

REGIONAL DISTRICT OF NANAIMO

**BOARD MEETING
TUESDAY, OCTOBER 26, 2004**

(RDN Board Chambers)

A G E N D A

PAGES

1. **CALL TO ORDER**
2. **DELEGATIONS**
 - Eugenie Hird**, re Traffic Flow Problems on Corcan Road - Area H.
 - Wendy Hunthatch** - Zoning Amendment Application No. ZA0413 -2116 Alberni Highway - Area F.
3. **BOARD MINUTES**
 - 10-20 Minutes of the Board meeting held on September 28, 2004.
4. **BUSINESS ARISING FROM THE MINUTES**
5. **COMMUNICATIONS/CORRESPONDENCE**
 - 21-22 **Thomas McArthur**, French Creek Residents' Association, re Board of Variance.
 - 23-24 **Derek Trimmer**, Ministry of Community, Aboriginal & Women's Services, re Electoral Areas D/C.
6. **UNFINISHED BUSINESS**
 - From the Board meeting held September 28, 2004.*
 - Development Variance Permit Application No. 90415 & Request for Relaxation of the Minimum 10% Frontage Requirement – Fern Road Consulting Ltd. on behalf of V & M Fritzsche – 1410, 1420 and 1424 Hodge's Road – Area G. (Electoral Area Directors except EA 'B' - One Vote)**
 - Delegations wishing to speak to DVP No. 90415.**
 - 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 metres, 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.*

From the Board meeting held September 28, 2004.

- 25-37 Retaining Wall Policy – Adjacent to the Ocean. (Electoral Area Directors except EA 'B' – One Vote)
- 38-46 **Restructure Committee – Remainder of Electoral Area 'D'**. (All Directors – One Vote)

From the Board meeting held June 8, 2004.

WHEREAS geographically, Electoral Areas 'C' and 'D' are separate and distinct and do not have shared roads other than the Inland Island Highway to connect their communities;

AND WHEREAS Electoral Area 'C' is already comprised of a number of fragmented communities with few connecting roadways and the addition of the communities in Electoral Area 'D' will increase the dispersed nature of the electoral area;

AND WHEREAS the Pleasant Valley and East Wellington communities in Electoral Area 'D' have already felt themselves represented as minority interest within Electoral Area 'D';

AND WHEREAS the remainder of Electoral Area 'D' is more developed and in an urban setting than Electoral Area 'C' which has a rural and agricultural setting;

AND WHEREAS for the reasons outlined above, it will be extremely difficult for these two diverse electoral areas to be represented by a single Area Director;

AND WHEREAS Electoral Area 'C' has existed for many years as an independently represented area despite its small population base and Electoral Area 'D' now has a population base similar to Electoral Area 'C';

THEREFORE BE IT RESOLVED that the Board of the Regional District of Nanaimo request the Province of BC to amend the letters patent dated April 3, 2003 to allow Electoral Area 'D' to remain as an independent Electoral Area following the Local Government Elections in November 2005.

BYLAWS

For Adoption.

- 47-52 **Bylaw No. 500.300** - Land Use and Subdivision Amendment Bylaw No. 500.300 – North Cedar Improvement District (NCID) – Yellow Point Road – Area A. (Electoral Area Directors except EA 'B' – One Vote).
- 53-57 **Bylaw No. 500.304** - Zoning Amendment Bylaw No. 500.304 Fern Road Consulting on Behalf of Stranaghan – Spider Lake Road and Home Lake Road – Area H. (Electoral Area Directors except EA 'B' – One Vote)

Bylaw No. 500.307 Zoning Amendment Application No. ZA0414 – Department of National Defense Lands – 1733 Admiral Tryon Blvd. Area E. (Electoral Area Directors except EA 'B' One Vote)

Bylaw No. 975.35 - Pump and Haul Local Service Area Bylaw – P. & V. Wild – 261 Cheddar Road - Area G. (All Directors – One Vote)

Capital Charge Exclusion – Nature Trust of British Columbia – 1520 Terrien Road – Area E. (Parksville, Qualicum Beach, EA's E, F, G, H – Weighted Vote)

That the request by the Nature Trust of British Columbia to waive the Capital Charge of \$2,023 for the inclusion of property located at 1520 Terrien Road and legally described as Lot 8, District Lot 22, Nanoose Land District, Plan 10012, be approved.

Bylaw No. 1021.05 - Pacific Shores Sewer Local Service Area Amendment Bylaw – 1520 Terrien Road - Area E. (All Directors – One Vote)

Bylaw No. 889.26 - Northern Community Sewer LSA Bylaw - 1520 Terrien Road – Area E. (All Directors – One Vote)

7. STANDING COMMITTEE, SELECT COMMITTEE AND COMMISSION MINUTES AND RECOMMENDATIONS

7.1 ELECTORAL AREA PLANNING STANDING COMMITTEE

58-61 Minutes of the Electoral Area Planning Committee meeting held October 12, 2004. (for information)

COMMUNICATIONS/CORRESPONDENCE

Richard Dean, re DP Application No. 60449 – Reilly – 1651 Admiral Tryon Boulevard – Area G. (Electoral Area Directors except EA 'B' – One Vote)

That the correspondence from Richard Dean with respect to Development Permit Application No. 60449 be received.

Diane Pertson, re Consideration of Park Land Dedication – Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments – Northwest Bay Road – Area E. (Electoral Area Directors except EA 'B' – One Vote)

That the correspondence from Diane Pertson with respect to the subdivision application by Timberlake-Jones Engineering Ltd/Timberstone Developments be received.

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60443 – Tenant/Fern Road Consulting Ltd., and DP Application No. 60444 – West Coast Rangers Ltd., Vincent, Stranaghan, Tennant and Bartzen/Fern Road Consulting Ltd. – Spider Lake Road and Horne Lake Road – Area II. (Electoral Area Directors except EA 'B' – One Vote)

Delegations wishing to speak to DP Application No. 60443 and DP Application No. 60444.

1. *That Development Permit Application No. 60443, submitted by Fern Road Consulting, for the properties legally described as*

*Lot 5, Blk 347, Newcastle and Alberni Districts, Plan 33670;
Lot 4, Blk 360, Newcastle and Alberni Districts, Plan 35096;
Lot 5, Blk 360, Newcastle and Alberni Districts, Plan 35096;
Lot 17, Blk 360, Newcastle District, Plan 36512; and
Lot 18, Blk 360, Newcastle District, Plan 36512*

be approved, subject to the conditions outlined in Schedule No. 1.

2. *That Development Permit Application No. 60444, submitted by Fern Road Consulting, for the property legally described as Lot 17, Blk 360, Newcastle District, Plan 36512, be approved, subject to the conditions outlined in Schedule No. 1.*

3. *That the request from Fern Road Consulting to relax the minimum 10% frontage requirements for*

*Lot 5, Blk 347, Newcastle and Alberni District, Plan 66370;
Lot 4, Blk 360, Newcastle and Alberni Districts, Plan 35096;
Lot 5, Blk 360, Newcastle and Alberni Districts, Plan 35096*

for proposed Lot C, shown on the proposed subdivision, be approved subject to the conditions outlined in Schedule No. 1.

Development Permit Application No. 60449 – Reilly – 1651 Admiral Tryon Boulevard – Area G. (Electoral Area Directors except EA 'B' – One Vote)

Delegations wishing to speak to DP Application No. 60449.

That Development Permit No. 60449, to vary the minimum setback from 8.0 metres to 1.0 metre to recognize the siting of the existing concrete retaining wall and to permit the construction of a rip rap retaining wall sited a maximum of 1 metre below the natural boundary of the sea, within the Watercourse Protection Development Permit Area on the property legally described as Lot 22, District Lot 28, Nanoose District, Plan 22290, be approved subject to the Conditions of Approval outlined in Schedules No. 1, 2, 3 and 4 of the corresponding staff report and subject to the comments received as a result of public notification pursuant to the Local Government Act.

That staff be directed to send a letter to the French Creek Residents Association confirming receipt of their correspondence of October 11, 2004 as part of the application process.

Development Permit Application No. 60450 – Kehoe Holdings/Fairwinds – Andover Road – Area E. (Electoral Area Directors except EA 'B' - One Vote)

Delegations wishing to speak to DP Application No. 60450.

That Development Permit No. 60450 for Kehoe Holdings Ltd. for the property legally described as Lot 1, District Lot 8, Nanoose District, Plan VIP72015 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 requirements pursuant to the Local Government Act with respect to the proposed variances to Bylaw No. 500, 1987.

Development Permit Application No. 60451 & Request for Relaxation for the Minimum 10% Frontage Requirement – C & L Addison – Dan's and McLean's Roads – Area C. (Electoral Area Directors except EA 'B' – One Vote)

Delegations wishing to speak to DP Application No. 60451.

That Development Permit No. 60451 submitted by C & L Addison, to allow a driveway access within a Farm Land Protection Development Permit Area and a subdivision within a Watercourse Development Permit Area and to relax the minimum 10% frontage, for the property legally described as Lot A, Section 7, Range 3, Cranberry District, Plan VIP57090 Except Plan VIP73826 be approved, subject to the conditions outlined in Schedule Nos. 1 and 2 of the corresponding staff report.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90416 -- Clark -- 3696 Bell Road -- Area D. (Electoral Area Directors except EA 'B' - One Vote)

Delegations wishing to speak to DVP Application No. 90416.

That Development Variance Permit Application No. 90416, submitted by the property owners David Roland Clark and Kathleen Ann Clark for the property legally described as Lot B, Section 18, Range 3, Mountain District, Plan 22702 to relax the minimum setback requirements from 2 exterior lot lines to facilitate the construction of an 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.

OTHER

Consideration of Park Land Dedication – Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments – Northwest Bay Road – Area F. (Electoral Area Directors except EA 'B' -- One Vote)

That the revised park land proposal submitted by Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments in conjunction with the subdivision of Lot 1, DL 68, Nanoose District, Plan 3940 & District Lot 68, Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680,

27026, 27376 and 30341 be accepted subject to the conditions set out in Schedule No. 1 of the staff report.

7.2 COMMITTEE OF THE WHOLE STANDING COMMITTEE

62-66 Minutes of the regular Committee of the Whole meeting held October 12, 2004.
(for information)

COMMUNICATIONS/CORRESPONDENCE

Hira Chopra, Chairperson, Alberni-Clayoquot Regional District, re Property Tax Exemption. (All Directors – One Vote)

That the correspondence from the Alberni-Clayoquot Regional District with respect to a request for property tax exemption for Mount Arrowsmith Regional Park be received.

COMMUNITY SERVICES

RECREATION & PARKS

Horne Lake Regional Park Operations Update. (All Directors – One Vote)

That the update report on long-term planning for Horne Lake Regional Park (HLRP) operations, be received.

CORPORATE SERVICES

FINANCE

Property Tax Exemption – Alberni Clayoquot Regional District.

(All Directors – Weighted Vote)

1. *That "Property Tax Exemption Bylaw No. 1404, 2004" be introduced for first three readings.*

(All Directors – 2/3)

2. *That "Property Tax Exemption Bylaw No. 1404, 2004" having received three readings, be adopted.*

3. *That staff follow up with a report on the implications of adopting a bylaw for this purpose which would authorize a multi-year exemption from property taxes.*

DEVELOPMENT SERVICES

Liquor Licensing Policy.

(All Directors – One Vote)

That the staff report on a Liquor Licensing Policy be received for information.

That the Board approve, by resolution, the Liquor Licensing Policy attached to the corresponding staff report as Schedule 1.

(All Directors - One Vote)

That the Board direct staff, by resolution, to process an amendment to "Regional District of Nanaimo Fees and Charges Bylaw No. 1259, 2002" to incorporate the fees discussed in the corresponding staff report.

Board of Variance Policy. (All Directors – One Vote)

That the Board of Variance Policy attached to the staff report as Schedule 1 be deferred until staff comes forward with an assessment of fees and charges and a review of the notification procedures as compared to the development variance permit process.

BYLAW ENFORCEMENT

Section 57 of the Community Charter – Contravention of Bylaw – Infractions.
(All Directors – One Vote)

That a notice be filed against the title of the property listed, pursuant to Section 57 of the Community Charter and that if the infractions are not rectified within ninety (90) days, legal action will be pursued:

Lot 15, District Lot 78, Plan 14212, Nanoose Land District, 2993 Dolphin Drive, Electoral Area 'E', owned by P. and K. Kiidumae.

EMERGENCY SERVICES

Inclusion of the District of Lantzville – Emergency Management Agreement.
(All Directors – Weighted Vote)

That the request by the District of Lantzville to be included in the existing Emergency Management Agreement between the Regional District of Nanaimo, City of Nanaimo, City of Parksville and Town of Qualicum Beach be supported and the revision to the Agreement be endorsed.

ENVIRONMENTAL SERVICES

UTILITIES

French Creek Sewer Local Service Area Bylaw No. 813.30 & Northern Community Sewer Local Service Area Bylaw No. 889.29 – 1371 Lundine Lane– Area G. (All Directors - One Vote)

- 1. That "French Creek Sewer Local Service Area Bylaw No. 813.30, 2004" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.*
- 2. That "Northern Community Sewer Local Service Area Bylaw No. 889.29, 2004" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.*

COMMISSION, ADVISORY & SELECT COMMITTEE

District 69 Recreation Commission. (All Directors – One Vote)

That the minutes of the District 69 Recreation Commission meeting held September 16, 2004 be received for information.

Intergovernmental Advisory Committee. (All Directors - One Vote)

That the minutes of the Intergovernmental Advisory Committee meeting held September 9, 2004 be received for information.

Regional Growth Monitoring Advisory Committee/Status of Sustainability Project. (All Directors – One Vote)

That the minutes of the Regional Growth Monitoring Advisory Committee/Status of Sustainability Project meeting held September 8, 2004 be received for information.

Grants-in-Aid Committee.

That the minutes of the Grants-in-Aid Committee meeting held October 5, 2004 be received for information. (All Directors - One Vote)

That the following grants be approved:

(EA's A, B, C, D, Nanaimo, Lantzville - Weighted Vote)

School District 68:

<i>ALS Society of BC</i>	\$	<i>587</i>
<i>Cedar Community Association</i>		<i>1,215</i>
<i>Cedar Family Playtime Society</i>		<i>800</i>
<i>Cedar School & Community Enhancement Society</i>		<i>1,020</i>
<i>The Hope Centre</i>		<i>378</i>
<i>Nanaimo Search & Rescue</i>		<i>1,528</i>

(Parksville, Qualicum Beach, EA's E, F, G, H - Weighted Vote)

School District 69:

<i>Arrowsmith Watersheds Coalition Society</i>	\$	<i>1,500</i>
<i>Central Island Critical Incident Stress Association</i>		<i>200</i>
<i>District 69 Family Resource Association</i>		<i>813</i>
<i>Forward House Community Society</i>		<i>600</i>
<i>Lighthouse Country Marine Rescue Society</i>		<i>1,725</i>
<i>Mount Arrowsmith Elder Abuse Prevention Comm.</i>		<i>300</i>
<i>Oceanside Community Arts Council</i>		<i>1,000</i>
<i>Oceanside Emergency Social Services</i>		<i>800</i>
<i>Parksville & District Historical Society</i>		<i>1,550</i>

7.3 EXECUTIVE STANDING COMMITTEE

7.4 COMMISSIONS

7.4 SCHEDULED STANDING, ADVISORY STANDING AND SELECT COMMITTEE REPORTS

8. ADMINISTRATOR'S REPORTS

- 67-69 Low Flush Toilets - Building Code Amendment. (All Directors - One Vote)
- 70 Open Burning as a Land Clearing Technique. (Map included as separate enclosure) (All Directors - One Vote)
- 71-97 Zoning Amendment Application No. ZA0413 - Wendy Huntbatch - 2116 Alberni Highway - Area F. (Electoral Area Directors except EA 'B' - One Vote)

9. ADDENDUM

10. BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

11. NEW BUSINESS

12. BOARD INFORMATION (Separate enclosure on blue paper)

13. ADJOURNMENT

14. IN CAMERA

That pursuant to Section 90(1) (g) of the Community Charter the Board proceed to an In Camera meeting to consider items relating to legal matters.

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE REGULAR MEETING OF THE BOARD
OF THE REGIONAL DISTRICT OF NANAIMO HELD ON
TUESDAY, SEPTEMBER 28, 2004, AT 7:32 PM IN THE
RDN BOARD CHAMBERS**

Present:

Director J. Stanhope Alternate	Chairperson
Director H. Kreiherg	Electoral Area A
Director G. Lund	Electoral Area B
Director E. Hanilton	Electoral Area C
Director D. Haimc	Electoral Area D
Director P. Bibby	Electoral Area E
Director L. Biggemann	Electoral Area F
Director D. Bartram	Electoral Area H
Director R. Longmuir	City of Parksville
Director T. Westbroek	Town of Qualicum Beach
Director C. Haimc	District of Lantzville
Director G. Korpan	City of Nanaimo
Director T. Krall	City of Nanaimo
Director R. Cantelon	City of Nanaimo
Director L. McNabb	City of Nanaimo
Director L. Sherry	City of Nanaimo
Director B. Holdom	City of Nanaimo

Also in Attendance:

K. Daniels	Chief Administrative Officer
C. Mason	Gen. Mgr. of Corporate Services
B. Lapham	Gen. Mgr. of Development Services
N. Connelly	Gen. Mgr. of Community Services
J. Finnie	Gen. Mgr. of Environmental Services
M. Pearse	Manager of Administrative Services

CALL TO ORDER

DELEGATIONS

Gwen Harmen, Nanaimo Film Society/Film Nanaimo, re Services Provided by Film Nanaimo.

Ms. Harmen introduced Ms. Walrond who spoke of the benefits of the work being done in the community by film makers and advised that the Society wishes to hold further discussions in the future about the possible partnership of Film Nanaimo with the Regional District of Nanaimo.

LATE DELEGATIONS

Doug Speller, re Building Code Bylaw Regarding Moved On Buildings.

Mr. Speller requested reconsideration of Bylaw No. 1250 which at the present time does not permit him to move a house onto his lot in Driftwood Beach.

BOARD MINUTES

MOVED Director Sherry, SECONDED Director McNabb, that the minutes of the Board meeting held August 10, 2004 and the Special Board meeting held September 14, 2004 be adopted.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Maura Rafferty, re Development Variance Permit Application No. 90414 – Kawerau & Butler – 1405 Reef Road – Area E.

MOVED Director Krall, SECONDED Director Bibby, that the correspondence received from Maura Rafferty with respect to DVP Application No. 90414, be received.

CARRIED

UNFINISHED BUSINESS

ADMINISTRATOR'S REPORTS

Retaining Walls Adjacent to the Ocean.

MOVED Director Hamilton, SECONDED Director Bartram, that item be deferred.

CARRIED

BYLAWS

For Adoption.

Bylaw No. 975.36.

MOVED Director Bibby, SECONDED Director Sherry, that "Regional District of Nanaimo Pump and Haul Local Service Area Amendment Bylaw No. 975.36, 2004" be adopted.

CARRIED

Bylaw No. 975.37.

MOVED Director McNabb, SECONDED Director Holdom, that "Regional District of Nanaimo Pump and Haul Local Service Area Amendment Bylaw No. 975.37, 2004" be adopted.

CARRIED

Director Korpan left the meeting.

Bylaw No. 500.301 – Keith Brown & Associates, on behalf of 646268 BC Ltd. (Country Kitchen) – 1922 Schoolhouse Road – Area A.

MOVED Director Burnett, SECONDED Director Hamilton, that "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.301, 2004" be adopted.

CARRIED

Public Hearings.

Report of the Public Hearing held September 17, 2004 with Respect to Land Use and Subdivision Amendment Bylaw No. 500.300 – North Cedar Improvement District (NCID) – Yellow Point Road – Area A.

Director Burnett left the meeting citing a possible conflict of interest with this item.

MOVED Director Hamilton, SECONDED Director D. Haime, that the Report of Public Hearing containing the Summary of Minutes and Submissions of the Public Hearing held on September 17, 2004 as a result of public notification for "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004" be received.

CARRIED

MOVED Director Hamilton, SECONDED Director D. Haime, that "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004" be given 3rd reading.

CARRIED

MOVED Director Hamilton, SECONDED Director D. Haime, that the conditions outlined in Schedule No. 1 be secured and/or completed by the applicant to the satisfaction of the Regional District prior to consideration of adoption of Bylaw No. 500.300, 2004.

CARRIED

Director Burnett returned to the meeting.

Report of the Public Hearing held September 7, 2004 with respect to Land Use and Subdivision Amendment Bylaw Nos. 500.302, 500.303, 500.304, 500.305 and 500.306 – Fern Road Consulting on behalf of West Coast Rangers Ltd., Vincent, Stranaghan, Tennant and Bartzén – Spider Lake Road and Horne Lake Road – Area H.

MOVED Director Bartram, SECONDED Director Hamilton, that the Report of Public Hearing containing the Summary of Minutes and Submissions of the Public Hearing held on September 7, 2004 for "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 received.

CARRIED

MOVED Director Bartram, SECONDED Director Hamilton, 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 3rd reading.

CARRIED

MOVED Director Bartram, SECONDED Director Hamilton, that the conditions as outlined in Schedule No. 1 be secured and/or completed by the applicant to the satisfaction of the Regional District prior to consideration of adoption of Bylaw Nos. 500.302, 500.303, 500.304, 500.305 and 500.306, 2004.

CARRIED

STANDING COMMITTEE, SELECT COMMITTEE AND COMMISSION MINUTES AND RECOMMENDATIONS

ELECTORAL AREA PLANNING STANDING COMMITTEE

MOVED Director Hamilton, SECONDED Director Bibby, that the minutes of the Electoral Area Planning Committee meeting held September 14, 2004 be received for information.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60437 - Lajeunesse – 1539 Gordon Road – Area A.

MOVED Director Hamilton, SECONDED Director D. Huime, 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 ½ 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.

CARRIED

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

MOVED Director Hamilton, SECONDED Director Bibby, 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.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90413 – Skollsberg – 3584 Outrigger Road – Area E.

MOVED Director Hamilton, SECONDED Director Bibby, 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*.

