

**REGIONAL DISTRICT OF NANAIMO**  
**ELECTORAL AREA PLANNING COMMITTEE**  
**TUESDAY, JANUARY 22, 2002**  
**6:00 PM**

*(Nanaimo City Council Chambers)*

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**ELECTION OF DEPUTY CHAIRPERSON**

**DELEGATIONS**

- 2                    **Lila & John Mandziuk**, re DVP Application No. 0202 - Shetland Place - Area E.

**PLANNING**

***DEVELOPMENT PERMIT APPLICATIONS***

- 3-9                    Application No. 0201 - Sort - 1105 Surfside Drive - Area G.
- 10-15                Application No. 0202 - Green - 1390 Madrona Drive - Area E.
- 16-22                Application No. 0203 - Klassen/Sims Associates - Crocus Corner - Area G.

***DEVELOPMENT VARIANCE PERMIT***

- 23-28                Application No. 0201 - Mills - 2705 Shady Mile Way - Area D.
- 29-37                Application No. 0202 - Mandziuk - Shetland Place - Area E.
- 38-44                Application No. 0203 - Ronkainen/Earthy - 3452 Jingle Pot Road - Area D.

**ADDENDUM**

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**NEW BUSINESS**

**ADJOURNMENT**

**IN CAMERA**

To Linda Burgoyne

Jan 15/2001  
10:00 a.m.

Re: Agenda Planning Meetings

Height Variance Through Planning

Re: Lot 30 Shetland Place  
Nanoose Bay, BC.

This is a request for attending as a delegation to  
both Planning meetings on Jan 22/02  
and  
Feb 12<sup>th</sup>/02

We would like 10 minutes to present if possible.

Lila & John Mandziuk  
3384 Rockhampton Rd  
Nanoose Bay, BC

V9P9H4

468-5957

Could you please confirm either by phone or fax?

Phone/Fax 468-5957

Thanks

Sincerely Lila Mandziuk

**PAGE**  
**2**



REGIONAL DISTRICT OF NANAIMO	
JAN 14 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmC	GMES
C. Jensen	
DATE:	

MEMORANDUM

**TO:** Pamela Shaw  
Manager, Community Planning

**FROM:** Deborah Jensen  
Planner

**SUBJECT:** Development Permit Application No. 0201 - Sort  
Lot A, District Lot 9, Newcastle District, Plan VIP54706  
Electoral Area 'G' - 1105 Surfside Drive, Qualicum Beach

**DATE:** January 14, 2002

**FILE:** 3060 30 0201

PURPOSE

To consider an application for a Development Permit in the "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996" Natural Hazard and Environmentally Sensitive Development Permit Areas and vary the maximum height requirement to facilitate the construction of a single dwelling unit.

BACKGROUND

This is an application to facilitate the construction of a single dwelling unit on a residential property located near Qualicum Beach (see Attachment No. 1). The subject property is a 0.14 hectare (0.34 acre) parcel located along Surfside Drive. It is bordered by residential properties to the east and west, by the coastline to the north, and by a nature sanctuary to the south. A seawall has previously been constructed along the northern portion of the property, and the nature sanctuary area is predominantly at a lower elevation than the subject property. Development Variance Permit No. 7 (varying the setbacks on the property) was issued to a previous owner in 1987 to allow for construction of a single dwelling unit.

Proposed Variance

The subject property is zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The maximum dwelling unit height in this zone is 8.0 metres. The proposed siting and dimensions of the single dwelling unit are shown in Schedules 2 and 3. Due to the design of the proposed construction and floodplain elevations, the applicants are requesting a variance to the maximum permitted dwelling unit height from 8.0 metres (26.2 feet) to 9.5 metres (31.2 feet). No variances to setbacks are required pursuant to Bylaw No. 500.

The property is located within a building inspection area; therefore, the "Floodplain Management Bylaw" (RDN Bylaw No. 843) applies to this property. Section 3.2.2 of this bylaw states that the minimum floodplain setback may be reduced to 8.0 metres where the sea frontage is protected from erosion by natural bedrock formation or works designed by a professional engineer and maintained by the owner. As a seawall is in place on the property, and as the applicant's site plan indicates that the proposed dwelling unit will be located more than 8.0 metres from the natural boundary of the coastal watercourse, no variance to Bylaw No. 843 is required if the design and construction of the seawall is certified by a professional engineer.

***Development Permit Requirements***

The building envelope is located within the Hazard Lands Development Permit Area, which is intended to address areas such as unstable slopes along the coastal shore area, and the Environmentally Sensitive Lands Development Permit Area, which is intended to protect areas that are considered at risk or more easily damaged by development activities, particularly those areas along the foreshore. The development permit areas cover those lands within 15 metres of the natural boundary of the sea and establishes guidelines in recognition of the flood hazard and for the protection of the natural environment.

***Other Considerations***

A restrictive covenant, in favour of the Regional District of Nanaimo, is listed on the title of the subject property that specifies a floodplain elevation of 1.5 metres and a minimum setback of 7.5 metres from the natural boundary of the sea. This application for a height variance from 8.0 metres to 9.5 metres is a direct result of the required 1.5 metre floodplain elevation. No variance to the floodplain setback is being requested.

**ALTERNATIVES**

1. To approve Development Permit No. 0201 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

**VOTING**

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

**LAND USE AND DEVELOPMENT IMPLICATIONS**

The applicants have indicated that the location of the lot within a floodplain area necessitates the application for a variance to the height requirement for the proposed single dwelling unit. The potential visual impact of the construction is minimized due to the location of the lot at the end of Surfside Drive, and to the alignment of buildings located on adjacent properties. While there are no apparent site stability issues, approval of the siting of the dwelling unit will require a report from a professional engineer certifying the suitable design and construction of the seawall and site stability pursuant to the Flood Control Bylaw and Building Inspection requirements.


The Hazard Lands Development Permit Area and the Environmentally Sensitive Lands Development Permit Area guidelines establish restrictions on the removal of trees or undergrowth from the site in order to lessen the flood hazard and protect the natural environment. In this situation, the subject property consists mostly of gravel and, with the exception of some grasses growing near the seawall, very little vegetation is located on site. There are several trees located on adjacent properties. While the relative lack of natural vegetation on this site is not contrary to the intent of the guidelines, staff would recommend the existing native vegetation be protected and replanted as outlined in *Schedule No. 1*.

## SUMMARY/CONCLUSIONS

This is an application for a development permit within the Shaw Hill – Deep Bay Official Community Plan, Bylaw No. 1007, 1996 Hazard Lands and Environmentally Sensitive Development Permit Areas. The development permit area covers those lands within 15 metres of the natural boundary of the sea and establishes guidelines in recognition of the flood hazard and for the protection of the natural environment. The applicant is proposing to construct a new dwelling unit within the development permit area at a setback of 8.0 metres from the natural boundary, in keeping with the alignment of adjacent dwelling units. The application also requests a variance to the maximum dwelling unit height from 8.0 metres (26.2 feet) to 9.5 metres (31.2 feet) due to the flood plain elevation requirements of Bylaw No. 843 and a restrictive covenant that establishes a minimum floor elevation for construction on the property. In consideration of previous approvals for the subject property and the location of other dwelling units on adjacent lots, staff recommends the Development Permit be approved subject to the conditions of *Schedule No. 1* and subject to notification requirements pursuant to the *Local Government Act*.

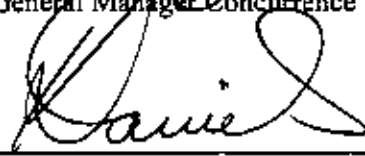
## RECOMMENDATION

That Development Permit Application No. 0201, as submitted by Sigmund Bering Sort and Barbara Day Sort, to facilitate the construction of a single dwelling unit within the Environmentally Sensitive and Hazard Land Development Permit Areas and to vary the maximum dwelling unit height within the Residential 2 (RS2) zone from 8.0 metres to 9.5 metres for the property legally described as Lot A, District Lot 9, Newcastle District, Plan VIP54706, be approved subject to the conditions outlined in Schedule No. 1 and subject to the notification requirements pursuant to the *Local Government Act*.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
General Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

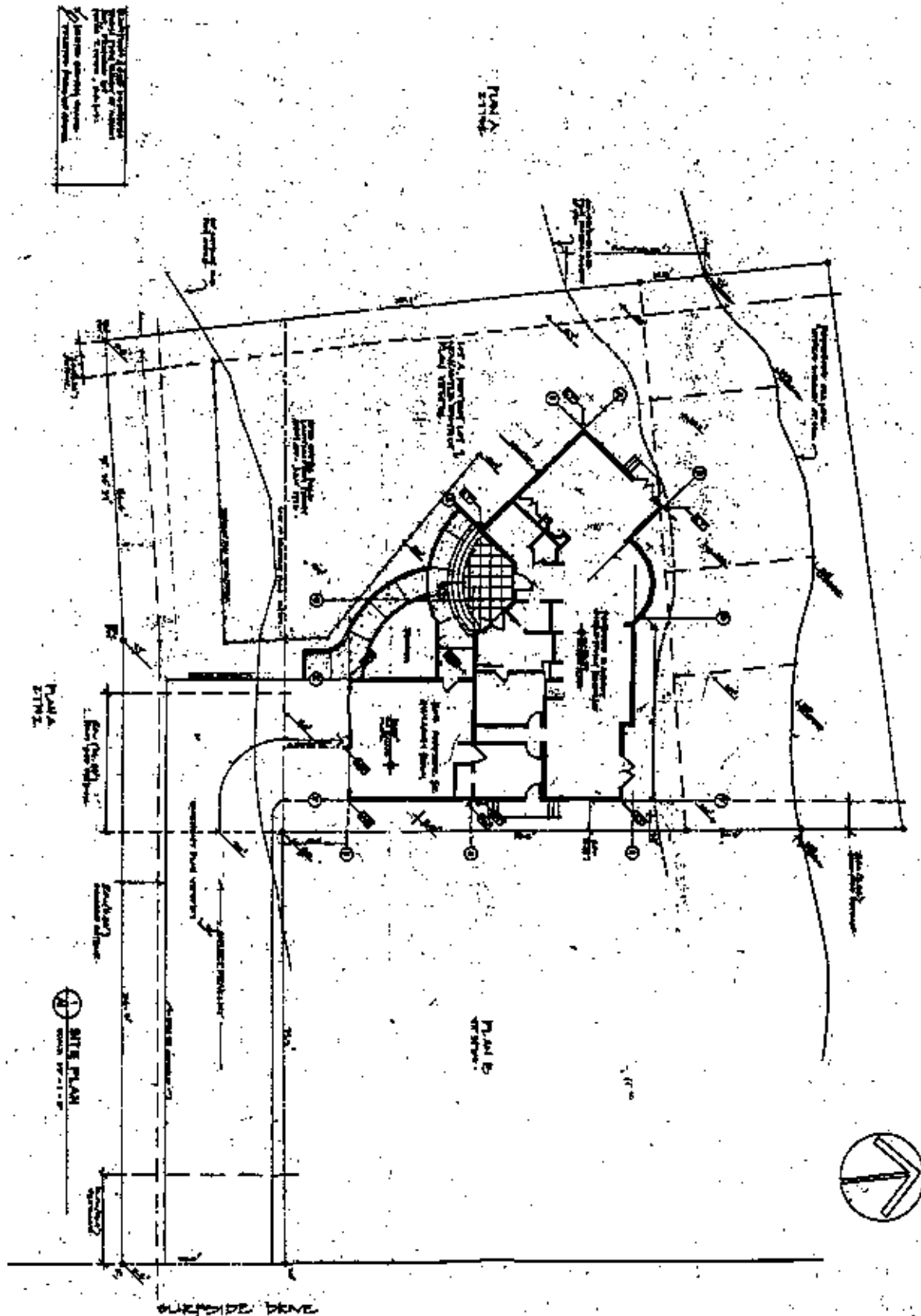
## COMMENTS:

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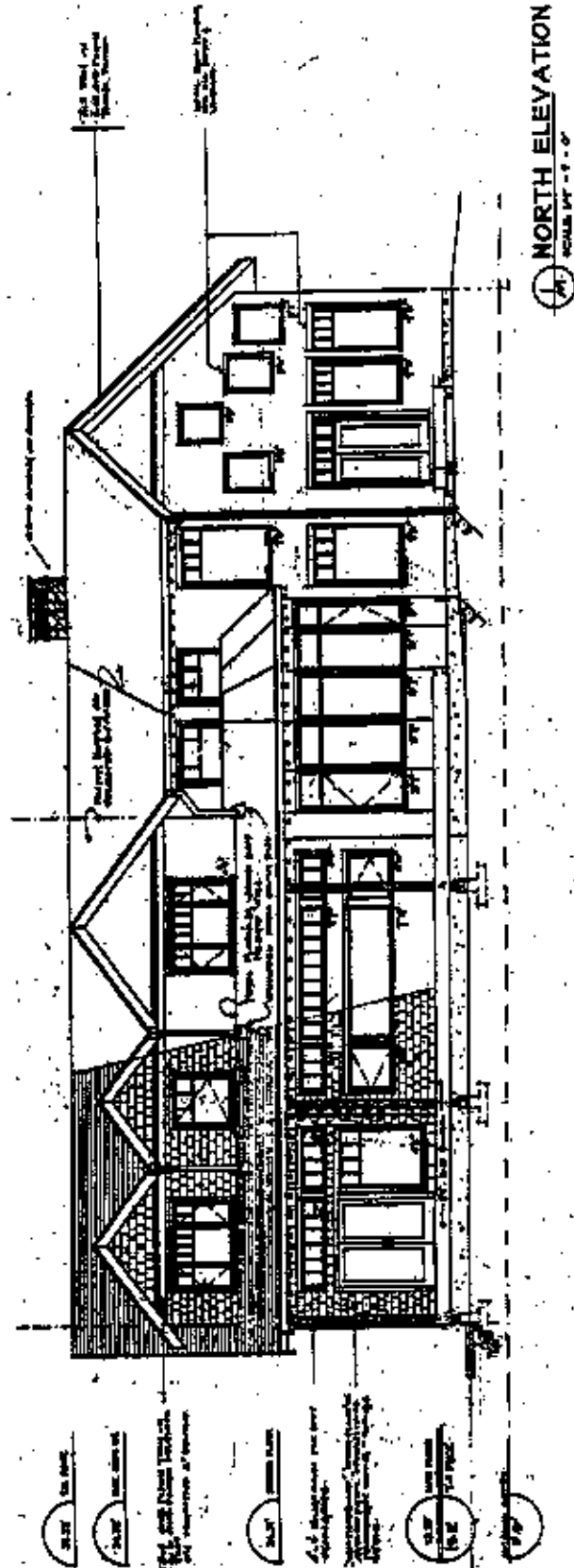
**Schedule No. 1  
Conditions of Approval  
Development Permit No. 0201**

1. Confirmation of engineering certification for the design and construction of the seawall pursuant to Flood Control Bylaw No. 843 and Building Inspection requirements.
2. Install temporary fence (snow or 'hi-vis' fence) in the immediate vicinity of construction area to demarcate the disturbance area prior to any construction activity. Leave the temporary fencing in place until after construction is complete and materials and equipment are moved offsite.
3. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
  - Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be on site.
  - Direct run off flows away from marine environments using swales or low berms.
  - Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
  - Cover temporary fills or soil stock piles with polyethylene or tarps.
4. Replant vegetation within the disturbed area. Replanting to use trees, shrubs and ground cover native to the area and selected to suit soil, light and groundcover conditions of the site.

