

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, AUGUST 27, 2002
7:00 PM

(Nanaimo City Council 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 23, 2002.

BUSINESS ARISING FROM THE MINUTES

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 5-11 DP Application No. 0213 – Dennis/Neufeld – South Lake Road – Area H.
- 12-17 DP Application No. 0217 – Rajotte – 791 Miller Road – Area G.
- 18-34 DP Application No. 0239 - Thompson - 4619 Maple Guard Drive - Area H.

OTHER

- 35-40 Zoning Amendment Application No. 0207 – Northern Star – Anderson Avenue – Area H.
- 41-45 Request for Cash in Lieu of Parkland & Relaxation of 10% Frontage Requirement – Fern Road Consulting/James Deas – Leon Road – Area H.

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 23, 2002, AT 7:00 PM
IN THE CITY OF NANAIMO COUNCIL CHAMBERS,
455 WALLACE STREET, NANAIMO, BC

Present:

Director E. Hamilton	Chairperson
Director L. Elliott	Electoral Area A
Director D. Haime	Electoral Area D
Director G. Holme	Electoral Area E
Director J. McLean	Electoral Area F
Director J. Stanhope	Electoral Area G
Director R. Quittenton	Electoral Area H
Director J. Macdonald	City of Parksville

Also in Attendance:

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

DELEGATIONS

David Brosz & Jean Gibson, re DP Application No. 0243 – Horne Lake Caves Road – Area H.

Mr. Brosz presented an overview of his Development Permit Application No. 0243, noting the difficulty in re-situating the cabin.

LATE DELEGATIONS

MOVED Director Stanhope, SECONDED Director Quittenton, that the following delegation be permitted to address the Committee.

Peter Thomson, re DP Application No. 0240 – Hunt – 2399 Andover Road – Area E.

Mr. Thomson presented an overview of Development Permit Application No. 0240 on behalf of G. & B. Hunt.

MOVED Director Holme, SECONDED Director Stanhope, that the delegations be received.

CARRIED

MINUTES

MOVED Director Holme, SECONDED Director Stanhope, that the minutes of the Electoral Area Planning Committee meeting held Tuesday, June 25, 2002 be adopted.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

DP Application No. 0239 – Thompson – 4619 Maple Guard Drive – Area H.

MOVED Director Quittenton, SECONDED Director Holme, that Development Permit Application No. 0239, to construct a dwelling unit and to recognize the siting of existing retaining works, accessory building and septic system and to convert an existing cabin to an accessory building within the Hazard Lands Development Permit Area pursuant to the Shaw Hill-Deep Bay Official Community Plan Bylaw No. 1007, 1996, for the property legally described as Lot 35, District Lot 40, Newcastle District, Plan 16121, submitted by David and Sandra Thompson, be approved subject to the conditions and variances outlined in Schedules Nos. 1, 2, 3 & 4 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

DP Application No. 0240 – PG Thomson on behalf of Hunt – 2399 Andover Road – Area E.

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 0240 submitted by PG Thomson, on behalf of G. and B. Hunt, to construct a portion of a new dwelling unit, attached deck, and landscape works within a Watercourse Protection Development Permit Area on the property legally described as Lot 55, District Lot 78, Nanoose District, Plan 47638, be approved, subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

DP Application No. 0242 – Stesco – 3478 Grilse Road – Area E.

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 0242, submitted by Steven Stesco and Roberta Stesco, to legalize the existing stairway and deck structure within a Watercourse Protection Development Permit Area, and vary the minimum permitted setback from the top of a slope from 8.0 metres to 0.0 metres for the property legally described as Lot 69, District Lot 78, Nanoose District, Plan 15983, be approved, subject to the conditions as outlined in Schedule Nos. 1, 2 and 3 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

DP Application No. 0243 – Gibson & Brosz – Horne Lake Caves Road – Area H.

MOVED Director Quittenton, SECONDED Director McLean, that Development Permit Application No. 0243 to vary the minimum setback requirements of the Comprehensive Development 9 (CD9) zone of 8 metres from the natural boundary of Horne Lake to a minimum of 0 metres for the stairs, and a minimum of 2.0 metres for the deck and recreational residence, to legalize the location of an existing recreational residence and other existing and proposed construction within an Environmentally Sensitive Areas Development Permit Area on the property legally described as Strata Lot 60, District Lot 251, Alberni District, Plan VIS5160, be approved and that the application be referred back to staff to develop conditions of approval.

CARRIED

DP Application No. 0230 – Ryan – Horne Lake Caves Road – Area H.

MOVED Director Quittenton, SECONDED Director Stanhope, that Development Permit Application No. 0230, submitted by Dennis and Florence Ryan, to vary the maximum floor area of the main floor of the recreational residence from 70 m² to 78 m² pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, to permit the structural alteration to construct a permanent foundation of an existing recreational residence and deck within the Environmentally Sensitive Areas Development Permit Area on the property legally described as Strata Lot 93, District Lot 251, Alberni District, Plan VIS5160, be approved, subject to the requirements outlined in Schedules No. 1, 2 and 3.

CARRIED

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DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 0215 – Mengual – 2955 Anchor Way – Area E.

MOVED Director Holme, SECONDED Director Elliott, that Development Variance Permit Application No. 0215, to relax the minimum rear lot line setback requirements from 2.0 metres to 0.0 metres to accommodate the construction of a retaining wall and to relax the minimum front lot line setback requirement from 8.0 metres to 0.0 metres to accommodate the construction of two driveway entrance pillars, as shown on Attachment No. 1 be approved, subject to the conditions outlined in Schedule Nos. 1, 2 and 3 and the notification requirements pursuant to the *Local Government Act*.

CARRIED

Development Variance Permit Application No. 0216 – Buffle – 6293 West Island Highway – Area H.

MOVED Director Quittenton, SECONDED Director Holme, that Development Variance Permit Application No. 0216 to vary the minimum setback requirement from 18.0 metres horizontal distance from the stream centerline of the back channel of Nash Creek to a minimum of 8.7 metres and to vary the minimum setback distance from 18.0 metres horizontal distance from the stream centerline of the main channel of Nash Creek to 16.9 metres for a building envelope to locate a dwelling unit for the property legally described as Lot 10, District Lot 21, Newcastle District, Plan 11567 be approved as outlined in Option B of the staff report subject to the requirements outlined in Schedules No. 1, 2 and 3.

CARRIED

OTHER

Notification Distance for Development Applications.

MOVED Director Holme, SECONDED Director Stanhope, that this item be referred back to staff to allow for consultation with Electoral Area Directors.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 7:28 PM

CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO	
AUG 19 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
<i>EA Planning</i>	
DATE:	

MEMORANDUM

TO: Pam Shaw
Manager of Community Planning

August 19, 2002

FROM: Brigid Reynolds
Planner

FILE: 3060 30 0213

SUBJECT: Development Permit Application No. 0213 - Dennis/Neufeld
Electoral Area 'H' - South Lake Road

PURPOSE

To consider a request to vary the minimum setback requirement from the side yard to legalize the siting of an existing residential residence/deck and generator shed and permit the construction of a permanent foundation within the Environmentally Sensitive Areas Development Permit Area pursuant to the "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996".

BACKGROUND

The subject property legally described as Strata Lot 388, District Lot 251, Alberni District, Plan VIS5160 is located on South Lake Road at Horne Lake in Electoral Area 'H' (see Attachment No. 1).

As the Board will recall, in October 2001 "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.275" was adopted. This bylaw created a new CD9 zone and rezoned the land surrounding Horne Lake from Resource Management 1 (RM1) to Comprehensive Development 9 (CD9) for the creation of a maximum of 400 Bare Land Strata lots. As part of the rezoning and subdivision, existing buildings and structures that do not conform to Bylaw No. 500 were permitted to remain in their current location and state but were not granted nonconforming status. Therefore, when any structural alteration is proposed to an existing illegally sited recreational residence the owner is required to apply to a site specific variance in order that the building will conform to Bylaw No. 500.

The subject property is zoned Comprehensive Development 9 (CD9) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The bylaw states the minimum setback requirement from the side yard is 1.5 metres. The already-constructed residential residence/deck is sited a minimum of 0.75 m from the north lot line. The generator shed is sited a minimum of 0.75 m from the south lot line (see Schedule No. 2). The recreational residence meets the flood construction elevation required by the Flood Construction Covenant that was registered on title at the time of subdivision. In addition, there is wood shed located within the side yard setback on the north side of the strata lot; this wood shed, however, will be moved to conform to zoning.

The applicant is requesting to undertake structural works to construct a permanent foundation for an existing recreational residence and deck. A portion of the existing recreational residence and deck is within the Environmentally Sensitive Areas Development Permit Area pursuant to Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996 (measured 15.0 metres from the natural boundary of Horne Lake). The existing generator shed is not within the Development Permit Area.

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ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

The recreational residence and deck is located a minimum of 9.2 metres from the natural boundary of Home Lake and a minimum of 0.75 metres from the lot line on the north side of the strata lot. The existing structural supports for the recreational residence and deck are in need of replacement and the applicant would like a permanent foundation. Undertaking structural repairs on the cabin triggers the requirement to conform to Bylaw No. 500. The recreational residence is 'illegally' sited and granting this variance would make the siting legally conforming. The generator shed is located a minimum of 0.75 metres from the lot line on the south side of the strata lot. It is also illegally sited; approval of the variance would legalize the location of the shed.

ENVIRONMENTAL IMPLICATIONS

This application also requests the Board's consideration of the construction of a permanent concrete foundation for an existing recreational residence within the Environmentally Sensitive Areas Development Permit Area pursuant to the Shaw Hill - Deep Bay OCP.

These works are proposed to be undertaken within the existing footprint of the recreational residence; therefore, no riparian vegetation will be removed. That is, the cabin would remain in the same location as it is currently sited but would rest on a concrete foundation.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application to vary the minimum setback requirement from the north and south side yard lot line of the Comprehensive Development 9 (CD9) zone to legalize the siting of an existing recreational residence/deck and generator shed and to permit the construction of a permanent foundation for the recreational residence within a Development Permit Area.

From staff's assessment of this application, the request to vary the setback to legalize the location of an existing recreational residence and generator shed could be supported as the location of the recreational residence does not impact views or otherwise impede on the adjacent recreational residence. In addition, staff recommends that the request for the development permit to construct a permanent foundation for the recreational residence be approved subject to the conditions outlined in Schedule No. 2 as this construction will occur within the existing footprint of the recreational residence.

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RECOMMENDATION

That Development Permit Application No. 0213 to vary the minimum setback requirements of the Comprehensive Development 9 (CD9) zone of 1.5 metres from the north and south side lot lines to 0.75 metres pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 to legalize the location of an existing recreational residence/deck and generator shed and to permit the construction of a permanent foundation within the Environmentally Sensitive Areas Development Permit Area for the property legally described as Strata Lot 388, District Lot 251, Alberni District, Plan VIS5160, be approved subject to the requirements outlined in Schedules Nos. 1, 2, and 3 and subject to the notification provisions of the *Local Government Act*.

Blenquist

Report Writer

[Signature]

General Manager Concurrence

[Signature]

Manager Concurrence

[Signature]

CAO Concurrence

COMMENTS:

devsrs/reports/2002/dp au 3060 30 0213 dennis neufeld

**Schedule No. 1
Development Permit No. 0213
Conditions of Approval**

Development Permit No. 0120

1. Works shall be undertaken in accordance with Development Permit No. 0210.

Site Survey

2. A legal site survey completed by a BCLS confirming the siting of all buildings and structures on the lot must be submitted to the Regional District of Nanaimo once the works have been completed.

