

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, NOVEMBER 26, 2002
7:00 PM

(Nanaimo City Council Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-5 Minutes of the Electoral Area Planning Committee meeting held Tuesday, October 22, 2002.

BUSINESS ARISING FROM THE MINUTES

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 6-17 DP Application No. 9802 – Beachcomber Marina/Laughland – 1600 Brynmarl Road – Area E.
- 18-26 DP Application No. 0252 – Hubbard – 152 Burne Road – Area H.
- 27-33 DP Application No. 0253 – Fletcher – 6615 Island Highway West – Area H.
- 34-40 DP Application No. 0254 – Roy – Blueback Drive – Area E.
- 41-47 DP Application No. 0255 – Mark – Higginson Road – Area E.
- 48-56 DP Application No. 0256 – Hutt/Sims – 956 Surfside Drive – Area G.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 57-63 DVP Application No. 0220 – Estate of Marion Monks – 7850 Shangri-La Road – Area D.

OTHER

- 64-69 Request for Relaxation of the Minimum 10% Perimeter Requirement – Fern Road Consulting Ltd. On behalf of Nora Kent, Roy Drew & Sandra Drew – 2763 & 2779 Parker Road – 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, OCTOBER 22, 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
Alternate	
Director J. Pipes	Electoral Area H
Director D. Rispin	City of Nanaimo

Also in Attendance:

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

DELEGATIONS

John Collins & Gerald Hoffman, re DP Application No. 0247 – Broad/Collins – 3837 Amberwood Lane – Area E.

Mr. Collins noted the unique situation with respect to the property's bordering on two sides by ocean and the resulting reduction in the building envelope. Mr. Hoffman reiterated the concerns of the previous speaker and noted that the property site is geotechnically safe and suitable for its intended use.

MINUTES

MOVED Director Stanhope, SECONDED Director Haime, that the minutes of the Electoral Area Planning Committee meeting held Tuesday, October 1, 2002 be adopted.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

DP Application No. 0247 – Broad/Collins – 3837 Amberwood Lane – Area E.

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 0247, submitted by Broad/Collins to vary the minimum setback from the sea from 8.0 metres from the top of the bank to a minimum of 1.4 metres pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 and to permit the construction of the dwelling unit a minimum of 9.5 metres from the natural boundary within the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 Watercourse Protection Development Permit Area on the property legally described as Lot 11, District Lot 78, Nanoose District, Plan 47638, be approved subject to the requirements outlined in Schedule Nos. 1, 2 and 3 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

PAGE
3

DP Application No. 0248 – Parker – 2416 Shady Lane, Horne Lake – Area H.

MOVED Director Pipes, SECONDED Director Stanhope, that Development Permit Application No. 0248, submitted by Grant and Treena Parker, for the property legally described as Strata Lot 333, District Lot 251, Alberni District, Plan VIS5160 be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 and the notification requirements pursuant to the *Local Government Act*.

CARRIED

DP Application No. 0250 – Striker – Lot 5, Miller Road – Area G.

MOVED Director Stanhope, SECONDED Director Holme, that Development Permit Application No. 0250 by Ronald and Christine Striker, to construct a dwelling unit in a Sensitive Lands Development Permit Area pursuant to the Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998 on the property legally described as Strata Lot 5, District Lot 28, Nanoose District, Plan VIS4363 be approved, subject to the conditions outlined in Schedule Nos. 1 to 6 of the corresponding staff report.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

DVP Application No. 0217 – Thompson/Goldney – Seaview Drive/Thompson Clarke Drive West – Area H.

MOVED Director Pipes, SECONDED Director Elliott, that Development Variance Permit Application No. 0217 by Richard Goldney on behalf of Tim and Linda Thompson, to:

1. vary the minimum setback requirement from 18.0 metres horizontal distance from the stream centerline to a minimum of 6.7 metres and from 8.0 metres to 5.0 metres from the front lot line for a building envelope; and
2. vary the minimum setback requirement from 18.0 metres horizontal distance from the stream centerline to a minimum of 4.2 metres and from 2.0 metres to 1.9 metres from an interior and rear lot line and from 5.0 metres to 2.4 metres from another lot line for an existing garage;

for the property legally described as Lot 22, District Lot 21, Newcastle District, Plan 22249, be approved, subject to the requirements outlined in Schedules No. 1, 2 and 3 and notification requirements pursuant to the *Local Government Act*.

CARRIED

DVP Application No. 0218 – Alexander – 835 View Road – Area G.

MOVED Director Stanhope, SECONDED Director Pipes, that Development Variance Permit Application No. 0218, to relax the minimum front lot line setback requirement from 8.0 metres to 6.50 metres for the property legally described as Lot 48, District Lot 78, Newcastle and Nanoose Districts, Plan 22438, to accommodate a covered deck structure, be approved subject to Schedules No. 1 and 2 and the notification requirements pursuant to the *Local Government Act*.

CARRIED

DVP Application No. 0219 – Timmermans – 3140 Graham Road – Area A.

MOVED Director Elliott, SECONDED Director Holme, that Development Variance Permit No. 0219, submitted by Cornelis Timmerman, to facilitate the development of a single dwelling unit and vary the maximum permitted dwelling unit height within the Rural 4 (RU4) zone from 9.0 metres to 10.5 metres for the property legally described as Lot 1, Section 4, Range 5, Cedar District, Plan VIP71097, be approved as submitted subject to the notification procedures pursuant to the *Local Government Act*.

CARRIED

PAGE

4

ADJOURNMENT

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

TIME: 7:12 PM

CARRIED

CHAIRPERSON



MEMORANDUM

REGIONAL DISTRICT OF NANAIMO			
NOV 19 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
<i>EA Klaumpf</i>			

TO: Pamela Shaw
Manager, Community Services

DATE: November 15, 2002

FROM: Geoff Garbutt
Senior Planner

FILE: 3060 30 9802

SUBJECT: Development Permit Application No. 9802
Beachcomber Marina/Laughland
Electoral Area, 'E' - (1600 Brynmarl Road)

PURPOSE

To consider a development permit application to amend existing Development Permit No. 32C for the Beachcomber Marina located at 1600 Brynmarl Road, Nanoose Bay within the Form and Character Development Permit Area pursuant to the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998".

BACKGROUND

This is an application to amend Regional District of Nanaimo Development Permit No. 32C for the fourth and final phase of the Beachcomber Marina strata development legally described as Remainder Lot A, District Lot 38, Nanoose Land District, Plan VIP 52108, which includes a marina, marina equipment garage that was sited previous to the strata development, and a 20 unit strata condominium development.

These properties are currently in the process of being developed as a phased strata subdivision. Phases 1 to 3 inclusive of the strata have been given final approval. The subject properties are approximately 2.985 ha in size and are located on Brynmarl Road in Electoral Area 'E' (see Attachment No. 1 for location). The properties are currently zoned Commercial 5 pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

Pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998, the subject properties are designated as within a Form and Character Development Permit Area. The Form and Character Development Permit Area was established to ensure that more intensive uses of land (including commercial and multi-residential development) are integrated with adjacent uses and to promote a higher level of design and quality in building form. It must be noted that the subject properties are also located within a Watercourse Protection Development Permit Area; however, the proposed development lands are located outside the required 15 metre leave strip and are exempt from the boundary of the Watercourse Protection Development Permit Area. In order to change the provisions of existing Development Permit 32C to complete the 4th and final phase of the strata development, the applicant must apply for an amended Development Permit.

PAGE

6

Development Permit No. 32 was originally issued in 1990, pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 708.03, 1989, for the marina and strata resort condominium development. Since the issuance of this permit, five permit amendments have also been approved and a new Official Community Plan has been adopted for the area.

This application to amend Development Permit No. 32C was originally submitted in March 1998 and was referred to the Central Vancouver Island Health Region (CVIHR) for comment and approval. At that time, the CVIHR had concerns with sewage flows related to the number of bedrooms in the fourth and final phase of the strata development and they indicated that the projected flows for development would exceed the maximum permitted 5,000 gallons, thereby requiring a Ministry of Environment permit. As a result, the CVIHR recommended that the application be denied. Following these comments, the RDN indicated to the applicant that all CVIHR concerns be resolved prior to further processing of the Development Permit application.

In response to this request, the applicant has provided the RDN with confirmation from the CVIHR, dated October 9th, 2002 that the final phase of the strata development will not exceed the 5,000 gallon maximum and further, the CVIHR recommended that the RDN approve the Development Permit application.

The applicant is requesting a number of amendments to Development Permit No. 32C. The changes requested by the applicant are as follows:

1. Remove the marina store and residence.
2. Reduce the total marina capacity to 90 moorage spaces from 100.
3. Reduce total parking spaces to 85 from 95 to reflect reduced uses on the property and to satisfy the parking requirements in Schedule '3B' of Regional District of Nanaimo Bylaw No. 500 (see Attachment No. 2 for site plan).

No variances to setbacks, height or parking requirements outlined in Bylaw No. 500 are requested in conjunction with this Development Permit Application. Ministry of Transportation (MoT) is not required to approve Development Permit applications; however, as this is a phased strata development, Ministry of Transportation must approve the final phase of the subdivision.

ALTERNATIVES

1. To approve Development Permit No. 9802 as outlined in Schedule Nos. 1, 2, and 3.
2. To deny Development Permit No. 9802.

OCP / DEVELOPMENT PERMIT GUIDELINES IMPLICATIONS

Off Street Parking Implications

Previously, there have been issues on the subject property with respect to parking compliance with requirements contained in Development Permit 32C. Staff visited the site to confirm parking requirements had been addressed in the application. The site visit confirmed that a minimum of 85 parking spaces (40 spaces located within 20 attached garages and 45 surface spaces) will be provided on the site. With the proposed amendments to the Development Permit removing the Marina Store and 10 moorage spaces in the Marina, the applicant will be in compliance with all Off Street Parking requirements in Bylaw No. 500.

The variances with respect to the siting of parking spaces within Development Permit 32C still apply to the property (see *Schedule No. 2*).

Landscaping/Urban Design Implications

The fourth phase of the strata development does not necessitate any additional landscaping requirements and the applicant has satisfied all landscaping conditions set out in Development Permit No. 32C. As outlined in the attached site plan, cross sections and floor plans, the fourth phase of the strata development will be developed with exterior massing and finishing materials that are compatible with the design of the existing buildings on the property (see *Schedules No. 2 and 3*). In addition, the seven strata units are designed to work with the natural topography of the site and the units will not have view implications on existing units or adjacent properties. All units in this phase must be sited in accordance with the cross sections and elevations outlined in *Schedule No. 3* attached and the height requirements of Bylaw No. 500.

Environmental Implications

As outlined previously, this phase of the strata development is located outside of the Watercourse Development Permit Area Leave Strip of 15 m. No vegetation removal is required in order to accommodate the development of the final seven strata units and stormwater will be directed into existing drainage infrastructure.

The application is considered to be consistent with the applicable guidelines of the Form and Character Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998".

VOTING

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

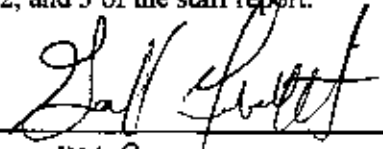
SUMMARY

This is an application to amend Regional District of Nanaimo Development Permit No. 32C for the fourth and final phase of the Beachcomber Marina strata development which includes a marina and 20 unit strata resort development. This application was originally submitted in March of 1998 and has been held until the applicant resolved sewage disposal issues with the CVIHR. In October of 2002, the applicant provided the RDN with a letter indicating that sewage disposal issues had been addressed and the CVIHR recommended that the Development Permit be issued. The applicant is requesting a number of amendments to Development Permit No. 32C. These amendments include removing the marina store and residence, reducing the total marina capacity to 90 moorage spaces from 100 and reducing the total parking spaces to 85 from 95 to reflect reduced uses on the property and to satisfy the parking requirements in Schedule '3B' of Regional District of Nanaimo Bylaw No. 500.


With the conditions outlined in Schedules No. 1, 2, and 3, staff is of the opinion that this application meets the requirements of the Form and Character Development Permit Area in the Nanoose Bay Official Community Plan and therefore, should be approved.

RECOMMENDATION


That Development Permit No. 9802 Phase 4 of Beachcomber Marina strata condominium development on the property legally described as Remainder Lot A, District Lot 38, Nanoose Land District, Plan VIP 52108 be approved subject to the conditions as outlined in Schedules No. 1, 2, and 3 of the staff report.



Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

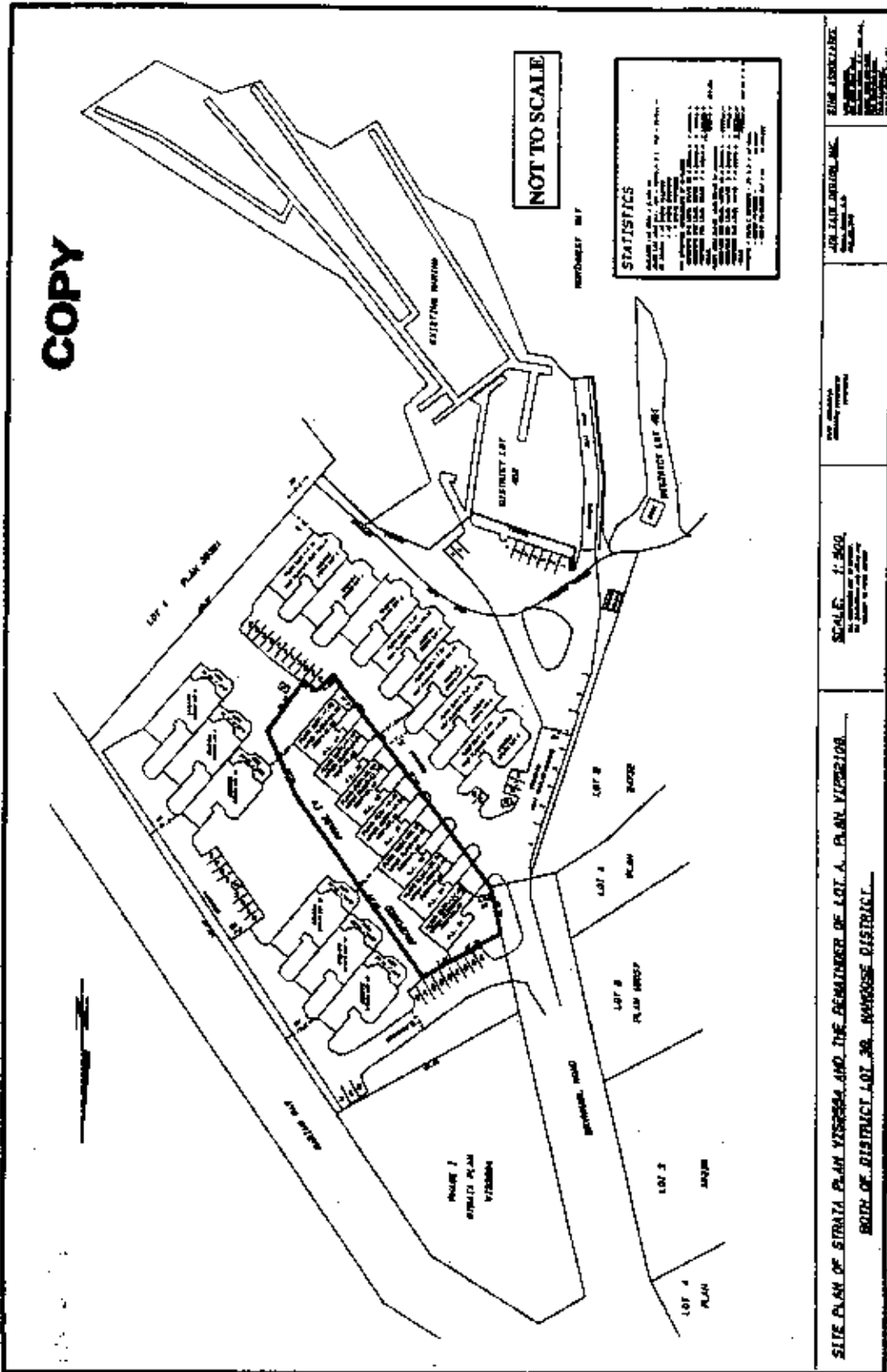
dp no 3060 30 9802 Beachcomber Marina.doc

**SCHEDULE NO. '1'
CONDITIONS OF APPROVAL FOR
DEVELOPMENT PERMIT NO. 9802**

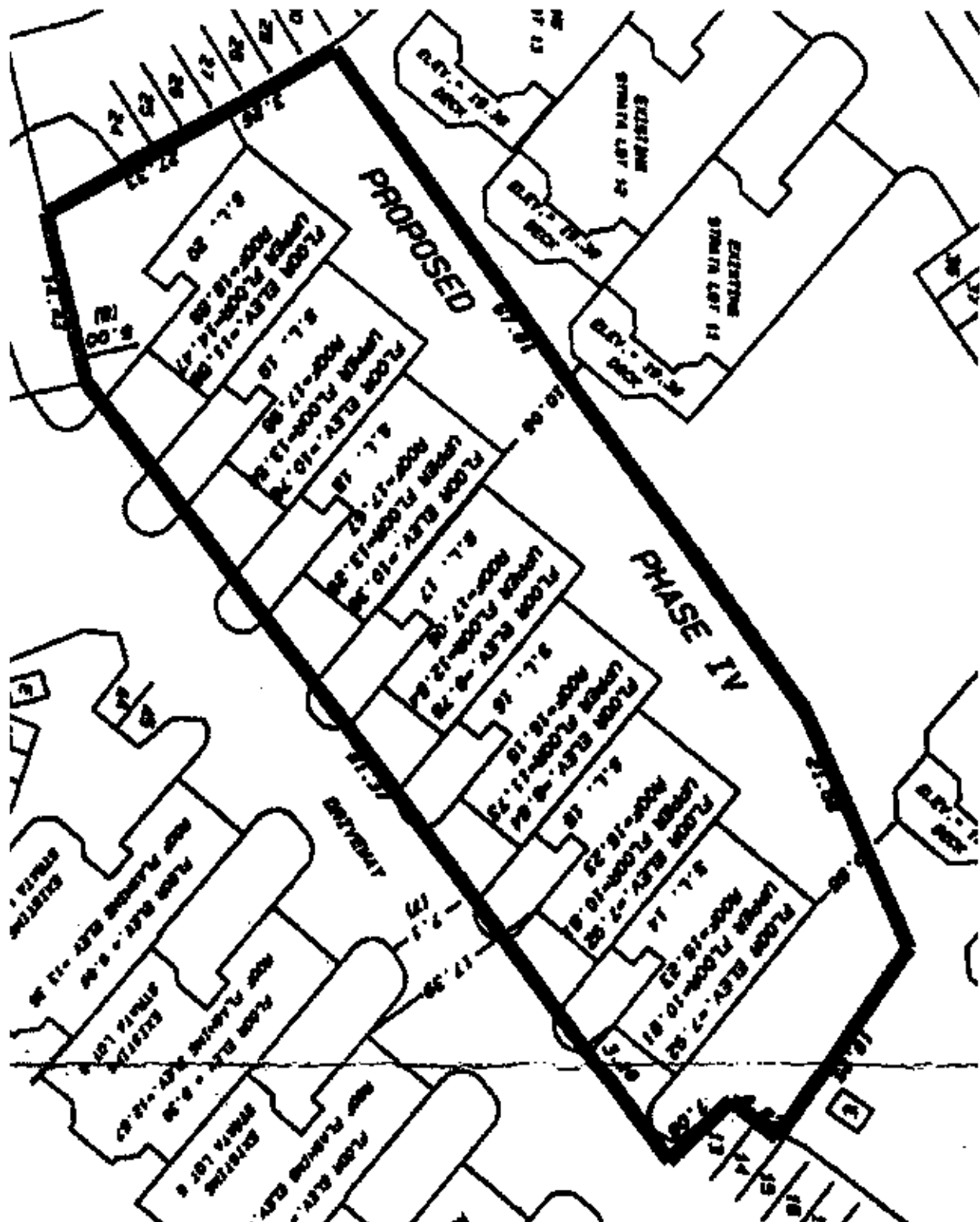
1. All works shall be undertaken in accordance with Development Permit No. 32C except as provided in this Development Permit.
2. The siting of the resort condominium units shall be in substantial compliance with the site plan shown on Schedule No. 2.
3. All Off-Street Parking shall be provided in substantial compliance with the site plan shown on Schedule No. 2.
4. The total marina capacity shall be in substantial compliance with the site plan shown on Schedule No. 2 with a maximum number of 90 moorage spaces.
5. The maximum height of those buildings shown on Schedule No. 2 as units SL14, SL15, SL 16, SL 17, SL 18, SL19, SL 20 shall not exceed the vertical profiles shown on Schedule No. 3.
6. All construction of buildings and structures to be undertaken must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

