

REGIONAL DISTRICT OF NANAIMO

**ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, JULY 12, 2005
6:30 PM**

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-9 Minutes of the Electoral Area Planning Committee meeting held Tuesday, June 14, 2005.

BUSINESS ARISING FROM THE MINUTES

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 10-15 Development Permit Application No. 60524 – Chiste & Larsen – Northwest Bay Road – Area E.
- 16-22 Development Permit Application No. 60525 – Purves – 629 Viking Way – Area G.
- 23-31 Development Permit Application No. 60526 – Friede/Fern Road – 6060 Island Highway West – Area H.
- 32-37 Development Permit Application No. 60528 – Fern Road Consulting Ltd. on behalf of D & B Van Damme – 1921/1931 Northwest Bay Road – Area E.
- 38-45 Development Permit Application No. 60529 – Fern Road Consulting Ltd., on behalf of Forevergreen Properties Ltd. – Inland Island Highway/Butler Avenue – Area G.
- 46-53 Development Permit Application No. 60532 – Davis/Carniato – Andover Road – Area E.

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

- 54-62 Development Variance Permit Application No. 90515 – Schlegel – Blueback Drive – Area E.

OTHER

63-69 Building Strata Conversion Application – S & W Jessen – 3051 West Road –
Area D.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, JUNE 14, 2005, AT 6:00 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director E. Hamilton	Chairperson
Director H. Kreiberg	Electoral Area A
Alternate	
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

CALL TO ORDER

The Chairperson welcomed Alternate Director Jepson to the meeting.

INTRODUCTION

Introduction of Mr. Gabriel Daluos and Mr. Isaac Amankwah from the Sunyani Municipal Assembly, Ms. Gladys Tetteh, Program Officer for the National Association of Local Authorities of Ghana, and Ms. Edith Gingras, Program Officer for the Federation of Canadian Municipalities.

Director Stanhope introduced and welcomed the visiting delegation to the Electoral Area Planning Committee meeting.

DELEGATIONS

Jerry Bordian & Michael Rosen, re Development Variance Permit Application No. 90514 – Request for Acceptance of Land for Park Land Purposes; & Request for Relaxation of the Minimum 10% Frontage Requirement – Michael Rosen on behalf of Island Creekside Properties LP – off Jingle Pot Road – Area D.

Mr. Bordian and Mr. Rosen thanked the Committee for their support in the opening of the Englishman River Park and presented an overview of the proposed development at Benson Meadows which will include the dedication of 2 parcels for park land and a one acre parcel to be used by the East Wellington Fire Department.

LATE DELEGATIONS

MOVED Director Holme, SECONDED Director Kreiberg, that late delegations be permitted to address the Committee.

CARRIED

Warren Stevenson, re Nanoose Bay Official Community Plan.

Mr. Stevenson, representing Can-Corp Ventures Inc., presented a petition signed by residents in Nanoose Bay who support the inclusion of the properties located on the Island Highway at Northwest Bay Road into the Nanoose Bay OCP under a new Lifestyle Commercial designation, provided a short overview of Can Corp Ventures' application and requested that the amended OCP be referred back to staff for further input.

Hans Zychlinski, re Nanoose Bay Official Community Plan.

Mr. Zychlinski spoke in opposition to the proposed development at the Island Highway and Northwest Bay Road and noted discrepancies in a number of newspaper articles on the subject property.

Karen Pelletier, re Nanoose Bay Official Community Plan.

Ms. Pelletier raised her concerns with respect to the proposed development by Can Corp Ventures Inc. and the impact on residents and small businesses in the area.

MINUTES

MOVED Director Kreiberg, SECONDED Director Stanhope, that the minutes of the Electoral Area Planning Committee meeting held May 10, 2005 be adopted.

CARRIED

COMMUNICATION/CORRESPONDENCE

Angie Romanowski, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Angie Romanowski with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Donna Golding & Don Heppner, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Donna Golding and Don Heppner with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Peter & Ellen Leveille, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Peter and Ellen Leveille with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Terence Bushell, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Terence Bushell with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Mary & John Cowhig, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Mary and John Cowhig with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Clarence Gustavson, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Clarence Gustavson with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Rhys & Terry Harrison, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Rhys and Terry Harrison with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Maurice Bergeron & Robin Fritz, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Maurice Bergeron and Robin Fritz with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

J. Maclachlan, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from J. Maclachlan with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Morris & Sandy Macklin, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Morris and Sandy Macklin with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

M. Laane, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from M. Laane with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

K.B. Miller, Agricultural Land Commission, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from the Agricultural Land Commission with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

Diane M. Pertson, re Nanoose Bay Official Community Plan.

MOVED Director Holme, SECONDED Director Stanhope, that the correspondence from Diane M. Pertson with respect to the Nanoose Bay Official Community Plan be received.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60511 – Yochim – Marshall Road – Area H.

MOVED Director Bartram, SECONDED Director Kreiberg, that Environmentally Sensitive Features Development Permit Application No. 60511 with variances to legalize an existing dwelling unit, to allow the installation of a septic system and pedestrian footbridge and to permit re-vegetation of the riparian area, be approved according to the terms outlined in Schedule No. 1, subject to consideration of the comments received as a result of public notification.

CARRIED

Development Permit Application No. 60517 – Robalta Holdings – Shoreline Drive – Area H.

MOVED Director Bartram, SECONDED Director Biggemann, that Environmentally Sensitive Features (Coastal) Development Permit Application No. 60517 with variance to the minimum setback from the sea from 8.0 metres to 0.0 metres to allow a rip rap erosion protection device and the placement of fill on the Shoreline Drive property be approved, according to the terms outlined in Schedule No. 1, subject to consideration of comments received as a result of public notification.

CARRIED

Development Permit Application No. 60518 – Keith Brown & Associates on behalf of 703262 BC Ltd. – 1922 Schoolhouse Road – Area A.

MOVED Director Kreiberg, SECONDED Director Holme, that Development Permit No. 60518, with variances, for the property located at 1922 Schoolhouse Road to permit the construction of one freestanding sign be approved according to the terms outlined in Schedule No. 1, subject to consideration of comments received as a result of public notification.

CARRIED

Development Permit Application No. 60519 – Lightfoot – 6208 Island Highway West – Area H.

MOVED Director Bartram, SECONDED Director Stanhope, that Development Permit Application No. 60519 to allow for the construction of one single dwelling unit and one accessory building within the Watercourse Protection Development Permit Area be approved according to the terms outlined in Schedule No. 1, subject to consideration of comments received as a result of public notification.

CARRIED

Development Permit Application No. 60520 – Kadyshovich/Carniato – 2281 Widgeon Road – Area H.

MOVED Director Bartram, SECONDED Director Holme, that Development Permit Application No. 60520 for a parcel located at 2281 Widgeon Road, including variances to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”, to legalize an existing non-conforming dwelling and gazebo, and to allow the construction of an addition, be approved according to the terms outlined in Schedule No. 1, subject to consideration of comments received as a result of public notification.

CARRIED

Development Permit Application No. 60521 – Moeng and Tough – 3692 Horne Lake Caves Road – Area H.

MOVED Director Bartram, SECONDED Director Biggemann, that Development Permit Application No. 60521 with variance to permit the construction of one accessory building and one wooden staircase be approved subject to the terms outlined in Schedule No. 1 and consideration of comments received as a result of public notification.

CARRIED

Development Permit Application No. 60522 – Duval/Fern Road – 5487 Deep Bay Road – Area H.

MOVED Director Bartram, SECONDED Director Kreiberg, that Development Permit Application No. 60522 with variances be approved according to the terms outlined in Schedule No. 1, subject to consideration of comments received as a result of public notification.

CARRIED

DEVELOPMENT VARIANCE PERMIT APPLICATIONS

Development Variance Permit Application No. 90514 – Request for Acceptance of Land for Park Land Purposes; and Request for Relaxation of the Minimum 10% Frontage Requirement – Michael Rosen on behalf of Island Creekside Properties LP – off Jingle Pot Road – Area D.

MOVED Director Jepson, SECONDED Director Stanhope, that Development Variance Permit Application No. 90514, submitted by Michael Rosen, on behalf of Island Creekside Properties LP, to relax the minimum parcel averaging provision for proposed Lot 46 from 80% to 20% of the required 2.0 parcel size; to relax the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act* for proposed Lots 2, 3, 14, 31, 63, 64, 65, 67 and 68; and to accept the offer to transfer to the Regional District, proposed Lots 45 and 59 for park land purposes, be approved subject to the conditions set out in Schedule No. 1 as amended to delete Lot 64 from Item No. 5, and Schedule No. 2, and to the notification requirements pursuant to the *Local Government Act*.

CARRIED

OTHER

Electoral Area 'E' Draft Official Community Plan – Bylaw No. 1400.

MOVED Director Holme, SECONDED Director Stanhope,:

1. That the Summary of Proceedings and Submissions to the Public Information Meeting held May 30, 2005 be received.
2. That the draft Nanoose Bay Official Community Plan be received and be amended to include the recommendations contained in the staff report.
3. That "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" be given 1st and 2nd reading.
4. That "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" has been considered in conjunction with the Regional District of Nanaimo's Capital Expenditure Plan and Liquid Waste Management Plan and Regional Growth Strategy to ensure consistency between them.
5. That "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" proceed to a Public Hearing.
6. That the Public Hearing on "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400, 2005" be delegated to Director Holme or his alternate.

CARRIED

Review of Resource and Forest Land Subdivision Regulations.

MOVED Director Stanhope, SECONDED Director Biggemann, that staff be directed to prepare draft OCP and Zoning amendment bylaws that will amend the minimum parcel sizes as outlined in the staff report and that staff schedule a seminar with Electoral Area Directors prior to the next Board meeting.

MOVED Director Bartram, SECONDED Director Jepson, that this item be tabled until further consultation is provided.

DEFEATED

The question was called on the main motion.

The motion CARRIED

Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285 – Finetuning Project ALR Properties.

MOVED Director Biggemann, SECONDED Director Kreiberg,:

1. That the staff report recommending the introduction of “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.05, 2005” be received.
2. That “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.05, 2005” be introduced and given 1st and 2nd reading and be referred to a Public Hearing.
3. That the holding of the Public Hearing with respect to “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw Amendment Bylaw No. 1285.05, 2005” be delegated to Director Lou Biggemann or Director Joe Stanhope as his alternate.

CARRIED

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

MOVED Director Biggemann, SECONDED Director Stanhope,:

1. That the staff report be received for information.
2. That staff be directed to enter into discussion and negotiation with the Agricultural Land Commission with respect to drafting a Delegation Agreement for second dwellings as non-farm uses in the ALR in Electoral Area ‘F’.
3. That staff commence the process for amending the A-1 land use zone of “Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002” and proceed to a Public Information Meeting to obtain comments and feedback from the community with respect to the proposed delegation of authority for second dwellings in the ALR in Electoral Area ‘F’.
4. That the Board receive the draft policy guidelines to assist in reviewing ALR applications received for second permanent dwellings in the ALR in Electoral Area ‘F’ as outlined in Schedule No. 1.

CARRIED

Request for Acceptance of Cash in Lieu of Park Land Dedication – Leigh Millan, BCLS, on behalf of D and H Stimpson – Gould Road – Area A.

MOVED Director Kreiberg, SECONDED Director Holme, that the request, submitted by Leigh Millan, BCLS, on behalf of D & H Stimpson, for cash in-lieu-of park land dedication in conjunction with the subdivision of Lot 1, Section 11, Range 1, Cedar District, Plan 21265, Except Part in Plans 42157 & VIP60377, be accepted.

CARRIED

Request for Acceptance of Dedication of Park Land – RG Fuller & Associates, on behalf of Land & Water BC – Alberni Highway – Area F.

MOVED Director Biggemann, SECONDED Director Stanhope, that the request, submitted by RG Fuller & Associates, on behalf of Land & Water BC, for acceptance of an offer to dedicate 4.09 ha of park land and at the time of subdivision, dedicate a further 15.0 metre wide park land strip adjacent to the Alberni Highway in the location as shown on Schedule No. 1, be accepted.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:58 PM

CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUL - 4 2005			
<i>EAPC</i>			

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: July 4, 2005

FROM: Keeva Kehler
Planner

FILE: 3060 30 60524

SUBJECT: Development Permit Application No. 60524 – Chiste and Larsen
Electoral Area 'E' – Northwest Bay Road

PURPOSE

To consider an application to legalize land alteration and clearing and to authorize remediation and leveling of the disturbed area within the Farm Land Protection Development Permit Area.

BACKGROUND

The subject properties, legally described as "That Part of Lot 2, District Lot 30-A, Nanoose District, Plan 3074, containing 0.95 of an Acre, More or Less, Shown Outlined in Red on Plan 561-R" and "That Part of Lot 2, District Lot 30A, Nanoose District, Plan 3074, Shown outlined in Red on Plan 904R" are located on Northwest Bay Road within Electoral Area 'E' (see Attachment '1' for location). The properties are zoned Residential 1 (RS1) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

Pursuant to the "Nanoose Bay Official Community Plan Bylaw No. 1118, 1998", the subject properties are designated within the Farm Land Development Permit Area (DPA) and alteration of the land within 15.0 metres of the boundary the Agricultural Land Reserve (ALR) requires approval from the Regional Board. The DPA guidelines discuss minimizing land use conflicts between agricultural and residential properties by maintaining a 15.0 metre wide buffer between the two uses.

The application is the result of a recent bylaw enforcement complaint with respect to extensive clearing and excavation within the DPA. The applicants have removed trees, vegetation and substantial volumes of soil from the DPA and are requesting permission to level the disturbed area, replant trees and install a septic field to service one of the properties within the buffer area. No variances to RDN Bylaw No. 500, 1987 are proposed as part of the application.

ALTERNATIVES

1. To approve Development Permit Application No. 60524, subject to the Terms outlined in Schedule No. 1.
2. To deny Development Permit Application No. 60524 as submitted.

LAND USE AND DEVELOPMENT IMPLICATIONS

The Farm Land Protection Development Permit Area was established to reduce the potential for land use conflicts between agricultural lands and adjacent non-agricultural development. The Development Permit states that a fifteen (15) metre wide buffer strip between the agricultural and non-agricultural uses will promote greater compatibility between the land uses while protecting the agricultural areas from urban impacts, such as trespass (from humans or domestic animals), vandalism or theft and nuisance complaints from adjacent non-agricultural residents.

At present there is no fence along the rear property lines of the lots between the ALR property (Williams Farm) and the subject properties. The adjacent ALR parcel is cleared for pasture and potential land use conflicts may arise due to the close proximity of the proposed and existing dwelling units on the residential parcels. In order to mitigate the potential land use conflicts, staff feel that the area within 8.0 metres of the ALR property line should be more densely vegetated than the remaining 7.0 metres of the buffer area. The applicants are in agreement to install a solid cedar or evergreen hedge along the rear property line adjacent to the ALR, in addition to replanting the buffer area with a mix of cedar and fir trees, grass and wildflower seed mix.

The rear portion of the land was approximately 4.0 metres higher than the rest of the property and the applicants wanted to level out the slope to provide more desirable residential properties. In addition to removing the vegetation, the applicants removed approximately 1850 cubic metres of soil from the buffer area. Some of the excavated material was used to level portions of the properties outside the DPA and some material was removed from the site. Prior to re-vegetating the buffer area, the applicants propose to level the area.

A site visit conducted by RDN staff on June 9, 2005 revealed that substantial amounts of soil have been excavated from the rear portion of the properties resulting in a very steep slope surrounding a bowl-like depression on the two properties. Staff had concerns with respect to bank stability and potential landslip or slope failure and negative impacts on the neighbouring property to the north. For this reason, staff required the applicants to obtain a geotechnical assessment from a professional engineer assessing the slope and providing recommendations for remediation.

The applicants submitted a technical memorandum prepared by Lewkowich Geotechnical Engineering Ltd. dated June 13, 2005. The memorandum states that the current bank is approximately 6.0 metres high with a steep slope of approximately 60 percent grade in parts. The bank consists of dry soils and clean sands and gravels. The memorandum states that the safety of buildings or persons does not rely on the slope. For stability against slope failures the engineer recommends maintaining the existing 2.0 metre flat area between the slope crest and the neighbouring property in order to protect the existing trees on the neighbouring property. The report also recommends filling the slope to establish a gradient of at least 1.5 metres horizontal to 1.0 metre vertical or flatter and the replanting of vegetation on the slope. Erosion will be an ongoing problem until vegetation is established. Should the Board consider approval of the Development Permit, staff will recommend that the provisions of the engineer's report be completed as part of this approval.

Due to the steep slope, which results in a berm around the two subject properties separating the dwellings from the farm, and following discussions with the applicants, staff is of the opinion that the installation of an evergreen hedge along the rear property line at the top of the slope will be satisfactory in reducing the potential for land use conflict between the residential and agricultural uses. The proposed dwelling unit on the larger parcel (shown on Plan 561-R) will be located outside of the DPA. Due to the configuration of the lots and changes in the elevations as a result of the adjacent E & N Railway along

the southern property line, there are limited options for locating a septic field outside the 15 metre buffer area. The area outside the DPA will be developed with the dwelling unit, accessory structures and driveway access, which cannot be located over the septic system. The applicants have made an effort to limit the encroachment of the septic system into the DPA and the rear of the property will be more densely vegetated with trees to provide a buffer and mitigate the potential impact of locating the septic field within the DPA.

PUBLIC CONSULTATION IMPLICATIONS

As the application does not involve any proposed variances to RDN Bylaw No. 500, 1987, adjacent property owners will not receive direct notification of the application. However, the Board has received one letter from an adjacent property owner, which is provided as Attachment No. 2.

VOTING

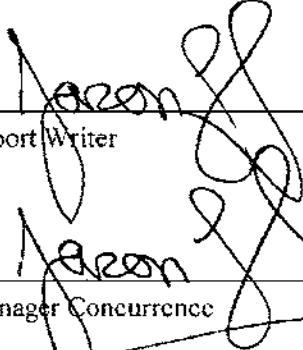
Electoral Area Directors -- one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

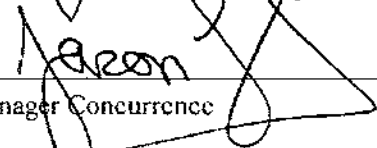
This is a Development Permit application to legalize land clearing and excavation and to facilitate remediation and re-vegetation of the 15.0 metre Farm Land Protection Development Permit Area (DPA). In addition, the applicants propose to install a septic field within a portion of the DPA to service a proposed dwelling unit. The applicants are in agreement to install a solid cedar hedge along the rear property line to act as a barrier and propose to replant the remainder of the buffer area with a mix of cedar and fir trees and grass and wildflower mix. Given the proposed replanting of the buffer area and the terms outlined in Schedule No. 1, staff is of the opinion that the proposal is a reasonable effort to mitigate potential conflict between residential development the adjacent ALR property.

