

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, MAY 25, 2004

6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

3-6 Minutes of the Electoral Area Planning Committee meeting held Tuesday, April 27, 2004.

BUSINESS ARISING FROM THE MINUTES

COMMUNICATIONS/CORRESPONDENCE

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

7-15 DP Application No. 60418 – Gunning – 1733 Admiral Tryon Boulevard – Area G.

16-22 DP Application No. 60422 – Johnstone – Surfside Drive – Area G.

23-34 DP Application No. 60424 – Fern Road Consulting Ltd., on behalf of Barbon Construction – Gainsberg Road – Area H.

35-43 DP Application No. 60427 – Smith/Vectis Ventures – 3645 Dolphin Drive – Area E.

44-56 DP Application No. 60428 – 43052 BC Ltd/Quest Homes – Garrod Road – Area H.

57-62 DP Application No. 60429 – Bev & Gerd Voigt, on behalf of 642703 BC Ltd. – off Kaye Road and the Island Highway – Area E.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

63-70 DVP Application No. 90406 – Peake – 6235 West Island Highway – Area H.

71-76 DVP Application No. 90409 – C & J Ennals, on behalf of Mitchell – 1478 Northwest Bay Road – Area G.

77-85 DVP Application No. 90410 – Skollsberg – 3584 Outrigger Road – Area E.

86-93 DVP Application No. 90411 – Walsh/Collins – 1524 Haida Way – Area E.

OTHER

94-98 Request for Relaxation of the Minimum 10% Frontage Requirement – Koers & Associates on behalf of Fairwinds Development – Bonnington Drive, Fairwinds (Phase 9B) - Area E.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, APRIL 27, 2004, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director E. Hamilton	Chairperson
Director H. Kreiberg	Electoral Area A
Director D. Haime	Electoral Area D
Director P. Bibby	Electoral Area E
Director L. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G
Director D. Bartram	Electoral Area H

Also in Attendance:

B. Lapham	General Manager, Development Services
N. Tomz	Recording Secretary

MINUTES

MOVED Director Bartram, SECONDED Director Biggemann, that the minutes of the Electoral Area Planning Committee meeting held March 23, 2004 be adopted.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Kathy Minard & Fred Karlzen, re Difference of Boundary Effecting Properties: Parcel A (DD387518-1) of Lot 2, Salvation Army Lots, Plan 1115, Nanoose District and Parcel B (DD26358-W) of Lot 2, Salvation Army Lots, Plan 1115, Nanoose District – Area F.

MOVED Director Kreiberg, SECONDED Director Bibby, that the correspondence from Kathy Minard and Fred Karlzen with respect to a difference in the commercial/multi-residential zoning boundaries effecting their individual properties, be received.

CARRIED

David Bowie, re DP Application No. 60407 – Heck – 1885 & 1879 Widgeon Road – Area H.

MOVED Director Kreiberg, SECONDED Director Bibby, that the correspondence from David Bowie with respect to Development Permit Application No. 60407 be received for information.

CARRIED

Scott Keenlyside, Eaglestar Golf Inc., re DP Application No. 60416 – Fairway Pointe Properties Ltd. (Quail's Landing) – 730 Barclay Crescent – Area G.

MOVED Director Kreiberg, SECONDED Director Bibby, that the correspondence from Eaglestar Golf Inc. with respect to Development Permit Application No. 60416 be received for information.

CARRIED

Nick Vandermolén, Ministry of Transportation, re DP Application No. 60416 – Fairway Pointe Properties Ltd. (Quail's Landing) – 730 Barclay Crescent – Area G.

MOVED Director Kreiberg, SECONDED Director Bibby, that the correspondence from the Ministry of Transportation with respect to Development Permit Application No. 60416 be received for information.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60407 – Heck – 1885 & 1879 Widgenn Road – Area H.

MOVED Director Bartram, SECONDED Director Bibby, that Development Permit Application No. 60407, submitted by the applicants Brian and Camilla Heck to permit the construction of a gazebo and attached deck within the Hazard Lands Development Permit Area on the subject property legally described as Strata Lot 1, District Lot 89, Newcastle District, Strata Plan 1253, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1 be approved, subject to the Conditions of Approval outlined in Schedules No. 1, 2 and 3.

CARRIED

Development Permit Application No. 60412 – Davies – 3855 Charleton Drive – Area H.

MOVED Director Bartram, SECONDED Director Bibby, that Development Permit Application No. 60412 submitted by Keith Davies to permit land alteration works within the 30.0 metre watercourse protection development permit area that consist of removing organic and non-organic debris, and vegetation from a man made depression and then filling the depression with clean pit run, soils and native and non-native vegetation on the property legally described as Lot 10, District Lot 22, Newcastle District, Plan 30558, be approved subject to the requirements outlined in Schedule Nos. 1, 2 and 3.

CARRIED

Development Permit Application No. 60414 – Bales – 2632 East Side Road – Area H.

MOVED Director Bartram, SECONDED Director Kreiberg, that Development Permit Application No. 60414, submitted by the property owners Donald Bales and Elizabeth Bales for the subject property legally described as Strata Lot 284, District Lot 251, Alberni District, Strata Plan VIS5160, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V requesting to relax the minimum setback requirements from the top of bank of the watercourse that is located on adjacent common property from 15.0 metres to 3.7 metres in order to facilitate the raising of an existing cabin which is proposed to include the partial demolition of a portion of the existing cabin and the construction of main floor and loft addition and the legalization of the siting of an existing shed 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*.

CARRIED

Development Permit No. 60415 – Morton – 2870 Sunset Terrace – Area H.

MOVED Director Bartram, SECONDED Director Stanhope, that Development Permit Application No. 60415, submitted by the property owners Tod Morton and Veronica Morton for the subject property legally described as Strata Lot 226, District Lot 251, Alberni District, Strata Plan VIS5160, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V requesting to relax the maximum height requirements from 3.0 metres to 3.84 metres in order to accommodate the construction of a new accessory building 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*.

CARRIED

**Development Permit Application No. 60416 – Fairway Pointe Properties Ltd. (Quail's Landing)
730 Barclay Crescent – Area G.**

MOVED Director Stanhope, SECONDED Director Bibby, that Development Permit No. 60416, submitted by Fairway Pointe Properties Ltd. (Quail's Landing) for the property legally described as Lot 1, District Lot 126, Nanoose District, Plan VIP76030, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report and the notification procedure subject to the *Local Government Act* with respect to the proposed variances.

CARRIED

Development Permit Application No. 60417 – Zychlinski (Quality Foods) – 2443 Collins Crescent – Area E.

MOVED Director Bibby, SECONDED Director Biggemann, that Development Permit Application No. 60417 submitted by Ken Bowerman of Quality Foods Ltd. on behalf of Hans Zychlinski and Irmgard Zychlinski with a variance to relax the minimum other lot line setback requirement from 5.0 metres to 1.7 metres for the property legally described as Lot 1, District Lot 6, Nanoose District, Plan VIP55964 to facilitate the addition of two prefabricated coolers to an existing supermarket, be approved subject to Schedules No. 1, 2 and 3 and the notification requirements pursuant to the *Local Government Act*.

Amendment to DP Application No. 9713 – B & W Land Corporation – Robertson Boulevard – Area G.

MOVED Director Stanhope, SECONDED Director Kreiberg, that the request to modify Development Permit No. 9713 in association with the property legally described as Lot C, District Lots 29 and 126, Nanoose District, Plan 49145 with Exceptions, by changing the approving triplex in Phase 10 to a duplex in Phase 10, be approved.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

DVP Application No. 90408 – Heung – 2023 Seahaven Road – Area E.

MOVED Director Bibby, SECONDED Director Kreiberg, that Development Variance Permit Application No. 90408, submitted by Terry and Raymond Heung, to facilitate the development of a two storey dwelling unit and vary the maximum permitted dwelling unit height within the Residential 1 zone from 8.0 metres to 8.82 metres for the property legally described as Lot C, District Lot 51, Nanoose Land District, Plan 9915, be approved as submitted subject to Schedules No. 1, 2 and 3 and subject to the notification procedures pursuant to the *Local Government Act*.

CARRIED

OTHER

Request for Relaxation of the Minimum 10% Perimeter Requirement – WR Hutchinson, BCLS on Behalf of DJ & ML Carr – 5735 Takala Road – Area C.

MOVED Director Stanhope, SECONDED Director Bartram, that the request from WR Hutchinson, BCLS, on behalf of JD and ML Carr, to relax the minimum 10% frontage requirement for proposed Lots 1 and the Remainder of Lot A, as shown on the plan of subdivision of Lot A, District Lot 19, Bright District, Plan VIP58785, be approved subject to Schedules No. 1 and 2.

CARRIED

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

Electoral Area F Land Use and Subdivision Bylaw.

MOVED Director Biggemann, SECONDED Director Bartram, that staff be directed to bring forward a proposed amendment to Electoral Area F Land Use and Subdivision Bylaw to amend the zoning boundary for the properties legally described as Parcel A and Parcel B of Lot 2, Salvation Army Lots, Plan 1115, Nanoose District, as requested in the delegation by Kathy Minard and Fred Karizen.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:47 PM

CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO			
MAY 17 2004			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMES	
EAPC ✓			

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: May 15, 2004

FROM: Brigid Reynolds
Senior Planner

FILE: 3060 30 60418

SUBJECT: Development Permit Application No. 60418 - Gunning
Electoral Area 'G' - 1733 Admiral Tryon Boulevard

PURPOSE

To consider an application to vary the maximum height for an existing concrete retaining wall and to facilitate the installation of a rip rap retaining wall to repair the existing concrete retaining wall within the Watercourse Protection for a Development Permit Area pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998".

BACKGROUND

The subject property, legally described as Lot 30 District Lot 28, Nanoose District, Plan VIP62528, is located at 1733 Admiral Tryon Boulevard in the Columbia Beach area of Electoral Area 'G' (see Attachment No. 1).

The subject property is zoned Residential 5 (RS5) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirements for buildings and structures adjacent to the sea are 8.0 metres horizontal distance from the natural boundary. The existing concrete retaining wall is 1.2 metres in height and sited 1.1 metres upland from the natural boundary. Therefore a variance is required.

The Watercourse Protection Development Permit Area was established to protect the natural environment. The Development Permit Area is measured 15 m from the natural boundary of the sea. The existing concrete retaining wall is located 1.1 m upland from the natural boundary and the rip rap retaining wall is proposed to be located in front of the existing wall and the toe is proposed to be sited a maximum of 1 metre below the natural boundary. There are also wooden stairs that project outwards from the existing retaining wall by 2 metres (see Schedule No. 2 for the site plan).

The land below the natural boundary is within the Provincial Wildlife Management Area (WMA) and any works proposed within WMA requires permission from the Ministry of Water, Land and Air Protection, the Ministry responsible for administrating the WMA (see Schedule No. 2 for a copy of the letter from MWLAP).

There is a covenant on title delineating a setback for buildings and structures measured 15.0 m from the present natural boundary for flood protection purposes. In addition, the covenant states no removal of vegetation is permitted within 7.5 m from the present natural boundary for environmental protection purposes. Written permission from the Regional Water Manager and Regional Fish and Wildlife

Manager with the Ministry of Water, Land and Air Protection have been received to relax the covenant setbacks (see *Schedule No. 3 for a copy of the letter from MWLAP*).

A geotechnical report has been completed by Bob Davey of Davey Consulting and Engineering Ltd. on January 29, 2004 and provides recommendations for the construction of a rip rap retaining wall to remediate the existing concrete retaining wall that is being undermined.

The adjacent property to the east has a concrete retaining wall and the property to the west is currently undeveloped. It is from the latter property that access is proposed.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

The existing retaining wall was constructed without a building permit or other approvals. As it was constructed with no permits and is 1.2 metres in height and located 1.1 metres upland from the natural boundary, staff recommends that the existing retaining wall be legalized.

The existing concrete retaining wall is being undermined by erosion and without some form of mitigation it has the potential to fail altogether. As a result, the proposed rip rap has to be sited in front of the existing wall. The land below the natural boundary is Provincial Crown land. Land and Water BC (LWBC) is the Provincial Ministry responsible for leasing Crown land. They have stated that providing the toe of the rip rap retaining wall is located no more than 1 metre below the natural boundary no Crown lease is required.

Staff recommends that the stairs not be recognized as they are wooden and at the furthest point are located more than 2.0 metres below the natural boundary on Crown land and would require a Crown lease. LWBC has stated that as the stairs are a 'temporary' structure, they do not recommend their formal recognition.

ENVIRONMENTAL IMPLICATIONS

The beach is comprised of sand and gravel, which is subject to highly dynamic shoreline processes. This shoreline appears to be experiencing erosion. There is no vegetation in front of the existing wall. Pocket plantings of beach grasses in the rip rap are included as a condition of the approval. This could enable native vegetation to reestablish providing habitat for invertebrates and providing additional stability of the rip rap.

Federal Fisheries and Oceans (DFO) best management practices are included as conditions of approval (See *Schedule No. 1*). In addition, DFO requires that the applicant advise their agency a minimum of five days in advance of the proposed works.

As there is an existing dwelling unit, the works cannot be undertaken from the upland portion of the property. The adjacent lot is currently undeveloped and the property owner has verbally granted permission to allow access through his property to the beach. As there will be heavy equipment machinery on the marine foreshore, conditions of approval detail mitigative measures to reduce the potential for negative impacts to the marine environment.

PUBLIC CONSULTATION IMPLICATIONS

As the existing retaining wall requires a variance to the maximum height, notification is required between the EAPC and Regional Board meetings.

VOTING

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

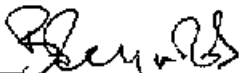
SUMMARY/CONCLUSIONS

This is an application to vary the setback of an existing retaining wall from the natural boundary of the ocean from 8.0 metres to 1.1 metres and to facilitate the construction of a rip rap retaining wall in front of the existing concrete wall within the Watercourse Protection Development Permit Area.


From staff's assessment of this application, the request to vary the setback from 8.0 metres to 1.1 metres could be supported, as the existing wall is being undermined and mitigative works need to be undertaken to prevent the existing wall from being further undermined. In addition, the mitigative measures included in the conditions of approval are intended to reduce the negative impacts to the marine environment as outlined in Schedule No. 1.

RECOMMENDATION

That Development Permit Application No. 60418 to vary the minimum setback from 8.0 metres to 1.1 metres to recognize the siting of the existing concrete retaining wall and to permit the construction of a rip rap retaining wall sited a maximum of 1 metre below the natural boundary of the sea, within the Watercourse Protection Development Permit Area on the property legally described as Lot 30, District Lot 28, Nanoose District, Plan VIP62528, be approved subject to the requirements outlined in Schedules No. 1, 2, 3 and 4 and subject to notification requirements pursuant to the *Local Government Act*.



Report Writer


General Manager Concurrence
CAO Concurrence

COMMENTS:

devs/reports/2004/dp ma 3060 30 60418 Gunning

Schedule No. 1
Conditions of Approval
Development Permit No. 60418

Environmental Protection

1. Foreshore construction should take place during the period of June 1 and December 1 of any calendar year.
2. Federal Fisheries and Oceans (DFO) must be informed of the proposed works a minimum of five days in advance.
3. Excavated beach materials shall be kept to a minimum and shall be evenly distributed on the beach and not stockpiled.
4. No soils or fines shall be introduced into the marine environment.
5. Construction is not to include the use of native beach materials (boulders, cobble, gravel, and drift logs).

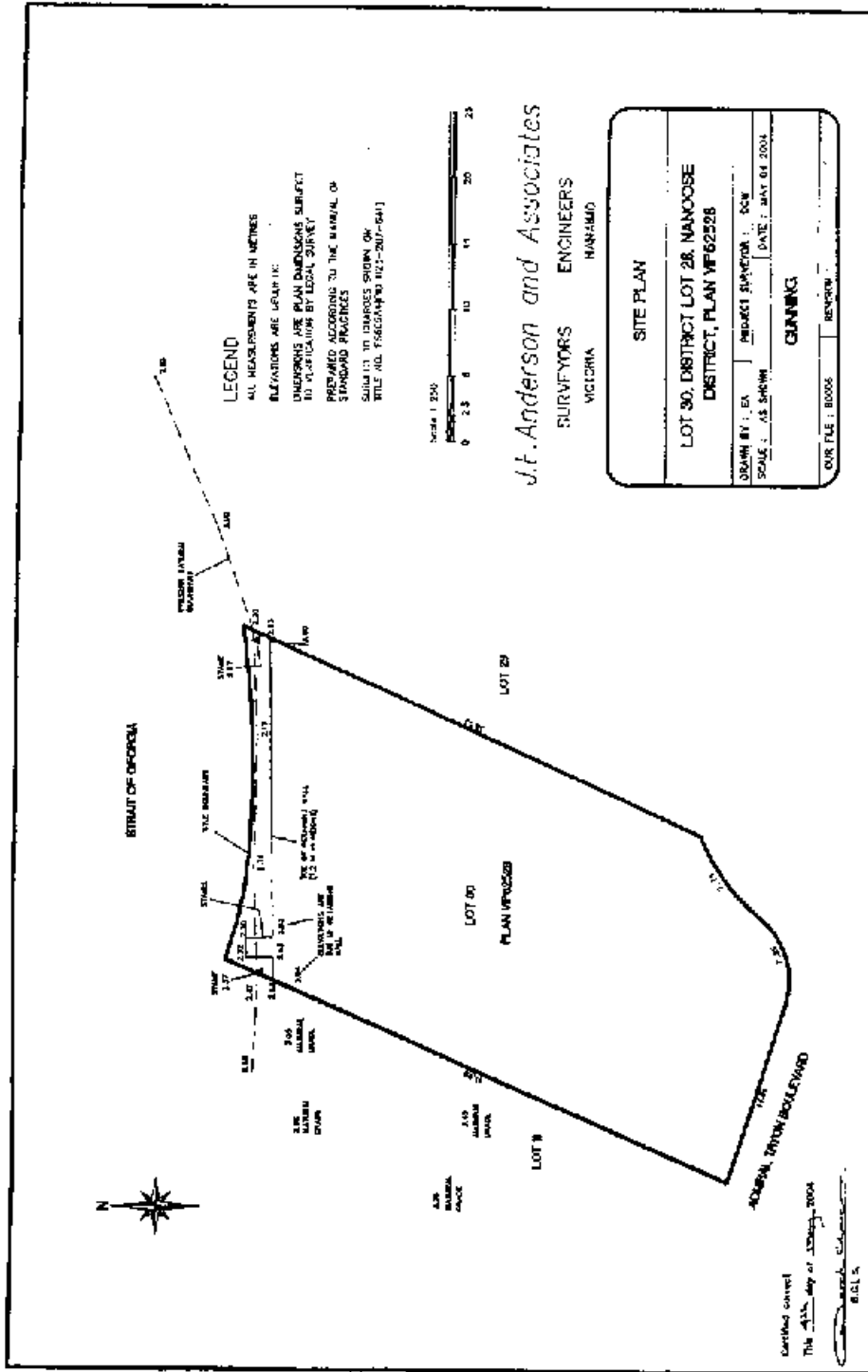
Rip Rap Retaining Wall

6. Recommendations detailed in the Geotechnical Report prepared by Bob Davey of Davey Consulting and Engineering dated January 29, 2004 shall be incorporated into the proposed development.
7. The installation of the rip rap wall shall be undertaken under the supervision of a professional engineer with experience in shoreline processes and the installation of shoreline retaining devices.
8. Rock used for the rip-rap wall should be angular blast rock, clean and free of fines. The rock should be of a size that will not move and require maintenance.
9. The 'toe' of the rip rap seawall shall not extend more than 1 metre below the natural boundary.
10. The rip rap retaining wall shall be less than 1 metre in height.
11. Planting of native salt tolerant vegetation (e.g. beach grass) shall be interspersed in rip rap wall.
12. The rock wall should have a mechanism to drain soils from the upland through the rock without allowing for the loss of upland soils to the freshwater or marine environment. A filter fabric barrier to restrain upland soils is recommended.

Machinery

13. The machine must be in good working order and no fuels, lubricants or construction wastes are permitted to enter the marine environment. No refueling of machinery is to be conducted within 100 m of the marine environment.
14. A spill kit shall be on-site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.
15. Written permission from the adjacent property owner must be submitted to the Regional District prior to the works being undertaken.
16. Heavy equipment machinery on the beach shall be limited to a maximum of two days.

Schedule No. 2
 Site Survey
 Development Permit No. 60418



Schedule No. 3
Ministry of Water, Land and Air Protection Approval (1 of 2 pages)
Development Permit No. 60418



February 24, 2004

File: 39580-30/PQ

Town and Country Construction Ltd.
955 Fairdowne Rd.
Parksville BC V9P 2B9

ATTENTION: Colin Springford,
Owner/Manager

Dear Colin Springford:

Re: Request to Construct Shoreline Protection within a Wildlife Management Area

Thank you for your letter of February 9, 2004, requesting authorization to construct shoreline protection works fronting 1733 Admiral Tryon Blvd. at French Creek and my apologies for the delay in getting this letter back to you. In his report dated January 29, 2004, Bob Davies, the engineer for this project, has recommended the works to be constructed seaward of the existing concrete retaining wall and below the present Natural Boundary, encroaching up to 2 m into the intertidal zone. We understand that you will be accessing the work site from within the intertidal zone and thus within the Parksville Qualicum Beach Wildlife Management Area. We further understand that you have reviewed this plan with Scott Northrup of Fisheries and Oceans Canada, and that he has required the work to be completed by February 15, 2004.

As discussed with my staff, in addition to lying within the Parksville Qualicum Wildlife Management Area, the property is subject to two restrictive covenants that would have applied at the time this seawall was constructed. A flood-proofing covenant was signed by the Water Management Branch, delineating a 7.5 m flood elevation setback, and with which the existing seawall appears to comply. A second covenant was prepared in favour of the Fish and Wildlife Branch, and stipulated a 1.5 m setback from the Natural Boundary, within which no vegetation or soil disturbance was to occur without the prior written permission of the Fish and Wildlife Manager. The surveyed Natural Boundary at the time of subdivision would have represented the seaward boundary of this lot. We have no record of having received a request for the construction of the existing seawall now located on the subject property boundary.

... 2

Ministry of
Water, Land and
Air Protection

Vancouver Island Region
Environmental Stewardship Division

Mailing Address:
2680A Labourg Rd
Nanaimo BC V9T 6J9

Telephone: 250 751-3100
Facsimile: 250 751-3103
Website: <http://wki.gov.bc.ca>

Schedule No. 3
Ministry of Water, Land and Air Protection Approval (2 of 2 pages)
Development Permit No. 60418

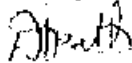
Court Springfield February 24, 2004

In addition to the above restrictions on shoreline protection, we understand the Regional District of Nanaimo have established a Shoreline Development Permit Area. Our understanding is that your client, Ms. Judith Gunning, is working with the RDN Planning Department to address their requirements.

Despite the above restrictions and the past oversight to seek authority for construction, we are inclined to agree with Bob Davies' report, that the existing retaining wall requires repairs to avoid future damage and loss of your client's property. The design Bob Davies has proposed is suggesting the placement at a considerably steeper grade than the approach we have recommended for shoreline protection. I am enclosing an alternate design standard for rip rap bank protection, prepared by this ministry.

While I understand that the necessary requirements couldn't be completed in time to effect repairs prior to closure of the fisheries window, I can advise that we are prepared to authorize the proposed works for future consideration, provided all requirements of Fisheries and Oceans Canada have been met.

Yours truly,



R. H. Heath, R.P. Bio., R.P.P.
Regional Environmental Stewardship Manager
Vancouver Island Region

cc: M. Henigman, Ecosystems Officer

Schedule No. 4
Requested Variances
Development Permit No. 60418

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

1. Section 3.3.9 Setbacks – Sea is requested to be varied from 8.0 metres horizontal distance from the natural boundary to 1.1 metres in order to legalize a concrete face retaining wall.



REGIONAL DISTRICT OF NANAIMO			
MAY 17 2004			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMES	
[Handwritten signature]			
TO:		DATE:	
FROM:		FILE:	
SUBJECT:			

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: May 15, 2004

FROM: Keeva Kehler
Planner

FILE: 3060 30 60422

SUBJECT: Development Permit Application No. 60422 – Johnstone Electoral Area 'G' – Surfside Drive

PURPOSE

To consider an application to legalize the existing raised decks and porch addition and further, to obtain permission to renovate a retaining wall within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas, then allow the construction of a rip-rap retaining wall, two raised decks and a porch addition within the Environmentally Sensitive and Natural Hazard Development Permit Area pursuant to the "Regional District of Nanaimo Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996".

BACKGROUND

The subject property, legally described as Lot 5, District Lots 9 & 110, Block 1, Newcastle District, Plan 15370, is located on Surfside Drive adjacent to the Strait of Georgia and near the Little Qualicum River Estuary in Electoral Area 'G' (see Attachment No. 1).

The subject property is zoned 'Residential 2 (RS2)' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures adjacent to the sea are 8.0 metres horizontal distance from the natural boundary. The maximum height for the dwelling unit is 8.0 metres and for accessory buildings is 6.0 metres.

As the subject property is within the RDN's Building Inspection Area, "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" applies. Bylaw No. 843 requires a floodplain setback of 15.0 metres from the natural boundary of the sea, except that this setback may be reduced to 8.0 metres where the sea frontage is protected from erosion by works designed by a professional engineer and maintained by the owner. Engineered erosion works are being proposed as part of the application in the form of a rip-rap retaining wall. Therefore, the minimum 8.0 metre floodplain setback must be met. In addition, Bylaw No. 843 requires a flood construction elevation of 3.8 m GSC to the underside of the floor system on the subject property, however, as the development constitutes an addition of less than 25% of the dwelling unit floor area, the proposed decks and porch addition are exempt from the flood elevation requirement.

The applicant is requesting permission to legalize the existing raised decks and porch addition and obtain permission to conduct the retaining wall renovation within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas. Due to significant erosion of the lot over the years, the natural

boundary as shown on the original plan of subdivision is between 4.75 and 11 metres from the existing present natural boundary. For this reason, the applicants do not require a zoning variance from the natural boundary of the ocean as the zoning setbacks to the sea are measured from the natural boundary as indicated on the original plan of subdivision.

