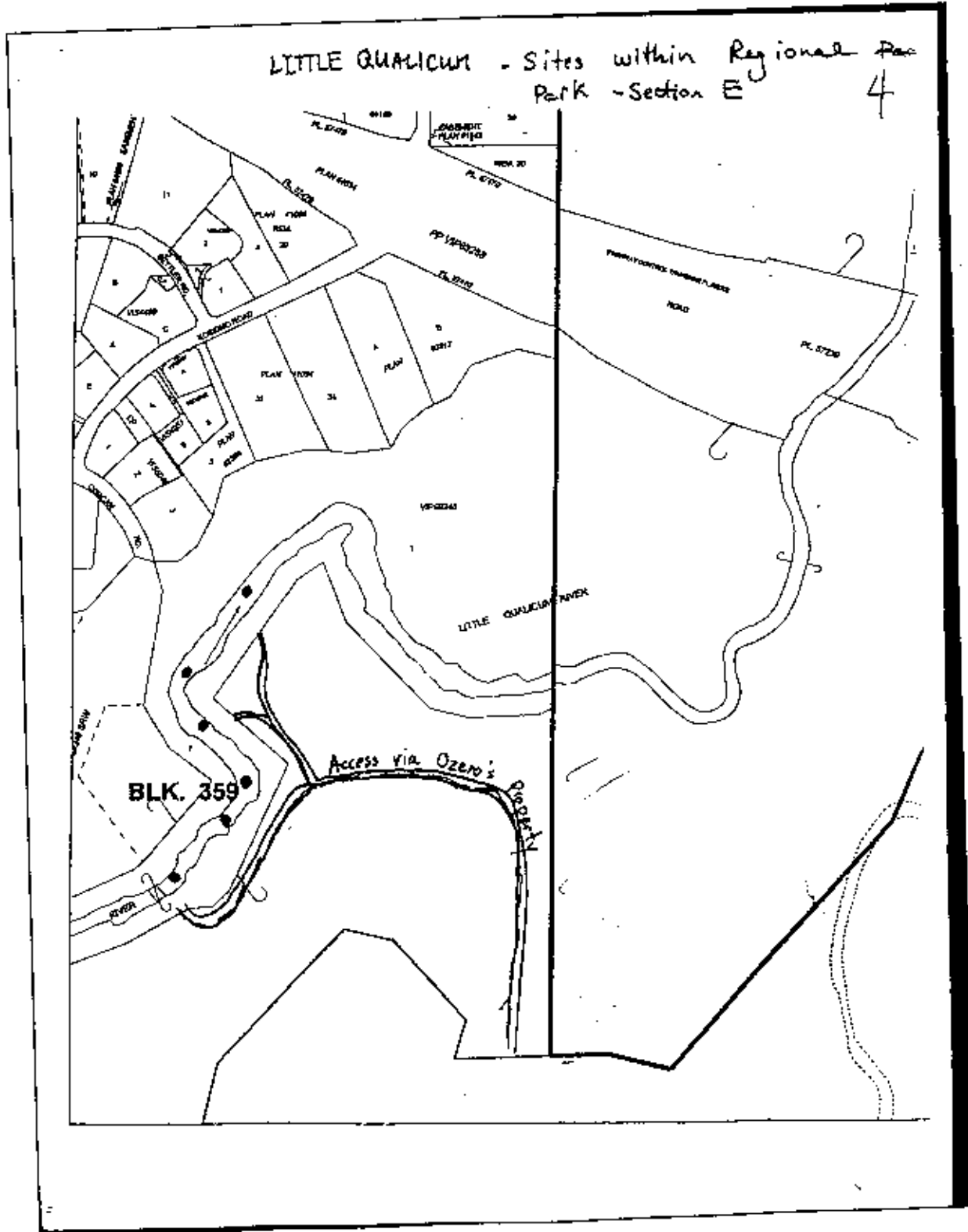
LWD Design: Boulder Cluster

Figure 25. Construction template for a boulder cluster. Plan and Cross Section

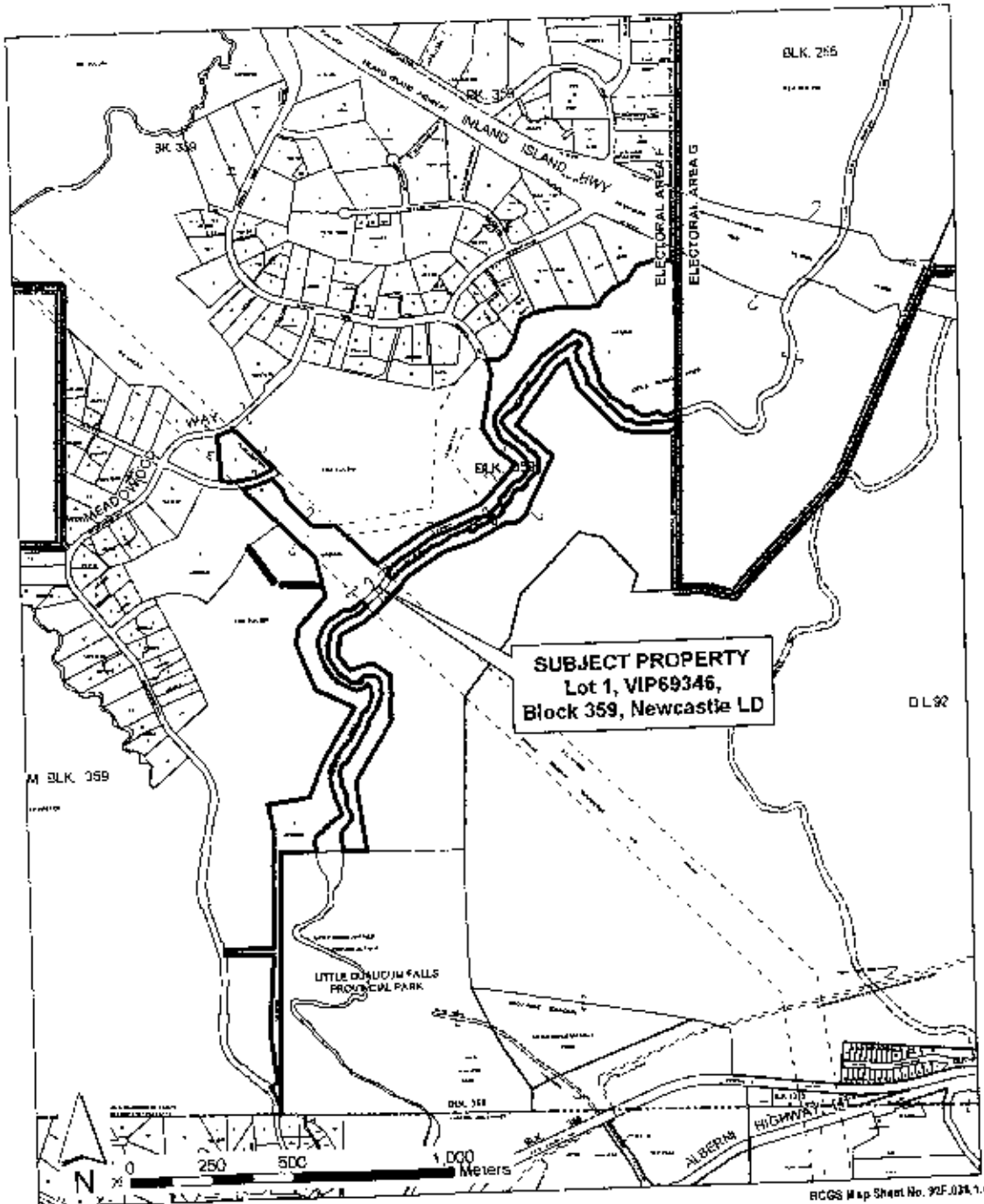
Scale: Not to scale

LGL Limited

Schedule No. 4
Proposed Site Locations
Development Permit No. 60341



Attachment No. 1
Subject Property
Development Permit No. 60341





REGIONAL DISTRICT OF NANAIMO			
AUG 18 2003			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
EAPV			

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: August 15, 2003

FROM: Keeva Kehler
Planner

FILE: 3060 30 60342

SUBJECT: Development Permit Application No. 60342 - Sokol
Electoral Area 'E' - 1558 Madrona Drive

PURPOSE

To consider an application for a Development Permit pursuant to the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" Watercourse Protection Development Permit Area to legalize the construction of an existing deck structure. This application includes a request to vary the minimum permitted setback to a watercourse.

BACKGROUND

This is an application to legalize the construction of an existing deck on a property located in Nanoose Bay (see Attachment No. 1). The subject property, legally described as Lot 52, District Lot 68, Nanoose District, Plan 26680, is an approximately 0.13-hectare parcel located on Madrona Drive.

Zoning and Proposed Variances

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the rear lot line and interior side lot lines; 5.0 metres from other lot lines; and 8.0 metres horizontal distance (i) from the natural boundary; or (ii) inland from the top of a slope of 30% or greater. In this instance, a variance is requested under subsection (ii) to legalize the existing deck structure. The property is also located within a building inspection area and therefore subject to building permits requirements.

RDN staff identified the deck as being in contravention of building permit requirements and of setback requirements pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The applicants have indicated the recent construction of the deck was intended to replace and expand upon the existing deck structure, with the expansion occurring toward the top of bank rather than along the width of the residence in order to protect existing vegetation. The applicant is now requesting to legalize the deck through this application for a development permit with a variance.

In addition, the survey plan submitted by the applicant indicates that the accessory building (garage) is in contravention of the current interior side lot line setback requirements pursuant to Bylaw No. 500. No records are available to indicate the exact time of construction for the existing dwelling unit and accessory building, but it is estimated these buildings were constructed approximately 35 years ago, which was prior to land use regulations coming into effect for the area. Therefore, based upon a change in the zoning bylaw and the proposal to legalize the recently constructed deck, the following variances are requested:

1. To vary the minimum permitted setback from a coastal watercourse from 8.0 metres horizontal distance inland from the top of a slope of 30% or greater to 0.0 metres horizontal distance from the top of a slope of 30% to legalize the existing deck structure and from 8.0 metres to 6.5 metres for a portion of the existing legal non-conforming dwelling unit.
2. To vary the minimum permitted setback from an interior side lot line from 2.0 metres to 1.56 metres to legalize the existing legal non-conforming accessory building.