CARRIED

Development Variance Permit Application No. 90414 – Kawerau & Butler – 1405 Reef Road – Area E.

MOVED Director Hamilton, SECONDED Director Bibby, 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*.

CARRIED

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

MOVED Director Hamilton, SECONDED Director Bartram, 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 metres, 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*.

CARRIED

OTHER

Consideration of Park Land Dedication – Lost Lake Properties Ltd., on behalf of McKin Estates – off Sumar Lane – Area G.

MOVED Director Hamilton, SECONDED Director D. Haime, 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.

CARRIED

Temporary Use Permit No. 0401 – James & Ellen Rothwell – 241 Hilliers Road North – Area G.

MOVED Director Hamilton, SECONDED Director Bartram, that Temporary Use Permit No. 0401, submitted by Jim and Ellen Rothwell for the 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, 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*.

CARRIED

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.

MOVED Director Hamilton, SECONDED Director Bibby, 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.

CARRIED

Electoral Area ‘F’ – Delegation of Authority for Non-Farm Uses.

MOVED Director Hamilton, SECONDED Director Bibby,:

That the staff report be received for information.

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’.

CARRIED

DIRECTOR'S AGENDA ITEM

Traffic Flow on Cocean Road.

MOVED Director Bartram, SECONDED Director Biggemann, 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 Cocean Road as part of their 2005-2006 work program.

CARRIED

COMMITTEE OF THE WHOLE STANDING COMMITTEE

MOVED Director Sherry, SECONDED Director McNabb, that the minutes of the regular Committee of the Whole meeting held September 14, 2004 be received for information.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Bill Barisoff, Minister, Ministry of Water, Land and Air Protection, re Fish Protection Act.

MOVED Director Krall, SECONDED Director Holdom, that the correspondence from the Minister of Water, Land and Air Protection with respect to the *Fish Protection Act* be received.

CARRIED

COMMUNITY SERVICES

Green Buildings.

MOVED Director Holdom, SECONDED Director Bartram,:

That the August 31, 2004 report, "Green Buildings", be received.

That terms of reference for a project to promote green building in the region be developed for the Board's consideration.

CARRIED

RECREATION & PARKS

Draft Bylaw No. 1399 to Provide for the Regulation of Park Use in the RDN.

MOVED Director McNabb, SECONDED Director Bartram, that the draft 'Bylaw to Provide for the Regulation of Parks in the Regional District of Nanaimo' be received and that staff be authorized to disseminate the bylaw for public comment.

CARRIED

CORPORATE SERVICES

FIRE PROTECTION

Financing Bylaws – San Pareil Water Service Security Issuing Bylaw No. 1395 & Coombs-Hilliers Fire Service Security Issuing Bylaw No. 1396.

MOVED Director Sherry, SECONDED Director McNabb, that "Regional District of Nanaimo (San Pareil Water Service) Security Issuing Bylaw No. 1395, 2004" be introduced for first three readings.

CARRIED

MOVED Director Sherry, SECONDED Director McNabb, that "Regional District of Nanaimo (San Pareil Water Service) Security Issuing Bylaw No. 1395, 2004" having received three readings, be adopted and forwarded to the Ministry of Community, Aboriginal and Women's Services for a Certificate of Approval.

CARRIED

MOVED Director Westbrock, SECONDED Director Biggemann, that "Regional District of Nanaimo (Coombs-Hilliers Fire Service) Security Issuing Bylaw No. 1396, 2004" be introduced for first three readings.

CARRIED

MOVED Director Biggemann, SECONDED Director Cantelon, that "Regional District of Nanaimo (Coombs-Hilliers Fire Service) Security Issuing Bylaw No. 1396, 2004" having received three readings be adopted, and forwarded to the Ministry of Community, Aboriginal and Women's Services for a Certificate of Approval.

CARRIED

DEVELOPMENT SERVICES

BYLAW ENFORCEMENT

Section 57 of the Community Charter – Contravention of Bylaw – Peter and Kathleen Kiidumae – 2993 Dolphin Drive – Area E.

MOVED Director Bibby, SECONDED Director McNabb, that this item be deferred to allow for further discussion with property owners.

CARRIED

ENVIRONMENTAL SERVICES

LIQUID WASTE

Lasqueti Island Septage.

MOVED Director Sherry, SECONDED Director C. Haime, that "Regional District of Nanaimo Trucked Liquid Waste Disposal Amendment Bylaw No. 988.06, 2004" be introduced for three readings.

CARRIED

MOVED Director Sherry, SECONDED Director C. Haime, that "Regional District of Nanaimo Trucked Liquid Waste Disposal Amendment Bylaw No. 988.06, 2004" having received three readings be adopted.

CARRIED

SOLID WASTE

Non-Profit Organizations – Solid Waste Tipping Fee Waivers.

MOVED Director D. Haime, SECONDED Director Longmuir, that the Board receive the status report on non-profit organizations tipping fee waiver policies for information.

CARRIED

Status of the Provincial Product Stewardship Business Plan.

MOVED Director Sherry, SECONDED Director Holdom,;

That the report on the status of the Provincial Product Stewardship Business Plan be received for information.

That the RDN Board send a letter to the BC Premier, copied to the Minister of Water, Land and Air Protection and UBCM encouraging the Province to accept industry product stewardship plan proposals that are consistent with the guiding principles of the product stewardship business plan and amend the stewardship regulation to include electronics.

CARRIED

UTILITIES

Melrose Terrace Community Water Supply Service Area Establishment Bylaw No. 1397 & Melrose Terrace Community Water Supply Service Area Loan Authorization Bylaw No. 1398 – Area F.

MOVED Director Biggemann, SECONDED Director Hamilton, that “Melrose Terrace Community Water Supply Service Area Establishment Bylaw No. 1397, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

MOVED Director Biggemann, SECONDED Director Hamilton, that “Melrose Terrace Community Water Supply Service Area Loan Authorization Bylaw No. 1398, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

French Creek Sewer Local Service Area Bylaw No. 813.29 & Northern Community Sewer Local Service Area Bylaw No. 889.27 – 978 Lee Road – Area G.

MOVED Director Westbrook, SECONDED Director Sherry, that “French Creek Sewer Local Service Area Bylaw No. 813.29, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

MOVED Director Westbrook, SECONDED Director Sherry, that “Northern Community Sewer Local Service Area Bylaw No. 889.27, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

Morningstar Streetlighting Local Service Area Boundary Amendment Bylaw No. 869.06 – Wembley Road – Area G.

MOVED Director Westbrook, SECONDED Director McNabb, that “Morningstar Streetlighting Local Service Area Boundary Amendment Bylaw No. 869.06, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

Surfside Sewer Local Service Area Bylaw No. 1124.03 & Northern Community Sewer Local Service Area Bylaw No. 889.28 – 965 Surfside Drive – Area G.

MOVED Director Sherry, SECONDED Director Westbrook, that “Regional District of Nanaimo Surfside Sewer Local Service Area Bylaw No. 1124.03, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

MOVED Director Sherry, SECONDED Director Holdom, that “Regional District of Nanaimo Northern Community Sewer Local Service Area Bylaw No. 889.28, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

COMMISSION, ADVISORY & SELECT COMMITTEE

Area B Parks & Open Space Advisory Committee.

MOVED Director Lund, SECONDED Director Cantelon, that the minutes of the Area B Parks & Open Space Advisory Committee meeting held June 29, 2004 be received for information.

CARRIED

Nanoose Bay Parks & Open Space Advisory Committee.

MOVED Director Bibby, SECONDED Director Cantelon, that the minutes of the Nanoose Bay Parks & Open Space Advisory Committee meetings held March 22 and July 12, 2004 be received for information.
CARRIED

Regional Growth Monitoring Advisory Committee/State of Sustainability Project.

MOVED Director Holdom, SECONDED Director Bartram, that the minutes of the Regional Growth Monitoring Advisory Committee/State of Sustainability Project meetings held July 21, August 18 and September 1, 2004 be received for information.
CARRIED

Regional Parks Plan Review Select Committee.

MOVED Director Bartram, SECONDED Director McNabb, that the minutes of the Regional Parks Plan Review Select Committee meeting held July 5, 2004 be received for information.
CARRIED

ADDENDUM

CORPORATE SERVICES

FIRE PROTECTION

Open Burning as a Land Clearing Technique.

MOVED Director Lund, SECONDED Director D. Haime, that the Board defer the request to MWLAP to act on the 1996 request to change portions of the RDN to Category A under the OBSCR.
CARRIED

MOVED Director Longmair, SECONDED Director Krall, that the Board direct staff to further consider the issue of banning burning in the rural urban interface in the 2005 workplan.
CARRIED

SCHEDULED STANDING, ADVISORY STANDING AND SELECT COMMITTEE REPORTS

Transit Business Plan Update Select Committee.

MOVED Director Krall, SECONDED Director Westbrook, that the minutes of the Transit Business Plan Update Select Committee meeting held September 9, 2004 be received for information.
CARRIED

MOVED Director Krall, SECONDED Director Bibby, that staff prepare a report, including financial details, on the Option 1 transit service expansion outlined in the Nanoose Bay Transit Service Review Report by BC Transit, that could be used in conjunction with public consultation with Electoral Area 'E' residents.
CARRIED

Director Krall requested that staff provide 15 copies of the information on the Corcan Road traffic flow item so he can take the information to the next Regional Transit Advisory Committee meeting.

Gabriola Island Parks and Open Space Advisory Committee.

MOVED Director Lund, SECONDED Director Bartram, that Marylyn Beaubien be appointed to the Gabriola Island Parks and Open Space Advisory Committee for a term ending December 31, 2005.

CARRIED

ADMINISTRATOR'S REPORTS

Development Permit Application No. 60418 – Cunning – 1733 Admiral Tryon Boulevard – Area G.

MOVED Director Hamilton, SECONDED Director Bibby, that Development Permit Application No. 60418 to vary the minimum setback from 8.0 metres to 1.1 metres to recognize the siting of the existing concrete retaining wall and to permit the construction of a rip rap retaining wall sited a maximum of 1 metre below the natural boundary of the sea, within the Watercourse Protection Development Permit Area on the property legally described as Lot 30, District Lot 28, Nanoose District, Plan VLP62528, be approved subject to confirming the requirements outlined in Schedules No. 1, 2, 3 and 4 of the original report were met and conditions outlined in Schedule No. 1 of this report be met.

CARRIED

Zoning Amendment Application No. ZA0414 – RDN and Department of National Defense – Area E.

MOVED Director Bibby, SECONDED Director Hamilton, that "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.307, 2004" be given 1st and 2nd reading.

CARRIED

MOVED Director Bibby, SECONDED Director Hamilton, that the Board pass a resolution waiving the holding of a Public Hearing for "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.307, 2004".

CARRIED

MOVED Director Bibby, SECONDED Director D. Haimo, that notice be provided regarding "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.307, 2004" in accordance with statutory requirements.

CARRIED

MOVED Director Bibby, SECONDED Director Bartram, that the bylaw be forwarded to the Ministry of Transportation for approval, prior to final reading.

CARRIED

Nanaimo Area Land Trust Additional Funding Request.

MOVED Director D. Haimo, SECONDED Director Bartram, that the report on the Nanaimo Area Land Trust request for additional funding in 2004 from the Regional District, be received.

MOVED Director Burnett, SECONDED Director D. Haimo, that the motion be amended to read: that the report on the Nanaimo Area Land Trust be received for information and that the Nanaimo Area Land Trust be provided an additional \$5,000 in funding for 2004 from the Regional Parks operating budget.

CARRIED

Request to Amend Liquor-Primary License for Cassidy Inn Hotel – 2954 Canyon Road (off the Trans Canada Highway) – Area A.

MOVED Director McNabb, SECONDED Director Biggemann, that the resolution with respect to the Liquor License Application submitted by the Cassidy Inn Hotel, attached as Schedule No. 1, be approved subject to consideration of any written submissions or comments resulting from public notification.

CARRIED

BUSINESS ARISING FROM DELEGATIONS

Moved On Buildings Bylaw No. 1250.

MOVED Director Cantelon, SECONDED Director Bibby, that staff be instructed to review Bylaw No. 1250 with consideration being given to:

1. Mr. Speller's presentation.
2. Procedures in other jurisdictions.
3. Code considerations.
4. Effects on neighbouring property values and other consideration staff may deem relevant.

CARRIED

IN CAMERA

MOVED Director McNabb, SECONDED Director Sherry, that pursuant to section 90(1)(g) of the *Community Charter* the Board proceed to an In Camera meeting to consider items relating to legal matters.

CARRIED

ADJOURNMENT

MOVED Director McNabb, SECONDED Director Sherry, that this meeting adjourn to allow for an in camera session.

CARRIED

TIME: 8:45 PM

CHAIRPERSON

GENERAL MANAGER, CORPORATE SERVICES

REGIONAL DISTRICT OF NANAIMO	
OCT 18 2004	
CHAIR	GMCrs
CHAIR	GMCrs
GMS	GMS
<i>Board Communication</i>	

French Creek Residents' Association

1596 Marine Circle
 Parksville, B.C.
 V9P 1Y7
 Canada

Tel: 250 752 8430
 Fax: 250 752 8431
 Email: t-mcarthur@shaw.ca

October 14, 2004

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

Board of Directors of the Regional District of Nanaimo.

Attention: Director Joe Stanhope, Area "G", Chair of the Board of Directors of the
 Regional District of Nanaimo.

Re: Board of Variance of the RDN

Dear Board of Directors:

Further to our copy to Director Stanhope of our letter to the Board of Variance concerning Appeal 04-29. The appeal was approved by the Board of Variance.

The Board of Directors of the French Creek Residents' Association wish to bring to the attention of the RDN Board of Directors serious errors made by the Board of Variance and our recommendations.

Although there was no application form attached to the notice sent out by the Board of Variance, it is assumed that French Creek Estates Ltd., Inc. #381902 has submitted the appeal application which sought a variance from the provisions of the "Regional District of Nanaimo Land Use and Subdivision By-law No. 500, 1987".

Section 3.4.65 – Minimum Setback Requirements
Front and Exterior Lot Lines – 8.0 metres (26.24 feet)

The applicant requested that the setback requirement from the exterior side lot line be reduced from 8.0 metres (26.24 feet) to 5.0 metres (16.40 feet) in order to construct a single dwelling unit.

There are problems with this application in that French Creek Estates Ltd., #381902 are not constructing a single dwelling unit, they are trying to sell the lot to a buyer but the buyer placed a condition on the sale of the lot that a variance be in place to reduce the exterior side lot line from 8.0 metres to 5.0 metres, which would apply to subsequent owners of the land, as the house is oversize for the lot.

2.

As the applicant, French Creek Estates Ltd., Inc. # 381902, is not building a single dwelling unit on this lot therefore the application is flawed in that the applicant's request for variance has no basis in fact and should have been rejected.

Further, according to section 899 (3) (b) of the Local Government Act the Board of Variance must not make an order under subsection (2) that would deal with a matter that is covered in a permit under Division 9 of this Part (26) and we give you 922 - Development Variance Permits.

French Creek Estates Ltd. under Development Permit # 60354 were refused a variance to reduce lot 2 exterior sideline from 8 metres to 5 metres.

The French Creek Residents' Association therefore state that the Regional District of Nanaimo must, under the authority of section 902(3), appeal this decision of the Board of Variance to the Supreme Court of BC.

We would also request, because of the time element in this matter, that we receive an answer to our letter within five working days.

Yours truly

Board of Directors of the French Creek Residents' Association

Per:



Thomas McArthur, Director, immediate Past President



September 23, 2004

Kelly Daniels
Administrator
Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo BC V9T 6N2

Dear Kelly Daniels:

Re: Electoral Areas D/C

In conjunction with the incorporation of the District of Lantzville, Supplementary Letters Patent (SLP) were issued for the Regional District of Nanaimo that included provisions that will combine the remainder of electoral area D with electoral area C. This change to electoral area boundaries will become effective in early December, 2005.

Minister Abbott wrote to the board on this matter (letter dated February 27, 2004), to outline the rationale for the electoral area structure change. Cabinet subsequently approved the SLP.

The Ministry is aware that the Regional District Board wished to review the change in electoral area structure with residents of (the current) electoral area D, and electoral area C. Since the Cabinet decision has been made, it is the Ministry's view that the focus of this review is, and should be, to explain the change and its implications. That is, there is not intended to be any consideration of a change in the decision to combine the electoral areas.

In this context, there are some key items for the regional district to review and consider, as follows:

- ✓ The SLP (sections 2.1 and 2.2) provide for the effective date of the electoral area structure change to be the inaugural board meeting in early December, 2005; and the 2005 election for director will be based on the new electoral area C boundary.

.../2

Ministry of Community,
Aboriginal and
Women's Services

LGS - Structure

Mailing Address:
PO Box 9490 Stn Prov Govt
Victoria V8W 9N7

Phone: 367-4020
Fax: 367-7972

Location:
4th Flr - 800 Johnson Street
Victoria BC V8W 9N7

www.gov.bc.ca/mcaws

- ✓ The SLP (section 7.0) provide for the 'status quo' continuation of service area boundaries, once the combined electoral area is in place. There are several situations listed, and it is important to ensure that all services are addressed by these provisions.
- ✓ In relation to service participants, following the 2005 local elections, electoral area C will be a participant in any services for which the service area includes the (what will by then be) former electoral area D. This assumes that there will not be any changes made by the board to the service area boundaries before the 2 electoral areas are combined.

In relation to the public process that the Regional District has undertaken, I understand that there are some associated costs. There may be the opportunity to provide a small restructure implementation grant to offset those costs. We can discuss this further, if desired.

Finally, I would like to acknowledge the meeting I held at the UBCM Convention with the directors for electoral areas C and D. In that meeting, the directors expressed that, following approval of the SLP, there continued to be some expectation that the possibility existed to reverse the Cabinet decision. At a meeting of the board committee reviewing this matter, which I attended (I believe in May), I acknowledged the legislative ability for this action. However, the Ministry perspective expressed then, and now, is that the decision was made with approval of the SLP.

I hope that this provides some clarification of the pending change in electoral area structure.

Sincerely,

"Derek Trimmer"

Derek Trimmer
Director

pc: Gary Paget, A/Assistant Deputy Minister, Local Government Department



REGIONAL DISTRICT OF NANAIMO	
OCT 20 2004	
DEAC	GMCRS
ALMS	GMDS
PLN	GMES
<i>Unfinished Business Board</i>	
DATE:	October 20, 2004
FILE:	3060 00 REWA

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

FROM: Brigid Reynolds
Senior Planner

SUBJECT: RETAINING WALL POLICY ADJACENT TO THE OCEAN

PURPOSE

To consider a revised operational policy regarding the construction of retaining walls (erosion protection devices) adjacent to the ocean.

BACKGROUND

Staff has developed a policy that is intended to guide the construction of new marine retaining walls or legalization of existing marine retaining walls for the purposes of erosion protection. The policy was reviewed by the Board at their September 28, 2004 meeting. As a result of a delegation by the French Creek Residents Association (FCRA), the Regional Board deferred the policy and requested that staff consult with the FCRA. The Residents Association has reviewed the policy and provided their comments. In addition, (Ministry of Water, Land and Air Protection) MWLAP and (Federal Fisheries and Oceans) DFO staff have provided additional comments. Where practicable, these comments have been included in the policy.

The revised policy is attached as Schedule No. 1.

ALTERNATIVES

1. To approve the policy.
2. To not approve the policy.

LAND USE AND DEVELOPMENT IMPLICATIONS

A number of the comments provided by the FCRA, MWLAP, and DFO have been incorporated into the revised policy. The correspondence and proposed policy revisions received from the FCRA are included in Attachments No. 2 and 3. The revised policy document highlights the amendments that have been made. Those comments not included were considered by staff to be too difficult or onerous to implement or could potentially result in interjurisdictional or legal conflicts.

PUBLIC CONSULTATION

As this policy affects a large number of waterfront property owners staff recommend informing waterfront property owners of the policy should it be endorsed by the Regional Board.

VOTING

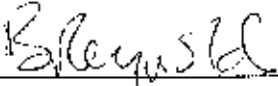
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS


A draft policy guiding the construction of marine retaining walls has been developed and originally reviewed by the Regional Board at their September 28, 2004 meeting. The Board deferred endorsing the policy subject to it being reviewed by the French Creek Residents Association (FCRA). The FCRA has reviewed the policy and provided comments to staff, a number of which have been incorporated into the policy. Additional comments by MWLAP and DFO staff have also been incorporated into this revised policy.

RECOMMENDATIONS

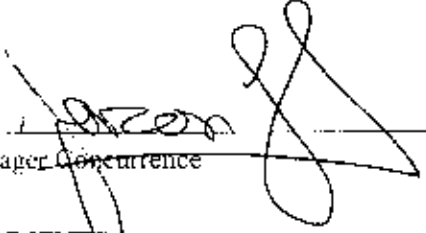
1. That the Board endorse, by resolution, the revised Retaining Wall policy in Attachment No. 1.
2. That staff be directed to inform waterfront property owners of the policy.



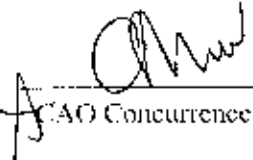
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

div-svc-reports/2004/2004 00 rwnn revised retaining wall policy oc.html

REGIONAL DISTRICT OF NANAIMO

P O L I C Y (revised)

SUBJECT: Retaining Walls - Marine	POLICY NO:
EFFECTIVE DATE:	APPROVED BY: Board
REVISION DATE:	PAGE: 1 of 1

PURPOSE

To provide guidelines regarding the consideration of Development Permit, Development Variance Permit and Bylaw No. 843 applications for seawalls adjacent to the ocean for erosion protection purposes such that potential impacts to adjacent properties and the natural environment are considered and recommendations to resolve impacts are detailed.

BACKGROUND

Pursuant to the Regional District of Nanaimo Land use and Subdivision Bylaw No. 500, 1987 a retaining wall is considered a structure where it is over 1.0 m in height retaining more than 1.0 m of earth. New retaining walls or the approval of existing retaining walls over 1 metre in height and retaining 1 metre of soil shall require a building permit where the property is within the building inspection area. Pursuant to the *Local Government Act*, local governments can establish development permit areas to protect development against hazardous conditions and to protect the natural environment. This requirement is triggered where land alteration is proposed to take place.