The Environmentally Sensitive Areas Development Permit Area was established to protect the natural environment; this portion of the Development Permit Area is measured 15.0 metres from the natural boundary of the ocean. The Hazard Lands Development Permit Area was established to protect development from hazardous conditions. The entire subject property is designated as being within the Natural Hazard Development Permit Area due to the potential flood hazard.

The subject property is bordered by residential lots to the east and west, to the north by the Strait of Georgia and to south by Marshall-Stevenson Wildlife Sanctuary that features the Little Qualicum River Estuary.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the Development Permit would legalize the construction of two raised decks and a porch addition and facilitate the renovation of the retaining wall within the Environmentally Sensitive Areas and Hazard Lands Development Permit Areas. The applicants are not requesting any variances to the zoning bylaw regulations. The proposed erosion protection measures will permit the applicants to meet the setback requirements pursuant to RDN Bylaw No. 843, 1995.

The applicants are enclosing the existing stairs at the front of the dwelling towards Surfside Drive. The applicants cite architectural preference as the reason for the addition of the enclosed porch. The Marshall-Stevenson Wildlife Sanctuary is located to the south of the dwelling. As there are no dwellings located opposite the subject property, there are no impacts perceived from the porch addition, which meets the required setbacks to the front property line.

Views from the neighbouring dwelling to the east may be minimally impacted by the location of the deck off the kitchen (eastern deck as shown on the site plan in *Schedule No. 2*). However, the deck is located outside the required side yard setbacks and does not exceed the maximum permitted height for a dwelling unit. Staff considers the addition of the deck to provide access to the rear yard to be a reasonable residential use and do not believe that the development causes an undue hardship on the adjacent lot. It is not anticipated that the view from other neighbouring dwellings along the ocean on Surfside Drive will be impacted by the siting of these decks or porch addition.

GEOTECHNICAL AND FLOOD ELEVATION IMPLICATIONS

The applicants have submitted a geotechnical report prepared by Davey Consulting and Engineering Ltd. and dated May 6, 2004, which speaks to the recommended flood mitigation and erosion protection measures for the property. This report recommends the addition of a 1.7 metre wide rip-rap wall in front of the existing seawall to stabilize the foreshore in this location. The report further recommends that natural rock (e.g. shot rock of basalt origin) be placed against the existing wall at the present natural boundary. Prior to installing the rip-rap, the applicant should place fill in the eroded area. All material used in the construction of the outer wall should be of angular and irregular shape to provide a maximum amount of energy dissipation to natural water forces. The applicants will be required to undertake the recommendations provided in the Geotechnical Report and register the Report on the Certificate of Title as a Condition of Approval. The applicants will be required to include a clause in the Covenant saving the Regional District harmless in the event of any loss or damage resulting from flooding, erosion, land-slip or any other action on the lands.

The Building Inspection Department will require the applicants to obtain building permits for the renovations.

ENVIRONMENTAL IMPLICATIONS

The property contains a raised vegetated/landscaped area towards the foreshore, which should be maintained to reduce the potential for erosion. Existing vegetation mostly consists of grass. The replanting of native vegetation shall be encouraged in this area to reduce the potential for erosion from the site. The existing retaining wall is made of large pilings with a concrete platform above which acts as walkway along Lots 3 to 5. The wall measures less than 1 metre and appears to be in good condition despite the erosion action. The geotechnical engineer did not feel that the wall should be removed and replaced as this would cause unnecessary additional disturbance to the site and the addition of rip-rap would provide additional protection for the wall.

Shore line protection should be regionally assessed in conjunction with adjacent lots, as minor installations near the natural boundary or retaining walls can have a major impact on the shoreline protection potential of adjacent lots. This lot is the only one without any rip-rap in front of the seawall. It should be noted that the large rip-rap boulders and retaining wall on the adjacent Lot 6 have caused or exacerbated the erosive actions on Lots 3 to 5. The proposed erosion protection measures should not adversely affect the adjacent properties along Surfside.

PUBLIC CONSULTATION IMPLICATIONS

As the application does not include a request to vary the zoning regulations, there are no public notification requirements pursuant to the *Local Government Act*.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application to legalize the addition of two raised decks and a porch to a dwelling unit and to facilitate the renovation of the existing seawall within the Environmentally Sensitive Areas and Hazard Lands Areas Development Permit Areas. From staff's assessment of this application, it is clear that previous erosion of the parcel and the restriction on the building site related to the flood protection setback and elevation requirements has resulted in constraints to the further development of the property. Despite this, the applicants are not requesting any variances to RDN Bylaw No. 500, 1987. In addition, flood plain requirements can be met when the erosion protection measures have been implemented as recommended in the Geotechnical Report. Therefore, staff would suggest that the application has technical merit to proceed, and the application is recommended to be approved, subject to the Conditions of Approval.

RECOMMENDATION

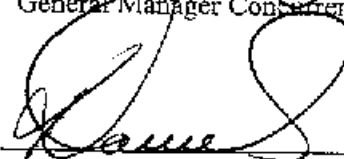
That Development Permit Application No. 60422, submitted by Bruce and Jeannette Johnstone to legalize the addition of two raised decks and a porch addition for a dwelling unit and to facilitate the renovation of the seawall located within the Environmentally Sensitive Areas and Hazard Lands Areas Development Permit Areas for the subject property legally described as Lot 5, District Lots 9 and 110, Newcastle District, Plan 15370 be approved, subject to the requirements outlined in Schedules No. 1 and 2.



Report Writer



General Manager Concurrence



CAO Concurrence

COMMENTS:

devs/reports/2004/ap ma 3060 30 60422 Johnstone

**Schedule No. 1
Conditions of Approval
Development Permit No. 60422**

Development of Site

- a) Subject property to be developed in accordance with Schedule Nos. 1 & 2.
- b) All uses and construction of buildings and structures to be undertaken must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.
- c) The applicants shall obtain a building permit from the RDN Building Inspection Department and shall adhere to any additional conditions imposed as part of the building permit.

Geotechnical Report

- a) Recommendations established by the Geotechnical Report prepared by Davey Consulting and Engineering Ltd, date stamped May 6, 2004 shall be undertaken during the development of the erosion protection measures at the natural boundary.
- b) As a condition of approval, the Geotechnical Report prepared by Davey Consulting and Engineering Ltd. will be required to be registered on the Certificate of Title as a Section 219 Covenant. This will ensure that the recommendations contained within this report will be undertaken.
- c) The applicant shall enter into a Restrictive Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the flood risk associated with the existing construction and occupancy of the dwelling unit on the property. This Covenant must be registered on the Certificate of Title prior to occupancy.

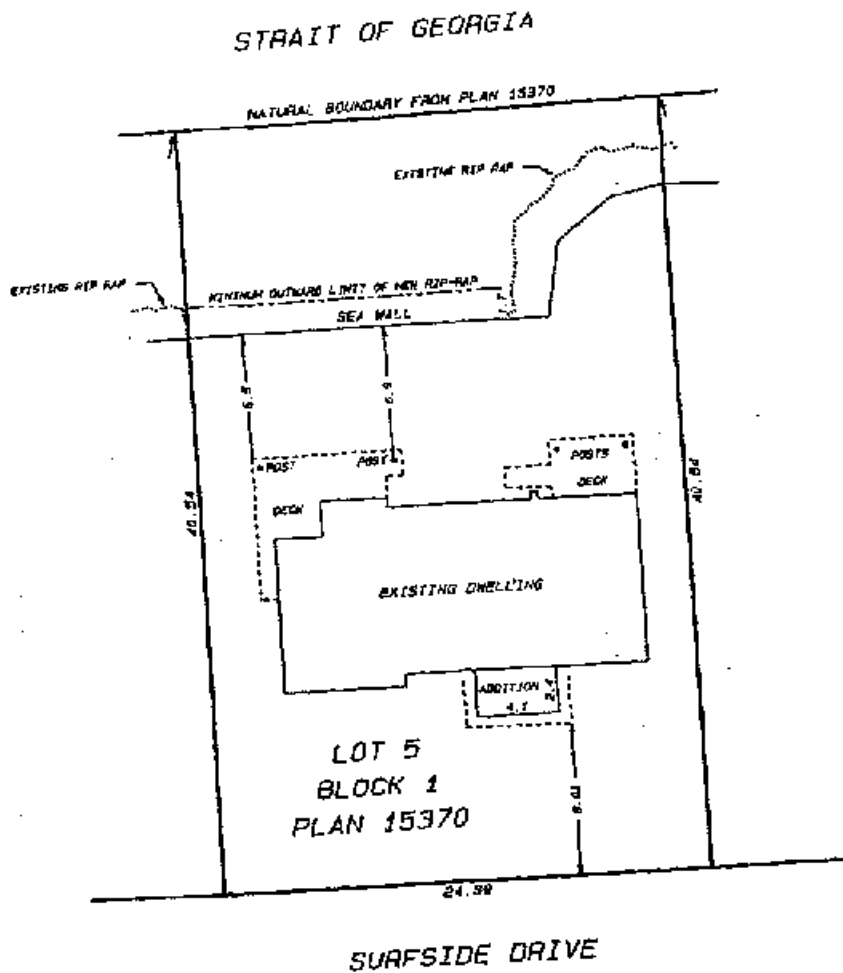
Development Permit Protection Measures

- a) Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - Direct run off flows away from Strait of Georgia using swales or low berms.
 - Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - Cover temporary fills or soil stockpiles with polyethylene or tarps.
- b) Existing vegetation within the Environmentally Sensitive Areas Development Permit Area (i.e. within 15.0 metres of the present natural boundary) shall be retained and replanting of native species as discussed in the Geotechnical Report is encouraged to reduce the potential for erosion due to wind, tidal and precipitation activities.

Schedule No. 2
Site plan (As submitted by applicants)
Development Permit No. 60422

B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION ON
LOT 5, BLOCK 1, PLAN 15370, D.Ls. 9 & 110,
NEWCASTLE DISTRICT.

SCALE 1:250
ALL DISTANCES ARE IN METRES.



NOTE:
THIS LOT SUBJECT TO C.T.O. CHANGE NUMBER
A1830 & 1830/10

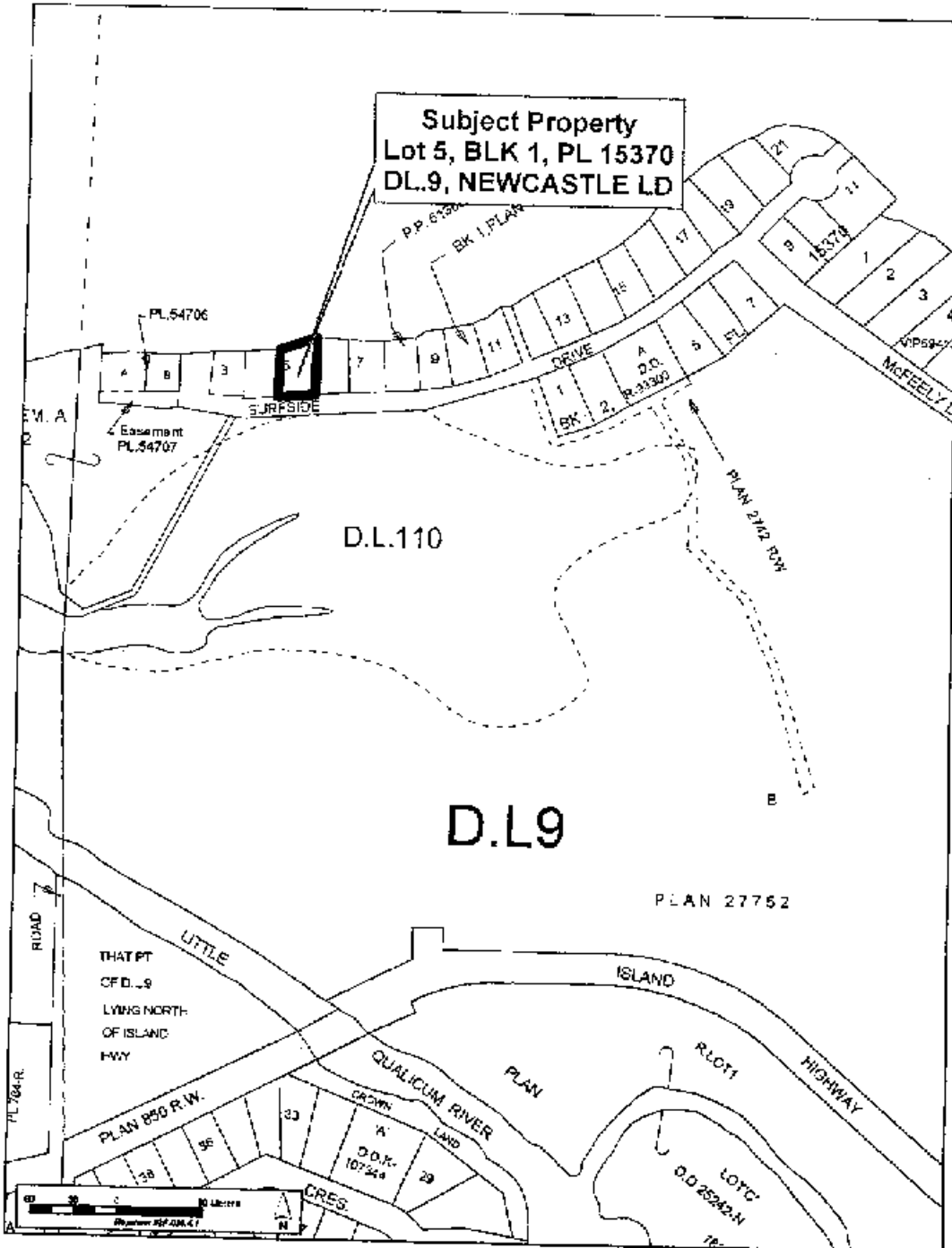
This Survey purports to show only the new construction on
the above described parcels and their relative location thereon.
This Plan provides no warranty or representation whatsoever with
respect to any other building, walls, retaining wall, parking facilities,
roads, underground, aboveground, or overhead utility
or any other improvements and their relative location to any interest
in parcels boundaries of the above described parcels) and is not
to be used to re-establish property lines.

This Survey is not valid unless
originally signed and sealed.
This Survey is protected by copyright
and may not be reproduced,
inspected after 28th day of April, 2004.

[Signature]
Nicolas P. Sim, B.C.L.S.

SIMS ASSOCIATES @
LAND SURVEYING LTD.
225 FERR ROAD WEST,
QUALICOM BEACH, B.C. V3R 1E4
PHONE: 782-9121 FAX: 782-0042
OLD FILE: 04-John.DL

Attachment No. 1
Subject Property
Development Permit No. 60422





REGIONAL DISTRICT OF NANAIMO	
MAY 18 2004	
CHAIR	GMCrs
CAO	GMDS
GSCms	GMES
[Signature]	

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

DATE: May 14, 2004

FROM: Susan Cornic
Senior Planner

FILE: 3060 30 60424

SUBJECT: Development Permit Application No. 60424 - Fern Road Consulting Ltd., on behalf of Barbon Construction
Electoral Area 'H' - Gainsberg Road

PURPOSE

To consider an application for a development permit to allow the development of a 30-unit multiple family residential phased strata complex within an Environmentally Sensitive Features Development Permit Area in the Deep Bay area of Electoral Area 'H'.

BACKGROUND

The subject property, legally described as Lot 1, District Lots 1 and 86, Newcastle District, Plan VIP70719, is located on Gainsberg Road in the Deep Bay area of Electoral Area 'H' (See Attachment No. 1 for location).

The property, which is 4.51 ha in size and currently vacant, is zoned Residential 3 (RS3) and is within Subdivision District 'M' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". Surrounding land uses include Residential 2 (RS2) zoned parcels to the east and north, an RDN park land which includes a portion of Deep Bay Creek to the west, and the E&N Railway and vacant Resource Management (RM1) zoned lands to the south.

The subject property is located within the Environmentally Sensitive Features Development Permit Area pursuant to the Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003. The development permit area, in this case, was established for the protection of the aquifer. Therefore, as the applicant is proposing to develop the site, a development permit is required.

In addition to the zoning and development permit requirements, the RDN is the charge holder of section 219 covenants over the property that were registered as a condition of the rezoning of the property. These covenants secure a number of conditions pertaining to the development of the site, which are to be implemented at the time of development. Conditions outlined in the covenants include:

- a development covenant limiting the number of dwelling units to 30 multiple family residential units shown on a conceptual plan and requiring the construction of a trail on the adjacent park land to allow public access from Gainsberg Road; and
- a covenant establishing approval for a liquid waste disposal system and providing bonding for the construction of a liquid waste disposal system and the landscaping of the site.

Other documents registered on title include:

- floodplain management covenant establishing setbacks and flood construction elevations above the natural boundary for Deep Bay Creek (note: a second floodplain management covenant on title held by the Ministry of Transportation refers to watercourses on the original parent parcel);
- a no removal of vegetation covenant over the Hembrough Ditch watercourse; and

- a statutory right-of-way for the community water works.

Proposed Development

The applicant is proposing to construct a 30-unit multiple residential development consisting of 15 duplex units with 2 typical styles of housing varying in size from 157.5 m² to 165.3 m² (see Attachment Nos. 2 and 3 for proposed layout and building designs). The applicant is also proposing to construct an integrated storm water drainage system, which includes detention ponds incorporated with landscaping throughout the site. Landscaping is proposed to include a variety of drought tolerant plantings. Construction is proposed to be completed in 5 phases pursuant to the *Strata Property Act*.

The applicant is also proposing that the lower 50-metre section of the Hembrough Ditch watercourse be diverted.

Deep Bay Waterworks District has provided confirmation of community water supply for the 30-unit phased development. With respect to septic disposal, the Ministry of Water, Land and Air Protection have issued a Permit under the Provisions of the *Waste Management Act*.

The applicant will also construct a trail through the adjacent park land to connect with Gainsberg Road.

As part of the application, the applicant is also submitting the following information:

- proposed site layout including location of buildings, access to Gainsberg Road and internal access route;
- building design information;
- bonding for septic disposal system;
- landscape plan and bonding for landscaping of site;
- copy of Waste Management Act Permit and engineered design of sanitary system; and
- engineered design for storm water drainage system.

Proposed Bylaw Variances

As part of this application, the applicant is requesting a number of variances to the minimum setback requirements set out in Bylaw No. 500, 1987. The requested variances are set out in Schedule No. '4' of this staff report.

ALTERNATIVES

1. To approve the Development Permit Application No. 60424 as submitted with the variances subject to the conditions outlined in Schedule Nos. 1 to 4 and the notification procedure pursuant to the *Local Government Act*.
2. To deny the development permit as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Development Permit Guidelines / Covenant Implications

With respect to the development permit guidelines for protection of the aquifer, the applicant has submitted a storm water drainage plan, which includes a detention pond system to serve the site. The applicant wishes to realign the lower 50 metre section of Hembrough Ditch Watercourse which will require a section 9 approval. To ensure environmental protection, it is recommended that the section 9 application be completed in consultation with the Ministry of Water, Land and Air Protection.

With respect to the site layout, the application is considered to be in substantial compliance with the conceptual layout attached to the land use covenant.

Ministry of Transportation Implications

As the applicant is proposing a phased building strata, approval from the Ministry of Transportation's Approving Officer is required.

With respect to access to the proposed development, access is proposed to be from Gainsberg Road. The applicant requires an approved access permit from the Ministry of Transportation (MOT). This approval will be required as a condition of the development permit.

Site Servicing Implications

The applicant has provided written confirmation that community water service will be provided by Deep Bay Waterworks District.

With respect to on-site septic disposal, under the terms of the section 219 covenant, the applicant has a current Liquid Waste Management Permit.

With respect to storm water drainage works, the applicant has provided a storm water drainage plan from a professional engineer who incorporates the use of detention ponds and exfiltration manholes to allow optimal groundwater recharge and maintain gradual seepage flows to the creek. It is noted that the applicant is proposing the use of detention ponds integrated into the landscaping as part of the overall drainage system for the site. It is also recommended that oil-water interceptor system be incorporated into the drainage system for the protection of the groundwater and aquifer. The applicant's agent has indicated the applicant is in concurrence with this requirement as set out in the development permit conditions.

In order to ensure adequate fire protection and emergency vehicle access to the proposed development, it is recommended that the applicant consult with the Local Fire Chief. It is recommended that approval from the Local Fire Chief is included in the condition of approval of the corresponding development permit.

Proposed Variances Implications

The Residential 3 zone provides for 10.0 metre minimum setback requirements from all lot lines. The applicant is proposing to reduce this setback requirement for 15 of the proposed 30 dwelling units. The proposed variances to the 6 dwelling units adjacent to Gainsberg Road are in keeping with 8.0 metre minimum setback of the surrounding Residential 2 zoned properties. The proposed relaxation of 5 of the 8 dwelling units located adjacent to the east lot line separated from the adjacent Residential 2 zoned properties by the existing vegetation retention covenant. The proposed variances to 4 dwelling units situated adjacent to the west lot lines will not impact any private properties as this land is held by the Regional District for park land purposes.

In addition to the request for the relaxation of setbacks from the property lot lines, the applicant is requesting relaxation of the minimum setback requirement from the Hembrough Ditch watercourse for 11 units. This request will not encroach the vegetation retention area of the watercourse.

As the applicant is proposing a phased strata plan, this will involve internal lot lines being created as the phases are built. When the phasing is completed, the individual phases will be consolidated, thus eliminating any internal lot lines created by the phased subdivision. Therefore, to ensure that there are no issues with minimum setbacks requirements being met during the phased subdivision of the site, staff recommends that a variance to 0 metres for setbacks from the lot lines created due to the phasing of the subdivision.

The applicant is also requesting a variance from the lot line adjacent to Gainsburg Road to allow for the siting of a development identification sign.

Adjacent and nearby residents and property owners will have an opportunity to comment on the proposed variances through the public notification procedure.

VOTING

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

SUMMARY

This is an application for a development permit for the property located at Deep Bay area of Electoral Area 'H'. A portion of the subject property is within the Environmentally Sensitive Features Development Permit Area pursuant to the Electoral Area 'H' OCP specifically for the purposes of ensuring protection of the aquifer. The applicant is proposing to develop a 30-unit multiple residential phased strata use. There are a number of documents on title, which require that specific conditions be met at the time of development. The applicant is in concurrence to meet these conditions including providing bonding for construction of the liquid waste management system; providing landscaping as well as landscape bond; and constructing a trail on the adjacent park land to connect with Gainsburg Road. The development permit includes measures for protection of the aquifer, Deep Bay Creek and Hembrough Ditch watercourse at the time of construction and following construction through an engineered storm water drainage plan.

As part of the development permit application, the applicant is requesting relaxation of a number of setback provisions including relaxation of the lot lines adjacent to Gainsburg Road, the east lot line, the lot line adjacent to the park land, the setbacks from Hembrough Ditch watercourse, as well as the internal phased strata lot lines. This is in keeping with the original conceptual plan registered on title at the time of rezoning.

The development permit is consistent with the applicable guidelines concerning protection of the aquifer outlined in the Environmentally Sensitive Features Development Permit Area.

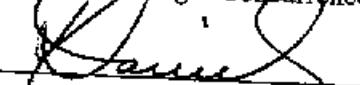
For the above reasons, staff recommends Alternative No. 1, to approve the development permit subject to conditions outlined in Schedule Nos. 1 to 4 inclusive and to notification procedures with respect to the proposed variances.

RECOMMENDATION

That Development Permit No. 60424 submitted by Fern Road Consulting Ltd., on behalf of Barbon Construction for the property legally described as Lot 1, District Lots 1 and 86, Newcastle District, Plan VIP70719, be approved, subject to the conditions outlined in Schedule Nos. 1, 2, 3, and 4 of the corresponding staff report and to the notification procedure subject to the *Local Government Act* with respect to the proposed variances to Bylaw No. 500, 1987.


Report Writer


General Manager Concurrence


CAO Concurrence

COMMENTS:

devs/reports/2004/dpma3060 30 60424 barbon

Schedule No. 1
Conditions of Approval
Development Permit Application No. 60424

The following sets out the conditions of approval:

1. Building Development

- a. A maximum of 30 duplex residential units may be located on site as illustrated on Schedule No. 2.
- b. The typical dwelling unit is as shown on Schedule No. 3.

2. Landscaping Requirements

- a. Landscaping to be provided and shall, at the minimum, satisfy the following criteria:
 - i. Landscaping shall be totally comprised of biologically diverse and drought resistant plants.
 - ii. Individual plants to be used in the landscaping shall have normal, well developed branches and vigorous, fibrous root systems; such plants shall be healthy, vigorous and free from defects, decay, disfiguring roots, sunscald, injuries, abrasions of the bark, plant diseases, insect pests' eggs, borers and all forms of infestations or objectionable disfigurements.
 - iii. All landscaping shall be permanently maintained in good condition with, at a minimum, the same quality and quantity of landscaping as was initially approved and without alteration of the approved design; the owner shall make provisions for the permanent irrigation works necessary to water the landscaping.
 - iv. The design of landscaping shall be such that the growth of roots, trunks, and branches of natural or introduced vegetation or the location of planted berms shall not conflict with the utilities, structures, necessary access, or require sight triangle.
 - v. A watering system for all landscaped areas.
 - vi. All landscaped areas shall be constructed completed with a permanent curbs a minimum of 15 cm in height to protect all landscaped areas from potential vehicular damage.
- b. The landscape security deposit in the amount of \$10,000.00 to be held by the RDN pending the completion of the required landscaping to the satisfaction of the Regional District of Nanaimo.
- c. No yard waste be deposited in the park land.

3. Community Water

Community water shall be supplied to serve the development.

4. Septic Disposal

- a. Applicant to construct septic disposal system in accordance with Waste Management Permit No. PE-15672.
- b. The security in the amount of \$205,500.00 to be held by the RDN until completion and acceptance of the works associated with the septic disposal system.

5. Storm Water Drainage Plan

Applicant to construct storm water management system as set out in the corresponding integrated storm water drainage plan designed by Koers Engineering Ltd. under the supervision of his professional engineer.

6. Off-Street Parking Spaces and Aisle Ways

- a. A minimum of 60 off-street parking spaces shall be provided on site.
- b. All parking areas, including aisle ways, shall be located in substantial compliance as shown on Schedule No. 1 and constructed to Bylaw No. 500 standards and all parking spaces shall be

clearly delineated through the use of painted lines on paved surfaces or concrete parking stops on compacted and dust free surfaces.

