

REGIONAL DISTRICT OF NANAIMO

**BOARD MEETING
TUESDAY, SEPTEMBER 26, 2006
7:00 PM**

(RDN Board Chambers)

A G E N D A

PAGES

- 1. CALL TO ORDER**
- 2. DELEGATIONS**

Sandra Thomson, Bruce Halliday & Jim Whiteaker, re Port Theatre Annual Update. (Financial information included as a separate enclosure)

11-13 Peter Avis & Hugh Fletcher, re Englishman River Canyon. (Map included as separate enclosure)

14 Gary Tennant, re Proposed Building Inspection Bylaw for Area H.

15 Murray Hamilton, re Proposed Building Inspection Bylaw for Area H.
- 3. BOARD MINUTES**

16-20 Minutes of the Board meeting held August 29, 2006.
- 4. BUSINESS ARISING FROM THE MINUTES**
- 5. COMMUNICATIONS/CORRESPONDENCE**

21 Bill & Ruth McBratney, re Development Variance Permit Application No. 90616 -- Meyer -- 3512 Bluebill Place -- Area E.

22-24 Brian & Chriss Steane, re Development Variance Permit Application No. 90616 -- Meyer -- 3512 Bluebill Place -- Area E. (Photo package included as separate enclosure)
- 6. UNFINISHED BUSINESS**

BYLAWS

For Adoption.

Bylaw No. 813.37 (All Directors One Vote)

That "French Creek Sewerage Facilities Local Service Area Boundary Amendment Bylaw No. 813.37, 2006", be adopted.

This is a bylaw to remove a property from the French Creek Sewer Local Service Area. The property is located at 808 Wembley Road – Area G.

Bylaw No. 889.42 (All Directors – One Vote)

That “Regional District of Nanaimo Northern Community Sewer Local Service Area Boundary Amendment Bylaw No. 889.42, 2006”, be adopted.

This is a bylaw to remove a property from the Northern Community Sewer Local Service Area. The property is located at 808 Wembley Road – Area G.

Third Reading.

25-32 **Bylaw No. 500.335** (Electoral Area Directors except EA ‘B’ – One Vote)

This is a bylaw to rezone the subject property located at the corner of Jinglepot Road and Meadow Drive from Rural 1 to Public 4, to allow the use of the site for a fire hall – Area C.

Public Hearing and Third Reading.

Bylaw Nos. 1240.03, 1152.03, 1148.04, 814.09, 1055.03, 1115.04, 1335.02, 1007.05 and 1400.01. (All Directors except EA ‘B’ – One Vote)

33-48 Report of the public hearing held September 13, 2006 with respect to the RDN Riparian Areas Regulation OCP amendment Bylaw Nos. 1240.03, 1152.03, 1148.04, 814.09, 1055.03, 1115.04, 1335.02, 1007.05 and 1400.01.

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

7.1 ELECTORAL AREA PLANNING STANDING COMMITTEE

49-52 Minutes of the Electoral Area Planning Committee meeting held September 12, 2006. (for information)

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60644 – D & B McKee – 5061 Island Highway West – Area H. (Electoral Area Directors except EA ‘B’ – One Vote)

Delegations wishing to speak to Development Permit Application No. 60644.

That Development Permit Application No. 60644, to allow the construction of a dwelling, be approved according to the terms outlined in Schedule No. 1.

Development Permit Application No. 60645 – Cloarec – 2615 Noble Road – Area E. (Electoral Area Directors except EA ‘B’ – One Vote)

Delegations wishing to speak to Development Permit Application No. 60645.

That Development Permit Application No. 60645, to allow for the construction of a dwelling unit at 2615 Noble Road, be approved according to the terms outlined in Schedule No. 1.

Development Permit Application No. 60648 – Fern Road Consulting Ltd., on behalf of R. & L. Wells – 677/669 Barclay Crescent North – Area G. (Electoral Area Directors except EA ‘B’ – One Vote)

Delegations wishing to speak to Development Permit Application No. 60648.

That Development Permit Application No. 60648 submitted by Fern Road Consulting Ltd., on behalf of R. & L. Wells in conjunction with the subdivision on the parcels legally described as Lots 2 & 3, District Lot 28, Nanoose District, Plan 23031 and designated within the Sensitive Lands Development Permit Area pursuant to the “French Creek Official Community Plan Bylaw No. 1115, 1998”, be approved, subject to the conditions outlined in Schedule Nos. 1 and 2 of the corresponding staff report.

DEVELOPMENT VARIANCE PERMIT

Development Variance Permit Application No. 90616 – Meyer – 3512 Bluebill Place – Area E. (Electoral Area Directors except EA ‘B’ – One Vote)

Delegations wishing to speak to Development Variance Permit Application No. 90616.

That Development Variance Permit No. 90616 to legalize the existing beach access stairs as shown on Schedule No. 2 located at 3512 Bluebill Place, be approved subject to the terms outlined on Schedule No. 1, and that staff do the following:

- a) Develop a policy for the Board’s consideration regarding the appropriate development of beach access stairs, and the associated staff review of development variance permit applications.*
- b) Proceed with seeking a Court Order to have the stairs removed, to comply with Bylaw No. 500 and Bylaw No. 1250 if the applicants do not meet the terms of Schedule No. 1 within 90 days from the date of the issuance of Development Variance Permit 90616.*

Development Variance Permit Application No. 90618 – Allen and Parker – 448 Manse Road – Area G. (Electoral Area Directors except EA ‘B’ – One Vote)

Delegations wishing to speak to Development Variance Permit Application No. 90618.

That Development Variance Permit Application No. 90618, to relax the front lot line setback from 8.0 metres to 4.6 metres, to legalize an existing garage at 448 Manse Road, 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.

Development Variance Permit Application No. 90619 – JE Anderson, BCLS on behalf of M. Porter – Spring Place – Area F. (Electoral Area Directors except EA ‘B’ – One Vote)

Delegations wishing to speak to Development Variance Permit Application No. 90619.

That Development Variance Permit Application No. 90619, submitted by JE Anderson, BCLS, on behalf of M. Porter, to vary the minimum lot frontage requirement as shown on Schedule No. 3 in conjunction with a 2-lot subdivision proposal of Lot B, Block 544, Nanoose District, Plan VIP60806, be approved subject to the conditions set out in Schedule Nos. 1 and 2 and to the notification procedure pursuant to the Local Government Act.

OTHER

Request for Relaxation of the Minimum 10% Frontage Requirement – L. & C. Addison, on behalf of Wessex Enterprises Ltd. – Midora & Extension Roads – Area C. (Electoral Area Directors except EA ‘B’ – One Vote)

That the request for relaxation of the minimum 10% frontage requirement for proposed Lots 7 and 8 in conjunction with the subdivision application for Parcel Z (DD K83923), Section 13, Range 1 and Sections 12 and 13, Range 2, Cranberry District, be approved subject to the conditions set out in Schedule Nos. 1 and 2 of the staff report.

Riparian Areas Regulation Stream Declaration Policy. (Electoral Area Directors except EA ‘B’ – One Vote)

That the Riparian Areas Regulation Stream Declaration Policy, attached to the staff report, be approved.

Incorporating Green Shores Project Principles into RDN Bylaws. (Electoral Area Directors except EA ‘B’ – One Vote)

That the Board direct staff to consider policies and development permit area guidelines regarding Green Shores’ principles for inclusion in all future official community plan reviews.

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

Budget Steel – Development Permit Application. (Electoral Area Directors except EA 'B' – One Vote)

That staff review the Budget Steel file with the RDN lawyer to obtain a legal opinion as to whether or not the conditions as set out in the existing Development Permit can be enforced and other matters related to Budget Steel's operation; and that staff report back to the next Board meeting.

7.2 COMMITTEE OF THE WHOLE STANDING COMMITTEE

53-58 Minutes of the Committee of the Whole meeting held September 12, 2006. (for information)

CORPORATE SERVICES

ADMINISTRATION

Islands Trust Protocol Agreement. (All Directors – Weighted Vote)

That the Board approve the Protocol Agreement (dated July 27, 2006) between the Regional District of Nanaimo and the Gabriola Island Local Trust Committee.

Airport Service Bylaws. (All Directors – One Vote)

- 1. That elector assent for the participating areas be obtained by using the alternative approval process for the entire service area.*
- 2. That the "Nanaimo Airport Service Establishment Bylaw No. 1505, 2006" be given three readings, be forwarded to the Ministry of Community Services for approval and proceed to the Alternative Approval Process to receive elector assent.*
- 3. That the "Nanaimo Airport Service Borrowing Bylaw No. 1506, 2006" be given three readings, be forwarded to the Ministry of Community Services for approval and proceed to the Alternative Approval Process to receive elector assent.*
- 4. That the attached Nanaimo Airport Service Elector Response Form be approved for use with Bylaws 1505 and 1506.*

FINANCE

UBCM Resolution Regarding Home Owner Grant Program. (All Directors – One Vote)

That the following resolution be submitted for consideration to the next meeting of the AVICC and/or the UBCM:

WHEREAS property values continue to increase at a rapid rate in the Province of BC;

AND WHEREAS many long term property owners continue to suffer a loss of the Home Owner Grant due to market forces beyond their control;

AND WHEREAS there is a general societal benefit to assisting all property owners to be able to afford to live on the properties they have chosen;

THEREFORE BE IT RESOLVED THAT the Province be requested to reinstate a Home Owner Grant for properties in excess of the current limit of \$894,000.

Reserve Fund Bylaw Approvals.

Bylaw No. 1501. (Electoral Area Directors – Weighted Vote)

- 1. That “Electoral Area Local Government Elections Reserve Fund Establishment Bylaw No. 1501, 2006” be introduced for first three readings.*
- 2. That “Electoral Area Local Government Elections Reserve Fund Establishment Bylaw No. 1501, 2006” having received three readings be adopted.*

Bylaw No. 1502. (All Directors – One Vote)

- 1. That “Decourcey Water Reserve Fund Establishment Bylaw No. 1502, 2006” be introduced for first three readings.*
- 2. That “Decourcey Water Reserve Fund Establishment Bylaw No. 1502, 2006” having received three readings be adopted.*

Bylaw No. 1503. (All Directors – One Vote)

- 1. That “Nanoose Bay Peninsula Water Reserve Fund Establishment Bylaw No. 1503, 2006” be introduced for first three readings.*
- 2. That “Nanoose Bay Peninsula Water Reserve Fund Establishment Bylaw No. 1503, 2006” having received three readings be adopted.*

Bylaw No. 1504. (Parksville, Qualicum Beach, FA’s E, F, G & H – Weighted Vote)

- 1. That “District 69 Arena Reserve Fund Establishment Bylaw No. 1504, 2006” be introduced for first three readings.*
- 2. That “District 69 Arena Reserve Fund Establishment Bylaw No. 1504, 2006” having received three readings be adopted.*

2006 Expenditure of Reserve Funds.

(Electoral Area's A, B & C – Weighted Vote)

That \$5,346 to upgrade the Gabriola Island base radio be approved as an expenditure from the "School District 68 E911 Reserve Fund Establishment Bylaw No. 1069, 1996".

(All Directors – One Vote)

That \$49,310 for the acquisition of SCBA breathing apparatus equipment be approved as an expenditure from the "Coombs-Hilliers Fire Protection Reserve Fund Establishment Bylaw No. 833, 1991".

(All Directors – One Vote)

That \$83,125 to upgrade the Sandpiper reservoir be approved as an expenditure from the "French Creek Water Local Service Area Reserve Fund Establishment Bylaw No. 1167, 1999".

(All Directors – One Vote)

That \$218,400 for the Regional District's portion of the cost for the Craig Bay reservoir be approved as an expenditure from the "Nanoose Bay Bulk Water Local Service Area Development Cost Charge Bylaw No. 1088, 1997".

Barclay Crescent Sewer Project Financing. (Parksville, Qualicum Beach, EA's E, F, G & H – Weighted Vote)

- 1. That the capital charge rate in the "Northern Community Sewer Local Service Area Capital Charge Bylaw No. 1331" be amended to an amount of \$1,743 per lot and that staff proceed to amend the bylaw accordingly.*
- 2. That property owners be offered the option of paying the additional capital cost by way of a parcel tax as generally outlined in the table shown in the corresponding staff report.*

DEVELOPMENT SERVICES

ENGINEERING STANDARDS AND SUBDIVISION

Rural Streetlighting Local Service Area Boundary Amendment Bylaw No. 791.15 – Area E. (All Directors – One Vote)

- 1. That the parcel legally described as Lot A, Plan VIP58653, District Lot 6, Nanoose Land District, PID 018700136 be included in the Rural Streetlighting Local Service Area.*
- 2. That "Rural Streetlighting Local Service Area Boundary Amendment Bylaw No. 791.15, 2006" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.*

Proposed Board Policy for Registration of Covenants. (All Directors - One Vote)

That the Board policy entitled Registration of Land Title Office Documents in Conjunction with the Amendment Application Process, be adopted as outlined in Schedule No. 1.

REGIONAL PLANNING

RDN Strategic Plan 2006 – 2009. (All Directors – One Vote)

- 1. That the RDN Strategic Plan for the years 2006 – 2009 be approved.*
- 2. That staff be directed to refer the 2006 – 2009 RDN Strategic Plan to the member municipalities for information.*
- 3. That staff be requested to include in the 2007 workplan, the investigation of an affordable housing strategy for the region in conjunction with the review of the Regional Growth Strategy; and that consulting services be included to facilitate the review.*

ENVIRONMENTAL SERVICES

LIQUID WASTE

Pump and Haul Local Service Area Amendment Bylaw No. 975.45 – 626 South Road – Area B and 306 Kinkade Road – Area G. (All Directors – One Vote)

- 1. That the boundaries of the RDN Pump and Haul Local Service Area Bylaw 975 be amended to include Lot 108, Section 13, Plan 21531, Nanaimo Land District, Gabriola Island, 626 South Road.*
- 2. That the boundaries of the RDN Pump and Haul Local Service Area Bylaw 975 be amended to remove Lot 2, District Lot 9, Plan 21610, Newcastle Land District, Kinkade Road.*
- 3. That “Regional District of Nanaimo Pump and Haul Local Service Area Amendment Bylaw No. 975.45, 2006” be read three times and forwarded to the Inspector of Municipalities for approval.*

Flamingo Drive/McFeely Drive/Surfside Drive – Sanitary Sewer Servicing Options. (All Directors – One Vote)

That staff include in the 2007 work plan, the preliminary design, cost estimates and public consultation activities to include the 61 properties as shown on the attached drawing in the Surfside Sanitary Sewer Service Area and that individual applications for sanitary sewer service connections in the Surfside Sanitary Sewer Service Area be held in abeyance in the interim.

SOLID WASTE

Cedar Road LFG – Amending Agreement, Waiver and Licence of Occupation. (All Directors – Weighted Vote)

- 1. That the Board approve the Amending Agreement with Cedar Road LFG Inc. to change the project completion date from July 21, 2006 to November 30, 2007.*
- 2. That the Board grant a Licence of Occupation to Cedar Road LFG Inc. for use of the area at the Regional Landfill occupied by their electricity generating facility.*
- 3. That the Board approve the Waiver of Emission Rights with Cedar Road LFG Inc. associated with any reduction in greenhouse gases that result from the operation of their electricity generating facility.*

COMMISSION, ADVISORY & SELECT COMMITTEE

Area ‘A’ Parks and Green Spaces Advisory Committee. (All Directors – One Vote)

That the minutes of the Electoral Area ‘A’ Parks and Green Spaces Advisory Committee meeting held July 20, 2006 be received for information.

East Wellington – Pleasant Valley Parks and Open Space Advisory Committee. (All Directors – One Vote)

That the minutes of the East Wellington – Pleasant Valley Parks and Open Space Advisory Committee meeting held June 15, 2006 be received for information.

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

That the minutes of the Regional Growth Monitoring Advisory Committee/State of Sustainability Project meeting held July 5, 2006 be received for information.

Regional Parks and Trails Advisory Committee. (All Directors – One Vote)

That the minutes of the Regional Parks and Trails Advisory Committee meeting held September 5, 2006 be received for information.

7.5 SCHEDULED STANDING, ADVISORY STANDING AND SELECT COMMITTEE REPORTS

Selection Committee.

Drinking Water – Watershed Protection Stewardship Committee. (All Directors One Vote)

- 1. That David Vincent be appointed as the Electoral Area ‘A’ representative to the Drinking Water - Watershed Protection Stewardship Committee.*

2. *That Grace Gundersen be appointed as the Electoral Area 'C' representative to the Drinking Water – Watershed Protection Stewardship Committee.*

8. ADMINISTRATOR'S REPORTS

59-70 Development Variance Permit Application No. 90615 -- Middleton -- 4595
Berbers Drive -- Area H. (Electoral Area Directors except EA 'B' – One Vote)

**Delegations wishing to speak to Development Variance Permit Application
No. 90615.**

9. ADDENDUM

10. BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

11. NEW BUSINESS

12. BOARD INFORMATION (Separate enclosure on blue paper)

13. ADJOURNMENT

14. IN CAMERA

*That pursuant to Section 90(1) (c) and (g) of the Community Charter the Board
proceed to an In Camera meeting to consider items related to personnel and legal
issues.*

ATTN: MAUREEN PEARSE
RE: ARROWSMITH MTS. CLUB
"ENGLISHMAN RIVER
CANYON"

ENCLOSED:
20 MAPS, 1 DVD, 1 SUMMARY

CONTACT:
PETER ADIS - 248-5731
HUGH FLETCHER 951-9898

ENGLISHMAN RIVER CANYON

Attached is a DVD and a map both of which pertain to a portion of the Englishman River Valley which is in urgent need of protection.