SCHEDULE NO. '2' (1 of 2)
PROPOSED SITE PLAN
 (As submitted by applicant)

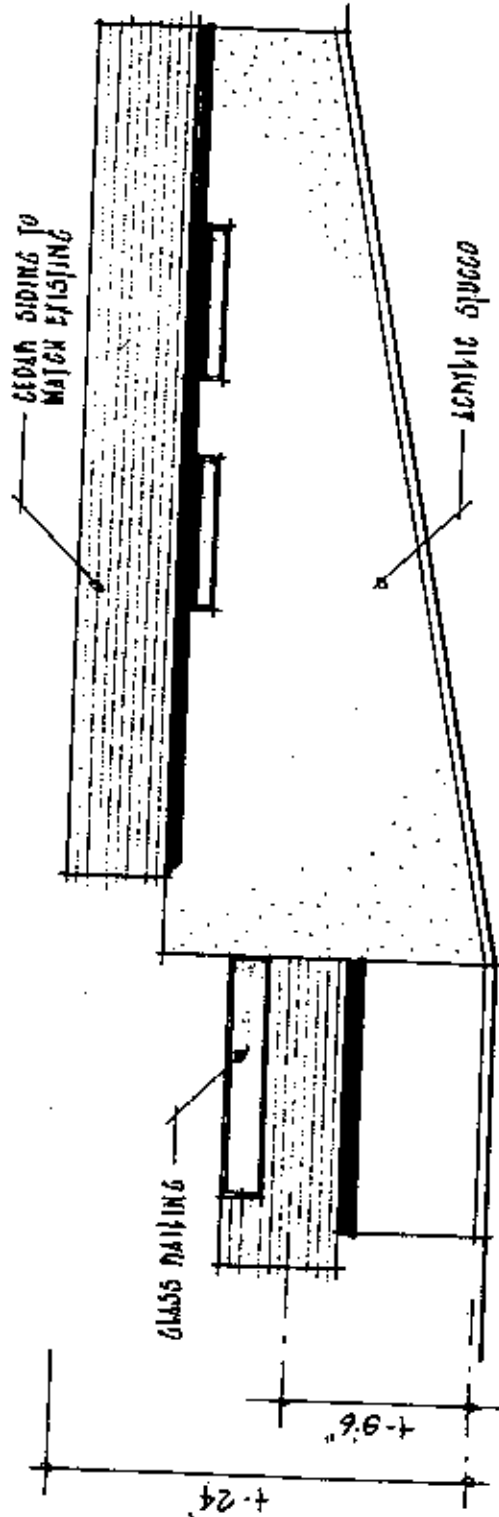
COPY



SCHEDULE NO. '2' (2 of 2)
PROPOSED SITE PLAN
(As submitted by applicant)

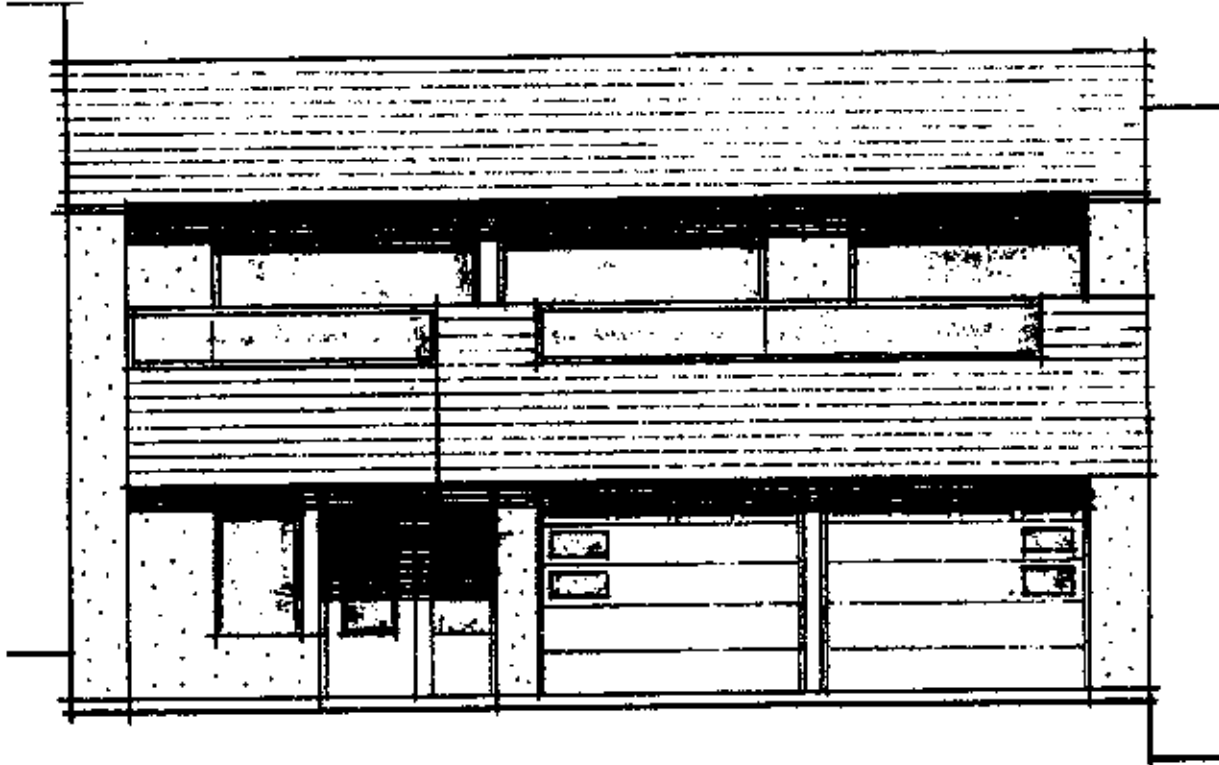


SCHEDULE NO. '3' (1 of 4)
BUILDING HEIGHT ELEVATIONS AND FLOOR PLAN
Northeast Elevation
(As submitted by applicant)



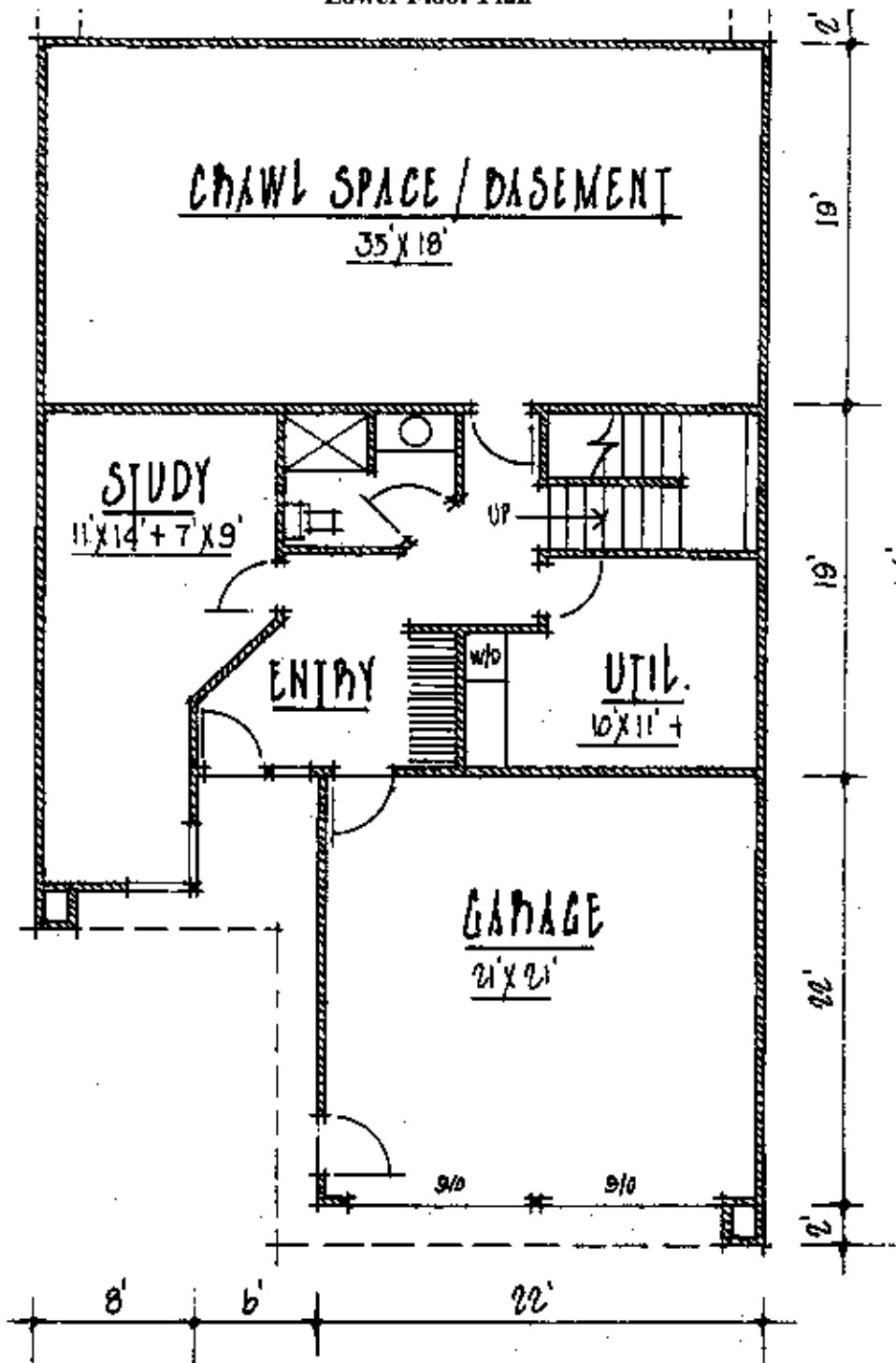
• NORTHEAST ELEV.
1/8" = 1'-0"

SCHEDULE NO. '3' (2 of 4)
BUILDING HEIGHT ELEVATIONS AND FLOOR PLAN
Southwest Elevation
(As submitted by applicant)



SOUTHWEST ELEV.

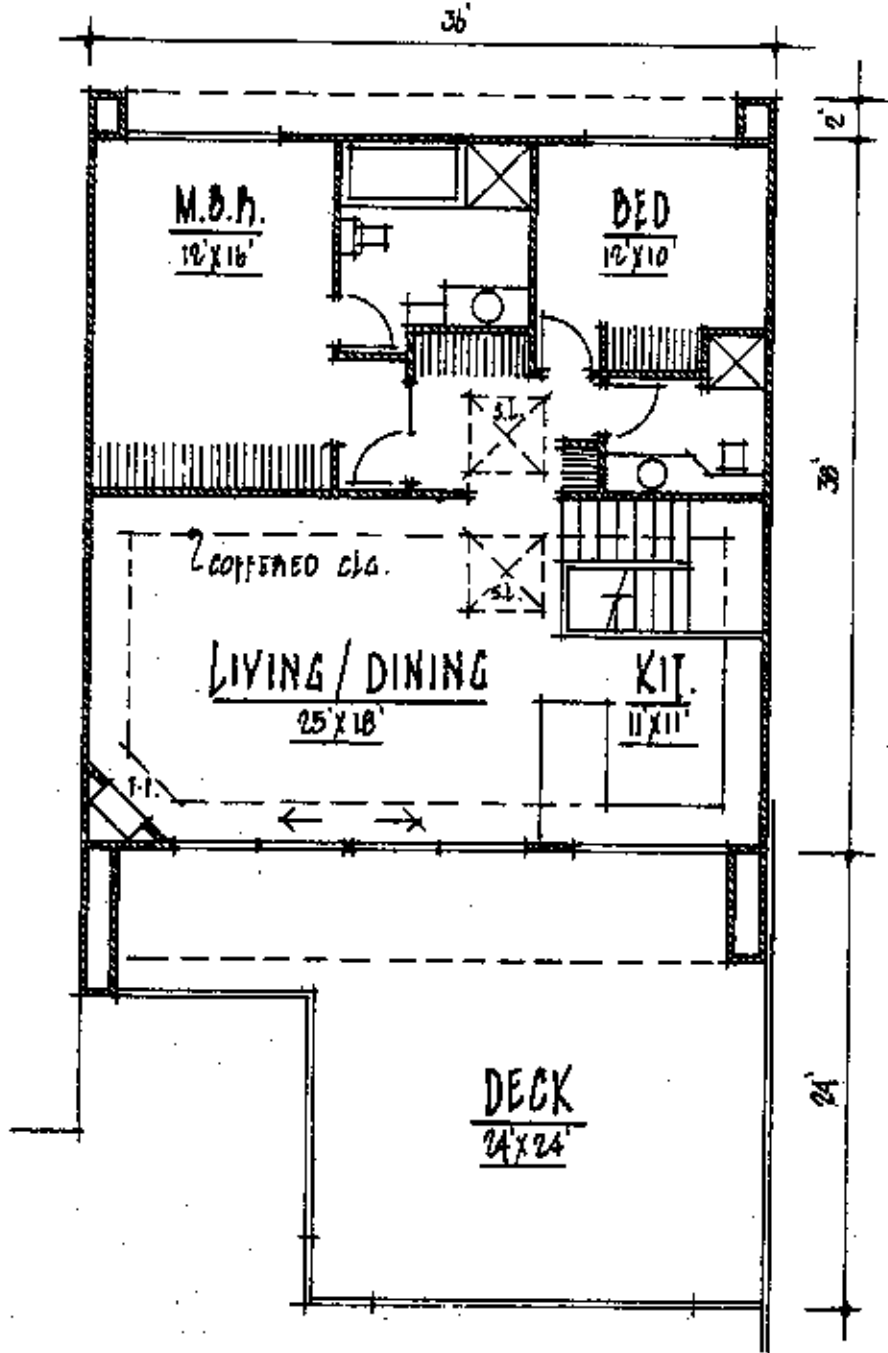
SCHEDULE NO. '3' (3 of 4)
BUILDING HEIGHT ELEVATIONS AND FLOOR PLAN
Lower Floor Plan



LOWER FLOOR PLAN • 726 1/2 •

1/8" = 1'-0"

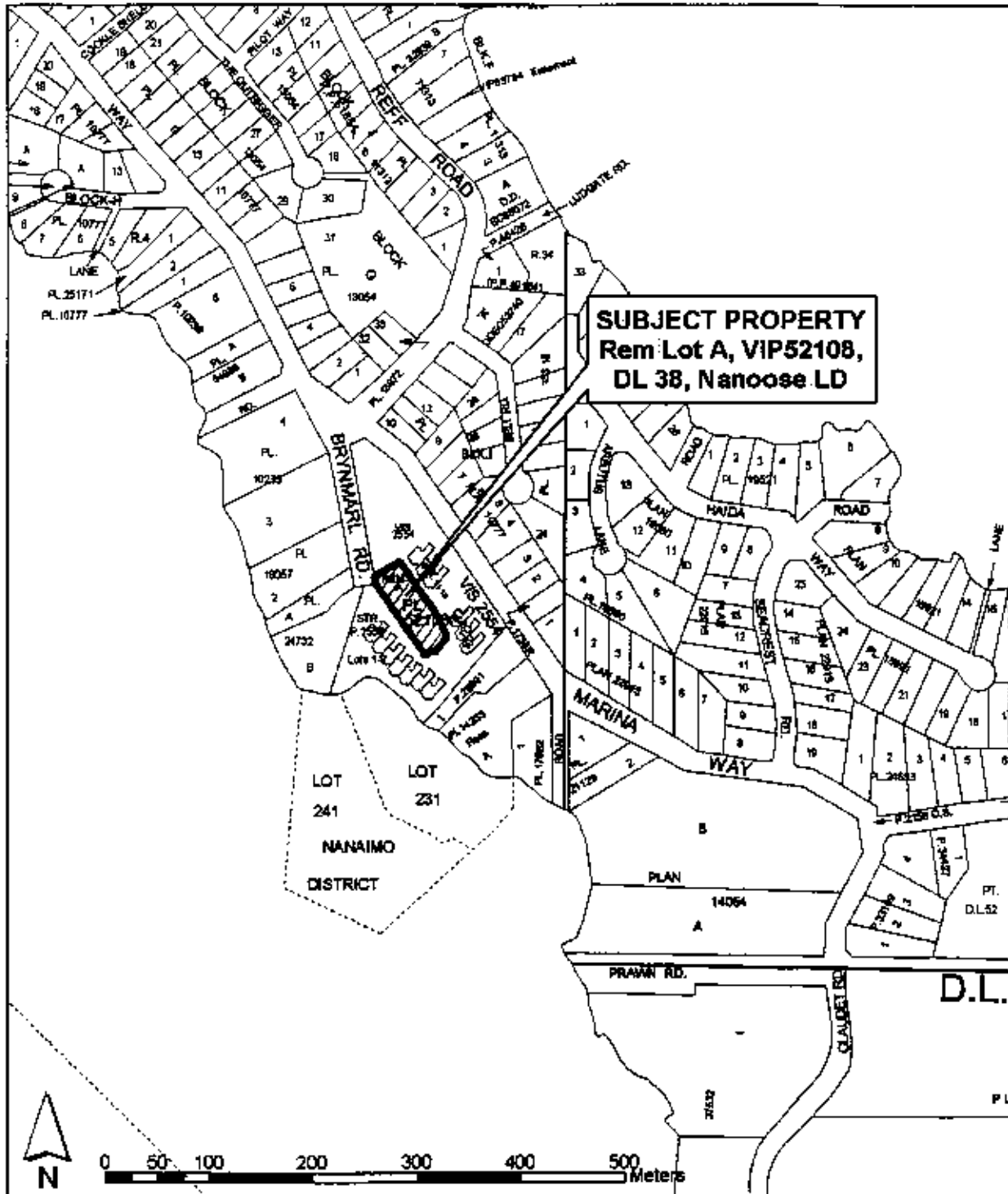
SCHEDULE NO. '3' (4 of 4)
BUILDING HEIGHT ELEVATIONS AND FLOOR PLAN
Upper Floor Plan



• UPPER FLOOR PLAN • 1368 LF •
1/8" = 1'-0"

ATTACHMENT NO. 11

LOCATION OF SUBJECT PROPERTY
DEVELOPMENT PERMIT 9802



BCGS Map Sheet No. 92F.039.22



REGIONAL DISTRICT OF NANAIMO		
NOV 18 2002		
CHAIR		GMCrS
CAO		GMDS
GMCrs		GMEs
E.A. Planning		
DATE:		

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: November 15, 2002

FROM: Geoff Garbutt
Senior Planner

FILE: 3060 30 0252

SUBJECT: Development Permit Application No. 0252 - Hubbard
Electoral Area 'H' - 152 Burne Road

PURPOSE

To consider an application for a development permit to vary the minimum setback requirement from Deep Bay Creek to create a building envelope that will permit the construction of a future dwelling unit and to recognize the siting of an existing boathouse within the Environmentally Sensitive Areas and Natural Hazard Development Permit Area pursuant to the "Regional District of Nanaimo Shaw Hill-Deep Bay Official Community Plan Bylaw No. 1007, 1996".