- c. No off-street parking spaces shall be located within the traveled portion of the internal road ways.
- d. Additional off-street parking may be provided within setbacks areas for the purposes of guest parking.
- e. Applicant to provide to the Regional District a valid access permit, as issued by the Ministry of Transportation, prior to the commencement of works.

7. Signage

A maximum of 1 development identification signs shall be permitted at the entrance to the development. The sign shall not exceed 4.0 m² in area or exceed a height of 2.0 m. This sign shall be incorporated into the landscaping and be aesthetically pleasing with a minimal amount of lighting or boldness.

8. Park Land Trail

- a. Applicant shall construct a minimum 2.0 metre wide trail from the park land access located between Lots 100 and 101 on Gainsberg Road to the marsh area located at the south end of the park land (Lot 2) to the satisfaction of the Regional District of Nanaimo.
- b. If trail construction is to include any creek crossing/bridge development, a section 9 approval pursuant to the *Water Act*, is required to be obtained by the applicant in consultation with the Regional District and issued prior to construction.

9. Flood Construction Elevations

All units are to be constructed a minimum of 1.5 metres as measured from the underside of the floor joist above natural boundary of Deep Bay Creek and in accordance with the flood elevation covenant registered on title.

10. Local Fire Protection / Fire Chief

- a. Applicant to provide adequate fire flows to the satisfaction of the Local Fire Chief.
- b. Applicant to provide to the Regional District confirmation from the Deep Bay Fire Department Fire Chief that the internal road system is acceptable prior to the commencement of works.

11. Protection of Aquifer / Sediment and Erosion Control

- a. Oil water separator for internal roads prior to going into the detention pond system.
- b. Sediment and erosion control measures must be utilized to control sediment during construction and to stabilize the site after construction is complete. These measures must include:
 - i. Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite during works.
 - ii. Cover temporary fills or soil stock piles with polyethylene or tarps.
 - iii. Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened in advance of seeding.
- c. Temporary fences (snow fences) delineating the property boundary adjacent to the RDN park land and Deep Bay Creek and adjacent to the vegetation retention area of Hembrough Ditch watercourse and the development area shall be installed during the construction phase.

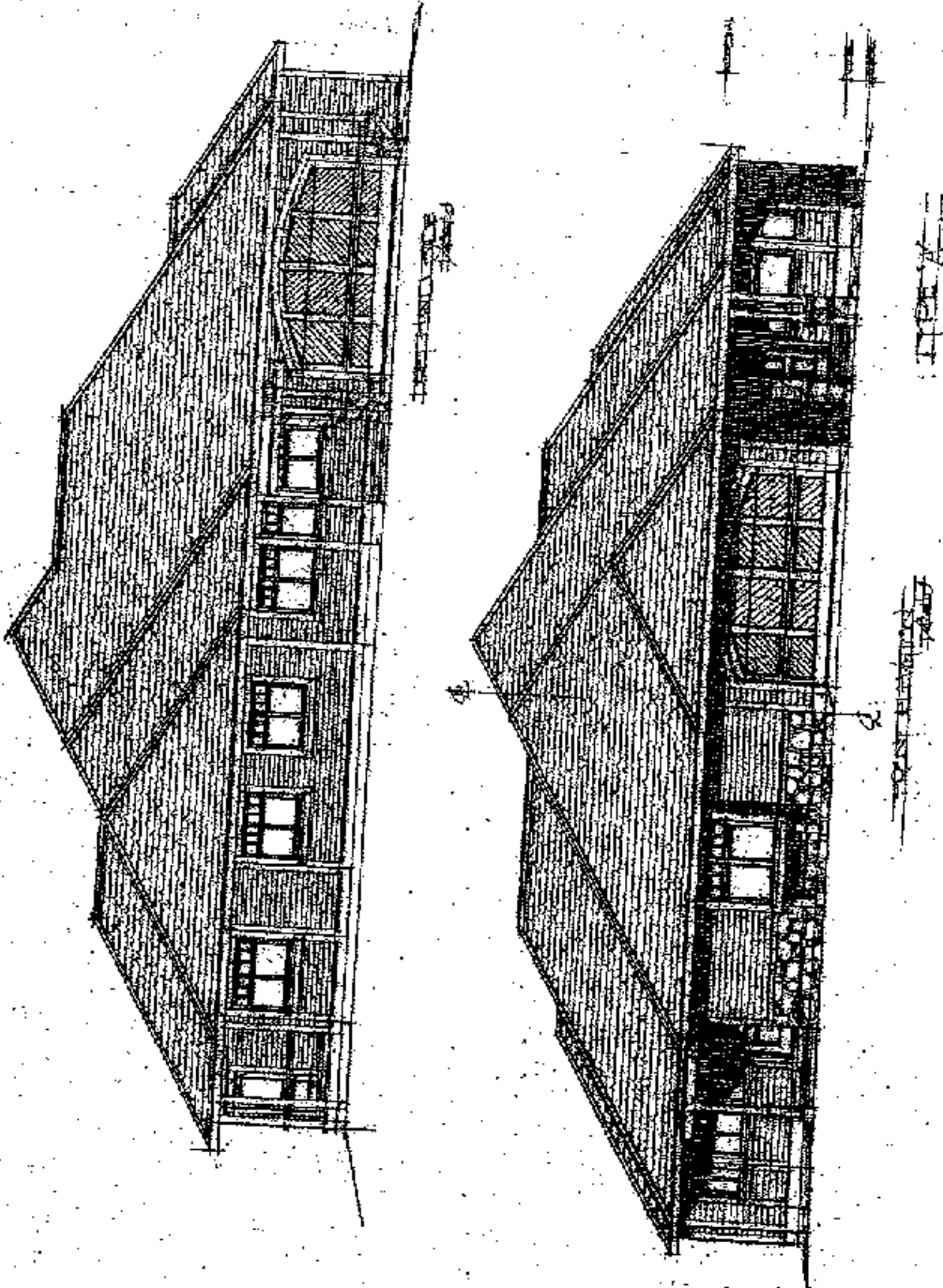
12. Use of Machinery

- a. All machines on site must be in good working order and no fuels, lubricants or construction wastes are permitted to enter the environment. No refueling of machinery is to be conducted within 100 m of the Deep Bay Creek or Hembrough Ditch watercourse.
- b. A spill kit shall be on-site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.

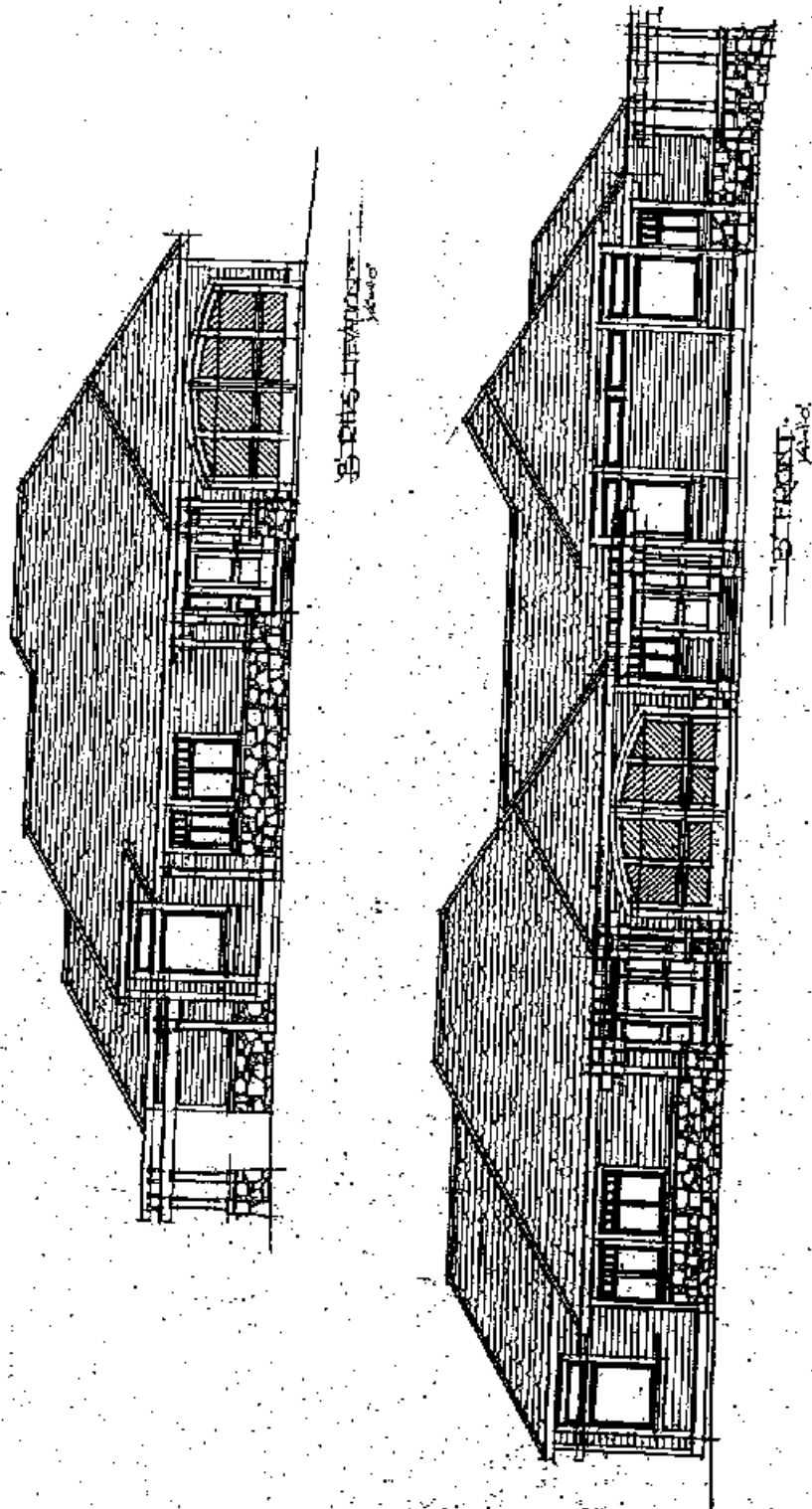
13. Ministry of Transportation

Applicant to provide to the Regional District an access permit as issued by the Ministry of Transportation.

Schedule No. 3 (page 1 of 2)
Proposed Building Plans - Typical
Development Permit No. 60424



Schedule No. 3 (Page 2 OF 2)
Proposed Building Plans - Typical
Development Permit No. 60424

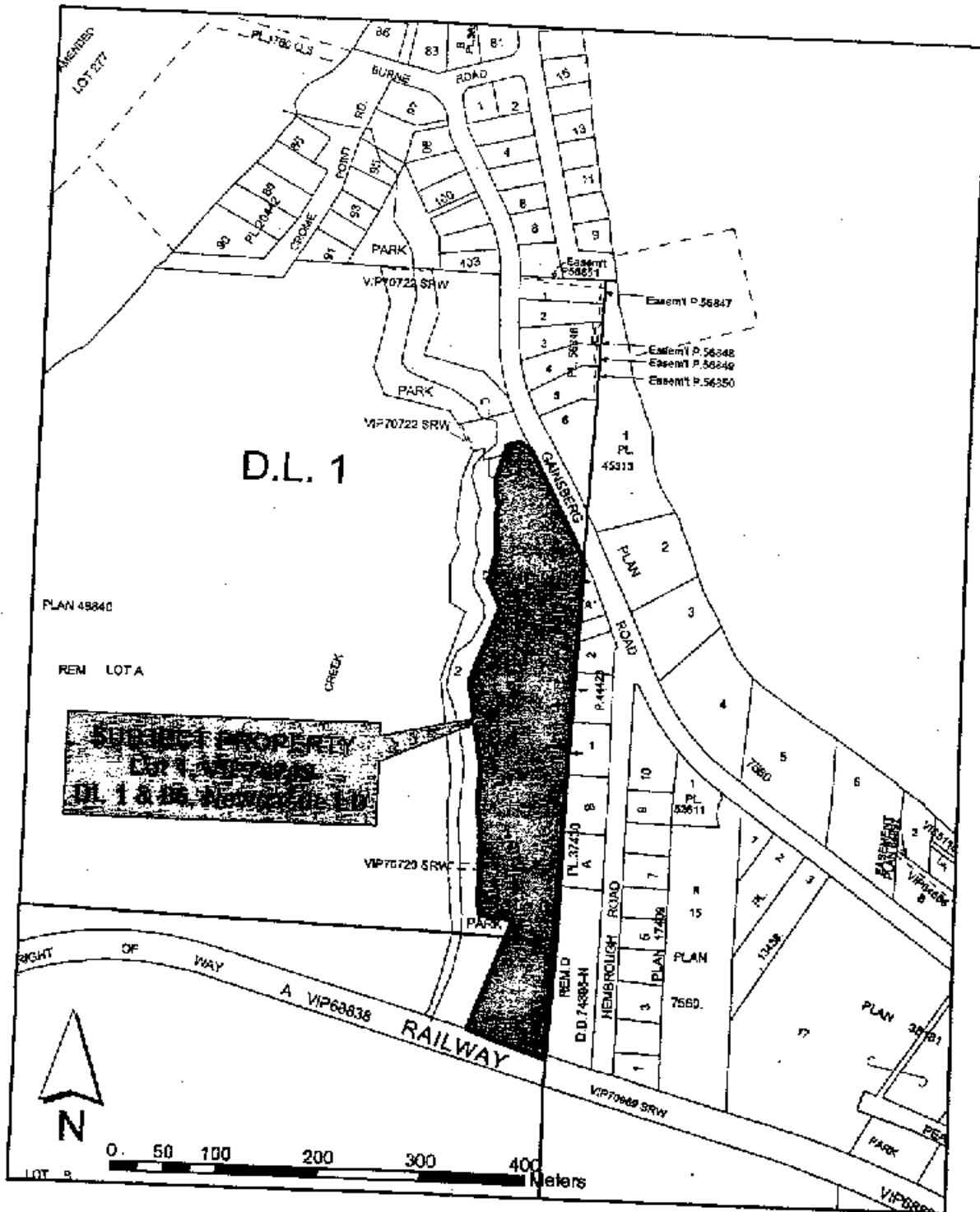


**Schedule No. 4
Proposed Variances
Development Permit No. 60424**

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

1. Minimum setback requirement from the lot line adjacent to Gainsberg Road be varied from 10.0 metres to:
 - 8.2 metres to accommodate the siting of Unit 1A;
 - 8.3 metres to accommodate the siting of Unit 2A;
 - 8.5 metres to accommodate the siting of Unit 3A;
 - 8.6 metres to accommodate the siting of Unit 5A; and
 - 8.7 metres to accommodate the siting of Unit 6A.
2. Minimum setback requirement from the east lot line be varied from 10.0 metres to:
 - 6.0 metres to accommodate the siting of Unit 10A;
 - 7.8 metres to accommodate the siting of Unit 17B;
 - 7.9 metres to accommodate the siting of Unit 18B;
 - 8.9 metres to accommodate the siting of Unit 23B; and
 - 8.9 metres to accommodate the siting of Unit 26B
3. Minimum setback requirement from the lot lines adjacent to the RDN park land be varied from 10.0 metres to:
 - 3.3 metres to accommodate the siting of Unit 27A;
 - 3.0 metres to accommodate the siting of Unit 28;
 - 3.1 metres to accommodate the siting of Unit 29B;
 - 6.6 metres to accommodate the siting of Unit 30B; and
 - 3.6 metres to accommodate the siting of Unit 1A;
4. Minimum setback requirement from Hembrough Ditch watercourse be varied from 18.0 metre horizontal distance to:
 - 14.8 metres horizontal distance to accommodate the siting of Unit 8B;
 - 16.7 metres horizontal distance to accommodate the siting of Unit 10A;
 - 5.0 metres horizontal distance to accommodate the siting of Unit 11B;
 - 5.0 metres horizontal distance to accommodate the siting of Unit 15A;
 - 5.0 metres horizontal distance to accommodate the siting of Unit 16A;
 - 5.0 metres horizontal distance to accommodate the siting of Unit 17B;
 - 5.0 metres horizontal distance to accommodate the siting of Unit 18B;
 - 6.0 metres horizontal distance to accommodate the siting of Unit 23B;
 - 8.7 metres horizontal distance to accommodate the siting of Unit 24B;
 - 9.0 metres horizontal distance to accommodate the siting of Unit 25B; and
 - 5.9 metres horizontal distance to accommodate the siting of Unit 26B.
5. Setbacks from internal lot lines created during the phased subdivision of the property be varied from 10.0 metres to 0 metres to accommodate the subdivision phasing stage.
6. Setbacks from front lot line be varied from 10.0 m to 1.0 m to permit 1 free standing sign, provided that the sign shall not exceed 2.0 m² in area or exceed a height of 2.0 m.

Attachment No. 1
Location of Subject Property
Development Permit No. 60424





REGIONAL DISTRICT OF NANAIMO			
MAY 17 2004			
CHAIR		GMCRS	
CAO		GMDS	
GMCMs		GMES	
[Handwritten initials]			
		DATE:	May 17, 2004
		FILE:	3090 30 60427

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

FROM: Keeva Kehler
Planner

SUBJECT: Development Permit Application No. 60427- Smith/Vectis Ventures
Electoral Area 'E' - 3645 Dolphin Drive, Nanoose Bay

PURPOSE

To consider an application for a Development Permit to permit works within the Watercourse Protection Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998."

BACKGROUND

This is an application for a Development Permit to install a terraced retaining wall at the present natural boundary of the ocean for the property legally described as Lot B, District Lot 78, Nanoose District, Plan 44229 (see Attachment No. 1). The subject property is a 0.142 hectare waterfront parcel located at 3645 Dolphin Drive. As part of the proposed development, the applicants will be removing an unauthorized cabin and deck structure.

The subject property is located within the Coast Residential designation in the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998". Portions of the property are located within the Watercourse Protection Development Permit Area (DPA) designated by this Official Community Plan.

The subject property is zoned Residential 1, Subdivision District 'N' (RS1N) 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 interior side lot lines, 2.0 metres from the rear lot line and 8.0 metres horizontal distance from the top of a slope of 30% or greater for a coastal watercourse. The applicants are not requesting any variances as part of the application as each portion of the retaining wall will be less than one metre in height and will retain less than one cubic metre of earth. There are no structures proposed as part of this Development Permit application.

ALTERNATIVES

1. To approve Development Permit No. 60427 subject to the conditions outlined in Schedule Nos. 1, 2, and 3.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

The property is an oceanfront lot located on Dolphin Drive in Nanoose Bay. There is an unauthorized structure (referred to as a 'cabin' on Schedule No. 2) and deck located within the oceanfront setback area and DPA. Staff discovered previous correspondence from the Building Inspection Department stating that this cabin was to be removed prior to occupancy being issued on the dwelling unit. The applicants will be removing the cabin and deck as part of this application.

In addition, there is a woodshed indicated on the survey plan that is located within the side yard setback and appears to encroach on the adjacent property. The applicants are agreeable to removing this shed as part of a future renovation of the dwelling unit. This will be a Condition of Approval should the Board grant the Development Permit.

The surrounding lots are waterfront properties and have unobstructed views of the Strait of Georgia. The present natural boundary in this location has been eroded since the subdivision plan was deposited in 1986. The retaining wall is intended to provide erosion protection and stabilize the bank above for a future proposed renovation of the dwelling unit. The applicants have provided a geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. dated May 4, 2004, which outlines the design of the retaining wall. Staff recommends that the geotechnical report be registered on the Certificate of Title as a condition of approval and that the applicant be required to undertake the recommendations in the report during construction. In addition to the registration of the report, staff recommends that the applicant be required to include a clause saving the RDN harmless from any loss resulting from potential flood, erosion, land-slip or any other action on the lands.

PUBLIC CONSULTATION IMPLICATIONS

As the application does not include any request to vary the zoning bylaw requirements, the Regional District is not required to notify adjacent landowners of the Development Permit application.

VOTING

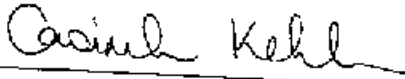
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

This is an application for a Development Permit to facilitate the installation of a terraced retaining wall and removal of an illegal structure at the present natural boundary of the ocean. Given that the proposal does not appear to impact any neighbouring properties and will result in the removal of an illegal and potentially hazardous structure, staff recommends this application be approved subject to the Conditions of Approval outlined in Schedules No. 1, 2 and 3.

RECOMMENDATION

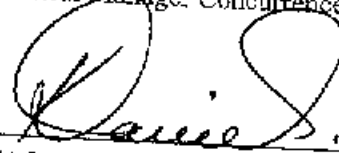
That Development Permit Application No. 60427, submitted by Tim Rann of Vectis Ventures on behalf of Dan and Christina Smith for the installation of a terraced retaining wall and removal of an illegal structure for the property legally described as Lot B, District Lot 78, Nanoose Island District, Plan 44229, be approved as submitted subject to Schedules No. 1, 2 and 3.



Report Writer



General Manager: Concurrence



CAO Concurrence

COMMENTS:

Schedule No. 1
Conditions of Approval (Page 1 of 2)
Development Permit Application No. 60427

General Requirements

1. The proposed development shall be conducted in accordance with the provisions of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," except as varied by this Development Variance Permit. The maximum height of each of the proposed retaining wall terraces shall not exceed 1.0 metre.
2. The cabin and deck shall be removed as part of the construction of the retaining wall.
3. The woodshed attached to the carport shall be removed as part of the future proposed renovation of the dwelling unit.
4. If applicable, a building permit shall be obtained from the RDN Building Inspection Department prior to the commencement of any works on the site.
5. There shall be no further alteration of land within the 15 metre leave strip as established by the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" Watercourse Protection Development Permit Area, or any subsequent bylaw, without written approval from the Regional District of Nanaimo. This includes removal of vegetation or installation of drainage works associated with the future proposed renovation of the dwelling unit.

Geotechnical Report

1. Recommendations established by the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd, date stamped May 4, 2004 shall be undertaken during the development of the erosion protection measures at the present natural boundary. As a condition of approval, the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd. will be required to be registered on the Certificate of Title as a Section 219 Covenant. This will ensure that the recommendations contained within this report will be undertaken.
2. The applicant shall include a clause within the Restrictive Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the flood and potential erosion risk associated with the construction on the property. This Covenant must be registered on the Certificate of Title prior to occupancy.

Development Permit Protection Measures

1. Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - Direct run off flows away from Strait of Georgia using swales or low berms.
 - Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - Cover temporary fills or soil stockpiles with polyethylene or tarps.

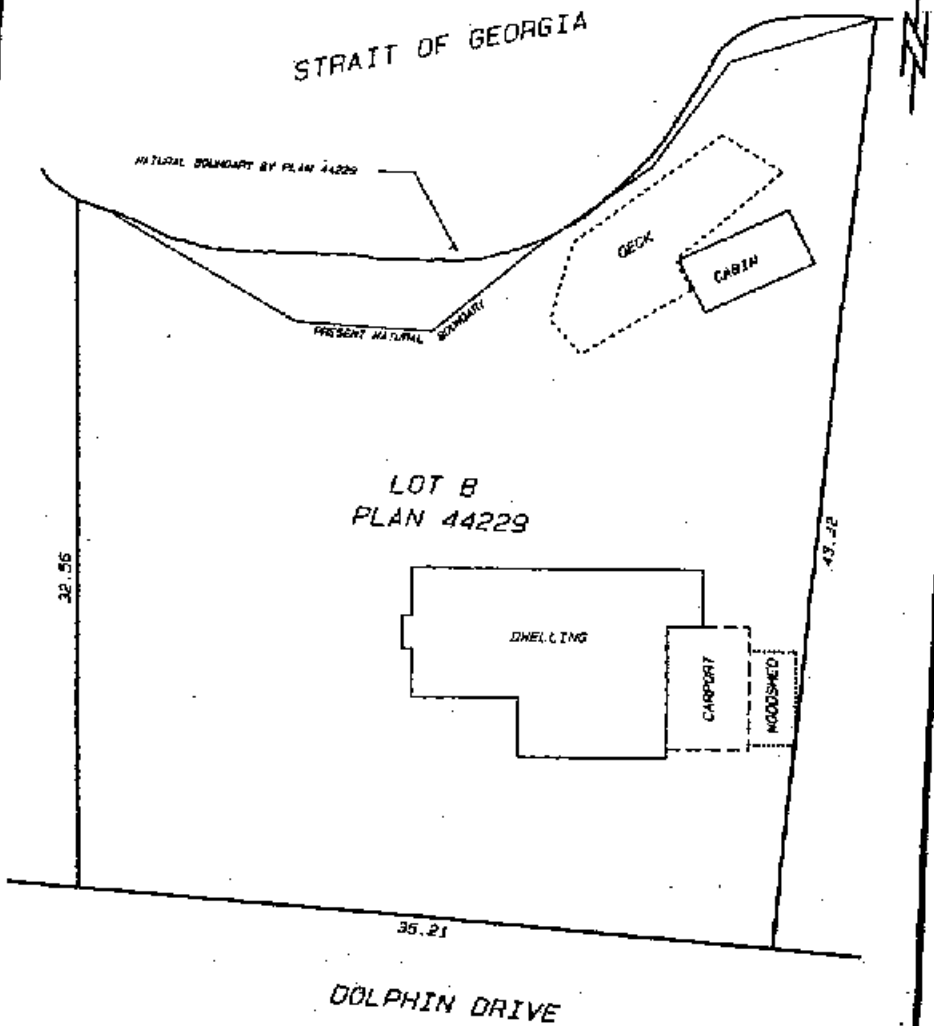
Schedule No. 1
Conditions of Approval (Page 2 of 2)
Development Permit Application No. 60427

- Existing vegetation inland above the proposed wall within the Watercourse Protection Development Permit Area (i.e. within 15.0 metres of the present natural boundary) shall be retained where possible and replanting of native species is encouraged to reduce the potential for erosion due to wind, tidal and precipitation activities.

Schedule No. 2
Site Plan (Submitted by applicant)
Development Permit Application No. 60427

PLAN OF LOT B, PLAN 44229,
DISTRICT LOT 7B, NANOOSE DISTRICT,
TO ACCOMPANY DEVELOPEMENT PERMIT APPLICATION.