The canyon area extends approximately 3 kilometers to the South (upstream) of Englishman River Provincial Park.

The attached map shows in bold outline the area in issue. For the most part the canyon area is unlogged and is populated by first growth Douglas Fir and Western Red Cedar and some other less dominant species. A small portion of the canyon lands was logged 70 to 80 years ago in early harvesting and that area has subsequently regenerated as a mixed stand.

The canyon area is just as the name suggests. The river has cut a deep gorge which lies approximately 100 feet below the surrounding headlands on each side. The existing tree cover on the steep walls of the canyon hold the banks, which are otherwise unstable, in place. The tree cover extends to the very edge of the bank and provides a canopy over the river over the length of the canyon.

The river flows rapidly through the canyon area over sculpted granite boulders. However, in 5 separate areas over the length of the canyon, the river flows into deep pools which are visually stunning.

The canyon lands are part of a well established trail system which has been used for many years by hikers, mountain bikers and equestrians.

The canyon lands are privately owned, the present owner being Island Timberlands. The owner has stated its intentions to log the canyon area shortly.

We believe that logging the canyon lands will result in adverse changes to the Englishman River Watershed and will constitute the loss of an irreplaceable tourism and recreation resource.

We hope that the canyon lands can be preserved for the following reasons:

1. If the canyon area is logged Englishman River will be subject to siltation as a result of a loss of a substantial portion of the vegetation which holds the unstable banks in place;

2. Englishman River will be subject to increased temperature fluctuation by virtue of the loss of the tree canopy;
3. The value of the area as a tourism resource will be greatly diminished as a result of the disturbance from logging and the loss of the first growth timber;
4. The existing trail system and its attraction to user groups will be degraded;
5. The existing first growth timber can never be replaced;
6. Mid Vancouver Island would greatly benefit in terms of tourism and recreation if the area is protected and preserved for tourism and recreational uses;
7. Efforts to protect and enhance water quality and fish habitat within the Englishman River Valley would benefit significantly by the protection of this important habitat.

RESPECTFULLY SUBMITTED this ~~14~~ day of September, 2006.



PETER W. AVIS

ARROWSMITH MOUNTAIN BIKE CLUB

Fax Cover Sheet

1030 SPIDER LAKE RD
QUALICUM BEACH
BC V9K2L7

Phone number 250 757 8750

Fax number as above

Send to: CAROLE MASON CEO RDN	From: BRONWYN DIMOND CHAIRMAN SPIDER LAKE COMMUNITY ASSOCIATION
Attention: LINDA	Date: 18 TH SEPT 2006
Office Location: RDN HAMMOND BAY RD	1030 Spider Lake Rd bdimond@nanaimo.ark.com
Fax Number: 250 390-4163	Phone Number: 757 8750

- Urgent**
- Reply ASAP**
- Please comment**
- Please Review**
- For your information**

Total pages, including cover: 1

Comments:

Proposed Building Permits/Regulations Area H
On behalf of the Association and many of the residents of Area H, Gary Tennant of 1145 Spider Lake Rd Qualicum Beach V9K2L7 Tel 250 757 8491 wishes to speak at the meeting of the RDN to be held on 26th Sept @ 7pm. We are aware that the slot will be 10 minutes. Thankyou for your help Bronwyn Dimond

Linda if this needs additional information please ring me .

Bronwyn Dimond

Owners of Strata Plan – VIS 5160

c/o Horne Lake Recreation Management Ltd.
719 Newcastle Ave.,
Parksville, B.C. V9P 1G1
250-951-0877 Fax: 250-951-0878

September 19, 2006

Regional District of Nanaimo,
6300 Hammond Bay Road,
Nanaimo, B.C.
V9T 6N2

By Fax: 250-390-4163

Attention: Carol Mason

Dear Ms. Mason:

Please register Murray Hamilton as a delegation to address the Regional District of Nanaimo Board of Directors at the September 26, 2006 Board Meeting in regards to the proposed building permit and inspection bylaw for Area H.

Yours truly,
Owners of Strata Plan VIS 5160



Prof. Murray Hamilton

"The Horne Lake Community is committed to a safe, pristine/natural, family oriented, recreational area that embraces sustainable environmental stewardship"

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE REGULAR MEETING OF THE BOARD
OF THE REGIONAL DISTRICT OF NANAIMO HELD ON
TUESDAY, AUGUST 29, 2006, AT 7:00 PM IN THE
RDN BOARD CHAMBERS**

Present:

Director J. Stanhope	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
Alternate	
Director D. Niwa	Electoral Area F
Director D. Bartram	Electoral Area H
Director S. Herle	City of Parksville
Director T. Westbrook	Town of Qualicum Beach
Director C. Haimc	District of Lantzville
Director D. Brennan	City of Nanaimo
Director G. Korpan	City of Nanaimo
Director L. McNabb	City of Nanaimo
Director B. Holdom	City of Nanaimo
Director J. Manhas	City of Nanaimo

Also in Attendance:

C. Mason	Chief Administrative Officer
T. Osborne	Gen. Mgr. of Recreation & Parks
J. Finnie	Gen. Mgr. of Environmental Services
M. Pearse	Manager of Administrative Services
W. Thexton	A/Manager of Financial Services
N. Tonn	Recording Secretary

CALL TO ORDER

The Chairperson welcomed Alternate Director Niwa to the Board meeting.

LATE DELEGATIONS

MOVED Director Holme, SECONDED Director Young, that the following late delegations be permitted to address the Board.

CARRIED

Debbie Hawkins, re Referral from the District of Lantzville Regarding the Zoning Amendment Application for the Foothills.

Ms. Hawkins raised her concerns with increased traffic on rural roads due to construction vehicle use during the Foothills subdivision development within the District of Lantzville.

James Klockars, re Referral from the District of Lantzville Regarding the Zoning Amendment Application for the Foothills.

Mr. Klockars, owner of a small equestrian site on Vipond Road, noted the increase in noise which would be inevitable with the increase of traffic on local roads.

Ken Krall, re Referral from the District of Lantzville Regarding the Zoning Amendment Application for the Foothills.

Mr. Krall spoke on the existing congestion at the Biggs Road/Jinglepot Road intersection and the difficulty for larger trucks to navigate the 130° turn at the Biggs Road/Doumont Road intersection which will increase significantly if these intersections are used daily in the construction of the Foothills development.

Ted Miller, re Referral from the District of Lantzville Regarding the Zoning Amendment Application for the Foothills.

Mr. Miller reiterated residents' concerns with increased traffic on existing rural roads, the increase in noise in a farming area and the added expense to taxpayers for road repair. Mr. Miller requested that the Board take steps to prevent destruction of this rural area.

Frank Garnish, re Review of Park Land Dedication in Conjunction with the Subdivision Application Process – Policy No. C1.5.

Mr. Garnish presented an overview of revisions proposed by the Electoral Area Parks and Open Space Advisory Committee to the review of park land dedication policy and requested the Board reconsider Policy No. C1.5 and refer it back to staff for revision with input from the Electoral Area Directors and POSAC representatives.

BOARD MINUTES

MOVED Director McNabb, SECONDED Director Brennan, that the minutes of the regular Board meeting held July 25, 2006 be adopted.

CARRIED

SCHEDULED STANDING, ADVISORY STANDING AND SELECT COMMITTEE REPORTS

Extension of Board of Variance Appointment.

MOVED Director Korpan, SECONDED Director Bartram, that John Little's appointment to the Board of Variance be extended to December 31, 2006.

CARRIED

ADMINISTRATOR'S REPORTS

Electoral Area Planning Items:

Land Use and Subdivision Bylaw Amendment No. 500.313 – Fern Road Consulting on behalf of L. Pal – Marshland Road – Area H.

MOVED Director Bartram, SECONDED Director Holme, that "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.313, 2005" be adopted, with a legal letter of undertaking and permit the covenant documents to be registered at the time of subdivision; and that the Board prepare a policy which will require the registration of covenant documents prior to the Board's consideration of bylaw adoption.

CARRIED

Referral from the District of Lantzville Regarding the Zoning Amendment Application for The Foothills.

MOVED Director Manhas, SECONDED Director Ilerle, that the comments identified in Attachment 1 be included in a letter to the District of Lantzville in response to the referral regarding a zoning amendment application for The Foothills.

MOVED Director Young, SECONDED Director Brennan, that Attachment 1 be amended to state that during the construction, development and completion of the Lantzville Foothill Estates development, traffic be diverted from Vipond Road, Doumont Road and Biggs Road to an alternate route within the District of Lantzville as agreed between the developer and the District.

CARRIED

The question was called on the main motion as amended.

The motion CARRIED.

Development Permit Application No. 60632 – Hughes/Sims – 1287 Point Mercer Drive – Area G.

Mr. Richard Dean, speaking on behalf of the French Creek Residents' Association, spoke in opposition to Development Permit Application No. 60632 with particular emphasis on the placement of the retaining wall.

Ms. Helen Simms provided a history of the property and surrounding area and requested that the Board approve Development Permit Application No. 60632.

Mr. Michael Jessen, speaking on behalf of the French Creek Residents' Association, emphasized the importance of sea wall placement and requested that the application be referred back to staff.

MOVED Director Bartram, SECONDED Director Young, that Development Permit Application No. 60632 to allow the construction of a dwelling and a retaining wall with a setback variance, at 1287 Point Mercer Drive, be approved according to the terms outlined in Schedule No. 1 and that staff be directed not to issue the permit until an engineer's report is received confirming the terms of Schedule No. 1 may still be met, given the works that have occurred and a review be made of the seawall placement.

CARRIED

Director Holme excused himself from the meeting citing a possible conflict of interest with the next two items.

Development Permit Application No. 60639 – Acland – 1943 Forest Hill Place – Area A.

MOVED Director Bartram, SECONDED Director Burnett, that Development Permit Application No. 60639 to allow the construction of a dwelling unit at 1943 Forest Hill Place be approved according to the terms outlined in Schedule No. 1.

CARRIED

Development Permit Application No. 60641 – Norris-Michaels – 1948 Forest Hill Place – Area A.

MOVED Director Bartram, SECONDED Director Burnett, that Development Permit Application No. 60641, to allow the construction of a dwelling unit and accessory building at 1948 Forest Hill Place, be approved according to the terms outlined in Schedule No. 1.

CARRIED

Director Holme rejoined the meeting.

Development Permit Application No. 60643 – Nanaimo Airport Commission – Area A.

MOVED Director Bartram, SECONDED Director Burnett, that Development Permit Application No. 60643 to approve the vegetation management plan submitted by the Nanaimo Airport Commission be approved as amended according to the terms outlined in Schedule No. 1 and that the Board direct staff to do the following:

- a) Issue Part 'A' of this Development Permit; and
- b) Withhold the issuance of Part 'B' through 'T' of this Development Permit until the necessary authorization is received for the issuance of the Development Permit and the proposed works for each property.

CARRIED

Development Variance Permit Application No. 90518 – Bessembinder – 1977 Harlequin Crescent – Area E.

MOVED Director Bartram, SECONDED Director Holme, that Development Variance Permit Application No. 90518, to reduce the north interior side lot line setback from 2 metres to 0 metres for an elevated concrete parking structure at 1977 Harlequin Crescent, be approved according to the terms outlined in Schedule No. 1.

CARRIED

Development Variance Permit Application No. 90616 – Meyer – 3512 Bluebill Place – Area E.

The Chairperson noted that this item has been withdrawn.

Development Variance Permit Application No. 90617 – Phillips – 2471 Schirra Drive – Area E.

MOVED Director Bartram, SECONDED Director Holme, that Development Variance Permit Application No. 90617, to vary the location of a home-based business from the dwelling unit or attached garage to an accessory building for a pottery studio at 2471 Schirra Drive, be approved according to the terms outlined in Schedule No. 1.

CARRIED

Committee of the Whole Items:

Regional District of Nanaimo Southern Community Restorative Justice Program Service Bylaw No. 1490.

MOVED Director Burnett, SECONDED Director Young, that "Regional District of Nanaimo Southern Community Restorative Justice Program Service Bylaw No. 1490, 2006" be introduced and read three times, be forwarded to the Inspector of Municipalities for approval and proceed to the alternative approval process to obtain elector consent.

CARRIED

MOVED Director Burnett, SECONDED Director Young, that the Notice of Elector Response Form be approved for the purpose of the alternative approval process for Bylaw No. 1490 within Electoral Areas 'A', 'B' and 'C'.

CARRIED

Operating Results to June 30, 2006.

MOVED Director McNabb, SECONDED Director Brcman, that the summary report of financial results from operations to June 30, 2006 be received for information.

CARRIED

Alberni Clayoquot Regional District – 2007 Permissive Tax Exemption.

MOVED Director Sperling, SECONDED Director Westbrook, that “Property Tax Exemption (Mt. Arrowsmith Regional Park) Bylaw No. 1491, 2006” be introduced for first three readings.

CARRIED

MOVED Director Westbrook, SECONDED Director Herle, that “Property Tax Exemption (Mt. Arrowsmith Regional Park) Bylaw No. 1491, 2006” having received three readings be adopted.

CARRIED

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

Review of Park Land Dedication in Conjunction with the Subdivision Application Process – Policy No. C1.5.

MOVED Director Holme, SECONDED Director Burnett, that the concerns raised by the Electoral Area Parks and Open Space Advisory Committees be referred to a meeting with the Advisory Committees’ Chairpersons, the Electoral Area Directors and staff.

CARRIED

NEW BUSINESS

Board Policy Regarding Package Treatment Plants

MOVED Director Bartram, SECONDED Director Holme, that staff prepare a report for the Board’s consideration to revisit the current policy on RDN owned and operated package treatment plants as an alternative to big pipe sewer systems in the Electoral Areas.

CARRIED

IN CAMERA

MOVED Director Holme, SECONDED Director Young, that pursuant to Section 90(1)(i) of the *Community Charter* the Board proceed to an In Camera meeting to consider items related to legal issues.

CARRIED

ADJOURNMENT

MOVED Director Holme, SECONDED Director Young, that this meeting adjourn to allow for an In Camera meeting.

CARRIED

TIME: 8:10 PM

CHAIRPERSON

MANAGER, ADMINISTRATIVE SERVICES

24 August 2006

Regional District of Nanaimo
Planning Department

Dear Board Members:

Re: Development Variance Permit Application No. 90616
Lot 57, District Lot 78, Nanoose District, Plan 15983

Thanks you for the Notice of Development Variance Permit Application and the opportunity to provide input prior to taking your decision. We live in this neighbourhood.

We are opposed to allowing the requested variance.

We were originally attracted to living in Nanoose Bay because of the natural beauty of the area. As boaters and kayakers, we're particularly appreciative of the semi-natural state of the shoreline. Contributing to the natural beauty are the restrictions on building on the shoreline, which you and your predecessors have put in place, and which it is your right and responsibility to uphold on our behalf. We ask that you act on our behalf, and on behalf of all us in the Regional District, in upholding the building restrictions to ensure, as much as possible, the natural beauty of this area is maintained.

We originally noticed the construction of the stairways and patios leading to the water while we were boating. We were concerned and disappointed, as this marred the natural beauty of the point.

After receiving your Notice, we took the opportunity to view the building project from the land as well.


The patios and stairways partially block the view of the water, islands and mountains of our neighbours who live to the south (Lot 58) of the property requesting the variance. If you were to allow this variance, the construction would devalue our neighbour's waterfront property and also reduce their use and enjoyment of the property.

People buy and build their homes in the Regional District of Nanaimo in the knowledge that there are legal restrictions which preserve the natural beauty of the area, and protect the beautiful views some are fortunate enough to have.

The restrictions were put in place after a great deal of thought, and for the protection of us all. We count on you, the Board of the Regional District, to act on our behalf to uphold these restrictions.

Thank you for the invitation to speak to this issue.

Yours truly,



Bill and Ruth McBratney
3515 Grilse Road, Nanoose Bay
(Lot 59)

The Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, BC

September 19, 2006

Members of the Board

Subject: Development Variance Permit application No. 90616
Beach Access Platform and Stairs
3512 Bluebill Place, Nanoose Bay, BC. V9P 9H8

As the owners of 3521 Grilse Road, the property adjoining 3512 Bluebill Place, we are not in favour of the location of the proposed and partially constructed platform and stairs for a beach access.

Construction of the footings for the existing decks were done during our absence and we have had limited knowledge of the true extent of the project and no input or consideration of their location or impact on our property.

The design of our house, the position of the bedroom, the windows, etc. was done with the knowledge of the 8 m set back and the reasonable expectation that construction would be excluded from this area. The house was positioned and constructed to maximize the views and still maintain privacy.