BACKGROUND

The subject property (legally described as Lot 83, District Lot 1, Newcastle District, Plan 20442) is located at 152 Burne Road in Electoral Area 'H' (see Attachment 1). This application is being made to create a building envelope on the property to allow for the future construction of a dwelling unit.

The subject property is zoned Residential 2 (RS 2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirements for buildings and structures on parcels with an average slope of 5% or less adjacent to or containing a watercourse is 15 m from the natural boundary. The subject property is located in both the Environmentally Sensitive Areas and Natural Hazard Development Permit Areas that were established to protect natural areas that are environmentally sensitive to development and to protect properties from potential natural hazard conditions. Construction or alteration of land within 15 m of the top of the bank of a watercourse requires that a development permit be issued. The entire property, including the existing boathouse and proposed building envelope, is located within the Hazard Lands Development Permit Area.

The subject property is approximately 1,993 m² in size, and the natural grade of the property is approximately 1.5 m below the elevation of Burne Road with a gradual slope northwest towards Deep Bay Creek. The lot configuration is narrow, tapering from 40 m adjacent to Burne Road to approximately 24 m at the marine foreshore. Currently, there is a manufactured home and boathouse located on the property; these were sited approximately 30 years ago. The Deep Bay Water Works District services the property with Community Water and there is an existing septic system located on the parcel; however, the applicant has received a permit from the local Health Unit to reconstruct the existing field to include a new treatment and disposal system (see Schedule No. 2).

The existing boathouse is located a minimum of 5.3 m from the natural boundary of Deep Bay Creek (0.0 m from the top of bank). The proposed location of the building envelope for a future dwelling unit is located a minimum of 5.9 m from the natural boundary of Deep Bay Creek (5.4 m from the top of bank) (see Schedule No. 2).

As required in the Shaw Hill-Deep Bay Official Community Plan Natural Hazard Development Permit Area policies, Davey Consulting and Engineering on October 14, 2002 prepared a geotechnical report for the subject property.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

As outlined in Schedule No. 2 the potential building area on the subject parcel is restricted by a combination of factors including the location of the existing boathouse and septic disposal field, narrow lot configuration, watercourse setbacks to both Deep Bay Creek and the marine foreshore and the Development Permit Areas. Given the site constraints, there are no building sites available outside of the Development Permit Areas, and the location of a conventional dwelling outside the required zoning watercourse setback is difficult.

The applicant is requesting that the Board consider establishing a building envelope of approximately 165 m² (1776 ft²), which is in keeping with the average size of dwellings in the area. No building plans have been submitted as part of this application and the parcel is not within the Building Inspection Area. Therefore, as a condition of these variances, the RDN will require that all construction be consistent with RDN bylaws. The applicant has indicated he will remove the existing manufactured home in order to site the proposed dwelling unit (as the site area of the parcel permits only one dwelling unit).

Due to site topography and sloping natural grade, existing building heights and vegetation, impacts on views to the ocean from the surrounding properties are minimal and the proposed building envelope, if built to the maximum height of 8.0 m allowed in the RS 2 zone, would have little impact on adjacent properties.

The geotechnical report completed by Davey Consulting and Engineering on October 14, 2002 found that the site is stable from a geotechnical perspective and suitable for the intended use. Due to potential flood hazard, the report recommends the dwelling unit be built to a flood construction elevation of 1.5 m above Mean Sea Level with foundations designed to meet a ground bearing pressure of 105 Kpa.

ENVIRONMENTAL IMPLICATIONS

Deep Bay Creek runs along the western boundary of the subject parcel and has considerable fisheries values. The applicant, stewardship agencies and DFO representatives have all indicated the presence of salmonid and other aquatic life spawning in Deep Bay Creek.

There is an existing manufactured home on the lot and the majority of the lot has been cleared of vegetation except for a small buffer of native and non-native plants and trees in the riparian area. The applicant has indicated that no additional vegetation will be removed in order to accommodate the proposed building envelope. The remaining riparian area has the potential of being impacted by development being undertaken upland. Therefore, Conditions of Approval outlined in Schedule No. 1 will reduce any potential negative impacts to the watercourse and riparian area.

The geotechnical report completed by Davey also recommends that drainage from the perimeter drains, roof leaders be directed to a rock pit or similar temporary storage system not less than 3.5 m³ in volume and be located within the building envelope to ensure that runoff is not discharged directly into Deep Bay Creek or the marine foreshore. Given the site geology, previous development on the site, level of encroachment, any potential negative impacts on the natural environment related to development in the building envelope, including the conditions outlined in Schedule No. 1, should be mitigated.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application to vary the minimum setback requirement from 15 m from the natural boundary of Deep Bay Creek to a minimum of 5.9 m to permit the creation of a building envelope for the construction of a future dwelling unit and to recognize the location of an existing boathouse located 5.3 m from the natural boundary of Deep Bay Creek within the Environmentally Sensitive Areas and Natural Hazard Development Permit Areas established in the Shaw Hill-Deep Bay Official Community Plan. The entire parcel is located within the Hazard Lands Development Permit Area; therefore, there are no means to reduce or eliminate the encroachment into the Development Permit Area. There is a flood hazard associated with this parcel; however, as identified in the Geotechnical Report the dwelling unit is required to have a flood construction elevation of 1.5 m above Mean Sea Level with foundations designed to meet a ground bearing pressure of 105 Kpa thereby reducing the flood hazard.

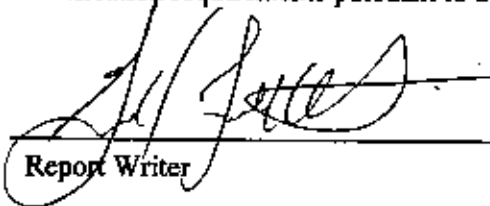
This lot contains various site constraints including location of existing septic field and Boathouse, narrow lot configuration, setbacks to Deep Bay Creek and marine foreshore and the Development Permit Area that makes the siting of a conventional dwelling difficult. Given the site constraints and environmental protection recommendations designed to mitigate impacts on lands within the Development Permit Area, it is staff's assessment that this application should be approved and proceed to public notification.

RECOMMENDATION

That Development Permit Application No. 0252 submitted by Don and Lynne Hubbard, to

1. vary the minimum setback requirement from 15 m horizontal distance from the natural boundary of a watercourse to a minimum of 5.9 m for a building envelope; and
2. vary the minimum setback requirement from 15 m horizontal distance from the natural boundary of a watercourse to a minimum of 5.3 m for an existing Boathouse


within the Shaw Hill-Deep Bay Official Community Plan Natural Hazard and Environmentally Sensitive Areas Development Permit Areas for the property legally described as Lot 83, District Lot 1, Newcastle District, Plan 20442 be approved, subject to the requirements outlined in Schedules No. 1, 2, and 3 and notification requirements pursuant to the *Local Government Act*.



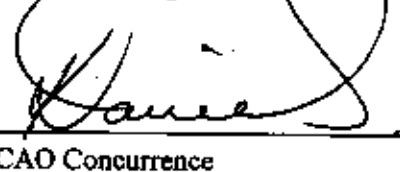
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2002/dp no 3060 30 0252 Hubbard

**Schedule No. 1
Conditions of Approval
Development Permit No. 0252
152 Burne Road**

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:
 - b) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - c) Direct run off flows away from Deep Bay Creek using swales or low berms.
 - d) Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - e) Cover temporary fills or soil stock piles with polyethylene or tarps.
2. Temporary construction fencing to be erected 2.0 m from the top of the bank to reduce any potential bank destabilization.
3. All surface drainage collected from roof leaders and perimeter drains shall be discharged into a rock pit not less than 3.5 m³ in volume, located within the building envelope outlined in Schedule No. 2.
4. Existing native vegetation within the Development Permit area and outside the building envelope shall not be disturbed or removed.
5. The removal of invasive plants or noxious weeds on a small scale within the development permit area including; but not limited to: Scotch broom, Himalayan blackberry, morning glory, and purple loosestrife, provided that erosion protection measures to avoid sediment or debris being discharged into the watercourse are taken.
6. The planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the Development Permit Area provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 published by DFO and MELP and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP, or any subsequent editions.

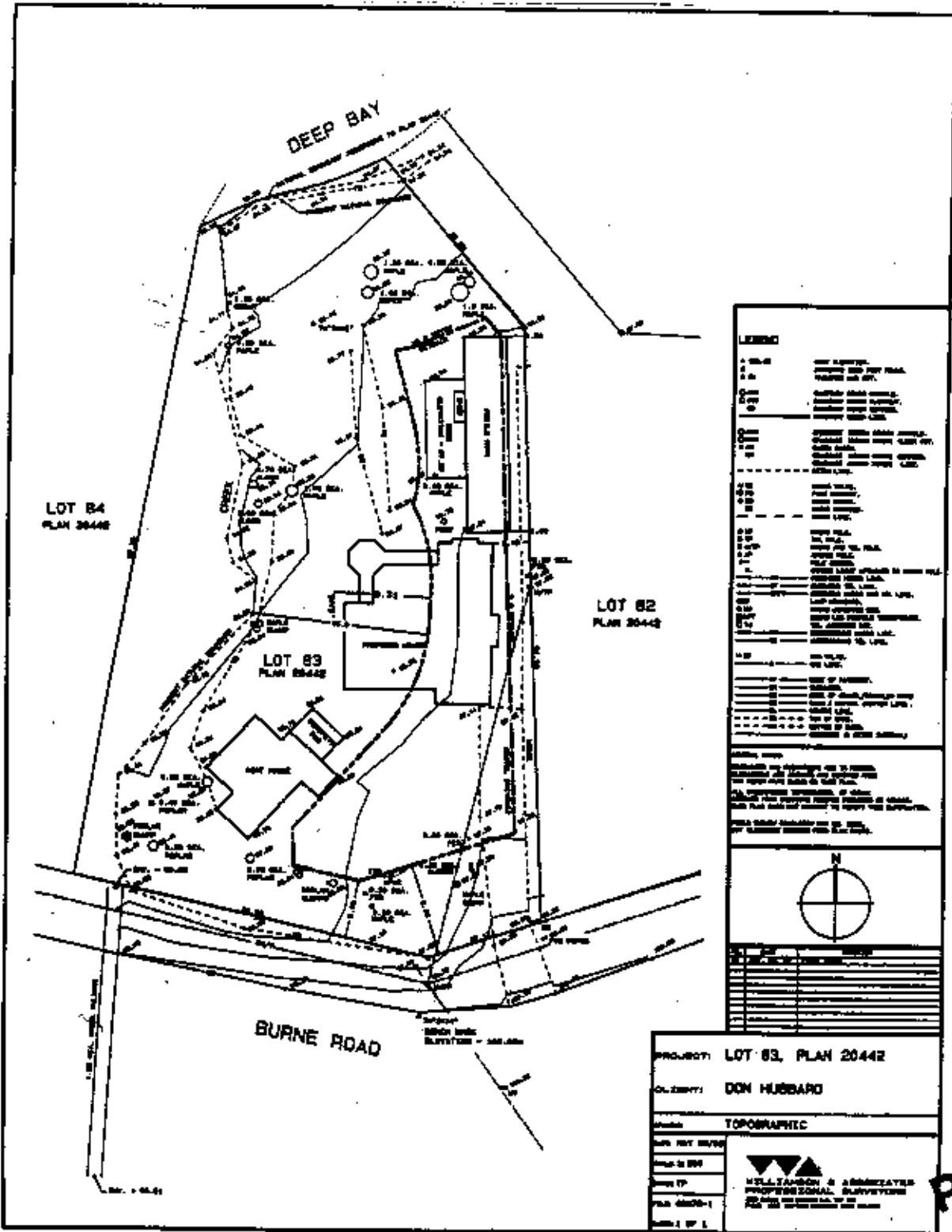
Development of Site

7. Subject property to be developed in accordance with Schedules Nos. 1, 2, & 3.
8. All construction of buildings and structures to be undertaken must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.
9. Remove existing manufactured home when dwelling unit reaches lock up stage.

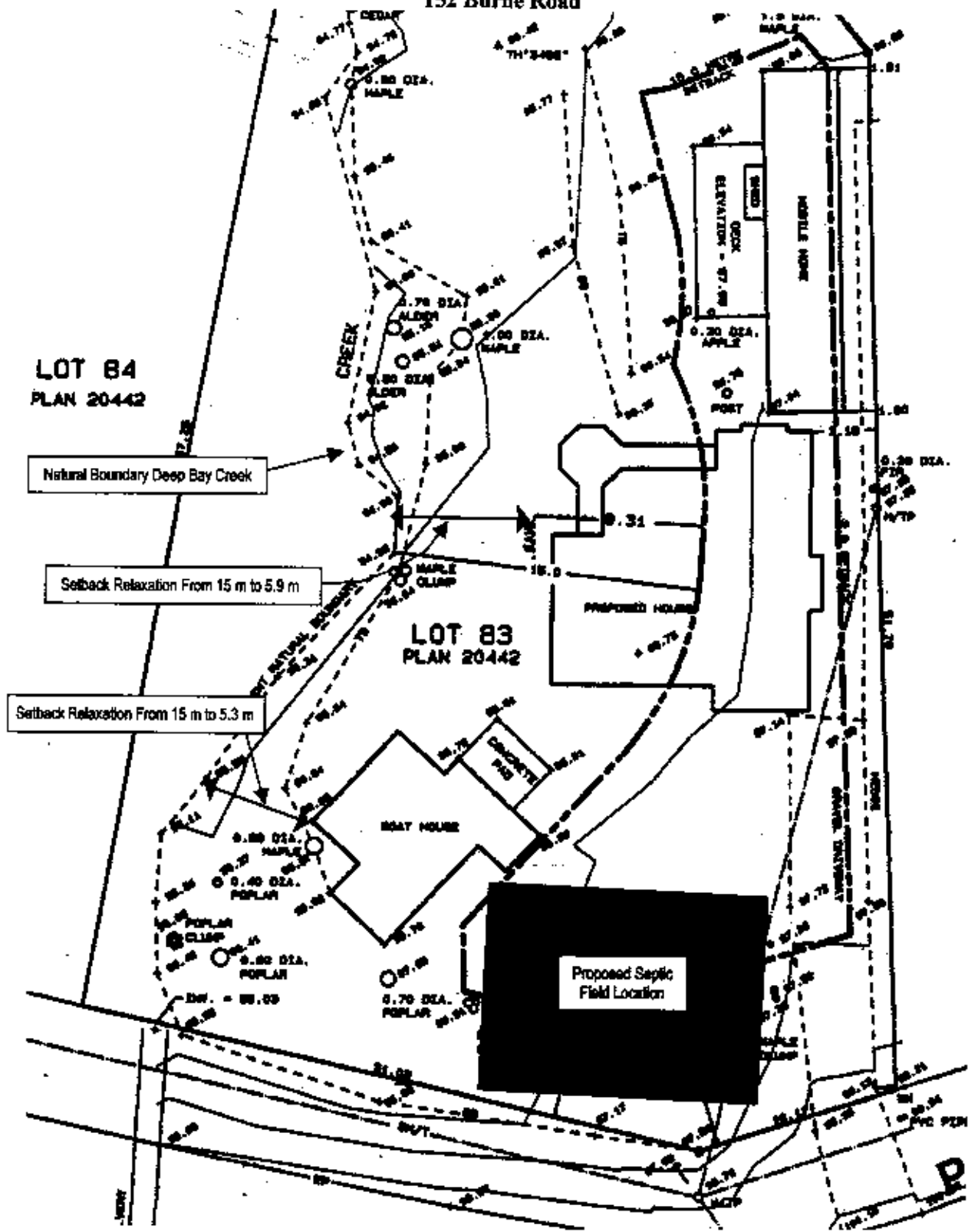
Covenant

10. Applicant to register Section 219 Covenant with respect to the Geotechnical Report by Robert Davey P.Eng, date stamped October 14, 2002 at Land Titles Victoria to the satisfaction of the Regional District with all costs of registration borne by the applicant.

Schedule No. 2 (1 of 2)
 Site Plan (reduced for convenience)
 Development Permit No. 0252
 152 Burne Road



Schedule No. 2 (2 of 2)
Site Plan (reduced for convenience)
Development Permit No. 0252
152 Burne Road

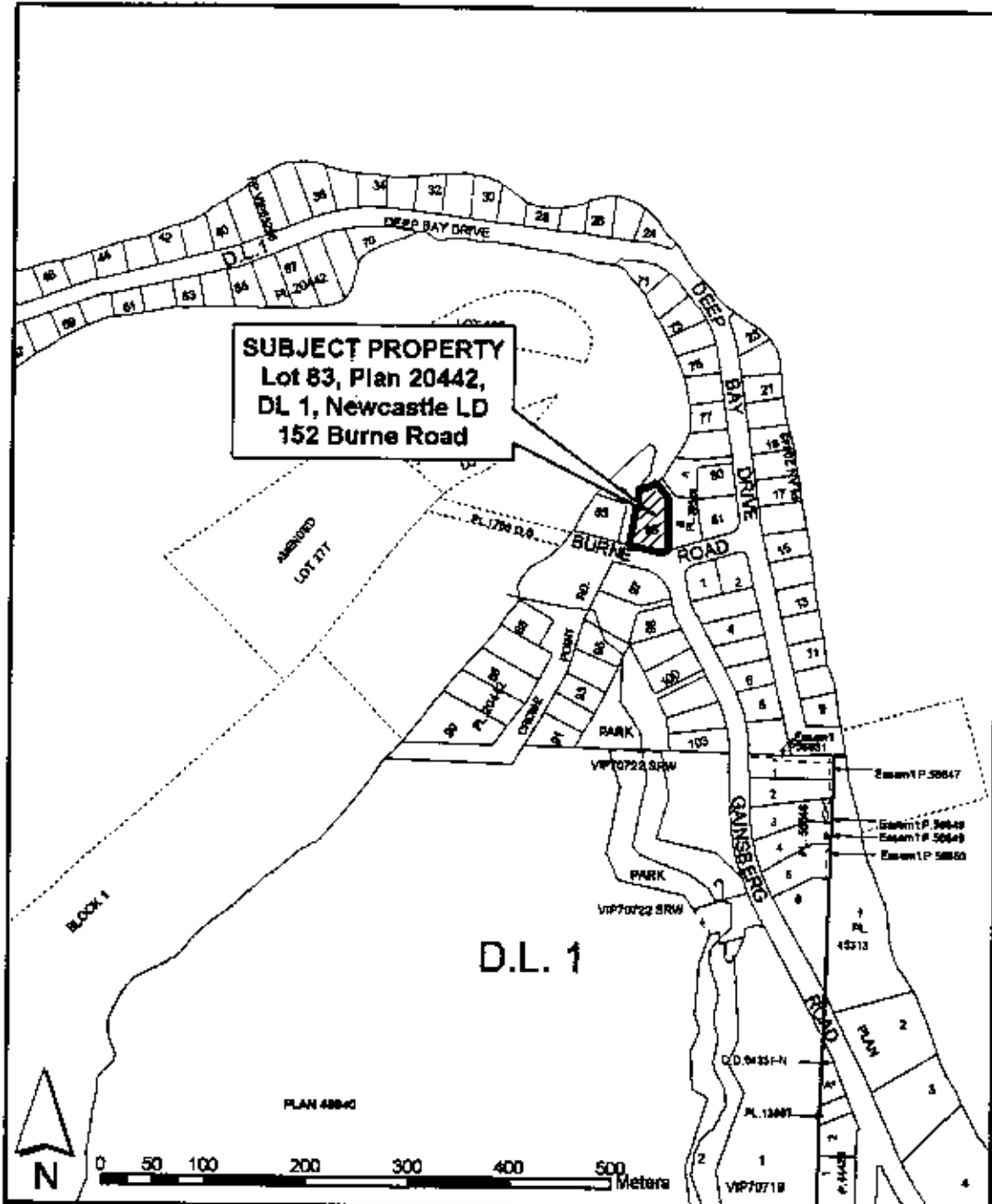


**Schedule No. 3
Requested Variances
Development Permit No. 0252
152 Burne Road**

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 6.3.8 Setbacks – Watercourse, excluding the Sea – varied from 15 m horizontal distance from the natural boundary to a minimum of 5.9 m for a building envelope to locate a future dwelling unit; and
2. Section 6.3.8 Setbacks – Watercourse, excluding the Sea – varied from 15 m horizontal distance from the natural boundary to a minimum of 5.3 m to recognize the siting of an existing Boathouse.

