

**REGIONAL DISTRICT OF NANAIMO**  
**ELECTORAL AREA PLANNING COMMITTEE**  
**TUESDAY, JUNE 25, 2002**  
**7:00 PM**

*(Nanaimo City Council Chambers)*

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**DELEGATIONS**

2-3

**MINUTES**

Minutes of the Electoral Area Planning Committee meeting held Tuesday, May 28, 2002.

**BUSINESS ARISING FROM THE MINUTES**

**PLANNING**

***DEVELOPMENT PERMIT APPLICATIONS***

4-9

DP Application No. 0235 - M. Salmon on behalf of Wilcox - Strata Lot 59, Home Lake Caves Road - Area H.

10-15

DP Application No. 0236 - Roy - 3379 Blueback Drive - Area E.

***DEVELOPMENT VARIANCE PERMIT APPLICATIONS***

16-21

DVP Application No. 0210 - Littlewood - 2406 Nanoose Beach Road - Area E.

22-27

DVP Application No. 0213 - Walker - 3652 Dolphin Drive - Area E.

28-33

DVP Application No. 0231 - Culverden Holdings Inc./Davcy - 1888 Kay Road - Areas E & G.

34-41

DVP Application No. 0214 - Intracorp/Fairwinds - Arbutus Hills Development - Area E.

**ADDENDUM**

**BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS**

**NEW BUSINESS**

**IN CAMERA**

**ADJOURNMENT**

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE  
MEETING HELD ON TUESDAY, MAY 28, 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 B. Sperling	Electoral Area B
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:

P. Shaw	Manager of Community Planning
N. Tonn	Recording Secretary

MINUTES

MOVED Director Stanhope, SECONDED Director McLean, that the minutes of the Electoral Area Planning Committee meeting held Tuesday, April 23, 2002 be adopted.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. 9626 – Rondalyn Resort/Danron Holdings Ltd. – 1350 Timberlands Road – Area C.

MOVED Director Holme, SECONDED Director Stanhope,:

1. That Application ZA9626 by Danron Holdings Ltd. to amend "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" for the lands legally described as That Part of Block 87, Bright, Douglas and Cranberry Districts, (Lying Within Said Bright District), Lying to the East of a Straight Boundary Bearing Due South From the Point on the Northerly Boundary of Said Block Distant 19.8 Chains Easterly From the South East Corner of District Lot 8, Bright District, Except Part in Plan VIP54950 by rezoning from Resource Management 9 (RM9) Subdivision District 'B' to Rondalyn Resort Comprehensive Development 13 (CD13) Subdivision District 'Z' that portion of the lands shown outlined on *Schedule No. 2*, be approved subject to the conditions as outlined in *Schedule No. 1*.
2. That definitions for *Accessory Recreational Vehicle Storage* and *Seasonal or Periodic Accommodation* be added to Bylaw No. 500 as shown on *Schedule No. 4*.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.287, 2002" be given 1<sup>st</sup> and 2<sup>nd</sup> reading and proceed to Public Hearing.

4. That the Public Hearing be chaired by the Director for Electoral Area 'C', Director Hamilton or her alternate.

CARRIED

#### DEVELOPMENT PERMIT APPLICATIONS

##### DP Application No. 0228 – Baldwin – East Side Road (Horne Lake) – Area H.

MOVED Director Quittenton, SECONDED Director McLean, that Development Permit Application No. 0228 to vary the minimum setback requirements of the Comprehensive Development 9 (CD9) zone of 15 metres from the top of the bank of a watercourse to a minimum of 3.0 metres from the top of the bank pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 to legalize the location of an existing recreational residence and permit the repair and replacement of structural supports and footings; and to permit the construction of a 10 m<sup>2</sup> minor addition, a 6 m<sup>2</sup> deck addition, and the replacement of access stairs to the recreational residence within the Environmentally Sensitive Areas Development Permit Area on the property legally described as Strata Lot 280, District Lot 251, Alberni District, Plan VIS5160, be approved subject to the requirements outlined in Schedule Nos. 1, 2 and 3.

CARRIED

#### DEVELOPMENT VARIANCE PERMIT APPLICATIONS

##### Development Variance Permit Application No. 0211 – Kosak – 3043 Jameson Road – Area D.

MOVED Director Haime, SECONDED Director Stanhope, that Development Variance Permit Application No. 0211, submitted by Wanda Kosak for the property legally described as Lot 1, Section 12, Range 3, Mountain District, Plan 38230, to vary a lot line from 8.0 metres to 1.89 metres, be approved, subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

##### Development Variance Permit Application No. 0212 – Sims/Husson-Fallows – 2825 Sea Blush Drive – Area E.

MOVED Director Holme, SECONDED Director Haime, that Development Variance Permit Application No. 0212, submitted by Helen Sims, agent, on behalf of Kerry Husson and Tracey Fallow, to legalize the siting of an accessory building and to vary the minimum side lot line setback from 8.0 metres to 0.7 metres within the Rural 5 (RUS) zone for the property legally described as Lot 25, Block 586, Nanoose District, Plan 29314, be approved as submitted subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

#### ADJOURNMENT

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

CARRIED

TIME: 7:05 PM

\_\_\_\_\_  
CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO	
JUN 17 2002	
CHAIR	GMCrs
CAO	GMDS
GMCms	GMES
<i>E.H. Planning</i>	

MEMORANDUM

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

**DATE:** June 14, 2002

**FROM:** Susan Cormie  
Senior Planner

**FILE:** 3090 30 0235

**SUBJECT:** Development Permit Application No. 0235 - M. Salmon, on behalf of Wilcox Electoral Area 'H' - Strata Lot 59, Horne Lake Caves Road

PURPOSE

To consider an application for a development permit to accommodate the construction of a recreational residence and other site improvements for a strata lot designated within an environmentally sensitive areas development permit area.

BACKGROUND

The Planning Department has received a development permit application for the property legally described as Strata Lot 59, District Lot 251, Alberni District, Plan VIS5160, which is located adjacent to Horne Lake Caves Road in Electoral Area 'H'. The subject property is currently zoned Comprehensive Development 9 (CD9) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and the uses, as proposed, are permitted under this zoning (see Attachment No. 1 for location).

Pursuant to the "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996" (OCP), the subject property is designated within the Environmentally Sensitive Areas Development Permit Area (DPA), which was established for the protection of the natural environment. Therefore, as the applicant is proposing works within the development area, the issuance of a development permit is required.

Proposal

The applicant is proposing to construct a portion of the proposed recreational residence within the development permit area along with a deck and a stairway to the lakefront. The applicant is also requesting to remove some minor trees and maintain an existing parking area, which are also located within the development permit area. The following sets out, within the development permit area, the proposed locations of the buildings, structures, and uses:

- *Recreational residence* - proposed to be constructed within the DPA at 9.5 metres from the natural boundary of Horne Lake as shown on Plan VIS5160;
- *Deck* - proposed to be constructed within the DPA at 9.5 metres from the natural boundary of Horne Lake as shown on Plan VIS5160;
- *Existing parking area* - proposed to be located within the DPA at 8.0 metres from the natural boundary of Horne Lake as shown on Plan VIS5160;
- *Stairway over existing trail access*- proposed to be constructed within the DPA at 0 metres from the natural boundary of Horne Lake as shown on Plan VIS5160; and
- *Removal of trees* - proposed to remove 1 tree greater than 0.15 metre in diameter and 9.1 metres in height and 16 trees less than 1.8 metres in height within the DPA (see Schedule No. 2 for Site Plan).

### **Proposed Variances to Bylaw No. 500**

A variance to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500 will be required in order to allow the stairway to locate from 15.0 metres to 0 metres from the natural boundary (*see Schedule No. 1*).

There is currently an active development permit for all the Horne Lake strata properties (Development Permit No. 0120), which provides general and detailed information pertaining to environmental protection when developing sites. All strata property owners are required to meet the guidelines of this development permit.

The applicant has made a pump and haul application which is currently being reviewed by the Ministry of Health.

### **ALTERNATIVES**

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

### **DEVELOPMENT IMPLICATIONS/SITE CONSTRAINTS**

The ability to locate buildings and structures outside the development permit area is limited by an existing easement agreement, which provides access to the adjacent strata lot. This easement, which prohibits the location of buildings and other uses within it, crosses the length of the subject property adjacent to Horne Lake Caves Road and includes approximately 1/3 of the total lot area. As a result of this site constraint, the applicant has proposed to place the recreational residence and deck in the only available area of the site which least impacts the development permit area.

The parking area is proposed to remain in the same area that has historically been used for parking and as a result, no further alteration of the land is proposed. Staff recommends that the development permit include conditions that limit the size of the parking area and restrict no further encroachment into the development permit area.

The stairway is proposed to be built over the existing trail to the lake. Therefore, as the proposed location is existing, no additional vegetation is proposed to be removed. The stairway will also restrict further encroachment into the vegetated area adjacent to the lake front. In order to ensure there is minimal impact of the adjacent shoreline, staff recommends that the stairway be no wider than 1.0 metre. This requirement is consistent with the requirements of Development Permit No. 0120, which provides general requirements to the strata owners when buildings within the development permit area. The applicant has indicated that he is in concurrence with this requirement. Please note that the stairway requires a variance to Bylaw No. 500, 1987 as it is deemed to be a structure pursuant to bylaw provisions.

