

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, JUNE 13, 2006
6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-6 Minutes from the regular meeting of the Electoral Area Planning Committee held May 9, 2006.

COMMUNICATION/CORRESPONDENCE

BUSINESS ARISING FROM THE MINUTES

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 7-14 Development Permit Application No. 60622 and Request for Relaxation of the Minimum 10% Perimeter Frontage – Ken Kyler, BCLS, JE Anderson & Associates on behalf of J & M Law – Davenham Road – Area E.
- 15-25 Development Permit Application No. 60624 – Fern Road Consulting Ltd. on behalf of A G Project Management Inc. – McColl Road – Area H.
- 26-34 Development Permit Application No. 60627 – Watson & Forster – 861 Miller Road – Area G.
- 35-41 Development Permit Application No. 60628 – Newcastle Engineering Ltd., on behalf of L. Michaels – 1400 Dorcas Point Road – Area E.
- 42-46 Development Permit Application No. 60629 – Trout – 2671 Seablush Drive – Area E.

DEVELOPMENT VARIANCE PERMIT

- 47-52 Development Variance Permit Application No. 90610 McGillivray and Hopwood 3039 Hillview Road – Area E.
- 53-60 Development Variance Permit Application No. 90611 – Colclough on behalf of Island Timberlands – 1420 & 1430 Island Highway East – Area E.

- 61-78 Development Variance Permit Application No. 90612 -- Park Land Consideration
-- Request for 10% Frontage Relaxation -- Timberlake-Jones Engineering Ltd., on
behalf of Timberstone Development Ltd. -- Davenham Road & Oak Leaf Drive --
Area E.

OTHER

- 79-83 Request for Relaxation of the Minimum 10% Perimeter Requirement -- Fern
Road Consulting Ltd., on behalf of A. Lotoski -- 2882 & 2890 Olympic Road --
Area H.
- 84-89 Request for Relaxation of the Minimum 10% Frontage Requirement -- JE
Anderson on behalf of J. Kantor -- Fowler Road -- Area H.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, MAY 9, 2006, AT 6:30 PM
IN THE RDN BOARD CHAMBERS**

Present:

Director G. Holme	Chairperson
Director J. Burnett	Electoral Area A
Director M. Young	Electoral Area C
Director L. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G
Alternate	
Director D. Heenan	Electoral Area H
Director B. Johnston	City of Parksville

Also in Attendance:

J. Llewellyn	Manager of Community Planning
W. Moorman	Manager of Engineering Standards & Subdivisions
W. Thexton	Senior Accountant
N. Tonn	Recording Secretary

CALL TO ORDER

The Chairperson welcomed Alternate Director Heenan to the meeting.

LATE DELEGATION

MOVED Director Biggemann, SECONDED Director Stanhope, that a late delegation be permitted to address the Committee.

CARRIED

Poul Rosen, re Building Permit for 2991 Northwest Bay Road – Area E.

Mr. Rosen, speaking on behalf of June and Carl Rosen, raised his concerns regarding the Board's approval of a building permit for the property located at 2991 Northwest Bay Road. The Committee was provided a written submission of these concerns for their information.

MINUTES

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

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0602 – Jane England Abbott – Island Highway West – Area G.

MOVED Director Stanhope, SECONDED Director Burnett,:

1. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.334, 2006", to rezone the properties, on the Island Highway West in Electoral Area 'G', from Public 1 Subdivision District 'M' (PU1M) to Residential 2 Subdivision District 'M' (RS2M) be given 1st and 2nd reading.

2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.334, 2006, be approved to proceed to Public Hearing.
3. That the Public Hearing on "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.334, 2006", be delegated to Director Stanhope or his alternate.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60611 – Surfwood Supply Ltd./Keith Brown Associates Ltd. – 2130 Schoolhouse Road - Area A.

MOVED Director Burnett, SECONDED Director Young, that Development Permit No. 60611 with variances to allow for the construction of two industrial buildings be approved according to the terms outlined in Schedule No. 1 and subject to the Board's consideration of the comments received as a result of public notification.

CARRIED

Development Permit Application No. 60614 – Don and Sharon Milburn – 5461 Deep Bay Road – Area H.

MOVED Director Heenan, SECONDED Director Biggemann, that Development Permit Application No. 60614, to allow the removal of an existing dwelling and the construction of a new dwelling at 5461 Deep Bay Road, be approved according to the terms outlined in Schedule No. 1.

CARRIED

Development Permit Application No. 60617 – Byran Witcomb on behalf of Western Cruiser Sales Ltd. – 1451 East Island Highway – Area E.

MOVED Director Stanhope, SECONDED Director Young, that Development Permit Application No. 60617, to allow a sales and service building, four storage buildings, landscaping and parking improvements and a fascia sign at 1451 Island Highway East, be approved subject to the terms of Schedule No. 1.

CARRIED

Development Permit Application No. 60620 – Helen Sims for Craig Finney and Lisa Marie Welker-Finney – Maple Guard Drive – Area H.

MOVED Director Heenan, SECONDED Director Biggemann, that Development Permit Application No. 60620, with a variance to allow the construction of a dwelling, be approved according to the terms outlined in Schedule No. 1 and subject to consideration of the comments received as a result of public notification.

CARRIED

Development Permit Application No. 60621 – Fern Road Consulting Ltd., on behalf of Michael Eddy, Lorie Eddy, Patricia Greenham and Corinne Barker – Moors, Blackbeard and Maple Guard Drives – Area H.

MOVED Director Heenan, SECONDED Director Burnett, that Development Permit Application No. 60621 submitted by Fern Road Consulting Ltd., on behalf of Fern Road Consulting Ltd., on behalf of Michael Eddy, Lorie Eddy, Patricia Greenham & Corinne Barker, in conjunction with the subdivision on the parcels legally described as Lots 8, 9 & 10, All of District Lot 40, Newcastle District, Plan 20505 and designated within the Environmentally Sensitive Areas Development Permit Area, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

MOVED Director Heenan, SECONDED Director Burnett, that Schedule 1 be amended to require the placement of a covenant limiting placement of a second dwelling unit on the new lots created.

CARRIED

The question was called on the motion as amended.

The motion CARRIED.

Development Permit Application No. 60623 – Request for 10% Frontage Relaxation – Timberlake-Jones Engineering Ltd., on behalf of Timberstone Development Ltd. – Northwest Bay Road – Area E.

MOVED Director Stanhope, SECONDED Director Burnett,:

1. That Development Permit Application No. 60623 submitted by Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments Ltd., in conjunction with the subdivision on the parcel legally described as Lot 1, DL 68, Nanoose District, Plan 3940 Except For Part in Plan VIP80339 and designated within the Sensitive Ecosystem Protection and the Farm Land Protection Development Permit Areas be approved subject to the conditions outlined in Schedules No. 1, 2 and 3 of the corresponding staff report.
2. That the request for relaxation of the minimum 10% frontage requirement for proposed Lots 11 and 12 be approved.

CARRIED

DEVELOPMENT VARIANCE PERMIT

Development Variance Permit Application No. 90609 – Kawerau and Butler – 1405 Reef Road – Area E.

MOVED Director Stanhope, SECONDED Director Young, that Development Variance Permit Application No. 90609, to relax the front lot line setback from 8.0 metres to 5.7 metres to facilitate the replacement and extension of an existing attached garage at 1405 Reef 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

OTHER

Request for RDN to Consider the Development of a Manufactured Home Park at 410 Martindale Road – Area G.

MOVED Director Stanhope, SECONDED Director Biggemann, that this report be received for information and that the general issue of the need to revise the Urban Containment Boundary in the vicinity of the City of Parksville be considered as part of the Electoral Area 'G' Official Community Plan Review.

CARRIED

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

Building Permit for 2991 Northwest Bay Road – Area E.

MOVED Director Stanhope, SECONDED Director Biggemann, that the issues raised by the delegation with respect to approval of a building permit for 2991 Northwest Bay Road, be referred to staff and a report prepared for consideration at the next Electoral Area Planning Committee meeting.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:46 PM

CHAIRPERSON



RDN			
CAO		GMES	
GMCS		GMR&P	
GMDS		GMRT&P	
JUN - 1 2006			
CHAIR		BOARD	
EAP			
		DATE:	

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

FROM: Susan Cormic
Senior Planner

FILE: 3060 30 60622
c/r 3320 20 26674

SUBJECT: Development Permit Application No. 60622 & Request for Relaxation of the Minimum 10% Perimeter Frontage
Ken Kyler, BCLS, JE Anderson & Associates, on behalf of J & M Law
Electoral Area 'E' - Davenham Road

PURPOSE

To consider an application for a development permit within a Sensitive Ecosystem Protection Development Permit Area and to consider a request for relaxation of the minimum 10% requirement in conjunction with the creation of a 3-lot subdivision on property in Electoral Area 'E'.

BACKGROUND

The parent parcel, legally described as Lot 3 DL 137 Nanoose District Plan VIP64016, is located adjacent to Stewart Road in Electoral Area 'E' (See Attachment No. 1 on page 8 for location of subject property).

The property, which is 6.27 ha in size is currently zoned Rural 5 (RU5) and is within Subdivision District 'D' (2.0 ha minimum parcel size) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

Surrounding land uses include an un-constructed section of Davenham Road and resource management zoned parcels to the north, Stewart Road and residential zoned parcels to the east, rural zoned parcels to the south and a resource management zoned parcel to the west. The parent parcel is currently vacant.

In addition, pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1400, 2005, the parent parcel is designated within the Sensitive Ecosystem Protection Development Permit Area for the protection of the Woodland Sensitive Ecosystem, which consists of open woodlands containing stands of Garry oak and mixed stands of Garry oak/arbutus, Garry oak/Douglas fir, Arbutus/Douglas fir. Therefore, as the applicant is proposing to develop the site, a development permit concerning the Sensitive Ecosystem Protection Development Permit Areas is required.

Proposed Development

The applicant is proposing to construct 3 fee simple parcels greater than the required size of minimum 2.0 ha with private potable well water and private individual septic disposal systems (see Schedule No. 2 on page 7 for proposed subdivision layout).

As part of the application, the applicant submitted a Sensitive Ecosystem, Bio-Inventory & Impact Assessment prepared by URSUS Environmental Wildlife & Environmental Resource Consulting.

10% Minimum Frontage Requirement

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

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
A	104.9 m	85.6 m	8.1 %

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

ALTERNATIVES

1. To approve Development Permit Application No. 60622, as submitted, subject to the conditions outlined in Schedules No. 1 and 2 and to approve the request for relaxation of the minimum 10% frontage requirements for proposed Lot A.
2. To deny the Development Permit as submitted and provide staff with further direction and to refuse the request for relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

Environmentally Sensitive Features / Official Community Plan Implications

The applicant has provided a Sensitive Ecosystem, Bio-Inventory, and Impact Assessment report, which concludes that the impact of the proposed subdivision on designated environmentally sensitive ecosystems is expected to be minimal. The report cites that clearing for the driveway and septic fields in the sensitive ecosystem areas will only be approximately 1500 m² in size and that no large diameter trees or snags will need to be removed for the development of the site. The report cited that while there are some large arbutus and willow specimens, there are no Garry oak trees. Staff verbally confirmed with the author of the report that there are no Garry oaks within the subject property. Staff also verbally confirmed with the biologist as to recommendations for protection of the sensitive ecosystems areas during construction of the subdivision. Mitigative measures, such as barrier fencing, are set out in Schedule No. 1 (*Conditions of Approval - see pages 5 and 6*).

Future Building Sites Implications

With respect to future building sites, the biological report reviews only potential development impact at the time of subdivision and does not establish future building sites within the sensitive ecosystems areas. The Rural 5 zone permits two dwellings per parcel and while there are available building sites for proposed Lots A and C outside the sensitive ecosystems areas, it appears that proposed Lot B may be limited to locating a suitable building site outside the sensitive ecosystems areas for a second separate dwelling unit. The biologists felt that there would be sufficient site area for a duplex. Therefore, if a future owner wishes to place a second dwelling or associated works on this proposed parcel within the sensitive ecosystems areas, a development permit would be required.

Request for Relaxation of Minimum 10 % Frontage Requirement

The 3 parcels are proposed to be accessed by way of a panhandle onto Stewart Road. The Approving Officer has verbally indicated that this proposed access will be registered by easements and will have the effect of reducing the number of accesses onto Stewart Road, which is designated as an existing major

road. The location of the proposed access point will also meet the minimum site distance requirements established by the Ministry. In addition, the Approving Officer verbally indicated that he has heard from neighbours requesting that the section of Davenham Road adjacent to the parent parcel not be built as it currently provides a well-treed area and is part of the Woodland Sensitive Ecosystem. For these reasons, the Ministry of Transportation Approving Authority will support this request for relaxation of the minimum 10% frontage requirement. As discussed previously, the current zoning permits two dwellings per parcel. Buildable site areas will be available to support the intended residential uses, although Proposed Lot A may be limited in building site area to a duplex building unless a further development permit is applied for to site a dwelling unit within the sensitive ecosystems areas of that parcel.

Site Servicing Implications

The applicant has applied for septic disposal approval to the Central Vancouver Island Health Authority.

The Ministry of Transportation is responsible for the storm drainage. As part of the subdivision review process, the Regional Approving Officer will examine the storm water management of the parent parcel and impose conditions of development as required.

Proof of potable water is subject to the approval of the Approving Officer.

VOTING

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

SUMMARY

This is a subdivision application that involves a development permit for property located off Stewart Road in Electoral Area 'E'. The subject property is within the Sensitive Area Protection Development Permit Area pursuant to the Nanoose Bay OCP specifically for the purpose of ensuring protection of the Woodland Sensitive Ecosystem. The applicant provided a Sensitive Ecosystem, Bio-Inventory & Impact Assessment report of the parent parcel, which concludes that the associated works with the development of the subdivision will have minimal impact on the sensitive ecosystem. Staff has confirmed with the biologist that the industry standard mitigative measures should be conducted when development associated with the subdivision is underway, including barrier fencing to protect the sensitive ecosystems areas. The report does not establish building sites and as a result, a future development permit may be required if works associated with building construction are proposed within the sensitive ecosystems areas. These requirements are consistent with the applicable guidelines outlined in the Sensitive Areas Protection Development Permit Area (*see Schedule No. 1 for Conditions of Development Permit on pages 5 & 6*).

Therefore, given that the proposed subdivision development will have little impact on the environmentally sensitive area as provided by the biologist's report and that the Ministry of Transportation supports the panhandle access to serve the proposed parcels, and as this access will have a limited impact on the sensitive ecosystems areas, staff recommends Alternative No. 1, to approve the development permit as outlined in Schedules No. 1 and 2 of this staff report and approve the request for relaxation of the minimum 10% perimeter frontage for Proposed Lot A.

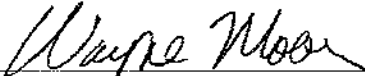
RECOMMENDATIONS

1. That Development Permit Application No. 60622 submitted by Ken Kyler, BCLS, JE Anderson & Associates, on behalf of J & M Law, in conjunction with the subdivision on the parcel legally described as Lot 3 DI, 137 Nanoose District Plan VIP64016 and designated within the Sensitive Ecosystem Protection Development Permit Area be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report..
2. That the request for relaxation of the minimum 10% frontage requirement for proposed Lot A be approved.

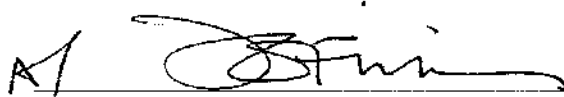


Report Writer

General Manager Concurrence



Manager Concurrence


CAO Concurrence

COMMENTS:

devsrs/reports/2006 jn dp 3060 30 60622& 10% (26674) JE Anderson. / Law Lot 3 Plan VIP66016.doc

Schedule No. 1 (page 1 of 2)

Conditions of Approval

Development Permit Application No. 60622

**In conjunction with the subdivision application for the property legally described as
Lot 3 DL 137 Nanoose District Plan VIP64016**

The following sets out the conditions of approval:

1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2 (to be attached to and forming part of this Permit).

2. Sensitive Ecosystem Areas / Construction During Subdivision Development

- a. This development permit allows for the construction of one access driveway to serve the 3 proposed parcels and the location of the existing septic disposal covenant areas and well established previously.
- b. No other works within the sensitive ecosystems areas except those outlined in Condition 2(a) including any other accesses/driveways shall be permitted under this development permit.
- c. The recommendations as set out in the Sensitive Ecosystem, Bio-Inventory & Impact Assessment prepared by URSUS Environmental Wildlife & Environmental Resource Consulting and dated April 20, 2006 are to be followed in the development of the subdivision (to be attached to and form part of this Permit).
- d. In addition to any recommendations set out in the Assessment Report, the applicant shall provide the following mitigative measures during the development of the subdivision:
 - i) Barrier fencing shall be erected around the sensitive ecosystems areas to avoid any encroachment in the sensitive areas.
 - ii) No removal of vegetation shall occur in the sensitive ecosystems areas with the exception of construction of the one access within the panhandle portion of Proposed Lot A. It is noted that the Assessment Report indicates that no removal of large trees is necessary in the construction of this access.
 - iii) The septic field covenant areas located in the sensitive ecosystems areas shall not be expanded.
- e. No land clearing shall occur from April 15th to July 15th of any given year.
- f. This covenant is to restrict the placement of buildings and structures, decks, patios, septic systems, and restricting any removal of vegetation or alteration of soils by the hand of man within the covenant area.

3. Future Building Sites

Unless specifically allowed by this development permit, no buildings, structures, driveways, patios, wells, septic disposal fields, outdoor storage of materials, equipment, vehicles, or other items, storage of soils, removal of vegetation except noxious weeds or disturbance of soils by the hand of man shall not occur or be situated within the sensitive ecosystems areas unless a future development permit allows such development or activity in order to minimize the potential for negative impacts to these environmentally sensitive features.

Schedule No. 1 (page 2 of 2)
Conditions of Approval
Development Permit Application No. 60622
In conjunction with the subdivision application for the property legally described as
Lot 3 DL 137 Nanoose District Plan VIP64016

4. Construction Window

- a. No land clearing shall occur between April 15th to July 15th.
- b. Applicant to notify the Regional District of Nanaimo a minimum of 48 hours prior to commencing land clearing.

5. Dead Trees and Snags

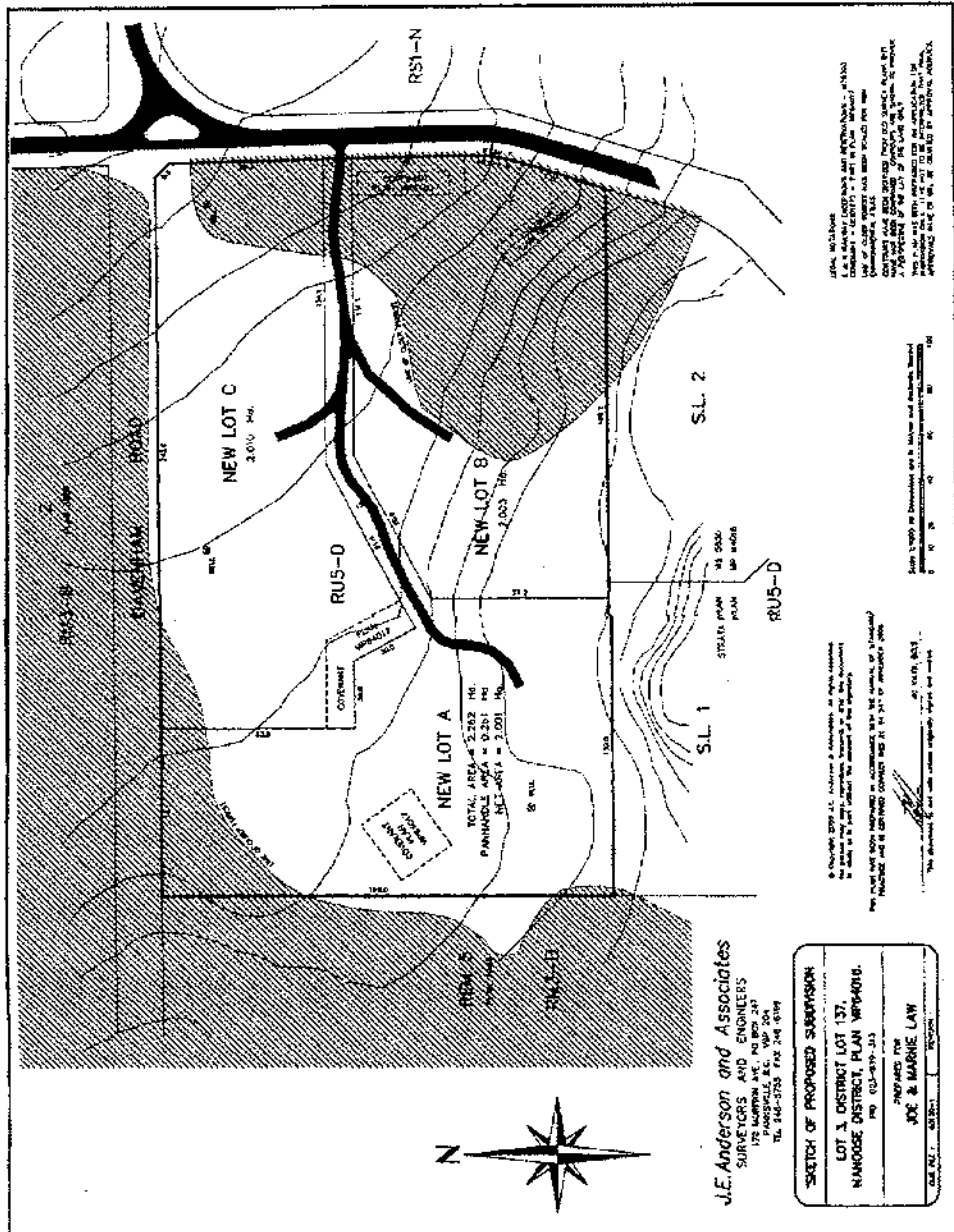
Dead trees and snags that have not been assessed as danger trees should be left for wildlife.

6. Restoration Activities and Landscaping

Native vegetation is recommended to be used when conducting restoration activities or landscaping including fruit, seed or berry producing shrub and tree species.