RECOMMENDATIONS

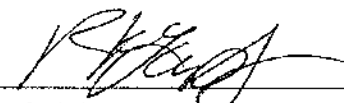
That Farm Land Protection Development Permit Application No. 60524 to facilitate remediation of the 15.0 metre buffer area through replanting and leveling of the site and to allow the installation of a septic system within the buffer area, be approved, according to the terms outlined in Schedule No. 1.

 For

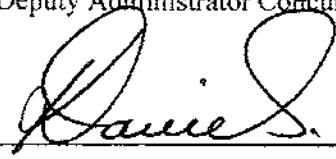
Report Writer



Manager Concurrence



Deputy Administrator Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2005/dp_ju_brd_3060_30_60524_Chiste_and_Larsen

Schedule No. 1

Terms of Development Permit No. 60524

For "That Part of Lot 2, District Lot 30-A, Nanoose District, Plan 3074, containing 0.95 of an Acre, More or Less, Shown Outlined in Red on Plan 561-R" and "That Part of Lot 2, District Lot 30A, Nanoose District, Plan 3074, Shown outlined in Red on Plan 904R"

Development of the Site

1. All development on the site shall be in accordance with the "RDN Land Use and Subdivision Bylaw No. 500, 1987."
2. The applicants shall fill the slope to establish a gradient of 1.5 metres horizontal to 1.0 metre vertical or less. The applicants shall maintain the existing 2.0 metre flat portion of soil at the crest of the slope adjacent to the neighbouring property to the north in order to provide stability for the existing vegetation. The slope shall be covered with topsoil and vegetated as soon as possible, but no later than September 2005.
3. Applicants shall install a solid cedar or evergreen hedge along the rear property line between the subject properties and the adjacent ALR parcel. The hedge shall be designed to grow and be maintained at a minimum height of 2.0 metres and shall be at least 0.5 metres wide. The area within 8 metres of the rear property line shall be replanted with a mix of cedar and fir trees (a minimum of 20 of each species) and other native species as desired by the applicants. The remaining 7 metres of the buffer area shall be seeded with cedar or fir trees or grass and wildflower mix as desired by the applicants.
4. Replanting of the site shall commence in September 2005 and shall be fully installed by April 30, 2006, so as to allow for sufficient growing time before the dry season.
5. The septic system shall be installed at least 8.0 metres from the rear property line so as to allow for the replanting of this area with trees.

Attachment No. 2
Development Permit Application No. 60524

3160 Northwest Bay Road
Nanoose Bay, B.C. V9P 9E2

14 June, 2005

To: Board of Directors

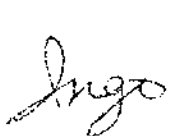
Re: 15-metre Agricultural Buffer Zone

Our neighbour at 3166 Northwest Bay Road, as you know, has been removing trees and heavily excavating within 15-metres of the land adjoining his which is zoned Agricultural. He has left a steep, thirty-foot cliff too close to our property line, which will eventually collapse, taking with it many large trees which are on our property.

We are aware that we are not permitted even to remove a tree within this 15-metre zone and have always been careful never to violate this bylaw. We find it ironic that our neighbour, by his excavations, will cause many of our trees to die and collapse as the now unstable bank collapses.

What we would like is for the Board to direct our neighbour to replace enough soil to create a stable slope that will preclude its collapsing in future. If possible, we would prefer an engineer to certify the slope as stable.

We have attached several photos, showing just how steep and unstable this excavation is.



Ingo and Madeleine Neill-St.Clair

LAND USE AND DEVELOPMENT IMPLICATIONS

This application is to amend the previously approved layout of the proposed dwelling unit. Development Permit No. 60508 was issued in March 2005 and approved the requested variance to the front lot line setback from 8.0 metres to 5.1 metres in order to accommodate the siting of a dwelling unit. The proposed design of the dwelling is similar, except that the layout is reversed resulting in the garage being on the other side of the lot. As this amended layout has the potential to impact adjacent property owners in a different manner than the original variance, a new Development Permit must be issued and adjacent landowners must be notified of the amended layout and given an opportunity to provide comment to the Board.

The original Development Permit was recommended for approval based on the following land use issues. A section 219 covenant applies to the subject property, resulting in complications for building on the lot within the current zoning setbacks. The covenant area extends between 6.0 metres and 8.0 metres into the rear of Lot 38. As a result, without the variance the useable backyard would be 1.1 metres deep. There was concern that the covenant area would be encroached upon during construction and over time by property owners, given the narrow width of the useable rear yard. Also, the applicants propose to include a small patio space at the rear of the dwelling unit, measuring approximately 4.0 metres in depth. This would not have been possible without varying the front and exterior lot lines. A patio area was considered a reasonable accessory use for a dwelling unit.

The proposed amendment to the dwelling unit layout on the lot does not affect the land use issues that were considered under the previously approved Development Permit. The only difference with this proposal is that the dwelling unit layout is reversed. The applicants are not requesting an increased variance. Therefore, staff supports the proposed amendment to the terms of the permit.

ENVIRONMENTAL IMPLICATIONS

The section 219 covenant was registered in favour of the Ministry of Environment (MOE) when the parent parcel was created in 1995. This subdivision layout was approved in 2003 by the Ministry of Transportation with the section 219 covenant registered on the titles of these lots. Development of the lots on Viking Way with the covenant registered on the titles has resulted in encroachment into the covenant area and numerous complaints have been received from adjacent property owners, the Wildlife Tree Stewards, and the French Creek Residents Association. However, due to the nature of section 219 covenants, enforcement tools are limited and the MOE has not undertaken any enforcement action against the encroachments. Therefore, to reduce potential impacts and future encroachment, MOE staff support relaxing the setback to the front and exterior lot lines on these lots and any other lots that have not yet been developed.

DEVELOPMENT PERMIT AREA IMPLICATIONS

Pursuant to the previous OCP, "French Creek Official Community Plan Bylaw No. 741, 1987", the subject property was designated within Development Permit Area 'D' French Creek (the DPA). 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 multi-family development. Development Permit No. 77, which applies to the subject property, was issued pursuant to this 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 Development Permit No. 77 and previously issued Development Permit No. 60508.

VOTING

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

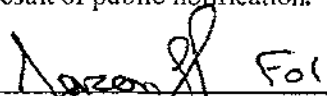
SUMMARY/CONCLUSIONS

This is an application to amend Development Permit No. 77 and Development Permit No. 60508 by varying the minimum setback requirement from the front lot line of the RS5 zone for the subject property from 8.0 metres to 5.1 metres for the building sited and designed in compliance with Schedules No. 2 and 3 to facilitate the construction of a dwelling unit.

The Board approved the variance request to the front lot line from 8.0 metres to 5.1 metres in March 2005. The reduced front yard setback will allow an increased setback from an eagle tree in the rear yard, that is protected by a section 219 covenant registered on the title that restricts vegetation removal and land alteration at the rear of the property. The Ministry of Environment supported and encouraged varying the front lot line setback to reduce further encroachments into the covenant area and potential impacts to the active eagle nest tree. The dwelling unit layout and design are similar to those which were originally approved and the impact on the area is not notable; therefore, staff recommends approval of the application.

RECOMMENDATION

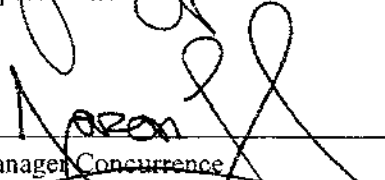
That Development Permit Application No. 60525 with a front yard setback variance from 8.0 metres to 5.1 metres to permit the construction of a dwelling unit at 629 Viking Way be approved according to the terms outlined in Schedule No. 1, and subject to the Board’s consideration of comments received as a result of public notification.



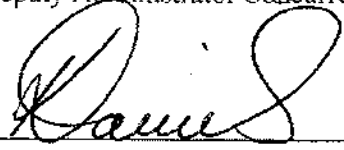
Report Writer



Deputy Administrator Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devsvs/reports/2005/dp ju 3060 30 60525 Purves

**Schedule No. 1
Terms of Approval
Development Permit No. 60525**

Development of Site

- a) Uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", except where varied by this Permit. The terms of this permit replace those of Development Permit No. 60508.
- b) Applicants 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 (i.e. the overhang, gutters, etc.) and shall be prepared to the satisfaction of the Regional District of Nanaimo.

Geotechnical

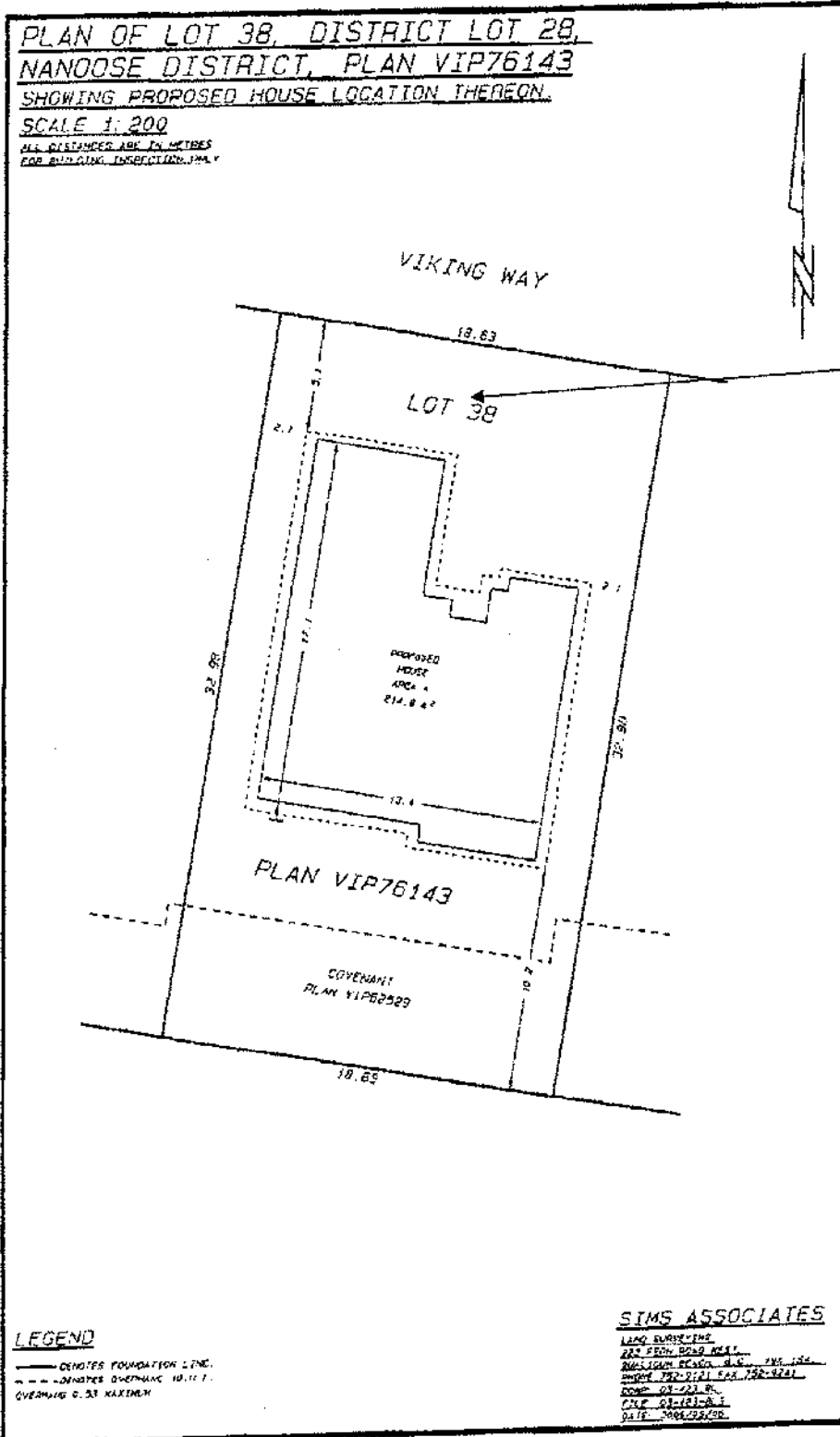
- e) A Geotechnical report prepared by a Geotechnical Engineer to the satisfaction of the Regional District of Nanaimo shall be required if deemed necessary by the Chief Building Inspector.

Requested Variances

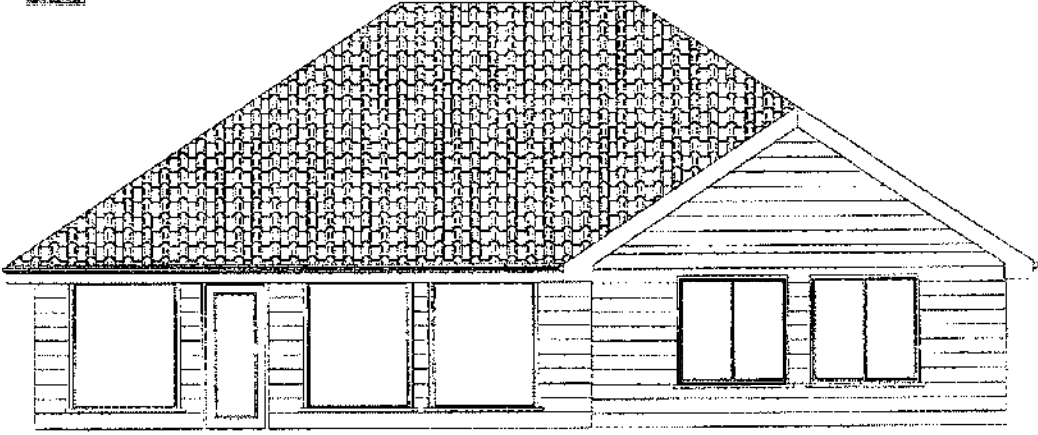
- f) With respect to the Lands, the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", the following variance is proposed:

Section 3.4.65 Minimum Setback Requirements Front and Exterior Lot Line is proposed to be varied from 8.0 metres to 5.1 metres to facilitate the construction of a dwelling unit as shown on Schedules No. 2 and 3.

Schedule No. 2
Site Plan (submitted by applicant, reduced for convenience)
Lot 38, DL 28, Nanoose District, Plan VIP76143
Development Permit No. 60525

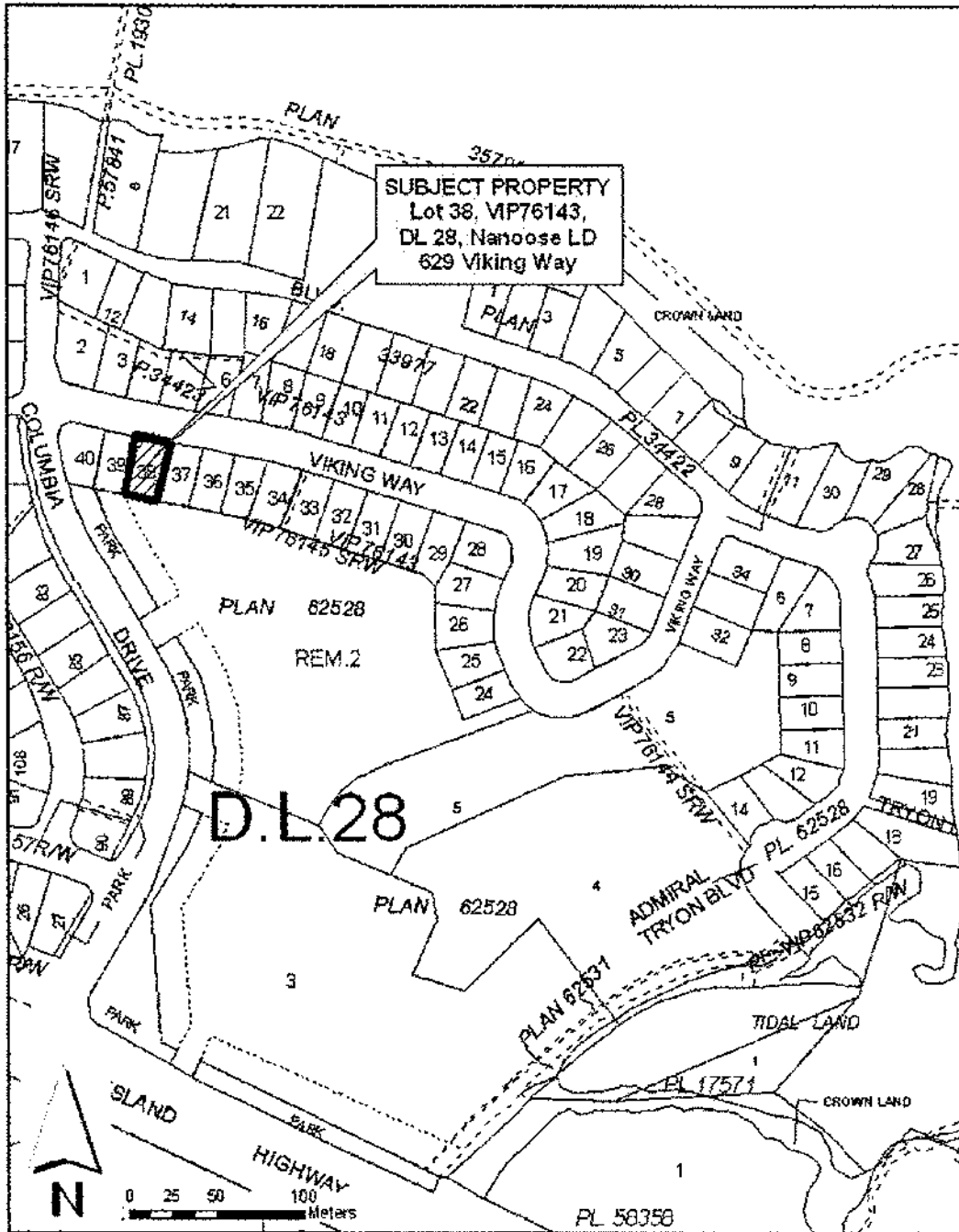


Schedule No. 3
Building Profile (submitted by applicant, reduced for convenience)
Lot 38, DL 28, Nanoose District, Plan VIP76143
Development Permit No. 60525



LOT 38 VIKING WAY

Attachment No. 1
Subject Property
Development Permit No. 60525



BCGS Map Sheet No. 92F 039.5.1



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUL - 4 2005			
CAPC			

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: July 1, 2005

FROM: Greg Keller
Planner

FILE: 3060 30 60526

SUBJECT: Development Permit Application No. 60526 – Friede/Fern Road
Electoral Area 'H' – 6060 Island Highway West

PURPOSE

To consider a Development Permit application to permit an alteration to an existing commercial building located in Qualicum Bay.

