

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, SEPTEMBER 12, 2006
6:30 PM

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

- 3 **Brenda Arthur**, re Budget Steel – 2073 Main Road – Area A.
- 4 **David Dunaway**, re Budget Steel – 2073 Main Road – Area A.

MINUTES

- 5-7 Minutes from the regular meeting of the Electoral Area Planning Committee held July 11, 2006.

BUSINESS ARISING FROM THE MINUTES

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 8-13 Development Permit Application No. 60644 – D & B McKee – 5061 Island Highway West – Area H.
- 14-23 Development Permit Application No. 60645 – Cloarec – 2615 Noble Road – Area E.
- 24-29 Development Permit Application No. 60648 – Fern Road Consulting Ltd., on behalf of R & L Wells – 677/669 Barclay Crescent North – Area G.

DEVELOPMENT VARIANCE PERMIT

- 30-39 Development Variance Permit Application No. 90616 – Meyer – 3512 Bluebill Place – Area E.
- 40-45 Development Variance Permit Application No. 90618 – Allen and Parker – 448 Manse Road – Area G.
- 46-52 Development Variance Permit Application No. 90619 – JE Anderson, BCLS on behalf of M. Porter – Spring Place – Area F.

OTHER

- 53-59 Request for Relaxation of the Minimum 10% Frontage Requirement – L & C Addison, on behalf of Wessex Enterprises Ltd. – Midora & Extension Roads – Area C.
- 60-65 Riparian Areas Regulation Stream Declaration Policy.
- 66-69 Incorporating Green Shores Project Principles into RDN Bylaws.

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

Burgoyne, Linda

From: brenda [hoofprints.b@shaw.ca]
Sent: Tuesday, September 05, 2006 9:56 AM
To: Burgoyne, Linda
Cc: quailanding@shaw.ca; David
Subject: Budget Steel/Board Meeting

Dear Linda,

Due to no response from our complaints of the ongoing problems with Budget Steel I wish to appear as a delegation in front of the RDN Board. I believe the Date is Sept 12, 2006, is this correct?

Thankyou

Brenda Arthur

9/5/2006

Burgoyne, Linda

From: David [dsdunaway@netscape.ca]
Sent: Wednesday, September 06, 2006 11:30 AM
To: Burgoyne, Linda
Cc: hoofprints.b@shaw.ca; quaillanding@shaw.ca
Subject: Budget Steel

Sir or Ma'am:

Though there was nothing posted on the RDN website as of Tuesday evening in re Budget Steel, I received a note from my neighbour telling me that I needed to register with this address prior to noon today (Wednesday Sept. 6) if I wish to be able to speak to issue of Budget Steel's development permit application. Please consider this my request to speak to the issue.

With that said, could you please forward details as to where and when the event is to take place.

Thank you,

Sincerely,

David S. Dunaway
1644 Morden Road
Nanaimo
ph: 753-2675

"A lie can travel half way around the world before the truth has even gotten its boots on." - Mark Twain "Governments lie." - I.F. Stone "Advantage feeds him fat while men delay." - _Henry IV_ "For some reason all the best matadors were Fascists." - George Orwell (_Homage to Catalonia_) "If you squeeze an Eagle hard enough it'll shit." - Richard Oliver Dunaway (1882-1945) "When you corrupt the institutions, you institutionalize the corruption." - Gita Mehta

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No virus found in this outgoing message.

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Version: 7.1.405 / Virus Database: 268.12.0/439 - Release Date: 2006-09-06

REGIONAL DISTRICT OF NANAIMO

MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, JULY 11, 2006, AT 6:30 PM
IN THE RDN BOARD CHAMBERS

Present:

Director D. Bartram	Chairperson
Director J. Burnett	Electoral Area A
Director M. Young	Electoral Area C
Director G. Holme	Electoral Area E
Director L. Biggemann	Electoral Area F
Director J. Stanhope	Electoral Area G
Alternate	
Director S. Herle	City of Parksville

Also in Attendance:

C. Mason	Chief Administrative Officer
P. Thompson	A/Manager of Community Planning
W. Moorman	Manager of Engineering Standards & Subdivisions
T. Osborne	General Manager of Recreation & Parks
N. Tonn	Recording Secretary

LATE DELEGATION

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

CARRIED

George Gow, re Request for Relaxation of the Minimum 10% Perimeter Frontage Requirement & Request for Acceptance of Park Land Dedication – George Gow on behalf of G. Gow, D. Gow & H. Lechthaler – MacMillan Road – Area.

Mr. Gow thanked Director Burnett, Wayne Moorman and Susan Cormie for all their help during the application process.

MINUTES

MOVED Director Holme, SECONDED Director Stanhope, that the minutes of the Electoral Area Planning Committee meeting held June 13, 2006 be adopted.

CARRIED

PLANNING

AMENDMENT APPLICATIONS

Zoning Amendment Application No. ZA0603 – Mountain Fire Protection District – Corner of Jinglepot Road & Meadow Drive – Area C.

MOVED Director Young, SECONDED Director Burnett,;

1. That the minutes of the Public Information Meeting held on June 20, 2006, be received.
2. That "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.335, 2006", to rezone the subject property from Rural 1 to Public 4 to allow the use of the site for a fire hall be given 1st and 2nd reading.

3. That the public hearing for "Regional District of Nanaimo Land Use and Subdivision Bylaw Amendment Bylaw No. 500.335, 2006", be waived and notice in accordance with Section 893 of the *Local Government Act* be given.
4. That the conditions as outlined in Schedule No. 1 be completed as recommended.

CARRIED

DEVELOPMENT PERMIT APPLICATIONS

Development Permit Application No. 60626 – Fern Road Consulting Ltd., on behalf of P. Adair, G. Adair, R. Knutson and K. Adair – Oakdowne Road – Area II.

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 60626 submitted by Fern Road Consulting Ltd., on behalf of P. Adair, G. Adair, R. Knutson and K. Adair in conjunction with the subdivision on the parcel legally described as Lot 1, District Lot 89, Newcastle District, Plan 36988 and designated within the Environmentally Sensitive Areas Development Permit Area pursuant to the Electoral Area 'II' Official Community Plan Bylaw No. 1335, 2003, be approved, subject to the conditions outlined in Schedules No. 1 and 2 of the corresponding staff report.

CARRIED

Director Holme left the meeting citing a possible conflict of interest with two items on the Agenda. The Chairperson noted that these items would be addressed at this time.

DEVELOPMENT VARIANCE PERMIT

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

MOVED Director Stanhope, SECONDED Director Biggemann, that Development Variance Permit Application No. 90518, to reduce the north interior side lot line setback from 2.0 metres to 0.0 metres for an elevated concrete parking structure at 1977 Harlequin Crescent, 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 Relaxation of the Minimum 10% Perimeter Frontage Requirement & Request for Acceptance of Park Land Dedication – George Gow on behalf of G. Gow, D. Gow & H. Lechthaler – MacMillan Road – Area A.

MOVED Director Burnett, SECONDED Director Biggemann,:

1. That the park land proposal submitted by George Gow on behalf of G. Gow, D. Gow and H. Lechthaler in conjunction with the subdivision proposal of Lot 2, Section 16, Range 8, Cranberry District, Except Parts in Plans 8039 and 9378 be accepted in the location and amount as shown on Schedule No. 1 of the staff report.
2. That the request for relaxation of the minimum 10% frontage requirement for proposed Lots 3, 4 and 5 be approved.

CARRIED

Director Holme returned to the meeting.

DEVELOPMENT VARIANCE PERMIT

Development Variance Permit Application No. 90614 – Tom Hoyt, BCLS, on behalf of Neil Roine – Yellow Point Road – Area A.

MOVED Director Burnett, SECONDED Director Young, that Development Variance Permit No. 90614, submitted by Tom Hoyt, BCLS, on behalf of Neil Roine, to relax the minimum setback requirement for the proposed interior side lot line from 8.0 metres to 5.0 metres, 4.9 metres and 2.9 metres for three existing accessory buildings in conjunction with the proposed subdivision of Lot 1, Section 5, Range 5, Cedar District, Plan 8608, Except Part in Plan 32954, as shown on Schedule No. 1 of the staff report, be approved subject to the notification requirements subject to the *Local Government Act*.

CARRIED

OTHER

Riparian Areas Regulation Implementation OCP Amendment Bylaw Nos. 1240.03, 1152.03, 1148.04, 814.09, 1055.03, 1115.04, 1335.02, 1007.05 and 1400.01.

MOVED Director Burnett, SECONDED Director Stanhope, that this item be referred back to staff for further housekeeping.

CARRIED

ADJOURNMENT

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

CARRIED

TIME: 6:43 PM

CHAIRPERSON



R.D.N.	
CAO	GMS
GMCS	GMRS&P
GMS	GMRT&P
AUG 31 2006	
CHAIR	BOARD
EAP	

MEMORANDUM

TO: Jason Llewellyn
Manager of Community Planning

DATE: August 31, 2006

FROM: Dolores Funk
Planning Assistant

FILE: 3060 30 60644

SUBJECT: Development Permit Application No. 60644 – Douglas and Beverly McKee
Electoral Area 'H' – 5061 Island Highway West

PURPOSE

To consider an application for a Development Permit for a property located within the Hazard Lands Development Permit Areas, pursuant to the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003."

BACKGROUND

This application is to facilitate the construction of a dwelling unit on the subject property legally described as Lot 2, District Lot 81, Newcastle District, Plan 19691; Except part in Plan 37892 (*see Attachment No. 1*). The property is in a residential neighbourhood, and is bordered on the east and west by residential properties, with the coastline located to the north, and the Island Highway on the south.

The subject parcel is designated within the Hazard Lands and Development Permit Areas pursuant to the Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2003. The parcel is zoned Rural 1 with Subdivision District 'D' (RUID), pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The subject property is approximately 3.26 ac. (13193.22m²) in size. The southern half of the site is grassed, with a slight slope down from south to north. The remaining northern half consists of a moderately steep, dissected slope about 40.0 metres in height, as measured from crest to foreshore. It has an inclination of approximately 30- 45 degrees from horizontal.

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.

ALTERNATIVES

1. To approve the requested development permit, subject to the terms outlined in Schedule No. 1 as submitted.
2. To deny the requested development permit as submitted.

LAND USE AND DEVELOPMENT IMPLICATIONS

Geotechnical Implications

With respect to the development permit guidelines for hazard lands, the applicant has submitted a Geotechnical Assessment, which sets out requirements related to the location of the dwelling unit, drainage and vegetation retention.

The geotechnical engineer recommends that the potential for slope failure impact on the proposed residential development can adequately be mitigated by the allowance of a setback of 20.0 metres between the proposed development and the crest of the slope. It is noted that the location of the proposed development will exceed this value.

A drainage pipe has previously been installed, which directs the surface water to the foreshore and the geotechnical engineer has no objection to this method. The piping must be non-perforated and the geotechnical engineer recommends that the pipe be minimally buried in order to protect the pipe from UV degradation and frost action. However, disruption of the ground should be repaired as soon as possible to ensure that the trenching does not allow for surface scouring action. The discharge area for the drain should be provided with armour protection to mitigate surface erosion.

In order to maintain slope stability, it is crucial that vegetation on the slope face remain intact. The geotechnical report states that tree growth at the crest of the slope may be safely removed, but stumps must be left in place so that the root systems provide a temporary degree of stability. Staff recommends that any land alteration be limited to that which is absolutely necessary, to site the structures and tree growth at the crest of the slope. It is recommended that any disturbed areas be replanted, on a temporary basis, with grasses or other low shrubs, until shrubby species with deeper root systems (preferably indigenous species) can be established, and that such planting be undertaken with one year of any land alteration.

In order to ensure that the subject property is developed in accordance with the geotechnical engineers recommendations, staff recommends that the applicant, prior to issuance of permit, be required to register a Section 219 covenant on the title of the subject property, that registers the geotechnical report on title with a save harmless clause releasing the RDN from all losses and damage, as a result of erosion and landslide.

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a Development Permit, to construct a dwelling within the Hazard Lands Development Permit Area. From staff's assessment of this application, the proposed development is acceptable given the terms outlined in Schedule No. 1, as the applicants have adequately addressed the safety and drainage issues in accordance with the recommendations of a geotechnical engineer.

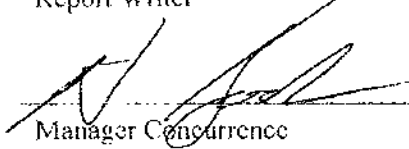
RECOMMENDATION

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

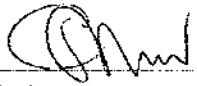


Report Writer

General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

devsvr/reports/2006/tp se 3060 30 60644 McKee Report

Schedule No. 1
Terms of Development Permit No. 60644
For Lot 2, District Lot 81, Newcastle District, Plan 19691

Covenant

- a) Prior to the issuance of this permit and at the applicant's expense, and to the satisfaction of the Regional District of Nanaimo, the Geotechnical Report dated July 17, 2006 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.

Development of Site

- b) The site development must be completed in substantial compliance with Schedules No. 1 and 2.
- c) All uses and construction of buildings and structures to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
- d) The 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.