Wood Shed

3. The wood shed must be moved outside of the side yard setback and the development permit area.

Sediment and Erosion Control

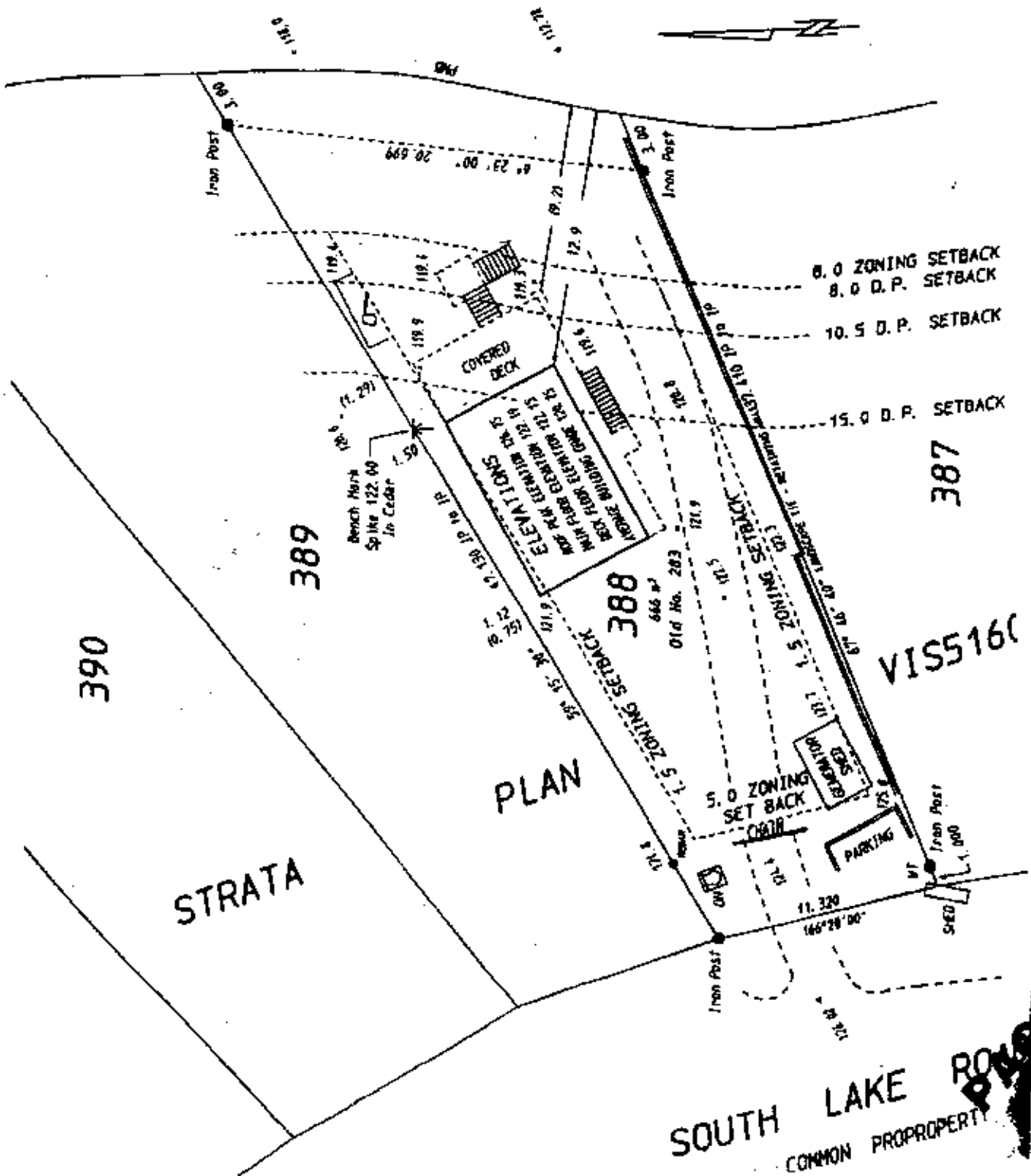
4. No removal of vegetation within the development permit area.
5. Sediment and erosion control measures must be utilized to control sediment during construction and to stabilize the site after construction is complete. These measures must include:
 - (a) Exposed soils must be seeded as soon as possible 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;
 - (c) Cover temporary fill or soil stockpiles with polyethylene or tarps.

Flood Construction Level

8. Certification of Flood Construction Level must be submitted to the Regional District of Nanaimo prior to occupancy of the recreational residence.
9. The Flood Construction Level may be achieved by structural elevation, provided however that for any building or structure within fifteen (15) metres from the natural boundary of Home Lake, the Flood Construction Level may not be achieved by means of fill unless the property owner first secures the written approval of the RDN acting in accordance with a Memorandum of Understanding between DFO, the Province and the RDN, and, in either case, DFO may, in its discretion, withhold its approval. Where landfill is used to raise the natural ground elevation, the toe of the landfill slope shall be no closer to the natural boundary of Home Lake than fifteen (15) metres unless permitted by the RDN pursuant to written approvals given pursuant to this paragraph 4. The face of the landfill slope shall be adequately protected against erosion and flood flows. In no event shall the area below the required elevation be used for:
 - (a) human occupancy, commercial sales, business or storage of goods;
 - (b) the installation of furnaces or other fixed equipment damageable by floodwater or erosion; or
 - (c) the storage or use of contaminants

Schedule No. 2
Development Permit No. 0213
Site Plan

COMMON PROPERTY - FORESHORE

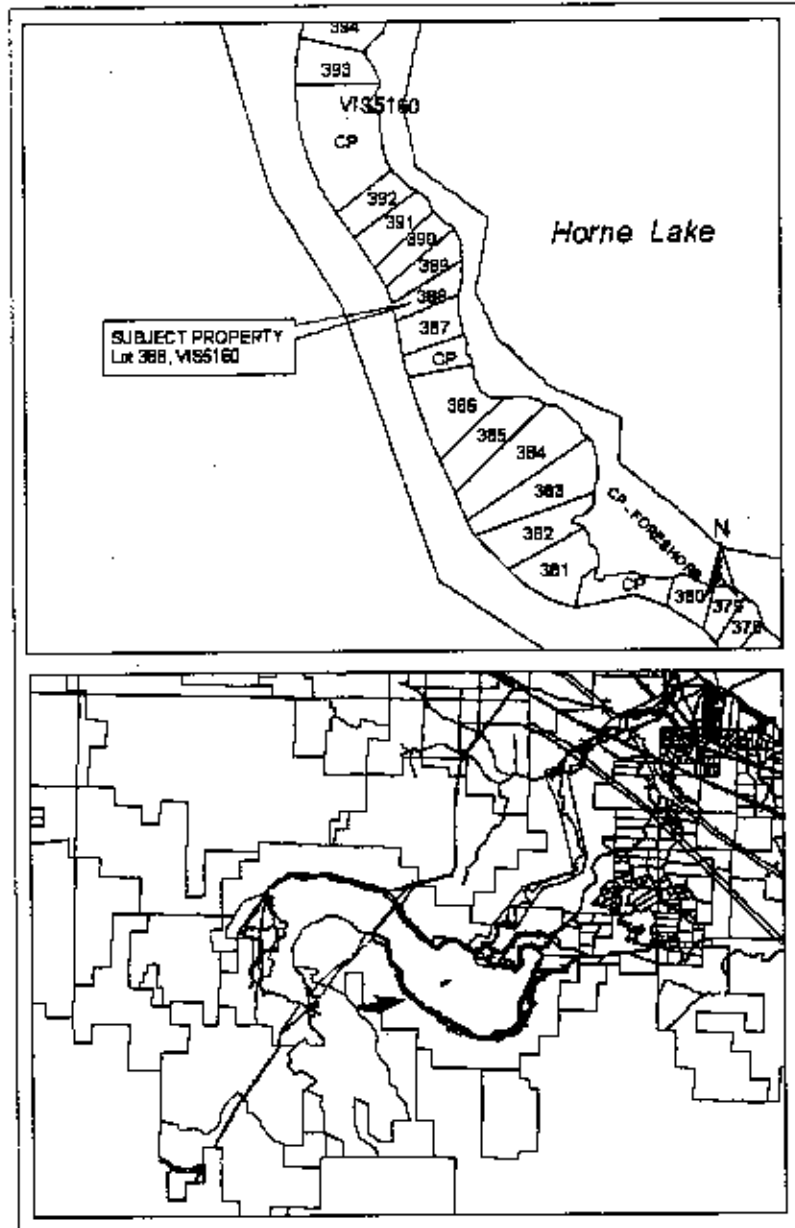


**Schedule No. 3
Development Permit No. 0213
Requested Variances**

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

1. Section 3.4.107 Minimum Setback Requirement – Interior Side Lot Line is varied from 1.5 metres to a minimum of 0.75 metres:
 - (a) from the interior side lot line on the north side of the strata line to legalize an existing recreational residence
 - (b) from the south side lot line to legalize an existing generator shed.

Attachment No. 1
Development Permit No. 0213
Subject Property





REGIONAL DISTRICT OF NANAIMO		
AUG 19 2002		
CHAIR	GMCrS	
CAO	GMDS	
GMCms	GMES	
<i>PH Planning</i>		
DATE:		

MEMORANDUM

TO: Pam Shaw
Manager of Community Planning

August 16, 2002

FROM: Brigid Reynolds
Planner

FILE: 3060 30 0217

SUBJECT: Development Permit Application No. 0217 - Rajotte
Electoral Area 'G' - 791 Miller Road

PURPOSE

To consider an application for a development permit to facilitate the construction of a dwelling unit 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 subject property, legally described as Strata Lot 2, District Lot 28, Nanoose District, Plan VIS4363, is located on 791 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 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; 2.0 metres from the interior side lot lines; and 5.0 metres from other lot lines. No variances to Bylaw No. 500 are being requested as part of this application.

The subject property is 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 proposed location for the dwelling unit is more than 60.0 metres from the natural boundary of French Creek.

Fill has been deposited on the front half of the parcel in the general location of the proposed location of the building envelope. The area between the fill and the rear property line contains native riparian vegetation.

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 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 within the covenant area as defined in the

covenant. These covenants were intended to run with the land, however they were not registered on the title of Strata Lot 2.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested development permit would permit the construction of a rancher style dwelling unit (*see Schedule No. 2*).

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 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. In addition, the covenant defining the flood construction elevation that should have been registered on title at the time of the bare land strata lot subdivision will be required to be registered on the title of Strata Lot 2 as a condition of this permit.

ENVIRONMENTAL IMPLICATIONS

The proposed location for the dwelling unit is more than 60.0 metres from the natural boundary of French Creek. However, there is a substantial amount of introduced fill on the front half of the parcel in the location of the proposed dwelling unit that will need to be excavated in order to accommodate the development. As a result, sediment and erosion control measures must be incorporated into the construction of the dwelling unit to reduce the potential to introduce sediment into French Creek. These are outlined in *Schedule No. 1 Conditions of Approval*.

In addition, given the flood hazard associated with the location of the subject property and the extent of introduced fill on the parcel, staff recommends that a geotechnical report outlining mitigation strategies with respect to the natural hazard and vegetation protection and retention measures be required as a condition of approval.

The back portion of the parcel, where no fill has been introduced, contains native mature vegetation and understory. The applicants have indicated they are not proposing to remove any of this vegetation thereby maintaining a riparian buffer between the proposed development and French Creek.

VOTING

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

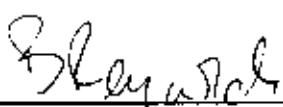
SUMMARY/CONCLUSIONS

This is an application to permit the construction of a dwelling unit within a Sensitive Lands Development Permit Area pursuant to the French Creek Official Community Plan. The whole parcel is located within the Development Permit Area; therefore, there are no means by which to reduce the encroachment into the Development Permit Area. There is a flood hazard associated with this parcel; however, the dwelling unit is required to have a flood construction elevation of 3.0 metres above the natural boundary of French Creek thereby reducing the flood hazard. The front half of the parcel, consistent with the proposed location for the dwelling unit, contains a substantial amount of introduced soil. 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, a geotechnical is required as a condition of approval to outline mitigation measures and vegetation protection and retention measures.

As a result of the entire parcel being within the Development Permit Area and the measures to reduce the potential hazard and negative impacts to the natural environment, staff support the issuance of the development permit subject to the conditions set out in Schedule Nos. 1 and 2 of the staff report.

RECOMMENDATION

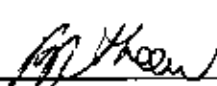
That Development Permit Application No. 0217 to construct a dwelling unit in a Sensitive Lands Development Permit Area pursuant to the Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998 on the property legally described as Strata Lot 2, District Lot 28, Nanoose District, Plan VIS4363 be approved, subject to the conditions outlined in Schedule Nos. 1 and 2 of the corresponding staff report.




Report Writer



A/ General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devs/reports/2002/dp au 3060 30 0217 rajotte

**Schedule No. 1
Conditions of Approval
Development Permit No. 0217**

Covenants

1. Three covenants as required as part of the original subdivision and registered in favour of the RDN and Ministry of Water, Land and Air Protection for the purposes of flood protection and no vegetation removal covenants (Land Title document numbers EL090520, EL090524; and EL090522) must be registered on the title of the subject property prior to occupation.

