

REGIONAL DISTRICT OF NANAIMO

ELECTORAL AREA PLANNING COMMITTEE

TUESDAY, MAY 10, 2005

**** 6:15 PM ****

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

3 **Hans Zychlinksi**, re Nanoose OCP.

MINUTES

4-8 Minutes of the Electoral Area Planning Committee meeting held Tuesday, April 12, 2005.

BUSINESS ARISING FROM THE MINUTES

PLANNING

AMENDMENT APPLICATIONS

9-19 Zoning Amendment Application No. ZA0416 – Williamson & Associates, BCLS, on behalf of Sanway Inc. – Claudet Road – Area E.

DEVELOPMENT PERMIT APPLICATIONS

20-27 Development Permit Application No. 60509 – Heck – 1885 & 1879 Widgeon Road – Area H.

28-36 Development Permit Application No. 60512 – Gardiner – Viking Way – Area G.

37-45 Development Permit Application No. 60514 – Jorgensen – Osmond Ltd. – Grant – 1416 Reef Road – Area E.

46-66 Development Permit Application No. 60515 – BC Conservation Foundation on behalf of Fisheries and Oceans Canada – Part of Block 1462 (Cameron Lake) – Area F.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

67-78 Development Variance Permit Application No. 90507 – Wylie – 5040 Seaview Drive – Area H.

79-84 Development Variance Permit Application No. 90512 – J & J Stevenson and S & J Bentley – Fourneau Road – Area G.

85-95 Development Variance Permit Application No. 90513 – Simonds/Winter – 787 Terrien Way – Area G.

OTHER

96-101 Minimum Parcel Size Amendment to Bylaw No. 500, 1987 for Subdivisions Pursuant to Section 946 of the Local Government Act – Electoral Areas ‘A’, ‘C’, ‘D’, ‘E’, ‘F’, ‘G’ & ‘H’.

Review of Resource and Forestry Land Subdivision Regulation. (Report to be circulated)

102-112 Draft Nanoose Bay Official Community Plan. (Plan and Correspondence included as separate enclosure)

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

Fax

To: Regional District
Nanaimo

From: Hans v. Zychlinski
2175 Spurs Place
Nanoose Bay, B.C., Canada V9P 9C2

Phone: _____

Phone: (250) 468-9911

Fax: 250 390 4163

Fax: (250) 468-9911

cc: att. Mrs Maureen Pearse Date: 1 May 2005

Pages including cover sheet: 1

REMARKS:	
<input type="checkbox"/> Urgent	<input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply
<u>Att. Ms. Maureen Pearse</u>	
<u>Subj. Regional Directors' Meeting on 10. May 05</u>	
<u>Dear Madam,</u>	
<u>pls. schedule me on the agenda at the meeting on 10. May 05</u> <u>as delegation to speak on my behalf with regard to the</u> <u>Development Proposal for a shopping centre in Nanoose</u> <u>Bay at the Island Highway opposite of the Petro-Can</u> <u>gasstation.</u>	
<u>I am a resident and business owner in Nanoose Bay.</u> <u>Pls. be so kind and confirm that I will be on the</u> <u>agenda.</u>	
<u>Sincerely,</u>	
<u>Zychlinski</u>	

This message is intended only for the use of the individual or entity to which is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original to us by postal service to the above noted address. Thank you.

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, APRIL 12, 2005, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director E. Hamilton	Chairperson
Director H. Kreiberg Alternate	Electoral Area A
Director B. Jepson	Electoral Area D
Director G. Holme	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	Deputy Administrator
J. Llewellyn	Manager of Community Planning
N. Tonn	Recording Secretary

MINUTES

MOVED Director Bartram, SECONDED Director Stanhope, that the minutes of the Electoral Area Planning Committee meeting held March 8, 2005 be adopted.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0415 – Wessex Enterprises Ltd./Addison – Midora Road & Extension Road – Area C.

MOVED Director Stanhope, SECONDED Director Holme,:

1. That Zoning Amendment Application No. ZA0415 submitted by Harry May for Wessex Enterprises Ltd., to rezone the property legally described as Parcel Z (DD K83923), Section 13, Range 1 and Sections 12 and 13, Range 2, Cranberry District from Rural 6 Subdivision District 'V' (RU6V) to Comprehensive Development Zone 19 (CD19) in order to permit residential use and facilitate subdivision be approved to proceed to public hearing.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.308, 2005" be given 1st and 2nd reading.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.308, 2005" proceed to public hearing, subject to the conditions outlined in Schedule No. 1.
4. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.300, 2004" be delegated to Director Hamilton or her alternate.

CARRIED

MOVED Director Holme, SECONDED Director Bartram, that the minutes of the Public Information meeting held January 13, 2005 for Zoning Amendment Application ZA0415 be received.

CARRIED

Zoning Amendment Application No. ZA0503 – Owners of Strata Plan VIS5160/Hamilton – Horne Lake – Area H.

MOVED Director Bartram, SECONDED Director Biggemann,:

1. That the minutes of the Public Information Meeting held on March 23, 2005 be received.
2. That Zoning Amendment Application No. ZA0503 submitted by Murray Hamilton on behalf of the Owners of Strata Plan VIS5160 to amend the Comprehensive Development 9 (CD9) and Water 4 (WA4) zones pursuant to Bylaw No. 500 to permit a boat ramp; one water storage structure and one three-sided roofed wood storage structure for each recreational residential lot; a 'lower loft' and to undertake some minor housekeeping amendments to the CD9 zone for the bare land strata properties around Horne Lake, be approved to proceed to public hearing subject to the conditions included in Schedule No. 1 as recommended by staff.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.314, 2005" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.314, 2005" proceed to public hearing.
5. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.314, 2005" be delegated to Director Bartram or his alternate.

CARRIED

Zoning Amendment Application No. 0507 – RDN Recreation and Parks Department – Horne Lake Regional Park – Area H.

MOVED Director Bartram, SECONDED Director Holme,:

1. That the minutes of the Public Information Meeting held on March 23, 2005 be received.
2. That the Ministry of Transportation be requested to amend the Land Use Covenant registered on the title of Block 40, Alberni District, Plan 691N, except that part thereof shown outlined in red on Plan 1339R and except that part in Plan 46603 to include the additional park uses proposed in Zoning Amendment Application No. ZA0507.
3. That Zoning Amendment Application No. ZA0507 be approved to proceed to public hearing subject to the conditions included in Schedule No. 1 as recommended by staff.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.318, 2005" be given 1st and 2nd reading.
5. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.318, 2005" proceed to public hearing.
6. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.318, 2005" be delegated to Director Bartram or his alternate.

CARRIED

Zoning Amendment Application No. 0508 – RDN Recreation & Parks Department – Qualicum River Corridor – Area H.

The Deputy Administrator noted that Zoning Amendment Application No. 0508 requests a zoning amendment to the Qualicum River corridor from Resource Management 1 'A' Subdivision District (RM1/A) to Public Use 6 'Z' Subdivision District (PU6/Z).

MOVED Director Bartram, SECONDED Director Kreiberg,:

1. That the minutes of the Public Information Meeting held on March 23, 2005 be received.
2. That Zoning Amendment Application No. ZA0508 recognizing the existing fish hatchery uses and trail use be approved to proceed to public hearing.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.319, 2005" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.319, 2005" proceed to public hearing.
5. That the public hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.319, 2005" be delegated to Director Bartram or his alternate.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

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

MOVED Director Stanhope, SECONDED Director Bartram, that Development Permit Application No. 60449 to allow the installation of a new retaining wall at 1651 Admiral Tryon Boulevard within the Watercourse Protection Development Permit Area, and to vary the minimum setback from the sea from 8.0 metres to 3.0 metres, be approved, in accordance with the terms outlined in Schedule No. 1 of the corresponding staff report and subject to the comments received as a result of public notification pursuant to the *Local Government Act*, and that Development Permit Application No. 60449 be issued upon completion of the following items:

- a) The applicants must provide, in the form of a letter of credit or cash, or certified cheque a security in the amount of CDN \$5,000.00, for required landscaping, both on the subject property and within the public road right-of-way.
- b) The applicants must register the geotechnical reports prepared by Davey Consulting and Engineering Limited, dated September 21, 2004 and subsequent addenda, including the save harmless clause, as a Section 219 covenant on the title of the subject property.

CARRIED

Development Permit Application No. 60510 – Weighill – 1501 Gordon Road – Area A.

MOVED Director Kreiberg, SECONDED Director Biggemann, that Development Permit Application No. 60510 submitted by Richard and Michele Weighill to approve land alteration works within the Streams, Nesting Trees and Nanaimo River Floodplain Development Permit Area, consisting of the introduction of large amounts of fill (approximately 24,000 m³ in total) to allow for the construction of a French drain on the property legally described as Lot 1, Section 17, Range 8, Cranberry District, Plan 31020 be approved subject to the terms outlined in Schedule No. 1.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90505 – Shannon/McLeod-Shannon – 1827 Ballenas Road West – Area E.

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit Application No. 90505, submitted by Patrick Shannon and Rosie McLeod-Shannon for 1827 Ballenas Road West, to vary Section 3.4.61 of “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” by relaxing the interior side lot line setback requirement from 2.0 metres to 1.2 metres to legalize an existing accessory building according to the terms of Schedule 1, be approved subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

Development Variance Permit Application No. 90506 – Eagles – 1380 Leeson Lane – Area A.

MOVED Director Kreiberg, SECONDED Director Bartram, that Development Variance Permit Application No. 90506, submitted by James and Adrienne Eagles to vary “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” as outlined on Schedule No. ‘4’ to legalize the siting of an existing single dwelling unit and attached deck, and allow a second-storey addition according to the terms in Schedule No. ‘1’, be approved subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

Development Variance Permit Application No. 90508 – Seefried – Kirkstone Way – Area A.

MOVED Director Kreiberg, SECONDED Director Holme, that Development Variance Permit Application No. 90508, submitted by Andrew and Linda Seefried to vary “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” by relaxing the maximum permitted dwelling unit height from 8.0 metres to 9.8 metres according to the terms of Schedule ‘A’, be approved subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

Development Variance Permit Application No. 90509 – McCullough – 1265 Marina Way – Area E.

MOVED Director Holme, SECONDED Director Biggemann, that Development Variance Permit Application No. 90509, submitted by the property owners, Ken McCullough and Iris McCullough, for 1265 Marina Way to relax the interior side lot line setback requirement according to the terms of Schedule No. 1, be approved subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

Development Variance Permit Application No. 90510 – Teppler – 2424 Ainsley Place – Area E.

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit Application No. 90510, submitted by Wolfgang and Carol Teppler, to vary Section 3.4.61 of “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” to relax the maximum permitted dwelling unit height from 8.0 metres to 9.2 metres according to the terms of Schedule ‘1’, be approved as submitted subject to the notification procedures pursuant to the *Local Government Act*.

CARRIED

Development Variance Permit Application No. 90511 – Heinz-Farris – 2130 Sherritt Drive – Area E.

MOVED Director Holme, SECONDED Director Kreiberg, that Development Variance Permit Application No. 90511, submitted by the property owners Steven Heinz and Jill Ferris for 2130 Sherritt Drive, to vary Section 3.4.61 of “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” by relaxing the maximum height requirement from 8.0 metres to 8.7 metres in order to accommodate the construction and siting of a dwelling unit, be approved subject to the conditions outlined in Schedule No. 1, and to the notification requirements pursuant to the *Local Government Act*.

CARRIED

OTHER

Land Use and Subdivision Amendment Bylaw No. 500.303 – Fern Road Consulting Ltd., on behalf of Duanne Vincent – 930 Spider Lake Road – Area H.

MOVED Director Bartram, SECONDED Director Holme,:

1. That the request by Fern Road Consulting on behalf of Duanne Vincent, to relax the minimum 10% frontage requirement for proposed Lot C, as shown on the plan of subdivision of Lot 4, Block 360, Newcastle and Alberni Districts, Plan 35096, be approved.
2. That “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.303, 2004” be adopted.

CARRIED

Development Approval Procedures and Notification Bylaw No. 1432.

MOVED Director Bartram, SECONDED Director Kreiberg,:

1. That “Regional District of Nanaimo Development Approval Procedures and Notification Bylaw No. 1432, 2005” be given three readings.
2. That “Regional District of Nanaimo Development Approval Procedures and Notification Bylaw No. 1432, 2005” having received three readings, be adopted.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:46 PM

CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
MAY - 2 2005			
<i>EAPC ✓</i>			

MEMORANDUM

TO: Wayne Moorman, P. Eng.
 Manager, Engineering & Subdivisions

DATE: May 2, 2005

FROM: Susan Cormie
 Senior Planner

FILE: 3360 30 0416

SUBJECT: Zoning Amendment Application No. ZA0416 – Williamson & Associates, BCLS,
 on behalf of Sanway Inc.
 Electoral Area 'E' – Claudet Road

PURPOSE

To consider an application to rezone property adjacent to Claudet Road in Electoral Area 'E' in order to facilitate the development of the parcel with 2 rural parcels, 1 park land parcel, and 1 unattended public utility parcel.

BACKGROUND

The Regional District has received a Zoning Amendment application for the property legally described as Lot B, District Lot 84, Nanoose District, Plan VIP53591 and located adjacent to Claudet Road in Electoral Area 'E' (*see Attachment No. 1 for location of subject property*). The subject property, which is 8.03 ha in size, is currently zoned Resource Management 3 and situated within Subdivision District 'B' (8.0 ha minimum parcel size) (RM3B) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

Pursuant to the "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1999" (OCP), the subject property is designated within the Rural Lands Designation. The OCP policies for this designation recognize and support the use of the land for subdivision subject to criteria being met. Therefore, if the criteria can be met to the Regional District's satisfaction, an amendment to the OCP is not required.

In addition, Bylaw No. 1118 designates the subject property within the Watercourse Protection and Sensitive Ecosystems Development Permit Areas. Therefore, the development permit guidelines would be applicable in the development of the site.

The subject property is currently vacant with the exception of a Regional District community water tower and associated works, which are located near the southeast corner of the subject property. Surrounding uses include resource management zoned parcels to the north and south, Claudet Road and rural zoned parcel to the east, and rural zoned parcels to the west.

There are buildable residential sites on each of the proposed parcels. There are currently no community water or community sewer services to the subject property. The subject property is within an RDN Building Inspection area.

Documents currently registered on title include a covenant establishing minimum floodplain requirements and restricting the placement of buildings within 15.0 metres of the natural boundary of Claudet Creek and a geotechnical covenant, which includes no building and no removal of vegetation within a specified area.

Proposal:

The applicant is requesting that Bylaw No. 500, 1987 be amended from Resource Management 3 Subdivision District 'B' (RM3B) (8.0 ha minimum parcel size without community services) to Comprehensive Development 26 Zone (no further subdivision) in order to facilitate the creation of two rural parcels, 1 parcel for park land purposes (to be transferred to the RDN), and 1 parcel for community water utility purposes (to be transferred to the RDN) with an average overall parcel size of 4.0 hectares derived from the size of the parent parcel.

The submitted proposal includes the following (see Schedule No. 2 for proposed plan of subdivision):

- 2 rural fee simple parcels 1.32 ha in size and 4.35 ha in size;
- a 2.1 ha parcel to be transferred to the Regional District for park land purposes in which Claudet Creek and its riparian area is included;
- a 0.19 ha parcel for the community water tower and associated works; and,
- the registration of a section 219 covenant restricting the use of the proposed fee simple parcels to 1 dwelling unit per parcel; no wells; no bare land strata subdivision; and no agricultural buildings or structures on proposed Lot 1 unless the minimum 30 metre setback can be met or a variance has been granted by the Regional Board of Directors.

As part of the application information process, the applicant's agent submitted an engineer's assessment report with respect to soil suitability for sewage disposal systems and the impact of such systems on neighbouring wells.

Lot 2 is proposed to have a frontage of approximately 35.0 metres or 3.3% of the total perimeter frontage requirement. Therefore, as the minimum 10% perimeter frontage requirement cannot be met pursuant to section 944 of the *Local Government Act*, the applicant's agent has requested relaxation of this provision. This request for relaxation of the minimum 10% frontage requirement may be considered concurrently with the amendment application.

Public Information Meeting

A Public Information Meeting was held on April 25, 2005 at the Nanoose Place. Notification of the meeting was advertised in *The News* newspaper and on the RDN website, along with a direct mail out to all property owners within 200 metres of the subject property. Notices were also sent to the members of the Nanoose Bay Parks and Open Space Advisory Committee. Signage was also posted on the property. Eighteen (18) persons attended the information meeting and provided comments with respect to the proposal following a presentation of the proposal by the applicant's agent (see Attachment No. 2 'Proceedings of the Public Information Meeting'). The main land use issue raised at the Public Information Meeting was the concern that a precedent would be set that, at the time of other zoning amendment applications, additional small lots to be allowed to be created in the area.

ALTERNATIVES

1. To approve the Zoning Amendment application to rezone the subject property from Resource Management 3 Subdivision District 'B' (RM3B) to Claudet Road Rural Comprehensive Development Zone 26 (CD26) subject to the conditions outlined in Schedule No. 1. for 1st and 2nd reading and proceed to Public Hearing.
2. To not approve the Zoning Amendment application.

LAND USE AND DEVELOPMENT IMPLICATIONS

Currently, the applicant may construct two dwelling units on the subject property and under the provisions of the *Strata Property Act*; register the dwelling units as a Building Strata development at Land Title Office, which would result in the creation of separate titles. As the proposal is for two fee

simple parcels with a maximum residential density of 1 dwelling unit per parcel, there is no increase in the maximum permitted density.

With respect to site services, the engineer's assessment report submitted by the applicant confirms that the soils are suitable for in-ground sewage disposal systems, that VIHA standards can be met for subdivision, and that neither Claudet Creek nor neighbouring wells will be affected by the proposed septic disposal systems. The report also includes a geotechnical evaluation. The applicant's agent has indicated that the applicant is in concurrence to register this report on title. It is noted that community water service connections will be provided to each proposed parcel. Therefore, the OCP criterion concerning negative impact on groundwater and drainage regimes can be met.

With respect to the OCP criteria concerning a maximum of one dwelling unit per parcel and no Bare Land Strata subdivision permitted; the applicant's agent has indicated in writing that the applicant is in concurrence to register a section 219 covenant on title of proposed Lots 1 and 2, restricting these criteria concurrently with the plan of subdivision. A letter undertaking to register this covenant concurrently with the Plan of Subdivision at Land Title Office from the applicant's solicitor would be required to be submitted if the application proceeds.

With respect to the OCP criterion concerning verification of potable water and septic disposal for each proposed parcel, the applicant's agent has provided an engineer's report verifying the capability of the proposed parcel to support septic disposal systems. The recommended conditions of approval include that the applicant provide Vancouver Island Health Authority confirmation of approval or, if VIHA is no longer the approving authority, the applicant is to provide confirmation of approval from an authorized person or professional engineer. With respect to potable water, the Regional District is prepared to provide a community water service connection to each proposed parcel in exchange for the applicant entering into a section 219 covenant restricting the construction of water wells on the proposed parcels. From an environmental point of view, this will be an environmental benefit to the site and include protecting surrounding wells. In addition, the existing reservoir site will be transferred to the Regional District as a fee simple parcel; thus eliminating the annual costs of leasing the property (currently \$1,081.00 per year 2004–05).

With respect to the existing covenant on title restricting the removal of vegetation and placement of buildings within the covenant area, while this area includes the proposed park land area, it also includes those areas within the proposed parcels near the top of the bank. The applicant is in concurrence to retain this covenant.

With respect to the request for relaxation of the minimum frontage requirement for the proposed Lot 2, it is noted that due to the location of the existing community water utility, the frontage of the proposed parcel is affected. Despite the reduced frontage, due to the size of the proposed parcel, buildable site areas will be available to support the intended residential / rural uses. The proposed zoning will restrict any further subdivision of the proposed parcel. This restriction is consistent with the OCP policies to not permit the creation of 2.0 ha parcels with frontage relaxations.

The minimum parcel size proposed is 4.0 hectares, which is consistent with Rural Lands land use designation pursuant to the OCP Bylaw No. 1118. In order to achieve 2 fee simple parcels while maximizing the sizes of the areas for park land and public utility uses, it is proposed that, for the purpose of this Comprehensive Development Zone, a custom parcel averaging definition be included within the zone and that the averaging calculation be based on the size of the subject property prior to subdivision and the provision of the park land and public utility lots.

ENVIRONMENTALLY SENSITIVE AREAS IMPLICATIONS

The applicant has offered to transfer approximately 2.1 ha of subject property to the Regional District for park land purposes. This proposed park land area encompasses Claudet Creek and its riparian area, up to and including the top of the bank on either side. As the creek and riparian area encompasses the area

designated within the Watercourse Protection Development Permit Area and it is this area that is proposed to be included in the park land, a development permit is not required.

The Sensitive Ecosystems Development Permit Area is designated, in this case, for a wetland, which is located adjacent to Claudet Creek. As this area will also be located within the park land and no development activities are proposed within the park land, a development permit is not required.

PARK LAND IMPLICATIONS

Claudet Creek has been identified as potential salmon and trout spawning habitat. The Parks and Open Space Plan for Nanoose Bay recognize riparian areas, including the Claudet Creek corridor, as integral components of the community greenways strategy. The Parks Plan also identifies that the Claudet Creek gully may provide opportunity for a trail link from Claudet Park, located at Northwest Bay Road to the waterfront.

The Nanoose Bay Official Community Plan Bylaw No. 1118, 1999 also supports the acquisition of park land for the protection of environmentally sensitive lands.

It is noted that, as the proposed transfer of land for park land purposes is not being considered pursuant to section 941 of the *Local Government Act*, the corresponding Board policy with respect to park land evaluation and process is not required.

INTERGOVERNMENTAL IMPLICATIONS

Initial referrals were sent to the following agencies:

Ministry of Transportation – Ministry staff has indicated that the Ministry has no concerns with respect to the zoning amendment application, but notes that this is not to indicate approval of the corresponding subdivision application.

Central Vancouver Island Health Authority (CVIHA) – No response to date has been received from the CVIHA. However, it is noted that the applicant's agent has provided an engineer's report indicating that the proposed parcels can support septic disposal systems.

Local Fire Chief – The Planning Department, in consideration of fire safety issues, has been referring applications for rezoning or OCP amendments to local fire departments. The Fire Chief has verbally indicated that the Fire Department has no issues with this proposal.

VOTING

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

SUMMARY

This report addresses a request to amend Bylaw No. 500, 1987 to allow rural residential uses and permit the subdivision of a parcel located adjacent to Claudet Road of Electoral Area 'E'. A Public Information Meeting was held on April 25, 2005 and the Minutes are attached in Attachment No. 2. The proposed Comprehensive Development Zone 26 will restrict any further subdivision. In addition, the required covenant will restrict a bare land strata subdivision. As there will only be 1 dwelling unit per parcel allowed, separating title by way of a building strata will not be possible.

The proposed CD zone will include a calculation for parcel averaging based upon the size of the subject property prior to subdivision, which will allow for the provision of land for park land and public utility uses.

This application includes a request to relax the 10% minimum frontage requirement for Proposed Lot 2. This is a result of the proposed unattended utility parcel, which currently houses a community water

reservoir and associated works being created. The proposed parcel will be capable of its intended uses despite the reduced frontage.

The subject property, pursuant to the Nanoose Bay OCP, is designated within the Watercourse Protection and Sensitive Ecosystems Development Permit Areas specifically for the protection of Claudet Creek and its riparian area and the adjacent wetland area. As both these features will be included within the park land area, a development permit is not required.

The applicant's have also provided geotechnical/septic disposal assessments prepared by an engineer, which indicate that there is a safe margin for establishing septic fields. Staff recommends that these reports be registered on title as a condition of rezoning. The proposed parcels will be required to be connected to community water service and be restricted from constructing water wells.

Ministry of Transportation staff has indicated they have no issues with the proposed application. The local Fire Chief has verbally indicated he has no concerns with the application. The Central Vancouver Island Health Authority has yet to respond.

Given that the proposal is in keeping with the OCP policies and the applicant will transfer approximately 2.1 ha of land to the Regional District for the protection of Claudet Creek and its riparian area and create a parcel for the community water utility located on site, staff supports Alternative No. 1, to approve the amendment application subject to the conditions set out in Schedule No. 1, for 1st and 2nd reading and to proceed to public hearing.

RECOMMENDATIONS

1. That the minutes of the Public Information Meeting held on April 25, 2005 be received.
2. That Zoning Amendment Application No. ZA0416 as submitted by Williamson & Associates, BCLS, on behalf of Sanway Investments Inc. to rezone Lot B, District Lot 84, Nanoose District, Plan VIP53591 from Resource Management 3 Subdivision District B (RM3B) to Comprehensive Development Zone 26 (CD26) be approved to proceed to public hearing subject to the conditions included in Schedule No. 1.
3. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.309, 2005" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.309, 2005" proceed to Public Hearing.
5. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.309, 2005" be delegated to Director Holme or his alternate.


Report Writer


Manager Concurrence


Deputy Administrator Concurrence


CAO Concurrence

COMMENTS:

devsvs/reports/2005/my 3360 30 0416 Sanway/Williamson 1st and 2nd P11

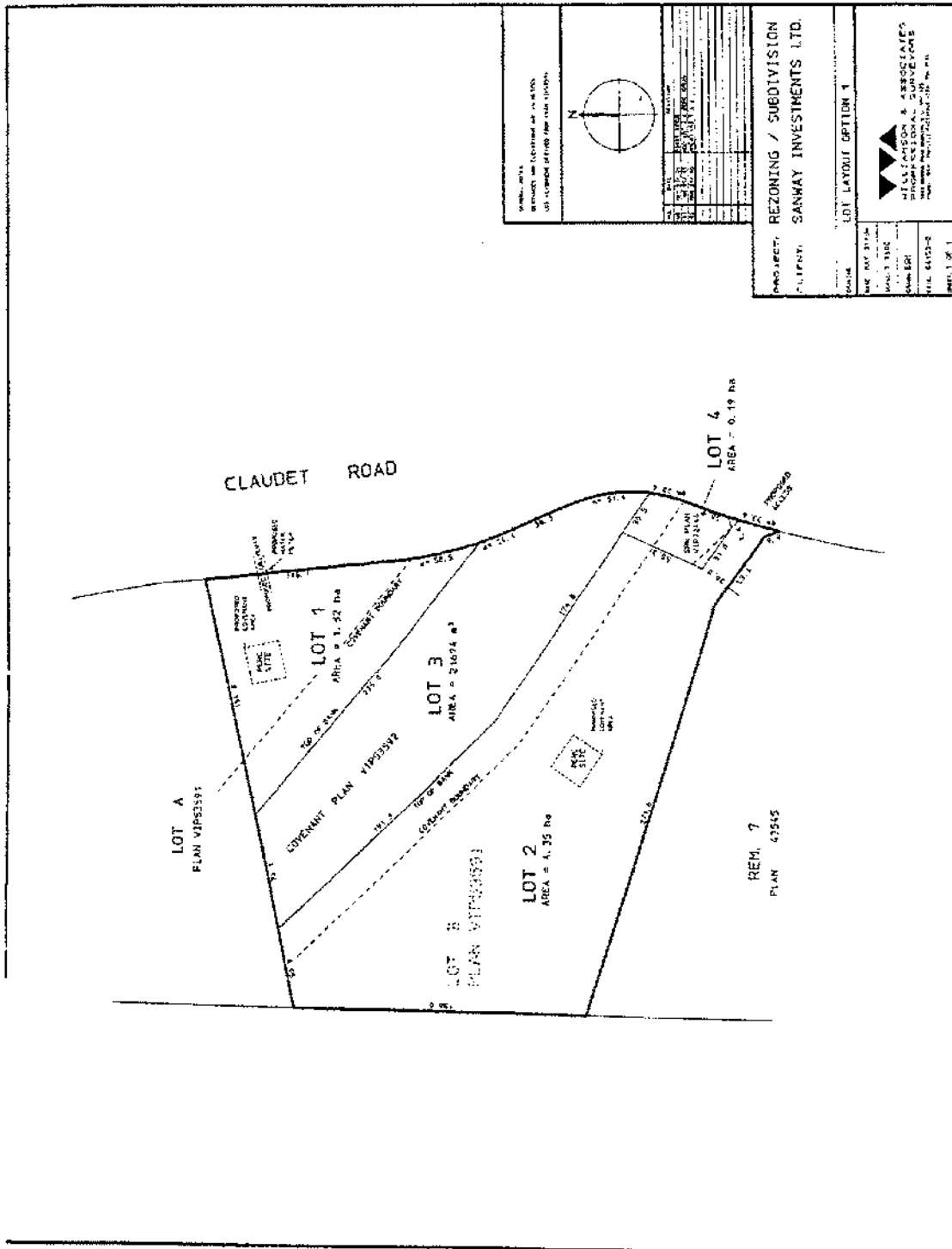
**Schedule No. 1
Terms of Approval for
Zoning Amendment Application No. ZA0416
Lot B, District Lot 84, Nanoose District, Plan VIP53591**

The applicant is to provide the following documentation prior to the amendment applications being considered for 4th reading:

The required covenants are to be prepared and registered by the applicant to the satisfaction of the Regional District. Draft covenant documents are to be forwarded to the RDN for review prior to consideration of 4th reading. Applicant's solicitor is to submit letters undertaking to register these covenants at Land Title Office concurrently with the Plans of Subdivision.

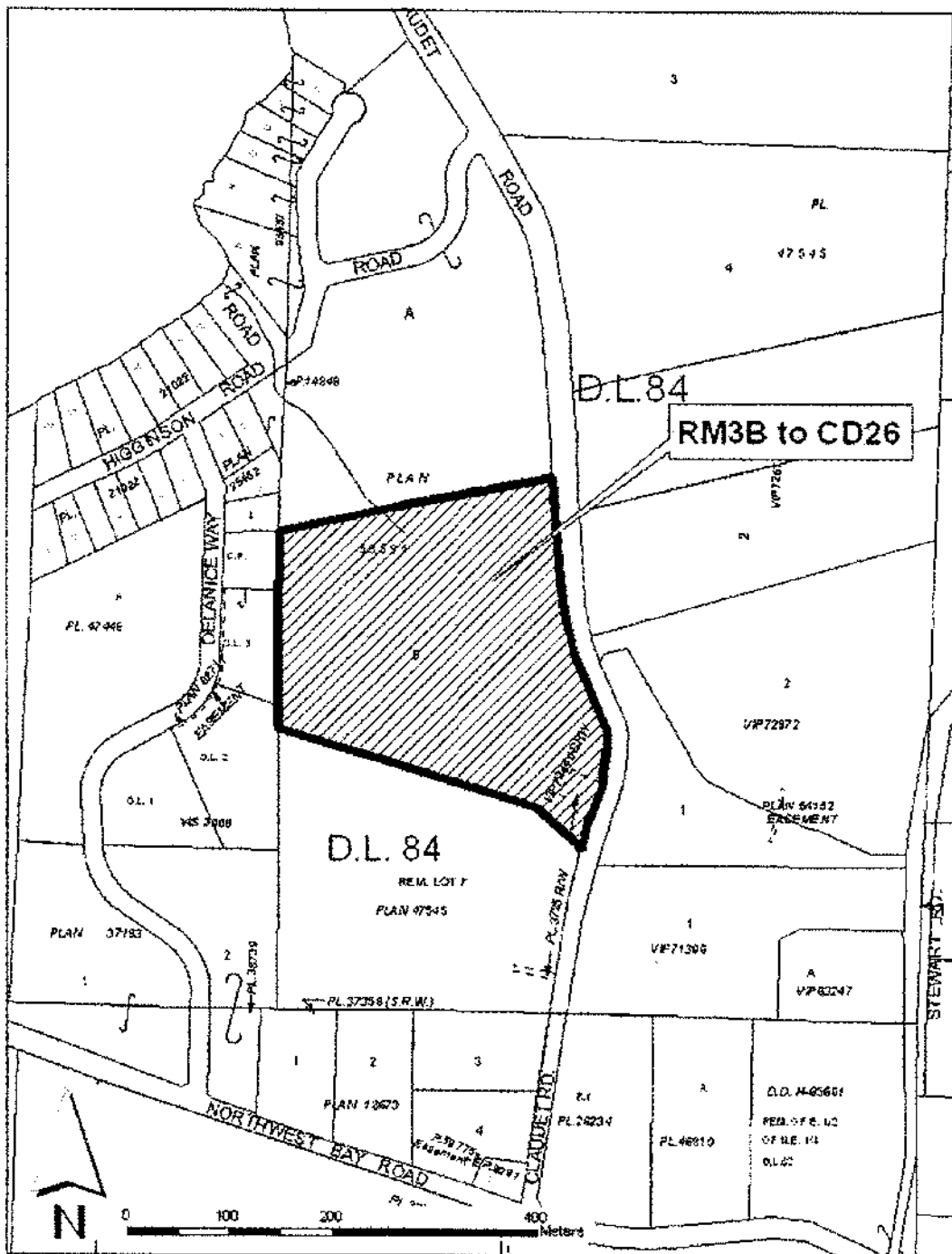
1. A section 219 covenant shall be registered on title of both proposed rural parcels restricting the following:
 - i) A maximum of one dwelling unit per parcel;
 - ii) No bare land strata subdivision; and,
 - iii) No wells.
2. A nuisance covenant shall be registered on proposed Lot 2 with respect to fencing, noise, odour, and all other nuisances associated with the community water infrastructure located on proposed Lot 4.
3. A section 219 covenant shall be registered on title of proposed Lot 1 restricting the placement of building used for housing livestock or storing manure unless the minimum setback requirement can be met or a variance has been granted by the Regional Board of Directors.
4. For both proposed parcels, a section 219 covenant shall be registered to include the report prepared by Lewkowich Geotechnical Engineering Ltd., dated December 1, 2004.
5. With respect to on-site septic disposal, applicant to provide Vancouver Island Health Authority confirmation of approval or if no longer the approving authority, applicant to provide confirmation of approval from an authorized person or professional engineer.
6. Applicant's solicitor to provide a letter undertaking to transfer the proposed park land parcel and public utility parcel to the Regional District of Nanaimo as fee simple parcels concurrently with the plan of subdivision being registered at Land Title Office.