Development Permit Requirements

The Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 designates all ocean front properties within the Watercourse Development Permit Area (DPA). The DPA establishes a 'leave strip' for the area within 15.0 metres from the natural boundary of the ocean. Leave strips are intended to be left in a natural state with minimal disturbance to land or vegetation in order to maintain healthy watercourse environment. As the existing deck structure is sited within 15.0 metres of the natural boundary, a development permit application is required.

It appears that a portion of the existing dwelling unit is also within the 15.0 metre leave strip, although the dwelling was constructed prior to the designation of the DPA. Due to the location of the dwelling there are no reasonable alternatives to developing the rear of the lot outside of the DPA. Guideline No. 3 of the DPA states that development within a Watercourse DPA may be considered in situations similar to this where there are limited options to place a deck outside of the leave strip due to historical development occurring prior to the DPA designation.

Legal Notations

A restrictive covenant is registered on the Certificate of Title for the property indicating the presence of a building scheme. Although it should be noted the RDN does not enforce building scheme covenants and it is the responsibility of the property owner to ensure any development meets the requirements of the building scheme.

ALTERNATIVES

1. To approve Development Permit No. 60342 subject to the conditions outlined in Schedules No. 1 and 2.
2. To deny the requested permit and order the removal of the existing deck structure.

LAND USE AND DEVELOPMENT IMPLICATIONS

The deck structure is located at the top of a relatively steep slope that drops down to the foreshore. The corner of the deck is almost coincident with the top of the bank therefore the applicants are requesting a variance to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" Section 3.3.9 Setbacks - Sea from 8.0 m horizontal distance inland from the top of a slope of 30% or greater. Access to the foreshore occurs via a small trail; no stairwell is present.

If the deck structure measured less than 1.0 metre in elevation from the natural grade, a variance to the zoning bylaw would not be required, as the deck would not meet the RDN definition of a 'structure.' However a Development Permit would still be required. The highest portion of the deck floor is approximately 0.8 metres above the grade and therefore pursuant to the Building Code requires a railing.

which results in the structure being higher than 1.0 metre and subject to the zoning setbacks requirements.

The visual impact created by the deck structure is considered to be minimal for adjacent residences to the west due to vegetative cover present along the property's western side lot lines. According to the applicants, no vegetation has been removed from the slope area to construct the deck and they avoided vegetation removal from the rest of the rear yard by locating the deck on the western side. The property owner to the east of the subject property has a deck structure sited in the same portion of their lot and no record of a building or development permit can be found indicating the date of installation for this neighbouring structure. There is also a cedar hedge between this neighbouring property and the subject property, which buffers the deck development and mitigates any potential view impacts.

When reviewing applications to legalize existing structures, planning staff is constrained by the fact that the development is complete and mitigative conditions that would have been required during construction cannot be easily applied. The planning rationale to legalize the existing deck stems from the lack of alternative locations for a deck at the rear of the structure. If the Board considers a deck to be a reasonable accessory structure for a waterfront property, it is likely the applicant would have been granted an approval to proceed with construction of the structure with conditions on the development to protect the adjacent leave strip from sedimentation and erosion impacts.

If the RDN does not approve this application, the applicant will be required to remove the deck structure.

It appears from the survey plan that portions of the dwelling unit are also located within 8.0 metres from the top of the bank. Although the dwelling was constructed prior to this bylaw being enacted, the Board may wish to recognize the siting of the existing dwelling as legal non-conforming within the current land use regulations, thereby legalizing the encroachment with this variance application.

ENVIRONMENTAL IMPLICATIONS

The Watercourse Protection Development Permit Area speaks to measures which would minimize disturbance of the leave strip through an erosion control plan, revegetation in the leave strip, habitat restoration and other mitigative measures. Staff recommends native vegetation be protected and replanted as outlined on the attached Schedule No. 1. The deck contains a hot tub and measures will have to be taken to avoid contamination of the adjacent watercourse from chlorinated waters when the hot tub is drained.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a development permit within the Nanoose Bay Official Community Plan, Bylaw No. 1118, 1998 Watercourse Protection Development Permit Area, to legalize the siting of an existing deck structure and accessory building. The property contains a dwelling unit and accessory structure that were constructed approximately 35 years ago and have legal non-conforming status, however, the Board may wish to consider approving a variance for the structures to grant them legal status under the current land use regulations. The application includes a request to vary the minimum setback requirement for a coastal watercourse from 8.0 metres horizontal distance inland from the top of

a slope of 30% or greater to 0.0 to legalize the existing deck and from 8.0 metres to 6.5 to recognize the siting of the legal non-conforming dwelling. The applicants are also requesting to vary the minimum setback requirement for an interior side lot line from 2.0 metres to 1.56 metres to recognize the siting of a legal non-conforming accessory structure.

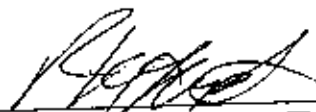
Staff recommends this application be approved subject to the conditions outlined in Schedule No.1 and subject to the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION


That Development Permit Application No. 60342, submitted by Al Benwell, Agent, on behalf of Scott Sokol and Carol Sokol, to legalize an existing deck structure and recognize the siting of the legal non-conforming dwelling unit and accessory building, and vary the minimum setback requirements for a coastal watercourse within the Residential 1 (RS1) zone for the property legally described as Lot 52, District Lot 68, Nanoose District, Plan 26680, be approved as submitted subject the requirements of Schedule Nos. 1 and 2 and to notification requirements pursuant to the *Local Government Act*.