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



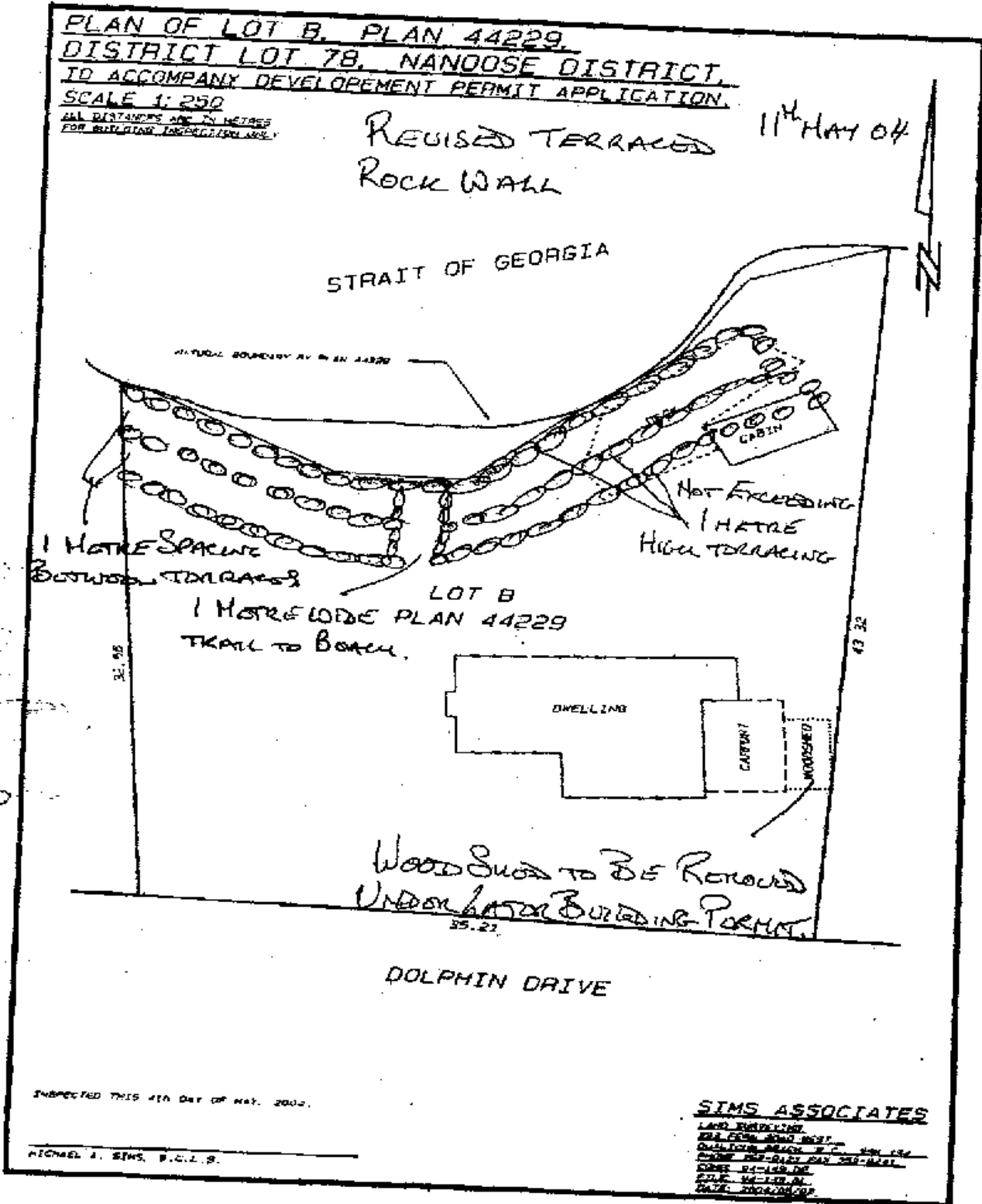
INSPECTED THIS 4TH DAY OF MAY, 2004.

[Signature]
MICHAEL J. SIMS, R.C.L.S.

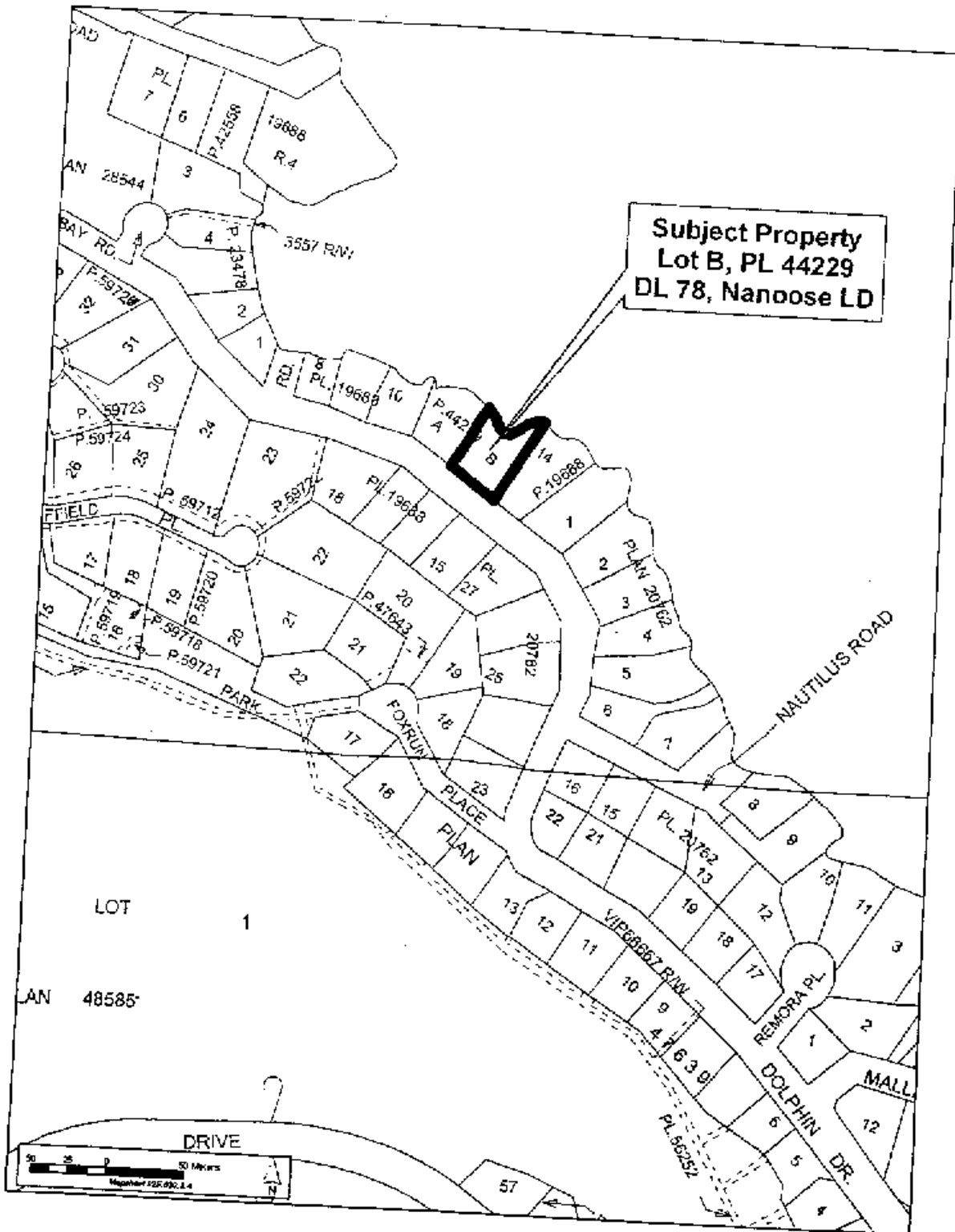
SIMS ASSOCIATES

LAND SURVEYING
2000 10TH AVENUE WEST
SUITE 1000, VANCOUVER, B.C. V6J 1P4
PHONE: 604-271-1111 FAX: 604-271-1111
WWW: WWW.SIMS-ASSOCIATES.COM
DATE: 04-14-04
SCALE: AS SHOWN

Schedule No. 3
Proposed location of retaining wall (Submitted by applicant)
Development Permit Application No. 60427



Attachment No. 1
Subject Property Map
Development Permit Application No. 60427



Attachment No. 2
Correspondence from Applicants' Agent
Development Permit Application No. 60427

Vectis Ventures

General Contractor
3387 Blueback Drive Nanoose Bay B.C. V9P 9H9

Ph: 250-468-1917 or 250-616-9365
E-mail: timrogue@island.net

Tim Rann

Licensed Home Builder

11th May 2004

The Planning Dept.
RDN
Nanaimo

Dear Sirs

Re: Development Permit application for Lot B Plan 44229,DL78.

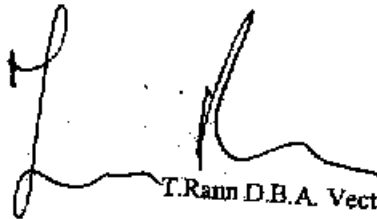
My clients have been notified that a demolition order has been found from 1977 pertaining to the existing cabin and deck as shown on Sims and Associates survey dated 4th May 2004. They understand that this order is not reversible and that any development permit issued would be conditional on the removal of the cabin and deck.

Please find my revised sketch of the terraced rock wall continuing across the area that was taken by the cabin and deck, we would propose to remove the cabin and deck as part of the wall construction process.

My clients are also aware of the woodshed encroaching on the neighbors lot, this woodshed is due to be demolished as part of the future renovation of their home later this year.

If you require further information please do not hesitate to contact me.

Yours sincerely



T.Rann D.B.A. Vectis Ventures



REGIONAL DISTRICT OF NANAIMO			
MAY 18 2004			
CHAIR		GMC'S	
CAO		GMS	
GMC'S		GMS	
EACU			
DATE:			May 17, 2004
FILE:			3060 30 60428

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

FROM: Brigid Reynolds
Senior Planner

SUBJECT: Development Permit Application No. 60428 – 43052 BC Ltd/Quest Homes
Electoral Area 'H' – Garrod Road

PURPOSE

To consider an application for a development permit to facilitate the development of a 10-unit strata resort condominium development, to remove an existing seawall, dock, and buildings, and to construct a rip rap retaining wall all within the Environmentally Sensitive Features, Natural Hazard and Village Centres Development Permit Areas.

BACKGROUND

The subject property legally described as Lot A, District Lot 36 and part of the bed of the Strait of Georgia, Newcastle District, Plan VIP54987 is located on Garrod Road in the Bowser Village Centre of Electoral Area 'H' (see Attachment No. 1).

The subject property, which is 1.08 ha in size, is zoned Commercial 5 (CM5) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". A campground currently exists on this property with related buildings, as well as one dwelling unit. These existing buildings and structures on the property including the sea wall and dock are proposed to be removed. Surrounding uses include properties zoned residential to the east and west, and commercial to the south west, and the ocean is to the north east. A small watercourse flows through the southeast corner of the property. The lands adjacent to the natural boundary consist of sand, gravel and cobble and the balance of the property consists primarily of lawn, except for shrubs and mature trees adjacent to the watercourse and at the southern boundary of the property.

The subject property is within three development permit areas pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003". The Village Centres Development Permit Area was established to provide guidelines for the form and character of commercial, industrial, or multi-family residential development. The Environmentally Sensitive Features Development Permit Area was established to protect the natural environment, specifically coastal areas, watercourses, and known aquifers. The coastal area development permit area is measured 30 metres from the natural boundary of the ocean. Development works are proposed within this development permit area. The Natural Hazard Development Permit Area was established to protect development from hazardous conditions. Due to the elevations of the property, the proximity to the ocean and the watercourse there is a potential for flooding. A geotechnical report has been prepared by Bob Davey of Davey Consulting and Engineering addressing the potential hazardous conditions and provide recommendations for mitigation. In addition, covenants are registered on title regarding floodplain management as outlined below.

In addition to the zoning and development permit requirements, there are three charges registered on the title of the subject property: a flood covenant in favour of the Ministry of Water, Land and Air Protection that requires a 15 metres setback from the natural boundary of the ocean and a flood construction elevation of 1.5 metres above the natural boundary of the ocean; a no build covenant over of an approximate area of 337 m² located in the south west corner of the parcel in favour of the Ministry of Transportation; and a commercial lease held between the property owner and the current campground leasee, Bowser Bill's.

As the development is adjacent to the ocean there is a potential that archeological sites may be located here however there is no recorded site in this location. The applicant is proposing to undertake an archeological study as part of the application.

Proposed Development

The applicant is proposing to construct a 10-unit resort condominium consisting of eight - 1 to 2 storey single family resort condominium units and one - 1 to 2 storey duplex resort condominium unit. The dwelling units are proposed to be 177 m² on the main floor and 55 m² on the second floor. The applicant is proposing to construct an integrated storm water management system. Servicing of the site is proposed to be with community water from Bowser Waterworks District and on-site septic system. The main access to the development is via Garrod Road (*see Schedule No. 2 showing the proposed layout*).

Proposed Bylaw Variances

A number of variances are requested as part of this application including the proposed rip rap retaining wall over 1 metre in height located on the natural boundary, height variances to unit nos. 4 and 5, a variance from the front lot line for unit no. 10 and a variance to the front lot line for a property identification sign. The proposed variances are outlined in Schedule No. 4 and may be considered with the development permit applications.

ALTERNATIVES

1. To approve the requested development permit with variances subject to the conditions outlined in Schedule Nos. 1 to 4 and the notification procedure pursuant to the *Local Government Act*.
2. To deny the requested development permit with variances as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

OCP Implications/Development Permit Guideline Implications

The proposed development is in keeping with the form and character guidelines in that the buildings are proposed to incorporate west coast architecture style and a building foot print which is consistent with surrounding dwelling units (*See Schedule No. 3 for building plans*).

Five of the units are proposed to be located between 15 and 30 metres of the natural boundary of the ocean, i.e. within the development permit area. There are also concrete pads and a walkway adjacent to the ocean. The existing retaining wall, dock, concrete pads and walkway are proposed to be removed and the retaining wall is proposed to be replaced with an engineered rip rap retaining wall. The removal of these will have to incorporate the conditions of approval to ensure that negative impacts to the natural environment are minimized. As works are proposed at the natural boundary, Federal Fisheries and

Oceans must be notified of the proposed works. In addition, their recommendations have been incorporated into the conditions of approval for this permit.

The flood covenant registered on title requires a 15 metres setback from the natural boundary of the ocean and a flood construction elevation of 1.5 metres above the natural boundary of the ocean. The proposed development incorporates these requirements.

The geotechnical report prepared by Bob Davey outlines recommendations to be incorporated into the construction of the units. These reports shall form part of this permit. In addition, as a condition of this permit, the works outlined in the report must be supervised by an engineer. In addition, a save harmless covenant is required to be registered as a condition of this permit.

A small watercourse flows through the southeast corner of the property. However, the watercourse is not within a development permit area. There is mature vegetation adjacent to the watercourse and some lawn. The applicant agrees to register a covenant for no removal of vegetation within 15 metres of the watercourse.

No development is proposed within the existing no build covenant located in the south west corner of the parcel. The commercial lease registered on title is proposed to be discharged.

Ministry of Transportation Implications

Access for the proposed development will be from Garrod Road. The applicant requires an approved access permit from Ministry of Transportation (MOT). MOT may have additional requirements as part of receiving approval. This approval will be required as a condition of this development permit.

Site Servicing Implications

The applicant has provided written confirmation that community water service will be provided by Bowser Waterworks District provided all their requirements are met.

A health permit has previously been issued on the property for a five unit development. In addition, the applicant has done some test holes to determine the suitability of the soil which have proven to have good percolation. However, the applicant has not yet received approval from the Vancouver Island Health Authority. Approval will be required as a condition of this development permit.

The applicant proposes a stormwater management system to collect the discharge from the roof leaders and perimeter drains which is proposed to be directed to an outlet on the marine foreshore. The road drainage is proposed to be directed to an oil/water interceptor before being directed to the outlet. The outlet is located on the marine foreshore and Land and Water BC will require the applicant to enter into a lease for the outlet. In addition, Federal Fisheries and Oceans has conditions that have been incorporated into the conditions of approval for this permit.

As the private road in the development is not as wide as generally required by the Ministry of Transportation, the Fire Chief of the local area Fire Department must grant approve the proposed road width and layout to ensure emergency service access can be achieved. Approval from the Fire Chief is required as a condition of approval of this development permit.

Proposed Variance Implications

The minimum setback requirement for buildings and structures adjacent to the ocean is 8.0 metres from the natural boundary and 15 metres from the natural boundary of a watercourse. The proposed rip rap retaining wall is intended to be located on the natural boundary and the geotechnical report states that it must be greater than 1 metre in height, therefore a variance to Bylaw No. 500 is required. Removing the existing retaining wall and boat ramp will be beneficial as the concrete extends into the water a minimum of 10 metres and has required numerous repairs over the years, thereby potentially introducing concrete leachate into the ocean which can be harmful to fish and fish habitat. In addition, the existing retaining wall consists of large logs, some with creosote which can also be harmful to fish and fish habitat. The proposed retaining wall can incorporate plantings thereby creating a more naturalized shoreline than currently exists.

Due to the required flood construction elevation of 1.5 m above the natural boundary of the ocean, unit nos. 4 and 5 require a variance to the maximum height is also required. Views by adjacent properties are unlikely to be impacted. The property to the south of the subject property is at a higher elevation and views should be maintained. One dwelling unit on the property to the west is located in front of proposed unit no. 5. However, the second dwelling unit located further south on the adjacent lot may have their view to the north east impacted. This dwelling unit would continue to have views to the north west.

Unit no. 10 requires a variance to Garrod Road, the front lot line, to a minimum of 6.0 metres. Unit no. 10 is half of a duplex. Adjusting the siting of both units would require that some of the vegetation that provides a buffer between the subject and adjacent property be removed. The road through the development is proposed to be 7 m in width which is less than $\frac{1}{2}$ the width of the Garrod Road right of way. Unit no. 10 is proposed to be sited a minimum of 5 metres from the common access road through the development. Therefore, approving the proposed setback relaxation should not impact access to the development.

In addition, a property identification sign is proposed to be sited a minimum of 2.0 metres from the front lot line and therefore requires a variance. The sign face is proposed to be 2.25 m² and the sign structure a maximum height of 2 metres. The sign is proposed to be located at the entrance to Garrod Road on the south east corner of the property. The sign is not proposed to be lit and is proposed to have low landscaping surrounding the base of it.

ENVIRONMENTAL IMPLICATIONS

The existing retaining wall is located at the natural boundary. The beach is comprised of large cobbles and there is no vegetation in front of the existing wall. Pocket plantings of beach grasses in the rip rap are included as a condition of the approval. This could enable native vegetation to reestablish providing habitat for invertebrates and providing additional stability of the rip rap.

The concrete dock extends below the natural boundary more than 10 metres. The removal of this dock must be undertaken consistent with Federal Fisheries and Oceans (DFO) requirements and best management practices. These requirements are included as conditions of approval (*See Schedule No. 1*). In addition, DFO requires that the applicant advise their agency a minimum of five days in advance of the proposed works.

As part of the storm water management system drainage from the private road will be directed to an oil/water separator prior to being directed to the outfall that is proposed to be located on the beach.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a development permit for the property located off Garrod Road within the Bowser Village Centre of Electoral Area 'H'. There are three development permit areas designated over the property: Village Centres Development Permit Area, Environmentally Sensitive Features Development Permit Area and Natural Hazard Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003". The applicant is proposing a 10-unit resort condominium development incorporating west coast architectural design and consistent with surrounding dwelling units. In addition, the existing retaining wall and boat ramp is proposed to be removed and a new rip rap retaining wall over 1 metre in height installed at the natural boundary. A geotechnical report has been prepared by Bob Davey of Davey Consulting and Engineering addressing the potential hazardous conditions and provide recommendations for mitigation which are included as conditions of approval. In addition, covenants are registered on title regarding floodplain management. The development is incorporating flood elevations and setbacks.

Variances proposed include a height variance for unit nos. 4 and 5 from 8 to 8.14 metres, in order to meet flood construction elevations; setback relaxation from the natural boundary of the ocean from 8 to 0 metres for a rip rap retaining wall over 1 metre in height; a setback relaxation for unit no. 10 from the front lot line from 8 to 6 metres to site a duplex building; and a setback relaxation from the front lot line from 8 to 2 metres for a property identification sign. It appears that the height variances will marginally impact the south east views of one of the adjacent dwelling units. The rip rap wall is necessary to avoid erosion from occurring on the marine foreshore and will not impact passage on the beach. The setback relaxation for unit no. 10 should not impact the access or any adjacent property.

As the development is generally in keeping with the Development permit guidelines and the conditions of approval should reduce the negative impacts to the natural environment, staff recommend approval of the development permit.

RECOMMENDATION

That Development Permit Application No. 60428 submitted by Quest Homes for the property legally described as Lot A, District Lot 36 and part of the bed of the Strait of Georgia, Newcastle District, Plan VIP54987, be approved, subject to the conditions outlined in Schedules Nos. 1, 2, 3, 4, and 5 of the corresponding staff report and to the notification procedure subject to the *Local Government Act* with respect to the proposed variances to Bylaw No. 500, 1987.

Bleynolds
Report Writer

Stomiv/for
General Manager Concurrence

B. Burgoyne for K. Daniels
CAO Concurrence

COMMENTS:

devisvs/reports/2004/dp ma 3060 30 60428 43052 BC Ltd/Quest Homes

**Schedule No. 1
Conditions of Approval
Development Permit No. 60428**

Building Development

1. A maximum of 8 single family and 1 duplex residential units may be located on site as shown on Schedule No. 2.

Off-Street Parking Spaces and Aisle Ways

2. A minimum of 10 off-street parking spaces shall be provided.
3. All parking areas, including aisle ways, shall be constructed to Bylaw No. 500 standards and all parking spaces shall be clearly delineated through the use of painted lines on paved surfaces or concrete parking stops on compacted and dust free surfaces.
4. No off-street parking spaces shall be located within the traveled portion of the internal road ways.
5. Confirmation from the Bow Home Fire Department Fire Chief that the road layout is acceptable must be submitted to the Regional District, prior to the commencement of works.
6. A valid access permit issued by the Ministry of Transportation must be submitted to the Regional District prior to the commencement of works.

Landscaping Requirements

7. Landscaping to be provided as shown on Schedule No. 4 and shall, at the minimum, satisfy the following criteria:
 - a) Landscaping shall be totally comprised of biologically diverse and drought resistant plants.
 - b) Individual plants to be used in the landscaping shall have normal, well developed branches and vigorous, fibrous root systems; such plants shall be healthy, vigorous and free from defects, decay, disfiguring roots, sunscald, injuries, abrasions of the bark, plant diseases, insect pests' eggs, borers and all forms of infestations or objectionable disfigurements.
 - c) All landscaping shall be permanently maintained in good condition with, at a minimum, the same quality and quantity of landscaping as was initially approved and without alteration of the approved design; the owner shall make provisions for the permanent irrigation works necessary to water the landscaping.
 - d) The design of landscaping shall be such that the growth of roots, trunks, and branches of natural or introduced vegetation or the location of planted berms shall not conflict with the utilities, structures, necessary access, or require sight triangle.
8. A landscape security deposit in the amount of \$5,000.00 be held by the RDN pending the completion of the required landscaping to the satisfaction of the Regional District of Nanaimo.
9. Native vegetation shall be provided within the 15 metre riparian area adjacent to the stream to prevent encroachment to the riparian area, to help stabilize the soil material, and to avoid future public access to the riparian area from the development. Fencing may be incorporated into this area.
10. A temporary fence (snow fence) delineating the riparian area along the top of the bank (park boundary) shall be installed during the construction phase.
11. No yard waste be deposited in the park or behind the hedge at the top of the bank.
12. Applicant to register a section 219 covenant with respect to no vegetation removal within the 15 metre riparian area adjacent to the watercourse at Land Titles in Victoria to the satisfaction of the Regional District with all costs of registration borne by the applicant.

Environmental Protection

13. Foreshore works shall take place during the period of June 1 and December 1 of any calendar year.
14. The removal of the boat ramp shall be undertaken on the lowest possible tide, in dry conditions.
15. Federal Fisheries and Oceans (DFO) must be informed of the proposed works a minimum of five days in advance.
16. Excavated beach materials shall be kept to a minimum and shall be evenly distributed on the beach and not stockpiled.
17. No soils or fines shall be introduced into the marine environment.
18. Construction is not to include the use of native beach materials (boulders, cobble, gravel, and drift logs).
19. Excavated materials (concrete and wood) shall be stored upland of the marine foreshore.

Rip Rap Retaining Wall

20. Recommendations detailed in the Geotechnical Report prepared by Bob Davey of Davey Consulting and Engineering dated April 7, 2004 and May 14, 2004 shall be incorporated into the proposed development.
21. The installation of the rip rap wall shall be undertaken under the supervision of a professional engineer with experience in shoreline processes and the installation of shoreline retaining devices.
22. Rock used for the rip-rap wall should be angular blast rock, clean and free of fines. The rock should be of a size that will not move and require maintenance.
23. The 'toe' of the rip rap seawall shall not extend more than 1 metre below the natural boundary.
24. Planting of native salt tolerant vegetation (e.g. beach grass) shall be interspersed in rip rap wall.
25. The rock wall should have a mechanism to drain soils from the upland through the rock without allowing for the loss of upland soils to the freshwater or marine environment. A filter fabric barrier to restrain upland soils is recommended.

Machinery

26. The machine must be in good working order and no fuels, lubricants or construction wastes are permitted to enter the marine environment. No refueling of machinery is to be conducted within 100 m of the marine environment.
27. A spill kit shall be on-site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.

Septic Permit

28. A valid septic permit must be submitted to the Regional District prior to the commencement of any works.

Storm Water Management

29. Storm water management system to be designed as detailed in Schedule No. 2. Where possible drainage from roof leaders shall be infiltrated into the ground.
30. Storm water outfall to the marine foreshore shall require permission from Federal Fisheries and Oceans and Land and Water BC prior to the commencement of any works.
31. Storm water outfall shall be designed with adequate energy dissipation to ensure no scour effect on the foreshore.

Geotechnical Requirements

32. The applicant shall comply with the requirements of the geotechnical reports prepared by Bob Davey, which are attached to the development permit.
33. The works outlined in the reports must be supervised by an engineer.

Save Harmless Covenant

34. A save harmless covenant shall be registered in favour of the Regional District of Nanaimo at Land Titles Office in Victoria, to the satisfaction of the Regional District, with all costs being borne by the applicant.

