

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, SEPTEMBER 14, 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, July 27, 2004.

BUSINESS ARISING FROM THE MINUTES

COMMUNICATIONS/CORRESPONDENCE

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 7-12 DP Application No. 60437 - Lajeunesse - 1539 Gordon Road - Area A.
- 13-25 DP Application No. 60440 - Keith Brown & Associates on behalf of 646268 BC Ltd. (Country Kitchen) - 1922 Schoolhouse Road - Area A.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 26-34 DVP Application No. 90413 - Skollsberg - 3584 Outrigger Road - Area E.
- 35-41 DVP Application No. 90414 - Kawerau & Butler - 1405 Reef Road - Area E.
- 42-48 DVP Application No. 90415 & Request for Relaxation of the Minimum 10% Frontage Requirement - Fern Road Consulting Ltd. On behalf of V & M Fritzsche - 1410, 1420 & 1424 Hodge's Road - Area G.

OTHER

- 49-74 Consideration of Park Land Dedication - Lost Lake Properties Ltd. on behalf of McKin Estates - off Sumar Lane - Area G.

- 75-81 Temporary Use Permit No. 0401 - James & Ellen Rothwell -- 241 Hilliers Road North -- Area G.
- 82-87 Request for Relaxation of the Minimum 10% Frontage Requirement – Dave Scott on behalf of 3170497 Canada Inc., commonly known as Fairwinds Development – Carmichael Road – Area E.
- 88-93 Electoral Area 'F' -- Delegation of Authority for Non-Farm Uses.

DIRECTOR'S AGENDA ITEM:

From Director Bartram:

That the Regional District of Nanaimo request that the Ministry of Transportation work with staff of the RDN to investigate both long and short term solutions to resolve the traffic flow problems on Corcan Road as part of their 2005-2006 work program.

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, JULY 27, 2004, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director D. Haime	Chairperson
Director H. Kreiberg	Electoral Area A
Alternate	
Director M. Young	Electoral Area C
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. Torn	Recording Secretary

CALL TO ORDER

The Chairperson welcomed Alternate Director Young to the meeting.

LATE DELEGATIONS

MOVED Director Biggemann, SECONDED Director Stanhope, that a late delegation be permitted to address the Committee.

CARRIED

Hans Heringa, re Request for Cash in-lieu-of Park Land Dedication – Lost Lake Properties Ltd., on behalf of McKin Estates – off Sumar Lane – Area G.

Mr. N. Evans, legal representative for Hans Heringa, provided historical information with respect to his client's request for cash-in-lieu of parkland dedication.

MOVED Director Stanhope, SECONDED Director Bartram, that the delegation be received.

CARRIED

MINUTES

MOVED Director Bartram, SECONDED Director Bibby, that the minutes of the Electoral Area Planning Committee meeting held June 22, 2004 be adopted.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Submissions to the North Cedar Improvement District Public Information Meeting held June 17, 2004 re Zoning Amendment Application No. ZA0407 – North Cedar Improvement District – Yellow Point Road – Area A.

MOVED Director Kreiberg, SECONDED Director Stanhope, that the submissions to the North Cedar Improvement District Public Information Meeting with respect to Zoning Amendment Application No. ZA0407 be received.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. 0407 – North Cedar Improvement District – Yellowpoint Road – Area A.

MOVED Director Kreiberg, SECONDED Director Bibby,:

1. That the minutes from the Public Information Meeting held on June 18, 2004 be received.
2. That Zoning Amendment Application No. ZA0407 submitted by North Cedar Improvement District to rezone the property legally described as Lot A, Section 12, Range 2, Cedar District, Plan VIP71957 from Residential 2 Subdivision District M (RS2M) to Comprehensive Development 17 Subdivision District Z (CD17Z) in order to facilitate the development of the North Cedar Improvement District fire hall and administration offices be approved to proceed to public hearing.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004" proceed to public hearing.
5. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004" be delegated to Director Kreiberg or his alternate.

CARRIED

Zoning Amendment Application Nos. ZA0402 to ZA0406 – Fern Road Consulting – Spider Lake Road & Horne Lake Road – Area H.

MOVED Director Bartram, SECONDED Director Biggemann,:

1. That the minutes of the Public Information Meeting held on July 14, 2004 be received.
2. That Zoning Amendment Application Nos. ZA0402, ZA0403, ZA0404, ZA0405 and ZA0406 submitted by Fern Road Consulting to rezone 5 properties located in the Spider Lake area from Rural 1 (B) 8ha minimum parcel size to Rural 1 (D) 2ha minimum parcel size be approved to proceed to public hearing subject to the amended conditions included in Schedule No. 1 as recommended by staff.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw Nos. 500.302, 500.303, 500.304, 500.305 and 500.306, 2004" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw Nos. 500.302, 500.303, 500.304, 500.305 and 500.306, 2004" proceed to public hearing.
5. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw Nos. 500.302, 500.303, 500.304, 500.305 and 500.306, 2004" be delegated to Director Bartram or his alternate.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60434 – Vukicevic – 4823 Ocean Trail – Area H.

MOVED Director Bartram, SECONDED Director Stanhope,;

1. That Development Permit Application No. 60434, submitted by the applicants Daniel and Karen Vukicevic to permit the construction of an addition to an existing dwelling unit within the Hazard Lands Development Permit Area on the subject property legally described as Lot 62, District Lot 82, Newcastle District, Plan 31044, located at 4823 Ocean Trail be approved, subject to the Conditions of Approval outlined in Schedules No. 1, 2 and 3.
2. That action not be taken against the existing accessory building on the property legally described as Lot 61, District Lot 82, Newcastle District, Plan 31044 subject to the Condition of Approval outlined in Schedules No. 1, 2 and 3 of this permit.

CARRIED

Development Permit Application No. 60435 – Windsor Enterprises Inc. (DBA: Millway Market) – Anderson Greenplan – 1594 & 1596 MacMillan Road – Area A.

MOVED Director Kreiberg, SECONDED Director Bibby, that Development Permit Application No. 60435 submitted by Jack Anderson of Anderson Greenplan Ltd., on behalf of Windsor Enterprises Inc. (DBA: Millway Market) with variances for the properties legally described as Lot A, Section 17, Range 1, Cedar District, Plan 46766 and Lot 3, Section 17, Range 1, Cedar District, Plan 11369, be approved subject to Schedules No. 1, 2 and 3 of the staff report and the notification requirements pursuant to the *Local Government Act*.

CARRIED

Development Permit Application No. 60436 – B & W Land Corporation – St. Andrew's Lane (Phase 11) – Robertson Boulevard – Area G.

MOVED Director Stanhope, SECONDED Director Bartram, that Development Permit Application No. 60436, submitted by Adam Poliezer on behalf of B & W Land Corp (St. Andrew's Lane) to construct a fourplex dwelling unit within the French Creek Harbour Development Permit Area (DPA No. 2) on the subject property legally described as Lot C, District Lots 29 and 126, Nanoose District, Plan 49145 Except Part in Plan VIP56481, be approved, subject to the conditions outlined in Schedules No. 1, 2 and 3 of the corresponding staff report and notification requirements pursuant to the *Local Government Act*.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90412 – Pryke and Lo – 235 Evanson Road – Area G.

MOVED Director Stanhope, SECONDED Director Bartram, that Development Variance Permit Application No. 90412, submitted by Peter Pryke and Eileen Lo, to legalize the siting of an existing dwelling unit and to facilitate the development of a proposed addition to the dwelling at 235 Evanson Road by varying the minimum front lot line setback requirement from 8.0 metres to 3.467 metres, for the property legally described as Lot 59, District Lot 9, Newcastle District, Plan 28564, be approved subject to notification procedures pursuant to the *Local Government Act* and subject to the conditions outlined in Schedules No. 1, 2 and 3.

CARRIED

OTHER

Request for Relaxation of the Minimum 10% Frontage Requirement – Timberlake – Jones Engineering Ltd., on behalf of Lot G Holdings Ltd. – off Lowry’s Road – Area G.

MOVED Director Stanhope, SECONDED Director Bibby, that the request from Timberlake – Jones Engineering, on behalf of Lot G Holdings Ltd, to relax the minimum 10% perimeter frontage requirement for Proposed Lots 8, 9, 10, 11, 19 and 22 as shown on the Plan of Proposed Subdivision of Lot 1, District Lots 81 & 126, Nanoose District, Plan VIP70880 be approved.

CARRIED

Request for Cash in-lieu-of Park Land Dedication – Lost Lake Properties Ltd., on behalf of McKin Estates – off Sumar Lane – Area G.

MOVED Director Stanhope, SECONDED Director Bibby,:

1. That the request, submitted by Lost Lake Properties Ltd. to provide cash in-lieu-of park land be refused and the applicant be required to provide the dedication of park land in an amount and location acceptable to the Regional Board of Directors as part of the 34-lot subdivision proposal of Lots 1 and 2, District Lot 28, Nanoose District, Plan VIP61866.
2. That upon receipt of a park land proposal from the applicant, the proposal be referred to the Electoral Area ‘G’ Parks Recreation and Greenspaces Advisory Committee and a public information meeting prior to reporting back to the Board.

CARRIED

Community Water Definition Amendment to Bylaw No. 500, 1987 – Electoral Areas ‘A’, ‘C’, ‘D’, ‘E’, ‘G’ & ‘H’.

MOVED Director Stanhope, SECONDED Director Bartram,:

1. That the report on the proposed amendment to the RDN Land Use and Subdivision Bylaw No. 500 concerning the definition of community water supply be received for information.
2. That the Consultation Strategy for the proposed amendments to RDN Land Use and Subdivision Bylaw No. 500 concerning the definition of community water supply be approved.
3. That the Public Information Meetings be chaired by Director Hamilton or Director Stanhope as her alternate and staff be directed to report back to the Electoral Area Planning Committee with a summary of comments and recommendations.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 7:08 PM

CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO		
SEP -7 2004		
CHAIR		GM CrS
CAO		GMDS
		GMES
		EATC

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

DATE: August 30, 2004

FROM: Brigid Reynolds
Senior Planner

FILE: 3060 30 60437

SUBJECT: Development Permit Application No. 60437 - Lajeunesse
Electoral Area 'A' - 1539 Gordon Road

PURPOSE

To consider an application for a development permit to approve land alteration works already undertaken within the Streams, Nesting Trees, and Nanaimo River Floodplain Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001".

BACKGROUND

The subject property, legally described as the North 1/2 of Section 17, Range 8, Cranberry District, Shown on Plan Deposited Under DD5657N. Except Parts in Plans 31020, 40229, and 2735 RW, is located at 1539 Gordon Road in Electoral Area 'A' (see Attachment No. 1).

The subject property is zoned Rural 4 (RU4) pursuant to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500. There are no variances to Bylaw No. 500 requested as part of this application and no construction is proposed at this time.

The purpose of the Streams, Nesting Trees, and Nanaimo River Floodplain Development Permit Area is to protect the natural environment which in this case includes the stream and wetland and to protect development from hazardous conditions which in this case includes the potential for flooding.

The property is approximately 9 ha and is separated by Gordon Road. The Nanaimo River floodplain covers a portion of the property on both sides of the road. There is a small wetland and a stream flows through the portion of the property to the east of Gordon Road. The wetland has apparently been created as a result of beaver dams downstream. The portion of the property to the west of Gordon Road contains a dwelling unit and accessory buildings. There is no record of building permits for the two accessory buildings. The portion of the property to the east of Gordon Road has no buildings or structures located on it. Fill has been introduced to this portion of the property to create an access through the small wetland.

The property is located within the Building Inspection Area and the Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991 applies to any development.

A geotechnical report has been prepared by Richard McKinley of Lewkowich Geotechnical Engineering Ltd. that assesses whether the property is geotechnically safe and suitable for the intended use and outlines recommendations for the development of the property.

The property owner has made an application to subdivide the property into 2 parcels along Gordon Road. Proposed Lot A is the western portion of the parcel and proposed Lot B is the eastern portion of the parcel.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

The land fill was introduced onto the property to provide access to the portion of the property located on the west side of Gordon Road. This portion of the property was inaccessible due to the stream and wetland.

The floodplain encompasses approximately 1/3 of proposed Lot A and 2/3 of proposed Lot B. Bylaw No. 843 establishes a flood construction elevation of 7.0 m GSC. In addition, the geotechnical report recommends that permanent structures and the septic disposal field for new developments be located a minimum of an additional 2.0 m above the flood construction elevation, therefore a total of 9.0 m GSC. The report also states that 'non-critical' structures (e.g. gazebos, etc) can be constructed at lower elevations recognizing that there is a risk of flood impacts during extreme flood events. The residence and one accessory building on proposed Lot A are above the flood construction elevation. The second accessory building is located within the floodplain but appears to have a flood construction elevation of between 7.0 to 8.0 m GSC. There are building sites on proposed Lot B that are located above the flood construction elevation.

The geotechnical report concludes that the site is considered suitable for the intended use providing the recommendations outlined in the report are followed. As part of the subdivision application the geotechnical report will be registered on the title of the property and the recommendations outlined in the report are recommended by staff to form part of this permit. In addition, staff recommend that a "Save Harmless" covenant be registered on the title of the property in favour of the RDN.

There is a dwelling unit and two accessory buildings located on proposed lot A. There is no record of building permits for the two accessory buildings therefore as a condition of this application the applicant must confirm with the Building Department that these accessory buildings are consistent with Bylaw No. 1250.

ENVIRONMENTAL IMPLICATIONS

Extensive amounts of fill have been introduced onto the property to create an access for the proposed Lot B. According to the geotechnical engineer the fill is comprised of dry to moist silty sand with gravel and with fragments of glass and ceramic, small coal pieces, fragments of concrete and masonry block, and small pieces of asphalt pavement dispersed throughout. The engineer indicates "the risk of significant environmental contamination impacts to surrounding areas as a result of the fill placement is considered negligible. However, as a condition of this permit, staff recommend that the fill be tested for contaminants.

As the access road dissects wetland a culvert has been installed to permit the flow through of water. The geotechnical engineer has confirmed that the culvert is adequately sized to permit high water flows through.

Federal Fisheries and Oceans have been on site and reviewed the installation of fill and concluded that they have no concerns. Recommendations outlined in the conditions of approval propose to reduce any negative environmental impact.

VOTING

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

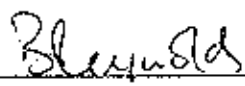
SUMMARY/CONCLUSIONS

This is an application to approve land alteration works already undertaken within the Streams, Nesting Trees, and Nanaimo River Floodplain Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001". The property is located within the Nanaimo River floodplain and contains a stream and wetland.

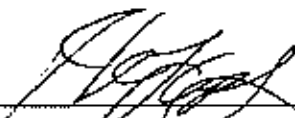
The property owner has made an application to subdivide the property into two lots and a large quantity of fill was introduced onto the property to create an access for a proposed Lot B. A geotechnical report was completed by Lewkowich Geotechnical Engineering Ltd. providing recommendations for flood construction elevation and confirming that the land is safe for the intended use. As a condition of this application staff recommend that the geotechnical report be registered on the title of the property and that a save harmless covenant be registered in favour of the RDN. In addition, the areas that have been filled are required to be rescinded when conditions permit.

RECOMMENDATION/S

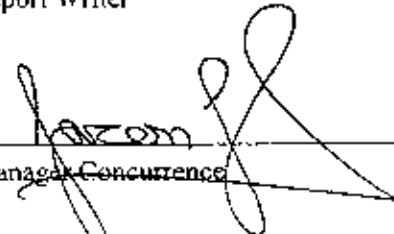
That Development Permit Application No. 60437 submitted by Rob Lajeunesse to approve the land alteration works that have been undertaken within the Streams, Nesting Trees, and Nanaimo River Floodplain Development Permit Area that consists of the introduction of large amounts of fill to create access to a proposed new lot on the property legally described as the North 1/2 of Section 17, Range 8, Cranberry District, Shown on Plan Deposited Under DD5657N, Except Parts in Plans 31020, 40229, and 2735 RW, be approved subject to the requirements outlined in Schedule No. 1.



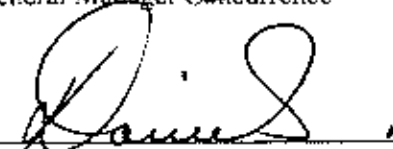
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devssr:reports/2004/dp se 3060 30 60437 lajeunesse

**Schedule No. 1
Conditions of Approval
Development Permit No. 60437**

Development of Site

1. 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", the "Regional District of Nanaimo Building Regulations and Fees Bylaw No. 1250, 2001, and the "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991".
2. Any further land alteration related to the development of the site requires an development permit pursuant to the "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001".
3. All development on the site must be in compliance with the *Heritage Conservation Act*.
4. All works must be completed in accordance with the British Columbia Building Code and under the appropriate professional supervision.
5. All works must be undertaken consistent with the Geotechnical Report prepared by Lckowich Geotechnical Engineering Ltd, date stamped July 30, 2004 and subsequent relevant reports.

Covenants

6. The applicants 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 developing the property. This Covenant must be registered on the Certificate of Title prior to commencing construction at Land Titles Office Victoria to the satisfaction of the Regional District. All costs borne by the applicant.
7. The applicants shall register Section 219 Covenant at Land Titles Victoria with respect to the Geotechnical Report by Lckowich Geotechnical Engineering Ltd, date stamped July 30, 2004 and subsequent relevant reports stating that the land is safe for the intended use, to the satisfaction of the Regional District with all costs borne by the applicant.

Vegetation

8. Native vegetation within the Environmentally Sensitive Features Development Permit Area and the Hazard Lands Development Permit Area shall be retained and the replanting of native grasses suitable to the soil, light and moisture conditions of the site shall be undertaken on the recently introduced fill when conditions permit.

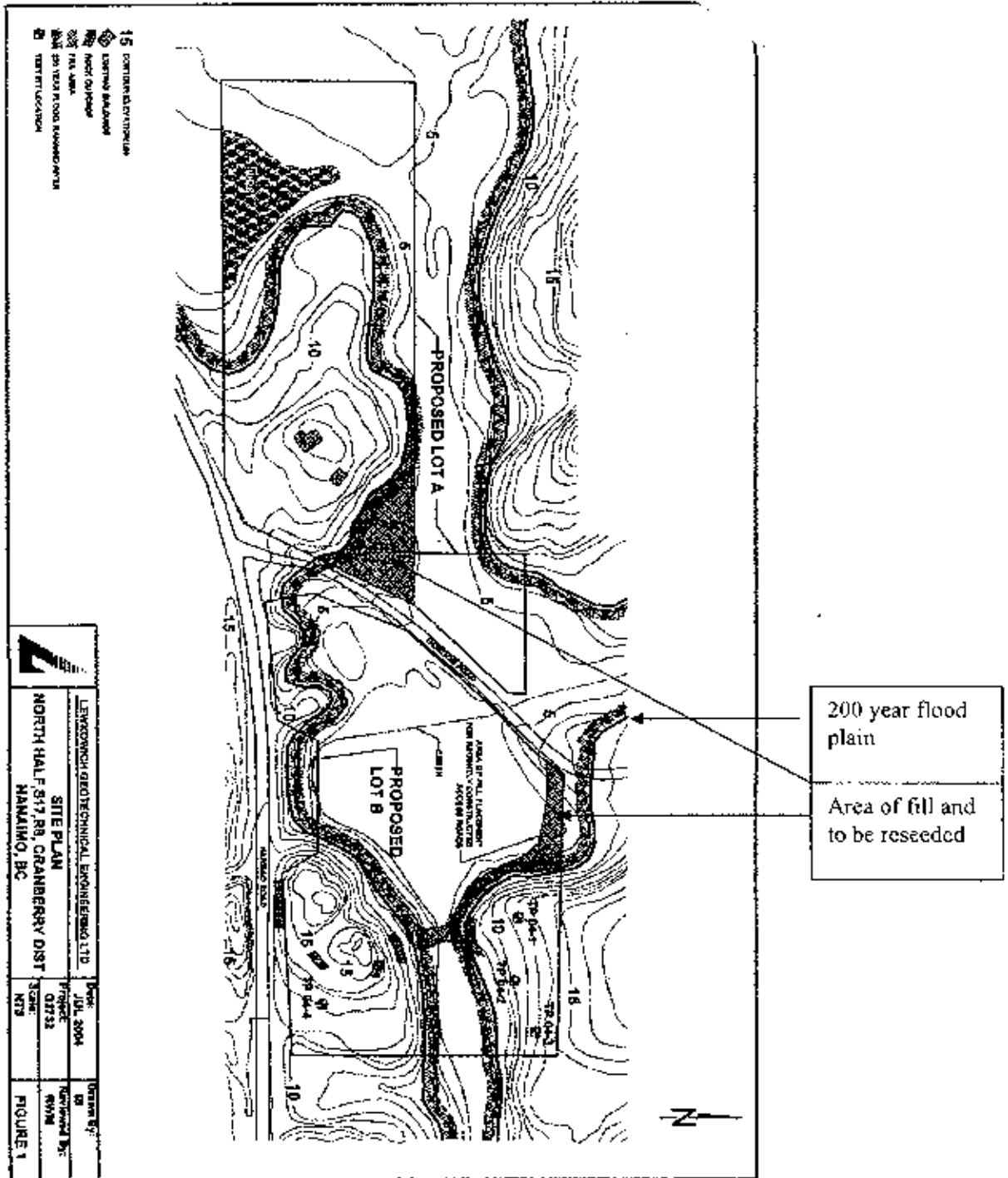
Existing Accessory Buildings

9. Confirmation from the Building Department that the accessory buildings are consistent with Bylaw No. 1280 and/or building permits for the two accessory buildings.

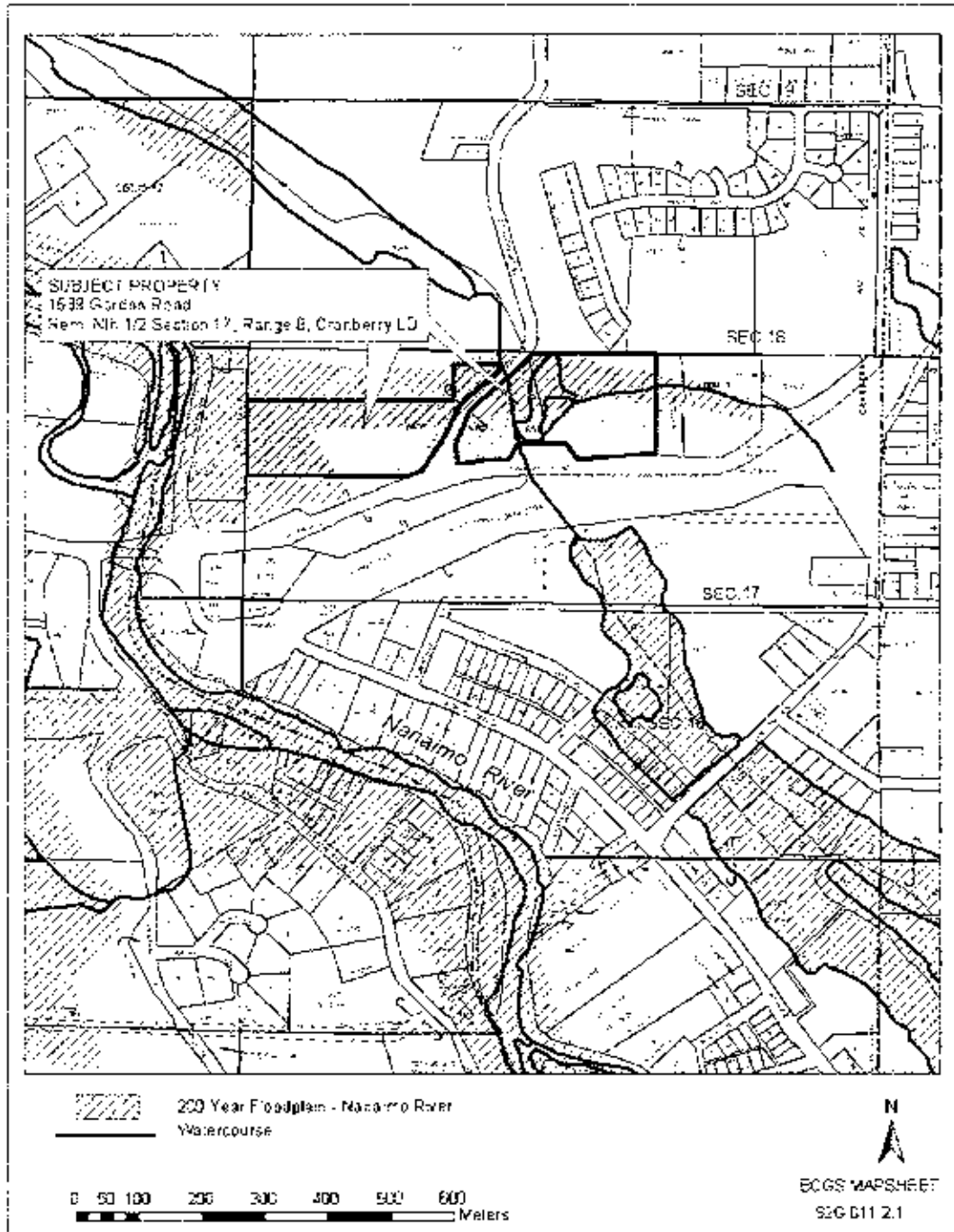
Environment

10. Soils recently introduced onto the property shall be tested and the results submitted to the RDN.

Schedule No. 2
 Site Map
 Development Permit No. 60437



Attachment No. 1
Subject Property





REGIONAL DISTRICT OF NANAIMO			
SEP - 7 2004			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMES	
EAPC ✓			

MEMORANDUM

TO: Robert Lapham General Manager, Development Services DATE: September 2, 2004

FROM: Susan Cormie Senior Planner FILE: 3060 30 60440

SUBJECT: Development Permit Application No. 60440 – Keith Brown & Associates, on behalf of 646268 BC Ltd. (Country Kitchen) Electoral Area 'A' – 1922 Schoolhouse Road

PURPOSE

To consider a development permit application to facilitate the development of a mini warehouse use and a heavy equipment display/servicing use within the South Wellington Development Permit Area No. 1 for property located in Electoral Area 'A'.

BACKGROUND

The Planning Department has received a development permit application for the property legally described as Lot 1, Section 13, Range 6, Cranberry District, Plan 12009 and located at 1922 Schoolhouse Road in the South Wellington area of Electoral Area 'A' (see Attachment No. 1 for location of subject property). The subject property, which is approximately 0.81 ha in size, is currently being considered for a comprehensive development zone (CD18) in order to facilitate the development of a mini warehouse use and a heavy equipment display/servicing use. The corresponding Amendment Bylaw No. 500.300, 2004 has received 3 readings and has been referred to the Ministry of Transportation for its consideration pursuant to the Highway Act. Once all conditions of the zoning amendment are met, the amendment bylaw will be forwarded to the Regional Board for consideration of adoption. One condition of the rezoning is that the applicant enter into a development permit as the property is designated within the South Wellington Development Permit Area No. 1 pursuant to the Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001. This development permit application may be considered by the Regional Board concurrently with consideration of adoption of the corresponding amendment bylaw.

Proposed Development

The applicant is proposing to construct a light industrial development consisting of mini warehouse development and a heavy equipment display / servicing uses (see Schedule Nos. 2 and 3 for proposed layout and building profiles). As part of the development, the applicant is also proposing to construct an on-site engineered storm water drainage system. Landscaping is proposed to include a variety of trees and plantings adjacent to Schoolhouse and Kipp Roads (See Schedule No. 4). A variety of signs is also proposed including 2 free standing signs and fascia signs on the principle buildings (see Schedule No. 5).

In support of the application, the applicant has submitted the following information:

- proposed site layout including location of buildings and signage, accesses to Schoolhouse Road and internal access routes, off-street parking areas; and site drainage and grading;
engineered design for storm water drainage system;
landscape plan and bonding for landscaping of site;
free standing sign profiles (typical); and
engineer's report with respect to the design of septic disposal system.

