

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

*(Nanaimo City Council Chambers)*

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**DELEGATIONS**

- 3-5                    **David Brosz & Jean Gibson**, re DP Application No. 0243 - Horne Lake Caves Road - Area H.

**MINUTES**

- 6-8                    Minutes of the Electoral Area Planning Committee meeting held Tuesday, June 25, 2002.

**BUSINESS ARISING FROM THE MINUTES**

**PLANNING**

***DEVELOPMENT PERMIT APPLICATIONS***

- 9-17                    DP Application No. 0239 - Thompson - 4619 Maple Guard Drive - Area H.
- 18-23                    DP Application No. 0240 - PG Thomson on behalf of Hunt - 2399 Andover Road - Area E.
- 24-30                    DP Application No. 0242 - Stesco - 3478 Grilse Road - Area E.
- 31-36                    DP Application No. 0243 - Gibson & Brosz - Horne Lake Caves Road - Area H.

***DEVELOPMENT VARIANCE PERMIT***

- 37-43                    DVP Application No. 0215 - Mengual - 2955 Anchor Way - Area E.
- 44-51                    DVP Application No. 0216 - Buffie - 6293 West Island Highway - Area H.

**OTHER**

- 52-59                    Notification Distance for Development Applications - All Electoral Areas except Electoral Area 'B'.

**ADDENDUM**

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**NEW BUSINESS**

**IN CAMERA**

**ADJOURNMENT**

**David Brosz and Jean Gibson**  
1409 Noel Avenue  
Comox, B.C. V9M 3H8  
Home: 250-339-7398  
Work: 250-339-0112

**LOT 60, Horne Lake, Strata Plan VIS 5160**

Email: gibrosz@shaw.ca

Fax: 250-339-7808  
Cell: 250-897-9449

RDN Planning Department  
6300 Hammond Bay Road  
Lantzville, BC  
Fax: 250-390-4163

**July 16, 2002**

**Attention: Maurine Pearse / Linda Burgoyne**

**Re: Brief for DP Variance Application #0243,  
to be included with Agenda for July 23 Meeting,  
Committee of the Whole, Regional District of Nanaimo**

Dear Maurine:

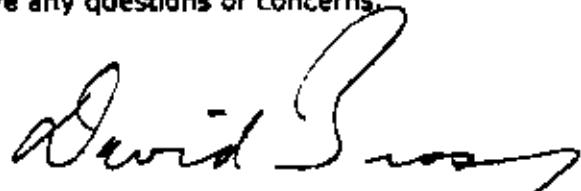
I spoke to Brigit Reynolds yesterday and indicated that we wish to appear as a delegation at the July 23 meeting. We would like the following two pages to be attached to the agenda, to brief committee members about our application. The second page has two drawings which have been reduced, so the detail is quite fine. Please let me know if they are hard to read in the faxed version. I can hand deliver clear copies to you on Friday if you let me know how many you need.

I will be at work most of this afternoon. Or you can leave a message on our answering machine at home.

Please call if you have any questions or concerns.

Yours sincerely,

David Brosz



Jean Gibson



**LOT 60, HORNE LAKE****DP Variance Application #0243**

Owners: David Brosz &amp; Jean Gibson

1409 Noel Ave., Comox, V9M 3H8

**Requested:** the right to make structural repairs and alterations to the existing buildings and decks in their present locations and within existing footprints (except for the permitted 100 ft<sup>2</sup> minor addition for bathroom)

**At Issue:** the cabin and deck are closer than 8 metres to the lake boundary, which R.D.N. Planning staff say precludes any structural work

**Site-Specific Considerations:**

The cabin is one of the oldest buildings on Horne Lake -- it appears to have been built in the late 1920s. The buildings and decks are now closely surrounded by mature trees. The natural grade of the lot is moderately steep and has been, in effect, terraced by means of excavation and several retaining walls. Due to the steepness of the lot, the cabin meets the flood control elevation despite being so close to the lake shore.

**Why the Building Requires Structural Repair and Alteration:**

1. The permitted 100 ft<sup>2</sup> minor addition for bathroom can only be added to the rear side of the building, but to do so would require structural modifications to the original building because that side of the building is currently a low-roofed storage shed. The entire rear wall needs to be removed, new footings placed, and the roof reconfigured to accommodate the addition and to make it accessible from the interior of the cabin.
2. The existing roof has failed and is leaking. It is not sensible to replace the membrane only because the design and construction are problematic. The main roof is supported by 2X3 rafters on 30 inch centres -- far below current code standards. It has been extended with a ridged dormer at the front right, with lightly built extensions over the rear sheds, and with a section of flat roof at the front left. We wish to completely remove this motley collection of roof surfaces and replace them with a simple, single ridge metal clad roof.

**Why Re-Situating the Cabin Behind the 8 Metre Setback Is Not Feasible:**

Almost a third of the lot area has been lost to the easement roadway which gives access to lots 58 and 59. There is at present just enough space between the cabin and the roadway to accommodate the permitted small addition, parking for two vehicles, a septic pump & haul tank, and a small recreational vehicle (trailer). All of these items are permitted and/or mandatory lot features.

If the building was rebuilt or moved further back from the lake, parking and the pump & haul septic tank would have to be relocated beside the cabin rather than behind it, and the only way that could be accomplished would be to remove the treed berm running through the middle of the lot. This would result in the loss of much of the vegetation in the centre of the lot, and an almost complete loss of privacy. It would also result in the exposure of unvegetated lakeside slopes which have long been protected by the cabin and deck. And finally, the act of actually moving the cabin could well result in damage to the mature trees surrounding it and some of those trees might wind up having to be removed also.

The easement roadway was recently widened to allow the transport of several cabins across this property to locations further along the lakefront. More than a dozen trees were felled to facilitate this widening, much to our dismay. We do not wish to see any more trees destroyed on this lot.

**Why the Deck Areas Should Remain As They Are:**

The cabin is located on a slope, necessitating a structural deck beside the cabin to provide a level outdoor living area adjacent to the cabin entrance. One of the previous owners has built a very solid walkway to the outhouse on the far side of the deck. If counted as deck area, this walkway makes the deck somewhat oversize, but it is nevertheless the only access to the outhouse. The walkway could not be easily returned to it's natural state because it consists of a heavily timbered retaining wall and is topped with interlock paving stones.

Our proposal will not result in any change or increase to existing footprints (except for the 100 ft<sup>2</sup> addition). Existing setbacks will be maintained. No trees will be removed.

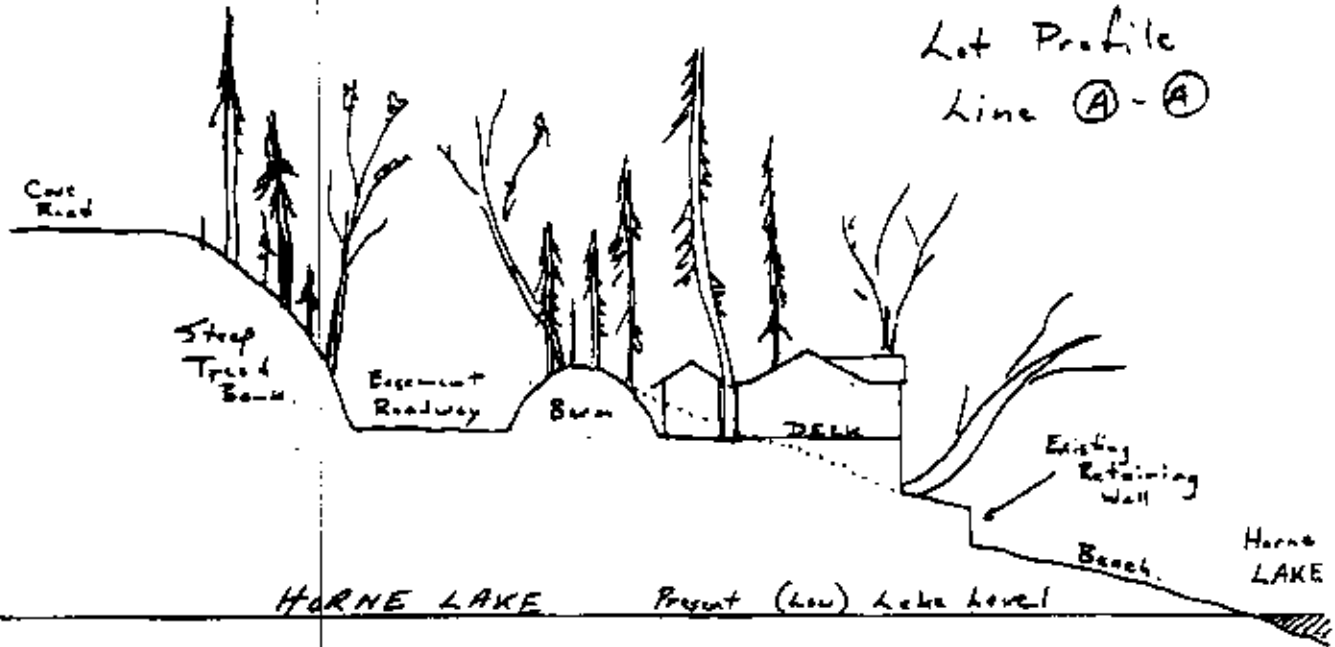
*David Brosz* *Jean Gibson*

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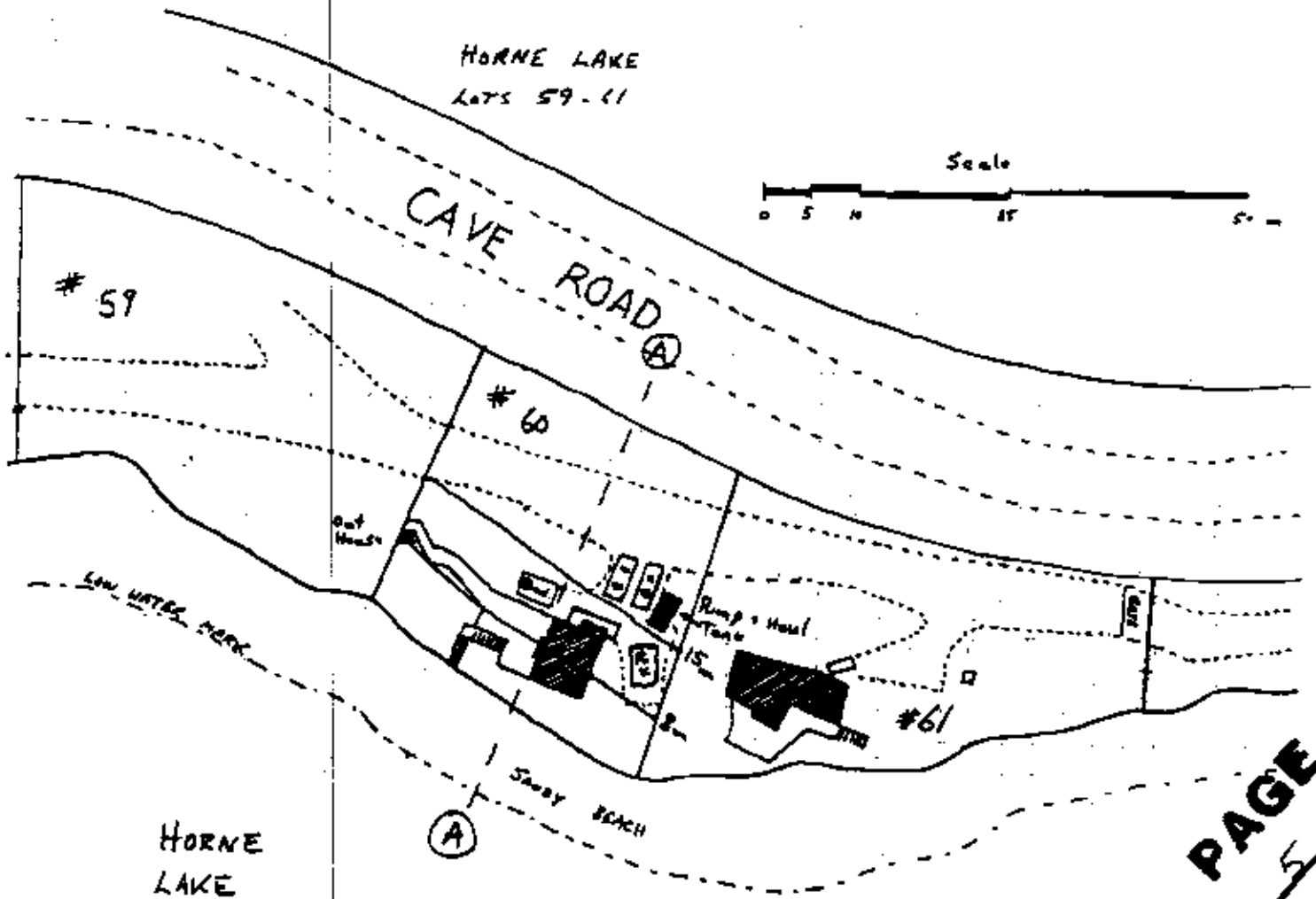
# LOT 60, HORNE LAKE

Application #0243

Lot Profile  
Line (A)-(A)



LOT 60, Horne Lake. Cross section along a line running past the front door of the house.



REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE  
MEETING HELD ON TUESDAY, JUNE 25, 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

**Also in Attendance:**

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

**MINUTES**

MOVED Director McLean, SECONDED Director Holme, that the minutes of the Electoral Area Planning Committee meeting held Tuesday, May 28, 2002 be adopted.

CARRIED

**PLANNING**

**DEVELOPMENT PERMIT APPLICATIONS**

**DP Application No. 0235 – M. Salmon on Behalf of Wilcox – Strata Lot 59, Horne Lake Caves Road – Area H.**

MOVED Director McLean, SECONDED Director Stanhope, that Development Permit Application No. 0235 be approved subject to the conditions set out in Schedule Nos. 1 and 2 of the corresponding staff report and the notification requirements pursuant to the *Local Government Act*.