Vegetation Removal

2. No removal of vegetation in the area between the introduced fill and the rear lot line.

Sediment and Erosion Control

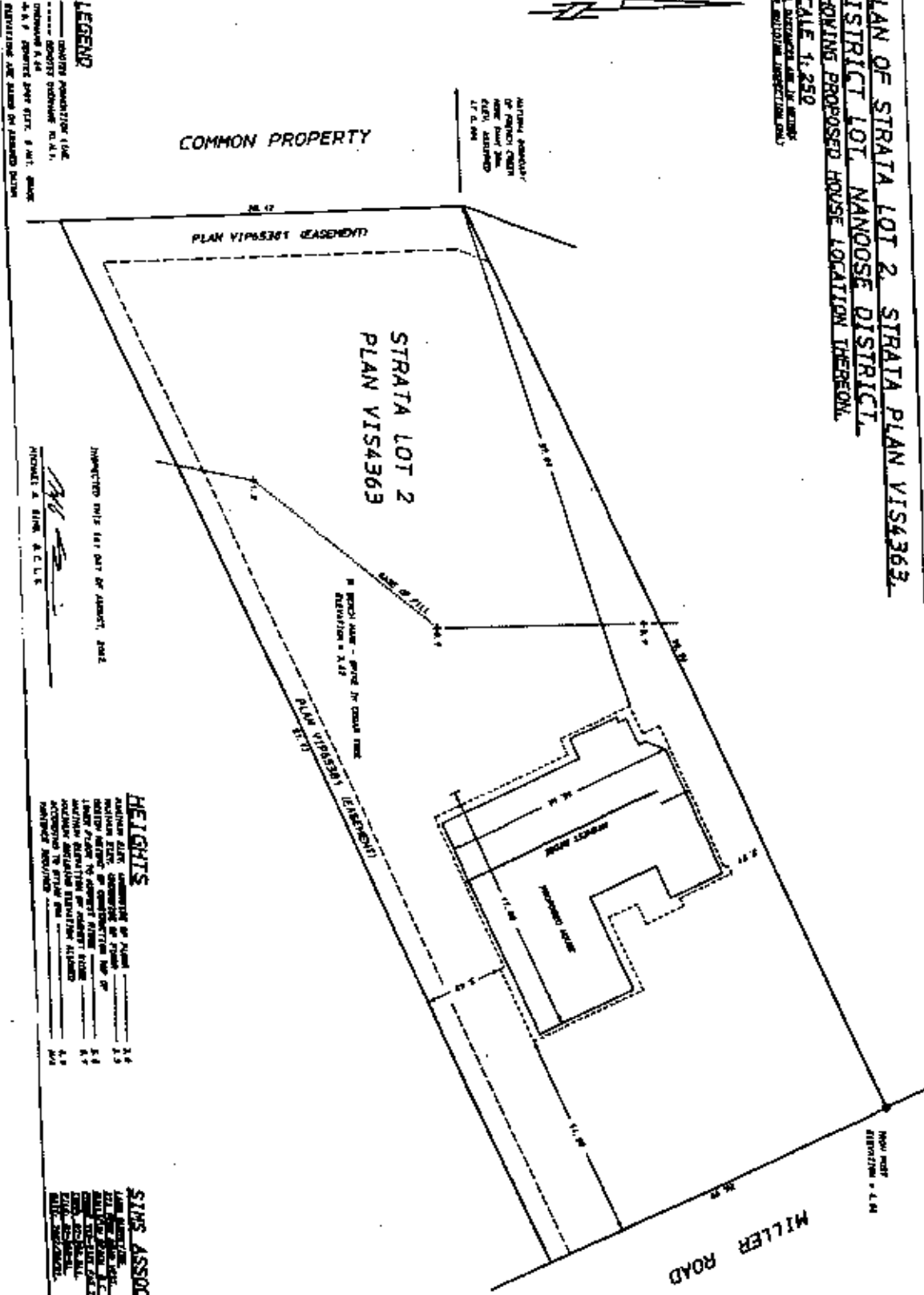
3. Sediment and erosion control measures must be utilized to control sediment during construction and to stabilize the site after construction is complete. These measures must include:
 - (a) Exposed soils must be seeded as soon as possible to reduce erosion during rain events;
 - (b) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite during the works;
 - (c) Cover temporary fill or soil stockpiles with polyethylene or tarps.

Geotechnical Report

4. A geotechnical report outlining mitigation strategies with respect to the natural hazard and vegetation protection and retention measures is required to be submitted to the RDN prior to occupancy.

Schedule No. 2
 Site Plan
 Development Permit No. 0217

PLAN OF STRATA LOT 2, STRATA PLAN VIS4363,
 DISTRICT LOT, NANOOSE DISTRICT,
 SHOWING PROPOSED HOUSE LOCATION THEREON.
 SCALE 1:250
 ALL DIMENSIONS ARE IN METERS
 FOR ORIENTATION, NORTH IS UP



NORTH ARROW
 OF PERMITS (SEE PLAN
 AT THE END OF THE
 PLAN)

LEGEND

- SOLID LINE: CONCRETE FOUNDATION (100)
- DASHED LINE: CONCRETE FOUNDATION (10, 20)
- DOTTED LINE: CONCRETE FOUNDATION (10, 20)
- LINE WITH SPACES: 3.0M SETBACK
- DOTTED LINE WITH SPACES: 3.0M SETBACK

DIMENSIONS ARE GIVEN IN METERS UNLESS OTHERWISE STATED

INSPECTED THIS SET OF PLANS, AND

NICHOLAS A. SIM, A.C.L.C.

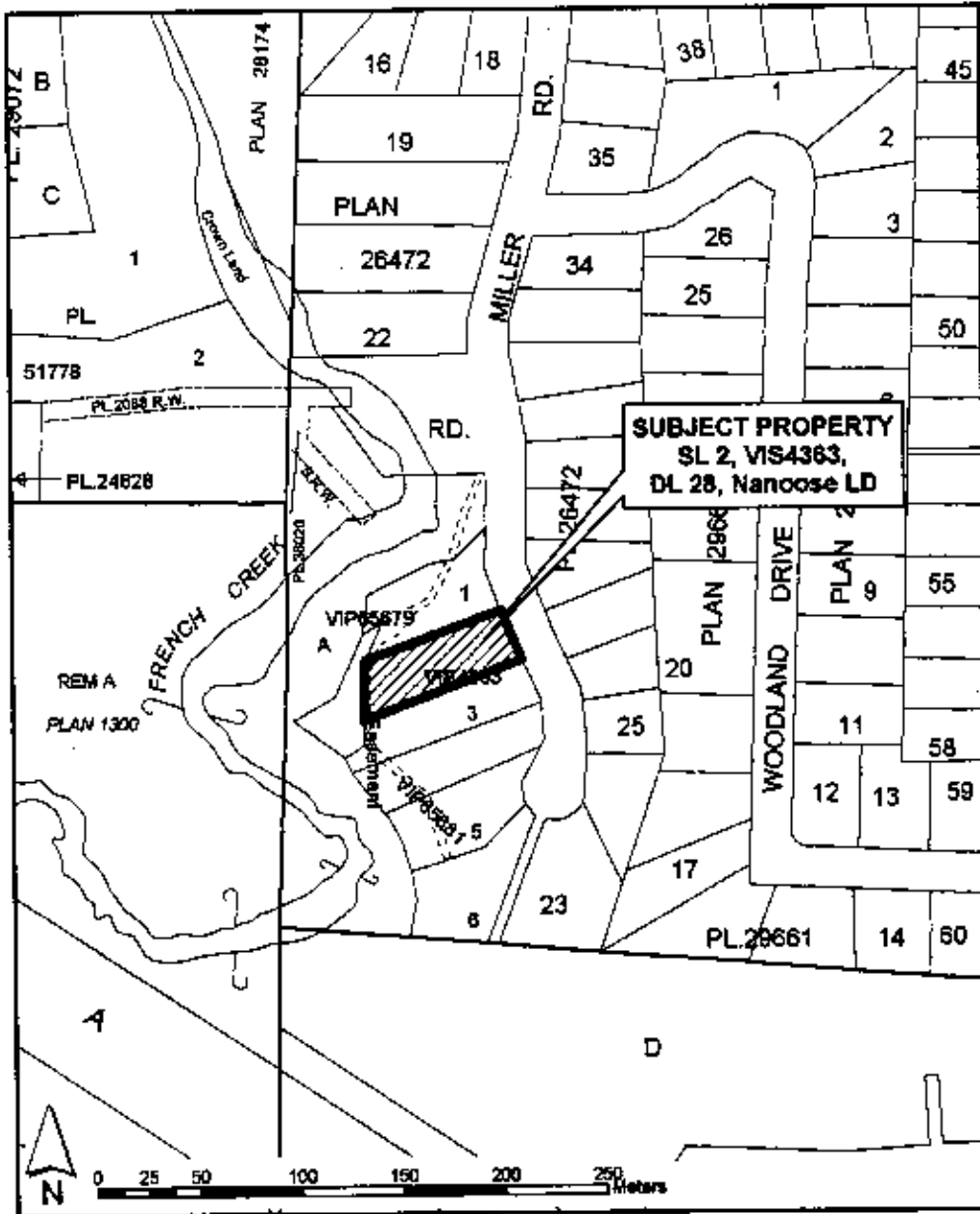
HEIGHTS

MAXIMUM ALLOWABLE HEIGHT OF PLANS	3.0
MAXIMUM SETBACK OF PLANS	3.0
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5
MINIMUM SETBACK OF PLANS	1.5

SIMS ASSOCIATES

1200 WEST 10TH AVE., SUITE 100
 VICTORIA, BRITISH COLUMBIA V8W 2X7
 TEL: (250) 383-3333
 FAX: (250) 383-3334
 WWW: WWW.SIMSASSOCIATES.COM

Attachment No. 1
Subject Property
Development Permit No. 0217



BCGS MapSheet No. 92F 039.1.3



REGIONAL DISTRICT OF NANAIMO			
AUG 19 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
E.H. Plouffe			

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: August 16, 2002

FROM: Brigid Reynolds
Planner

FILE: 3060 30 0239

SUBJECT: Development Permit Application No. 0239 - Thompson/Sims
Electoral Area 'H' - 4619 Maple Guard Drive

PURPOSE

To reconsider an application to vary the minimum setback requirement from a watercourse to facilitate the construction of a carport and dwelling unit, recognize existing bank stabilization works and a septic system, and to convert an existing cabin into an accessory building within the Natural Hazard Development Permit Area pursuant to the "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996".

BACKGROUND

The subject property, legally described as Lot 35, District Lot 40, Newcastle District, Plan 16121, is located at 4619 Maple Guard Drive in the Bowser area of Electoral Area 'H'.

The original application was considered by the Electoral Area Planning Committee at the July meeting and included the following requests (*see Schedule No. 4 for the original site plan and see Attachment No. 2 for the original report*):

1. To construct a single dwelling unit on the upper terrace of the lot, 4.5 metres into the Hazard Lands Development Permit Area;
2. To construct septic disposal pipes down the face of the slope within the Development Permit Area by hand digging a trench to accommodate a gravity fed connection pipe;
3. To recognize the existing septic system located on the lower terrace within the Development Permit Area, which is approved for use by the proposed new dwelling unit;
4. To recognize the slope stabilization works undertaken by the applicant, including the narrow path down the slope, and the accessory building located on the lower terrace;
5. To convert an existing cabin to an accessory building upon completion of a new dwelling unit on the property;
6. To request a variance to relax the setback requirement to the front lot line from 8.0 metres to 6.5 metres, relax the setback to a watercourse from 18.0 meters from the stream centerline to 14.0 meters; and
7. To request a variance to relax the maximum height of the dwelling unit from 8.0 metres to 9.0 metres as shown on *Schedule Nos. 2 & 3 of the original report (see Attachment No. 2)*.

As a result, the following motion was approved:

That Development Permit Application No. 0239, to construct a dwelling unit and to recognize the siting of existing retaining work, accessory building and septic system and to convert an existing cabin to an accessory building within the Hazard Land Development Permit Area pursuant to the Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996, for the property legally described as Lot 35, District Lot 40, Newcastle District, Plan 16121, submitted by David and Sandra Thompson, be approved subject to the conditions and variances outlined in Schedule Nos. 1, 2, and 3 and subject to notification requirements pursuant to the Local Government Act.

Subsequent to the Electoral Area Planning Committee meeting, notification was undertaken pursuant to the *Local Government Act*. As a result, two neighbours expressed concern about the requested variances. In response to the neighbours' concerns, the applicants requested that their application be deferred to the August Committee meeting and have modified their application as follows (*see Schedule No. 2 for the revised site plan*):

1. No height variance and no variance to the front line are being requested;
2. To request a variance to relax the setback from the stream centreline of a watercourse from 18.0 metres to 6.1 metres to accommodate a carport that was not part of the original application;
3. To construct a single dwelling unit on the upper terrace of the lot, 6.9 metres into the Hazard Lands Development Permit Area; and
4. To maintain the requests as outlined above in points 2 through 5, above.

ALTERNATIVES

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

PUBLIC CONSULTATION IMPLICATIONS

Two neighbours expressed concerns about the proposed variances to relax the maximum height of the dwelling unit, the front yard setback for the dwelling unit, and the setback to the watercourse. As a result of these concerns the applicant has modified their application to eliminate the request for a height variance and the request to relax the front lot line setback.

The modified application includes the request to vary the minimum setback from the stream centerline of the watercourse from 18.0 metres to a minimum of 6.1 metres to accommodate a two-car carport. While this was not part of the original application, the applicant's consider the carport an important part of this development and a reasonable request for a single dwelling unit development. The dwelling unit is proposed to be sited a minimum of 13.7 metres from the stream centreline. Due to the various site constraints there is no alternative building envelope on the lot.

Notification of the revised variances to property owners within a 50 metre radius of the property will be undertaken pursuant to "Regional District of Nanaimo Development Approval and Notification Procedures Bylaw No. 1261, 2002 and the *Local Government Act*.

ENVIRONMENTAL IMPLICATIONS

While the location of the car port and dwelling unit is proposed to be a minimum of 6.1 metres from the stream centreline of the watercourse impacts to the watercourse can be reduced as a result of maintaining the existing riparian vegetation and by enhancing it with the addition of more native plantings. The applicants have verbally indicated they have already begun planting native plants adjacent to the watercourse and will continue to do so when the weather is better suited. In addition, there is no alternative location for the carport due to the various site constraints.