Federal Fisheries and Oceans (DFO) has developed a Best Management Practices (BMP) document that is intended to provide the property owner with the criteria necessary to ensure the works are being done with due diligence thereby avoiding the harmful alteration, disruption or destruction of fish habitat pursuant to Section 35(1) of the *Fisheries Act*. These BMPs have been incorporated into the policies and procedures outlined below.

POLICY

This policy applies to Development Permit and Development Variance Permit applications for the construction of new marine retaining walls or legalization of existing marine retaining walls for the purposes of erosion protection. A staff report will be prepared and will include recommendations to be approved by the Regional Board.

1. All marine retaining walls shall be designed by a professional engineer qualified in geotechnical matters.
2. Erosion protection devices utilizing bio-engineering methods shall be encouraged.
3. Wherever possible, shoreline vegetation necessary to sustain the ecological functions of the shoreline shall be protected, retained and restored.

4. Marine retaining walls shall be less than 1 metre in height unless otherwise required by a professional engineer.
5. Marine retaining walls shall be located on the subject property, above the present natural boundary of the marine foreshore, unless existing conditions or an existing wall cannot or should not be altered or modified as recommended by the engineer's report. If any portion of a retaining wall is proposed to be located below the present natural boundary, permission is required from Land and Water BC (LWBC) and the Ministry of Water, Land and Air Protection (MWLAP) in the event that the subject property is adjacent to a Wildlife Management Area, established pursuant to Section 4 of the BC *Wildlife Act*, or otherwise protected as a provincial reserve.
6. Marine retaining walls shall be constructed of rip rap. Other methods/materials shall only be used if deemed necessary by a professional engineer. Flat faced cast-in-place concrete walls and lock block walls are discouraged and preservative treated lumber or timber is not permitted.
7. Marine retaining walls constructed for the purposes of reclaiming land shall not be permitted unless otherwise required by a professional engineer.
8. Heavy equipment shall not be permitted on the beach unless existing conditions do not permit upland access and, if required, mitigation methods acceptable to the RDN shall be identified as part of the application.

PROCEDURES

Applications for new retaining walls or the approval of existing retaining walls shall include the following information.

1. A survey completed by a British Columbia Land Surveyor (BCLS) that shows the following:
 - a) the location of the present natural boundary;
 - b) the location and description of any present shoreline structures;
 - c) where there has been erosion or accretion, the natural boundary as per the plan of subdivision;
 - d) elevations and representative cross sections showing the top of bank and toe of the bank; and
 - e) height and cross-section of any proposed or existing retaining wall or other shoreline protection system.
2. A report sealed by a professional engineer qualified to carry out retaining wall design and to assess geotechnical matters is required and shall include recommendations with regards to the following:
 - a) Necessity of the proposed retaining wall
 - b) Potential impacts to adjacent properties with or without the installation of a retaining wall.
 - c) Mitigation methods to reduce negative impacts to the natural environment and to adjacent properties.
 - d) Potential impacts to continued public access of the foreshore.
 - e) Where the proposed works involve repairs to an existing retaining wall, the engineer shall evaluate potential negative impacts and make recommendations to mitigate these negative impacts.
 - f) Description of the construction details, materials and methods to be used including cross sectional drawings.
 - g) Supervision and inspection requirements of the proposed works.
 - h) Certify that the site is safe for the intended use.
 - i) Acknowledge that the RDN may rely upon the report when making a decision regarding the development of the land.

3. Where a section 219 covenant is registered on the title restricting removal of vegetation, alteration of land and/or construction within the area where the retaining wall is proposed to be located, the application shall include permission from the covenant holder(s).
4. If works are proposed to be undertaken on the beach the following conditions apply:
 - a) Confirmation how access is going to be achieved and any required permissions (for example, if through an adjacent property, including the Wildlife Management Area or other shoreline reserve, permission from the property owner, if through a MOT beach access, permission from MOI);
 - b) Confirmation that the machinery will not adversely impact the beach environment and mitigation methods to reduce negative impacts must be detailed.
5. Details of vegetation species that may be affected or removed, both within the intertidal zone and immediately upland, a proposed replanting plan, and other methods to mitigate the loss of vegetation.
6. Confirmation that DFO will be informed of the proposed works and advised of the name of selected contractor(s) and when the proposed works are to be undertaken.
7. Be aware that the development site is in compliance with the *Heritage Conservation Act*.
8. The name of the contractor, if any, who will do the work.
9. The date when the proposed works are to be undertaken. The timing of works shall consider fisheries and wildlife sensitive periods (such as late summer bird migration).

REGIONAL DISTRICT OF NANAIMO

P O L I C Y (revised)

SUBJECT: Retaining Walls - Marine	POLICY NO:
EFFECTIVE DATE:	APPROVED BY: Board
REVISION DATE:	PAGE: 1 of 1

PURPOSE

To provide guidelines regarding the consideration of Development Permit, Development Variance Permit and Bylaw No. 843 applications for seawalls adjacent to the ocean for erosion protection purposes such that potential impacts to adjacent properties and the natural environment are considered and recommendations to resolve impacts are detailed.

BACKGROUND

Pursuant to the Regional District of Nanaimo Land use and Subdivision Bylaw No. 500, 1987 a retaining wall is considered a structure where it is over 1.0 m in height retaining more than 1.0 m of earth. New retaining walls or the approval of existing retaining walls over 1 metre in height and retaining 1 metre of soil shall require a building permit where the property is within the building inspection area. Pursuant to the *Local Government Act*, local governments can establish development permit areas to protect development against hazardous conditions and to protect the natural environment. This requirement is triggered where land alteration is proposed to take place.

Federal Fisheries and Oceans (DFO) has developed a Best Management Practices (BMP) document that is intended to provide the property owner with the criteria necessary to ensure the works are being done with due diligence thereby avoiding the harmful alteration, disruption or destruction of fish habitat pursuant to Section 35(1) of the *Fisheries Act*. These BMPs have been incorporated into the policies and procedures outlined below.

POLICY

This policy applies to Development Permit and Development Variance Permit applications for the construction of new marine retaining walls or legalization of existing marine retaining walls for the purposes of erosion protection. A staff report will be prepared and will include recommendations to be approved by the Regional Board.

- 1.9. All marine retaining walls shall be designed by a professional engineer qualified in geotechnical matters.
- 2.10. Erosion protection devices utilizing bio-engineering methods shall be encouraged.
- 3.11. Wherever possible, shoreline vegetation necessary to sustain the ecological functions of the shoreline shall be protected, retained and restored.
- 4.12. Marine retaining walls shall be less than 1 metre in height unless otherwise required by a professional engineer.
- 5.13. Marine retaining walls shall be located on the subject property, above the present natural boundary of the marine foreshore, unless existing conditions or an existing wall cannot or should not be altered or modified as recommended by the engineer's report, ~~and if any portion of a retaining wall is proposed to be located below the present natural boundary, permission is required from Land and Water BC (LWBC) and the Ministry of Water, Land and Air Protection (MWLAP) in the event that the subject property is adjacent to a Wildlife Management Area, established pursuant to Section 4 of the BC Wildlife Act, or otherwise protected as a provincial reserve, is required.~~
- 6.14. Marine retaining walls shall be constructed of rip rap. Other ~~methods/materials shall only be used if deemed necessary by a professional engineer.~~ (Flat faced cast in-place concrete walls and lock block walls are discouraged and preservative treated lumber or ~~treated~~ ~~erosion~~ treated lumber is not permitted.) ~~shall only be considered as required by a professional engineer.~~
- 7.15. Marine retaining walls constructed for the purposes of reclaiming land shall not be permitted unless otherwise required by a professional engineer.
- 8.16. Heavy equipment shall not be permitted on the beach unless existing conditions do not permit upland access and, if required, mitigation methods, acceptable to the RDN, shall be identified as part of the application.

PROCEDURES

Applications for new retaining walls or the approval of existing retaining walls shall include the following information.

- 1.2. A survey completed by a British Columbia Land Surveyor (BCLS) that shows the following:
 - a) ~~the location of the present natural boundary;~~
 - b) ~~the location and description of any present shoreline structures;~~
 - c) ~~where there has been erosion or accretion, the natural boundary as per the plan of subdivision;~~
 - d) ~~elevations and representative cross sections showing of the top of bank and toe of the bank; and~~
 - e) ~~height and cross-section of any of the proposed or existing retaining wall or other shoreline protection system.~~
- 2.3. A report sealed by a professional engineer qualified to carry out retaining wall design and to assess geotechnical matters is required and shall include recommendations with regards to the following:
 - a) ~~Necessity of the proposed retaining wall~~

- b)k) Potential impacts to adjacent properties with or without the installation of a retaining wall.
- e)l) Mitigation methods to reduce negative impacts to the natural environment and to adjacent properties.
- e)m) Potential impacts to continued public access of the foreshore.
- e)n) Where the proposed works involve repairs to an existing retaining wall, the engineer shall evaluate potential negative impacts and make recommendations to mitigate these negative impacts.
- f)l) Description of the construction details, materials and methods to be used including cross sectional drawings.
- e)h) Supervision and inspection requirements of the proposed works.
- f)k) Certify that the site is safe for the intended use.
- h)l) Acknowledge that the RJDN may rely upon the report when making a decision regarding the development of the land.
- 3.5. Where a section 219 covenant is registered on the title restricting removal of vegetation, alteration of land and/or construction within the area where the retaining wall is proposed to be located, the application shall include permission from the covenant holder(s).
- 4.6. If works are proposed to be undertaken on the beach the following conditions apply:
- a)j) Confirmation how access is going to be achieved and any required permissions (for example, if through an adjacent property, including the Wildlife Management Area or other shoreline reserve, permission from the property owner, if through a MOT beach access, permission from MOT);
- b)j) Confirmation that the machinery will not adversely impact the beach environment and mitigation methods to reduce negative impacts must be detailed.
5. Details of vegetation species that may be affected or removed, both within the intertidal zone and immediately upland, ~~removal~~ and a proposed replanting plan, and other methods to mitigate the loss of vegetation.
6. Confirmation that DFO will be informed of the proposed works and advised of the name of selected ~~any~~ contractor(s) and when the proposed works are to be undertaken.
7. Be aware that the development site is in compliance with the *Heritage Conservation Act*.
8. The name of the contractor, if any, who will do the work.
9. The date when the proposed works are to be undertaken. The timing of works shall consider fisheries and wildlife sensitive periods (such as late summer bird migration).

Attachment No. 2
Correspondence from FCRA

From: M Jessen [mailto:mjessen@island.net]
Sent: Monday, October 18, 2004 6:08 PM
To: Lapham, Bob
Cc: Joe Stanhope, Dir.; Pauline Bibby, Dir.; David Bartram, Dir.; Mayor Teunis Westbrook; Mayor Randy Longmuir
Subject: Retaining Walls - Marine

Mr. Lapham:
Six directors of the French Creek Residents' Association reviewed this draft policy document on Saturday, October 16.

We appreciate that the planner who tackled the 1651 Admiral Tryon application used the draft document in that review. We feel the draft goes a long way toward including many of the issues that were of concern to the FCRA board in the processing of an earlier application. However, we still feel the RDN has a long way to go to put in place all the standards and educational processes that are needed in a regional district that has divergent regulations among the areas and communities. It is beyond us how the directors and staff can handle all the differences in zoning and OCP's that exist between the various areas and municipalities. Part of the problem we faced over the summer is that friends and relatives seemed to be giving property owners in our area advice based on the rules and regulations in place in other areas. For instance, if new property owners in our community listen to friends from Area F they may take the wrong action.

The policy, once approved, should be distributed widely among real estate agents, engineers, developers, architects, lawyers, notaries and contractors. It should be mailed/delivered to all oceanfront property owners. We believe that it is the contractor who holds the most responsibility for "enforcing" the requirements. They must not do any work without first asking for the building permit or being required to obtain the building permit as part of their contract. A contractor might not like to lose his business license (if the RDN has such instruments) for taking on illegal work.

I hope I have highlighted all the changes and additions in red in the attachment. We have also inserted some questions in italics, the answers to which we believe would help the layman to understand and accept the requirements.

Michael Jessen, P.Eng.
Director, French Creek Residents' Association.

**Attachment No. 3
Proposed Policy Revisions from FCRA**

REGIONAL DISTRICT OF NANAIMO

POLICY

SUBJECT: Retaining Walls Marine

PURPOSE

This policy provides criteria for Development Permit, Development Permit Variance Permit and Bylaw No. 843 applications for seawalls adjacent to the ocean for erosion protection purposes to ensure that potential impacts to adjacent properties and the natural environment are considered and directives to resolve impacts are detailed, including inspection and enforcement thereof.

BACKGROUND

Any modification of the foreshore or ocean riparian zone in the Regional District of Nanaimo must only be undertaken with professional guidance and the application of principles described in this Policy.

Retaining wall is defined in the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 as a "structure erected to hold back or support a bank of earth".

A retaining wall is subject to Bylaw 500 where it is over 1.0 m in height and retains over 1.0 m of earth. *(Please identify clause.)*

Pursuant to the *Local Government Act*, local government can establish development permit areas to protect development against hazardous conditions and to protect the natural environment. *(Please identify clause.)*

The approval of new or existing retaining walls that are subject to Bylaw 500 shall require a building permit where the property is within a building inspection area. This policy must be applied where land alteration is proposed to take place in an inspection area.

It would be considered advisable that all retaining walls or other foreshore protection constructed outside inspection areas comply with minimum standards and best known practices to simplify approval of repairs or modifications if the property should eventually become subject to inspection bylaws.

Federal Fisheries and Oceans (DFO) has developed a Best Management Practices (BMP) document. It is intended to provide the property owner with the criteria necessary to ensure the works are being done with due diligence thereby avoiding the harmful alteration, disruption or destruction of fish habitat pursuant to Section 35(1) of the *Fisheries Act*. These BMP's have been incorporated into the policies and procedures outlined below.

POLICY

This policy applies to Development Permit and Development Variance Permit applications for the construction of new marine retaining walls or legalization of existing compliant marine retaining walls for the purposes of erosion protection. A staff report shall be prepared and shall include directives to be approved by the Regional Board.

17. All marine retaining walls shall be designed by a professional engineer qualified in geotechnical matters.
18. Erosion protection devices utilizing bio-engineering methods shall be encouraged.
19. Wherever possible, shoreline vegetation necessary to sustain the ecological functions of the shoreline shall be protected, retained and restored.
20. Marine retaining walls shall be less than 1 metre in height unless otherwise required by a professional engineer.
21. Marine retaining walls shall be located on the subject property, above the present natural boundary of the marine foreshore, unless existing conditions or an existing wall cannot or should not be altered or modified as recommended by the engineer's report. If any portion of a retaining wall is proposed to be located below the present natural boundary, permission from B.C. Ministry of Water, Land and Air Protection is required.
22. Marine retaining walls shall be constructed of rip rap on the subject property. Other concepts/materials shall only be used if deemed necessary by a professional engineer. Flat faced cast-in-place concrete walls and concrete lock-block walls are discouraged and preservative treated lumber or timber is not permitted.
23. Marine retaining walls constructed for the purposes of reclaiming land shall not be permitted unless required by a professional engineer.
24. Heavy equipment shall not be permitted on the beach unless existing conditions do not permit upland access and, if required, mitigation methods acceptable to the RDN shall be identified as part of the application.

PROCEDURES

Applications for new retaining walls or the approval of existing retaining walls shall include the following information.

3. A survey completed by a British Columbia Land Surveyor (BCLS) that shows the following:
 - k) the location of the present natural boundary;
 - l) where there has been erosion or accretion, the natural boundary as per the plan of subdivision;
 - m) elevations and representative cross-sections showing the top of bank and toe of the bank; and
 - n) height and cross-section of any existing retaining wall or other shore protection systems.
4. A report sealed by a professional engineer qualified to carry out retaining wall design and to assess geotechnical matters is required and shall include recommendations with regards to the following:

- s) Necessity of the proposed retaining wall
- t) Potential impacts to adjacent properties with or without the installation of a retaining wall.
- u) Mitigation methods to reduce negative impacts to the natural environment and to adjacent properties.
- v) Potential impacts to continued public access of the foreshore. The French Creek Official Community Plan RDN Bylaw 1115 discourages development that would alienate the foreshore from public access or impact on the natural environment.
- w) Where the proposed works involve repairs to an existing retaining wall, the engineer shall evaluate potential negative impacts and make recommendations to mitigate these negative impacts.
- x) Description of the construction details, materials and methods to be used including cross sectional drawings.
- y) Supervision and inspection requirements of the proposed works.
- z) Certify that the subject property is safe for the intended or continued use.
- aa) Acknowledge that the RDN may rely upon the report when making a decision regarding the development of the land.

(FCRA is concerned that points (h) and (i) above may be difficult or impossible for a consultant to include in the research and design of basic shore protection. These requirements sound like "boilerplate" extracted from other policies that may not be pertinent to this subject.)

7. Where a **Land Title Act** Section 219 covenant is registered on the title restricting removal of vegetation, alteration of land and/or construction within the area where the retaining wall is proposed to be located, the application shall include permission from the covenant holder(s).
8. If works are proposed to be undertaken on the beach (crown land) the following conditions apply:
 - e) Confirmation how access to the work is to be achieved and any required permissions (for example, if through an adjacent property, permission from the property owner, if through a MOT beach access, permission from MOT);
 - f) Confirmation that the machinery will not adversely impact the foreshore and beach environment and mitigation methods to reduce negative impacts must be detailed.
5. Details of vegetation removal and a proposed replanting plan.
6. The name of the contractor, if any, who will do the work.
7. Confirmation that DFO will be informed of the proposed works and advised of the name of selected contractor(s) and when the proposed works are to be undertaken.
8. Confirmation that the works will comply with the **Heritage Conservation Act**. *(Please highlight the concerns that could be raised by adhering to the requirements of this act.)*
9. The date when the proposed works are to be undertaken.
10. An as-built survey by a BCLS shall be submitted to the design engineer and the Building Inspection Department of the Region upon completion of the work, and registered on title.

11. Existing non-compliant retaining walls or other shore protection that are functioning adequately may be legalized by the Board and covenant placed on title to require future repairs and modifications to first bring the retaining wall or shore protection into compliance upon approval of an application.
12. Existing non-compliant walls which are not performing adequately (negatively affecting neighboring properties) or experiencing structural failure must be redesigned, renovated, or demolished, repositioned and reconstructed to standards (including this policy) in-force at the date of application.

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE MEETING OF THE RESTRUCTURE COMMITTEE -
REMAINDER OF ELECTORAL AREA 'D' HELD ON WEDNESDAY,
FEBRUARY 25, 2004, AT 5:00 PM IN THE REGIONAL
DISTRICT OF NANAIMO COMMITTEE ROOM

Present:

Director E. Hamilton	Chairperson
Director D. Haime	Electoral Area D
L. Lapi	Electoral Area C
C. Tellier	Electoral Area D

Also in Attendance:

C. Mason	Gen. Mgr. of Corporate Services
N. Avery	Manager, Financial Services

ADMINISTRATION

Electoral Area 'D' Boundaries.

The Committee reviewed written correspondence which had been received following two open houses.

MOVED C. Tellier, SECONDED L. Lapi, that the following resolution be forwarded to the Regional District Board:

WHEREAS geographically, Electoral Areas 'C' and 'D' are separate and distinct and do not have shared roads other than the Inland Island Highway to connect their communities;

AND WHEREAS Electoral Area 'C' is already comprised of a number of fragmented communities with few connecting roadways and the addition of the communities in Electoral Area 'D' will increase the dispersed nature of the electoral area;

AND WHEREAS the Pleasant Valley and East Wellington communities in Electoral Area 'D' have already felt themselves represented as minority interest within Electoral Area 'D';

AND WHEREAS the remainder of Electoral Area 'D' is more developed and in an urban setting than Electoral Area 'C' which has a rural and agricultural setting;

AND WHEREAS for the reasons outlined above, it will be extremely difficult for these two diverse electoral areas to be represented by a single Area Director;

AND WHEREAS Electoral Area 'C' has existed for many years as an independently represented area despite its small population base and Electoral Area 'D' now has a population base similar to Electoral Area 'C';

THEREFORE BE IT RESOLVED that the Board of the Regional District of Nanaimo request the Province of BC to amend the letters patent dated April 3, 2003 to allow Electoral Area 'D' to remain as an independent Electoral Area following the Local Government Elections in November 2005.

CARRIED

ADJOURNMENT

MOVED C. Tellier, SECONDED Director Haine, that this meeting terminate.

CARRIED

TIME: 6:30 PM

CHAIRPERSON



OF NANAIMO	
MAY 31 2004	
CHAIR	GMCRS
CAO	GMDS
GMCRS	GMES
DATE: May 31, 2004	
FILE:	

MEMORANDUM

TO: C. Mason
General Manager, Corporate Services

FROM: N. Avery
Manager, Financial Services

SUBJECT: Report on the Results of the Public Consultation Regarding the Amalgamation of Electoral Areas C and D

PURPOSE:

To summarize the results of public information meetings held regarding the future amalgamation of Electoral Areas 'C' and 'D'.

BACKGROUND:

In correspondence dated February 27th, 2003 Minister George Abbott recommended that Electoral Area 'C' and the remainder of Electoral Area 'D' be combined primarily as a consequence of the small population base of Electoral Area 'D' following the incorporation of the District of Lantzville. The Minister asked for the Board's views regarding combining the two Electoral Areas. However, in Supplementary Letters Patent issued on April 3rd, 2003 the Province of B.C. specified a redefinition of Electoral Area boundaries, specifically that Electoral Area 'D' will be "dissolved immediately before the first Monday after December 1, 2005 or when the director for the newly defined Electoral Area 'C' takes office, whichever is later." The Regional District received no other correspondence from the Province prior to the Supplementary Letters Patent.