Schedule No. 2  
Site Plan  
(As Submitted by Applicant)

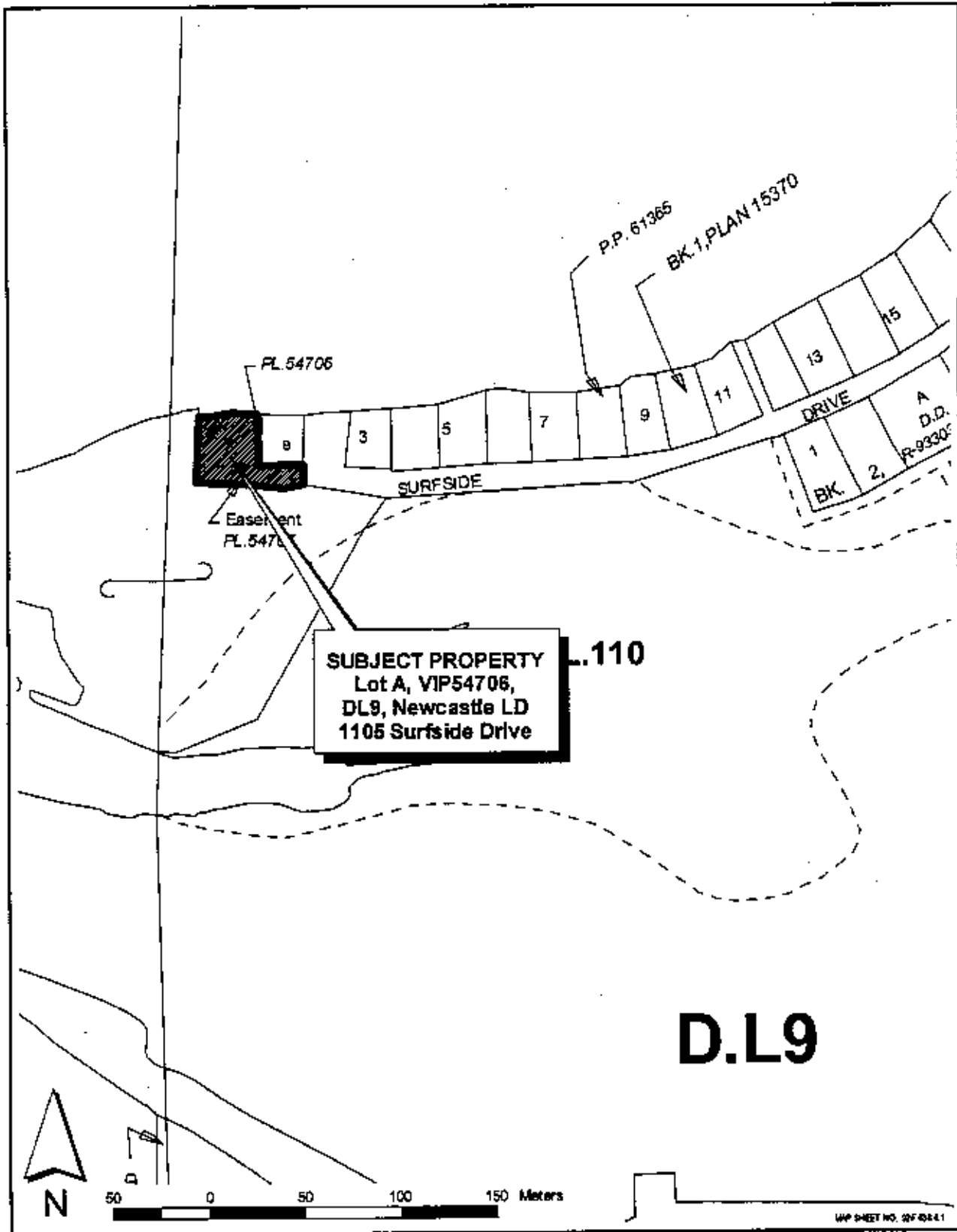


Schedule No. 3  
Proposed Dwelling Unit Profile  
(As Submitted by Applicant)





Attachment No. 1  
Subject Property Map





REGIONAL DISTRICT OF NANAIMO			
JAN 14 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	

**MEMORANDUM**

**TO:** Pam Shaw  
Manager, Community Planning

**DATE:** January 11, 2002

**FROM:** Brigid Reynolds  
Planner

**FILE:** 3090 30 0202

**SUBJECT:** Development Permit Application No. 0202 - Green  
Lot 13, District Lot 68, Nanoose District, Plan 26680  
Electoral Area 'E' - 1390 Madrona Drive

**PURPOSE**

To consider an application for a development permit to allow for the removal of a failing retaining wall located adjacent to the foreshore and the placement of a new shoreline protection device in the same location.

**BACKGROUND**

This is an application for a development permit to allow the removal of a failing concrete retaining wall and the placement of a new shoreline protection device to be located on the property line adjacent to the ocean on a residential property in the Madrona Point area of Electoral Area 'E' (see Attachment 1).

The subject property is zoned Residential 1 (RS1) pursuant to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. No variances to Bylaw No. 500 are being requested as the new shoreline protection device is proposed to be less than 1 m in height and is therefore not considered a structure. As a result, no building permit is required and no building inspection will take place.

The subject property is, however, located adjacent to the ocean on Madrona Point, and as such is designated within the Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998. The Watercourse Protection Development Permit Area (which consists of a 15.0 metre strip as measured from the natural boundary) was designated to protect the natural environment. While most of the Madrona Point area is comprised of rocky outcrops, the subject property is located in a small bay where the beach material is comprised of unconsolidated gravel and sand and is subject to the erosional forces of precipitation, wind, and tidal activity.

The original retaining wall was constructed approximately 10 years ago and located on the lot line adjacent to the ocean (which coincides with the natural boundary). In December 2001, severe windstorms, wave and tidal action caused the wall to be undermined; it began cracking and the soil behind the wall began to slump. The property owner hired a professional engineer to provide an assessment of the existing wall. The engineer recommended that the wall is beyond repair and should be replaced in the same location with a shoreline protection device in the form of a retaining wall, rip rap material, or a combination of both. As the proposed replacement shoreline protection device is located

within the Watercourse Protection Development Permit Area, a development permit is required prior to any construction taking place.

#### **ALTERNATIVES**

1. To approve the development permit with conditions as outlined in Schedule No. 1.
2. To deny the development permit application as submitted.

#### **VOTING**

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

#### **DEVELOPMENT / ENVIRONMENTAL IMPLICATIONS**

The applicant's engineer has recommended that the replacement shoreline protective device be engineered to include drains and weep holes to prevent the build up of water and earth pressure that would cause the eventual failure of the structure. As no building permit is required and in order to ensure the structure is built to an acceptable level, staff recommends, as a condition of the permit, that the applicant's engineer certify the completed works.

From an environmental protection perspective, replacing the existing concrete retaining wall will result in some alteration of land on the foreshore; however, in this case, there is no existing native vegetation on the shoreline and the upland area adjacent to the wall is comprised of cultivated lawn. Federal Fisheries and Oceans (DFO) staff has visited the site and have recommended that any proposed work on the foreshore have a minimal impact. As a result, a condition of the development permit is that the applicant contact DFO staff prior to the work commencing to ensure protection of the foreshore area.

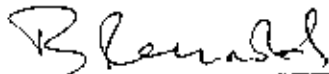
The applicant has indicated that any heavy equipment to be used during the removal of the existing wall, and the construction of its replacement, will be accessed from the adjacent public beach access (dedicated road). As a result, approval from the Ministry of Transportation will be required prior to construction.

#### **SUMMARY**

This is an application for a development permit to remove an existing retaining wall and to replace it with a new shoreline protection device (retaining wall, rip rap, or a combination) within the designated Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1999. The replacement protection device is proposed to be located in the same location as the existing wall on the lot line adjacent to the ocean, which is also the natural boundary. The applicant's engineer has recommended that the existing retaining wall be removed as it will continue to fail. As there is no marine vegetation along the natural boundary to be disturbed during the proposed works and the applicant is in concurrence with the conditions outlined in Schedule No. 1 of the staff report (which are intended to reduce any negative impact to the adjacent foreshore area) staff recommends Alternative No. 1 to approve the development permit.

**RECOMMENDATION**

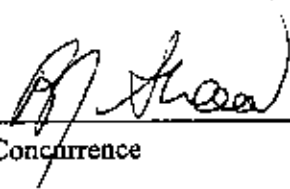
That Development Permit Application No. 0202 to permit the removal of an existing retaining wall and to replace it with a new shoreline protection device on the property legally described as Lot 13, District Lot 68, Nanoose District, Plan 26680 be approved, subject to the conditions outlined in Schedule No. 1 of the corresponding staff report.



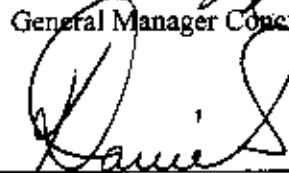
Report Writer



General Manager Concurrence



Manager Concurrence

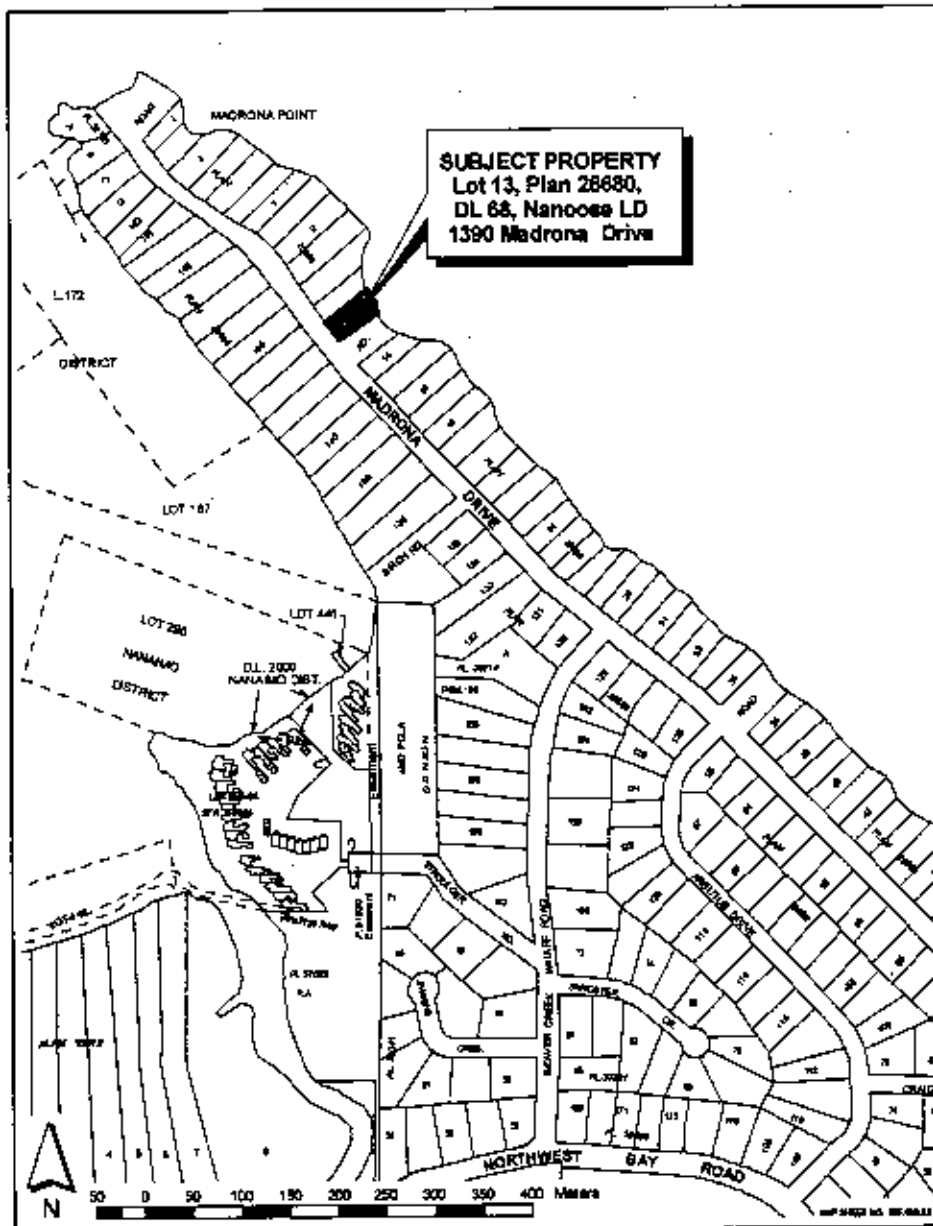


CAO Concurrence

**COMMENTS:**

*devs/reports/2000/dp ja 3060 30 0202 Green*

**Attachment No. 1**  
**Subject Property**  
**Development Permit No. 0202**  
**1390 Madrona Point**



**Schedule No. 1  
Conditions of Approval  
Development Permit No. 0202**

**Location**

1. The replacement shoreline protection device is to be located as shown on Schedule No. 2.

**Sediment and Erosion Control Measures**

2. Sediment and erosion control measures must be utilized to control sediment during wall removal and replacement works 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 the marine environment using swales or low berms.
  - c. Exposed soils must be seeded immediately after disturbance.
  - d. Cover temporary fills or soil stock piled with polyethylene or tarps.
3. Replant vegetation within disturbed part of the development permit area. Preferred plantings to be trees, shrubs and ground cover native to the area; all replantings to maintain and enhance the natural characteristics of the riparian area.