VOTING

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

SUMMARY/CONCLUSIONS

This is a revised application to vary the minimum setback requirement from the stream centreline of a watercourse from 18.0 metres to 6.1 metres to facilitate the construction of a car port and dwelling unit, to recognize existing bank stabilization works and a septic system, and to convert an existing cabin into an accessory building within the Shaw Hill – Deep Bay Hazard Lands Development Permit Area.

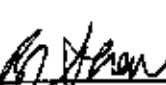
From staff's assessment of the revised application, the request to vary the minimum setback from the stream centreline of the watercourse from 18.0 metres to a minimum of 6.1 metres could be supported as there is no other building envelope on the lot for the proposed dwelling unit and the addition of a carport is a reasonable accessory use for a dwelling unit development. This variance request should not adversely impact adjacent neighbours as the carport will be one storey and will not exceed 8 metres in height. In addition, there are numerous site constraints that necessitate the request for a variance; the applicant is proposing mitigation measures as outlined in Schedule No. 1 as conditions of approval.

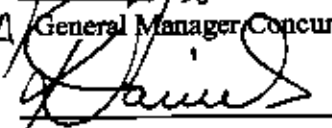
RECOMMENDATIONS

That Development Permit Application No. 0239 to vary the minimum setback requirements of 18.0 metres from the stream centreline to 6.1 metres pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 to facilitate the construction of a dwelling unit and car port; to recognize existing bank stabilization works and a septic system, and to convert an existing cabin into an accessory building within the Hazard Lands Development Permit Area on the property legally described as Lot 35, District Lot 40, Newcastle District, Plan 16121, be approved subject to the requirements outlined in Schedule Nos. 1, 2, and 3 and subject to notification requirements pursuant to the *Local Government Act*.


Report Writer


Manager Concurrence


General Manager Concurrence


CAO Concurrence

COMMENTS:

devsvs/reports/2002/dp au 3060 30 0239 thompson sims

**Schedule No. 1
Development Permit No. 0239
Conditions of Approval**

Development of Site

1. Subject property to be developed in accordance with Schedules Nos. 1, 2, 3 & 4.
2. The installation of all septic disposal lines on the slope is to be completed by hand, and is to be re-vegetated immediately after installation.
3. Existing cabin to be converted to an accessory building when the proposed new dwelling is occupied as per the letter of intent signed by the applicants.
4. Applicant to supply proof of certification of all recommendations contained in Geotechnical Report prepared by Robert Davey, P.Eng date stamped June 25, 2002 to the satisfaction of the Regional District.

Covenant

5. Applicant to register Section 219 Covenant with respect to the Geotechnical Report by Robert Davey P.Eng, date stamped June 25, 2002 at Land Titles Victoria to the satisfaction of the Regional District with all costs of registration borne by the applicant.

Development Permit Area Protection Measures

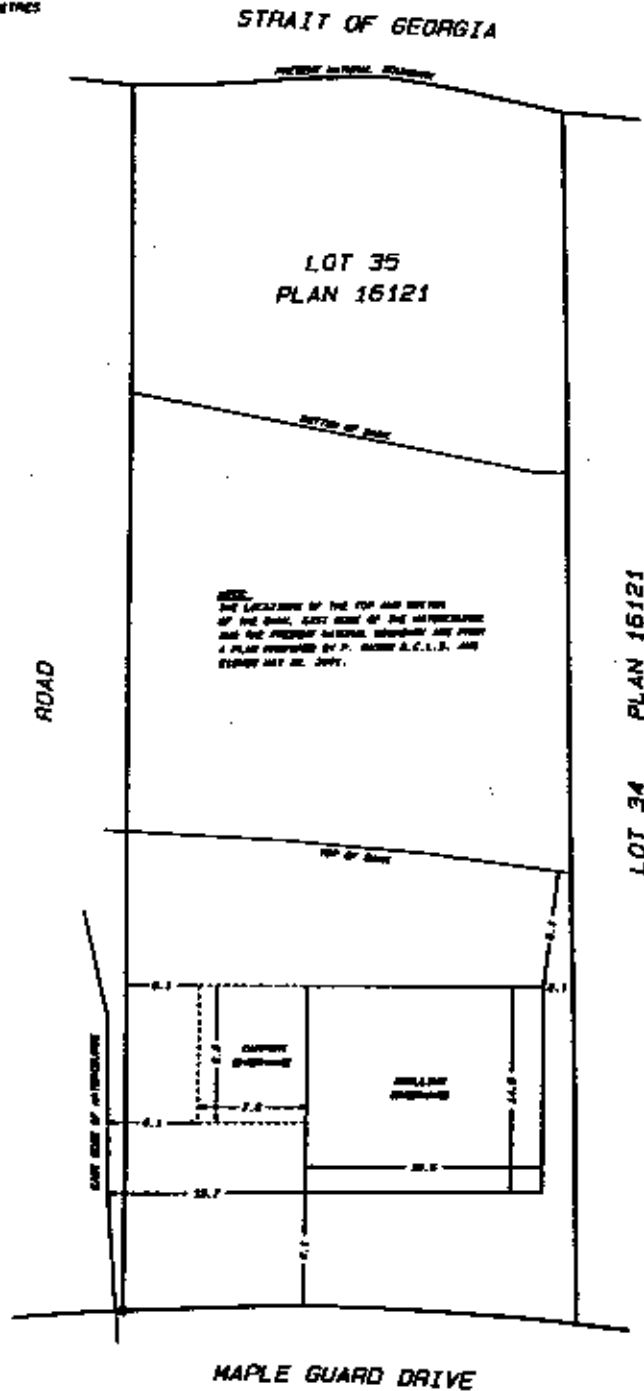
6. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - b) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - c) Direct run off flows away from Strait of Georgia using swales or low berms.
 - d) Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - e) Cover temporary fills or soil stock piles with polyethylene or tarps.
 - f) Temporary construction fencing to be erected 6.0 metres from the top of the bank to reduce any potential bank destabilization.
7. Replant vegetation within disturbed parts of the development permit area. Replanting to use trees, shrubs and ground cover native to the area; all replanting to maintain and enhance the natural characteristics of the riparian area.

Site Survey

8. A legal site survey completed by a BCLS confirming the height of the dwelling unit must be submitted to the RDN prior to occupancy.

Schedule No. 2
Development Permit No. 0239
Revised Site Plan

SKETCH PLAN OF LOT 35, PLAN 16121,
DISTRICT LOT 40, NEWCASTLE DISTRICT.
TO ACCOMPANY DEVELOPMENT PERMIT WITH VARIANCES
SCALE: 1:300
ALL DISTANCES ARE IN METRES



LOT 34 PLAN 16121

**Schedule No. 3
Development Permit No. 0239
Requested Variances**

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

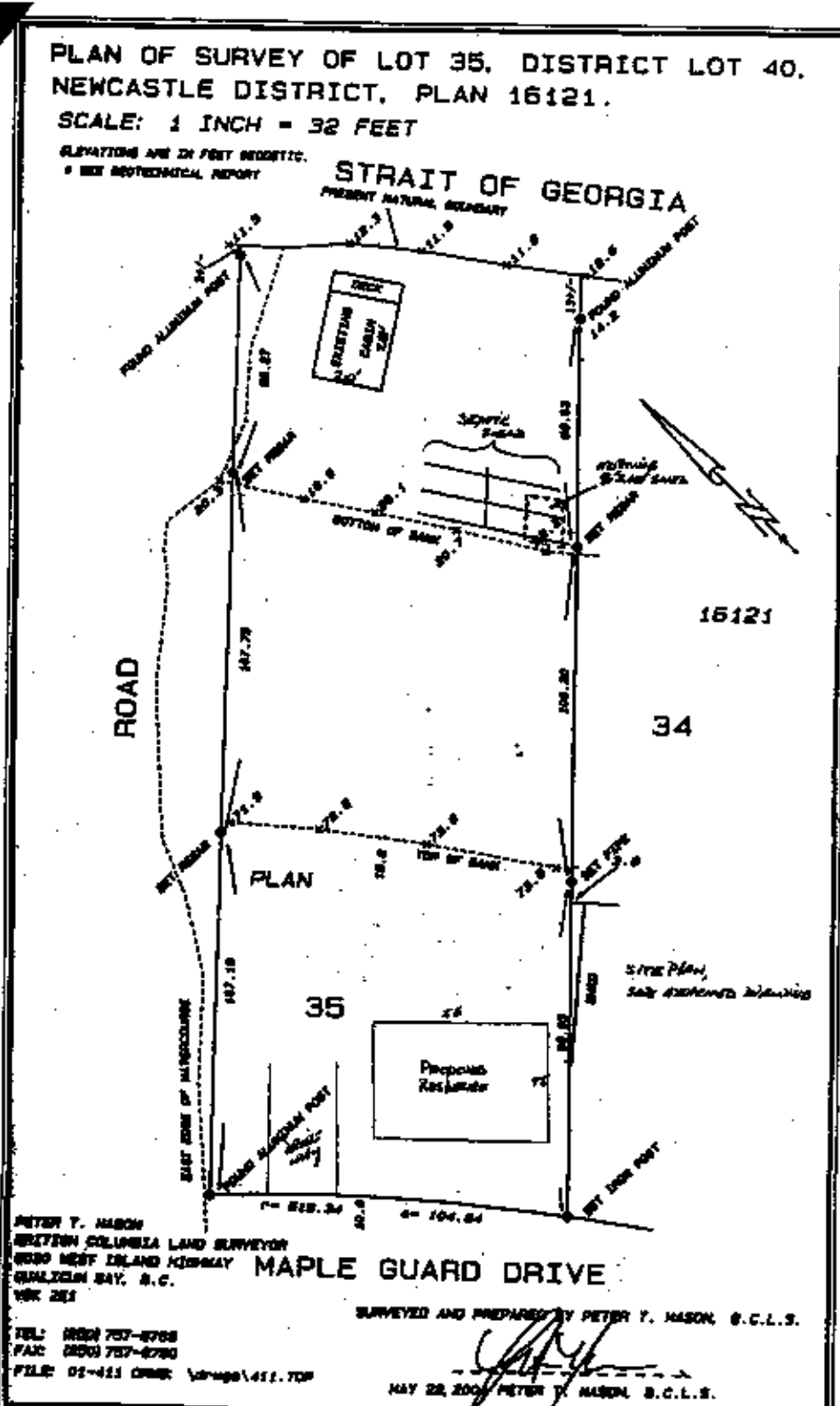
1. Section 3.3.8 Setbacks – Watercourse, excluding the Sea – varied from 18 metres horizontal distance from the stream centerline to a minimum of 6.1 metres for a carport and dwelling unit.