Schedule No. 2
 Proposed Plan of Development ZA0416
 (as submitted by applicant)
 (reduced for convenience)



PROJECT: REZONING / SUBDIVISION CLIENT: SANWAY INVESTMENTS LTD.	
DATE: MAY 2004 DRAWN: J. BIRD CHECKED: M. BIRD TITLE: 64102-9 SHEET: 1 OF 1	
PROJECT: REZONING / SUBDIVISION CLIENT: SANWAY INVESTMENTS LTD.	
DATE: MAY 2004 DRAWN: J. BIRD CHECKED: M. BIRD TITLE: 64102-9 SHEET: 1 OF 1	
PROJECT: REZONING / SUBDIVISION CLIENT: SANWAY INVESTMENTS LTD.	
DATE: MAY 2004 DRAWN: J. BIRD CHECKED: M. BIRD TITLE: 64102-9 SHEET: 1 OF 1	

Attachment No. 1
Location of Subject Property
Amendment Application No. ZA0416



BCGS Map Sheet No. 92F 030.1.3

**Attachment No. 2
Summary of the Minutes of the Public Information Meeting**

**Report of the Public Information Meeting
Held at Nanoose Place Multi Purpose 1
2924 Northwest Bay Road, Nanoose Bay, BC
April 25, 2005 at 7:00 pm**

**Summary of the Minutes on Proposed Zoning Amendment
Application No. ZA0316**

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 18 persons in attendance.

Present for the Regional District:

Chairperson George Holme, Director, Electoral Area 'E'
Lou Biggemann, Director, Electoral Area 'F'
Susan Cormic, Senior Planner

Present for the Applicant:

Brian Henning, agent for applicant

Chairperson Holme opened the meeting at 7:02 pm and outlined the agenda for the evening's meeting and introduced the head table and Brian Henning, agent on behalf of the applicant. The Chair then stated the purpose of the Public Information Meeting and requested the Senior Planner to provide background information concerning the official community plan and zoning amendment process.

The Senior Planner gave a brief outline of the application process.

The Chairperson then invited Brian Henning, agent on behalf of the applicants, to give a presentation of the proposed zoning amendment. Mr. Henning presented the proposed amendment applications including subdivision layout.

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

Jackie Fennelaw, asked what size Lot 1 is proposed to be?

Brian Henning, the applicant's agent, explained that the parcel is proposed to be 1.3 ha in size and is being parcel averaged with the proposed park land and public utility lots.

Tony Scherer, stated that with the present covenants on title you can't do much with the creek area anyway and asked if there is a conflict with the water tower and owner?

The Senior Planner noted that the Nanoose Bay Parks Plan indicates the protection of Claudet Creek and includes possible future trail by the creek, which could not be achieved if the land was privately held. The Senior Planner also noted that the Official Community Plan supports the acquisition of park land for environmentally sensitive features.

The applicant's agent stated that there is no conflict with the owner and the RDN concerning the water tower.

Sharon Lorz asked if the creek dries up in the summer?

The applicant's agent stated that the creek does not dry up in the summer.

Syd Lee stated that he has lived here since 1958 and wonders why an owner would give park land. Mr. Lee asked if the owner would make more money on the subdivision as he can build 2 houses now?

The applicant's agent commented that the owner would prefer to create a fee simple subdivision as opposed to a strata subdivision.

Fern Bourassa, Beachcomber area, asked what are the conditions for 10 acre parcels?

The Senior Planner stated that there are OCP criteria, which include restricting the number of residential units to 1 on each proposed parcel, no bare land strata subdivision, and no wells.

Frank Van Eynde commented that a 5 acre park land includes the sensitive area of the subject property and is not required.

Diana Young, Beachcomber area, stated that she is concerned about the buffer area from surrounding parcels.

Sharon Lorz asked about the neighbouring properties and the use of wells.

The Senior Planner explained that the parcels are proposed to be connected to community water and the submitted engineering report does not believe that there will be a negative impact on neighbouring wells.

Tony Scherer commented that he is concerned about the parcel proposed to be less than 5 acres in size and will this be setting a precedent.

Fern Bourassa, Beachcomber area, asked how big is the larger parcel and would it be possible to further subdivide it?

The applicant's agent stated that the parcel is proposed to be 4.35 ha in size.

The Senior Planner explained that the zoning will restrict any further subdivision of the land and as only 1 dwelling unit is permitted, a building strata is not possible.

Jackie Fennellow commented that she is concerned about the impact on the other properties from this subdivision.

The applicant's agent stated that the engineer's report states that septic disposal fields should not interfere with surrounding parcels.

The Chairperson asked a 1st time if there were any other questions or comments.

The Chairperson asked a 2nd time if there were any other questions or comments.

Jackie Fennellow asked if there has been a study done on the water capacity for Nanoose?

The Chair stated that he does not believe that a study has been done recently and explained that the Regional District will be able to draw water from the Parksville system for Nanoose Bay during the summer months.

Tony Scherer asked if there was any idea where the residences will be built?

The applicant's agent explained that no building sites had been established, although there is ample room for a dwelling on each proposed parcel.

Fern Bourassa, Beachcomber area, stated that he is not opposed to the 2-lot subdivision, but is concerned about the smaller parcel.

Wayne Diedricksen commented that the proposal is a good idea and nothing is changed with the maximum density permitted.

Tony Scherer stated that his difficulty is with the possible precedent being set for a smaller lot.

Wayne Diedricksen explained that the smaller lot is to allow for a park land area and that a special zone is being used just for this property and it will not applied to other properties.

Audrey Bull, stated that she lives where the creek runs into the Bay and it is full of garbage and junk and that there are parties every weekend in summer.

Diana Young stated that she believes people are concerned about the size of the parcel being precedent setting and that people want assurance this will not become the norm.

Tony Scherer commented that the creek being a fish bearing creek and asked if the proposed lots will be clear cut noting that it is a dense forest now?

The Chairperson asked a 3rd time if there were any other questions or comments.

The Chairperson asked a final time 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 7:35 pm.

Susan Cormie
Recording Secretary



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MeF	
MAY - 2 2005			
EAPC			

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: May 2, 2005

FROM: Blaine Russell
Planner

FILE: 3060 30 60509

SUBJECT: Development Permit Application No. 60509 – Heck
Electoral Area 'H' – 1885 & 1879 Widgeon Road

PURPOSE

To consider an application to amend Development Permit No. 60407 to vary the minimum setback requirement for an interior side yard lot line amendment to legalize the siting of a recently constructed gazebo and an attached deck within the Hazard Lands Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003."

BACKGROUND

The subject property, legally described as Strata Lot 1, District Lot 89, Newcastle District, Strata Plan 1253, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1 is located at 1885 and 1879 Widgeon Road adjacent to the Strait of Georgia in Electoral Area 'H' (see Attachment No. 1).

The subject property is bordered by Crown land to the north (that is adjacent to the Strait of Georgia), by other rural properties to the East and West, and by Widgeon Road to the South. The adjacent lot to the west of the subject property also has a gazebo in a similar location to the proposed gazebo.

The subject property is zoned 'Rural 1 (RU1)' subdivision district 'D' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The Hazard Lands Development Permit Area was established to protect development from hazardous conditions. The entire subject property is designated within the Hazard Lands Development Permit Area, due to the potential bank instability in the general area, pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003."

The gazebo was originally proposed, under DP No. 60407, to be 8.1 metres from the west interior side lot line, 23.5 metres from the eastern interior side lot line and 80.5 metres from the Crown land adjacent the natural boundary of the sea. The gazebo, as measured to the outermost portion of the structure, is sited 80.4 metres from that part of the lot that is adjacent to Crown land 6.7 metres from the west interior side lot line and approximately 24.9 metres from the east interior side lot line. The gazebo and deck are approximately 77 m² in area and the gazebo as measured from the bottom of the floor joist to the highest point is 4.5 m in height. With the bank, and pilings required to elevate the deck and gazebo, the overall height of the building is approximately 8.7 m.

The gazebo is sited 1.4 metres closer to the west interior side lot line than was originally approved in DP No. 60407 due to an error in siting. Therefore a variance request is being made by the applicants to amend Section 3.4.81 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", to relax the setback requirement from 8.0 metres to 6.7 metres to legalize the siting of the recently constructed gazebo (*see Schedule 2 for location of the accessory building*).

ALTERNATIVES

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

DEVELOPMENT IMPLICATIONS

Due to the long narrow nature of the property, the only properties possibly affected by the setback relaxation requests are the adjacent properties on either side, particularly the property to the west. However, the applicants have submitted letters of support from both adjacent property owners, with respect to the relaxation request that are included with the development permit application.

As the subject property is designated within a Hazard Land Development Permit Area due to the steep slopes and banks in the general area, a geotechnical report was required to ensure that the site is safe for the intended use. Davcy Consulting and Engineering completed a geotechnical report on February 9, 2004 as part of the initial DP application. This report, along with subsequent reports were registered on the title of the subject property as a condition of Development Permit No. 60407 and adherence to the recommendation of the report was included as a condition of this DP No. 60407. The proposed variance does not contravene any of the recommendation in the report.

There are two restrictive covenants registered on the title of the subject property in favour of the Ministry of Transportation (MOT) that prohibit the siting of structures or the removal of vegetation within the covenant area on which the gazebo and attached deck are proposed to be sited. MOT has stated that as a matter of policy they will not require covenants to be amended. It is recommended that appropriate engineering certification be required to be obtained during and after completion of the works as a condition of this Development Permit.

A Save Harmless Covenant was registered on title of the property as a condition of DP No. 60407. The covenant saves the Regional District harmless from any action or loss that might result from hazardous conditions that may exist on the property.

The change in siting is minor to what was originally proposed, therefore it is anticipated that impact on the view of adjacent property owner will also be minimal, as was the case with the original proposal that was approved by the Board under Development Permit No. 60407.

ENVIRONMENTAL IMPLICATIONS

Given that the gazebo and attached deck are proposed to be sited more than 80 metres from the natural boundary of the ocean, it is anticipated that the marine foreshore will not be adversely impacted. However, the proposed location is within an area where vegetation plays a critical role in maintaining bank stability. Therefore, vegetation removal was restricted in DP No. 60407 to what was absolutely necessary in order to site the proposed structure. Vegetation root systems contribute to bank stability and their maintenance and replanting are a condition of the preceding development permit and remain in effect.

The geotechnical engineer recommending alternatives to address the drainage and this subsequent report was registered on the title of the property as required by DP No. 60407.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005", nearby property owners within a 50 metre radius will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the permit.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for an amendment to a development permit to vary the minimum setback requirement for an interior side lot line lot line to legalize the siting of a recently constructed gazebo and an attached deck within the Hazard Lands Development Permit Area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003."

There is a restrictive covenant registered on the title of the property prohibiting the siting of buildings and structures and the removal of vegetation over a large portion of the property including the proposed building envelope. However, MOT, the covenant holder, has permitted the works providing the recommendations of the geotechnical assessment are incorporated in the construction.

From staff's assessment of this application, the development permit area guidelines have already been addressed as part of Development Permit No. 60407. All recommendations of the prepared geotechnical report and conditions of approval of Development Permit No. 60407 have been adhered to, including the conditions of the Ministry of Transportation permission letter. Staff sees no negative impact associated with this application and recommend approval.

RECOMMENDATION

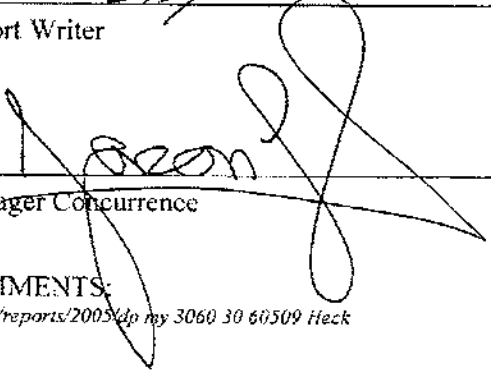
That Development Permit Application No. 60509 with variance, submitted by Brian and Camilla Heck, for 1885 & 1879 Widgeon Road to legalize the siting of the gazebo and attached deck within the Hazard Lands Development Permit Area be approved, subject to the terms identified in Schedule No. 1 and notification procedures pursuant.



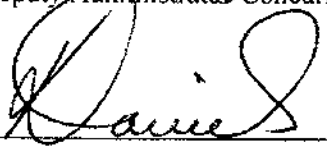
Report Writer



Deputy Administrator Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devsvs/reports/2005/dp ny 3060 30 60509 Heck

Schedule No. 1
Terms of Development Permit No. 60509
Strata Lot 1, District Lot 89, Newcastle District, Strata Plan 1253, Together with an Interest in the
Common Property in Proportion to the Unit Entitlement of the Strata Lot

The following sets out the terms of Development Permit Application No. 60509:

Variance Request

1. Section 3.4.81 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is relaxed from 8.0 metres to 6.7 metres for the west interior side lot line to legalize the siting of the existing gazebo.
2. This variance applies only to the gazebo located and designed in substantial compliance with Schedules No. 2 and 3.

Development of Site

3. The terms and conditions of Development Permit No. 60407 are required to be completed except the siting of the gazebo as amended by this permit as shown on Schedule No. 2.
4. 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" except where a relaxation has been granted by this permit.

Engineering

5. The recommendations established by the Geotechnical Report prepared by Davey Consulting and Engineering Division of Davey Holding Ltd. dated February 9, 2004 and subsequent reports shall be adhered to.
6. Engineering certification shall be provided to the RDN during and after completion of the works.

Schedule No. 2
Site Plan
Development Permit No. 60509

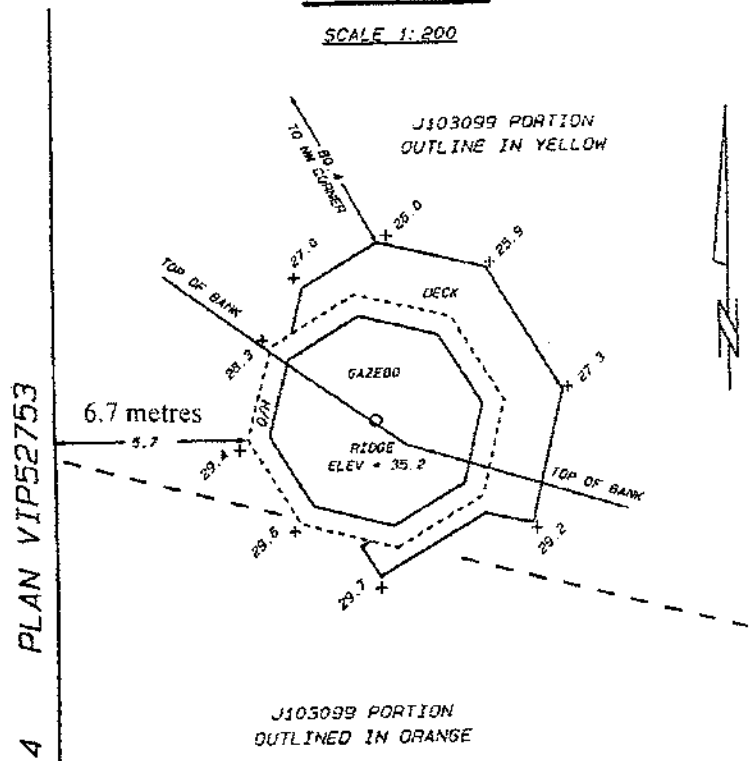
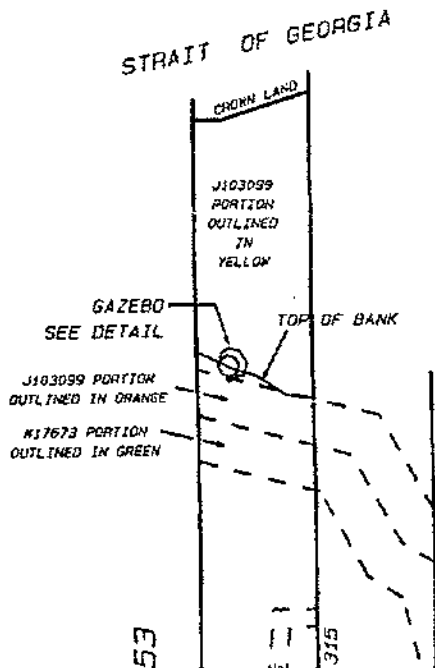
(As Submitted by Applicant / Modified to Fit This Page and to Include Conditions)

B.C. LAND SURVEYOR'S CERTIFICATE OF LOCATION ON
STRATA LOT 1, DISTRICT LOT 89,
NEWCASTLE DISTRICT, STRATA PLAN 1253

SCALE 1:2000
ALL DISTANCES ARE IN METRES.
+ DENOTES NATURAL GRADE ELEVATION

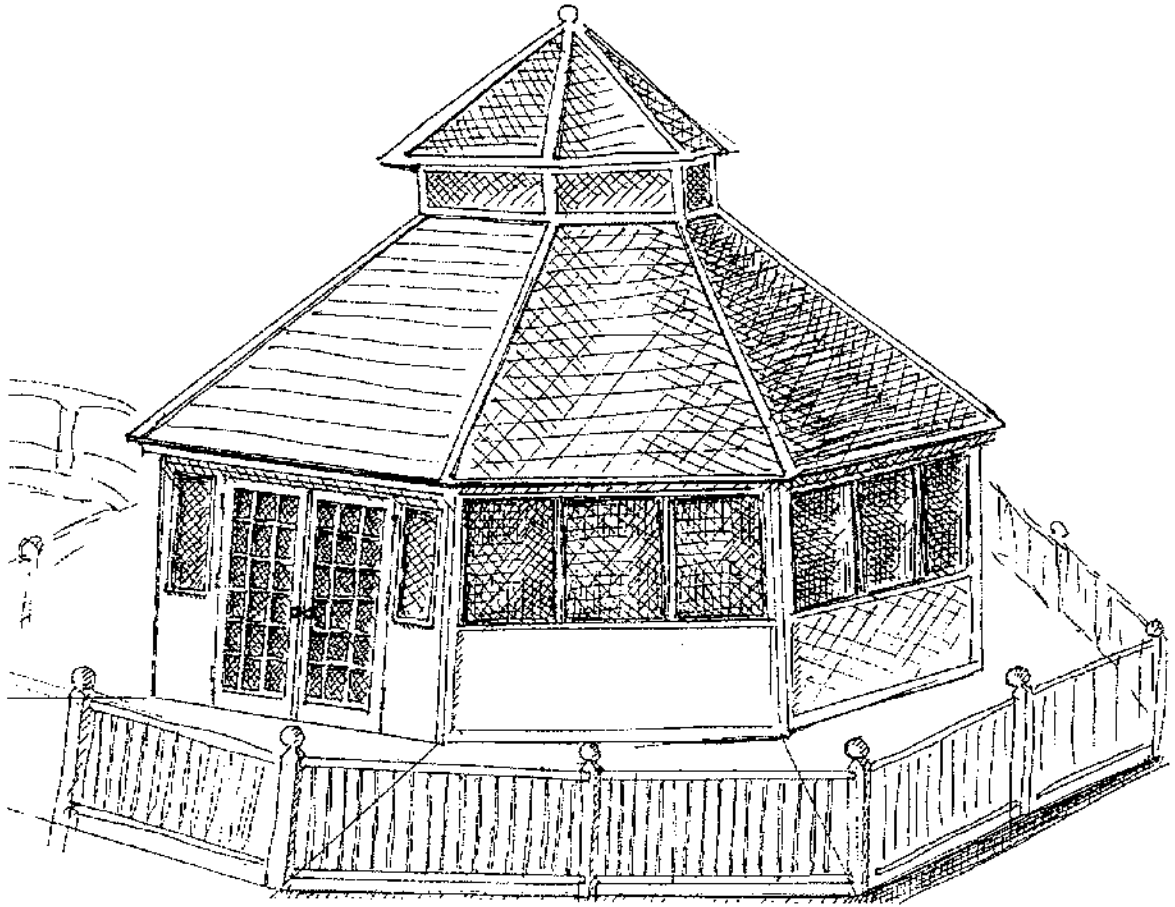
DETAIL

SCALE 1:200

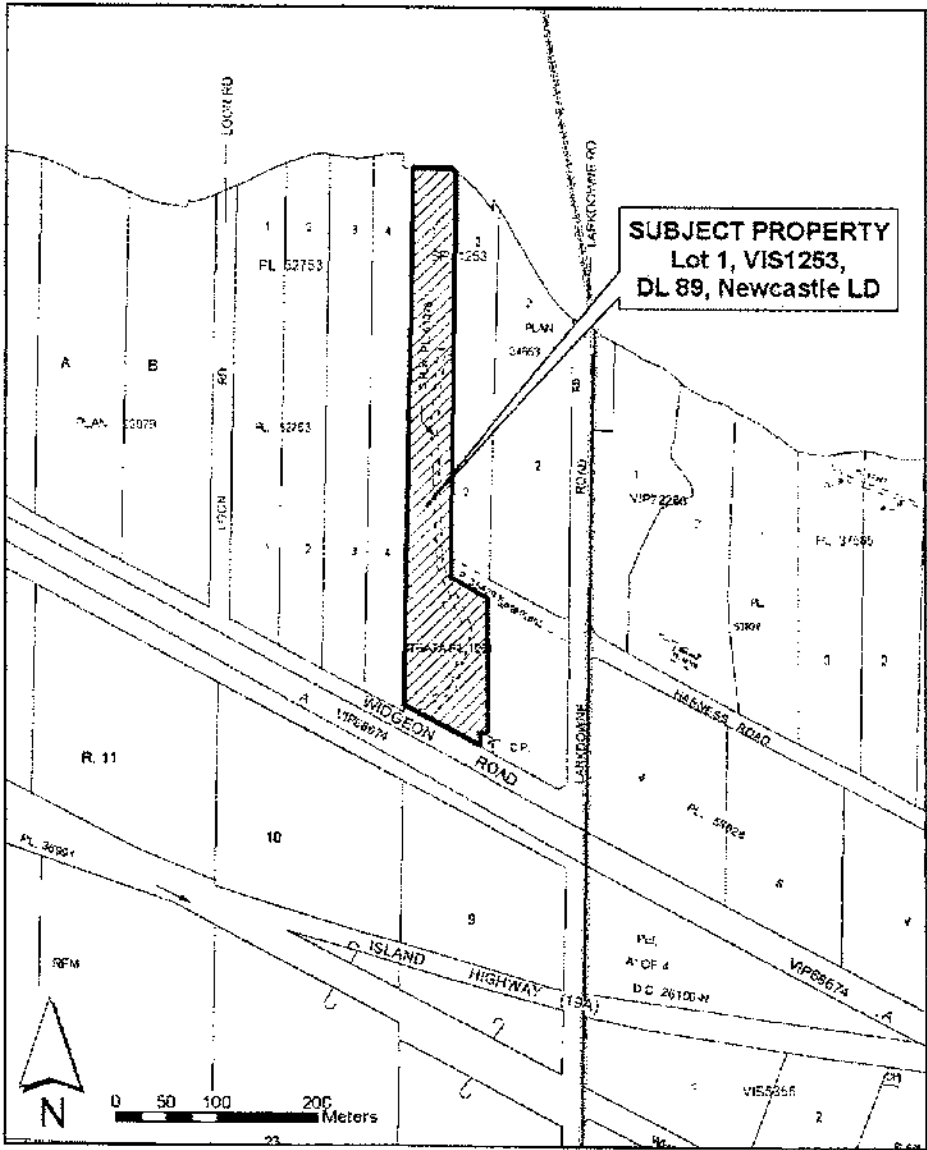


**Schedule No. 3
Profile Plan
Development Permit No. 60509**

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



Attachment No. 1
Subject Property
Development Permit No. 60509





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAC		GM ES	
DA CCD		MoF	
MAY - 2 2005			
EAPC			

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: April 29, 2005

FROM: Keeva Kehler
Planner

FILE: 3060 30 60512

SUBJECT: Development Permit Application No. 60512 - Gardiner
Lot 28, District Lot 28, Nanoose District, Plan VIP76143
Electoral Area 'G' - Viking Way

PURPOSE

To consider an application to amend a Development Permit by varying the minimum setback requirements for the exterior lot lines to facilitate the construction of a new dwelling unit.

BACKGROUND

The subject property, legally described as Lot 28, District Lot 28, Nanoose District, Plan VIP76143, is located at 579 Viking Way in the Columbia Beach area of Electoral Area 'G' (see Attachment No. 1).

The subject property is zoned Residential 5 (RS5) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The Residential 5 zone has a minimum setback requirement for buildings and structures, other than multiple dwelling units, of 8.0 metres from the front and exterior lot lines and 3.0 metres from other lot lines. The applicant is requesting to vary the exterior lot lines in order to site a dwelling unit on the parcel.

Pursuant to the previous Official Community Plan, "French Creek Official Community Plan Bylaw No. 741, 1987", the subject property was designated within Development Permit Area (DPA) 'D' French Creek. The purpose of this DPA was to protect the natural environment, to protect development against hazardous conditions, and to address the form and character of commercial and multiple dwelling unit development.

Development Permit No. 77 was issued in 1994 and permitted the subdivision and development of the lands within the DPA. In addition, DP No. 77 established minimum setback requirements from the ocean and from French Creek, established flood construction elevations and designated areas where vegetation must be retained. DP No. 77 also varied the height for the dwelling units in this portion of the subdivision to 8.0 metres above the flood level as defined by the Ministry of Environment (now Ministry of Water, Land and Air Protection) to accommodate the flood construction elevation and varied the interior side and rear lot line setbacks from 3.0 metres to 2.0 metres for single family dwelling units.

In addition, Development Permit No. 0249 was issued in order to amend the lot layout as previously approved by DP No. 77.

In this case, the applicant is requesting to amend DP No. 77 to include a variance to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to relax the exterior lot line setback requirement from 8.0 metres to 6.0 metres and 6.1 metres respectively in order to facilitate the construction of a dwelling unit.

ALTERNATIVES

1. To approve the development permit amendment and variance request as submitted, subject to the terms outlined in Schedule No. 1, and subject to comments received as a result of the notification requirements pursuant to the *Local Government Act*.
2. To deny the requested development permit amendment application.

LAND USE AND DEVELOPMENT IMPLICATIONS

Due to the shape of the subject property and the required setbacks of the RS5 zone, the applicants would have difficulty siting a dwelling unit so that there was a rear yard. The applicants have indicated that they wish to plant trees and landscape the back yard. In addition, they wish to have some private space accessory to the residence.

Without the proposed variances, the dwelling unit would be closer to the rear of the property and the applicants are concerned this would result in them infringing on the neighbours' privacy by facing directly into the bedrooms of the neighbouring homes. If this property was located within a Residential 1 (RS1) zone, which is the typical zone for single dwelling unit use and typical of most other subdivisions in the area, the minimum permitted setbacks for an exterior lot line would be 5.0 metres instead of 8.0 metres. 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 this property.

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, 1987. The proposed terms note the requirements of Section 337 of the bylaw for the applicants' information.

The applicants have obtained signatures from the owners of eleven properties along Viking Way in proximity to the proposal. Signatures are from neighbouring property owners who have recently moved in and from owners who are currently building on Viking Way. As some of the surrounding properties are currently vacant, the applicants have not been able to contact all property owners but have stated that they made an effort to contact a large number of their neighbours.

The proposed dwelling unit design is similar to those in Columbia Beach. The applicants propose to meet the required dwelling unit height, which was previously varied by DP No. 77 to 8.0 metres above the required flood construction elevation. From staff's assessment the reduced setback would not result

in a negative impact on the immediate area and would allow the property owner to maintain their rear yard. Therefore, staff recommends approval of the requested variances.

MINISTRY OF TRANSPORTATION IMPLICATIONS

Roads within the RDN, except for private roads, are under the jurisdiction of the Ministry of Transportation (MOT). 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 metre MOT setback. The Ministry of Transportation has confirmed in writing that the proposed setback relaxation is greater than the provincial 4.5 metres requirement and therefore no approval from the Ministry 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 Permits No. 77 and 0249, both of which apply to the subject property, were 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.

PUBLIC CONSULTATION IMPLICATIONS

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

VOTING

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

SUMMARY/CONCLUSIONS

This is an application to amend the provisions of Development Permit No. 77 and to vary the minimum setback requirement for two exterior lot lines of the RS5 zone for the subject property to facilitate the construction of a dwelling unit as proposed by the applicant. The Residential 5 (RS5) zone requires buildings and structures to be located a minimum of 8.0 metres from the exterior lot lines. The applicants are requesting to relax the setback requirements for two exterior lot lines from 8.0 metres to 6.0 and 6.1 metres to accommodate the siting of the proposed dwelling unit.

RECOMMENDATION

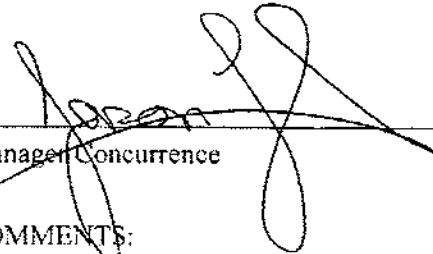
That Development Permit Amendment Application No. 60512, to vary the minimum front and exterior lot line setback requirements of the Residential 5 (RS5) zone from 8.0 metres to 6.1 metres and from 8.0 metres to 6.0 metres respectfully, to permit the construction of a dwelling unit at 579 Viking Way be approved subject to the terms outlined in Schedule No. 1, and notification requirements pursuant to the *Local Government Act*.



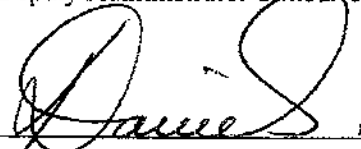
Report Writer



Deputy Administrator Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2005/dp may Gardiner 60512

Schedule No. 1
Terms of Development Permit No. 60512
Lot 28, DL 28, Nanoose District, Plan VIP76143
579 Viking Way

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" and Development Permits No. 77 and 0249, except where varied by this Permit.
- b) Applicant to obtain building permit prior to commencing construction.
- c) Development to be in substantial compliance with Schedules No. 2 and 3.

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.

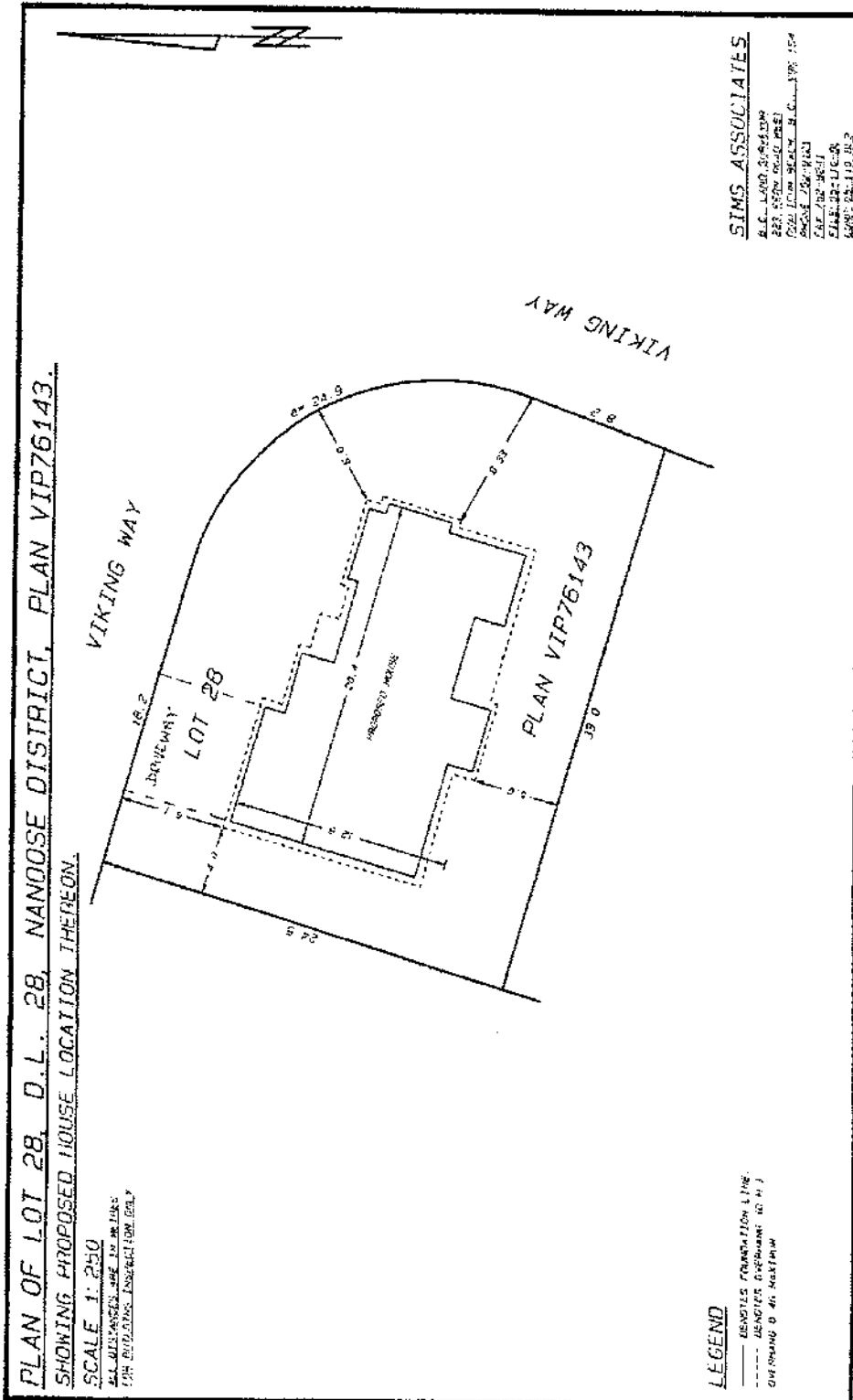
Variations

- e) Development Permit No. 77 is proposed to be varied by relaxing the minimum required setback for the front and exterior lot lines from 8.0 metres to 6.0 and from 8.0 metres to 6.1 metres in order to accommodate the siting of the proposed dwelling unit. The variations apply only to a building designed and sited as shown on Schedules No. 2 and 3.