Proposed Bylaw Variances

As part of this application, the applicant is requesting a number of variances including relaxation of the maximum height requirement of the heavy equipment display / servicing building; the minimum setback requirement for the location of free standing signs; and the total number of permitted free standing signs. The requested variances are set out in Schedule No. '6' of this staff report.

ALTERNATIVES

1. To approve the Development Permit Application No. 60440 as submitted with the variances subject to the conditions outlined in Schedule Nos. 1 to 6 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

With respect to the site layout, the application is considered to be in substantial compliance with the applicable guidelines. Additional screening of the wash pad area located adjacent to Kipp Road is recommended. The applicant's agent has verbally indicated concurrence with this request. The off-street parking areas are to be located behind the front face of the principle buildings. Landscaping is proposed to be constructed along Schoolhouse Road and Kipp Road. Landscaping was not requested along the east lot line as the adjacent properties are designated within the South Wellington Industrial - Commercial Area pursuant to the Electoral Area 'A' OCP Bylaw No. 1240, 2001.

Ministry of Transportation Implications

With respect to access to the proposed development, 2 accesses are proposed to be from Schoolhouse Road. As the proposed uses are industrial, an approved access permit from the Ministry of Transportation (MOI) is required. This MOI approval will be a condition of the development permit. It is noted that, pursuant to the *Highway Act*, the Ministry must also approve the amendment bylaw, and this is subject to the applicant meeting all Ministry requirements, including road dedication.

Site Servicing Implications

With respect to storm water drainage works, the applicant has provided a storm water drainage plan from a professional engineer. An oil-water interceptor system is also being incorporated into the drainage system for the protection of the groundwater and aquifer. This has been included in the development permit conditions.

With respect to septic disposal, the applicant has submitted an engineer's report stating that the proposed septic disposal system will be capable of supporting the proposed land uses. The development permit includes the requirement that the applicant provide a valid septic disposal permit from the Vancouver Island Health Authority.

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 and that this be a condition of the corresponding development permit.

Proposed Variances Implications

Due to the amount of fill, which was formerly placed on the subject property and as the maximum height requirement is measured from the natural grade; the applicant is requesting a variance to the maximum height provision. The heavy equipment display / servicing use building itself is proposed to be 8.0 metres in height while the mini warehouse buildings are proposed to be 5.5 metres in height (*see Schedule No. 2 for building elevations*). The addition of the fill on site generally brings the elevation of the site up to the

elevation of Schoolhouse Road. The applicant's surveyor has estimated that, based on spot elevations, toe of the fill slope, and road elevations, the fill under the proposed heavy equipment display / servicing building is approximately 1.0 metre in depth thus bringing the overall height of this building, as measured from the natural grade, to 9.0 metres. The applicant's surveyor has also estimated the fill under the mini warehouse buildings to vary from 1.5 to 2.0 metres in depth, therefore bringing the overall height of these buildings to 7.5 metres. As a result, a variance is required for the proposed heavy equipment display / servicing building only.

The applicant is also requesting variances to the sign bylaw including a second free standing sign and additional fascia signs for each proposed use. As the subject property is situated on two street frontages there is extensive frontage and as 2 separate uses are proposed, staff supports this request.

PUBLIC IMPLICATIONS

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 property designated within the South Wellington Development Permit Area No. 1 pursuant to the Electoral Area 'A' OCP specifically for the purposes of form and character and the protection of the Cassidy aquifer. The subject property is currently at third reading for a comprehensive development zone to allow light industrial uses. One of the conditions of the zoning amendment application is that the applicant enter into a development permit. The applicant has agreed to meet the conditions of developing the site as set out in the development permit including providing landscaping and an oil water separator for protection of the aquifer.

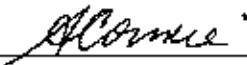
As part of the development permit application, the applicant is also requesting relaxation of a number of zoning provisions including relaxation of the minimum setback from Schoolhouse Road for the placement of 2 free standing signs and relaxation of the maximum height requirement for the proposed heavy equipment display / servicing building which is due to the amount of fill previously placed on the site and because the nature of the land use requires a tall warehouse style building.

The development permit is consistent with the applicable guidelines concerning the form and character of the buildings and site and the protection of the aquifer as outlined in the South Wellington Development Permit Area No. 1.

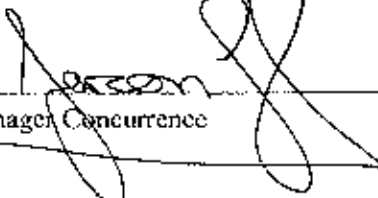
For the above reasons, staff recommends Alternative No. 1, to approve the development permit subject to conditions outlined in Schedule Nos. 1 to 6 inclusive and to notification procedures with respect to the proposed variances.

RECOMMENDATION

That Development Permit No. 60440 submitted by Keith Brown & Associates, on behalf of 646268 BC Ltd., for the property legally described as Lot 1, Section 13, Range 6, Cranberry District, Plan 12009 and located at 1922 Schoolhouse Road, be approved, subject to the conditions outlined in Schedule Nos. 1, 2, 3, 4, 5, and 6 of the corresponding staff report and to the notification procedure subject to the *Local Government Act* with respect to the proposed variances.




Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2004/dpse3060 30 60440 country kitchen

Schedule No. 1
Conditions of Approval
Development Permit Application No. 60440

The following sets out the conditions of approval:

1. Building / Site Development

- a. The subject property shall be developed in accordance with the Site Plan as shown on Schedule No. 2.
- b. The buildings shall be designed and constructed, including the incorporation of building materials, as shown on Schedule No. 3.
- c. There shall be no Heavy Equipment Display located within the minimum setback areas or within the front face of the warehouse building and Schoolhouse Road.
- d. The heavy equipment display/servicing building itself shall not exceed an overall building height of 8.0 metres.
- e. The mini warehouse buildings themselves shall not exceed an overall building height of 5.5 metres.

2. Landscaping Requirements

- a. Landscaping to be provided as shown on Schedule No. 4 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. A landscape security deposit, pursuant to Bylaw No. 500, in the amount of \$14,500.00 is to be held by the RDN pending the completion of the required landscaping to the satisfaction of the Regional District of Nanaimo.
- c. The subject property shall be fenced as shown on Schedule No. 2.
- d. The Wash Pad area adjacent to Kipp Road shall be screened with a combination of fencing and plantings.

3. Storm Water Drainage

- a. The site is to be developed in accordance with the engineer's storm drainage report dated March 11, 2004 prepared by John H. Morley and subject to the approval of the Ministry of Transportation and the Regional District and in accordance with Schedule No. 2.
- b. No net increase in peak storm water runoff from the land to adjoining lands or the highway system will be permitted.
- c. An oil / water separator for the wash area to be constructed in the location as shown on Schedule No. 2. Oil / water separator to be designed and constructed to industry standard.

4. Local Fire Protection / Fire Chief

Local Fire Chief to approve site layout.

5. Off-Street Parking Spaces and Aisle Ways

- a. All off street parking spaces and aisle ways shall be in accordance with Schedule No. 2 with the exception that all off-street parking spaces shall be located behind the front face of the principle buildings.
- b. 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.

6. Signage

- a. A maximum of 2 free standing signs shall be permitted, one at each access to the development from Schoolhouse Road in the location as shown on Schedule No. 2 and constructed as shown on Schedule No. 4.
- b. The free standing sign at the entrance to the mini warehouse shall be a maximum of 2.15 m by 2.15 m in size to a maximum of 2 sides and the total signage including supports shall not exceed 4.55 metres in height. The free standing sign for the heavy equipment display/servicing use shall be a maximum of 3.0 m by 3.0 m in size to a maximum of 2 sides and the total signage including supports shall not exceed 6.0 metres in height. Both signs may be illuminated by back lights but specifically not permitting the use of neon lighting.
- c. A maximum of 2 fascia signs may be placed on mini warehouse buildings. These signs may be indirectly illuminated, but specifically not permitting the use of neon lighting.
- d. A maximum of 2 fascia signs may be placed on heavy equipment display/servicing use building. These signs may be indirectly illuminated, but specifically not permitting the use of neon lighting.
- e. Directional signs for access and off-street parking may be incorporated throughout the site.

7. Refuse Containers and Other Outdoor Storage

The refuse containers shall be adequately screened with a combination of landscape plantings and fencing.

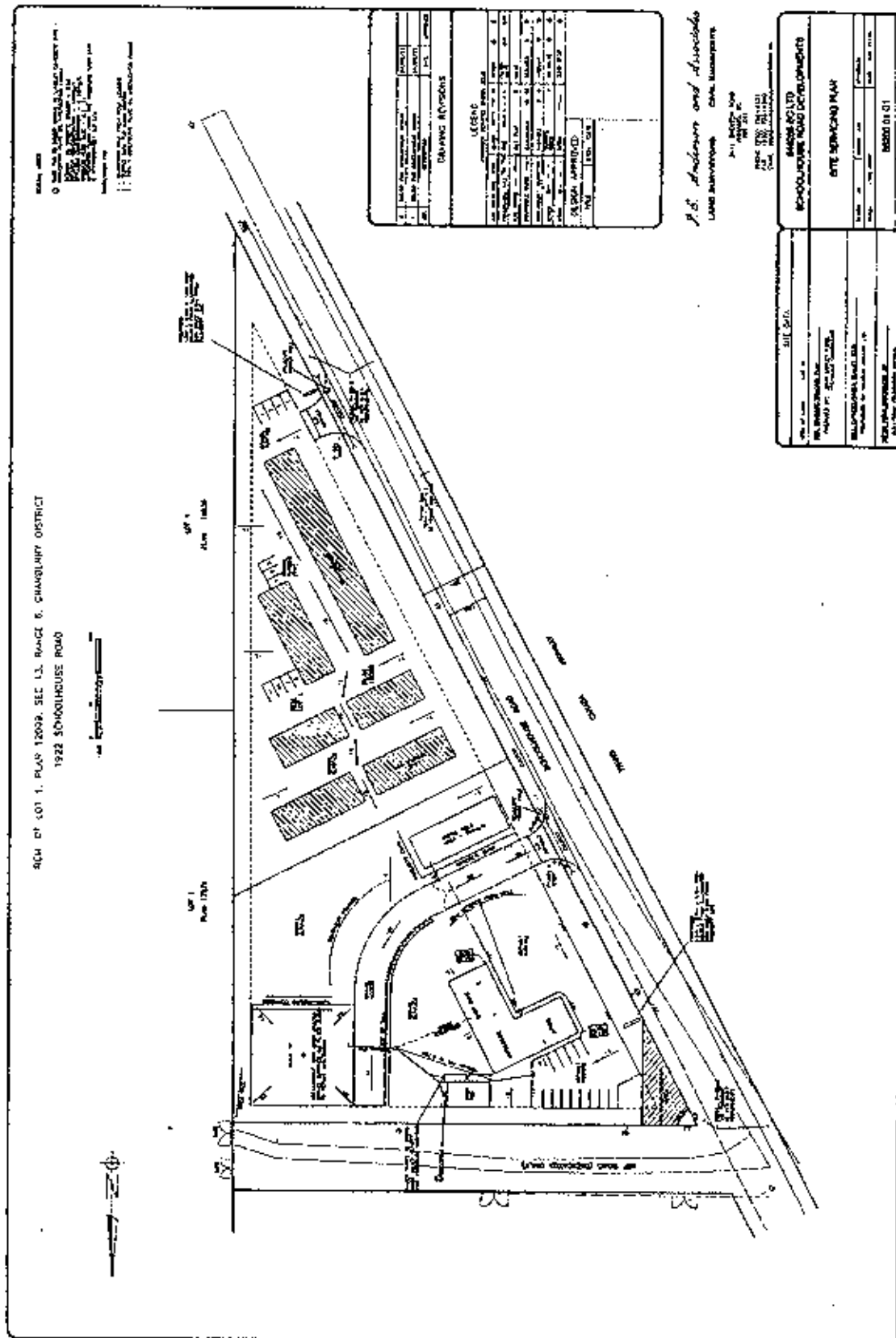
8. Ministry of Transportation

Applicant to meet requirements of Ministry of Transportation to its satisfaction in accordance with MOT letter dated June 4, 2004.

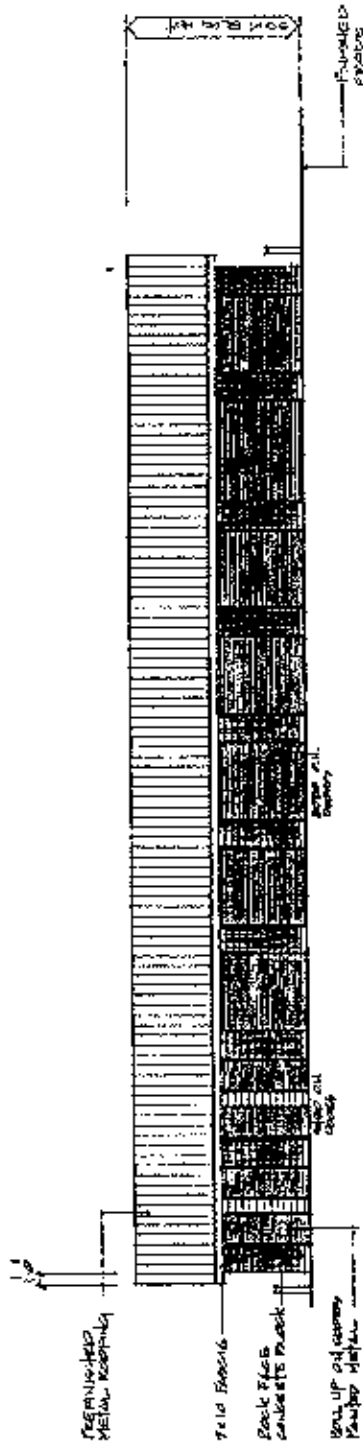
9. Vancouver Island Health Authority

Applicant to submit a valid septic disposal permit from the Vancouver Island Health Authority.

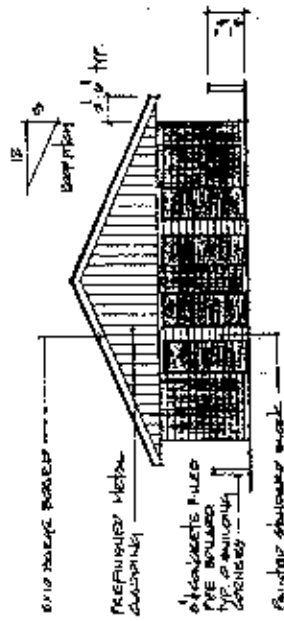
**Schedule No. 2
Proposed Site Layout
Development Permit No. 60440**



Schedule No. 3 (page 1 of 2)
 Building Profiles (as submitted by applicant)
 (reduced for convenience)
 Development Permit No. 60440

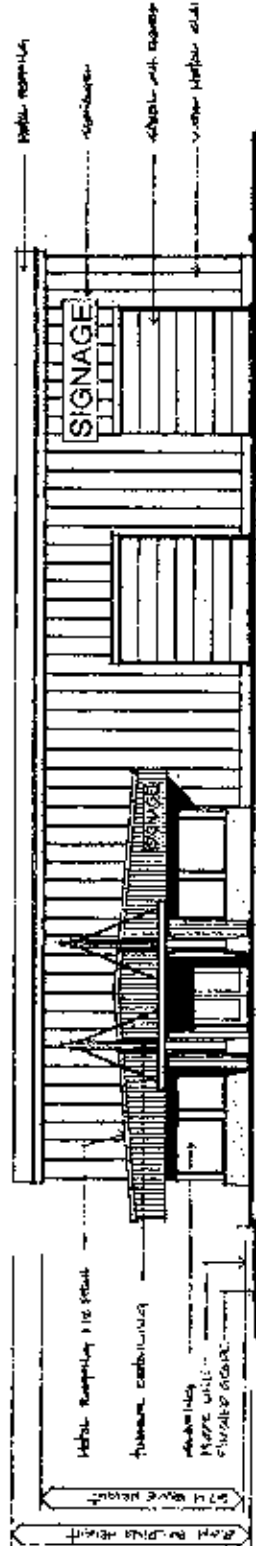


front elevation — typical mini storage

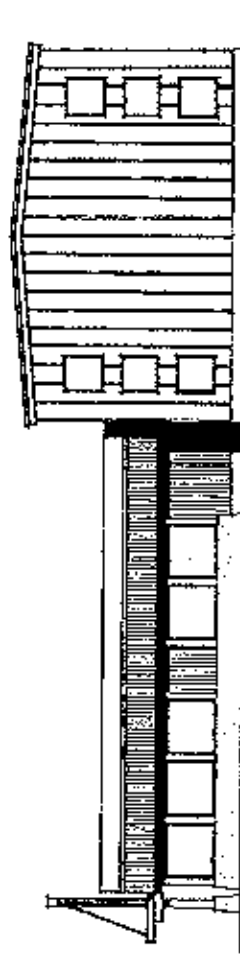


side elevation — typical mini storage

Schedule No. 3 (page 1 of 2)
Building Profiles (as submitted by applicant)
(reduced for convenience)
Development Permit No. 60440

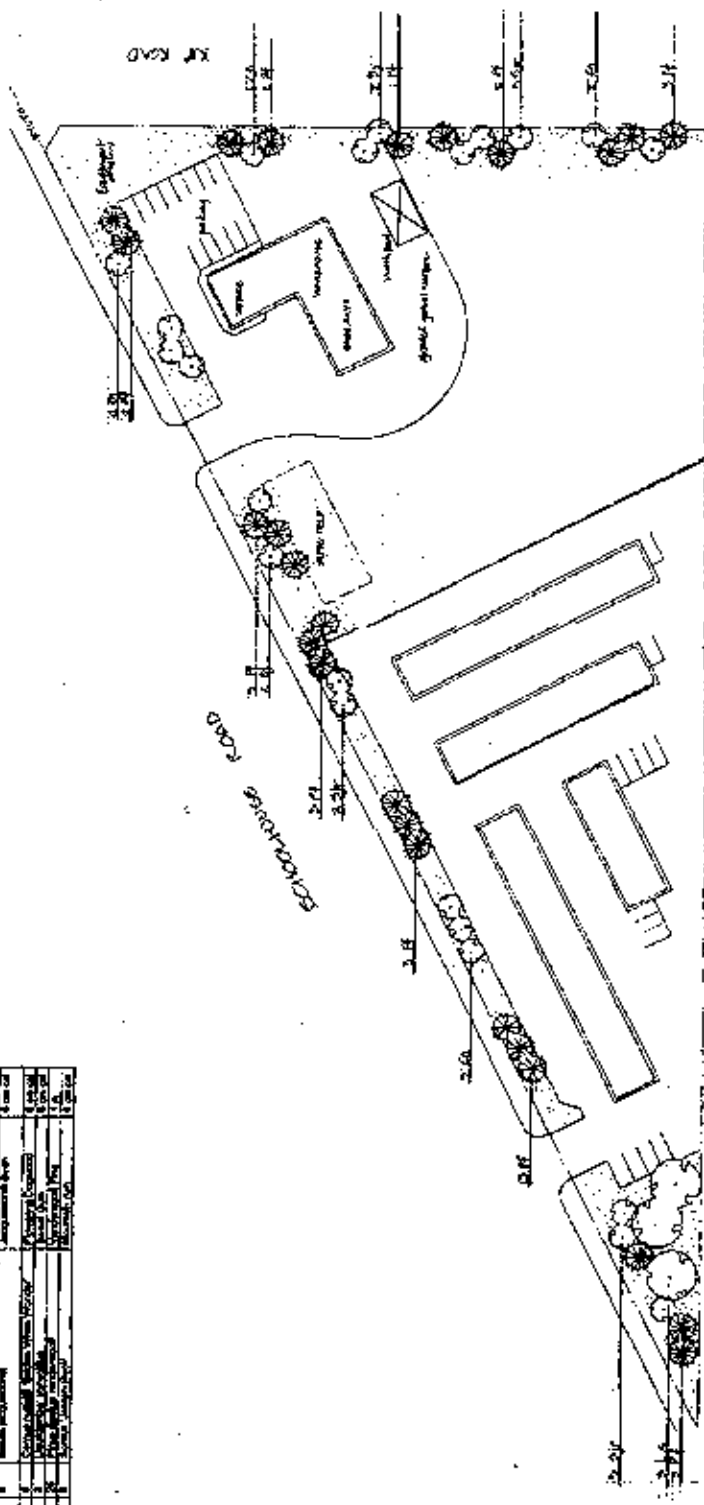


west elevation — heavy equipment service
2004 10 10



south elevation — heavy equipment service

Schedule No. 4
Proposed Landscaping Plan
Development Permit No. 60440

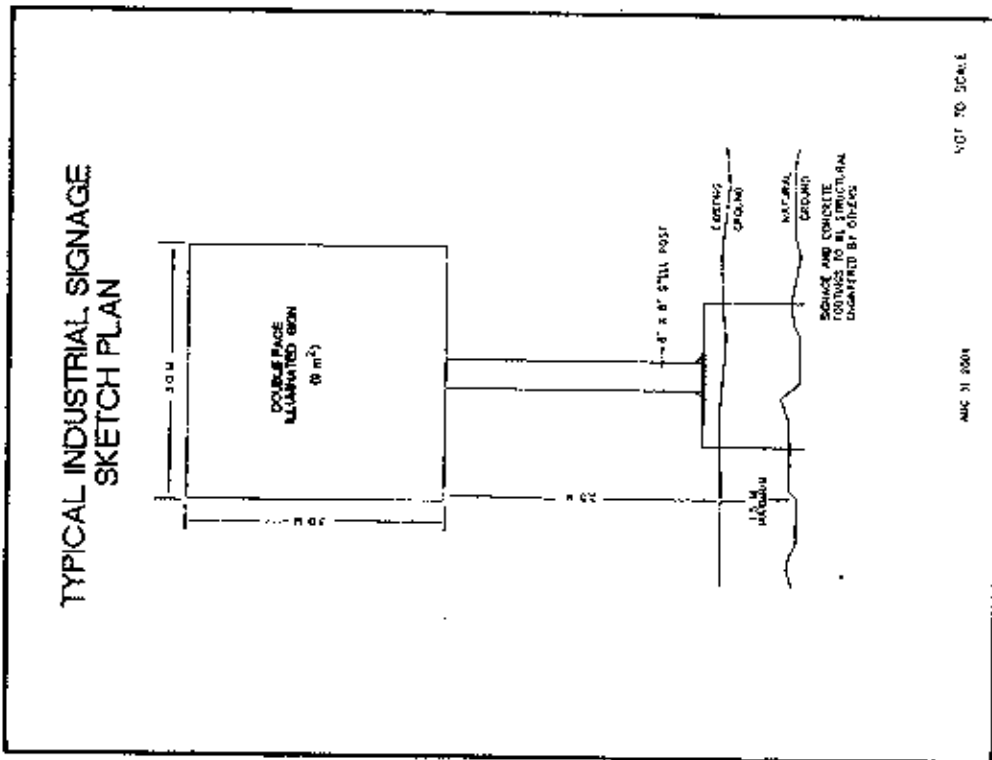
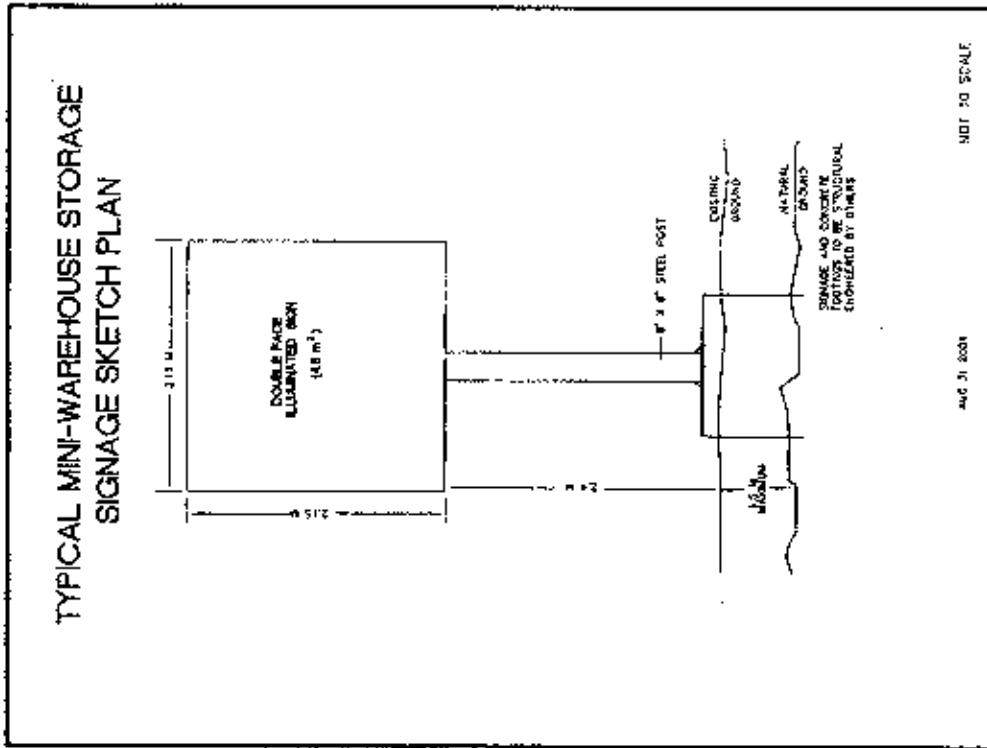


- 1. FOR GRASSES REFER TO ARCHITECTURAL DRAWINGS.
- 2. CONSTRUCTION ACCORDING TO NEW ZEALAND STANDARDS.

