

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, NOVEMBER 9, 2004
6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

2-5 Minutes of the Electoral Area Planning Committee meeting held Tuesday, October 12, 2004.

BUSINESS ARISING FROM THE MINUTES

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

6-16 DP Application No. 60446 - Hubbard/Martens and Hilscher – 152 Burne Road – Area H.

17-26 DP Application No. 60456 – Slocombe – 2818 Parker Road – Area E.

27-34 DP Application No. 60457 – Bowd – 791 Miller Road – Area G.

35-42 DP Application No. 60458 – Ekland – 548 Viking Way – Area G.

OTHER

43-47 Request for Relaxation of the Minimum 10% Frontage – Fern Road Consulting Ltd., on behalf of J. Lundine – Lundine Lane – Area G.

48-52 Regional District Position Regarding Secondary Dwellings.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, OCTOBER 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. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G
Director D. Bartram	Electoral Area H

Also in Attendance:

B. Lapham	General Manager, Development Services
N. 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 Hunthatch – 2116 Alberni 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 Bartzon/Fern Road Consulting Ltd. – Spider Lake Road and Horne Lake Road – Area H.

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 – Kehoc Holdings/Fairwinds – Andover Road – Area E.

MOVED Director Bibby, SECONDED Director Stanhope, that Development Permit No. 60450 for Kehoc 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

NOV - 1 2004

CHAIR	GM/CS
CAO	GM/DS
GM/MS	GM/ES
EAPC	

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: October 29, 2004

FROM: Greg Keller
Planner

FILE: 3060 30 60446

SUBJECT: Development Permit Application No. 60446 - Hubbard/ Martens and Pilscher Electoral Area 'H' - 152 Burne Road

PURPOSE

To consider an application for a development permit to vary the minimum setback requirement from Deep Bay Creek to create a building envelope that will permit the construction of a future dwelling unit within the Environmentally Sensitive Features and Hazard Lands Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003".

BACKGROUND

The Board previously approved Development Permit No. 0252 for the subject property on December 10, 2002 for the proposed construction of a dwelling unit and to legalize the siting of an existing accessory building 5.3 metres from the natural boundary of Deep Bay Creek. However, the applicants are selling the subject property and the prospective buyers (the agent) are unable to substantially start construction of the said dwelling unit prior to December 10, 2004 (the permit lapse date). In addition, the agent is proposing a slightly modified building envelope sited a minimum of 10.8 metres away from the natural boundary of Deep Bay Creek, 4.9 metres farther away from the natural boundary than what was originally approved in Development Permit No. 0252. Therefore, this application is being made to create a new two-year development window on the subject property for a development that is similar to that approved by Development Permit No. 0252.

The subject property legally described as Lot 83, District Lot 1, Newcastle District, Plan 20442 is located at 152 Burne Road in Electoral Area 'H' (see Attachment No. 1) and is currently zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirements for buildings and structures on parcels with an average slope of 5% or less adjacent to or containing a watercourse is 15 metres from the natural boundary or 18 metres from the center line, whichever ever is greater. The subject property is located in both the Environmentally Sensitive Features and Hazard Lands Development Permit Areas that were established in order to protect coastal areas, lakes, streams, riparian areas, nesting trees, floodplains, and other environmentally sensitive areas from the impacts of development and to protect properties from potential natural hazard conditions.

The Environmentally Sensitive Features Development Permit Area requires that any construction or alteration of land within 30 metres upland of the natural boundary of the ocean require that a development permit be issued. In addition, construction or alteration of land within 15 metres as measured from the top of the bank of any other watercourse also requires that a development permit be

issued. The entire property, including the existing accessory building and proposed building envelope, is located within the Hazard Lands Development Permit Area.

The subject property is approximately 1,993 m² in size, and the natural grade of the property is approximately 1.5 metres below the elevation of Burne Road with a gradual slope northwest towards Deep Bay Creek. The lot configuration is narrow, tapering from a width of 40 metres adjacent to Burne Road to approximately 24 metres at the marine foreshore. Currently, there is a manufactured home and accessory building located on the property, which were sited approximately 30 years ago. The Deep Bay Water Works District services the property with Community Water and there is an existing licensed septic system located on the parcel.

The existing accessory building is located a minimum of 5.4 metres from the natural boundary of Deep Bay Creek (0.0 metres from the top of bank). The proposed location of the building envelope for the dwelling unit is located a minimum of 10.8 metres from the present natural boundary of Deep Bay Creek (9.9 metres from the top of bank) and a minimum of approximately 20 metres from the natural boundary of the ocean (*see Schedule No. 2*). Please note Development Permit No. 0252 approved a 5.9 metre setback from the natural boundary of Deep Bay Creek for a building envelope to construct a dwelling unit and also legalized the siting of the existing accessory building 5.3 metres from the natural boundary of Deep Bay Creek.

As required in the Electoral Area 'G' Official Community Plan Natural Hazard Development Permit Area policies, Davey Consulting and Engineering on October 14, 2002 prepared a geotechnical report for the subject property. The above mentioned geotechnical report was prepared for Development Permit No. 0252 when the subject property was designated within the Shaw Hill - Deep Bay Official Community Plan and prior to the subject property being redesignated in The Electoral Area 'H' Official Community Plan. However, since the proposed development is very similar to that addressed in the said geotechnical report and because the geotechnical report addresses the geological conditions of the subject property on a general basis, a new geotechnical report has not been required as part of this application.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

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

The applicants are requesting that the Board consider the establishment of a building envelope of approximately 150 m² (1615 ft²), which is in keeping with the average size of dwellings in the area. With respect to the dwelling unit, the applicants are in the preliminary pre-design stage and have selected a building footprint for the proposed dwelling unit, but have not had building plans prepared at this time. Therefore, no building plans have been submitted as part of this application. Since the parcel is not within the Building Inspection Area, staff recommends, that as a condition of approval, that all construction be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The applicants have indicated that the existing manufactured home will be removed in order to site the proposed dwelling unit (as the zoning permits only one dwelling unit).

Due to the long narrow tapered shape of the parcel, the site topography, and sloping natural grade, the location of both septic tanks and the septic field, existing buildings, and vegetation including a mature evergreen hedge of approximately 4 metres in height planted along the east boundary of the property, impacts on views to the ocean from the surrounding properties are minimal. Also the proposed building envelope, if built to the maximum height of 8.0 metres allowed in the RS2 zone, would have little impact on adjacent properties.

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

ENVIRONMENTAL IMPLICATIONS

Deep Bay Creek runs in a northerly direction along the western boundary of the subject parcel until it curves to the east along the northern boundary of the parcel before entering Deep Bay. Deep Bay Creek has considerable fisheries values as indicated by the applicants, stewardship agencies, and DFO representatives who have all indicated the presence of salmonid and other aquatic life spawning in the creek.

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

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

The applicants are proposing to site the building envelope on the subject property in a location that aims to maximize the protection of Deep Bay Creek. In addition, the applicants are proposing to site the

building envelope farther away from the natural boundary of the marine foreshore than the existing manufactured home in an attempt to reduce the impacts of development on the marine foreshore. The proposed building envelope is within the Environmentally Sensitive Features Development Permit Area (30 metres for Coastal Areas and 15 metres for Streams and Watercourses) and native vegetation has been removed within the Development Permit Area including intermittent areas adjacent to Deep Bay Creek and the marine foreshore. Therefore, it is recommended as a condition of approval of this permit, that the applicant plant native vegetation in all areas within a minimum of 3.0 metres from the natural boundary of Deep Bay Creek and the marine foreshore which are void of native vegetation in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 published by DFO and MELP and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP, or any subsequent editions. The intent of the proposed plantings is to stabilize the bank of Deep Bay Creek and the marine foreshore as well as to reduce the potential for siltation and erosion.

VOTING

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

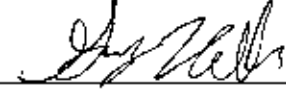
SUMMARY/CONCLUSIONS

This is an application for a development permit with variance to vary the minimum zoning setback requirement from 15 metres horizontal distance from the natural boundary or within 18.0 metres horizontal distance from a stream centerline, whichever is greater, to a minimum of 10.8 metres from the natural boundary of Deep Bay Creek to permit the creation of a building envelope for the construction of a dwelling unit within the Environmentally Sensitive Features and Hazard Lands Development Permit Areas established in the Electoral Area 'H' Official Community Plan. The entire parcel is located within the Hazard Lands Development Permit Area. Therefore, there are no means to reduce or eliminate the encroachment into the Hazard Lands Development Permit Area. There is a flood hazard associated with this parcel; however, as identified in the Geotechnical Report, the dwelling unit is required to have a flood construction elevation of 1.5 metres above Mean Sea Level with foundations designed to meet a ground bearing pressure of 105 Kpa thereby reducing the flood hazard.

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

RECOMMENDATION

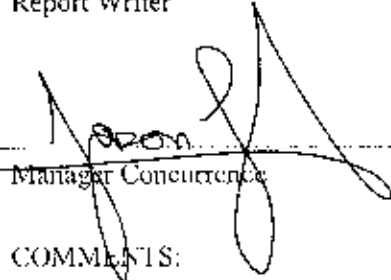
That Development Permit Application No. 60446 submitted by Martin Martens and Claire Hilscher on behalf of Don and Lynn Hubbard, to vary the minimum setback requirement from 15 metres horizontal distance from the natural boundary or within 180 metres horizontal distance from a stream centerline, whichever is greater to a minimum of 10.8 metres from the natural boundary to allow for a 150 m² building envelope within the Electoral Area 'H' Official Community Plan Hazard Lands and Environmentally Sensitive Features Development Permit Areas (within 30 metres of a Coastal Area and 15 metres of Watercourses and Streams) for the property legally described as Lot S3, District Lot 1, Newcastle District, Plan 20442 be approved, subject to the requirements outlined in Schedules No. 1, 2, and 3 and notification requirements pursuant to the *Local Government Act*.



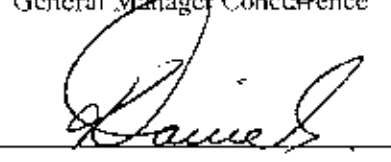
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

**Schedule No. 1 (1 of 2)
Conditions of Approval
Development Permit No. 60446
152 Burne Road**

Development Permit Area Protection Measures

1. Sediment and erosion control measures must be utilized to control sediment during construction, demolition, and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - b) Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - c) Direct run off flows away from Deep Bay Creek using swales or low berms.
 - d) Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - e) Cover temporary fills or soil stock piles with polyethylene or tarps.
2. Temporary construction fencing to be erected 5.0 metres from the top of the bank to reduce any potential bank destabilization.
3. All surface drainage collected from roof leaders and perimeter drains shall be discharged into a rock pit not less than 3.5 m³ in volume, located within the building envelope outlined in Schedule No. 2.
4. Existing native vegetation within the Development Permit area and outside the building envelope shall not be disturbed or removed.
5. The removal of invasive plants or noxious weeds on a small scale shall be permitted within the Development Permit Area including; but not limited to: Scotch broom, Himalayan blackberry, morning glory, and purple loosestrife, provided that erosion protection measures to avoid sediment or debris being discharged into the watercourse are taken.
6. The planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the Development Permit Area shall be permitted provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 published by DFO and MELP and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP, or any subsequent editions.

Development of Site

7. Subject property to be developed in accordance with Schedules Nos. 1, 2, & 3.
8. All construction of buildings and structures to be undertaken must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.
9. Maximum height of any dwelling unit or structure shall not exceed 8.0 metres including the 1.5 metre flood elevation requirement.
10. The subject property shall be developed in accordance with the recommendations contained with the geotechnical report prepared by Davey Consulting and Engineering as registered on the certificate of title as EV022884.
11. A final survey plan prepared by a British Columbia Land Surveyor shall be submitted by the applicants to the Regional District showing the final siting and height of the dwelling unit.