### **ENVIRONMENTAL IMPLICATIONS**

The applicant is proposing to remove 1 larger tree plus 16 small trees, all of which are located within the building site area. The larger tree is damaged and, as a result, is considered to be dangerous. The removal of the other small trees will have little impact on the overall sensitivity of the site.

Horne Lake is considered to be fish bearing and the aquatic resources, as well as water quality, have the potential for being impacted by shoreline development. Therefore, it is recommended that requirements to help to reduce potential negative impacts to Horne Lake be included in the conditions of approval (*see Schedule No. 1 - Conditions of Approval*).

**VOTING**

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

**SUMMARY**

This is an application to accommodate the construction of a recreational residence, a deck, and a stairway over an existing beach access; to allow an existing parking area to remain in its present location; and to permit the removal of several small trees within the Environmentally Sensitive Areas Development Permit Area pursuant to the Shaw Hill – Deep Bay Official Community Plan. Due to an existing access easement, which crosses the length of the subject property, the buildable site area of the subject property is substantially reduced. The applicant is proposing to site the recreational residence and deck in a location, which will have the least impact on the development permit area. The proposed parking area is already in existence and, as a result, no additional alteration of land within the development permit area is necessary. The proposed stairway to the lake is in the same location as the existing trail and will have minimal impact on the adjacent foreshore. Conditions for the protection of the development permit area are set out in Schedule No. 1 of the staff report.

The stairway, which is considered to be a structure under Bylaw No. 500, requires a variance from the minimum setback provisions. The proposed variance is subject to notification procedure pursuant to the *Local Government Act* and the consideration of the Regional Board.

As a result of the site constraints and as the applicant proposes to locate the recreational residence and deck in the area of the property that will have the least encroachment into the development permit area, staff support Alternative No. 1, to support the issuance of the development permit subject to the conditions set out in Schedule Nos. 1 and 2 of the staff report.

**RECOMMENDATION**

That Development Permit Application No. 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 the *Local Government Act*.

  
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Report Writer

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

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

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

**COMMENTS:**

devsvs/reports/2002/dp\_jn\_3060\_30\_0235\_wilcox\_horne lk s159

**SCHEDULE NO. 1**

**Conditions of Approval and Proposed Variances  
Development Permit No. 0219**

**Conditions of Approval:**

**1. Development Permit No. 0120**

All works shall be consistent with the requirements and guidelines in accordance with Development Permit No. 0120.

**2. Building Site**

A maximum of one recreational residence building, one deck attached to the recreational residence, and stairway to the lakefront to be situated on the subject property as illustrated in the locations shown on Schedule No. 2.

**3. Parking Area**

- a) The parking area shall be situated in the location as shown on Schedule No. 2.
- b) The parking area shall not exceed maximum dimensions of 7.5 metres by 7.5 metres.
- c) The development permit area shall be protected by further encroachment from the parking area.

**4. Vegetation Removal**

- a) Vegetation removal within the Development Permit Area shall consist of that which is required to locate the recreational residence and deck. A total of 17 trees may be removed from the building site area.
- b) Vegetation removal within the Development Permit Area shall be consistent with the Vegetation Management Guidelines.

**5. Stairway to Beach**

- a) A maximum of 1 set of stairs may be constructed in the location as shown on the submitted site plan in order to provide access the lake front.
- b) The stairway shall not exceed a maximum of 1.0 metres in width.
- c) The stairway shall not exceed 1.3 metres in height.
- d) The stairway shall be for personal, non-vehicular use only.
- e) Vegetation removal to construct the beach trail shall be consistent with the Vegetation Management Guidelines.

**6. Flood Construction**

- a) Certification of Flood Construction Level shall be submitted to the Regional District of Nanaimo prior to the completion of the proposed works.
- b) A signed 'Release and Indemnity' form regarding renovations and construction being undertaken prior to the completion of the Home Lake Dam reconstruction, shall be submitted to the Regional District of Nanaimo prior to beginning construction.

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

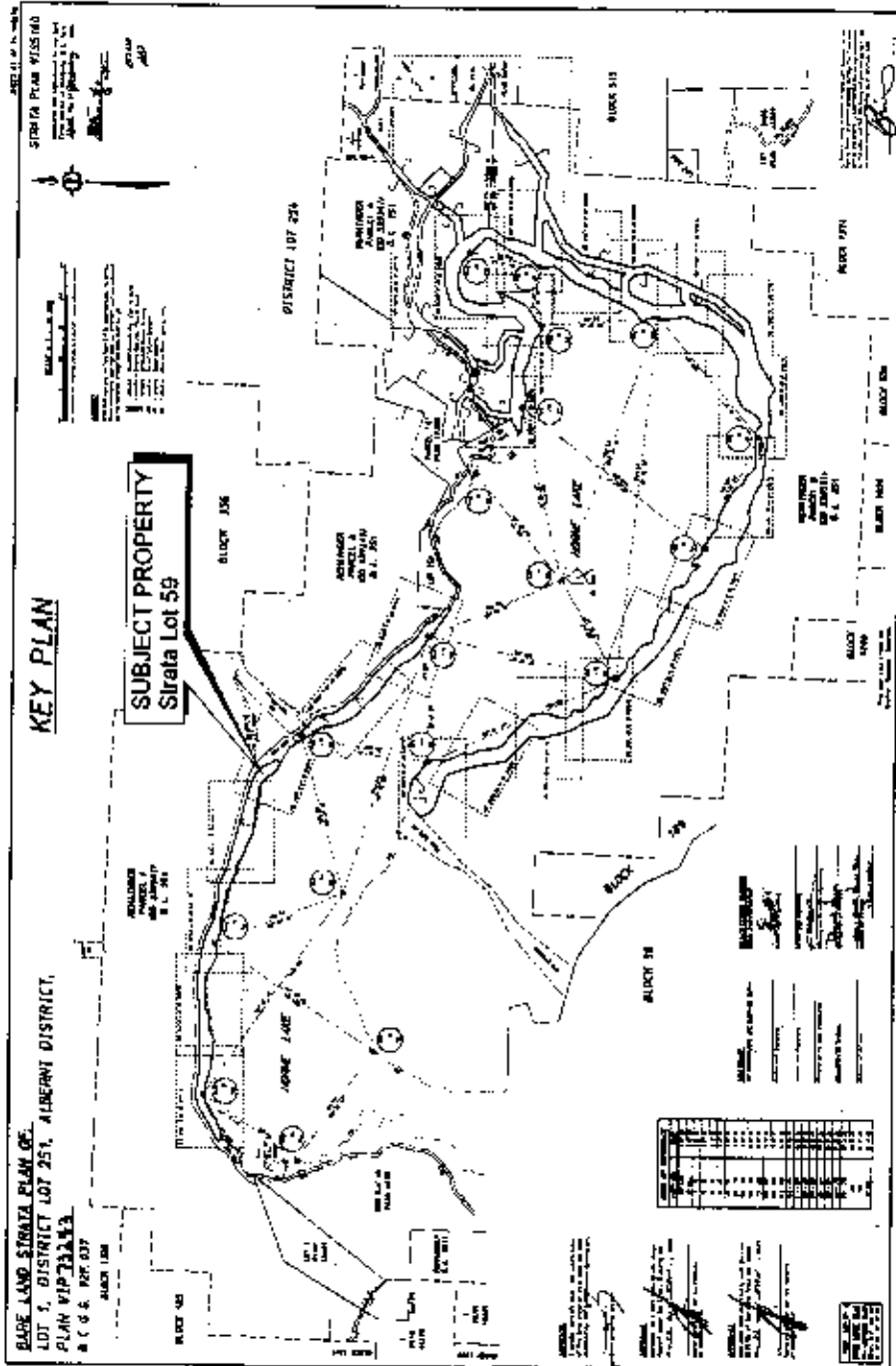
With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, the following variance is proposed:

Section 6.4.107.4 Minimum Setback Requirements Home Lake - varied from 8.0 metres from the natural boundary as shown on the survey plan prepared by Bruce Lewis, BCLS and dated March 15, 2000 to 0 metres from the natural boundary in order to construct a stairway to the lakefront as shown on Schedule No. 2.





### ATTACHMENT NO. 1 Location of Subject Property





REGIONAL DISTRICT OF NANAIMO			
JUN 17 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
[Signature]			
DATE:			

MEMORANDUM

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

**FROM:** Deborah Jensen  
Planner

**SUBJECT:** Development Permit Application No. 0236 - Roy  
Lot 29, District Lot 78, Nanoose District, Plan 15983  
Electoral Area 'E' - 3379 Blueback Drive

**DATE:** June 14, 2002

**FILE:** 3060 30 0236

PURPOSE

To consider an application for a Development Permit in the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" Watercourse Protection Development Permit Area, and vary the minimum setback requirement from the top of slope to the sea, to facilitate the construction of a stairwell and an addition to an existing dwelling unit.

BACKGROUND

This is an application to facilitate an addition to a single dwelling unit and the construction of a stairwell to access the foreshore for a residential property located on Blueback Drive in Nanoose Bay (see Attachment No. 1).