Schedule No. 4
Development Permit No. 0239
Original Site Plan

PLAN OF SURVEY OF LOT 35, DISTRICT LOT 40,
NEWCASTLE DISTRICT, PLAN 16121.
SCALE: 1 INCH = 32 FEET

ELEVATIONS ARE IN FEET MEETRIC.
SEE METEOROLOGICAL REPORT

STRAIT OF GEORGIA
PRESENT NATURAL BOUNDARY



PETER Y. MASON
BRITISH COLUMBIA LAND SURVEYOR
4000 WEST ISLAND HIGHWAY
QUILICEM BAY, B.C.
V8K 2E1

MAPLE GUARD DRIVE

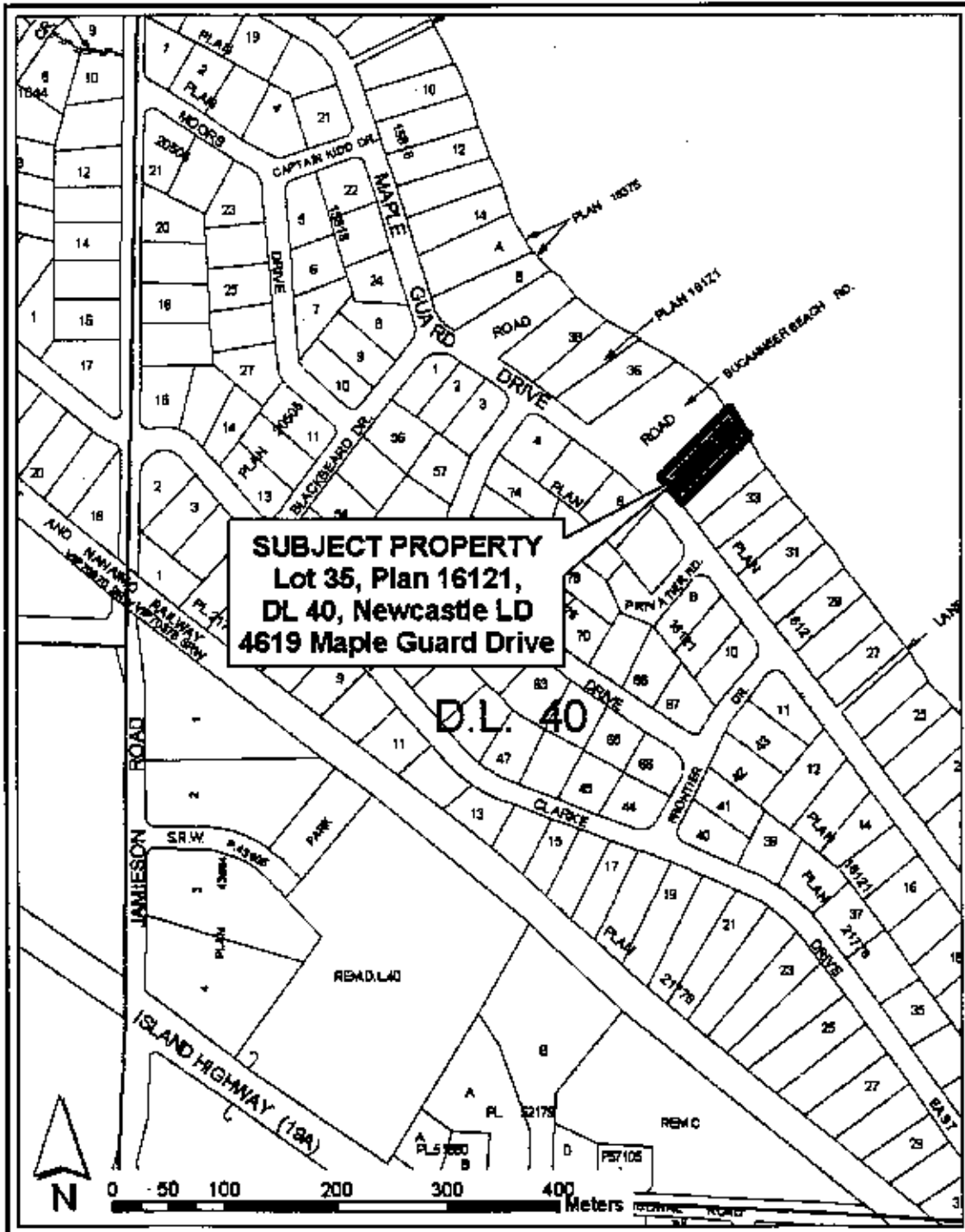
SURVEYED AND PREPARED BY PETER Y. MASON, B.C.L.S.

TEL: (604) 757-8708
FAX: (604) 757-8700
FILE: 01-411 OREG: V-4490/411.TOP

MAY 28, 2001 PETER Y. MASON, B.C.L.S.

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Attachment No. 1
Development Permit No. 0329
Subject Property



Attachment No. 2
Development Permit No. 0239
Original Staff Report



MEMORANDUM

TO:	Pamela Shaw Manager, Community Planning	DATE:	July 12, 2002
FROM:	Lindsay Chase Planner	FILE:	3060 30 0239
SUBJECT:	Development Permit Application No. 0239 – Thompson Electoral Area 'H' – 4619 Maple Guard Drive		

PURPOSE

The consider an application for a Development Permit with variances within a Hazard Lands Development Permit Area in order to facilitate the construction of a dwelling unit and other site works and to covert an existing cabin into an accessory building.

BACKGROUND

This is an application to facilitate the construction of a dwelling unit, and to recognize existing bank stabilization works, the siting of a septic system, and convert an existing cabin into an accessory building within the Hazard Lands Development Permit Area designation pursuant to "Shaw Hill-Deep Bay Official Community Plan Bylaw No. 1007, 1996" on a residential property in the Bowser area of Electoral Area 'H'.

The subject property, legally described as Lot 35, District Lot 40, Newcastle District, Plan 16121, which is located at 4619 Maple Guard Drive. The subject property is presently zoned Residential 2 (RS2) and is within subdivision District 'M' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1 for location). The property is approximately 2000 m² in size, and therefore, only 1 dwelling unit is allowed. The maximum dwelling unit height in this zone is 8.0 metres. The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line, 2.0 metres from the interior side lot line, 5.0 metres from an other lot line and 8.0 metres inland from the top of a slope of 30% or greater. The property is not within a building inspection area.

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The property consists of 2 terraces, separated by a slope of approximately 49%. The upper terrace is accessible via Maple Guard Drive, and the lower terrace is accessed via Buccaneer Beach Road. The upper terrace is approximately 1.0 metre lower than the road, and slopes slightly from the road to the edge of the bank.

The development permit area is measured 15.0 metres inland from the top of the bank adjacent to a watercourse. As a result, a portion of the proposed dwelling unit will be within the Development Permit Area, as well as the septic system and the bank stabilization works that have been undertaken on the slope. A geotechnical report, commissioned by the applicant, indicates that the proposed house location is considered safe from a geotechnical point of view, and recommends the bank stabilization measures the applicant has already begun.

The Proposal as Submitted

- To construct a single dwelling unit on the upper terrace of the lot, 4.5 metres into the Hazard Lands Development Permit Area;
- To construct septic disposal pipes down the face of the slope within the Development Permit Area by hand digging a trench to accommodate a gravity fed connection pipe;
- To recognize the existing septic system located on the lower terrace within the Development Permit Area, and which is approved for use by the proposed new dwelling unit;
- To recognize the slope stabilization works undertaken by the applicant, including the narrow path down the slope, and the accessory building located on the lower terrace;
- To convert an existing cabin to an accessory building upon completion of a new dwelling unit on the property;
- To request a variance to relax the setback requirement to the front lot line from 8.0 metres to 6.5 metres, relax the setback to a watercourse from 18.0 meters from the stream centerline to 14.0 meters;
- To request a variance to relax the maximum height of the dwelling unit from 8.0 metres to 9.0 metres as shown on *Schedule Nos. 2 & 3*.

ALTERNATIVES

1. To approve the Development Permit with variances subject to the conditions outlined in *Schedule Nos. 1, 2, 3, & 4*.
2. To deny the Development Permit application as submitted.

DEVELOPMENT/LAND USE IMPLICATIONS

While the applicant's engineer has recommended that the proposed dwelling unit be located at least 8.0 metres from the top of the slope, and that the footings be certified by a structural engineer, the applicant has indicated that they would prefer a greater setback for the dwelling unit from the top of the slope in order to lessen the impact of the dwelling on the Development Permit Area (*see Schedule Nos. 2 & 3*). As no building permit is required, staff recommends that certification of the footings by a structural engineer be required as a condition of the permit, and that the existing geotechnical covenant be registered as a restrictive covenant against the title of the property.

The applicant is also requesting that the maximum allowable height of the dwelling unit be varied from 8.0 metres to 9.0 metres in order to accommodate a steeply pitched roof (*see Schedule No. 4*). The

applicant does not yet have building plans for the proposed dwelling, but does have a scale model, which was used to determine the height of the proposed dwelling. The property most likely to be impacted is located across Maple Guard Drive and a dwelling has already been established on that parcel. Based on the proposed location of the new dwelling, it is staff's assessment that the adjacent property's view corridors are unlikely to be significantly affected. In addition, the subject property is located slightly below the grade of the road, and the parcel on the other side of the street is higher than the road, which minimizes the impact of the request for a height variance.

The applicant's surveyor noted the presence of a watercourse on the adjacent road right of way. The applicant is already proposing to move the house over to the east side of the property. Due to the narrow channel of the watercourse, and that the upper terrace of the parcel has an average slope of less than 5%, the setback in this situation is measured from the stream centerline. Therefore, the applicant is requesting a variance to the setback from a watercourse from 18.0 meters to 14.0 meters in order to situate the dwelling as shown on Schedule No. 2.

The subject property already has a small cabin and a garden shed located on the lower terrace. The applicant has provided a notarized letter of intent that indicates that the existing cabin will be converted to an accessory building by removing kitchen facilities when the proposed new dwelling is complete. Converting the existing cabin to an accessory building has no further impact up on the development permit area.

ENVIRONMENTAL IMPLICATIONS

The geotechnical report recommends bank stabilization measures, some of which have been implemented by the applicant. The applicant has verbally indicated that he was unaware of the requirement to obtain a development permit to undertake such works. The bank stabilization works includes a narrow path that zig zags down the slope and provides foot access between the upper and lower terraces. The applicant has verbally indicated that the stabilization and replanting works do include significant plantings of trees, shrubs and grasses and that where possible, native plant species and perennial plants were used, and that they intend to continue using native plant species. Staff recommends that using native plant species for re-vegetation of the slope be a condition of approval of this development permit.

The septic disposal system is located at the bottom of the bank on the lower terrace. The system is approved for use by the new proposed 3-bedroom dwelling unit. The applicant has indicated that when the proposed new dwelling unit is connected to the system, the trenches for the pipes will be hand dug, and will immediately be covered by sod in order to minimize any erosion of the slope. Staff recommends that hand digging for the placement of any pipes be a condition of the Development Permit.

PUBLIC CONSULTATION IMPLICATIONS

As the applicant has requested variances as part of the development permit, notification of property applicants within a 50 metre radius of the property is required pursuant to "Regional District of Nanaimo Development Approval and Notification Procedures Bylaw No. 1261, 2002" and the *Local Government Act*.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a development permit with variances to facilitate the construction of a dwelling unit, convert an existing cabin into an accessory building and to recognize existing bank stabilization works and a septic system within the Shaw Hill-Deep Bay Hazard Lands Development Permit Area. It is staff's assessment that due to the site topography and the location of the proposed dwelling unit in relation to other properties, the requested variances are unlikely to significantly impact adjacent properties. Therefore, staff recommends approval of this application subject to the conditions and variances outlined in *Schedules Nos. 1, 2, 3 & 4*.

RECOMMENDATION

That Development Permit Application No. 0239, to construct a dwelling unit and to recognize the siting of existing retaining works, accessory building and septic system and to convert an existing cabin to an accessory building within the Hazard Lands Development Permit Area pursuant to the Shaw Hill-Deep Bay Official Community Plan Bylaw No. 1007, 1996, for the property legally described as Lot 35, District Lot 40, Newcastle District, Plan 16121, submitted by David and Sandra Thompson, be approved subject to the conditions and variances outlined in *Schedules Nos. 1, 2, 3 & 4* and subject 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 of Development Permit No. 0239
4619 Maple Guard Drive

Development of Site

1. Subject property to be developed in accordance with Schedules Nos. 1, 2, 3, & 4.
2. The installation of all septic disposal lines on the sloped is to be completed by hand, and is to be re-vegetated immediately after installation.
3. Existing cabin to be converted to an accessory building when the proposed new dwelling is occupied as per the letter of intent signed by the applicants.
4. Applicant to supply proof of certification of all recommendations contained in Geotechnical Report prepared by Robert Davey, P.Eng date stamped June 25, 2002 to the satisfaction of the Regional District.

Covenant

5. Applicant to register Section 219 Covenant with respect to the Geotechnical Report by Robert Davey P.Eng, date stamped June 25, 2002 at Land Titles Victoria to the satisfaction of the Regional District with all costs of registration borne by the applicant.

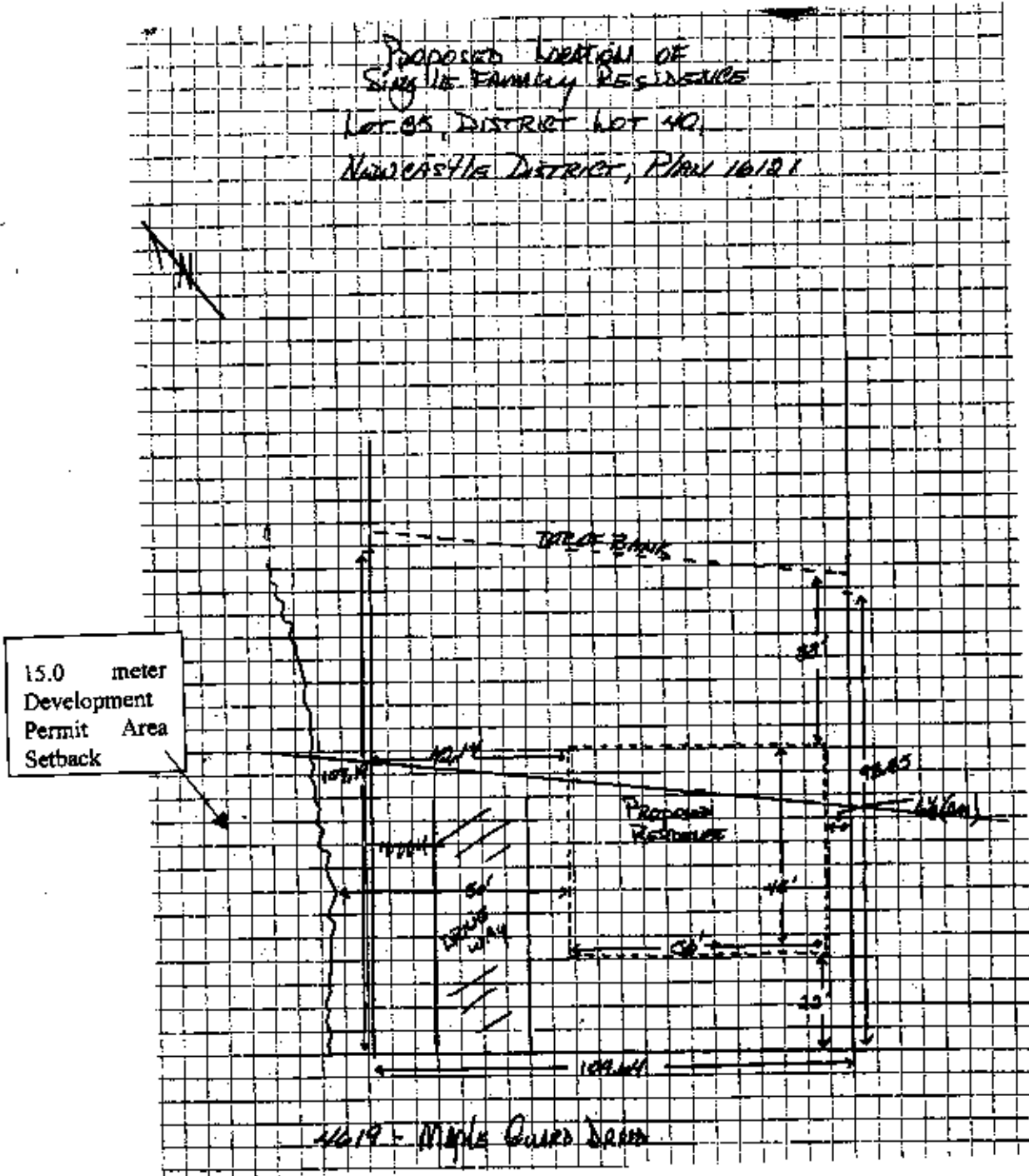
Development Permit Area Protection Measures

6. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - a) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - b) Direct run off flows away from Strait of Georgia using swales or low berms.
 - c) Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - d) Cover temporary fills or soil stock piles with polyethylene or tarps.
 - e) Temporary construction fencing to be erected 8.0 metres from the top of the bank in order to delineate the development permit area and the required setback.
7. Replant vegetation within disturbed parts of the development permit area. Preferred replanting to use trees, shrubs and ground cover native to the area; all replanting to maintain and enhance the natural characteristics of the riparian area.

