

REGIONAL DISTRICT OF NANAIMO

**ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, OCTOBER 28, 2003
6:30 PM**

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-7 Minutes of the Electoral Area Planning Committee meeting held Tuesday, September 30, 2003.

BUSINESS ARISING FROM THE MINUTES

PLANNING

AMENDMENT APPLICATIONS

- 8-15 Zoning Amendment Application No. ZA0312 - Richard Irwin on behalf of Tower Fence Products - 1882 Fielding Road - Area A.

DEVELOPMENT PERMIT APPLICATIONS

- 16-24 DP No. 60351 - Hawthorne & Anscombe - 816 Flamingo Drive - Area G.
25-34 DP No. 60352 - Fern Road Consulting Ltd./Pepler - 3395 Blueback Drive - Area E.
35-41 DP No. 60354 - French Creek Estates Ltd. - Columbia Drive - Area G.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 42-52 DVP No. 9623 Addendum - Gerald Rupp - 1570 Fawcett Road - Area A.
53-56 DVP No. 90321 - RG Fuller & Associates on behalf of Land & Water BC - Alberni Highway - Area F.

OTHER

- 57-63 Building Strata Conversion Application – Fern Road Consulting Ltd. on behalf of Ocean Place Holdings Ltd. 1600 Stroulger Road – Area E.
- 64-69 Technical Review Planning Project – Bylaw No. 500 - Public Consultation Framework.
- 70-108 Aquaculture – OCP and Zoning Amendments Issues & Public Consultation Framework.

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, SEPTEMBER 30, 2003, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

| | |
|-----------------------------------|------------------|
| Director E. Hamilton | Chairperson |
| Director H. Kreiberg Alternate | Electoral Area A |
| Director B. Jepson | Electoral Area D |
| Director P. Bibby | Electoral Area E |
| Director L. Biggemann | Electoral Area F |
| Director Joe Stanhope | Electoral Area G |
| Director D. Bartram | Electoral Area H |
| Director L. Sherry | City of Nanaimo |

Also in Attendance:

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

MINUTES

MOVED Director Bartram, SECONDED Director Bibby, that the minutes of the Electoral Area Planning Committee meeting held August 26, 2003 be adopted.

COMMUNICATIONS/CORRESPONDENCE

CARRIED

Helen Sims, re ZA0310 – Green Choice Energy Limited – Peterson Road – Area F.

MOVED Director Bartram, SECONDED Director Biggemann, that the correspondence from Helen Sims with respect to Zoning Amendment Application 0310, be received.

CARRIED

Eric Pattison, re DP No. 60347 – Oughtred/Sims – McFeely Drive – Area G.

MOVED Director Bartram, SECONDED Director Biggemann, that the correspondence from Eric Pattison with respect to Development Permit Application No. 60347, be received.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

ZA0310 – Green Choice Energy Limited – Peterson Road – Area F.

The Manager of Development Services noted proposed amendments to Schedule 1 of the staff report.

MOVED Director Biggemann, SECONDED Director Stanhope,:

1. That the minutes from the Public Information Meeting be received.

2. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.03, 2003" submitted by Fern Road Consulting Ltd. on behalf of H. & F. Ventures and Green Choice Energy Ltd. to rezone the 21.1 ha property legally described as Lot A, District Lot 182, Nanoose District, Plan VIP65017 from A-1 (Agricultural 1) to Comprehensive Development 14 - 2570 Peterson Road, be approved subject to the conditions as outlined in amended Schedule 1, Schedules 2, 3 and 4 and that the bylaw be given 1st and 2nd reading.
3. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.03, 2003" proceed to Public Hearing.
4. That the Public Hearing on "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Amendment Bylaw No. 1285.03, 2003" be delegated to Director Biggemann or his alternate.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

DP Application No. 60344 - Sullivan - Maxey & Newfield Roads - Area D.

MOVED Director Jepson, SECONDED Director Bartram, that Development Permit Application No. 60344 as submitted by Larry Sullivan and legally described as that Part of Lot 2 lying south of Maxey Road, Plan 6930, Section 17, Range 5, Mountain Land District to permit the placement of fill, to facilitate the establishment of a building envelope a minimum of 15.0 metres from the natural boundary, and to permit the siting of a well a minimum of 14.0 metres from the natural boundary of the Millstone River within the Natural Hazard Development Permit Area, be approved subject to the conditions as outlined in Schedule Nos. 1, 2 and 3.

CARRIED

DP Application No. 60346 - D. Friesen on behalf of Ming's Stores Ltd. Inc. - 1694 Cedar Road - Area A.

MOVED Director Kreiberg, SECONDED Director Bartram, that Development Permit Application No. 60346, submitted by Friesen's Rentals and Hardware on behalf of Ming's Stores Ltd. Inc., to recognize the siting of the recently constructed addition by relaxing the minimum setback requirement from the other lot line from 5.0 metres to 4.8 metres within the Cedar Village and Cedar Commercial/Industrial Properties Development Permit Area No. 3 for Lot A, Sections 15 and 16, Range 8, Cranberry District, Plan VIP71569, be approved subject to the conditions outlined in Schedule Nos. 1, 2 and 3 of the corresponding staff report and to the notification requirements of the *Local Government Act*.

CARRIED

DP Application No. 60347 - Oughtred/Sims - McFeely Drive - Area G.

MOVED Director Stanhope, SECONDED Director Bibby, that Development Permit Application No. 60347, submitted by Helen Sims of Fern Road Consulting Ltd. on behalf of Robert and Adele Oughtred to permit the construction of a dwelling unit and detached garage within the 'Environmentally Sensitive Areas and Hazard Lands' Development Permit Areas and to vary the maximum dwelling unit height from 8.0 metres to 8.6 metres on the subject property legally described as Lot 3, District Lot 9, Newcastle District, Plan VIP69413 be approved, subject to the requirements outlined in Schedule Nos. 1, 2, 3 and 4 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

DP Application No. 60348 – Symington – 857 Flamingo Drive – Area G.

MOVED Director Stanhope, SECONDED Director Biggemann, that Development Permit Application No. 60348, submitted by Fern Road Consulting, Agent, on behalf of Wilfred Symington and Alan Symington, to facilitate the removal of an existing dwelling unit and construction of a new dwelling unit, and to vary the maximum dwelling unit height within the Residential 2 (RS2) zone from 8.0 metres to 9.0 metres for the property legally described as Lot 15, District Lot 10, Newcastle District, Plan 10115, be approved subject to the conditions outlined in Schedule No. 1 and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

DVP Application No. 90317 & Request for Relaxation of the Minimum 10% Frontage Requirement – RK Brown & Associates on behalf of W. Roine – Farrar, Yellow Point and McQuarrie Roads – Area A.

MOVED Director Kreiberg, SECONDED Director Biggemann, that the request, submitted by RK Brown, on behalf of Wayne Roine to relax the minimum 10% frontage requirement for the Proposed Lots 2, 3 and 4, as shown on the plan of subdivision of The East 20 Chains of Section 5, Range 5, Cedar District, Except Parcel C (DD2340N) and Except That Part in Plan 8609 and to relax the minimum setback requirement from 8.0 metres to 5.3 metres to allow the siting of an existing dwelling unit from a lot line (adjacent to Farrar Road) proposed to be created by subdivision, be approved subject to Schedule No. 1 and the notification requirements pursuant to the *Local Government Act*.

CARRIED

DVP Application No. 90318 – Kehoe & Adams Freeman – 3475 Cambridge Road – Area E.

MOVED Director Bibby, SECONDED Director Stanhope, that Development Variance Permit Application No. 90318 to vary the minimum setback requirements of the Residential 1 (RS1) zone from 8.0 metres to 0.0 metres for the front lot line and from 5.0 metres to 0.0 metres from the other lot line to legalize the siting of a recently constructed retaining wall on the property legally described as Lot 31, District Lot 78, Nanoose District, Plan VIP51603 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

DVP No. 90319 – Smith & Tomei – 2476 Nuttal Drive – Area E.

MOVED Director Bibby, SECONDED Director Biggemann, that Development Variance Permit Application No. 90319 submitted by Anthony Smith, to vary the minimum setback of 15.0 metres from the natural boundary of the retention pond and from the natural boundary of the drainage ditch to 5.0 metres and to approve a building envelope to facilitate the construction of a dwelling unit and attached garage on the property legally described as Lot 8, District Lot 52, Nanoose District, Plan VIS4626 be approved subject to the requirements outlined in Schedule Nos. 1, 2 3 and 4 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

FRONTAGE RELAXATION

Request for Acceptance of Cash in-lieu-of Park Land Dedication & Relaxation of the Minimum 10% Frontage Requirement – Fern Road Consulting Ltd. on behalf of Windward Development (2002) Ltd. Inc. No. 640334 – Arrowsmith Way & Wembley Road – Area G.

MOVED Director Stanhope, SECONDED Director Bartram,:

1. That the request, submitted by Fern Road Consulting Ltd., on behalf of Windward Development (2002) Ltd. Inc. No. 640334 for cash in-lieu-of park land dedication be accepted.

2. That the request, submitted by Fern Road Consulting Ltd., on behalf of Windward Development (2002) Ltd. Inc. No. 640334 to relax the minimum 10% frontage requirement for proposed Lots 6 and 8, as shown on the plan of subdivision of Lot 2, District 29, Nanoose District, Plan 41955, Except Part in VIP72574, be approved.

CARRIED

Request for Acceptance of Park Land Dedication & Relaxation of the Minimum 10% Frontage Requirement – Koers & Associates on behalf of 3170497 Canada Inc., commonly known as Fairwinds Development – Carmichael Road – Area E.

MOVED Director Bibby, SECONDED Director Biggemann, that the request from Koers & Associates, on behalf of 3170497 Canada Inc., commonly known as Fairwinds Development, to relax the minimum 10% perimeter frontage requirement for Proposed Lots 2, 3, 4, 6 and 7 as shown on the Plan of Proposed Subdivision of Phase 9A be approved and the offer to dedicate park land in the location and amount as shown on the Plan of Proposed Subdivision of Phase 9A be accepted subject to Schedule No. 1 of the corresponding staff report.

CARRIED

Request for Relaxation of the Minimum 10% Frontage Requirement – K. vanWesten – Whiting Way – Area A.

MOVED Director Kreiberg, SECONDED Director Stanhope, that the request, submitted by K vanWesten to relax the minimum 10% frontage requirement for proposed Lot 1 of the proposed subdivision of the Remainder of Lot 1, Section 1, Range 6, Cedar District, Plan VIP68894 as shown on the plan of subdivision be approved.

CARRIED

OTHER

Eagle Nest Tree Development Permit Areas.

MOVED Director Bartram, SECONDED Director Stanhope,:

1. That the staff report to establish development permit areas and guidelines to protect eagle nest trees and possibly the nesting trees of other endangered birds by proceeding with a Public Consultation Strategy, be received for information.
2. That staff be directed to proceed with the Public Consultation Strategy as outlined in Attachment No. 1. to the corresponding staff report.
3. That the Regional Board request that the Minister of Water, Land and Air Protection consider amendments to the *Wildlife Act* to include a buffer area around eagle nest trees and added protection for other endangered species.
4. That the Regional Board request that the Minister of Agriculture consider amendments to the *Right to Farm Act* or the incorporation of policies to provide buffer protection for eagle nest trees.
5. That the Regional Board encourage each member municipality to begin a public consultation process to introduce a regional standard of bylaw to protect eagle nest trees and a buffer around the trees.

MOVED Director Kreiberg, SECONDED Director Stanhope, that the motion be amended to include the following:

6. That staff prepare a report on the feasibility and value of providing site specific Development Permit Areas based on qualified bird experts' advice, as an option to the minimum-standard specifications under current legislation.

CARRIED

The question was called on the motion as amended.

The motion CARRIED.

ADJOURNMENT

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

CARRIED

TIME: 6:55 PM

CHAIRPERSON



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| REGIONAL DISTRICT OF NANAIMO | | | |
| OCT 20 2003 | | | |
| CHAIR | | GMCrS | |
| CAO | | GMDS | |
| CMrS | | GMES | |
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MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: October 17, 2003

FROM: Susan Cormie
Senior Planner

FILE: 3360 20 0312

SUBJECT: Zoning Amendment Application No. ZA0312 – Richard Irwin, on behalf of Tower Fence Products
Electoral Area 'A' – 1882 Fielding Road

PURPOSE

To consider an application to rezone the subject property from Residential 2 Subdivision District 'F' (RS2F) to Industrial 1 Subdivision District 'Z' (I1Z) in order to facilitate the continuance of the existing fence assembling, manufacturing, and sales use.

BACKGROUND

The Planning Department has received a zoning amendment application for the property legally described as Lot A, Section 14, Range 6, Cranberry District, Plan 7057 and located at 1882 Fielding Road in the South Wellington area of Electoral Area 'A' (see Attachment No. 1 for location of subject property). The subject property, which is 2.02 ha in size, is currently zoned Residential 2 (RS2) and is within Subdivision District 'F' (minimum 1.0 ha parcel size) pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

Pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001" (OCP), the subject property is designated within the South Wellington Industrial – Commercial Land Use Designation. The OCP policies for this designation recognize and support the use of the land for industrial uses.

In addition, Bylaw No. 1240 designates the subject property within the South Wellington Development Permit Area. The applicant has submitted a development permit application, which will run concurrently with the zoning amendment if it proceeds.

Surrounding uses include residential zoned parcels to the north and east, Kipp Road and a split residential/commercial zoned parcel to the south, and Fielding Road, Schoolhouse Road, and industrial zoned parcels to the west.

The subject property currently supports a fence assembling, manufacturing, and sales use, which have been allowed under Temporary Industrial Use Permit No. 0108. This temporary use permit expires in December 2003.

The subject property is served by private on-site well and septic disposal system. The applicant has supplied septic disposal permit and well information. There are no community water or community sewer services within the area nor are services anticipated in the future.

The applicant is requesting that Bylaw No. 500, 1987 be amended from Residential 2 Subdivision District 'F' (RS2F) (1.0 ha minimum parcel size) to Industrial 1 Subdivision District 'Z' (no further subdivision) (IN1F) in order to permit to continue the existing fence assembling, manufacturing, and sales use. At this time, the applicant is not proposing any new buildings or uses.

Public Information Meeting

A public information meeting was held on October 15, 2003 at the Cranberry Community Hall. Notification of the meeting was advertised in the Harbour City Star, the Take-5, and the RDN web site, along with a direct mail out to all property owners within 100 metres of the subject property. Two people attended the information meeting and provided comments with respect to the proposal (*see Attachment No. 6 'Proceedings of the Public Information Meeting'*). There were no issues raised at the public information meeting.

ALTERNATIVES

1. To approve the amendment application as submitted for 1st and 2nd reading and proceed to public hearing.
2. To approve the application in consideration of the applicant offering to undertake the conditions outlined in Schedule No. '1' of this report for 1st and 2nd reading and proceed to public hearing.
3. To not approve the amendment application.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The consultation and referral process associated with the Electoral Area 'A' Official Community Plan No. 1240, 2001 considered the issue of light industrial activity on the subject property and favoured including this property within a designated Industrial area. The OCP's policies support the proposal for a light industrial use in this location. Therefore, the rezoning of this parcel to Industrial 1 is fully supported by the Official Community Plan.

DEVELOPMENT IMPLICATIONS

Although, the applicant is not proposing any changes to the current use of the site at this time, the property is still subject to the requirements of a development permit. The South Wellington Development Permit Area No. 1 includes guidelines such as the provision of landscaping, groundwater protection, and the location of off-street parking and outdoor storage areas; all applicable guidelines can be secured through the development permit process. The applicant is in concurrence with this condition to enter into a development permit as outlined in Schedule No. 1 and has submitted an application for a development permit, which if the zoning amendment proceeds, will run concurrently with the amendment application and be approved by delegation pursuant to the RDN Delegation of Authority Bylaw No. 1166, 1999. If, in the future, the applicant decides to redevelop the entire site, another development permit would be required at that time.

The water well information supplied by the applicant indicates that the water is below industry standard for domestic use; however, the applicant has indicated that with proper filtering equipment, the quality of the water could be improved. As there are no community services in this area and as these services are not anticipated, a no further subdivision district is recommended.

PUBLIC CONSULTATION IMPLICATIONS

A Public Information Meeting was held on October 15, 2003. The Summary of Minutes from the public information meeting is included for information (*see Attachment No. 2*). There were no issues raised at this meeting.

ENVIRONMENTALLY SENSITIVE AREAS IMPLICATIONS

There are no environmentally sensitive features indicated on the Environmentally Sensitive Areas Atlas or in the Official Community Plan (OCP) associated with this property. The OCP does reference protection of groundwater. Therefore, as part of the development permit application, the permit will address protection of the groundwater as outlined in the corresponding development permit guidelines.

INTERGOVERNMENTAL IMPLICATIONS

Ministry of Transportation – staff has indicated that the Ministry has no objections to this application. It is noted that an amendment bylaw is subject to the approval of the Ministry pursuant the *Highway Act*.

Ministry of Health - staff has provided initial comments and indicated that the Ministry is in support of the proposal as submitted.

Cranberry District Local Fire Chief – The Planning Department, in consideration of fire safety issues, has been referring applications for rezonings or OCP amendments to local fire departments. To date, comments have not been received on this application, but the RDN will continue to keep local fire officials informed of proposed changes in their areas.

VOTING

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

SUMMARY

This is a request to amend Bylaw No. 500, 1987 to permit the existing fence assembling, manufacturing, and sales use at 1882 Fielding Road in the South Wellington area of Electoral Area 'A' to continue. A public information meeting was held on October 15, 2003 and no issues were raised at this meeting. Preliminary referrals were forwarded to a number of agencies. Ministry of Transportation has no issues with the proposed rezoning at this time; however, as the subject property is within 800 metres of a highway interchange, the amendment bylaw would be subject to the approval of the Ministry pursuant to the *Highway Act*. The Ministry of Health has indicated that it has no objection to the proposed rezoning.

The subject property is designated within the South Wellington Commercial-Industrial Development Permit Area and is therefore, subject to the consideration of a development permit. The applicant has

submitted an application for development permit and it is anticipated that this application will run concurrently with the proposed amendment bylaw if it proceeds. The development permit will include requirements for landscaping provisions, off-street parking and outdoor storage requirements, and protection of the groundwater. Given that the OCP supports the industrial use, that there were no issues raised at the public information meeting, and a development permit is required as part of the amendment process, staff support Alternative No. 2, to approve the amendment application subject to the conditions set out in Schedule No. 1, for 1st and 2nd reading and to proceed to public hearing.

RECOMMENDATIONS

1. That the minutes of the Public Information Meeting held on October 15, 2003 be received.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.297, 2003" be given 1st and 2nd reading.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.297, 2003" proceed to public hearing.
4. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.297, 2003" be delegated to Director Kreiberg or his alternate.

Stromie

Report Writer

[Signature]

General Manager Concurrence

[Signature]

Manager Concurrence

[Signature]

CAO Concurrence

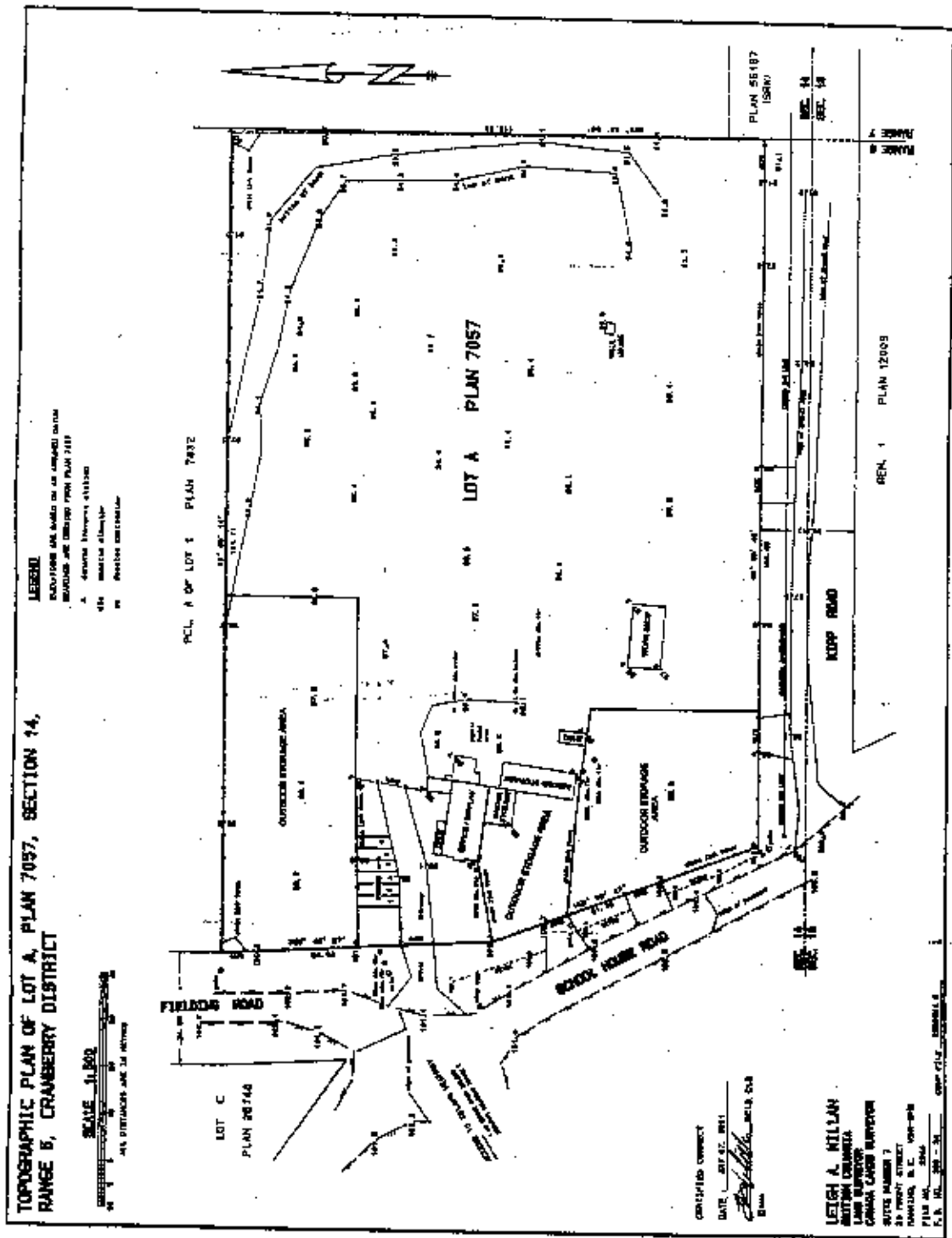
COMMENTS:

devsvs/reports/2003/ZA3360 39 0312 Tower Fence oc 1st and 2nd

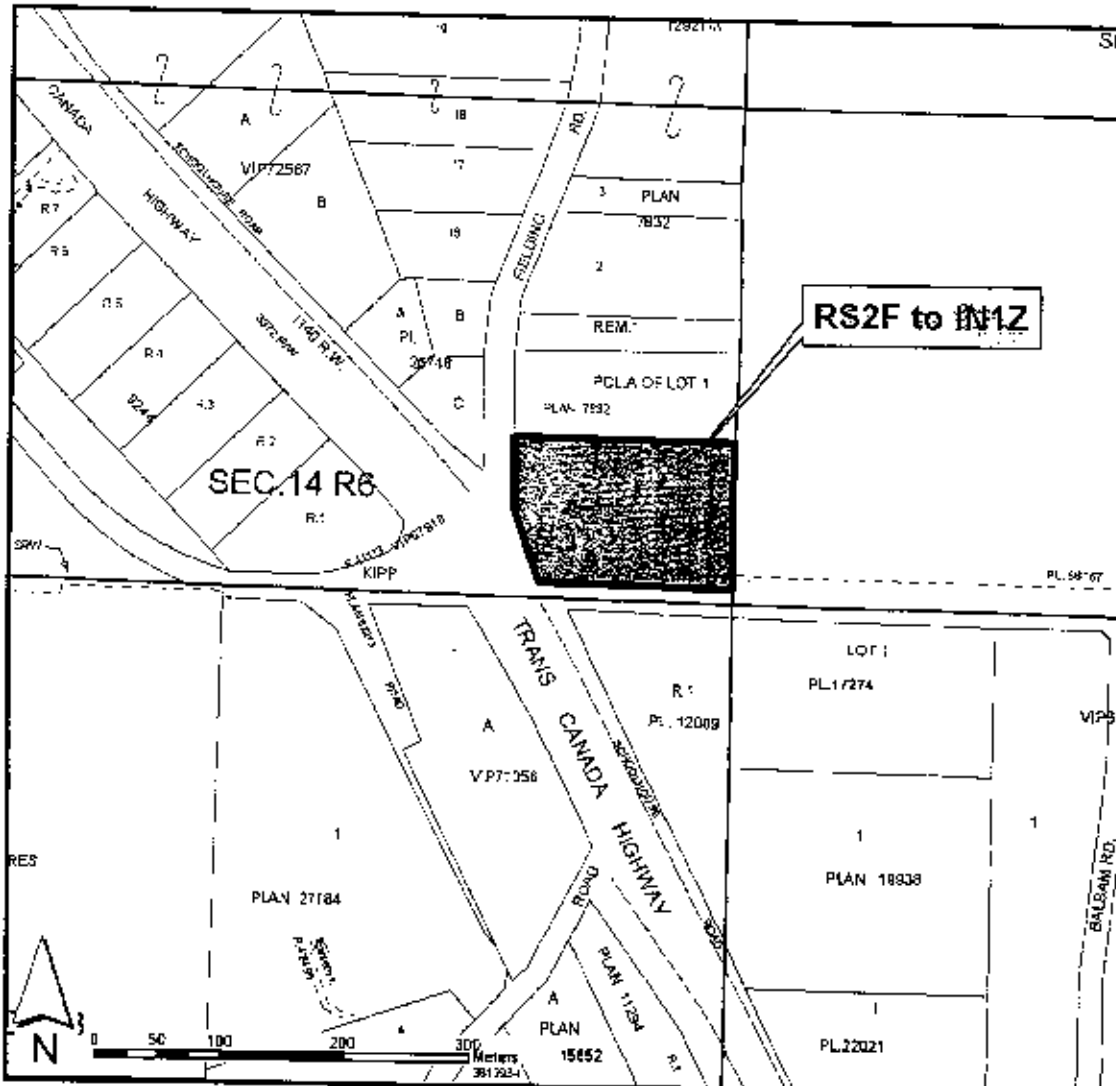
SCHEDULE NO. 1
Conditions for Approval for
Zoning Amendment Application No. ZA0312
Richard Irwin, on behalf of Tower Fence

1. The applicant is to enter into a development permit concurrently with the zoning amendment application.

SCHEDULE No. 2
Proposed Plan of Development
 (as submitted by applicant)
 (reduced for convenience)



ATTACHMENT No. 1
Location of Subject Property



BCGS MAPSHEET NO. 500.011.2.1

ATTACHMENT No. 2

Report of the Public Information Meeting
Held at Cranberry Community Hall
1555 Morden Road, South Wellington, BC
October 15, 2003 at 7:00 pm

Summary of the Minutes on Zoning Amendment Application for
Lot A, Section 14, Range 6, Cranberry District, Plan 7057

Note: this summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments of those in attendance at the Public Information Meeting.