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

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 proposed staircase and dwelling unit are sited within 15 metres of the natural boundary, a development permit is required. It is noted that the proposed addition meets the requirements of the "Floodplain Management Bylaw" (RDN Bylaw No. 843); however, will be subject to a building permit.

The addition to the single dwelling unit entails enclosing the existing deck and retaining the same footprint as the existing structure, and does not require a variance. Construction for the stairwell has not been finalized however it is presumed by the applicant that the stairwell will be more than one metre in height and will require variances to Bylaw No. 500 for setbacks to the sea from 8.0 metres to 0.0 metres.

The siting and dimensions of the single dwelling unit with the proposed addition and stairwell are shown on *Schedule No. 2*.

### ALTERNATIVES

1. To approve Development Permit No. 0236 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested development permit.

### LAND USE IMPLICATIONS

From staff's assessment of this application, the potential visual impact of the proposed construction is minimal due to the topographical and vegetative features of the subject parcel and the lack of other dwelling units within the immediate vicinity. The property is heavily treed, and the dwelling unit is difficult to see from the west and south. Residential properties to the south are located at a much higher elevation, thereby minimizing any impact the proposed construction may have on their viewscape. Only one residence to the east of the subject property is within visual range of the dwelling unit, and the proposed renovation should have no impact on this neighbouring property. A vacant lot and nearby public access border the subject property where the renovation is proposed.

The applicant is proposing to construct a stairwell at the natural boundary of the sea in order to provide access to the foreshore area. Public access to the waterfront is available one lot west of the subject property; however, this beach area is composed primarily of steep bedrock and boulders, making it very difficult to access waterfront along the subject property from this location. The proposed construction will have a minimal impact on the foreshore and should not affect the limited potential for public access. Staff recommends that conditions of the development permit include contacting DFO staff prior to commencing work in order to ensure protection of the foreshore area.

### VOTING

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


### SUMMARY/CONCLUSIONS

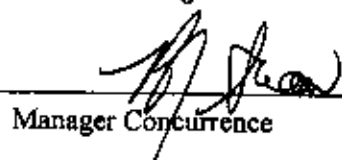
This is an application for a development permit within the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 Watercourse Protection Development Permit Area. The application addresses proposed construction of a stairwell and dwelling unit addition, and includes a request to vary the minimum setback to the top of a slope of 30% or greater from the sea of 8.0 metres to 0.0 metres. Given that the proposed addition to the dwelling unit does not encompass any additional land area, and the variances are primarily to accommodate construction of a stairwell to access the waterfront, staff recommends the requested Development Permit be approved, subject to conditions as outlined in Schedule No. 1 and subject to notification requirements pursuant to the *Local Government Act*.

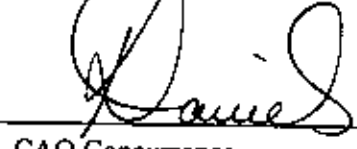
**RECOMMENDATION**

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*.

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

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

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

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

COMMENTS:

**Schedule No. 1  
Conditions of Approval  
Development Permit No. 0236**

**Location**

1. The stairwell is to be sited along the natural boundary and located a minimum of 2.0 metres from the interior side lot line, as shown on Schedule No. 2.

**Sediment and Erosion Control Measures**

2. Sediment and erosion control measures must be utilized to control sediment during construction of stairwell and dwelling unit addition, 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 replanting to maintain and enhance the natural characteristics of the riparian area.

**Construction**

4. Construction of stairwell to take place within the time period designated by the Department of Fisheries and Oceans.
5. Any excavated materials must be placed upland such that there is no potential for introduction onto the foreshore.
6. No fill, including concrete, to be placed near the stairwell.
7. All machinery to operate from the upland portion of the subject property only.

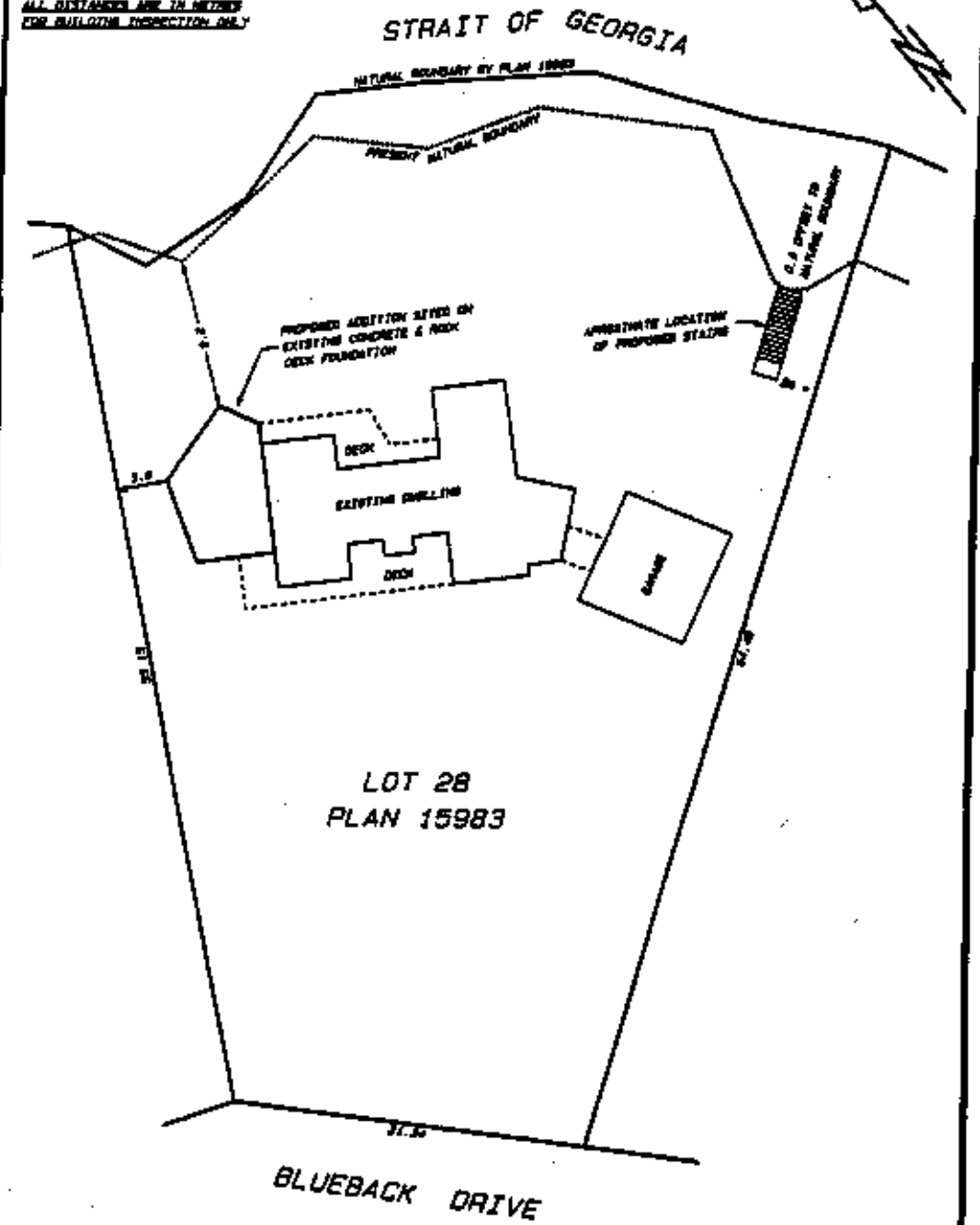
**Department of Fisheries and Oceans**

8. Department of Federal Fisheries staff to be consulted prior to, and during, any construction.
9. Applicant to abide by all conditions of the Department of Fisheries and Oceans.

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

PLAN OF LOT 28, PLAN 15983,  
DISTRICT LOT 78, NANOOSE DISTRICT,  
SHOWING LOCATION OF ADDITION ON EXISTING DECK  
AND PROPOSED STAIRWAY TO BEACH.

SCALE 1:300  
ALL DISTANCES ARE IN METERS  
FOR BUILDING INSPECTION ONLY



INSPECTED THIS PLAN DAY OF MAY, 2002.