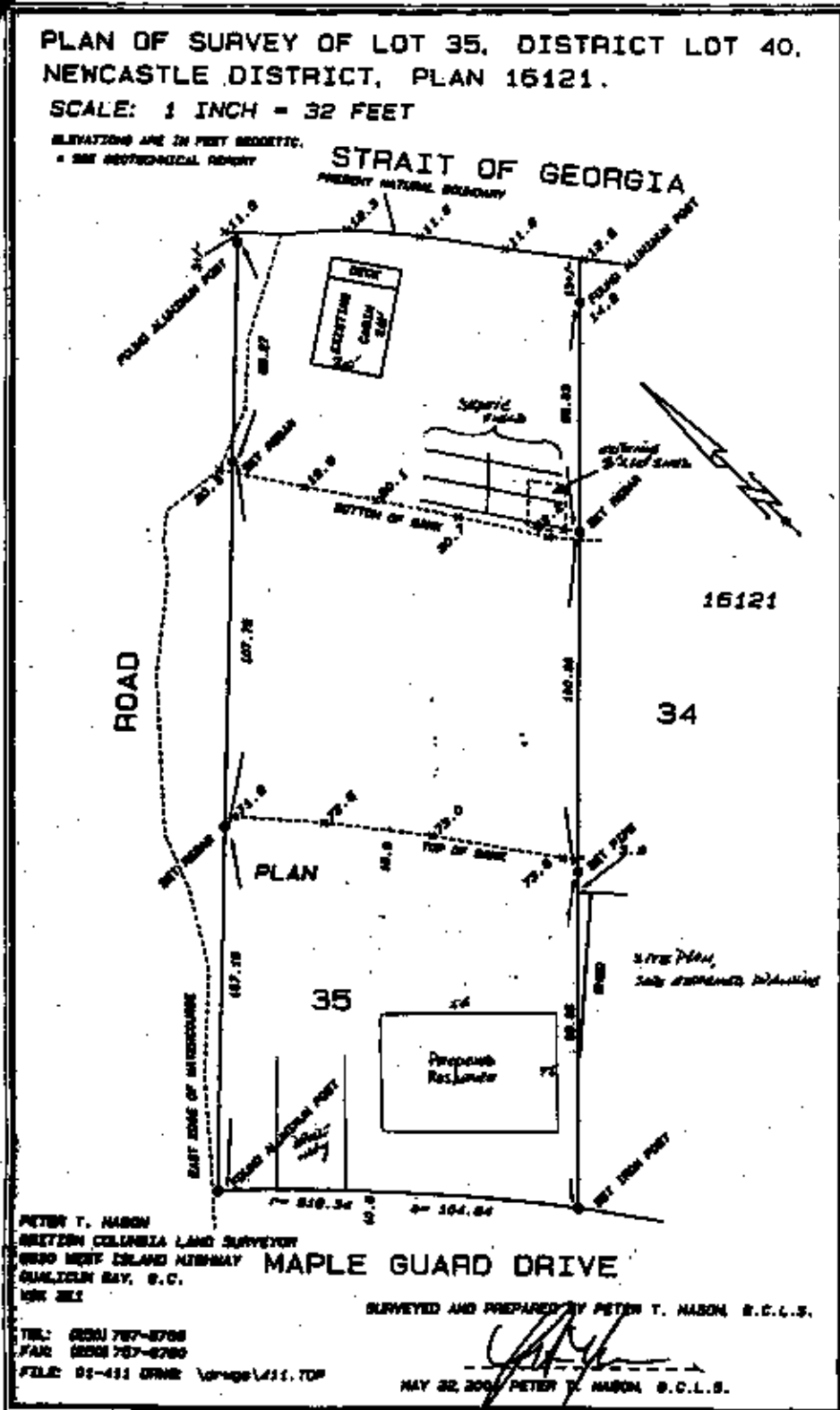
Variances

- a) The minimum front lot line setback requirement pursuant to Section 3.4.62 be varied from 8.0 metres to 6.5 metres to facilitate the construction of a dwelling unit.
- b) The maximum dwelling unit height requirement pursuant to Section 3.4.62 be varied from 8.0 metres to 9.0 metres to facilitate construction of a dwelling unit.
- c) The setback to a watercourse, excluding the Sea pursuant to Section 3.8 a) be varied from 18.0 meters to 14.0 meters to facilitate the construction of a dwelling unit.

Schedule No. 2
Site Plan as Submitted by Applicant

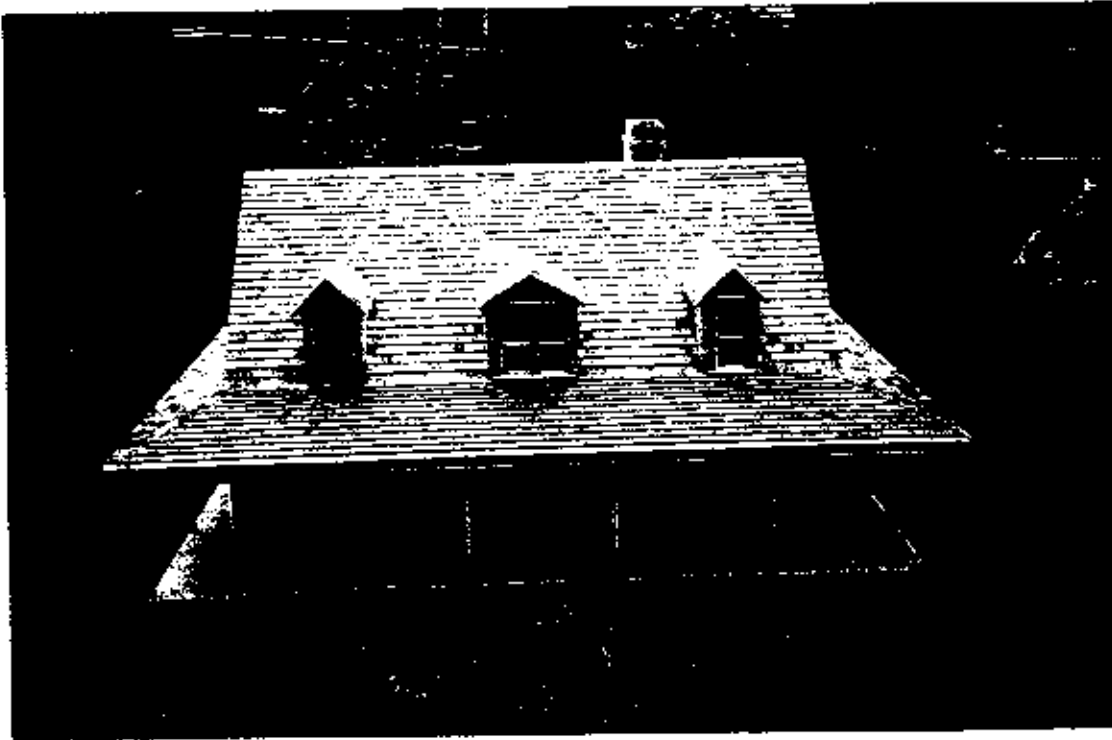


Schedule No. 3
 Survey Site Plan as Submitted by Applicant

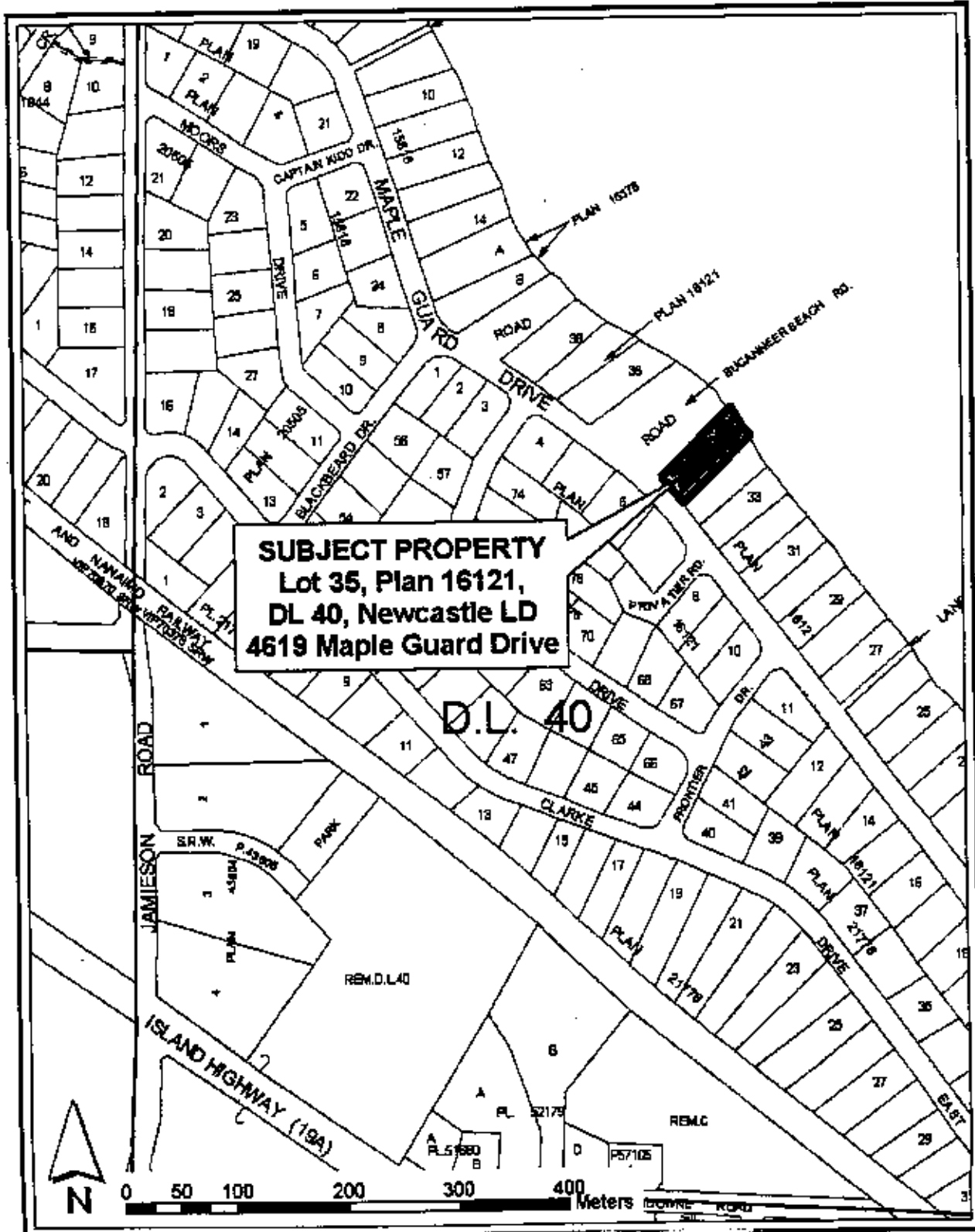


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Schedule No. 4
Photos of Scale Model of Dwelling as Submitted by Applicant



Attachment No. 1
Subject Property Location



SUBJECT PROPERTY
Lot 35, Plan 16121,
DL 40, Newcastle LD
4619 Maple Guard Drive

D.L. 40

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REGIONAL DISTRICT OF NANAIMO			
AUG 19 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
<i>P.H. Klumpp</i>			
			DATE:

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

August 16, 2002

FROM: Deborah Jensen
Planner

FILE: 3360 30 0207

SUBJECT: Zoning Amendment Application No. 0207 – Northern Star
Electoral Area 'H' – Anderson Avenue

PURPOSE

To consider an application to rezone the subject property from Rural 1 (RU1), Subdivision District 'A' to Rural 1 (RU1), Subdivision District 'D' to facilitate the development of a two-lot subdivision.