Schedule No. 2

Development Permit Application No. 60622
 In conjunction with the subdivision application for the properties legally described as
 Lot 3 DL 137 Nanoose District Plan VIP64016
 Proposed Plan of Subdivision
 (as submitted by applicant)



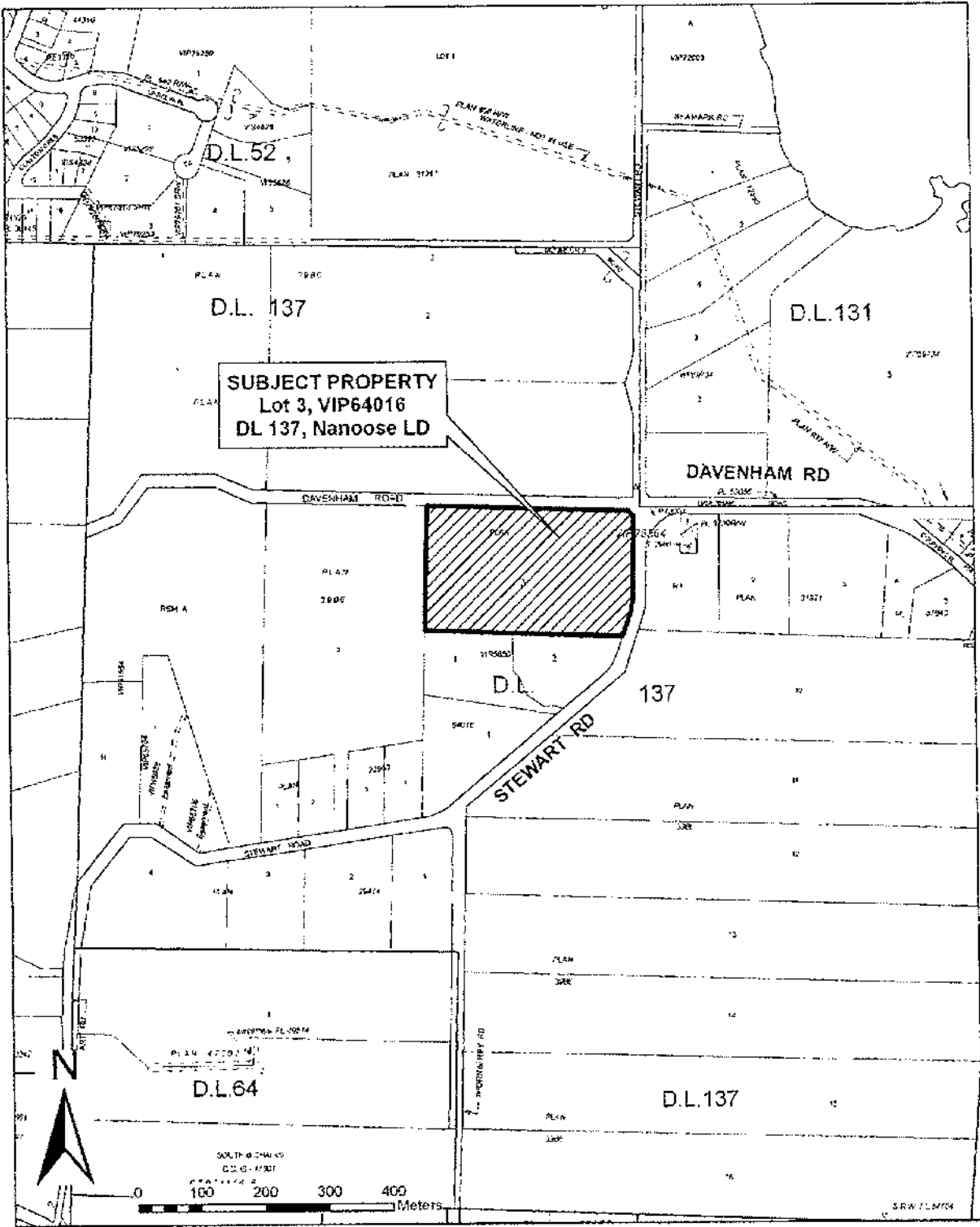
J.E. Anderson and Associates
 SURVEYORS AND ENGINEERS
 1750 NANOOSE AVENUE, SUITE 204
 NANOOSE, B.C. V9P 2G4
 TEL 250-753-7353 FAX 250-753-8199

SKETCH OF PROPOSED SUBDIVISION LOT 3, DISTRICT LOT 137, NANOOSE DISTRICT, PLAN W964016, FILE NO. 26674-133	
PREPARED BY J.E. ANDERSON	DATE 05/11/06
CHECKED BY JOE & MARIE LANE	DATE 05/11/06

THIS SKETCH IS A PRELIMINARY SKETCH AND IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN AS A GUIDE TO THE LOCATION OF THE PROPOSED SUBDIVISION. THE SKETCH IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN AS A GUIDE TO THE LOCATION OF THE PROPOSED SUBDIVISION. THE SKETCH IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN AS A GUIDE TO THE LOCATION OF THE PROPOSED SUBDIVISION.

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Attachment No. 1
Location of Subject Property





CAO	<i>[Signature]</i>	GMES	
GMCS		GMR&P	
GMDS		GMRT&P	
JUN - 5 2006			
CHAIR		BOARD	
<i>EAP</i>			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: June 6, 2006

FROM: Dolores Funk
Planning Assistant

FILE: 3060 30 60624

SUBJECT: Development Permit Application No. 60624
Fern Road Consulting Ltd. on behalf of A G Project Management Inc.
Electoral Area 'H' – McColl Road

PURPOSE

To consider an application for an Environmentally Sensitive Features (coastal) and Hazards Lands Development Permit with variances to the front lot line on McColl Road, the exterior side lot line on the Island Highway, and to relax the maximum height allowance for the dwelling unit.

BACKGROUND

This application refers to the coastal portion of the parcel legally described as Lot 12, District Lot 85, Newcastle District, Plan 2018, Except Part in Plan 3803 and Except Parcel A (DD 70745N) and located in the Bowser area in Electoral Area 'H'. It is bounded by Eastdowne Road (unconstructed) on the north, Strait of Georgia on the northeast, McColl Road (unconstructed) on the southeast, and the Island Highway on the southwest. This property is a part of a larger parcel, which is in the process of being subdivided. This application is consistent with the terms of Development Permit No. 60553, which was issued to allow the subdivision.

The subject parcel is designated within the Hazard Lands and Environmentally Sensitive Features development permit areas pursuant to the "Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003." The Highway Corridors Development Permit Area for the form and character of commercial, industrial, or multi-family residential development does not apply. The parcel is zoned Residential 2 (RS2) with Subdivision District 'M' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The subject property is not located within a building inspection area; therefore, a building permit is not required for the construction of the structures, and the regulations of "Floodplain Bylaw No. 1469," do not apply.

The proposed lot is approximately 0.4 ac. (1600m²) in size and contains a steep slope approximately 10.0 metres in height next to the Island Highway and a flat portion which is approximately 30.0 metres from the embankment to the natural boundary of the ocean.

The site contains a watercourse, which enters the property from a pipe under the highway. This watercourse disappears into the gravel before it reaches the beach. This is not considered a watercourse

under the Riparian Areas Regulations (RAR). However, the zoning bylaw setbacks from a watercourse apply.

Proposed Development

The applicant is proposing to construct a single-family dwelling on the level portion of the parcel with access from the unconstructed portion of McColl Road as shown on Schedule No. 3. The variances requested for the construction of this dwelling include:

- relaxation of front lot line on McColl Road from 8.0 metres to 0.0 metres to facilitate the construction of a retaining wall and 2.1 metres for the construction of the dwelling unit;
- a relaxation of the exterior side lot line along the Island Highway from 5.0 metres to 4.5 metres to allow for the construction of a retaining wall; and,
- a relaxation of the maximum height allowance from 8.0 metres to 8.6 metres in order to allow for the construction of the floor 1.5 metres above the natural boundary of the ocean.

ALTERNATIVES

1. To approve Development Permit Application No. 60624, as submitted, according to the terms in Schedule No. 1.
2. To deny the Development Permit as submitted.

DEVELOPMENT IMPLICATIONS

Slope Stability

With respect to the development permit guidelines for hazard lands, the applicant has submitted both a Preliminary Geotechnical Assessment, which sets out requirements for the development for the parent parcel with some specifics for the subject parcel, and a Preliminary Geotechnical Design Report, which sets out requirements specific to the subject parcel for the house foundations and slope issues, including the driveway, retaining wall, and vegetation retention.

All construction adjacent to the existing slope must have a drainage system consisting of free-draining gravel and perimeter drain to prevent the build-up of water pressures and possible seepage problems. No water should be discharged on the slope. The applicant has agreed to have these reports registered on title as a section 219 covenant.

The Ministry of Transportation has required that the watercourse entering the property from under the highway be piped in order to deal with erosion issues on the embankment. The applicant has submitted approval from the Ministry of Transportation to construct works designed by Newcastle Engineering for the drainage of the redirected water from the parent parcel.

Floor Elevation and Building Height

The dwelling will be 8.0 metres in height. However, because the geotechnical engineer has determined that the underside of the floor must be raised to a point that is 1.5 metres above the present natural boundary of the ocean, the applicant is requesting a height variance of 0.6 metres to allow a height of 8.6 metres above natural grade.

As the dwelling is at the bottom of a slope, its highest ridge will be 1.5 metres below the elevation of the Island Highway. The height variance is not expected to have any impact on any area property owners.

Environmental Protection

The applicant has agreed to retain existing vegetation within 11.0 metres of the natural boundary of the ocean, except for one pathway to the coastline, to protect the coastal environment. Given the site constraints, the dwelling is sited in the area of least impact on the environment, and the proposed vegetation retention area is appropriate.

Setback Reductions

Given the setback from the ocean, the location of the watercourse, the siting of the sewage disposal system, and the desire to reduce disturbance of the steep bank, it is recommended that the dwelling be sited 2.1 metres from the McColl Road right-of-way. The grades also dictate that a retaining wall over 1.0 metre in height be built to locate the driveway. As this retaining wall is over a metre in height, it requires a setback relaxation from 8.0 metres to 0.0 metres on McColl Road and from 5.0 metres to 4.5 metres from the Island Highway.

The design of the access from McColl Road is shown on Attachment No. 2. A Geotechnical Design Report was submitted in regards to the driveway and retaining wall to be built alongside the embankment on the southwest. The applicant has applied to the Ministry of Transportation (MOT) to have their setback relaxed from 4.5 metres to 0.0 metres along the unconstructed portion of McColl Road.

The MOT has given verbal approval to the design shown on Attachment 2. It is recommended that the Board approve the permit and direct staff to not issue the permit until written approval from the MOT is received.

Public Consultation Process

As part of the required public notification process pursuant to the *Local Government Act*, adjacent and nearby property owners located within a 50.0 metre radius will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the permit.

VOTING

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

SUMMARY

This is an application for an Environmentally Sensitive Features and Hazard Lands development permit to allow the construction of a house on McColl Road with variances to the front lot and exterior lot line setbacks and a height relaxation.

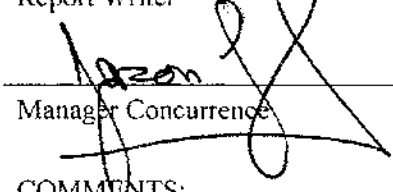
The applicants have adequately addressed the safety and drainage issues in accordance with the recommendations of a geotechnical engineer, and the proposed variances do not appear to have any impact on the area. The environmental issues have also been adequately addressed. Development Permit Application No. 60624 is recommended for approval given the terms outlined in Schedule No. 1.

RECOMMENDATIONS

That Development Permit Application No. 60624, with variances to allow the construction of a dwelling on McColl Road, be approved according to the terms outlined in Schedule No. 1 and subject to consideration of the comments received as a result of public notification.




Report Writer



Manager Concurrence

General Manager Concurrence



CAO Concurrence

COMMENTS:

devsvs\reports\2006\dp_jn 3060 30 60624 AG Project Management Inc Report

**Schedule No. 1
Terms of Development Permit
Application No. 60624**

Proposed Variances

1. The following variances apply to the dwelling unit and the retaining walls constructed in substantial compliance with Schedules No. 2 and 3:
 - a) Section 3.4.62 – Minimum Setback Requirements – of “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,” is varied to relax the lot line setback as follows:
 - i. front lot line from 8.0 metres to 0.0 metres in order to allow the construction of the retaining wall.
 - ii. front lot line from 8.0 metres to 2.1 metres in order to allow the construction of the dwelling unit.
 - iii. exterior side lot line from 5.0 metres to 4.5 metres in order to allow the construction of a retaining wall.
 - b) Section 3.4.62 – Maximum Number and Size of Buildings and Structures – of “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,” is varied to relax the maximum building height as follows:
 - i. dwelling height from 8.0 metres to 8.6 metres to allow the construction of the dwelling unit 1.5 metres above the natural boundary.

Development Permit No. 60553

2. The conditions of Development Permit No. 60553 are applicable except as specifically varied or amended by this Permit, including the following:
 - a) Construction of septic management systems shall be, at a minimum, in accordance with the recommendations set out by EBA Engineering Consultants Ltd. concerning septic management (minimum Type 2 pre-treatment of septic waste prior to pressurized disposal into mounded septic field beds in accordance with the 2005 BC Sewage System Regulation).

Site Development

3. The site development must be completed in substantial compliance with Schedules No. 1, 2, and 3.
4. All placement of buildings and structures to be undertaken must be consistent with “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,” except where varied by this permit.

5. The applicant shall develop the site in accordance with *Provincial* and *Federal* regulations. It is the responsibility of the landowner to ensure that all works on the lands are in compliance with the applicable *Provincial* and *Federal* regulations.

Geotechnical

6. The applicant shall develop and maintain the subject property in accordance with the recommendations established by the Geotechnical Reports prepared by EBA Engineering Consultants dated July 2005 and May 2006 and any subsequent geotechnical reports.
7. Sediment and erosion control measures must be utilized to control sediment during construction in order to stabilize the site after construction is complete. These measures must include:
 - a) Exposed soils must be seeded as soon as possible to reduce erosion during rain events;
 - b) Tarps, sand bags, poly plastic sheeting, and/or filter fabric are required to be on-site during the works;
 - c) Temporary fill or soil stockpiles must be covered with polyethylene or tarps; and,
 - d) The discharge of surface drainage, including drainage from perimeter drains, roof leaders, driveways, and other hard surfaces shall be directed away from the ocean and away from the base of the slope.
8. Any retaining wall construction that is to be constructed along the sloped southwest side of the property must be engineered, and the construction must be supervised by an engineer.

Survey

9. A final survey prepared by a British Columbia Land Surveyor shall be submitted by the applicant to the Regional District of Nanaimo that shows the siting and height of the dwelling, drainage works, driveway, and retaining wall within 60 days of the date of completion of the proposed works.

Ministry of Transportation

10. The subject property shall be developed in accordance with all requirements of the Ministry of Transportation (MOT). Issuance of this development permit is to be withheld until written approval is received from MOT concerning the access permit and building setback relaxations.

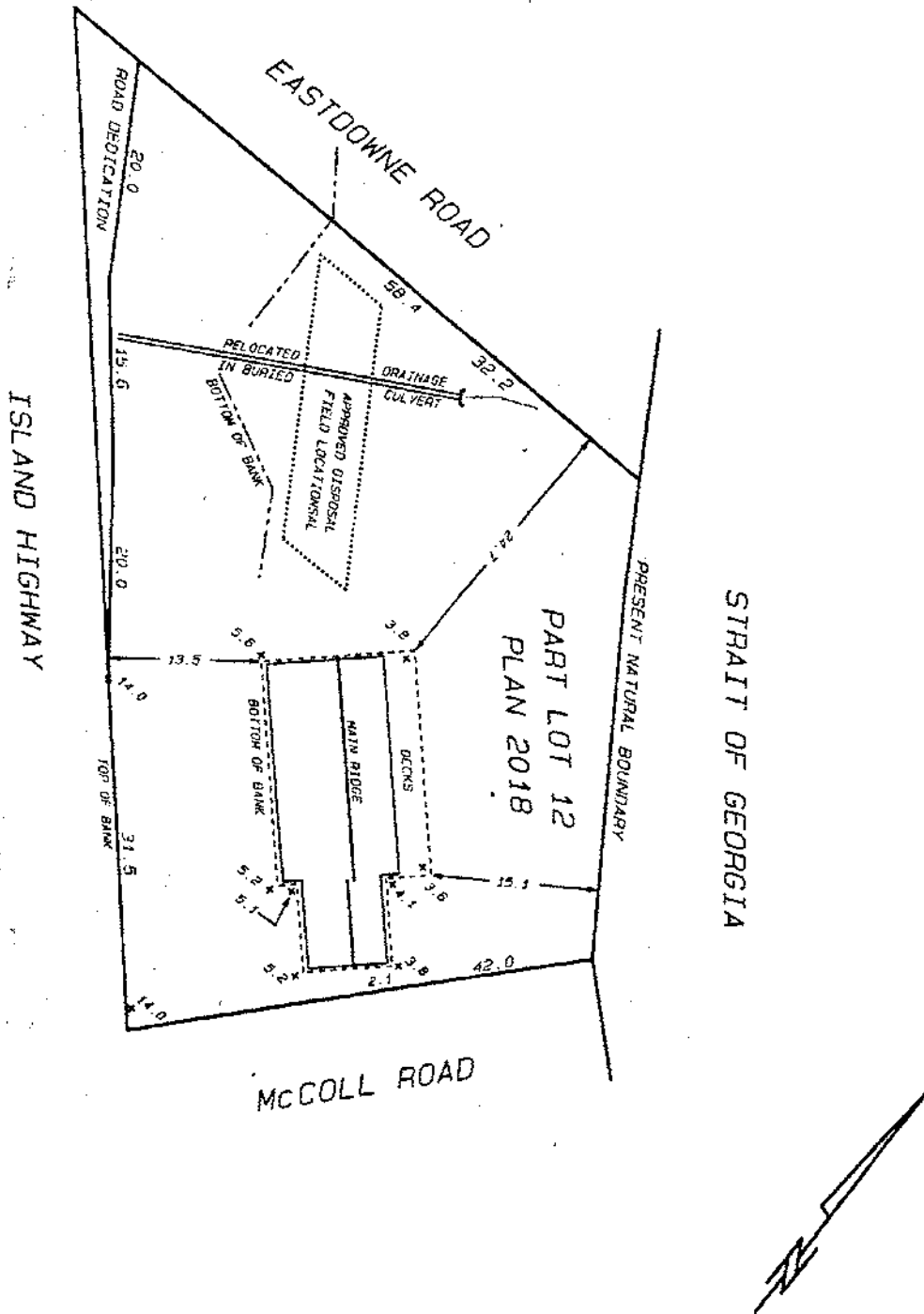
Vegetation

11. Vegetation removal within a distance of 11.0 metres from the Natural Boundary of the ocean is not permitted, except for a single trail to the waterfront. Any alteration of vegetation in this area requires a development permit under the Official Community Plan Bylaw 1335.
12. Additional planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability is permitted within a distance of 11.0 metres from the Natural Boundary of the ocean provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 publications by the Department of Fisheries and Oceans Canada and the Ministry of Environment and the Environmental Requirements and Best Management Practices for the Review of Land Development Proposals, March 2001, publication by the Ministry of Environment and subsequent editions prior to commencing work.

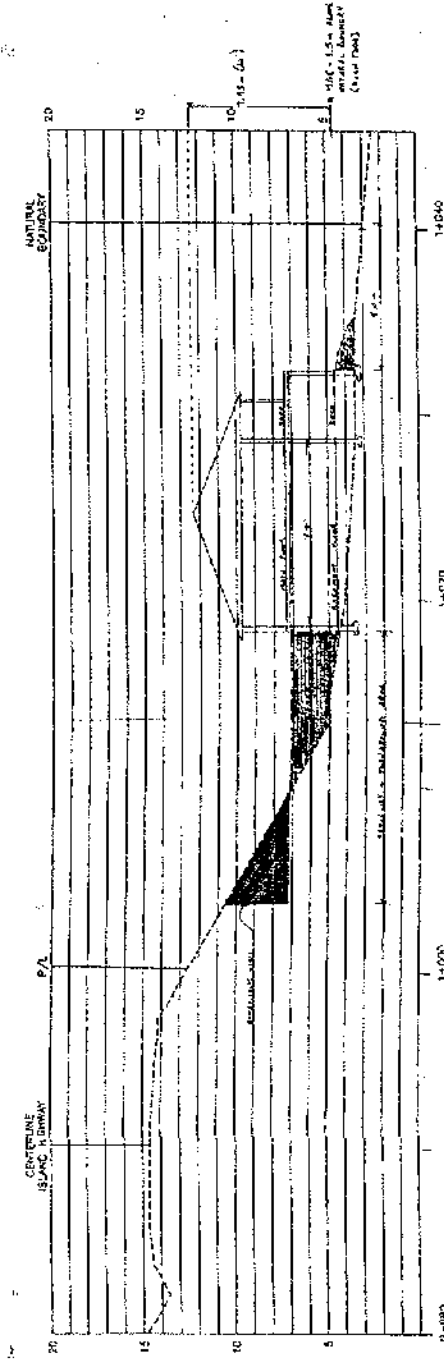
Covenant

13. Prior to the issuance of this permit and at the applicant's expense, the Geotechnical Report and addendum and any subsequent addendums, as well as a Restrictive Covenant saving the Regional District of Nanaimo harmless from any action or loss that might result from flooding or erosion, shall be registered on the Certificate of Title as a Section 219 Covenant to the satisfaction of the Regional District of Nanaimo.

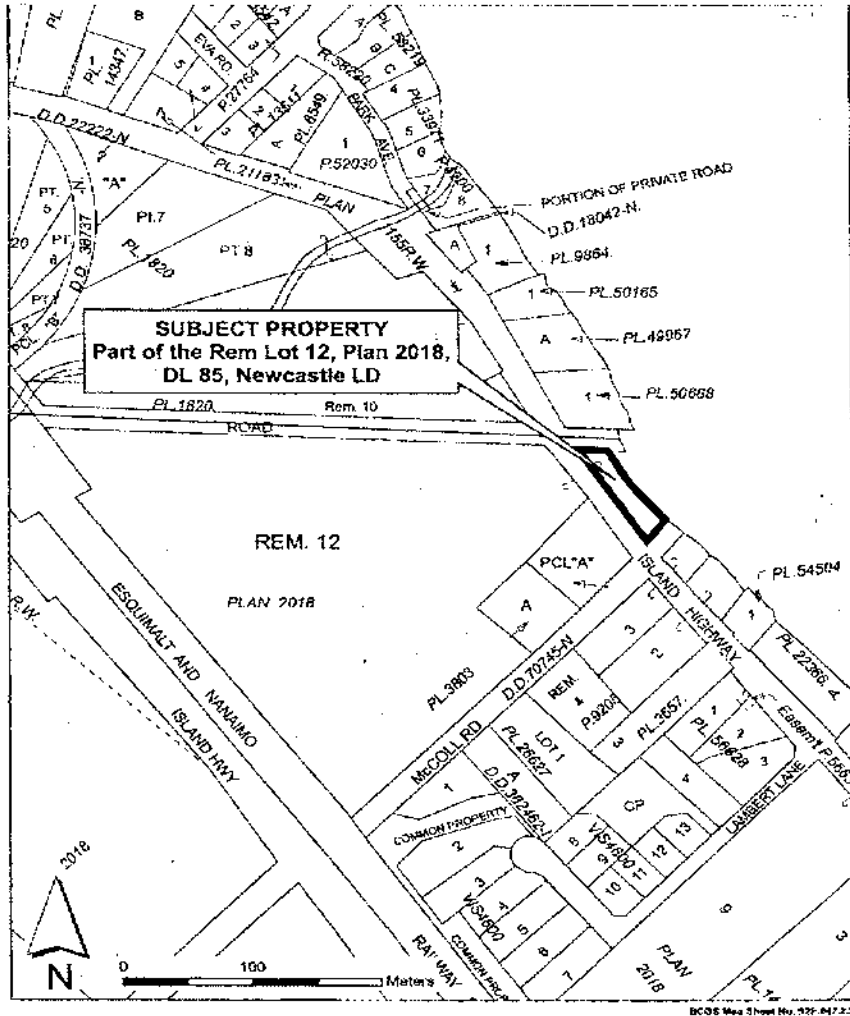
Schedule No. 2
Development Permit No. 60624
Site Survey



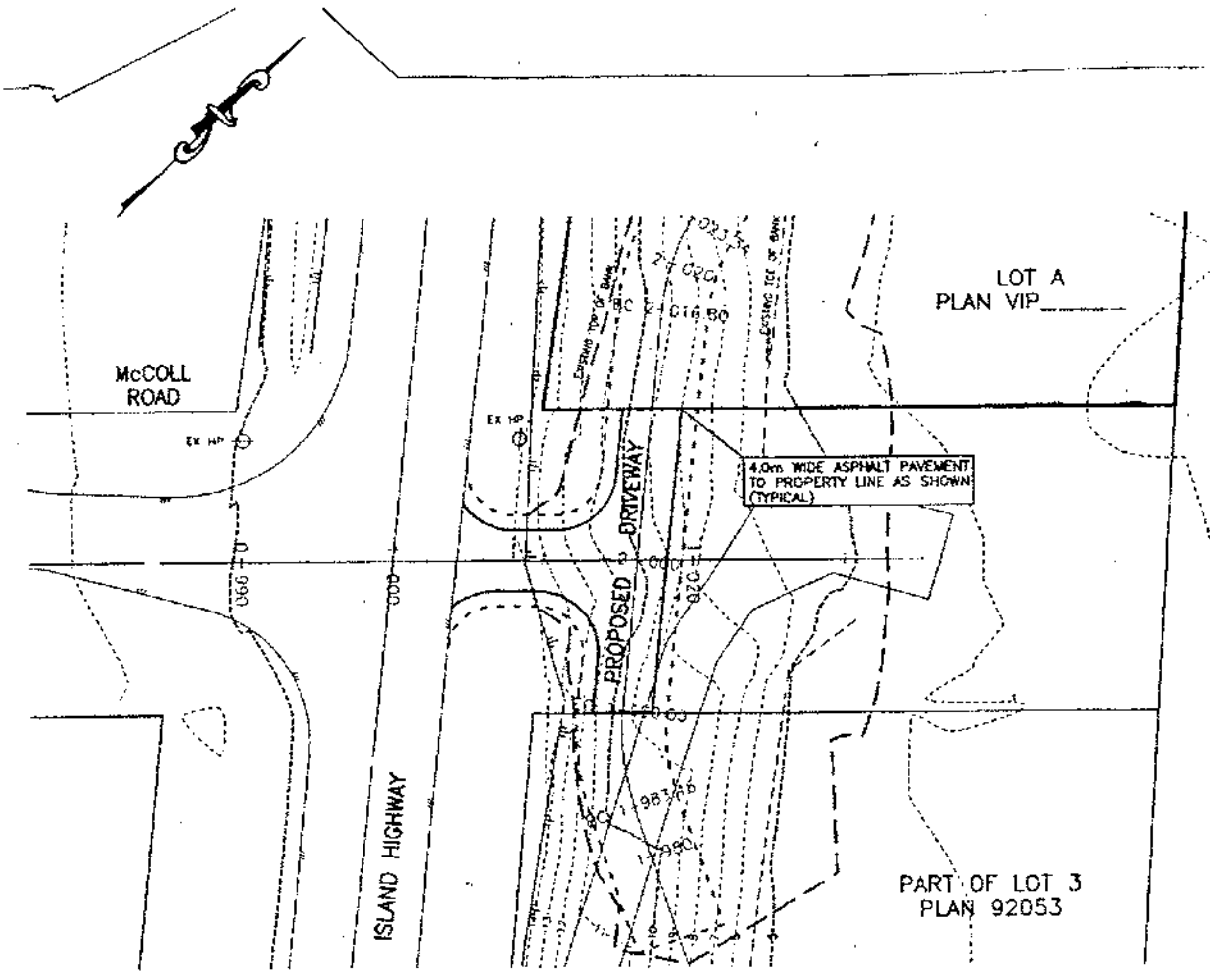
Schedule No. 3
Development Permit 60624
Driveway and Retaining Wall Elevations



Attachment No. 1
Location of Subject Property



Attachment No. 2
Access to Subject Property from Island Highway and McColl Road





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CAO	<input checked="" type="checkbox"/>	GMES	
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JUN - 5 2006			
CHAIR		BOARD	
EAP			

MEMORANDUM

TO: Jason Llewellyn
General Manager, Development Services

DATE: June 2, 2006

FROM: Norma Stumborg
Planner

FILE: 3060 30 60627

SUBJECT: Development Permit Application No. 60627 – Watson & Forster
Electoral Area 'G' – 861 Miller Road

PURPOSE

To consider an application for a Development Permit to facilitate the removal of a double-wide manufactured home and the construction of a dwelling. The application does not include a request for a variance.