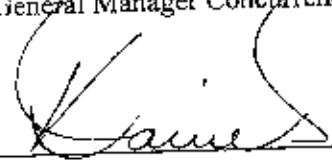
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

Schedule No. 1
Conditions of Approval
Development Permit Application No. 60342

1. Variances are subject to compliance with building permit regulations.
2. Submission of a geotechnical report as required by RDN Building Inspection.
3. There shall be no removal of vegetation from the 15.0 metre leave strip, save for the removal of noxious or invasive weeds.
4. Chlorinated water from the hot tub must not be drained or permitted to leak into the marine waters adjacent to the property.

**Schedule No. 2
Requested Variances
Development Permit Application No. 60342**

Variances

The following variances to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 are requested based upon completion of the above-noted conditions:

1. Relaxation of **Section 3.3.9 Setbacks – Sea** from 8.0 metres horizontal distance inland from the top of a slope of 30% or greater to 0.0 metres horizontal distance inland from the top of a slope of 30% or greater to legalize an existing deck structure.
2. Relaxation of **Section 3.3.9 Setbacks – Sea** from 8.0 metres horizontal distance inland from the top of a slope of 30% or greater to 6.5 metres horizontal distance inland from the top of a slope of 30% or greater to recognize the siting of the legal non-conforming dwelling unit.
3. Relaxation of **Section 3.4.61 Minimum Setback Requirements Interior side lot line** from 2.0 metres to 1.56 metres to recognize the siting of the existing legal non-conforming accessory building.

Schedule No. 2
Survey Plan
(As Submitted by Applicant)
Development Permit Application No. 60342

J.E. ANDERSON & ASSOCIATES
B.C. Land Surveyors - Consulting Engineers
Victoria & Nanaimo, B.C.
Ph: 758-4631 Fax: 758-4660

B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION

File: 64857
Legal: Lot 52, District Lot 85, Nanooke District, Plan 26680.
C.M.S.: 1658 Madrona Drive, Nanooke, B.C.
Certified correct this 20th day of August, 2002.

B.C.L.S.

Scale: 1:250
All dimensions
are in metres

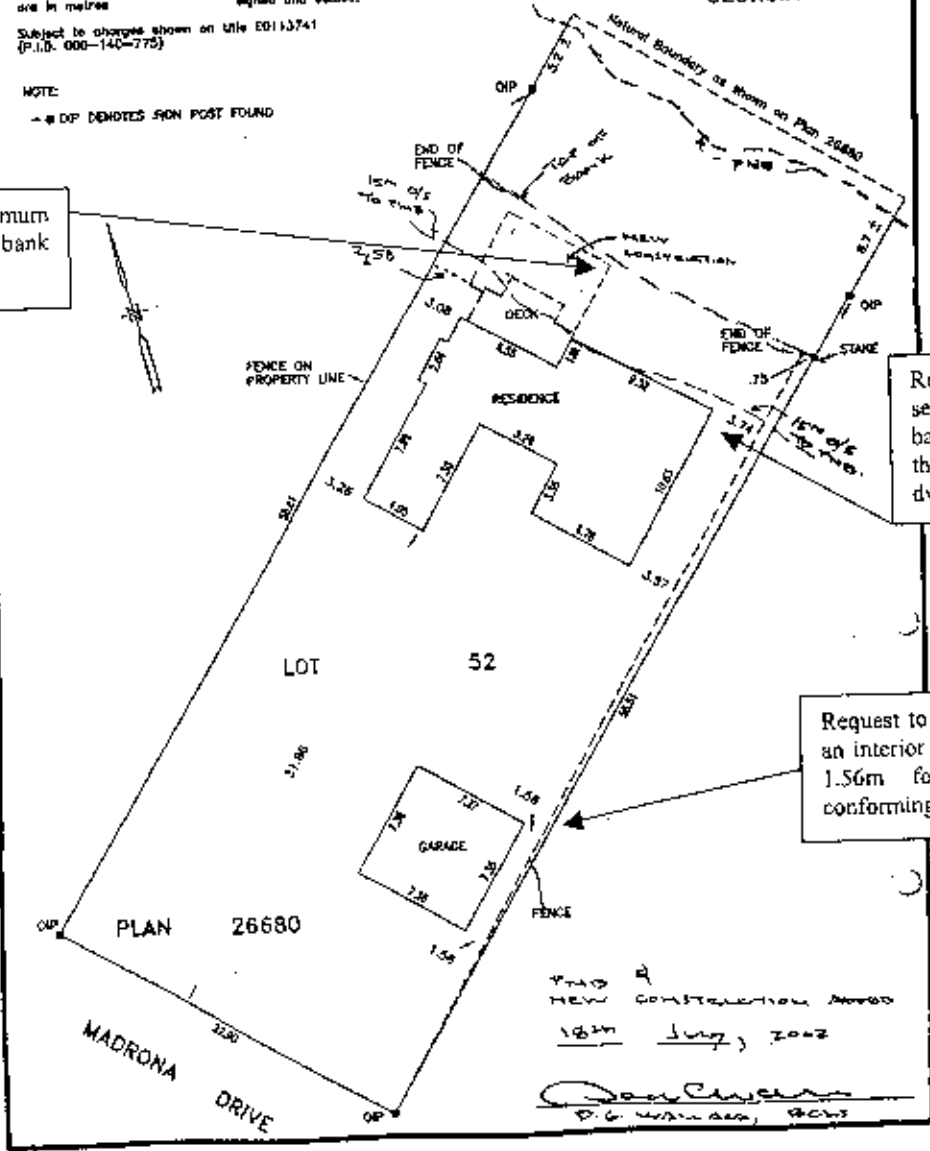
© Copyright 2002 J.E. Anderson & Associates
This document is not valid unless originally
signed and sealed.