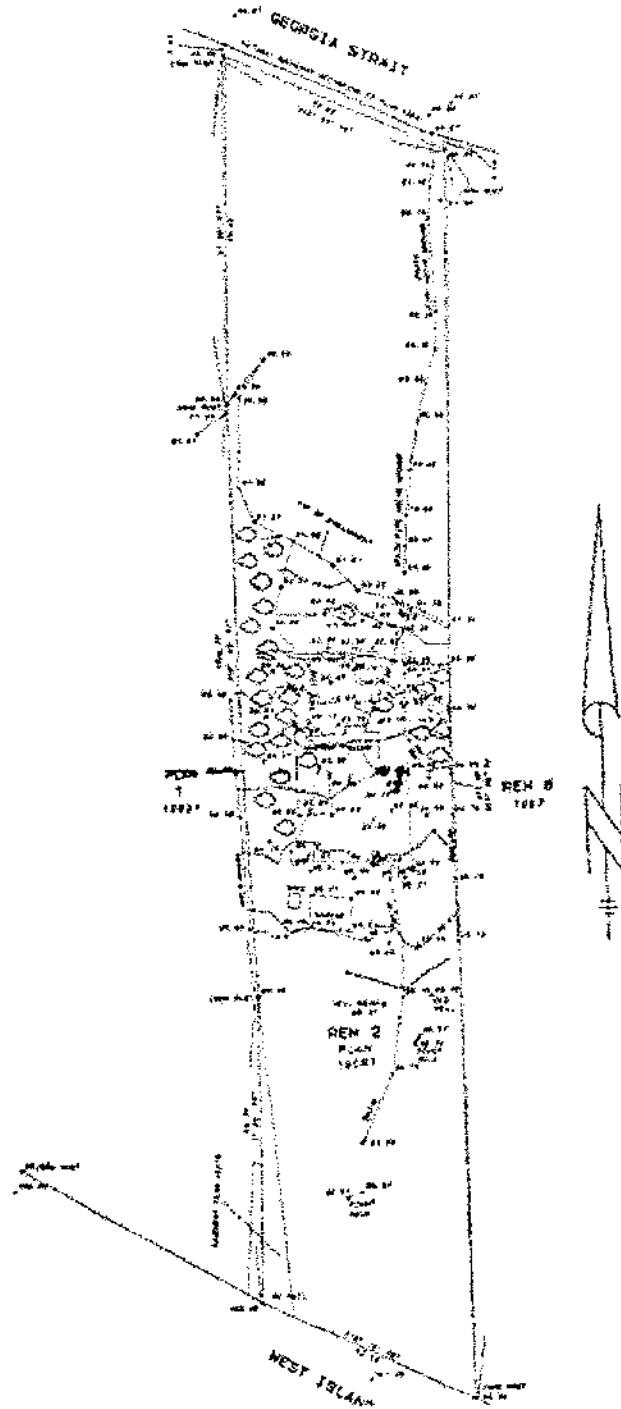
Geotechnical

- e) The applicant shall develop and maintain the subject property in accordance with the recommendations established by the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd. dated July 17, 2006, and any subsequent geotechnical reports.
- f) 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:
 - i) Exposed soils must be seeded as soon as possible to reduce erosion during rain events;
 - ii) Tarps, sand bags, poly plastic sheeting, and/or filter fabric are required to be on-site during the works; and,
 - iii) Temporary fill or soil stockpiles must be covered with polyethylene or tarps.

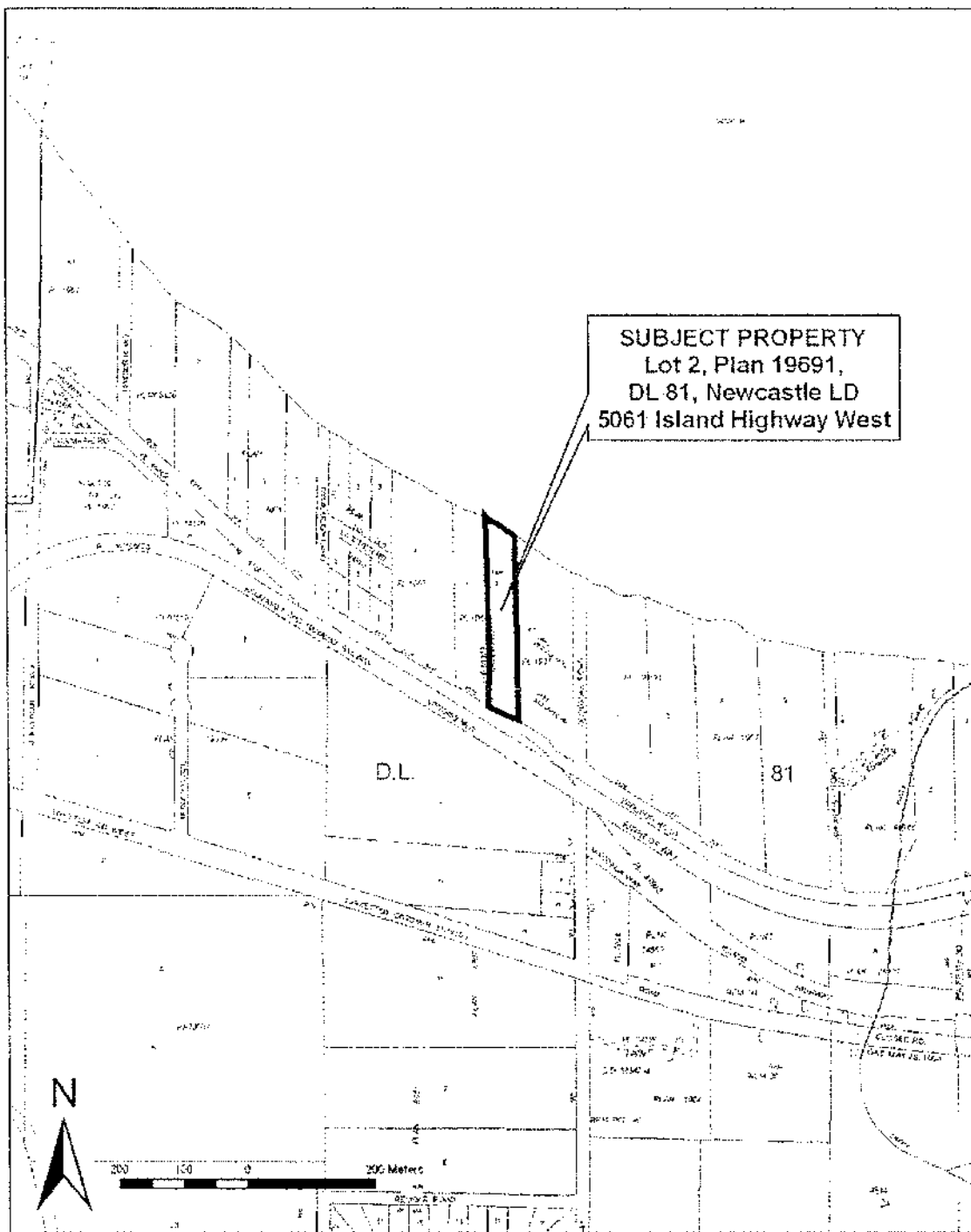
Vegetation

- g) Land alteration shall be limited to that which is absolutely necessary to site the structures and tree growth at the crest of the slope, and that any disturbed areas be replanted, on a temporary basis, with grasses or other low shrubs until shrubby species with deeper root systems (preferably indigenous species) can be established, and that such planting be undertaken with one year of any land alteration.
- h) Additional planting of trees, shrubs, or groundcovers for the purpose of enhancing the habitat values and/or soil stability within the Development Permit Area shall be permitted provided the planting is carried out in accordance with the guidelines provided in Stream Stewardship, 1993 and Land Development Guidelines, 1992 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.

Schedule No. 2
Site Plan (submitted by Applicants, reduced for convenience)
Development Permit No. 60644
For Lot 2, District Lot 81, Newcastle District, Plan 19691



Attachment No. 1
Subject Property Map





CAO	<i>KJN</i>	GMES	
GMDS		GMR&P	
GMDS		GMR&P	
SEP - 6 2006			
CHAIR		BOARD	
<i>EAP</i>			

MEMORANDUM

TO: Paul Thompson
Acting Manager of Community Planning

DATE: September 5, 2006

FROM: Norma Stumborg
Planner

FILE: 3060 30 60645

SUBJECT: Development Permit Application No. 60645 – Cloarec
Electoral Area 'E' – 2615 Noble Road

PURPOSE

To consider an application for a development permit to construct a dwelling unit within the Sensitive Ecosystem Protection Development Permit Area. There are no variances being requested as part of this application.

BACKGROUND

The subject property is 2.19 hectares in size and is legally described as Lot 2, District Lot 79, Nanoose District, Plan VIP76538. The property is located at 2615 Noble Road 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."

The 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 Development Permit Area specifies a 60.0 metre radius or 1.5 times the height of the tree (whichever is greater) no disturbance buffer area. Additionally, Bald Eagles are protected by provincial legislation. *Please refer to Schedule No. 2 for location of the eagle tree.* The forest cover between the residence and the nest site has been removed. A Registered Professional Biologist has evaluated the development and prepared a report.

The triangular shaped parcel is bound to the west and south by Rural 5 zoned properties and to the north by the Island Highway East. Across the Island Highway to the north are Residential 1 zoned properties. The parcel has a slope of 20 percent that is broken up with benches.

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 Bay Official Community Plan is an eagle nesting tree. A BCLS survey indicates that the distance between the building site and the nest tree is 60.2 metres. A small shed exists on the property approximately 37.9 metres away from the nest

tree. The Bald Eagle nest is located within 500.0 metres of the highway and near the panhandle driveway. Approximately 15 percent of the property is vegetated with older Douglas Fir and mature mixed second growth forest. The remainder of the lot has been logged.

A Registered Professional Biologist assessed the proposed development and determined that an active bald eagle nest exists on the site. In the biologist's opinion, vehicles using the driveway are not expected to influence the breeding success of the eagles as the eagles are likely habituated to human and vehicle disturbance.

To ensure the nest continues to be a viable and active nest in future breeding seasons, the biologist provided recommendations for minimizing disturbance and for replanting the 60.0 metre buffer area around the nest tree. Additionally, the biologist identified critical trees that should be retained as potential roosting and nesting trees (*See Schedule No. 3*). Disturbance during the nesting period of February 1 to August 15 is to be limited. The biologist's recommendations for tree retention, replanting, and disturbance management are included as terms of the permit. Staff recommend that, prior to issuance of this permit, the applicant submit a landscape security deposit to ensure the work is completed.

The 60.0 metre buffer area surrounding the nest tree needs to be reclaimed so that the eagles will continue to use the nest site. The terms in the Development Permit are designed to ensure the reclamation work proceeds and disturbance is limited. In staff's assessment, the proposed recovery work meets the Sensitive Ecosystem Protection Development Permit Area guidelines.

VOTING

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

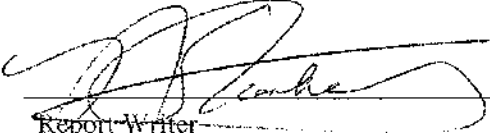
SUMMARY/CONCLUSIONS

This is an application for a development permit to construct a dwelling unit at 2615 Noble Road 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 west end of the property near the driveway. A Registered Professional Biologist's assessment of the development outlines a recommended re-vegetation plan and development approach to minimize negative impacts to the eagle's habitat. The biologist's recommendations are included as terms of the permit and secured through a landscaping security deposit. In staff's assessment, the proposed recovery work is consistent with the Sensitive Ecosystem Protection Development Permit Area guidelines.

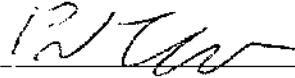
RECOMMENDATION

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




Report Writer

General Manager Concurrence



Acting Manager Concurrence



CAO Concurrence

COMMENTS:

devsys/reports/2006/dp sr 3060 30 60645 Cloarec Report

Schedule No. 1
Terms of Development Permit No. 60645
Lot 2, District Lot 79, Nanoose District, Plan VIP76538
2615 Noble Road

Issuance of Development Permit

1. Development Permit No. 60645 be issued subject to the following conditions being met to the satisfaction of the Regional District of Nanaimo (RDN):
 - a) The applicant shall submit a landscape security deposit for the amount of labour and materials required to complete the landscaping and replanting work. The deposit shall be returned to the applicant upon completion of the proposed work to the satisfaction of the Regional District of Nanaimo.
 - b) At the applicant's expense and to the satisfaction of the Regional District of Nanaimo, the Bald Eagle Nest Assessment Report and the addendum shall be registered on the Certificate of Title.

Development of Site

1. Subject property shall be developed in substantial compliance with Schedules No. 2 and 3.
2. The applicant shall obtain a building permit from the RDN Building Inspection Department and shall adhere to any additional conditions imposed as part of the building permit.
3. All construction to be undertaken must be consistent with "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."
4. The applicant shall develop the subject property in accordance with the recommendations of Bald Eagle Nest Assessment Report prepared by Madrone Environmental Services Ltd. and dated August 15, 2006, and the addendum dated August 31, 2006.
5. No development activities, or disturbance including human activity and noise, shall occur within 60.0 metres of the nest tree, during the nesting period of February 1 and August 15.
6. No further development shall occur within 60.0 metres of the nest tree, except for habitat enhancement operations and driveway improvements.
7. The large co-dominant and dominant trees identified in Schedule No. 3 shall be retained on the property as potential roosting and nesting trees.