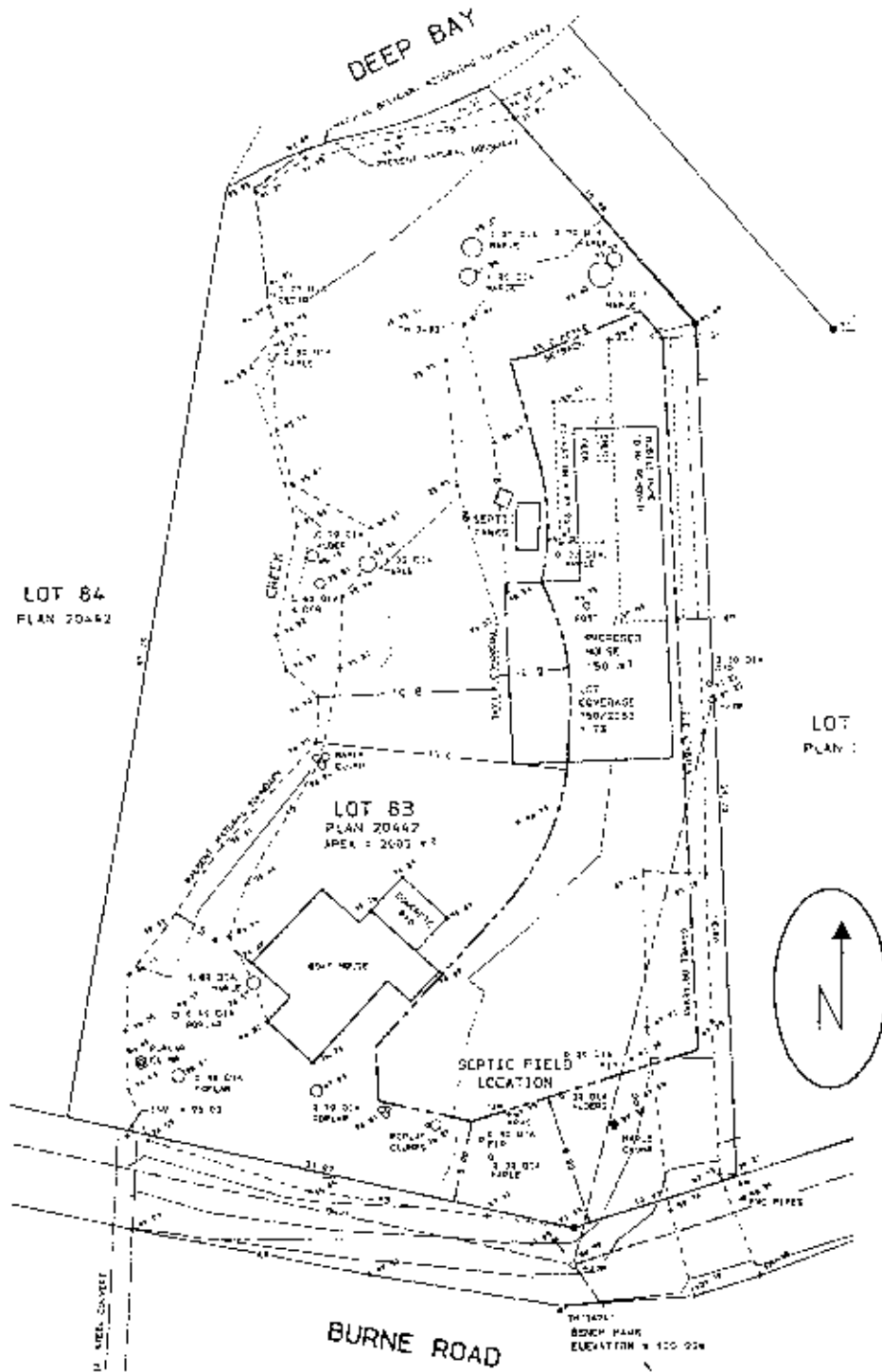
Conditions of Approval (2 of 2)
Development Permit No. 60446
152 Burne Road

12. The existing manufactured home and structural deck is to be removed.

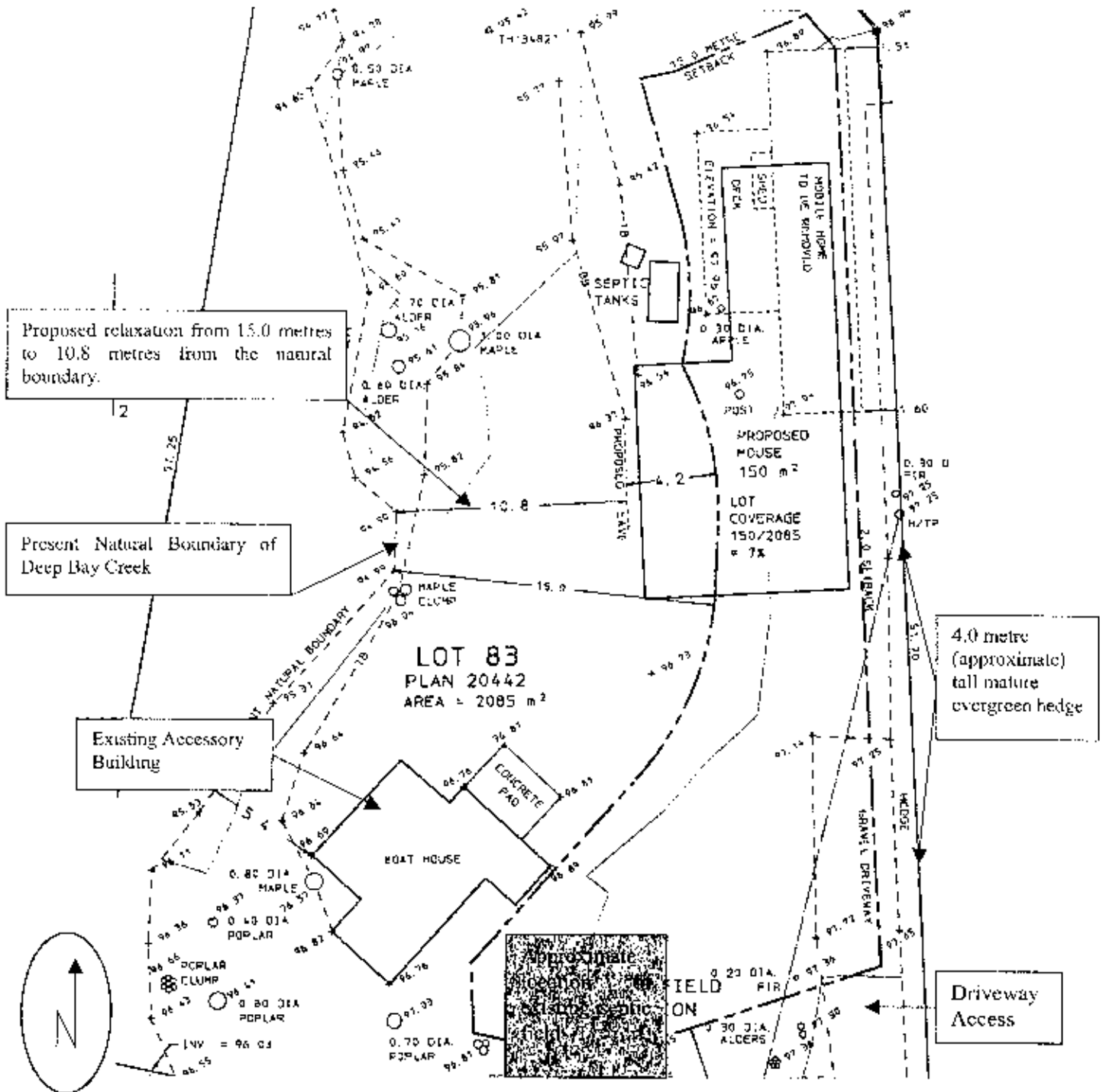
Revegetation

13. The planting of native trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability shall be conducted on the subject property in all areas within a minimum of 3.0 from the natural boundary of Deep Bay Creek which are void of native vegetation. Schedule No. 1 (1 of 2)
14. The planting of native trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability shall be conducted on the subject property in all areas within a minimum of 3.0 from the natural boundary adjacent to the marine foreshore which are void of native vegetation.
15. All planting shall be carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 published by DFO and MELP and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP, or any subsequent editions.
16. In the selection of introduced vegetation, species shall be selected which are adapted to the site-specific conditions of the soil, climate and topography on which the vegetation is to be planted. All plants used in the landscaping shall have well developed branches and vigorous fibrous root systems and shall be free from defects, decay, disfiguring roots, sunscald, injuries, abrasions of the bark, diseases, insects, pests and all forms of infestation or objectionable disfigurements.
17. All planting shall be undertaken in the late fall or spring when plants are best able to establish roots and temperatures are not extreme.

Schedule No. 2 (1 of 2)
Site Plan (reduced for convenience)
Development Permit No. 60446
152 Burne Road



Schedule No. 2 (2 of 2)
 Site Plan (redneered for convenience)
 Development Permit No. 60446
 152 Burne Road

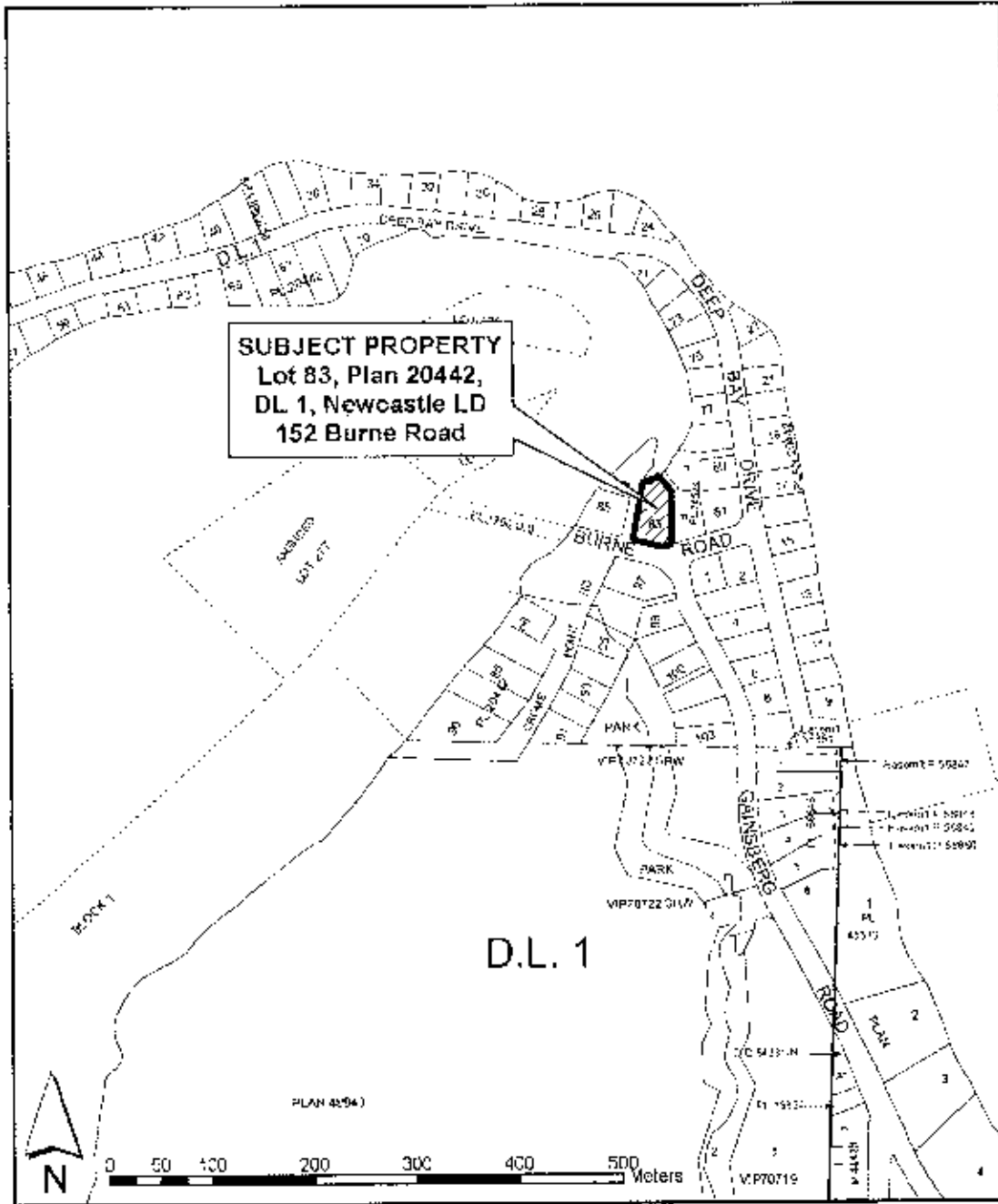


**Schedule No. 3
Requested Variances
Development Permit No. 60446
152 Burne Road**

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

1. Section 3.3.8 Setbacks – Watercourse, excluding the Sea – varied from 15 metres horizontal distance from the natural boundary or within 18.0 metres horizontal distance from a stream centerline, whichever is greater to a minimum of 10.8 metres from the natural boundary to create a building envelope in order to locate a dwelling unit at a future date.