BACKGROUND

This application is for the property legally described as Lot 1, District Lot 20, Newcastle District, Plan 6994 Except Part in Plan VIP68932. The subject property is a long narrow 2.48 hectare parcel located at 6060 Island Highway West in the Qualicum Bay Area of Electoral Area 'H' (see Attachment No. 1).

The subject parcel is zoned Commercial 5 Subdivision District 'Z' (CM5Z), which permits a number of commercial uses including hotel, recreational facility, restaurant, and tourist store and requires a minimum setback of 8.0 metres from the front lot line and 5.0 metres from other lot lines, except where the adjoining parcel is zoned industrial or commercial then the setback from the common interior side lot line may be reduced to zero. The subject building, the Cola Diner, has been sited in its current location for a number of years with no complaints on record from adjacent property owners.

The subject property is located within the Village Centres, Hazard Lands, and Environmentally Sensitive Features Development Permit Areas pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003." Please note the Environmentally Sensitive Features Development Permit Area guidelines are not applicable to the proposed development as the building site is located outside of this Development Permit Area. The Village Centres Development Permit Area is designated for the establishment of objectives and guidelines for the form and character of commercial, industrial, or multi-family residential development.

Currently on the subject parcel there are 19 cabins (hotel units), two dwelling units, and the building that is the subject of this application. Please note the second dwelling unit is non-conforming, however, this application does not propose any alteration to this dwelling unit. The Board of the Regional District of Nanaimo approved Development Permit No. 9809 (Revised) on June 9, 1999, which authorized the installation of 19 cabins (hotel units) and landscaping.

In 1998, the Ministry of Transportation approved a building setback relaxation for the existing building from 4.5 metres to 2.8 metres from the edge of Island Highway 19A (measured to the foundation). However, at that time the applicants did not receive a front lot line relaxation from the Regional District

of Nanaimo. Therefore, a front lot line relaxation is requested in order to legalize the siting of the existing building to facilitate the proposed alteration.

The applicants have changed the theme of their resort and sold the name 'Cola Diner' with the intention of altering the existing building towards a West Coast theme that is more in keeping with the existing cabins. The applicants are proposing to establish a new business in the subject building, which is described by the applicants as a 'destination integrative health centre'. The proposed business includes a restaurant, a variety of therapeutic preventative treatments and regimes, nutrition and fitness services, and health and lifestyle educational programs. The applicants are also proposing an accessory retail sales component for the sale of health care related products and products made by local artisans. As part of this application the applicants are proposing to decrease the number of seats in the restaurant from 99 to 50.

Proposed Variance

This application includes a request to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" as follows:

1. Section 3.4.15- **Minimum Setback Requirements** by relaxing the minimum front lot line setback requirement from 8.0 metres to 2.7 metres for the existing commercial building and proposed second storey alteration.
2. Schedule 3B (Table 1) - **Minimum Number of Off-Street Parking Spaces** by relaxing the minimum number of off-street parking spaces from 34 to 24.

ALTERNATIVES

1. To approve the requested variance and development permit subject to the terms outlined in Schedules No. 1, 2, and 3 and consideration of the comments received as a result of the public notification.
2. To deny the requested variance and development permit as submitted.

DEVELOPMENT IMPLICATIONS

Geotechnical Implications

Due to the low lying gently sloping nature of the subject parcel adjacent to the ocean, the parcel has been designated within the Hazards Lands Development Permit Area because of the flooding risk. Since the subject building has been in its current location for a number of years and the applicants are proposing to make alterations to the upper floor only and are not proposing to change the footprint of the building, the requirement for a geotechnical evaluation has been waived subject to the applicants preparing a section 219 covenant releasing the Regional District of Nanaimo from liability as a result of damages and/or losses as a result of flooding and/or erosion. Therefore, staff recommends that as a condition of approval the applicant shall prepare and register that covenant on title, at their expense. The applicant has concurred with this request.

Land Use and Development Implications

The proposed business includes a restaurant, a recreational facility (Health Club), and accessory retail and office space, all of which are permitted under the CM5 zone. Based on the above uses, 34 off street

parking spaces are required pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The applicants are proposing to provide a total of 24 off-street parking spaces for the subject building constructed in accordance with Bylaw No. 500. Please note, that the existing cabins provide an additional 30 off-street parking stalls as authorized by Development Permit No. 9803. Due to the nature of the development as a destination resort, it is expected that patrons who stay in the cabins would also utilize the on-site health-related services, thereby reducing the demand for additional off-street parking.

Although the demand for off-street parking may increase during short periods while lectures or other activities are occurring, it is anticipated that the proposed change in use would generally reduce the regular volume of off-site traffic since the number of seats in the restaurant is proposed to be decreased and the retail store component would become accessory to the recreational use and would be geared towards internal customers who are using the resort, rather than the general public. In addition the relatively large size of the subject parcel provides ample space for additional informal parking if required. Therefore, staff is of the opinion that the requested parking relaxation is justified.

The proposed alteration would not result in a further reduction to the setback adjacent to Island Highway 19A. However, since the use of the building is proposed to be changed, a new access permit as issued by the Ministry of Transportation is required. In addition, no height variance is required as the height of the building is less than the 8.0 metre maximum height pursuant to the CMS zone.

As part of this application, in keeping with a West Coast theme, the applicants are proposing to change the exterior finish of the building from vinyl to vertical cedar siding. Staff is of the opinion that the proposed change will dramatically improve the aesthetic appearance of the building as it is currently sided with vinyl and a portion of the building is exposed building paper. The applicants are also proposing to remove the car currently mounted to the face of building adjacent to the Island Highway and replace it with a fascia sign sized in accordance with Bylaw No. 500.

In staff's assessment of this application, the proposed variances are justified given the subject building has been in its current location for a number of years with no complaints received from adjacent property owners. In addition, the proposed alteration does not change the footprint of the building, does not increase the non-conforming setback, and, in staff's opinion, represents a significant aesthetic improvement. Furthermore, there are no views to be impacted by the proposed variance. Therefore, staff recommends that the Board approve the subject permit including the proposed variances as submitted by the applicants subject to consideration of the comments received as a result of public notification.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a development permit with variances to legalize the siting of an existing commercial building including a proposed second storey alteration within the Village Centres, Hazard Lands, and Environmentally Sensitive Features Development Permit Areas.

This application includes a request to vary Bylaw No. 500 to relax the minimum setback from the lot line adjacent to the Island Highway from 8.0 metres to 2.7 metres for an existing commercial building and

proposed second storey alteration and to reduce the number of required off-street parking spaces from 34 to 24.

As this proposal does not include an alteration to the existing footprint of the building and since the building has been in its current location for a number of years with no apparent flooding damages, the requirement for a geotechnical assessment has been waived subject to the applicants submitting a section 219 covenant releasing the Regional District of Nanaimo from all damages and/or losses as a result of flooding and/or erosion.

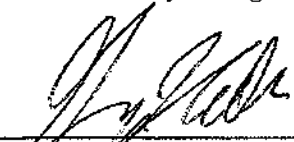
Given the relatively large size of the subject parcel and the nature of the proposed development as a destination resort, it is expected that patrons who stay in the cabins would also utilize the on-site health-related services thereby reducing the demand for additional off-street parking and it is anticipated that the proposed change in use would generally reduce the regular volume of off-site traffic. Therefore, staff is of the opinion that the requested parking relaxation is justified.

In staff's assessment of this application the proposed development would result in a significant aesthetic improvement and there are no views to be impacted by the proposed variance. In addition, the existing building has been in its current location for a number of years with no complaints received from the adjacent property owners. Staff is of the opinion that the proposed variances are acceptable and recommends that the Board approve the proposal subject to consideration of comments received as a result of public notification.


RECOMMENDATION

That Development Permit Application No. 60526 with variance be approved according to the terms of Schedule No. 1, subject to consideration of comments received as a result of public notification and that the issuance of Development Permit No. 60526 be withheld until completion of the following:

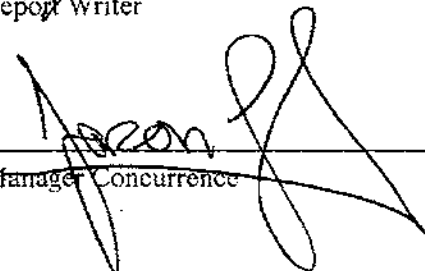
1. The applicant shall, at the applicant's expense and to the satisfaction of the Regional District of Nanaimo, prepare and register a Section 219 covenant saving the Regional District of Nanaimo harmless of any damages and/or losses as a result of flooding and/or erosion.



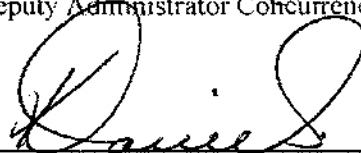
Report Writer



Deputy Administrator Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsers/reports/dp_ju 3060 30 60526 Friede Fern Road

Schedule No. 1
Terms of Development Permit No. 60526
Lot 1, District Lot 20, Newcastle District, Plan 6994, Except Part in Plan VIP68932
6060 Island Highway

The following are to be completed as part of Development Permit No. 60526:

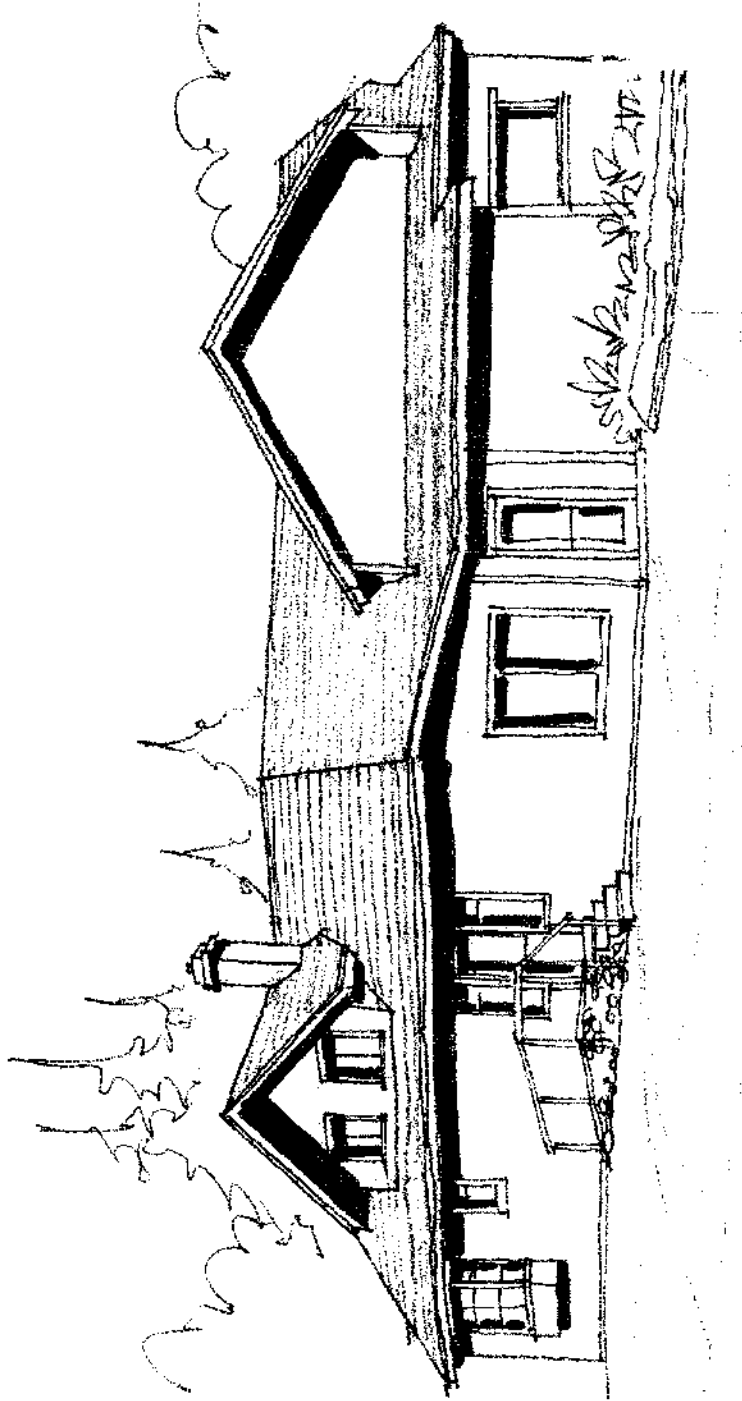
Proposed Variances

1. The following variances apply only to one commercial building and proposed second storey alteration sited as shown on Schedule No. 2 and constructed as shown on Schedule No. 3.
 - a. **Section 3.4.15– Minimum Setback Requirements of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987"** is varied by relaxing the minimum front lot line setback requirement from 8.0 metres to 2.7 metres for the existing commercial building and proposed second storey alteration.
 - b. **Schedule 3B (Table 1) of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" – Minimum Number of Off-Street Parking Spaces** is varied by relaxing the minimum number of off-street parking spaces from 34 to 24. This variance applies only to parking requirements for the uses described in the relevant staff report dated July 1, 2005. This variance does not preclude any subsequent change in use or intensity of use from meeting the applicable off-street parking requirements pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" and all subsequent amendments.

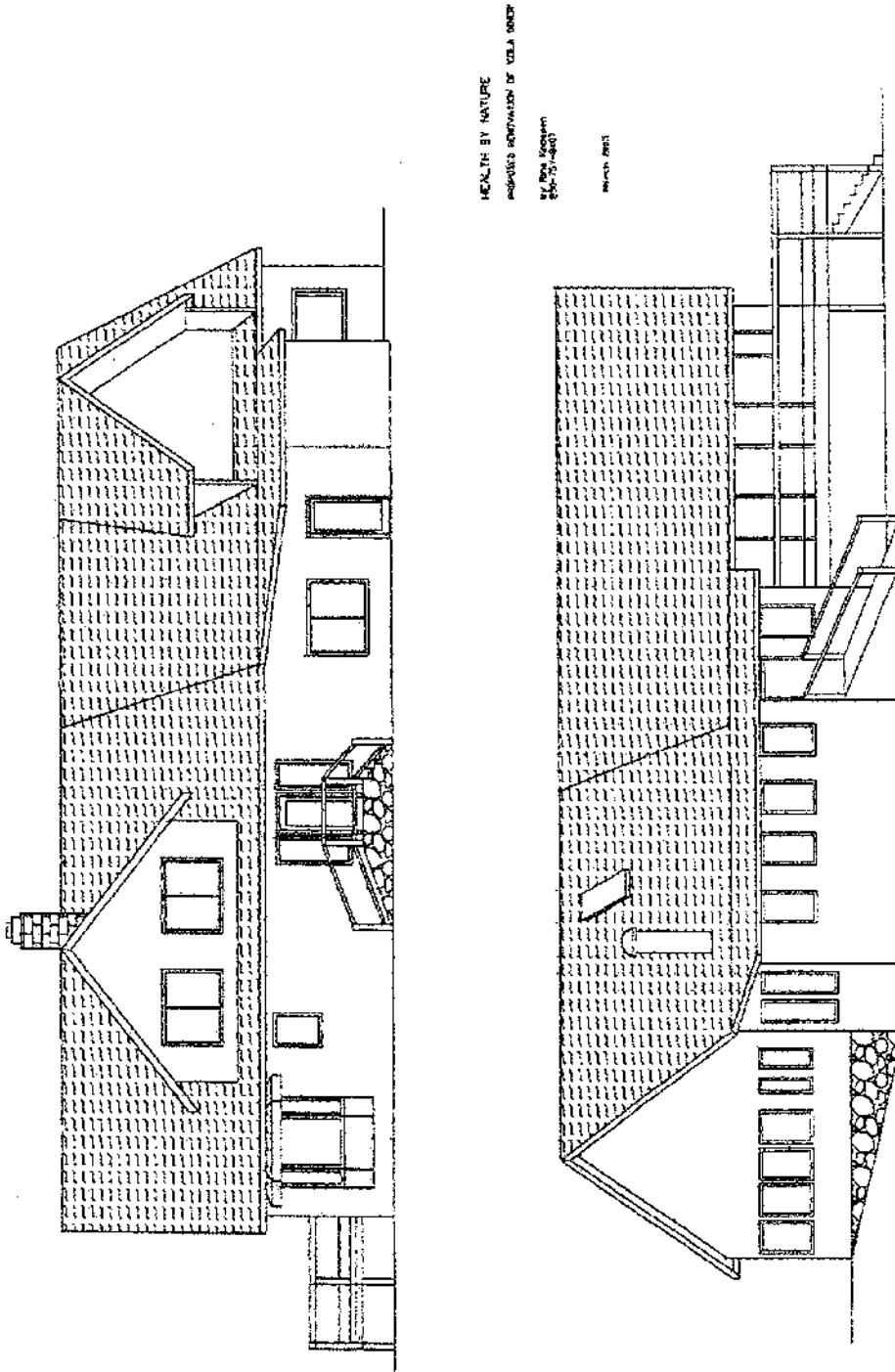
Development of Site

2. Subject property shall be developed in accordance with Schedules No. 1, 2, and 3.
3. The subject property shall be developed in accordance with all requirements of the Ministry of Transportation access permit and building setback relaxation.
4. A minimum of 24 well defined off-street parking spaces shall be provided constructed in accordance with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
5. All construction to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", except as where varied by this permit.
6. Maximum height of the dwelling unit shall not exceed 8.0 metres as measured from natural grade.
7. Prior to the issuance of this permit, the applicant shall prepare and register on title, at their expense and to the satisfaction of the Regional District of Nanaimo, a Section 219 covenant releasing the Regional District of Nanaimo from all damages and/or losses as a result of flooding and/or erosion.
8. A final survey plan prepared by a British Columbia Land Surveyor shall be submitted by the applicant to the Regional District of Nanaimo showing the final siting and height of the subject commercial building within 60 days of the date of completion of the proposed works or within 2 years of the date of issuance of this permit, whichever comes first.

Schedule No. 3 (1 of 2)
Building Elevations
Development Permit No. 60526
6060 Island Highway



Schedule No. 3 (2 of 2)
Building Elevations
Development Permit No.60526
6060 Island Highway





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUL - 5 2005			
E.A.P.C.			