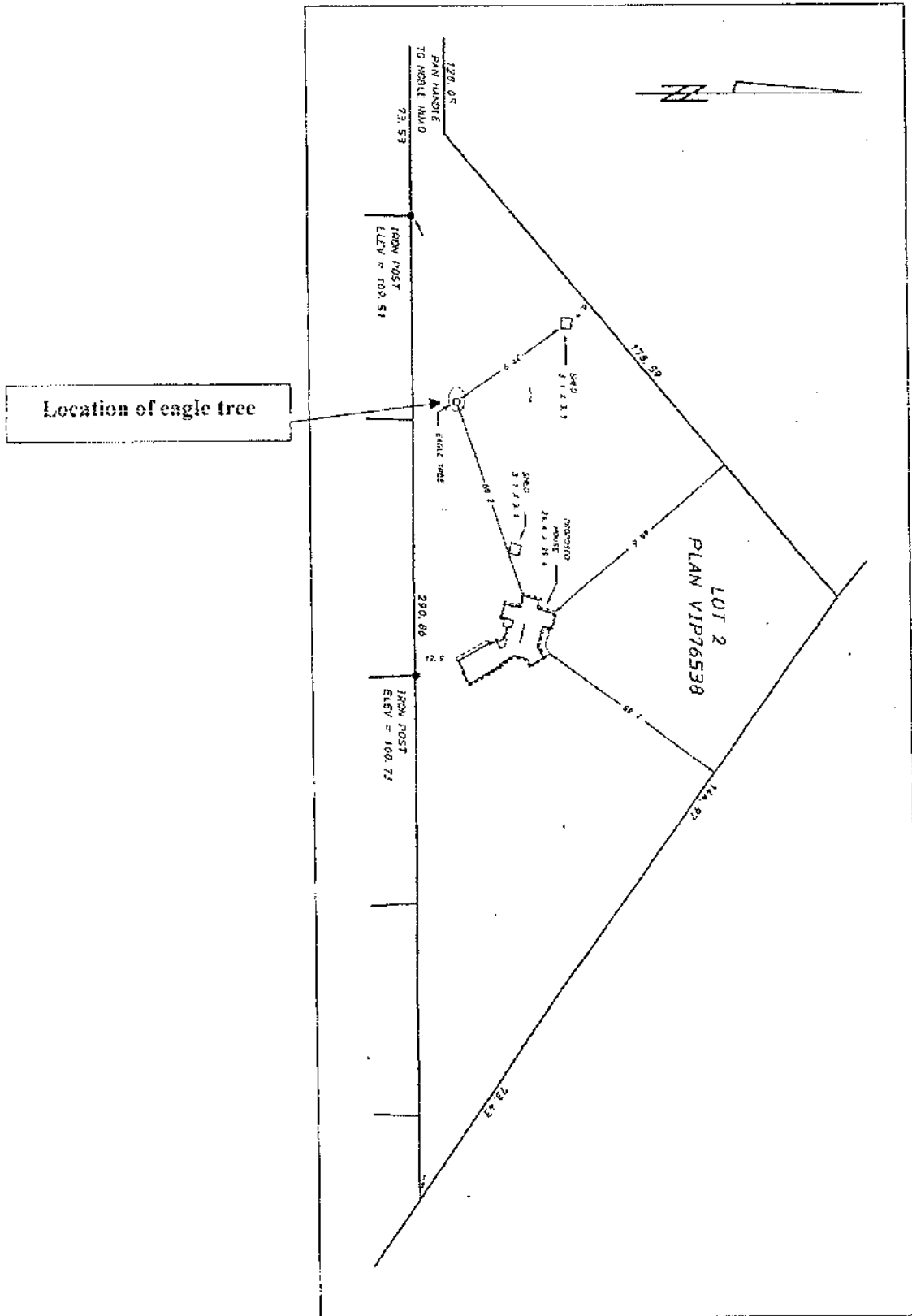
Vegetation Retention/Replanting

1. Landscaping and vegetation shall be provided and maintained at the applicants' expense. Native vegetation shall be replanted within the 60.0 metre buffer area surrounding the nest tree, excluding the driveway, using plants from the list recommended in Schedule No. 4. Plant according to the following specifications:
 - Use one gallon pots;
 - Plant the pots so that the centre of one plant is 3 feet away from the centre of the next plant;
 - Water every two weeks during hot summer weather during the first year and once per month during the second year; and,
 - Intersperse the planted shrubs and herb layers with trees that are at the sapling, not seedling, stage.

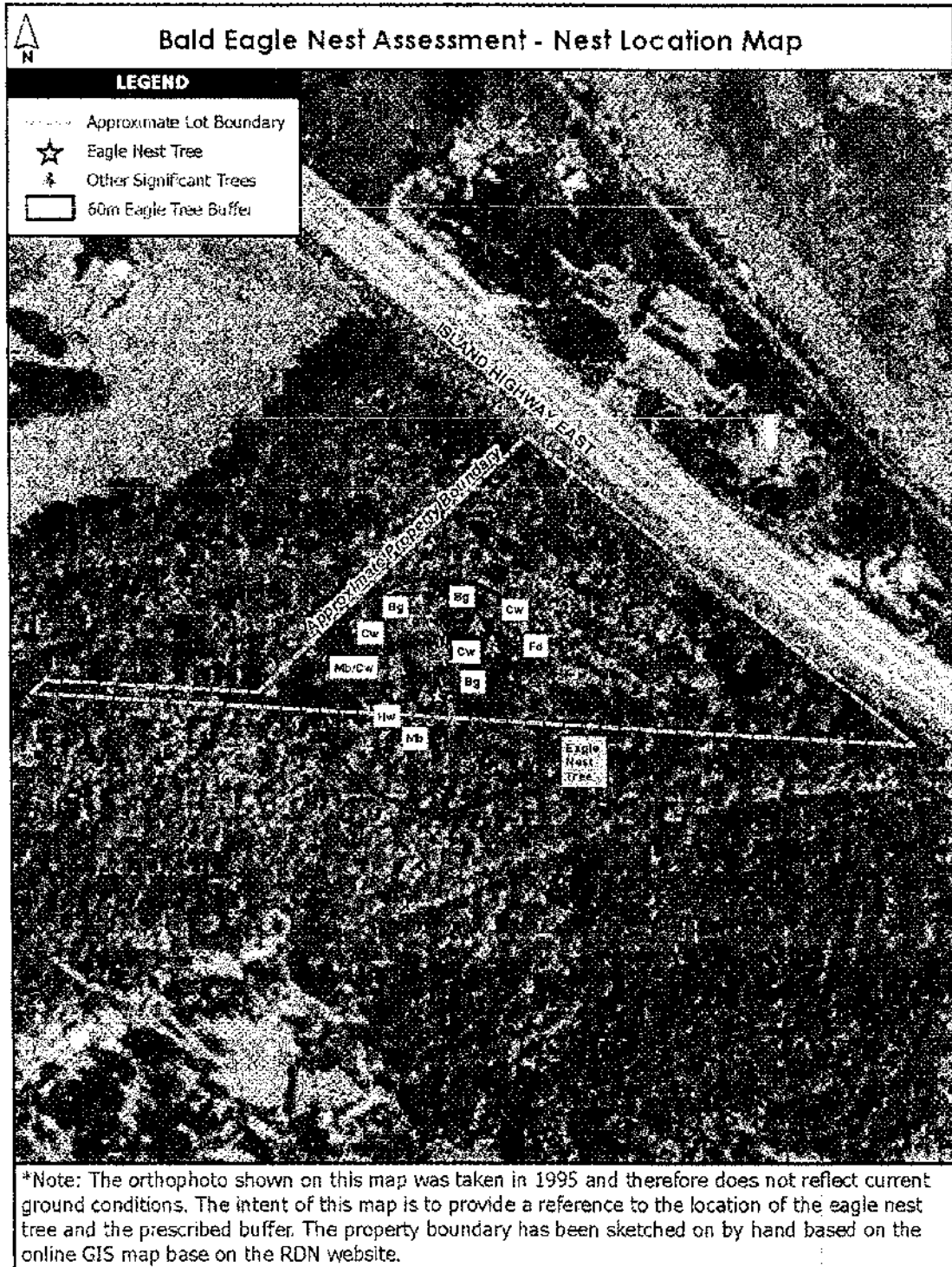
Education

1. The applicant should be familiar with the Best Management Practices for Raptor Conservation during Urban and Rural Land Development in British Columbia, which can be found at: http://wlapwww.gov.bc.ca/wld/documents/bmp_rbu/RaptorBMPs.pdf.

Schedule No. 2
Site Plan for Development Permit No. 60645
2615 Noble Road



Schedule No. 3 (page 1 of 2)
Tree Retention Plan for Development Permit No. 60645
2615 Noble Road



Schedule No. 3 (page 2 of 2)
 Tree Retention Plan for Development Permit No. 60645
 2615 Noble Road

Table 1. Species and location of important trees that will be of benefit to eagles nesting on the Cloarec's property.

Tree Species		Zone	UTM		Direction from nest tree (degrees)	DBH* (cm)
Common Name	Latin Name		Northing	Easting		
Douglas Fir	<i>Pseudotsuga menziesii</i>	10 U	413637	5456694	Nest Tree	131
Grand Fir	<i>Abies grandis</i>	10 U	413638	5456697	324	61
Big leaf maple- western red cedar complex	<i>Acer macrophyllum</i> - <i>Thuja plicata</i>	10 U	413616	5456708	325	75
Western redcedar	<i>Thuja plicata</i>	10 U	413657	5456730	520	65
Douglas Fir	<i>Pseudotsuga menziesii</i>	10 U	413665	5456719	590	15
Western redcedar	<i>Thuja plicata</i>	10 U	413633	5456712	235	54
Western redcedar	<i>Thuja plicata</i>	10 U	413640	5456714	243	37
Big leaf maple	<i>Acer macrophyllum</i>	10 U	413644	5456682	178	54
Western hemlock	<i>Tsuga heterophylla</i>	10 U	413630	5456694	186	45
Grand fir	<i>Abies grandis</i>	10 U	413637	5456718	180	38
Grand fir	<i>Abies grandis</i>	10 U	413637	5456718	179	58

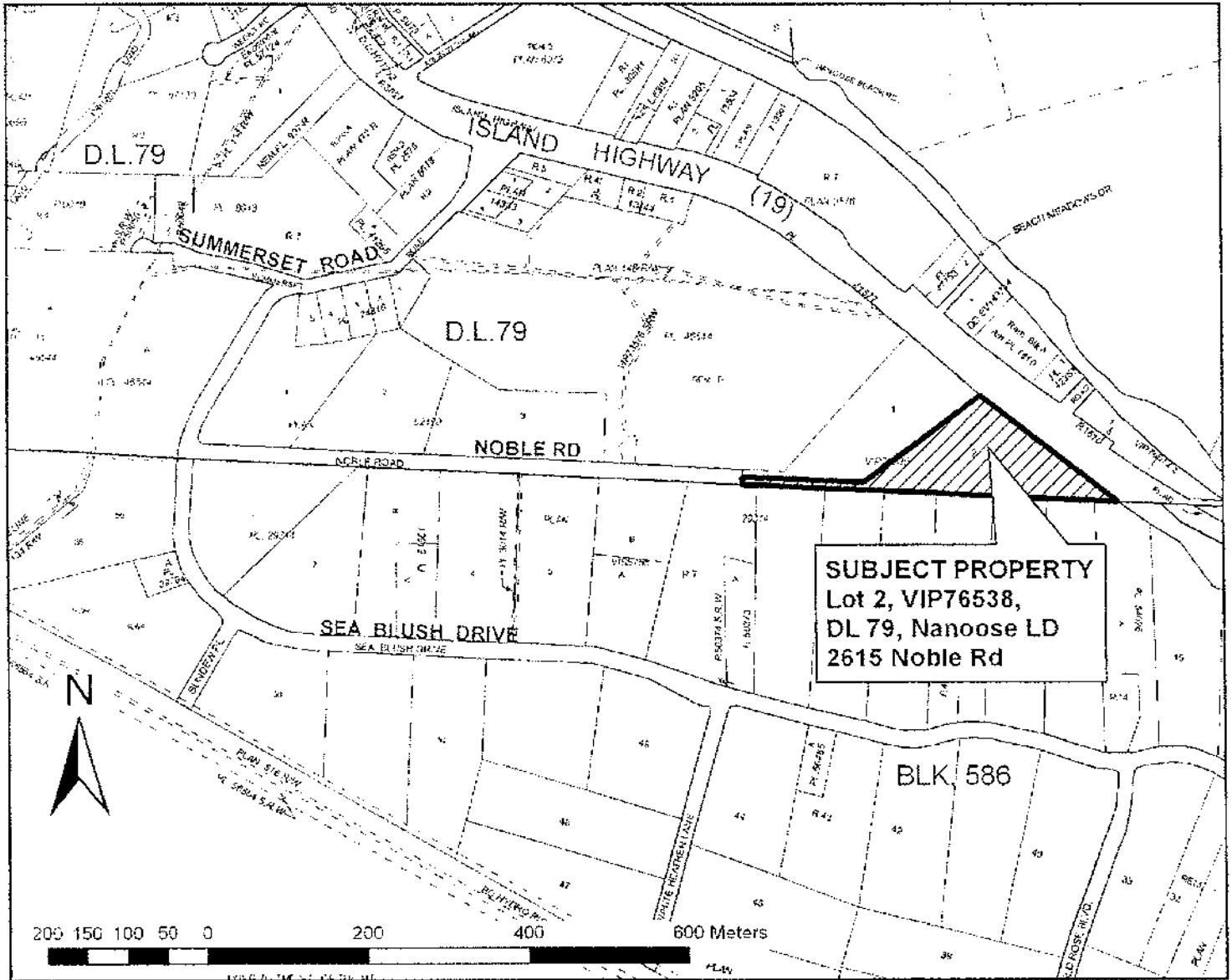
* DBH is the diameter at breast height

Schedule No. 4
Vegetation Plan for Development Permit No. 60645
2615 Noble Road

Recommended Native Vegetation To Be Planted Within the DPA Around the
Eagle Nest Tree

Latin Name	Common name
Trees	
<i>Abies grandis</i>	Grand fir
<i>Pseudotsuga menziesii</i>	Douglas Fir
<i>Thuja plicata</i>	Red Cedar
Shrubs	
<i>Gaultheria shallon</i>	Salal
<i>Holodiscus discolor</i>	Ocean Spray
<i>Vaccinium parvifolium</i>	Red Huckleberry
<i>Mahonia nervosa</i>	Dull Oregon Grape
<i>Oemleria cerasiformis</i>	Indian Plum
<i>Rosa nutkana</i>	Nootka Rose
Ferns and herbs	
<i>Polystichum munitum</i>	Sword Fern

Attachment No. 1
Subject Property
Development Permit No. 60645
2615 Noble Road



Mapsheet 92F.030.3.1



RD N			
CAO	DM	GMES	
GMCS		GMR&P	
GMDS		GMR&P	
SEP - 5 2006			
CHAIR		BOARD	
EAO			

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

DATE: September 1, 2006

FROM: Susan Cormie
Senior Planner

FILE: 3060 30 60648
c/r 3320 26539

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

PURPOSE

To consider an application for a development permit in conjunction with a subdivision application within a Sensitive Lands Development Permit Area in the French Creek area of Electoral Area 'G'.

BACKGROUND

This is a development permit application in conjunction with a proposed subdivision involving the parcels, legally described as Lots 2 & 3, District Lot 28, Nanoose District, Plan 23031, and located at 677 / 669 Barclay Crescent North in the French Creek area of Electoral Area 'G' (see Attachment No. 1 on page 6 for location of parent parcels).

The properties, which total 2746 m² in size, are currently zoned Residential 1 (RS1) and are within Subdivision District 'Q' (700 m² with community water and community sewer services) pursuant to the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The parent parcels, which currently support residential uses, are surrounded by residentially zoned parcels and front Barclay Crescent North to the north and east.