PLANT LIST
 PROJECT: Proposed Development, School Term 1
 DATE: Sep 18, 2004

Qty	Plant Name	Common Name	Plant
10	Manuka (Leptosiphon)	Leptosiphon	10m
10	Manuka (Leptosiphon)	Leptosiphon	4m
10	Manuka (Leptosiphon)	Leptosiphon	2m
10	Manuka (Leptosiphon)	Leptosiphon	1m
10	Manuka (Leptosiphon)	Leptosiphon	0.5m
10	Manuka (Leptosiphon)	Leptosiphon	0.2m
10	Manuka (Leptosiphon)	Leptosiphon	0.1m
10	Manuka (Leptosiphon)	Leptosiphon	0.05m
10	Manuka (Leptosiphon)	Leptosiphon	0.02m
10	Manuka (Leptosiphon)	Leptosiphon	0.01m

Schedule No. 5
Free Standing Signs (Typical)



**Schedule No. 6
Proposed Variances
Development Permit No. 60440**

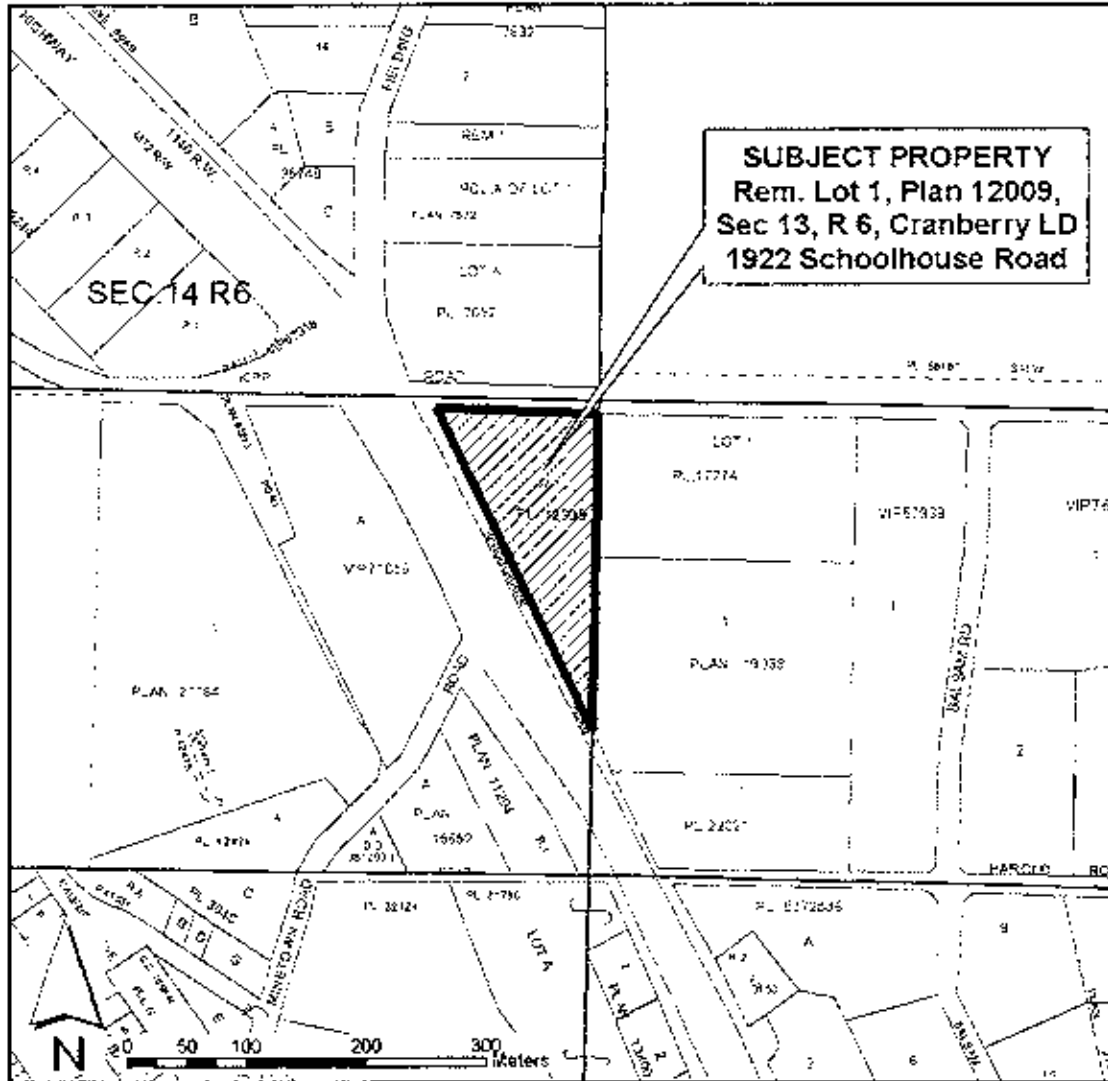
With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, the following variances are proposed:

1. The maximum height of the heavy equipment display/servicing building be increased from 8.0 metres to 9.0 metres as measured from the natural grade based on the maximum height of the building itself shall not exceed 8.0 metres.
2. The minimum setbacks from the lot line adjacent to Schoolhouse Road be varied from 8.0 m to 0.5 m in order to allow the location of 2 free standing signs, provided that the first sign shall not exceed 9.0 m² in area nor exceed a total overall height of 6.0 metres (including support structure) and the second sign shall not exceed 2.15 m² in area or exceed a total overall height of 4.0 metres (including support structure).

With respect to the lands, the Regional District of Nanaimo Sign Bylaw No. 993, 1995, the following variances are proposed:

1. Section 5 (c) to be varied to include 2 additional fascia signs for a total of 4 fascia signs to be on the subject property.
2. Section 5 (b) to be varied to include 1 additional freestanding sign on the subject property.

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



BC28 MAPS/PLANS/NO 2254012



REGIONAL DISTRICT OF NANAIMO	
SEP - 2 2004	
CHAIR	GM/CrS
CAO	GMDS
COMS	GMES
EAPC ✓	
DATE:	

MEMORANDUM

TO: Robert Lapham General Manager, Development Services DATE: September 1st, 2004

FROM: Blaine Russell Planner FILE: 3090 30 90413

SUBJECT: Development Variance Permit Application No. 90413 -- Skollsberg 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 an accessory building with a proposed variance to the maximum permitted height.

BACKGROUND

The subject property, legally described as Lot 7, District Lot 78, Nanoose District, Plan 19688 is located 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 pursuant to Section 3.4.61 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." In order to accommodate the proposed construction and siting of an accessory building the applicant is requesting an increase in height is from 6.0 metres from natural grade to 8.0 metres from present grade

The Board previously approved DVP No. 90410 to allow the same height variance for a smaller accessory building on this property. The applicant now wishes to construct a larger building; therefore, a new development variance permit is required from the Board.

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 accessory building is proposed to have 2 floors with a total floor area, including stairs, of 135.82 m² and is proposed meet RDN Bylaw No. 500, 1987 setback requirements. (See Schedule 2).

The property is located within a building inspection service area and is on community water and an individual septic disposal system. Building permits will be required prior to construction.

ALTERNATIVES

- 1. To approve Development Variance Permit No. 90413 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 where the existing dwelling unit is located. 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 was placed in order to level out the back yard by filling in a large fissure in the rock. The maximum height for the proposed accessory building is approximately at the same elevation as the foundation of the existing dwelling unit that is located on the ridge; therefore, it appears that there would be no impact on ocean views from adjacent properties. 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.

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. It should be noted that the total floor area of the two story accessory building, including stair, is 135.82 m² and combined with the 44.3 m² floor area of the an existing accessory building will bring the total floor area to 180.12 m², just under the maximum permitted floor area of 183.8 m².

The applicant is proposing to use the top floor of the accessory building as an art studio / hobby room with the main floor to be used for personal storage. The applicants' dwelling unit does not have a basement or any additional storage space. In addition, site constraints make it difficult for the applicant to add on to the existing dwelling unit, as it is located on the ridge of the bluff. An accessory building therefore is the most practical option for personal storage. The applicants have reconsidered their needs for personal storage and have determined that a larger structure, than was approved pursuant DVP No. 90410, is necessary.

Based on the elevations on the property there does not appear to be any impact from the proposed construction 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'.

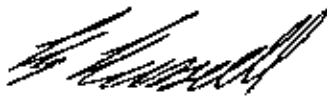
SUMMARY/CONCLUSIONS

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 located at 3584 Outrigger Road in Nanoose Bay. The proposed height variance does 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

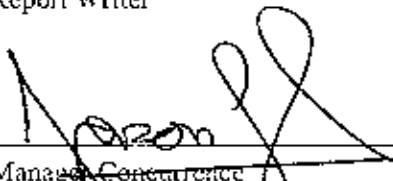
That Development Variance Permit Application No. 90413, submitted by the property owners Jan-Wilhelm Skollsberg and Anne-Christine Skollsberg for the property legally described as Lot 7, District Lot 78, Nanoose District, Plan 19688 to relax the maximum permitted height to allow for the architectural style and construction of the proposed accessory building 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*.



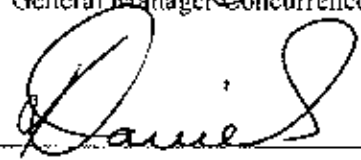
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Variance Permit No. 90413**

Siting

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

Survey

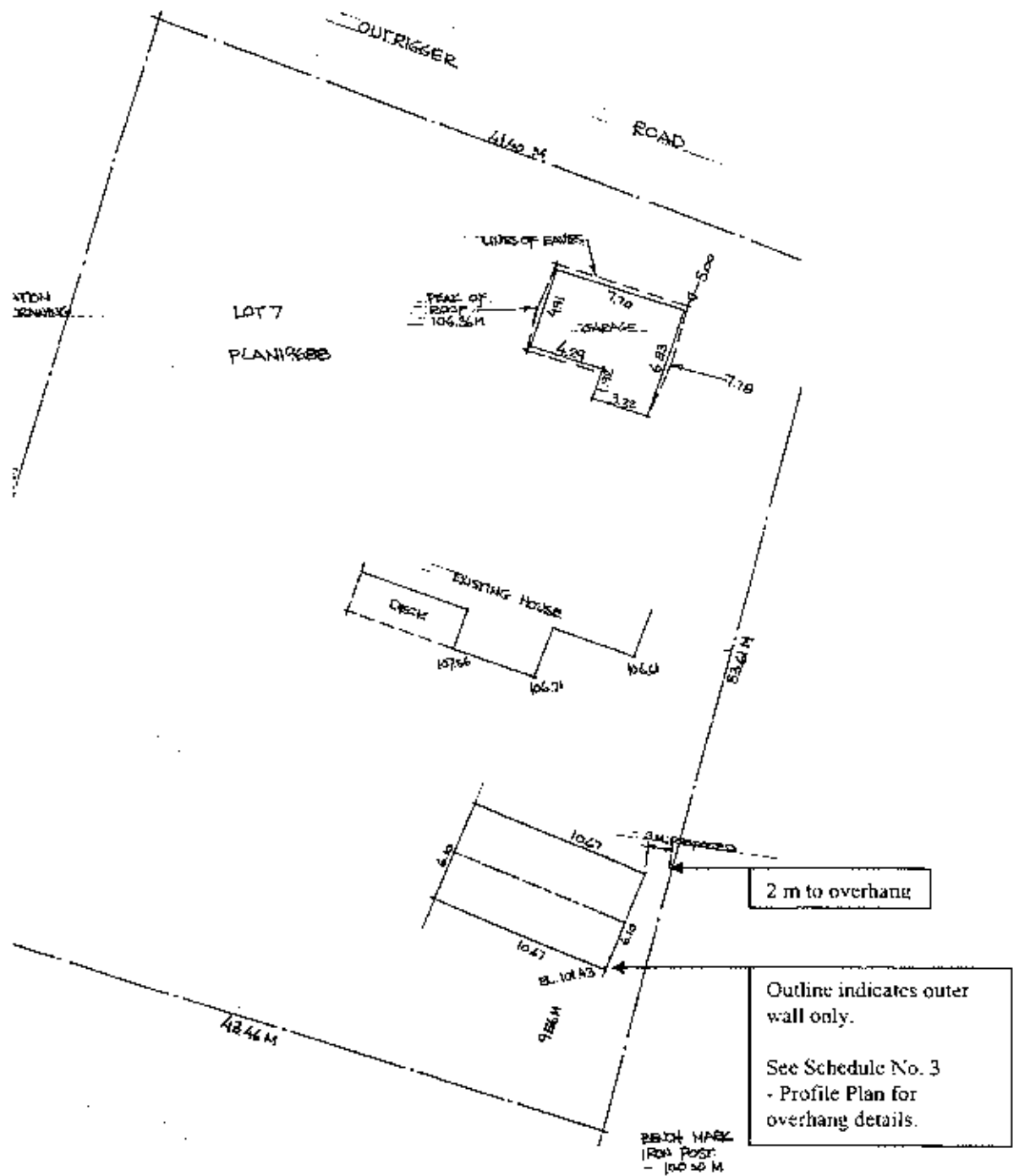
3. A survey by a British Columbia Land Surveyor (BCLS), that is prepared to the satisfaction of the Regional District of Nanaimo, shall be required upon completion of the accessory building to confirm its siting and height if deemed necessary by the Chief Building Inspector. An official copy of this 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.

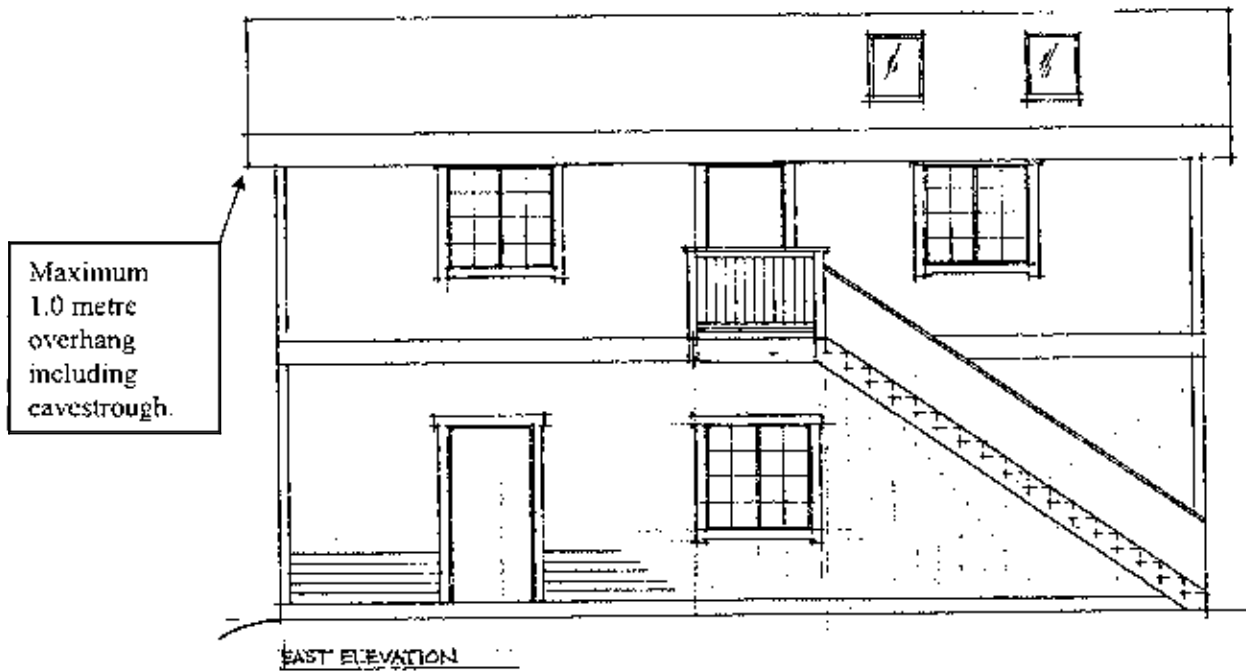
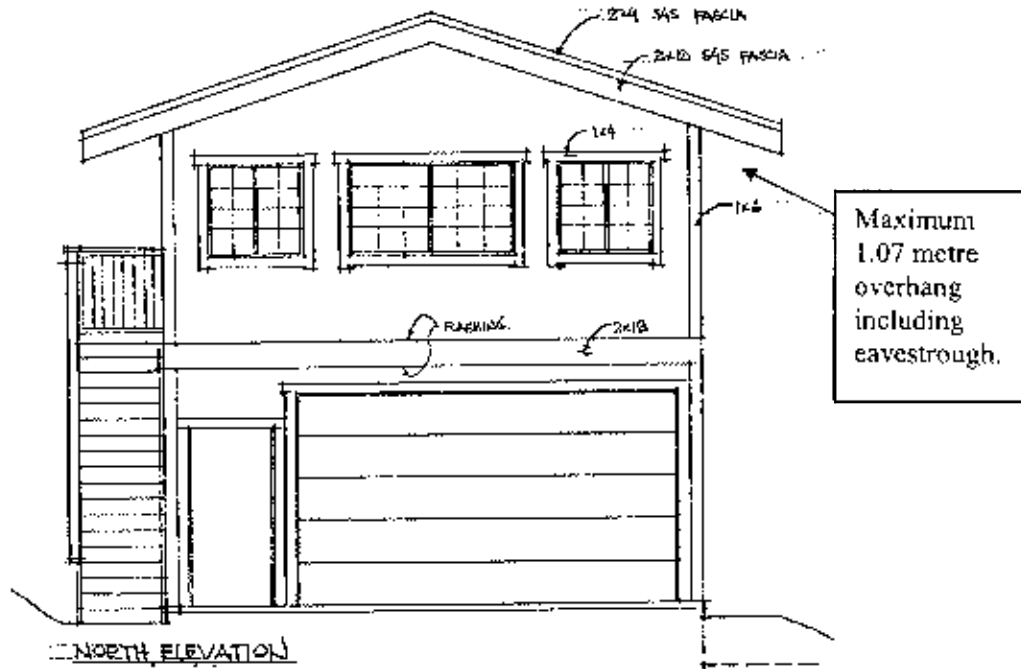
Schedule No. 2
Site Plan
Development Variance Permit No. 90413

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



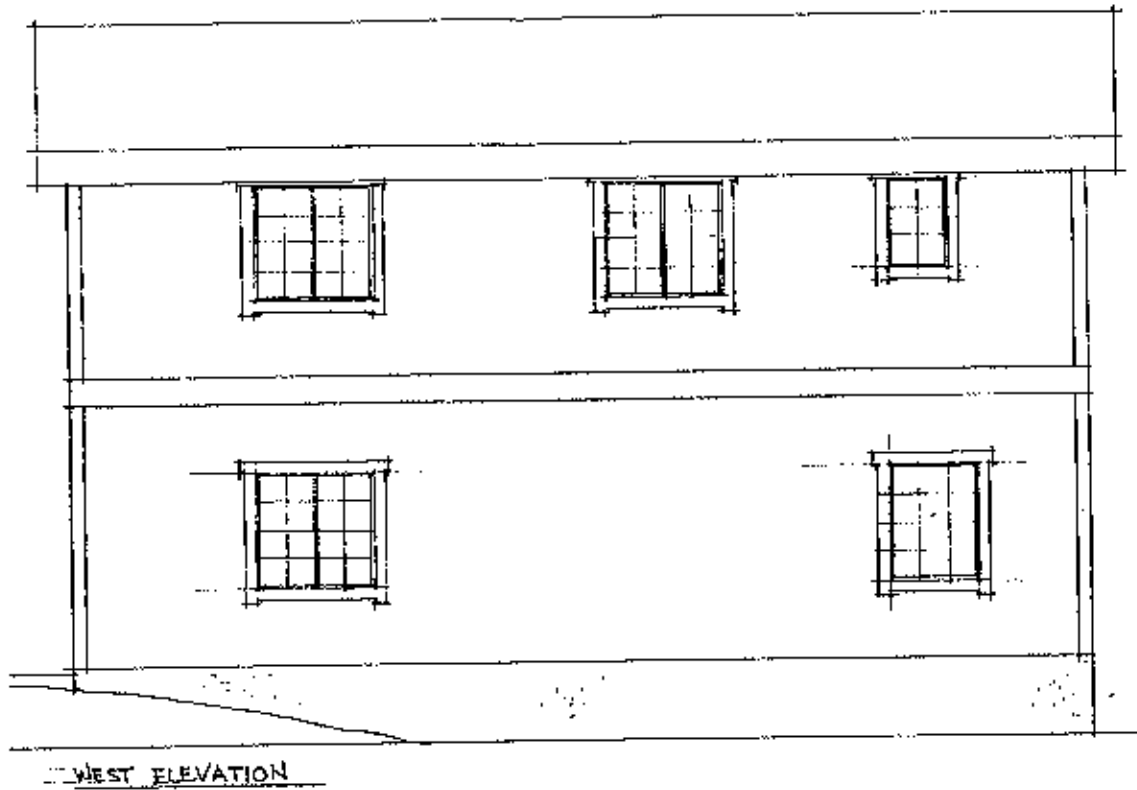
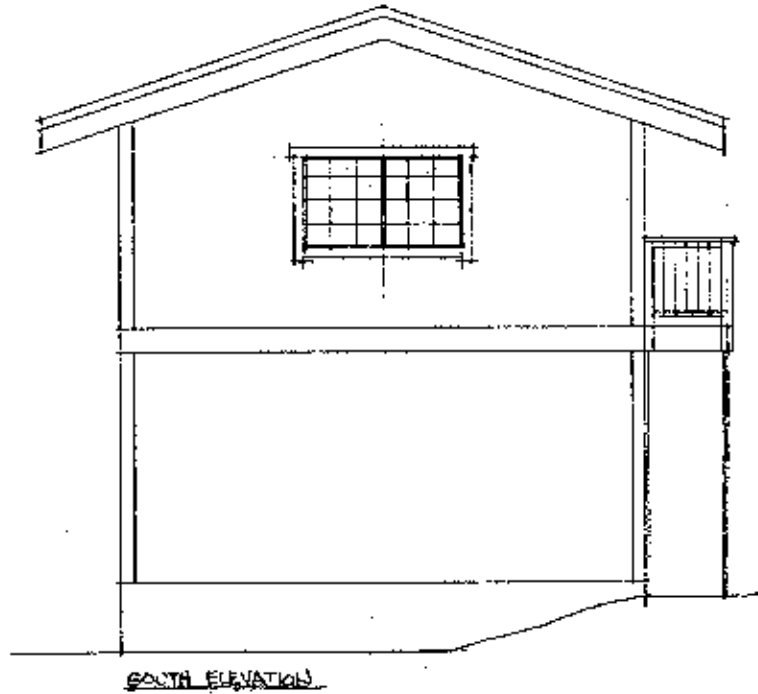
Schedule No. 3 (part 1 of 2)
Profile Plan
Development Variance Permit No. 90413

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



Schedule No. 3 (Part 2 of 2)
Profile Plan
Development Variance Permit No. 90413

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

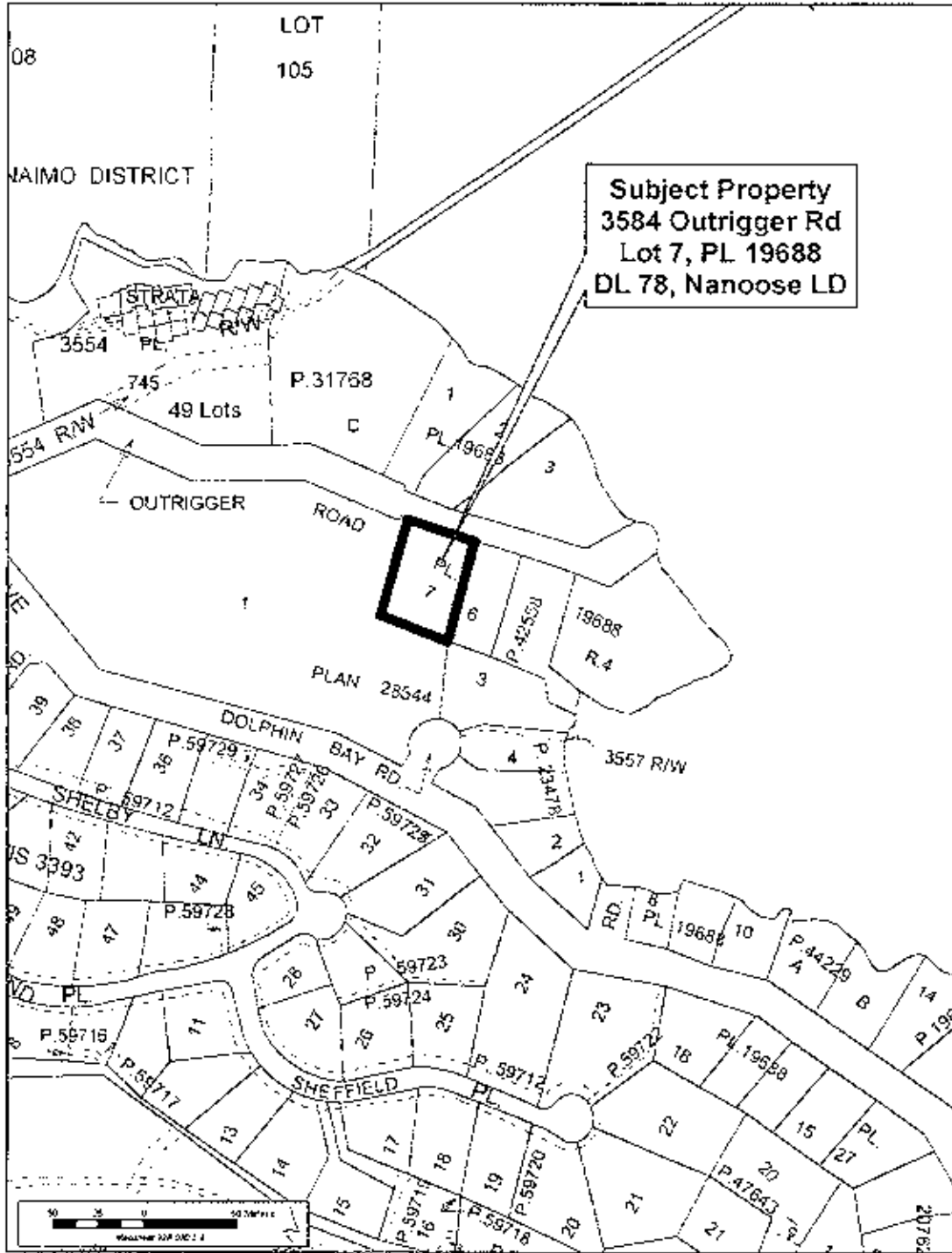


Schedule No. 4
Requested Variances
Development Variance Permit No. 90413

Development Variance Permit No. 90413 is proposed to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

1. By relaxing **Section 3.4.6i – Maximum Number and Size of Building and Structures – Height** .. the maximum height requirement for the 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.

**Attachment No. 1
Subject Property Map**





REGIONAL DISTRICT OF NANAIMO	
SEP - 7 2004	
CHAIR	GMCrS
NO	GMDS
AP	GMES

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: September 3, 2004

FROM: Greg Keller
Planner

FILE: 3090 30 90414

SUBJECT: Development Variance Permit Application No. 90414 – Kawerau and Bufler
Electoral Area 'E' –1405 Reef Road

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of an existing dwelling unit and allow the replacement of an attached deck.

BACKGROUND

The subject property, legally described as Lot 23, District Lot 38, Nanoose District, Plan 21633 is located at 1405 Reef Road in Electoral Area 'E' (see Attachment No. 1). The subject property which is 1104.81 m² in size is currently zoned Residential 1 (RS1) Subdivision District 'N' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The front yard of the subject property adjacent to Reef Road contains a large rock outcropping. The existing dwelling unit is located on top of this outcropping.

A building permit was issued for the subject dwelling unit on September 14, 1977. At that time, the dwelling unit was mistakenly sited within the front lot line and interior side lot line setback area as shown on Schedule No. 2. The applicants have recently purchased the property and have removed an existing attached deck that formed part of the main entrance to the dwelling unit in order to replace it because several support posts have become rotten resulting in the deck becoming unsafe. The applicants are proposing to replace the original deck and to legalize the siting of the existing dwelling unit.

Requested Variances

The applicants are requesting a relaxation to the minimum front lot line requirements from 8.0 metres to 3.3 metres and a relaxation to the minimum interior side lot line requirement from 2.0 metres to 1.6 metres in order to legalize the siting of the existing dwelling.

The subject property is surrounded by other residential zoned properties and is separated by Reef Road to the north. In addition, the property to the northwest of the subject property is currently vacant.

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, a building permit will be required.

The parcel is currently served by community water and individual septic system.

ALTERNATIVES

1. To approve Development Variance Permit No. 90414 subject to the conditions outlined in Schedules No. 1, 2, and 3.
2. To deny the requested permit as submitted.

DEVELOPMENT IMPLICATIONS

The dwelling unit has been situated on the subject property for almost 27 years and has had minimal impact on the neighbouring properties primarily due to the sight lines of the neighbouring properties being directed towards the northeast away from proposed deck and due to the fact that the property to the northwest is currently undeveloped. In addition, it is noted that the dwelling unit on the property to the east of the subject property has a similar front yard setback as the subject property.

Previous owners of the property constructed a concrete stairway, which provides access to the deck and the dwelling. Due to topographical constraints, this stairway was sunken into the rock outcropping and would be difficult to remove. The applicants wish to continue to utilize the existing stairway for access to the dwelling unit.

While the application is for a significant variance to the minimum front lot line setback requirements in the RS1 zone, the architectural design and layout of the house makes it necessary to access the dwelling from the front yard. In addition, there is an engineered septic system in the rear yard, which also restricts further development in the rear yard.

Topographical constraints on the subject property, due to the rock outcropping in the front yard, limit the building envelope of the subject property. Therefore, the existing siting of the dwelling unit is complimentary to and compatible with the topographical features of the site and appears to be the most suitable location for the dwelling unit.

Ministry of Transportation Implications

The applicants have applied to the Ministry of Transportation for a relaxation to its minimum setback requirement from a road right of way from 4.5 metres to 3.3 metres. It is expected that this approval will be in place prior to the Electoral Area Planning Committee's September 14, 2004 meeting. Staff recommends that as a condition of approval, the applicants submit confirmation from the Ministry of Transportation granting approval to its minimum setback requirement.

Public Consultation Process

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.