CARRIED

**DP Application No. 0236 – Roy – 3379 Blueback Drive – Area E.**

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 0236, submitted by Fern Road Consulting, Agent, on behalf of Louise Roy, to facilitate the construction of (1) an addition to a single dwelling unit within the Development Permit Area and (2) a stairwell to access the foreshore by varying the minimum permitted setback to the natural boundary of the ocean for the stairwell, within the Residential 1 (RS1) zone from 8.0 metres to 0.0 metres for the property legally described as Lot 29, District Lot 78, Nanoose District, Plan 15983, be approved, subject to conditions as outlined in Schedule No. 1 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

**DEVELOPMENT VARIANCE PERMIT APPLICATIONS**

**Development Variance Permit Application No. 0210 – Littlewood – 2406 Nanoose Beach Road – Area E.**

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit Application No. 0210, submitted by Scott Littlewood for the property legally described as Parcel No. 1 (DD 24745N) of Lot A, of Lot 79, Nanoose District, Plan 1460, to vary the other lot line from 5.0 metres to 0.0 metres and the interior side lot line from 2.0 metres to 0.0 metres, be approved, subject to the conditions outlined in Schedule No. 1 as amended to replace the words “within 30 days” with the words “within 60 days”, and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

**Development Variance Permit Application No. 0213 – Walker – 3652 Dolphin Drive – Area E.**

MOVED Director Holme, SECONDED Director Quittenton, that Development Variance Permit Application No. 0213, submitted by Helen Sims, Agent, on behalf of James Walker and Faye Walker, for the property legally described as Lot 26, District Lot 78, Nanoose District, Plan 20762 to vary the minimum other lot line setback requirements of the Residential 1 (RS1) zone from 5.0 metres to 0.0 metres to legalize the siting of a retaining wall, and to vary the other lot line setback from 5.0 metres to 0.1 metres to facilitate the construction of an accessory building, both as shown on Schedule No. 2 be approved, subject to the conditions outlined in Schedule No. 1, and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

**Development Variance Permit Application No. 0231 – Culverden Holdings Inc./Davey – 1888 Kay Road – Areas E & G.**

MOVED Director Stanhope, SECONDED Director Holme, that Development Permit Application No. 0231 to legalize the construction of a fire protection device within an Environmentally Sensitive Area and Watercourse Protection Development Permit Area on the property legally described as Lot 1, District Lot 171, Nanoose District, Plan VIP71158, be approved, subject to the conditions outlined in Schedules No. 1 and 2.

CARRIED

**Development Variance Permit Application No. 0214 – Intracorp/Fairwinds – Arbutus Hills Development – Area E.**

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit Application No. 0214 submitted by Helen Sims, Agent on behalf of 3536696 Canada Inc., to facilitate construction of single dwelling units and retaining walls for the properties legally described as Lots 2-20 and Lots 25 & 26, District Lot 78, Nanoose District, Plan VIP73214, be approved subject to the conditions outlined in Schedules No. 1 and 2 and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

**ADJOURNMENT**

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

CARRIED

**TIME:** 7:09 PM

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CHAIRPERSON





REGIONAL DISTRICT OF NANAIMO			
JUL 15 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCm8		GMES	
<i>E.A. Planning</i>			
			DATE:

**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 m<sup>2</sup> 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.

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.

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### ***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

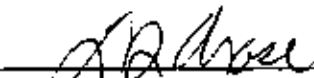
Electoral Area Directors - one vote, except Electoral Area 'B'.

### SUMMARY/CONCLUSIONS

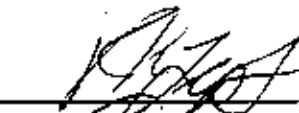
This is an application for a development permit with variances to facilitate the construction of a dwelling unit, convert an existing cabin into an accessory building and to recognize existing bank stabilization works and a septic system within the Shaw Hill-Deep Bay Hazard Lands Development Permit Area. 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**

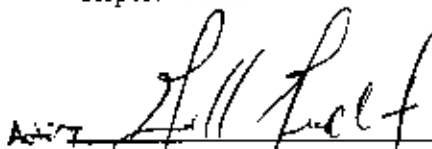
That Development Permit Application No. 0239, to construct a dwelling unit and to recognize the siting of existing retaining works, accessory building and septic system and to convert an existing cabin to an accessory building within the Hazard Lands Development Permit Area pursuant to the Shaw Hill-Deep 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*.



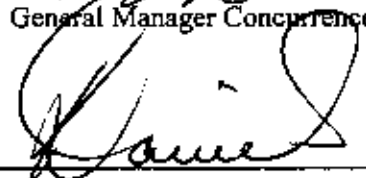
Report Writer



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**

1. 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**

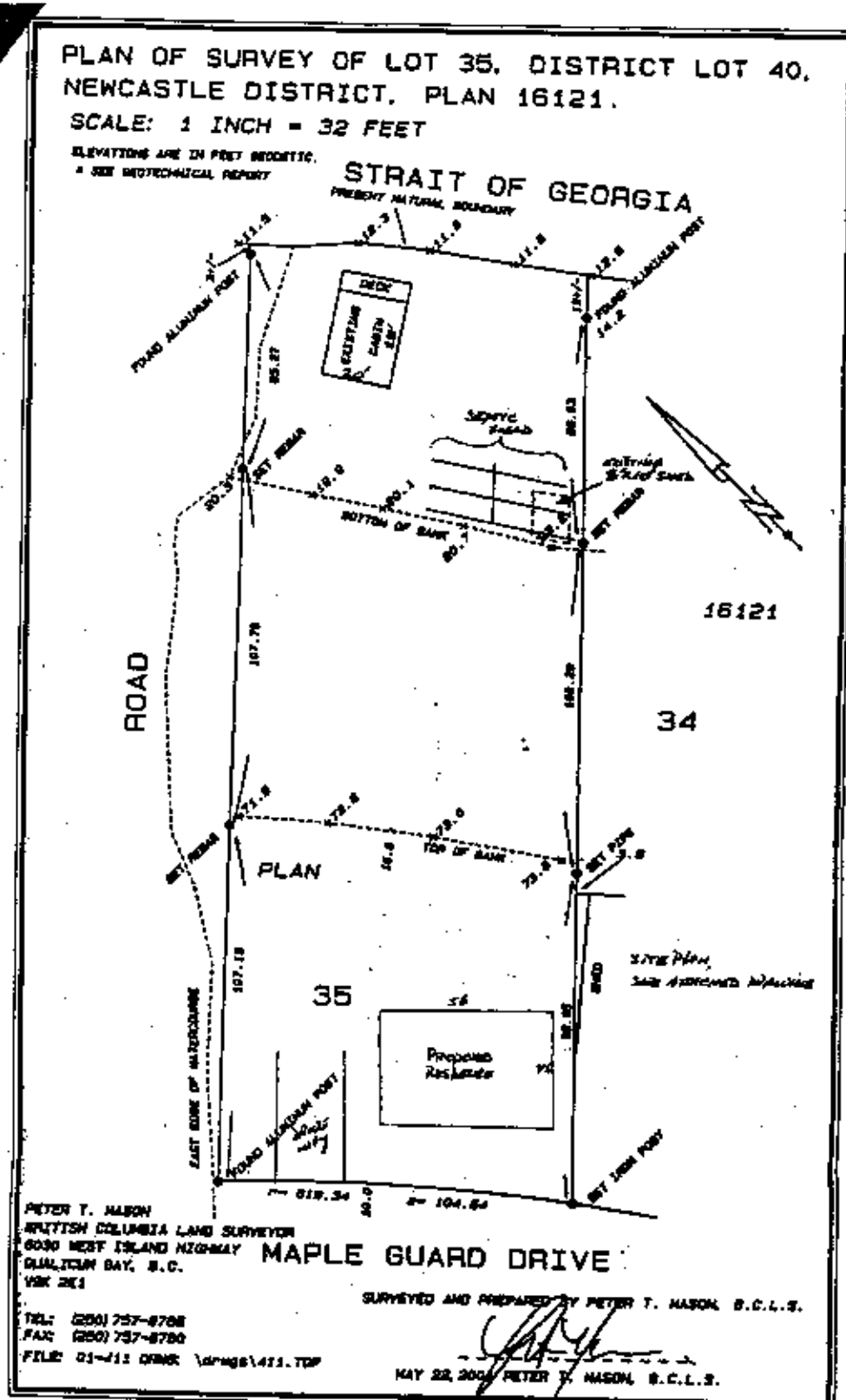
1. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
  - a. Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
  - b. Direct run off flows away from 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.
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.

**VariANCES**

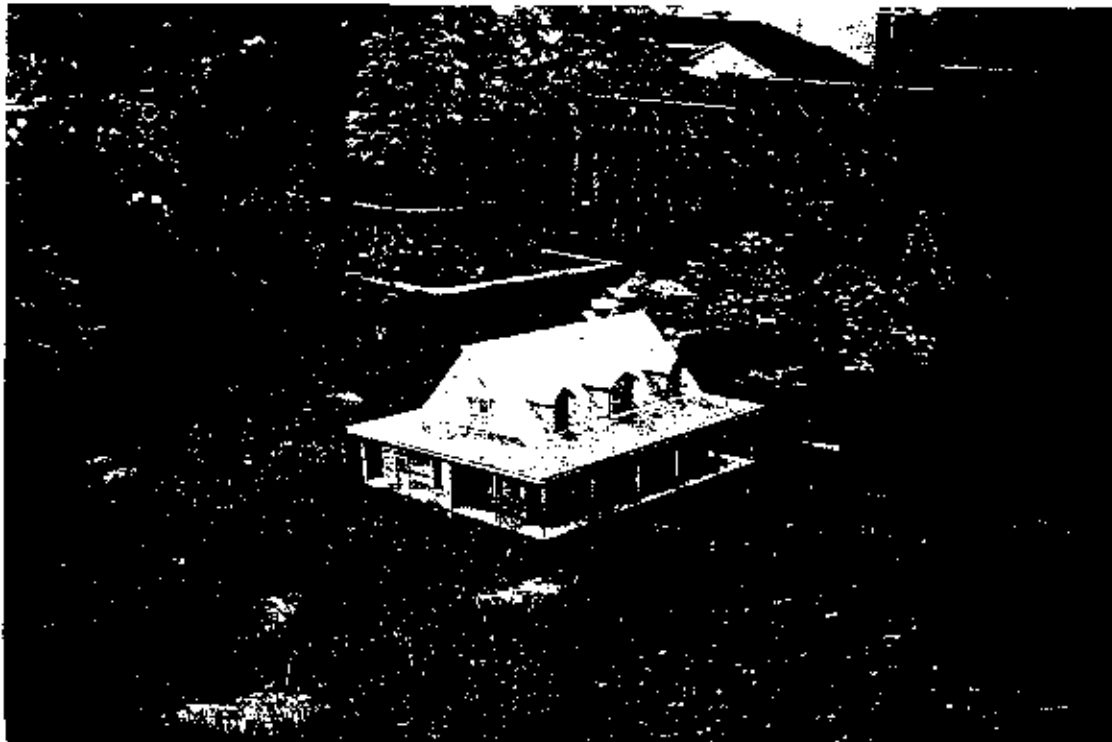
1. The minimum front lot line setback requirement pursuant to Section 3.4.62 be varied from 8.0 metres to 6.5 metres to facilitate the construction of a dwelling unit.
2. The maximum dwelling unit height requirement pursuant to Section 3.4.62 be varied from 8.0 metres to 9.0 metres to facilitate construction of a dwelling unit.
3. 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. 3  
Survey Site Plan as Submitted by Applicant



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









REGIONAL DISTRICT OF NANAIMO		
JUL 15 2002		
CHAIR		GMCRs
CAO		GMDS
GMCRs		GMES
<i>EA Planning</i>		

**MEMORANDUM**

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

**DATE:** July 12, 2002

**FROM:** Susan Cormie  
Senior Planner

**FILE:** 3060 30 0240

**SUBJECT:** Development Permit Application No. 0240 - PG Thomson, on behalf of Hunt Electoral Area 'E' - 2399 Andover Road

**PURPOSE**

To consider an application for a development permit to construct a portion of a dwelling unit, attached deck, and landscape works within a Watercourse Protection Development Permit Area.

**BACKGROUND**

The subject property is legally described as Lot 55, District Lot 78, Nanoose District, Plan 47638 and located at 2399 Andover Road in the Fairwinds area of Electoral Area 'E' (See Attachment 1 for location).

The subject property is currently zoned Residential 1 (RS1) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing to construct a single dwelling unit, which is a permitted use in the RS1 zone. No variances to Bylaw No. 500, 1987 are being requested as part of this application.

Pursuant to the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998", the subject property is designated within the Watercourse Protection Development Permit Area (DPA), which was established for the protection of watercourses and their riparian areas. In this case, approximately one half of the subject property is within 30.0 metres of the natural boundary of a pond located on the adjacent golf course. The property slopes toward the pond, is partially treed and includes a large rock outcrop.

***Proposal as Submitted***

The applicant is proposing to locate approximately 25 m<sup>2</sup> of the new dwelling unit, along with a portion of the attached deck, within the development permit area. In addition, the applicant is also requesting to landscape a portion of the rear yard of the property with a series of rock riprap retaining walls (six) less than 1.0 metre in height and to remove 4 Douglas fir trees, which are also located within the DPA. The dwelling unit is proposed to be constructed 24.8 metres from the natural boundary of the pond and the landscaping is within 12.2 metres from the natural boundary of the pond.

The applicant has indicated that as much native vegetation, as possible, will be retained and new plantings will consist of native vegetation. The portion of the subject property between the retaining walls and the pond is proposed to be left in its natural state (see Schedule No. 2 for proposal). As the applicant is proposing to construct a portion of a new dwelling unit as well as landscape works within the DPA area the issuance of a development permit is required.