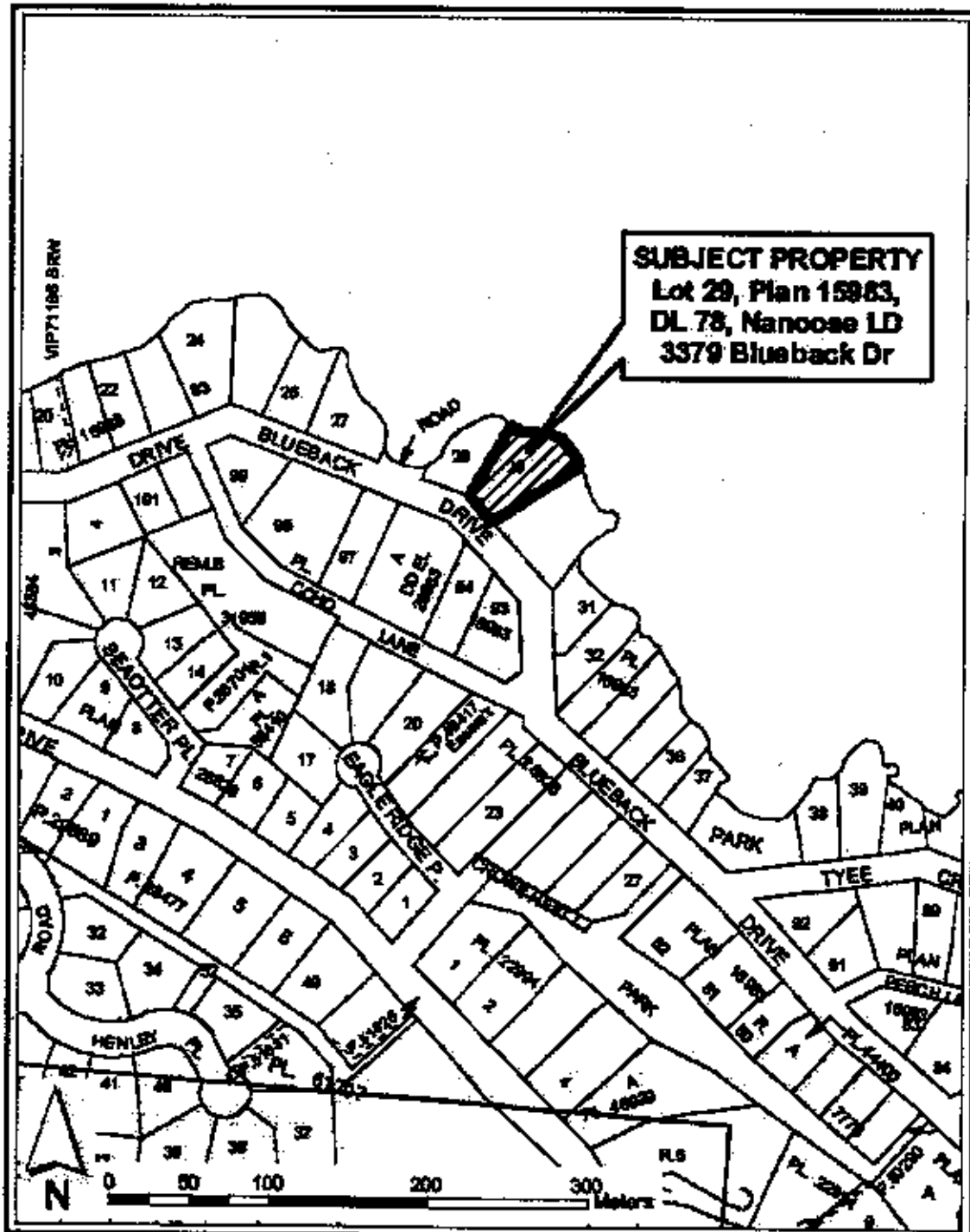
*[Signature]*  
MICHAEL A. SIMS, P.C.L.S.

**SIMS ASSOCIATES**

LAND SURVEYING  
222 FURBY ROAD WEST  
NANOOSE BEACH, B.C. V8L 2M4  
PHONE (250) 851-1111 FAX (250) 851-1112  
WWW.SIMS-ASSOCIATES.COM  
P.L.C. REG-172-81  
B.C. REG-172-81  
B.C. REG-172-81

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Attachment No. 1  
Subject Property Map



BCCB Map Drawn: 02F 020.3.4



REGIONAL DISTRICT OF NANAIMO			
JUN 17 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
<i>Ed. Planning</i>			

MEMORANDUM

TO: Pamela Shaw  
 Manager, Community Planning

DATE: June 14, 2002

FROM: Deborah Jensen  
 Planner

FILE: 3090 30 0210

SUBJECT: Development Variance Permit Application No. 0210 - Littlewood  
 Parcel No. 1 (DD 24745N) of Lot A, of Lot 79, Nanoose District, Plan 1460  
 Electoral Area 'E' - 2406 Nanoose Beach Road

PURPOSE

To consider an application for a Development Variance Permit to vary Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 requirements in order to legalize the siting of an existing accessory building.

BACKGROUND

This application involves an accessory building located on the property at 2406 Nanoose Beach Road. Bylaw enforcement action was initiated on the subject property in 1998. RDN staff identified the accessory building as in contravention of building permit requirements and of 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 uses on the site through this application for a development variance permit.

The subject property containing the accessory building is a 0.05 hectare parcel located adjacent to the Island Highway and Nanoose Beach Road, and is zoned Residential 1 (RS1) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1). Pursuant to the provisions of Bylaw No. 500, the subject property is permitted one dwelling unit and a maximum of 100 m<sup>2</sup> accessory buildings on the parcel, with parcel coverage of no more than 35%. 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 and rear lot line; and 5.0 metres from other lot lines.

*Bylaw Contravention and Proposed Variances*

The accessory building is sited within zoning setbacks and was constructed without the appropriate building permits. The applicant has also extended the use of the property such that the accessory building encroaches into both the adjacent undeveloped road right-of-way and a neighbouring property that is owned by the Ministry of Transportation. Subsequent to considerable communication between the applicant and RDN staff, the Regional Board reviewed the bylaw infractions and at its Regular Meeting held March 12, 2002 the Board adopted "Regional District of Nanaimo Bylaw No. 1293, A Bylaw to Authorize the Removal of an Illegal Structure," which directs the owner to demolish or remove the building from the land.

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Following adoption of this bylaw, the applicant approached the Ministry of Transportation regarding an encroachment permit for that portion of the building located within the road right-of-way, and for possible acquisition of the adjacent property, thereby removing the issue of the accessory building encroaching on the surrounding parcels. To date, the Ministry has not approved an encroachment permit, and has not confirmed disposition of the property. Therefore, the Regional District could (1) proceed with removal of the accessory building, or (2) could require the removal of the encroaching portions of the building, then consider a variance to address zoning setback requirements for the remaining portions of the accessory building (*as shown on Schedule No. 2*). The applicant has indicated willingness to remove the encroaching portions of the structure if purchase of the adjacent property cannot be arranged.

### ALTERNATIVES

1. To approve Development Variance Permit No. 0210 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested development variance permit.

### ENVIRONMENTAL IMPLICATIONS

The subject property is not located in an environmentally sensitive area as designated by the "Nanoose Bay Official Community Plan, Bylaw No. 1118, 1998." No environmental features have been identified on this site.

### DEVELOPMENT IMPLICATIONS

From staff's assessment of this application, the potential impact due to setback variances is reduced due to the layout of surrounding parcels and their development, as well as the presence of extensive mature vegetation within the area and around the subject accessory building. The property is bordered by one residential parcel, the Island Highway, an undeveloped road right-of-way, and one undeveloped parcel currently owned by the Ministry of Transportation.

However, in an area of relatively small properties, encroachment of the accessory building onto adjoining properties becomes quite prominent. Therefore, this encroachment must be addressed, and staff suggest a time frame be provided whereby the encroaching portions of the structure are removed, as noted in *Schedule No. 1*. If the Electoral Area Planning Committee does not approve this application, then the applicant will be required to remove the entire accessory building.

### VOTING

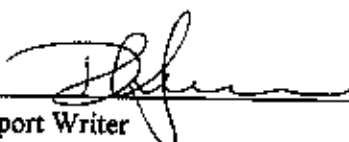
Electoral Area Directors – one vote, except Electoral Area 'B'.

### SUMMARY/CONCLUSIONS


This is an application for a development variance permit to legalize an existing accessory building located on the subject property, and includes a request to vary the minimum setback requirements within a Residential 1 zone from 5.0 metres to 0.0 metres for an other lot line, and from 2.0 metres to 0.0 metres for an interior side lot line, as shown on Schedule No. 2. Should the Board approve the requested variances, the applicant must remove all portions of the encroaching structure and apply for the necessary building permit. Given that the remainder of the accessory building does not appear to have a significant impact on adjacent properties, staff recommends this application be approved subject to the notification requirements pursuant to the *Local Government Act*.

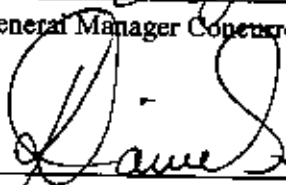
### RECOMMENDATION

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 and subject to the notification requirements pursuant to the *Local Government Act*.

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

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

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

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

COMMENTS:

**Schedule No. 1**  
**Conditions of Approval**  
**Development Variance Permit No. 0210**

1. Variances are subject to compliance with building permit regulations.
2. Variances are subject to the applicant obtaining a setback encroachment permit from the Ministry of Transportation for setbacks within 4.5 metres of a road right-of-way.
3. Variances are subject to removal of the encroaching portions of the dwelling unit from the adjacent parcel and from the road right-of-way within 30 days of the Authorizing Resolution Date of this Development Variance Permit.







**REGIONAL  
DISTRICT  
OF NANAIMO**

REGIONAL DISTRICT OF NANAIMO	
JUN 17 2002	
CHAIR	GMCrS
CAO	GMDS
GMCmS	GMES
<i>E. A. Planning</i>	
DATE	

**MEMORANDUM**

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

**DATE:** June 14, 2002

**FROM:** Lindsay Chase  
Planner

**FILE:** 3090 30 0213

**SUBJECT:** Development Variance Permit Application 0213 - Walker  
Electoral Area 'E' - 3652 Dolphin Drive

**PURPOSE**

To consider an application for a development variance permit to vary 'other' lot line setbacks to facilitate the construction of an accessory building and legalize the siting of an existing retaining wall on a residential parcel on Dolphin Drive in Nanoose Bay.