The proposed platform is nearly 3 feet (34" with deck installed) above the natural ground level. A person standing on this platform is at eye level with and can see directly into our bedroom and ensuite bathroom. The construction of this elevated platform along the waters edge directly impacts our privacy. (Pictures showing platform height and view into bedroom attached)

The proposed stairs and platform will also impede our view, from the yard, living room and bedroom. As well as the spoiled view we feel this will also have a negative impact on our property value. Builders and Realtors have told us that one of the attractions of this property is the privacy and the 180 degree uninterrupted view. Now looking north up the Straight of Georgia we have to look through and around the deck and posts. (Pictures attached)

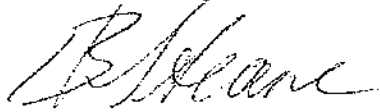
We do not oppose the construction of stairs for beach access, but do oppose the location of the present construction of the platform and stairs at the end of the point and on top of the rocks. It is our feeling that the approach can be altered and start at the head of an existing natural ravine or depression on the subject property. The stairs would not be visible from our property if they descend directly to the beach without a viewing platform. (Sketch and pictures attached)

It is not our intention to limit our neighbour's access to the beach but to ensure that the impact on our privacy, view and property is kept to a minimum.

We request that the variance in its present form be denied.

Thank you, for your consideration in this matter.

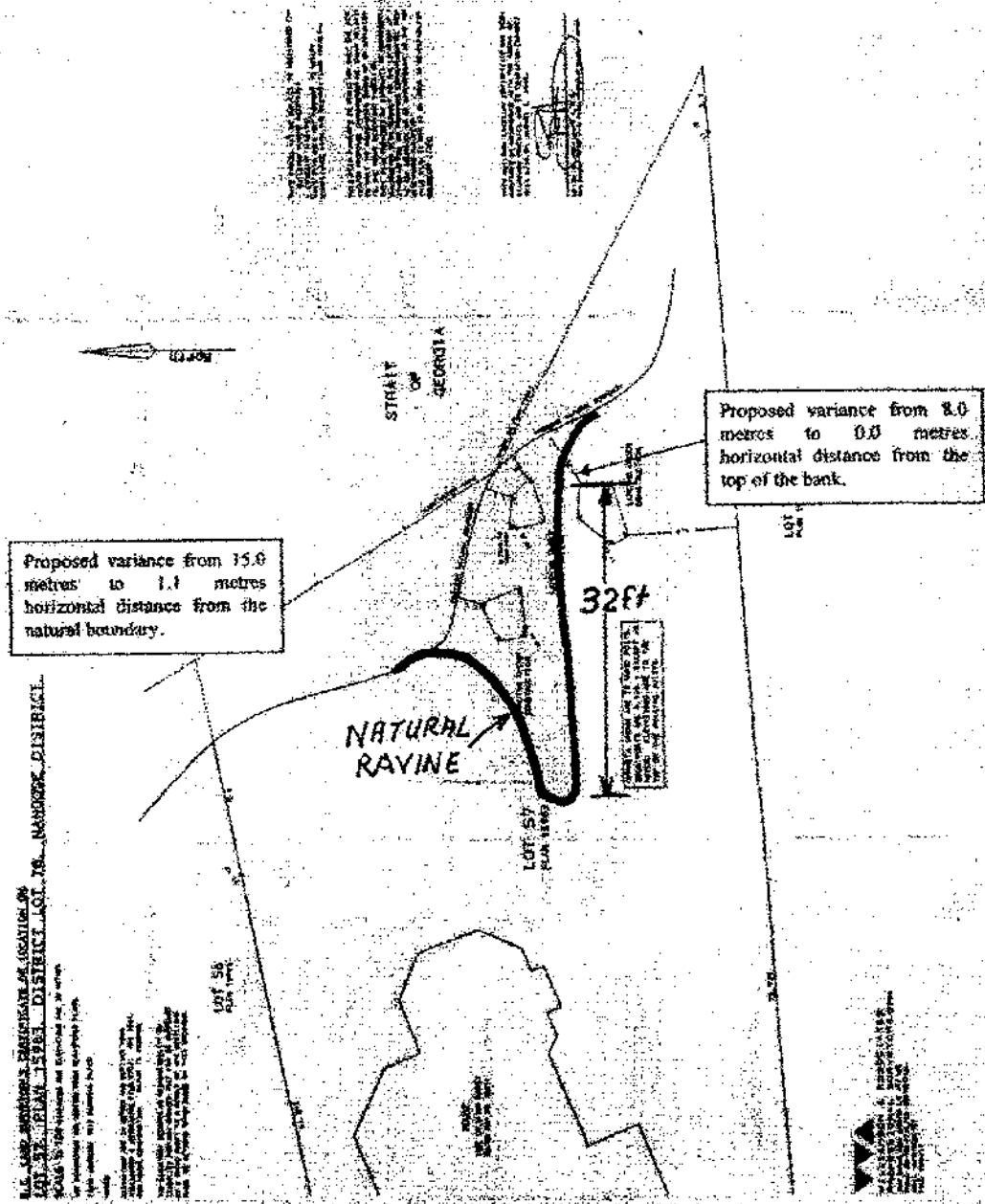
Brian and Chriss Steane

A handwritten signature in cursive script, appearing to read "B Steane".

Property owners 3521 Grilse Road, Nanoose Bay, BC

**Attachment No. 2
Proposed Site Plan
Development Variance Permit Application No. 90616
(As Submitted by Applicant / Modified to Fit This Page)**

MODIFIED SURVEY TO INDICATE POSITION OF NATURAL RAVINE





RDN	
CAG	GMES
GMCS	GMR&P
GMDS	GMR&P
SEP 20 2006	
CHAIR	BOARD
[Signature]	
DATE:	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

FROM: Norma Stumborg
Planner

SUBJECT: Zoning Amendment Bylaw No. 500.335, 2006 – Mountain Fire Protection District
Electoral Area 'C' – At the corner of Jinglepot Road and Meadow Drive

DATE: September 20, 2006

FILE: 3360 30 0603

PURPOSE

To consider Bylaw No. 500.335, 2006, for 3rd reading and to forward it to the Ministry of Transportation for approval.

BACKGROUND

Bylaw No. 500.335, 2006, was introduced and given 1st and 2nd readings on July 25, 2006. The purpose of the amendment bylaw is to rezone the subject property from Rural 1 to Public 4 to allow the use of the site for a fire hall. The land was dedicated at the time of subdivision for this purpose. This zoning amendment application is consistent with the Official Community Plan (OCP).

At the time of 1st and 2nd readings, the Board directed that the applicant complete the conditions outlined in Schedule No. 1 prior to final approval of this bylaw. A number of these conditions have already been met; however, the applicant is making the following requests regarding three outstanding conditions:

Condition #3 requires the applicant to submit a design drawing of the fascia sign to ensure that it complies with Sign Bylaw No. 993. It is requested that this condition be removed. The applicant acknowledges that all future signage will comply with the Sign Bylaw.

Condition #5 requires the applicant to submit engineered structural drawings and a British Columbia Land Surveyors (BCLS) survey to show that the fire hall meets setback and height requirements. The applicant is requesting that the site plan they submitted showing the building envelope for the fire hall, and the access and internal road system be deemed acceptable. The applicant acknowledges that all buildings must meet height and setback requirements.

Condition #7 requires the applicant to provide a copy of the approved waste disposal permit from the Ministry of Health. The applicant is requesting that the Regional District of Nanaimo (RDN) be satisfied with their demonstration that the site can accommodate a septic disposal system to the Vancouver Island Health Authority Standards. The applicant acknowledges that the appropriate approval process must be undertaken through the Vancouver Island Health Authority.

Staff consider the information submitted by the applicant regarding conditions #3, #5, and #7 to be satisfactory and that the conditions in Schedule No. 1 have been adequately met. Therefore, staff recommend the bylaw be given 3rd reading. The professionally designed landscaping plan for the property incorporates drought tolerant and native vegetation. Please note that in consideration of the applicant's not-for-profit status, staff do not recommend that the RDN take security from the Fire Department for the landscaping. However, it is noted that without security or other mechanism to secure the works, the RDN is relying on the Fire Department's commitment to do the work; and the RDN

can not ensure that the landscaping will be completed as shown. The site plan and landscaping plan are Attachments No. 2 and 3 respectively.

ALTERNATIVES

1. To approve Amendment Bylaw No. 500.335 as submitted for 3rd reading and to forward a copy to the Ministry of Transportation for approval.
2. To not approve Amendment Bylaw No. 500.335 as submitted for 3rd reading.
3. To not approve Amendment Bylaw No. 500.335 for 3rd reading and to provide further direction to staff.

INTERGOVERNMENTAL IMPLICATIONS

Referrals were sent to the Ministry of Transportation, Vancouver Island Health Authority, City of Nanaimo, Ministry of Environment, and the Agricultural Land Commission. The Ministry of Transportation issued an access permit to allow the Fire Department access to Meadow Drive and Jinglepot Road. No comments were received from the other agencies.

PUBLIC CONSULTATION PROCESS

A sign was placed on the property on May 15, 2006, to notify the community of the proposed rezoning application. A Public Information Meeting (PIM) was held on Tuesday, June 20, 2006, at Mountain View School where community members provided comments in support of the application. The Public Hearing was waived, and the public have been notified of this in two subsequent editions of the newspaper, pursuant to the requirements of the *Local Government Act*. Additionally, a notice was sent to occupants within 50 metres and property owners within 200 metres of the subject property, pursuant to the notification procedures specified under Bylaw 1432.

VOTING

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

SUMMARY

The purpose of Bylaw No. 500.335, 2006, is to rezone the subject property from Rural 1 to Public 4 to allow the use of the site for a fire hall. The subject property is located at the corner of Jinglepot Road and Meadow Drive in the newly created Benson Meadows' subdivision. The proposed use is consistent with Section 7.4 of "Regional District of Nanaimo's East Wellington - Pleasant Valley Official Community Plan (OCP) Bylaw No. 1055, 1999." The bylaw was introduced and given 1st and 2nd readings on July 25, 2006. The applicant has completed the requirements to the satisfaction of staff, as discussed, and it is recommended that the application be approved at 3rd reading.

RECOMMENDATIONS

That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.335," to rezone the subject property from Rural 1 to Public 4, to allow the use of the site for a fire hall, be given 3rd reading and referred to the Ministry of Transportation for approval, prior to consideration of adoption.

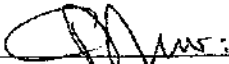
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

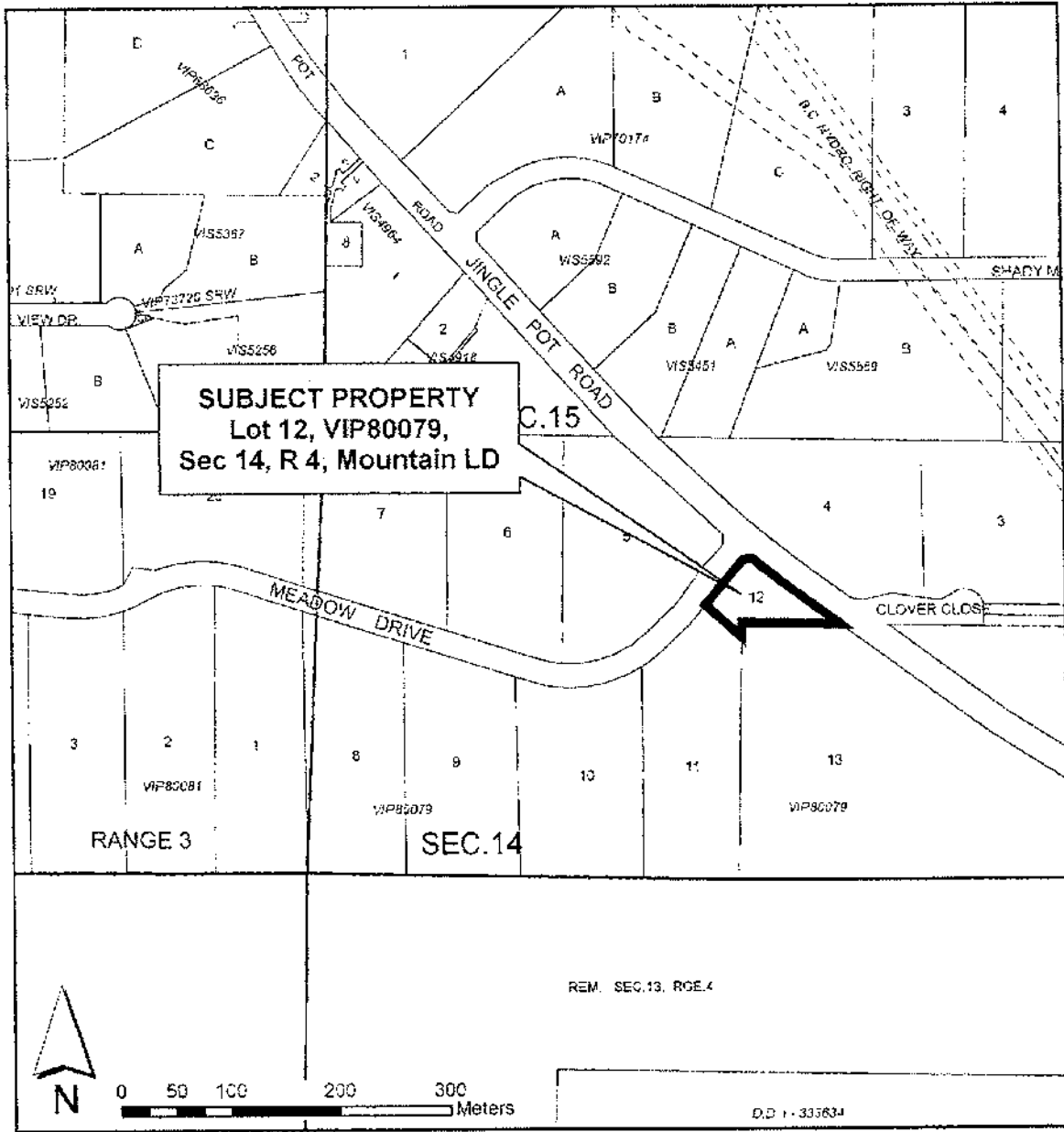
devsvs/2006/reports/za se 3360 30 0603 Mountain Fire Protection District 3rd Reading Report

Schedule No. 1
Conditions of Approval for Zoning Amendment Application No. ZA0603
Mountain Fire Protection District

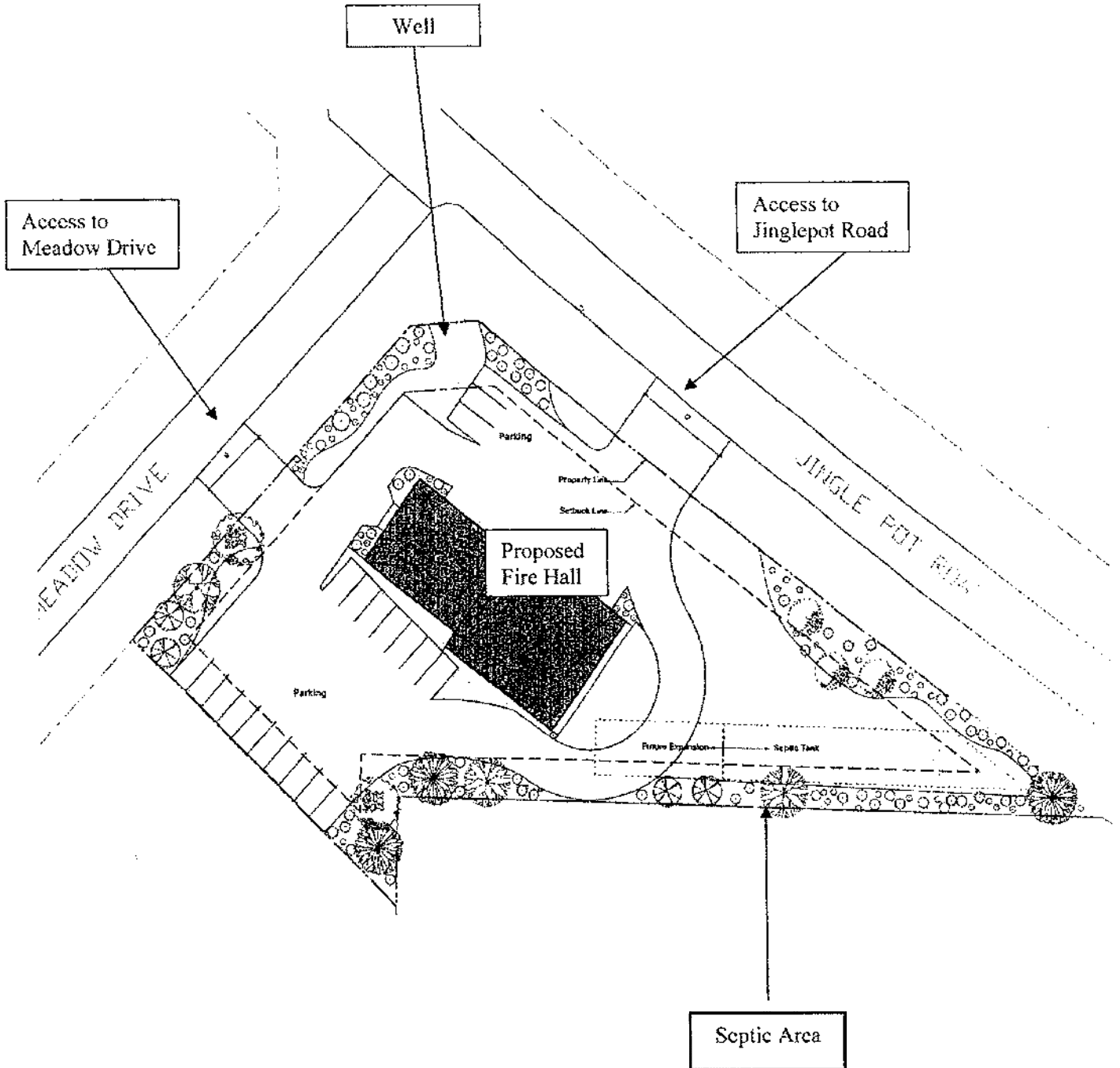
The following conditions are to be completed prior to Amendment Bylaw No. 500.335 proceeding to final reading:

1. The applicant shall submit a site plan that shows the access and egress points.
2. The applicant shall submit a landscaping plan that details:
 - The location, type, number, height, and size of plants to be retained and planted;
 - Short and long term maintenance considerations;
 - Wind firm measures; and,
 - The location, type, and size of any fence.
3. The applicant shall submit a design drawing of the fascia sign.
4. The applicant shall become familiar with the *Ministry of Environment's, Develop with Care: Environmental Guidelines for Urban and Rural Developments in British Columbia.*
5. The applicant shall provide a copy of the engineered structural drawings and a survey prepared by a BCLS to show that the proposed site of the fire hall meets setback and height requirements of Bylaw No. 500.
6. The applicant shall provide a copy of the access permit from the Ministry of Transportation.
7. The applicant shall provide a copy of the approved waste disposal permit from the Ministry of Health.