Sediment and Erosion Control

35. Sediment and erosion control measures must be utilized to control sediment during construction and to stabilize the site after construction is complete. These measures must include:
 - a. Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite during works.
 - b. Cover temporary fills or soil stock piles with polyethylene or tarps.
 - c. Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened in advance of seeding.

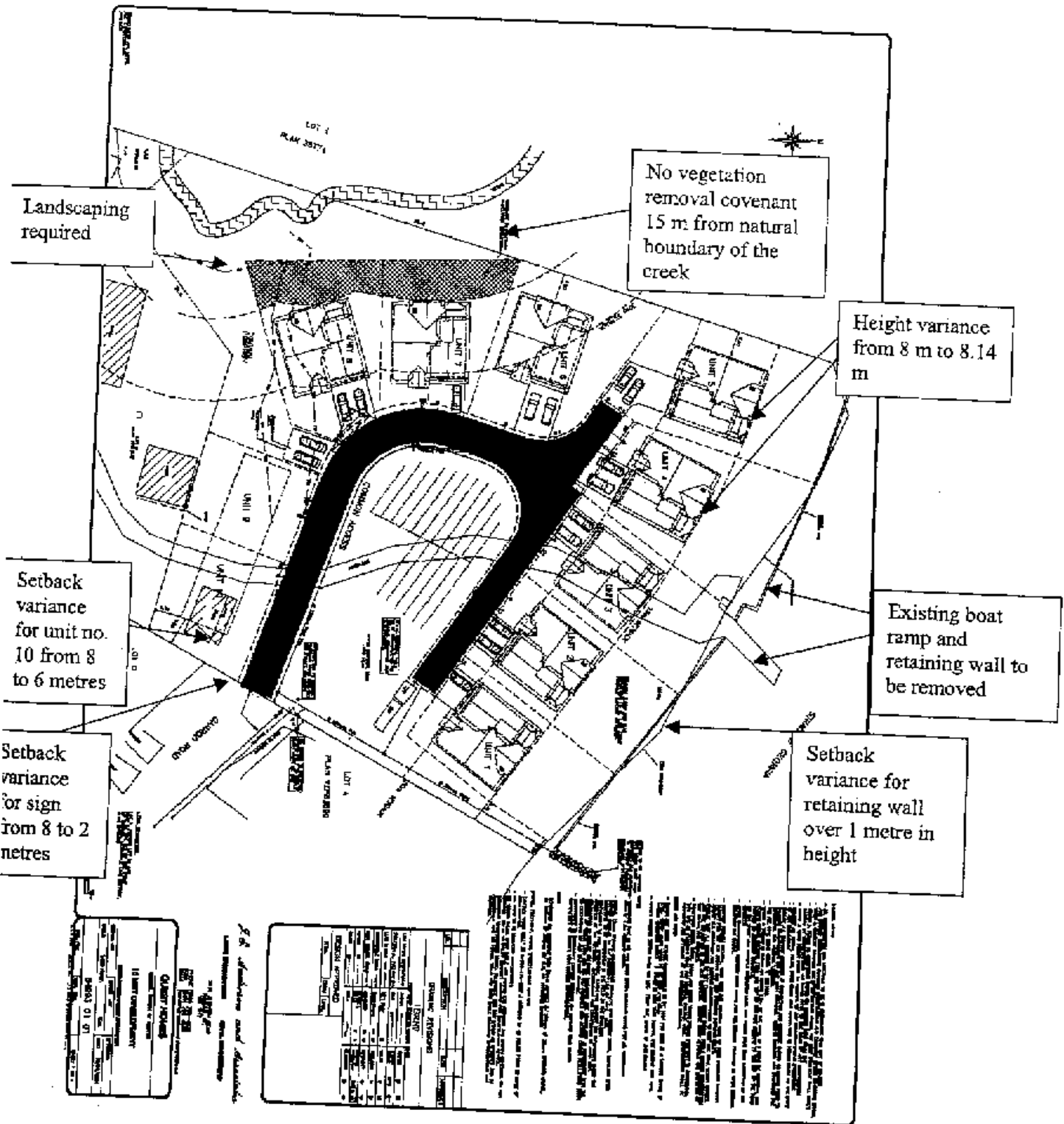
Archeological Assessment

36. An archeological assessment shall be undertaken prior to the commencement of any works and shall be submitted to the Regional District.

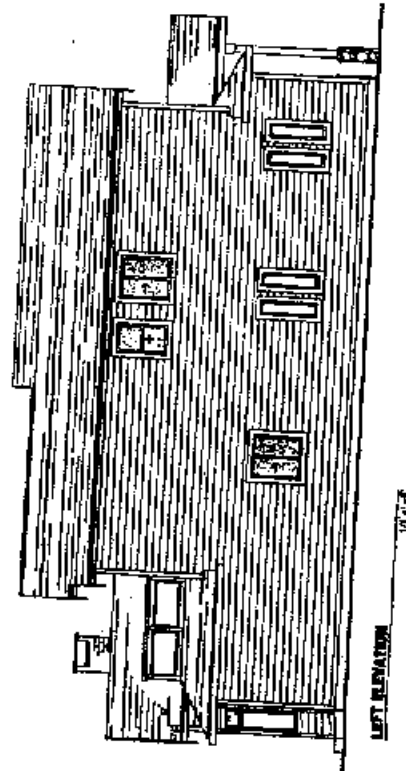
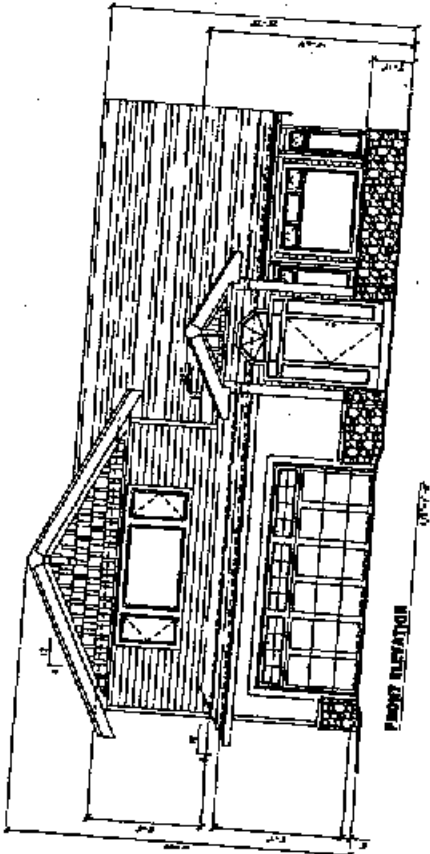
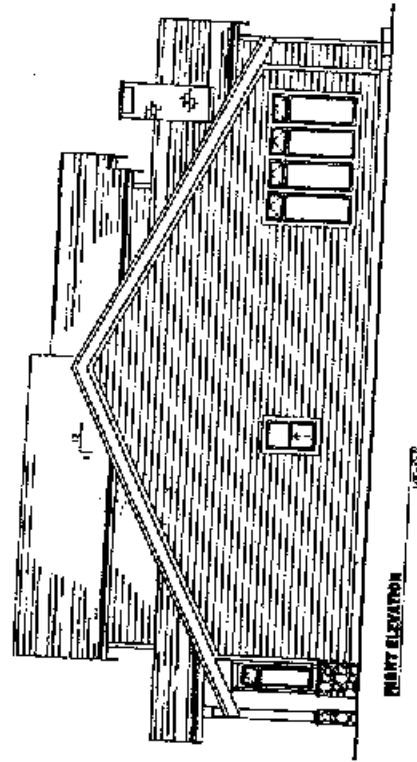
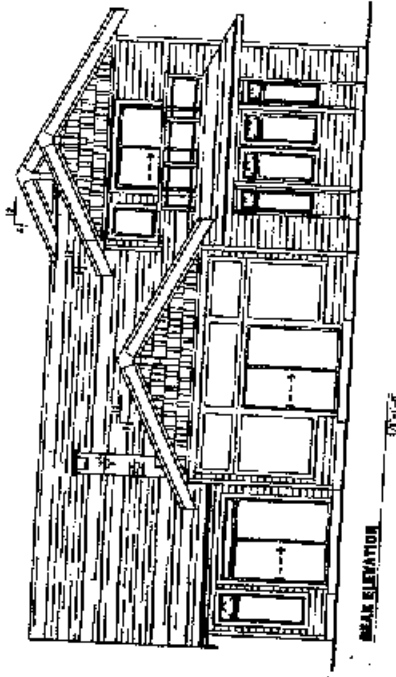
Property Identification Sign

37. The property identification sign face area shall not exceed 2.25 m² and the sign structure shall not exceed 1.5 metres in height.
38. The area around the sign shall be landscaped.
39. No lighting shall be used to illuminate the sign.

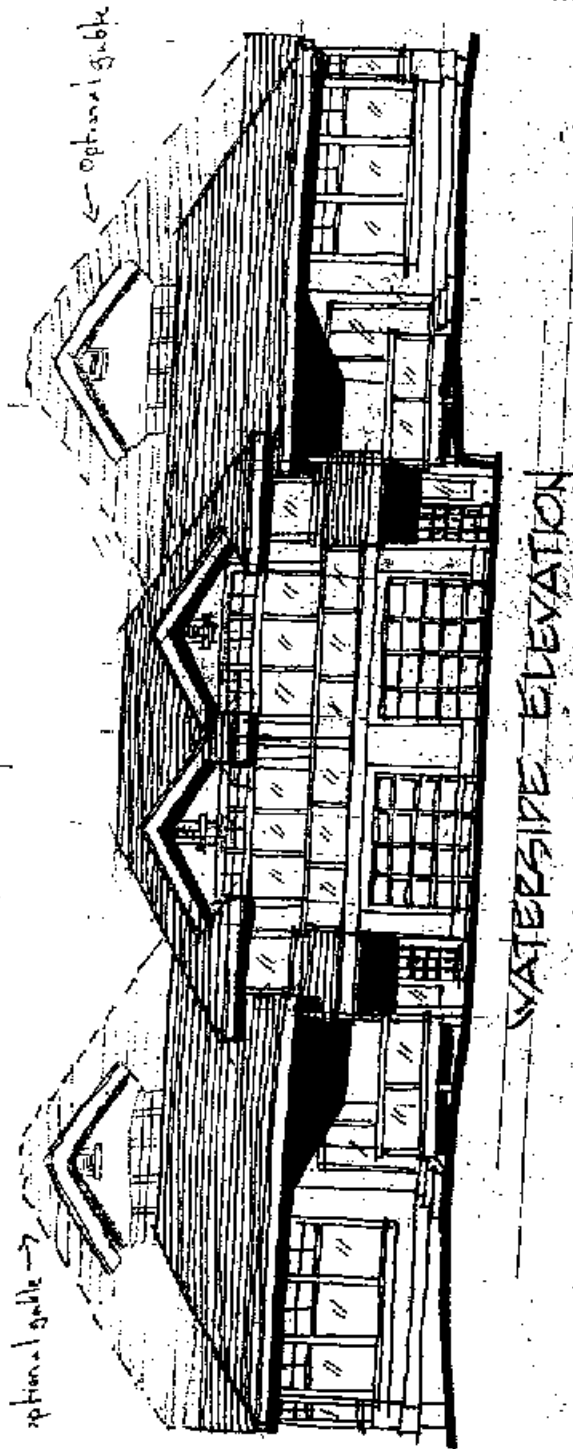
Schedule No. 2
 Proposed Site Layout
 Development Permit No. 60428
 (as submitted by applicant/reduced for convenience)



Schedule No. 3 (1 of 2)
Proposed Building Plans for Single Family Dwelling Units
Development Permit No. 60428
(as submitted by applicant/reduced for convenience)



Schedule No. 3 (2 of 2)
Proposed Building Plans for Duplex Units
Development Permit No. 60428
(as submitted by applicant/reduced for convenience)

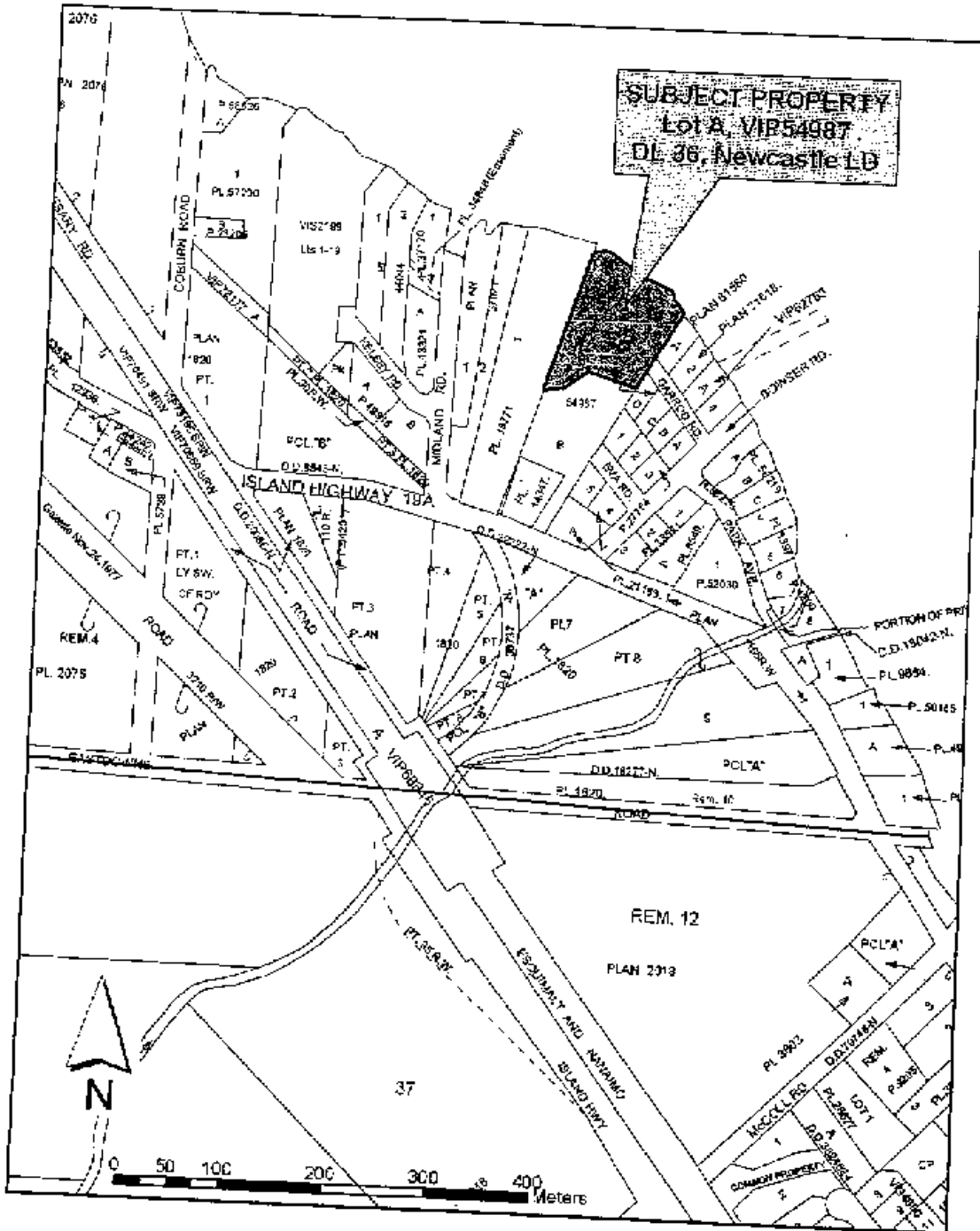


**Schedule No. 4
Proposed Variances
Development Permit No. 60428**

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

1. **Section 3.3.9 Setbacks – Sea** – by relaxing the minimum setback from the natural boundary of the ocean from 8.0 metres to 0.0 metres for a rip rap retaining wall over 1 metre in height.
2. **Section 3.4.15 Maximum Number and Size of Buildings and Structures** – by relaxing the maximum height from 8.0 metres to 8.14 metres for unit nos. 4 and 5.
3. **Section 3.4.15 Minimum Setback Requirements** – by relaxing the minimum setback from the front lot line from 8.0 metres to 6.0 metres for unit no. 10.
4. **Section 3.4.15 Minimum Setback Requirements** – by relaxing the minimum setback from the front lot line from 8.0 metres to 2.0 metres for a property identification sign.

Attachment No. 1
Location of Subject Property



BCGS Map Sheet No. 92F.047.2.3



REGIONAL DISTRICT OF NANAIMO	
MAY 18 2004	
CHAIR	GMCrS
CAO	GMDS
GMCS	GMES
	<i>EMC</i>

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: May 17, 2004

FROM: Susan Cormie
Senior Planner

FILE: 3320 30 25663
3320 30 25664

SUBJECT: Development Permit Application No. 60429
Applicant: Bev & Gerd Voigt, on behalf of 642703 BC Ltd.
Electoral Area 'E', off Kaye Road and the Island Highway

PURPOSE

To consider a development permit application within a Farm Land Development Permit Area with a variance to the minimum setback requirement to accommodate the siting of an existing building in conjunction with a proposed 6-lot subdivision development.

BACKGROUND

This is an application for subdivision within the Farm Land Development Permit Area as part of a 6-lot subdivision proposal. As part of the development permit application, the applicants have also requested that the minimum setback requirement for an existing barn building be relaxed from a lot line proposed to be created at time of subdivision for the property legally described as of District Lot 44 Nanoose District Except Parts in Plans 39893, 3132 RW and located at 2070 Kaye Road within the Electoral Area 'E' (see Attachment No. 1 for location of parent parcel).

The subject property is currently zoned Rural 5 (RU5) and is within Subdivision District 'D' pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The property is also partially situated within the Provincial Agricultural Land Reserve (ALR). The applicants are proposing to subdivide along the ALR boundary separating the ALR portion of the parent parcel from the non-ALR portion and creating 5 non-ALR parcels for a total of 6 parcels which will be greater than the 2.0 ha minimum parcel size, therefore meeting the minimum parcel size requirement (see Attachment No. 2 for proposed subdivision).

In addition, the parent parcel is designated within the Farm Land Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998. As the applicants are proposing to create new parcels and dedicate and construct a road within the Farm Land Protection Development Permit Area, a development permit is required.

It is noted that Craig Creek, which crosses the ALR portion of the subject property is designated within the Watercourse Protection Development Permit Area. However, in this case, the applicants do not require a development permit as the exemption provisions can be met.

While the new parcels are proposed to be served by individual private septic disposal systems and private water wells, the applicants have indicated that they wish to apply for inclusion into the neighbouring

Englishman River Community Water Service Area. However, at this time, an application for inclusion in the water service area has yet to be received.

Minimum Setback Requirements

A requirement of subdivision approval is that all existing buildings must meet current minimum setback requirements from all proposed lot lines. In this case, an existing barn building that is proposed to be located 13.0 metres from the new lot line. As this building will not meet the required minimum setbacks of 30.0 metres for an agricultural building housing livestock or storing manure, a variance to Bylaw No. 500 provisions is required. Therefore, the applicant, as part of the development permit application, is requesting to vary this setback requirement.

ALTERNATIVES

1. To approve the request for the relaxation of the minimum setback requirement and approve the development permit application as submitted, subject to Schedule Nos. 1 and 2.
2. To deny the request for relaxation of the minimum setback requirement and the development permit application.

DEVELOPMENT IMPLICATIONS / ENVIRONMENTAL IMPLICATIONS

Other than the area adjacent to the existing barn and proposed future road, most of the 15-metre buffer area is treed and well vegetated. As the Rural 5 zone separates intensive agriculture uses in the ALR from non-intensive uses, the buffer area will offer some protection from any future intensive agriculture uses.

Craig Creek crosses the ALR portion of the subject property. In discussions with the Ministry of Transportation, covenants to protect the creek and its riparian area will be required at the time of subdivision. The applicants are in concurrence to provide a 30-metre protective covenant, which will meet the objectives of the development permit area.

Ministry of Transportation staff has indicated that they have concerns with the minimum sight distances where the proposed road intersects with Kaye Road. As a result, the proposed plan of subdivision may be required to be altered. This is not considered to adversely affect the Farm Land Development Permit Area.

VOTING

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

SUMMARY

This is a request for a development permit to create new parcels and dedicate and develop a new road within the Farm Land Protection Development Permit Area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 in association with a 6-lot subdivision proposal within the designated Farm Land Protection Development Permit Area. This is also a request to vary the minimum setback requirement for an existing barn building from a lot line proposed to be created at time of

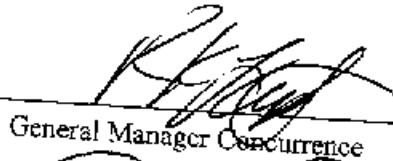
subdivision. The subject property is partially located within the Provincial Agricultural Land Reserve and in this case as the boundary of the ALR parcel is proposed to coincide with the ALR boundary approval from the Commission is not required. Ministry of Transportation staff has indicated that there are some issues with the proposed location of the new road in terms of sight distances along Kaye Road; however, it is felt that the changes to the proposed plan of subdivision will not adversely affect the development permit. The Ministry has also indicated that Craig Creek and its riparian area will be protected by covenant through the subdivision process. The applicants are in concurrence with such a covenant. Therefore, in consideration of the applicants' concurrence with the registration of a protective covenant at time of subdivision, staff recommends Alternative No. 1, to approve the development permit with the requested variance for the existing barn building from the proposed new lot line from 30.0 metres to 13.0 metres subject to Schedule Nos. 1 and 2 and the notification procedures of the *Local Government Act*.

RECOMMENDATION

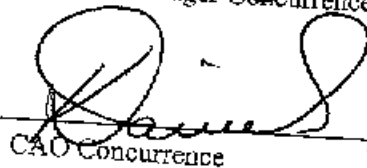
That the request, submitted by Bev and Gerd Voigt, on behalf of 642703 BC Ltd. to create new parcels and dedicate and construct a road as part of a 6-lot subdivision proposal within a Farm Land Protection Development Permit Area and to relax the minimum setback requirement for an existing barn building from 30.0 metres to 13.0 metres from the proposed new lot line as shown on the plan of subdivision of District Lot 44 Nanoose District Except Parts in Plans 39893, 3132 RW, be approved subject to Schedules No. 1 and 2 and the notification procedures pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



CAO Concurrence

COMMENTS:

devs\report\2004\ma 3320 20 25663 & 25664 / ap60429.doc

SCHEDULE NO. 1
Conditions of Approval
Development Permit Application No. 60429

The following sets out the conditions of approval with respect to Development Permit Application No. 60429:

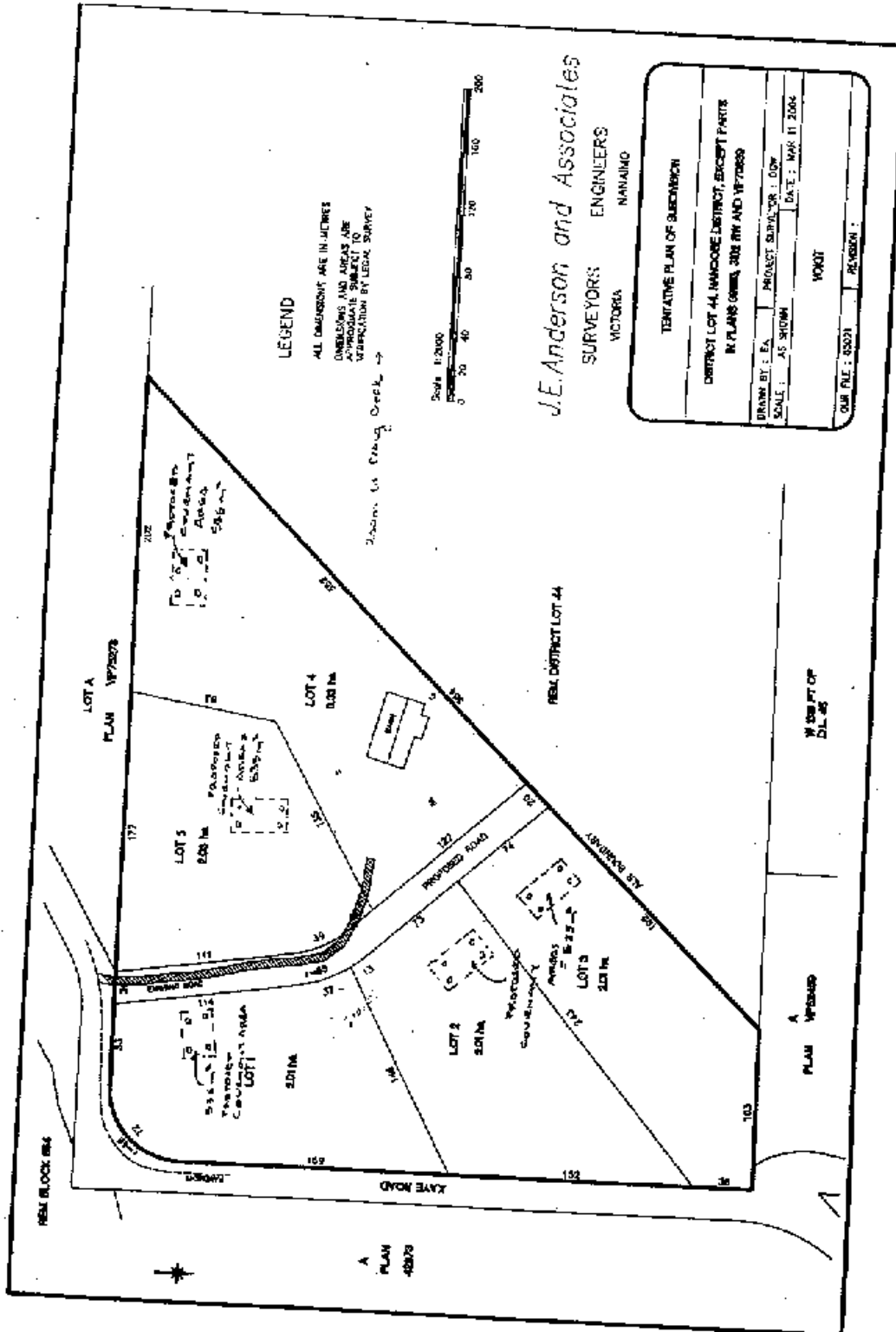
Farm Land Protection 15-metre buffer strip adjacent to Agricultural Land Reserve:

1. No buildings or structures, including signs, decks, and patios, shall be located within 15.0 from the ALR boundary crossing District Lot 44 other than the existing barn located on proposed Lot 4.
2. No septic disposal fields, wells, driveways, outdoor storage, or other site improvements shall be located within 15.0 metres from the ALR boundary crossing District Lot 44 other than the proposed public road a maximum of 20.0 metres in width to provide access to the proposed Remainder of District Lot 44.
3. The existing natural wooded character of the 15.0 metre buffer area shall be maintained and existing trees shall not be removed. Invasive plants such as Himalayan blackberries, Scotch broom, morning glory, and purple loosestrife may be removed and replaced with native species to enhance the buffer area.
4. The enhancement of the buffer area with the additional native vegetation shall be permitted.