There were 2 persons in attendance.

Present for the Regional District:

Chairperson Henrik Kreiberg
Director Larry McNabb
Susan Cormie

Director, Electoral Area 'A'
City of Nanaimo
Senior Planner

Present for the Applicant:

Mr. Richard Irwin, agent for the applicant

Director Henrik Kreiberg opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting and introduced the head table. The Chair then stated the purpose of the public information meeting and requested the senior planner to provide background information concerning the official community plan and zoning amendment process. The senior planner gave a brief outline of the application process.

The Chairperson then invited Mr. Richard Irwin, agent on behalf of the applicant, to give a presentation of the proposed zoning amendment.

Mr. Irwin did not give a full presentation, but asked for clarification that the reason for no further subdivision of the property was due to no community services being available.

The senior planner confirmed that the reason for no further subdivision was due to the lack of community services available to the property. The senior planner also noted that community services are not anticipated in the area.

The Chairperson invited questions and comments from the audience.

There were no questions or comments from the audience.

The Chairperson asked again if there were any questions or comments.

Being none, the Chairperson thanked those in attendance and announced that the public information meeting was closed.

The meeting concluded at 7:05 pm.

Susan Cormie
Recording Secretary



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| REGIONAL DISTRICT OF NANAIMO | | | |
| OCT 20 2003 | | | |
| CHAIR | | GMCrs | |
| CAO | | GMDS | |
| GMCms | | GMES | |

MEMORANDUM

TO: Pamela Shaw
 Manager, Community Planning

DATE: October 17, 2003

FROM: Deborah Jensen
 Planner

FILE: 3060 30 60351

SUBJECT: Development Permit Application No. 60351 – Hawthorne and Anscombe Electoral Area 'G' – 816 Flamingo Drive

PURPOSE

To consider an application for a Development Permit pursuant to the "Regional District of Nanaimo Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996" Environmentally Sensitive Areas and Hazard Lands Development Permit Areas to facilitate the construction of a detached garage. The application includes a request to vary the maximum permitted height for the garage.

BACKGROUND

This is an application to facilitate the construction of a detached garage on a residential property located near Qualicum Beach (see Attachment No. 1). The subject property, legally described as Lot 4, District Lot 10, Newcastle District, Plan VIP73563, is a 1.0-hectare parcel located along Flamingo Drive. It is bordered on all sides by residential properties, with the coastline located to the northeast.

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 and interior side lot lines; and 5.0 metres from other lot lines. The maximum height for an accessory building within this zone is 6.0 metres.

The siting of the proposed dwelling unit and detached garage are shown on Schedules No. 2 and 3. Development Permit No. 60317 granted a variance to the maximum permitted dwelling unit height to allow for construction above the flood level of 4.0 metres GSC, but not to exceed 12.0 metres GSC. Accessory buildings were not included. Given that the property is also located within a building inspection area, the "Floodplain Management Bylaw" (RDN Bylaw No. 843) applies to this property. However, with an intended use of a detached garage, the structure is not subject to the Floodplain Management Bylaw No. 843, and does not have to meet requirements for floodplain elevation.

The applicants are intending to construct a dwelling unit on the subject property that, due to floodplain requirements, must be sited at 4.0 metres GSC. Therefore, some fill is being placed on the property, and the dwelling unit will then be further elevated above this fill such that the underside of the floor meets the flood elevation requirements. The applicant is then proposing to construct a detached garage on this same fill, with a breezeway running between the dwelling unit and the detached garage. However, if the detached garage is located on the fill, it will not meet the height requirements set out in Bylaw No. 500. Therefore, the applicants are requesting a variance from 6.0 metres to that height allowing for construction at 9.7 metres GSC.

Legal Notations

Development Permit No. 60317 (Lot 4) is registered to the title of the subject property that allowed a variance to the maximum permitted height of the dwelling unit due to flood level requirements. It does not address any variances for the maximum permitted height of accessory buildings.

Two restrictive covenants are registered to the title of the subject property. Section 219 Covenant (ET039126) states that no area used for habitation, business, or storage of goods damageable by floodwaters shall be located within any building at an elevation such that the underside of the floor system thereof is less than four point zero (4.0) metres Geodetic Survey of Canada Datum. The required elevation may be achieved by structural elevation or by adequately compacted landfill. Section 219 Covenant (EP010184) states that the property shall only be used for those permitted uses provided for sites with no community services in the Residential 2 (RS2) zone of Bylaw No. 500, 1987, thereby restricting the number of dwellings to one per parcel.

Finally, a building scheme is registered to the title of the parcel that addresses and/or prohibits various uses and activities on the property, including signage, keeping of animals, tree retention, and types of structures. However, it should be noted that the RDN is not responsible for regulating these building schemes.

Development Permit Requirements

The proposed development of an accessory building is located within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas. The Development Permit Areas were established to protect those properties that are considered environmentally sensitive and at risk of damage from development activities, and to protect development from potential natural hazards such as flooding. Given that the property is located in this hazardous lands DPA, Board approval is required to permit the proposed development.

ALTERNATIVES

1. To approve Development Permit No. 60351 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Development Permit No. 60317 allowed for construction of a single dwelling unit within the specified building site subject to certain conditions, including retention of forested lands. This Permit also granted a variance to allow the proposed dwelling unit to meet floodplain elevation. Approval of this application would allow the construction of a detached garage, with a building design height of 6.0 metres, within the previously approved building area and sited on the fill required for construction of the dwelling unit. It is estimated that this additional development of the site will not result in any significant environmental impacts, as in relation to construction of the dwelling unit.

While a detached garage is not required to meet flood elevation, the intent is to site this accessory building above natural grade to mitigate any potential threat of flooding due to runoff from the aforementioned fill. This siting allows for connection of the breezeway running between the detached garage and the dwelling unit, and provides easy access from the front yard to the back yard between the two buildings. As the detached garage does not have to meet 4.0 metres GSC, the building roof ridge

would still be lower than that of the dwelling unit. Alternatively, the applicant could further elevate the garage and provide an enclosed corridor between the buildings, thereby negating the need for a development permit. However, the applicant would prefer to maintain an outdoor pathway between the two buildings.

The existing topography of the parcel is relatively flat. The northeast portion of the site has recently been cleared, as allowed by Development Permit No. 60317, but the remainder of the lot has retained the existing vegetation. Tree retention along three of the lot lines reduces the potential visual impact to adjacent properties. It is unlikely that there will be any substantial visual impact to those residences located across Flamingo Drive, along the waterfront.

VOTING


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


SUMMARY/CONCLUSIONS

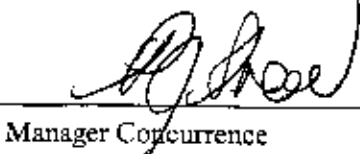
This is an application for a development permit within the Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996 Environmentally Sensitive and Hazard Lands Development Permit Areas. The application includes a request to vary the maximum permitted accessory building height from 6.0 metres to allow for construction of a detached garage at 9.7 metres GSC. This would result in the detached garage being approximately 6.8 metres above natural grade. Given the need to place some fill for construction of the dwelling unit, and the potential for flooding to affect the detached garage at natural grade, staff recommends the requested Development Permit be approved subject to the conditions outlined in Schedules No. 1, 2, 3 and 4 of this report and subject to notification requirements pursuant to the *Local Government Act*.

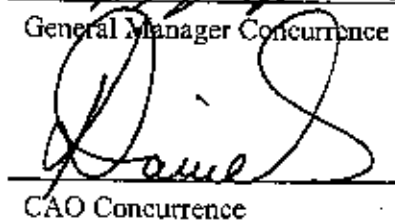
RECOMMENDATION

That Development Permit Application No. 60351, submitted by Fern Road Consulting, Agent, on behalf of Robert Hawthorne and Lorna Anscombe, for property legally described as Lot 4, District Lot 10, Newcastle District, Plan VIP73563, to vary the maximum accessory building height within the Residential 2 (RS2) zone from 6.0 metres to allow for construction of a detached garage at 9.7 metres GSC be approved subject to the conditions outlined in Schedules No. 1, 2, 3 and 4 of the staff report and subject to the notification requirements pursuant to the *Local Government Act*.


Report Writer


General Manager Concurrency


Manager Concurrency


CAO Concurrency

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60351**

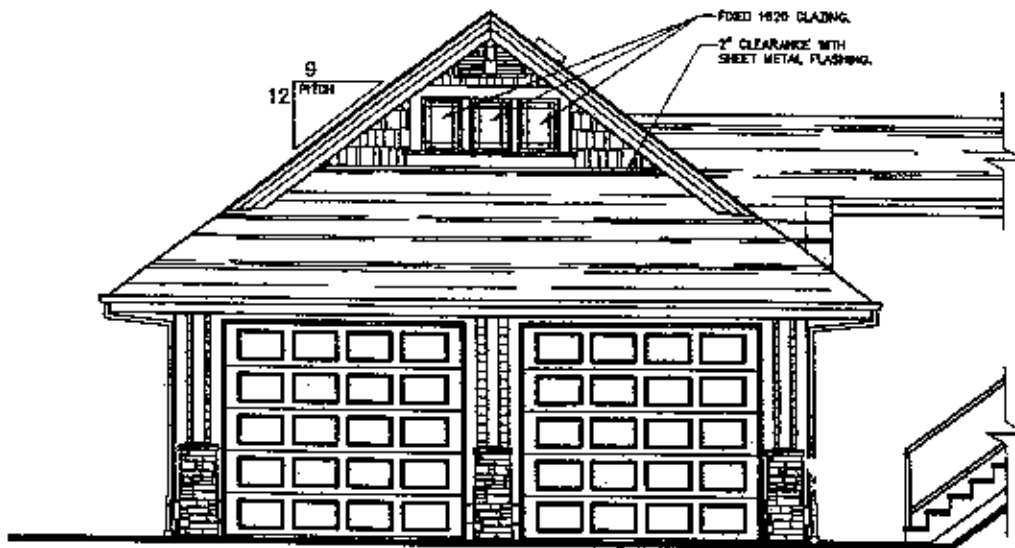
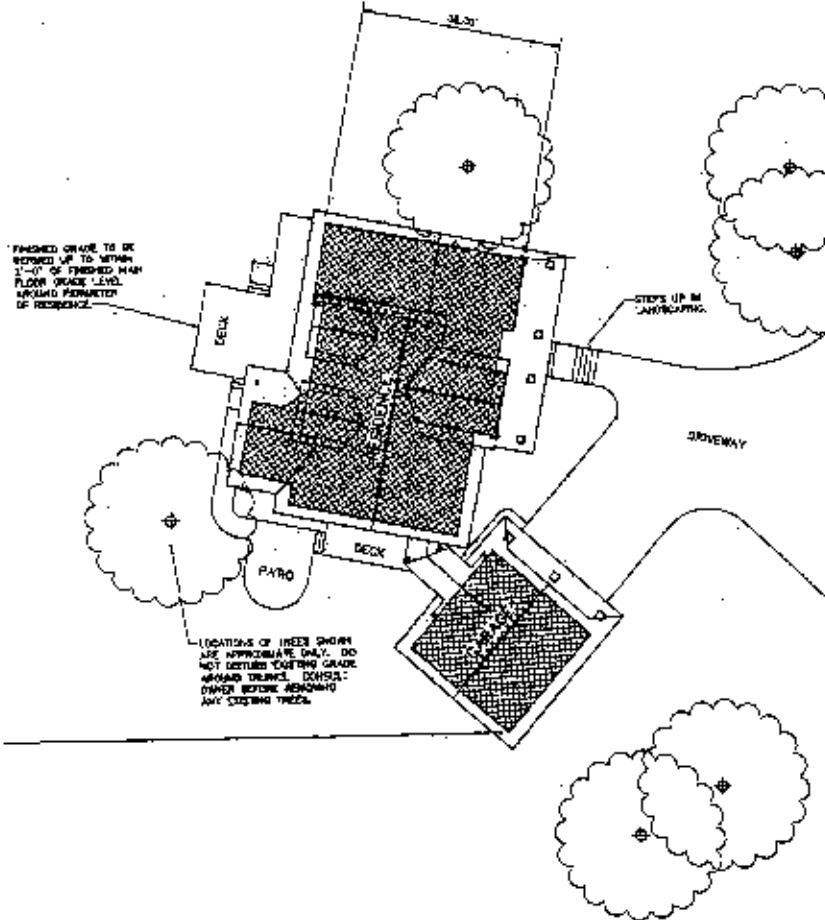
General

1. The subject property is to be developed in accordance with Schedules No. 1, 2, 3 and 4 of this staff report.
2. This Development Permit applies to the construction of one accessory building intended for the use of a detached garage, including a small attic intended for uninhabitable storage.
3. All works shall be undertaken in accordance with Development Permit No. 60317 (Lot 4), except as provided in this Development Permit.

Sediment and Erosion Control

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

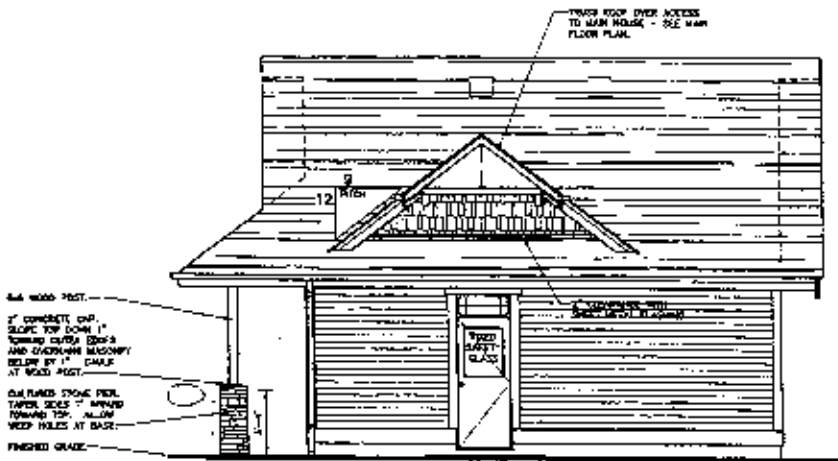
**Schedule No. 3
 Building Profile
 (Page 1 of 2)
 Development Permit Application No. 60351
 (As Supplied by Applicant)**



04 WEST ELEVATION
 AB 1/4" = 1'-0"

PAGE
 21

Schedule No. 3
 Building Profile
 (Page 2 of 2)
 Development Permit Application No. 60351
 (As Supplied by Applicant)

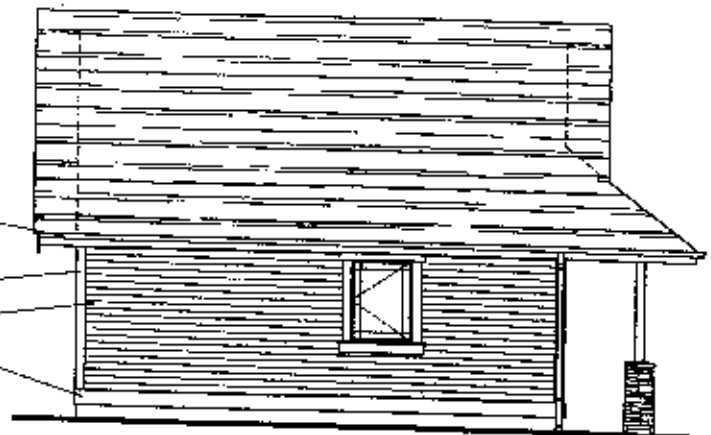


4x4 WOOD POST.
 2\"/>

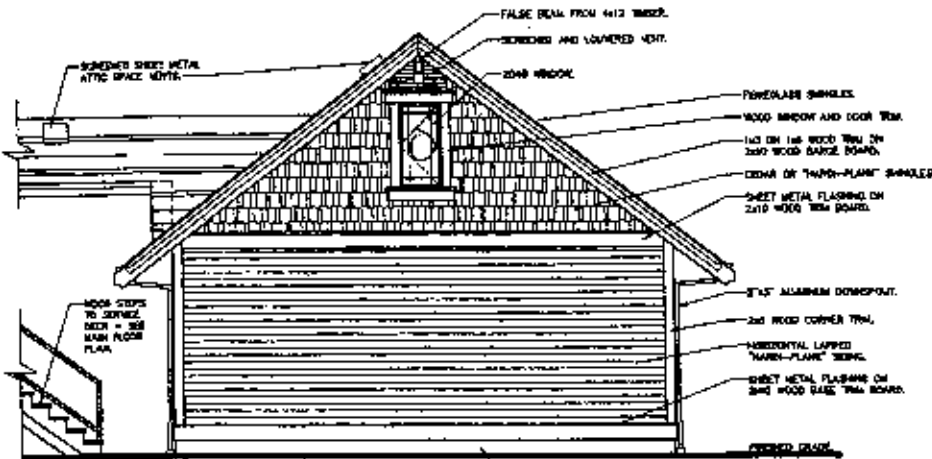
NOTE:

01. REFER ALSO TO MAIN HOUSE SPECIFICATION.

05 SOUTH ELEVATION
 AB 1/4" = 1'-0"



03 NORTH ELEVATION
 AB 1/4" = 1'-0"



02 EAST ELEVATION
 AB 1/4" = 1'-0"

**Schedule No. 4
Variance to
Development Permit Application No. 60351**

With respect to the lands and the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," the following variance is approved subject to completion of the conditions as set out in Schedules No. 1, 2 and 3 of this staff report:

Part 2 Interpretation Section 2.1 Definitions – 'height' is varied from:

The elevation of a point directly below:

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

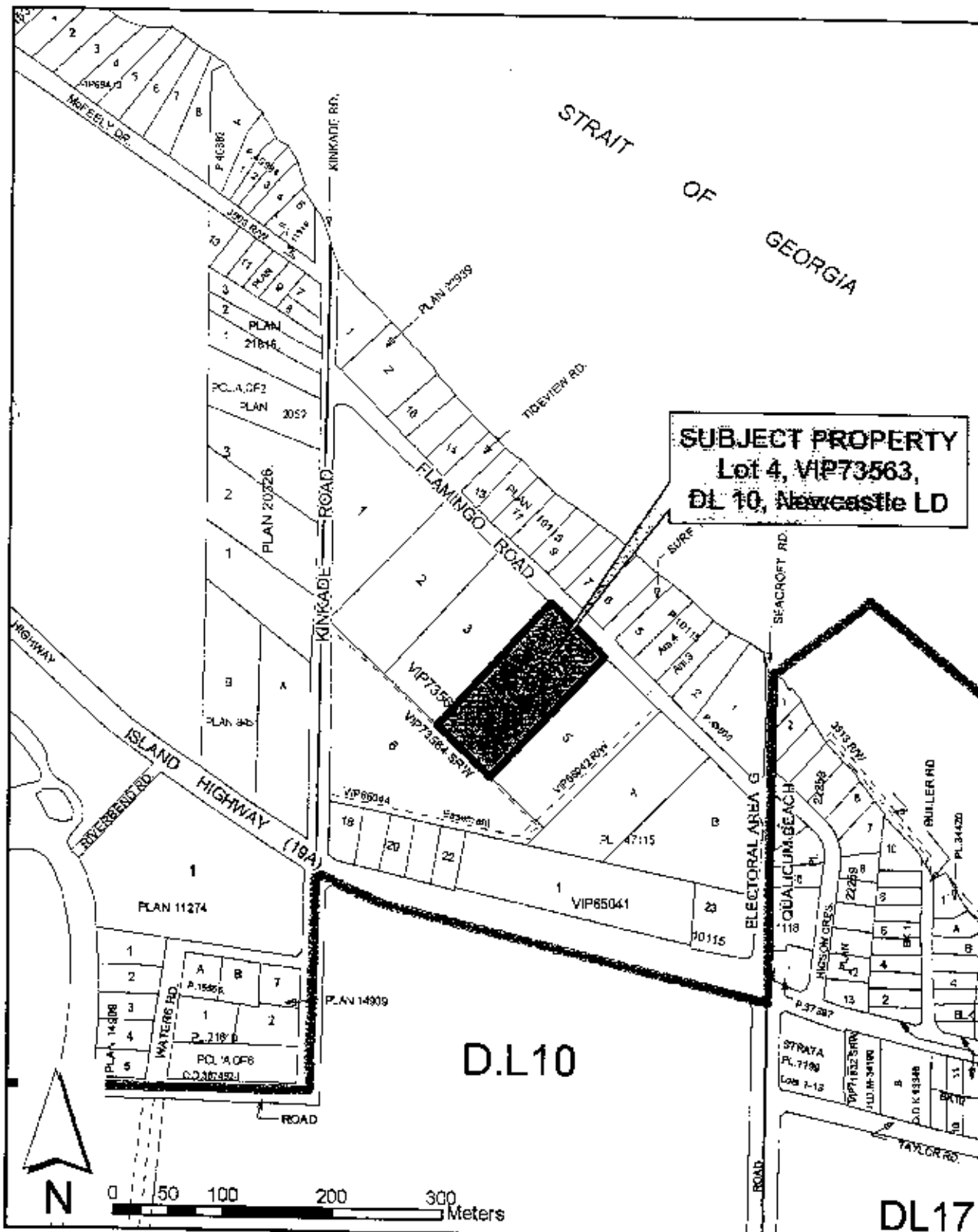
but specifically excludes chimney, mast aerial, church spire, flag pole, water tank, observations and transmission tower, mechanical devices necessary for the operation of a building, and agriculture building or structures where permitted in the zone.

To:

The maximum accessory building height is varied to 9.7 metres GSC, with the design height of the accessory building set at 6.0 metres,

exclusive of chimneys and flag poles, but specifically restricting the use of the accessory building to a detached garage only, and providing only for storage within the uninhabitable attic area.

Attachment No. 1
Subject Property Map
Development Permit Application No. 60351





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| REGIONAL DISTRICT OF NANAIMO | | |
| OCT 20 2003 | | |
| CHAIR | | GMCrs |
| CAO | | GMDS |
| COMS | | GMES |
| | | EAP |

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: October 17, 2002

FROM: Blaine Russell
Planner

FILE: 3060 30 60352

SUBJECT: Development Permit Application No. 60352 – Fern Road Consulting Ltd. – Pepler Electoral Area 'E' – 3395 Blueback Drive

PURPOSE

To consider an application for a Development Permit within the Watercourse Protection Development Permit Area pursuant to the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" to vary the maximum height requirement to facilitate the construction of a dwelling unit and to facilitate the construction of two terraced riprap retaining walls with variances.

BACKGROUND

The subject property, legally described as: Lot 33, District Lot 78, Nanoose District, Plan 15983, is located at 3395 Blueback Drive in the Fairwinds area of Electoral Area 'E' (see Attachment No. 1).

The subject property is zoned Residential 1 (RS1) subdivision district 'N' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

The subject property is bordered by residential properties to the northwest and southeast and is adjacent to Blueback Drive to the southwest and the Strait of Georgia to the northeast. Across Blueback Drive are additional residential properties.

The two terraced riprap retaining walls are proposed to be 1.2 and 2.2 metres in height (with the higher wall located farther inland from the top of slope) and thus would be considered structures under Bylaw No. 500. The two retaining walls would require a relaxation to setbacks from 8.0 metres to 4.0 metres from the top of slope adjacent to the sea and would require a relaxation to setbacks to both interior side lot lines from 2.0 metres to 0.0 metres to be sited as proposed. The proposed general siting and dimensions of the two terraced riprap retaining walls are shown on Schedules 2 and 3.

The maximum dwelling unit height in this zone is 8.0 metres. 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. The proposed siting and dimensions of the single dwelling unit are shown on Schedules 2 and 3.

The subject property is located adjacent to the sea and is designated within the Watercourse Protection Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118,

1998". The Watercourse Protection Development Permit Area, which consists of a 15.0 metre strip as measured from the natural boundary, was designated to protect the natural environment. The two terraced riprap retaining walls are proposed to be located within 11.0 metres from the natural boundary of the sea and are thus within the Watercourse Protection Development Permit Area; a development permit is required prior to any development and /or land alteration.

The property is located within a building inspection service area; therefore, "Floodplain Management Bylaw No. 843, 1991" applies to this property. The applicant's site plan indicates that the proposed dwelling unit, accessory building and two retaining walls will be located more than 11.0 metres back from the natural boundary of a coastal watercourse that features bedrock formations. In addition, these structures are elevated more than 5.0 metres above the natural boundary. As such, site-specific exemption will not be required from the Ministry of Water Land and Air Protection to Bylaw No. 843 and the siting as proposed meets the requirements of the Bylaw.

ALTERNATIVES

1. To approve Development Permit No. 60352 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

DEVELOPMENT AND ENVIRONMENTAL IMPLICATIONS

Dwelling Unit and Accessory Building

The proposed dwelling unit is outside of the development permit area; however, as the natural grade generally slopes down from Blueback Drive towards the Strait of Georgia and with the proposed architectural design of the house, the applicant is requesting a height variance. As the dwelling unit is proposed to be sited in line with the dwelling units on the two adjacent properties, views from these properties will not be impacted. In addition, the properties to either side of the proposed development are heavily treed and thus are already visually screened. Properties across Blueback Drive are elevated approximately 15.0 metres above the elevation of the subject property and thus their view would not be impacted by the proposed development. It should be noted that the subject property itself is densely treed along its parameter with natural vegetation that acts as screening.

Retaining Walls

The two terraced riprap retaining walls are proposed to be located within 15.0 metre Watercourse Protection Development Permit Area. However, the two retaining walls will be located at least 11.0 metres from the natural boundary of the sea and within 4.0 metres of the top of slope. The top of slope is elevated approximately 5.0 metres above the natural boundary of the sea and is comprised of bedrock. The geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. dated October 10, 2003 indicates that bedrock is exposed at various locations throughout the property along with areas with broken rock fragments and that soil cover, where present, is typically thin on the property. With the bedrock nature of the property and the physical separation, due to elevation and distance, between the retaining walls and sea there is no reason to believe that the proposed retaining walls will have any environmental impact on the marine environment.

With respect to the height of the retaining walls, the applicant has indicated that the walls are not anticipated to exceed 1.2 and 2.2 metres in height (as limited by the conditions outlined in Schedule No.1).

Vegetation

Vegetation on the subject property is located primarily adjacent to Blueback Drive and near the natural boundary of the Strait of Georgia. The rest of the property is comprised mostly of bedrock outcroppings and fragmented rock. The vegetation that is adjacent to Blueback Drive and the natural boundary of the Strait will remain. Vegetation could conceivably be removed in order to provide for the siting of the dwelling unit and accessory building; however, the proposed location of these building is clearly outside of the development permit area and so would be any associated vegetation removal.

