

**REGIONAL DISTRICT OF NANAIMO**

**ELECTORAL AREA PLANNING COMMITTEE  
TUESDAY, FEBRUARY 14, 2006  
6:30 PM**

*(RDN Board Chambers)*

**A G E N D A**

**PAGES**

**CALL TO ORDER**

**DELEGATIONS**

**MINUTES**

- 3-6 Minutes from the regular meeting of the Electoral Area Planning Committee held January 10, 2006.

**BUSINESS ARISING FROM THE MINUTES**

**PLANNING**

**AMENDMENT APPLICATIONS**

- 7-14 Amendment Application No. ZA0417 – Island Cash Buyers, on behalf of Integrated Land Management Bureau – Deep Bay Harbour – Area H.
- 15-23 Amendment Application No. ZA0525 – Coulson – 161 Home Lake Road -- Area H.

***DEVELOPMENT PERMIT APPLICATIONS***

- 24-30 Development Permit Application No. 60559 -- John Gantner -- 825 Flamingo Drive - Area G.
- 31-37 Development Permit Application No. 60602 -- Gorenko -- 721 Barclay Crescent North - Area G.
- 38-47 Development Permit Application No. 60604 – Dave Scott for 3536696 Canada Inc. – Area E.
- 48-54 Development Permit Application No. 60605 – Konitzki/Homes by Kimberly – 2590 La Selva Place -- Area E.

***OTHER***

- 55-60 Request for Relaxation of the Minimum 10% Perimeter Requirement – Glencar Consultants Ltd., on behalf of T & M Gilchrist – Raines Road – Area A.
- 61-66 Riparian Areas Regulation.
- 67-77 Floodplain Management Bylaw No. 1469.
- 78-87 Proposed Development Variance Permit, Development Permit with Variance, and Floodplain Exemption Evaluation Guidelines.

**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, JANUARY 10, 2006, AT 6:30 PM  
IN THE RDN BOARD CHAMBERS**

**Present:**

Director D. Bartram	Chairperson
Director J. Burnett	Electoral Area A
Director B. Sperling	Electoral Area B
Director M. Young	Electoral Area C
Director G. Holme	Electoral Area E
Director L. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G

**Also in Attendance:**

B. Lapham	Deputy Administrator
J. Llewellyn	Manager of Community Planning
W. Moorman	Manager of Engineering Standards & Subdivision
N. Tonn	Recording Secretary

**MINUTES**

MOVED Director Holme, SECONDED Director Biggemann, that the minutes of the Electoral Area Planning Committee meeting held November 8, 2005 be adopted.

CARRIED

**PLANNING**

**AMENDMENT APPLICATIONS**

**Amendment Application ZA0501 – Keith Brown & Associates, on behalf of Nanaimo Mini Storage – 2180 South Wellington Road – Area A.**

MOVED Director Burnett, SECONDED Director Stanhope,:

1. That “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.327, 2006” to rezone the property from Residential 2 Subdivision District ‘F’ (RS2F) / Industrial 1 Subdivision District ‘M’ to Comprehensive Development 28 (CD28) to allow the industrial use of the property be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
2. That “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.327, 2006” be approved to proceed to Public Hearing subject to the conditions identified in Schedule 1.
3. That the Public Hearing on “Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.327, 2006” be delegated to Director Burnett or his alternate.

CARRIED

**Amendment Application ZA0510 – Cedar Estates – Robert Boyle Architecture Inc. on behalf of 700805 BC Ltd. and Lot 6 Holdings – Cedar and Hemer Road – Area A.**

MOVED Director Burnett, SECONDED Director Young,:

1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.323, 2005" to rezone the lands from Commercial 2 Subdivision District M (CM2M) to Comprehensive Development 29 (CD29) to facilitate the development of residential housing and a personal care use be reintroduced and given 2<sup>nd</sup> reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.323, 2005" proceed to Public Hearing, subject to the conditions identified in Schedule 1.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.323, 2005" be delegated to Director Burnett or his alternate.
4. That due to notable amendments to the development proposal, a further Public Information meeting be held prior to the Public Hearing.

CARRIED

**Amendment Application ZA0520 – Scouts Canada – Camp Douglas – Despard Avenue – Area G.**

MOVED Director Stanhope, SECONDED Director Biggemann,:

1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.329, 2006" to rezone the subject property from Rural 1 Subdivision District D (RU1D) to Recreation 1 Subdivision District D (RC1D) to allow the use of the site for camping and recreation be given 1<sup>st</sup> and 2<sup>nd</sup> reading, subject to the conditions outlined in Schedule No. 1.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.329, 2006" be approved to proceed to Public Hearing.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.329, 2006" be delegated to Director Stanhope or his alternate.
4. That Schedule No. 1 be amended to add the requirement that a Section 19 covenant be registered on title requiring any sewage holding tanks on site to be flood proofed and emptied each fall and/or when required.

CARRIED

**Amendment Application ZA0522 – Rondalyn Resort – Dan and Linda on behalf of Danron Holdings Ltd. – 1350 Timberland Road – Area C.**

MOVED Director Young, SECONDED Director Burnett,:

1. That Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.330 to amend the CD13 zone to increase the maximum number of RV/camping spaces from 60 to 90 be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.330, 2006" be approved to proceed to public hearing.

3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.330 2006" be delegated to Director Young or her alternate.
4. That the conditions as outlined in Schedule No. 1 be completed prior to final adoption of the bylaw.

CARRIED

#### **DEVELOPMENT PERMIT APPLICATIONS**

**Development Permit Application No. 60555 – Murray Hamilton on behalf of Horne Lake Strata Corporation VIS 5160 –Area H.**

MOVED Director Stanhope, SECONDED Director Biggemann, that Development Permit No. 60555, to allow the construction of a boat launch on common property at Horne Lake, be issued subject to the terms outlined in Schedules No. 1 and 2.

CARRIED

**Development Permit Application No. 60557 – Gord Atkinson on behalf of Pacific Rim Land & Resource Management Ltd. – Crosley Road – Area H.**

MOVED Director Stanhope, SECONDED Director Holme, that Development Permit Application No. 60557 submitted by Gord Atkinson, on behalf of Pacific Rim Land & Resource Management Ltd., in conjunction with the subdivision on the parcel legally described as Lot 1, District Lot 85, Newcastle District, Plan 17124 and designated within the Environmentally Sensitive Areas Development Permit Area, be approved, subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

**Development Permit Application No. 60558 – Gord Atkinson on behalf of Pacific Rim Land & Resource Management Ltd. - Crosley Road – Area H.**

MOVED Director Stanhope, SECONDED Director Burnett, that Development Permit Application No. 60558 submitted by Gord Atkinson, on behalf of Pacific Rim Land & Resource Management Ltd., in conjunction with the subdivision on the parcel legally described as Lot 2, District Lot 85, Newcastle District, Plan 17124 and designated within the Environmentally Sensitive Areas Development Permit Area, be approved, subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

#### **DEVELOPMENT VARIANCE PERMIT APPLICATIONS**

**Development Variance Permit Application No. 90519 – Olsen -- 195 Barton Road – Area G.**

MOVED Director Stanhope, SECONDED Director Holme, that Development Variance Permit Application No. 90519 be approved according to the terms contained in Schedule No. 1, subject to the Board's consideration of comments received as a result of public notification.

CARRIED

**OTHER**

**Request for Relaxation of the Minimum 10% Perimeter Requirement – L. & S Arman – Elizabeth Street – Area C.**

MOVED Director Young, SECONDED Director Burnett, that the request from Lanny and Susan Arman to relax the minimum 10% frontage requirement for proposed Lot A, as shown on the submitted plan of subdivision of Lot 1, Section 12, Range 2, Cranberry District, Plan 35220, be approved.

CARRIED

**ADJOURNMENT**

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

CARRIED

**TIME: 6:41 PM**

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CHAIRPERSON



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO	<i>CV</i>	GM ES	
DA CCD		MoF	
JAN 30 2006			
<i>EAP</i>			

**MEMORANDUM**

**TO:** Jason Llewellyn  
Manager, Community Planning

**DATE:** January 26, 2006

**FROM:** Greg Keller  
Planner

**FILE:** 3360 30 0417

**SUBJECT:** Zoning Amendment Application No. ZA0417  
Island Cash Buyers, on behalf of Integrated Land Management Bureau  
Electoral Area 'H' – Deep Bay Harbor

**PURPOSE**

To consider an application to rezone the subject area from Water 1 Subdivision District 'Z' (WA1Z) to Water 2 Subdivision District 'Z' (WA2Z) in order to recognize a number of existing marina uses.

**BACKGROUND**

The Planning Department has received a zoning amendment application for the area shown on Attachment No. 1 and located at Deep Bay in Electoral Area 'H' (*see Attachment No. 1 for location of subject property*). The subject property is currently zoned Water 1 Subdivision District 'Z' (WA1Z) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (*see Attachment No. 2 for a map showing the current zoning*).

This application was submitted by Island Cash Buyers on behalf of Land and Water British Columbia Inc. (now the Integrated Land Management Bureau) to recognize the existing private marina use. The marina has been in operation in its current location since approximately 1951 and contains both a private marina and a public harbour. Surrounding uses primarily include developed residential 1 zoned properties and one Commercial 1 zoned parcel.

The applicant has indicated that a surveying error was determined when the Federal Government expropriated part of the subject property for the public harbour. As a result, the existing private harbour was found to be developed beyond its tenure boundaries. Subsequently, as zoning of the surface of Deep Bay reflects the current uses based on the existing lease/tenured areas, a portion of the private harbour is zoned Water 1, which does not permit marina. Therefore, a zoning amendment is required to legalize the extent of the existing marina. In addition the applicant has applied to Land and Water British Columbia Inc. for an extension to their lease boundaries to include the extent of the existing marina.

Upon receiving a referral regarding a separate application from Public Works and Government Services Canada on behalf of Small Craft Harbours, Department of Fisheries and Oceans (SCH) to create two new parcels in Deep Bay [Proposed Parcel 'A' is required to legalize tenure over the main gateway entrance and access float. Proposed Parcel 'B' is required to accommodate a new floating steel tank breakwater and the ancillary anchoring system] it was determined that a portion of the main gateway entrance and a proposed breakwater extension were zoned inappropriately (WA1 instead of WA2). Therefore, the Planning Department identified an opportunity to address zoning issues for Deep Bay Harbour in a comprehensive manner by combining the application submitted by Island Cash Buyers with the zoning amendments required

to recognize the existing non-conforming marina and related uses in the Deep Bay Harbour. Staff approached the applicant with this request and the applicant is in concurrence.

Although "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003" (OCP) does not specify a land designation for the subject property, Section 1.2 – Community Values Statement of the OCP recognizes and supports Deep Bay Harbour as a viable commercial and recreational port. Further to the above, the OCP supports cooperation and coordination among agencies responsible for the use and management of the marine foreshore and upland resources and minimizing the disturbance or pollution of marine and related terrestrial natural habitats. Therefore, the OCP policies recognize and support the proposed zoning amendment.

The marina is currently serviced with community water and is designated within a Regional District of Nanaimo Pump and Haul Local Service Area pursuant to "Regional District of Nanaimo Pump & Haul Local Service Area Establishment Bylaw No. 975, 1995" as amended. The subject property is not located within an RDN Building Inspection area.

### **PUBLIC CONSULTATION**

If the application proceeds, a Public Hearing will be required as part of the zoning amendment process.

As the proposal is consistent with the OCP and no new development is proposed at this time, in consultation with the Electoral Area Director, it was decided, pursuant to the Impact Assessment Bylaw No. 1165, that a Public Information Meeting would not be held for this application.

### **ALTERNATIVES**

1. To approve the amendment application as submitted for 1<sup>st</sup> and 2<sup>nd</sup> reading and proceed to Public Hearing.
2. To not approve the amendment application.

### **OFFICIAL COMMUNITY PLAN IMPLICATIONS**

"Regional District of Nanaimo Electoral Area 'H' Official Community Plan No. 1335, 2006" policies support the rezoning of the subject parcel to recognize the existing uses.

### **DEVELOPMENT IMPLICATIONS**

#### ***Land Use Implications***

As the existing marinas have been in operation for a number of years and no new development is proposed at this time, no significant impacts on adjacent properties are anticipated as a result of the proposed zoning change. Further to the above, any extension to an existing lease or license to occupy crown land within Deep Bay (the area proposed to be rezoned from WA1 to WA2 as defined on *Attachment No. 1*) would require approval from the Integrated Land Management Bureau, the Deep Bay Harbour Authority, and the Department of Fisheries and Oceans Small Craft Harbours.

Harbours and all operations related to navigatable waters are under exclusive Federal Jurisdiction; therefore, the Regional District of Nanaimo is not in a position to force compliance to Bylaw No. 500. However, the Deep Bay Harbour Authority had historically respected RDN zoning. Therefore, this zoning amendment was submitted by the applicant in order to ensure compliance with Bylaw No. 500.



Should this amendment application proceed, the resulting WA2 zone would permit the following uses: Boat Ramp, Marina, Marina Sales, and Outdoor Recreation Use. It should be noted that Aquaculture would not be a permitted use. This application proposes to zone the entire harbour as shown on Attachment No. 1. This approach maintains zoning over the area in a manner that reflects the Harbour Authority's jurisdiction over land use, and recognizes the Harbour Authority's ability to approve future expansion as demand for moorage space increases.

#### *Development Permit Implications*

No specific development is proposed at this time. However, a Development Permit will be required if any development is proposed within 30.0 metres of the natural boundary of the ocean.

### **INTERGOVERNMENTAL IMPLICATIONS**

As part of the application process, staff have requested comments from Fisheries and Oceans Canada – Small Craft Harbours, Deep Bay Harbour Authority, Land and Water British Columbia Inc., Public Works and Government Services Canada, Deep Bay Volunteer Fire Department, Ministry of Transportation, Ministry of Environment, and Vancouver Island Health Authority. All comments received as of the date of this report are in support of this application.

Staff have sent a completed site profile to the Ministry of Environment for its review. Please note, that Ministry of Environment approval is required prior to the Board's consideration of the corresponding bylaw for adoption.

### **VOTING**

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

### **SUMMARY**


This is a request to amend Bylaw No. 500, 1987 to recognize a number of existing legal non-conforming uses in Deep Bay Harbour in Electoral Area 'H'. Given the existing marinas have been in operation for a number of years and no new development, other than a floating breakwater extension is being proposed at this time, no negative land use impacts are anticipated on the adjacent properties as a result of the proposed zoning amendment. The OCP supports the Deep Bay Harbour as a viable commercial and recreational port.

In staff's assessment, the proposed zoning amendment is consistent with the OCP and compatible with the adjacent residential uses. Therefore, staff recommends Alternative No. 1, to approve the amendment application for 1<sup>st</sup> and 2<sup>nd</sup> reading and to proceed to Public Hearing.

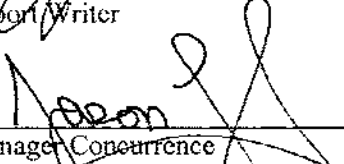
### **RECOMMENDATIONS**

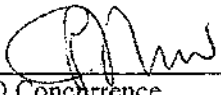
1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.332, 2006" to rezone the property from Water 1 Subdivision District 'Z' (WA1Z) to Water 2 Subdivision District 'Z' (WA2Z) in order to recognize a number of existing marina uses on the property be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.332, 2006" be approved to proceed to Public Hearing.

3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.332, 2006" be delegated to Director Bartram or his alternate.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Deputy Administrator Concurrence

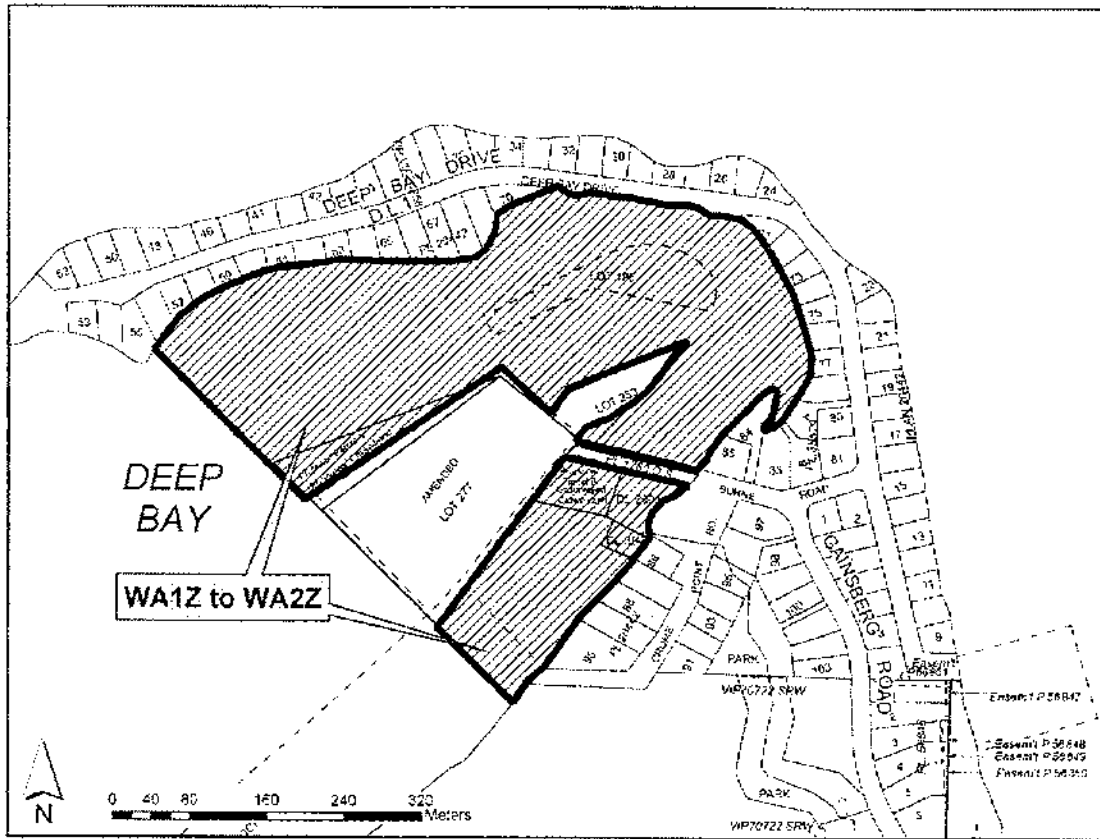
  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

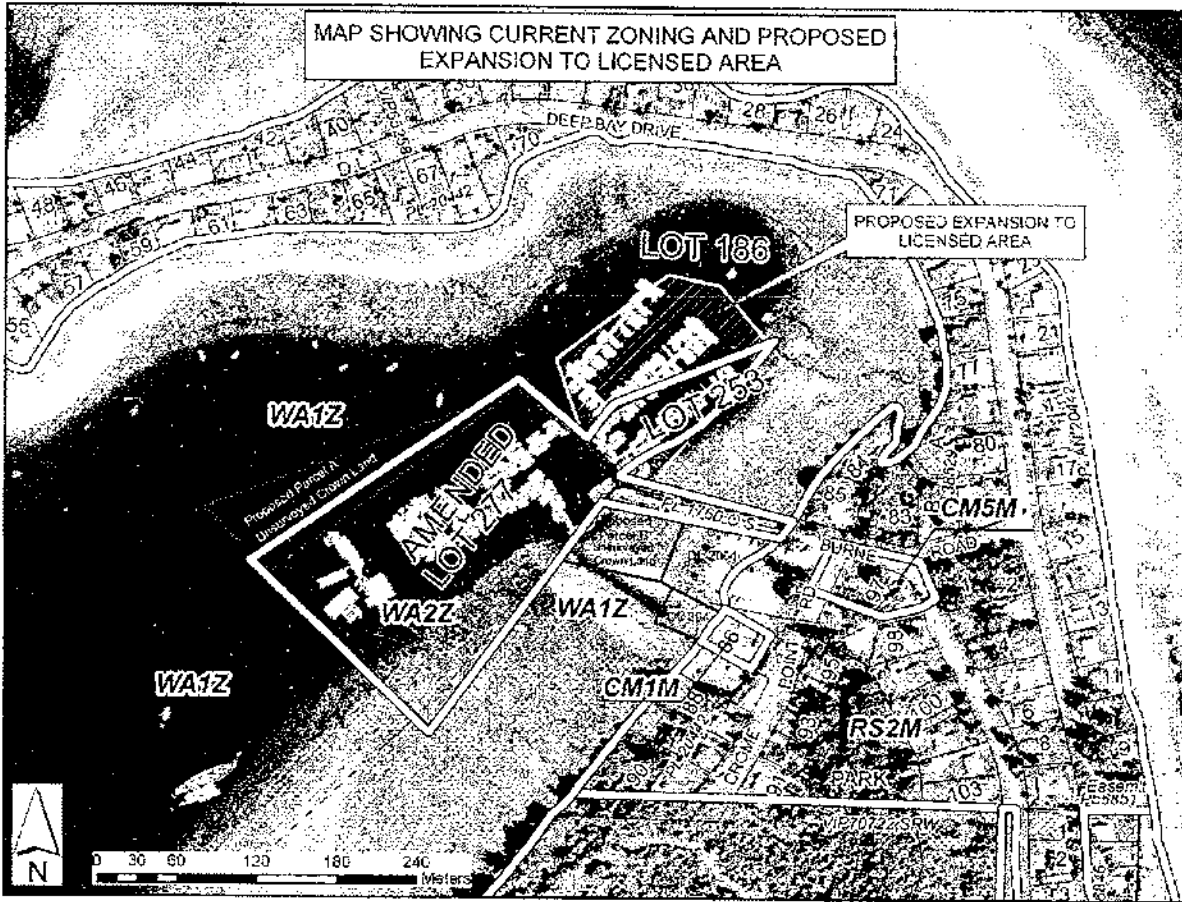
COMMENTS:

*devs\w\reports\2005\ZA3360 30 0417 Jan Island Cash Buyers 1<sup>st</sup> and 2<sup>nd</sup>*

Attachment No. 1  
Subject Area Map



Attachment No. 2



REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 500.332

A Bylaw to Amend Regional District of Nanaimo  
Land Use and Subdivision Bylaw No. 500, 1987

The Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

- A. **Schedule 'A'** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is hereby amended as follows:
1. **PART 3 LAND USE REGULATIONS, Schedule '3A', ZONING MAPS** is hereby amended by rezoning from Water 1 Subdivision District 'Z' (WA1Z) to Water 2 Subdivision District 'Z' (WA2) for the land:
- as shown in heavy outline on Schedule '1' which is attached to and forms part of this Bylaw.
- B. This Bylaw may be cited as "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.332, 2006".

Introduced and read two times this    day of    , 2006.

Public Hearing held pursuant to Section 890 of the *Local Government Act* this    day of    , 2006.

Read a third time this    day of    , 2006.

Received approval pursuant to the *Highway Act* this    day of    , 2006.

Adopted this    day of    , 2006.

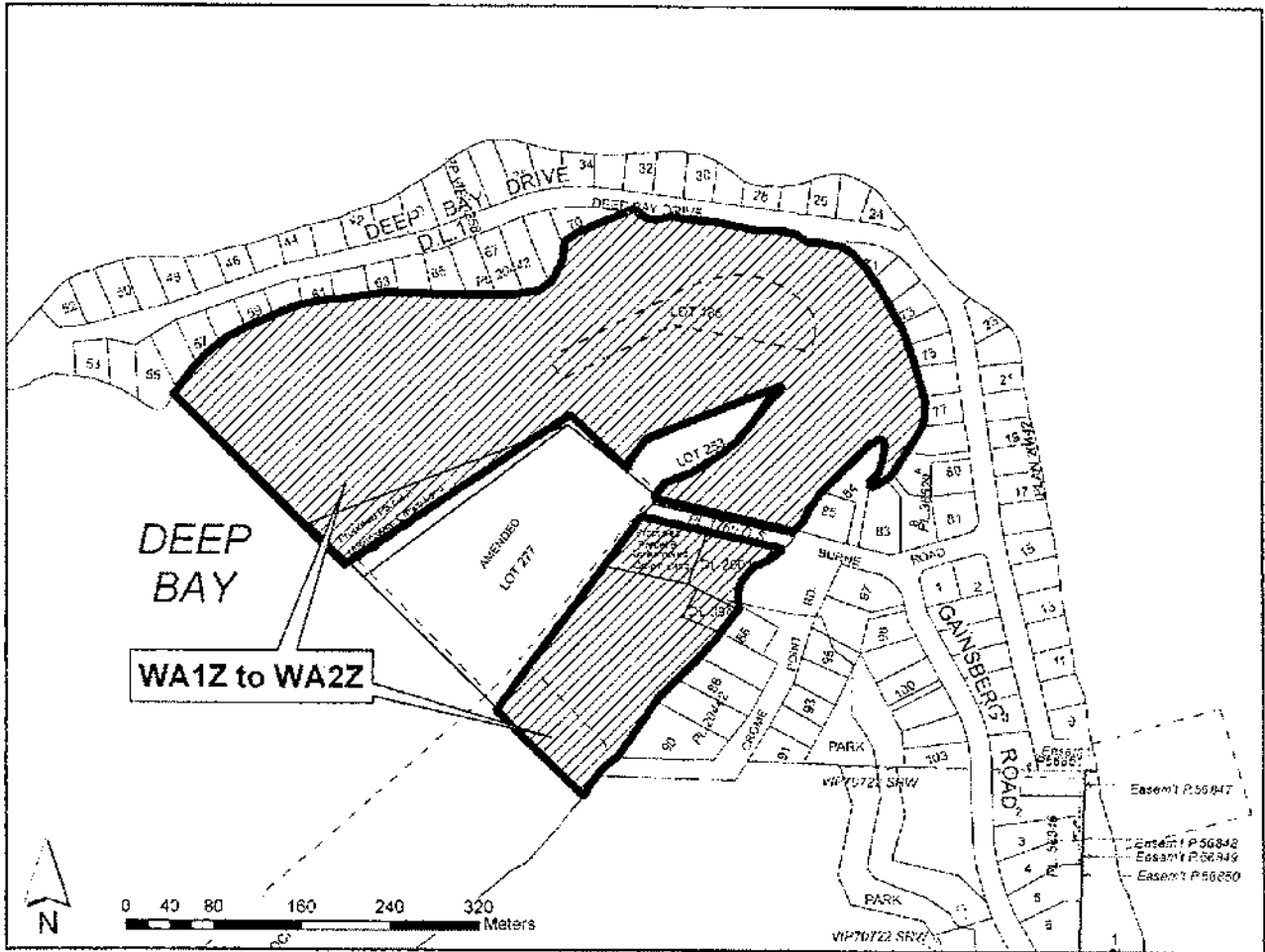
\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Deputy Administrator

Schedule 'I' to accompany "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.332, 2006"

Chairperson

Deputy Administrator





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO	<i>GM</i>	GM ES	
DA CCD		MoF	
JAN 30 2006			
<i>EAP</i>			
<b>DATE:</b>			

**MEMORANDUM**

**TO:** Jason Llewellyn  
Manager, Community Planning

**FROM:** Greg Keller  
Planner

**SUBJECT:** Amendment Application No. ZA0525 - Coulson  
Electoral Area 'H' - 161 Home Lake Road

**FILE:** 3360 21 0525

**DATE:** January 25, 2006

**PURPOSE**

To consider an application to rezone the subject property from Residential 6 Subdivision District 'D' (RS6D) to Home Lake Road Comprehensive Development Zone 32 Subdivision District 'Z' (CD32Z) in order to legalize an existing mobile home park.