Subdivision:

1. Applicant to prepare and register a section 219 covenant for the protection of Craig Creek and its riparian area a minimum of 30.0 metres as measured from the natural boundary including no removal of vegetation. Draft covenant is to be submitted to the Regional District for approval.

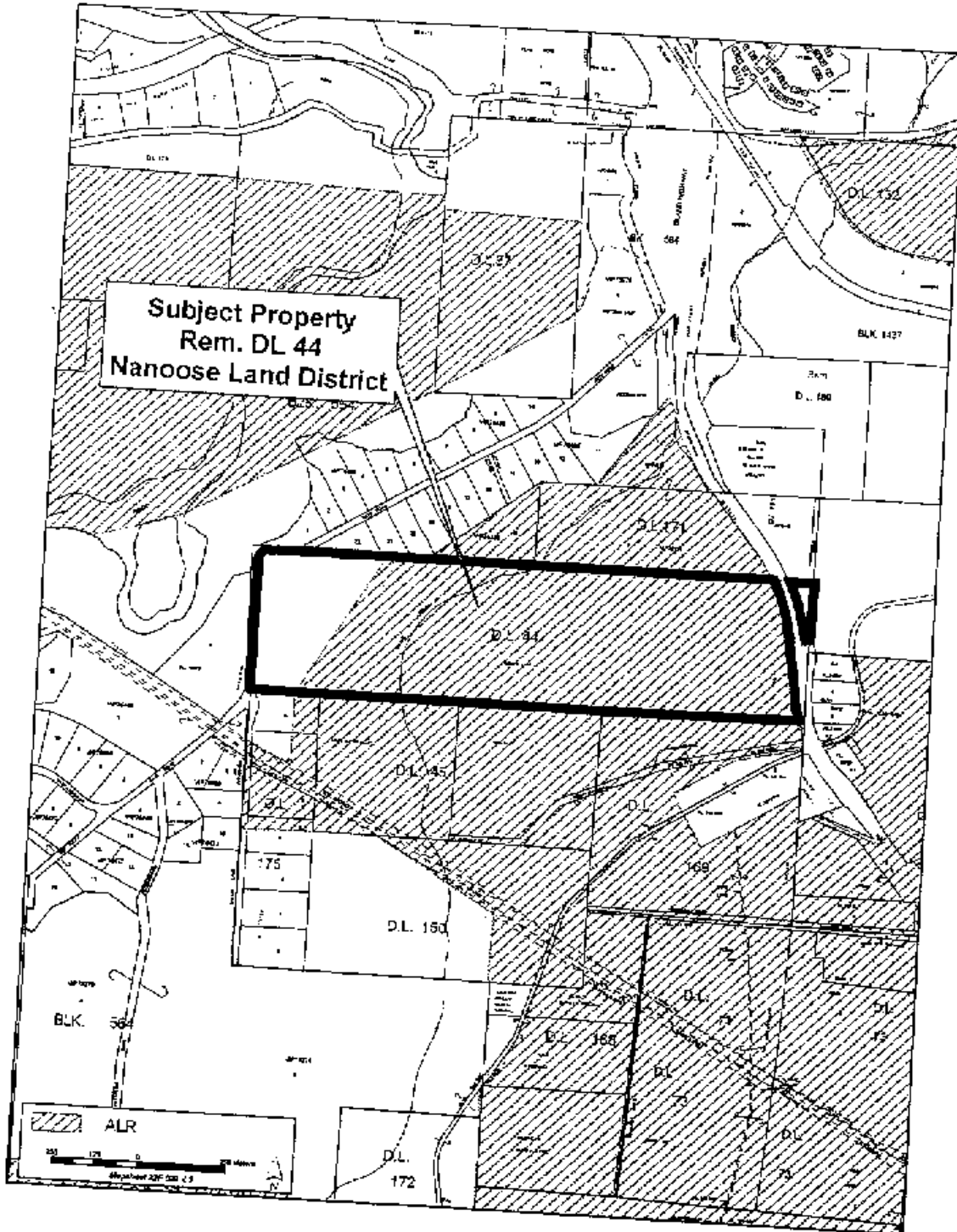
SCHEDULE NO. 2
 Development Permit Application No. 60429
 Conceptual Plan of Subdivision
 (as submitted by applicant)



J.E. Anderson and Associates
 SURVEYORS VICTORIA
 ENGINEERS NANAIMO

TENTATIVE PLAN OF SUBDIVISION	
DISTRICT LOT 44, NANAIKO DISTRICT, EXCEPT PARTS IN PLANS 60429, 302 RW AND YF72659	
DRAWN BY: EA	PROJECT SURVEYOR: J. DOW
SCALE: AS SHOWN	DATE: MAR 11 2004
SUB. FILE: 43278	REVISION:
	YOKIT

ATTACHMENT NO. 1
Subject Property Location





REGIONAL DISTRICT OF NANAIMO			
MAY 17 2004			
CHAIR		GMCrs	
CAO		GMDS	
COMS		GMES	
		<i>EAAC</i>	<input checked="" type="checkbox"/>

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services
DATE: May 14, 2004

FROM: Keeva Kehler
Planner
FILE: 3090 30 90406

SUBJECT: Development Variance Permit Application No. 90406 - Peake
Electoral Area 'H' - 6235 West Island Highway

PURPOSE

To consider an application for a Development Variance Permit to legalize the construction of a dwelling unit, over-height fence and accessory buildings on a property located along the Island Highway in Electoral Area 'H'. This application includes variances to the minimum required setbacks from lot lines and a watercourse.

BACKGROUND

This is an application for a Development Variance Permit to legalize the siting of an existing dwelling unit, fence, detached garage and accessory shed structure located on a residential property in the Bowser area of Electoral Area 'H', for the property legally described as Lot A, District Lot 21, Newcastle District and Part Formerly the Bed of the Strait of Georgia, Nanaimo District Plan VTP67028 (see Attachment No. 1). As part of the application, the applicants are requesting that the minimum setback requirements to a watercourse (Nash Creek) be relaxed to legalize an existing dwelling unit and detached garage and that the minimum setback for the interior side lot line be relaxed to legalize an existing shed.

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; 5.0 metres from other lot lines; and 18.0 metres horizontal distance from the stream centerline of a watercourse. Although a watercourse (Nash Creek) traverses the subject property, this parcel was not contained within an environmentally sensitive or hazard lands development permit area pursuant to the "Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996" when the application was submitted. Therefore, there are no development permit requirements for setbacks in addition to the aforementioned zoning bylaw requirements. It is also noted that the subject property is not located within a building inspection area. As of March 9, 2004, Nash Creek is designated within a Development Permit Area for Environmentally Sensitive Areas pursuant to the "Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003."

According to the applicant's agent, the original owner of the lot constructed a house and retaining wall adjacent to Nash Creek approximately 80 years ago. When the applicant purchased the property, he repaired the existing retaining wall and bridge to provide safe access to the property and mitigate the potential flood risk. The applicant has stated that he replaced the bridge and retaining walls in the same location as the original structures. As the original retaining wall and bridge structures were erected prior

to the existence of zoning regulations and prior to the inception of the Regional District of Nanaimo, they are considered legal non-conforming and do not form part of this variance application.

During construction of the addition and renovation to the dwelling unit in May 2003, it came to the attention of the planning department that the dwelling was being built within the required zoning setback area adjacent to Nash Creek. The RDN Bylaw Enforcement Officer attended the site and following discussions with planning staff, it was determined that a variance application was required.

ALTERNATIVES

1. To approve Development Variance Permit No. 90406 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

The subject property is an oceanfront lot bordered by the Strait of Georgia to the east, Nash Creek to the west, and residential parcels to the north and south. Development of the subject property is restricted due to physical layout of the parcel and zoning setbacks to watercourses. Nash Creek has been channelised over the years and, in the case of this property, the retaining walls and bridge have been constructed directly adjacent to the creek for a significant time period. The applicants have not provided an engineer's or geotechnical report on the retaining walls. It is recommended that the applicant be required to obtain a geotechnical report for the property that addresses the existing flood protection measures and determines whether further works are required to ensure that the property is safe for the residential use. The property is not located within a building inspection area and therefore a building permit is not required for construction on the lot.

Due to the redirection of portions of Nash Creek and the introduction of significant levels of drainage waters upstream, there was a severe flooding event in the late 1990s, which caused Nash Creek to overrun its banks in places and resulted in some property damage to a lot in the vicinity of the subject property. However, the agent has stated that during historical flooding events, the existing retaining wall has prevented flooding from causing any damage to the subject property.

The applicant has constructed a fence directly above the retaining wall that appears to exceed the maximum permitted fence height of 2.0 metres above the natural grade. According to the applicant's surveyor, it is impossible to determine the exact elevation of the natural grade due to the historic development. The fence is 2.0 metres above the present existing grade. As it is likely that the fence may exceed 2.0 metres in height as measured from the original grade, and it is located within the required 8.0 metre front lot line setback, it will form part of the variance request to prevent any complications in the future.

In addition, the survey indicates the presence of 'detached bedrooms' adjacent to the dwelling unit. The current interpretation of the zoning bylaw with respect to habitable space is that the accommodation use is permitted within the dwelling unit only and not in an accessory building. The bedrooms are attached by a breezeway that is open on both ends. In this case, the applicant is permitted to have a maximum of 190 square metres of accessory building space. Because the detached bedrooms and additional accessory buildings do not exceed the maximum permitted accessory building floor area, the applicant is permitted to retain this use, provided there are no kitchen facilities in the detached area.

The applicant has met the required setbacks to the natural boundary of the ocean by siting the dwelling approximately 16.3 metres from the present natural boundary. It can be argued that the presence of two watercourses on either side of the property creates a site constraint for development, justifying the need for the variance to Nash Creek.

From staff's assessment of this application, the potential visual impact due to the setback variance request from the side lot line is reduced due to the existing vegetation along the lot lines and the configuration of adjacent lots. Each property has a clear ocean view to the east, which is not impacted by the existing small shed structure.

INTERGOVERNMENTAL IMPLICATIONS

Portions of the retaining wall are located on the adjacent highway right of way. The Ministry of Transportation usually requires a setback of 4.5 metres from the highway right of way for buildings and structures. However, in this case, the Ministry considers the concrete flare as part of the driveway and does not require an encroachment permit (*see Attachment No. 2*).

ENVIRONMENTAL IMPLICATIONS

The subject property was not located in an environmentally sensitive or natural hazardous area pursuant to the "Shaw Hill - Deep Bay Official Community Plan Bylaw No. 1007, 1996," at the time of submission and the Environmentally Sensitive Areas Atlas does not indicate the presence of Nash Creek. However, Nash Creek is a fish bearing stream known to contain salmonids. As mentioned above, Nash Creek is now designated within the Environmentally Sensitive Features Development Permit Area (DPA) for Watercourses pursuant to the 'Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003.' This DPA was established to increase environmental awareness and afford protection to fish bearing streams and their riparian areas. The DPA provides for a 15 metre buffer area adjacent to the watercourse. The riparian area of Nash Creek in this location is vegetated and appears to be well buffered by the retaining wall. Requiring replanting of the area above the retaining wall would not offer any additional protection to the watercourse on this site and therefore, staff recommend that the applicant be required to retain the vegetation west of the existing wall directly adjacent to the Creek.

As the construction is complete on the site, there are limited conditions that can be recommended to mitigate the potential impacts on the watercourse. In normal circumstances where an applicant applies for a variance in advance of construction sediment and erosion control measures are required during building to mitigate any potential negative effects. In addition, staff often recommends drainage mitigation measures to direct drainage waters away from creeks and other watercourses. It is difficult to address these issues where construction is complete and requiring changes to existing systems would only result in additional disturbance to the property. For this reason, staff is not recommending any additional conditions requiring the applicant to amend the existing development.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to legalize the construction of an existing dwelling unit, fence, and two accessory buildings located on the subject property. The application include requests to vary the minimum permitted setbacks from lot lines and a watercourse within the Residential 2 zone for placement of buildings and structures, as shown on Schedule No. 2.

This report recognizes that a bridge and retaining walls were installed prior to the inception of zoning regulations and that renovations were subsequently conducted without the required approvals from the Ministry of Water, Land and Air Protection. However, as the applicant states that the bridge and walls were replaced in the same location as the original works, they are considered legal non-conforming for the purpose of this application.

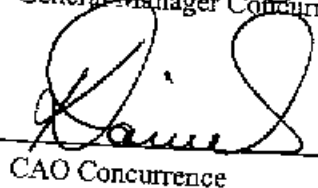
Due to the location of the ocean and Nash Creek and their required setbacks, the applicant was facing constraints in developing the lot for the permitted residential use pursuant to the zoning bylaw. From staff's assessment of the application, the variance requests are reasonable and do not appear to adversely impact the view corridor of adjacent oceanfront lots. Therefore, staff recommends this application be approved subject to the Conditions of Approval and notification requirements pursuant to the *Local Government Act*.

RECOMMENDATION

That Development Variance Permit Application No. 90406, submitted by Helen Sims of Fern Road Consulting Ltd. on behalf of W. Stephen Peake, to legalize the existing dwelling unit, over height fence and accessory buildings within the Residential 2 (RS2) zone by varying the minimum permitted setbacks from lot lines and from a watercourse (Nash Creek) for the property legally described as Lot A, District Lot 21, Newcastle District, Plan and Part Formerly the Bed of the Strait of Georgia, Nanaimo District, Plan VIP67028, be approved subject to Schedules No. 1, 2 and 3, and subject to the notification procedures pursuant to the *Local Government Act*.



Report Writer


General Manager Concurrence
CAO Concurrence

COMMENTS:

Schedule No. 1
Conditions of Approval
Development Variance Permit No. 90406

1. Development of Site

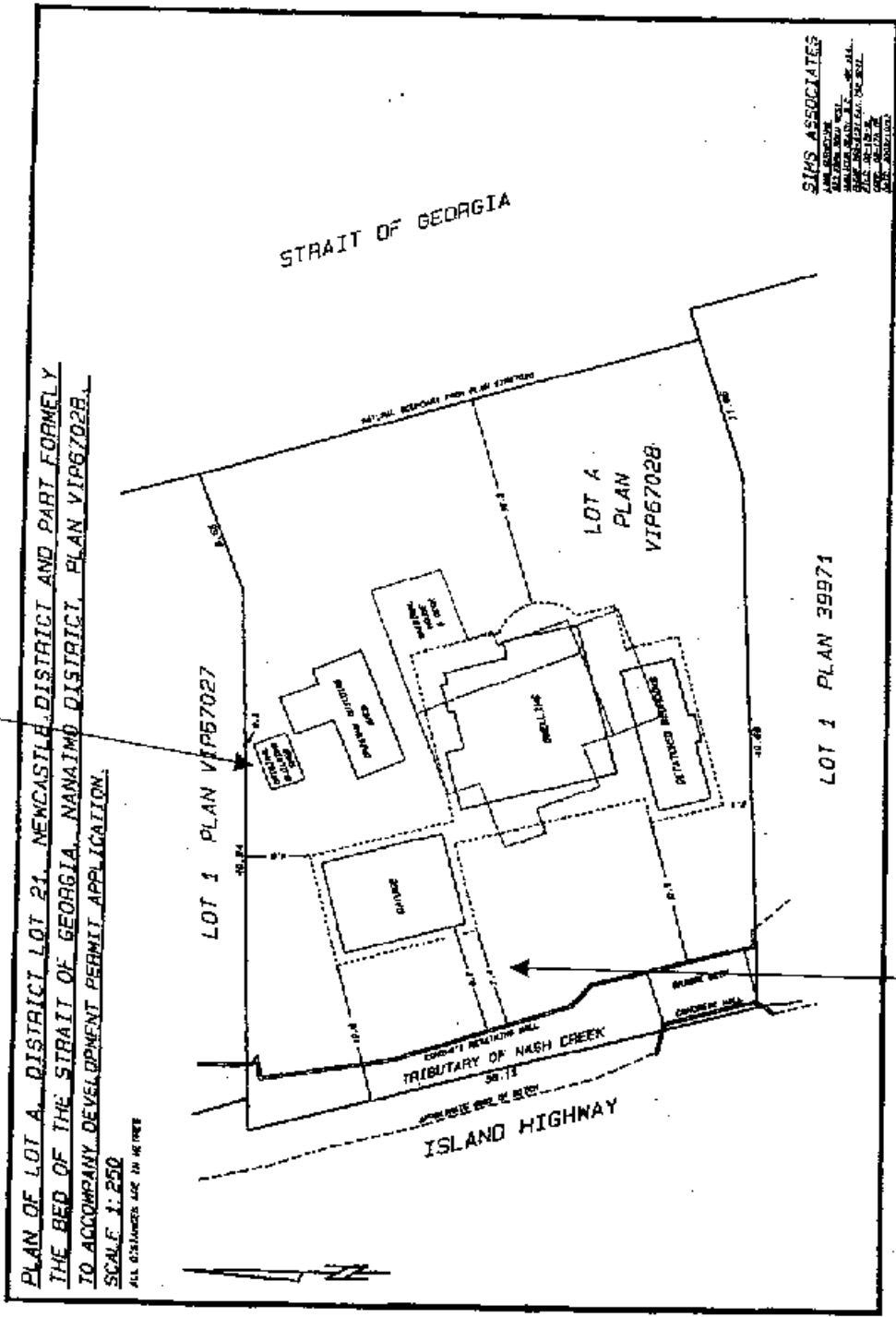
- a) Uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," except where varied by this Permit.
- b) There shall be no kitchen or cooking facilities located within the detached bedrooms.
- c) There shall be no additional alteration of land within 15 metres of the natural boundary of Nash Creek, or within 30 metres of the natural boundary of the ocean without the issuance of a Development Permit from the RDN.
- d) All development on the site must be in compliance with the *Heritage Conservation Act*.

2. Geotechnical Report

- a) As a condition of approval, the applicant shall obtain a Geotechnical Report prepared by a qualified engineer that addresses the existing flood protection measures on the lot and determines whether the property is safe for the residential use. This report will be required to be registered on the Certificate of Title as a Section 219 Covenant within 2 months of issuance of the Development Variance Permit.
- b) The applicant shall include a clause within the Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the flood risk associated with the existing construction and occupancy of the dwelling unit on the property.

Schedule No. 2
 Site Survey
 Development Variance Permit Application No. 90406

Proposed variance from the lot line from to 0.6 m



SIMS ASSOCIATES
 1000 BROADVIEW AVE.
 SUITE 100
 VANCOUVER, B.C. V6L 3K1
 TEL: 604-271-1111
 FAX: 604-271-1112
 WWW.SIMSASSOCIATES.COM

PLAN OF LOT A, DISTRICT LOT 21, NEWCASTLE DISTRICT AND PART FORMERLY THE BED OF THE STRAIT OF GEORGIA, NANAIMO DISTRICT, PLAN VIP67028, TO ACCOMPANY DEVELOPMENT PERMIT APPLICATION.
 SCALE 1:250
 ALL DIMENSIONS ARE IN METRES

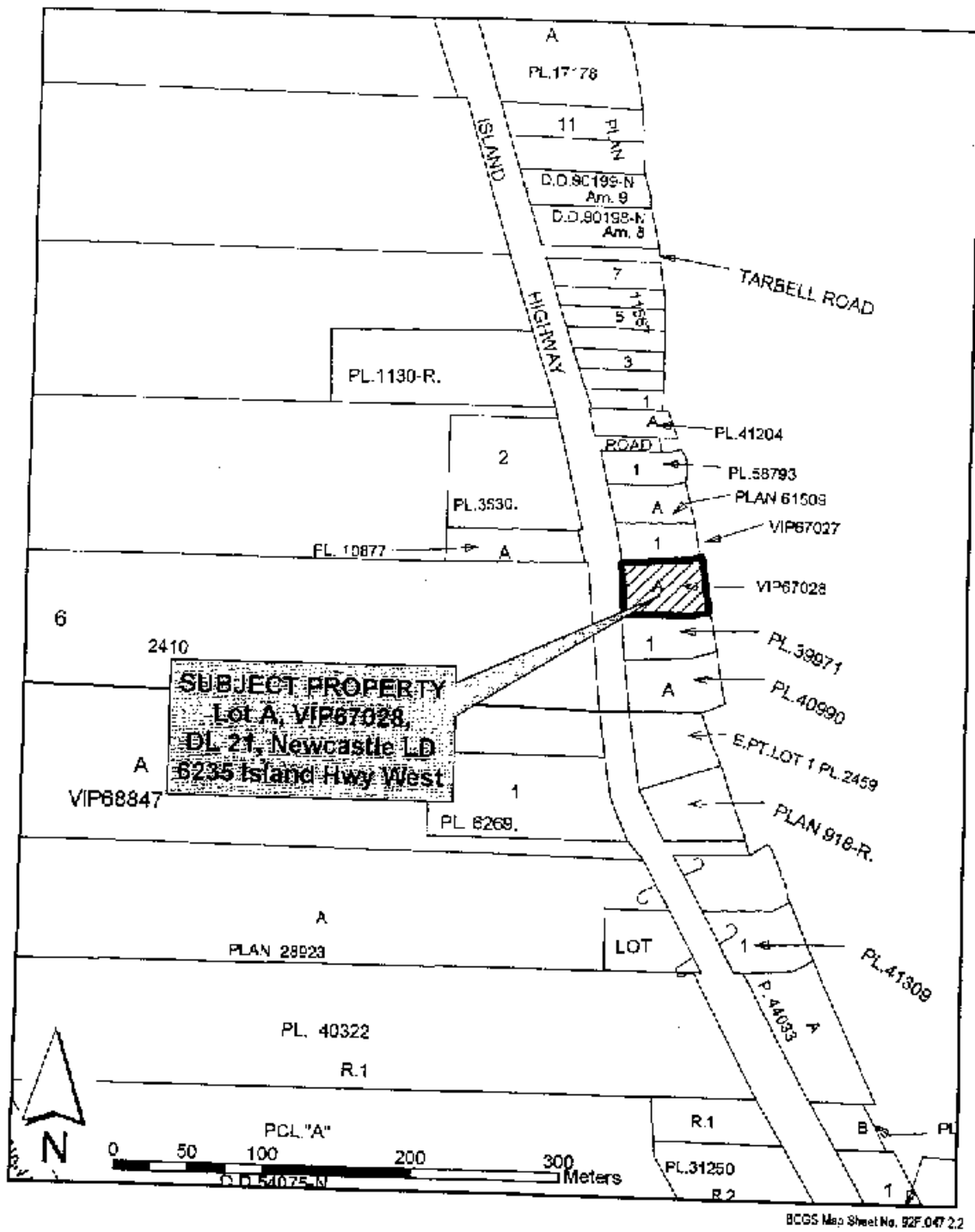
Proposed variance from a watercourse from 18 m from the centreline to 7.4m to legalize dwelling, garage and detached rooms

Schedule No. 3
Variances to Development Variance Permit No. 90406

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

1. Section 3.4.62 Minimum Setback Requirements Front Lot Line – proposed to be varied from 8.0 metres to 2.5 metres to legalize the existing over height fence.
2. Section 3.4.62 Minimum Setback Requirements Interior Side Lot Line – proposed to be varied from 2.0 metres to 0.6 metres to legalize the existing shed.
3. Section 3.3.8 Setbacks – Watercourses, excluding the sea – varied from 18.0 metres horizontal distance from the stream centerline of Nash Creek to 7.4 metres to legalize the existing detached garage and dwelling unit.

Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO			
MAY 17 2004			
CHAIR		GMCrs	
CAO		GMDS	
PLANS		GMES	
EAPC ✓			

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: May 14, 2004

FROM: Keeva Kehler
Planner

FILE: 3090 30 90409

SUBJECT: Development Variance Permit Application No. 90409 – C & J Ennals, on behalf of Mitchell
Electoral Area 'G' – 1478 Northwest Bay Road

PURPOSE

To consider an application for a Development Variance Permit to vary the minimum required setback in order to accommodate an existing manufactured home located in Nanoose Bay.

BACKGROUND

This is an application to vary the minimum required setback from a lot line in order to legalize the siting of an existing triple wide manufactured home on the property legally described as District Lot 132, Nanoose District (see Attachment No. 1). The subject property is located at 1460 Northwest Bay Road in Electoral Area 'G'.

The subject property is currently zoned Resource Management 1 Subdivision District 'B' (RM1B) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirement for buildings and structures that are not housing livestock or storing manure in this zone is 20.0 metres from all lot lines.

The property is a large resource parcel and is bordered to the north by Craig Bay Estates in the City of Parksville, to the west by parkland recently dedicated to the Nature's Trust, to the east by a large agricultural parcel and to the south by a large parcel zoned CD14.

The property is located within the Agricultural Land Reserve and has farm class under the Assessment Act. Although the manufactured home exceeds the maximum width of 9 metres as permitted by Part 2(3)(1)(b) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulations, the ALC has stated that it considers the dwelling to be legal as it is being occupied by the relatives (daughter and son-in-law) of the landowner and is being used as a dwelling for farm labour. Therefore, the applicants are not required to obtain specific approval from the ALC for the dwelling, which is the second dwelling on this parcel.

The part of Northwest Bay Road fronting the subject property is within the City of Parksville.

Proposed Variance

The applicant is requesting to vary Section 3.4.71 of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" by relaxing the minimum required setback for the west lot line from 20.0 metres to 16.3 metres to legalize the existing manufactured home as shown on *Schedule No. 2*.

ALTERNATIVES

1. To approve Development Variance Permit Application No. 90409 subject to the conditions outlined in Schedule No. '1'.
2. To deny Development Variance Permit Application No. 90409.

LAND USE AND DEVELOPMENT IMPLICATIONS

Craig Creek, which traverses the subject property, is not designated within a watercourse development permit area however, the zoning regulations establish setbacks from the Creek. The siting of the manufactured home meets the minimum setback requirements from the Creek.