GEOTECHNICAL IMPLICATIONS

The geotechnical report by Lewkovich Geotechnical Engineering Ltd. dated October 10, 2003 "...recommend(s) that the house be provided with a minimum setback from the slope crest of 8 metres". The dwelling unit and accessory building are proposed to be sited at least 14.7 metres from the top of slope (slope crest) and thus would follow the recommendations of the geotechnical report. The proposed retaining walls, however, are proposed be located a minimum of 4.0 metres from the top of slope. The geotechnical report states: "...the steep rock slope facing the foreshore is subject to long term degradation. However, the bedrock nature of the slope will result in erosion of a long term nature only". The report also states: "Patio or other 'hard scape' areas may be considered within the setback area, provided the Owner understands the risks attached due to potential differential movement or partial loss of slab area". It would be reasonable to assume that the retaining walls would also be similarly affected by this potential differential movement and as such, it is recommended that as a condition of this permit that a save harmless covenant, favouring the Regional District, be registered on the title of the property. The agent has indicated that the works will be conducted under the supervision of a geotechnical engineer and that an updated geotechnical report will be provided to address the retaining walls. It should be noted that the Chief Building Inspector may require additional geotechnical or engineering reports as part of the building permit application process.

VOTING

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

SUMMARY/CONCLUSIONS

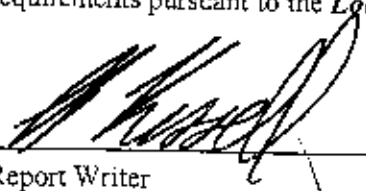
This is an application for a development permit to allow for the construction and siting of two terraced riprap retaining walls with variances within the designated Watercourse Protection Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998". In addition, this application also includes a request to relax maximum height requirement in order facilitate the construction of a dwelling unit as proposed by the applicant.

RECOMMENDATIONS

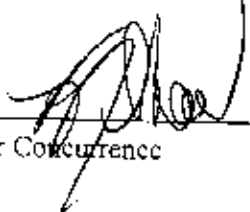
That Development Permit Application No. 60352, submitted by the agent, Fern Road Consulting Ltd., on behalf of William Richard Pepler, for the property legally described as Lot 33, District Lot 78, Nanoose District, Plan 15983 requesting to:

1. Relax the minimum setback requirement for the inland top of slope of 30% or greater adjacent the sea from 8.0 metres to 4.0 metres in order to accommodate the siting of two terraced riprap retaining walls;
2. Relax the minimum setback requirements for both interior side lot lines from 2.0 metres to 0.0 metres in order to accommodate the siting of two terraced riprap retaining walls;
3. Relax the maximum dwelling unit height from 8.0 metres to 9.5 metres in order to accommodate the siting of the dwelling unit;


be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.



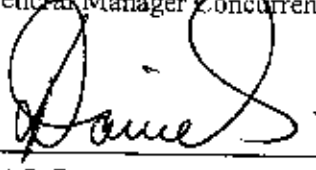
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Permit No. 60352**

Location

1. The two retaining walls shall be located at least 4.0 metres and no more than 14.7 metres from the top of slope adjacent Georgia Strait.
2. There shall be more than 1.2 metres between each retaining wall.
3. The dwelling unit shall be sited as shown on schedule No. 2 and built to generally comply with the profile plan as shown on schedule No. 3.

Maximum Height

5. The retaining wall closest to the top of slope adjacent the Strait of Georgia shall not exceed 1.8 metres in height as measured from the natural grade pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".
6. The retaining walls farthest from the top of slope that is adjacent the Strait of Georgian shall not exceed 2.8 metres in height as measured from the natural grade pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".
7. The dwelling unit shall not exceed 9.5 metres in height as measured from the natural grade pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

Construction

8. All drainage systems must incorporate measures that prevent the loss of upland soils into the marine environment and generally direct drainage away from the marine foreshore when not impractical.
9. All excavated material must be placed such that there is no potential for introduction onto the foreshore.

Geotechnical Engineering

10. The two retaining walls, dwelling unit and accessory building may require certification by a professional engineer to the satisfaction of the Regional District of Nanaimo Building Inspection Department if, deemed necessary by the Chief Building Inspector.
11. Applicant to register Section 219 and save harmless covenant with respect to the geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. dated October 10, 2003 and addendums at the Land Title Office to the satisfaction of the Chief Building Inspector of the Regional District with all cost of registration borne by the applicant and that this must occur prior to the issuance of occupancy by the Building Inspection Department.

Sediment and Erosion Control Measures

12. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works, and to stabilize the site after construction is complete. These measures must include:
 - a) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be 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.
13. Replant vegetation within disturbed part of the development permit area. Preferred plantings to be trees, shrubs and ground cover native to the area.

Schedule No. 2 (1 of 2)
 Site Plan
 (As Submitted by Applicant / Modified to Fit This Page)

PLAN OF LOT 33, DISTRICT LOT 78,
 NANOOSE DISTRICT, PLAN 15983.
 SHOWING HOUSE AND GARAGE LOCATION THEREON.

ALL DISTANCES & ELEVATIONS ARE IN METRES.
 ELEVATIONS ARE BASED ON ASSUMED DATUM.

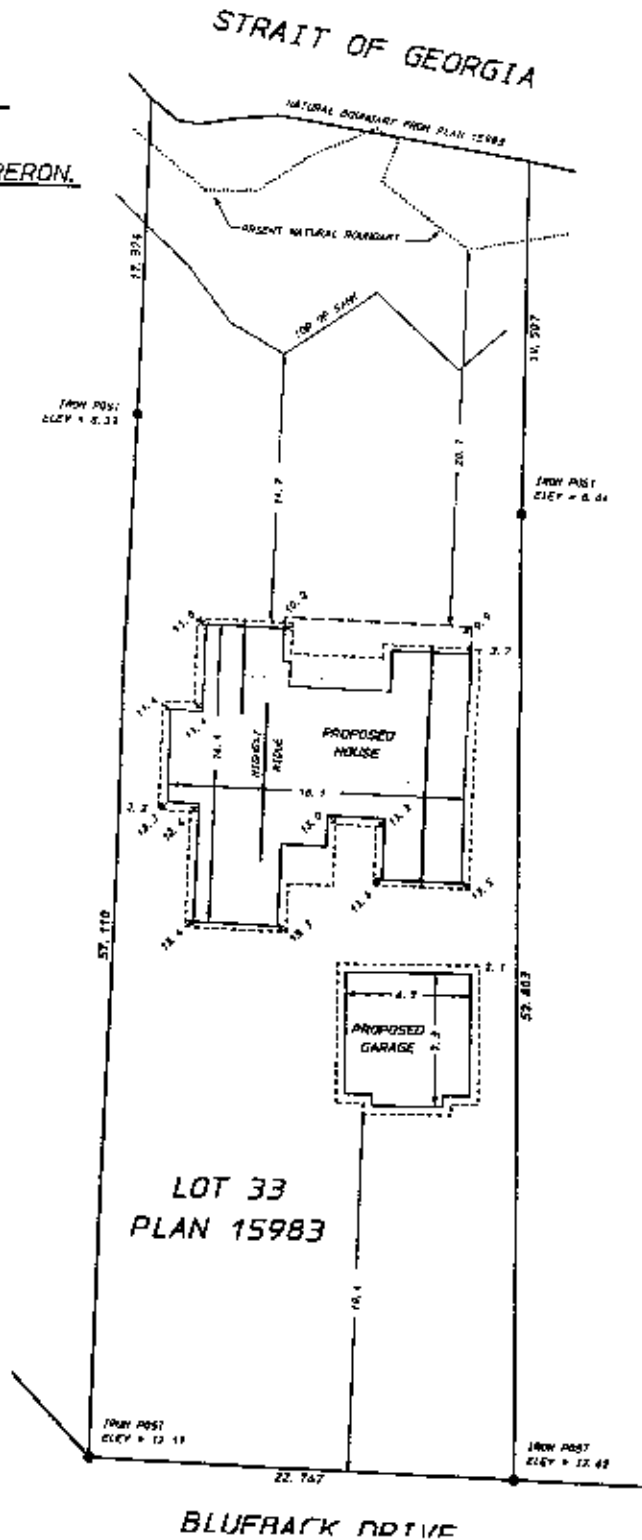
HEIGHTS

| | |
|--|------|
| PROJECTED TOP OF MAIN FLOOR | 13.9 |
| DESIGN HEIGHT OF CONSTRUCTION TOP OF MAIN FLOOR TO HIGHEST RIDGE | 6.6 |
| PROJECTED ELEVATION OF HIGHEST RIDGE | 20.4 |
| MAXIMUM BUILDING ELEVATION ALLOWED ACCORDING TO BYLAW 590 | 19.0 |
| VARIANCE REQUIRED | 1.5 |

Maximum Dwelling Unit Height 9.5 metres

LEGEND

- DENOTES FOUNDATION LINE.
- DENOTES OVERHANG TO H. J. OVERHANG 0.45
- + 11.4 DENOTES SPOT ELEVATION
- ELEVATIONS ARE BASED ON ASSUMED DATUM



**Schedule No. 4
Requested Variances
Development Permit No. 60352**

Development Permit No. 60352 will vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

1. By relaxing **Section 3.3.8 – Setback Sea** – the minimum setback requirement for the inland top of slope of 30% or greater adjacent the sea from 8.0 metres to 4.0 metres in order to accommodate the siting of two terraced riprap retaining walls.
2. By relaxing **Section 3.4.62 – Minimum Setback Requirement – Interior Side Lot Line** – the minimum setback requirements for both interior side lot lines from 2.0 metres to 0.0 metres in order to accommodate the siting of two terraced riprap retaining walls.
3. By relaxing **Section 3.4.62 – Maximum Number and Size of Buildings and Structures – Dwelling Unit Height** - the maximum dwelling unit height from 8.0 metres to 9.5 metres in order to accommodate the siting of the dwelling unit.



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| REGIONAL DISTRICT OF NANAIMO | | | |
| OCT 20 2003 | | | |
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MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: October 20, 2003

FROM: Deborah Jensen
Planner

FILE: 3060 30 60354

SUBJECT: Development Permit Application No. 60354 – French Creek Estates Ltd.
Electoral Area 'G' – Columbia Drive

PURPOSE

To consider an application for a Development Permit with variances to vary the minimum permitted setbacks for four proposed parcels within a subdivision proposal approved under Development Permit Nos. 77 and 0249.

BACKGROUND

This is an application to consider variances for four proposed parcels within a phased residential subdivision located in French Creek (see Attachment No. 1). The subject property, legally described as Lot 1, District Lot 28, Nanoose District, Plan VIP62528 and Lot 2, District Lot 28, Nanoose District, Plan VIP62528, is located along Columbia Drive. It is surrounded by residentially zoned properties.

In 1994, French Creek Estates Ltd. applied for, and received approval from the Regional District of Nanaimo for Development Permit No. 77. This is a phased permit that addresses subdivision of land, including development of 65 single-family residential lots and four multi-family residential lots. The single-family residential lots are subject to a development permit due to subdivision of the lots. Development Permit No. 0249, issued in October, 2002 further amended Development Permit No. 77 by adjusting lot lines to increase the average parcel size of the lots by reducing the parcel size for one of the proposed multi-family parcels.

Pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998", the subject property is within the French Creek Harbour Centre Development Permit Area. While previous Development Permits (Nos. 77 and 0249) have already approved the lot layout of the 40-lot subdivision, the request is to vary the setbacks for four of the proposed lots.

The subject property is zoned Residential 5 (RS5) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," and is located within a building inspection area. The minimum setback requirements for a buildings and structures in this zone, excluding a multiple dwelling unit, are 8.0 metres from the front and exterior lot lines and 3.0 metres for other lot lines. Due to these setbacks, the applicant is now proposing to vary the minimum permitted setback for four of the approved lots (see Schedule No. 2) in order to ensure adequate building site areas. The proposed variances are as follows:

| Lot | Minimum Setback Requirement | Requested Variance |
|-----|-----------------------------|---|
| 1 | 8.0 metres | 5.0 metres to exterior lot line along Columbia Drive |
| 2 | 8.0 metres | 5.0 metres to exterior lot line along Columbia Drive |
| 22 | 8.0 metres | 5.0 metres to exterior lot line (proposed Viking Way) |
| 40 | 8.0 metres | 5.0 metres to exterior lot line along Columbia Drive |

Legal Notations

There are a number of documents registered to the title of the subject properties. An easement (K1387) registered to the title of Lot 1 provides for an access right-of-way. A statutory right-of-way (J109861) registered to the title of Lot 1 provides for infrastructure construction. Development Permit No. 77 is registered on the title of Lots 1 and 2 citing conditions for development of 65 single-family and 4 multi-family residential lots. Development Permit No. 0249 amends this original permit by allowing for lot line adjustments to create larger parcel sizes, with the exception of one parcel that is reduced in size.

One of the restrictive covenants (EJ136863) addresses flood elevation, while another (EJ136859), registered to the title of Lot 2, addresses the construction of a retention pond, subject to the satisfaction of the Ministry of Transportation. An additional restrictive covenant registered to the Regional District of Nanaimo and the Ministry of Environment restricts any construction and the removal of vegetation within a covenant area designed to protect an eagle nest tree. Finally, a restrictive covenant (EJ136869) registered to the title of Lot 2 in favour of the Regional District of Nanaimo, restricts the removal of vegetation within a covenant area located along Columbia Drive. The variances proposed within this application would not affect either of the above-noted covenant areas.

ALTERNATIVES

1. To approve Development Permit No. 60354 subject to the conditions outlined in Schedules No. 1, 2 and 3.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

There are no identified environmentally sensitive features indicated on the Environmentally Sensitive Areas Atlas. Those areas identified on the Atlas as coastline and wetlands are located to the southeast of the subject parcels. However, restrictive covenants in favour of the Regional District of Nanaimo are in place for protection of habitat surrounding an eagle nest tree, and for protection of vegetation along Columbia Drive.

The four proposed parcels requiring variances are all corner lots. From a site planning perspective, it is often considered more difficult to demarcate a workable building site on a corner lot due to setback requirements for lot lines adjacent to a roadway. Siting of these proposed lots within a Residential 5 (RS5) zone further inhibits buildable site area due to more restrictive setback requirements. Staff notes that each of the lots requiring a variance are single dwelling unit lots. If the properties were located within a Residential 1 (RS1) zone that is intended for single dwelling unit use, minimum permitted setbacks would be set at 5.0 metres for exterior lot lines and 2.0 metres for interior side and rear lot lines. By varying the setback requirements for the specified four lots, the proposed zoning setbacks would be consistent with the majority of properties located within the French Creek area. Development Permit

PAGE
36/114

No. 77 already approved relaxation of the interior side and rear lot lines to 2.0 metres for the single dwelling unit lots.

Staff also note that variances to 5.0 metres along the exterior lot lines does not require approval for relaxation from the Ministry of Transportation.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process, adjacent and nearby residents and property owners will have an opportunity to comment on the proposed variances prior to Board consideration of the permit.

VOTING

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


SUMMARY/CONCLUSIONS

This is an application for a development permit within the French Creek Official Community Plan, Bylaw No. 1115, 1998 French Creek Harbour Centre Development Permit Area. The application includes a request to vary the minimum permitted setback for four of the proposed lots.

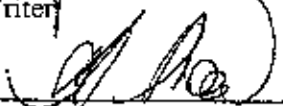
Given that these variances will secure single dwelling unit building site areas and will not have any impact on those vegetated and wildlife areas protected by covenant and development permits, staff recommends the requested Development Permit be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 of this report and subject to notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

That Development Permit Application No. 60354, submitted by W.R. Colclough, Agent, on behalf of French Creek Estates, to relax the minimum setback requirement for four corner lots within a Residential 5 (RS5) zone as set out in Schedule No. 3 of this staff report, for the property legally described as Lots 1 and 2, District Lot 28, Nanoose District, Plan VIP62528, be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.



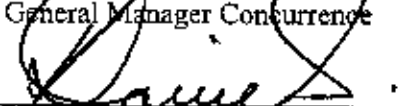
Report Writer



Manager Concurrence



General Manager Concurrence



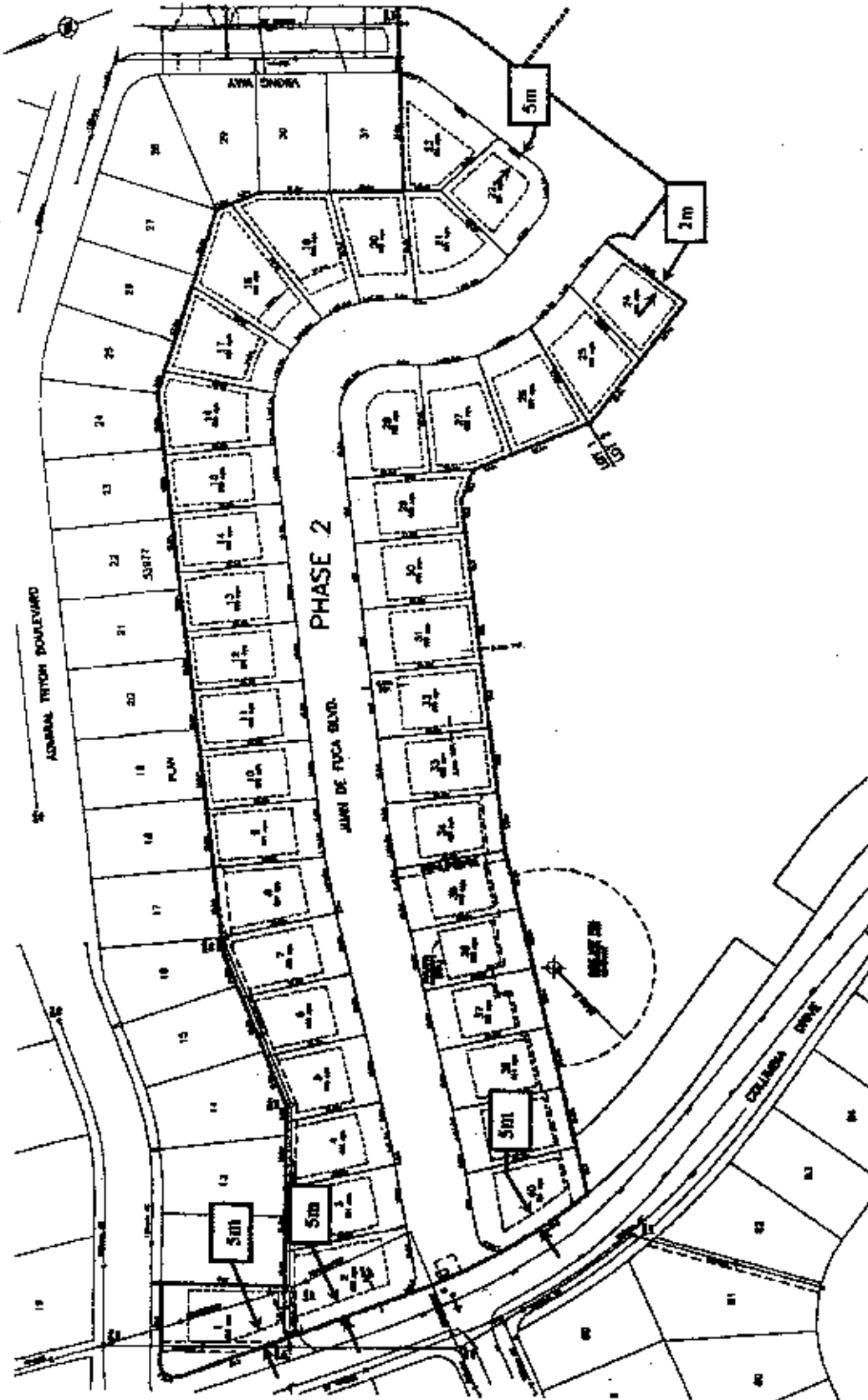
CAO Concurrence

COMMENTS:

Schedule No. 1
Conditions of Approval
Development Permit Application No. 60354

1. This permit provides for variances on 4 lots as part of a subdivision of 40 lots to be subdivided in substantial compliance with the site plan attached as Schedule No. 2.
2. With the exception of the proposed variances to minimum permitted setbacks for Lots 1, 2, 22, 24 and 40, all conditions of approval contained in Development Permits No. 77 and 0249 apply.
3. Applicant to meet all requirements of subdivision approval from the Ministry of Transportation.

Schedule No. 2
Site Plan
Development Permit Application No. 60354



FRENCH CREEK ESTATES
Phase II - 40 Lots

DEVELOPMENT PERMIT APPLICATION
Side Yard Setback Variances
Setback For Lots 1, 2, 22, 24 & 40

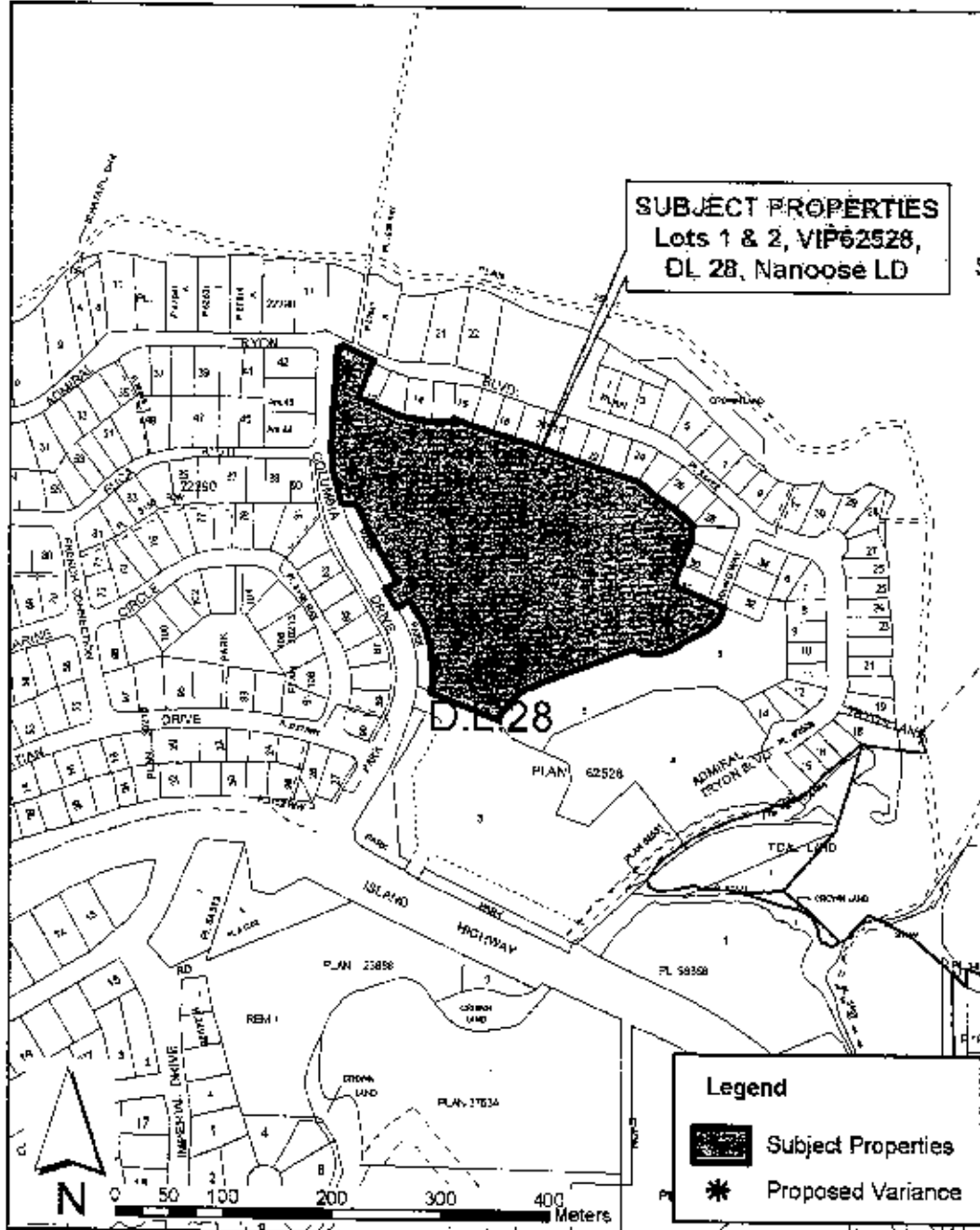
WR COLCLOUGH & ASSOCIATES LTD.
Land Community and Economic Development
Langville, BC

**Schedule No. 3
Variances to
Development Permit Application No. 60354**

The following variances are approved based on completion of the conditions outlined in Schedule No. 1:

- Proposed Lot 1:*** Relaxation of the exterior lot line from 8.0 metres to 5.0 metres to facilitate the development of a single dwelling unit.
- Proposed Lot 2:*** Relaxation of the exterior lot line from 8.0 metres to 5.0 metres to facilitate the development of a single dwelling unit.
- Proposed Lot 22:*** Relaxation of the exterior lot line from 8.0 metres to 5.0 metres to facilitate the development of a single dwelling unit.
- Proposed Lot 40:*** Relaxation of the exterior lot line from 8.0 metres to 5.0 metres to facilitate the development of a single dwelling unit.

Attachment No. 1
Subject Property Map





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| REGIONAL DISTRICT OF NANAIMO | | | |
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| | | | <i>EAP</i> ✓ |

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: October 20, 2003

FROM: Pamela Shaw
Manager of Community Planning

FILE: 3090 20 9623

SUBJECT: Addendum to Development Variance Permit No. 9623 – Gerald Rupp
Electoral Area 'A' – 1570 Fawcett Road

PURPOSE

To request the re-issuance of a Development Variance Permit originally issued in 1997.

BACKGROUND

In January 1997, the Board issued a Development Variance Permit for the property legally described as Lot 13, Plan 3779, Section 17, Range 4, Cedar Land District, in the 'Cedar by the Sea' neighbourhood in Electoral Area 'A'. The permit varied the minimum setback requirements for an interior side lot line from 2.0 metres to 1.0 metres and for a rear lot line from 2.0 metres to 1.0 metres to permit the construction of an accessory building. The original staff report (with background and siting information) is attached for the Board's information (see Attachment No. 1).

Subsequent to the Board's approval of the requested variances, the applicant applied for a Building Permit to construct the subject building. A Building Permit (#20697) was issued by the Building Inspection Department, but was never acted on by the applicant. As all building permits expire two years after the date of permit's issuance, the Permit was cancelled. In addition, all development variance permits issued by the Regional District lapse if the permittee does not commence development within 24 months of the date of issuance of the permit.

Recently, a complaint regarding the dilapidated status of the temporary tent structure (currently sited by the applicant in place of the proposed permanent structure as a short-term solution to protecting recreational vehicles and equipment on the subject property) has been received by the Bylaw Enforcement Department. To resolve this Bylaw Enforcement issue, the applicant has indicated he is now prepared to proceed with the construction of the accessory building, with siting and variances as approved by the Board 1997. While the applicant is aware that this Development Variance Permit and the Building Permit issued at that time have expired, the applicant is requesting that the Board, in the interest of resolving the Bylaw Enforcement complaint, consider the re-issuance of DVP No. 9623 (see attachment No. 2). The applicant is aware that he will be required to apply and pay all fees for a current building permit.

ALTERNATIVES

1. To re-issue Development Variance Permit No. 9623, thereby approving the siting variances and permitting the construction of an accessory building.
2. To re-issue Development Variance Permit No. 9623, subject to conditions as outlined in Schedule No. 1.
3. To not re-issue Development Variance Permit No. 9623 and advise the applicant to reapply for a Development Variance Permit or otherwise re-site the structure to meet all zoning setback requirements.