**BACKGROUND**

The Planning Department has received a zoning amendment application for the property legally described as Lot I, District Lot 19, Newcastle District, Plan 8196. The subject property is located at 161 Home Lake Road in Electoral Area 'H' (*see Attachment No. 1 for location of subject property*). The subject property is approximately 1.07 ha in area and is currently zoned Residential 6 Subdivision District 'D' (RS6D) (minimum 2.0 ha parcel size) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

Pursuant to "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003" (OCP), the subject property is designated Dunsmuir Village Centre. The OCP policies for this designation recognize and support the use of the land for residential uses. In addition, Bylaw No. 1335 designates the subject property within the Environmentally Sensitive and Village Centres Development Permit Areas. Therefore, a development permit would be required prior to any development occurring on the site. Please note, the applicant is not proposing to conduct any development at this time.

Surrounding uses include Residential 2 zoned parcels to the north, east, and south and a Rural 1 zoned property to the west. The subject property is currently developed with a mobile home park that has been in existence for a number of years (*please refer to Schedule No. 2 for site plan*). The existing park contains thirteen (13) single wide mobile home pads, 2 recreational vehicle spaces, five cabins (1 suited to two persons and four suitable for single occupancy), one main dwelling unit, and a number of related accessory buildings. The existing development does not conform to the RS6 requirements because it exceeds the density permitted by this zone and the use of the cabins and dwelling units are not permitted in the RS6 zone. The applicant has not been able to clearly demonstrate legal non-conforming status; therefore, a rezoning is required in order to recognize the existing uses.

The subject property is a flat rectangular shaped property which is fenced along the north and south side. There is also existing landscaping consisting of mature Douglas Fir, Alder, and Cedar trees along with a variety of native tree, shrub, and ground cover. The existing vegetation and fencing provides visual

separation between the subject property and the neighbouring properties. The Environmentally Sensitive Areas Atlas indicates that there are no environmentally sensitive features within the subject property.

The subject property is serviced with Qualicum Bay Horne Lake community water and an individual private septic disposal system. The subject property is not located within an RDN Building Inspection area.

### ***Public Input***

As the proposal is consistent with the OCP and the proposed use has been in existence for many years, in consultation with the Electoral Area Director it was decided, pursuant to Impact Assessment Bylaw No. 1165, that a Public Information Meeting would not be held for this application. A Public Hearing will be required as part of the zoning amendment process if the application proceeds.

### **ALTERNATIVES**

1. To approve the amendment application as submitted for 1<sup>st</sup> and 2<sup>nd</sup> reading as recommended and proceed to Public Hearing.
2. To not approve 1<sup>st</sup> and 2<sup>nd</sup> reading for the amendment application.

### **DEVELOPMENT IMPLICATIONS**

To ensure that future uses are consistent with the OCP direction to support a range of housing types in the village centres and to recognize the existing development, staff is recommending that a comprehensive development zone be created.

Since the subject property is smaller than the minimum permitted parcel size pursuant to Bylaw No. 500 (2.0 hectares), staff is recommending that the subdivision district be amended from Subdivision District 'D' (2.0 hectare minimum parcel size) to Subdivision District 'Z' (no further subdivision).

### ***Setbacks***

As this development has been in existence for a number of years, there are also a number of buildings and structures that do not meet the minimum setback requirements pursuant to the RS6 zone, which requires a minimum 8.0 metre setback from the front lot line and a minimum 5.0 metre setback from other lot lines.

Staff is concerned with the siting of Cabin number 1 of 5 as shown on the site plan submitted by the applicant, which is located 0.9 metres from the interior side lot line. Staff is of the opinion that a setback of 0.9 metres is not appropriate in the long term for the site given the close proximity of the existing residential development to the north. However, it is reasonable to allow the existing buildings to remain.

Staff is also concerned with the siting of mobile home number six, which is located approximately 2.4 metres from the exterior lot line. Staff is of the opinion that this setback is not appropriate for the long term given the close proximity to the roadway and potential safety issues. In addition, a setback relaxation from the Ministry of Transportation is required in order to recognize the existing siting of this mobile home.

Staff propose that the setbacks for the existing structures be legalized, but all new structures be required to meet the following standard.



1. a 2.4 metre minimum exterior lot line setback for existing mobile home pads, buildings and structures and a 5.0 metre minimum exterior lot line setback for all new mobile home pads, buildings, or structures or alterations to an existing mobile home pad, building, or structure;
2. a 0.9 metre minimum interior lot line setback along the north property line for existing buildings and structures and a minimum 2.0 metre interior lot line setback along the north property line for all new buildings or structures or structural alterations to an existing building or structure;
3. a 4.0 metre minimum setback along the south and east interior lot lines.

### ***Floor Area***

There are also a number of existing decks and porches attached to mobile homes on the subject property. Staff is proposing to include provisions in the proposed zone that allows a maximum of one porch/deck addition per mobile home and one set of entrance stairs to a secondary access not exceeding a floor area of 2.0 m<sup>2</sup>.

Staff is proposing to permit a maximum of 50.0 m<sup>2</sup> of floor area for existing decks and porches and a maximum of 25.0 m<sup>2</sup> of floor area for all new decks and porches including additions to existing decks. All existing decks and porches may remain on site and those decks that are less than 25.0 m<sup>2</sup> in floor area may be enlarged not to exceed 25.0 m<sup>2</sup>.

The proposed zone limits porches and decks primarily to the extent that they occur as of the date of this report. In addition, the proposed zone permits a maximum of one accessory building, not exceeding 10.0 m<sup>2</sup> in floor area and a height of 3.0 metres, for each mobile home. The zone permits common accessory buildings to a maximum combined floor area of 100.0 m<sup>2</sup> and a maximum height of 8.0 metres.

In order to control the separation between buildings and structures or other mobile homes, and in recognition of the existing development, staff are proposing a minimum separation of 2.0 metres between any deck or porch and the adjacent mobile home subject to meeting the requirements of the British Columbia Building Code.

### ***Sewage Disposal***

With respect to on-site sewage disposal, the applicant submitted two engineer's reports dated September 15, 2005 and November 07, 2005 both prepared by Davey Consulting and Engineering which discuss the presently operating sewage disposal system. The reports conclude that although the existing tank and field lengths do not meet the current provincial standards it appears to be operating effectively. There are no discharges visible at the present time and the land adjacent to the subject property has not been affected from the discharge of the systems installed to date. The reports make a number of recommendations for ensuring the ongoing long-term operation of the sewage disposal systems including the following:

- i. to conduct regularly scheduled maintenance of both the septic collection systems, septic tanks and distribution boxes (the applicant's engineer has provided a maintenance schedule for the applicant);
- ii. upon malfunction of any section of the presently installed septic disposal system to require the failed component to be upgraded to presently accepted environmental standards;
- iii. to ensure that the total volume of effluent discharge from the mobile home park is not increased unless the applicable section of the system that is accepting the effluent is upgraded to the standards of discharge prevailing at the time of increase;
- iv. to limit the double occupancy cabin to double occupancy only and to limit the single occupancy cabins to single occupancy only; and,
- v. to install a monitoring well at each corner of the subject property and sample surface water.

To ensure that the recommended groundwater monitoring wells are installed, staff is recommending that the applicant be required to install a minimum of four monitoring wells constructed in accordance with the engineer's specifications after 3<sup>rd</sup> reading and prior to the Board's consideration of the corresponding bylaw for adoption.

Furthermore, the reports conclude that should the existing system malfunction to the point where it is no longer feasible to repair, the land base will accommodate the effluent from any upgraded installations to meet provincial standards provided the criteria prescribed by the engineer are met. It should be noted that this may require the property owner to reorganize and or remove some of the existing buildings and structures located on the subject property to accommodate the installation of a new sewage disposal system.

To ensure that the applicant and future owners of the subject property are aware of the current septic situation and comply with the engineer's recommendations, staff recommends, as a condition of approval and prior to the Board's consideration of final reading of the corresponding bylaw that the recommendations contained in the two geotechnical reports be registered on title through a section 219 covenant including the registration of the said reports to be prepared at the applicant's expense and to the satisfaction of the Regional District of Nanaimo. In addition, staff also recommends that the requested covenant include provisions that require the applicant to hook up to community sewer if and when community sewer is extended adjacent to any of the property lines including lands on either side of any existing or future roads adjacent to the subject property. The applicant is in agreement with this request.

Staff are concerned with the potential for increased septic effluent flow volumes that could result from the construction of additional habitable space onto existing mobile homes or replacement of any existing single wide mobile home with a larger double wide mobile home. Therefore, staff is recommending that the proposed zone restrict the construction of additions onto any mobile home to small decks and porches, and restrict all mobile homes to single wide units.

Staff is not recommending that the applicant be required to upgrade the system at this time because the applicant's engineer has indicated that the existing septic disposal system is accommodating the existing use. Upgrades to meet the current sewerage disposal regulations would require the relocation of the existing buildings and significant capital costs.

With respect to the structural integrity of the existing cabins and the dwelling unit, the applicant has a letter from a professional engineer stating that the units were originally constructed about 60 years ago of wood frame construction and to this date have been well maintained. The letter also states that although the units do not meet the current British Columbia building code, the units show no signs of distress and it is expected that the buildings will continue to be serviceable and do not pose a risk to human health or property if maintenance continues.

As the existing use has been in its current location for a number of years and as the subject property is surrounded by other residentially zoned property, staff is of the opinion that the proposed use is suitable from a land use perspective. Staff is satisfied with requiring the applicant to adhere to the recommendations of the engineer regarding the existing sewage disposal system. The recommendations require regular maintenance, restrict increased usage of the system, and require regular monitoring to identify any system failure. In staff's assessment, this is a clear improvement over the existing situation.

## INTERGOVERNMENTAL IMPLICATIONS

Staff has sent referrals to the Ministry of Transportation, the Vancouver Island Health Authority, the Ministry of Environment, and the Bow Home Bay Fire Department for comments. As of the date of this report no negative comments have been received. In addition, as the subject property is within 800 metres of a highway interchange, the amendment bylaw would be subject to the approval of the Ministry of Transportation pursuant to the *Highway Act*.

## VOTING

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

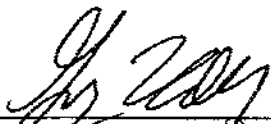
## SUMMARY


This is an application to amend Bylaw No. 500, 1987 to legalize an existing mobile home park and related uses on a property located at 161 Horne Lake Road in Electoral Area 'H'. There are a number of conditions of approval as outlined in Schedule No. 1 that the applicant will be required to fulfill prior to the Board's consideration of the corresponding bylaw for final reading. In summary, these conditions include the registration of a Section 219 covenant(s). The applicant has indicated concurrence with these conditions.

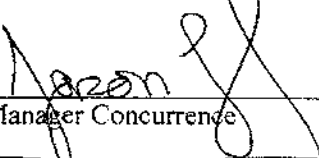
As the OCP supports residential uses on the subject property and the applicant is in concurrence with the conditions outlined in Schedule No. 1, staff recommends Alternative No. 1, to approve the amendment application for 1<sup>st</sup> and 2<sup>nd</sup> reading subject to the conditions set out in Schedule No. 1 and to proceed to Public Hearing.


## RECOMMENDATIONS

1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.328, 2006", to rezone the land from Residential 6 Subdivision District 'D' (RS6D) to Horne Lake Road Comprehensive Development Zone Subdivision District 'Z' (CD32Z) be given 1<sup>st</sup> and 2<sup>nd</sup> reading.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.328, 2006" be approved to proceed to Public Hearing subject to the conditions identified in Schedule 1.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.328, 2006" be delegated to Director Bartram or his alternate.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Deputy Administrator Concurrence

  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

## COMMENTS:

devsvs/reports/2005/3360300525 jan Coulson 1<sup>st</sup> and 2<sup>nd</sup>

**Schedule No. 1 (Page 1 of 2)**  
**Conditions of Approval**  
**Zoning Amendment Application No. ZA0525**  
**Lot I, District Lot 19, Newcastle District, Plan 8196**  
**161 Horne Lake Road**

The following conditions are to be completed prior to consideration of Amendment Bylaw No. 500.328, 2006 for final reading:

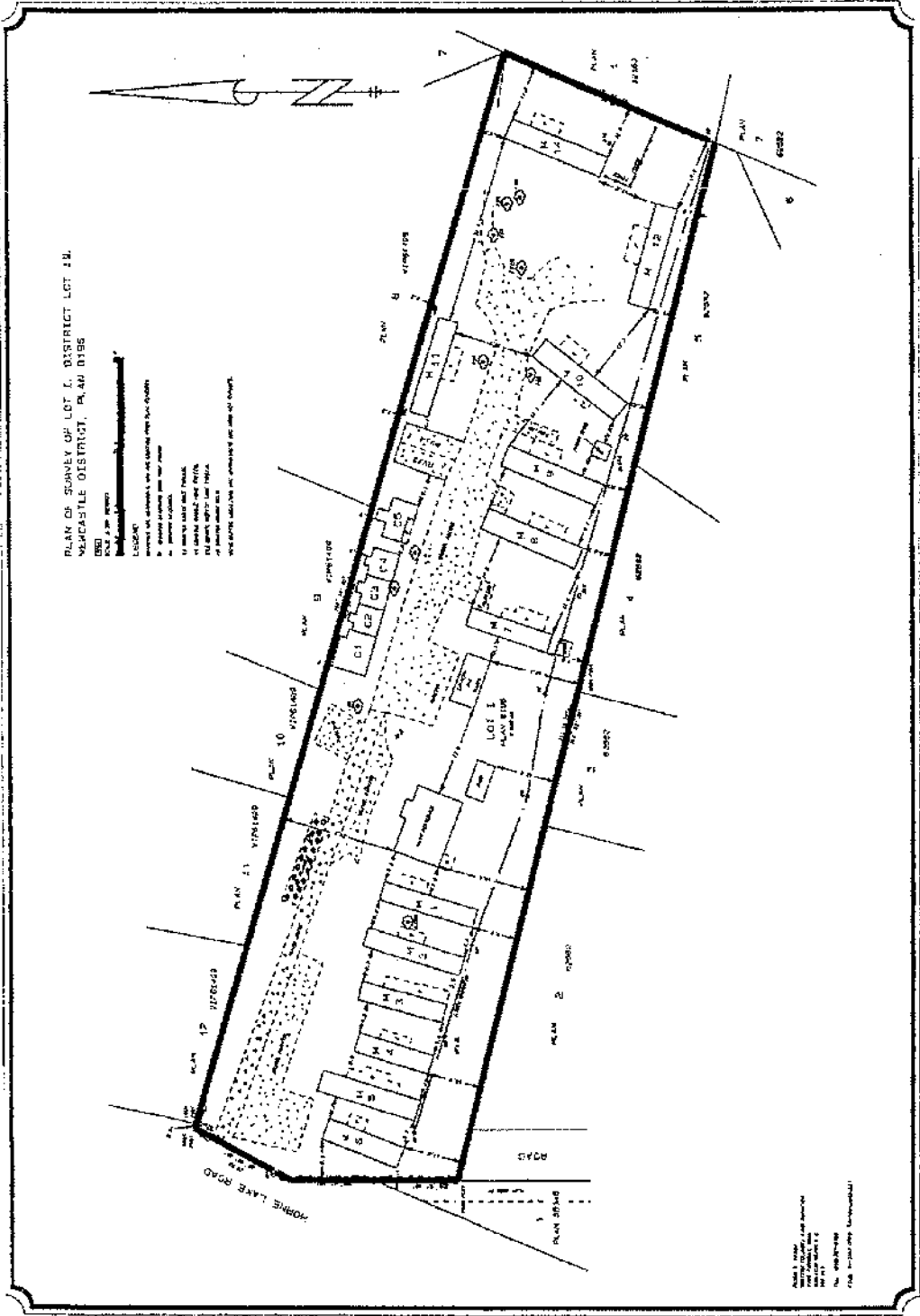
1. The applicant, at the applicant's expense and to the satisfaction of the Regional District of Nanaimo (RDN), shall install four monitoring wells – one in each corner of the property (as near to the corner as practical) constructed in accordance with the recommendations contained in the reports prepared by Davey Consulting and Engineering and dated September 15, 2005 and November 7, 2005.
2. The applicant, at the applicant's expense and to the satisfaction of the Regional District of Nanaimo (RDN), shall register on title with priority granted over all financial charges the following Section 219 covenant(s):
  - i. To register the geotechnical reports prepared by Davey Consulting and Engineering, and dated September 15, 2005 and November 7, 2005 and require the owner to obtain the services of a qualified person(s) to undertake to do the following:
    - a. to conduct yearly inspections of the septic tanks to ensure that the lids are not damaged from vehicular traffic and that the tanks are watertight;
    - b. to conduct yearly inspections of the sludge and clear water levels of each tank and require pumping of the tanks if the sludge level is equal to or greater than 33% (one third) of the free volume;
    - c. to require the owner, regardless of sludge volume to have all septic tanks pumped once every five (5) years and to keep an accurate record of the pump out volume;
    - d. to inspect all distribution boxes once every six (6) months and keep an accurate record of the inspection date and condition of each distribution box and if any box is found to be out of alignment and effluent is flowing from one distribution line preferentially over the other lines the distribution box will need to be re-aligned and a record kept of the work performed;
    - e. to keep an accurate and up to date record of all inspections to be posted in a conspicuous place for all residents and visitors to view with emergency numbers and contacts (including fire and ambulance services) to be used in case of emergency;
    - f. to take ground water samples from each monitoring well once a month during high water table season from October to April and twice during the summer months and to analyze the samples for Biological Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), and Fecal and Total Coliforms;

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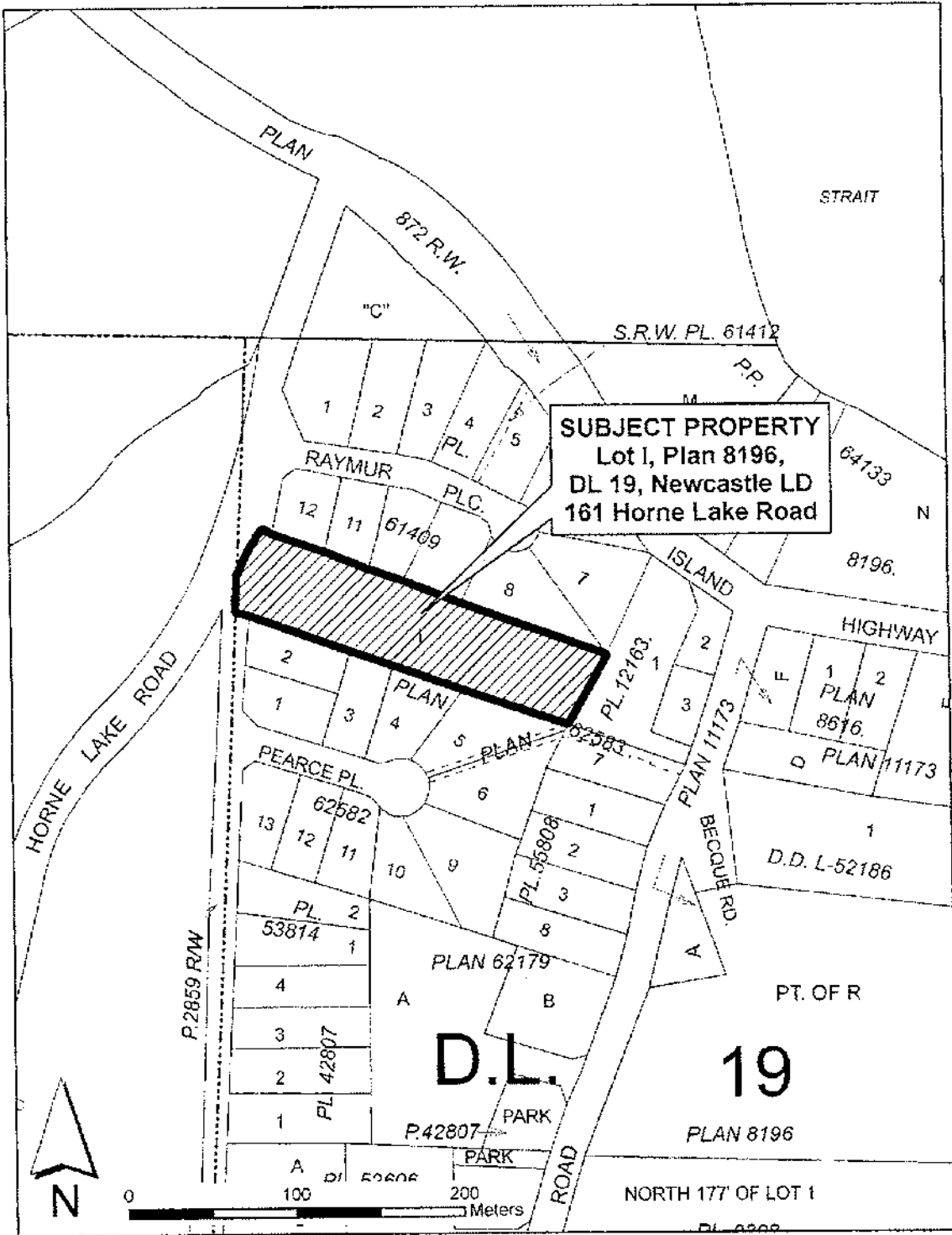
**Schedule No. 1 (Page 2 of 2)**  
**Conditions of Approval**  
**Zoning Amendment Application No. ZA0525**  
**Lot I, District Lot 19, Newcastle District, Plan 8196**  
**161 Horne Lake Road**

- g. To record the results of the sampling and analysis in a log book dedicated for this purpose and made available to residents of the mobile home park and if the results show any level of fecal coliforms to notify the health department and all other necessary agencies and to resample the affected monitoring well within seven (7) days to ensure that the original sample was not in error and the results were representative of the groundwater;
- h. To require the owner, at the owner's expense and to the satisfaction of the Regional District of Nanaimo to hook up to community sewer service if and when community sewer servicing is extended adjacent to any of the property lines including lands on either side of any existing or future roads adjacent to the subject property and to decommission all existing septic disposal systems to the satisfaction of the Vancouver Island Health Authority within one year of the date sewer hook up is provided; and,
- i. To conduct yearly inspections of all toilets and sinks to ensure that no toilets are overflowing due to a high tank ball valve and fittings and taps within each residence are not allowing excess water to be discharged into the septic tank and ground.
- ii. To limit the occupancy of cabins number two to five, as shown on the site plan submitted by the applicant to single occupancy (one person).
- iii. To limit the occupancy of cabin number one, as shown on the site plan submitted by the applicant to two (2) persons.
- iv. Applicant to obtain a provincial lot line setback relaxation from the Ministry of Transportation to the satisfaction of the Ministry of Transportation.