A small committee made up of the Electoral Area Directors, four public members at large and staff met several times between March and May 2003, following which a report was presented to the Board in June outlining the financial and administrative results which would follow an amalgamation of the two Electoral Areas. At that meeting the Board passed the following motions:

"That two public meetings be held, one in each Electoral Area, and that a newsletter be sent out to the residents of Electoral Areas 'C' and 'D' for the purpose of obtaining the residents' opinions on the option of either combining Electoral Areas 'C' and 'D', or of retaining separate Electoral Areas, and that funds from the Public Consultation budget be used for this purpose."

"That the Regional District of Nanaimo seek financial support from the Ministry of Community, Aboriginal and Women's Services for costs incurred during the public consultation process."

Two information meetings were held, one in Electoral Area 'C' and one in Electoral Area 'D'. Approximately 40 people attended each meeting. Subsequent to the meetings a number of residents sent correspondence to the Regional Board and copies are attached to this report. The Restructure Committee met on February 25th, 2004 to review the results of the meetings.

ALTERNATIVES:

1. Receive this report for information.
2. Recommend additional consultation on this matter.

FINANCIAL IMPLICATIONS:

The financial implications were reported earlier. In broad terms, the incorporation of the District of Lantzville has a greater impact on property taxes to the remaining Electoral Areas than the effect of amalgamation. There will be a slight increase in property tax rates in Electoral Area 'C' and a fairly substantial reduction for property owners in Electoral Area 'D'. There are no additional financial implications at this time.

CITIZEN IMPLICATIONS:

Written and verbally expressed concerns from the meetings and in the correspondence received regarding the potential amalgamation of the two Electoral Areas included the following:


- Concern over lack of meaningful consultation by the Province.
- Differences between communities – Electoral Area 'D' is more developed and urban, Electoral Area 'C' is more rural and agricultural, both have distinct histories and development goals.
- A single Electoral Area Director will have difficulty representing widely dispersed and very diverse communities.
- Loss of identity for Electoral Area 'D'.
- Distance between communities – no direct roads or links between Electoral Area 'C' and 'D'.

SUMMARY/CONCLUSIONS:

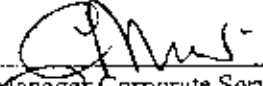
Pursuant to the Board's direction a newsletter and two public information meetings were held to solicit the views of residents in Electoral Area 'C' and 'D', regarding the recommended amalgamation of the two Electoral Areas after local government elections are held in November 2005. At the meetings and in correspondence received subsequent to the meetings residents expressed their concerns about the amalgamation. Copies of the correspondence have been attached to this report. The Restructure Committee met on February 25th, 2004 and the minutes and recommendation from the committee have been submitted.

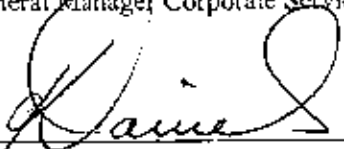
RECOMMENDATION:

That this report be received for information.



Report Writer



General Manager Corporate Services


C.A.O. Concurrence

COMMENTS:

TO: K. Daniels
Chief Administrative Officer

DATE: May 2, 2003

FROM: C. Mason
General Manager, Corporate Services

FILE:

SUBJECT: Redefinition of Electoral Area 'C' Boundaries

PURPOSE:

To discuss the implications of adding the remainder of Electoral Area 'D' to Electoral Area 'C'.

BACKGROUND:

The District of Lantzville will incorporate as a municipality on June 25, 2003. At that time, the remainder of Electoral Area 'D' will become an independent Electoral Area 'D' until the next local government elections. In November 2005, the Province has established in Supplementary Letters Patent that the Regional District's Electoral Area boundaries will be redefined and the remaining portion of Electoral Area 'D' will join with Electoral Area 'C' to become the newly defined Electoral Area 'C'.

In the Letters Patent, three structures will exist for the purposes of continuation of services in Electoral Areas 'C' and 'D'. They are as follows:

- a) **'Mountain/Pleasant Valley' Service Area within 'C'**. Where all of Electoral Area 'D' participated in a function immediately prior to the redefinition of boundaries and Electoral Area 'C' did not participate in that function, that portion of Electoral Area 'D' will continue participating as a portion of Electoral Area 'C'.
- b) **'Extension' Service Area within 'C'**. Where all of Electoral Area 'C' participated in a function immediately prior to the redefinition of boundaries and Electoral Area 'D' did not participate in that function, that portion of Electoral Area 'C' will continue participating as a portion of Electoral Area 'C'.
- c) **All Electoral Area 'C'**. Where all of Electoral Area 'C' participated in a function immediately prior to the redefinition of boundaries and all of Electoral Area 'D' also participated in that function, they will continue to function as the newly defined Electoral Area 'C'.

'Mountain/Pleasant Valley' Service Area within 'C'

The functions which will apply under the first scenario include:

District 68 Transit / HandyDART
Community Parks
Noise Control
Building Inspection

'Extension' Service Area within 'C'.

The functions which will apply under the second scenario include:

- Port Theatre
- Noise Control
- Community Parks
- Building Inspection

All Electoral Area 'C'.

The functions which will apply under the third scenario include:

- | | | |
|------------------------------|------------------------|---------------------|
| Administration | Regional Development | Unsanitary Premises |
| Grants in Aid | Hazardous Properties | D68 E911 |
| Planning/House Numbering | Solid Waste Mgmt | Electoral Areas |
| Vanc Island Regional Library | Southern Community Rec | Animal Control |
| Regional Parks | Emergency Planning | |

Where the functions are blended under the newly defined Electoral Area 'C', depending upon the tax requisition formula in place, some requisition changes will occur. The impact of these changes are discussed under financial implications and are shown in the attached appendix.

Voting Structure:

The existence of the remainder of Electoral Area 'D' and the creation of the municipality of Lantzville will change the composition and voting structure of the Regional Board. Currently, there are 16 Board members (8 municipal & 8 electoral directors) and a total of 56 votes on weighted vote issues. As shown in the table below, for the period from July 2003 to November 2005, the Board will be comprised of 17 Board members and a total of 57 votes on weighted vote issues.

<i>Jurisdiction: (Voting Unit: 2,500 population)</i>	<i>Population Estimate 2003*</i>	<i>Number of Directors 2003</i>	<i>2003 Voting Strength*</i>	<i>Population Estimate 2005*</i>	<i>Number of Directors</i>	<i>2005 Voting Strength*</i>
Nanaimo	73,000	6	30	73,000	6	30
Parksville	10,323	1	5	10,323	1	5
Qual Beach	6,928	1	3	6,928	1	3
Lantzville	3,600*	1	2	3,600	1	2
A	6,634	1	3	6,634	1	3
B	3,515	1	2	3,515	1	2
C	1,167	1	1	2,430*	1	1
D	1,263*	1	1	--	--	--
E	4,820	1	2	4,820	1	2
F	5,546	1	3	5,546	1	3
G	7,041	1	3	7,041	1	3
H	3,179	1	2	3,179	1	2
Totals:	127,016	17	57	127,016	16	56

In November 2005, the remainder of Electoral Area 'D' will combine with Electoral Area 'C'. This will result in the Board being again reduced to 16 members and a total of 56 votes, based on the 2001 census information which is updated every 5 years.

The Ministry of Community, Aboriginal and Women's Services has advised the Regional District of its intention to combine the remainder of Electoral Area D with Electoral Area C. It has prepared Supplementary Letters Patent that will amend these boundaries in conjunction with the November 2005 local government elections. While the Province has already taken steps to proceed with this boundary amendment, in his correspondence to the Regional District, Minister George Abbott requested the Board's views on this matter. The Board may wish to concur or express no position with respect to the direction of the Province and the timing of the proposed boundary change, or suggest an alternative proposal. Prior to responding to the Minister's request, the Remainder of Electoral Area 'D' Restructure Advisory Committee is proposing to consult with residents of Electoral Areas C and D to obtain their views on the amalgamation of the two Electoral Areas.

ALTERNATIVES:

1. Proceed to public consultation with the residents of Electoral Areas C and D to obtain their views on the amalgamation of Electoral Areas C and D prior to responding to the Minister of Community, Aboriginal and Women's Services correspondence with a position.
2. Advise the Minister of Community, Aboriginal and Women's Services that the Board supports the Supplementary Letters Patent which will add the remainder of Electoral Area 'D' to Electoral Area 'C' in conjunction with the next local government elections.
3. Advise the Minister of Community, Aboriginal and Women's Services that the Board has no comment with respect to the boundary amendments or timing of the proposed changes included in the Regional District of Nanaimo Supplementary Letters Patent.

FINANCIAL IMPLICATIONS:

In order to determine the tax impact of combining Electoral Area 'D' with Electoral Area 'C', we have assumed that services remain at the same tax requisition level as set for 2003.

Under this assumption, for the period in which the remainder of Electoral Area 'D' remains as a separate Electoral Area, there will be no change to the tax rate for regional functions in which property owners currently participate in those Electoral Areas. The exception to this is the Conventional Transit function, where cost sharing is based on service kilometres and service hours. As the remainder of Electoral Area 'D' will not receive any conventional transit service, this area will not contribute towards this function. It will still participate in custom transit services.

At the point at which the remainder of Electoral Area 'D' combines with Electoral Area 'C', some variations may occur. For functions in which Electoral Area 'D' participates and Electoral Area 'C' does not, there will be no change to the tax requisition for existing Electoral Area 'C' taxpayers (based on 2003 tax levels). The same applies with respect to functions existing in Electoral Area 'C' but not existing in Electoral Area 'D' (such as the Port Theatre function).

In functions where both Electoral Areas participate as 'regional' members (such as in Administration and Emergency Planning), there will be no change to the tax rate where the functions are based on

assessment. However, where participation is based on a 50/50 split by population & assessment, the newly defined Electoral Area 'C' will experience a change in its contribution to the regional function. In particular, residents in the remainder of Electoral Area 'D' will pay less and residents of Electoral Area 'C' will pay more (the attached appendix shows the impact to those functions).

On an overall basis for 2005 and assuming no change to 2003 property tax levels, it is expected that Electoral Area 'C' residents will see an approximate increase of \$5.06 per \$100,000 of assessment, while Electoral Area 'D' residents will see a decrease of \$2.28 per \$100,000 of assessment.

CITIZEN IMPLICATIONS:

While the Province has indicated that given the population criteria it makes sense to blend the two Electoral Areas, residents of these Areas may prefer the alternative of retaining two separate Electoral Areas in order to retain their own identities. The Committee is proposing to proceed to public consultation so that it can obtain the opinions of residents on the amalgamation, prior to providing a recommendation to the Board.

CONCLUSIONS:

The Regional Board established a Select Committee to review the implications of combining the boundaries of Electoral Area 'D' with Electoral Area 'C' and to provide recommendations to the Board on providing a response to the Minister of Community, Aboriginal and Women's Services. In reviewing the regional functions for which both Electoral Areas participate, it appears that Electoral Area 'C' will pay slightly more for some regional functions when the remainder of Electoral Area 'D' is added to their boundaries, although this impact may not be significant. It is difficult to predict the overall financial impact for either Electoral Area, as a variety of other factors will likely have a more significant impact on tax requisition levels.

Should the Board have concerns regarding functions that have a negative financial impact on the taxpayers in Electoral Area 'C', it has the ability over the next two years to consider reviewing those functions and amending the requisition formula for some functions.

With respect to the voting structure, given that the current voting structure formula is based on one vote for each 2500 population, it is difficult to support Electoral Area 'D' remaining as a separate Electoral Area. The Province has indicated that it is not supportive of Electoral Area 'D' remaining as a separate Electoral Area.

RECOMMENDATION:

That the report on the implications of redefining the Electoral Area 'C' boundaries be received for information.

Report Writer

C.A.O. Concurrence

Rpt re Redefinition of Electoral Area C Boundaries (May 2003).doc



REGIONAL DISTRICT OF NANAIMO	
OCT 20 2004	
GMAR	GMC:8
AREA	GMD8
	GME8
Board	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: October 20, 2004

FROM: Keeva Kehler
Senior Planner

FILE: 3360 30 0407

SUBJECT: Bylaw Amendment Bylaw 500.300 – NCID
Electoral Area 'A' – Yellow Point Road

PURPOSE

To consider Bylaw 500.300 for adoption.

BACKGROUND

Bylaw No. 500.300, 2004 was introduced and given 1st and 2nd reading on August 30, 2004. This was followed by a Public Hearing held on September 16, 2004. The Board then granted the Bylaw 3rd reading on September 28, 2004.

The intent of this amendment bylaw is to rezone the parcel legally described as Lot A Section 12 Range 2 Cedar District Plan VIP71957 and located on Yellow Point Road within Electoral Area 'A' (see Attachment No. 1 for location of subject property) from Residential 2 Subdivision District 'M' (RS2M) (minimum 2000m² parcel size with community water services) to Comprehensive Development 17 Subdivision District 'Z' (CD17Z) (no further subdivision) in order to facilitate the development of the North Cedar Improvement District fire hall and administration offices (see Schedule No. 2 for proposed site plan).

At 3rd reading of this amendment application, the Conditions for Approval included registration of a section 219 covenant securing the conditions to be undertaken prior to final adoption of the bylaw. These conditions are outlined in Schedule No.1. As the applicant must hold a referendum to gain support for raising the necessary funds to develop the site, many of the conditions cannot be completed at this time. Therefore, in order to secure the completion of the conditions upon development of the site, the applicant's solicitor has prepared a covenant that will ensure that the Conditions of Approval are implemented. Further the applicant's solicitor has provided a letter of undertaking to ensure that the covenant is registered at Land Title Office. Therefore, as the covenant has been secured and there is a legal undertaking to ensure the conditions are met, the bylaw may now be considered for adoption.

ALTERNATIVES

1. To adopt Bylaw No. 500.300.
2. To not adopt Bylaw No. 500.300.

VOIUNG

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


SUMMARY

"Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004" was given 1st and 2nd reading on August 10, 2004. A Public Hearing was held on September 16, 2004, and the Bylaw was given 3rd reading on September 28, 2004. As the recommended conditions for adoption have been secured, the Bylaw may now be considered for adoption.

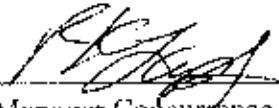
The following recommendation is provided for consideration by the Board.

RECOMMENDATION

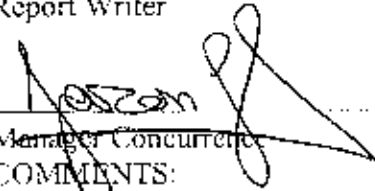
That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004", be adopted.




Report Writer



General Manager Concurrence



Manager Concurrence



A CAO Concurrence

COMMENTS:

devs/rep/2004/LA3360 30 0407 oc brd NCID adopt

SCHEDULE NO. 1
Conditions for Approval
Amendment Bylaw No. 500.300, 2004
Lot A Section 12 Range 2 Cedar District Plan V1P71957
North Cedar Improvement District

The following conditions are secured by section 219 covenant and shall be completed as part of the approval for Amendment Bylaw No. 500.300, 2004:

1. Applicant to prepare a Reverter document, which can be registered on the title of the subject property, that will require the zoning to revert back to the current residential zone should the construction of the fire hall/administration building not proceed. Applicant to provide a solicitor's undertaking that this document will be registered at Land Title Office prior to 4th reading of the corresponding zoning amendment bylaw. The document is to be prepared and registered at Land Title Office at the applicant's expense.
2. Applicant is to prepare and register a section 219 covenant on title of the subject property restricting the following:
 - a. no outdoor burning associated with training practices.
 - b. hours of training be limited to 8:00 am to 9:00 pm Monday through Saturday; 8:00 am to 4:00 pm on Sundays and no training on statutory holidays.
3. Applicant to provide an access permit issued by Ministry of Transportation for the proposed use.
4. Applicant to provide a landscape plan setting out planting details which is acceptable to the Regional District.
5. Applicant to prepare and register a section 219 covenant on title of the subject property for the purposes of securing the following. This covenant is to be prepared and registered by the applicant to the satisfaction of the Regional District.

The Lands shall be developed as follows (secured by section 219 covenant):

1. Building / Site Development

- a. The fire hall / administration office building shall be sited and built in accordance with the site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised.
- b. The fire hall / administration office building shall be designed in accordance with the elevations drawing prepared by Johnston Davidson Architecture and dated 04 April 4. The maximum height of the building shall be 10.0 metres.

2. Landscaping Requirements

- a. Landscaping shall be provided throughout the site in accordance with the site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised and landscape plan to be prepared by NCID and accepted by the RDN.
- b. Landscaping to be provided 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 completed with permanent curbs a minimum of 15 cm in height protecting all landscaped areas from potential vehicular damage.
- c. The subject property shall be fenced as shown on the site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised and shall be subject to a request for variance to Bylaw No. 500, 1987.
- d. The landscape berm may be modified at the north end to accommodate the proposed septic disposal system.

2. Storm Water Drainage

- a. Site is to be developed in accordance with the submitted engineer's storm drainage plan prepared by C-4 Engineering Ltd. and dated January 31, 2001 and as shown on the site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised. These works are subject to the approval of the Ministry of Transportation and the Regional District. The retention pond may be adjusted in order to accommodate the septic disposal system.
- b. These works are to be designed so not to result in an increase in pre-development flows and that any discharge of storm water from the site can be accommodated by the existing off-site road ditch system.

3. Off-Street Parking Spaces and Aisle Ways

- a. Off-street parking shall be as shown on site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised.
- b. All off-street parking areas shall be located behind the front face of the principle buildings. 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 surfaces as shown on site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised.

4. Signage

- a. A maximum of 1 free-standing sign shall be permitted. Signage will be subject to a request for variance to Bylaw No. 993, 1995. Directional signage is exempt.
- b. Signage shall only be light with back lighting and no neon lighting is permitted.

7. Refuse Containers and Other Outdoor Storage

The refuse containers shall be adequately screened with a combination of landscape plantings and fencing, and located as shown on site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised.

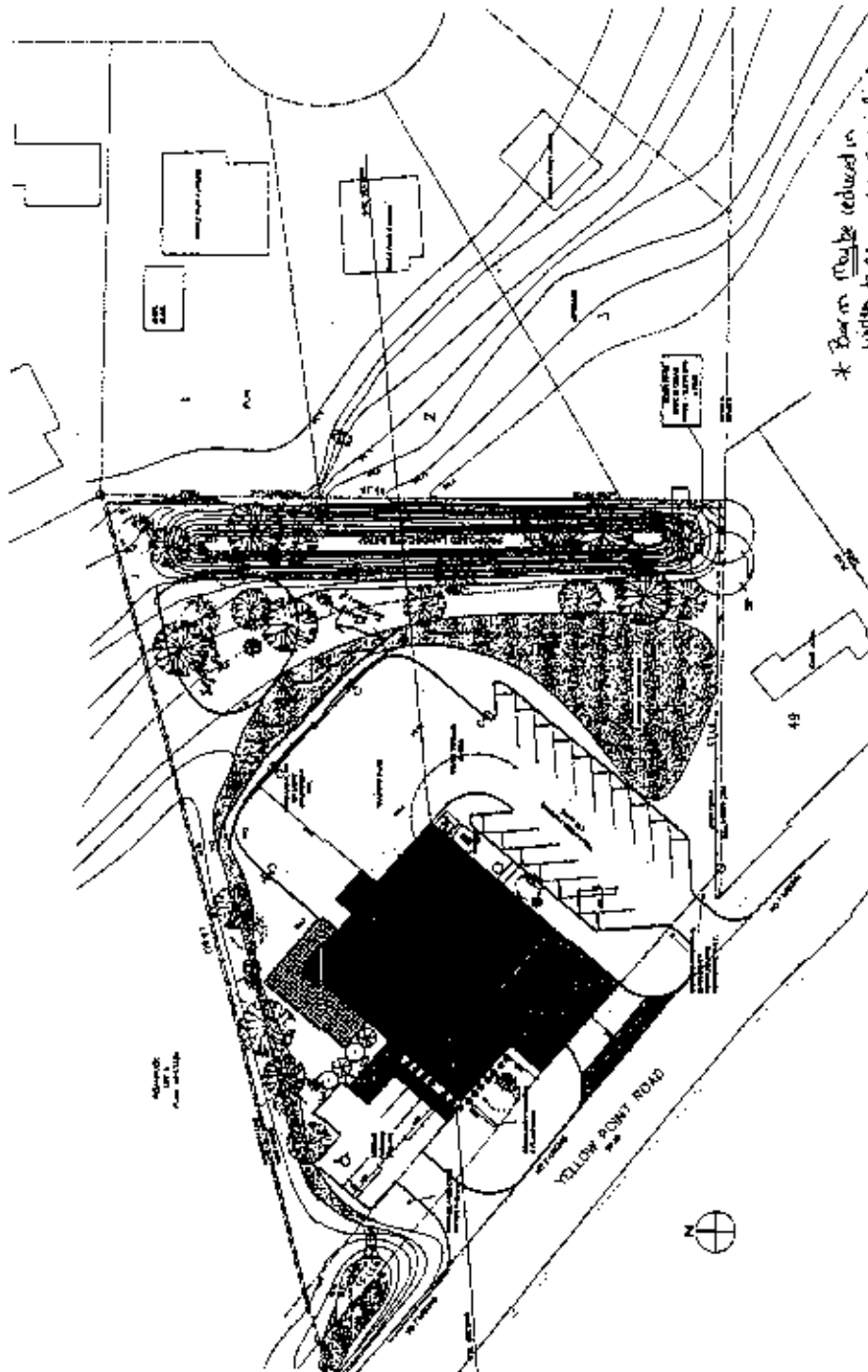
8. Lighting

Lighting of the site shall be restricted to the site area only and not infringe on adjacent properties. Lighting shall be in the locations as shown on site plan/site section drawing prepared by Johnston Davidson Architecture and dated 04 May 14 revised.

9. Community Water Connection

The property shall be served by community water.