**Maximum Height**

3. The shoreline retaining device shall not exceed 1 metre in height as measured from the natural grade pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

**Engineering**

4. The shoreline retaining device is to include a mechanism to drain soils from the upland without allowing for the loss of upland soils to the marine environment. A filter fabric barrier to restrain upland soils is recommended.
5. The shoreline retaining device to be constructed in accordance with engineering standards and certified by a professional engineer to the satisfaction of the RDN.

**Construction**

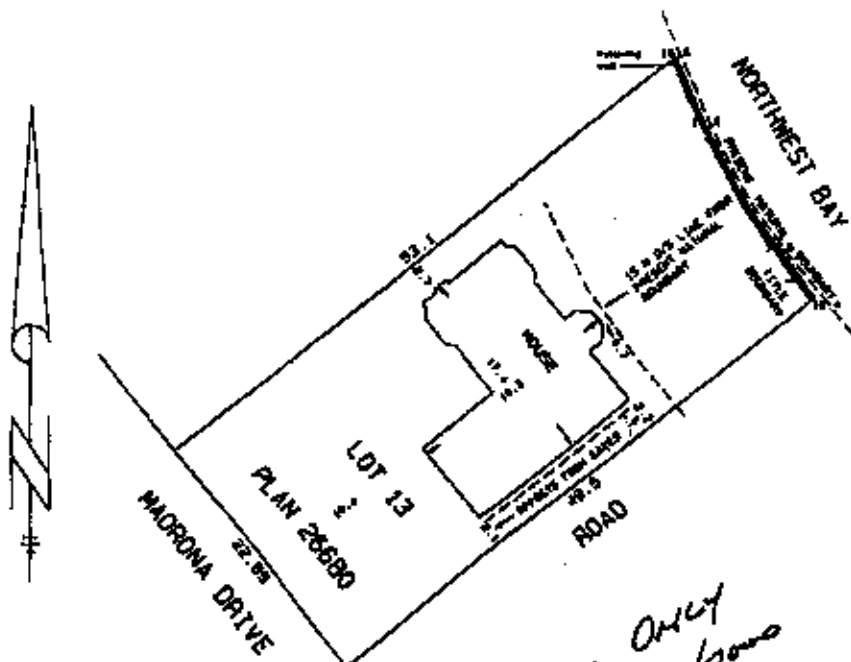
6. The shoreline retaining device shall be in the form of a retaining wall, rip rap or a combination of both.
7. Any excavated materials must be placed upland such that there is no potential for introduction onto the foreshore.
8. Use of the public beach access (dedicated road) adjacent to the subject property requires approval from the Ministry of Transportation.

**Department of Federal Fisheries**

9. Department of Federal Fisheries staff to be contacted prior to commencing any construction.

Schedule No. 2  
Site Plan  
Development Permit No. 0202  
1390 Madrona Point

BRITISH COLUMBIA LAND SURVEYOR'S  
BUILDING LOCATION CERTIFICATE



LEGAL DESCRIPTION: LOT 13, PLAN 26580, DISTRICT LOT 68,  
NANOOSE DISTRICT

SCALE: 1 : 400

STREET ADDRESS:

ALL MEASUREMENTS IN METRES

1390 MADRONA DRIVE



REGIONAL DISTRICT OF NANAIMO	
JAN 11 2002	
CHAIR	GMCrs
CAO	GMDS
GMCrs	GMES
COMM ✓	

MEMORANDUM

TO: Pamela Shaw  
Manager, Community Planning

DATE:

January 11, 2002

FROM: Lindsay Chase  
Planner

FILE:

3090 30 0203

SUBJECT: Development Permit 0203 - Klassen/Sims Associates  
Lot 5, District Lot 29, Nanoose District, Plan 45632  
Electoral Area 'G' - Crocus Corner

PURPOSE

To consider a development permit with a variance within the Watercourse Protection Development Permit Area pursuant to the French Creek Official Community Plan (OCP) and to consider a request to modify a section 219 (restrictive) covenant to facilitate the construction of a dwelling unit, fence and patio.

BACKGROUND

This is an application to facilitate the construction of a dwelling unit, patio and fence within the Watercourse Protection Development Permit Area pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998" on a residential property in the Morningstar area of Electoral Area 'G'.

The subject property, which is located on Crocus Corner within Electoral Area 'G', is presently zoned Residential 1 (RS1) and is within Subdivision District 'Q' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1 for location). 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 side lot line, 2.0 metres from the rear lot line, 5.0 metres from other lot lines and 15 metres from the natural boundary of a watercourse. The applicant is requesting a variance of the setback to a watercourse from 15.0 metres to 11.0 metres.

Pursuant to the OCP requirements, the watercourse protection development permit area was established to protect watercourses and riparian areas from development and also to protect development from flooding, and potential loss of land due to stream erosion and instability.

The Development Permit Area is measured 15.0 metres from the top of the bank of the watercourse. There are approximately 6 metres of crown land between the natural boundary of the watercourse and the rear property line of the subject property. The dwelling unit is proposed to be located 11.0 metres from the natural boundary.

The parcel is also subject to "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1992" which provides for a setback of 15.0 metres from a watercourse and an elevation of 1.5 metres



above the natural boundary. Exemptions to this bylaw may be obtained by making a Schedule 4 application to the Ministry of Water, Land and Air Protection.

A section 219 covenant was registered on the subject property (and similar properties considered on the same subdivision application) at the time of subdivision, prohibiting any development within 15 metres of the creek. However, an adjacent parcel has had the covenant modified and has received a site-specific exemption from Water, Land and Air Protection in order to vary the setback on that parcel from 15.0 metres to 10.5 metres. In order for this application to proceed, and as the Regional District is a holder of the covenant, a modification to this document requires approval of the Regional Board.

### ALTERNATIVES

1. To approve the development permit subject to the conditions outlined in Schedule No. 1 and to approve the request to modify the section 219 (restrictive) covenant to amend the setback from the natural boundary from 15.0 metres to 11.0 metres.
2. To deny the Development permit and the request to modify the section 219 (restrictive) covenant.

### VOTING

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

### DEVELOPMENT IMPLICATIONS

Approval of the requested development permit would result in the construction of a dwelling unit 11.0 metres from the natural boundary of Morningstar Creek. The property owner immediately adjacent to the subject property obtained a similar relaxation of the covenant. There are easements and statutory rights of way registered on the property that are held by BC Hydro and the Province which limit the options for the location of a dwelling unit on the site. In addition, the parcel is a wedge shape that narrows significantly towards the road, which also limits the siting options for a dwelling unit on the parcel.

The level of encroachment into the development permit area is considered to be moderate as the requested variance is 4.0 metres or 30% from the bylaw standard. In addition, re-vegetation of the areas that have been cleared will reduce the negative impacts and should be considered as a condition of the permit.


### SUMMARY/CONCLUSIONS

This is an application to facilitate the construction of a dwelling unit, patio and fence within a Watercourse Protection Development Permit Area pursuant to the French Creek Official Community Plan. The setback to watercourse pursuant to both the Watercourse DPA and to Bylaw No. 500 is 15.0 metres and the applicant is requesting that this setback be varied to 11.0 metres due to site constraints. In addition, the applicant is requesting that a section 219 (restrictive) covenant registered at the time of subdivision be modified in order to facilitate the development.

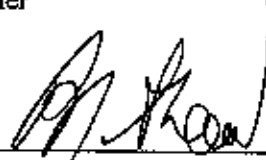
In order for the applicant to proceed they will require a site specific exemption to the provisions of Bylaw 843 from the Ministry of Water, Land and Air Protection, Board permission to modify the covenant (S97207) and re-register it at Land Title Office, and Board consideration of a variance to the setbacks to a watercourse pursuant to Bylaw No. 500. Provided the applicant is willing to abide by the recommendations in Schedule No.2, staff supports this request to vary the setback to a watercourse, to modify the section 219 covenant, and to permit the construction of a dwelling unit, patio and fence within the Watercourse Protection Development Permit Area.

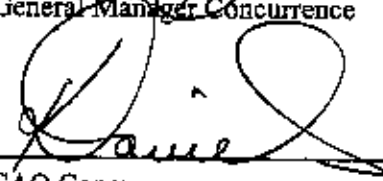
### RECOMMENDATION

That Development Permit No. 0203, submitted by Helen Sims, Agent, on behalf of Mike Klassen and Lene Klassen to permit the construction of a dwelling unit, fence and patio within a Watercourse Protection Development Permit Area pursuant to the French Creek Official Community Plan Bylaw No. 1115, 1998, to vary the minimum setback requirement for a watercourse from 15 metres to 11 metres pursuant to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, and to amend a section 219 (restrictive) covenant on the property legally described as Lot 5, District Lot 29, Nanoose District, plan 45632 be approved, subject to the conditions as outlined in Schedule No. 1 and subject to notification requirements pursuant to the *Local Government Act*.