MEMORANDUM

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

DATE: July 4, 2005

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 60528
c/r 3320 30 26273

SUBJECT: Development Permit Application No. 60528 - Fern Road Consulting Ltd., on behalf of D & B Van Damme
Electoral Area 'E' - 1921 / 1931 Northwest Bay Road

PURPOSE

To consider an application for a development permit with respect to the creation of a 2-lot bare land strata subdivision on a parcel designated within Farm Land Protection and Watercourse Protection Development Permit Areas in the Madrona area of Electoral Area 'E'.

BACKGROUND

The subject property, legally described as Lot 3, District Lot 10, Nanoose District, Plan 28601, is located at 1921 / 1931 Northwest Bay Road in the Madrona area of Electoral Area 'E' (see Attachment No. 1 for location). The property, which is 3.24 ha in size, is currently zoned Rural 5 (RU5) and is within Subdivision District 'F' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". There are two dwelling units and accessory buildings currently situated on the parent parcel. Surrounding land uses include rural and residential zoned parcels to the north, a large resource management zoned parcel to the east; a rural zoned parcel to the south, and Northwest Bay Road and an ALR / rural zoned parcel to the west.

In addition to the zoning, pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1118, 1999, the subject property is designated within two development permit areas - the Watercourse Protection Development Permit Area which, in this case, was established for the protection of a wetland that crosses the subject property and the Farm Land Development Permit Area, which was established for the protection of the Agricultural Land Reserve (ALR) lands located across Northwest Bay Road to the west of the subject parcel. As the proposed subdivision development does not meet the exemption provisions of these development permit areas, a development permit is required.

In addition to the wetland, the Nanoose Bay Official Community Plan Bylaw No. 1400, currently under consideration by the Board, includes the presence of a heron colony within a development permit area on the subject property. The presence of a heron colony is not designated within the Sensitive Ecosystem Protection Development Permit under the current OCP. Ministry of Water, Land, and Air Protection staff has reviewed the location of this colony and confirmed that the colony is located on the neighbouring lands and bordering the subject parcel to the rear. Ministry staff indicated that the proposed covenant area for the wetland would provide sufficient protection for the heron colony.

There are no land use related documents registered on title of the parent parcel.

Proposed Development

The applicant is proposing to subdivide the parent parcel into 2 bare land strata lots with a common property access and a common property septic disposal area. Each proposed bare land strata lot would support one dwelling unit. The applicant is proposing that the wetland and its 30-metre riparian area, which is located entirely within proposed Strata Lot B, be protected by a section 219 covenant.

ALTERNATIVES

1. To approve the Development Permit Application No. 60528 as submitted subject to the conditions outlined in Schedules No. 1 and 2.
2. To deny the development permit as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Development Permit Guidelines / Covenant Implications

With respect to the development permit guidelines for protection of the watercourse, the applicant's agent has offered the registration of a protective covenant over the wetland area including 30-metre wide leave strip as measured from the natural boundary. This will meet the development permit guidelines. In addition, it is staff's understanding that the minimum requirements of the new Provincial *Riparian Area Regulations* will also be met.

With respect to the development permit guidelines for the protection of the nearby farm land, there is an existing vegetative buffer located along Northwest Bay Road with the exception of the access point. There are no buildings or structures located within this 15-metre development permit area. The applicant is not proposing to remove any of this vegetative cover. As the property within the ALR is across Northwest Bay Road, staff feels that additional vegetation is not necessary to further protect the farm land. Staff recommends that the corresponding development permit include a provision permitting the enhancement of this protective area as desired by the applicants.

Ministry of Transportation Implications

The Ministry of Transportation, as part of the subdivision review process, will examine the proposal from its point of view, including provision of potable water, septic disposal, and access.

VOTING

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

SUMMARY

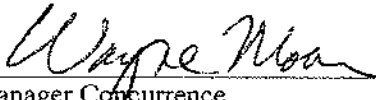
This is an application for a development permit for the property located in the Madrona area of Electoral Area 'E'. A portion of the parent parcel is designated within the Watercourse Protection Development Permit Area specifically for the protection of a wetland area located across the northeast third of the subject property. The applicant's agent has offered to register a covenant for the protection of the wetland and its 30-metre riparian area, which is consistent with the development permit guidelines. The property is also designated within the Farm Land Development Permit Area as lands within the Agricultural Land Reserve are situated across Northwest Bay Road. The existing vegetation cover offers an adequate buffer area for the ALR lands. The development permit will include a condition restricting the placement of buildings or structures other than the access driveway. A heron colony is also situated within the subject property in the location of the wetland. For the above reasons, staff recommends Alternative No. 1, to approve the development permit subject to conditions outlined in Schedules No. 1 and 2.

RECOMMENDATION

That Development Permit No. 60528, submitted by Fern Road Consulting Ltd., on behalf of D and B Van Damme for the property legally described as Lot 3, District Lot 10, Nanoose District, Plan 28601, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.



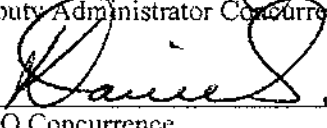
Report Writer



Manager Concurrence



Deputy Administrator Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2005/dp_ju 3060 30 60528 (subd 26273)van damme / fern road

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60528**

The following conditions apply to Development Permit No. 60528:

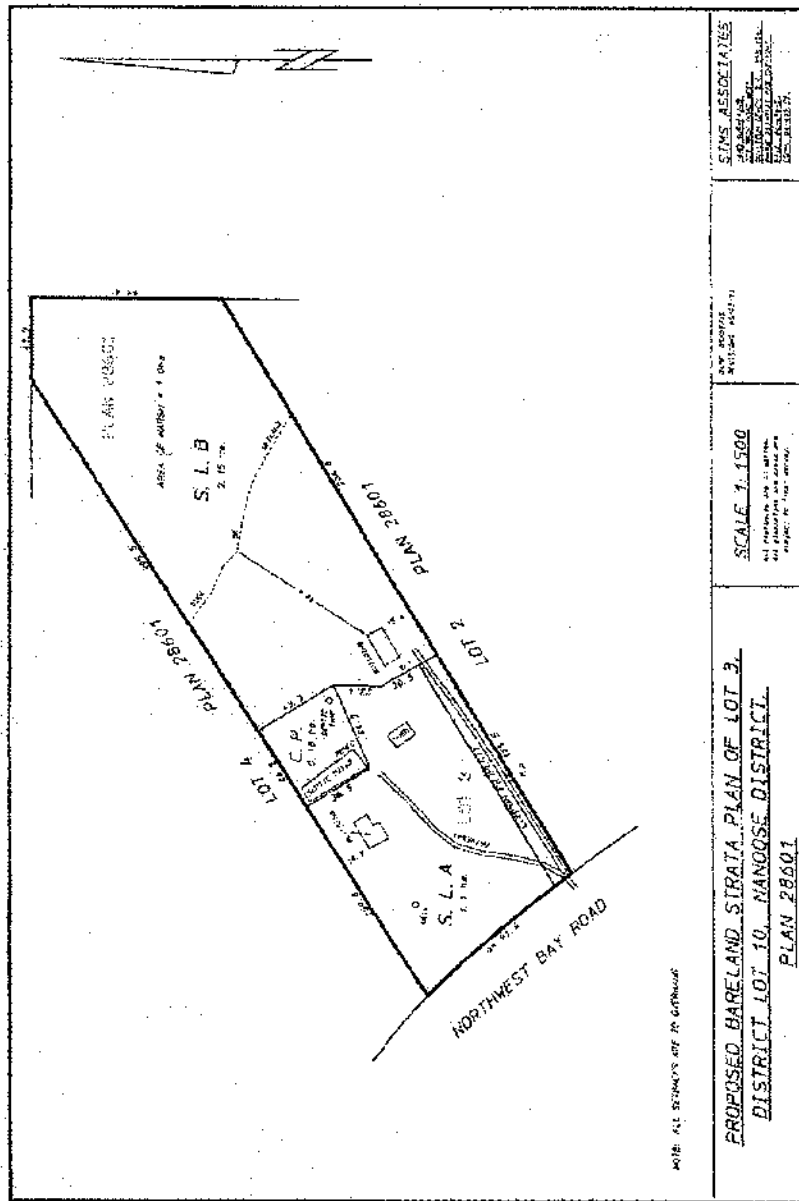
15-metre buffer strip adjacent to Northwest Bay Road for Farm Land Protection Area:

1. No buildings or structures, including signs, decks, patios, wells, septic disposal fields, outdoor storage, or other site improvements shall be located within 15.0 metres from Northwest Bay Road other than access driveways to serve the proposed bare land strata lots.
2. The existing vegetation shall remain. The enhancement of the buffer area with additional vegetation is permitted. Invasive plants such as Himalayan blackberries, Scotch broom, morning glory, and purple loosestrife may be removed and replaced with plantings to enhance the buffer area.

Wetland and its 30-metre riparian area for Watercourse Protection Development Permit Area:

1. Applicant to prepare and register a section 219 covenant for the protection of the wetland and its 30.0 metre riparian area, as measured from the natural boundary, restricting no removal of vegetation, no disturbance by man, no alteration of the land, no buildings or structures, including fences, decks, patios, no wells, driveways, no outdoor storage, septic disposal fields, placement of soils, or other site improvements within 30.0 metres of the natural boundary of the wetland. Applicant to submit draft covenant to Regional District for review prior to registration at Land Title Office. This covenant is to be reviewed and accepted by the Regional District prior to being registered on title concurrently with the plan of subdivision at Land Title Office. Applicant's solicitor to submit letter undertaking to register this covenant.

Schedule No. 2
Proposed Plan of Bare Land Strata Subdivision
Development Permit No. 60528
(as submitted by applicant / reduced for convenience)

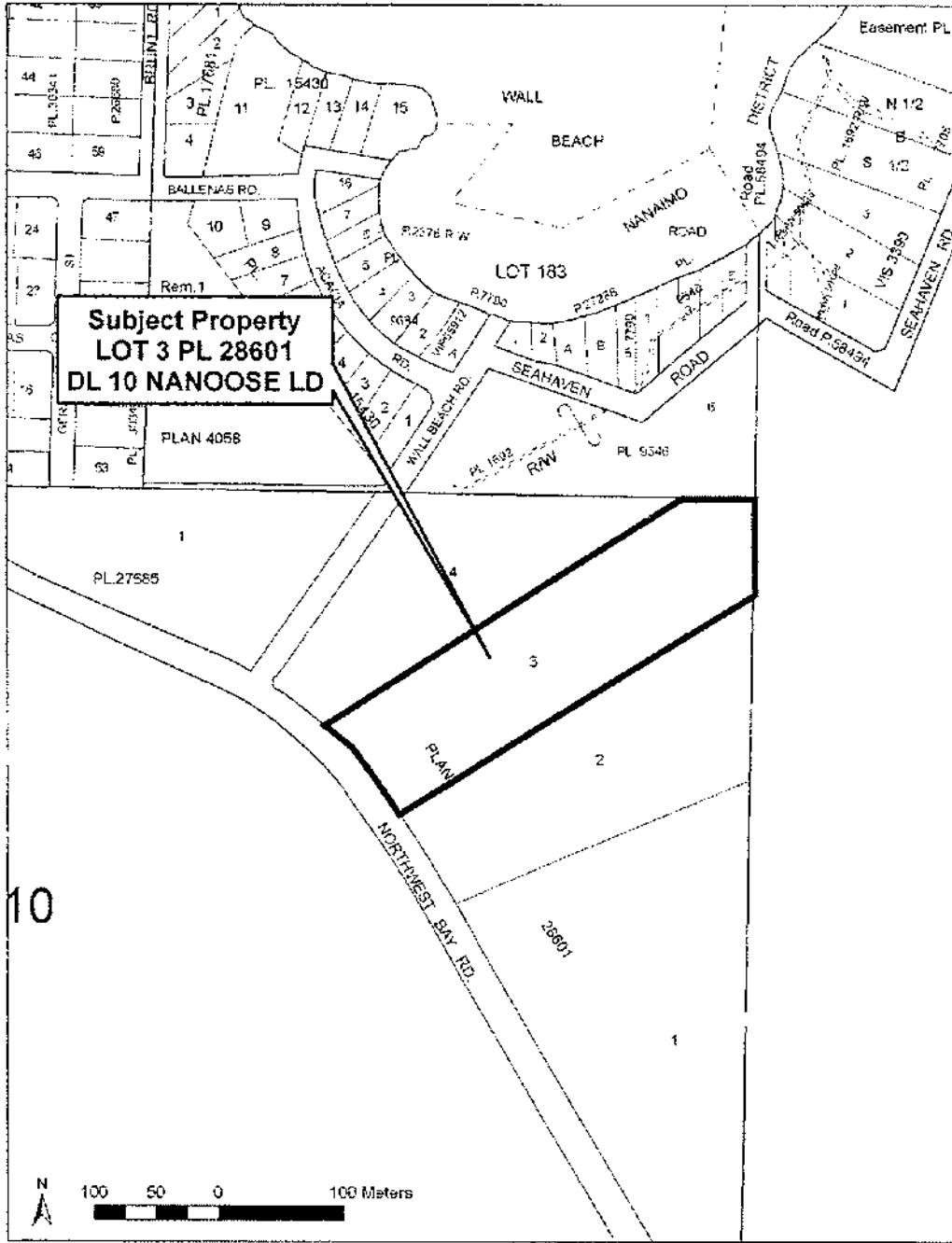


SIMS ASSOCIATES
40-4041
100-1000
100-1000
100-1000

SCALE 1:1500
ALL DIMENSIONS ARE IN METERS
EXCEPT WHERE SHOWN OTHERWISE

PROPOSED BARELAND STRATA PLAN OF LOT 3,
DISTRICT LOT 10, MANGOSE DISTRICT,
PLAN 28001

Attachment No. 1
Location of Subject Property
Development Permit No. 60528



Mapsheet 22F.029.4.4



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUL - 4 2005			
EAPC. ✓			

MEMORANDUM

TO: Wayne Moorman, P.Eng. **DATE:** July 4, 2005
Manager, Engineering & Subdivisions

FROM: Susan Cormie **FILE:** 3060 30 60529
Senior Planner c/r 3320 30 26323/24

SUBJECT: **Development Permit Application No. 60529**
Applicant: Fern Road Consulting Ltd., on behalf of Forevergreen Properties Ltd.
Electoral Area 'G', Inland Island Highway / Butler Avenue

PURPOSE

To consider a development permit application for a proposed 11-lot subdivision for property within the Inland Island Highway Development Permit.

BACKGROUND

This is an application for a development permit in conjunction with an 11-lot subdivision that is proposed for a property located adjacent to the Inland Island Highway within the Electoral Area 'G' and legally described as Block 1438, Nanoose District, Except Those Parts in Plans 33564, VIP52788, VIP55714, 3501RW and VIP64704. The application also involves a request to close a portion of Corfield Road (*see Attachment No. 1 for location of parent parcel*). The subdivision is proposed to be accessed from Butler Avenue. The Board may recall that the applicant, in 2004, applied to subdivide the north portion of the original parent parcel into 9 parcels, which was also subject to the consideration of a development permit. This subdivision was recently finalized.

Surrounding land uses include the E & N Railway and the City of Parksville to the north; rural zoned properties to the east, the Inland Island Highway and Forestry/Resource zoned properties in Electoral Area 'F' to the south; and rural and industrial zoned properties to the west. In addition, there is a City of Parksville well located near the E & N Railway just north of proposed Lot 6.

The subject property is currently zoned Rural 1 (RU1) and is within Subdivision District 'D' pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The applicant is proposing to subdivide the parent parcel into 11 parcels. All parcels are proposed to be greater than the 2.0 ha minimum parcel size, therefore meeting the minimum parcel size requirement (*see Schedule No. 2 for proposed subdivision*). Each proposed parcel would be able to support 2 dwelling units.

In addition to the zoning, a portion of the parent parcel is designated within the Inland Island Highway Development Permit Area pursuant to the French Creek Official Community Plan Bylaw No. 1115, 1998. As the proposed subdivision development does not meet the exemption provisions of these development permit areas, a development permit is required.

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

In addition, Shelley Creek, which crosses north to south along the east side of the subject property, is not designated within a development permit area pursuant to the French Creek Official Community Plan. The entire area of Shelley Creek is proposed to be within the new access road which is proposed to connect to Butler Road. Previous to submitting this development permit application, the applicant received permission from the Ministry of Environment and the Department of Fisheries to install a culvert and rough in the road bed. As the Creek and its 15 metre riparian area is not designated within a development permit area, regional district approval was not required.

Application Information Submitted

As with the previous subdivision application, as part of the proposal, the applicant has submitted the following information in addition to the proposed plan of subdivision:

- Hydrogeologic Study prepared by EBA Engineering Consultants Ltd., March 2004

The applicant is also proposing to register section 219 covenants with respect to the following:

- providing a 30-metre wide covenant to provide a vegetative buffer next to the Inland Island Highway;
- restricting permitted uses including agriculture, aquaculture, and produce stand; animals to household pets only;
- restricting silviculture to a maximum 50% of each parcel only; and
- restricting future owners to comply with recommendations as outlined in the Hydrogeological Report.
- A septic maintenance covenant requiring inspection of the sewage disposal system every 3 years to ensure that the septic system is inspected and found to be functioning according to the septic systems design and that the effluent is being treated to the appropriate standard;
- The requirement to install package treatment plants on all lots.

The registration of these covenants is consistent with the previous subdivision application.

ALTERNATIVES

1. To approve the development permit application as submitted, subject to Schedule Nos. 1 and 2.
2. To deny the development permit application as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Inland Island Highway Protection Implications

With respect to the Inland Island Highway Development Permit Area, the applicant has offered to register a protective covenant for the purposes of retaining the existing vegetation and restricting buildings or structures within the buffer area. It is noted that there are existing gas and hydro statutory rights-of-way crossing the subject property adjacent to the Inland Island Highway, which cannot be vegetated. This covenant is in keeping in the Vancouver Island Inland Island Highway Implementation Agreement and will meet the guidelines of the development permit.

Central Vancouver Island Health Authority Implications

With the proximity to a City of Parksville well, the Health Inspector is requiring that the applicant relocate the septic disposal field on proposed Lot 6 to a location that will not negatively impact the City well.

Storm Water Management Implications

The applicant has not submitted a drainage study for this phase of the subdivision. As drainage is a function of the Ministry of Transportation, the Approving Authority staff has indicated that a storm water management plan will be required prior to consideration of preliminary subdivision approval.