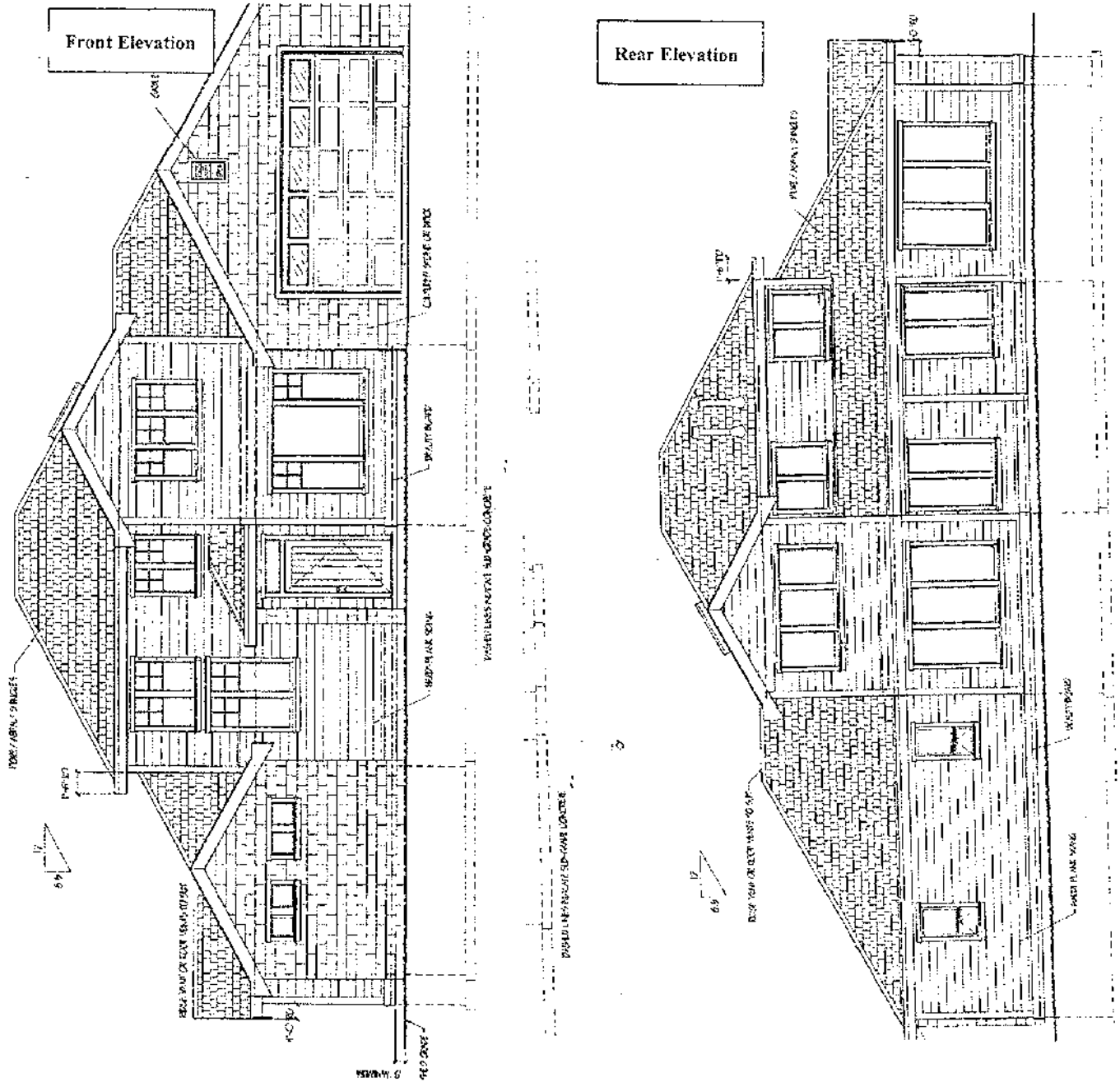
Sight Triangle

- f) Section 3.3.7 of RDN Bylaw No. 500, 1987 states that there shall be no obstruction to the line of vision above the height of 0.5 m of the established grade of a highway within a triangular area formed by extending a 6.0 m boundary along the parcel lines from the point of the exterior corner intersection of the parcel lines.

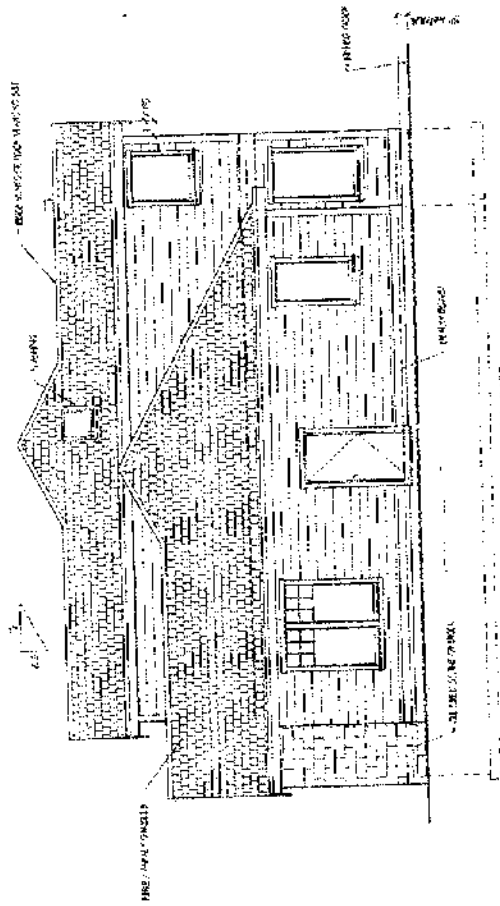
Schedule No. 2
 Development Permit No. 60512
 Site Plan (as submitted by applicants, reduced for convenience)
 Lot 28, DL 28, Nanoose District, Plan VIP76143



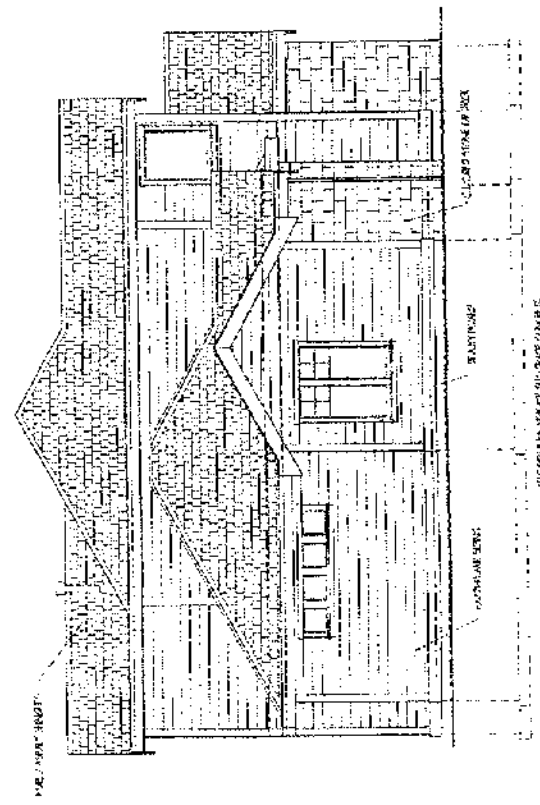
**Schedule No. 3
Proposed Profiles (Page 1 of 2)
Development Permit No. 60512**



Schedule No. 3
 Proposed Profiles (Page 2 of 2)
 Development Permit No. 60512

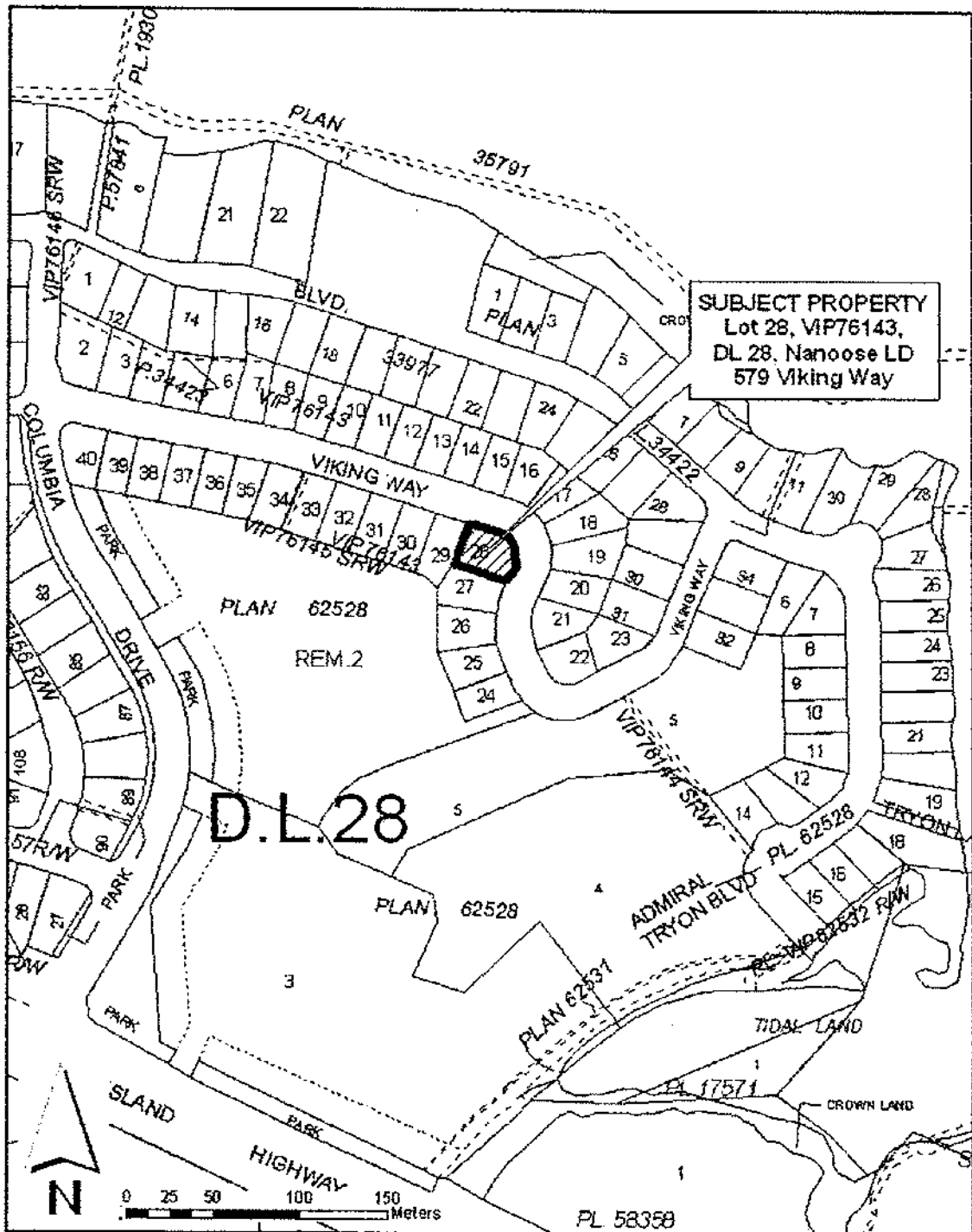


RIGHT ELEVATION



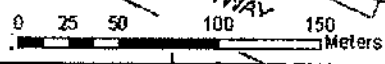
LEFT ELEVATION

Attachment No. 1
Subject Property
Development Permit No. 60512



SUBJECT PROPERTY
Lot 28, VIP76143,
DL 28, Nanoose LD
579 Viking Way

D.L. 28





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MbF	
MAY - 3 2005			
		DATE:	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

FROM: Blaine Russell
Planner

SUBJECT: Development Permit Application No. 60514 – Jorgensen – Osmond Ltd. – Grant Electoral Area 'E' – 1416 Reef Road

FILE: 3060 30 60514

DATE: May 3, 2005

PURPOSE

To consider a Development Permit application with variance to facilitate the construction of a deck as part of a new dwelling unit, the replacement of beach access stairs, and the reconstruction and replanting of a bank.

BACKGROUND

The subject property, legally described as Lot 14, Block F, District Lot 38, Nanoose District, Plan 11313, is located at 1416 Reef Road in the Beachcomber area of Electoral Area 'E' (*see Attachment No. 1*). The subject property is zoned Residential 1 (RS1) subdivision district 'N' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The subject property is bordered by residential properties to the northwest and southeast and is adjacent to Reef Road to the southwest and the Strait of Georgia to the northeast. Across Reef Road are additional residential properties. The subject property is located adjacent to the sea and is designated within the Watercourse Protection Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998." The Watercourse Protection Development Permit Area, which consists of a 15.0 metre strip as measured from the natural boundary, was designated to protect the natural environment.

The subject property was impacted by a storm event in the spring of 2004 when the overland flow of water left the confines of a road drainage ditch to run across the applicant's property and caused portions of the bank to be washed away. In order to correct the situation, the Ministry of Transportation obtained an easement and constructed a culvert to direct road drainage directly to the sea and the applicant brought in fill to reconstruct the bank and stabilize the property. The placement of fill and the proposed repair and / or replacement to the beach access stairs requires a development permit.

The applicant is also proposing to remove an existing cottage and to construct a new dwelling unit with a deck on the subject property. The deck and beach access stairs are located within the top of bank setback and the beach access stairs are located within the setback to the natural boundary of the sea, the applicant is requesting a relaxation to Section 3.3.9 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The proposed siting of the dwelling unit and deck are shown on Schedule No. 2

The property is located within a building inspection service area; therefore, "Floodplain Management Bylaw No. 843, 1991" applies to this property. The applicant's site plan indicates that the proposed dwelling unit and deck are to be located more than 20 metres from the coastal watercourse and, in addition, are to be elevated more than 8.0 metres above the natural boundary.

ALTERNATIVES

1. To approve Development Permit No. 60514 subject to the conditions outlined in Schedule No. 1.
2. To deny the Development Permit No. 60514.

DEVELOPMENT AND ENVIRONMENTAL IMPLICATIONS

The proposed dwelling unit and deck are both located outside of the development permit area; however, due to the recent erosion event the natural top of bank has been reduced such that the attached deck of the proposed dwelling unit will be within the top of bank setback. Please note that the top of bank setback is based on the bank that was left after the erosion event occurred and not the original or reconstructed bank. As the dwelling unit and deck are proposed to be sited farther back than the dwelling units on the two adjacent properties, views from these properties will not be expected to be impacted by the proposal.

Properties across Reef Road could potentially have views impacted by any development on the subject property regardless of siting. The dwelling unit is proposed to meet height, front lot line, and side lot line requirements. The request to relax the top of the bank setback does not result in any increased impact on views. It should be noted that the subject property is somewhat treed along its parameter with natural vegetation that may act as a partial screen.

An existing set of stairs descend approximately 8.0 metres down the bank to the beach below. The stairs provide the only practical access to the beach. The stairs have been there for many years and are nearing the end of their useful life; as such the applicant is proposing to replace the stairs. As the stairs go past the top of the bank and are in proximity to the property line adjacent the natural boundary a setback relaxation is needed to Section 3.3.9.

The applicant has placed more than 30 dump trucks of fill on the subject property in order to restore the bank that was lost due to the washout event. The geotechnical report indicated that the fill consists of a relatively clean mixture of sand and gravel.

The disturbed area, in this case the reconstructed bank, is proposed to be replanted with native species that existed prior to the reconstruction of the bank. The species proposed to be introduced include salal, wild current, Oregon grape and creeping periwinkle. In addition, some species have already begun to re-establish themselves, these include horsetail ferns and salal. The rest of the property, located outside of the development permit area, consists of lawn and large coniferous trees. It is recommended that as a term of this permit that native species with deep root systems be incorporated.

Ministry of Transportation Drainage

Following the severe storm event that caused runoff to flow across the property causing the erosion of the bank, the Ministry of Transportation has secured an easement from the applicant along the western most property line for a culvert. Runoff is now directed across the subject property down to the marine foreshore through the culvert.

GEOTECHNICAL IMPLICATIONS

The geotechnical report by Lewkowich Geotechnical Engineering Ltd. dated May 26, 2004 states that:

"Under the conditions outlined within this report, from a geotechnical perspective the proposed development is considered safe for the intended use (single family residence), where 'safe' is defined as a probability of failure of 10 percent or less in 50 years...."

Based on our analysis, the foundations for the proposed single-family residence should be set back a minimum of 5.5m from the natural crest of the bluff slope. It should be stressed that the setback is not referenced to the existing crest, but to the natural crest, which is located about two metres back from the existing crest...."

"Sundecks and ancillary structures (such as gazebos) may be located within the setback area (i.e. within 6m of the natural boundary), with the understanding that the any structure of feature within the setback area will be exposed to some degree of risk, of damage by a potential future slope retrogression. These structures should not be connected to the residence so that in the event of a ground failure within the setback zone, these structures will separate from the structure of the residence with out causing damage to the residence itself."

The attached deck, as proposed by the applicant, is at least 5.5 metres from the natural top of bank with the dwelling unit proposed to be more than 8.0 metres back. The applicant is proposing to replace or rebuild the existing stairs in the near future. With the stairs going over the bank down to the sea it is recommended that as a term of this permit that the stairs be prohibited from being structurally connected to either the dwelling unit or deck.

Although the proposed site for the dwelling unit and deck, at more that 5.5 metres from the natural top of bank, is defined as 'safe' by the geotechnical engineer with a probability of failure of 10 percent or less in 50 years there remains the potential for ground movement; therefore, it is recommended that as a condition of this permit a save harmless covenant, favouring the Regional District, be registered on the title of the property. In addition, the recommendations established by the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd., dated May 26, 2004, and subsequent reports shall be adhered to registered on title.

Drainage

The geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. indicates that current slope stability can be maximized by protecting the slope from all types of surface erosion and increases in the groundwater, and that roof and perimeter drainage should not be discharged directly on to the bluff slope. It is therefore recommended that as a term of this permit:

1. the applicant shall provide a drainage plan, prepared by a qualified geotechnical engineer, indicating the design and location of the proposed drainage works to the satisfaction of the Regional District of Nanaimo prior to commencing construction; and,
2. a geotechnical engineer be required to certify works, including the drainage system prior to occupancy.

It should be noted that the Chief Building Inspector could require additional geotechnical or engineering reports as part of the building permit application process.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to "Regional District of Nanaimo Development Approvals and Notification Procedures Bylaw No. 1432, 2005" nearby property owners within a 50 metre radius will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the permit.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application to facilitate the replacement of beach access stairs, legalize a reconstructed bank, and to facilitate replanting within the designated Watercourse Protection Development Permit Area pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998". In addition, as part of this application a request to vary the setback to the top of bank is being proposed to facilitate the construction of a deck for a proposed dwelling unit and beach access stairs. Also, a request is being made to relax the setback to the natural boundary sea for above mentioned beach access stairs. The proposed development permit addresses slope stability and environmental protection issues to the satisfaction of staff.

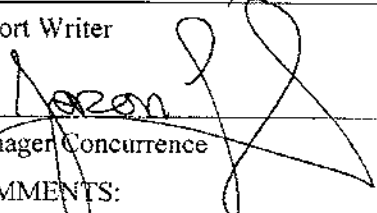
RECOMMENDATIONS

That Development Permit Application No. 60514, submitted by agent Peter Jorgensen of Jorgensen-Osmond Ltd., on behalf of Ray Grant, for 1416 Reef Road to allow the construction of a deck, the replacement of beach access stairs, and the reconstruction and replanting of a bank, with variances for the deck and stairs, according to the terms outlined in Schedule No. 1, be approved, subject to the notification requirements; and that Development Permit Application No. 60449 be issued upon completion of the following items:

1. The Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd., dated May 26, 2004, and subsequent reports are required to be registered on Title;
2. The applicants shall enter into a Restrictive Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the land slip and slope retrogression risk associated with the use of the property to the satisfaction of the Regional District.




Report Writer

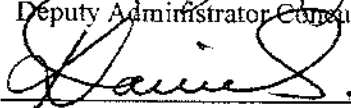


Manager Concurrence

COMMENTS:



Deputy Administrator Concurrence



CAO Concurrence

Schedule No. 1
Terms of Development Permit No. 60514
Lot 14, Block F, District Lot 38, Nanoose District, Plan 11313 located at 1416 Reef Road

VariANCES Requested

1. Section 3.3.9 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is relaxed from 8.0 metres to 5.5 metres from the top of bank to permit the construction of a dwelling unit with deck.
2. Section 3.3.9 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is relaxed from 8.0 metres to 0.0 metres from the top of bank and from 8.0 metres to 0.0 metres from the natural boundary of the sea to permit the construction of a beach access stairs.
3. These variances apply only to the deck located and designed in substantial compliance with Schedules No. 2 and 3 and one set of beach access stairs.

Development of Site

4. 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" except where varied by this permit.
5. All development on the site must be in compliance with the *Heritage Conservation Act*;
6. All works must be completed in accordance with the British Columbia Building Code and a building permit shall be obtained prior to commencement.
7. The beach access stairs and associated railings and landings shall not exceed 1.5 metres in width nor exceed 1.5 metres in height from base to top and the maximum height of the stairway and landings, excluding railings, shall not exceed 1.0 metre from the existing grade.
8. The beach access stairs shall not be structurally connected to either the dwelling unit or deck.

Engineering and Drainage Control

9. The recommendations established by the geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. dated May 26, 2004 and subsequent reports shall be followed.
10. The applicant shall provide a drainage plan, prepared by a qualified geotechnical engineer, indicating the design and location of the proposed drainage works to the satisfaction of the Regional District of Nanaimo prior to commencing construction.
11. Engineering certification shall be provided to the RDN that the works have been completed according to the geotechnical report and drainage plan.

Covenants

12. The Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd. dated May 26, 2004 and subsequent reports are required to be registered on the Certificate of Title;
13. The applicant shall register on title Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from hazardous conditions and acknowledging the land slip and slope retrogression risk associated with the use of the property to the satisfaction of the Regional District.

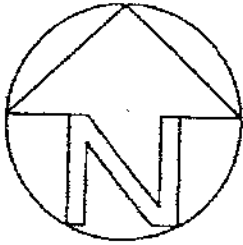
Sediment and Erosion Controls

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

Vegetation

15. Vegetation shall be replanted within disturbed part of the development permit area consisting of trees, shrubs and ground cover native to the area and shall include the promotion of deep rooted vegetation.

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



STRAIT OF GEORGIA

PLAN

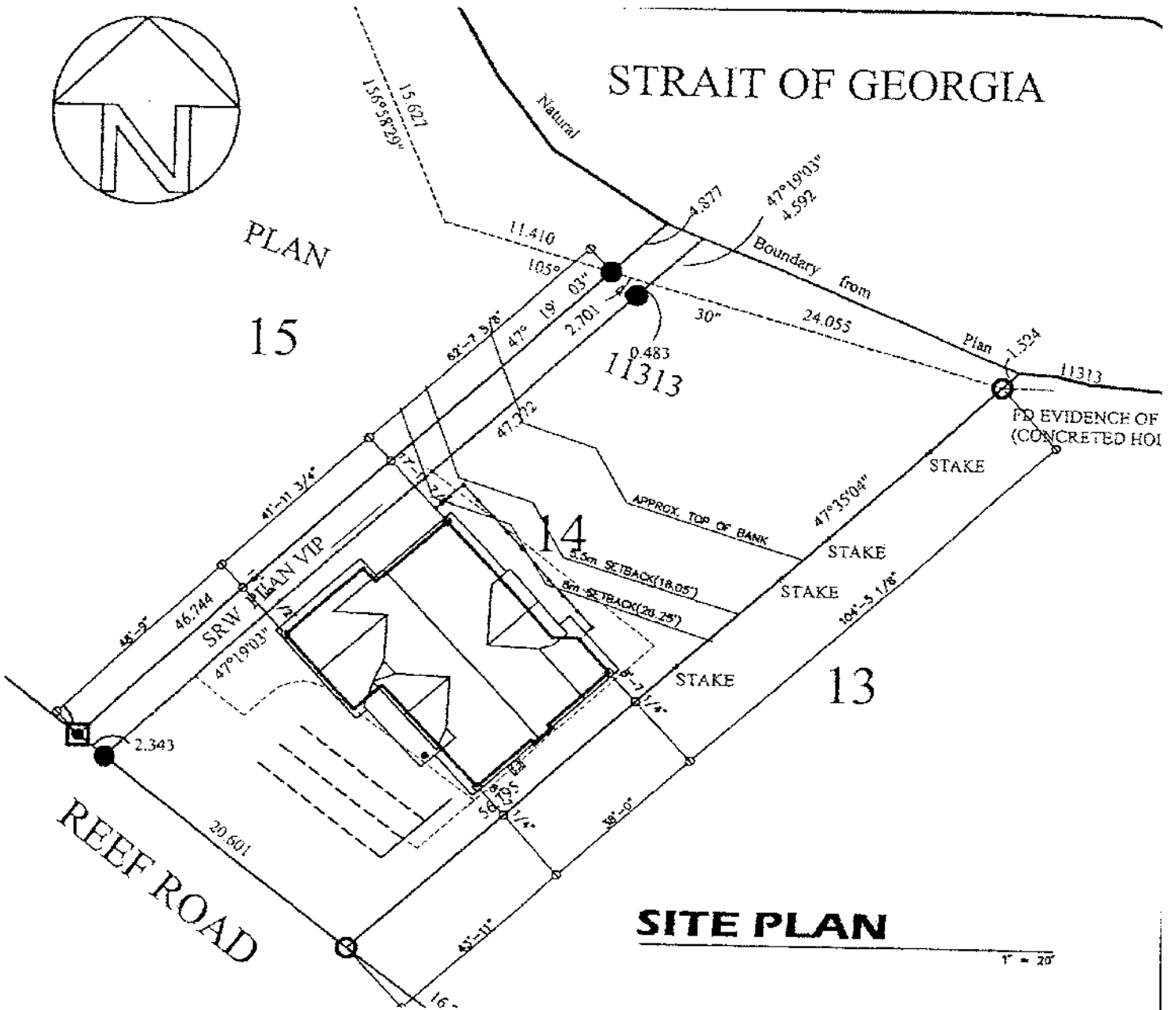
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11313

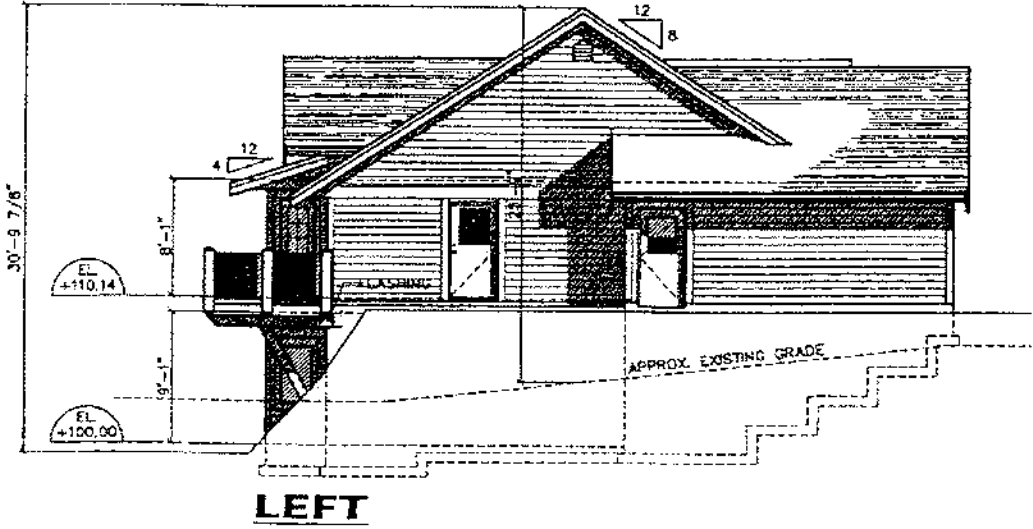
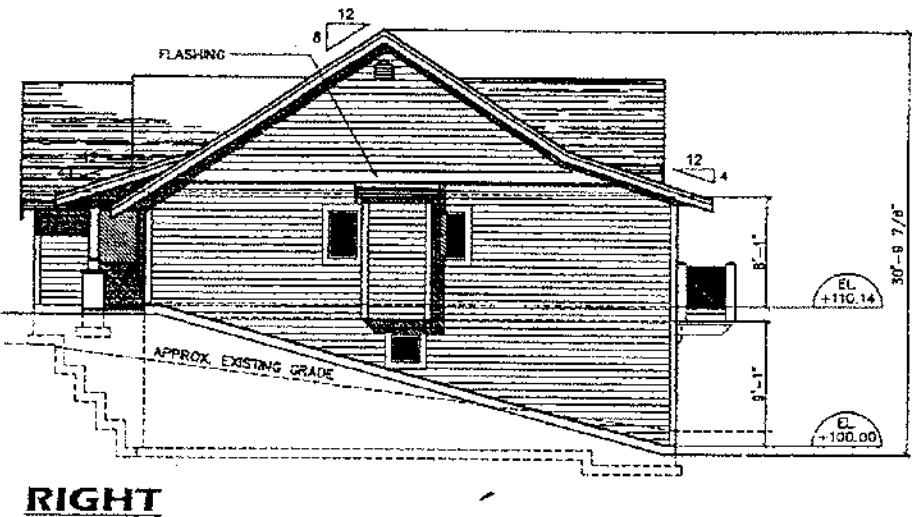
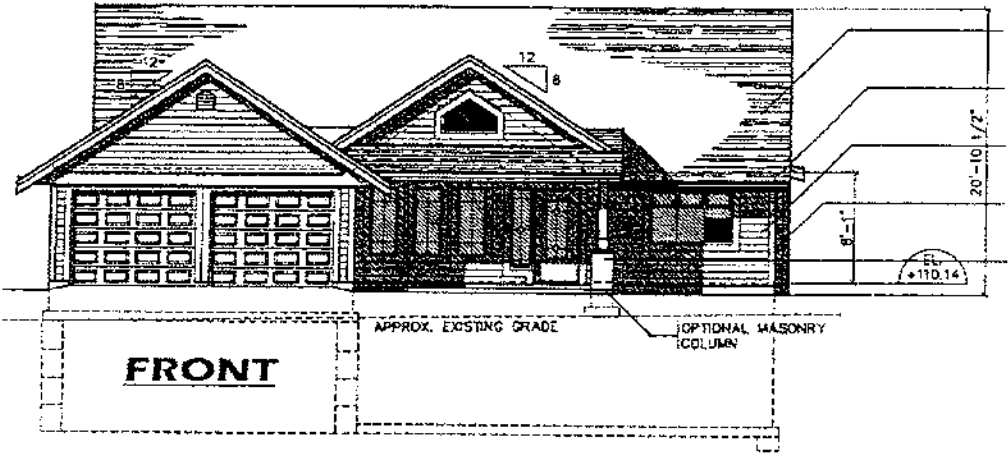
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SITE PLAN

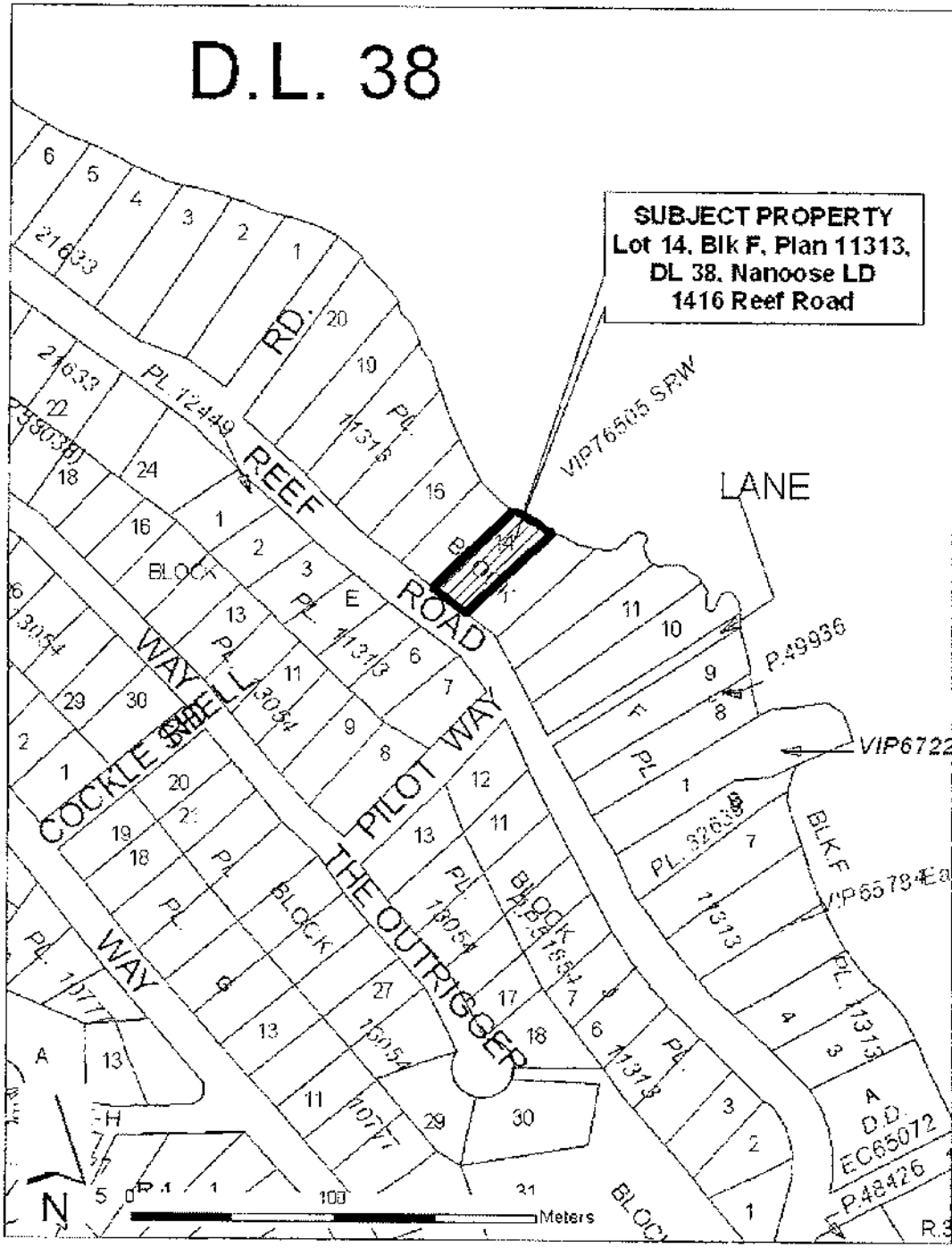
1" = 25'



Schedule No. 3
Profile Plan
(As Submitted by Applicant / Modified to Fit This Page)



Attachment No. 1
Subject Property Map





**REGIONAL
DISTRICT
OF NANAIMO**

REGIONAL DISTRICT OF NANAIMO	
CHAIR	GM Cms
CAO	GM ES
DA/PCD	MoF
APR 28 2005	
EAPC	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: April 29, 2005

FROM: Greg Keller
Planner

FILE: 3060 30 60515

SUBJECT: Development Permit Application No. 60515 – BC Conservation Foundation
on behalf of Fisheries and Oceans Canada
Electoral Area 'F' – Part of Block 1462 (Cameron Lake)

PURPOSE

To consider a development permit application to facilitate improvements to the existing weir located at the outlet of Cameron Lake within the Watercourse Protection Development Permit Area pursuant to the "Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999."