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

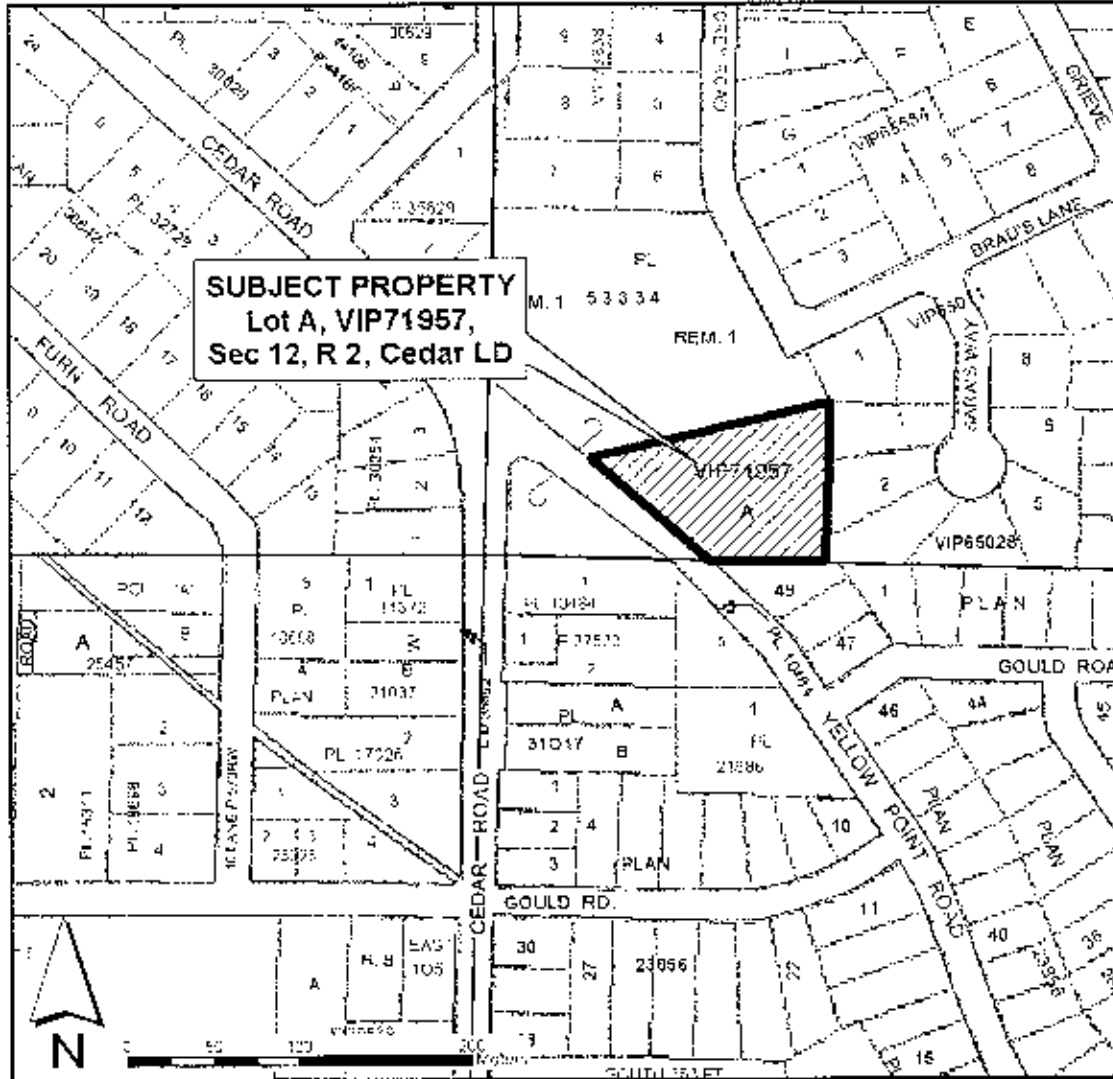


* Bar in May be reduced in width to accommodate septic fields + to allow 50 foot setback from the retention pond.

* Retention pond moved closer to driveway if required.

Site Plan

ATTACHMENT No. 1
Location of Subject Property





REGIONAL DISTRICT OF NANAIMO			
OCT 20 2004			
CHAIR		GMCrs	
ASST	Clm	GMDS	
ComG		GMES	
Brigid Reynolds			
DATE:			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Services

DATE: October 20, 2004

FROM: Brigid Reynolds
Senior Planner

FILE: 3360 30 0410

SUBJECT: Bylaw Amendment Bylaw 500.304 – Fern Road Consulting, on behalf of Stranaghan
Electoral Area 'II' – 950/960 Spider Lake Road

PURPOSE

To consider Bylaw 500.304, 2004 for adoption.

BACKGROUND

Bylaw No. 500.304, 2004 was introduced and given 1st and 2nd reading on August 10, 2004. This was followed by a Public Hearing held on September 7, 2004. The Board then granted the Bylaw 3rd reading on September 28, 2004.

The purpose of this amendment bylaw is to rezone the parcel legally described as Lot 5, Block 360, Newcastle and Alberni Districts, Plan 35096 and located at 950/960 Spider Lake Road in the Spider Lake area of Electoral Area 'II' (see Attachment No. 1 for location of subject property) from subdivision district B (8.0 ha minimum parcel size) to Subdivision District D (2.0 ha minimum parcel size) to facilitate the subdivision of the parcel into three lots – two lots with a minimum parcel size of 2.0 ha and one lot with a minimum parcel size of 4.0 ha. (see Schedule No. 2 for proposed site plan). This application is one of five similar zoning amendment applications in the Spider Lake area. Prior to this report, these applications have been presented to the Regional Board together, however due to time sensitivities for this applicant final approval is being requested separately.

At 3rd reading of this amendment application, the Conditions for Approval included the following:

1. The registration of the following section 219 covenants.
 - a. For the two proposed 2 ha lots (A & B);
 - i) One dwelling unit per parcel;
 - ii) No further subdivision of the land under the *Strata Property Act*;
 - iii) No frontage relaxation; and
 - iv) No further road dedication to accommodate parcel frontage or additional parcels.
 - a) The geotechnical reports prepared by Bob Davcy on March 3, 2004.
 - b) For the proposed 4 ha lot (C) - No further subdivision or subdivision pursuant to the *Strata Property Act*.
 - c) The hydrogeological assessment prepared by FBA Engineering Consultants Ltd. on August 31, 2004.

2. A development permit approved pursuant to the Environmentally Sensitive Features Development Permit Area as designated in "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

The applicant has provided a solicitor's letter stating they will undertake to register the section 219 covenants on the title at the time of subdivision. While the applicant was required to have these covenants registered on the title of the property prior to final approval by the Regional Board, the applicant's agent requested that due to time sensitivities that the Regional District accept the solicitor's letter of undertaking. While not the preferred method of securing covenants staff recommend an exception in this case.

In addition, the applicant has provided an engineers report stating that there is a safe margin for establishing septic fields within the top 1 m of the land surface and an engineer's report with expertise in hydrology proving the availability of potable water for the proposed subdivision in terms of water quantity.

The corresponding development permit application was forwarded to the October Electoral Area Planning Committee for its consideration and will be considered for issuance by the Regional Board on October 26, 2004. Therefore, as the issuance of the corresponding development permit is being considered by the Board on October 26, 2004 and the other applicable conditions have been met, the bylaw may now be considered for adoption.

ALTERNATIVES

1. To adopt Bylaw No. 500.304.
2. To not adopt Bylaw No. 500.304.

INTERGOVERNMENTAL IMPLICATIONS

Referrals were sent to the Ministry of Transportation and Vancouver Island Health Authority. In addition, the Bow Home Fire Protection District was contacted directly.

Comments received include:

Ministry of Transportation -- staff has indicated that the Ministry has no objection in principal to these applications.

Vancouver Island Health Authority -- staff has indicated that due to the potential for onsite sewage disposal in these areas the agency has no objection to these rezoning applications.

Bow Home Fire Protection District Fire Chief -- The Fire Chief has verbally indicated no objection of these rezoning applications.

VOTING

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

SUMMARY

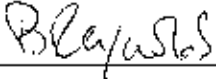
"Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.304, 2004" was given 1st and 2nd reading on August 10, 2004. A Public Hearing was held on September 7, 2004 and the Bylaw was given 3rd reading on September 28, 2004. The Electoral Area Planning Committee

recommended approval of the development permit application on October 12, 2004 and this recommendation will be considered by the Regional Board on October 26, 2004. As the applicable Conditions of Approval as outlined in Schedule No. 1 have been met, the Bylaw may now be considered for adoption.

The following recommendation is provided for consideration by the Board.

RECOMMENDATION

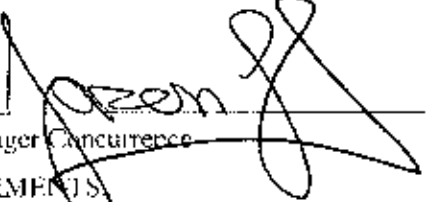
That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.304, 2004", be adopted.



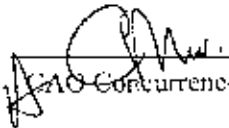
Report Writer



General Manager Concurrence



Manager Concurrence



ADO Concurrence

COMMENTS
docs/reports/2004/LA3360 30 0404 oc brd Stranaghan Fern Rd adopt

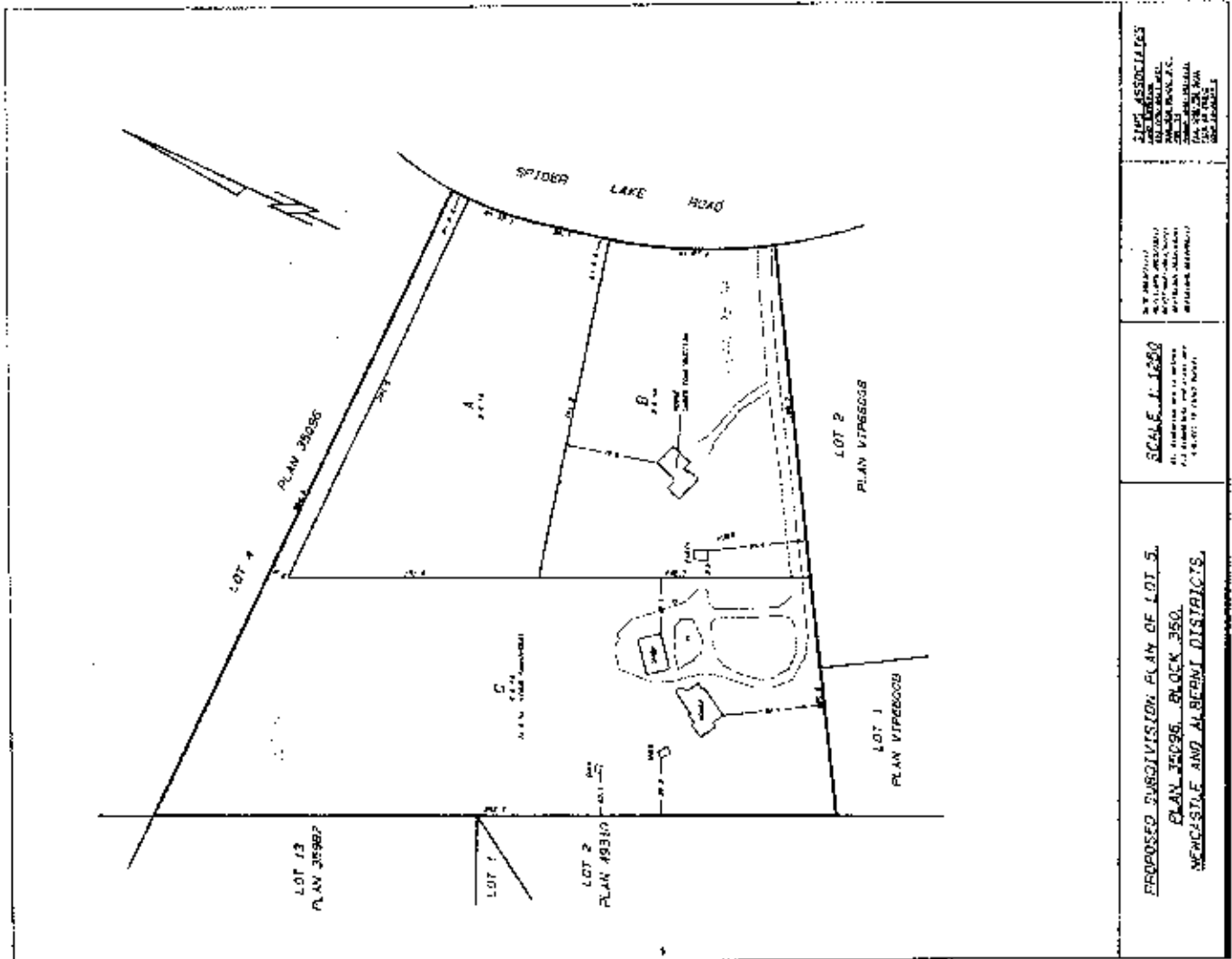
SCHEDULE NO. 1

**Conditions for Approval for Zoning Amendment Application No. ZA0404
Amendment Bylaw No. 500.304**

The following conditions are to be completed prior to consideration of Amendment Bylaw No. 500.302, 500.303, 500.304, 500.305, and 500.306, 2004 for final reading:

1. The registration of the following section 219 covenants. All covenants are to be prepared and registered by the applicant to the satisfaction of the Regional District.
 - a) For ZA0402, the two proposed 2 ha lots (A & B); For ZA0403, the two proposed 2 ha lots (A & B); For ZA0404, the two proposed 2 ha lots (A & B); For ZA0405, the four proposed 2 ha lots (A, B, C & D); and For ZA0406, the two proposed 2 ha lots (A & B) the following section 219 covenant shall be registered:
 - i) One dwelling unit per parcel;
 - ii) No further subdivision of the land under the *Strata Property Act*;
 - iii) No frontage relaxation; and
 - iv) No further road dedication to accommodate parcel frontage or additional parcels.
 - b) For ZA0405, the proposed Lots A, B, and C the following section 219 covenant shall be registered: No removal of vegetation within 15 metres of the natural boundary of the pond.
 - c) For ZA0402, ZA0405, and ZA0406, the following section 219 covenant shall be registered: The geotechnical reports prepared by Bob Davey on March 3, 2004.
 - d) For ZA0402, the proposed 4 ha lot (C); for ZA0403, the proposed 4 ha lot (C); and for ZA0404, the proposed 4 ha lot (C) the following section 219 covenant shall be registered: No further subdivision or subdivision pursuant to the *Strata Property Act*.
 - e) For ZA0402, ZA0403, ZA0404, ZA0405, and ZA0406, the following section 219 shall be registered: The hydrogeological assessment prepared by EBA Engineering Consultants Ltd. on August 31, 2004.
2. Apply for a development permit pursuant to the Environmentally Sensitive Features Development Permit Area Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003

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



REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, OCTOBER 12, 2004, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director E. Hamilton	Chairperson
Director H. Kreiberg	Electoral Area A
Director P. Bibby	Electoral Area E
Director L. Higgemann	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. Tonn	Recording Secretary

LATE DELEGATION

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

CARRIED

Steve Chomolok, re Zoning Amendment Application No. ZA0413 – Wendy Huntbatch – 2116 Alhemi Highway – Area F.

Mr. Chomolok provided background information and raised his concerns with respect to Zoning Amendment Application No. ZA0413.

MINUTES

MOVED Director Stanhope, SECONDED Director Bibby, that the minutes of the Electoral Area Planning Committee meeting held September 14, 2004 be adopted.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Richard Dean, re DP Application No. 60449 – Reilly – 1651 Admiral Tryon Boulevard – Area G.

MOVED Director Stanhope, SECONDED Director Kreiberg, that the correspondence from Richard Dean with respect to Development Permit Application No. 60449 be received.

CARRIED

Diane Pertson, re Consideration of Park Land Dedication – Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments – Northwest Bay Road – Area E.

MOVED Director Stanhope, SECONDED Director Kreiberg, that the correspondence from Diane Pertson with respect to the subdivision application by Timberlake-Jones Engineering Ltd./Timberstone Developments be received.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0413 – Wendy Huntbatch – 2116 Alberni Highway – Area F.

MOVED Director Biggemann, SECONDED Director Kreiberg,:

1. That the Report of the Public Information Meeting containing the Summary of the Minutes held on September 13, 2004 be received.
2. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" be given 1st and 2nd reading, subject to the applicant meeting the Conditions of Approval outlined in Schedule No. 1.
3. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" proceed to public hearing, subject to the applicant meeting the Conditions of Approval outlined in Schedule No. 1.
4. That the public hearing on "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" be delegated to Director Biggemann or his alternate.

DEFEATED

MOVED Director Biggemann, SECONDED Director Bartram, that item No. 5 be forwarded to an In Camera meeting.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60443 – Tenant/Fern Road Consulting Ltd., and DP Application No. 60444 – West Coast Rangers Ltd., Vincent, Stranaghan, Tennant and Bartzan/Fern Road Consulting Ltd. – Spider Lake Road and Horne Lake Road – Area II.

MOVED Director Bartram, SECONDED Director Stanhope,:

1. That Development Permit Application No. 60443, submitted by Fern Road Consulting, for the properties legally described as

Lot 5, Blk 347, Newcastle and Alberni Districts, Plan 33670;
Lot 4, Blk 360, Newcastle and Alberni Districts, Plan 35096;
Lot 5, Blk 360, Newcastle and Alberni Districts, Plan 35096;
Lot 17, Blk 360, Newcastle District, Plan 36512; and
Lot 18, Blk 360, Newcastle District, Plan 36512

be approved, subject to the conditions outlined in Schedule No. 1.
2. That Development Permit Application No. 60444, submitted by Fern Road Consulting, for the property legally described as Lot 17, Blk 360, Newcastle District, Plan 36512, be approved, subject to the conditions outlined in Schedule No. 1.

3. That the request from Fern Road Consulting to relax the minimum 10% frontage requirements for

Lot 5, Blk 347, Newcastle and Alberni District, Plan 66370;
Lot 4, Blk 360, Newcastle and Alberni Districts, Plan 35096;
Lot 5, Blk 360, Newcastle and Alberni Districts, Plan 35096

for proposed Lot C. shown on the proposed subdivision, be approved subject to the conditions outlined in Schedule No. 1.

CARRIED

Development Permit Application No. 60449 – Reilly – 1651 Admiral Tryon Boulevard – Area G.

MOVED Director Stanhope, SECONDED Director Bartram.:

1. That Development Permit No. 60449, to vary the minimum setback from 8.0 metres to 1.0 metre to recognize the siting of the existing concrete retaining wall and to permit the construction of a rip rap retaining wall sited a maximum of 1 metre below the natural boundary of the sea, within the Watercourse Protection Development Permit Area on the property legally described as Lot 22, District Lot 28, Nanoose District, Plan 22290, be approved subject to the Conditions of Approval outlined in Schedules No. 1, 2, 3 and 4 of the corresponding staff report and subject to the comments received as a result of public notification pursuant to the *Local Government Act*.
2. That staff be directed to send a letter to the French Creek Residents Association confirming receipt of their correspondence of October 11, 2004 as part of the application process.

CARRIED

Development Permit Application No. 60450 – Kehoe Holdings/Fairwinds – Andover Road – Area E.

MOVED Director Bibby, SECONDED Director Stanhope, that Development Permit No. 60450 for Kehoe Holdings Ltd. for the property legally described as Lot 1, District Lot 8, Nanoose District, Plan VIP72015 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 requirements pursuant to the *Local Government Act* with respect to the proposed variances to Bylaw No. 500, 1987.

CARRIED

Development Permit Application No. 60451 & Request for Relaxation for the Minimum 10% Frontage Requirement – C & L Addison – Dan's and McLean's Roads – Area C.

MOVED Director Stanhope, SECONDED Director Kreiberg, that Development Permit No. 60451 submitted by C & L Addison, to allow a driveway access within a Farm Land Protection Development Permit Area and a subdivision within a Watercourse Development Permit Area and to relax the minimum 10% frontage, for the property legally described as Lot A, Section 7, Range 3, Cranberry District, Plan VIP57090 Except Plan VIP73826 be approved, subject to the conditions outlined in Schedule Nos. 1 and 2 of the corresponding staff report.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90416 – Clark – 3696 Bell Road – Area D.

MOVED Director Stanhope, SECONDED Director Bartram, that Development Variance Permit Application No. 90416, submitted by the property owners David Roland Clark and Kathleen Ann Clark for the property legally described as Lot B, Section 18, Range 3, Mountain District, Plan 22702 to relax the minimum setback requirements from 2 exterior lot lines to facilitate the construction of an accessory building, be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

OTHER

Consideration of Park Land Dedication – Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments – Northwest Bay Road – Area E.

MOVED Director Bibby, SECONDED Director Stanhope, that the revised park land proposal submitted by Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments in conjunction with the subdivision of Lot 1, DL 68, Nanoose District, Plan 3940 & District Lot 68, Nanoose District Except Amended Parcel A Thereof and Except Those Parts in Plans 3940, 26680, 27026, 27376 and 30341 be accepted subject to the conditions set out in Schedule No. 1 of the staff report.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 7:02 PM

CHAIRPERSON

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE COMMITTEE OF THE WHOLE
MEETING HELD ON TUESDAY, OCTOBER 12, 2004, AT 7:07 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director J. Stanhope	Chairperson
Director H. Kreiberg	Electoral Area A
Director G. Lund	Electoral Area B
Director E. Hamilton	Electoral Area C
Director D. Haime	Electoral Area D
Director P. Bibby	Electoral Area E
Director I. Biggemann	Electoral Area F
Director D. Bartram	Electoral Area H
Director R. Longmuir	City of Parksville
Director T. Westbrook	Town of Qualicum Beach
Director L. Sherry	City of Nanaimo
Director T. Krall	City of Nanaimo
Director B. Holdom	City of Nanaimo
Director L. McNabb	City of Nanaimo
Alternate	
Director D. Brennan	City of Nanaimo

Also in Attendance:

C. Mason	General Manager of Corporate Services
B. Lapham	General Manager of Development Services
N. Connelly	General Manager of Community Services
J. Finnie	General Manager of Environmental Services
N. Tonn	Recording Secretary

DELEGATIONS

Tim Clermont, re Capital Charge Exclusion – Nature Trust of British Columbia – 1520 Terrien Road – Area E.