## ALTERNATIVES

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

## DEVELOPMENT IMPLICATIONS/SITE CONSTRAINTS

The ability to locate the dwelling unit entirely outside the development permit area is limited by the smaller size of the property, the extent of the development permit area (30 metres), and the current zoning regulations with respect to setback requirements. The encroachment of the proposed dwelling unit into the development permit area will, however, allow the minimum setback from the front lot line to be maintained. Therefore, the placement of the dwelling unit and deck, as proposed, will have the least impact on the development permit area.

## ENVIRONMENTAL IMPLICATIONS

The applicant has indicated that they will leave the 12-metre area closest to the pond in its natural state and will retain as much of the native vegetation as possible, including a number of Douglas fir trees and arbutus situated throughout the development permit area. The applicant has also stated they will replant with native plants wherever practical. The trees, proposed to be removed, are either within the building site or are within close proximity to the building site. Therefore, due to the existing condition of the pond and its riparian area, it is considered that the proposed works will have little impact on the overall sensitivity of the site (*see Schedule No. 1 – Conditions of Approval*).

## VOTING

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

## SUMMARY

This is an application to construct a portion of a new dwelling unit, attached deck, and landscape works with a Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw. Due to the site constraints of the property, the extent of the DPA, and the minimum setback requirements, the available buildable site area is limited. The adjacent pond, which is constructed with riprap material, already has a significantly disturbed riparian area. The applicant wishes to retain the lower area of the property, which is closest to the pond, in its present natural form. As any negative impacts to the pond from this property will be minimized through native plantings and the applicant is in concurrence to the conditions outlined in Schedule Nos. 1 and 2 of this staff report, including retaining native vegetation where possible and replanting with native vegetation, staff support Alternative No. 1 to construct a portion of the dwelling unit, attached deck, and landscape works within the development permit area.

**RECOMMENDATION**

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.

*Susan Cormie*

Report Writer

*[Signature]*

General Manager Concurrence

*[Signature]*

Manager Concurrence

*[Signature]*

CAO Concurrence

**COMMENTS:**

*devs/reports/2002/dp ju 3060 30 0240 HuntThomson*

**Schedule No. 1  
Conditions of Approval  
Development Permit No. 0240  
Lot 59 District Lot 78 Nanoose District Plan 47638**

The following sets out the conditions of approval:

**1. Building Site**

The dwelling unit shall be located as shown on Schedule No. 2.

**2. Vegetation Removal and Plantings**

- a) The Douglas fir trees, as shown on Schedule No. 2, shall be retained. The other Douglas fir trees may be removed.
- b) The lower area of the property, up to and including 12.2 metres from the natural boundary of the pond, shall be retained in its natural state.
- c) During the construction of the retaining walls, as much native vegetation as possible, including Arbutus trees, shall be retained. New plantings shall be native wherever practical and suitable to the soil, light and moisture conditions of the site.

**3. Riprap Landscape Retaining Walls**

- a) The riprap retaining walls shall be less than 1.0 metre in high and shall retain less than 1.0 metre of earth.
- b) The riprap walls shall be located as shown on Schedule No. 2.
- c) A means of drainage shall be incorporated into the retaining walls; i.e., layers of gravel or filter fabric.

**4. Footpath**

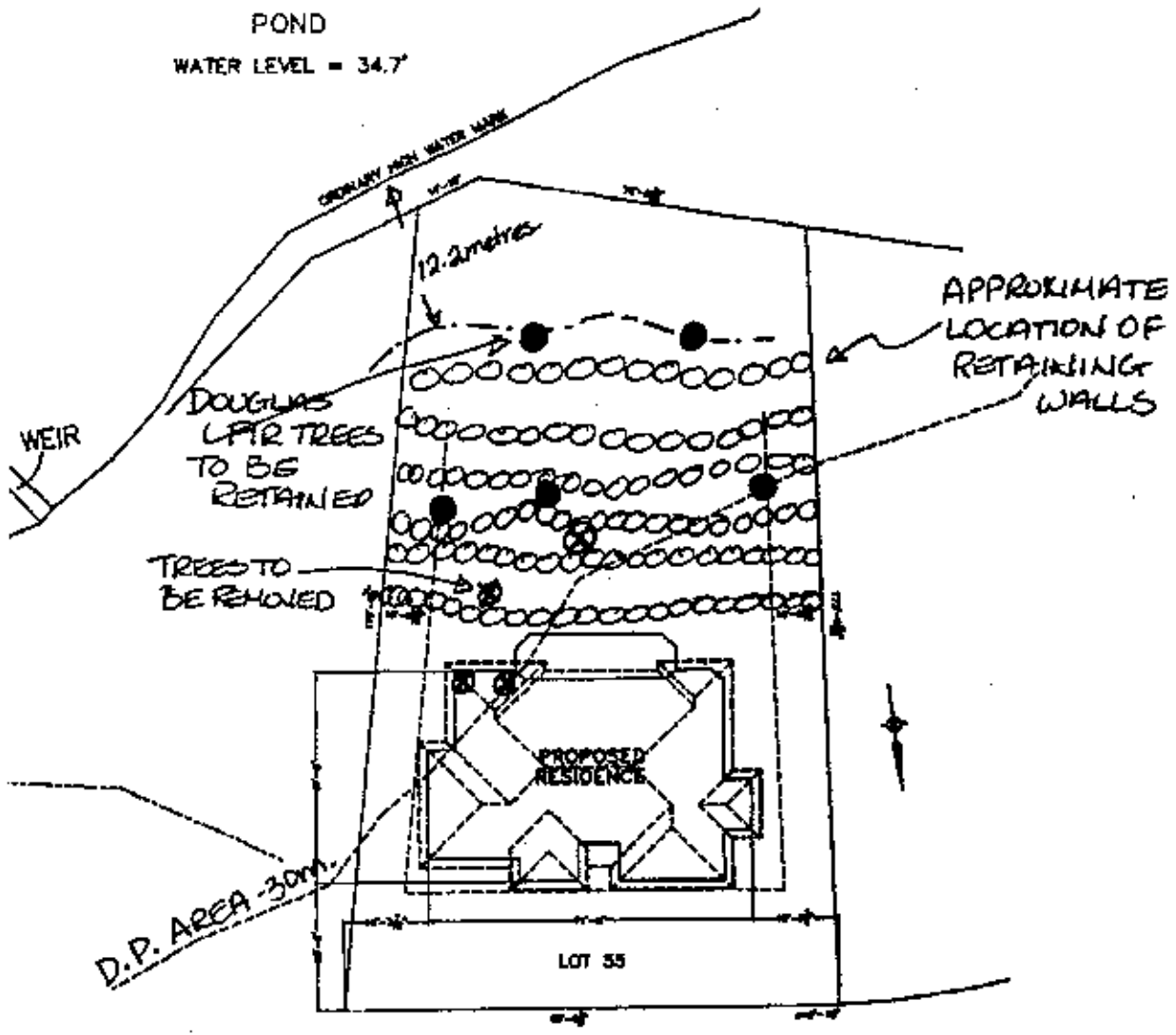
- a) A maximum of 1 path way may be constructed for the purposes of accessing the rear of the property may be constructed in the development permit area above the 12-metre setback.
- b) The footpath shall not exceed a maximum of 1.0 metres in width.
- c) The footpath shall be for personal, non-vehicular use only.
- d) The trail's surface is pervious.

**5. Sediment and Erosion Control**

Sediment and erosion control measures must be utilized to control sediment during construction and to stabilize the site after construction is complete. These measures must include:

- a) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite during works.
- b) Cover temporary fills or soil stock piles with polyethylene or tarps.
- c) Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened in advance of seeding.

Schedule No. 2  
Site Plan  
(as submitted by applicant / reduced for convenience)  
Development Permit No. 0240

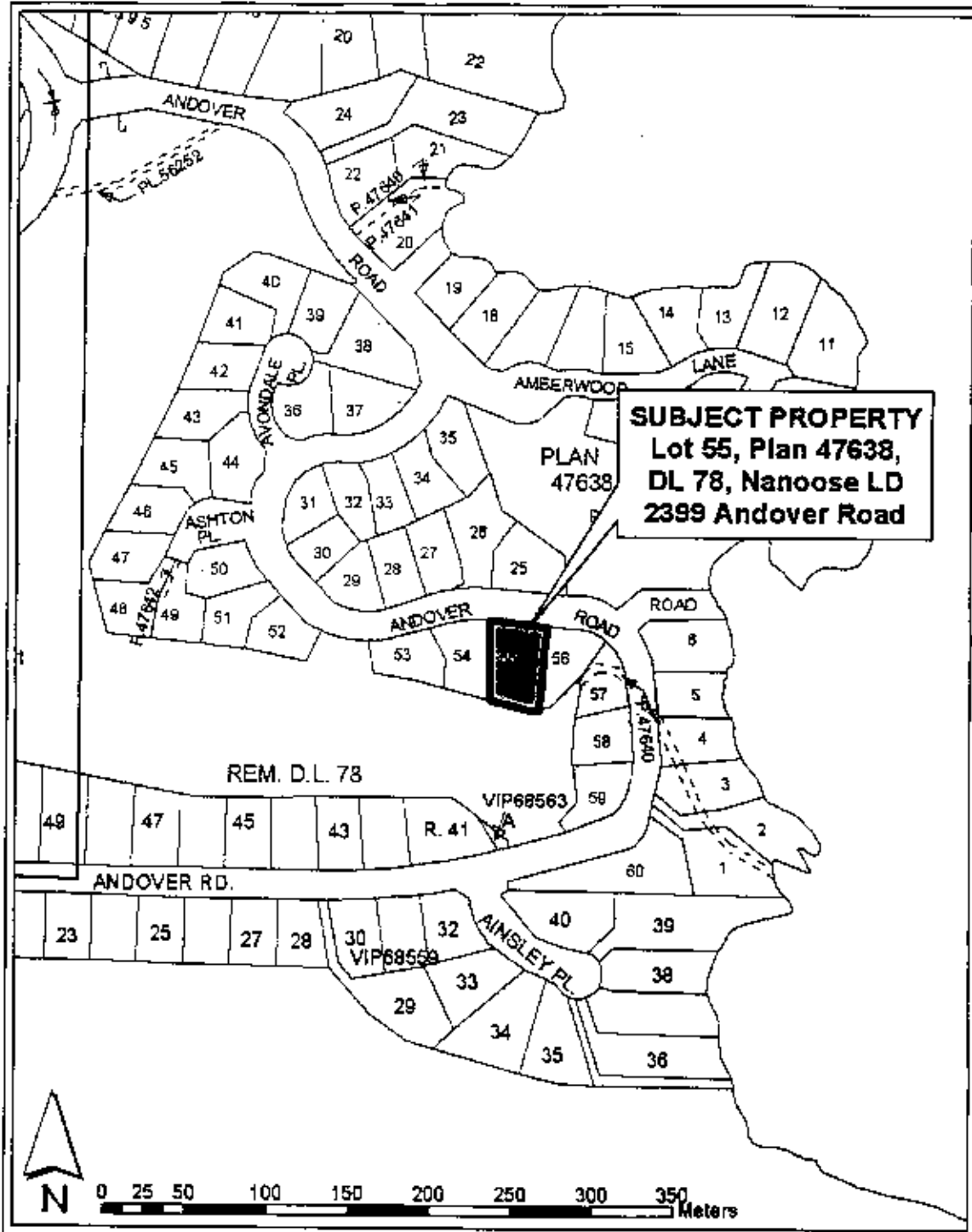


ANDOVER RD.

SITE PLAN  
HUNT/THOMSON

Attachment No. 1

Location of Subject Property



BCGS Map Sheet No 32F.030.3.4



REGIONAL DISTRICT OF NANAIMO	
JUL 15 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
<i>CA Planning</i>	

MEMORANDUM

TO: Pamela Shaw  
Manager, Community Planning

DATE: July 12, 2002

FROM: Deborah Jensen  
Planner

FILE: 3060 30 0242

SUBJECT: Development Permit Application No. 0242 - Stesco  
Electoral Area 'E' - 3478 Grilse Road

PURPOSE

To consider an application for a development permit within a watercourse protection development permit area, and to consider a variance to legalize the siting of an existing stairway and deck structure.

BACKGROUND

This application involves a stairway and deck structure located on waterfront property at 3478 Grilse Road legally described as Lot 69, District Lot 78, Nanoose District, Plan 15983. Bylaw enforcement action was initiated on the subject property in 1998. RDN staff identified the stairway/deck structure as in contravention of building permit requirements and setback requirements pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." As a result of bylaw enforcement action, the applicant is proposing to legalize the structure through this application for a development permit.

The subject property containing the stairwell structure is a residential parcel located adjacent to Grilse Road, and is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1). The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the rear lot line and interior side lot line; 5.0 metres from other lot lines; and 8.0 metres horizontal distance (i) from the natural boundary; or (ii) inland from the top of a slope of 30% or greater. In this instance, a variance is required under subsection (ii) for construction of the stairway and deck structure.

The ocean frontage of the property is also designated as a Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998. As the existing stairwell structure is sited within 15 metres of the natural boundary, a development permit is required.

*Bylaw Contravention and Proposed Variance*

The stairway and attached deck is sited within zoning setbacks and was constructed without the appropriate building permits. The applicant had initially extended the use of the property such that the structure encroached onto both the adjacent neighbouring property and the foreshore. Subsequent to considerable communication between the applicant and RDN staff, the Regional Board reviewed the bylaw infractions and at its Regular Meeting held June 11, 2002 the Board deferred for 30 days the "Regional District of Nanaimo Bylaw No. 1315, A Bylaw to Authorize the Removal of an Illegal Structure," which directs the owner to demolish or remove the structure from the land. The applicant subsequently removed all encroaching portions of the structure and applied to the Regional District for



development permit with a variance to reduce the setback to the sea from 8.0 metres to 0.0 metres (see Schedules No. 2 and 3).

Staff notes that the site survey provided in Schedule No. 2 also indicates that a carport/garage does not meet the current minimum setback requirements for the subject property. However, staff has determined that this structure was constructed prior to adoption of Bylaw No. 500 and therefore, retains legal non-conforming status.