  
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Report Writer

  
\_\_\_\_\_  
General Manager Concurrence

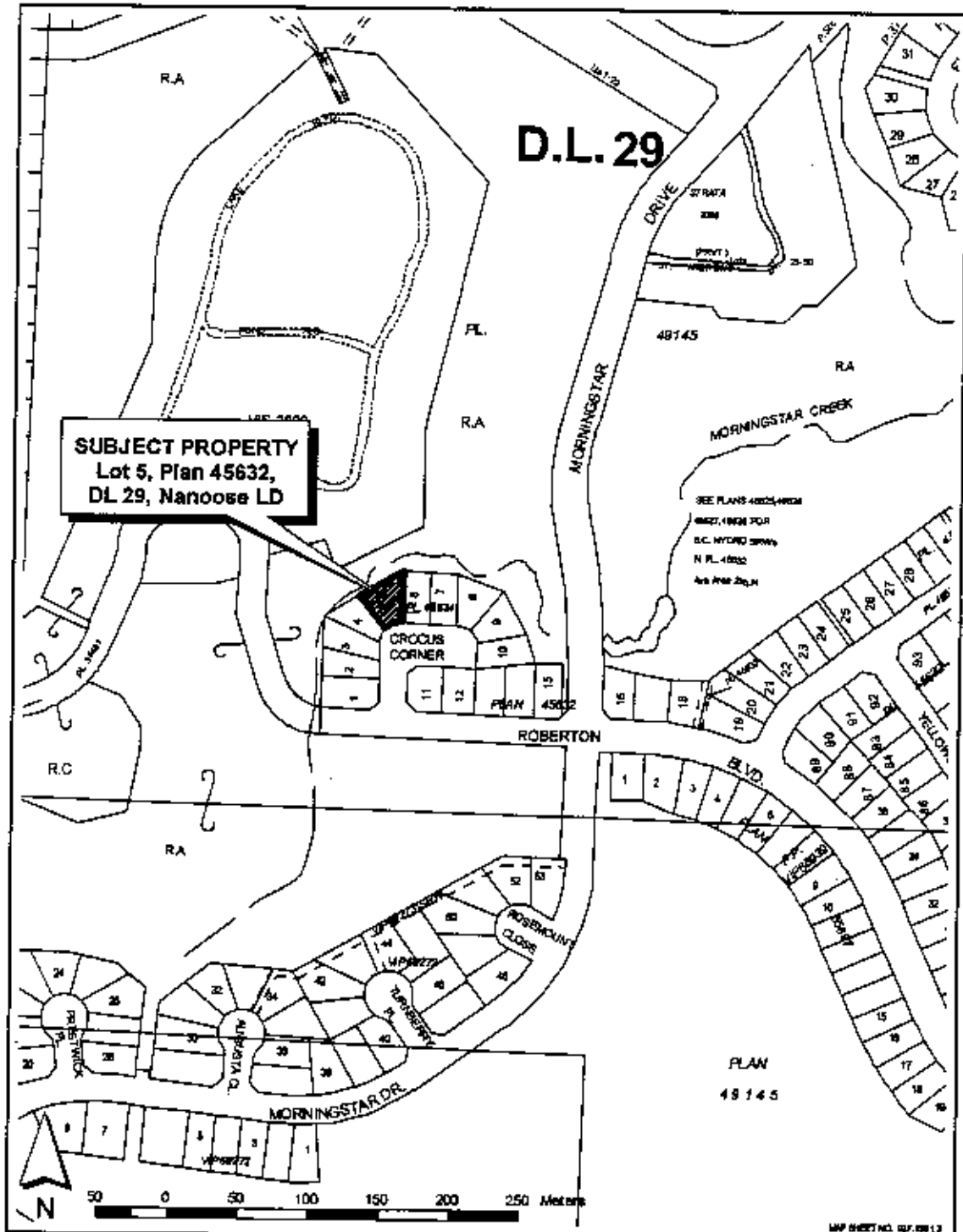
  
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Manager Concurrence

  
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CAO Concurrence

### COMMENTS:

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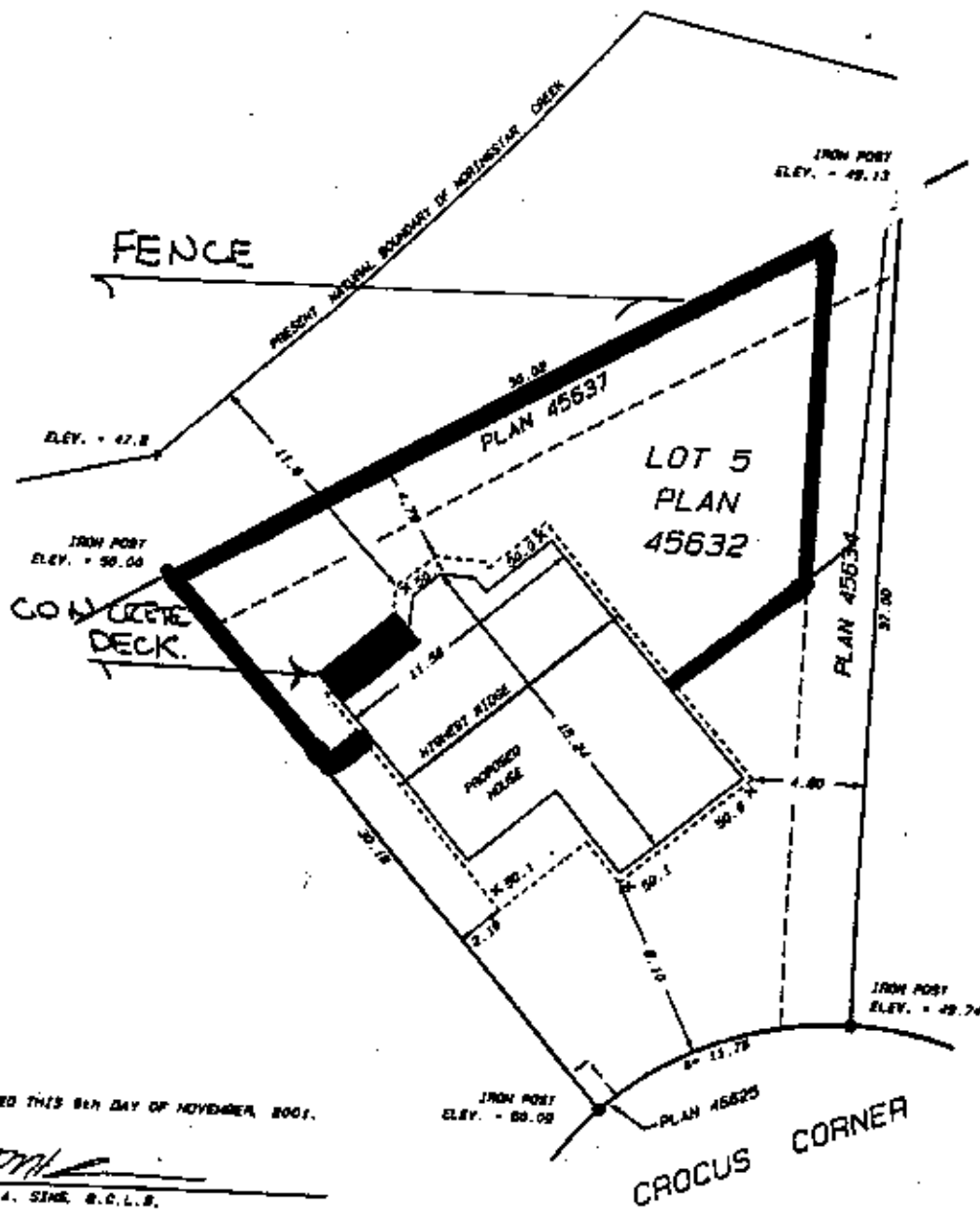
Attachment No. 1  
Subject Property Location



Schedule 1  
Site Plan as Submitted by Applicant

**PLAN OF LOT 5, PLAN 45632,  
D.L. 29, NEWCASTLE DISTRICT,  
SHOWING PROPOSED HOUSE LOCATION THEREON.**

**SCALE 1:250**  
ALL DISTANCES ARE IN METRES  
FOR BUILDING INSPECTION ONLY



INSPECTED THIS 8th DAY OF NOVEMBER, 2001.

*M.A. Singh*  
MICHAEL A. SINGH, B.C.L.S.

**HEIGHTS**

MINIMUM ELEV. UNDERSIDE OF MAIN FLOOR	49.3
MAXIMUM ELEV. UNDERSIDE OF MAIN FLOOR	50.1
DESIGN HEIGHT OF CONSTRUCTION UNDERSIDE OF MAIN FLOOR TO HIGHEST RIDGE	7.8
MAXIMUM ELEVATION OF HIGHEST RIDGE	50.0
MAXIMUM BUILDING ELEVATION ALLOWED ACCORDING TO BYLAW 508	50.0
VARIANCE REQUIRED	N/A

**PAGE**  
20

**Schedule 2**

**Conditions of Approval of Development Permit No. 0203**

**Development of Site**

1. Subject property to be developed in accordance with Schedule No. 1

**Modification of Existing Covenant/MWLA Approval**

1. All costs associated with the registration of the modification covenant document to covenant number S97207 to be paid by the applicant to the satisfaction of the Regional District.
2. The applicant to obtain from the Ministry of Water, Land, and Air a Site-specific exemption to the floodplain management requirements of Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991.

**Watercourse Protection Measures**

1. 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 Morningstar Creek 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 along the rear property line during construction to protect the riparian area adjacent to Morningstar Creek.
2. 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.

**Schedule No. 3**

**DEVELOPMENT PERMIT NO. 0203**

**BYLAW NO. 500 - PROPOSED 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. The minimum setback requirement pursuant to Section 6.8 a) be varied from 15.0 metres to 11.0 metres.



REGIONAL  
DISTRICT  
OF NANAIMO

REGIONAL DISTRICT  
OF NANAIMO

JAN 11 2002

CHAIR		GMCrS	
CAO		GMDS	
GMCrS		GMES	
<i>Comm. <del>Meeting</del></i>			<input checked="" type="checkbox"/>

MEMORANDUM

**TO:** Pamela Shaw  
Manager, Community Planning

**DATE:** January 11, 2002

**FROM:** Deborah Jensen  
Planner

**FILE:** 3090 30 0201

**SUBJECT:** Development Variance Permit Application No. 0201 – Mills  
Lot 8, Section 15, Range 4, Mountain District, Plan VIP68509  
Electoral Area 'D' – 2705 Shady Mile Way

**PURPOSE**

To consider an application for a Development Variance Permit to vary the maximum permitted height of a building or structure to facilitate the construction of a single dwelling unit on a parcel located on Shady Mile Way in Electoral Area 'D'.

**BACKGROUND**

This is an application to facilitate the construction of a single dwelling unit on a residential property in the East Wellington – Pleasant Valley area (*see Attachment No. 1*). The subject property is a 2.01 hectares (5.0 acres) parcel located along Shady Mile Way.

***OCP, Zoning and Proposed Variance***

The subject property is designated Rural pursuant to the "Regional District of Nanaimo East Wellington – Pleasant Valley Official Community Plan Bylaw No. 1055, 1998". The subject property is zoned Rural 1 (RU1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The maximum dwelling unit height within this zone is 9.0 metres. The property is located within a building inspection area and is subject to a building scheme.

The siting and dimensions of the single dwelling unit are shown in *Schedules 1 and 2*. Due to the architectural design of the proposed construction, the applicants are requesting a variance to the maximum permitted dwelling unit height from 9.0 metres (29.5 feet) to 11.3 metres (37.1 feet) to allow for the construction of a "turret". This variance applies only to this particular design feature of the house; the remainder of the roofline of the house is below the 9.0 metres maximum height. No other buildings are located on the subject property and no variances to setbacks are required.

***Restrictive Covenants***

A restrictive covenant, in favour of the Ministry of Health, is listed on the title of the subject property that restricts development over a septic covenant area. This application for a development variance permit does not affect this covenant.

A building scheme is also registered on the title of the subject property and includes provisions whereby the Developer must approve all building plans prior to construction. The applicants have indicated this approval has been obtained.

### **ALTERNATIVES**

1. To approve Development Variance Permit No. 0201.
2. To deny the requested permit.

### **VOTING**

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

### **ENVIRONMENTAL IMPLICATIONS**

The subject property is not located in an environmentally sensitive area as designated by the "Regional District of Nanaimo East Wellington – Pleasant Valley Official Community Plan Bylaw No. 1055, 1998." The Environmentally Sensitive Areas Atlas also does not indicate the presence of any environmentally sensitive areas.

### **LAND USE IMPLICATIONS**

From staff's assessment of this application, the potential visual impact of the height variance is reduced due to the size of the subject property and surrounding parcel sizes of 2.0 hectares or greater, and to the general topography of the area. The building envelope is located on a sloping site, running north to south down toward Shady Mile Way. The dwelling unit will be sited along the upper central portion of the subject property, removed from the roadway, and backed by a wooded area and septic covenant area. This positioning provides for minimal impact on surrounding neighbours.

The subject property is located at the eastern end of the subdivision, creating minimal impact to properties along the east and south sides. The property to the south, consisting of Section 14, remains unsubdivided, and the 20 acre parcel located to the east is situated in the Forest Land Reserve. The adjacent 2.0 hectare lot to the west remains undeveloped. The 4.0-hectare lot located north of the subject property, along Shady Mile Way, is at a much lower elevation and views would not be impeded.

The request for a variance pertains only to the proposed "turret," which the applicants consider inherent to the architectural design of the dwelling unit. While there are no apparent site stability issues, a geotechnical report may be necessary during the construction phase as required by the building inspector.

### **SUMMARY/CONCLUSIONS**

This is an application for a development variance permit to facilitate the development of a single dwelling unit. The application includes a request to vary the maximum permitted dwelling unit height from 9.0 metres (29.5 feet) to 11.3 metres (37.1 feet) for the "turret" portion of the dwelling unit only.



Staff recommends this application be approved subject to notification procedures pursuant to the *Local Government Act*.

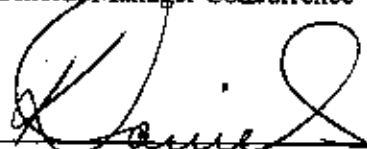
**RECOMMENDATION**

That Development Variance Permit Application No. 0201, submitted by Blair Dueck, agent on behalf of Larry Mills and Marie Mills, to facilitate the development of a single dwelling unit and vary the maximum permitted dwelling unit height for the "turret" portion only within the Rural 1 (RU1) zone from 9.0 metres (29.5 feet) to 11.3 metres (37.1 feet) for the property legally described as Lot 8, Section 15, Range 4, Mountain District, Plan VIP 68509, be approved as submitted subject to the notification requirements pursuant to the *Local Government Act*.