PAGE 42

PROCEDURAL IMPLICATIONS

All development variance permits filed by the RDN on the Certificate of Title for any property clearly state that the permit will lapse after 24 months if the permittee does not commence the development approved by the permit. However, given that this requirement is a condition of the permit, the Board has jurisdiction to reconsider the term and amend it if circumstances warrant. In this situation, the applicant has requested that the Board reconsider this time frame to allow the project to proceed as originally proposed and to facilitate removal of the temporary structure on the subject property.

FINANCIAL IMPLICATIONS


The fee for a Development Variance Permit is \$400.00. Should the Board consider the applicant's request to allow for a time extension on the subject Development Variance Permit and provide the applicant an additional 2 years to act on the permit, no fee would be required. If the Board does not support the re-issuance of the Development Variance Permit, the applicant would have the options of re-applying for a Development Variance Permit (and paying the \$400.00 fee) or to otherwise re-site the structure to meet all zoning setback requirements.

SUMMARY/CONCLUSIONS

The RDN Board approved development Variance Permit No. 9623 in 1997. The applicant did not act on that variance and the permit subsequently lapsed in 1999. Following a recent Bylaw Enforcement complaint, the applicant has indicated he is prepared to construct the accessory building but is requesting that the Board consider the re-issuance of DVP No. 9623 instead of requiring the applicant to re-apply for a development variance permit. The applicant is aware that the Building Permit issued subsequent to the original DVP approval has expired and a new building permit (with current fees) must be obtained.

RECOMMENDATION

That Development Variance Permit No. 9623, issued to Gerald Rupp, to vary the minimum setback requirements for a rear lot line from 2.0 metres to 1.0 metres and for a side lot line from 2.0 metres to 1.0 metres for the property legally described as Lot 13, Plan 3779, Section 17, Range 4, Cedar Land District be re-issued, subject to the notification requirements pursuant to the *Local Government Act* and subject to the conditions as outlined in Schedule No. 1.



Report Writer



General Manager Concurrence



CAO Concurrence

COMMENTS:

devs/reports/2003/dvp oc 3090 20 9623 Rupp

Schedule No. 1
Conditions of Approval
Re-issuance of DVP No. 9623 Rupp

1. *Local Government Act* requirements for notification of a variance pursuant to Section 922 of the *Act* must be completed prior to the Board's consideration of the requested to re-issue Development Variance Permit No. 9623.
2. The applicant is informed that Development Variance Permit is **not** a Building Permit; all necessary information must be submitted to the Building Inspection Department (along with required fees).
3. That the temporary tent structure be removed.
4. The applicant is informed that, should works as approved by a re-issued development variance permit not commence within 24 months of the date of the re-issuance, Development Variance Permit No. 9623 will be deemed to have expired.

Attachment No. 1
Development Variance Permit Report No. 9623



REGIONAL DISTRICT
OF NANAIMO
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MEMORANDUM

TO: Robert Lapham
Manager of Planning Services

DATE: January 08, 1997

FROM: Pamela Shaw
Planner

FILE: 3090 30 9623

SUBJECT: Development Variance Permit Application No. 9623- Gerald Rupp
Electoral Area 'A'

PURPOSE

To consider an application for a development variance permit to vary the minimum setback requirements for an interior side lot line from 2.0 metres to 1.0 metres and for a rear lot line from 2.0 metres to 1.0 metres to permit the construction of an accessory building on the property legally described as Lot 13, Plan 3779, Section 17, Range 4, Cedar Land District.

BACKGROUND

The intent of this application is to permit the construction of a garage/storage accessory building at 1570 Fawcett Road in the 'Cedar by the Sea' area of Electoral Area 'A' (see Attachment 1).

The subject property is zoned Residential 2 (RS2) pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. Pursuant to this Bylaw, all buildings and structures must comply with the following minimum setback requirements: 8.0 metres from the front lot line, 2.0 metres from interior side lot lines, 2.0 metres from the rear lot line, and 5.0 metres from all other lot lines.

The applicant is proposing to construct an 83.5 m² garage/storage accessory building. This proposed structure is at the maximum allowable floor area for accessory buildings in a Residential 2 (RS2) zone as determined by the area of the subject property (accessory buildings can have a combined floor area of 5% of the area of the parcel, not exceeding 100 m²). The applicant requires only one accessory building; the floor area of this building would preclude the construction of any additional accessory buildings on the subject property.

The applicant has attempted to re-site the building in a location that would not require variances, but has indicated that man-made constraints on the subject property limit location options. Building sites in the southern portion of the property are restricted due to the location of the dwelling unit and construction in this area would require a variance of the 8.0 metre setback in a Residential 2 (RS2) zone due to the floor area of the proposed accessory building. This variance would have greater impact on compatibility of the subject property with the surrounding area than the requested variances, and would compromise the appearance of the parcel. The location

Development Variance Permit Application No. 9623
January 8, 1997
Page 2

of the septic field to the east of the dwelling unit poses an additional constraint and also precludes the possibility of locating the accessory building in the north-east corner of the subject property as vehicular traffic cannot be permitted across the septic field (*see Attachment 2*).

The requested variance from the interior side lot line also accommodates a 1.2 metre overhang on the west side of the accessory building (twice the width of the east overhang). This overhang will be used for wood and implement storage. The area beneath the overhang is not part of the floor area calculation for the accessory building. The applicant is aware that the area under the extended overhang cannot be enclosed at a future date as the proposed accessory building already achieves the maximum allowable floor area in a Residential 2 (RS2) zone (*see Attachment 3*).

It should be noted that the Board of Variance heard this application at the December 11, 1996 meeting and the application was denied. The Board minutes state that viable alternatives exist for the siting of the structure.

ALTERNATIVES

1. To approve the requested variance.

The applicant would be permitted to construct the accessory building in the proposed location.

2. To deny the requested variance.

The applicant would not be permitted to construct the accessory building in the proposed location. The Regional District of Nanaimo could request that the applicant modify his proposal, re-siting the accessory building or reducing the floor area of the structure to accommodate the minimum setback requirements in a Residential 2 (RS2) zone. Alternative methods of achieving compliance are not preferred by the applicant.

LAND USE AND SUBDIVISION BYLAW 500 IMPLICATIONS

Although it accounts for the entire allowable floor area for accessory buildings on a parcel in a Residential 2 (RS2) zone, the 83.5 m² building is within the regulations established in the Regional District of Nanaimo Land Use and Subdivision Bylaw 500, 1987. The applicant has indicated that the floor area of the accessory building cannot be reduced and still accommodate his storage needs. Should the applicant be permitted to construct the 83.5 m² garage/storage accessory building, man made constraints on the subject property limit possible building sites, and variances are required to permit the proposed siting.

SURROUNDING DEVELOPMENT IMPLICATIONS

The proposed accessory building is located at the rear of the subject property in an area of half acre to one acre lots. It does not appear that varying the minimum setback requirements from the rear and interior side lot lines for the garage/storage building will have significant impacts on neighboring properties or compromise the compatibility of the subject property with the surrounding area.

Development Variance Permit Application No. 9623

January 8, 1997

Page 3

SUMMARY/CONCLUSIONS

The applicant is proposing to vary the minimum setback requirements: for a rear lot line from 2.0 metres to 1.0 metres and for an interior side lot line from 2.0 metres to 1.0 metres to accommodate the construction of an accessory building.

Planning staff recommend the approval of the requested variances as outlined in Alternative No. 1 of this report.

RECOMMENDATION

That Development Variance Permit No. 9623 by Gerald Rupp to vary the minimum setback requirements for a rear lot line from 2.0 metres to 1.0 metres and for a side lot line from 2.0 metres to 1.0 metres for the property legally described as Lot 13, Plan 3779, Section 17, Range 4, Cedar Land District be approved, subject to notification procedures pursuant to the **Municipal Act**.



Report Writer



Manager Concurrence



Director Concurrence



C.A.O. Concurrence

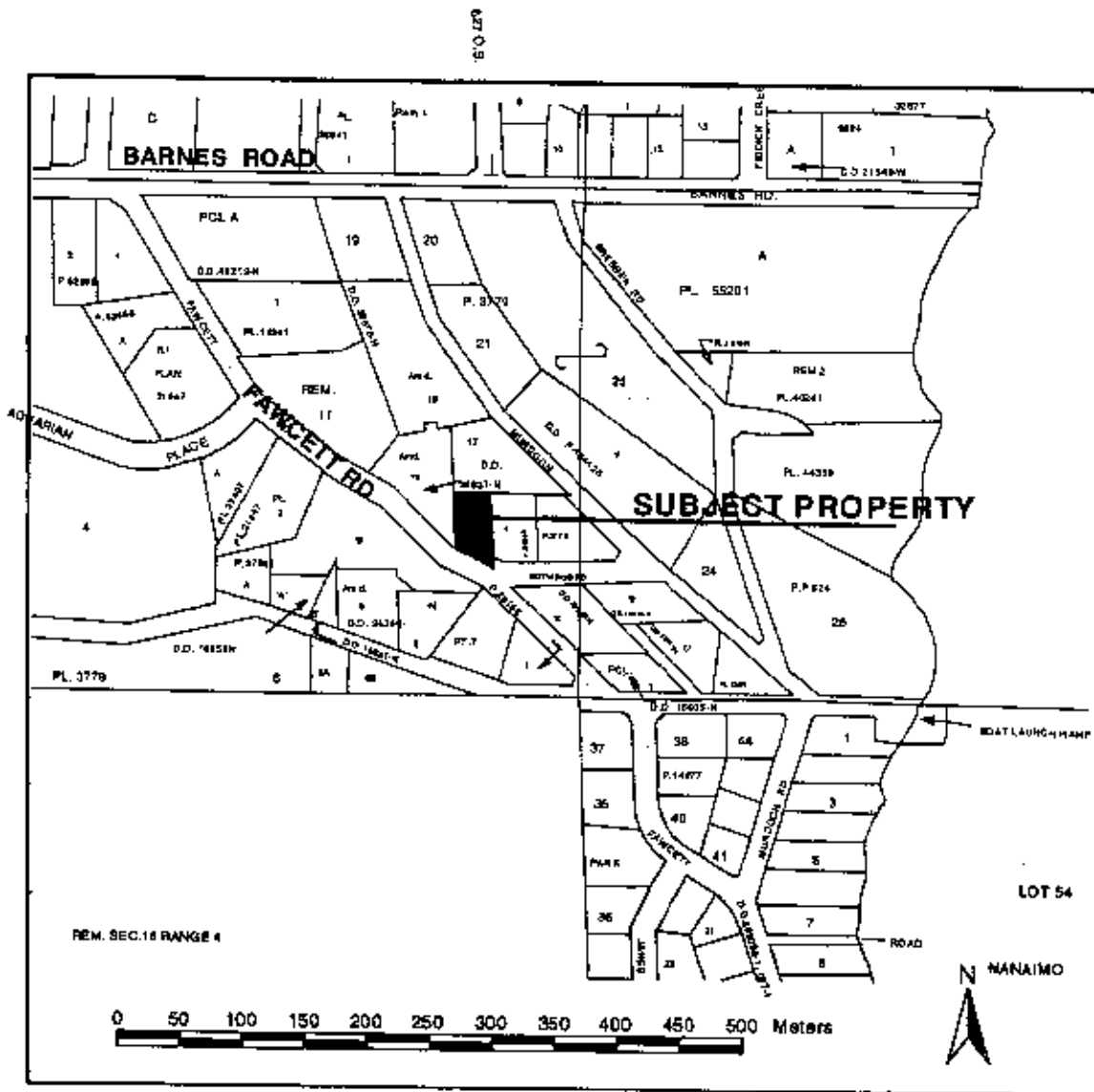
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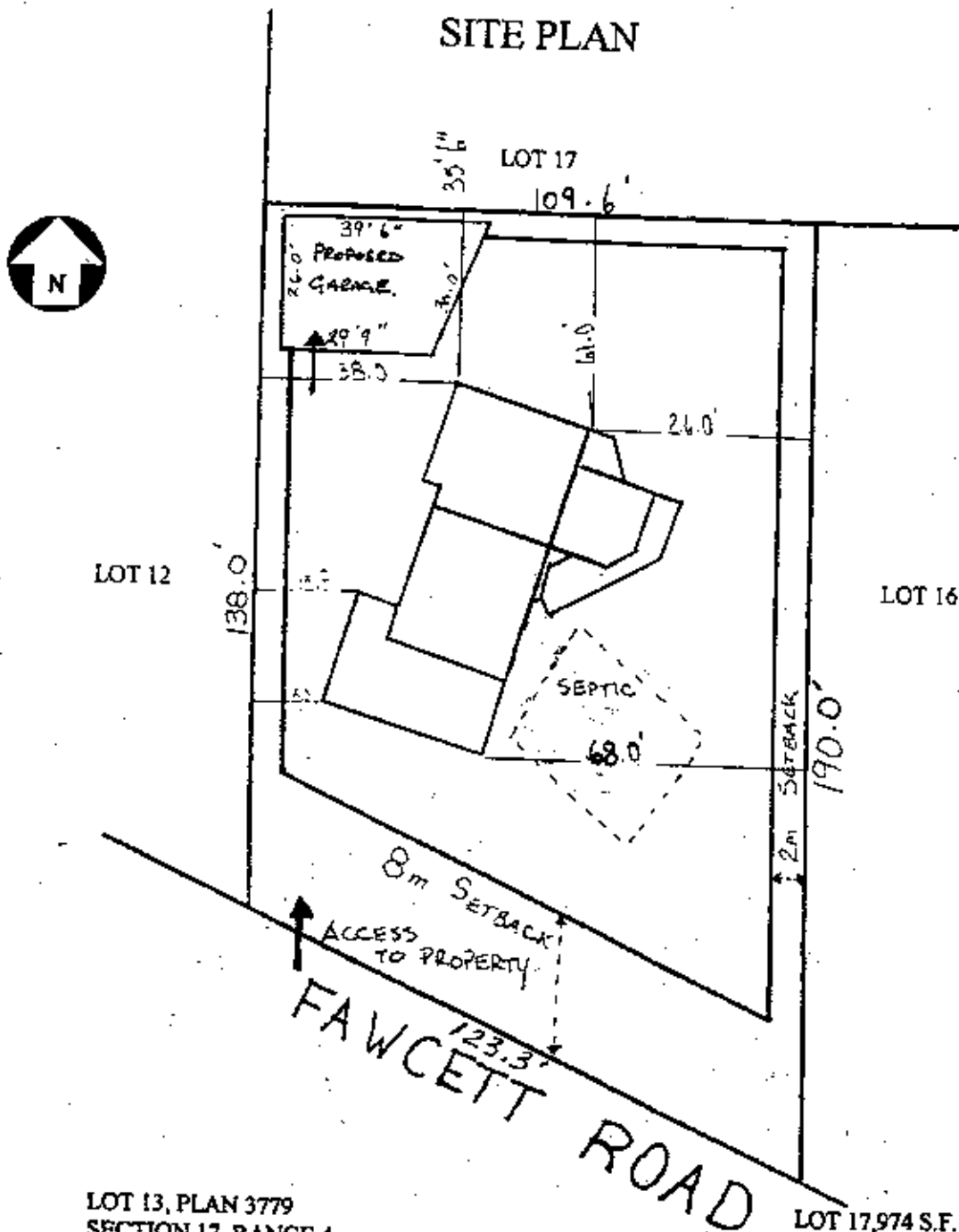
Development Variance Permit Application No. 9623

January 8, 1997

Page 4



Attachment I: Subject Property



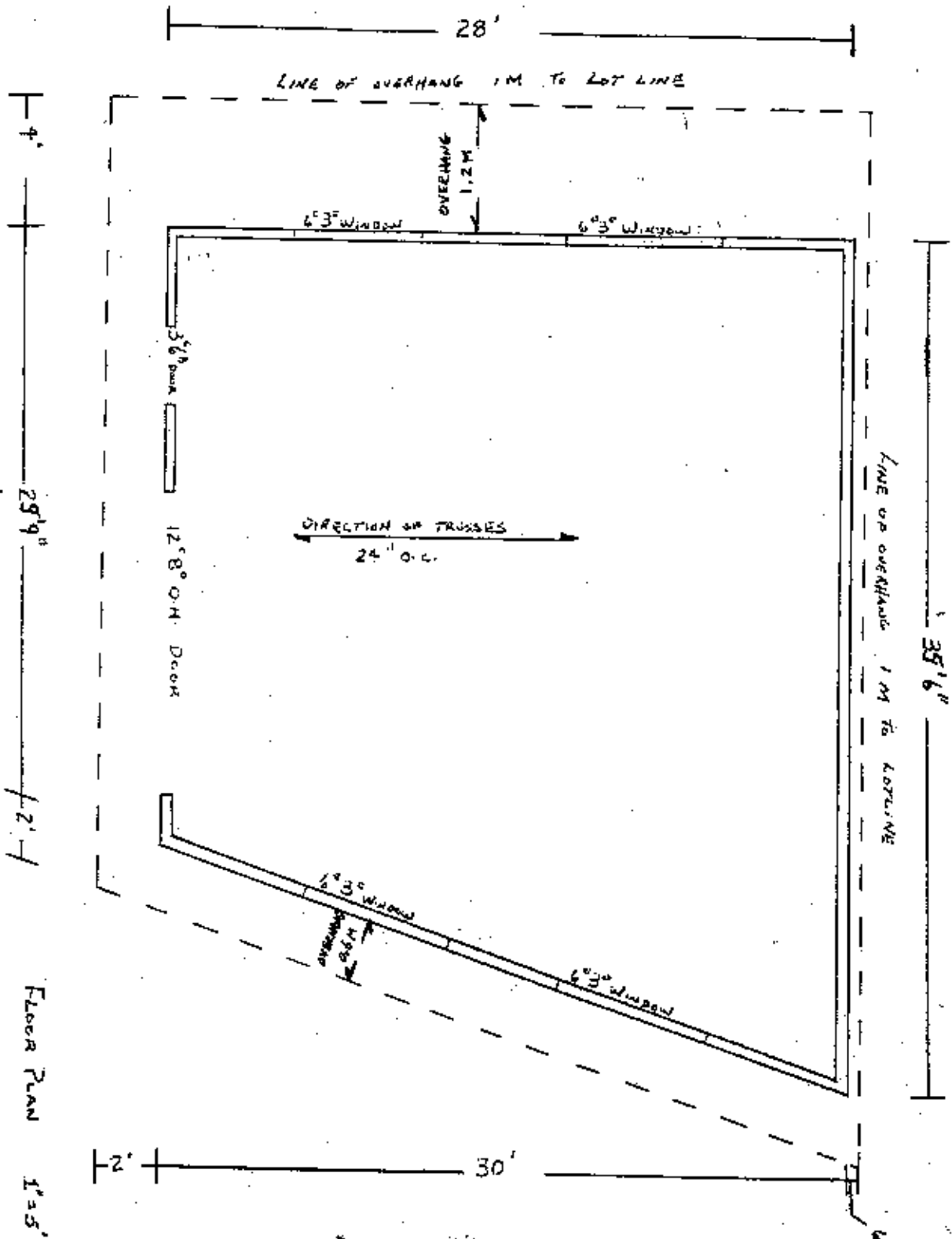
LOT 13, PLAN 3779
SECTION 17, RANGE 4
NANAIMO DISTRICT

LOT 17,974 S.F.

ACCESSORY BUILDING 899 S.F.

Plan as submitted by Applicant.

Attachment 2: Location of Proposed Accessory Building



FLOOR PLAN 1'3.5"



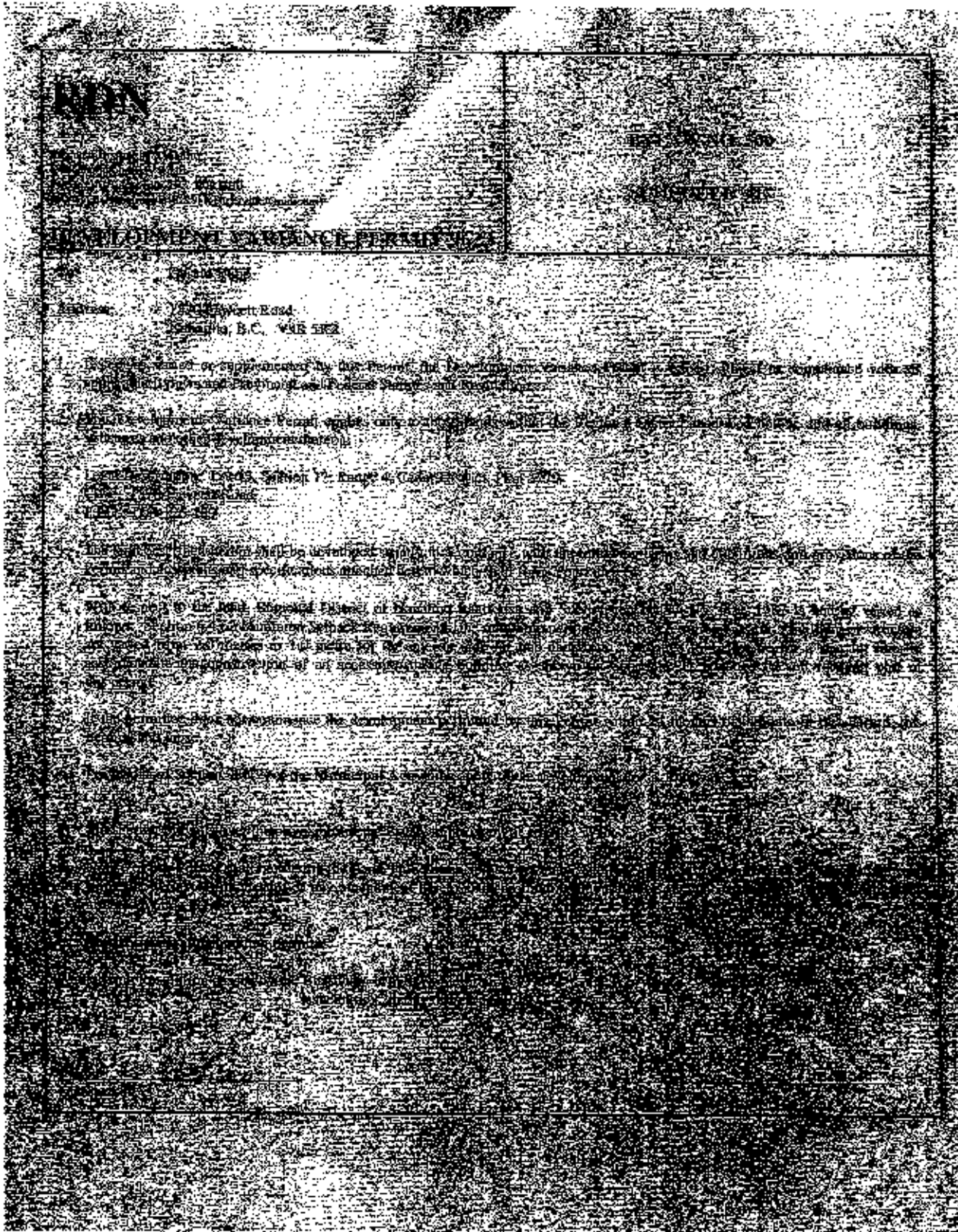
Attachment 3: Plan of Proposed Accessory Building

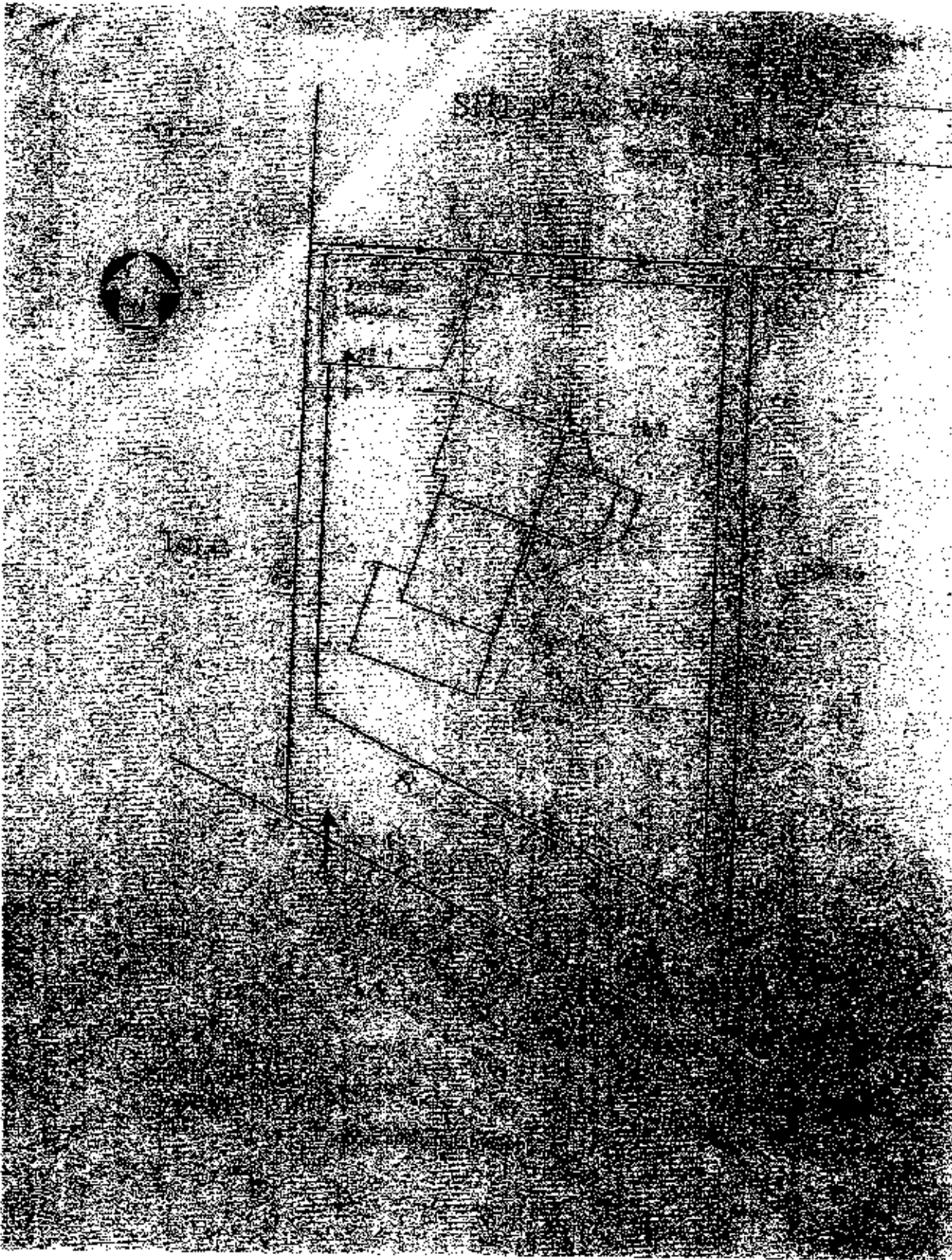
AS SUBMITTED BY APPLICANT

PAGE 9

Attachment No. 2

Development Variance Permit No. 9623 issued February 12, 1997







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| REGIONAL DISTRICT OF NANAIMO | | | |
| OCT 20 2003 | | | |
| CHAIR | | GMCrs | |
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MEMORANDUM

TO: Pamela Shaw
Manager of Community Planning

DATE: October 17, 2003

FROM: Susan Cormie
Senior Planner

FILE: 3090 30'90321

SUBJECT: Development Variance Permit Application No. 90321
Applicant: RG Fuller & Associates on behalf of Land & Water BC
Alberni Highway, Electoral Area 'F'

PURPOSE

To consider an application for a development variance permit to create a non-contiguous parcel in order to facilitate a 2-lot subdivision.