BACKGROUND

The subject property is located at 861 Miller Road, approximately 80.0 metres south of French Creek, and is legally described as Lot 18, District Lot 28, Nanoose District, Plan 26472 (See Attachment No. 1). The property is relatively flat and is bounded on the west and south by residential properties and on the north and east by Lee Road and Miller Road respectively.

The subject property is within the Sensitive Lands Development Permit Area (DPA) pursuant to "Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998." The Sensitive Lands DPA was established to protect the natural environment and development from hazardous conditions. The entire subject property is within the development permit area because it lies within the floodplain of French Creek.

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." As the subject property is within the Regional District of Nanaimo's Building Inspection Area, the "Regional District of Nanaimo Floodplain Management Bylaw No. 843, 1991," applies. Bylaw No. 843 requires a 30.0 metre floodplain setback from the natural boundary of French Creek and a 3.0 metre elevation above the natural flood level, which in this case is 10.7 metres as established by Sims and Associates Land Surveyors.

The subject property is serviced with community water and community sewer.

ALTERNATIVES

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

LAND USE AND DEVELOPMENT IMPLICATIONS

The subject property is a developed lot in a mature residential subdivision consisting mostly of manufactured homes. The existing older double-wide manufactured home is proposed to be replaced by a stick framed house.

The applicant intends to connect the dwelling to the recently constructed community sewer system. Given that the proposed development is within the French Creek Floodplain, connecting to the community sewer system is a requirement of this permit.

As the property is more than 80.0 metres away from French Creek, there is no direct impact on the French Creek riparian area. The subject property is clearly beyond the 30.0 metre leave strip and there are no known environmentally sensitive features on the lot; therefore, guidelines that address the natural environment, its ecosystems, and biological diversity of the 'Sensitive Lands Development Permit Area' (DPA 10) by way of vegetation buffers and landscape screening are not applicable. The subject property is already fully landscaped and has functioned as a residential lot for years.

The applicants have not indicated the location of the drainage systems on the site plan submitted with the application. Therefore, staff recommends that the Board approve the Development Permit with the condition that the drainage works are to the satisfaction of the Chief Building Inspector.

GEOTECHNICAL AND FLOOD ELEVATION IMPLICATIONS

A geotechnical engineering report prepared by Lewkowich Geotechnical Engineering Ltd. dated May 24, 2006, states that the site is suitable for the proposed use under specific constraints. The proposed building site is more than 80.0 metres from the natural boundary of French Creek and is safely outside of the 30.0 metre horizontal setback. The applicant intends to construct a crawl space and structurally elevate the house to the required 10.7 metre flood elevation. No goods damageable by flood waters may be stored in the crawl space. As recommended by the geotechnical engineer, compact structural fill will be placed for the foundation if upon excavation it is deemed necessary.

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

VOTING


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

SUMMARY/CONCLUSIONS

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

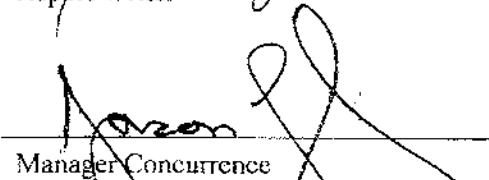
RECOMMENDATION

That Development Permit Application No. 60627, to facilitate the replacement of an existing double-wide manufactured home with a stick frame dwelling at 861 Miller Road, be approved according to the terms outlined in Schedule No. 1.

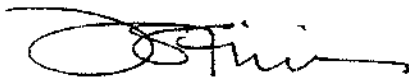


Report Writer

General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:
devsvs/reports/006/dp jn 3060 30 60627 Watson and Forster Report

Schedule No. 1
Terms of Development Permit No. 60627
861 Miller Road

Development of Site

- a) Subject property shall be developed in substantial compliance with Schedules No. 2 and 3.
- b) The applicant shall connect to the community sewer system. Land alteration that is necessary to provide community water and sewer connection shall be permitted.
- c) The abandoned septic tank on the property shall be pumped out; and the septic tank, if structurally sound, is to be filled with inorganic material such as soil or rock; or the septic tank is to be removed or broken up, and the resulting excavation is to be filled with soil or rock.
- d) Residential landscaping consisting of trees, shrubs, lawn, native vegetation, and a driveway shall be permitted on the subject property.
- e) All uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
- f) The applicants shall obtain a building permit from the Regional District of Nanaimo (RDN) Building Inspection Department and shall adhere to all additional conditions imposed as part of the building permit.

Geotechnical Report

- a) The applicant shall develop the subject property strictly in accordance with the recommendations established by the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd. date stamped May 24, 2006, and any subsequent geotechnical reports.
- b) The Chief Building Inspector may require additional geotechnical engineering evaluation as part of the building permit review.
- c) At the applicant's expense and to the satisfaction of the RDN, the applicant shall register a Section 219 Covenant on the certificate of title that saves the RDN harmless from any action or loss that might result from flooding and/or erosion including the registration of the geotechnical report prepared by Lewkowich Geotechnical Engineering Ltd. date stamped May 24, 2006, and any subsequent geotechnical reports deemed necessary by the Chief Building Inspector prior to the issuance of a building permit.

Survey

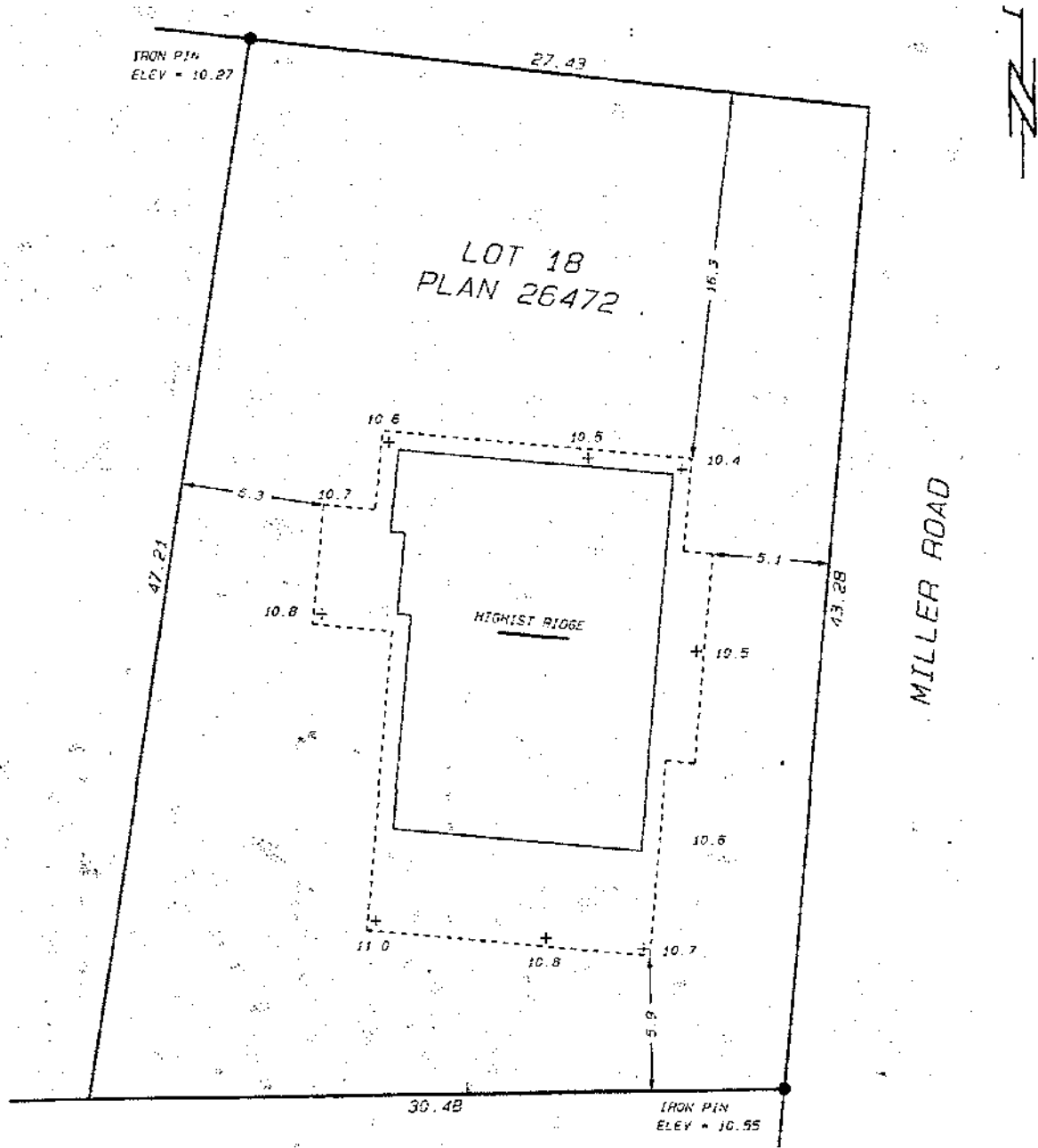
- a) The applicants are to provide a final survey certified by a British Columbia Land Surveyor (BCLS) if deemed necessary by the Chief Building Inspector.

Sediment and Erosion Control

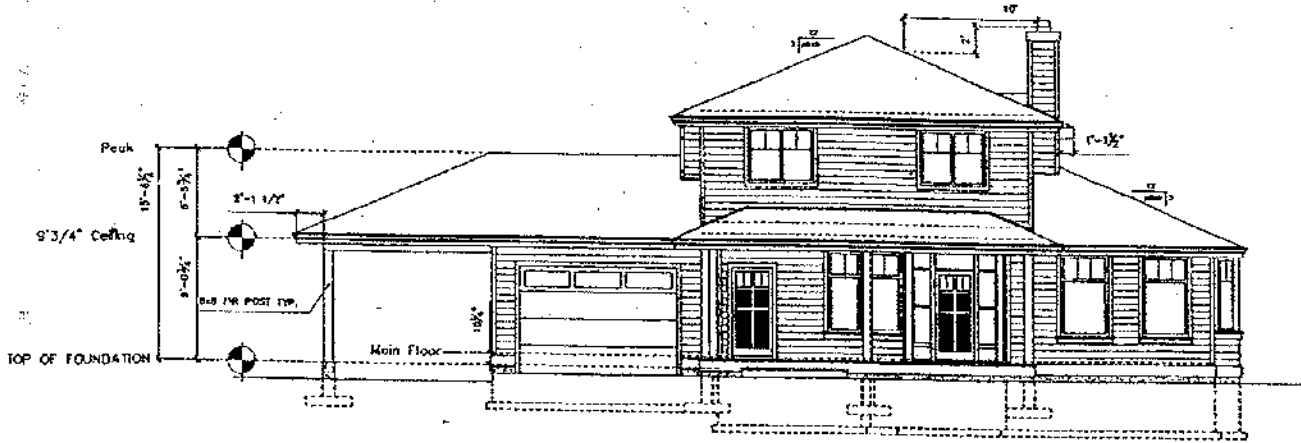
- a) Existing vegetation shall be retained, except for that which is absolutely necessary to site the dwelling. Landscaping in a manner that reduces soil erosion is required. The use of native vegetation is encouraged.
- b) No habitation or building machinery or storage of items damageable by flood waters shall be located below the flood elevation of 10.7 metres.

- c) Sediment and erosion control measures must be utilized to control sediment during construction and land clearing works and to stabilize the site after construction is complete. These measures must include:
- Tarps, sand bags, poly plastic sheeting, and/or filter fabric are required to be on-site.
 - Exposed soils must be seeded immediately after disturbance. Soil surfaces to be treated should be roughened.
 - Sediments must not be discharged to any drainage ditch or watercourse.
 - Cover temporary fills or soil stockpiles with polyethylene or tarps.
 - The discharge of surface drainage, including drainage from perimeter drains, roof leaders, and driveways shall be to the satisfaction of the Chief Building Inspector.

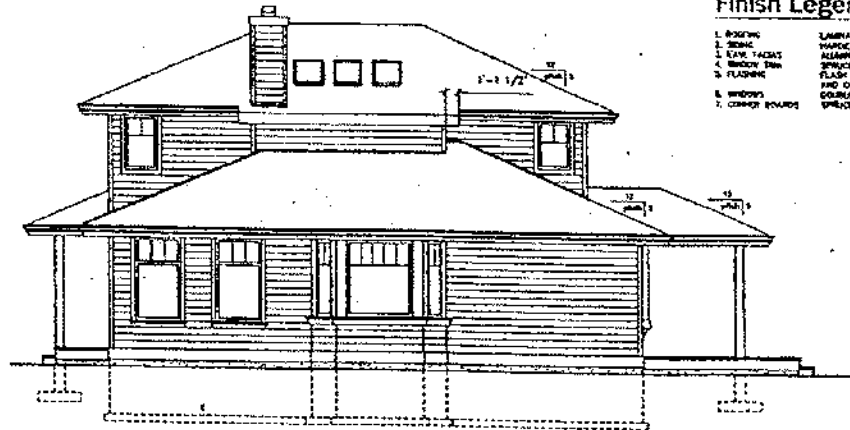
Schedule No. 2
Site plan (As submitted by applicants, revised for convenience)
Development Permit No. 60627
861 Miller Road



Schedule No. 3 (page 1 of 2)
 Building Plan (As submitted by applicants, revised for convenience)
 Development Permit No. 60627
 861 Miller Road



Front View (East Elevation)

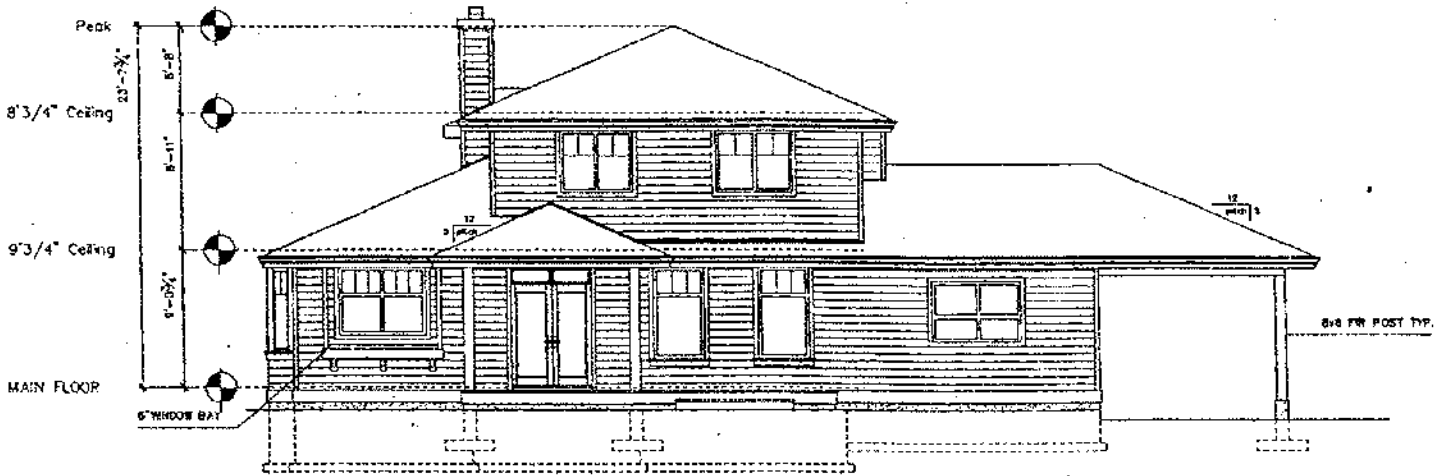


Right View (North Elevation)

Finish Legend

- | | |
|--------------------|--|
| 1. ROOFING | LAMINATE SHINGLES, 30 YEAR |
| 2. SIDING | HARDY PLANK, DUECK ET EMPTER, 1/2\"/> |
| 3. EXTERIOR FINISH | ALUMINUM CLADDING ON SPRUCE/DOUGLASS FACE, |
| 4. WINDOW FINISH | SPRUCE/DOUGLASS FACE 1/4\"/> |
| 5. FLASHING | FLASH OVER ALL IMPROVED OPENINGS |
| 6. WINDOWS | AND CHANGE OF MATERIALS |
| 7. OTHER FINISHES | DOUBLE GLAZING SET IN WOOD FRAMES |
| | SPRUCE/DOUGLASS FACE 1/4\"/> |

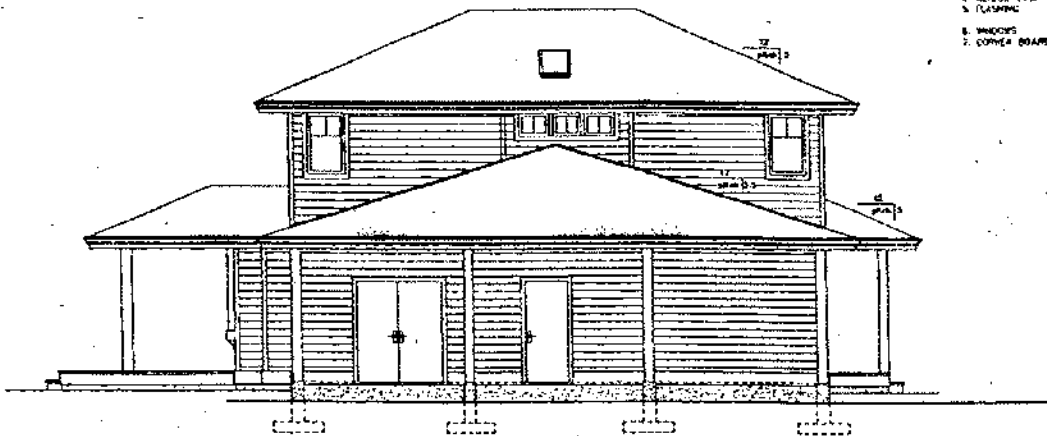
Schedule No. 3 (page 2 of 2)
 Building Plan (As submitted by applicants, revised for convenience)
 Development Permit No. 60627
 861 Miller Road



Rear View(West Elevation)

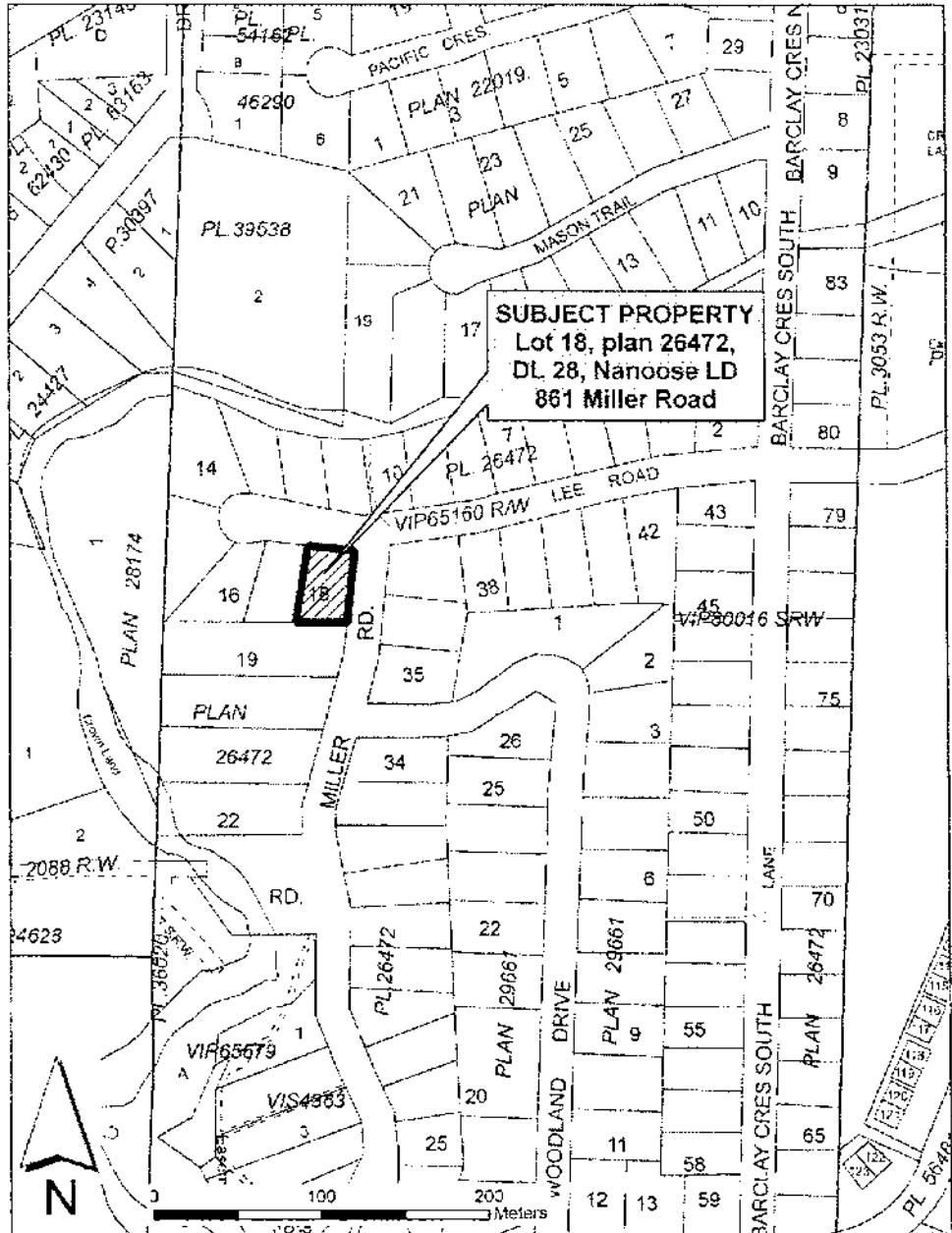
Finish Legend

- | | |
|------------------|---|
| 1. ROOFING | LAMINATE SHINGLES 30 YEAR |
| 2. SIDING | HARDY PLANK 5/8" x 6" (SPRUCEDOG FACE) |
| 3. GAVT FASCIA | NUMERICAL CUTTERS ON SPRUCEDOG FACE) 2x6 |
| 4. WINDOW TRIM | SPRUCEDOG FACE) 1x4 |
| 5. FLASHING | FLASH OVER ALL UNPROTECTED OPENINGS AND CHANGE OF MATERIALS |
| 6. WINDOWS | DOUBLE GLAZING 5/8" IN. W/ W/ W/ FRAMES |
| 7. CORNER BOARDS | SPRUCEDOG FACE) 1x4 |



Left View(South Elevation)

Attachment No. 1
Subject Property
Development Permit 60627
861 Miller Road



BCUS Map Sheet No. 92F 039.1.3



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GMDS	GMRT&P	
JUN - 1 2006		
CHAIR		BOARD
Subdivisions		DATE

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

FROM: Susan Cormie
Senior Planner

SUBJECT: Development Permit Application No. 60628
Newcastle Engineering Ltd., on behalf of L. Michaels
Electoral Area 'E' – 1400 Dorcas Point Road

FILE: 3060 30 60628
c/r 3320 20 26376

June 1, 2006

PURPOSE

To consider an application for a development permit in conjunction with the creation of a 2-lot subdivision within the Sensitive Ecosystem Protection Development Permit Area on property in the Dorcas Point area of Electoral Area 'E'.