Attachment No. 1
Subject Property
Development Permit No. 60446
152 Burne Road





REGIONAL DISTRICT OF NANAIMO			
NOV - 1 2004			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
EAPC ✓			
TO:		DATE:	
FROM:		FILE:	
SUBJECT:			

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

DATE: October 29, 2004

FROM: Brigid Reynolds
Senior Planner

FILE: 3060 30 60456

SUBJECT: Development Permit Application No. 60456 - Slocombe
Electoral Area 'E' - 2818 Parker Road

PURPOSE

To consider an application to construct an addition to a dwelling unit and legalize the siting of an accessory building within the Watercourse Protection Development Permit Area pursuant to the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998."

BACKGROUND

The subject property, legally described at Lot 1, District Lot 78, Nanoose District, Plan 23862 is located at 2818 Parker Road adjacent to Nanoose Bay in the Garry Oaks neighbourhood (see Attachment 1).

The subject property is zoned 'Residential 1 (RS1)' subdivision district 'N' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The zoning setback from a watercourse on parcels with an average slope of greater than 5% is 9.0 m horizontal distance from the top of the slope. The addition is proposed to be sited a minimum of 3.4 metres from the top of the bank of the watercourse and the existing shed is sited a minimum of 2.5 m from the top of the bank of the watercourse on the subject property. Therefore, the applicant is requesting to variances to Bylaw No. 500 as part of this application.

The Watercourse Protection Development Permit Area was established for the purposes of protecting the natural environment. The dwelling unit, proposed addition, and existing shed are within the 30 m development permit area.

The subject property is adjacent to Nanoose Bay; however, the dwelling unit is sited over 30 m from the natural boundary of the ocean. The property contains a watercourse with a steep ravine that is well vegetated with mature trees and understory. A paved driveway separates the dwelling unit from the top of the bank which runs down to the beach area. A deer fence is located at the top of the bank. The property slopes down towards the ocean and the dwelling unit is located at the top of the slope.

The shed is located approximately 25 m from the dwelling unit and this area contains the driveway and a large area of mature landscaping. The property contains a significant area of landscaping (approximately 4,000 m²). The previous owners constructed the shed, which was damaged by a tree at the time of purchase by the current owners.

The subject property is bordered by Nanoose Bay to the east, a creek on the north lot line, rural and residential properties to the north, south and west of the property. The parcels to the south of the subject

property are undeveloped. Due to the mature vegetation and the size of the subject property no adjacent development can be seen from the subject property.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

The addition is proposed to be approximately 56 m² in floor area and is proposed to be a family room. It is proposed to be located adjacent to the garage and is to be connected by heated living space to form part of the interior of the dwelling unit. The addition will be one storey and will not exceed the maximum height permitted as set out in Bylaw No. 500.

The proposed location is the only feasible location as the driveway is located on the other side of the garage and the side of the dwelling unit adjacent to Nanoose Bay would require considerable excavation and construction due to the deck, swimming pool and bank located here. The area between the existing dwelling unit and top of bank consists of landscaping adjacent to the dwelling unit, a paved driveway, and a deer fence. The bank appears to be stable and consists of mature trees (Douglas Fir, Cedar) and understory. The works should not impact the bank. The addition is proposed to be a minimum of 3.4 m from the top of the bank.

The previous owners originally constructed a 13 m² shed without any building permit. When the current owners purchased the property the shed had been destroyed by a tree and they reconstructed it in the same location but larger such that it is now 29 m². The shed is located a minimum of 2.5 m from the top of the bank. The area between the shed and top of the bank is well vegetated and the slope behind the shed appears to be stable. According to the property owner, to move the shed would require considerable expense and disruption to existing landscaped and paved areas. The shed is the distribution point from which various underground electrical systems and controls for the property originate including: underground power cable from the house; power distribution to two wells at opposite sides of the property; pump/trec no load sensors for the wells; power and controls for 50 zone irrigation system; and power and pump/trec control for two irrigation cisterns. Given the extent of services it does not appear feasible to move the shed. As a condition of approval, staff recommends that the property owner be required to secure a building permit for the existing shed.

No engineering has been provided for the proposed addition or shed. However, staff recommends that as a condition of approval engineering be required in addition to building permits.

ENVIRONMENTAL IMPLICATIONS

Impacts to the watercourse and bank are unlikely to occur as the area between the proposed addition and the top of bank consists of paving and fencing. Conditions of approval are intended to reduce any possible negative impacts to the watercourse. No development is occurring within 15 metres of the natural boundary of the ocean.

VOTING

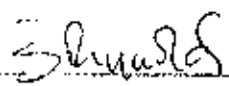
Electoral Area Directors – one vote, except Electoral Area ‘B’.

SUMMARY/CONCLUSIONS

This is an application for a development permit with variances to permit the construction of an addition to the dwelling unit and to legalize a shed at 2818 Parker Road within the Watercourse Protection Development Permit Area pursuant to the “Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998. This is also an application to vary the minimum setback requirements of Bylaw No. 500 from 9.0 m from the top of the bank of a watercourse to 3.4 metres for a proposed addition to the existing dwelling unit and to 2.5 metres to legalize an existing shed. There is no alternate location for the proposed addition due to the slope, deck and pool on the waterfront side of the dwelling unit and the driveway and main entrance on the west side of the dwelling unit. The shed, while illegally constructed by the previous owners and reconstructed by the existing owners, would require considerable expense and disruption of the landscaping and paved areas due to the extent of underground services originating from here. Due to the site constraints and limited impact to the environment staff recommends approval of this development permit.

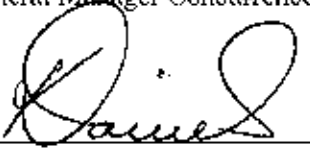
RECOMMENDATION

That Development Permit Application No. 60456, submitted by the applicants Gareth and Allison Slocombe to permit the construction of an addition to the dwelling unit 3.4 m from the top of the bank and to legalize an existing shed located 2.5 m from the top of the bank of a watercourse within the Watercourse Protection Development Permit Area on the property legally described as Lot 2, District Lot 78, Nanoose District, Plan 23862 be approved subject to the Conditions of Approval outlined in Schedules Nos. 1, 2, 3, and 4 and subject to notification requirements pursuant to the *Local Government Act*.


Report Writer


General Manager Concurrence


Manager Concurrence


CAO Concurrence

COMMENTS:

dev.svs/reports/2004/DP NO 3066/30 60456 slocombe

**Schedule No. 1
Conditions of Approval
Development Permit No. 60456**

Development of Site

- a) All uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
- b) Applicant to obtain building permit and meet all conditions of the RDN Building Inspection Department for the addition and shed.
- c) Confirmation with Vancouver Island Health Region that the development meets Health Regulations.

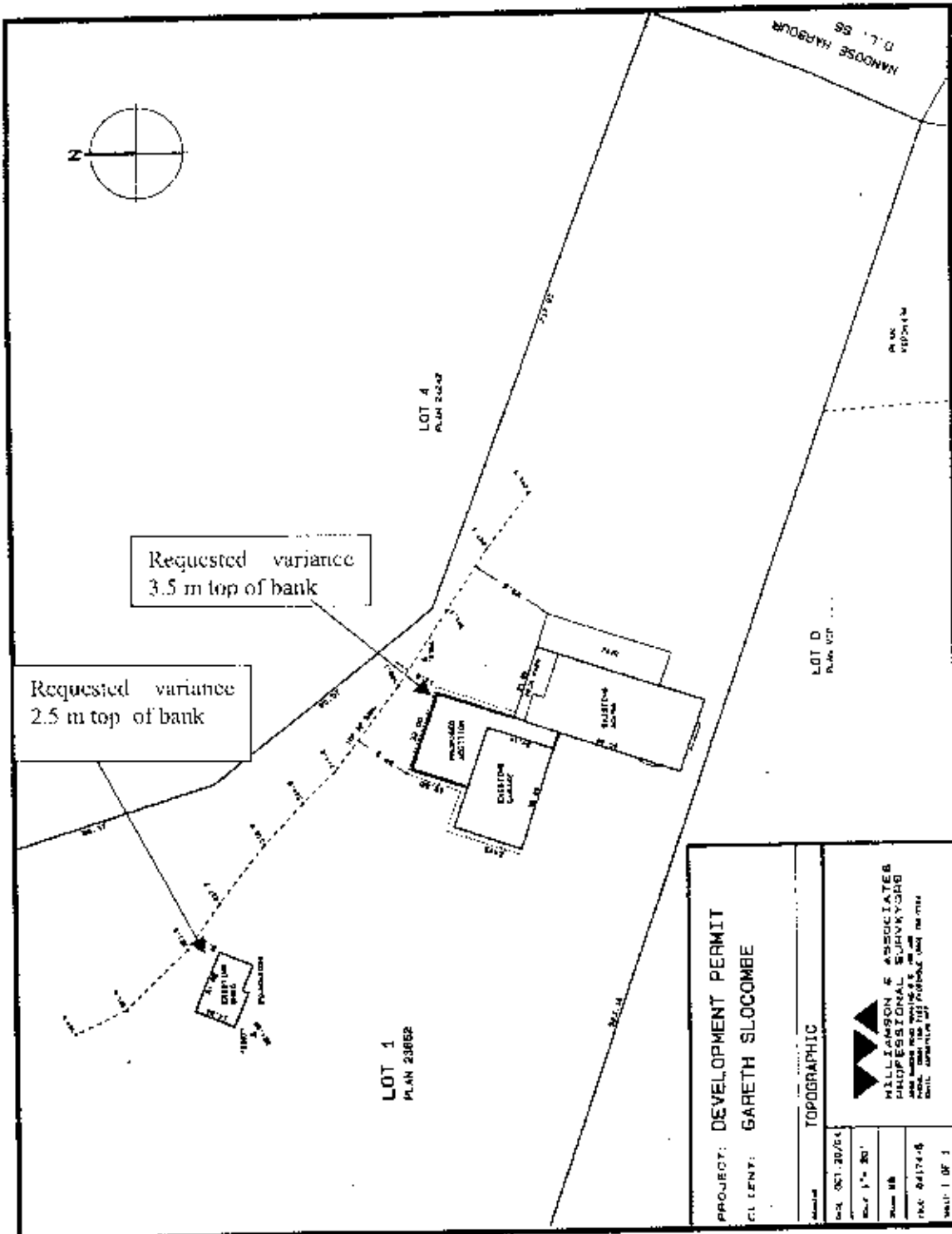
Geotechnical Report

- d) All structures on the subject property are to be certified by a Professional Engineer and/or Professional Geotechnical Engineer to be safe for siting and use if deemed necessary by the Chief Building Inspector of the Regional District of Nanaimo.