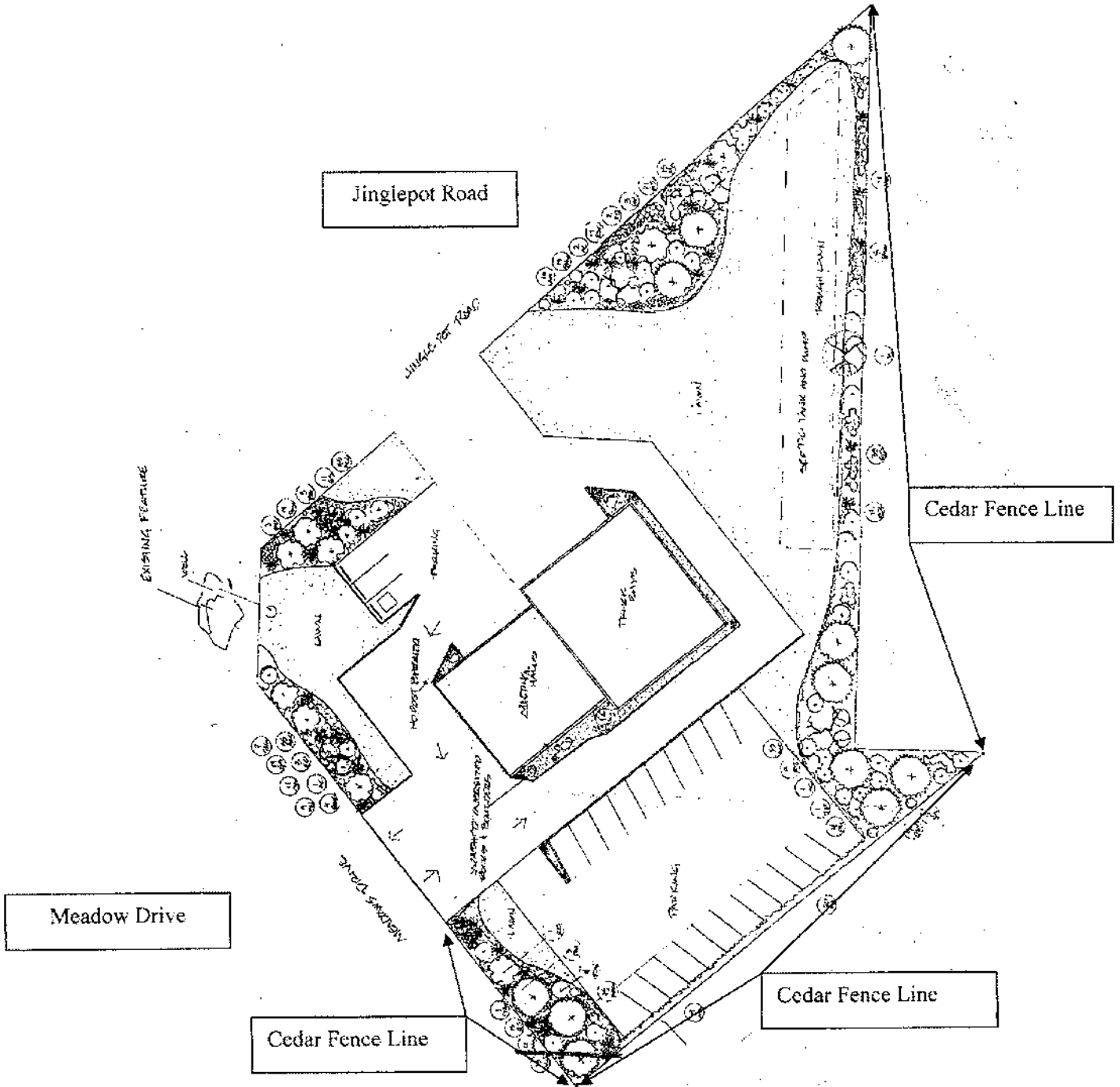
Attachment No. 1
Location of Subject Property



Attachment No. 2
Proposed Site Plan



Attachment No. 3 (page 1 of 2)
Proposed Landscaping Plan



Attachment No. 3 (page 2 of 2)
 Proposed Landscaping Plan

SYM	NO.	Botanical name	Common Name	Size
TREES				
AC	5	<i>Acer circinatum</i>	Vine Maple	2.0 m
PM	11	<i>Psuedotsuga menziesii</i>	Douglas Fir	2.0 m
TP	1	<i>Thuja plicata</i> 'Excelsa'	Excelsa Western Red Cedar	2.5 m
SHRUBS				
RD	9	<i>Rhododendron macrophyllum</i>	Native Rhododendron	#5 pot
GS	101	<i>Gaultheria shallon</i>	Salal	#1 pot
MA	87	<i>Mahonia aquifolium</i>	Oregon grape	#1 pot
MN	24	<i>Mahonia nervosa</i>	Dull Oregon Grape	#1 pot
RR	9	<i>Rosa nookana</i>	Nootka Rose	#2 pot
SA	5	<i>Symphoricarpos albus</i>	Snowberry	#1 pot
RSK	36	<i>Ribes Sanguinium</i>	Red Flowering Currant	#2 pot
VB	8	<i>Viburnum davidii</i>	David's Viburnum	#2 pot
Pm	5	<i>Mugo mughus</i>	Mugo Pine	#2 pot
PJ	5	<i>Pieris japonica</i>	Pieris	#5 pot
PMu	49	<i>Polystichum munitum</i>	Swordfern	#1 pot
GRASSES & G.C.				
ARC	343	<i>Arctostaphylos uva ursi</i>	Kinnickinnick	4 in.
E	7	<i>Erica</i>	Heather (variety)	#1 pot
CAL	22	<i>Calamagrostis x acutiflora</i> 'Karl Foester'	Feather Reed Grass	#1 pot



RDN		
CAO	GMES	
GMDS	GMR&P	
GMDS	GMRT&P	
SEP 18 2006		
CHAIR	BOARD	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: September 15, 2006

FROM: Greg Keller
Planner

FILE: 6480 30 RAR

SUBJECT: Report of the Public Information Meetings and Public Hearing - Riparian Areas Regulation implementation OCP amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006 and 1400.01, 2006.

PURPOSE

To receive the reports of the Public Information Meetings held on September 6 and 7, 2006 and the Public Hearing held on September 13, 2006 containing the Summary of the Minutes and Submissions on Riparian Areas Regulation (RAR) implementation Official Community Plan (OCP) Amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006 and 1400.01, 2006 and further to consider these Bylaws for 3rd reading.

BACKGROUND

As the Board is aware, the Ministry of Environment, in cooperation with Fisheries and Oceans Canada, adopted new legislation titled the "*Riparian Areas Regulation*" (RAR), which came in to force on March 31, 2006. This new legislation was enacted in July of 2004 under Section 12 of the British Columbia *Fish Protection Act*. This legislation aims to protect the features, functions, and conditions that support fish processes in riparian areas and requires the Regional District of Nanaimo (RDN) to protect its riparian areas in accordance with this regulation.

In response to this legislation, the Regional Board granted 1st and 2nd reading to "Regional District of Nanaimo OCP amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006 and 1400.01, 2006." The purpose of the proposed bylaw amendments is to ensure each OCP is consistent with the RAR by inserting a new/amended development permit area in to each OCP along with minor housekeeping amendments to ensure consistency with the remainder of each OCP.

Two public information meetings were held, one on September 6, 2006 at the Cranberry Community Hall, and the other on September 7, 2006 at the St. Columba Presbyterian Church Hall where there was a combined total of approximately 23 people in attendance. A public hearing was held on September 13, 2006 in the Board Chambers of the RDN, where 3 residents attended.

ALTERNATIVES

1. To receive the Report of the Public Information Meetings and Public Hearing on RDN Riparian Areas Regulation implementation OCP amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006 and 1400.01, 2006 and grant 3rd reading to each bylaw, and refer each bylaw to Ministry of Community Services for consideration of approval.

2. To receive the Report of the Public Information Meetings and Public Hearing on RDN Riparian Areas Regulation implementation OCP amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006 and 1400.01, 2006 and refer the bylaws back to staff with direction to consider possible amendments.

PUBLIC CONSULTATION IMPLICATIONS

As part of this amendment process, two public information meetings were held on September 6 and 7, 2006. The report on the summary of comments of each meeting are attached as Attachments No. 1, and 2. No written submissions were received in respect to either meeting.

Notification of the Public Hearing on the proposed amendment bylaw was completed in accordance with the requirements of the *Local Government Act*. At the September 13, 2006 Public Hearing there were 3 persons in attendance. The report of the summary of representations made at the Public Hearing are included in Attachment No. 3.

Staff note, that the response received at the Public Information Meetings and Public Hearing was, for the most part, was not in opposition to the proposed OCP amendments. The majority of concerns were related to enforcement of existing Development Permits and the ability to enforce the proposed Development Permit Areas. Concern was also raised regarding low attendance at the meetings and the reliance on the Qualified Environmental Professional, who is hired by the applicant, to be the one to determine the Streamside Protection and Enhancement Area and measures.

As of the date of this report, two letters of opposition regarding the proposed amendments, have been received. The concerns identified in the letters were related to the costs of the assessment and the impact on property as a result of the legislation and subsequent amendments to the Development Permit Area. Copies of the letters received are attached as Attachment No. 4.

Staff sent referrals to a number of agencies in accordance with the public consultation strategy previously approved by the Board. These agencies include Ministry of Environment, Fisheries and Oceans Canada, Ministry of Community Services, Provincial Agricultural Land Commission, City of Nanaimo, City of Parksville, District of Lantzville, Integrated Land Management Bureau, Town of Qualicum Beach, Cowichan Valley Regional District, Comox-Strathcona Regional District, Alberni-Clayoquot Regional District, Qualicum First Nation, Nanoose First Nation, Snuncymuxw First Nation, School District 69, School District 68, Ministry of Transportation, and the Vancouver Island Health Authority. In addition, in discussion with the Ministry of Community Services, staff also sent the referral to the Ministry of Forests and the Oceanside Development and Construction Association.

LEGAL IMPLICATIONS

The process to draft and adopt the proposed OCP amendments is consistent with the requirements of the *Local Government Act*.

Should the Board want to make changes to the proposed amendment bylaws, an amended second reading and another Public Hearing is required if these changes will change the land use, increase the density or, without the owner's consent, decrease the density.

Pursuant to Section 892 of the *Local Government Act*, OCP amendment bylaws must be approved by the Minister of Community Services, prior to an OCP amendment bylaw being considered for adoption by the Regional Board. Therefore, should the Board grant 3rd reading to the proposed bylaws, staff recommends that the bylaws be referred to the Ministry of Community Services for consideration of approval.

VOTING

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

SUMMARY

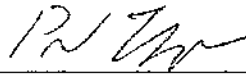
The Regional District of Nanaimo Riparian Areas Regulation implementation OCP amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006; and 1400.01, 2006 are required in order to bring the existing Regional District of Nanaimo OCPs into compliance with the provincial *Riparian Areas Regulation*.

RDN Riparian Areas Regulation implementation OCP amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006 and 1400.01, 2006 were received by the Regional Board at its regular meeting on July 25, 2006, were granted 1st and 2nd reading and were referred to a Public Hearing that was held on September 13th 2006. The Reports of the Public Information Meetings and Public Hearing on the proposed bylaws are attached for the Board's consideration

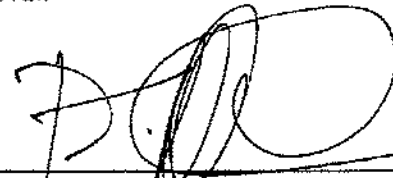
RECOMMENDATIONS

1. That the reports of the Public Information Meetings and Public Hearing containing the Summary of the Minutes of RDN Riparian Areas Regulation implementation OCP Amendment Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006 and 1400.01, 2006 be received.
2. That "Regional District of Nanaimo Electoral Area 'A' Official Community Plan Bylaw Amendment Bylaw No. 1240.03, 2006," be given 3rd reading.
3. That "Regional District of Nanaimo Arrowsmith Benson-Cranberry Bright Official Community Plan Bylaw Amendment Bylaw No. 1148.04, 2006," be given 3rd reading.
4. That "Regional District of Nanaimo East Wellington - Pleasant Valley Official Community Plan Bylaw Amendment Bylaw No. 1055.03, 2006," be given 3rd reading.
5. That "Regional District of Nanaimo French Creek Official Community Plan Bylaw Amendment Bylaw No. 1115.04, 2006," be given 3rd reading.
6. That "Regional District of Nanaimo Shaw Hill-Deep Bay Official Community Plan Bylaw Amendment Bylaw No. 1007.05, 2006," be given 3rd reading.
7. That "Regional District of Nanaimo Englishman River Official Community Plan Bylaw Amendment Bylaw No. 814.09, 2006," be given 3rd reading.
8. That "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw Amendment Bylaw No. 1335.02, 2006," be given 3rd reading.
9. That "Regional District of Nanaimo Electoral Area 'F' Official Community Plan Bylaw Amendment Bylaw No. 1152.03, 2006," be given 3rd reading.
10. That "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw Amendment Bylaw No. 1400.01, 2006," be given 3rd reading

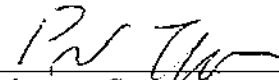
11. That should the Board grant 3rd reading to Bylaw Nos. 1240.03, 2006; 1152.03, 2006; 1148.04, 2006; 814.09, 2006; 1055.03, 2006; 1115.04, 2006; 1335.02, 2006; 1007.05, 2006; and 1400.01, 2006; that the Board direct staff to refer the bylaws to the Ministry of Community Services for consideration of approval.




for Report Writer



General Manager Concurrence

 AIM

Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs/reports/2006/se 6480 30 RAR OCP Amendment 3rd Reading Report.doc

Attachment No. 1

PROCEEDINGS OF THE PUBLIC INFORMATION MEETING
REPORT OF THE PUBLIC INFORMATION MEETING
HELD AT CRANBERRY COMMUNITY HALL
1555 MORDEN ROAD
WEDNESDAY SEPTEMBER 6, 2006 AT 7:00 PM

**SUMMARY OF THE COMMENTS ON THE PROPOSED OFFICIAL COMMUNITY
PLAN AMENDMENTS TO IMPLEMENT THE RIPARIAN AREAS REGULATION**

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

There were approximately 9 persons in attendance.

Present for the Regional District:

Director Joe Stanhope, Director for Electoral Area 'G', Meeting Chair
Director Joe Burnett, Director for Electoral Area 'A',
Director Maureen Young, Director for Electoral Area 'C'
Greg Keller, Planner
Paul Thompson, Senior Planner

Joe Stanhope, The Chair, called the Public Information Meeting to order at 7:00 p.m., made opening remarks and outlined the agenda for the meeting.

Greg Keller, Planner, provided a presentation outlining the Riparian Areas Regulation (RAR) and the proposed OCP amendments.

The Chair, opened the floor for questions and discussion.

Dorothy Kelt, Pace Road, asked if anyone wants to build, will they need a Qualified Environmental Professional (QEP)?

Greg Keller, Planner, responded by explaining that only developments within the Riparian Assessment Area (30 metres from a watercourse) will be required to hire a QEP.

Bruce Kelt, Pace Road, asked if homeowners were expected to tell if a watercourse is subject to the RAR.

Greg Keller, Planner, responded by explaining the definition of "stream" and that it generally requires a QEP to determine if a particular watercourse is a stream pursuant to the RAR. The Planner then indicated that although a property owner is not expected to know if a particular water feature is a stream, under the RAR most property owners can tell if water is located on a property and how far a proposed development is from water.