BACKGROUND

The parent parcel, legally described as Lot A DL 110 Nanoose District Plan VIP76564, is located at 1400 Dorcas Point Road in Electoral Area 'E' (See Attachment No. 1 on page 7 for location of subject property).

The property, which is approximately 5.2 ha in size is currently zoned Residential 1 (RS1) and is within Subdivision District 'F' (1.0 ha minimum parcel size) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987".

Surrounding land uses include the Strait of Georgia to the north and northeast, Galleywood Road (unconstructed) and Moorecroft Camp to the south, a second unconstructed road and Dorcas Point Road to the west, and residentially zoned property to the north.

The parent parcel currently supports two existing dwelling units and accessory buildings.

In addition, the parent parcel is designated within the Sensitive Ecosystem Protection Development Permit Area for the protection of an eagle nesting tree and its buffer area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1400, 2005.

Therefore, as the applicant is proposing to develop the site, a development permit concerning the Sensitive Ecosystem Protection Development Permit Area is required.

Proposed Development

The applicant is proposing to construct 2 fee simple parcels greater than the required size of minimum 1.0 ha with community water service connections from the Regional District and private individual septic disposal systems (see Schedule No. 2 on page 6 for proposed subdivision layout).

As part of the application, the applicant submitted a Biological Inventory and Development Impact Assessment prepared by ECODynamic Solutions Inc.

ALTERNATIVES

1. To approve Development Permit Application No. 60628, as submitted, subject to the conditions outlined in Schedules No. 1 and 2.
2. To deny the Development Permit as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Environmentally Sensitive Features

The applicant has provided a comprehensive Biological Inventory and Development Impact Assessment Report highlighting a number of features found on the parent parcel including a man-made pond, veteran Douglas fir trees and mature timber, rock outcrops, Garry oak stands, and marine foreshore areas. With respect to the eagle nest tree, the report finds that this tree does not contain a nest at this time, but rather is utilized as a perch tree. The report sites that there are high wildlife habitat values associated with the man-made pond, the Coastal Bluff ESA / marine shoreline, and the veteran Douglas fir located on the property as well as high botanical values associated with the presence of blue-listed coastal wood fern and Garry oak trees. In addition, the report sites that there are moderate wildlife values associated with the western red cedar, arbutus, and mature red alder snags. The report provides a number of recommendations including the registration of a covenant to address potential development within the proposed parcels and restrict development, including removal of vegetation, in the Coastal Bluff Environmentally Sensitive Area (ESA) and around the man made pond. The report recommends that permanent fencing be placed around the ESA boundaries to separate these areas from residential backyards. The report also recommends that a number of trees such as veteran Douglas fir and Garry oak groves be retained to preserve associated wildlife values. The applicant's agent has indicated that the applicant is in concurrence with this covenant. In addition, the report recommends incorporating mitigative and environmental protection measures be carried out during development of the site, which will be incorporated into the Conditions of Approval (*see Schedule No. 1 on pages 4 & 5*).

Future Building Sites Implications

With respect to future building sites, the biological report notes that there is currently no available information on the siting of future structures on proposed Lot 2 thus making it impossible to accurately assess or evaluate impacts of developing the proposed lot. However, the report does recommend a number of proactive actions that can be taken to minimize impacts of future development on this proposed parcel providing a number of recommendations and concluding that there is opportunity for future buildings with desirable view corridors and still have low impacts to the environment. The covenant is proposed to include the requirement for a further environmental assessment at time of building.

Existing Dwelling Units Implications

There are currently two dwelling units located on proposed Lot 1. As two dwelling units are not permitted under the zoning regulations, one dwelling will be required be removed. This will be addressed as part of the subdivision review process.

Site Servicing Implications

The applicant has applied for septic disposal approval to the Central Vancouver Island Health Authority.

The Ministry of Transportation is responsible for the storm drainage. As part of the subdivision review process, the Regional Approving Officer will examine the storm water management of the parent parcel and impose conditions of development as required.

Community water service will be provided by the Regional District.

VOTING

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


SUMMARY

This is a subdivision application that involves a development permit for property located off Dorcas Point Road in Electoral Area 'E'. The subject property is within the Sensitive Ecosystem Protection Development Permit Area pursuant to the Nanoose Bay OCP specifically for the purpose of ensuring protection of an eagle nesting tree and its buffer areas. The applicant provided a comprehensive Biological Inventory and Development Impact Assessment of the parent parcel, which concludes that while the nest tree does not contain a nest, it has high value as a perch tree. In addition, the report sites numerous other environmental features within the property and recommends that a number of these features be protected by covenant and on ground tools such as fencing. The report does not establish building sites but notes that there are sites available, which would have little impact on the environmental features, but still offer view corridors. These requirements are consistent with the applicable guidelines outlined in the Sensitive Ecosystem Protection Development Permit Area (*see Schedule No. 1 for Conditions of Approval on pages 4 & 5*).

Therefore, given that the applicant has offered to register a section 219 covenant restricting use of a number of the environmentally sensitive features including the coastal bluff area and retention of a number of trees, staff recommends Alternative No. 1, to approve the development permit as outlined in Schedules No. 1 and 2 of this staff report.


RECOMMENDATION

That Development Permit Application No. 60628 submitted by Newcastle Engineering Ltd., on behalf of L. Michaels, in conjunction with the subdivision on the parcel legally described as Lot A DL 110 Nanoose District Plan VIP76564 and designated within the Sensitive Ecosystem Protection Development Permit Area, be approved subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

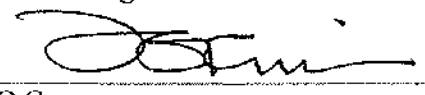


Report Writer

General Manager Concurrence



Manager Concurrence


K/_____
CAO Concurrence

COMMENTS:

devsrs/reports/2006 jn dp 3060 30 60628 (26367) Newcastle Eng. / Michaels Lot A Plan VIP76564.doc

Schedule No. 1 (page 1 of 2)

Conditions of Approval

Development Permit Application No. 60628

**In conjunction with the subdivision application for the property legally described as
Lot A DL 110 Nanoose District Plan VIP76546**

The following sets out the conditions of approval:

1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2 (to be attached to and forming part of this Permit).

2. Sensitive Ecosystem Areas

- a. The recommendations as set out in the Biological Inventory and Development Impact Assessment of Lot A, DL 110, Nanoose District, Plan VIP76564, Nanoose Bay, BC, prepared by ECODynamic Solutions Inc., Environmental Resource Consultants and dated March 14, 2006 are to be followed in the development of the subdivision (to be attached to and form part of this Permit).
- b. Applicant to prepare and register a section 219 covenant, to the satisfaction of the RDN, for the protection of the coastal bluff sensitive ecosystem area and trees and tree groves as shown on Figure 3 of the Biological Inventory and Development Impact Assessment of Lot A, DL 110, Nanoose District, Plan VIP76564, Nanoose Bay, BC, prepared by ECODynamic Solutions Inc., Environmental Resource Consultants and dated March 14, 2006. This covenant is to restrict the placement of buildings and structures, decks, patios, septic systems, and restricting any removal of vegetation or alteration of soils by the hand of man within the covenant area. The covenant may include a clause where, if in the case of an owner wishes to locate a use or uses within the future building site area, a further biological inventory and development impact assessment acceptable to the Regional District is required.
- c. Draft covenant document to be forwarded for review to RDN.
- d. Applicant's solicitor to provide legal letter of undertaking to register the covenant concurrently with the plan of subdivision.
- e. Applicant to indicate the covenant area (demarcation) on the ground by way of permanent fencing.

3. Construction During Subdivision Development

The recommendation outlined in the Biological Inventory and Development Impact Assessment of Lot A, DL 110, Nanoose District, Plan VIP76564, Nanoose Bay, BC, prepared by ECODynamic Solutions Inc., Environmental Resource Consultants and dated March 14, 2006 shall be followed during construction of the proposed subdivision.

Schedule No. 1 (page 2 of 2)

Conditions of Approval

Development Permit Application No. 60628

In conjunction with the subdivision application for the property legally described as

Lot A DL 110 Nanoose District Plan VIP76546

4. Future Building Sites

- a. If any buildings or structures or other improvements are proposed to be placed in areas where the Coastal Wood Fern has been documented in the Biological Inventory and Development Impact Assessment of Lot A, DL 110, Nanoose District, Plan VIP76564, Nanoose Bay, BC, prepared by ECODynamic Solutions Inc., Environmental Resource Consultants and dated March 14, 2006, additional field surveys at the appropriate times of the year to verify breeding bird use, amphibians and rare herbaceous plant and invertebrate species are required to be prepared complete with recommendations to minimize the potential for negative impacts to these environmentally sensitive features.
- b. The recommendation outlined in the Biological Inventory and Development Impact Assessment of Lot A, DL 110, Nanoose District, Plan VIP76564, Nanoose Bay, BC, prepared by ECODynamic Solutions Inc., Environmental Resource Consultants and dated March 14, 2006 shall be followed during construction of dwelling units, accessory buildings, driveways, septic disposal areas, placement of soils or other related activities.

5. Construction Window

- a. No land clearing shall occur between April 1st to August 1st should be preceded by a bird nest site survey as outlined in the Biological Inventory and Development Impact Assessment of Lot A, DL 110, Nanoose District, Plan VIP76564, Nanoose Bay, BC, prepared by ECODynamic Solutions Inc., Environmental Resource Consultants and dated March 14, 2006.
- b. Applicant to notify the Regional District of Nanaimo a minimum of 48 hours prior to commencing land clearing.

6. Dead Trees and Snags

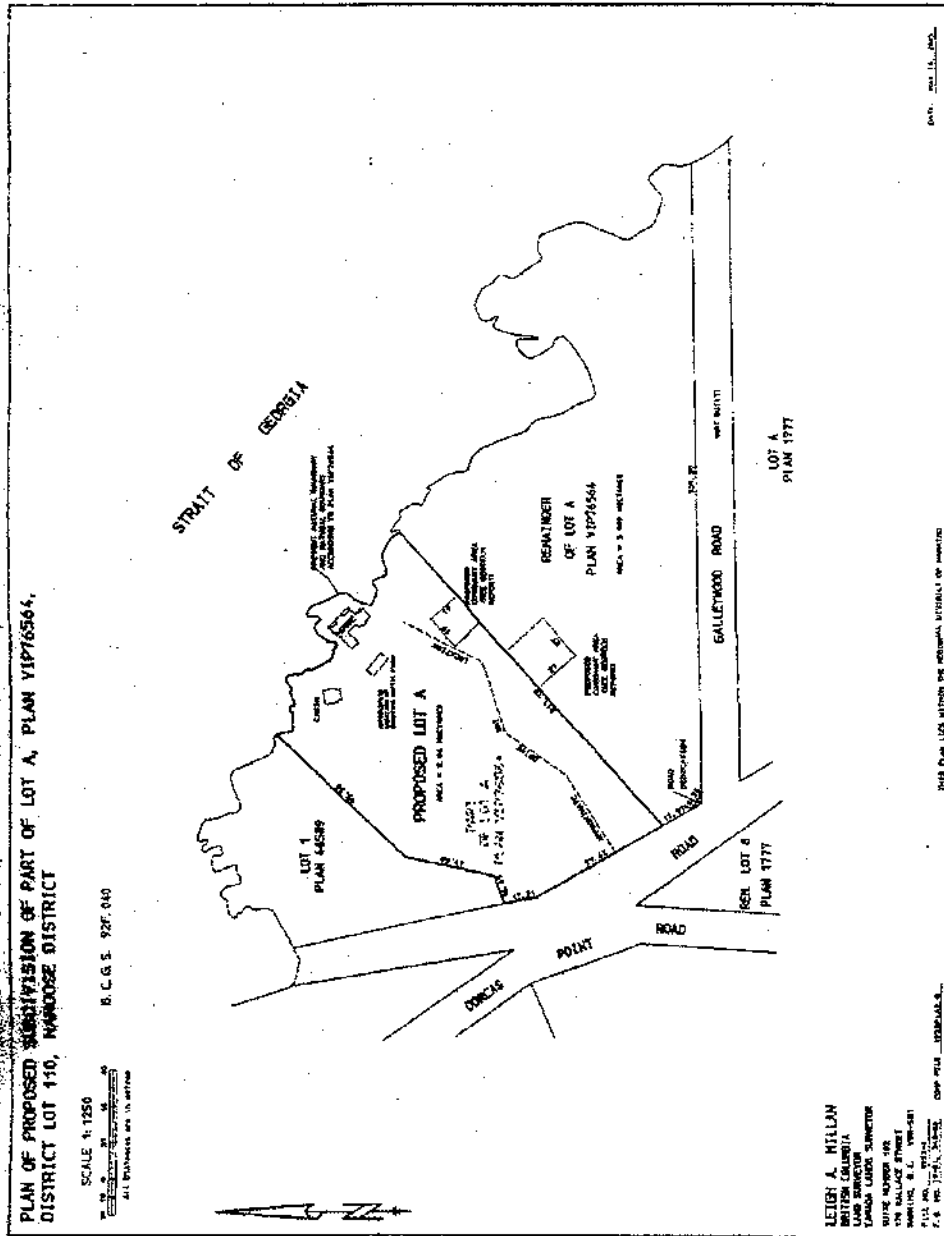
Dead trees and snags that have not been assessed as danger trees should be left for wildlife.

7. Restoration Activities and Landscaping

Native vegetation is recommended to be used when conducting restoration activities or landscaping including fruit, seed or berry producing shrub and tree species.

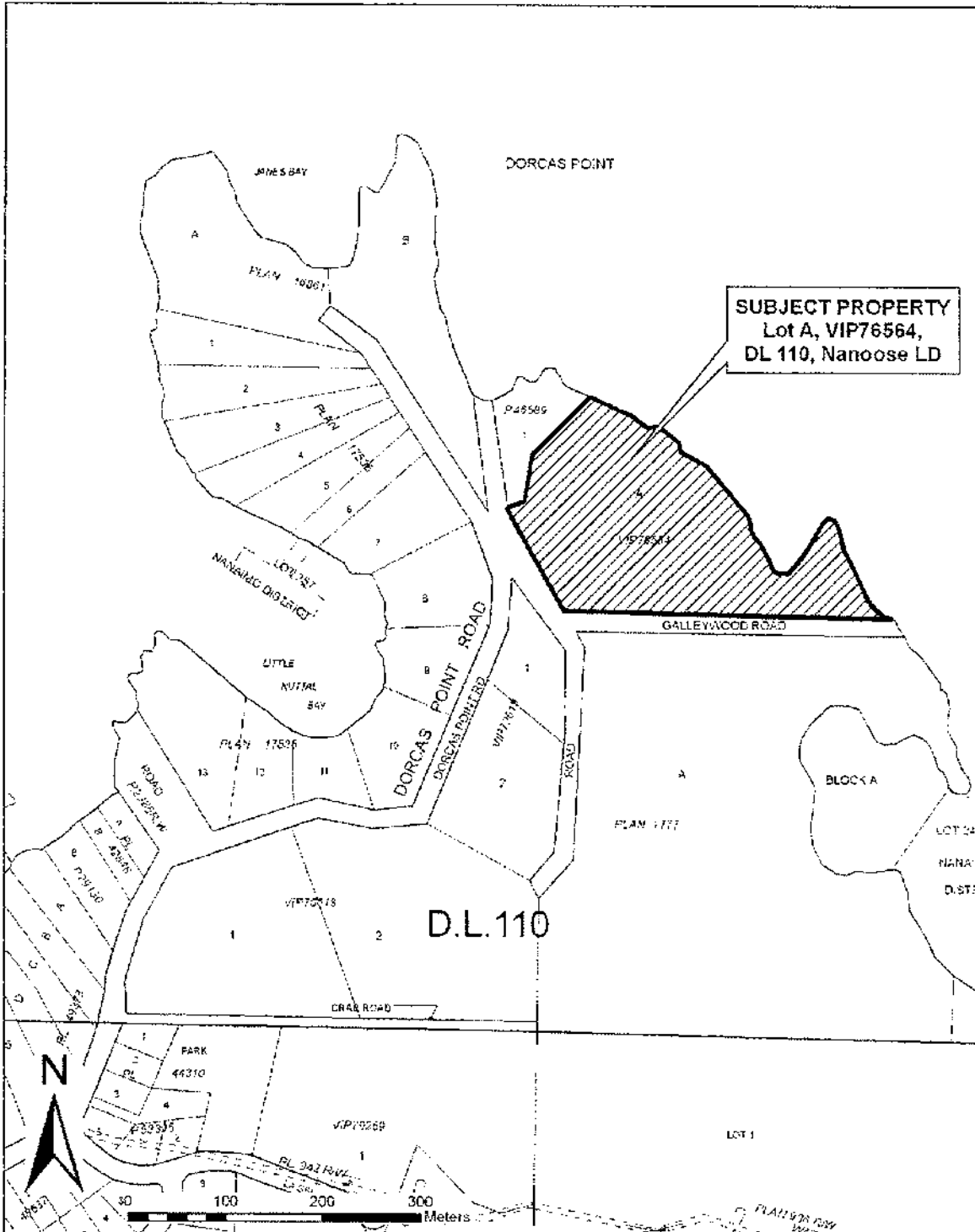
Schedule No. 2

Development Permit Application No. 60628
 In conjunction with the subdivision application for the properties legally described as
 Lot A DL 110 Nanoose District Plan VIP76546
 Proposed Plan of Subdivision
 (as submitted by applicant)



Attachment No. 1

Location of Subject Property



Mapsheet 92F.040.1.1



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GMDS		GMRT&P	
JUN - 5 2006			
CHAIR		BOARD	
EAP.			

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: June 5, 2006

FROM: Norma Stumborg
Planner

FILE: 3060 30 60629

SUBJECT: Development Permit Application No. 60629 – Trout
Electoral Area 'E' – 2671 Seablush Drive

PURPOSE

To consider an application for a Development Permit to construct a second dwelling unit and an addition to the existing dwelling unit within the Sensitive Ecosystem Protection Development Permit Area.

BACKGROUND

The subject property is 2.02 hectares in size and is legally described as Lot 15, Block 586, Nanoose District, Plan 29314. The subject property is located at 2671 Seablush Drive in Electoral Area 'E' (*See Attachment No. 1*). The subject parcel is zoned Rural 5 Subdivision District 'D' (RU5D) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." There are no variances being requested as part of this application.

The subject property is located within the Sensitive Ecosystem Protection Development Permit Area pursuant to "Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1400 2006." An eagle nest tree on the property is the environmentally sensitive feature. The Ministry of Environment Best Management Practices for Eagle Nesting Trees specifies a no disturbance buffer area of 100 metres measured from the base of the tree during the breeding season (January 30 - June 30). *Please refer to Schedule No. 2 for location of eagle tree.* A Registered Professional Biologist has evaluated the development and prepared a report dated June 2, 2006.

The subject parcel is bound to the west and east by Rural 5 zoned properties and to the north and south by the Island Highway East and Seablush Drive roads respectively. Across the Island Highway to the north are Resource Management 3 and Residential 1 zoned properties. The forest cover between the residence and the nest site consists primarily of mature Douglas Fir on a relatively steep north facing slope with a rock outcrop.

ALTERNATIVES

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

DEVELOPMENT IMPLICATIONS

The environmentally sensitive feature on the site identified by the Nanoose Official Community Plan is an eagle nesting tree. The distance between the base of the nest tree to the building site is approximately 165 metres, which is more than the 60.0 metres specified under the Development Permit Area (DPA) guidelines or the 100 metre buffer area specified under the Ministry of Environment Best Management Practices for Eagle Nesting Trees.

A Registered Professional Biologist assessed the proposed development and determined that the eagle nest does not appear to be active for the 2006 breeding season and that there is no potential for disturbance if construction at the residence was to occur during 2006 and only minimal potential for disturbance if the nest site is active and construction occurs in 2007. The biologist noted that the traffic noise from the nearby highway was quite loud at the nest site and would likely meet or exceed the noise generated from any normal construction activities.

In staff's assessment of this application, the applicant has taken steps to ensure that the construction activities should not disturb the eagles or their habitat. The proposed development is consistent with the Sensitive Ecosystem Protection Development Permit Area guidelines.

VOTING

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

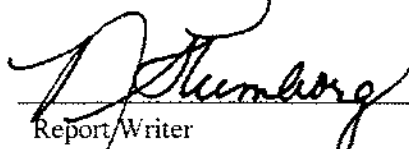
SUMMARY/CONCLUSIONS

This is an application for a development permit to allow for the construction of a second dwelling unit and an addition to an existing dwelling unit at 2671 Seablush Drive within the Sensitive Ecosystem Protection Development Permit Area. No variances are being requested as part of this application.

The sensitive feature identified for protection is an eagle nest tree located at the rear of the property, near the Island Highway. A Professional Biologist's assessment of the development has determined that the construction activities will not negatively impact eagles using the nest. In staff's assessment, the proposed development is consistent with the Sensitive Ecosystem Protection Development Permit Area guidelines.

RECOMMENDATION

That Development Permit Application No. 60629, to allow for the construction of an addition to an existing dwelling unit and a second dwelling unit at 2671 Seablush Drive, be approved according to the terms outlined in Schedule No. 1.