BACKGROUND

The applicant's agent, RG Fuller & Associates Ltd., has requested approval for the creation of a non-contiguous parcel as part of a 2-lot subdivision proposal for 16.0 hectare property located adjacent to the Alberni Highway within Electoral Area 'F' (see Attachment No. 1 for location).

District Lot 104 is currently split zoned P-1 (Parks and Open Space 1) (south portion) and I-3 (Industrial 3) (north portion) and the Remainder of Lot 1 Plan 12739 is zoned I-3 (Industrial 3) pursuant to the "Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002". The south portion is currently vacant land while the north portion contains a former Ministry of Transportation gravel pit. At this time, the applicant is proposing to split the south portion of DL 104 from the north portion as divided by the Alberni Highway and consolidate the adjacent Remainder of Lot 1 with the north portion. This proposed consolidation will create a non-contiguous parcel (split by an existing dedicated road).

Uses included in the P-1 zone include park, outdoor recreation, recreation facility, and 1 dwelling unit per lot. Uses in the I-3 zone include commercial card lock, 1 dwelling unit per lot, equipment rental, log home building, product assembly, marshaling yard, outdoor sales, service and repair, transportation/trans-shipment terminal, value added lumber remanufacturing, heliport, and warehousing/wholesaling.

Both proposed lots will meet the minimum lot size and frontage requirements pursuant to their respective zones (see Schedule No. 1 for proposed subdivision). Both lots are proposed to be serviced by individual private septic disposal systems and individual private wells.

As the applicant is proposing to create a non-contiguous lot, which is not permitted outright under section 6.7.5 of Bylaw No. 1285, a development variance permit is required.

ALTERNATIVES

1. To approve Development Variance Permit No. 90321 to permit the creation of a non-contiguous parcel subject to the notification requirements pursuant to the *Local Government Act*.
2. To deny the requested variance.

DEVELOPMENT IMPLICATIONS***Park and Recreation Implications***

The portion of DL 104 to the south of the Alberni Highway is designated as Park Lands in the Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999. Bylaw No. 1285 zones this portion of the lot as P-1 (Parks and Open Space 1). Regional District staff has been in discussions with the owner, LWBC, with respect to the land becoming park land. The applicant's agent has indicated that LWBC plans to further subdivide this portion of DL 104 into 3 parcels, two at 2.0 ha in size for sale to the private sector with the remaining 4.5 ha to be dedicated as park land. The agent also indicated that this subdivision is the necessary first step in achieving a resolution towards the dedication of park land.

Lot Configuration / Ministry of Transportation Implications

As part of the subdivision requirements, the applicant has prepared a geotechnical report which establishes buildable site areas for the proposed Lot A. The Ministry has accepted this report.

Due to the site constraints of the property, the existing vehicular access from the north portion of DL 104 is considered by the Ministry of Transportation to be substandard and cannot be upgraded. As a result of this situation, in order to provide safe access, the applicant is proposing to consolidate the north portion of DL 104 with the adjacent Remainder of Lot 1 (Proposed Lot A). However, this solution for access proposes to create a non-contiguous lot as the proposed lot will be separated by a dedicated road right-of-way (not built). Ministry of Transportation staff has indicated that the Ministry has no objection to this request for a non-contiguous lot.

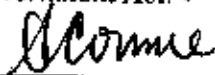
SUMMARY

This is an application for a development variance permit to allow the creation of a non-contiguous lot. Due to the site constraints, suitable access is not possible from the proposed north portion of DL 104 and to create access, the applicant is proposing to consolidate the adjacent lot with the north portion of DL 104, which creates a non-contiguous lot in that it is divided by a dedicated road right-of-way. The Ministry of Transportation staff has indicated that the Ministry has no objection to this request. DL 104 is being subdivided along the zone boundaries, which the applicant's agent has indicated this is the first step in providing an opportunity for future park land dedication within the south portion of DL 104.

Therefore, as the Ministry of Transportation has no objection to this request and the purpose of this subdivision to begin the process of achieving a resolution towards the dedication of future park land, staff recommends Alternative No. 1 to approve the request for the creation of a non-contiguous lot as shown on Schedule No. 1 of this report subject to the notification procedures pursuant to the *Local Government Act*.

RECOMMENDATION

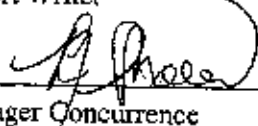
That Development Variance Permit Application No. 90321, submitted by RG Fuller & Associates Ltd. on behalf of Land & Water BC, to allow the creation of a non-contiguous lot in conjunction with the proposed subdivision of District Lot 104 and Lot 1, DL 94, Plan 12937, Except Part in Plan VIP61775, Both of Nanoose District, be approved on shown on Schedule No. 1 subject to notification procedures pursuant to the *Local Government Act*.



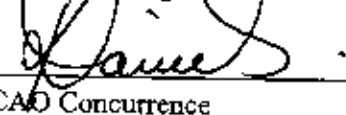
Report Writer



General Manager Concurrence



Manager Concurrence

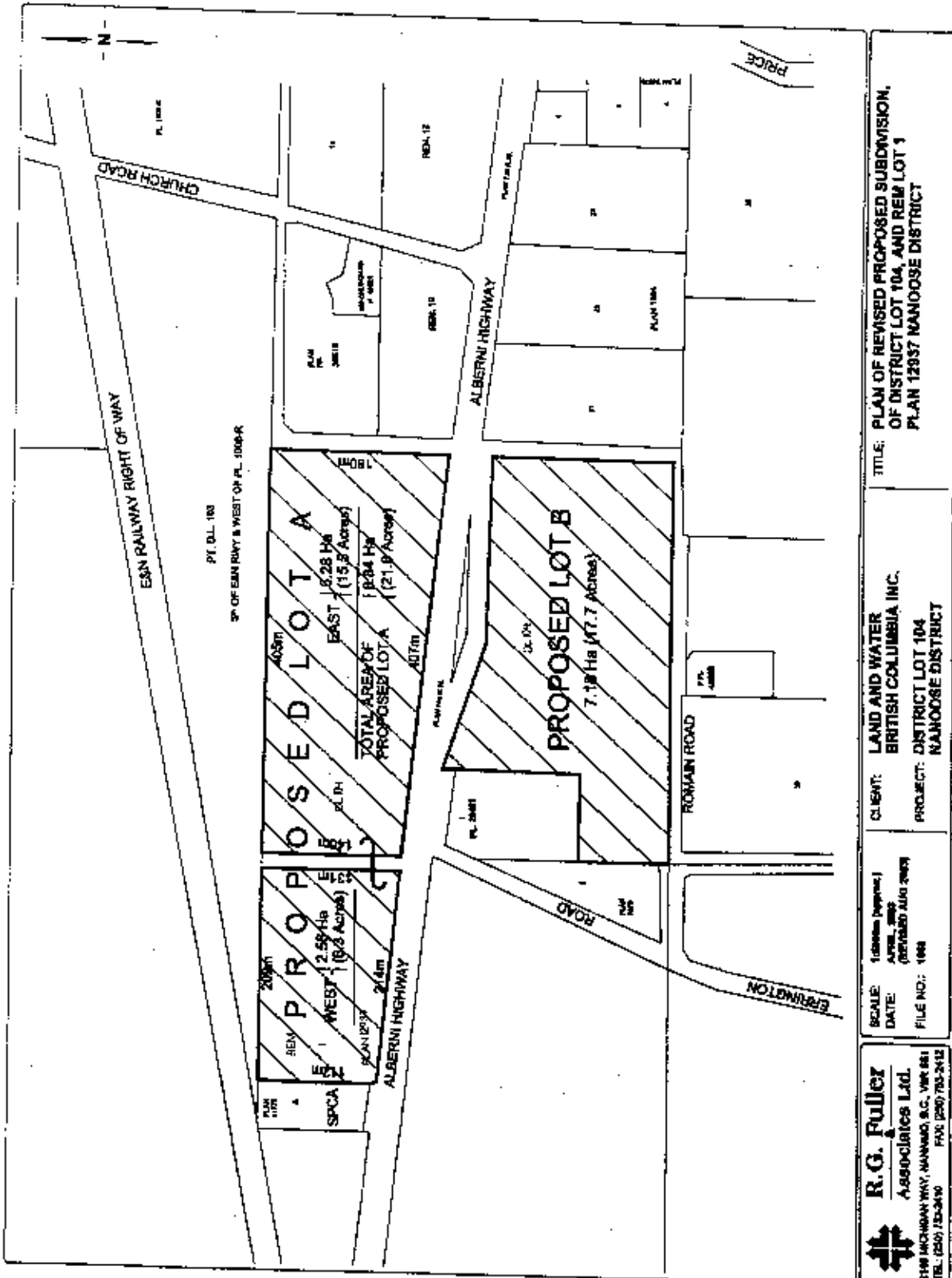


CAO Concurrence

COMMENTS:

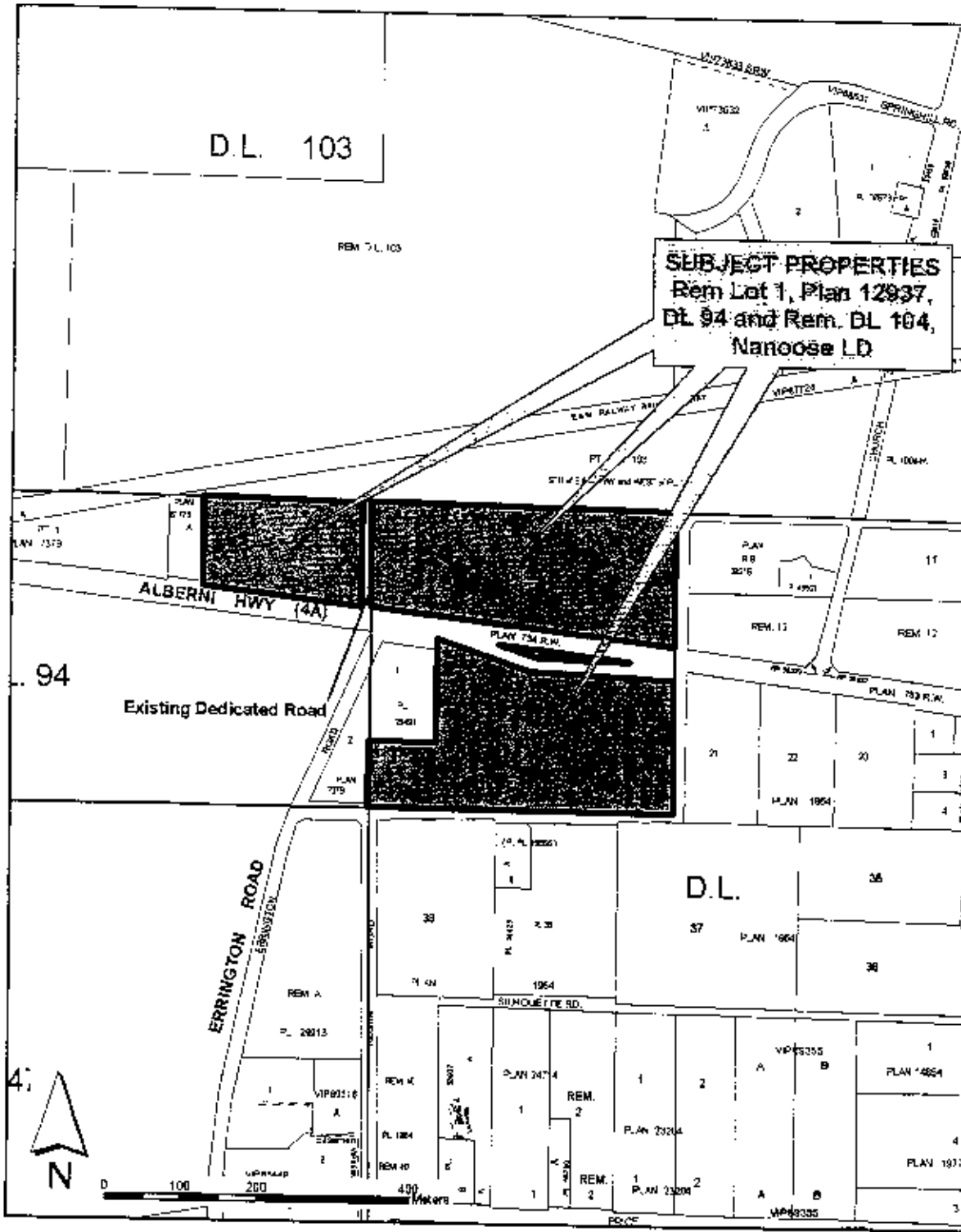
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SCHEDULE NO. 1
Plan of Proposed Subdivision
 (As submitted by applicant)



| | | | |
|---|--|---|--|
| <p>R.G. Fuller Associates Ltd. 5240 HICKMAN WAY, NANOOSE, B.C., V8R 6R1 TEL: (250) 753-2450 FAX: (250) 753-2452</p> | <p>SCALE: 1:1000 (approx.) DATE: APRIL 2003 (REVISED AUG 2003) FILE NO: 1000</p> | <p>CLIENT: LAND AND WATER BRITISH COLUMBIA INC. PROJECT: DISTRICT LOT 104 NANOOSE DISTRICT</p> | <p>TITLE: PLAN OF REVISED PROPOSED SUBDIVISION, OF DISTRICT LOT 104, AND REM LOT 1 PLAN 12937 NANOOSE DISTRICT</p> |
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ATTACHMENT NO. 1
Location of Subject Properties



BCGS Map Sheet No. 92F.038.1.1



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| REGIONAL DISTRICT OF NANAIMO | | | |
| OCT 20 2003 | | | |
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| | | EAP | ✓ |
| DATE: October 20, 2003 | | | |

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

FROM: Susan Cormie
Senior Planner

SUBJECT: **Building Strata Conversion Application - Fern Road Consulting Ltd., on behalf of Ocean Place Holdings Ltd.**
1600 Stroulger Road, Electoral Area 'E'

FILE: 3300 30 - 1600 Stroulger

PURPOSE

To consider a request to approve the building strata conversion of a commercial development pursuant to Section 242 of the *Strata Property Act* that will result in the creation of 5 commercial building strata lots.

BACKGROUND

The parent property, known as Pacific Shores Nature Resort, is located 1600 Stroulger Road in Electoral Area 'E' (see Attachment No. 1 for location). As part of the phased strata plan, the applicant is proposing to create 8 commercial building strata units of which 5 units require strata conversion approval as they are situated or partially situated within the previously constructed portion of the complex. The proposed units requiring building strata conversion approval are as follows:

| Proposed Strata Unit No. | Location of Proposed Strata Unit |
|--------------------------|--|
| 79 | Located entirely within previously constructed portion of building |
| 80 | Located partly within previously constructed portion of building and partly within newly constructed portion of building |
| 82 | Located partly within previously constructed portion of building and partly within newly constructed portion of building |
| 83 | Located entirely within previously constructed portion of building |
| 84 | Located entirely within previously constructed portion of building |

(see Attachment No. 2 for proposed commercial building strata subdivision)

These proposed commercial building strata units, are constructed on 3 floors of the resort centre complex building, which has recently been expanded. The development of the site was approved under Development Permit No. 21 with amendments and the expansion plans approved under Development Permit No. 9919.

Section 242 of the *Strata Property Act* provides for the conversion of previously occupied buildings into strata lots subject to the approval of the approving authority, in this case, the Regional Board. The Regional Board is to ensure that an adequate supply of rental units remains available and that units being

converted meet the minimum standard of construction. The *Strata Property Act* specifies that the Regional Board must consider the following criteria in its decision:

1. The priority of rental accommodation over privately owned housing in the area;
2. Any proposals for the relocation of persons occupying a residential building;
3. The life expectancy of the building; and
4. Projected major increases in maintenance costs due to the conditions of the building.

The Board is also required to ensure that the buildings substantially comply with applicable bylaws and the National Building Code of Canada.

In addition to the above-required criteria, the Board may also consider "any other matters that, in its opinion, are relevant." Consideration of these other matters enables the request to be refused at the Board's discretion. In order to evaluate an application, the Board approved the *Strata Conversion Policy and Guidelines Policy (No. B1.7)*, which establishes criteria to assist an applicant in the preparation of an application, and to assist the Regional District in its review and evaluation of an application.

ALTERNATIVES

1. To approve the request for the commercial building strata conversion as shown on the plan submitted by the applicant.
2. To not approve the request for a commercial building strata conversion.

DEVELOPMENT IMPLICATIONS

Strata Property Act

The request for approval of this proposed building strata conversion appears that it will generally meet the minimum criteria that the Board must consider in approving a building strata conversion. The applicant's architect has stated that the building is in substantial compliance with the National Building Code of Canada.

With respect to the priority of rental accommodation over privately owned housing in the area: this clause applies to the housing accommodation and not commercial accommodation. Therefore, this criterion is not required to be met.

With respect to the proposal of the owner developer for the relocation of persons occupying the building: the owner's agent has verbally indicated that there are no existing tenants occupying these units.

With respect to the life expectancy of the building: the applicant has submitted an architect's report certifying a 50-year life expectancy of the building is anticipated.

With respect to the projected major increases in maintenance costs due to the condition of the building: the applicant has indicated that the commercial strata units will be separated from the Strata Plan VIS2036 and therefore, it is anticipated that future maintenance costs will not affect the current strata corporation. To the best of planning staff's knowledge, there appears to be no major increases in the cost for the maintenance of the building at this time.

Building Strata Conversion Policy Guidelines

The application, as submitted, will meet the applicable requirements of the RDN Building Strata Conversion Policy Guidelines.

Environmentally Sensitive Areas Atlas

The proposed 5 building strata conversion units are located outside of the 15 metre leave strip area associated with the Watercourse Protection Development Permit Area pursuant to "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998".

Ministry of Transportation

The Ministry of Transportation will be reviewing the proposed phased strata plan in which the proposed conversion units are located as part of its approval process.

VOTING

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

SUMMARY

The applicant is requesting a building strata conversion of 5 commercial units (of which 2 of the proposed units are located partly in the previous constructed portion of the building and partly in the newly constructed area). The application, as submitted, will meet the minimum requirements for the approval of a building strata conversion as set out in the *Strata Property Act*. Ministry of Transportation Approving Authority will review the phased strata plan in which these proposed conversion units are located. Staff confirms that the technical provisions for stratification pursuant to the *Strata Property Act* have been met and that the guidelines set out in the corresponding policy have been met. As a result, staff recommends Alternative No. 1, to approve the request for building strata conversion.

RECOMMENDATION

That the request from Fern Road Consulting Ltd., on behalf of Ocean Place Holdings Ltd. for the commercial building strata conversion of 5 units as shown on the Phased Strata Plan of Lot A, Plan VIP51529, DL 22, Nanoose District and DL 2000 Nanaimo District, be approved.




Report Writer



Manager Concurrence



General Manager Concurrence

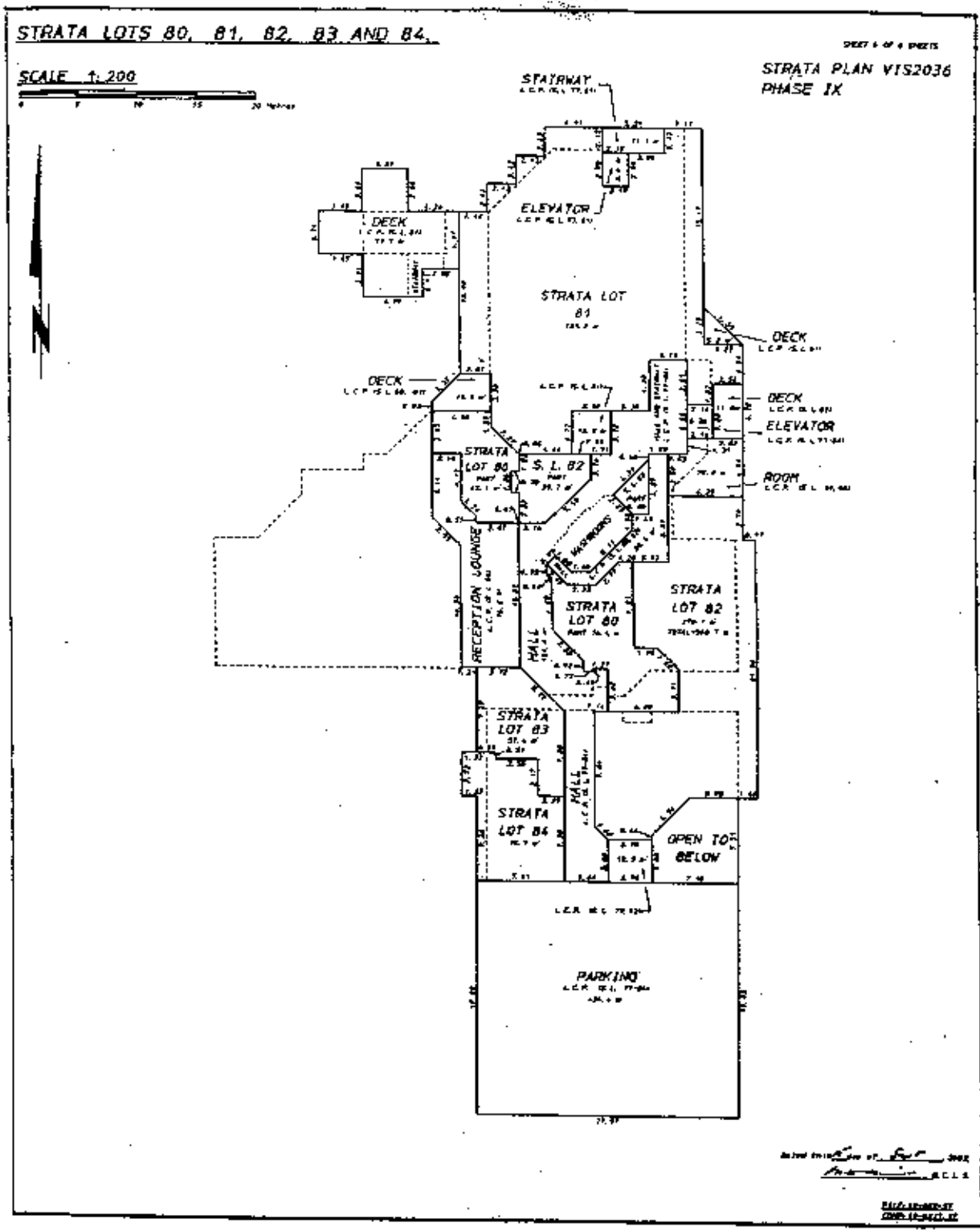


CAO Concurrence

COMMENTS:

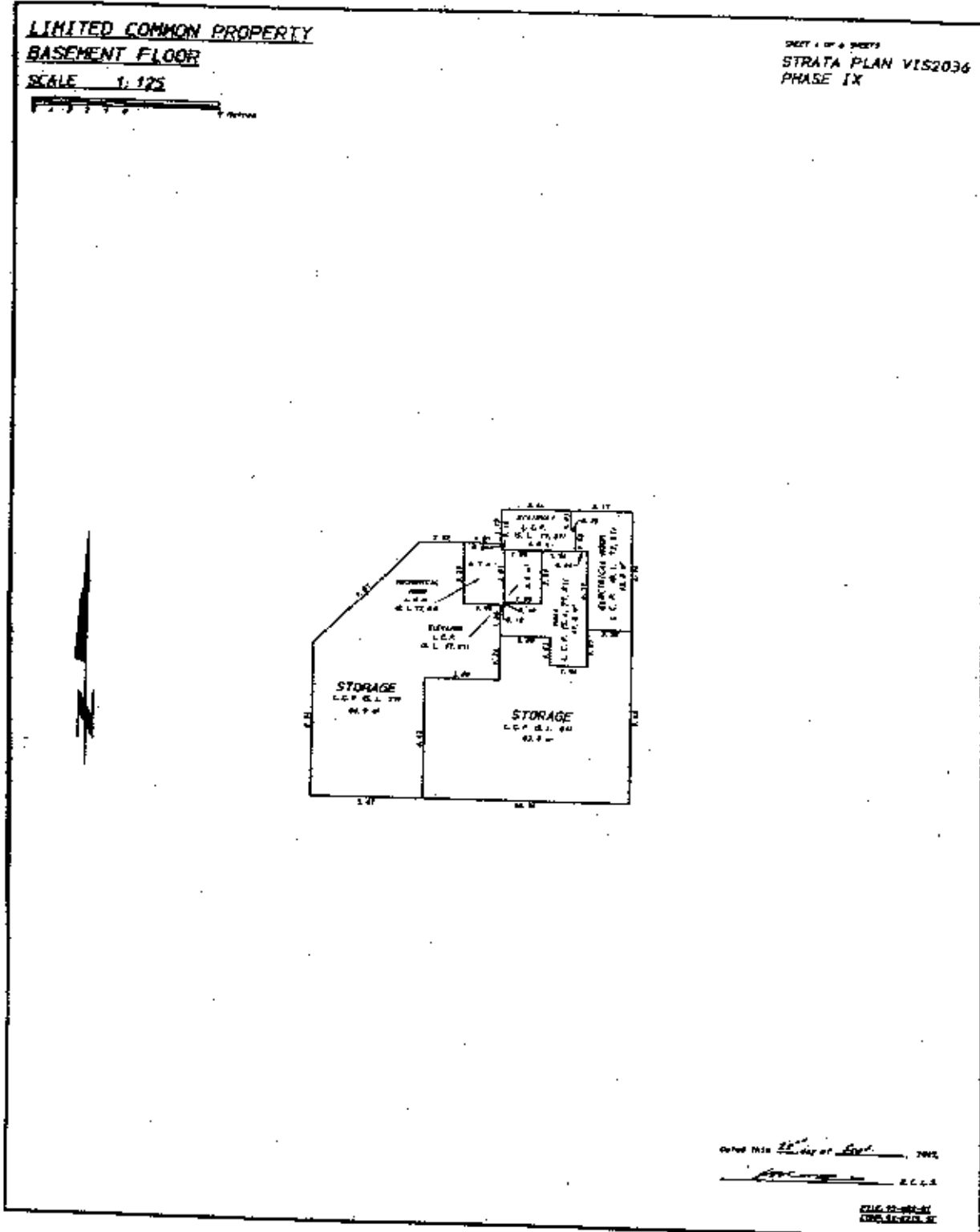
Devs/reports/3300 30 1600 Strouger oc Fern Road Ocean Place Holdings strata conv.doc

Schedule No. 1 (page 2 of 3)
Proposed Strata Conversion Units No. 79, 80, 82, 83, & 84
(Plan of Proposed Strata Building Conversion as Submitted by Applicant)