Subject to charges shown on title E0113741
(P.I.D. 000-140-775)

NOTE:

- * DP DENOTES IRON POST FOUND

STRAIT OF
GEORGIA



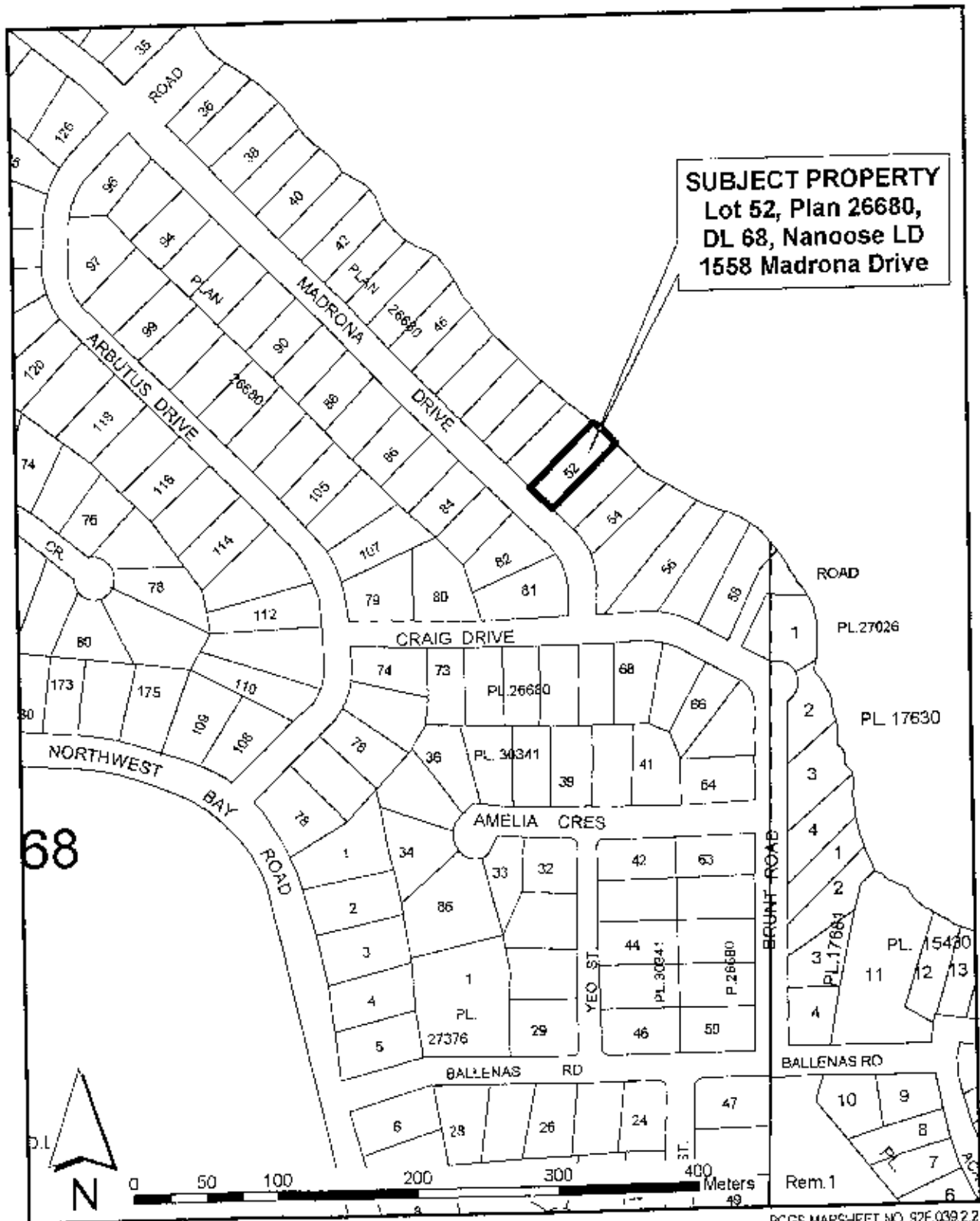
Request to vary the minimum setback from the top of the bank from 8m to 0m for the deck

Request to vary minimum setback from the top of the bank from 8m to 6.5m for the legal non-conforming dwelling

Request to vary minimum setback to an interior side lot line from 2.0m to 1.56m for existing legal non-conforming garage.

THIS IS
NEW CONSTRUCTION APPROVED
18th July, 2002
[Signature]
D.G. WILSON, B.C.L.S.

Attachment No. 1
Subject Property Map



BCGS MAPSHEET NO. S2F.039.2.2



REGIONAL DISTRICT OF NANAIMO			
AUG 18 2003			
CHAIR		GMCrs	
CAO		GMDS	
GMCm8		GMES	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: August 15, 2003

FROM: Blaine Russell
Planning Assistant

FILE: 3090 30 90316

SUBJECT: Development Variance Permit Application 90316 –Ballance
Electoral Area ‘D’ – 2830 Benson View Road

PURPOSE

To consider an amendment to Development Variance Permit No. 0306 to allow for modifications to the design of an accessory building/garage for a property located on Benson View Road in Electoral Area ‘D’.