In addition, the parent parcels are located within the Sensitive Lands Development Permit Area pursuant to the French Creek Official Community Plan Bylaw No. 1115, 1998 (OCP). This designation is for the protection of development from hazardous conditions, in this case, to protect development from the risk of flooding from French Creek. Therefore, as the applicant is proposing to develop the site, a development permit is required.

Proposed Development

The applicant is proposing to create 1 new parcel by adjusting the present lot line boundary between the parent parcels which will provide an area for a proposed new parcel. All proposed parcels will meet the minimum parcel size of 700 m² with community water and community sewer service connections being provided to each parcel (see Schedule No. 2 on page 5 for proposed subdivision layout).

As part of the application, the applicant submitted a Geotechnical Assessment prepared by Lewkovich Geotechnical Engineering Ltd.

ALTERNATIVES

1. To approve the Development Permit Application No. 60648 as submitted, subject to the conditions outlined in Schedule Nos. 1 and 2.
2. To deny the development permit as submitted and provide staff with further direction.

DEVELOPMENT IMPLICATIONS

Development Permit Guidelines

Under the guidelines of the Development Permit area, an assessment of the potential natural hazard prepared by a professional engineer with experience in geotechnical engineering is required to be submitted as part of a development permit application. The applicant has submitted such a report, which concludes that the proposed subdivision would be safe from a geotechnical perspective for single family residential uses in relation to the 200-year flood hazard from French Creek.

Site Servicing Implications

The applicant has applied for community water service connections to EPCOR Water Services (formerly Breakwater Enterprises Ltd.), which is the local water authority.

Community sewer service will be available from the Regional District.

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.

Existing Buildings Implications

Lot B is shown to contain one accessory building, which does not meet the minimum setback requirement from the rear lot line. Bylaw No. 500, 1987 does not permit accessory buildings on a parcel unless a principal use has been established. Therefore, the applicant will be required to remove the accessory building or covenant no use of the building until a principal use has been established. It is noted that a covenant would only be considered if the accessory building was considered a legal non-conforming building. This requirement is included in the Conditions of Approval (*see Schedule No. 1 on page 4*) and will also be addressed as part of the subdivision review process.

The applicant's BCLS has indicated that the existing accessory building on proposed Lot A will be removed as the building will not meet the minimum setback requirement from the proposed new lot line. Removal of this building will also be included in the Conditions of Approval outlined in Schedule No. 1 of the staff report.

VOTING


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

SUMMARY

This is an application for a development permit for the property located adjacent to Barclay Crescent North in the French Creek area of Electoral Area 'G'. The parent parcels are designated within the Sensitive Lands Development Permit Area pursuant to the French Creek OCP Bylaw No. 1115, 1998 specifically to protect development from the risk of flooding from French Creek. The applicant is proposing to develop the parent parcels by adjusting an existing lot line boundary between the parent parcels and creating 1 new parcel for a total of 3 parcels. The submitted geotechnical report cites that there is no risk associated with the flooding of these proposed parcels. Conditions of development, which are outlined in Schedule No. 1, will include the removal of accessory buildings in order to ensure bylaw compliance. Therefore, for the above reasons, staff recommends Alternative No. 1; to approve the development permit subject to conditions outlined in Schedule Nos. 1 and 2.


RECOMMENDATION

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




Report Writer

General Manager Concurrence



Acting Manager Concurrence



CAO Concurrence

COMMENTS:

devs\reports\2006\3060 36 60648 (c/r 26539) dp se fern road consulting Wells.doc

**Schedule No. 1
Conditions of Approval
Development Permit Application No. 60648**

The following sets out the conditions of approval:

1. Geotechnical Report

The development of the subdivision of the proposed parcels shall be in accordance with the 5 page Geotechnical Assessment Floodplain Report; prepared by Lewkowich Geotechnical Engineering Ltd., File No. G4579.01 and dated August 17, 2006 (to be attached to and forming part of the Development Permit).

2. Subdivision

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

3. Existing Buildings

- a. The accessory building on proposed Lot A, as shown on Schedule No. 2 (to be attached to and forming part of the Development Permit), is to be removed. Applicant to apply for a demolition permit at the RDN Building Inspections Department.
- b. The accessory building on proposed Lot B, as shown on Schedule No. 2 (to be attached to and forming part of the Development Permit) is to be removed, or if the applicant provides proof that the building has legal non conforming status and wishes to retain the building, the applicant is to prepare a section 219 covenant restricting the use or occupancy of the building until a principal use has been established on the parcel. Applicant to submit draft covenant to the RDN for review. Applicant's solicitor to submit a Letter of Legal Undertaking to register the covenant document concurrently with the Plan of Subdivision at Land Title Office, Victoria, BC. If the accessory building is to be removed, applicant to apply for a demolition permit at the RDN Building Inspections Department.



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CAO	<i>[Signature]</i>	GMES	
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GMDS		GMRT&P	
AUG 31 2006			
CHAIR		BOARD	
<i>[Signature]</i>			

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 30, 2006

FROM: Greg Keller
Planner

FILE: 3090 30 90616

SUBJECT: Development Variance Permit Application No. 90616 - Meyer
Electoral Area 'E' – 3512 Bluebill Place

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of a set of beach access stairs located at 3512 Bluebill Place.

BACKGROUND

This is a Development Variance Permit application to relax the minimum setback requirement for a structure, from the natural boundary of the ocean and the top of a bank of 30 percent or greater, to legalize the siting of a set of beach access stairs currently under construction. The subject property at 3512 Bluebill Place in Electoral Area 'E', is legally described as Lot 57, District Lot 78, Nanoose District, Plan 15983 (*see Attachment No. 1 for location of the subject property*). The subject property is separated from the ocean by a steeply sloping rocky bluff. The subject property and surrounding properties enjoy panoramic views of the Strait of Georgia and are currently zoned Residential 1 (RS1), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987."

The existing illegal structure includes three sets of stairs and three landings. There is a landing at the top of the bank, one halfway down, and another at the base of the bank. The structure is located on the subject property as shown on the survey attached as Schedule No. 2.

The stairs contravene the setback requirements of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." Bylaw No. 500 requires buildings or structures to be setback, the greater of 15.0 metres horizontal distance from the natural boundary of a coastal watercourse, or 8.0 metres inland from the top of a slope adjacent to the watercourse of 30 percent or greater. This setback is in place for safety, geotechnical, environmental, and aesthetic reasons.

These stairs were built without a building permit as required by "Regional District of Nanaimo Building Regulations and Fees Bylaw No. 1250, 2001." As a result, a *Stop Work Order* was posted on the subject property by the Chief Building Inspector. The applicant has ceased work on the structure and has subsequently applied for a building permit.

The applicants have conducted geotechnical and structural engineering studies that confirm the structure can be made both structurally and geotechnically sound.

Proposed Variances

The applicants are proposing to vary **Section 3.3.9(b)** of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," as follows:

1. The minimum setback from the top of a slope of 30 percent or greater adjacent to the Ocean, is proposed to be relaxed from 8.0 metres horizontal distance inland from the top of the slope to 0.0 metres as shown on the survey submitted by the applicant.
2. The minimum setback from the natural boundary, is proposed to be relaxed from 15.0 metres horizontal distance to 1.1 metres horizontal distance from the natural boundary, as shown on the survey submitted by the applicant.

ALTERNATIVES

1. That Development Variance Permit No. 90616, to legalize the existing beach access stairs as shown on Schedule No. 2 located at 3512 Bluebill Place, be approved subject to the terms outlined on Schedule No. 1, and that staff do the following:
 - a. Develop a policy for the Board's consideration regarding the appropriate development of beach access stairs, and the associated staff review of development variance permit applications.
 - b. Proceed with seeking a Court Order to have the stairs removed, to comply with Bylaw No. 500 and Bylaw No. 1250 if the applicants do not meet the terms of Schedule No. 1 within 90 days from the date of the issuance of Development Variance Permit 90616.
2. That the Board deny the requested Development Variance Permit; and if the structure is not voluntarily removed within 90 days, staff are to seek a Court Order to have the structure removed to comply with Bylaw No. 500 and Bylaw No. 1250.

LAND USE AND DEVELOPMENT IMPLICATIONS

Safety Issues

Staff is concerned with the safety issues associated with stairs that traverse a steep rock bluff adjacent to the ocean. Such stairs are subject to the full force of wind, salt air, and possibly tidal action. Staff are concerned with the long-term viability and maintenance of the structures, and the liability that the RDN may incur if someone is injured on such a structure. Therefore, staff recommends, that the applicant be required to register a Section 219 covenant, that registers the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd., dated August 4, 2006 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages resulting from the use of the stairs, erosion and/or landslide.

The applicant had a geotechnical engineer assess the building location and it was found that the building site is stable and safe for the intended use. The applicant also had the stair design engineered to ensure that the structure is structurally sound.

Aesthetic Impact

Large structures like the proposed beach access stairs have the potential to impact the appearance of the marine foreshore, as seen by recreational users of the beach area, and boaters. Variances to allow such large scale structures along the waterfront and along steep banks have traditionally been discouraged in order to avoid this impact. The Board has indicated a willingness to accept variances for large beach access stairs when no other beach access is viable on the property (Development Variance Permit 90613).

The uppermost landing of the proposed structure is visible from the adjacent property to the south, which also enjoys panoramic views of the Strait of Georgia. This structure, which was originally proposed to have railings constructed with cedar pickets on 6 inch centres, somewhat impedes the view from the adjacent property to the south. Therefore, the applicant is proposing to reduce the aesthetic impact of the structure by using clear glass railings instead of cedar picket railings. The property to the north is located at a higher elevation, and although the proposed structure is visible, it is not anticipated that this structure will have a significant impact on their view.

Staff note that there is a natural rock ravine located north of the existing stairway, that may be feasible as an alternate building location. If the stairs were built within the ravine, there would potentially be less visual impact on the neighbouring properties. Staff suggested the applicant consider relocating the stairs within the ravine, but the applicant is committed to constructing the stairs in their current location, and requested staff to proceed with this application as submitted. Staff are not prepared to recommend the Board deny this application given the limited extent of the impact.

The proposed stairway is entirely contained within the subject property. Variances to allow the placement of structures close to the natural boundary can impede public access along the waterfront. In this case however, the nature of the foreshore and the placement of the stairway is not anticipated to negatively affect public access. The applicant proposes to construct a set of stairs that incorporates natural building materials that will over time blend in with the natural surroundings.

Board Policy B1.5

RDN Policy B1.5 provides staff with guidelines for reviewing and evaluating development variance permit applications. The applicants have provided justification for the variance, as the topography dictates that stairs are required to access the beach. The policy also requires that the potential impacts of the variance are warranted by the need for the variance. In staff's opinion, the impacts are reasonable, and within the community standard being established for beach access stairs.

FUTURE DEVELOPMENT IMPLICATIONS

There may be other sets of beach access stairs in the general area of which staff are not aware, given the limited visibility of such structures from the road. During the past month, staff have received an increasing number of reports of illegal beach access stairs, and it is anticipated that as public awareness increases, staff will continue to receive reports of both existing illegal stairways and requests to construct new beach access stairs.

In order to address the anticipated increased number of applications involving beach access stairs, staff recommends that the Board direct staff to develop a policy for the development and approval of such structures. Such a policy would be helpful for staff and property owners when considering variances to legalize or construct beach access stairs in the area. This policy would identify criteria for beach access stairs, which could include the requirement for a survey, maximum stair width, engineering requirements, environmental requirements, stair height, crown land encroachments, etc. This policy would be brought before the Board for consideration.

PUBLIC CONSULTATION IMPLICATIONS

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

VOTING

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

SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to legalize the siting of a set of beach access stairs currently under construction at 3512 Bluebill Place in Nanoose Bay.

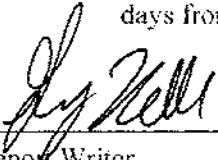
In staff's assessment, although there is an alternate location for the proposed structure, this structure has a minimal impact on the views from the adjacent properties and the appearance of the marine foreshore as seen by persons on the beach, boaters, and surrounding property owners. In addition, the applicant has attempted to reduce the impact of the proposed structure by using glass railings instead of wood in order to lessen the impact of the views from adjacent properties.

Therefore, staff recommends that this application be approved according to the terms contained in Schedule No. 1.

RECOMMENDATION

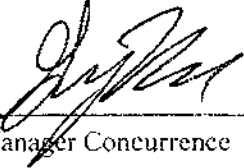
That Development Variance Permit No. 90616 to legalize the existing beach access stairs as shown on Schedule No. 2 located at 3512 Bluebill Place, be approved subject to the terms outlined on Schedule No. 1, and that staff do the following:

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



Report Writer

General Manager Concurrence



for
Manager Concurrence



CAO Concurrence

COMMENTS:

devsys/reports/2006/dvp se 3090 30 90616 Meyer Report

**Schedule No. 1
Terms of
Development Variance Permit Application No. 90616
for Lot 57, District Lot 78, Nanoose Land District, Plan 15983**

Issuance of Permit

1. Staff shall withhold the issuance of this permit until the applicant, at the applicant's expense, registers a Section 219 covenant that registers the Geotechnical Report prepared by Lewkowich Geotechnical Engineering Ltd., dated August 4, 2006 and includes a save harmless clause that releases the Regional District of Nanaimo from all losses and damages as a result of erosion and/or landslide.