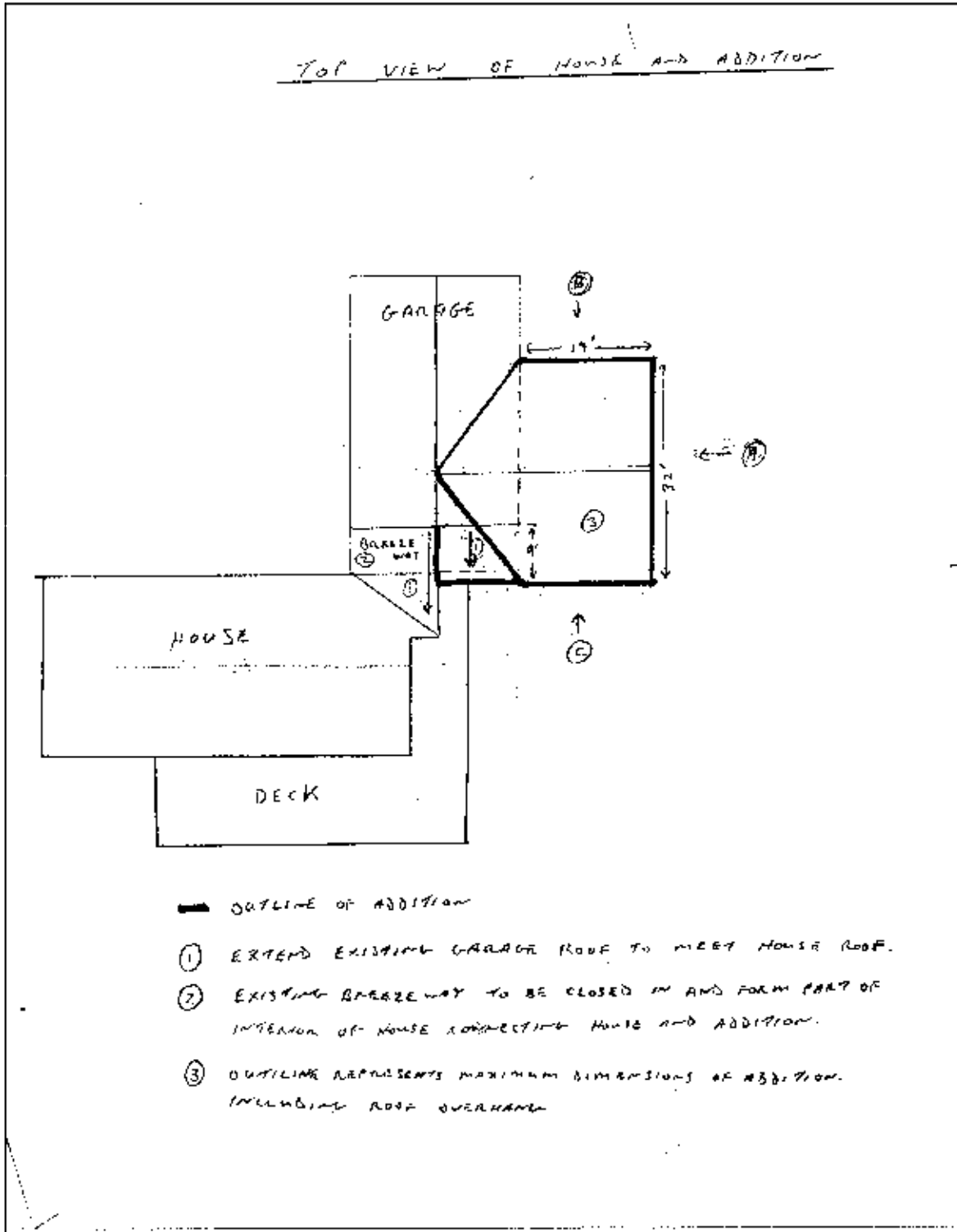
Environmental Protection

- e) No debris (plants, soil, pavement, or building materials) shall be deposited down the bank of the watercourse.
- f) Run off from exposed soils and construction works shall not be directed down the bank of the watercourse.

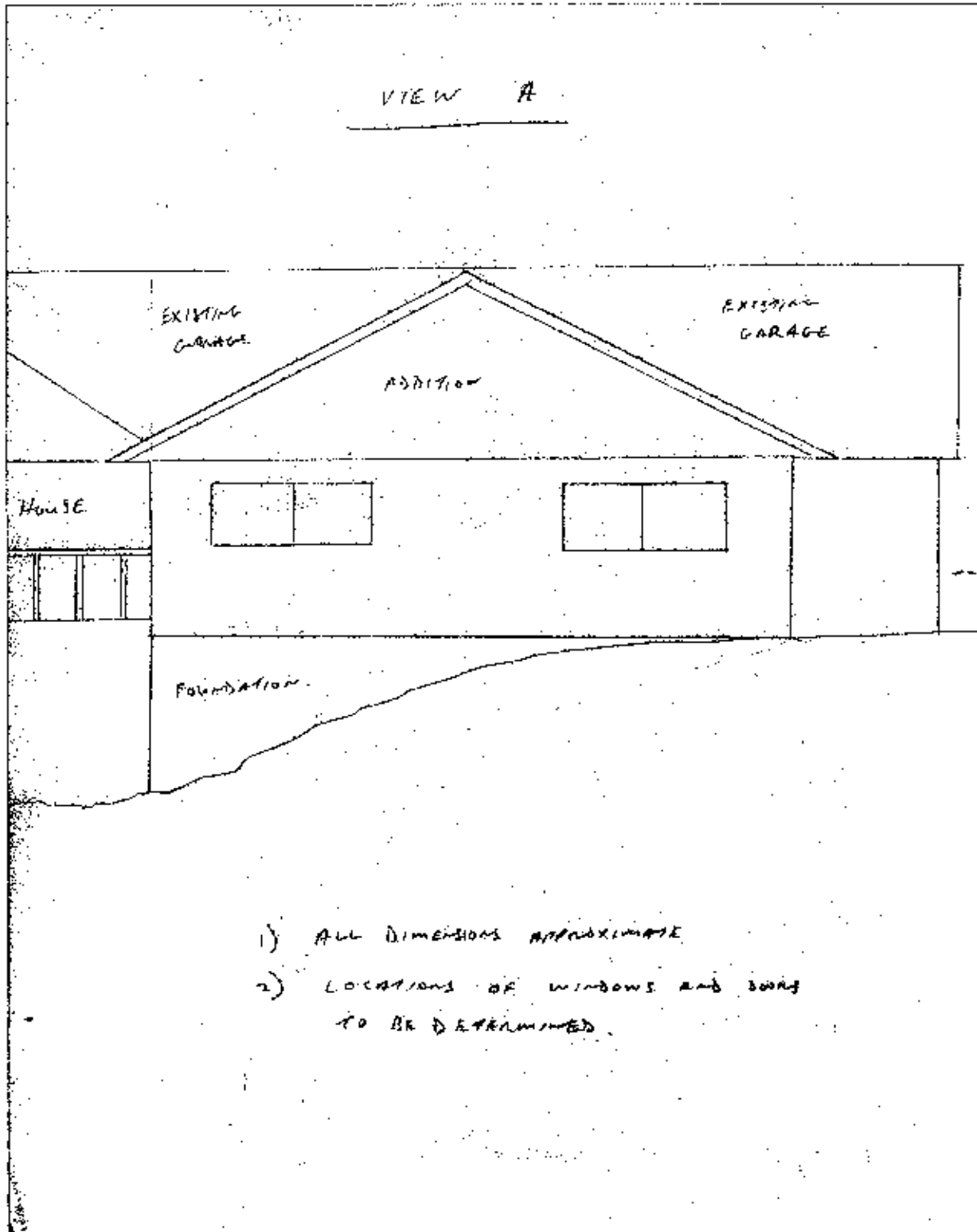
Schedule No. 2
Site Plan
Development Permit No. 60456



Schedule No. 3
Building Plan (1 of 3)
Development Permit No. 60456

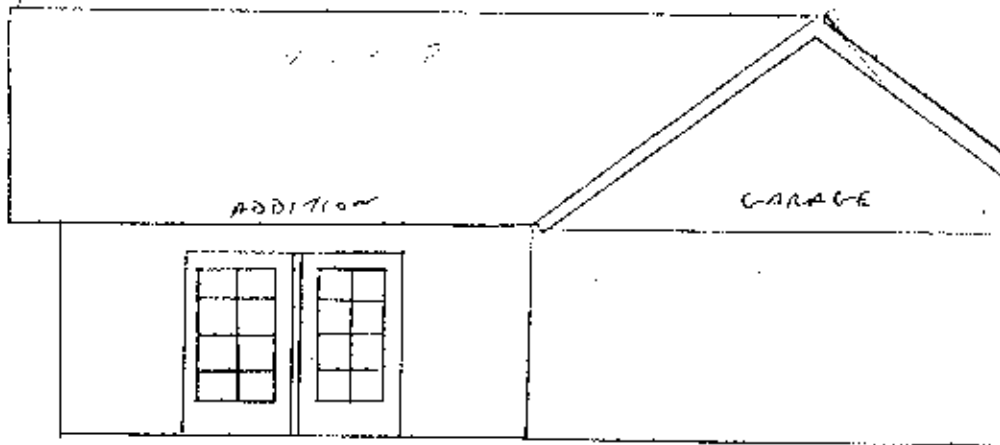


Schedule No. 3
Building Plan (2 of 3)
Development Permit No. 60456

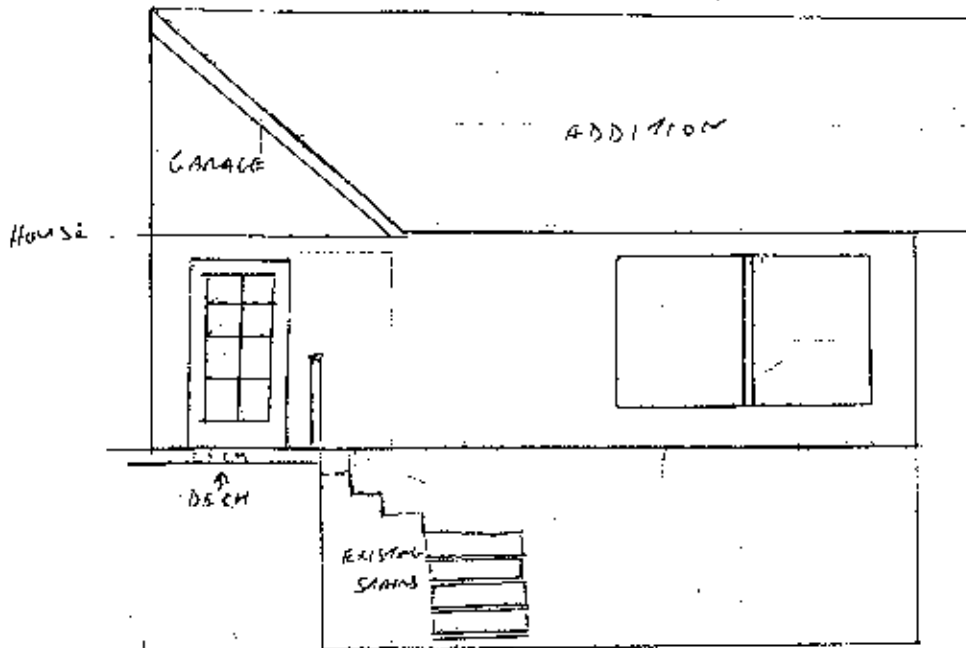


Schedule No. 3
Building Plan (3 of 3)
Development Permit No. 60456

VIEW B



VIEW C



**Schedule No. 4
Requested Variances
Development Permit No. 60456**

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

Section 3.3.8 Setbacks - Watercourses Excluding the Sea is requested to be varied from 9.0 metres horizontal distance from the top of the bank of the watercourse to:

1. 3.4 metres in order to permit the construction of an addition to the existing dwelling unit.
2. 2.5 metres in order to legalize a shed.



REGIONAL DISTRICT OF NANAIMO	
NOV - 1 2004	
CHAIR	GMCrS
CAO	GMDS
GMCms	GMFS
EAPC ✓	
DATE:	
FILE:	

MEMORANDUM

TO: Robert Lapham
General Manager of Development Services

DATE: October 29, 2004

FROM: Brigid Reynolds
Senior Planner

FILE: 3060 30 60457

SUBJECT: Development Permit Application No. 60457 - Bowd
Electoral Area 'G' - 791 Miller Road

PURPOSE

To consider an application for a development permit to permit the construction of a garage within the Sensitive Lands Development Permit Area pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998".