Despite the fact that the applicant sited the manufactured home illegally within the required setbacks and without a valid building permit, staff feel that the potential impact of the requested setback variance is lessened due to the size of the subject property, the existing vegetation, the distance between dwelling units, and the topography of the subject property. In addition, the applicants sited the manufactured home based on the location of the septic field, which is just to the east of the manufactured home. From staff's assessment of the application, there are no apparent adverse impacts on adjacent properties resulting from the proposed variance.

The property contains an unsurveyed public road under the City of Parksville's jurisdiction that is not indicated on the survey plan submitted with the application. To the best of staff's knowledge, the shoulder of the public road is located approximately 22.86 metres from the dwelling unit. Therefore, the applicants are not requesting a variance to the boundary of the traveled road at this time.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby property owners located within a 50 metre radius will receive direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the permit. As part of this notification process, the City of Parksville will also be notified via direct mail.

INTERGOVERNMENTAL IMPLICATIONS

As mentioned above, the property contains an unsurveyed public road right of way, which is under the jurisdiction of the City of Parksville. City staff has indicated that an access permit will be required. This requirement is recommended as a condition of approval of the application.

VOTING

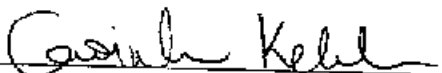
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

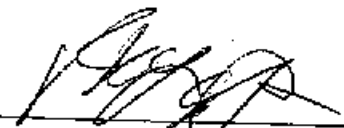
This is an application for a Development Variance Permit to vary the minimum required setback from the western lot line in order to legalize an existing manufactured home. The Provincial Agricultural Land Commission has no objection to the siting of this manufactured home. If approved, the applicant will be required to apply for a building permit from the Regional District and an access permit from the City of Parkville. Given that the ALC supports the siting of this manufactured home and the requested variance does not appear to impact the neighbouring properties, staff recommends this application be approved.

RECOMMENDATION

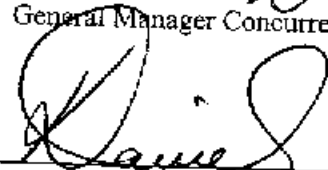
That Development Variance Permit Application No. 90409, submitted by Charles and Jill Ennals on behalf of Avis Mitchell, to legalize the siting of the existing dwelling within the Resource Management 1 (RM1) zone by varying the minimum setback requirement from 20.0 metres to 16.3 metres for the property legally described as District Lot 132, Nanoose Land District be approved as submitted subject to Schedules No. 1 and 2 and subject to the notification procedures pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



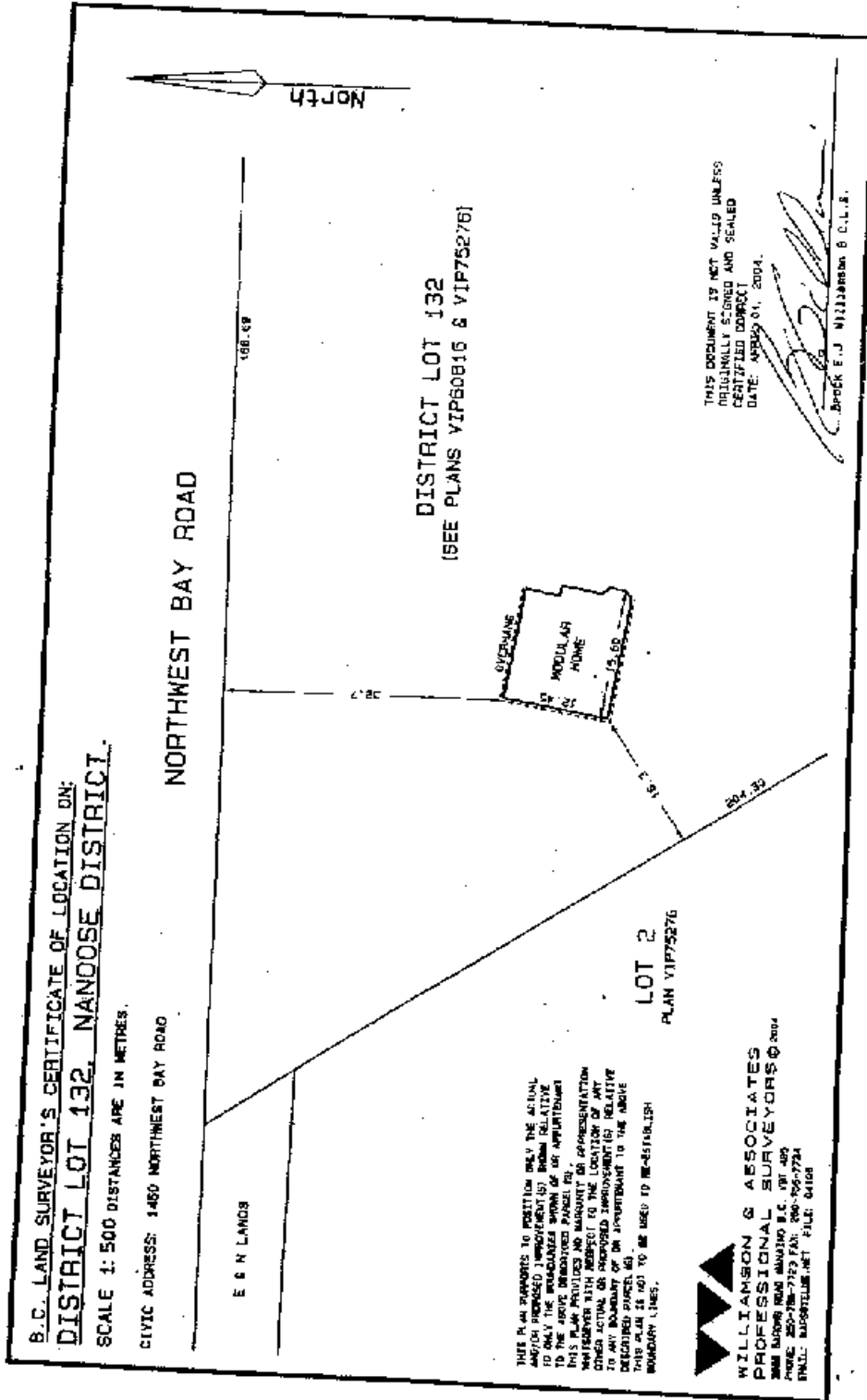
CAO Concurrence

COMMENTS:

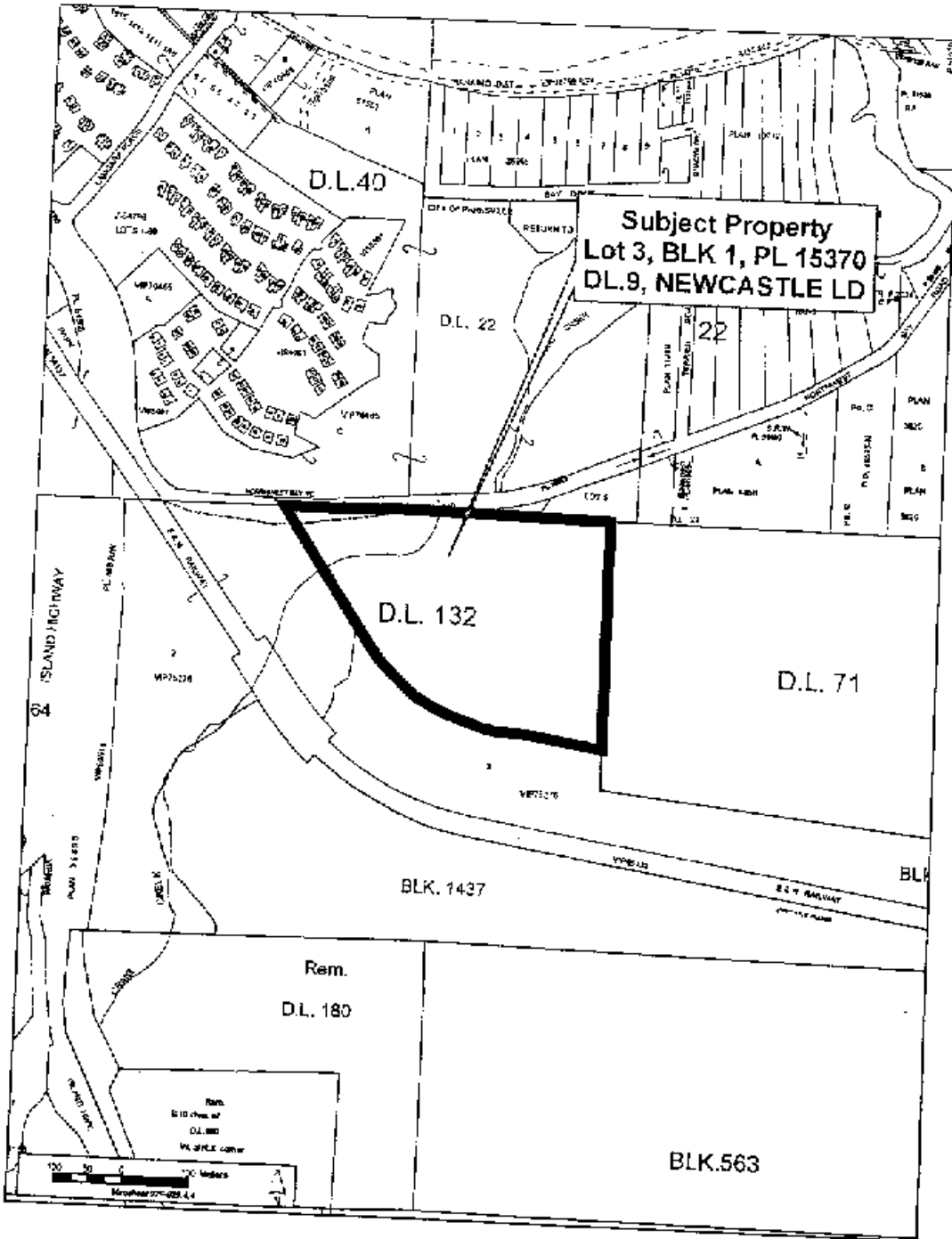
Schedule No. 1
Conditions of Approval
Development Variance Permit Application No. 90409

1. The location of the proposed dwelling unit shall be consistent with the site plan submitted by the applicant and shown on Schedule No. 2.
2. Applicant to obtain a building permit from the RDN Building Inspection Department.
3. Applicant to obtain an access permit from the City of Parksville prior to the issuance of a building permit.

Schedule No. 2
 Site Plan (Submitted by applicant)
 Development Variance Permit Application No. 90409



Attachment No. 1
Subject Property Map
Development Variance Permit Application No. 90409





REGIONAL DISTRICT OF NANAIMO	
MAY 18 2004	
CHAIR	GMCrs
CAO	GMDS
GMCms	GMES
EAPL	
DATE: May 17, 2004	
FILE: 3090 30 90410	

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

FROM: Blaine Russell
Planner

SUBJECT: Development Variance Permit Application No. 90410 — Skollberg
Electoral Area 'E' -3584 Outrigger Road- RDN Reference Map No. 92F.030.3.4.2.1

PURPOSE

To consider an application for a Development Variance Permit to facilitate the construction of a new accessory building with a proposed variance to the maximum permitted height and to legalize the siting of an existing accessory building by relaxing the front lot line setback requirements.

BACKGROUND

The subject property, legally described as: Lot 7, District Lot 78, Nanoose District, Plan 19688 at 3584 Outrigger Road in the Schooner Cove area of Electoral Area 'E' (see Attachment No. 1).

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

The applicant is requesting a relaxation to the maximum permitted height of Section 3.4.61 pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" from 6.0 metres in height from natural grade to 8.0 metres in height from present grade in order to accommodate the proposed construction and siting of an accessory building.

The applicant is also requesting a relaxation to the maximum permitted setback from the front lot line of Section 3.4.61 from 8.0 metres to 5.0 metres in order to legalize the siting of an existing accessory building.

The subject property is bordered by other residential zoned properties to the east, by Outrigger Road to the north, and by a commercial zoned property to the south and west.

The proposed general siting and dimensions of the existing and proposed accessory buildings are shown on Schedule 2.

The property is located within a building inspection service area; therefore building permits will be required.

The property is on community water and an individual septic disposal system.

ALTERNATIVES

1. To approve Development Variance Permit No. 90410 subject to the conditions outlined in Schedules No. 1, 2, and 3.
2. To deny the requested permit.

DEVELOPMENT IMPLICATIONS

The property contains a large rock outcropping. The existing dwelling unit is located on top of this outcropping. The proposed accessory building is to be located to the rear for the property behind the existing dwelling unit below the rock outcropping. Portions of the accessory building are being built on approximately 1.0 to 1.5 metres of fill. This fill is used to fill a crevasse in the rock level out the back yard. The height of the peak of the roof for proposed accessory building is estimated to be approximately at the base of the existing dwelling unit therefore it appears that there would be no impact on the view of the ocean from adjacent property owners. It should also be noted that the whole subject property is a bluff that is at least two stories above the commercial property to the rear.

The existing accessory building, located at the front of the subject property, 5.0 metres from Outrigger Road, is one story high and is sited at a lower elevation than the dwelling unit. The existing accessory building appears to have been built in the late 1970s, base on its architectural style and construction, and does not appear to block the view on surrounding properties.

While the application is for a significant variance to the maximum permitted height in the residential zone for an accessory building, there are siting constraints that support the rational of a two story accessory building. The subject property has site elevation changes that are caused by the rock outcropping and therefore there are limited locations in which to site an accessory building. The septic field also creates constraints to the siting of the accessory building, as it is located on a level area adjacent to the proposed accessory building. A two story accessory building will allow the property owner to overcome site constraints while still being able to build an accessory building with the desired floor area.

Based on the elevations on the property there does not appear to be any impact from the proposed construction or the existing accessory building to views on adjacent properties.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby property owners located within a 50 metre radius will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the permit.

VOTING

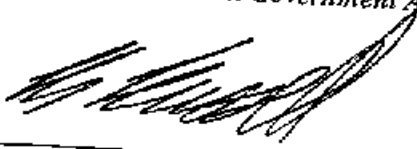
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

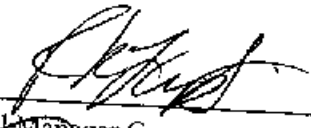
This is an application for a development variance permit to vary the maximum permitted height of an accessory building from 6.0 metres from the natural grade to 8.0 metres from present grade in order to accommodate the proposed construction of a new accessory building. This is also an application to vary the minimum setback requirements of the front lot line from 8.0 metres to 5.0 metres in order to legalize the siting of an existing accessory building. Both structures are located at 3584 Outrigger Road in Nanoose Bay. The proposed height variance and setback relaxation do not appear to impact views or have other impacts on neighbouring property owners. Therefore, staff recommends approval of the request subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATIONS

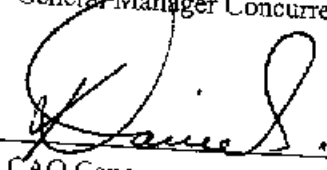
That Development Variance Permit Application No. 90410, submitted by the property owners Jan-Wilhelm Skollsberg and Anne-Christine Skollsberg for the property legally described as Lot 7, District Lot 78, Nanoose District, Plan 19688 to relax the maximum permitted height to allow for the architectural style and construction of the proposed accessory building and to relax the front lot line setback requirements of an existing accessory building in order to legalize its siting 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



General Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Variance Permit No. 90410**

Siting

1. The new accessory building shall be generally sited as shown on Schedule No. 2 and shall generally appear as shown on Schedule No. 3;

Maximum Height

2. The new accessory building shall not exceed 8.0 metres in height from the present grade as indicated on Schedule No. 2;

Survey

3. A survey by a British Columbia Land Surveyor (BCLS), that is prepared to the satisfaction of the Regional District of Nanaimo, shall be required upon completion of the accessory to confirm its siting and height if deemed necessary by the Chief Building Inspector. An official copy of this survey must be provided to the Regional District of Nanaimo. This survey should include indication of the outermost part of the building such as the overhang, gutters etc;

Geotechnical

4. A Geotechnical report prepared by a Geotechnical Engineer to the satisfaction of the Regional District of Nanaimo shall be required if deemed necessary by the Chief Building Inspector.

Schedule No. 2
 Site Plan
 Development Variance Permit No. 90410

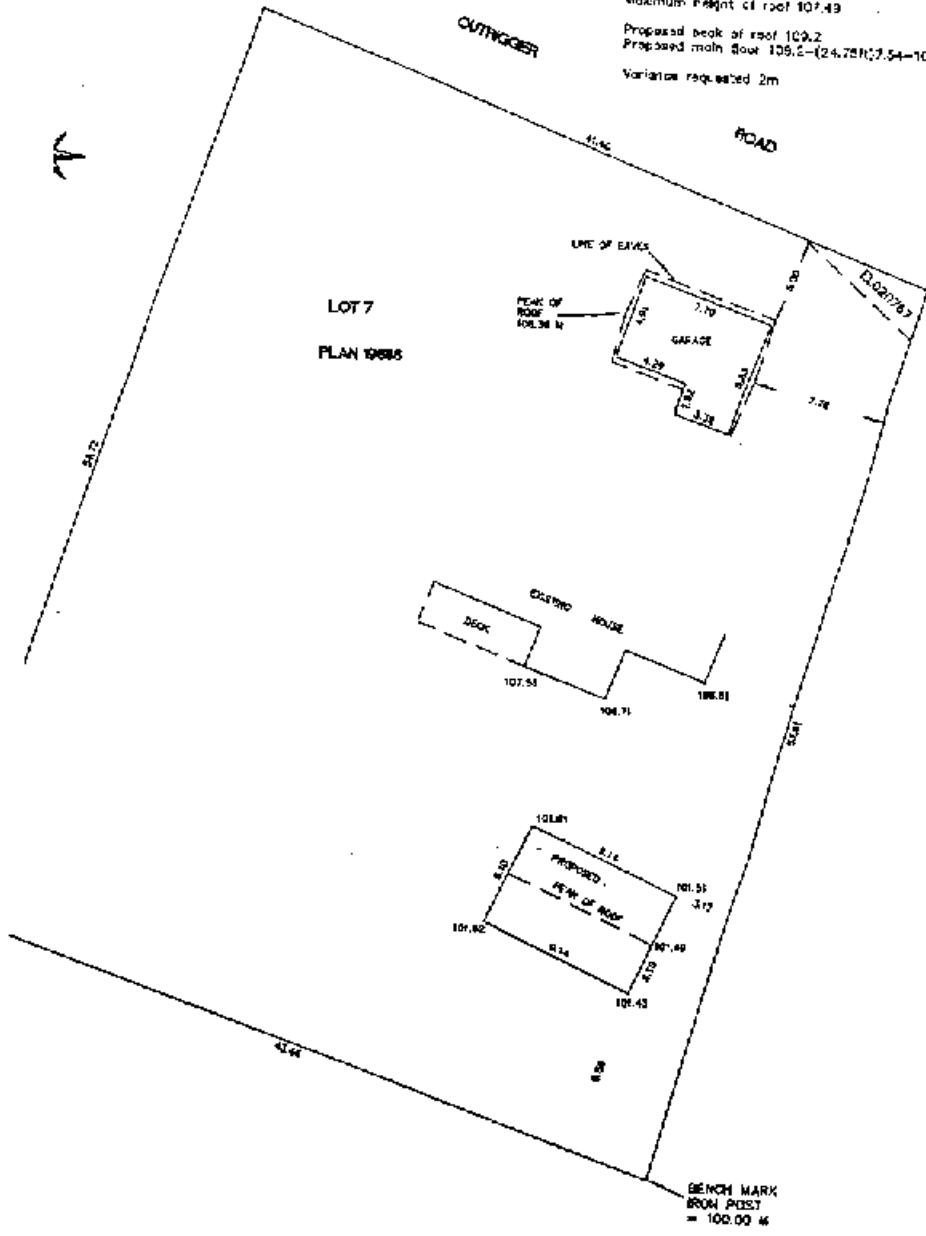
(As Submitted by Applicant / Modified to Fit This Page)

3584 Outrigger Road
 I correct this 12th day of May, 2004.

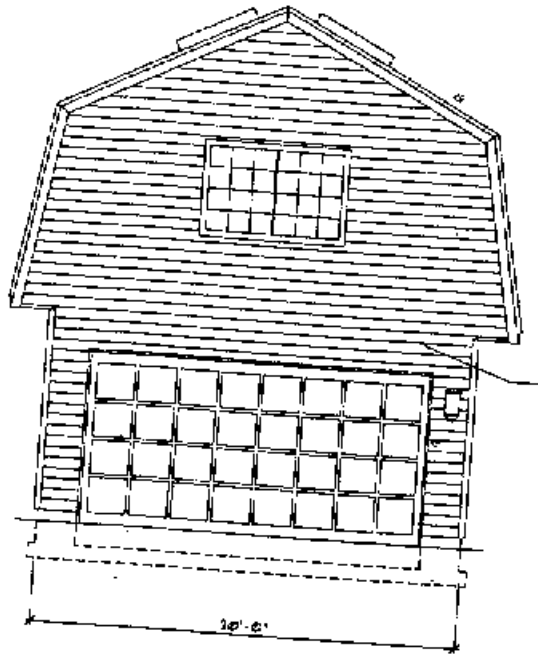
E.C.L.S.
 © Copyright 2004 J.E. Anderson & Associates
 This document is not valid unless originally
 signed and sealed.

±25C
 1/8"=1'-0"
 1/4"=1'-0"
 All changes shown on title ES102350
 X3-978-072)

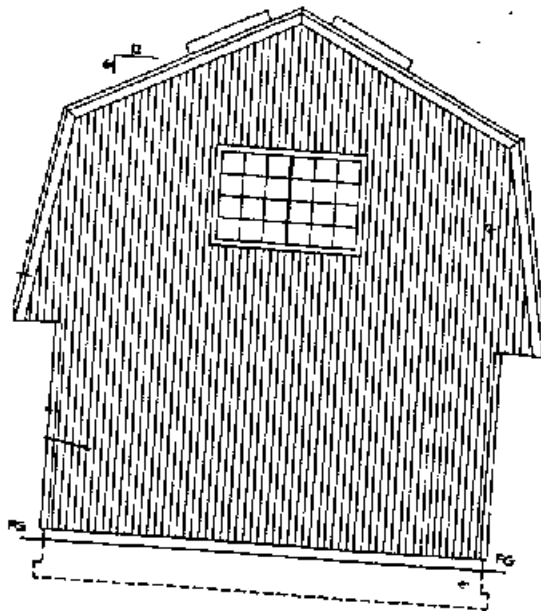
Elevations are assumed based
 on bench mark shown
 Height calculation
 $101.49 + 5 = 107.49$
 Maximum height of roof 107.49
 Proposed peak of roof 109.2
 Proposed main floor 109.2 - (24.75)(0.54) = 101.66
 Variance requested 2m



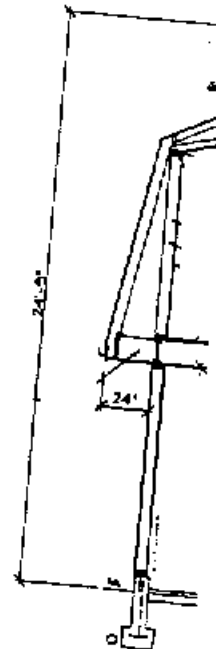
Schedule No. 3 (part 1 of 2)
Profile Plan
Development Variance Permit No. 90410
(As Submitted by Applicant / Modified to Fit This Page)



FRONT
ELEVATION

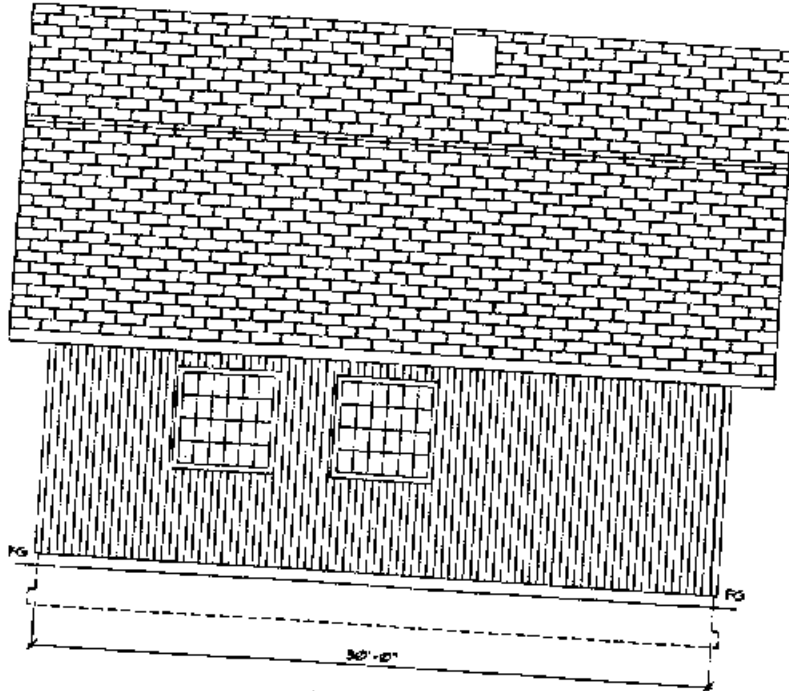


REAR
ELEVATION

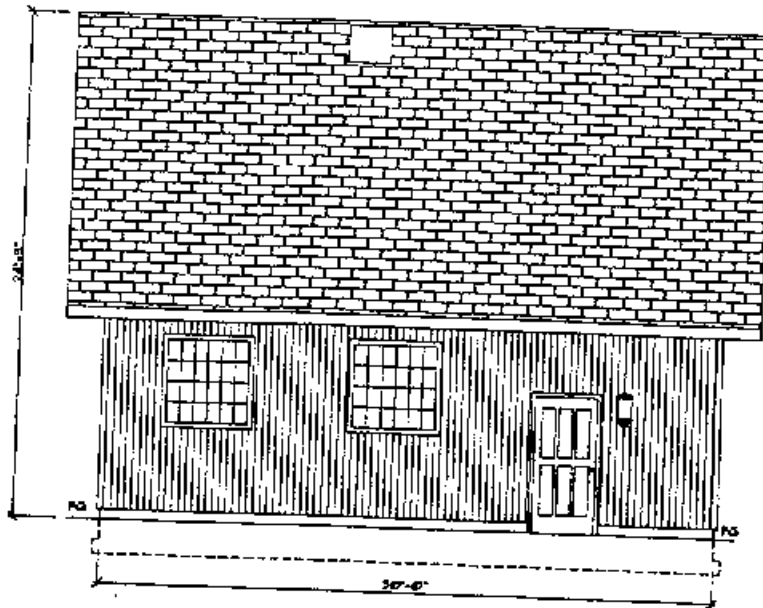


Schedule No. 3 (Part 2 of 2)
Profile Plan
Development Variance Permit No. 90410

(As Submitted by Applicant / Modified to Fit This Page)



LEFT SIDE
ELEVATION
(B)



RIGHT SIDE
ELEVATION
(D)

**Schedule No. 4
Requested Variances
Development Variance Permit No. 90410**

Development Variance Permit No. 90410 is proposed to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

1. By relaxing **Section 3.4.61 - Maximum Number and Size of Building and Structures - Height** - the maximum height requirement for the new accessory building from 6.0 metres from the natural grade to 8.0 metres from the present grade in order to allow for its construction and siting.
2. By relaxing **Section 3.4.61 - Minimum Setback Requirements** - the minimum setback requirements for the front lot line from 8.0 metres to 5.0 in order to accommodate the siting of the existing accessory building.