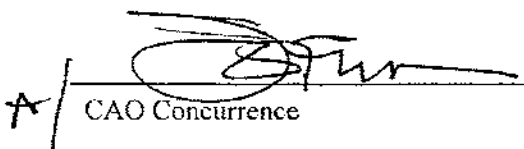


Report Writer

General Manager Concurrence



Manager Concurrence



A/ CAO Concurrence

COMMENTS
devsys/reports/2006/dp/jn 3069 30 60629 Trout Report

Schedule No. 1
Terms of Development Permit No. 60629
Lot 15, Block 586, Nanoose District, Plan 29314
2671 Seablush Drive

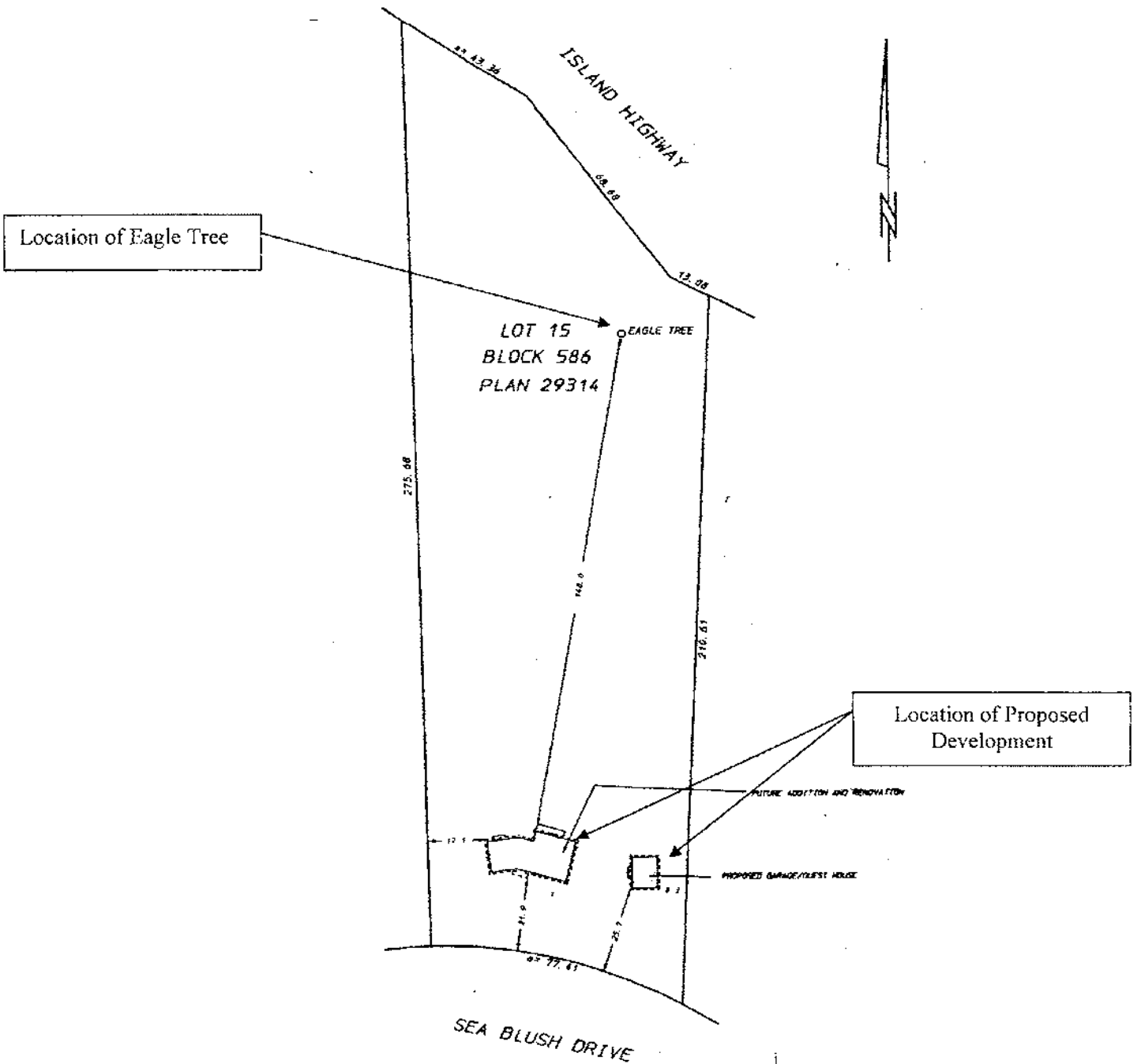
Development of Site

1. Subject property shall be developed in substantial compliance with Schedule No. 2.
2. All construction to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
3. Construction may not occur between January 30, 2007 and June 30, 2007.

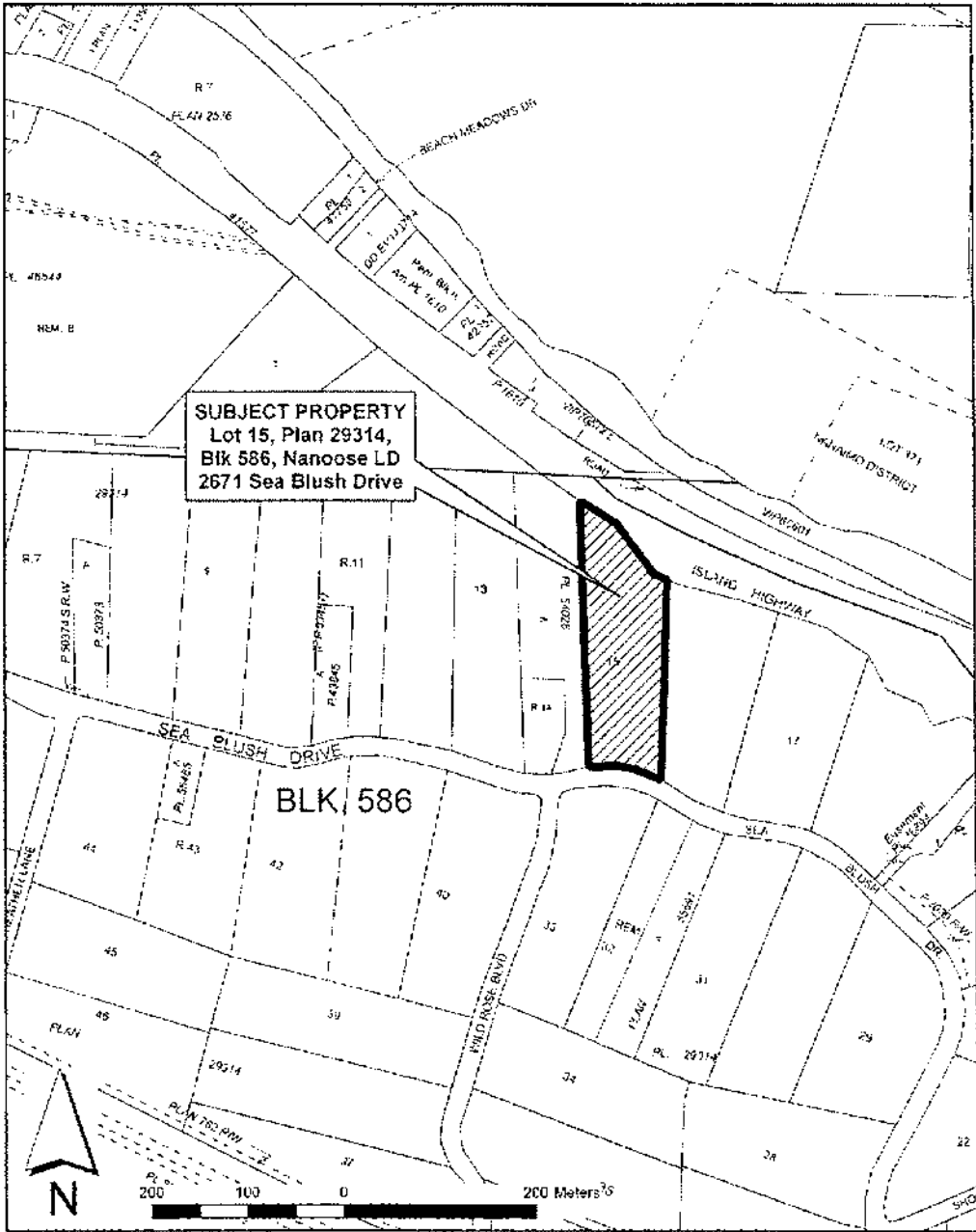
Vegetation Retention/Replanting

1. The applicant shall not remove vegetation within 100 metres of the base of the eagle nest tree.
2. The planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the Development Permit Area is encouraged provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines 1992 published by Department of Fisheries and Oceans Canada and Ministry of Environment Land and Parks (MELP) and the Environmental Objectives, Best Management Practices and Requirements for Land Developments, February 2000, published by MELP or any subsequent editions.

Schedule No. 2
Site Plan (reduced for convenience)
Development Permit No. 60629
2671 Seablush Drive



Attachment No. 1
Subject Property
Development Permit No. 60629
2671 Sea Blush Drive





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CHAIR		BOARD	
EAP			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: June 2, 2006

FROM: Dolores Funk
Planning Assistant

FILE: 3090 30 90610

SUBJECT: Development Variance Permit Application No. 90610 — McGillivray and Hopwood Electoral Area 'E' – 3039 Hillview Road

PURPOSE

To consider an application for a Development Variance Permit (DVP) to legalize the siting of an existing retaining wall.

BACKGROUND

The subject property legally described as Lot 3, District Lot 117, Nanoose District, Plan 10367 is located at 3039 Hillview Road in Electoral Area 'E' (*see Attachment No. 1*). The subject property which is approximately 1351.36 m² in size is currently zoned Residential 1 (RS1) Subdivision District 'F' pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The property is located within a building inspection service area; therefore, a building permit will be required for the retaining wall. The Regional District of Nanaimo (RDN) does not provide sewer and water to the subject property. The subject parcel is not located within a Development Permit Area pursuant to the Nanoose Bay Official Community Plan, and the Environmentally Sensitive Features Atlas does not indicate the presence of any environmentally sensitive features. The subject property, accessed from Hillview Road, is surrounded by other residential zoned properties to the south, which are separated by Hillview Road, residential property to the west, and the Island Highway to the North. The property to the east is currently vacant.

The subject property is steeply sloped away from Hillview Road and down to the Island Highway. A great deal of excavation was required in order to create the building envelope. It became apparent during the excavation and the framing of the house that a retaining wall would be necessary. Therefore, the applicants had a wall engineered and constructed. The applicant was not aware at the time of construction that a building permit was required and that the bylaw setbacks pertained to retaining walls.

Requested Variances

The applicants are requesting a relaxation to the minimum front lot line requirements from 8.0 metres to 0.0 metres and a relaxation of the 2.0 metre side lot line setback to 0.0 metres in order to legalize the

existing retaining wall. The siting and dimensions of the existing retaining wall are shown on Schedule No. 2.

ALTERNATIVES

1. To approve Development Variance Permit No. 90610 subject to the terms outlined in Schedule No.1.
2. To deny the requested permit as submitted.

DEVELOPMENT IMPLICATIONS

The retaining wall has little or no impact on the neighbouring properties as a majority of the wall is not visible from the road or the neighbouring properties since it is below the grade of the roadway. The portion of the wall that is visible is aesthetically pleasing and fits in well with the surrounding landscaping. The section of the retaining wall that runs parallel to Hillview Road is below the grade of the road but is approximately 3.5 metres in height from the grade of the building envelope. The retaining wall which runs along the side lot line is less than 1.0 metre in height and is purely for aesthetic purposes until it begins to curve inward and increases to 1.05 metres in order to support the driveway.

Portions of the retaining wall encroach onto Ministry of Transportation property. This encroachment has received authorization from the Ministry of Transportation.

Public Consultation Process

As part of the required public notification process pursuant to the *Local Government Act*, property owners and tenants located within a 50.0 metre radius will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the application.

VOTING

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

SUMMARY

This is an application for a development variance permit to vary the minimum front lot line requirement from 8.0 metres to 0.0 metres and to vary the side lot line to 0.0 metres in order to legalize the siting of a retaining wall. The wall has been engineered and does not appear to impact the views or have other impacts on the adjacent property owners. Therefore, staff recommends approval of the request according to the terms outlined in Schedule No. 1 and subject to the notification requirements pursuant to the *Local Government Act*.

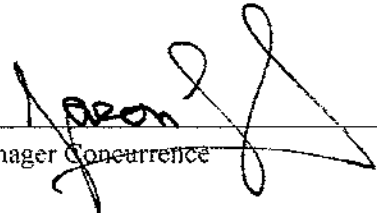
RECOMMENDATIONS

That Development Variance Permit Application No. 90610, to relax the front lot line setback from 8.0 metres to 0.0 metres and the east side lot line from 2.0 metres to 0.0 metres to legalize an existing retaining wall at 3039 Hillyview 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.

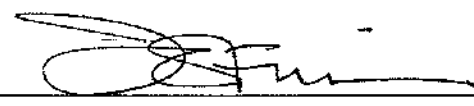


Report Writer

General Manager Concurrence



Manager Concurrence



A/ CAO Concurrence

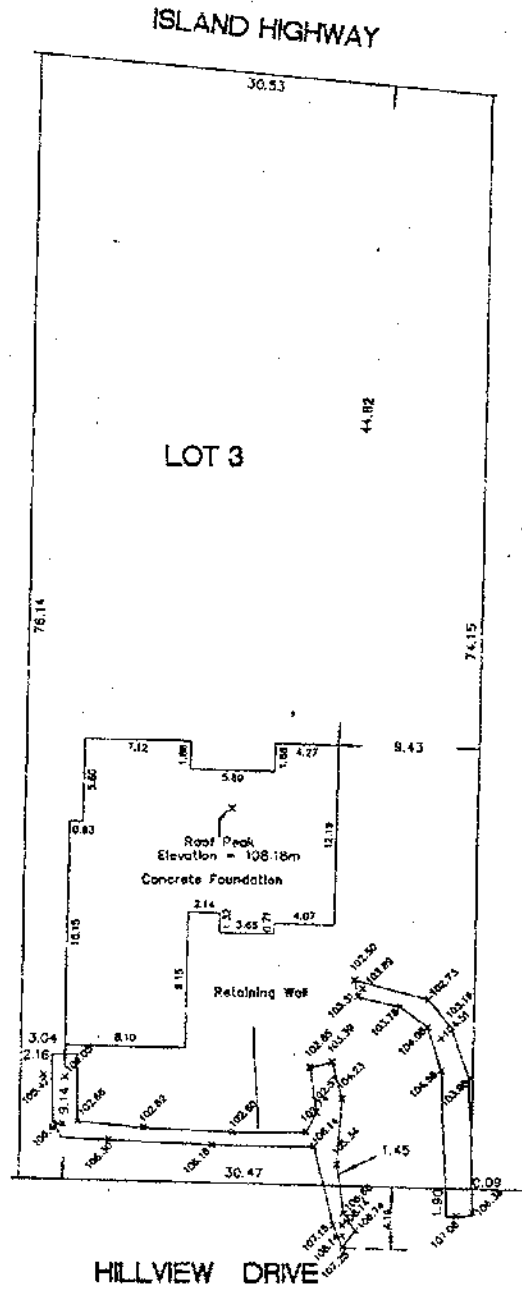
COMMENTS:
devsys/reports/2006/dvp jn 3090 30 90610 McGillivray and Hopwood Report

Schedule No. 1
Terms of Development Variance Permit No. 90610
For Lot 3, District Lot 117, Nanoose District, Plan 10367

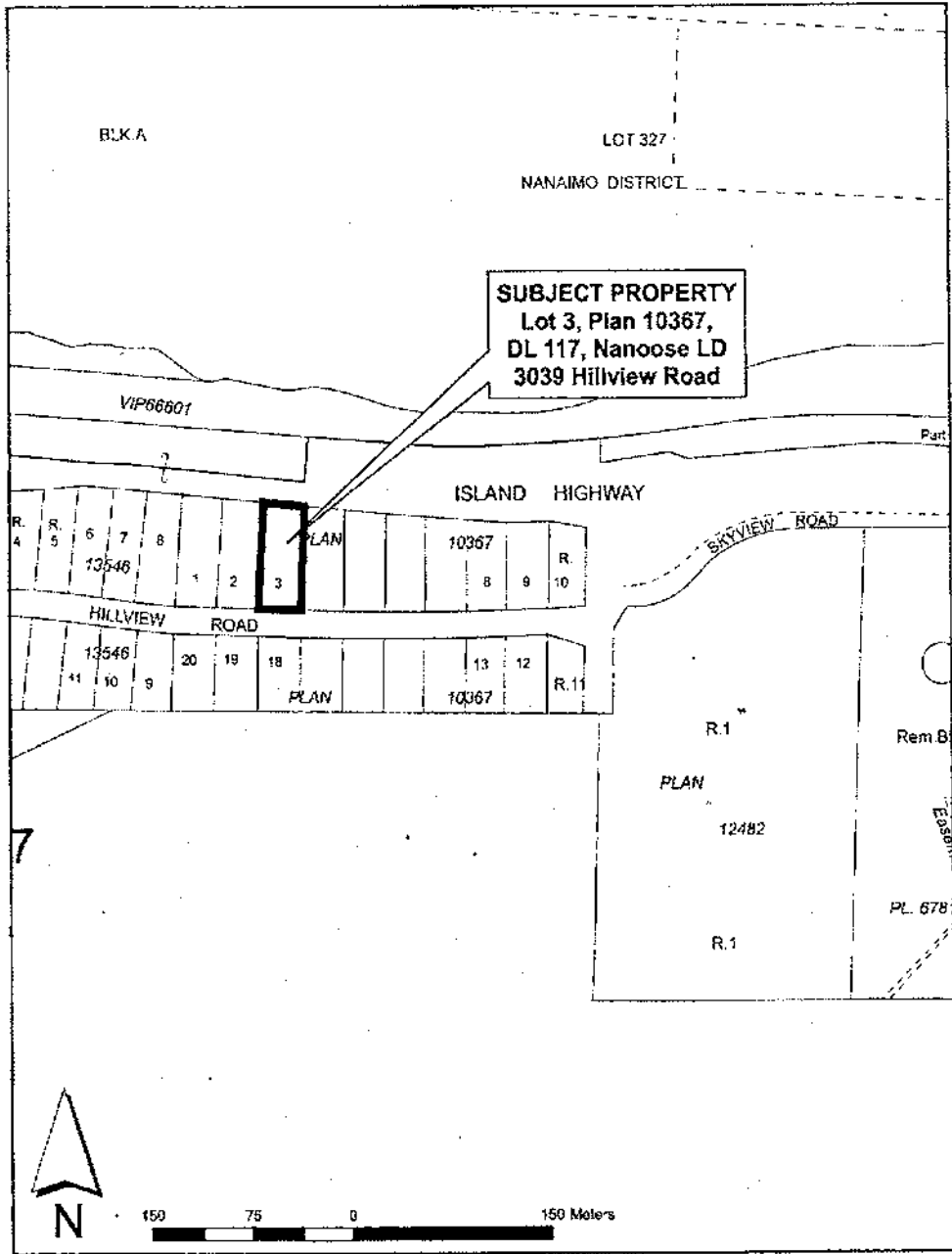
1. Section 3.4.61 – Minimum Setback Requirements -- of “ Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,” is varied to relax the lot line setback as follows:
 - a. front lot line from 8.0 metres to 0.0 metres in order to legalize an existing retaining wall.
 - b. side lot line from 2.0 metres to 0.0 metres in order to legalize an existing retaining wall.
2. This variance applies only to the existing retaining wall as shown in Schedule No. 2. The structures shall be constructed in substantial compliance with Schedule No. 2.
3. A building permit for the retaining walls shall be obtained from the Regional District of Nanaimo Building Inspection Department.
4. Approval from Ministry of Transportation shall be obtained in regard to the relaxation of the front lot line setback, and issuance of Development Permit No. 90610 will be withheld until written approval is received.

Schedule No. 2
Development Variance Permit No. 90610

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



Attachment No. 1
Subject Property Map





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GMCS		GMR&P	
GMDS		GMRT&P	
JUN - 5 2006			
CHAIR		BOARD	
EAP			

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: June 2, 2006

FROM: Norma Stumborg
Planner

FILE: 3090 30 90611

SUBJECT: Development Variance Permit Application No. 90611 – Colclough on behalf of Island Timberlands, Electoral Area 'E' – 1420 & 1430 Island Highway East

PURPOSE

To consider an application for a Development Variance Permit to allow the construction of a shop.

BACKGROUND

The applicant is requesting a variance to Section 3.4.33 of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," to relax the maximum height from 8.0 m to 9.98 m to allow the construction of a shop on a concrete pad that formed the foundation for the previous shop (*See Schedule No. 2*). The subject property is located within a building inspection service area and is serviced with a private well and septic system. The site has been an active forest operations center since the early 1940's.

The development is designated within the Form and Character and Highway Corridor Development Permit Areas, pursuant to "Electoral Area 'E' Official Community Plan Bylaw No. 1400, 2005." In December, 2005, the General Manager of Development Services approved Development Permit No. 60556 that identified the location and floor area (661m²) of the shop. As the existing development permit did not identify a specific building design or height, this application is being processed as a variance and an amendment to the existing development permit is not necessary.

The subject property is approximately 33.08 hectares in area and is legally described as District Lot 169 Nanoose Land District (*See Schedule No. 1*). The parcel is located on the west side of the Island Highway. Northwest Bay and Scottie Roads cross the property. The subject property is split zoned Industrial 3 (IN3) and Resource Management 3 (RM3) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The proposed development lies within the IN3 zone and is surrounded on the north, west, and south by RM3 zoning in the Agricultural Land Reserve (ALR). Across the Island Highway to the east of the subject property are Industrial 1 (IN1) and Commercial 6 (CM6) properties. There are large parcels of Rural 5 (RU5) properties to the north, northeast, and southwest of the subject property.

ALTERNATIVES

1. To approve Development Variance Permit No. 90611 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.
2. To deny the requested permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

The applicant proposes to construct an engineered steel framed shop on a concrete pad that formed the foundation for the pre-existing shop. The land where the foundation is located is essentially flat. Island Timberlands owns the property surrounding the industrial development.

A steep and well treed embankment, approximately 5.0 metres in height, is located directly to the west of the proposed shop, forming a natural sound barrier and sight line screen. Additionally, old growth forest skirts the proposed development forming a natural buffer. As a term of Development Permit No. 60556, the applicant is required to retain 15.0 metres of the old growth trees along the Industrial 3 zoning boundary and to screen the development from the Island Highway with mature vegetation. Given that there are no neighbours directly affected by the proposed development and the site is adequately buffered with natural landforms and vegetation, staff do not foresee that the proposed variance will create any notable impacts.

As a condition of this permit, the applicant shall submit a survey, prepared by a British Columbia Land Surveyor, confirming the height and siting of the proposed addition prior to occupancy.

PUBLIC CONSULTATION IMPLICATIONS

As part of the required public notification process pursuant to the *Local Government Act*, property owners and tenants located within a 50.0 metre radius will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the permit.

VOTING


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

SUMMARY/CONCLUSIONS

This is an application for a variance to the maximum height requirement for the subject property located at 1420 & 1430 Island Highway East in Electoral Area 'E'. The proposed relaxation to 9.98 m for the maximum height requirement does not appear to impact views of neighbouring property owners or the streetscape. Therefore, staff recommends approval of the request 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.

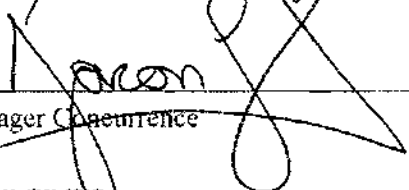
RECOMMENDATION

That Development Variance Permit Application No. 90611, to relax the maximum height restriction from 8.0 metres to 9.98 metres to construct a shop at 1420 & 1430 Island Highway East, be approved according to the terms outlined in Schedule No. 1 and subject to the Board's consideration of comments received as a result of public notification.