Environmentally Sensitive Areas Atlas

The Environmentally Sensitive Areas Atlas designates the northeast portion of the subject property within a coastal Fisheries Planning Boundary. The Nanoose Bay Official Community Plan Bylaw No. 1118, 1998 addresses this coastal area by designating a Watercourse Protection Development Permit Area, which incorporates a 15-metre coastal leave strip, measured from the natural boundary of the

ocean. Since the subject property is outside of this area, with respect to the Fisheries Planning Boundary, there are no further Regional District of Nanaimo planning requirements.

VOTING


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

SUMMARY

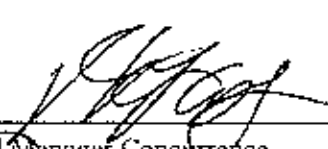
This is an application for a development variance permit to vary the minimum front lot line requirement from 8.0 metres to 3.3 and the minimum interior side lot line requirement from 2.0 metres to 1.6 metres respectively in order to facilitate the siting and replacement of the existing attached deck and to legalize the siting of the existing single dwelling unit. The dwelling unit has been situated on the property in the same location for almost 27 years and does not appear to impact the views or have other impacts on the neighbouring property owners. Topographical constraints on the subject property limit the building envelope of the subject parcel. The existing siting of the dwelling unit is complimentary to and compatible with the topographical features of the site and appears to be the most suitable location for the dwelling unit. The adjacent property owners within 50 metres of the subject property will have an opportunity to comment on the proposed variance through the public notification process. The applicants have applied for Ministry of Transportation approval to relax its minimum required setback. Staff recommends that as a condition of approval, the applicants provide confirmation of Ministry of Transportation approval. As this application is to legalize an existing situation with little or no negative impact on the neighbourhood and for the aforementioned, staff recommends approval of the request subject to the conditions outlined in Schedules No. 1, 2 and 3 subject to the notification requirements pursuant to the *Local Government Act*.

RECOMMENDATIONS

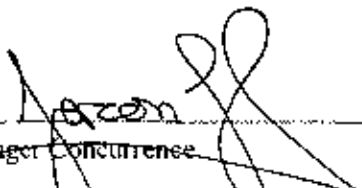
That Development Variance Permit Application No. 90414, submitted by the property owners Peter Kawerau and Karen Butler for the property legally described as Lot 23, District Lot 38, Nanoose District, Plan 21633 to legalize the siting of an existing dwelling unit and to facilitate the replacement of an existing attached deck within the front lot line setback area by relaxing the minimum required front lot line setback requirement from 8.0 metres to 3.3 metres and the minimum interior side lot line setback requirement from 2.0 metres to 1.6 metres, 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*.



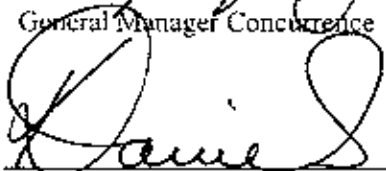
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1
Conditions of Approval
Development Variance Permit No. 90414**

Siting

1. The attached deck and existing dwelling shall be sited as shown on Schedule No. 2 and 3.

Survey

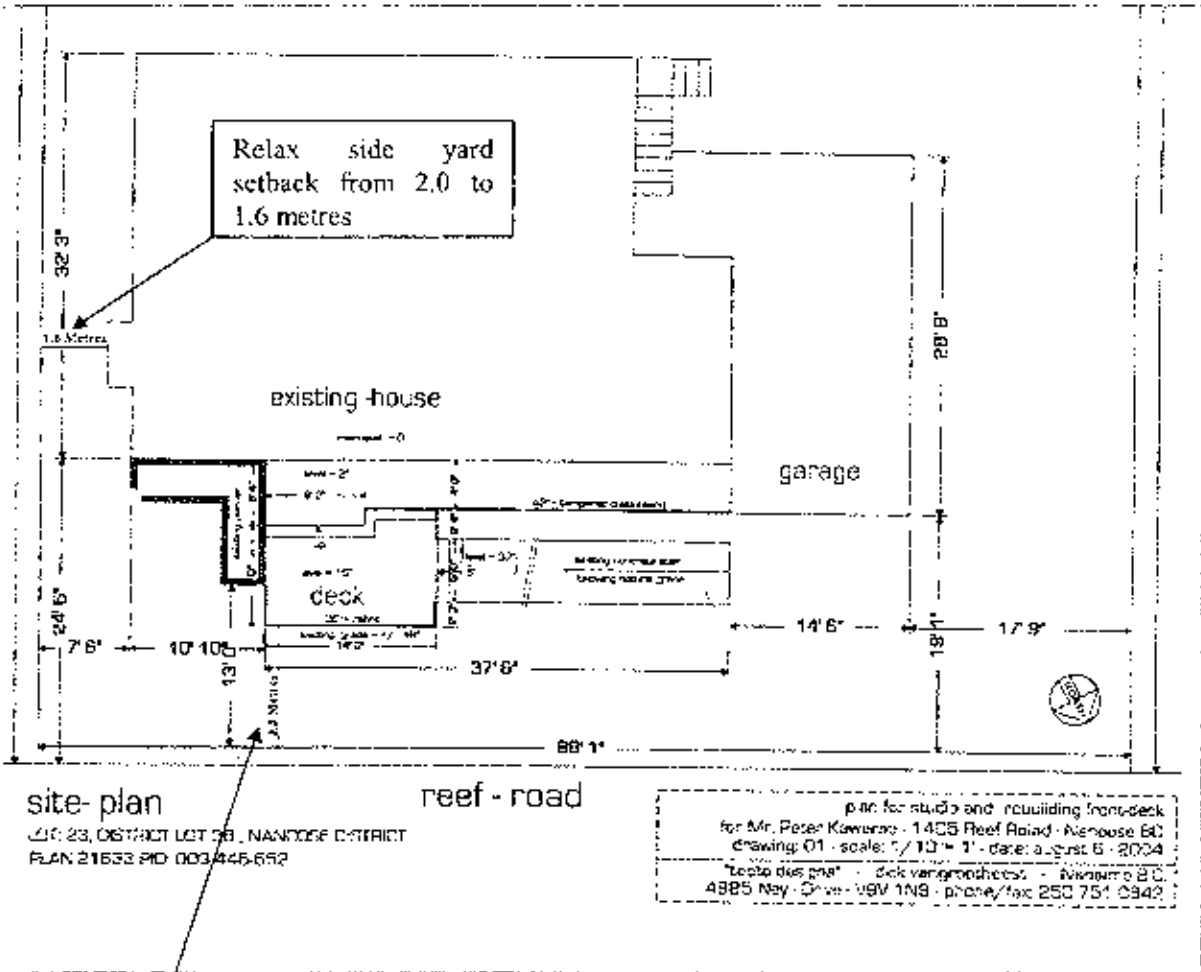
2. At the time of building inspection, a survey, prepared and certified by a British Columbia Land Surveyor, shall be provided to the satisfaction of the Building Inspector.

Ministry of Transportation Approval

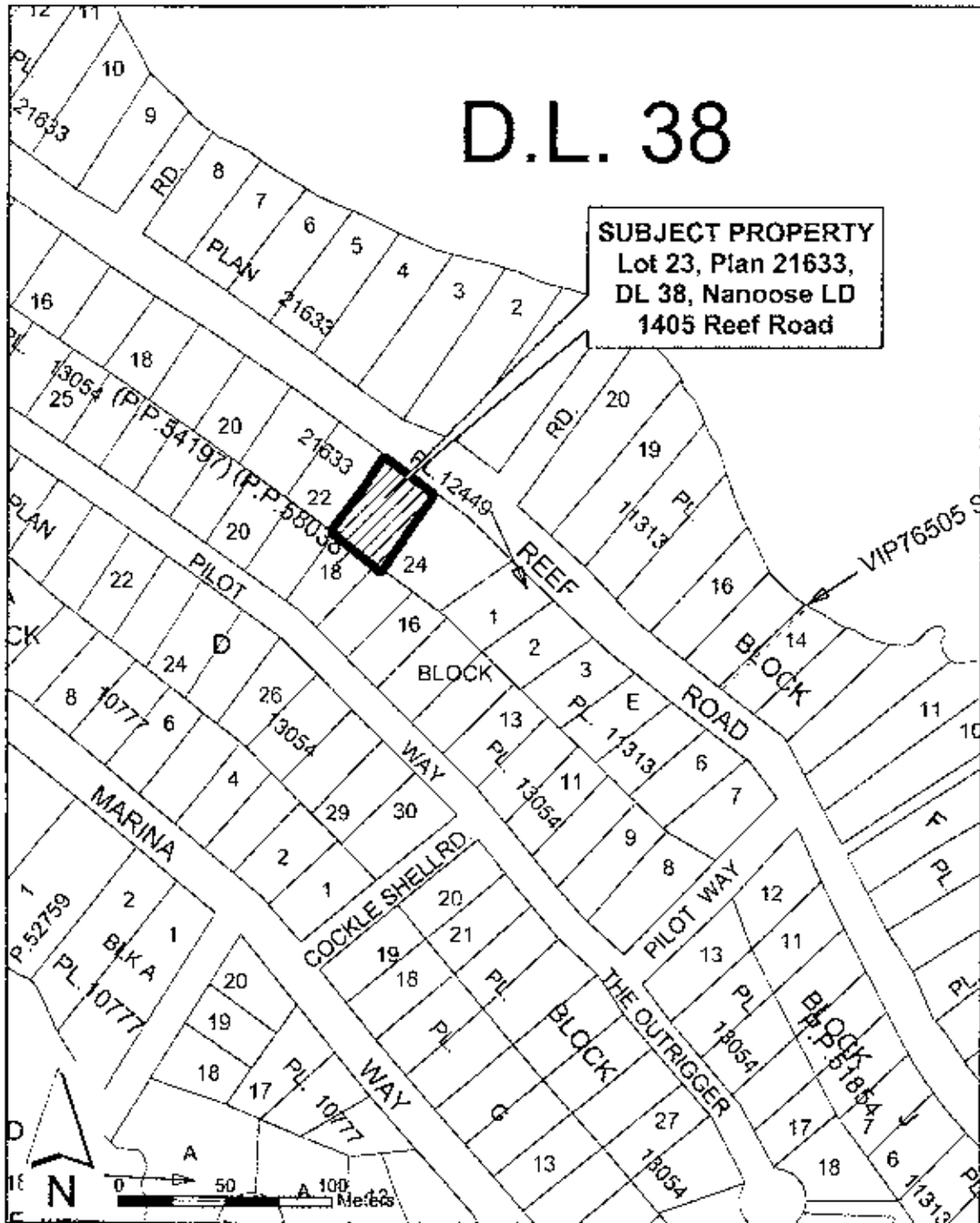
3. Confirmation of approval from the Ministry of Transportation shall be required prior to the issuance of this permit.

Schedule No. 2
Development Variance Permit No. 90414

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



Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO			
SEP - 7 2004			
CHAIR		GMC-S	
		GMDS	
		GMES	
<i>ARC</i>			

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: September 7, 2004

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 90415
3320 30 24348

SUBJECT: Development Variance Permit Application No. 90415 & Request for Relaxation of the Minimum 10% Frontage Requirement
Applicant: Fern Road Consulting Ltd., on behalf of V & M Fritzsche
Electoral Area 'G', 1410, 1420, & 1424 Hodge's Road

PURPOSE

To consider a development variance permit application to relax the minimum interior side lot setback requirement to accommodate the siting of existing buildings from proposed new lot lines and to consider a request to relax the minimum 10% perimeter frontage requirement in conjunction with a proposed lot line adjustment subdivision.

BACKGROUND

The applicant's agent has applied for a development variance permit requesting the relaxation of the interior side lot line setback requirement to accommodate the siting of 3 existing agricultural buildings from lot lines proposed to be created at time of subdivision. The applicant's agent has also requested that the minimum 10% perimeter frontage requirement be relaxed for 3 of the proposed parcels as part of a lot line adjustment subdivision proposal, which will reduce the total number of parcels from 5 to 4 for the properties legally described as The Remainder of District Lot 26, Parcel A (DD14397N); Lot 1, District Lot 27, Plan 1300 with Exceptions; Parcel A (DD14397N), District Lot 27; Lot 1, District Lot 26 & 116, Nanoose District, Plan 23750, With Exceptions; and Lot B, Parcel 1 (DD13709N), District Lot 27 Plan 1300 With Exceptions; All of Nanoose District and located at 1410, 1420, and 1424 Hodge's Road within Electoral Area 'G' (see Attachment No. 1 for location of parent parcel).

The subject properties are currently zoned Rural 1 (RU1) and are within Subdivision District 'D' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing to reconfigure the 5 parent parcels into 4 new lots, which will be greater than the 2.0 ha minimum parcel size, therefore meeting the minimum parcel size requirement (see Schedule No. 1 for proposed subdivision).

A portion of the subject parcels are designated within the Watercourse and the Sensitive Lands Development Permit Areas pursuant to the French Creek Official Community Plan Bylaw No. 1115, 1998 for the protection of French Creek and its adjacent riparian areas. Pursuant to the exemption provisions of development permit guidelines, a development permit may be waived provided that the minimum lot areas are met exclusive of the Watercourse Protection and Sensitive Lands Development Permit Areas leave strip and no development activities relating to the creation of the lots or provision of services for those lots will occur within the development permit area. The applicant's agent has indicated that there will be no development activities related to the creation of the lots or provision of services within the Development Permit Areas and as the proposed parcels will be greater than the minimum parcel exclusive of the leave strip areas, the application meets the exemption criteria.

The new parcels are proposed to be served by individual private septic disposal systems and private water wells.

The subject properties are also located within the Provincial Agricultural Land Reserve.

Proposed Variances to 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, the applicant is requesting the relaxation of setbacks for 3 existing agricultural buildings to be located within Proposed Lot A as follows:

<i>Building</i>	<i>Proposed Variance</i>
Agricultural barn building No. 1	From 30.0 m to 14.0 m from the proposed interior side lot line adjacent to Proposed Lot D
Agricultural barn building No. 2	From 30.0 m to 22.5 metres from a proposed lot line interior side lot line adjacent to Proposed Lot D
Agricultural building housing chickens	From 30.0 m to 7.6 m from a new lot line interior side lot line adjacent to Proposed Lot D

(See Schedule No. 2 for detail of building location in relation to proposed lot lines)

As these buildings will not meet the required minimum setbacks of 30.0 metres for an agricultural building housing livestock or storing manure, variances to Bylaw No. 500 provisions are required. Therefore, the applicant has applied for a development variance permit requesting to a variance to these setbacks.

10% Minimum Frontage Requirement

Proposed Lots A, B, and C, as shown on the proposed plan of subdivision as submitted by the applicant's agent, 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:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
A	329.0 m	26.0 m	0.1 %
B	506.0 m	12.0 m	0.002 %
C	200.7	42.0	0.02 %

Therefore, as these proposed lots do not meet the minimum 10% parcel frontage requirement pursuant to section 944 of the *Local Government Act*, approval of the Regional Board of Directors is required. Please note that the applicant's surveyor has indicated that it is difficult to determine the exact equivalent frontage as a percentage because the boundaries of French Creek and therefore this information is preliminary only and there may be final minor adjustments.

In addition, it is noted that there is an outstanding bylaw enforcement issue pertaining to zoning infractions involving the maximum number of dwelling units allowed per parcel under the Rural 1 zone and the ongoing operation of an illegal land use.

ALTERNATIVES

1. To approve the request for the relaxation of the minimum 10% frontage requirement for proposed Lots 1 and 2 and approve the development variance permit application as submitted.

2. To deny relaxation of the minimum 10% frontage requirement and the development variance permit application.

DEVELOPMENT IMPLICATIONS

The Provincial Agricultural Land Reserve Commission has approved the subdivision of these parent parcels. In keeping with the guidelines of the Land Reserve Commission not to extend roads into the ALR as well as the requirements of the *Land Title Act* to limit roads being extended into ALR lands, the only additional road proposed is a road for the purposes of providing sufficient and reasonable access to the proposed new parcels. Therefore, the Provincial guidelines and regulations support the reduced proposed frontages to serve the proposed parcels. Ministry of Transportation staff has indicated that the frontages, as proposed, are acceptable to the Ministry.

OFFICIAL COMMUNITY PLAN / ENVIRONMENTAL IMPLICATIONS

The Regional District of Nanaimo Environmentally Sensitive Areas Atlas indicates that the portion of French Creek bordering the subject properties is a Salmon Present Fish Habitat and adjacent riparian area is shown as Riparian Vegetation Sensitive Ecosystem area. These environmentally sensitive areas are designated in the French Creek Official Community Plan Bylaw No. 1118, 1998 as being within the Watercourse Protection and Sensitive Ecosystems Development Permit Areas. The applicants are exempt from requiring a development permit for the other watercourses as the works associated with the subdivision are outside the development permit area. Despite this, information concerning the presence of these other watercourses will be forwarded to the Ministry of Transportation as part of the subdivision review process. Please note that the *Farm Protection (Right to Farm) Act* would still have precedence over any environmental covenants.

LEGAL IMPLICATIONS

The Remainder of District Lot 26, one of the parent parcels, is currently subject to a Supreme Court action with respect to the ongoing operation of Earthbank Resource Systems composting facility, which is an illegal land use. To date, this matter has not been resolved voluntarily and the court action is continuing.

This proposed subdivision, if approved, would rectify the bylaw enforcement issue dealing with the zoning infraction with respect to the permitted number of dwelling units per parcel.

VOTING

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

SUMMARY

This is a request to relax the minimum 10% perimeter frontage requirement for 3 of the proposed parcels as part of a lot line adjustment subdivision proposal. This is also a request for a development variance permit to vary the minimum setback requirements to accommodate the siting of three existing agricultural buildings from a lot line proposed to be created when the subdivision is registered. The subject properties are located within the Provincial Agricultural Land Reserve and the Commission has granted approval of


the subdivision. A portion of the parent parcels are designated within the Watercourse Protection and Sensitive Lands Development Permit Areas, but meet the exemption clauses from requiring a development permit. Nevertheless, as part of the subdivision review process, staff will recommend to the Approving Authority the protection of the watercourse by covenant. In keeping with the requirements of the *Land Title Act* to not extend roads into the ALR, Hodges Road is not proposed to be extended into the properties. As a result of this, Hodges Road is to be developed as a dead end road, which means that it is difficult to achieve the minimum 10% perimeter frontage requirements for the lots fronting the road. Ministry of Transportation staff has indicated that they have no objection to the request for the proposed minimum 10% frontage relaxations.

One of the parent parcels is currently subject to a Supreme Court action with respect to the ongoing operation of Earthbank Resource Systems composting facility, which is an illegal land use. To date, this matter has not been resolved voluntarily and the court action is continuing. It is noted that the proposed subdivision, if approved, would rectify the second bylaw enforcement issue dealing with the zoning infraction with respect to the permitted number of dwelling units per parcel.

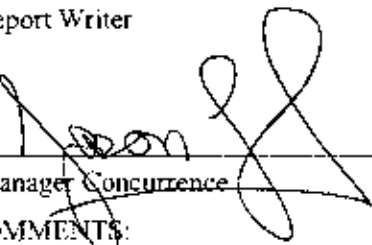
Therefore, as the Provincial Agricultural Land Commission has approved the subdivision, the Ministry of Transportation staff has no objection to this request, and the proposed lot line is proposed to have the least impact on the existing buildings and the operations of the farm, staff recommends Alternative No. 1, to approve relaxation of the minimum 10% perimeter frontage for the proposed Lots A, B, and C and to approve the development variance permit subject to notification procedures.

RECOMMENDATION

That the request, submitted by Fern Road Consulting Ltd., on behalf of V & M Fritzsche to: relax the minimum 10% frontage requirement for the Proposed Lots A, B, and C as shown on the submitted plan of subdivision, and attached as Schedule No. 1; and, to relax the minimum interior lot line setback requirement from 30.0 metres to 14.0 metres, 22.5 m, and 7.6 metres for three agricultural buildings housing livestock or storing manure proposed to be located within Lot A, be approved as shown on Schedule No. 2 and the notification requirements pursuant to the *Local Government Act*.



Report Writer



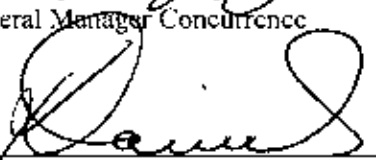
Manager Concurrence

COMMENTS:

devsvs:report/2004/se 3320 30 24348 / dvp90415 fritzsche.doc



General Manager Concurrence



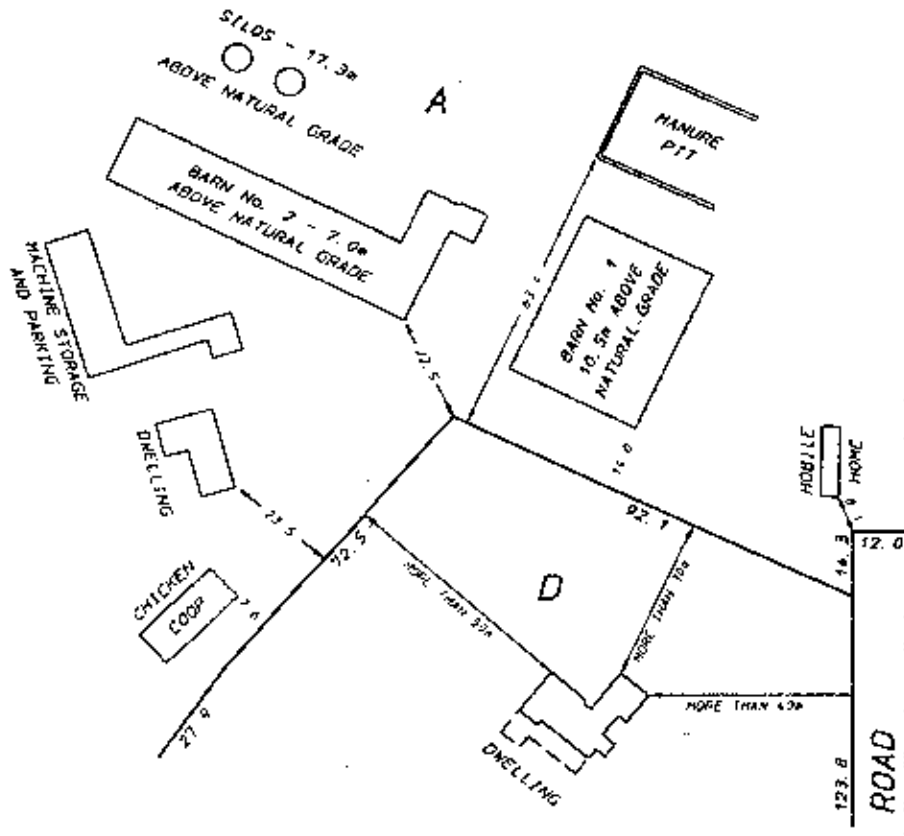
CAO Concurrence

SCHEDULE NO. 2
Detail Showing Existing Agricultural Buildings and Proposed Lot Lines
(as submitted by applicant)

DETAIL

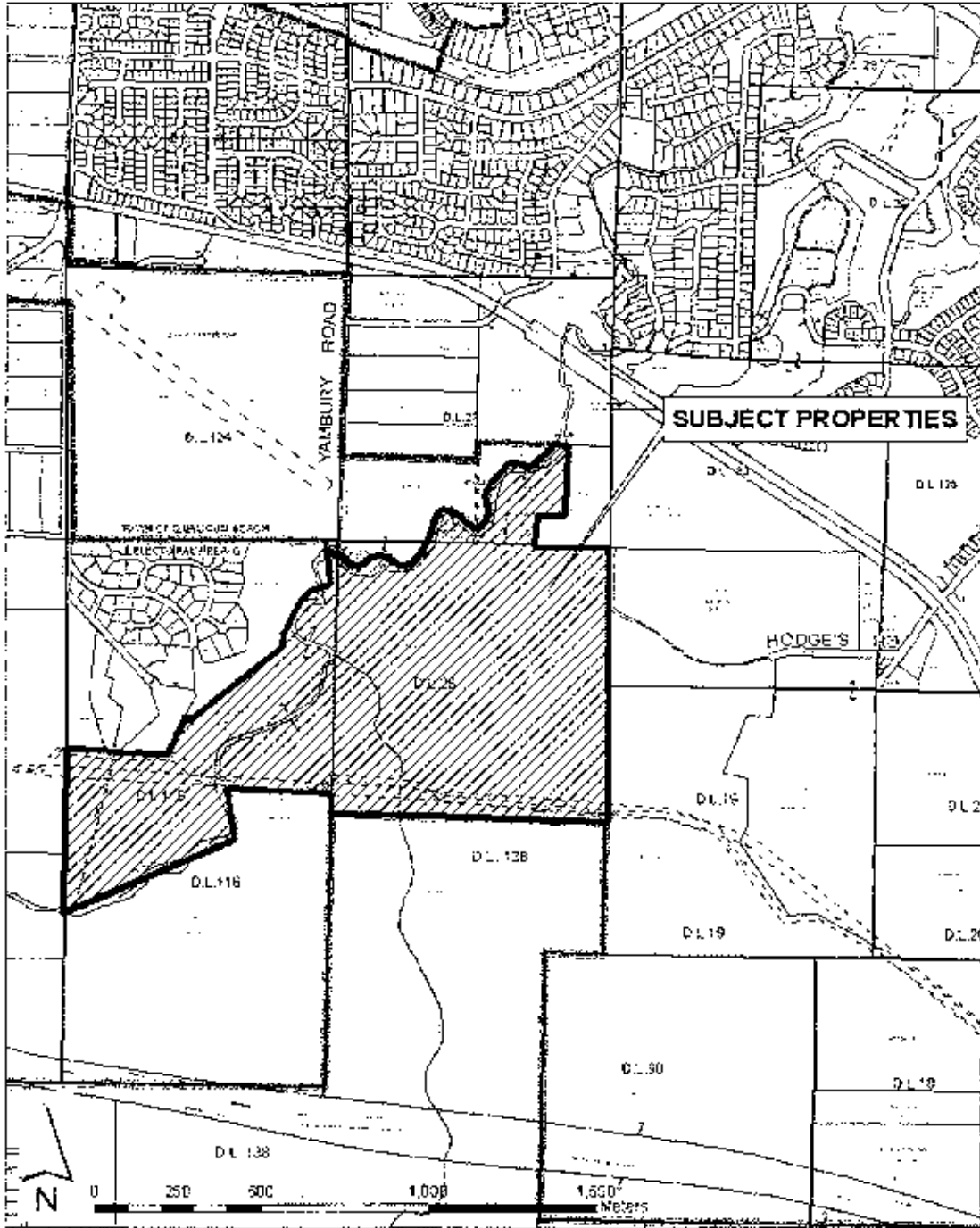
SCALE 1: 1250

ALL OFFSETS SHOWN ARE TO OVERHANG



1
PLAN

ATTACHMENT NO. 1
Location of Subject Properties



DC-36 MAP SHEET 22F 44 13



REGIONAL DISTRICT OF NANAIMO		
SEP - 3 2004		
GM/AS	GM/CS	
CAO	GM/DS	
GM/MS	GM/ES	
EAPC ✓		
TO: Robert Lapham General Manager, Development Services		DATE: September 3, 2004
FROM: Susan Cormie Senior Planner		FILE: 3320 20 13571
SUBJECT: Consideration of Park Land Dedication Lost Lake Properties Ltd. on behalf of McKin Estates Electoral Area 'G' - off Sumar Lane		

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services
DATE: September 3, 2004
FROM: Susan Cormie
Senior Planner
FILE: 3320 20 13571
SUBJECT: Consideration of Park Land Dedication
Lost Lake Properties Ltd. on behalf of McKin Estates
Electoral Area 'G' - off Sumar Lane

PURPOSE

To consider the dedication of park land as part of a proposed 34-lot subdivision development.