BACKGROUND

The Regional District of Nanaimo has received an application to rezone a 5.8 hectares property from Rural 1 (RU1), Subdivision District 'A' to Rural 1 (RU1), Subdivision District 'D' for the property legally described as Lot 10, District Lot 109, Newcastle District, Plan 30254. The subject property is located adjacent to Anderson Avenue (see Attachment No. 1) and is surrounded on three sides by Rural 1 zoned properties (generally Subdivision District 'E'). Resource Management 1 Subdivision District 'A' (RM1A) zoned land located in the Forest Land Reserve borders the subject property to the south.

Pursuant to Section 3.4.81 of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," the Rural 1 zone allows for a density of two dwelling units on the subject property. However, the property owner wishes to subdivide the property; therefore, a zoning amendment application was submitted to reduce the minimum parcel size. This will then facilitate a two-lot subdivision, with both lots facing Anderson Avenue.

A previous zoning amendment application to reduce minimum parcel size was initiated by property owners within this same area. RDN staff reviewed the application and determined that a 1.6-hectares minimum parcel size would best maintain the character of the area relative to the existing use of the properties. This resulted in Amendment Bylaw No. 500.165, 1994, reducing the minimum parcel size to 1.6 hectares for five separate properties in the same subdivision (Beaufort Acres). An additional application in 1996 resulted in Amendment Bylaw No. 500.213, 1996, changing the minimum parcel size to 2.0 hectares for another parcel and resulting in a two-lot subdivision. Subsequent subdivision of the above-mentioned parcels has resulted in parcel sizes ranging from 1.6 hectares to 3.2 hectares.

ALTERNATIVES

1. To approve the amendment application to rezone the subject property from Rural 1 (RU1), Subdivision District 'A' to Rural 1 (RU1), Subdivision District 'D' subject to the conditions outlined in Schedule No. 1.
2. To not approve the amendment application to rezone the subject property from Rural 1 (RU1), Subdivision District 'A' to Rural 1 (RU1), Subdivision District 'D'.

PUBLIC CONSULTATION IMPLICATIONS

The subject property is located in an area of 1.6 to 5 hectare Rural 1 (RU1) zoned properties. Given that the rezoning will not increase the density of possible residential development, an assessment of the application by the General Manager, in consultation with the Electoral Area 'H' Director, resulted in a decision to not hold a public information meeting in advance of the report to the Electoral Area Planning Committee. Should the application be given 1st and 2nd reading, the property will be posted, notification will be provided in local newspapers, and a public hearing will be held pursuant to the requirements of the *Local Government Act*.

GROWTH MANAGEMENT PLAN IMPLICATIONS

The Growth Management Plan designates the subject property as "Rural Residential," and is located outside of the Urban Containment Boundary (UCB). This designation includes lands that have several different zoning bylaw designations, including those where modest future rural residential development could occur without affecting the rural economy or environmental quality of the area. The GMP also states that any subdivision permitted in Rural Residential areas should cluster development and protect the maximum amount of natural open space. In this instance, District Lot 109 in its entirety is showing a distinct pattern of subdivision into similar sized lots, while the surrounding area remains at significantly larger parcel sizes (*see Attachment No. 1*).

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996 designates the subject property as "Rural" land. Under Section 4.3.2.6, this designation allows for rezoning to a minimum 2.0 hectares parcel size so long as the rezoning is only considered where the "*plan for subdivision meets the following criteria:*

- *One single family dwelling per parcel;*
- *No frontage relaxation;*
- *No further road dedication to accommodate parcel frontage or additional parcels;*
- *Bareland Strata subdivisions shall not be permitted;*
- *The number of parcels capable of being subdivided pursuant to this section is demonstrated and/or declared by restrictive covenant registered prior to rezoning of the subject parcel. The covenant will be designed to protect the rural setting and the environment through appropriate subdivision design conditions including the above criteria and will not preclude phased subdivision."*

Staff has completed a review of approved subdivisions within District Lot 109 and determined that a restrictive covenant was placed on each created lot stipulating restrictions on number of dwelling units and further subdivision possibilities. Staff recommends a restrictive covenant also be registered to the title of the subject property reiterating these same conditions.

LAND USE IMPLICATIONS

The subject property is a relatively flat parcel located along Anderson Avenue in an area of rural residential lands. Those parcels bordering on the north, east, and west sides of the subject property have already been rezoned and subdivided to a 1.6-hectare minimum parcel size. Lands to the south are zoned Resource Management 1 (RM1) and located in the Forest Land Reserve, and any potential subdivision of the subject property should have minimal impact on use of this land.

The current Rural 1 Subdivision District 'A' (RU1A) zoning allows for two dwelling units on the subject property. The proposal to amend the zoning to Subdivision District 'D', in conjunction with subdivision approval and restrictive covenants placed upon the property title, would allow for only one dwelling unit on each of the two separate titles, therefore, residential density for the property remains unchanged.

The OCP and Environmentally Sensitive Areas Atlas do not indicate the presence of any environmentally sensitive or hazardous areas. However, the OCP does speak to the environmental sustainability of property proposed for subdivision. Therefore, confirmation of information pertaining to potable water supply and septic disposal requirements are included as conditions of approval for the rezoning.

VOTING

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


SUMMARY/CONCLUSIONS

This is an application to rezone a 5.8 hectare property from Rural 1 Subdivision District 'A' (RU1A) to Rural 1 Subdivision District 'D' (RU1D) to facilitate the development of a two-lot subdivision. The subject property bordered by other Rural 1 zoned, similarly sized properties. Staff recommends Alternative No. 1, to approve the rezoning application for 1st and 2nd reading subject to the conditions in Schedule No. 1 of this report and the notification requirements of the *Local Government Act*.

RECOMMENDATIONS

1. That Amendment Application No. 0207, submitted by Peter Mason and Ben Mellin, Agents, on behalf of Northern Star Developments Ltd., to rezone the subject property legally described as Lot 10, District Lot 109, Newcastle District, Plan 30254, from Rural 1 (RU1), Subdivision District 'A' to Rural 1 (RU1), Subdivision District 'D' be given 1st and 2nd reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.288, 2002" be advanced to a public hearing subject to the conditions outlined in Schedule No. 1.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.288, 2002" be delegated to Director Quittenton or his alternate.


Report Writer


Manager Concurrence

COMMENTS:


A/ General Manager Concurrence

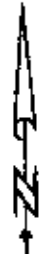

CAO Concurrence

**Schedule No. 1
Conditions of Approval
Zoning Amendment Application No. 0207**

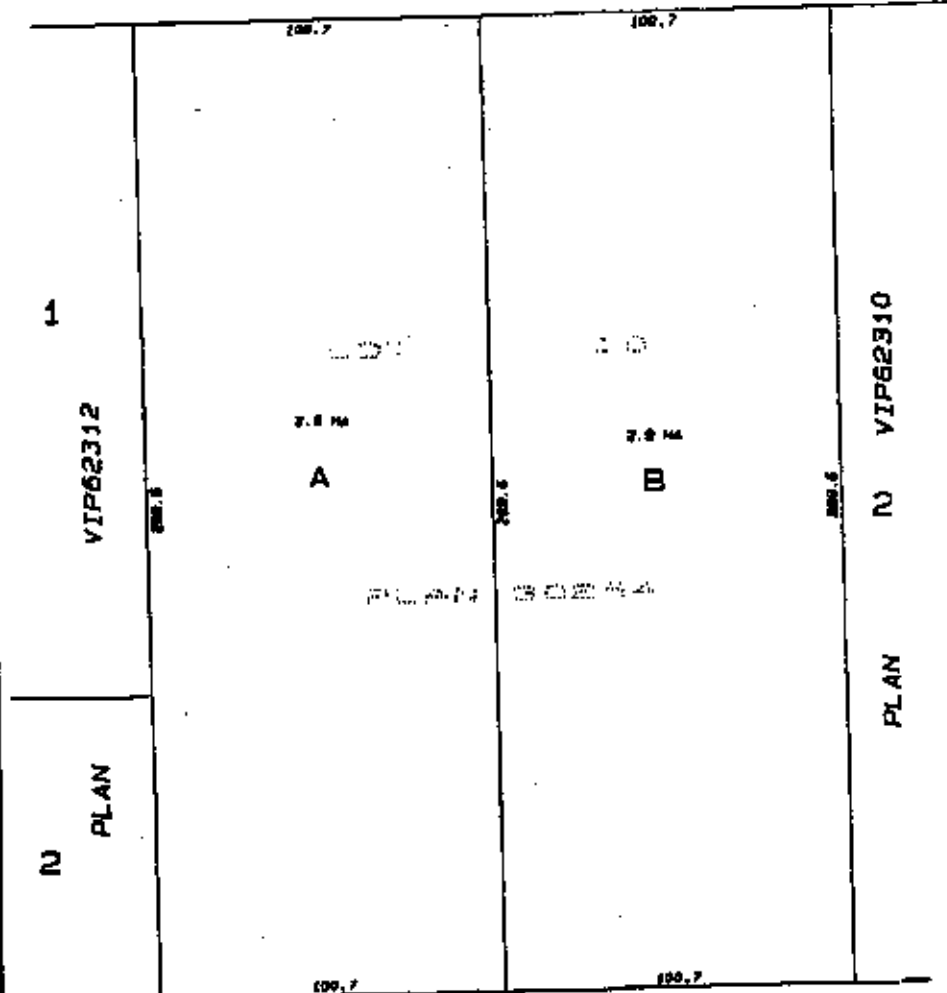
1. Registration of a restrictive covenant over the property, in accordance with Section 4.3.2.6 of the Shaw Hill – Deep Bay Official Community Plan, indicating the following:
 - Not more than one single dwelling unit per parcel to be located on the properties;
 - No frontage relaxation or further road dedication to occur as a result of the subdivision application process
 - No subdivision of the property via a Bareland Strata subdivision;
 - Only two parcels to be created, and no further subdivision to occur.
2. Confirmation that septic disposal needs for each of the proposed two lots can be met on-site, acceptable to the Regional District of Nanaimo.
3. Confirmation of an adequate year-round potable water supply for each of the proposed two lots, acceptable to the Regional District of Nanaimo.