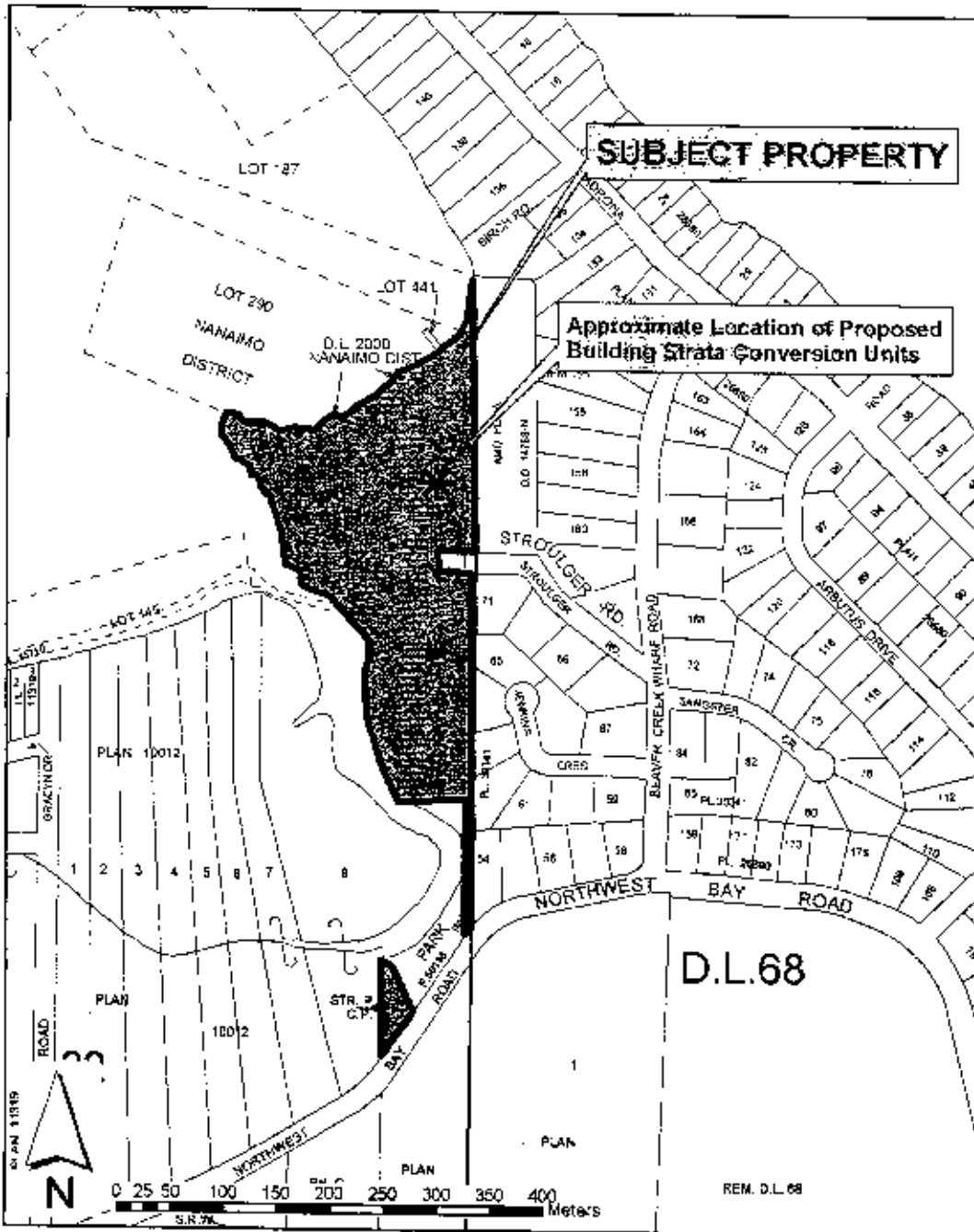
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Schedule No. 1 (page 3 of 3)
Proposed Strata Conversion Units No. 79, 80, 82, 83, & 84
(Plan of Proposed Strata Building Conversion as Submitted by Applicant)



PAGE
62

Attachment No. 1
Location of Subject Property





**REGIONAL
DISTRICT
OF NANAIMO**

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| REGIONAL DISTRICT OF NANAIMO | |
| OCT 20 2003 | |
| CHAIR | GMCrs |
| CAO | MEMS |
| GMCrs | GMEs |
| | EAP ✓ |

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: October 20, 2003

FROM: Susan Cormic
Senior Planner

FILE: 3360-30-0306

SUBJECT: Bylaw No. 500, 1987 Technical Review Planning Project - Public Consultation Framework

PURPOSE

To consider the public consultation framework for the Bylaw No. 500, 1987 Technical Review.

BACKGROUND

The Planning Department's work program for 2003 includes plans to complete a technical review of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The purpose of this review is to provide a fine tuning of the bylaw from a technical perspective with the main focus of the review being on building-related, site-related and use-related issues that consistently having to be dealt with on a regular basis often through the bylaw variance process. It should be noted that this review is not intended to consider proposals or applications for changes to the zoning regulations applicable to individual properties or to consider a wholesale change to standards for subdivision or servicing.

Bylaw No. 500 is the current governing land use and subdivision bylaw for Electoral Areas 'A', 'C', 'D', 'E', 'G' and 'H'. This bylaw was first adopted in 1984 and the current version was re-adopted and has been in effect since 1987. The bylaw has had almost 300 amendments in response to specific applications and Board initiated changes. While there will continue to be additional amendments to the bylaw in response to specific applications, the format and the approach used to manage development is sound and legally certain. As noted above, the purpose of this review is not to open the bylaw to amendments on specific parcels or to review the servicing standards; this review is intended to update and clarify specific portions of the bylaw. In addition, this review is not intended to review the whole bylaw or for example, definitions such as 'height' for dwelling units and 'watercourse', which would significantly expand the scope of the review. In addition, the intent of the review is not to open the bylaw to amendments on specific parcels.

To implement the technical review of Bylaw No. 500, staff has prepared a Public Consultation Framework (see Attachment No. 1).

ALTERNATIVES

1. To receive the staff report and approve the Public Consultation Framework in conjunction with the technical review of Bylaw No. 500, 1987.
2. To amend the Public Consultation Framework, then direct staff to proceed with the Bylaw No. 500 technical review.
3. To not proceed with the Bylaw No. 500 technical review at this time.

PUBLIC CONSULTATION IMPLICATIONS

A Public Consultation Framework for the Bylaw No. 500 Technical Review has been prepared in accordance with both the RDN Board Public Consultation Policy and the *Local Government Act* requirements (see Attachment No. 1). This Framework includes:

- An information advisory published in community newspapers and on the RDN Web page;
- A mail-out to technical users advising of the review process and requesting input with respect to the proposed draft amendments;
- A legal review of the draft amendments; and
- A Public Hearing pursuant to the requirements of the *Local Government Act*.

It is anticipated that there will be interest in this technical review from the development community and community groups. Staff will ensure information is available to any interested group or individual.

FINANCIAL IMPLICATIONS

All costs related to the preparation of the Bylaw No. 500 Technical Review have been accounted for in the RDN 2003 Budget. Costs for the project relate to staff time, hall rentals, advertising, mail-outs, legal fees, and web fees.

LEGAL IMPLICATIONS

The process to draft and adopt amendments to a land use bylaw must be consistent with the requirements outlined in the *Local Government Act*. As noted in the Public Consultation Framework, the proposed amendments to the bylaw will be submitted to the RDN's counsel for a legal review prior to the public hearing and the Board's final consideration of the bylaw to ensure that any legal issues are fully considered and addressed.

VOTING

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

SUMMARY

Fine tuning involving minor amendments to Bylaw No. 500, 1987 is scheduled to be considered by the RDN Board in 2003. This technical review is intended to update specific aspects of the bylaw with the focus being on building-related, site-related, and use-related issues that are consistently raised by clients and staff and have been subject to interpretation by RDN practice and policy. Examples of such issues are outlined in the Public Consultation Framework. In addition, the intent of the review is not to open the bylaw to amendments on specific parcels.

Staff has prepared a Public Consultation Framework, which sets out the public process to be used in conjunction with this bylaw review for the Committee's consideration (see Attachment No. 1). It is anticipated that the review will be completed early in 2004. As Bylaw No. 500, 1987 has provided for effective management of development for the past 15 years, and is considered to be a legally sound, the technical amendments are proposed to assist in keeping the bylaw current. Staff recommends that the staff report be received and the Public Consultation Framework be approved.

RECOMMENDATIONS

1. That the staff report on the Bylaw No. 500 Planning Project be received.
2. That the Public Consultation Framework as set out in Attachment No. 1 of the staff report be endorsed by the Board.

Alornie

Report Writer

[Signature]

Manager Concurrence

COMMENTS:

devs/reports/2003/oc bylaw 500 review

[Signature]

General Manager Concurrence

[Signature]

CAO Concurrence

Attachment No. 1

Public Consultation Framework Bylaw No. 500, 1987 Technical Review

Goals and Objectives

The goal of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No., 500, 1987" Technical Review is to adopt a number of amendments to the bylaw for the purposes of updating the bylaw.

The main areas of focus of the fine tuning review process is to examine and propose amendments for issues that are consistently raised by both clients and staff concerning the following categories:

- building related issues – examples include clarification on breezeways, tents, retaining walls, and accessory structure heights.
- site related issues – examples include exemptions from setbacks and maximum lot coverage and floor area ratios for building overhangs and hard landscaping features.
- use related issues – clarification on definitions related to various interests in land such as common property, park land and unregistered Crown Land and clarification on accessory uses.

The intent of this review is to update the bylaw from a technical perspective and not to consider general amendments. For example, amendments to definitions such as 'height' as it applies to dwelling units and 'watercourse' are not being considered as such amendments to these definitions could have a broad impact on existing land uses.

Given the direction of the review, the public consultation framework focuses on reaching the technical users of the bylaw. The public consultation framework, as outlined below, utilizes an information advisory notice format for the purposes of informing both the technical users of the bylaw and the public, of the review with consultation taking place on the proposed amendments.

Methodology

It is noted that this initiative is not intended to initiate a full-scale review of the Bylaw No. 500, 1987. Instead, all amendments are to be specific to the technical operations of the bylaw. It is anticipated that technical users of the bylaw will have the greatest interest in the proposed amendments. This will also include BC Land Surveyors, planning consultants, residents associations, architects, and building consultants.

- An information advisory published in community newspapers and on the RDN Web page.
- A mail-out to technical users advising of the review process and outlining the list of proposed technical amendments. The proposed amendments will also be available to the public and individual respondents. The proposed amendments will be categorized into 3 areas – building-related issues; site-related issues; and use-related issues. The focus will be on issues that are consistently raised by clients and staff.
- Report back to the EAPC for its consideration.
- A legal review of the draft amendments.
- Public consultation shall conclude with a Public Hearing pursuant to the requirements of the *Local Government Act*. The Public Hearing will be advertised as per the notification

requirements specified in the *Local Government Act*. The Public Hearing notice will also be posted on the RDN website (www.rdn.bc.ca).

- Staff will remain available throughout the bylaw amendment process to respond to questions, concerns, or to discuss the process.
- A staff report summarizing the proceedings of the Public Hearing and including copies of all written correspondence on the proposed amendment shall be forwarded to the RDN Board for the Board's consideration.

Outcomes and Products

The intent of the Bylaw No. 500, 1987 review is to update the current bylaw with particular focus on the Interpretation Section of the Bylaw.

Schedule

| Date | Action |
|---------------------------------------|---|
| November 2003 | Inform public of process and provide the proposed amendments through an information advisory, the RDN Web site, and by mail to technical users. |
| November/December 2003 | Gather comments from technical users and public. |
| December 2003 | Initial referrals to affected agencies. |
| January 2004 | Staff report forwarded to the EAPC for consideration. |
| February 2004 | Recommendations from the EAPC forwarded to the Regional Board for consideration. |
| February 2004 | Referrals to affected agencies and additional consultation as required. |
| February 2004 | Notification of public hearing in local newspapers, on Web page, and direct mail to interested parties. |
| Late February 2004 / early March 2004 | Public Hearing held pursuant to the <i>Local Government Act</i> . |
| March 2004 | Report to RDN Board requesting consideration of 3 rd reading. |
| March 2004 | Referrals to affected agencies. |
| April 2004 | Report to RDN Board requesting consideration of 4 th reading and adoption (<i>pending receipt of approval from agencies</i>). |

Resources

Existing staff resources will administer all components of the public consultation process including researching, investigating, providing recommendations as well as organizing the public information meetings and public hearing for the Bylaw No. 500, 1987 Technical Review. It is expected that this project will take approximately 7 months to complete.

Budget

Staff time budgeted as part of regular work program in 2003 Development Services Department Budget. Total cost of mapping services, public information meetings, public hearing, mailing, printing, advertising, and meeting room rentals are estimated at approximately \$3000.00.

Monitoring and Evaluation

The process will be evaluated pursuant to the successful completion of the consultation requirement specified in the *Local Government Act*.



REGIONAL DISTRICT OF NANAIMO

OCT 20 2003

MEMORANDUM

| | | | |
|-------|--|-------|--|
| CHAIR | | GMCrs | |
| CAO | | GMDS | |
| GACms | | GMES | |

DATE: October 20, 2003

TO: Pamela Shaw
Manager of Community Planning

FROM: Keeva Kehler
Planner

FILE: 3360-30-0301

SUBJECT: Aquaculture - Official Community Plan and Zoning Amendments Issues & Public Consultation Framework

PURPOSE

To provide an overview of the comments received during the Public Consultation Strategy and to identify the planning approach with respect to potential land use amendments to the RDN's zoning bylaws (Bylaw No. 500, 1987 and Bylaw No. 1285, 2002) and further, to identify potential policy amendments in all Official Community Plans (except Electoral Area 'B').

BACKGROUND

At its Regular Board meeting held on June 10, 2003 the Regional Board passed a resolution directing staff to proceed with the Public Consultation Strategy on aquaculture land use issues in the RDN. As a result, RDN staff organized three Public Information Meetings throughout the region (north, central and south) to gather comments on existing aquaculture regulations and to identify areas where changes were desired. Notices of the Public Information Meetings were placed in 3 local papers (The News, Lantzville Log, and Nanaimo News Bulletin) and mailed directly to residents' associations, provincial and federal government agencies with jurisdiction over aquaculture and fisheries, First Nations and shellfish growers. The meetings were held on October 1, 2 and 6, 2003. Approximately 75 people attended the Public Information Meetings (See Attachments No. 1, 2 and 3). Comment sheets were prepared for the meetings and a number of participants responded within with written submissions. (See Attachment No.4). In addition, preliminary referral comments received prior to the information meetings are attached for information. (See Attachment No. 5.)

This report outlines the proposed direction with respect to amendments to the land use bylaws and policies for aquaculture in the RDN. Should the Board approve this approach, staff will draft bylaw amendments and a public information meeting will be held to obtain comments on the proposed changes prior to introducing bylaw amendments and proceeding to a public hearing.

ALTERNATIVES

1. Receive the staff report for information and provide direction to staff to proceed with the approach.
2. Provide further direction to staff.

OFFICIAL COMMUNITY PLAN (OCP) IMPLICATIONS

In a previous report to the Board, staff recommended that a standard policy with respect to shellfish aquaculture development across the RDN be established and added to each OCP to provide guidance to citizens and industry. Many of the OCPs currently contain policies for mitigating land use conflicts between rural residential areas and intensively used agricultural or resource areas. At the public meetings, support was generally expressed for aquaculture development on the land throughout the region.

PAGE 10

Comments indicate that the public feels aquaculture operations conducted on the land, especially finfish operations, are often more environmentally sound than those operated in the marine environment.

Pursuant to the issues raised by the public and also pursuant to comments received from industry representatives, it is anticipated that two policies be could be developed, one for aquaculture facilities on land and one for aquaculture operations in coastal areas.

Aquaculture could be supported on lands within the ALR in all Electoral Areas (except Electoral Area 'B' which falls under the jurisdiction of the Islands Trust). Aquaculture would not be supported for non-ALR lands. Policies for water-based aquaculture could also be developed, which would designate appropriate areas for aquaculture uses or expansion and would recognize community support for and concerns with water-based aquaculture.

ZONING IMPLICATIONS

Section 903 of the *Local Government Act* grants the RDN authority to make zoning bylaws for land within the Electoral Areas. Pursuant to the *Act*, the RDN can regulate the use of land, buildings and structures; the density of the use of land, buildings and structures; the siting, size and dimensions of buildings and structures. The power to regulate zones includes the power to prohibit any use in a zone.

However, the RDN must obtain approval from the Minister of Agriculture, Food and Fisheries (MAFF) prior to prohibiting or restricting the use of land for a farm business in a farming area. A 'farming area' is defined as land within the Agricultural Land Reserve or land affected by a valid and subsisting licence for Aquaculture under the *Fisheries Act*. Non-ALR Rural and Resource Management zones are not considered 'farming areas' pursuant to this definition, and therefore, the RDN can prohibit aquaculture uses in these zones without approval from the Minister.

Land Based Aquaculture Use

Recognizing that terrestrial aquaculture facilities constitute an intensive use of land, it is anticipated that the community would support the removal of Aquaculture as a permitted use from non-ALR Rural and Resource Management (except RM6) zones, thereby directing new aquaculture development to the ALR. This course of action will enhance the value of ALR properties in the RDN as a working agricultural land base and will assist in reducing the potential for land use conflicts between non-ALR rural residential areas and more intensely farmed agricultural areas. Given that the *Farm Practices and Protection Act* applies to this use in the ALR, the existing definition of Aquaculture pursuant to RDN Subdivision and Land Use Bylaw No. 500, 1987 is considered to be appropriate. It is recommended that this definition for Aquaculture be included in the RDN Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002 and would be applicable to properties within the ALR. In Electoral Area 'F' it is proposed that aquaculture will not be permitted as a farm business in the FR-1 (Forestry) zone, unless the property is located within the ALR.

In addition to permitting aquiculture on all ALR properties, it is recommended that aquaculture remain as a permitted use for those non-ALR properties that contain an existing aquaculture facility on the land in the RDN. To date, one property owner in the Cedar area has requested that the existing aquaculture use remain as a permitted use for the property. Staff recently obtained a list of aquaculture operations in the RDN from a MAFF representative and it is proposed that those landowners operating aquaculture facilities on non-ALR properties be contacted for comment. Another option for these landowners would be to apply to include their land in the Provincial ALR.

Ocean Based Aquaculture Use

Based on public consultation to date, it is anticipated that the community would continue to support recognizing those areas with a valid shellfish lease and specific coastal sites that exhibit high capability and suitability characteristics for shellfish development. It is recommended that these areas be zoned to

permit Shellfish Aquaculture as permitted use with new clarification of the definition of this use that would reflect current industry practices, including the use of various mechanical devices. However, it is proposed that this new zone not permit seafood processing and limit structures on the lease to one storage building with a total floor area not exceeding 10 m² in area and 3.0 metres in height with all other structures not to exceed 1.0 metres in height. It is also proposed that this zone not permit finfish aquaculture. Due to the *Farm Protection Practices (Right to Farm) Act (FPPA)*, machinery and equipment required for normal aquaculture operations will not be regulated under this new land use zone and upland owners can expect to see similar types of technology in the shellfish lease areas.

For other coastal areas without documented potential for commercial aquaculture uses it is recommended that the Water 1 (WAI) zone remain in place and the aquaculture be excluded as a permitted use. This more proactive and planned approach will provide more certainty to industry and residents about where future aquaculture operations are likely to develop.

Currently, the shellfish industry along the RDN coastline is not highly industrialized and most of the impacts on upland owners are related to visual and noise impacts. However, should technology for aquaculture change significantly in the coming years making other areas along the coastline technically suitable for aquaculture uses, public consultation and zoning amendments would be required before aquaculture could develop in these coastal areas. It is intended that this will reduce the potential for future land use conflicts between aquaculture and residential uses.

PROVINCIAL IMPLICATIONS

The Ministry of Agriculture, Food and Fisheries (MAFF) and the Ministry of Sustainable Resource Management (MSRM) have a clear provincial mandate to protect the right of farm businesses to conduct their operations on land and in the waters within the Province where the land is included within the ALR or additionally, where local governments permit farm uses. Staff met with Ministry representatives as part of the referral process and while the Province would not support a blanket removal of aquaculture in all zones throughout the RDN, the Province would support a planned approach that pro-actively zones certain areas for shellfish aquaculture development. In support of this approach, the Province has providing assistance in identifying these areas and will provide comments on the proposed zoning amendments. (See Attachment 6, 7 and 8.)

Farm uses within the ALR and farm uses zoned as a permitted uses by the RDN on non-ALR lands or within the water or within coastal areas are afforded protection under the *Farm Practices and Protection Act*. If the recommended approach to amend the zoning regulations is approved, landowners who wish to pursue aquaculture uses on the land would have three options; locate in the ALR, apply to include land with aquaculture capabilities into the ALR, or pursue a rezoning application to allow the public, in a rural residential, non-ALR neighbourhood, to provide comments on the proposal. Within coastal areas, if the RDN proactively zones certain areas for shellfish aquaculture development, the Province is likely to respect these designations and will reference the regulatory requirements as part of their application process for aquaculture leases within areas held by the Crown.

PUBLIC CONSULTATION IMPLICATIONS

As mentioned in the previous staff report, there are specific coastal locations where aquaculture development and expansion are more likely to occur based on site suitability and physical capability for shellfish aquaculture. Comments received generally indicated support for shellfish aquaculture development in these areas. However, significant concerns were expressed with respect to the current public consultation process at the Provincial level. Many comments were received indicating that members of the public, specifically upland owners, are not satisfied with the Province's handling of noise, visual impacts and pollution concerns resulting from shellfish aquaculture operations. Further, many landowners stated that they have not been consulted at all prior to the issuing of new shellfish tenures and licences or prior to changes in management plans resulting in new or different uses. It was clear, from the Public Information Meetings, that the public is now looking to the RDN to address these issues through

land use zoning. During the Public Consultation Phase, the RDN also received many comments indicating strong opposition to any aquatic finfish aquaculture in the coastal areas.

A number of additional comments were received including the following:

- Concerns with respect to maintaining public access to beaches for all users
- Economic benefits of shellfish aquaculture to the RDN residents
- Shellfish aquaculture can provide benefits to an ecosystem
- Wildlife impacts from predator netting used in some shellfish operations
- Access to and impacts on wild shellfish stocks
- Inequitable taxation assessments for water tenures compared to land based activities
- Recreational and tourism impacts resulting from shellfish tenures
- Unlimited expansion of existing tenures affecting upland owners

In response to the comments and concerns expressed by the public, it is recommended that the Board provide a resolution to investigate the possibility of entering into an agreement with LWBC that would ensure the RDN receive referrals prior to the issuance of new tenures or expansions of lease areas.

FINANCIAL IMPLICATIONS

The financial costs associated with the public consultation process are primarily attributable to the public meetings. These costs will be paid from the Electoral Area Planning operating budget contained within the 2003 Budget for the Development Services Department.

VOTING

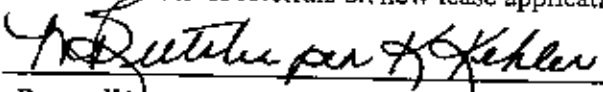
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/ CONCLUSIONS

This report provides an overview of the proposed direction with respect to potential amendments to the RDN's zoning bylaws (Bylaw No. 500, 1987 and Bylaw No. 1285, 2002) and identifies potential policy amendments to all Official Community Plans. This report also provides a summary of the comments received during the Public Consultation Strategy on aquaculture issues. It is recommended that the Board remove aquaculture from the Water 1 zone and create a new land use zone for coastal shellfish aquaculture and apply this zone to existing lease areas and areas identified as capable and suitable for aquaculture development. It is further recommended that the Board approve the proposal to remove aquaculture as a permitted use from all non-ALR rural and resource management properties, except those properties containing an existing aquaculture operation.

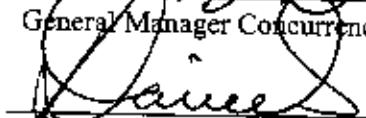
RECOMMENDATIONS

1. That the staff report on Aquaculture be received.
2. That the Board approve the proposed direction outlined in the report and direct staff to prepare draft bylaws and OCP policies for its review and referral to appropriate agencies.
3. That the Board direct staff to investigate entering into an agreement with LWBC to ensure that the RDN receives referrals on new lease applications and expansions.


Report Writer


Manager Concurrence


General Manager Concurrence


CAO Concurrence

**Attachment No. 1
Report of the Public Information Meeting
Held at Nanoose Place
2925 Northwest Bay Road, BC
October 1, 2003 at 7:00 pm**

**Summary of the Minutes on Proposed OCP & Zoning Amendment
Application for Aquaculture**

Note: this summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments of those in attendance at the Public Information Meeting.

There were approximately 45 persons in attendance.

Present for the Regional District:

Chairperson Joe Stanhope, Electoral Area 'G'
Director Pauline Bibby, Electoral Area 'E'
Director Dave Bartram, Electoral Area 'H'
Pamela Shaw, Manager of Community Planning
Kceva Kehler, Planner

Director Joe Stanhope opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting and introduced the head table. The Chair then stated the purpose of the public information meeting and requested the planner to provide background information concerning the official community plan and zoning amendment process. The planner gave a brief outline of the project to review the aquaculture land use bylaws and policies.

The Chairperson then invited questions and comments from the audience.

Ross Peterson, Nanoose Bay stated that he had concerns with the Ministry of Agriculture, Food and Fisheries (MAFF) assessment process for issuing aquaculture licenses. Mr. Peterson stated that private property considerations are limited to riparian rights but issues such as views, noise and impacts from aquaculture activities are not given much weight. Mr. Peterson wanted to know what is the RDN's role in articulating the voice of the residents in Nanoose Bay.

Chairperson Stanhope stated that the RDN made a motion at the recent UBCM conference regarding aquaculture and local government input. The local governments across the province supported the motion.

Eric Smith, 2420 Nanoose Road asked about the jurisdiction of Federal, Provincial and RDN with respect to aquaculture issues.

Kceva Kehler, Planner responded that the Federal Department of Fisheries and Oceans is concerned mainly with wild stocks and habitat for these stocks, the Province regulates aquaculture through MAFF, who issue the license and through LWBC Inc. who issue the tenure or lease. The RDN currently permits aquaculture in the Water 1 zone.

Director Bartram clarified the RDN jurisdiction covers the surface of the water above the natural boundary.

Howard Paish, 1448 Reef Road stated that he was happy to see the RDN getting involved in the aquaculture issues. Mr. Paish stated that there are implications for wild stocks and habitat. At the federal level there are economic considerations and aquaculture is viewed as a means to increase economic opportunities for coastal areas. The majority of aquaculture occurs in a zone of fuzzy jurisdiction, the intertidal zone. Mr. Paish suggested that the Oceans Act addresses some of the issues. Mr. Paish stated that offshore leases impact the public's access to traditional harvesting areas by excluding the public from these areas altogether. Mr. Paish stated that traditional harvesting areas in Nanoose Bay are an asset to the community and they need to be protected for the public's use. Mr. Paish further commented that in the region there is a facility that farms finfish on land in tanks and that we should recognize this as being a favourable way to raise finfish.