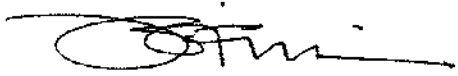


Report Writer

General Manager Concurrence



Manager Concurrence



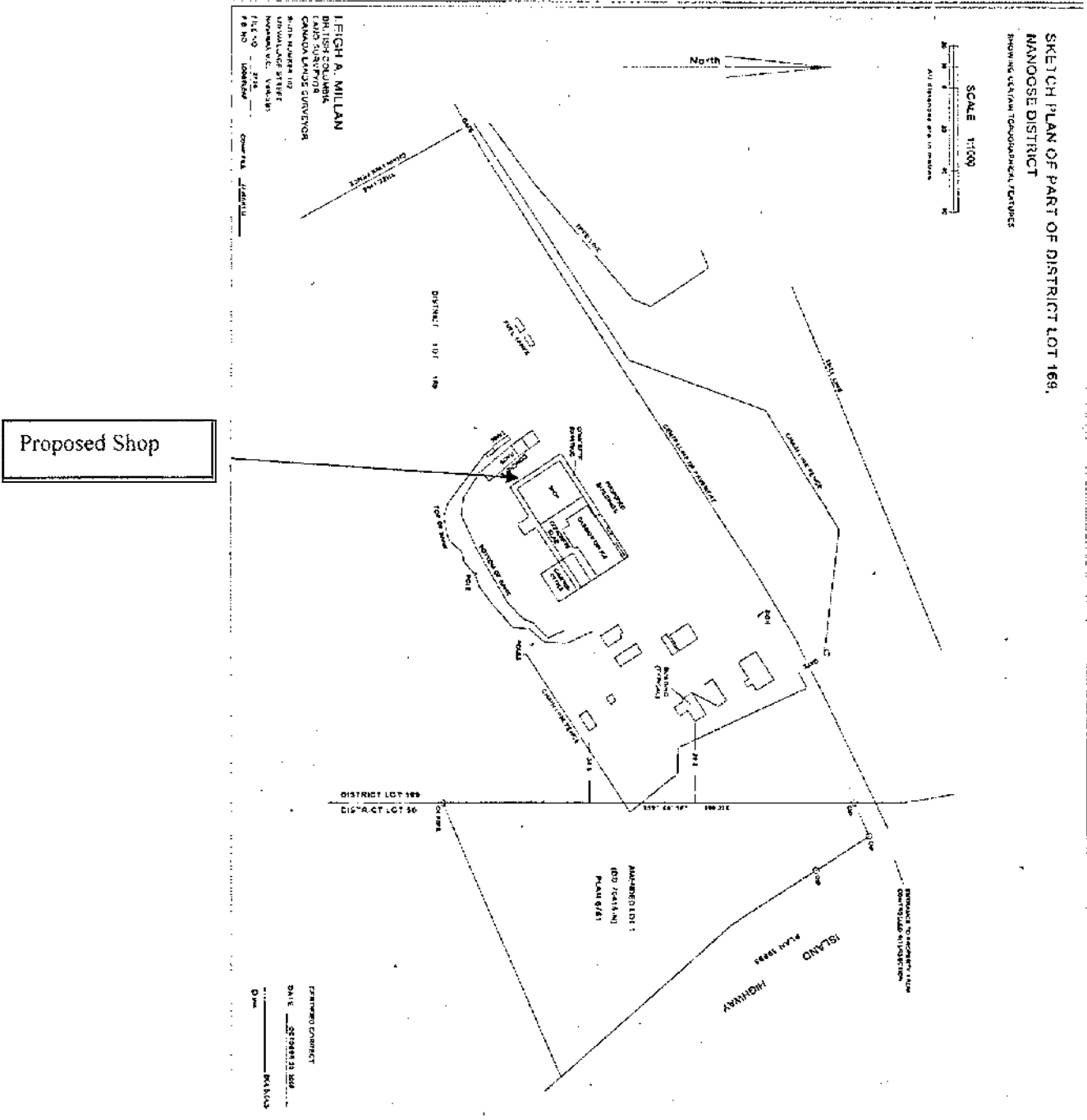
A/ CAO Concurrence

COMMENTS:
devsvs/reports/2006/dvp/jn 3090 30 90611 Island Timberlands - Colclough Report

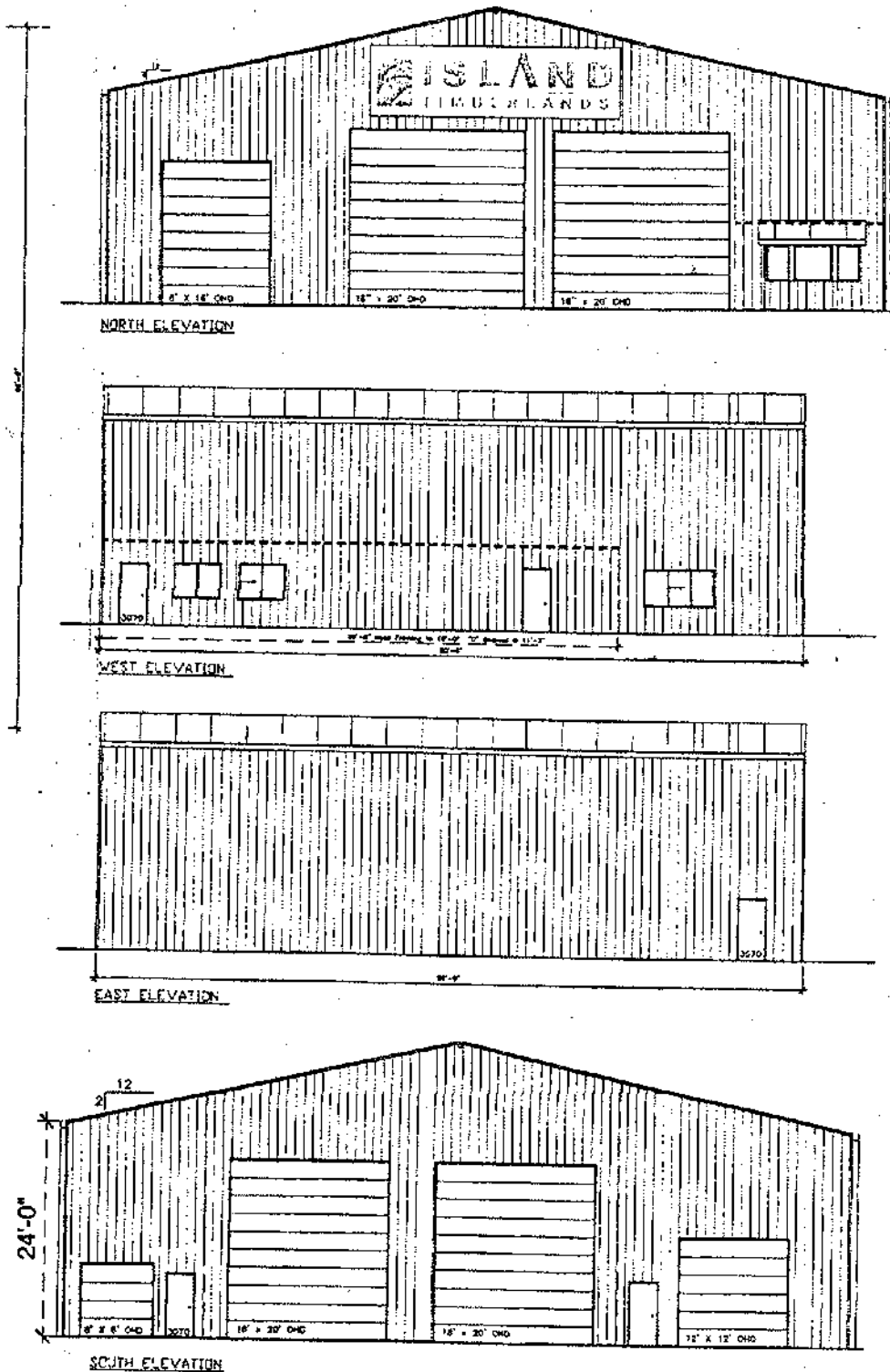
Schedule No. 1
Terms of Development Variance Permit No. 90611
District Lot 169
1420 and 1430 Island Highway East

1. Section 3.4.33- Maximum Number and Size of Buildings and Structures – of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is varied to relax the maximum height requirement from 8.0 metres to 9.98 metres.
2. This variance applies only to the building as shown in Schedules No. 2 and 3. The structure shall be constructed in substantial compliance with Schedules No. 2 and 3.
3. A building permit shall be obtained from the Regional District of Nanaimo Building Inspection Department prior to the commencement of any work on the site.
4. The applicant shall submit a survey, prepared by a British Columbia Land Surveyor, confirming the height and siting of the proposed dwelling unit prior to occupancy.

Schedule No. 2
Site Plan (As Submitted by Applicant / Modified to Fit This Page)
Development Variance Permit No. 90611
1420 and 1430 Island Highway East



Schedule No. 3 (1 of 2)
Building Profiles (As Submitted by Applicant / Modified to Fit This Page)
Development Variance Permit No. 90611
1420 and 1430 Island Highway East



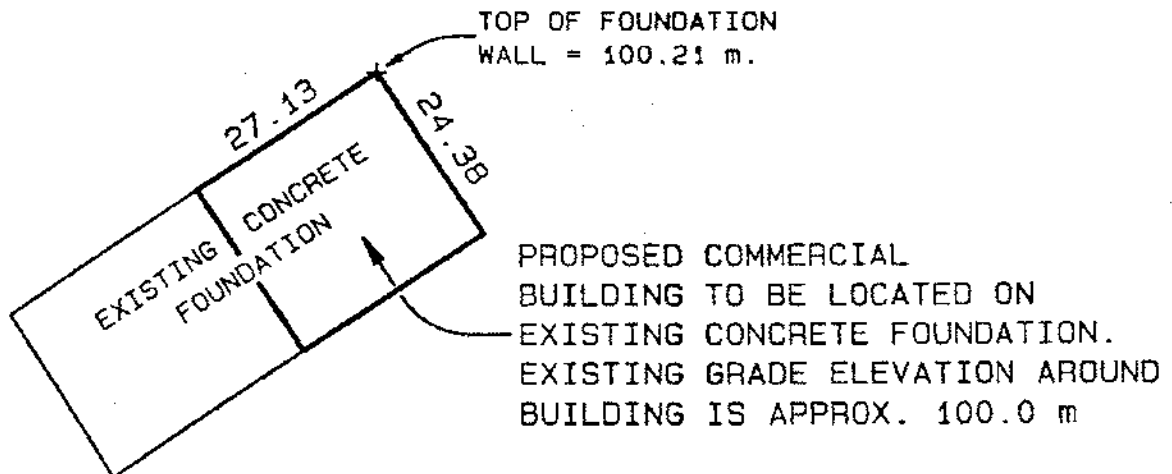
Schedule No. 3 (2 of 2)
Building Profiles(As Submitted by Applicant / Modified to Fit This Page)
Development Variance Permit No. 90611
1420 and 1430 Island Highway East

MAXIMUM BUILDING
HEIGHT CALCULATION

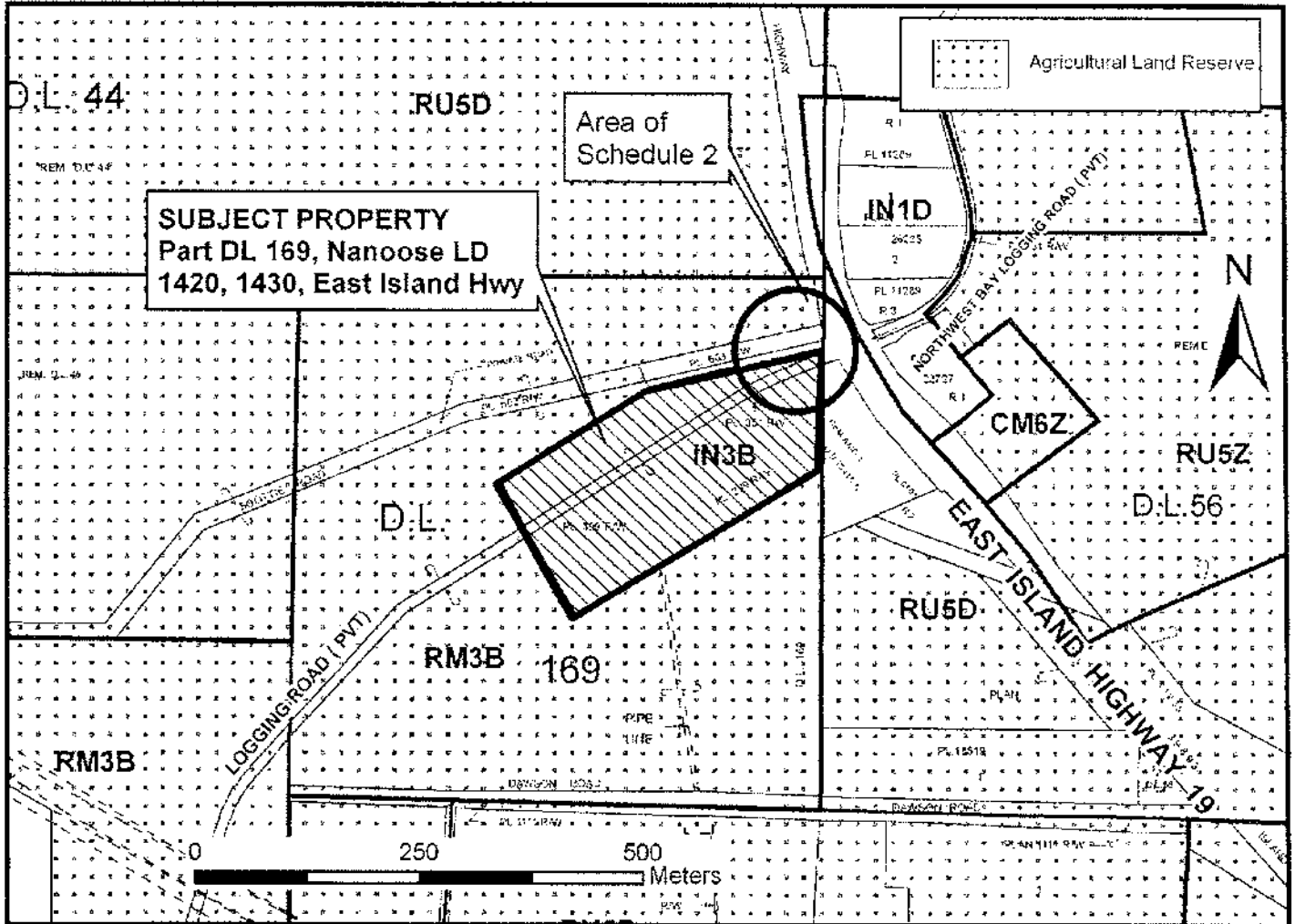
EXISTING GRADE = 100.00
MAXIMUM HEIGHT + 8.00
RDN MAXIMUM ROOF PEAK = 108.00

TOP OF NORTHERLY CORNER
OF EXISTING FOUNDATION = 100.21
APPROX. HEIGHT TO PEAK + 9.77
PROPOSED ROOF PEAK = 109.98

PROPOSED ROOF PEAK 109.98
RDN MAXIMUM ROOF PEAK - 108.00
VARIANCE REQUIRED = 1.98



Attachment No. 1
Subject Property Map
Development Variance Permit No. 90611
1420 and 1430 Island Highway East



BCGS MAPSHEET NO. 92F.029.4.3



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GMDS		GM/RT&P
JUN - 5 2006		
CHAIR		BOARD
EAP		

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

DATE: June 5, 2006

FROM: Susan Cormie
Senior Planner

FILE: DVP90612
3320 20 26828

SUBJECT: Development Variance Permit Application No. 90612 / Park Land Consideration / Request for 10% Frontage Relaxation
Timberlake-Jones Engineering Ltd., on behalf of Timberstone Development Ltd.
Electoral Area 'E' – Davenham Road & Oak Leaf Drive

PURPOSE

To consider an application for a development variance permit; to consider a request for relaxation of the minimum 10% requirement; and to consider a request for acceptance of park land dedication in conjunction with the creation of a 16-lot subdivision on property adjacent to Davenham Road and Oak Leaf Drive in Electoral Area 'E'.

BACKGROUND

The parent parcels, legally described as Lot 1, DL 78, Plan 14212, Except Those Parts in Plans 28203 and 29052 and Lot 5, DL 131, Plan VIP69734, All of Nanoose District, are located adjacent to Davenham Road and Oak Leaf Drive in Electoral Area 'E' (*see Attachment No. 1 on page 13 for location of subject properties*).

The parent properties total 18.0 ha in size but have different zoning and subdivision districts. The Remainder of Lot 1 is currently zoned Residential 1 (RS1) and is within Subdivision District 'P' (*1600 m² minimum parcel size with community water service connections*) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." Lot 5 is currently zoned Rural 5 and is within Subdivision District 'D' (*2.0 ha minimum parcel size with or without community service connections*) pursuant to Bylaw No. 500.

Surrounding land uses include the Strait of Georgia to the north and east, Davenham Road and Oak Leaf Drive and residentially zoned parcels to the south, and rurally zoned parcels to the west.

The parent parcel currently has 2 cabins located within proposed Lot 13 and a boathouse structure located within the proposed park land area adjacent to the Strait of Georgia.

In addition, the parent parcel is designated within the Sensitive Ecosystem Protection Development Permit Area for the protection of a coastal bluff area pursuant to the Nanoose Bay Official Community Plan Bylaw No. 1400, 2005. As the applicant is proposing to register a section 219 for the protection of the coastal bluff ecosystem area, a development permit is not required.

Proposed Development

The applicant is proposing to construct 4 fee simple parcels varying in size from 2.55 ha to 3.22 ha with individual potable water wells and individual septic disposal systems and 12 bare land strata lots varying in size from 2600 m² to 3500 m² with community water service connections from the Regional District and a strata owned septic disposal system. All parcels are proposed to be served by public road (see Schedule No. 3 on page 11 for proposed subdivision layout including park land proposal).

Proposed Variances

The applicant is proposing to subdivide the parent parcels under one subdivision application. Based on the submitted plan of subdivision, the subdivision district would allow (exclusive of road) a maximum of 10 parcels on the Remainder of Lot 1 and 7 parcels on Lot 5 for a total of 17 parcels. The applicant is proposing to subdivide the two parent parcels into 16 parcels, with parcel sizes ranging from 0.24 ha to 3.22 ha plus the park land. Section 4.3.4 of Bylaw No. 500, 1987 states that parcels within land to be subdivided may be reduced to 80% of the size otherwise permitted in the applicable subdivision district, subject to certain provisions including registering a covenant restricting further subdivision on title on those parcels capable of further subdivision. In this case, the applicant requires a variance to reduce the minimum 80% parcel reduction requirement to between 12% and 17% parcel reduction for proposed Lots 2 to 12 inclusive as shown on the proposed plan of subdivision (see Schedule No. 3 on page 11). Variances have also been requested for those proposed residential bare land strata lots, which would have a split residential / rural zone or would be located entirely within the Rural 5 zone (see Schedule No. 2 on page 10 for List of Proposed Variances).

Park Land Requirements

Where an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash or a combination of both. In this case, the OCP specifies that park land dedication may be considered at the time of subdivision subject to meeting the preferred park land criteria set out in the Plan. Pursuant to the **Local Government Act**, the maximum amount of park land that the Regional District may request for this property is 5% of the total site area, in this case approximately 0.90 ha.

Park Land Proposal

The applicant is proposing to dedicate 2.1 ha or 11.7 % of the total land area, which consists of an area next to the Strait of Georgia that includes part of the coastal bluff sensitive ecosystem area and a 25-metre wide strip of land adjacent to Davenham Road. The area of the proposed waterfront park land within the coastal bluff area is designated within the Sensitive Ecosystems Protection Development Permit Area pursuant to the OCP. The location of the proposed park land is shown on Schedule No. 3 on page 11.

The park land proposal was referred to the Nanoose Bay Parks and Open Space Advisory Committee on April 3, 2006 and presented at a Public Information Meeting held on May 31, 2006.

10% Minimum Frontage Requirement

Proposed Lot 12, as shown on the submitted plan of subdivision, will not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the **Local Government Act**. The requested frontages are as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
12	26.8 m	9.0 m	3.3 %

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

ALTERNATIVES

1. To approve Development Variance Permit Application No. 90612 as submitted, subject to the conditions outlined in Schedules No. 1, 2 and 3 subject to the notification requirements pursuant to the *Local Government Act*; to accept the offer of park land in the amount and location as set out in Schedules No. 3 and 4; and to approve the request for relaxation of the minimum 10% frontage requirements for proposed Lot 12.
2. To deny the development variance permit as submitted; to not accept the offer of park land in the amount and location as proposed and instead require the applicant to dedicate park land in a different location and amount; and to refuse the request for relaxation of the minimum 10% frontage requirement.
3. To approve the development variance permit as submitted, subject to the conditions outlined in Schedules No. 1; 2, and 3 to not accept the park land proposal as submitted and require the applicant to provide 5% cash-in-lieu of park land; and to approve the request for relaxation of the minimum 10% frontage requirements for proposed Lot 12.

DEVELOPMENT IMPLICATIONS

Parcel Averaging Implications

As part of the development variance application, the applicant is requesting a variance to the parcel averaging provisions of Bylaw No. 500 in order that the proposed lot configuration would be able to proceed (*see Schedule No. 2 on page 10 for Proposed Variances*). This proposal will not increase the overall density of the parent parcels. Based on the submitted plan of subdivision, the maximum number of parcels permitted is 17. The applicant is proposing to develop the site into 16 parcels with the park land being the seventeenth parcel, therefore meeting the maximum density provisions. It is noted that if the Approving Authority requires additional road be dedicated or the proposed road be relocated, the density provision will need to be recalculated to ensure bylaw compliance. One of the proposed parcels (Lot 15) could have the potential to be further subdivided. In order to ensure the parcel averaging provisions are upheld and to meet the bylaw provisions, staff recommends a covenant be placed on proposed Strata Lots 1, 4, 5, 6, 7, 8, and 12 and proposed Lot 15 restricting further subdivision of the lands. The applicant is in concurrence with this covenant. As the maximum density provisions of Bylaw No. 500 can be maintained, staff supports this request for a variance to the parcel averaging provisions.

With respect to the proposed split zoned lots (Strata Lots 2 to 8) and those smaller lots proposed to be situated entirely within the Rural 5 zone (Strata Lots 9 to 12), in order to ensure that no rural uses can occur on these future parcels, a section 219 covenant is recommended to be registered on title restricting uses to those uses in the Residential 1 zone only (*see Schedule No. 1 on page 8 for list of conditions*). The applicant is in concurrence with this requirement.

With respect to ensuring adequate building sites for those bare land strata lots that are split zoned parcels, a variance is required to reduce the minimum setback requirement along the zone boundary to zero. While proposed Strata Lots 2, 7, and 8 should not be negatively affected by this as the zone boundary will cross these proposed lots within the established setbacks, it is recommended that these parcels be included in the variance to ensure consistency for all the proposed residential parcels. There are no specific zoning related variances required for the proposed larger rural zoned parcels.

Existing Dwellings / Future Building Sites Implications

The applicant is proposing to remove the existing cabins located within proposed Lot 13 although if minimum setback requirements can be met, the cabins may remain. Staff will address this issue as part of the subdivision review process. With respect to the existing boathouse situated within the proposed waterfront park land, this building is run down and as a result, staff recommends that this structure be removed as to avoid future concerns with park users. The applicant is in concurrence to remove this building. Due to the environmentally sensitive features of the park land area, staff recommends that the applicant work with Recreation and Parks staff to ensure that the no unnecessary removal of vegetation is occurs during this process.

As outlined above, the applicant will verify the building site areas for each proposed bare land strata property by the environmental report. In addition, to ensure that there are safe building sites for each proposed bare land strata lot, the applicant is in concurrence to provide a geotechnical report prepared by a professional engineer with expertise in the geotechnical field. If there is not a sufficient building site area available within a proposed lot, the subdivision proposal will be required to be reconfigured to provide building site areas for each parcel or if necessary, the number of proposed lots will have to be reduced in order to provide acceptable building site areas.

Request for Relaxation of Minimum 10 % Frontage Requirements

With respect to the request to relax the minimum 10% frontage requirement, Lot 12 is proposed to be fronted on a cul-de-sac road, which due to the configuration of this type of road, provides for less available frontage. The proposed parcel is expected to contain a sufficient building area to support the intended residential use outside the sensitive ecosystems area. As noted above, the applicant will registering a section 219 covenant to restrict sensitive ecosystem areas and safe areas for buildings.

Ministry of Transportation staff has indicated that they will support this request for relaxation of the minimum 10% frontage requirement.

ENVIRONMENTALLY SENSITIVE FEATURES / DEVELOPMENT PERMIT IMPLICATIONS

The subject parcels contain a coastal bluff sensitive ecosystem area. The coastal bluff ecosystem is associated with vegetated rocky shoreline/grassland/moss and coastal cliffs. The proposed parcels within the sensitive ecosystem area would be Strata Lots 1 to 12. The applicant is proposing to register a section 219 covenant on title for the protection of this ecosystem area. This proposal will meet the exemption provisions of the Sensitive Ecosystems Protection Development Permit Area (DPA) subject to acceptance by the Regional District of all the required information. In order to ensure that the DPA exemption clause and guidelines will be fully met, the applicant is in concurrence to provide a comprehensive biological inventory and development impact assessment report establishing the sensitive ecosystem area and outlining environmental protection measures that are to be carried out during the development of the site, both at the time of subdivision and building. These requirements are incorporated into the Conditions of Approval (*see Schedule No. 1 on page 8*). The applicant is aware that if verification of the sensitive ecosystem areas results in any proposed development within the development permit area, a development permit would be required. It has been confirmed with RDN legal counsel that, if required at a future date, a development permit could still be considered for the property even though there would be a development variance permit in place.

Site Servicing Implications

With respect to septic disposal, the proposed subdivision has been forwarded to the Central Vancouver Island Health Authority for its comments.

The Ministry of Transportation is responsible for subdivision approval, which includes road design and engineering and storm drainage. As part of the subdivision review process, the Regional Approving Officer will examine the road configuration and storm water management of the parent parcels and impose conditions of development as required.

With respect to community water, the parent parcels are currently situated within the Nanoose Bay Peninsula Water Service Area and therefore, community water service connections to the proposed parcels will be provided by the Regional District.