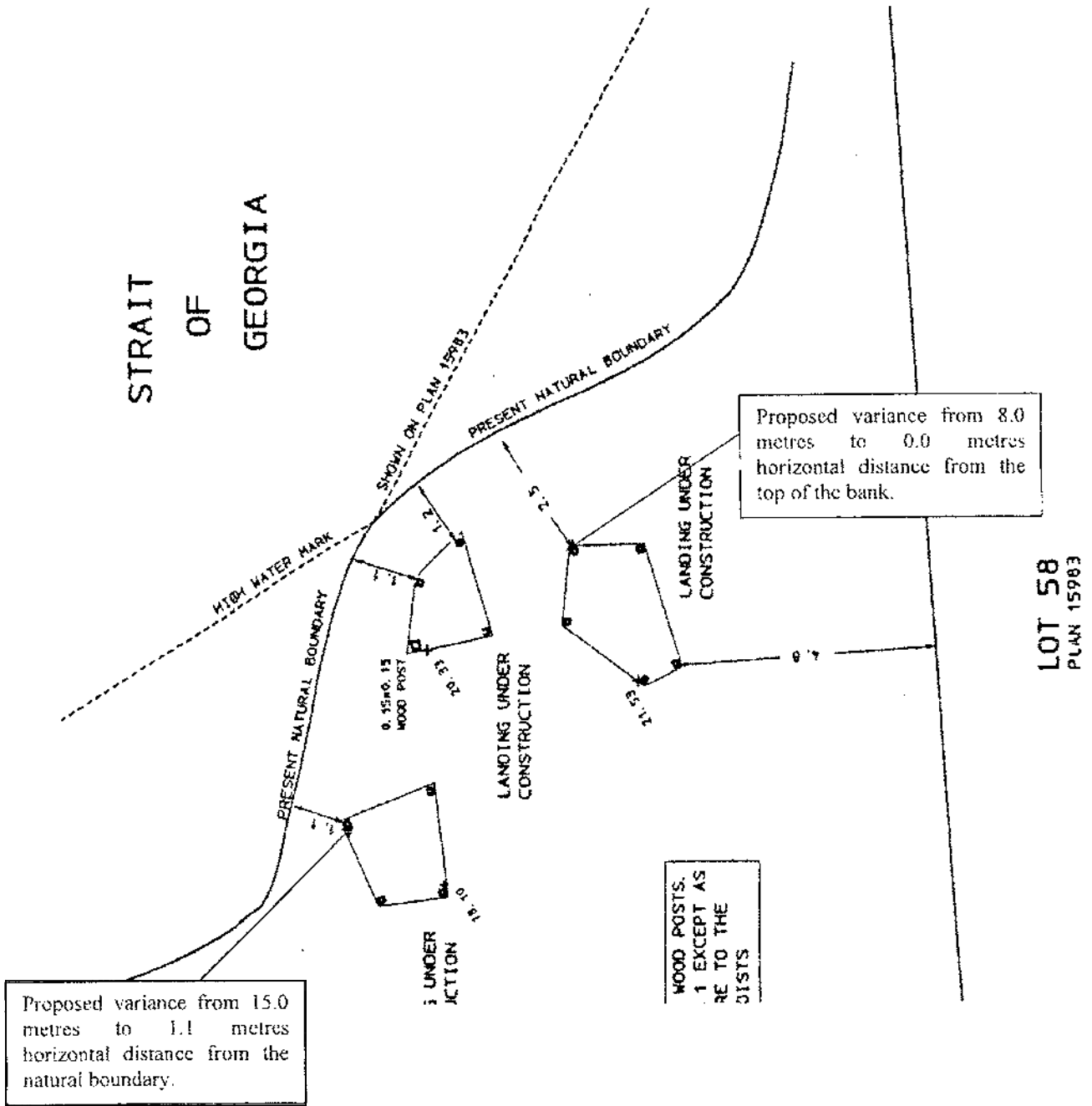
Variances

2. Section 3.3.9(b) of "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," is varied to permit the beach access stairs shown on Schedule Nos. 2 and 3 as follows:
 - a. The minimum setback from the top of a slope of 30 percent or greater adjacent to the ocean is proposed to be relaxed from 8.0 metres horizontal distance inland from the top of the slope to 0.0 metres, as shown on the survey submitted by the applicant.
 - b. The minimum setback from the natural boundary is proposed to be relaxed from 15.0 metres horizontal distance to 1.1 metres horizontal distance, from the natural boundary as shown on the survey submitted by the applicant.

Building Permit Implications

3. The applicants shall obtain a valid building permit within 90 days from the date of issuance of this permit.
4. If the applicants do not obtain a building permit to the satisfaction of the Chief Building Inspector within 90 days from the date of the issuance of this Development Variance Permit, staff may proceed with seeking a Court Order to have the structure removed at the applicant's expense, and to the satisfaction of the Regional District of Nanaimo to comply with Bylaw No. 500 and Bylaw No. 1250.
5. The applicants shall comply with, and implement all conditions and recommendations contained in any and all engineering reports required by the Chief Building Inspector.

Schedule No. 2 (Page 2 of 2)
Building Location Certificate (Submitted by Applicant, enlarged for convenience)
Development Variance Permit Application No. 90616





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GMDS		GMESP
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CHAIR		
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MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 30, 2006

FROM: Dolores Funk
Planning Assistant

FILE: 3090 30 90618

SUBJECT: Development Variance Permit Application No. 90618 — Allen and Parker
Electoral Area 'G' – 448 Manse Road

PURPOSE

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

BACKGROUND

The subject property legally described as Lot 1, District Lot 74, Nanoose District, Plan 23613 is located at 448 Manse Road in Electoral Area 'G' (see Attachment No. 1). The subject property is approximately 2756 m² (.681 acres) in size and is currently zoned Residential 1 (RS1) Subdivision District 'Q' 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 is required for the garage. The subject parcel is located within the Wembley Neighbourhood Centre land use designation and the Wembley Centre Development Permit Area pursuant to the French Creek Official Community Plan. However, this development is exempt from the development permit requirements because it is auxiliary to a single-family residence.

The subject property, accessed from Manse Road, is surrounded by other residentially zoned properties to the south, the City of Parksville to the east and north, and a multi-family comprehensive development zone to the west. The property to the west is currently undeveloped and is heavily treed, and the property to the north is Wembley Mall in the City of Parksville. The properties to the south and east are heavily treed, and the garage on the subject property is not visible from these adjacent properties.

The owner/builder assumed that Manse Road was their front lot line, since it was the one that their address was assigned to. They chose this particular site for the garage in order to preserve the forested area between themselves and their neighbours to the south, as well as to preserve a significant cedar tree. Unfortunately, this site did not meet the Regional District of Nanaimo's setback requirements.

Requested Variances

The applicants are requesting a relaxation to the minimum front lot line requirements from 8.0 metres to 4.6 metres in order to legalize the existing garage. The siting and dimensions of the existing garage are shown on Schedule No. 2.

ALTERNATIVES

1. To approve Development Variance Permit No. 90618, subject to the terms outlined in Schedule No.1.
2. To deny the requested permit as submitted.

DEVELOPMENT IMPLICATIONS

The priority of the applicants, when siting the garage, was the retention of the existing forested area on the south portion of the property, as well as a significant cedar tree located in front of the dwelling unit. Behind the dwelling unit, is a fenced yard and also the septic field, making it an unviable site for development. Considering these restraints, the owner chose what they considered to be the most appropriate location possible for the garage, and unknowingly placed it within the 8.0 metre setback.

The placement of the garage is unlikely to impact the neighbouring properties as it is not visible from the adjacent residential properties. It is visible from Wembley Road and the rear of Wembley Mall, but is obscured by a fence that runs along the property line as well as by existing vegetation. Therefore, staff recommends that the vegetation in the northwest corner of the property, as well as the significant cedar tree be retained, and the request be approved according to the terms outlined in Schedule No. 1, and subject to the notification requirements pursuant to the *Local Government Act*.

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

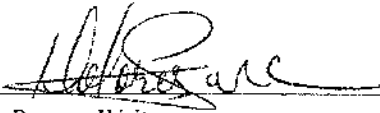
Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

This is an application for a development variance permit to vary the minimum front lot line requirement from 8.0 metres to 4.6 metres in order to legalize the siting of an existing garage. The siting of the garage 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*.

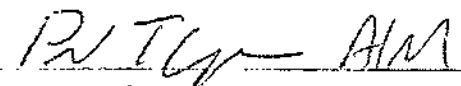
RECOMMENDATIONS

That Development Variance Permit Application No. 90618, to relax the front lot line setback from 8.0 metres to 4.6 metres, to legalize an existing garage at 448 Manse Road, be approved according to the terms outlined in Schedule No. 1, and subject to the Board's consideration of comments received as a result of public notification.

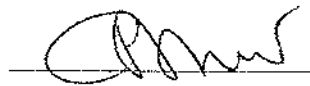


Report Writer

General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

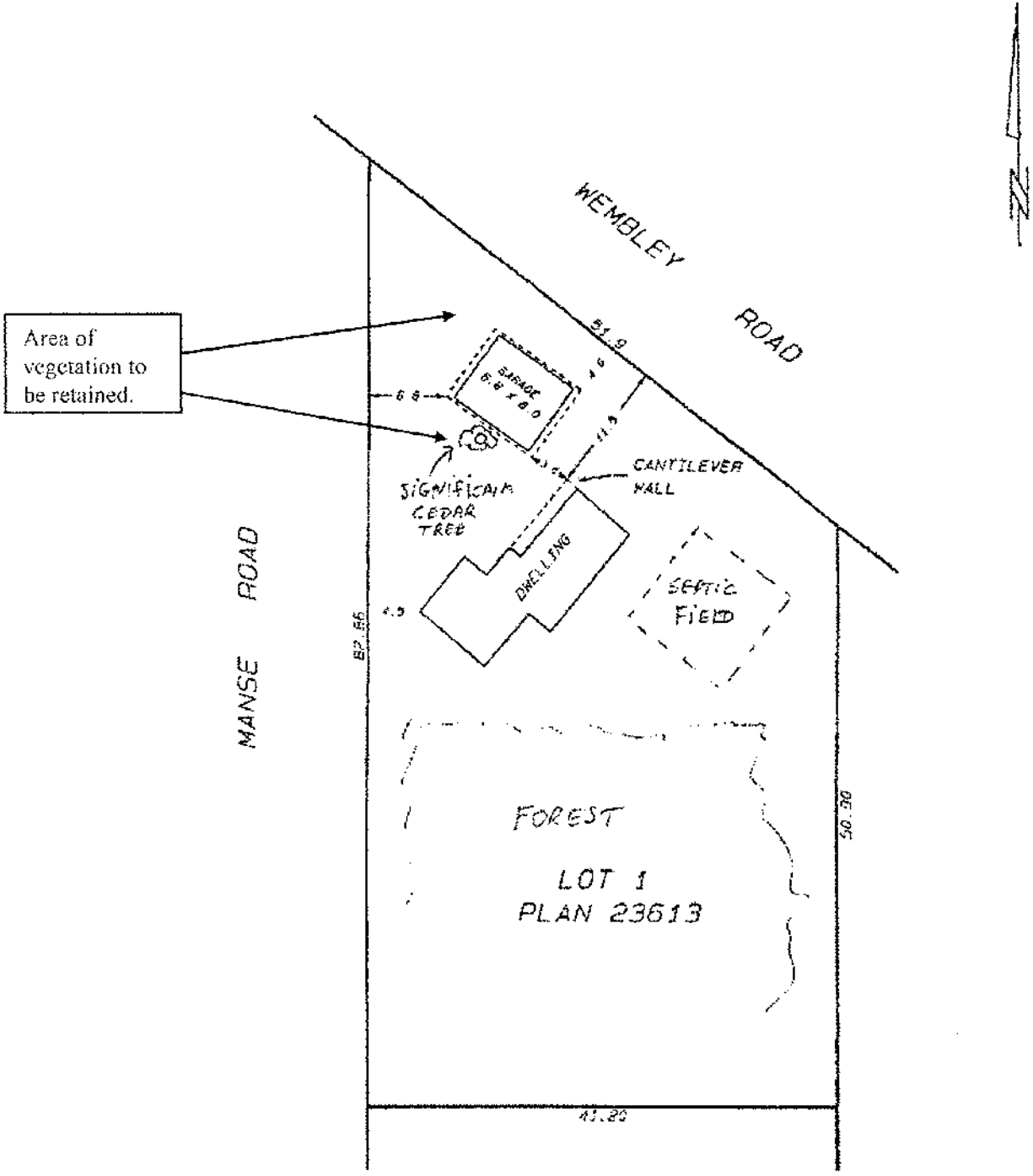
devsys/reports/2006/dvp no. 3690 30 90618 Allen and Parker Report

Schedule No. 1
Terms of Development Variance Permit No. 90618
For Lot 1, District Lot 74, Nanoose District, Plan 23613

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 4.6 metres in order to legalize an existing garage.
2. This variance applies only to the existing garage as shown on Schedule No. 2.
3. A building permit for the garage shall be obtained from the Regional District of Nanaimo Building Inspection Department.
4. Vegetation, in the northwest corner of the property that obscures the garage from Manse Road and the property to the west, as well as the significant cedar tree, shall not be disturbed without the written permission of the Regional District of Nanaimo.

Schedule No. 2
Development Variance Permit No. 90618

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





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GMCS		GVR&P	
GMDS		GMRT&P	
SEP - 5 2006			
CHAIR		BOARD	
EAP			

MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

DATE: September 1, 2006

FROM: Susan Cormic
Senior Planner

FILE: DVP File 90619
c/r 3320 30 26672

SUBJECT: Development Variance Permit Application No. 90619
Applicant: JE Anderson, BCLS on behalf of M Porter
Electoral Area 'F', Spring Place

PURPOSE

To consider a development variance permit to facilitate a 2-lot subdivision proposal on property located in the Errington area of Electoral Area 'F'.

BACKGROUND

The applicant's agent has requested that the minimum lot frontage requirement be relaxed for both proposed parcels as part of a 2-lot subdivision proposal for the property legally described as Lot B Block 544 Nanoose District Plan VIP60806 and located adjacent to Spring Place in the Electoral Area 'F' (see Attachment No. 1 on page 7 for location of parent parcel).

The subject property is currently zoned R1 (Rural 1) pursuant to the "Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002". The applicant is proposing to subdivide the parent lot into two lots - a section 946 parcel proposed to be 1.08 ha in size and a fee simple parcel proposed to be 2.15 ha in size. Both proposed lots will meet the minimum lot sizes requirements pursuant to Bylaw No. 1285 (see Schedule No. 2 on page 5 for proposed plan of subdivision).

There are currently 2 dwelling units located on the parent lot. Surrounding uses include rural zoned lots to the north, northeast, and west and a parks and open space zoned lot (Crown Lands) and the Englishman River corridor to the south and southeast.