Ron Khune, Dolphin Drive stated that he is involved with water quality studies for Environment Canada. Mr. Khune wanted to see improved access to natural areas and increased awareness about pollution.

Dick Tyndall, Seacrest Drive stated that there are many public accesses in Nanoose Bay, but they are hidden and difficult to find. He wanted to see improved access to the beaches for everyone.

Lantz Krimp, Haida Way asked what prompted the meeting.

Chairperson Stanhope responded that a delegation to the Board from an upland resident prompted the proposal to review the aquaculture regulations.

Dianna Prestige, Nanoose Road stated that she had been prevented from walking along the beach at the end of Nanoose Creek and wanted to know why there were nets on the beach.

Keeva Kehler stated that shellfish aquaculture operators often use predator netting to protect the seed or clams in the substrate from predation by shore birds or other marine mammals and that this may be what is evident on the beach.

Dave Mitchell, Fanny Bay Oyster Company stated that shellfish is an old and well established industry in Nanoose Bay. The first oyster seed was planted in the Bay in 1903. Baynes Sound was first developed for aquaculture about 70 years ago. There has been limited expansion of shellfish lease areas in recent years. The main type of expansion is out towards the ocean in order to regain nursery areas that have been moved, there is very little sideways expansion. The shellfish areas are leased from the Province and there are clear parameters and guidelines including minimum and maximum production levels. He wanted the public to understand that there are controls on the use of the lease. Shellfish growers have the right to protect their crops, just like other farmers put up fences. Shellfish are filter feeders. There is no supplementary feed provided. Shellfish are environmentally beneficial and create artificial reef conditions that promote diversity of fauna in an area. Fanny Bay Oysters had an open house recently that was well attended with over 100 people. Mr. Mitchell invited anyone who is interested to contact him for a tour of the facility in Nanoose Bay or the plant in Fanny Bay. Fanny Bay Oysters employs over 100 people. Mr. Mitchell spotted at least 5 people in the room at the meeting who make their living from shellfish aquaculture.

Cornell Sawchuk, 1352 Garry Oak Drive asked a number of questions. Firstly, Mr. Sawchuk wanted to know if the RDN has jurisdiction over areas where licenses have been issued. Second, Mr. Sawchuk asked about the RDN's role in determining whether an aquaculture operation goes on land or in the water and lastly Mr. Sawchuk asked what the zoning is for the Fanny Bay Oyster Company in Nanoose Bay.

Pamela Shaw, Manager of Community Planning explained that the RDN has development permit areas and zoning to regulate land use in the RDN. Pollution and environmental issues can be addressed

through DPAs. As for locating a shellfish operation on land, it is difficult to address this without knowing whether it is scientifically possible to locate some aquaculture operations on land rather than in the water. The zoning for the water part of the Fanny Bay Oyster operation is zoned Water 1 and aquaculture is permitted, we will have to check the zoning for the land-based portion.

Bob Rogers, Arbutus Lane stated that he did not want to see zoning changes that precluded aquaculture development on the land if it is deemed that the land based operations are better for the environment. Mr. Rogers stated that he would not be supportive of blanket zoning changes that restricted uses for the future.

Mike Gray, 1375 Madrona wanted to know if the RDN has control over a lease area if the Province has issued a water lease.

Pamela Shaw explained that the Province can issue a lease in the Water 1 zone and aquaculture is a permitted use in that zone. The RDN does not always receive a referral when a lease is issued for aquaculture.

Cornell Sawchuk stated that there are two very different kinds of aquaculture, shellfish and finfish. Mr. Sawchuk stated that he is supportive of shellfish aquaculture and definitely not supportive of finfish and he wants the RDN to make the distinction between the two types.

Pam Parker, Beachcomber, BC Shellfish Growers Association stated that all new licenses require extensive consultation including advertising in the paper and posting on the site. Expansions require the same consultation and changes to management plans must be advertised. The process for finfish is more rigorous and extensive consultation would be required before any operation would locate in this area. The shellfish growers have to do an environmental and a marine assessment. Shellfish aquaculture cannot handle wave action in deep water. Growers pay for the lease area. They have to post a bond for waste management purposes to ensure that the environment is protected. There is no pollution where shellfish farms exist. Shellfish purifies the water in beach areas improving the quality for the public's use. Shellfish aquaculture provides year round employment and pays above minimum wage. 78 cents of every dollar generated by aquaculture stays in the local area.

Gabriel Cartledge, 2443 Garry Oak Drive stated that she supports the distinction between finfish and shellfish. She is not supportive of finfish operations at all. She felt that what Pamela Parker says about consultation is what should happen, but Ms. Cartledge stated that it does not always actually happen. Ms. Cartledge was not informed when the management at Fanny Bay Oyster Company changed, nor were they consulted when the lease was first granted. She felt that the provincial notification process is not adequate. Ms. Cartledge stated that shellfish aquaculture is not a bad neighbour, but finfish aquaculture has many serious negative impacts.

Hans Borker, 842 Mariner Way stated that there is an environmental management area in Parksville/Qualicum that needs protection. Mr. Borker stated that enforcement of bylaws is an important issue.

Dave Mitchell, Fanny Bay Oyster Company stated that the frequency of expansion is very low. There are 5 shellfish farms in Nanoose Bay and there was one expansion 12 years ago that he is aware of. Shellfish aquaculture occupies a small area of the RDN coastline and there is limited opportunity for development in the region. The Province reviews all other uses in a lease area before granting tenure for a shellfish operation. Shellfish leases are refused often due to conflict with other uses. In District 69, there are many more areas closed to shellfish due to leaking septic tanks than are occupied by shellfish aquaculture.

Name not given, a gentleman asked if shellfish aquaculture operations need shore based accessory buildings.

Susan Davies, Nanoose Oysters responded that shellfish leases do exist without any accessory buildings on the shore.

Howard Paish, 1448 Reef Road stated that he is positively in favour of shellfish aquaculture in Nanoose Bay and is happy to see products being raised and exported all over the world from the area. Mr. Paish stated that the difference between aquaculture and land based agriculture is that aquaculture occurs on leased land that is nationally owned rather than on fee simple land that is improved by the landowner. Mr. Paish added that water is a dynamic force and despite the fact that aquaculture occurs in small limited areas along the coast, water moves around and can bring impacts to other areas.

Ross Peterson stated that he came to the meeting worried about his ocean view, but now he is also worried about the impacts of the predator netting on shore birds. Mr. Peterson wanted to know how the public comments are used in the Provincial process. Although it is difficult to measure the importance of a view, it is still very important.

Keeva Kehler stated that there is research on the effects of predator netting on Scoter habits and population numbers being conducted in the Baynes Sound area. The contact information for the researchers can be provided to Mr. Peterson if he contacts the planning office.

Pamela Parker stated that only 0.5 % of the 2500 ha of shellfish leases are covered by predator netting.

Eric Smith asked if the problem involved Scoters feeding on wild clams or seeded clams placed in Nanoose Bay.

Susan Davies, Nanoose Oysters stated that last year in Nanoose Bay, they seeded 7 million baby clams.

Bob Rogers, Arbutus Lane stated that he cannot see how zoning can control aquaculture development. Mr. Rogers stated that access to the beaches for industry and for the public has to be maintained. Mr. Rogers stated that shellfish aquaculture is a green industry and is only suited to certain areas. Mr. Rogers felt that we should do more to encourage green industries.

Gabriel Cartledge stated that finfish has lots of different implications. With finfish there is a requirement to bring in feed, the feed brings storage, traffic and rats. Shellfish feed themselves.

Susan Davies, Nanoose Oysters, stated that they have been in Nanoose Bay for 30 years and it is vital to keep the water clean. Oysters cannot be taken to a depuration plant and cleaned. Protecting the environment is very important for shellfish growers. The seed has to be maintained like any other agricultural operation.

The Chairperson asked if there were any other questions or comments.

Being none, **the Chairperson** thanked those in attendance and announced that the public information meeting was closed.

The meeting concluded at 8.30 pm.

Keeva Kenier

Keeva Kehler
Recording Secretary

Attachment No. 2
Report of the Public Information Meeting
Held at Woodbank Elementary School
1984 Woodbank Road, Cedar, BC
October 6, 2003 at 7:00 pm

**Summary of the Minutes on Proposed OCP & Zoning Amendment
Application for Aquaculture**

Note: this summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments of those in attendance at the Public Information Meeting.

There were 2 persons in attendance.

Present for the Regional District:

Chairperson Joe Stanhope, Electoral Area 'G'
Pamela Shaw, Manager of Community Planning
Keeva Kehler, Planner

Pamela Shaw discussed the proposal with the 2 attendees and reviewed the aerial photos and handouts.

Attachment No. 3
Report of the Public Information Meeting
Held at Lighthouse Community Hall
240 Lions Way, Qualicum Bay, BC
October 6, 2003 at 7:00 pm

**Summary of the Minutes on Proposed OCP & Zoning Amendment
Application for Aquaculture**

Note: this summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments of those in attendance at the Public Information Meeting.

There were approximately 18 persons in attendance.

Present for the Regional District:

Chairperson Joe Stanhope, Electoral Area 'G'
Director Dave Bartram, Electoral Area 'H'
Director Lou Biggemann, Electoral Area 'F'
Pamela Shaw, Manager of Community Planning
Keeva Kehler, Planner

Director Joe Stanhope opened the meeting at 7:00 pm and outlined the agenda for the evening's meeting and introduced the head table. The Chair then stated the purpose of the public information meeting and requested the planner to provide background information concerning the official community plan and zoning amendment process. The planner gave a brief outline of the project to review the aquaculture land use bylaws and policies.

The Chairperson then invited questions and comments from the audience.

Dianne Eddy, Deep Bay asked about upland owners protecting the foreshore by applying to LWBC for a lease for a boat ramp or dock. Ms. Eddy asked about setbacks from ramps.

Keeva Kehler, Planner stated that LWBC issues tenures for ramps but it may be difficult to acquire tenure across a private property simply to prevent aquaculture from occurring because LWBC has criteria to ensure efficient use of the lease area. Someone could not acquire an aquaculture lease and leave the area fallow to prevent an operation from developing in front of their home. The current Water 1 zoning does not establish setbacks from ramps for aquaculture.

The Chairperson asked about the jurisdiction for aquaculture operations.

Pamela Shaw, Manager of Community Planning outlined the *Local Government Act* (LGA) and the authority of the RDN to regulate the use of the land and water in the region. Development Permit Areas and zoning regulate the use of land in the RDN. Each Electoral Area currently has specific policies related to aquaculture development.

Keeva Kehler, Planner outlined the role of the Provincial Government in issuing licences and tenures and monitoring management of aquaculture operations. The Federal Government has 17 agencies involved with aquaculture.

Keith Reid, Deep Bay Shellfish Grower added that Environment Canada is involved in water quality monitoring.

George Tinghe, Deep Bay asked about the implications of Right to Farm and aquaculture.

Keeva Kehler, Planner stated that the Right to Farm Act gives protection to agricultural operations, including aquaculture, that operate in accordance with normal farm practices where the use is permitted under the local government zoning.

Anne Copas, Deep Bay asked about the divided responsibility between provincial and federal agencies and how the RDN fits in to the process of issuing licenses.

Pamela Shaw, Manager of Community Planning stated that the RDN is not considering issuing licenses. The LGA gives the RDN authority over land uses.

Dave Mitchell, Fanny Bay Oyster Company explained the process of obtaining a licence from the Ministry of Agriculture, Food and Fisheries. A shellfish grower must apply to the Province with a management plan including information on what species they propose to grow, how they propose to grow them and minimum and maximum production levels. The licence is issued with certain criteria attached. If a shellfish grower does not adhere to the conditions and criteria, the licence may be revoked.

Keith Reid, Deep Bay stated that there is a Memorandum of Understanding (MOU) between the Federal and Provincial government signed in 1988 that grants the authority to issue licenses and tenure land to the Province.

Dave Mitchell gave a brief overview of the shellfish industry. Species grown include oysters, clams, mussels, scallops. There are no food supplements provided to the shellfish. They feed on naturally occurring phytoplankton. The carrying capacity of a site is naturally controlled by the availability of food. Increased residential densities lead to an increase in nutrients in the ocean resulting in algae blooms. The shellfish filter the marine water and bring the ecosystem into balance. They are beneficial organisms.

Keith Reid added that in the United States the government has tried to bring oysters into polluted bays to clean up the water.

George Tinghe stated that shellfish in the water can clean up the pollutants, but shellfish on beaches can have different impacts. Farmers seed one crop and the result is a beach that is devoid of life. There should be lots of room left natural in between beach culture sites to allow natural marine life to grow.

Dave Mitchell stated that the opposite is true. Oysters on the beach actually provide habitat for other species such as crabs, worms and shrimp. The oyster feces enhances eel grass growth and herring spawning areas. The press in BC has directed some unfair and inaccurate comments on shellfish. It is difficult for the industry to counter this idea. Shellfish gets placed in the same category as finfish.

Len Ralph, Qualicum Bay Bed and Breakfast, asked if there is any process before a shellfish operation is granted a licence or could he see one pop up over night in the Bay.

Keeva Kehler explained that LWBC is required to notify upland owners and place advertisements in the paper prior to issuing new licenses. There are riparian rights afforded to upland owners. Some projects require an Environmental Assessment from the Federal Government prior to a license being issued. There are 3 things that trigger an EA: Alteration of habitat including structures on the foreshore, impediment to navigable waters and federal funds being spent on the project.

Dianne Eddy asked if LWBC was required by law to notify the local government prior to issuing tenures.

Pamela Shaw stated that she was not aware of a requirement to notify the local government directly and we usually do not see referrals. Ms. Shaw added that she would investigate this further to clarify the requirements.

Anne Copas asked if there is federal input in to the license issuing.

George Tinghe stated that the political aspect of aquaculture is a bad thing. He stated that the code of practice for shellfish operations is not always followed: Shellfish aquaculture is an industrial use and should not be located where residential areas are present. There can be noise 24 hours a day. Shellfish aquaculture impacts birds and wildlife and can remove beaches from public use. Tourism and recreation may be affected by aquaculture.

Keith Reid stated that the development in Baynes Sound dates back 70 years. There is a historic aquaculture business in the area. Only 5% of the beaches are covered with nets. It is not true that birds are impacted due to loss of food sources due to netting. Some farms have no netting at all.

Pat McLaughlin, Denman Island responded to the netting issue. She is an upland owner and believes that 90% of the tenured area along Denman is covered with predator netting. The operations also have fencing, rebar and trucks crossing the beach. Shellfish aquaculture is an industrial use and shouldn't be near residential areas.

Keith Reid stated that Baynes Sound is mostly out of the RDN's jurisdiction.

Eric Gant, Manatee Holdings Ltd., stated that they harvest gourmet food from the sea, such as geoduck, horse clam and sea cucumber. Fisheries are virtually impossible to manage at a sustainable level. Aquaculture replaces some of the species harvested from the ocean in a sustainable manner. Aquaculture is increasing in value. New technology is being developed. Manatee holdings develops invisible technology or technology that is aesthetically pleasing. Dive fisheries are being mined out and aquaculture allows us to replace some of the products we remove.

Barb Bunting, Island Scallops asked how much of BC is used for aquaculture and agriculture. She believed that the percentage of the coastline in BC that was used for aquaculture was minimal. She asked what type of input adjacent landowners have into agricultural development on land as compared to the input and regulations on aquaculture development.

Pamela Shaw responded that there is limited community input where agriculture is a permitted use.

Nelson Eddy, Deep Bay stated that specific areas are at issue. He felt that the federal and provincial governments were not making people happy and that the RDN should help in this regard. Mr. Eddy stated that shellfish aquaculture is not an issue when it is done properly. Mr. Eddy felt that there should be a balance and zoning should be developed giving both sides a proper say. Upland owners' rights should not be trampled on, but the complaints of the upland owners should not be given so much weight either.

Dianne Eddy asked about plans to extend the lease area long the shoreline in Deep Bay. There are important beaches in the area that have to be protected.

Keith Reid stated that oysters will not grow in many of the areas along the coastline. Deep water sites must be carefully chosen. Most of the coastline is too exposed and aquaculture development is not likely. There is a small area of Deep Bay that is suitable for aquaculture and it is almost all tenured already. The process for acquiring tenures is very rigorous.

Director Bartram asked the audience if they had any comments on the existing definition of aquaculture. Currently the definition is very broad and does not distinguish between different types of aquaculture.

Dianne Eddy stated that land based operations have more stringent controls than water based aquaculture. Land based facilities have to be cleaner because the pollution is more visible.

Mr. Eddy stated that he is a volunteer with the Fanny Bay Salmonid Enhancement Society. There is an Omega nursery in the area. Pollution used to be directed into a lagoon where it settled and was filtered before being released into the ocean. When residents moved in to the area, they complained about the smell of the lagoon. Now the water is released directly in to the ocean. Although the smell no longer exists, the ocean is now more polluted than before.

Barron Carswell, Aquaculture Manager, MAFF stated that the Agricultural Waste Management Regulations control pollution on land and in the water. The regulations are more complicated for finfish operations in net cages.

Dave Mitchell asked about the OCP policy to create a vibrant and sustainable economy. Mr. Mitchell asked what weight would be given to views versus economic development.

Pamela Shaw explained that the planning department presents a rounded complete picture addressing all the potential impacts of a proposal to the Board.

The Chairperson stated that as an elected voting member he would weigh all the facts including views expressed by the public on the proposal. Chairperson Stanhope stated that he is supportive of economic development provided the environmental capital is protected.

Director Bartram added that there is a balance between social, environmental and economic issues and he would review applications with this balance in mind. A vibrant and sustainable economy is important to maintain the community.

Dave Mitchell stated that he believes there is an imbalance in the process. Mr. Mitchell does not see a groundswell of public opposition to shellfish farming. Mr. Mitchell believes that this is a top down process. Mr. Mitchell added that he hopes the shellfish growers will listen to the concerns expressed by the public during the consultation phase.

Eric Gant, Manatee Holdings Ltd. spoke about the suitability of the RDN coastline for geoduck culture.

Dianne Eddy stated that she was concerned about the method of harvesting geoducks. Ms. Eddy is concerned about the spit. Since geoducks live 3 metres below the surface harvesting requires disturbing the bed.

Pamela Shaw discussed the proposed development permit area in the draft Area 'H' OCP, which is proposed to extend 30 metres each direction from the natural boundary of the ocean, both toward the land and toward the sea.

Eric Gant stated that geoduck culture must be beyond the eel grass beds. There is a stretch of eel grass beds along the spit essentially protecting it from any geoduck harvesting impacts. Geoduck diving usually occurs in 30 to 60 feet of water. Many areas of geoduck fisheries are not properly managed.

George Tinghe stated that people in the shellfish industry may feel attacked. People are not wholly against shellfish but they do want some input into the development of aquaculture. Removing aquaculture from the Water 1 zone does not mean precluding it altogether, it just allows for community input through a rezoning process.

Barron Carswell asked about the fee for rezoning applications.

Keeva Kehler stated that there is an \$800 base fee plus a \$1000 advertising deposit for a zoning amendment. If an amendment to an OCP is required the fee is \$1500 plus an advertising deposit.

Dianne Eddy asked about taxation implications for shellfish. Ms. Eddy asked that the RDN examine the inequity in tax values paid by shellfish operators and residential land owners.

Pamela Shaw stated that the RDN is not a taxing authority in the same manner as is an incorporated municipality for land issues.

Dianne Eddy asked if the RDN will be complaining to the Province about the inequity of tax assessments for aquaculture.

Pamela Shaw stated that the RDN would investigate the matter further

Keith Reid asked about the process for zoning amendments.

Pamela Shaw outlined the procedure for a rezoning under the LGA including notification and public consultation matters.

Keith Reid discussed the VIEDA study that puts aquaculture development as a priority due to the economic benefits to the communities on Vancouver Island. Seventy eight cents of every dollar stays in the local community.

Anne Copas asked about the changes to the Right to Farm Act.

Keeva Kehler explained that Bill 48 received 1st reading in the Provincial government on May 12 but has not progressed beyond this stage yet. Bill 48 proposes to include certain areas of Crown land under the Right to Farm Act to afford aquaculture operations protection from local government nuisance regulations for normal farm practices.

Pamela Shaw added that some crown land in the RDN is currently zoned and the RDN maintains that the *Local Government Act* gives the RDN authority to regulate land use on crown land.

Barron Carswell asked if formal referrals of draft bylaws will be sent to agencies involved with aquaculture.

Dianne Eddy asked why the option to remove aquaculture from non-ALR lands was being considered.

Keeva Kehler explained that the RDN cannot prohibit aquaculture on ALR lands, but can restrict or prohibit aquaculture from non-ALR rural and resource management lands. Removing the use from non-ALR rural residential lands will ensure aquaculture development is directed to resource lands in the ALR.

Keith Reid asked about removing aquaculture as a permitted use from the Water 1 zone and the implications for shellfish growers who wanted to expand. Mr. Reid wanted to know how the Right to Farm legislation would affect the zoning amendment proposal.

Keeva Kehler stated that the Right to Farm legislation only applies to properties where the agricultural use is permitted under the zoning. The Province's response to the zoning amendment would depend on the course the RDN decides to take.

The Chairperson asked if there were any other questions or comments. The Chairperson added that comments could be submitted to the RDN staff prior to October 15, 2003.

Director Bartram stated that he would bring any comments received prior to October 28, 2003 to the Board meeting.

Barron Carswell asked if the RDN has the authority to regulate intensity of farm use on ALR lands.

Pamela Shaw stated that the RDN can regulate siting and density of structures which regulates intensity.

The Chairperson asked if there were any other questions or comments.

Being none, **the Chairperson** thanked those in attendance and announced that the public information meeting was closed.

The meeting concluded at 8.40 pm.

Keeva Kehler

Keeva Kehler
Recording Secretary

**Attachment No. 4 (Page 1 of 3)
Comments provided**

Consolidated Summary of 'Request for Comments' Submission Forms

Aquaculture Issues in the Regional District of Nanaimo

Lighthouse Community Centre – October 6, 2003

1. Please provide your comments on the existing and potential definitions of aquaculture.

Shellfish and fin fish definitions of aquaculture need to be better defined if not a separate operation.

Aquaculture is the propagation of life plant or animals in the water or on tidal areas.

2. Please provide your comments on the existing and potential aquaculture land use regulations.

Proliferation of the aquaculture industry is not a panacea to Van Island economic woes – it must be monitored and environmental sound.

The high phytoplankton in our waters plus a current to disperse waste makes our waters very suitable for aquaculture.

3. Please provide comments on the proposal to review the existing land use regulations for aquaculture.

To be discussed in our OCP. Aquaculture sites not rezoned to ALR!! Sites should be monitored and reported by aerial inspection. Site management should be clearly defined – e.g. business transaction, owned? leased – rental – acquired.

The same regulation for farming should apply to land based aquaculture.

4. Additional comments?

Aquaculture buildings should not be tied to yellow breakwater or moored in the vicinity of harbour during the tourist season. Some of them are quite an eyesore.

Upland owners must be allowed to veto lease applications in front of their property.

The removal of aquaculture from water zoning will give neighbouring property the possibility to give their opinion upon an application of rezoning.

Attachment No. 4 (Page 2 of 3)

Comments provided

Consolidated Summary of 'Request for Comments' Submission Forms

Aquaculture Issues in the Regional District of Nanaimo

Nanoose Place Community Hall – October 1, 2003

1. Please provide your comments on the existing and potential definitions of aquaculture.

To be land based only (fin based).

2. Please provide your comments on the existing and potential aquaculture land use regulations.

If shellfish leases are granted, then they should only be granted in fairly remote areas with minimal impact for the people who live there.

3. Please provide comments on the proposal to review the existing land use regulations for aquaculture.

Water 1 zoning is just too all encompassing; some distinctions have to be made.

4. Additional comments?

I would prefer no zoning of aquaculture.

There are many bays and coves in Nanoose that are ringed by homes and subdivisions where the only access to the beaches is by public access...there must be some kind of zoning to avoid any commercial activity in areas like this. PS. as the beaches and water are for everyone's enjoyment and many public access walkways are overgrown and not well marked, improving this would benefit the entire community. It sounds pretentious, but our beaches and oceans are precious.

Attachment No. 4 (Page 3 of 3)

Comments provided

Consolidated Summary of 'Request for Comments' Submission Forms

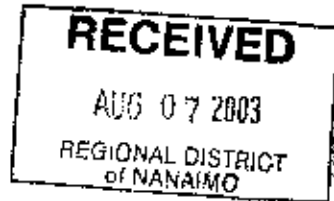
Aquaculture Issues in the Regional District of Nanaimo

Woodbank Elementary School – October 2, 2003

1. Please provide your comments on the existing and potential definitions of aquaculture.
2. Please provide your comments on the existing and potential aquaculture land use regulations.
3. Please provide comments on the proposal to review the existing land use regulations for aquaculture.
4. Additional comments?

We would like aquaculture removed from the Water 1 zone.

Attachment No. 5
Preliminary Referral Comments
(Page 1 of 18)



August 1, 2003

Your File: 3360 30 0301

Caoimhe (Keeva) Kehler, Planner
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2

Dear Caoimhe (Keeva) Kehler:

Re: OCP, Zoning Amendments and Public Consultation Framework Referral with respect to Aquaculture uses in the RDN

Thank you for your referral in this matter dated July 9, 2003 and received in our offices on July 16, 2003. I regret to inform you that we are unable to meet your request for a response within the time you have indicated.

I am certain that the RDN appreciates that the Ministry of Agriculture, Food and Fisheries is obliged to consider such referrals in the context of the *Farm Practices (Right to Farm) Protection Act*, the *Fisheries Act*, as well as the provisions for ministerial discretion afforded by the *Local Government Act* in matters related to farming. Ultimately, the RDN may wish to seek and consider the Minister's advice and recommendations regarding standards and practices for aquaculture that may be relevant to RDN deliberations.

With these factors in mind, we request of the Regional Board of Directors more time for our deliberation on this referral. We expect to be in a position to provide consolidated advice by this fall.

In the meantime, if we can provide any assistance to the RDN, please contact me as indicated below. Please thank the Board for their patience and understanding in this matter.

Sincerely

Gary Cairne
Senior Biologist

**Attachment No. 5
(Page 2 of 18)**

Caoimhe (Keeva) Kehler, Planner
Page 2

pc: Dr. Allan Castledine, Director, Aquaculture Development Branch, MAFF

Mr. Jim Russell, Aquaculture Licensing Specialist, Licensing and Compliance
Branch, MAFF

Attachment No. 5
(Page 3 of 18)

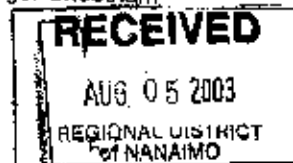


Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
www.alc.gov.bc.ca

July 30, 2003

Reply to the attention of Roger Cheetham

Cacimhe (Keeva) Kehler, Planner
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2



Dear Madam:

Re: Aquaculture Uses in the RDN: Proposed Amendments to OCP's
and Zoning Bylaws

Our Ref: 18111

Thank you for your letter dated 9th July 2003.