BACKGROUND

The subject property, legally described as Strata Lot 2, District Lot 28, Nanoose District, Plan VIS4363, is located on 791 Miller Road in the French Creek area of Electoral Area 'G'.

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the rear lot line; 2.0 metres from the interior side lot lines; and 5.0 metres from other lot lines. No variances to Bylaw No. 500 are being requested as part of this application.

The subject property is within the Sensitive Lands Development Permit Area pursuant to the "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998". This Development Permit Area was established to protect the natural environment and to protect development from hazardous conditions and is designated over the entire parcel. The subject property is located within the French Creek floodplain.

The applicant is proposing to construct a 43 m² garage to the rear of the property. The proposed location for the garage is more than 30.0 metres from the natural boundary of French Creek.

In order to meet flood construction elevation requirements for the dwelling unit the front 2/3 of the parcel has been filled. The area between the fill and the rear property line contains some seeded lawn and a few mature trees. The common property between the rear property line and French Creek is a well vegetated riparian forest.

ALTERNATIVES

1. To approve the requested development permit.
2. To deny the requested development permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested development permit would permit the construction of a one story 43 m² garage (see *Schedule No. 2*). The garage is intended to store a vintage vehicle, garden tools, etc. The garage cannot be located closer to the dwelling unit as there is an established garden to the rear of the house and there is inadequate site area to locate the garage in the side yard. As well, the fill upon which the dwelling unit and garden is located slopes down to the recently seeded lawn area.

There is a flood hazard associated with this property as the subject property is located within the Building Inspection area and "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" applies. However, Bylaw No. 843 does not require carports and garages to meet the flood construction elevations. The proposed location meets setbacks pursuant to Bylaw No. 843.

The garage will meet setbacks and height requirements pursuant to Bylaw No. 500.

ENVIRONMENTAL IMPLICATIONS

The proposed location for the garage is more than 30.0 metres from the natural boundary of French Creek. The applicants are proposing to introduce fill to provide an elevated site for the garage. As a result, sediment and erosion control measures must be incorporated into the construction of the dwelling unit to reduce the potential to introduce sediment into French Creek. These are outlined in *Schedule No. 1 Conditions of Approval*.

The area where the garage is proposed to be located consists of seeded lawn and a few large trees. These trees are not proposed to be removed to accommodate the garage. The common property located between the rear property line and French Creek is well vegetated and no vegetation is permitted to be removed.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application to permit the construction of a garage within a Sensitive Lands Development Permit Area pursuant to the French Creek Official Community Plan. The whole parcel is located within the Development Permit Area; therefore, there are no means by which to reduce the encroachment into the Development Permit Area. There is a flood hazard associated with this parcel; however, Bylaw

No. 843 does not require garages to meet flood construction elevations and the garage will meet the setbacks pursuant to Bylaw No. 843.

As a result of the entire parcel being within the Development Permit Area and the measures to reduce the negative impacts to the natural environment, staff supports the issuance of the development permit subject to the conditions set out in Schedule Nos. 1 and 2 of the staff report.

RECOMMENDATION


That Development Permit Application No. 60457 to construct a garage in a Sensitive Lands Development Permit Area pursuant to the Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998 on the property legally described as Strata Lot 2, District Lot 28, Nanoose District, Plan VIS4363 be approved, subject to the conditions outlined in Schedule Nos. 1 and 2 of the corresponding staff report.



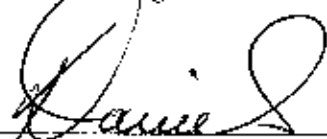
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devs/reports/2004/du no 3060 30 60457 Bowd

**Schedule No. 1
Conditions of Approval
Development Permit No. 60457**

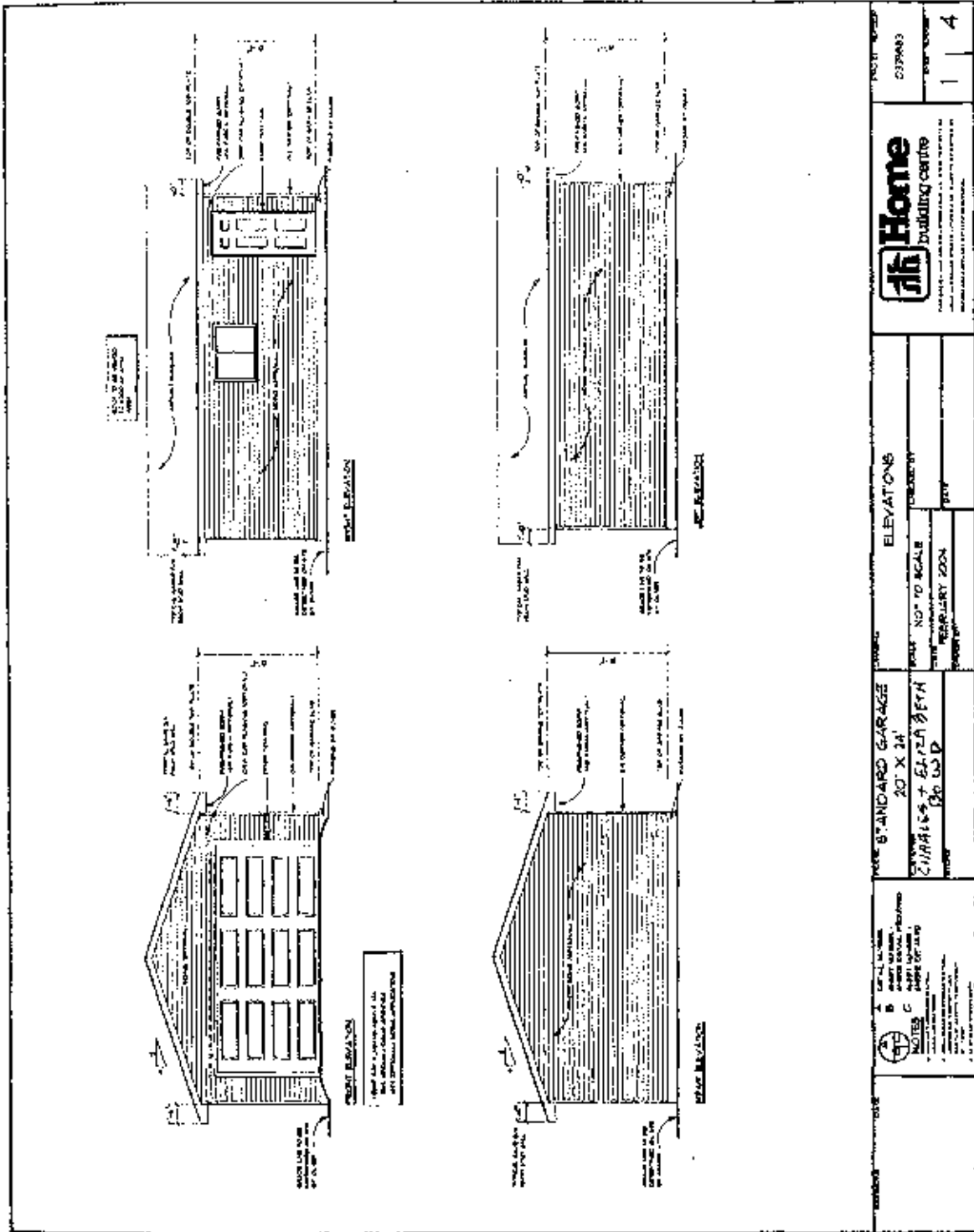
Development of Site

1. All uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
2. Applicant to obtain building permit and meet all conditions of the RDN Building Inspection Department for the addition and shed.
3. The driveway shall remained gravel and not be paved.
4. The mature trees identified on the site plan shall not be removed as part of this development.