BACKGROUND

This is a subdivision application which is subject to the consideration of park land or cash in-lieu-of park land or a combination of both for the properties legally described as Lots 1 and 2, Both of District Lot 28, Nanoose District, Plan VIP61866 and located in the French Creek area of Electoral Area 'G' (see Attachment No. 1 for location of subject properties and Attachment No. 2 for the proposed subdivision). The applicant submitted a proposal offering cash in-lieu-of park land and the Regional Board of Directors, at its regular meeting held on August 10, 2004, passed the following resolutions concerning that request:

That the request, submitted by Lost Lake Properties Ltd. to provide cash in-lieu-of park land be refused and the applicant be required to provide the dedication of park land in an amount and location acceptable to the Regional Board of Directors as part of the 34-lot subdivision proposal of Lots 1 and 2, District Lot 28, Nanoose District, Plan VIP61866.
CARRIED

That upon receipt of a park land proposal from the applicant, the proposal be referred to the Electoral Area 'G' Parks Recreation and Greenspaces Advisory Committee and a public information meeting prior to reporting back to the Board.
CARRIED

As a result, the applicant submitted 8 alternatives for park land dedication in addition to his original request for cash in-lieu-of park land. These park land proposals were referred to the Electoral Area 'G' Parks and Open Space Advisory Committee on August 26, 2004 and presented at a Public Information Meeting held on September 1, 2004.

Park Land Requirements

Where an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. In this case, the French Creek Official Community Plan Bylaw No. 1115, 1998 designates the subject parcel within a Park Land Evaluation Area and provides preferred park location and type criteria to be used when evaluating acquisition applications. Pursuant to the Local Government Act, the maximum amount of park land that the Regional District may request for this property is 5% of the total site area, in this case approximately 1380 m².

As stated in the previous staff report, the applicant is in the process of applying for final approval of subdivision. The majority of the RDN requirements associated with the subdivision are now completed or near completion with the exception of the requirement for park land or cash in-lieu-of park land or a combination of both pursuant to section 941 of the *Local Government Act*. The applicant has constructed the servicing component of the development including community water and sewer services to each proposed parcel and the road works however did not have design stage approval from the RDN to confirm that the design would be approvable. The applicant has now submitted the necessary documentation and the RDN will be in a position to accept the works once the final subdivision layout is confirmed.

ALTERNATIVES

1. To accept one of the park land proposals as submitted by the applicant in an amount of 5% for park land dedication, as shown on Attachment No. 3.
2. To not accept any of the park land proposals as submitted by the applicant and require the applicant to dedicate park land in the amount of 5% of the total properties in the location as shown on Schedule No. 1.
3. To not accept any of the park land proposals as submitted by the applicant and require the applicant to dedicate park land in another location and amount.

DEVELOPMENT IMPLICATIONS

Official Community Plan Implications

The French Creek Official Community Plan Bylaw No. 1115, 1998 supports the acquisition of park land for these properties.

Electoral Area 'G' Parks and Open Space Advisory Committee Implications

The Electoral Area 'G' Parks and Open Space Advisory Committee does not support any of the 8 park land proposals, which the applicant submitted. Rather, the Advisory Committee commented that park land be dedicated on the subject properties between proposed Lots 20 and 24 on the west side of Sumar Lane (*See Attachment No. 4 for Advisory Committee comments*).

PUBLIC IMPLICATIONS

A Public Information Meeting (PIM) was held on September 1, 2004. Thirty two persons attended this meeting. There was strong support from the majority of the residents present for the proposed park land to be located in the area suggested by the Advisory Committee (*see Attachment No. 5 for minutes of Public Information Meeting*).

Following the Public Information Meeting, the Regional District received correspondence from the applicant, which is attached to the staff report as *Attachment No. 6*.

LEGAL IMPLICATIONS

This subdivision application has been ongoing for a number of years. At the time the PLA was originally issued, the provision of park land was at the option of the applicant. When the French Creek Official Community Plan Bylaw No. 1115, 1998 was adopted on October 13, 1998, it designated the subject properties within a Park Land Evaluation Area and provided policies to assist the Regional Board in its decision pertaining as to whether park land or cash in-lieu-of park land or a combination of both would be required. The applicant was informed of this requirement.

The RDN's solicitor has advised that the Board may require the applicant to provide park land for this subdivision application. This advice is based on the provisions of the *Local Government Act* and the corresponding policies set out in the French Creek OCP.

PARK LAND IMPLICATIONS

As the Board previously rejected cash-in-lieu of park land staff requested the applicant to provide a proposal for the dedication of park land that could be considered by the Parks and Open Space Advisory Committee and public and would assist staff in making a recommendation for consideration by the Board. The Advisory Committee and public expressed a preference for park land that was a single parcel, rectangular in shape, with a wide frontage and exposure to the neighbourhood and removed from commercial traffic routes that would complement the traditional walk and ride route linking the community. Several of the applicant's proposals met some of these preferences; however, as suggested by the Advisory Committee and the public, an optimal location for the required park land within the subject properties is recommended as shown on Schedule No. 1 (*Attached*).

VOTING

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

SUMMARY

This is a consideration of park land dedication as part of a 34-lot subdivision development for properties located in the French Creek area. The Regional Board, at its regular meeting on August 10, 2004 considered the applicant's request to provide cash in-lieu-of park land and refused this request. The Board also requested that upon receipt of a park land proposal from the applicant, the proposal be referred to the Parks and Open Space Advisory Committee and a Public Information Meeting.

The park land proposals, as submitted by the applicant, were referred to the Electoral Area 'G' Parks and Open Spaces Advisory Committee, which commented that park land dedication be required in the area of proposed Lots 20 to 24 inclusive. A Public Information Meeting was held on September 1, 2004, at which time the majority of residents present supported the comments of the Advisory Committee.

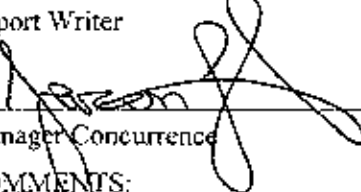
Therefore, based on comments received at the Public Information Meeting and the comments received from the Parks and Open Space Advisory Committee, staff recommends Alternative No. 2 that the applicant be required to provide park land in the location and amount as shown on Schedule No. 1 to the satisfaction of the Regional District as part of this 34-lot subdivision proposal.

RECOMMENDATION

That the park land proposals submitted by Lost Lake Properties Ltd. be refused and that the Regional District require that park land be dedicated in conjunction with the proposed subdivision of Lots 1 and 2, Both of District Lot 28, Nanoose District, Plan VIP61866 in the location and amount detailed on Schedule No. 1 of the staff report.




Report Writer



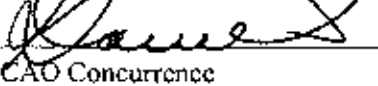
Manager Concurrence

COMMENTS:

Dev:\rs\reports\2004se park land 3320 20 13571 summr lane.doc



General Manager Concurrence

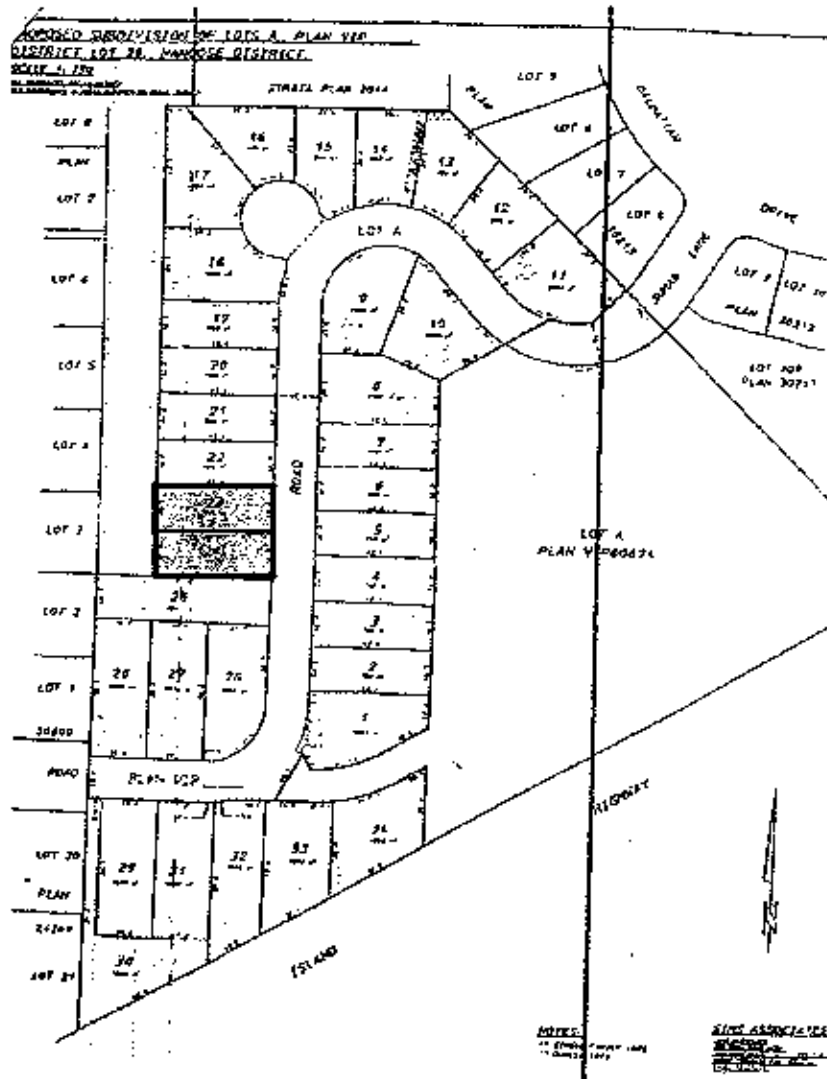


CAO Concurrence

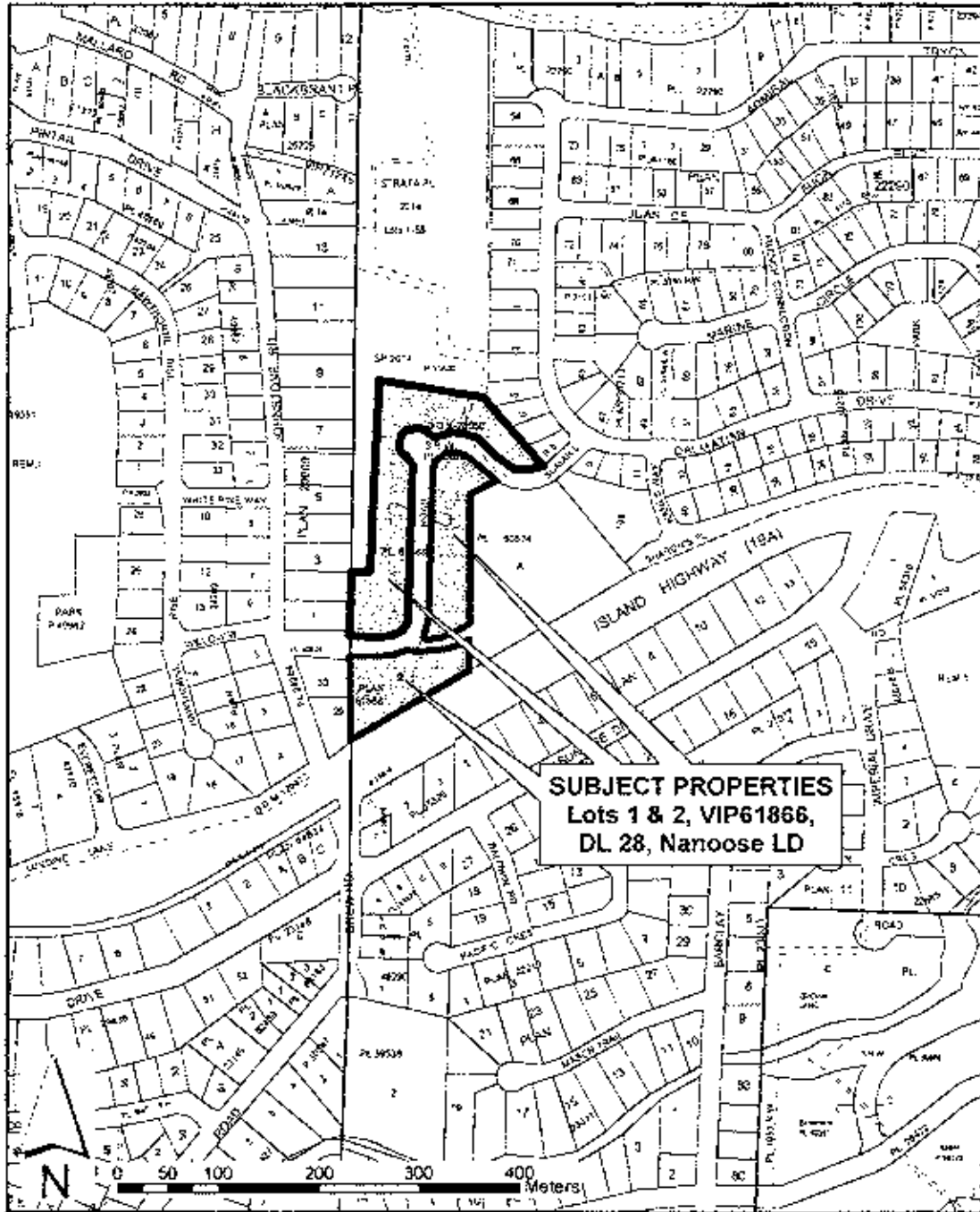
Schedule No. 1
Required Park Land

In conjunction with the subdivision application for the properties legally described as of Lots 1 and 2, Both of District Lot 28, Nanoose District, Plan VIP61866

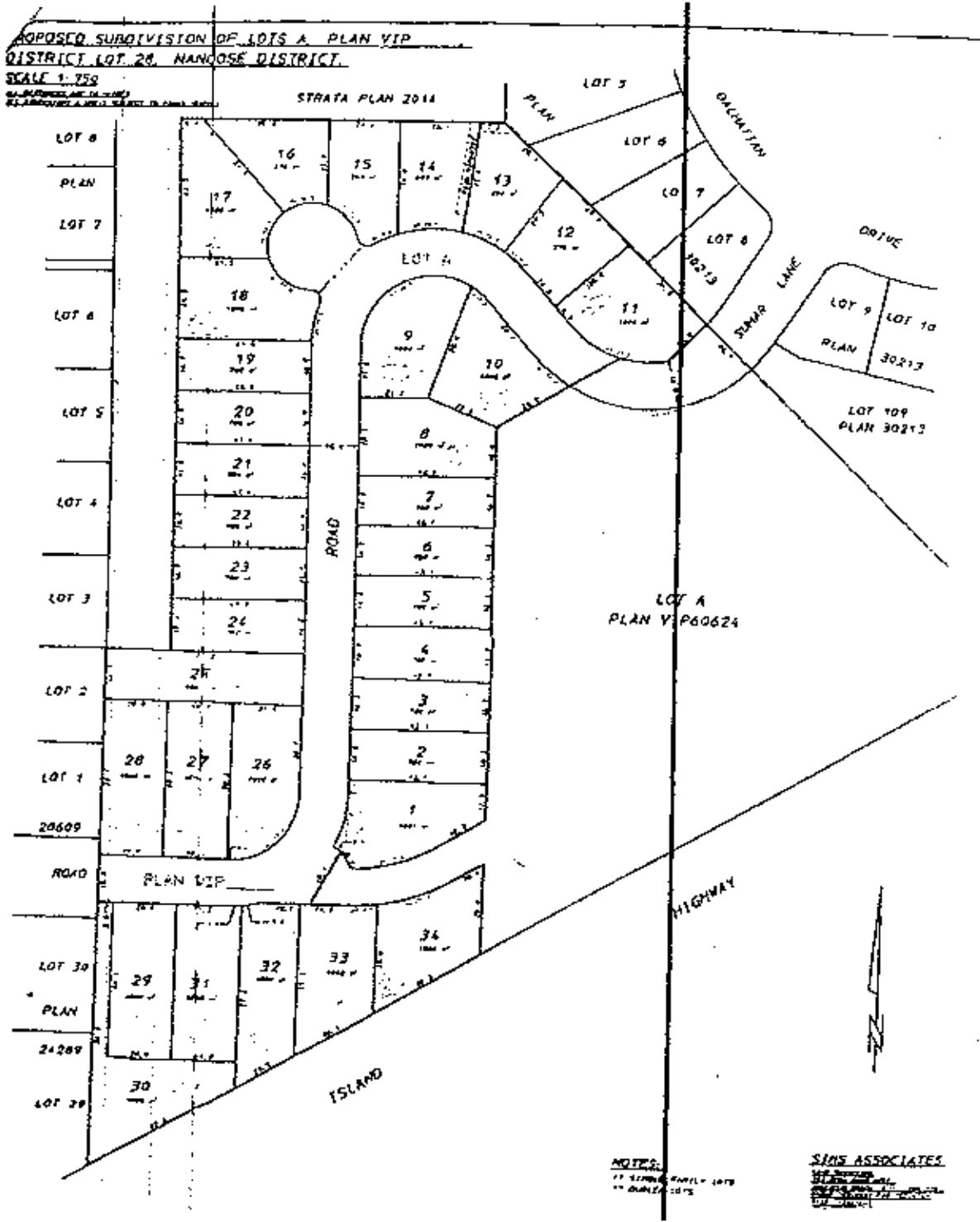
Land in the amount of 5% of the total areas of the above-noted parcels (Lots 1 and 2, Both of District Lot 28, Nanoose District, Plan VIP61866) shall be dedicated as park land in the location of proposed Lots 23 and 24 (shaded) as shown on the submitted plan of subdivision below. This park land shall be rectangular in shape.



Attachment No. 1
Location of Subject Property



Attachment No. 2
 Proposed Plan of Subdivision
 (As Submitted by Applicant)

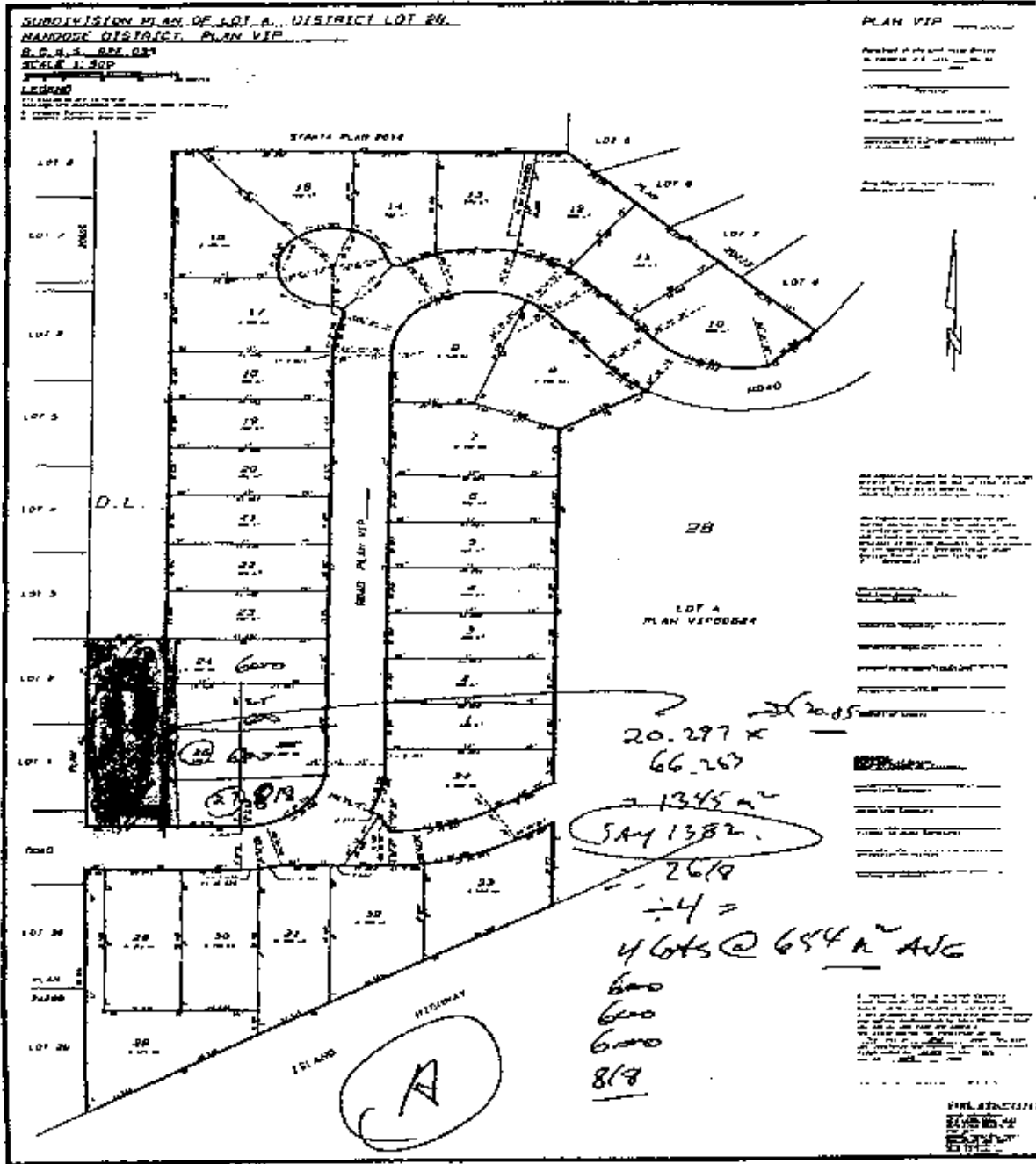


Attachment No. 3 (page 1 of 8)
 Park Land Proposals as Submitted by Applicant

08/06/2004 14:00 FAX 260 246 4894

BANCON HOLDINGS

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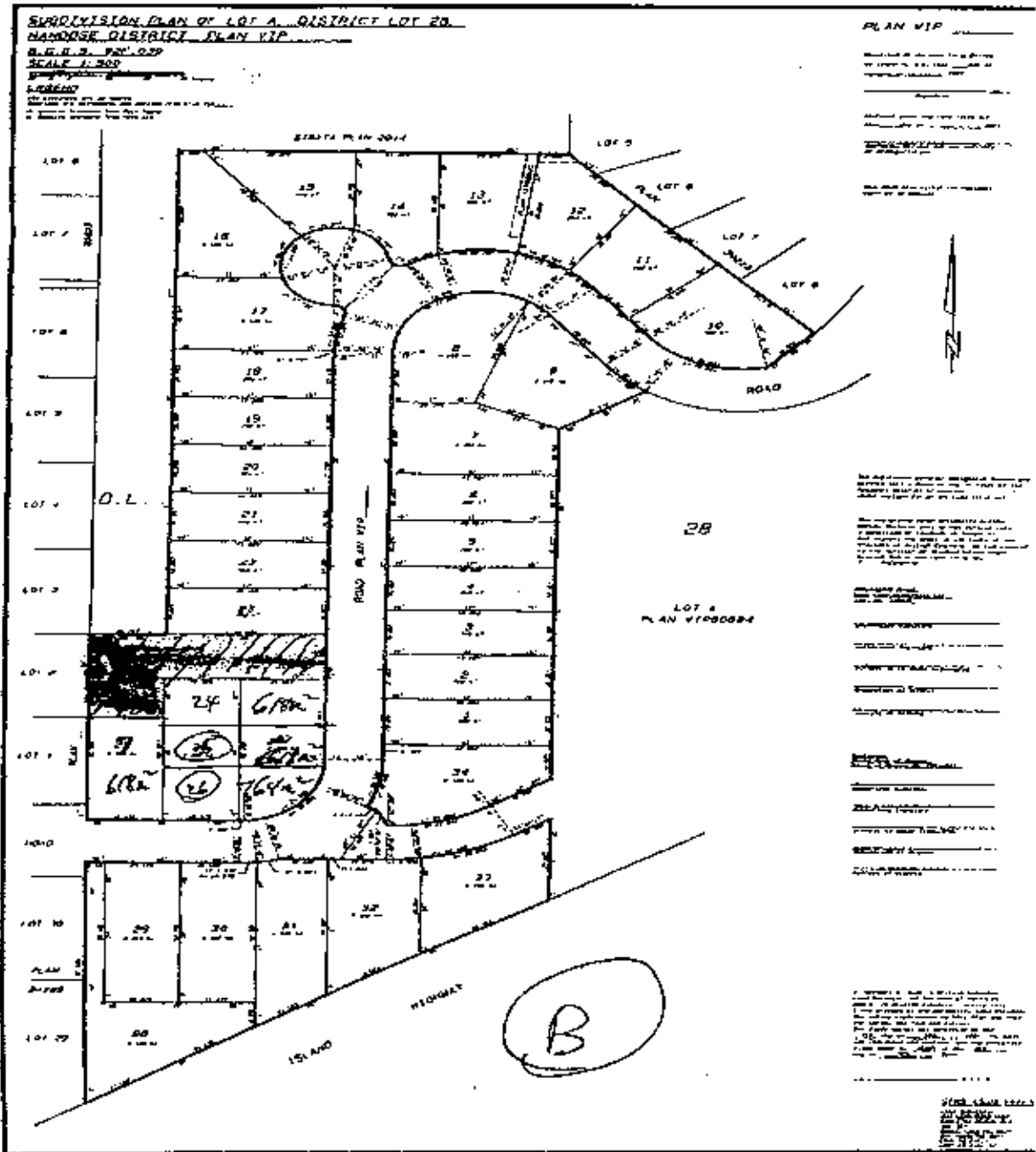