PARK LAND IMPLICATIONS

Public Consultation Implications

A Public Information Meeting (PIM) was held on May 31, 2006. Approximately 15 persons attended this meeting. (*see Attachment No. 3 on page 15 for Minutes of the Public Information Meeting*). Park land related issues raised at this Meeting included the concern for vehicular parking, the impact of additional traffic within the existing road network, and the possibility of an archeology site within the proposed waterfront park land.

The applicant has offered to put in a gravel parking area at the entrance to the waterfront park land to provide off-street parking for park users. With respect to the possibility of an archeology site, it is expected that the Approving Authority, as part of the subdivision review process, will forward this application to the Provincial Archeology Branch and, as necessary, may require that the applicant provide an archeology report. It is noted that the Regional District has worked successfully with the Archeology Branch in other park land areas to protect sites by way of park land.

Non-park land issues raised at the Public Information Meeting included concerns for general traffic safety issues along Dolphin Drive and Davenham Road. Staff will forward these concerns to the Ministry of Transportation's Approving Authority to be considered as part of its subdivision review.

Recreation and Park Department Implications

Recreation and Parks staff has reviewed this request for park land and are prepared to support the dedication. Recreation and Parks staff commented that the park land should be retained for its environmental values and its recreational potential and noted that while there may be some challenges for managing the park land in the future (in terms of ensuring the public stay within future pathways and outside the sensitive ecosystem areas, and with safety near the sea cliff edge), this should not be seen as an impediment for accepting park land in this location.

With respect to proposed trail corridors through both the proposed park land areas, Recreation and Parks staff would prefer that trails not be developed at this time without prior trail planning being completed to ensure that the sensitive ecosystem is not damaged or destroyed. It should be noted that the construction and management of these trails should not be expected at this time or in the near future, as the Parks Department is not in the position from a staffing and financial perspective to develop the proposed park land. Informal trails do already access the waterfront portion of the proposed park land and it is anticipated that with road construction this property will be easier to access. However, staff do support the construction of a small parking area at the entrance of the waterfront park land as offered by the

applicant provided that these works only proceed under the direction of Parks staff. The applicant is in concurrence to provide a small parking area.

Access to Water Implications

The Approving Officer is prepared to grant relief from section 75 of the *Land Title Act* as the applicant is providing park land with access to Strait of Georgia.

FINANCIAL IMPLICATIONS

There are no plans for trail construction at this time, but staff do anticipate a need for signage and an assessment of natural hazards. Costs for these items are not expected to exceed \$3,000.00.

VOTING

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

SUMMARY

This is a subdivision application that involves a development variance permit, a request for relaxation of the minimum 10% frontage requirement for 1 of the proposed parcels, and a request for acceptance of park land for the property located off Davenham Road and Oak Leaf Drive in Electoral Area 'E'.

The subject properties are designated within the Sensitive Ecosystem Protection Development Permit Area (DPA) pursuant to the Nanoose Bay OCP specifically for the purposes of ensuring protection of the coastal buffer areas. In this case, as the applicant will be registering a section 219 covenant for the protection of the sensitive ecosystem area, the exemption provisions of the development permit guidelines will be met and a development permit is not required. Conditions associated with the section 219 covenant requirement, including an environmental assessment report, confirmation of building site areas outside the DPA, and a geotechnical report to ensure safe building sites and address drainage, are outlined in *Schedule No. 1 on page 8*.

The request for variances to the parcel averaging provisions do not increase the density provisions and relaxation of the minimum setback requirements for some of the residential lots do not negatively impact the overall development.

The waterfront park land proposal was fully supported by the local Parks and Open Space Advisory Committee while the park land strip next to Davenham Road was not unanimously supported by the Committee. Despite this, the Recreation and Parks staff feel that this strip of park land does have trail potential as well as providing a treed buffer along Davenham Road. The applicant will provide some off-street parking spaces for the waterfront park land and remove an old boathouse structure.

Concerning the request for relaxation of the minimum 10% perimeter frontage for proposed Strata Lot 12, the Ministry of Transportation staff has indicated that they have no objection to the proposed relaxation and the covenant will establish a designated building area.

Therefore, given that the park land as offered will provide a spectacular park land setting for the Nanoose Bay community and that the applicant will provide full protection of the coastal bluff ecosystem area by way of covenant, staff recommends Alternative No. 1 to approve the development variance permit subject to Schedules No. 1, 2, and 3 and the public notification requirements, to accept the park land in the amount and location as shown on Schedule No. 3 and subject to the requirements in Schedule No. 4 and approve the request for relaxation of the minimum 10% frontage for proposed Lot 12.


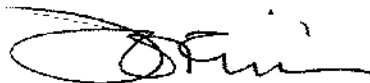
RECOMMENDATIONS

1. That Development Variance Permit Application No. 90612, submitted by Timberlake-Jones Engineering Ltd., on behalf of Timberstone Developments Ltd., in conjunction with the subdivision on the parcels legally described as Lot 1, DL 78, Plan 14212 Except Those Parts in Plans 28203 and 29052 and Lot 5, DL 131, Plan VIP69734, All of Nanoose District, be approved subject to the conditions outlined in Schedules No. 1 and 3 of the corresponding staff report and the notification requirements pursuant to the *Local Government Act* with respect to the proposed variances outlined in Schedule No. 2
2. That the park land proposal, in the amount and location as shown on Schedule No. 3 of the staff report, be accepted subject to the conditions set out in Schedule No. 4 of the staff report.
3. That the request for relaxation of the minimum 10% frontage requirement for proposed Lot 12 be approved.



Report Writer

General Manager Concurrence


Manager Concurrence
A | CAO Concurrence

COMMENTS:

devsrs/reports/2006 jr dvp park 10% 3060 30 60912 (26828) Timberlake Jones / Timberstone.doc

Schedule No. 1 (page 1 of 2)

Conditions of Approval

Development Variance Permit Application No. 90612

In conjunction with the subdivision application for the properties legally described as Lot 1, DL 78, Plan 14212 Except Those Parts in Plans 28203 and 29052 and Lot 5, DL 131, Plan VIP69734, All of Nanoose District

The following sets out the conditions of approval:

1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 3 (to be attached to and forming part of this Permit).

2. Sensitive Ecosystem Areas

- a. The applicant shall submit a Biological Inventory and Development Impact Assessment Report which must include, at a minimum, the extent of Coastal Bluff Sensitive Ecosystem by field survey and assessment; a discussion of the environmental values and sensitive ecosystem areas, recommendations for buildable site areas outside the development permit area (coastal bluff sensitive ecosystem area) for the proposed 12 bare land strata lots; and the establishment of environmental protection measures to be carried out during the development of the site, both at the time of subdivision and construction of future buildings. The report is to address all applicable guidelines of the Sensitive Ecosystems Protection Development Permit Area pursuant to Nanoose Bay Official Community Plan Bylaw No. 1400, 2005. Applicant's consultant to meet with Regional District staff prior to commencing assessment.
- b. Applicant to prepare and register a section 219 covenant, to the satisfaction of the RDN, for the protection of the coastal bluff sensitive ecosystem area as established by the Biological Inventory and Development Impact Assessment. This covenant is also to restrict the placement of buildings and structures, decks, patios, septic systems, and restrict any removal of vegetation or alteration of soils by the hand of man within the covenant area.
- c. Draft covenant document to be forwarded for review to RDN.
- d. Applicant's solicitor to provide legal letter of undertaking to register the covenant concurrently with the plan of subdivision.

3. Geotechnical Report

- a. The applicant's professional engineer with expertise in geotechnical engineering, shall prepare a report reviewing the suitability of each proposed bare land strata lot for residential buildings and drainage to the satisfaction of the Regional District and the Ministry of Transportation Approving Authority. This report is to be registered on title concurrently with the subdivision of the lands.
- b. Draft covenant document to be forwarded for review to RDN.
- c. Applicant's solicitor to provide legal letter of undertaking to register the covenant concurrently with the plan of subdivision.

4. No Further Subdivision Covenant

- a. Applicant to prepare and register a section 219 covenant, to the satisfaction of the RDN, restricting further subdivision of proposed Strata Lots 1, 4, 5, 6, 7, 8, and 12 and proposed Lot 15.
- b. Draft covenant document to be forwarded for review to RDN.
- c. Applicant's solicitor to provide legal letter of undertaking to register the covenant concurrently with the plan of subdivision.

Schedule No. 1 (page 2 of 2)

Conditions of Approval

Development Variance Permit Application No. 90612

**In conjunction with the subdivision application for the properties legally described as
Lot 1, DL 78, Plan 14212 Except Those Parts in Plans 28203 and 29052 and Lot 5, DL 131,
Plan VIP69734, All of Nanoose District**

5. Residential Land Use Covenant

- a. Applicant to prepare and register a section 219 covenant, to the satisfaction of the RDN, restricting the land uses on proposed Strata Lots 2 to 12 inclusive to those uses set out in the Residential 1 zone of Bylaw No. 500, 1987.
- b. Draft covenant document to be forwarded for review to RDN.
- c. Applicant's solicitor to provide legal letter of undertaking to register the covenant concurrently with the plan of subdivision.

Schedule No. 2

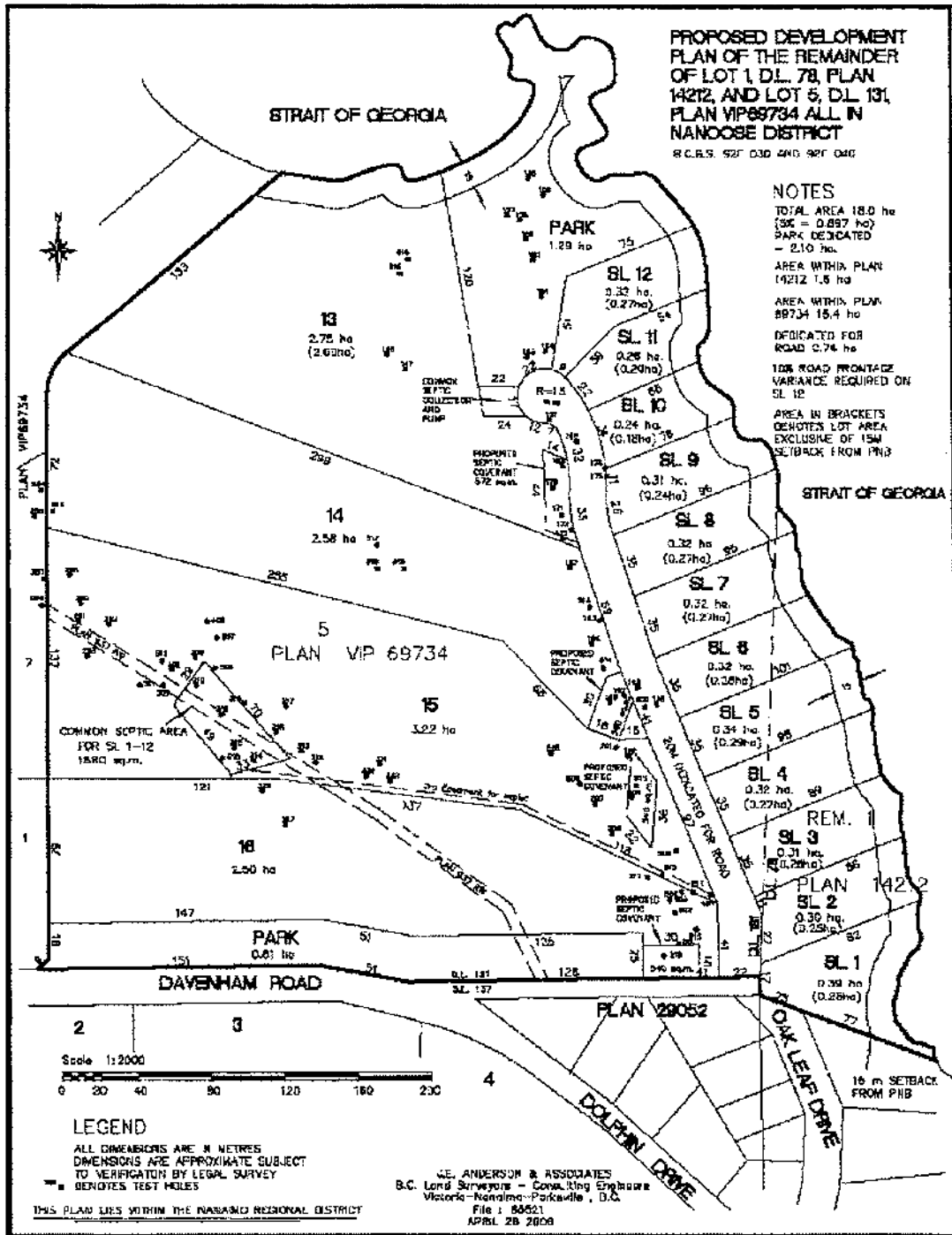
**Bylaw No. 500, 1987 – Requested Variances
Development Variance Permit Application No. 90612**

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

1. The requirements of Section 4.3.4 are proposed to be relaxed by varying the parcel averaging provision from 80% to the following for 41% of the parcels:
 - 16.0 % for proposed Lots 6, 7, 8, and 12;
 - 15.5 % for proposed Lot 9;
 - 12.0 % for proposed Lot 10; and,
 - 13.0 % for proposed Lot 11.
2. The requirements of Section 3.1.5 are proposed to be relaxed by varying the zone boundary requirements for setbacks by the applicable setback requirement in the Residential 1 and Rural 5 zones to zero (0) for proposed Lots 2, 3, 4, 5, 6, 7, and 8.

Schedule No. 3

In conjunction with the subdivision application for the properties legally described as Lot 1, DL 78, Plan 14212 Except Those Parts in Plans 28203 and 29052 and Lot 5, DL 131, Plan VIP69734, All of Nanoose District Proposed Plan of Subdivision (as submitted by applicant)



**Schedule No. 4
Subdivision File No. 26828**

Transfer of Lands for Park Purposes and Conditions

In conjunction with the subdivision application for the properties legally described as Lot 1, DL 78, Plan 14212 Except Those Parts in Plans 28203 and 29052 and Lot 5, DL 131, Plan VIP69734, All of Nanoose District

1. Area and Location of Park Land

An area, not less than 2.1 ha and shown on the locations labeled park on Schedule No. 3, shall be transferred to the Regional District for park purposes.

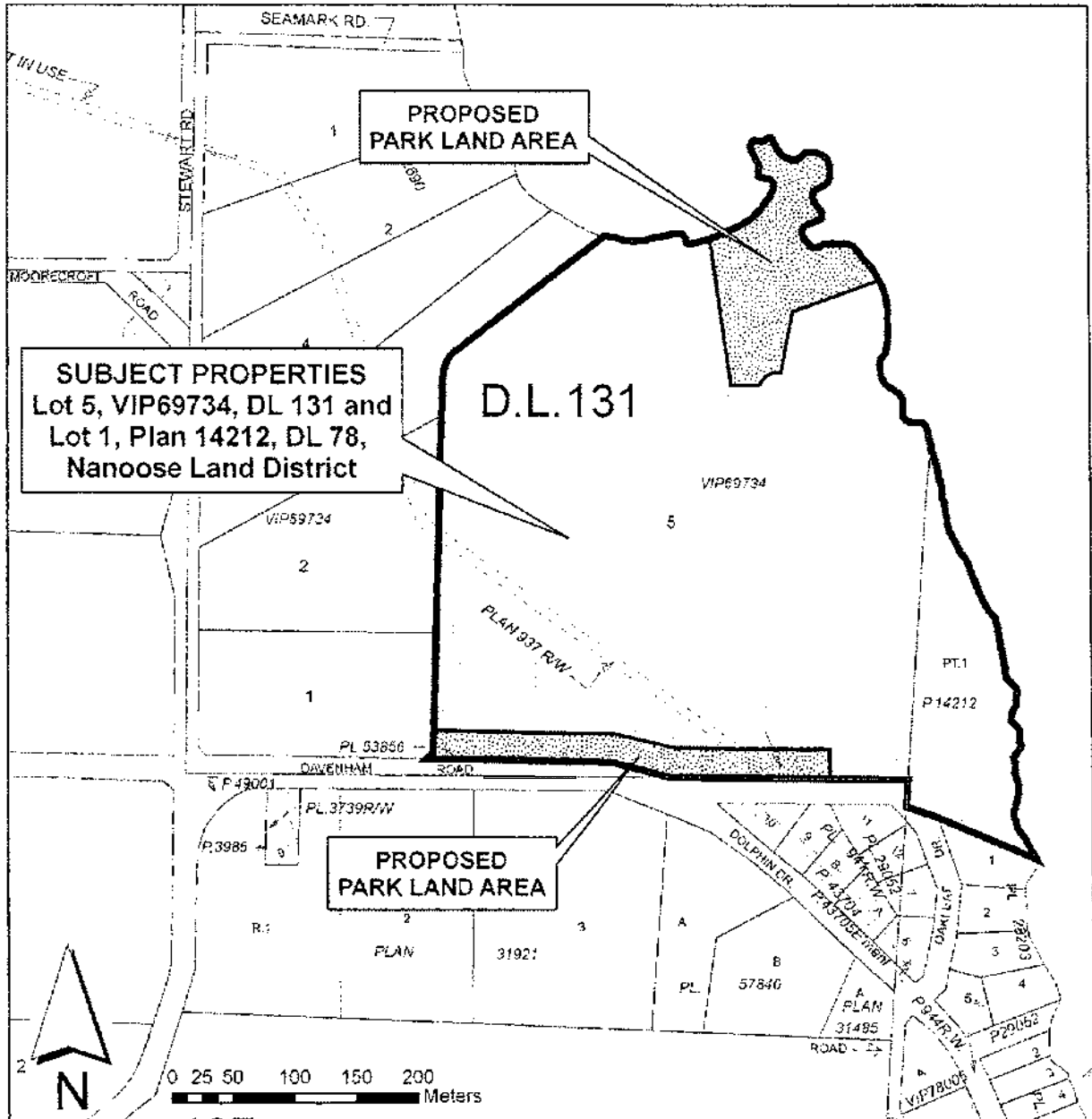
2. Parking Area

The applicant, shall, in full consultation with the Recreation and Parks staff, provide a graveled surfaced parking area at the entrance of the waterfront park land to a standard acceptable to the Regional District.

3. Removal of Boathouse

The applicant shall, in full consultation with the Recreation and Parks staff, remove the existing boathouse structure in a manner that will not negatively damage or destroy the sensitive ecosystem of the park land.

Attachment No. 1
Location of Subject Property



Attachment No. 2

Correspondence from the Nanoose Bay Parks & Open Space Advisory Committee



PARK LAND DEDICATION REVIEW

Referral Form

Parks and Open Space Advisory Committee

In conjunction with the subdivision application for the property legally described as:

Attachments provided to the Committee:

- ✓ Location map
- ✓ Park Proposal Map
- ✓ Other – Memo from Susan Cormie (RDN Senior Planner), excerpts from Nanoose Bay OCP (Bylaw 1400, 2005), and a copy of Parkland Dedication Referral Policy.

The Nanoose Bay Parks and Open Space Advisory Committee has considered the request submitted by the applicant/owner and forwarded by the Regional District Planning Department for either dedication of park land or cash in-lieu-of park land or a combination of both and has the following advisory comments:



Support park land in the amount and location as proposed.

Do not support park land in the amount and location as proposed.

Comments:

Park staff received permission from the applicant's surveyor for the Committee to visit the site on March 31st. The Committee walked the property, and although the proposed parkland area was not staked out they were able to discern its location.

The Committee members' comments on the proposed parkland include:

1. The Committee is very grateful to the applicant for the proposed dedication of the 1.29ha of waterfront land which is of exceptional scenic and geographic value and will be enjoyed by many as parkland.
2. The Existing Ecological Resources map (MAP 1) of the Nanoose Bay Parks and Open Space Plan (2001) shows an Archaeological Sites notation for the headland and coastal portions of the proposed 1.29 ha parkland parcel. Staff are asked to investigate the implication this notation may have on the ability for the proposed park to be managed for public use.
3. A Common Septic Collection and Pump area is located at the entrance to the proposed parkland at the end of the proposed road. The Committee is seeking assurance that this has no impact to the park and that safeguards will in place to ensure there will be no spillage or leakage of septage into the proposed park.
4. The large parent parcel hosts some magnificent old growth and veteran fir trees, as well as patches of Garry Oak and native flowers. The Committee requests the applicant hire a qualified expert to inventory (map) and designate the many wildlife trees, veteran trees and Garry Oak clusters throughout the property and subsequently retain as many as possible during the development.
5. The 0.81 parcel of proposed parkland buffering Davenham Road was not unanimously supported due to its limited viability for trail (uneven and sloping aspect), and the likely costs to manage trees impacted by development. The Regional Board may consider requesting a vegetation removal covenant be placed on this parcel to limit outright clearing and to provide some slope stability.
6. In place of accepting the 0.81 roadside buffer, the Committee requests consideration for a parking area for up to six vehicles be added to the proposed 1.29ha parkland parcel (location to be determined on either Lots A or B) and constructed by the applicant at time of development.

MOVED K. Stanners, SECONDED S. Watson that the Committee recommends the Regional Board accept the 1.29ha waterfront parcel of proposed parkland, and that the comments noted above be taken into account and be required of the applicant when finalizing the development approvals.

CARRIED (with one member voting in the negative)

Attachment No. 3

**Minutes of a Public Information Meeting
Held at the Nanoose Place Main Gymnasium
2925 Northwest Bay Road, Nanoose Bay on May 31, 2006 at 7:00 pm
In Association with The Park Land Proposal for Lot 1, DL 78, Plan 14212 Except Those Parts in
Plans 28203 and 29052 and Lot 5, DL 131, Plan VIP69734, All of Nanoose District**

Note: these minutes are not a verbatim recording of the proceedings, but are intended to summarize the comments of those in attendance at the Public Information Meeting.

Present:

Public in attendance: approximately 15 persons

For the Applicant:

Bentley Dzogan

Michelle Jones, Agent for the Applicant

For the RDN:

Chair: Director George Holme

Wayne Moorman, Manager, Engineering & Subdivisions

Susan Cormie, Senior Planner

Florence McFarlane, Senior Secretary

The Chair opened the meeting at 7:00 pm and followed with greetings to the public and an introduction of the staff and applicant.

The Chair stated the purpose of the public meeting and asked the Senior Planner to provide an overview of the proposed revised development. The Senior Planner explained that the Regional District may request for this property is 5% of the total site area or, for this application, 0.9 ha, whereas the applicant is offering 2.1 ha of land for park land.

The Chair then asked the applicant's agent to give an overview of the proposal.

The applicant, Bentley Dzogan, 1381 Marina Way, was introduced to the property in question about one year ago and was offered the opportunity to develop it. He particularly noted the land to be offered as park land and stated he wanted this piece of property to be kept as close to its natural state as possible and to be enjoyed by the people. There will be trails incorporated throughout and the 12 smaller individual lots will be kept to approximately ¼ acre in size. The area just off Davenham Road where entry was begun will be revegetated. Separate driveways will come off both to the right and left in keeping with the massive trees in the area.

Gabriella Carlidge, 2443 Garry Oak Drive, asked if confirmation has been received whether the archaeological sites will impede on the area designed for park land and will there be any claims that the people will not be able to use the headland?

The Applicant stated that this will be reviewed through the subdivision approval process.

Mrs. Sinclair, 3427 Simmons Place, asked if this development is by a consortium and are there existing houses on the larger lots? Mrs. Sinclair also noted that she had been unsuccessful in locating any information regarding this subject on the RDN Web Site.

The applicant stated that this is not a consortium and that there are existing cabins from the original owners and not on this property.

The Senior Planner noted the comment regarding the RDN Web Site, assured Mrs. Sinclair that this notice was put on the RDN Web Site in good time, and noted she will check into the status of any future notices posted well in advance of the meeting dates.

Don Barber, 1794 Oak Leaf Drive, asked if cul-de-sacs are to remain. Mr. Barber also expressed concern about the additional traffic on Davenham Road and noted that the road is very steep and can be a dangerous situation for pedestrians in the area. As well, Mr. Barber asked if the larger lots will be able to be further subdivided.

The applicant stated that the proposal is for a cul-de-sac and that the larger lots will not be able to be subdivided as zoning does not permit it. The Senior Planner stated that due the parcel averaging request, staff will probably recommend a covenant be placed on title restricting further subdivision.

Mr. Barber asked if the properties next to the proposal are part of the lands being subdivided.