#### ALTERNATIVES

1. To approve Development Permit No. 0242 subject to the conditions outlined in Schedule Nos. 1, 2 and 3.
2. To deny the requested development permit.

#### LAND USE IMPLICATIONS

From staff's assessment of this application, now that the structure has been reduced in size, the visual impact of the construction is minimal due to the topographical and vegetative features of the subject parcel. The stairway and deck structure is located on a very steep slope dropping down to the foreshore. In addition to vegetative cover forming a canopy over portions of the structure, the structure's location restricts the visibility of the structure from the residences located at the top of this bank. Portions of the structure are visible from the marina located opposite the bay at Schooner Cove, but this is also the case for other existing stairwells accessing the beach along the same portion of waterfront.

#### LEGAL IMPLICATIONS

Issuance of the development permit and variance for the subject property negates the need for the Board to adopt "Regional District of Nanaimo Bylaw No. 1315, A Bylaw to Authorize the Removal of an Illegal Structure".

#### VOTING

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

#### SUMMARY/CONCLUSIONS

This is an application for a development permit within the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 Watercourse Protection Development Permit Area, to legalize the siting of an existing stairway and deck structure. The application includes a request to vary the minimum setback to the top of a slope of 30% or greater from the sea of 8.0 metres to 0.0 metres. Given that the encroaching portions of the structure have been removed, and that the variance is intended to accommodate only the existing portion of the stairway and deck, staff recommends this application be approved subject to conditions as outlined in Schedule Nos. 1, 2 and 3 and subject to notification requirements pursuant to the *Local Government Act*.

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*.




per Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1  
Conditions of Approval  
Development Permit No. 0242**

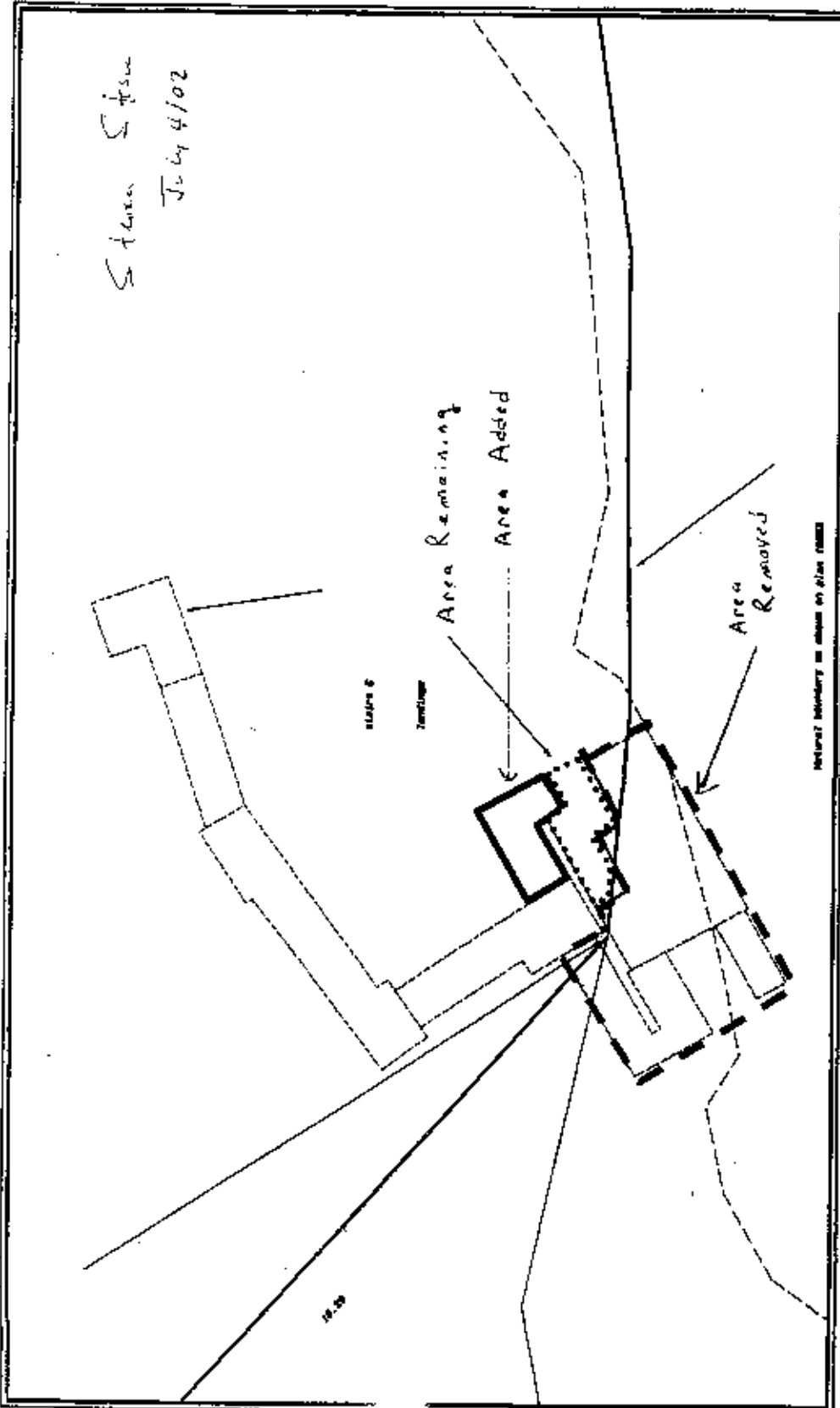
1. An approved Site Specific Exemption from the Ministry of Water, Land and Air Protection for construction within the minimum floodplain setback, is required.
2. Variances granted as a condition of this permit are subject to compliance with building permit regulations.

**Variances**

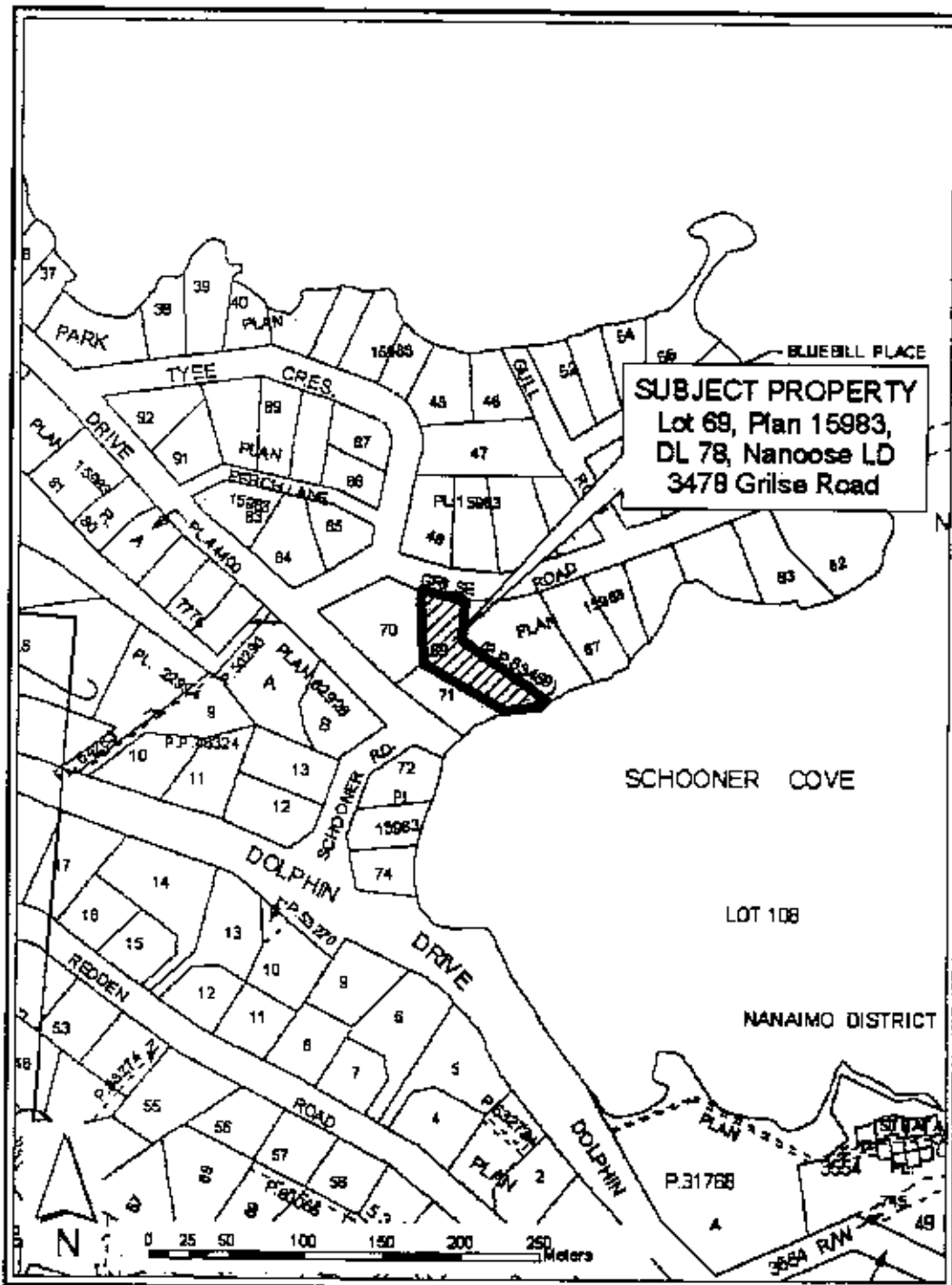
The setback to the sea pursuant to Section 3.9 (ii) is varied from 8.0 meters to 0.0 meters to recognize the existing stairway and deck structure.



Schedule No. 3  
Stairwell/Deck Structure  
(As Submitted by Applicant)



Attachment No. 1  
Subject Property Map





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 make the non-conforming buildings and structures conform to Bylaw No. 500 by physically moving the illegally sited building and/or structure or making an application for a site specific variance.

The applicant is requesting to undertake structural works to replace the rear exterior wall and add a 10 m<sup>2</sup> minor addition, extend the walls vertically to create a loft and replace the existing roof. All the proposed works would be undertaken within the 15 metre Environmentally Sensitive Areas Development Permit Area pursuant to Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996.

The Environmentally Sensitive Areas Development Permit Area was established to protect the natural environment. The Development Permit Area is measured 15.0 metres from the natural boundary of Home Lake and other watercourses. The proposed minor addition will be constructed within the development permit area.

#### ALTERNATIVES

1. To approve the requested variance and development permit and refer the application back to staff to develop conditions of approval.
2. To deny the requested variance and development permit.

#### LAND USE AND DEVELOPMENT IMPLICATIONS

Undertaking structural repairs or alterations to an illegally sited recreational residence such as the works proposed in this application triggers the requirement to conform to Bylaw No. 500. The recreational residence is illegally sited therefore, granting the variance for the recreational residence and deck to remain in the current location would remove the only opportunity for this recreational residence to move outside the 8 metre zoning setback.

The deck for the recreational residence on the adjacent lot (Lot 61) is sited a minimum of 2 metre from the natural boundary and the recreational residence is sited a minimum of 4 metre from the natural boundary. Lot 61 has similar site constraints. The adjacent lots west of the subject property are sited more than 8 metres from the natural boundary. These lots are in the process of being developed to accommodate recreational residence that had to be relocated due to a geotechnical hazard in their existing location.

The property owners indicate that they prefer to remain in the current location. The lot has several constraints limiting alternative building sites. The lot is shallow, between 26 metre and 30 metre, and an access easement for two adjacent lots bisects the lot reducing potential building sites. However, there is a buildable site area behind the 8 metres zoning setback where the recreational residence and deck could be relocated.



The application includes undertaking structural works to replace the rear exterior wall and add a 10 m<sup>2</sup> minor addition, extend the walls vertically to create a loft and replace the existing roof. However, when the roof is removed the remaining frame and structure may be found to be unstructurally sound and would require more extensive renovations than requested as part of this application.

The overall footprint of the recreational residence, deck, patio and shed is over 113 m<sup>2</sup>. This footprint is in excess of the footprint of 93 m<sup>2</sup> that is permitted in the Comprehensive Development 9 (CD9) zone pursuant to Bylaw No. 500. This footprint would need to be reduced.

Granting the variance permitting the recreational residence and deck to remain in its current location will set a precedent for other potential variance applications around Horne Lake. There are many recreational residences around Horne Lake that are illegally sited and setting this precedent where there is an alternative buildable site area could comprise the long term goal of achieving broad compliance with Bylaw No. 500.

Should the Board grant this variance, staff recommends that the application be referred back to staff so that staff could work with the applicants to develop conditions for the development permit.

#### **ENVIRONMENTAL IMPLICATIONS**

The recreational residence and deck is sited a minimum of 2 metres from the natural boundary of Horne Lake. The Environmentally Sensitive Areas Development Permit Area was established to protect the natural environment. The current location of the recreational residence and decks comprises the long term viability for regeneration of the riparian vegetation.

While moving the recreational residence and deck behind the 8 metre zoning setback will have a short term impact on the natural environment, the long term result will ensure the features and functions of riparian areas surrounding Horne Lake will continue to play an important role in maintaining biodiversity and erosion protection.

The portion of the foreshore on this lot that is not located behind the retaining wall is being undercut because the vegetation has been removed.

#### **VOTING**

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

#### **SUMMARY/CONCLUSIONS**

This is an application to vary the minimum setback requirement from the natural boundary of Horne Lake of the Comprehensive Development 9 (CD9) zone to legalize the siting of an existing recreational residence, deck and stairs and to permit the undertaking of structural works to replace the rear exterior

wall and add a 10 m<sup>2</sup> minor addition, extend the walls vertically to create a loft and replace the existing roof, within a Development Permit Area.