Ministry of Transportation Road Closure Implications

Ministry staff has indicated that the proposed closure of Corfield south of the E & N Railway will not negatively impact any existing parcels as access is achievable by Butler Avenue. Ministry staff also indicated that the City of Parksville supports this road closure.

Environmental Implications

The portion of Shelley Creek crossing the subject property is proposed to be situated entirely within a road right-of-way; therefore, it is not possible to register a covenant for the protection of the creek in this situation. It is noted that during the construction of the road over the creek corridor, the applicant notified Ministry of Environment and Federal Fisheries prior to construction of a culvert to contain the water within the road right-of-way.

VOTING

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

SUMMARY

This is a request for a development permit to facilitate an 11-lot subdivision proposal within the Inland Island Highway Development Permit Area as designated by the French Creek Official Community plan Bylaw No. 1115, 1999. Ministry of Transportation staff has indicated that the Ministry supports the request for the road closure.

As with the previous subdivision application on the original parcel, the applicant has offered to restrict some of the land uses currently permitted under the Rural 1 zone such as the keeping of animals restricted to household pets, agriculture, aquaculture, and produce stand uses. Other covenants offered include restricting the type of septic disposal systems to engineered systems only and providing the maintenance of septic disposal systems, restricting the removal of vegetation to 50% of the total site area of each parcel, and registering the hydrogeological report.


With respect to the Inland Island Highway Development Permit Area, the applicant has offered to provide a covenant restricting removal of vegetation and the placement of buildings or structures within the 30-metre wide strip. Therefore, the guidelines of this development permit area can be met.

Therefore, in consideration of the applicants' concurrence to restrict land uses which is in keeping with the previous subdivision on the parent parcel to reduce the potential for a possible negative impact on the

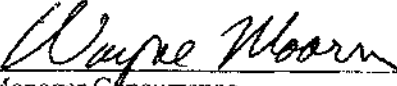
nearby City of Parksville community water source and to protect the removal of vegetation from the Inland Island Highway buffer area, staff recommends Alternative No. 1, to approve the development permit subject to Schedules No. 1 and 2.

RECOMMENDATION

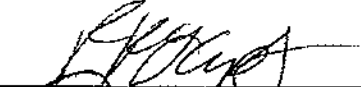
That the request, submitted by Fern Road Consulting Ltd., on behalf of Forevergreen Properties Ltd., to allow the creation of a subdivision within the Inland Island Highway Development Permit Area as shown on the proposed plan of subdivision of Block 1438, Nanoose District, Except Parts in Plans 33564, VIP52788, VIP55714, 3501RW and VIP64704 and Proposed Closed Road, be approved subject to the conditions of Schedules No. 1 and 2.



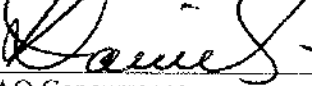
Report Writer



Manager Concurrence



Deputy Administrator Concurrence



CAO Concurrence

COMMENTS:

devsvs/report/2005/ju dp3060 30 60529 (subd c/r 26323/4) forevergreen2 doc

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60529**

The following sets out the conditions of approval with respect to Development Permit Application No. 60529.

Subdivision:

1. The subdivision shall be in substantial compliance with Schedule No. 2.

30-metre buffer strip adjacent to the Inland Island Highway:

2. The applicant shall prepare and register a section 219 covenant for the protection of the Inland Island Highway restricting the following:
 - a) No buildings or structures, including signs, decks, patios, wells, septic disposal fields, outdoor storage, or other site improvements shall be located within 30.0 metres from the Inland Island Highway.
 - b) No removal of the existing trees and other vegetation other than invasive plants such as Himalayan blackberries, Scotch broom, morning glory, and purple loosestrife provided they are replaced with native species to enhance the buffer area.

Applicant to submit draft covenant to Regional District for review prior to registration at Land Title Office. This covenant is to be reviewed and accepted by the Regional District prior to being registered on title concurrently with the plan of subdivision at Land Title Office. Applicant's solicitor to submit letter undertaking to register this covenant.

Land Use Covenant:

3. The applicant shall prepare and register a section 219 covenant restricting the following permitted uses on each proposed parcel:
 - a) agriculture, aquaculture, and produce stand; animals to household pets only; and
 - b) restricting silviculture to a maximum 50% of each parcel only.

Applicant to submit draft covenant to Regional District for review prior to registration at Land Title Office. This covenant is to be reviewed and accepted by the Regional District prior to being registered on title concurrently with the plan of subdivision at Land Title Office. Applicant's solicitor to submit letter undertaking to register this covenant.

Hydrogeological Covenant:

4. The applicant shall prepare and register a section 219 covenant with respect to restricting the following permitted uses on each proposed parcel:
 - a) Hydrogeologic Study prepared by EBA Engineering Consultants Ltd., March 2004 restricting future owners to comply with recommendations as outlined in the Hydrogeological Report.

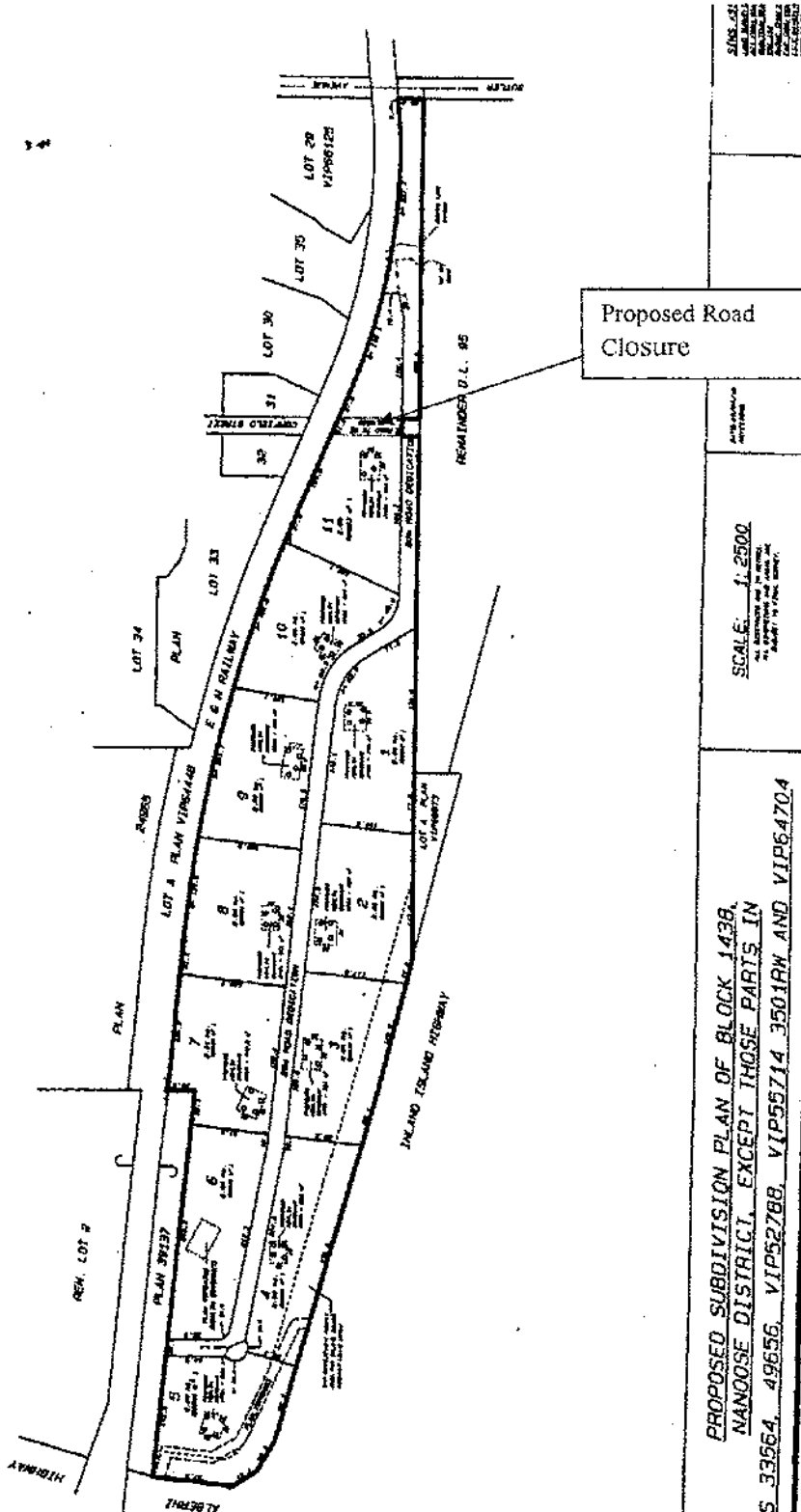
Applicant to submit draft covenant to Regional District for review prior to registration at Land Title Office. This covenant is to be reviewed and accepted by the Regional District prior to being registered on title concurrently with the plan of subdivision at Land Title Office. Applicant's solicitor to submit letter undertaking to register this covenant.

Septic Disposal Covenant:

5. The applicant shall prepare and register a section 219 covenant with respect to construction and care of septic disposal fields on each proposed parcel as follows:
 - a) Any septic disposal system must be constructed, installed or placed on the Lands shall be, at a minimum, a Type 3 treatment method in accordance with the current Provincial Sewerage System regulations or any subsequent regulations.
 - b) Any sewage disposal system constructed, installed or placed on the Lands must, not less than every three years, have its sewage disposal system inspected by a professional engineer, an accredited inspector or other qualified professional pursuant to current Provincial Sewerage System Regulations, with a certified true copy of any such inspection report to be delivered to the Regional District of Nanaimo certifying that the sewage disposal system has been inspected and bound to be functioning according to the standards and specifications of the subject septic system in accordance with the current Provincial standards for approving sewage disposal systems, all at the expense of the Owner and, in the event that the Owner fails to provide certification or otherwise fails to upgrade the septic disposal system, such Owner shall cause any domestic sewage effluent produced on the Lands to be pumped and hauled to a sewage disposal facility approved by the Regional District of Nanaimo.

Applicant to submit draft covenant to Regional District for review prior to registration at Land Title Office. This covenant is to be reviewed and accepted by the Regional District prior to being registered on title concurrently with the plan of subdivision at Land Title Office. Applicant's solicitor to submit letter undertaking to register this covenant.

Schedule No. 2
 Proposed Plan of Subdivision
 (as submitted by applicant)

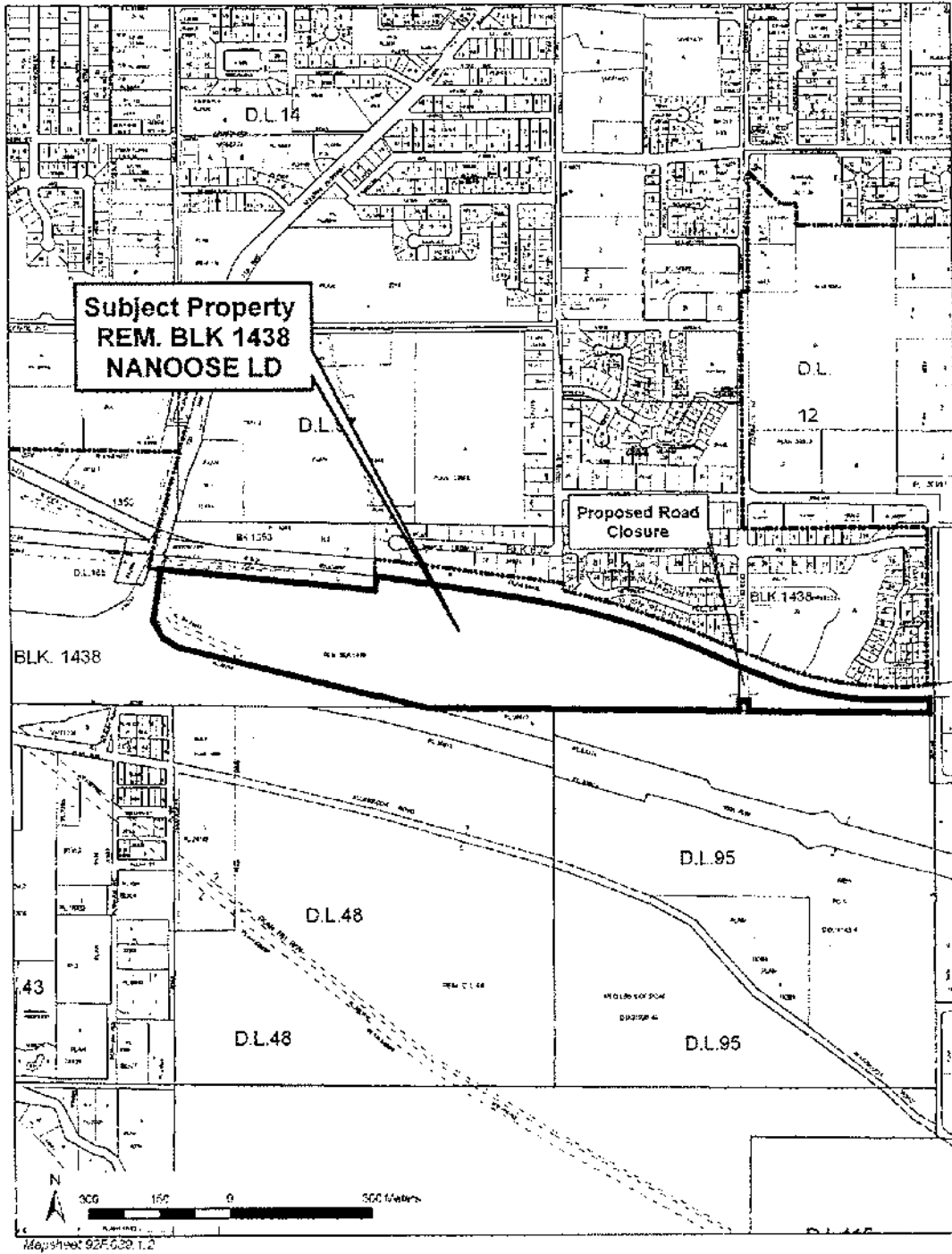


PROPOSED SUBDIVISION PLAN OF BLOCK 1439,
 NANOOSE DISTRICT, EXCEPT THOSE PARTS IN
 'S 33664, 49656, VIP52788, VIP55714 3501RW AND VIP64704

SCALE: 1:2500
 ALL DIMENSIONS ARE IN METERS
 UNLESS OTHERWISE SPECIFIED

STATE OF
 BRITISH COLUMBIA
 LAND TITLE ACT
 REGISTRATION NO. 123456789
 PLAN NO. 123456789

Attachment No. 1
Location of Subject Property and Proposed Road Closure





REGIONAL DISTRICT OF NANAIMO		
CHAIR	GM Cms	
CAO	GM ES	
DA CCD	MoF	
JUL - 5 2005		
EAPC		
		DATE:

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

FROM: Greg Keller
Planner

SUBJECT: Development Permit Application No. 60532 – Davis/Carniato
Electoral Area 'E' – Andover Road

DATE: July 4, 2005

FILE: 3060 30 60532

PURPOSE

To consider an application for a Development Permit with variance to allow for the construction of a single dwelling unit, for a parcel located in the Watercourse Protection Development Permit Area.

BACKGROUND

This application is for the property legally described as Lot 19, District Lot 78, Nanoose District, Plan 47638. The subject property is 1300 m² in area and is a waterfront parcel located on Andover Road in Electoral Area 'E' (see Attachment No. 1). The subject parcel is zoned Residential 1 Subdivision District 'N' (RS1N) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The minimum setback requirements in the RS1 zone are 8.0 metres from the front lot line, 5.0 metres from another lot line, and 2.0 metres from the interior sides and rear lot lines. Since the subject parcel is within a building inspection area, a building permit is required for the proposed development. Since the top of the bank adjacent to the watercourse is greater than 30%, the minimum setback from the top of the bank is 8.0 metres.

The subject property is located within the Watercourse Protection Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998" due to the close proximity to the ocean. Since the proposed development is located a minimum of 8.0 metres from the top of the coastal bluff and is partially within the Development Permit Area, a development permit is required. The portion of the development proposed to be within the Development Permit Area includes a natural patio and landscaped stairs that are primarily formed by the natural bedrock topography of the property and finished with rock from the subject property that is removed during construction. A small portion of the proposed dwelling unit is also within the Development Permit Area.

The subject property is currently undeveloped and primarily consists of a coastal rocky bluff. The proposed building site is relatively level with the elevation of Andover Road, slightly higher in elevation than the neighbouring parcels to the north and south, and is located near the top of the bank of the coastal bluff.

Separation between adjacent properties is achieved by an existing stand of evergreen vegetation of varying age along the northwest property line and existing native and non-native vegetation along the

southeast property line and adjacent to Andover Road. There are also native and non-native groundcovers dispersed throughout the parcel and a number of mature arbutus trees growing along the edge of the embankment. The applicant is not proposing to remove any of the existing mature arbutus trees within the Development Permit Area.

Proposed Variances

This application includes a request to vary Section 3.4.61 – **Minimum Setback Requirements –Front Lot Line** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" by relaxing the front lot line from 8.0 metres to 5.0 metres.

ALTERNATIVES

1. To approve the requested variance and development permit subject to the terms outlined in Schedule No. 1, and consideration of the comments received as a result of public notification.
2. To deny the requested variance and development permit as submitted.

DEVELOPMENT IMPLICATIONS

Land Use and Development Implications

This is an application to permit the construction of a two storey single dwelling unit on a previously undeveloped parcel located on Andover Road. The proposed single dwelling unit is situated to straddle the natural rock cap on the site to maximize ocean views, minimize excavation for the lower floor, and complement the natural site features. The proposed dwelling unit is partially situated within the Watercourse Development Permit Area. Given the topography of the subject parcel, the proposed dwelling unit is, in staff's opinion, in the most suitable location in order to take advantage of the topography of the parcel, provide adequate separation between the proposed single dwelling unit and Andover Road, and to provide adequate area for off-street parking.

There are significant ocean views from the subject parcel and from adjacent properties. The subject parcel is separated from the adjacent parcels by existing native and non-native tree and shrub species and the subject building site is slightly higher in elevation than the surrounding parcels. In addition, the views from the adjacent property owners are directed towards the ocean and not towards the subject parcel. Please note this application does not include a request to vary the maximum height requirement pursuant to the RS1 zone as the proposed single dwelling unit is less than the 8.0 metre maximum height requirement.

In addition, the proposed variance is not anticipated to have a negative affect on the views from the adjacent parcel since the front lot line, in this case, is adjacent to an undeveloped road allowance. Further to the above, it is unlikely that this road allowance would be developed in the future given the very steep terrain of the area.