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

Minimum Lot Frontage Requirement

Proposed Lots 1 and 2, as shown on the plan of subdivision submitted by the applicant, do not meet the minimum lot frontage requirement pursuant to section 4.13.3c) of Bylaw No. 1285. The requested frontages are as follows:

<i>Proposed Lot No.</i>	<i>Required Frontage</i>	<i>Proposed Frontage</i>
1 (sec. 946 lot)	70.0 m	19.87 m
2	70.0 m	48.31 m

Therefore, as these proposed lots do not meet the minimum lot frontage requirement pursuant to Bylaw No. 1285, variances to the bylaw provision are required.

ALTERNATIVES

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

DEVELOPMENT IMPLICATIONS

Lot Configuration / Development Implications

Lots 1 and 2 are proposed to be fronted on Spring Place, which is an existing cul-de-sac road. Therefore, the configuration of this road limits the availability to provide the full minimum frontage requirement for these proposed lots. Despite the narrower frontages, the proposed lots will be able to provide buildable site areas for the intended uses. It is noted that the proposed section 946 lot supports 2 dwelling units at this time.

Ministry of Transportation staff has indicated that they will support this request for relaxation of the minimum lot frontage requirement for these proposed lots.

Existing Dwelling Units Implications

There are currently two dwelling units on the parent lot and with the proposed subdivision these dwellings would be both situated on proposed Lot 1, the section 946 lot. As two dwelling units are not permitted under the zoning regulations on a lot less than 2.0 ha in size, one of the dwellings will be required to be removed. This requirement is included in the Conditions of Approval (*see Schedule No. 1 on page 4*) and will also be addressed as part of the subdivision review process.

Environmental Implications

The parent lot is not designated within the Watercourse Development Permit Area pursuant to the Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999.

VOTING

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

SUMMARY

This is a development variance permit application to relax the minimum lot frontage requirement for both proposed lots as part of a 2-lot subdivision proposal for property located adjacent to Spring Place in the Errington area of Electoral Area 'F'. These requested variances are outlined in *Schedule No. 3 on page 6* of this report.


The proposed lots are located adjacent to an existing cul-de-sac road; therefore frontage is limited by this road configuration. Despite the proposed narrower frontages, both proposed parcels will have adequate areas to support intended residential uses. The Ministry of Transportation staff has indicated they have no objection to the request for relaxation of the frontage requirement. The applicant will be required to

remove one dwelling unit in order to comply with the maximum allowable dwelling units under the R-1 zone. This condition of approval is set out in *Schedule No. 1 on page 4* of the staff report.

Therefore, given that intended residential uses are available within each proposed lot and as the Ministry of Transportation staff has no objection to this request; staff recommends Alternative No. 1 to approve Development Variance Permit No. 90619 subject to the conditions set out in Schedule No. 1 and to the notification procedures pursuant to the *Local Government Act*.


RECOMMENDATION

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




Report Writer

General Manager Concurrence

acting 

Manager



CAO Concurrence

COMMENTS:
devsvs/report/2606 dvp90619 3320 39 265/21 se porter jeanderson.doc

Schedule No. 1
Development Variance Permit No. 90619
Conditions of Approval

The following sets out the conditions of approval:

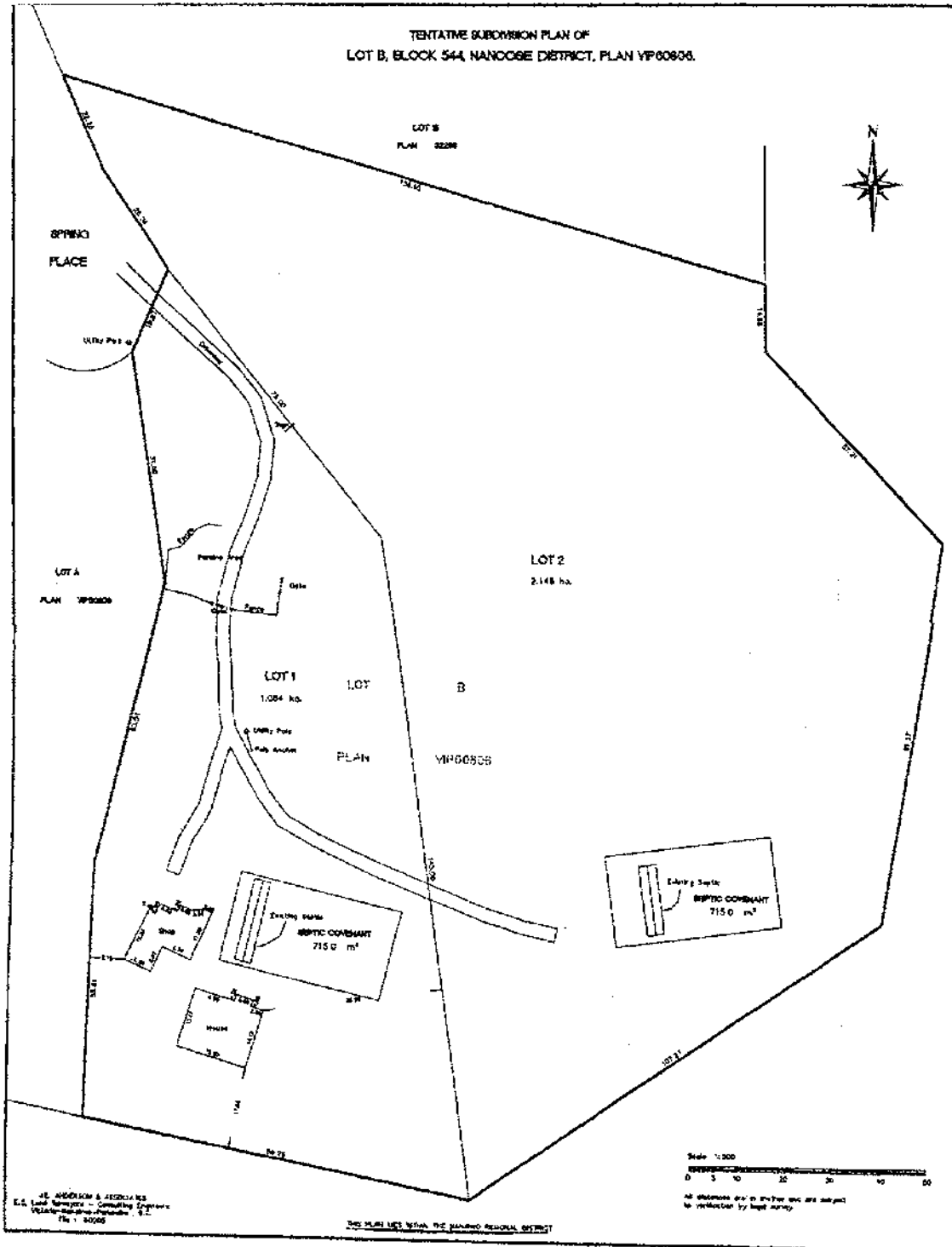
1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2 (to be attached to and forming part of DVP 90619).

2. Buildings and Structures

Applicant to provide proof to the satisfaction of the Regional District of Nanaimo that there is 1 dwelling unit only on proposed Lot 1.

Schedule No. 2
Development Variance Permit No. 90619
Proposed Plan of Subdivision
(as submitted by applicant / reduced for convenience)

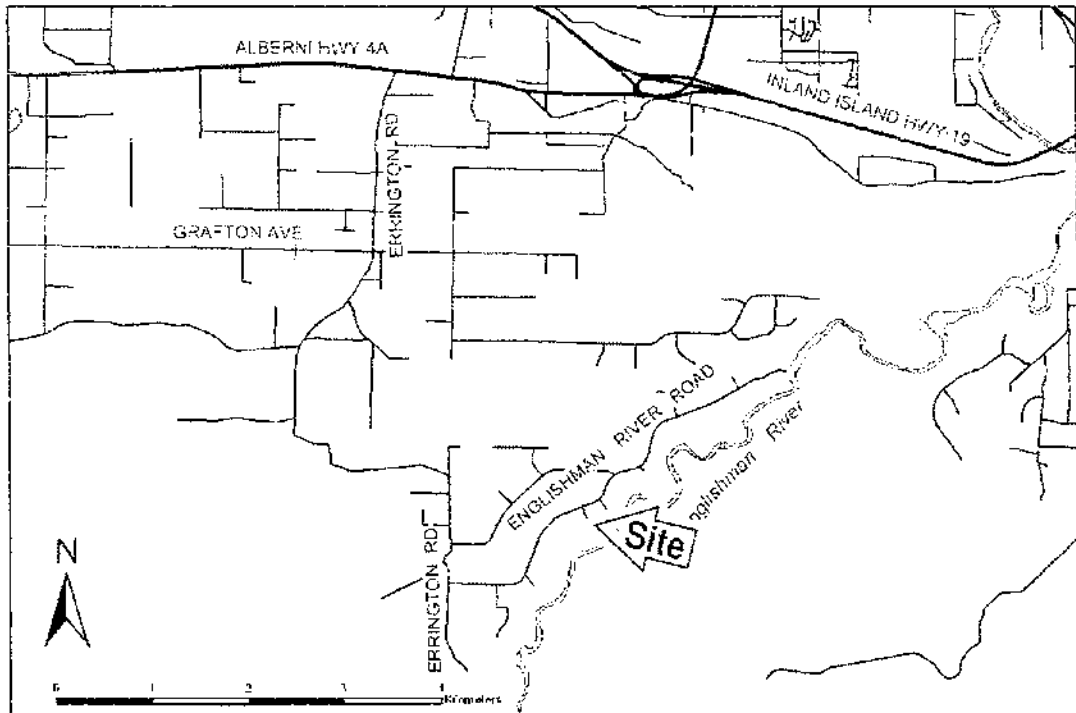
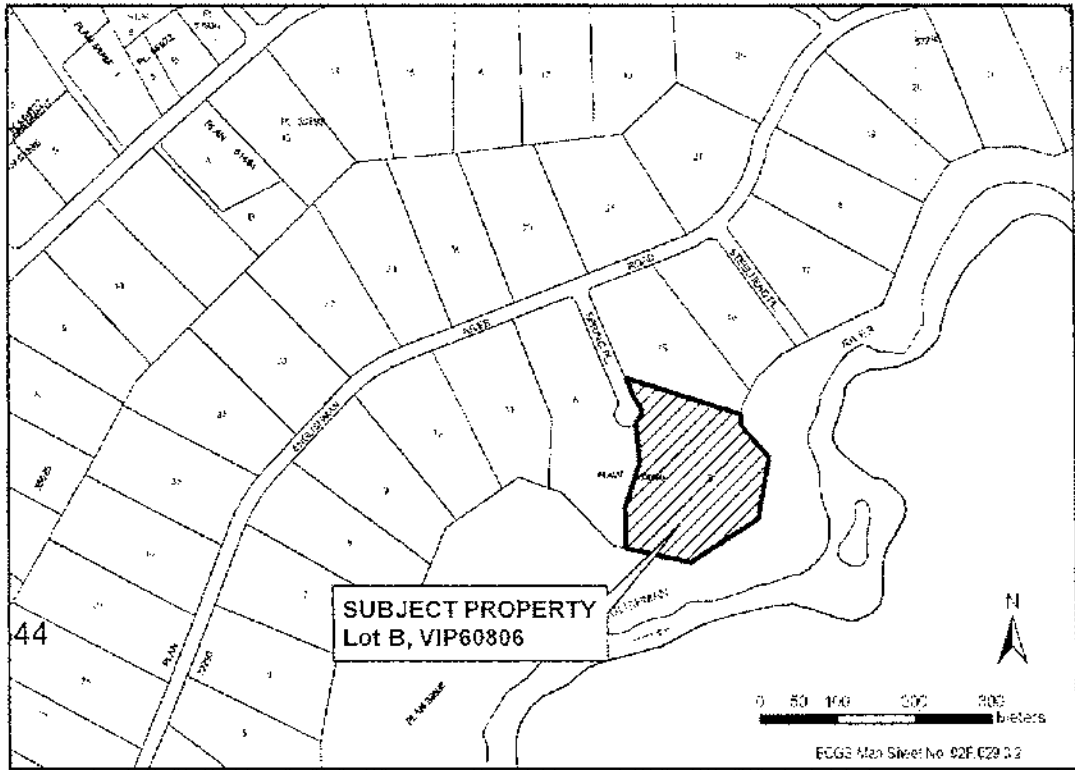


Schedule No. 3
Development Variance Permit No. 90619
Requested Variances

With respect to the lands, the Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002, the following variances are proposed:

1. pursuant to section 4.13.3c) the minimum lot frontage is proposed to be varied from 70 metres to 19.87 metres for Proposed Lot 1 and from 70 metres to 48.31 metres for proposed Lot 2 as shown on the plan of subdivision on Schedule No. 2.

Attachment No. 1
Location of Subject Property





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GMCS	GMR&P
GMDS	GMR&P
SEP - 5 2006	
CHAIR	BOARD
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MEMORANDUM

TO: Wayne Moorman
Manager, Engineering & Subdivisions

DATE: September 1, 2006

FROM: Susan Cormie
Senior Planner

FILE: 3320 20 25937

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

PURPOSE

To consider a request to relax the minimum 10% perimeter frontage requirement for 2 proposed parcels in conjunction with a 9-lot subdivision proposal on property in the Extension area of Electoral Area 'C'.

BACKGROUND

This is a request to relax the minimum 10% perimeter frontage requirement for two proposed parcels as part of a 9-lot subdivision proposal for the property legally described as Parcel Z (DD K83923) Section 13, Range 1 and Sections 12 and 13, Range 2, Cranberry District and located adjacent to Midora and Extension Roads in the Extension area of Electoral Area 'C' (*see Attachment No. 1 on page 7 for location of the parent parcel and Schedule No. 2 on page 6 for proposed plan of subdivision*).

The Electoral Area Planning Committee will recall that this property was recently rezoned to Extension Rural Residential Comprehensive Development Zone 19 (CD19) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". Under the CD19 zone, a maximum of 9 parcels may be created provided no parcel is less than 0.50 ha in size and a minimum parcel averaging of 2.0 ha is maintained. As part of the zoning amendment process, a number of subdivision related items were secured by covenant including the following:

- Dedication of park land along the west side of Scannel Creek and an area between proposed Lots 1 and 2;
- A statutory right-of-way to allow public access for the Trans Canada Trail; and,
- An agreement to provide an option to purchase the old railway corridor and a 15.0 metre area adjacent to the east side of the natural boundary of Scannel Creek.