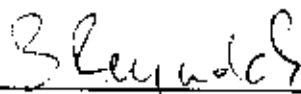
While moving the recreational residence and deck behind the 8 metre zoning setback will have a short term impact on the natural environment, the long term result will ensure the features and functions of riparian areas surrounding Horne Lake will continue to play an important role in maintaining biodiversity and erosion protection.

Should the Board grant this variance, staff recommends that the application be referred back to staff so that staff could work with the applicants to develop conditions for the development.

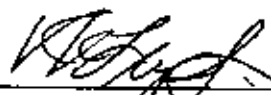
From staff's assessment of this application, the request to vary the setback to legalize the location of an existing recreational residence should not be supported. While there are site constraints, there is an alternative building site behind the 8 metre zoning setback. Granting this variance would set a precedent for other applications, which could compromise the long-term goal of achieving compliance to Bylaw No. 500.

#### RECOMMENDATION

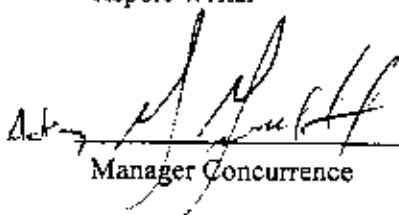
That Development Permit Application No. 0243 to vary the minimum setback requirements of the Comprehensive Development 9 (CD9) zone of 8 metres from the natural boundary of Horne Lake to a minimum of 0 metres for the stairs, and a minimum of 2.0 metres for the deck and recreational residence, to legalize 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 denied.



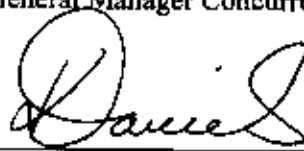
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

#### COMMENTS:

devs/reports/2002/dp\_ju 3060 30 0243 gibson brass

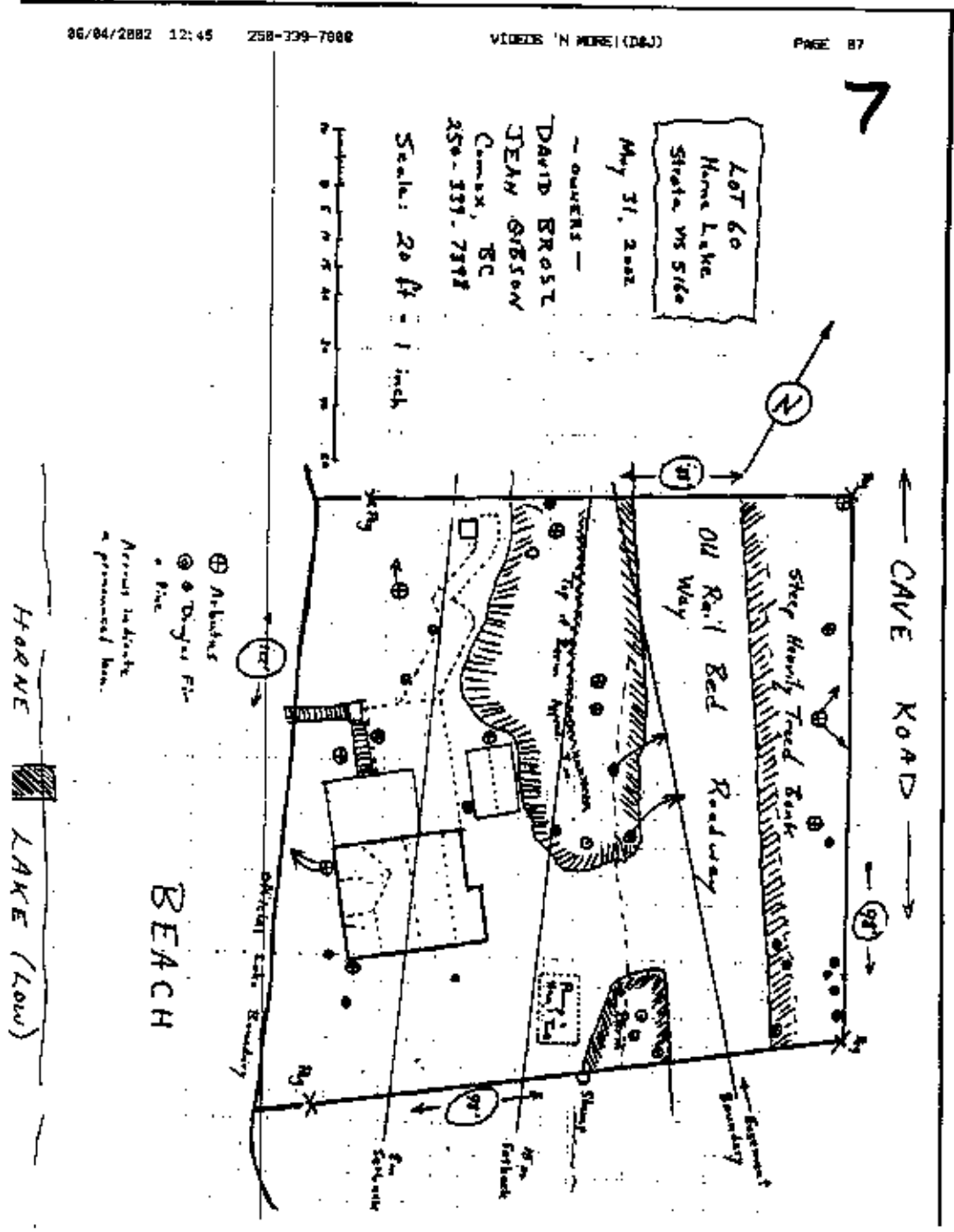
Schedule No. 1  
Site Plan  
Development Permit No. 0243

06/04/2002 12:45

Z58-339-7000

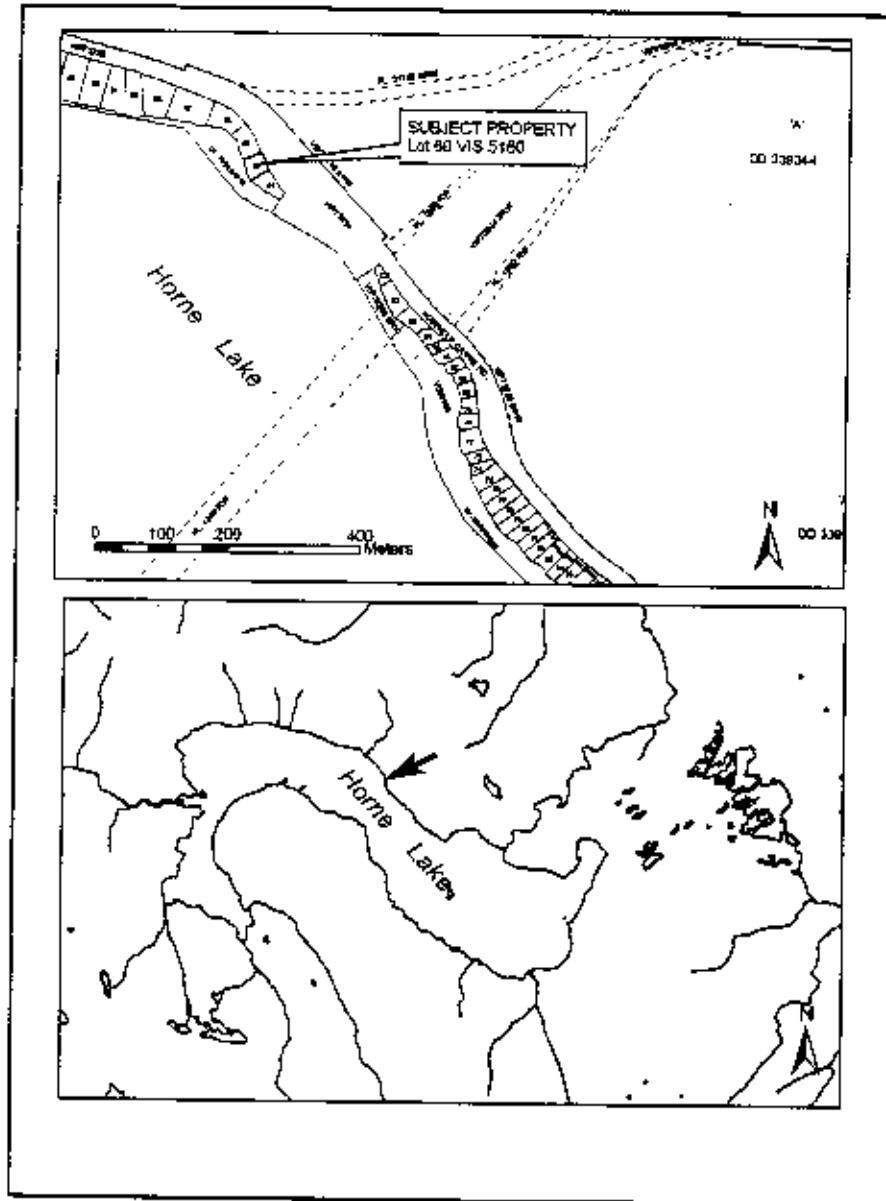
VIDEOS 'N MORE (D&J)

PAGE 07



PAGE 07

**Subject Property  
Development Permit No. 0243**





REGIONAL DISTRICT OF NANAIMO	
JUL 12 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
<i>CA Planning</i>	

**MEMORANDUM**

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

**DATE:** July 12, 2002

**FROM:** Blaine Russell  
Planning Assistant

**FILE:** 3090 30 0215

**SUBJECT:** Development Variance Permit Application 0215 - Mengual  
Electoral Area 'E' - 2955 Anchor Way

**PURPOSE**

To consider a development variance permit application to relax the minimum rear lot line setback to allow for the construction of a riprap retaining wall and to relax the minimum front lot line setback to allow for the placement of two driveway entrance pillars with lighting fixtures.

**BACKGROUND**

This is an application to facilitate the construction of a riprap retaining wall adjacent to the rear lot line and two driveway entrance pillars adjacent to the front lot line for the property, legally described as Lot 15, District Lot 78, Nanoose District, Plan 36514 and located at 2955 Anchor Way in Electoral Area 'E'. The subject property is 1449 m<sup>2</sup> in size. Surrounding uses include a common property for the local strata corporation's septic disposal field to the north and west, and single dwelling units to the south and the east (see Attachment No. 1 for location).

The subject property is currently zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing to construct a retaining wall a maximum of 1.8 metres in height for the length of the rear lot line except for 6.9 metres adjacent to the east lot line. This retaining wall is proposed to be built with natural stone using riprap construction with the intention to level the backyard to the top of the retaining wall.

The applicant is also proposing to construct two driveway entrance pillars 1.2 metres in height, with additional lamp standards, that are to be located adjacent to the front lot line on either side of the existing driveway.

**Proposed variances**

As the retaining wall and pillars are proposed to be greater than 1.0 metre in height, they are considered to be structures under Bylaw No. 500, 1987 and therefore variances to the minimum setback provisions are required. Proposed variances are as follows:

- Riprap retaining wall*                      proposed variance from rear lot line from 2.0 metres to 0 metres
- Two driveway entrance pillars*            proposed variance from front lot line from 8.0 metres to 0 metres  
(see Schedule Nos. 2 & 3).

## ALTERNATIVES

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

## DEVELOPMENT IMPLICATIONS

The Building Inspection Department has reviewed the submission and has indicated that, at time of building permit, a professional engineer's report will be required to ensure that the proposed retaining wall will meet or exceed structural standards and provide assurance that retaining wall will be designed to ensure that surface water will be properly drained.

In addition, a legal survey will also be required at building permit time to ensure that the retaining wall and driveway entrance pillars are located entirely within the subject property.

Ministry of Transportation staff has verbally indicated that a variance to construct the proposed driveway entrance pillars within the Ministry's 4.5 metre setback requirement will not be required provided that the pillars are located entirely on the applicant's property.

The subject property's existing septic field is located near the proposed retaining wall. In order to ensure that the septic field will not be damaged during the construction of the retaining wall, the Regional Health Department has requested that a building approval referral be forwarded to the Health Department for review at time of building permit. Staff recommends that this requirement be included as a condition of the development variance permit (*see Schedule No. 1 for Conditions of Permit*).

The applicant has not submitted details with respect to the size of the proposed lamps to be placed on the driveway entrance pillars. It is recommended that the height of the lamps be restricted to 0.6 metres to avoid structures with excessive height. In addition, it is also recommended that the lamps be of a design that reduces unwanted light spillage onto the road and neighbouring properties.

## PUBLIC CONSULTATION IMPLICATIONS

While the applicant has not submitted a detailed drawing showing the aesthetic features of the proposed retaining wall, he has verbally indicated that the wall be constructed entirely with rock. As part of the required public notification process, adjacent and nearby residents and property owners will have an opportunity to comment on the proposal prior to the Board's consideration of the permit.

## VOTING

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

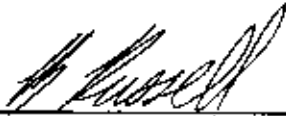
## SUMMARY

This is an application for a development variance permit to relax the minimum setback requirements to allow the construction of a maximum 1.8-metre height retaining wall adjacent to the rear lot line and two driveway entrance pillars adjacent to the front lot line of the subject property. As the structural integrity of the retaining wall and a site specific survey confirming the location of the proposed structures will be required as part of the building inspection procedure and residents will have an opportunity to express their views through the notification process, staff supports Alternative No. 1, to approve the development

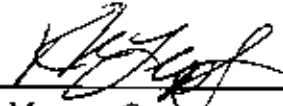
variance permit, subject to the conditions outlined in Schedule Nos. 1, 2, and 3 and the notification requirements pursuant to the *Local Government Act*.

**RECOMMENDATION**

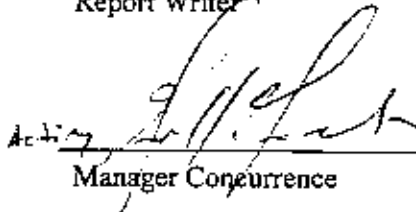
That Development Variance Permit Application No. 0215, to relax the minimum rear lot line setback requirements from 2.0 metres to 0.0 metres to accommodate the construction of a retaining wall and to relax the minimum front lot line setback requirement from 8.0 metres to 0.0 metres to accommodate the 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*.