As a result of the relatively small lot size, steep topography, and setback requirements, there is a very limited building envelope that makes siting a conventional dwelling unit outside of the Watercourse Protection Development Permit Area and in accordance with the minimum setback requirements difficult. Please note due to the steep topography of the subject parcel, the Building Inspection and Enforcement Department may require a geotechnical evaluation in order to determine if the subject parcel is suitable for the intended use. Therefore, staff recommends that the Development Permit note

that a geotechnical evaluation of the subject parcel may be required to determine if the subject parcel is suitable for the intended use if deemed necessary by the Chief Building Inspector.

In staff's assessment of this application, the applicant has demonstrated that the proposed variance is justified and the proposed development is consistent with the Development Permit Area guidelines.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a development permit with variance to allow the construction of a single dwelling unit within the Watercourse Protection Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998."

This application includes a request to vary Bylaw No. 500 to relax the minimum setback from the front lot line (adjacent to an undeveloped road allowance) from 8.0 metres to 5.0 metres for a proposed single dwelling unit.

As a result of the relatively small lot size, steep topography, and setback requirements, there is a very limited building envelope that makes siting a conventional dwelling unit outside of the Watercourse Protection Development Permit Area and in accordance with the minimum setback requirements difficult. In addition, the requested front lot line setback variance is not anticipated to have any negative impact on the adjacent property owners as the requested variance is adjacent to an undeveloped road allowance that is unlikely to be developed in the future due to the steep topography. Furthermore, any potential impacts of the proposed variance are further reduced by a variety of existing native and non-native plant species adjacent to the undeveloped road allowance and Andover Road.

In staff's assessment of this application, the proposed development appropriately addresses the environmental concerns and the proposed variance is justified given the topographical constraints of the subject parcel and the fact that the requested variance is adjacent to an undeveloped road allowance. Therefore, staff recommends that the Board approve the proposal subject to consideration of comments received as a result of public notification.

RECOMMENDATION

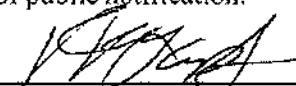
That Development Permit Application No. 60532 with a variance to reduce the front lot line setback from 8.0 metres to 5.0 metres on Andover Road be approved according to the terms outlined in Schedule No. 1, subject to consideration of comments received as a result of public notification.



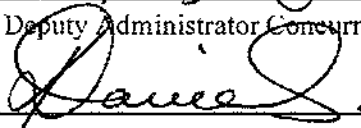
Report Writer



Manager Concurrence



Deputy Administrator Concurrence



CAO Concurrence

COMMENTS:

devserv/reports/op_ju_3060_30_60532_Davis/Carniato

Schedule No. 1 (page 1 of 2)
Terms of Development Permit No. 60532
For Lot 19, District Lot 78, Nanoose District, Plan 47638
Andover Road

The following are to be completed as part of Development Permit No. 60532:

Proposed Variances

1. The following variances to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" apply only to one single dwelling unit sited as shown on Schedule No. 2 and constructed as shown on Schedule No. 3.
 - a. Section 3.4.61 – **Minimum Setback Requirements** is proposed to be varied by relaxing the minimum front lot line setback from 8.0 metres to 5.0 metres for a proposed single dwelling unit as shown on attached Schedule No.2.

Development of Site

2. 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 the ocean using sand bags, 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 stock piles with polyethylene or tarps.
3. Subject property shall be developed in accordance with Schedules No. 1, 2, and 3.
4. All construction to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", except as where varied by this permit.
5. A geotechnical evaluation shall be required if deemed necessary by the Chief Building Inspector.
6. A final survey plan prepared by a British Columbia Land Surveyor shall be submitted by the applicant to the Regional District of Nanaimo showing the final siting and height of the dwelling unit within 60 days of the date of completion of the proposed works or within 2 years of the date of issuance of this permit, whichever comes first.

Vegetation

8. The removal of invasive plants or noxious weeds on a small scale shall be permitted within the Environmentally Sensitive Features Development Permit Area including; but not limited to: Scotch Broom, Himalayan Blackberry, Morning Glory, and Purple Loosestrife, provided that erosion protection measures to avoid sediment or debris being discharged into the ocean are taken.
9. Additional planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the Development Permit Area shall be permitted provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 published by DFO and MELP and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP, or any subsequent editions.

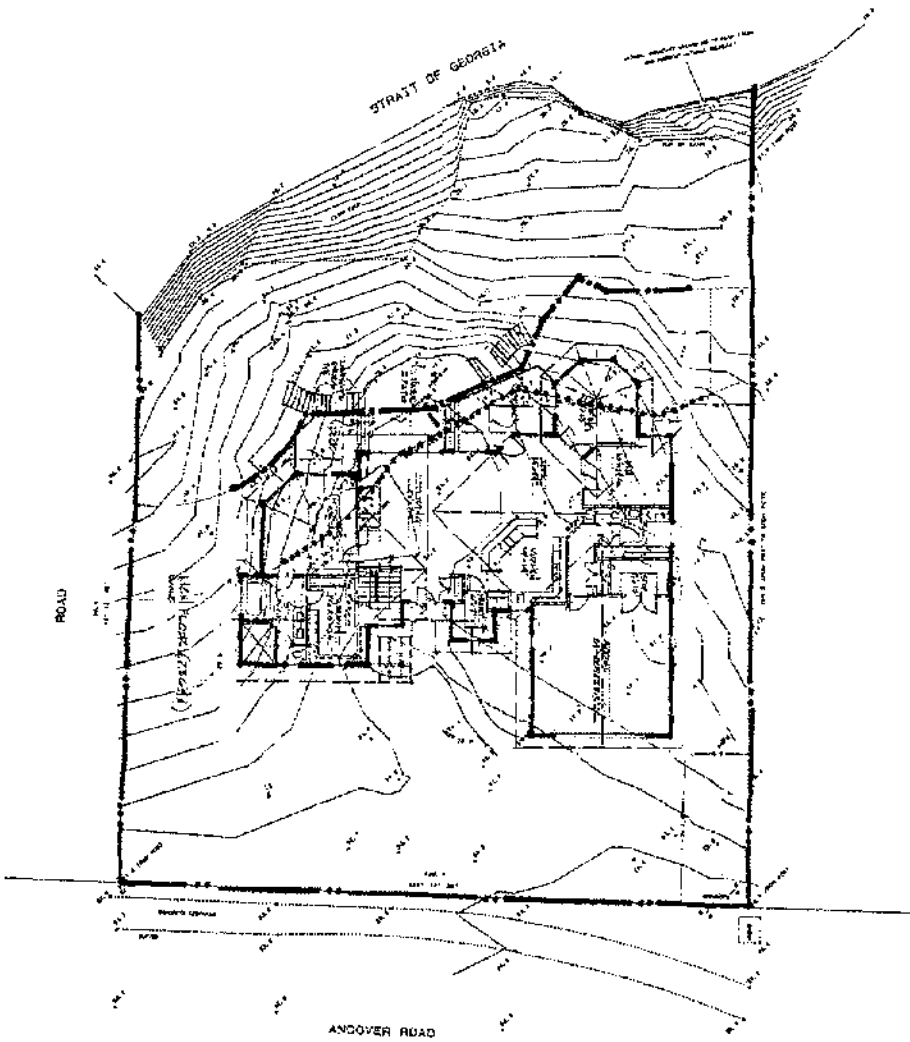
Schedule No. 2 (Page 1 of 2)
Site Plan (reduced for convenience)
Development Permit No. 60532

PLAN OF SURVEY OF LOT 19, D. L. 78, NANOOSE DISTRICT, PLAN 47638

SCALE: 1 INCH = 5 FEET

NOTES: 1. THIS PLAN IS TO BE USED IN CONNECTION WITH THE DEVELOPMENT PERMIT NO. 60532.
2. THE DISTRICT OF NANOOSE IS THE AUTHORITY FOR THIS PLAN.

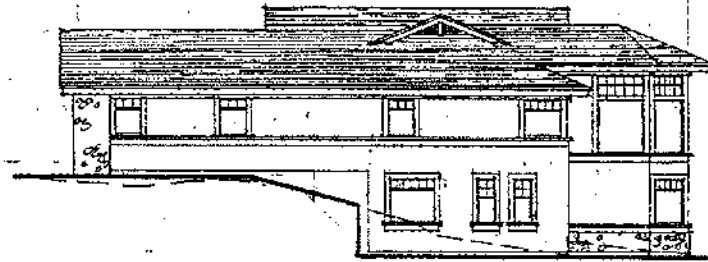
THESE NOTES ARE TO BE READ IN CONNECTION WITH THE DEVELOPMENT PERMIT NO. 60532.
THESE NOTES ARE TO BE READ IN CONNECTION WITH THE DEVELOPMENT PERMIT NO. 60532.
IT IS HEREBY CERTIFIED THAT THIS PLAN IS IN ACCORDANCE WITH THE DISTRICT OF NANOOSE ACT.



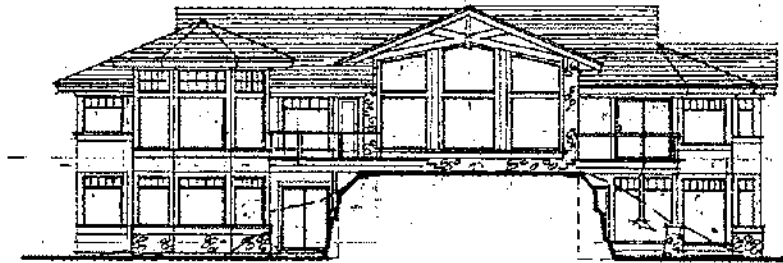
PREPARED BY:
M. J. BROWN
M. J. BROWN & CO.
M. J. BROWN & CO.
M. J. BROWN & CO.

PLANNING DEPARTMENT
NANOOSE DISTRICT
1000 NANOOSE AVENUE
NANOOSE, B.C. V9X 1A1
2005

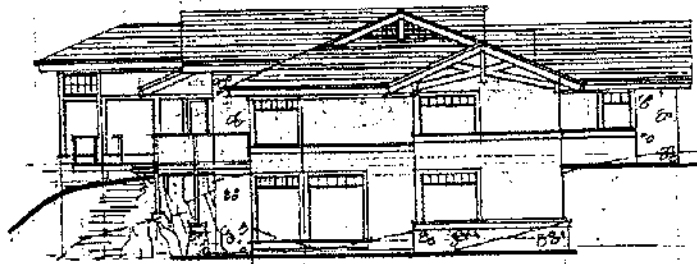
Schedule No. 3
Building Elevations
Development Permit No. 60532



NEIGHBOUR SIDE ELEVATION



WATERSIDE ELEVATION

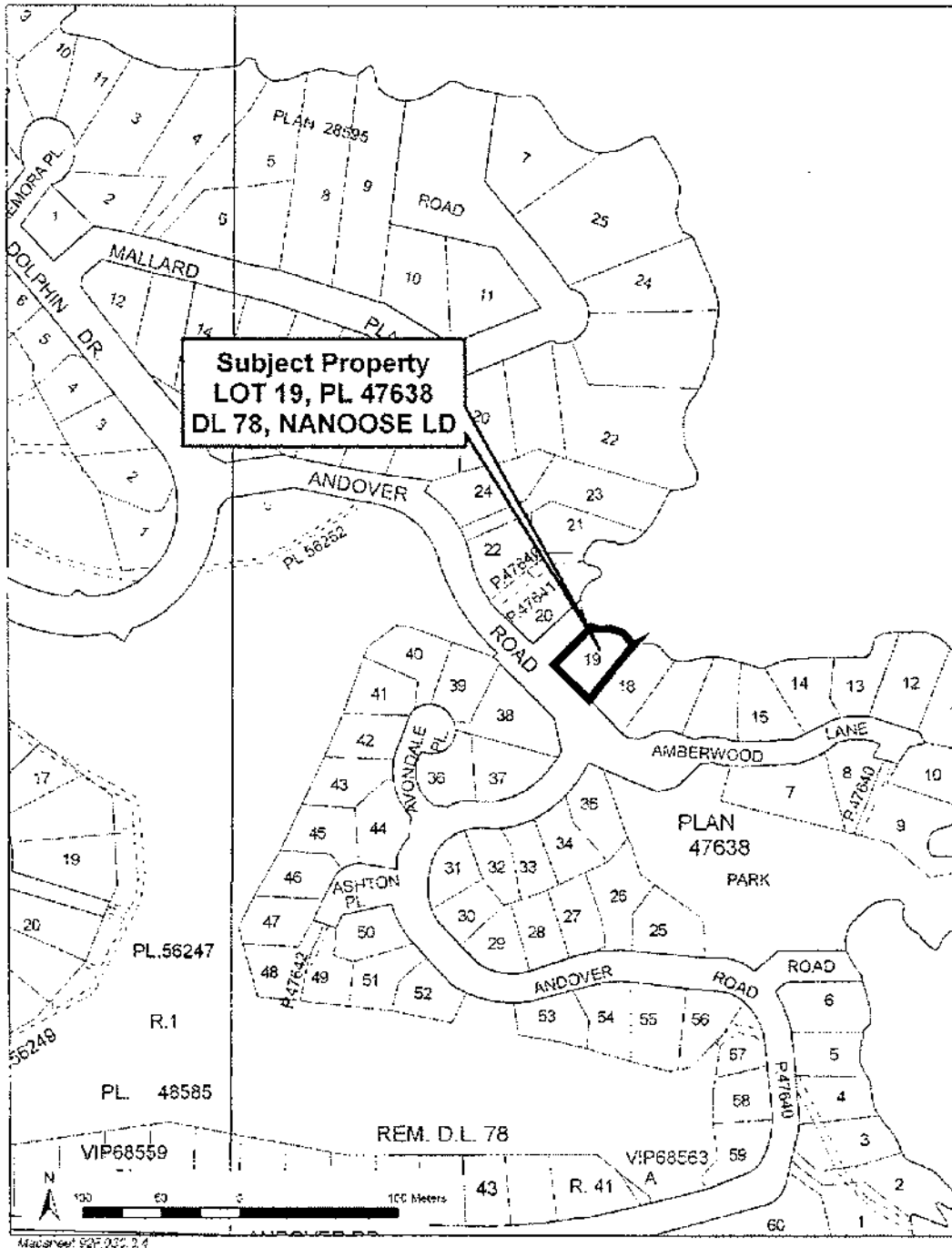


ISLAND SIDE ELEVATION



STREETSIDE ELEVATION

Attachment No. 1
Subject Property
Development Permit No. 60532
Andover Road





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUL - 4 2005			
EAPC.			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: July 1, 2005

FROM: Greg Keller
Planner

FILE: 3090 30 90515

SUBJECT: Development Variance Permit Application No. 90515 - Schlegel
Lot 24, District Lot 78, Nanoose Land District, Plan 25828
Electoral Area 'E' – Blueback Drive

PURPOSE

To consider an application for a Development Variance Permit to vary the maximum permitted dwelling unit height to facilitate the development of a single dwelling unit.

BACKGROUND

This is an application to facilitate the construction of a single dwelling unit on a residential property legally described as **Lot 24, District Lot 78, Nanoose Land District, Plan 25828** (see Attachment No. 1). The subject property is a 0.16 hectare parcel located between Blueback Drive and Crowsnest Lane.

The subject parcel is located within the 'Coast Residential' designation pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998." It is not designated within a Development Permit Area by this Official Community Plan. No watercourses or sensitive lands areas are shown on the subject property pursuant to the Regional District of Nanaimo's Environmentally Sensitive Areas Atlas and the property is not contained within the Agricultural Land Reserve.

The subject parcel is zoned Residential 1, Subdivision District 'N' (RS1N) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the interior side lot lines and 5.0 metres from the other lot line. The maximum dwelling unit height is 8.0 metres as measured from the natural grade.

Proposed Variances

The applicants are requesting to vary **Section 3.4.61** of the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" by increasing the maximum dwelling unit height from 8.0 metres to 9.1 metres, as measured from the existing natural grade, for the proposed residential dwelling shown in Schedules No. 2 and 3.

ALTERNATIVES

1. To approve Development Variance Permit No. 90515 according to the terms outlined in Schedule No. '1'.
2. To deny the requested permit as submitted.

LAND USE AND DEVELOPMENT IMPLICATIONS

The proposed dwelling appears as a main level entry home from the street and as a two story home from the rear and sides (*see Schedule No. 3*). The applicants cite topographical constraints and architectural preference as the justification for the requested variance.

The property slopes down towards the northeast from Crowsnest Lane towards Blueback Drive and slightly towards the south. A septic tank has been installed in a mound of fill located on the top of the bank and fill has been placed at the front of the property leveling the area with the Crowsnest Lane. This front area is proposed to be used for the septic field. The proposed building is sited between the top of the bank where the septic tank is located and the fill where the septic field is proposed adjacent to Crowsnest Lane. In staff's opinion, the proposed location of the dwelling unit is the most appropriate location given the topographical constraints of the subject parcel.

Staff has consulted with the Building and Inspection Department with respect to geotechnical concerns relating to the placement of fill and the installation of the septic field and tank. The Building Department has indicated that they will require a geotechnical evaluation to ensure that the site is suitable for the intended use. Therefore, staff recommends that the requirement for a geotechnical report, and the registration of that report on title, be included as terms of the development permit.

The architectural design of the dwelling is such that the height would not exceed 8.0 metres on a level lot, but the sloping topography of the subject property results in the dwelling being 9.1 metres above the natural elevation of the lot. The applicants are proposing to construct the dwelling unit at the lowest practical elevation but have encountered bedrock under the building site, which makes it difficult and costly for them to construct below the proposed elevation.

Ocean views are present from the subject parcel and adjacent parcels. Separation between the subject parcel and the adjacent parcels to the east and west is achieved by a large laurel hedge and a variety of mature native and non-native vegetation. In addition, ocean views are directed away from the subject parcel towards the ocean. The proposed dwelling would have a height similar to or less than that of adjacent houses.

The views of properties to the south west may be negatively impacted by the building of a dwelling on the subject property. However, the proposed variance does not necessarily increase the significance of that impact. From the street the proposed dwelling will primarily appear as a typical single story dwelling with a height of approximately 6.5 metres. In staff's opinion, the proposed 1.1 metre height variance will not have any significant additional impact on the area over and above the impact of a development that is currently permitted under the existing zoning.