A geotechnical covenant was also registered on title as part of the zoning amendment process.

The parent parcel, which is approximately 20.0 ha in size, contains an abandoned building. The proposed Remainder of Parcel Z includes a coal slag pile that has been there prior to the 1950's. It was established when the Extension area was being actively mined.

Surrounding land uses include resource and rural zoned parcels to the north, rural zoned parcels to the west and east, residential zoned parcels to the south and rural and residential zoned parcels adjacent to the 'gooseneck' portion of the property. Scannel Creek crosses the parent parcel flowing from a south to north direction. A tributary from an underground stream enters the parent parcel from the west by way of an old mine entrance.

In addition, the parent parcel is designated within the Watercourse Protection Development Permit Area for the protection of Scannel Creek and its riparian area pursuant to the "Arrowsmith Benson – Cranberry Bright Official Community Plan Bylaw No. 1148, 1999" (OCP).

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

Minimum 10% Perimeter Frontage Requirement

Proposed Lots 7 and 8, as shown on the submitted plan of subdivision, 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>
7	51.4 m	32.5 m	6.3 %
8	69.0 m	44.3 m	6.4 %

Therefore, as these proposed parcels do not meet the minimum 10% perimeter 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 relaxation of the minimum 10% frontage requirement for proposed Lots 7 and 8.
2. To deny the request for relaxation of the minimum 10% frontage requirement.

DEVELOPMENT IMPLICATIONS

Lot Configuration / Development Implications

Lots 7 and 8 are proposed to be fronted on a cul-de-sac road, which due to the configuration of the proposed road provides for less available road frontage. A portion of Proposed Lot 7 is designated within the Watercourse Protection Development Permit Area (DPA), however due to the size of this parcel (1.5 ha), there will be an adequate buildable site area to support the intended residential use outside the DPA as well as the proposed covenant areas (septic disposal and riparian area protection). Proposed Lot 8, which is 1.9 ha in size, is not designated within the DPA and as a result there is adequate area for this parcel to support the intended residential use.

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

Environmentally Sensitive Areas Implications

The OCP designates a portion of the parent parcel within 15.0 metres from the natural boundary of Scannel Creek or 15.0 metres from the top a bank, whichever is greater, as being subject to the Watercourse Protection Development Permit Area. As the subdivision proposal will meet the exemption provisions of the development permit area, a development permit will not be required. Despite this, the applicant has offered to register a section 219 covenant for the protection of the creek and its riparian area to 30.0 metres as measured from the natural boundary or top of bank, whichever is applicable. This proposed covenant will coincide with the ***Riparian Areas Regulation***. The covenant will include a provision for a future owner to provide an environmental assessment pursuant to the ***Riparian Areas Regulation*** and accepted by the Ministry of Environment if he or she wishes to locate uses within the 30.0 metre covenant area provided there is no use of land within 15.0 metres of the natural boundary or top of bank, whichever is greater. This will ensure consistency with the proposed riparian area amendments to the OCP currently under consideration and the zoning amendment process. It is noted that at this time, if a development permit is not required, the applicant is not required to submit a riparian area assessment pursuant to the ***Riparian Areas Regulation*** (see Schedule No. 1 on page 5 for Conditions of Approval).

Site Servicing Implications

Community water service will be provided by the local community water authority.

The applicant has applied for an application 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.

VOTING

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

SUMMARY

This is a request for relaxation of the minimum 10% perimeter frontage requirement for 2 of the proposed parcels in a 9-lot subdivision proposal for the property located off Midora and Extension Roads in the Extension area of Electoral Area 'C'.

With respect to the development covenant that was secured as part of the recent zoning amendment process, the location and amount of park land and trail will be dedicated and/or secured concurrently with the plan of subdivision.

With respect to the portion of Scannel Creek and its riparian area that crosses the parent parcel, while the parent parcel is designated within the Watercourse Protection Development Permit Area pursuant to the Arrowsmith Benson – Cranberry Bright OCP, this application will meet the exemption provisions of the development permit area. Despite this, the applicant has offered a 30.0 metre protection covenant which

coincides with the riparian assessment area set out in the Provincial *Riparian Areas Regulation* (see Schedule No. 1 for Conditions of Approval on page 5).

Concerning the request for relaxation of the minimum 10% perimeter frontage for 2 of the proposed parcels, both proposed parcels will have sufficient area to support residential uses. The Ministry of Transportation staff has indicated they have no objection to this request.

Therefore, given that the applicant has offered to register a section 219 covenant restricting uses within a 30-metre buffer area adjacent to Scannel Creek, that the request for relaxation of the minimum 10% frontage requirements will not limit the availability of intended uses, and the Ministry of Transportation staff have no objection to the request, staff recommends Alternative No. 1, to approve the request for relaxation of the minimum 10% frontage requirements as outlined in Schedule Nos. 1 and 2 of this staff report.


RECOMMENDATION

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



Report Writer

General Manager Concurrence



Manager Concurrence

Acting



CAO Concurrence

COMMENTS:

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Schedule No. 1
Conditions of Approval
Subdivision Application No. 25937

The following sets out the conditions of approval:

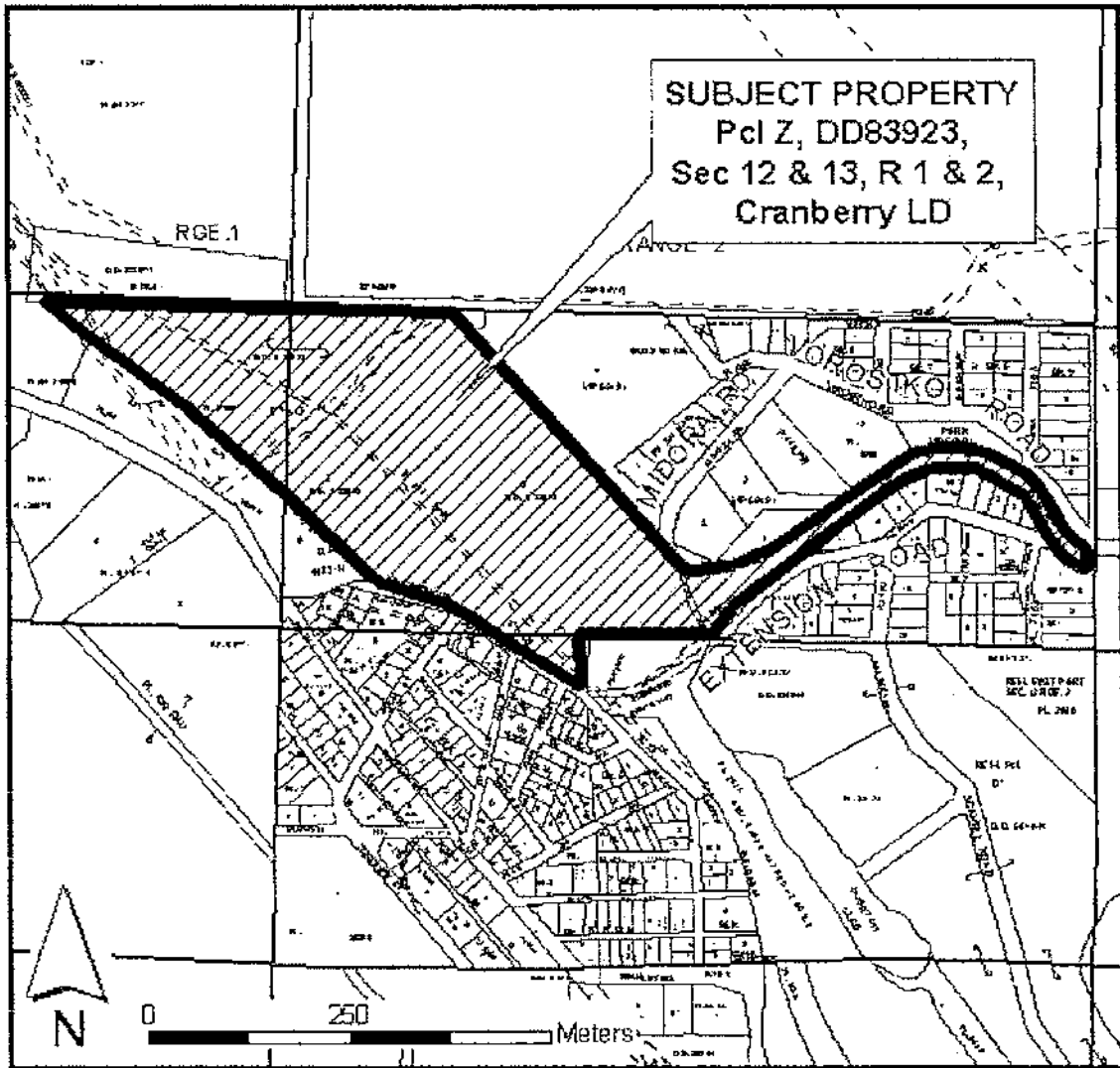
1. Subdivision

The subdivision of the lands shall be in substantial compliance with Schedule No. 2.

2. Section 219 Covenant (for the protection of Scannel Creek and its riparian area)

- a. Applicant to prepare and register a section 219 covenant, to the satisfaction of the RDN, for the protection of the portion of Scannel Creek and its riparian area which crosses the parent parcel for a 30.0 metre strip as measured from the natural boundary of the creek or, where there is a bank, 30.0 metres from the top of the bank restricting the placement of buildings or structures, decks, patios, driveways, wells, septic disposal system, storage of materials, goods, or soil, alteration of the alteration of soils by the hand of man or removal of vegetation other than noxious weeds within the covenant area unless a riparian area assessment report has been prepared pursuant to the *Riparian Areas Regulation* and accepted by the Ministry of Environment which supports a use or uses up to but not within 15.0 metres as measured from the natural boundary of the creek or, where there is a bank, 15.0 metres from the top of the bank.
- 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.
- d. Applicant to indicate the covenant area (demarcation) on the ground by way of permanent fencing or other suitable means.

Attachment No. 1
Location of Subject Property



BCGS Map Sheet No. 92G.011.1.1



RDN	
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GMCS	GNP&P
GMDS	GMRT&P
SEP - 6 2006	
CHAIR	BOARD
EKP	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 29, 2006

FROM: Greg Keller
Planner

FILE: 6480 00 RAR

SUBJECT: Riparian Areas Regulation Stream Declaration Policy

PURPOSE

To propose a policy regarding the process used to educate the public on their responsibilities under the Riparian Areas Regulation (RAR), and identify water features located on a subject property during the development review and approval process.

BACKGROUND

The Ministry of Environment, in cooperation with Fisheries and Oceans Canada, adopted new legislation titled the "*Riparian Areas Regulation*", which came in to force on March 31, 2006. This new legislation was enacted in July of 2004 under Section 12 of the British Columbia *Fish Protection Act*. This legislation aims to protect the features, functions, and conditions that support fish processes in riparian areas.

As a result of the RAR, the Regional District of Nanaimo (RDN) can no longer approve or allow to proceed any proposed development located within a Riparian Assessment Area (RAA)¹ until notification that an assessment report, prepared by a Qualified Environmental Professional (QEP), has been accepted by the Ministry of Environment. In addition, the RAR requires local governments to protect its riparian areas in accordance with the RAR.

Staff forwarded a report to the Board proposing amendments to each Official Community Plan (OCP) to ensure consistency with the RAR. The amendment bylaws were forwarded to the Board for 1st and 2nd readings on July 25, 2006. The proposed amendments insert a new and/or amended Development Permit Area (DPA) that would be applied in each OCP (with minor modifications to fit the overall scheme and formatting of each OCP). The proposed DPAs apply to each OCP area in its entirety.

All proposed development within the RDN will require a Development Permit to ensure that the RDN meets the RAR requirements, unless the applicant can prove that the proposed development is not located within a RAA. Notwithstanding the above, the proposed Development Permit Areas also provide exemptions for certain development activities within the RAA.

To ensure compliance with the RAR, staff must identify the location of all water features that may be subject to the RAR. A water feature that is subject to the RAR is referred to in the legislation as a Stream. A Stream, as defined in the RAR as any of the following that provides fish habitat:

¹ The "Riparian Assessment Area"(RAA) is defined as the area within 30.0 metres of the high water mark of a Stream, within 30.0 metres of the top of a ravine bank, or within 10 metres of the top of a ravine bank where the ravine is more than 60 metres in width.

- a. a watercourse, whether it usually contains water or not,
- b. a pond, lake, river, creek, or brook, or a
- c. ditch, spring or wetland that is connected to surface flow to something referred to in (a) or (b) above.

The RDN has mapping for the majority of the major Streams located within its boundaries. However, the minor watercourses are not mapped, and doing so would have significant budget implications. Therefore, staff must ensure that an appropriate review occurs to identify the presence of a Stream for every development proposal, to ensure compliance with the RAR. Where a Stream is located within 30.0 metres from a proposed development a Development Permit is required and an assessment report must be submitted to the Ministry of Environment prior to the issuance of that permit.

Staff proposed a policy that utilized, as the first step, a declaration form to be filled out by a property owner stating whether their property contains any type of water feature. The Board raised the question of whether this declaration should be filled out by a biologist, as opposed to the property owner. At the July 25th Board meeting, the Board referred the policy back to staff and requested a report providing more information on the issue. This report provides that information.

ALTERNATIVES

1. To adopt the Stream Declaration Policy as presented.
2. To adopt the Stream Declaration Policy as amended.

COMMUNITY IMPLICATIONS

On a daily basis, staff deal with anywhere from 10 to 20 development inquiries that may require review, to ensure the development proposal is in compliance with the RAR. The vast majority of these development proposals are small, are not near a stream, and are not subject to the RAR. Requiring all property owners to hire a biologist to confirm that their development is not subject to the RAR is not expected to be a practical alternative. Considering the number of qualified biologists in the region, it is not likely that this preliminary review work could be completed in a timely and cost effective manner. In the vast majority of cases, it would be a poor use of a qualified biologist's time to confirm that there are no water features on a property. The public will also likely have serious objections to spending the notable time and money required for a biologist to confirm that their development contains no water features.