BACKGROUND

This is an application to consider an amendment to Development Variance Permit No. 0306. This amendment is proposing to modify some structural details of the already approved garage/loft by adding a balcony, sliding glass door and 4 dormers on the subject property legally described as Lot 8, Section 9 and 10, Range 4, Mountain District, Plan 36191.

Development Variance Permit No. 0306 was carried at the regular meeting of the Board of the Regional District of Nanaimo held on Tuesday, March 11, 2003. This permit allowed for the relaxation of Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 Section 3.4.81 – Minimum Setback Requirements – The minimum setback requirement for the all lot lines were varied from 8.0 metres to 4.0 metres for that portion of the lot line which forms the interior side lot line as illustrated on Schedule No. 2 in order to accommodate the garage/loft (accessory building).

This application does not seek to alter the existing setback relaxation but it instead proposes to modify the configuration of the building envelope to allow for the addition of a balcony, sliding glass door and 4 dormers (Refer to Schedule Nos. for Details).

The subject property (approximately 2.0 hectares in size) is currently zoned ‘Rural 1 (RU1)’ Subdivision District ‘D’ pursuant to the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is bound by other ‘Rural 1(RU1)’ zoned parcels to the south, east and west and is adjacent to Benson View Road to the North (Refer to Attachment No. 1 for location of property). The subject property is currently on a private well and septic disposal system and is located within the building inspection area.

The garage/loft as approved is 8.03 metres from the finished grade to peak of roof and has horizontal dimensions of 10.07 metres by 12.0 metres as measured from the outermost portion of the structure (see Schedule Nos. 2 and 3 for details).

The applicant has indicated that the proposed garage is to be used for vehicle storage, personal storage and workshop with the loft primarily being used for storage and as a workshop/ hobby room. The building will not be used for housing livestock or storing manure (as these uses require a 30 metre setback from all lot lines).

ALTERNATIVES

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

DEVELOPMENT IMPLICATIONS

The applicant's proposed minor modifications do not alter the original rationale that supported the siting of the accessory building in the approved location. Given the topography of the subject property, views from neighbouring properties are unlikely to be impacted by the proposed garage/loft modifications or the siting of the accessory building. The proposed structure is in keeping with the existing development on the property and with the development of neighbouring properties. The proposed modifications at issue in this report will not require an increase in the approved variances nor will they require the alteration of the footprint or siting of the structure as currently approved. However, the addition of the cantilevered balcony and the dormers will add to the visual mass of the accessory building and as neighbouring property owners were previously notified of the proposed design of the building an amendment to the permit is required. However, it is anticipated that this modification will not impact views or the use of surrounding properties.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby residents and property owners will have an opportunity to comment on the proposal prior to the Board's consideration of the permit. It should be noted that the applicant has submitted letters of 'no objection' from 4 surrounding property owners for the preceding Development Variance Permit Application concerning the siting of the accessory building.

VOTING

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

SUMMARY

This is an application to consider an amendment to Development Variance Permit No. 0306 to allow for modification to the design of the garage/loft to facilitate the inclusion of a balcony, sliding glass door and four attic dormers for the proposed garage/loft on the property located at 2830 Benson View Road in Electoral Area 'D'. Given that the siting of the structure will remain as previously approved, and given that proposed modifications will not result in increased impacts on surrounding properties, staff support the proposed modifications.

RECOMMENDATION

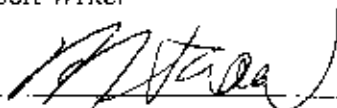
That Development Variance Permit Application No. 90316 by Stanley Neville Ballance to amend Development Variance Permit No. 0306 to allow for modifications to the design of the garage/loft to facilitate the inclusion of a balcony, sliding glass door and 4 attic dormers for the proposed garage/loft for the property legally described as Lot 8, Sections 9 and 10, Range 4, Mountain District, Plan 36191 be approved, subject to Schedules No. 1, 2, and 3 and to the notification requirements pursuant to the *Local Government Act*.