Schedule No. 2  
Site Plan  
As Submitted by the Applicant (Reduced for Convenience)



Attachment No. 1  
Location of Subject Property



BCGS Map Sheet No. 92F.037.4.4



REGIONAL DISTRICT OF NANAIMO		
CHAIR	GM Cms	
CAO	GM ES	
CA CCD	MoF	
FEB - 7 2006		
EAP.		
<b>DATE:</b>		

**MEMORANDUM**

**TO:** Jason Llewellyn  
 Manager, Community Planning

**FROM:** Norma Stumborg  
 Planner

**SUBJECT:** Development Permit Application No. 60559 – John Gantner  
 Electoral Area 'G' – 825 Flamingo Drive

**FILE:** 3060 30 60559

**DATE:** February 2, 2006

**PURPOSE**

To consider an application for an Environmentally Sensitive Areas and Hazard Lands Development Permit Area pursuant to the “Regional District of Nanaimo Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996” to facilitate the construction of a new house. The application includes a request to vary the maximum permitted height from 8 metres to 9.5 metres.

**BACKGROUND**

This is an application to facilitate the replacement of an existing house with a new house at 825 Flamingo Drive (*see Attachment No. 1*). The subject property is legally described as Lot A, District Lot 10, Newcastle District, Plan VIP79194. The property is in a residential neighbourhood and is bordered on all sides by residential properties with the coastline located to the northeast.

The proposed development is within the Environmentally Sensitive Areas and Hazard Lands Development Permit Area. This Development Permit Area was established to protect those properties that may be environmentally sensitive and at risk of damage from development activities and to protect development from potential natural hazards such as flooding. Board approval is required to permit the proposed development.

The subject property is zoned Residential 2 (RS2) pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.” “Floodplain Management Bylaw No. 843” also applies to this property and requires that the dwelling be elevated 1.5 metres above the elevation of the natural boundary with the ocean. Both bylaws require a setback of 8 metres from the retaining wall on the property. The siting and elevation drawings for the proposed house are shown on *Schedules No. 2 and 3*.

Fill is proposed to be placed on the property to raise the underside of the floor 1.5 metres above the elevation of the natural boundary with the ocean or 3.8 metres GSC to meet the flood elevation requirements. However, as height is measured from natural grade before the placement of fill, the height of the house will exceed the maximum 8 metre height restriction. Therefore, the applicants are requesting a variance from 8.0 metres to 9.5 metres.



## ALTERNATIVES

1. To approve Development Permit No. 60559 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

## LAND USE AND DEVELOPMENT IMPLICATIONS

The subject property is a developed lot in a mature residential subdivision. As noted the existing small house on the property is to be replaced by a larger house on an elevated building site. The proposed house is to be set back slightly further from the ocean than the existing dwelling.

The two-storey house on the lot to the northwest is setback from the ocean a distance similar to the proposed new dwellings setback. The house on the lot to the southeast is smaller and slightly closer to the ocean than the proposed dwelling. Neither neighbouring houses will have its views of the ocean notably impacted as a result of the proposed height variance for the proposed dwelling. It is noted that the proposed house will be approximately 8 metres in height from finished grade and is only over height as a result of the need to place fill on the property.

The subject property is separated from the beach and foreshore area by a concrete and rip rap retaining wall. There are no environmentally sensitive features on the property above the retaining wall. Also the permit includes terms that are designed to protect the environment during and after the construction process.

A geotechnical engineer has provided a report that states that the site is suitable for the proposed residential use given the elevation requirement. The engineer also indicates that the retaining wall adequately protects the property and building site from erosion.

## VOTING


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

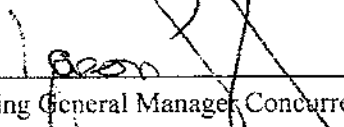
## SUMMARY/CONCLUSIONS

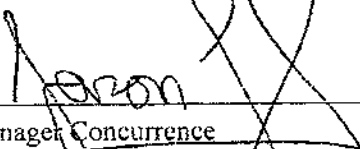
This is an application for an Environmentally Sensitive and Hazard Lands Development Permit pursuant to the Shaw Hill – Deep Bay Official Community Plan Bylaw No. 1007, 1996. The application includes a request to vary the maximum dwelling height from 8.0 metres to 9.5 metres. The applicant has demonstrated that the property is to be safely and appropriately developed for residential purposes. As the variance is required because of the need to place fill on the property and the variance is not expected to result in an increased negative impact on the area, staff find the proposed variance acceptable. Therefore, staff recommend that the requested Development Permit be approved subject to the terms outlined in Schedule No. 1 of this report and subject to notification requirements pursuant to the *Local Government Act*.


**RECOMMENDATION**

That Development Permit Application No. 60559, to allow the replacement of an existing dwelling with a new dwelling and vary the maximum dwelling unit height in the Residential 2 (RS2) zone from 8 metres to 9.5 metres, 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

  
\_\_\_\_\_  
Acting General Manager Concurrence

  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

COMMENTS:  
*devsvs/reports/2006/dp fe 3060 30 60559 Gantner*

**Schedule No. 1**  
**Terms of Development Permit No. 60559**  
**Lot A, District Lot 10, Newcastle District, Plan VIP79194**  
**825 Flamingo Drive**

**Development of Site**

- a) Applicant to obtain building permit prior to commencing construction.
- b) This Development Permit allows the construction of the single-family dwelling developed in substantial compliance with Schedules No. 2 and 3.
- c) All retaining walls developed on site shall be generally located as shown on Schedule 2 and shall be less than one metre in height.

**Survey**

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

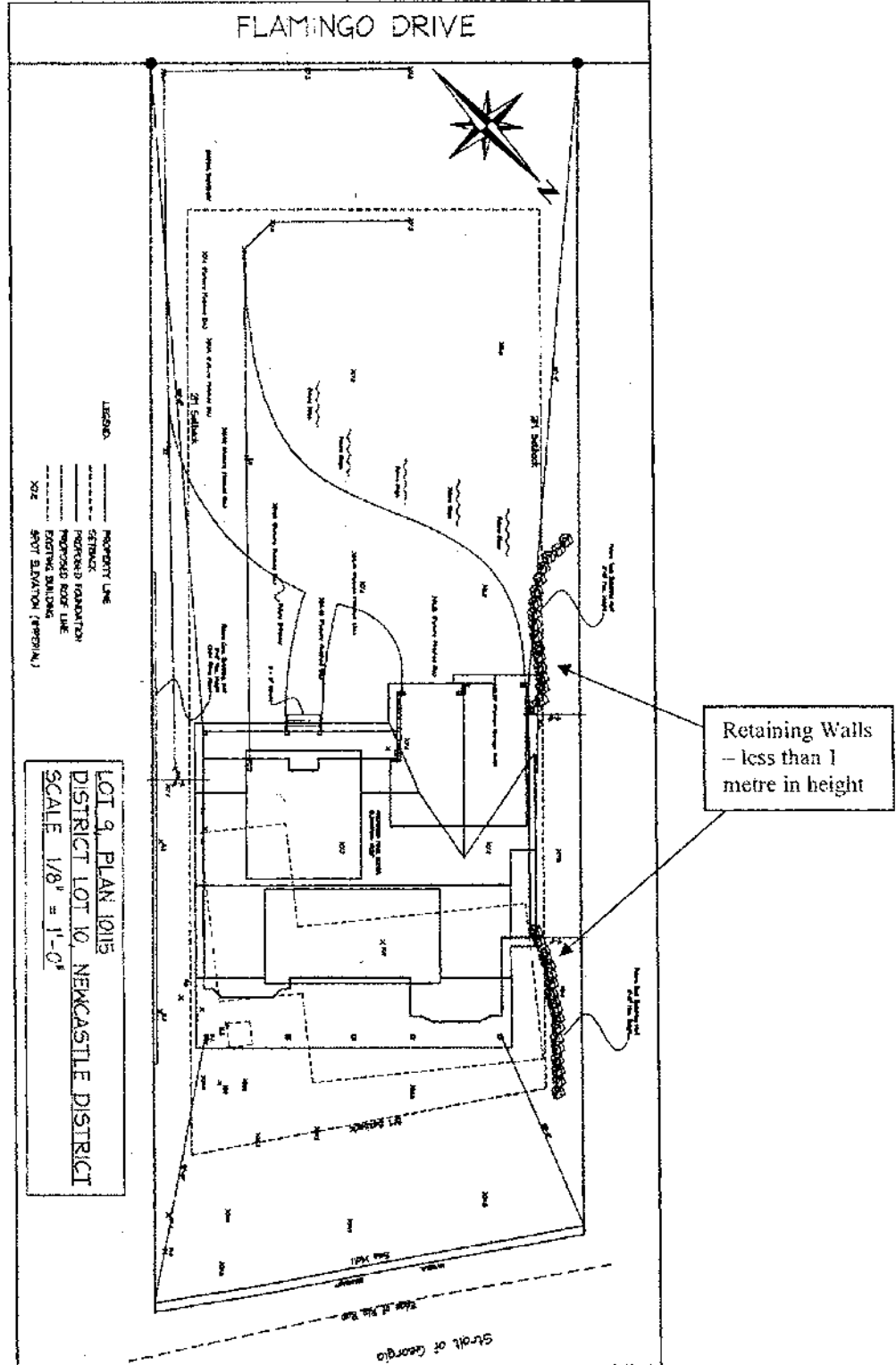
**Variances**

- d) "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." is hereby varied by increasing the maximum dwelling unit height in the Residential 2 (RS2) zone from 8 metres to 9.5 metres. The variances apply only to a building designed and sited as shown on Schedules No. 2 and 3.

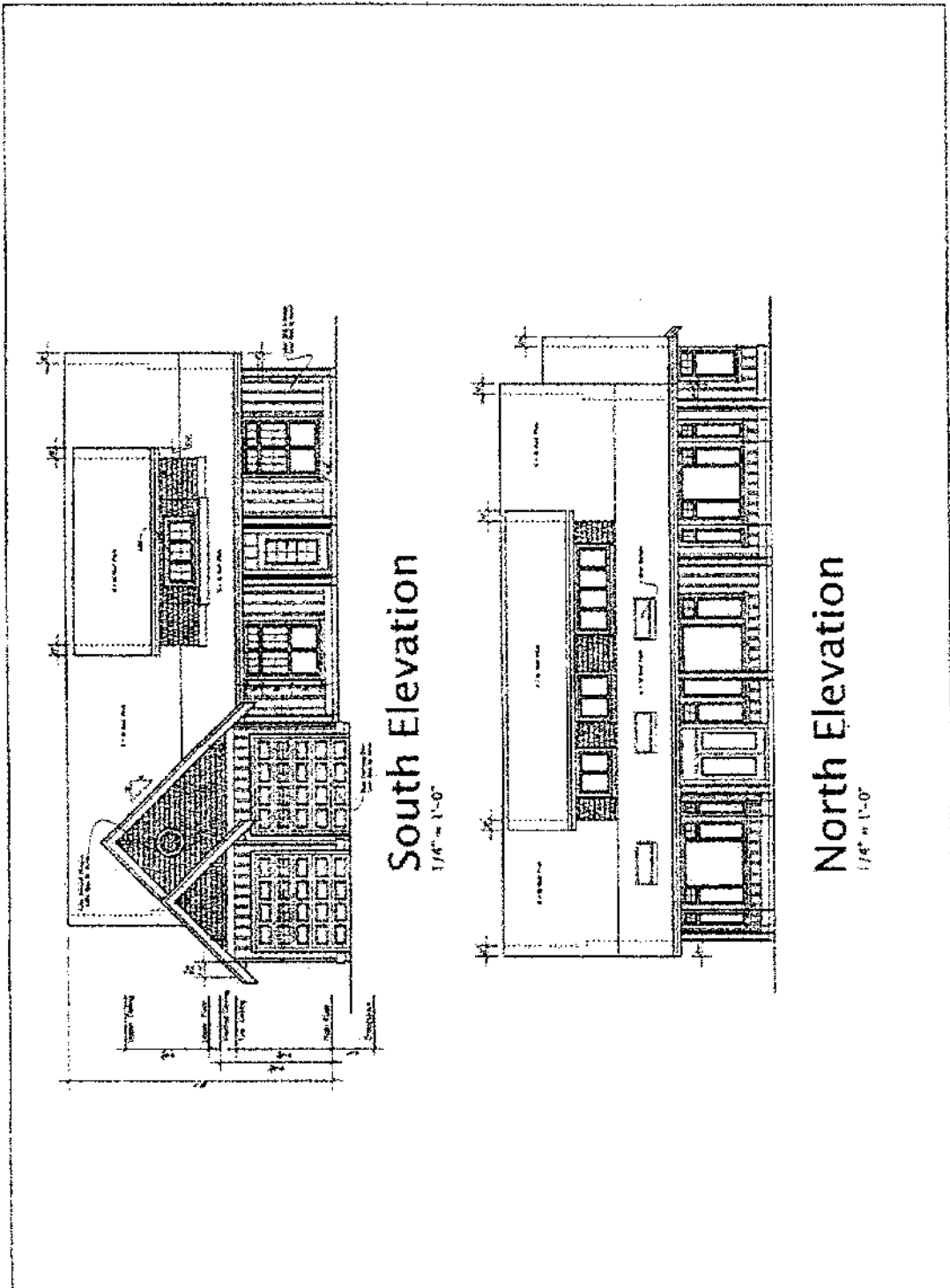
**Sediment and Erosion Control**

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

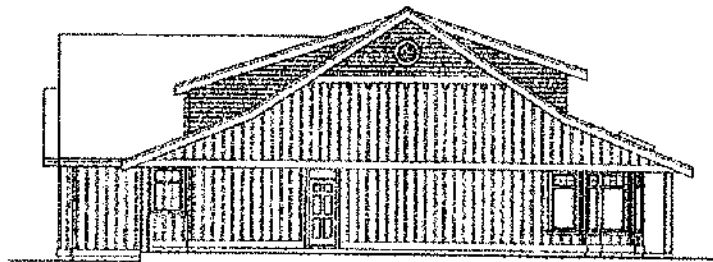
Schedule No. 2  
Development Permit No. 60559  
Site Plan (as submitted by applicants, reduced for convenience)  
Lot A, District Lot 10, Newcastle District, Plan VIP79194  
825 Flamingo Drive



Schedule No. 3  
Development Permit No. 60559  
Proposed Profiles (Page 1 of 2)  
Lot A, District Lot 10, Newcastle District, Plan VIP79194  
825 Flamingo Drive

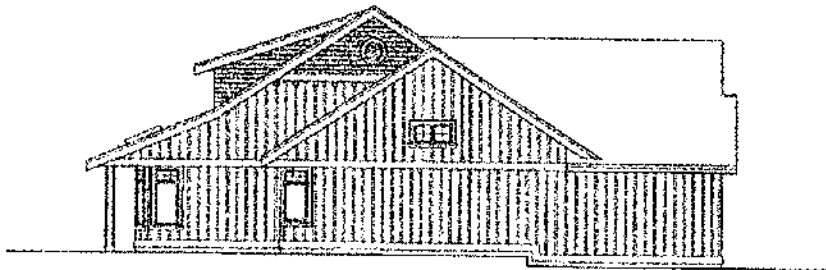


Schedule No. 3  
Development Permit No. 60559  
Proposed Profiles (Page 2 of 2)  
Lot A, District Lot 10, Newcastle District, Plan VIP79194  
825 Flamingo Drive



East Elevation

1/4" = 1'-0"



West Elevation

1/4" = 1'-0"



**REGIONAL  
DISTRICT  
OF NANAIMO**

REGIONAL DISTRICT OF NANAIMO		
CHAIR	GM Cms	
CAO	GM ES	
DA CCD	MoF	
FEB - 8 2006		
EAP		
		DATE

**MEMORANDUM**

**TO:** Jason Llewellyn  
General Manager, Development Services

**DATE:** February 7, 2006

**FROM:** Norma Stumborg  
Planner

**FILE:** 3060 30 60602

**SUBJECT:** Development Permit Application No. 60602 – Gorenko  
Electoral Area 'G' – 721 Barclay Crescent North

**PURPOSE**

To consider an application for a Development Permit pursuant to “Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998” to facilitate the removal of a single-wide manufactured home and the placement of a double-wide manufactured home. The application does not include a request for a variance.

**BACKGROUND**

The subject property, legally described as Lot 8, District Lot 28, Nanoose District, Plan 23031, is located at 721 Barclay Crescent, approximately 70 meters north of French Creek. The property is relatively flat and is bounded on the north and south by residential properties, on the east by undeveloped, forested Crown Land, and on the west by Barclay Crescent. (See Attachment No. 1).

The Sensitive Lands Development Permit Area was established to protect the natural environment and development from hazardous conditions. The entire subject property is within the development permit area because there is a potential flood hazard as the property lies within the floodplain of French Creek.

The subject property is zoned ‘Residential 1 (RS1)’ pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.” As the subject property is within the Regional District of Nanaimo’s (RDN) Building Inspection Area, the “Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991” applies. Bylaw No. 843 requires, for structures that need to be elevated, a 30.0 meter floodplain setback from the natural boundary of French Creek and 3.0 meters above the natural flood elevation which in this case is 5.5 meters as established by J.E. Anderson and Associates Surveyors and Engineers.

The subject property is serviced with community water. Construction of a community sewer system to service the area is nearing completion.

**ALTERNATIVES**

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

## **LAND USE AND DEVELOPMENT IMPLICATIONS**

The subject property is a developed lot in a mature residential subdivision mostly consisting of manufactured homes. The existing older single-wide manufactured home is proposed to be replaced by a 2006 double-wide manufactured home. The existing home does not meet the CSA Z240 MH Series M86 Standards specified under "Regional District of Nanaimo Building Regulations and Fees Bylaw No.1250, 2001."

The applicant intends to connect the proposed structure to the community sewer system currently under construction. Given that the proposed development is within the French Creek Floodplain, connecting to the community sewer system is a requirement of this permit.

Existing vegetation on the subject property consists mostly of grass. As a condition of this permit, staff recommend that the applicant be required to limit land alterations to that which is absolutely necessary to site the building and that the disturbed area be landscaped in a manner that prevents soil erosion.

## **GEOTECHNICAL AND FLOOD ELEVATION IMPLICATIONS**

A geotechnical engineering report prepared by Lewkowich Geotechnical Engineering Ltd. and dated December 21, 2005, states that the site is suitable for the proposed residential use given the elevation requirement. The proposed building site is more than 70 meters from the natural boundary of French Creek and is safely outside of the 30 meter horizontal setback. The BCLS survey indicates that the ground surface elevation of the site ranges from 0.6 to 0.23 meters below the required minimum floor elevation of 8.5 meters. As recommended by the geotechnical engineer, the applicant intends to place and compact structural fill to raise the building site to the required elevation.

The Building Inspection Department requires that the Geotechnical Report, and subsequent reports deemed necessary by the Chief Building Inspector, be registered on the Certificate of Title prior to issuance of the building permit. A clause saving the Regional District harmless will be included in the Covenant. The applicant is aware and concurs with these requirements. Because a Covenant to register the Geotechnical Report on Title will be required prior to the issuance of a building permit, it is not being recommended as a requirement at this stage. However, registration of the Geotechnical Report on the Certificate of Title prior to building permit approval is recorded as a term of this permit.

## **VOTING**

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

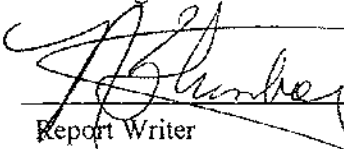
## **SUMMARY/CONCLUSIONS**

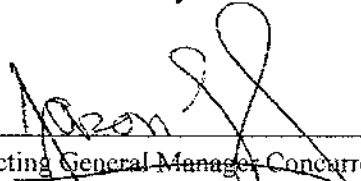
This is an application for a Development Permit pursuant to "French Creek Official Community Plan Bylaw No. 1115, 1998." The applicant has adequately addressed the site issues related to flood protection and is not requesting any variances. The development has been evaluated by a professional engineer who indicates that the development may be safely undertaken on the property under specific constraints. The professional engineer's recommendations will be followed as part of the building permit approval process and will be registered on the Certificate of Title to ensure these geotechnical issues and recommendations are known to future property owners. Vegetation disturbed during the process of moving the structures will be replanted with natural vegetation where possible. Therefore, staff recommends the application be approved, subject to the terms outlined in Schedule No. 1.

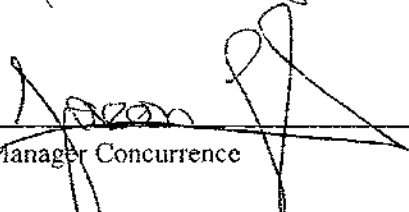


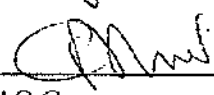
**RECOMMENDATION**

That Development Permit Application No. 60602, to facilitate the replacement of an existing single-wide manufactured home with a double-wide manufactured home at 721 Barclay Crescent North, be approved according to the terms outlined in Schedule No. 1.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Acting General Manager Concurrence

  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

**COMMENTS:**

*devsvs/reports/2006/dp fe 3060 30 60602 Gorenko*

**Schedule No. 1**  
**Terms of Development Permit No. 60602**  
**721 Barclay Crescent North**

**Development of Site**

- a) Subject property to be developed in substantial compliance with Schedule No. 2.
- b) The applicant shall connect to the community sewer system.
- c) All uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
- d) The applicants shall obtain a building permit from the RDN Building Inspection Department and shall adhere to all additional conditions imposed as part of the building permit.

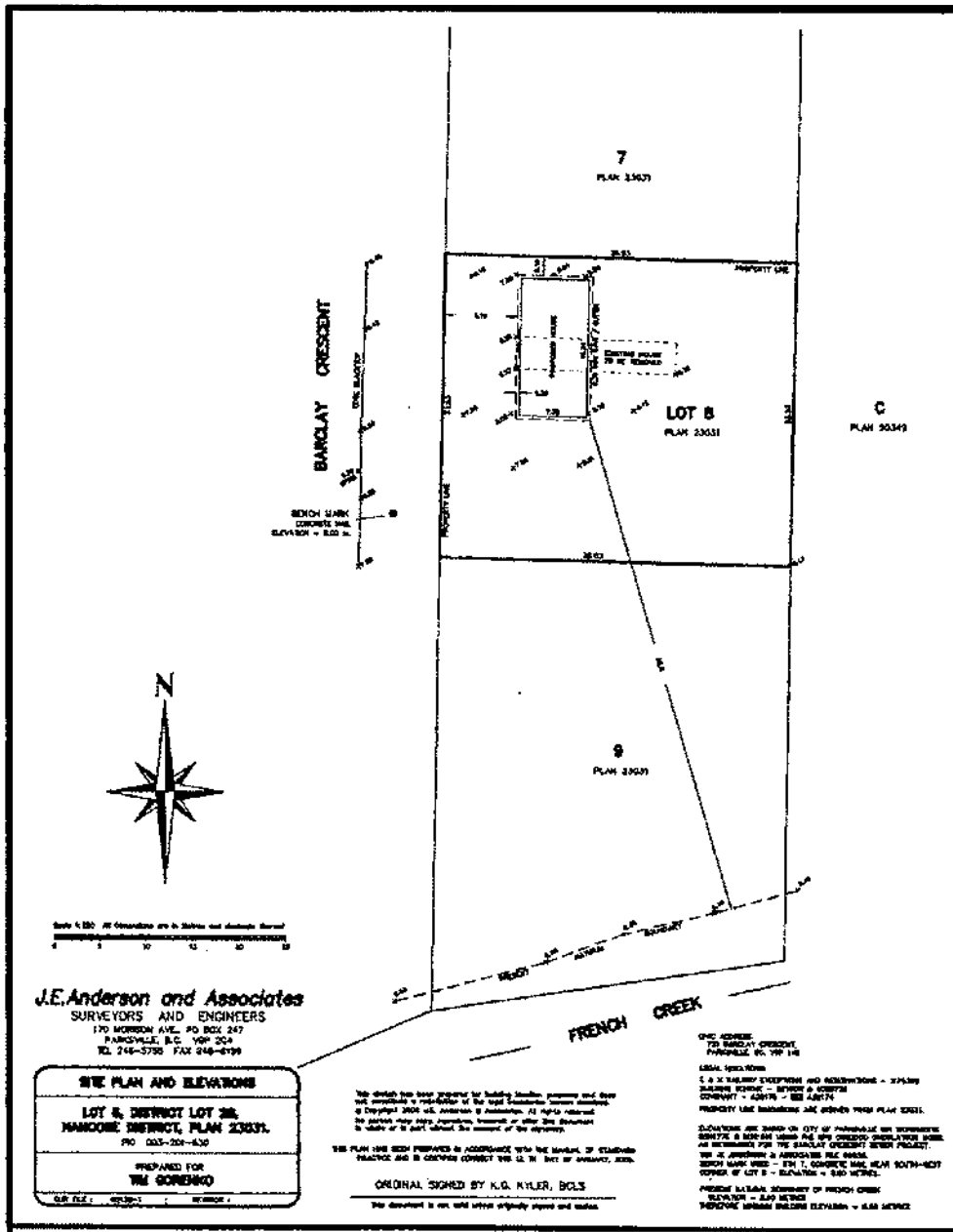
**Geotechnical Report**

- a) The applicant shall develop the subject property strictly in accordance with the recommendations established by the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd. date stamped December 21, 2005, and any subsequent geotechnical reports.
- b) The Chief Building Inspector may require additional geotechnical engineering evaluation as part of the building permit review.
- c) At the applicant's expense and to the satisfaction of the RDN, the applicant shall register a Section 219 Covenant on the certificate of title that saves the RDN harmless from any action or loss that might result from flooding and/or erosion including the registration of the geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. date stamped December 21, 2005, and any subsequent geotechnical reports deemed necessary by the Chief Building Inspector prior to the issuance of a building permit.