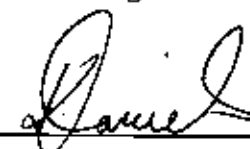
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1**  
**Conditions of Approval and Proposed Variance to Bylaw No. 500, 1987**  
**Development Variance Permit No. 0215**

1. A building permit shall be required for all works.
2. The proposed structures must be located entirely within the subject property to be determined by a BCLS at time of building inspection.
3. The proposed structures shall be sited in accordance with Schedule Nos. 2 and 3.
4. The application for building permit shall be referred to the Regional Health Department.
5. Lamps shall be of a design that reduces light spillage by incorporating the features of a solid top and translucent filters.

**Bylaw No. 500, 1987 – Proposed Variances**

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

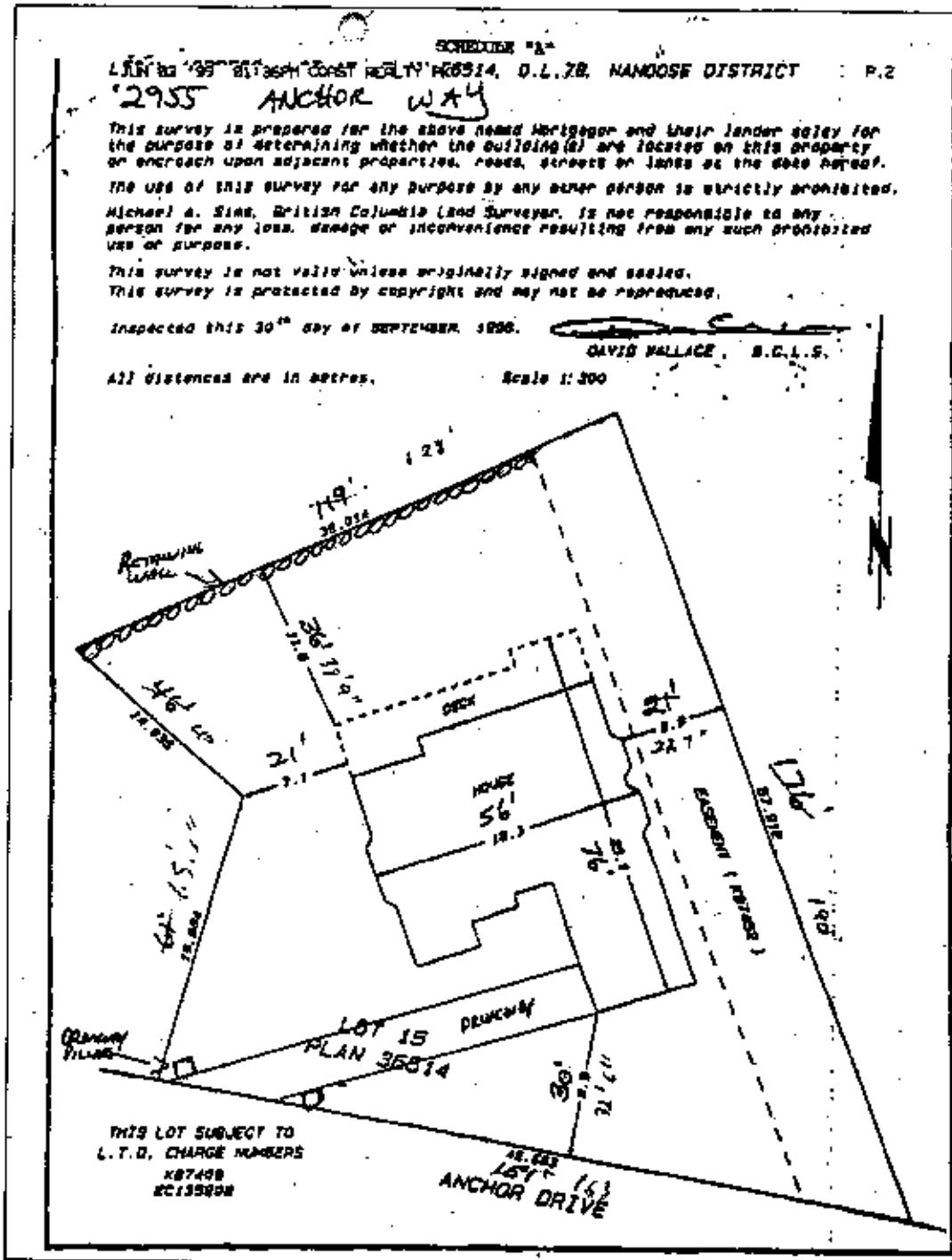
Section 3.4.61 – Minimum Setback Requirements - to relax the minimum setback requirement for a rear lot line from 2.0 metres to 0 metres in order to accommodate a riprap retaining wall a maximum of 1.8 metres in height.

Section 3.4.61 – Minimum Setback Requirements - to relax the minimum setback requirement for the lot line from 8.0 metres to 0 metres in order to accommodate two driveway entrance pillars a maximum of 1.2 metres in height with lamps a maximum of 0.6 metre in height.



Schedule No. 2

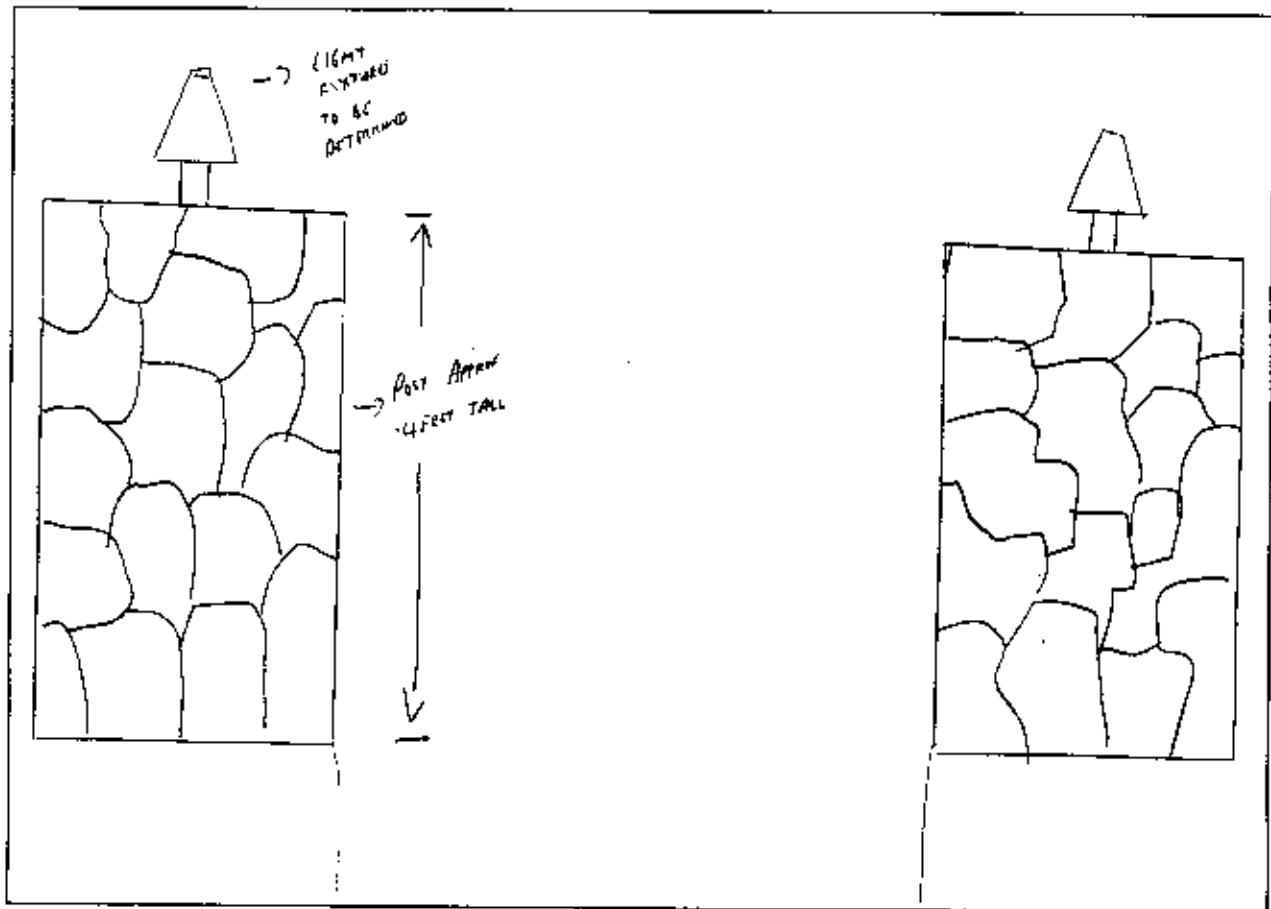
Site Plan showing location of proposed riprap wall and driveway entrance pillars  
(as submitted by applicant / reduced for convenience)



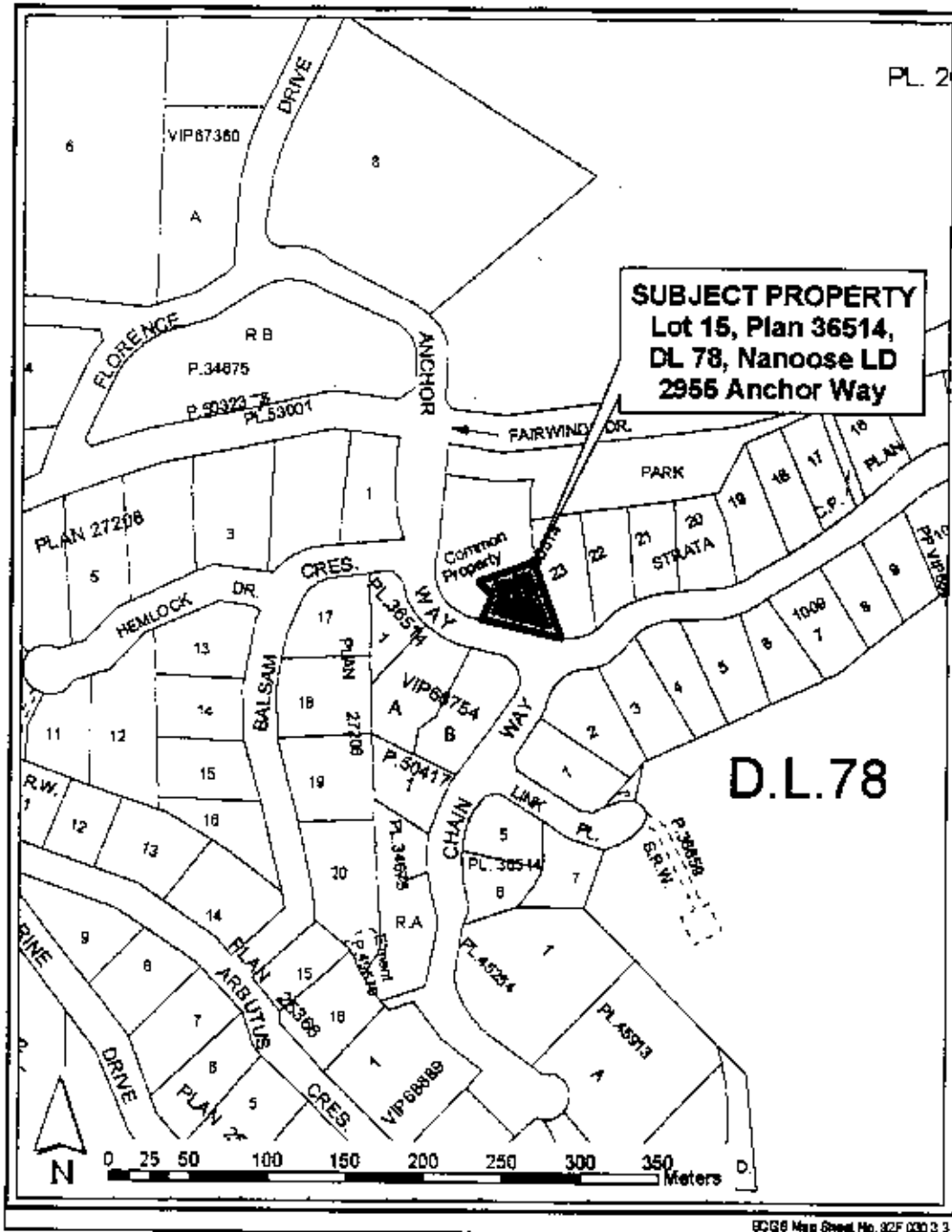
Schedule No. 3

Proposed Driveway Entrance Pillars

(as submitted by applicant)



Attachment No. 1  
Location of Subject Property





**REGIONAL  
DISTRICT  
OF NANAIMO**

<b>REGIONAL DISTRICT OF NANAIMO</b>			
JUL 15 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
<i>PA Shaw</i>			✓
		DATE:	

**MEMORANDUM**

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

**FROM:** Brigid Reynolds  
Planner

**SUBJECT:** Development Variance Permit Application No. 0216 - Buffie  
Electoral Area 'H' - 6293 West Island Highway

**FILE:** 3090 30 0216

**DATE:** July 12, 2002

**PURPOSE**

To consider an application for a development variance permit to locate a dwelling unit.

**BACKGROUND**

The subject property legally described as Amended Lot 9 (DD90199N), District Lot 21, Newcastle District, Plan 11567 is located at 6293 West Island Highway in the Bowser Area of Electoral Area 'H' (see Attachment 1).