Attachment No. 3 (page 2 of 8)
 Park Land Proposals as Submitted by Applicant

06/06/2004 14:09 FAX 250 248 4894

BANCON HOLDINGS

0004

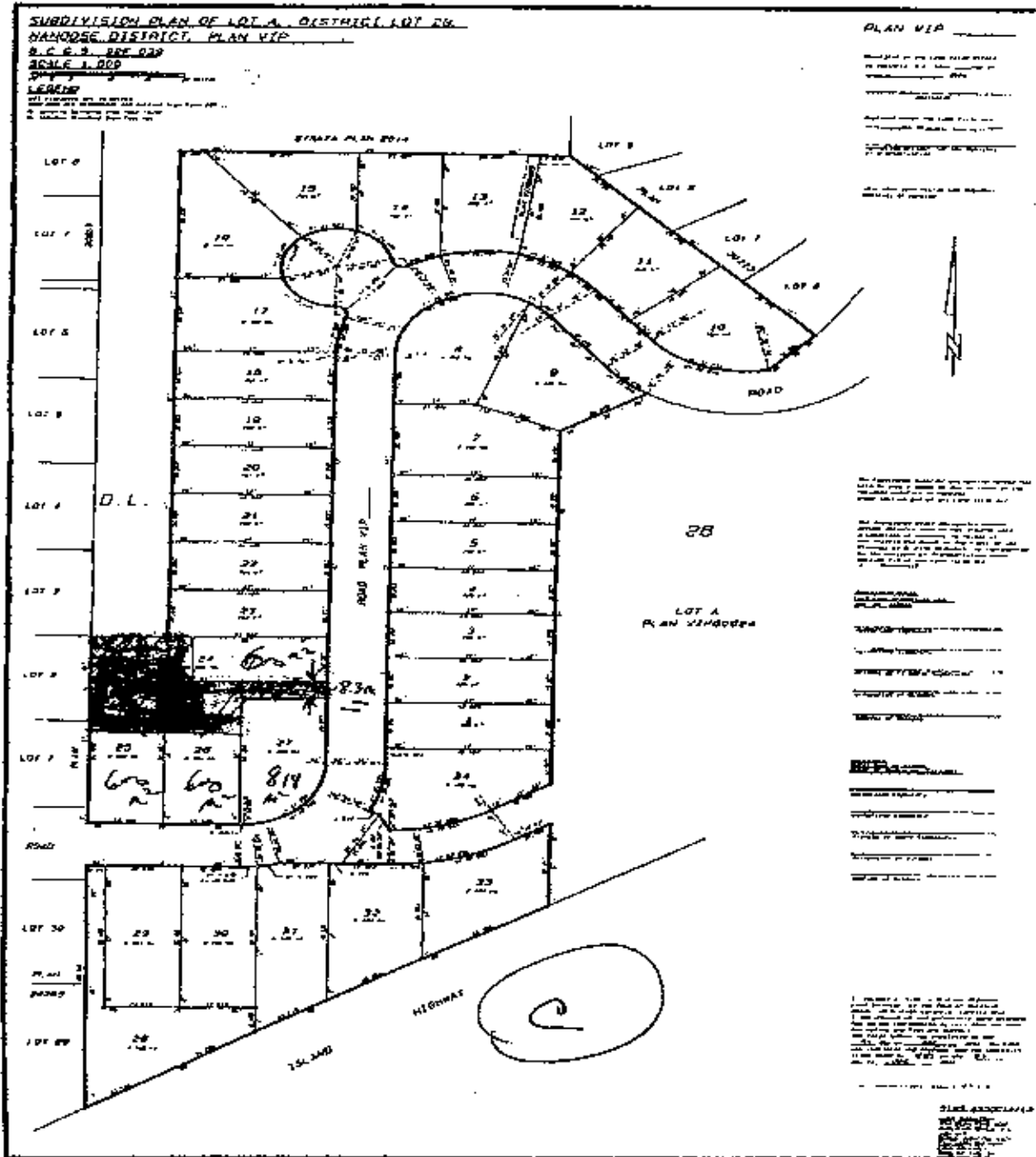


Attachment No. 3 (page 3 of 8)
 Park Land Proposals as Submitted by Applicant

08/08/2004 14:09 FAX 250 248 4894

HANCON HOLDINGS

006

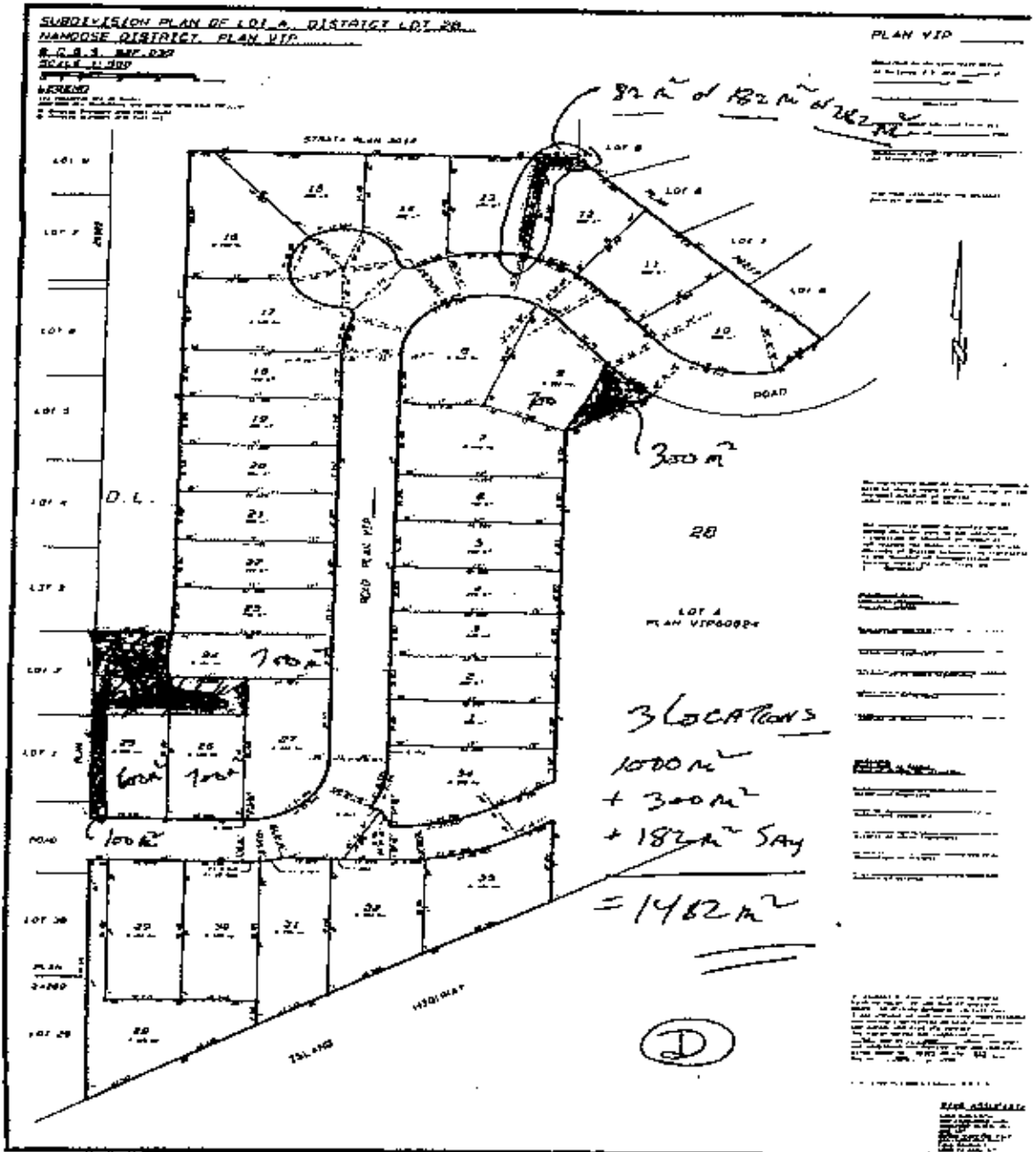


Attachment No. 3 (page 4 of 8)
 Park Land Proposals as Submitted by Applicant

08/06/2004 14:08 FAX 250 248 8804

HANCON HOLDINGS

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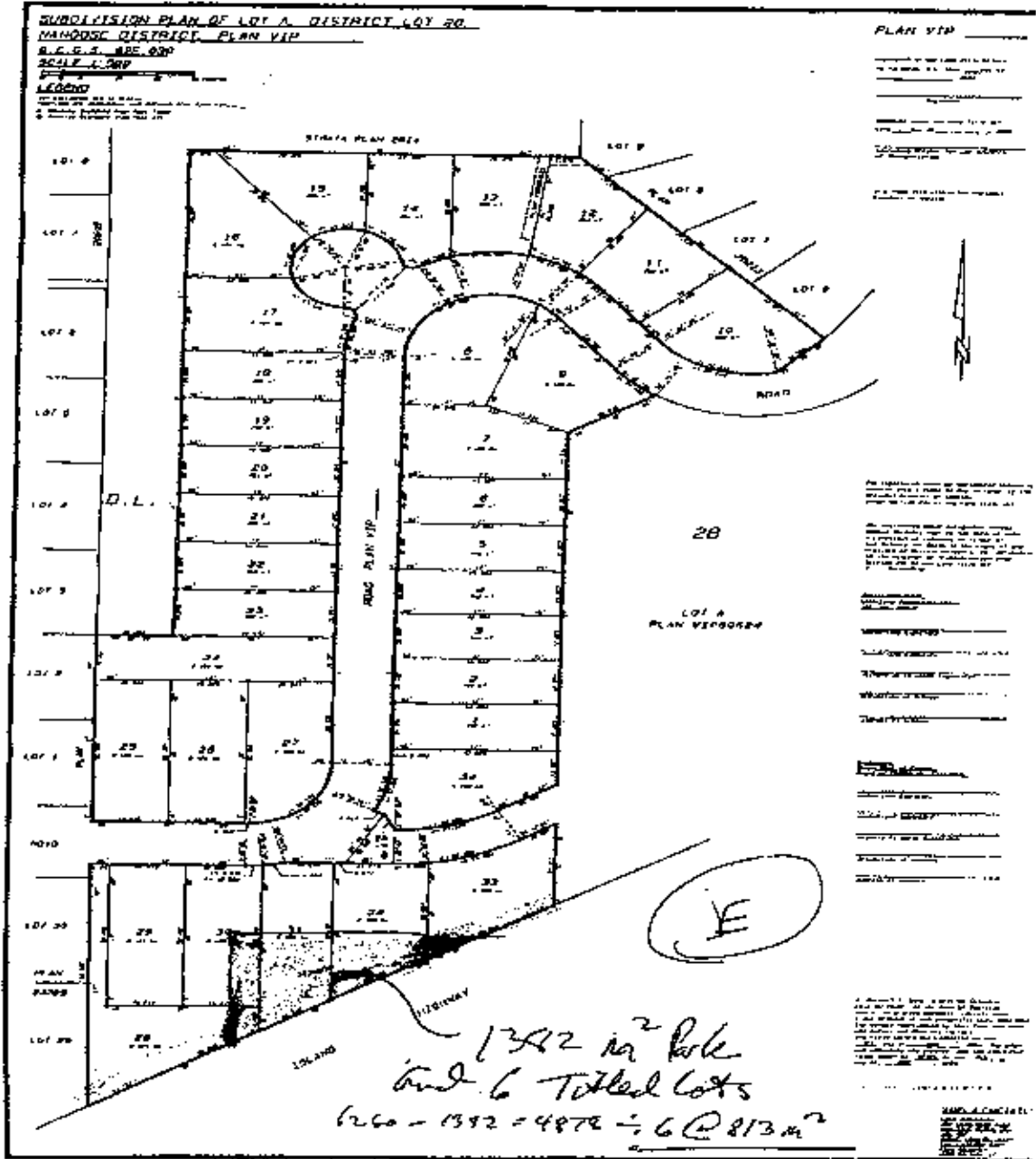


Attachment No. 3 (page 5 of 8)
 Park Land Proposals As Submitted by Applicant

08/08/2004 14:10 FAX 250 248 4894

HANCOCK HOLDINGS

007

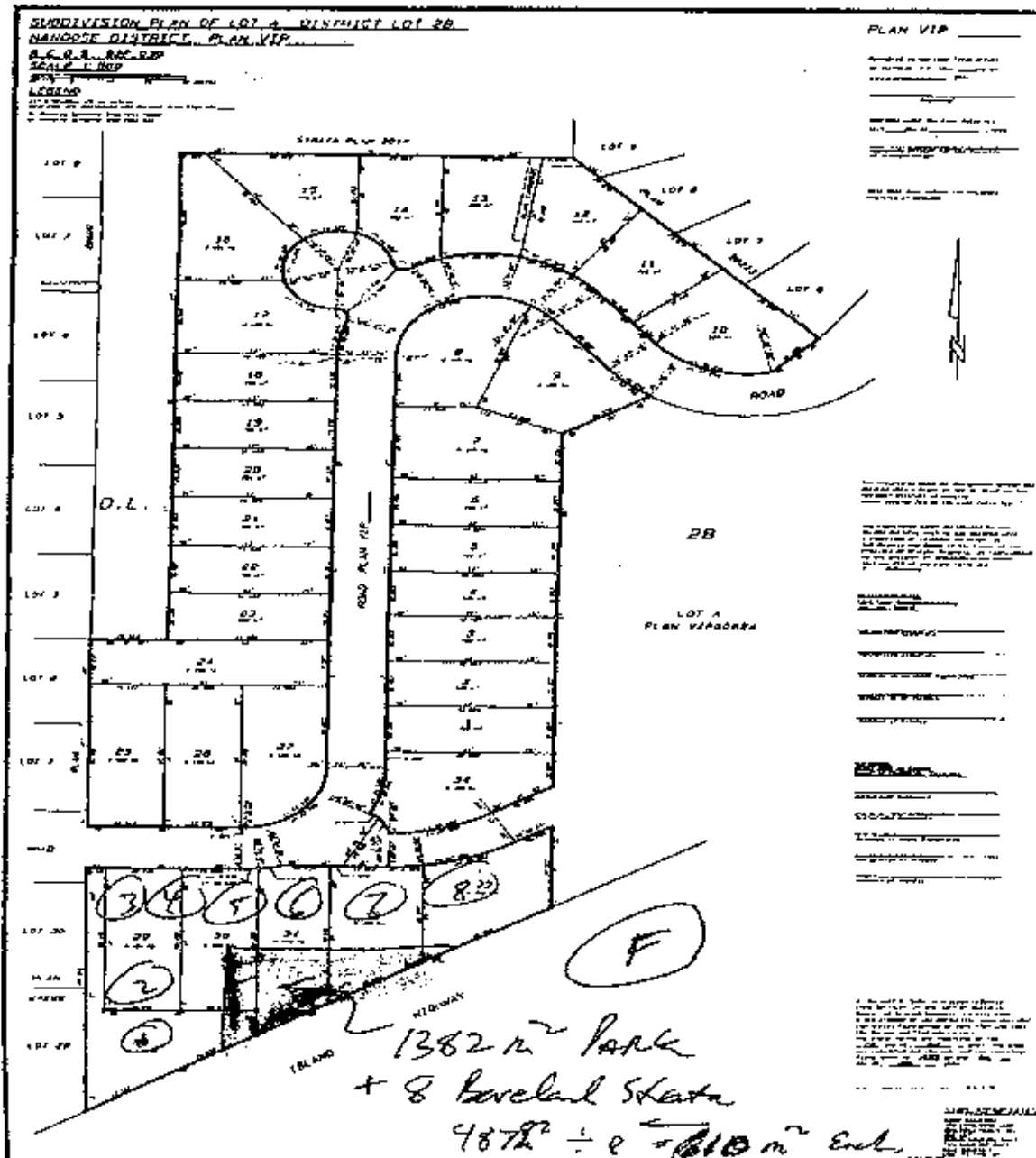


Attachment No. 3 (page 6 of 8)
 Park Land Proposals as Submitted by Applicant

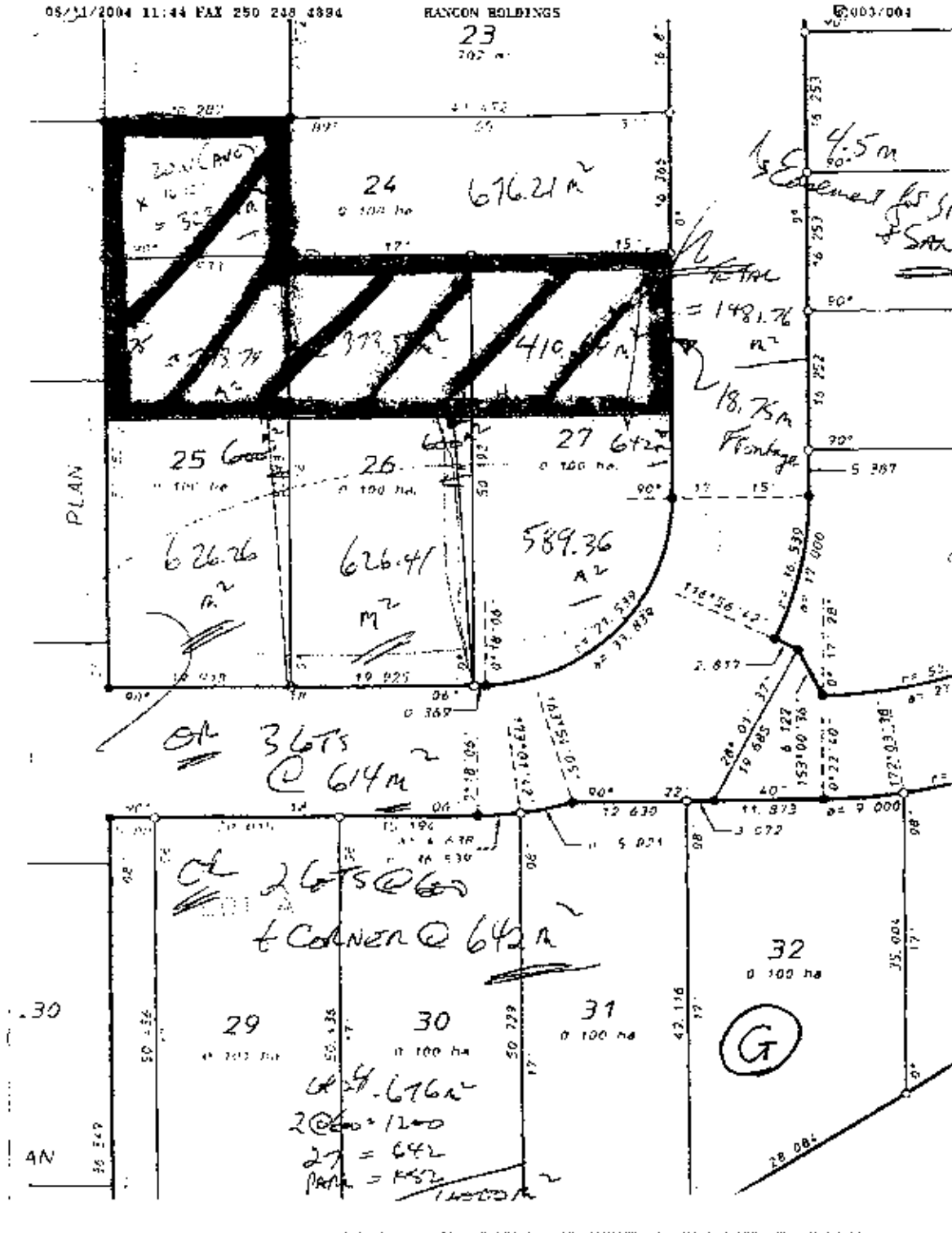
08/08/2004 14:10 FAX 250 246 4894

BANCON HOLDINGS

008



Attachment No. 3 (page 7 of 8)
 Park Land Proposals as Submitted by Applicant

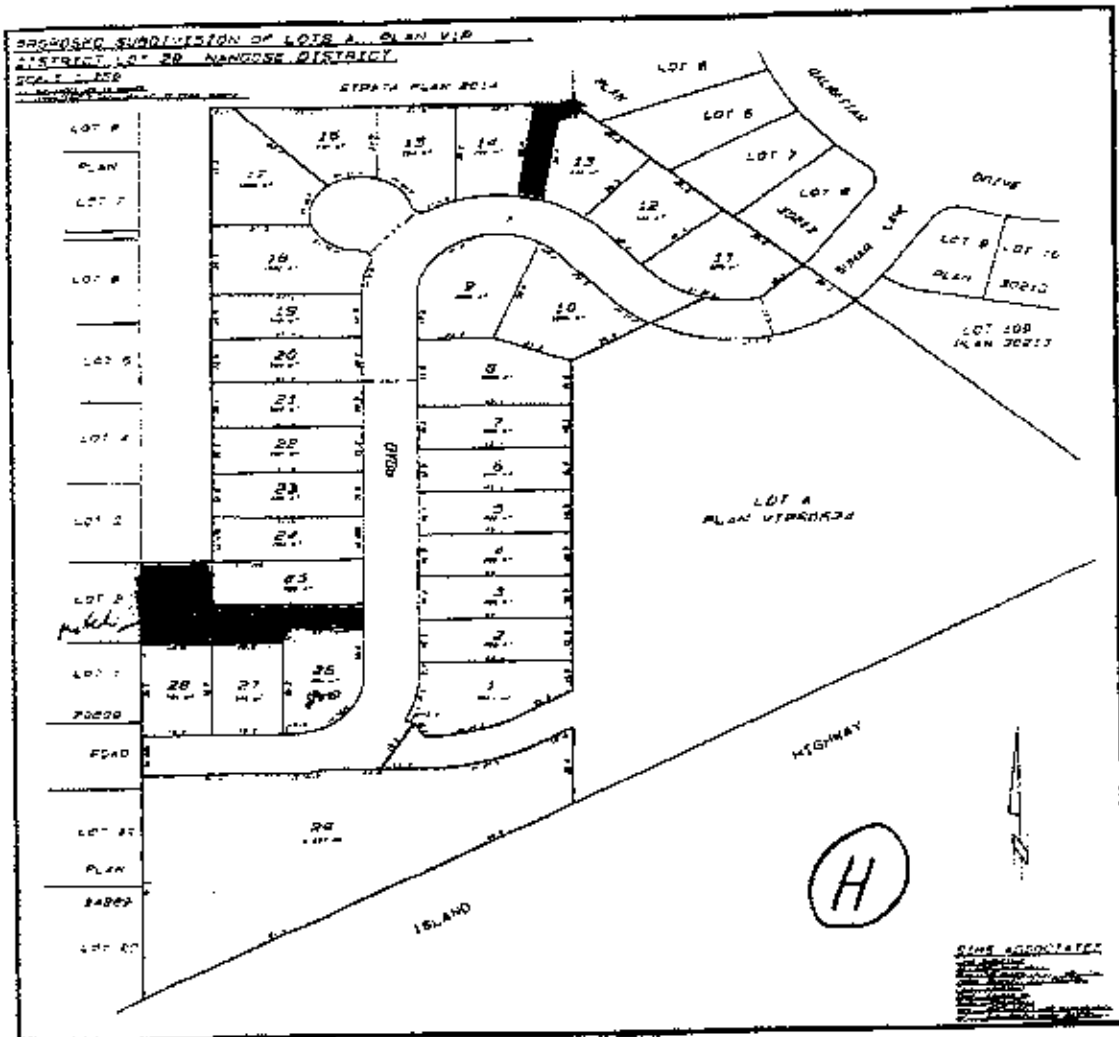


Attachment No. 3 (page 8 of 8)
Park Land Proposals as Submitted by Applicant

08/21/2004 11:44 FAX 250 246 4894

RANCON HOLDINGS

2004/004



05/31/2004 MON 15:57 (TTL/AL NO 5778) 004

Attachment No. 4
Correspondence from the Electoral Area 'G' Parks & Open Space Advisory Committee

08/27/04 FRI 09:01 FAX 1 250 248 3158

REC & PARKS

002



PARK LAND DEDICATION REVIEW
Referral Form
Parks and Open Space Advisory Committee

In conjunction with the subdivision application for the property legally described as:

SUMNER LANE

*Lots 1+2, VIP 61966
DL 28, Nanaimo LD*

and located at _____

Attachments:

- Location map
- Park Proposal Map
- Other _____

The _____ Advisory Committee has considered the request submitted by the applicant/owner and forwarded by the Regional District Planning Department for either dedication of park land or cash in-lieu-of park land or a combination of both and has the following advisory comments:

- Support park land in the amount and location as proposed.
- Do not support park land in the amount and location as proposed.

Comments:

PARK ON SIDEWALK SIDE MIDWAY FROM
CORNERS. PARK SHOULD HAVE NO DOULES OR
ISOLATED SECTIONS. ANY TWO ADJACENT LOTS
FROM 2021-22-23-24 WOULD BE THE
PREFERRED PARK LAND.

[Signature]
Chairperson
BRIAN COATH

Meeting held on (date): 26/08/2004

[Signature]
Secretary
Thomson

**Attachment No. 5
Minutes of a Public Information Meeting**

**Held at the Oceanside Place Multi Purpose Room
830 West Island Highway, Parksville on September 1, 2004 at 7:00 pm
Subdivision Application No. 13571 (Sumar Lane)
For the properties legally described as Lots 1 and 2, Both of District Lot 28, Nanoose District,
Plan VIP61866**

Note: these minutes are not a verbatim recording of the proceedings, but are intended to summarize the comments of those in attendance at the Public Information Meeting.

Present:

Attendance: 32 persons

For the Applicant:

No one was present on behalf of the applicant.

For the RDN:

Chair: Director Joe Stanhope
Robert Lapham, General Manager, Development Services
Tom Osborne, Manager of Recreation & Parks
Susan Cormie, Senior Planner

The Chair opened the meeting at 7:00 pm and followed with greetings to the public and an introduction of the staff.

The Chair stated the purpose of the public meeting and outlined the procedures of the meeting.

The General Manager outlined the park land requirements as set out in the *Local Government Act* and the French Creek Official Community Plan and provided a description of the park land proposals submitted by the applicant.

The Chair then invited any technical comments and questions from the audience.

Jacqueline Thomson, 1236 West Island Highway, stated that she understood that the Board makes the choice as to where the park land should be located.

The General Manager concurred that is correct.

Doug Sly, 576 Dalmatian Drive, asked how can the Committee determine the nature of the park land until the neighbourhood has moved in?

The General Manager explained that the RDN considers the comments from the Parks and Open Space Advisory Committee and public as well as Board policies to determine the type of park and whether cash should be taken instead of park land. The General Manager noted that, in this case, the applicant had offered \$43,750.00 cash in-lieu-of park land dedication.

Name and address not given, asked how was this construction allowed to continue?

The General Manager stated that the Ministry of Transportation did not place a stop work on the site and the applicant never received design stage approval for the RDN related works.

Name and address not given, replied that it appears to be late to be considering park land dedication.

The General Manager commented that the applicant felt that cash in-lieu-of park land would be acceptable.

Allen Hughes, Pebble Beach, asked if the development is for low rise buildings as indicated originally?

The General Manager explained that the current zoning allows for 1 dwelling unit per parcel with 8.0 metre maximum height that would permit a 2 storcy dwelling unit. The General Manager noted that the applicant did submit a zoning amendment application proposing to create some duplex parcels, but the applicant canvassed the neighbourhood and found that the community did not support this proposed use.

Joanne Chase, 627 Johnstone Road commented that several of the park land proposals submitted by the applicant shows lots at less than 700 m² in size and that she does not support these smaller lots.

The General Manager explained that a certain amount of parcel averaging is permitted in Bylaw No. 500 and that staff did caution the applicant to be careful that the proposed parcels would be of sufficient size to support the intended residential uses.

Being no additional technical questions or comments, the Chair invited other comments.

Brain Coath, Chair, Electoral Area 'G' Parks and Open Space Advisory Committee, explained the Advisory Committee's background information as to how it arrived at its submitted comments for dedicating park land in the vicinity of proposed Lots 20, 21, 22, 23, and 24 as shown on the proposed plan of subdivision. A copy of these notes is attached.

Allen Hughes, Pebble Beach, asked if the Advisory Committee Chair was recommending an access through Pebble Beach property?

Mr. Coath explained that no, the Committee noted that there were trees on the Pebble Beach property next to the recommended park land area.

Richard Dean, stated he was speaking as a Director of the French Creek Residents Association and stated that the French Creek Residents Association agrees fully with the Parks Advisory Committee proposal and that it is noted that the site fits in well with the OCP's mobility options which identify Sumar Lane as a proposed bikeway and walkway linking other neighbourhood parks and the Columbia Beach area.

Mack Stone, 524 Dalmatian Drive, asked about the status of the Sumar Lane construction not being completed.

The General Manager stated that the Ministry of Transportation is holding bonding for the completion of the road.

Mr. Stone enquired as the status of the traffic control lights at Johnstone Road and Island Highway.

Bill Barnes, 571 Dalmatian Drive, commented that a traffic light on Johnstone Road could affect the park land selection due to the extra traffic on Sumar Lane.

The Chair stated that the Regional District is concerned about this situation and supports the need for traffic control lights at both Johnstone Road and Columbia Drive and does not support one set of lights without the other.

Robin Robinson, 4848 Columbia Drive, stated that park land instead of cash is very important and further she has a concern about people driving through Sumar Lane.

The Chair commented that he is not in favour of a thorough fare through Sumar Lane and that traffic control lights are needed at both Johnstone Road and Columbia Drive intersections with the Island Highway.

The General Manager stated that the RDN has forwarded these concerns to the Ministry of Transportation.

Robin Robinson stated that with almost 300 lots in the area, it is not suitable to squeeze the traffic through Sumar Lane.

Don Thimer, 545 Johnstone Road, asked if anyone from the Ministry of Transportation noted that things were not adequate with this development.

The General Manager stated that the Ministry did not place a stop work on the development.

Lyle Hollingworth, 504 Dalmatian Drive, stated that Columbia Drive does not have driveway access issues and would be suitable for a traffic light.

Sally Dunn, 619 Johnstone Road, stated that she fully supports the Committee's preference for park land in a rectangular shape. Ms. Dunn also commented that Johnstone Road has no sidewalks and no overhead lights.

The Chair stated that the RDN fully understands about the Johnstone Road traffic situation.

Jacqueline Thomson stated that Sumar Lane is a narrow road at only 15 metres with the corner narrowing quickly.

No name or address given, suggested that the park land be moved to be adjacent to the Home Hardware property with a walkway and tree cover to buffer the commercial from the residential use and provide connections at both ends onto Sumar Lane.