BACKGROUND

The Planning Department has received a development permit application for the property legally described as part of Block 1462. The applicant is requesting approval to install rip-rap above the natural boundary of Cameron Lake to protect the bank from erosion in conjunction with a proposed weir upgrade to increase the storage volume of the weir by 50 centimetres. The existing weir is located at the east end outlet of Cameron Lake.

The property is within the Watercourse Protection Development Permit Area for the purpose of protecting the natural environment, its ecosystems and biological diversity. Please note, the existing weir and proposed upgrades are located below the natural boundary of Cameron Lake and consideration of these impacts is primarily under the jurisdiction of Provincial and Federal government agencies. Therefore, this development permit application is limited to the impacts of the proposed works located above the natural boundary of Cameron Lake, which includes rip-rap bank armoring.

The applicant has submitted a detailed project description, which includes information relating to the anticipated environmental impacts, the construction process, public participation, interagency implications, and design-related information as it pertains to the proposed development. A copy of the detailed project description has been included as Attachment No. 2. The following is a summary of the proposed project including information relating to the anticipated impacts and the progress of the project to date.

Project Summary

The applicant is proposing to increase the storage volume of the existing Cameron Lake Weir with the primary goal of improving the Little Qualicum River and Cameron Lake fisheries resources. The proposal would increase the storage volume of the weir from the current 90 centimetres to 140 centimetres. The proposed weir modification would occur within the appropriate fisheries construction window during a two week time period and would include the following works:

1. extending by 50 cm the steel stop-log support guides and installing additional stop-logs;
2. extending the fishway upstream into Cameron Lake;
3. installing an undersluice gate in the fishway bay for low-level releases;
4. raising the pony wall on the right (south) bank;
5. installing racks in front of the undersluice gate and the fishway for public safety and debris management;
6. adding rip-rap to the streambed for approximately 2 metres downstream of the slab to prevent potential scour and undercutting; and,
7. maybe installing flow monitoring equipment adjacent to the weir (and in the lower Little Qualicum River).

The proposed upgrade would result in an increase to the level of Cameron Lake by approximately 50 centimetres during early summer then declining through late September in order to increase the flows of the Little Qualicum River during low flow periods for fish conservation purposes. Please note no shoreline areas of Cameron Lake would be flooded by the existing or proposed structures beyond those that are regularly inundated by seasonal weather-related lake level fluctuations.

A qualified environmental monitor will be on site during construction to ensure that all potential impacts on fish habitat are mitigated. This person will be responsible for ensuring that the sediment control procedures are followed as per the DFO Land Development Guidelines and that fish salvage operations are conducted as necessary.

Public and Interagency Participation

As part of this application, the applicant has consulted the property owners adjacent to the lake and no objection regarding the increase to the lake level was received. In addition, the applicant has also consulted the Qualicum First Nation, Town of Qualicum Beach, and Qualicum Streamkeepers, and all support the proposed project in principle.

The Department of Fisheries and Oceans has indicated that no harmful alteration, disruption, or destruction (HADD) is anticipated if the applicant implements the proposed plan as submitted. Therefore, a subsection 35(2) *Fisheries Act* authorization is not required.

The Ministry of Transportation has indicated that it takes no issue with the proposed project as it pertains to the impact of increased lake levels on the stability of the highway.

The Archaeology Branch of the Ministry of Sustainable Resource Management has indicated that there are no identified archaeological sites to be impacted by the proposed development.

The applicant has indicated that a submission to Transport Canada will be filed for project approval under the *Navigable Waters Protection Act*.

The applicant is in the process of applying to Land and Water British Columbia Inc. for a lease to occupy Crown land for the land beneath the existing weir.

ALTERNATIVES

1. To approve Development Permit Application No. 60515 as submitted.
2. To deny Development Permit Application No. 60515 as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Land Use and Development Implications

Please note no portions of the existing or proposed structure would be located more than 1.0 metre above the high water mark (natural boundary) of Cameron Lake. Development above the natural boundary is limited to the installation of rip-rap for bank armoring purposes. In addition, the rip-rap would be less than 1.0 metre in height and is not considered a structure pursuant to Bylaw No. 1285. Therefore, no variances to "Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" are required.

It is not anticipated that the installation of rip-rap above the natural boundary of Cameron Lake will have a significant negative impact on the natural environment. As the applicant has indicated that a qualified Environmental Monitor will be on site during construction to ensure that all negative impacts on fish habitat are mitigated and that the sediment control procedures are followed as per the DFO Land Development Guidelines.

VOTING

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

SUMMARY

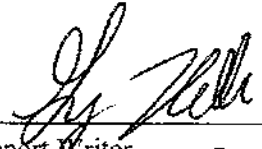
This is an application for a development permit for property designated within the Watercourse Protection Development Permit Area pursuant to the "Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999", specifically for the purposes of installing rip-rap above the natural boundary of Cameron Lake in conjunction with a proposed upgrade of the existing Cameron Lake weir to increase its storage capacity by 50 centimetres for fish conservation purposes.

The applicant has indicated that all stakeholders and affected property owners support the project in principle. In addition, the applicant is proposing to conduct a level two environmental assessment and take other protective measures in order to ensure that the proposed project would not impact any environmentally sensitive ecosystems.

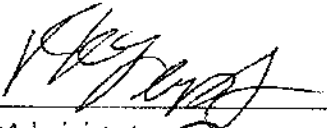
As the proposed works are not anticipated to have a negative impact on the natural environment, staff recommends Alternative No. 1, to approve the development permit subject to the terms contained in Schedule No. 1 and generally as shown on attached Schedule No. 2.

RECOMMENDATION

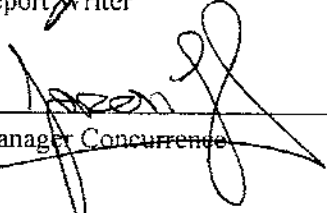
That Development Permit No. 60515 submitted by the British Columbia Conservation Foundation on behalf of the Department of Fisheries and Oceans for the property legally described as Part of Block 1462 located at the east outlet of Cameron Lake within Electoral Area 'F' be approved, subject to the terms outlined in Schedule No. 1.



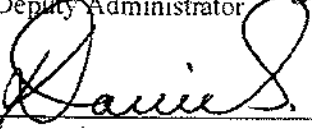
Report Writer



Deputy Administrator



Manager Concurrence



CAO Concurrence

COMMENTS:
devsvs/reports/2005/dp_my3060 30 60515

**Schedule No. 1
Terms of
Development Permit Application No. 60515
For Part of Block 1462 (Cameron Lake)**

The following sets out the terms of Development Permit 60515:

1. Building / Site Development

- a. The subject property shall generally be developed in accordance with the Site Plan as shown on Schedule No. 2.
- b. A qualified environmental monitor shall be on site during construction to ensure that all potential impacts on fish habitat are mitigated.

2. Sediment and Erosion Control

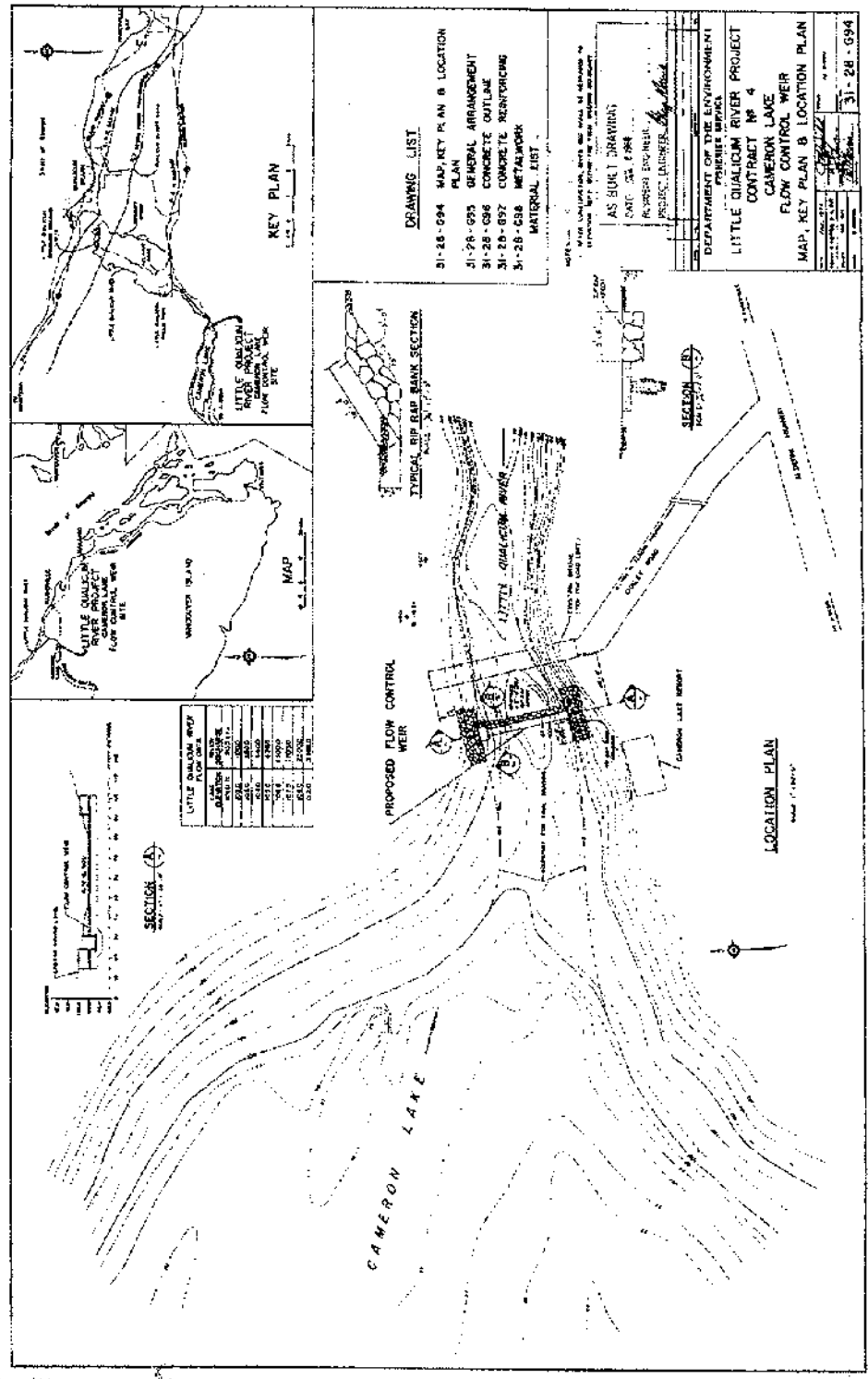
Sediment and erosion control measures must be utilized to control sediment during the development and to stabilize the site after the works are complete. These measures must include:

- a. Exposed soils must be seeded as soon as possible to reduce erosion during rain events;
- b. Tarps, sand bags, poly plastic sheeting and/ or filter fabric are required to be onsite during the works; and,
- c. Cover temporary fill or soil stockpiles with polyethylene or tarps.

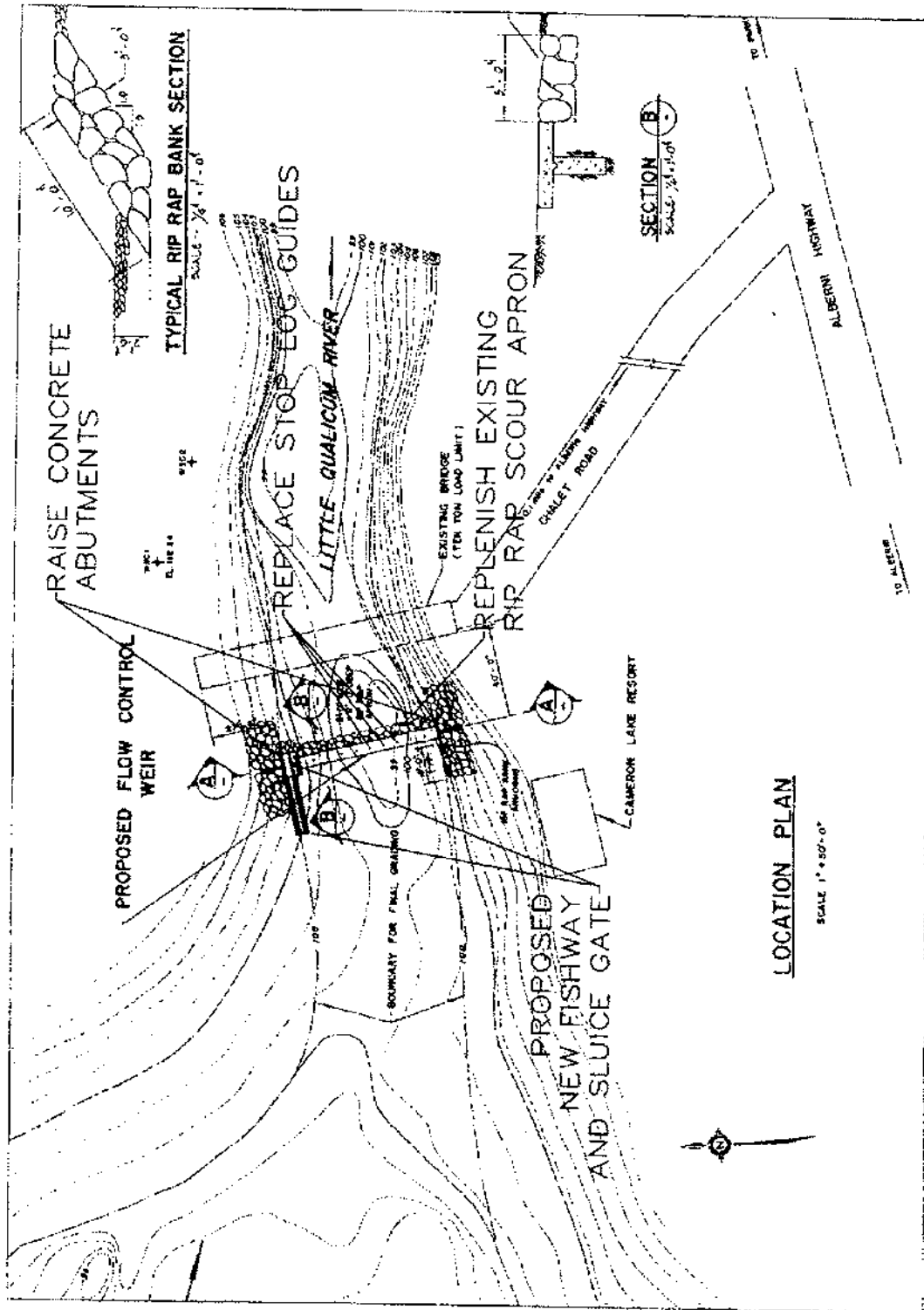
3. Agency Approvals

- a. The applicant is responsible for meeting any requirements of the Ministry of Water, Land and Air Protection, Ministry of Transportation, Department of Fisheries and Oceans, Land and Water British Columbia Inc., British Columbia Parks, and all other jurisdictions having authority.

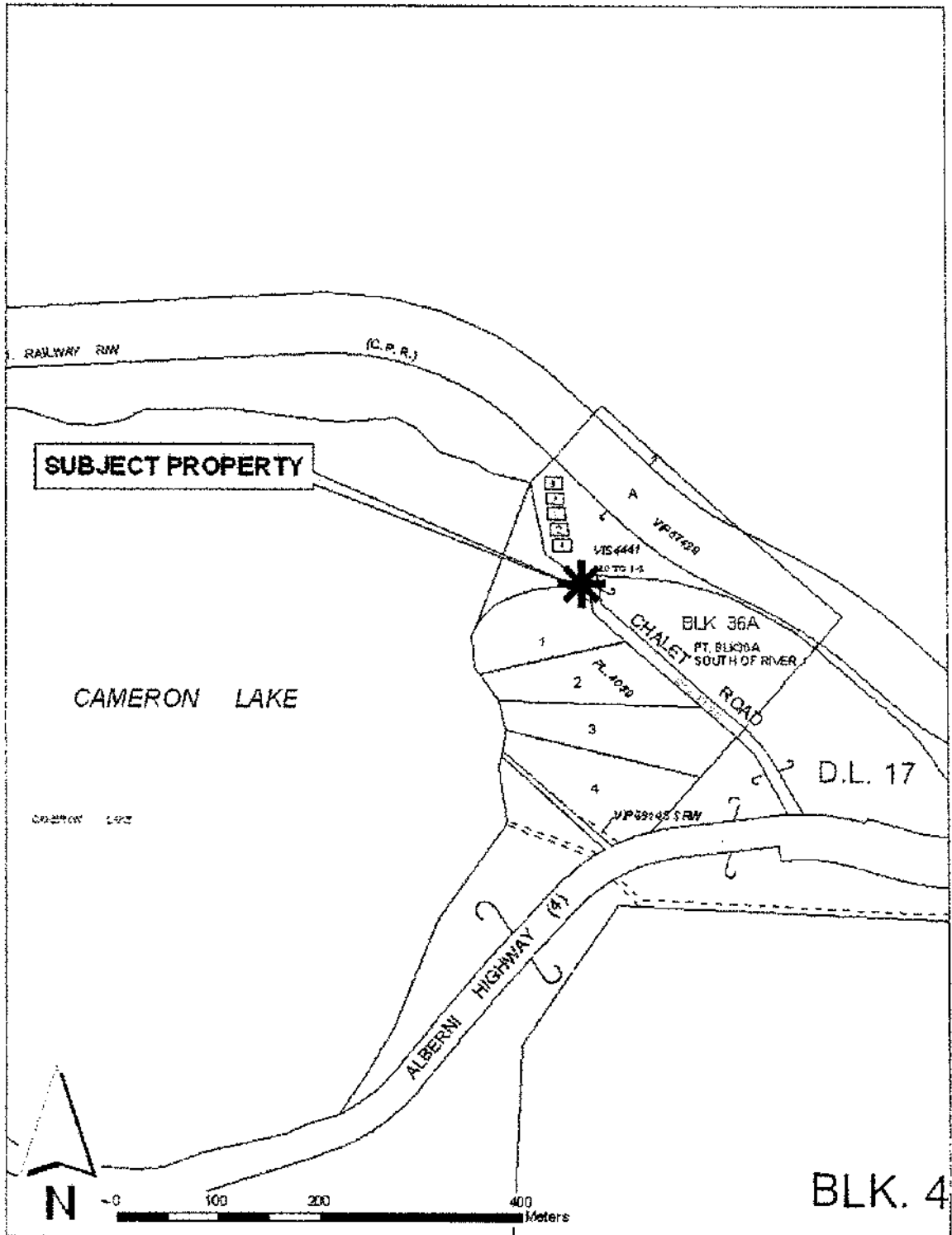
Schedule No. 2 (page 1 of 2)
 Proposed Site Layout
 Development Permit No. 60515



Schedule No. 2 (page 2 of 2)
Proposed Site Layout
Development Permit No. 60515



Attachment No. 1
Location of Subject Property
Development Permit No. 60515



BCGS Map Sheet No. 82F.028.3.3

Attachment No. 2

Cameron Lake Weir Modification Water Development Plan

Introduction

This project involves the modification of a storage weir built in 1979 by Fisheries and Oceans Canada (DFO) at the outlet of Cameron Lake, situated in the upper Little Qualicum River watershed, near Qualicum Beach. The weir was built to provide migration flows for chinook and chum salmon in the Little Qualicum River, and more recently to supplement instream flows and provide dilution for spawning channel cleaning activities at the lower river spawning channel (nhc 2004). The project is conservation-based, with a primary goal of improving the river and lake fisheries resources. Specific objectives associated with the proposed modification include:

1. Creating additional storage to augment base flows in Little Qualicum River;
2. modify weir to allow incremental releases (improve use of storage);
3. improving passage of juvenile and adult resident fish;
4. reducing diversion-related impacts on the mainstem adjacent to spawning channel; and
5. re-installing flow monitoring stations at the lake outlet and in the lower river.

The project is a partnership of DFO, the Ministry of Water, Land and Air Protection (MWLAP), and the BC Conservation Foundation (BCCF), amongst others. To date, a flood analysis has been completed (nhc 2004), project benefits have been identified and much of the public and agency consultations are complete, with strong support for the project (Appendix A). In addition, funding for implementation has been secured from the Pacific Salmon Commission and the Ministry of Transportation.

Design Aspects

The existing weir is located immediately within the natural outlet at the east end of Cameron Lake, upstream of a bridge providing access to properties along the northeast shore (Figure 1). It consists of a reinforced concrete slab and cut-off wall across the channel supported by adjoining abutments, with a steel columns and wood stoplog structure that provides the existing storage. On the left bank, a pool and weir fishway is located (Figure 2). Design and construction drawings of the existing structure are attached (Appendix B).

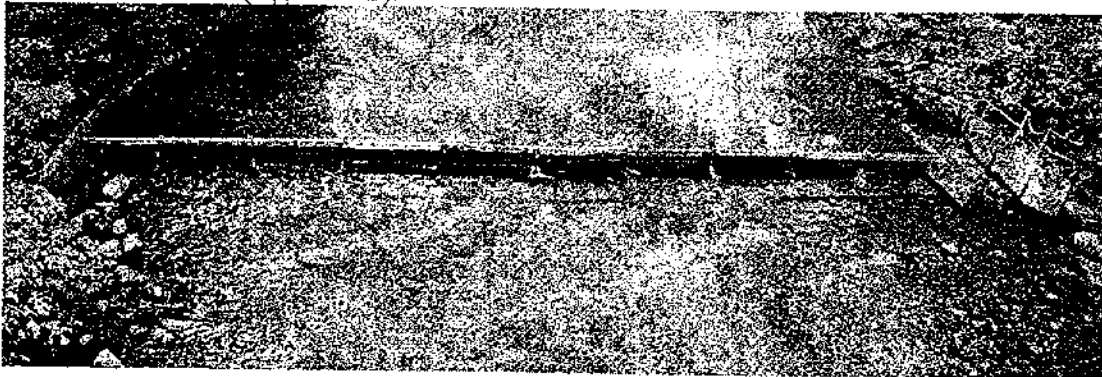


Figure 1. Cameron Lake outlet weir, viewed from bridge immediately downstream.

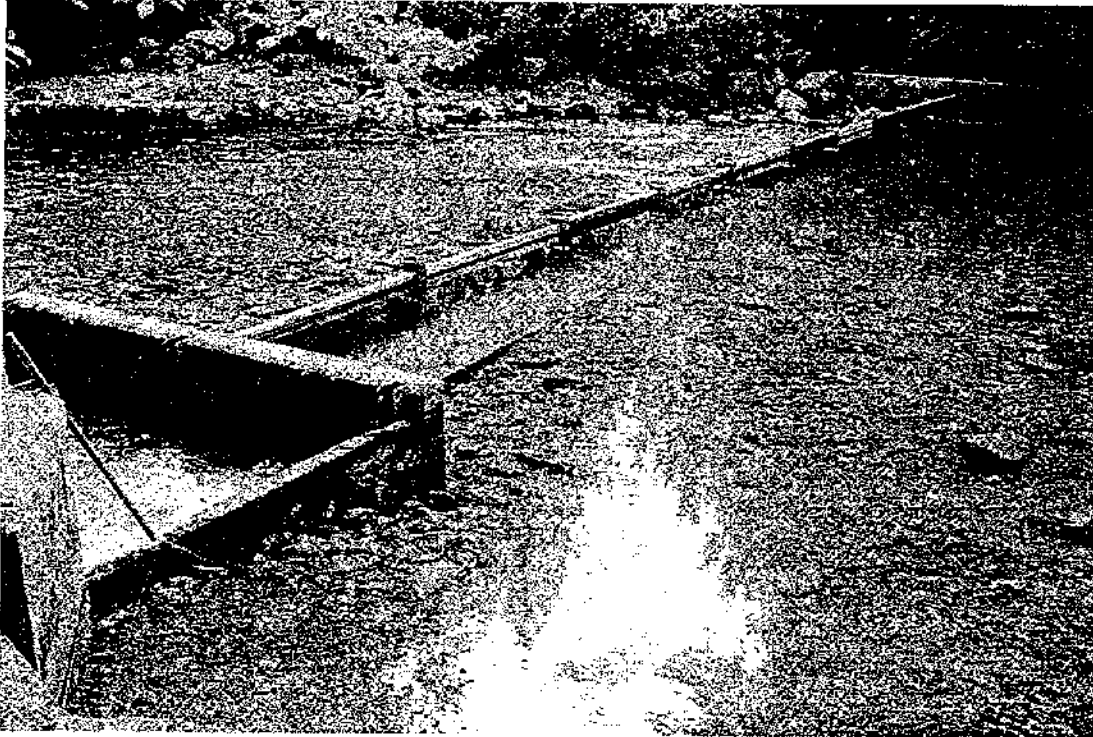


Figure 2. View from left (north) bank of weir at full storage, with fishway in foreground.

We propose to raise the weir crest by 50 cm to increase storage in Cameron Lake (see Appendix C for proposed design drawings). Parts of the modification would be constructed on site, while a number of components would be pre-fabricated, delivered and immediately installed. The modification would be completed over two weeks and include:

1. extending by 50 cm the steel stoplog support guides and installing additional stoplogs;
2. extending the fishway upstream into the lake;
3. installing an undersluice gate in the fishway bay for low-level releases;
4. raising the pony wall on the right (south) bank;
5. installing racks in front of the undersluice gate and the fishway for public safety and debris management; and,
6. adding riprap to the streambed for approximately 2 m downstream of the slab to prevent potential scour and undercutting.

In addition, flow monitoring equipment may be installed adjacent to the weir (and in the lower Little Qualicum River). All construction would occur within the accepted fisheries work window using appropriate environmental controls.

Exclusion fences/site isolation

All work activities (i.e., forms construction, channel excavation) within the wetted perimeter will be isolated using portable aquadams, poly sheeting, or sandbags. Concrete work will be limited to portions of the fishway extension, the undersluice gate housing, and the south bank pony wall. Minor channel excavation will be required to place concrete footings and to install scour rock

immediately downstream of the slab. All excavation and equipment will be isolated from stream flows.

Fish Passage Requirements

As indicated above in the Introduction, fish passage will be *improved* at this site (Objective #3). The existing, open fishway is composed of three 30 cm drops, and is likely a barrier for juvenile trout recruitment to the lake (nhc 2004; P. Law, Ecosystem Biologist, MWLAP, Nanaimo, pers. comm.). The proposed structure is a covered, submerged-orifice fishway with 15 cm drops over its length, significantly improving passage for juveniles, particularly rainbow, cutthroat and brown trout parr (J. Bomford, Head Engineering Services, Freshwater Fisheries Society, Victoria, pers. comm.).

Conservation Measures

Project is entirely conservation-based.

Staging Areas for Construction / Access Roads

As this project requires minimal materials for its construction phase, the access road (Chalet Road) will provide adequate areas for staging. Many components will be pre-fabricated and installed at delivery.

The Chalet Road bridge located 15 m downstream of the weir is rated for 64 metric tons or anything that legally travels on highways (HS 25 loading; M. Menzel, Bridge Rehab Engineer, MoT, Nanaimo, pers. comm.).

Permission to access the site from the left (north) bank has been given received from the president of the strata council (BC Provincial Strata VIS4441) and is attached (Appendix A).

Additional

The purpose of both the existing and proposed weir structures is to store water for **fish conservation purposes**. The existing and proposed storage is not intended for any other purpose.

No shoreline areas of Cameron Lake are flooded by the existing or proposed structure beyond those that are regularly inundated by seasonal weather-related lake level fluctuations. Hydraulic modelling has shown that during times of high flow with a worst case scenario (i.e., with the proposed weir fully raised), there is no significant increase in water surface elevation of the lake (nhc 2004; Appendix D).

As with the existing weir, debris removal will be managed by DFO staff from the Little Qualicum Project on the lower river.

Reservoir Information

There is no "reservoir" involved with this project. Existing and proposed storage is achieved solely by temporarily retaining spring time inflows at lake elevations well within the natural range.

Situated in the upper Little Qualicum watershed along Highway 4, Cameron Lake (Table 1; Figure 3) is fed by Cameron River and in turn feeds the Little Qualicum River. Based on a review of the MWLAP files, fish species present in Cameron Lake, its tributaries, and the upper Little Qualicum River (above the anadromous barrier in Little Qualicum Falls Provincial Park) include rainbow, cutthroat and brown trout, kokanee salmon, stickleback, and sculpins. The trout stocks support a

small but consistent sport fishery during spring, summer and fall. Dolly Varden char may also be present, though no evidence of this was found in the file data/reports.

Table 1. Cameron Lake physical characteristics (from 1951 Provincial Survey).