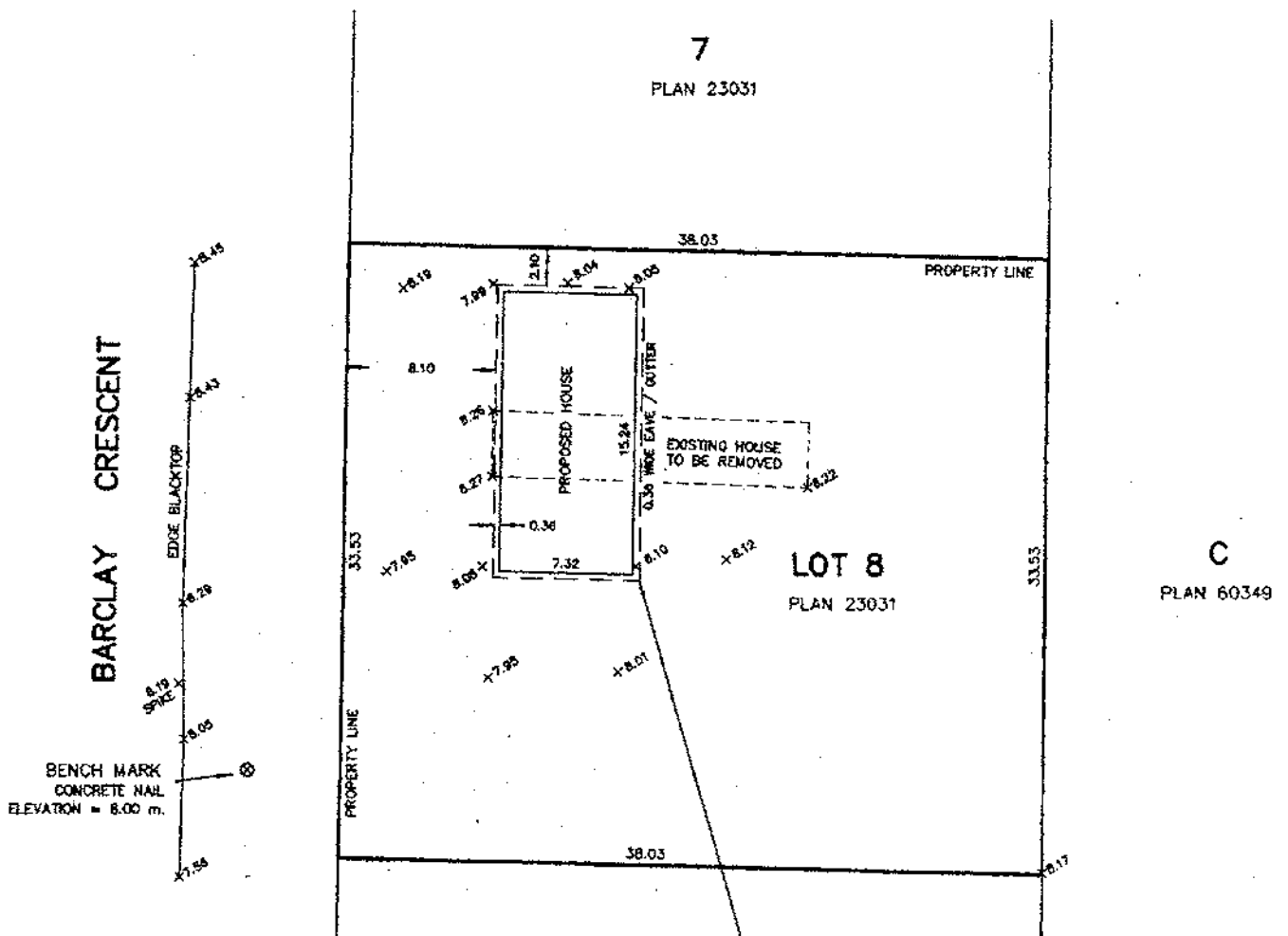
**Sediment and Erosion Control**

- a) Existing vegetation shall be retained, except for that which is absolutely necessary to site the manufactured home. Landscaping in a manner that reduces soil erosion is required. The use of native vegetation is encouraged.
- b) No habitation or building machinery or storage of items damageable by flood waters shall be located below the minimum building elevation of 8.5 meters.
- c) 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:
  - Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
  - Exposed soils must be seeded as soon as possible to reduce erosion during rain events.
  - Cover temporary fills or soil stockpiles with polyethylene or tarps.

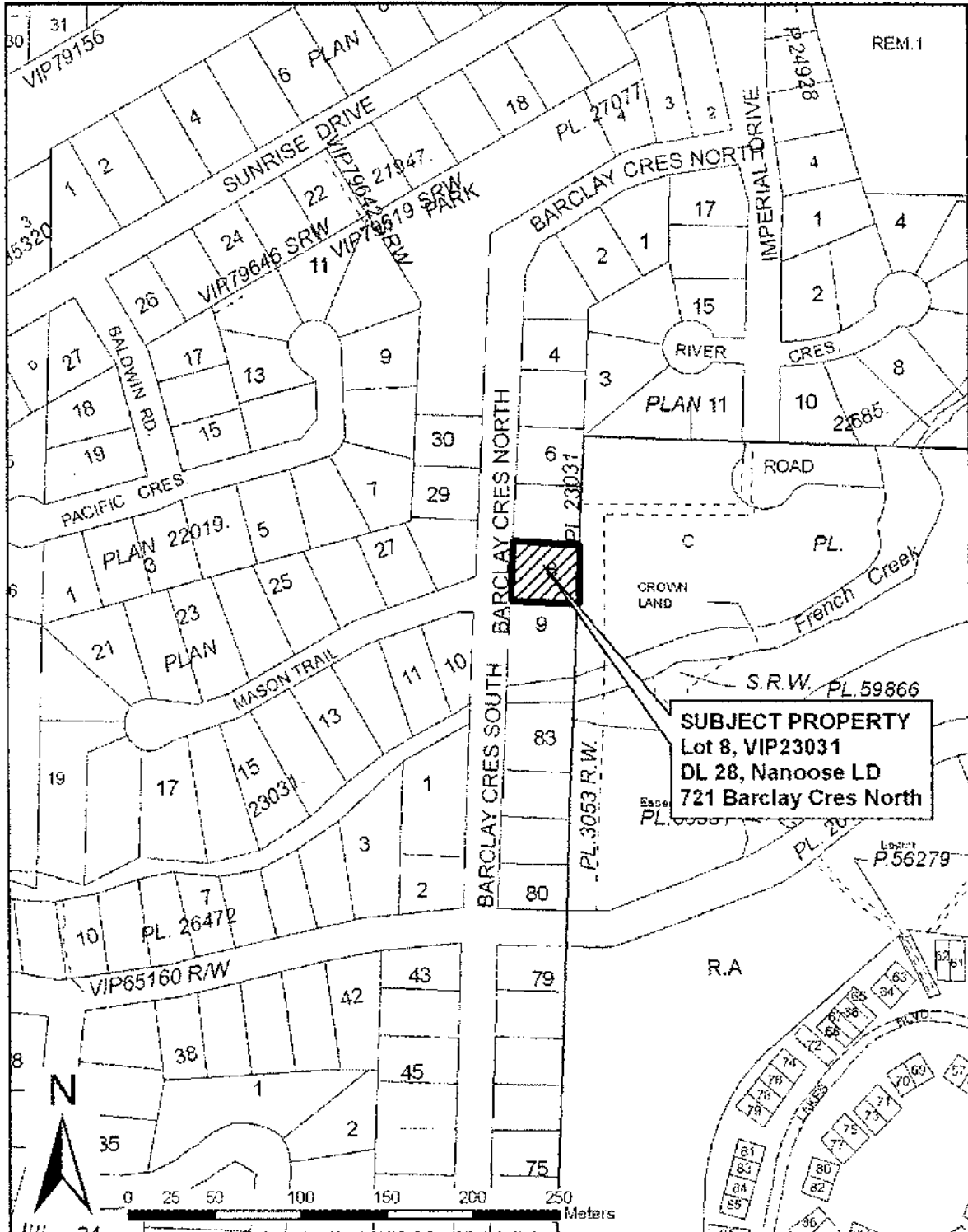
Schedule No. 2  
Site plan (As submitted by applicants, revised for convenience)  
Development Permit No. 60602  
Page 1 of 2  
721 Barclay Crescent North



Schedule No. 2  
Site plan (As submitted by applicants, enlarged for convenience)  
Development Permit No. 60602  
Page 2 of 2  
721 Barclay Crescent North



**Attachment No. 1**  
**Subject Property**  
**Development Permit 60602**  
**721 Barclay Crescent North**





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO	W	GM ES	
DA CCD		MoF	
FEB - 8 2006			
EAP			

MEMORANDUM

**TO:** Jason Llewellyn  
Manager, Community Planning

**DATE:** February 7, 2006

**FROM:** Norma Stumborg  
Planner

**FILE:** 3060 30 60604

**SUBJECT:** Development Permit Application No. 60604 – Dave Scott for 3536696 Canada Inc. Electoral Area 'E' – Parcel PID 006-598-439

PURPOSE

To consider an application for a development permit to facilitate the construction of a new house on the subject property. The application includes a request to vary the maximum permitted height from 8.0 metres to 9.83 metres.

BACKGROUND

This is an application to facilitate the construction of a house on the large parcel legally described as: District Lot 78, Nanoose District, Except that part shown outlined in red on Plan deposited under DD 195791; Except Parcels A and B (DD 7528N); and Except those parts in Plans 813R, 1567 OS, 14212, 14250, 14275, 15075, 15193,22836, 24012, 25366, 26219, 27129, 27206, 29869, 34675, 47638, 48548,48585, 49669, 50872, 51142, VIP51603, VIP51706, VIP51707, VIP53134,VIP57407, VIP59180, VIP59494, VIP60049, VIP60602, VIP71781, VIP73214, AND VIP78139 as shown on Attachment No. 1.

The subject property is largely undeveloped and is zoned Residential 1 (RS1) with a small portion in the northwest corner zoned Residential R (RS5) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The subject property is bordered by residential neighbourhoods to the north and east, Department of National Defence property to the south, and a large tract of undeveloped Residential 1 property to the west. Enos Lake is located in the southwest corner of the property (See Attachment No. 1).

The new house is to be sited on the proposed Lot 1, (Bonnington Drive) of the proposed Phase 9B Subdivision for Fairwinds (See Attachment No 2). This application has been made for a dwelling only on the proposed Lot 1, not the entire parent parcel. Therefore, this application only approves construction of the proposed house and development on the area of Lot 1. All further development will require a subsequent development permit. The building site forms part of a proposed large residential neighbourhood and is positioned on the corner lot fronting Fairwinds Drive.

The proposed development is within the Sensitive Ecosystem Protection Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Official Community Plan Bylaw No. 1400, 2005." This Development Permit Area was established to protect the natural environment, its ecosystems, and biological diversity. Board approval is required to permit the proposed development. The applicant is requesting a variance from 8.0 metres to 9.83 metres. The siting and elevation drawings for the proposed house are shown on Schedules No. 2 and 3.

It is important to note that because the subdivision for Fairwinds Phase 9B has not received final approval, the boundary lines of Lot 1 are subject to change.

Staff advised the applicant to consider applying for a blanket Development Permit to encompass all of the lots in the subdivision. The applicant opted for the application herein described. Staff advised the applicant that he may still apply for a blanket Development Permit prior to the sale of the lots which would save future individual land owners from applying on a case-by-case basis and allow the ecosystem to be analyzed as a whole.

## **ALTERNATIVES**

1. To approve Development Permit No. 60604 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

## **LAND USE AND DEVELOPMENT IMPLICATIONS**

An inspection of the site revealed that all vegetation on the building envelope had been removed. There remains ground vegetation and several mature fir trees in the back of the proposed Lot 1, directly east of the proposed building site. The remaining vegetation is not indicative of the protected Garry Oak Ecosystem.

The proposed building site for the house is in a low spot. The applicant proposes to place fill on Lot 1 to raise the underside of the floor approximately to the elevation of the road. The survey indicates that the elevation of the building site is approximately 2.0 meters lower than the proposed adjacent lot to the north. However, as height is measured from natural grade before the placement of fill, the height of the house will exceed the maximum 8.0 metre height restriction, resulting in the request for a 1.83 meter variance.

The location and height of the proposed structure is not anticipated to interfere with future site lines. The elevation of the structure is being raised to compensate for the loss in the elevation of the land. The development conforms to the setbacks under Bylaw No. 500, 1987, and the structure faces the proposed Bonnington Drive which does not offer any water views. The proposed dwelling will be the first home in the subdivision; there are no structures or neighbours in the vicinity of Lot 1. Therefore, future neighbours will be aware of the structure and given that the structure is being raised approximately to the level of the road and neighboring impacts of the development will be minimal.

Prior to final approval of the subdivision, the land for the lots of Fairwinds' Phase 9B have been cleared, roads constructed and paved, and water, sewer, storm drainage, and sidewalks constructed. The applicant intends to begin construction of the proposed house prior to finalizing the subdivision. The applicant has acknowledged in writing that he understands the risks associated with proceeding with the building prior to the subdivision approval.

## **VOTING**


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

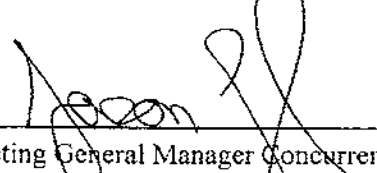
## **SUMMARY/CONCLUSIONS**

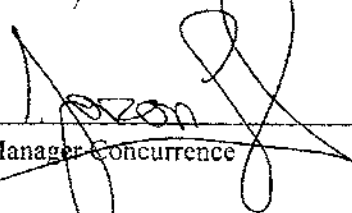
This is an application for a Sensitive Ecosystem Protection Development Permit pursuant to the "Nanoose Official Community Plan Bylaw No. 1400, 2005." The application includes a request to vary the maximum dwelling height from 8.0 metres to 9.83 metres. As the variance is required because of the need to place fill on the property and the variance is not expected to result in an increased negative impact on the area, staff find the proposed variance acceptable. Therefore, staff recommend that the requested Development Permit be approved subject to the terms outlined in Schedule No. 1 of this report and subject to notification requirements pursuant to the *Local Government Act*.


**RECOMMENDATION**

That Development Permit Application No. 60604, to site a new dwelling and vary the maximum dwelling unit height from 8 metres to 9.83 metres, 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

  
\_\_\_\_\_  
Acting General Manager Concurrence

  
\_\_\_\_\_  
Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

**COMMENTS:**

*devvs/reports/2006/dp fe 3060 30 60604 3536696 Canada Inc./Dave Scott*



**Schedule No. 1**  
**Terms of Development Permit No. 60604**  
**PID 006-598-439**

**Development of Site**

- a) Applicant to obtain building permit prior to commencing construction.
- b) This Development Permit allows the construction of the single-family dwelling developed in substantial compliance with Schedules No. 2 and 3.

**Survey**

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

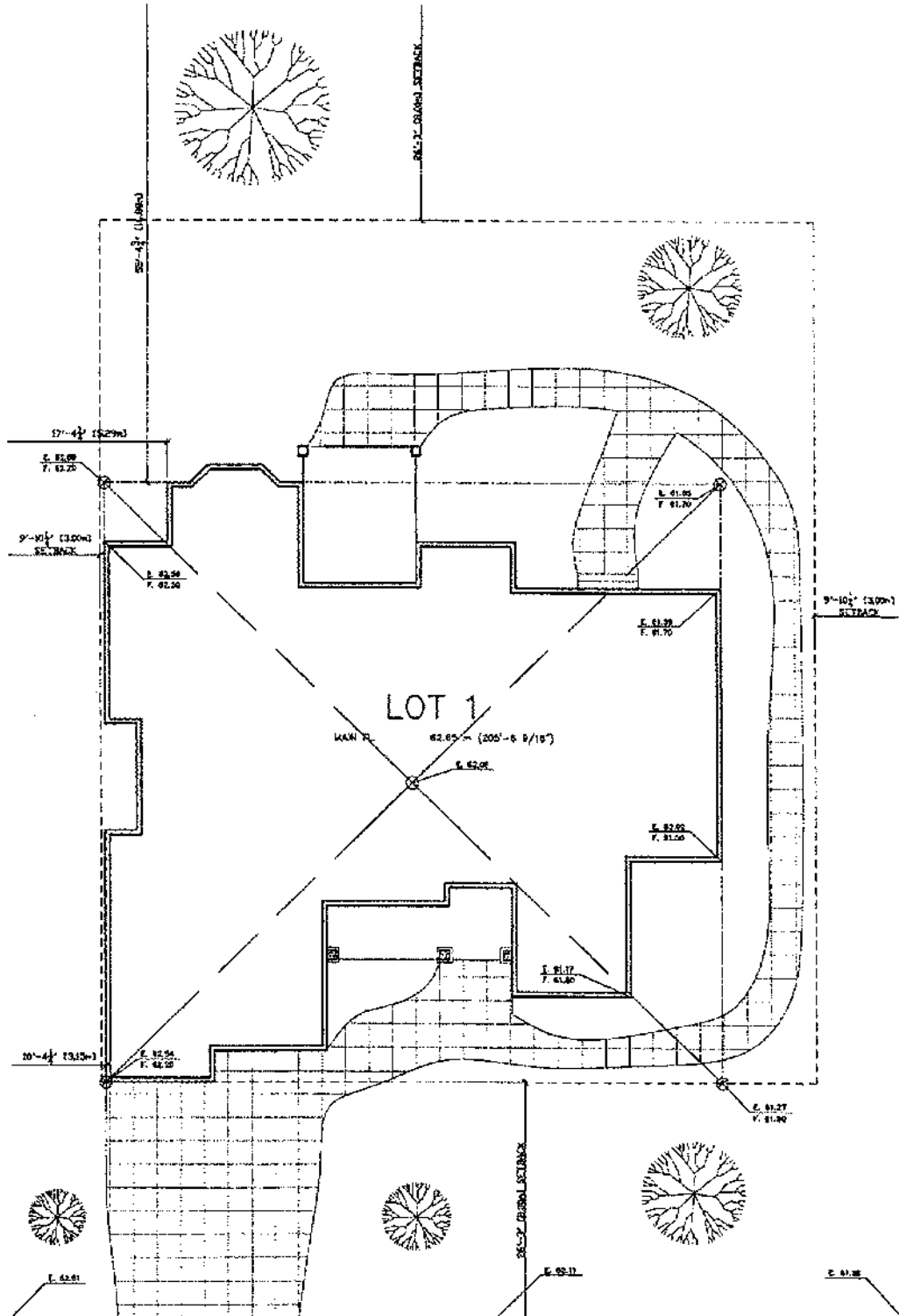
**Variations**

- a) "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" is hereby varied by increasing the maximum dwelling unit height in the Residential 1 (RS1) zone from 8.0 metres to 9.83 metres. The variations apply only to a building designed and sited as shown on Schedules No. 2 and 3.

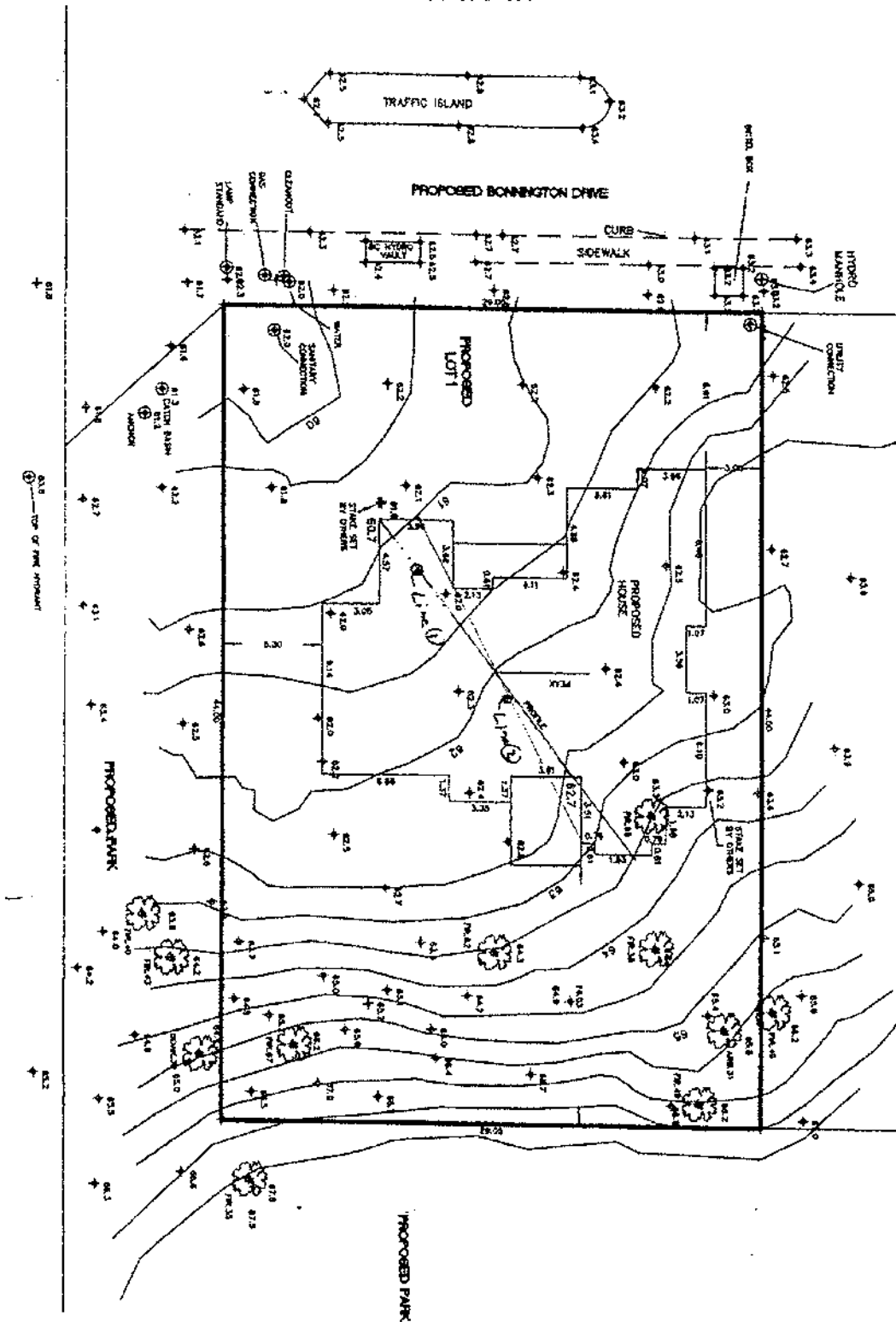
**Ecosystem Protection**

- a) Replanting of disturbed areas is required. Native vegetation is encouraged.