**BACKGROUND**

This is an application to facilitate the construction of an accessory building and legalize existing retaining walls on a residential property legally described as Lot 26, District Lot 78, Nanoose District, Plan 20762 in the Nanoose Bay area of Electoral Area 'E'. The subject property is a 1527 m<sup>2</sup> property on Dolphin Drive (*shown on Attachment No. 1*).

The property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The setbacks in this zone are 8.0 metres from the front lot line, 2.0 metres from the rear and side lot lines, and 5.0 metres from any other lot line.

The applicant has requested the variance to allow for the construction of the accessory building to allow for automobile storage. The applicant is an antique vehicle collector, and has indicated that the accessory building will be used to adequately store these vehicles for insurance purposes. It should be noted that while this is the second accessory building on the subject parcel, allowing the construction of the accessory building would not exceed maximum parcel coverage and accessory building size allowances pursuant to Bylaw No. 500. A setback encroachment permit will be required for the proposed accessory building as the building is proposed to be constructed within the 4.5 metre Ministry of Transportation setback.

An additional variance is being requested for an already constructed retaining wall on the subject property and within the right-of-way. This retaining wall was constructed without a building permit, as the owner was unaware that a retaining wall over 1.0 metre in height required a permit and was subject to the setback requirements of Bylaw No. 500. Therefore, the applicant is requesting that the other lot line setback be varied from 5.0 metres to 0.0 metres to legalize the siting of the existing wall. An encroachment permit and setback encroachment permit will also be required for the retaining wall from the Ministry of Transportation.

A building scheme and a covenant are registered against the title of the property. The applicant attempted to obtain a copy of the covenant; however, Land Title Office was unable to find the document. The covenant is not registered in favor of the Regional District of Nanaimo. As the Regional District is not party to any building schemes, it is the applicant's responsibility to ensure that they comply with any conditions contained within a building scheme; the applicant is aware of this responsibility.

### ALTERNATIVES

1. To approve Development Variance Permit Application No. 0213.
2. To deny Development Variance Permit Application No. 0213.

### DEVELOPMENT IMPLICATIONS

The applicant is requesting that the 'other' lot line be varied from 5.0 metres to 0.1 metres to facilitate construction of an accessory building. The subject property slopes up from the access point at Dolphin Drive, and the accessory building is proposed to be located on a small terrace towards the front of the parcel. As the dwelling unit on this parcel is located above the proposed accessory building, and the dwelling units to the east and west of this parcel are significantly above or not visible for the location of the proposed accessory building, they are unlikely to be affected. The applicant has provided a letter of support from the property owner to the east.

In addition, the applicant is requesting that the same 'other' lot line be varied from 5.0 metres to 0.0 metres for the retaining wall. As the retaining wall is more than 1.0 metre in height and is within the 4.5 metre Ministry of Transportation setback, a building permit is required and a setback encroachment permit must be secured from the Ministry. There does not appear to be any land use implications associated with siting the retaining wall in this location.

### VOTING

Electoral Area Directors - one vote. Except Electoral Area 'B.

### SUMMARY/CONCLUSIONS

This is an application for a development variance permit on a residential property on Dolphin Drive in Nanoose Bay. The applicant requests that the 'other' lot line setback be varied from 5.0 metres to 0.1 metres to facilitate construction of an accessory building and that the same lot line be varied from 5.0 metres to 0.0 metres to legalize the siting of an existing retaining wall. The parcel itself slopes up from the access on Dolphin Drive and the proposed development is unlikely to affect any adjacent properties due to topography and existing vegetation. The applicant has submitted a letter of support from the property owner to the east with respect to this application. Staff recommends that this application as shown on Schedule No. 2 be approved, subject to the conditions outlined in Schedule No. 1.

**RECOMMENDATION**

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*.

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

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General Manager Concurrence

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Manager Concurrence

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CAO Concurrence

COMMENTS:



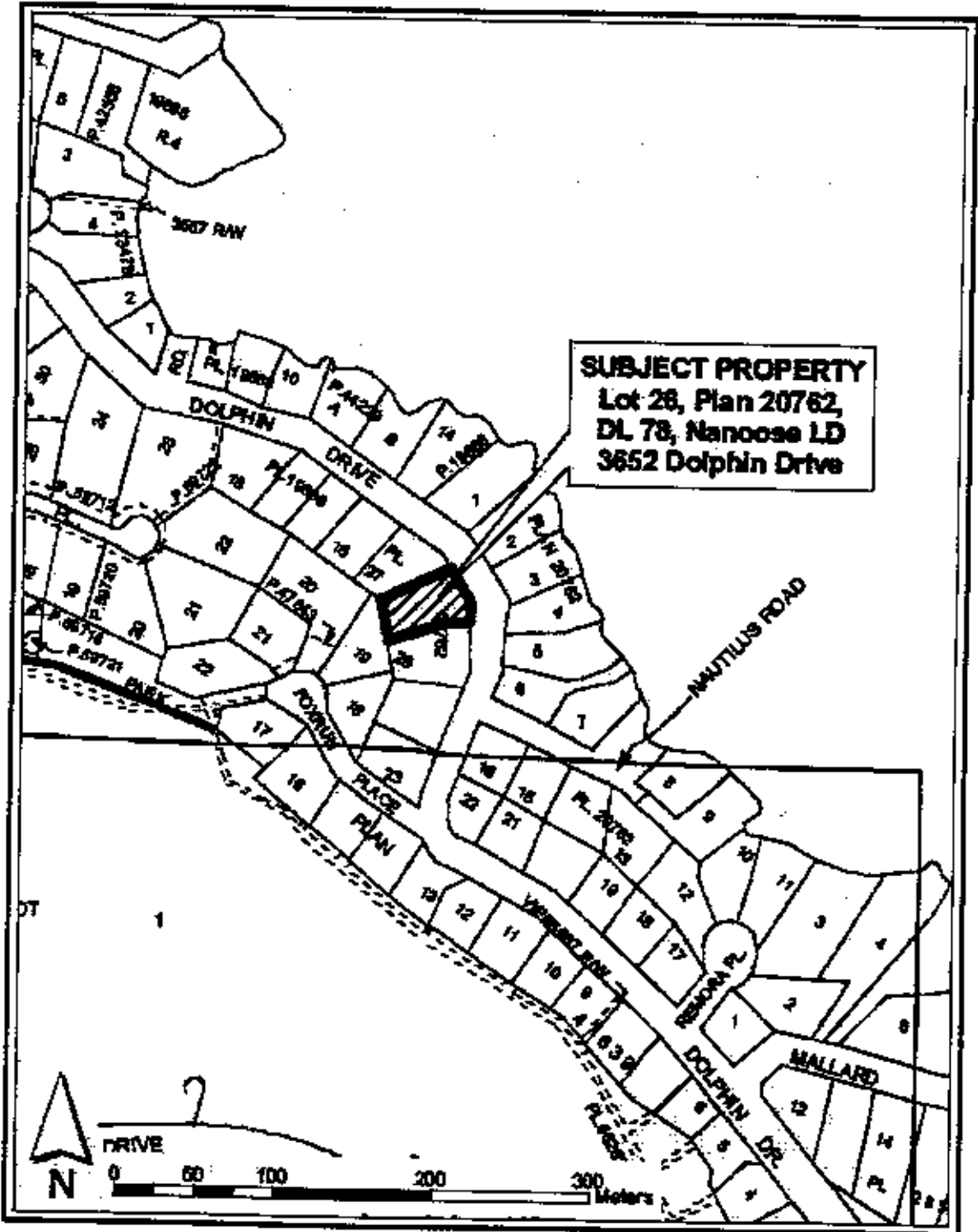
**Schedule No. 1**

**Conditions of Approval of Development Variance Permit No. 0213**

1. Applicant to secure an Encroachment Permit from the Ministry of Transportation for the retaining wall and Setback Encroachment Permit for the accessory building and portion of the existing retaining wall on the subject property.
2. Variances are subject to compliance with building permit regulations.



Attachment No. 1  
Subject Property Location



BCS Map Sheet No. SF 2014



REGIONAL DISTRICT OF NANAIMO	
JUN 17 2002	
CHAIR	GMCrS
CAD	GMDS
GMCrS	GMES
<i>E.A. Planning</i>	

MEMORANDUM

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

**DATE:** June 14, 2002

**FROM:** Brigid Reynolds  
Planner

**FILE:** 3060 30 0231

**SUBJECT:** Development Permit Application No. 0231 - Culverden Holdings Inc/Davey Electoral Area 'E' and 'G' - 1888 Kaye Road

**PURPOSE**

To consider an application for a development permit to legalize the construction of fire protection device within an Environmentally Sensitive Area and Watercourse Protection Development Permit Areas pursuant to Nanoose Bay Official Community Plan Bylaw No. 1118, 1998.

**BACKGROUND**

The subject property legally described as Lot 1, District Lot 171, Nanoose District, Plan VIP71158 is located on 1888 Kaye Road west of Parksville in Electoral Area 'E' and 'G' (See Attachment 1).