Attachment No. 1
Subject Property
Development Permit No. 0245
152 Burne Road



BCG Map Sheet No. 92647.2.2



REGIONAL DISTRICT OF NANAIMO		
NOV 20 2002		
CHAIR	GMCrS	
CAC	GMDS	
GMOMS	GMES	

MEMORANDUM

TO: Pamela Shaw
 Manager, Community Planning

FROM: Keeva Kehler
 Planner

SUBJECT: Development Permit Application No. 0253 – Fletcher
 Electoral Area 'H' – 6615 Island Highway West

DATE: November 15, 2002

FILE: 3060 30 0253

PURPOSE

To consider an application for a Development Permit in the "Regional District of Nanaimo Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996" Environmentally Sensitive and Natural Hazards Development Permit Areas to legalize the location of the existing dwelling and seawall.

BACKGROUND

This is an application to legalize an existing dwelling and seawall located within 15 metres of the natural boundary and to legalize an existing deck located within the western interior side lot line setback. The subject property (legally described as Lot A, District Lot 85, Newcastle District, Plan 19744 Except Part in Plan 22209) is a 0.3-hectare (0.7 acre) parcel located along the West Island Highway (see Attachment No. 1).

Zoning and Proposed Variances

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 requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the rear lot line; 2.0 metres from the interior side lot lines; and 5.0 metres from other lot lines.

The location of the existing dwelling unit, deck and seawall are shown in Schedule No. 2. The applicants are seeking to rationalize the siting through requesting a variance to the interior side lot line setback from 2.0 metres (6.56 feet) to 1.5 metres (4.92 feet), and to the natural boundary setback from 15.0 metres (49.2 feet) to 8.7 metres (28.5 feet). The natural boundary coincides with the existing rubble seawall and the applicants are requesting a variance from 15 metres (49.2 feet) to 0.0 metres to accommodate the seawall. The subject property is not located within a building inspection area, therefore the siting of the buildings and structures were not confirmed through the building permit process.

The dwelling does not meet the flood construction elevation of 1.5 metres (4.92 feet) above the level of the natural boundary. A geotechnical report has been provided for the property; the report assesses the potential hazard to the dwelling from erosion and flooding. Due to the location of the dwelling unit at its current level, which is 0.8 metres below the flood construction elevation, protection against flooding during an extreme storm event cannot be assured. The report suggests that mitigative measures could be taken to improve the seawall and reduce further erosion on the property. Maintenance would be required over time to preserve the integrity of the seawall, especially after severe storm events.

Development Permit Requirements

A portion of the existing dwelling and the seawall are located within the Environmentally Sensitive and Hazard Lands Development Permit Areas, which are intended to protect the natural environment along the coastal shore and protect development from hazardous conditions such as flooding.

In the original survey conducted in 1969, the natural boundary was located further from the dwelling unit than currently shown. It appears that erosion of the coastline has been occurring continuously during this period and the natural boundary is now within 8.7 metres of the dwelling. Staff notes that the intention of the existing seawall and proposed modifications to the seawall is to mitigate the impact of erosion along the coastal property line.

The applicant is requesting the legalization of the existing structures within the Development Permit Area and side yard setbacks to facilitate the sale of the dwelling.

Legal Notations

A notation for a Statutory Right-of-Way (A23963) registered in favour of BC Hydro has been listed on the Certificate of Title for the subject property. The document specifies that no buildings shall be constructed within the right-of-way, which occupies 3.048 metres (10 feet) along the southwesterly boundary of Lot A. The existing deck and a portion of the dwelling encroach into this right-of-way. Staff contacted Mr. Doug McLatchie of BC Hydro to discuss the encroachment. Mr. McLatchie forwarded a fax dated November 12, 2002 to the RDN office stating that BC Hydro has no objections to the deck encroachment into the easement area.

Notations for right-of way easements (427039G and 427040G) are listed on the title of the subject property and provide for access to two adjacent properties to the west, subject to the use of the properties remaining residential and non-commercial. The easements become null and void if the properties are used for commercial purposes.

ALTERNATIVES

1. To approve Development Permit No. 0253 subject to the building being elevated to the required flood construction standard.
2. To approve the Development Permit subject to specified conditions as outlined in Schedule No. 1.

LAND USE AND DEVELOPMENT IMPLICATIONS

The applicants have submitted a geotechnical report compiled by Lewkowich Geotechnical Engineering Limited dated October 10, 2002 assessing the potential hazard to the dwelling from erosion and flooding. The report suggests that modifications to the existing seawall are necessary to mitigate further erosion on the property. However, due to the location of the dwelling at its current level, which is 0.8 metres below the flood construction elevation, protection against flooding during an extreme storm event cannot be assured. Ultimately, the only method of protecting the dwelling from flooding would be to raise the building to the recognized flood construction elevation level. The applicants have indicated that, given the age of the dwelling unit and the phased construction of the dwelling unit, it would not be practical to raise the dwelling unit.

An alternative to raising the building to the flood construction elevation is to consider issuing a development permit subject to a restrictive covenant saving the Regional District harmless from any action or loss that might result from hazardous conditions. While this is not a preferred approach to

mitigating the impact from hazardous conditions, the Regional District's solicitor has indicated that if it is impractical to elevate the dwelling unit, this alternative approach is a means of limiting liability to the Regional District.

From staff's assessment of this application, the potential visual impact of the proposed variances is reduced due to the character and location of the surrounding dwellings. The subject dwelling has existed in its current location for a number of years and is in keeping with development in the surrounding neighbourhood. While the building and structures were developed contrary to requirements, given that the area is not in a building inspection area (therefore the siting was never verified), and given that the Geotechnical report does support the location and development of a seawall, staff would recommend Alternative No. 1 to approve the requested variances.

LEGAL IMPLICATIONS

At issue in this application is designation of the property as within a Hazard Lands Development Permit Area, the insufficient elevation of the dwelling unit (to achieve the flood construction level as specified by the province) and the geotechnical report that establishes the potential for flooding on the subject property.

Legal advice obtained on this development permit application has indicated that the RDN should only consider issuance of a development permit as requested if the applicant is prepared to agree to a restrictive covenant that saves the Regional District harmless from any action or loss that might result from hazardous conditions. This covenant would require that the applicant fully acknowledge the concerns addressed in the geotechnical report with respect to flooding. Further, the covenant would also require that the applicants acknowledge that the ultimate mitigation of the flood potential would be to raise the dwelling unit to meet the required flood construction elevation as established by the province. This covenant must be prepared to the satisfaction of the RDN.

SUMMARY/CONCLUSIONS

This is an application for a development permit within the Shaw Hill - Deep Bay Official Community Plan, Bylaw No. 1007, 1996 Environmentally Sensitive and Hazard Lands Development Permit Areas. The application requests a variance to the minimum setback to the western interior side lot line from 2.0 metres (6.56 feet) to 1.5 metres (4.92 feet), and to the natural boundary setback from 15.0 metres (49.2 feet) to 8.7 metres (28.54 feet) to accommodate the existing dwelling. The applicants request a variance to the natural boundary setback from 15.0 metres (49.2 feet) to 0.0 metres to legalize the existing seawall. The dwelling does not meet the recommended flood construction elevation of 1.5 metres.

Legal advice obtained on the application has indicated that a 'save harmless' covenant must be entered into between the applicant and the RDN fully acknowledging the concerns cited in the geotech report with respect to flooding.

Further, given that the application does not propose any alterations to the existing dwelling and that the modifications to the seawall will provide further protection from erosion and flooding, staff recommends the requested Development Permit be approved subject to notification requirements pursuant to the *Local Government Act* and subject to the conditions outlined in Schedule No. 1.

RECOMMENDATION

That Development Permit Application No. 0253, submitted by Fern Road Consulting on behalf of William Fletcher and Joan Fletcher, for the property legally described as Lot A, District Lot 85, Newcastle District, Plan 19744 Except Part in Plan 22209, requesting a variance to the minimum setback for the western interior side lot line from 2.0 metres to 1.5 metres, and to the natural boundary setback from 15.0 metres to 8.7 metres to legalize the existing dwelling; a variance to the natural boundary setback from 15.0 metres to 0.0 metres to legalize the existing seawall be approved, subject to the notification requirements pursuant to the *Local Government Act* and subject to the conditions outlined in Schedule No. 1.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 0253**

- 1. Seawall Improvements**
 - The existing rock rubble wall will be maintained on an ongoing basis to ensure the maximum protection from marine erosion along the property's coastal boundary.
 - The rock rubble wall shall be raised by an additional course of rock and backed by a soil berm with a crest width of at least one metre as per the recommendations in the geotechnical report dated October 10, 2002 and submitted with the application.
 - Native vegetation shall be planted within the rock rubble seawall and the soil berm to further protect against erosion.
 - All mitigative works shall be conducted on the upland side of the existing seawall.

- 2. Vegetation Removal**
 - There shall be no removal of vegetation within the Development Permit Area. The introduction of native vegetation shall be encouraged in the Development Permit Area to prevent soil erosion.

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

- 4. Registration of Geotechnical Report on Title**
 - The geotechnical report submitted with the application conducted by Lewkowich Geotechnical Engineering shall be registered on the Certificate of Title of the property to advise future owners of the potential flood hazard associated with the Development Permit Area and of the ongoing requirement for maintenance of the seawall.

- 5. Flood Elevation**
 - The dwelling is permitted to remain non-conforming at its current elevation of 0.7 metres above the natural boundary.

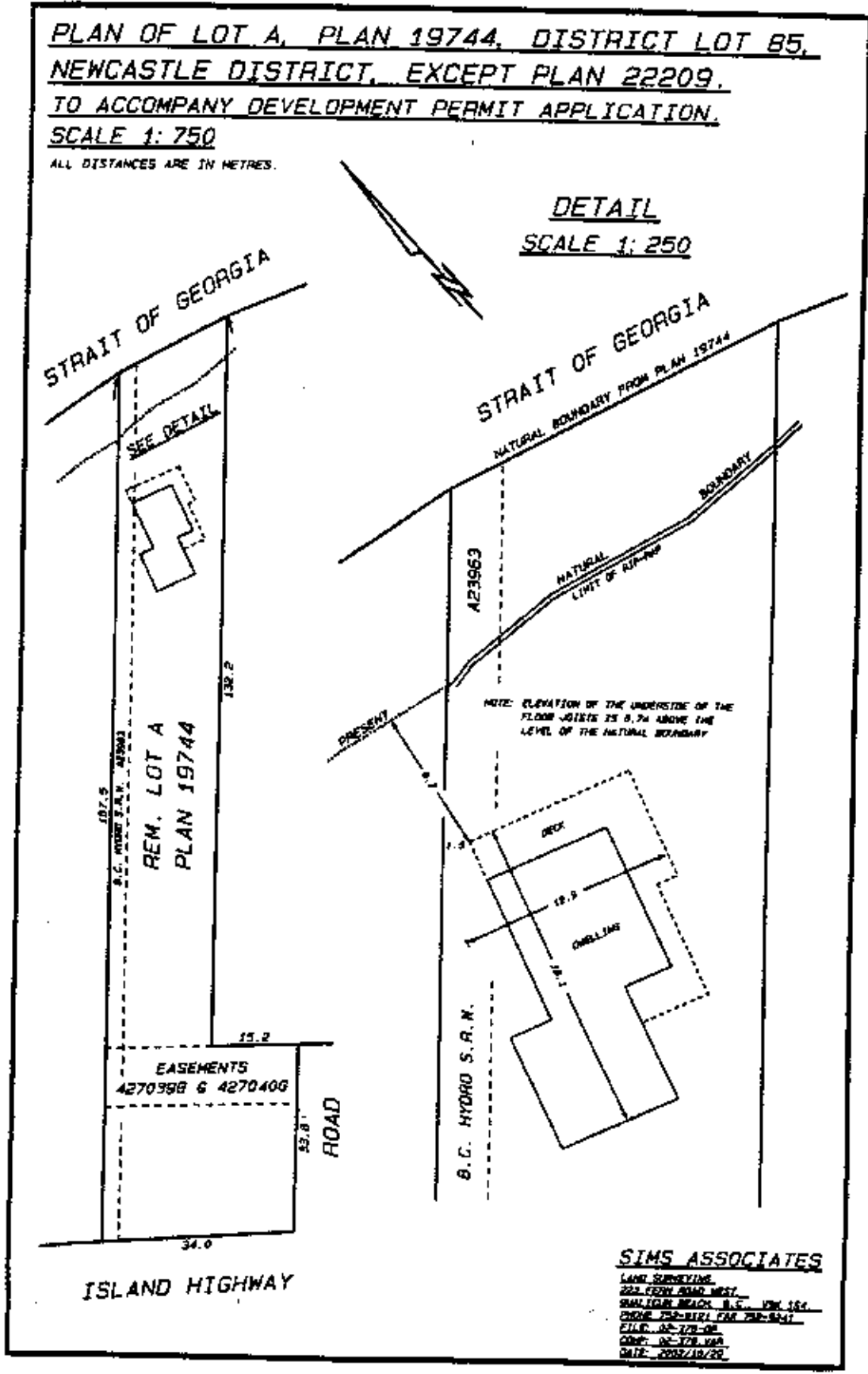
- 6. Save Harmless Covenant**
 - The applicant shall enter into a restrictive covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the flood risk associated with the existing construction and occupancy of the dwelling unit on the property.

Schedule No. 2
Survey Plan
(As supplied by Applicant)

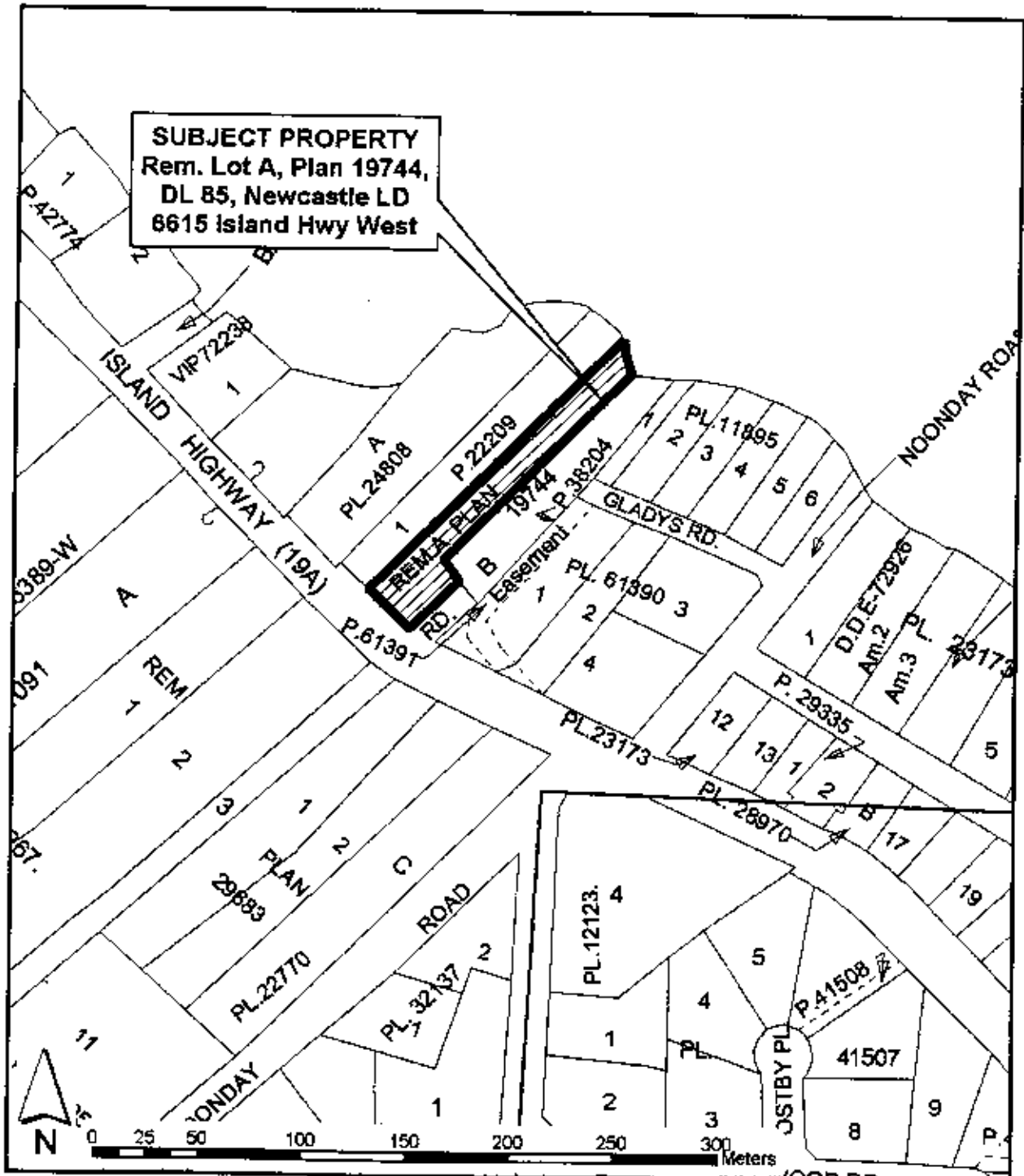
PLAN OF LOT A, PLAN 19744, DISTRICT LOT 85,
NEWCASTLE DISTRICT, EXCEPT PLAN 22209,
TO ACCOMPANY DEVELOPMENT PERMIT APPLICATION,
SCALE 1:750

ALL DISTANCES ARE IN METRES.

DETAIL
SCALE 1:250



Attachment No. 1
Subject Property Location





REGIONAL DISTRICT OF NANAIMO		
NOV 18 2002		
CHAIR		GMCrS
CAO		GMDS
GMCmS		GMES
<i>EA Planning</i>		

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: November 15, 2002

FROM: Deborah Jensen
Planner

FILE: 3060 30 0254

SUBJECT: Development Permit Application No. 0254 - Roy
Electoral Area 'E' - Blueback Drive

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 maximum height requirement to facilitate the construction of a single dwelling unit.

BACKGROUND

This is an application to facilitate the construction of a single dwelling unit on a residential property legally described as Lot 28, District Lot 78, Nanoose District, Plan 15983 located on Blueback Drive in Nanoose Bay (see Attachment No. 1). The subject property is bordered by a residential property to the east, by Blueback Drive and a residential property to the south, and by the sea and a public access right of way to the west.

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The maximum dwelling unit height in this zone is 8.0 metres. The proposed siting and dimensions of the single dwelling unit are shown in Schedules 2 and 3. Due to the design of the proposed construction and topography of the parcel, the applicant is requesting a variance to the maximum permitted dwelling unit height from 8.0 metres to 9.4 metres. No variances to setbacks are required pursuant to Bylaw No. 500.

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

The building envelope is located within the Watercourse Protection Development Permit Area. The development permit area covers those lands within 15 metres from the natural boundary of the ocean and establishes guidelines for flood habitat protection, flood prevention, and erosion control. Board approval for siting the dwelling unit within the development permit area is requested as part of this application.

ALTERNATIVES

1. To approve Development Permit No. 0254 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 building envelope of this site is restricted as the property being bordered on two sides by the ocean, thereby requiring the siting of the dwelling unit partially within the Watercourse Development Permit Area. The applicant has indicated the proposed siting of the dwelling unit is also intended to protect some mature vegetation located on the lot. The proposed siting is not anticipated to have negative consequences for the Strait of Georgia due to the rocky topography of the lot and as the dwelling unit is proposed to be sited 8.1 metres from the natural boundary of the ocean.