Mac Stone stated that he supports the Parks Advisory Committee's preference. Mr. Stone also commented that the connection to Sumar Lane from Dalmatian Drive provides a second access into the neighbourhood, which is good from an emergency vehicle perspective.

Doug Sly, 576 Dalmatian Drive stated that he supports the park location as recommended by the Advisory Committee. Mr. Sly also asked about the street lights on Sumar and who pays for those.

The General Manager explained that the street lights will not be turned on until an agreement with the Regional District has been completed.

Richard Dean, French Creek Residents Association, asked if the park land has sidewalk adjacent to it, who will be responsible for maintaining this sidewalk?

The General Manager stated that the Parks Department would maintain the sidewalk in front of the park land and treat it like a boulevard. The General Manager noted that the sidewalk is within the Ministry of Transportation right-of-way and is ultimately the Ministry's responsibility.

Mr. Dean asked if the RDN considered the mobility options set out in the OCP when the sidewalk was constructed?

The General Manager stated that applicant would be subject to the Ministry's requirements in the construction of a sidewalk.

Doug Sly, 576 Dalmatian Drive, stated that the sidewalk currently goes to proposed Lot 11 and asked will the sidewalk be extended?

The General Manager commented that the Ministry is probably not holding monies for construction of the extension of the sidewalk.

Allen Hughes, Pebble Beach, commented that there is a consensus of the people here tonight who want park land and suggested a resolution to that effect.

The Chair explained that this is a public information meeting and the purpose is to gather comments from everyone generally.

No name given, Johnstone Road, stated that he supports the Advisory Committee's preference.

Ken Dodds, Lot 1, commented that they are building a new house and have had to follow all the rules and get permits, etc. and yet the applicant went ahead and constructed the subdivision without the proper procedures in place. Mr. Dodds also stated that he supports the park land proposal as recommended by the Advisory Committee.

The General Manager commented that the RDN would meet with the Ministry to discuss this.

No name or address given, stated that he is concerned about lighting in the subdivision and supports the park area recommended by the Advisory Committee.

The General Manager explained that the street lighting is required to be included in the Street Lighting Local Service Area before it can be lit.

Doug Sly, 576 Dalmatian Drive, inquired as to the house numbering on Dalmatian Drive.

Mr. Stone answered his question.

The General Manager explained the house numbering grid system.

The Chair asked if there were any further submissions. There being none, the chair thanked those in attendance and closed the public information meeting.

The meeting concluded at 8:51 pm.

Susan Cormie
Recording Secretary

Written Comments Attached to Public Information Meeting

**Electoral Area "G" Parks and Open Space Advisory Committee
Regional District of Nanaimo
Parks and Recreation Department**

August 31, 2004

The Parks committee prefers parkland rather than cash in lieu of parkland.

Parkland is best to complement walk & ride traditional routes through and linking the community.

Parkland dedication to be one plot, preferably rectangular with a wide entrance for best public utility and open to wide view of community for added safety.

Parkland should be free of commercial traffic and heavy traffic hazards.

In these 7 proposals for park Sumar lane, A through G, the proposals were looked at by the committee with an on site inspection and then discussed August 26, 2004.

The 7 proposals were not supported for park dedication.

Two proposals "A and D" were subject to the commercial traffic and a constricting road. Proposal "D" was mainly hidden from sight of the community and it split the park plot into two portions.

Proposals B, C, G, H, is not rectangular in shape and the majority of these parkland proposals had isolated sections hidden from the sight of the community.

Proposals E & F were on the highway with little or no access to the development.

Proposal H & D were split portions of parkland.

The proposals were looked at by the committee with an on site inspection and then the meeting of the committee was held on August 26, 2004. The unanimous conclusion of the committee were that:

The parkland should avoid the hazardous highway exposure, the commercial traffic into Home Builder's and the road bends on Sumar Lane Road.

The best shape & form of the parkland would be an open rectangular configuration on the sidewalk side of the development, which would provide the optimum walk; bike and handicap access to the park.

To expedite the parkland proposal and the development the committee put forward 4 suggestions that they felt would fit the criteria and would be in the best public interest.

The Arca G Parks and Open Space Committee proposed that any two adjacent lots (#20 & #21), (#21 & #22), (#22 & #23) or (#23 & 24)* would have the optimum form, shape, access and visual safety for the required parkland dedication of 1380 Sq. meters and would be supported by the committee.

*The lot numbers are from the map headed "Attachment No. 2, Proposed Subdivision (as submitted by applicants)" presented to the committee on page 3 of the RDN Memorandum of August 18, 2004.

The four suggestions for preferred parkland dedication plots were submitted as comment on the parkland dedication review of August 26, 2004.

Brian Coath
Chair
Arca "G" Parks & Open Space Advisory Committee

Attachment No. 6

09/02/2004 14:55 FAX 250 248 4894

HANCON HOLDINGS

001

Lost Lake Properties Ltd.
1080 Industrial Way
Parksville, B.C. V9P 2W8
Phone (250) 248-8155 Fax (250) 248-4894

Without Prejudice
September 2, 2004
5 page(s)

Attention: Bob Lapham ✓
Susan Cormie
Joe Stanhope
Regional District of Nanaimo

Re: McKin Parkland @ 1382 m²

If we cooperate, and now change the agreement to substitute land for the earlier cash in lieu agreement with the RDN, then the best place for the Park is probably a widened Lot 24, 22,378 m wide x 61,759 m deep. The RDN should recognize that they are now getting serviced land. This land would be labeled as PARK (1,382 m²).

This parkland would reduce lots 25, 26 and 27 to an average of 872 m² in size, from 1,000 m².

However, as further compensation, and so that we don't lose any lots, it is further proposed that the adjoining Lots 25 - 27 become 4 lots of 654.5 m² in average size.

Some adjustments will have to be made to the services, due to the above changes. If this work is to be at our expense, then we should at least be exempted D.C.C.s.

Other ideas, if we are going to make adjustments to the present plan:

- ⊙ Lots 15 - 17 could be realigned to 4 lots, with an extra lot at 668 m².
- ⊙ Lots 7 - 9 @ 1,000 m² could be adjusted to create 4 lots at 750 m².
- ⊙ The 1,000 m² lots were created in part for the original Duplex concept, which was later dropped. Also, we haven't heard back on the idea of legal in-law suites for the 1,000 m² lots. If in-law suites can be accepted, and we believe it's possible without zoning changes, then we can probably leave the 1,000 m² lots, as 1,000 m² lots.

09/02/2004 14:55 FAX 250 248 4884

HANCON HOLDINGS

002

Then there is the Highway portion to consider:

- ⊙ Presently it's 6 lots and 6,252.55 m² in size. Can we have 8 Strata Lots at 781 m² average? Or can we perhaps get 9 Strata Lots at 694.73 m² average, which is just below the minimum 700 m², but with overall lot averaging, could and should be acceptable, to the RDN?
- ⊙ No gain in value. 6 Residential Lots x \$100,000 = 8 Strata Lots @ \$75,000. It saves trees.

The bottom line proposal is something like this.

- ⊙ The RDN gets its parkland, and serviced parkland.
- ⊙ The Developer gets at least 36 lots in total (or 34 additional lots), and perhaps 39 lots with the 3 more on the Highway portion.
- ⊙ The overall density proposed is still less than the 41 lots maximum density.
- ⊙ The Developer has acquired surplus water from Breakwater, and has enough for 38 units in total here, 36 additional right now, plus a well.

An alternative simpler solution, is that the RDN accepts a 700 m² Serviced Lot, any of Lots 20 – 23, as the full compensation for the 1,382 m² of unserviced parkland, that the RDN might be entitled to.

Another solution is that the RDN buys the parkland and applies the \$43,750 as a credit towards the purchase price.

To put it all on the table, what is the RDN's present position on the \$29,280.00 in Englishman Bulk Water D.C.C.s, paid "under protest"? Is the RDN prepared to reimburse these? This could be part of an overall solution. These Lands and our Company "had a complete legal deal" with Breakwater on water supply, including the DCTF, back in 1994. If the RDN wishes to renegotiate Park, then we wish that at least the new Englishman D.C.C.s don't apply.

In hindsight, the RDN should have been more explicit much sooner, about exactly what it wanted to see with parkland, and perhaps offered compensation in return; or alternatively, exempted our Project from parkland, based on cash in lieu, due to the history and honoured our earlier cash in lieu agreement.

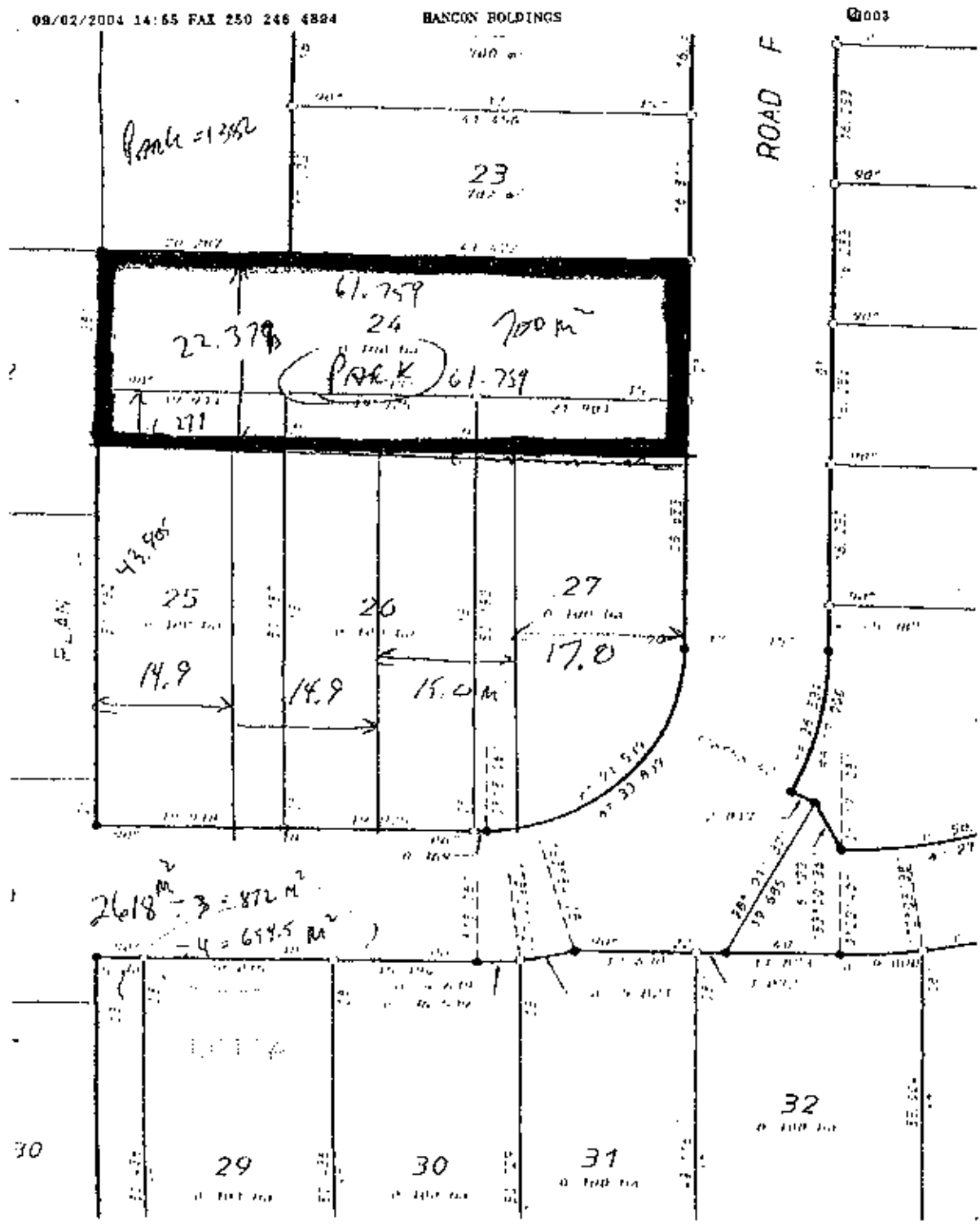
Please consider all this further, and then let's meet to discuss, to try to finalize, before September 14, 2004.

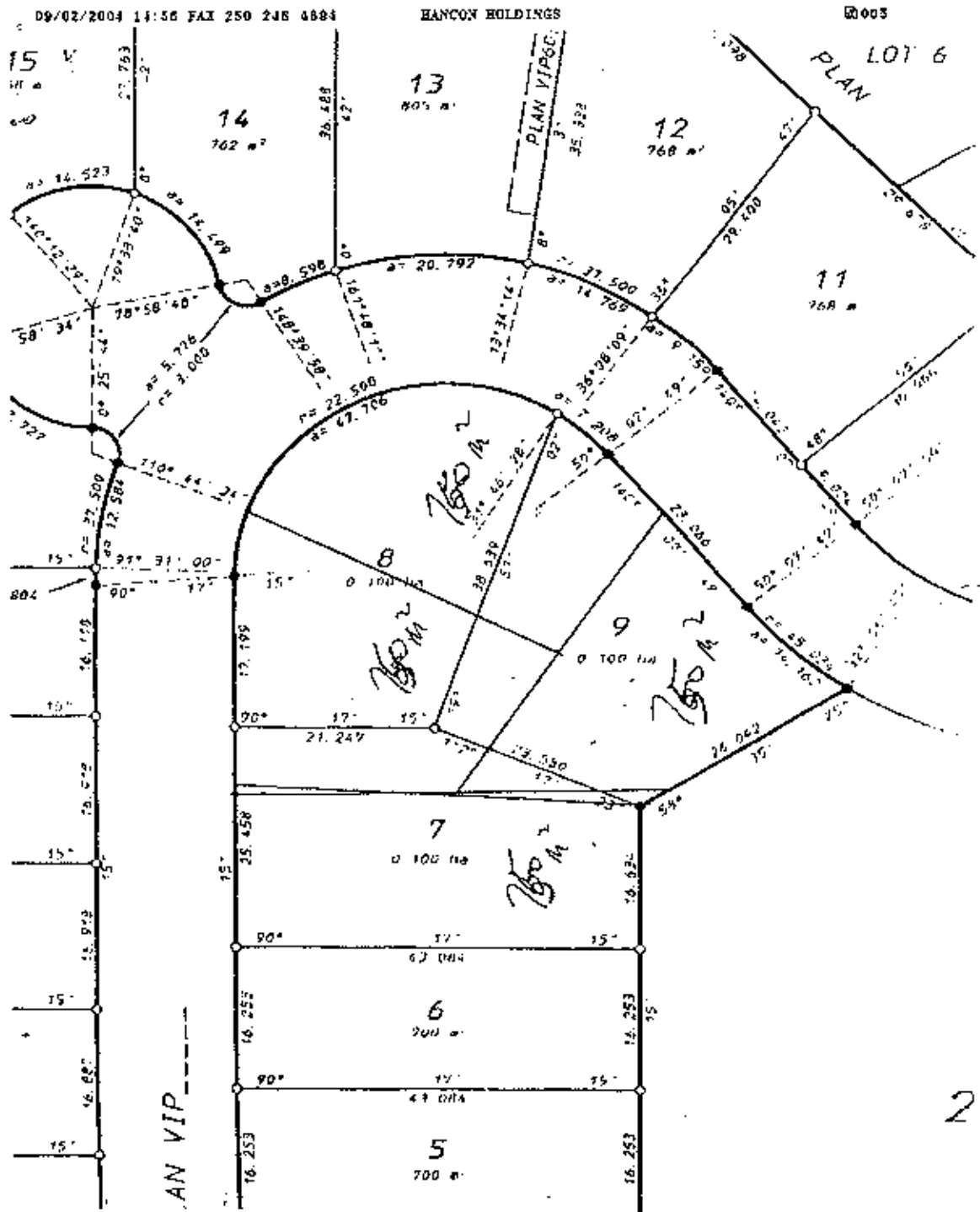
Regards,



Hans Heringa, P.Eng.

Hh@hvlasham





2



REGIONAL DISTRICT OF NANAIMO	
SEP - 2 2004	
CHAIR	GM CrS
CAO	GM DS
GM CrS	GM ES
EAPC ✓	

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: September 3, 2004

FROM: Keeva Kehler
Planner

FILE: 3360-50-0401

SUBJECT: Temporary Use Permit No. 0401 – James and Ellen Rothwell
Electoral Area 'G' - 241 Hilliers Road North

PURPOSE

To consider an application for a temporary use permit for a property located in Electoral Area 'G' in order to allow the temporary processing of soil.

BACKGROUND

This an application for a temporary use permit for the 28 ha subject property legally described as Lot 1, District Lot 91 and 42, Newcastle District and District Lot 144, Nanoose District, Plan 13306, Except Part in Plan VIP59597 and located at 241 Hilliers Road North within Electoral Area 'G' (see Attachment No. 1 for location). The property is currently zoned Rural 1 (RU1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". Pursuant to the French Creek Official Community Plan Bylaw No. 1115, 1998, (OCP) the subject property is designated within the 'Rural' land use designation. Pursuant to the OCP, portions of the property adjacent to the Inland Island Highway and Memorial Avenue are designated within the Inland Island Highway Development Permit Area; however, due to the proposed location of the soil mixing operation, this proposal is exempt from requiring a Development Permit.

The subject property is located within the Provincial Agricultural Land Reserve (ALR) and is subject to the *Agricultural Land Commission Act* (ALCA) and the associated land use regulations.

The application is a result of a bylaw enforcement investigation with respect to illegal processing of soil for commercial sale from the property. Activities have ceased on the site pending the outcome of the temporary use permit application.

The applicants propose to use approximately 0.1 ha of the property to process 1500 cubic metres of soil annually for commercial sale to local merchants. Large quantities of fill were previously deposited on the property during construction of the Inland Island Highway.

The applicants purchased the property after the material had been deposited, and they have been attempting to remove the fill deposits from the site to improve the quality of the land. Due to the extent of fill deposition, some of the trees have died and the property does not drain properly in the areas where fill was placed. The deposited fill contains large volumes of clay, silt and gravel. In order to make the fill marketable as a soil enhancer, the applicants had been adding organic materials such as bark mulch and wood chips to the existing fill.

The applicants have indicated that they will not be composting material onsite but propose to continue mixing pre-processed organic materials (bark mulch and wood chips) with the existing fill in order to create a soil enhancement product for the commercial market. The applicants have composted organic

materials on the site in the past and will also be mixing this composted product with the existing fill. The applicants have stated that they do not need to engage in additional composting on the property to meet their current objectives.

Should the Board consider approving the temporary use permit, the applicants intend to obtain wood chips resulting from the Laburnum Ring Road construction project within the Town of Qualicum to add to the fill that already exists on the site.

Pursuant to the *Local Government Act*, a temporary use permit is valid for a period of 2 years. The applicants may apply to renew the permit for an additional 2 years after the initial Permit term has expired.

ALTERNATIVES

1. To approve the application for a temporary use permit to allow the temporary processing of 1500 cubic metres of soil annually, subject to the notification requirements pursuant to the *Local Government Act*.
2. To deny the application for a temporary use permit.

DEVELOPMENT IMPLICATIONS

Zoning Bylaw Implications

As stated above, the subject property is currently zoned RU1 pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." This zone permits Agriculture as a principle use, which allows composting and processing of soil if all of the finished product is added to the farm where it is produced to enhance the soil for agricultural purposes. However, the composting or processing of soil for commercial sale from the property is not considered an agricultural use and therefore requires a temporary use permit.

The subject property is a large rural acreage surrounded by other large rural parcels. The area proposed to be used for the soil mixing and storage of compost is located away from the property lines and is buffered by existing vegetation, a large barn and the existing dwellings. The applicants have stated that there are no traffic impacts resulting from the operation as it is mostly the landowner's personal truck that is used for deliveries. Staff have required that the applicants contact the Ministry of Transportation to ensure that a valid access permit has been issued for the proposed use. The Ministry will ensure the safety of the access based on the proposed use.

The applicants propose to mix organic material (wood waste and bark mulch) from construction projects in the area with the existing fill at a ratio of 1:1. Staff do not anticipate any odour, dust or other nuisance impacts on adjacent properties as a result of the proposed soil mixing operation. During the site visit on June 22, 2004, staff observed the soil mixing and compost storage area. There was no detectable odour or seepage from the storage piles. Staff do not believe that the proposal will pose any threats to the aquifer or quality of groundwater or surface water in the area.

Official Community Plan Implications

The subject property is designated 'Rural' in the OCP and is also located within the ALR. The OCP supports agricultural uses as an economic activity in the plan area. Commercial soil mixing and processing are consistent with rural land uses.

- The French Creek OCP includes Policy No. 7.3.7, which states that a Temporary Permit for a temporary commercial composting facility may be considered in land designated 'Rural', as shown on Map No. 3, where there is evidence that the proposed facility would improve the quality of the soil and would directly benefit the use of surrounding agricultural land for food production. This current proposal does not include a request to permit active composting of

materials on site, but involves the mixing of pre-processed materials into a soil enhancement product for commercial sale. This use is consistent with the Rural policies contained within the French Creek OCP.

The applicants, provided the RDN with a letter dated August 9, 2004 wherein they state that it is their intention to work with the RDN to obtain permits for a form of composting operation. During a meeting with RDN staff, the applicants indicated that they do not intend to compost any material on the property in the immediate term. Should the applicants wish to engage in active composting, they will be required to submit a new Temporary Use Permit application. Composting operations are subject to additional provincial and RDN regulations and the potential impacts of such an operation are not covered by this report.

Environmentally Sensitive Areas Atlas

The Environmentally Sensitive Areas Atlas identifies the presence of a photo interpreted stream and a wetland on the subject property. However, during the site inspection there was no evidence of a watercourse or wetland within the vicinity of the soil mixing and compost storage areas. Due to the large volume of fill that has been deposited on the entire property, it is possible that the wetland and stream may have been filled.

ALC Implications

Part 2(3)(p) of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* (the 'Regulations') permits the processing of soil on ALR properties provided at least 50% of the final product is used on the farm where it is produced. In this case, the applicant will have to comply with the ALR Regulations or obtain written approval from the Agricultural Land Commission for the commercial sale of more than 50% of the processed soil generated on the property.

PUBLIC CONSULTATION IMPLICATIONS

The applicants are attempting to improve the existing condition of the ALR property by removing the large volumes of non-arable fill while creating a marketable by-product. As the subject property is large in size, there is an existing vegetated buffer around the site and the processing proposal is temporary in nature, it was determined that it is not necessary to hold a Public Information Meeting on the proposal. Pursuant to the requirements of the *Local Government Act*, notice of the Regional District's intent to issue a Temporary Use Permit for the subject property will be posted in the local newspaper and adjacent landowners will be afforded an opportunity to comment on the proposal.

VOTING

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

SUMMARY

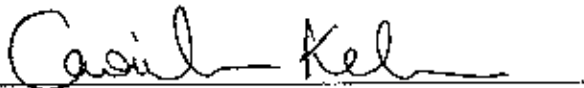
This is an application for a Temporary Use Permit for a soil mixing and processing operation on Lot 1, District Lot 91 and 42, Newcastle District and District Lot 144, Nanoose District, Plan 13306, Except Part in Plan VIP59597. The applicants propose to use approximately 0.1 ha of the subject property to process no more than 1500 cubic metres of soil annually for commercial sale from the property. In accordance with the Agricultural Land Commission's regulations, the applicants must retain at least 50% of the processed soil for use on their own property, or obtain the necessary written approvals to sell more than 50% of the product. The applicants have stated that they will not be actively composting materials on the property as part of this application.

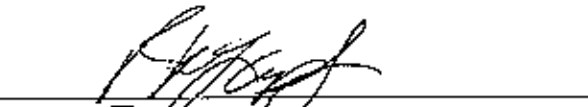
The application is being made as a result of large volumes of fill deposited on the property as part of the development of the adjacent Inland Island Highway. The applicants need to remove some of the fill to

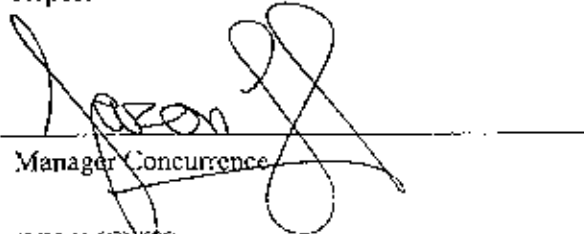
improve the agricultural quality of the property. The applicants propose to create a marketable product by mixing the existing fill with organic matter from construction projects in the area to generate a commercial soil enhancer. During the site inspection, staff did not perceive any odour, noise, visual or dust impacts from the proposed soil mixing and compost storage operation. Therefore, staff recommends that the application proceed to the notification requirements pursuant to the *Local Government Act*.


RECOMMENDATION

That Temporary Use Permit No. 0401, submitted by Jim and Ellen Rothwell for the property legally described at the "Lot 1, District Lot 91 and 42, Newcastle District and District Lot 144, Nanoose District, Plan 13306, Except Part in Plan VIP59597", to allow a temporary soil mixing and compost storage operation be approved, subject to the Conditions of Approval outlined in Schedule No. 1 and subject to comments received as a result of the notification requirements pursuant to the *Local Government Act*.


Report Writer


General Manager Concurrence


Manager Concurrence


CAO Concurrence

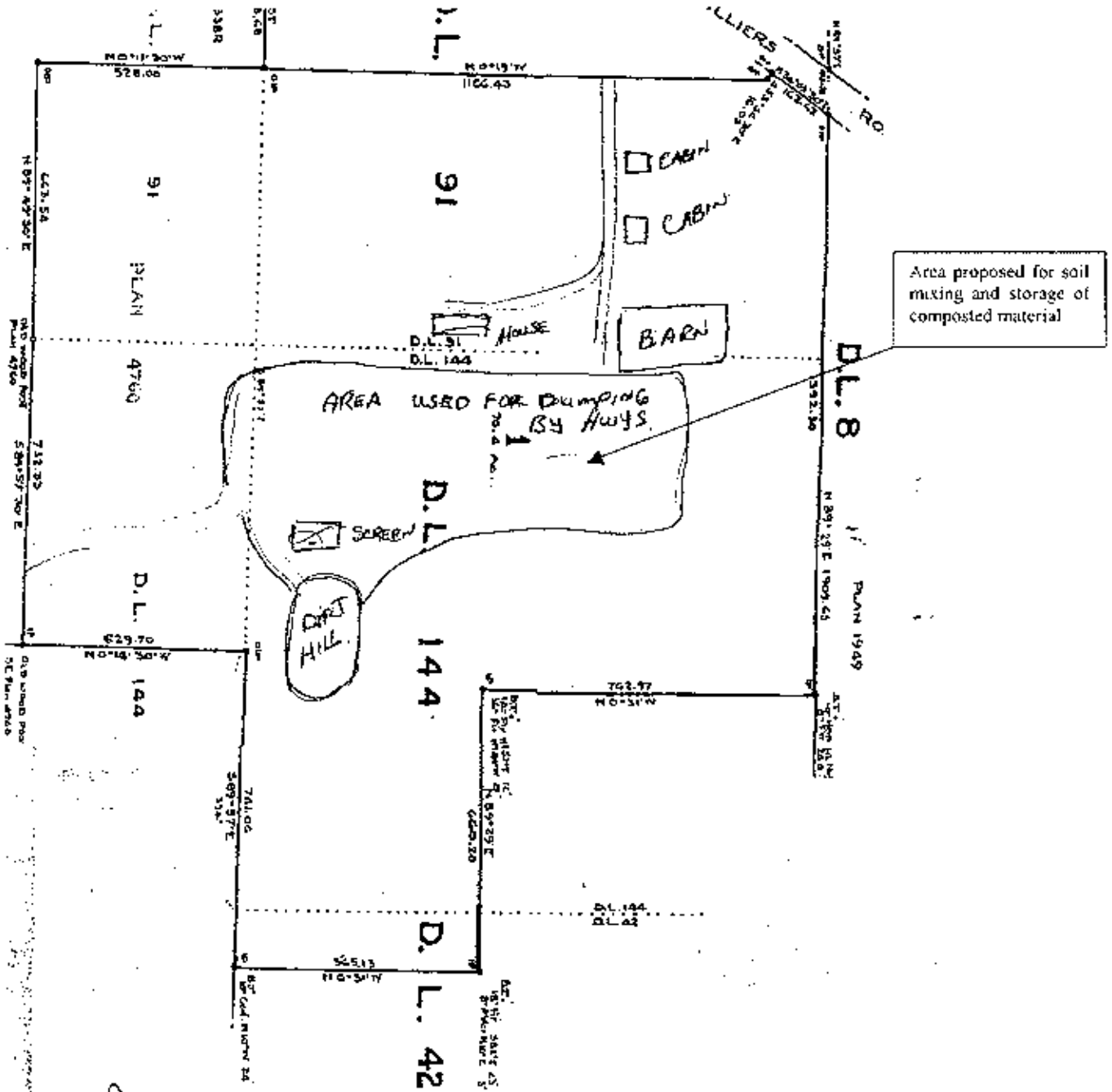
COMMENTS:
d:\uss\reports.2004\rothwell\3360-50-0401

SCHEDULE NO. 1
Conditions for Approval for
Temporary Use Permit Application No. 0401

The following Conditions must be completed as part of the approval for Temporary Use Permit No. 0401.