Size	477.38 ha
Elevation	183 m
Length	5.1 km
Width	1.4 km
Perimeter	13,626 m
Maximum Depth	43 m
Watershed Area	135 km ²

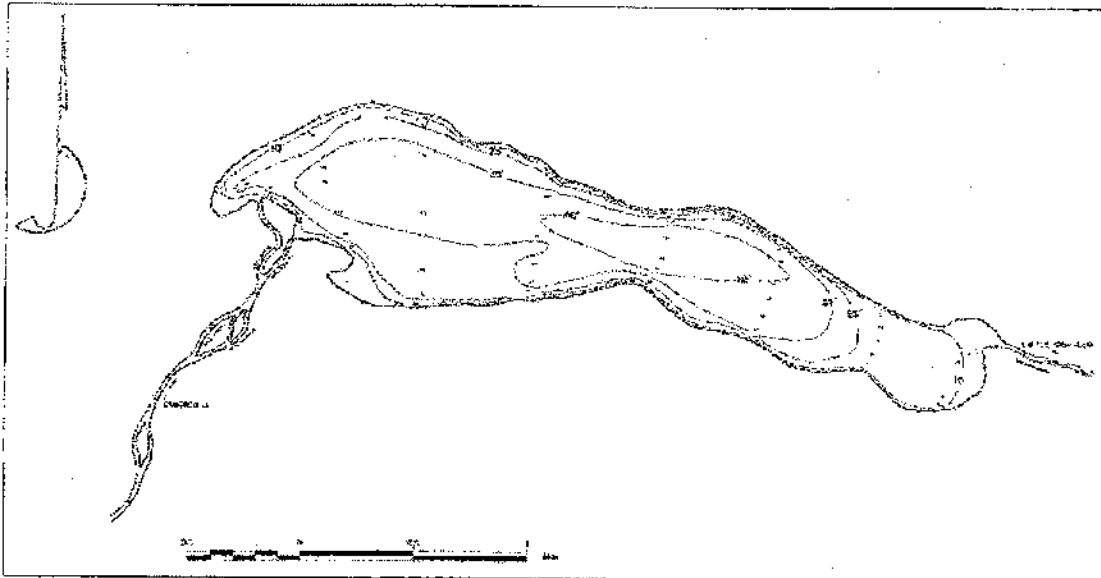


Figure 3. Cameron Lake bathymetric map (from 1951 Provincial Survey).

Geotechnical Considerations

The river bed and terrain surrounding the abutments are stable as demonstrated by 25 years of operation of the existing weir. There has been with no incidence of leakage around or under the structure and no bank erosion. The new structure will incorporate armouring of abutments and construction of a rock apron downstream of the slab to avoid erosion.

Seismic Considerations

Not applicable.

Project-Related Considerations

Natural hydrology in the Cameron watershed results in significant fluctuations in lake levels and has implications to shoreline properties and related infrastructure.

Highway 4 runs through a 4.5 km long transportation corridor on the southern edge of the lake. At the west end of the lake, two bridges on Highway 4 cross the Cameron River approximately 150 m upstream of its mouth. Ministry of Transportation staff do not believe this proposal will significantly affect road slope stability or existing bridge functionality provided the proposed water elevation remains lower than regularly occurring levels (B. Wylie, Sr. District Development Tech, MoT, Nanaimo, email in Appendix A).

MacMillan and Little Qualicum Falls Provincial parks are situated on the west and southern shores of Cameron Lake, respectively. BC Parks staff support the project in principle, subject to a Level 2 Impact Assessment that will determine what impacts may occur to sensitive vegetation and/or red/blue listed species in shoreline areas of MacMillan Park. This vegetation study is scheduled for early spring 2005. A second concern of BC Parks staff is related to potential impacts to archaeological sites or FN interests. The Qualicum First Nation supports the proposal and sees no infringement on the Band's rights or property (K. Recalma-Clutesi, Elected Chief Councillor, Qualicum First Nation, Qualicum Beach, letter attached in Appendix A). A BC Archaeological Site Data Request found no archaeological sites located on the shoreline of Cameron Lake (J. McMurdo, Coordinator, Archaeological Information Services, Victoria, email and report attached in Appendix A).

Because lake levels will remain within the natural range, no new erosion issues arise from this proposal.

A submission to Transport Canada is being filed for project approval under the Navigable Waters Protection Act.

Land Related Issues

Affected Lands

No lands are "required" for the proposal beyond that upon which the existing weir now sits. Lakeshore and other affected properties, their ownership, legal description and PID numbers are detailed in Table 2. Proposed construction will occur only on the unsurveyed Crown land parcel at the lake outlet (see Appendix C for drawing details).

Table 2. Cameron Lake Weir Upgrade - Affected Properties.

(starting with lake bottom, and progressing clock-wise around lake shore from west end)

Waterfront Properties	Type	Legal	Land Dist	Owner/Manager	Address	City	Prov	Postal	PID#
Lake Bottom	Crown	Block 1462	A,C	LWBC	501-345 Wallace Street	Nanaimo	BC	V9R 5B6	003-688-984
MacMillan Park	Crown	Block 35 VL&M PL 691K VIP73BR	A	BC Parks, MWLAP	1241 Rathrevor Road	Parksville	BC	V9P 2F3	008-713-551
North Side of Lake	Crown	Block 1374	A,N,C	LWBC	501-345 Wallace Street	Nanaimo	BC	V9R 5B6	008-732-426
Strata Lot	Private	Lot 1, Plan VIS4441, Block 36a	C	Josephine Mary Newman	866 Fairway Drive	Qualicum Beach	BC	V9K 2J1	023-953-578
Strata Lot	Private	Lot 2, Plan VIS4441, Block 36a	C	Michael Ryles	6257 Ronton Road	Port Alberni	BC	V9Y 7L6	023-953-596
Strata Lot	Private	Lot 3, Plan VIS4441, Block 36a	C	Brian O'Sullivan Don Alderson	114-9235 190th Street	Langley	BC	V3A 4P8	023-953-594
Strata Lot	Private	Lot 4, Plan VIS4441, Block 36a	C	Dean Thomas Patterson	1272 Chalet Road	Qualicum Beach	BC	V9K 1X7	023-953-608
Strata Lot, north side of mouth	Private	Lot 5, Plan VIS4441, Block 36a	C	Josephine Mary Newman	886 Fairway Drive	Qualicum Beach	BC	V9K 2J1	023-953-616
Lake Outlet	Crown	Unsurveyed Crown land	C	LWBC	501 345 Wallace Street	Nanaimo	BC	V9R 5D6	Unknown.
Lot, south side of mouth	Private	Lot 1, Block 36a, Plan 4059	C	Lodewijk Petrus Verheijen	Chalet Road	Qualicum Beach	BC	V9K 1S5	006-157-921
Lot	Private	Lot 2, Block 36a, Plan 4059	C	Lodewijk Petrus Verheijen	Chalet Road	Qualicum Beach	BC	V9K 1S5	006-157-955
Lot	Private	Lot 3, Block 36A, Plan 4059	C	Sharon Cox-Gustavson / Barrie Gustavson	Green Acres, PO Box 11	Combs	BC	V0R 1M0	006-158-072
Lot	Private	Lot 4, Section 36A, Plan 4059	C	William, Beryl & Wade Barnes	8880 Driftwood Road	Black Creek	BC	V9J 1A9	006-158-102
Little Qualicum Falls Park	Crown	DL 17	A,C	BC Parks, MWLAP	1240 Rathrevor Road	Parksville	BC	V9P 2E2	008-738-025

Other Properties	Type	Legal	Land Dist	Owner/Manager	Address	City	Prov	Postal	PID#
Highway 4	Crown	Plan 736 R/W	A,C	Ministry of Transportation	2100 Labeux Road	Nanaimo	BC	V9T 6E9	Unknown
Lot, south side, d/s of bridge	Private	part of Block 36a, Plan 691K	C	Lodewijk Petrus Verheijen	Chalet Road	Qualicum Beach	BC	V9K 1S5	006-228-178

Land Districts: A=Alberni, C=Cameron, N=Newcastle

Water-Related Issues

Water Quantity

Existing storage:	2,400 ac-ft per annum, storable year-round (or 2,960 dam ³ , see Conditional Water Licence #C052485 and #C052485 issued to DFO on July 12, 1979).
Proposed additional storage:	1,935 ac-ft per annum, storable between May 1 and October 31 (or 2,387 dam ³ , based on raising weir by 50 cm).
Total proposed storage:	4,335 ac-ft (5,347 dam ³).
Reserves/restrictions on source:	None. DFO is only licensed user on Cameron Lake.
Climatic information:	Mean annual runoff is 2,000 mm.
Watershed characteristics:	Watershed area upstream of lake outlet is 135 km ² . Cameron River is third order and flows northwest from its headwaters at Labour Day Lake (elevation=905 m) in central Vancouver Island, and enters the west end of Cameron Lake (elevation=183 m). Based on its 31 km of stream length (Fish Wizard web site), mean stream gradient is 2.3%.
Reservoir inflow sources:	Cameron River, plus two other small unnamed streams on the south side (first and order) that typically dry during the summer.
Flow data:	Water Survey of Canada data for station 08MB004 at the lake outlet provides 39 complete years and 6 partial years of daily flow data. Pacific storms generate flood flows typically between October and February (Figure 4). Low flows occur in August, September (30 out of 41 years of data) and sometimes October (8 years). Annual low flow is approximately 10% MAD (Table 3). No other streams are involved in this proposal.

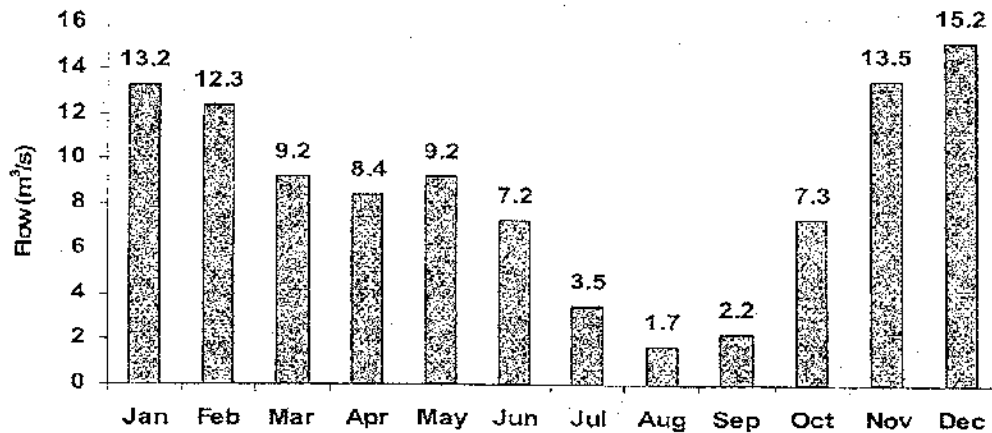


Figure 4. Mean monthly flow at Cameron Lake outlet (WSC data, 1913-22, 1960-93).

Table 3. Low flow and flood frequencies for Cameron Lake outlet (WSC gauge 08MB004; after the 2004).

		Return Interval (m ³ /sec)						
		2-year	5-year	10-year	20-year	50-year	100-year	200-year
Drought	0.87 (MALF)	0.81	0.53	0.43	0.35	0.28	0.24	0.24
Flood	8.58 (MAF)	61	97	124	150	190	220	260

Hydraulic Consequences of Raising the Weir

The hydraulic consequences of raising the weir 0.5 metres has been studied by Northwest Hydraulic Consultants in the spring of 2004. The findings are provided in their report titled "Cameron Lake Weir Upgrade: Hydraulic Analysis and Conceptual Design" which forms Appendix D of this application.

The report demonstrates that the weir has very little effect on Cameron Lake flood stages because the outlet control in the system is not the weir but a narrow canyon-like reach of the river just downstream of the weir.

The operation of the dam calls for stoplogs to be completely removed prior to the flood season but even if they were in place there would no consequence upstream to the lake or river.

Water Quality

There are no project-related factors that affect long term water quality.

Instream Requirements – Non-Anadromous Areas

Based on a review of the MWLAP files, fish species present in Cameron Lake, its tributaries, and the upper Little Qualicum River (above the anadromous barrier) include four salmonids, stickleback (*Gasterosteus spp.*), and sculpins (*Cottus spp.*). Dolly Varden char (*Salvelinus malma*) may also be present, though no evidence of this was found in the file data/reports. Historically, there appears to have been no restrictions to migration at the lake outlet of either juvenile or adult trout or char. The following is a snapshot of existing stock data.

Rainbow Trout (*Oncorhynchus mykiss*):

The presence/abundance of native wild rainbow is not documented, though it is probable that rainbows were present prior to stocking that started in 1924. Snorkel surveys during the late 70s counted up to 150 adult rainbow over the 4.3 km from lake to Little Qualicum Falls. Recently, annual stocking has occurred with one of three strains of rainbow from BC's interior (Blackwater, Tzenzaicut, Badger/Tunkwa); however, the degree to which natural recruitment contributes to current abundance is not well documented. Sport catches are generally fish that

range from 25-35 cm in length. A proportion of the lake's rainbows use the outlet and river below the lake for spawning and initial rearing prior to migrating back to the lake as fry and/or parr. An August 28, 2003 snorkel survey documented a moderate and high abundance of rainbow parr and fry, respectively, in the first 500 m of river below the lake.

Cutthroat Trout (*O. clarki clarki*):

As with rainbow trout, native cutthroat were likely present prior to the stocking that commenced in 1919 using Cowichan River brood. The Taylor River strain has been stocked since 1989. The Cameron Lake sport fishery, estimated at a minimum of 2,240 rod days in 2002 based on Lakes Angler Questionnaire data (S. Rimmer, Lakes Biologist, MWLAP, Nanaimo, pers. comm.), depends heavily on the cutthroat stock. According to Cameron Lake Resort staff, recent sport catches include fish to 2.5 kg, though 1-1.5 kg are more common. There is little data about Cameron Lake cutthroat spawning behaviour; however, Cameron River is believed to be their primary recruitment stream (C. Wightman, Fisheries Biologist, MWLAP, Nanaimo, pers. comm.). No juveniles were noted during the most recent summer snorkel survey (August 28, 2003) of the outlet, though fry may be difficult to visually distinguish from rainbow.

Brown Trout (*Salmo trutta*):

In 1935/36, brown trout were stocked in Cameron Lake and the upper Little Qualicum River at its confluence with Lockwood Creek (2nd right bank tributary, 0.5 km downstream of lake). Now well established in the lake, this stock is known to use the lake outlet and upper Little Qualicum River for spawning. The low abundance of brown trout fry and parr observed during the August 2003 survey suggests that recruitment is generally low in the surveyed reach, or that a large proportion of brown trout fry recruit to the lake during their first spring and early summer. Some portion of fry may also rear in the lower reaches of the two tributaries below the lake. Annual sport catches are low in number but consistent, with fish ranging from 1.5 kg to 3 kg, with the occasional specimen to 5+ kg.

Kokanee (*O. nerka*):

Little data exists on kokanee abundance. They are likely small as thus probably do not contribute to a fishery. Spawning timing and locations are not documented, but most are thought to be shore-spawners using beaches within the lake.

Dolly Varden Char:

No data on Little Qualicum Dolly Varden were located in MWLAP files. Dolly Varden char may be in the watershed, but populations are likely very small, locally isolated, and at higher elevations (D. Clough, Biologist, Lantzville, pers. comm.). Kinkade Creek's alias, *Dolly Varden Creek*, would suggest that char were at one time present in at least this sub-basin. The *Fish Wizard* web site lists both Dollies and bull trout in Kinkade Creek, as well as the mainstem.

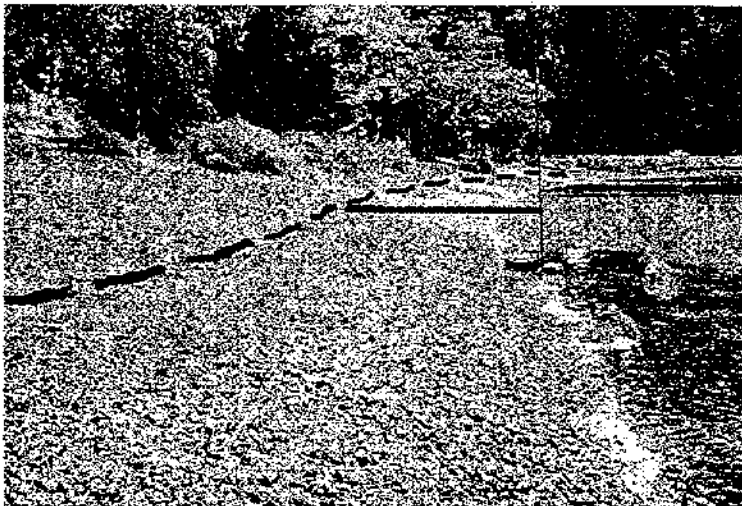
In addition to the above information, gillnet sampling occurred October 7-8, 2003 in Cameron Lake as part of an Island-wide MWLAP evaluation of stocking suitability of various rainbow trout strains. Four 90 m gillnets with 1-3.5" mesh were fished in the east and west ends of the lake (two in each) for approximately 20 hours. Results give some indication of relative abundance of the lake's trout/char and are summarized in Table 4.

Table 4. Summary of Cameron Lake gillnet sampling results, October 7-8, 2003.

Species	# Sampled	Mean Length (cm)	Length Range (cm)
Rainbow	119	18.1	10.1-31.0
Cutthroat	41	18.3	11.8-40.5
Brown	9	40.1	20.3-65.0
Kokanee	1	16.2	n/a
Prickly Sculpin	52	10.4	8.6-15.1

Fish access has long been identified as problematic and must be addressed in any proposal to modify the outlet dam. In 1991, P.D. Law (Fisheries Biologist, MWLAP) sought HCF funding and input from DFO (R. Higgins, Habitat Biologist) for a feasibility study to determine optimum base flows, migratory behaviour of juvenile trout populations in the lake outlet area, and design and costing of an enhanced dam structure to allow fish passage. The proposal was not funded at that time, and no response from DFO was located in the files. Juveniles (and a few adults) of each species may remain year-round in the river below the lake and could conceivably move back and forth between stream and lake at any given time in response to suitable flows (S. Rimmer, Lakes Biologist, MWLAP, pers. comm.). MWLAP's current view is that improved fish passage should be incorporated into any proposal to modify the dam, regardless of whether the new design increases storage or simply improves flow release capability (C. Wightman, Fisheries Biologist, MWLA, pers. comm.).

Recreational issues include boating on Cameron Lake, and public use of the BC Parks beach on the southeast corner of the lake (Figure 5). Based on feedback from shoreline landowners, up to 50 cm



additional water depth in early summer that declines through to late September will make boating easier and provide more depth beneath the small docks and anchoring platforms found around the lake. Following a May 6, 2004 tour to view potential impacts, BC Parks staff have no concerns relating to the temporary reduction of beach area that would occur in June and early July (D. Foreman, Area Supervisor, BC Parks, Parksville, pers. comm.).

Figure 5. View looking south of BC Parks beach at southeast end of Cameron Lake. The black horizontal line is 50 cm above lake level, which at the time of the photo was at full storage (based on existing DFO license). Dashed line is approximately where waters edge would be if weir is raised 50 cm. Note Hwy 4 in background.

Instream Requirements – Anadromous Areas (L. Qualicum R.)

This project's primary purpose is to improve summer habitat conditions for anadromous stocks downstream. To identify potential benefits from increased storage on Cameron Lake, habitat

suitability in the lower Little Qualicum River was measured in the fall of 2003 at riffle sites under three flow regimes: 7.3% MAD, 11.9% MAD, and 26.5% MAD. Results (Appendix E) indicate a greater suitability at all sample sites with flows of 11.9% MAD (1.4 cms; 50 cfs) compared to suitability at 7.3% MAD (0.86 cms; 30.4 cfs). Habitat suitability increased an average of 10.7% (range 7.9%-12.7%) for steelhead parr. Similar to steelhead parr, suitability for chinook fry in riffle sites at 11.9% MAD increases in three of the four sites, remaining unchanged at the fourth site. The average increase was 7.8% (range 0.1% to 15.4%). Habitat suitability for macro-invertebrates also improved at all sites with higher flows, with an average increase of 15.8% at flows equal to 11.9% MAD over flows of 7.3% MAD.

In addition to benefits from existing riffle areas related to improved habitat quality and greater insect production, increases in wetted width translate into additional steelhead parr habitat that will generate significant production. Assuming that 30% of the mainstem anadromous length (9.5 km) is riffle habitat, the amount of riffle area available at 11.9% MAD is 3,277 m² more than at the lower flow. Using *conservative* metrics of 0.2 parr/m² and 50% parr-to-smolt survival¹, wild steelhead smolt production would increase by 328 annually from additional wetted area alone.

Coho and cutthroat would also benefit from insect production increases related to higher flows.

Affected Water Users

Water license queries on the LWBC website have indicated one license on Cameron Lake, held by DFO for storage/conservation purposes, and nine licences on the Little Qualicum River for waterworks, enterprise, irrigation and domestic purposes (Appendix F). This proposal has no negative impacts to downstream water users – on the contrary – it will reduce drought-related low flow problems that users typically face, and minimize impacts related to their withdrawals.

Construction Activities

Construction activities will be scheduled during the low flow late summer month period and completed prior to fall rains. There are essentially 3 components to the proposed work: raising the height of stoplogs by extending the existing steel guides, concrete work associated with incorporating a juvenile passable fishway and installation of a metal gate valve for flow control. It will be necessary to isolate the work area by temporary cofferdam for these latter 2 items to enable the construction to be done in a dry condition and to maintain an acceptable level of water quality. Water flow to the river will be required to be maintained and water storage elevation will be managed as done currently throughout the construction period.

Safety Aspects

Downstream Consequences

The Cameron Lake Weir qualifies as a dam under the definitions provided in the Dam Safety regulation in that it is "one metre or more in height and capable of impounding a volume of water greater than 1 million cubic meters. Under the dam classification system included in the regulations we request that the Cameron Lake weir be classified as a "VERY LOW" consequence of failure dam.

¹ Parr to smolt survival rate will vary from 45%-55% depending on smolt age (R. Ptolemy, Fish Flow Specialist, MWLAP, pers. comm.).

Future Monitoring

Operation, maintenance and surveillance of the structure will be incorporated into the preventive maintenance program of the DFO Little Qualicum spawning channel. The staff of the Little Qualicum Project will be responsible for the operation and maintenance of the structure.

The operational plan including a rule curve and provisional flow schedule will be developed, modelled on templates developed for the Sooke and Englishman watersheds. Flow monitoring will be re-initiated at both the lake outlet and in the lower Little Qualicum River to confirm flow targets are being met. Daily discharge data will be measured and recorded using transducers installed in the abandoned WSC station immediately downstream of the bridge below the outlet and at a suitable location in the lower river. DFO will monitor the stations remotely by phone line.

As in the past, DFO staff from the Little Qualicum Project will be responsible for site maintenance and debris cleaning at the weir.

Related Considerations

Archaeological Assessment

In May 2004, the Qualicum First Nation indicated their support for the proposal and saw no infringement on the Band's rights or property (K. Recalma-Clutesi, Elected Chief Councillor, Qualicum First Nation, Qualicum Beach, letter attached in Appendix A). As indicated above in *Project-Related Considerations*, a February 2005 BC Archaeological Site Data Request found no archaeological sites located on the shoreline of Cameron Lake (J. McMurdo, Coordinator, Archaeological Information Services, Victoria, email and report attached in Appendix A). A "heritage site" was located, consisting of a cabin and a culturally modified tree at the east end of the lake, above the high water mark. Further consultations with the Qualicum First Nation are ongoing.

Environmental Monitors

A qualified environmental monitor will be on site during construction to ensure that all potential impacts to fish habitat are mitigated. This person will be responsible for ensuring that sediment control procedures are followed as per the DFO Land Development Guidelines (Chilibeck 1992) and that fish salvage operations are conducted, as necessary. Key points in the guidelines are:

- the natural riparian vegetation and stream banks should be protected and/or rehabilitated during and after construction;
- prevent the introduction of pollutants and deleterious substances by controlling construction activities and site conditions;
- prevent the generation of sediment by utilizing proper instream construction controls and supervision; and
- conduct fish salvage as required to remove fish from the area of impact (using minnow traps, beach seines, or lastly, electrofishing).

Remaining Environmental Considerations

A Level 2 Impact Assessment will determine what impacts, if any, may occur to sensitive vegetation and/or red/blue listed species in shoreline areas of MacMillan Park. This vegetation study, involving the examination of two pocket ecosystems on the shoreline MacMillan Park, is required by BC Parks

and will be scheduled for early spring 2005. If required, mitigation will be considered and recommended by BC Parks staff following a review of the results of the vegetation study.

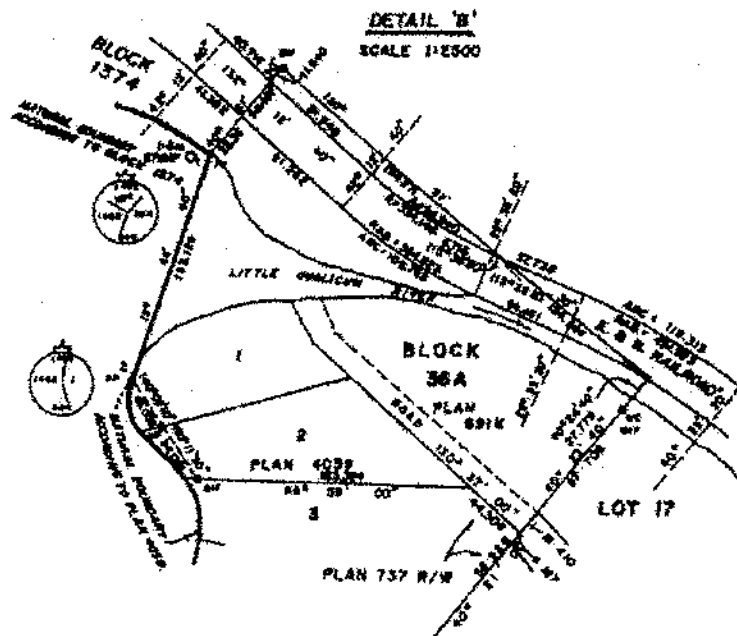
Summary and Conclusion

This project involves the modification of a storage weir built in 1979 by DFO at the outlet of Cameron Lake. The weir was built to provide migration flows for chinook and chum salmon in the Little Qualicum River, and more recently to supplement instream flows and provide dilution for spawning channel cleaning activities at the lower river spawning channel (nhc 2004). The proposed modification is conservation-based, with a primary goal of improving the river and lake fisheries resources. Specific objectives associated with the proposed modification include:

1. Creating additional storage to augment base flows in Little Qualicum River;
2. modify weir to allow incremental releases (improve use of storage);
3. improving passage of juvenile and adult resident fish;
4. reducing diversion-related impacts on the mainstem adjacent to spawning channel; and
5. re-installing flow monitoring stations at the lake outlet and in the lower river.

The project is a partnership of DFO, MWLAP, and the BC Conservation Foundation, amongst others. To date, a flood analysis has been completed (nhc 2004), project benefits have been identified and much of the public and agency consultations have been completed, with strong support for the project. In addition, funding for implementation has been secured from the Pacific Salmon Commission and the Ministry of Transportation.

More recently, LWBC and the Surveyor General's Office (Land Title and Survey Authority of British Columbia) have only just determined that the existing weir sits on Crown land and that no permission exists for same. Thus, an Application for Crown Land is included in this package. Detail from PLAN 38284 (1982):





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
APR 28 2005			
EAPC ✓			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: April 29, 2005

FROM: Greg Keller
Planner

FILE: 3090 30 90507

SUBJECT: Development Variance Permit Application No. 90507 - Wylie
Electoral Area 'H' - 5040 Seaview Drive

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of an existing single dwelling unit, accessory building, and footbridge for a property located at 5040 Seaview Drive.

BACKGROUND

The planning department has received a development variance permit application to relax the minimum interior side lot line, other lot line, and setbacks adjacent to a watercourse in order to legalize the siting of an existing single dwelling unit, an existing accessory building, and an existing foot bridge located on the property legally described as Lot 26, District Lot 28, Newcastle District, Plan 22249 (see Attachment No. 1).

The subject property is approximately 694m² in site area, is located at 5040 Seaview Drive at the intersection of Seaview Drive and Longview Drive, and is currently zoned Residential 2, Subdivision District 'M' (RS2M) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line, 2.0 metres from the interior side lot line, 2.0 metres from the rear lot line, 5.0 metres from the other lot line, and 15.0 metres horizontal distance from the natural boundary or 18.0 metres from the stream centerline, whichever is greater.

The maximum dwelling unit height is 8.0 metres and the maximum accessory building height is 6.0 metres as measured from the natural grade. Please note the RS2 zone permits a maximum of one accessory building not exceeding a floor area of 10m² with a maximum height of 3.0 metres to be constructed with no setback from an interior or rear lot line. Please note the subject parcel is not designated within a building inspection area, therefore, no building permits are required and Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1992 does not apply.

The subject parcel is not located within an environmentally sensitive or hazardous area pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003", and the Environmentally Sensitive Features Atlas does not indicate the presence of any environmentally sensitive features.

The applicants submitted a survey to the Planning Department with the intent to apply for a Development Variance Permit as the dwelling unit encroached into the 5.0 metre other lot line setback adjacent to

Longview Drive and within the Ministry of Transportation's minimum 4.5 metre setback adjacent to a public highway. In addition, the existing accessory building encroached into the minimum interior side lot line requirements pursuant to Bylaw No. 500.

Upon staff conducting a site visit, it was determined that there was an unnamed watercourse running through the west portion of the subject parcel and the existing dwelling unit, accessory building, and footbridge crossing the watercourse do not meet the required 9.0 metre setback from the top of the bank adjacent to the watercourse. In addition, the natural vegetation adjacent to the watercourse has been removed and two retaining walls under 1.0 metre in height were erected. Please note this watercourse did not previously appear on Bylaw No. 500 mapping and is not designated within a Development Permit Area pursuant to the Electoral Area 'H' Official Community Plan.

Proposed Variances

The applicants are proposing to vary **Section 3.4.62 – Maximum Number and Size of Buildings and Structures** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" as follows:

1. The other lot line is relaxed from 5.0 metres to 3.3 metres for the existing single dwelling unit labeled 'house' on the survey submitted by the applicants.
2. The interior lot line is relaxed from 2.0 metres to 0.2 metres for the existing carport labeled 'carport' on the survey submitted by the applicants.

The applicants are also proposing to vary **Section 3.3.8 – Setbacks – Watercourses, excluding the sea** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" as follows:

1. From 9.0 metres to 0.6 metres horizontal distance from the top of the bank adjacent to a watercourse for the existing accessory building labeled 'shed' as shown on the survey submitted by the applicants.
2. From 9.0 metres to 3.2 metres horizontal distance from the top of the bank adjacent to a watercourse for the existing accessory building labeled 'carport' as shown on the survey submitted by the applicants.
3. From 9.0 metres to 2.1 metres horizontal distance from the top of the bank adjacent to a watercourse for the existing single dwelling unit as shown on the survey submitted by the applicants.
4. From 18.0 metres to 0.0 metres horizontal distance from the stream centre line for the existing foot bridge as shown on the survey submitted by the applicants.

ALTERNATIVES

1. To approve Development Variance Permit No. 90507 subject to the outcome of the public notification.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

The applicants indicate that the existing structures were erected in 1990 in their current location due to the topographical constraints of the subject parcel. In addition, the applicants have indicated that they were unaware of the setback requirements from lot lines and the watercourse at the time of construction.

The subject property is a relatively flat residential parcel located at the intersection of Seaview and Longview Drive and is separated from the adjacent parcels by an evergreen hedge, which appears to reduce the impact of the existing structures on the adjacent properties. In addition, no complaints with respect to the existing structures have been received from the adjacent property owners.

A small footbridge was constructed across the watercourse in order to provide easy access to the west portion of the subject parcel. The bridge was constructed without the necessary approvals from the Ministry of Water, Land and Air Protection; however, the *Water Act* does not provide for any mechanism to regulate construction after the fact. While other penalties can be imposed to remedy the non-compliance, the Ministry has indicated that no further action will be taken at this time.

Since the natural vegetation has been removed adjacent to the watercourse, the applicant is proposing to re-establish native vegetation and remove existing non-native and invasive species in accordance with the vegetation restoration plan dated May 27, 2005 prepared by Sector Environmental Resource Consulting. The applicants have submitted an itemized cost estimate and landscaping security deposit in the amount of \$1064.45 to secure the works prescribed in the vegetation restoration plan, and have verbally indicated their intent to conduct the works prescribed in the plan. In addition, the applicants have submitted a Section 219 covenant saving the Regional District of Nanaimo harmless from any damages and or losses as a result of flooding and or erosion to be registered on title contingent upon the Board's approval of this application.

The applicants have also submitted five letters of support from adjacent property owners and the Planning Department has received confirmation that the Ministry of Transportation has no objection in principle with the location of the existing dwelling unit within its minimum 4.5 metre setback adjacent to a public highway and is willing to grant a relaxation pending written confirmation of approval from the Regional District of Nanaimo.

The impact of the proximity of the dwelling to the watercourse will be minimized, the stability of the stream bank will be improved, and the general health of the stream will be improved by the re-introduction of native species along its banks. Therefore, staff recommends Alternative No. 1, to approve Development Variance Permit Application No. 90507 subject to the outcome of the public notification.