VOTING

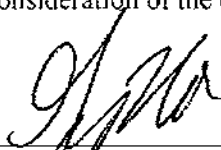
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

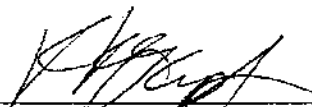
This is an application for a development variance permit to vary the maximum permitted dwelling unit height from 8.0 metres to 9.1 metres to facilitate the development of a single dwelling unit on a sloped lot. The requested variance is required to accommodate the dwelling because of the sloping nature of the property and the existence of bedrock. The variance does not appear to significantly increase the impact of the proposed house on neighbouring properties. Therefore, staff recommends this application be approved subject to consideration of the comments received as a result of public notification pursuant to the *Local Government Act*.

RECOMMENDATION

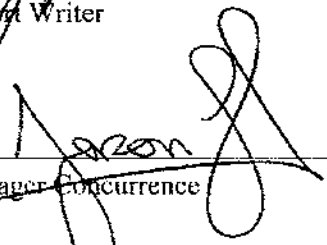
That Development Variance Permit Application No. 90515, to vary Section 3.4.61 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" to relax the maximum permitted dwelling unit height from 8.0 metres to 9.1 metres according to the terms of Schedule '1', be approved subject to consideration of the comments received as a result of notification pursuant to the *Local Government Act*.



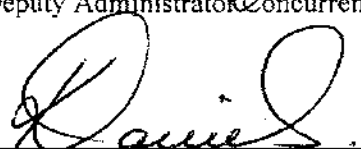
Report Writer



Deputy Administrator Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
dvp jn 3090 30 90515 Schlegel

Schedule No. 1

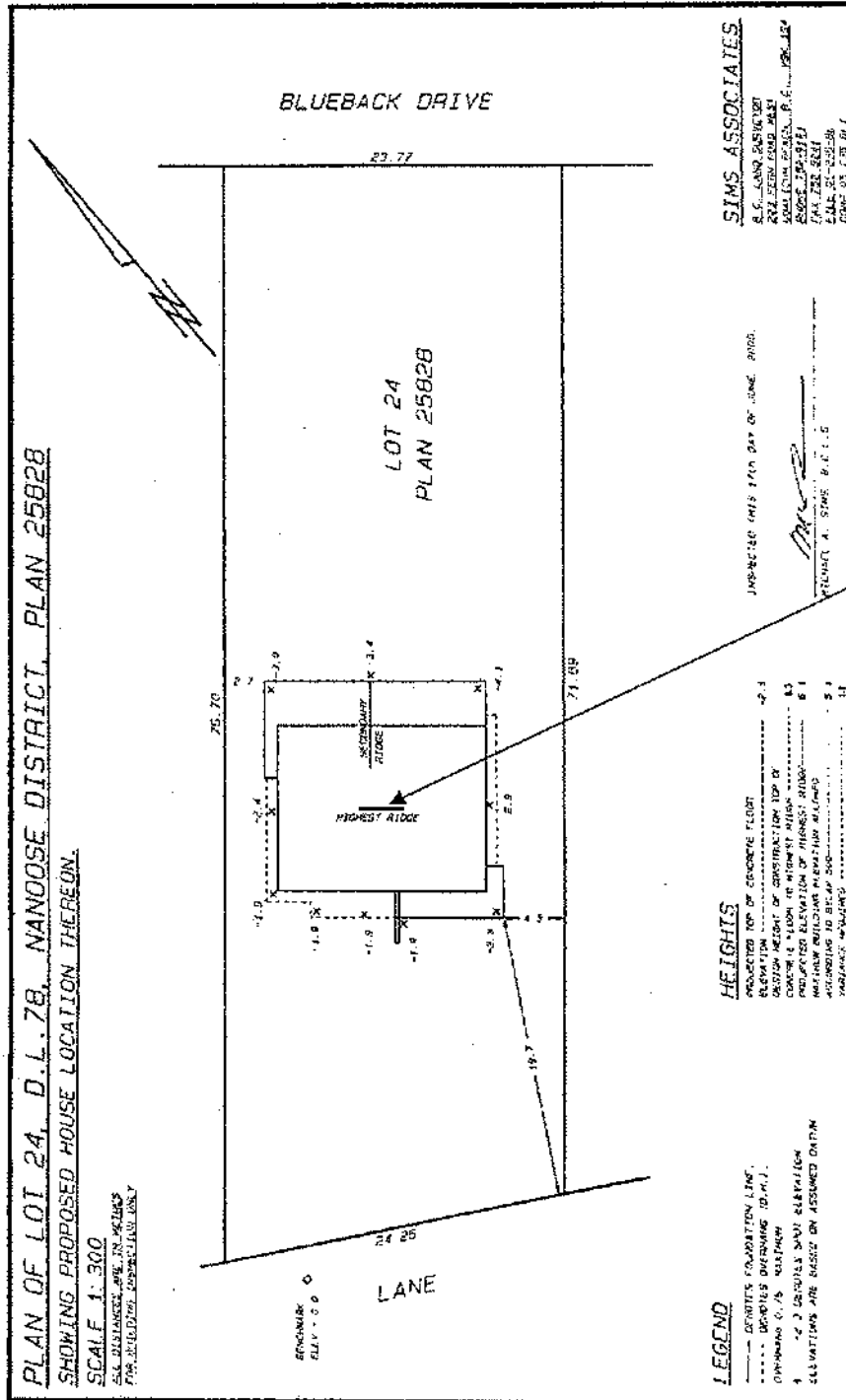
Terms of Development Variance Permit No. 90515

For Lot 24, District Lot 78, Nanoose Land District, Plan 25828

Electoral Area 'E' – Blueback Drive

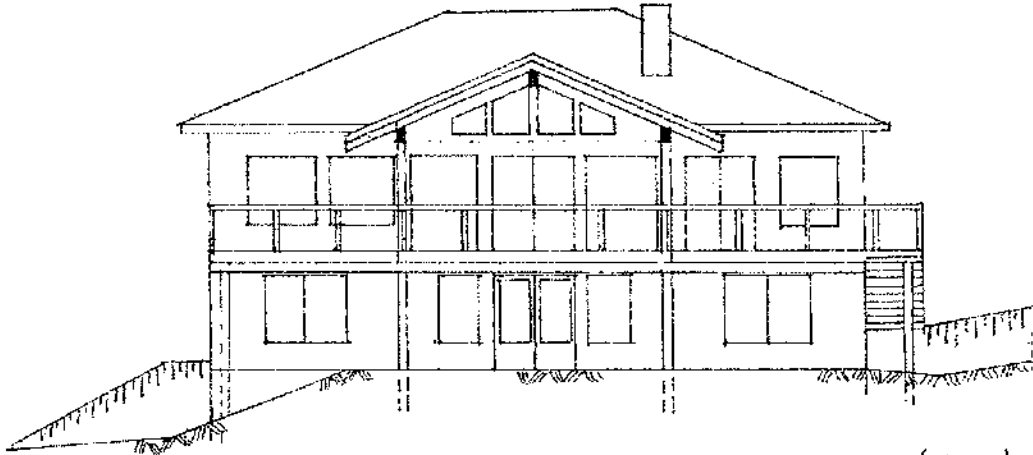
1. Section 3.4.61 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is varied to relax the maximum permitted dwelling unit height from 8.0 metres to 9.1 metres.
2. This variance applies only to a dwelling unit located and designed in substantial compliance with Schedules No. 2 and 3.
3. A building permit shall be obtained from the RDN Building Inspection Department prior to the commencement of any works on the site.
4. A geotechnical report shall be required, and registered on title, if deemed necessary by the Chief Building Inspector.
5. The applicants shall submit a survey, prepared by a British Columbia Land Surveyor, confirming the height and siting of the proposed single dwelling unit prior to occupancy.

**Schedule No. 2
Site Plan (submitted by applicant)
Development Variance Permit Application No. 90515**



Location of proposed height variance from 8.0 metres to 9.1 metres.

Schedule No. 3 (Page 1 of 3)
Building Profiles (submitted by applicant)
NOT TO SCALE
Development Variance Permit No. 90515

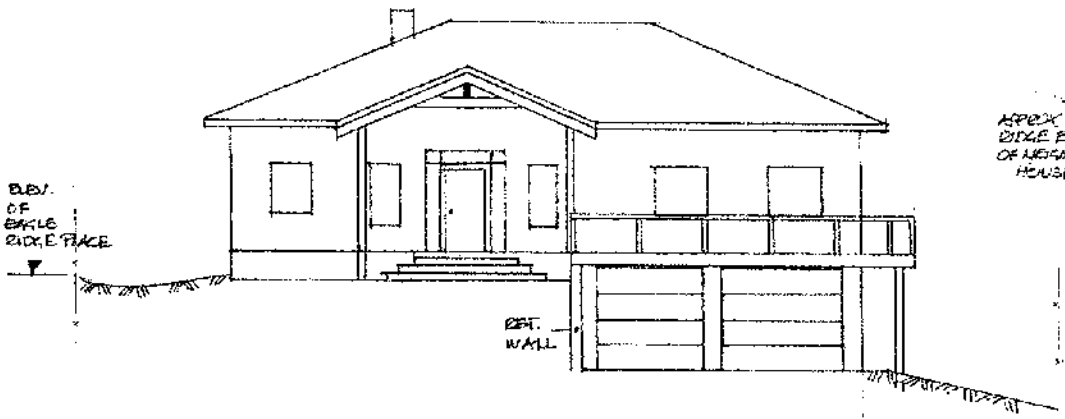


NORTH ELEVATION (N.E.)

PROPOSED SCHLEGEL RESIDENCE
LOT 24, PART LOT A, PLAN Z582B
NAUVOOSE DISTRICT

$\frac{1}{8}'' = 1 \text{ FOOT}$

APPROX.
RIDGE ELEV.
OF NEIGHBOR'S
HOUSE



APPROX.
RIDGE ELEV.
OF NEIGHBOR'S
HOUSE

ELEV.
OF
EAGLE
RIDGE PLACE

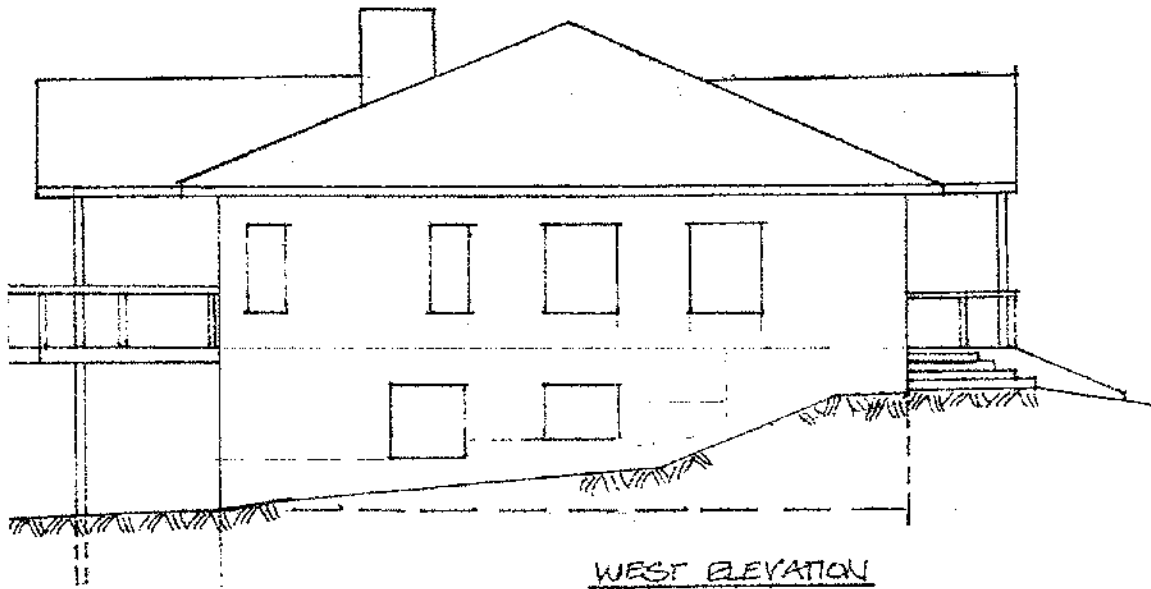
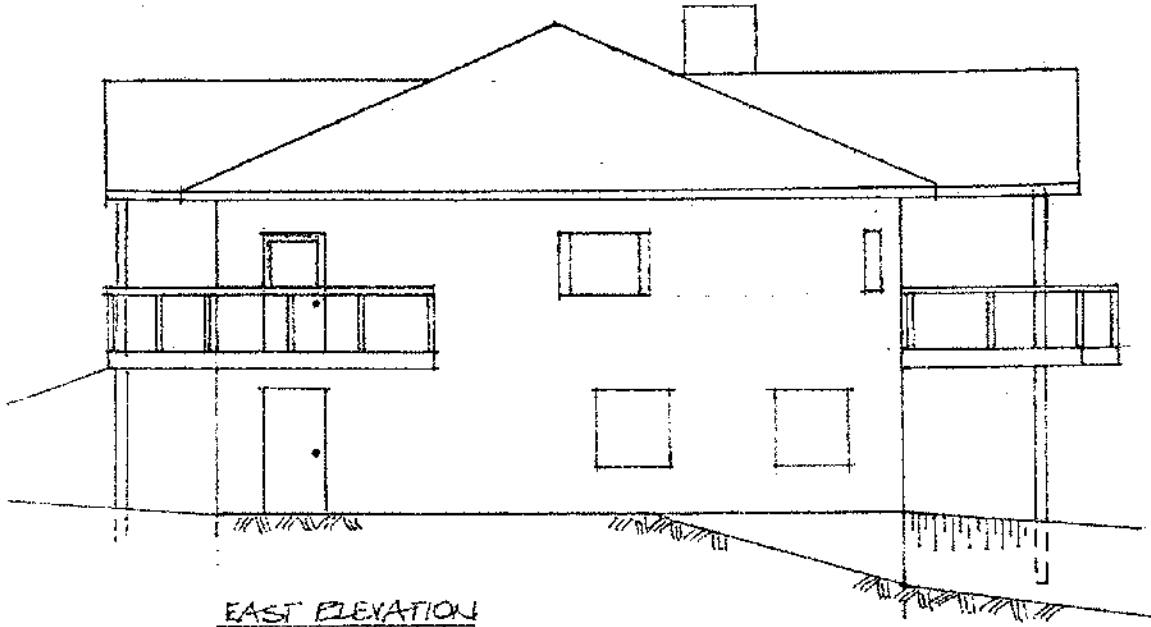
REF.
WALL

SOUTH ELEVATION

(AS SEEN FROM EAGLE RIDGE TR. ROAD)

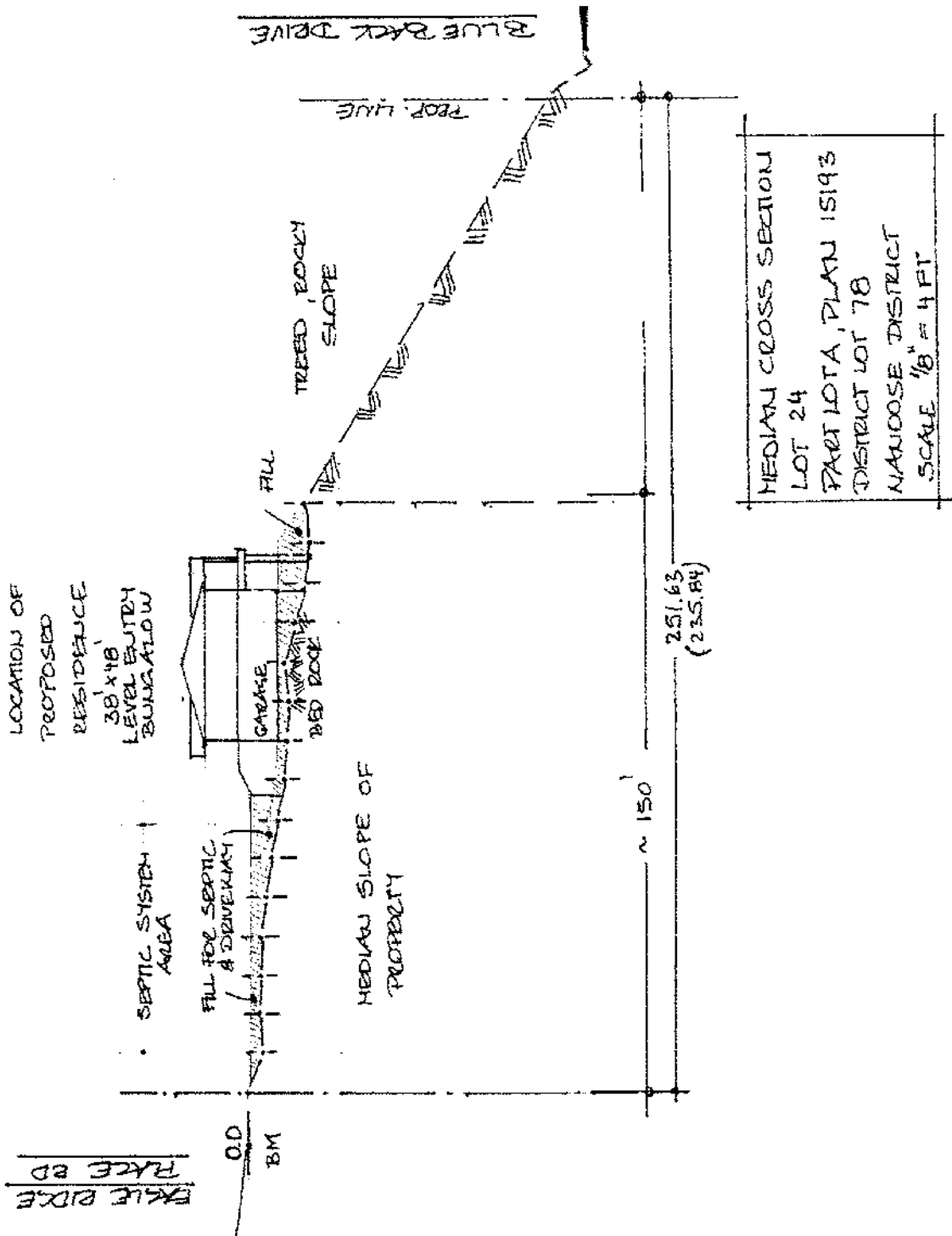
PROPOSED SCHLEGEL RESIDENCE
LOT 24, PART LOT A, PLAN Z582B
DISTRICT LOT 7B
NAUVOOSE DISTRICT
SCALE $\frac{1}{8}'' = 1 \text{ FT}$

Schedule No. 3 (Page 2 of 3)
Building Profile (submitted by applicant)
NOT TO SCALE
Development Variance Permit Application No. 90515