1. Applicants shall not process more than 1,500 cubic metres of soil annually on the property.
2. No more than 50% of the processed soil shall be sold commercially from the property without written approval from the Agricultural Land Commission (ALC). Should the applicants obtain this written approval from the ALC, a copy must be provided to the RDN.
3. Applicants to provide a copy of the approved access permit from the Ministry of Transportation (MOT) within 30 days of the issuance of the Temporary Use Permit. If the access permit is not provided, the RDN may require the applicants to cease all operations until the access permit or a written approval for the proposed use from MOT is received by the RDN.
4. Applicants shall comply with the requirements of the RDN Environmental Services Waste Stream Management Licensing Bylaw.
5. Applicants shall not actively compost organic material for commercial sale from the property.

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



Approved: _____
 Department of _____
 Dated: _____

Approved: _____
 The Captain

MR. JIM R.
 PLAN 1326
 PAGE 2 OF 3



REGIONAL DISTRICT OF NANAIMO			
SEP - 7 2004			
CHAIR		CMCFS	
CEO		GMDS	
CO-ORD		GMES	
		EAPE	✓

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: September 1, 2004

FROM: Susan Cormie
Senior Planner

FILE: 3320 20 25258

SUBJECT: Request for Relaxation of the Minimum 10% Frontage Requirement
Applicant: Dave Scott, on behalf of 3170497 Canada Inc.; commonly known as Fairwinds Development
Electoral Area 'E' - Carmichael Road, Fairwinds (Phase 9A - Revised)

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement as part of a *revised* proposed 8-lot subdivision proposal.

BACKGROUND

The applicant's agent, has requested an additional minimum 10% perimeter frontage relaxation be approved in addition to the previously approved frontage relaxations as part of an 8-lot subdivision proposal for the Phase 9A development of the property legally described as The Remainder of District Lot 78, Nanoose District and located at the end of Carmichael Road within the Fairwinds area of Electoral Area 'E' (see Attachment No. 1 for location of subject property). The Committee may recall that the Regional Board of Directors approved a previous request to relax the minimum 10% perimeter frontage requirement for 5 of the proposed parcels in October 2003.

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 the parent parcel into 8 parcels 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 Lot 5, as shown on the *revised* plan of subdivision submitted by the applicant, does not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage on this proposed parcel is as follows:

Proposed Lot No.	Required Frontage	Proposed Frontage	% of Perimeter
5	14.9 m	11.2 m	7.5 %

Therefore, as this proposed parcel does 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 Lot 5.
2. To deny the request for relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

Five proposed parcels, including three panhandle parcels were previously approved for relaxation of the minimum 10% frontage requirement. This earlier approval was granted due to the overall subdivision design and the steeper slopes and rock outcrops within the subject property resulting in Carmichael Road terminating as a cul-de-sac. Since that time, the applicant has commenced construction of the site and found an unknown rock outcrop in the driveway accesses to the 3 panhandle lots near to proposed Lot 5. As there would be a considerable amount of blasting required to remove this rock outcrop and due to the proximity of the adjacent residential dwelling units, the applicant revised the lot layout configuration to work around the rock outcrop. The reconfiguration of the subdivision has resulted in Lot 5 having a frontage less than the minimum 10% requirement. The frontages of the other proposed parcels are in substantial compliance with the earlier frontage relaxation approval. It is also noted that although proposed Lot 5 (1309 m²) is a smaller parcel area than proposed in the previous plan, there is still ample area for an adequate buildable site area to support the intended residential use.

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

The applicant is still in concurrence with the conditions set out in the previous approval, which include park land dedication, the construction of the linear corridor, and the statutory right-of-way crossing the Fairwinds Recreation Centre, which are still applicable.

VOTING

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

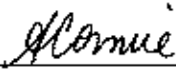
SUMMARY

This is a request to relax the 10% minimum perimeter frontage requirement for 1 additional parcel pursuant to section 944 of the *Local Government Act* as part of a revised 8-lot subdivision proposal. It is noted that the Board approved the minimum 10% requirement for 5 of the proposed parcels previously. The applicant, upon construction of the subdivision, found an unknown rock outcrop in the driveway access areas of proposed panhandle Lots 2, 3, and 4 and rather than conduct extensive blasting which could have a negative impact on the adjacent neighbourhood, the applicant chose to revise the lot configuration. Proposed Lot 5 will be capable of supporting the intended residential uses permitted in the zoning provisions due to its larger size. Ministry of Transportation staff has no issues with this request. The conditions set out in the previous approval process are still valid and the applicant is in concurrence with these conditions (see *Schedule No. 1 for List of Conditions*).

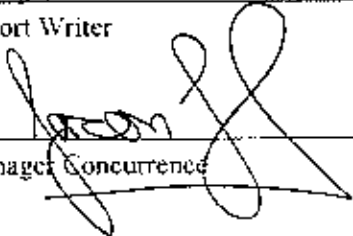
Therefore, as the applicant is still in concurrence with the conditions of approval as outlined in Schedule No. 1 and due to the topography of the site, staff recommend Alternative No. 1 to approve the relaxation of the minimum 10% frontage for proposed Lots 5 as shown on the revised plan of subdivision.

RECOMMENDATION

That the request from David Scott, on behalf of 3170497 Canada Inc., commonly known as Fairwinds Development, to relax the minimum 10% perimeter frontage requirement for Proposed Lot 5 shown on the Revised Plan of Proposed Subdivision of Phase 9A be approved subject to Schedule No. 1 of the corresponding staff report.



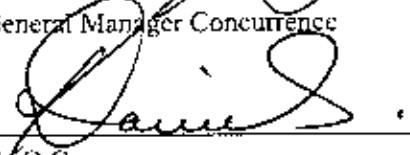
Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

Devers/reports 2004/fige se 3320 30 25258 fairwinds phase 9a.doc

**SCHEDULE No. 1
Conditions of Approval**

The conditions, as set out in the previous approval, still apply as follows:

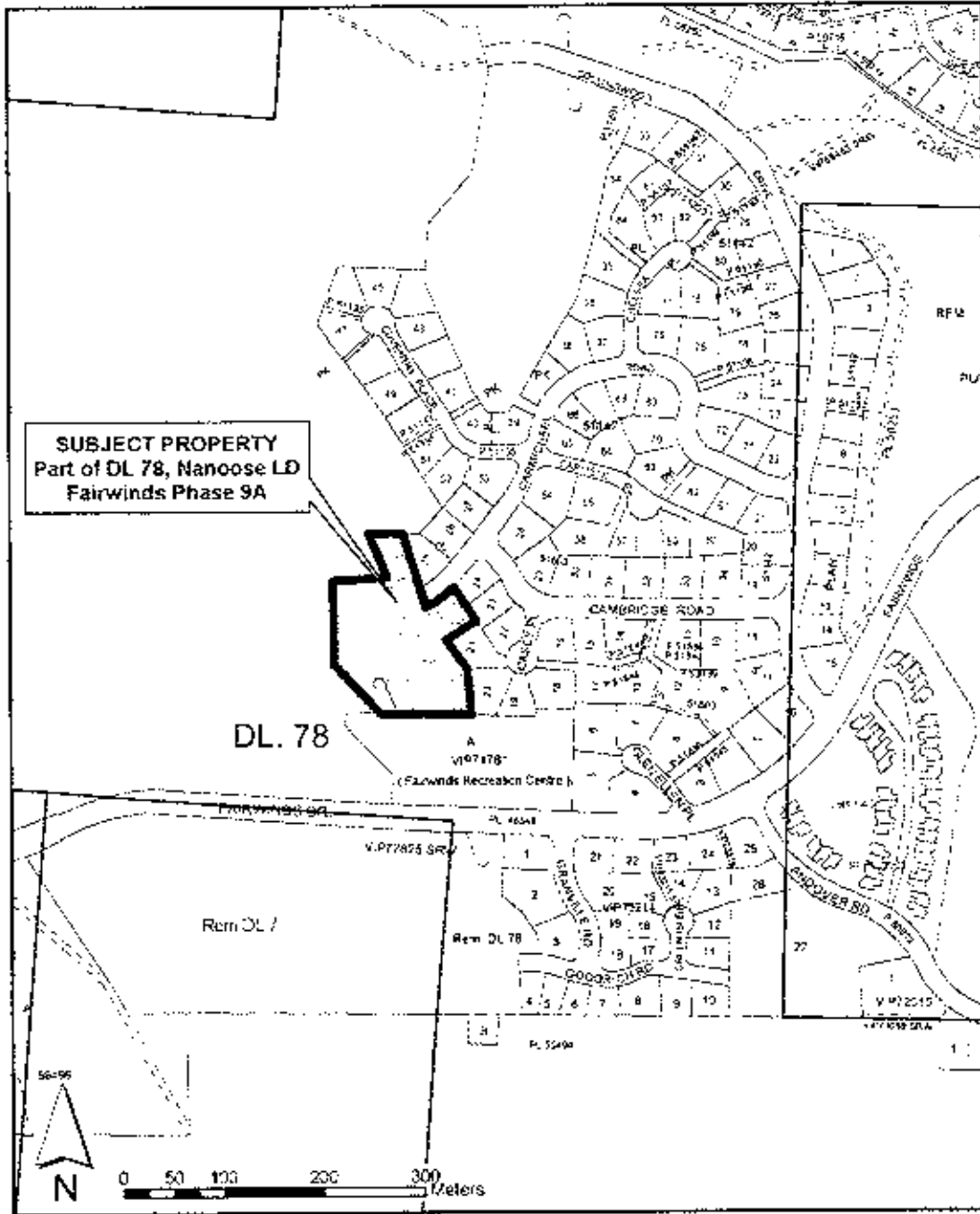
The applicant shall provide the following in conjunction with Subdivision No. 25258 (Phase 9A):

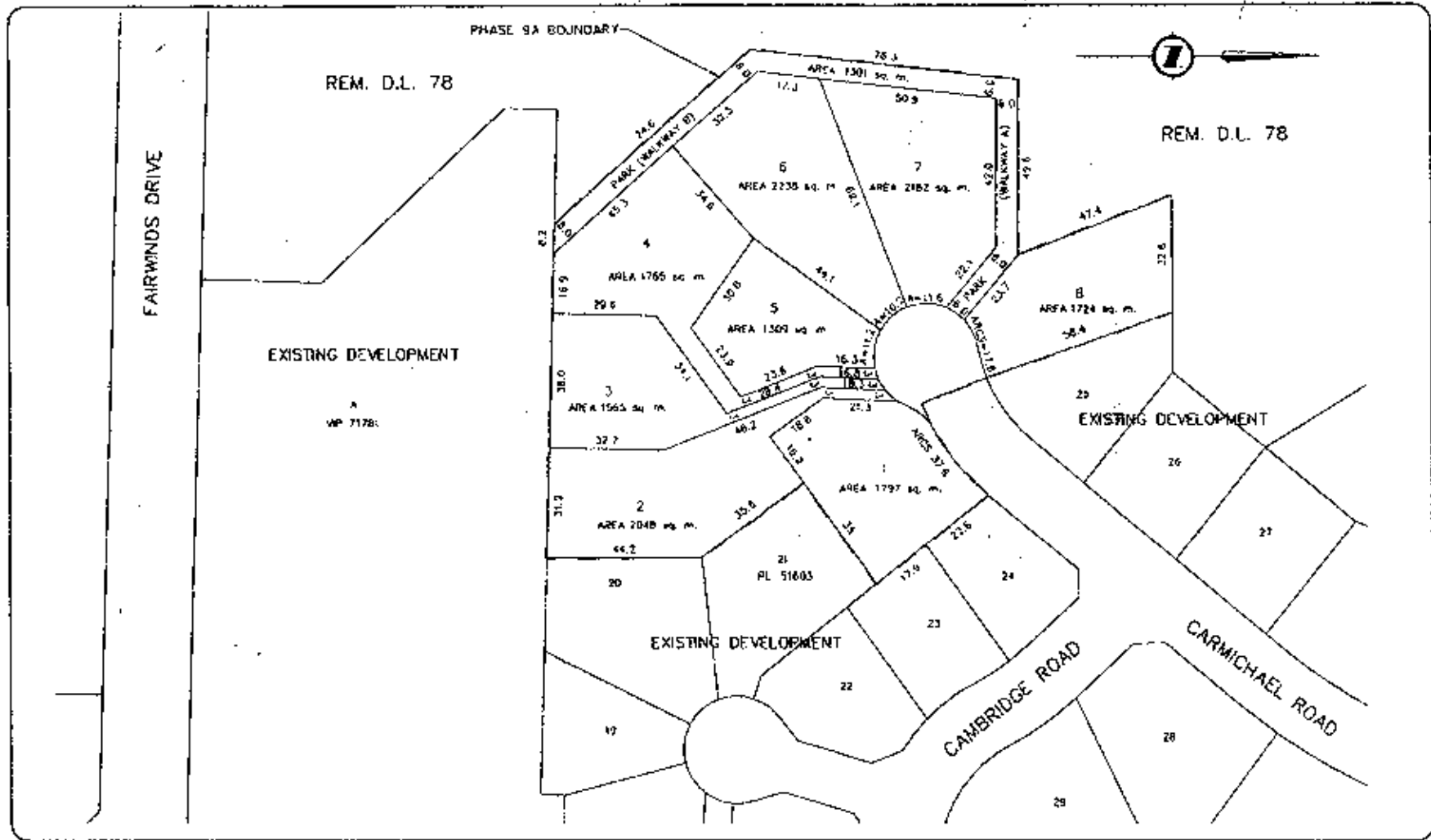
1. Register a statutory right-of-way to permit public access across the Fairwinds Recreation Centre (Lot A DL 78 Nanoose District Plan V(P71781).
2. Construct the linear corridor park land to an acceptable RDN standard in conjunction with the subdivision development.

Park Land Surplus Calculation:

With respect to the park land surplus calculation, 50% of the total linear park land shall be applied in the park land surplus calculation in conjunction with this application.

ATTACHMENT NO. 1
Location of Subject Property





ATTACHMENT NO. 2
 Revised Plan of Subdivision
 (As submitted by Applicant)

KOERS & ASSOCIATES ENGINEERING LTD.
Consulting Engineers

CLIENT	FAIRWINDS
PROJECT	PHASE 9A

TITLE		PLAN
APPROVED		
DATE	MAY 4, 2004	SCALE 1:1000
JOB No.	5919	DWG No. 5919-103



REGIONAL DISTRICT OF NANAIMO		
SEP - 7 2004		
CHAM	GMCS	
CAO	GMDS	
GMDS	GMES	
EAPC ✓		
		DATE

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

FROM: Brigid Reynolds
Senior Planner

SUBJECT: Electoral Area 'F' – Delegation of Authority for Non-Farm Uses

FILE: 0410 20 ALC

DATE: September 7, 2004

PURPOSE

To direct staff to report back on the implications for assuming "Delegation of Authority" for non-farm uses on ALR land in Electoral Area 'F'.

BACKGROUND

As part of the finetuning project for Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002 undertaken by the RDN, staff met with Agricultural Land Commission staff and Commissioners to discuss the recognition of pre-existing non-farm uses on ALR land. At the meeting in April 24, 2004, ALC representatives proposed that the RDN assume the delegation of authority for non-farm uses. Their letter is attached. Staff request Board direction to begin the process to review the implications associated with assuming this authority. This report briefly introduces some of the implications.

As a result of a number of controversial ALC applications and much discussion by the Board, at the November 26, 2002 Special Board meeting the Regional Board adopted the following resolution:

That the Board allocate all decision making regarding whether land should be in the Agricultural Land Reserve and Forest Land Reserve to the Agricultural Land Commission.

CARRIED

The result of this resolution has been that all ALR applications (exclusion, inclusion, non-farm use, and subdivision) are forwarded to the ALC with property information, relevant policies and sections from the RGS, OCP, and Zoning Bylaw, but no Board resolution.

Pursuant to section 20.1 of the *Agricultural Land Commission Act* there is the provision for the ALC to delegate decision making powers to local governments for non-farm use and subdivisions within the ALR.

ALTERNATIVES

1. To direct staff to report back with detailed implications for assuming delegation of authority for non-farm uses on ALR lands in Electoral Area 'F'.
2. To direct staff to not proceed with assuming delegation of authority for non-farm uses.

LAND USE AND DEVELOPMENT IMPLICATIONS

There are 733 properties in the ALR in Electoral Area 'F' comprising 21% of the total area in Electoral Area 'F'. As part of the finetuning project of Bylaw No. 1285, the RDN has received 34 requests from property owners to recognize pre-existing uses on property in the ALR. Eight had received previous approvals from the ALC and these were recognized in the "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.01, 2004". Thus far nine applications have been received and forwarded to the ALC of which seven have received an approval for the requested non-farm use. Staff propose to report back with an amendment to Bylaw No. 1285 to recognize some of these approved non-farm uses providing they meet the criteria defined in the OCP and the terms of reference of the finetuning project. Once these property issues are resolved all subsequent requests to recognize or permit non-farm uses in the ALR would first require an application to the ALC for approval and then require individual rezoning applications to permit consideration of a change in zoning to permit the non-farm use. This is the process that has been in place for all other electoral areas for approximately the past 30 years since the ALR and zoning regulations were established in most of the RDN.

Unlike the other electoral areas, zoning regulations were not introduced in Electoral Area F until June 2002 and additionally, since there is no building inspection, a significant amount of development activity and construction has occurred in the ALR that is contrary to the ALC Act. The RDN is unable to recognize uses that are contrary to the ALC Act and therefore two separate approvals are required to consider legalizing existing and new uses. Given the amount of reconciliation that is likely required and the need to bring emphasis to the applicability of the new zoning regulations in Electoral Area F, both the ALC and community have expressed interest in the RDN assuming a more direct role in resolving existing unresolved ALC land use contraventions.

Given the number of parcels within the ALR and number of existing uses that need to be reconciled it appears that if the RDN were to assume delegation authority there would be a benefit in considering the resolution of ALC approval for non-farm uses if it was combined and administered by the RDN as part of the zoning amendment process. The delegation agreement would likely include criteria that would be assessed along with criteria to be included in the Electoral Area F OCP. Property owners would benefit from reduced application processing times and the public would have greater levels of participation as part of the application information meeting process.

OFFICIAL COMMUNITY PLAN AND ZONING BYLAW IMPLICATIONS

Should the RDN assume delegation authority for non-farm use it would be necessary to amend both the "Regional District of Nanaimo Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999" and "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" to recognize the authority has been delegated to the Regional Board.

Bylaw No. 1285, Section 4.1, A-1 (Agriculture 1) permits a dwelling unit and farm use as well as accessory uses and other uses designated or permitted pursuant to Part 2 of the *Agricultural Land Reserve Use, Subdivision, and Procedure Regulation*. Uses considered to be non-farm uses therefore require an ALR application in addition to a zoning amendment application.

INTERGOVERNMENTAL IMPLICATIONS

The *Agricultural Land Reserve Regulations* details permitted uses that may occur on lands designated as being within the ALR. Any use that is not permitted by the regulations requires permission from the Agricultural Land Commission prior to it being undertaken. The ALC recommends that the RDN assume delegation for non-farm uses only. Therefore ALR applications for subdivision, exclusion as well as intensive agriculture would remain the responsibility of the ALC.

A delegation agreement for non-farm uses could include a combination of the following:

- uses that pre-existed the adoption of Bylaw No. 1285;
- uses that have been established since the adoption of Bylaw No. 1285 and have not received approval from the ALC;
- future proposed uses; and
- second dwelling units only.

In 2001, as part of the Provincial core review process the newly elected government introduced a three-year restructuring plan whereby there was to be an average of a 25% reduction in ministerial budgets and regulation. The ALC is proposing to meet this objective by entering into delegation agreements with local government across the province. Thus far only one other local government, the Regional District of Fraser-Fort George has assumed delegation authority for non-farm uses, subdivision, and soil removal and deposit applications in 4 ½ out of 7 of their Electoral Areas.

PUBLIC CONSULTATION IMPLICATIONS

Staff recommend that should this review proceed a minimum of one public information meeting be held to receive public comment on this issue.

LEGAL IMPLICATIONS

Enforcement of decisions made by the Regional Board would be the responsibility of the RDN. The ALC may provide support. Enforcement of issues unrelated to Regional Board decisions would therefore remain with the ALC.

Pursuant to the *Local Government Act*, if a proposal alters the permitted use or density of an area, the local government must notify the public of the proposed amendment and hold a public hearing on the issue. Should the Board choose to proceed with assuming delegation authority, staff recommend a minimum of 1 public information meeting prior to the hearing to discuss the potential implications with the public and other stakeholders.

FINANCIAL IMPLICATIONS

The current application fee for requesting a non-farm use is \$600. Half of this amount remains with the RDN and the other half is forwarded to the ALC. Should the RDN assume delegation authority the whole application fee would remain with the RDN.

The ALC has stated that financial resources may be provided by the ALC for legal costs provided they have sufficient legal funds available. Preliminary discussions with the ALC indicated that there would be no additional financial resources provided to the RDN.

STAFFING IMPLICATIONS

Since 1996, the RDN has received 24 applications for non-farm use. Thirteen of these applications were for properties within Electoral Area 'F'; only two were for 2 dwelling units and the others were for multiple dwelling units and other non-farm uses. Nine of these applications have occurred as a result of the finetuning of Bylaw No. 1285. Of the 13 applications, two were not approved, two were partially approved, and two have not yet received a response from the ALC.

Since 2002 as a result of Regional Board policy there is no staff report or Board recommendation made to the ALC as the RGS, OCP and zoning policies outline the Regional Boards position. Should the RDN assume delegation of authority for non-farm uses, RDN staff would be assessing and processing both applications. Assessing the impact any non-farm use might potentially have on the agricultural viability of the land is beyond the knowledge of current planning staff. The RDN would therefore require considerable support from the ALC and Ministry of Agricultural, Food and Fisheries staff in this regard. Given current provincial staffing levels this may be a challenge. In addition, the RDN would be assuming a larger enforcement role which would potentially increase work loads for the bylaw enforcement officer.

As part of assuming this authority the ALC has stated they would provide training of RDN staff and Board on an on-going and as required basis. The details of any training would need to be discussed in greater detail with the ALC should the Board choose to proceed. Should the Board choose to proceed, staff recommend that the detailed review of assuming delegation authority be undertaken as part of the 2005 work plan.

VOTING

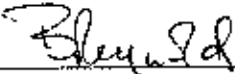
Electoral Area Directors - one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

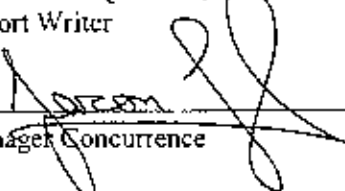
The Agricultural Land Commission has proposed that the RDN assume delegated authority to enable the Regional Board to make decisions on non-farm use applications within Electoral Area 'F'. This report briefly outlines some of the implications associated with assuming this authority. Should the Board choose to proceed staff would undertake a more detailed assessment of these implications and that this would be undertaken as part of the 2005 workplan.

RECOMMENDATIONS


1. That the staff report be received for information.
2. That staff be directed to report back with a detailed assessment of the implications of assuming delegation of authority for non-farm uses in Electoral Area 'F' and prepare a draft delegation agreement to consider assuming delegation of authority for non-farm uses in Electoral Area 'F'.



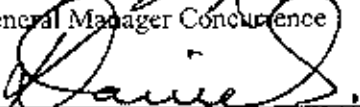
 Report Writer



 Manager Concurrence



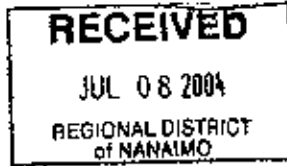
 General Manager Concurrence



 CAO Concurrence

COMMENTS: *devs/reports/2004/0410 20 ALC*

Attachment No. 1 (1 of 1)
Letter from ALC



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

June 29, 2004

Reply to the attention of Roger Chaelham

Brigid Reynolds, Senior Planner
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2

Dear Madam:

Re: Delegation of Decision Making: Electoral Area "F"

Our Refs: 135-45-ALC-s23-RDN; S – 32274; S – 34048

With reference to the meeting that took place on 24th April 2004 and to your subsequent telephone conversations with Roger Cheetham of this office our thoughts on the framework of the delegation agreement are as follows:

Uses Permitted.

Home Based Business

Official Community Plan It is noted that the properties located within the ALR fall under the Resource Lands designation. The plan indicates that with regard to home based business the Regional District is to negotiate for an expanded definition with the Commission. While this did not occur the issue seems to be addressed in the zoning bylaw.

Zoning Bylaw. We are satisfied that the controls in the zoning bylaw relating to home based business are adequate and note that within the A-1 zone, which comprises the bulk of the ALR the area of the business is not to exceed 200 square metres.

Agricultural Uses

Official Community Plan Agriculture is a permitted use.

Zoning Bylaw. Agricultural uses permitted under Part 2 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation are permitted. However 2.4 h) provides for a Commission review of intensive agriculture. Having regard to the protection given intensive agriculture in terms of Section 915 of the Local Government Act, the Farm Practices Protection (Right to Farm) Act and the Code of Agricultural Practice for Waste Management we suggest that this ability remain with the Commission and not be delegated to the Board.

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Attachment No. 1 (2 of 2)
Letter from ALC

Page 2

Other Uses.

Official Community Plan. The plan is somewhat vague with regard to other uses. It mentions outdoor recreation uses including campgrounds.

Zoning Bylaw. Within the A-1 zone only a dwelling house is permitted. Under A-1.1 – A-1.19 as per Section 4.23, additional uses are permitted in recognition of existing uses located in each site-specific zone. We have no objection to the uses permitted in terms of these zones.

Under 2.3 the permitted uses are wide ranging and some – e.g. playgrounds and playfields, water reservoirs, treatment plants sewage system facilities may not be desirable within the ALR. As the Regional District is likely to be the main provider of such facilities we suggest that the delegation omit such uses.

Subdivision.

It is noted that the minimum parcel size is 4 ha in both the OCP and the Zoning Bylaw. We are in two minds about the need to prepare guidelines to assist the Board in evaluating the merits of subdivision applications. Our inclination at a staff level is that it would not be of much help for us to do so and we are inclined to draft the agreement without any specific conditions relating to subdivision approval, leaving decisions to be taken in the context of the Commission's broad mandate to preserve agricultural land and encourage agriculture, taking a long term perspective. Your comments would be particularly appreciated on this issue.

The enclosed first draft of a possible agreement has been simplified somewhat from that for Fraser Fort George Regional District and takes the above considerations into account. You will note that it includes reference to the zoning bylaw as well as the OCP.

We look forward to your response

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

per: 

K. B. Miller, Chief Executive Officer

Cc: Wayne Haddow, Regional Agrologist, Duncan

RC/eg