PUBLIC CONSULTATION IMPLICATIONS

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

VOTING

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

SUMMARY/CONCLUSIONS

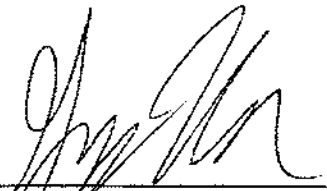
This is an application for a Development Variance Permit to relax the minimum interior side and other lot line and setbacks adjacent to a watercourse in order to legalize the siting of an existing single dwelling unit, accessory building, and footbridge. The proposed variances, if approved, would vary Section 3.4.62 and Section 3.3.8 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (Minimum Setback Requirements and setbacks adjacent to a watercourse) as shown on attached Schedule No. 3.

The applicants are proposing to re-establish native vegetation adjacent to the watercourse in order to reduce the potential impacts of the existing structures on the watercourse. Furthermore, the single dwelling unit, footbridge, and accessory building have been located in their current location for a number of years, with no complaints received from adjacent property owners and the applicants have submitted five letters of support from adjacent property owners. Therefore, staff recommends this application be approved subject to the notification procedures pursuant to the *Local Government Act*.

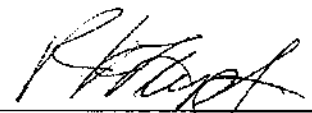
RECOMMENDATION

That Development Variance Permit Application No. 90507, submitted by Vivian and Pamela Wylie, to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" as outlined on Schedule No. 1 to legalize the existing single dwelling unit, accessory building, and footbridge according to the Terms of Schedule No. 2 be approved subject to the notification procedures pursuant to the *Local Government Act*, and that development variance permit application No. 90507 be issued upon completion of the following item:

- a) The applicants must register the save harmless clause and the vegetation restoration plan dated March 27, 2005 prepared by Sector Environmental Resource Consulting, as a Section 219 covenant on the title of the subject parcel.




Report Writer



Deputy Administrator



Manager, Community Planning



CAO Concurrence

COMMENTS:
devsrv\dvp.ap_3090_30_90507_wylie.doc

**Schedule No. 1
Requested Variances
Development Variance Permit Application No. 90507
for Lot 26, District Lot 28, Newcastle District, Plan 22249
5040 Seaview Drive**

Development Variance Permit No. 90507 varies **Section 3.4.62** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" as follows:

1. Other lot line is relaxed from 5.0 metres to 3.3 metres for the existing single dwelling unit labeled 'house' on the survey previously submitted.
2. Interior lot line is relaxed from 2.0 metres to 0.2 metres for the existing carport labeled 'carport' on the survey previously submitted.

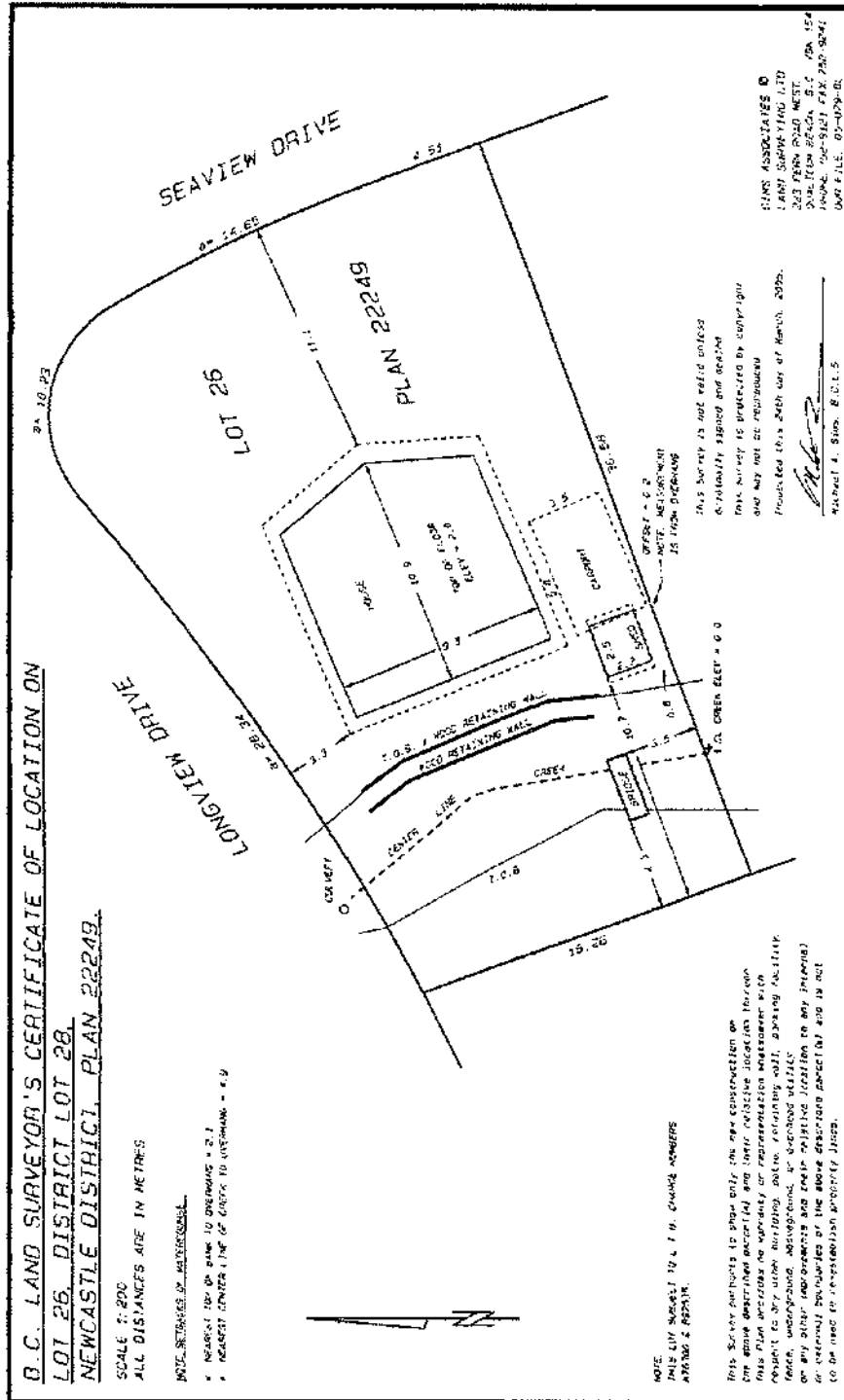
Development Variance Permit No. 90507 also varies **Section 3.3.8** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" as follows:

3. From 9.0 metres to 0.6 metres horizontal distance from the top of the bank adjacent to a watercourse for the existing accessory building labeled 'shed' as shown on the survey submitted by the applicant.
4. From 9.0 metres to 3.2 metres horizontal distance from the top of the bank adjacent to a watercourse for the existing accessory building labeled 'carport' as shown on the survey submitted by the applicant.
5. From 9.0 metres to 2.1 metres horizontal distance from the top of the bank adjacent to a watercourse for the existing single dwelling unit as shown on the survey submitted by the applicant.
6. From 18.0 metres to 0.0 metres horizontal distance from the stream centre line for the existing foot bridge as shown on the survey submitted by the applicant.

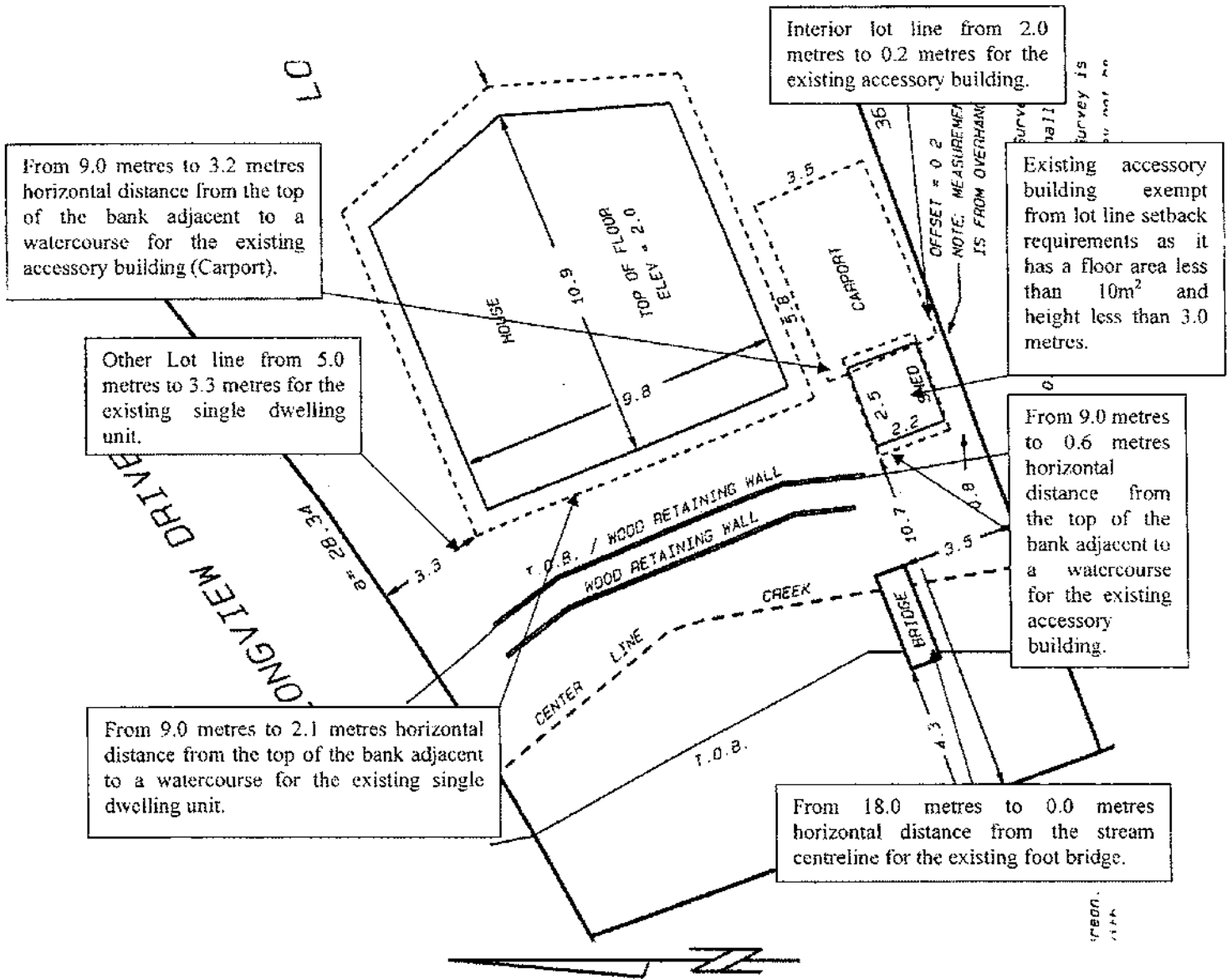
**Schedule No. 2
Terms of Development Variance Permit Application No. 90507
for Lot 26, District Lot 28, Newcastle District, Plan 22249
5040 Seaview Drive**

1. The applicant shall conduct and maintain all works prescribed in the vegetation restoration plan dated March 27, 2005 prepared by Sector Environmental Resource Consulting within six months of approval of this application.
2. A landscaping security deposit in the amount of \$1067.45 shall be held by the Regional District of Nanaimo pending completion of the prescribed vegetation restoration works.
3. The variances apply only to the existing structures located as shown on Schedule Nos. 3 and 4.
4. The applicants shall, at their expense to the satisfaction of the Regional District of Nanaimo, register a Section 219 covenant releasing the Regional District of Nanaimo from all liability, damages, and/or losses as a result of erosion and/or flooding and ensuring that vegetation is maintained adjacent to the creek in accordance with the vegetation restoration plan dated March 27, 2005 prepared by Sector Environmental Resource Consulting

Schedule No. 3 (Page 1 of 2)
 Building Location Certificate (Submitted by applicant reduced for convenience)
 Development Variance Permit Application No. 90507
 5040 Seaview Drive

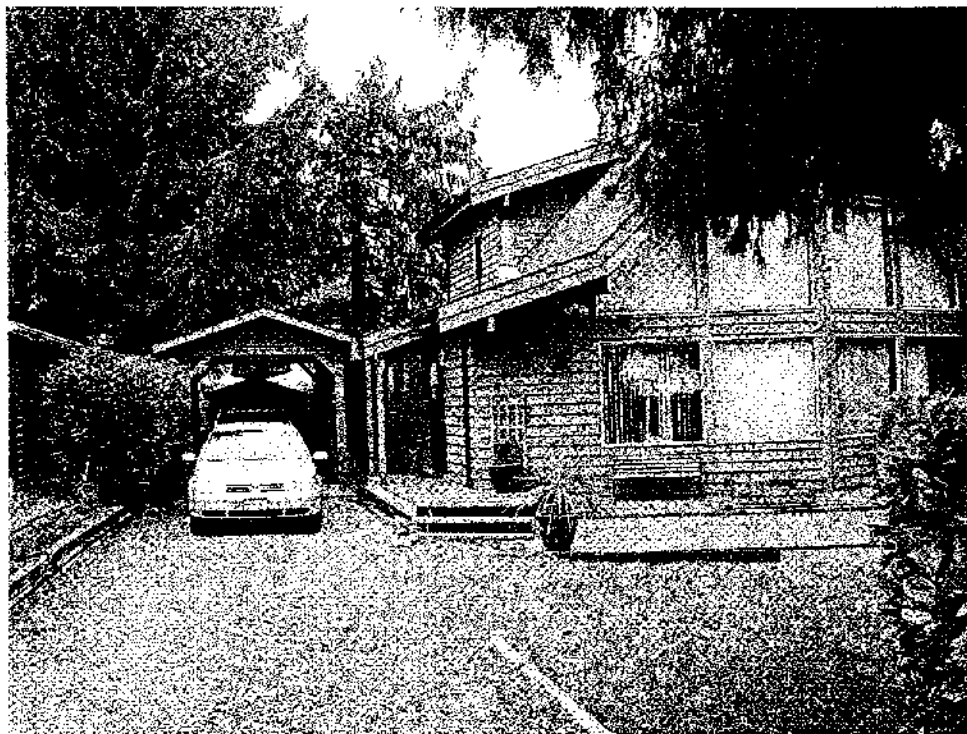


Schedule No. 3 (Page 2 of 2)
Building Location Certificate showing proposed variances
(Submitted by applicant enlarged for convenience)
Development Variance Permit Application No. 90507
5040 Seaview Drive



Schedule No. 4 (Page 1 of 3)
Site Photographs
Development Variance Permit No. 90507

Existing Carport



Schedule No. 4 (Page 2 of 3)
Site Photographs
Development Variance Permit No. 90507



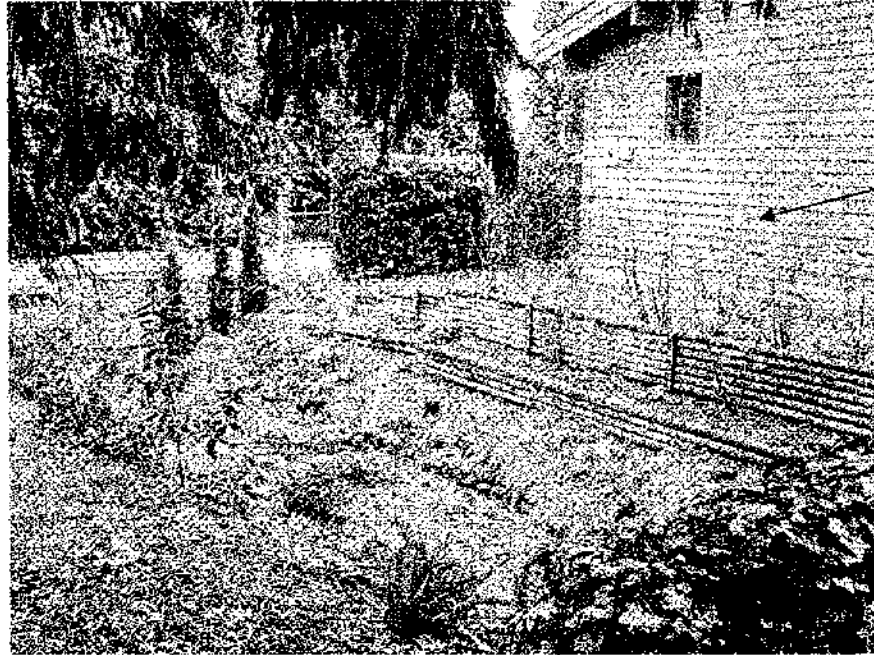
Existing
Foot Bridge



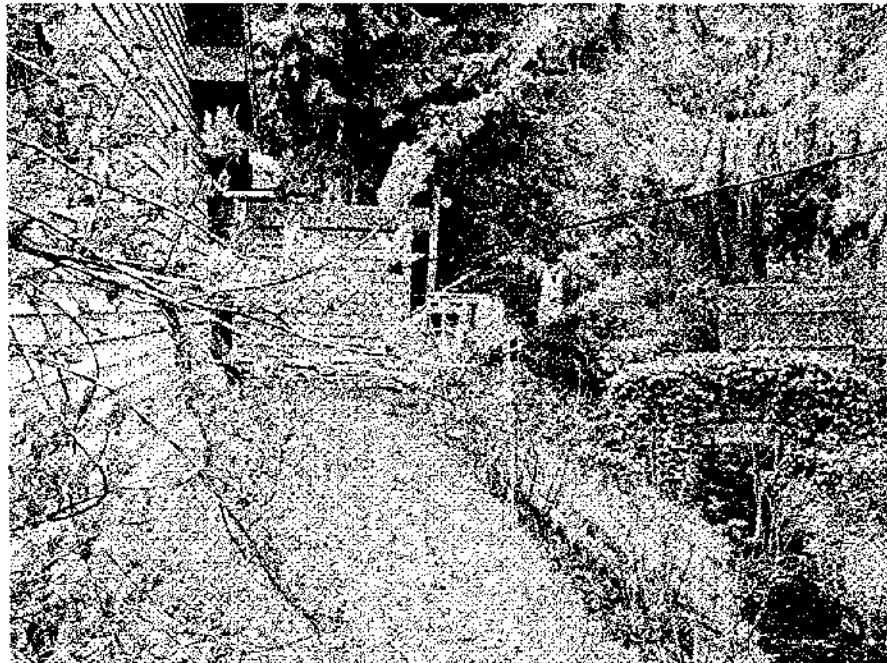
General
Location of
vegetation
reestablishment

Existing
retaining walls
under 1.0
metre in
height.

Schedule No. 4 (Page 3 of 3)
Site Photographs
Development Variance Permit No. 90507

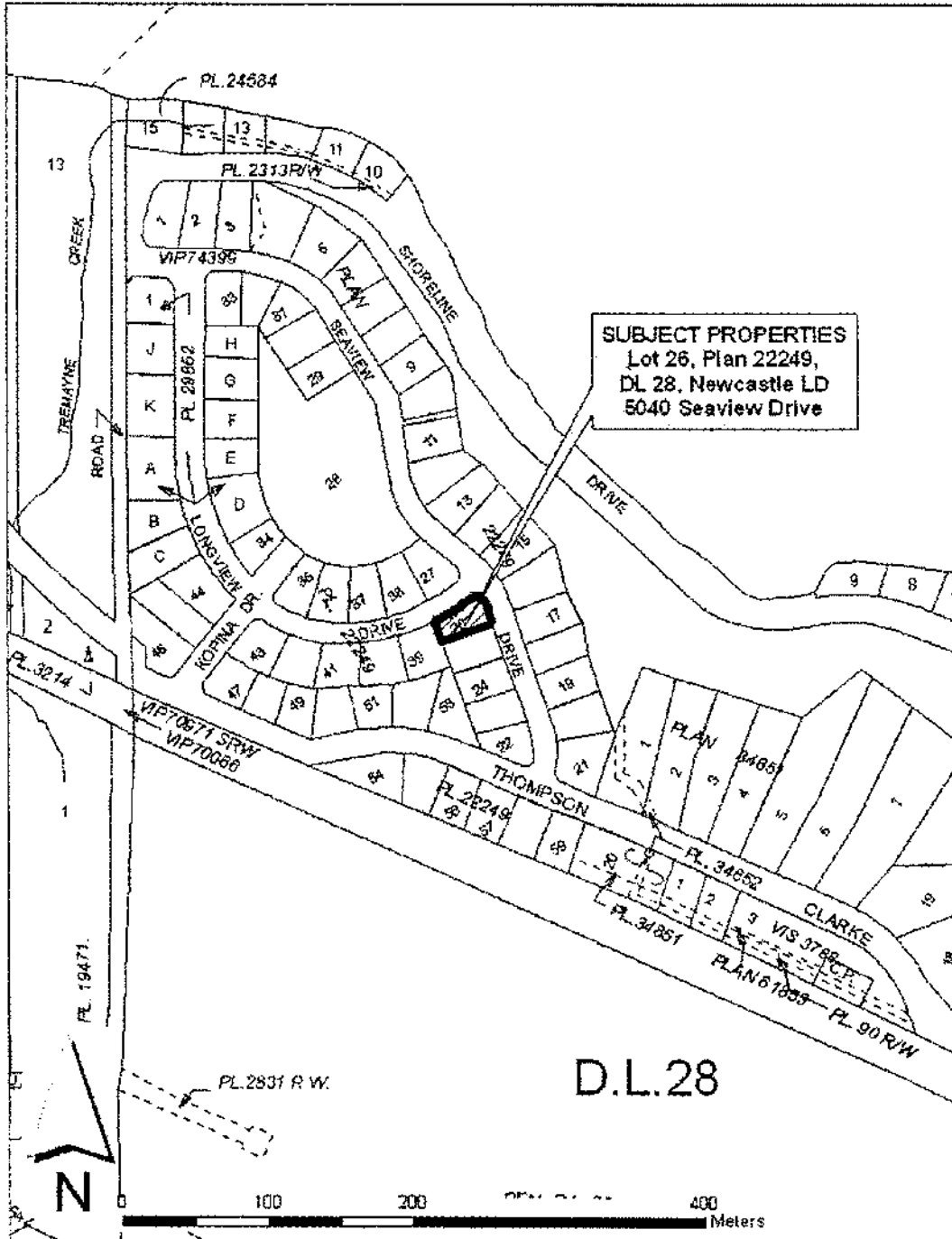


Existing
single
dwelling
unit



Existing
accessory
building

Attachment No. 1
Subject Property Map
Development Variance Permit Application No. 90507



OCGS Map Sheet No. 32F-047.3.2

ALTERNATIVES

1. To approve the application for Development Variance Permit as submitted, subject to Schedules No. 1 and 2 and subject to consideration of comments received as a result of notification procedures.
2. To deny the Development Variance Permit application as submitted.

DEVELOPMENT IMPLICATIONS

The applicants wish to adjust the boundary between the two parcels to increase the size of Lot B and reduce the size of Lot 6. Should the Board approve the requested variance, proposed new Lot B will have a split Subdivision District, with a portion of the parcel having a minimum parcel size of 2.0 ha and a portion having a minimum parcel size of 1.0 ha. As proposed, Lot B will not be larger than 2.0 ha after the boundary adjustment has been approved; the RUI zone limits the number of dwelling units on the property to one. Therefore, there will be no increase in residential densities as a result of the proposed boundary adjustment. In fact, the owner of Lot 6 can presently locate a second dwelling on the property provided provincial requirements are met. However, should the boundary adjustment be approved as submitted, the maximum residential density resulting on both parcels will be one dwelling per parcel.

As a result of the increased parcel size for proposed Lot B, the applicants may apply to create a new 0.88 ha parcel for a relative pursuant to section 946 of the *Local Government Act*. To avoid the creation of a smaller suburban lot in an area with no community services, staff recommends that the RDN require the applicant to register a covenant on the title of proposed Lot B that restricts further subdivision of the parcel.

There is currently a building on Lot 6 that is located where the proposed lot line will be. The applicants have indicated that the building will be removed. In order to avoid a situation where a building straddles a new lot line and is encroaching into setback areas, staff recommends that the removal of the building be a condition of subdivision approval.

As the proposed boundary adjustment does not allow for increased residential density on either parcel and staff do not perceive that the amended lot configuration will result in negative impacts on the surrounding parcels, staff recommend approval of the requested variance, subject to the terms outlined in Schedule No. 1.

PUBLIC CONSULTATION IMPLICATIONS

As the proposed boundary adjustment requires a variance to the subdivision regulations outlined in Part 4.4.1 of RDN Bylaw No. 500, 1987, adjacent landowners and tenants within a 50 metre radius of the subject properties will be notified of the proposed variance, in accordance with the notification procedures outlined in the *Local Government Act*.

VOTING

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

SUMMARY

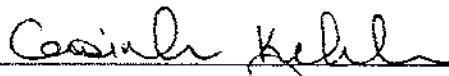
This is an application to vary Part 4.4.1 of RDN Bylaw No. 500, 1987 subdivision regulations to facilitate a boundary adjustment between two parcels that will result in the reduction of one parcel by more than 20% of its original size. Prior to final approval of the boundary adjustment, the applicants will be removing an existing building, which would otherwise straddle the proposed lot line.

As proposed Lot B will be 1.893 ha, it may be possible for the landowners to apply to create a new parcel for a relative or for themselves pursuant to section 946 of the *Local Government Act*. For this reason, staff recommends that the Board require the applicants to register a section 219 covenant on the title of proposed Lot B that restricts further subdivision of the parcel pursuant to section 946 of the *Local Government Act*.


The result of the proposed boundary adjustment would be to decrease the residential density to a maximum of one dwelling unit per parcel. As staff does not perceive any negative land use implications resulting from the proposed boundary adjustment, it is recommended that the variance request be approved subject to the terms outlined in Schedule No. 1.

RECOMMENDATION

That Development Variance Permit Application No. 90512, submitted by S. & J. Bentley and J. & J. Stevenson, to reduce the original parcel size of one of the subject properties by more than 20%, to facilitate a boundary adjustment proposal at 425 Fourneau Way be approved subject to the terms in Schedule No. 1 and subject to notification procedure pursuant to the *Local Government Act*.



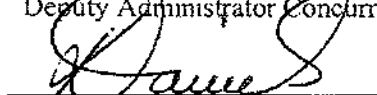
Report Writer



Manager Concurrence



Deputy Administrator Concurrence



CAO Concurrence

COMMENTS:
devsvs/reporz/2005/dvp ma 90512.doc

SCHEDULE NO. 1

**Terms of Development Variance Permit No. 90512
Lot 6, Block 419, Nanoose District, Plan 36697
and Lot B, Block 419, Nanoose District, Plan VIP52708**

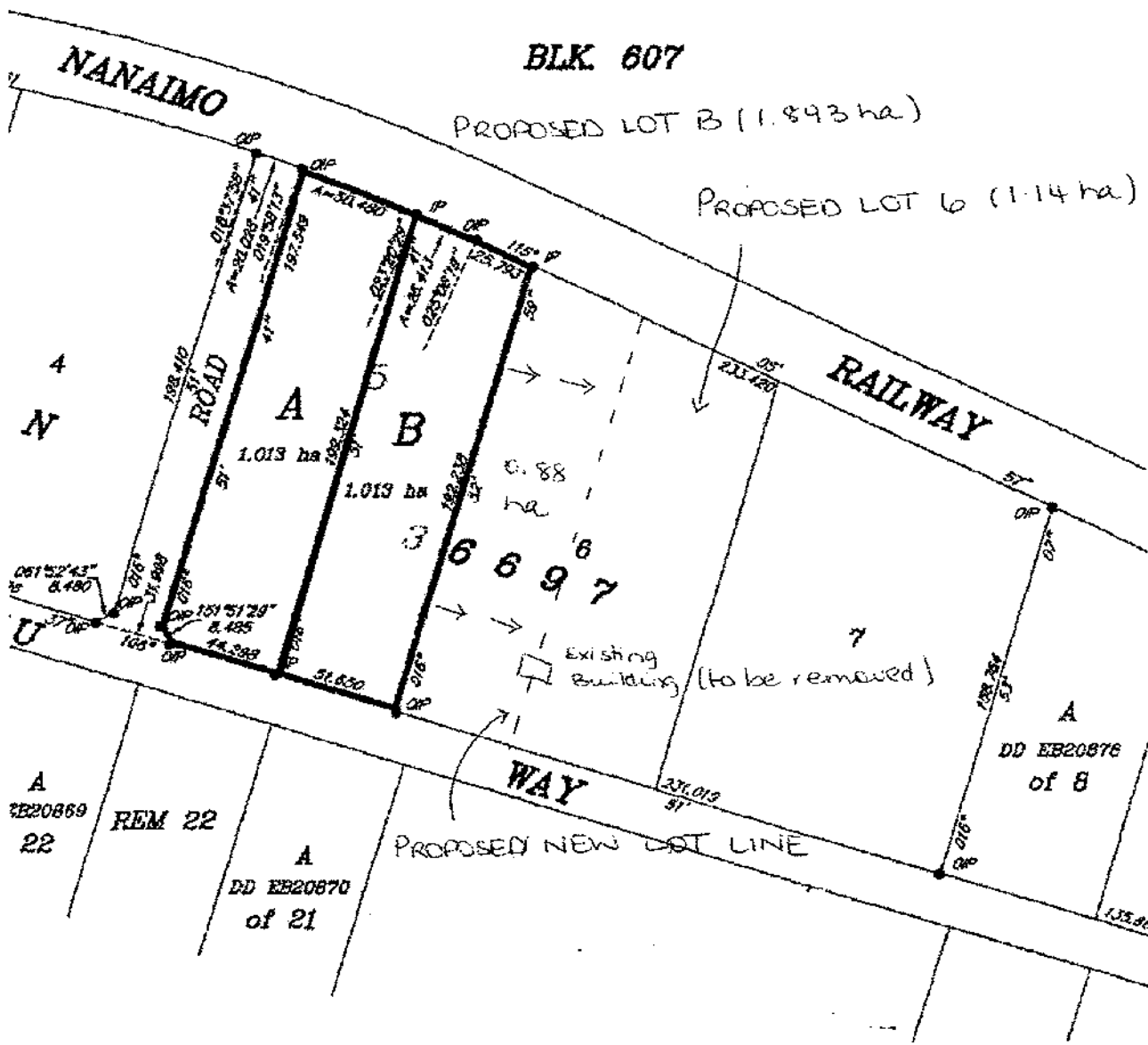
The following sets out the terms of Development Variance Permit Application No. 90512:

1. The building that is located in the vicinity of the proposed new lot line as indicated on Schedule No. 2, shall be removed prior to the applicants requesting final approval of the proposed boundary adjustment.
2. The applicants shall prepare and register on the title of Lot B, Plan 52708, a section 219 covenant that restricts further subdivision of the proposed parcel pursuant to section 946 of the *Local Government Act*. A draft copy of the covenant is to be submitted to the RDN for its review and approval prior to registration.
3. Part 4.4.1 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied to permit the reduction of proposed Lot 6 by more than 20% of its original size. Proposed Lot 6 is proposed to be reduced by approximately 43% of its original size.

SCHEDULE NO. 2

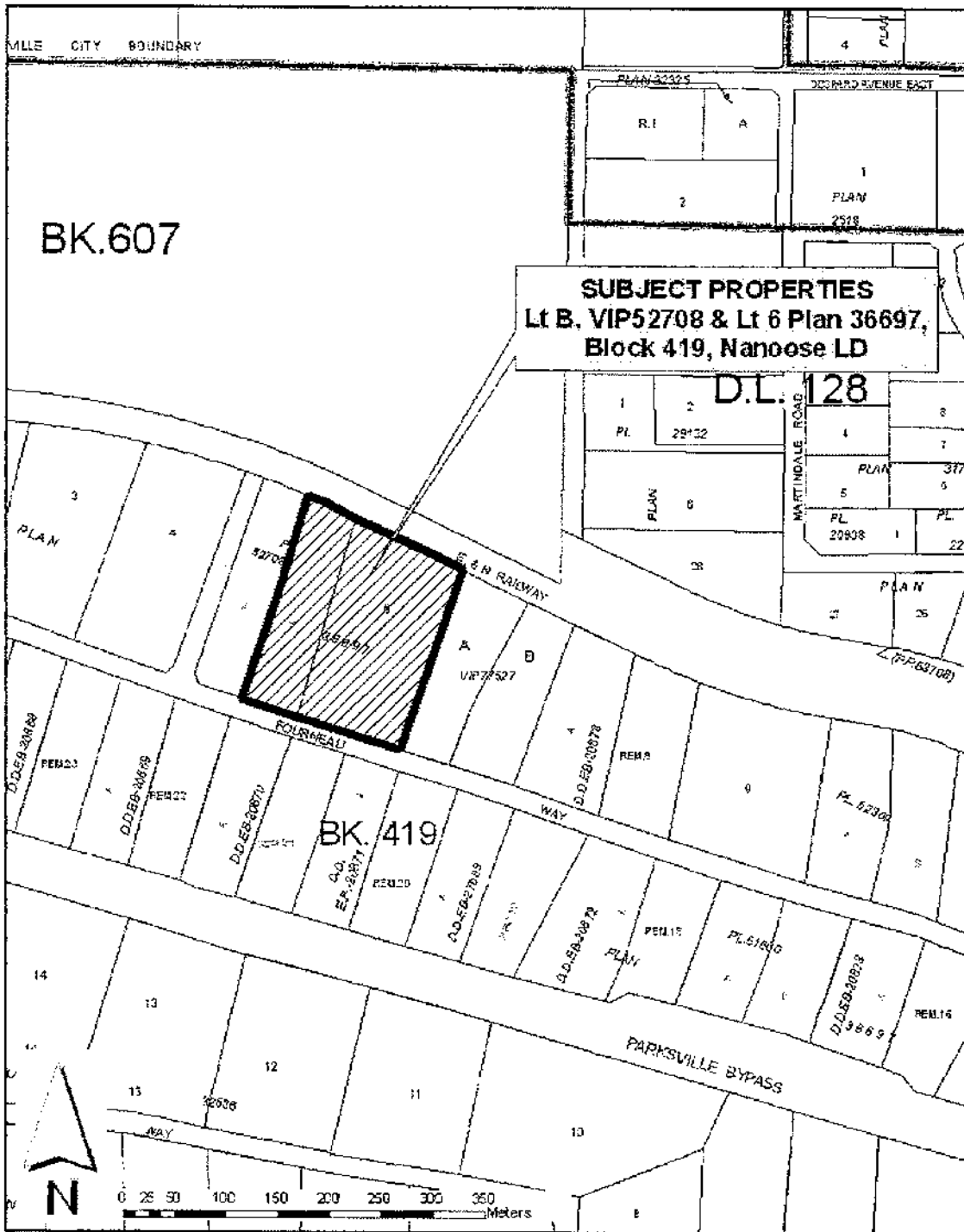
Development Permit Application No. 90512
Proposed Plan of Subdivision
(prepared by staff for clarification)

ROUGH SKETCH OF PROPOSED
BOUNDARY ADJUSTMENT



PREPARED BY RON STAFF
ON APRIL 26, 2005

ATTACHMENT NO. 1
Location of Subject Property



BCGS Map Sheet No. 92 F 039 2.1



REGIONAL DISTRICT OF NANAIMO		
CHAIR		GM Cms
CAC		GM ES
DA CCD		MoF
MAY - 2 2005		
EAPC		

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: May 2, 2005

FROM: Greg Keller
Planner

FILE: 3090 30 90513

SUBJECT: Development Variance Permit Application No. 90513 – Simonds/Winter
Electoral Area 'G' – 787 Terrien Way

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of an existing single dwelling unit and existing accessory building, located at 787 Terrien Way and to legalize the siting of retaining walls over 1.0 metre in height located at 787 and 783 Terrien Way, both in Electoral Area 'G'.