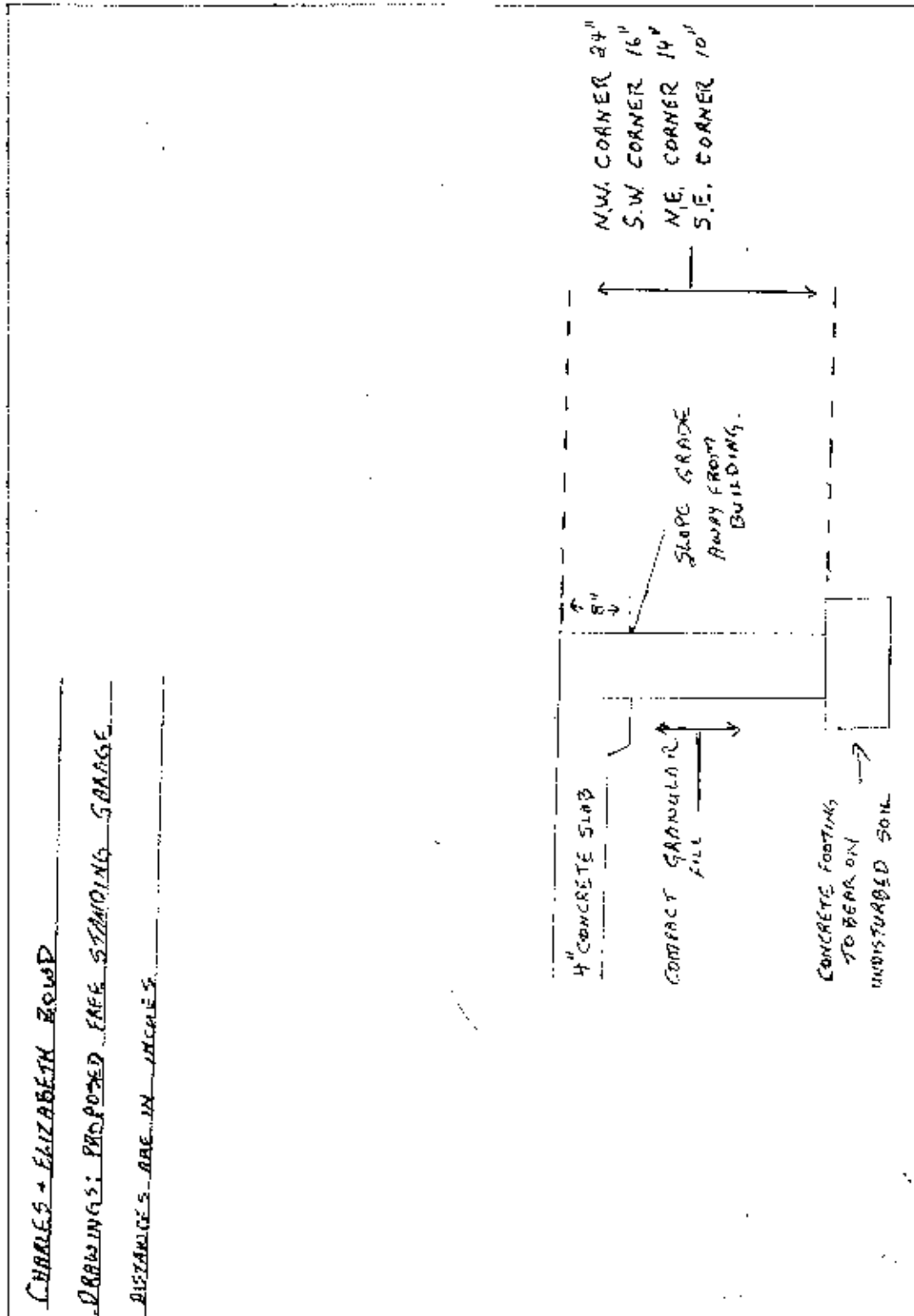
Sediment and Erosion Control

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

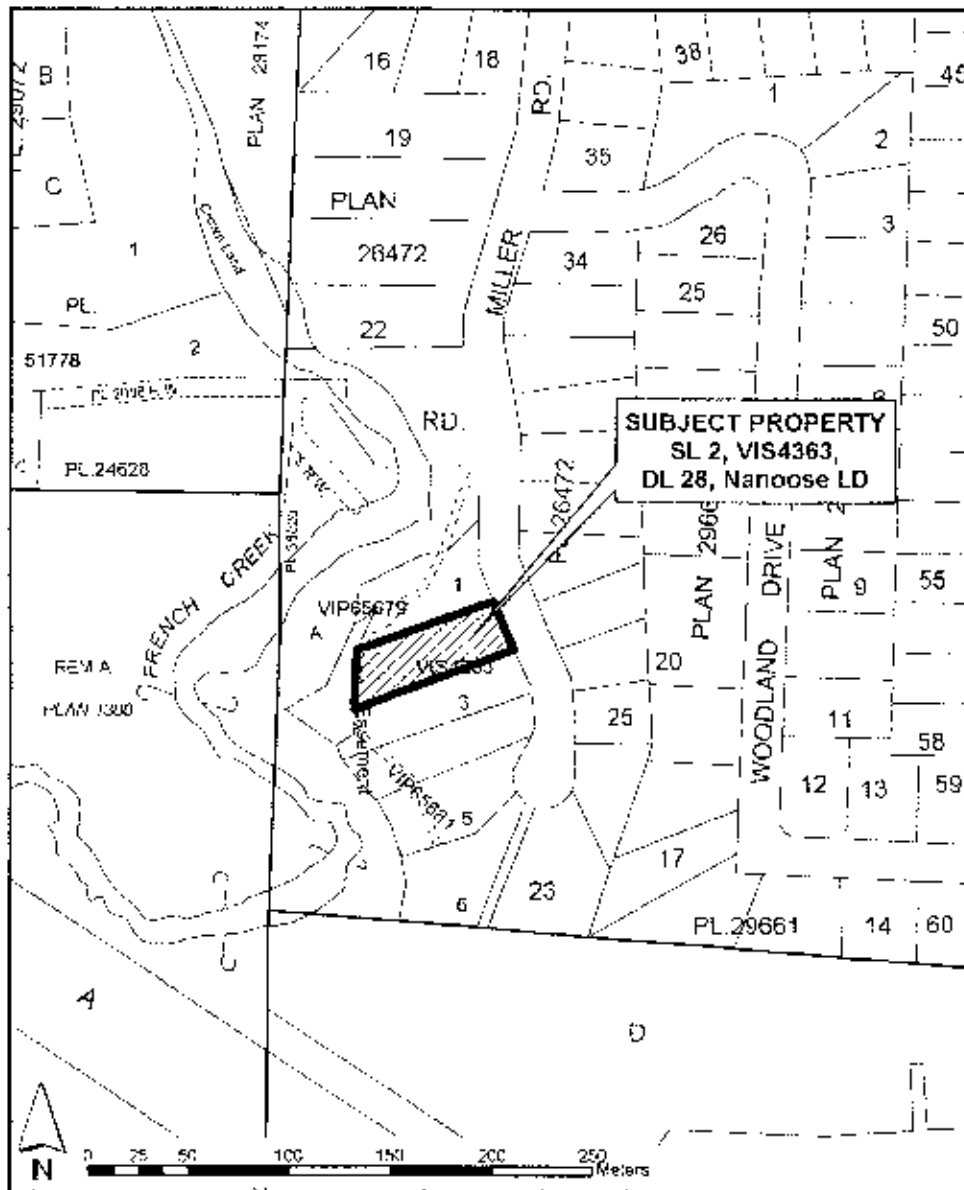
Schedule No. 3 (1 of 2)
 Building Plan
 Development Permit No. 60457



Schedule No. 3 (2 of 2)
Building Plan
Development Permit No. 60457



Attachment No. 1
Subject Property
Development Permit No. 60457



BCS Meadco 08/25/04



REGIONAL DISTRICT OF NANAIMO	
NOV - 2 2004	
CHAIR	GMCrS
CAO	GMDS
GMCrS	GMES
EAC ✓	
DATE	

MEMORANDUM

TO: Robert Japham
General Manager of Development Services

FROM: Brigid Reynolds
Senior Planner

SUBJECT: Development Permit Application No. 60458 - Ekland
Electoral Area 'G' - 548 Viking Way

FILE: 3060 30 60458

PURPOSE

To consider an application to amend a development permit to vary the minimum setback requirement for the front lot line to permit the development of a dwelling unit.

BACKGROUND

The property, legally described as Lot 22, District Lot 28, Nanoose District, Plan VIP76413, is located at 548 Viking Way in the Columbia Beach area of Electoral Area 'G' (see Attachment No. 1).

The subject property is zoned Residential 5 (RS1) pursuant to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500. The Residential 5 zoning has a minimum setback requirement for buildings and structures, excluding multiple family dwelling units, of 8.0 metres from the front and exterior lot lines and 3.0 metres from other lot lines. The dwelling unit is proposed to be sited a minimum of 5.0 metres at the north west corner of the parcel and 2.0 metres from both interior side lot lines (See Schedule No. 3).

Pursuant to the previous OCP, French Creek Official Community Plan Bylaw No. 741, 1987, the subject property was designated as being with Development Permit Area 'D' French Creek. The purpose of this DPA was for to protect the natural environment, to protect development against hazardous conditions, and for form and character of commercial and multi-family development. Development Permit No. 77 was issued to permit the subdivision and development of the lands with that DPA and established protection requirements to the ocean and French Creek, established flood construction elevations, as well as other requirements. Development Permit No. 77 also varied the height for the dwelling units in this portion of the subdivision to 9.5 metres above natural grade to accommodate the flood construction elevation and also varied the interior and rear setbacks to 2.0 metres for single family dwelling units. This application request is to amend DP No. 77 and vary the front and exterior lot lines.

The subject property is a flat corner lot that has been cleared. The dwelling unit is proposed to be 155.3 m² in floor area and consist of one storey on a 0.9 to 1.2 metres crawl space. The building plans as submitted are a similar style to dwelling units in the Columbia Beach neighbourhood.

In November 2003, the developer and previous owner of the property, made an application to vary the setbacks for this and two other lots in the subdivision to ensure adequate building site areas. The requested variance for the subject property was to reduce the front and exterior lot setbacks from 8.0 to

5.0 metres. The Board at their regular meeting on January 13, 2004 denied the requested variance as there was no specific building plans or justification for the variance.

ALTERNATIVES

1. To approve the development permit amendment as submitted subject to the conditions outlined in Schedule Nos. 1 and 2 and the notification requirements pursuant to the *Local Government Act*.
2. To deny the requested development permit amendment application.

LAND USE AND DEVELOPMENT IMPLICATIONS

The layout of the corner lot and the required setbacks of the RS5 zone constrain the available buildable site area for an average sized dwelling unit. If the properties were located within a Residential 1 (RS1) zone, the zone intended for single dwelling unit use, the minimum permitted setbacks are 8.0 for the front lot line, 5.0 metres for exterior lot line, and 2.0 metres for the rear and interior lot lines. The proposed setbacks requested as part of this application would be consistent with the majority of properties located within the French Creek area and are considered to be appropriate for the proposed construction of a single family residential dwelling unit on the lot.

The visibility along Viking Way should not be adversely impacted due to the variance request as the dwelling unit is proposed to be sited outside of the Sight Triangle setbacks established in Section 3.3.7 of the General Regulations of Bylaw No. 500.

No proposed building plans were submitted as part of the previous application requesting a variance for this lot. It was therefore difficult for the Board to assess all the impacts of that application. In addition, the developer was requesting the variance in order to make the lots more 'saleable'. The lot has now been sold and the current owner is proposing to construct the dwelling unit as shown in Schedule No. 3. The design and siting of the proposed dwelling unit is consistent with the style and character of other dwellings in the subdivision.

MINISTRY OF TRANSPORTATION IMPLICATIONS

Roads within the RDN, except for private roads, are under the Ministry of Transportation's (MOT) jurisdiction. The MOT requires a 4.5 metre setback from the road right of way, in part to ensure traffic visibility is not impacted in a negative manner. Permission is required where a development is proposed to be sited within the 4.5 MOT setback. No MOT permission is required for this application.

DEVELOPMENT PERMIT AREA IMPLICATIONS

Prior to the subdivision of the parent parcel the subject property was originally in a Development Permit Area (DPA). Development Permit No. 77 which applies to the subject property was issued pursuant to the previous designation. However, when French Creek Official Community Plan Bylaw No. 1115 was adopted in 1998 this Development Permit area designation was removed. Therefore, the current application, although not currently within a DPA, requires an amendment to the original DP No. 77.

VOTING

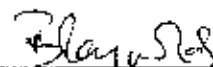
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS


This is an application to amend DP No. 77 and to vary the minimum setback from the exterior and a portion of the front lot line of the RS5 zone to facilitate the construction of a dwelling unit. The Residential 5 (RS5) zone requires buildings and structures to be located a minimum of 8.0 metres from the front and exterior lot lines and 3.0 metres from the interior side lot lines. DP No. 77 relaxed the interior side lot lines to 2.0. The proposed development is requesting to relax the exterior and a portion of the front lot line to a minimum of 5.0 metres. The lot is a corner lot and together with the setbacks for the RS5 zone creates siting constraints for an average sized dwelling unit. Views and site lines should not be impacted due to the proposed siting and height of the dwelling unit and the proposed development consists of an average size one story dwelling unit consistent with other developments in the Columbia Beach neighbourhood.

RECOMMENDATION

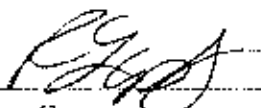
That Development Permit Amendment Application No. 60458 to vary the minimum exterior and a portion of the front setback requirements of the Residential 5 (RS5) zone from 8.0 metres to 5.0 metres to permit the construction of a dwelling unit on the property legally described as Lot 22, District Lot 28, Nanouse District, Plan VIP76413 be approved subject to the conditions outlined in Schedule Nos. 1, 2, 3, and 4 and subject to notification requirements pursuant to the *Local Government Act*.



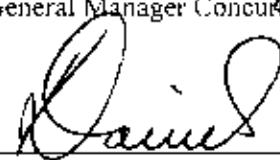
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
dev.svs/reports/2064/dp_no_3060_3060458

**Schedule No. 1
Conditions of Approval
Development Permit No. 60458**

Development of Site

- a) Uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," except where varied by this Permit.
- b) Applicant to obtain building permit prior to commencing construction.
- c) Development to be in substantial compliance with Schedule Nos. 2, 3, and 4.