Steve Styrish, Cassidy, asked how a QEP determines what constitutes fish habitat and how they determine if there are fish in a stream. He stated that it can take two years to determine fish presence. He also asked if the RAR applies to forestry and agricultural operations.

Paul Thompson, Senior Planner, explained that the RAR does not apply to privately managed forest land or agricultural activities on agricultural lands.

Mike Meade, French Creek, asked if the Regional District of Nanaimo has caught up to other jurisdictions in implementing the RAR.

Greg Keller, Planner, responded by indicating that the Regional District of Nanaimo is making progress on implementing the RAR, and there are a number of municipalities that have successfully implemented the RAR and others who are in the process of doing so.

Mike Meade, French Creek, asked if there is a list of Qualified Environmental Professionals.

Greg Keller, Planner, indicated that there was no list but staff can assist the public in hiring an appropriate person.

Mike Meade, French Creek, asked how the proposed amendments would affect the Development Permit Areas adjacent to watercourses in the French Creek Official Community Plan.

Greg Keller, Planner, responded by outlining the existing Development Permit Area requirements and the affect of the proposed Development Permit Area.

Brenda Arthur, indicated that she lives adjacent to Budget Steel and she currently has issues with the existing Development Permit issued to Budget Steel. She expressed concern over the ability of the Regional District of Nanaimo to enforce the conditions of a Development Permit. Mrs. Arthur asked if the proposed amendment would affect Budget Steel's existing Development Permit.

Greg Keller, Planner, explained that the proposed Development Permit Area only applies to new development.

David Dunaway, 1644 Morden Road, regarding the lack of accurate stream data, asked about the Regional District of Nanaimo's strategy for acquiring additional stream data.

Greg Keller, Planner, responded by indicating, that at this point the Regional District of Nanaimo has no strategy in place for acquiring additional stream data.

Brenda Arthur, indicated that in the existing Electoral Area 'A' Official Community Plan, the removal of invasive plant species does not require a Development Permit and that the proposed Development Permit Area also exempts the removal of invasive plant species provided the works are conducted in accordance with a vegetation management plan prepared by a certified arborist or other qualified person.

Paul Thompson, Senior Planner, added that if there are two Development Permits that apply to the same area, the guidelines from both Development Permit Areas would have to be met. Mr. Thompson indicated that the Regional District of Nanaimo has attempted to allow certain activities within the proposed new Development Permit Area without a Development Permit.

Mike Meade, French Creek, asked for clarification on the report submission process and monitoring strategy.

Greg Keller, Planner, responded by explaining that the report must be submitted electronically to the Ministry of Environment and that the Ministry of Environment, and the Qualified Environmental Professional are involved in monitoring.

Mike Meade, French Creek, asked if the Regional District of Nanaimo is exempt from the requirements of the RAR.

Paul Thompson, Senior Planner, responded by stating that the Regional District of Nanaimo is not exempt if the development is residential, commercial, or industrial.

Brenda Arthur, stated the Regional District of Nanaimo needs to have bylaws enforced and questioned if the Regional District of Nanaimo would enforce the proposed Development Permit Area. Mrs. Arthur stated that the Regional District of Nanaimo can not enforce Development Permits. Mrs. Arthur indicated that she wants better enforcement.

Gerard Raymond, asked if a man-made pond with fish in it is subject to the RAR.

Greg Keller, Planner, indicated that this is an unresolved issue with the RAR, and that the Ministry of Environment would be required to make that determination.

The **Chair** asked for any further comments or questions three times.

As there were none, the **Chairperson** thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting concluded at 8:00 pm.

Certified true and accurate this 7th day of September, 2006.

Greg Keller
Recording Secretary

Director Joe Stanhope
Chairperson, Electoral Area 'G'

Attachment No. 2

PROCEEDINGS OF THE PUBLIC INFORMATION MEETING

**REPORT OF THE PUBLIC INFORMATION MEETING
HELD AT ST. COLUMBA PRESBYTERIAN CHURCH HALL
921 WEMBLY ROAD
THURSDAY SEPTEMBER 7, 2006 AT 7:00 P.M.**

**SUMMARY OF THE COMMENTS ON THE PROPOSED OFFICIAL COMMUNITY
PLAN AMENDMENTS TO IMPLEMENT THE RIPARIAN AREAS REGULATION**

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

There were approximately 14 persons in attendance.

Present for the Regional District:

Director Joe Stanhope, Director for Electoral Area 'G', Meeting Chair
Wayne Moorman, Manager of Engineering Standards and Subdivision
Greg Keller, Planner
Paul Thompson, Senior Planner

Joe Stanhope, The Chair, called the Public Information Meeting to order at 7:00 pm, made opening remarks and outlined the agenda for the meeting.

Greg Keller, Planner, provided a presentation outlining the Riparian Areas Regulation (RAR) and the proposed OCP amendments.

The Chair, opened the floor for questions and discussion.

Jackie Thompson, asked for clarification on the land use scenarios presented in the presentation.

Greg Keller, Planner, clarified the two scenarios.

Jackie Thompson, asked if the Regional District of Nanaimo has a say in issuing Development Permits.

Greg Keller, Planner, responded that stating that Development Permits in general must be approved by the Board.

Alex Goldblack, asked if the legislation contains provisions for appeal and/or challenges.

Paul Thompson, Senior Planner, indicated that there may be an opportunity for appeal through the court system.

Jackie Thompson, expressed concern over the fact that the developer can choose their own Qualified Environmental Professional (QEP) and asked if the Board has a say in what QEP is hired.

Greg Keller, Planner, responded by explaining that the Regional District of Nanaimo can not influence who a developer hires as a QEP. Mr. Keller then explained that, the RAR places the onus and liability on the QEP to ensure that the assessment is conducted in accordance with the RAR methodology.

John Moore, 10 – 1025 Lee Road, asked if the RAR process applies to the Ministry of Transportation and other provincial agencies.

Paul Thompson, Senior Planner, responded by explaining that the RAR only applies to new residential, commercial, and industrial development and that the RAR does not apply to provincial agencies.

John Moore, 10 – 1025 Lee Road, asked if the RAR uses the high water mark or natural boundary.

Greg Keller, Planner, responded by stating that the regulation uses the term high water mark, not natural boundary.

Don Lawseth, 1895 Sea Lion Crescent, stated that there are many watercourses that are not mapped and asked how watercourses are going to be identified.

Greg Keller, Planner, responded by explaining that watercourses will be identified in a number of ways including the use of property owner knowledge, existing mapping, and site visits.

The Chair, indicated that the Board is scheduled to consider a stream declaration policy that would require a potential developer to fill out a declaration regarding the presence or absence of a watercourse on a property.

Richard Dean, 530 Meadow Drive, stated that a 30 metre buffer from a watercourse sounds good, but questioned how far could a development go within the 30 metre buffer. Mr. Dean also indicated that French Creek has a 30 metre setback and other watercourses in French Creek have a 15 metre setback. Mr. Dean then questioned whether the Planning Department would continue to recommend approval of variances to watercourse setbacks.

Greg Keller, Planner, explained the difference between a Development Permit Area and a zoning setback and indicated that the Streamside Protection and Enhancement Area (SPEA) can vary from 5 m to 30 metres depending on the nature of the stream and that this width is determined through an assessment prepared by a QEP.

Robin Robinson, 484 Columbia Drive, asked if there is a place to view QEP reports.

Greg Keller, Planner, indicated that the reports are public information once they have been seen by the Board, but there is not currently one location to view all the reports submitted to the Regional District of Nanaimo.

Michael Jessen, 1261 Jukes Road, stated that French Creek currently has a 30 metre Development Permit Area and most creeks have a 15 metre Development Permit Area. Mr. Jessen asked if the proposed Development Permit Area would reduce the level of environmental protection.

Greg Keller, Planner, indicated that generally there is no difference in the level of environmental protection with the exception that a QEP report is required for all proposed developments within 30 metres from a watercourse.

Lyle Hollingworth, 504 Dalmatian Drive, stated that the marine influence on French Creek extends up to the bridge and questioned where the RAR begins to apply.

Greg Keller, Planner, indicated that a QEP would be required to make an appropriate determination.

Richard Dean, 530 Meadow Drive, stated that the estuary up to the bridge is under the jurisdiction of the Department of Fisheries and Oceans. Mr. Dean then asked what type of professional is required to produce the report for the RAR.

Greg Keller, Planner, indicated that the regulations specify the qualifications of a Qualified Environmental Professional.

Jackie Thompson, asked if it is possible that many QEPs may be required for one project.

Greg Keller, Planner, responded by stating that yes, in some cases it is possible that more than one QEP may be required, but that they would work collectively to submit one report. Mr. Keller outlined the Ministry of Environment's electronic submission process, including the requirement for the QEP to certify that he/she is qualified to conduct the assessment.

Michael Jessen, 1261 Jukes Road, commented on the fact that in general the work done by professionals is good for support of an application, but in reality the actual work is substandard. Mr. Jessen asked what follow up measures are in place.

Greg Keller, Planner, responded by stating that the QEP must sign off on the development as part of the methodology contained in the RAR.

Richard Dean, 530 Meadow Drive, summarized that the purpose of the QEP report is to determine the width of the SPEA and the measures. Mr. Dean expressed concern that developers may hire a certain QEP in order to obtain a favorable report. Mr. Dean stated that there should be two reports prepared.

Greg Keller, Planner, responded by stating that the intent of the methodology is to ensure that the results of the assessment are consistent and repeatable regardless of which QEP conducts the assessment.

Murray Hamilton, 719 Newcastle Avenue, asked if development within the proposed Development Permit Areas would require Board approval.

Greg Keller, Planner, responded by stating that Board approval is required and that the typical timeframe is approximately six to eight weeks depending on how long it takes the report to be prepared and submitted.

John Moore, 10-1025 Lee Road, asked if the report can be done ahead of time, prior to planning a particular development. Mr. Moore stated that shouldn't the report be done ahead of time so that the developer can determine where the SPEA is before making development plans.

Greg Keller, Planner, responded by explaining that the QEP must take in to account the nature of the proposed development.

Tom Whitfield, 422 Namqua Road, indicated that he was a registered professional forester and questioned the use of generic 30 metre buffers. Mr. Whitfield asked if the buffers could be wider than 30 metres.

Greg Keller, Planner, indicated that the maximum width of the SPEA is 30 metres, however, floodplain issues must be addressed in the RAR and the Regional District of Nanaimo also has other legislation addressing this concern.

Tom Whitfield, 422 Namqua Road, stated that mitigative measures could reduce the buffer through various approaches.

Greg Keller, Planner, indicated that the RAR contains provisions for the Department of Fisheries and Oceans to authorize developments located within the SPEA.

Robin Robinson, 484 Columbia Drive, stated that the RAR was not a straight forward process and that local governments' processes are going to be complicated.

Richard Dean, 530 Meadow Drive, referred to a letter sent to local governments from the Ministry of Environment stating that the Ministry will assist municipalities in implementing the RAR. Mr. Dean asked if this had occurred.

The Chair, stated that the province extended the implementation date by one year to allow municipalities' additional time to implement the RAR. As well, the province produced an Implementation Guidebook.

The **Chair** asked for any further comments or questions three times.

As there were none, the **Chairperson** thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting concluded at 8:12 pm.

Certified true and accurate this 8th day of September, 2006

Greg Keller
Recording Secretary

Director, Joe Stanhope
Chairperson, Electoral Area 'G'

Attachment No. 3

**REPORT OF THE PUBLIC HEARING
HELD IN THE BOARD CHAMBERS OF THE REGIONAL DISTRICT OF NANAIMO
6300 HAMMOND BAY ROAD
WEDNESDAY SEPTEMBER 13, 2006 AT 7:00 P.M.**

Topic: OCP Amendment Application No. 6480 30 Riparian Areas Regulation ("RAR")

Date: Wednesday September 13, 2006

Time: 7:00 – 7:22 pm

Present for the Regional District:

Director Joe Stanhope, Director for Electoral Area (EA) "G" – Meeting Chairperson ("Chair")
Director Maureen Young, EA "C"
Director Joe Burnett, EA "A"
Paul Thompson, Senior Planner ("PT")
Greg Keller, Planner ("GK")
(L.Boehm)

Attendees:

Murray Hamilton, Home Lake Strata representative (EA "H")
Richard Deane, French Creek Residents Ass'n (EA "G")
Gladys Adams / 530 Nanaimo River Road (EA "C")

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

The Public Hearing was called to order at 7:00 pm, by Director Joe Stanhope

Chair A summary of the nine RDN OCP Bylaw Amendment Bylaws to be affected by the RAR was given to include:

- EA "A" - No. 1240.03, 2006
- Arrowsmith Benson-Cranberry Bright – No. 1148.04, 2006
- East Wellington-Pleasant Valley – No. 1055.03, 2006
- French Creek – No. 1115.04, 2006
- Shaw Hill-Deep Bay – No. 1007.05, 2006
- Englishman River – No. 814.09, 2006
- EA "H" – No. 1335.02, 2006
- EA "F" – No. 1152.03, 2006
- Nanoose Bay – No. 1400.01, 2006

RDN staff representatives were introduced to the floor.

A brief overview of the meeting's purpose was provided, inviting attendees to be heard, and further explaining that all RDN OCPs are consistently protected by the RAR, within the proposed Bylaw Amendment Bylaws.

GK Provided an overview of the RAR, explaining that it allows local governments to provide consistent protection for riparian areas during the planning & construction of new developments (residential, commercial and industrial), and that the Bylaw Amendment Bylaws will strengthen these initiatives, through the introduction of new DPAs and alteration to existing development

permit areas (“DPAs”). Attendees were reminded that copies of the proposed Bylaws & responses to the notifications are available for review.

Chair Explained the meeting’s purpose and how it would function. Attendees were reminded that all comments and submissions relating to this hearing must be received prior to the meeting’s close.

The hearing was then opened for discussion.

Murray Hamilton

- Expressed concern over the low turn out to the Public Information Meetings (“PIMs”) – concerned that people living within the area aren’t aware of the impact. Horne Lake is concerned with legislation
- Current zoning requires 8.0 m setback / DP0120 is 15.0 m for new structures, (developed in conjunction with DFO and MOE)
- Concerned with ability to comply with legislation and is opposed to the 30.0 m setback - feels the RAR doesn’t address existing developments and reservoirs
- Concern with lake levels, and the exposure of lake’s bottom
- Mr. Hamilton submitted a written report (attached)

Richard Deane

- Expressed concern with the low turn out at this Public Hearing, stating that the new RAR impacts future developments re French Creek – would like to have seen much better attendance and subsequent public awareness
- Existing setback is 30.0 m from natural boundary of French Creek and 15.0 m off all watercourses – questions whether new RAR will help protect.
 - Will the proposal weaken or strengthen the existing protection?
 - Will the new regulations result in more variance than in the past?
- More and more costs to the residents, questioning the common sense involved
- Concern with ditches being recognized as watercourses. Looking forward to the RDN mapping all watercourses, especially fish bearing streams.

Gladys Adams

- Concerned that property owners are having less and less say as to what they can and can’t do on their properties.
- Concerned with the practicality of the proposed changes, and costs that could be imposed on the property owners. Lack of common sense.
- Against the setback increase from 15.0 m to 30 m, and ditches becoming classified as watercourses.

Chair Requested Comments and Submissions for the 2nd and 3rd time.

- Read written submission from Jackie Thompson
- Submission and comments will be presented at the next Board Meeting, September 26, 2006 @ 7:00 pm (3rd reading will be considered for the Bylaws).
- The meeting concluded at 7:22 pm.

Certified true and accurate, this 14th day of September, 2006.

Greg Keller, Planner
Recording Secretary

Director, Joe Stanhope
Chairperson

Attachment No. 4 (Page 1 of 2)
Letters received

Owners of Strata Plan – VIS 5160

c/o Horne Lake Recreation Management Ltd.
719 Newcastle Ave.,
Parksville, B.C. V9P 1G1
250-951-0877 Fax: 250-951-0878

September 13, 2006

Submission to the Regional District of Nanaimo, Public Hearing, Riparian Area Regulation.

The Horne Lake Community is very concerned about this proposed legislation and how it will be applied to our community.

The Horne Lake Community has been in existence for over 80 years and in 2002 was formalized as a bare land strata with 400 recreational strata lots. The current zoning provides for an 8 m setback from the natural boundary of Horne Lake. This was established to recognize the existing buildings that were built prior to 2002. Development Permit 0120 requires new cottages to be built more than 15 m from the natural boundary of Horne Lake.

The RAR requires set backs of 30 metres, which in many cases is more than the depth of the lot. We understand this may be relaxed by a QEP who may determine the SPEA width to be something less than 30 m, but there are no guarantees of this. Over time each owner may be required to hire a QEP to do a SPEA on his or her lot. We understand these can cost up to \$1500. For 400 lots this is \$600,000.

Horne Lake is a reservoir that has annual lake level fluctuation in excess of 8 vertical feet per year. This creates a dry beach in front of the natural boundary that can be in excess of 30 metres for 6 months or longer. The rise and fall of the lake level does as much to affect the riparian area, as any lot development will do.