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 treed, and the dwelling unit would be difficult to see from the south, where the residential properties are located at a much higher elevation, thereby minimizing any impact the proposed construction may have on their viewscape. One residence located to the east of the subject property would be within visual range of the dwelling unit. An adjacent public access and the ocean border the subject property to the west, with another dwelling unit located on the opposite side of the bay.

The applicant is requesting a height variance as part of this application, due in part to the slope of the lot and in part to the architectural style of the proposed dwelling unit. It is anticipated that the proposed siting and the retention of existing vegetation will moderate the visual impact of the proposed dwelling unit. In addition, the proposed dwelling unit is in keeping with the architectural style of the surrounding neighbourhood.

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 development permit area covers those lands within 15 metres of the natural boundary of the ocean and establishes guidelines for protection of the natural environment. The applicant is proposing to construct a new dwelling unit within the development permit area at a setback of 8.1 metres from the natural boundary. The application also requests a variance to the maximum dwelling unit height from 8.0 metres to 9.4 metres due to building design and topography. In consideration of lot layout and location of other dwelling units on adjacent lots, staff recommends the 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

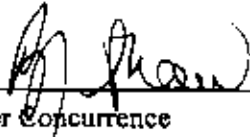
That Development Permit Application No. 0254, submitted by Fern Road Consulting, Agent, on behalf of Louise Roy, to facilitate the construction of a single dwelling unit within the Development Permit Area, and to vary the maximum permitted height of the dwelling unit within the Residential 1 (RS1) zone from 8.0 metres to 9.4 metres for the property legally described as Lot 28, 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*.



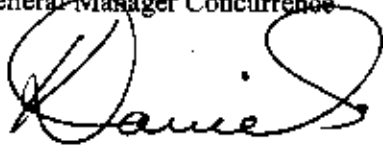
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit No. 0254**

Location

1. The dwelling unit is to be sited 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 the dwelling unit, 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

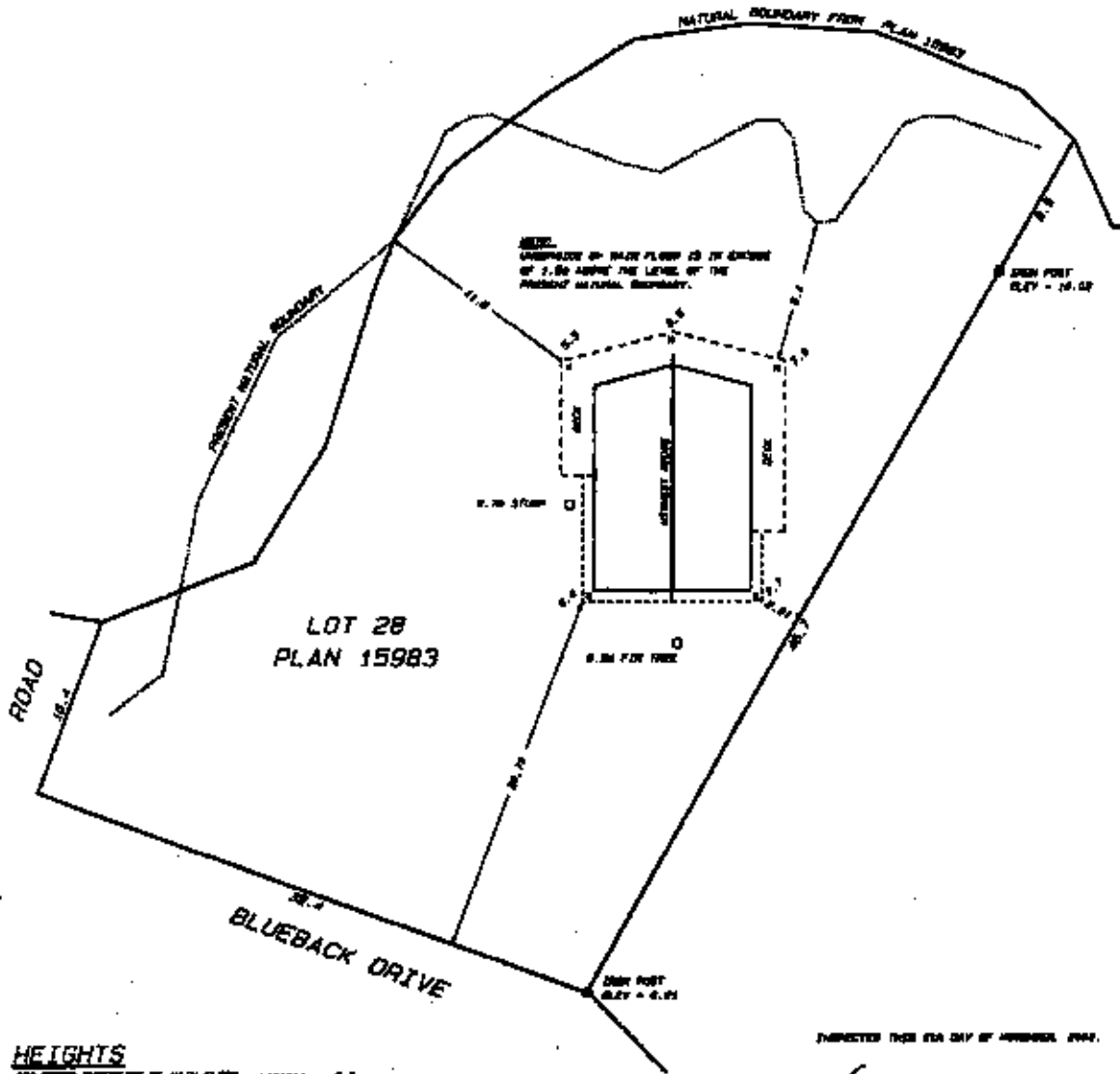
4. Install temporary fence (snow or 'hi-vis' fence) in the immediate vicinity of construction area to demarcate the disturbance area prior to any construction activity. Leave the temporary fencing in place until after construction is complete and materials and equipment are moved offsite.

Other

5. An approved health permit, as issued by the Ministry of Health.

Schedule No. 2
 Survey Plan
 (As Supplied by Applicant)

PLAN OF LOT 28, PLAN 15983,
DISTRICT LOT 78, NANOOSE DISTRICT,
SHOWING PROPOSED HOUSE LOCATION THEREON,
 SCALE 1:250
 ALL DISTANCES ARE IN METRES
 FOR BUILDING CONSTRUCTION ONLY



HEIGHTS

PROJECTED OVERLAP OF MAIN FLOOR	6.8
DESIGN HEIGHT OF CONSTRUCTION (ADDITION OF MAIN FLOOR TO EXISTING HOUSE)	7.8
PROJECTED ELEVATION OF HIGHEST POINT	14.8
MAXIMUM ALLOWABLE ELEVATION ALLOWED ACCORDING TO ZONING BY-LAW	14.3
VARIOUS ADDITIONS	1.8

LEGEND

- EXISTING FOUNDATION LINE.
- PROPOSED CONSTRUCTION TO N.T.

PREPARED THIS DAY OF NOVEMBER 2002.

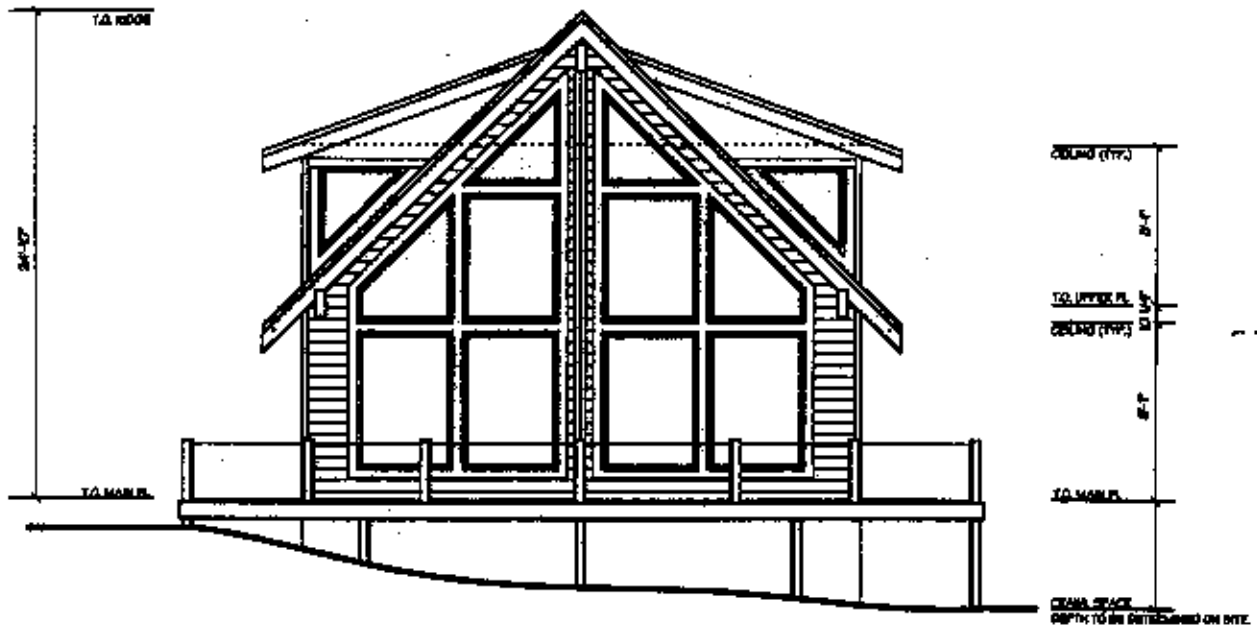
MICHAEL J. SIMS, P.C.L.S.

SIMS ASSOCIATES

LAND SURVEYORS
 225 FORD ROAD UNIT 104
 VAN COVE BEACH, B.C. V9E 1M4
 TEL: 250-734-1234 FAX: 250-734-1235

PAGE
 38

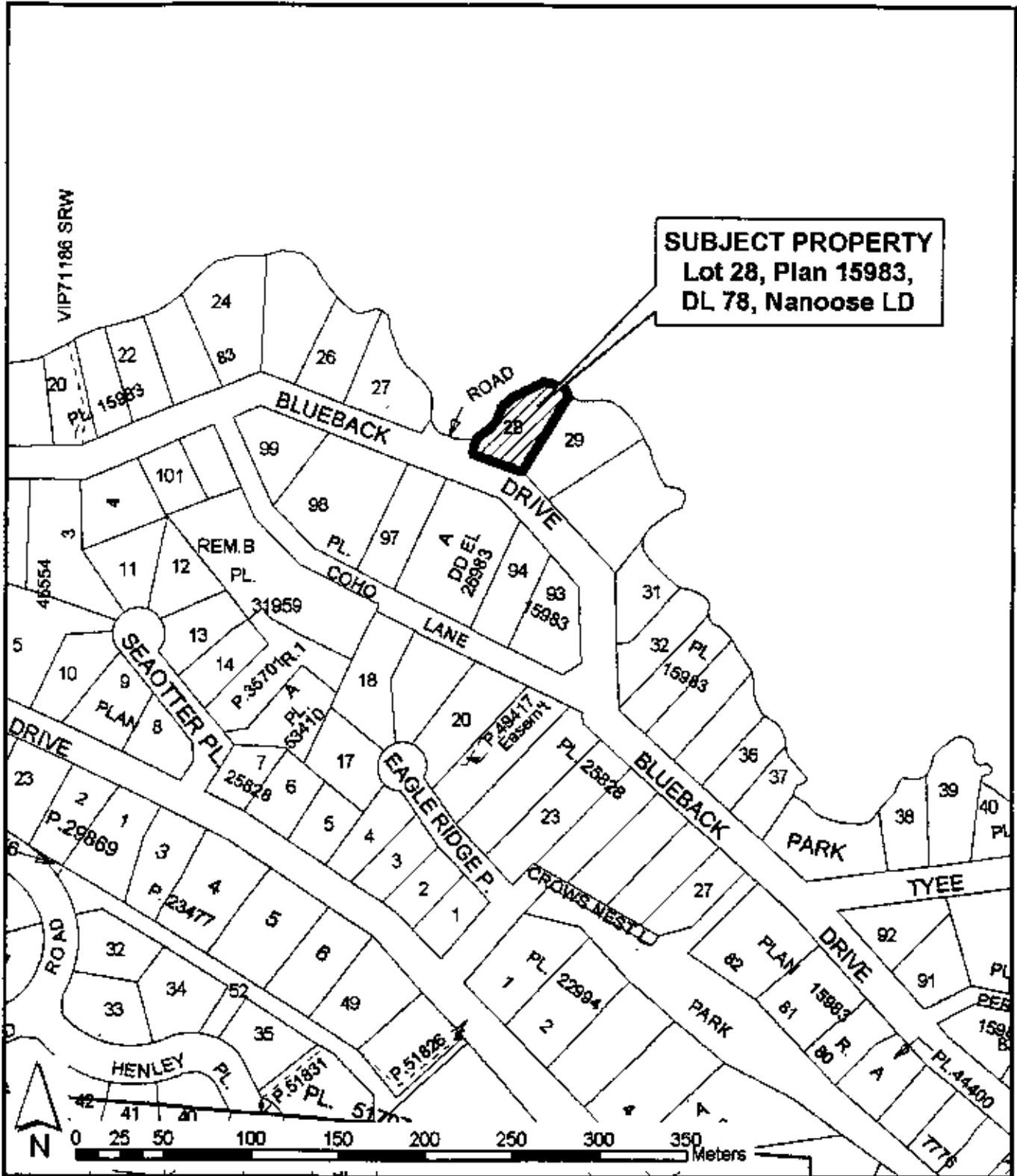
**Schedule No. 3
Building Profile
(As Supplied by Applicant)**



North Elevation (front)

Scale : 1/8" = 1'-0"

Attachment No. 1
Subject Property Map



BCGS Map Sheet No. 92F-030.3.4



REGIONAL DISTRICT OF NANAIMO	
NOV 19 2002	
CHAIR	GMCrS
CAO	GMDS
GMCms	GMES
E.A. Planning	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: November 15, 2002

FROM: Deborah Jensen
Planner

FILE: 3060 30 0255

SUBJECT: Development Permit Application No. 0255 - Mark
Electoral Area 'E' - Higginson Road

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 to facilitate the construction of a retaining wall as a shoreline protection device along the foreshore.

BACKGROUND

This is an application for a development permit to facilitate the construction of a shoreline protection device to be located adjacent to the ocean on a residential property in the Nanoose Bay area for a property legally described as Lot 13, District Lot 102, Nanoose District, Plan 21022 on Higginson Road (*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. As the shoreline protection device is proposed to be more than one metre in height, it is considered a structure under Bylaw No. 500. Therefore, this application includes a variance from 8.0 metres to 0.0 metres horizontal distance from the natural boundary of the ocean. In addition, a building permit is required as the property falls within a building inspection area.

The subject property is located adjacent to the ocean and is designated as within the Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998. The Watercourse Protection Development Permit Area, which consists of a 15.0 metre strip as measured from the natural boundary, was designated to protect the natural environment. The subject property is located in a bay comprised of a gravel pocket beach, with the upland soils consisting predominately of sandy, rapidly draining marine deposits. The parcel is subject to the erosional forces of precipitation, wind and tidal activity. As the proposed retaining wall is located within the Watercourse Protection Development Permit Area, a development permit is required prior to any development and/or alteration of land taking place.

The property is located in an area where adjacent property owners have also constructed retaining walls. Neighbours have expressed concern that the lack of a retaining wall on the subject property is leading not only to significant erosion on the subject property, but also to erosion and undermining of existing retaining walls on the adjacent properties. Therefore, the applicant is proposing to construct a shoreline

protection device along the marine foreshore that would line up with the existing retaining walls (*see Schedule No. 2*).

ALTERNATIVES

1. To approve Development Permit No. 0255 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

LAND USE AND ENVIRONMENTAL IMPLICATIONS

Although the applicant is exploring the possibility of constructing a shoreline protection device of rip rap material, this proposal is to construct a concrete retaining wall along the marine foreshore (*see Schedule No. 3*). A building permit will be required for the construction, thereby requiring certification from a professional engineer to ensure the structure is built to an acceptable standard.

Installation of the shoreline protection device is proposed to be sited in a location where it will fall directly in line with the adjacent retaining walls. The result of this construction would be to reclaim the upland portion of land that has already been eroded. Although reclamation of property is generally not supported, the intent of the application is to protect the existing shoreline, subject property, and adjacent properties from further damage, particularly for existing retaining walls and vegetation. Construction of the shoreline protection device in the location indicated will result in a reduction of further damage to the properties.

The Department of Fisheries and Oceans (DFO) staff has recommended that any proposed work on the foreshore must have a minimal impact on the lands and water. As a result, a condition of the development permit is that the applicant involves DFO staff prior to and during works to ensure protection of the foreshore area.

VOTING

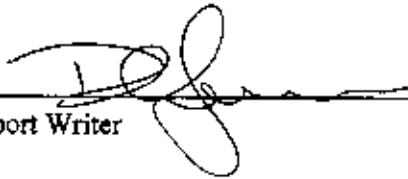
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

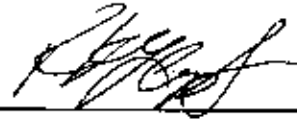
This is an application for a development permit to construct a shoreline protection device (retaining wall, rip rap, or a combination) within the designated Watercourse Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998. The shoreline protection device will be sited to connect to existing, adjacent retaining walls, and will form the new natural boundary. The Department of Fisheries and Oceans has indicated approval for this development as long as specified conditions are met. Given the current risk to existing retaining walls and vegetation, staff recommends approval of this development permit subject to the applicant abiding to the conditions outlined in Schedule No. 1.

RECOMMENDATION

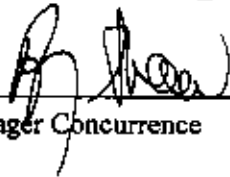
That Development Permit Application No. 0255 to permit the construction of a shoreline protection device and vary the minimum permitted setback from the natural boundary of the sea from 8.0 metres to 0.0 metres for the property legally described as Lot 13, District Lot 102, Nanoose District, Plan 21022, be approved, subject to the conditions 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. 0255**

Location

1. The shoreline protection device is to be located in the exact location as shown on Schedule No. 2.

Sediment and Erosion Control Measures

2. Sediment and erosion control measures must be utilized to control sediment during wall 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 on site.
 - 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.
4. Vegetative planting to be placed between the rip rap rock of the shoreline protection device.

Maximum Height

5. The shoreline protection device shall not exceed six feet in height as measured from the natural grade pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

Engineering

6. The shoreline protection device is to include a mechanism to drain soils from the upland without allowing for the loss of upland soils to the marine environment. A filter fabric barrier to restrain upland soils is recommended.
7. The shoreline protection device is to be constructed in accordance with engineering standards and certified by a professional engineer to the satisfaction of the RDN.
8. The shoreline protection device is subject to issuance of a RDN building permit.