The subject property is zoned Recreation 2 (RC2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". No variances to Bylaw No. 500 are being requested as part of this application.

In June 2000, the Board amended the zoning to Recreation 2 (RC2) for the purposes of allowing a children's riding camp and rider training facility and to secure access for the camp for a portion of Block 564. In May 2001, a building permit was applied for to construct the main meeting and dining hall. A condition for occupancy of the building was that fire protection be secured. Hamilton Spring, situated in the middle of the parcel, was identified as an adequate source of water for fire protection. In June 2001, the fire protection device was installed without a development permit.

Hamilton Spring and Craig Creek are designated as Environmentally Sensitive Area and Watercourse Protection Development Permit Areas. The development permit area is measured 30 metres from the natural boundary of both watercourses. As the fire protection device is located in Hamilton Springs and within the development permit area, a development permit is required.

Senior agencies, Ministry of Water, Land and Air Protection (MWLAP) and Fisheries and Oceans Canada (DFO), gave their approval for the works providing certain conditions were met. The agencies conditions have been met. However, one of the final requirements for this development permit application was to complete native tree plantings within the development permit area. This requirement

remained outstanding until May 2002. These plantings are in the process of being undertaken and are anticipated to be complete at the time of the Committee of the Whole's consideration of this report.

#### **VOTING**

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

#### **ALTERNATIVES**

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

#### **LAND USE AND DEVELOPMENT IMPLICATIONS**

Approval of the requested development permit would legalize the fire protection device within an Environmentally Sensitive Area and Watercourse Protection Development Permit Area. The fire protection device was a condition of building the main dining and meeting room. The fire protection device was installed in May 2001 in order that Seven Springs could begin their season's program. While RDN requirements support the installation of the fire protection device, issues concerning protection of the watercourse and the riparian area require that a development permit be considered for this property.

#### **ENVIRONMENTAL IMPLICATIONS**

DFO and MWLAP were consulted prior to the installation of the fire protection device in Hamilton Spring. The conditions required by the senior agencies have been adhered to. The outstanding issue that remained as part of issuing this development permit is the requirement to undertake plantings of native tree species within the development permit area. As previously noted, staff anticipate this will be dealt with prior to June 25, 2002.

#### **SUMMARY/CONCLUSIONS**

This is an application to legalize the construction of a fire protection device in the Environmentally Sensitive Area and Watercourse Protection Development Permit Area. The Watercourse Protection Development Permit Area is measured 30 metres from the natural boundary of Hamilton Spring and Craig Creek. The fire protection device on the subject property is located in Hamilton Spring and upland from the spring.


The fire protection device is necessary for the use and occupancy of the facilities on the subject parcel. As the outstanding conditions have now been met, staff recommends that the development permit be approved.

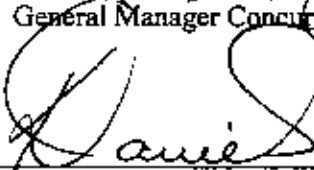
**RECOMMENDATION**

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.