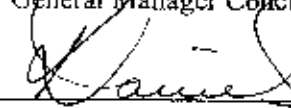
Report Writer



General Manager Concurrence



Manager Concurrence



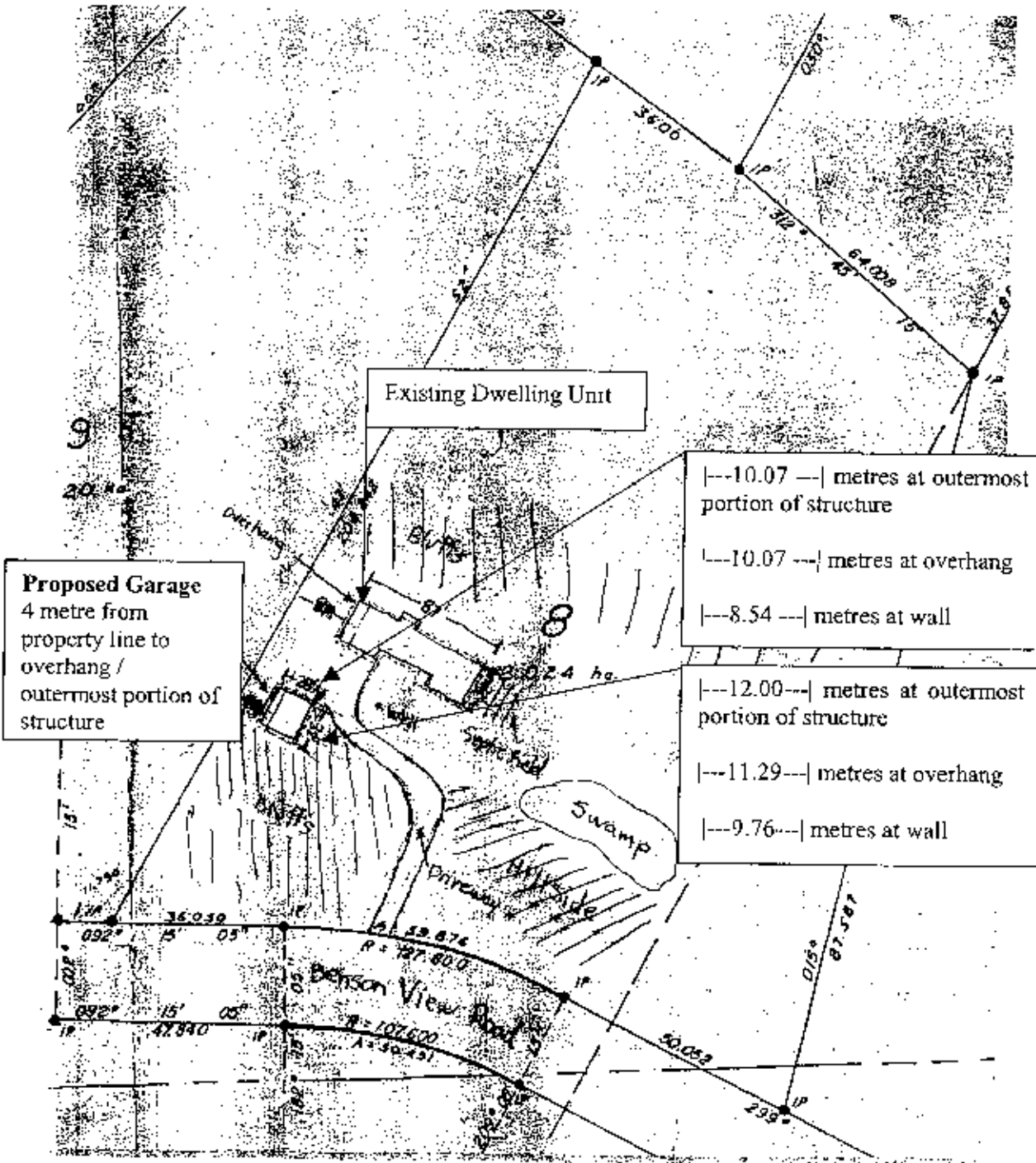
CAO Concurrence

COMMENTS:

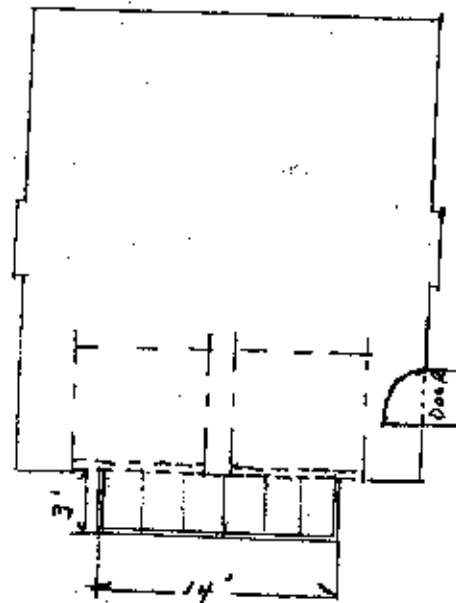
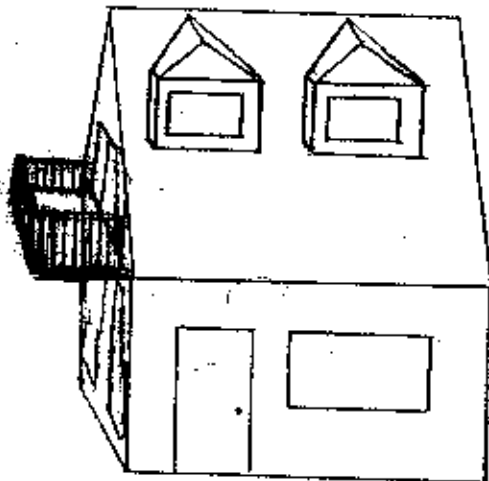
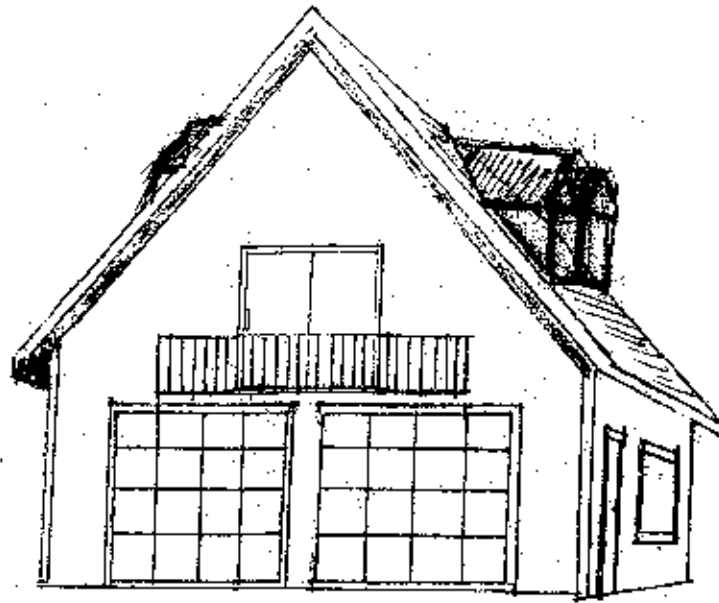
Schedule No. 1
Conditions of Approval - Development Variance Permit No. 90316
2830 Benson View Road