Mr. Clermont provided a short overview of the Nature Trust of British Columbia and its involvement in securing properties for environmental and wildlife protection for the residents of the RDN. The Nature Trust is requesting that the capital charge of \$2,023 required for connection to the Northern Community Sewer ISA be waived.

MINUTES

MOVED Director Sherry, SECONDED Director Westbrook, that the minutes of the regular Committee of the Whole meeting held September 14, 2004 be adopted.

CARRIED

COMMUNICATIONS/CORRESPONDENCE

Hira Chopra, Chairperson, Alberni-Clayoquot Regional District, re Property Tax Exemption.

MOVED Director Krall, SECONDED Director Sherry, that the correspondence from the Alberni-Clayoquot Regional District with respect to a request for property tax exemption for Mount Arrowsmith Regional Park be received.

CARRIED

COMMUNITY SERVICES

RECREATION & PARKS

Horne Lake Regional Park Operations Update.

MOVED Director Bartram, SECONDED Director Holdom, that the update report on long-term planning for Horne Lake Regional Park (HLRP) operations, be received.

CARRIED

CORPORATE SERVICES

FINANCE

Property Tax Exemption – Alberni Clayoquot Regional District.

MOVED Director Krall, SECONDED Director Hamilton,:

1. That "Property Tax Exemption Bylaw No. 1404, 2004" be introduced for first three readings.
2. That "Property Tax Exemption Bylaw No. 1404, 2004" having received three readings, be adopted.
3. That staff follow up with a report on the implications of adopting a bylaw for this purpose which would authorize a multi-year exemption from property taxes.

CARRIED

DEVELOPMENT SERVICES

Liquor Licensing Policy.

MOVED Director Bartram, SECONDED Director McNabb,:

1. That the staff report on a Liquor Licensing Policy be received for information.
2. That the Board approve, by resolution, the Liquor Licensing Policy attached to the corresponding staff report as Schedule 1.
3. That the Board direct staff, by resolution, to process an amendment to "Regional District of Nanaimo Fees and Charges Bylaw No. 1259, 2002" to incorporate the fees discussed in the corresponding staff report.

CARRIED

Board of Variance Policy.

MOVED Director Bartram, SECONDED Director Sherry, that the staff report on a Board of Variance Policy be received for information.

MOVED Director Bartram, SECONDED Director Westbrook, that the Board of Variance Policy attached to the staff report as Schedule 1 be deferred until staff comes forward with an assessment of fees and charges and a review of the notification procedures as compared to the development variance permit process.

CARRIED

BYLAW ENFORCEMENT

Section 57 of the Community Charter – Contravention of Bylaw – Infractions.

The Chairperson listed each filing and asked that any property owner in the audience wishing to address the Committee come forward when their name was called.

MOVED Director Westbrook, SECONDED Director Krall, that a notice be filed against the title of the property listed, pursuant to Section 57 of the *Community Charter* and that if the infractions are not rectified within ninety (90) days, legal action will be pursued:

- (a) Lot 15, District Lot 78, Plan 14212, Nanoose Land District, 2993 Dolphin Drive, Electoral Area 'E', owned by P. and K. Kiidumae.

CARRIED

EMERGENCY SERVICES

Inclusion of the District of Lantzville – Emergency Management Agreement.

MOVED Director Krall, SECONDED Director D. Haime, that the request by the District of Lantzville to be included in the existing Emergency Management Agreement between the Regional District of Nanaimo, City of Nanaimo, City of Parksville and Town of Qualicum Beach be supported and the revision to the Agreement be endorsed.

CARRIED

ENVIRONMENTAL SERVICES

UTILITIES

Capital Charge Exclusion – Nature Trust of British Columbia – 1520 Terrien Road – Area F.

MOVED Director Westbrook, SECONDED Director Bartram, that the request by the Nature Trust of British Columbia to waive the Capital Charge of \$2,023 for the inclusion of property located at 1520 Terrien Road and legally described as Lot 8, District Lot 22, Nanoose Land District, Plan 10012, be approved.

CARRIED

French Creek Sewer Local Service Area Bylaw No. 813.30 & Northern Community Sewer Local Service Area Bylaw No. 889.29 – 1371 Lundine Lane– Area G.

MOVED Director Westbrook, SECONDED Director Sherry,:

1. That “French Creek Sewer Local Service Area Bylaw No. 813.30, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.
2. That “Northern Community Sewer Local Service Area Bylaw No. 889.29, 2004” be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

COMMISSION, ADVISORY & SELECT COMMITTEE

District 69 Recreation Commission.

MOVED Director Bartram, SECONDED Director McNabb, that the minutes of the District 69 Recreation Commission meeting held September 16, 2004 be received for information.

CARRIED

Intergovernmental Advisory Committee.

MOVED Director Sherry, SECONDED Director Longmuir, that the minutes of the Intergovernmental Advisory Committee meeting held September 9, 2004 be received for information.

CARRIED

Regional Growth Monitoring Advisory Committee/Status of Sustainability Project.

MOVED Director Holdom, SECONDED Director Bartram, that the minutes of the Regional Growth Monitoring Advisory Committee/Status of Sustainability Project meeting held September 8, 2004 be received for information.

CARRIED

Grants-in-Aid Committee.

MOVED Director Krall, SECONDED Director Hamilton, that the minutes of the Grants-in-Aid Committee meeting held October 5, 2004 be received for information.

CARRIED

MOVED Director Hamilton, SECONDED Director Westbrook, that the following grants be approved:

School District 68:

ALS Society of BC	\$	587
Cedar Community Association		1,215
Cedar Family Playtime Society		800
Cedar School & Community Enhancement Society		1,020
The Hope Centre		378
Nanaimo Search & Rescue		1,528

School District 69:

Arrowsmith Watersheds Coalition Society	\$	1,500
Central Island Critical Incident Stress Association		200
District 69 Family Resource Association		813
Forward House Community Society		600
Lighthouse Country Marine Rescue Society		1,725
Mount Arrowsmith Elder Abuse Prevention Comm.		300
Oceanside Community Arts Council		1,000
Oceanside Emergency Social Services		800
Parksville & District Historical Society		1,550

CARRIED

NEW BUSINESS

Mount Arrowsmith Regional Park.

It was confirmed that the Mount Arrowsmith Regional Park is located within Electoral Area 'C' of the Regional District of Nanaimo.

ADJOURNMENT

MOVED Director Sherry, SECONDED Director Westbrook, that this meeting adjourn to allow for an In Camera meeting.

CARRIED

TIME: 7:43 PM

CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO		
OCT 14 2004		
CHAIR		GMCrS
CAO		GMDS
GMCmS		GMES
[Handwritten signature]		

MEMORANDUM

TO: John Finnie
General Manager - Environmental Services

DATE: October 14, 2004

FROM: Mike Donnelly
Manager of Utilities

FILE: 0135-20-MCAWS

SUBJECT: Low Flush Toilets - Building Code Amendment

PURPOSE

To present information and obtain Board support on a proposed Building Code amendment that would require the installation of 6 litre low flush toilets in the Regional District of Nanaimo.

BACKGROUND

The Province has requested that communities interested in obtaining amendments to the Building Code that would require 6 litre low flush toilets be installed in any new construction contact the Ministry of Community, Aboriginal and Women's Services' Building Policy Branch prior to October 31st, 2004. Those interested communities would then be included in upcoming amendments planned for early 2005. Currently 11 other communities in the Province have contacted the ministry to be included in the next amendment.

Recently the provincial Water Conservation Plumbing Regulation was amended to require the installation of low consumption (6 litre) toilets in the Capital Regional District (CRD). Effective January 1, 2005, low consumption toilets must be installed in new construction and renovations throughout the CRD.

This new requirement will be helpful in reducing household water consumption. Prior to 1985 toilets used 20 litres per flush, between 1985 and 1995 a standard flush used 13 litres. The low flush toilet required in the amended Building Code calls for 6 litres. While a number of new residential homes and newly renovated homes are choosing low flush toilets in the RDN there are still a significant number of new homes being constructed with higher water use toilets.

This initiative has been brought forward in recognition of increased demand for water and the ongoing need to look for more efficient ways in which to use water and reduce water consumption. The use of low consumption toilets is expected to produce significant water savings, which can decrease water utility operating and capital costs, reduce impacts on sewer treatment facilities, reduce impacts on the supply sources and increase availability of water for other uses. On average, a household using the low flush toilet instead of the 13 litre toilet is able to reduce water consumption by approximately 18,000 litres (18 cubic meters) per year.

The areas included in the proposed amendment would be all of those Electoral Areas that currently have Building Inspection services. The municipalities within the RDN are not included in this proposed amendment.

Should this amendment be implemented for the RDN the Building Inspection Department will work with those permits in process to encourage compliance with the new regulation. Permits in process, where purchases or commitments to purchase non-low flush toilets have been made, will not be required to comply with the new regulation.

ALTERNATIVES

1. To request that the Ministry of Community, Aboriginal and Women's Services' Building Policy Branch include the Regional District of Nanaimo in the next Building Code Update to include a 6 litre Low Flush toilet requirement.
2. Do not move forward with this request.

FINANCIAL IMPLICATIONS

There are no financial implications to the RDN with respect to this proposed amendment to the Building Code.

CITIZEN IMPLICATIONS

In discussion with local suppliers of toilets we are advised that approximately 80% of toilet sales are 6 litre low flush. Sales of these units have grown in the last two years as the construction and operation of the toilets has improved.

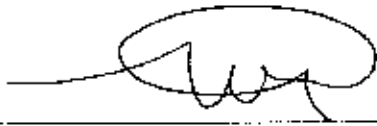
The common 6 litre low flush toilets on the market are comparable in price to the 13 litre flush toilets at approximately \$190 per unit. As a result there is no financial impact on the use and installation of low flush toilets however there is a positive financial benefit from the resulting reduced water consumption.

SUMMARY/CONCLUSIONS

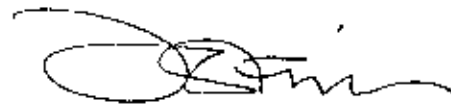
The Province has asked that those communities interested in having the Building Code amended to include 6 litre Low Flush toilets for their area formally contact them to express that interest. Those communities will then be included in the next amendment to the Building Code anticipated to take place early in 2005.

RECOMMENDATION

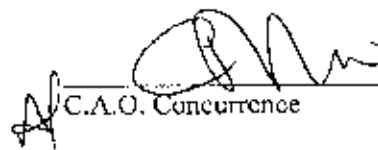
That the Ministry of Community, Aboriginal and Women's Services' Building Policy Branch be requested to include the Regional District of Nanaimo in the next Building Code update regarding 6 litre Low Flush toilets.



Report Writer



General Manager Concurrence



C.A.O. Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO		
OCT 20 2004		
CHAIR		GMCrs
CAO		GMDS
		GMES

MEMORANDUM

TO: John Finnie, P. Eng. *Board* **DATE:** October 19, 2004
 General Manager of Environmental Services

FROM: Carey Melver **FILE:** 5290-00
 Manager of Solid Waste

SUBJECT: Open Burning as a Land Clearing Technique

PURPOSE

To consider the issue of rural/urban and rural residential burning as a land clearing technique.

BACKGROUND

In March 2004 the Board instructed staff to study the issue of rural/urban and rural residential burning as a land clearing technique and report back to the Board in the Fall. A report on this issue was presented to the Committee of the Whole at their September 2004 meeting.

At this meeting the Committee recommended: (1) that the Board request the Ministry of Water, Land and Air Protection (MWLAP) to act on the 1996 request by the Board to change portions of the RDN to Category A under the OBSCR and, (2) that the Board direct staff to further consider the issue of banning burning in the rural urban interface in the 2005 work plan.

At their September meeting the Board passed the second recommendation but decided to defer the first recommendation to allow the Director from Electoral Area B to consult with the Gabriola Island Fire Department on this issue. This has now occurred and the Electoral Area B director has confirmed that the Fire Chief from Gabriola supports the recommendation.

Enclosed for information is a larger map delineating the proposed area for Category A classification.

RECOMMENDATION

1. That the enclosed map delineating the proposed area for Category A classification be received for information; and,
2. That the Board request the Ministry of Water Land and Air Protection to act on the 1996 request to change portions of the RDN to Category A under the Open Burning Smoke Control Regulation.

Carey Melver
 Report Writer

[Signature]
 General Manager Concurrence

[Signature]
 CAO Concurrence

COMMENTS:



REGIONAL DISTRICT OF NANAIMO	
OCT 20 2004	
CHAIR	GM CrS
CAO (RW)	GMDS
GM CrS	GMES
<i>Administrative Report</i>	
<i>Board</i>	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: October 20, 2004

FROM: Keeva Kehler
Planner

FILE: 3360 30 0413

SUBJECT: Zoning Amendment Application No. ZA0413 – Wendy Huntbatch
Electoral Area 'F' – 2116 Alberni Highway

PURPOSE

To provide an update to the Board with regarding consideration of the zoning amendment application for the property located at 2116 Alberni Highway in Electoral Area 'F' and reconsider proceeding with the application rather than pursuing further legal action.

BACKGROUND

At the Electoral Area Planning Committee meeting held on October 12, 2004, the Committee defeated a motion to recommend 1st and 2nd reading to the proposed zoning amendment. Staff subsequently met with the applicant on October 13, 2004 to discuss the proposal and have confirmed the following:

- The applicant has made an application for sewage disposal to the Vancouver Island Health Authority (VIHA).
- The applicant has retained a professional engineer to design and oversee the installation of the storm water drainage works.
- The applicant has agreed to a reduced floor area for the proposed accessory concession and retail store as recommended by staff in the report to the EAPC (maximum 50m²).
- The applicant has confirmed the proposed parking layout pursuant to the bylaw standards.
- The applicant has withdrawn their request for student housing.

Based upon this meeting staff recommend that the Board consider this application at 1st and 2nd reading as discussed below.

ALTERNATIVES

1. To reaffirm the decision not to approve the zoning amendment application and direct staff to enforce the 'Electoral Area 'F' Zoning and Subdivision Bylaw No. 2002.'
2. To approve the application as recommended by staff, and give 1st and 2nd Reading to "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004," subject to the applicant meeting the Conditions outlined in Amended Schedule No. '1A' of this report, and proceed to public hearing.
3. To provide further direction to staff.

DEVELOPMENT IMPLICATIONS

The Development implications of the proposed amendment Bylaw are outlined in detail in the original staff report dated October 1, 2004 (see Attachment No. 1).

As a result of the information provided by the applicant and further consultation with provincial Ministries staff amended the recommended Schedule No. 1 Conditions. It is proposed that the outstanding issues be addressed as follows:

- An application for sewage disposal has been submitted to the VIHA and the applicant is working with the VIHA to address sewage disposal for the proposed uses. It is recommended that final adoption of the zoning amendment bylaw be withheld until the applicant obtains necessary approvals from VIHA.
- The applicant has retained Bob Davey, P. Eng. to design and oversee the installation of the storm water drainage works for the development. Staff recommends that the applicant's engineer be required to submit an acceptable storm water management report, and secure the works, prior to final adoption of the amendment bylaw.
- The applicant is in agreement to limit the proposed accessory concession to 20 seats and to limit the maximum total floor area for both accessory concession and retail store to 50m². This is dealt with as a zoning regulation.
- The parking requirements pursuant to the bylaw standard have been confirmed and the applicant has sufficient area to support the required number of parking spaces. The applicant has agreed to provide a minimum of 29 parking spaces, in addition to one space per employee (1 space per 3 seats in the concession (7) and 1 per 100m² of parrot refuge building floor area (22)). Each space shall have a minimum width of 2.75 metres and a minimum length of 5.65 metres.
- The applicant has amended the sketch plan submitted with the application to reflect the amended proposed uses, specifically, the reduction in floor area for the proposed concession and retail uses and the removal of the dormitory use from the plan.
- Staff further discussed the access to the proposed development with the Ministry of Transportation (MoT). The MoT representative confirmed that as the Alberni Highway is a controlled access highway the MoT must approve the amendment bylaw prior to final approval by the Board. Due to the volume of traffic and speed permitted on this stretch of highway (80 km/hr), the MoT may require access improvements, including a right-in/ right-out only access and a right turn deceleration lane. The applicant is required to work directly with the MoT to secure the works MoT require prior to final adoption of the zoning amendment Bylaw.
- The applicant is required to obtain approval from the Agricultural Land Commission (ALC) for the proposed accessory retail and concession uses. It is recommended that confirmation of this approval from the ALC, or confirmation that approval is not required from the ALC, be provided prior to final adoption of the zoning amendment bylaw.

Veterinary students may only be housed in the applicant's principle dwelling unit or within one manufactured home not exceeding 9.0 metres in width, subject to ALC approval. No more than one permanent dwelling unit and one manufactured home is permitted by zoning to be sited on the lot. The accessory building at the rear of the lot shall not be used for accommodation.

The applicant has indicated that the parrots are on site due to the necessity to move from the existing location in the Lower Mainland. Should the Board decide to not grant approval of the proposed amendment bylaw, enforcement action will be required to stop the illegal use of the building. If 1st and 2nd reading are given by the Board, staff shall not proceed with enforcement action until further direction is received from the Board.

VOTING

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

SUMMARY

This report provides an update for the Board on the proposal to amend the zoning to permit the keeping of parrots on the subject property located at 2116 Alberni Highway and to provide educational tours for the public including accessory retail and concession uses to serve patrons. The applicant is in agreement to reduce the scale of the proposed accessory retail and concession uses to a maximum total floor area of 50m² and a maximum of 20 seats.

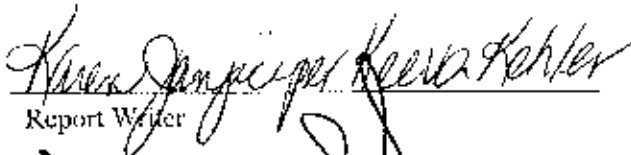
The Electoral Area Planning Committee defeated a motion to recommend 1st and 2nd reading for the amendment bylaw. However, the Board may wish to consider 1st and 2nd reading as the applicant has provided additional information supporting the proposal. Staff met with the applicant to discuss the requirements and the applicant has provided clarification on a number of items. Two of the major concerns have been addressed. The applicant has contacted the Vancouver Island Health Authority and is working with the Health Inspector to satisfy VIHA's requirements. The applicant has retained the services of a professional engineer who will design and oversee the installation of the storm water drainage works. In addition, the availability and location of onsite parking has been confirmed to the satisfaction of RDN staff and the applicant has agreed to the reduced floor area for the accessory retail and concession uses. The applicant has withdrawn the proposed dormitory to house veterinary students.

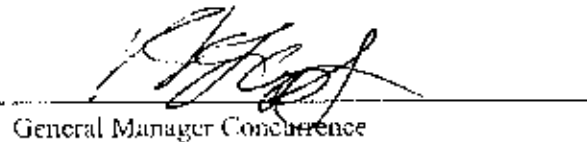
The development is subject to the requirements of provincial agencies having jurisdiction over the property. In this case the applicant will have to satisfy the requirements of the ALC, the MoI, and the VIHA.

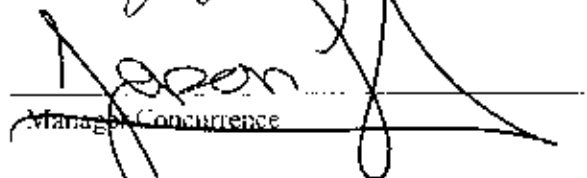
Staff recommend that the Board consider granting 1st and 2nd Reading to the proposed amendment Bylaw subject to the amended Conditions of Approval outlined in Schedule No. 1A contained in this staff report.

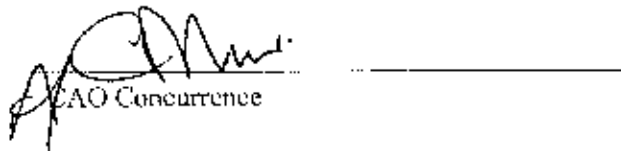
RECOMMENDATIONS

1. That the Report of the Public Information Meeting containing the Summary of the Minutes held on September 13, 2004 be received.
2. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" be given 1st and 2nd reading, subject to the applicant meeting the Amended Conditions of Approval outlined in Schedule No. 1A.
3. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" proceed to public hearing, subject to the applicant meeting the Conditions of Approval outlined in Schedule No. 1A.
4. That the public hearing on "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" be delegated to Director Biggemann or his alternate.


Report Writer


General Manager Concurrence


Manager Concurrence


AAO Concurrence

COMMENTS:

ievsr/reports/2004/213360 30 5413 re: Hatzbach Amended 1st and 2nd

SCHEDULE NO. 1A
Amended Conditions of Approval for
Zoning Amendment Application No. ZA0413
Wendy Huntbatch

The following conditions must be met prior to the Board considering final adoption of the amendment Bylaw:

1. Applicant to submit a copy of the approval to install sewage disposal works from the Vancouver Island Health Authority for the proposed parrot refuge, accessory retail store, accessory food concession and private residence.
2. Applicant to submit a storm water drainage management plan prepared by a professional engineer, including details on the size and location of proposed retention ponds and proposed outflow for drainage waters. The installation of the drainage works shall be supervised by the applicant's engineer and a report must be submitted by the engineer detailing the works upon completion.
3. Applicant shall provide written confirmation from the Agricultural Land Commission that the proposed uses are permitted. This approval may require an official non-farm use application pursuant to the *Agricultural Land Commission Act*.

ATTACHMENT NO. 1
Staff Report prepared for October 12, 2004 EAPC



MEMORANDUM

TO: Jason Jewell
Manager, Community Planning

DATE: October 1, 2004

FROM: Keeva Kehler
Planner

FILE: 3360 30 0413

SUBJECT: Zoning Amendment Application No. ZA0413 – Wendy Huntbatch
Electoral Area 'F' - 2116 Alberni Highway

PURPOSE

To receive the Summary of the Minutes of the Public Information Meeting of September 16, 2004 and to consider an application to rezone the subject lot from A-1 (Agriculture 1) to CD-16 (Comprehensive Development Zone 16) in order to facilitate the development of a parrot refuge, accessory retail, and tourist commercial uses.