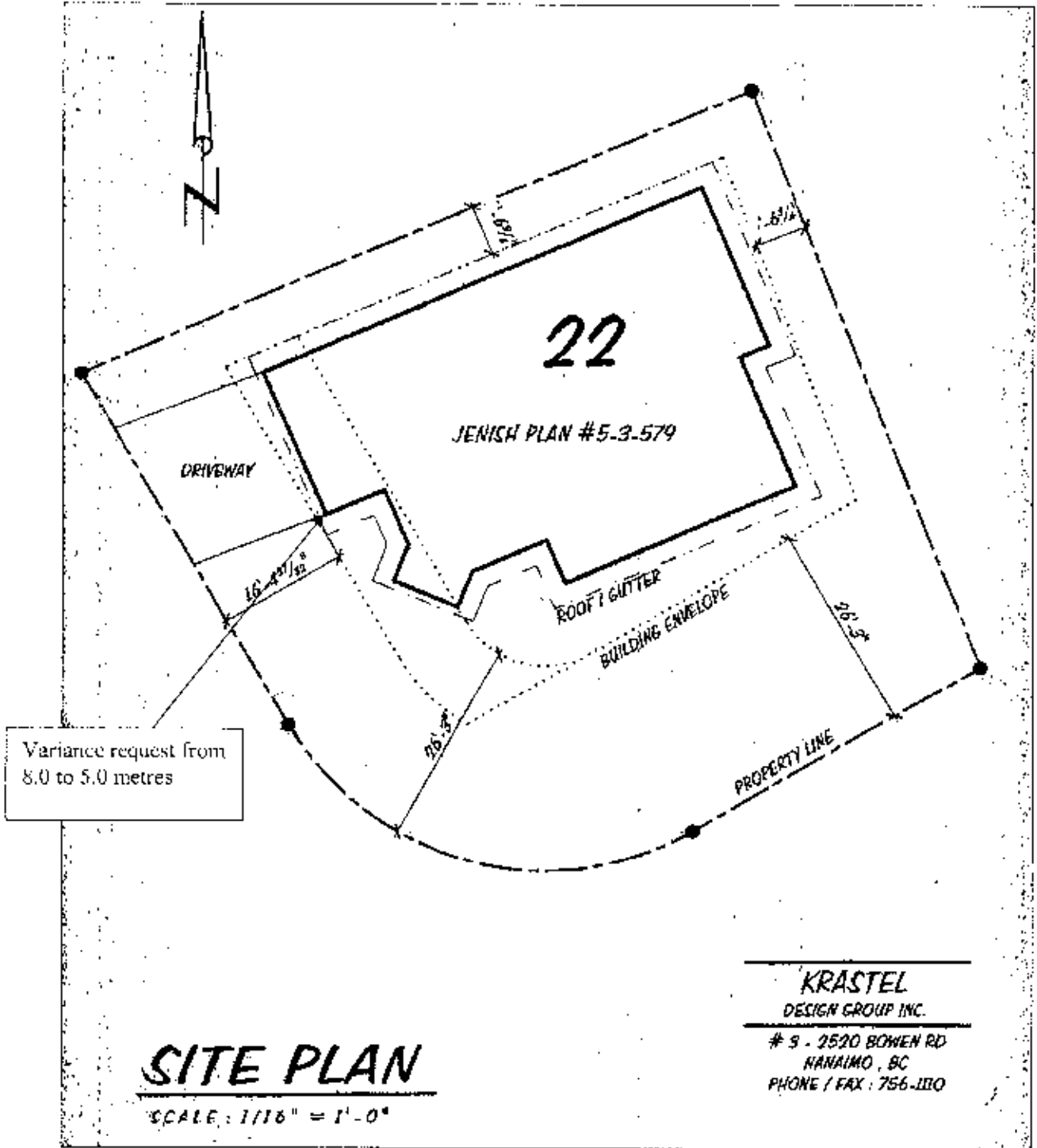
Survey

- d) A survey prepared by a British Columbia Land Surveyor (BCLS), is required upon completion of the dwelling unit and prior to occupancy, to confirm its siting and height. This survey should include indication of the outermost part of the building such as the overhang, gutters etc, and shall be prepared to the satisfaction of the Regional District of Nanaimo.

Geotechnical

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

Schedule No. 2
Site Plan
Development Permit No. 60458
(as submitted by the applicant and reduced for convenience)

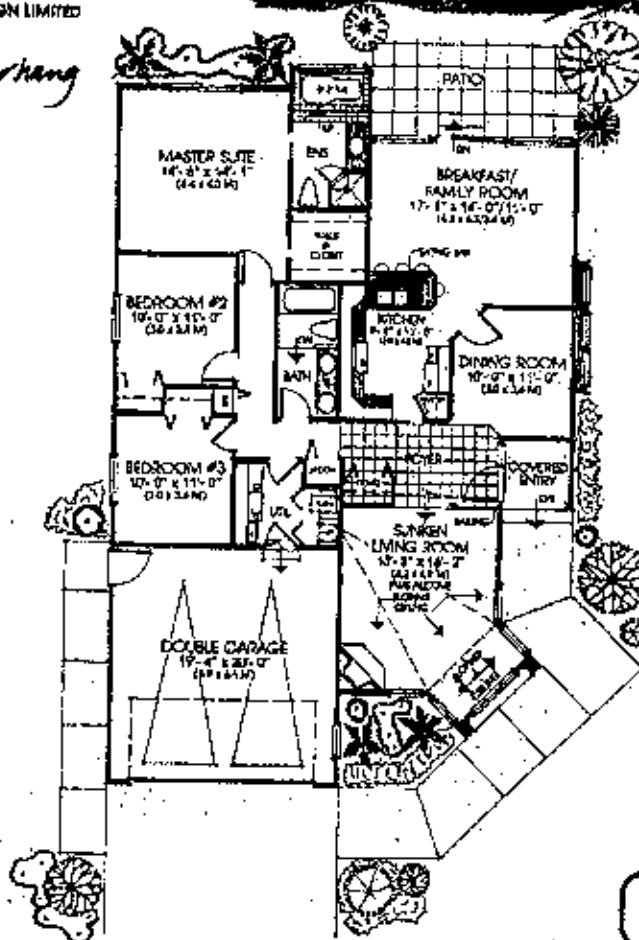


Schedule No. 3
 Building Plan
 Development Permit No. 60458
 (as submitted by the applicant and reduced for convenience)



ALL DESIGNS / COPYRIGHT
 JENISH HOUSE DESIGN LIMITED

note:
 12" gable overhang
 @ garage.



FEATURES / OPTIONS	
<input checked="" type="checkbox"/> CRAWL	2 x 4
<input checked="" type="checkbox"/> BASEMENT	2 x 6
<input type="checkbox"/> SLAB	REVERSE
OTHER:	

MAIN FLOOR PLAN
 1672 SQ. FT. (155.3 M²)

WIDTH — 40'-0" (12.2 M)
 DEPTH — 62'-4" (19.0 M)

PLAN NO. 5-3-579
 TOTAL 1672 SQ. FT. (155.3 M²)

**Schedule No. 4
Requested Variances
Development Permit No. 60458**

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

1. Section 3.4.65 Minimum Setback Requirements Front and Exterior Lot Line proposed to be varied from 8.0 metres to 5.0 metres to facilitate the construction of a dwelling unit as shown on Schedule No. 2.



CHAIR		GMCrs	
PAO		GMDS	
SECRETARY		GMES	

MEMORANDUM

TO: Robert Lapham
General Manager, Development Services

DATE: October 29, 2004

FROM: Keeva Kehler
Planner

FILE: 3320 20 25905

SUBJECT: Request for Relaxation of the Minimum 10% Frontage Requirement
Applicant: Fern Road Consulting Ltd., on behalf of J Lundine
Electoral Area 'G' - Lundine Lane

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement as part of a 3-lot subdivision proposal.

BACKGROUND

The applicant's agent, Fern Road Consulting Ltd., has requested that the minimum 10% perimeter frontage requirement be relaxed for 1 proposed parcel as part of a 2-lot subdivision proposal for the property legally described as Lot 1 District Lots 49 Nanoose District Plan 45808 and located at 1361 Lundine Lane within Electoral Area 'G' (see Attachment No. 1 for location of subject property).

The subject property is currently zoned Residential 1 (RS1) and is within Subdivision District 'Q' (minimum 700 m² with community water and community sewer) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing to subdivide the parent parcel into 2 lots, both of which are greater than 700 m² in size, therefore meeting the minimum parcel size requirements of Bylaw No. 500 (see Attachment No. 2 for proposed subdivision).

Breakwater Enterprises, the community water provider in the area, has confirmed that community water service is available for the proposed 2-lot subdivision. Community sewer service is available from the Regional District.

Proposed Lot A, as shown on the plan of subdivision submitted by the applicant, does not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontages on this proposed parcel are as follows:

Proposed Lot No.	Required Frontage	Proposed Frontage	% of Perimeter
A	29.8 m	6.1 m	2.0 %

Therefore, as this proposed parcel does not meet the minimum 10% parcel frontage requirement, approval from the Regional Board of Directors is required.

ALTERNATIVES

1. To approve the request for relaxation of the minimum 10% frontage requirement for proposed Lot A.
2. To deny the request for relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

The parcel proposed to have reduced frontage is a panhandle lot. Despite the reduced frontages, due to the larger parcel sizes, buildable site areas will be available to support the intended residential uses on both the remainder and proposed new lot.

The applicant has applied to be included in the French Creek Sewer Local Service Area (FCSLSA). At its regular Board meeting held on September 28, 2004, the Board granted three readings to the proposed bylaw and forwarded it to the Inspector of Municipalities for approval. The applicant will be required to pay Capital Charges of \$556.00 for each parcel proposed to be created for contribution to the downstream sanitary sewer and \$2,023.00 per parcel for contribution to the sewage treatment plant.

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

Staff has concerns that the proposed subdivision does not provide for future access to lands beyond. However, in response to staff concerns, the agent for the applicant has indicated that the location of the dwelling units on adjacent lots would not be possible without removing these dwellings. The adjacent parcel to the east has frontage on two sides and would not need a relaxation in the event of a subdivision application. In addition, the agent states that the subdivision could be completed as a bare land strata subdivision without obtaining a frontage relaxation from the Regional Board.

Environmentally Sensitive Areas Atlas

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

VOTING


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

SUMMARY


This is a request to relax the 10% minimum frontage provision for 1 parcel pursuant to section 944 of the *Local Government Act* as part of a 2-lot subdivision proposal. Proposed Lot A, which requires a relaxation of the minimum 10% frontage requirement, will be capable of supporting the intended residential uses permitted in the zoning provisions. Ministry of Transportation staff has indicated that they have no objection to the request for relaxation of the frontage for this parcel.

RECOMMENDATION

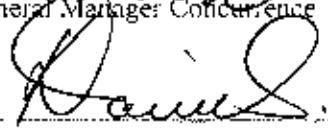
That the request from Fern Road Consulting Ltd., on behalf J. Lundine, to relax the minimum 10% perimeter frontage requirement for Proposed Lot A as shown on the Plan of Proposed Subdivision of Lot 1 District Lot 49, Nanoose District Plan 44808 be approved.



Report Writer



General Manager Concurrence

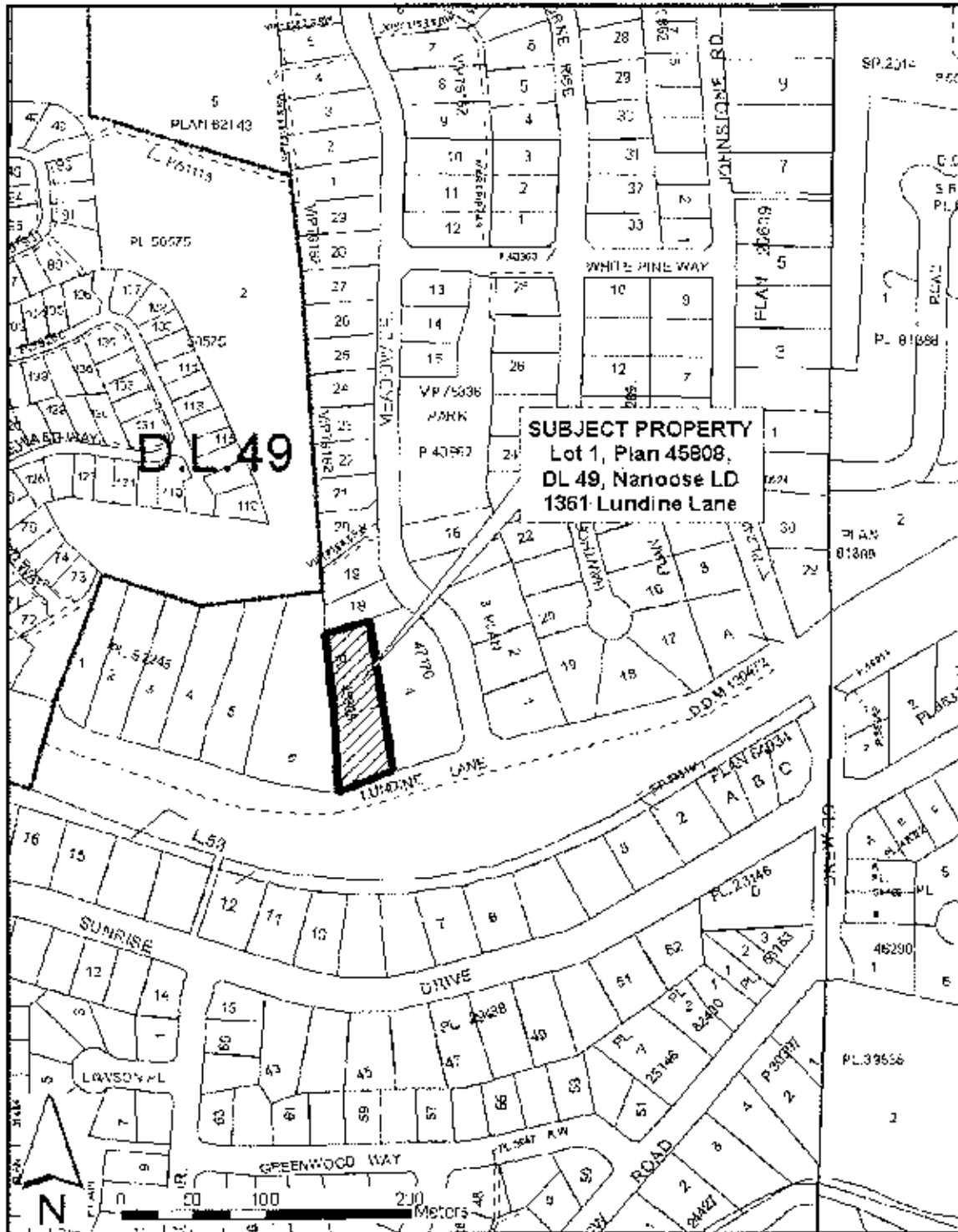


CAO Concurrence

COMMENTS:

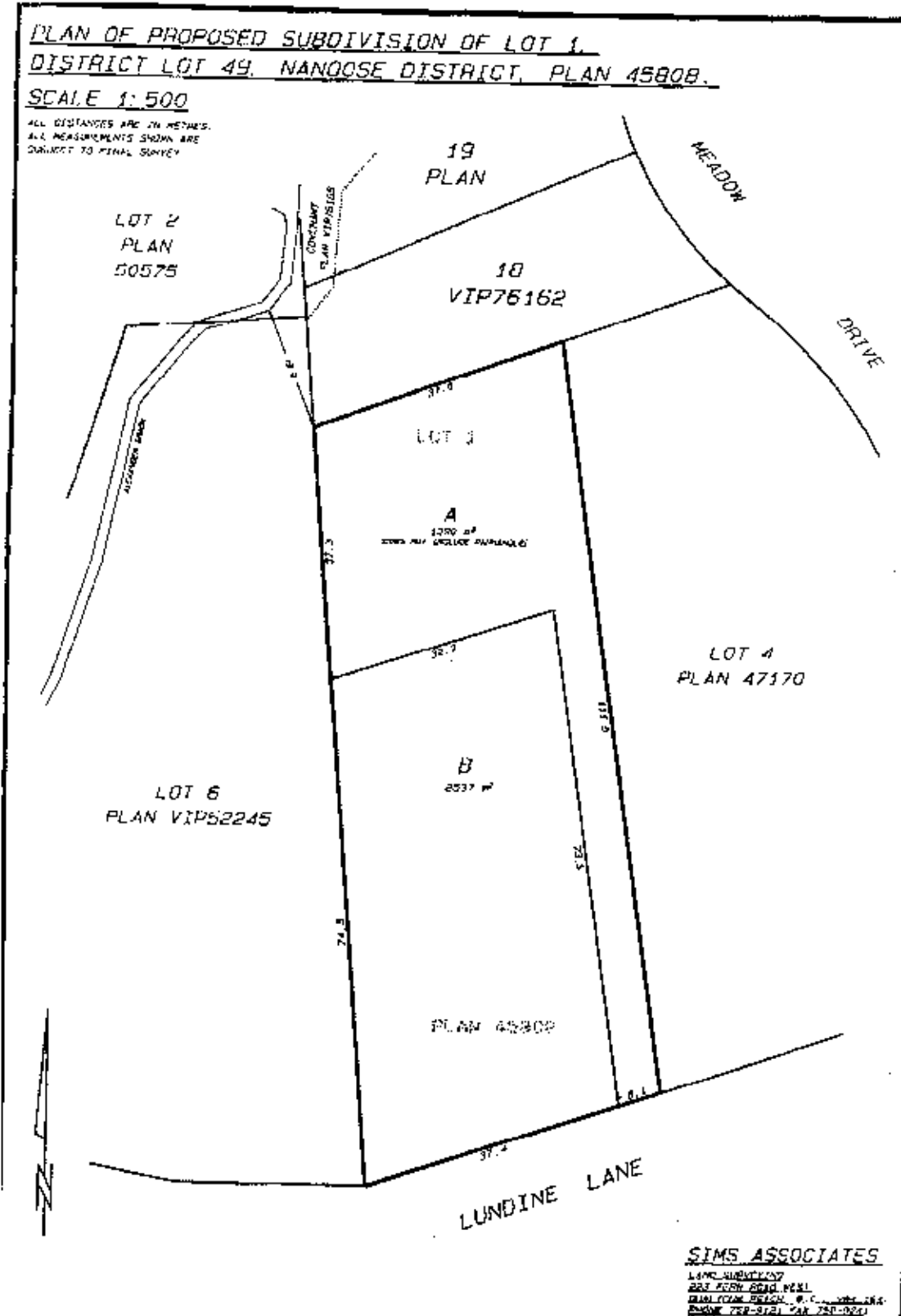
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Attachment No. 1
Location of Subject Property



BOGS MAPSHEET NO. 927 019 1 1

Attachment No. 2
Proposed Plan of Subdivision
(as submitted by applicant / reduced for convenience)



IMPLICATIONS

Building Permit Applications for Accessory Buildings

A significant challenge faced by staff is dealing with Building Permit applications where the building plans suggest that a secondary suite is likely the intended use. Frequently, Building Permit applications are received for accessory building where the applicant wants to have finished walls, heat, a toilet, and / or bathing facilities. Applicants say that the intended use is a workshop, or a studio, or an office. Unfortunately a percentage of these applicants intend to convert the building into an illegal 2nd dwelling unit once the Building Inspection process is complete.

Staff could arbitrarily refuse to approve building permits for all accessory buildings if they contain plumbing for a toilet, water, or electricity. This approach may be open to a legal challenge as the RDN may not be able to justify refusal of the building permit as no bylaws or regulations are actually being broken. This type of arbitrary decision is also punitive to the many property owners who want legitimate accessory structures with such amenities and have no intent of creating an illegal suite.

To be flexible RDN staff has not arbitrarily refused building permits based upon the simple inclusion of certain amenities. Staff has been evaluating the building plans on a case by case basis, and requiring certain changes to Building Permits where the intent appears to be to create an illegal suite. This approach is subjective, and it is a challenge for staff to maintain consistency from application to application.

When staff inform an applicant that their plans appear to create an illegal suite or secondary dwelling unit the frequent response is to re-label the plans, remove the appliances, and argue that the area is not intended to be used as a suite. Staff asks for structural changes to the floor plan and / or the removal of plumbing from a certain area to ensure the building can not function as a suite. The challenge for staff is to ensure a consistent approach that would stand up to a legal challenge if a Building Permit is refused because the design appears to be intended for an illegal use.

Building Permit Applications for Suites in Principle Dwelling

Frequently Building Permit applications are received for dwellings that appear to contain two separate dwelling units. Staff could arbitrarily refuse to approve building permits for 2nd kitchens, or laundry facilities; however, this approach may be open to a legal challenge as the RDN may not be able to justify refusal of the building permit unless there is significant reason to believe that a suite is contemplated. And again, this type of arbitrary decision is punitive to the many property owners who may legitimately want such amenities and have no intent of creating an illegal suite.

Staff has been evaluating the building plans on a case by case basis, and refusing to issue building permits where it is clear that the intent is to create an illegal suite once the building inspection process is complete. Staff may ask for structural changes to the floor plan and / or the removal of plumbing or facilities from a certain area to ensure the building cannot function as a suite.

This situation is further complicated by persons who want a self-contained living area, within their house, for a family member. The RDN has accommodated this by requiring a declaration from the property owner that the building shall be remodeled to remove the self-contained living area when the family member no longer resides there. It is also required that the family member have access to the entire household.

Enforcement

The RDN is performing due diligence by ensuring that Building Permits are not issued for a building that contains an illegal dwelling unit. Once the Building Inspectors have completed their inspections, some persons will do further work, without a Permit, to convert the building into an illegal second suite or dwelling unit. There is little that staff can do to prevent this. Staff cannot assume that a person intends to undertake illegal action in the future and refuse to issue a Building Permit based on that assumption. Where further internal renovations are suspected to occur to convert a building into an illegal second suite or dwelling unit, the best option is to identify the property for follow-up investigation and enforcement action if necessary.

INTERGOVERNMENTAL IMPLICATIONS

As part of the Building Inspection plan checking process, if expanded or semi-self contained living facilities are proposed to accommodate extended family within a dwelling unit, the Building Inspection Department will review the proposed means of sewage disposal and water service requirements to ensure adequate service is available and may require confirmation from the purveyor or qualified professional, that the lot or the site services have the ability to accommodate the proposed use.

SUMMARY

Staff is working to complete a review of secondary suite development and will report back to the Board in 2005. This report provides the Board with an update on the secondary suite situation. It also provides the Board with a proposed internal policy regarding the review and approval of Building Permits where a secondary suite is suspected. Staff recommend that the policy be approved to provide clear direction to applicants and to ensure a more consistent approach for reviewing building permit applications that may include the capability of secondary or extended family occupancy.

RECOMMENDATIONS

1. That interim policy report on Secondary Suites be received and that staff be directed to follow the internal policy as contained in this report until a comprehensive review is completed and new direction is provided.
2. That staff be directed to report back to the Board with a full review and recommendations with respect to resolving or regulating secondary suits within the RDN Electoral Areas.

Report Writer

General Manager Concurrence

CAO Concurrence

COMMENTS:

Schedule No. 1

Policy for Building Permit Evaluation

To ensure a consistent approach in evaluation Building Permit applications staff propose the following steps be followed in dealing with Building Permit applications where an illegal suite or dwelling unit is suspected.

1. Potential Dwellings in Accessory Buildings
 - a) Where a Building Permit application for an accessory building proposes any of the following features, or has the wiring, plumbing, or floor plan that indicates any of the following features are intended, the application shall be forwarded to Management for further evaluation:
 - i) laundry facilities
 - ii) toilet
 - iii) bathtub, shower or sink
 - iv) kitchen cupboards, appliances, or sink
 - v) room with a closet
 - b) Where a Building Permit application is forwarded to Management for review the Manager shall apply the following criterion to evaluating the Building Permit:
 - i) The Building Permit shall not be issued if the building can be converted to function as a dwelling unit without renovations that would trigger the requirement for a subsequent building permit.
 - ii) The Building Permit shall not be issued if the building design has no apparent practical use other than as a dwelling unit.
 - iii) Where the building has both sewer and water service, or where required by the Manager, the building permit shall not be issued unless the applicant provides a notarized declaration stating the intended use of the building and confirming that the building shall not be used as a dwelling.
2. Potential Suites in Principle Dwellings
 - a) Where a Building Permit application for a dwelling proposes any of the following features, or has the wiring, plumbing, or floor plan that indicates any of the following features are intended, the application shall be forwarded to Management for further evaluation:
 - i) 2 laundry facilities
 - ii) 2 separate kitchens
 - iii) A floor plan that allows for the separation of the dwelling into 2 areas that could function as separate dwellings.

- h) Where a Building Permit application is forwarded to Management for review the Manager shall apply the following criterion to evaluating the Building Permit:
- i) The Building Permit for a single family dwelling shall not be issued if the building can be converted to function as 2 or more dwelling units without renovations that would trigger the requirement for a subsequent building permit.
 - ii) The Building Permit for a single family dwelling shall not be issued if the building design has no apparent practical use other than as two or more dwelling units.
 - iii) Notwithstanding Section 2. b) i) and ii) a Building Permit for a single family dwelling that is designed such that it could function as 2 dwelling units may be issued provided that a notarized declaration is provided by the property owner stating that the building will be commonly occupied by extended family and that the individuals will have access to the entire household.
 - iv) Where the building has 2 kitchens or 2 laundry facilities, or where required by the manager, the building permit shall not be issued unless the applicant provides a notarized declaration stating the building shall not be used as 2 dwelling units.