We feel that RAR does not properly address the status of existing developments and subdivision whether the lots have been built on or not. The RAR does not properly address how the RAR should be applied to reservoirs. Once a subdivision is approved and the zoning set backs and development permits are adopted that should be it. It is not fair and is unjust to propose doubling the set back to 30 meters for new construction in an existing and approved subdivision.

We encourage the RDN board to address this with the Ministry of Environment and to come up with a better more fair and equitable way of handling existing subdivisions and how to apply the RAR to reservoirs with ever changing water levels.

Respectfully Submitted
Owners of Strata Plan VIS 5160


Per: Murray Hamilton
Property Manager

*"The Horne Lake Community is committed to a safe, pristine/natural,
family oriented, recreational area that embraces sustainable environmental stewardship"*

Attachment No. 4 (Page 2 of 2)
Letters received

Joe Stanhope

From: "Jacquie Thomson" <jacquiethomson893@hotmail.com>
To: <jstanhope@shaw.ca>
Sent: September 13, 2006 4:25 PM
Subject: Protection of riparian areas in RDN.

Dear Director Stanhope,

The hiring of QEEPs by contractors who are paid by the contractors concerns me. These are decisions that have consequences that last indefinitely. It is important that control remain as much as is possible in the hands of our elected officials who act on our behalf.

Could a possible solution be approached that would see the RDN hire their QEEP on staff and have the contractors be responsible to pay the required fee to our QEEP? This could take care of some of the cost of such an arrangement and would augment the planning staff.

I appreciate the opportunity to express this approach.

Jacqueline Thomson

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REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, SEPTEMBER 12, 2006, AT 6:30 PM
IN THE RDN BOARD CHAMBERS

Present:

Director J. Stanhope	Chairperson
Director J. Burnett	Electoral Area A
Director M. Young	Electoral Area C
Alternate	
Director F. Van Eynde	Electoral Area E
Director L. Biggemann	Electoral Area F
Alternate	
Director D. Heenan	Electoral Area H

Also in Attendance:

C. Mason	Chief Administrative Officer
W. Moorman	Manager of Engineering Standards & Subdivisions
J. Finnie	General Manager of Environmental Services
T. Osborne	General Manager of Recreation & Parks
M. Pearse	Manager of Administrative Services
N. Avery	Manager of Financial Services
N. Tonn	Recording Secretary

CALL TO ORDER

The Chairperson welcomed Alternate Directors Van Eynde, Heenan and the new General Manager of Development Services, Paul Thorkelsson, to the meeting.

DELEGATIONS

Brenda Arthur, re Budget Steel -- 2073 Main Road -- Area A.

Ms. Arthur provided a short history of the property and the previous development permit which was issued in 1998 and provided written background information as well as circulating informational pictures to the Committee for their information.

David Dunaway, re Budget Steel -- 2073 Main Road -- Area A.

Mr. Dunaway raised his concerns with Budget Steel's continued practice of receiving vehicles containing fluids which could possibly contaminate surface groundwater and eventually, the Cassidy aquifer.

LATE DELEGATIONS

MOVED Director Burnett, SECONDED Director Van Eynde, that two late delegations be permitted to address the Committee.

CARRIED

Will Burrows, Budget Steel, re Budget Steel -- 2073 Main Road -- Area A.

Mr. Burrows, Manager of Budget Steel, provided an overview of Budget Steel's operating practices and stressed their commitment to resolving any outstanding issues through their recent development permit application.

Allen Meyer, re Development Variance Permit Application No. 90616 – Meyer – 3512 Bluebill Place – Area E.

Mr. Meyer spoke in favour of DVP Application No. 90616 and provided the Committee with additional written information with respect to the application.

MINUTES

MOVED Director Burnett, SECONDED Director Biggemann, that the minutes of the Electoral Area Planning Committee meeting held July 11, 2006 be adopted.

CARRIED

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60644 – D & B McKee – 5061 Island Highway West – Area H.

MOVED Director Heenan, SECONDED Director Biggemann, that Development Permit Application No. 60644, to allow the construction of a dwelling, be approved according to the terms outlined in Schedule No. 1.

CARRIED

Development Permit Application No. 60645 – Cloarec – 2615 Noble Road – Area E.

MOVED Director Van Eynde, SECONDED Director Young, that Development Permit Application No. 60645, to allow for the construction of a dwelling unit at 2615 Noble Road, be approved according to the terms outlined in Schedule No. 1.

CARRIED

Development Permit Application No. 60648 – Fern Road Consulting Ltd., on behalf of R. & L. Wells – 677/669 Barclay Crescent North – Area G.

MOVED Director Burnett, SECONDED Director Young, that Development Permit Application No. 60648 submitted by Fern Road Consulting Ltd., on behalf of R. & L. Wells in conjunction with the subdivision on the parcels legally described as Lots 2 & 3, District Lot 28, Nanoose District, Plan 23031 and designated within the Sensitive Lands Development Permit Area pursuant to the “French Creek Official Community Plan Bylaw No. 1115, 1998”, be approved, subject to the conditions outlined in Schedule Nos. 1 and 2 of the corresponding staff report.

CARRIED

DEVELOPMENT VARIANCE PERMIT

Development Variance Permit Application No. 90616 – Meyer – 3512 Bluebill Place – Area E.

MOVED Director Van Eynde, SECONDED Director Burnett, that Development Variance Permit No. 90616 to legalize the existing beach access stairs as shown on Schedule No. 2 located at 3512 Bluebill Place, be approved subject to the terms outlined on Schedule No. 1, and that staff do the following:

- a) Develop a policy for the Board’s consideration regarding the appropriate development of beach access stairs, and the associated staff review of development variance permit applications.
- b) Proceed with seeking a Court Order to have the stairs removed, to comply with Bylaw No. 500 and Bylaw No. 1250 if the applicants do not meet the terms of Schedule No. 1 within 90 days from the date of the issuance of Development Variance Permit 90616.

CARRIED

Development Variance Permit Application No. 90618 – Allen and Parker – 448 Manse Road – Area G.

MOVED Director Burnett, SECONDED Director Young, that Development Variance Permit Application No. 90618, to relax the front lot line setback from 8.0 metres to 4.6 metres, to legalize an existing garage at 448 Manse Road, 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.

CARRIED

Development Variance Permit Application No. 90619 – JE Anderson, BCLS on behalf of M. Porter – Spring Place – Area F.

MOVED Director Biggemann, SECONDED Director Van Eynde, that Development Variance Permit Application No. 90619, submitted by JE Anderson, BCLS, on behalf of M. Porter, to vary the minimum lot frontage requirement as shown on Schedule No. 3 in conjunction with a 2-lot subdivision proposal of Lot B, Block 544, Nanoose District, Plan VTP60806, be approved subject to the conditions set out in Schedule Nos. 1 and 2 and to the notification procedure pursuant to the *Local Government Act*.

CARRIED

OTHER

Request for Relaxation of the Minimum 10% Frontage Requirement – L. & C. Addison, on behalf of Wessex Enterprises Ltd. – Midora & Extension Roads – Area C.

MOVED Director Young, SECONDED Director Burnett, that the request for relaxation of the minimum 10% frontage requirement for proposed Lots 7 and 8 in conjunction with the subdivision application for Parcel Z (DD K83923), Section 13, Range 1 and Sections 12 and 13, Range 2, Cranberry District, be approved subject to the conditions set out in Schedule Nos. 1 and 2 of the staff report.

CARRIED

Riparian Areas Regulation Stream Declaration Policy.

MOVED Director Young, SECONDED Director Biggemann, that the Riparian Areas Regulation Stream Declaration Policy, attached to the staff report, be approved.

CARRIED

Incorporating Green Shores Project Principles into RDN Bylaws.

MOVED Director Young, SECONDED Director Heenan, that the Board direct staff to consider policies and development permit area guidelines regarding Green Shores' principles for inclusion in all future official community plan reviews.

CARRIED

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

Budget Steel – Development Permit Application.

MOVED Director Burnett, SECONDED Director Young, that staff review the Budget Steel file with the RDN lawyer to obtain a legal opinion as to whether or not the conditions as set out in the existing Development Permit can be enforced and other matters related to Budget Steel's operation; and that staff report back to the next Board meeting.

CARRIED

ADJOURNMENT

MOVED Director Young, SECONDED Director Van Eynde, that this meeting terminate.

CARRIED

TIME: 7:20 PM

CHAIRPERSON

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE COMMITTEE OF THE WHOLE
MEETING HELD ON TUESDAY, SEPTEMBER 12, 2006, AT 7:24 PM
IN THE RDN BOARD CHAMBERS

Present:

Director J. Stanhope	Chairperson
Director J. Burnett	Electoral Area A
Director B. Sperling	Electoral Area B
Director M. Young	Electoral Area C
Alternate	
Director F. Van Eynde	Electoral Area E
Director L. Biggemann	Electoral Area F
Alternate	
Director D. Heenan	Electoral Area H
Director S. Herle	City of Parksville
Director T. Westbroek	Town of Qualicum Beach
Director C. Ilaine	District of Lantzville
Director B. Bestwick	City of Nanaimo
Director B. Holdom	City of Nanaimo
Alternate	
Director I. Sherry	City of Nanaimo
Director L. McNabb	City of Nanaimo
Alternate	
Director J. Cameron	City of Nanaimo
Director J. Manhas	City of Nanaimo

Also in Attendance:

C. Mason	Chief Administrative Officer
T. Osborne	General Manager of Recreation & Parks
J. Finnie	General Manager of Environmental Services
W. Moorman	Manager of Engineering Standards & Subdivision
M. Pearse	Manager of Administrative Services
N. Avery	Manager of Financial Services
N. Tonn	Recording Secretary

CALL TO ORDER

The Chairperson welcomed Alternate Directors Van Eynde, Heenan, Sherry, Cameron and the new General Manager of Development Services, Paul Thorkelsson, to the meeting.

MINUTES

MOVED Director McNabb, SECONDED Director Bestwick, that the minutes of the Committee of the Whole meeting held July 11, 2006 be adopted.

CARRIED

CORPORATE SERVICES

ADMINISTRATION

Islands Trust Protocol Agreement.

MOVED Director Bestwick, SECONDED Director McNabb, that the Board approve the Protocol Agreement (dated July 27, 2006) between the Regional District of Nanaimo and the Gabriola Island Local Trust Committee.

CARRIED

Airport Service Bylaws.

MOVED Director Holdom, SECONDED Director McNabb, that elector assent for the participating areas be obtained by using the alternative approval process for the entire service area.

CARRIED

MOVED Director Holdom, SECONDED Director McNabb, that the "Nanaimo Airport Service Establishment Bylaw No. 1505, 2006" be given three readings, be forwarded to the Ministry of Community Services for approval and proceed to the Alternative Approval Process to receive elector assent.

CARRIED

MOVED Director Holdom, SECONDED Director McNabb, that the "Nanaimo Airport Service Borrowing Bylaw No. 1506, 2006" be given three readings, be forwarded to the Ministry of Community Services for approval and proceed to the Alternative Approval Process to receive elector assent.

CARRIED

MOVED Director Holdom, SECONDED Director McNabb, that the attached Nanaimo Airport Service Elector Response Form be approved for use with Bylaws 1505 and 1506.

CARRIED

FINANCE

UBCM Resolution Regarding Home Owner Grant Program.

MOVED Director Van Eynde, SECONDED Director Manhas, that the following resolution be submitted for consideration to the next meeting of the AVICC and/or the UBCM:

WHEREAS property values continue to increase at a rapid rate in the Province of BC;

AND WHEREAS many long term property owners continue to suffer a loss of the Home Owner Grant due to market forces beyond their control;

AND WHEREAS there is a general societal benefit to assisting all property owners to be able to afford to live on the properties they have chosen;

THEREFORE BE IT RESOLVED THAT the Province be requested to reinstate a Home Owner Grant for properties in excess of the current limit of \$894,000.

CARRIED

Reserve Fund Bylaw Approvals.

Bylaw No. 1501.

MOVED Director Westbrook, SECONDED Director Manhas, that "Electoral Area Local Government Elections Reserve Fund Establishment Bylaw No. 1501, 2006" be introduced for first three readings.

CARRIED

MOVED Director Westbrook, SECONDED Director Manhas, that "Electoral Area Local Government Elections Reserve Fund Establishment Bylaw No. 1501, 2006" having received three readings be adopted.

CARRIED

Bylaw No. 1502.

MOVED Director Westbrook, SECONDED Director Manhas, that "Decourcey Water Reserve Fund Establishment Bylaw No. 1502, 2006" be introduced for first three readings.

CARRIED

MOVED Director Westbrook, SECONDED Director Manhas, that "Decourcey Water Reserve Fund Establishment Bylaw No. 1502, 2006" having received three readings be adopted.

CARRIED

Bylaw No. 1503.

MOVED Director Westbrook, SECONDED Director Manhas, that "Nanoose Bay Peninsula Water Reserve Fund Establishment Bylaw No. 1503, 2006" be introduced for first three readings.

CARRIED

MOVED Director Westbrook, SECONDED Director Manhas, that "Nanoose Bay Peninsula Water Reserve Fund Establishment Bylaw No. 1503, 2006" having received three readings be adopted.

CARRIED

Bylaw No. 1504.

MOVED Director Westbrook, SECONDED Director Manhas, that "District 69 Arena Reserve Fund Establishment Bylaw No. 1504, 2006" be introduced for first three readings.

CARRIED

MOVED Director Westbrook, SECONDED Director Manhas, that "District 69 Arena Reserve Fund Establishment Bylaw No. 1504, 2006" having received three readings be adopted.

CARRIED

2006 Expenditure of Reserve Funds.

The Chief Administrative Officer noted that the request for expenditures from the "Northern Community Sewer Service Area Development Cost Charges Bylaw No. 1442, 2005" has been withdrawn at this time.

MOVED Director Westbrook, SECONDED Director McNabb, that \$5,346 to upgrade the Gabriola Island base radio be approved as an expenditure from the "School District 68 E911 Reserve Fund Establishment Bylaw No. 1069, 1996".

CARRIED

MOVED Director Westbrook, SECONDED Director McNabb, that \$49,310 for the acquisition of SCBA breathing apparatus equipment be approved as an expenditure from the "Coombs-Hilliers Fire Protection Reserve Fund Establishment Bylaw No. 833, 1991".

CARRIED

MOVED Director Westbrook, SECONDED Director McNabb, that \$83,125 to upgrade the Sandpiper reservoir be approved as an expenditure from the "French Creek Water Local Service Area Reserve Fund Establishment Bylaw No. 1167, 1999".

CARRIED

MOVED Director Westbrook, SECONDED Director McNabb, that \$218,400 for the Regional District's portion of the cost for the Craig Bay reservoir be approved as an expenditure from the "Nanoose Bay Bulk Water Local Service Area Development Cost Charge Bylaw No. 1088, 1997".

CARRIED

Barclay Crescent Sewer Project Financing.

Director Westbrook requested that these items be dealt with in seriatim.

MOVED Director McNabb, SECONDED Director Young, that the capital charge rate in the "Northern Community Sewer Local Service Area Capital Charge Bylaw No. 1331" be amended to an amount of \$1,743 per lot and that staff proceed to amend the bylaw accordingly.

CARRIED

MOVED Director McNabb, SECONDED Director Young, that an assist factor of 5% be applied to the capital charge rate for the Barclay Crescent project resulting in a capital charge rate of \$1,656 per property.

DEFEATED

MOVED Director Westbrook, SECONDED Director Holdom, that property owners be offered the option of paying the additional capital cost by way of a parcel tax as generally outlined in the table shown in the corresponding staff report.

CARRIED

DEVELOPMENT SERVICES

ENGINEERING STANDARDS AND SUBDIVISION

Rural Streetlighting Local Service Area Boundary Amendment Bylaw No. 791.15 – Area E.

MOVED Director Van Eynde, SECONDED Director Young, that the parcel legally described as Lot A, Plan VIP58653, District Lot 6, Nanoose Land District, PID 018700136 be included in the Rural Streetlighting Local Service Area.

CARRIED

MOVED Director Van Eynde, SECONDED Director Young, that "Rural Streetlighting Local Service Area Boundary Amendment Bylaw No. 791.15, 2006" be introduced, read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

Proposed Board Policy for Registration of Covenants.

MOVED Director McNabb, SECONDED Director Herle, that the Board policy entitled *Registration of Land Title Office Documents in Conjunction with the Amendment Application Process*, be adopted as outlined in Schedule No. 1.

CARRIED

REGIONAL PLANNING

RDN Strategic Plan 2006 – 2009.

MOVED Director Westbrook, SECONDED Director McNabb, that the RDN Strategic Plan for the years 2006 – 2009 be approved.

CARRIED

MOVED Director Westbrook, SECONDED Director McNabb, that staff be directed to refer the 2006 – 2009 RDN Strategic Plan to the member municipalities for information.

CARRIED

MOVED Director Westbrook, SECONDED Director Holdom, that staff be requested to include in the 2007 workplan, the investigation of an affordable housing strategy for the region in conjunction with the review of the Regional Growth Strategy; and that consulting services be included to facilitate the review.