BACKGROUND

The planning department has received a development variance permit application to relax the minimum interior side lot line setbacks in order to legalize the siting of an existing single dwelling unit, an existing accessory building, and two existing retaining walls over 1.0 metre in height on the properties legally described as Lots 24 and 25, District Lot 1, Nanoose District, Plan 29928 (*see Attachment No. 1*).

The subject properties are both approximately 0.29 hectares in area and are currently zoned Residential 1, Subdivision District 'N' (RS1N) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line, 5.0 metres from the other lot line, and 2.0 metres from the interior side lot lines.

The applicants are proposing to renovate the existing single dwelling unit by removing a portion of the second storey, adding a roof to the ground floor, and constructing a second storey addition over another portion of the house. The applicants are also proposing to replace the roof of the existing accessory building and increase the roof overhang to 0.31 metres in order to reduce the potential for leakage.

The building department has issued a building permit for those portions of the proposed works that do not require a variance, but withheld a permit for the portion of the proposed addition that involves removing a portion of the second floor, constructing a roof over the ground level, and replacing the roof of the accessory building pending the issuance of a development variance permit.

The subject properties are designated Suburban Residential pursuant to "Regional District of Nanaimo Englishman River Official Community Plan Bylaw No. 814, 1990." There are no Development Permit Areas (DPAs) designated on the subject parcels by this Official Community Plan and the Environmentally Sensitive Areas Atlas does not identify any environmentally sensitive features on the subject parcels.

The planning department became aware of the non-conforming buildings and structures when the applicant applied for a building permit for the proposed addition on lot 25. Upon further investigation, it was determined that there were two existing retaining walls, one located on lot 25 and the other on lot 24, within the minimum interior side lot line setback requirement pursuant to Bylaw No. 500.

Please note the existing buildings and structures have been in their current location for a number of years with no complaints received from adjacent property owners.

Proposed Variances

The applicants are proposing to vary **Section 3.4.61** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" by relaxing the minimum interior side lot line setback for the buildings and structures located as shown on Schedule No. 3, as follows:

- a) from 2.0 metres to 1.3 metres for the existing single dwelling unit located on lot 25;
- b) from 2.0 metres to 1.09 metres for the existing structure labeled 'SHED' located on lot 25; and,
- c) from 2.0 metres to 0.0 metres for two retaining walls one located on lot 24 one located on lot 25.

ALTERNATIVES

1. To approve Development Variance Permit No. 90513 subject to the outcome of the public notification.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

The subject properties are relatively small narrow residential parcels and are separated by mature vegetation and a wood panel fence, which appears to reduce the impact of the existing single dwelling unit and accessory buildings on the adjacent properties. In addition, the Regional District has no record of complaints with respect to the existing single dwelling unit, accessory building, or retaining walls have been received from the adjacent property owners.

The existing retaining wall located on lot 25 encroaches onto lot 24 by approximately 0.3 metres. The two subject retaining walls function as one retaining wall as they are structurally interconnected. The applicant has submitted a letter signed by the adjacent property owner indicating that the adjacent property owner agrees to take ownership of the encroaching portion of the retaining wall.

According to our records, the retaining wall located on lot 25 was constructed concurrently with an addition to the single dwelling unit in approximately 1980. The Regional District of Nanaimo has no record of the date of construction of the retaining wall located on lot 24, but it is assumed that it was

constructed after the encroaching portion of the adjacent retaining wall because the retaining wall located on lot 24 was poured on top of the encroaching retaining wall.

At the time of construction the portion of the retaining wall on lot 25 was less than 1.0 metre in height and was not considered a structure and no variance was required. Since then, this retaining wall has been enlarged from its original approved design by increasing the height adjacent to the internal side lot line from approximately 0.5 metres to approximately 2.0 metres by adding horizontal wood panels in order to raise the grade of the front yard.

The retaining wall on lot 24 is also over 1.0 metre in height and is approximately the same height as the retaining wall located on lot 25 (2.0 metres). Both retaining walls are now considered structures pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and must comply with the minimum setback requirements. Therefore, a variance is required in order to legalize the siting of both structures. Please note, the existing retaining walls may require engineering and may require a building permit. These requirements will be addressed through the building permit process.

In addition, there are no views to be impacted by the proposed variance and in staff's opinion the proposed variance would improve the view from the adjacent property to the north by reducing the height of the building on that side and improving the aesthetic appearance of the dwelling. Furthermore, the proposed variance, if approved, would not result in a change to the footprint of any of the existing buildings or structures. Therefore, staff recommend Alternative No. 1, to approve Development Variance Permit Application No. 90513 subject to the outcome of the public notification.

PUBLIC CONSULTATION IMPLICATIONS

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

VOTING

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

SUMMARY/CONCLUSIONS

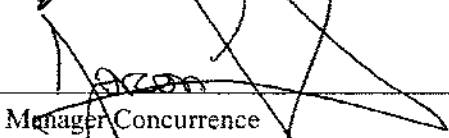
This is an application for a Development Variance Permit to relax the minimum interior side lot line in order to legalize the siting of an existing single dwelling unit, accessory building, and two retaining walls. The proposed variances, if approved, would vary Section 3.4.61 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (Minimum Setback Requirements) as shown on attached Schedule No. 3. Since there are no views to be impacted and the existing buildings and structures have been located in their current location for a number of years, with no complaints received from adjacent property owners, staff is of the opinion that the proposed variances are justified. Therefore, staff recommends this application be approved subject to the notification procedures pursuant to the *Local Government Act*.

RECOMMENDATION

That Development Variance Permit Application No. 90513, submitted by Robert Simonds and B. Leigh Winter, for 783 and 787 Terrien Way to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" as identified in Schedules No. 1 to legalize the existing single dwelling unit, accessory building, and retaining walls be approved according to the terms in Schedule No. 2 and subject to notification procedures pursuant to the *Local Government Act*.



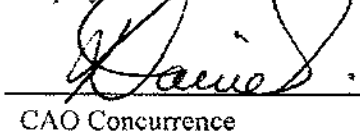
Report Writer



Manager Concurrence



Deputy Administrator Concurrence



CAO Concurrence

COMMENTS:
ds/reports/dvp nry 3090 30 90513 simonds winter:

**Schedule No. 1
Requested Variances
Development Variance Permit Application No. 90513
for Lot 25, District Lot 1, Nanoose Land District, Plan 29928**

Development Variance Permit No. 90513 varies Section 3.4.61 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" by relaxing the minimum interior side lot line setback for the buildings and structures located as shown on Schedule No. 3, as follows:

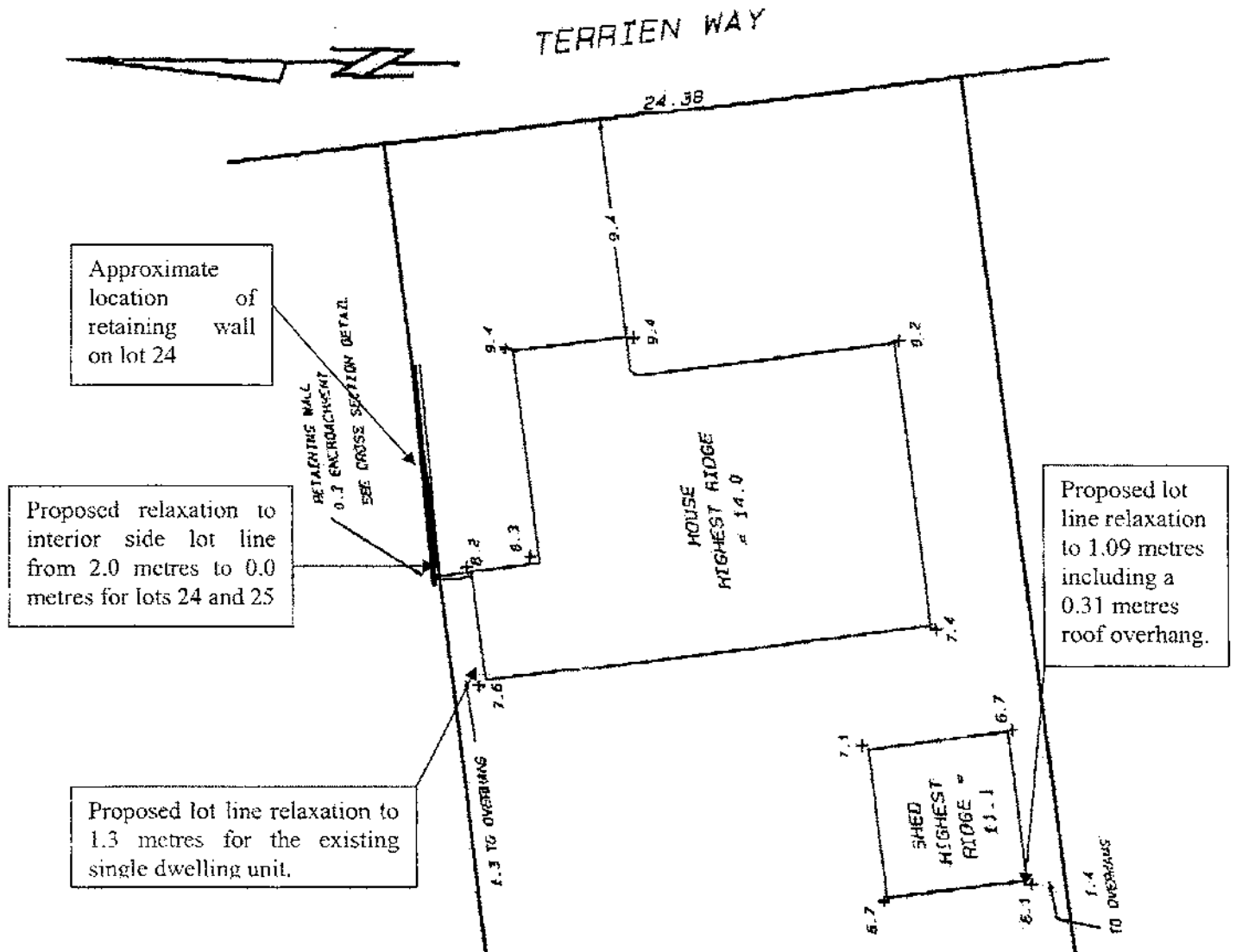
- a) from 2.0 metres to 1.3 metres for the existing single dwelling unit located on lot 25;
- b) from 2.0 metres to 1.09 metres for the existing structure labeled 'SHED' located on lot 25; and,
- c) from 2.0 metres to 0.0 metres for a retaining wall located on lots 24 and 25.

Schedule No. 2

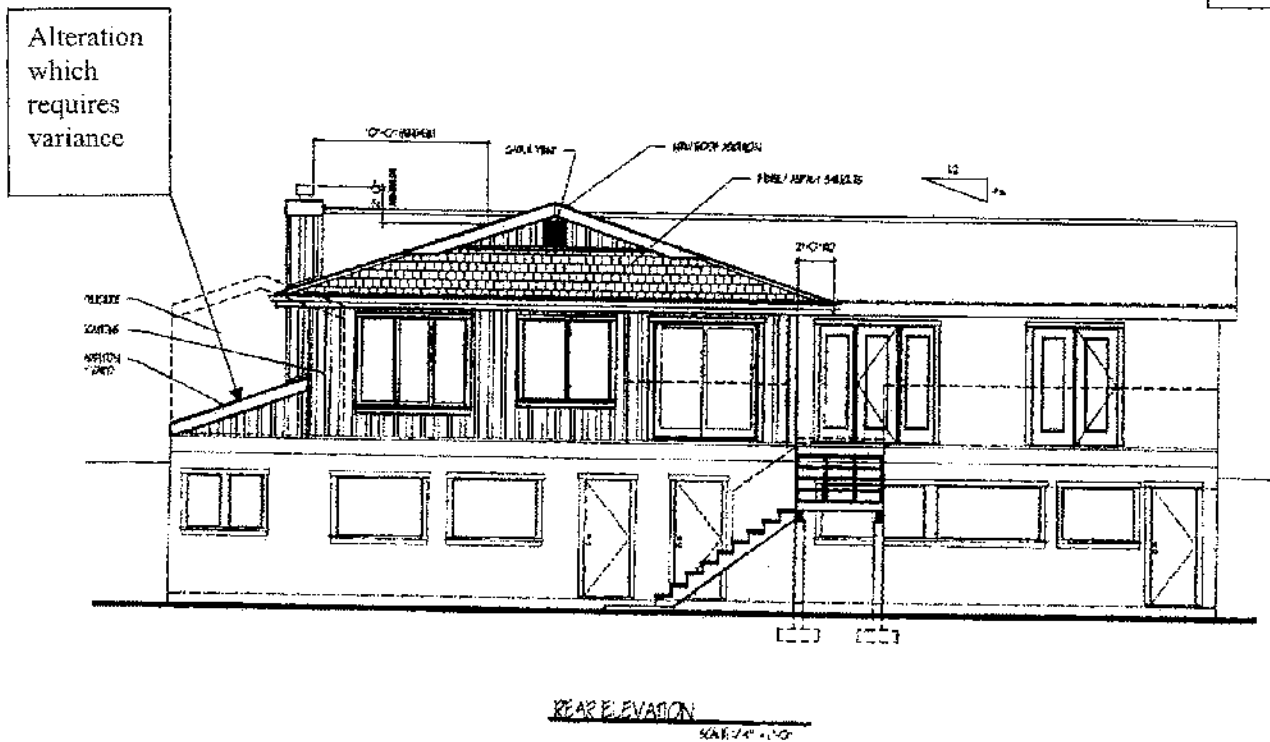
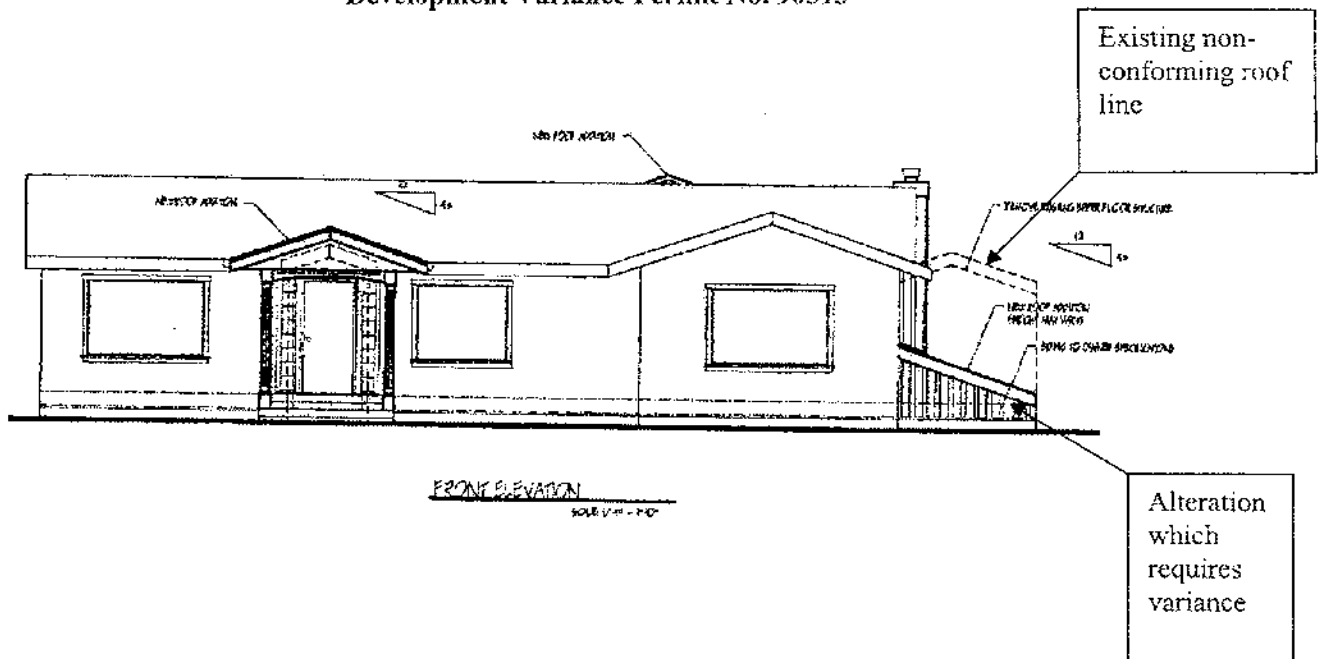
**Terms of Development Variance Permit Application No. 90513
for Lot 25, District Lot 1, Nanoose Land District, Plan 29928**

1. This development variance permit only applies to those buildings located on lot 25 as shown on Schedule Nos. 3 and 4.
2. Notwithstanding No.1 above, this development variance permit also applies to a retaining wall located on lots 24 and 25 in the general location as shown on Schedule No. 3.
3. A survey shall be required prior to final inspection in order to verify compliance with this development variance permit.
4. Engineering for the retaining wall shall be required as deemed necessary by the building inspector.
5. Building permit(s) shall be required as deemed necessary by the building inspector.

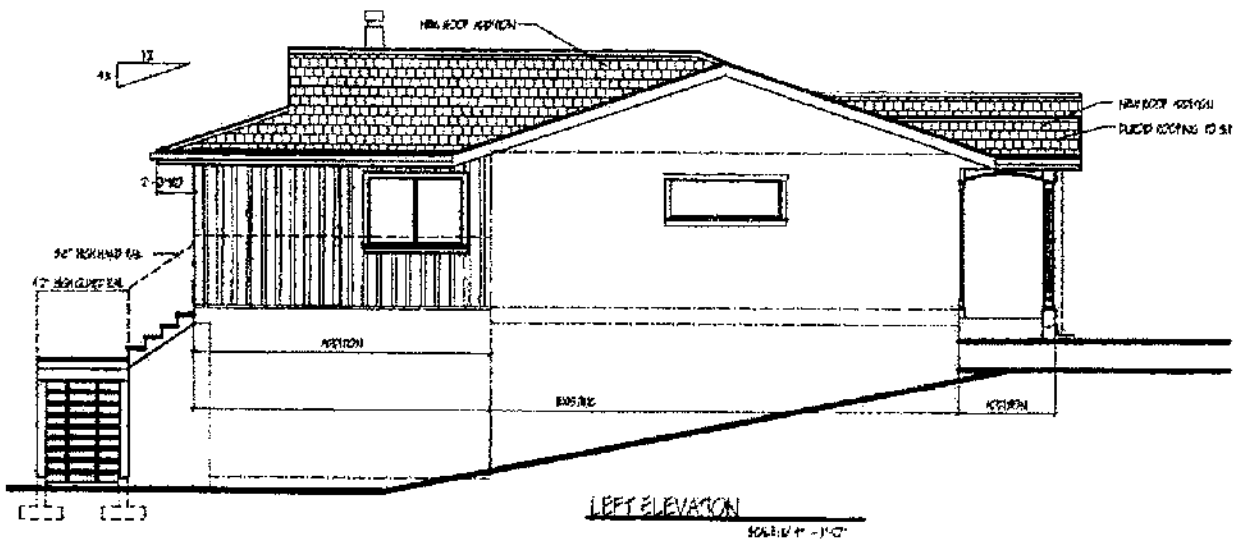
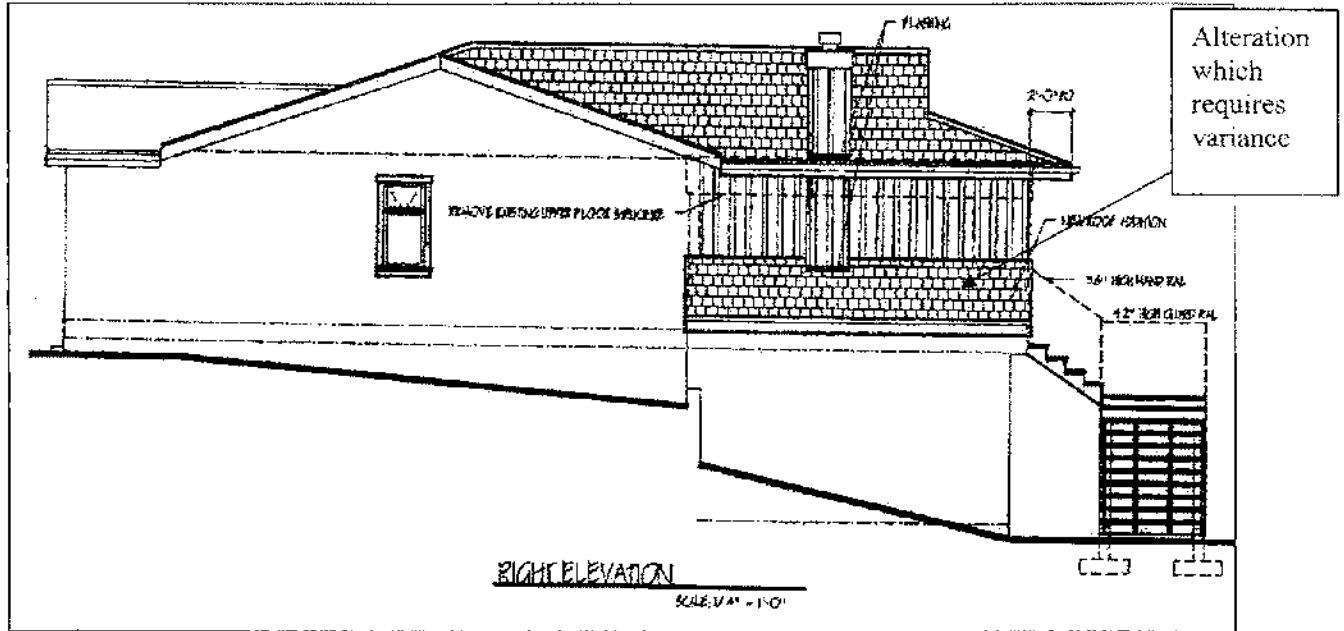
Schedule No. 3
Building Location Certificate (Submitted by applicant reduced for convenience)
Development Variance Permit Application No. 90513



Schedule No. 4 (Page 1 of 3)
Building Profiles (Submitted by Applicant)
Development Variance Permit No. 90513

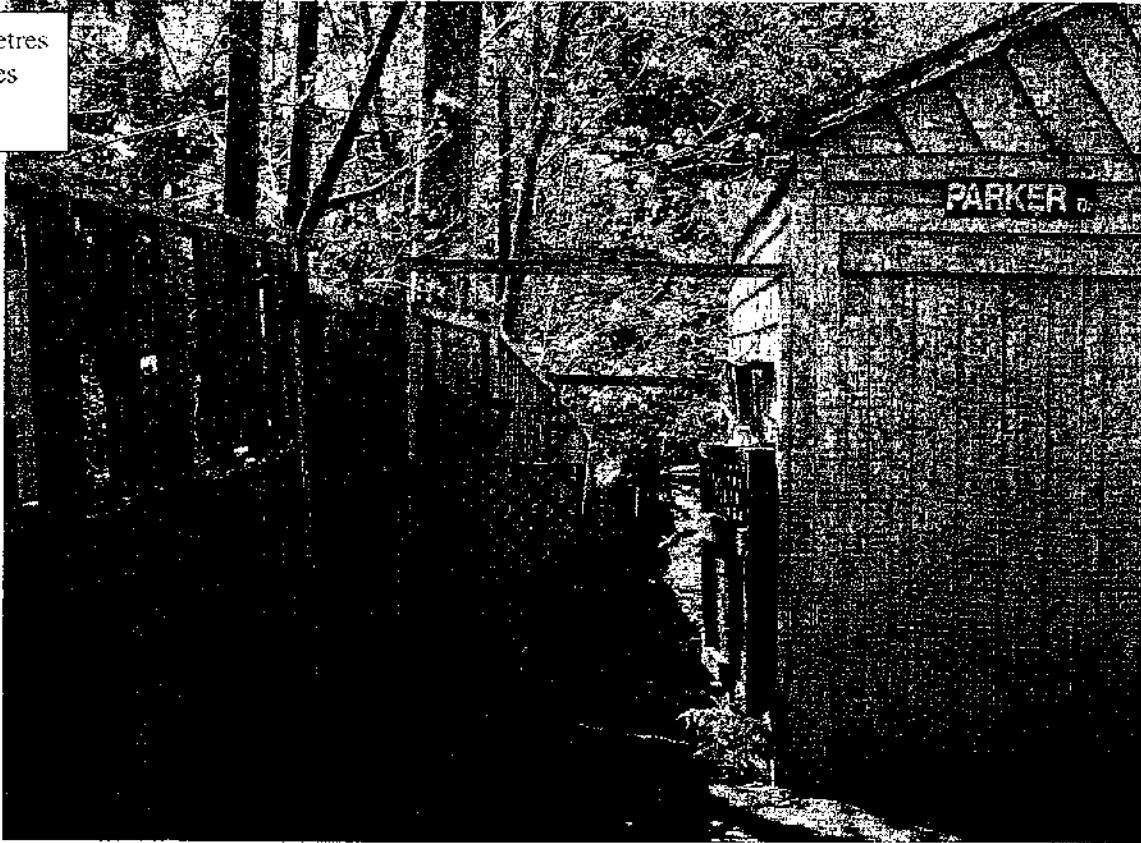


Schedule No. 4 (Page 2 of 3)
Building Profiles (Submitted by Applicant)
Development Variance Permit No. 90513

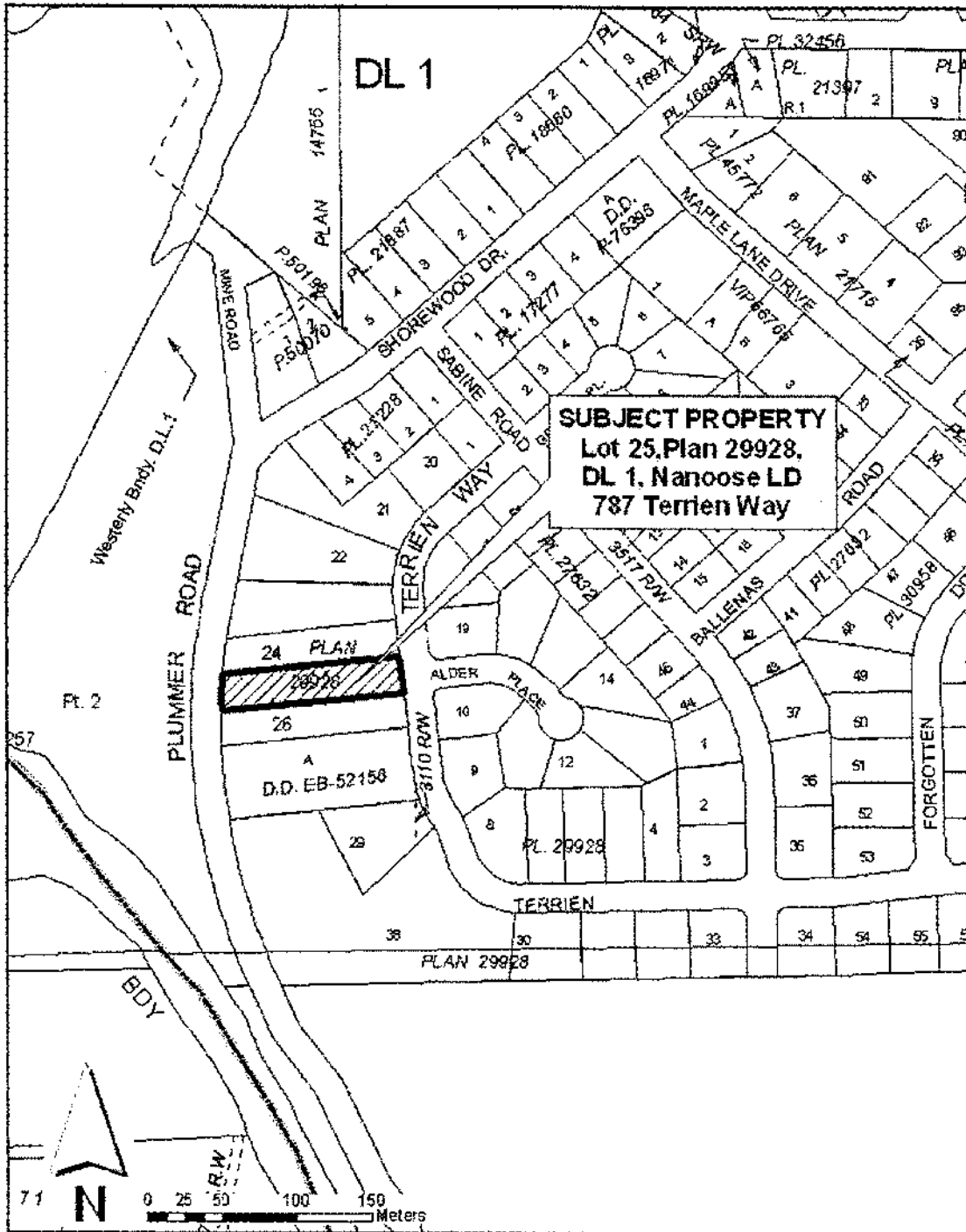


Schedule No. 4 (Page 3 of 3)
Accessory Building Photographs
Development Variance Permit No. 90513

From 2.0 metres
to 1.09 metres



Attachment No. 1
Subject Property Map
Development Variance Permit Application No. 90513



BOGS Map Sheet No. 32F.039.2.1



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
MAY - 2 2005			
EAPC			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: April 29, 2005

FROM: Keeva Kehler
Planner

FILE: 3360 30 0511

SUBJECT: Minimum Parcel Size Amendment to Bylaw No. 500, 1987 for Subdivisions pursuant to section 946 of the Local Government Act.
Electoral Areas 'A', 'C', 'D', 'E', 'F', 'G', & 'H'

PURPOSE

To consider an amendment to the Subdivision Regulations for Bylaw No. 500, 1987 in order to increase the minimum parcel size for new parcels being created pursuant to section 946 of the *Local Government Act* from 2500m² to 1.0 ha (10,000m²).

BACKGROUND

The Vancouver Island Health Authority (VIHA) announced recently that the regulations governing the installation and maintenance of on-site sewage disposal systems will be amended on May 31, 2005. These changes will affect properties in the RDN that are not served by a community sewer service. Under the new regulations, property owners are no longer required to obtain a permit from VIHA for installing a new sewerage system but a 'registered practitioner' as defined by the provincial regulations is now authorized to design and install sewerage systems to treat domestic waste.

Under the present regulations, VIHA reviews the septic capabilities of the individual parcels within a proposed subdivision as part of the Ministry of Transportation's subdivision review and provides comments with respect to the minimum parcel size required to sustain the proposed uses on the parcel. It is believed that VIHA will continue in this or a similar role. VIHA generally does not approve the creation of new lots that are less than 1.0 ha in area where no community services exist, even though Bylaw No. 500, 1987 and provincial legislation currently permit the medical health officer to approve the creation of lots to a minimum parcel size of 2500m².

The RDN has historically relied on VIHA to ensure that the minimum parcel size of lots created, pursuant to section 946, is at least 1.0 ha where the property will be serviced by an individual well and septic system. In light of the amendments to the sewerage regulations it is uncertain whether the RDN can rely on VIHA to ensure that parcels created pursuant to section 946 of the *Local Government Act* meet the minimum size of 1.0 ha.