Construction

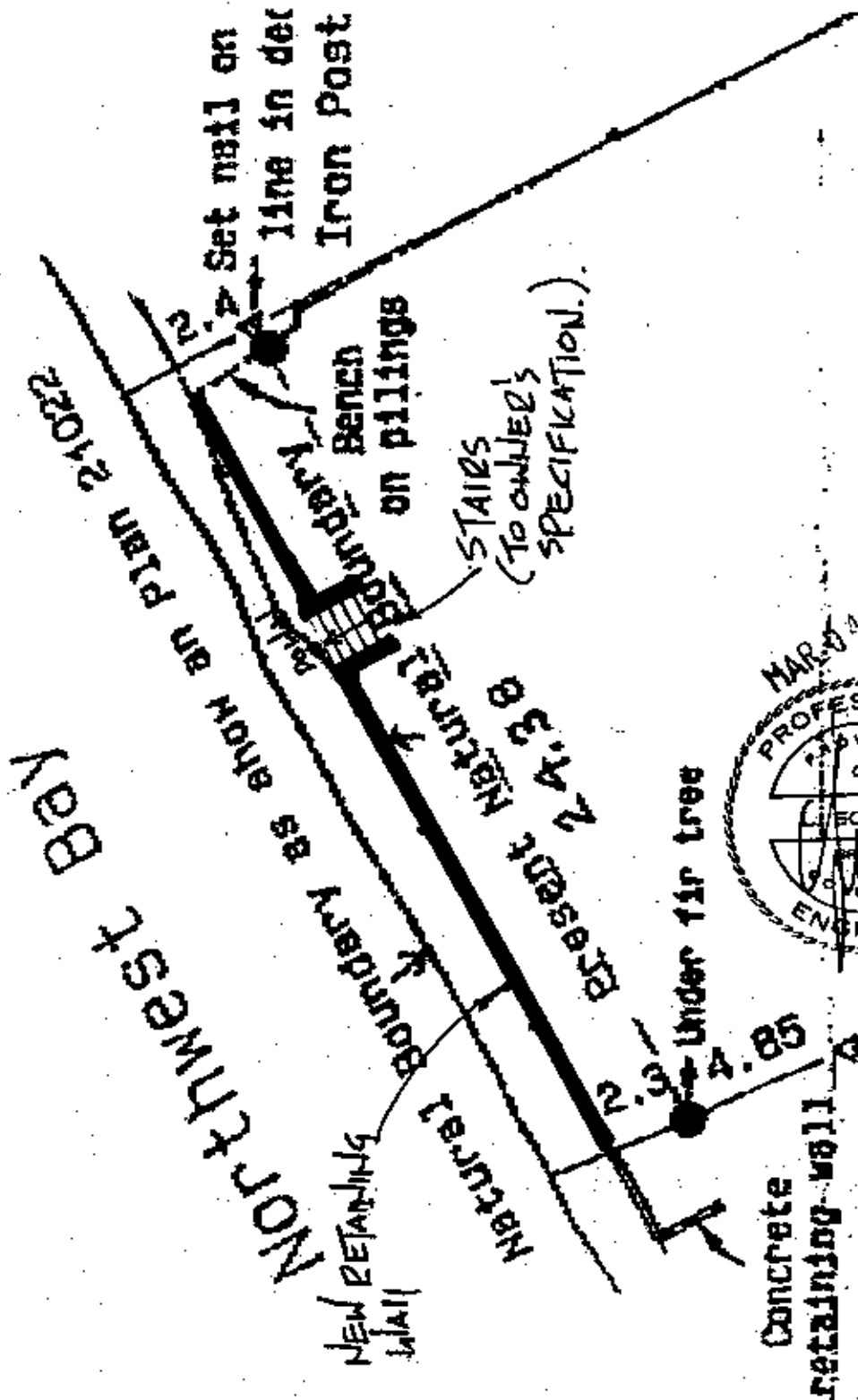
9. All construction to take place within the time period designated by the Department of Fisheries and Oceans, with notification provided to the RDN.
10. The shoreline protection device shall be in the form of a retaining wall, rip rap or a combination of both.
11. Any excavated materials must be placed upland such that there is no potential for introduction onto the foreshore.
12. No fill to be placed near the shoreline protection device, excluding backfill placed upland of the shoreline protection device.
13. All backfill materials to consist of free-draining material, as recommended by the Department of Fisheries and Oceans.
14. All machinery to operate from the upland portion of the subject property only.

Department of Fisheries and Oceans

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

PAGE
44

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



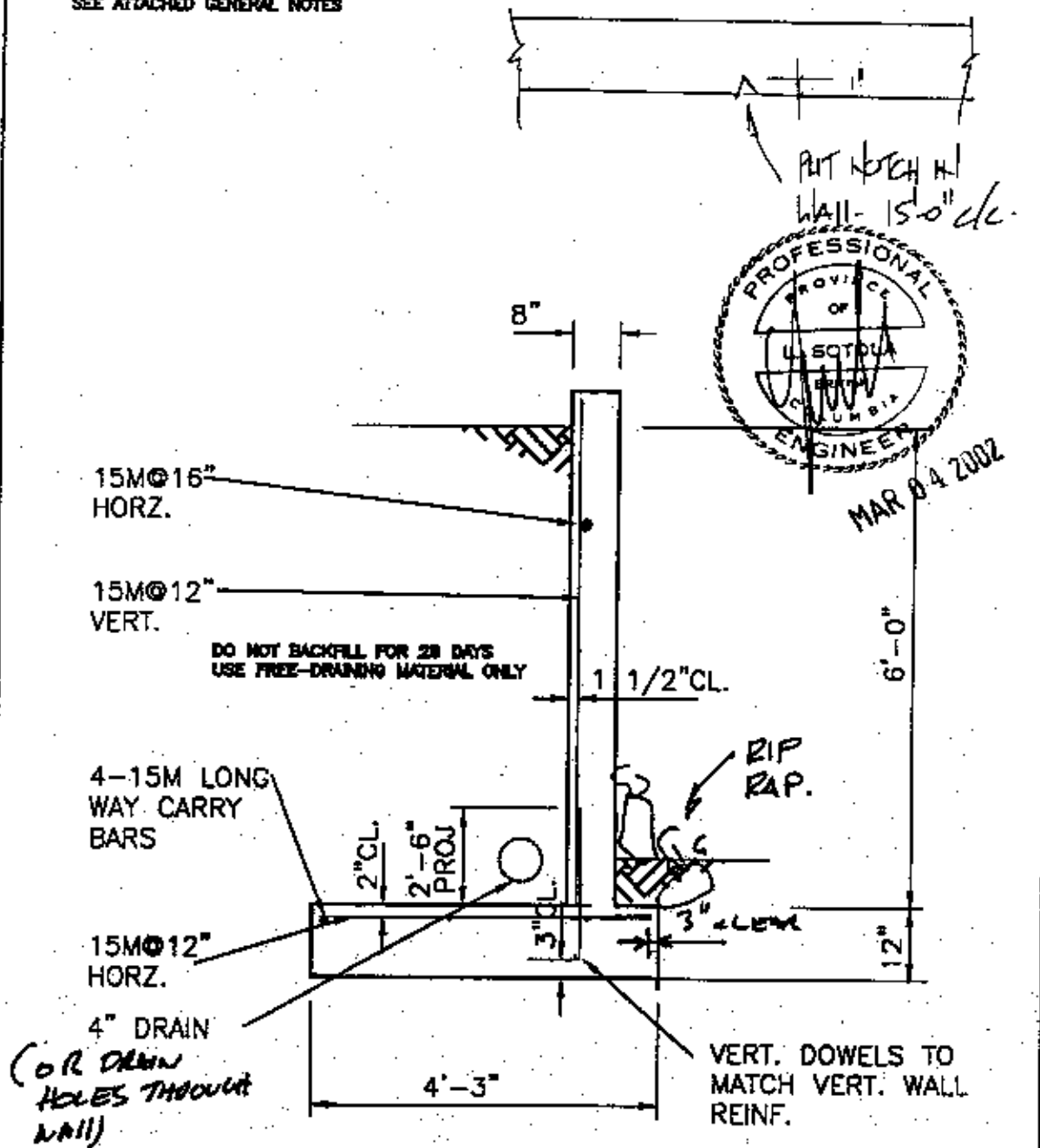
10713, HIGGINSON
Sotola
Engineering Inc.
CONSULTING
STRUCTURAL
ENGINEERS
4106 APPLE GATE, NANAIMO, B.C. V9T 4E6 7814633



Schedule No. 3
 Proposed Retaining Wall
 (As Submitted by Applicant)

GENERAL NOTES

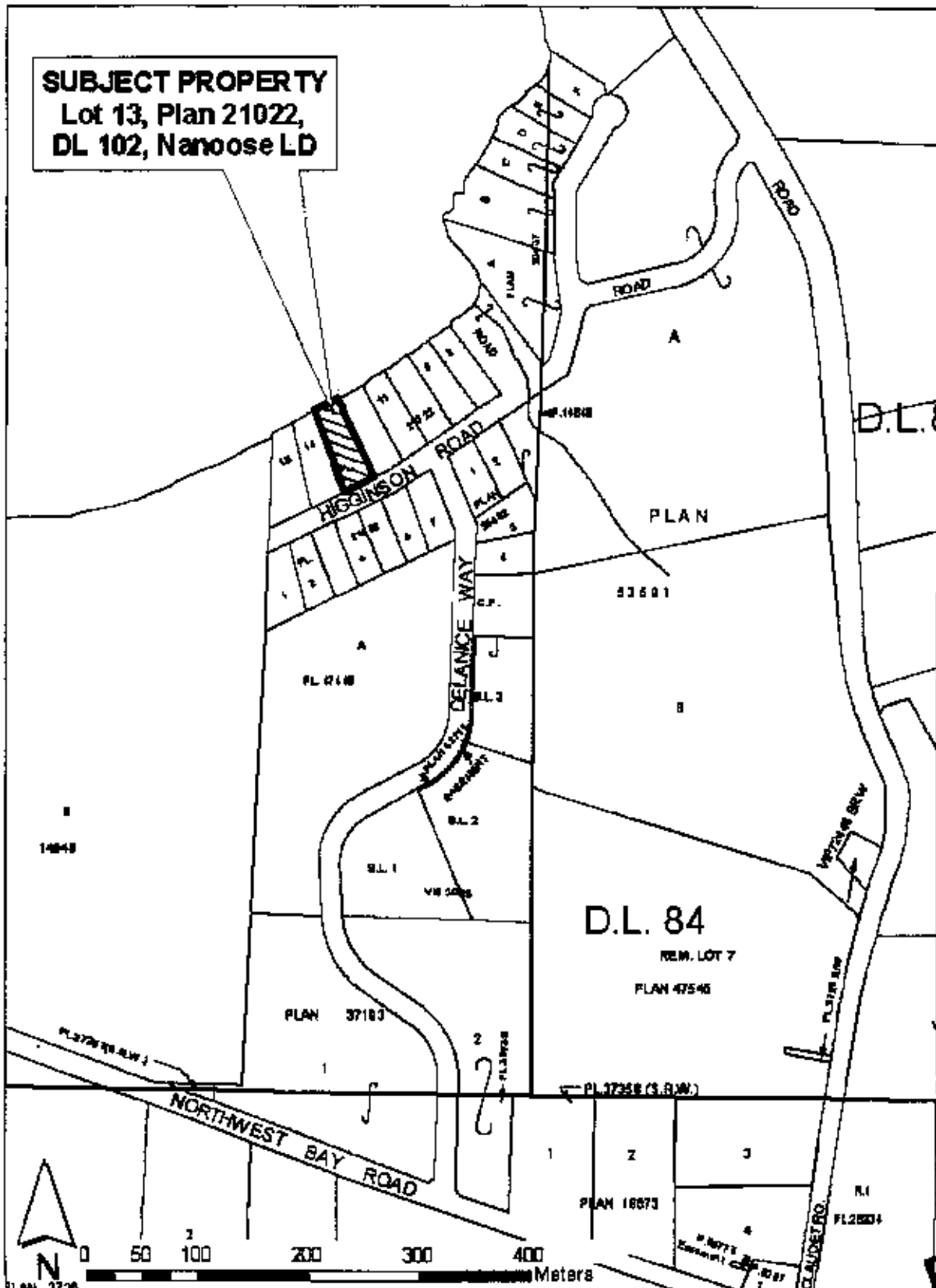
SEE ATTACHED GENERAL NOTES



<p>Sotola Engineering Inc.</p>	4105 APPLE GATE NANAIMO, B.C. V8T 4E3 PHONE (250) 781-0433 FAX (250) 781-0431	DRAWN S	TITLE RETAINING WALL LOT 13 HIGGINSON NANOOSE BAY, B.C.	
		DESIGN S		
		DATE FEB 02		
		SCALE NTS	PROJECT No. 02-064	SHEET No. S-1

PAGE
 46

Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO	
NOV 20 2002	
CHAIR	GMCrs
CAO	GMDS
GMCms	GMES
EA Planning	

MEMORANDUM

TO: Pam Shaw
Manager of Community Planning **DATE:** November 20, 2002

FROM: Brigid Reynolds
Planner **FILE:** 3060 30 0256

SUBJECT: Development Permit Application No. 0256 - Hutt/Sims
Electoral Area 'G' - 956 Surfside Drive

PURPOSE

To consider an application to vary:

- the minimum setback from 8.0 metres from the natural boundary of the marine foreshore to 5.3 metres for a dwelling unit and to 0.0 metres for a 2.4 metres high retaining wall; and
- the maximum dwelling unit height from 8.0 metres to 8.9 metres

within the Natural Hazard and Environmentally Sensitive Areas Development Permit Area pursuant to the "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996."

BACKGROUND

The subject property, legally described as Lot 11, Block 2, District Lot 9, Newcastle District, Plan 15370, is located at 956 Surfside Drive in the Qualicum River Estuary area of Electoral Area 'G' (See Attachment No. 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 requirements for buildings and structures adjacent to a coastal watercourse is 8.0 metres horizontal distance from the natural boundary. The maximum height for buildings and structures is 8.0 metres. The applicant is requesting to vary the setback to 5.3 metres from the natural boundary for a patio attached to the dwelling unit and 0.0 metres for a 2.4 metre high retaining wall, and to vary the maximum dwelling unit height to 8.9 metres.

The Environmentally Sensitive Area Development Permit Area was established to protect the natural environment. The Development Permit Area is measured 15.0 metres from the natural boundary. The porch is proposed to be sited a minimum of 5.3 metres from the natural boundary, the porch and a portion of the dwelling unit are proposed to be sited within the Development Permit Area. The Hazard Lands Development Permit Area was established to protect development from hazardous conditions. The entire parcel is designated as being within the Natural Hazard Development Permit Area due to the potential flood hazard.

As the subject property is within the RDN building inspection area, "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" applies. Bylaw No. 843 requires a floodplain setback of 15.0 metres from the natural boundary of the sea, except that this setback may be reduced to 8.0 metres

where the sea frontage is protected from erosion by works designed by a professional engineer and maintained by the owner. In addition, Bylaw No. 843 requires a flood construction elevation of 3.8 metres GSC for this parcel.

The lot is bound by residential lots to the southeast and southwest, by a Ministry of Transportation right of way to the northwest, and the marine foreshore to the northeast. The lot is relatively level and is 'walk on' waterfront property. The shoreline is accreting and the area of accretion is variable, but typically appears three to five metres beyond the natural boundary. It also appears that this area has experienced erosion in the past as the natural boundary as shown on the survey of plan 15370 was between 7.5 and 19 metres from the present natural boundary.

A geotechnical report was completed by Lewkowich Geotechnical Engineering Ltd., September 25, 2002 that states the site is geotechnically safe and suitable for the intended use provided the recommendations of the report are followed during the design and construction of the proposed development.

Due to the area of the subject property and the proximity to the marine foreshore, the setback required by the BC Sewage Regulations could not be met. As a result the Vancouver Island Health Authority would not approve an on-site septic system. Therefore, an application has been made to RDN Environmental Services requesting to be included in the Local Sewer Servicing Area.

A Building Scheme Covenant is registered on title of the subject property and restricts the building height to one storey.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested variance would permit the construction of a dwelling unit to be sited a minimum of 5.3 metres from the present natural boundary and 8.9 metres in height. A 2.4 metre high retaining wall is proposed to be located 0.0 metres from the present natural boundary.

The Building Scheme Covenant registered on the title of the subject property limits the height of dwellings to one storey. However, at least one other dwelling unit constructed in the subdivision has two storeys. The RDN is not responsible for enforcing Building Scheme Covenants.

Views of neighbouring residents on lots 9 and 10, south of the subject property, are likely to be partially impacted by the proposed development. However, this is the last lot in this subdivision to be developed and is adjacent to the marine foreshore; therefore, any dwelling unit constructed to 8.0 metres in height would likely impact neighbouring views. In addition, the flood construction elevation of 3.8 metres GSC is a site constraint for any dwelling unit proposed to be more than one storey.

The 15.0 metre floodplain setback required by Bylaw No. 843 can be reduced to a minimum of 8.0 metres for the habitable portion of the dwelling unit where an erosion protection device exists. This application includes the construction of a retaining wall thereby reducing the floodplain setback. The habitable portion of the dwelling unit is proposed to be sited a minimum of 8.0 metres from the natural boundary and the porch proposed to be sited a minimum of 5.3 metres is not considered habitable and does not require a site specific exemption from the Ministry of Water, Land and Air Protection.

The subject property is adjacent to a Ministry of Transportation right of way. The proposed 2.4 metre high retaining wall would therefore require a permit and a variance from the Ministry if sited within the 4.5 metre Ministry of Transportation setback.

ENVIRONMENTAL IMPLICATIONS

The Geotechnical report indicates that the retaining wall on the adjacent lot could be the cause of the accretion occurring on the subject property. The proposed retaining wall could impact the beach processes for this shore segment thereby causing either erosion or accretion for lots located southeast of the subject property on McFeely Drive. There are no retaining walls on the lots on McFeely Drive and permitting the construction of a retaining wall on the subject property could set a precedent whereby adjacent property owners begin requesting to construct retaining walls resulting in a hardening of the marine foreshore for a whole subdivision. However, the geotechnical report recommends that a retaining wall should be built for the subject property.

Drainage from the perimeter drains, roof leaders and other hard surfaces will be directed to a catch basin and drainage from the driveway will be directed to an oil/water separator prior to being directed to the marine foreshore.

PUBLIC CONSULTATION IMPLICATIONS

From staff's assessment, views of adjacent lots 9 and 10, are likely to be impacted. Given there is a Building Scheme Covenant registered on the title of the subject property and other lots in the subdivision restricting the height of dwelling units to one storey; adjacent property owners may have concerns about the proposed development. However, there is at least one property in this subdivision that is two storeys in height and at least one other property has received variances in height to compensate for the flood construction elevation requirements.

In addition, construction of a retaining wall measured 2.4 metres in height on the marine foreshore adjacent to properties where no retaining walls exist is also likely to result in concerns by adjacent property owners. Staff notes that there is an existing retaining wall on adjacent lot 21 that is measured approximately 2.4 metres in height, and as a result, the Geotechnical Report recommends a complimentary wall of a similar height on the subject property. However, a layer of rip rap is located at the natural boundary of the road end between lot 21 and the subject property; therefore, any large storm event could potentially undermine the retaining wall on the subject property at the northwest corner.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application to vary the Bylaw No. 500 minimum setback requirement from the sea from 8.0 metres from the natural boundary to a minimum of 0.0 metres for a 2.4 metre high retaining wall and to a minimum of 5.3 metres for a porch attached to a proposed dwelling unit, and to vary the maximum building height from 8.0 metres to 8.9 metres to permit the construction of a dwelling unit within an Environmentally Sensitive Areas and Natural Hazard Lands Development Permit Area.

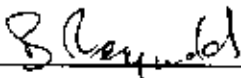
From staff's assessment of this application, it is clear that previous erosion of the parcel and the restriction on the building site related to the flood protection setback and elevation requirements has resulted in constraints to the development of the property. The requested variances are directly related to the site constraints; however, there may be impacts on adjacent property owners. Therefore, while the application has technical merit, the application is recommended to be approved subject to consultation resulting from the public notification process.

RECOMMENDATIONS

That Development Permit Application No. 0256, submitted by Hutt/Sims to:

1. vary the minimum setback requirement from the sea from 8.0 metres from the natural boundary
 - a. to a minimum of 0.0 metres for a 2.4 metre high retaining wall
 - b. to a minimum of 5.3 metres for a porch attached to a proposed dwelling unit, and
2. vary the maximum building height for a proposed dwelling unit from 8.0 metres to 8.9 metres

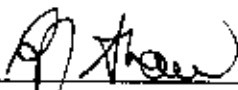
to facilitate the construction of a dwelling unit and retaining wall on the property legally described as Lot 11, Block 2, District Lot 9, Newcastle District, Plan 15370 be approved subject to the requirements outlined in Schedules No 1, 2, 3, and 4 and subject to notification requirements pursuant to the *Local Government Act*.