BACKGROUND

The Planning Department has received a zoning amendment application for the lot legally described as Lot 12, Salvation Army Lots, Nanoose District, Plan 1115, Except Part in Plan 734 RW and located at 2116 Alberni Highway in the Coombs area of Electoral Area 'F' (see Attachment No. 2 for location of subject property). The subject lot, which is approximately 8.0 ha in size, is currently zoned A-1 pursuant to the Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002.

Pursuant to the "Regional District of Nanaimo Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999" (OCP), the subject lot is designated within the Resource Lands within Agricultural Land Reserve Land Use Designation. The OCP policies for this designation recognize and support the use of the land for agricultural purposes.

The subject lot is located within the Provincial Agricultural Land Reserve (ALR). Therefore, the proposed accessory tourist commercial uses require approval from the Agricultural Land Commission prior to the RDN Board considering final adoption of an amendment bylaw to permit these uses.

Surrounding uses include A-1 zoned parcels to the north, south, east and west, with an area of rural residential lands to the north across the Alberni Highway.

Applicant's Land Use Proposal

The applicant is requesting that the zoning for the subject lot be amended in order to permit the development of a world parrot refuge housing over 400 parrots within a 2120m² building. The application also includes a proposal to expand the parrot refuge area in the future and develop accessory commercial tourist uses, specifically a souvenir store and food concession within six months on the subject property. The site plan submitted with the application includes a reference to a dormitory for veterinarian students and volunteers but does not indicate a proposed location or size for this use. The proposal as submitted by the applicant includes the following uses:

- Two buildings measuring approximately 2120 m² each to hold parrots (2nd building to be built in the future).
- Building measuring approximately 670 m² proposed to contain souvenir retail store and food concession with a total of 100 seats.
- A 111 m² (1200 sq. ft.) building for office use.
- A dormitory for veterinary students and volunteers. Applicant mentioned in a meeting with staff that the dormitory is to contain 10 to 15 sleeping units.
- Applicant proposes a driveway 43 metres in length from the Alberni Highway to a parking lot that will measure approximately 3,000 m².
- A retention pond is proposed towards the front of the property to contain drainage run-off from the buildings

The applicant has stated that she intends to landscape the front of the property around the proposed pond and install an orchard for personal use in this location. The applicant may consider adding greenhouses in the future to maximum total lot coverage of 10%. Where possible the existing trees will be retained on site as a buffer.

Public Information Meeting

A public information meeting was held on September 13, 2004 at the Arrowsmith Agricultural Hall in Coombs. Notification of the meeting was advertised in the August 27, 2004 edition of the News and the RDN web site, along with a direct mail out to all property owners within 500 metres of the subject property. Approximately 15 people attended the information meeting and provided comments with respect to the proposal (*see Attachment No. 6 'Proceedings of the Public Information Meeting'*). The main issue raised at the public information meeting concerned the scale of proposed commercial tourist uses. Generally, the public had concerns that the proposed souvenir gift shop and concession uses be limited to an appropriate size for a lot within the A1R, outside Village Centres. Issues were raised with respect to protecting the rural area and preventing urban sprawl on agricultural lands. The attendants at the meeting were generally supportive of the keeping of parrots on the lot.

ALTERNATIVES

1. To not approve the zoning amendment application as submitted and request the applicant to apply for an OCP amendment application if they wish to continue with their application as submitted.
2. To approve the application as recommended by staff, and that "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" be given 1st and 2nd reading, subject to the applicant meeting the conditions outlined in Schedule No. '1' of this report, and proceed to public hearing.

3. To not approve the amendment application and pursue Bylaw Enforcement action against the property owner should they use the property contrary to "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285, 2002".

OFFICIAL COMMUNITY PLAN IMPLICATIONS

Section 3. *Agriculture* of the OCP contains objectives to protect the agricultural land base for present and future food production or other agricultural uses. This section of the OCP includes a statement under Future Impact Policies that future higher density and intensity land uses shall be directed to the Village Centre to reduce development pressures on agricultural lands. It is important the proposed scale of accessory commercial uses on this property be limited to ensure that the rural integrity of the subject lot and surrounding lots is maintained.

In staff's opinion, the proposed scale of commercial use, and the establishment of residences for live-in veterinary students, constitutes a commercial use of the property that is not consistent with the 'Resource Lands within the Agricultural Land Reserve' Official Community Plan designation and the 'Resource Lands' designation of the Regional Growth Strategy. Therefore, an OCP amendment would be required prior to Board approval of the rezoning, as submitted. Staff indicated to the applicant that the proposed scale of tourist commercial use is not consistent with the OCP policies and asked for a revised proposal. The applicant has stated that she would be in agreement to limit these uses, but no correspondence has been received to date outlining an alternative proposal. Therefore, staff recommends an alternative scale of accessory commercial uses to allow the zoning amendment to proceed with staff support.

DEVELOPMENT IMPLICATIONS

The applicants propose to keep a minimum of 400 parrots on the property. Pursuant to Bylaw No. 1285, 2002, the proposed keeping of parrots meets the definition of a 'kennel,' and is not permitted in the A-1 zone. Therefore, although the use may be considered rural in nature, it is not considered a 'Farm Use' and requires a zoning amendment.

Despite RDN staff's written and verbal advice that the proposed use is not permitted under the zoning bylaw and requires Board approval, which is not guaranteed, the applicant has continued construction of the building that is proposed to house the parrots. Should the Board not approve the proposed keeping of parrots within the building, the applicant will only be able to use the building for agricultural purposes permitted in the A-1 zone. However, the A-1 zone states that a building housing livestock or storing manure must be at least 30 metres from all lot lines. It does not appear that this building meets that setback requirement, so if the zoning amendment does not proceed, a variance to the zoning bylaw may be required to permit the keeping of livestock or storage of manure within the building.

The applicant has requested permission to add an accessory food concession and retail souvenir store to the property as part of the application. The applicant proposed the addition of a building measuring approximately 670m² for the retail and concession use. The applicant proposes to include up to 100 seats in the concession. As noted, staff believes that this scale cannot be considered accessory to the rural use of the property and is not appropriate in this zone within the ALR. In addition, comments received at the Public Information Meeting indicate that there are significant concerns in the community with respect to the proposed size and scale of commercial uses on the lot. In order to comply with the objectives of the OCP and to address neighbourhood concerns, staff suggest that the Board consider limiting the maximum

floor area for the food concession and retail store use to 50m². In addition, it is recommended that the food concession be limited to a maximum of 20 seats. These limits shall be included in "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004."

The applicant proposes to add a second parrot building measuring approximately 2,120m² to the site in the future. Given the large area of the lot that is ultimately proposed to be covered with buildings and structures, the applicant will have to submit a storm water management plan prepared by a professional engineer to address drainage from building perimeters. The applicant has stated that they intend to direct drainage waters to a retention pond at the front of the site. However, in order to ensure that there are no negative impacts on adjacent lots, the Board needs to ensure that the retention pond is properly sized and designed to contain the volumes of run-off that may occur during peak rainfall events. Staff recommends that the applicant be required to submit a drainage plan prepared by a professional engineer prior to the Public Hearing so that the Board, the public, and staff can assess the drainage strategy prior to final adoption of the amendment bylaw.

Staff has significant concerns with respect to the proposed 10 to 15 unit dormitory to house veterinary students and volunteers. This proposed accommodation use is similar in nature to a commercial recreational use and is not considered appropriate in the ALR outside nodal Village Centre areas. Pursuant to the *Agricultural Land Reserve Use, Subdivision and Procedure Regulations*, the applicant can site a manufactured home on the lot without ALC approval. The ALC has jurisdiction over who can live in the second dwelling however, so, the applicant will have to request permission to house students within the manufactured home as part of their non-farm use application. Staff believes this density of use is appropriate for a rural area and is consistent with the OCP policies for containing sprawl and directing higher intensity commercial uses to Village Centre Areas.

Coombs-Hilliers Volunteer Fire Department

Due to the large size of the building and its proximity to adjacent residential lots, the proposal has been forwarded to the Coombs-Hilliers Fire Department for its review and comments. Recommendations received from the Fire Department will be incorporated into the Conditions of Approval prior to the proposed adoption of the zoning amendment bylaw.

Communication With Applicant

The applicant is completing the construction of the building on the site. They have made it clear that they intend to move the birds into the building in October, regardless of whether the use is permitted. Staff has facilitated Board consideration of this application as soon as possible in order to ensure that every attempt is being made to appropriately resolve the situation before legal action is necessary against the applicant. However, staff has had difficulty resolving the land use issues with the applicant because of an inability to adequately communicate with the applicant regarding this application. The communication between staff and the applicant is summarized below for the Board's information. The letters dated August 16, September 1, and September 13 are attached to this report (see Appendix A) for the Board's information.

- | | | |
|--------------------------------|---|--|
| August 16 th , 2004 | - | Rezoning application is made with little information provided. |
| August 16 th , 2004 | - | Acknowledgement letter is sent by staff requesting missing information. |
| August 30 th , 2004 | - | Site plan and information on proposed land uses received from applicant. |

- August 30th, 2004 - During meeting with applicant's partner, staff ask that the applicant scale back the commercial uses on site, and requesting missing information. Applicant's partner agrees to make new submission.
- September 1st, 2004 - Letter from staff mailed to applicant suggesting that the applicant scale back commercial uses on site, and requesting missing information.
- September 13th, 2004 - Letter from staff hand delivered to applicant asking applicant to contact staff to discuss scaled back commercial use, and requesting missing information.
- September 13th, 2004 - At PIM applicant is asked verbally to contact staff to discuss the commercial component of their application. Applicant agrees to contact staff to reduce scale of commercial use.
- September 20th, 2004 - Letter from staff mailed to applicant informing that staff shall recommend that the Board support a limited scale of commercial use on site.

The applicant has not contacted staff to discuss this application since the September 13th Public Information meeting.

PROVINCIAL GOVERNMENT IMPLICATIONS

Agricultural Land Commission

The subject lot is located within the Agricultural Land Reserve (ALR). Part 2(3)(h) of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* permits the breeding of pets or operation of a boarding facility without requiring approval from the Agricultural Land Commission (ALC). However, the commercial tourism component of the proposal will require approval from the ALC as a non-farm use. As the application process for the ALC takes approximately 3 months to complete and the applicant has indicated that the parrots will be housed on the site by the end of September, it is recommended that the zoning amendment application proceed but that the applicant be required to obtain approval from the ALC prior to final adoption of the zoning amendment bylaw. However, in order to ensure timely approval from the ALC, staff recommends that the applicant be required to submit a completed ALC non-farm use application to this office prior to the Public Hearing. The RJN will then forward the application to the ALC for its consideration.

Vancouver Island Health Authority

The subject property is served by private on-site well and septic disposal system. It is not anticipated that sewer or water services will be extended to this area in the near future. The applicant has been directed to contact the Vancouver Island Health Authority (VIHA) for confirmation that the existing sewage disposal system meets Provincial requirements for the existing and proposed uses. No information has been submitted by the applicant at this time. On August 30, 2004 VIHA representatives indicated that they had not received an application for on-site sewage for the subject lot. In this August 30, 2004 letter, VIHA stated that the property is "well known, with little to no soil for on-site disposal." VIHA also expressed concern with respect to water quality and quantity and food premises on site. As a result of these concerns, any approvals granted by the Regional Board should be conditional upon the applicant meeting

VHA requirements and satisfying concerns with respect to these items. Staff recommends that the applicant be required to submit VHA approval to the RDN prior to the Public Hearing.

Ministry of Transportation

The applicant has not provided a copy of the Highways Access Permit issued by the Ministry of Transportation. It is anticipated that the proposed use will generate significant amounts of tourist traffic and there could be potential safety implications with respect to tourists turning off the Alberni Highway to access the site. Although the applicant proposes to access the site from Alberni Highway, it is not yet known whether MOT will permit access in this location. At the Public Information Meeting, the applicant assured residents on Burgoyne Road that access would be from the Alberni Highway. For this reason, staff recommends that the applicant be required to submit the access approval from MOT prior to the public hearing so that the implications can be adequately assessed.

As the Provincial Ministries have jurisdiction over these items and the outcome of their approvals may impact the level and / or siting of development on the lot, it is recommended that the Board not proceed to Public Hearing until these issues have been addressed. This will enable the public to gain an accurate understanding of the proposal and its potential land use implications. However, given that the applicant has stated her intention to locate the parrots on the site by the end of September, there is some urgency in dealing with this application. Should the applicant not provide the requested information outlined in Schedule No. 1 by November 9, 2004, it is recommended that the application be referred back to Bylaw Enforcement as a non-compliant land use and that enforcement action proceed.

ENVIRONMENTALLY SENSITIVE AREAS IMPLICATIONS

There are no environmentally sensitive features indicated on the Environmentally Sensitive Areas Atlas or in the Official Community Plan (OCP) associated with this property.

VOTING

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

SUMMARY

This is a request to amend Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002 to permit the keeping of parrots and accessory tourist commercial uses on the property located at 2116 Alberni Highway in Coombs. A public information meeting was held on September 13, 2004 and members of the community raised concerns with respect to the proposed scale of tourist commercial uses and with respect to the non-farm use of agricultural lands. Preliminary referrals were forwarded to the Ministry of Transportation, the Ministry of Agriculture, Food and Fisheries, Vancouver Island Health Authority, the ALC and the Coombs-Hilliers Fire Department. As the subject property is within 800 metres of a highway interchange, the amendment bylaw would be subject to the approval of the Ministry pursuant to the *Highway Act*. Comments received from these agencies prior to the Electoral Area Planning Committee meeting will be attached as an addendum to the agenda and requirements may be added to the Conditions of Approval for the zoning amendment.

The proposed scale of tourist commercial uses, as submitted by the applicant are not consistent with the policies contained in the 'Electoral Area 'F' Official Community Plan Bylaw No. 1152, 2004,' and, in staff's opinion, are not considered appropriate for the property. However, staff feels that the keeping of parrots on site, as proposed, is acceptable as a rural use. Therefore, it is recommended that the Board limit, in "Amendment Bylaw No. 1285.06, 2004" the scale of the proposed retail store and food concession uses to a total maximum floor area of 50.0 m² for both uses, and further limit the concession area to 20 seats. It is also recommended that the conditions set out in Schedule No. 1 be met.

RECOMMENDATIONS

1. That the Report of the Public Information Meeting containing the Summary of the Minutes held on September 13, 2004 be received.
2. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" be given 1st and 2nd reading, subject to the applicant meeting the Conditions of Approval outlined in Schedule No. 1.
3. That "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" proceed to public hearing, subject to the applicant meeting the Conditions of Approval outlined in Schedule No. 1.
4. That the public hearing on "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.06, 2004" be delegated to Director Biggemann or his alternate.
5. That the application be referred back to Bylaw Enforcement to commence legal proceedings if the applicant has not provided items No. 1 to 7 outlined in Schedule No. 1 (Conditions of Approval) by November 9, 2004.

Report Writer

General Manager Concurrence

Manager Concurrence

CAO Concurrence

COMMENTS:

de:\svs\reports\2004\ZA3369.30.0413 re Huntbaich 1st and 2nd

SCHEDULE NO. 1
Conditions for Approval for
Zoning Amendment Application No. ZA0413
Wendy Huntbatch

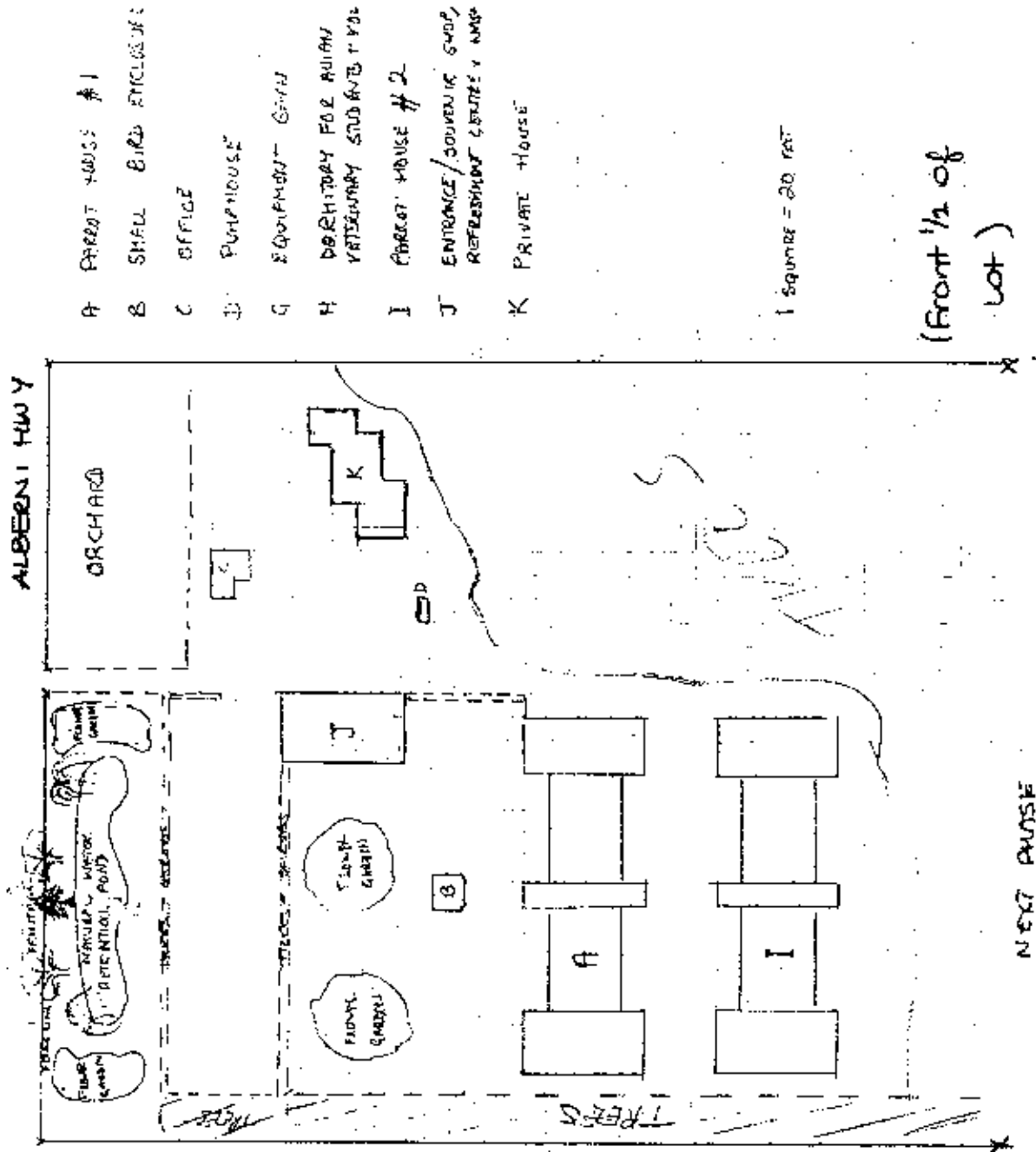
The following conditions (Nos. 1 to 7) must be met prior to the Public Hearing for the proposal:

1. Applicant to submit a copy of the access Permit issued by the Ministry of Transportation.
2. Applicant to submit confirmation of the sewage disposal permit from Vancouver Island Health Authority for the proposed parrot refuge, accessory retail store, accessory food concession and private residence. Applicant to submit comments from VIHA with respect to onsite water supply for the proposed concession uses.
3. Applicant to submit a storm water drainage management plan prepared by a professional engineer, including details on the size and location of proposed retention ponds and proposed outflow for drainage waters.
4. Applicant to provide a site plan prepared by a BC Land Surveyor indicating the location of all existing and proposed buildings and structures and their distances to lot lines.
5. Applicant to provide confirmation of the location, dimension and height of proposed signage.
6. Applicant to provide a scaled plan indicating all proposed parking spaces. Each space shall have a minimum width of 2.75 metres and a minimum length of 5.65 metres. A minimum of 29 spaces shall be provided, in addition to one space per employee (1 space per 3 seats in the concession (7) and 1 per 100m² of parrot refuge building floor area (22)). The parking plan shall show proposed entrance and exit routes and proposed traffic flows on the site.
7. Applicant to submit completed non-farm use application pursuant to the *Agricultural Land Commission Act* to the RDN planning department.