\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Manager Concurrence

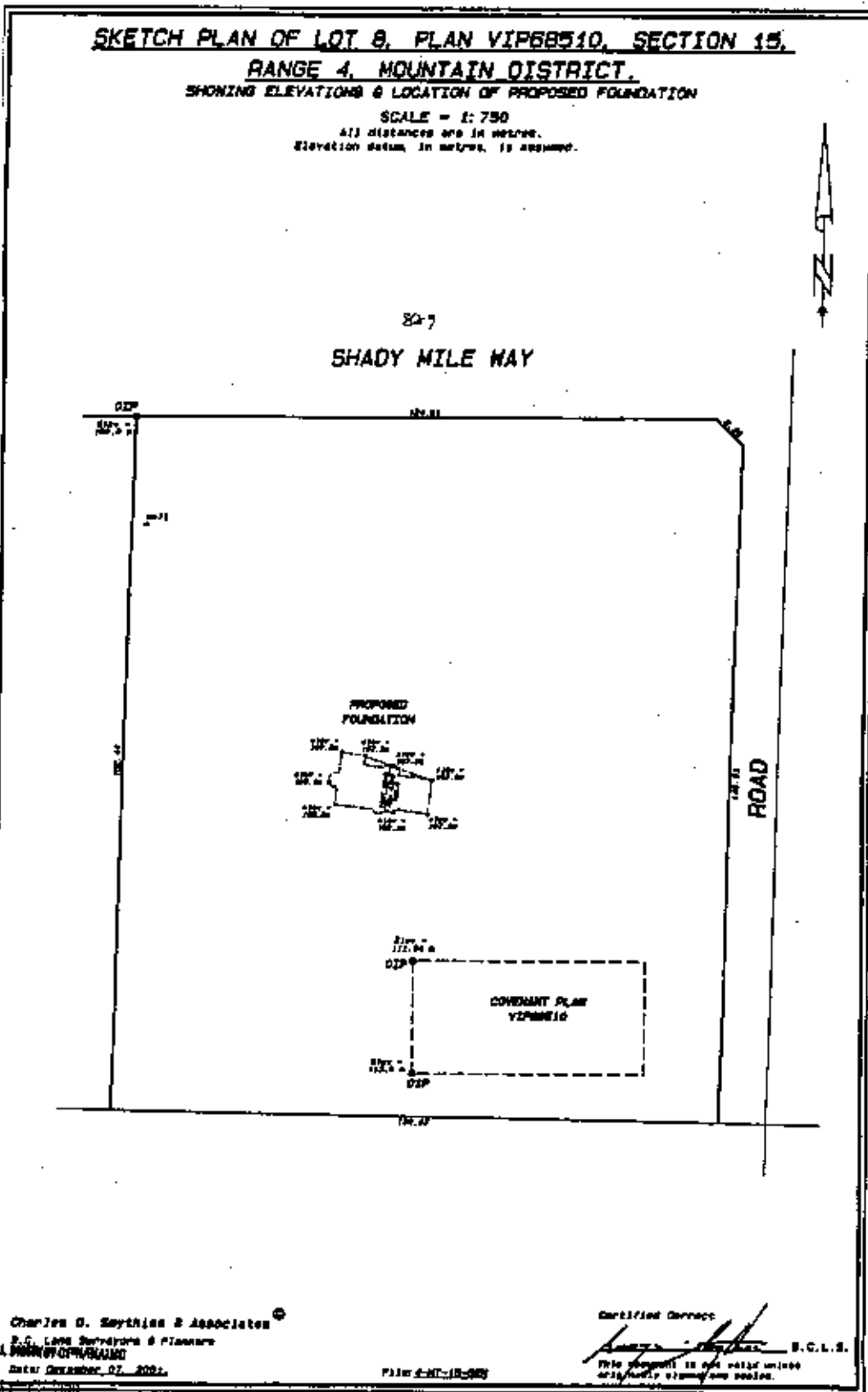
  
\_\_\_\_\_  
General Manager Concurrence

  
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CAO Concurrence

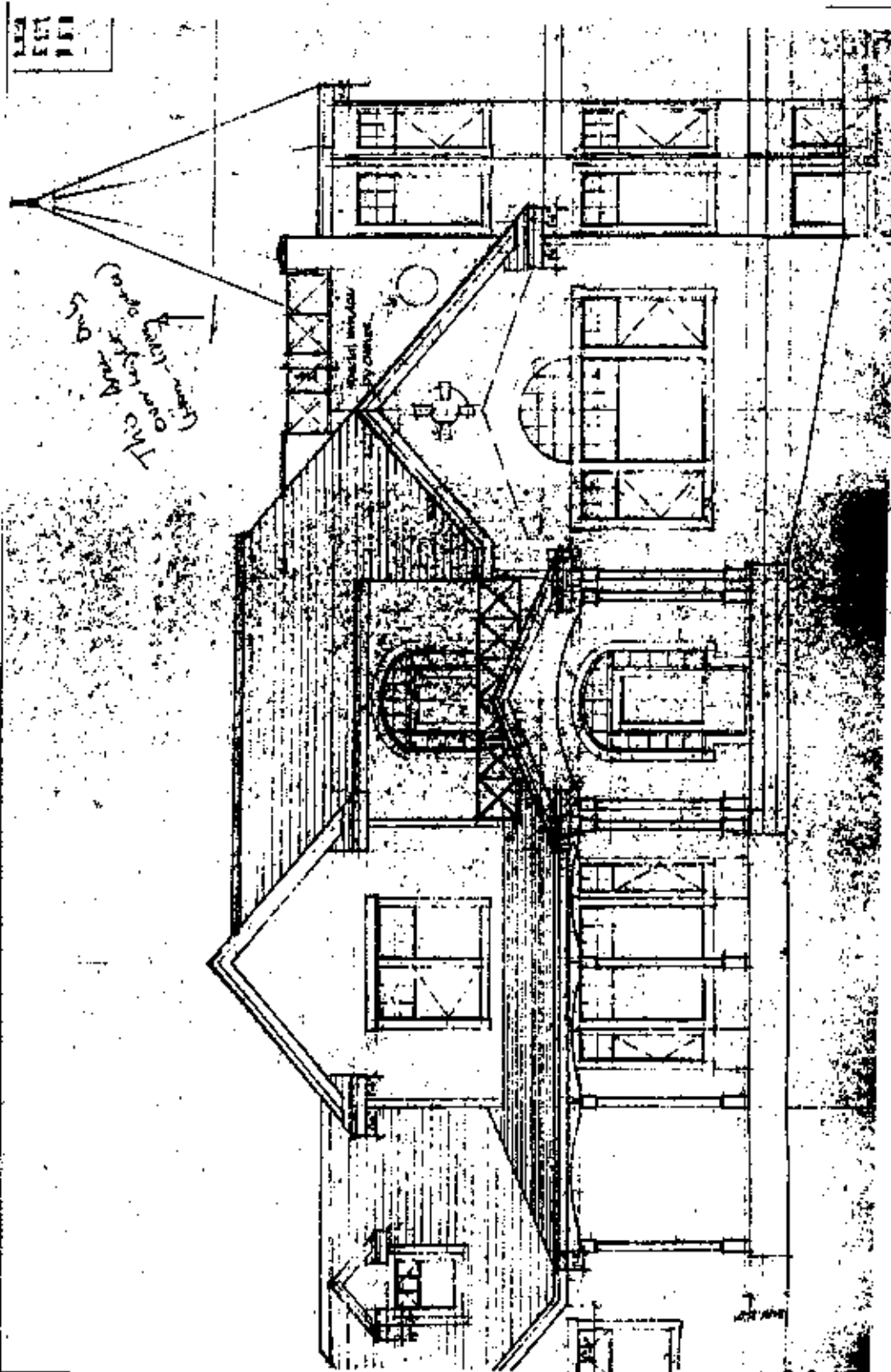
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*devsvs/reports/2002/dvp ja 3090 30 0201 Mills.doc*

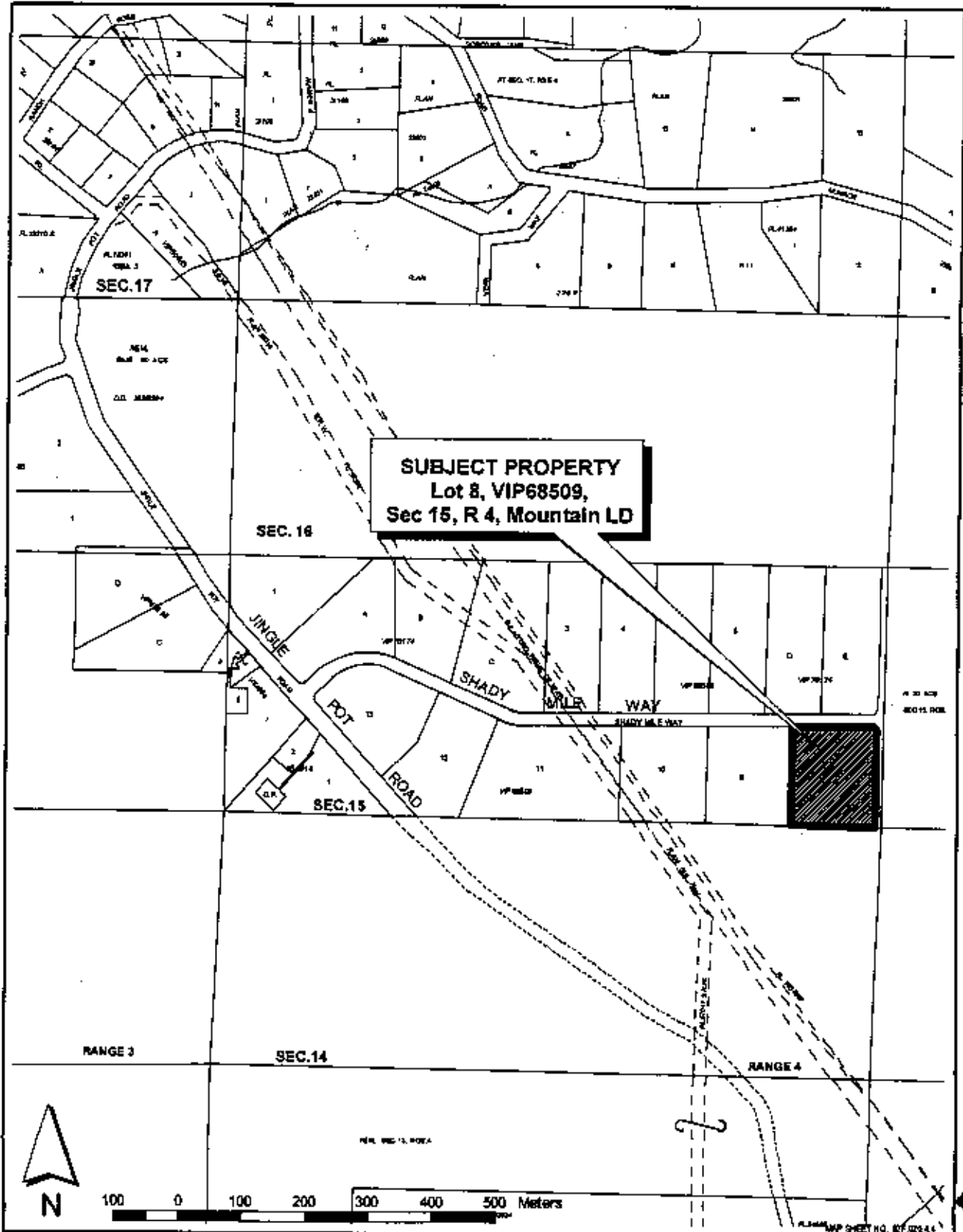
Schedule No. 1  
Survey Plan  
(As Submitted by Applicant)



Schedule No. 2  
Proposed Dwelling Unit Profile  
(As Submitted by Applicant)



Attachment No. 1  
Subject Property Map





REGIONAL DISTRICT  
OF NANAIMO

JAN 15 2002

CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	

MEMORANDUM

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**TO:** Pamela Shaw  
Manager, Community Planning

**DATE:** January 11, 2002

**FROM:** Lindsay Chase  
Planner

**FILE:** 3090 30 0202

**SUBJECT:** Development Variance Permit 0202 - Mandziuk  
Strata Lot 30, District Lot 78, Nanoose District, Plan VIS 3393  
Electoral Area 'E' - Shetland Place

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**PURPOSE**

To consider an application for a Development Variance Permit to vary the maximum permitted height for a building or structure to facilitate the construction of a dwelling unit for a parcel located on Shetland Place in Electoral Area 'E'.

**BACKGROUND**

This is an application to vary the maximum height of a dwelling unit from 8.0 metres to 10.4 metres in order to facilitate the construction of a dwelling unit in the Fairwinds area of Electoral Area 'E' (Nanoose Bay).

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (*see Attachment No. 1*). The maximum height allowed under the zone for a dwelling unit is 8.0 metres. The applicant is requesting a variance to the maximum dwelling unit height from 8.0 metres to 10.4 metres to facilitate the construction of a dwelling unit.

The subject property has a moderate slope that decreases towards Dolphin Bay Road. The topography in the area is such that Strata Lot 30 is the lowest lot of the parcels that are immediately adjacent (*see Attachment 2*).

The applicant has indicated that the house has been designed with the second storey within the roof line and the pitch of the roof has already been decreased in consultation with their truss manufacturer. As a result of the elevation of the lot and site constraints the applicant is requesting a variance in order to raise the floor level of the dwelling unit to lessen the grade of the driveway and avoid the need for a lift station to pump liquid waste up to the level of the existing services. The property has recently been cleared of vegetation and initial excavation work has commenced to determine the exact constraints and elevations for the purpose of obtaining a building permit.

**PAGE**  
29

## ALTERNATIVES

1. To approve the requested variance subject to the notification requirements pursuant to the *Local Government Act*.
2. To deny the requested variance.

## DEVELOPMENT IMPLICATIONS

The subject property has several easements and rights of way registered on Title, some of which limit the placements of buildings or structures on the subject property. Due to the easements that run along side the proposed driveway off of Shetland Place, and a gas easement that runs across this access route, a gently sloped driveway will be difficult to construct. The applicants have indicated that the gas easement was registered by the previous property owners immediately prior to the sale of the property, and without the apparent approval of the new (current) owners. The applicant has indicated two options are available for the driveway: first, to construct the driveway 'as is' with an steep slope, or second, to raise the floor elevation of the house to allow for a lesser slope. In addition, the building scheme on the Title dictates the building envelope on the property, further adding to the constraints of the lot. It should be noted that no setback variances are being requested by the applicant; the proposed dwelling unit will meet both the setbacks dictated by Fairwinds and those required by Bylaw No. 500.

The topography of Strata Lot 30 is such that it is lower in elevation than the surrounding properties. At the time the lot was created, sewer services and storm drains were installed at an elevation of 27.85 metres. The proposed building site is at an elevation of approximately 25.5 metres. The applicant has indicated that, should the house be constructed at the existing grade (where it would likely meet the height restrictions of the zone) a sewer pump would be necessary to access the sewer services.