  
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Report Writer

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

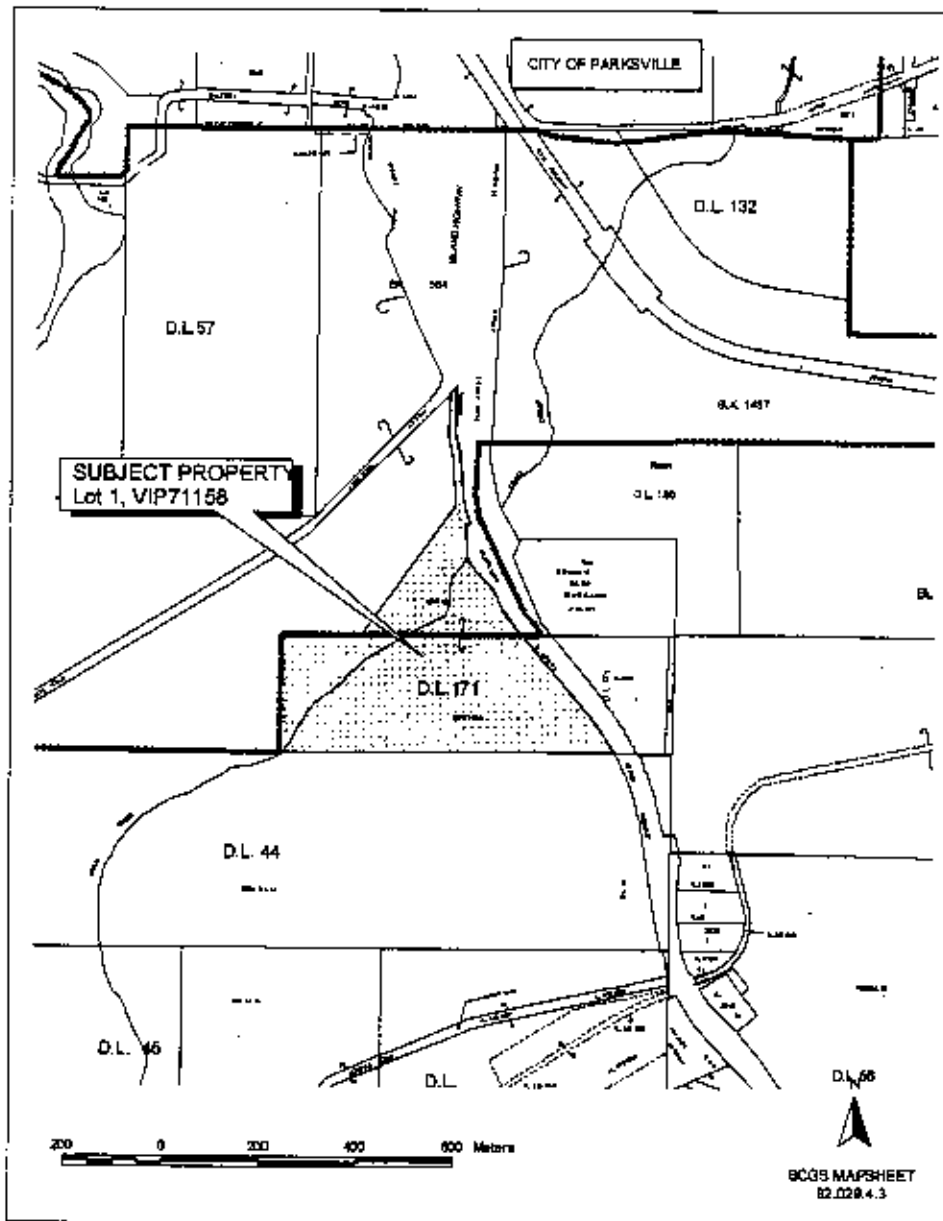
  
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Manager Concurrence

  
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CAO Concurrence

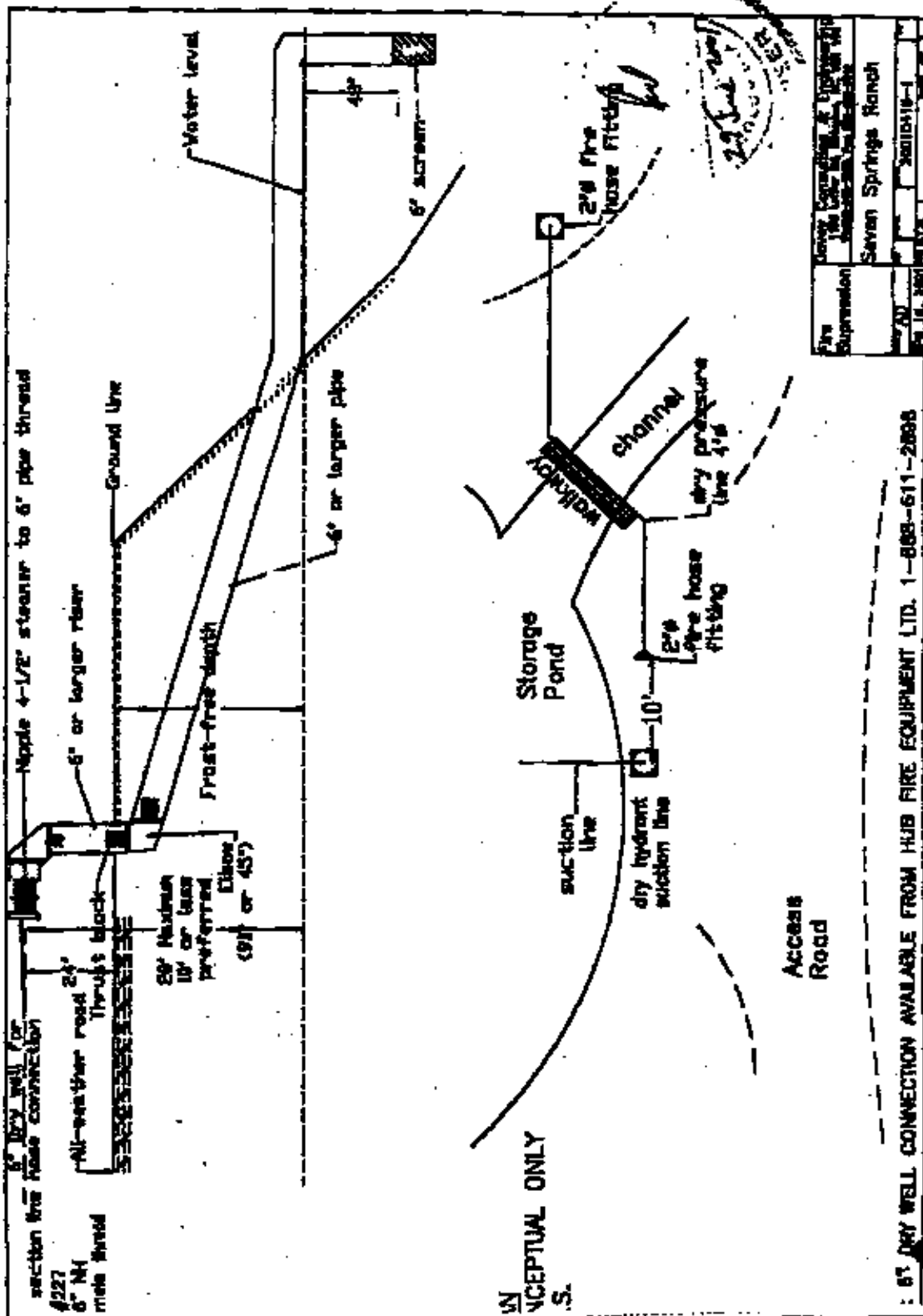
**COMMENTS:**

*devsvs/reports/2002/dp.jn 3060 30 0231 Culverden Davey*

**Attachment No. 1**  
**Subject Property**  
**Development Permit No. 0231**



Schedule No. 1  
Site Plan  
Development Permit No. 0231



Fire Suppression	20	3001016-1
Design	20	3001016-1
Approval	20	3001016-1
Drawn	20	3001016-1
Checked	20	3001016-1
Scale	1" = 10'	
Date	2002.06.14	
Project	Seven Springs Ranch	
Client	Seven Springs Ranch	
Location	100 Lake St. Blaine, MN 55107	
Sheet	0231-05	

6" DRY WELL CONNECTION AVAILABLE FROM HUB FIRE EQUIPMENT LTD. 1-888-611-2888

PAGE 32



**Schedule No. 2**  
**Conditions of Approval**  
**Development Permit No. 0231**

**Tree Planting**

1. Tree planting is to be undertaken in the area located between the trampoline and the corner of the cabin and extend 5 metres from the top of the bank of Craig Creek.
2. Native plantings of approximately 1.5 metres in height are to be used.
3. A minimum planting density of 2.0 metre centres.
4. The quality of stock should ensure at least 80% survival over three growing seasons or mortalities shall be replaced.



REGIONAL DISTRICT OF NANAIMO			
JUN 18 2002			
CHAIR		GMCrS	
CAO		GMDS	
GMCms		GMES	
<i>[Signature]</i>			
			DATE:

MEMORANDUM

TO: Pamela Shaw  
 Manager, Community Planning

DATE: June 17, 2002

FROM: Lindsay Chase  
 Planner

FILE: 3090 30 0214

SUBJECT: Development Variance Permit Application No. 0214 - Intracorp/Fairwinds  
 Electoral Area 'E' - Arbutus Hills Development (Lots 2-20 & 25, 26)

PURPOSE

To consider the issuance of a development variance permit to vary the maximum height requirement for 21 dwelling units and the minimum setback requirements for all retaining walls up to a maximum of 2.0 metres in height for 21 recently created parcels in the Fairwinds area of Nanoose Bay in Electoral Area 'E'.

BACKGROUND

This is an application to vary the maximum dwelling unit height for 21 parcels in the Arbutus Hill development within the Fairwinds area and to vary the minimum setback requirements for retaining walls up to 2.0 metres in height on the subject parcels. This application does not include those parcels in the subdivision immediately adjacent to Fairwinds Drive (see Attachment No. 1 for location).

The subject properties, legally described as Lots 2 - 20, 25, and 26, DL 78, Nanoose District, Plan VIP73214, are currently zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The adjacent lands include: Fairwinds Recreation Centre and existing Residential 1 (RS1) lots to the north, undeveloped Residential 1 (RS1) lands to the west, a vacant Residential 8 (RS8) site to the east, and lands held by the Department of National Defense to the south. The topography of the site is rocky and slopes upwards from Fairwinds Drive. None of the parcels in this subdivision have ocean views.

Proposal as submitted:

The applicant is proposing to build all 21 homes within this subdivision and, as a result, is requesting a blanket variance for the following:

- The maximum dwelling unit height to be varied from 8.0 metres to the maximum building height as shown on Schedule No. 2 for all proposed dwellings; and
- The minimum setback provisions for retaining walls, up to 2.0 metres in height, be reduced to 0.0 metres from the front, side, rear, and other lot line for all the subject properties.

The applicant, Intercorp, is a "design build" company, and generally does not sell undeveloped parcels, but rather chooses to develop the lots (although it should be noted that the variances, if approved, would run with the land). A building scheme that is registered against the titles of these properties outlines building envelope specifications for each parcel, as well as various architectural guidelines, will continue to be administered by Fairwinds.

## ALTERNATIVES

1. To approve Development Variance Permit Application No. 0214, subject to Schedules No. 1 and 2.
2. To deny Development Variance Permit Application No. 0214.

## DEVELOPMENT IMPLICATIONS

In order to streamline the building process and to ensure consistency in the built form throughout the subdivision, the developer is proposing a blanket variance to the maximum dwelling unit height for 21 parcels within the subdivision. This request is due to site constraints of the parcels including rock outcrops and steep topography and the applicant's choice of architectural styles including steep pitched rooflines. This request would also enable the applicant to provide assurances to potential purchasers that selected building styles can be constructed and those building styles will be consistent throughout the subdivision.

While the applicant has a number of house plans suggested for the subdivision, specific plans for each parcel have not been chosen. The applicant has provided a survey plan which shows the potential maximum dwelling unit height for each parcel as measured from a single predetermined point rather than infinite points located at natural grade on the parcel as set out in Bylaw No. 500 (*see Schedule No. 2 for proposed dwelling unit heights for each parcel*). That is, the applicant has submitted a plan that will allow the potential purchaser to choose from a number of house plans of varying heights that would, in effect, be pre-approved for the lot. Due to concerns about over scale housing in relation to other neighbourhoods in Fairwinds, the applicant is in concurrence with staff recommendations to restrict construction to 2-story dwelling units only, while permitting crawl spaces and attics that would not contain habitable floor space.

The applicant has also requested a blanket variance for the subject properties to relax the front, rear, side, and other lot line setbacks in order to locate any retaining walls required. Bylaw No. 500 requires that any structure greater than 1.0 metre in height must meet the setbacks of the zone and may also be subject to building inspection. Staff recommends that this request be approved, provided that the applicant obtains a building permit for all retaining walls over 1.0 metre in height, and that none of these retaining walls exceed 2.0 metres in height. Any retaining walls greater than 2.0 metres would then require a new development variance permit application from the property owner.

Staff considered the option of requesting the applicant to apply to rezone the subject parcels to vary the maximum dwelling height unit requirement and the minimum setback requirements for retaining walls. However, as this proposal is currently restricted to a small phase of the Fairwinds' project and is isolated from other existing lots without implications for existing view corridors or adjacent lot building massing, it was felt that this proposal proceed by way of a blanket variance request.

## PUBLIC CONSULTATION IMPLICATIONS

Public consultation with respect to this application will be pursuant to the notification requirements of the *Local Government Act* and Bylaw No. 500. Bylaw No. 500 requires that development variance permit applications notices be mailed to all property owners within a 50-metre radius.

## VOTING

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


**SUMMARY**


This is an application to consider a development variance permit to vary the maximum dwelling unit height and to relax the minimum setback requirements for retaining walls up to 2.0 metres in height for 21 lots in the Fairwinds area of Nanoose Bay. Due to site constraints such as rocky outcrops, steep topography, lack of view impacts and the developer's choice of architectural styles (a variety of house designs, many of which include a 12:12 pitch roofline) a variance to the maximum height provisions for a dwelling unit is requested.

The applicant has also requested that a variance be approved for retaining walls located within the setbacks on the subject properties. Retaining walls over 1.0 metre in height will require building permits, and staff recommends that retaining walls up to 2.0 metres in height be included in this variance; however, retaining walls over 2.0 metres in height will require an additional application for a variance from the future property owner. Staff recommends that this application be approved subject to the conditions outlined in *Schedules No. 1 and 2* and the notification requirements of the *Local Government Act*.

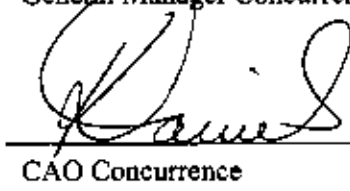
**RECOMMENDATION**

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*.

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

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

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

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

COMMENTS:

**Schedule No. 1  
Development Variance Permit No. 0214  
Conditions of Approval**

**Requested Variances**

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

Section 6.4.61 Minimum setback requirements for the front lot line is proposed to be varied from 8.0 metres to 0.0 meters in order to situate retaining walls under 2.0 metres in height.