The subject property is zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500,1987". The minimum setback requirement for buildings and structures on parcels with an average slope of 5% or less adjacent to or containing a watercourse is 18.0 metres from the centre line. The minimum setback requirement for parcels adjacent to the marine foreshore is 8.0 metres from the natural boundary. The applicant has submitted two potential building sites. Option A is a request to vary the setback from 18.0 metres from stream centerline of the main channel of Nash Creek to 9.4 metres and to vary the setback from 8.0 metres from the natural boundary of Strait of Georgia to 4.0 metres. Option B is a request to vary the setback from 18.0 metres from the stream centerline of the back channel of Nash Creek to a minimum of 8.7 metres and from 18.0 metres from the stream centerline of the main channel of Nash Creek to a minimum of 16.9 metres (see Schedule No. 3).

This parcel contains several physical constraints, which have an impact on the development of this parcel. First, the parcel is adjacent to the Strait of Georgia; Nash Creek flows through the parcel, bisecting it and a back channel flows adjacent to the north property line in the centre of the parcel. These are both watercourses regulated pursuant to Bylaw No. 500. Second, the parcel is also narrow at 17.9 metres. Finally, in order to meet the required setbacks defined in the *Health Act - Sewage Disposal Regulations*, the septic field must be located adjacent to the Island Highway.

Nash Creek, including the back channel, is a fish bearing stream containing Coho, Chum, resident Rainbow Trout and Cutthroat Trout, therefore works undertaken within the riparian area of the creek and back channel must not violate the *Fisheries Act*.

At the March 2002 Regular Board meeting, owners of the adjacent lot (Lot 10) north of the subject property were granted a variance for a proposed building envelope sited in line with proposed Option B. In addition, the dwelling unit on Lot 11 is also located in line with proposed Option B.

There are three existing structures on the subject parcel: a trailer, 5.5 m<sup>2</sup> shed, and an outhouse.

Option A is the applicant's preference. RDN staff, Federal Fisheries and Oceans (DFO) and the Ministry of Water, Land and Air do not support Option A, but do support Option B.

### ALTERNATIVES

1. To approve the requested variance, Option B, subject to the conditions outlined in Schedules No. 1, 2 and 3.
2. To approve the requested variance, Option A.
3. To deny the requested variance.

### LAND USE AND DEVELOPMENT IMPLICATIONS

Staff do not consider Option A as a suitable building site. In the past, Nash Creek has experienced flash floods; therefore there is a high potential of flooding. In addition, a high storm event combined with high tides also increases the flood risk for a dwelling sited at Option A. As the parcel is not in a building inspection area and Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991 does not apply to this parcel, there is no requirement to raise the dwelling unit to protect against the flood hazard.

Other development constraints for Option A include the footbridge, which does not appear adequate to accommodate the construction activity. The septic field must be located adjacent to the Island Highway and siting the dwelling unit at the Option A site would require seepage to be piped across Nash Creek. Any damage to this conduit would impact fish habitat and would constitute a violation under the *Fisheries Act*. While the Regional Health Department has stated a double walled pressure line could be used to reduce any hazard, DFO and MWLAP staff challenges this and state the risk is unnecessary given there is an alternative building site in Option B.

While the parcel south of the subject property is sited in close proximity to the foreshore, the two lots north of this parcel have sited their dwelling units in line with Option B. The property is in a non-building inspection area, which may have comprised the siting of some dwelling units in the past.

Given the concerns expressed above, DFO and MWLAP staff do not support Option A and indicate that they do support Option B.

Three structures are currently located on the subject property: a trailer, a 5.5 m<sup>2</sup> shed, and an outhouse. The trailer and outhouse will be removed, however, the shed will remain. While the shed is located within the side yard setback, Bylaw No. 500 does not require an accessory building less than 10m<sup>2</sup> and less than 3 metres in height to meet interior side yard setbacks.

## ENVIRONMENTAL IMPLICATIONS

Nash Creek, the back channel, and the riparian area are fish habitat. In May 2002, DFO issued a warning letter to the applicant regarding the unauthorized removal of vegetation and the destruction of fish habitat. Therefore, works adjacent to the watercourses must be undertaken with due diligence in order to avoid any violations under the *Fisheries Act*. Due diligence can be achieved by undertaking the works to be consistent with the Land Development Guidelines for the Protection of Aquatic Habitat, published by Department of Fisheries and Oceans and the Ministry of Environment, Land and Parks. In addition, Schedule No. 1 outlines conditions of approval for the various works and includes specifics to reduce potential impacts to the watercourses.

Department of Fisheries and Oceans and MWLAP staff supports Option B as it will cause less impact to the overall riparian vegetation of Nash Creek and the marine foreshore. Option B which reduces the setback of 18 metres to a minimum of 8.7 metres to the back channel of Nash Creek and to 16.9 metres to the main channel of Nash Creek provides a suitable building envelope with a lower flood hazard and has less impact to the natural environment than Option A.

## VOTING

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

## SUMMARY/CONCLUSIONS

This is an application for a development variance permit 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 from 18.0 metres from the stream centerline of the main channel of Nash Creek to a minimum of 16.9 metres.

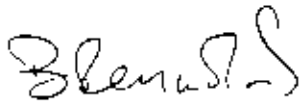
This lot contains various site constraints. The parcel is adjacent to the Strait of Georgia, Nash Creek flows through the parcel, bisecting it and the back channel flows through a portion of the parcel. Due to the back channel and main channel of a fish bearing stream bisecting the parcel all construction must be undertaken with due diligence to avoid any violation of the *Fisheries Act*.

The applicant has proposed two building site options. Option A, the applicants preference, is not supported by DFO, MWLAP and RDN staff due to the greater potential impacts to fish habitat and due to the greater flood risk.

From staff's assessment of this application Development Variance Permit No. 0216, Option B, should be approved as the physical site constraints provide one alternative for the location of the dwelling unit. The conditions, outlined in Schedule No. 1, shall reduce any negative impacts to Nash Creek.

**RECOMMENDATION**

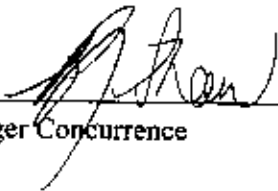
That Development Variance Permit Application No. 0216 to vary the minimum setback requirement from 18.0 metres horizontal distance from the stream centerline of the back channel of Nash Creek to a minimum of 8.7 metres and to vary the minimum setback distance from 18.0 metres horizontal distance from 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.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

**COMMENTS:**

*devsvs/reports/2000/dvp ju 3090 30 0216 buffie*

**Schedule No. 1  
Conditions of Approval  
Development Variance Permit No. 0216  
6293 West Island Highway**

**General**

1. All construction to be undertaken must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.
2. Concrete poured on-site must be fully contained in forms. Concrete, concrete fines, concrete wash, concrete dust or other concrete materials are not permitted to enter any watercourse as these concrete materials are extremely toxic to fish and other freshwater organisms when uncured.
3. Machinery must be in good working order and no fuels, lubricants or construction wastes are permitted to enter any watercourse. No refueling of machinery is to be conducted within 100 m of the watercourse.
4. A spill kit should be on-site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.

**Sediment and Erosion Control**

5. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works to stabilize the site after construction is complete. These measure 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.
6. It is the applicant/property owner's responsibility to have and utilize all appropriate sediment and erosion control materials on-site for use during and after construction to ensure sediments do not enter the watercourse.

**Federal Fisheries and Oceans (DFO)**

7. No fill shall be placed outside of the building envelope within the riparian area of Nash Creek.
8. No disturbance of the natural vegetation is permitted outside of the building envelope within the riparian area of Nash Creek.
9. All construction undertaken on this site must be consistent with the Land Development Guidelines for the Protection of Aquatic Habitat, published by Department of Fisheries and Oceans and the Ministry of Environment, Land and Parks.

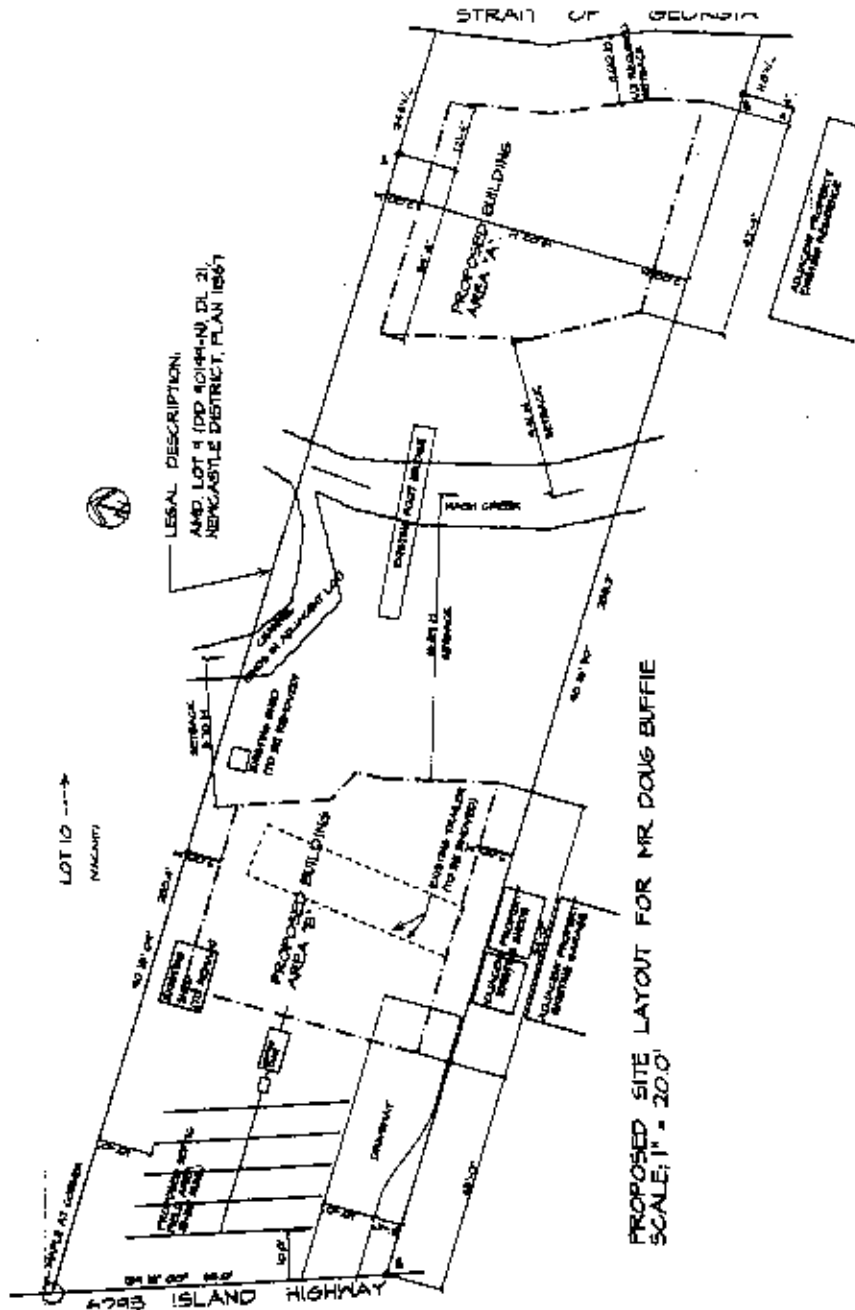


**Schedule No. 2**  
**Requested Variances**  
**Development Variance Permit No. 0216**  
**6293 West Island Highway**

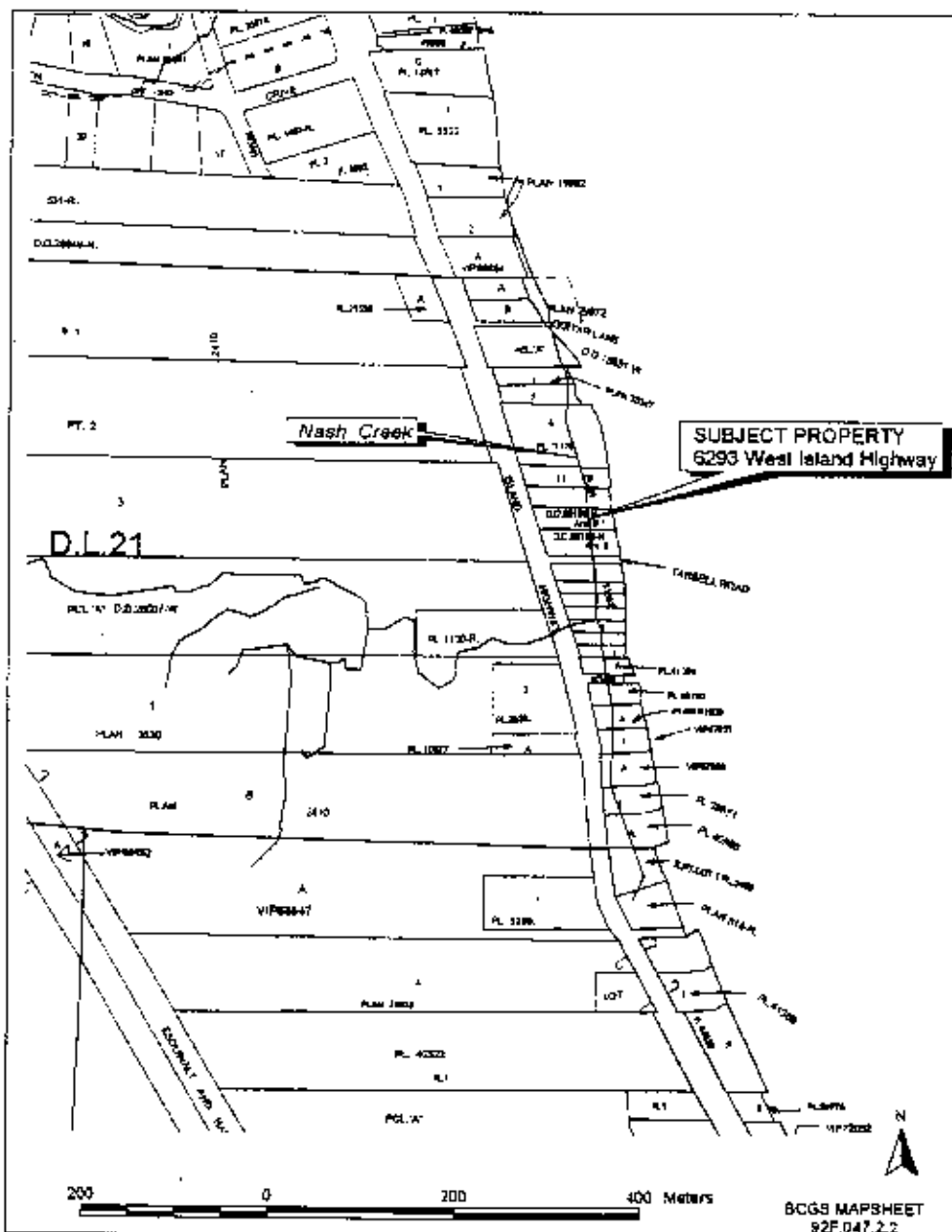
With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, the following variances are proposed:

1. Section 3.3.8 Setbacks – Watercourse, excluding the Sea – varied from 18 metres horizontal distance from the stream centerline of the back channel of Nash Creek to a minimum of 8.7 metres for a building envelope to locate a dwelling unit;
2. Section 3.3.8 Setbacks – Watercourse, excluding the Sea – varied from 18 metres horizontal distance from the stream centreline of the main channel of Nash Creek to a minimum of 16.9 metres for a building envelope to locate a dwelling unit.