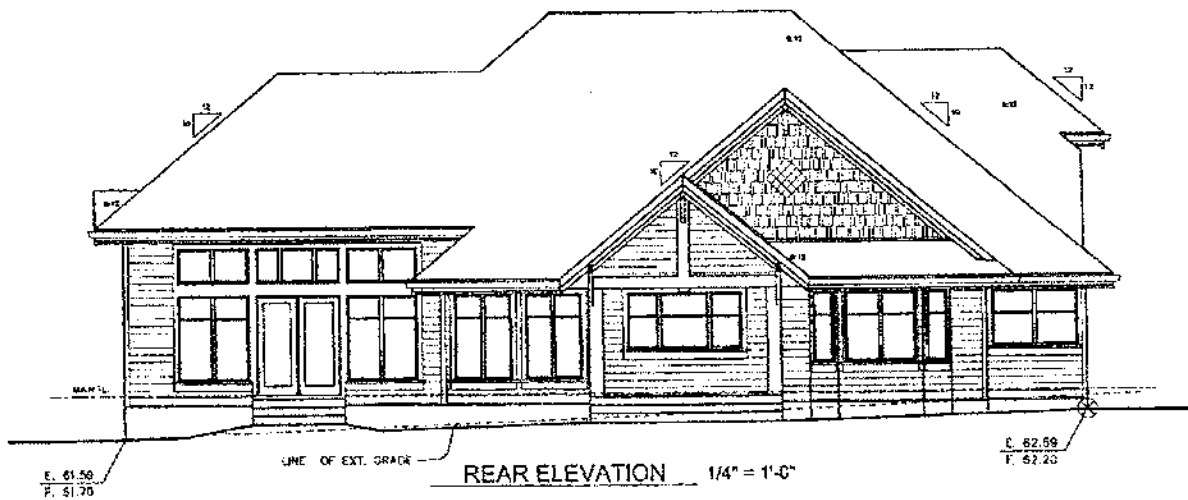
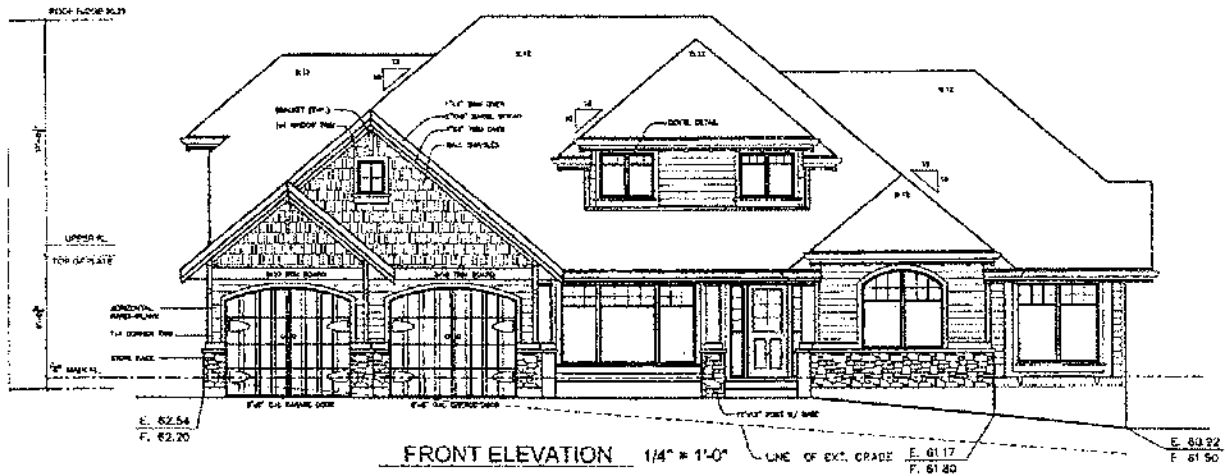
Schedule No. 2 (Page 1 of 2)  
Development Permit No. 60604  
Site Plan (as submitted by applicants, reduced for convenience)  
PID 006-598-439



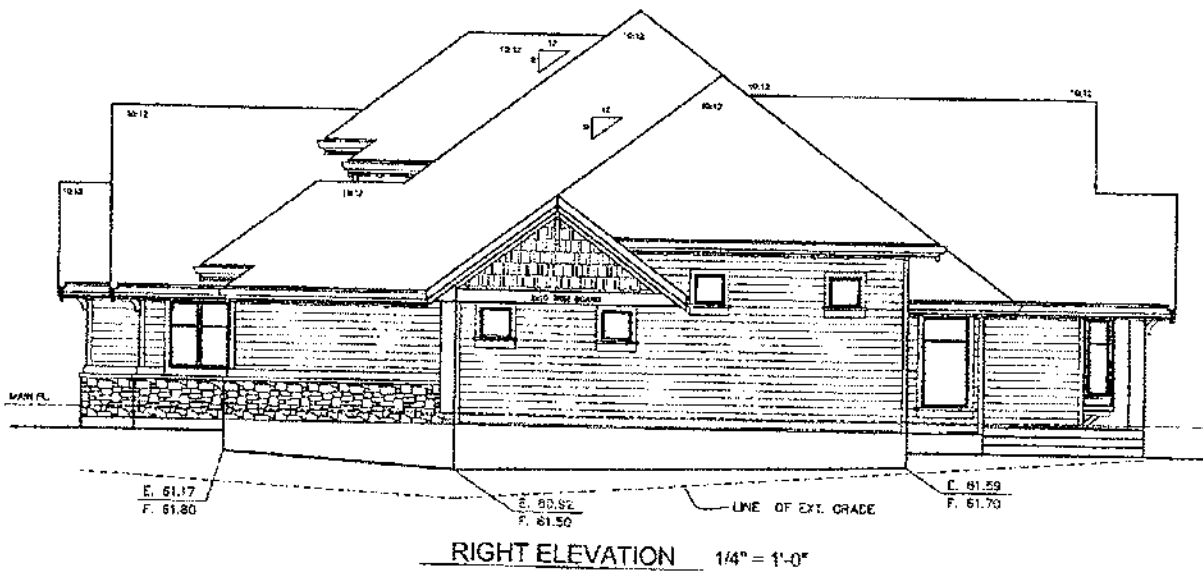
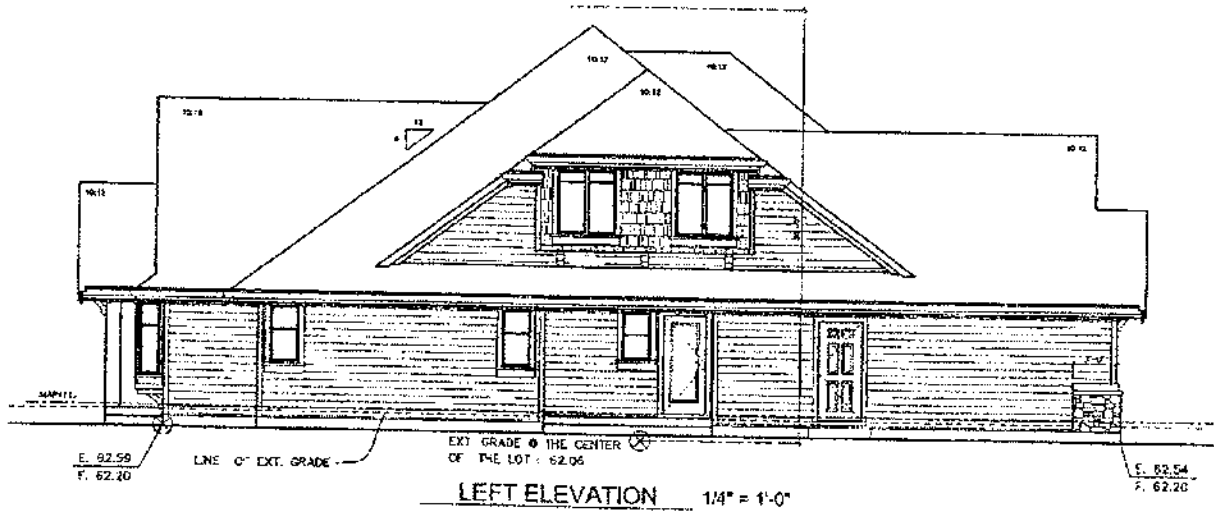
Schedule No. 2 (Page 2 of 2)  
Development Permit No. 60604  
Site Plan (as submitted by applicants, reduced for convenience)  
PID 006-598-439



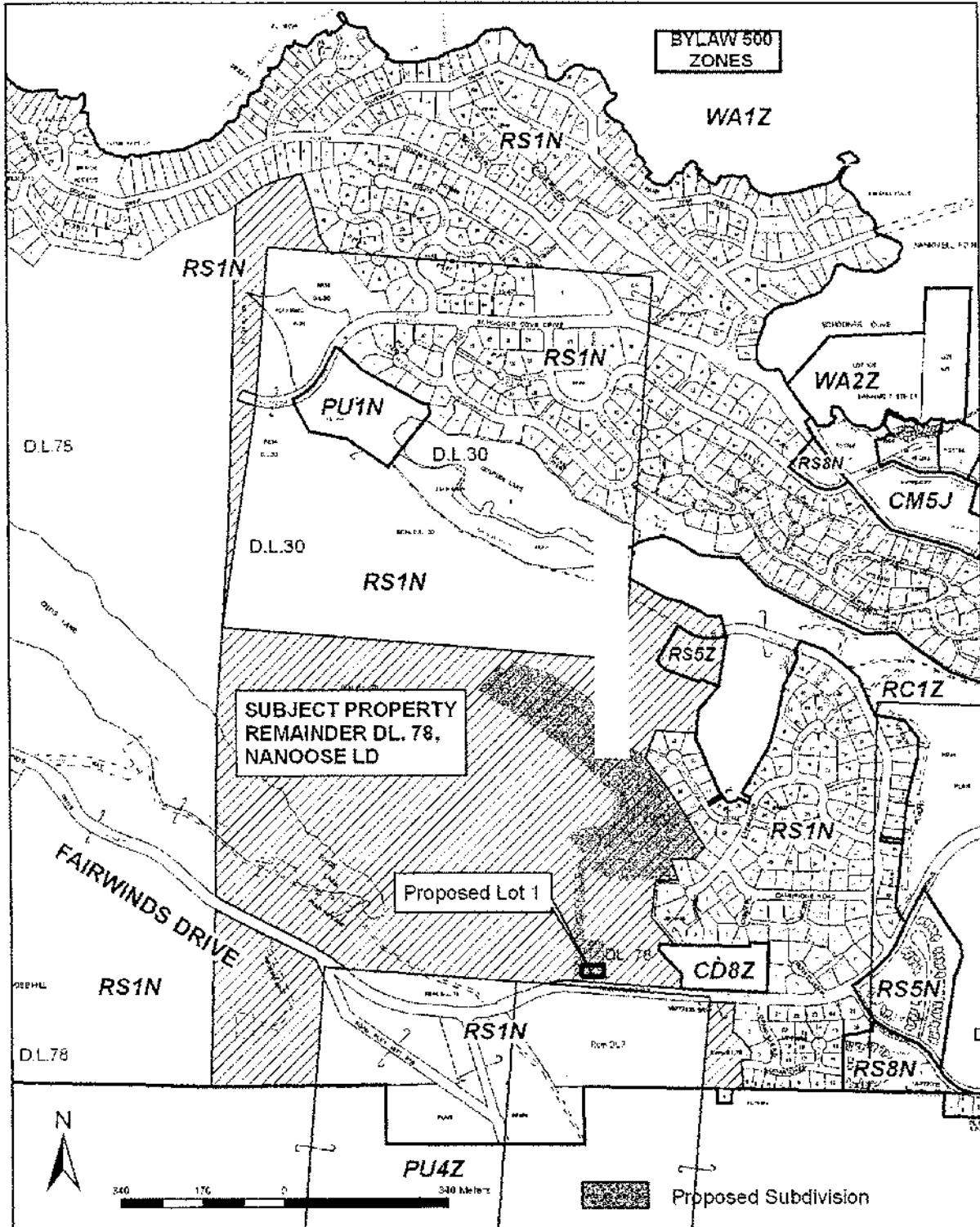
Schedule No. 3  
Development Permit No. 60604  
Proposed Profiles (Page 1 of 2)  
PID 006-598-439



Schedule No. 3  
Development Permit No. 60604  
Proposed Profiles (Page 2 of 2)  
PID 006-598-439

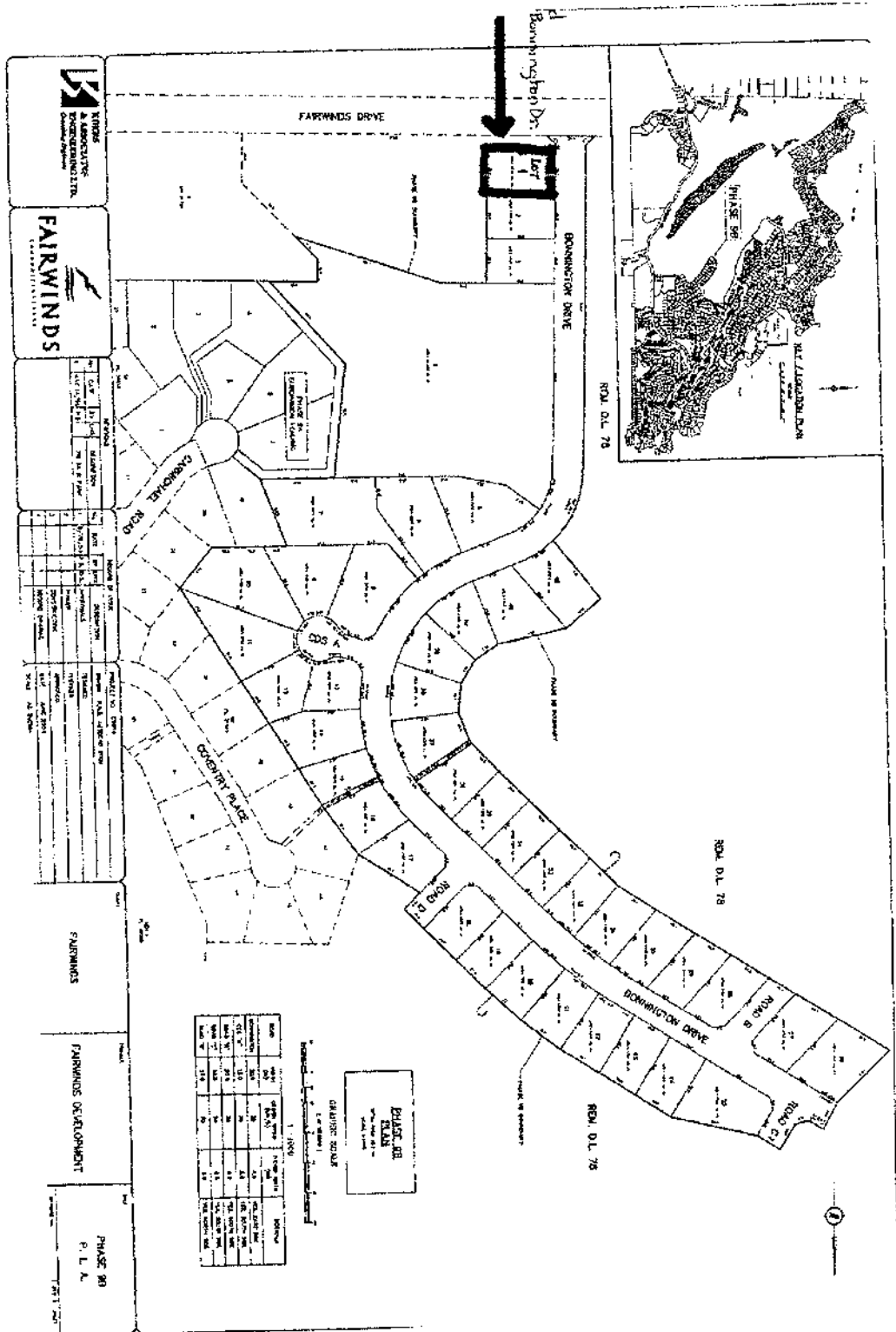


Attachment No. 1  
Subject Property  
Development Permit No. 60604  
Proposed Profiles (Page 1 of 2)  
PID 006-598-439



Mapsheet 92F.030.3.4

**Attachment No. 1**  
**Subject Property**  
**Development Permit No. 60604**  
**Proposed Profiles (Page 2 of 2)**  
**PID 006-598-439**



NO.	DATE	DESCRIPTION	BY	CHKD.
1	1/10/06	PRELIMINARY		
2	1/10/06	REVISED		
3	1/10/06	REVISED		
4	1/10/06	REVISED		
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**REGIONAL  
DISTRICT  
OF NANAIMO**

REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO		GM ES	
DA CCD		MoF	
FEB - 8 2006			
EAP			

**MEMORANDUM**

**TO:** Jason Llewellyn  
Manager of Community Planning

**DATE:** February 8, 2006

**FROM:** Greg Keller  
Planner

**FILE:** 3060 30 60605

**SUBJECT:** Development Permit Application No. 60605 – Konitzki/Homes by Kimberly  
Electoral Area 'E' – 2590 La Selva Place

**PURPOSE**

To consider an application for a Development Permit to allow for the construction of one single-dwelling unit and one accessory building within the Sensitive Ecosystem Protection Development Permit Area.

**BACKGROUND**

This application is for the property legally described as Strata Lot 2, District Lot 52, Nanoose District, Plan V1S5826. The subject property is 1.02 hectares in area and is located at 2590 La Selva Place in Electoral Area 'E' (See Attachment No. 1). The subject parcel is zoned Rural 5 Subdivision District 'F' (RU5F) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." There are no variances being requested as part of this application.

The subject property is located within the Sensitive Ecosystem Protection Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400 2006." There are two eagle trees located on adjacent Lot 4 and the proposed building site is greater than 60.0 metres from the base of the tree (Please refer to Attachment No. 2 for location of eagle tree).

There is a single-dwelling unit currently under construction on the subject property and the applicants are proposing to construct one accessory building. This Development Permit application is proposed to permit both the dwelling unit and the accessory building.

The subject parcel is bound to the west by Residential 1 zoned properties and to the north, south, and east by other Rural 5 zoned properties. The subject property is moderately sloping towards the southwest with mountain views towards the south and southwest. The subject property has been substantially cleared, but there are a few remaining mature Arbutus, Cedar, and Douglas Fir trees located on the outer periphery of the site which the applicant is proposing to maintain.

**ALTERNATIVES**

1. To approve the requested Development Permit subject to the terms outlined in Schedules No. 1 and 2.
2. To deny the requested Development Permit as submitted.



## **DEVELOPMENT IMPLICATIONS**

The applicant is intending to site the single-dwelling unit and accessory building in the proposed location in order to take advantage of mountain views on the property. As the property has previously been cleared, there are no notable remaining environmentally sensitive features located on the proposed building site. However, the uncleared portions of the subject property contain mature trees, shrubs, and grasses which may contain sensitive environmental features that should be considered prior to any future development. The applicant is proposing to retain the existing mature vegetation on the subject property.

The environmentally sensitive features identified by the OCP are second growth forest and two eagle trees located on the adjacent property.

The proposed development is located more than 60.0 metres from the base of the eagle tree located on the adjacent property. The Ministry of Environment Best Management Practices for Eagle Nesting Trees specifies a no disturbance buffer area of 100 metres measured from the base of the tree during the breeding season (February 5 – August 31). As the proposed development is greater than 60.0 metres from the eagle trees, it is not anticipated that construction activities would impact any eagles using the trees as long as construction is undertaken outside of the breeding season.

The applicant is in the process of obtaining a report prepared by a Registered Professional Biologist assessing the proposed development and any potential impact on the eagle nesting tree. Therefore, staff recommends, that as a condition of approval and prior to the issuance of this permit, that the applicant be required to submit a report from a Registered Professional Biologist assessing the impact of the proposed development on the eagle trees and indicating when the proposed development is okay to proceed.

In staff's assessment of this application, as there are no identifiable environmentally sensitive features located on the site and the applicant is taking steps to ensure that construction activities are compatible with the eagle trees located on the adjacent parcel, the proposed development is consistent with the Sensitive Ecosystem Protection Development Permit Area.

## **VOTING**

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

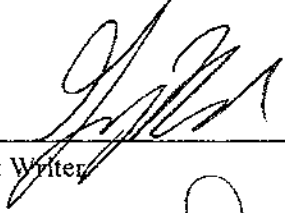
## **SUMMARY/CONCLUSIONS**

This is an application for a development permit to allow for the construction of one single-dwelling unit and one accessory building within the Sensitive Ecosystem Protection Development Permit Area. The proposed development complies with all requirements of Bylaw No. 500 and no variances are being requested as part of this application.

There are no environmentally sensitive features located on the subject property and the applicant is taking steps to ensure that construction activities do not impact the eagle trees on the adjacent lot. Therefore, staff is of the opinion that the proposed development is acceptable and recommends that the Board approve the Development Permit as submitted.

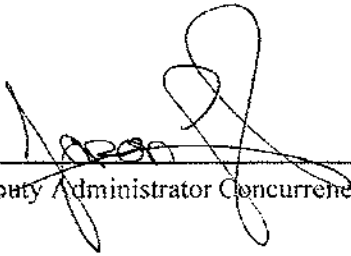
## **RECOMMENDATION**

That Development Permit Application No. 60605 to allow for the construction of one single-dwelling unit and one accessory building be approved according to the terms outlined in Schedule No. 1.



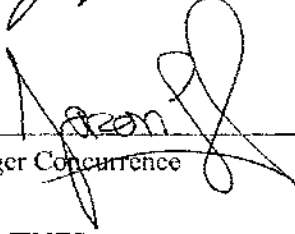
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Report Writer




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Deputy Administrator Concurrence



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Manager Concurrence



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CAO Concurrence

COMMENTS:

devsvs/reports/2006/dp fe 3060 30 60605 Konitzki/Homes by Kimberly

**Schedule No. 1**  
**Terms of Development Permit No. 60605**  
**Strata Lot 2, District Lot 52, Nanoose District,**  
**Plan VIS5826**  
**2590 La Selva Place**

The following are to be completed as part of Development Permit No. 60605:

**Issuance of Permit**

1. Staff shall not issue this permit until the applicant submits a report prepared by a Registered Professional Biologist assessing the eagle trees and proposed development and providing recommendations for the timing of construction and any other mitigative measures.

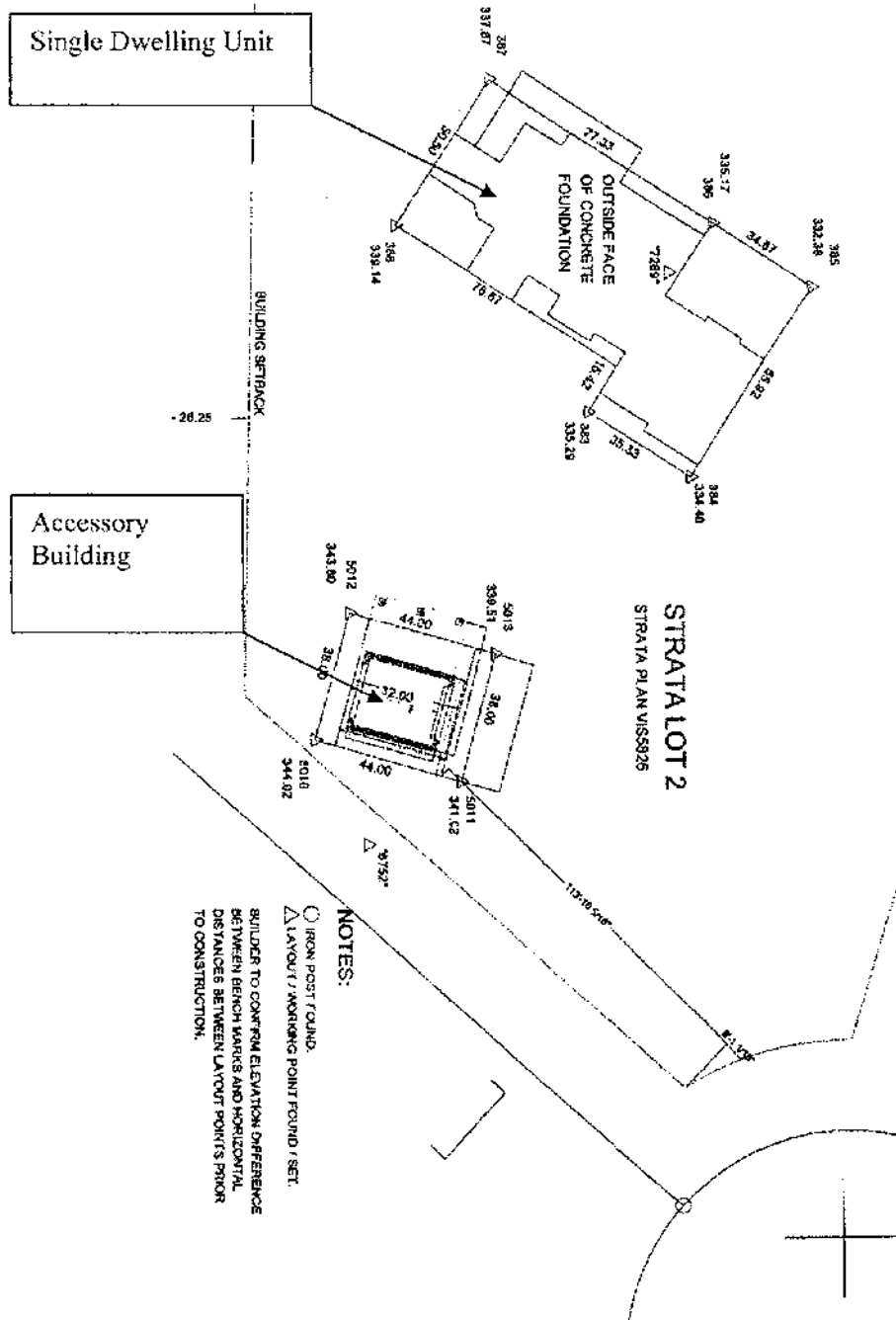
**Development of Site**

1. Subject property shall be developed in accordance with Schedules No. 1 and 2.
2. All construction to be undertaken must be consistent with “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.”
3. The applicant shall strictly adhere to all recommendations contained in the report prepared by the Registered Professional Biologist.