REGIONAL DISTRICT OF NANAIMO			
MAY 18 2004			
CHAIR		GMCS	
CAO		GMDS	
GMCS		GMES	
EAPC ✓			
DATE:			May 17, 2004
FILE:			3090 30 90411

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

FROM: Brigid Reynolds
Senior Planner

SUBJECT: Development Variance Permit Application No. 90411 - Walsh/Collins
Electoral Area 'E' - 1524 Haida Way

PURPOSE

To consider an application for a development variance permit to vary the minimum setback requirement for the front lot line to permit the addition of an attached garage and office and to vary the minimum setback requirement to legalize the siting of the dwelling unit.

BACKGROUND

The subject property, legally described as Lot 30, District Lot 52, Nanoose District, Plan 15921, is located in the Nuttal Bay area of Electoral Area 'E' (see Attachment No. 1 for location).

The property is zoned Residential 1 (RS1) pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The minimum setback requirements for buildings and structures from the front lot line is 8 metres and the minimum setback requirement from the side yard setback is 2 metres. The applicant has requested to vary the setback from 8 metres to 0.9 metres to permit the construction of an attached garage and office (See Schedule No. 2). In addition, as part of this application the applicant is requesting that the siting of the dwelling unit be legalized by varying the side yard setback from 2 metres to 1.7 metres.

The parcel contains several site constraints. The lot is long and narrow and the existing dwelling unit runs the width of the lot, therefore there is no vehicle access to the backyard. The addition is proposed to accommodate an attached garage therefore access from the front lot line is necessary. In addition, the septic field is located in the backyard thereby prohibiting any additions to the rear of the dwelling unit.

The dwelling unit was built under previous Zoning Bylaws and the side yard setback for Residential 1 zoned properties was 5 ft (1.5 m) therefore the existing side yard setback is non-conforming. As a result, the applicant would like to legalize the siting of the dwelling unit to meet today's standard.

As the requested variance to the front lot line is less than 4.5 metres and is therefore within Ministry of Transportation (MOT) setbacks, permission is required from MOT. This has been received. There is landscaping and a gate on the road right of way, however MOT does not wish to legalize these works or request their removal at this time.

The property is located adjacent to the marine foreshore and surrounding land uses consist of single family dwelling units.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested variance would permit a 61 m² addition located a minimum of 0.9 metres from the front lot line. The addition is proposed to house a garage 38 m² and a small office 15 m². The existing car port is proposed to be enclosed to accommodate another bedroom. The dwelling unit is a single storey and is 102 m² in floor area and is therefore not a large house.

There is mature hedging and vegetation surrounding the subject property and the addition will be behind the existing landscaping. In addition, the proposed development will be sited approximately 7.5 from the edge of the pavement. As the addition is only one storey, there are mature shrubs, and the edge of pavement is over 7 metres, views from adjacent properties should not be impacted.

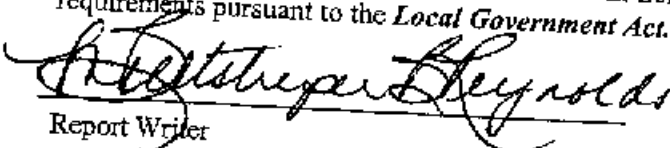
Ministry of Transportation has granted permission for the variance to the front lot line for the proposed addition. However, they will not recognize the landscaping and gate that is also located on the road right of way. In the future, should Haida Way be widened, these works may have to be removed.


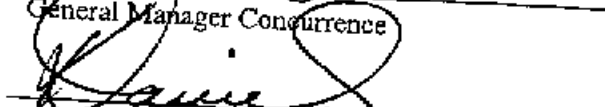
SUMMARY/CONCLUSIONS

This is an application to vary the minimum setback requirements of the Residential 1 (RS1) zone to permit the construction of a proposed addition and to vary the minimum setback to legalize an existing dwelling unit. The RS1 zone requires buildings and structures to be located a minimum of 8.0 metres from the front lot line and 2.0 metres from the side yard lot line. The proposed addition on the subject property is to be located 0.9 metres from the front lot line and the existing dwelling unit is sited 1.7 metres from the side yard. As the dwelling unit was constructed before Bylaw No. 500 and has non-conforming siting, and as permission has been granted from MOT, the edge of pavement is approximately 7.5 metres from the property line, and there is mature landscaping buffering adjacent properties, staff recommend approval of the proposed variances.

RECOMMENDATION

That Development Variance Permit Application No. 90411 to vary the minimum setback from the front lot line from 8.0 metres to 0.9 metres to permit the construction of an addition, and to vary the minimum setback from the side lot line from 2.0 metres to 1.7 metres to legalize the siting of an existing dwelling unit, on the property legally described as Lot 30, District Lot 52, Nanoose District, Plan 15921 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*.


Report Writer


General Manager Concurrence

CAO Concurrence

COMMENTS:

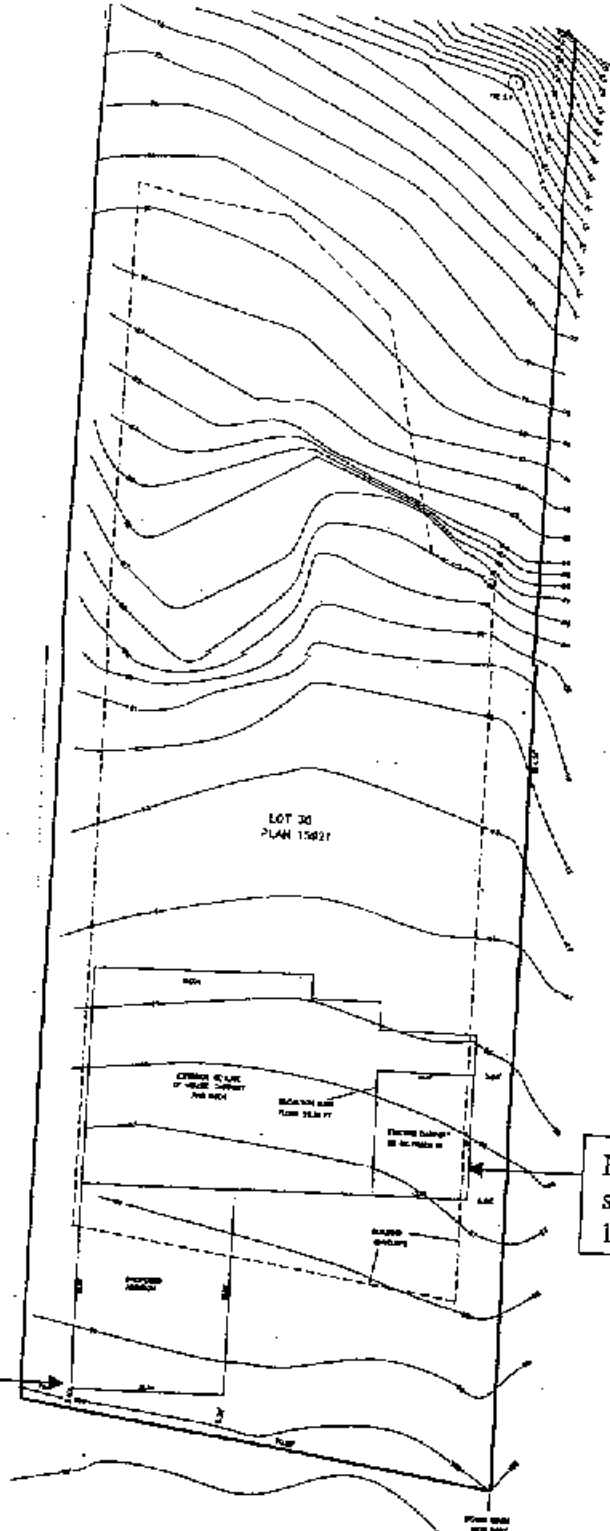
devvs/reports/2004/dvp ma 3090 30 90411 Walsh Collins

Schedule No. 1
Conditions of Approval
Development Variance Permit No. 90411

Site Development

1. All construction of buildings and structures to be undertaken, must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.
2. Applicant to obtain building permit prior to commencing construction.
3. No further development or structures to be located within the road right of way (please note that this permit does not constitute approval of the existing landscaping and gate structure within the road right of way).
4. Development to be in substantial compliance with Schedule Nos. 2, 3, and 4.
5. The concrete wall showing on Schedule No. 2 shall not be more than 1 metre in height and shall not be located within the road right of way.

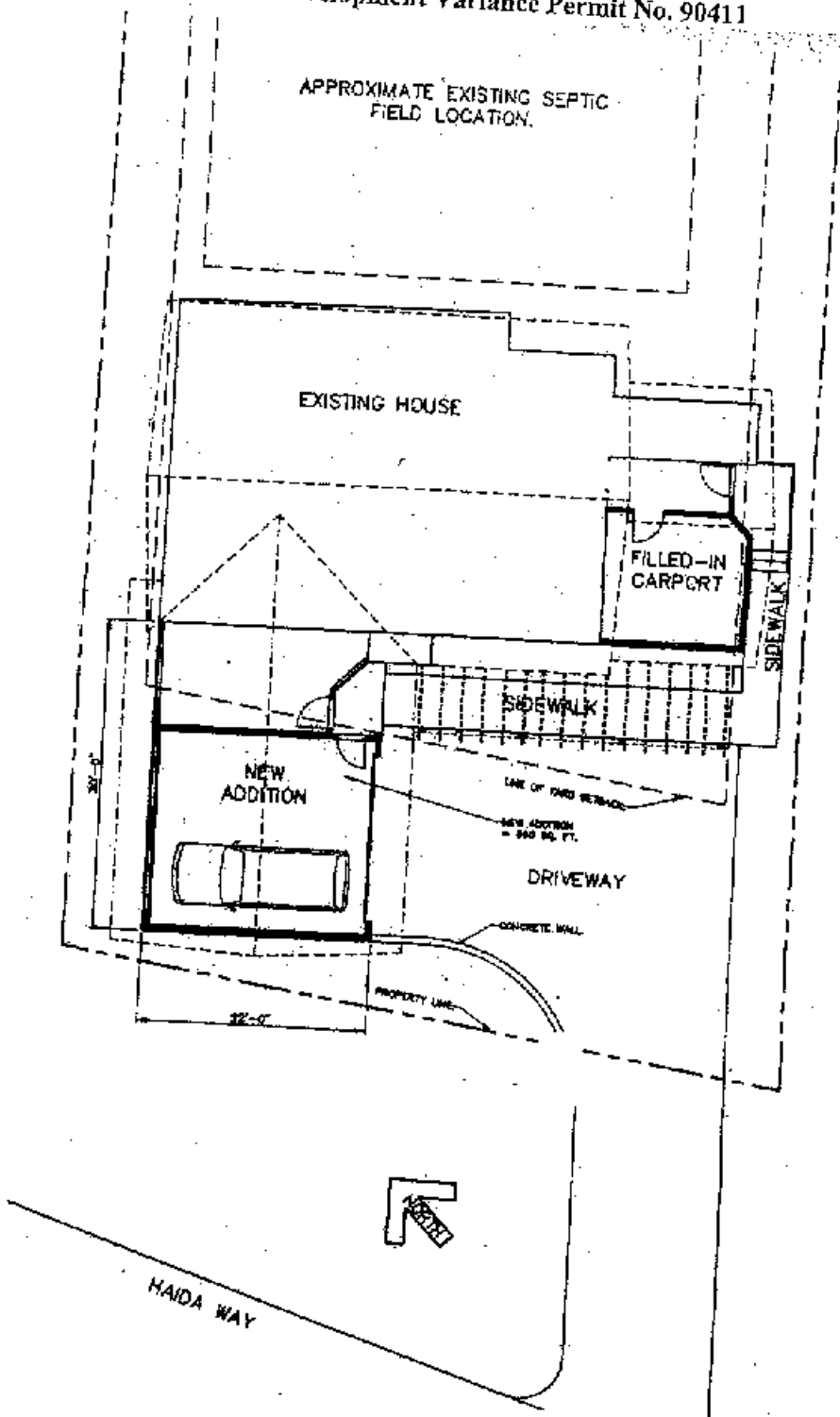
Schedule No. 2
Site Plan (1 of 2)
Development Variance Permit No. 90411



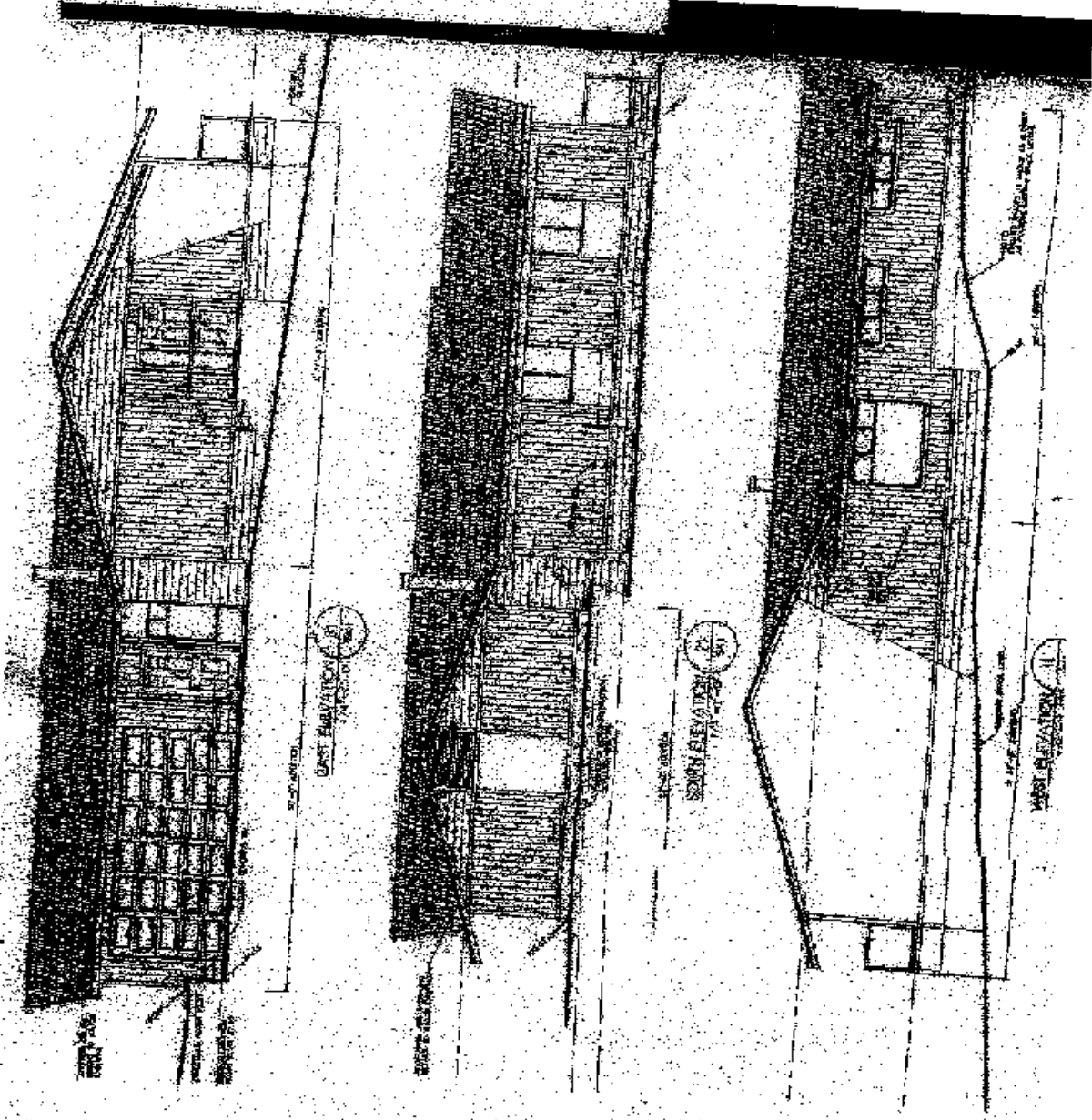
Relax front setback
from 8.0 to 0.9
metres

Relax side yard
setback from 2.0 to
1.7 metres

Schedule No. 2
Site Plan (2 of 2)
Development Variance Permit No. 90411



Schedule No. 3
Building Layout
Development Variance Permit No. 90411



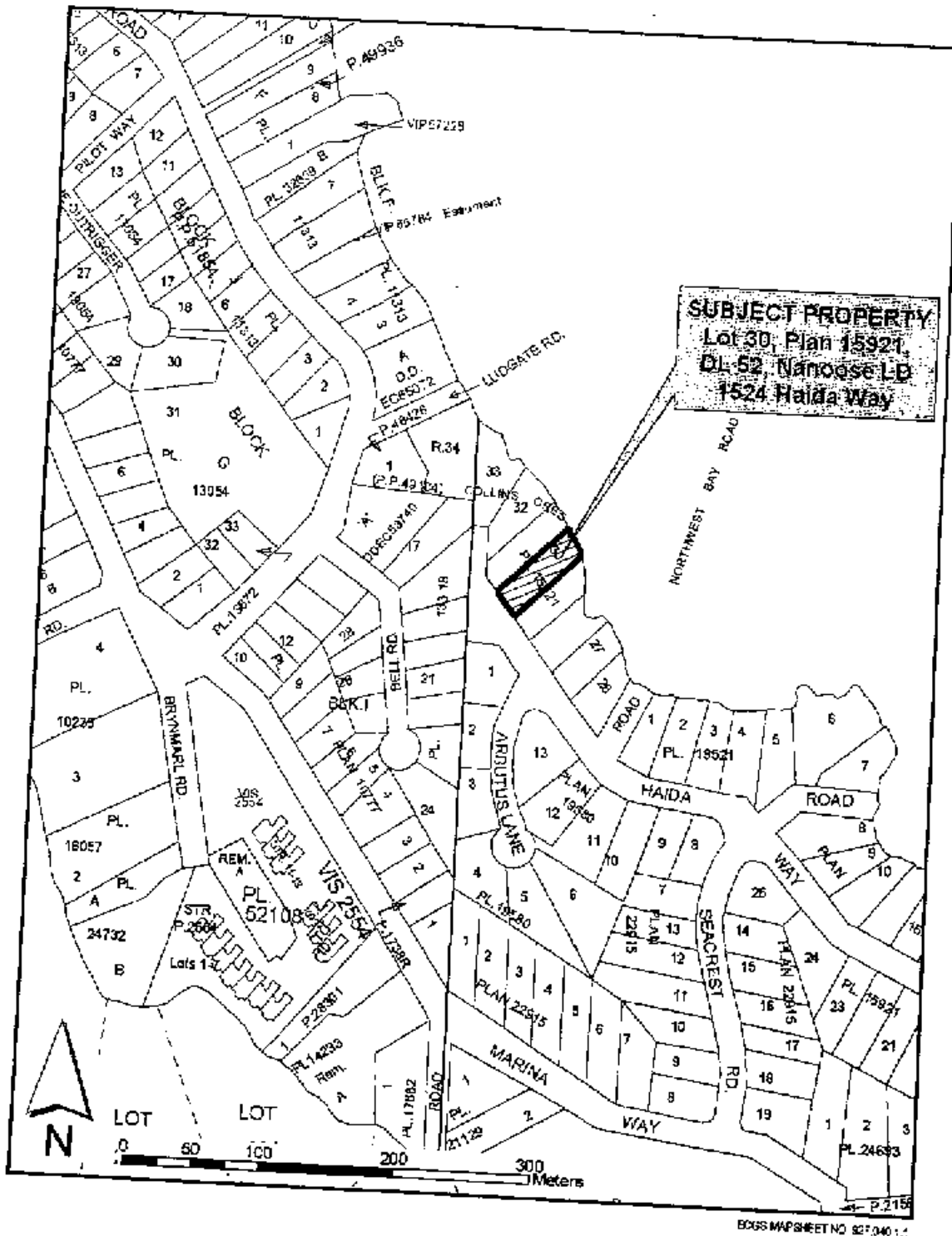
Schedule No. 4
Requested Variances
Development Variance Permit No. 90411

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

Section 3.4.61 Minimum Setback Requirements –

1. varied from 8.0 metres from the front lot line to a minimum of 0.9 metres to permit an the construction of an addition;
2. varied from 2.0 metres from the interior side lot line to a minimum of 1.7 metres to legalize the siting of an existing dwelling unit.

Attachment No. 1
Property Location





REGIONAL DISTRICT OF NANAIMO			
MAY 17 2004			
CHAIR		GMCS	
CAO		GMDS	
CMCS		GMES	
		EAPC ✓	
		DATE:	May 14, 2004
		FILE:	3320 20 25658

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

FROM: Susan Cormie
Senior Planner

SUBJECT: Request for Relaxation of the Minimum 10% Frontage Requirement
Applicant: Koers & Associates, on behalf of 3170497 Canada Inc.; commonly known as Fairwinds Development
Electoral Area 'E' - Bonnington Drive, Fairwinds (Phase 9B)

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement as part of a proposed 42-lot subdivision proposal.

BACKGROUND

The applicant's agent, Koers & Associates has requested that the minimum 10% perimeter frontage requirement be relaxed for 5 proposed parcels as part of a 42-lot subdivision proposal for the Phase 9B development of the property legally described as The Remainder of District Lot 78, Nanoose District and located at the end of Bonnington Drive within the Fairwinds area of Electoral Area 'E' (see Attachment No. 1 for location of subject property).

The subject property is currently zoned Residential 1 (RS1) and is within Subdivision District 'N' (minimum 1000 m² with community water and community sewer) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing to subdivide this portion of the parent parcel into 42 lots with community water and sewer services, all of which are greater than 1000 m² in size, therefore meeting the minimum parcel size requirements of Bylaw No. 500 (see Attachment No. 2 for proposed subdivision).

Proposed Minimum 10% Frontage Relaxation Request

Proposed Lots 7, 9, 10, 11, and 12, as shown on the plan of subdivision submitted by the applicant, do not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontages on these proposed parcels are as follows:

Proposed Lot No.	Required Frontage	Proposed Frontage	% of Perimeter
7	30.4 m	6.0 m	1.9 %
9	15.8 m	18.5 m	8.5%
10	8.1 m	21.7 m	3.7 %
11	12.8 m	21.3 m	6.0 %
12	12.5 m	14.9 m	8.4 %

Therefore, as these proposed parcels do not meet the minimum 10% parcel frontage requirement, approval of the Regional Board of Directors is required.

ALTERNATIVES

1. To approve the request for relaxation of the minimum 10% frontage requirement for proposed Lots 7, 9, 10, 11, and 12.
2. To deny the request for relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

Despite the reduced frontages, due to the larger sizes of the proposed parcels, buildable site areas will be available to support the intended residential uses.

With respect to park land, the applicant is requesting that the required 0.530 ha dedication or cash in-lieu-of park land be considered from the existing Fairwinds park land surplus, which is approximately 2.0 ha. Further to this, the applicant has indicated that they will be applying to rezone proposed Lot 14 to a multi-family residential density and at that time, the dedication of park land may be considered including the extension of the walkway from Carmichael Road to Bonnington Drive. It is noted that the Fairwinds development still requires approximately an additional 16 ha of park land to meet the minimum 5% park land requirement.

The applicant is proposing two 3.0-metre wide utility corridors that may also serve as public walkways between neighbourhoods. As previously agreed by the applicant, these corridors are not included with the overall park land calculations.

Ministry of Transportation staff has verbally indicated the Ministry has no issues with the proposed minimum frontage relaxations.

Environmentally Sensitive Areas Atlas

The Regional District of Nanaimo Environmentally Sensitive Areas Atlas indicates that there are no environmentally sensitive areas within the area of this subdivision proposal.

SUMMARY

This is a request to relax the 10% minimum frontage provision for 5 parcels pursuant to section 944 of the *Local Government Act* as part of a 42-lot subdivision proposal. The proposed parcels that require a relaxation of the minimum 10% frontage requirement will be capable of supporting the intended residential uses permitted in the zoning provisions. The applicant is requesting that the provision of park land be calculated from the existing park land surplus; and, that park land dedication be requested to be considered at the time of the future zoning amendment application of proposed Lot 14.

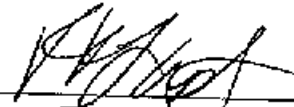
Therefore, as the proposed parcels will be capable of supporting the allowable residential use, staff recommends Alternative No. 1 to approve the relaxation of the minimum 10% frontage for proposed Lots 7, 9, 10, 11, and 12.

RECOMMENDATION

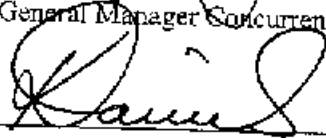
That the request from Koers & Associates, on behalf of 3170497 Canada Inc., commonly known as Fairwinds Development, to relax the minimum 10% perimeter frontage requirement for Proposed Lots 7, 9, 10, 11, and 12 as shown on the Plan of Proposed Subdivision of Phase 9B be approved.



Report Writer



General Manager Concurrence



CAO Concurrence

COMMENTS:

Devars/reports 2003/flga ma 3320 30 25658 fairwinds phase 9b.doc

ATTACHMENT NO. 1
Location of Subject Property