Environmental Services Department staff has indicated that there may be a small possibility for sewage backflow if there is a blockage down the line and the valves on either the pipes or the lift pump fail. Environmental Services staff has also indicated that the long-term maintenance of a sewage pump can be costly. The applicant would like to avoid the need for a lift pump by elevating the floor of the proposed dwelling unit. However, by elevating the floor, the height of the dwelling will exceed the maximum height permitted by the zone (*see Attachment 3*).

The applicant has indicated that they are willing to locate the house to the side of the lot, and close to the lot line by Lot 25 in order to avoid impacting the views of neighboring properties. In addition, they have also verbally indicated that they will plant the area between Lot 25 and the subject property in order to minimize the appearance of their roof for the neighbour above them.

Ministry of Transportation staff has verbally indicated that the applicant has applied for an access permit for the subject property.

The applicant has also engaged Thomas Hoyt, BCLS to determine the floor elevation they require to avoid the need for a sewage pump, and to determine how much of a variance is required. The surveyor has determined that the maximum roof elevation will not exceed a geodetic elevation of 35.01 metres (*see Schedule 1*).

**SUMMARY/CONCLUSIONS**

This is an application for a development variance permit within the Residential 1 (RS1) zone in the Fairwinds community. The subject property is at a lower elevation than the surrounding properties and has been recently cleared. The elevation of the proposed building site varies from 24.75 metres to 26.8 metres in elevation, with sewer services being at an elevation of 27.85 metres. In order for the applicant to utilize gravity feed for the services, the floor elevation of the dwelling unit needs to be increased to about 28.0 metres. If the floor elevation is increased, the dwelling will no longer meet the height requirements of the zone. The application includes a request to vary the maximum height allowed under the zone from 8.0 metres to 10.4 metres. Staff recommends this application be approved, subject to notification procedures pursuant to the *Local Government Act*.

**RECOMMENDATION**

That Development Variance Permit No. 0203, submitted by John Mandziuk and Lila Mandziuk, to facilitate the construction of a dwelling unit within the Residential 1 (RS1) zone by varying the maximum height of the dwelling unit from 8.0 metres to 10.4 metres for the property legally described as Strata lot 30, District Lot 78, Nanoose District, Plan VIS3393 Together With an Interest in the Common Property In proportion To The Unit Entitlement of the Strata Lot as Shown on Form 1 be approved as submitted subject to the notification requirements pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