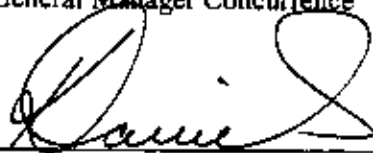
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devs/reports/2002/dp no 3060 30 0256 hutt sims

**Schedule No. 1
Conditions of Approval
Development Permit No. 0256**

Development of Site

1. Subject property to be developed in accordance with Schedule Nos. 1, 2, 3 & 4.
2. All construction of buildings and structures to be undertaken must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.
3. Confirmation of connection to the Community Sewer System must be submitted to the RDN prior to the issuance of a Building Permit.

Retaining Wall

4. Variance of the setback for the proposed retaining wall are conditional upon receiving approval of the setback relaxation from the Ministry of Transportation.
5. The retaining wall is to include a mechanism to drain soils from the upland without allowing for the loss of upland soils to the marine environment. A filter fabric barrier to restrain upland soils is recommended.
6. The retaining wall is subject to issuance of a RDN building permit.
7. All construction to take place within the time period designated by the Department of Fisheries and Oceans, with notification provided to the RDN.
8. The retaining wall shall be constructed using rip rap or cast in place concrete or a combination of both.
9. Any excavated materials must be placed upland such that there is no potential for introduction onto the foreshore.
10. All backfill materials to consist of free-draining material, as recommended by the Department of Fisheries and Oceans.
11. All machinery to operate from the upland portion of the subject property only.
12. Department of Federal Fisheries staff to be consulted prior to, and during, any construction.
13. Applicant to abide by all conditions of the Department of Fisheries and Oceans.

Geotechnical Report

14. Applicant to register Section 219 Covenant with respect to the Geotechnical Report by Lekowich Geotechnical Engineering Ltd, date stamped September 25, 2002 and subsequent relevant reports at Land Titles Victoria to the satisfaction of the Regional District with all costs borne by the applicant.

Development Permit Protection Measures

15. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - b) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - c) Direct run off flows away from Strait of Georgia using swales or low berms.
 - d) Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - e) Cover temporary fills or soil stock piles with polyethylene or tarps.
16. All surface drainage collected from roof leaders, perimeter drains, and other hard surfaces including the driveway to be directed to a catch basin with an oil/water separator before being directed to the marine foreshore.

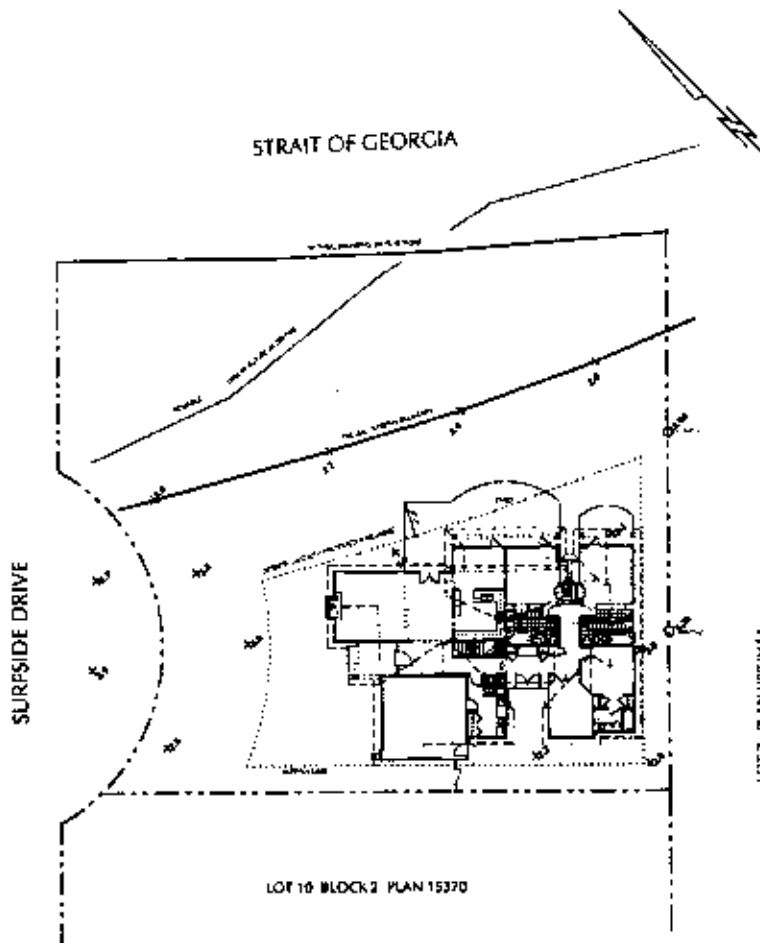
**Schedule No. 2
Requested Variances
Development Permit No. 0256**

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 3.3.9 Setbacks – Sea – varied from 8.0 metres horizontal distance from the natural boundary to a minimum of:
 - a. 5.3 metres for the porch and dwelling unit; and
 - b. 0.0 metres for a 2.4 metre retaining wall.

2. Section 3.4.62 Maximum Number and Size of Buildings and Structures – Dwelling Unit Height varied from 8.0 metres to 8.9 metres.

Schedule No. 3
Site Plan (reduced for convenience)
Development Permit No. 0256



LOT 10 BLOCK 2 PLAN 15370

LOT 7 PLAN VPT02443

PLOT PLAN
Scale 1/16" = 1'-0"

LOT 11, D.I. 9, NEWCASTLE DISTRICT, PLAN 15370

..... M.R. BOUNDARY (BLOCK 2 STRIP)

..... PROPERTY LINE

OFF THE RECORD AND DATED TO BE CORRECTED
AN CERTIFIED LAND SURVEYOR UNDER THE
APPROVED BY M.S.A., ALBERTA

CA
Design

THE ARCHITECT'S WORK

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

10/1/02

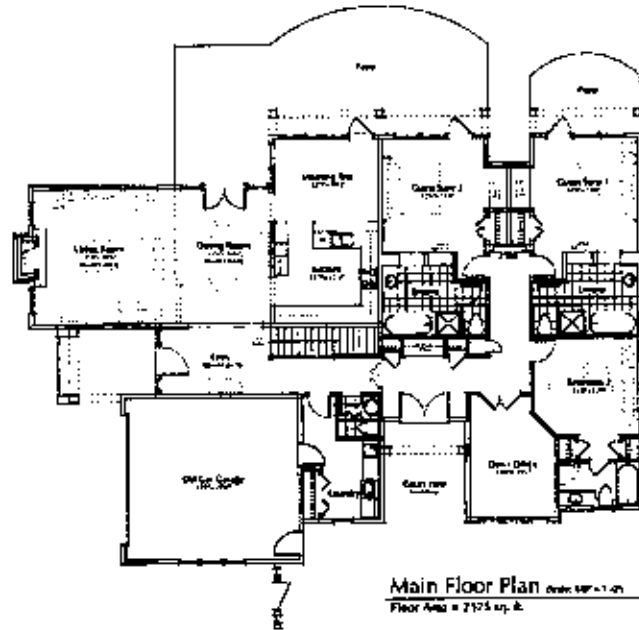
10/1/02

10/1/02

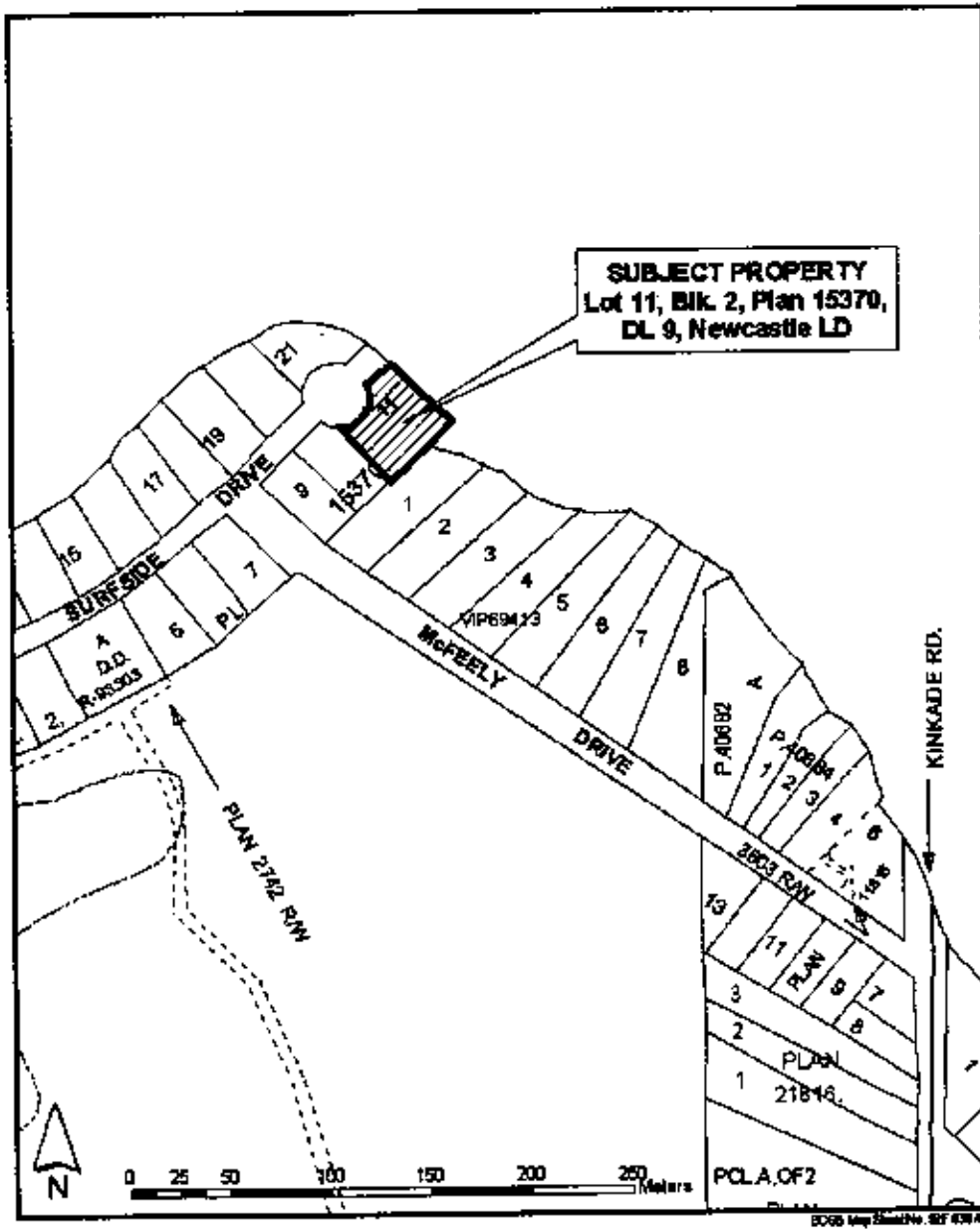
10/1/02

10/1/02

Schedule No. 4
House Plan (reduce for convenience)
Development Permit No. 0256



Attachment No. 1
Subject Property
Development Permit No. 0247





**REGIONAL
DISTRICT
OF NANAIMO**

REGIONAL DISTRICT OF NANAIMO		
NOV 19 2002		
CHAIR		GMCrs
SAC		GMDS
CMCrs		GMES
EA Planning		

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: November 18, 2002

FROM: Blaine Russell
Planning Assistant

FILE: 3090 30 0220

SUBJECT: Development Variance Permit Application 0220 – Estate of Marion Monks
Electoral Area 'D' – 7850 Shangri-La Road

PURPOSE

To consider a development variance permit application to relax the minimum setback requirements from an 'other' lot line to allow an addition to a dwelling unit.

BACKGROUND

This is an application to relax the minimum 'other' lot line setback requirement from 5.0 metres to 2.46 metres to allow for a new addition and to allow the amalgamation and conversion of an existing accessory building with an existing dwelling unit. The applicant is proposing that the accessory building will be incorporated as a part of the dwelling unit once the addition is complete. In addition, the applicant is proposing the addition of a second floor to what is currently the accessory building. The addition is to be located on the property legally described as Lot 1, District Lot 53, Nanoose District, Plan 19195 and located at 7850 Shangri-La Road in Electoral Area 'D' (as shown on Schedule Nos. 1, 2, and 3).

The existing single story accessory building was granted a Development Variance Permit (No. 177, 1993) to relax the 'other' lot line setback from 5.0 metres to 2.46 metres.

The property is bound by the sea to the north and adjacent to Shangri-La Road to the south. Knarston Creek is located across the road from the property. South and east of the property are similarly sized residential lots (see Attachment No. 1 for location of property).

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 subject property is currently connected to community water and has a private septic disposal system.

The proposed addition is to have a height of 7.28 metres. As the minimum setback requirement is 5.0 metres for an 'other' lot line (the lot line adjacent to the beach access right of way), a variance to reduce the setback requirement to 2.46 metres is required. In addition, the Ministry of Transportation have verbally indicated that the Ministry does not take issue with the relaxation to 2.46 metres provided the applicant applies to the Ministry for a setback relaxation.

ALTERNATIVES

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

DEVELOPMENT IMPLICATIONS

The proposed addition will increase the height of the building near an undeveloped beach access right-of-way. As this is a waterfront property, an addition to the building may impact the view corridors of neighbouring properties; however, neighbours will be notified and have an opportunity to comment on the application prior to the Board's consideration of the permit.

The location of Knarston Creek to the south of the property, and its corresponding Development Permit Area, limit the development on the southern portion of the property. In addition, the location of the sea adjacent to the northern property line limits development on the northern portion of the property. It should be noted that the conversion of the accessory building (to being part of the dwelling unit) offers the most land-efficient means to enlarge the existing dwelling unit. As the property is located adjacent to the sea and Knarston Creek, the construction must meet RDN flood construction levels elevation standards.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby residents and property owners will have an opportunity to comment on the proposal prior to the Board's consideration of the permit.

VOTING

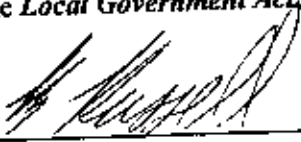
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

This is an application for a development variance permit to relax the minimum 'other' lot line setback requirement to allow for an addition to an existing dwelling unit. The requested setback relaxation to allow for the addition is considered minor and offers the most land-efficient means of expanding the dwelling unit. Staff supports Alternative No. 1, to approve the development variance permit, subject to Schedules No. 1, 2, and 3 and to the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

That Development Variance Permit Application No. 0220 by the Estate of Marion Monks, to relax the minimum other lot line setback requirement from 5.0 metres to 2.46 metres for the property legally described as Lot 1, District Lot 53, Nanoose Districts, Plan 19195 to accommodate an addition to a dwelling unit, be approved subject to Schedules No. 1, 2, and 3 and the notification requirements pursuant to the *Local Government Act*.



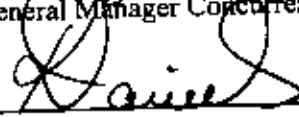
Report Writer



General Manager Concurrence



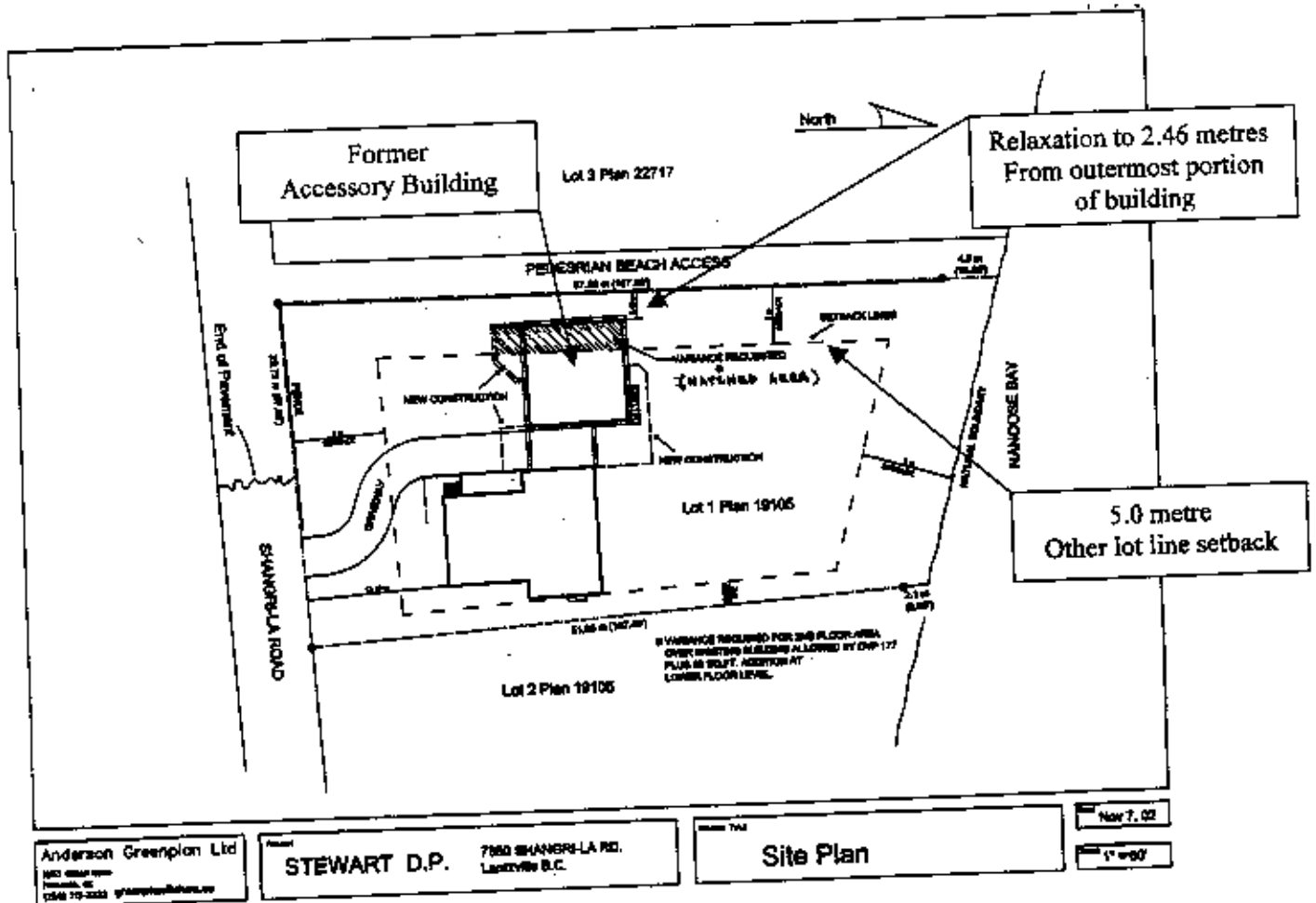
Manager Concurrence



CAO Concurrence

COMMENTS:

Schedule No. 1
Site Plan
(as submitted by applicant / reduced for convenience)



Anderson Greenplan Ltd
1800 464-4646
Vancouver, BC
604-275-3333 www.andersongreenplan.com

STEWART D.P. 7980 SHANGRI-LA RD.
Lantzville B.C.