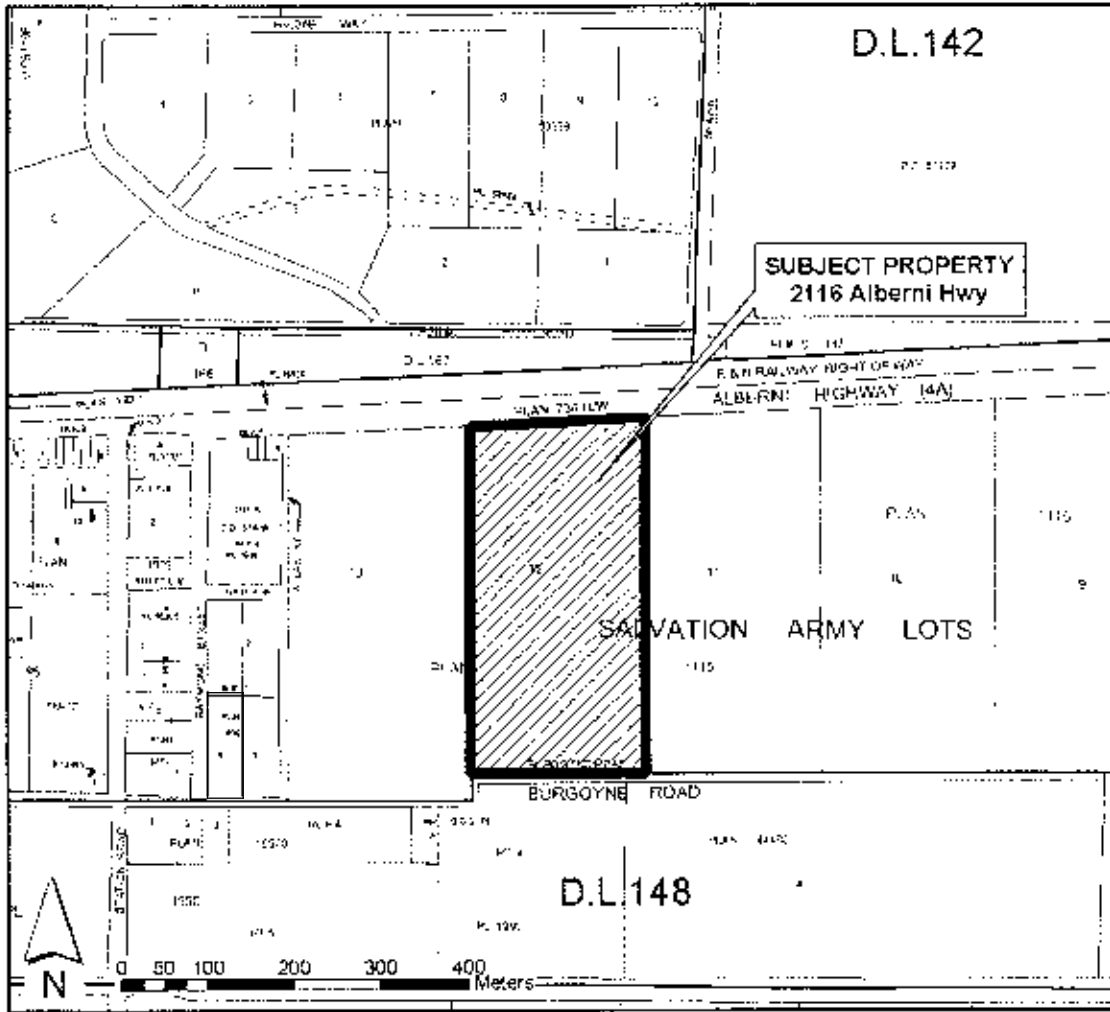
The following conditions (Nos. 8 to 11) apply to the development of the site:

8. Prior to final adoption, the applicant shall obtain written approval from the Agricultural Land Commission for the proposed accessory tourist retail and food concession uses and veterinary student use within a manufactured home.
9. The maximum floor area for the proposed retail store and food concession uses shall not exceed 50.0m². In addition, the food concession shall not have more than 20 seats.
10. Veterinary students shall only be housed in the applicant's principle dwelling unit or within one manufactured home not exceeding 9.0 metres in width, subject to ALC approval. No more than one permanent dwelling unit and one manufactured home shall be sited on the lot.
11. The accessory building at the rear of the lot shall not be used for accommodation and shall not contain sleeping, bathing or cooking facilities.
12. Burgoyne Road shall not be used for commercial access.

ATTACHMENT NO. 1
Proposed Sketch Plan of Development
 (as submitted by applicant, reduced for convenience)



ATTACHMENT No. 2
Location of Subject Property



8003 MP-9-ECTING 10 09/02

ATTACHMENT No. 3
Report of the Public Information Meeting
Held at Arrowsmith Agricultural Hall
1018 Ford Street, Coombs, BC
September 16, 2004 at 7:00 pm

**Summary of the Minutes on Proposed Zoning Amendment
Application for a Lot 12, Salvation Army Lots, Nanoose District,
Plan 1115, Except Part in Plan 734 RW**

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

There were approximately 15 persons in attendance.

Present for the Regional District:

Chairperson Lou Biggemann, Electoral Area 'F'
Jason Llewellyn, Manager, Community Planning
Keeva Kehler, Planner

Present for the Applicant:

Ms. Wendy Huntbatch
Mr. Horst Neumann

Director Lou Biggemann, Chairperson opened the meeting at 7:05 pm and outlined the agenda for the evening's meeting and introduced the head table. The Chairperson then introduced Ms. Huntbatch and Mr. Neumann.

The Chairperson then invited Ms. Huntbatch, applicant, to give a presentation of the proposal. Ms. Huntbatch discussed her proposal to open a world parrot refuge on the subject property. Ms. Huntbatch proposes to educate the public on the plight of parrots held as pets in inadequate living conditions. The public will be invited to view the parrots and the proposal includes a souvenir gift shop and food concession to serve these patrons.

Following the applicant's presentation, the **Chairperson** invited questions and comments from the audience.

John Mansell, Errington, asked how the building got started before permission was granted from the RDN.

Mr. Neumann stated that the realtor told them that there were no requirements to obtain a building permit.

Barb Smith, Salvation Army Lot 11, asked about the dimensions of the buildings.

Ms. Huntbatch indicated that the building at the rear near Burgoyne is 40 feet by 120 feet and the main parrot building is 100 feet by 300 feet and the accessory tourist uses will be small scale. Ms. Huntbatch added that veterinary students would benefit from studying the parrots.

Cynthia Bowen, Parksville asked when the applicants intended to open and if the Abbotsford site has been sold or will be maintained?

Ms. Huntbatch explained that the site in Abbotsford is fragmented and difficult to run. The Coombs site will be landscaped and easier to maintain as a parrot refuge.

Derek Wahlberg, Errington, stated that he supports the use and asked if the avian flu had any impact on the decision to move to Coombs. Mr. Wahlberg asked if the Abbotsford site is in the ALR.

Ms. Huntbatch indicated that there are air quality concerns for humans and birds in the valley, but that the parrots cannot contract or pass on the avian flu. From a logistics point of view the Coombs site is perfect for their needs.

Pauline List, Ruffels Road, stated that she is opposed to business on this property in the ALR. She stated that commercial uses should be located in commercially zoned properties.

Horst Neumann stated that they do not need to open to the public as they can survive without the commercial aspect.

Reg Nosworthy, Errington, asked what needs to be approved if the ALR permits the use.

Howard Fowler, Virginia Road, stated that he fully supports the proposal. He stated that the development will bring jobs to the area. He did not feel that the property was an agricultural property.

Red Williams, Coombs, stated that he supports the use as it is more agricultural than other uses.

Steve Chomolek stated that the OCP contains policies about limiting urban sprawl in rural areas.

Horst Neumann stated that the proposal will keep the rural landscape.

John Mansell, Errington, stated that he was concerned about the accessory tourist commercial uses.

Horst Neumann stated that between 25 and 35 jobs will be created by this proposal.

John Mansell stated that the hesitation comes from previous experience in the area where businesses start off small and rural and then grow to an extent that ruins the neighbourhood such as the mill in Errington.

Reg Nosworthy stated that he is fully supportive of the proposal. Coombs is internationally known for tourism and this use ties in with the area.

Red Williams asked the applicants if they had explored the tax implications of obtaining commercial zoning on the lot.

Barb Mansell asked why the zoning would be site specific when this was intended to recognize existing uses only.

Keeya Kehler, RDN Planner, explained that the zone would be a Comprehensive Development zone which recognizes site specific uses - there is no existing land use zone in the bylaw that permits the proposed parrot refuge, accessory commercial and agricultural uses.

Howard Fowler reiterated his support for the proposal.

Dave Keddy, Hilliers, stated that he is supportive of the proposal.

Shane Gallop, Burgoyne Road, asked what level of commercial traffic would there be on Burgoyne Road.

Ms. Huntbatch indicated that there would be no commercial access off Burgoyne. Access will be from Alberni Highway.

Dave Munro stated that the building looked attractive and he feels it is a good use of farmland.

Steve Chomolok asked what class of soil the property has? He stated his concern with commercial and retail development occurring outside of nodal areas, contrary to the policies in the OCP.

Horst Neumann responded that the soil consists of clay and silty clay.

Pauline List stated that she was concerned with people's attitude towards ALR land and increasing development pressure on large tracts of land. We need to be careful to preserve large areas of land for future food production.

Dave Keddy stated that there is a shortage of water in the area which is a challenge to developing agricultural uses.

Murray Chantler, Errington stated he was concerned that due process was not followed. The community is concerned with the RDN and ALC's lack of guts to act on infractions to the bylaw. He felt that this development was precedent setting and he was concerned with the level of commercial use on the property. Specifically, Mr. Chantler asked what size of restaurant is proposed and would the ALC remove the land due to the extent of non-farm use development.

Ms. Huntbatch stated that one acre in the front of the lot will be an orchard and they will be developing agricultural uses on the property and growing their own food.

Mr. Chantler reiterated the community's concern with the tourist commercial uses and asked how the application came to be submitted to the RDN.

Horst Neumann stated that the Bylaw Enforcement Officer came to the property and told them that a zoning amendment was required for the parrots.

Mr. Chantler asked why they are applying for commercial uses and how much land will be covered by buildings and parking lots. What exactly is planned for commercial use on the site?

Horst Neumann stated that they will work with the RDN to scale down the commercial use to a size that is agreeable to both parties. They want a low key commercial use.

Keeva Kehler explained the RDN zoning requirements and which aspects of the project need approval from the ALC (tourism component).

John Mansell asked the applicants if they understood the concerns in the neighbourhood with respect to commercial uses. Uses along the lines of the North Island Wildlife Recovery Centre or Butterfly World would be acceptable.

Pauline List stated that the preservation of the community was a major concern. She asked why the rules are not being adhered to in new developments. She was disappointed that the applicants decided to build the structures before getting approval. Ms. List voiced her opposition to infringement on the rural environment.

Steve Chomolok stated the OCP provides objectives for the preservation of the agricultural land base for present and future uses.

Ms. Huntbatch reiterated her intention to use the property for agricultural uses, but she must tend to the parrots issues first.

Murray Chantler stated that the applicants have an obligation to abide by the rules. He was not concerned with the parrot uses. The land must remain in the AIR and should be used for agricultural purposes.

Jason Llewellyn, Manager of Community Planning stated that the issue really centres on the extent of commercial uses. The current proposal from the applicants is not acceptable to the planning department and staff will be meeting with the applicants again to discuss what is appropriate for commercial uses.

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

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

The meeting concluded at 9:35 pm.

Keeva Kehler

.....
Keeva Kehler
Recording Secretary

Appendix A
Correspondence – April 16, September 1, and September 13, 2004
(8 Pages)



August 16, 2004

COPY

Wendy Norma Huntbatch
Box 645
Coombs, BC V0R 1M0

Dear Wendy Norma Huntbatch:

Re: Application for Rezoning Pursuant to RDN Zoning and Subdivision Bylaw No. 1285, 2002
Lot 12, Plan 1115, Except Part in Plan 734RW, Salvation Army Lots, Nanoose Land District
2116 Alberni Highway
Electoral Area 'F' RDN Map Reference No.: 92F.038.2.2

Thank you for submission of your application to rezone the subject property pursuant to 'Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002' in order to accommodate the development of a parrot refuge boarding facility on the above noted property.

In order to complete your application, the following items are required. Please note that our request for this additional information is made pursuant to the Regional District of Nanaimo Impact Assessment Bylaw No. 1165, 1999.

1. A brief statement that describes the proposal, along with a list of your proposed future ancillary uses. In the meeting with RDN staff on August 16, 2004 you indicated that you wish to host educational tours, add a souvenir gift shop and possibly a concession use in the near future. Please provide information on the proposed scale of these uses, such as approximate floor areas and potential number of seats. This information assists the RDN in developing a clear understanding of the intent of the application. (Please note, non-farm uses such as the souvenir and concession uses will require approval from the Agricultural Land Commission prior to commencing the uses on the property. As discussed, should the RDN consider granting zoning approval for these uses, the approval will be conditional upon the ALC granting permission for the uses).
2. A copy of the *Certificate of Title* for the subject property, dated within the last 30 days.
3. A scaled site plan of the proposal. Please include the following on the site plan: the proposed location and dimensions of all existing and proposed buildings, structures and uses; off-street parking and loading areas; access points; refuse disposal locations; proposed future landscaping, signs, and outdoor storage areas; septic disposal areas, potable water supply, and location of stormwater management facilities (i.e. pond and drainage system). For further information on this requirement, please contact Development Services staff.
4. A copy of the access permit, as issued by the Ministry of Transportation, which confirms that access for the proposed use has been approved by the Ministry.
5. A copy of the septic disposal permit, as issued by the Ministry of Health, which confirms that a septic disposal system for the proposed use is available and has been approved by the Ministry.

6300 Mainmead Bwy #2
Nanaimo, B.C.
V9T 6M2

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Tel Free: 1-877-607-4111
Fax: (250)390-4163

RDN Website: www.rdn.bc.ca

Huntbath
August 16, 2004
page 2 of 2

6. Please be aware that as part of the zoning amendment application, the RDN will refer the proposal to the local fire commissioner to ensure compliance with the requirements of the fire department. The intent of this requirement is to ensure the local fire department is capable of responding to any emergencies that may occur as a result of the proposed development.

At the meeting with RDN staff, you expressed some urgency with respect to dealing with this zoning amendment application. Therefore, in order to expedite the processing of the application, please provide this information by August 27, 2004. Once this additional information is received, staff will contact you to arrange the Public Information Meeting for your application. Subsequent to the Meeting, it may be necessary for staff to request additional information in order to clarify any issues raised by the public prior to finalizing the staff report.

While the current A-1 zoning permits the construction of agricultural buildings, the buildings are not permitted to be used for the housing of pets or to be operated as a boarding facility such as a parrot refuge. Should you continue construction of this building without zoning amendment approval, you do so at your own risk. Should the Board not approve the proposed use, the building may only be used for farm use as permitted by the A-1 zone.

The fees that you have already submitted to this office, in the amount of \$2600.00, will be held until the information requested above has been received.

Keeva Kehler will be the staff contact for this application. If you have any questions or comments, please call (250) 954-3798 or toll free in BC 1-877-607-4111 and Keeva will be happy to assist you.

Sincerely,



Robert Lapham
General Manager of Development Services

cc: *RDN Bylaw Enforcement*
Mr. Lou Biggemann, Director, Electoral Area 'F'



September 1, 2004

Ms. Wendy Norma Huntbatch
Box 645, Coombs, BC
V0R 1M0

Dear Ms. Huntbatch

**RE: Application for Rezoning
Lot 12, Salvation Army Lots, Nanouse District, Plan 1115, Except
Part in Plan 734 RW,
2116 Alberni Highway, Electoral Area F
RDN Map Reference No. 92E.038.2.2**

Dear Ms. Huntbatch:

Thank you for the information provided by yourself and Mr. Neumann on August 30th, 2004 regarding your application to amend the "Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002."

You have made the decision to construct the above noted building with the knowledge that your intended use is not permitted pursuant to "Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002." This building cannot be legally used for the uses you propose prior to the successful completion of the rezoning process, and receiving permission from the Agricultural Land Commission. As a result of this situation we have placed a priority on processing your application, for your benefit.

Our letter of August 16th, 2004 outlined the initial information we required to evaluate your application further. We received your fax in response to our request for information on August 30th, 2004. Also, on the afternoon of August 30th Mr. Horst Neumann brought the requested site plan into our office and discussed your application with us further.

We have the following comments regarding the information provided by you and Mr. Neumann on August 30th, 2004.

1. The site plan provided identifies the following new buildings that are proposed to contain uses accessory to the parrot refuge.

6300 Hammond Bay Rd.
Nanaimo, B.C.
V9T 6H2

Ph: 12501390-4111
Toll Free: 1-877-607-4111
Fax: 12501390-4163

RDN Website: www.rdn.bc.ca

- A 557 m² (6,000 sq. ft.) building to house the gift shop, food concession, classrooms, and other miscellaneous uses.
- A 111 m² (1200 sq. ft.) building for office use.
- A 297 m² (3200 sq. ft.) building to be used as a dormitory for avian veterinary students and volunteers.

The scale of the commercial use of the property goes beyond what can be rationalized as accessory to the agricultural use of the property. You propose a food concession area with 100 seats. Our discussions with Mr. Neumann reveal that the gift shop area is proposed to be hundreds of square feet in area. This scale of commercial use and the establishment of residences for live in veterinary students constitutes a commercial use of the property that is not consistent with the "Resource Lands within the Agricultural Land Reserve" Official Community Plan designation and the "Resource Lands" designation of the Regional Growth Strategy. Further this does not appear to be consistent with the Agricultural Land Commission Act and regulations.

The Agricultural Land Commission Act, and the Agricultural zone allow you to locate a manufactured home on the property in addition to the principle dwelling. Up to three veterinary students may be accommodated in this manufactured home. You should confirm with the Agricultural Land Commission that this type of veterinary school or training on site is allowed according to the Agricultural Land Commission Act and regulations.

Please consider significantly reducing the seating capacity for the food concession area, and reducing the retail sales area, to a level in line with your initial proposal for a parrot refuge centre with limited accessory retail sales and food service. Once you have reconsidered your proposal please provide us with written confirmation of the size of the area and new seating capacity you propose for the food concession and the size of the area you propose to be used for retail sales.

Please provide a revised site plan showing the new buildings scaled to accommodate these uses. The revised site plan should also clearly show building dimensions, on-site traffic movement patterns, the proposed width of the site access, the size and location of signage proposed on the site, and details of the site drainage plan and storm water retention pond. Also, please provide information regarding the steps to be taken to ensure bird waste does not impact the quality of stormwater leaving the site.

As previously discussed the Regional District of Nanaimo cannot proceed to Public Hearing and third and final reading of any rezoning

bylaw until the Agricultural Land Commission has provided written confirmation that the non-farm uses including the concession and retail sales uses are approved.

2. An access permit has not been provided. We note that your fax says you shall be meeting with the Ministry of Transportation this week.
3. A copy of the septic disposal permit has not been provided. We note that we have received comment from the Vancouver Island Health Authority that no application has been made to them for on-site sewage disposal for your new buildings. The Health Authority further notes that your property may be problematic with respect to on-site disposal.

We encourage you to begin discussions with the Health Authority as soon as possible. You may contact Glenn Gibson at the Health Authority at (250) 248-2044. We must ensure that the appropriate sewage disposal permits from the Vancouver Island Health Authority are in place prior to completing our review of your application.

We cannot complete our evaluation of your application and forward it to the Electoral Area Planning Committee prior to receiving the outstanding information discussed above. Given the outstanding information and concerns with your current proposal your application cannot proceed to the September 14th meeting of the Electoral Area Planning Committee, and the September 28th meeting of the Board.

We have scheduled and advertised a Public Information Meeting for September 13th, 2004 at 7:00 pm at the Arrowsmith Agricultural Hall at 1018 Ford Road in Coombs. We must confirm the details of your application prior to that meeting. Please provide the required information by Friday, September 10th, 2004 to allow staff sufficient time to review the information and prepare for the meeting.

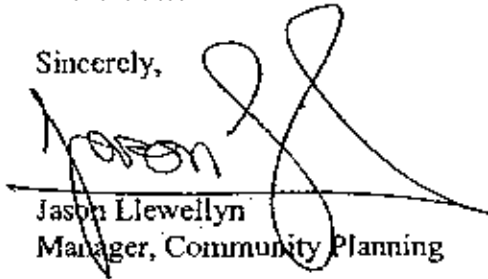
We again stress for your information that the building you are constructing cannot be legally used for the uses you propose, including the bird sanctuary use, prior to the successful completion of the rezoning process. Staff or Board support for the necessary rezoning is in no way guaranteed. We again advise that you continue construction of this building at your own risk.

I note that Mr. Horst Neumann has not been authorized as your agent to represent you on this application. Please provide us with a letter authorizing him to represent you with respect to this application.

Keeva Kehler continues to be your staff contact person for this application. If you have any questions or comments please call (250) 954-3798 or toll free in BC 1-877-607-4111 and Keeva will be happy to assist you. We look forward

to working with you to successfully resolve these issues to our mutual satisfaction

Sincerely,



Jason Llewellyn
Manager, Community Planning

cc: RDN Bylaw Enforcement
Mr. Lou Biggemann, Electoral Area 'F'
Bob Lapham, Director, Development Services



REGIONAL
DISTRICT
OF NANAIMO

September 13th, 2004

COPY

Ms. Wendy Norma Huntbatch
Box 645, Coombs, BC
V0R 1M0

Dear Ms. Huntbatch

RE: Application for Rezoning
Lot 12, Salvation Army Lots, Nanoose District, Plan 1115, Except
Part in Plan 734 RW,
2116 Alberni Highway, Electoral Area F
RDN Map Reference No. 92F.038.2.2

Dear Ms. Huntbatch:

On August 30th, 2004 we met with Mr. Neumann regarding your application to amend the "Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002." At this meeting the importance of clarifying the proposed scale of commercial use of the property, and obtaining the required information as soon as possible was stressed. We also specifically stressed the importance of receiving this information before the public information meeting to be held on September 13, 2004.

We offered to hand deliver our letter dated September 1st 2004, which discusses your application and clarifies the information we require. We were told that we should instead mail the letter to your post office box. We are disappointed to hear today that our September 1st correspondence has not yet been picked up from the post office box. Further, you have no further information or clarification for us regarding your application prior to the public information meeting tonight.

Given the possibility of future legal action should you use the subject property or building under construction contrary to "Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" we are not willing to further delay processing your application because of a lack of information. Therefore, we plan to proceed with your application to the October 12th, 2004 meeting of the Electoral Area Planning Committee, and the October 26th, 2004 meeting of the Board. If you have not provided the required information, and clarified the

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Fax: (250)390-4163

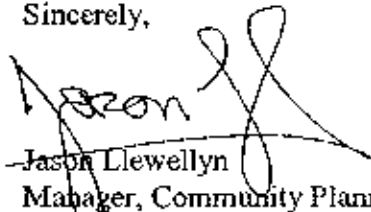
RDN Website: www.rdn.bc.ca

nature of your proposed development we shall proceed with processing the application with the information received.

Our desire is to reach a mutually acceptable resolution to this land use issue. To achieve this resolution we must begin discussions immediately. To facilitate this please provide the information requested in our letter dated September 1st, 2004. This letter is attached for your convenience.

Keeva Kehler continues to be your staff contact person for this application. If you have any questions or comments please call (250) 954-3798 or toll free in BC 1-877-607-4111 and Keeva will be happy to assist you. We remain hopeful that we can work with you to successfully resolve these issues to our mutual satisfaction

Sincerely,


Jason Llewellyn
Manager, Community Planning

cc: NDN Bylaw Enforcement
Mr. Lou Biggemann, Electoral Area 'F'
Bob Lapham, Director, Development Services

Attachment: Letter dated September 1st, 2004 from Jason Llewellyn, Manager of Community Planning to Ms. Wendy Norma Huntbatch.