**Vegetation Retention/Replanting**

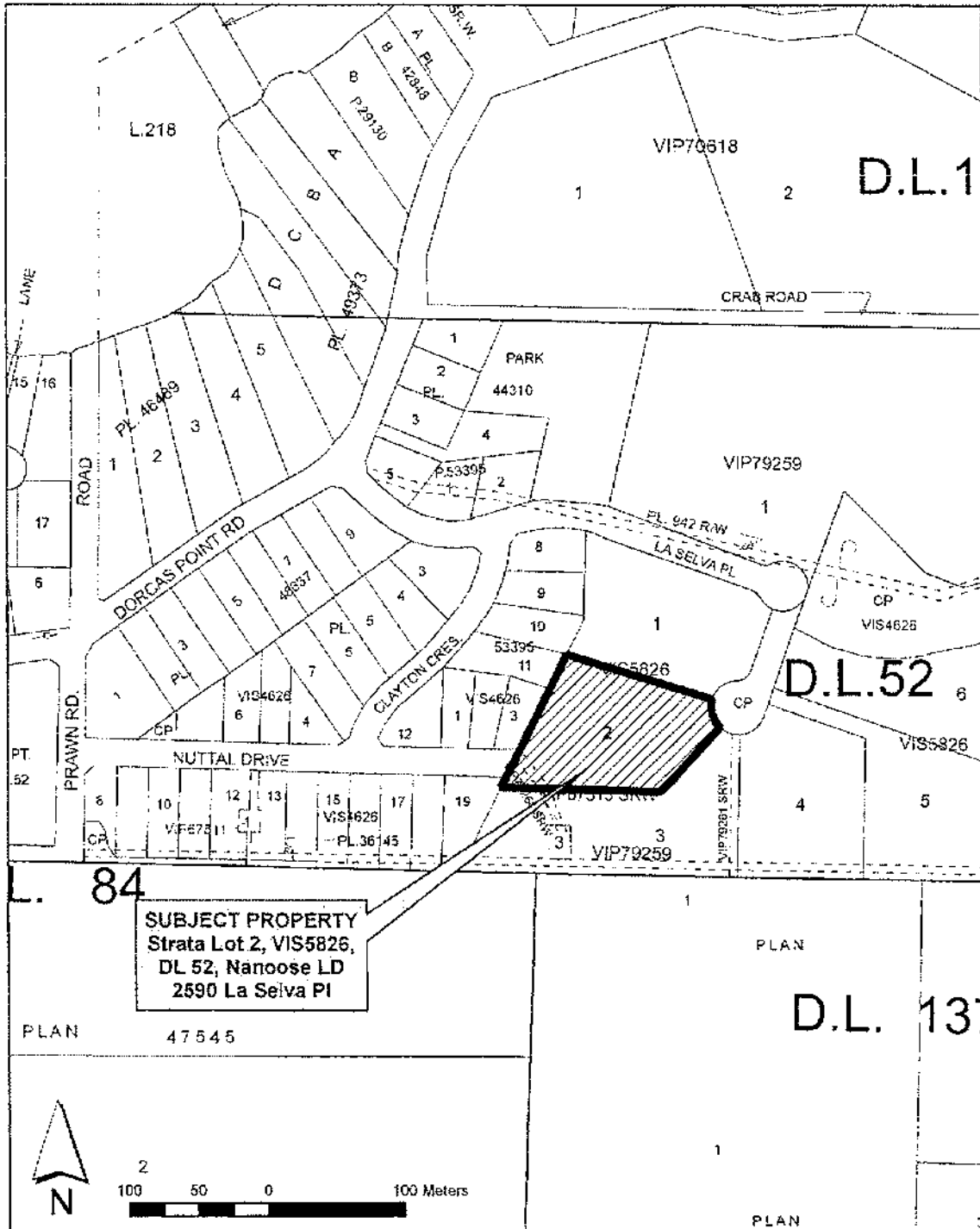
1. This Development Permit does not authorize vegetation removal within the Development Permit Area other than what is necessary for the construction of the proposed single-dwelling unit and accessory building. Any removal of vegetation that is not authorized by this permit shall require an additional Development Permit.
2. The planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the Development Permit Area is encouraged provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines 1992 published by Department of Fisheries and Oceans Canada and Ministry of Environment Land and Parks (MELP) and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP or any subsequent editions.
3. With the exception of the driveway and proposed building sites, vegetation must be planted within all disturbed parts of the development permit area. Preferred plantings are to be trees, shrubs, and ground cover native to the area.

**Schedule No. 2**  
**Site Plan (reduced for convenience)**  
**Development Permit No. 60605**  
**2590 La Selva Place**



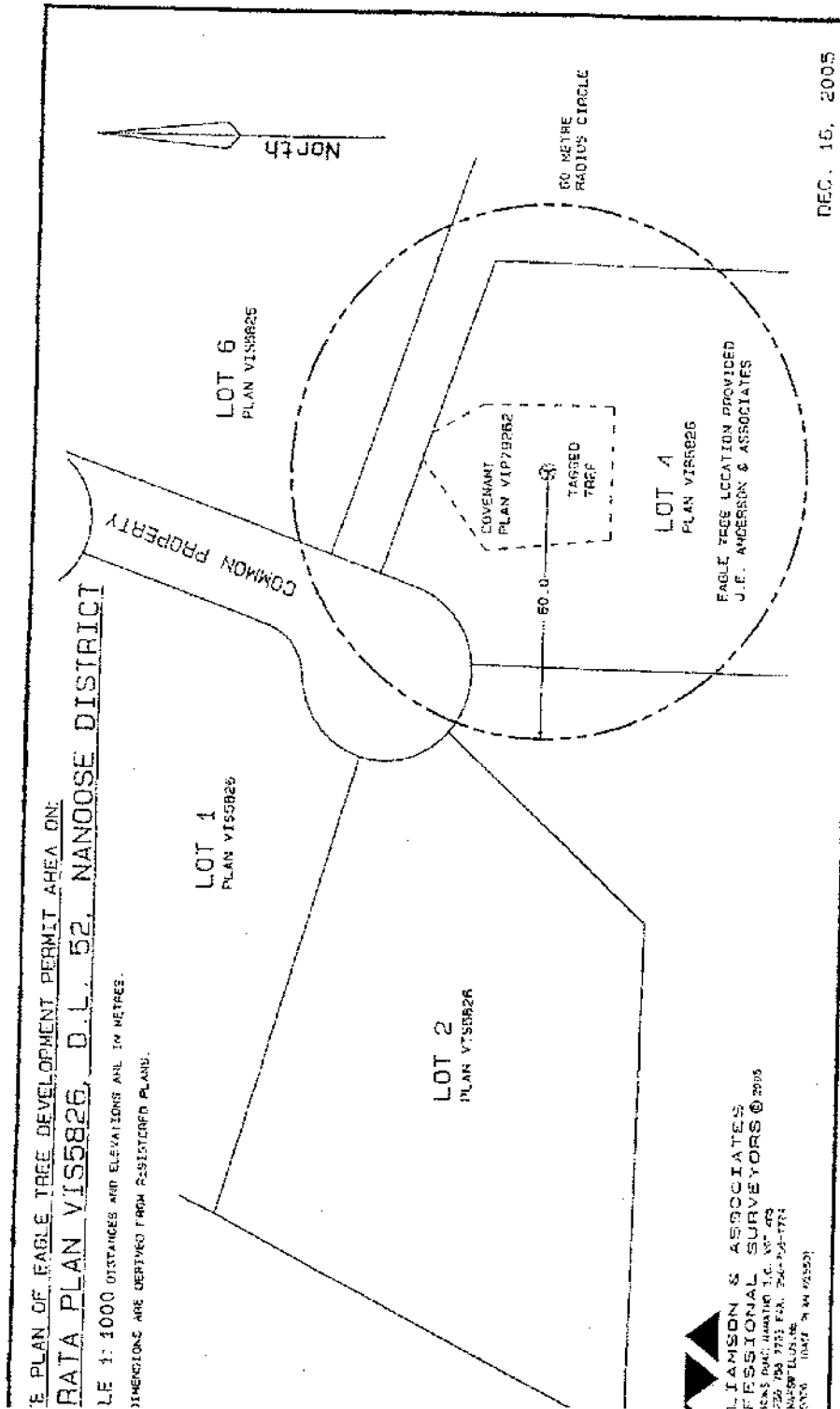
**NOTES:**  
 ○ IRON POST FOUND.  
 △ LAYOUT / MARKING POINT FOUND / SET.  
 BUILDER TO CONFIRM ELEVATION DIFFERENCE BETWEEN BENCH MARKS AND HORIZONTAL DISTANCES BETWEEN LAYOUT POINTS PRIOR TO CONSTRUCTION.

**Attachment No. 1**  
**Subject Property**  
**Development Permit No. 60605**  
**2590 La Selva Place**



Mapsheet: 92F.030.3.4

Attachment No. 2  
Location of Eagle Tree





REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO	(10)	GMES	
DA CCD		MoF	
JAN 3 1 2006			
EAP			

## MEMORANDUM

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

**DATE:** February 1, 2006

**FROM:** Susan Cormie  
Senior Planner

**FILE:** 3320 20 26243

**SUBJECT:** Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement  
Glencar Consultants Ltd., on behalf of T & M Gilchrist  
Electoral Area 'A' – Raines Road

### PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement in order to facilitate the creation of one parcel as part of a 2-lot subdivision proposal.

### BACKGROUND

This is a subdivision application involving the request for relaxation of the minimum 10% perimeter frontage requirement for one proposed parcel as part of a 2-lot subdivision proposal for the property legally described as Lot 1, Section 18, Range 7, Cranberry District, Plan 20029, Except Parts in Plans 28748 and 28749 and located adjacent to Raines Road within Electoral Area 'A' (*see Attachment No. 2 on page 6 for location of parent parcel*).

The subject property, which is 7.52 ha in size, is currently zoned Rural 4 (RU4) and is within Subdivision District 'D' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The applicants are proposing to subdivide the parent parcel into two parcels, both of which will be greater than the 2.0 ha minimum parcel size, therefore meeting the minimum parcel size requirement pursuant to Bylaw No. 500 (*see Attachment No. 1 on page 5 for proposed subdivision*).

Pursuant to the Electoral Area 'A' Official Community Plan Bylaw No. 1240, 2001, the parent parcel is designated within the Streams, Nest Trees and Nanaimo River Floodplain Development Permit Area, in this case, for protection of the property from the floodplain and for a wetland, a portion of which is located in the north east corner of the parent parcel.

In addition, a portion of the parent parcel is situated within the provincial Agricultural Land Reserve.

The parent parcel, which is bordered by Indian Reserves No. 3 and 4 to the north and east; Raines Road and the Nanaimo River to the south and west, as well as rural zoned parcels to the south, currently supports one dwelling unit. The parcels are proposed to be served by individual private septic disposal systems and community water service from North Cedar Improvement District.

***Minimum 10% Perimeter Frontage Requirement***

The proposed Remainder of Lot 1, as shown on the submitted plan of subdivision, does not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage is as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
Rem. 1	117.1 m	83.1 m	7.1 %

Therefore, as this proposed parcel does not meet the minimum 10% parcel frontage requirement pursuant to section 944 of the *Local Government Act*, approval of the Regional District Board of Directors is required.

**ALTERNATIVES**

1. To approve the request to relax the minimum 10% perimeter frontage requirement for the proposed Remainder of Lot 1.
2. To deny the request to relax the minimum 10% perimeter frontage requirement.

**DEVELOPMENT IMPLICATIONS**

***Development / Ministry of Transportation Implications***

Due to the historical subdivision pattern, the parent parcel is an irregular shaped lot which completely surrounds two previously created parcels, therefore limiting the lot configuration of the proposed parcels.

The Regional Approving Officer is not requiring a geotechnical evaluation of the parent parcel as he is satisfied there are adequate buildable site areas on both proposed parcels. In place of requiring a geotechnical review at the time of subdivision, the Approving Officer is requiring a covenant be placed on title of the proposed parcel restricting the placement of buildings until a geotechnical report has been completed which identifies the safe building areas within the proposed parcels. It is noted that the parent parcel is within a Building Inspection Area and building inspection staff has indicated they have no objection to this covenant.

With respect to the minimum 10% frontage requirement, the Ministry of Transportation staff has indicated that they have no objection to the request for relaxation of the minimum 10% frontage requirement.

***Development Permit / Environmentally Sensitive Area Implications***

The applicants' agent has indicated that all works associated with the subdivision will be outside the development permit area and the minimum parcel size can be met exclusive of the development permit area; therefore the subdivision application is exempt from requiring a development permit. Despite this, the applicants' agent has verbally indicated that the applicants are in concurrence to provide a section 219 covenant restricting the removal of vegetation or the placement of buildings or structures within 30.0 metres of the natural boundary of the wetland area. This covenant will assist in protecting a portion of the wetland and its riparian area. [Please note that the *Farm Protection (Right to Farm) Act* would still have precedence over any environmental covenants].



***Agricultural Land Reserve Implications***

The Provincial Agricultural Land Commission has approved the subdivision of the parent parcel. This approval, including the inclusion and exclusion of the ALR, will result in Proposed Lot 1 being located entirely within the ALR.

**VOTING**


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

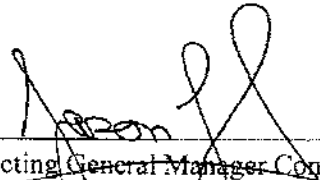
**SUMMARY**

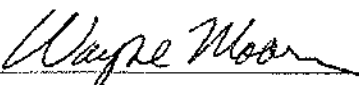
This is a request to relax the minimum 10% frontage requirement pursuant to section 944 of the *Local Government Act* in order to facilitate the creation of a new parcel as part of a 2-lot subdivision proposal. Due to the previous subdivision pattern resulting in an irregular shaped parent parcel due to existing parcels located in the middle of the parent parcel, it is not possible to achieve the full 10% perimeter frontage requirement for proposed Remainder of Lot 1. Given that the applicants’ agent has indicated the applicants are in concurrence to provide a section 219 covenant for protection of the wetland and its riparian area and the Ministry of Transportation is satisfied that access to each proposed parcel is achievable, staff recommends Alternative No. 1, to approve the relaxation of the minimum 10% frontage for proposed Remainder of Lot 1 subject to the conditions set out in Schedule No. 1 of the staff report.


**RECOMMENDATION**

That the request from Glencar Consultants, on behalf of the Gilchrists, to relax the minimum 10% frontage requirement for the proposed Remainder of Lot 1, as shown on the plan of subdivision of Lot 1, Section 18, Range 7, Cranberry District, Plan 20029 Except Parts in Plans 28748 and 28749 be approved subject to the conditions set out in Schedule No. 1.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Acting General Manager Concurrence

  
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Manager Concurrence

  
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CAO Concurrence

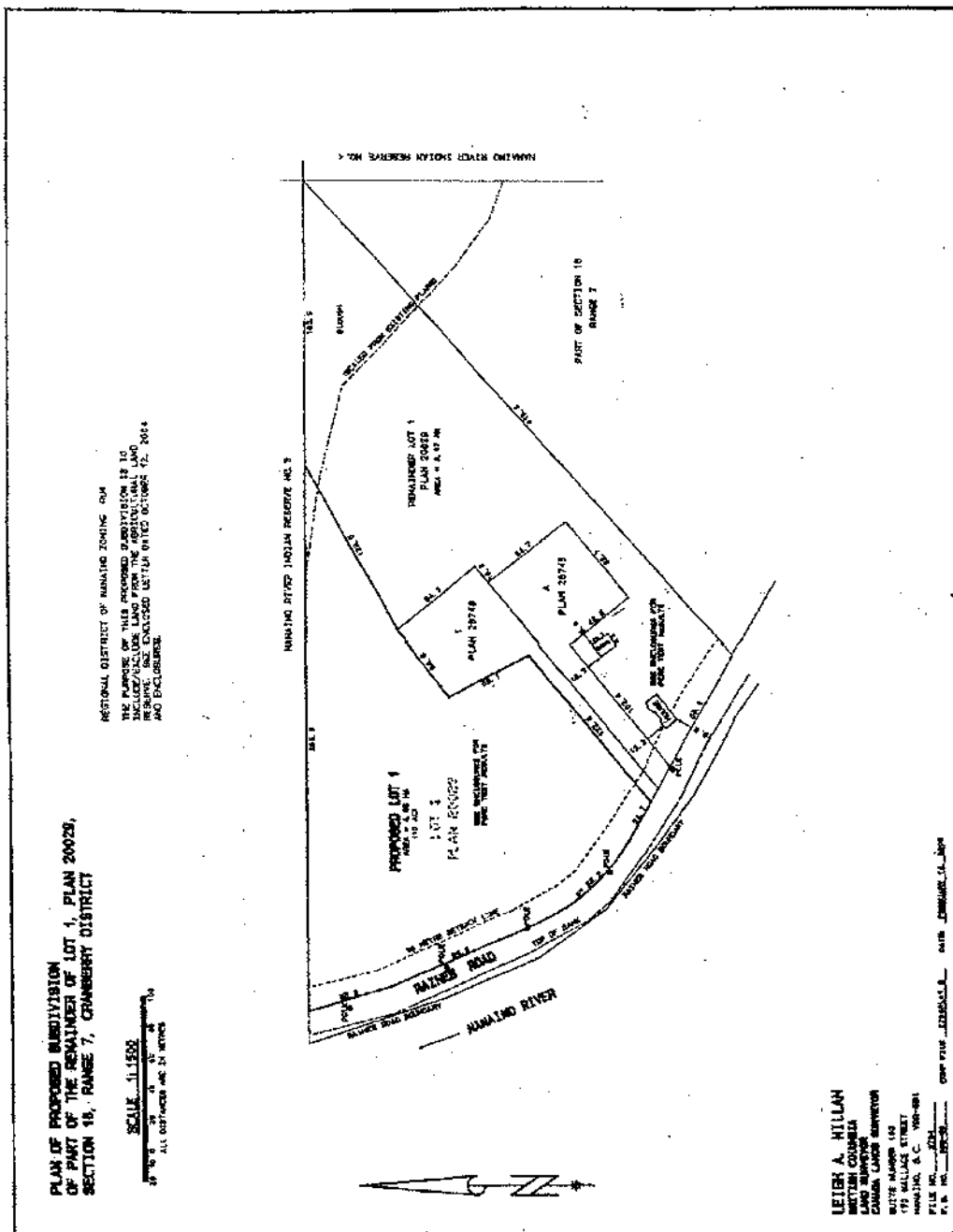
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**Schedule No. 1**

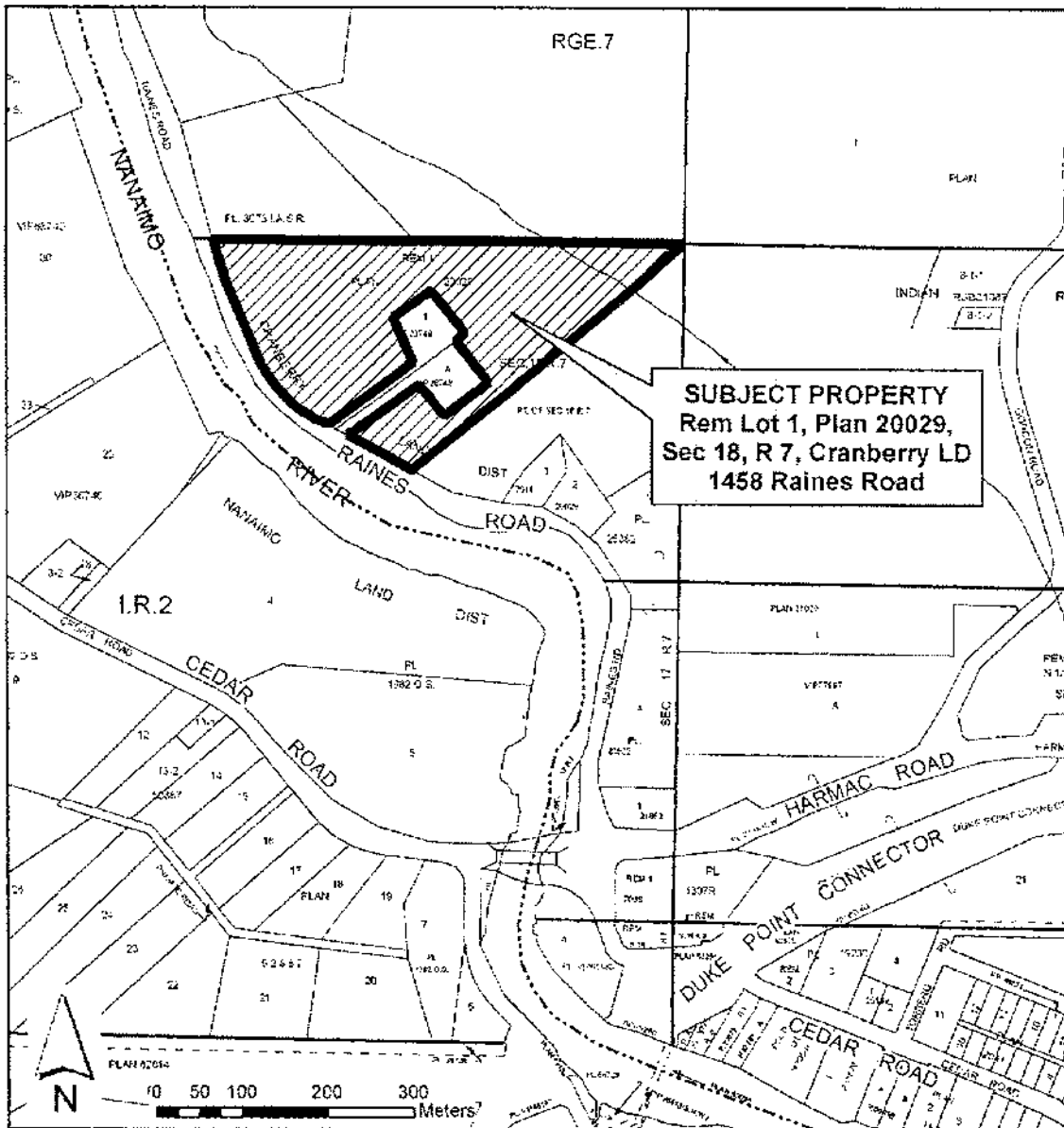
**Subdivision File No. 26243  
Conditions of Approval**

1. The applicants are to prepare and register concurrently with the proposed plan of subdivision and at their expense and to the satisfaction of the Regional District of Nanaimo, a section 219 covenant restricting the removal of vegetation or the placement of buildings or structures, including wells and septic fields within 30.0 metres of the natural boundary of the wetland.
2. The applicants' solicitor is to provide a legal letter undertaking to register the required covenant concurrently with the plan of subdivision at the Land Title Office.

**Attachment No. 1**  
**Proposed Plan of Subdivision**  
**Subdivision File No. 26414**  
**(As Submitted by Applicant)**



**Attachment No. 2**  
**Location of Subject Property**



BCGS Map Sheet No. 92G.011.2.1



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO	<i>DT</i>	GM ES	
DA CCD		MoF	
JAN 31 2006			
<i>EAPC</i>			

## MEMORANDUM

**TO:** Jason Llewellyn  
Manager of Community Planning

**DATE:** January 30, 2006

**FROM:** Paul Thompson  
Senior Planner

**FILE:** 0410-20-RAR

**SUBJECT:** Riparian Areas Regulation

### PURPOSE

To provide the Electoral Area Planning Committee with an update and outline a proposed course of action for implementing the *Riparian Areas Regulation*.

### BACKGROUND

A staff report on the Riparian Areas Regulation (RAR) was presented to the Board at its June 28, 2005 meeting. A significant amount of detail was provided in that report and will not be duplicated in whole in this report. The following is a brief summary of the RAR.

The RAR directs local governments to protect riparian areas during residential, commercial, and industrial development by requiring that proposed activities within a "riparian assessment area" is approved by local government approval and that an assessment conducted by a Qualified Environmental Professional (QEP) is completed prior to approval. The QEP is hired by the developer/land owner. The RAR does not apply to farming, mining, and forestry activities.

The riparian assessment area is defined as the area:

- within 30 metres of the high water mark of a stream;
- within 30 metres of the top of a ravine bank; or,
- within 10 metres of the top of a ravine bank where the ravine is more than 60 metres in width.

Development in a riparian assessment area is defined as:

- removal, alteration, disruption or destruction of vegetation;
- disturbance of soils;
- construction or erection of buildings or structures;
- creation of non-structural impervious or semi-impervious surfaces;
- flood protection works;
- construction of roads, trails, docks, wharves and bridges;
- provision and maintenance of sewer and water services;
- development of drainage systems;
- development associated with subdivision; or,
- development of utility corridors.

A stream includes any of the following that provides fish habitat:

- a watercourse, whether it usually contains water or not;
- a pond, lake, river, creek or brook;
- a ditch, spring or wetland that is connected by surface flow to a watercourse, pond, lake, river, creek or brook.

Based on the RAR assessment methods, the QEP is to determine the appropriate streamside protection and enhancement area (SPEA) and the measures required to maintain the features, functions and conditions of the riparian area. Using the RAR assessment methods, the QEP will determine the width of the SPEA based on fish presence, streamside vegetation and nature of stream flows (all year or seasonal). Depending on the stream characteristics, the SPEA will vary in width between 5 metres and 30 metres. In practical terms, the SPEA is the area where no development will occur.

The province believes the RAR assessment methods provide clear direction to QEPs on how to assess impacts, how to determine setbacks based on site conditions, and what measures need to be employed to maintain the integrity of the riparian areas and habitat. The intent of the assessment methodology is to ensure consistent assessment results regardless of which QEP was conducting the assessment.

QEPs will have to certify they have the qualifications, experience and skills necessary to conduct the assessment. The assessment report prepared by the QEP is to be submitted to the provincial Ministry of Environment. Prior to approving development or issuing a permit, the RDN must receive notice from the province that the QEP's assessment has been received. Please see Appendix 1 for an outline of the process that an applicant is to follow in seeking approval under the RAR.

## **ALTERNATIVES**

1. To receive this report as information.
2. To receive this report as information and provide specific direction to staff with respect to implementing the RAR.

## **IMPLEMENTATION IMPLICATIONS**

The date by which local governments must adhere to the requirements of the RAR has been extended to March 31, 2006. This requirement has two main implications for the RDN. The first is that the RDN is to have completed a review and, if necessary, amend its bylaws to meet the requirements of the RAR. The second implication is that the RDN is not to issue a permit or approve a development within a riparian assessment area without first receiving notice from the Ministry of Environment (MOE) and/or Fisheries and Oceans Canada.