The applicant stated that these are separate parcels and not part of the property.

Resident, 2939 Dolphin Drive, asked about the narrow strip and whether it could be incorporated into the park land on the water.

The applicant explained that the narrow strip is intended to act as a green buffer and also a gravel pathway will be incorporated into this area so that residents would be able to walk through the area.

Satya Bellerose, 2895 Dolphin Drive, requested clarification on roads and asked if residents on the proposed Lots 1 through 12 would be using Oak Leaf Drive?

The applicant stated that they would be using this road for access.

Mrs. Bellerose then asked what the increase in traffic would be.

The applicant's agent, Michelle Jones, stated that statistics show residential subdivisions have about 2.5-3.5 car trips in and out of the dwellings and in this case, we are probably looking at a smaller figure, perhaps 35-50 vehicle trips per day with the additional 16 new residences.

Mrs. Bellerose expressed concern about the increase in traffic for school children in particular.

The applicant's agent suggested this would be a matter for the School District to look into and make recommendations.

The applicant agreed that the traffic speed on Dolphin Drive is excessive and understood the concerns and he would work to ensure more safety. The applicant also stated that there will be compacted gravel paths next to the road way.

Sharon, Beachcomber, asked directions on going to the property under discussion to view it personally.

The applicant explained and noted maps were available as handouts.

Sharon also asked what kind of beach is it.

The applicant noted it is mainly high bluff with a slope going down to the water.

Mrs. Sinclair, 3427 Simmons Place, asked about the proposed septic system.

The applicant stated that he has attempted to move all septic issues off the smaller individual lots and is proposing a common septic collection and pump area to be located at the entrance to the proposed park land and would be approximately 1500 – 1600 feet from the ocean.

Mrs. Sinclair further asked about drainage.

The applicant stated that there will be not much of an impact on the proposed properties with drainage being directed away from the bank.

Mrs. Sinclair asked about traffic and extra parking spaces.

The applicant stated that this is a valuable and very beautiful piece of property, which he is not trying to keep for himself but rather to give to the community for their enjoyment.

Mrs. Sinclair noted that giving something does not always mean receiving something and she noted that Schooner Cove Drive needs to be put through so as to alleviate traffic in the area.

Don Barber, 1794 Oak Leaf Drive, asked about Lot 15 and where the applicant planned to have the septic holding.

The applicant stated that there will be a treed buffer area since Lot 16 will not be clear cut and that the holding system will be located at Oak Leaf Drive at Dolphin.

Mr. Barber also noted that Oak Leave Drive is more than a 90' turn and perhaps the RDN or Ministry of Transportation (MOT) could make this a more reasonable turn.

The Chair noted that he has an upcoming meeting with the Ministry of Transportation staff and will enquire as to the status of Oak Leaf Drive.

Mr. Barber asked whether Davenham Road is going to come out at Lot 1.

The applicant said he is not proposing to construct this road and it not asking for a road closure.

Mr. Barber asked about the clearing that is going on in the area and the fact that already somebody was already bulldozing.

The applicant stated that this was definitely not his property.

Tom Hill, 1640 Stewart Road, asked the reason for so many lots on the waterfront.

The applicant noted that he is trying to maintain the quality of the area and to keep as many trees as possible. The RS1 zoning allowed 10 lots and he requested an increase in lot size so as not to impact trees in the area.

Mr. Hill questioned whether it was large enough to accommodate 10 lots.

The applicant's agent commented on parcel size averaging and making the most of the views. There will be fewer big lots although the lot count will be the same with the proposed smaller lots being approximately ¼ acre. The applicant's agent also stated that the septic areas will be moved from the ocean side.

George Gow, 1629 MacMillan Road, asked if any of the lots are strata lots.

The applicant's agent noted that the proposed 12 smaller lots along the ocean front will be strata lots.

Mr. Gow commented on the traffic concern and noted that assistance can be requested in this regard from a local traffic advisory (RCMP, MOT).

Tom Hill, 1540 Stewart Road, asked if the setback was 15.0 m from the bluff.

The applicant's agent advised that the setback is 15.0 m and that they are considering building back so that there would not be any reason to encroach on the sensitive bluff area.

Gabriella Cartlidge, 2443 Garry Oak Drive, asked if futures owners would be able to put up gazebos or other structures along the waterfront.

The applicant stated that this is within a development permit area and they would have to get a development permit for that.

Mrs. Cartlidge asked about boats.

The applicant stated the waters are too rough for boats and the bank is too steep for moorings.

Jirina Vojtech, 2929 Dolphin Drive, asked about the affect of the development on the deer population.

The applicant stated that he does not feel the impact on the deer will be considerable.

The applicant's agent noted that the larger lots will not discourage deer any more than the smaller lots and noted that there is an area of Crown Land just across the road.

Mrs. Bellerose, 2895 Dolphin Drive, again questioned the traffic issue and why not an access road.

The applicant stated he did not want a through road and in any event is stuck with what he has to work with.

The Senior Planner noted that roads are under the Ministry of Transportation and that the Ministry would review the road configuration, network, and accesses at that time. The Senior Planner also noted that the Ministry is responsible for deciding if upgrades to the road system are necessary and required as part of the subdivision review process.

The Chair asked for the first time if there was anyone else to speak.

The Chair asked if there were any further submissions or comments a second time.

The Chair asked if there were any further submission or comments a third time. There being none, the Chair thanked those in attendance and closed the public information meeting.

The meeting concluded at 7:38 pm.

Florence McFarlane
Recording Secretary



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CHAIR		BOARD	
EAP			
DATE			May 31, 2006
Subdivisions			

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

FROM: Susan Cormie
Senior Planner

FILE: 3320 20 26850

SUBJECT: Request for Relaxation of the Minimum 10% Perimeter Requirement
Fern Road Consulting Ltd., on behalf of A Lotoski
Electoral Area 'H' – 2882 & 2890 Olympic Road

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement in order to facilitate the creation of one parcel as part of a 2-lot subdivision proposal involving a section 946 parcel.

BACKGROUND

This is an application requesting relaxation of the minimum 10% perimeter frontage requirement for a proposed parcel as part of a 2-lot subdivision involving a section 946 parcel for the property legally described as Lot 8, District Lot 90, Newcastle District, Plan VIP57995 and located at 2882/2890 Olympic Road in Electoral Area 'H' (see Attachment No. 2 on Page 5 for location of parent parcel).

The parent parcel, which is 3.77 ha in size, is currently zoned Rural 1 (RU1) and is within Subdivision District 'D' pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The applicants are proposing to subdivide one parcel pursuant to section 946 of the *Local Government Act* as part of a 2-lot subdivision. The proposed section 946 parcel will be 1.0 ha in size, therefore meeting the minimum parcel size requirement for this type of parcel pursuant to Bylaw No. 500, 1987 (see Attachment No. 1 on Page 4 for proposed subdivision). The Remainder Lot is proposed to be 2.77 ha in size and therefore will meet the minimum 2.0 ha parcel size requirement.

The parent parcel currently supports two dwelling units, an agricultural building, an outdoor riding ring, and accessory buildings. The parcels are proposed to be served by individual private septic disposal systems and private water wells. The property is also partially situated within the Provincial Agricultural Land Reserve.

The surrounding properties are currently rurally zoned with the parcels to the east and south being in the Provincial Agricultural Land Reserve.

10% Minimum Frontage Requirement

The proposed Remainder of Lot 8, as shown on the plan of subdivision submitted by the applicant, does not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage is as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
Rem. of Lot 8	77.9 m	34.0 m	4.4 %

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

ALTERNATIVES

1. To approve the request to relax the minimum 10% perimeter frontage requirement for proposed Remainder of Lot 8.
2. To deny the request to relax the minimum 10% perimeter frontage requirement.

DEVELOPMENT IMPLICATIONS

Site Servicing Requirements

Ministry of Transportation staff has indicated that access to the proposed parcels will meet Ministry standards and therefore, have no concerns at this time with this request for relaxation of the minimum 10% frontage.

The Central Vancouver Island Health Authority has approved the method of septic disposal for the proposed subdivision. Proof of potable water is subject to the approval of the Approving Officer and will be considered at the time of subdivision. The issue of drainage is also a Ministry function and will be considered by Ministry staff as part of the subdivision review process.

Lot Configuration / Development Implications

The portion of the parent parcel located adjacent to Olympic Road is situated outside the Agricultural Land Reserve. The Provincial Agricultural Land Reserve Commission has approved this application to create two parcels. While proposed Lot A could be re-configured to meet the minimum 10% frontage requirement, the Commission did not want the proposed parcel to further impact into the Agricultural Land Reserve. In addition, it is noted that the proposed lot configuration is in order to locate the existing riding ring entirely within one of the proposed parcels. The Commission, in its evaluation of the application, is also requiring the applicant to include the non-ALR portion of the proposed Remainder of Lot 8 into the ALR, which will result in the proposed Remainder of Lot 8 being located entirely within the ALR.

The proposed subdivision will have little impact on the adjacent neighbourhood since the accesses are currently constructed and while proposed Remainder of Lot 8 will be able to place a second dwelling on the parcel, such a dwelling would be subject to the provisions under the ALR.

VOTING

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


SUMMARY

This is a request to relax the minimum 10% frontage requirement pursuant to section 944 of the *Local Government Act* in order to facilitate the creation of a two-lot subdivision involving the creation of a section 946 parcel. The Agricultural Land Reserve Commission has approved the request for subdivision. The Ministry of Transportation staff has indicated that the current access to the proposed Remainder of Lot 8 is acceptable. Staff notes that the smaller parcel will be able to support intended uses. Given that

the Agricultural Land Reserve Commission has granted approval, the Ministry of Transportation is satisfied that acceptable accesses are achievable, and the proposed parcels will be able to support rural / residential uses, staff recommends Alternative No. 1, to approve the relaxation of the minimum 10% frontage for proposed Remainder of Lot 8 as shown on the submitted plan of subdivision.

RECOMMENDATION

That the request from Fern Road Consulting Ltd., on behalf of A. Lotoski to relax the minimum 10% frontage requirement for the proposed Remainder of Lot 8, as shown on the submitted plan of the subdivision of Lot 8, District Lot 90, Newcastle District, Plan VIP57995, be approved.

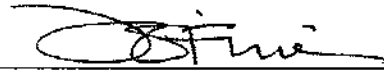


Report Writer

General Manager Concurrence



Manager

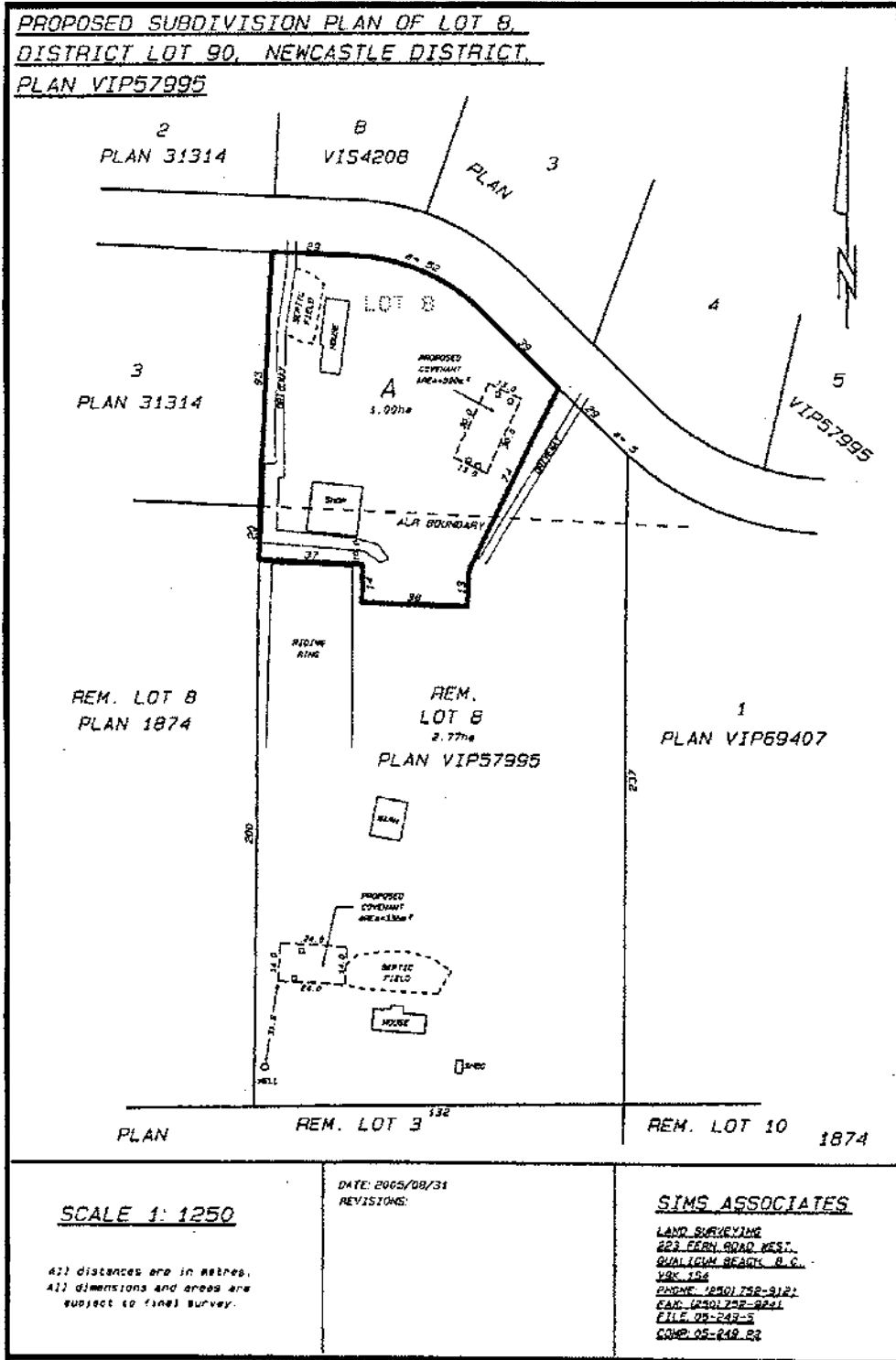


A/ CAO Concurrence

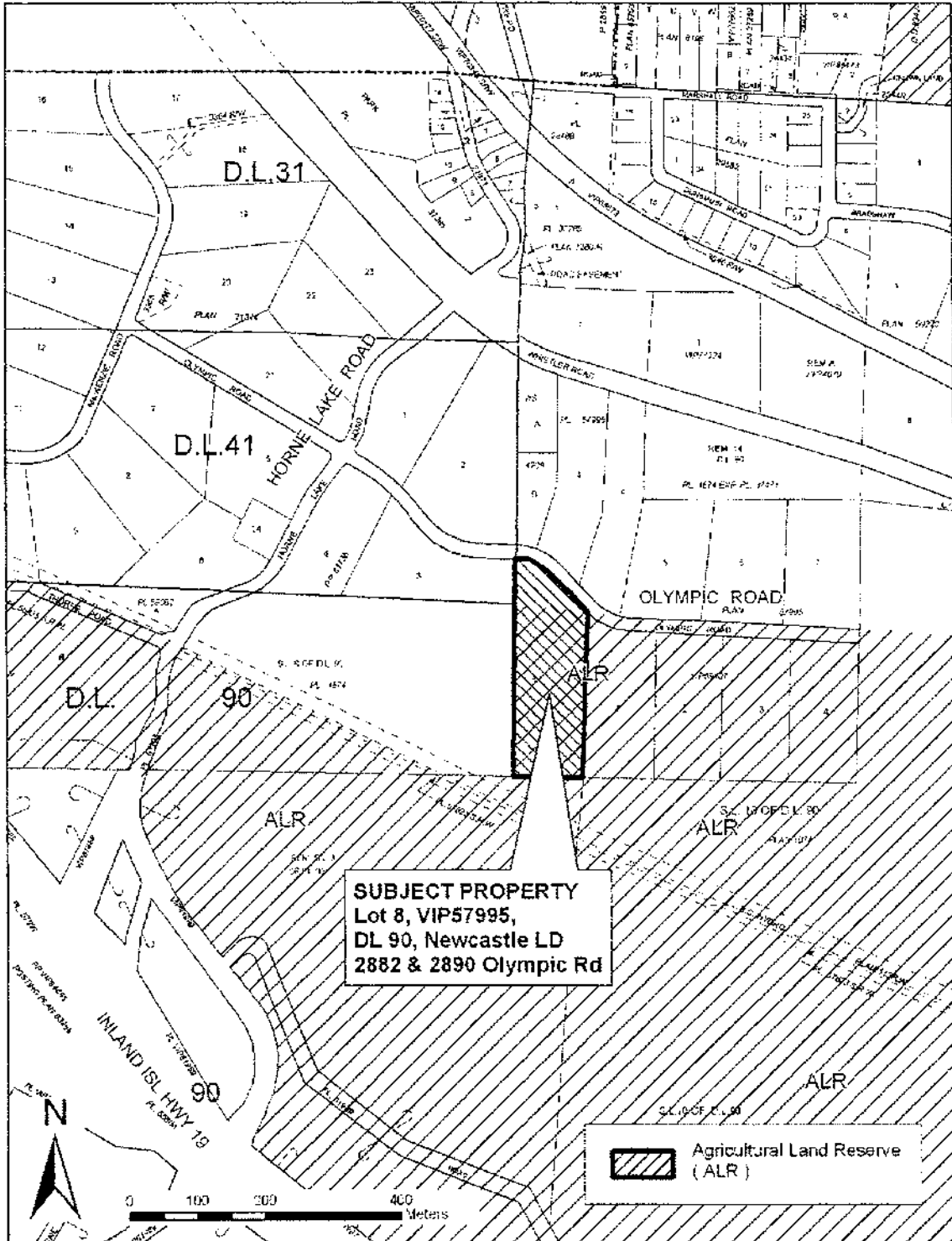
COMMENTS:

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



Attachment No. 2
Location of Subject Property





R D N			
CAO	<input checked="" type="checkbox"/>	GMES	
GMCS		GMR&P	
GMDS		GMRT&P	
JUN - 2 2006			
CHAIR		BOARD	
EAP			
			DATE

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

FROM: Susan Cormie
Senior Planner

FILE: 3320 30 25941

SUBJECT: Request for Relaxation of the Minimum 10% Frontage Requirement
Applicant: JE Anderson, BCLS on behalf of J Kantor
Electoral Area 'H', Fowler Road

PURPOSE

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

BACKGROUND

The applicant's agent has requested the minimum 10% perimeter frontage requirement be relaxed for both proposed parcels as part of a 2-lot subdivision proposal for the property legally described as Lot 19, District Lot 81, Nanoose District, Plan 1967, and located on Fowler Road within the Electoral Area 'H' (see Attachment No. 1 on page 6 for location of parent parcel).

The subject property is currently zoned Rural 1 (RU1) and is within Subdivision District 'D' pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The applicant is proposing to subdivide the parent parcel into 2 lots which will be greater than the 2.0 ha minimum parcel size, therefore meeting the minimum parcel size requirement of Bylaw No. 500 (see Schedule No. 2 on page 5 for proposed plan of subdivision).

The property is also situated within the Provincial Agricultural Land Reserve (ALR). Surrounding land uses include rurally zoned parcels situated in the ALR and a golf course property also situated in the ALR.

In addition, a portion of the parent parcel is designated within the Environmentally Sensitive Features Development Permit Area pursuant to the Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003", in this case for the protection of a wetland partially located in the northeast corner of the parent parcel.

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

10% Minimum Frontage Requirement

Proposed Lots 1 and 2 as shown on the plan of subdivision submitted by the applicant do not meet the minimum 10% perimeter frontage requirement pursuant to section 944 of the *Local Government Act*. The requested frontage is as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>	<i>% of Perimeter</i>
1	97.2 m	10.13m	1.0 %
2	174.0	10.08 m	0.6 %

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

ALTERNATIVES

1. To approve the request for the relaxation of the minimum 10% frontage requirement for proposed Lots 1 and 2.
2. To deny relaxation of the minimum 10% frontage requirements.

DEVELOPMENT IMPLICATIONS

The Provincial Agricultural Land Reserve Commission has approved the subdivision of this property. In keeping with the guidelines of the Land Reserve Commission *not* to extend roads into the ALR as well as the requirements of the *Land Title Act* to limit roads being extended into ALR lands, there are no additional roads proposed to extend into the ALR lands. This means that no additional road frontage would be possible, thus restricting the proposed parcels to be served by the existing road network. In addition, it is not possible to extend Fowler Road across the northern boundary of the parent parcel due to the location of a wetland. As part of the approval conditions, the Approving Officer will be requiring the applicant to construct a turn around at the end of Fowler Road and will allow a shared access to both parcels from the existing constructed access. Ministry of Transportation staff has indicated that they will support this request for relaxation of the minimum 10% frontage requirement.

OFFICIAL COMMUNITY PLAN / ENVIRONMENTAL IMPLICATIONS

This application for subdivision will meet the exemption provisions pursuant to the Environmentally Sensitive Features Development Permit Area (DPA) in that the minimum parcel size can be met exclusive of the development permit area and there will be no development activities associated with the subdivision occurring in the DPA. Therefore a development permit is not required to be issued for the protection of the wetland and its 15.0-metre riparian area. Despite this, the applicant is in concurrence to register a section 219 covenant for the protection of this wetland and riparian located on the parent parcel (*see Schedule No. 1 on page 4 for List of Conditions*). The registration of this covenant can be secured through the subdivision review process [Please note that the *Farm Protection (Right to Farm) Act* would still have precedence over any environmental covenants]. It is noted that, with respect to the *Riparian Areas Regulation*, if a development permit is not required, the applicant is not required to submit an environmental assessment to the Ministry of Environment. It is also noted that if a future owner wishes to upgrade access to proposed Lot 1, a development permit would be required.

VOTING

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

SUMMARY

This is a request to relax the minimum 10% perimeter frontage requirement for both parcels as part of a 2-lot subdivision proposal. The parent property is located within the Provincial Agricultural Land Reserve and the Commission has granted approval of the subdivision. The parent parcel contains a wetland and riparian area designated within the Environmentally Sensitive Features Development Permit Area (DPA) pursuant to the Electoral Area ‘H’ Official Community Plan, but will meet the exemption provisions set out in the DPA.

Despite this, as part of the subdivision review process, the applicant's agent has indicated that the applicant is in concurrence to enter into a section 219 covenant for the protection of this wetland and its riparian area (See Schedule No. 1 on Page 4 for List of Conditions). The Ministry of Transportation staff has indicated that they have no objection to the request for the proposed minimum 10% perimeter frontage relaxation. Therefore, as the Provincial Agricultural Land Commission has approved the subdivision, the Ministry of Transportation staff has no objection to this request; and the applicant will protect the wetland DPA area by covenant, staff recommends Alternative No. 1 to approve relaxation of the minimum 10% perimeter frontage for the proposed Lots 1 and 2.

RECOMMENDATION

That the request submitted to relax the minimum 10% frontage requirement for proposed Lots 1 and 2 as shown on the proposed plan of subdivision of Lot 19, District Lot 81, Nanoose District, Plan 1967, be approved subject to the conditions outlined in Schedules No. 1 and 2.

McComie

Report Writer

General Manager Concurrence

Wayne Moor

Manager

CAO

CAO Concurrence

COMMENTS:

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**Schedule No. 1
List of Conditions
In Conjunction with the Proposed Subdivision of Lot 19, District Lot 81,
Nanoose District, Plan 1967**

The following sets out the conditions of approval:

1. Subdivision

- a. The subdivision of the lands shall be in substantial compliance with Schedule No. 2 of the staff report.
- b. Applicant to provide barrier fencing around the development permit area (DPA – 15.0 metres as measured from the natural boundary of the wetland) adjacent to the construction area to ensure protection of the DPA during construction.

2. Covenant

- a. Applicant to prepare and register a section 219 covenant, to the satisfaction of the RDN, for the protection of the wetland and its 15-metre riparian area, restricting the placement of buildings and structures, decks, patios, septic systems, wells, outdoor storage, and restricting any removal of vegetation other than noxious weeds or alteration of soils by the hand of man within the covenant area.
- b. Draft covenant document to be forwarded for review to RDN.
- c. Applicant's solicitor to provide legal letter of undertaking to register the covenant concurrently with the plan of subdivision.

Attachment No. 1
Location of Subject Property