Manager Concurrence

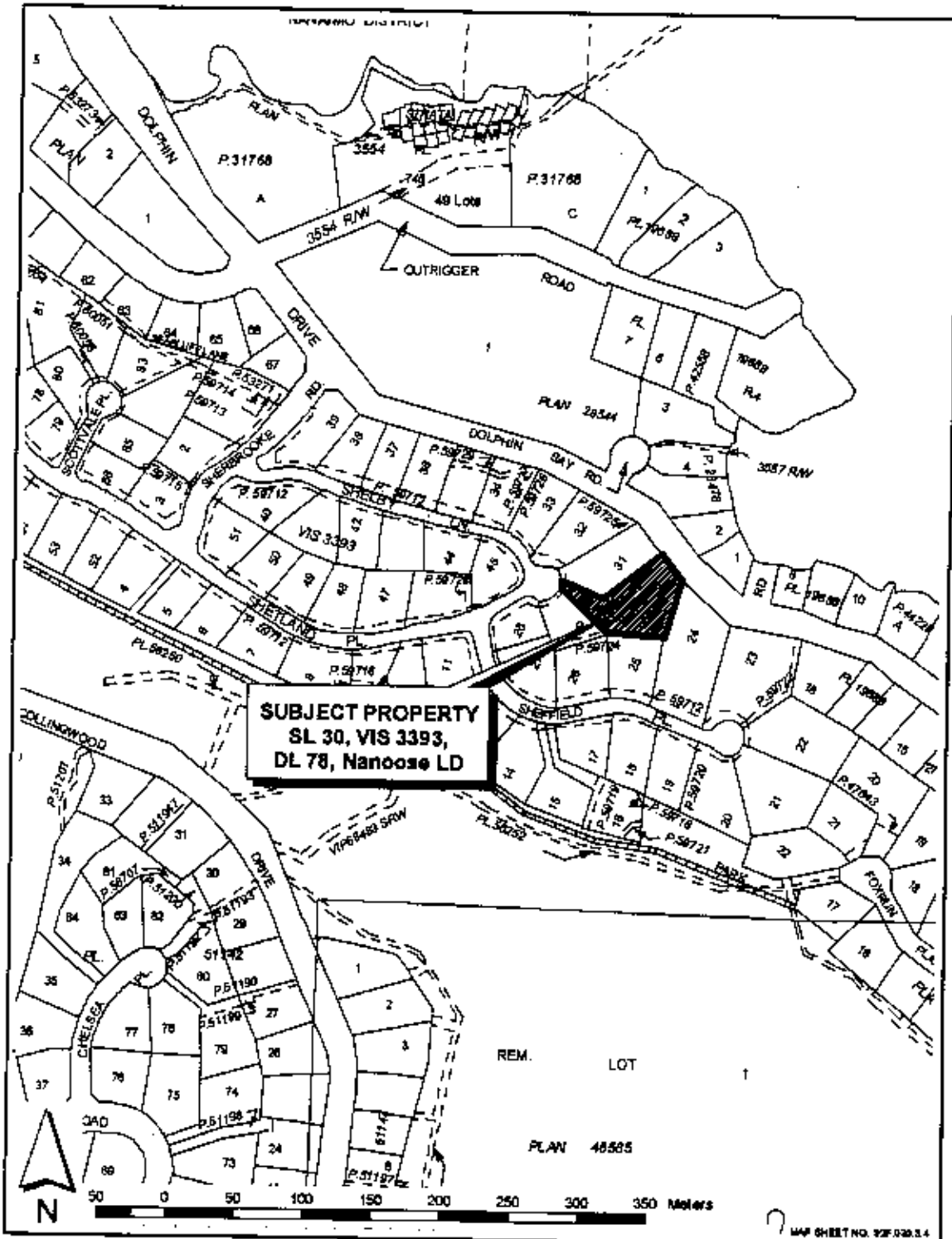


CAO Concurrence

**COMMENTS:**

*devsvr/reports/2002/dvp ja 3090 30 0202Mandziuk.doc*

Attachment 1  
Subject Property Location

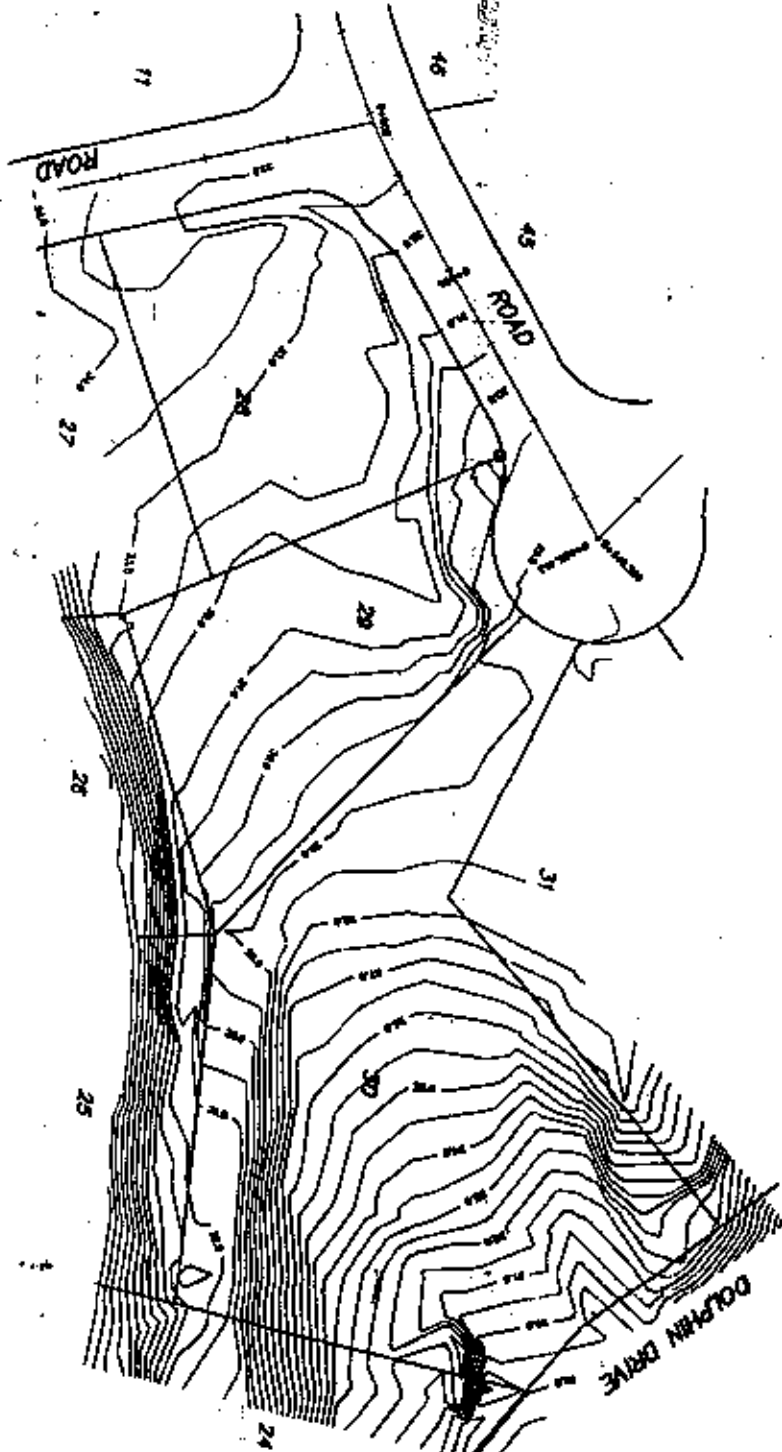




Attachment 2  
Topographic Survey of Subject Property and Adjacent Parcels



**Fairwinds**  
COMMUNITY



CLIENT	FAIRWINDS DEVELOPMENT CORPORATION
PROJECT	SCHOOCHER RIDGE LOT TOPOGRAPHY

TITLE	TOPOGRAPHY LOT 28, LOT 29 & LOT 30
APPROVED	DATE APR 25 1998
DATE	APR 25 1998
SCALE	1" = 50'
DATE	APR 25 1998

Attachment 2 Continued

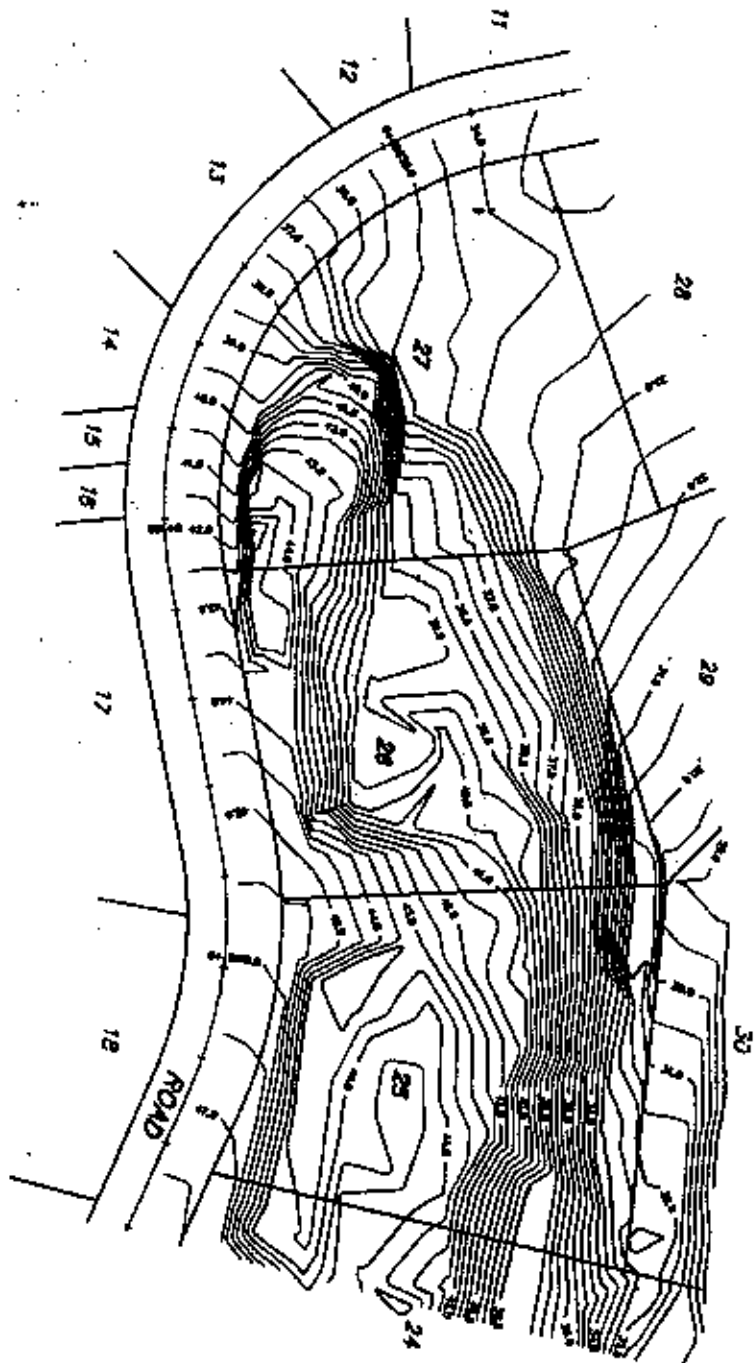


**KOERS  
& ASSOCIATES  
ENGINEERING LTD.**  
Consulting Engineers

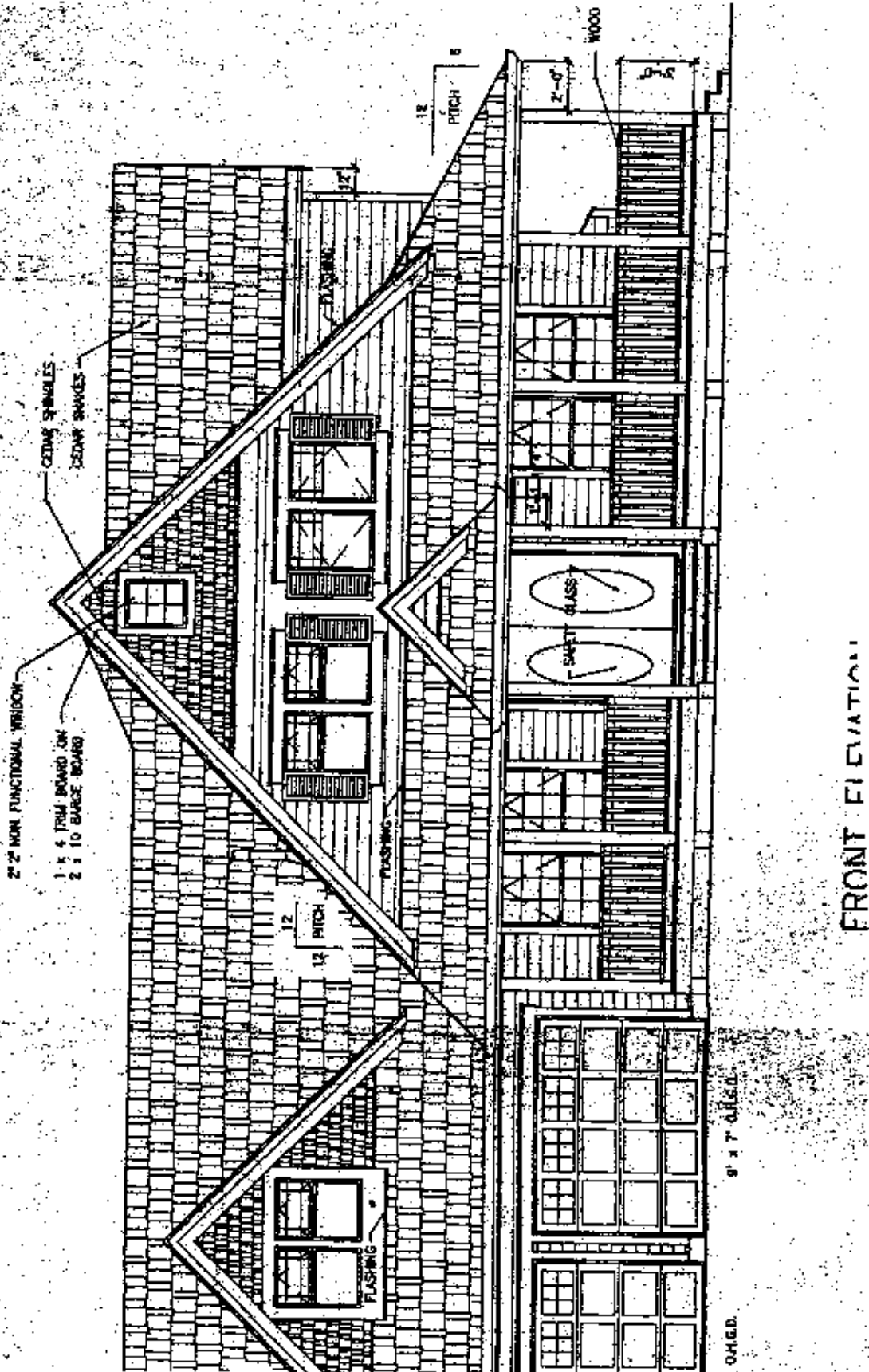
**Fairwinds  
COMPANY**

CLIENT	FAIRWINDS DEVELOPMENT CORPORATION
PROJECT	SCHOONER RIDGE LOT TOPOGRAPHY

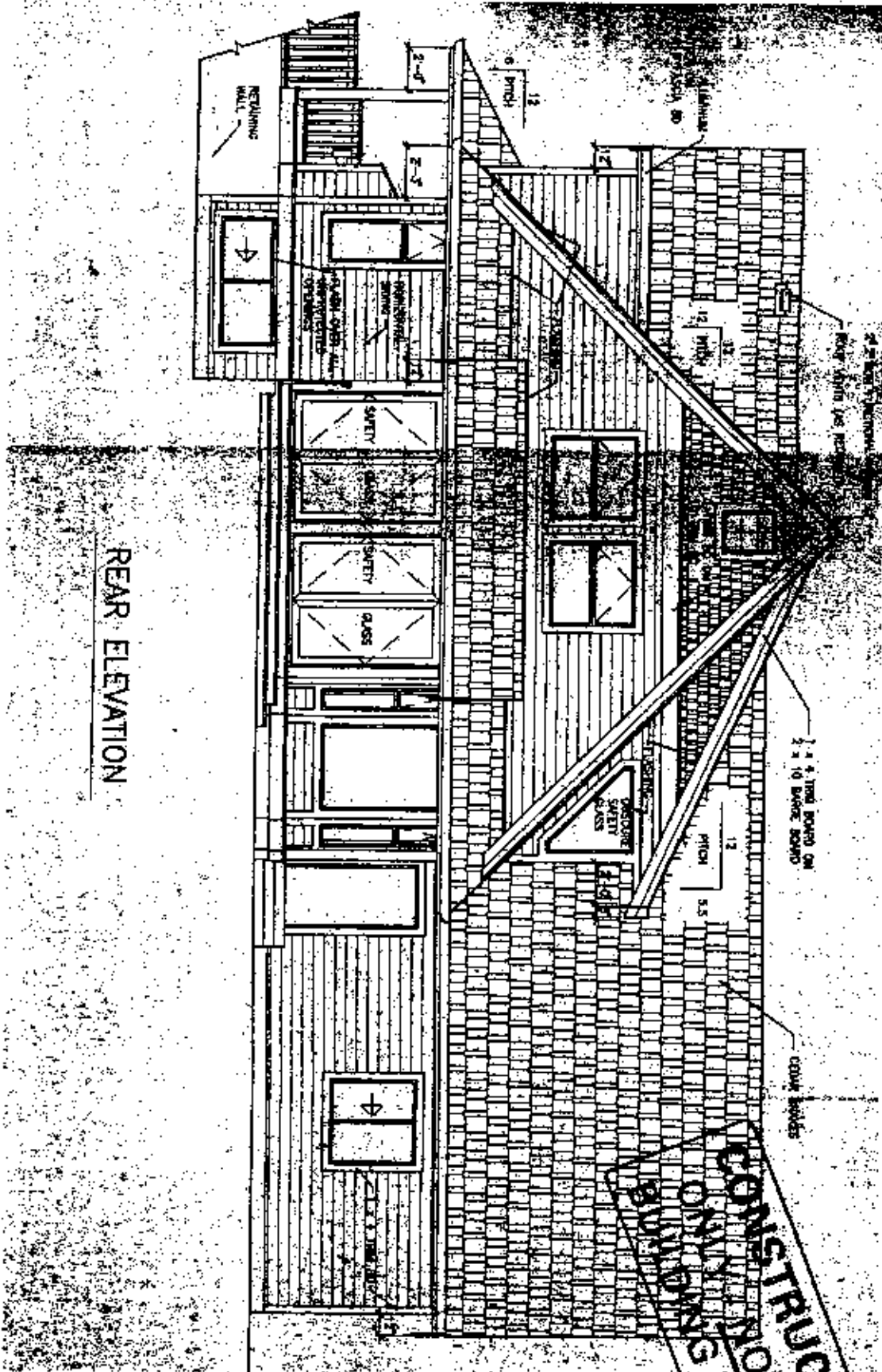
TITLE	TOPOGRAPHY LOT 25, LOT 28 & LOT 30		
APPROVED		SCALE	1:800
DATE	APRIL 23, 1994	DRAWN BY	DB003-E
JOB NO.	DB017		



Attachment 3  
Front Elevation of Dwelling Unit



Attachment 4  
Rear Elevation of Dwelling Unit







**REGIONAL DISTRICT  
OF NANAIMO**

JAN 14 2002

CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	

**MEMORANDUM**

**TO:** Pamela Shaw  
Manager, Community Planning

**DATE:** January 11, 2002

**FROM:** Lindsay Chase  
Planner

**FILE:** 3090 30 0203

**SUBJECT:** Development Variance Permit Application No. 0203 – Ronkainen/Earthy  
A Portion of the Easterly 60 Acres of Section 16, Range 3, Mountain District Except  
that part in Plan 29404, VIP68415, VIP68636 and VIP72060  
Electoral Area 'D' – 3452 Jingle Pot Road

**PURPOSE**

To consider a development variance permit to facilitate the construction of a sign within the lot line setback adjacent to Jingle Pot Road pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

**BACKGROUND**

This is an application to vary the setback requirement from 8.0 metres to 1.0 metre to facilitate the construction of a sign within the Rural 1 (RU1) zone for a property on Jingle Pot Road in Electoral Area 'D'. The subject property is located within the Provincial Agricultural Land Reserve.

The Board may recall that a zoning amendment application (No. 0008) was recently considered for the subject property. The purpose of that application was to rezone a portion of the property from Rural 1 to Rural 2 in order to facilitate the development of a nursery. The zoning amendment bylaw is presently at 3<sup>rd</sup> Reading pending the receipt of section 219 (restrictive) covenants prohibiting the use of pesticides and prohibiting animal care and campground as permitted uses on the parcel. The applicant wishes to proceed with this application to place a sign within the setback area in order to begin a marketing program for the nursery use and in anticipation of having the covenants registered prior to the March Board Meeting.

Pursuant to "Regional District of Nanaimo Sign Bylaw No. 993, 1995" no more than 2 signs shall be placed or maintained on a parcel and no more than one of the signs may be a freestanding sign provided that the surface area of the sign does not exceed 11 m<sup>2</sup> (118.4 square feet) nor shall the sign face have a height or width exceeding 4 metres (13.1 feet). The applicant is proposing to place a sign on the property that will have a surface area of 8.9 m<sup>2</sup> and an overall height of 5.5 metres from existing grade, including the posts on which the sign is proposed to be mounted (*it should be noted that while the face of the sign cannot exceed 4 metres in height, the overall structure (sign face plus supporting posts) cannot exceed 8 metres in height*). The applicant is not requesting a variance to the sign bylaw, as the proposed sign does not exceed the maximum size of sign allowed under the bylaw.

"Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" specifies that a sign greater than 1.0 metre in height is considered a structure, and therefore must meet the lot line setbacks specified in the zone. The lot line setbacks within both the RU1 and the RU2 zones are 30.0 metres from all lot lines for buildings and structures used for housing livestock or storing manure and 8.0 metres from

**PAGE**  
38

all lot lines for all other buildings or structures. The applicant is requesting a variance in the setback requirement from 8.0 metres to 1.0 metre to permit the placement of the sign.

### ALTERNATIVES

1. To approve the request for a development variance permit.
2. To deny the request for a development variance permit.

### VOTING

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

### DEVELOPMENT IMPLICATIONS

The applicant has indicated that cedar timbers will be used to frame the sign and the background will consist of stained cedar with green cutout letters mounted on the stained cedar background. The applicant has indicated that the sign will have a 'country' look and the wording on the sign is proposed to read "Shady Mile Nursery and Farm Market".

The applicant has also indicated that the covenants needed to complete the rezoning have not yet been submitted due to a funding shortfall. He has indicated that this issue will be resolved mid-January, and anticipates that the zoning amendment could be considered by the Board for a final reading in February or March 2002.

The site plan as submitted by the applicant does indicate the presence of a watercourse on the parcel; however, the applicant has confirmed that the natural boundary of the watercourse is approximately 75 metres from the proposed sign location.

With respect to landscaping on the site, the subject property fronts on Jingle Pot Road, which is not a designated highway pursuant to "Schedule 6F" – Landscaping Regulations and Standards of Bylaw 500. Therefore, there is no requirement under the bylaw to provide landscaping on Jingle Pot Road. The applicant, however, has indicated on the site plan and verbally to staff that he intends to landscape the area around the sign with low shrubs and other groundcover.

Ministry of Transportation staff has verbally indicated that they do not consider a sign to be a structure, and therefore, do not require an encroachment permit for the sign to be located within the setback adjacent to Jingle Pot Road. The applicant has verbally indicated that the Ministry of Transportation's staff advised him on the design of the sign so as to ensure view corridors on Jingle Pot Road are not impacted.

The subject property is located within the Provincial Agricultural Land Reserve. The applicant has not confirmed with the Land Reserve Commission that the sign is a permitted use on the subject property; staff recommends that issuance of this development variance permit be subject to approval from the Land Reserve Commission (see Schedule No. 2).