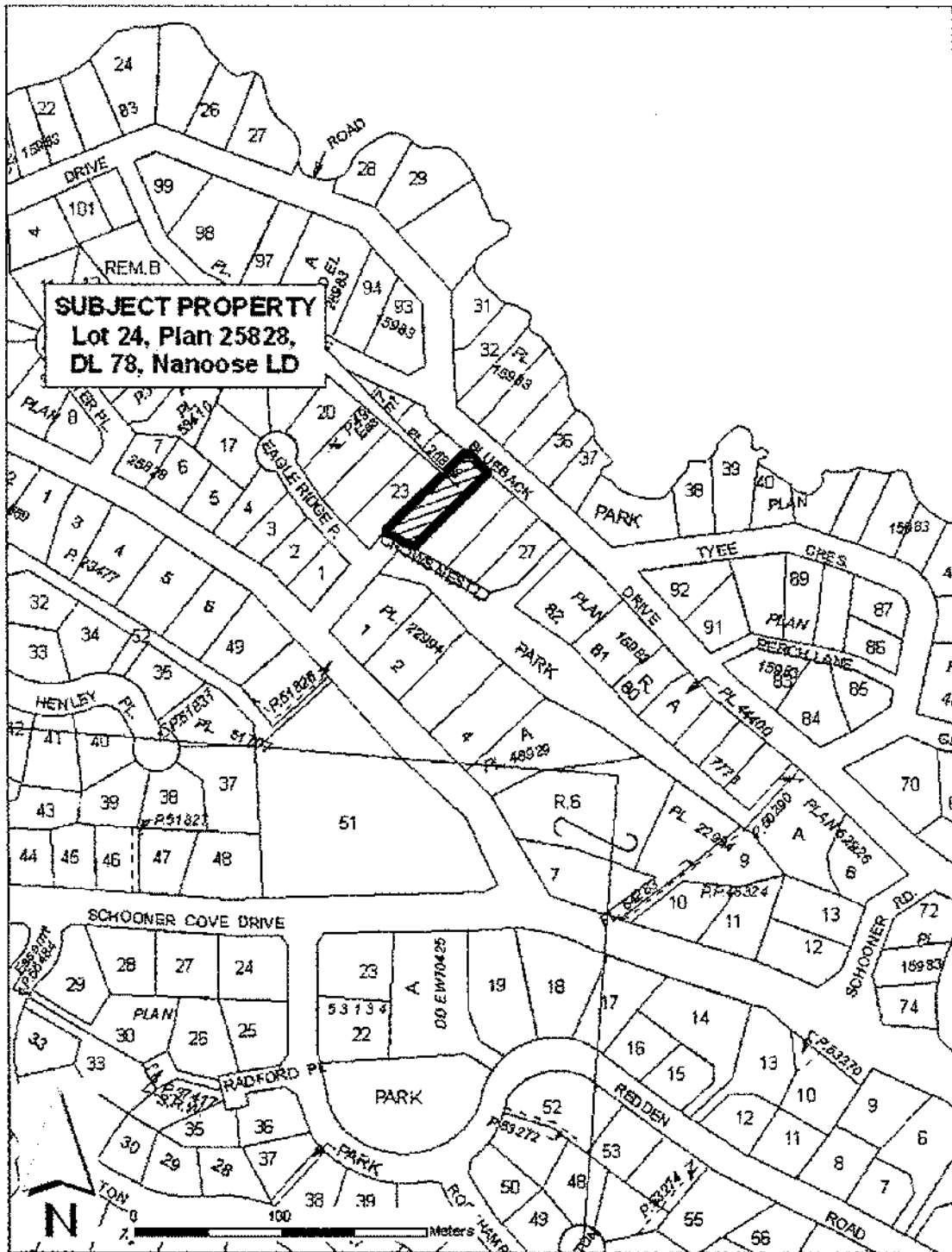


PROPOSED SCHLEGEL RESIDENCE
LOT 24, PART LOT A, PLAN 25B2B
NAUOISE DISTRICT 1/8" = 1 FT

Schedule No. 3 (Page 3 of 3)
Subject Property Cross Section (submitted by applicant)
NOT TO SCALE
Development Variance Permit Application No. 90515



Attachment No. 1
Subject Property Map
Development Variance Permit Application No. 90515



BCS Map Sheet No. 52F.036.3.4



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
JUL - 4 2005			
EAPC.			

MEMORANDUM

TO: Wayne Moorman, P. Eng. DATE: July 4, 2005
 Manager, Engineering & Subdivisions

FROM: Susan Cormie FILE: 3300 20 3051 West Road
 Senior Planner

SUBJECT: Building Strata Conversion Application – S & W Jessen
 Electoral Area 'D', 3051 West Road

PURPOSE

To consider a request to approve the building strata conversion of a residential development pursuant to section 242 of the *Strata Property Act* that will result in the creation of 2 residential building strata lots.

BACKGROUND

The owners of the subject property, legally described as Lot 2, Section 16, Range 3, Mountain District, Plan VIP72060 and located at 3051 West Road within Electoral Area 'D', are proposing to create 2 building strata lots over one existing single dwelling unit and one proposed dwelling unit (see Schedule No. 1 for proposed building strata subdivision). The property, which is 2.30 ha in size, is currently zoned Rural 1 (RU1) and is within Subdivision District 'D' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (see Attachment No. 1 for location of subject property). Under the Rural 1 zone, 2 dwelling units are permitted if the parcel is greater than 2.0 ha in size. In this case, the parent parcel can support 2 dwelling units.

The strata conversion is proposed to be served by private potable water wells and private septic disposal. Surrounding uses includes rural zoned properties to the north, south, and west with Jingle Pot Road to the east.

Section 242 of the *Strata Property Act* provides for the conversion of previously occupied buildings into strata lots subject to the approval of the approving authority, in this case, the Regional Board. The Regional Board is to ensure that an adequate supply of rental units remains available and that units being converted meet the minimum standard of construction. The *Strata Property Act* specifies that the Regional Board must consider the following criteria in its decision:

1. The priority of rental accommodation over privately owned housing in the area;
2. Any proposals for the relocation of persons occupying a residential building;
3. The life expectancy of the building; and
4. Projected major increases in maintenance costs due to the conditions of the building.

The Board is also required to ensure that the buildings substantially comply with applicable bylaws and the National Building Code of Canada.

In addition to the above-required criteria, the Board may also consider "any other matters that, in its opinion, are relevant." Consideration of these other matters enables the request to be refused at the Board's discretion. In order to evaluate an application, the Board approved the Strata Conversion Policy

and Guidelines Policy (No. B1.7), which establishes criteria to assist an applicant in the preparation of an application and to assist the Regional District in its review and evaluation of an application.

ALTERNATIVES

1. To approve the request for the strata conversion as shown on the plan submitted by the applicant subject to conditions set out in Schedules No. 1, 2, and 3.
2. To not approve the request for a building strata conversion.

DEVELOPMENT IMPLICATIONS

Official Community Plan Implications

The subject parcel is designated within the Rural Residential Land Use designation pursuant to the East Wellington-Pleasant Valley Official Community Plan Bylaw No. 1055, 1999 (OCP). Under this land use designation, the OCP supports 1 dwelling unit per hectare. While the OCP recommends a zoning amendment to the Land Use and Subdivision Bylaw No. 500, 1987 to restrict building strata development in the Rural Residential Designated parcels, this action has not been implemented. Therefore, there is no specific OCP policy providing direction on considering building strata conversion applications. It is noted that a large number of the neighbouring parcels within the Rural Residential Land Use have been developed as building strata developments.

Strata Property Act

The request for approval of this proposed building strata conversion appears that it will generally meet the minimum criteria that the Board must consider in approving a building strata conversion. The applicant's professional engineer has stated that the building, which was built during the time period from November 2001 to July 2002, is in full compliance with the requirements of the BC Building Code and the National Building Code of Canada (1995).

With respect to the priority of rental accommodation over privately owned housing in the area; the neighbourhood where the subject property is located is characterized by owner-occupied single dwellings situated on residential and rural residential parcels. As a result, the priority of rental accommodation is not considered to be significant.

With respect to the life expectancy of the building, the applicant has submitted a professional engineer's report certifying a minimum of a 75-year life expectancy of the building.

With respect to the projected major increases in maintenance costs due to the condition of the building, the applicant's engineer has certified that no major maintenance costs are expected for a number of years. To the best of planning staff's knowledge, there appears to be no major increases in the cost for the maintenance of the building at this time.

Building Strata Conversion Policy Guidelines

The applicant has provided a geotechnical assessment of the subject property concluding that a septic disposal system can be designed that will meet the new Sewerage Regulation provided recommendations of the engineer are followed. Staff recommends that confirmation of adequate septic disposal for each proposed strata unit be a condition of approval.

With respect to potable water, the applicant's well driller has provided information supporting the availability of potable water to the second dwelling unit. Therefore, based on this preliminary information, staff recommends that confirmation of potable water for both proposed strata units be a condition of approval.

Subject to the conditions being completed, the application, as submitted, will be able to meet the requirements of the RDN Building Strata Conversion Policy Guidelines.

Environmentally Sensitive Areas Atlas

The Environmentally Sensitive Areas Atlas indicates the subject property does not contain an environmentally sensitive feature.

Ministry of Transportation

Ministry of Transportation staff has reviewed the proposed strata plan and has no concerns provided that access to Jungle Pot Road is kept to a minimum.

Proposed Building Unit Implications

The subject property currently supports one dwelling unit. The applicant does not wish to proceed with the construction of the second dwelling unless approval of this application has been granted. The applicant has submitted both a site plan (see Schedule No. 2) showing the proposed siting of the second dwelling and house construction plans (see Schedule No. 3). It is recommended that if approval for the building strata is granted, such approval be subject to the submitted house plans being constructed in the location as shown on the site plan and certified that construction meets the current building code requirements pursuant to the *Strata Property Act* provisions.

VOTING

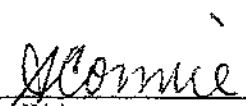
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

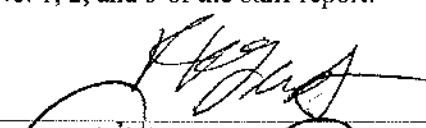
The applicant is requesting a building strata conversion of one existing single dwelling unit and one future dwelling unit. The application, as submitted, appears that it will meet the minimum requirements for the approval of a building strata conversion as set out in the *Strata Property Act*. The applicant has submitted a preliminary engineer's report, which supports the availability of septic disposal for the second dwelling unit and a preliminary well driller's report stating that there is sufficient potable water available for residential use. Ministry of Transportation staff has indicated that they have no concerns with the proposal. Staff confirms that both the guidelines set out in the corresponding board policy and the technical provisions for stratification pursuant to the *Strata Property Act* will be able to be met subject to the conditions outlined in Schedule No. 1 being completed. As a result, staff recommends Alternative No. 1 to approve the request for strata conversion.

RECOMMENDATION


That the request from Steven and Wendy Jessen, for the building strata conversion as shown on the Proposed Strata Plan of Lot 2, Section 16, Range 3, Mountain District, Plan VIP72060, be approved subject to the conditions being met as set out in Schedules No. 1, 2, and 3 of the staff report.




Report Writer



Deputy Administrator Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

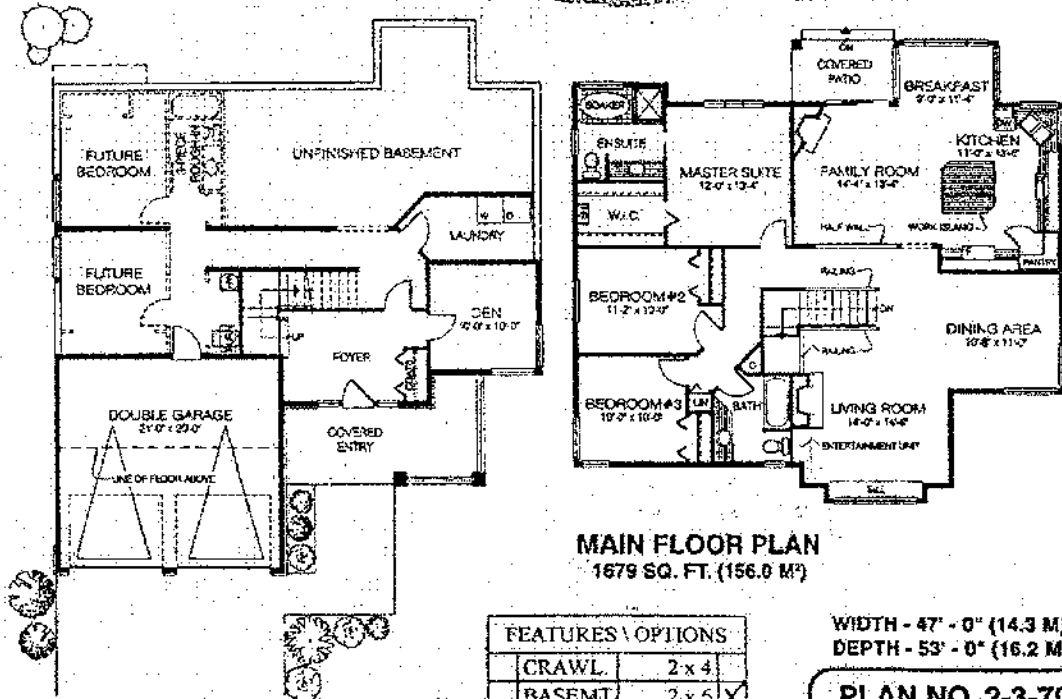
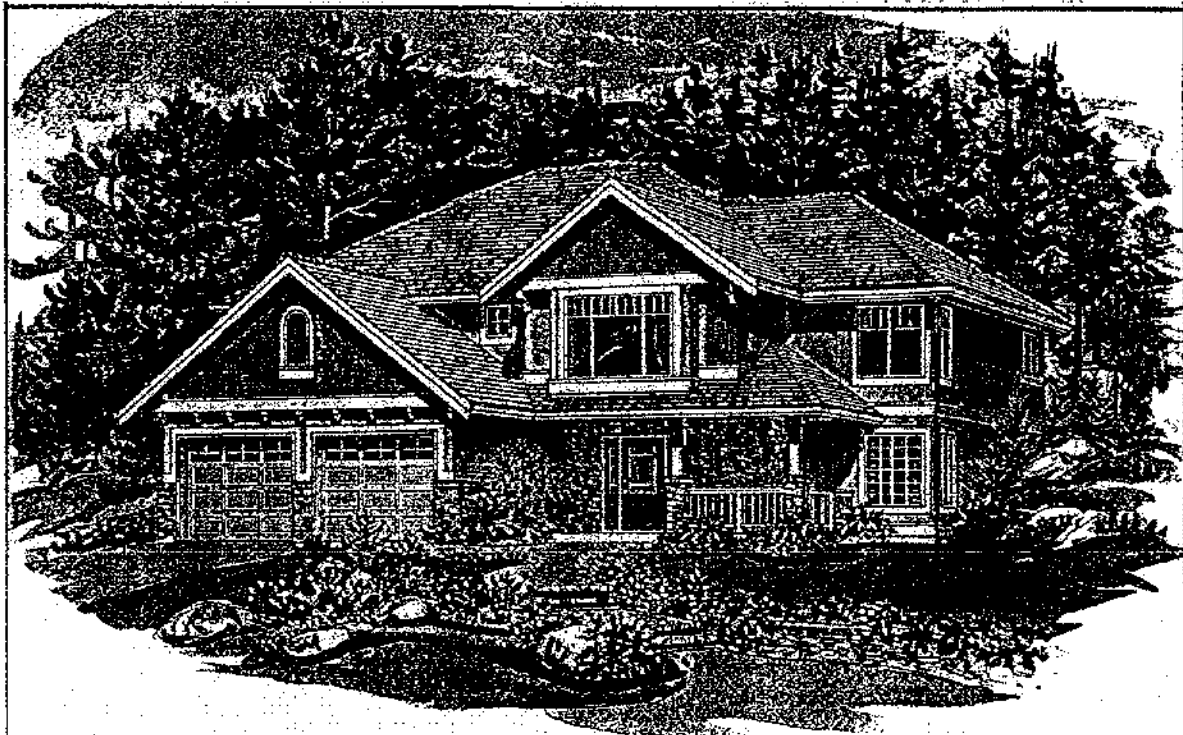
Devsvs/reports/strata ju 3300 20 3051 West Road Jessen.doc

Schedule No. 1
Conditions Attached to Proposed Building Strata Conversion
3051 West Road / Lot 2, Section 16, Range 3, Mountain District, Plan VIP72060

The following conditions are to be completed by the applicant to the satisfaction of the Regional District of Nanaimo:

1. Professional engineer's report certifying that the septic disposal systems for both proposed building strata lots have been constructed to and will meet the current provincial regulations. This report must be acceptable to the Regional District.
2. Professional engineer's report certifying that for each proposed strata unit, a drilled water well is constructed each of which, at a minimum, has a year round potable water supply in the amount of 3.5 m³ per day and that the water supply meets the minimum Canadian Drinking Water standards. This report must be acceptable to the Regional District.
3. Written confirmation that the Ministry of Transportation has issued access permits and are completed to the Ministry's satisfaction.
4. New single dwelling to be situated as shown on the submitted site plan and built in accordance with Jenish House Design Limited Plan No. 2.3.705 as shown on Schedule No. 3 and located in substantial compliance with the Proposed Strata Plan prepared by TG Hoyt, BCLS, dated May 19, 2005 as outlined in Schedule No. 2.
5. Professional engineer's report certifying that the new building strata has been built to the current code requirements pursuant to section 242 of the *Strata Property Act*.
6. BCLS confirmation that new dwelling unit meets all requirements pursuant to Bylaw No. 500, 1987.

Schedule No. 3
Plan of Proposed Second Dwelling
3051 West Road / Lot 2, Section 16, Range 3, Mountain District, Plan VIP72060
(as submitted by applicant)



MAIN FLOOR PLAN
 1679 SQ. FT. (156.0 M²)

BASEMENT FLOOR PLAN

FEATURES / OPTIONS	
CRAWL	2 x 4
BASEMT	2 x 6 X
X SLAB	REVERSE
OTHER:	

WIDTH - 47' - 0" (14.3 M)
 DEPTH - 53' - 0" (16.2 M)

PLAN NO. 2-3-705
 TOTAL 1679 SQ. FT. (156.0 M²)

JENISH HOUSE DESIGN LIMITED

BASEMENT ENTRY



1/5

Attachment No. 1
Location of Subject Property