Site Plan

Nov 7, 02
1"=60'

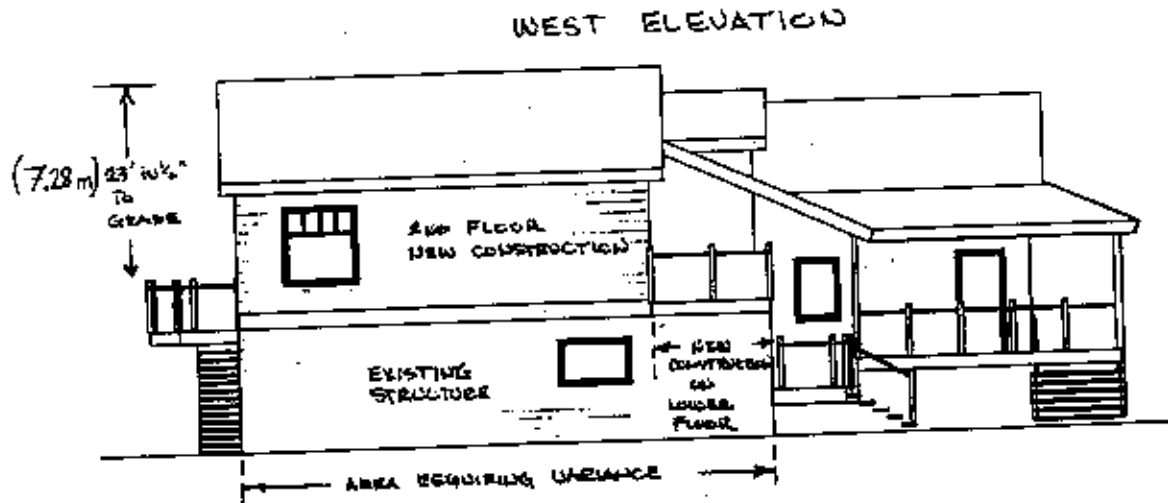
Schedule No. 2
Cross Section of Covered Deck
(as submitted by applicant)



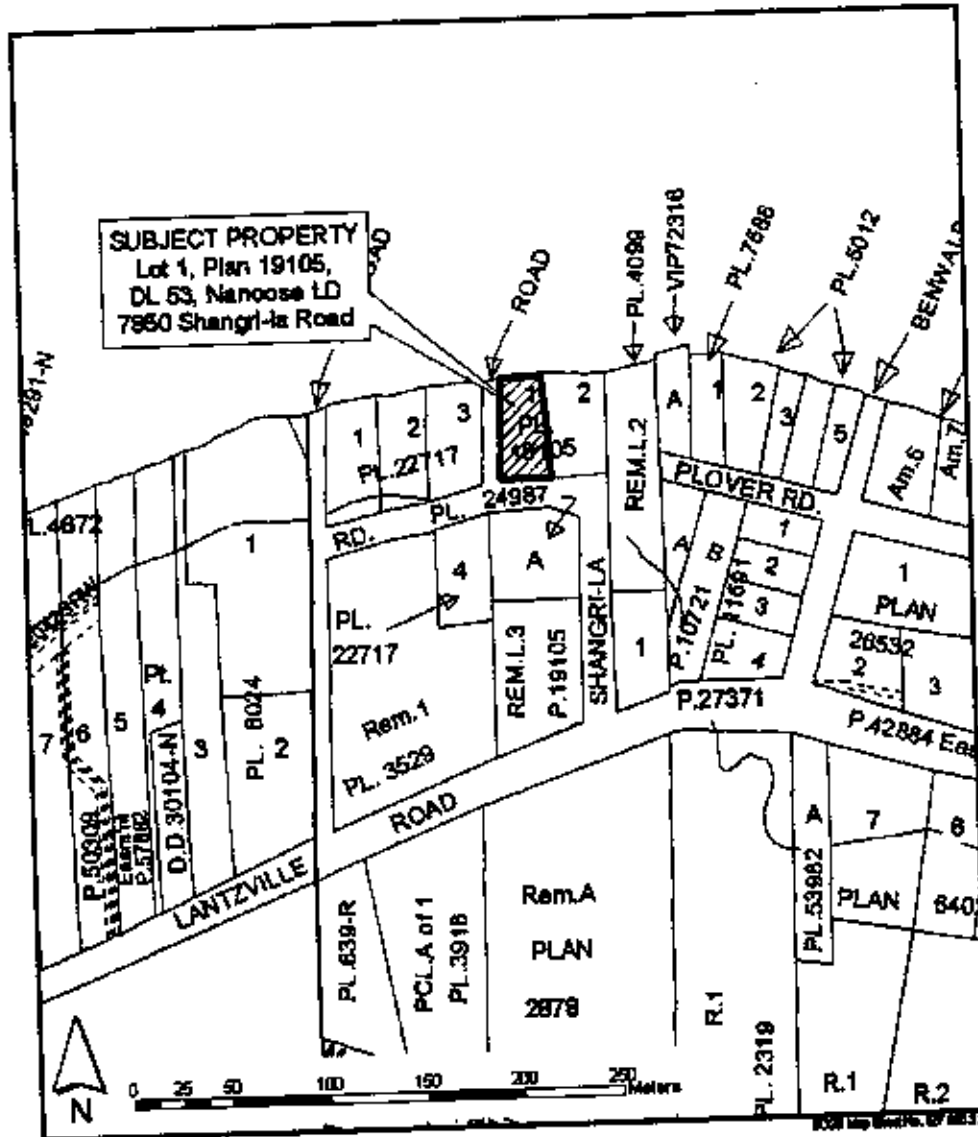
FRONT ELEVATION



Schedule No. 3
Cross Section of Covered Deck
(as submitted by applicant)



Attachment No. 1
Location of Subject Property





**REGIONAL
DISTRICT
OF NANAIMO**

**REGIONAL DISTRICT
OF NANAIMO**

NOV 18 2002

CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMS	
<i>EA Planning</i>			

MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: November 15, 2002

FROM: Susan Cormie
Senior Planner

FILE: 3320 30 24311

SUBJECT: Request for Relaxation of the Minimum 10% Perimeter Requirement
Fern Road Consulting Ltd. on behalf of Nora Kent, Roy Drew, & Sandra Drew
Electoral Area 'E' - 2763 & 2779 Parker Road

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement as part of a proposed two-lot subdivision development.

BACKGROUND

The applicant's agent, Fern Road Consulting Ltd., has requested that that the minimum 10% perimeter frontage requirement be relaxed for both proposed parcels for the subdivision proposal located at Parker Road within Electoral Area 'E' and legally described as Lot A, District Lot 78, Nanoose District, Plan 23622 (see Attachment No. 1 for location).

The subject property is currently zoned Residential 1 (RS1) and is within Subdivision District 'N' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing to subdivide the parent parcel into two parcels, both greater than 1.0 ha in size, therefore meeting the minimum parcel size requirements of Bylaw No. 500 (see Attachment No. 2 for proposed subdivision). The parcels are proposed to be serviced by individual private septic disposal systems and private well water.

It is noted that the parent parcel currently contains 2 dwelling units, which were permitted at the time the dwellings were built. Under the present RS1 zone, one dwelling unit is permitted per parcel. Therefore, the second dwelling is considered to be a legal non-conforming use.

Lot A is proposed to have a frontage of 22.0 metres or 2.2% of the total perimeter and Lot B is proposed to have a frontage of 22.0 metres or 2.8% of the total perimeter. Therefore, as these proposed lots do not meet the minimum 10% parcel frontage requirements pursuant to section 944 of the *Local Government Act*, approval of the Regional Board of Directors is required.

The subject parcel is designated pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 within the:

1. Watercourse Protection Development Permit Area for the protection of a stream, which crosses the parent parcel;
2. Sensitive Ecosystem Development Permit Area for the protection of an Eagle Nesting Tree located within Proposed Lot A; and

PAGE
64

3. Farmland Protection Development Permit Area for the protection of the adjacent Agricultural Land Reserve lands situated to the west of Proposed Lot B.

The applicants are in concurrence to protect the stream and its adjacent riparian area by a 30-metre protection covenant as measured from the natural boundary, the eagle tree by a 20-metre radius protection covenant, and the adjacent farm land by a 15-metre wide 'no building/vegetation retention' covenant. These covenants will meet the requirements of the development permit guidelines.

ALTERNATIVES

1. To approve the request for the relaxation of the minimum 10% frontage requirement for Proposed Parcels A and B.
2. To deny the request for the relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

Lot Configuration/Ministry of Transportation Implications

The parent parcel, which was originally subdivided in 1970, currently does not meet the minimum 10% frontage requirement. The adjacent parcel to the east consists of a panhandle, which runs along the south lot line of the parent parcel. Due to this situation, the Ministry of Transportation is unable to request additional road dedication for this subdivision application and will not be requiring road dedication until such time that the adjacent parcel subdivides. As a result, Ministry staff has indicated that they have no objection to the proposed relaxations of the minimum frontage requirement for these proposed parcels.

It is also noted that the proposed subdivision will result in a dwelling unit on each proposed parcel, thus bringing the second dwelling unit into conforming use.

Official Community Plan/Development Permit Implications

The applicant has offered to provide covenants for the protection of the stream and its riparian areas, for the protection of the eagle tree located within the subject property, and for the protection of the adjacent farm land. As a result, the applicable guidelines of the development permit areas will be met. Details concerning these covenants are set out in Schedule No. 1 of this report. The Nanoose Bay Official Community Plan also indicates the presence of steep slopes to the rear of the parent parcel, which Ministry of Transportation staff has indicated that they will be requiring a geotechnical report.

Environmentally Sensitive Areas Atlas

The Regional District of Nanaimo Environmentally Sensitive Areas Atlas indicates the present of a Fish Present Habitat and adjacent riparian area. As outlined above, the applicant is in concurrence to provide protective covenants for the stream and adjacent leave strip area.

VOTING

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

SUMMARY

This is a request to relax of the minimum 10% perimeter frontage requirements as part of a two-lot subdivision proposal. Ministry of Transportation staff has indicated that they have no objection to this request. The applicant's agent has indicated that the applicants will meet the requirements of the various development permits by way of providing covenants as outlined in Schedule No. 1 of the staff report. Given the existing lot configuration; the limited road frontage adjacent to the parent parcel; that there are no objections from the Ministry of Transportation; and that the applicants will meet the development permit guidelines through the registration of covenants concurrently with the subdivision, staff recommends Alternative No. 1, to approve the 10% frontage relaxations.

RECOMMENDATION

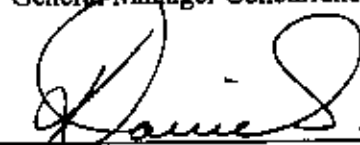
That the request, submitted by Fern Road Consulting Ltd., on behalf of Nora Kent, Roy Drew, and Sandra Drew, to relax the minimum 10% frontage requirement for proposed Lots A and B, as shown on the proposed plan of subdivision of Lot A, District Lot 78, Nanoose District, Plan 23622 be approved, subject to the applicants providing a solicitor's letter undertaking to register the required covenants as outlined in Schedule No. 1 of the staff report concurrently with the plan of subdivision prior to the subdivision review report being forwarded to the Provincial Regional Approving Authority.



Report Writer


General Manager Concurrence

Manager Concurrence


CAO Concurrence

COMMENTS:

Devars/reports/2002/frige no 3320 20 24311 Drew Fern Road Consulting.doc

PAGE

16/6

SCHEDULE NO. 1

Covenants

Stream and its riparian areas:

Applicants to prepare and register at their expense a section 219 covenant for the protection of the creek crossing the subject property providing a leave strip of a minimum of 30 metres as measured from the natural boundary of the creek. The covenant for Proposed Lot A is to include a survey plan of the protected leave strip area. The covenant for Proposed Lot B may be outlined by description. This covenant is to be a no buildings or structures / no removal of vegetation (vegetation retention) covenant.

Eagle Tree:

Applicants to prepare a register at their expense a section 219 covenant for the protection of the eagle tree located within Proposed Lot A. This covenant is to be a no buildings or structures / no removal of vegetation (vegetation retention) covenant and be a minimum of 20.0 radius as measured from the base of the tree with the exception of the existing septic field.

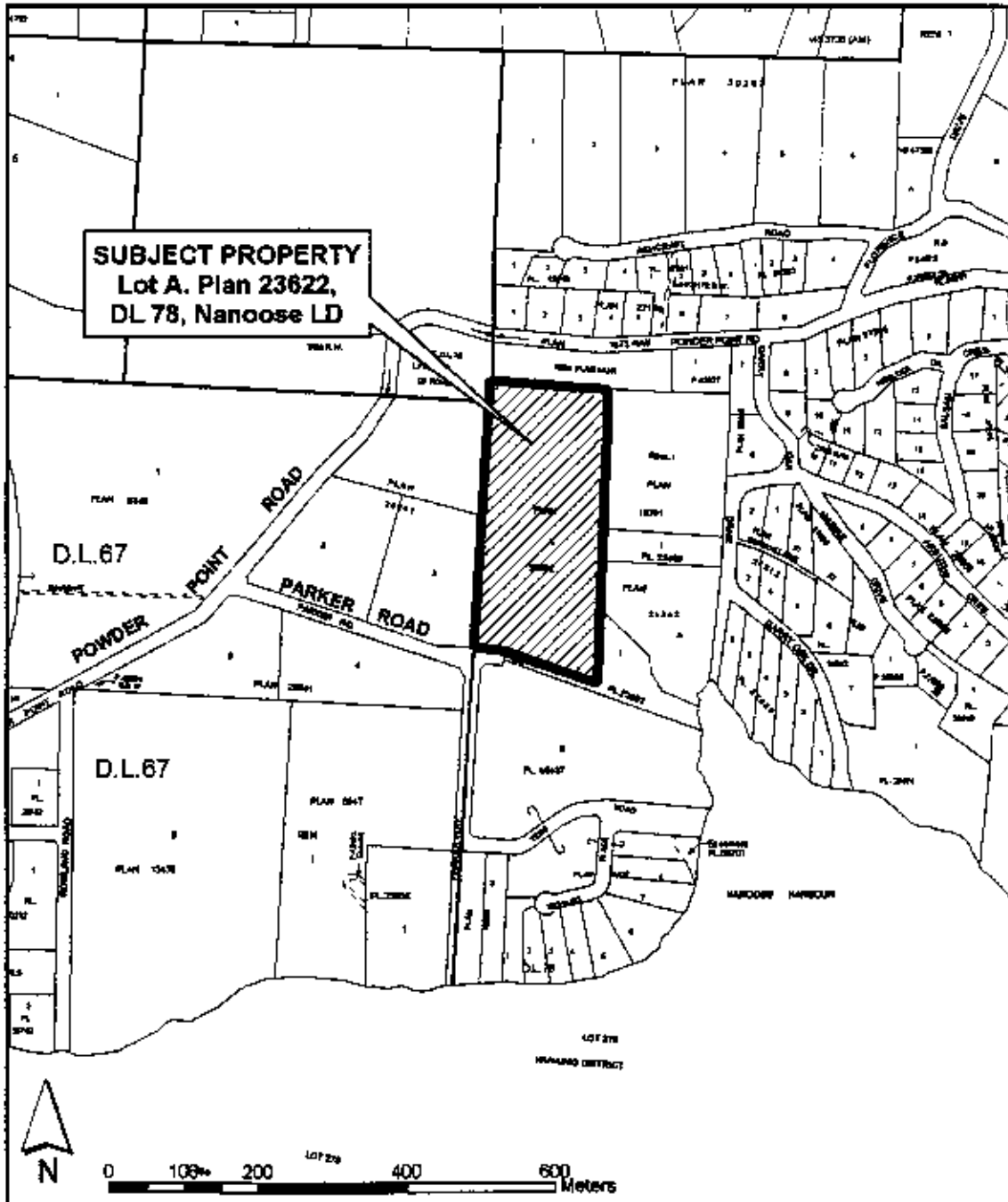
Farm Land Protection:

Applicants to prepare and register at their expense a section 219 covenant for the protection of the adjacent ALR lands. This covenant is to be a no buildings or structures / no removal of vegetation (vegetation retention) covenant 15.0 metre in width as measured from the lot lines adjacent to the ALR lands.

All covenant documents are to be to the satisfaction of the Regional District and are to be submitted to the Regional District for review prior to signatories.

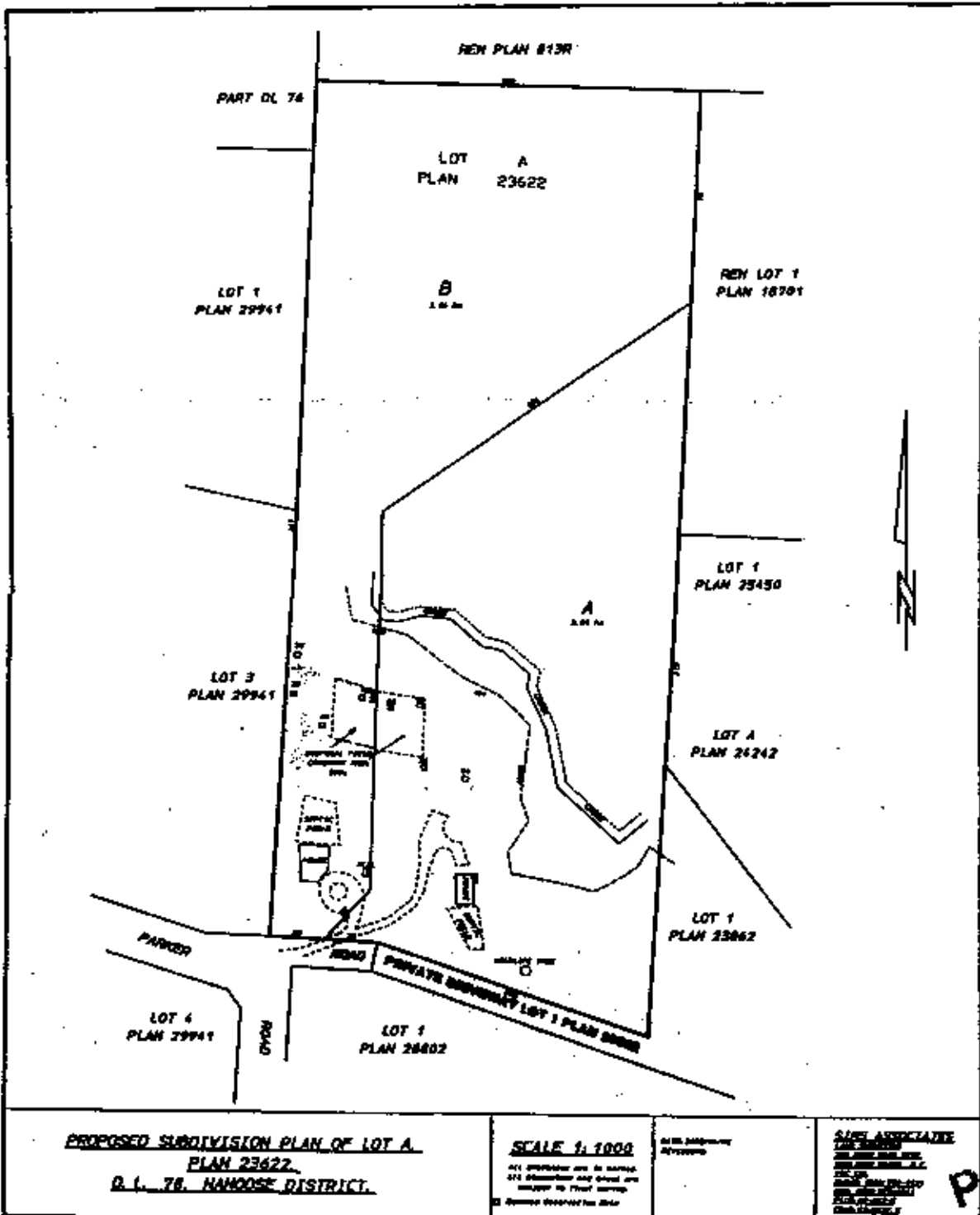
ATTACHMENT NO. 1

LOCATION OF SUBJECT PROPERTY



ATTACHMENT NO. 2

PROPOSED PLAN OF SUBDIVISION AS SUBMITTED BY APPLICANT
 (reduced for convenience)



PROPOSED SUBDIVISION PLAN OF LOT A
 PLAN 23622
 B.L. 76, MANOSSE DISTRICT.

SCALE 1:1000

All dimensions are in meters.
 All dimensions and areas are
 subject to final survey.
 © Survey conducted by [illegible]

DATE PREPARED
 BY [illegible]

SURVEY ASSOCIATE
 [illegible]
 [illegible]
 [illegible]
 [illegible]
 [illegible]
 [illegible]
 [illegible]

PAGE
 69