Staff recommends that a biologist's involvement be required where a water feature has been identified within 30.0 metres of a proposed development, to confirm whether that water feature is a stream subject to the RAR. The challenge is to develop a practical method of identifying the existence of water features.

PROPOSED STREAM IDENTIFICATION PROCEDURES

Staff propose that one of the first steps in reviewing any development proposal is to ask the property owner/applicant to fill out a declaration stating whether or not there is a water feature of any kind located on the subject property, and whether or not any development is proposed within 30.0 metres of that water feature. The property owner is not being asked to make any judgment or evaluation regarding the habitat value of the water feature, or to determine whether it is a Stream subject to the RAR. The declaration serves as an initial opportunity to identify a possible water feature at the early stages of the review process, and to create a record that the property owner was informed of their responsibilities under the RAR.

If the property owner states that there are no water features on the property, staff would then check the environmentally sensitive areas inventory mapping, and air photographs, to confirm there is no evidence of a water feature. Where an application for a subdivision, rezoning, development permit, development variance permit, building permit, or any other development-related RDN approval is required, a site inspection is involved. All staff are aware of the need to examine the site for evidence of a Stream that may be subject to the RAR. This site visit serves to ensure that no development is approved contrary to the RAR.

Where a water feature is identified that may be within 30.0 metres of a proposed development, that feature must then be evaluated to confirm whether it is a Stream subject to the RAR. This evaluation is proposed to be undertaken by a biologist; however in some cases, staff may be able to make the determination. If the water feature is a Stream, a surveyor may be required to confirm that it is, or is not within 30.0 metres from a proposed development. Where a Stream exists within the 30.0 metre setback, a Development Permit and an assessment report under the RAR will be required.

In staff's opinion, the proposed process is workable and will adequately ensure that Streams are identified and protected as required under the RAR. Staff recommend the use of the property declaration form, and have attached a policy as Schedule No. 1 for the Board's consideration.

VOTING

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

SUMMARY/CONCLUSIONS

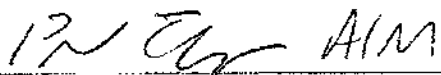
The RAR requires local governments to ensure that all development proposals within a RAA are assessed by a Qualified Environmental Professional. To ensure that Streams are identified prior to development approval, staff propose the attached policy for consideration. This policy includes the use of a declaration form, to be filled out by property owners, to identify water features and inform the owners of their responsibilities under the RAR. Where a water feature exists, a biologist will be used to determine if water feature is a Stream subject to the RAR.

RECOMMENDATIONS

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


Report Writer

General Manager Concurrence


Manager Concurrence


CAO Concurrence

COMMENTS:

devsvs/reports/2006/se 6480 00 RAR - Riparian Areas Regulation Stream Declaration Policy

REGIONAL DISTRICT OF NANAIMO

P O L I C Y

SUBJECT:	Property declaration to determine the presence or absence of a water feature on a property.	POLICY NO:	
		CROSS REF.:	
EFFECTIVE DATE:	September 26, 2006	APPROVED BY:	Board
REVISION DATE:	August 29, 2006	PAGE:	1 OF 3

PURPOSE

To provide a consistent process to determine the presence or absence of Streams subject to the Riparian Areas Regulation (RAR) when handling property-related inquiries and development applications, and to ensure that property owners and developers are aware of their responsibilities with respect to the Riparian Areas Regulation.

POLICY

1. The property declaration form attached as Attachment No. 1 shall be completed by the property owner(s) or authorized agent(s) when applying for a building permit, and as necessary to determine whether or not a Development Permit is required, to ensure compliance with the Riparian Areas Regulation.
2. Where the property owner(s) or authorized agent(s) indicates that there is a water feature on a property, and the development, including land alteration and/or vegetation removal, may be within 30.0 metres of a watercourse, staff shall:
 - i. require the applicant to hire a Qualified Environmental Professional to determine whether the water feature is subject to the RAR, or
 - ii. make the determination that a water feature(s) is (are) not subject to the RAR where the situation is clear; however, where any uncertainty exists the applicant shall be required to hire a Qualified Environmental Professional to make the determination.
3. Where the property owner(s) or authorized agent(s) indicates that there is (are) no water feature(s) on a property that may be within 30.0 metres of any development, including land alteration and/or vegetation removal, staff shall:
 - i. review mapping resources and air photographs for any indication of the presence of a watercourse;
 - ii. check for a water feature during any site visits or inspections of the property; and
 - iii. require the applicant to hire a Qualified Environmental Professional to make a determination as to whether the watercourse is subject to the RAR where a water feature is suspected to exist.
 - iv. where no water feature exists within 30.0 metres of a development, consider exempting the proposed development from requiring a Development Permit, according to the requirements of the applicable development permit area.

4. If a proposed development as defined in the *Riparian Areas Regulation* is found to be within the Riparian Assessment Area as defined in the *Riparian Areas Regulation*, the applicant shall be required to hire a Qualified Environmental Professional to conduct an assessment pursuant to the *Riparian Areas Regulation* and applicable development permit area.

Attachment No. 1



Riparian Areas Regulation

Property Declaration Form

Page 1 of 1

Property Subject Legal Description: _____

Subject Property Address: _____

I (we) acknowledge that the province of British Columbia enacted the *Riparian Areas Regulation* to protect the critical features, functions, and conditions required to sustain fish habitat. Furthermore, this legislation prohibits the Regional District of Nanaimo from approving or allowing a development to proceed adjacent to a watercourse until it has received notice that a report prepared by a Qualified Environmental Professional has been received by the Ministry of Environment.

I (we) understand that a water feature includes any of the following:

- a) any watercourse, whether it usually contains water or not;
- b) any pond, lake, river, creek, or brook; and/or,
- c) any ditch, culvert, spring, or wetland.

I (we) declare that (please check the one that applies):

- A. there are no water features located on the subject property, or
- B. there are water features located on the subject property.

I (we) declare that all proposed development including land alteration, vegetation removal, construction and / or building (please check the one that applies):

- A. is greater than 30.0 metres from a water feature, or
- B. is less than 30.0 metres from that water feature.

I (we) acknowledge that I (we) are familiar with the property and area, and have inspected the property and immediate area for the existence of any water features prior to signing this form.

Property owner/agent signature(s): 1 _____ 2 _____

Print Name(s): 1 _____ 2 _____

Mailing Address: _____ Postal Code: _____ Phone: _____

Witnessed By: _____ Date: _____



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AUG 31 2006			
CHAIR		BOARD	

MEMORANDUM

TO: Jason Llewellyn
Manager, Community Planning

DATE: August 29, 2006

FROM: Paul Thompson
Senior Planner

FILE: 6740-01-GRSH

SUBJECT: Incorporating Green Shores Project Principles Into RDN Bylaws

PURPOSE

To provide background on the Green Shores Project and information on how the Green Shores' principles may be incorporated into Regional District of Nanaimo (RDN) official community plans (OCPs).

BACKGROUND

Nikki Wright of the Seagrass Conservation Working Group made a presentation to the Board at its July 25, 2006 meeting on the Green Shores Program. Following her presentation, the Board adopted the following resolution:

that staff be directed to prepare a report for the Committee of the Whole on the viability of green shores criteria, as it applies to Regional District of Nanaimo development and foreshore regulation.

The Green Shores Program is an initiative of the Stewardship Centre for British Columbia to provide information on, and encourage sustainable approaches to, coastal development. Green Shores emphasizes sustainable use of coastal ecosystems through planning and design which recognizes the ecological features and functions of coastal systems. Green Shores is based on four principles:

1. **Coastal Processes:** Preserve the integrity or connectivity of coastal processes.
2. **Coastal Habitat and Species:** Maintain or enhance habitat diversity and function.
3. **Water and Sediment Quality:** Address methods to minimize or reduce pollutants to the marine environment.
4. **Reduce Impacts on Shorelines:** Reduce cumulative impacts to the coastal environment.

Three pilot projects have been conducted as part of Green Shores. The purpose of the pilot projects is to show that there are alternatives to hardening shorelines with seawalls that will both protect private property and maintain natural coastal processes.

Recently, a draft report was prepared to provide a framework and suggest language for local government bylaws and policies for shoreline development and protection that meet Green Shores' principles. This report was prepared at the request of two local governments (District of Squamish and Sunshine Coast Regional District). The report contains suggested language and examples for policies and development permit areas in OCPs. The intent is to provide sample wording that would be applicable to shoreline situations that a local government wishes to manage. It is noted that Regional District of Nanaimo OCPs are referenced as good examples of shoreline development policy.

ALTERNATIVES

1. That the Board direct staff to consider policies and development permit area guidelines regarding Green Shores' principles for inclusion in all future OCP reviews.
2. That the Board provide further direction for staff regarding the incorporation of Green Shores' principles into OCPs.

IMPLICATIONS

The Green Shores' principles focus on the protection of natural coastal features and processes. A key part of protecting these features and processes is recognizing that there are different kinds of shorelines ranging from steep rocky cliffs to highly mobile sand and cobble beaches to wide mudflats. Further, each type of shoreline is capable of supporting certain kinds of uses, and new development should be designed so that the natural processes that are typical of that type of shoreline are not impacted.

Adopting the Green Shores' principles and regulating development along the shoreline is best done through the official community plans. The challenge is to balance the sometimes conflicting shoreline management values such as public use and access, protection of environmental values, a property owner's use and enjoyment of their land, and the protection of property from natural hazards.

Goals, objectives and policies can be included in OCPs that recognize the significance of shorelines. Goals and objectives can relate to environmental protection, public access, land use, economic development and protection from natural hazards. For example the Electoral Area 'H' OCP has a number of objectives related to use of the foreshore and waterfront areas. Also, environmental protection and public access issues related to the development of retaining walls, was recently addressed through the development of a Board approved retaining wall policy.

OCP policies may address shoreline issues as:

- The biological and physical characteristics of the shoreline.
- The nature of future development.
- Protecting sensitive shoreline features and processes during development.
- Shoreline classes and policies specific to each class.
- Public access.
- Future studies to improve planning and management of shoreline areas

The other approach for adopting Green Shores' principles can be the use of development permit areas (DPAs). DPAs can be established for environmental protection, protection from natural hazards and to control the form and character of commercial, industrial and intensive residential development. The DPA could be part of a general DPA for environmental protection or different DPAs could apply to specific types of shorelines. Designating different DPAs along the shoreline would require a shoreline assessment where the different shoreline types are mapped.

The RDN currently has six OCPs that include marine shoreline. The six OCPs vary greatly in how much recognition is given to protection of the marine shoreline. Only two, the French Creek OCP and the Electoral Area 'H' OCP, have sections on coastal zone management and have designated development permit areas to protect the environmental values associated with the marine shoreline.

Each OCP would have to be evaluated to see which aspects of the Green Shores' principles are already included, and to see where there might be a conflict with existing policies. Amending the OCPs could be done all at once, similar to the implementation of the Riparian Areas Regulation, or on an individual basis at the time that each OCP is being reviewed. As OCPs are reviewed and updated, policies could be included that recognize that there are different types of shorelines and that different types of shorelines

can support different uses and activities. As well, new DPAs could be introduced or existing DPAs modified to meet the Green Shores' principles.

The other consideration is how to implement the Green Shores' principles: by policy alone or policy in combination with a DPA, which may be very general or very detailed, depending on several factors including the desires of the community. As the needs of the community and types of features to be protected are different in each of the OCP areas, how the Green Shores' principles are to be implemented is probably best decided during an individual OCP review. It is noted that during the development of the recently adopted Area 'E' OCP, a proposed shoreline protection DPA was removed from the plan, following significant public opposition from affected property owners. This demonstrates that local populations may not want a broad brush approach and may want the unique aspects of their community considered on an individual OCP basis.

FINANCIAL IMPLICATIONS

The financial implications related to adopting the Green Shores' principles are largely related to the costs associated with an OCP amendment. These costs are generally covered in the Planning Department budget for staff meetings and other costs associated with bylaw amendments, that are initiated by the RDN. As well, if the more detailed approach of identifying shoreline types is wanted, then a consultant would have to be hired to undertake the assessment and subsequent mapping. This cost would depend on the level of detail required, and the assessment area.

COMMUNITY IMPLICATIONS

The implications for the community could be quite significant, especially for property owners in areas where development permits are not required. Depending on the DPA requirements, more types of development and land uses will require a development permit and supporting reports from qualified professionals. Another possible outcome of a shoreline assessment is that changes to an OCP land use designation, and subsequently to the zoning, may result if it is determined that a particular use should not be permitted on a particular shoreline type. For example, certain structures that impede beach material transport, such as boat ramps and beach access stairs, may not be permitted on certain kinds of shorelines.

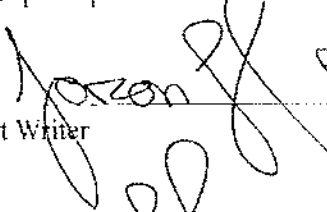
The community also stands to benefit from Green Shores, as adopting the principles can address concerns related to aesthetics and sustainability of coastal ecosystems. The cumulative impacts of activities such as hardening of shores and vegetation removal can be reduced when the type of shoreline is factored into the design of new developments.

SUMMARY/CONCLUSIONS

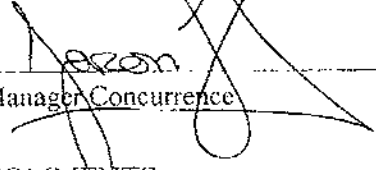
The focus of the Green Shores Project is to promote the protection of marine shoreline features and processes by recognizing that there are different types of shorelines and that planning and design may be used to support sustainable use of coastal ecosystems. Local governments can adopt Green Shores' principles by including policies and development permit areas in its OCPs. This has been the approach by the RDN Community Planning Department for many years. Planning staff continue to support the principles of the Green Shore Project and recommend that incorporating these principles into OCPs continue to be considered during each OCP review.

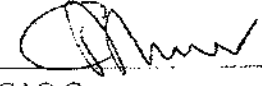
RECOMMENDATION

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


Report Writer

General Manager Concurrence


Manager Concurrence


CAO Concurrence

COMMENTS:

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