Section 6.4.61 Minimum setback requirements for the interior side lot line is proposed to be varied from 2.0 metres to 0.0 meters in order to situate retaining walls under 2.0 metres in height.

Section 6.4.61 Minimum setback requirements for the rear lot line is proposed to be varied from 2.0 metres to 0.0 meters in order to situate retaining walls under 2.0 metres in height.

Section 6.4.61 Minimum setback requirements for the other lot line is proposed to be varied from 5.0 metres to 0.0 meters in order to situate retaining walls under 2.0 metres in height.

**Part 2 Interpretation Section 2.1 Definitions height is varied from:**

The elevation of a point directly below:

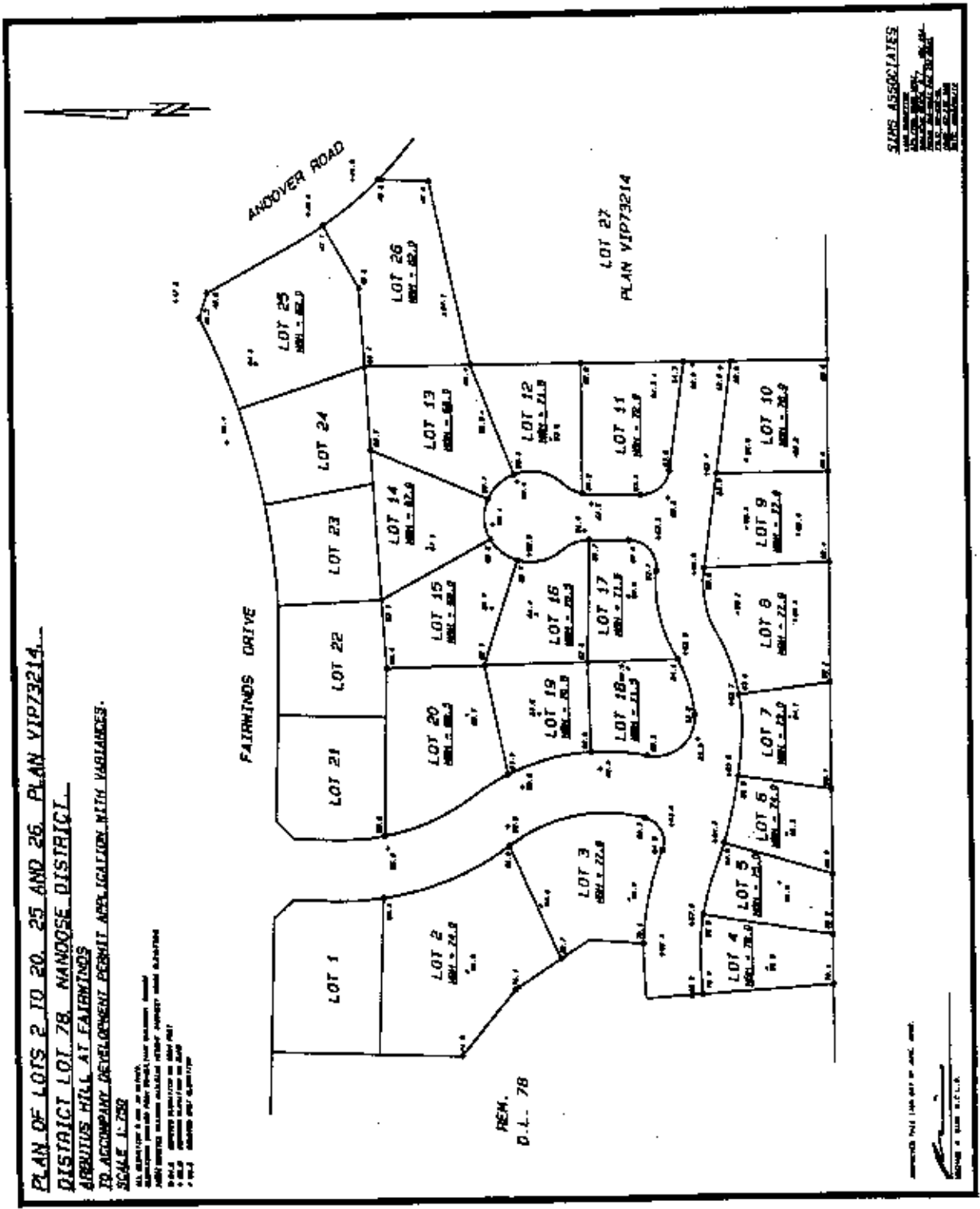
- a) that part of a building or structure being measured above land (or the surface of water at high water), and;
- b) on a line connecting the two intersections of the natural grade and the outermost exterior building walls or supports as indicated on a plan showing any complete vertical section of that part of the building or structure being measured;

but specifically excludes chimney, mast aerial, church spire, flag pole, water tank, observations and transmission tower, mechanical devices necessary for the operation of a building, and agricultural buildings or structures where permitted in the applicable zone.

to:

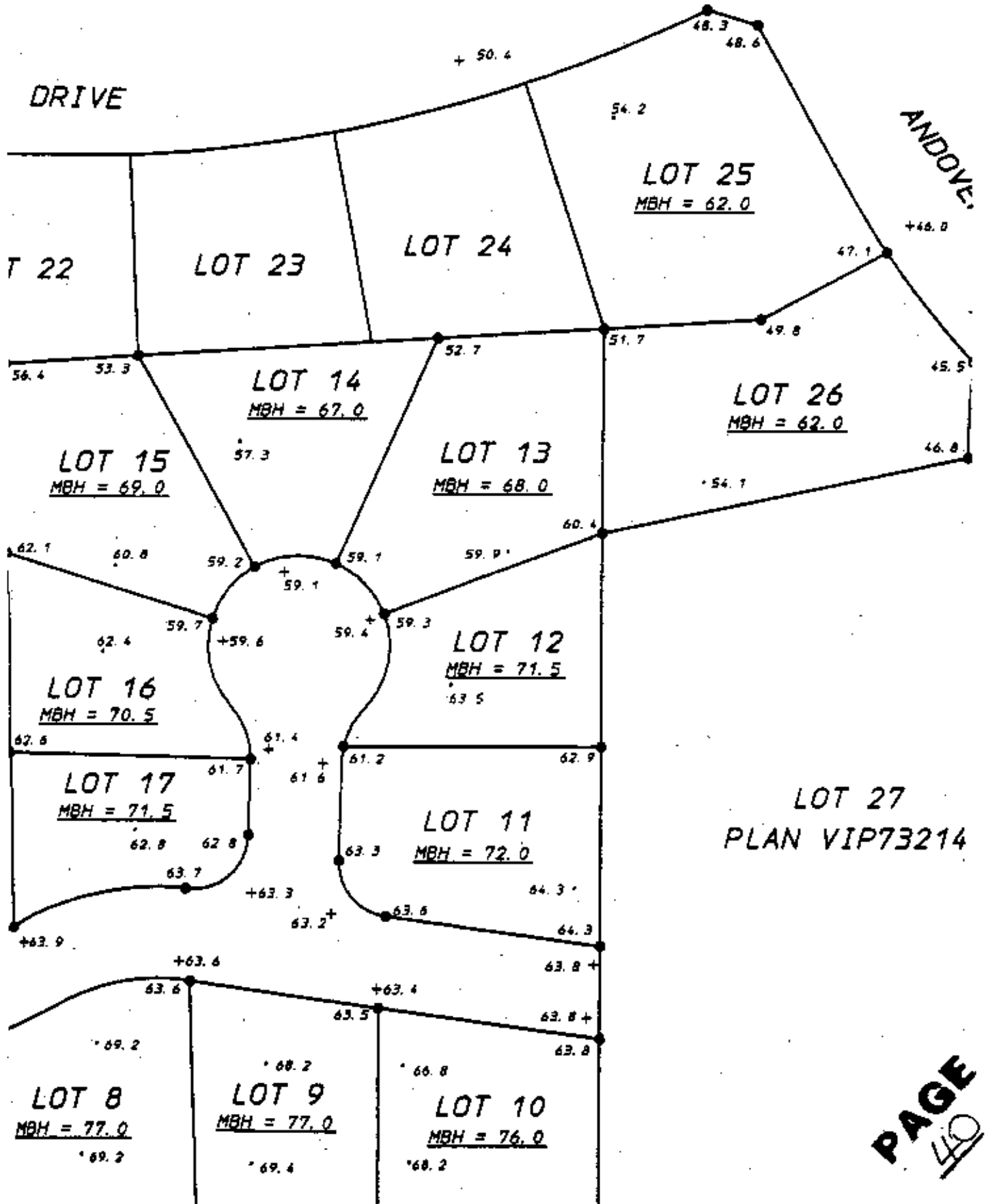
The maximum building height as shown on the plan prepared by Michael Sims, BCLS, dated June 14, 2002 as shown on *Schedule No. 2*, exclusive of chimneys, but specifically restricting the number of storeys within each dwelling unit to 2 (two) and providing only for uninhabitable crawl space and attic areas.

Schedule No. 2  
 Predetermined Elevation Reference Points





Schedule No. 2 (2 of 2)  
Detailed Maximum Building Height - Lots 8-17, 25 & 26





Attachment No. 1  
Subject Property Map