It is noted that the Ministry of Transportation is the Approving Authority for subdivision of land within the RDN. The RDN provides referral comments with respect to the applicable zoning and land use regulations and the Ministry has a statutory authority to consider the RDN's regulations when reviewing a subdivision proposal.

Pursuant to section 946 of the *Local Government Act*, an approving officer may approve the subdivision of a parcel of land that would otherwise be prevented from subdivision due to minimum parcel size requirements, provided the subdivision is to provide a residence for a relative as defined by the legislation or for the property owner. In order to be considered pursuant to this section, a property owner must have owned the property for a minimum of five years and the remainder must meet the minimum parcel size required by the applicable Subdivision District. In addition, the applicant may be required to register restrictive covenants limiting the future use of the parcel for a specified time period.

The proposed text amendment to increase the minimum parcel size from 2500m² to 1.0 ha is supported by the Regional Growth Strategy and the Official Community Plan Policies for rural areas. In addition, a number of RDN initiatives such as the Drinking Water Protection Action Plan and the sustainability projects support the retention of larger lot sizes in rural areas where no community services are provided.

Staff notes that the "Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" currently limits the minimum parcel size for lots created pursuant to section 946 of the *Local Government Act* to 1.0 ha for the lands within Electoral Area 'F'. The proposed amendment will bring consistency to the subdivision process for applications pursuant to section 946 throughout the RDN.

ALTERNATIVES

1. To give 1st and 2nd reading to Bylaw No. 500.320, 2005.
2. To receive this report for information and not give 1st and 2nd reading to Bylaw No. 500.320, 2005.

REGIONAL GROWTH STRATEGY IMPLICATIONS

The Regional Growth Strategy (RGS) includes a number of policies that relate to residential densities and protecting rural integrity throughout the RDN. In addition, the RGS contains policies for extending community sewer services to parcels for health or environmental reasons. It is reasonable to expect that the creation of new parcels equaling less than 1.0 ha may have implications for the RGS in terms of creating health or environmental concerns when these properties are serviced by individual wells and septic systems.

The RGS establishes urban containment boundaries where smaller parcel sizes and higher densities are encouraged. It could be argued that a parcel size of less than 1.0 ha is inappropriate in rural areas where no community services are provided. The RGS contains policies that encourage the retention of large rural holdings on lands designated Resource and Rural Residential. The policy states that the minimum parcel size should not be less than the size established in the Official Community Plan. In order to prevent the intrusion of small, suburban sized lots in rural areas, an amendment to the current subdivision regulations is recommended to increase the minimum size of all new parcels created pursuant to section 946 to a minimum of 1.0 ha.

OFFICIAL COMMUNITY PLANS IMPLICATIONS

Official Community Plans (OCPs) provide guidance on land use and development and include minimum parcel sizes for properties within each land use designation. Generally, the OCPs contain policies with respect to protecting rural integrity and limiting densities in rural areas to a maximum density of one

dwelling unit per hectare. The amendment to increase the minimum parcel size for subdivisions, pursuant to section 946, to 1.0 ha is consistent with the policies contained in the RDN's OCP Bylaws.

DEVELOPMENT IMPLICATIONS

Currently Part 4.4.3 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" permits subdivision pursuant to section 946 of the *Local Government Act* provided that:

- a. All requirements of provincial legislation are satisfied;
- b. The new parcel being created by subdivision is a minimum of 2500m²;
- c. The size of the remainder of the parcel is the minimum size required under Schedule '4A' and '4B' of this Bylaw; and,
- d. All other requirements of this Bylaw are met.

It is recommended that Part 4.4.3(b) be amended to read as follows:

"The new parcel being created by subdivision is a minimum of 1.0 ha."

The RDN's current parcel averaging provisions allow for a boundary adjustment between two parcels where the result is not to increase the size of one of the parcels by more than 20% or to reduce the size of the other parcel to less than 80% of its original size. Once a subdivision is approved pursuant to section 946, a landowner may apply to adjust the boundary between the lots and create a new parcel that is smaller than that originally approved. If the proposed text amendment is approved by the Board, the minimum parcel size that would result in the case of a parcel created pursuant to section 946 is 0.8 ha.

The proposed text amendment will clarify the RDN's position on the minimum parcel sizes that are acceptable for a family subdivision where no community sewer services are provided to the land proposed to be subdivided. The medical health officer can still override the RDN's minimum parcel size if it is deemed that the property can sustain residential development on a smaller sized lot. However, discussions with the Deputy Approving Officer suggest that the current standard in the RDN for subdivision pursuant to section 946 is 1.0 ha. In addition, should the RDN have a minimum size of 1.0 ha established by Bylaw No. 500, 1987, it is unlikely the medical health officer would approve the creation of a parcel that is inconsistent with this size. Further, should the medical health officer feel strongly that the creation of a 2500 m² parcel would not have any environmental or health implications, the RDN can be satisfied that, in the rare cases where a smaller parcel is created, that there will be no negative impacts on the property or adjacent lands.

Parcels designated in a Subdivision District with a minimum parcel size of 2,000 m² or less would not benefit from applying for subdivision pursuant to section 946, as they can apply for a fee simple subdivision without the additional restrictions that are associated with a section 946 approval. The text amendment affects rural properties where the creation of a 1.0 ha fee simple lot would not be permitted under the properties current Subdivision District.

HEALTH AND ENVIRONMENTAL IMPLICATIONS

Increased densities of septic disposal systems in rural areas have the potential to negatively impact groundwater reserves and the quality of drinking water wells. By ensuring that the minimum parcel size does not decrease below 1.0 ha, the potential impact will be mitigated as the density of development will be at least one dwelling unit per one hectare, rather than one dwelling per 2500 m². This proposed amendment is consistent with the RDN's Drinking Water Protection Action Plan.

As a result of the new provincial regulations, it is possible that a landowner may obtain approval for a section 946 subdivision that is less than 1.0 ha, as the VIHA 1.0 ha size limit is not likely to remain. There is concern that the minimum sizes would be determined on a case-by-case basis, which might result in environmental or health issues in some areas. There are concerns with respect to liability for the environmental implications when the VIHA is no longer approving the design of every new septic disposal system, but is relying on individual professionals to file the reports with VIHA. Increasing the minimum size to 1.0 ha will clarify the position of the Regional District with respect family subdivisions created pursuant to section 946.

PUBLIC CONSULTATION IMPLICATIONS

The proposed text amendment affects more than 10 properties with more than 10 different landowners and therefore the *Local Government Act* exempts the RDN from notifying all property owners directly of the proposed parcel size increase. As the proposed text amendment is consistent with the RGS and OCP policies, staff recommends that the Board consider waiving the Public Hearing and give notice of the intent to adopt the text amendment in the local newspapers (*The PQ News* and *The Bulletin*) and on the RDN website.

VOTING

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

SUMMARY

It is proposed that the minimum parcel size for parcels created pursuant to section 946 of the *Local Government Act* be increased from 2500m² to 1.0 ha. The Vancouver Island Health Authority (VIHA) has generally prevented the creation of parcels that are less than 1.0 ha in area where there are no community services available. However, as a result of the recent changes to provincial legislation, the RDN can no longer rely on the VIHA to ensure that minimum parcel sizes are at least 1.0 ha in the case of subdivision pursuant to section 946. Pursuant to the *Local Government Act*, the medical health officer can approve the creation of parcels pursuant to section 946 that are as small as 2500 m². However, it has been indicated to the RDN that this would be unlikely to occur where the Bylaw states that the minimum size for these subdivisions is 1.0 ha.

The RDN's policies outlined in the Regional Growth Strategy, Official Community Plans and recent drinking water and sustainability initiatives support the increased parcel size for subdivisions pursuant to section 946.

The proposed text amendment clarifies the RDN's position on minimum parcel sizes for new lots created pursuant to section 946 and will bring consistency to the subdivision of land for the purposes of providing a residence a relative across the Regional District.

RECOMMENDATIONS

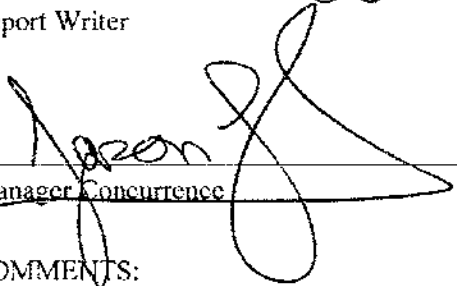
1. That the report on the proposed amendment to the RDN Land Use and Subdivision Bylaw No. 500, 1987 concerning the increased minimum parcel size for subdivision pursuant to section 946 of the *Local Government Act* be received.
2. That Bylaw No. 500.320, 2005 be given 1st and 2nd reading.
3. That the Public Hearing for the proposed Bylaw No. 500.320, 2005 be waived and notice of the intent to adopt the amendment be published in the local newspapers and on the RDN website.



Report Writer



Deputy Administrator Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2005 May section 946 txt 0511.doc

Attachment No. 1
 RDN Subdivision Districts

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 500

SCHEDULE '4B' SUBDIVISION DISTRICTS - MINIMUM PARCEL SIZES

1. The minimum size of any lot created by subdivision shall be determined by the standard of services provided and shall meet the applicable minimal parcel size set out below: ¹

Minimum Parcel Sizes				
Subdivision District	Community Water & Sewer System	Community Water System - No Community Sewer	Community Sewer System - No Community Water	All Other Subdivisions
A	20.0 ha	20.0 ha	20.0 ha	20.0 ha
B	8.0 ha	8.0 ha	8.0 ha	8.0 ha
C	5.0 ha	5.0 ha	5.0 ha	5.0 ha
D	2.0 ha	2.0 ha	2.0 ha	2.0 ha
E	1.6 ha	1.6 ha	1.6 ha	1.6 ha
F	1.0 ha	1.0 ha	1.0 ha	1.0 ha
G	8000 m ²	1.0 ha	1.0 ha	1.0 ha
H	5000 m ²	1.0 ha	1.0 ha	1.0 ha
J ²	4000 m ²	6000 m ²	1.0 ha	1.0 ha
K	4000 m ²	4000 m ²	4000 m ²	4000 m ²
L	2000 m ²	2000 m ²	4000 m ²	4000 m ²
M	2000 m ²	2000 m ²	1.0 ha	1.0 ha
N ³	1000 m ²	1600 m ²	1.0 ha	1.0 ha
P	1000 m ²	1600 m ²	1.0 ha	1.0 ha
Q (EA G only)	700 m ²	⁴ 1.0 ha	1.0 ha	1.0 ha
Q (other EAs)	700 m ²	2000 m ²	1.0 ha	1.0 ha
R	500 m ²	⁵ 1.0 ha	1.0 ha	1.0 ha
S ⁶	400 m ²	2000 m ²	1.0 ha	1.0 ha
V ⁷	50.0 ha	50.0 ha	50.0 ha	50.0 ha
Z	No further subdivision			
CD9 ⁸	400 m ² with approved pump and haul service connection			



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
MAY - 3 2005			

MEMORANDUM

TO: Robert Lapham
Deputy Administrator

DATE: May 2, 2005

FROM: Brigid Reynolds
Senior Planner

FILE: 6480 00 EAE

SUBJECT: Draft Nanoose Bay Official Community Plan
All Electoral Areas

PURPOSE

To receive the Amended Draft Nanoose Bay Official Community Plan and to refer the draft Plan to a Public Information meeting for input prior to consideration of 1st and 2nd reading of the OCP bylaw.

BACKGROUND

The Nanoose Bay Official Community Plan (OCP) review process has been underway since early 2004. Recent actions on this planning project include the following:

- The Regional Board received a draft Nanoose Bay OCP at the December 18, 2004 Board Meeting.
- Pauline Bibby, the Electoral Area Director, resigned her position in late December 2004.
- A public information meeting was held January 18, 2005 with approximately 300 persons in attendance.
- George Holme was acclaimed as the Electoral Area Director, in March 2005.
- Staff and the Electoral Area Director met with various Nanoose Bay community groups and stakeholders to receive further input.
- Additional correspondence and submissions have been received and considered.
- Staff prepared an amended draft OCP based on input received.

Schedule No. 1 outlines the issues that have been recently raised and how the OCP has been amended to address the issue. *Schedule No. 2* outlines a revised public consultation process.

ALTERNATIVES

1. To receive the Amended Draft Nanoose Bay Official Community Plan and direct staff to proceed with the revised Public Consultation Process as outlined in *Schedule No. 2*.
2. To direct staff to proceed with the revised Public Consultation Process and report back with any additional concerns.

PUBLIC CONSULTATION IMPLICATIONS

The Draft Nanoose Bay Official Community Plan is the result of a Board approved planning process involving public consultation with residents, property owners, stakeholders, municipal, provincial, and federal agencies. As the Committee is aware, this process involved several open houses, community meetings, a government agencies forum and the participation of community members in sixteen Working Group meetings.

Through the public consultation process several issue areas, where increased clarity or revisions are required, have been identified as follows:

1. *Coastal Development Permit Area*- concerns have been expressed regarding the 15-metre development permit area on all coastal properties in Nanoose Bay and/or the content or clarity of the draft Coastal Development Permit Area guidelines.
2. *Environmentally Sensitive Development Permit Area*- issue has been taken with both the comprehensiveness of the information and the location of some identified environmental features.
3. *Highway commercial development expansion at Northwest Bay Road and the Island Highway*- the current Nanoose Bay Official Community Plan (Bylaw No. 1118, 1998) and the Draft Nanoose Bay Official Community Plan do not support expanded commercial activities adjacent to the Island Highway. Speakers at the Public Information Meeting indicated that this issue needs to be further discussed and the specific proposal presented to the community. The proponent has submitted the results of their own public open house and submissions in support of their proposal.
4. *Community Water and Sewer*- comments have been received both in support of and against the expansion of sewer services and the consolidation of water services.
5. *Parkland*- comments regarding the clarification of OCP wording on parkland acquisition have been received.
6. *OCP implementation through zoning*- concern has been expressed as to the effect of the zoning implementation on individual properties with noted objections to the proposed change to the minimum parcel size from 2.0 ha to 8.0 ha for lands included within the ALR.
7. *Transtide Drive* – concern has been expressed about the proposed connection of Transtide Drive between Northwest Bay Road and Schooner Cove Drive by the Ministry of Transportation, as shown in the draft OCP on Map No. 3 Road Network Plan.

Each of these issues is discussed in *Schedule No. 1*, together with how the OCP has been revised to address these concerns. Schedule No. 1 is organized according to the sections of the OCP. Specific changes have been highlighted in detail within the amended Draft OCP.

Schedule No. 2 outlines an amended public consultation process for the Nanoose Bay Official Community Plan Project.

The approved public consultation process did not consider the possibility of an additional cycle of public consultation following the Public Information Meeting on January 18, 2005. The revised schedule recommends that another Public Information Meeting be scheduled following receipt of the amended draft OCP by the Electoral Area Planning Committee. As the draft OCP is still a working document and has not been introduced as a bylaw, the amended version of the draft OCP dated May 2005 has been posted on the web site and has been made available to the various groups consulted by staff with the Electoral Area Director. In addition the draft has been made available in the community at Nanoose Place.

The public consultation process proposes that notice of the availability of the amended draft OCP be direct mailed to all Nanoose Bay property owners and be advertised in the newspaper and posted on the

RDN web site. The availability of the amended draft OCP would also be highlighted as part of the notice of the Public Information Meeting. Written comments on the amended Draft OCP would be invited and submissions would also be received at the Public Information Meeting. The deadline for written comments is proposed to be May 30th, 2005. The comments would then be presented to the June 14, 2005 Electoral Area Planning Committee and a proposed Special Board meeting together with the OCP including any additional amendments resulting from the Public Information Meeting. At the June EAPC and Special Board meeting, staff anticipates recommending consideration of 1st and 2nd reading of the OCP bylaw to facilitate a public hearing being held prior to the end of June.

IMPLEMENTATION IMPLICATIONS

One of the initial implementation actions that has been identified in this draft Official Community Plan is to amend the current subdivision regulations such that the minimum parcel sizes designated in Bylaw No. 500 are consistent with the minimum parcel size proposed in the OCP. The zoning amendment is proposed to be introduced once the OCP has received 3rd reading.

In addition, in order to resolve concerns expressed by a large number of coastal waterfront property owners regarding the Coastal Zone Development Permit Area (DPA) that was designated in the draft Nanoose Bay OCP a number of suggestions have been made:

1. Remove the DPA designation and establish a working committee to facilitate further consultation on this issue, and/or
2. Remove the DPA designation and amend the Bylaw No. 500 such that the zoning setback for buildings and structures as measured from the natural boundary of the ocean is 15 metres. The zoning setback is currently 8 metres from the natural boundary or inland from the top of slope.

Given the amount of discussion that has been had over this issue and that recent discussions with some of these stakeholder groups indicate they do not take issue with restricting the siting of new buildings and structures to 15 metres from the natural boundary, staff recommend removing the DPA designation and amending Bylaw No. 500 to establish an additional zoning setback for Electoral Area 'E' oceanfront properties.

The proposed amendment to setbacks from the ocean would be included with the other proposed amendments to the zoning bylaw. The amendment would amend the required zoning setback from the ocean such that it would be measured from 8.0 m from the top of a bank that is 30% or greater and 15.0 m from the natural boundary whichever is greater. Given that the Coastal DPA is proposed to be removed from the OCP staff recommend the setback amendment as a means of maintaining the relative integrity of the siting of construction along the waterfront.

PROCEDURAL IMPLICATIONS

As the Board is aware, the Nanoose Bay Official Community Plan is a draft document until the Board considers it as a bylaw for 1st and 2nd reading. Until such time, the document can be amended as directed by the Committee.

Once the Board grants 1st and 2nd reading for the OCP Bylaw, a public hearing will be scheduled and formal referrals will be sent to government agencies and stakeholder groups as identified in the Terms of Reference for the Nanoose Bay OCP Planning Project. Following the public hearing, the OCP would again be presented to the Board along with the Summary of the Proceedings of the Public Hearing. Should the Bylaw be granted 3rd reading, the Bylaw would be referred to the Ministry of Community, Aboriginal and Women's Services for approval. In consideration of its approval, the Ministry will take

into account the comments of the agencies to which the Bylaw has been referred. Following the Minister's approval, the Board may consider the Bylaw for adoption.

LEGAL IMPLICATIONS

The final draft of the Nanoose Bay Official Community Plan must be consistent with the requirements of the *Local Government Act*; to be considered for adoption as bylaw. The Official Community Plan must also comply with the RDN Regional Growth Strategy as required pursuant to the *Local Government Act*.

VOTING

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

SUMMARY


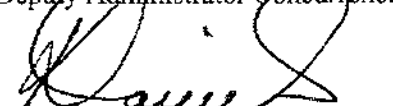
A Public Information Meeting on the Nanoose Bay Official Community Plan was held on January 18, 2005 with approximately 300 residents in attendance. Following the PIM further consultation with community and stakeholder groups and elected officials was undertaken. Comments received from the PIM together with subsequent submissions and meetings have been considered and the draft Nanoose Bay OCP has been amended to address the various issues raised.

As the draft Nanoose Bay OCP has been amended to address concerns and provide greater clarity, staff recommends that the draft OCP be received for information and that the amended public consultation process outlined in *Schedule No. 2* be approved. This would facilitate a public information meeting to be held at the end of May and for the amended draft OCP (including any amendments following the public information meeting) to be received for 1st and 2nd reading by the Board at the June EAPC and Special Board meeting. Following receipt of 1st and 2nd reading of the OCP bylaw, a public hearing would be scheduled and formal referrals undertaken.

RECOMMENDATIONS

1. That the report of the amended Nanoose Bay Official Community Plan containing discussion regarding amendments to the plan be received.
2. That the amended Draft Nanoose Bay Official Community Plan be received.
3. That the amended public consultation process as outlined in *Schedule No. 2* be approved.
4. That staff be directed to proceed with the zoning amendment process to amend the zoning setback from the ocean together with the other proposed amendments to the subdivision regulations that are proposed to implement the new OCP.


Report Writer


Deputy Administrator Concurrence

CAO Concurrence

COMMENTS:

devsvs/reports/6430 00 Nanoose Bay OCP ma EAPC.doc

SCHEDULE NO. 1

**Draft Nanoose Bay Official Community Plan
 Summary of Agency and Citizen Comments on the Draft OCP
 and Staff Recommendations**

Agency Comments	Summarized Issue	Staff Recommendations
Agency Ministry of Transportation	Support for the inclusion of the proposed highway realignment of the Island Highway at Northwest Bay Road. Discussion with the Ministry regarding proposed Transide Drive and Fairwinds major road connection. (MOT prefers that Transide Dr. continue to be designated as a network road however traffic studies have not been prepared to support this position)	No changes required. Map No. 3 - Road Network has been amended such that there is no through connection from Schooner Cove Drive via Transide Drive to Northwest Bay Road
Ministry of Energy and Mines	No comments on the OCP at this time	No changes required
Land and Water British Columbia	Support for the expansion of the Tourist Commercial land use designation at Northwest Bay Road to include Crown Lands Support for the consideration of land use/development opportunities for Crown Lands as a land owner	No changes recommended to OCP
Ministry of Water, Land and Air Protection	Support for development permit areas, specifically the eagle tree designations and environmentally sensitive lands designation. Requested changes to the Watercourse Protection Development Permit Area to reflect the <i>Riparian Area Regulation</i> .	DPA III Watercourse Protection has been amended to be consistent with the <i>Riparian Area Regulation</i> .
Agricultural Land Commission	Verbal response- No comments regarding the OCP at this time, but retain the right to comment on as part of a formal referral	No changes required

Citizen and Stakeholder Group Comments

OCP Section	Summarized Issue	Analysis of Issues & Comments	OCP amendments
<p>Section I Introduction</p>	<ul style="list-style-type: none"> ▪ Clarify Environmentally Sensitive Areas (ESA's) definition and reference of Sensitive Ecosystem Inventory: East Vancouver Island and Gulf Islands (SEI) prepared by Canadian Wildlife Service. ▪ Incorrect reference of appendices. 	<ul style="list-style-type: none"> ▪ Provides greater clarification of ESA's and correct reference of key information source. ▪ Correct appendices references to clarify there are 3 appendices 	<ul style="list-style-type: none"> ▪ section 1.5.4 amended to reflect comments ▪ Section 1.6 amended to clarify appendices to the OCP document
<p>Section II Protection of the Natural Environment</p>	<ul style="list-style-type: none"> ▪ Clarify Environmentally Sensitive Areas (ESA's) definition and reference of Sensitive Ecosystem Inventory: East Vancouver Island and Gulf Islands (SEI) prepared by Canadian Wildlife Service. ▪ Concern regarding accuracy of the SEI ▪ Concern regarding Coastal Zone Development Permit Area and the potential limits this has on the use of privately owned property. ▪ Discussions indicate there is acceptance to establish a zoning setback of 15 m from the natural boundary of the ocean 	<ul style="list-style-type: none"> ▪ Provides greater clarification of ESA's and correct reference of key information source. ▪ Conservation Data Centre (CDC) provided most recent updates of the SEI information. ▪ The level of detail in the SEI is such that groundtruthing is required to confirm the existence and extent of environmentally sensitive features ▪ Proposed amendment to the zoning bylaw to establish a 15 m setback for buildings and structures adjacent to the natural boundary of the ocean 	<ul style="list-style-type: none"> ▪ Section 2.1 amended to clarify ESA definition and SEI. ▪ Included policy regarding development permit areas (DPA) established for ESA's ▪ Existing policy regarding working with senior governments to increase quantity and quality of data for ESA's ▪ Deleted policy regarding Coastal Zone DPA and deleted Coastal Zone DPA. ▪ Clarified policy regarding buildings and structures over 1 m in height within the coastal zone.

OCP Section	Summarized Issue	Analysis of Issues & Comments	OCP amendments
Section III Diversity of Land Uses	<ul style="list-style-type: none"> ▪ Need to clarify servicing issues for different land use designations ▪ No policy permitting parcel averaging in each land use designation which is consistent with zoning bylaw ▪ Policy 2.3.6 regarding need for hydrological assessments for zoning amendment applications should be in each land use designation in section 3 ▪ Section 3.3 – policy regarding minimum parcel size for Rural lands needs clarification ▪ Policy 3.4.2 – unclear regarding which lands are designated as Resource Lands and minimum parcel size requirements ▪ Concern regarding minimum parcel size of 8 ha for ALR lands 	<ul style="list-style-type: none"> ▪ Greater clarity regarding servicing issues should enable citizens to better understand the process to establish service areas. ▪ Permitting parcel averaging in each land use designation is consistent with the zoning bylaw. ▪ Including policy 2.3.6 for each land use designation provides greater clarity for applicants ▪ Rural land use minimum parcel size shall be 8 ha. However, current zoning for some properties permits minimum parcels of 4.0 and 2.0 ha. ▪ Resource lands includes forest and crown lands as well as lands within the ALR. The minimum parcel size of 50 ha applies to forest and/or crown lands and 8.0 ha for Resource lands in the ALR which is consistent with the Regional Growth Strategy ▪ The current OCP establishes a minimum parcel size of 8.0 ha for ALR lands however the zoning bylaw was not amended to reflect this. It is anticipated that the zoning amendment will begin once the OCP has received 3rd reading. 	<ul style="list-style-type: none"> ▪ Distinguish between Community Servicing Planning Areas that are established in this OCP for planning purposes and local service areas that are established by bylaw to provide service to parcels, neighbourhoods or lands within certain land use designations. For all land use designations the wording regarding servicing has been clarified. ▪ For all land use designations - parcel averaging is permitted ▪ For all land use designations – hydrological assessments may be required for zoning amendment applications ▪ Policy 3.3.2 amended to recognize existing zoning ▪ Policy 3.4.2 amended to clarify which lands are designated as resource lands ▪ Deleted policy 3.4.4 as 2nd dwelling units are permitted pursuant to the zoning bylaw and the Agricultural Land Commission Regulations permits 2nd dwelling units provided they are manufactured homes. ▪ No change to ALR minimum parcel size recommended.

OCP Section	Summarized Issue	Analysis of Issues & Comments	OCP amendments
Section III Diversity of Land Uses (continued)	<ul style="list-style-type: none"> ▪ Concern regarding lack of references to the Parks and Open Space Plan for Nanoose Bay in the OCP and the need to include a policy regarding park land acquisition of large contiguous parcels rather than small remnant parcels. ▪ Policy 3.7.11 does not support lease or private rights of way on the foreshore ▪ Policy 3.8.1 currently states a minimum parcel size of 2.0 ha for Transportation Corridor lands. 	<ul style="list-style-type: none"> ▪ The Parks and Open Space Plan was developed with lots of community input and including a reference to this document in the OCP recognizes the importance of the Park Plan. ▪ Acquisition policy to include large contiguous parcels instead of smaller remnant parcels is consistent with the objectives of this plan. ▪ The revised wording of policy 3.7.11 is consistent with the RDN's authority regarding works adjacent to the ocean. ▪ Current zoning does not support further subdivision. 	<ul style="list-style-type: none"> ▪ Parks and Open Space Plan referenced in section 3.7 and policy 3.7.8. ▪ Policy included that parkland acquisition shall consider single contiguous parcels as well as environmentally sensitive areas in the plan area. ▪ New Policy 3.7.11 that public access or navigation should not be impeded by the construction of buildings or structures at the ocean. ▪ Policy 3.8.1 amended to reflect no further subdivision.
Section IV Defined Village Centres & Neighbourhoods	<ul style="list-style-type: none"> ▪ The Draft OCP proposes an expansion of the Red Gap UCB ▪ Submissions have been received regarding support and non-support for expanding commercial uses for the proposed Lifestyle Commercial Centre adjacent to the Island Highway outside the UCB. 	<ul style="list-style-type: none"> ▪ Public comment has been supportive of an expanded Red Gap boundary to accommodate new uses in the centre. ▪ It is noted that a Regional Growth Strategy (RGS) amendment is required to proceed with Red Gap expansion. ▪ Permitting new commercial uses outside the UCB is contrary to the RGS and many policy statements include in the draft OCP. 	<ul style="list-style-type: none"> ▪ Proceed with boundary amendment proposal once the OCP has been adopted. ▪ The proposed Lifestyle Commercial Centre is not supported in the draft OCP.

<p>OCP Section Section V Facilities & Servicing</p>	<p>Summarized Issue</p> <ul style="list-style-type: none"> The Draft provides new frameworks for the provision of water and sewer services in Nanoose Bay. Concerns have been expressed regarding the wording in this section and with the consolidation of water service areas. 	<p>Analysis of Issues & Comments</p> <ul style="list-style-type: none"> The consolidation of water services is already underway; connections among the six public water services are intended to address issues of low pressure/water shortfalls in some community water systems. Connections among the systems are also intended to benefit once bulk water is fully established in Nanoose Bay. 	<p>OCP Amendments</p> <ul style="list-style-type: none"> Section 5 has been amended to provide a more clear distinction between Community and Restricted Community Water and Sewer Service Planning areas that are designated in this Plan and Local Community Water and Sewer Services Areas that are established through a bylaw process. Policy 5.9.8 amended to allow inclusion of properties where there is a threat to a domestic water supply or community water supply works. Section 5.10 amended to include that process of evaluating the current assets and liabilities of exiting water service areas will form part of the decision making process to amalgamate the service.
<p>Section VI Implementation Through Action</p>	<ul style="list-style-type: none"> Concern has been expressed with the effect of zoning implementation on individual properties. Specifically, the increase in minimum permitted parcel sizes to 50 hectares for Resource Lands (non-ALR) and 8 hectares for Resource Lands (ALR) has been noted. 	<ul style="list-style-type: none"> The proposed implementation through zoning is intended to support the Regional Growth Strategy and to recognize the objectives of the Agricultural Land Reserve to protect farmland. In order to protect resource land and limit the possibility of land use conflicts the plan separates settlement areas and proposes to limit future subdivision in these areas. In addition, the proposed zoning implementation for Coast Residential areas will enable the RDN to apply for federal grants to potential offset the costs of sewer expansions in Nanoose Bay. 	<ul style="list-style-type: none"> Proceed with zoning implementation.

OCP Section	Summarized Issue	Analysis of Issues & Comments	OCP Amendments
Maps	<ul style="list-style-type: none"> ▪ Map No. 3 Road Network Plan ▪ Map No. 4 Parks and Community Facilities ▪ Map No. 5 Community Sewer Areas ▪ Map No. 6 Development Permit Areas ▪ Appendix Map No.1 Inventory of Natural Features 	<p>Analysis of Issues & Comments</p> <ul style="list-style-type: none"> ▪ The Road Network Plan shows a proposed Major road connection between Translide Drive and Fairwinds. ▪ Section 5.6 notes that the natural gas pipeline shall be shown on a map. ▪ Concern has been expressed regarding the need for greater clarity in the discussion of Community Sewer and Water Service areas. ▪ The DPA map needs to be consistent with the OCP text. ▪ Appendix Map No. 1 is amended to show which Sensitive Ecosystems are not included in the Development Permit Area 	<p>OCP Amendments</p> <ul style="list-style-type: none"> ▪ Map No. 3 - Road Network has been amended such that there is no through connection from Schooner Cove Drive via Translide Drive to Northwest Bay Road ▪ Map No. 4 is amended to include the Natural Gas pipeline ▪ Map No. 5 and Appendix Map No. 2 amended to distinguish between the Community and Restricted Community Water and Sewer Service Planning Areas and Local Community Water and Sewer Service areas that are designated by law ▪ Map No. 6 amended to remove the Coastal Zone DPA, to remove Older Forest as a DPA and to include the Highway Corridor DPA.

**SCHEDULE NO. 2
 AMENDED PUBLIC CONSULTATION PROCESS
 DRAFT NANOOSE BAY OFFICIAL COMMUNITY PLAN**

<i>April</i>	<ul style="list-style-type: none"> ▪ Comments on the Draft OCP prepared by staff in response to public comments/written submissions from January 18th 2005 Public Information Meeting, meetings with stakeholder groups, and Regional Board members. ▪ Amended Draft OCP with changes highlighting and new Development Permit section. ▪ Pre Referral Notification to referral agencies (potentially resulting in amendments to OCP).
<i>May</i>	<ul style="list-style-type: none"> ▪ Amended Draft made available in the community and posted on the RDN's website (www.rdn.bc.ca). ▪ Notice of Public Information Meeting - Update direct mailed to all Nanoose Bay property owners advising that an <i>Amended Draft Nanoose Bay Official Community Plan</i> is available and requesting written comments. ▪ The deadline for written comments will be May 30th, 2005. ▪ Public Information Meeting May 30, 2005 Nanoose Place
<i>June</i>	<ul style="list-style-type: none"> ▪ Comments presented to the June 14th 2005 Electoral Area Planning Committee along with staff recommendations. ▪ 1st and 2nd reading June 14th, 2005 Special Board meeting ▪ Public Hearing late June, 2005 Nanoose Place
<i>July to project completion</i>	<ul style="list-style-type: none"> ▪ Formal Referrals to referral agencies. ▪ Report to Board requesting 3rd reading ▪ Notification to province ▪ Report to Board requesting 4th reading and adoption.