CARRIED

ENVIRONMENTAL SERVICES

LIQUID WASTE

Pump and Haul Local Service Area Amendment Bylaw No. 975.45 – 626 South Road – Area B and 306 Kinkade Road – Area G.

MOVED Director Westbrook, SECONDED Director Bestwick,:

1. That the boundaries of the RDN Pump and Haul Local Service Area Bylaw 975 be amended to include Lot 108, Section 13, Plan 21531, Nanaimo Land District, Gabriola Island, 626 South Road.
2. That the boundaries of the RDN Pump and Haul Local Service Area Bylaw 975 be amended to remove Lot 2, District Lot 9, Plan 21610, Newcastle Land District, Kinkade Road.
3. That “Regional District of Nanaimo Pump and Haul Local Service Area Amendment Bylaw No. 975.45, 2006” be read three times and forwarded to the Inspector of Municipalities for approval.

CARRIED

Flamingo Drive/McFeely Drive/Surfside Drive – Sanitary Sewer Servicing Options.

MOVED Director Westbrook, SECONDED Director Herle, that staff include in the 2007 work plan, the preliminary design, cost estimates and public consultation activities to include the 61 properties as shown on the attached drawing in the Surfside Sanitary Sewer Service Area and that individual applications for sanitary sewer service connections in the Surfside Sanitary Sewer Service Area be held in abeyance in the interim.

CARRIED

SOLID WASTE

Cedar Road LFG – Amending Agreement, Waiver and Licence of Occupation.

MOVED Director Holdom, SECONDED Director Sherry, that the Board approve the Amending Agreement with Cedar Road LFG Inc. to change the project completion date from July 21, 2006 to November 30, 2007.

CARRIED

MOVED Director Holdom, SECONDED Director Sherry, that the Board grant a Licence of Occupation to Cedar Road LFG Inc. for use of the area at the Regional Landfill occupied by their electricity generating facility.

CARRIED

MOVED Director Holdom, SECONDED Director Sherry, that the Board approve the Waiver of Emission Rights with Cedar Road LFG Inc. associated with any reduction in greenhouse gases that result from the operation of their electricity generating facility.

CARRIED

COMMISSION, ADVISORY & SELECT COMMITTEE

Area 'A' Parks and Green Spaces Advisory Committee.

MOVED Director Burnett, SECONDED Director McNabb, that the minutes of the Electoral Area 'A' Parks and Green Spaces Advisory Committee meeting held July 20, 2006 be received for information.

CARRIED

East Wellington – Pleasant Valley Parks and Open Space Advisory Committee.

MOVED Director Young, SECONDED Director McNabb, that the minutes of the East Wellington – Pleasant Valley Parks and Open Space Advisory Committee meeting held June 15, 2006 be received for information.

CARRIED

Regional Growth Monitoring Advisory Committee/State of Sustainability Project.

MOVED Director Holdom, SECONDED Director Cameron, that the minutes of the Regional Growth Monitoring Advisory Committee/State of Sustainability Project meeting held July 5, 2006 be received for information.

CARRIED

Regional Parks and Trails Advisory Committee.

MOVED Director McNabb, SECONDED Director Van Eynde, that the minutes of the Regional Parks and Trails Advisory Committee meeting held September 5, 2006 be received for information.

CARRIED

IN CAMERA

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

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 8:17 PM

CHAIRPERSON



RDN			
CAO	GMES		
GMCS	GMR&P		
GMDS	GMR&P		
SEP 20 2006			
CHAIR	BOARD		
<i>board</i>			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: September 20, 2006

FROM: Greg Keller
Planner

FILE: 3090 30 90615

SUBJECT: Development Variance Permit Application No. 90615 - Middleton
Electoral Area 'H' – 4595 Berbers Drive

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of an existing accessory building for a property located at 4595 Berbers Drive in Electoral Area 'H'.

BACKGROUND

The planning department received a Development Variance Permit application to relax the minimum interior side lot line and front lot line setbacks to legalize the siting of an existing accessory building, located on the property legally described as Lot 68, District Lot 40, Newcastle District, Plan 21776 (see Attachment No. 1).

The applicant began construction of a 57.04 m² accessory building in the southeast corner of the subject property in late 2005, prior to the construction of a dwelling unit on the subject property. The subject property is 0.19 hectares in area and is zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The RS2 zone does not permit an accessory building to be located on a property if there is no principle use of the property. In other words, a dwelling unit must be constructed prior to the construction of an accessory building.

Bylaw Enforcement became aware of the subject building and advised the applicant to stop work on the accessory building and apply to the Regional District of Nanaimo (RDN) for a Development Variance Permit. In addition, as the building appeared to be very close to the property line, the applicant was requested to provide a building location certificate. At that time, the building was primarily constructed with the exception of the roof, which was not complete. The applicant indicated that his intent was to construct a dwelling unit in the spring of 2006. The applicant also submitted a notarized letter of undertaking to this affect.

The RS2 zone specifies a minimum setback of 8.0 metres from the front lot line and 2.0 metres from the interior side and rear lot lines. The survey indicated that the accessory building was located 3.4 metres from the front lot line and 1.5 metres from the side lot line. Therefore, a variance to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is required to legalize the siting of the building. The applicant submitted a Development Variance Permit application on November 16, 2005, along with a provincial lot setback relaxation from the Ministry of Transportation. Staff responded by indicating that the accessory building was not a lawful land use; therefore, a variance could not be issued until there was a dwelling unit under construction.

Staff advised the applicant that the RDN would withhold recommending enforcement action until June 20, 2006, to allow the applicant time to begin construction of a dwelling unit on the subject property. Staff also requested that the applicant notify our office when construction of a dwelling unit begins, so that staff could begin to process the Development Variance Permit application. Staff has now received confirmation that a dwelling unit is under construction and are now prepared to proceed with the applicant's Development Variance Permit application.

Proposed Variances

The applicants have applied to vary **Section 3.4.62 – Minimum Setback Requirements** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

1. The front lot line setback is proposed to be relaxed from 8.0 metres to 3.4 metres for the existing accessory building labelled 'SHED' on the survey submitted by the applicant.
2. The interior lot line setback is proposed to be relaxed from 2.0 metres to 1.5 metres for the existing accessory building labelled 'SHED' on the survey submitted by the applicant.

ALTERNATIVES

1. To approve Development Variance Permit No. 90615 subject to the Board's consideration of the comments received as a result of public notification.
2. To deny the requested permit and direct staff to take enforcement action to have the building removed or relocated.

LAND USE AND DEVELOPMENT IMPLICATIONS

The subject property is primarily flat with a slight change in elevation between the accessory building and the dwelling unit. The adjacent parcels are developed with residential uses. There is a stand of mature evergreen and deciduous vegetation separating the accessory building from the closest parcel to the east. There are no notable views present from the subject property or from the neighbouring properties. The proposed accessory building includes a single storey and is approximately 57.04 m² in floor area. In staff's opinion, the accessory building does not impact on the neighbouring properties.

The applicant cites the following reasons why the accessory building was constructed in its current location:

1. The building was built on the rear of the lot.
2. The front of the lot borders on lots 8 & 9.
3. The septic field is already installed at the rear of the lot, parallel to the building.
4. There is a three foot drop between the shed and the next level.
5. The shed has a metal roof and would buckle if moved.
6. Went by old setback variance based on rear of property.

Based on the above information, the applicant has assumed that the rear property line was adjacent to Berbers Drive and required a 2.0 metre setback. This may have been because the applicant is proposing to access the subject property from Privatier Drive. However, the lot frontage adjacent to Berbers Drive is considered the front lot line and requires an 8.0 metre setback.

The accessory building is constructed on a concrete foundation, does not have a negative impact on the adjacent properties, and has a relatively small footprint. Staff is of the opinion that the benefits of requiring the applicant to remove or relocate the structure to comply with Bylaw No. 500, do not justify the costs of removal or relocation. In addition, the location of the septic field and driveway restricts the potential building envelope to the southeast corner of the subject property, where the accessory building is located.

Therefore, staff recommends that the Board approve the requested variances, subject to the Board's consideration of the comments received, as a result of public notification.

Notwithstanding the above, should the Board deny this application, it is recommended that the Board also direct staff to proceed with enforcement action, to have the structure removed or relocated, to be in compliance with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process, pursuant to the *Local Government Act*, property owners located within a 50.0 metre radius have received notice of the proposal. As a result of public notification, three letters of opposition were received and considered by the Board (see Attachment No. 2). As a result of the comments received, this application was referred back to staff to consider the issues raised.

Staff contacted the applicant to discuss options for mitigating the issues identified in the letters. As there are no notable oceanviews present from the subject property, the impacts of the structure are minimal. In staff's opinion, the only viable option to resolve the issues, is to remove or relocate the structure. The applicant considered the options for mitigating the impacts; however, given the apparent minimal impact associated with this application, the applicant requested to proceed with this application as submitted. The applicant did not indicate a willingness to remove or relocate the structure, and in staff's opinion, the removal or relocation of the structure would result in a minimal benefit to the surrounding property owners.

VOTING

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

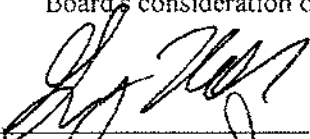
SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to relax the minimum front and side lot line setbacks in order to legalize the siting of an existing accessory building. The proposed variances, if approved, would vary Section 3.4.62 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," (Minimum Setback Requirements) as shown on attached Schedules No. 2 and 3.

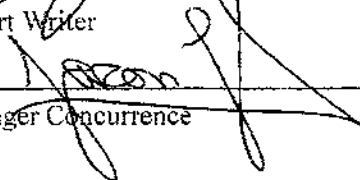
As the subject accessory building does not have a negative impact on the adjacent properties, has a relatively small footprint, and the building envelope is restricted by the location of the septic field and driveway, staff recommends this application be approved, subject to Board consideration of comments received as a result of public notification pursuant to the *Local Government Act*.

RECOMMENDATION

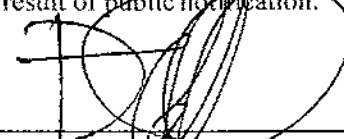
1. That Development Variance Permit Application No. 90615, submitted by Frank and Margaret Middleton to vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as outlined on Schedule No. 1 to legalize an existing accessory building, be approved subject to the Board's consideration of the comments received as a result of public notification.




Report Writer



Manager Concurrence



General Manager Concurrence



CAO Concurrence

COMMENTS:

devsys/reports/2006/dvp se 3060 30 90615 Middleton Report(2).doc

Schedule No. 1
Requested Variances
Development Variance Permit Application No. 90615
Lot 68, District Lot 40, Newcastle District, Plan 21776
4595 Berbers Drive

Variances

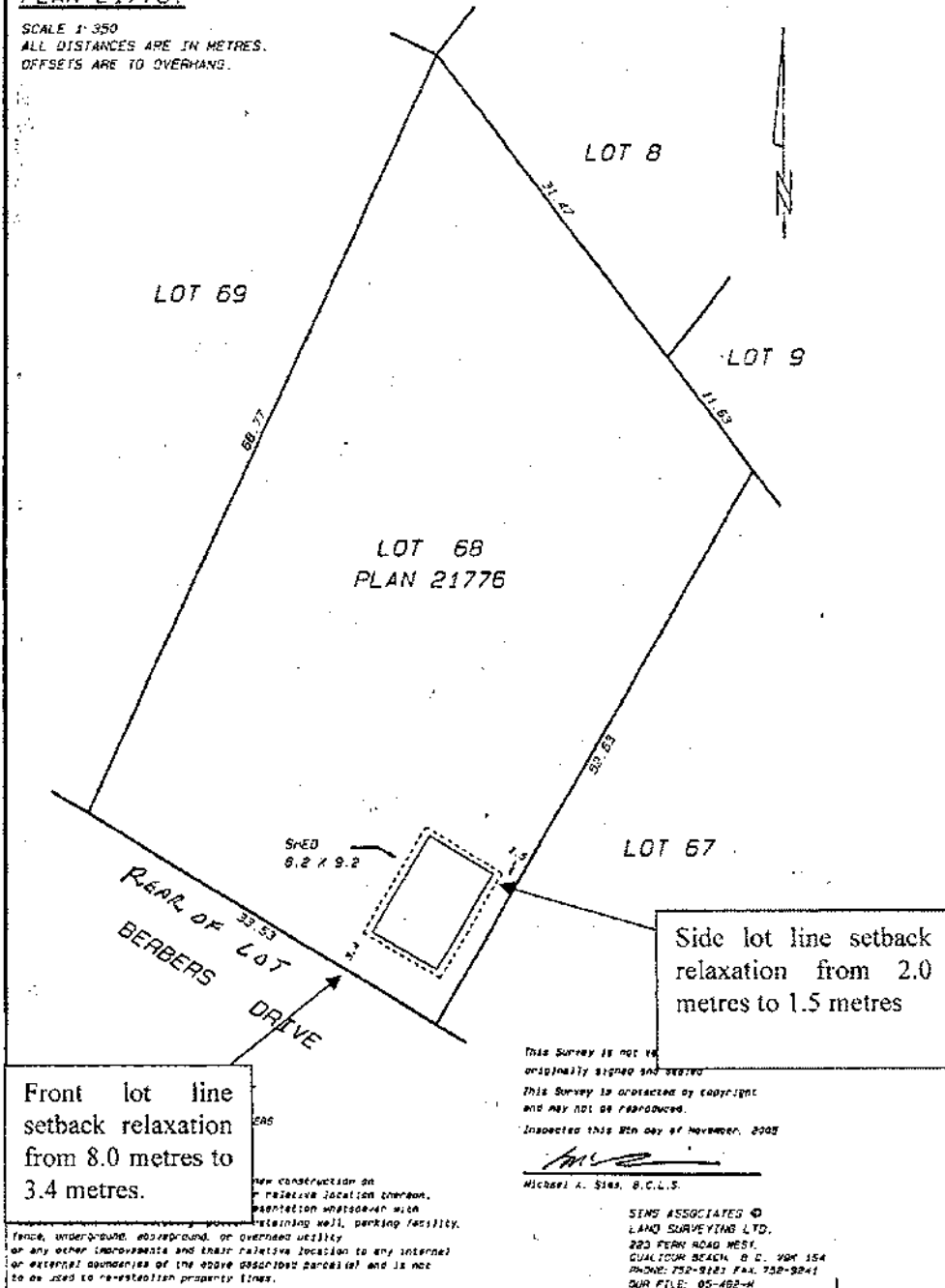
Development Variance Permit No. 90615 varies **Section 3.4.62 – Minimum Setback Requirements** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

1. The front lot line is varied to relax the setback from 8.0 metres to 3.4 metres for the existing accessory building labelled 'SHED' on Schedule No. 2.
2. The interior lot line is varied to relax the setback from 2.0 metres to 1.5 metres for the existing accessory building labelled 'SHED' on Schedule No. 2.