With respect to the bylaw review and possible amendments, the RDN is going to need to amend some bylaws to meet the requirements of the RAR. These amendments are not likely to be completed before March 31, 2006 as the legal requirements for a bylaw amendment, in particular the amendment of an OCP, cannot be completed in such a short time span. Even without having completed the bylaw amendments, a report from a QEP and notice from the MOE will still be required before the RDN can approve any development proposal within a riparian assessment area (30 m from a stream or top of ravine bank) after March 31<sup>st</sup>, 2006. Developments that have been approved but not yet built will be exempt from this requirement.

There are different approaches and different tools available to the RDN for implementing the RAR. The approach taken generally depends on the amount of stream related information and mapping that is

available. While the RDN does have a significant amount of stream related information, not all streams that will be subject to the RAR have been identified and mapped. As this information is not currently available for all streams, the RDN is not able to establish/designate specific SPEAs for all streams and a more general approach is required.

With the amount of information available and the tools available in the *Local Government Act*, the RDN could take one of two approaches to implementing the RAR. The first option is for the RDN to adopt the riparian assessment area only. This will require the RDN to establish an area around its streams that is 30 metres from the top of bank on all streams and ravines less than 60 m in width or 10 m from the top of the ravine bank for ravines greater than 60 m in width. For each development proposal within the riparian assessment area a QEP will determine the SPEA and complete an assessment report.

The second option is for the RDN to establish riparian assessment areas as well as indicate how SPEAs are to be defined in these areas by using the SPEA widths as defined in the RAR's simple assessment method. As noted above, the SPEA width will vary from 5 m to 30 m depending on stream characteristics. Proposed development within the riparian assessment area would require a QEP to determine the SPEA. With this option, if the proposed development occurs outside the applicable SPEA width then further assessment is not necessary and the development can proceed through the regular approval processes. This option would allow the RDN to not impose additional approval requirements if the proposed development is outside the SPEA.

The tools available to implement both these approaches include: a policy (or policies) in an OCP; a development permit area (DPA) in an OCP; a zoning bylaw setback provision; or a combination of all three. Based on initial analysis by planning staff the more practical approach appears to be the use of a policy and development permit areas in the OCPs. This was the approach taken in Electoral Area 'E' as the recently adopted Nanoose Bay OCP includes policies and a DPA that meets the requirements of the RAR. Staff believe the DPA's could be drafted so that a proposed development outside of a SPEA will exempt a developer / land owner from a development permit. Proposals for development outside of the SPEA and not within 15 metres from top of bank would not require a development permit.

If this approach is taken and the DP is the tool that is used then the RDN will need to amend its OCP's to implement the RAR regulations. Even though the Nanoose Bay OCP satisfies the requirements of the RAR in most aspects, based on the most recent information provided by the province and UBCM, some changes appear to be warranted. This means that eight OCPs would need to be amended to meet the RAR requirements. Please see Appendix 2 for a list of the existing watercourse protection DPAs.

A staff report providing details of the needed bylaw amendments is tentatively scheduled to be on the agenda of the March 14, 2006 meeting of the Electoral Area Planning Committee.

### **Public Awareness**

As noted in the previous staff report, the public and development community are relatively unaware of the RAR and the potential impact on development and development approvals. Presently, Planning staff are informing people making inquiries regarding development in the vicinity of a watercourse that they may be required, as of March 31<sup>st</sup> to hire a Qualified Environmental Professional(s) to prepare an assessment report in accordance with the RAR. Developers and Landowners are also being advised that the RDN's bylaws will likely be changing and that new requirements with respect to applications will be coming into effect this spring.

A program to inform the public about the RAR is needed. This program could include brochures, a web site, making presentations to different community groups and associations, and possibly public meetings.

Further details on raising public awareness about the RAR will be part of the report coming to the EAPC in March.

## SUMMARY

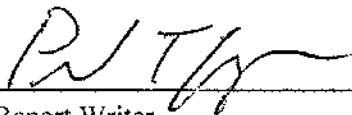
The Riparian Areas Regulation (RAR) pursuant to the *Fish Protection Act* (FPA) is scheduled to come into effect on March 31, 2006. The RAR requires local governments to protect riparian areas during residential, commercial, and industrial development by requiring that proposed activities are subject to an assessment conducted by a Qualified Environmental Professional (QEP) prior to approvals under Part 26 of the *Local government Act*. The QEP, hired by the developers, are to assess riparian areas and habitat, assess the potential impacts of development on the riparian areas and habitat, and develop mitigation measures to avoid impacts of development to fish and fish habitat based on the assessment methods contained in the RAR.

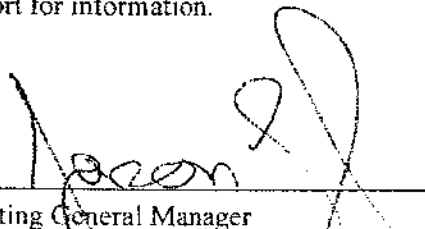
As part of the RAR requirements for local government, the RDN is to review and, if necessary, amend its bylaws to meet the requirements of the RAR. The RDN is not to issue a permit or approve a development within a riparian assessment area without first receiving notice from the Ministry of Environment (MOE) and/or Fisheries and Oceans Canada.

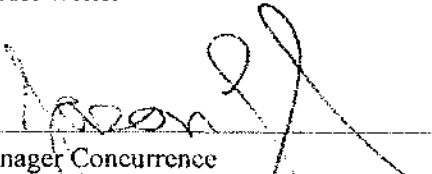
It is staff's opinion that development permits are the most efficient and effective tool to implement the RAR. Therefore, the development permit area guidelines contained in the Electoral Area OCPs need to be amended to implement the requirements of the RAR. Staff hopes to provide a report for the March 14<sup>th</sup> Electoral Area Planning Committee outlining the required changes to the existing OCPs. That report will include the draft bylaws required to amend the OCPs.

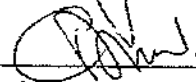
## RECOMMENDATIONS

That the Electoral Area Planning Committee receive this report for information.

  
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Report Writer

  
\_\_\_\_\_  
Acting General Manager

  
\_\_\_\_\_  
Manager Concurrence

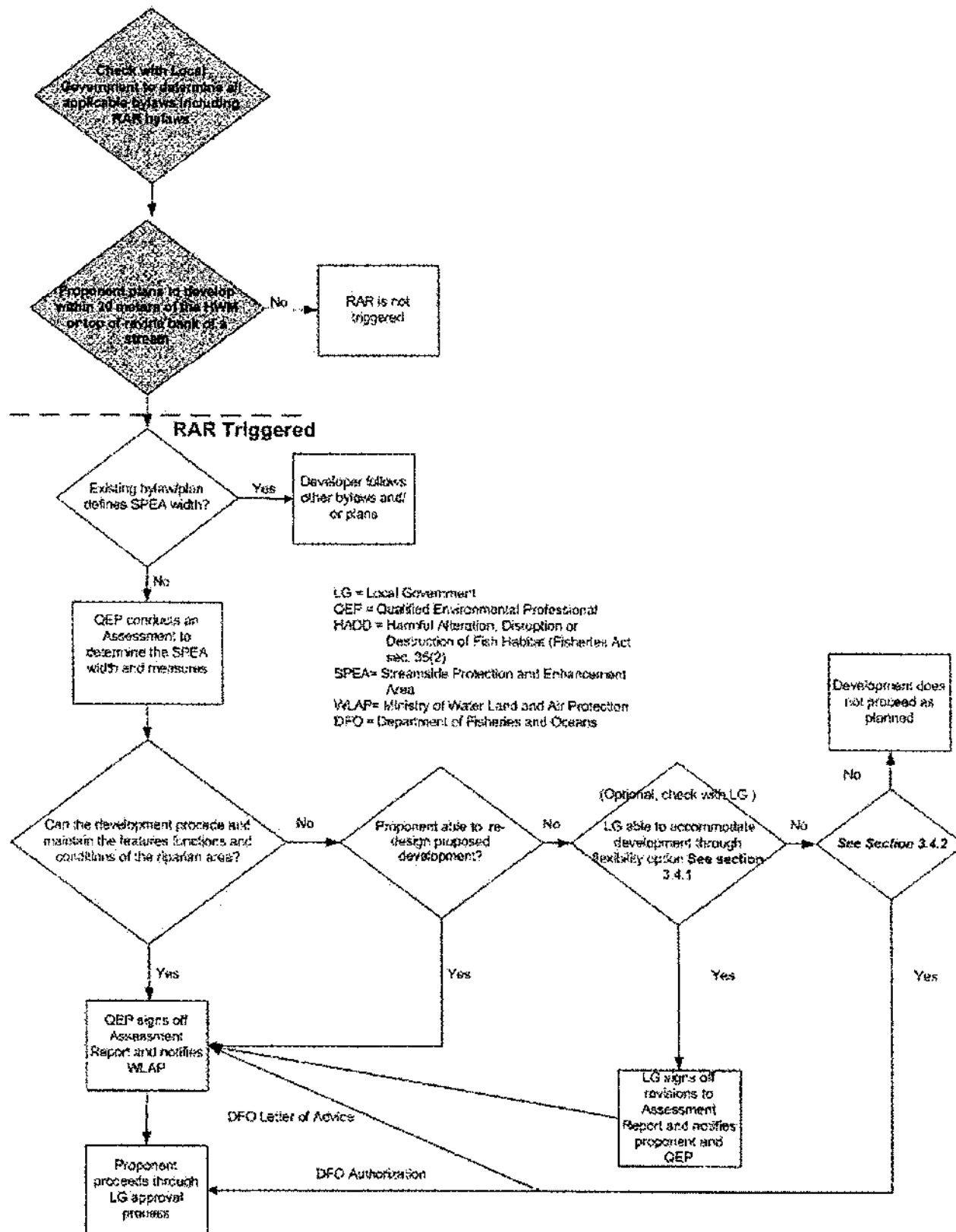
  
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CAO Concurrence

## COMMENTS

0410-20-RAR fe



APPENDIX 1 Process For Seeking Approval Under The Riparian Areas Regulation



## Appendix 2 Existing Development Permit Areas

### Electoral Area A – DPA NO. 5

- Nanaimo River and Haslam Creek = 30 metres
- All other watercourses = 15 metres

### Electoral Area C – Watercourse Protection DPA

- Nanaimo River, Englishman River, and Haslam Creek = 30 metres
- All other watercourses = 15 metres

### Electoral Area E – Watercourse Protection DPA

- All Watercourses = 30 metres

### Electoral Area F – Watercourse Protection DPA

- Little Qualicum River, lower French Creek and the Englishman River = 30 metres
- All other Watercourses = 15 metres

### Electoral Area G – French Creek OCP Watercourse Protection DPA

- French Creek = 30 metres
- All other watercourses = 15 metres

### Electoral Area G – Shaw Hill Deep Bay OCP Environmentally Sensitive DPA

- All watercourses = 15 metres

### Electoral Area G - Englishman River OCP

- no watercourse protection DPA

### Electoral Area H – Environmentally Sensitive features DPA

- Big Qualicum River, Thames Creek and Nile Creek = 30 metres
- All other watercourses = 15 metres



REGIONAL DISTRICT OF NANAIMO			
CHAIR		GM Cms	
CAO	CU	GM ES	
DA CCD		MoF	
JAN 3 1 2006			
EAP			
		DATE:	

**MEMORANDUM**

**TO:** Bob Lapham  
Deputy Administrator

**DATE:** January 26, 2006

**FROM:** Jason Llewellyn  
Manager, Community Planning

**FILE:** 3360-30-0506

**SUBJECT:** Proposed New Regional District of Nanaimo Floodplain Management Bylaw

**PURPOSE**

To consider repealing existing "Floodplain Management Bylaw No. 843, 1991" and adopting in its place the new "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006".

**BACKGROUND**

Section 910 of the *Local Government Act* permits local governments to designate land as a floodplain. Once an area is identified as a floodplain by a local government bylaw certain construction restrictions contained in Section 910 of the *Local Government Act* regarding construction elevations apply to that area. The local government may also include in its bylaw additional setback restrictions within a designated flood plain area.

Historically, bylaws implemented under Section 910 of the *Local Government Act* were adopted by local governments in cooperation with the Ministry of Environment. This Ministry would act as a resource to local governments providing floodplain mapping and professional expertise on flooding, hazard lands, and associated development issues. As part of this role the Ministry would evaluate and approve site specific applications to exempt land from Section 910 bylaws. As has been the general trend in the past few years, the Province has reduced their level of service and created an increased level of responsibility for local government. The provincial role is now limited primarily to providing written guidelines for local government to use in the evaluation of flooding hazards.

The *Flood Hazard Statutes Amendment Act, 2003* came into force on October 23, 2003. This *Act* amended Section 910 of the *Local Government Act* by removing the ability of the Minister of Water, Land and Air Protection to grant site specific exemptions to floodplain bylaws, to allow construction below specified elevations or within setbacks. At that time local governments were not given the authority to grant these exemptions; therefore, it was impossible for property owners to obtain exemptions from the floodplain setbacks and flood level elevation requirements contained in flood plain bylaws, even where such exemptions were reasonable.

The *Miscellaneous Statutes Amendment Act (No. 2), 2004* amended Section 910 of the *Local Government Act* by giving local governments the ability to grant site specific exemptions to a floodplain bylaw. Therefore, property owners may request that the Board consider approving site specific exemptions to "Floodplain Management Bylaw No. 843, 1991" to allow development below the designated flood construction level or within the setback requirement.

The Regional District of Nanaimo's (RDN) ability to exempt a property from the Floodplain Management Bylaw is subject to certain restrictions that are set out in Subsection 910(6) of the *Local Government Act*. The local government must conclude that the exemption is advisable and the exemption must be either

consistent with provincial guidelines or the local government must have a report from a professional indicating that the land may be used safely for the use intended. The "provincial guidelines" are contained in the document entitled "Flood Hazard Area Land Use Management Guidelines" May 2004, produced by the Ministry of Water, Land and Air Protection.

Staff proposes a new Floodplain Management Bylaw for Board consideration for the following reasons:

- it is an opportunity to incorporate updated wording, definitions and general exemptions;
- references to previous legislation such as the non-existent authority of the Province to provide site specific exemptions should be removed from the bylaw; and,
- procedures outlining the Board's ability to consider exclusion applications should be added to the bylaw.

It is noted that the proposed new bylaw contains regulations very similar to the existing bylaw. Public consultation is not required pursuant to the *Local Government Act* prior to the adoption of this Bylaw.

#### **ALTERNATIVES**

1. To approve Floodplain Management Bylaw No. 1469, 2006 as set out in Schedule No. 1.
2. To deny Floodplain Management Bylaw No. 1469, 2006 and provide further direction to staff.

#### **IMPLICATIONS**

##### *Workload Implications*

It is expected that the Province's transfer of responsibility for dealing with exclusions to floodplain bylaws will result in a handful of applications each year. It is noted that a good proportion of applications to vary the floodplain regulation will also involve a development variance permit or a development permit application to amend zoning bylaw setback requirements. Where a situation involves both types of applications staff shall process them concurrently, in the same report. Where a floodplain bylaw exclusion application is processed by itself staff shall prepare a report for the EAPC and Board's consideration which provides a staff recommendation.

Unfortunately, when the Province downloaded responsibility for dealing with exemptions to floodplain bylaws the *Local Government Act* was not amended to allow local governments to charge a fee for this service. Therefore, there is no application fee for site specific amendments to the Floodplain Bylaw.

##### *Safety and Liability Implications*

Development within designated floodplains may be reasonable in cases where the flooding risk is identified as minimal by a geotechnical engineer and there are no alternative building sites. However, the granting of exemptions is not entirely risk free and caution is certainly recommended when considering an application to allow development within an area that may be subject to flooding. Nevertheless, the liability is considered to be minimal, and acceptable, if the requirements are followed to approve only applications that are consistent with provincial guidelines and / or certified to be safe by a qualified professional.

It is noted that local governments are cautioned against reviewing the technical merits of a professional's recommendations. Such a review serves to create a legal responsibility for the RDN to ensure that the report is accurate. To ensure that the appropriate information is considered the proposed bylaw includes, as Schedule D, a list of information to be provided by a professional engineer. It is also noted that the

Board has full discretion to deny any site specific exemption regardless of the favourable recommendation of an engineer.

A key aspect to reducing liability is requiring the owners of property to register a Section 219 covenant on title of a property being exempted. The covenant should provide a waiver of claims and indemnification against third party claims associated with the use of the land and they should also contain any conditions imposed by the Board under which the exemption was issued, i.e., the report from a qualified professional and any special conditions under which the land must be developed.

These covenants are important to protect the interest of the RDN; however, they are also important to notify potential future owners that the land is within a floodplain area and that there are conditions affecting the development and use of the land.

## VOTING

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

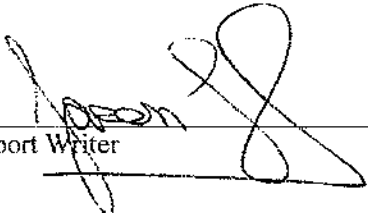
## SUMMARY

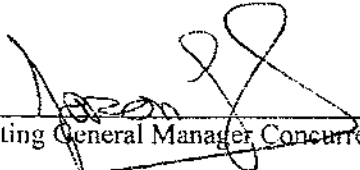
In 2003 the *Flood Hazard Statutes Amendment Act* amended Section 910 of the *Local Government Act* by removing the ability of the province to grant site specific exemptions to flood plain bylaws. This authority to approve exemptions was then provided to local governments in the *Local Government Act* in 2004.


As a result of this legislative change staff has drafted a new Floodplain Management Bylaw for Board consideration. The proposed bylaw reflects the new legislation and the Board's role to consider site specific exemptions. It is recommended that the Board approve the new Bylaw.

## RECOMMENDATIONS

1. That "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006" be introduced and read 3 times.
2. That "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006" be adopted.

  
\_\_\_\_\_  
Report Writer

  
\_\_\_\_\_  
Acting General Manager Concurrence

  
\_\_\_\_\_  
CAO Concurrence

COMMENTS:  
devsrv\reports\3360-30-0506 se floodplan mgmt bylaw

**DRAFT REGIONAL DISTRICT OF NANAIMO  
FLOODPLAIN MANAGEMENT BYLAW NO. 1469**

**A BYLAW TO ESTABLISH FLOODPLAINS, CONSTRUCTION LEVELS IN  
FLOODPLAINS, AND SETBACKS FOR LANDFILL AND STRUCTURES IN  
FLOODPLAINS**

WHEREAS the Regional District of Nanaimo wishes to reduce the risk of injury, loss of life, and property damage due to flooding and erosion;

AND WHEREAS Section 910 of the *Local Government Act* allows a local government to designate land as a floodplain; specify the flood level for that floodplain; and specify setbacks for landfill or structural supports within the floodplain;

AND WHEREAS the Regional District of Nanaimo has considered the Provincial Guidelines;

NOW THEREFORE, the Board of the Regional District of Nanaimo, in open meeting assembled, enacts the following:

**Short Title**

1. This bylaw may be cited for all purposes as the "Regional District of Nanaimo Floodplain Management Bylaw No. 1469, 2006."

**Application**

2. This Bylaw applies only to those areas of the Regional District to which a bylaw adopted under Section 694 of the *Local Government Act* apply.

**Repeal**

- 3 "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991" is hereby repealed.

**Interpretation**

4. For the purpose of this bylaw:

**Designated Flood** means a flood, which may occur in any given year, of such magnitude as to equal a flood having a 200 year recurrence interval, based on a frequency analysis of unregulated historic flood records or by regional analysis where there is inadequate streamflow data available.

**Designated Flood Level** means the observed or calculated elevation for the Designated Flood and is used in the calculation of the Flood Construction Level.

**Flood Construction Level** means the Designated Flood Level plus the allowance for Freeboard and is used to establish the elevation of the underside of a wooden floor system or top of a concrete slab for any Habitable Area. In the case of a Manufactured Home the Designated Flood Level is the Flood Construction Level for the top of the Pad.

**Freeboard** means a vertical distance added to the Designated Flood Level and is used to establish the Flood Construction Level.

**Habitable Area** means any room or space within a building or structure, which can be used for human occupancy, commercial sales, or storage of goods, possessions, or equipment (including furnaces) that would be subject to damage if flooded.

**Manager** means the Manager of Inspection/Enforcement or the Manager of Community Planning and his / her deputies as employed by the Regional District of Nanaimo.

**Manufactured Home** means a structure manufactured as a unit, intended to be occupied in a place other than at its manufacture, and designed as a dwelling unit, and includes modular homes and mobile homes and specifically excludes recreation vehicles.

**Natural Boundary** means the visible high water mark of any lake, river, stream, the sea or other body of water where the presence and action of the water are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river, stream, the sea or other body of water a character distinct from that of the banks thereof, in respect of vegetation, as well as in respect to the nature of the soil itself. In addition, the Natural Boundary includes the best estimate of the edge of dormant or old side channels and marsh areas.

**Pad** means a surface on which blocks, posts, runners or strip footings are placed for the purpose of supporting a Manufactured Home, or other Habitable Area.

**Professional Engineer** means a person who is registered or licensed under the provisions of the Engineers and Geoscientists Act.

**Regional District** means the Regional District of Nanaimo.

**Setback** means the required minimum distance, measured horizontally, that a structural support or landfill, required to elevate a floor system or Pad above the Designated Flood Level, must be separated from the Natural Boundary to maintain a floodway and to allow for potential erosion.

**Watercourse** means any natural or man-made depression with well-defined banks and a bed 0.6 metres or more below the surrounding land serving to give direction to, or acting as a retention area for, a current of water that flows at least six months of the year or drains an area of 2 square kilometers or more upstream of the point of consideration.

### **Severability**

5. If any Section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid, shall not affect the validity of the remaining portions of the Bylaw.

### **Enforcement**

6. Every person who violates any provision of this Bylaw; causes or permits an act or thing to be done in violation to any provision of this Bylaw; neglects or omits to do anything required by this Bylaw; or fails to comply with an order, direction or notice made or delivered under

this Bylaw commits an offence and is liable, upon conviction, to the penalties prescribed under this Bylaw and the *Offence Act*.

7. The Manager may enter, at all reasonable times, upon any premises to ascertain and evaluate compliance with this Bylaw. In the case of an occupied dwelling unit the Manager shall require consent to enter that dwelling except where such consent is refused, notice of intent to inspect shall be given to the owner or occupier no less than 24 hours prior to the time of inspection.
8. Any person who violates any provision of this bylaw shall, upon summary conviction, be liable to a penalty of up to \$5,000.00 per offence.
9. Each day that an offence occurs constitutes a separate offence.

#### **No Representations**

10. By the enactment, administration or enforcement of this Bylaw, or the granting of a site specific exemption, the Regional District does not represent to any person that any building or structure, including a Manufactured Home, located, constructed, or used in accordance with the regulations of this Bylaw or in accordance with any advice, information, direction or guidance provided by the Regional district in the course of administration of this Bylaw will not be damaged by flooding.

#### **General Prohibitions**

11. No person shall construct, build, erect, or place, or allow to be built, erected, or placed any building or structure contrary to the provisions of this bylaw or Section 910 (4) of the *Local Government Act*.

#### **Floodplain Designations**

12. The following lands are designated as flood plain.
  - a. Land identified as floodplain on the Nanaimo River Floodplain maps (drawings No. 84-29-1, 84-29-2, and 84-29-3, dated May 1984) attached to and forming part of this Bylaw as Schedule A.
  - b. Land identified as floodplain on the Little Qualicum River Floodplain map (Map No. 92F, dated September 30, 1997) attached to and forming part of this Bylaw as Schedule B.
  - c. Land identified as floodplain on the Englishman River Floodplain maps (drawings No. 85-23-1, 85-23-2, 85-23-3, 85-23-4, 85-23-4, 85-23-5, 85-23-6, 85-23-7, dated April 1980) attached to and forming part of this Bylaw as Schedule C.
  - d. Land within the floodplain Setbacks specified in Section 13 of this Bylaw.
  - e. Land lower than the Flood Construction Levels specified in Section 14 of this bylaw.



**Setback Requirements** – The following setback requirements are derived from Provincial Legislation and Guidelines. Additional setbacks from watercourses may be required by Regulations under the *Fish Protection Act* or other Provincial Legislation.

13. Unless specified elsewhere in this Bylaw, and subject to Section 910 (4) of the *Local Government Act*, no landfill or portion of a landfill slope, or structural support required to support a floor system or Pad above the Designated Flood Level, shall be constructed, reconstructed, moved, extended or located:
- a. within thirty (30) metres from the Natural Boundary of the Englishman River, Little Qualicum River, Millstone River, Nanaimo River or French Creek;
  - b. within fifteen (15) metres from the Natural Boundary of any other Watercourse including a lake, marsh, or pond;
  - c. within fifteen (15) metres from the Natural Boundary of the sea, with the exception outlined in Section 13. d and e;
  - d. within eight (8) metres from the Natural Boundary of the sea where the sea frontage is protected from erosion by a natural bedrock formation or works designed by a professional engineer and maintained by the owner of the land;
  - e. within eight (8) metres from any dyke right-of-way, or structure for flood protection or seepage control; or,
  - f. where a building site is at the top of a bank that is 30 degrees or more from horizontal and where the toe of the bank is subject to erosion and is closer than 15 metres from a Natural Boundary, the Setback shall be a horizontal distance from the top of bank equal to 3 times the height of the bank as measured from the toe of the bank.