- 1 This application is to follow the terms and conditions of Development Permit No. 0306 except where modified by this Development Variance Permit.

Schedule No. 2
Site Plan - Development Variance Permit No. 90316
2830 Benson View Road

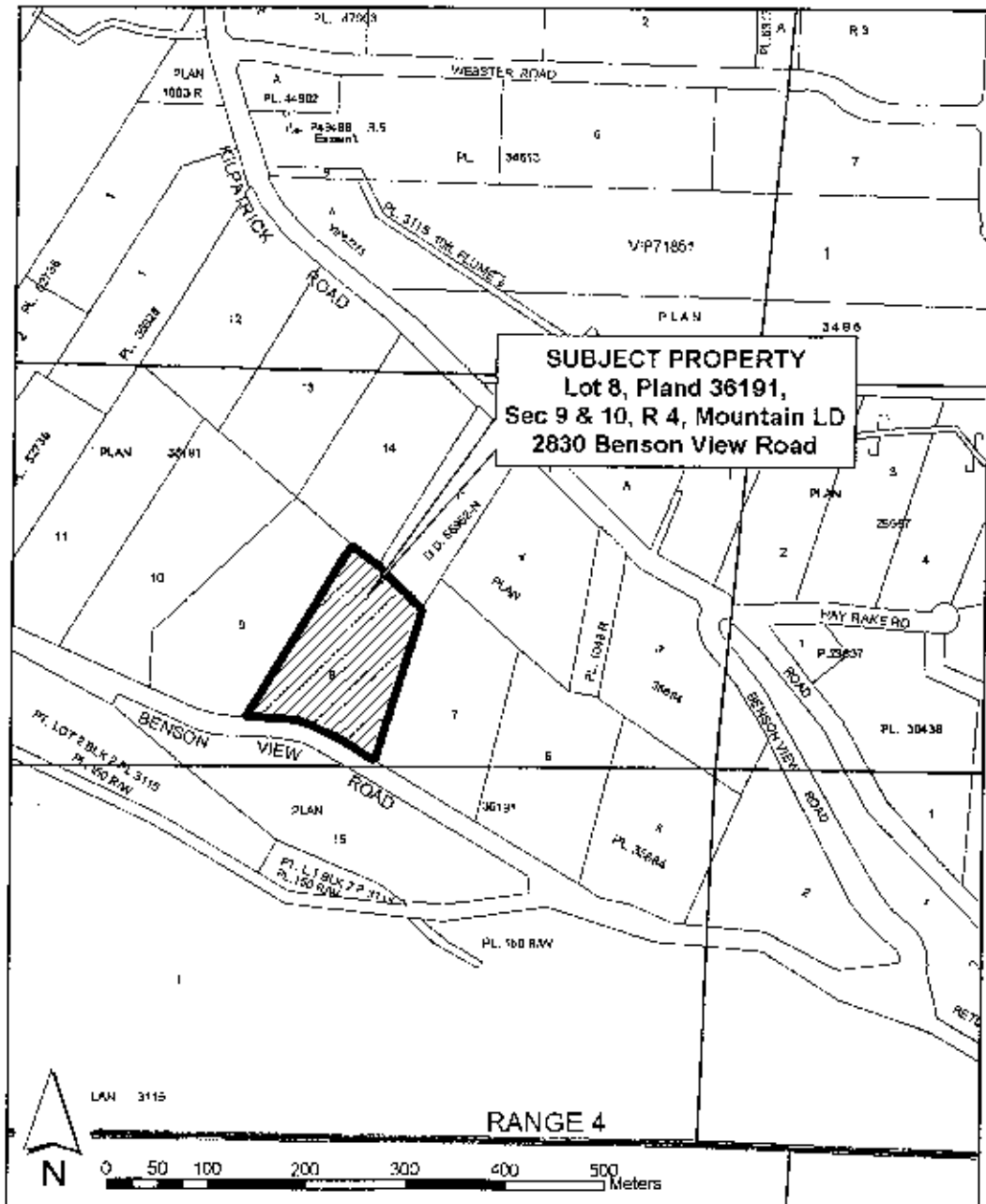


Schedule No. 3
Building Plan - Development Variance Permit No. 90316
2830 Benson View Road



Not to scale

Attachment No. 1
Location of Subject Property



SUBJECT PROPERTY
Lot 8, Plan 36191,
Sec 9 & 10, R 4, Mountain LD
2830 Benson View Road

BGS Map Sheet No. 22F.03B.3.1