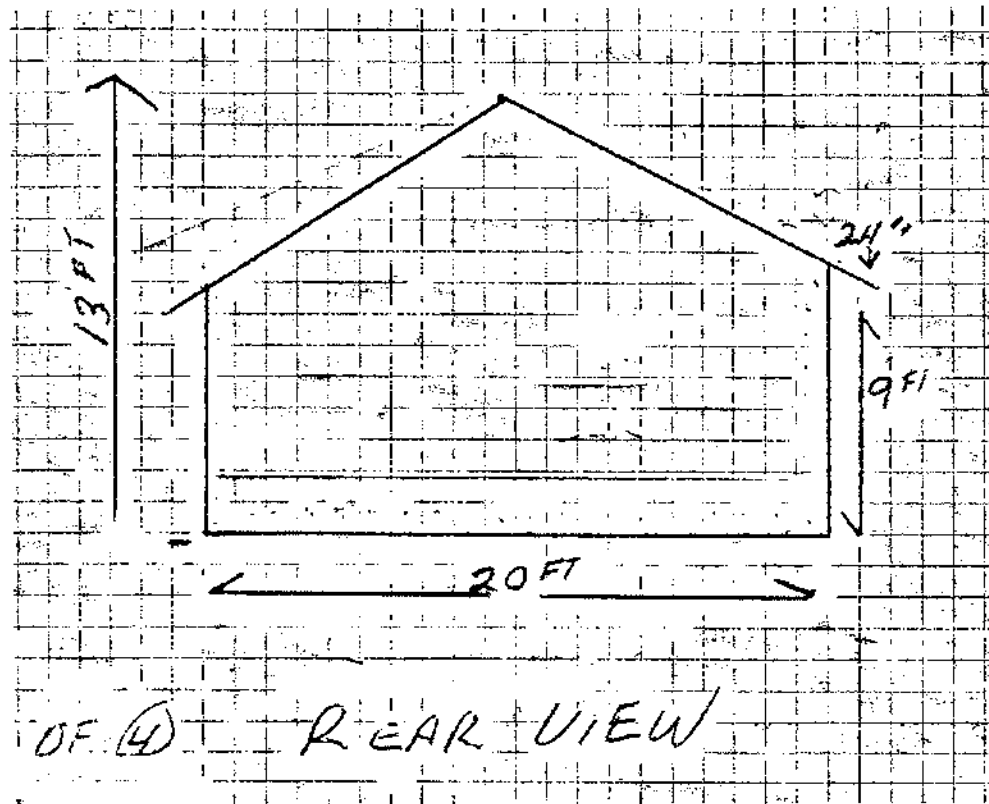
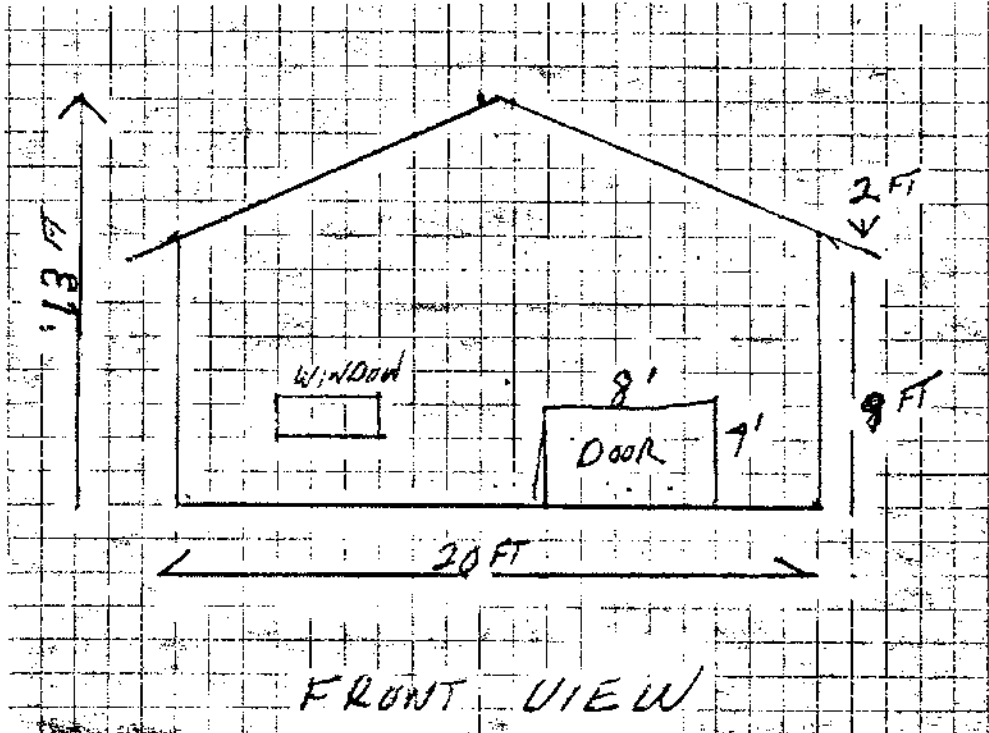
Schedule No. 2
Development Variance Permit Application No. 90615
Building Location Certificate (Reduced for Convenience)
Lot 68, District Lot 40, Newcastle District, Plan 21776
4595 Berbers Drive

B.C. LAND SURVEYOR'S BUILDING LOCATION CERTIFICATE
LOT 68, DISTRICT LOT 40, NEWCASTLE DISTRICT,
PLAN 21776.

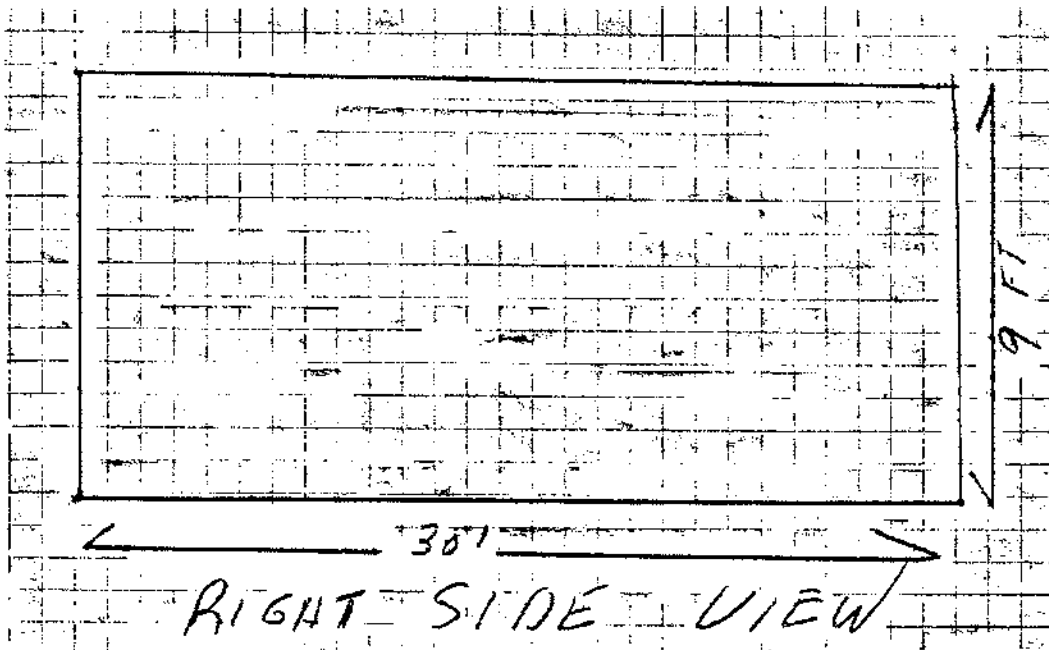
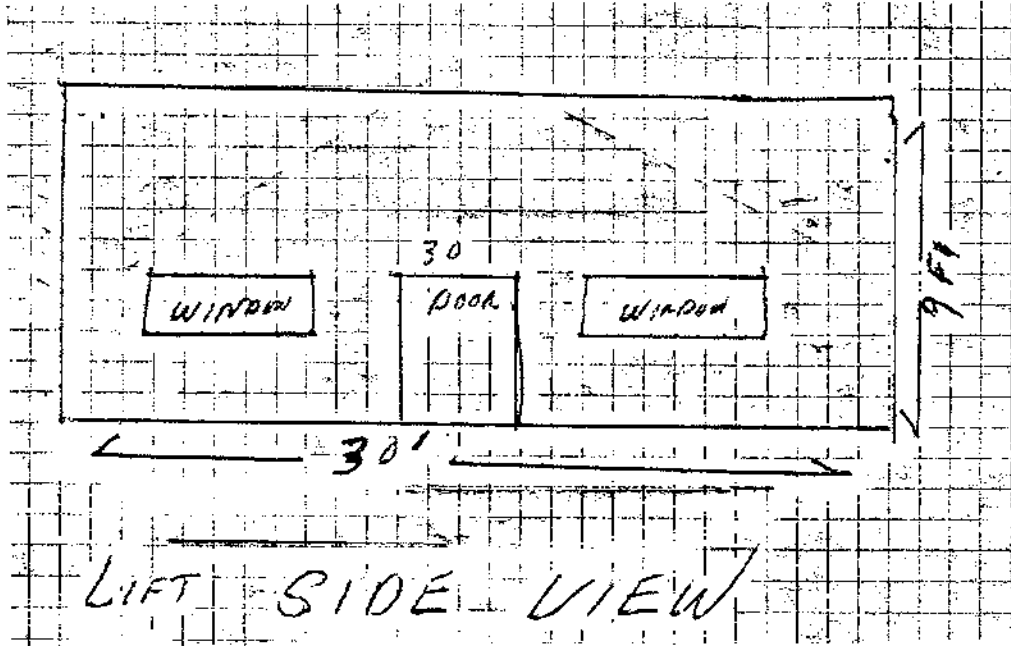
SCALE 1:350
ALL DISTANCES ARE IN METRES.
OFFSETS ARE TO OVERHANGS.



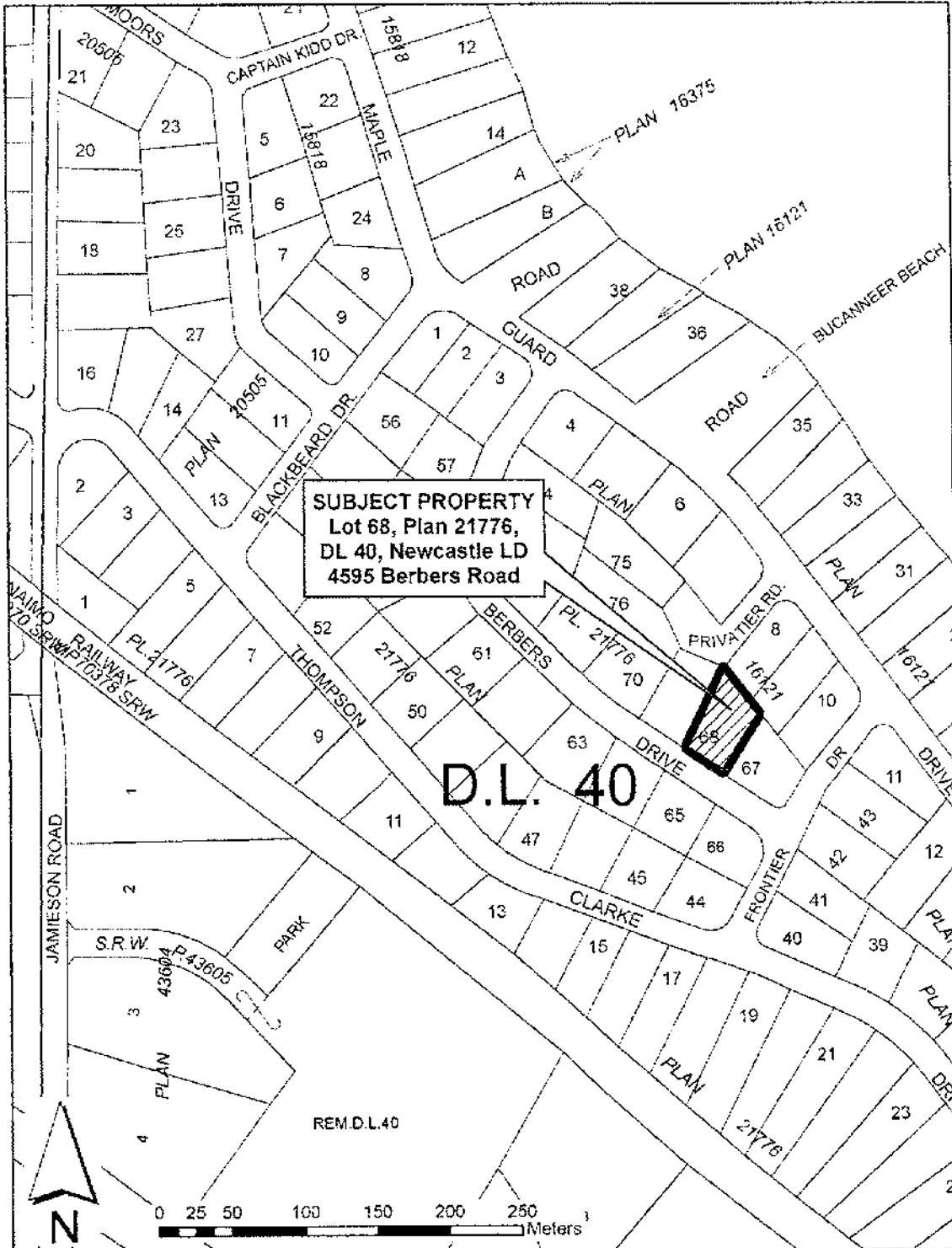
Schedule No. 3 (Page 1 of 2)
Accessory Building Elevations (Submitted by applicant reduced for convenience)
Development Variance Permit Application No. 90615
4595 Berbers Drive



Schedule No. 3 (Page 2 of 2)
Accessory Building Elevations (Submitted by applicant reduced for convenience)
Development Variance Permit Application No. 90615
4595 Berbers Drive



Attachment No. 1
Subject Property Map
Development Variance Permit Application No. 90615



Attachment No. 2 (page 1 of 4)
Letters received as a result of public notification

•DVP 90615-Middleton.

July 19, 2006

Regional District of Nanaimo Planning Department
6300 Hammond Bay Rd.
Nanaimo, BC
V9T 6N2

To Whom It May Concern

RE: Lot 68, District Lot 40, Newcastle District, Plan 21776

This is to inform you that as property owners, we are objecting to the *Development Variance Permit* requested by the owners of the abovesaid property. It is our belief that precedence will be set should a variance be granted and the beauty and nature of this landscape could radically change as a result.

Our home is Lot 10 Frontier and Mapleguard and believe that if a variance is granted to Lot 68, Lot 67 could follow, allowing more land space for the current owner to develop, thus, infringing on our property value and current privacy. Likewise, the character of this whole corner will inevitably change. Allowing a 4.6 meter variance is a significant amount of land when you consider the increasing property values in the area.

Unfortunately, without anyone to enforce bylaws, people will take liberties and face the results. The shed concerned was erected within the last 12 months, as was the home. As with the Lasqueti resident who was recently told she had to move her dwelling, it is the responsibility of the homeowner to research ALL regulations PRIOR to building.

Bowser/Deep Bay is a beautiful, serene area. Let's not begin to give the land away. This will only allow property owners to continue to take liberties. Trees and natural habitat growing on these reserved areas that are removed will affect birds and wildlife. Decreased property values will follow as many others seek to claim land where buildings were built illegally.

Please follow the existing *Regional District of Nanaimo land Use and Subdivision Bylaw No. 500, 1987* as it precedes this application date.

Without Prejudice

Norman and Cynthia Kostich
Lot 10
District lot 40, Newcastle District, Plan 21776..

Attachment No. 2 (page 2 of 4)
Letters received as a result of public notification

DVP 90615 - Middleton

Laustsen, Denise

From: melinda.pope@healthpoint.com
Sent: July 20, 2006 2:44 PM
To: Laustsen, Denise
Subject: Objection to Variance App. #90615, 4595 Berbers Rd. District "H"

To the RDN Board of Directors:

My wife and I would like to voice our objection to the granting of this application.

First I'd like to give you a little background information.

Early in October 2005, after the owner marked out where he wanted the "garage", he was told by his builders, that the location contravened the building by-laws. They were told to build it where he'd laid it out. (the same builders, who are neighbours, also built our house and were very precise with us on current by-laws. I also contacted your offices to get the details as well. We hired a professional surveyor to lay out our buildings so that we would meet the existing building land use by-laws and avoid any issues with your office as well as unhappy neighbours).

I called the planning office and subsequently the by-law enforcement office before the concrete pad for this garage was poured to voice my concerns. I called the by-law office again roughly a week or so later after the pad had been poured and spoke to by-law officer for Area H (Tom ??) to ask if he was looking into it. I was told at that time, he'd received several complaints from other neighbours and would be looking into the matter. He also told me, that if the building contravened the bylaw it would have to be moved. I called again when the walls and trusses were going up, and was told he had not been to the property yet, but would be going in short order. Construction continued to completion. No one was ever advised as to the status of concerns made to the bylaw office.

Upon hearing about the subject variance application above, I spoke to the by-law officer, and he told me that when he finally got out to see the building in question, the roof was on. He also tells me that even if he had gone out in the early stages of construction, he had no authority to put a stop work order on the site. I have to question then - Why have by-law officers at all? I have made my concerns on this point to the Manager of Bylaw enforcement today.

Prior to this application, the names of complainants are never released. The owners of this property are wonderful people and great neighbours. I understand they have a right to know who is objecting and why. The last thing we want is animosity amongst neighbours, but we feel strongly enough about our reasons as follows.

1. We are very concerned with future buildings and sizes of such which may legally or illegally be built on this property as a result of the granting of the variance.
2. This area is changing rapidly, with much construction underway. People are investing hundreds of thousands of dollars into property, with homes selling upwards of \$850,000. A vacant waterfront lot in front of our home is currently for sale at \$450,000. It will sell and someone will eventually want to build on it. There are also several older smaller homes we look over, in our view of the ocean. Someday the owners may want to tear down and rebuild. Although some of our view will be lost eventually, we're not prepared to accept more than is allowed. We have bylaws after all. Right? Although owners have every right, just as we did, to develop their property within the property use bylaws, will they adopt the "do it first and ask for forgiveness later" attitude? This is a small community and word travels fast! Unless the simple by-laws we have in place are respected, no one can be assured that their value (monetary or otherwise) is not at risk. Ignorance of local development rules is no excuse. We had absolutely no problem

Attachment No. 2 (page 3 of 4)
Letters received as a result of public notification

finding out the bylaws when building our dream retirement home and we lived on the mainland at the time.

3. Currently your office has a variance application to construct a home and garage on Mapleguard Drive. The owners have applied "the legal way" prior to construction. What message are you sending to them and others that may want to build here in the future?

Granting this variance sets a terrible precedent in Area H, which affects all homeowners here. Should we adopt a policy of "Build what you want - Where you want - Big as you want - Ignore the bylaws - the Regional District will give their blessing after the fact through a variance application"? I would be very disappointed if this were to be the case.

Thank you for your time and consideration of our objection.

Larry and Melinda Pope
4594 Mapleguard Drive,
Site 138, C-49, RR 1
Bowser, BC V0R 1G0

PS.

I would like to see Electoral District H become a building permit and inspection area. Neighbours shouldn't have to be the inspectors. Not with property values as they are.

This transmission (including any accompanying attachments) is confidential, is intended only for the individual or entity named above, and is likely to contain privileged, proprietary and confidential information that is exempt from disclosure requests under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, use of or reliance upon any of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by e-mail, and delete the original message.