Further to your telephone conversation with Roger Cheetham of this office on 28th July 2003 we support the intention of the Regional District to accommodate aquaculture within the ALR in recognition of Part 2 (2) (c) (ii) of the Agriculture Land Reserve Use, Subdivision and Procedure Regulation.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

PER:

A handwritten signature in black ink, appearing to be "K. B. Miller", written over a horizontal line.

K. B. Miller, Chief Executive Officer

RC/iv

Attachment No. 5
(Page 4 of 18)



August 19, 2003

Our File: 58000-35-05
2003VIN0795
Your File: 3360-30-0301

Regional District of Nanaimo
6300 Hammond Bay Rd
Nanaimo, BC V9T 6N2

ATTENTION: Caoimhe Kehler
Planner

Dear Caoimhe Kehler:

Re: Regional District of Nanaimo Official Community Plan and
Zoning Amendments Respecting Aquaculture Uses

We apologize for the delay in our response. Coordinated responses can be a challenge with summer vacation schedules. I did manage to get some feedback from our Environmental Protection section with respect to the current aquaculture proposal review process. Apparently, only finfish aquaculture proposals are being reviewed by the regional office at this time and as such we are not directly involved in shellfish reviews.

In general, our ministry supports the regional district's efforts to minimize environmental impacts resulting from land use activities through proactive planning. Recent studies conducted in the Baynes Sound (AXYS, 2000) indicate that forage values for intertidal, shallow water and deep water birds can be compromised by net pen or long line operations as a result of human disturbance, access restrictions and loss of invertebrate diversity. Critical resting habitat for migrating Brant geese and other waterfowl has been compromised in Deep Bay and other small bays throughout the Regional District of Nanaimo (RDN) due to human disturbances associated with existing shellfish leases (Martin, 2001). There is also potential shore bird habitat loss in the Nanoose Bay National Wildlife Refuge as a result of aquaculture expansions in this location. In addition to published avian impacts, scientists have also expressed concerns regarding potential impacts to benthic fauna over time.

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Attachment No. 5
(Page 5 of 18)

Regional District of Nanaimo

- 2 -

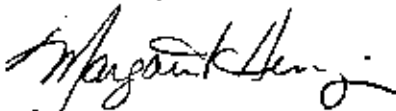
August 19, 2003

Careful review of marine aquaculture proposals by the RDN through a rezoning process could help to ensure minimized impacts and shared stewardship of environmental values in these areas. Mapping to more thoroughly identify appropriate siting and potential conflicts would be very helpful for assessing proposals. We understood that Brad Mason at the Department of Fisheries and Oceans Information Management Unit had been working on a shoreline mapping project within RDN boundaries. You may wish to contact Brad for more information.

There is a dearth of scientific literature specific to the expected environmental impacts associated with inland shellfish aquaculture in temperate freshwater ecosystems. However, due to the potential for in situ species displacement, release of hazardous substances or transmission of pathogens we recommend caution when exploring opportunities to adopt a global zoning bylaw that could permit inland aquaculture including facilities on freshwater lakes and rivers across the RDN. It is recommended that proposals of this nature be carefully reviewed on a case by case basis with due consideration to site specific conditions, including habitat values and potable water supplies.

Thank you for forwarding this referral to our agency for review. We wish you luck in the public review process for this proposal.

Yours truly,



M.E. Henigman
Urban Habitat Protection Officer
Environmental Stewardship, Nanaimo

References

AXYS Environmental Consulting, April 2000, for Ministry of Environment, Lands and Parks, Review of the Impacts of Shellfish Aquaculture Operations on Marine and Shorebird Species in Baynes Sound, British Columbia.

Terri Martin R.P.Bio., May 2001, pers comm.

Attachment No. 5
(Page 6 of 18)



MINISTRY OF AGRICULTURE,
FOOD AND FISHERIES

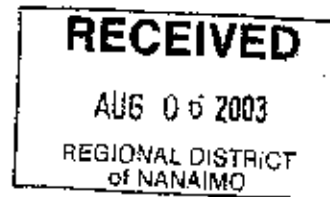
Aquaculture Development Branch
1st Floor, 808 Douglas Street
PO Box 9120 Stn Prov Govt
Victoria BC V8W 9B4



IT'S OUR TIME
TO SHINE

August 1, 2003

Caoimhe Kehler, Planner
Regional District of Nanaimo
6300 Hammond Bay Rd
Nanaimo BC V9T 6N2



Dear Ms. Kehler:

Re: Electoral Areas A, C, D, E, F, G, H Official Community Plan and Zoning Amendments and Public Consultation Framework with respect to Aquaculture uses in the RDN

Thank you for the opportunity to review the proposed amendments to these Official Community Plans.

The Aquaculture Development Branch is an agency, which is very interested in enabling the sustainable development of Aquaculture in British Columbia. We believe Aquaculture is of benefit to all levels of economy and community.

Having reviewed the proposed amendments to the Electoral Area Official Community Plans and zoning bylaw regulations (file NO.:3360 3000301) this office has strong reservations towards a number of the draft proposals and/or options presented in the document.

As the Ministry responsible for the orderly development of shellfish aquaculture, we would support OCP amendments that plan and provide for aquaculture development. Any amendments that result in a general rezoning of some or all of Nanaimo Regional District, which effectively that precludes all but existing aquaculture tenure is unlikely to receive Ministry support.

This office will continue to monitor zoning or bylaws, which might affect the status of aquaculture in the Regional District. We look forward to working with the Regional District of Nanaimo, to plan and zone for aquaculture and provide economic opportunities for coastal communities. I look forward to hearing from you as to how we might best participate in that process.

Yours truly,

Barron Carswell
Manager Shellfish Aquaculture Development
Aquaculture Development Branch

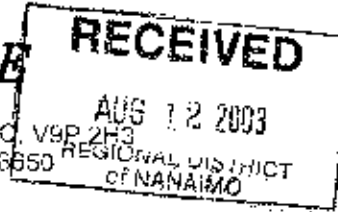
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Attachment No. 5
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City of PARKSVILLE

PO Box 1390, 160 E. Jensen Avenue, Parksville, BC V9P 2H3
Telephone: (250) 248-6144 Fax: (250) 248-6650
www.city.parksville.bc.ca



August 8, 2003

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2

ATTENTION: CAOIMHE (KEEVA) KEHLER, PLANNER

Dear Sirs:

SUBJECT: ELECTORAL AREAS A, C, D, E, F, G, H OFFICIAL COMMUNITY PLAN AND ZONING AMENDMENTS AND PUBLIC CONSULTATION FRAMEWORK WITH RESPECT TO AQUACULTURE USES IN THE RDN

At the regular meeting of Council, held Wednesday, August 6, 2003 the following resolution was adopted:

"03-278 That the report from the Assistant City Planner, dated July 25, 2003 entitled "RDN Request for Comment on Aquaculture Uses" and the correspondence from the Regional District of Nanaimo, dated July 9, 2003, be received;
And That Council support the inclusion within the Regional District of Nanaimo bylaws and regulations of a system of criteria to be used to evaluate all applications for shellfish or aquaculture activities but that they remain as permitted uses;
And That Council forward the general subject of local support for the shellfish and aquaculture industries to VIEDA for further comment;
And That staff consult with the Parksville/Qualicum Beach Wildlife Management Area to ascertain the existence of any other Provincial regulation related to the shellfish and aquaculture industries within the City of Parksville;
And Further That staff bring back a report regarding regulations within the City following the updating of the Economic Development Strategy. CARRIED."

Yours truly,

GAYLE A. JACKSON
Director of Community Planning

GAJ/sh

GI/0480-RDN/Kehler-1

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Attachment No. 5
(Page 8 of 18)

go with the current

August 8, 2003

Caoimhe (Koeva) Kehler
Planner
Regional District of Nanaimo
6300 Hammond Bay Rd.
Nanaimo, B.C. V9T 6N2

AUG 11 2003
REGIONAL DISTRICT
OF NANAIMO

VANCOUVER ISLAND

THE NEW MARINE FRONTIER

File No:3360 30 0301

Dear Ms. Kehler:

RE: Electoral Areas Official Community Plan and Zoning Amendments and Public Consultation with respect to Aquaculture uses in the RDN

Thank you for the opportunity to comment on the above mentioned proposals. I apologize that my time availability has not allowed an earlier response.

The Vancouver Island Economic Developers Association (V.I.E.D.A.) serves those organizations and individuals charged with addressing economic development issues and concerns within the Vancouver Island/Coast areas of B.C. Membership in our Association comprises a broad range of Vancouver Island/Coast community economic development representatives including Victoria in the south, Port Hardy in the north, Powell River in the east and Ucluelet in the west and most points in between. Regional District of Nanaimo members include the City of Nanaimo and the City of Parksville.

Slightly over 5 years ago, VIEDA began in depth research into attracting investment to Vancouver Island. This work, over time, evolved into **The New Marine Frontier Project** which identified the shellfish sector as having the highest potential for bringing wealth and job creation to Vancouver Island/Coast communities. Our most recent reports have included **Shellfish Industry Economic Impact Analysis and A Marketing Plan for Shellfish Industry Investment Attraction.**

VIEDA makes no pretense of being shellfish industry experts (we leave that to organizations like the B.C. Shellfish Growers Association) however we do know the components which make an industry and community attractive to investment. Intangibles such as a balancing of the needs of competing interests and a welcoming and open business environment can be deal makers if they exist and deal breakers if they don't. Our interpretation of your proposed changes would leave the Nanaimo Region falling short in both areas- coming down directly on the side of upland land owners at the expense of industry (balance?) and telling investors if you want to establish or expand in our area you have to go through a time consuming public hearing process (welcoming?).

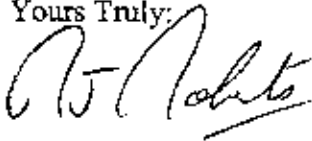
 VIEDA
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Port Alberni, BC
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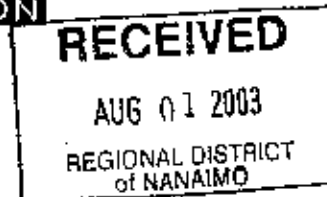
VIEDA strongly recommends that these proposals be revisited to ensure that the final results benefit all parties and that the Regional District of Nanaimo consider its business and investment environment in its deliberations.

Yours Truly:



Rick Roberts
President

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July 30, 2003

Ms. Caoimhe (Keeva) Kehler
Planner
Regional district of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC
V9T 6N2

Dear Ms. Kehler:

**RE: Electoral Areas Official Community Plan and Zoning Amendments and Public Consultation
with respect to Aquaculture uses in the RDN**

On behalf of the BC Shellfish Growers I would like to draw attention to the fact that:

- Land and water tenures are regulated and allocated by the Province of British Columbia following a stringent and transparent process that includes public consultation;
- Aquaculture licenses are awarded by the Province of British Columbia, based on stringent criteria, including environmental reviews;
- Areas designated for agricultural land use are set according to legislation by the Province in addition to what is and is not considered as agriculture and is not at the discretion of individual districts;
- The BC Shellfish Growers Association worked with the Government of British Columbia and other stakeholders, including upland owners, to develop an industry Code of Practice for shellfish farming; and
- The BCSGA continues to work with the Government of BC to incorporate the principals of the Code of Practice into the management plans that will then result in these principals becoming enforceable by provincial inspectors. Non-compliance could result in loss of license by the grower.
- Removal of aquaculture as a permitted use in the zoning bylaw for all areas on the RDN coastline is not acceptable to the members and stakeholders of the BCSGA.

On behalf of the BC Shellfish Growers Association (BCSGA) we would request that the Regional District of Nanaimo withdraw any zoning amendments with respect to Aquaculture uses within the RDN.

If the RDN is unwilling to do this, we would request that maintaining the status quo (no zoning amendments) be included as an option available to decision makers. We believe this option should be available based upon the following:

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Ms. Caoimhe (Keeva) Kehler

July 30, 2003

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- The Ministry of Agriculture Food and Fisheries, Land and Water BC and shellfish industry stakeholders have all stated that there is no potential for finfish aquaculture within the RDN and only very limited potential for future shellfish development so we question why any restriction to our industry is proposed.
- Shellfish aquaculture is highly regulated by the Province of British Columbia. All new tenure applications and/or tenure expansions must be applied for through Land and Water BC and a public consultation process is required before approvals are granted.
- Shellfish aquaculture holds the potential to generate both wealth and jobs for the Regional District at a time when both economic diversification and job creation are critical to the well being of all communities within the District.
- Concerns regarding shellfish aquaculture development (largely based on visual impacts to upland owners) need to be weighed against the greater economic good to a community and its citizens.
- Because of inaccurate information contained in the Attachments, we question the RDN's capacity to fairly assess or arbitrate any request for rezoning.
- Existing rationale regarding concerns over potential industrialization of the shellfish industry are speculative at best, and may be offset by technological development that could negate these issues entirely.

Finally, the BC Shellfish Growers Association requests that Attachment 2, Backgrounder be removed from any further consultation process or discussion because the much of information contained is based on hearsay, has no basis in fact or on scientific evidence and therefore, has no place in a public document seeking impartial input. Examples include:

- **Opening:** Your information regarding methods of farming (eg. raft culture, FLUPSYS) are wrong or imply that information given to you by shellfish operators is questionable. This brings the integrity of this document and those who are associated with it, into question.
- **Legislative Requirements:** Again, the way this section is written with the use of quotation marks and underlining makes implications toward the integrity of the material. We do not see this as responsible.
- **Economic Implications:** Employment and economic impact is not limited to remote coastal areas; centers such as Nanaimo, Parksville, Qualicum Beach, etc. receive the economic spin-offs that result from being service centers to the industry. It was our understanding that the Directors of the Chambers of Commerce throughout the RDN voted in favour of the Provincial Chamber's resolution to support shellfish aquaculture in BC at the 2003 Annual Conference for these very reasons. This action is in contradiction to that resolution.
- **Environmental Implication:** There is no scientific evidence confirming any of the points raised in this section. To suggest that farmers, whose very livelihood depends on a pristine environment will disregard environmental stewardship are ludicrous. Aquaculture must adhere to the most stringent of environmental legislations of any sector within the seafood industry. Our members and our Association invest both time and money into a variety of scientific research projects and initiatives. The idea that the farmed shellfish impact the health of wild stocks of shellfish is nonsense.

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Ms. Caoimhe (Keeva) Kehler

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- **Land Use Implications:** Issues raised within the section will be addressed through the adoption of the principals of the Code of Practice within the required Management Plans attached to license of occupation. The BCSGA suggests that the RDN allow this process to proceed. It is important to note the following:
 - Noise impacts as a result of harvesting equipment occur on deepwater leases and this activity is performed during daytime, working hours.
 - Lighting impacts: Generally lights used for night operations are faced away from the shore or are beam-mounted; generally they can only be seen by upland owners who stand at their windows looking out over a beach at night and have no more impact than lights from boats.

The BC Shellfish Growers Association strongly urges the RDN to withdraw any zoning amendments with respect to shellfish aquaculture.

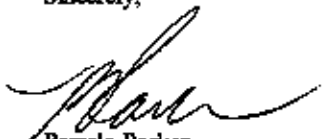
The BC Shellfish Growers Association strongly urges the RDN to remove all perceived bias from all future consultation documents and speaking notes and provides or uses only information that can be proven or substantiated to ensure a fair and equitable consultation process.

The BC Shellfish Growers Association strongly urges the RDN to carefully weigh the concerns of a small number of oceanfront homeowners to the economic well being of the majority of citizens and businesses within the RDN.

The BC Shellfish Growers Association strongly urges the RDN to extend the consultation process to ensure all viewpoints are able to participate. We note that this material, while dated on July 9th, was not received in our Nanaimo office until July 17th. In addition there is no information posted on your website (or at least we couldn't find it) and maps are unreadable and, again, are not available on your website.

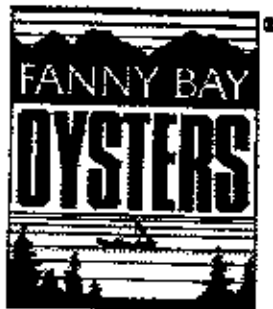
Thank you for your consideration of these issues. I look forward to your response.

Sincerely,



Pamela Parker
Executive Director

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PHONE (250)335-0125 FAX (250)335-1211
PO BOX 209, UNION BAY, BRITISH COLUMBIA V0R 3B0
www.fannybayoysters.com

August 06, 2003

Your File: 3360 30 0301

Via fax: (250)390-4163

C. Kehler
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, B.C.
V9T 6N2

Re: Proposed Aquaculture Zoning Amendments

This letter is in response to your request for comments regarding the proposal for zoning amendments for the purpose of regulating the expansion of aquaculture businesses.

Fanny Bay Oysters recently acquired a former salmon farming site in Nanoose Bay and since January of last year have been farming oysters here, and culturing oyster and clam seed for our farms in the Baynes Sound area between Deep Bay and Courtenay.

Oyster farming in Nanoose Bay is 100 years old this year. The first seed was planted here as well as in Boundary Bay, Esquimalt and Ladysmith Harbours and also in Hammond Bay in 1903 (Quayle, D.B. 1988. Pacific Oyster Culture in British Columbia). It is noteworthy that among these original areas, oyster farming only survives in Nanoose Bay today. The majority of oysters and clams harvested in B.C. today come from farms located between Nanoose Bay and Courtenay. This is the heart of the B.C. shellfish farming industry.

However, like most types of farming, success in the B.C. oyster industry has not come overnight. Changing environmental conditions reduced the amount of seed available from wild sources so that oyster harvests in B.C. plummeted from 6000 tons in 1963 to

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only 1400 tons in 1981. The development of hatchery technology in the 1970's, and more recently the development of Floating Upweller Systems (FLUPSYS) and rafts turned around the decline in oyster production so that by 2001 oyster production in B.C. reached 7000 tons (BCMAFF). This represents less than 0.1% of total world production, and is eclipsed by production from countries such as Chile, China, Spain, Denmark and New Zealand which produce millions of tons of farmed shellfish each year. Our products are in demand world-wide however because of their high quality, our clean growing waters and our rigorous quality control programs.

Shellfish farming is a sustainable economic activity that provides net positive environmental impacts. Jurisdictions throughout the world in areas such as New Zealand, the U.S. and the E.U. provide significant incentives that encourage shellfish farming because of the recognized environmental and job creation benefits. Shellfish farms provide habitat for juvenile fish and enhance wild fisheries. All of the wild oysters and manila clams on public beaches in B.C. originated from spawning farm stocks. Shellfish reduce excess nutrient levels in the marine environment as a result of their filter feeding activity. This is an important ecological function of shellfish farms that mitigates the impact of human upland development and helps prevent hazardous algal blooms that cause fish kills and other negative ecological impacts. These positive environmental effects of shellfish farming are well documented in the scientific literature (sample references are appended).

Over the last 20-30 years the large rural acreages and farms that previously bordered our shellfish leases have been subdivided into smaller residential lots. Many of the new residents are from urban areas and are unfamiliar with shellfish farming. The primary issue for these residents is our visual presence. We endeavor to maintain our farms in a clean, safe and orderly manner and to address our neighbours aesthetic concerns where possible. Most neighbours we hear from however, view us in a positive manner. Many people enjoy seeing economic activity on the water, reminiscent of the days when fishing was a thriving year-round activity. Providing residents with information on our activities helps dispel misconceptions and correct misinformation. We routinely provide tours on request and will be holding an open house in the near future for our neighbours.

It is encouraging to see our critics soften as they come to understand the nature of our business, how it complements the environment and provides jobs, often for someone they know. However this takes time, with our resources already severely challenged by the realities of competing in the global marketplace, with the burden of excessive federal/provincial regulations and taxation.

I do not agree with the comments that the lifting of a moratorium will result in a rush of new aquaculture development. The B.C. shellfish industry has been under a defacto moratorium for the past 20 years, generally attributed to the lack of certainty over native land claims. This is not likely to change. Given all the other obstacles to business development in B.C., will requiring new aquaculture ventures to undergo a re-zoning process help attract new investment and environmentally sustainable job creation? What

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is the projected likelihood of success for new aquaculture ventures to receive the necessary re-zoning approval?

If you have any questions or comments, please feel free to call me at (250)335-0125, extension 228 or at our Nanoose farm (250)468-2774.

Sincerely,
Fanny Bay Oysters



Dave Mitchell
General Manager

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**Environmental Effects of Shellfish Farming
An Annotated Bibliography**

OYSTER GROUNDS, A SUPERIOR HABITAT FOR SMALL, SEDIMENT-DWELLING INVERTEBRATES

Ferraro, Steven P. and F.A. Cole, U.S. Environmental Protection Agency, 2111 S.E. Marine Science Drive, Newport, OR 97365-5260. Presented at the 55th Annual Conference of the Pacific Coast Shellfish Growers Association and the National Shellfisheries Association – Pacific Coast Section. Sept 20-22, 2001.

Six habitats were studied in Willapa Bay, Oregon: (1) oyster ground culture, (2) eelgrass, *Zostera marina*, (3) mudshrimp, *Upogebia pugettensis*, (4) ghost shrimp, *Neotrypaea californiensis*, (5) bare mud, and (6) subtidal.

Among the six habitats studied, oyster grounds consistently ranked either first or second in terms of the number of species, abundance and total biomass of invertebrates. Oyster grounds, which have a high economic value in terms of oyster production, are also ecologically valuable as they provide a superior habitat for small invertebrates upon which many larger animals (e.g. fish, crabs, waterfowl) feed.

OYSTER AQUACULTURE AS FISH HABITAT IN PACIFIC NORTHWEST COASTAL ESTUARIES

Hosack, Geoff, David Armstrong, Bryce Semens, School of Aquatic and Fishery Sciences, Box 355020, University of Washington, Seattle, Washington 98195
Dumbauld, Brett, Washington State Department of fish and Wildlife, Willapa Bay Field Station, P.O. Box 190, Ocean Park, Washington 98640
Rumrill, Steven, South Slough Estuarine Research Reserve, P.O. Box 5417, Charleston, Oregon 97420. Presented at the 55th Annual Conference of the Pacific Coast Shellfish Growers Association and the National Shellfisheries Association – Pacific Coast Section. Sept 20-22, 2001.

Increased pressure on traditionally managed stocks of marine and anadromous fish, calls for protection of essential fish habitat under the Magnuson-Stevens Act, and recent listings of several salmonid stocks under ESA, have brought aquaculture activities that take place in coastal estuaries under increased public scrutiny. This study examines the ecological role that oyster aquaculture plays as habitat in coastal estuaries of the Pacific Northwest. The conclusion is that "oysters are the mitigation for oyster aquaculture". They are beneficial in their function as valuable marine habitats. The authors "make a plea to managers to consider oyster aquaculture areas as fish habitat on a broader estuarine scale".

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**RESTORATION OF THE OYSTER RESOURCE IN CHESAPEAKE BAY: THE
ROLE OF OYSTER REEFS IN POPULATION ENHANCEMENT, WATER
QUALITY IMPROVEMENT AND SUPPORT OF DIVERSE SPECIES-RICH
COMMUNITIES**

Mann, Roger (2001) Bulletin of the Aquaculture Association of Canada 101-1 pp. 38-42

Restoration of oyster reefs benefits other species in addition to oysters. Oysters improve water quality by removing a portion of the phytoplankton standing stock, and they provide a structured habitat that may increase production of finfish and decapod crustaceans such as crabs. Oysters are cornerstone organisms whose ability to reduce phytoplankton contributes to reduction of eutrophication in coastal waters.

**SUSPENSION FEEDING BIVALVES AS NUTRIENT PROVIDERS IN
SEAGRASS ECOSYSTEMS**

Peterson, B.J., Dept. of Biological Sciences, Florida International University, University Park, Miami, Florida 33199. Presented at the 55th Annual Conference of the Pacific Coast Shellfish Growers Association and the National Shellfisheries Association - Pacific Coast Section. Sept 20-22, 2001.

In shallow coastal waters, suspension feeding bivalves often dominate the benthos in numbers as well as biomass. In the Gulf of Mexico and the Caribbean Sea these filter feeders are usually associated with seagrass. Two simultaneous field experiments were conducted to examine the potential positive interactions between the suspension feeding mussel, *Modiolus americanus*, and the seagrass, *Thalassia testudinum*.

Mussels increased the sediment nutrient content and these increased nutrients were biologically available to the plant. The seagrass responded to the presence of mussels by significantly increasing leaf lengths and productivity. The structure of the mussel assemblage also provided habitat for marine snails which turn significantly reduced the epiphytic load on the seagrass leaves by grazing resulting in healthier seagrass plants.

This study shows that seagrass meadows exist as a mosaic of nutrient and productivity "hotspots" when suspension feeding organisms are present.

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of ways with the biological and physical components of the estuarine ecosystem. This habitat is utilized by a myriad of fish and invertebrates which are often prey for larger commercially important species such as halibut or dungeness crab.

Fish and invertebrates from 36 culture bags were collected. Fifty-one different species were identified representing ten phyla and eleven taxonomic classes. One culture bag held over 5000 organisms, although more typically between 600-1000 individuals were found in each bag. The shellfish growing leases, while occupying a small percentage of the total area of the Bay, are highly productive and provide complex intertidal habitat that has been lost in many areas due to erosion and resulting sedimentation.

SHELLFISH AQUACULTURE AS A MEANS FOR MITIGATING THE EFFECTS OF EUTROPHICATION IN ESTUARINE AND COASTAL WATERS
Rice, Michael A., J.J. Mugg, Department of Fisheries, Animal & Veterinary Science, University of Rhode Island, Kingston, Rhode Island 02881. Presented at the 55th Annual Conference of the Pacific Coast Shellfish Growers Association and the National Shellfisheries Association - Pacific Coast Section. Sept 20-22, 2001.

In many areas, coastal residents and others oppose establishment of bivalve molluscan aquaculture projects on the basis of perceived negative environmental impacts. Often overlooked are positive environmental impacts of shellfish aquaculture that can potentially mitigate the impacts of other anthropogenic activities.

Upland residential development and farming can cause coastal eutrophication, resulting in changes in estuarine and benthic communities. Coastal eutrophication is implicated in increases in the duration and intensity of phytoplankton blooms that increase benthic shading, leading to loss of seagrasses and other submerged aquatic vegetation. There is also evidence that increased nutrient inputs can result in increases in the duration of hypoxic events in estuarine waters that can have a very deleterious effect on estuarine community structure.

Filter feeding by populations of bivalve molluscs acts as an estuarine filter, increasing the clarity of coastal waters and removing excess nutrients. This promotes the growth of seagrasses and prevents eutrophication. Actively growing shellfish incorporate nitrogen and other nutrients into their tissues as they grow. On average, 16.8 g of nitrogen is removed from estuaries for every kilogram of shellfish meats harvested. This equates to approximately 4000-8000 oysters harvested per year to absorb the nutrient input of one person. Shellfish restoration projects and aquaculture may mitigate the effects of coastal housing development or other activities that promote excessive coastal eutrophication.

Attachment No. 6 Electoral Area 'E' Potential and Existing Shellfish Tenures