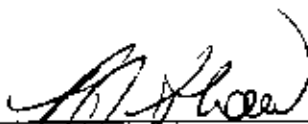
## SUMMARY/CONCLUSIONS

This is an application to consider a variance to a front lot line setback in the Rural 1 (RU1) zone on a parcel to permit the location of a sign. The Board may recall that recent consideration has been given to a zoning amendment application on the subject property; the amendment application is currently at 3<sup>rd</sup> reading pending the receipt of restrictive covenants limiting uses on the property. The setbacks for the proposed and current zones are the same. The applicant is requesting that the Board vary the minimum setback requirements from 8.0 metres to 1.0 metre to facilitate the construction of a sign. The applicant has volunteered landscaping as part of this application, the sign materials will be in-keeping with the rural nature of the surrounding lands, and the sign does not require a variance to "Regional District of Nanaimo Sign Bylaw No. 993, 1995". Staff recommends that this application be approved.

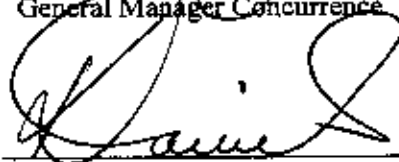
## RECOMMENDATION

That Development Variance Permit Application No. 0203 submitted by William Earthy, agent on behalf of Derek Ronkainen, for the property legally described as A Portion of the Easterly 60 Acres of Section 16, Range 3, Mountain District Except That Part in Plan 29404, VIP68415, VIP68636 and VIP72060 to vary the minimum setback requirements of the Rural 1 (RU1) zone from 8.0 metres to 1.0 metre as shown on Schedule No. 1 be approved, subject to the conditions outlined in Schedule No. 2, and subject to notification requirements pursuant to the *Local Government Act*.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
General Manager Concurrence

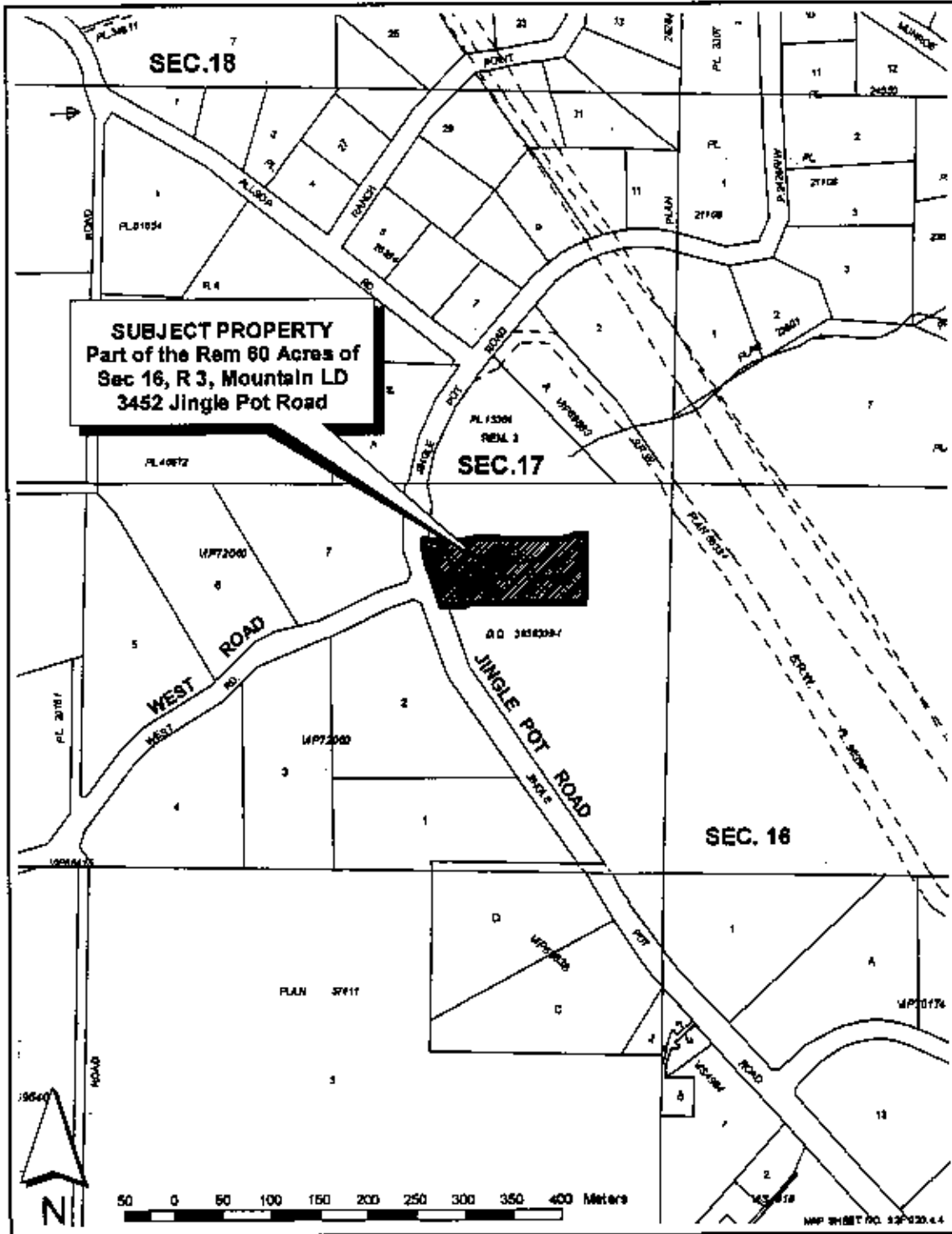
  
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CAO Concurrence

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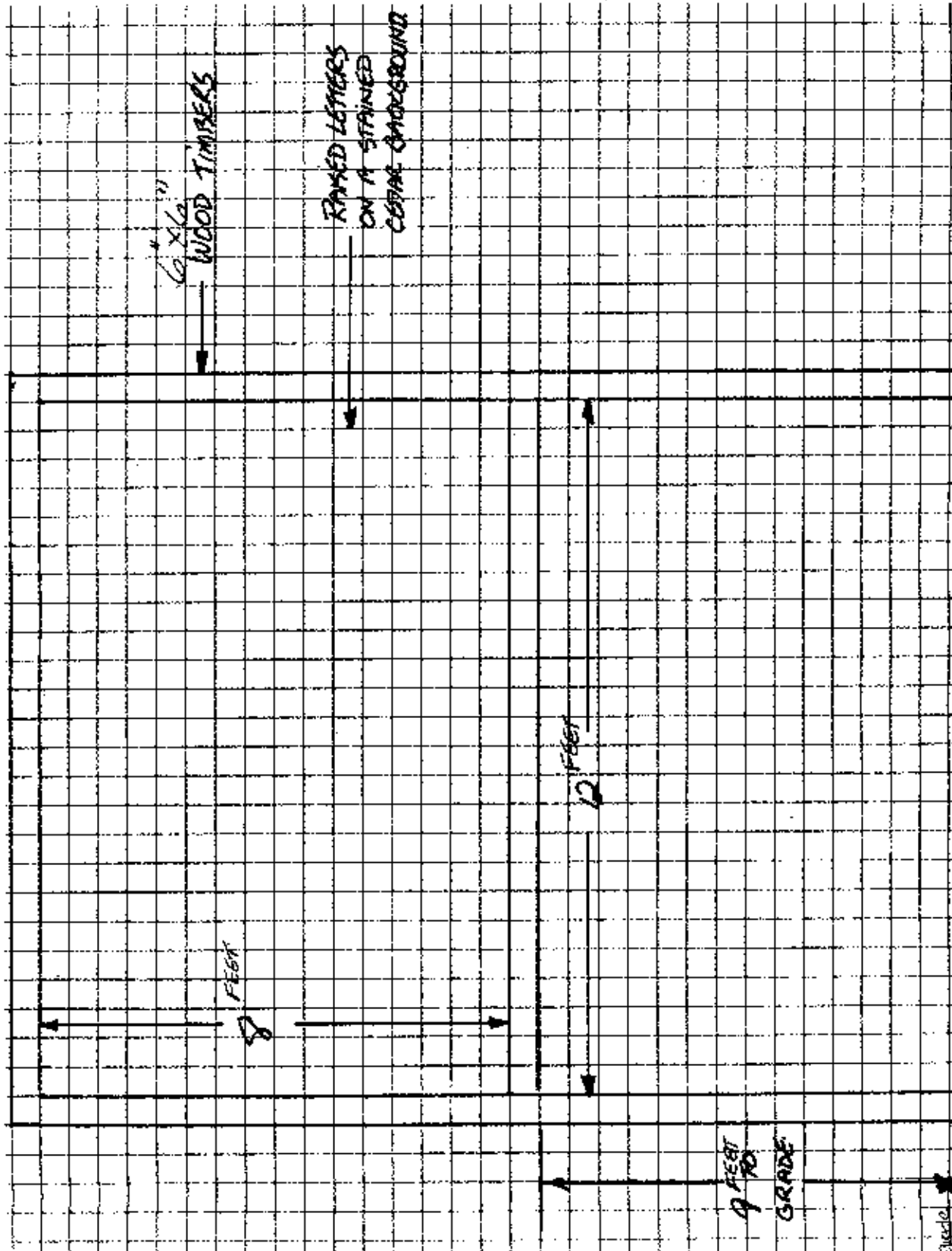
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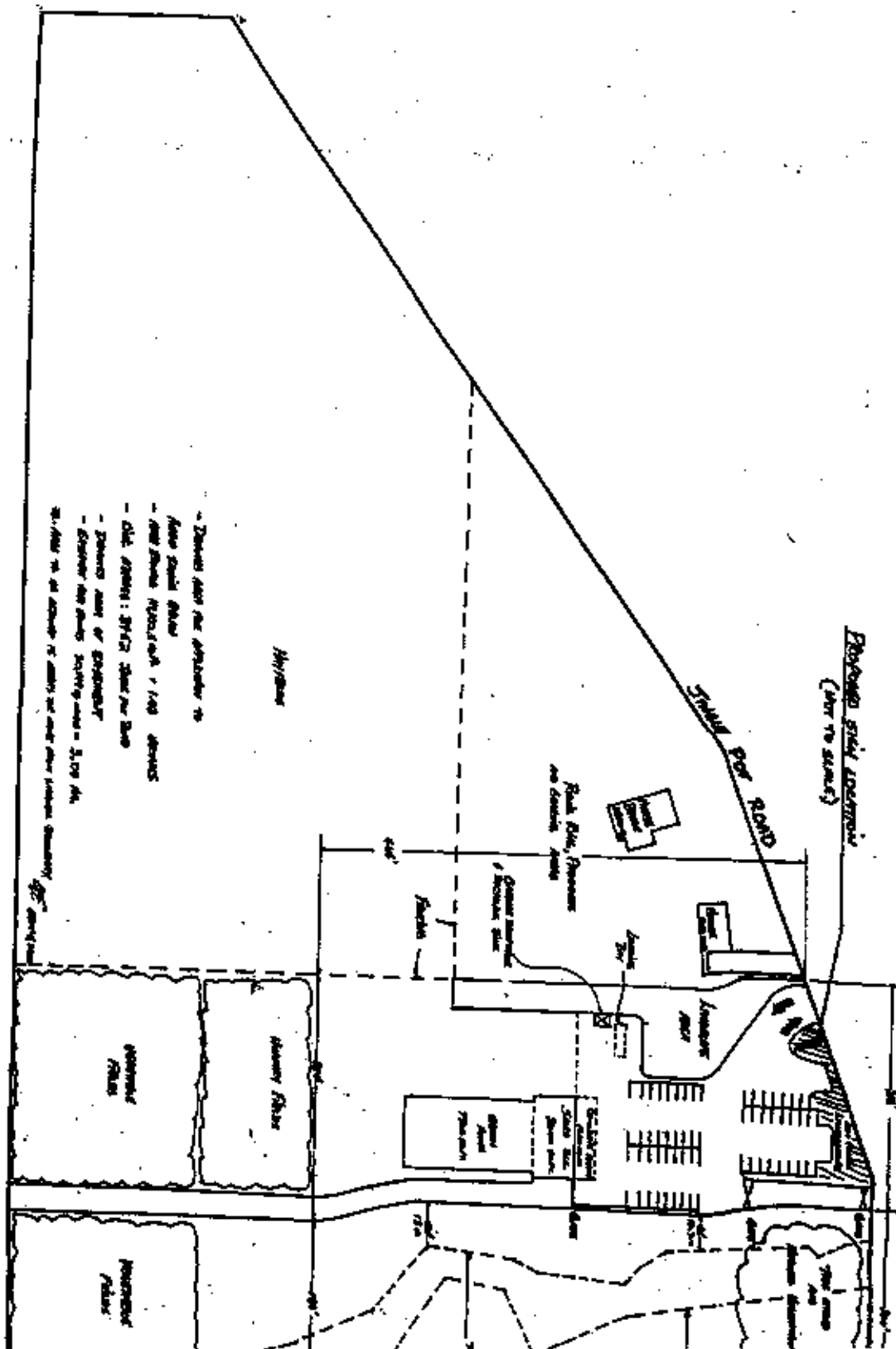
Attachment No. 1  
Subject Property Location



Attachment 2  
Proposed Sign Dimensions from Applicant



Schedule No. 1  
Site Plan as Submitted by Applicant



**Schedule No. 2**

**Conditions of Approval of Development Variance Permit No. 0203**

1. Land Reserve Commission Approval of one 8.9 m<sup>2</sup> (95 ft<sup>2</sup>) non-illuminated sign, with dimensions of 2.7 metres (9 feet) by 4.0 metres (13 feet) prior to installation of new sign as specified.