Schedule No. 2
Proposed Plan of Subdivision

PLAN TO ACCOMPANY REZONING APPLICATION
FOR LOT 10, DISTRICT LOT 109,
NEWCATSLE DISTRICT, PLAN 30254.
SCALE: 1:1500



ANDERSON AVENUE



1

VIP62312

N
PLAN

7.8 M
A

7.8 M
B

VIP62310

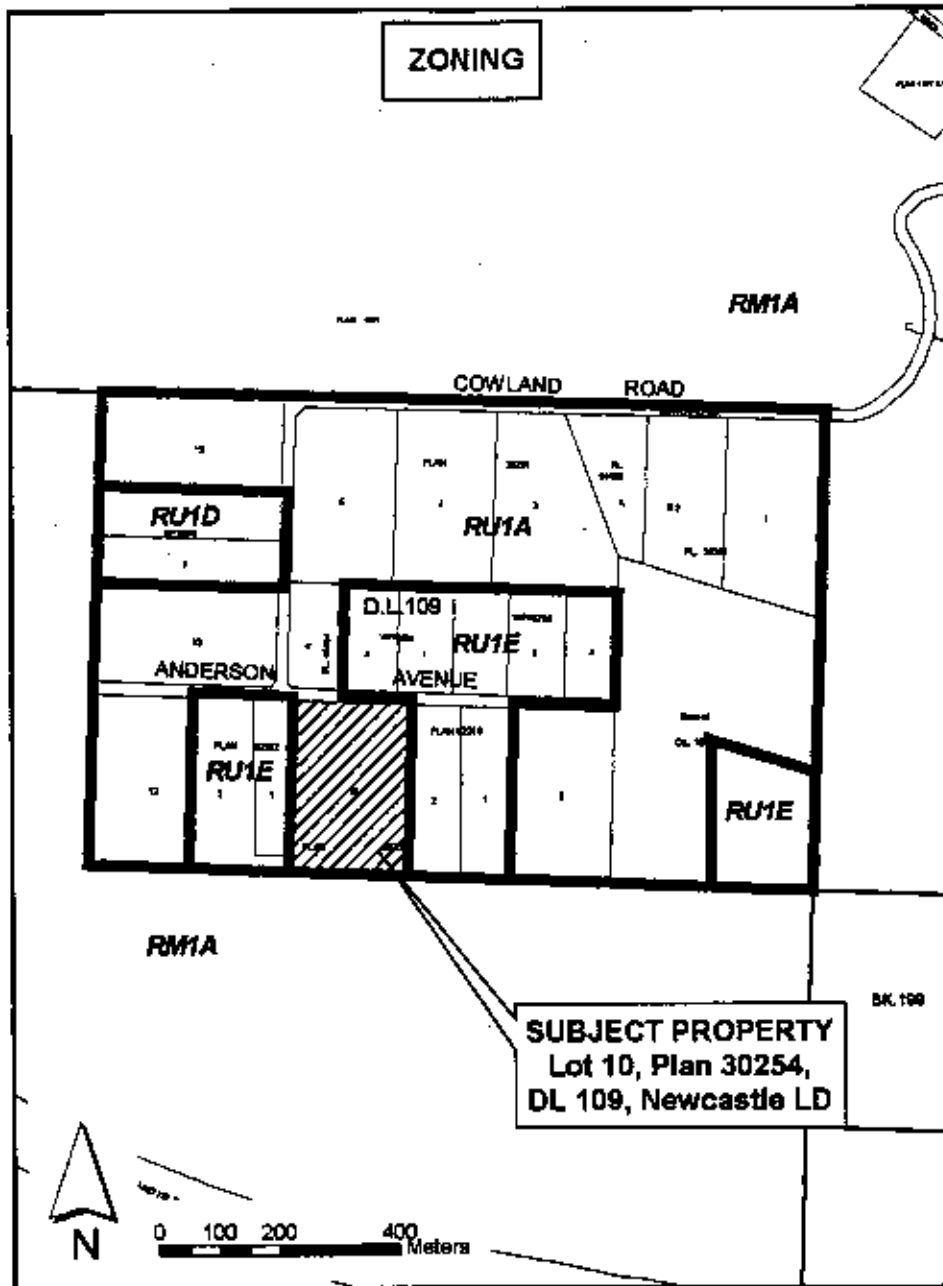
N
PLAN

REM BLOCK 179

PETER T. MASON
BRITISH COLUMBIA LAND SURVEYOR
8030 WEST ISLAND HIGHWAY
MALDEN BAY, B.C.
V5K 2E1

TEL: (250) 797-8788
FAX: (250) 797-8780
FILE: DE-328 (Plan) \draws\528.REZ

Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO			
AUG 19 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
EA Planning ✓			
		DATE:	
FILE:			

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

August 16, 2002

FROM: Susan Cormie
Senior Planner

FILE: 3320 30 24503

SUBJECT: Request for Cash in-Lieu-of Park Land Dedication & Relaxation of The Minimum 10% Frontage Requirement
Applicant: Fern Road Consulting Ltd. on behalf of James Deas
Electoral Area 'H', Leon Road

PURPOSE

To consider a request to accept cash in-lieu-of dedication of park land and to relax the minimum 10% perimeter frontage requirement as part of a proposed eight-lot subdivision development.

BACKGROUND

The applicant's agent, Fern Road Consulting Ltd has requested that cash in-lieu-of park land dedication be accepted as part of a 8-lot subdivision proposal for the 1.839 hectare sized property legally described as Lot 2, District Lot 19, Newcastle District, Plan 32575 and located on Leon Road within the Bowser Village area of Electoral Area 'H' (see Attachment No. 1 for location). The applicant's agent is also requesting that the minimum 10% perimeter frontage requirement be relaxed for 2 of the proposed parcels within the proposed subdivision.

The subject property is currently zoned Residential 2 (RS2) and is within Subdivision District 'M' pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The applicant is proposing to subdivide the parent parcel into 8 lots, of which 3 of the parcels are proposed to be 1600 m² in size and the remaining 5 parcels are proposed to be greater than 2000 m² in size. Bylaw No. 500 allows for parcel averaging up to 50% of the total number of proposed lots provided the average parcel size meets the minimum parcel size requirement. In this case, the average parcel size will be 2370 m². Therefore, the provisions pertaining to minimum parcel size and parcel averaging requirements will be met (see Attachment No. 2 for proposed subdivision). The parcels are proposed to be serviced by individual private septic disposal systems and community water service connections.

The subject parcel is designated within the Village Centre Comprehensive Development Area pursuant to the Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996 and is also designated within the Dunsmuir Village Development Permit Area for the protection of the adjacent Agricultural Land Reserve lands. The applicant is in concurrence to protect the farm land by way of a 15-metre wide 'no building/vegetation retention' covenant adjacent to the east lot line of the parent parcel. This covenant will meet the requirements of the development permit guidelines.

Park Land Requirements

As per Section 941 of the Local Government Act, the owner of the subject property has the option of:

- a. Providing 5% of the gross site area as park land; or
- b. Paying cash in-lieu-of providing park land; or
- c. Providing a combination of both park land with the balance of 5% given in cash.

The maximum amount of park land that the Regional District may request for this property is 5% of the total site area or 0.092 ha. However, where an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash. In this case, the Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996 (OCP) specifies that park land may be considered at the time of subdivision for parcels designated Village in the OCP. The criteria used to evaluate desirable park land includes obtaining park land for community recreation, nature preservation, linear connections, greenbelt, and access to the waterfront and watercourses.

Minimum 10% Perimeter Frontage Requirements

Lot 7 is proposed to have a frontage of 11.5 metres or 3.3% of the perimeter and Lot 8 is proposed to have a frontage of 11.1 metres or 5.0% of the perimeter. Therefore, as these proposed lots do not meet the minimum 10% parcel frontage requirement pursuant to Section 944 of the *Local Government Act*, approval of the Regional Board of Directors is required.

ALTERNATIVES

1. To accept the request by the applicant for cash in-lieu-of park land and approve the request for the relaxation of the minimum 10% frontage requirement for proposed Lots 7 and 8.
2. To deny the request for cash in-lieu-of park land and require the applicant to dedicate park land and approve the request for the relaxation of the minimum 10% frontage requirement.
3. To deny the requests for cash in-lieu-of dedication of park land and relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

Official Community Plan Implications

Where the official community plan contains policies on the location and type of future parks, the local government may determine whether the owner must provide land or cash. In this case, the Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996, contains park land related policies which stipulates that park land is desirable where preferred criteria may be met such as waterfront access, environmentally sensitive areas, linear connections, or preserving natural areas. As the subject property does not contain an environmentally sensitive feature and there is no parks master plan in place that recommends park or trail lands in the neighbourhood, the OCP supports cash in-lieu-of park land.

Park and Recreation Implications

Parks and Recreation staff has reviewed this request for park land and noted that there are a number of small parks serving in the surrounding area, including the Dunsmuir Community Park that has been developed with basketball and tennis courts. Within the immediate neighbourhood, there are 5 small dedicated park lands. Given that there is no master parks plan, Parks Department staff recommend that cash in-lieu-of park land be supported.

Lot Configuration Implications

Ministry of Transportation staff has indicated that they have no objection to the request for relaxation of the minimum 10% frontage requirement. The parent parcel is bordered on the east by lands currently located within the Provincial Agricultural Land Reserve. In keeping with the guidelines of the Land Reserve Commission not to extend roads into the ALR as well as the requirements of the *Land Title Act* to limit roads being extended into ALR lands, Leon Road is proposed to be a cul-de-sac with no extension to the adjacent ALR lands. This means that, due to the configuration of the cul-de-sac, meeting the minimum 10% frontage requirement is not possible for proposed Lots 7 and 8.

ENVIRONMENTAL IMPLICATIONS

The Regional District of Nanaimo Environmentally Sensitive Areas Atlas indicates that there are no environmentally sensitive areas within the subject property.

FINANCIAL IMPLICATIONS

The subject property has an assessed value of \$82,100.00 according to the 2002 authenticated assessment roll. The valuation of the property for 5% cash-in-lieu of park land charges will be based on a certified appraisal of the land at the time of preliminary subdivision approval (PLA). Therefore, it is anticipated that the appraised market value would result in an approximately \$4,1050.00 contribution to Electoral Area 'H' community parks fund.

VOTING

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

SUMMARY

This is a request to provide cash-in-lieu-of park land pursuant to Section 941 of the *Local Government Act* as part of a eight-lot subdivision development and to relax of the minimum 10% perimeter frontage requirement. Due to the adjacent ALR lands, Leon Road is not proposed to extend through to these agricultural lands. As a result, Leon Road is to be developed as a cul-de-sac road, which means that it is difficult to achieve the minimum 10% perimeter frontage requirements for the lots fronting the cul-de-sac. Ministry of Transportation staff has indicated that they have no objection to the request for the proposed minimum 10% frontage relaxations.


With respect to the park land requirement, as the subject parcel does not contain a preferred park land element as set out in the OCP, it is recommended that the applicant be required to contribute cash-in-lieu of park land. Therefore, staff recommends Alternative No. 1, to accept cash-in-lieu-of park land and approve the 10% frontage relaxation for this proposed subdivision.

RECOMMENDATION


That the requests, submitted by Fern Road Consulting Ltd., on behalf of James Deas, for cash-in-lieu of park land dedication be accepted and to relax the minimum 10% frontage requirement for proposed Lots 7 and 8, as shown on the plan of subdivision of Lot 2, District Lot 19, Newcastle District, Plan 32575, be approved.




Report Writer



A/ General Manager Concurrence



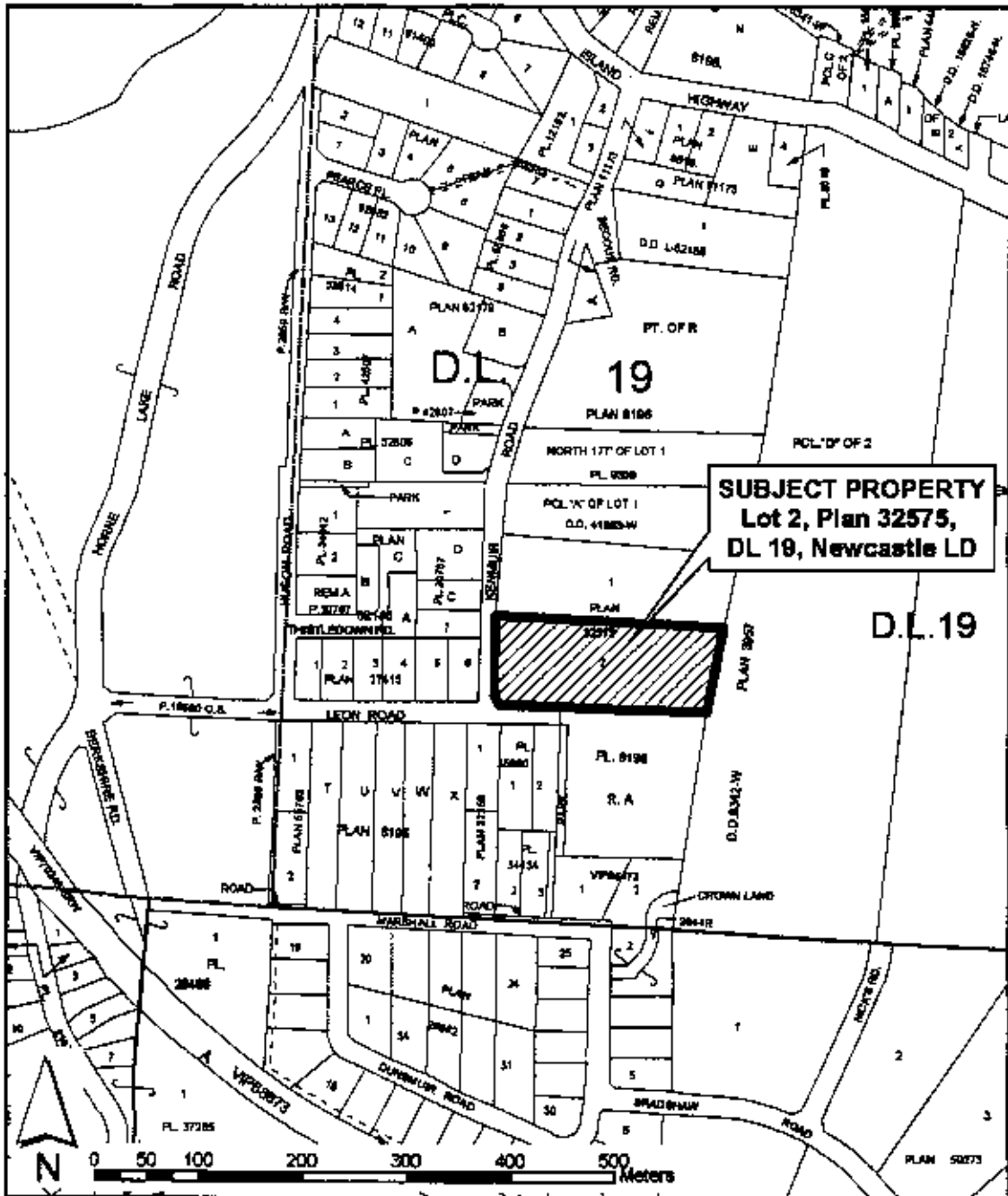
Manager Concurrence



CAO Concurrence

COMMENTS:
devvs/report/2002/park frtge au 3320 30 24503 deas.doc

ATTACHMENT NO. 1
SUBJECT PROPERTY LOCATION



BCGS Map Sheet No. 92F.037.4.4

ATTACHMENT NO. 2
PROPOSED SUBDIVISION
(as submitted by applicant)