#### **Flood Construction Level**

14. Subject to Section 910 (4) of the *Local Government Act*, no building, structure (including a Manufactured Home), or any part thereof, shall be constructed, reconstructed, moved, extended, or located, where the underside of any wooden floor system or top of a slab or Pad of any Habitable Area is located below:
- a. the Flood Construction Level for a specific parcel, as determined by interpolation from these flood construction levels shown for land identified as floodplain on:
    - i. The Nanaimo River Floodplain maps (drawings No. 84-29-1, 84-29-2, and 84-29-3, dated May 1984) attached to and forming part of this Bylaw as Schedule A;
    - ii. The Little Qualicum River Floodplain map (Map No. 92F, dated September 30, 1997) attached to and forming part of this Bylaw as Schedule B; and,
    - iii. The Englishman River Floodplain maps (drawings No. 85-23-1, 85-23-2, 85-23-3, 85-23-4, 85-23-4, 85-23-5, 85-23-6, 85-23-7, dated April 1980) attached to and forming part of this Bylaw as Schedule C;

- b. three (3) metres above the Natural Boundary of the Englishman River, Little Qualicum River, Milestone River, Nanaimo River, and French Creek, where that land is within a distance of 200 metres of that Watercourse; and,
  - c. one and one half (1.5) metres above the Natural Boundary of any other Watercourse, including the sea, a lake, a marsh or a swamp where that land is within a distance of 100 metres of that Watercourse.
15. Subject to Section 13 of this Bylaw the required elevation may be achieved by structural elevation of the said Habitable Area, and/or by the placement of compacted landfill on which any building or structure is to be located. Any structural support or compacted landfill shall be protected from scour and erosion, and an engineer must certify the suitability of the landfill or structure for the intended use.

#### **General Flood Construction Level Exemptions**

16. Section 910(4)(a) of the *Local Government Act* and Section 14 of this Bylaw do not apply to:
- a. a renovation of an existing building or structure that does not involve an addition thereto;
  - b. an addition to a building or structure, at the original non-conforming floor elevation, that would increase the size of the building or structure by less than 25 % of the floor area that was existing on February 11, 1992;
  - c. a building or that portion of a building to be used as a garage, carport, or storage building not used for the storage of goods damageable by flood waters, toxic materials, or materials that may contaminate the environment;
  - d. on-loading and off-loading facilities associated with water oriented industry and portable sawmills provided the main electrical switchgear is placed above the Flood Construction Level;
  - e. that portion of a building used as crawl space (not exceeding 1.5 metres in height);
  - f. recreation shelters, stands, campsite washrooms and washhouses, and other outdoor recreation facilities not susceptible to flood damage;
  - g. farm buildings other than dwelling units and closed sided livestock housing;
  - h. closed sided livestock housing provided that the underside of the floor system or the top of a slab or Pad of any Habitable Area is located no lower than 1.0 metre above the natural ground elevation taken at any point on the perimeter of the building, or no lower than the Flood Construction Levels specified in this Bylaw, whichever is the lesser; or
  - i. farm dwelling units on parcel sizes 8 hectares or greater, located within the Agricultural Land Reserve, provided that the underside of the floor system or the top of a slab or Pad of any Habitable Area is located no lower than 1.0 metre above the natural ground elevation taken at any point on the perimeter of the building, or no lower than the Flood Construction Levels specified in this Bylaw, whichever is the lesser, provided that the owner enters into a restrictive covenant under Section 219 of the *Local government Act* absolving the Regional District of any liability with respect to the flooding of the property or flood damage to the land, structures, and content thereof.

**Site Specific Exemption Applications**

17. Pursuant to Section 910 (5) of the *Local Government Act* a person may make application to the Board to exempt a specific parcel of land or a use, building or other structure on that parcel of land, from Section 910(4) of the *Local Government Act* and this bylaw provided that a complete application is made to the Manager on the application form prescribed by the Manager.
  
18. The Board of the Regional District of Nanaimo shall not exempt a person from the application of Section 910 (4) of the *Local Government Act* or this Bylaw, in relation to a specific parcel of land or a use, building or other structure on the parcel of land unless:
  - a. the Board considers the proposed exemption advisable;
  
  - b. a Professional engineer or geoscientist with experience in geotechnical engineering certifies that the property can be safely used for the intended use and, if applicable, that protection from a 1 in 200 year flood can be achieved;
  
  - c. the professional engineer or geoscientist providing the certification required under Section 18.b. of this Bylaw, provides the Quality Assurance Statement and information identified in Schedule D; and
  
  - d. the owner enters into a restrictive covenant under Section 219 of the *Local government Act* absolving the Regional District of any liability with respect to the flooding of the property or flood damage to the land, structures, and content thereof.

Introduced and read three times this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Deputy Administrator

**Schedule "D"**

**Information Required with a Site Specific Exemption Application**

**1. Quality Assurance Statement**

I hereby certify:

*I am a professional engineer or professional geoscientist, with experience in geotechnical engineering, geohazard assessment and river hydrology;*

*I am licensed in the Province of British Columbia; and,*

*I am qualified to carry out the following flood hazard assessment and I have performed an evaluation of the area of the proposed development in accordance with the "Flood Hazard Area Land Use Management Guidelines of the Province of British Columbia."*

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

**2. General Requirements**

- (1) *Legal Description of the property.*
- (2) *General Location map of the property.*
- (3) *Detailed map of the property showing property boundaries, safe areas for development, watercourses, topography and physical features.*
- (4) *Statement of conformance to the "Floodplain Management Bylaw No. 1496", and Provincial Guidelines.*
- (5) *Review of all relevant restrictive covenants registered on title (copies of covenants, if relevant, should be attached to the report.)*
- (6) *Review of all relevant previous reports and flood hazard maps affecting the site and surrounding area.*
- (7) *Review of current and historical air photos.*
- (8) *Description of site visits and observations.*
- (9) *Review of historical flood information including stream flow data, climate data and local observations.*
- (10) *Assessment of the nature extent, magnitude, frequency and potential effect of all flood or debris flow hazards that may affect the property.*
- (11) *Description of the scientific methodology(s) and assumptions used to undertake the assessment in sufficient detail to facilitate a professional review.*

- (12) *The location of all proposed building sites and specified setback distances from the natural boundary of watercourses. (Maps must be delineated with sufficient accuracy and detail to allow the preparation of a legal reference plan for attachment to a restrictive covenant).*
- (13) *Recommendations to ensure safe use of a site. (These should be clearly stated with sufficient detail and clarity to be included in a Land Title Act, Section 219 Covenant).*
- (14) *Description of proposed mitigation works and/or actions designed to mitigate the hazard with confirmation that the Guidelines have been considered.*
- (15) *Where mitigation works and or actions are proposed, an assessment of the effects that the proposed works and or actions may have on other properties including public infrastructure.*
- (16) *Where mitigative works and or actions designed to reduce hazards are contemplated, prior to completing the report and expending time and money on the detailed design the proponent should confirm that the works and or actions proposed will be accepted by local government and that they would meet regulatory Provincial requirements and will be approved by the Inspector of Dikes.*
- (17) *Where floodplain maps are used to recommend FCLs, document which map was used.*
- (18) *Where an existing FCL shown on a floodplain map is deemed inappropriate, or where a new FCL is recommended, provide details of the calculation and confirmation that the Guidelines were considered in the process.*
- (19) *For property adjacent to or within a meandering and/or braided river floodplain, use air photos, maps and other information to describe and assess relevant ongoing river processes that may pose a hazard to the property.*
- (20) *When recommending the use of minimum setback and elevation guidelines for smaller streams, provide a map of the stream watershed area to determine drainage area.*



REGIONAL DISTRICT OF NANAIMO	
CHAIR	GM Cms
CAO	GM ES
DA CCD	MoF
JAN 30 2006	
EW	

## MEMORANDUM

**TO:** Jason Llewellyn  
Manager, Community Planning

**DATE:** January 27<sup>th</sup>, 1996

**FROM:** Greg Keller  
Planner

**FILE:** 3010-00-2005

**SUBJECT:** Proposed Development Variance Permit, Development Permit with Variance, and Floodplain Exemption Evaluation Guidelines

### PURPOSE

To consider an amendment to the existing Development Variance Permit Application Intake and Evaluation Guidelines to include provisions for evaluating Development Permit applications, which include variance requests and floodplain exemption applications.

### BACKGROUND

When an application for a Development Variance Permit or Development Permit with Variance is received, staff are charged with reviewing that application and developing a clear recommendation for the Board's consideration. The Board is responsible for making the decision to approve the application, or not. The Board of the Regional District of Nanaimo approved policy B1.5 - Development Variance Permit Intake and Evaluation Guidelines on March 8, 1994. The current policy, attached as Attachment No. 2, provides a standardized approach for evaluating development variance permit applications based on eight (8) categories. The proposed policy attached as Attachment No. 1 provides a more comprehensive list of potential land use rationale for use by staff in determining whether or not to support a variance application.

It is important that Staff's evaluations and recommendations are as consistent as possible. Maintaining consistency requires constant diligence given the unique nature of each application, and the community values unique to different areas of the region. This report proposes a new policy that builds upon the existing policy by providing more detailed guidelines and criteria for staff. The new policy places greater onus on the applicant to demonstrate that the requested variance is necessary, and that the applicant has demonstrated a reasonable effort to reduce the need for, or extent of, the proposed variance. Also, the new policy incorporates guidelines regarding the consideration of exemption applications to the Floodplain Bylaw.

Such a policy is also of value to the public as it gives greater certainty to the community and applicant regarding the nature of staff's evaluations.

This policy is intended as a guide for staff's use in their evaluations of applications and development of recommendations for the board's consideration. It is not intended to apply to the Board, or limit or direct the Board's consideration of an application in any way. The policy is intended to act as a guide and staff are encouraged to be flexible and use their judgment in reviewing all development applications.

## **Proposed Amendments**

The proposed policy, attached as *Schedule No. 1*, has been divided into two parts – Part 'A' addresses Development Variance Permit applications and Development Permit applications that include variances and Part 'B' addresses applications for Floodplain Bylaw Exemptions.

### ***PART 'A' - Evaluation Criteria for Development Variance Permit Applications and Development Permit Applications***

The policy reinforces the need to confirm that a variance is supported by an acceptable land use justification, and to ensure that the variance is not requested because of applicant preference. Part A, Section 1.a. of the proposed policy discusses acceptable land use justifications. Part A, Section 1.c. of the policy makes reference to the need for an applicant to demonstrate that they have made reasonable effort to avoid the need for, or reduce the extent of, the requested variance.

Once staff has determined that an application is supported by valid planning rationale, Section 2 of the policy requires the application to be evaluated based upon the impact(s) (positive and negative) of the requested variance(s). Staff have classified these impacts into three (3) general categories: aesthetic impacts, functional impacts, and environmental impacts.

Aesthetic impacts include the impact of the proposed variance(s) on the streetscape, the views from adjacent properties, and the compatibility with neighbourhood design standards. Functional impacts include the impact of the proposed variance(s) on the function of the property for the permitted uses and the potential impact of the variance(s) on the function of adjacent properties or road right-of-ways. Environmental impacts include the impact of the proposed variance on the long term sustainability of the natural environment or the direct impact on a specific feature of the natural environment. Staff must evaluate these impacts in relation to the justification for the variance and the effort to minimize any and all potential negative impacts associated with a proposed development.

The potential impacts of variances, and the specific evaluation criteria used are dependent upon the type and nature of the variance being requested (i.e. setback, height, ocean, watercourse). Therefore, different evaluation criteria are included in Section 3 of the policy for the most common application types. This is certainly not an exhaustive list of variance types or evaluation criteria, and staff shall continue to use their judgment and diligence in assessing all applications.

### ***PART 'B' - Floodplain Exemption Applications***

The province has recently granted property owners the ability to apply to the Board for site specific exemptions to the elevation and setback regulations in the Floodplain Bylaws. Bylaw No. 843 is proposed to be replaced by a new Bylaw No. 1469, 2005, to incorporate the ability of the public to make such applications to the Board. Bylaw No. 1469 includes requirements for the approval of site specific exemptions by the Board. This policy is for staff use in undertaking their evaluation of exemption applications in a consistent manner.

The policy requires applicants to demonstrate that the proposed exemption is supported by an acceptable land use justification as outlined in the proposed policy. Given the liability associated with approving floodplain exemptions, this policy, and the Floodplain Bylaw are designed to work together to ensure an appropriate review has been undertaken, and the appropriate conditions of approval are in place. Floodplain exemption applications should be necessary due to severe building limitations or other extreme circumstances where an alternative building site is not reasonably available.

In addition to being supported by an acceptable land use justification, staff propose that the applicant demonstrate that the subject property is safe for the intended use and that this be evaluated through the applicant's submission of a report prepared by a professional engineer or geoscientist experienced in geotechnical engineering. Alternatively the applicant's proposal would have to be consistent with provincial flood hazard area land use management guidelines. In either scenario, staff shall request the applicant to register a Section 219 covenant saving the Regional District of Nanaimo from all liability as a result of damages and/or losses as a result of flooding and/or erosion. Failure to meet the above requirements would be grounds for staff to recommend the Board deny a floodplain exemption application.

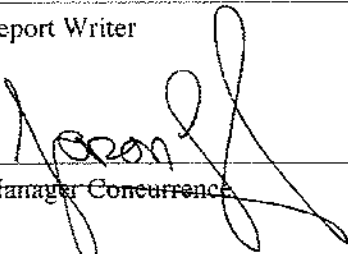
## SUMMARY

To maintain a high level of consistency in processing variance applications staff propose a new policy that builds upon the existing policy by providing more detailed guidelines and criteria for staff. The new policy places greater onus on the applicant to demonstrate that the requested variance is necessary, and that the applicant has demonstrated a reasonable effort to reduce the need for, or extent of, the proposed variance. The proposed policy provides staff with a solid foundation for evaluating potential impacts and the suitability of proposed variances and to ensure that development applications are evaluated in a standardized approach. Also, the new policy incorporates guidelines regarding the consideration of exemption applications to the Floodplain Bylaw. The policy is also of value to the public as it gives greater certainty to the community and applicants regarding the nature of staff's evaluations.

## RECOMMENDATION

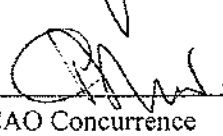
1. That the Board rescind Policy B1.5 - Development Variance Permit Application Evaluation Guidelines.
2. That the Board endorse as a Policy the Development Variance Permit, Development Permit with Variance, and Floodplain Exemption Application Evaluation Guidelines attached as *Schedule No. 1*.

Report Writer



Manager Concurrence

Deputy Administrator Concurrence



CAO Concurrence

## COMMENTS:

*devsvs/reports/2006/Report fe DP, DVP, Floodplam Exemption Application Intake and Evaluation Guidelines*



Attachment No. 1

## REGIONAL DISTRICT OF NANAIMO POLICY

<b>SUBJECT:</b>	A: Development Variance Permit and Development Permit with Variance Evaluation Policy  B. Floodplain Exemption Application Evaluation Policy	<b>POLICY NO:</b>	<b>CROSS REF.:</b>
<b>EFFECTIVE DATE:</b>	October 15, 2005	<b>APPROVED BY:</b>	Board
<b>REVISION DATE:</b>	September 15, 2005	<b>PAGE:</b>	1 OF 5

**PURPOSE**

This policy is to provide staff with guidelines for reviewing and evaluating development variance permit applications, development permit applications that include bylaw variances, and site-specific exemptions to the Floodplain Bylaw.

**PART A – DEVELOPMENT VARIANCE PERMIT AND DEVELOPMENT PERMIT WITH VARIANCE APPLICATION EVALUTION POLICY**

**1. DEMONSTRATION OF LAND USE JUSTIFICATION**

- a. An application should demonstrate that the proposed variance is necessary and is supported by an acceptable land use justification; such as:
  - i. the ability to use or develop the property is unreasonably constrained or hindered by having to comply with the bylaw requirement; or,
  - ii. there is a net benefit to the community or immediate area that would be achieved through the variance approval.
  - iii. the proposed variance would allow for more efficient and effective use and development of the subject property.
- b. Failure to provide an acceptable land use justification as outlined in PART A Section 1(a) may be grounds for staff to recommend that the application be denied by the Board.
- c. If an acceptable land use justification is identified the applicant should demonstrate that a reasonable effort has been made to avoid the need for, or reduce the extent of, the requested

variance. If such efforts are not made this may be grounds for staff to recommend that the application be denied by the Board.

- d. Examples of acceptable land use justifications are as follows:
- i. A physical constraint such as a steep slope, watercourse, or rock outcrop results in an unreasonably small building site when setbacks are applied. In such a case a setback variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - ii. A man-made constraint such as an archaeological site, odd shaped lot, restrictive or conservation covenants, easement, or right-of-way results in an unreasonably small building site when setbacks are applied. In such a case a setback variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - iii. A hazardous condition exists that requires that the underside of the floor joists be raised to meet floodplain elevations. This may result in an average designed building or structure exceeding the maximum height restrictions. In such a case a height variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - iv. A topographical constraint such as a depression or sloped area results in an average designed building or structure exceeding maximum height restrictions. In such a case a height variance may be recommended where the impact of the variance is considered acceptable by planning staff.
  - v. An environmentally significant feature such as a stand of Garry Oak trees, a watercourse, or sensitive ecosystem exists on site that the applicant is proposing to avoid, preserve, and/or enhance, which restricts potential building sites on a lot. In such a case a setback variance may be considered where the proposed variance will reduce the impact to the Environmentally Sensitive Area and any other impact considered acceptable by the reviewing planning staff member.
  - vi. The only building site on a lot will block a significant view for area residents. In such a case a setback variance may be considered to allow the relocation of the building to allow the preservation of that view, where the impact of the variance is acceptable.
  - vii. Where a longstanding existing building or structure does not conform to siting or height requirements a variance may be considered to legalize that structure where the impact of the variance is acceptable and the use of the building or structure conforms to the current zoning regulations.
- e. PART A Section 2.d. is not intended to be an exhaustive or definitive list of acceptable land use justifications for a variance application. Staff are to use their judgment in evaluating the specific circumstances involved in each application.

## 2. IMPACT EVALUATION

- a. Where a land use justification for a proposed variance has been demonstrated, the application shall then be evaluated based upon the impact(s) (positive or negative) of the variance. Impact(s) may be classified into the following three general categories:

- i. Aesthetic impact. This includes the impact of the proposed variance on the streetscape, the views from adjacent properties, compatibility with neighbourhood design standards, etc.
  - ii. Functional impact. This includes the impact of the proposed variance on the function of the property for the permitted uses and the potential impact of the variance on the function of adjacent properties, or road right-of-ways.
  - iii. Environmental impact. This includes the impact of the proposed variance on the long term sustainability of the natural environment or the direct impact on a specific feature of the natural environment.
- b. An unacceptable impact, as evaluated by planning staff, is grounds for staff to recommend that the application be denied by the Board.
  - c. An applicant should demonstrate that a reasonable effort has been made to minimize any and all potential negative impacts associated with a variance. If such efforts are not made this would be grounds for staff to recommend that the application be denied by the Board.
  - d. Part A, Section 2.a. is not intended to be an exhaustive or definitive list of potential impacts. Staff are to use their judgment in identifying and evaluating all potential impacts associated with the specific circumstances involved in each application.

### **3. SPECIFIC IMPACT EVALUATION BY APPLICATION TYPE**

- a. Height variance requests for a residential use may not be supported where; in the opinion of planning staff:
  - i. the applicant is requesting a height variance to accommodate a third storey;
  - ii. the applicant has not made a reasonable effort to reduce the height of the proposed building or structure by reducing the roof pitch, reducing ceiling height, minimizing the crawl space, etc.;
  - iii. the appearance of the proposed structure from the street will appear out of character with the height of buildings in the immediate neighbourhood;
  - iv. the proposed height variance will result in a notable reduction in a neighbouring properties view of a significant viewscape; or
  - v. the proposed height variance will result in a notable shading of, or lack of privacy for, a neighbouring property.
- b. Lot line relaxation, ocean setback relaxation, and watercourse setback relaxation requests may not be supported where; in the opinion of Planning Staff:
  - i. the applicant has not made a reasonable effort to reduce the need for a setback variance by amending the house design or finding an alternative building site;
  - ii. the proposed setback variance will result in an unreasonable reduction in a neighbouring properties view of a notable viewscape;

- iii. the proposed setback variance will result in the building or structure appearing to extend closer to the ocean or other watercourse than other houses in the immediate vicinity;
  - iv. the proposed setback variance may result in a geotechnical or flooding hazard;
  - v. the proposed setback variance may result in a negative impact on the natural environment;
  - vi. the proposed setback variance may have a negative impact on an archaeological site; or
  - vii. the proposed setback variance is contrary to senior government legislation (e.g. *Transportation Act, Fish Protection Act, Water Act, Land Title Act*, etc.).
- c. Parking Variance requests for Commercial, Industrial, or Institutional uses may not be supported where:
- i. the proposed variance would interfere with internal traffic flow, loading and unloading, access and egress, pedestrian safety, etc.;
  - ii. the applicant is not proposing to provide adequate parking spaces constructed to Regional District of Nanaimo standards on a hard durable dust free surface; or
  - iii. the proposed variance, in staff's opinion, does not provide an adequate number of parking stalls for the intended use.
- d. Signage variance requests may not be supported where:
- i. the proposed variance would result in an increased appearance of "sign clutter" on the subject property (sign consolidation should be encouraged);
  - ii. the proposed variance creates a visual obstruction which interferes with the safe movement of pedestrians and/or traffic on and off site; or
  - iii. the illumination of a proposed sign is not compatible with the surrounding neighbourhood or would create an unreasonable aesthetic impact on the adjacent properties.

## **PART B – FLOODPLAIN EXEMPTION APPLICATIONS**

### **1. DEMONSTRATION OF LAND USE JUSTIFICATION**

- a. An applicant must demonstrate that the proposed exemption is necessary and is supported by an acceptable land use justification; such as:
  - i. there are no other practical building sites located on the subject property;
  - ii. the applicant has exhausted all other options including amendments to zoning setback and height requirements; or
  - iii. it is not practical to develop the subject property without a site specific exemption.

## **2. DEMONSTRATION THAT THE EXEMPTION IS ADVISABLE**

- a. Where an acceptable land use justification has been demonstrated, the applicant must demonstrate that the proposal is in compliance with provincial guidelines and / or provide a report prepared by a professional engineer or geoscientist experienced in geotechnical engineering that the land may be used safely for the use as proposed. Where the report contains restrictions, conditions, or warnings related to the safe use of the site that covenant shall be required to be registered on title.
- a. All reports identified in Part B, Section 2.a. must also discuss the land use justifications in identified in Part B, Section 1 of this policy.
- b. An application must be processed and evaluated in a manner consistent with the provincial Flood Hazard Area Land Use Management Guidelines, May 2004, as amended, and Floodplain Management Bylaw No. 1469, 2006.
- c. Failure to meet any of the above conditions is grounds for staff to recommend the Board deny a floodplain exemption application.

## **PART C - TERMS OF USE OF THIS POLICY**

1. This policy is intended to apply to staff evaluation of development variance permits, development permit applications that include bylaw variances, and site specific exemptions to the Floodplain Bylaw.
2. The Board of the Regional District of Nanaimo is not in any way bound by this policy and is free to apply, or not apply, any evaluation criterion it deems appropriate in its consideration of applications.

Attachment No. 2

Policy B1.5 - Development Variance Permit  
 Application Intake and Evaluation Guidelines

**REGIONAL DISTRICT OF NANAIMO**  
**P O L I C Y**

SUBJECT: <i>Development Variance Permit Application Evaluation Criteria</i>	POLICY NO: B1.5 CROSS REF.:
EFFECTIVE DATE: March 8, 1994	APPROVED BY: Board
REVISION DATE:	PAGE 1 OF 2

**PURPOSE**

To ensure that Development Variance Permit Applications for relaxations to setback or height requirements are evaluated in a standardized policy approach using the following criteria:

**POLICY**

1. **Physical Constraints:** a natural, physical restriction of the buildable area of a lot, which may affect the ability to comply with setbacks or height restrictions.

For example:           | topography  
                               | streams  
                               | rock outcrops

2. **Man-made Constraints:** a man-made barrier or constraint, which may affect the ability to comply with setbacks or height restrictions.

For example:           | septic field  
                               | existing building/structures  
                               | odd shape lots  
                               | accesses, driveways

3. **Compatibility with Adjacent Properties:** the degree of impact a relaxation may have on the compatibility with adjacent properties and/or the neighbourhood.

4. **Adjacency to Highway or public right-of-way:** the degree of impact a relaxation may have on the protection and integrity of the highway or right-of-way.

For example:           | multiple frontages  
                               | pedestrian accesses

5. ***Parks:*** the degree of impact the relaxation may have on the use and enjoyment of an adjacent park or potential development of that park.

6. ***Site Amenities:*** where it is felt by the applicant that adherence to setback or height requirements would unjustly impact site amenities.

For example:            | existing vegetation  
                              | view  
                              | sunlight

7. ***Architectural Design:*** where it is felt by the applicant that the design/character of a building is compromised by meeting setback or height requirements.

For example:            | roof pitch  
                              | multiple roof lines

8. ***Flood Controls:*** where the habitable portion of a building is restricted by the flood level elevations as indicated in Bylaw 843, 1991.