Schedule No. 3  
Site Plan  
Development Variance Permit No. 0216  
6293 West Island Highway



**Attachment No. 1**  
**Subject Property**  
**Development Variance Permit No. 0216**  
**6293 West Island Highway**





REGIONAL DISTRICT OF NANAIMO	
JUL 15 2002	
CHAIR	GMCrs
CAO	GMDS
GMCms	GMES
E.H. Planning	

## MEMORANDUM

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

**DATE:** July 12, 2002

**FROM:** Geoff Garbutt  
Senior Planner

**FILE:** 3010 01 APNO

**SUBJECT:** Notification Distance for Development Applications  
All Electoral Areas except Electoral Area 'B'

### PURPOSE

To investigate options for amending the notification distance requirements and signage for development applications within the Regional District of Nanaimo.

### BACKGROUND

At the June 11, 2002 Regular Meeting of the Board of the Regional District of Nanaimo, a resolution was passed by the Directors "that staff prepare a report, in consultation with Directors, to review notification requirements on development applications". This motion came as a result of an application for rezoning in the Cedar Village portion of Electoral Area 'A'. At the June 11 Board Meeting, there were a number of delegations that spoke to the board regarding notification procedures with respect to large scale development projects in villages. These delegations requested that notification distances be increased due to the size of the particular application and they requested that signage be improved to increase visibility and public awareness of development applications.

The notification standards for development applications are established by "Regional District of Nanaimo Development Approvals and Procedures and Notification Bylaw No. 1261, 2002" in accordance with the *Local Government Act*. In Electoral Areas 'A', 'C', 'D', 'E', 'G' and 'H', notice of an application is given based on the existing zoning of the parcel. If the application under consideration is for a rural or resource management zone, all property owners within 200 m are notified. If the application under consideration is for any other zone (e.g. Residential, Commercial or Industrial), all property owners within 100 m are notified. In Electoral Area 'F' notice is mailed to all property owners within 500 m of the parcel subject to an OCP or Zoning Amendment application regardless of the zoning.

For amendments to Official Community Plans, section 879 of the *Local Government Act* requires the Board to identify opportunities for consultation and who will be consulted. As per Board policy, a Consultation Strategy must be endorsed for amendments to OCP's or as part of an OCP review. At a minimum notification notification must meet the requirements of Bylaw No. 1261, but the Board has the option to customize notification provisions through the Consultation Strategy; thereby ensuring that large-scale applications receive adequate public notification.

As per the requirements of the *Local Government Act*, notice of the Public Hearing must be placed in two consecutive issues of the local paper not less than three and not more than ten days prior to the date of the Public Hearing. In addition to the statutory requirements of the *Act* and Bylaw No. 1261, it is

currently the policy of the Planning Department to place one or more signs on the parcel, indicating that the parcel is the subject of a development application with contact information. These signs are placed on the parcel by RDN staff and currently these signs are approximately 1 m (3ft) high with a sign face area of approximately 60 cm x 90 cm (24" x 36").

Regional District staff have surveyed a number of rural Regional Districts in British Columbia to establish how other jurisdictions notify adjacent residents regarding OCP and Rezoning applications. The results of this survey are included as *Attachment No. 1*. Of the ten Regional Districts contacted, the typical notification distances were 30 m, 60 m, or 100 m. One jurisdiction had a notification distance of 150 m and another one only notified adjacent property owners. Six of the Regional Districts had an informal policy whereby at the discretion of staff or Electoral Area Directors, additional notification would be undertaken.

With respect to signage, the majority of the Regional Districts contacted used a generic sign placed on the property. Two Regional Districts contacted did not place signage on the property subject to an application and one required a detailed sign when a large commercial or industrial property was subject to an application.

#### **ALTERNATIVES**

1. Amend "Regional District of Nanaimo Development Approval Procedures and Notification Bylaw No. 1261, 2002" to increase the notification distance for applications for OCP and Zoning Amendments and require generic signage to advertise a development application.
2. To increase the notification distance for applications for OCP and Zoning Amendments and require customized signage to advertise all development applications.
3. To increase the notification distance for applications for OCP and Zoning Amendments and require a combination of generic signage or customized signage based on the size of the application.
4. Do not amend the notification provisions or current signage policy.

#### **PUBLIC CONSULTATION IMPLICATIONS**

##### *Notification Requirements*

With respect to applications for rezoning, especially in the Village Centres, feedback from property owners indicate that the expectations for direct notification of a development application are increasing. Due to the potential impacts that a large development may have on the surrounding community, some area residents feel that the RDN has a responsibility to ensure that a larger area is directly informed about an application for development. Consultation with Electoral Area Directors indicated that for the most part, current notification procedures are adequate but when larger scale applications for rezoning are received (more than 50 residential units, 1.0 ha of commercial, or 2.0 ha of industrial) then it may be appropriate to increase notification distances to ensure that the wider community is directly notified. Therefore, the current notification distances of 100 m and 200 m appear to be adequate for typical application however, a notification distance of 500 m is considered to be more appropriate when a large-scale application is received.

### *Signage Requirements*

There is a range of options available to the RDN with respect to signage and development applications. Consultation with Electoral Area Directors indicated that the signage used by the municipalities in the RDN is comprehensive and provides a good source of information for the community. This type of signage is common for development applications in most urban municipalities in British Columbia. Directors indicated that for most cases, generic signage is adequate but when larger scale applications for rezoning or OCP amendments are received then it may be appropriate to have detailed signage on a larger scale to provide additional information to the wider community.

Given the comments from directors, a requirement for development application signage should be included in the notification procedures bylaw. For typical applications staff recommend that a generic application sign be required. The proposed sign stand approximately 1.5 m (5 ft) high and measures 45 cm x 120 cm (28" x 48") with large, high visibility lettering. This sign would be placed by RDN staff and will not require any additional costs by the applicant. An example of this sign is included as *Attachment No. 2*.

For larger scale applications staff has produced a detailed Development Application Sign for consideration. This sign, outlined in *Attachment No. 3*, is consistent with other area municipal development application signs. The sign would have a sign face of 122 cm x 244 cm (4' x 8') and with a site map, details of the application, date of the Public Hearing/Information Meeting and contact information. This style of signage would be produced and placed by the applicant, with the sign location and text reviewed and approved by staff.

### **LEGAL IMPLICATIONS**

The notification procedures for development applications outlined in Bylaw No. 1261 have been adopted in accordance with section 892 of the *Local Government Act*. The *Act* requires that a bylaw establish a specified distance within which direct notice will be supplied to neighbouring properties. Once adopted, the notification procedures must be followed as prescribed by the Bylaw to avoid legal implications as suggested by case law. Many local governments also have informal notification policies relative to the impact of a development application and if managed according to policy, without bias, can be utilized to a limited extent, but should not be seen to replace the bylaw standard. The concern with acting only according to policy is that it is not a legal standard and will be argued to be unreliable.

### **FINANCIAL IMPLICATIONS**

With increased notification requirements, the cost to produce and directly notify area residents would be increased relative to the additional notification distance. Costs include additional notice production and postage. Requiring detailed signage for larger scale developments would increase development costs for the applicant. Based on estimates from area sign companies an average sign would cost the applicant approximately \$240.00 plus tax (\$150.00 for Coroplast Sign face and \$95 for installation and materials).

### **VOTING**

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

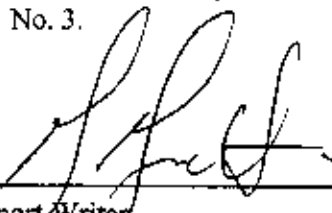
**SUMMARY**

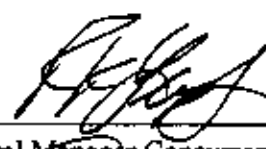
Recently, there have been calls by the public to increase public notification and signage requirements for large-scale development applications in the Regional District. Those calling for additional notification argue that expanding the notification distance and requiring detailed signage has the potential to reach not only those directly impacted by a development application but the larger community as well. From the Regional District's perspective it is important to ensure that large scale applications receive adequate public notification balancing both fairness in process to the applicant and the public's desire to be notified and have input on decisions on applications for OCP and zoning amendments.

Given the comments received from area residents and Electoral Area Directors, staff is of the opinion that where large development applications are received, that an expanded notification distance and detailed signage is warranted. As a result, it is recommended that Bylaw No. 1261 be amended to increase notification distances to 500 metres and to require detailed signage where an application for rezoning and/or OCP amendment involves more than 50 residential units, 1.0 ha of commercial development, or 2.0 ha of industrial development.

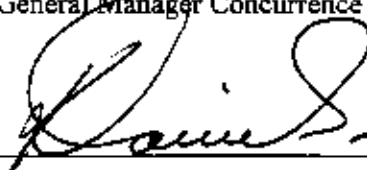
**RECOMMENDATION**

1. That "Regional District of Nanaimo Development Approval Procedures and Notification Bylaw No. 1261, 2002" be amended to increase the notification distance for applications for rezoning and/or OCP amendments for all Electoral Areas except Electoral Area 'F' to 500 m where the development application involves more than a minimum of 50 residential units, 1.0 ha of commercial development, or 2.0 ha of industrial development.
2. That staff be directed to implement the generic Development Application Sign as shown on Attachment No. 2.
3. That "Regional District of Nanaimo Development Approval Procedures and Notification Bylaw No. 1261, 2002" be amended to require the applicant of a development application that involves more than a minimum of 50 residential units, 1.0 ha of commercial development, or 2.0 ha of industrial development to install a detailed development application sign as shown on Attachment No. 3.

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

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

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

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

COMMENTS:

**Attachment No. 1**  
**Notification Distance Survey**

Local Government	Required Notification Distance	Policy Direction
Cowichan Valley RD	• 60 m	N/A
Comox-Strathcona RD	• 30 m	• At discretion of Planning Dept. notice may be given to a neighbourhood or viewscape etc.
Alberni-Clayoquot RD	• 60 m	• At discretion of Planning Dept. notice to any distance may be given
Mount Waddington RD	• 100 m	• At discretion of Staff or Area Director notice to any distance may be given
Sunshine Coast RD	• 50 m for 1du Residential • 100 m for all other	N/A
Squamish-Lilloett RD	• Adjacent properties only	• At discretion of Staff or Area Director notice to any distance may be given
Cariboo RD	• 60 m	N/A
North Okanagan RD	• 30 m	N/A
Thompson Nicola RD	• 100 m	• At discretion of Planning Dept. notice to any distance may be given
Fraser Valley RD	• 150 m	• At discretion of Planning Dept. notice to any distance may be given



Proposed Sign Template



**REGIONAL  
DISTRICT  
OF NANAIMO**

# NOTICE

**This Property is Subject to a  
DEVELOPMENT APPLICATION**

**For Details Contact:**

**Regional District of Nanaimo Planning  
at 390-6510, 954-3798  
or 1-877-607-4111 (toll free)**

**planning@rdn.ca    [www.rdn.bc.ca](http://www.rdn.bc.ca)**

76 cm  
(2'6")

122 cm

(4')

**Attachment No. 3**  
Detailed Development Application Sign

LINE

1

**REZONING APPLICATION**

2

**AN APPLICATION HAS BEEN SUBMITTED TO THE REGIONAL DISTRICT OF NANAIMO**

3

**TO REZONE THIS PROPERTY FROM \_\_\_\_\_ TO \_\_\_\_\_**

4

**TO**

5

**FOR FURTHER INFORMATION CONTACT:**

Insert Site Map

6

**APPLICANT:**

7

**NAME:**

8

**ADDRESS:**

9

**PHONE:**

10

**A PUBLIC HEARING WILL BE HELD**

11

**ON:**

**TIME:**

12

**PLACE:**

13

**LOCATION:**

**REGIONAL DISTRICT OF NANAIMO  
DEVELOPMENT SERVICES DEPARTMENT  
6300 HAMMOND BAY ROAD  
NANAIMO, BC (390-6510 or 954-3798)**

Signage Detail

Lettering:

White Background / Black Lettering

Lettering in BLOCK HELVETICA CAPITALS with the following minimum height sizes for each sign:

Line 1	12.4 cm (5")
Line 2	7.5 cm (3")
Line 3	7.5 cm (3")
Line 4	7.5 cm (3")
Line 5	4.0 cm (1.5")
Line 6	4.0 cm (1.5")
Line 7	4.0 cm (1.5")
Line 8	4.0 cm (1.5")
Line 9	4.0 cm (1.5")
Line 10	4.0 cm (1.5")
Line 11	4.0 cm (1.5")
Line 12	4.0 cm (1.5")
Line 13	4.0 cm (1.5")

Sign Installation Option:

